

Sep 14th, 2018

LATE FILERS WON'T BE INCLUDED IN ATL: FBR

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ISLAMABAD: A person who fails to file income tax return within the due date shall not be included in the Active Taxpayers List for the year for which return was not filed within due date under the Finance Act 2018.

The FBR has explained important provisions of the Income Tax Ordinance 2001 introduced through Finance Act 2018.

The FBR said that the late filers of tax returns not to be subjected to automatic selection for audit under section 214D of the Ordinance Section 214D.

Prior to the passage of the Finance Act, 2018 a person was automatically selected for audit under section 214D if the person failed to file return of income within the time period delineated under section 118 of the Income Tax Ordinance, 2001 or within the time period extended by the Board or the concerned Commissioner under sections 214A and 119 of the Income Tax Ordinance, 2001 respectively. Taxpayers were also subjected to automatic selection for audit if tax required to be paid along with return of income under section 137 of the Ordinance was not paid. Moreover, audit of the Income Tax Affairs of the person under section 214D of the Ordinance was required to be conducted as per procedure laid down under section 177 of the Income Tax Ordinance, 2001, the FBR said.

However, taxpayers were not subjected to automatic selection and were ousted from the ambit of section 214D of the Ordinance if they filed their income tax returns suo motu within 90 days of the time period delineated under section 118 of the Income Tax Ordinance, 2001 or within the time period extended by the Board or the concerned Commissioner under sections 214A and 119 of the Income Tax Ordinance, 2001 respectively and paid a 25% higher tax as compared to the previous tax year on the basis of their taxable income; or the higher of 2% of turnover or normal tax liability along with return in cases where return for the preceding year was not filed or income below taxable limit was declared.

The FBR said that the concept of automatic selection for audit under section 214D of the Ordinance posed hardship for new taxpayers, desirous of coming within the fold of the tax net who file their income tax returns after the due date and mostly upon issuance of notice under section 114. In order to provide relief to new taxpayers coming within the fold of the tax net and supplement efforts geared towards broadening of the tax base, section 214D of the Ordinance has been omitted. Now the late-filers shall not be subjected to automatic selection for audit under section 214D of the Ordinance. However, in order to create a deterrence against late filing of returns a new section 182A has been inserted through the Finance Act, 2018 whereby a person

who fails to file return of income under section 114 of the Ordinance within the due date as delineated under section 118 of the Income Tax Ordinance, 2001 or within the date extended by the Board or the concerned Commissioner under sections 214A and 119 of the Ordinance respectively shall not be included in the active taxpayers list for the year for which return was not filed within the due date.

Therefore, a person who is unable to file return within the date stipulated under section 118 of the Ordinance or within the date extended by the Board or the concerned Commissioner under sections 214A and 119 of the Ordinance shall no longer be entitled to appear on the active taxpayers list for the year for which return of income is not filed within the due date i.e. a late filer shall no longer be treated as a “filer” in terms of section 2(23A) of the Ordinance as the name of such taxpayer shall no longer appear on the active taxpayers list issued by the Board. However, an explanation has also been inserted in section 182A of the Ordinance whereby it has been clarified that Section 182A of the Ordinance shall have prospective effect and shall only be applicable for the returns due for the Tax Year 2018 and onwards for which the first Active Taxpayers List is to be issued on 1st March, 2019 under the Income Tax Rules, 2002. Therefore, taxpayers should ensure that their income tax returns for the Tax Years 2018 and onwards are filed within the due date under section 118 of the Ordinance or the date extended under sections 214A and 119 of the Ordinance in order to avoid higher rates of withholding taxes across a multitude of transactions applicable to non-filers vis-à-vis filers.

Furthermore in terms of the newly inserted section 182A of the Ordinance, a person who fails to file return of income within the date specified under section 118 of the Ordinance or within the date extended under sections 214A and 119 of the Ordinance shall, in addition to exclusion from ATL for the relevant tax year as explained above shall not be entitled to carry forward any loss under Part VIII of Chapter III of the Ordinance to the tax year for which return of income is filed late. The losses which cannot be carried forward to the tax year for which return of income is filed late, can however be carried forward to next year following the tax year in which return is filed late if the return for that year is filed within the due date. However, the condition specified in sub-section (2) of section 57 shall apply that no loss shall be carried forward to more than six tax years immediately succeeding the tax year for which the loss was first computed.