

PART VII EXEMPTIONS AND TAX CONCESSIONS

41. Agricultural income.- (1) Agricultural income derived by a person shall be exempt from tax under this Ordinance.

- 1 Sub-section (6) omitted by the Finance Ordinance, 2002.
- 2 Words "on the profit" omitted by the Finance Act, 2003.
- 3 Brackets, letter and word "(e) or" omitted by the Finance Act, 2003.
- 4 Sub-section (6) inserted by the Finance Ordinance, 2002.

CASE LAW CITATION u/s 40: Mian Muhammad Bashir v. CIT [1989 PTD 211 = (1989) 59 TAX 68 (H.C.Kar.) = 1989 CL. 266]. See our published book "**INCOME TAX DIGEST**".

CASE LAW CITATION u/s 41: CIT, Karachi (West), Karachi v. Muhammad Yousuf & Co. Karachi [1984 PTD 74 = (1985) 76 (H.C.Kar.) = PTCL 1985 CL. 231]; Khalid Adamjee v. CIT (West), Karachi [1983 PTD 246 = (1983) 48 TAX 56 (H.C.Kar.) our published book "**INCOME TAX DIGEST**".

Section 39(6)-Omission.-The omitted sub-section (6) read as under:

"(6) Expenditure is of a capital nature if it has a normal useful life of more than one year."

- (2) In this section, "agricultural income" means, -
- (a) any rent or revenue derived by a person from land which is situated in Pakistan and is used for agricultural purposes;
 - (b) any income derived by a person from land situated in Pakistan from -
 - (i) agriculture;
 - (ii) the performance by a cultivator or receiver of rent-in-kind of a process ordinarily employed by such person to render the produce raised or received by the person fit to be taken to market; or
 - (iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by such person, in respect of which no process has been performed other than a process of the nature described in sub-clause (ii); or
 - (c) any income derived by a person from -
 - (i) any building owned and occupied by the receiver of the rent or revenue of any land described in clause (a) or (b);
 - (ii) any building occupied by the cultivator, or the receiver of rent-in-kind of any land in respect of which, or the produce of which, any operation specified in sub-clause (ii) or (iii) of clause (b) is carried on, but only where the building is on, or in the immediate vicinity of the land and is a building which the receiver of the rent or revenue, or the cultivator, or the receiver of the rent-in-kind by reason of the person's connection with the land, requires as a dwelling-house, a store-house, or other out-building.

42. Diplomatic and United Nations exemptions.- (1) The income of an individual entitled to privileges under the Diplomatic and Consular Privileges Act, 1972 (IX of 1972) shall be exempt from tax under this Ordinance to the extent provided for in that Act.

(2) The income of an individual entitled to privileges under the United Nations (Privileges and Immunities) Act, 1948 (XX of 1948), shall be exempt from tax under this Ordinance to the extent provided for in that Act.

(3) Any pension received by a person, being a citizen of Pakistan, by virtue of the person's former employment in the United Nations or its specialised agencies (including the International Court of Justice) provided the person's salary from such employment was exempt under this Ordinance.

43. Foreign government officials.- Any salary received by an employee of a foreign government as remuneration for services rendered to such government shall be exempt from tax under this Ordinance provided -

- (a) the employee is a citizen of the foreign country and not a citizen of Pakistan;
- (b) the services performed by the employee are of a character similar to those performed by employees of the Federal Government in foreign countries; ¹[and]

the foreign government grants a similar exemption to employees of the Federal Government performing similar services in such foreign country.¹

²[**44. Exemptions under international agreements.-** (1) Any Pakistan-source income which Pakistan is not permitted to tax under a tax treaty shall be exempt from tax under this Ordinance.]

(2) Any salary received by an individual (not being a citizen of Pakistan) shall be exempt from Federal Government or public international organization, where -

- (a) the individual is either³ [not a resident] individual or a resident individual solely by reason of the performance of services under the Aid Agreement;
- (b) if the Aid Agreement is with a foreign country, the individual is a citizen of that country; and
- (c) the salary is paid by the foreign government or public international organisation out of funds or grants released as aid to Pakistan in pursuance of such Agreement.

(3) Any income received by a person (not being a citizen of Pakistan) engaged as a contractor, consultant, or expert on a project in Pakistan shall be exempt from tax under this Ordinance to the extent provided for in a bilateral or multilateral technical assistance agreement between the Federal Government and a foreign government or public international organisation, where -

- (a) the project is financed out of grant funds in accordance with the agreement;
- (b) the person is either a non-resident person or a resident person solely by reason of the performance of services under the agreement; and
- (c) the income is paid out of the funds of the grant in pursuance of the agreement.

45. President's honours.- (1) Any allowance attached to any Honour, Award, or Medal awarded to a person by the President of Pakistan shall be exempt from tax under this Ordinance.

(2) Any monetary award granted to a person by the President of Pakistan shall be exempt from tax under this Ordinance.

46. Profit on debt. - Any profit received by a non-resident person on a security issued by a resident person shall be exempt from tax under this Ordinance where-

- (a) the persons are not associates;

¹ Substituted for the comma and word "and" by the Finance Ordinance, 2002.

² Clause (d) omitted by the Finance Ordinance, 2002.

³ Substituted for the words "a non-resident" by the Finance Act, 2003.

Section 43(d)-Omission.-The omitted clause (d) read as under:
"(d) the income is subject to tax in that foreign country."

- (b) the security was widely issued by the resident person outside Pakistan for the purposes of raising a loan outside Pakistan for use in a business carried on by the person in Pakistan;
- (c) the profit was paid outside Pakistan; and
- (d) the security is approved by the ¹[Board] for the purposes of this section.

47. Scholarships.- Any scholarship granted to a person to meet the cost of the person's education shall be exempt from tax under this Ordinance, other than where the scholarship is paid directly or indirectly by an associate.

48. Support payments under an agreement to live apart.- ²[Any income received by a spouse as support payment under an agreement to live apart] shall be exempt from tax under this Ordinance.

49. Federal ³[Government,] Provincial Government, and ⁴[Local Government] income.- (1) The income of the Federal Government shall be exempt from tax under this Ordinance.

(2) The income of a Provincial Government or a ⁴[Local Government] in Pakistan shall be exempt from tax under this Ordinance, other than income chargeable under the head "Income from Business" derived by a Provincial Government or ⁴[Local Government] from a business carried on outside its jurisdictional area.

⁵[(3) Subject to sub-section (2), any payment received by the Federal Government, Provincial Government or a ⁴[Local Government] shall not be liable to any collection or deduction of advance tax.]

⁶[(4) Exemption under this section shall not be available in the case of corporation, company, a regulatory authority, a development authority, other body or institution established by or under a Federal law or a Provincial law or an existing law or a corporation, company, a regulatory authority, a development authority or other body or institution set up or owned and controlled, either directly or indirectly, by the Federal Government or a Provincial Government, regardless of the ultimate destination of such income as laid down in Article 165A of the Constitution of the Islamic Republic of Pakistan ⁷[:]]

⁸[Provided that the income from sale of spectrum licences ⁹[and renewal thereof] by Pakistan Telecommunication Authority on behalf of the Federal Government]

¹ Substituted for the words "Central Board of Revenue" by the Finance Act, 2007.

² Substituted for the words "Any support payment received by a spouse under an agreement to live apart" by the Finance Ordinance, 2002.

³ Substituted for the word "and" by the Finance Act, 2009.

⁴ Substituted for the words "local authority" by the Finance Act, 2008.

⁵ Sub-section (3) inserted by the Finance Act, 2006.

⁶ Sub-section (4) inserted by the Finance Act, 2007.

⁷ Substituted for the full-stop by the Finance Act, 2014.

⁸ Proviso inserted by the Finance Act, 2014.

⁹ Words inserted by the Finance Supplementary (Second Amendment) Act, 2019, dated March 10, 2019.

after the first day of March 2014 shall be treated as income of the Federal Government and not of the Pakistan Telecommunication Authority.]

Section 53(1)(c)

50. Foreign-source income of short-term resident individuals.-(1) Subject to sub-section (2), the foreign-source income of an individual ¹[] -

- (a) who is a resident individual solely by reason of the individual's employment; and
- (b) who is present in Pakistan for a period or periods not exceeding three years,

shall be exempt from tax under this Ordinance.

(2) This section shall not apply to -

- (a) any income derived from a business of the person established in Pakistan; or
- (b) any foreign-source income brought into or received in Pakistan by the person.

51. Foreign-source income of returning expatriates.- ²[(1)] Any foreign-source income derived by a citizen of Pakistan in a tax year who was not a resident individual in any of the four tax years preceding the tax year in which the individual became a resident shall be exempt from tax under this Ordinance in the tax year in which the individual became a resident individual and in the following tax year.

³[(2) Where a citizen of Pakistan leaves Pakistan during a tax year and remains abroad during that tax year, any income chargeable under the head "Salary" earned by him outside Pakistan during that year shall be exempt from tax under this Ordinance.]

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53. Exemptions and tax concessions in the Second Schedule.- (1) The income or classes of income, or persons or classes of persons specified in the Second Schedule shall be-

- (a) exempt from tax under this Ordinance, subject to any conditions and to the extent specified therein;
- (b) subject to tax under this Ordinance at such rates, which are less than the rates specified in the First Schedule, as are specified therein;
- (c) allowed a reduction in tax liability under this Ordinance, subject to any conditions and to the extent specified therein; or

1 Brackets and words "(other than a citizen of Pakistan)" omitted by the Finance Act, 2003.

2 Section 51 numbered as sub-section (1) of section 51 by the Finance Act, 2003.

3 Sub-section (2) inserted by the Finance Act, 2003.

4 Section 52 omitted by the Finance Ordinance, 2002.

CASE LAW CITATION u/s 50: Pakistan State Oil Ltd. v. CIT, Karachi [2018 SCMR 894 = 2018 PTD 1306 = (2018)118 TAX 247 = 2018 PTCL 783]; The CIT, Lahore v. Messrs Chaudhary Dairies Ltd. [2019 PTD 452]. See our published book "INCOME TAX DIGEST".

LEGISLATIVE HISTORY: Section 52-Omission.-The omitted section 52 read as under:

"52. Non-resident shipping and airline enterprises.-(1) Subject to sub-section (2), any income of a non-resident person, for the time being approved by the Federal Government for the purpose of this section, from the operation of ships and aircraft in international traffic shall be exempt from tax under this Ordinance, other than income from ships and aircraft operated principally to transport passengers, livestock, mail, or goods exclusively between places in Pakistan.

(2) Sub-section (1) shall not apply to a non-resident person where the person's country of residence does not allow a similar exemption to a resident of Pakistan."

(d) exempted from the operation of any provision of this Ordinance, subject to any conditions and to the extent specified therein.

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(2) The ²[Federal Government may], whenever circumstances exist to take immediate action for the purposes of national security, natural disaster, national security in emergency situation, protection of national economic interests in situations arising out of abnormal fluctuation in international commodity prices, ³[] implementation of bilateral and multilateral agreements] ⁴[or granting an exemption from any tax imposed under this Ordinance including a reduction in the rate of tax imposed under this Ordinance or a reduction in tax liability under this Ordinance or an exemption from the operation of any provision of this Ordinance to any international financial institution or foreign Government owned financial institution operating under an agreement, memorandum of understanding or any other arrangement with the Government of Pakistan], by notification in the official Gazette, make such amendment in the Second Schedule by—

- (a) adding any clause or condition therein;
- (b) omitting any clause or condition therein; or
- (c) making any change in any clause or condition therein,

as the Government may think fit, and all such amendments shall have effect in respect of any tax year beginning on any date before or after the commencement of the financial year in which the notification is issued.

(3) The Federal Government shall place before the National Assembly all amendments made by it to the Second Schedule in a financial year.

⁵[(4) Any notification issued under sub-section (2) after the commencement of the Finance Act, 2015, shall, if not earlier rescinded, stand rescinded on the expiry of the financial year in which it was issued ⁶[:]

1 Sub-section (1A) omitted by the Finance Act, 2012. Earlier it was inserted by the Finance Act, 2003.
 2 Substituted for "Board with the approval of Federal Minister-in-charge may, from time to time "pursuant to the approval of the Economic Coordination Committee of Cabinet" by the Finance Act, 2018. Earlier the words "Board with the approval of Federal Minister-in-charge" by Finance Act, 2017. "Words etc. "pursuant to the approval of the Economic Coordination Committee of Cabinet" inserted by the Finance Act, 2015. Earlier the same amendment was made by the Finance (Amendment) Ordinance, 2015, dated April 30, 2015. In the Ordinance, the amendment starts with a comma and word "pursuant" while in the Finance Act, 2015, the comma is ignored.
 3 Words etc. "removal of anomalies in taxes, development of backward areas," omitted by the Finance Act, 2019. "Comma was substituted for the word "and" by the Finance Act, 2016.
 4 Words and comma inserted by the Finance Act, 2016.
 5 Sub-section (4) inserted by the Finance Act, 2015. Earlier the same amendment was made by Finance (Amendment) Ordinance, 2015, dated April 30, 2015.
 6 Substituted for full stop by the Finance Act, 2017.

Section 56(1)

¹[Provided that all such notifications, except those earlier rescinded, shall be deemed to have been in force with effect from the first day of July, 2016 and shall continue to be in force till the thirtieth day of June, 2018, if not earlier rescinded:

Provided further that all notifications issued on or after the first day of July, 2016 and placed before the National Assembly as required under sub-section (3) shall continue to remain in force till the thirtieth day of June, 2018, if not earlier rescinded by the Federal Government or the National Assembly.]

54. Exemptions and tax provisions in other laws.- No provision in any other law providing for-

- (a) an exemption from any tax imposed under this Ordinance;
 - (b) a reduction in the rate of tax imposed under this Ordinance;
 - (c) a reduction in tax liability of any person under this Ordinance;
 - (d) an exemption from the operation of any provision of this Ordinance,
- shall have legal effect unless also provided for in this Ordinance ²[.]

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55. Limitation of exemption.-(1) Where any income is exempt from tax under this Ordinance, the exemption shall be, in the absence of a specific provision to the contrary contained in this Ordinance, limited to the original recipient of that income and shall not extend to any person receiving any payment wholly or in part out of that income.

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