


FBR receives 240,343 less tax returns for TY18

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MUHAMMAD ALI

KARACHI: The Federal Board of Revenue (FBR) has received 1,552,287 returns for Tax Year 2018 as compared to 1,792,630 returns filed in Tax Year 2017.

This was stated by Pakistan Tax Bar Association (PTBA) in its letter sent to the Finance Minister Asad Umar here.

Terming the Section 182A (return not filed within due date) of the Income Tax Ordinance, 2001 as major reason behind the decline of 240,343 returns for TY18, the PTBA said although the incumbent government was also making efforts to bring every person who is liable to pay tax into the tax net, in the presence of Section 182A of the Ordinance, they would not be able to persuade any person to file return after the due dates of filing of returns, which had already expired.

It said that total number of active taxpayers on the basis of returns filed in Tax Year 2017 stood at 1,792,630 however, the FBR has received 1,552,287 returns till due date for the Tax Year 2018.

The Finance Act, 2018 assented on May 22, 2018 introduced penal provision of law vide Section 182A of the Income Tax Ordinance, 2001 [the "Ordinance"] with the objective to ensure filing of return within the prescribed due date.

"Notwithstanding anything contained in this ordinance, where a person fails to file a return under section 114 by the due date as specified in Section 118 or by the date as extended by the board under Section 214A or extended by the commissioner under Section 119, as the case may be, such person shall not be included in the active taxpayers list (ATL) for the year for which return was not filed within the due date and not be allowed, for that tax year, to carry forward any loss under Part VIII of Chapter IV."

It said that on perusal of above provisions of law, any person, who has or would be filing his return of income in case of individual/AoP after December 17, 2018 and in case of companies after December 31, 2018 [or up to time allowed by the commissioner under Section 119], would not be included in the ATL for the year for which return was not filed within the due dates.

Furthermore, PTBA said that the above penalty was in addition to the following quiet harsh penalty for failure to file return within the due date and added that where any person failed to furnish a return of income as required under Section 114 within the due date. Such person shall pay a penalty equal to 0.1 percent of the tax payable in respect of that tax year for each day of default subject to a maximum penalty of 50 percent of the tax payable provided that if the penalty worked out as aforesaid is less than Rs20,000 or no tax is payable for that tax year such person shall pay a penalty of Rs20,000.

The PTBA said that the imposition of penalty under Section 182A of the Ordinance was nothing but levy of double penalty on the existing taxpayers for the same offence and article 13 of the Constitution of the Islamic Republic of Pakistan, provides protection against double punishment for the same offence. The superior courts in number of cases held that double jeopardy is unconstitutional.

However, they are afraid to persuade any person to file return after the due dates of filing of returns, which had already passed. Therefore, it is requested to delete Section 182A of Income Tax Ordinance, 2001, which the PTBA considered it as bottleneck for broadening of tax base.