

## **Exemption to profits & gains: Senate panel for restoring clause 126F of IT Ordinance**

The Federal Board of Revenue (FBR) has abolished the clause 126F of Second Schedule of Income Tax Ordinance 2001 pertaining to the exemption to profits and gains derived by a taxpayer located in the most-affected and moderately affected areas of Khyber Pakhtunkhwa, Fata and Pata.

During the review of Finance Bill (2017) at Senate Standing Committee on Finance on Friday, the FBR Chief Inland Revenue Policy said that the refund of Rs 1.5 billion is pending under the abolished clause of 126F of Second Schedule of Income Tax Ordinance 2001. If any move has been made to restore the said clause, the FBR will have to give refund of Rs 1.5 billion under clause 126F. The committee members proposed to restore the deleted clause of 126F of the Income Tax Ordinance 2001.

Senator Talha Mehmood referred to the commitment of former Prime Minister Yusuf Raza Gilani who being prime minister had committed to continue with the exemptions in affected areas of FATA and PATA. FBR Member Inland Revenue Policy Dr Muhammad Iqbal explained that the clause 126F of the Income Tax Ordinance 2001 has been omitted. The exemption was only available to the profits and gains derived by a taxpayer located in the most affected and moderately affected areas of Khyber Pakhtunkhwa, FATA and PATA for a period of three years starting from the tax year 2010. The clause 126F was basically meant for businessmen of strife-ridden areas of KPK and FATA.

As the clause has been omitted, the same cannot be amended except by the Parliament. The correction in the omitted clause is not possible, he added. A committee member said that the Parliament has the authority to restore the said deleted amendment of the Income Tax Ordinance 2001.

FBR Chairman Dr Muhammad Irshad informed the committee when the clause was inserted into the Income Tax Ordinance 2001, there was an understanding that only profit and gains would be exempted, but not the income. Later, the FBR issued an income tax circular which also covered refund cases under presumptive tax regime (PTR) or Final Tax Regime (FTR). After issuance of the circular, huge amount of refund claims were filed under the said clause. When the issue was brought into the notice of FBR, the FBR immediately withdrew the income tax circular. However, during the period when circular was legally applicable, huge claims of refunds were filed with the FBR. The matter went into litigation and Supreme Court of Pakistan gave judgment in favour of the FBR, he maintained. Chairman of the Committee Senator Saleem Mandviwalla questioned if a law does not exist, how the provision could be restored.