

PART II  
ASSESSMENTS

<sup>1</sup>[120. Assessments.-(1) Where a taxpayer has furnished a complete return of income (other than a revised return under sub-section (6) of section 114) for a tax year ending or after the 1st day of July, 2002,-

- (a) the Commissioner shall be taken to have made an assessment of tax on the income for that tax year, and the tax due thereon, equal to the respective amounts specified in the return; and
- (b) the return shall be taken for all purposes of this Ordinance to be an assessment order issued to the taxpayer by the Commissioner on the date the return was furnished.

<sup>2</sup>[(1A) Notwithstanding the provisions of sub-section (1), the Commissioner<sup>3</sup> [conduct audit of the income tax affairs of a person] under section 177 and all provisions of that section shall apply accordingly.]

(2) A return of income shall be taken to be complete if it is in accordance with provisions of sub-section (2) of section 114.

(3) Where the return of income furnished is not complete, the Commissioner shall issue a notice to the taxpayer informing him of the deficiencies (other than income tax payable) and directing him to provide such information, particulars, statements or documents by such date specified in the notice.

(4) Where a taxpayer fails to fully comply, by the due date, with the requirements of the notice under sub-section (3), the return furnished shall be treated as an invalid return as if it had not been furnished.

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(5) Where, in response to a notice under sub-section (3), the taxpayer has, by the due date, fully complied with the requirements of the notice, the return furnished shall be treated to be complete on the day it was furnished and the provisions of sub-section (1) shall apply accordingly.

(6) No notice under sub-section (3) shall be issued after the end of the <sup>1</sup>[expiry of one hundred and eighty days from the end of the financial year in which return was furnished], and the provisions of sub-section (1) shall apply accordingly.]

<sup>2</sup>[<sup>1</sup>  
<sup>3</sup>**120B. Restriction of proceedings.**—(1) Where any person entitled to declare undisclosed assets, undisclosed expenditure and undisclosed sales under the Assets Declaration Act, 2019 declares such assets, expenditures or sales to pay tax, no proceedings shall be undertaken under this Ordinance in respect of such declaration.]

(2) Notwithstanding anything contained in any other law, for the time being in force, sub-section (3) of section 216, except the provisions of clauses (a) and (g) of sub-section (3) of section 216, particulars of the persons making declaration under the Assets Declaration Act, 2019 or any information received in any declaration made under the said Act shall be confidential.]

<sup>4</sup>**121. Best judgement assessment.**- (1) Where a person fails to -

1 Substituted for "end of the financial year in which return was furnished" by the Finance Act, 2012.

2 Section 120A omitted by the Finance Act, 2013. Earlier it was inserted by the Finance Act, 2008.

3 Section 120B inserted by the Finance Act, 2019.

4 Section 121 substituted by the Finance Act, 2003.

**CASE LAW CITATION u/s 120A:** Fazal Din & Sons (Pvt.) Ltd. v. Federal Board of Revenue and others [2009 PTD 1016 = (2009) 100 TAX 177 (S.C.Pak.) = PTCL 2009 CL. 725 = 2009 SCMR 973]; Rizwan Ahmed Ch. v. CIT and 2 others [2009 PTD 1491 = (2009) 100 TAX 145 (H.C.Lah.)]. See our published book "INCOME TAX DIGEST".

**LEGISLATIVE HISTORY: Section 120-Substitution.**-The substituted section 120 by Finance Act, 2003 read as under:

"120. **Assessments.**-Where a taxpayer has furnished a return of income (other than a revised return under sub-section (6) of section 114) for a tax year <sup>1</sup>[ending on or after the 1st day of July, 2002,-]

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Act shall be commensurate

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**CASE LAW CITATION u/s 120A:** Fazal Din & Sons (Pvt.) Ltd. v. Federal Board of Revenue and others [2009 PTD 1018 = (2009) 100 TAX 177 (S.C.Pak.) = PTCL 2009 CL. 725 = 2009 SCMR 973]; Rizwan Ahmed Ch. v. CIT and 2 others [2009 PTD 1491 = (2009) 100 TAX 145 (H.C.Lah.)]. See our published book "INCOME TAX DIGEST".

**LEGISLATIVE HISTORY: Section 120-Substitution.-**The substituted section 120 by Finance Act, 2003 read as under:

**"120. Assessments.-**Where a taxpayer has furnished a return of income (other than a revised return under sub-section (6) of section 114) for a tax year <sup>1</sup>[ending on or after the 1st day of July, 2002,-]

- (a) the Commissioner shall be taken to have made an assessment of the taxable income of the taxpayer for the year and the tax due thereon, equal to those respective amounts specified in the return; and
- (b) the taxpayer's return shall be taken for all purposes of this Ordinance to be an assessment order issued to the taxpayer by the Commissioner on the day the return was furnished."

<sup>1</sup> Inserted by Finance Ordinance, 2002.

**Section 120A-Omission.-**Before omission by Finance Act, 2013, it read as under:

**"120A. Investment Tax on income.-**(1) Subject to this Ordinance, the Board may make a scheme of payment of investment tax in respect of undisclosed income, representing any amount or investment made in movable or immovable assets.

(2) Where any person declares undisclosed income under sub-section (1) in accordance with the scheme and the rules, the tax on such income called investment tax shall be charged at such rate as may be prescribed.

(3) Where a person has paid tax on his undisclosed income in accordance with the scheme and the rules, he shall-

- (a) be entitled to incorporate in his books of account such undisclosed income in tangible form; and
- (b) not be liable to pay any tax, charge, levy, penalty or prosecution in respect of such income under this Ordinance.

(4) For the purposes of this section-

- (i) "undisclosed income" means any income, including any investment to be deemed as income under section 111 or any other deemed income, for any year or years, which was chargeable to tax but was not so charged; and
- (ii) "investment tax" means tax chargeable on the undisclosed income under the scheme under sub-section 91) and shall have the same meaning as given in clause (63) of section 2 of the Income Tax Ordinance, 2001.

<sup>1</sup>[ ]

<sup>2</sup>[(aa) furnish a statement as required by a notice under sub-section (5) of section 115; or  
<sup>3</sup>[(ab) furnish a return as required by a notice under sub-section (4) of section 114; or]

- (b) furnish a return as required under section 143 or section 144; or
- (c) furnish the statement as required under section 116; or
- (d) produce before the Commissioner, or <sup>4</sup>[a special audit panel appointed under sub-section (11) of section 177 or] any person employed by a firm of chartered accountants <sup>5</sup>[or a firm of cost and management accountants under section 177, accounts, documents and records required to be maintained under section 174, or any other relevant document or evidence that may be required by him for the purpose of making an assessment of income and determination of tax due thereon,

the Commissioner may, based on any available information or material and to the best of his judgement, make an assessment of the taxable income <sup>6</sup>[or income] of the person liable to pay the tax due thereon <sup>7</sup>[and the assessment, if any, treated to have been made on the basis of the return or revised return filed by the taxpayer shall be of no legal effect].

(2) As soon as possible after making an assessment under this section, the Commissioner shall issue the assessment order to the taxpayer stating:—

- (a) the taxable income;
- (b) the amount of tax due;
- (c) the amount of tax paid, if any; and
- (d) the time, place and manner of appealing the assessment order.

(3) An assessment order under this section shall only be issued within five years from the end of the tax year or the income year to which it relates <sup>8</sup>[:] ]

1 Clause (a) omitted by the Finance Act, 2010 and shall have deemed to have taken effect from the 5th June, 2010.  
2 Clause (aa) inserted by the Finance Act, 2009.  
3 Clause (ab) inserted by Finance Act, 2015.  
4 Words etc. inserted by the Finance Act, 2010.  
5 The words inserted by the Finance Act, 2010.  
6 Words inserted by the Finance Act, 2012.  
7 Words etc. inserted by the Finance Act, 2018.  
8 Substituted for the full-stop by the Finance Act, 2018.

**CASE LAW CITATION w/s 121:** Commissioner of Income Tax v. Doaba Plastics Industries (Pvt.) Ltd. [PTCL 2015 (H.C.Lah.)]; CIR v. Ghausia Builders (Pvt.) Ltd. [2015 PTD 772 = (2015) 111 TAX 68 (H.C.Lah.)]; CIR v. M/s. 456 (H.C.Lah.); CIR v. Anwar etc. [2015 PTD 424 = (2014) 110 TAX 298 (H.C.Lah.) = PTCL 2014 CL 608]; Sarah Constructors (P) Dr. C.M. Anwar etc. [2015 PTD 682 = (2013) 108 TAX 107 (S.C.P) through Partner, Karachi v. Taxation Officer-5, Audit-2, Karachi and 2 others [2013 PTD 682 = (2013) 107 TAX (H.C.Kar.)]; CIR (Legal) v. Commissioner Inland Revenue (Appeals), and others [2013 PTD 837 = (2013) 107 TAX (H.C.Lah.) = PTCL 2013 CL 152]; Pak Company, Sargodha v. CIT, Rawalpindi Zone [(1985) 51 TAX 181 (S.C.P)].

See our published book "INCOME TAX DIGEST".  
**LEGISLATIVE HISTORY: Section 121(a)-Omission.**—The omitted clause (a) read as under:  
The assessment order to be issued by a notice under subsection (3) or sub-section (4) of section 114.

of section  
of provision  
shall only be issued within two years  
of the date on which the  
notice is issued.]

**122. Amendment of assessments.**-(1) Subject to this section, the Commissioner may amend an assessment order treated as issued under section 120 or issued under section 121, <sup>2</sup> [ ] <sup>3</sup> [or] by making such alterations or additions as the Commissioner considers necessary <sup>4</sup> [ ].

<sup>5</sup> [(2) No order under sub-section (1) shall be amended by the Commissioner after the expiry of five years from the end of the financial year in which the Commissioner has issued or treated to have issued the assessment order to the taxpayer.]

1. Proviso inserted by the Finance Act, 2018.
2. Words etc. "or issued under section 122C" omitted by Finance Act, 2017. Earlier it was inserted by Finance Act, 2012.
3. The words, figures and commas "issued under section 59, 59A, 62, 63 or 65 of the repealed Ordinance" omitted by the Finance Act, 2012. Earlier the words etc. "or issued under section 59, 59A, 62, 63 or 65 of the repealed Ordinance" were inserted by the Finance Ordinance, 2002.
4. The words "to ensure that the taxpayer is liable for correct amount of tax for the tax year to which the assessment order relates" omitted by the Finance Act, 2003.
5. Sub-section (2) substituted by the Finance Act, 2009.

(4) Where an assessment order (hereinafter referred to as the "original assessment")<sup>4</sup> [ , as many times as may be necessary,] the original assessment within the later of-

(a) five years<sup>5</sup> [from the end of the financial year in which] the Commissioner has issued or is treated as having issued the original assessment order to taxpayer; or

(b) one year<sup>6</sup> [from the end of the financial year in which] the Commissioner has issued or is treated as having issued the amended assessment order to the taxpayer.

<sup>7</sup>[ (4A) In respect of an assessment made under the repealed Ordinance, not contained in sub-section (2) or, as the case may be, sub-section (4) shall be so construed to have extended or curtailed the time limit specified in section 65 of the aforesaid Ordinance in respect of an assessment order passed under that section and the time-limit specified in section shall apply accordingly.]

<sup>8</sup>[(5) An assessment order in respect of tax year, or an assessment year, shall only be amended under sub-section (1) and an amended assessment for that year shall only

1 Word etc. inserted by the Finance Act, 2010 and shall have deemed to have taken effect from the 5th June, 2009.  
2 Substituted for the word "or" by the Finance Act, 2010 and shall have effect from the first day of July, 2003.  
3 The word, figure and brackets inserted by the Finance Act, 2010 and shall have effect from the first day of July, 2009.  
4 The words inserted by the Finance Ordinance, 2002.  
5 Substituted for the word "after" by the Finance Act, 2009.  
6 Substituted for the word "after" by the Finance Act, 2009.  
7 Sub-section (4A) inserted by the Finance Act, 2003. Earlier sub-section (4A) was inserted Notification 633(I)/2002, dated 14.9.2002 which stands rescinded by SRO 608(I)/2003, dated 24.6.2003 w.e.f. 1.7.2003.

further amended under sub-section (4) where, on the basis of definite information acquired from an audit or otherwise, the Commissioner is satisfied that -

- (i) any income chargeable to tax has escaped assessment; or
- (ii) total income has been under-assessed, or assessed at too low a rate, or has been the subject of excessive relief or refund; or
- (iii) any amount under a head of income has been mis-classified.]

<sup>1</sup>[(5A) Subject to sub-section (9), the Commissioner may <sup>2</sup>[, after making, or causing to be made, such enquiries as he deems necessary,] amend, or further amend, an assessment order, if he considers that the assessment order is erroneous insofar it is prejudicial to the interest of revenue.]

<sup>3</sup>[(5AA) in respect of any subject matter which was not in dispute in an appeal the Commissioner shall have and shall be deemed always to have had the powers to amend or further amend an assessment order under sub-section (5A).]

<sup>4</sup>[(5B) Any amended assessment order under sub-section (5A) may be passed within the time-limit specified in sub-section (2) or sub-section (4), as the case may be.]

(6) As soon as possible after making an amended assessment under <sup>5</sup>[sub-section (1), sub-section (4) or sub-section (5A)], the Commissioner shall issue an amended assessment order to the taxpayer stating -

- (a) the amended taxable income of the taxpayer;
- (b) the amended amount of tax due;
- (c) the amount of tax paid, if any; and
- (d) the time, place, and manner of appealing the amended assessment.

(7) An amended assessment order shall be treated in all respects as an assessment order for the purposes of this Ordinance, other than for the purposes of sub-section (1).

(8) For the purposes of this section, "definite information" includes information on sales or purchases of any goods made by the taxpayer, <sup>6</sup>[receipts of the taxpayer from services rendered or any other receipts that may be chargeable to tax under this Ordinance,] and on the acquisition, possession or disposal of any money, asset, valuable article or investment made or expenditure incurred by the taxpayer.

<sup>7</sup>[(9) No assessment shall be amended, or further amended, under this section unless the taxpayer has been provided with an opportunity of being heard.]

<sup>1</sup> Sub-section (5A) inserted by the Finance Act, 2003. Earlier a different sub-section (5A) was inserted Notification No. SRO 633(I)/2002, dated 14.09.2002 which stands rescinded by SRO 608(I)/2003, dated 24.06.2003 with effect from 1.7.2003.

<sup>2</sup> Commas and words inserted by the Finance Act, 2012.

<sup>3</sup> Sub-section (5AA) inserted by the Finance Act, 2010.

<sup>4</sup> Sub-section (5B) inserted by the Finance Act, 2003.

<sup>5</sup> Substituted for the (1) or (1)" by the Finance Act, 2003.

of interest or understanding.

According to common understanding.

## PART III APPEALS

Appeal to the Commissioner (Appeals).-<sup>2</sup> [(1) Any person dissatisfied with any <sup>3</sup> [Officer of Inland Revenue] under section 121,

order passed by a Commissioner or a Commissioner of Inland Revenue, 2003.

Substituted for the word "notice" by the Finance Ordinance, 2002.

Sub-section (1) substituted by the Finance Act, 2014. Earlier the same amendment was made by the

Sub-section for the words "Taxation Officer" by the Finance Act, 2010. It was presented in the Parliament but lapsed on

Finance (Amendment) Ordinance, 2010, dated February 16, 2010. It was presented in the Parliament but lapsed on

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122, 143, 144, <sup>1</sup>[162,] 170, 182, <sup>2</sup>[ ] <sup>3</sup>[or 205], or an order under sub-section section 161 holding a person to be personally liable to pay an amount of tax, or an order clause (f) of sub-section (3) of section 172 <sup>4</sup>[declaring] a person to be the representative non-resident person <sup>5</sup>[or an order giving effect to any finding or directions in any order under this Part by the Commissioner (Appeals), Appellate Tribunal, High Court or Supreme Court], or an order under section 221 refusing to rectify the mistake, either in full or in part as claimed by the taxpayer or an order having the effect of enhancing the assessment, reducing a refund or otherwise increasing the liability of the person, <sup>6</sup>[ ] may prefer an appeal to the Commissioner (Appeals) against the order.]

<sup>7</sup>[(2) No appeal under sub-section (1) shall be made by a taxpayer against an order of assessment unless the taxpayer has paid,—

(a) the amount of tax due under sub-section (1) of section 137, and

<sup>8</sup>[(b) No appeal under sub-section (1), shall be made by a taxpayer <sup>9</sup>[against] an order of assessment unless the taxpayer has paid the amount of tax due under sub-section (1) of section 137.]

(3) An appeal under sub-section (1) shall—

(a) be in the prescribed form;

(b) be verified in the prescribed manner;

(c) state precisely the grounds upon which the appeal is made;

(d) be accompanied by the prescribed fee specified in sub-section (4); and

(e) be lodged with the Commissioner (Appeals) within the time set out in sub-section (5).

(4) The prescribed fee <sup>10</sup>[shall be] —

(a) in the case of an appeal against an assessment, <sup>11</sup>[one thousand rupees] <sup>12</sup>[ ]; or

1 Figure and comma inserted by the Finance Act, 2004.  
 2 Figures and commas "183, 184, 185, 186, 187, 188, 189" omitted by the Finance Act, 2010.  
 3 Substituted for the word and figure "or 189" by the Finance Act, 2009.  
 4 Substituted for the word "treating" by the Finance Act, 2003.  
 5 Words inserted by the Finance Act, 2009.  
 6 Words etc. "except an assessment order under section 122C," omitted by Finance Act, 2017. Earlier Comm  
 7 words ", except a provisional assessment order under section 122C" inserted by Finance Act, 2011 and the  
 8 provisional" substituted for "an" by Finance Act, 2012.  
 9 Sub-section (2) substituted by the Finance Ordinance, 2002.  
 10 Clause (b) substituted by the Finance Act, 2004.  
 11 Substituted for the word "again" by the Finance Act, 2014.  
 12 Substituted for the word "is" by the Finance Ordinance, 2002.  
 13 Substituted for the words "the lesser of one thousand rupees or ten per cent of the tax assessed" by the Finance Act, 2010.  
 14 The words "or ten per cent of the tax assessed" omitted by the Finance Act, 2010.

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(b) in any other case -

- (i) where the appellant is a company, one thousand rupees; or
- (ii) where the appellant is not a company, two hundred rupees.

<sup>1</sup>[(5) An appeal shall be preferred to the Commissioner (Appeals) within thirty days of the following-

- (a) where the appeal relates to any assessment or penalty, the date of service of the notice of demand relating to the said assessment or penalty, as the case may be; and
- (b) in any other case, the date on which the order to be appealed against is served.]

(6) The Commissioner (Appeals) may, upon application in writing by the appellant, admit an appeal after the expiration of the period specified in sub-section (5) if the Commissioner (Appeals) is satisfied that the appellant was prevented by sufficient cause from lodging the appeal within that period.

**128. Procedure in appeal.**- (1) The Commissioner (Appeals) shall give notice of the day fixed for the hearing of the appeal to the appellant and to the Commissioner against whose order the appeal has been made.

<sup>2</sup>[(1A) Where in a particular case, the Commissioner (Appeals) is of the opinion that the recovery of tax levied under this Ordinance, shall cause undue hardship to the taxpayer, after affording opportunity of being heard to the Commissioner against whose order appeal has been made, may stay the recovery of such tax for a period not exceeding thirty days in aggregate.]

<sup>3</sup>[(1AA) The Commissioner (Appeals), after affording opportunity of being heard to the Commissioner against whose order appeal has been made, may stay the recovery of such tax for a further period of thirty days, provided that the order on appeal shall be passed within the said period of thirty days.]

(2) The Commissioner (Appeals) may adjourn the hearing of the appeal from time to time.

(3) The Commissioner (Appeals) may, before the hearing of an appeal, allow an appellant to file any new ground of appeal not specified in the grounds of appeal already filed by the appellant where the Commissioner (Appeals) is satisfied that the omission of the ground from the form of the appeal was not wilful or unreasonable.

(4) The Commissioner (Appeals) may, before disposing of an appeal, call for such particulars as the Commissioner (Appeals) may require respecting the matters arising in the appeal or cause further enquiry to be made by the Commissioner.

<sup>1</sup> Sub-section (5) substituted by the Finance Ordinance, 2002.

<sup>2</sup> Sub-section (1A) inserted by the Finance Act, 2012.

<sup>3</sup> Sub-section (1AA) inserted by the Finance Act, 2015.

CASE LAW CITATION u/s 128: Mst. Shagufta Abdullah v. CIR and 3 others [2015 PTD 1855 = (2015) 112 TAX 270 (H.C.Lah.)]; CIR, Legal Division, Bahawalpur v. Zulfiqar Ali [2012 PTD 964 = (2012) 106 TAX 76 (H.C.Lah.) = PTCL 2013 CL 124]; Commissioner of Inland Revenue (Legal), Peshawar v. Khalid Umar Khan [2016 PTD 832 (H.C.Pesh.)]; Commissioner of Inland Revenue-RTO v. Dr. Ghulam Rasool [2018 PTD 612 (Pesh. H.C.)]. See our published book "INCOME TAX DIGEST".

(5) The Commissioner (Appeals) shall not admit any documentary evidence which was not produced before the Commissioner unless the Commissioner (Appeals) is satisfied that the appellant was prevented by sufficient cause from producing such material or evidence before the Commissioner.

**129. Decision in appeal.**-(1) In disposing of an appeal lodged under section 128, the Commissioner (Appeals) may –

<sup>1</sup>[(a) make an order to confirm, modify or annul the assessment order, after examining such evidence as required by him respecting the facts giving rise to the assessment arising in appeal or causing such further enquires to be made as the Commissioner (Appeals) deems fit; or]

(b) in any other case, make such order as the Commissioner (Appeals) may deem fit.

(2) The Commissioner (Appeals) shall not increase the amount of any assessment order or decrease the amount of any refund unless the appellant has been given a reasonable opportunity of showing cause against such increase or decrease, as the case may be.

(3) Where, as the result of an appeal, any change is made in the assessment order of an association of persons or a new assessment of an association of persons is ordered, the Commissioner (Appeals) may authorise the Commissioner to amend the assessment accordingly any assessment order made on a member of the association and the time limit specified in sub-section (2) of section 122 shall not apply to the making such amended assessment.

(4) As soon as practicable after deciding an appeal, the Commissioner (Appeals) shall serve <sup>2</sup>[ ] his order on the appellant and the Commissioner <sup>3</sup>[:]

<sup>4</sup>[Provided that such order shall be passed not later than one hundred and twenty days from the date of filing of appeal or within an extended period of sixty days for reasons to be recorded in writing by the Commissioner (Appeals).]

Provided further than any period during which the hearing of an appeal is adjourned at the request of the appellant or is postponed due to any appeal or proceeding for stay order, remand or alternative dispute resolution proceedings or for any other reason, shall be excluded in the computation of the aforementioned periods.]