TOLA ASSOCIATES
TAX & CORPORATE ADVISORS

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TAX PAK

NEWSLETTER BY
TOLA ASSOCIATES

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EDITORIAL NOTE

The Finance Supplementary (Second Amendment) Bill, 2019 ("the bill") was presented before parliament on 23rd January 2019. Our comments on the bill may be found through the link https://goo.gl/nLGaJV. The President has summoned a session of National Assembly on 18th February 2019 for the discussion on the bill. The bill is expected to be passed afterwards.

On 1st February 2019, Interim government of India has also tabled an Interim Finance Bill, 2019 before Lok Sabha. We have also commented on major amendments by the Indian Interim Bill in our 'Topic of the month' section in this issue.

Readers are requested to visit our website www.tolaassociates.com or download our mobile apps from below links to access previous issues and other publications and to stay updated of future notifications.

1. https://goo.gl/QDM4ZM (iOS)
2. https://goo.gl/LFiWyx (Android)

Readers are also requested to circulate this e-copy within their circle, as our primary aim is to benefit the masses. Feedback is always welcomed.

Ashfaq Tola - FCA
Editor in Chief

1. NOTIFICATIONS/ CIRCULARS

1. Regularization of unregistered mobile devices with SIM/IMEI functionality

The mobile devices are brought in country either through (a) commercial imports or (b) imported by individuals in accompanied baggage/courier or brought illegally by way of smuggling [other imports]. The commercial imports are already regulated through PTA issued Type approval /CoC which get clearance from WEBOC module.

For other imports the PTA launched Device Identification, Registration and Blocking System [DIBRS] to ensure sale, purchase and provision of mobile communication services to compliant mobile device only. In this regard, the FBR issued Custom General Order 06 of 2018 dated 29th November 2018 to intimate launch of DIBRS w.e.f. from 01 December 2018 and to prescribe procedures for regularization of unregistered mobile representing other imports. The other imports of mobile were given following time period for compliance after which Custom Authorities were authorized to take further necessary action including seizure/outright confiscation and permanent blockage through DIBRS by PTA.

Mode of Other Imports	Time period for Compliance
Imported by Individual through postal service or courier	No time period prescribed
Brought by Passengers in accompanied baggage	15 days of date of arrival
Brought through informal channels	31st December 2018

Now, FBR has issued Custom General Order 01 of 2019 dated 28th January 2019 superseding the above general order, whereby the launch of DIBRS was extended to 15th January 2019, and changes have been made in the procedures of registration of unregistered mobiles. It is worthwhile to note that now international travelers can bring one mobile in a year and get registered in DIBRS free of duty/taxes. In case of second or more mobile (with maximum five mobile in a year) the international travel can pay applicable duties and taxes. The compliance time period has also been changed follows:

Mode of Other Imports	Time period for Compliance
Imported by individuals through postal services or courier	No time period prescribed.
Registration of mobile devices by International Travelers	(a) 60 days of date of arrival without fine. (b) After 60 days with fine under Customs Rules.
Registration of mobile devices by local applicant/resident	Any time after 15th January 2019 with fine.
Imported illegally through informal channels by local traders	Any time after 15th January 2019 with adjudged fine under Customs Rules.

2. Amendment in Sindh Sales Tax Rules 2011, Rules regarding Appeal to Commissioner (Appeals) now prescribed

In line with the Rules prescribed for preference of appeal to Commissioner (Appeals) in Federal Sales Tax laws[FST], Sindh Revenue Board [SRB] has now also prescribe rules 57A to 57J for appeal to Commissioner (Appeals)[CA] in matters pertaining to Sales tax on services with its jurisdiction, in order to facilitate and standardized the appeal process at this first forum of relief. The SRB has also now provided e-hearing facility to appeals relating to Hyderabad and Sukkur regions.

We understand that this will help remove the delays caused by discretionary objections on submitted appeal documents raised by office of Commissioner (Appeals).

The differentiating features when compared with FST are as under:

- The office of CA shall issue a pre-admission notice with 10 days (or before first hearing) from date of preference of appeal requiring appellant to remove the office objections.
- The Commissioner (Appeals) may, if he so desires, require the respondent(s) to file para-wise comments before disposal of the appeal.
- The memorandum of appeal shall inter-alia includes copies of judgements of the Courts or Appellate Tribunals, relied upon by the appellant in his memorandum of appeal.
- The admission of new or additional ground made vide application may be granted by CA during or before final hearing when an appeal is reserved for the Order by CA.
- The CA office is not required to issue hearing notice for adjourned hearing date and venue where the same has been duly recorded in the Commissionerate's file of appeal and same has been duly signed or acknowledge by the parties or AR.
- The appellant can submit Urgent hearing application for stay of recovery of the dues adjudged or assessed and CA shall fix suck application for hearing urgently within a day or two for an appropriate order.
- The CA can prescribe procedures and guidelines for the information and compliance by officers of the SRB and appellant.

3. Amendment in Five Exports Sector SRO 1125(I)/2011 dated 31 December 2011[Main SRO]

The FBR vide SRO 110(I)/2019 dated 31st January 2019 amended the Main SRO, whereby the zero-rated regime in case of imported raw and ginned cotton has been withdrawn for local supplies hence it is now under standard rate regime, whereas import raw and ginned cotton continue under preview of Main SRO.

4. Amendment in SRO 488(I)/2004 dated [Main SRO]

The Main SRO specify goods which shall not be supplied to any person who is not registered under the Sales Tax Act, 1990, and if any supplies made the supplier shall not be entitled to reclaim or deduct input tax in respect thereof. The FBR has now made Molasses falling under PCT heading 1703.1000 part of the specified goods vide SRO 32(I)/2019 dated 9th January 2019.

5. Implementation of Benami Act 2017- FBR to get access to NADRA Citizens' family tree

Benami transactions in Pakistan are generally undertaken to park untaxed money. Accordingly, in such cases, the immediate and future, direct and indirect benefit of the property acquired from untaxed money lies with a person other than the person reflected as owner, whereas the consideration for the acquisition of the property is paid out of untaxed money by the person holding beneficial rights other than the person who is reflected as having ostensible right in the property.

The Benami Transactions (Prohibition) Act 2017 has been introduced to provide the right to the Government to identify benami transactions and to 'confiscate' the properties held in benami. This is a step to abolish parking space for money generated from untaxed income. However, following transactions and arrangements have been excluded from the purview of benami transactions and arrangements [exclusions]:

1. Properties held by a person in fiduciary capacity;
2. Properties acquired out of the known sources of income by an individual in the name of spouse or in the name of any child of such individual; and
3. Properties acquired in the joint name of an individual and his brother or sister or lineal ascendant or descendent and acquired from the know sources of income of the individual

The parliament passed the law in February 2017 that authorizes authorities to confiscate the Benami properties but the Finance Ministry and the FBR have not yet framed the rules to make it operational. Now, Finance Minister has decided to give FBR access to the family tree database of citizens maintained by NADRA to catch the dodgers and to classify the property correctly as benami or exclusions under the Act.

6. Amendment in Rule 231C on Alternate Dispute Resolution

In November 2018 newsletter, we comment on draft amendments in Rule 231C of IT Rules 2002 on Alternate Dispute Resolution vide SRO 1352(I)/2018 dated 6th November 2018. Now FBR has issued SRO 69(I)/2019 dated 24th January 2019, whereby the draft amendments have been finalized with following further changes:

- For appointment of members of Committee, the panel of retired judge not below the rank of District and Sessions Judge, senior chartered accountants, senior advocates and reputable businessmen shall be notified by FBR.
- The remuneration of Chairman of Committee changed from lump sum one-time of two hundred thousand Rupees to lower of seventy-five thousand Rupees or four percent of the disputed tax demand.
- The remuneration of Member of Committee changed from lump sum one-time of one hundred thousand Rupees to lower of fifty thousand Rupees or three percent of the disputed tax demand.

7. SECP's Anti Money Laundering and Counterfeiting Financing of Terrorism Regulations, 2018 now finalized

Our September Newsletter's topic of the month titled "A Brief on Anti-Money Laundering Regulations", in which regulatory environment in Pakistan regarding Anti Money Laundering and Counterfeiting Financing of Terrorism was discussed briefly. We also mentioned draft SECP (Anti Money Laundering and Countering Financing of Terrorism) Regulations 2018 issued vide SRO 557 dated 26 April 2018 applicable to SECP regulated entities.

Amid, the Financial Action Task Force (FATF) review in January in Sydney, Australia in which FATF reported to have expressed a degree of satisfaction over Pakistan's efforts and action plan to combat money laundering and terror financing under international obligations and gaps to do more before May 2019 to get out of the grey list, the SECP has now final version SECP (Anti Money Laundering and Countering Financing of Terrorism) Regulations 2018 uploaded on SECP's website on 03 January 2019.

2. TV LICENSE FEE IS FOR TV SET POSESSION, NOT FOR PROVISION OF ANY SERVICES, HENCE FED NOT APPLICABLE - SC

In case of M/s Pakistan Television Corporation Ltd. [CA No. 1509 of 2016], the taxpayer had not charged FED on PTV license fees [fee] for Tax Year 2007,2008 and 2009, by considering that license fees had not been paid against any services provided by taxpayer but paid by the holder of TV set for its possession. However, the tax authorities and Appellate Tribunal [ATIR] considered fee to fall under broad heading Telecommunication Services: PCT Heading 98.12, on reason that every service like telecommunication service can be categorized as Telecommunication Service. This conclusion was derived from changes in language brought by SRO 550(I)/2006 dated 05.06.2006 which use the term Telecommunication Services as replacement of description " Services provided or rendered by persons engage in telecommunication work in respect of telephone, telegraph, telex, telefax and alike" of repealed SRO 648(I)/2005 dated 01.07.2005, hence it was interpreted that the scope of Telecommunication service was broadened. The Islamabad High Court [HC] also considered receiving of television signals are like the PCT Chapter 98 heading Telecommunication services, hence the Television provides services which falls within definition of word "services" defined in section 2(23) of Federal Excise Act, 2005. Hence the fee was liable to FED.

The SCP ruled in favor of taxpayer and held that tax authorities and ATIR erred in drawing conclusion that the provision providing for a mode of collection may abridge or expand the scope of a charging provision in act. The HC also not discusses how heading of the PCT and its sub-heading are to be read and no discussion made regarding which sub heading will cover fee. The SCP held Section 2(23) of FED Act, 2005 and the Explanation to Section 3 of Act require that Table II to the First Schedule to the FED Act, 2005 must be read with Chapter 98 of the PCT with all headings and subheading to be considered strictly. Since fees is not covered by any specific sub-heading of the PCT 98.12 it is exempt from FED under Section 16 of the FED Act, 2005. The SCP also held the license fees is not paid for any provision for services but paid by the holder of the TV set for its possession, hence it is not service as defined in FED Act, 2005 and FED cannot be levied on it. We understand that the ratio decided by SCP Supra will also have implications for Provincial Sales Tax on Services as well.

3. ECONOMIC INDICATORS

- The 3-month, 6-month and 1-year KIBOR rate for the month of December 2018 to 10.50%, 10.66% and 11.18%, respectively, which hiked in January 2018 to 10.52%, 10.76% and 11.33%, respectively.
- The 3-month T-Bills rate for the month of December 2018 was 10.21% which hiked to 10.31% in January 2019; The 6-month T-Bills rate for the month of December 2018 was 10.61% which lower to 10.50% in January 2019. The rate for 1 year remained unchanged at 6.97% since October 2018.
- The PSX 100 index at the end of December 2018 was 37,066.67 points and at the end of January 2019 was 40,799 points while the average index for the month of December 2018 was 38,375.45 points and for the month of January 2019 was 39,344.10 points posting a increase of 2.52%.
- The rate for Crude Oil in the OPEC basket at the end of December 2018 was $ 51.55, whereas, at the end of January 2019 was $ 60.93. The increase in price was 18.20%
- The rate of Gold per troy ounce in the month of December 2018 was $1257.63 whereas in the month of January 2019 it increases to $1293.29 per troyounce by 2.84%
- The rate of Sugar at end of December 2018 was 0.3431 US$/KG which remain unchanged in the month of January 2019.
- The rate of Palm Oil in the month of December 2018 was 469.17 US$/MT which fell in the month of January 2019 to 516.93 US$/MT by 10.18%.
- The US$ parity to Chinese Yuan at the end of December 2018 was 6.89 whereas in the month of January 2019 it was 6.70 posting a decrease of 2.76%.
- The US$ parity to Indian rupee at the end of December 2018 was 70.70 whereas in the month of January 2019 it was 71.09 posting a increase of 0.55%.
- The US$ parity to Bangladesh Takka at the end of December 2018 was 83.84 whereas at the end of January 2019 it was 83.89 posting an increase of 0.06%.
- The US$ parity to Pakistan Rupee at the end of December 2018 was 138.90 which rose to 139.25 at end of January 2019 by 0.25%
- The volume of imports in January 2019 was 624,644 Million rupees (4,504 million $) while the exports were 283,372 Million rupees (2,043 million $). Exports in July 18 to January 2019 rose by 2.24% to $ 13,231 million while Imports in July to January 2019 decrease by -5.17% to $32,495 million.
- The stock of currency in circulation was Rs. 4,388 billion as on June 30th, 2018 which increased by Rs. 273 billion up to January 25th, 2019 to Rs. 4,661 billion.

- The Net Government Sector borrowings at end of June 30th, 2018 were Rs. 10,200 billion which increased by Rs. 690 billion up to January 25th, 2019 to Rs. 10,890 billion. The net government sector borrowings were used for the purpose of budgetary support (Rs. 10,199 billion) and commodity operations (Rs. 702 billion); and supported by others (Rs. -12 billion).
- The credit to private sector at end of June 30th, 2018 was Rs. 5,973 billion which rose by Rs. 530 billion up to January 25th, 2019 to Rs. 6,503 billion.
- Workers' remittances for the month of December 2018 and January 2019 were $ 1,748.78 million and $ 1,743.25 million respectively, decline by 0.31%.
- Foreign exchange balance at end of December 2018 (Provisional) and January 25th, 2018 (Provisional) were $ 13,752.9 million (SBP: $7,199.8 million, Commercial Banks: $6,553.1 million) and $ 14,802.5 million (SBP: $8,154.3 million, Commercial Banks: $6,648.2 million) respectively showing a increase of 7.63%.

4. TOPIC OF THE MONTH

INTERIM INDIAN FINANCE BILL, 2019

Amid arena of elections 2019, which is going to set in India somewhere between April and May 2019, the Interim Finance Minister of India Piyush Goval presented Union Budget 2019 on 1st Feb 2019, in Lok Sabha with tax cuts for middle class and relief for farmers with special emphasis given to real estate sector. The Salient features are as under:

DIRECT TAXES

- **Rebates on Individuals**

Individual taxpayers with Annual income of ₹500,000 (PKR. 971,950) are now fully exempted. Previously this limit was ₹250,000 (PKR. 485,975). Further Individuals with gross income upto ₹6.5 lakhs (PKR. 1,263,535) will not need to pay any tax if they make investments in provident funds and prescribed equities. This measure will provide tax exemption to around 3 Crore middle class Indian taxpayers. Remaining tax slabs for income above ₹500,000 (PKR. 971,950) remain unchanged.

At present in Pakistan, in case of salaried and non-salaried individual taxpayer the Annual Income upto Rs 400,000 is exempt. Further, individuals can avail benefits in form of tax credits on investment made in shares upto maximum 20% of Taxable income, on investment in health insurance upto maximum 5% of taxable income.

- **"Standard Deduction" on Salary Increased**

Before Finance Act 2018 ("FA 2018"), salaried individuals were entitled to fixed rebate of ₹19,200 (PKR. 37,322.88) on account of travel allowance and medical reimbursement of ₹15,000 (PKR. 29,158.5) from Gross salary. In FA 2018, these two were replaced by standard deduction of ₹40,000 (PKR. 77,756) from salary income. This standard deduction has now been proposed to increase to ₹50,000 (PKR. 97,195) for salaried individuals.

Moreover, in a recent clarification issued by income tax department, if a taxpayer has received a pension from a former employer, the same will be taxable under the head 'Salaries'. Therefore, the taxpayer shall be entitled to claim a standard deduction of Rs 50,000.

At present in Pakistan, in case of salaried individual taxpayer, medical allowance is exempt upto 10% of basic salary. Pension if received after age of 60 years is fully exempt. In case of Pension received at age below 60 years and employee work for the same employer, then pension is not exempt. Similarly, in case of Pension received at age below 60 years and person receives more than one pension then exemption shall apply only to the higher of such pensions received.

- **No Notional Rental Income on Second House of Individual**

Currently, notional income tax is payable on notional rent if an individual has more than one self-occupied house, even if second house was lying vacant. The budget proposes to increase limit of exemption from tax on notional rent to **two self -occupied** houses.

Moreover, the maximum limit of total deduction of interest loan for self-occupied loans remain same at ₹200,000 (PKR. 388,780) per annum for both houses.

At present in Pakistan, no tax on rent on notional basis i.e. inherent potential of property to earn income basis, in case of vacant houses. Further for individuals no deduction is allowed from rent income including interest on loan. However, similar concept of fair market rent is applicable for occupied properties only, in which case the Actual rent is compared with Fair market rent or Annual Letting value [ALV]. If it is higher than actual rent, then ALV is considered.

- **Threshold for Deduction Increased**

Exemption limit from Tax deduction from post office deposits and interest from bank has been increased to ₹40,000 (PKR. 77,756) from ₹10,000 (PKR. 19,439). Previously if income of taxpayer was even below taxable limit but interest income was more than ₹10,000 (PKR. 19,439), the taxpayer had to submit form 15G to avoid Tax Deduction at Source [TDS]. This proposal hence increases convenience for small depositors including house wives, elder citizens etc.

At present in Pakistan, there is no minimum exemption limit on tax deduction on interest on deposits. However, interest income in certain cases is exempt and hence exempt from tax deduction also.

- **Rollover facility of Long-Term Capital Gain [LTCG] on sale of House increased**

Currently an individual can save tax on LTCG arising from sale of house by investing the capital gain in one new residential house within 2 years of sale. The budget proposes to relax this facility of investment up to two new residential houses subject to condition that the amount of capital gain does not exceed ₹2 crore (PKR. 3.88 crore) and this exemption can only be claimed once. This monetary threshold is not applicable if only one residential house is purchased. The holding period necessary for capital gain to be classified as LTCG is currently 2 years. The rebate on LTCG is also available if it is invested within 6 months Bonds mentioned in Section 54EC of Income Tax Act instead of property.

At present in Pakistan, no rollover facility of LTCG is available, however the capital gain on immovable property held for 3 years or more i.e long term investment, is exempt from tax. Further, if immovable property sold to a Development REIT Scheme with the object and construction of residential buildings upto 30.6.2020, it shall be exempt from capital gain tax irrespective of holding period.

- **Limit for non-deduction on Rental Payments increased**

Limit on non-deduction of tax at Source by Non-Individuals i.e. Companies or Hindu Undivided family on rental payment has now proposed to be relaxed upto monetary threshold of ₹2.4 lakh (PKR. 4.66 lakh)- from ₹.1.8 lakh (PKR. 3.5 lakh) per annum.

This gives tax-related convenience relief to those who depend on rental income and have income below taxable limit, or the receiver had invested in tax saving instruments and could nullify tax liability by claiming rebates then he/she would have to claim refund of the tax deducted.

At present in Pakistan, the tax deducted at source on rental income by prescribed persons is exempt upto Annual Rental Income of Rs 200,000 where owner is individual/AOP.

- **Extension Of Payments In Real Estate Sector**

According to Section 80(i)BA of Indian Income Tax Act provides 100% tax exemption on profit and gains derived from the business of developing and building housing projects subject to conditions which inter-alia includes the project is approved by the competent authority after 1st June 2016 but on or before 31st March 2019. The budget proposes to extend the benefit upto 31st March 2020. This will provide a strong boost to housing for middle and lower- income strata and an exemption on tax will encourage even more investment in this sector.

At present in Pakistan, any income derived by Real Estate Investment Trust [REIT] scheme, subject to conditions, is exempt from tax.

- **Time limit for exemption from Notional Rent chargeability increased**

Finance Act 2017 introduced provisions to tax notional income on rent from property which was held as stock in trade by the company for period more than one year after the end of the financial year in which the certificate of completion of property was obtained. It is proposed to increase the said time limit one year to two years.

At present in Pakistan, there is no tax on rent on notional basis i.e. inherent potential of property to earn income basis, in case of vacant houses on corporate sector as well. However, similar concept of fair market rent is applicable for occupied properties only, in which case the Actual rent is compared with Fair market rent or Annual Letting value [ALV]. If it is higher than actual rent, then ALV is considered.

- **Electronic Assessment and Refunds**

The Section 143(3) of the I.T.Act- Scrutiny Assessment, empowers the Assessing officer to make an assessment of total income or loss of the assessed, and determine the sum payable by him or refund of any amount due to him on basis of such assessment. This power is used when income tax department is doubtful about the authentication of the income or has information regarding income concealment. It was proposed that within almost two years, almost all assessment and verification of Income Tax returns will be done electronically by an anonymized tax system without any intervention by tax officials. Income Tax returns to be processed within 24 hours and refunds will be paid immediately.

At present in Pakistan, the Commissioner is also empowered to amend an assessment within prescribed period. However, currently the whole process is manual. FBR is also constantly working on improvement in its information technology use including IT based audit and coming years are expected to see change in this regard.

INDIRECT TAXES

GST has continuously been reduced, resulting in relief of ₹80,000 crore (PKR. 155,512 crore) to consumers. Most items of daily use for poor and middle class are now in the tax bracket of 0%-5%.

In Pakistan, the standard rate of Federal Sales on goods is 17%, however, the goods mentioned in Eight Schedule are levied at 5%-10% or on basis of production. The goods mentioned in Fifth Schedule are export oriented and levied at 0%. The goods mentioned in Sixth Schedule are exempt from tax. Similarly, services are chargeable to provincial sales tax at 13%-16%. Similar reduce rates and exemption provisions are also available in provincial sales tax also.

- **Quarterly Return**

It is proposed that businesses with less than ₹ 5 Crore (PKR. 9.71 crore) annual turnover comprising over 90% of GST payers, will be allowed to file quarterly returns.

In Pakistan at present, there is no provision of quarterly return in case of Federal Sales Tax.

- **Abolishment of duties on Capital goods**

Government abolished duties on 36 Capital goods. Indian Customs will fully digitize export/import transactions and would leverage radio frequency identification devices for monitoring.

(Exchange rate of 31st January, 2019 is used which is 1.9439 PKR = 1 INR)

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