TAXPAK

Newsletter By

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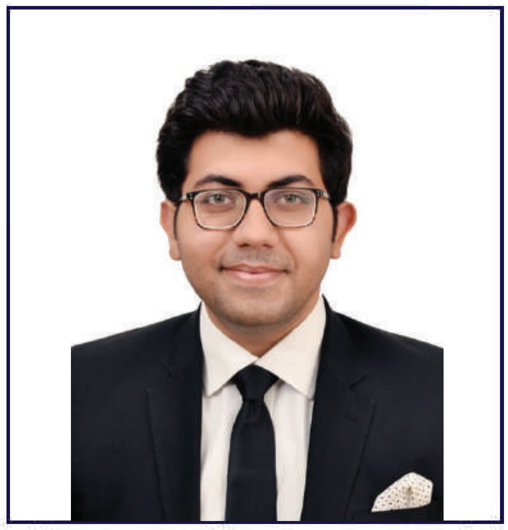

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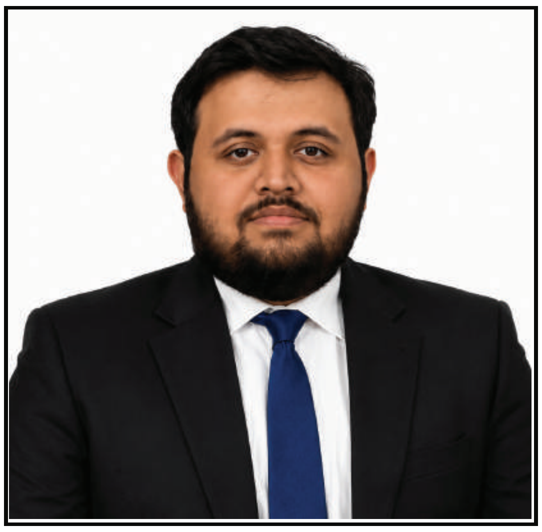

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Chairman's Message

Assalam-o-alaikum. We hope this monthly issue of TaxPak finds you in good spirits and immaculate health! Tola Associates welcomes you to another edition of TaxPak, our monthly publication the purpose of which is to provide a monthly update on the ongoing tax related developments in Pakistan. Alhamdulilah, so far, we have been successful in our mission to educate about, and keep the public-at-large updated of these developments on a monthly basis. Moreover, we would like to apprise the readers of what information you can expect in this document. This newsletter contains an elaboration of important Notifications and Circulars issued by the Federal Board of Revenue ("FBR") and its provincial counterparts. Further, Notifications from the Corporate regulatory body i.e., SECP are also discussed. As our main aim is to keep the masses updated regarding the developments in the Pakistani tax law, we usually discuss a (relatively) recent judgement passed by the courts of law. This edition of TaxPak consists a discussion of one judgment. The judgment discussed, was passed by the Hon'ble Supreme Court of Pakistan ("SCP"), wherein it was held that Section 11(4) of the Sales Tax Act, 1990 cannot be invoked to fasten withholding tax liability upon a person, as the said provision relates to short payment of tax or erroneous issuance of refund and does not deal with the responsibility of withholding of tax.

Towards the end of the newsletter, we have discussed our Topic of the month titled as "Minimum Tax in Pakistan: When Turnover Becomes More Important Than Profit". The said topic gives a brief overview of Pakistan's minimum tax regime under Section 113 of the Income Tax Ordinance, 2001, and explains why a business can have a tax liability based on its turnover even when it has little or no taxable profit.

All our readers are requested to visit our website www.tolaassociates.com, or download our mobile application in order to access previously published editions of TaxPak along with other publications, and to stay updated of future notifications. Lastly, we request our readers to circulate this e-copy within their circle, as our primary aim is to benefit the masses. Feedback is always welcomed.

Warm Regards,

Ashfaq Yousuf Tola - FCA, FCMA
Chairman
Tola Associates.

FEDERAL BOARD OF REVENUE (“FBR”) NOTIFICATIONS

A. INCOME TAX NOTIFICATIONS

1) AMENDMENT IN INDEPENDENT SCRUTINY COMMITTEE RULES

The FBR, vide S.R.O. 1286(I)/2026 dated 05 August 2026, has notified further amendments to the Income Tax Rules, 2002 The amendments have been finalized following the publication of the issue vide S.R.O. 1239(I)/2026 dated 30 July 2026

The amendments relate to rule 231CB, concerning the constitution and jurisdiction of the Committees specified thereunder. In Committee No. 1, the reference to “CTO Islamabad” has been omitted from paragraph (iv) against Serial Nos. 1, 2 and 3 of the relevant Table.

In Committee No. 2, the reference to “RTO Lahore” has been replaced with “RTO-I Lahore, RTO-II Lahore” against Serial Nos. 1, 2 and 3. Similarly, in Committee No. 3, the reference to “CTO Karachi” has been replaced with “CTO-I Karachi, CTO-II Karachi” against Serial Nos. 1, 2 and 3.

The notified amendments essentially update the composition of the relevant Committees to reflect the restructuring of the tax offices in Lahore and Karachi, while removing the reference to the Corporate Tax Office, Islamabad, from Committee No. 1. The amendments are administrative in nature and seek to align rule 231CB with the prevailing organizational structure of the Inland Revenue field formations.

For further insight: ***FBR***

2) INCOME TAX PROPERTY VALUATION SRO 1335(I)/2026, DATED 07.08.2026 TO FURTHER AMEND SRO 644(I)/2026,DATED 16.04.2026

The FBR, vide S.R.O. 1335(I)/2026 dated 07 August 2026, has notified further amendments to its Notification No. S.R.O. 644(I)/2026 dated 16 April 2026. The amendments introduce new valuation rates for properties falling within Category C Shops, Class-III Shopping Center, E-8 (Naval Headquarters), Islamabad.

The notified amendments provide for the insertion of six new categories of properties under the heading “Category C Shops, Class-III Shopping Center, E-8 (Naval Headquarters)”. The prescribed valuation rates include PKR 25,000 per square yard for Ground Shops, PKR 22,000 per square yard for Back Side Shops, PKR 11,000 per square yard for Basement Shops, PKR 11,000 per square yard for Other Floors Shops, and PKR 6,666 per square yard for Blind Basement Shops

In addition, a valuation rate of PKR 12,000 per square foot has been prescribed for Flat/Office (Commercial) properties falling within the newly notified category. The rates have accordingly been incorporated into the existing property valuation framework notified under S.R.O. 644(I)/2026.

The notified amendments seek to bring the identified commercial properties situated in E-8, Islamabad within the prescribed valuation framework under section 68 of the Income Tax Ordinance, 2001 ("ITO"). Therefore, the newly prescribed values will serve as the relevant notified benchmarks for determining the fair market value of the specified properties for purposes of the ITO, where applicable.

For further insight: ***FBR***

3) FURTHER AMENDMENTS IN S.R.O 924(I)/2020

The FBR, vide S.R.O. 1439(I)/2026 dated 27 August 2026, has notified amendments to the Federal Board of Revenue Anti-Money Laundering and Countering Financing of Terrorism Regulations for DNFBPs, 2020 introduced vide S.R.0 924(1)/2020, The amendments revise the regulatory framework applicable to Designated Non-Financial Businesses and Professions ("DNFBPs"), particularly in relation to dealers in precious metals and precious stones and real estate agents.

The amendments expand and clarify the scope of the regulations by replacing references to "Jewellers" with "DPMS", and expressly providing that the regulations shall apply to real estate agents, dealers in precious metals and dealers in precious stones and accountants. The term "Dealers in Precious Metals and Dealers in Precious Stones (DPMS)" has also been introduced to cover bullion dealers and persons engaged in the sale of jewellery, precious stones and metals, including articles made wholly or mainly of gold, platinum, diamonds, precious or semi-precious stones and pearls, where they engage in cash transactions with a customer having a value equivalent to PKR 2 million or more.

The definition of "Real Estate Agent" has also been expanded to include builders, real estate developers, title transferring authorities, property brokers and dealers where they execute purchases or sales of real property, participate in real estate transactions, or undertake professional transactional activities relating to the transfer of real property. In addition, certain definitional and drafting changes have been made, including the omission of clause (k) and amendments to the terminology relating to "Due diligence."

The amendments further strengthen record-retention and information-sharing requirements. DNFBPs are now required to retain records relating to transactions, customers or instruments subject to litigation until resolution of the relevant case, including where such records are required by a court or competent authority. DNFBPs are also required to promptly satisfy inquiries or orders from the Board, designated law enforcement agencies and the Financial Monitoring Unit ("FMU") for the supply of CDD information and transaction records in accordance with the AML Act. Corresponding amendments have also been made to regulation 8, including the removal of the reference to "Jewellers" and other consequential drafting amendments.

The notified amendments are significant as they move away from the narrower reference to jewellers and adopt the broader DPMS framework, with the PKR 2 million cash-transaction threshold determining the specified category of dealers covered by the newly introduced definition. The amendments also bring greater clarity to the application of the regulations to the real estate sector and reinforce the obligation of DNFBPs to preserve records and respond to regulatory and law-enforcement requests, particularly where such records are connected with ongoing litigation or CDD requirements.

For further insight: ***FBR***

4) REVISION OF VALUE OF IMMOVEABLE PROPERTIES OF QUETTA

The FBR, vide S.R.O. 1444(I)/2026 dated 26 August 2026, has determined the fair market value of immovable properties in Quetta under section 68(4) of the Income Tax Ordinance, 2001. The notification supersedes the earlier Notification No. S.R.O. 1723(I)/2024 dated 29 October 2024 and provides revised valuation rates for immovable properties situated in specified areas of Quetta.

The notified fair market values cover properties falling within various areas and categories of Quetta, as specified in Columns (2) and (3) of Table-I, with the applicable values prescribed in Columns (4) to (12). The notification also provides valuation of properties in specified localities/survey numbers of Quetta under Table-II, with the relevant values prescribed in Columns (3) and (4).

In addition, a separate valuation framework has been prescribed under Table-III for immovable properties situated within the Defence Housing Authority (DHA), Quetta. The notification accordingly provides separate valuation benchmarks for properties falling within the specified DHA areas.

The notification represents a comprehensive revision of the fair market value regime for immovable properties in Quetta, replacing the valuation framework prescribed in 2024. The revised values will serve as the notified benchmarks for determining the fair market value of the specified immovable properties for purposes of section 68 of the Income Tax Ordinance, 2001, including where such value is relevant for the computation of income or tax under the Ordinance.

For further insight: ***FBR***

B. SALES TAX NOTIFICATIONS

1) AMENDMENT IN SRO 1190 OF 2019 DATED 2ND OCT 2019.

The FBR, vide S.R.O. 1343(I)/2026 dated 12 August 2026, has notified a further amendment to its Notification No. S.R.O. 1190(I)/2019 dated 02 October 2019. The amendment provides a specific exclusion for steel melters, re-rollers and composite units from the limitation prescribed under section 8B.

Under the original S.R.O. 1190(I)/2019, the FBR had specified certain sectors and categories of registered persons which were excluded from the purview of section 8B(1), thereby allowing them to adjust input tax without being subject to the general restriction applicable under the provision. The notification covered, inter alia, the electrical energy sector, oil marketing companies and petroleum refineries, fertilizer manufacturers, exporters and other persons making predominantly zero-rated supplies, distributors, gas distribution companies and telecommunication services.

Through the latest amendment, a new Serial No. 15 has been added to Table-I of S.R.O. 1190(I)/2019, covering "Steel melters, re-rollers and composite units paying sales tax under the provisos to sub-section (2) of section 6 and notification issued thereunder, till 30 September 2026." Accordingly, qualifying steel sector entities have been brought within the specified categories excluded from the application of section 8B(1).

The amendment provides a time-bound relief up to 30 September 2026 to steel melters, re-rollers and composite units which are paying sales tax under the provisos to section 6(2) of the Sales Tax Act, 1990 and the notification issued thereunder. The exclusion therefore applies specifically to those steel sector entities falling within the prescribed tax regime and does not extend generally to all persons engaged in the steel sector.

The amendment is significant as it temporarily removes the qualifying steel sector entities from the input tax adjustment restriction under section 8B, thereby allowing greater utilization of input tax against output tax during the specified period. Since the relief has expressly been made effective only until 30 September 2026, its continuation beyond this date would require a further amendment or notification by the FBR.

*For further insight: **FBR***

C. SALES TAX GENERAL ORDER

1) CLARIFICATION REGARDING PRINTING REQUIREMENTS FOR CONFECTIONERY PRODUCTS

The FBR, vide Sales Tax General Order No. 15 of 2026 dated 2026, has issued clarification regarding the printing requirements prescribed under Sales Tax General Order No. 08 of 2026 dated 02 July 2026 and related matters. The clarification addresses practical difficulties faced by manufacturers and importers of confectionery products in complying with the mandatory requirement to print or emboss the retail price and amount of sales tax on goods specified in the Third Schedule to the Sales Tax Act, 1990.

Under Sales Tax General Order No. 08 of 2026, manufacturers and importers of Third Schedule goods are required to ensure that the retail price and amount of sales tax are printed or embossed on such goods in accordance with the specifications prescribed in Annex-B to the General Order. The FBR has now acknowledged representations regarding the practical difficulties in complying with these requirements in the case of confectionery products, including chocolates, candies, toffees and similar products, due to the extremely small size of individual wrappers and limited printable surface.

Accordingly, where printing or embossing the required information on the immediate retail unit of a confectionery product is not practically possible due to the limited printable surface, the retail price and amount of sales tax may, in lieu of printing or embossing the same on each individual piece, be printed or embossed on packages containing not more than 100 pieces. This relaxation is available only where the maximum retail price per piece does not exceed PKR 5 and remains subject to compliance with the Sales Tax Act, 1990 and Sales Tax General Order No. 08 of 2026.

The FBR has further clarified that the sales tax amount printed on such packages must be clear, legible, conspicuous and indelible and must, in all other respects, comply with the mandatory printing specifications prescribed under Sales Tax General Order No. 08 of 2026. The clarification therefore provides a limited practical relaxation for low-value confectionery products while retaining the underlying requirement for transparent disclosure of the retail price and sales tax.

The clarification is particularly relevant for manufacturers and importers of small-sized confectionery products, as it permits compliance at the package level rather than on each individual piece, subject to the prescribed 100-piece and PKR 5 per-piece limits. The relaxation does not otherwise dispense with the printing requirements introduced through Sales Tax General Order No. 08 of 2026.

2) RELAXATION OF PRINTING REQUIREMENTS FOR CONFECTIONERY PRODUCTS

The FBR, vide Sales Tax General Order No. 17 of 2026 dated 12 August 2026, has further amended Sales Tax General Order No. 15 of 2026 dated 05 August 2026 regarding the printing requirements prescribed under Sales Tax General Order No. 08 of 2026. The amendment has been issued in continuation of the earlier clarification concerning the practical difficulties faced by manufacturers and importers of confectionery products in printing or embossing the retail price and amount of sales tax on individual pieces.

Through the latest amendment, the FBR has enhanced the limit for packages on which the required retail price and sales tax may be printed or embossed in lieu of printing the same on each individual confectionery item. Accordingly, the reference to “packages containing not more than 100 pieces” has been replaced with “packages containing not more than 250 pieces.”

The FBR has also enhanced the eligibility threshold for the relaxation. The previous condition restricting the maximum retail price per piece to PKR 5 has been replaced with a maximum retail price of PKR 10 per piece, with the additional condition that the weight per piece must not exceed 10 grams. Accordingly, where printing on the immediate retail unit is not practically possible due to limited printable surface, the retail price and amount of sales tax may be printed or embossed on packages containing not more than 250 pieces, provided the per-piece retail price and weight remain within the prescribed limits.

The relaxation continues to apply specifically to chocolates, candies, toffees and similar confectionery products where compliance with the printing requirement on each individual piece is not practically possible. All other requirements under the Sales Tax Act, 1990 and Sales Tax General Order No. 08 of 2026 remain applicable.

The amendment therefore broadens the practical relief previously provided by the FBR, both by increasing the permissible package size from 100 to 250 pieces and by increasing the per-piece price threshold from PKR 5 to PKR 10. However, the newly introduced 10-gram maximum weight per piece must also be satisfied for the relaxation to apply.

3) SUBSTITUTION OF ANNEXURE-A TO SALES TAX GENERAL ORDER NO. 11 OF 2026

The FBR, vide Sales Tax General Order No. 19 of 2026 dated 20 August 2026, has issued a Corrigendum to Sales Tax General Order No. 11 of 2026 dated 17 July 2026 concerning the levy, assessment and collection of sales tax in respect of supplies covered under Serial No. 65 of the Third Schedule to the Sales Tax Act, 1990. The Corrigendum has been issued to remove ambiguity and ensure uniform implementation of the relevant provisions.

Through the Corrigendum, the existing Annexure-A appended to Sales Tax General Order No. 11 of 2026 has been withdrawn and replaced with a revised Annexure-A annexed to the Corrigendum. The revised Annexure-A shall constitute an integral part of the original General Order and shall govern the levy, assessment and collection of sales tax in respect of supplies falling within the scope of Serial No. 65 of the Third Schedule.

The FBR has further clarified that all references to “Annexure-A” in Sales Tax General Order No. 11 of 2026 shall, henceforth, be construed as references to the revised Annexure-A. Except to the extent specifically modified through the Corrigendum, all other provisions of Sales Tax General Order No. 11 of 2026 shall remain unchanged and continue to have full force and effect.

The Corrigendum has been given retrospective effect from 01 July 2026 and is to be read as part of Sales Tax General Order No. 11 of 2026. Accordingly, taxpayers dealing in supplies covered under Serial No. 65 of the Third Schedule should apply the revised Annexure-A for determining their sales tax obligations from the commencement of Tax Year 2026-27.

4) TIME-BOUND SALES TAX REGISTRATION FOR LOW-RISK APPLICANTS AND PRE-REGISTRATION CERTIFICATION OF MANUFACTURERS

The FBR, vide Sales Tax General Order No. 20 of 2026 dated 24 August 2026, has issued instructions for expeditious, transparent and facilitative processing of Sales Tax registration applications under the Sales Tax Act, 1990 and Chapter-I of the Sales Tax Rules, 2006. The General Order introduces a risk-based and time-bound registration mechanism for low-risk applicants and provides for pre-registration certification of manufacturers by their respective sectoral trade associations.

The General Order provides that all applications submitted through the computerized system/IRIS shall be processed strictly on a risk-based basis. Applications falling within the low-risk category under the prescribed computerized risk parameters are to be processed on a priority and time-bound basis. Where a low-risk application is complete and all prescribed requirements have been fulfilled, the local registration office (“LRO”) is required, as far as practicable, to process the application and grant registration within three working days.

The FBR has also restricted the ability of registration offices to seek additional information from low-risk applicants. No additional document or information may be demanded unless it is specifically required under the Sales Tax Act, 1990, prescribed under the Sales Tax Rules, 2006, required to verify information furnished by the applicant, or necessitated by a specific risk indicator generated through the computerized risk-management system. Where further scrutiny is required, the application must be referred to the concerned officer with specific reasons recorded electronically, rather than being kept pending without assigning a reason.

Where an application is incomplete or any prescribed information or document is missing, incorrect or insufficient, the applicant must be intimated through the computerized system within seven days of submission. The intimation must clearly identify the missing information, the deficiency or discrepancy, the manner in which it is to be rectified and the time allowed for compliance. The FBR has specifically directed that no general or vague objection shall be raised and that each objection must be specific, relevant and traceable to the applicable statutory or regulatory requirement. Once the deficiency is rectified and the application becomes complete, the applicant shall not be required to restart the registration process.

The General Order further introduces a facilitative mechanism for manufacturing concerns. Sectoral associations representing manufacturers in different sectors falling under the purview of the Federation of Pakistan Chambers of Commerce and Industry ("FPCCI") may provide pre-registration certification regarding the credentials and existence of their member applicants. Such certification may confirm, to the extent verifiable from the association's records, that the applicant is engaged or intends to engage in the relevant manufacturing activity, the stated business premises or factory are identifiable, the applicant is a member of the association where applicable, the proposed manufacturing activity corresponds with the relevant sector, and the particulars furnished by the applicant have been examined against the association's available records.

The certification is to be electronically transmitted to the concerned LRO along with the other registration documents. However, the FBR has clarified that such certification is only facilitative pre-registration verification assistance and does not dispense with or substitute any statutory requirement under the Sales Tax Act, 1990 or the Sales Tax Rules, 2006. It also does not confer any exemption, concession or immunity upon the applicant. The concerned sectoral association may be held responsible where incorrect information is subsequently identified during physical verification by the LRO.

For manufacturers, the concerned LRO is required to conduct pre-physical verification within three working days in accordance with Rule 5(5) of the Sales Tax Rules, 2006, with the outcome of verification recorded electronically. The registration process will nevertheless remain risk-based, and high-risk or suspicious applications may be subjected to enhanced scrutiny, including pre-verification, post-verification or other verification measures permissible under law.

The General Order therefore seeks to introduce greater certainty and accountability in the Sales Tax registration process, particularly for genuine low-risk businesses, by prescribing processing timelines, restricting vague or unnecessary information requests and requiring deficiencies to be communicated clearly. At the same time, the framework preserves FBR's ability to undertake subsequent verification where information indicates risk, non-existence, misrepresentation, fake documentation or any other irregularity. All Chief Commissioners Inland Revenue and Commissioners Inland Revenue have been directed to ensure strict compliance with the General Order.

THE BALOCHISTAN REVENUE AUTHORITY ("BRA") NOTIFICATIONS

1) REVISED BALOCHISTAN SALES TAX RATES ON SERVICES

The Balochistan Revenue Authority ("BRA"), vide Circular No. 01/U-02/2026 dated 06 July 2026 and Circular No. BRA/COM/OPS/2026-27/25 dated 10 July 2026, has notified the revised sales tax rates applicable to specified services under the Balochistan Sales Tax on Services Act, 2015. The revised rates were introduced through the notification of the Balochistan Provincial Assembly Secretariat dated 29 June 2026, amending the rates prescribed in the Third Schedule to the Act, and have been made effective from 0001 hours on 01 July 2026.

The sales tax rate for restaurants, including cafés, coffee houses, food huts, ice-cream shops and eateries, has been prescribed at 8%. A reduced rate of 4% shall apply where the registered person installs POS machines for electronic issuance of invoices or receipts, links the machines with the BRA web portal, and issues invoices, bills or receipts exclusively through the POS system. The reduced rate is not available to restaurants situated within hotels, motels, guest houses or clubs whose services are taxable, or to restaurants which are franchises or franchisees. Input tax credit/adjustment shall not be admissible under either rate.

For marriage halls, lawns, mandaps, pandals and shamianas, including floral and decoration services, the applicable rate has been prescribed at PKR 10,000 per event or 4% of service fees, whichever is higher. Input tax credit/adjustment shall not be admissible.

The revised rates also cover a number of other services. Technical, scientific and engineering consultants are subject to sales tax at 8%, where the expenditure is paid out of the budget of the Federal, Provincial or Local Government or a Cantonment Board, with no input tax credit/adjustment available. Commission agents are also subject to tax at 8%, with input tax adjustment not admissible. Cosmetic and plastic surgery and transplantations are subject to 6% or PKR 50,000 per month, whichever is higher, while hospitals, institutes and clinics are subject to a reduced rate of 3%. Input tax credit/adjustment is not admissible in respect of these specified services.

The revised framework therefore introduces sector-specific rates and conditions, with reduced rates in certain cases being linked to electronic invoicing and POS integration. The general restriction on input tax adjustment across the specified services also materially affects the effective tax cost for registered persons. All registered persons, taxpayers and withholding agents engaged in the affected services are accordingly required to update their billing, accounting and withholding arrangements to reflect the revised rates from the effective date.

For further insight: ***BRA***

CASE LAW: Hon'ble Supreme Court of Pakistan ("SCP") holds that Section 11(4) of the Sales Tax Act, 1990 ("the Act" or "STA") cannot be invoked to fasten withholding tax liability upon a person, as the provision relates to short payment of tax or erroneous issuance of refund and does not deal with the responsibility of withholding of tax. The Hon'ble SCP further holds that Section 11(4A), which specifically dealt with recovery in consequence of failure to deduct and/or deposit tax, was introduced through the Finance Act, 2016 and could not be applied to tax periods preceding its introduction.

INTRODUCTION

The petitioner, being a university, is involved in distance learning education and prints its educational material by itself instead of getting the same printed from external printers or publishers. On account of this activity, the department treated the petitioner as a withholding agent and issued a show cause notice dated 30.12.2014, alleging that the petitioner was responsible for deducting and depositing sales tax on taxable goods and services supplied to it.

The department alleged that, under Rules 2 and 3 of the Sales Tax Special Procedure (Withholding) Rules, 2007, promulgated vide S.R.O. 660(I)/2007 dated 30.06.2007, the petitioner was liable to deduct one-fifth of the applicable sales tax from its registered suppliers/service providers and the whole of the applicable sales tax from payments due to its unregistered suppliers/service providers and to file the prescribed return. Since the petitioner allegedly failed to discharge such responsibility, proceedings were initiated.

Consequently, an order-in-original dated 24.04.2015 was passed by the Officer Inland Revenue, Withholding Zone, Islamabad, whereby the petitioner was held responsible as a withholding agent to file the prescribed return and deposit the amount liable to be deducted.

Aggrieved, the petitioner filed an appeal before the Commissioner Inland Revenue (Appeals-II) ("CIRA"), Islamabad, which was dismissed vide order dated 05.11.2015 and the order-in-original was maintained. The petitioner thereafter approached the Hon'ble Appellate Tribunal Inland Revenue ("ATIR"), Islamabad, which allowed the appeal vide order dated 23.12.2015, holding that the provisions of Section 11(4) of the Act were not attracted to the situation set out in the show cause notice.

The CIRA challenged the Hon'ble ATIR's order before the Hon'ble Islamabad High Court ("IHC") under its reference jurisdiction. The Hon'ble IHC, through the impugned order dated 15.11.2023, set aside the order of the Hon'ble ATIR. The petitioner consequently filed the instant petition for leave to appeal under Article 185(3) of the Constitution.

FINDINGS OF THE HON'BLE SCP

The Hon'ble SCP observed that the dispute pertained to the period from July 2012 to June 2013, during which the petitioner was alleged to have been acting as a withholding agent and was saddled with the responsibility to deduct tax on supplies made to it by registered and unregistered suppliers and service providers.

The Hon'ble SCP noted that the show cause notice provided by the counsel for the petitioner did not disclose under which provisions of the Sales Tax Act the petitioner was supposed to act as a withholding agent in respect of the supplies made to it, or to deduct tax and file monthly returns in that regard.

The Hon'ble SCP further observed that the order-in-original, in its penultimate paragraph, invoked Section 11(4) of the Act, which was subsequently affirmed by the CIRA. The Hon'ble ATIR, however, had noticed that the events and situations referred to in the show cause notice were not covered by Section 11(4) of the Act.

The Hon'ble SCP observed that Section 11(4) relates to short payment of tax or erroneous issuance of refund due to inadvertence, error or misconstruction. The provision envisages a situation requiring payment of an amount by the person responsible for the deficiency in payment of tax, in consequence of which a show cause notice could be issued. However, there is nothing in Section 11(4) which deals with the responsibility of withholding of taxes.

The Hon'ble SCP further observed that the situations and events demonstrated in the show cause notice were, in fact, covered by Section 11(4A), which was introduced through the Finance Act, 2016. However, the tax periods disclosed in the show cause notice were from July 2012 to June 2013.

It was held that Section 11(4A), which could have held the petitioner liable, was not in existence at the relevant time when the show cause notice was issued. Similarly, the alleged default was not covered by Section 11(4), on which the order-in-original and the order of the Commissioner were based.

The Hon'ble SCP further observed that although the Hon'ble IHC had noted that Section 11(4A) was introduced through the Finance Act, 2016, the impugned order did not demonstrate on what basis the petitioner could be saddled with the responsibility of being a withholding agent. It was also observed that the rules referred to could not be said to have been framed with reference to or in pursuance of Section 11(4A).

The Hon'ble SCP, therefore, held that the provisions of Section 11(4) of the Act were wrongly applied. It further held that the recovery provisions of Section 11(4A), in consequence of failure to deduct and/or deposit the tax, came much after issuance of the show cause notice through the Finance Act, 2016 and could not at all have been pressed in service.

In view of the above, the Hon'ble SCP converted the petition into an appeal, set aside the impugned order of the Islamabad High Court and allowed the appeal.

TOTM: MINIMUM TAX IN PAKISTAN: WHEN TURNOVER BECOMES MORE IMPORTANT THAN PROFIT

For a business reporting a loss, the instinctive conclusion is usually simple: no taxable profit means no income tax. For a business carrying forward substantial tax losses, the expectation is similar: once the losses absorb the current year's taxable income, the tax liability should fall to nil.

Pakistan's minimum tax regime challenges both assumptions.

Under Section 113 of the Income Tax Ordinance, 2001, a business may have an income tax liability even where its ordinary tax computation produces no tax or produces tax below the statutory minimum. The calculation is linked to turnover rather than taxable profit, meaning a company operating on thin margins, carrying losses or claiming significant deductions may find itself paying tax on the scale of its business activity rather than on its residual taxable profit.

This distinction has become more relevant following the Finance Act, 2026, which has altered the minimum tax framework for certain distributors, dealers, sub-dealers and wholesalers. At the same time, the general minimum tax rate remains 1.25%, while specified sectors continue to benefit from lower rates.

For CFOs, therefore, minimum tax is not simply an annual tax-return calculation. It affects pricing, margins, working capital, tax provisioning and the value of tax losses.

THE LEGAL FRAMEWORK

Section 113: Minimum tax on certain persons

Section 113 is the principal provision governing minimum tax on turnover.

The provision applies to a resident company and permanent establishment of a non-resident company. It also applies to an individual or an association of persons where the statutory turnover threshold of Rs. 100 million is met.

The section becomes relevant where, for reasons permitted under the Income Tax Ordinance or any other applicable law, the taxpayer has no tax payable or paid, or the tax payable or paid falls below the prescribed percentage of turnover.

The provision specifically identifies several circumstances that may produce such a result, including:

1. A loss for the year
2. Adjustment of a loss from an earlier year
3. Exemption from tax
4. Application of tax credits or rebates
5. Allowances and deductions, including depreciation and amortisation

The important phrase is "for any reason whatsoever". The provision therefore does not restrict the minimum tax mechanism to companies reporting accounting losses. A profitable company may also fall within Section 113 where its ordinary tax liability, after applying the relevant deductions, losses, exemptions or credits, falls below the prescribed minimum.

The Rs. 100 million threshold also requires careful attention. It is relevant to individuals and AOPs, while resident companies remain within the scope of Section 113 irrespective of whether their turnover crosses this threshold.

Section 113(2): How the minimum tax is imposed

Once Section 113 applies, subsection (2) provides the mechanism for determining the minimum tax.

The taxpayer's turnover is treated as income for the purposes of determining the minimum tax and tax is charged at the applicable rate prescribed in Division IX of Part I of the First Schedule.

For most taxpayers, the rate is 1.25% of turnover.

The calculation is therefore conceptually straightforward:

Minimum tax = Relevant turnover × applicable minimum tax rate

The difficulty lies less in the multiplication and more in determining whether Section 113 applies, what constitutes turnover, which rate applies and how the resulting minimum tax interacts with normal tax and taxes paid during the year.

Section 113(3): What constitutes turnover?

The definition of turnover is one of the most important parts of the provision.

For goods, turnover broadly covers gross sales or gross receipts, excluding Sales Tax and Federal Excise Duty and trade discounts shown on invoices or bills, subject to the exclusions prescribed by law.

For services, turnover includes gross fees for rendering services or providing benefits, including commissions, subject to the statutory exclusions.

For contracts, turnover generally includes gross receipts from execution of contracts, again subject to specified exclusions.

The provision also excludes certain amounts where the income has already been subject to a final discharge of tax under the applicable provisions.

This means the revenue figure appearing in the financial statements should not automatically be transferred into the Section 113 computation.

A company should instead prepare a reconciliation between accounting revenue and statutory turnover, particularly where it earns income under different tax regimes.

This becomes increasingly important for diversified businesses with taxable sales, exempt income, final-tax receipts, service income and contractual receipts.

FINANCE ACT 2026: A SIGNIFICANT CHANGE FOR DISTRIBUTORS

The Finance Act, 2026 has introduced an important change in the minimum tax treatment of distributors and wholesalers.

Previously, distributors of pharmaceutical products, FMCG and cigarettes were included in the reduced 0.25% category under Division IX of Part I of the First Schedule. Finance Act 2026 removed the relevant concession from Division IX.

At the same time, a revised Clause (24D) was introduced in Part II of the Second Schedule, providing a 0.5% minimum tax rate under Section 113 for specified distributors, dealers, sub-dealers and wholesalers, subject to prescribed conditions.

The Finance Act therefore does not simply increase the minimum tax burden across the board. It restructures the concession.

For Tax Year 2027, qualifying distributors, dealers, sub-dealers and wholesalers of specified goods may access the 0.5% rate, subject to the statutory conditions, including the relevant Active Taxpayers List requirements. Businesses outside the specified categories, or businesses failing to satisfy the conditions, fall back on the applicable rate under Division IX.

This change has particular significance for distribution businesses because a movement from 0.25% to 0.5% doubles the turnover-based tax burden before considering the effect of normal tax.

WORKED EXAMPLE 1: A PROFITABLE LOW-MARGIN COMPANY

Consider a trading company with:

Turnover: Rs. 1 billion

Taxable profit: Rs. 20 million

Corporate tax rate: 29%

Normal tax:

Rs. 20 million × 29% = Rs. 5.8 million

Assume the company falls under the general 1.25% minimum tax rate.

Minimum tax:

Rs. 1 billion × 1.25% = Rs. 12.5 million

The company has earned a genuine taxable profit of Rs. 20 million, but the normal tax liability is below the minimum tax benchmark.

The minimum tax calculation therefore becomes critical.

The effective tax burden, measured against taxable profit, is:

Rs. 12.5 million ÷ Rs. 20 million = 62.5%

This illustrates why minimum tax is particularly significant for low-margin businesses. A company with a 2% taxable profit margin may face a tax burden that appears high when measured against its actual profit, even though the statutory minimum is only 1.25% of turnover.

WORKED EXAMPLE 2: A COMPANY WITH BROUGHT-FORWARD LOSSES

Assume a company has:

Current-year taxable income before loss adjustment: Rs. 100 million

Brought-forward business loss: Rs. 100 million

Turnover: Rs. 800 million

After applying the available brought-forward loss, the taxable income under the normal computation becomes nil.

The normal tax liability is therefore nil.

The minimum tax calculation, assuming a 1.25% rate, produces:

Rs. 800 million × 1.25% = Rs. 10 million

The availability of brought-forward losses therefore does not automatically produce a zero-tax result.

This is an important consideration when valuing tax losses during a restructuring, acquisition or investment exercise. The value of a tax loss depends not only on the amount of the loss but also on the ability of the taxpayer to utilise it against future tax liabilities without being constrained by minimum tax or other applicable regimes.

CARRY-FORWARD OF EXCESS MINIMUM TAX

Section 113 also contains an important mechanism for dealing with minimum tax paid in excess of normal tax.

Where the minimum tax exceeds the actual tax payable under the relevant normal tax provisions, the excess is available for adjustment against future tax liabilities, subject to the statutory conditions and time limit.

The carry-forward period was reduced from three years to two years through Finance Act 2025. Accordingly, for the current framework, the excess minimum tax generally needs to be utilised against normal tax liability within the two succeeding tax years.

This creates an important distinction between a tax payment and a permanent tax cost.

Suppose a company pays Rs. 12.5 million as minimum tax when its normal tax is Rs. 8 million. The excess of Rs. 4.5 million does not automatically represent a permanent tax cost. It may be available for future adjustment within the statutory period.

The finance team should therefore maintain a year-wise schedule of minimum tax paid, amount utilised, balance available and expiry date.

Failure to track expiry can result in an economic loss even where the tax law initially provides a mechanism for recovery through future adjustment.

SECTION 113 AND TAX CREDITS

Tax credits require similar analysis.

A company might calculate normal tax of Rs. 15 million and then become entitled to a tax credit reducing the liability to Rs. 7 million. If the company's turnover is sufficiently high for minimum tax to exceed Rs. 7 million, the tax credit does not necessarily translate into an equivalent reduction in cash tax.

This is why tax planning should distinguish between the theoretical value of a tax credit and its actual cash-tax benefit.

The same principle applies to deductions, depreciation and other allowances. A deduction may reduce taxable income and normal tax without necessarily reducing the minimum tax benchmark to the same extent.

SECTION 113C: ALTERNATIVE CORPORATE TAX

Section 113 should also be viewed alongside Section 113C, which establishes the Alternative Corporate Tax regime for companies.

Under Section 113C, a company is generally required to compare its corporate tax liability with Alternative Corporate Tax calculated at 17% of the relevant accounting income, after applying the adjustments prescribed by the provision.

The statutory concept of "Corporate Tax" for this purpose takes into account tax payable under the Ordinance, including minimum tax under Section 113 and other relevant minimum or final tax provisions.

This produces a three-level analysis for companies:

Normal corporate tax

Minimum tax under applicable provisions, including Section 113

Alternative Corporate Tax under Section 113C

The company must identify the applicable statutory tax floor rather than stopping after calculating tax on taxable income.

For example, a company might have:

Normal corporate tax: Rs. 30 million

Section 113 minimum tax: Rs. 22 million

Section 113C ACT: Rs. 35 million

Subject to the detailed provisions applicable to the taxpayer, the ACT calculation becomes relevant because it exceeds the other amounts.

This is one reason why tax provision models for larger companies should be designed to test the various minimum and alternative tax regimes automatically.

MINIMUM TAX AND CASH-FLOW MANAGEMENT

The financial impact of Section 113 becomes particularly important where a business has a high turnover but a narrow margin.

Consider a distributor generating Rs. 3 billion of annual sales at a taxable profit margin of 1.5%. Its taxable profit would be Rs. 45 million.

At a normal corporate tax rate of 29%, tax would be Rs. 13.05 million.

At 1.25% minimum tax, the liability would be Rs. 37.5 million.

The business therefore needs to generate a significantly higher taxable margin before normal corporate tax overtakes the minimum tax liability.

The approximate break-even taxable margin under these assumptions is:

1.25% ÷ 29% = 4.31%

This does not mean every company with a margin below 4.31% will pay minimum tax because tax credits, sector-specific rates, exempt income, final-tax income and other provisions may alter the result. It does, though, provide a useful management benchmark for businesses subject to the general rates.

For a CFO, this information belongs in the budgeting process.

If the forecast taxable margin is 2%, management should know at the beginning of the year that ordinary corporate tax is unlikely to determine the final tax burden. The business should then incorporate the minimum tax cash requirement into its working-capital forecasts.

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