TOLA ASSOCIATES
TAX & CORPORATE ADVISORS

APRIL 2018

TAX PAK

NEWSLETTER BY TOLA ASSOCIATES

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EDITORIAL NOTE

Sixth edition of Tax Pak is in your hands. This past month has been dynamic given budget announcement by Finance Minister, Mr. Miftah Ismail. An amnesty scheme for declaration of both onshore and offshore assets (Tax Reforms Package) was also introduced. Our commentaries on both Finance Bill, 2018 and Tax Reforms Package may be accessed through our website and mobile applications through following links:

1. www.tolaassociates.com
2. https://goo.gl/QDM4ZM **(iOS)**
3. https://goo.gl/LFiWyx **(Android)**

Lastly, readers are requested to spread the newsletter to their circles for the benefit of all.

Ashfaq Tola - FCA
Editor in Chief

1. TAX AMENDMENTS VIDE FINANCE BILL 2018 - HIGHLIGHTS

INCOME TAX:

1. Threshold limit for Withholding Income tax has been proposed to be enhanced as under:

   (a) On value of services from Rs. 10,000 to Rs. 30,000/-

   (b) On value of supplies from Rs. 25,000 to Rs. 75,000/

2. Withholding Income tax rate for non-filers companies has been proposed to be enhanced from 7% to 8%

3. Withholding income tax for non-filer non-corporate taxpayers has been proposed to be enhanced from 7.75% to 9%.

4. Tax rates for individuals, as reduced in tax reforms package, has further been amended. Rs. 1,000 and Rs. 2,000 tax has been proposed to be introduced for incomes slabs Rs. 400,001 to Rs. 800,000 and from Rs. 800,001 to 1,200,000, respectively.

5. Maximum slab for AOP has been proposed to be reduced from 35% to 30%.

6. Corporate tax rate has been proposed to be reduced by 1% each year upto 2023.

7. Current Super tax rate which is 4% for banking sector and 3% for non-banking sector, has been proposed to be reduce by 1% each year till the same is abolished.

8. FBR notified rates for property valuation has been proposed to be abolished. However non-filers have been banned to purchase property and motor vehicles.

9. Advance tax on purchase of immovable property has been proposed to be 1%, on value declared by purchaser, which would be adjustable.

10. Advance tax on import of coal has been proposed to be reduced to 4% from 6%.

11. Composite Audit (i.e. both income tax and sales tax) will be conducted only once in 3 years.

12. To avail automatic stay of demand, amount of tax liability to be paid has been proposed to be reduced to 10% from 25%.

13. Decision of ADRC has been proposed to be binding on both FBR and taxpayers.

14. Powers of Chief Commissioner and Commissioner have been proposed to be curtailed with respect to search and seizure.

15. Rate of tax on dividend from REIT has been proposed to be reduced to 5% from 12.5%.

16. Tax regime of stock brokers has been proposed to be changed from FTR to NTR.

17. Tax on bonus shares has been proposed to be abolished

18. Cut off date for tax credits under various section 65B, 65D and 65E have been proposed to be extended till tax year 2021.

19. It has been proposed [possibly in Benami (Transactions) Prohibition Act, 2017] to provide FBR right to acquire the property declared by tax payer at 200% of declared value.

SALES TAX & FEDERAL EXCISE DUTY:

1. Sales tax on fish feed has been proposed to be abolished

2. Sales Tax on fans and animal feed for dairy farms has been proposed to be abolished.

3. Sales Tax on supply of gas to fertilizer manufacturer has been proposed to be reduced to 5% from 10%

4. Local Stationery items have been proposed to be transferred to zero rating regime

5. Sales tax on Agriculture machinery has been proposed to be reduced from 7 % to 5%.

6. Sales tax on 21 types of Spare parts for local laptop and computer assembling has been proposed to be abolished.

7. Sales tax on paper to be used for printing of Holy Quran has been proposed to be abolished.

8. Sales Tax for unregistered persons under SRO 1125 has been proposed to be enhanced to 9%

9. Value Addition Tax on import of used clothes and shoes has been proposed to be abolished and local supply of the same has been proposed to be zero rated.

10. Further Tax has been proposed to be enhanced to 3%.

11. Sales tax on supply of LNG has been proposed to be reduced from 17% to 12%.

12. Value addition tax on import of LNG has been proposed to be abolished.

13. Sales tax on fertilizer has been proposed to be reduced from 10 % to 5%.

14. Sales tax on DAP has been proposed to be fixed at 100 rupees per bag.

15. Sales tax on import of machinery for fertilizer has been proposed to be reduced from 10% to 5%.

16. FED on cigarettes has been proposed to be enhanced to Rs. 3,964; 1770; and Rs. 848 for Tiers I, II and III respectively.

For our detailed comments of Finance Bill 2018, please follow the link: https://goo.gl/cPfbeA

2. BEYOND - OUT OF BOX

TAX DISPUTE RESOLUTIONS BETWEEN CENTRE AND PROVINCES

Central government controls the main fiscal jurisdiction, such as taxation, spending and borrowing, in the countries having federal morphology, to upraise stability in the country by truncating horizontal inequities.

Through the 18th constitutional amendment a new paragraph to article 38 of Principles of Policy of the constitution was added and disparities regarding share of provinces in assorted services were extirpate.

The amendment also extirpate Provincial autonomy and the articles 70, 142, 143, 144, 149, 157, 160, 161, 167, 172, 232, 233 and 234 were either measured or out-rightly altered. The issues included National Finance Commission affairs; production of electricity; emergency provisions; natural gas; legislative powers and borrowing of provinces. The most momentous change was Article 142(b) and (c), which gave rights to provincial assemblies to legislate with respect to criminal law, criminal procedure and evidence.

Pakistan is also a Federal democracy and to conserve inter-governmental fiscal relationships, setting up of a National Finance Commission (NFC) at most intervals of five years is provided under Article 160 of the Constitution. The mandate of NFC is to recommend to the President the distribution of resources between the Federal and Provincial Governments. The President, through Presidential Order, endow legal cover to the recommendations of the NFC. The contrivance of revenue allocation between federal and provincial governments is available and used in the form of NFC.

NFC acts as a constitutional gizmo and has primary onus of disseminating the resources at sub-government levels employing a conjointly agreed and specified formula. This apparatus of allocation of resources and accountabilities betwixt distinctive layers of government is a serious affair and privations may lead to social, economical and political turbulence, therefore, this format of revenue sharing arrangements is required to be supplemented by a strong system of upfront and transparent distribution.

Presently, 7th National Finance Commission (NFC) Award (2009) is functional. Through this Award, the financial sovereignty of the provinces has been invigorated by snowballing their share in the Divisible Pool (taxes) from 50% to 56% in fiscal year 2010-11 and to 57.5% from fiscal year 2011-12 onwards. For the first time in history, diverifox indicators were assented for apportionment of provincial shares in the divisible pool whereas in all the previous Awards, population remained as solitary criterion for dispersal of provincial share in the divisible pool with special grants (subventions) to smaller provinces

NFC also acknowledged that sales tax on services is a Provincial subject under the Constitution of the Islamic Republic of Pakistan, and may be collected by respective Provinces, if they so desired.

Provinces were allowed to collect sales tax on services and consequently, Punjab Revenue Authority (“PRA”), Sindh Revenue Board (“SRB”), Khyber Pakhtunkhwa Revenue Authority ("KPRA") and Balochistan Revenue Authority ("BRA") were established as alternative to Federal Board of Revenue for collection of sales tax on services.

These boards/authorities were established and are functioning under their separate rules and regulations. The lack of uniform provincial tax laws has provoked rifts to be evolved among provinces, peculiarly between SRB and other provincial bodies.

An example of mismatch among provincial tax laws is that Punjab and Khyber Pakhtunkhwa are of the outlook that services received or consumed in their jurisdiction should be subjected to sales tax. But Sindh argues that services originating in its territory should be subjected to sales tax even if they are delivered or consumed in other provinces.

Currently there are a number of different types of taxes imposed in Pakistan operating both under federal and provincial regime. Some of them are enumerated below:

1. **Income Taxes**
2. **Workers Profit Participation Fund (WPPF)**
3. **Workers Welfare Fund (WWF)**
4. **Goods and sales tax (VAT)**
5. **Provincial Sales Taxes on Services**
6. **Professional tax**
7. **Stamp duty**
8. **SESSI**
9. **EOBI**
10. **Sindh Development & Maintenance of Infrastructure (SDMI)**
11. **Petroleum Development Levy**
12. **Marking Fee**
13. **Custom Duty**
14. **Federal Excise Tax**
15. **Property tax**
16. **Motor Vehicle tax**
17. **Capital Value Tax (CVT)**
18. **Hotel Tax**
19. **Tax on interest**
20. **Entertainment Duty**
21. **Advertisement (Visibility) Tax**
22. **Market Committee Act 1948**
23. **Education Cess**
24. **Fuel tax**
25. **Employee paid - Pension contribution**

The presences of assorted types of taxes under different authorities also evince the presence of complexities in the inter-governmental revenue transfers and settlements besides causing grave catastrophone to genuine taxpayers. This country is virtually being supported by an insignificant number of tax payers and these rifts are also dissuading them to operate and grow.

The issues relating to inter-governmental transfers arising time and again due to lack of concrete revenue entitlement determination mechanism. This causes piling of taxes paid on services pending to be adjusted against federal taxes or refund claims. These growth impediments are attenuating the growth of economy and wherefore resulting into "dead weight loss".

To address the anomalies amid provinces and between provinces and federation, there needs to be a way forward. The representatives of the provinces, at highest forum, will have to discuss and agree on the basis of provincial taxes, that is, whether the tax should be charged on services on the basis of area of origination or consumption. Also, a thorough study would be required to be undertaken to evaluate and harmonize the provincial and federal tax laws especially for services.

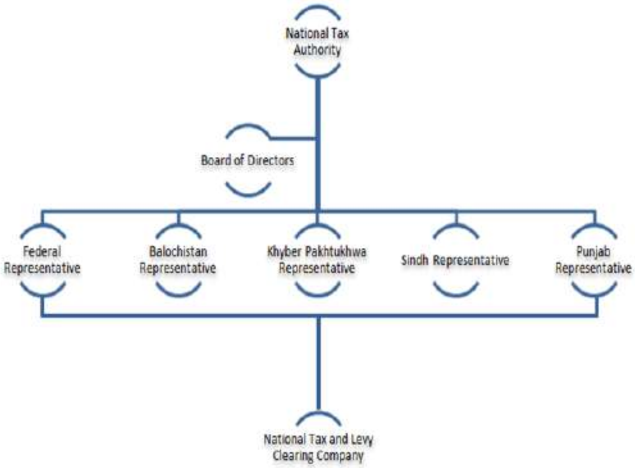
Probable way forwards should include:

1. Harmonized Tax Codes:

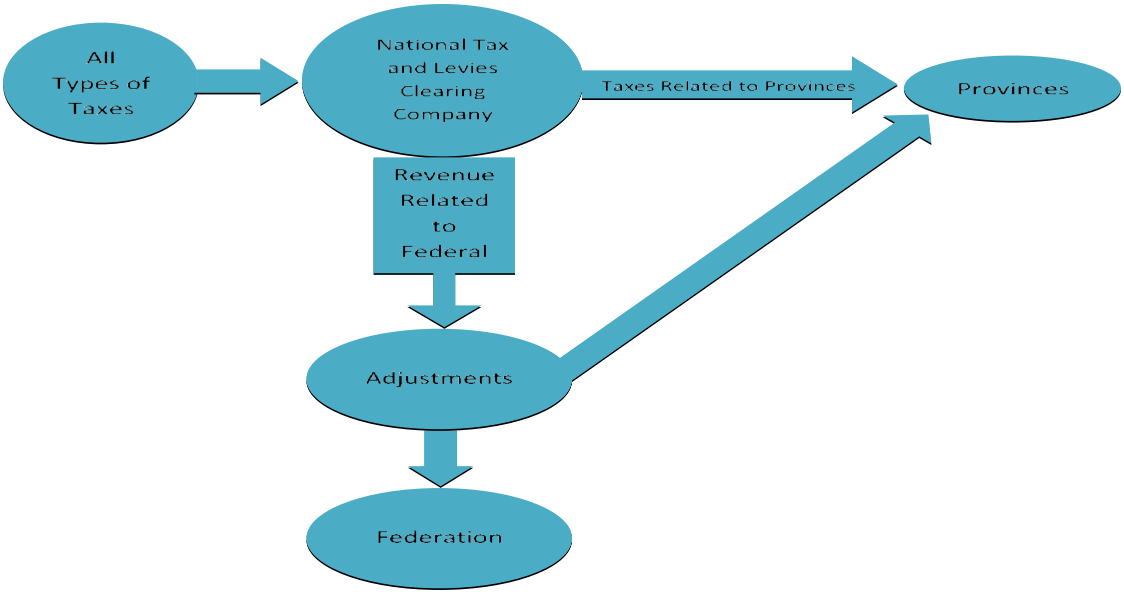
The lack of harmony over provincial tax laws for services amidst provinces causes the incompatibility between taxes charged and their adjustments for the taxpayers operating in multiple provinces. Therefore, the tax codes should be harmonized and any disagreements should be discussed and removed. The tariff codes for services in each province should also be revised.

2. National Tax Authority and Clearing Company

A structure through which dues of provinces to each other and to federation and vice versa are settled should also be defined. A national neutral body is required to be established with responsibility and authority to settle inter-governmental dues employing this mechanism. The body may be called as National Tax Authority ("NTA"). NTA may be structured through formation of a Board of Directors ("BoD") consisting of five directors, one representing federation and the rest representing each province and all stakeholders must subscribe its equity equally.



A National Tax and Levy Clearing Company ("NTLCC") may be formed under the NTA to clear and settle the inter-governmental dues. The lessons learned and experiences gained through working with Pakistan Revenue Automation (Pvt.) Ltd. ("PRAL"). NTLCC would act as a hub for collection and disbursement of taxes and levies to and from governments. The taxes and levies which relate directly to provinces like stamp duty, motor vehicle tax etc. would be directly disbursed to provinces and the revenues which are part of federal pool would be settled on monthly basis after incorporating inter-governmental adjustments forthwith.



The establishment of NTLCC will smooth the flow of revenue and would pace up the economic activities.

3. SRO 896 DECLARED ILLEGAL BY LHC

Rule 58S read with rule 58T of Sales Tax Special Procedure Rules, 2007 specifies certain items on which extra tax of 0.75% was levied initially. Subsequently vide SRO 896(I)/2013 dated: 04-10-2013, extra tax rate was increased from 0.75% to 2%.

The Lahore High Court (LHC), in light of decision of the Honorable Supreme Court of Pakistan in the case of Mustafa Impex vs the Federation of Pakistan (PLD 2016 SC 808) whereby the notification was held to be issued without constitutional mandate, has struck down SRO 896(I)/2013. This means that extra tax should have been levied only to the extent of 0.75% since inception todate.

DISCLAIMER

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