

Government of Pakistan
Revenue Division
Federal Board of Revenue
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No.1(47) Secy (ITC)/2021

Islamabad, the 30th of July, 2021

All Chief Commissioners-IR

Subject:- TRUST LAWS AND SPECIALISED TRUST RELATED TO PENSION, GRATUITY AND SUPERANNUATION FUNDS

Board is in receipt of letter from CTO Islamabad vide No.CCIR/CTO/lbd/Misc-1/2021/1451 dated 22-04-2021, seeking clarification for future action regarding exemption to Provident, Gratuity and Superannuation Funds in the wake of newly promulgated Trust Acts by Provinces and ICT. Board is also in receipt of letter from KPMG, Taseer, Hadi & Co on similar issue.

2. Matter has been examined and it is stated that Sixth Schedule to the Income Tax Ordinance, 2001 provides for the recognition and tax treatment of Provident Funds, Superannuation Funds and Gratuity Funds in Part-I, 11 & III respectively. These funds operated as trusts registered under the Trust Act, 1882.

3. In order to, provide improved monitoring and evaluation of trusts, the provinces and Islamabad Capital Territory (ICT) repealed the Trust Act 1882 in their territory and promulgated following acts:-

- Sindh Trusts Act, 2020
- ii. The Balochistan Trust Act, 2020
- iii. The Punjab Trusts Act, 2020
- iv. Khyber Pakhtunkhwa Trust Act, 2020
- v. Islamabad Capital Territory Trusts Act, 2020

All these Trust Acts originally provided for creation of by natural persons only. This created confusion and ambiguity regarding the status of existing and creation of new trusts by legal persons.

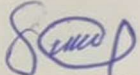
4. On realization of this legal vacuum coordinated effort were made by provincial authorities, SECP, FBR, FMU, SBP and other stakeholders. All provinces and Islamabad Capital Territory agreed to amend trust acts to incorporate provisions regarding specialized trusts created by legal persons with the stipulation that specialized trusts would be regulated by SECP and FBR. FBR agreed to act as regulator of Trusts regarding Provident Funds, Superannuation Funds and Gratuity Funds.

5. So far, provinces of Sindh and Khyber Pakhtunkhwa have amended their trust acts to incorporate provisions regarding specialized trusts. However, remaining provinces and Islamabad Capital Territory are yet to amend their acts. Moreover, all provinces and ICT have not yet promulgated rules/amended rules. The draft amended rules of Sindh have been shared. These would require an NOC from the regulator for registration and creation.

6. Currently, different field formations are according different tax treatment to already recognized / approved Provident Funds, Superannuation Funds and Gratuity Funds. Moreover, different provinces and ICT are yet to amend laws and rules.

7. In the light of above background, ambiguous and transitory legal situation and to safeguard the interests of employees making contribution to these funds and to accord uniform treatment, it has been decided that Board would issue NOC for registration/registration to all the approved/recognized Funds which have filed returns for tax year 2020 and direct them to provide registration on or before 31.12.2021.

8. During the pendency of registration under amended / to be amended laws, all field formations are directed to treat approved / recognized Funds as registered for taxation purposes till above date and process their cases accordingly. If any adverse inference has been drawn, it is requested to be rectified in the light of directions as per this letter.


(Said Iqbal)
Secretary (ITC)