The Akhtar & Hasan *letter*

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100th issue of The Akhtar & Hasan Letter

This is the 100th issue of The Akhtar & Hasan Letter. We thank you for your encouragement.

Company accounts to contain Provident Fund details

On 4th March 2013, the Securities & Exchange Commission of Pakistan (SECP) issued SRO's 182(I)/2013 and 183(I)/2013. They amend the Fifth and Fourth Schedules of the Companies Ordinance, 1984.

Among other items, new disclosures in company accounts are required regarding provident funds.

Please consult your auditors.

On inter-provincial services, sales tax will be charged twice.

The first two sub-sections of S.3 of the Sindh Sales Tax on Services Act, 2011, as amended up to July, 2013, read as follows:

"3. Taxable Service. — (1) A taxable service is a service listed in the Second Schedule to this Act, which is provided:

(a) by a registered person from his registered office or place of business in Sindh;

(b) in the course of an economic activity, including in the commencement or termination of the activity.

Explanation: This sub-section deals with services provided by registered persons, regardless of whether those services are provided to resident persons or non-resident persons.

(2) A service that is not provided by a registered person shall be treated as a taxable service if the service is listed in the Second Schedule to this Act and:

(a) is provided to a resident person;

(b) by a non-resident person in the course of an economic activity, including in the commencement or termination of the activity.

Explanation: This sub-section deals with services provided by non-resident persons to resident persons whether or not the said resident person is an end consumer of such services."

S.3(1) and 3(2) of the Punjab Sales Tax on Services Act, 2012, are similar.

Suppose a provider located in Sindh provides a taxable service to a person resident in the Punjab. Then under S.3(1) of the Sindh Act, sales tax is payable to Sindh.

Suppose the service is also taxable in the Punjab. Then under S.3(2) of the Punjab Act, it will also be taxed in the Punjab.

Provinces, and Islamabad, need to co-ordinate, to ensure that this double taxation is eliminated.

Definition of non-resident should exclude foreign entities for Sales Tax purposes

The way "non-resident" is used in S.3(1) of both Sindh and Punjab Acts means that the Sales Tax will also be payable on services provided to entities outside Pakistan. This will hit the export of professional services. The Tax should not apply to services provided to foreign countries.

Early Bird Seminar on Role of Trustees in Provident, Pension and Gratuity Funds

Samee-ul-Hasan conducted an Early Bird Seminar on 20 June 2013 on the above subject.

The large attendance indicated considerable interest. Perhaps this was the first time (as far as we know) that the subject was addressed. The seminar provided a panoramic view of many points which Trustees should be aware of.

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Growing disparity between corporate tax rate and with-holding tax leads to large over-deductions from service companies

The Table shows some history.

Tax Year	Tax* on profit incl surcharge	With-holding tax on gross on services	Break even net profit as % of gross
1980	55 %	3%	5.45%
2004	41%	5%	12.20%
2006	37%	5%	13.51%
2013	35%	6%	17.14%
2014	34%	6%	17.65%

* Assuming private limited company

In Tax Year 1980, if a service company made a net profit of 5.45% on its gross, then with-holding tax @ 3% would equal its tax liability.

As the tax rate came down, the with-holding tax rate should also have reduced. But the opposite has happened. In Tax Year 2014, a company's net profit would have to be 17.65% of its gross income, to equate the with-holding tax of 6% with its tax liability @ 34 % of net profit.

Very few can earn net of 17.65 % of gross. The result of this growing disparity is large over-deductions, piling up as "assets" in balance sheets, creating severe cash flow problems.

In the interest of public decency, we draw a veil over the problems of getting refunds, or of getting exemption. The disparity effectively negates reductions in the corporate tax rate.

To restore the original break even point of 5.45% net profit on gross, the WH tax should be reduced to 1.85%, say 2 %.

Some provisions of the Finance Act 2013 are of questionable value

- <u>Many more people to file returns</u>: Everybody whose business income is over Rs 3 lakhs pa, and everybody whose salary is over 4 lakhs pa, now has to file a tax return, a wealth statement and a reconciliation, for tax year 2013.

This will inundate the FBR with yet more information, and cause much inconvenience to people with relatively low incomes. Will it be a worthwhile exercise?

- <u>Banking secrecy ended by SS 165 and 165A</u>: This will probably have the perverse effect of making the cash economy even bigger.

On 17 August 2013, the Finance Minister stated "access to bank data would be done for new income tax assesses only, and would be done by the FBR Chairman or a high officials of Board Member rank". This is damage limitation. It is better not to do the damage in the first place!

- <u>Minimum tax of 1%</u>: Federal and Provincial governments raise sales taxes on goods and services. No case remains for a minimum tax on gross sales under the Income Tax law. It negates the concept of Income Tax.

The gross sales of businesses are usually more its "capital + retained profits", i.e. its equity. Suppose gross is 5 times equity. Suppose the business breaks even in any year. The minimum tax of 1% of gross would deplete equity by 5%. Suppose the business makes a loss. In addition to the depletion caused by the loss, the minimum tax would deplete equity by a further 5%.

کسی بیکس کو اے بیدار گر مارا تو کیا مارا
جو آپ ہی مر رہا تھا۔ اُسکو گر مارا تو کیا مارا
(ذوق)