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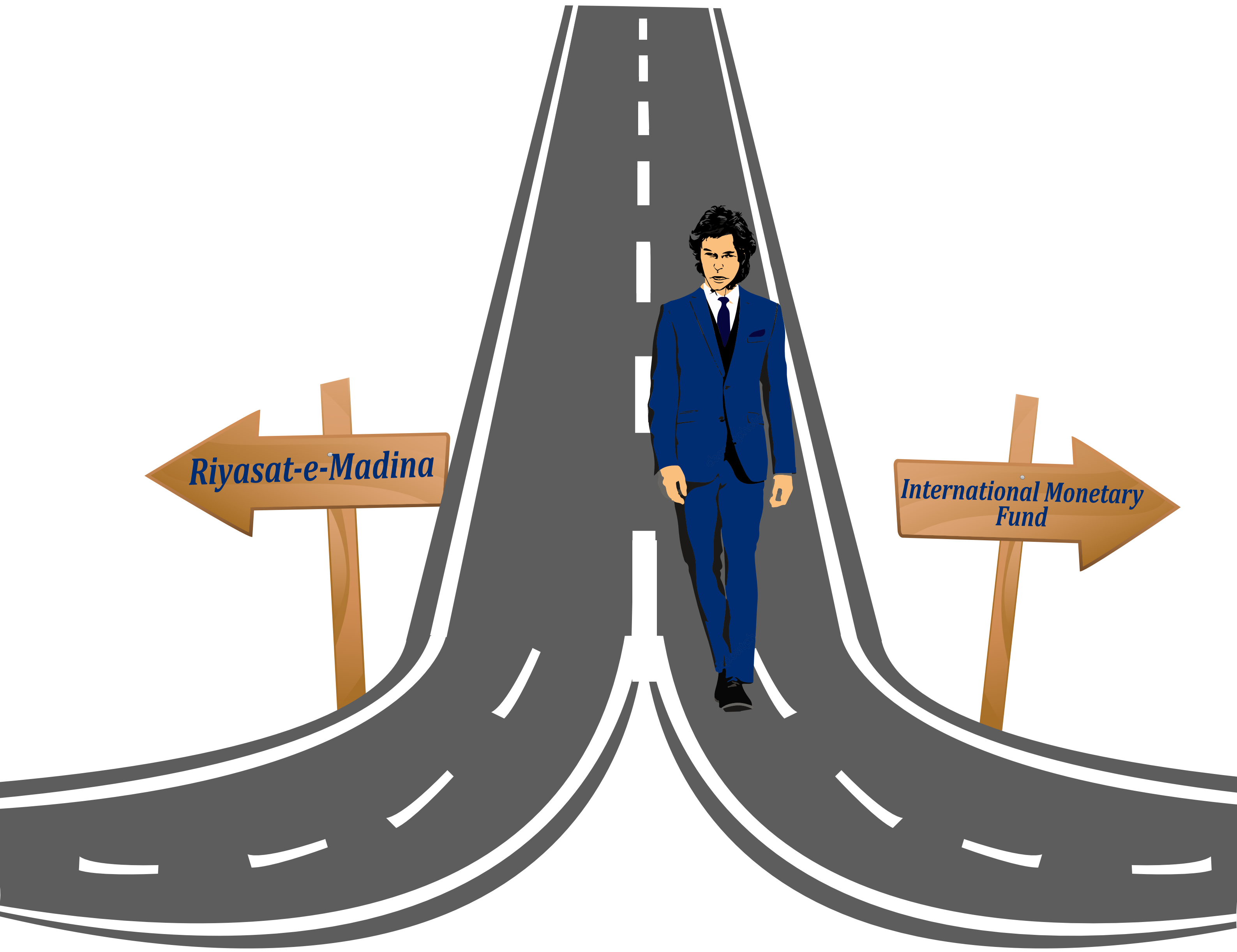
BUDGET 2019-20
SIGNIFICANT PROPOSED AMENDMENTS



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Prologue:

Finance Bill 2019-20 ("The Bill") for the fiscal year 2019-20 was laid before National Assembly on 11th June 2019. The bill has proposed amendments in Income Tax Ordinance, 2001 ("ITO"), Sales Tax Act, 1990 ("STA") and Federal Excise Act, 2005 ("FEA") among other laws.

We have prepared our comments on significant amendments proposed in ITO, STA and FEA. The comments presented are brief and detailed comments will follow after passage of the bill in the National Assembly along with passage of Provincial Finance Bills in respective Provincial Assemblies.

Our comments are based on publicly available copies of the Finance Bill. The interpretations of the amendments are based on our understanding of tax law and past practices.

These comments are provided for general use of public and should not be used for any specific transaction. We do not guarantee that these interpretations will be acceptable by the tax department.

Please feel free to provide your feedback for further improvements in the document.

Warm Regards

TOLA ASSOCIATES

Wednesday, 12 June 2019

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Amendments in Income Tax Ordinance, 2001

1. RULES FOR PERSONS NOT APPEARING IN ACTIVE TAXPAYER LIST – TENTH SCHEDULE

The bill proposes to abolish the concepts of "Filer" and "Non filer" and has instead introduced rules in form of tenth schedule for persons not appearing in active taxpayer list i.e. persons currently termed as non-filers.

The bill proposes that tax collections/deductions from payments to such persons shall be 100% more than the normal rates.

The bill proposes that where the withholding agent is satisfied that the person is not required to file his return of income, the agent shall furnish a notice in writing to the Commissioner giving required particulars. The commissioner shall make a decision within 30 days of notice. Where the commissioner is of the opinion that the person is required to file return of income, he shall order the withholding agent to deduct tax at 100% more than the normal rates. In case no decision is made within 30 days, approval by the commissioner shall be treated to have been granted.

The bill also proposes to empower commissioner to make a provisional assessment order of the person within 60 days of due date of filing of return of income if he does not file return of income within due date. The commissioner shall impute taxable income on the basis of taxes deducted and shall treat such imputable income as concealed income under section 111.

The provisional assessment shall become abated if the person files return of income of relevant tax year and preceding tax year within 45 days of receipt of provisional assessment order, otherwise the provisional assessment shall become final and the commissioner may within 30 days initiate proceedings for imposition of penalty and concealment of income.

The bill also proposes that where the withholding agent fails to furnish complete and accurate particulars of the person, the commissioner shall initiate penalty proceedings which may include one year's imprisonment.

In case the return of income is filed before finalization of provisional assessment, the taxes deducted shall be adjustable.

The bill proposes that these rules shall not apply to following sections:

a. Tax deducted under section 149 - Salary
b. Tax deducted under section 152 - Payments to non-residents
c. Tax deducted under section 154 - Exports
d. Tax deducted under section 155 - Income from Property
e. Tax deducted under section 156B - Withdrawal of balance under pension fund
f. Tax deducted under section 231A - Cash withdrawal from a Bank
g. Tax deducted under section 231AA - Advance Tax on transactions in Bank
h. Tax deducted under section 233AA – Collection of Tax by NCCPL
i. Tax deducted under section 235 - Electricity consumption
j. Tax deducted under section 235A - Domestic Electricity consumption
k. Tax deducted under section 235 B - Tax on Steel melters [and composite units]
l. Tax deducted under section 236 B - Advance Tax on Purchase of air ticket.
m. Tax deducted under section 236 D - Advance Tax on function and gatherings.
n. Tax deducted under section 236 F - Advance Tax on cable operators and other electronic media.
o. Tax deducted under section 236 I - Collection of Advance Tax by education institutes.
p. Tax deducted under section 236 J - Advance Tax on dealers, commission agents and arhatis, etc.
q. Tax deducted under section 236 L - Advance Tax on Purchase of air ticket

r. Tax deducted under section 236 P - Advance Tax on banking transactions otherwise than through cash.
s. Tax deducted under section 236 Q - Payments to residents for use of Machinery and equipment.
t. Tax deducted under section 236 R - Collection of Advance Tax on education related expenses remitted abroad.
u. Tax deducted under section 236 U - Advance Tax on Insurance premium.
v. Tax deducted under section 236 V - Advance Tax on extraction of minerals.
w. Tax deducted under section 236 X - Advance Tax on Tobacco.

There are a few ambiguities in the rules as under:

- The rules require withholding agent to furnish notice before collection or deduction of tax, however, it is silent with respect to payment of the remaining amount
- The rules are also silent whether notice is to be furnished before deduction of tax at normal rates or increased rates.
- The rules do not clarify whether the permission from commissioner is required for all transaction of a single person or one-time approval is sufficient.
- The rules burden the withholding agent with the approval procedure, whereas, the person should be made responsible for obtaining approval.

2. SHIFT OF FTR INTO MINIMUM TAX

The bill proposes to convert following tax deductions/types of income into minimum tax regime which currently are in Fixed Tax Regime:

- Tax deducted on commercial imports at import stage
- Tax deducted at the time of import of ships by ship breakers
- Tax deducted on profit on debt
- Tax deducted from payments to non-resident persons
- Tax deducted on account of supply of goods by a trading private company
- Tax deducted on account of execution of contract
- Tax deducted on account of contract in respect of a sportsperson
- Tax deducted on account of payments to electronic and print media for advertising services
- Tax deducted on account of brokerage and commission

3. PERSON RESIDENT IN PAKISTAN – SECTION 82

The bill proposes to broaden the definition of a resident person. The bill proposes that a person who is present in Pakistan for cumulative 90 days or more during the tax year and has also been present in Pakistan for a cumulative 365 days or more during preceding 4 years shall also be treated as resident.

We believe that this definition will be effective prospectively.

4. PURCHASE OF ASSETS THROUGH BANKING CHANNEL – SECTION 75A

The bill proposes to restrict purchase of immovable property, having FBR valuations more than Rs. 5 million, and other assets valuing more than Rs. 1 million, other than through normal banking channel.

The bill proposes that in case transaction is undertaken otherwise through banking channel, the purchaser will not be eligible to claim depreciation, initial allowance, amortization and pre-commencement expenditure. The bill also proposes that such payments will not be allowed to be deducted as cost for the purpose of computing capital gain. The bill also proposes to impose a penalty of 5% of the amount.

Section 227C, which restricts the purchase of certain assets by non-filers has also been proposed to be removed

5. CAPITAL GAINS OF IMMOVABLE AND CONSTRUCTED PROPERTY – SECTION 37

The bill proposes to abolish separate tax rates of capital gain of immovable property and has proposed to tax the gains under normal tax slabs. However, the gains of open plot held for more than 10 years has been proposed to be exempt, whereas, gains for holding period between 1 year to 10 year has been proposed to be exempted up to 25%. Similar exemption is available for constructed property, however, the holding period for constructed property is 5 years instead of 10 years.

6. UNEXPLAINED INCOME – SECTION 111

The bill proposes to shrink the limit of foreign remittance through normal banking channel to 5 million from 10 million to be eligible for exemption from inquiry from FBR.

The bill also proposes to withdraw the perpetual amnesty under subsection (4) of section 111. The bill proposes to withdraw the immunity to the differential amount invested in acquisition of property by payment of 3% tax under section 236W. The bill also proposes to abolish section 236W.

7. ASSESSMENT OF PERSONS ABOUT TO LEAVE PAKISTAN – SECTION 145

The bill proposes to empower commissioner to freeze domestic assets (including any assets beneficially owned by the person) if the person is likely to leave Pakistan and he may be involved in offshore tax evasion or such person is about to dispose of any such assets.

8. FBR REFUNDS SETTLEMENT COMPANY – SECTION 2(22C), SECTION 171A

The bill proposes to establish an FBR Refunds Settlement Company for payment of refunds under ITO through bonds in lines with refund settlement company under STA. The characteristics of bonds are similar to the sales tax bonds.

9. CONCEALMENT OF OFFSHORE ASSETS AND ENABLING OF OFFSHORE TAX EVASION – SECTION 192B, 195A, 195B

The bill proposes make concealment of an offshore asset worth more than Rs. 100,000 as an offence punishable on conviction with imprisonment up to 7 years or with a fine up to 200% of the amount of tax evaded or both. The bill has also empowered FBR to publish the names of offshore evaders in the print and electronic media who have evaded offshore tax equal to or exceeding Rs. 2.5 million.

The bill also proposes imprisonment of 2 years or fine of 2% of offshore asset or both in case any offshore asset is not declared through a statement of foreign assets under section 116A.

The bill also proposes similar conviction with imprisonment up to 7 years or a fine up to Rs. 5 million or both for any enabler who enables, guides or advises any person to design, arrange or manage a transaction or declaration in such a manner which results in offshore tax evasion. The bill has also empowered FBR to publish the names of offshore enablers in the print and electronic media who have enabled offshore evasion.

It may here be noted that definition proposed in section 2(38AC) and section 2(38AD) are inadvertently misquoted and require an interchange.

10. COMPUTATION OF INCOME FOR THE PURPOSE OF SUPER TAX – SECTION 4B

The bill proposes to exclude brought forward depreciation and brought forward business losses from income for the purpose of computation of super tax liability of following types of businesses:

- Insurance business
- Exploration and production of petroleum
- Banking
- Capital gains of listed companies

11. PAYMENT TO NON-RESIDENT PERSONS – SECTION 152

The bill proposes to empower the commissioner to issue certificate to the person making payment to non-resident person to allow him to make payment after deduction of only 30% of the tax. This approval is only in case of payments that constitute part of an overall arrangement of a cohesive business operation. The credit of such tax deducted shall be allowed to the permanent establishment of non-resident person in Pakistan.

12. POWER TO ENTER AND SEARCH PREMISES – SECTION 175

The bill has further empowered the commissioner to raid any premises where there is reliable information of undeclared gold, bearer security, or foreign currency and to confiscate the same in order to enforce any provision of this ordinance.

We understand that this power has been extended to encourage declarations under Assets declaration scheme.

13. RETURN NOT FILED WITHIN DUE DATE – SECTION 182A

The bill proposes to include the persons in active taxpayers list who have not filed return of income within due date subject to payment of surcharge as under:

- Rs. 20,000 in case of a company
- Rs. 10,000 in case of a company
- Rs. 1,000 in case of an individual

14. RESTRICTION OF PROCEEDINGS – SECTION 120B

The bill proposes to bar the proceedings in cases of declarations made under Assets Declaration Act, 2019. This restriction has been introduced to give a confidence to masses to opt for the scheme.

15. RATES OF TAX FOR INDIVIDUALS, ASSOCIATION OF PERSONS ("AOP") AND COMPANY

The minimum threshold of income for non-salaried individuals and AOPs have been proposed to be set Rs. 400,000 while maximum threshold has been proposed to be at Rs. 6,000,000 at 35% of tax rate.

For salaried individuals (if salary income exceeds 75% of taxable income), incomes up to Rs. 600,000 has been exempted, whereas, maximum threshold has been proposed to be set at Rs. 75 million at 35% of tax rate.

The tax rate for companies has been proposed to be set at 29% for tax years 2019 and onwards.

Tables for Salaried Individuals, and Non-Salaried and AOP have been enclosed as **Annexures A** and **B**.

16. RATE OF TAX FOR DIVIDEND INCOME

Tax rate on dividends declared by power generation companies and WAPDA have been proposed to be increased from 7.5% to 15%.

Tax rate of dividend declared by a company having no tax payable has been proposed to be 25%

For all other cases, tax rate has been proposed to be 15%

17. RATE OF TAX FOR PROFIT ON DEBT

Rate of tax proposed for profit on debt is 15%, 17.5% and 20% for incomes up to Rs. 5 million, Rs. 25 million and Rs. 36 million, respectively. Income exceeding Rs. 36 million will be charged tax as per normal slab rates.

18. TAX RATE ON CAPITAL GAINS ON SECURITIES

There is no proposed change in the tax rates except that tax rates for non-filers have been proposed to be omitted due to change in regime.

19. MINIMUM TAX RATES

Minimum tax rates for has generally been proposed to be increased. Minimum general turnover tax has been proposed to be increased from 1.25% to 1.5%.

20. PENALTIES – SECTION 182

The bill proposes to increase a few penalties as under:

Serial	Offences	Currently	Proposed
1	Where any person fails to furnish a return of income as required under section 114 within due date	If the penalty worked out as aforesaid is less than Rs. 20,000 or no tax is payable for that tax year such person shall pay a penalty of Rs. 20,000.	If the penalty worked out as aforesaid is less than Rs. 40,000 or no tax is payable for that tax year such person shall pay a penalty of Rs. 40,000.
1AA	Where any person fails to furnish wealth statement or wealth reconciliation statement.	Such person shall pay a penalty of 0.1% of the taxable income per week or Rs.20,000, whichever is higher	Such person shall pay a penalty of 0.1% of the taxable income per week or Rs.100,000 whichever is higher.
3	Any person who is required to apply for registration under this Ordinance but fails to make an application for registration.	Such person shall pay a penalty of Rs. 5000	Such person shall pay a penalty of Rs. 10,000
6	Any person who repeats erroneous calculation in the return for more than one year whereby amount of tax less than the actual tax payable under this Ordinance is paid.	Such person shall pay a penalty of Rs. 5000 or 3% of the amount of the tax involved, whichever is higher.	Such person shall pay a penalty of Rs. 30,000 or 3% of the amount of the tax involved, whichever is higher.
11	Any person who denies or obstructs the access of the Commissioner or any officer authorized by the Commissioner to the premises, place, accounts, documents, computers or stocks.	Such person shall pay a penalty of Rs. 25,000 or 100% of the amount of tax involved, whichever is higher.	Such person shall pay a penalty of Rs. 50,000 or 100% of the amount of tax involved, whichever is higher.
12	Where a person has concealed income or furnished inaccurate particulars of such income, including but not limited to the suppression of any income or amount chargeable to tax, the claiming of any deduction for an expenditure not actually incurred or any act referred to in sub section (1) of section 111, in the course of any proceeding under this Ordinance before any Income tax authority or the appellate tribunal.	Such person shall pay a penalty of Rs. 25,000 or an amount equal to the tax which the person sought to evade whichever is higher.	Such person shall pay a penalty of Rs. 100,000 or an amount equal to the tax which the person sought to evade whichever is higher.
15	Any person who fails to collect or deduct tax as required under any provision of this Ordinance or fails to pay the tax collected or deducted as required under section 160	Such person shall pay a penalty of Rs. 25,000 or the 10% of the amount of tax whichever is higher.	Such person shall pay a penalty of Rs. 40,000 or the 10% of the amount of tax whichever is higher.

Amendments in Income Tax Ordinance, 2001

The bill also proposes to introduce following new penalties:

Serial	Offence	Penalty
21	Any person who purchases immovable property having fair market value greater than rupees five million through cash or bearer cheque	Such person shall pay a penalty of five percent of the value of property determined by the Board under subsection (4) of section 68 or by the provincial authority for the purposes of stamp duty, whichever is higher.
22	Where an offshore tax evader is involved in offshore tax evasion in the course of any proceedings under this Ordinance before any Income Tax authority or the appellate tribunal.	Such person shall pay a penalty of one hundred thousand rupees or an amount equal to two hundred per cent of the tax which the person sought to evade, whichever is higher
23	Where in the course of any transaction or declaration made by a person an enabler has enabled, guided, advised or managed any person to design, arrange or manage that transaction or declaration in such a manner which has resulted or may result in offshore tax evasion in the course of any proceedings under this Ordinance.	Such person shall pay a penalty of three hundred thousand rupees or an amount equal to two hundred per cent of the tax, which was sought to be evaded, whichever is higher.
24	Any person who is involved in asset move as defined in clause (5C) of section 2 of the Ordinance from a specified territory to an un-specified territory.	Such person shall pay a penalty of one hundred thousand rupees or an amount equal to one hundred per cent of the tax whichever is higher.
25	Where a Reporting Financial Institution fails to comply with any provisions of section 165B of the Ordinance or Common Reporting Standard Rules in Chapter XIIA of Income Tax Rules, 2002.	Such Reporting Financial Institution shall pay a penalty of Rs.10, 000 for each default and an additional Rs. 10,000 each month until the default is redressed.
26	Where a Reporting Financial Institution files an incomplete or inaccurate report under provisions of section 165B of the Ordinance and Common Reporting Standard Rules in Chapter XIIA of Income Tax Rules, 2002.	Such Reporting Financial Institution shall pay a penalty of Rs.10, 000 for each default and an additional Rs. 10,000 each month until the default is redressed.
27	Where a Reporting Financial Institution fails to obtain valid self-certification for new accounts or furnishes false self-certification made by the Reportable Jurisdiction Person under Common Reporting Standard Rules in Chapter XIIA of Income Tax Rules, 2002.	Such Reporting Financial Institution shall pay a penalty of Rs.10,000 for each default and an additional Rs. 10,000 each month until the default is redressed.
28	Where a Reportable Jurisdiction Person fails to furnish valid self-certification or furnishes false self-certification under Common Reporting Standard Rules in Chapter XIIA of Income Tax Rules, 2002	Such Reportable Jurisdiction Person shall pay a penalty of Rs. 5,000 for each default and an additional Rs. 5,000 each month until the default is redressed.

21. TAX DEDUCTION ON ACCOUNT OF SPECIFIED SERVICES

The bill proposes to reduce rate of advance tax applicable on services from 8% to 4% in case of specified services. The specified services are the services which are currently mentioned in clause 94 of second schedule to ITO.

Amendments in Income Tax Ordinance, 2001

22. ADVANCE TAX ON DEALERS, COMMISSION AGENTS AND ARHATIS – SECTION 236J

The bill proposes to increase advance tax rate on dealers, commission agents and arhatis by 10 times to Rs. 100,000, Rs. 75,000, Rs. 50,000, Rs. 50,000 for class A, B, C and any other category, respectively.

23. ADVANCE TAX ON PURCHASE OF IMMOVABLE PROPERTY – 236K

Advance tax on purchase of immovable property has been fixed at 1%.

24. SIGNIFICANT AMENDMENTS IN SECOND SCHEDULE

- Layton Rahmatullah Benevolent Trust and Akhuwat have been added to the list of approved institutions under clause 61.
- Akhuwat and Audit Oversight Board have been included in the list of charitable institutions whose incomes are exempt under clause 66
- Profits and gains of sale of an immovable property to a REIT scheme have been proposed to be exempted till 30th June 2021.
- Any income of any individual domiciled or company or AOP resident in the tribal areas forming part of KPK and Baluchistan, which was not chargeable to tax prior to 25th constitutional amendment will be exempt from 1st June 2018 to 30th June 2023.

25. OTHER DIRECT TAX MEASURES

Following are other direct tax measures proposed in the bill:

1. The bill proposes to provide higher tax rates from income from profit on debt and to tax such income where it exceeds Rs. 36 million at normal rates.
2. The bill proposes to disallow commission paid in respect of products listed in Third Schedule Sales Tax Act 1990 to persons who are registered under the said Act and also not appearing in the Active taxpayers list.
3. The bill proposes to amortize expenditure of intangible over actual useful life and where actual useful life is not ascertainable, over a period of 25 years.
4. The bill proposes to exclude self-generated goodwill from the definition of intangibles.
5. The bill proposes to include gift received by a person as “income from other sources”
6. The bill proposes to provide tax credit to persons employing fresh graduates.
7. The bill proposes to reduce the rate of tax credit from 10 % to 5 % of the amount invested for BMR for tax year 2019.

Amendments in Income Tax Ordinance, 2001

8. The bill proposes to restrict tax credits for BMR for tax year 2019.
9. The bill proposes to empower the Federal Government to prescribe special procedures for small businesses, construction businesses, medical practitioners, hospitals, educational institutions and any other sector specified by the Federal Government.
10. The bill proposes to provide and enabling provision for a separate Schedule for taxation of persons not appearing in the active taxpayers' list.
11. The bill proposes for requirement of approval of the Commissioner for claiming 100 % tax credits by trusts welfare institutions and NPOs.
12. The bill proposes for technical amendment to empower the Commissioner to grant approval instead of the Chief Commissioner.
13. The bill proposes to provide for disclosure of information about pertaining to tax treaties.
14. The bill proposes to authorize the Commissioner to seek report from a Chartered Accountant or Cost Accountant to determine fair market value of any asset, product, expenditure or service and also seeks to curtail manufacturers from shifting profits to commission agents/dealers.
15. The bill proposes to enhance the requirement for owners of immoveable property to file return from 250 square yards to 500 square yards.
16. The bill proposes to change the due date for filing of return for salaried individual.
17. The bill proposes to include cost & management accountants in Alternate Dispute Resolution Committee.
18. The bill proposes to provide for recovery of association of persons' tax from its member.
19. The bill proposes to introduce withholding tax on royalty payment to residents at 15% of the gross amount payable.
20. The bill proposes to provide for the amendment of an order of recovery from withholding agent under section 161 in case such order is prejudicial to interest of revenue.
21. The bill proposes to omit the terms "filers" and "non-filers" from section 165A.
22. The bill proposes to omit for the provisions on final tax regarding inadmissibility of tax credit of final tax liability.
23. The bill proposes to provide for adjustability of tax collection or deduction to the extent of higher rate.

Amendments in Income Tax Ordinance, 2001

24. The bill proposes to separate audit and assessment functions.
25. The bill proposes to provide for a business license scheme.
26. The bill proposes to omit term “filer”.
27. The bill proposes to allow for invitation of criminal proceedings against officers and taxpayers who indulge in financial malpractices.
28. The bill proposes to provide for the Board to design Automated Impersonal Tax Regime to minimize personal interaction between taxpayers and officers.
29. The bill proposes to make technical amendment as corresponding amendments have been made with respect to immoveable properties.
30. The bill proposes to provide for establishment of Directorates General of Special Initiative and Valuation.
31. The bill proposes to enhance the holding period for the seller from three to five years in respect of withholding tax of sale of property.
32. The bill proposes to withdraw tax on purchaser of property on difference of FBR value of property and DC value.

Amendments in Income Tax Ordinance, 2001

➢ NON-SALARIED INDIVIDUAL TAX RATES FOR AOP

Annexure A

S.No	Taxable Income	Rate of Tax
1	Where taxable income does not exceed Rs. 400,000	0%
2	Where taxable income exceeds Rs. 400,000 but does not exceed Rs. 600,000	5% of the amount exceeding Rs. 400,000
3	Where taxable income exceeds Rs. 600,000 but does not exceed Rs. 1,200,000	Rs. 10,000 plus 10% of the amount exceeding Rs. 600,000
4	Where taxable income exceeds Rs. 1,200,000 but does not exceed Rs. 2,400,000	Rs. 70,000 plus 15% of the amount exceeding Rs. 1,200,000
5	Where taxable income exceeds Rs. 2,400,000 but does not exceed Rs. 3,000,000	Rs. 250,000 plus 20% of the amount exceeding Rs. 2,400,000
6	Where taxable income exceeds Rs. 3,000,000 but does not exceed Rs. 4,000,000	Rs. 370,000 plus 25% of the amount exceeding Rs. 3,000,000
7	Where taxable income exceeds Rs. 4,000,000 but does not exceed Rs. 6,000,000	Rs. 620,000 plus 30% of the amount exceeding Rs. 4,000,000
8	Where taxable income exceeds Rs. 6,000,000	Rs. 1,220,000 plus 35% of the amount exceeding Rs. 6,000,000

➢ TAX RATES FOR SALARIED INDIVIDUAL

Annexure B

S.No	Taxable Income	Rate of Tax
1	Where taxable income does not exceed Rs. 600,000	0%
2	Where taxable income exceeds Rs. 600,000 but does not exceed Rs. 1,200,000	5% of the amount exceeding Rs. 600,000
3	Where taxable income exceeds Rs. 1,200,000 but does not exceed Rs. 1,800,000	Rs. 30,000 plus 10% of the amount exceeding Rs. 1,200,000
4	Where taxable income exceeds Rs. 1,800,000 but does not exceed Rs. 2,500,000	Rs. 90,000 plus 15% of the amount exceeding Rs. 1,800,000
5	Where taxable income exceeds Rs. 2,500,000 but does not exceed Rs. 3,500,000	Rs. 195,000 plus 17.5% of the amount exceeding Rs. 2,500,000
6	Where taxable income exceeds Rs. 3,500,000 but does not exceed Rs. 5,000,000	Rs. 370,000 plus 20% of the amount exceeding Rs. 3,500,000
7	Where taxable income exceeds Rs. 5,000,000 but does not exceed Rs. 8,000,000	Rs. 670,000 plus 22.5% of the amount exceeding Rs. 5,000,000
8	Where taxable income exceeds Rs. 8,000,000 but does not exceed Rs. 12,000,000	Rs. 1,345,000 plus 25% of the amount exceeding Rs. 8,000,000
9	Where taxable income exceeds Rs. 12,000,000 but does not exceed Rs.30,000,000	Rs. 2,345,000 plus 27.5% of the amount exceeding Rs. 12,000,000
10	Where taxable income exceeds Rs. 30,000,000 but does not exceed Rs.50,000,000	Rs. 7,295,000 plus 30% of the amount exceeding Rs. 30,000,000
11	Where taxable income exceeds Rs.75,000,000	Rs. 21,420,000 plus 35% of the amount exceeding Rs. 75,000,000

Amendments in Sales Tax Act, 1990

1. SRO 1125 OF 2011 RESCINDED

Zero Rating regime extended to five major export sectors i.e. textile, leather, carpets, sport goods and surgical goods has been rescinded.

This regime was extended in 2011 and with drawn in 2014, however, it was re-promulgated in 2016.

Indubitably zero rating is a big concession to export sector, but segregating exports and domestic sales is improbable, hence, this facility was misused. Withdrawing this facility will block working capital of export sector to the tune of PKR 500 billion and on the contrary, it will increase much needed cash flow to the government amid daunting IMF tax target of PKR 5,555 billion.

2. ABOLISHMENT OF SPECIAL REGIME FOR STEEL SECTOR

Special procedure for steel melter has proposed to be withdrawn. At present steel sector is paying fixed sales tax at the rate of Rs 13 per KWH. Ship plates obtained from breaking of ships has been charged sales tax of Rs 9,300 per MT is payable. Imported adjustable scrape used in making billets is subject to sales tax at Rs 5,600 per MT. It is proposed that steel sector be brought under normal Sales Tax Regime with minimum benchmark of electricity consumption for manufacturer.

3. ABOLISHMENT OF SPECIAL PROCEDURE FOR MARBLE INDUSTRY

Currently Sales Tax Rate of Rs 1.25 per unit of electricity is fixed for marble sector which is proposed to the brought under normal regime of 17% Sales Tax.

4. MINIMUM VALUE ADDITION – TENTH SCHEDULE

Currently Chapter X of Special Procedure Rules, 2007 is applicable to all importers of taxable goods except goods imported by:

- A manufacture for in house consumption [i.e. Import of raw materials and fixed assets not for resale purpose]; or
- The POL products, imported by an oil marketing company, whose prices are regulated under a special pricing arrangement by the Government of Pakistan.
- Registered service providers importing goods for their in-house business use or for furtherance of their taxable activity and not intended for further supply in the same condition [Example: If a courier company imports packing material for the purpose of courier].
- Liquefied Natural Gas (LNG) and Re-gasified Liquefied Natural Gas (RLNG)
- Second hand and worn clothing and footwear

As per chapter X, an importer shall pay sales tax @ 17% on import value in the normal manner. However, sales tax on account of minimum value addition shall be collected at import stage @ 3% of the value of goods imported in addition to the sales tax paid in the normal manner.

The commercial importer shall charge sales tax from his customers in the normal manner. The value addition tax paid at import stage shall form part of input tax and shall be claimable against output tax for determining his net liability.

The excess of input tax, if any, over output tax shall be carried forward to the next tax period. However, the refund of excess input tax over output tax in respect of such imports shall not be allowed to a registered person.

The bill proposes to incorporate provisions of chapter X into a newly introduced Tenth Schedule to STA with the following amendments:

Tenth Schedule shall be applicable on all imported goods except raw materials and intermediary goods meant for use in an industrial process which are subject to customs duty at 16% or 20% ad valorem under first schedule to the customs act, 1969.

Amendments in Sales Tax Act, 1990

Tenth schedule provides exclusion to only raw materials and intermediary goods, whereas, chapter X provides blanket exclusion to goods imported by all manufacturers for their inhouse consumption including fixed assets.

Following is a comparison of exclusions under both laws:

S. No.	Tenth Schedule	Chapter X
1.	Raw materials and intermediary goods meant for use in an industrial process which are subject to customs duty at 16% or 20% ad valorem under First Schedule to the Customs Act, 1969	A manufacture for in house consumption [i.e. Import of raw materials and fixed assets not for resale purpose
2.	The petroleum products falling in Chapter 27 of Pakistan Customs Tariff as imported by a licensed Oil Marketing Company for sale in the country	the POL products, imported by an oil marketing company, whose prices are regulated under a special pricing arrangement by the Government of Pakistan
3.	Registered service providers importing goods for their in-house business use or for furtherance of their taxable activity and not intended for further supply	registered service providers importing goods for their in-house business use or for furtherance of their taxable activity and not intended for further supply in the same condition
4.	N/A	Liquefied Natural Gas (LNG) and Re-gasified Liquefied Natural Gas (RLNG
5.	N/A	Second hand and worn clothing and footwear

5. COTTAGE INDUSTRY DEFINITION – SECTION 2(5AB)

Cottage Industry is defined as a manufacturer whose annual taxable turnover during the last 12 months ending any tax period does not exceed Rs. 10 million or whose annual utility bills during the last 12 months ending any tax period do not exceed Rs. 800,000. The limit of utility bills originally was Rs. 600,000 which was increased to Rs. 700,000 and Rs. 800,000 vide FA 2008 and FA 2015 respectively.

A cottage industry is exempt from requirement of registration and they do not charge any sales tax on their supplies, as per serial 3, Table 2 of Sixth Schedule.

The bill proposes new definition of cottage industry as under:

a. Cottage industry means an industry based upon the family unit located in residential area containing labor force of maximum ten laborer's, in which workers use their own equipment at home process goods;
b. whose annual turnover does not exceed two million rupees; and
c. having no industrial gas and electricity connection

This amendment has restricted the scope of cottage industry and will bring almost 90% of the manufacturers under sales tax registration requirement which are currently enjoying exemption being under the definition of 'cottage industry'.

6. VALUE OF SUPPLY – SECTION 2(46)

Subsection (46) of Section 2 of STA provides the definition of value of supply in case the goods other than taxable goods are supplied to a registered person for processing, the value of supply of such processed goods shall mean the price excluding the amount of sales tax which such goods will fetch on sale in the market.
The bill proposes to introduce a new definition of value of supply. The bill proposes the value of supply to be the actual manufacturing charges received in relation to such goods, in case of manufacture of goods belonging to another person.

The bill also proposes definition of value of supply in case of supply of electricity by an independent power producer. The value of supply is proposed to be the amount received on account of energy purchase price only. the amount received on account of Capacity Purchase Price, Energy Purchase Price Premium, Excess Bonus, Supplemental Charges etc. shall not be included in the value of supply

The bill also proposes definition of value of supply in case of supply of electric power and gas by a distribution company, to be the total amount billed including price of electricity and natural gas, charges, rents, commissions and all duties and taxes local, provincial and federal but excluding the amount of late payment surcharge and the amount of sales tax.

7. TIER-1 RETAILERS – SECTION 2(43A)

Concept of Tier-1 Retailer was embedded in law vide FA 2018 as under:

a) A retailer operating as a unit of a national or international chain of stores;

b) A retailer operating in an air-conditioned shopping mall, plaza or center, excluding kiosks;

c) A retailer whose cumulative electricity bill during the immediately preceding twelve consecutive months exceeds rupees six hundred thousand; and

d) A wholesaler-cum-retailer, engaged in bulk import and supply of consumer goods on wholesale basis to the retailers as well as on retail basis to the general body of the consumers;"

Previously it was part of SRO 608 of 2014; which was declared unconstitutional by Lahore High Court.

The bill proposes to also include a retailer, whose annual turnover during the preceding twelve months exceeds Rs. 5 million, in the definition of Tier-1 retailers. The bill also proposes to treat a person as Tier 1 retailer who is running a business in a premise having covered area more than one thousand square feet.

The bill also proposes to exclude Tier-1 retailers from charging of sales tax through electricity bill. However, for such exclusion, concerned commissioner shall issue order to electricity supplying company regarding exclusion of a person who is a retailer already paying sales tax under section 3(1) of the STA, or who is not a retailer.

For retail customers, a unique incentive has been proposed by the bill. The bill proposes that retail customers who obtain and scan their bills in the computer application introduced by FBR shall be given a cash back of 5% of tax involved. This incentive will encourage a culture of documentation in the masses and will reap benefits in long run.

8. INPUT NOT ALLOWED – SECTION 8

The bill proposes that the invoices should bear CNIC of the buyer. The bill also proposes to disallow the invoices which do not bear the CNIC of the buyer claiming input tax paid. This will help to eradicate the fraudulent use of fake and flying invoices as only the genuine buyer of the goods will be able to claim the input tax paid.

The bill also proposes that the particulars in the invoice may be in English or Urdu. Currently there is no restriction of language for invoice.

9. REFUND OF INPUT TAX PAID ON CAPITAL ASSETS – SECTION 10

The bill proposes a registered person may claim refund of excess input tax on account of capital assets, despite the fact that the same is not adjusted within a minimum period of twelve months.

10. POWERS OF FEDERAL GOVERNMENT TO FBR

The powers of Federal Government under STA as enunciated in various sections of STA have been proposed to be devolved into Board ("FBR")

In the light of apex court judgment, a protracted procedure is required to be followed if such notification is issued by the Federal Government. To short circuit the lengthy process this power is proposed to be delegated to FBR.

Similar amendment has also been proposed for ITO.

11. TAX INVOICE TO INCLUDE UTILITY BILL – SECTION 2(40), SECTION 7

The bill proposes to include a utility bill issued by registered distribution company to be a tax invoice. The bill also proposes to allow input of sales tax paid on the basis of utility bill provided that registration number of the consumer and the address where the connection is installed is mentioned in the bill.

12. REVISION OF RETURN – SECTION 26

Currently, to revise a return within 120 days of filing of return, approval from commissioner is required. This condition of approval from commissioner to revise the return is now being proposed to be waived provided that the return is revised within 60 days and the sales tax liability is increased or refund is decreased as a result of revision.

13. ADDITIONS IN THIRD SCHEDULE TO STA

Following items are proposed to be included in third schedule, which means that 17% sales tax on such items will be charged on minimum retail price fixed by the manufacturer or importer of such goods and no sales tax shall be charged subsequently.

"38.	Household electrical goods, including air conditioners, refrigerators, deep freezers, televisions, recorders and players, electric bulbs, tube-lights, fans, electric irons, washing machines and telephone sets.
39.	Household gas appliances, including cooking range, ovens, geysers and gas heaters.
40.	Foam or spring mattresses and other foam products for household use.
41.	Arms and ammunitions
42.	Paints, distempers, enamels, pigments, colors, varnishes, gums, resins, dyes, glazes, thinners, blacks, cellulose lacquers and polishes sold in retail packing
43.	Lubricating oils, brake fluids, transmission fluid, and other vehicular fluids and maintenance products.
44.	Storage batteries excluding those sold to automotive OEMs

14. PARAMETERS FOR SELECTION OF AUDIT – SECTION 72B

The bill proposes that the parameters for selection of audit under section 72B shall be confidential.

15. THE LIABILITY FOR PAYMENT OF TAX IN CASE OF PRIVATE COMPANIES – SECTION 58

Currently, every shareholder of a company, which is unable to pay its sales tax liability, will be liable to pay the tax due. The bill proposes that the liability in such a case will be only of Director, other than employed director, and a shareholder having not less than 10% of shareholding.

16. AUDIT ONCE IN EVERY THREE YEAR – SECTION 25

Vide FA 2018, the powers to select for audit under section 25 was restricted to be only once in three years. This restriction in powers to selection for audit under section 25 is now being proposed to be withdraw.

Amendments in Sales Tax Act, 1990

17. AMENDMENTS IN SIXTH SCHEDULE AND EIGHTH SCHEDULE

Various items have been excluded from sixth schedule and a number of such items have been added in eighth schedule at reduced rates as under:

Description	Current Status	Proposed status
Meat of bovine animals, sheep and goat, excluding poultry and offal, whether or not fresh, frozen or otherwise, sold in retail packing under a brand name	Exempt under Sixth Schedule	Taxable at 17%
Eggs sold in retail packing under brand name	Exempt under Sixth Schedule	Taxable at 10% under Eighth Schedule
Cereals and products of milling in retail packing under a brand name	Exempt under Sixth Schedule	Taxable at 10% under Eighth Schedule
Silver in unworked condition	Exempt under Sixth Schedule	Taxable at 1% plus 2% value addition under eighth schedule
Gold in unworked condition	Exempt under Sixth Schedule	Taxable at 1% plus 2% value addition under eighth schedule
Cotton seed oil		Exempt under Sixth Schedule
Frozen prepared or preserved sausages and similar products of poultry meat or meat offal	Exempt under Sixth Schedule	Taxable at 10% under Eighth Schedule
Fat filled milk	Exempt under Sixth Schedule	Taxable at 10% under Eighth Schedule
food supplements meant for preventing growth stunting under UN World Food	Taxable at 17%	Exempt under Sixth Schedule
i) supplies, and (ii) imports of plant, machinery, equipment and industrial inputs by the industries located in the tribal Areas, – as made till 30th June, 2023	Taxable at 17%	Exempt under Sixth Schedule
Supplies of electricity to consumers in the Tribal Area	Taxable at 17%	Exempt under Sixth Schedule
Foodstuff and other eatables prepared in the flight kitchens and supplied for consumption on-board in local flights.	Exempt under Sixth Schedule	-
Milk and cream, concentrated or containing added sugar or other sweetening matter, sold in retail packing under a brand name	Taxable at 10% under Eighth Schedule	Taxable at 17%
Reclaimed Lead	Taxable at 5% under Eighth Schedule	Taxable at 17%
White Crystalline sugar	Taxable at 8% under Eighth Schedule	Taxable at 17%
Fertilizers (all types)	Taxable at 2% under Eighth Schedule	Taxable at 5% under Eighth Schedule
Potassium Chlorate	17% + rupees 65per kilogram	17% + rupees 70 per kilogram
Diamond	-	Taxable at 0.5% plus 2% value addition under eighth schedule
Articles of jewelry	-	Value of Gold 1%, making charges 2% and diamond 0.5%

Amendments in Sales Tax Act, 1990

Following further items have been proposed to be included under Eighth Schedule:

Diamond	-	Taxable at 0.5% plus 2% value addition under eighth schedule	-
Articles of jewelry	-	Value of Gold 1%, making charges 2% and diamond 0.5%	Local Supply
Brick kilns	6904.1000 6810.1100 and 8417.1010	Rs. 100,000/-	Areas falling in districts Lahore, Rawalpindi and Islamabad
		Rs. 75,000/-	Areas falling in districts Attock, Chakwal, Jehlum, Mandi Bahauddin, Sargodha, Gujrat, Sialkot, Narowal, Gujranwala, Hafizabad, Sheikhupura, Kasur, Nankana Sahib, Chiniot, Faisalabad, Jhang, Toba Tek Singh, Okara and Sahiwal
		Rs. 50,000/-	Areas falling in districts Khushab, Mianwali, Bhakar, Layyah, Muzaffarghar, Dera Ghazi Khan, Rajanpur, Multan, Lodhran, Khanewal, Vehari, Bahawalpur, Pakpattan, Bahawalnagar, Rahim Yar Khan, Provinces KPK, Sindh and Baluchistan
Restaurants	9801.3000	7.5%	Supplies thereof.”.
Cotton seed oil cake	2306.1000	5%	
Open ghee/ cooking oil	Respective heading	10%	-
Retailers making supplies of finished goods of textile and leather sectors– Locally manufactured finished articles of (a) textile and textile made-up; (b) Leather and artificial leather; Supplies to any person including retail sale (c) Retailer making supplies of items other than (a) and (b) above Supplies of finished fabrics to and by retailers.	Respective heading	15%	If they are integrated with FBR’s online system and data is transmitted to the FBR’s computerized system in real time in such mode and manner as may be prescribed by the Board.

18. PENALTY FOR NON-FILING OF RETURN – SECTION 33

The bill proposes to increase the penalty for not filing return within due date from Rs. 5,000 to Rs. 10,000. Moreover, in case of filing of return within 10 days of due date, the penalty has been proposed to increase from Rs. 100 per day to Rs. 200 per day.

19. FBR Refund Settlement Company – Section 2(11A)

The bill proposes to remover words “(Private)” from the name of FBR Refund Settlement Company, meaning that the said company will be established as a public company.

Amendments in Federal Excise Act, 2005

The Amendments are as follows:

1) In sub-section 2 of Section 19 a new clause is added which provides for penalty for the person who sells cigarettes on a price lower than the printed price.
2) FED at the rate of 40 paisa per kilogram on oilseeds has been proposed to be withdrawn.
3) Fruit Juices, syrups and squashes, water containing added sugar or sweetening matter etc. excluding mineral and aerated waters with rate of duty equal to 5 % ad Val have been proposed to be charged at 5 % ad valorem.
4) Gold & Silver to be added with rate of duty equal to 1 % (import thereof).
5) Diamond to be added with rate of duty equal to 0.5 %.
6) FED on Internet services whether dialup or broadband including email services, Data Communication Network services (DCNS) and Value-added data services have been proposed to be withdrawn.

FIRST SCHEDULE

S. No	Pertaining to	Currently	Proposed
2	Vegetable ghee and Cooking oil	16% per cent ad val.	17% per cent ad val.
4	Aerated Waters	11.5 % per cent of retail price	15% per cent of retail price
5	Aerated waters, containing added sugar or other sweetening matter or flavored	11.5 % per cent of retail price	15% per cent of retail price
6	Aerated waters if manufactured wholly from juices or pulp of 3 vegetables, food grains or fruits and which do not contain anyother ingredient, indigenous or imported, other than sugar,coloring materials, preservativesor additives in quantities prescribed under the West Pakistan Pure Food Rules, 1965.	11.5 % per cent of retail price	15% per cent of retail price
9	Locally Produced Cigarettes	Rs. 4500 / 1000 cigarettes if their on-pack printed retail price exceeds RS. 4400 per 1000 cigarettes	Rs. 5200 / 1000 cigarettes if their on-pack printed retail price exceeds four thousand four thousand hundred rupees per thousand cigarettes
10		Rs. 1840 / 1000 cigarettes if their on-pack printed retail price doesn't exceed RS. 4400 per 1000 cigarettes.	Rs. 1650 / 1000 cigarettes if their on-pack printed retail price doesn't exceed four thousand four hundred rupees per thousand cigarettes.
10a		Locally produced cigarettes if their on-pack printed retail price does not exceed Rs. 2920 per 1000 cigarettes.	Omitted

Amendments in Federal Excise Act, 2005

13	Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cements, whether or not colored or in the form of clinkers.	1 rupee and fifty paisa per kg	2 rupee per kg
31	Liquified Natural Gas	17 rupees and 18 paisa per 100 cubic meters.	10 rupees per Million British Thermal Unit (MMBtu).
55B	Motor vehicles	10 % ad valorem on locally manufactured or assembled motor cars, SUVs and other motor vehicles of cylinder capacity of 1700 cc or above, principally designed for the transport of persons (other than those of headings 87.02), including station wagons and racing cars of cylinder capacity of 1700m cc or above.	Engine capacity Rate i. Up to 1000cc 2.5% ii. 1001cc to 2000cc 5% ii. 2001cc and above 7.5%

TOLA ASSOCIATES
TAX & CORPORATE ADVISORS

OFFICES IN PAKISTAN

Karachi Address:

Office no. 408, 4th Floor, CTC Building, Clifton Block-8, Karachi

Tel #: +92 21 3530 3293-6

Islambad Address:

144, 1st Floor, Street No.82

Sector E-11 / 2 FECHS

Islamabad 44000,

Tel #: +92 51-835 1551

Lahore Address:

202-E, 2nd Floor, Sadiq Plaza 69-The Mall Road, Lahore

Tel #: +92 42 3628 0403