



MULTAN TAX BAR ASSOCIATION

PRESIDENT

Shabbir Fakhruddin

Income Tax Practitioner
Mob: 0300-9630922
e-mail: shabbirtax59@gmail.com

GENERAL SECRETARY

Muhammad Imran Ghazi

Advocate High Court
Mob: 0300-6789992
e-mail: imran@imranghazi.com

Ref No: GS-16

Date: 21-07-2022

PATRON

Malik Muhammad Ramzan

Advocate High Court
Cell: 0308-7400800

VICE PRESIDENT

Mirza Muhammad Waheed Baig

Advocate Supreme Court
Cell: 0300-9639659

JOINT SECRETARY

Rana Muhammad Imran

Advocate High Court
Cell: 0300-6300486

FINANCE SECRETARY

Malik Maqbool Ahmad

Advocate
Cell: 0300-2009057

LIBRARY SECRETARY

Tayyba Farooq Kamboh

Advocate High Court
Cell: 0304-7259377

EXECUTIVE MEMBERS

Madam Fozia Malik

Income Tax Practitioner
Cell: 0300-7189907

Ch. Ashfaq Ahmad

Advocate High Court
Cell: 0300-6863823

Furqan Ahmad Khan

Advocate High Court
Cell: 0334-6058003

Muhammad Iftikhar Khokhar

Advocate High Court
Cell: 0333-6122006

Anwaar Khalid

Advocate
Cell: 0321-6358878

Ch. Tanveer Shahzad

Advocate High Court
Cell: 0342-7811116

AUDITOR

Muhammad Waqas Khalid

Chartered Accountant
Cell: 0300-9638714

The Chairman,
Federal Board of Revenue,
Islamabad

Subject: **CALCULATION OF TAX U/S 236K FOR PERSONS NOT APPEARING IN THE ACTIVE TAXPAYERS LIST**

Dear Sir,

On behalf of Multan Tax Bar Association, we would like to take privileges to share ambiguities facing by the large number of public regarding calculation of tax u/s 236K of the Income Tax Ordinance, 2001 after 1st day of July 2022 for persons whose names are not appearing in the active taxpayers list.

For your kind reference, proviso inserted through Finance Act 2022 is reproduced hereunder:

Provided further that **the tax required to be collected** under section 236K shall be increased by two hundred and fifty percent of the rate specified in Division XVIII of Part IV of the First Schedule in case of persons not appearing in the active taxpayers.

Emphasis provided

Please note that the field formation wrongly considering the existing wording of Rule 1 of Tenth Schedule i.e. **the rate of tax to be collected increased by** to determine the effective rate instead of using the actual wording as incorporated by Finance Act, 2022 through 2nd proviso i.e. **the tax required to be collected increase by** and hence until now even after issuance of Board's Circular No.15 of 2022-23 dated 21.07.2022 the actual effective rate as per the intention of legislature is still not be issued and clarified. Even field formation of FBR from different stations has issued different *effective rates* as per their understanding for collection of tax u/s 236K for the persons which are not appearing in Active Taxpayer lists and therefore, this alarming situation is cause of unrest among the large number of public. Even that due to spread of different rumors about *effective rate* of Section 236K of the Income Tax



MULTAN TAX BAR ASSOCIATION

Ordinance, 2001, withholding agents are confused to adhere with the true spirit of law. For your ready reference, some of clarifications about *effective rate of 236K* issued by FBR field formation are attached herewith:

- 1) Directorate General of Withholding Taxes vide clarification dated 07.07.2022 stated that "**Tax rate for 236K shall be increased by 250%** in the case of Non-filers as per amendment in Rule 1 of Tenth Schedule of Income Tax Ordinance, 2001.
Annex-A
- 2) Office of the Deputy Commissioner IR, Unit-11, Jhang Zone, Chiniot stated *effective rate "7% on gross value"*.
Annex-B
- 3) Office of the Assistant Commissioner IR, Unit-02, Okara vide letter dated 15.07.2022 stated *effective rate "7% on gross value"*.
Annex-C
- 4) Office of the Inland Revenue Officer, Shahpur WHT Unit, Shahpur Saddar vide letter dated 18.07.2022 stated *effective rate "7%"*.
Annex-D
- 5) Office of Deputy Commissioner IR, WHT Unit-06, Bahawalnagar vide letter dated 06.07.2022 stated *effective rate "5% on gross value"*.
Annex-E

Without prejudice, you are well aware that today, the world become a global village due to rapid development in IT infrastructure and latest communication techniques. Different *effective rates* for collection of tax u/s 236K issued by the field formation of FBR has already been spread among the taxpayers within seconds of their issuance and hence, after that the overall burden is shifted towards the tax bars of country to indulge in and resolve the matter as per true spirit of law without any further delay.

Being equal partner in achievement of budgetary targets, we would like to share with your good self that none of above clarifications issued by the field formation of Board is up to the mark. The language of proviso inserted through Finance Act 2022 in Rule 1 of Tenth Schedule is straightforward and simple to interpret in true sense but it seems that field formation even Board is more interested to get revenue collection through their own interpretation rather than follow the intention of legislature which is obviously very clear to reduce the burden of tax on persons who name are not appearing in Active Taxpayers List. The legislature intended to increase **the amount of tax required to be collected** under section 236K by two hundred and fifty percent of the rate specified in first schedule but all of the above clarifications issued by the field formation of the Board are wrongly based on **the rate of tax required to be collected** under section 236K increased by two hundred and fifty percent of the rate specified



MULTAN TAX BAR ASSOCIATION

in first schedule and hence it is need of time to work out correct *effective rate of Section 236K*, so that, ambiguities may be removed.

For your kind reference, an illustration of application of 236K of the Income Tax Ordinance, 2001 based on the 2nd proviso of Rule 1 of The Tenth Schedule inserted through Finance Act 2022 is given hereunder to explain and calculate the true *effective rate*:

i.	Let suppose Fair Market Value of Property	Rs.10,000,000
ii.	Rate specified in Division XVIII of Part IV of First Schedule	2%
iii.	Tax required to be collected @ 2%	= Rs.200,000
iv.	250% of the rate as Sr. No. ii above	= 2% x 250% = 2% x 2.50 = 5%
v.	Tax required to be collected u/s 236K increased by 250% of the rate @ 2%	= Rs.200,000 + (200,000 x 5%) = Rs.200,000 + 10,000 = Rs.210,000
vi.	Effective rate	2.10%

We hope that above illustration will serve the purpose and Board will issue clarification regarding *Effective Rate* of 236K @ 2.10% for persons who names are not appearing in the active taxpayers, so that, various rumors in this regard may be mitigated and tax be collected accordingly in the light of intention of legislature.

Rule 2 of the Tenth Schedule

While using this opportunity, we would also like to refer about **Rule 2 of the Tenth Schedule** which is infact beneficiary in nature but dormant in nature due to the reason that Board has not issued SOPs yet for its implications. For your kind perusal, Rule 2 of The Tenth Schedule is reproduced hereunder:

2. Persons not required to file return or statement. (1) Where the withholding agent or the person from whom tax is required to be collected or deducted is satisfied that a person appearing in the active taxpayers' list was not required to file a return of income under section 114, as the case may be, he shall before collecting or deducting tax under this Ordinance, furnish to Commissioner a **notice in writing electronically** setting out –

(a) the name, CNIC or NTN and address of the person not appearing in the active taxpayers' list'



MULTAN TAX BAR ASSOCIATION

(b) the nature and amount of the transaction on which tax is required to be collected or deducted; and

(c) reason on the basis of which it is considered that the person was not required to file return or statement, as the case may be.

Emphasis provided

Please note that due to non-availability of procedure in FBR software about furnish a notice in writing via electronically to concerned Commissioner, the persons who are not required to submit their annual return of income as provided u/s 114 or 115 of the Income Tax Ordinance, 2001 are being forced to pay higher amount of taxes than the correct one and hence, that scenario awaiting the kind attention of Board under the light of mission, vision and values statement.

Our Vision

To be a modern, progressive, effective, autonomous and credible organization for optimizing revenue by providing quality service and promoting compliance with tax and related laws

Our Mission

Enhance the capability of the tax system to collect due taxes through application of modern techniques, providing taxpayer assistance and by creating a motivated, satisfied, dedicated and professional workforce

Our Values

- Integrity
- Professionalism
- Teamwork
- Courtesy
- Fairness
- Transparency
- Responsiveness

It is therefore, also requested to **kindly issue necessary SOPs and make practicable the Rule 2 of The Tenth Schedule** as per its true sense, so that, the benefit of relief may be practicable and then available to the citizen of country in the light of Article 10A of the Constitution.

Your early kind response will highly be appreciated.

Truly yours,

Muhammad Imran Ghazi

General Secretary

c.c.

The Chief Commisisoner Inland Revenue, RTO, Multan

