

KCO BLOGS 2020

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WITHHOLDING TAXES & ITS COMPLIANCE IN PAKISTAN

WITHHOLDING TAX

“Withholding tax (WHT) is basically a ‘presumptive’ tax, based on the notion that an earner with a certain amount of income will presumably keep earning that much (if not less) in the future. Put another way, it’s a tax on income in advance.”

Why Withholding Tax?

- Helps to expand the tax net
- Daily basis revenue generation
- Documentation of Economy
- Maintaining flow with the least cost

What is the importance of WHT in Pakistan?

Withholding Tax Regime is a global phenomenon and in Pakistan the major source of the Federal revenue collected on national level. The collection as well as dependence on Withholding Taxes is on the rise over the years. Out of total Direct Taxes collection of **R.S 1523.1 billion** for financial year 2019-20 **R.S 1091.5 billion** with percentage share of 72% came from various Withholding Taxes, which are characterized by their adjustable and presumptive (final) nature.

The main withholding provisions are related to salaries, contracts, imports, bank interest & securities, dividends, utilities, technical fee, cash withdrawal etc. with different rates.

Establishment of “Directorate General of With-holding Taxes”

In Pakistan, environment there was a need to have an organization to monitor and manage the system of Withholding Tax Regime, therefore in FBR the Directorate General of Withholding Taxes was created through Finance Act of 2008 under section 230A of the Income Tax Ordinance 2001.

Introduction of filer and Non-filer concept

In 2014-15, the federal government introduced a distinction between filers and non-filers through Finance Act 2015. Thus, the intended purpose of providing a penalty clause to non-filers was to incentivize more people to file returns and become “*Active Tax Payers*”. This was manifested in different rates of WHT for filers and non-filers.

Quarterly with-holding statement

Every person collecting/deducting tax shall, furnish to the Commissioner a quarterly statement in the prescribed form setting out:

- Name, CNIC, NTN, Address of person from whom the collection or deduction was made
- Total amount of payments made/receive from a person from which tax has been collected/deducted
- Total amount of tax collected/deducted from a person
- Such other particulars as may be prescribed

Due dates of compliance for quarterly with-holding statements

Every prescribed person collecting/deducting tax shall furnish quarterly statements as per the following schedule:

Quarters	Due Date
Quarter ending on 31 March	on or before the 20th day of April
Quarter ending on 31 June	on or before the 20th day of July
Quarter ending on 31 September	on or before the 20th day of October
Quarter ending on 31 December	on or before the 20th day of January

Revision of a quarterly with-holding statement

Any person who having furnished statement, discovers any omission or wrong statement therein, may file a revised statement within sixty days of filing of statement.

Extension for filing quarterly with-holding statement

A person required to furnish a statement, may apply in writing, to the Commissioner for an extension of time to furnish the statement after the due date and the Commissioner if satisfied that a reasonable cause exists for non-furnishing of the statement by the due date may, by an order in writing, grant the applicant an extension of time to furnish the statement.

Payment of tax collected or deducted

The tax collected or deducted shall be paid to the Commissioner by way of credit to the Federal Government:

Case	Time of Payment
Where the tax has been collected or deducted by the Federal Government or a Provincial Government	on the day the tax was collected or deducted
Where the tax has been collected or deducted by a person other than the Federal Government or a Provincial Government: <i>(1) By remittance to the Government Treasury or deposit in an authorized branch of the State Bank of Pakistan or the National Bank of Pakistan</i> <i>(2) By remittance abroad to a non-resident through State Bank or any other banking company</i>	within seven days from the end of each week ending on every Sunday prior to remitting abroad of the amount from which tax is to be deducted or collected

Payment of tax collected or deducted

Any tax that has been with-held (*collection or deduction*) shall be paid to the Commissioner, by the person making the collection or deduction, within the time and in the manner as may be prescribed.

Failure to pay tax collected or deducted

Where a person fails to collect tax or having collected tax, fails to pay the tax to the Commissioner as required, the person shall be personally liable to pay the amount of tax to the Commissioner, who may pass an order to that effect and proceed to recover the same. However, no recovery shall be made unless the person has been provided with an opportunity of being heard.

The Commissioner may amend or further amend an order of recovery if he considers that the order is erroneous in so far it is prejudicial to the interest of revenue provided that the recovery order shall not be amended, unless the person has been provided an opportunity of being heard.

Penalty in case of failure to collect or deduct tax by a person

Where at the time of recovery of tax it is established that the tax that was to be deducted from the payment made to a person or collected from a person has meanwhile been paid by that person, the person who had failed to collect or deduct the tax shall be liable to pay default surcharge at the rate of “twelve” per cent per annum from the date he failed to collect or deduct the tax to the date the tax was paid. However, such person shall be entitled to recover the tax from the person from whom the tax should have been collected or deducted.

Recovery of tax from the person from whom tax was not collected or deducted

Where a person fails to collect or deduct tax, the Commissioner may pass an order to that effect and recover the amount from the person from whom the tax should have been collected or to whom the payment was made. However, such recovery does not absolve the person who failed to deduct the tax, from any other legal action in relation to the failure, or from a charge of default surcharge, or the disallowance of a deduction for the expense to which the failure relates.

Certificate of collection or deduction of tax

Every person collecting/deducting tax shall furnish copies of the challan of payment or any other equivalent document along with a certificate setting out the amount of tax collected or deducted to the person from whom the tax has been collected or deducted and such other person shall attach the same with the return.

Commissioner may require statement for specified period

The Commissioner as he deems fit may by notice in writing require any person, collecting or deducting tax under this Ordinance, to furnish a statement for any period specified in the notice within such period of time as may be specified in the notice.

Priority of tax collected or deducted

Tax collected/deducted by a person shall be held by the person in trust for the Federal Government, and not subject to attachment in respect of any debt or liability of the person.

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In the event of the liquidation or bankruptcy of a person who has collected/deducted tax from a payment, the amount collected or deducted shall not form part of the estate of the person in liquidation or bankruptcy and the Commissioner shall have a first claim for that amount before any distribution of property is made.

Credit for tax collected or deducted

Where an amount of tax has been collected/deducted from a person, that person shall be allowed a tax credit for that tax, in computing the tax due by the person on the taxable income of the person for the tax year, in which the tax was collected or deducted. A tax credit shall be applied in accordance with sub-section (3) of section 4. A tax credit or part of a tax credit allowed for a tax year, that is not able to be credited for the year shall be refunded to the taxpayer in accordance with section 170. No tax credit shall be allowed for any tax collected or deducted that is a final tax.

Service charges on tax collected or deducted by a person who with-held the tax

No amount shall be deducted on account of service charges from the tax withheld or collected by any person under the provisions of this Ordinance. In case any amount is deducted on account of service charges, by the person, the said person will be liable to pay the said amount to the Federal Government and all the provisions of this Ordinance shall apply in so far as they apply to the recovery of tax.

Reconciliation of amounts

A person required to furnish the quarterly statements shall, whenever required by the Commissioner, furnish a reconciliation of the amounts mentioned in the aforesaid quarterly statements with the amounts mentioned in the return of income, statements, related annexes and other documents submitted from time to time.

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