

FBR asked to review applicability of taxes on shares, securities

ISLAMABAD: Securities and Exchange Commission of Pakistan Chairman Farrukh Sabzwari has asked the Federal Board of Revenue Chief Shabbar Zaidi to recognise the applicability of different tax rates on 'shares' and 'securities'.

Sabzwari has said that under the Income Tax Ordinance, 2001, the stake in an unlisted company is called a 'share' while that of a listed company is reclassified as a 'security'.

"This reclassification from share to security affects the tax liability of the gain arising on disposal of security, and the profit on disposal of security is taxed under section 37A whereas the gain on disposal of share is taxed under section 37," the letter said.

The tax rate under section 37 was significantly higher as compared to 37A.

However, both the state institutions have been placed in a fix after the 2016 decision of Sindh High Court which ruled that shares acquired only after announcement of its listing by the stock exchange shall be treated as security, while those bought prior to the listing shall continue to be shares.

The chairman added that "the judgment would also adversely affect new listings as sponsors of the company would be taxed under section 37 instead of 37A."

The SECP has requested FBR to consider the shares of a company in the tax year it became a public entity as securities from the date of acquisition.

An official from the regulator said that prior to listing, the company floats shares and the general public buys them through initial public offering. However, after the court ruling, shares of any company will not be considered a security up to the day the first trade of that entity takes place in the stock exchange.

"But this trading occurs only after shares have been sold and the IPO process is complete," the official added.

Prior to the judgment, tax of listed companies was collected by the National Clearing Company of Pakistan Ltd (NCCPL) under section 37A while that of non-listed companies by FBR under section 37. Now the tax body has asked NCCPL to return the tax collected over the gains made by sale of shares during the past three years.

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