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Memorandum on Income Tax Ordinance (Third Amendment) Act, 2026

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INCOME TAX ORDINANCE (THIRD AMENDMENT) ACT, 2026

The Federal Government has promulgated the Income Tax Ordinance (Third Amendment) Act, 2026, through which section 134A of the Income Tax Ordinance, 2001 has been substituted in its entirety. The amendment forms part of a broader policy initiative to strengthen the **Alternative Dispute Resolution (ADR)** framework, enhance neutrality in tax dispute resolution, and streamline high-value litigation particularly in relation to State-Owned Enterprises (SOEs). While the monetary threshold and overall eligibility criteria remain broadly consistent with the prior law, the substituted provision introduces significant procedural, structural, and institutional reforms.

Scope and Eligibility of ADR

Under the existing section 134A, ADR is available where a dispute relates to tax liability of Rs. 50 million or above, admissibility of refund, waiver or extent of default surcharge and penalty, or any other specific relief is required to resolve the dispute. Criminal proceedings are excluded. In the case of SOEs, the Rs. 50 million threshold does not apply and it is mandatory for such SOEs to apply for ADR.

The amended provision retains this structure. The monetary threshold for general taxpayers remains Rs. 50 million, criminal matters remain excluded, and ADR continues to be mandatory for SOEs. Accordingly, the reform does not materially alter the entry criteria but focuses on procedural and structural changes.

Composition of the ADR Committee

The existing provision provides that the Committee comprises of a retired High Court Judge (nominated by the Board from a notified panel), the jurisdictional Chief Commissioner Inland Revenue, and a taxpayer nominee selected from a notified panel of professionals (including chartered accountants, cost and management accountants, advocates with at least ten years' experience, retired BS-21 Inland Revenue officers, or reputable businessmen nominated by Chambers of Commerce).

The amended provision significantly restructures this composition. The jurisdictional Chief Commissioner has been removed and replaced with an Inland Revenue officer not below BS-21 who is not connected with the case jurisdictionally. The Chairperson may now be a retired Judge of a High Court, Federal Constitutional Court, or Supreme Court, and the nomination process has been made more structured. The professional experience requirement for advocates has also been increased. These changes are aimed at strengthening neutrality and reducing perceived departmental influence within the Committee.

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Application Requirements and Undertakings

Under the existing law, the application for ADR must include an initial proposition for resolution (including an offer of tax payment) and an undertaking that the applicant will accept the Committee's decision and withdraw all pending litigation. In the case of SOEs, immediate withdrawal of pending cases is required, subject to certain appellate rights where the Committee fails to decide.

The amended provision continues to require an initial proposition and an undertaking but introduces clearer procedural timelines for withdrawal and strengthens the binding nature of the undertaking, particularly in the case of federally owned SOEs. The revised drafting places greater emphasis on finality and prompt cessation of parallel litigation.

Timeline for Decision

The existing section requires the Committee to decide the dispute within forty-five days, extendable by fifteen days, making a total maximum period of sixty days.

The amended provision replaces this model with a straight ninety-day period. While the new timeline is longer, it is structured as a single consolidated period rather than a short period with discretionary extension. This reflects a shift toward a more realistic adjudication window while preserving time certainty.

Consequences of Failure to Decide

Under the previous law, if the Committee failed to decide within sixty days, the Board would dissolve the Committee, and the matter was reverted to the appellate forum. In the case of SOEs, however, a special mechanism was required for reappointment of a committee for a further sixty days before the matter could return to litigation.

The amended provision removes the mandatory reappointment cycle for SOEs. If the Committee fails to decide within ninety days, it would be dissolved and the matter will proceed in the ordinary appellate forum. In addition, the amended framework modifies appellate routes and contains transitional provisions affecting certain pending matters. The removal of the second-committee mechanism simplifies the process but reduces the extended opportunity previously available to SOEs.

Binding Nature of the Committee's Decision

Under the existing provision, the Committee's decision becomes binding on the Commissioner only if the taxpayer withdraws its pending appeal and communicates such withdrawal within sixty days of service of the decision. If withdrawal is not communicated within that period, the decision does not bind the Commissioner.

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The amended section retains the sixty-day withdrawal requirement but strengthens finality for SOEs wholly owned by the Federal Government by making the Committee's decision final and binding on both sides. This marks a significant enhancement of decisional conclusiveness for federally owned entities.

Stay of Recovery

Both the existing and amended provisions provide that once a Committee is constituted, recovery of the disputed tax is deemed to be stayed until the final decision of the Committee or its dissolution, whichever occurs earlier. There is no substantive change in this regard, and the automatic statutory stay continues to be an important protective feature of ADR.

Judicial Referral and Institutional Integration

The earlier framework primarily operated upon application by the taxpayer (or mandatory referral in the case of SOEs). The amended provision expands the institutional role of ADR by allowing superior courts to refer disputes to the ADR mechanism. In addition, transitional provisions affect certain pending SOE matters. This reflects an effort to more closely integrate ADR within the broader judicial dispute resolution architecture rather than leaving it solely as an optional administrative alternative.

Conclusive Remarks

In summary, while the eligibility threshold and core scope of ADR remain largely unchanged, the substituted section 134A substantially reforms the structural and procedural framework. The most significant changes include enhanced neutrality in Committee composition, removal of the jurisdictional Chief Commissioner from the Committee, elimination of the SOE reappointment cycle, strengthened finality for federally owned SOEs, clearer cost allocation, and expanded judicial integration. Collectively, these reforms reposition ADR as a more structured and institutionally independent dispute resolution mechanism within Pakistan's income tax regime.

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