TOLA ASSOCIATES
TAX & CORPORATE ADVISORS

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TAX PAK

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EDITORIAL NOTE

Mini Budget (or to say third budget of 2018-19) is around the corner as per media reports. It is learned that new taxes of around Rs. 190 Billion will be imposed through this "Mini" Budget to achieve the the revenue targets of 2018-19 and to finance the budgeted expenditures for remaining half of the years

At present it is written on the wall that Pakistan will be going to IMF to muster a bridge financing $5bn - $6bn; It can be said that negotiations with IMF may put stiffer conditions despite subsidies being taken away already (gas & electricity prices increased of profitable industries) & for that matter, Rupee has already been depreciated from Rs110 to Rs133 against USD. Given a stiff program from IMF amounting US$5-6bn may initially affect growth of some of the consumption oriented companies.

We strive to keep our readers updated of the developments in tax laws in Pakistan and keep coming up with new and informative articles. Readers are also requested to send their suggested topics or articles to us at info@tolaassociates.com to be a part of Tax Pak in future.

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.

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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. Special benches constituted in SCP & LHC for hearing tax related cases.

In October 2018, the FBR submitted before SCP that Rs 38 billion have been stuck in 1854 cases pending before various courts and requested to form special tax benches for speedy decisions on pending cases. The SCP constituted Special Tax Bench comprising Justice Umar Ata Bandial, Justice Munib Akhtar and Justice Yahya Afridi which has decided over 122 cases so far. The LHC special bench comprising Justice Shahid Jamil Khan and Justice Asim Hafeez has decided over 265 tax related cases so far. Formation of these Special Tax Benches is expected to speed up the hearing process and decisions in pending and expedite recovery of potential tax revenue.

2. Amendment in Import Policy Order 2016 regarding Mobile phones

Import Policy Order, 2016 dated 18 April 2016, allowed import of mobile handsets and tablets under PCT headings 8517.1210, 8517.1230 subject to production of type approval certificate from Pakistan Telecommunication Authority [**PTA**].

The Ministry of Commerce vide SRO 1528(I)/2018 dated 24th December 2018, has amended the Import policy Order, 2016 whereby, an additional condition for import of mobile handsets and tablets has been inserted that importer will produce Certification of Clearance (CoC) issued by PTA. The PTA shall issue such CoC after ensuring that the handset has a valid GSMA IMEI viz. listed in the Device Identification Registration & Blocking System [**DIBRS**]

3. Extension in date for filling of Revised Returns under section 214E of the Income Tax Ordinance, 2001 [ITO]

Section 214E was inserted vide Finance Supplementary (Amendment) Act, 2018 as a scheme of closure of tax audits selected under **repealed** section 214D of ITO omitted vide Finance Act 2018, by fulfilling prescribed conditions that including filling of revised returns by **31st December 2018**. While, the audits initiated or to be initiated on basis of definite information or otherwise as per provisions of section 177 or 214C may be independently conducted.

5. Online Integration of Leather and Textile Sector-Date extended

In November 2018 newsletter, we informed about introduction of new Chapter XIV-AA" Online integration of Leather and Textile Sector" in Sales Tax Rules, 2006 by FBR vide SRO 1360(I)/2018 dated 12 November 2018, whereby the registered persons, in order to avail benefits of reduced rate of 6% (instead of 9%) under condition (xv) of SRO 1125 SRO 1125(1) dated 31 December 2011 [SRO], were required to install the fiscal electronic device and software at their outlets, connected with the FBR, to report data on real time basis of sales of finished fabric, locally manufactured.

finished articles of textile and made-ups and leather and artificial leather covered under S.No 1 (vii) and S.No 3 of Table II of the SRO. As per newly inserted Rule 150ZEE, the time limit for registration with Board's Computerized System was within 15 days of commencement of Chapter XIV-AA (viz. 27th November 2018) and uploading the details of all sales from 1st July 2018 was within 15 days of registration. If the registered person fails to install and register itself on the integrated system within stipulated time, it will be required to charge sales tax at rate of 9%.

The FBR, through letter dated 12th December 2018 issued to All Pakistan Textile Mills Association (APTMA) and Pakistan Retail Business Council, has extended date for registration of concerned Point of Sales (PoS) till 21st December 2018, and hence the date for uploading the past data also extended accordingly.

6. KPRA launches Generic Invoice Monitoring System (GIMS)

Khyber Pakhtunkhwa Revenue Authority (KPRA) has launched Generic Invoice Monitoring System in the KP. The software was developed by KPRA in coordination with KP-IT Board & Code for Pakistan under KP Fellowship Programmer. GIMS is an automatic monitoring system which aids registration and collection of all sales tax related businesses in the province.

Using GIMS, the KPRA will be able to identify the exact amount of sales tax on services based on the actual sales of the taxpayer. The first phase, GIMS would be deployed in Peshawar region to receive actual invoices of the consumers and would be gradually extended across KP for all service providers.

4. Change in Petroleum Rates – SRO 1564(I)/2018 dated 31th December 2018

The Federal Government [FG] has decreased the rates of petroleum products by Rs 4.86 per liter for petrol, by Rs 4.26 for high-speed diesel (HSD-) used in buses and trucks, by Rs 0.52 per liter for kerosene, and by Rs 2.16 for light diesel oil used in industry, for January 2018 to pass on benefits of decrease in international crude prices to masses and industry. The OGRA had recommended decrease in Petroleum products by up to 13.5% however the government has not decreased the prices upto the recommendation by increasing the rates of sales tax. The sales tax on petrol increased from 8% to 17%, HSD from 13% to 17%, LDO from 0.5% to 17% and Kerosene 2% to 17%. We understand that the new rates of sales tax on petroleum products are now equivalent or higher than the standard sales tax rates under FBR, SRB & PRA, hence the issue of inadmissibility of input tax by respective authorities is now addressed.

A comparison of Sales Tax rates of petroleum products from August 2017 to December 2018 can be found below:

Date	SRO	Effective from	Products ST rate %				
			MS	HSD	LDO	HOBC	Kerosene
31/7/17	713	Aug 01 17	23.5	40	0	17	0
5/8/2017	757	Aug 06, 17	20.5	35.5	0	17	0
31/8/17	867	Aug 31, 17	17	30	0	17	0
30/9/17	984	Oct 01, 17	17	31	0	17	0
31/12/17	1331	Jan 01, 18	17	25.5	6	17	6
31/1/18	98	Feb 01, 18	17	25.5	7.5	17	7
28/2/18	265	Mar 01, 18	17	25.5	17	17	17
31/3/18	414	Apr 01, 18	21.5	27.5	16.5	17	17
30/4/18	560	May 01, 18	15	27.5	11.5	17	12
31/5/18	663	Jun 01, 18	7	17	1	17	7
11/6/18	729	Jun 12, 18	12	24	9	17	12
30/6/18	830	Jun 30, 18	17	31	17	17	17
1/8/18	993	Aug 01, 18	9.5	22	1	17	6
30/9/18	1167	Sep 30, 18	4.5	17.5	0	17	1.5
31/10/18	1308	Nov 01, 18	4.5	12	0	17	1.5
30/11/18	1461	Nov 30, 18	8	13	0.5	17	2
31/12/18	1574	Dec 31, 18	17	17	17	17	17

MS	=	Motor Spirit (Petrol)
HSD	=	High Speed Diesel
LDO	=	Light Diesel Oil
HOBC	=	High Octane Blending Component

2. JUDGEMENTS NOT TO BE USED AS 'DEFINITE INFORMATION' RETROSPECTIVELY FOR AMENDING ASSESSMENT - SC

In the case of M/s Dewan Khalid Textile Mills Ltd [C.A. 457 & 458 of 2010], the taxpayer, had classified certain amounts in FTR u/s 80B "Tax on certain persons from dividends and bank profits" of the Income Tax Ordinance, 1979 [**Ordinance**] in its revised return of income on the basis that benefit u/s 80B was available, inter-alia, to artificial judicial persons as per sub-section(1), and artificial judicial person includes

Public Limited Company[**PLC**] also. The assessment was finalized accordingly by Tax Officer [**TO**]. Subsequently, the TO amended assessment vide order [**Original Order**] u/s 65 "Additional Assessment" of the Ordinance (pari-materia of Section 122 of Income Tax Ordinance, 2001) on the ground that taxpayer, being PLC, was not entitled benefits u/s 80B. The appeal was filed with Commissioner Appeals [**CIRA**] by taxpayer on grounds that there was no definite information available with TO which become basis for re-assessment. CIRA upheld the impugned order however Appellate Tribunal [**ATIR**] allowed the appeal in taxpayer favor. The department filed reference in Sindh High Court [**SHC**] on basis of then, recently passed judgement in case of Genertech Pakistan Ltd. And others vs. ATIR and others 2004 SCMR 1319 [**Judgement**] in which it was held that concession u/s 80B was not available to Public Limited Company, hence the Judgement forms "definite information" and can be used to amend the assessment. The SHC upheld the Original Order on basis of Judgement, treating it "definite information" for purpose of re-assessment, against which the taxpayer preferred appeal in SCP which decided in taxpayer favor by upholding ATIR decision.

The SCP, in the present case, held that while existence of a binding judgment of Competent Court of law or forum (viz. ATIR) may be treated as "definite information", however, since the Judgement on which SHC relied, did not existed at the relevant time viz. at the time of initiation of proceeding u/s 65 of Ordinance, it could not ipso facto constitute "definite information", hence SHC had erred in treating it definite information. In addition to it, the SCP also clarifies any change of opinion/ change of mind on the basis of **same material** by TO himself or on basis of instructions from superior officers or Circular from CBR cannot be treated as "definite information" and it is irrelevant and impermissible for re-assessment.

3. ECONOMIC INDICATORS

- The 3-month, 6-month and 1-year KIBOR rate for the month of November 2018 were 9.33%, 9.87% and 10.52%, respectively, which hiked in December 2018 to 10.50%, 10.66% and 11.18%, respectively.
- The 3-month and 6-month T-Bills rate for the month of November 2018 were 8.92% and 9.46%; respectively, which hiked in November 2018 to 10.21% and 10.61%, respectively. The rate for 1 year remained unchanged at 6.97% since October 2018.
- The PSE 100 index at the end of November 2018 was 40,496.03 points and at the end of December 2018 was 37,066.67 while the average index for the month of November 2018 was 41,192.95 points and for the month of December 2018 was 38,375.45 points posting a decline of 5.24%.
- The rate for Crude Oil in the OPEC basket at the end of November 2018 was $ 58.33, whereas, at the end of December 2018 was $ 51.55. The decrease in price was 11.62%
- The rate of Gold per troy ounce in the month of November 2018 was $1222.73 whereas in the month of December 2018 it increases to $1257.63 per troy ounce by 2.78%
- The rate of Sugar at end of November 2018 was 0.3431 US$/KG which remain unchanged in the month of December 2018.
- The rate of Palm Oil in the month of November 2018 was 452.07 US$/MT which fell in the month of December 2018 to 469.17 US$/MT by 3.64%.
- The US$ parity to Chinese Yuan at the end of November 2018 was 6.959 whereas in the month of December 2018 it was 6.89 posting a decrease of 1.00%.
- The US$ parity to Indian rupee at the end of November was 69.64 whereas in the month of November 2018 it was 70.70 posting a increase of 1.50%.
- The US$ parity to Bangladesh Takka at the end of November was 81.02 whereas at the end of December 2018 it was 83.84 posting an increase of 3.36%.
- The US$ parity to Pakistan Rupee at the end of November 2018 was 138.92 which rose to 139.80 at end of December 2018 by 0.63%
- The volume of imports in December 2018 was 615,030 Million rupees (4,444 million $) while the exports were 287,798 Million rupees (2,080 million $). Exports in July to December 2018 rose by 2.19% to $ 11,216 million while

Imports in July to December 2018 decrease by 2.29% to $28,037 million on year on year basis.

- The stock of currency in circulation was Rs. 4,388 billion as on June 30th, 2018 which increased by Rs. 271 billion up to December 21st, 2018 to Rs. 4,660 billion.
- The Net Government Sector borrowings at end of June 30th, 2018 were Rs. 10,199 billion which increased by Rs. 513 billion up to December 21th, 2018 to Rs. 10,713 billion. The net government sector borrowings were used for the purpose of budgetary support (Rs. 9,992 billion) and commodity operations (Rs. 732 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. 423 billion up to December 21st, 2018 to Rs. 6,396 billion.
- Workers' remittances for the month of November 2018 and December were $ 1,608.62 million and $ 1,690.18 million respectively, increase by 5.07%.
- Foreign exchange balance at end of November 30th, 2018 (Provisional) and December 28th, 2018 were $ 13,996.1 million (SBP: $7,502.1 million, Commercial Banks: $6,494.0 million) and $ 13,837.8 million (SBP: $7,287.5 million, Commercial Banks: $6,550.3 million) respectively showing a decline of 1.13%.

The year on year (YoY) comparison on above significant economic indicators is given below:

Key Factor	Last Updates	Unit	31-Dec-18	31-Dec-17	Increase / Unit	(Decrease) %
KIBOR						
- 3 Months	Daily	%	10.55	6.16	4.39	71.27
- 6 Months	Daily	%	10.80	6.21	4.59	73.91
- 1 Year	Daily	%	11.35	6.50	4.85	74.62
T-Bills (Auction Rates)						
- 3 Months	19-Dec-18	%	10.38	6.03	4.35	72.09
- 6 Months	19-Dec-18	%	10.50	6.01	4.49	74.64
- 1 Year	14-Mar-18	%	6.97	6.10	0.88	14.37
Stock Market						
- PSX 100 Index	Daily	Points	37,066.67	40,471.48	(3,404.81)	(8.41)
Other Stock Markets						
- Dow Jones (New York)	Daily	Index Point	23,327.46	24,719.22	(1,391.76)	(5.63)
- FTSE (London)	Daily	Index Point	6,728.13	7,687.77	(959.64)	(12.48)
- Nikkei (Japan)	Daily	Index Point	20,014.77	22,764.94	(2,750.17)	(12.08)
- Hang Seng (Hong Kong)	Daily	Index Point	25,845.70	29,919.15	(4,073.45)	(13.61)
- Sensex (Mumbai)	Daily	Index Point	36,068.33	34,056.83	2,011.50	5.91
- Saudi Index	Daily	Index Point	7,826.73	7,230.61	596.12	8.24
International Markets						
- Crude Oil NYMEX	Daily	US $ / Barrel	45.41	60.42	(15.01)	(24.84)
- OPEC Basket	20-Dec-18	US $ / Barrel	53.92	62.16	(8.24)	(13.26)
- Brent Crude	Daily	US $ / Barrel	53.80	66.87	(13.07)	(19.55)
- Natural Gas	Daily	US $ / MMBTU	2.94	2.95	(0.01)	(0.34)
- Cotton (PIMA 2)	Daily	PKR / Maund	0.722	0.7863	(0.06)	(8.18)
- Gold	Daily	US $ / troy OZ	1,281.30	1,297.20	(15.90)	(1.23)
- Gold Grams Conversion	Daily	PKR / Gram	5,721.95	4,616.85	1,105.10	23.94
- Wheat	Daily	US $ / MT	218.59	187.50	31.09	16.58
- Wheat	Daily	PKR / Kgs.	30.36	20.76	9.61	46.28
- Sugar No. 5	Daily	US $ / Kg.	0.3325	0.3947	(0.06)	(15.76)
- Sugar No. 5	Daily	PKR / Kg.	46.18	43.69	2.49	5.70
- Palm Oil	Daily	US $ / MT	479.19	596.58	(117.39)	(19.68)
US $ Parity Chinese Yuan	Daily	CNY	6.88	6.51	0.37	5.68
US $ Parity Indian Rupee	Daily	INR	69.77	63.87	5.90	9.24
US $ Parity Bangla Taka	Daily	BDT	83.59	82.69	0.90	1.09
US $ Parity (Interbank Selling)	Daily	PKR	138.90	110.70	28.20	25.47

4. TOPIC OF THE MONTH

PAKISTAN DEBT JOURNEY - THE REAL CULPRITS

At a time when Pakistan's economy was growing at a steady pace from period beginning June 2013, there was one economic indicator that was perceived to be the looming threat: government debt. At 70% of its GDP, Pakistan's total debt as on June 2018 is higher than that of most other major Asian economies, except for Japan.

A government typically borrows to spend on subsidies, infrastructure [PSDP], and other social sectors. Hence, although the rising debt may be a concern, the ultimate use of borrowed funds is critical for proper analysis. Typically, emerging markets have high debt since government spending is higher. But borrowings must be channeled towards increasing investments and productivity. The ultimate use of the debt is more important to be analyzed rather than the level of debt. However, there is a problem if borrowed funds are not being spent productively.

The numbers (in below table) shows that national debt (both domestic and external) in Pakistan from June 2013 to June 2018. The analysis shows the real reasons and utilization of incremental debts. The hike in debt is due to change in exchange rates (USD Parity), Public sector spending, incremental revenue shares to provinces by federation post 7th NFC awards subsidies and other factors.

Prior to 7th NFC in 2010-11, the share in revenues for provinces was 43.75%, 45% and 46.25% for 2008, 2009 and 2010, respectively, after deduction of 5% collection charges and remaining was for federation including collection charges. After taking into account the collection charges, the effective sharing rates for provinces were 41.56%, 42.75% and 43.94% for 2008, 2009 and 2010, respectively.

After the announcement of 7th NFC awards, shares of revenues for provinces were enhanced to 56% for 2011 and to 57.5% for subsequent years, after deduction of 1% share to KPK for war on terror. After taking into account 1% share to KPK, the effective rates were 56.44% for 2011 and 57.93% for subsequent years.

The total debt in June 2014 was Rs 15,784 Billion (Domestic Debt Rs 10,907 Billion, External Debt Rs 4,877 Billion), Rs 1,776 Billion higher from 2013 levels. The increase is represented by spending of Rs 441 Billion in Public Sector Development Programs ("PSDP"), incremental NFC awards of Rs 339 Billion and other factors.

The debt increments between 2014 and 2015 was Rs 1,184 Billion reaching to Rs 16,968 Billion (Domestic Debt Rs 12,193 Billion, External Debt Rs 4,775 Billion). The change was due to increase in USD rate from Rs. 98.80 to Rs. 101.79 causing an increase of Rs 147.12 Billion, spending in PSDP by Rs 502 Billion and additional share of Rs 371 Billion to provinces

The total debt in June 2016 reached Rs 19,044 Billion (Domestic Debt Rs 13,626 Billion, External Debt Rs 5,418 Billion) posting a year on year increase of Rs 2,075 Billion. The debt rise was due to increase in USD rate from Rs. 101.78 to Rs. 104.76 causing increase of Rs. 139 Billion, PSDP spending of Rs 602 Billion, and additional NFC costs of Rs 449 Billion.

By June 2017, total debt hiked to Rs 20,768 Billion (Domestic Debt Rs 14,849 Billion, External Debt Rs 5,919 Billion) resulting in an increase of Rs 1,724 Billion from 2016. However, this increase in debt was fueled due to increase in USD parity by Rs 6 Billion, PSDP spending of Rs 733 Billion and additional share of revenue to Provinces of Rs 474 Billion.

Between the period from June 2017 to June 2018, the total debt rose by Rs 3,441 Billion reaching to Rs 24,212 Billion (Domestic Debt Rs 16,416 Billion, External Debt Rs 7,796 Billion). Out of Rs. 3,441 billion, Rs 940 Billion was due to increase in USD rate from Rs. 104.88 to 121.54. Moreover, Rs 555 Billion contributed to PSDP spending and Rs 530 Billion were on account of additional payments to Provinces.

In order to alleviate the impact of inflation on citizens, especially the poor segments of society, the Federal Government spends a fairly large sum on providing power and food subsidies. The Subsidies have remained a big chunk of public spending and reason for rise in public debt. However, for fiscal consolidation efforts and to decrease public debt, the government has reduced in phases the quantum of subsidies in the last 5 years. The Subsidies were Rs 305.7 billion (Revised: Rs 323.02 billion) in FY 2014, Rs 241.6 billion (Revised: Rs 243 billion) in FY 2015, Rs 207.2 (Revised: Rs 196.54 billion) in FY 2016, Rs 153.7 billion (Revised: Rs 168.95 billion) in FY 2017, Rs 138.8 (Revised: Rs 147.6 billion) in FY 2018, thus posing an overall decrease by 54.68% during last 5 years

During the four-year tenure from June 2013 to June 2017, Pakistan's Total Debt increased by Rs. 6,760.4 Billion from Rs. 14,007 billion to Rs. 20,768 billion posting a 48% increase. However, as detailed above, out of Rs. 6,760.4, Rs. 292.99 billion was due to devaluation of PKR against USD (From Rs. 99.11 in June 2013 to 104.89 in June 2017) which accounts for 4% of total increase. Increment of Rs. 2,278 was due to PSDP spending which accounted for 34% of total debt increase. Federal spending in form of subsidies contributed Rs. 931.5 billion to the public debt representing 14% of the total increase during four years. Lastly, Rs. 1,635.5 was added due to additional share in revenue to provinces consequent to 7th NFC Awards, which accounted for 24% of total increase in debt.

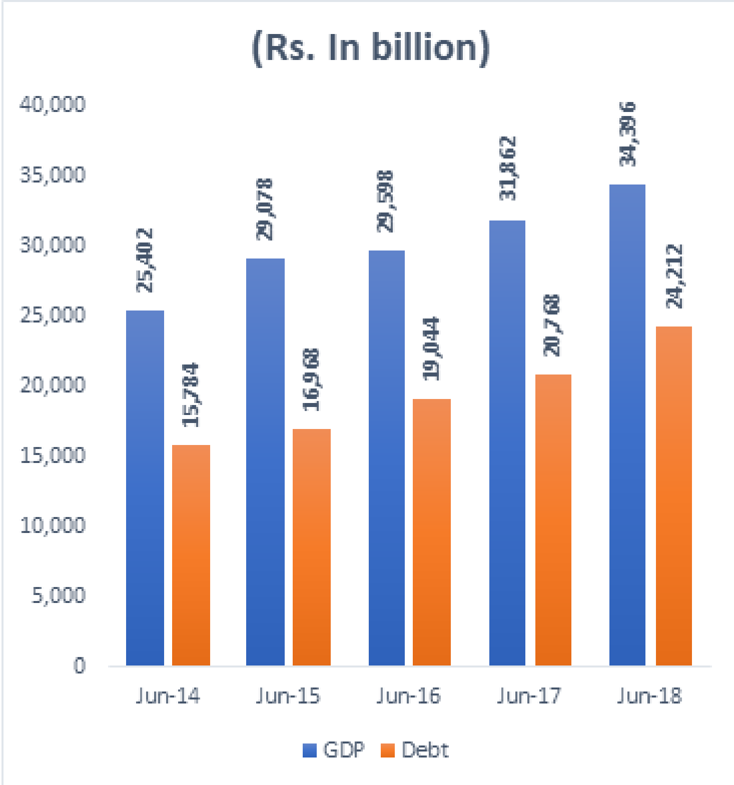
The analysis above shows that 76% of the debt increment during first four years of previous government was utilized in PSDP spending, additional NFC shares, subsidies and PKR devaluation and meagre 24% were left to be utilized at the discretion of Federation.

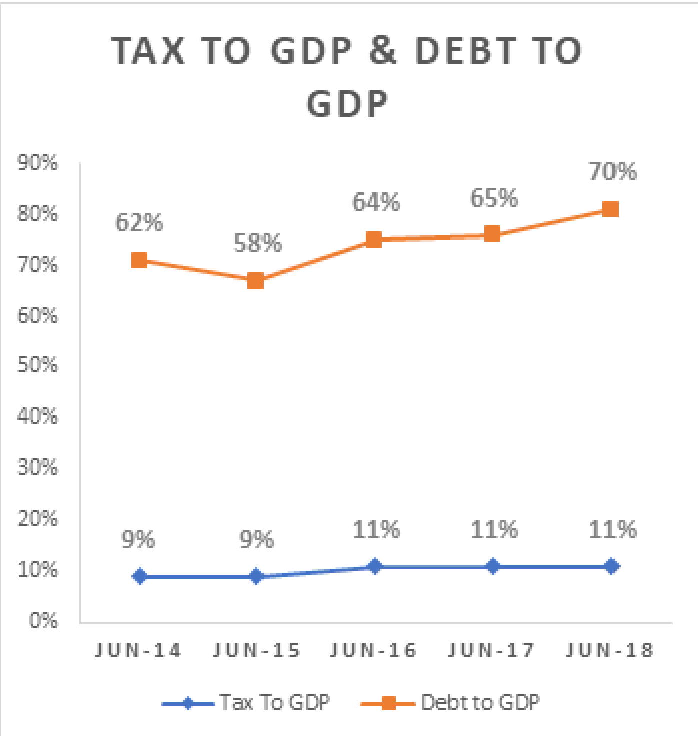
During 2017-18, which was the election year and was partly governed by 'Care-takers' Rs. 3,444.1 billion was added to public debt in a single year, which is 51% in comparison to debt increment during previous four years. Devaluation, PSDP spending, Subsidies and additional NFC payments contributed 27%, 16%, 4% and 15% to the total increase during the year.

(Rs. In billion)					
	Jun-14	Jun-15	Jun-16	Jun-17	Jun-18
Total Debt	15,784	16,968	19,044	20,768	24,212
A. Domestic Debt	10,907	12,193	13,626	14,849	16,416
B. External debt (Rs. Billion)	4,877	4,775	5,418	5,919	7,796
Increase in debt	1,776.1	1,184.2	2,075.7	1,724.3	3,444.1
Due to:					
USD Parity	-	147.12	139.44	6.42	939.80
PSDP	441.02	502.20	602.06	733.34	555.22
Subsidies	323.02	243.00	196.54	168.95	147.60
Cost of NFC	339.58	371.55	449.67	474.70	530.91
US Dollar, last day average exchange rates	98.81	101.79	104.76	104.89	121.54
GDP	25,402	29,078	29,598	31,862	34,396
Tax Revenues	2,375	2,729	3,265	3,532	3,751
Tax To GDP	9%	9%	11%	11%	11%
Debt to GDP	62%	58%	64%	65%	70%

As it is now clear that debt of any nation cannot be seen in isolation to assess the economic performance, there are other indicators which are used while comparing indebtedness of any nation. One such commonly used factor is debt to GDP ratio which was 62%, 58%, 64%, 65% and 70% for 2014, 2015, 2016, 2017 and 2018, respectively. Debt to GDP ratios of other regional countries of Bangladesh, India, China and Sri Lanka for 2017 were 27%, 69%, 48% and 78%, respectively.

Countries	Debt to GDP % 2017
Bangladesh	27.10%
China	47.60%
Pakistan	65.18%
India	68.70%
Sri Lanka	77.60%





Lastly, the most important criteria to evaluate Debt burden is to compare the debt of any person, organization or country with the assets owned by such person, organization or country, as the case be. However, unfortunately no Balance Sheet of Pakistan is prepared to objectively asses debt burden of Pakistan.

DISCLAIMER

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