

WITHHOLDING TAX ON BROKERAGE AND COMMISSION
TAX YEAR 2012 (1st July 11 to 30th June 12)

Withholding Agent/Principal

1. Section 233 of the Income Tax Ordinance, 2001 provides that the following persons are liable to deduct withhold tax before making the payment on account of Brokerage or Commission:
 - a) Federal Government
 - b) Provincial Government
 - c) Local Authority
 - d) Company
 - e) An Association of persons constituted by, or under on any Law

The Deducting Authorities mentioned above are called “Principal” and the person from whom tax is deducted is called “Agent”.

Final Tax

The tax deducted constitutes full and final discharge of its tax liability in case of all Agents from tax year 2005 onwards, under the provisions of section 233(3).

Principal/Agent Bifurcation

The payers making payments to the following agents, who work on fixed commission basis but receive such payments on behalf of their principals as well shall bifurcate the payments between the agents and principals in the ratio mentioned against each. Each recipient would in turn claim credit in respect of its share of deduction:

AGENT	PRINCIPAL (%)	AGENT (%)
- Advertising Agents	85	15
- Travel Agents:		
(a) Domestic Sales	95	05
(b) Foreign Sales	91	09

[CBR Circular No. 25 of 1980 dated 23.9.1980]

In case principal is exempted the deduction would be affected only out of the payments relating to the agent.

Rates of Deduction

1) Commission income of indenting Commission agents and all other agents (both resident and non-residents – see para 23 of CBR Cir. No. 01 of 2006 dated 1.7.2006)	10% (Final)	Under Div.II of Pt.IV of First Schedule
2) Commission income of Advertising Agents	5% (Final)	Under clause (26) of Part II of Second Sch.
3) Foreign Exchange proceeds of Indenting Commission Agents [U/S 154(2)]	5% (Final)	Under para (2) of Div.IV of Pt.III of First Schedule

When Deductible

- 1) At the time of actual payment of brokerage or commission by Principal.
- 2) At the time of receiving payment by Principal when agent retains brokerage or commission out or proceeds remitted.

In case the agent remits the amount to the principal after deducting his commission, the principal has to:

- (a) Get the paid Challan of the tax on the commission U/S 233 from the agent; OR collect the amount of tax on the commission U/S 233 from the agent and pay it into government treasury within the prescribed time, i.e. within one week of end of each fortnight [Rule 43(b)].
- (b) Issue certificate of deduction of tax to the agent on the prescribed format [Rule 42].
- (c) Furnish the following statements regarding tax-withheld U/S 233 to the authority on the prescribed format: [Rule 44(1) & (2)].
 - i. Monthly Statement - By 15th of each month
 - ii. Annual Statement - By 31st August each year

Petroleum Products

- 1) Section 156A added vide Finance Act, 2004 (**effective 1.7.2004**) provides that every person (viz. companies, wholesalers, distributors or retailers – irrespective of status) selling petroleum products to petrol pump operators shall deduct tax

- from the amount of commission or discount allowed to the operator at the rate specified in Division VIA of Part III of the First Schedule, which is **10%**.
- 2) The tax deducted under this section shall be **final tax** on the income arising from the sale of petroleum products.
 - 3) The tax shall be deducted from commission or discount allowed to the petrol pump operator irrespective of the fact that it is mentioned or not in the Bill.
 - 4) The Central Board of Revenue vide Circular No. 11 of 2004 dated 1.7.2004 has clarified that in a situation where petrol pump operator may have to suffer tax deduction U/S 153(1) (a) of the Ordinance in respect of the sale of petroleum products where the commission or discount has already been subjected to withholding tax U/S. 156A, in such case the Commissioner will issue exemption certificate U/S. 153(4) of the Ordinance to avoid deduction of tax twice.

Travelling Agents

The Traveling agents are paid commission by airlines which is liable to **WHT @ 10%** and is treated as **final tax**. While receiving payments on account of sale of air tickets, the same are again subject to WHT tax, which being excess deduction is refundable. A new clause **(43B)** has been inserted in *Part IV of Second Schedule to the Income Tax Ordinance, 2001*. Consequently, withholding tax on sale of air tickets made by traveling agents who have paid WHT on their commission income will not be collected.

(43B) *“The provisions of clause (a) sub-section (1) of section 153 shall not apply to payments received on sale of air tickets by traveling agents, who have paid withholding tax on their commission income.”*