

GOVERNMENT OF PAKISTAN
REVENUE DIVISION
FEDERAL BOARD OF REVENUE

C.No.4(99)IT-Budget/2016-Pt-I

Islamabad, the 16th December, 2016

Circular No. 19 of 2016
(Income Tax)

SUBJECT:- CLARIFICATION REGARDING COLLECTION OF ADVANCE TAX ON SALE OR TRANSFER OF IMMOVABLE PROPERTY UNDER SECTION 236C OF THE INCOME TAX ORDINANCE, 2001.

The Income Tax (Amendment) Ordinance, 2016 was promulgated on 31st July, 2016 whereby a new sub-section (4) was added in section 236C of the Ordinance relating to collection of Advance Tax on sale or transfer of immovable property. The aforementioned sub-section is reproduced hereunder for ease of reference:-

"(4) Sub-section (1) shall not apply to :-

(a) A seller , if the seller is dependent of :

(i) a Shaheed belonging to Pakistan Armed Forces; or

(ii) a person who dies in the service of the Pakistan Armed Force or the Federal and Provincial Government ; and

(b) to the first sale of immovable property which has been acquired or allotted as an original allottee, duly certified by the official allotment authority."

2. Some ambiguity/confusion prevailed with regard to the interpretation of the aforementioned sub-section, whereby, a plain reading of clause (b) of sub-section (4) created an impression that exemption from the applicability of section 236C of the Ordinance is available to any/every first sale of immovable property irrespective of qualification/conditions laid down in clause (a) of sub-section (4) of section 236C of the Ordinance which was not the intent of the legislature. Therefore, cognizance of the same was taken and in order to remedy the situation sub-section (4) of section 236C was omitted and a proviso was added in sub-section (1) of section 236C of the Income Tax Ordinance, 2001 through the Tax Laws (Amendment) Ordinance, 2016 dated 31st August, 2016 which is reproduced hereunder:-

"Provided that this sub-section shall not apply to a seller, being the dependent of a Shaheed belonging to the Pakistan Armed Forces or a person who dies while in the service of the Pakistan Armed Forces or the service of Federal or Provincial Government, in respect of first sale of immovable property acquired from or allotted by the Federal Government or Provincial Government or any authority duly certified by the official allotment authority, and the property acquired or allotted is in recognition of or for services rendered by the Shaheed or the person who dies in service."



3. In light of the aforementioned proviso added in sub-section (1) of section 236C of the Income Tax Ordinance, 2001 it is manifest that exemption from collection of advance tax under section 236C of the Ordinance shall be restricted to a singular transaction represented by the first sale of immovable property by a seller, who is the dependent of a *Shaheed* belonging to the Pakistan Armed Forces, a person who dies while in the service of the Pakistan Armed Forces or the service of the Federal or Provincial Government in respect of immovable property acquired from or allotted by the Federal Government, Provincial Government or any authority duly certified by the official allotment authority being in recognition of or for services rendered by the *Shaheed* or the person who dies in service.



(Reema Masud)
Secretary (IT-Budget)