VOLUNTARY TAX COMPLIANCE SCHEME ("VTCS") INTRODUCED VIDE INCOME TAX (FIRST AMENDMENT) ACT, 2016

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TITLE: VTCS - INCOME TAX (FIRST AMENDMENT) ACT, 2016
NATURE: ADDITION, AMENDMENT
REFERENCE: SECTION 99A, NINTH SCHEDULE

A. Preamble:

This commentary is based on the VTCS as published in Pakistan Media on Friday, January 01, 2016.

A major segment of national economy is currently undocumented and a large number of traders who are required to file their income tax returns are either persistent non-filers or underreporting their income consequently depriving the national exchequer of its due share.

Therefore, in view of the prevailing culture of massive non-reporting and under-reporting, it is expedient to provide a one-time opportunity to the filer as well as non-filer traders to regularize their tax affairs by adopting a special and simplified procedure for assessment of their tax.

We foresee that withholding tax on banking transactions will restore to 0.6% after the due date of filling of returns under this VTCS. This will also trigger the urge in the non-filer traders to avail the scheme and file their returns under this VTCS.

FBR foresee that more than 1 million new taxpayers will be added into tax net, broadening the tax base and further contributing to the exchequer.

B. Amendment:

A new section (section 99A) has been added after section 99 in the Income Tax Ordinance, 2001 ("ITO"). A schedule (Ninth Schedule) has also been inserted in the ITO.

1. Definition of "Trader":

A trader has been defined as a person individual or an AOP buying goods or merchandise and selling the same without further processing and providing business related after sales services by doing repair jobs.

The persons providing professional services including accountants, architects, dentists, doctors, engineers, interior decorators and lawyers, have been excluded from the definition of the Trader.

The following retailers, who are registered under Sales Tax Act, 1990, are also excluded from the definition of Traders:

a) a retailer operating as a unit of a notional or international chain of stores;
b) a retailer who has a credit or debit card machine (currently is in abeyance);

c) a retailer operating in an air-conditioned shopping mall, plaza or centre, excluding kiosks;
d) a retailer whose cumulative electricity bill during the immediately preceding 12 month exceeds Rs. 600,000; and
e) a wholesaler-cum-retailer, engaged in bulk import and supply of consumer goods on wholesale basis to the retailers as well as on retail basis to the general body of the consumers.

2. Two Types Of Trader:

Two types of traders have been defined and a separate part of Ninth Schedule is applicable on each type as under:

No.	***Type of Trader***	***Part of Ninth Schedule Applicable***
1.	Who has not filed a return of income during any of the previous ten tax years before 31st December, 2015	***Part I***
2.	Who is: A Filer; or NTN holder and a non-filer but has filed any return during previous ten tax years.	***Part II***

3. Taxability

A Trader shall have the option:

- to be assessed either under this schedule; or
- to be assessed in normal manner where all provisions of ITO other than Ninth Schedule is applied.

For Traders Falling Under Part I

For traders under this Part, tax year 2015 is the first year in preceding ten years in which they will file a return of income.

i. For Tax Year 2015

Tax at the rate of 1% on working capital shall be payable on profits and gains from trading activity, provided that working capital shall not exceed Rs. 50 million.

Where working capital is more than Rs. 50 million, the person shall be taxed in the normal manner.

Table 1.1

Description	*Rs.*
Current assets	120,000,000
Less: Current Liabilities	(70,000,000)
Working Capital	50,000,000
Tax Payable - 2015 (50 million x 1%)	**500,000**

ii. For Tax Year 2016

Tax based on turnover during the year, at the rates specified in **Annexure A,** shall be payable provided that the turnover declared shall be at least three times the working capital declared during 2015.

Following will illustrate the situation:

Table 1.2

Description	Reference	Rs.
Working Capital Declared in 2015	A	50,000,000
Turnover Declared in 2016	B	120,000,000
Minimum Turnover for 2016	C = (3xA)	150,000,000
Turnover	D = Higher of A or C	150,000,000
Tax Payable for 2016 as per rates table in Annexure A	**Rs. 100,000 plus 0.15% of (150,000,000-50,000,000)**	**250,000**

iii. For Tax Year 2017 and 2018

Tax based on turnover during the year, at the rates specified in **Annexure A,** shall be payable provided that tax paid based on turnover shall be at least 25% more than the tax paid during 2016.

Following will illustrate the situation:

Table 1.3

Description	Reference	Rs.
Tax Paid in 2015	A	250,000
Turnover Declared in 2017	B	120,000,000
Minimum Tax to be paid	C = (125% x A)	312,500
Turnover based on 125% of tax paid in 2015 using Annexure A	The turnover will fall in second slab - (312,500-100,000)/0.15%+50,000,000	191,666,667
Tax payable based on declared turnover	D = Rs. 100,000 plus 0.15% of (120,000,000-50,000,000)	205,000
Tax Payable for Tax Year 2017	Higher of C or D	**312,500**

Table 1.4

Description	Reference	Rs.
Tax Paid in 2015	A	250,000
Turnover Declared in 2018	B	210,000,000
Minimum Tax to be paid	C = (125% x A)	312,500
Turnover based on 125% of tax paid in 2015 using Annexure A	The turnover will fall in second slab - (312,500-100,000)/0.15%+50,000,000	191,666,667
Tax payable based on declared turnover	D = Rs. 100,000 plus 0.15% of (210,000,000-50,000,000)	340,000
Tax Payable for Tax Year 2018	Higher of C or D	**340,000**

- Traders falling under this part shall be entitled to take credit of imputed income as assets explained and having verifiable resources. The following illustration will clarify the issue:

Table 1.5

Description	Reference	Rs.
Working Capital Declared in 2015		50,000,000
Tax paid at 1%	B	500,000
Imputable Income	**C = (B-79,500)/12.5%+1,400,000**	**4,764,000**

For Years 2016-2018, amount upto Rs. 4,764,000 will be allowed as imputable Income to be declared in wealth statements.

ii. **For Traders Falling Under Part II**

i. For Tax Year 2015

Tax shall be payable at higher of following:

a) 25% more than tax paid for tax year 2014 or for latest tax year for which return has been filed on the basis of taxable income;

b) Turnover based tax at rates specified in **Annexure A**; or

c) Rs. 30,000

Following will illustrate the situation:

Table 2.1

Description	Reference	Rs.
Tax Paid in 2014	A	25,000
Turnover Declared in 2015		17,500,000
Tax at rates in Table in Annexure A	B = 17,500,000 x 0.2%	35,000
Tax Payable for 2015	Higher of A, B or Rs. 30,000	**35,000**

ii. For Tax Year 2016 to 2018

Tax shall be payable at higher of following:

a) 25% more than tax paid for tax year 2015 on the basis of taxable income; or

b) Turnover based tax at rates specified in **Annexure A**.

Table 2.2

Description	Reference	Rs.
Tax Paid in 2015	A	35,000
Turnover Declared in 2016		20,000,000
Tax at rates in Table	B = 20,000,000 x 0.2%	40,000
Tax Payable for 2016	Higher of A or B	**40,000**
Tax Paid in 2015	A	35,000
Turnover Declared in 2017		15,000,000
Tax at rates in Table	B = 15,000,000 x 0.2%	30,000
Tax Payable for 2017	Higher of A or B	**35,000**
Tax Paid in 2015	A	35,000
Turnover Declared in 2018		22,000,000
Tax at rates in Table	B = 22,000,000 x 0.2%	44,000
Tax Payable for 2018	Higher of A or B	**44,000**

- Trader who has already filed return for tax year 2015 before due date may file a revised return provided that the tax payable is atleast 10% higher than the tax paid as per original return. Approval of Commissioner for such revision shall not be required.

- Trader under this part may opt to take credit of difference between imputable income (in relation to turnover tax at rates in **Annexure A**) and taxable income declared, in case the imputable income is higher than taxable income, subject to condition that 1% tax has been paid on such difference.

Table 2.3

Description	Reference	Rs.
Turnover declared in 2016		20,000,000
Tax paid as per rate table	B = 20,000,000 x 0.2%	40,000
Imputable Income	C = (B-14,500)/10%+750,000	1,005,000
Taxable Income Declared in 2016	D	500,000
Credit Allowed (Must be more than 0)	**E = C - D**	**505,000**

A credit of Rs. 505,000 will be allowed as explained income in wealth statement after payment of (505,000x1%) Rs. 5,050.

4. General Conditions

i. Only incomes from trading activities under head of "Income from Business", profit on debt, dividend and income from property shall be eligible under Ninth Schedule.

ii. The provisions of section 177 (Audit), 214C (Selection of Audit by the Board) and 214D (Automatic Selection for Audit) of ITO shall not apply to traders for tax years 2015 to 2018.

iii. Return of Income for traders falling under Part I is specified in Form A to the Schedule.

iv. No adjustment shall be available for any withholding tax or refund due, with respect to trading activity.

v. No adjustment of any tax paid or refund due under this schedule shall be available.

vi. Adjustment of withholding tax with respect to dividends, profit on debt and Income from property shall be available to trader.

vii. In case the return for any tax year from 2016 to 2018 is not filed, the trader shall not be qualified under this schedule for any tax year from 2015 to 2018 and all provisions of ITO shall apply.

viii. The trader qualified under this schedule shall not be a withhold tax from payments made by him for goods and services received.

ix. The trader qualified under this schedule, whose declared income for the year is less than Rs. 1 million, is not required to file wealth statement and wealth reconciliation statement.

x. The return may be subject to amendment under section 122 of ITO (amendment of assessment), where Commissioner has definite information.

xi. Persons convicted under Control of Narcotics Substances Act, 1997, Anti Terrorism Act, 1997 and Anti-Money Laundering Act, 2010 shall not be eligible to qualify under this Schedule.

5. Unresolved Matters

i. **Threshold of Rs. 50 million:** The VTCS may be exploited by individuals or AOPs by distributing their working capital among several associated persons to whiten their maximum wealth. For example an individual having working capital of Rs. 500 million may file 10 different returns under names of related persons (sons, daughters, spouse, etc.) and avail the scheme.

ii. **Powers of Commissioner under section 122:** It has been provided that the return filed under the scheme may be amended by the commissioner subject to possession of definite information. The income disclosed by the Trader has also been made subject to amendment instead of limiting the powers to undisclosed wealth. This provision will render the VTCS of no benefit as the powers of Commissioner under this provision will ne a hanging sword over Traders availing the VTCS.

iii. **Imputable Income:** The provisions relating to Imputable Income under Part I need further clarification as to the course of action in case the imputable income falls short as compared to working capital declared. As it is shown in Table 1.5 above, imputable income is less than working capital declared. The deficiency as identified in Table 1.5 above will worsen the situation as the excess of working capital over imputable income will prima facie be assumed and added to undisclosed asset.

iv. **Time Limit for Compliance:** The time limit for compliance under the two schemes introduced earlier in 2013 and in 2008 was extended multiple times. The scheme introduced in March, 2013 was time bounded for three months, whereas, scheme introduced in July, 2008 was valid initially for 4 months (till October 31, 2008) and was further extended for 2 months (until December 31, 2008). As the time limit for compliance under the VTCS has been extended upto 31st January, 2016 (which will probably extend further keeping in view the history of granting extensions), there is a chance that taxpayers under normal tax structure will also delay the filing of their returns to further defer their tax payments. The compliance date of the scheme is, therefore, required to be made exclusive for the Traders eligible under this scheme only.

Annexure – A

S. No.	Turnover	Rate
1.	Where turnover does not exceed Rs. 50 million	0.2%
2.	Where turnover exceeds Rs. 50 Million but does not exceed Rs. 250 Million	Rs. 100,000 plus 0.15% of the turnover Exceeding Rs. 50 million
3.	Where turnover exceeds Rs. 250 million	Rs. 400,000 plus 0.1% of the turnover Exceeding Rs. 50 million

Disclaimer:

This publication gives an overview of Voluntary tax compliance scheme Introduced vide Income tax (first amendment) Act, 2016 as published in Pakistani Media today; is prepared for the general use of our clients/other users, and shall not be a construed as an expert advice relating to a particular matter. No representation and/or warranty (written or inferred) are extended as to the completeness of contents. You should not act upon or take decision(s) on the basis of the information without soliciting professional advice.

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