

TAX PAK

NEWSLETTER BY
TOLA ASSOCIATES



JUNE
2020



<https://goo.gl/LFiWyx>



<https://goo.gl/QDM4ZM>

ADDRESS



408, 4th Floor, Continental Trade Centre,
Clifton Block-8, Karachi



Email: connect@tolaassociates.com



Ph# 35303294-6



Website: www.tolaassociates.com

THIS PAGE IS LEFT BLANK INTENTIONALLY

CONTENTS

Tax Notifications/ Circulars

Corporate Notification/ Circulars

The Overriding Effect of Bilateral Tax Treaty Over Provisions of ITO Rises from within Ordinance, not from Tax Treaties – SHC

Topic of the Month - Input Output Coefficient Organizations and its Role in Sales Tax

CONTRIBUTORS

Mr. Ashfaq Tola - FCA
Editor in Chief

Mr. Muhammad Furqan - ACA
Managing Editor

Mr. Muhammad Amayed Ashfaq - Contributor

Mr. Talha Shahid - Contributor

Mr. Sameer Ahmed
Designer

EDITORIAL NOTE

Dear All,

I, on behalf of my entire team, would like to extend our warm regards to all our readers. Ever since the outbreak of Covid-19 has marred our lifestyle(s) and our economy, there has been a lot of uncertainty with regards to how Pakistan will be affected due to this outbreak. It is in light of that, that myself, through the professional platform of the Institute of Chartered Accountants of Pakistan (“ICAP”), hosted a series of webinars on the subject:



“Pakistan Economy: Post COVID-19”. The guests of the series were Dr. Abdul Hafeez Shaikh, Advisor to Prime Minister on Finance and Revenue, the Governor of our State Bank Dr. Reza Baqir, and Dr. Miftah Ismail who is a former Finance Minister of Pakistan. The recorded highlights of the webinars are available on the official Facebook page of ICAP.

After the Government tabled the Finance Bill 2020/21 (“the Bill”) before the National Assembly, an Anomaly committee was formed in order to identify any and all technical and legal anomalies proposed in the Bill. I was assigned the honour of being the Chairman of the said Anomaly committee. My team and I tried to discharge our responsibility to the best of our abilities in order to humbly assist the Government in this task. The Committee was split into 3 sub-committees, out of which the first committee addressing direct tax anomalies was chaired directly by myself, the second was co-chaired by Mr. Abdul Qadir Memon and myself also addressing anomalies related to direct taxes, whereas, the third committee, related to indirect taxes was chaired solely by Mr. Asif Haroon.

With that being said, by the grace of the Almighty Allah, I would like to welcome our readers to yet another edition of Tax Pak for the month of June 2020. We begin our newsletter with important Notifications/circulars passed by the Tax and Corporate Authorities including, but not limited to, the Sindh Revenue Board (“SRB”), Federal Board of Revenue (“FBR”) and Securities and Exchange Commission of Pakistan (“SECP”).

Moreover, we have, thereafter, discussed a recent verdict passed by the Sindh High Court (“SHC”) which pertains to Section 163 of the Income Tax Ordinance, 1979 (“1979 Ordinance”) focusing on the all-important subject of Double Tax Treaties which has also been discussed in our previous editions of this newsletter, under the ‘topic of the month’ section. Lastly, we end our newsletter with a discussion on

the “Role of Input Output Coefficient Organizations (customs) in Inland Revenue” in our topic of the month segment. “Assessment of Tax” in our topic of the month segment.

You can visit our website www.tolaassociates.com, or download our mobile Application, in order to access previous versions of this newsletter, or more of our monthly publications. The aforesaid application can be downloaded from the links below:

1. <https://goo.gl/QDM4ZM> (IOS)
2. <https://goo.gl/LFiWyx> (Android)

You may also download our comments of Finance Bill 2020-21 <<https://bit.ly/2Vygtz0>> and Finance (Amended) Bill 2020 <<https://bit.ly/3gd6ma0>> from our website along with comments on provincial Finance Bills.

It is requested that you may circulate this e-copy within your circle(s), as our primary aim is to benefit the masses. Feedback is always welcomed.

Ashfaq Tola - FCA
Editor in Chief

1. NOTIFICATIONS/ CIRCULARS

i. INCOME TAX EXEMPTION ON IMPORT OF COVID-19 RELATED DRUG

The Federal Government, through SRO 557(I)/2020 dated 22nd June 2020, has exempted income tax on the import of the finished drug 'Remdesivir'; 100mg injection and injectable solution 100 mg vial, by inserting Clause 12D in Part IV of the Second Schedule to the Income Tax Ordinance 2001 ("ITO").

ii. EXEMPTION FROM SALES TAX ON MEDICAL AND TESTING EQUIPMENT REGARDING COVID-19

The FBR had given a sales tax exemption on import of 61 COVID-19 related medical equipment and medicines, through SRO 237(1)/2020, dated 20th March 2020 which was due to expire on 20th June 2020. Now, this exemption has been further extended to 20th September 2020, through SRO 555(I)/2020 dated 19th June 2020.

iii. ESTABLISHMENT OF TAX INFORMATION PROCESSING UNIT (TIPIU) IN IR-OPERATIONS WINGS

The FBR had established TIPIU, through Office Order No. 6(2)S(IR-Operations)/2020/77755-R, dated 29th May 2020 to improve the overall IT systems. However, this order has been withdrawn with immediate effect vide Order No. C.No.6(2)S(IR-Operation)/2020/81092-R dated 10th June 2020.

iv. SRB – SPECIAL PROCEDURE RULE FOR TRANSPORTATION OF PETROLEUM OIL

The SRB, had enacted the Sindh Sales Tax Special Procedure (Transportation or Carriage of Petroleum Oils through Oil Tankers) Rules, 2018 ("the Oil Tankers' Rules), wherein, a transporter has the option to pay sales tax at the rate of 15% on the value of inter-province services rendered. Now, the SRB has, through Notification No. SRB 3-4/19/2020, dated 29th June 2020, clarified that the said option will be submitted electronically on an e-portal w.e.f. 1st July 2020. This option for electronic submission will be valid for the period ending 30th June 2021.

v. SRB - SPECIAL PROCEDURE RULE FOR WITHHOLDING TAX

The SRB, through Notification No. SRB-3-4/18/2020, dated 29th June 2020, has made the following amendments:

a) Responsibility of a Withholding Agent- Rule 3

The withholding agent ("WHT agent") shall not deduct withholding sales tax in case of payments to an insurance company (other than a re-insurance company). Now, it has been clarified this exemption from withholding is only for payments to insurance companies (other than re-insurance company) in relation to its services of life insurance and health insurance of individual persons, and that all other insurances will be subject to withholding under the Rules.

b) Application of other provisions- Rule 5

The captioned Rule provides that, other Rules issued under the Sindh Sales Tax on Services Act 2011 ("SSTSA"), will be also be applicable in relation to withholding rules. Now, the SRB has prescribed that a WHT agent shall maintain the record prescribed under Section 26 of the SSTSA, read with, Rule 29(2A) of Sindh Sales Tax on Services Rules, 2011 ("SSTSR"), for a period of 8 years. This includes tax invoices, banking instruments etc., and will be effective from 1st July 2020. The SRB has also made it mandatory for WHT agents to comply with Section 73 of the Sales Tax Act, 1990 ("STA") and Rule 22A of SSTSR on the manner of making payments and maintaining banking records as further discussed in point 6.5 below.

vi. SRB – SINDH SALE TAX ON SERVICES RULES

The SRB, through Notification No. SRB-3-4/17/2020, dated 29th June 2020, has made the following amendments in the SSTSR w.e.f. 1st July 2020:

a) Automatic Grant of Registration

As per Rule 6, the existing taxpayers of the FBR were not required to file an application for registration. They would be automatically registered for the purposes of Sindh Sales Tax on Services, and the registered person would be intimated through email or SMS and by courier or post assigning them the letter 'S' as a prefix to NTN (S+NTN). Now, this Rule has been

omitted. This means that registration will be required to get a SNTN for already 'NTN-registered persons' with the submission of the required documents.

b) Change in particulars of Registration – Rule 7

In line with the above, necessary changes have been made in this rule along with clarification that intimation of change under SST-01 shall be accompanied by complete supporting documents.

c) Application for Refund – Rule 23A

Rule 23A states instances as to when a refund can be claimed by a taxpayer. A further instance has been added, whereby, the year-end claim, as declared by a registered person in terms of the Proviso to Section 15 of the SSTSA, read with entry in row no. 18 of his tax return in form "SST-03", can also be claimed as a refund under this Rule.

d) Application for Refund – Rule 23A

As per the proviso to Section 15 of the SSTSA, the refund arising as a result of a claim of adjustments or deductions, shall be made on yearly basis in the month, following the end of the financial year. This was missing in Rule 23A and has now provided to remove anomaly.

e) Record keeping and invoicing – Rule 29

The amendments made in Rule 5 of Special procedures for withholding agents now require WHT agents to comply with requirements of Section 73 of the STA and Rule 22A of SSTSR on manner of making payments and maintaining banking records. In line with these amendments, now the taxpayer, including the WHT agent, is also required to maintain documents and records **showing compliance** of provisions of Rule 22A(i) of SSTSR.

f) Special procedures for collection of sales tax in case of Financial Institutions – Rule 30

Rule 30 deals with the procedure for collection of Sales tax on services, provided by banking companies, financial institutions, cooperative financing societies, modarabas, musharikas, leasing companies, foreign exchange dealers, non-banking financial institutions, companies providing management services including fund and asset management services and other

persons dealing in any such services. These are required to file quarterly reconciliation of taxable services provided or rendered, which is now required to be filed online. Also, changes have been made in the particulars of reconciliation.

g) Procedures for payment of Sales Tax by Shipping agents– Rule 32

A correction in sub rule 3 is made whereby word "pilot age" has been changed to "pilotage".

h) Procedure for levy, collection and payment of sales tax on Sponsorship services – Rule 34A

In case, the Service provider does not have a place of business in Sindh or the sponsorship is received from any place or from any person outside Pakistan, **the service recipient shall be responsible** for payment of the tax i.e. on reverse charge basis. Now, the scope of reverse charge has also been extended to resident service providers not registered with SRB for any reason i.e. service recipient is responsible for tax collection and deposit.

In case the consideration for the service is received from a Service provider outside Pakistan, or from a Service provider not having place of business in Sindh, the charges received by the service provider shall be treated as the tax-inclusive value, and the tax shall be worked out and paid by the service provider on the basis of tax fraction formula. The formula is the amount of tax shall be calculated by multiplying the amount of charges, so received, with the tax rate and then dividing the resultant figure by the tax rate plus one hundred.

Now changes have been made as follows:

Residence of person Providing or receiving service	Value of Service
Consideration is received from a Service receiver outside Pakistan or from a Service receiver not having place of business in Sindh i.e. export of service.	the charges received by the service provider shall be treated as the tax-inclusive value and the tax shall be worked out and paid by the service provider on the basis of tax fraction formula
Consideration is received from a Service provider	the gross amount charged or paid for the service and

outside Pakistan or from a Service provider not having place of business in Sindh i.e. import of service.	shall be determined in accordance with the provisions of section 5 of the Act
---	---

i) Procedure for collection of Sales Tax on Telecommunication Services – Rule 35

Telecommunication service providers are now required to file monthly statement for telecom services online. Further, the service provider will specify the exempt service entry no. 16(e) of form “other exempt service”.

j) Special procedure for the payment of the tax on franchise services and intellectual property services – Rule 36

The persons, receiving or procuring (from a non-resident service provider based in a country outside Pakistan) and/or the person providing or rendering the franchise services (tariff heading 9823,0000) or intellectual property services (tariff heading 9838,0000), opting for payment of tax at 13% (instead of the reduced rate of 10%), under the special procedure in rule 36 of the SSTSR shall file form ‘F’ online.

k) Port Operators and Terminal Operators -Rule 40

All services provided or rendered by a port operator or a terminal operator in relation to the cargo imported into Pakistan, or the imported cargo in transit or in transshipment through a port or terminal in Sindh, shall also be liable to tax. Now, the service provided in relation to cargo exported shall also be included in taxable service.

l) Special procedure for payment of tax on construction services -Rule 42B

The **Form C** “Election/option of the person providing or rendering construction services (tariff heading 9824.000) for payment of tax at 13% (instead of the reduced rate of 8%) under the special procedure prescribed in rule 42B of the SSTSR is required to be filed online.

m) Special procedure for payment of tax on ready mix concrete services -Rule 42BB

The **Form R** “Election/option of the person providing or rendering ready mix concrete services (tariff

heading 9837.0000) for payment of tax at 13% (instead of the reduced rate of 8%) under the special procedure prescribed in Rule 42BB of the SSTSR shall be made online.

n) Procedure for the levy, collection and payment of tax on the renting of machinery, equipment, appliances, and other tangible goods – Rule 42BBC

A new rule has been added, wherein, procedures of services relating to renting of machinery, equipment, appliances and other tangible goods has been prescribed, but it will not apply on services of commodity or equipment leasing, hire purchase leasing and rent a car and automobile rental service as described against tariff headings 9813.3020, 9813.3030 and 9819.3000, respectively, of the Second Schedule to the SSTSA.

o) Procedure for collection and payment of sales tax on the services provided or rendered by persons or transport agencies engaged in the services of or in relation to inter-city transportation or carriage of goods by road or through pipeline or conduit- Rule 42G

The **Form ‘I’** for election/option of the person providing or rendering the services of inter-city transportation or carriage goods by road or through conduit or pipeline services (tariff heading 9836.0000) for payment of tax at 13% (instead of the reduced rate of 8%) under the Special Procedure prescribed in Rule 42G of the SSTSE shall be filed online.

vii. EXTENSION IN DATE OF PAYMENT OF SINDH SALES TAX FOR THE TAX PERIOD MAY 2020

The SRB has made extension for e deposit of tax on or before 29th June 2020 and e-filing of return on or before 2nd July 2020 vide Circular 5 of 2020 dated 23rd June 2020.

viii. SRB – EXEMPT SERVICES OF CABLE TV OPERATORS

The SRB has exempted the services of Cable TV operators under Tariff heading 9819.9000, except for advertisement services, through a Notification bearing No. SRB-3-4/15/2019, dated 27th June 2019 with certain conditions

such as return filing. Now, the tax returns for the tax period July 2016 to June 2020 showing exempt services, if not filed earlier, shall be e-filed by the stand alone service provider on or before the 31st July 2020 with liability for the same period to be deposited by 31st August 2020. Whereas, the liability of Sindh sales tax under Sindh Sales Tax Special procedures (withholding) Rules, 2014 for tax period July 2016 to June 2020, if not paid earlier, shall be paid in prescribed manner by 31st August 2020. These amendments are made through notification SRB-3-4/15/2020 dated 22nd June 2020.

ix. SRB- EXTENSION IN EXEMPTION OF HEALTH INSURANCE

The SRB has, vide Notification SRB-3-4/14/2020 dated 22nd June 2020, extended the exemption of health insurance '9813.1600' up to 30th June 2021.

x. SRB – EXTENSION IN EXEMPTION OF LIFE INSURANCE

The SRB has, through Notification SRB-3-4-13/2020, dated 22nd June 2020, exempted life insurance 9813.1500, for the period 1st July 2019 to 30th June 2020 retrospectively, subject to the condition that the person providing or rendering life insurance services, commences e-depositing the amounts of Sindh sales tax due, on such services for the tax periods from July, 2020 onward, and the amount of Sindh sales tax charged or collected, if any, on such services during the period from the 1st day of July, 2019 to the 30th June, 2020, are e deposited, by the person providing or rendering such services by the 15th day of July, 2020.

xi. SRB – REDUCE RATES ON SERVICES OF RECRUITING AGENTS

Through Notification no. SRB-3-4/12/2020, dated 22nd June 2020, the SRB has, prescribed the reduced rate of 8% for recruiting agents under the tariff heading **9805.6000** for the periods 2018-19, 2019-20 and 2020-21, subject to certain conditions.

xii. GENERAL CONDONATION OF LIMITATION

Due to the lockdown and the rise in Corona virus cases, the FBR vide its letter C.No. 3(22) S (IR-Operations)/2020 dated 30th June 2020 has granted general condonation of

limitation under Section 214A of the ITO, Section 74 of the STA, and Section 43 of Federal Excise Act, 2005 ("FEA"), up to 31-12-2020, for the finalization of proceedings in cases involving matters such as:

- Finalization of issues pertaining to tax year 2014.
- Cases set aside by appellate fora.
- Cases where notices in pursuance of Section 122 of the Income Tax Ordinance, 2001 were issued prior to 30-06-2019 and are hit by limitation on 30-06-2020.
- Sales Tax cases where mandatory period for issuing notices under sub-section 5 of Section 11 of Sales Tax Act, 1990 is also expiring on 30-06-2020.
- Finalization of proceedings under Federal Excise Act, 2005 in cases which are going to hit by limitation on 30-06-2020.

xiii. Manual Issuance of Income Tax Refunds

The FBR, has issued Letter no. C.No. 1/1/SA-CH/FBR/2020/107488-R, dated 30th June 2020, wherein, it has been clarified that after the completion of process of centralized refunds issued under PM's COVID-19 Relief package, all other income tax refunds from now onwards, which are to be issued by Commissioner under Income Tax Ordinance, 2001 are to be done so manually.

2. CORPORATE NOTIFICATIONS / CIRCULARS

➤ PREAMBLE

The Security & Exchange Commission of Pakistan ("SECP") is the financial regulator for the corporate sector in Pakistan. The SECP was formed on January 1st, 1990, succeeding to the previously established Corporate Law Authority or CLA. Being an independent agency, it performs all three functions; legislative, judicial, and executive. The SECP generally promotes the free market model through its law, that requires that ALL MATERIAL facts be disclosed and that investors be free to choose whether to purchase a security, rather than the government officials reviewing each security offering and determining whether the offering had sufficient MERIT before allowing public to purchase such security.

As mentioned above, having legislative power but being non-political, the presence of non-elected representative poses a risk of isolation, lack of accountability and a lack of

transparency in the decision making process as decision makers do not have a strong incentive to consider full ramifications of a decision before they make it. To mitigate this risk, the SECP does not adopt a rule without seeking objections/comments from the public with regards to any necessary amendments that have, or are to be made, in the draft legislation(s) before its implementation.

i. SRO 545 (I)/2020 DATED 10TH JUNE 2020) AMENDMENTS IN THE PRIVATE FUNDS REGULATIONS, 2015

The SECP, through the captioned SRO, issued amendments in the Private Funds Regulations, 2015, wherein, the SECP has added the term “Private Equity and Venture Capital Fund” and its related provisions through additions and substitutions in the private funds regulations, 2015.

ii. SRO 547(I)/2020 (DATED 11TH JUNE 2020) – AMENDMENTS TO FUTURES EXCHANGES (LICENSING AND OPERATIONS) REGULATIONS, 2017.

The SECP has, through the captioned SRO, amended the Futures Exchanges (licensing & operations) Regulations, 2017, wherein, the provisions related to senior management officer were altered and substituted.

iii. SRO 548(I)/2020 (DATED 11TH JUNE 2020) – AMENDMENTS TO THE SECURITIES EXCHANGES (LICENSING AND OPERATIONS) REGULATIONS, 2016.

The SECP, through the captioned SRO, amended the Securities Exchanges (Licensing & Operations) Regulations, 2016 in continuation to SRO 294 dated 7th April 2020 and SRO 313 dated 15th April 2020. The captioned SRO has made changes in the appointment and nomination process of “Directors” and “Independent Directors” and its related provisions in the aforementioned regulation.

iv. SRO 546(I)/2020 (DATED 11TH JUNE 2020) – AMENDMENTS TO CLEARING HOUSES (LICENSING AND OPERATIONS) REGULATIONS, 2016.

The SECP, through the captioned SRO, has made amendments to the Clearing Houses (Licensing & Operations) Regulations, 2016 in continuation to SRO 293 dated 7th April 2020 and SRO 312 dated 15th April 2020. The captioned SRO has made changes in the appointment

and nomination process of “Directors” and “Independent Directors” and its related provisions in the abovementioned regulation.

v. SRO 549(I)/2020 (DATED 11TH JUNE 2020) – AMENDMENTS TO CENTRAL DEPOSITORIES (LICENSING AND OPERATIONS) REGULATIONS, 2016.

The SECP, vide the captioned SRO, has issued amendments to the Central Depositories (Licensing & Operations) Regulations, 2016 in continuation to SRO 292 dated 7th April, 2020 and SRO 311 dated 15th April, 2020, wherein, changes have been made in the appointment and nomination process of “Directors” and “Independent Directors” and its related provisions in the aforementioned regulation.

vi. SRO 510 (I)/2020 (DATED 3RD JUNE 2020)- DRAFT AMENDMENTS TO SHARIAH GOVERNANCE REGULATIONS, 2018.

The SECP, vide the captioned SRO, has issued draft amendments to the Shariah Governance Regulations, 2018, wherein, the SECP has included the criteria and provisions related to “Shariah screening process” approved by the Oversight Committee. Moreover, the composition of the Oversight Committee members responsible for establishing Shariah screening criteria has also been provided in the draft amendments.

3. THE OVERRIDING EFFECT OF BILATERAL TAX TREATY OVER PROVISIONS OF INCOME TAX ORDINANCE RISES FROM WITHIN ORDINANCE, NOT FROM TAX TREATIES – SINDH HIGH COURT EXPLAINS

In *M/s Schlumberger Seaco Inc. vs. The Deputy Commissioner of Income Tax, Circle C-12, Companies-I, Karachi*, (reported as 2020 PTD 386), the company made a payment on account of insurance premium to two different non-resident insurance companies of the UK and USA, not having their permanent establishment(s) in Pakistan, without deducting withholding tax under the relevant provisions of Income Tax Ordinance, 1979 (“1979 Ordinance”). The demand was raised by the department which was referred to Sindh High Court (“SHC”) by the Appellate Tribunal (Pakistan) Karachi, through a reference

on the question of law, that, whether or not the income of non-resident insurance companies was chargeable to tax in Pakistan under the provisions of the 1979 Ordinance.

Before commenting on the observations of SHC, it may be worthwhile to mention here the FBR's instance on taxability of such income as evident from its Advance Ruling (AR No. 04) dated 31.05.2005. In response to a question from the non-resident, that whether the income of non-resident person not having any permanent establishment in Pakistan will be taxable or not, the FBR held that the income of non-resident person is taxable in Pakistan irrespective of the fact whether it has a PE or not. Treatment of tax deducted, in both the situations, will, however, be different accordingly to provisions of Section 153 of Income Tax Ordinance, 2001 ("2001 Ordinance"). This instance was also taken by learned council representing the department in SHC, who pleaded that every receipt is income and all income generated to a person should be taxed as per the provisions of the 1979 Ordinance. However, **if there is an unambiguous provision** within a treaty regarding avoidance of tax, then treaty should override the provisions of the 1979 Ordinance.

The SHC agreed with arguments of taxpayer and held that existence of a duly executed treaty between Pakistan and another country would override the application of the 1979 Ordinance as per provisions of Section 163 of the 1979 Ordinance [parametria to Section 107 of the 2001 Ordinance]. Therefore, **the presence of a specific clause** in the treaty for overriding the application of the Ordinance is not a condition or requirement for giving an overriding effect to the provisions of the treaty. Since as per both treaties, the business income of a non-resident is exempt in Pakistan, unless it is engaged in business in Pakistan through a permanent establishment in Pakistan, the taxpayer was not liable to deduct tax on the premium paid to those non-resident insurance companies. Hence, the reply to the said question of law was in negative.

4. TOPIC OF THE MONTH

- INPUT OUTPUT COEFFICIENT ORGANIZATIONS AND ITS ROLE IN SALES TAX

A. PREAMBLE

The topic at pertains to the Role of Input Output Coefficient Organizations ("IOCO") within the Inland Revenue, FBR. In this topic we will deliberate the implication of IOCO on the applicability of Sales Tax.

B. ROLE OF IOCO

The Role of IOCO, as per Rule 308 "Definitions" of the Customs Rules, 2001 (added vide SRO 450 dated 18th June 2001), provides that:

*"The organization was established by the Board to authorize, regulate or monitor duty or **tax** remission or exemption under survey-based concessionary notifications determining input-output ratios, wastages and fixation of rates for remission or remission or drawback of custom duty and / or any other assignment relating thereto".*

In continuation to this definition, the aforementioned SRO also provides that the calculation of input-output coefficient in terms of Sales Tax and Income Tax also falls under the responsibilities of the IOCO. The relevant provision of the SRO is as follows:

"308. Tax means levied under the Sales Tax Act, 1990 or Income Tax Ordinance, 2001 or any other levy imposed by the Federal Government which has been remitted under any special or general concessionary notification on imported or exported goods for the time being in force".

Sales Tax is imposed on supply, import, production and manufacturing of taxable goods and services. A standard rate of 17% is applicable on the value of supply. A zero rate is applicable to all exports and some sectors mentioned in Fifth Schedule to the STA. A reduce rate is applicable to certain goods or sectors mentioned in the Eight Schedule to the STA. A list of exempt goods is given in the Sixth Schedule to the STA. These exemptions and reduce rates represent

tax expenditure i.e. a tax revenue loss resulting from those preferential provisions of the law that provide certain taxpayers/class of taxpayers or sectors with concessions that are not available to other taxpayers or sectors and it result in less collection of tax revenue. The Input-output tables and ratios provided by the IOCO comes in to play, to estimate the potential sales tax revenue from VAT, tax gap analysis and revenue cost of VAT exemptions by FBR.

C. FORMATION OF DIRECTORATE GENERAL OF IOCO – (DG IOCO).

The DG IOCO was formed on 20th June 2018. The Formation is headed by the Director General, which should be a Customs officer, not below the rank of a Director General. The Director General is further assisted by the Director Headquarter, Director South, Director North, Director Central, Additional Directors, Deputy or Assistant Directors and a Sector specialist.

The Director South is the customs officer holding the charge of Director IOCO South practicing his jurisdiction in Sindh and Balochistan provinces. The Director North is the customs officer holding the charge of Director IOCO North practicing his jurisdiction in Khyber Pakhtunkhwa, Gilgit-Baltistan, Islamabad capital territory (ICT) and Rawalpindi division. The Director Central is the customs officer holding the charge of Director IOCO Central practicing his jurisdiction over the areas of Punjab excluding the Capital territory and Rawalpindi division. The Director Headquarter IOCO holds the jurisdictions over all the offices of Director General of IOCO and Customs Collectorates.

D. INCLUSION OF IOCO IN THE SALES TAX SPECIAL PROCEDURE RULES, 2007 (REPEALED VIDE SRO 694 DATED 29TH JUNE 2019).

The Sales Tax on goods being imported were brought under the ambit of IOCO, vide SRO 608 dated 2nd July

2014, for the purposes of determining input-output ratios of the manufacturer, in order to label them as zero rated. In the aforementioned SRO, conditions and procedures were also provided for a manufacturer of goods to be determined as zero rated by the IOCO. The FBR, through SRO 694 dated 29th June 2019, repealed the Special Procedure Rules, 2007. The Special Procedure Rules, pertaining to the IOCO were moved to the Sales tax Rules, 2006, through SRO 918 dated 7th August 2019. The Rules are present in Chapter XV or 15 of the Sales Tax Rules, 2006 in the heading, “Procedure for availing Zero Rating under S.12 of the fifth schedule of the Act”.

E. VALUE ADDED TAX (VAT) REPLACING GENERAL SALES TAX (GST) AND THE ROLE OF DG-IOCO.

The idea of replacing the applicable GST, with the VAT regime surfaced way back during the Pakistan People’s Party regime, sponsored by the International Monetary Fund (“IMF”) in 2011. The IMF had laid down conditions in which they included the replacement of GST with VAT. The idea of implementing the VAT faces a big backlash as the traders are reluctant to become a part of the tax net and the documentation initiative. The office of Directorate General IOCO has been assigned the task of VAT implementation in the tax circuit. The Director General IOCO has been proposed to be re-designated as DG IOCO and VAT Compliance-Functional lead in order to inject the VAT system. In a meeting chaired by the Prime Minister of Pakistan in the month of November 2019, it was decided that initially, VAT would be made applicable commencing from products present in the Third Schedule to the STA which will gradually engulf perplexed items.

F. CONCLUSION

The Directorate of IOCO, that was already operational in Pakistan Customs, was established by the FBR on 29th March 2019 for the purpose of identifying and

allowing Sales Tax exemptions and remission to the industry on the basis of their management and utilization of raw material. Currently, the IOCO is responsible for categorizing several products as zero-rated present in the Fifth Schedule to the STA. Hence, it can be said that the DG-IOCO would play an important role in the Sales Tax regime, similar to what it has been doing within the Customs' wing.

DISCLAIMER

This newsletter is the property of Tola Associates and contents of the same may not be used or reproduced for any purpose without prior permission of Tola Associates in writing.

The contents of this newsletter may not be exhaustive and are based on the laws as of date unless otherwise specified. Tax laws are subject to changes from time to time and as such any changes may affect the contents.

The comments in the newsletter are a matter of interpretation of law and is based on author's judgments and experience, therefore, it cannot be said with certainty that the author's comments would be accepted or agreed by the tax authorities. Furthermore, this newsletter does not extend any guarantee, financial or otherwise. Tola Associates do not accept nor assume any responsibility, whatsoever, for any purpose.

This newsletter is circulated electronically free of cost for general public to create tax awareness in the country.



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