


Implementation of revised tax slabs: retrospective effect move tastes defeat

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The government's move for implementation of revised tax slabs for individuals with retrospective effect from July 1, 2018 was rejected by the Senate Standing Committee of Finance with a majority vote, warning that such an effort will invite litigation. A meeting of the Senate Standing Committee of Finance presided over by Senator Farooq H Naek rejected the proposal of the government to implement the revised sales tax slabs for individuals from retrospective effect with majority votes of three against two.

The committee further recommended that the revised tax slabs for individuals be implemented from the next day of assent given to the Finance Supplementary (Amendment) Bill, 2018 by the President.

The chairman of the committee observed that Parliament can give approval of the taxation measures retrospectively but the Parliament cannot be forced to do it.

The opposition senators including Haroon Akhtar Khan and Dr Musadiq Malik of PML-N and Talha Mehmood of JUI (F) questioned the government's move over the retrospective implementation of the revised slabs.

These senators suggested to implement the new tax slabs for business individuals and salaried class from the date when the President signs the amended bill. Discussing the proposal on application of revised income tax slabs from July 2018, representative of Ministry of Law informed the committee that the amendments made in the income tax law is not against the Constitution.

The Law Ministry official also quoted Article 10 and Article 264 of the Constitution in this regard. The taxation of individuals from the back date is not an offence under the Constitution, he said. Referring to various clauses of law and decisions of courts, he said that there was no legal hindrance in making amendments in the income tax slabs.

State Minister for Revenue Hammad Azhar said it has become clear after presentation from Law Division that it is legal to implement the revised slabs retrospectively from July 1, 2018. The Parliament has the power to grant retrospective effect to any decision.

However, Senator Haroon Akhtar urged the government not to review the reversal of two major tax reforms initiated by the previous government for not allowing non-filers to purchase over Rs 5 million property and new vehicles to bring them in the tax net.

Hammad Azhar requested the committee that the government may be given some time to finalize a strategy for certain categories as this will create problem for overseas Pakistanis as well as those required not to file tax return legally.

Senator Talha Mehmood said that the proposal of revised tax slabs should not be out-rightly rejected, "but we have to adopt a middle way." The FBR should implement the revised slabs from the next day of assent given to the Bill by the President.

Senator Musadik Malik said that the Parliament has the right to enforce the tax provision retrospectively "but we agree to enforce it from the date of assent given to the Bill by the President." He repeatedly said that it is violation of rights of the people even if there is no legal bar in retrospective amendment.

Haroon Akhtar said that the amendment be made effective from the date of signing of the Bill by the President.

On the issue of tax slabs, Hammad Azhar said that there is no legal issue in retrospective applicability of revised tax slabs from July 1, 2018. Even if the provision is being challenged in courts, there is no substantial risk involved keeping in volume of case law and judgments of courts.

He said that a major portion of increase in tax slab is still not being proposed by the government. The current economic situation warrants such amendments as FBR is facing over Rs 90 billion revenue loss on account of tax relief to individuals. If the proposed changes are not approved, FBR's tax collection would be reduced drastically. Under the Finance Act 2018, this relief in income tax to individuals is the biggest revenue loss in 2018-19, he maintained.

"As far as our taxation measures are concerned, over 50 percent of the revenue would come from administrative measures against non-filers," he said.

He said that it is very much clear that the Parliament has the authority to give retrospective effect to the said amendments, Hamad Azhar added. The committee, which held its meeting on Wednesday with Senator Farooq H Naik in the chair, also pended the proposal of removal of condition of filers for purchase of property as Hamad Azhar requested to wait for amended proposal.

Chairman FBR Dr Jahanzeb Khan and Senior Member Inland Revenue Policy Dr Muhammad Iqbal said if definition of tax year is seen in the Income Tax Ordinance, it is based on yearly income. Technically and as per rule it should be effective from July 1, 2018, they added.

Senator Mohsin Aziz of ruling PTI said that the income tax is charged as per the whole income of 12 months; this is why the collection of tax should be equally started from July 2018. However, the chairman of the committee after analyzing the legal matters said that since the law and courts' verdicts make it clear that Parliament has the ultimately authority to amend the rule, the committee's members should express their views on the matter.

The opposition members Haroon Akhtar and Musaddiq Malik, however, said since they would prefer public interests, they would oppose the collection of income tax from July 1. Later the chairman conducted voting on the subject and the committee opposed it with majority vote.

On the proposal of removal of restriction on acquisition of vehicles and properties by non-filers, Haroon Akhtar said that the previous government has not imposed restriction on non-filers from purchase of vehicles. However, the applicant or purchaser of a vehicle should submit document of filer (Active Taxpayer List) along with other documents at the time of registration of the vehicle. Therefore, it is not restriction, but only additional documentation in the form of ATL to encourage filing of returns.

He claimed that there is a perception in the market that ruling party is removing the restriction on the pressure of a powerful lobby. "I am unable to understand the logic behind the removal of the condition as it will facilitate the persons operating out of the tax net," he said.

The representative of Law Division informed the committee that linking purchase of property and vehicle is tantamount to intervening in the provincial domain. He said registration of property and vehicles falls in the jurisdiction of provincial governments. The issue, however, was deferred.

Haroon Akhtar proposed that the tax on non-filers may be further increased in case the restriction is lifted. FBR Senior Member Dr Iqbal endorsed the viewpoint of Senator Haroon Akhtar that the government is still considering different options including raising rate of advance tax for non-filers in comparison with filers for lifting ban on purchase of cars and plots.

Advisor to PM on Revenues Hammad Azhar told the committee that Minister for Finance Asad Umar was considering different options to come up with new proposal on this subject and the government might come up with new idea before the committee on Thursday (today) meeting. Later the committee postponed the matter till Thursday (today).

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