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PART II

Statutory Notifications (S.R.O.)

GOVERNMENT OF PAKISTAN
REVENUE DIVISION
(Federal Board of Revenue)

NOTIFICATION

Islamabad, the 26th February, 2019

(SALES TAX AND FEDERAL EXCISE)

S.R.O. 250 (I)/2019.—In exercise of the powers conferred by sub-section (1) of section 4, section 40 and section 45A of the Federal Excise Act, 2005, section 219 of the Customs Act, 1969 (IV of 1969), section 50 of the Sales Tax Act, 1990, read with sub-section (2) of section 8, clause (b) of sub-section (1) of section 8, clause (ii) of sub-section (2) of section 8B, sections 9, 10, 14, 21, 21A and 28, clause (c) of sub-section (1) of section 22, first proviso to sub-section (1) of section 23, section 26, section 33, section 40C, sub-section (6) of section 47A, sections 48, 50A, 52, 52A and 66 thereof, the Federal Board of Revenue is pleased to direct that the following further amendments shall be made in the Sales Tax Rules, 2006, namely:

In the aforesaid Rules, for Chapter XIV-B, the following shall be substituted, namely:—

413 (1—16)

Price : Rs. 20.00

[306(2019)/Ex. Gaz.]

“CHAPTER XIV-B

**ELECTRONIC MONITORING, TRACKING AND TRACING OF
SPECIFIED GOODS AND LICENSING THEREFOR**

SUB-CHAPTER 1

PRELIMINARY

150ZF. **Application.**—The provisions of this Chapter shall apply to electronic monitoring, tracking and tracing of production, import and supply-chain of the following goods, on real time basis, hereinafter referred to as the specified goods, namely:—

- (d) tobacco Products;
- (e) beverages;
- (f) sugar;
- (g) fertilizer; and
- (h) cement:

Provided that any or all of the said specified goods above shall be monitored, tracked and traced in the manner provided in this Chapter from the date to be specified by the Board, through a general order:

Provided further that the specified goods, if brought from non-tariff area as defined in the Federal Excise Act, 2005, shall be treated as imported goods for the purposes of this Chapter.

150ZG. **Definitions.**—In this Chapter, unless there is anything repugnant in the subject or context,—

- (a) “applicant” means any company or consortium or joint venture which makes application for a license under these rules;
- (b) “central control room” means a control room established by the Board at FBR House, Islamabad or any other control room specifically designated by the Board;
- (c) “consortium” means an agreement or arrangement in which two or more firms or companies pool their financial and human resources to undertake the project;

- (d) “licensing committee” means a committee comprising Commissioner (Zone-I), LTU, Islamabad, Commissioner (Zone-I) LTU Karachi, Commissioner Mardan Zone, RTO Peshawar, Director, Intelligence and Investigation-IR, Islamabad, Chief IR (Operations-I), FBR Headquarters, Islamabad, and any other officer or authority designated by the Board;
- (e) “Project Director” means the Chief (IR-Operations-I), FBR or any other officer designated by the Board; and
- (f) “regional control room” means a control room established by the Board in Regional Tax Office, Peshawar or any other control room designated by the Board.

150ZH. Goods to be affixed with tax stamps, banderoles, stickers, labels, barcodes, etc.—(1) On every package, including a tin, container or bottle, of the specified goods whether manufactured or imported shall be affixed or printed a tax stamp, banderole, sticker, label, barcode, etc., hereinafter referred to as tax stamp, in the manner prescribed under this Chapter:

Provided that in respect of such specified goods which are exempt or meant for export tax stamps shall not be required to be affixed thereon, but shall be clearly, legibly and indelibly marked as “Exempt Goods” or “For Export”, as the case may be.

(2) Every tax stamp required to be affixed under these rules shall bear such security features as are approved by the Board in order to —

- (a) prevent counterfeiting;
- (b) enable accounting of production of the specified goods; and
- (c) enable any person in the supply chain or an officer authorized by the Commissioner Inland Revenue to authenticate such tax stamp.

(3) The system for imported goods shall be installed in a designated area at the port of importation or a customs bonded warehouse, as the case may be, declared by the importer for this purpose, or any other place approved by the Project Director:

Provided that the Board may allow tax stamps to be affixed on any specified goods to be imported in a production facility in the exporting country, subject to such conditions as the Board may specify.

(4) No person engaged in manufacturing, sale or purchase or handling of specified goods shall remove or tamper with the tax stamp affixed thereon until these are sold to the final consumer.

SUB-CHAPTER 2

LICENSING

150ZI. Licensing of companies for electronic monitoring, tracking and tracing of specified goods.—(1) No company shall carry out electronic monitoring, tracking or tracing of specified goods unless it has obtained a licence under these rules.

(2) No licensee under these rules shall establish, maintain or operate any other system or provide any other service which is not authorized under the licence.

150ZJ. Functioning of Licensing Committee.—(1) The licensing committee shall function in accordance with the provisions of these rules.

(2) Project Director, Track and Trace System, shall be the convener of the licensing committee and its headquarters shall be located at FBR House, Islamabad. The Board shall provide secretarial and other allied support required for functioning of the licensing committee.

(3) The licensing committee shall devise procedures for its functioning, which shall be in accordance with these rules.

150ZK. Application for grant of a licence.—(1) An application to carry out tracking, tracing and electronic monitoring of specified goods mentioned in these rules shall be made in duplicate to the Board.

(2) No application under sub-rule (1) shall be considered unless it is accompanied by all the supportive and relevant documents including the following, namely:—

- (a) a comprehensive profile of the company or partners or members in consortium;
- (b) brief about managerial and technical personnel indicating name, position, qualification and experience;
- (c) total number of current employees;
- (d) list of major clientele;

- (e) documents showing relevant experience in electronic monitoring, tracking and tracing of tobacco products, beverages, medicines, petroleum or any other goods;
 - (f) complete history of activities undertaken and synopsis of the projects done;
 - (g) current commitments and status of in-hand projects;
 - (h) incorporation certificate under the Companies Act, 2017 (XIX of 2017), and in case of consortium at least one member has such incorporation certificate;
 - (i) National Tax Number (NTN) certificate;
 - (j) audited accounts of the last three financial years;
 - (k) income tax returns for the last three years;
 - (l) registration with Sales Tax Department, if required;
 - (m) computerized National Identity Cards (CNICs) of directors of the incorporated company; and
 - (n) undertaking that the company has never been blacklisted by any Government or private department or organization and has not been involved in confirmed cases of fiscal fraud.
- (3) The applicant shall also declare the fee and charges that it intends to collect from manufacturers or importers of specified goods during the licence period.

150ZL. **Criteria for grant of a licence.**—(1) The applicant shall be required to provide technological solutions for the high security tax stamps and related electronic monitoring and tracking system tailored for Pakistani needs on real time basis.

(2) The applicant shall possess the following qualifications to be considered for issuance of licence, namely:—

- (a) it shall be a company duly incorporated under the Companies Act, 2017 (XIX of 2017);

- (b) it shall have experience and past performance in electronic monitoring, tracking and tracing of tobacco products, beverages, medicines, petroleum etc preferably in multiple countries;
 - (c) it shall be in a financial position to undertake the project — minimum annual turnover of US\$ 50 million in any of last three years or financial worth of US\$ 25 million; and
 - (d) it shall have appropriate managerial capacity to execute and run the project.
- (3) The system based solution offered by the applicant must have the following features, namely:—
- (a) individually coded stamps to be affixed or applied on each package of the specified goods on the manufacturing lines or at importing station, as the case may be.
 - (b) the stamps shall be associated to every specific brand of a manufacturer;
 - (c) system shall provide for management of the workflow from the requirement or order of the manufacturer to the dispatch, reception and ultimately, application or affixation of tax stamps and activation of codes;
 - (d) the system shall allow the Board or the concerned field offices to monitor the production workflow and activities on a continuous basis;
 - (e) the system shall also provide all necessary functionalities in order to organize and monitor the activity of the controllers and generate requisite reports;
 - (f) mobile control devices or equivalent smart phones for officers of the Board to check the authenticity and trace the stamps on the units of tobacco products in the field;
 - (g) serialized secure stamps on tobacco products;
 - (h) a system providing at the production stage for the association of the stamps with a product defined by its SKU (Stock Keeping Unit);
 - (i) data analysis and communication results thereof to central control room (CCR) and regional control room (RCR);

- (j) reporting of unauthorized stoppages (include stoppages which cannot be reasonably excused by the relevant officers of the Board or as elaborated by the concerned Commissioner through a public notice) of production;
 - (k) must be stable, fault-tolerant, secure and accessible only by authorized username and password as authorized by the Board;
 - (l) necessary computers and data activation capturing devices on the production lines of manufacturer;
 - (m) this system shall provide that the information given below shall be securely transferred to the data warehouse of Board;
 - (n) information regarding spoiled, lost, unused, stolen and fake tax stamps and reconciliation; and
 - (o) The Track and trace system should include following control functionalities at several level, namely:—
 - (i) advanced authentication of all the different profiles on the system (login and password);
 - (ii) control of activation in the manufacturing plants; and
 - (iii) control of controller activity and planning of inspection tours.
- (4) The system based solution offered by the applicant shall be able to perform the following functions, namely:—
- (a) monitoring capability on real-time basis of a minimum 50 factory premises or production lines;
 - (b) tracing and tracking of specified goods throughout the country from factory premises to retail level on real time basis;
 - (c) the ability to configure the tracking unit remotely;
 - (d) the system must be capable of sending alert messages and trigger alarms (visible and audible) in case of occurrence of abnormal events such as unauthorized stoppages of production, tempering with stamping machines etc.

- (e) in case of absence of communication network coverage the tracking unit of the system must be able to switch over to another network so as to ensure real time tracking without interruption or break;
- (f) the system reporting should be capable to filter and process the production data for statistical and analytical purposes;
- (g) the licensee should ensure secure data storage and archiving of data for five years from its generation or recording;
- (h) ability to use authentication devices, or equivalent smart phones etc. for reading data at various sites;
- (i) ability to assign Unique Identification Number (UIN) which should contain Complete information about tracking unit including production date, brand name, machine number, location etc.; and
- (j) all electronic data interface (EDI) communication should be encrypted to ensure secure communications.

(5) The applicant shall also submit a complete list of operations and maintenance required to operate the system based solution.

(6) The applicant shall specify the expected delivery and implementation time, which shall not exceed six months from the date of issuance of license. The applicant shall also undertake to meet these timelines.

150ZM. Procedure for grant of a licence.—(1) On receipt of an application for grant of licence in the Board, the licensing committee shall evaluate it.

(2) The licensing committee may also fix a date for a hearing to be attended by the applicant for the purposes of evaluation of the application submitted under sub-rule (1).

(3) The licensing committee may also carry out visits and physical inspections to ascertain eligibility of the applicant for licensing under these rules.

(4) The applicant shall be required to give practical demonstration of the technological solution offered for licensing.

(5) The licensing committee shall send its recommendations to the Board within thirty days from the date of submission of the application. It shall give detailed reasons for recommending rejection of any application under these rules:

Provided that where complete documents or any information needed for the requisite evaluation have not been provided within fifteen days of the

requisition or within thirty days of the submission of application, whichever is later, the application shall be summarily rejected.

(6) In case a company meets the technical and financial criteria given in these rules, the licensing committee shall recommend to the Board for grant of licence to such a company.

(7) The Board may grant licence to the recommended company.

(8) The qualified company shall be required to deposit bank guarantee for rupees fifty million to the licensing committee, as financial security, before issuance of the licence. The bank guarantee shall be valid for whole duration of the licence and shall be encashable in case of violation of these rules or terms of licence leading to loss of government revenue.

150ZN. Rights granted to the licensee.—A licensee shall have the right to establish, maintain and operate a system to monitor and track the cargo on real time basis, in accordance with terms and conditions of the licence.

150ZO. Terms and conditions of the licence.—(1) Subject to these rules, licence shall be granted for a period of five years.

(2) The licence granted under these rules shall be subject to the provisions of the Act.

(3) The licence granted under these rules shall be non-transferrable and shall not be allowed to be used by any sub-contractor.

150ZP. Renewal of the licence.—(1) An application for renewal of license shall be made to the Board, three months before its expiry.

(2) The licensing committee shall evaluate the application and may recommend to the Board renewal of licence.

(3) The Board may renew the licence for further three years on the basis of recommendations of the licensing authority.

(4) The licensee shall be required to comply with all the provisions of these rules for the renewed period.

SUB-CHAPTER 3

RESPONSIBILITIES OF THE LICENSEE

150ZQ. Licensee to run and manage the system.—(1) The licensee shall be responsible to operationalize the system within six months of issuance of licence.

(2) The licensee shall run and manage the system under proper warrantee and shall ensure maintenance during the period of licence.

(3) The licensee shall abide by all relevant laws while running the system.

150ZQA. Establishment of Central Control Room.—(1) The Board shall design, furnish and establish a central control room (CCR) in the FBR House, Islamabad or in any other control room designated by the Board.

(2) The CCR shall be equipped with hardware, software, plasma screens, LCDs, communication and other allied equipment for viewing, analyzing the movements of goods and responding in cases of alerts.

(3) The CCR shall have necessary servers and data storage facilities to store and manage data bases for the specified goods monitored daily, with report printing capabilities.

(4) The operators at the CCR shall be able to transfer the map or any section of it to any monitor or licensee connected to the system based on pre-assigned priorities.

150ZQB. Establishment of regional control rooms.—(1) The licensee shall design, furnish and establish regional control rooms (RCR) in various field formations or in any other places designated by the Board.

(2) The RCRs shall be connected with the CCR and equipped with the requisite infrastructure for monitoring the movement of goods and vehicles and for responding in cases of alerts.

150ZQC. Requirements to be met at the factory premises and at imports.—(1) The licensee shall ensure that each factory premises and import station is connected to the system with adequate IT infrastructure for monitoring of production and generation of periodic report.

(2) The licensee shall arrange testing for all stamping equipment and tracking devices at each production sites.

(3) The licensee shall provide and maintain authentication devices, printers, UPS, etc. for smooth operation of the system.

(4) The system shall be expandable to cover future requirements of the Board.

150ZQD. **Technical and training support.**—(1) The licensee shall provide the technical support, as detailed below:—

- (a) setting up and maintenance of all information technology (IT) infrastructure, wherever needed, for the purposes of these rules; and
- (b) the licensee shall be fully responsible for -
 - (i) all upgrades of the system, hardware and software;
 - (ii) all bug fixes; and
 - (iii) immediate response and repair of any technical problem in the system during holidays or working days to cover the major, minor and moderate problems for uninterrupted working of the system.

(2) The licensee shall undertake to upgrade, as per the new technological requirement, the installed IT structure, related software, communication equipment etc., as and when required.

(3) The licensee shall arrange to provide comprehensive technical and operational training to the IR officers and officials and other concerned officials and ensure provision of all documentation and technical manuals, wherever and whenever required.

(4) Quarterly appraisal reviews of functioning and efficacy of the system shall be carried out for which the licensee shall make necessary arrangements.

SUB-CHAPTER 4

SUPERVISION OF THE SYSTEM, ENFORCEMENT AND EARLY TERMINATION

150ZQE. **Responsibilities of the Project Director.**—(1) The Project Director shall be responsible for overall supervision of the system.

(2) The Project Director shall send quarterly performance reports to the Board covering *inter alia* the functioning and efficacy of the system, the scope and need of improvements observed in the system and the steps taken to address problems encountered during operation of the system.

150ZQF. **Procedure for cancellation or termination of licence.**—(1) The Project Director shall immediately refer the matter to the licensing committee for further action under these rules, if he, as a result of supervision of

the system or on receipt of a report from any of the Commissioners of Inland Revenue or on a valid complaint, has reasons to believe that the licensee has—

- (a) failed to set up the infrastructure and to operationalize the system within the timelines committed at the time of issuance of licence;
- (b) failed to provide the required services to the satisfaction of the Board authorities;
- (c) contravened any condition of the licence;
- (d) contravened any provision of these rules or the Act; or
- (e) violated any applicable law while carrying out activities of licence under these rules.

(2) On receipt of reference from the Project Director under sub-rule (1), the licensing committee shall cause to serve a notice upon the licensee within fifteen days of receipt of reference, to show cause within thirty days after the date of the notice, as to why the licence issued under these rules should not be cancelled or terminated:

Provided that in cases where the Licensing Authority, on the basis of material evidence, is of the opinion that there exists *prima facie* a sufficient case against the licensee, it may suspend the licence to safeguard public finances and to prevent any other serious damage.

(3) The licensing committee may, after giving the licensee adequate opportunity of being heard and after examination of the record, cancel or terminate the licence issued under these rules.

(4) In case of cancellation of licence under these rules, the affected company shall have the right to file representation against the orders of the licensing committee before the Board.

(5) The Board shall decide the representation, after giving proper opportunity of being heard.

SUB-CHAPTER 5

FEE AND CHARGES

150ZQG. **Fee and charges.**—(1) The licensee shall charge fee for tax stamps from the manufacturer or importer.

(2) No fee whatsoever shall be charged from any of the field formations or the Board.

150ZQH. Determination of fee and charges.—(1) The licensing committee shall at the time of issuance of licence get the maximum amount of fee and charges determined which can be collected by the licensee from importers or manufacturers of the specified goods during the duration of the licence.

(2) The Project Director shall notify these fee and charges through a public notice for information of all the relevant persons.

(3) The Project Director shall ensure that only the fee and charges determined by the licensing authority are being collected by the licensee.

150ZQI. Revision or alteration of fee and charges.—(1) The fee and charges determined in accordance with rule 150ZQH shall not be revised or altered in normal circumstances during the duration of the licence.

(2) In cases where the basis of such determination has undergone significant and material change or where major economic disruption has occurred, the licensee may file a petition before the licensing committee accordingly to revise or alter the determined fee or charges.

(3) The licensing committee may in circumstances mentioned in sub-rule (2) allow review or alteration in such fee and charges:

Provided that in case where petition has been filed for upward revision or alteration of fee and charges, the representatives of importers and manufacturers of manufacturers shall be given an opportunity to present their point of view during the proceedings.

(4) The licensee may in case where the petition for upward revision or alteration of the fee and charges has been rejected shall have the option to request the licensing committee for cancellation of the licence issued under these rules.

(5) The licensing committee shall, on receipt of such a request under sub-rule (4), cancel the licence forthwith.

SUB-CHAPTER 6

FUNCTIONS AND RESPONSIBILITIES OF OTHERS

150ZQJ. Functions and responsibilities of the manufacturer or importer of specified goods.—(1) The manufacturer or importer of specified goods shall —

- (a) make all production facilities available for installation of the system and allow access to the licensee for routine operations, inspection and maintenance;
- (b) not supply any goods without routing them through the system and without affixation of tax stamps;
- (c) be responsible to pay the prescribed fee as provided in this Chapter;
- (d) require a licensee to provide the requisite quantities of tax stamps, banderoles, stickers, labels, barcodes etc. at least thirty days in advance, under intimation to the Board;
- (e) be responsible for smooth functioning, protection and security of the system;
- (f) report to the Board and concerned Commissioner Inland Revenue within twenty-four hours of any operational failure, damage, disruption or tampering of the system:

Provided that any damage to the system found to be due to carelessness, negligence or deliberate action of the manufacturer shall be repaired at the expense of the manufacturer, without prejudice to any legal action that may be taken for recovery of evaded tax and imposition of penalty;

- (g) maintain proper inventory of the tax stamps, banderoles, stickers, labels, barcodes etc.;
- (h) not print over, hide or deface a tax stamp, banderole, sticker, label, barcodes etc. affixed on a package;
- (i) allow unhindered access to the licensee and officer of Inland Revenue, authorized in this behalf;
- (j) give a notice to the Board, at least thirty days in advance, from the date of start of production of new brands of goods, any change in the graphic art of existing goods together with the corresponding packages and labels or closure, expansion, modification or any other changes in the production line;
- (k) return, under intimation to the Commissioner concerned, any tax stamps, banderoles, stickers, labels, barcodes etc. to the licensee in case the manufacturing is stopped, import is not made or the tax stamps, banderole, stickers, labels, etc. are defective or do not conform to the required specifications;

- (l) make available the damaged tax stamps, banderoles, stickers, labels, barcodes etc. for inspection by the officer authorized by Commissioner Inland Revenue;
- (m) report any inoperative production lines within twenty-four hours of occurrence to the concerned Commissioner Inland Revenue and the officer authorized by Commissioner Inland Revenue shall immediately proceed to secure such lines using a security seal and register the action in the system; and
- (n) production lines sealed as aforesaid shall not be de-sealed to resume operation except with the permission of the Commissioner Inland Revenue.

150ZQK. Functions of the Commissioner Inland Revenue.—(1) The Commissioner, having jurisdiction, shall monitor proper and uninterrupted operation of the system through periodic visits by an officer of Inland Revenue authorized in this behalf.

(2) Where a manufacturer or importer cannot account for the tax stamps, banderoles, stickers, labels, barcodes etc. issued to him by the licensee, the officer authorized by Commissioner Inland Revenue shall compute duties and taxes on the goods related to the unaccounted tax stamps, banderoles, stickers, labels, barcodes etc. and recover the same under the law.

150ZQL. Responsibility of persons involved in the supply chain.—A distributor, wholesaler, dealer, retailer or any other person involved in the supply chain of specified goods, shall verify the tax stamps, banderoles, stickers, labels, barcodes etc. affixed on the specified goods before taking any supply.

SUB-CHAPTER 7

MISCELLANEOUS

150ZQM. Liabilities of the licensee.—(1) Without prejudice to the action that can be taken under Chapter IV of these rules, the licensee shall be liable to punitive action under the Act and rules made thereunder, in cases of its willful collusion with the importer or manufacturer for violation or contravention of any of such provision.

(2) The licensee shall also be liable to deposit duty and taxes along with surcharges and penalties under the Act and the relevant rules, where it is established through proceedings under the Act, after providing an opportunity of being heard, that the licensee has colluded with manufacturer resulting in evasion of duty and taxes.

150ZQN. **Establishment of Inland Revenue enforcement network.**—The Board shall establish Inland Revenue enforcement network (IREN) which shall be responsible for combating evasion and leakages of taxes and duties payable on specified goods, which shall co-ordinate with enforcement units of the concerned field formations.

150ZQO. **Functioning of IR enforcement network.**—To check and verify any of the eventualities, the enforcement squads of IR shall patrol the designated routes on which specified goods are moving. The mobile squads may check a vehicle or any place of storage, wherein reportedly such specified goods are being transported, stored or kept, as the case may be, on which tax stamps have not been affixed under these rules.

150ZQP. **Audit.**—The Project Director shall arrange to carry out audit of the system every year. The report shall be used for system related improvements and corrective and remedial actions, where warranted.

[C. No 1/102-STB/2015 (Pt-2).]

TAUQEER AHMED,
Secretary (ST&FE-Budget).