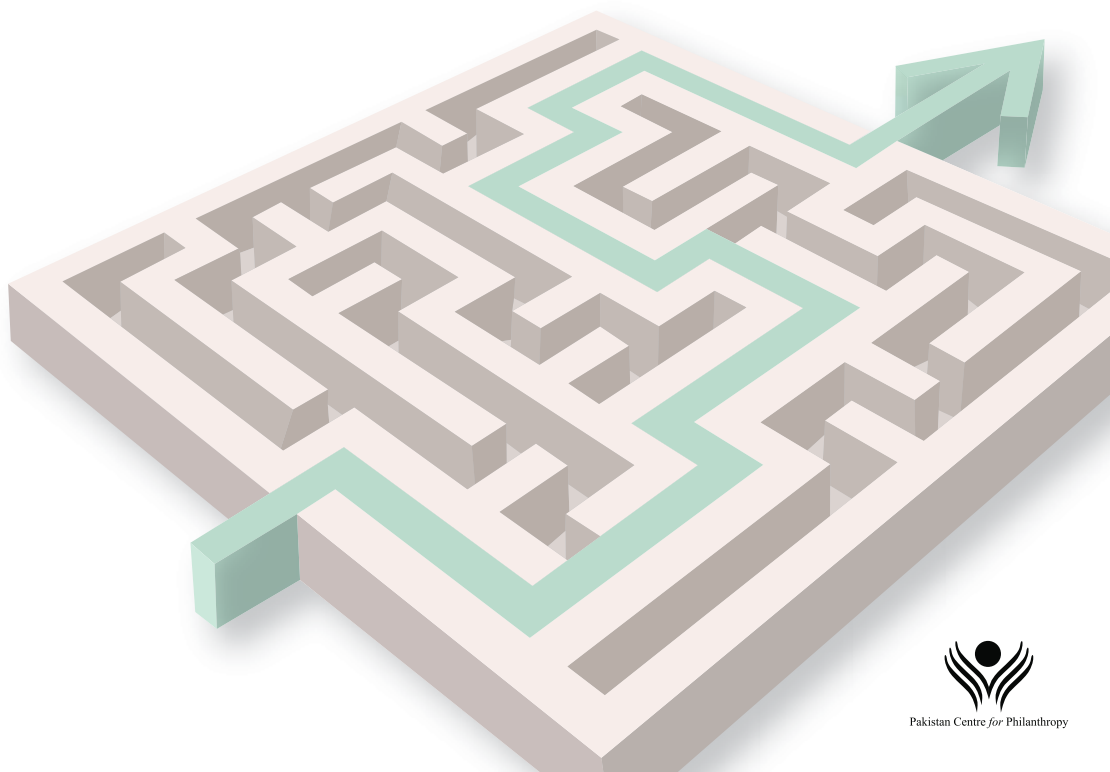


PCP TAX GUIDE

- Understand NPO tax system
- Application for Section 159
- Become tax compliant

YOUR COMPLETE GUIDE TO BECOMING SECTION 159 APPROVED NPO



Pakistan Centre for Philanthropy

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DISCLAIMER

- ✓ *The objective of PCP Tax Guide Series is not to provide legal advice, but to give interested persons access to informative materials and for understanding of tax regime.*
- ✓ *Recognizing that the NPO Tax laws change and their interpretations may be varied. Hence, Pakistan Centre for Philanthropy (PCP) is not liable for the variances that may accrue due to interpretation of tax laws.*

For Further Assistance
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Why PCP Tax Guide Series?

One of the major stakeholders in national development is civil society. Thousands of Not for Profit Organizations (NPOs) are working with communities throughout the country. They are contributing enormously towards poverty alleviation and other sectors i.e. health, education etc. It is therefore, in the interest of the national development agenda that NPOs are developed, strengthened and made financially viable. Generally an NPO is entitled to certain benefits and concessions across the board whether or not it is approved by the tax authorities for tax benefits.

NPOs approved by the tax authorities at various levels have an entitlement to some additional benefits i.e. tax credits/exemptions on different utility bills, property income, custom duties etc. In Pakistan, the tax benefits are provided in the Income Tax Ordinance (ITO), 2001 and Income Tax Rules (ITR), 2002. These provide an elaborate system whereby the NPOs get tax benefits with reference to their defined activities. From the attainment of NPO status against the defined activities of an NPO, the taxation system of Pakistan has provided detailed process for tax benefits.

The Pakistan Centre for Philanthropy (PCP) is an authorized agency evaluating NPOs and recommending them for tax benefits to the Federal Board of Revenue (FBR). PCP is in constant interaction with NPOs seeking an approved NPO status, philanthropists who contribute to NPOs seeking tax benefits/credits and government functionaries i.e. FBR, Economic Affairs Division (EAD) etc. who form an important link in the chain. PCP is often asked to answer all kind of questions related with requirements/process of tax benefits for NPOs, tax liabilities of NPOs and has therefore aimed to facilitate this application process for all NPOs.

In order to help its stakeholders and in an effort towards fulfilling its mandate of supporting the civil society, PCP has undertaken an exercise to compile the PCP tax guide series, for information on tax benefits pertinent to NPOs. Each edition of the series will deal with a separate tax-related issue for NPOs. **This edition of the Tax Guide Series will focus on the application for tax exemption / lower tax rate certificate under section 159.**

We hope that PCP Tax Guide Series I-IV will serve as a facilitation tool for tax education and compliance of NPO's across Pakistan.

Naveed Yousaf

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January 2024
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What are the Steps for Availing Tax Exemption or Lower Tax Rate Certificate?

The objective of this tax guide series for tax benefits is to present an overall picture of the tax benefits related provisions provided in Pakistan's income tax law. An NPO approaches RTO/LTU offices for availing tax benefits relating to exemptions (as listed below). These include: getting the status of an approved NPO; tax credits on income of an NPO; donor's getting benefits for the donations paid to an approved NPO and receiving tax exemption or a lower tax rate certificate related with advance payment of tax.

1. Approved NPO status under section 2(36) of the (ITO) 2001 (1st step for availing tax benefits).
2. Tax credit equal to one hundred percent on income under Section 100 C of the ITO 2001
3. Entitlement of tax credit to persons for charitable donations under section 61 of the ITO 2001
4. **Tax Exemption I lower tax rate certificate related with withholding transactions of NPOs in section 159 of the ITO, 2001.**

PCP guide series (IV) will now take you step by step for availing exemption / lower rate certificate for the last step as listed above. After status of an approved NPO under Section 2(36), its case can be further processed under Section 159, for availing tax exemption or lower tax rate certificate. This is the last of the tax guide series which concludes the areas of tax related benefits for NPO's.

Why Apply?

When income of an NPO is exempt from tax after getting status of an approved NPO under section 2(36) (requirement for which are given in Box 1 below; or refer to PCP guide for availing Section 2(36) status) or when an NPO is not likely to pay tax for a tax year for any reason i.e. business tax losses etc. the NPO is entitled to exemption from withholding tax. In this case, NPO applies to the Commissioner for a withholding tax exemption certificate. After making necessary inquiries, the Commissioner issues a withholding tax exemption/lower rate certificate. Consequently, tax will not be withheld from payments to the NPO as authorized by the commissioner.

Box 1: Main documents to be attached with application for Section 2 (36) for availing an approved NPO Status

- ✓ duly attested copies of constitution , articles of association, rules and regulations or by laws
- ✓ details of members I Trustees of the organization ; names ,CNIC ,Income declared and Tax Year
- ✓ certified copy of the registered trust deed in case of a trust
- ✓ certified copy of certificate of registration in case of register under the Companies Ordinance 1984
- ✓ duly attested copies of The Societies Registration Act, 1860 (XXI of 1860),the Voluntary Social Welfare Agencies (Registration and Control) Ordinance , 1961 ,or under any other law in substitution thereof relating to the registration of welfare organisation as applicable
- ✓ the names, CNIC/NTN , last income declared, tax year and addresses of the promoters, directors, trustees, president, secretary, treasurer, manager and other office bearers, as the case may be, of the organisation, and indicating clearly their family relationships, if any, with each other
- ✓ duly attested copies of the balance sheet and of revenue accounts of the organization as audited by a "qualified accountant" (defined in Box 2 below) for the year immediately preceding the year in which the application is made;

- ✓ a detailed report with regard to the performance of the organisation for achieving its aims and objects during the preceding financial year preceding the date on which application is made, duly evaluated and certified by an independent certification agency approved by an authority designated by the Government of Pakistan for this purpose or, till that authority is established, under arrangements made by the Federal Board of Revenue (Commissioner).(Details of FBR notification are given in Box 3 below)

Box 2: Qualified Accountant means (Rule 211(2) (f))

- ✓ a retired audit, accounts, treasury or taxation officer of the Government not below BPS-17 or a bank manager, where the annual receipts of the organisation do not exceed Rs. 0.5 million;
- ✓ in other cases, a Chartered Accountant as defined under the Chartered Accountants Ordinance, 1960 (X of 1960) or
- ✓ a Cost and Management accountant as defined under the Cost and Management Accountants Act, 1966 (XIV of 1966) or
- ✓ a firm of Chartered Accountants as defined under the Chartered Accountants Ordinance, 1960 (X of 1960) or
- ✓ a firm of Cost and Management Accountants as defined under the Cost and Management Accountants Act, 1966 (XIV of 1966);]

Box 3: FBR Notification: PCP as Certification Agency

- ✓ Under notification dated: 18-12-2003, FBR issued S.R.O 1116(1)/2003 and approved Pakistan Centre for Philanthropy to act as a Certification Agency for the purposes of Rules 211,212,213,214 and 220A of the Income Tax Rules, 2002.

What is the Procedure?

Section 159 of the Income Tax Ordinance, 2001 provides that:

1. Where the Commissioner is satisfied that an amount to which Division II or III of this Part [or Chapter XII] applies is -

- a. exempt from tax under this Ordinance; or
- b. subject to tax at a **rate lower than** that specified in the First Schedule; or
- c. is subject to hundred percent tax credit under section 100C

the Commissioner shall, upon application in writing by the person, in the prescribed form issue the person with an exemption or lower rate certificate.

1A. The Commissioner shall, upon application from a person, in the prescribed form whose income is not likely to be chargeable to tax under this Ordinance, issue exemption certificate for the profit on debt referred to in clause (c) of sub-section (1) of section 151.

Application in writing is mandatory

2. A person required to collect advance tax under **Division II** of this Part or deduct tax from a payment under **Division III** of this Part [or deduct or collect tax under **Chapter XII**] shall collect or deduct the full amount of tax specified in **Division II or III [or Chapter XII]**, as the case may be, unless there is in force a certificate issued under sub-section (1) relating to the collection or deduction of such tax, in which case the person shall comply with the certificate.

Tax must be collected or deducted unless there is a certificate

6. Notwithstanding omission of sub-sections (3), (4) and (5), any notification issued under the said sub-sections and for the time being in force, **shall continue to remain in force, unless rescinded** by the Board through notification in the official Gazette.

FBR must have issued notification

Division II: Advance Tax paid to a collection Agent

Section 148 - 148A are related sections.

Division III: Deduction of Tax at source

Sections 149 - 158 are related sections.

Chapter XII: Transactional Advance Tax Provisions

Sections 231 A - 236W are related sections.

For list of related sections as mentioned above, see Income Tax Ordinance 2001.

General Tax Exemption Regime

The sections 41-55 of the Income Tax Ordinance 2001, specifically state the exemptions and tax concessions for taxpayers. The Federal Government is empowered under section 53 to specify the incomes or classes of incomes, persons or classes of persons which shall either be exempt from tax or whose tax liability shall be reduced. According to Section 54, no provision in any other law providing for the following categories of income and persons shall have legal effect unless provided in this Ordinance.

According to Section 53 (1) the income or classes of income or persons or classes of persons specified in the Second Schedule fall under any of the following categories:

Box 5: Section 53 (1) specified the following categories of the income or classes of income, or persons or classes of persons in the Second Schedule of ITO 2001

- ✓ Part - I Exempt from tax i.e., the incomes specified in this part shall not be included in total income of the persons
- ✓ Part - II Liable to lower tax rates than the rates specified in the First Schedule
- ✓ Part - III Reduction in tax liability
- ✓ Part - IV Exempt from the operation of any specified provision of the Income Tax Ordinance, 2001

The amendments can be made in the Second Schedule. The Federal Government has the authority in this regard. However, it is mandatory that all amendments made during the financial year shall be placed before the National Assembly. The amendments may be enforced from any date, whether present, past or future. Amendments made with reference to this aspect can be classified as under:

- ✓ **Adding any clause or condition therein**
- ✓ **Omitting any clause or condition therein; or**
- ✓ **Making any change in any clause or condition therein**

An exempted income is included in the total income of a taxpayer if it is so required under any provision of the Second Schedule. The taxpayer is not required to pay tax in this regard. In other words, exempted income shall be included in total income for rate purposes. The taxpayer shall be allowed a tax credit at the average rate of tax regarding such income.

Section 55 provides for the limitation of exemption. It states that where any income is exempt from tax under this Ordinance, the exemption shall be, in the absence of a specific provision to the contrary contained in this Ordinance, limited to the original recipient of that income and shall not extend to any person receiving any payment wholly or in part out of that income. **In 2003, an amendment was introduced with reference to this section. It introduced the concept that a loss sustained during the exemption period may be carried forward and set-off after the expiry of exemption period.** Pre- 2003 period provided that where a business was exempt from tax either permanently or for a specific period and a person sustained a loss from such business, a loss sustained during exemption period could not be off-set during or after the expiry of the exemption period.

PCP کی ٹیکس گائیڈ سیریز نمبر 4 ٹیکس چھوٹ/کم شرح سرٹیفیکیٹ حاصل کرنے میں قدم بہ قدم رہنمائی کرتی ہے۔

سیکشن (36) 2 کے تحت منظور شدہ غیر منافع بخش ادارہ سیکشن 159 کے تحت ٹیکس چھوٹ/کم شرح سرٹیفیکیٹ حاصل کر سکتا ہے۔ یہ آخری ٹیکس گائیڈ غیر منافع بخش ادارے کو حاصل ہونے والے تمام ٹیکس فوائد کا نچوڑ ہے۔

سیکشن (36) 2 کے تحت جب ایک غیر منافع بخش ادارے کی آمدن ٹیکس چھوٹ کی حامل ہو، یا جب غیر منافع بخش ادارے کا ٹیکس سال میں کسی وجہ سے ٹیکس نہ دینے کا امکان ہو جیسے کہ کاروباری ٹیکس خسارے، تو غیر منافع بخش ادارہ وڈ ہولڈنگ ٹیکس چھوٹ کا حقدار ہے۔ اس صورت میں غیر منافع بخش ادارہ وڈ ہولڈنگ ٹیکس چھوٹ سرٹیفیکیٹ حاصل کرنے کے لئے کمشنر کو درخواست دے سکتا ہے۔ ضروری چھان بین کے بعد کمشنر وڈ ہولڈنگ ٹیکس چھوٹ/کم شرح سرٹیفیکیٹ جاری کر دیتا ہے۔ کمشنر کی اجازت کے نتیجے میں، غیر منافع بخش ادارے کو کی جانے والے ادائیگیوں پر ٹیکس کٹوتی نہیں ہوگی۔

طریقہ کار کیا ہے؟

آئٹم ٹیکس آرڈیننس 2001 کا سیکشن 159 فراہم کرتا ہے کہ:

(1) جس رقم کے بارے میں کمشنر مطمئن ہے کہ اس رقم پر اس حصے کی ڈویژن (Division) II، III، یا IV لاگو ہوتا ہے تو:

(الف) اس آرڈیننس کے تحت ٹیکس چھوٹ ہے۔ یا

(ب) فرسٹ شیڈول (first schedule) میں مخصوص شرح سے کم ٹیکس لاگو ہوگا۔

(ج) سیکشن 100C کے تحت 100 فیصد ٹیکس کریڈٹ (Tax Credit) لاگو ہوگا۔

نیچے بتائے گئے متعلقہ سیکشنز کی فہرست کے لئے آئٹم ٹیکس آرڈیننس 2001 دیکھئے۔

✓ ڈویژن II۔ کو لیکشن ایجنٹ کو ادا کیا گیا ایڈوانس ٹیکس (Division II - Advance Tax paid to a collection Agent)

متعلقہ سیکشن 148A - 148

✓ ڈویژن III۔ ماخذ پر ٹیکس کٹوتی۔ (Division III - Deduction at Tax source)

متعلقہ سیکشن 149 سے 158 تک

✓ باب XII۔ لین دین پر ایڈوانس ٹیکس کی دفعات (Chapter XII - Transactional Advance Tax Provisions)

متعلقہ سیکشن A-231 سے 236W تک

ٹیکس گائیڈ کیوں ضروری ہے؟

ٹیکس چھوٹ/کم شرح ٹیکس سرٹیفیکیٹ حاصل کرنے کے لئے کیا اقدامات ہیں؟

درخواست دینا کیوں ضروری ہے؟

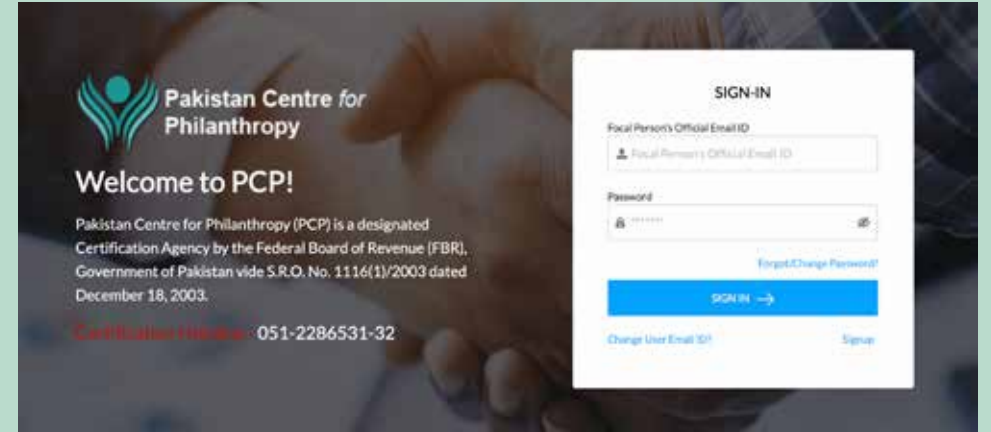
طریقہ کار کیا ہے؟

ود ہولڈنگ ٹیکس چھوٹ کا نظام

سرٹیفیکیشن کے لئے آن لائن ایپلائی کریں

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مزید معلومات کے لئے

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پی سی پی ٹیکس گائیڈ

- ٹیکس کے نظام کی سمجھ
- سیکشن 159 کی درخواست
- ٹیکس قوانین کی تعمیل

سیکشن 159 کی درخواست کے طریقہ کار کے لیے مکمل گائیڈ

