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# COMMENTS ON FINANCE ACT, 2020

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**DATED: MONDAY, 13<sup>TH</sup> JULY 2020**

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## PROLOGUE:

The Finance Bill 2020 ("Bill") was tabled before the National Assembly on 12<sup>th</sup> June 2020. Thereafter, and similar to last year, an anomaly committee was formed, designating Mr. Ashfaq Tola as the chairman thereof. The task at hand for the said committee was to unearth and address legal and technical anomalies in the Bill. After a rigorous exercise in relation thereto, several anomalies were identified by the committee with respect to the Income Tax Ordinance, 2001 ("ITO"); the Sales Tax Act, 1990 ("STA") and the Federal Excise Act, 2005 ("FEA") under the leadership of Mr. Tola. Several anomalies identified were taken into consideration by the FBR and the Federal Government, and were then duly reformed whilst enacting the Finance Act 2020 ("FA 2020" and/or "the Act"). The Act was passed on 30<sup>th</sup> June 2020, and the enactments through the Act, pursuant thereto, were to take effect from 1<sup>st</sup> July 2020, unless otherwise indicated. This document consists of our comments on the final changes brought within and through the Finance Act, 2020.

Should you have any queries in relation to this document, do not hesitate in contacting us.

***Please note: For the purposes of this document, FA is to be read as "Finance Act", FBR as "Federal Board of Revenue", WHT as "Withholding Tax", PRA as "Punjab Revenue Authority", BRA as "Balochistan Revenue Authority", KPRA as "Khyber Pakhtunkhwa Revenue Authority" and SRB as "Sindh Revenue Board".***

*This Memorandum has been prepared exclusively for the use of our staff, clients and intended readers, based on public information available with us. This Memorandum should not be published or printed in any manner without seeking written consent from us. Our comments in this document should not be construed as definite and should, therefore, be used only as a guidance.*

Warm Regards

**TOLA ASSOCIATES**

**Monday, 13<sup>th</sup> July 2020**

## INCOME TAX ORDINANCE, 2001

### 1. DEFINITIONS – SECTION 2

The Bill and the FA 2020, both, adopted the amendments made through the Tax Laws (Amendment) Ordinance, 2020. Pursuant to the above, the following persons were included within the definition of an ‘industrial undertaking’:

- From the 1<sup>st</sup> day of May, 2020, a person directly involved in the construction of buildings, roads, bridges and other such structures or the development of land, to the extent and for the purpose of import of plant and machinery to be utilized in such activity, subject to such conditions as may be notified by the FBR.
- From 1<sup>st</sup> July 2020 a resident company engaged in hotel business in Pakistan.

The Bill had also proposed to introduce the following definitions in Section 2 of ITO. These were accordingly enacted in, and through, the FA 2020:

**Integrated Enterprises:** A person integrated with the FBR, through an approved fiscal electronic device and software, and who fulfills the obligation and requirements for integration as may be prescribed through the Rules.

**IRIS:** A web-based computer programme for operation and management of Inland Revenue Taxes and law, administered by the Board.

The Bill also sought to change the following definitions, which have been enacted through the FA 2020:

**Local Government** – Shall have the same meaning for the respective provisions and Islamabad Capital Territory as contained in the Balochistan Local Government Act, 2010 (V of 2010), the Khyber Pakhtunkhwa Local Government Act, 2013 (XXVIII of 2013), the Sindh Local Government Act, 2013 (XLII of 2013), the Islamabad Capital Territory Local Government Act, 2015 (X of 2015) and the Punjab Local Government Act, 2019 (XIII of 2019).

Previously “Local Government” had the same meaning as defined in the Punjab Local Government Ordinance, 2001 (XIII of 2001), the Sindh Local Government Ordinance, 2001 (XXVII of 2001), the NWFP Local

Government Ordinance, 2001 (XIV of 2001) and the Balochistan Local Government Ordinance, 2001 (XVIII of 2001).

The Bill also proposed to amend the definition of **nonprofit organizations**, to include organizations for the welfare of general public. This has now been enacted through the FA 2020.

### 2. TAX ON SHIPPING OF A RESIDENT PERSON – SECTION 7A

Section 7A deals with the taxation of resident persons engaged in the business of shipping. The Bill had proposed to charge tax at reduced rate of USD 0.75 per gross registered tonnage per annum (USD 1 for other categories) for a Pakistan resident ship owning company registered with the SECP after 15<sup>th</sup> November 2019 and having its own seaworthy vessel registered under the Pakistani flag. The applicability of Section 7A was proposed to be extended till 30<sup>th</sup> June 2023 from 30<sup>th</sup> June 2020. The proposal has been enacted through the FA 2020.

### 3. INCOME FROM PROPERTY – SECTIONS 15 & 15A

Sections 15 and Section 15A of ITO provide that individuals and AOPs earning an income from property shall be charged tax as separate block of income, as per slab rates provided under Division VIA, Part I, First Schedule to the ITO, not allowing any deductions and allowance. Through the FA 2019, an option was provided to an individual and AOP, having income from property exceeding Rs. 4 million in a tax year, to pay tax under normal tax regime.

The Bill had proposed to remove above threshold of Rs. 4 million to provide an option to all Individuals and AOPs to opt for charging of tax under normal regime as per the slab rates provided in Division I, Part I of First Schedule to the ITO. After opting for normal taxation, these taxpayers would also be eligible to claim adjustment of expenses incurred to earn such incomes.

A specific expenditure is allowed to the extent of 6% on account of collection and administration charges to companies and individual/AOP who opt for normal

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tax regime. The Bill also proposed to reduce the limit of above 6% expenditure to 2%. Now, the FA 2020 has raised the threshold from 2% to 4%.

#### **4. INCREASE IN THRESHOLD FOR PAYMENT OF EXPENSE AND SALARIES IN CASH – SECTION 21(L) & 21(M)**

Before FA 2020, under Section 21(l), the threshold for payment of any expense in cash was Rs. 10,000 per transaction and Rs. 50,000 per account per year. These thresholds were proposed to be increased to Rs. 25,000 and Rs. 250,000 respectively in the Bill. The same was enacted through the FA 2020. Under Section 21(m) the threshold for payment of salaries in cash was Rs. 15,000. This threshold was also proposed to be increased to Rs. 25,000 by the Bill and has accordingly been adopted by and in the FA 2020.

#### **5. DISALLOWANCE OF EXPENDITURES – SECTION 21(P) & 21(Q)**

The Bill had proposed to empower FBR to prescribe limits and conditions for allowance of utility expenditures. The Bill had also proposed to disallow expenditure by an industrial undertaking in proportion of supplies made to sales tax unregistered persons. However, this proportionate disallowance will only be applicable in cases where supplies equal or exceed Rs. 100 million per person. Moreover, the limit for such proportionate disallowance was proposed at 20% of total expenditure claimed under this clause. It was also proposed to empower FBR to exempt persons or classes of persons from these clauses on the basis of hardship. Now, through the FA 2020, the proposals have been adopted, with only one change, that the maximum limit of proportionate disallowance will be 10% of the total expenditure claimed under this provision. Application of this provision has also been deferred till 30<sup>th</sup> September 2020.

#### **6. REDUCED DEPRECIATION AND LEASE RENTALS – SECTIONS 22 & 28**

It was proposed in the Bill – the same being adopted by and in the FA 2020 - that depreciation allowance for a depreciable asset will be only for half year in the

first year of use for assets introduced to business after 01-07-2020. For the year of disposal of such assets, 50% depreciation expenses will be allowed. Before the FA 2020, under Section 22, a depreciable asset was allowed depreciation for full year in the year of first use and no depreciation was allowed in the year of disposal.

**For example:** A business put to use an asset worth Rs. 10 million first time during tax year 2021. The asset has a tax depreciation rate of 10%. The asset will be disposed of during 2022. As per the pre-FA 2020 position, tax depreciation of Rs. 1 million will be allowed during 2021 while no depreciation will be allowed during 2022. Whereas, the position pursuant to the FA 2020 will be that the depreciation allowance for year 2021 will be 0.5 million (Rs. 10 million x 10% /2) only. However, depreciation allowance for tax year 2022 will be Rs. 0.475 million [(Rs. 10 million – 0.5 million) x 10% /2].

The Bill had also proposed to set the limit of deemed principal of a passenger transport vehicle not plying for hire to Rs. 2.5 million for the purpose of determining deductible lease rentals. The FA 2020 has also adopted this proposal.

**For example,** a business purchases a passenger transport vehicle not plying for hire on lease with principle amount of Rs. 6 million and yearly lease rentals of Rs. 0.8 million. The proposal will treat the principal as Rs. 2.5 million and will rework the lease rental on the Rs. 2.5 million principal amount. The proposal will discourage new investments and expansions, as increased tax outflow due to reduced depreciation allowance may not be financially feasible for new projects.

#### **7. CAPITAL GAINS ON IMMOVABLE PROPERTY – HOLDING PERIOD AND TAX RATES REDUCED – SECTION 37**

FA 2019 changed the capital gain tax regime and increased the holding periods for the purpose of exemptions. The FA 2019 also segregated buildings from open plot and implemented separate holding periods for exemptions of capital gain tax. The Bill

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proposed to again merge the building and open plot and have implemented same holding period and tax rates for both. The same has been enacted through the FA 2020, and is as follows:

Holding Period	After FA	Before FA	
		Open Plot	Constructed
Up to one year	100%	100%	100%
1 to 2 years	75%	75%	75%
2 to 3 years	50%		
3 to 4 years	25%		
4 to 8 years	0%	0%	0%
More than 8 years			

Amount of Gain	After FA	Before FA
Up to 5 million	2.5%	5%
5 to 10 million	5%	10%
10 to 15 million	7.5%	15%
More than 15 million	10%	20%

Moreover, the Bill had also proposed to reduce holding period from 5 years to 4 years for exemption from payment of advance tax on sale of immovable property under Section 236C of ITO. The same has been accepted through the FA 2020.

### 8. DEFINITION OF SECURITY – SECTION 37A

The FA 2020 has inserted a new sub-section (3B) under Section 37A. Consequently, an explanation has been added with respect to securities. The sub-section provides for shares of a public company to be treated as a 'security', if at the time of disposal of such shares, the company is public. This means that in case of shares held by shareholders of a private company, which has been converted into public company before disposal of such shares, such disposal shall be taxed under Section 37A.

### 9. CARRY FORWARD OF BUSINESS LOSSES – RESIDENT HOTEL BUSINESS – SECTION 57

If a loss sustained by a person, for a tax year under the head "Income from Business" is not wholly set off in current year, then the amount of the loss not set off can be carried forward for 6 years. Now through the FA 2020, where a loss is sustained in a tax year 2021

or onwards by a resident company engaged in the hotel business in Pakistan, the said loss shall be carried forward for a period of 8 years.

### 10. TAX CREDIT FOR CHARITABLE DONATIONS – SECTION 61

Section 61 provides tax credits to persons paying donations to non-profit organizations. The credit is computed on the basis of tax assessed, taxable income and actual amount of donation. The amount of donation for the purpose of calculating tax credit restricted to 20% and 30% for a company and others, respectively. The Bill had proposed to reduce the restrictions to 10% and 15% for company and others, respectively, in case where donation is made to an associate. These proposals have been adopted by FA 2020.

### 11. TAX CREDIT FOR ENLISTMENT – SECTION 65C

Where a taxpayer being a company opts for enlistment in any registered stock exchange in Pakistan, a tax credit equal to 20 % of the tax payable shall be allowed for the tax year in which the said company is enlisted and for the following three tax years: However, the tax credit for the last two years shall be 10% of the tax payable. Through the Bill and FA 2020, the said credit is now available to companies enlisted on or before 30<sup>th</sup> June 2022.

### 12. ADDITIONAL REQUIREMENTS FOR NON-PROFIT ORGANIZATIONS – SECTION 100C

Non-profit organizations (NPOs), trusts and welfare institutions, in order to be eligible for 100% tax credit, are also being required to file a statement of voluntary contributions and donations received in the preceding tax year, as proposed through Bill and implemented vide FA 2020.

Surplus funds of the NPOs, which are not spent during the year for welfare, are taxed at the rate of 10% with certain exclusions. One such exclusion is funds which could not be spent due to any obligation or restriction placed upon the NPO by the donor. However, where the donor is an associate of the NPO, such a restriction can be a mechanism to shift profit to the NPO.

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Therefore, amendment was proposed so that the above exclusion does not apply in case where the donor is an associate of the NPO. The FA 2020 has omitted this proposed amendment.

### 13. SPECIAL PROVISIONS RELATED TO BUILDERS AND DEVELOPERS – SECTION 100D

Special incentives were provided to Builders and Developers vide The Tax Laws (Amendment) Ordinance No. 1 of 2020 dated 19<sup>th</sup> April 2020. This Ordinance was issued by the president, as the Parliament was not in session. The amendments through this Ordinance were also proposed in the Bill, and have now been made part of the ITO, through the FA 2020. Our detailed comments on the said Ordinance may be found through this link: [<https://bit.ly/3cSxlGt>] **Annexure A**

### 14. DISALLOWANCE OF PROFIT ON DEBT PAYABLE TO ASSOCIATE ENTERPRISE – SECTION 106A

The Bill proposed and the FA 2020 has thereafter implemented, that foreign profit on debt claimed (if equal to or more than Rs. 10 million) by a foreign controlled resident company (except an insurance or banking company) shall be restricted up to 15% of taxable income before depreciation, amortization, and such foreign profit on debt. The unclaimed amount is proposed to be carried forward for next three years. This will apply for profit on debt accrued after 01-07-2020.

**For example**, taxable profit before depreciation, amortization and profit on debt is Rs. 100 million and such profit on debt is Rs. 25 million. In this case, only Rs. 15 million (Rs. 100 million x 15%) will be allowed to be adjusted during current year and remaining Rs. 10 million will be carried forward to next three years to be added in subsequent year's profit in debt

### 15. UNEXPLAINED INCOME OR ASSETS – SECTION 111

Section 111 allows the Commissioner to make certain additions to the income of a person including the concealed income and suppressed amount of production or sales, etc. under the head 'income from

other sources'. It was proposed in the Bill and enacted through the FA 2020, that such amounts will be added to the person's income under the head 'income from business' and the person will be allowed to claim adjustment of any brought forward business losses against such items.

### 16. TURNOVER TAX ON PE – SECTION 113

Turnover tax under Section 113 was applicable to resident companies, certain individuals and AOPs. Since Permanent Establishments ("PE") of nonresident companies do not fall under definition of resident company as per Section 83 of ITO, these were not covered under Section 113. Through the Bill and FA 2020, the Pes are now included in the turnover tax regime. It may be noted that the concept of the taxation of business income of a PE in all tax treaties is on a normal tax regime basis with provisions for deductions of expenses including a reasonable allocation of executive and general administrative expenses when arriving at the taxable profit. Therefore, the minimum tax regime on basis of turnover, not allowing any deductions for computing tax liability, will be in conflict with the scheme of taxation provided in tax treaties, although it fulfills the non-discrimination criteria of treaties i.e. the taxation of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

### 17. TAXPAYER'S PROFILE – SECTION 114A

The Bill had proposed to introduce requirement of filing a profile by following taxpayers electronically:

- Every person applying for registration under Section 181;
- Every person deriving income chargeable to tax under the head, "income from business";
- Every person whose income is subject to final taxation;
- Any non-profit organization as defined in clause (36) of Section 2;
- Any trust or welfare institution; and
- Any other person prescribed by the Board.



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The profile:

- Shall be in the prescribed form and shall be accompanied by such annexures, statements or documents as may be prescribed;
- Shall fully state, in the specified form and manner, the relevant particulars of—
  - Bank accounts;
  - Utility connections;
  - Business premises including all manufacturing, storage or retail outlets operated or leased by the taxpayer;
  - Types of businesses; and
  - Such other information as may be prescribed;
- Shall be signed by the person being an individual, or the person's representative where Section 172 applies; and
- Shall be filed electronically on the web as prescribed by the Board.

The profile shall be furnished:

- On or before the 31<sup>st</sup> day of December 2020 in case of a person registered under Section 181 before the 30<sup>th</sup> day of September 2020; and
- Within ninety days of registration in case of a person not registered under Section 181 before the 30<sup>th</sup> day of September 2020. The profile shall be updated within ninety days of change in any of the relevant particulars of information as mentioned in clause (b) of sub-section (2).

The Bill had further proposed a penalty of Rs. 2,500 for each day of default from the due date with minimum penalty of Rs. 10,000 in case of failure to furnish or update the tax profile. The Bill had also proposed to exclude the name of the person from Active taxpayers' list in such scenario. The taxpayer's name shall be reincluded in Active Taxpayer's list after filing of the profile along with payment of surcharge of Rs. 20,000, Rs. 10,000 and Rs. 1,000 for company, AOP and Individual, respectively. These proposals have been enacted through the FA 2020.

### **18. RETURN OF INCOME INSTEAD OF STATEMENT OF FINAL TAXATION – SECTION 114 & 115**

Under Section 115, a person whose income is subject to final tax is required to furnish a statement instead of a return of income under Section 114. In order to

simplify the law for compliance purposes and to promote ease of doing business, the statement declaring income subject to final tax, is being incorporated as a part of the return under Section 114(2). It was also proposed, and has been enacted through the FA 2020, that the commissioner compulsorily approves return revision requests in cases of bonafide omission or wrong statement.

Applicability of best judgment assessment, in case a person fails to file Statement of final taxation under Section 115, was proposed to be deleted in the Bill, and the same has been done so through the FA 2020.

### **19. REVISION OF WEALTH STATEMENT – SECTION 116**

For revision of wealth statement, the Commissioner's approval was not required under Section 116. The Bill had proposed, and the FA 2020 has adopted that, the wealth statement shall be revised after approval from Commissioner. It was also proposed that in cases of bonafide omission and wrong statements, the Commissioner shall compulsorily approve the revision request. It was also proposed that no revision shall be allowed after expiry of five years from the due date of filing of return of that year.

The Act has now withdrawn the requirement for prior approval of Commissioner and has replaced the same with intimation to the Commissioner. However, the Act has also empowered the Commissioner to render the revision void after providing opportunity of being heard in case the revision is not for the purpose of correction of bonafide omission and wrong statements in his opinion. Other proposals have also been adopted by FA 2020.

### **20. AUTOMATED ADJUSTED ASSESSMENT – SECTION 120**

In order to rectify computational errors, the returns filed by the taxpayers were proposed to be initially processed within six months of filing of return by making adjustments for any arithmetical errors, any incorrect claims, any deductions, tax credits or losses which are not allowable under the Ordinance. Such processing was proposed to be done automatically

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through the system. Following were the conditions proposed for automated adjusted assessment:

- No adjustment to be made unless system generated notice is given to taxpayer;
- Any response received from taxpayer shall be considered before making adjustment;
- If no response is received within 30 days, adjustments shall be made; and
- Where no adjustments have been made within six months of filing of return, amounts specified in the return as declared by the taxpayer shall be deemed to have been taken as adjusted amounts on the day the return was filed.

The proposal was adopted by the FA 2020.

### **21. AMENDMENT OF ASSESSMENT - SECTION 122(5)**

Previously, the commissioner was empowered to amend an assessment under Section 122(5) where, on the basis of definite information acquired through audit or otherwise, he is satisfied that:

- Any income chargeable to tax has escaped assessment;
- Total income has been under assessed, or assessed at too low a rate, or has been subject to excessive relief or refund; or
- Any amount under a head of income is misclassified.

The Bill had proposed to empower commissioner to amend an assessment under Section 122(5), where, on the basis of audit or on the basis of definite information, he is satisfied as above. It had also proposed to provide a free hand to the commissioner to acquire the so-called definite information from any source and to amend the assessment putting the said information to the test of audit and scrutiny. Moreover, the Bill had also proposed to empower the commissioner to directly amend the assessment on the basis of an audit under Section 122(5) irrespective of the fact whether he acquires definite information or not. The proposals have now been enacted through the FA 2020.

### **22. AGREED ASSESSMENT - SECTION 122D**

In order to facilitate taxpayers and reduce the burden on the formal appeal system, an amendment was

proposed to the effect that where a taxpayer in response to a notice for amendment intends to get his case settled, he may file an offer of settlement before the Assessment Oversight Committee for resolution of his dispute. The agreed Assessment shall not apply in cases involving concealment of income or where interpretation of question of law is involved having effect on other cases.

The Committee shall consist of the Chief Commissioner, the Commissioner and the Additional Commissioner all having jurisdiction over the taxpayer. The FBR is empowered to make rules regulating the procedure of the Committee and matters relating to the proceedings of the Committee. The proposals have now been adopted through the FA 2020.

### **23. APPEAL TO COMMISSIONER (APPEALS) - SECTION 127**

The procedure for applying for appeal contained in Income Tax Rules has now been incorporated in Section 127 of ITO. Further, the fee which had been Rs. 1000/- has been revised upward as follows:

Where appeal is against an assessment and,

- Appellate is a company, Rs. 5,000/-
- Appellate is not a company, Rs. 2,500/-
- Appeal in other cases and,
- Appellate is a company, Rs. 5,000/
- Appellate is not a company, Rs. 1,500/-

Moreover, it was also proposed that the Commissioner (Appeals) shall not admit any documentary material or evidence which was not produced before Officer Inland Revenue unless he is satisfied that appellant was prevented by any sufficient cause. Further the newly introduced automatic assessment under Section 120(2A) was also proposed to be appealable. The proposals have been adopted through the FA 2020.

### **24. DEPOSIT OF 10% OF DEMAND BEFORE FILING APPEAL TO ATIR - SECTIONS 129 & 131**

The Bill had proposed to attach proof of payment of 10% of the tax amount upheld by Commissioner

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(Appeals) along with the Appeal documents and proposed it to make a precondition to deposit 10% of the amount upheld before admission of Appeal by Appellate Tribunal. However, FA 2020 has now omitted this proposed amendment.

### **25. ALTERNATE DISPUTE RESOLUTION – SECTION 134A**

The following change related to ADR were proposed through the Bill. It may be noted that the same have been adopted through the FA 2020:

- The committee previously comprising of an officer of Inland Revenue not below the rank of a Commissioner, now will comprise of the Chief Commissioner Inland Revenue.
- Previously one person from a panel notified by the Board comprising of Chartered Accountants, Cost and Management Accountant, Advocates, having minimum of ten years in the field of taxation can be nominated by the taxpayer. The FA 2020 has provided to appoint two, instead of one person from the panel. These shall, however, be appointed by the FBR i.e. entitlement of taxpayer to nominate has been omitted.
- Previously, a retired Judge was also required to be part of committee. This requirement has now been removed.
- Previously, a reputable businessman could have been nominated by Chambers of Commerce. This nomination power has now been removed.
- The requirement that aggrieved person and FBR are required to withdraw the appeals pending before the appellate authority, in the absence of which the committee was not allowed to commence its proceeding, is withdrawn.
- The FBR shall communicate the order of appointment of committee to the court of law or forum where dispute is pending and the Commissioner.
- Currently, an automatic stay of recovery was granted up to the date of decision by committee when application was made to ADR committee. Now stay has to be provided by committee, on an application, up to 120 days in aggregate. If the aggrieved person has not communicated the order of withdrawal to Commissioner within 60

days of the service of decision of the committee, the decision shall not be binding on the Commissioner.

### **26. TAX ON PAYMENTS TO NON-RESIDENTS – SECTION 152**

Taxes deducted on payments made to non-resident persons under Section 152 was made to be minimum instead of final discharge of liability, in following cases:

- Payments for advertisement services to nonresident media persons.
- Payment to PE of non-resident for goods, services, and contracts except where the payment is received by a company being manufacturer of such goods.

Moreover, the FA 2019 had empowered the commissioner to issue a certificate to the person making payment to nonresident 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 was allowed to the permanent establishment of non-resident person in Pakistan. The rate of deduction, subject to certificate from commissioner, have been reduced from 30% to 25%.

Furthermore, the withholding tax rates have been reduced to 3% in case of specified services in line with withholding tax deduction on services provided by local companies. It is pertinent to mention here that a Double Taxation Treaty between Pakistan and the country of residence of the non-resident person, if any, shall prevail in case of any conflict between the two.

### **27. ADVANCE TAX AT IMPORT – SECTION 148**

In order to provide a level playing field to commercial importers viz-z-viz manufacturers, remove distortions in the incidence of income tax on the import of capital goods and raw materials and plug revenue leakages and facilitate manufacturing by SMEs, a paradigm shift in the current regime has been introduced, by shifting from person-specific rates to goods specific rates cascaded according to the type of

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goods, with tax @1% for capital goods, 2% for raw materials and 5.5% for finished goods irrespective of status of the importer. However, the prevailing concessional rates on certain items that were importable by manufacturers under the rescinded SRO 1125(I)/2011 dated 31.12.2011, finished pharmaceutical products and mobile phones etc. are being maintained.

The products have been specified in Part I, II and III of the newly introduced Twelfth Schedule to the ITO.

Another major change is the withdrawal of Clause (72B) Part IV of the Second Schedule. Clause (72B) provided a venue for the industrial undertakings to claim an exemption certificate from the applicability of Section 148 on import of their raw materials.

As per sub-section 7 of Section 148, the tax collected under this Section was minimum tax except in case of:

- a) raw material, plant, machinery, equipment and parts by an industrial undertaking for its own use;
- b) motor vehicles in CBU condition by manufacturer of motor vehicles;
- c) large import houses; and
- d) A foreign film imported

The Bill and the FA 2020 have now made taxes deducted on import of items specified in Part I and Part II to be adjustable, and omitted the clauses (a) to (e) above with effect that tax collected shall not be minimum tax and the same will be adjustable, in case goods on which tax is required to be collected under this Section at the rate of 1% or 2% by an industrial undertaking for its own use.

Previously the tax collected at the import stage was a minimum tax in respect of edible oil, packing material, plastic material and import of ships by shipbreakers. The FA 2020 has omitted minimum tax regime in these cases also. These will fall in the normal or minimum tax regime depending on the rate of collection of tax.

This means that tax collected on import of all other items (i.e. on which tax deducted at 5.5%) shall be minimum tax.

Value of goods in case of items listed under Third Schedule to the STA will be the retail price increased

by sales tax payable in respect of import and taxable supply of the goods. For example, retail price of the item excluding sales tax is Rs. 100 and sales tax is Rs. 17, then the value of the items will be Rs. 117.

The Board has been empowered to specify goods, imported to be used as raw material for importers' own use, to be treated as classified under Part II of the twelfth Schedule.

### **28. TAX ON LOCAL PURCHASE OF COOKING OIL OR VEGETABLE GHEE BY CERTAIN PERSONS – SECTION 148A**

Previously, the manufacturers of cooking oil or vegetable ghee, were chargeable to tax at the rate of 2% on purchase of locally produced edible oil, which was final tax on their income. Now through the Bill and the FA 2020, this has been omitted whereby these will now be covered under normal tax regime.

### **29. ADVANCE TAX PAID BY THE TAXPYER – SECTION 147**

Currently, a Company and an AOP are required to estimate the tax payable for the relevant tax year, at any time before the second installment is due and shall furnish to the Commissioner on or before the due date of the second quarter an estimate of the amount of tax payable by the taxpayer manually. Now, the FBR is empowered to prescribe the manner for furnishing of the estimate and calculation of the amount of advance tax payable through IRIS or any other automated system specified by FBR. In addition, some drafting mistakes have been corrected in sub-section (2).

### **30. THRESHOLD TO BE A PRESCRIBED PERSON AS A WITHHOLDING AGENT – SECTION 153**

Section 153 of the ITO provides that an individual or AOP, having a turnover of Rs. 50 million or above, in any of the previous tax years shall be treated as a prescribed person i.e. a withholding agent to deduct tax while making payments on account of supplies of goods, provision of services and execution of contracts. The definition also includes a person registered under the STA without any turnover threshold.

Now, the limit of Rs. 50 million has been increased to Rs. 100 million. Similarly, the threshold of Rs. 100

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million has also been prescribed for a person registered under the STA. This means that any person will not become a withholding agent merely due to registration under STA.

Moreover, the tax deduction on payment for toll manufacturing are subject to withholding tax at rates of 4% and 4.5% as the case may be. It may be noted that toll manufacturing is considered as services instead of goods as per interpretation made by the Hon'ble High Court of Sindh in 2015 PTD 2533.

### **31. ADVANCE TAX ON PAYMENT OF DIVIDEND**

Currently, as per Section 5 of the ITO, the tax chargeable in case of a person receiving dividend income from a company where no tax is payable by such company, due to exemption of income or carryforward of business losses or claim of tax credits, is 25%. Whereas, the advance tax for such persons is 15% under Division I Part III of First Schedule to ITO. The Bill had proposed to align the advance tax rate with tax rate charged and increase the advance tax from 15% to 25%.

The FA 2020 has further specified advance tax rates in case of dividends paid by mutual funds to be 15% in line with tax charged under Section 5.

### **32. WITHHOLDING TAX ON SPECIFIED SERVICES AT 3% - SECTION 153**

Currently, 'engineering services' is included within the specified services on which reduced withholding tax of 3% is applicable. The Bill had proposed to exclude such services from the list of specified services. The Act has reincluded 'engineering services' in the specified list along with other services of warehousing services, services rendered by asset management companies, data services provided under license issued by the Pakistan Telecommunication Authority, telecommunication infrastructure (tower) services.

### **33. WITHHOLDING TAX STATEMENT - FROM BIANNUAL TO QUARTERLY - SECTION 165**

Now the filing of the withholding tax statement by withholding agents will be on a quarterly basis,

instead on biannual basis. The due dates for submission of statements have been enacted as under:

Quarter ending	Due Date
31st March	20 <sup>th</sup> April
30th June	20th July
30th September	20th October
31st December	20th January

The Act has also inserted a proviso that the requirements for filing quarterly statements shall not be applicable in case the same has been furnished under Section 165A relating to furnishing of information by banks. The Act has also provided for filing of such quarterly withholding tax statement by persons involved or engaged in economic transactions as prescribed by the Board.

### **34. FURNISHING OF INFORMATION BY BANKS - SECTION 165A**

Banking companies are required to furnish a list of persons receiving profit on debt exceeding Rs. 500,000 and tax deductions thereon during the preceding financial year. Now, this limit has been deleted, whereby, all transactions are now subject to reporting.

### **35. EXPEDITIOUS AUTOMATED REFUNDS - SECTION 170**

The present system of manually verifying and processing refunds is outdated and prone to corruption. Therefore, to facilitate taxpayers, impart transparency and efficiency and promote ease of doing business, a provision is being made to enable FBR to make rules regulating procedures for expeditious processing and automatic payment of refunds directly into the bank accounts of the taxpayer by the FBR through a centralized processing system. It may be noted that during pandemic, refunds sanctioned under Prime Minister relief package have been issued under automated centralized mechanism.

### **36. REAL TIME ACCESS TO INFORMATION AND DATA BASES - SECTION 175A**

A legal framework has been added in the law for real-time access to databases of various organizations for broadening of the tax base and checking tax evasion such as land record departments, excise and taxation

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departments, utility companies, visa and immigration offices, and others. The Commissioner or any other authorized officer may access to such real-time information or databases for purpose of making an audit of a taxpayer or a survey of persons liable to tax. The Board may make rules relating to such real-time access for audit or survey.

### **37. INCOME TAX AUDIT THROUGH ELECTRONIC MEANS - SECTION 177**

In line with ongoing pandemic safety requirements, the concept of conducting audit proceeding by Commissioner electronically through video links, or any facility as FBR may prescribe, has been introduced in the ITO.

### **38. AUDIT ON THE BASIS OF SECTORAL BENCHMARKS – SECTION 177**

Through the Bill and the FA 2020, the Commissioner has been empowered to determine the taxable income on the basis of sectoral benchmark ratios in the following situations, where a taxpayer:

- Has not furnished record or documents including books of accounts;
- Has furnished incomplete record or books of accounts; or
- Is unable provide sufficient explanation regarding the defects in records, documents, or books of accounts

### **39. JURISDICTION OF INCOME TAX AUTHORITIES-SECTION 209**

This Section prescribes the jurisdiction and functions performed by various authorities. The FBR or the Chief Commissioner may, by an order, confer upon or assign to any officer of Inland Revenue all or any of the powers and functions conferred upon or assigned to the Commissioner. Now, the FBR may delegate such power through Automated Case Selection System and may make Rules in this regard.

### **40. DELEGATION- SECTION 210**

As per Section 210, the Commissioner shall not delegate the powers of amendment of assessment contained in sub-Section (5A) of Section 122 to an officer of Inland Revenue below the rank of Additional

Commissioner Inland Revenue. Now, through the FA 2020, this restriction has been extended to an amendment of order of recovery under sub-Section (3) of Section 161.

### **41. WITHDRAWAL OF CERTAIN WITHHOLDING TAX PROVISIONS**

The following withholding tax provisions have been withdrawn to reduce the cost of compliance and cost of doing business of the taxpayers:

Section	Short Description
<b>236R</b>	Collection of advance tax on education related expenses remitted abroad
<b>235B</b>	Tax on steel melters and composite units (normal withholding tax u/s 153 shall apply)
<b>156B</b>	Withdrawal of balance under pension fund
<b>148A</b>	Tax on local purchase of cooking oil or vegetable ghee by certain persons
<b>236D</b>	Advance tax on functions and gatherings
<b>236F</b>	Advance tax on cable operators and other electronic media
<b>236J</b>	Advance tax on dealers, commission agents and arhatis etc.
<b>236U</b>	Advance tax on insurance premium
<b>236X</b>	Advance tax on tobacco

### **42. ADVANCE TAX ON PRIVATE MOTOR VEHICLES – SECTION 231B**

The Act has inserted an Explanation that the term 'motor vehicle' will not include a rickshaw, motorcycle-rickshaw and any other motor vehicle having engine capacity up to 200cc for the purposes of advance tax collection under Sections 231B of the ITO.

### **43. ELECTRICITY CONSUMPTION –SECTION 235**

Advance tax under this Section shall not be collected from a person who produces a certificate from the Commissioner that his income during tax year is exempt from tax. In addition to this, now pursuant to the amendments brought forth by the FA 2020, as proposed in Bill, advance tax under this Section shall not be collected from a person who produces a certificate from the Commissioner that he has discharged his advance tax liability for the tax year (previously part of SRO 1053(I)/2020 dated 22<sup>nd</sup> November 2010).

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### **44. ADVANCE TAX AT THE TIME OF SALE BY AUCTION – SECTION 236A**

The FA 2020 has inserted an explanation whereby sale by public auction or auction by tender includes renewal of license previously sold through public auction or auction by tender and that where payment is received in installments, advance tax is to be received with each installment.

### **45. COLLECTION OF ADVANCE TAX BY EDUCATIONAL INSTITUTIONS – SECTION 236I**

Section 236I prescribes collection of advance tax @ 5% of the tuition fee. Now, a change has been made to withdraw this advance tax from persons appearing on the Active Taxpayers' List.

### **46. PAYMENT TO RESIDENTS FOR USE OF MACHINERY AND EQUIPMENT - SECTION 236Q**

The tax deducted under this Section will be minimum, that was final previously.

### **47. ADVANCE TAX ON IMPORT OF MOBILE PHONES**

Through the Bill and FA 2020, advance tax rates have been maintained at the import of mobile phones in CBU condition. However, now advance tax on mobile phones in CKD/SKD condition shall be zero up to C&F value USD 350, whereas, for values between USD 350 to USD 500 and Exceeding USD 500, advance tax will be Rs. 5,000 and Rs. 11,500, respectively.

### **48. ADVANCE TAX ON PROFIT ON DEBT**

Previously, the rate of advance tax on profit on debt was 10% where profit on debt was up to Rs. 500,000 and 15% where it exceeds Rs. 500,000. A new condition has been added which requires the taxpayer to submit a certificate to the bank that his profit on debt during the year will not exceed Rs. 500,000, if he wishes to be charged advance tax @ 10%.

### **49. ALIGNING WITHHOLDING AND CHARGING TAX RATES - RETURN ON INVESTMENT IN SUKUKS**

The rate of tax under Section 5AA on return on investment in Sukuks received from a Special Purpose Vehicle or company is 25%. However, the withholding tax rate was 15%. The difference in the withholding

and the charging rates is now removed by increasing withholding tax rate from 15% to 25%.

### **50. DONATION TO INSTITUTIONS – CLAUSE (61), PART I, SECOND SCHEDULE**

Clause 61 provides the list of institutions, donations to whom, donations are directly deductible from income of the donor. The following institutions have been added to the list:

- The Prime Minister's COVID-19 Pandemic Relief Fund-2020
- Ghulam Ishaq Khan Institute of Engineering Science and Technology (GIKI)
- Lahore University of Management Sciences
- Dawat-e-Hadiya Karachi
- Baitussalam Welfare Trust
- Patients Aid Foundation
- Alkhidmat Foundation

### **51. SPECIFIED CHARITABLE INSTITUTIONS - CLAUSE (66), PART I, SECOND SCHEDULE**

Clause 66 provides list of institutions whose income is exempt from income tax. The Bill had proposed to substitute the list and have segregated it into two tables namely table 1 and Table 2. Table 1 lists the institutions whose incomes are exempt while table 2 lists the institutions whose incomes are exempt subject to fulfillment of conditions provided in Section 100C. The FA 2020 has made the following additions:

#### **TABLE 1:**

- i. Sindh Institute of Urology and Transplantation, SIUT Trust and Society for the Welfare of SIUT.
- ii. Shaukat Khanum Memorial Trust (Parallel to Govt. Institutions)
- iii. National Endowment Scholarship for Talent (NEST).

#### **TABLE 2:**

(Exemption subject to 100C)

- i. Alamgir Welfare Trust International
- ii. Foundation University

### **52. SALE OF IMMOVABLE PROPERTY TO A REIT SCHEME - CLAUSE (99A), PART I, SECOND SCHEDULE**

Previously, profits and gains on sale of immovable property to a developmental REIT scheme was

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exempt till 30<sup>th</sup> June 2020. Now this exemption has been extended up to 30<sup>th</sup> June 2021.

### **53. WITHHOLDING TAX ON PAYMENT OF PROFIT ON DEBT TO NON-RESIDENT**

The Bill had proposed that the rate of tax to be deducted in respect of payments to a non-resident individual, on account of profit on debt earned from a debt instrument, whether conventional or shariah compliant, issued by the Federal Government under the Public Debt Act 1944 and purchased exclusively through a bank account maintained abroad, a nonresident Rupee account repatriable or a foreign currency account maintained with a banking company in Pakistan shall be 10% of the gross amount paid, which will be final tax.

The Bill also had proposed to exempt application of Section 236P (advance tax on banking transactions other than cash) on such account and the person shall not be liable register under ITO and to file return under Section 114. These proposals have been enacted through the FA 2020.

### **54. REDUCED WITHHOLDING ON ESSENTIAL FOOD ITEMS**

The Bill proposed, and the FA 2020 has thereafter enacted, that the withholding tax rate on payment for selected goods supplied to Utility Stores Corporation of Pakistan shall be 1.5% from 7<sup>th</sup> April 2020 to 30<sup>th</sup> September 2020.

### **55. EXEMPTION FROM WITHHOLDING TAX ON IMPORT OF COVID-19 RELATED ITEMS**

The Bill had proposed, which the FA 2020 thereafter enacted, an exemption from withholding tax under Section 148 on import of 61 COVID-19 related hospital supplies and apparatus.

### **56. EXEMPTION FROM WITHHOLDING TAX UNDER SECTION 153**

The Bill had proposed – and the FA 2020 has enacted the same- to exempt following persons under Section 153 from withholding tax as recipient of payments:

- A provincial Government.
- A local authority.
- Persons who are resident of Azad Kashmir and execute contracts in Azad Kashmir only and

produce a certificate to this effect from the concerned income tax authority.

- Persons receiving payments from a company or an association of persons having turnover of fifty million rupees or more or from an individual having turnover of fifty million rupees or more exclusively for the supply of agriculture produce including fresh milk, fish by any person engaged in fish farming, live chicken, birds and eggs by any person engaged in poultry farming and by an industrial undertaking engaged in poultry processing which has not been subjected to any process other than that which is ordinarily performed to render such produce fit to be taken to market.
- Companies receiving payments for the supply of electricity and gas.
- Companies receiving payments for the supply of crude oil.
- Hotels and restaurants receiving payments in cash for providing accommodation or food or both, as the case may be and
- Shipping companies and air carriers receiving payments for the supply of passenger tickets and for cargo charges of goods transported.

*(These were previously provided in SRO 586(I)/1990 dated 30<sup>th</sup> June 1991)*

### **57. EXEMPTION FROM MINIMUM TAX – Section 113, CLAUSE (11A), PART IV, SECOND SCHEDULE**

The FA 2020 has exempted application of Section 113, i.e. turnover tax, further on the following organizations:

- Naya Pakistan Housing and Development Authority for tax years 2020 and next four years;
- Hajj Group Operators for tax year 2021; and
- A resident company involved in hotel business in Pakistan in respect of turnover for the period from 01-04-2020 to 30-09-2020.

### **58. EXEMPTION FROM SECTION 148 – CLAUSE (12D), (12E), PART IV, SECOND SCHEDULE**

Some further drugs and medical equipment relevant to Covid-19 treatment have been provided an exemption from Section 148 on fulfillment on certain conditions.



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The Bill had proposed to exempt following persons from withholding tax under Section 148 at the time of import:

- The Federal Government
  - A Provincial Government
  - A Local Government
  - A foreign company and its associations whose majority share capital is held by a foreign government.
  - A person who imports plant machinery for execution of a contract with the Federal Government or a provincial government or a local government and produces a certificate from that government.
  - Companies importing high speed diesel oil, light diesel oil, high octane blending component or kerosene oil, crude oil for refining and chemical used in refining thereof in respect of such imports and
  - Petroleum (E&P) companies covered under the customs and Sales Tax Notification No. S.R.O.678(I)/2004, dated 7<sup>th</sup> August 2004, except motor vehicles imported by such companies.
- Grit
  - Gravel
  - Crushed stone
  - Soft mud
  - Clay
- Following persons in respect of services provided to construction sector:
    - Artisans
    - Plumbers
    - Electricians
    - Surface finishers
    - Carpenters
    - Painters
    - Daily wagers
  - Subject to following conditions:
    - The person is unregistered;
    - The CNIC number and address of such individual is recorded by payer; and
    - Payment is made directly to the individual

### 59. EXEMPTION TO HAJJ GROUP OPERATORS

The Bill had proposed an exemption to Hajj operators from the application of Section 152 while making payments to nonresident persons for hajj operations. The same has been enacted by the FA 2020

### 60. EXEMPTION FROM WITHHOLDING TAX TO THE EXTENT OF FOREIGN REMITTANCE

The Bill had proposed that provisions of Section 231A (cash withdrawal from bank), 231AA (transactions in bank) and 236P (banking transactions other than cash) shall not apply to a Pak rupee account in a tax year to the extent of foreign remittances credited into such account during that tax year. The FA 2020 has enacted these proposals.

### 61. EXEMPTION FROM SECTION 153 – CLAUSE (46AA), PART IV, SECOND SCHEDULE

The following persons have been exempted from application of Section 153, as a recipient of payment:

- Unregistered individuals receiving payments for supply of:
  - Sand
  - Bricks

**Continued on the next page**

## SALES TAX ACT, 1990

### 1. AMENDMENT IN DEFINITIONS – SECTION 2

#### 1.1 Active Taxpayer - SECTION 2(1)

The definition and conditions for a taxpayer to be in the active taxpayer list, issued by the FBR, is provided in Section 2(1) of the STA. Previously, the definition included that if a person is blacklisted or whose registration is suspended or is blocked as per section 21, he will not be considered as an active taxpayer. Now, the words “is blocked” being additional and irrelevant have been omitted through the FA 2020.

A person who fails to file two consecutive monthly, or an annual, withholding tax statement(s) under Section 165 of the ITO, will also not fall within the definition of an active taxpayer. The Act has extended the period of two consecutive months to three consecutive months.

#### 1.2 Output tax – SECTION 2(20)

Provincial sales tax levied on services rendered or provided by a person, also comes under the ambit of federal output tax, and was only applicable on services rendered in Islamabad Capital Territory, as other provinces have already enacted their respective sales tax on services Acts. To streamline the definition and bring clarity, the FA 2020 has substituted the words “Provincial sales tax” with “Islamabad Capital Territory (Tax on Services), 2001(XLII of 2001)”.

#### 1.3 Value of supply – SECTION 2(46)

Sales tax is charged at the rate of 17% on the value of supply, which is defined in Section 2(46) of the STA. Through FA 2019, a definition of value of supply for independent power producers was inserted to accommodate special requirements for this sector, whereby, the amount received on account of energy purchase price only and 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. This had an effect of reduction in the sales tax charged to consumers. Now, the Act has included WAPDA in this definition also, w.e.f. from 1<sup>st</sup> July 2019, so consumers of WAPDA will also get benefit of the reduced sales tax.

The Bill had proposed a new definition for value of supply for supply of used vehicle, whereby, if a person is engaged in purchasing used vehicles from general public on which sales tax had already been paid at the time of import or manufacturing, and it is being sold in the open market after making certain value additions i.e. not in the same condition as when imported or manufactured, the value of supply would be the difference between sale and purchase price of that vehicle, means the person would charge output tax only on difference amount.

Now, through the Act, the sale and purchase price are to be determined on basis of valuation method prescribed by FBR.

### 2. RESTRICTION ON INPUT TAX- SECTION 8B

As per Section 8B of the STA, a registered person shall not be allowed to adjust input tax in excess of 90% of the output tax for a particular tax period. Therefore, in case of a lower profit margin he is required to pay 10% of his output tax to the FBR. It means that if his input tax during a tax period exceeds his output tax as a result of loss or overbuying (closing stock), he is not entitled to get a refund. Instead he will pay 10% of his output tax to the FBR. The input tax disallowed, due to this restriction, shall be carried forward to the next period and shall be treated as input tax of that period. Now, through the FA 2020, the above rules are not applicable in case of locally manufactured electric vehicles listed in the Eight Schedule to the STA. In this case, the input tax can be adjusted up to 100% of output tax. However, if input tax exceeds output tax, no refund or carry forward of the excess tax is allowed.

### 3. POWER OF TAX AUTHORITIES TO MODIFY ORDERS – SECTION 11C

Previously, where a taxpayer had gotten relief from the High Court or Appellate Tribunal on any question of law, there was an anomaly to the effect that if the Commissioner or Officer preferred an appeal against such an order before the Supreme Court, the Officers of the Inland Revenue still proceeded against the taxpayer, whether the High Court or Tribunal Orders

## SALES TAX ACT, 1990

were in field or not. They pleaded that the matter has not attained finality before the Supreme Court. In order to resolve this, the FA 2020 has inserted a new Section 11C in the STA, whereby, if such an order is issued by a High Court or Tribunal, on or after 1<sup>st</sup> July 1990, the Commissioner or an officer will follow the said decisions, until the decision is reversed or modified by the Supreme Court.

In case a decision of the High Court or Tribunal is reversed or modified by the Supreme Court, the Commissioner or Officer may within a period of 1 year, from the date of receipt of such decision, modify the assessment order which is based on such decision, even after period of limitation has expired.

**The same amendments have been made in the FEA.**

#### 4. SCOPE OF SALES TAX, WITHHOLDING OF SALES – SECTION 3 AND THE ELEVENTH SCHEDULE

After the abolishment of the Sales Tax Special Procedure (Withholding) Rules 2007 through FA 2019, similar provisions were incorporated in Section 3(7) and the newly inserted Eleventh Schedule to the STA. As per Section 3(7) “The tax shall be withheld by the buyer at the rate as specified in the Eleventh Schedule, by any person or class of persons as withholding agent for the purpose of depositing the same.....”. To remove the discrepancy in the language used, the Act has removed the words “by the buyer” and inserted the words “being purchaser of goods or services” after the word “persons”. The Act has also made the following changes in the Eleventh Schedule. These are as follows:

Entry No	Before FA 2020	After FA 2020
1	Withholding agent (a) Federal and provincial government departments; autonomous bodies; and public sector organizations (b) Companies as defined	Withholding agent (a) Federal and provincial government departments; autonomous bodies; and public sector organizations (b) Companies as defined in the Income Tax

	in the Income Tax Ordinance, 2001 (XLIX of 2001). <b>Supplier category</b> <b>Registered persons</b> <b>Rate or extent of deduction</b> 1/5th of Sales Tax as shown on invoice	Ordinance, 2001 (XLIX of 2001). <b>Supplier category</b> <b>Active Taxpayer</b> <b>Rate or extent of deduction</b> 1/5th of Sales Tax as shown on invoice
2.	Withholding agent (a) Federal and provincial government departments; autonomous bodies; and public sector organizations (b) Companies as defined in the Income Tax Ordinance, 2001 (XLIX of 2001). <b>Supplier category</b> <b>Person</b> registered as a wholesaler, dealer or distributor <b>Rate or extent of deduction</b> 1/10th of Sales Tax as shown on invoice.	Withholding agent (a) Federal and provincial government departments; autonomous bodies; and public sector organizations (b) Companies as defined in the Income Tax Ordinance, 2001 (XLIX of 2001). <b>Supplier category</b> <b>Active Taxpayer</b> registered as a wholesaler, dealer or distributor <b>Rate or extent of deduction</b> 1/10th of Sales Tax as shown on invoice.
3	Withholding agent Federal and provincial government departments; autonomous bodies; and public sector organizations <b>Supplier category</b> <b>Un Registered</b> <b>Rate or extent of deduction</b> Whole of the tax involved or as applicable to supplies on the basis of gross value of supplies.	Withholding agent Federal and provincial government departments; autonomous bodies; and public sector organizations <b>Supplier category</b> <b>Person other than Active Taxpayer</b> <b>Rate or extent of deduction</b> Whole of the tax involved or as applicable to supplies on the basis of gross value of supplies.
4	Withholding agent Companies as defined in the Income Tax Ordinance, 2001 (XLIX of 2001) <b>Supplier category</b> <b>Un Registered</b> <b>Rate or extent of deduction</b>	Withholding agent Companies as defined in the Income Tax Ordinance, 2001 (XLIX of 2001) <b>Supplier category</b> <b>Person other than Active Taxpayer</b>

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	5% of gross value of supplies	<b>Rate or extent of deduction</b> 5% of gross value of supplies
6	Withholding agent Registered persons purchasing cane molasses. <b>Supplier category</b> <b>Unregistered persons</b> <b>Rate or extent of deduction</b> Whole of sales tax applicable	Withholding agent Registered persons purchasing cane molasses. <b>Supplier category</b> <b>Person other than Active Taxpayer</b> <b>Rate or extent of deduction</b> Whole of sales tax applicable

### 5. DETERMINATION OF TAX LIABILITY – S. 7

A registered person was entitled to deduct his input tax, during the tax period, for the purposes of taxable supplies made or to-be made from his output tax liability under Section 7 of the STA. Circular 1 of 1989 clarified that the input tax on wastage of Raw material during manufacturing was reclaimable. As a streamlining measure, the Act has empowered the FBR to impose restrictions on wastage of material on which input tax has been claimed in respect of goods or class of goods. In our view, the claim of input is a taxpayer fundamental right and the restriction placed should be removed.

### 6. TAX CREDIT NOT ALLOWED – SECTION 8

Section 8 prescribes instances as to when input tax cannot be claimed by a taxpayer in a tax period. One such instance inserted through the FA 2019 was that input tax on goods attributable to supplies made to an un-registered person, on a pro-rata basis, for which sale invoices do not bear the CNIC number or NTN of the recipient, will not be claimable. Now, the Act has included services also which are made to unregistered person and the service invoice does not bear the CNIC number or NTN of the service recipient. As per our understanding, this is only applicable on services rendered in Islamabad Capital Territory.

### 7. CONDITION OF CNIC ON SUPPLIES MADE BY RETAILERS FURTHER RELAXED

Through the FA 2019, Section 23 of the STA was amended to impose the condition of NTN or CNIC to

be mentioned in a tax invoice with respect to supply to unregistered persons. However, an exception from such requirement had been introduced for supplies made by a retailer where the transaction value inclusive of sales tax does not exceed Rs. 50,000 if sale is being made to an ordinary consumer.

Now, the Act has enhanced the limit from Rs. 50,000 to Rs 100,000 which is in line with the proposals from small traders/retailers.

### 8. SALES TAX AUDIT THROUGH ELECTRONIC MEANS – S. 25

In line with the ongoing pandemic safety requirements, the FA 2020 has approved the concept of conducting audit proceeding by Commissioner electronically through video links, or any facility as the FBR may prescribe.

### 9. OFFENCES AND PENALTIES – S. 33

Entry No	Before FA 2020	After FA 2020
25	Any person, who is required to integrate his business for monitoring, tracking, reporting or recording of sales, production and similar business transactions with the Board or its computerized system, fails to get himself registered under the Act, and if registered, fails to integrate in the manner as required under law.  Such person shall be liable to pay a penalty up to one million rupees, and if continues to commit the same offence after a period of <b>six months</b> after imposition of penalty as aforesaid, his business premises	Any person, who is required to integrate his business for monitoring, tracking, reporting or recording of sales, production and similar business transactions with the Board or its computerized system, fails to get himself registered under the Act, and if registered, fails to integrate in the manner as required under law  Such person shall be liable to pay a penalty up to one million rupees, and if continues to commit the same offence after a period of two months after imposition of penalty as aforesaid, his business premises shall be sealed <b>till such time he integrates his business in the manner</b>

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	shall be sealed and an embargo shall be placed on his sales.	as stipulated under sub-section (9A) of section 3 or section 40C, as the case may be.
28		Any person who is required to share information under section 56AB, fails to do so in the manner as required under the law Such person shall pay a penalty of twenty-five thousand rupees for first default and fifty thousand rupees for each subsequent default. Newly inserted Section 56AB allows for access to NADRA and immigration databases.

### 10. AUTHORISED OFFICERS TO HAVE ACCESS TO PREMISES, STOCKS, ACCOUNTS AND RECORDS – SECTION 38

Section 38 of the STA empowers the FBR or a Commissioner to authorize any Officers of Inland Revenue to have access to business or manufacturing premises, registered office or any other place where any stocks, business records or documents are kept for any inquiry or investigation. Now, the FA 2020 has empowered such officers to have real time electronic access to records of business. The Act has also empowered the FBR to make rules relating to electronic real-time access for an audit or survey of person liable to tax.

### 11. APPEAL TO COMMISSIONER (APPEALS) – SECTION 45B

As per the Act, the procedure for applying for an appeal contained in the Sales Tax Rules are to be incorporated in Section 45B of the STA. Moreover, the fee which had previously been Rs. 1,000, has been revised upwards. This is as follows:

Where appeal is against an assessment:

- Appellate is a company, Rs. 5,000
- Appellate is not a company, Rs. 2,500

Appeal in other cases:

- Appellate is a company, Rs. 5,000/-

- Appellate is not a company, Rs. 1,500/-

According to the Act, the Commissioner (Appeals) will not admit any documentary material or evidence which was not produced before the Officer Inland Revenue, unless he is satisfied that the Appellate was prevented by any sufficient cause.

These provisions are to be applied in the FEA as well.

### 12. ALTERNATE DISPUTE RESOLUTION – SECTION 47A

The FA 2020 has made some changes in provisions related to ADR. These are as follows:

- The Committee, previously comprising an officer of Inland Revenue, not below the rank of a Commissioner, should comprise of the Chief Commissioner Inland Revenue.
- Previously, the taxpayer was allowed to nominate a person from panel notified by the FBR. Now, the FBR will nominate these persons.
- Previously, a retired Judge was also part of the committee. Now they are to be removed.
- The FBR shall communicate the order of appointment of committee to the Court of law or forum where the dispute is pending and the Commissioner.
- Previously, an automatic stay of recovery was granted up to the date of decision by Committee when an application was made to the ADR committee. Now, the stay is to be given by the Committee on an application, and the same may give a maximum stay up to 120 days in aggregate.
- If the aggrieved person has not communicated the order of withdrawal to Commissioner, within 60 days of the service of decision of the committee, the decision shall not be binding on the Commissioner.

### Same amendments have been made in the ITO and FEA.

### 13. SERVICE OF ORDER, DECISIONS, ETC THROUGH ELECTRONIC MEANS – SECTION 56

Previously, the service of notice, order or requisition was treated as properly served if it had been sent

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through electronic means via email or in the e-folder, in case of both public and private companies, irrespective of whether they are a resident or other than a resident person. Now, through the FA 2020, such provisions are to be applied to all registered persons.

### **14. REAL TIME ACCESS TO NADRA AND IMMIGRATION DATABASES- SECTION 56A**

In order to increase the tax base and to crack down on potential tax evasion, the Bill had proposed that the FBR is to make arrangements to have real time access to information and database of the following for Sales Tax and FED purposes:

- National Database and Registration Authority (NADRA)
- Federal Investigation Agency and Bureau of Emigration and Overseas Employment
- Islamabad Capital Territory and Provincial and Local land record and development authorities.
- Islamabad Capital Territory and Provincial Excise and taxation Departments
- All Electricity suppliers and gas transmission and distribution companies.
- Any other agency, authority, institution, or organization notified by FBR.

The detail from Federal Investigation Agency and Bureau of Emigration and Overseas Employment was related to details of international entry and exit of all persons, and information pertaining to work permits, employment visas and immigration visas.

Now through the FA 2020, the information from both agencies has been restricted only to international travel.

The same amendment has also been introduced in the ITO.

### **15. REPRESENTATIVE - SECTION 58A**

Section 58A lays down provisions regarding representative of a taxpayer, including of a nonresident person, to represent it before the department and Appellate forums. Through the Bill, an explanation was proposed to be added that a non-

resident for sales tax purposes shall have the same meaning as provided in ITO. Through the Act, the proposed amendment has been enacted, while the term 'Tax year' has been substituted by 'tax period in a financial year' which was done for the purpose of clarification, as we have tax periods in Sales Tax and not Tax years.

### **16. PAYMENT THROUGH BANKING CHANNEL - SECTION 73**

The taxpayer was allowed an input adjustment/refund, only if the payment to the supplier is made through a banking channel. Through FA 2019, a condition for manufacturers was inserted, whereby, it was made mandatory for manufacturers to make all taxable supplies, exceeding a certain monetary threshold, to a person who has obtained registration for sales tax, failing which the supplier shall not be entitled to claim credit adjustment or deduction of input tax as attributable to such excess supplies to an unregistered person. The Bill had proposed to apply the aforesaid provisions to all registered suppliers in value chain.

Through the FA 2020, the proposed amendment has been enacted, while it has also empowered the FBR to specify persons or class of persons, through a Notification and subject to such conditions and restrictions, to be considered as persons or class of persons.

### **17. AMENDMENT IN FIFTH SCHEDULE - ZERO RATING**

The Act has added new entries 13 and 14, w.e.f. 1<sup>st</sup> June 2020, whereby, the supply of raw material, components and goods for further manufacturer in Gawadar free zone and export thereof, shall be zero rated. However, if the supply from Gawadar is made to Tarriff areas, tax shall be charged on the value assessed on the Good Declaration for import. The supply of specified locally manufactured plant and machinery to manufacturers in Gawadar Free Zone, shall be zero-rated subject to certain conditions.

## SALES TAX ACT, 1990

### 18. AMENDMENT IN SIXTH SCHEDULE -EXEMPT ITEMS

#### In Table 1:

The following substitutions, highlighted in red, were made and will be applicable from 1<sup>st</sup> June 2020:

Serial no	Description	PCT code
100A	Materials and equipment (plant, machinery, equipment, appliances and accessories) for construction and operation of Gwadar Port and development of Free Zone for Gwadar Port as imported by or supplied to China Overseas Ports Holding Company Limited (COPHCL) and its operating companies namely (i) China Overseas Ports Holding Company Pakistan (Private) Limited (ii) Gwadar International Terminal Limited, (iii) Gwadar Marin Services Limited and (iv) Gwadar Free Zone Company Limited, their contractors and sub-contractors; and Ship Bunker Oils bought and sold to the ships calling on/visiting Gwadar Port, <i>[by the aforesaid operating companies]</i> having Concession Agreement with the Gwadar Port Authority, for a period of forty year, subject to the following conditions and procedure, namely,- <b>(A) Conditions and procedure for imports.-</b> (i) This exemption shall be admissible only to China Overseas Ports Holding Company Limited (COPHCL) and its operating companies, their contractors and sub-contractors which hold the Concession Agreement; (ii) Ministry of Ports and Shipping shall certify in the prescribed manner and format as per annex-I that the imported materials and equipments are bonafide requirement for construction and operation of Gawadar Port and development of Free Zone for Gawadar Port. The authorized officer of that Ministry shall furnish all relevant information	Respective headings

online to Pakistan Customs against a specific user ID and Password obtained under section 155D of the Customs Act,1969 (IV Of 1969). In already computerized Collectorate or Customs station, where the computerized system is not operational, the Project Director or any other person authorized by the Collector in this behalf shall enter the requisite information in the Customs Computerized System on daily basis, whereas entry of the data obtained from the customs stations which have not yet been computerized shall be made on weekly basis, provided that this condition shall not apply to ship bunker oils; and  
(iii) The goods so imported *[and also those already imported under Notification No.115(I)/2008, dated 6th February, 2008]* shall not be sold or disposed of without prior approval of the FBR and payment of sales tax leviable at the *[applicable rate on residual value]* provided that this condition shall not apply to ship bunker oils.

- The exemption under entry 103 related to import and supply of ships and all floating craft etc. which expires on 2020, was proposed to be extended to 2023 by the Bill.

The FA 2020 has extended the same up to 2030.

Through the FA 2020, the following items have also been added in the Sixth Schedule to the STA:

- Machinery, equipment, materials, and goods imported either for exclusive use within the limits of Gwadar Free Zone, or for making exports therefrom, subject to the conditions that such machinery, equipment, materials and goods, are imported by investors of Gwadar. Free Zone, and all the procedures, limitations and restrictions as are applicable on such goods under the Customs Act, 1969 (Act IV of 1969) and rules made thereunder shall, mutatis mutandis, apply provided that if any of such goods is taken out of the Zone for purpose other than the export, the tax

## SALES TAX ACT, 1990

on the same shall be paid by the importer (Entry 100D) (*will be effective from 1<sup>st</sup> June 2020*).

- Dietetic foods intended for consumption by children suffering from inherent metabolic disorder subject to the conditions that the importer shall acquire approval and quota from Ministry of National Health Services, Regulations and Coordination
- Oil cake and other solid residues, whether or not ground or in the form of pellets (PCT code 2306. 1000 [Entry 155])
- Import of CKD kits by local manufacturers of following Electric Vehicles: [Entry 156]-
  - (i) Road Tractors for semi-trailers (Electric Prime Movers) (PCT code 8701.2060)
  - (ii) Electric Buses (PCT code 8702.4090)
  - (iii)(iii)Three-Wheeler Electric Rickshaw (PCT code 8703.8030)
  - (iv)Three-Wheeler Electric Loader (PCT code 8704.9030)
  - (v) Electric Trucks (PCT code 8704.9059)
  - (vi)Electric Motorcycle (PCT code 8711.6090)

### In Table 3:

Through the FA 2020, entry no. 15A was substituted in the following manner:

Before FA 2020			Before FA 2020			
S. No	Description	PCT heading	Conditions	Description	PCT heading	Conditions
1	Parts and Components for manufacturing LED lights 1 [and bulbs]:-			Pans and Components for manufacturing LED lights:		If imported by LED light manufacturers registered under the Sales Tax Act, 1990 subject to annual quota determination by the Input Output Coefficient Organization (IOCO)
2	(i) Aluminum Housing/ Shell for LED (LED Light 3 [and bulbs] Fixture)	9405.1090	If imported by LED light 2 [and bulbs] manufacturers registered under the Sales Tax Act, 1990 subject to annual quota determination by the Input Output Coefficient Organization (IOCO)	(i) Housing /shell. Shell cover and base cap for all kinds of LED lights and bulbs	Respective heading	
3	(ii)Metal Clad Printed Circuit Boards (MCPCB) for LED	8534. 0000		(ii) Bare and stuffed Metal Clad Printed Circuit Boards (MCPCB) for LED	8534.0000	
4	(iii) Constant Current Power Supply for of LED Lights 4 [and bulbs] (1-300W)	8504.4090		(iii) Constant Current Power Supply for of LED Lights and Bulbs (1-300w)	8504.4090	
5	(iv) Lenses for LED lights 5 [and bulbs]	8408.9000		(iv) Lenses for LED lights and bulbs	9001.9000	

Through the FA 2020, entry no. 20 has been added. This is as follows:

- Plant and machinery for the assembly/ manufacturing of electric vehicles, subject to condition that the exemption shall be admissible on one time basis for setting up the new assembly and/or manufacturing facility of the vehicles and expansion in the existing units to the extent of electric vehicles specific plant and machinery, duly approved/ certified and determined by the Engineering Development Board (EDB).

### 19. AMENDMENT IN EIGHT SCHEDULE

#### Table 1

Deleted entry through the Act:

- Oil cake and other solid residues, whether or not ground or in the form of pellets PCT 2306.1000. Rate of tax 5%. [entry 2]



## SALES TAX ACT, 1990

**Table 2**

A new entry No. 70 has been added through the Act, which consists of the following locally manufactured electric vehicles:

- (i) Road Tractors for semi-trailers (Electric Prime Movers) PCT code 8701.2060, Sale Tax rate 1%,; local supplies only
- (ii) Electric Buses PCT code 8702.4090 Sale Tax rate 1%,; local supplies only
- (iii) Three wheeler electric richshaw PCT code 8703.8030, Sale Tax rate 1%,; local supplies only
- (iv) Three-wheeler electric loader PCT code 8704.9030, Sale Tax rate 1%; local supplies only
- (v) Electric trucks PCT code 8704.9059, Sale Tax rate 1%, local supplies only
- (vi) Electric motorcycle PCT code 8711.6090, Sale Tax rate 1%; local supplies only.

### 20. AMENDMENT IN THE NINTH SCHEDULE

The previous table, proposed through the Bill, has been split into two via the Act, without any changes in the Sales Tax rates. These are as under:

**Table 1**

Sales Tax on supply (payable at the time of supply by CMOs):

S.No.	Description/Specification of Goods	Sales tax on supply (payable at time of supply by CMOs)
1.	Subscriber Identification Module (SIM) Cards	250

**Table 2**

Cellular mobile phones in CKD/CBU form:

S.No.	Description / Specification of Goods	Sales tax on CBUs at the time of import or registration (IMEI number by CMOs)	Sales tax on import CKD/SKD condition	on in	Sales tax on supply of locally manufactured mobile phones in CBU condition in addition to tax under column (4)
1	Cellular mobile phones or satellite phones to be charged on the basis of import value per set, or equivalent value in rupees in case of supply by the manufacturer, at the rate as indicated against each category: -				
	A. Not exceeding US\$ 30 (excluding smart phones)	Rs 130	Rs 10		Rs 10
	B. Not exceeding US\$ 30 (smart phones)	Rs 200	Rs 10		Rs 10
	C. Exceeding US\$ 30 but not exceeding US\$ 100	Rs 200	Rs 10		Rs 10
	D. Exceeding US\$ 100 but not exceeding US\$ 200	Rs 1,680	Rs 10		Rs 10
	E. Exceeding US\$ 200 but not exceeding US\$ 350	Rs 1,740	Rs 1,740		Rs 10
	F. Exceeding US\$ 350 but not exceeding US\$ 500	Rs 5,400	Rs 5,400		Rs 10
	G. Exceeding US\$ 500	Rs 9,270	Rs 9,270		Rs 10

## SALES TAX ACT, 1990

“LIABILITY, PROCEDURE AND CONDITIONS” and note has also been deleted and new clauses have been inserted through the FA 2020. These are as follows:

- (i) The liability to pay the tax on the goods specified in this Schedule shall be:
  - a. In case of the goods specified in Table-I, of the Cellular Mobile Operator (CMO);
  - b. In case of goods specified in columns (3) and (4) of Table-II, of the importer; and
  - c. In case of goods specified in column (1), against S. No. 2, in column (2), -5) of Table-II, of the local manufacturers of the goods.
- (ii) The time of payment of tax due under this Schedule shall be the same as specified in section 6;
- (iii) The tax paid under this Schedule shall not be deductible against category A, the output tax payable by the purchaser or importer of the goods specified in this Schedule;
- (iv) The input tax paid on the input goods attributable to the goods specified in this Schedule shall not be deductible for the tax payable under this Schedule; and
- (v) The Board may prescribe further mode and manner of payment of tax due under this Schedule.

### 21. AMENDMENT IN TENTH SCHEDULE

The Tenth Schedule prescribes the fixed tax rate on bricks in (PCT heading 6901.0000). Now, through the Act, tax on cement/concrete blocks PCT code 6810.1100 has also been added, with no input tax adjustment. This is as follows:

**Table**

S.No.	Item	Tax
1	Paver	Rs 2 per square ft
2	Hollow Block (volume less than 1 cubic ft)	Rs 3 per piece
3	Solid Block (volume less than 1 cubic ft)	Rs 3 per piece
4	Kerb Stone (volume less than 1 cubic ft)	Rs 5 per piece
5	Kerb Stone (volume greater than 1 cubic ft)	Rs 10 per piece

### 22. AMENDMENT IN ELEVENTH SCHEDULE

The Eleventh Schedule pertains to the withholding of taxes by persons or class of persons by a withholding agent. Through the Bill, editorial changes were proposed in the Eleventh Schedule for clarity and restricting lower withholding of sales tax rates to Active taxpayers, instead of registered persons. Now through the Act, supply of sand, stone, gravel/crush and clay to low cost housing schemes sponsored or approved by Naya Pakistan Housing and Development Authority has also been excluded from withholding under the Eleventh Schedule.

### 23. AMENDMENT IN TWELFTH SCHEDULE - VALUE ADDITION TAX ON IMPORT

The Twelfth Schedule lays down rules for minimum value addition tax levied and collected at import stage, from an importer with an exception in case of raw materials and intermediary goods meant for use in an industrial process which are subject to customs duty at a rate less than 16% ad valorem under the First Schedule to the Customs Act, 1969. Now, the Act has given such exemption to all raw materials and intermediary goods imported by a manufacturer for in-house consumption.

**Continued on the next page**

## **FEDERAL EXCISE ACT, 2005**

### **1. ADJUSTMENT OF DUTIES OF EXCISE – SECTION 6**

Section 6 of the FEA lays out provisions for the adjustment of duty paid on goods used directly as input goods for the manufacturer or production of such goods.

The Bill had proposed to empower the FBR to impose restrictions on wastage of material, on which input tax has been claimed. A similar provision was proposed in the STA as well. The Act has opted for the same.

### **2. POWER OF TAX AUTHORITIES TO MODIFY ORDERS, ETC. – SECTION 14C**

Previously, where a taxpayer got relief from a High Court or the Appellate Tribunal regarding any question of law, an anomaly subsisted to the effect that if a Commissioner or an officer preferred an appeal against such an order to the Supreme Court, whether the High Court or Tribunal orders was in field or not, the officers of the Inland Revenue nonetheless went on to proceed against the taxpayer on the ground that the matter has not attained finality before the Supreme Court. In order to resolve this, the Act has now inserted a new 'Section 14C' in the FEA, whereby, if such an order is issued by the High Court or Tribunal on or after 1<sup>st</sup> July 2005, the Commissioner or an officer will follow the said decisions until decision is reversed or modified by the Supreme Court.

In case the decision of the High Court or Tribunal is reversed or modified by Supreme Court, the Commissioner or Officer, may within period of 1 year from date of receipt of such decision, modify the assessment order based on such decision, even after period of the limitation has expired.

**The same amendment has been made in the STA.**

### **3. POWER TO SEIZE – SECTION 26**

This Section pertains to the seizure of cigarettes and beverages manufactured unlawfully and on which duty is not paid. The Act has substituted the section and brought conveyance used for the purpose of producing or manufacturing of such products under the scope of this Section.

### **4. CONFISCATION OF GOODS SUBJECT TO FEDERAL EXCISE DUTY – SECTION 27**

Section 27 pertains to confiscation and destruction of dutiable goods, seized under any fraudulence or forgery. The Act has further clarified this Section by adding "goods subject to federal excise duty" in the heading while substituting the terms "cigarettes, un-manufactured tobacco or beverages with an exhaustive term like "dutiable goods".

### **5. APPEALS TO COMMISSIONER APPEALS – SECTION 33**

The captioned Section pertains to the Appeals made by a registered person towards the Commissioner Appeals, against an aggrieved decision or order passed by any officer of Inland Revenue not above the rank of Additional Commissioner. The Act has inserted two new sub-sections, wherein, it has prescribed the manner in which an appeal has to be filed and the fees of appeal for both where an appellant is a company or a non-company.

### **6. APPEALS TO THE APPELLATE TRIBUNAL – SECTION 34**

The Bill had proposed that the Appellate Tribunal may proceed an appeal, as per the procedures laid down in Sections 131 and 132 of the ITO and their related rules. The Act has concluded the same.

### **7. ALTERNATE DISPUTE RESOLUTION – SECTION 38**

The Act has made some changes in provisions related to ADR. These are as follows:

- The committee previously comprising an officer of the Inland Revenue not below the rank of a Commissioner, should comprise of the Chief Commissioner of the Inland Revenue.
- Previously, the taxpayer was allowed to nominate a person from panel notified by the FBR. Now the FBR will nominate these persons.
- Previously, a retired Judge was also part of the committee. Now they are to be removed.

## **FEDERAL EXCISE ACT, 2005**

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- The FBR shall communicate the order of appointment of committee to the court of law or forum where dispute is pending and the Commissioner.
- Previously, automatic stay of recovery was granted up to the date of decision by committee when application was made to ADR committee. Now stay is to be given by committee on application which may give maximum stay up to 120 days in aggregate.
- If the aggrieved person has not communicated the order of withdrawal to Commissioner within 60 days of the service of decision of the committee, the decision shall not be binding on the Commissioner.

### **8. SELECTION FOR AUDIT BY THE BOARD – SECTION 42B**

The captioned Section lays down provisions for audit selection by the FBR, through a computer ballot. The Bill had proposed that the FBR shall keep the parameters of the Audit selection confidential. The Act has reached the same conclusion.

### **9. AUDIT – SECTION 46**

Section 46 deals with an audit that is to be conducted, by an officer of the Inland Revenue, of the records and documents of any registered person. Finance Act 2018 had inserted a condition, whereby, the audit of a registered person under this Section shall be conducted only once in every three years. The Bill had proposed to omit this sub-section, whereby, the audit can be conducted every year by officer. The Act has followed suit.

### **10. SERVICE OF NOTICES AND OTHER DOCUMENTS – SECTION 47**

Previously, the service of notice, order or requisition was treated as properly served if it was sent through electronic means via email or in the e-folder in case of both public and private companies, irrespective of the fact that they are a resident or other than a resident person. Now through the Act, such provisions are to be applied to all registered persons.

### **11. REAL-TIME ACCESS TO INFORMATION AND DATABASES. – SECTION 47AB**

In order to increase the tax base and to crack on potential tax evasions, the Bill had proposed for the FBR to make arrangements to have real time access to information and database of following for Sales Tax and FED purposes:

- National Database and Registration Authority (NADRA)
- Federal Investigation Agency and Bureau of Emigration and Overseas Employment
- Islamabad Capital Territory and Provincial and Local land record and development authorities.
- Islamabad Capital Territory and Provincial Excise and taxation Departments
- All Electricity suppliers and gas transmission and distribution companies.
- Any other agency, authority, institution, or organization notified by FBR.

The detail from Federal Investigation Agency and Bureau of Emigration and Overseas Employment was related to details of international entry and exit of all persons, and information pertaining to work permits, employment visas and immigration visas.

Now through the Act, the information from both agencies has been restricted to international travel only.

**The same amendment has also been introduced in the ITO.**

## FEDERAL EXCISE ACT, 2005

### 12. AMENDMENT IN FIRST SCHEDULE

Items under First Schedule shall be charged to FED at the specified rates:

Entry No.	Before Bill	Proposed in Bill	After the Act
6a		Caffeinated energy drinks 2202.1010 2202.9900 25% of the retail price.	Deleted
8	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes. 24.02 Sixty-five per cent of retail price.	Cigars, cheroots, cigarillos and cigarettes of tobacco and tobacco substitutes <b>Hundred percent of retail price</b>	Cigarettes of tobacco of tobacco substitutes excluding locally produced cigarettes.  Sixty Five percent of retail price or the rate of duty as prescribed against S. No. 9 whichever is higher
13	Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cements, whether or not colored or in the form of clinkers 25.23 [Two rupees] per kilogram	Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cements, whether or not colored or in the form of clinkers 25.23 [ <b>one rupee and Seventy-Five paisa</b> ] per kilogram	Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cements, whether or not colored or in the form of clinkers 25.23 [ <b>one rupee and Fifty paisa</b> ] per kilogram
8a		<b>E-liquids by whatsoever name called, for electric cigarette kits Respective heading Rupees ten per ml</b>	Concluded the same
8b			Cigars, cheroots, cigarillos of tobacco and tobacco substitutes  Sixty Five percent of retail price or the rate of duty as prescribed against S. No. 9 whichever is higher
55C		<b>Imported double cabin (4x4) pick-up vehicles 8704.2190 8704.3190 25% ad val</b>	Concluded the same
55D		<b>Locally manufactured double cabin (4x4) pickup vehicles 8704.2190 8704.3190 7.5% ad val"; and</b>	Locally manufactured double cabin (4x4) pickup vehicles booked on or before the 30 <sup>th</sup> June 2020 subject to the restriction or conditions specified by the FBR. 8704.2190 8704.3190 7.5% ad val"; and
56	Filter rod for cigarettes 5502.0090 Rupee 0.75 per filter rod	Filter rod for cigarettes 5502.0090 Rupee <b>one</b> per filter rod	Concluded as same

Continued on the next page

## AMENDMENTS IN SINDH SALES TAX ON SERVICES

### ❖ PREAMBLE

No Finance Act was enacted by the Sindh Government for FY 2020. Instead, they issued Notifications through which they made certain amendments to the Sindh Sales Tax on Services Act, 2011 (“SSTSA”) and its related Rules. Our comments on these amendments are as follows:

#### 1. 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 29<sup>th</sup> June 2020, clarified that the said option will be submitted electronically on an e-portal w.e.f. 1<sup>st</sup> July 2020. This option for electronic submission will be valid for the period ending 30<sup>th</sup> June 2021.

#### 2. SRB - SPECIAL PROCEDURE RULE FOR WITHHOLDING TAX

The SRB has, through Notification No. SRB-3-4/18/2020, dated 29<sup>th</sup> June 2020, 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 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 1<sup>st</sup> 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.

#### 3. SRB - SINDH SALE TAX ON SERVICES RULES

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

## AMENDMENTS IN SINDH SALES TAX ON SERVICES

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 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 a 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 outside Pakistan or from a Service provider not having place of business in Sindh i.e. import of service.	the gross amount charged or paid for the service and 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 person(s) receiving or procuring (from a non-resident service provider based in a country outside

## AMENDMENTS IN SINDH SALES TAX ON SERVICES

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 the 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.

### **4. EXTENSION IN DATE OF PAYMENT OF SINDH SALES TAX FOR THE TAX PERIOD MAY 2020**

The SRB had extended the deadline for e deposit of tax, on or before 29<sup>th</sup> June 2020, and e-filing of return on or before 2<sup>nd</sup> July 2020, vide Circular 5 of 2020, dated 23<sup>rd</sup> June 2020.

### **5. SRB - EXEMPT SERVICES OF CABLE TV OPERATORS**

The SRB had 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 27<sup>th</sup> June 2019 with certain conditions such as return filling. 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 31<sup>st</sup> July 2020 with liability for the same period to be deposited by 31<sup>st</sup> 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 31<sup>st</sup> August 2020. These amendments have been made through Notification SRB-3- 4/15/2020, dated 22<sup>nd</sup> June 2020.



## AMENDMENTS IN SINDH SALES TAX ON SERVICES

### 6. SRB- EXTENSION IN EXEMPTION OF HEALTH INSURANCE

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

### 7. SRB - EXTENSION IN EXEMPTION OF LIFE INSURANCE

The SRB has, through Notification SRB-3-4-13/2020, dated 22<sup>nd</sup> June 2020, exempted life insurance 9813.1500, for the period 1<sup>st</sup> July 2019 to 30<sup>th</sup> 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 1<sup>st</sup> day of July, 2019 to the 30<sup>th</sup> June, 2020, are e deposited, by the person providing or rendering such services by the 15<sup>th</sup> day of July, 2020.

### 8. SRB - REDUCE RATES ON SERVICES OF RECRUITING AGENTS

Through Notification no. SRB-3-4/12/2020, dated 22<sup>nd</sup> 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.

### 9. GENERAL CONDONATION OF LIMITATION

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

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## AMENDMENTS IN PUNJAB SALES TAX ON SERVICES

### 1. DEDUCTION AND ADJUSTMENT OF TAX ON INPUTS TO THE BUSINESS – SECTION 16

As per Section 16(1) of the Punjab Sales Tax on Services Act 2012 (“PSTSA”), Punjab sales tax paid as input tax on the receipt of taxable services exclusively used in connection with taxable services the registered taxpayer provides is allowed as adjustment from sales tax liability to be paid to Punjab Revenue Authority (“PRA”) with the condition that the taxpayer holds a true and valid tax invoice **not older than six tax periods**. As per Section 16(2), the PRA is authorized to allow a registered person to also claim adjustment, deduction, or refund in respect of the tax paid under any other law i.e. Federal sales tax or any provincial sales tax, for any taxable service or goods or class of taxable service or goods used in connection with the provision of a taxable service by such person, **on his furnishing a tax invoice or declaration of import of goods in his name which bears his National Tax Number**. There may be a confusion, as to whether there is any time limit for adjustment of invoices in sub section 2, like specifically provided in subsection 1.

To rectify the above, the Punjab Finance Bill 2020 (“PFB”) had proposed, and the Punjab Finance Act 2020 (“PFA”) has thereafter added in sub-section 2 have been amended to clarify that the tax invoices or declaration of import of goods shall not be older than 6 months.

### 2. ADJUSTMENT OF INPUT TAX PAID ON CERTAIN GOODS AND SERVICES – SECTION 16C

Section 16C was inserted through the FA 2017 to provide special provisions for input tax adjustment on fixed assets, whereby, the input tax paid on acquisition of such of the capital goods, machinery and fixed assets as are classified under section XVI, Chapters 84 and 85 of the First Schedule to the Customs Act, 1969 (IV of 1969) shall be adjustable against the output tax in twelve equal monthly installments. This concept is similar to the one that was there in the Federal Sales Tax, in the proviso to Section 8B(1) - that was omitted through the FA 2011 - thereafter allowing whole input

tax adjustment paid on fixed asset in single period. Moreover, as per Federal Sales Tax, the proviso to Section 8B (1), the restriction on the adjustment of input tax in excess of 90% of the output tax shall not apply in case of fixed assets or capital goods.

Now, a similar amendment in terms of wordings has been made in Section 16C of the PSTSA, through both the PFB and PFA, to do away with input adjustment in installments and allow whole input in tax period in which it is paid. However, both the PFB and PFA have imposed restrictions on input tax adjustment in excess of 80% of the output tax for that tax period. The PFB and PFA further empowers PRA, to exclude any person on class of person from this restriction of 80%. This will be partial relieve for cashflow dearth taxpayers in current pandemic.

### 3. REFUNDS – SECTION 16D

The PFB had proposed, and the PFA has now enacted/added a new Section 16D to the PSTSA, to empower the PRA or its authorized officer, to allow a registered person refund of the tax claimed to have been paid through inadvertence, error or misconstruction. However, it is silent for circumstances where incidence of tax has been passed to final consumer.

### 4. DEREGISTRATION – SECTION 29

As per Section 29 the PRA may de-register a registered person or such class of registered persons not required to be registered under the PSTSA. Now, both the PFB and PFA, have given the Commissioner such authority.

### 5. ISSUANCE OF TAX INVOICES – SECTION 30

The PFB had proposed to allow electronic issuance of invoices and to transmit such invoices to PRA in such format and manner as PRA may by notification prescribe. The same has been enacted through the PFA.

### 6. RECORDS – SECTION 31

Section 31(1) of the PSTSA prescribes the record particulars to be maintained by registered person

## AMENDMENTS IN PUNJAB SALES TAX ON SERVICES

providing taxable service. The PFB had proposed to further elaborate the record to be maintained, a brief comparison is presented below for understanding. In our view the record requirement for exempt services will be add hardship for the service providers. The PFA has enacted this proposal.

Before Amendment	After Amendment
(a) Records of taxable service provided indicating:	(a) record of services provided, including exempt services, indicating the description, quantity and value of service, name, registration number and address of the person to whom services were rendered and the amount of tax charged;
i. The description and type of service;	
ii. The value of the service;	
iii. The particulars of the person to whom the service was provided; and	(b) record of goods and services received, including exempt goods and services, indicating description, quantity and value of goods and services, name, address and registration number of the service provider or supplier of goods and the amount of the tax charged;
iv. any other information as may be specified by the Authority;	
(b) Records of exempt service; and	(c) record of goods imported indicating the description, quantity and value of goods and the amount of tax paid on imports;
(c) Such other records as may be specified by the Authority.	(d) double entry accounts;
	(e) bank statements and banking instruments;
	(f) inventory records, utility bills, salary and labor bills, rent deeds and agreements;
	(g) record required to be maintained and the declarations filed under any other law for the time being in force; and
	(h) such other record as may be specified by the Authority

### 7. AUDIT PROCEEDINGS – SECTION 33

In line with the current pandemic situation and to ensure social distancing, the PFA allows the officer to conduct audit proceedings electronically through video links or any other facility as may notified by PRA.

### 8. APPOINTMENT OF AUTHORITIES – SECTION 39

Section 39 enlists the hierarchy of tax officers to be appointed by PRA to fulfill various functions. The PFB had proposed to combine Audit compliance and Risk compliance functions in one officer to be known as “Audit-cum-Risk Compliance Officer”. The same has been enacted by the PFA. This effort may improve risk-based selection and conduct of audit rather than random selection and conduct.

### 9. OBLIGATION TO PRODUCE DOCUMENTS AND PROVIDE INFORMATION – SECTION 57

Section 57 of the PFA empowers officers, not below the rank of an Assistant Commissioner of the PRA to require any taxpayer, any third party or any department to produce for examination, such documents or records which officer consider necessary to audit, inquiry or investigation. The PFB had proposed to empower officer below the rank of Assistant Commissioner also. The PFA has enacted this proposal.

### 10. POWERS OF ADJUDICATION – SECTION 60

Section 60 prescribe the monetary limits of various officer’s ranks to adjudicate cases under the PSTSA. For ease of understanding, the comparison of changes pre-PFB and PFA, and after the enactment of the PFA are presented hereinbelow:

Before Amendment	After Amendment
(a) Additional Commissioner: Cases without any restriction as to the amount of the tax involved or amount erroneously refunded;	(a) Additional Commissioner: Cases without any restriction as to the amount of the tax involved or amount erroneously refunded
(b) Deputy Commissioner: Cases where the amount of the tax involved or the	(b) Assistant Commissioner/Deputy

## AMENDMENTS IN PUNJAB SALES TAX ON SERVICES

amount erroneously refunded, but does not exceed <b>two and a half</b> million rupees;	Commissioner: Cases where the amount of the tax involved does not exceed <b>ten</b> million rupees
(c) Assistant Commissioner: Cases where the amount of the tax involved or the amount erroneously refunded does not exceed <b>one</b> million rupees;	(c) Enforcement Officer/Audit-cum-Risk Compliance Officer: Cases where the amount the tax involved does not exceed <b>five</b> million rupees;

property of the guarantor, person, company, bank or financial institution where a guarantor or any other person, company, bank or financial institution fails to make payment under such guarantee, bond or instrument. However, if taxpayer has preferred an appeal and has deposited 25% of amount, no recovery will be made through attachment of immovable property. The PFB had proposed to reduce the deposit amount for automatic stay to 10%. The same has been accepted by the PFA.

Further, the PFB had proposed to empower the PRA to assign a case to any officer involving any amount to tax involved. The PFA has enacted the same.

### 11. APPEALS – SECTION 63

Under the present scenario of COVID-19 and to facilitate taxpayers the PFB had proposed to allow an appeal to be filed electronically with Commissioner appeals, as may be specified by PRA in a Notification. The PFA has enacted the same.

### 12. APPEAL TO APPELLATE TRIBUNAL – SECTION 66

The PFB had proposed to be extended for filling of appeal by PRA with Tribunal from current 30 days to 60 days. The PFA has enacted this proposal.

### 13. RECOVERY OF ARREARS OF TAX – SECTION 70

Section 70 prescribes various modes of recovery of tax including bank account attachments, property attachments, enforceable rights etc. The PFB had proposed that tax may be recovered by banking company or financial institution from running finance or demand finance facility also. It had further proposed that authority should now be given to the Officer to arrest or cause to arrest a defaulter, and cause his detention in prison for a period not exceeding six months, subject to the condition that the adjudged amount has been upheld/confirmed by the Appellate Tribunal. The PFA has enacted these proposals.

The officer may also recover default amount by attachment and sale of any movable or immovable

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## AMENDMENTS IN PUNJAB SALES TAX ON SERVICES

### 14. SECOND SCHEDULE

The following amendments, mentioned in red and italic, were proposed by the PFB in following tariff headings in Second Schedule of the PSTSA. The same have been enacted through the PFA. These are as follows:

S.No	Description	Classification	Rate of tax	
			Pre PFA 20	Post PFA 20
1.	Hotels, motels, guest houses.	9801.1000	(i) Zero percent without input tax adjustment for non-corporate, non-franchise, non-chain businesses; and only (ii) sixteen percent or others.	(i). Five percent without input tax adjustment for non-corporate, non-franchise, non-chain businesses with less than 20 rooms; and (ii). Sixteen percent for others
	Marriage halls and lawns (by whatever name called) including pandal and shamiana services.	9801.3000	Zero percent without input tax adjustment.	Five percent without input tax adjustment
	Clubs including race clubs and their membership services including services, facilities or advantages, for a subscription or any other amount, to their members.	9801.4000	Sixteen percent.	Sixteen percent.
	Catering services (including all ancillary/allied services such as floral or other decoration, furnishing of space whether or not involving rental of equipment and accessories)	9801.5000	Zero percent without input tax adjustment.	Five percent without input tax adjustment.
7	Services provided in respect of insurance to a policy holder by an insurer, including a re-insurer for: (a) fire insurance; (b) goods insurance; (c) health insurance; (d) life insurance; (e) marine insurance; (f) theft insurance; and (g) Any other insurance. <b>EXCLUDING:</b> (a) marine insurance for export; and (b) Crop insurance.	98.13	i. Zero percent without input tax adjustment for health insurance and life insurance; and ii. Sixteen percent of the gross premium paid, for others.	i. Zero percent without input tax adjustment for health insurance for individuals; and ii. Sixteen percent of the gross premium paid, for others.
11	Services provided by restaurants 5 [including cafes, food (including ice-cream) parlors, coffee houses, coffee shops, deras, food huts, eateries, resorts and similar cooked, prepared or ready-to-eat food service outlets etc]	9801.2000 and 9801.9000	Sixteen percent	i. Five percent without input tax adjustment where payment against services is received through debit or credit cards; and ii. Sixteen percent for others.

## AMENDMENTS IN PUNJAB SALES TAX ON SERVICES

13	Franchise service [including intellectual property rights services and licensing services].	9823.0000, 9839.0000 and respective headings	Sixteen percent	i. Five percent without input tax adjustment for services relating to educational institutions; and ii. Sixteen percent for others.
14	(iii) residential construction projects where the covered area does not exceed 10,000 square feet for a house and 20,000 square feet for an apartment except where construction services are provided to construct more than one house or more than one apartment building; <b>or</b>	9824.0000 and 9814.20000	Zero percent without input tax adjustment	Zero percent without input tax adjustment
15	(i) Services provided by property developers, builders and promoters (including their allied services). <b>Excluding:</b> Actual purchase value or documented cost of land. (ii) Affordable housing services provided under Government sponsored housing programs. <b>Proposed:</b> <b><i>“Services provided by property developers, builders and promoters (including their allied services); Excluding: Affordable housing services provided under Government sponsored housing programs”.</i></b>	9807.0000 and respective subheadings of heading 98.14	(i) Eight percent without input tax adjustment or sixteen percent with input tax adjustment; and (ii) Five percent without input tax adjustment or sixteen percent with input tax adjustment.	Rs.100 per square yard for land development and Rs.50 per square feet for building construction.
18	Services provided for personal care by beauty parlors, salons, clinics, sliming clinics, spas (including saunas, Turkish baths and Jacuzzi) and similar other establishments. <b>EXCLUDING:</b> Services provided in a parlour, salon or clinic where the facility of air-conditioning is not installed or is not available in the premises on any day of the financial year.]	9810.0000 9848.0000 9847.0000 9821.4000, 9821.5000 and 9815.7000 and respective headings	Zero percent without input tax adjustment	(a) Five percent without input tax adjustment where payment against services is received through debit or credit cards; and (b) Sixteen percent for others.
22	Information technology-enabled or information technology based services including software development, software customization, software maintenance, system support, system assembly, system integration, system designing and architecture, system analysis, system development, system operation, system maintenance, system up-gradation and	9815.6000 and respective headings	(i) Zero percent without input tax adjustment for services provided by digital platforms; and (ii) Sixteen percent for others.	Five percent without input tax adjustment

## AMENDMENTS IN PUNJAB SALES TAX ON SERVICES

	modification, data warehousing or management, data entry operations, data migration or transfer, system security or protection, web designing, web development, web hosting, network designing, services relating to enterprise resource or management planning (including marketing of products), development and sale of smart phone applications or games, graphics designing, medical transcription, remote monitoring, telemedicine, insurance claim processing, online retrieval and database access or retrieval service.			
	Services provided by tour operators and travel agents including all their allied services or facilities other than Hajj and Umrah including Ziyarat.	9805.5100 9805.5000 and 9803.9000	Zero percent without input tax adjustment	Five percent without input tax adjustment
26	Manpower recruitment agents 8 [including labor and manpower supplies	9805.6000	Sixteen percent	(a) Five percent without input tax adjustment for services where the value of service is fixed by the Bureau of Emigration and Overseas Employment; and (b) Sixteen percent for others.
32	Services provided by property dealers and realtors.	9806.2000 and 9844.0000	Zero percent without input tax adjustment	Five percent without input tax adjustment
35	Services provided in respect of rent-a-car (including renting of all categories of vehicles meant for transportation of persons).	9819.3000 9819.3000 and respective headings	Zero percent without input tax adjustment	(a) Five percent without input tax adjustment for services provided to end consumers; and (b) Sixteen percent for others.
36	Services provided by car/automobile dealers.	9806.3000 and 9845.0000	Zero percent without input tax adjustment	(a) Sixteen percent for services provided by companies or authorized dealers; and (b) Five percent without input tax adjustment, for others.

## AMENDMENTS IN PUNJAB SALES TAX ON SERVICES

37	Services provided in respect of manufacturing or processing on toll or job basis against processing on conversion charges including industrial and commercial packaging services and similar outsourcing of industrial or commercial processes.	9868.0000 9841.0000 and 9819.1400	Sixteen percent	Five percent without input tax adjustment
40	Brokerage (other than stock) and indenting services including commission agents, under-writers and auctioneers.	9829.0000, 9819.1200, 9819.1100, 9819.1300 and 9819.9100	Sixteen percent	(a) Five percent without input tax adjustment for services provided in respect of agricultural produce; and (b) Sixteen percent for others.
43	Services provided in specified fields such as health care, gym, physical fitness, indoor sports, games, amusement parks, arcades and other recreation facilities and body or sauna massage etc.	9821.1000 and 9821.2000 9821.4000	Zero percent without input tax adjustment	Five percent without input tax adjustment
45	Services provided by cable TV operators.	9819.9000	Zero percent without input tax adjustment	Five percent without input tax adjustment
52	Services provided by accountants (including practicing chartered or cost accountants), auditors, actuaries, tax consultants (by whatever name called), practicing company secretaries, receivers, liquidators, auctioneers and corporate law consultants, whether individual or otherwise.	9815.2000 9815.3000 9850.0000 9851.0000 9855.0000 and respective headings	Sixteen percent	(a) Five percent without input tax adjustment for services relating to accountancy, audit, tax or corporate law consultancy; and (b) Sixteen percent for others.
58	Services provided by photography studios and event or occasion photographers/film-makers <b>EXCLUDING:</b> Non-corporate (individual) photographers operating from small road-side shops declared as such by the Authority.	9819.7000 and respective headings	Sixteen percent	Five percent without input tax adjustment
60	Services provided by skin and laser clinics, cosmetic and plastic surgeons and hair transplant services including consultation services. <b>EXCLUDING:</b> Services provided to acid or burn victims.	9847.0000 and respective headings	Sixteen percent	Five percent without input tax adjustment
63	Parking Services	Respective headings	Sixteen percent.	Five percent without input tax adjustment



## AMENDMENTS IN PUNJAB SALES TAX ON SERVICES

66	Services in respect of treatment of textile, leather but not limited to Dyeing services, Edging and cutting, cloth treating, water proofing, Embroidery, Engraving, Fabric bleaching, Knitting, Leather staining, Leather working, Pre-shrinking, Colour separation services, pattern printing and shoe making services.	Respective headings	Zero percent without input tax adjustment	Five percent without input tax adjustment
67	Apartment house management, real estate management and services of rent collection.	Respective headings	Zero percent without input tax adjustment	Five percent without input tax adjustment
68	(i) Medical consultation/ visit fee exceeding Rs. 1,500 per consultation/ visit of doctors, medical practitioners and medical specialists. (ii) Bed/ room charges of hospitals exceeding Rs. 6000/- per day per bed / room.	9815.1000 and other Respective headings	Zero percent without input tax adjustment	Zero percent without input tax adjustment

### ➤ ADDITION

PFA add following further services (in red and italics if part addition is made) in the list of taxable services.

S.No	Description	Heading	Rate
14.	Construction services and services provided by contractors of building (including water supply, gas supply and sanitary works), roads and bridges, electrical and mechanical works (including air conditioning), horticultural works, multi-discipline works (including turn-key projects) and similar other works but: <b>EXCLUDING:</b> (i) Where the tax is otherwise paid by registered persons as property developers, builders or promoters for building construction; or (ii) Where the construction work is funded under an agreement of foreign grant-in-aid or involves construction of consular buildings; or (iii) Residential construction projects where the covered area does not exceed 10,000 square feet for a house and 20,000 square feet for an apartment except where construction services are provided to construct more than one house or more than one apartment building (iv) <i>Where the construction services are provided to any registered person who is otherwise liable to pay sales tax as a property developer, builder and promoter.</i>	9824.0000 and 9814.20000	Zero percent without input tax adjustment.
69.	Ride-Hailing Services	-	Four percent without input tax adjustment.

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## AMENDMENTS IN KHYBER PAKHTUNKHWA SALES TAX ON SERVICES

### 1. POWERS AND FUNCTIONS OF THE AUTHORITY – SECTION 5 of KPFA.

Section 5 of the Khyber PakhtunKhuwa Finance Act 2013 (“KPFA”) enlists the powers available with KPRA. The KP Finance Bill 2020 (“KPFB”) had proposed to delegate the following powers to the Director General of KPRA:

- To manage, conduct or perform and supervise all day to day or other regular work.
- Exercise quasi-judicial powers in case of suspension of registration, de registration and revision of any orders by officers of KPRA.
- Transfers, postings, delegation, of powers, assignment of duties and functions, changes of jurisdiction or transfers of cases etc.

The KPK Finance Act 2020 (“the 2020 Act”) has enacted the aforesaid proposals.

### 2. APPLICATION OF PRINCIPLES OF ORIGIN AND REVERSE CHARGE IN CERTAIN SITUATIONS – SECTION 20 OF THE KPFA.

The sales tax on services is levied and collected by the respective provincial authorities on the basis of the principle of origin. As per the KPRA and PRA, the sales tax on services is based upon the consumption doctrine, i.e. tax will go to the province where service is consumed, and incidence of tax is borne irrespective of the place of its rendition. As per Section 20(1) of the KPFA, where a person is providing taxable services which originates in a Province other than KPK but the recipient of such services is a resident of KPK and has charged tax accordingly, the person providing such services shall pay the amount of tax so charged to the KPRA.

In case, the enforcement of such principal of origin is difficult due to jurisdiction issues, the law lays down principal of reverse charge whereby the liability of sales tax collection and deposit is on recipient of service and not on service provider. Before Finance Act 2019, where a recipient of taxable service was **registered as a service provider with KPRA** was liable to deduct the whole amount (100%) of tax in

respect of the service received and pay same to KPRA in line with provisions of PRA. Through FA 2019, the amount of deduction is required to be made as per rates mentioned in Khyber Pakhtunkhwa Sales Tax on Service Special Procedure (Withholding) Regulation, 2015 which is same as was previous i.e. 100% for services other than advertisement.

The KPFB had proposed that if the person receiving the service is resident in KPK and service originates outside KPK and the service provider does not discharge its liability according to principal of origin as discussed above, the person receiving service shall be liable to deduct and deposit the tax, even **he is not a registered service** provider with KPRA. The 2020 Act has now enacted this proposal.

### 3. SCOPE OF TAX AND ALLIED MATTERS – SECTION 20 OF THE KPFA.

As per Section 20, only those services are liable to sales tax that are mentioned in the Second Schedule to the Act, viz a viz, only those services are taxable which are specified. The rate of tax is specified in the Second Schedule to the Act, which is generally 15% for most of the services. After Second Schedule, the KPFA lays down principals of application and interpretation inserted by FA 2019, which uses the words ‘standard rate’ in various principals relating to restriction of input, performance of more than one service etc. Further, the newly added Section 26A also states provisions relating to Standard or general tax rate application choice. The KPFB had proposed to **define** standard or general rate used above to be fifteen percent for all purposes of the KPFA. The same has been enacted through the 2020 Act.

A person shall be entitled to deduct from the payable amount, the amount of tax already paid by him on the receipt of taxable services used exclusively in connection with taxable services provided by such person. In normal circumstances, the tax on input is paid to service provider on payment of service invoice, however, in case of reverse charge the input tax is paid directly to KPRA. The KPFB had proposed to add an explanation that the amount paid relating to input tax,

## AMENDMENTS IN KHYBER PAKHTUNKHWA SALES TAX ON SERVICES

directly to government will also qualify for adjustment although it not paid in normal mode of VAT. The said proposal has been enacted by the 2020 Act.

#### 4. STANDARD OR GENERAL TAX RATE APPLICATION CHOICE - SECTION 26A OF THE KPFA

The KPFB had proposed to add a new 'Section 26A', whereby, a registered person is allowed to apply the standard rate of tax after taking permission from KPRA in respect of services which are chargeable to reduced rate under the Second Schedule or any SRO, and can claim input tax adjustment as admissible from date of permission. However, he cannot on his own, switch to the reduced rate unless prior permission is obtained from the KPRA, after inquiry or audit. If a person applying the standard rate switches to a reduced rate and has unadjusted input tax accumulated in books, he will not be adjustable unless the person switch to standard rate again and obtain permission from KPRA for such adjustment. The said proposal has been enacted by the 2020 Act.

#### 5. ASSESSMENT OF TAX - SECTION 40 OF THE KPFA

Section 40 lays down provisions for proceeding of assessment along with penalty and default surcharge, which can be commenced if officer found any short payment of tax paid by registered person. Now, through the KPFB and the 2020 Act, the said Section is amended in such a manner so as to include inadmissible adjustment of input tax as a ground to initiate such proceedings also.

#### 6. REGISTRATION - SECTION 40

In line with the proposed amendments for unregistered persons in Section 20 of the KPFB as withholding agent, the KPFB had proposed to add an explanation, whereby, it was to be clarified that any person who is not a service provider and hence not require to be registered with KPRA, but is liable to act as withholding agent, shall be deemed to be a registered person. Moreover, the Rules regarding registration, enrolment or other obligation or

formalities shall be applicable regardless of his place of residence, business or other activities. The aforesaid proposal has now been enacted through the 2020 Act.

#### 7. INFORMATION DECLARATION OR RETURN - SECTION 55A OF THE KPFA

A new Section 55A is added by virtue of the KPFB and the 2020 Act, whereby, the persons dealing in the provision of exempt services are now under a legal obligation, if KPRA requires so, to regularly file monthly or periodical declarations or returns, and any failure in this regard will invoke **only** penalty provisions with respect to non-filing.

#### 8. PRINCIPLES OF APPLICATION AND INTERPRETATION - SECOND SCHEDULE

Through FA 2019, principals of application and interpretations were added in the Second Schedule. Clause 16 provides that in cases where tax is to be calculated on the basis of fraction, the following formula shall be used. However, the formula was provided after clause 17 which caused confusion. This drafting error has now been corrected, through the KPFB and the 2020 Act, by placing the said formula below Clause 16.

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## AMENDMENTS IN BALOCHISTAN SALES TAX ON SERVICES

*Please note: All the amendments for the purposes of Sales Tax in Balochistan, have been made to the Balochistan Sales Tax on Services 2015 Act, 2015 (Act No Vi of 2015)*

### 1. ISSUANCE OF TAX INVOICES - SECTION 30

The captioned Section pertains to the particulars, manner and procedures applicable in issuing invoices by a registered person, against the services rendered by him. The BRA may allow a registered person, providing a taxable service, to issue invoices to another registered person or other recipient of taxable service, electronically, and transmit images or statements of such invoices to the BRA as well as to the Commissioner. Now, through the Balochistan Finance Act 2020 (“BFA”) the requirement to transmit the invoice electronically to the Commissioner has been omitted.

### 2. RECORDS - SECTION 31

The captioned Section pertains to the record keeping of taxable services rendered by a registered person. The same was very brief with regards to the description of records. Now, the BFA has made certain changes, in so much so, that each detailed record maintained for taxable, as well as exempt services must now be specified.

**A comparative table has been provided below:**

Before Amendment	After Amendment
<p>(a) Records of taxable service provided indicating :-</p> <ol style="list-style-type: none"> <li>i. The description and type of service;</li> <li>ii. The value of the service;</li> <li>iii. The particulars of the person to whom the service was provided; and</li> <li>iv. Any other information as may be specified by the Authority;</li> </ol> <p>(b) Records of exempt service; and</p> <p>(c) Such other records as may be specified by the Authority.</p>	<p>(a) Record of services provided, including <b>exempt services</b>, indicating the description, quantity and value of service, name, registration number and address of the person to whom services were rendered and the amount of tax charged;</p> <p>(b) Record of goods and services received, including <b>exempt</b> goods and services, indicating description, quantity and value of goods and services, name, address and registration number of the service provider or supplier of goods and the amount of the tax charged;</p> <p>(c) Record of goods imported indicating the description, quantity and value of goods and the amount of tax paid on imports.</p> <p>(d) Books of Prime Entry or subsidiary books including Cash Books;</p> <p>(e) Double entry accounts including General Ledger;</p> <p>(f) Annual Audited Financial Statements prepared either on the basis of International Financial Reporting Standards (IFRSs), or International Public Sector Accounting Standards (IPSAS), as the case may be;</p> <p>(g) Bank statements, banking instruments and the related reconciliation statements;</p> <p>(h) Inventory records, utility bills, salary and labor bills, rent deeds and agreements;</p>

## AMENDMENTS IN BALOCHISTAN SALES TAX ON SERVICES

- (i) Record required to be maintained and the declarations filed under any other law for the time being in force; and
- (j) Records of tax invoices and debit credit notes issued by the person;
- (k) Records of tax invoices and debit credit notes received by the person;
- (l) Records of customs documents (goods declaration under Section 30 of the Customs Act, 1969 and its ancillary documents);
- (m) Minutes of various meetings, including minutes of Board meeting(s), the Annual General Meeting (AGM), and the Extra Ordinary General Meeting; and
- (n) Such other records as may be specified by the Authority.

### 3. AUDIT PROCEEDINGS - SECTION 33

This Section pertains to the audit of a registered person, on the basis of his maintained records or his submitted returns. Through the BFA, the documents and records available with agent of the registered person or in any electronic media, can be subject to audit. Moreover, the officer now authorized for conducting audit, can also do so electronically, via any video link or any other facility.

### 4. RETURNS - SECTION 35

Section 35 contains provisions for monthly returns filed with the BRA, by registered taxpayers, against sales in terms of services rendered by them. Now, the manual submission of returns to designated banks or office of BRA have been substituted by online submission.

### 5. OFFENCES AND PENALTIES - SECTION 48

The following penalties have been added through the BFA:

S.No	Offences	Penalties	Section
2A	Where any person fails or refuses to issue a tax invoice as required in sub-rule (1) of rule 29 of the Balochistan Sales Tax on Services Rules, 2018	Rs 20,000 on first default, and Rs 50,000 for each subsequent default.  + business premises sealed on 3 defaults.	General
2B	Where any person either avoids, defies, fails to comply with e invoicing system or Issues Invoices outside the e-invoicing system.	Maximum penalty Rs 100,000 and Minimum penalty Rs 25,000 + business premises sealed on 3 defaults	59A

### 6. SECTION 63 - "APPEALS"

This section deals with situations where a taxpayer is aggrieved by any decision or order passed by any officer of the BRA and needs to file an appeal against such decision or order. An appeal shall be preferred to the

## AMENDMENTS IN BALOCHISTAN SALES TAX ON SERVICES

Commissioner (Appeals) within thirty days of the receipt of the decision or order. Now, by virtue of the BFA, there is no time limit to file an appeal, and an option to file an appeal either manually or electronically has been given to the aggrieved person.

### 7. APPELLATE TRIBUNAL - SECTION 66

The said Section deals with constitution of the legal forum of the Appellate Tribunal. The Appellate Tribunal shall consist of a Chairperson and such other judicial and technical members as are appointed by the Government, having regard to the needs of the Tribunal. The following changes have been made through the BFA:

- The composition of the Appellate Tribunal is being altered to comprise of three members of such number of judicial and technical members as are determined and appointed by the Government having regard to the needs of the Tribunal.
- The Technical member will be the person recommended by a Government Committee, as prescribed in Section 3(4) of Balochistan Revenue Authority Act, 2015. The Technical Member would be a person who is, or has, been a Commissioner of the Balochistan Revenue Authority or Federal Board of Revenue, having at least two years of experience as Commissioner (Appeals). Now, it has been restricted to the Commissioner of BRA having at least two years of experience.
- The Technical Member can now be an Associated Chartered Certified Accountant or Associated Chartered Accountant having at-least three years of experience in taxation.
- The Government is also now empowered to appoint any person as Technical Member for 3 years, who has worked for a minimum of three years (i) in the Federal Board of Revenue or Provincial Excise and Taxation Department or Balochistan Board of Revenue in the rank not below BS20 for five years in aggregate, or (ii) as A Commissioner Inland Revenue (Appeals) under clause (c), subsection (1) of section 30 of the Sales Tax Act 1990, for three years with service of at least five years in BS-20, as an Accountant Member of the Appellate Tribunal.
- The Government shall appoint a member of the Appellate Tribunal as Chairperson of the Appellate Tribunal and, except in special circumstances, the person appointed should be a judicial member. Now, an exception to this rule has been provided, in so much so, in the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the senior most Member of the Tribunal shall act as the Chairperson until the date on which a new Chairperson is appointed to fill such vacancy. Where the Chairperson is unable to discharge his functions owing to an absence, illness or any other cause, the senior most Member of the Tribunal shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties
- The powers and functions of the Appellate Tribunal shall be exercised and discharged by Benches constituted from members of the Tribunal by the Chairperson of the Appellate Tribunal. Now, the manner in which power and functions can be discharged can be prescribed through Rules.
- The Tribunal may dispose of any case where the amount of tax or penalty involved does not exceed PKR 5 Million. Now, it has been clarified that this tax or penalty is:
  - A tax;
  - Input tax credit involved; or
  - The difference in tax or input tax credit involved or the amount of fine, fee, default surcharge or penalty determined in any order appealed against, does not exceed five hundred thousand rupees and **which does not involve any question of law**. The question of law will now only be raised before the High Court.

## AMENDMENTS IN BALOCHISTAN SALES TAX ON SERVICES

- If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority. The majority rule is now also made applicable in cases where the Bench differs equally. However, an anomaly arises here as to how can there be any majority if the Bench is equally divided. The specific procedures in case of equal division of Bench have also been omitted.
- The Government may, from time to time, increase or decrease the number of members of the Appellate Tribunal, by way of a Notification in the official Gazette. Now, this will be done after consultation with the BRA and Finance Department, in accordance with the BFA.
- As per the changes made through the BFA, any act or proceedings of the Appellate Tribunal shall not be questioned, or be invalid, merely on the ground of the existence of any vacancy or defect in the constitution of the Appellate Tribunal.

### 8. MEMBER QUALIFICATION, REMUNERATION AND REMOVAL - SECTION 66A

A new Section 66A has been inserted that relates to the Member's qualification, remuneration and removal. This Section lays down a framework for the Qualification of a person as a member of Appellate Tribunal. The Government would assign remuneration to a selected member. Moreover, no member would be discharged or removed, without being informed of the charges imposed against him and without being the opportunity of being heard.

### 9. RECOVERY OF ARREARS OF TAX - SECTION 72

This Section pertains to the actions performed by the Authority in order to recover tax from defaulters. For the same purpose, the Authority can also make demand on behalf of the taxpayer, from a person who owes the taxpayer any payment under any legally enforceable contract. Now pursuant to the changes made by the BFA, the Authority can make a demand on behalf of any Banking company, which also includes a demand from Finance Facility Defaulters. **Moreover, a relief for the taxpayer is provided by granting an automatic stay of 30 days from the date of order.**

### 10. SECOND SCHEDULE - "TAXABLE SERVICES"

Tariff Classification	Description ( <i>Changes highlighted in red and italics</i> )	Pre-Finance Act 2020	Post Finance Act 2020
9801.2000	Services provided or rendered by restaurants including café, coffee houses, food huts, ice-cream shops and eateries  <i>Explanation: - For the purposes of this tariff heading, the term 'Chainaki Restaurant' means a restaurant, café, coffee house, food hut, ice cream shop and eatery where its monthly electricity consumption is not more than Rs. 7,000 and the number of employees does not exceed two</i>	15%	(i) 'Chainaki Restaurants': - the amount of monthly tax shall be fixed at Rs. 3,000 without input tax credit or adjustment;  (ii) Other restaurants including cafés, coffee houses, food huts, ice cream shops and eateries excluding chainaki restaurants: - 6% without input tax credit or adjustment
9814.2000	Contractor of building (including water supply, gas supply and sanitary works), electrical and mechanical works (including	15%	(i) Rs. 60 per square yard in case the services mentioned are rendered in relation to a

## AMENDMENTS IN BALOCHISTAN SALES TAX ON SERVICES

	<p>air conditioning), multi-disciplinary works (including turn-key projects) and similar other works.</p> <p>Excluding. - Where the construction work is funded under an agreement of foreign grant-in-aid <i>or interest free loans</i> or involves construction of consular buildings.</p> <p><b>Explanation - Notwithstanding the rate of 15% fixed in column 3 (rate of tax), the following reduced rate of 6%, will be applicable, for all services specified at tariff heading 9814.2000 without input tax credit or adjustment to the extent of contracts for which payment is made from the Provincial Consolidated Fund.]</b></p>		<p>residential building / property; and</p> <p>(ii) Rs. 50 per square feet in case the services mentioned are rendered in relation to a commercial building / property.</p>
9814.3000	Property developers or promoters	15%	<p>(i) Rs. 60 per square yard in case the services mentioned are rendered in relation to a residential property; and</p> <p>(ii) Rs. 50 per square feet in case the services mentioned are rendered in relation to a commercial property.</p>
9815.4000	<p>Management consultants.</p> <p><i>“Excluding. - Where the services are rendered and funded under an agreement of foreign grant-in-aid or interest free loan.”;</i></p>	<p>15%</p> <p>[6% without input tax credit / adjustment]</p>	15% (6% without input tax credit / adjustment)
9815.5000	<p>Technical, scientific and engineering consultants.</p> <p><i>“Excluding. - Where the services are rendered and funded under an agreement of foreign grant-in-aid or interest free loan.”;</i></p>	<p>15%</p> <p>[6% without input tax credit / adjustment]</p>	15% (6% without input tax credit / adjustment)
9815.7000	<p>Tax practitioners and consultants.</p> <p><i>“Excluding. - Where the services are rendered and funded under an agreement of foreign grant-in-aid or interest free loan.”;</i></p>	<p>15%</p> <p>[6% without input tax credit / adjustment]</p>	15% (6% without input tax credit / adjustment)
9815.8000	<p>Corporate law practitioners and consultants.</p> <p><i>“Excluding. - Where the services are rendered and funded under an agreement of foreign grant-in-aid or interest free loan.”;</i></p>	<p>15%</p> <p>[6% without input tax credit / adjustment]</p>	15% (6% without input tax credit / adjustment)
9824.0000	<p>Construction services.</p> <p><i>Excluding. - Where the construction work is funded under an agreement of foreign grant-</i></p>	15%	15%



## AMENDMENTS IN BALOCHISTAN SALES TAX ON SERVICES

	<p><i>in-aid or interest free loan or involves construction of consular buildings.</i></p> <p><i>Explanation.- Notwithstanding the rate of 15% fixed in column 3 (rate of tax), the following reduced rate of 6%, will be applicable, for all services specified at tariff heading 9824.0000 without input tax credit or adjustment to the extent of contracts for which payment is made from the Provincial Consolidated Fund.”.</i></p>		
9868.0000	<p>Information and technology based services including software development, software customization, software maintenance, system support, system assembly, system integration, system designing and architecture, system analysis, system development, system operation, system maintenance, system up-gradation and modification, data warehousing or management, data entry operations, data migration or transfer, system security or protection, web designing, web development, web hosting, network designing, services relating to enterprise resource or management planning (including marketing of products), development and sale of smart phone applications or games, graphics designing, medical transcription, remote monitoring, telemedicine, insurance claim processing, online retrieval and database access or retrieval service.</p> <p><i>Explanation. -Notwithstanding the rate of 15% fixed in column 3 (rate of tax), the following reduced rate of 6%, will be applicable, for all services specified at tariff heading 9868.0000 without input tax credit or adjustment.</i></p>	15%	15%

Continued on the next page

## WITHHOLDING CARD 2020-21

### ❖ RATES FOR WITHHOLDING (INCOME) TAX | TAX YEAR 2021 (AS UPDATED VIDE FINANCE ACT 2020)

This Withholding Tax Rates Card is just an effort to have a ready reference and to facilitate all the Stakeholders of Withholding Tax Regime. The original Statute (Income Tax Ordinance, 2001, as amended) shall always prevail in case of any contradiction/error herein. This card shall never be produced as a legal document before any Court of law / legal forum nor, can be used for any statutory proceedings.

SALARY		SEC 149, DIV. I PART I 1ST SCHEDULE
TAXABLE INCOME		Rate of Tax
FROM	TO	
Up to 600,000		0%
600,000	1,200,000	5% on amount exceeding Rs. 600,000
1,200,001	1,800,000	30,000+10% of amount exceeding 1.2 M
1,800,001	2,500,000	90,000+15% of amount exceeding 1.8 M
2,500,001	3,500,000	195,000+17.5% of amount exceeding 2.5 M
3,500,001	5,000,000	370,000+20% of amount exceeding 3.5 M
5,000,001	8,000,000	670,000+22.5% of amount exceeding 5 M
8,000,001	12,000,000	1,345,000+25% of amount exceeding 8 M
12,000,001	30,000,000	2,345,000+27.5% of amount exceeding 12 M
30,000,001	50,000,000	7,295,000+30% of amount exceeding 30 M
50,000,001	75,000,000	13,295,000+32.5% of amount exceeding 50 M
Above 75,000,000		21,420,000+35% of amount exceeding 75 M

Activity/ Nature of Payment	Filer	Non-filer	Regime
<b>IMPORTS [SECTION 148 &amp; PART II FIRST SCHEDULE]</b>			
Persons importing goods classified in Part I of the Twelfth Schedule	1%	2%	The tax collected under this section will be Minimum except for goods 1% or 2% by an industrial undertaking for its own use.
Manufacturers (importing items covered under SRO 1125(I)/2011 dt. 31 Dec' 2011)			
Persons importing goods classified in Part II of the Twelfth Schedule	2%	4%	
Persons importing goods classified in Part III of the Twelfth Schedule	5.5%	11%	
Persons importing finished pharma products, not manufactured locally as certified by the DRAP	4%	8%	
<b>DIVIDEND S 150, 236S, DIV. I PT III 1 ST SCH. &amp; CL. 11B PART IV 2ND SCH</b>			
Dividend from Independent Power Purchasers, being a pass-through item under Implementation/ Power/ Energy Purch. Agreement, required to be reimbursed by CPPA-G	7.5%	15%	Final Tax
Dividend if no tax is payable by the Co. due to exemption, c/f loss, tax credits	25%	50%	
Other cases, including mutual funds & repatriation of after-tax profits by branches of foreign companies	15%	30%	

## WITHHOLDING CARD 2020-21

### INVESTMENT IN SUKUKS | SEC. 150A, DIV. IB PT III 1 ST SCH.

Received by Company	25%	50%	Adjustable
Received by individuals or AOPs and the profit is above Rs. 1M	12.5%	25%	
Received by individuals or AOPs and the profit is up to Rs. 1M	10%	20%	

### PROFIT ON DEBT SECTION 151, DIV. IA PART III 1 ST SCH, Division IIIA

Where yield is up to Rs. 500,000	10%	20%	Minimum except for company
Where yield is above Rs. 500,000	15%	30%	

### PAYMENTS TO NON-RESIDENTS S152, DIV. IV PT. I, DIV. II PT. III 1 ST SCH

Royalty or fee for technical services	15%	30%	Minimum
Fee for offshore digital services		5%	
Contracts or related services		7%	
Insurance or re-insurance premium	5%	10%	
Advertisement services		10%	
Execution of contract by sportsperson	10%	20%	
Other Payments	20%	40%	

### PAYMENTS TO PE OF NON-RESIDENTS S152, DIV. II PT. III 1 ST SCH

For supplies by PE of N/R Companies	4%	8%	Minimum
For supplies by PE of other N/R	4.5%	9%	
For services by PE of N/R Companies	8%	16%	
For services by PE of other N/Resid	10%	20%	
Specified Services : transport services, freight forwarding services, air cargo services, courier services, manpower outsourcing services, hotel services, security guard services, software development services, IT services and IT enabled services as defined in clause (133) of Part I of the Second Schedule, tracking services, advertising services (other than by print or electronic media), share registrar services, engineering services, car rental services, building maintenance services, services rendered by Pakistan Stock Exchange Limited and Pakistan Mercantile Exchange Limited inspection and certification, testing and training services.	3%	6%	
For Other Contractors	7%	14%	

### PAYMENT FOR FOREIGN PRODUCED COMMERCIALS SECTION 152A

Foreign produced commercials	20%	40%	Final
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### SUPPLY OF GOODS| S153(1)(A), DIV. III P III 1ST SCH, CL 24A, 24C P II 2 ND SCH

Sale of rice, cottonseed oil & edible oil	1.5%	3%	Advance Tax for Listed companies and Companies Engaged in Manufacturing.
Sale of cigarettes & pharma products by distributors & Large Import Houses	1%	2%	

## WITHHOLDING CARD 2020-21

Sale of sugar, cement & edible oil by dealers & sub-dealers	0.25%	0.5%	Minimum Tax for other cases. [No deduction of tax where payment is less than Rs. 75,000/- in aggregate during a financial year]
Sale by Corporate FMCG distributors	2%	4%	
Sale of goods by other (non-corporate) FMCG distributors	2.5%	5%	
Sale of other goods including toll manufacturing by companies	4%	8%	
Sale of other goods by AOPs & Ind including toll manufacturing.	4.5%	9%	

### PAYMENTS FOR SERVICES | S 153(1)(B), 153(2), DIV. III & DIV. IV P III 1 ST SCH.

Advertising services (elec. & print media)	1.5%	3%	Minimum Tax  [No deduction of tax where payment is less than Rs 30,000/- in aggregate during a financial year.]
Transport, Freight forwarding, Air cargo services, Courier, Manpower outsourcing, Hotel, Security guard, Software development, IT and IT enabled services [as defined u/c (133) of Pt I of 2nd Sch.], Tracking services, Advertising (other than by print or electronic media), Share registrar services, Engineering services, Car rental, Building maintenance, Services of PSX & PMEL, Inspection, Certification, Testing & Training services, [warehousing services, services rendered by asset management companies, data services provided under license issued by the Pakistan Telecommunication Authority, telecommunication infrastructure (tower) services.	3%	6%	
Companies providing other services	8%	16%	
AOPs & Ind. providing other Services	10%	20%	
Stitching, dyeing, printing, embroidery, washing, sizing & weaving for Exporters	1%	2%	

### EXECUTION OF CONTRACTS | SEC 153(1)(C), DIV III PT III 1 ST SCH

Received by Listed Companies	7%	14%	Advance Tax for Listed companies
Received by Other Companies			
Received by sportspersons	10%	20%	Minimum Tax for other cases.
Received by others	7.5%	15%	

### ROYALTY TO RESIDENT PERSONS | SEC 153B, DIV, IIIB PT III 1 ST SCH

Gross amount of royalty	15%	30%	
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### EXPORTS SEC 154, DIV IV PT III 1 ST SCH, CL 47C PT IV 2ND SCH

Realization of export proceeds	1%	1%	Final
Inland back-to-back LC by exporter on sale of goods under an arrangement prescribed by FBR			
Export of goods by EPZ units			
Payment for a firm contract by direct exporters reg. under DTRE Rules, 2001, to indirect exporters			

## WITHHOLDING CARD 2020-21

Realization of proceeds on account of commission to indenting agent	5%	5%	
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### PROPERTY INCOME/ RENTALS SEC 155, DIV V PT III 1 ST SCH

Where recipient is a company	15%	15%	Advance Tax
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### PRIZES AND WINNINGS S 156

On prize bonds & crossword puzzle	15%	30%	Final
Raffle, lottery, winning quiz & prizes on Final Tax sales promotion schemes	20%	40%	

### PETROLEUM PRODUCTS SEC 156A, DIV VIA PT III 1 ST SCH

Commission/ discount to petrol pump operators on petroleum products	12%	24%	Final
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### CASH WITHDRAWALS FROM BANKS S 231A, DIV VI P IV 1 ST SCH, CL 28B P II 2ND SCH

From PKR accounts against foreign remittances in such accounts	Not Applicable (N/A)		Adjustable
Other cases, if total withdrawal from all accounts is Rs.50,000 in a day	N/A	0.6%	

### TRANSACTIONS IN BANK SEC 231AA, DIV VIA PT IV 1 ST SCH

All payment transactions	N/A	0.6%	Adjustable
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### TAX ON MOTOR VEHICLES S 231B&234, DIV VII, DIV III PT IV 1 ST SCH

Purchase/ transfer of motor vehicles (excluding rickshaw, motorcycle and any other motor vehicle having engine capacity up to 200cc.)	Based on Engine Capacity		Advance Tax
Leasing on Vehicle (based on value)	N/A	4%	Advance Tax

### BROKERAGE & COMMISSION – SEC 233, DIV II PT 1<sup>ST</sup> SCH

Advertising commission	10%	20%	Minimum Tax
Life Ins. Comm. up to Rs. 0.5M p.a.	8%	16%	
Others	12%	24%	

### TAX ON SALE/ PURCHASE IN LIEU OF COMMISSION BY ST. EXCH.

<b>On purchase</b> (This section has been made inapplicable with effect from 1st March 2019 through insertion of sub-section 3 vide Finance Supplementary (Second Amendment) Act, 2019).	U/s 233A, Div. IIA Pt IV 1 <sup>st</sup> Sch.	0.02%	0.04%	Advance Tax
<b>On Sale</b>				

### TAX COLLECTION BY NCCPL FROM STOCK EXCHANGE MEMBERS S233AA

On financing of COT, margin financing, margin trading or securities lending.	10%	Advance Tax
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### CNG STATIONS | SEC 234A, DIV. VIB PT III 1<sup>ST</sup> SCH

## WITHHOLDING CARD 2020-21

On the amount of gas bill	4%	8%	Min. Tax
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### ELECTRICITY CONSUMPTION | S235, DIVIV P IV 1<sup>ST</sup> SCH, CL 66 P IV 2<sup>ND</sup> SCH

Electricity bill of commercial or industrial consumers   Exporters-cum-manufacturers are exempt from this collection.	Various rates	Min. Tax for AOPs & Ind. for Bill Amt. up to Rs. 360K Adv. Tax for other cases
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### DOMESTIC ELECTRICITY CONSUMP. | S 235A, DIVXIX PIV 1<sup>ST</sup> SCH

Monthly bill is below Rs. 75,000	0%	Advance Tax
Monthly bill is Rs. 75,000 and above	7.5%	

### TAX ON STEEL MELTERS, ETC. | SEC 235B, SEC 153(1)

Electricity consumed for producing steel billets, ingots & MS products excluding stainless steel, by steel melters & Composite Steel Units (Registered for Ch XI of Sales Tax Special Procedure Rules, 2007).	Rs. 1 per unit of electricity consumed	Non-Adjustable Tax
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### TELEPHONE USERS | SEC 236, DIV. V PT IV 1<sup>ST</sup> SCH

Mobile phone bills & prepaid cards	12.5%	Advance Tax
Landline bills exceeding Rs. 1,000 Postpaid internet & prepaid net cards	10%	

### SALE BY AUCTION | SEC 236A, DIV. VIII PT IV 1<sup>ST</sup> SCH

Sale of property, goods or lease of right by public auction or tender (in case of immovable property sold by auction, the rate of collection of tax under this section shall be 5%)	10%	20%	Advance Tax in case of tax collected on a lease of right to collect tolls, will be Final Tax
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### DOMESTIC AIR TICKETS SEC 236B, DIV IX PART IV 1<sup>ST</sup> SCH

On routes for Baluchistan coastal belt, AJ&K, FATA, Gilgit-Baltistan & Chitral	Not Applicable	
	5%	Adv. Tax

### SALE/ TRANSFER OF IMMOVABLE PROPERTY | S236C, DVX PIV 1<sup>ST</sup> SCH

To be collected from Seller/ Transferor, where Holding Period is:			Minimum Tax if property is acquired and disposed in the same year.
Up to 5 Years	1%	2%	Advance Tax
Above 5 Years	Minimum Tax Adjustable No Advance Tax.		

### TAX ON SALES TO DISTRIBUTORS, DEALERS & WHOLESALEERS BY MANUFACTURERS & COMMERCIAL IMPORTERS | Sec 236G, Div. XIV Pt IV 1<sup>ST</sup> Sch

On sale of fertilizers	0.7%	1.4%	Advance Tax
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## WITHHOLDING CARD 2020-21

On sale of electronics, sugar, cement, iron & steel products, motorcycles, pesticides, cigarettes, glass, textile, beverages, paint, batteries or foam	0.1%	0.2%	
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### TAX ON SALES TO RETAILERS & WHOLESALERS BY MANUFACTURERS, DISTRIBUTORS, DEALERS, WHOLESALERS & COMMERCIAL IMPORTERS | Sec 236H, Div XV Pt IV 1<sup>ST</sup> SCH

On sale of electronics	1%	2%	Advance Tax
On sale of sugar, cement, iron & steel products, motorcycles, pesticides, cigarettes, glass, textile, beverages, paint, batteries or foam	0.5%	1%	

### TAX ON SALES OF PETROLEUM PRODUCTS | S 236HA, DIVXVA PIV 1<sup>ST</sup> SCH

On supply of petroleum products to a petrol pump operator or distributor.	0.5%	1%	Advance Tax
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### COLLECTION OF TAX BY EDUCATIONAL INSTITUTIONS WHERE FEE EXCEEDS RS. 200,000/- | SEC 236I, DIV XVI PT IV 1<sup>ST</sup> SCH

From The person depositing / paying fee not appearing in ATL	5% of Fee		Advance Tax
From non-residents	Not Applicable		

### PURCHASE OF IMMOVABLE PROPERTY | S236K, DIVXVIII PT IV 1<sup>ST</sup> SCH

On fair market value	1%	2%	Advance Tax
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### INTERNATIONAL AIR TICKETS | SEC 236L, DIV. XX PT IV 1<sup>ST</sup> SCH

First/ executive class	Rs.16,000	Advance Tax
Others, excluding economy	Rs.12,000	
Economy	NIL	

### NON-CASH BANKING TRANSACTIONS | SEC 236P, DIV XXI PT IV 1<sup>ST</sup> SCH

Non-cash payment transactions (all types)	N/A	0.6%	Advance Tax
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### RENT OR PAYMENT FOR RIGHT TO USE MACHINERY & EQUIPMENT | S 236Q, DIV. XXIII PT IV 1<sup>ST</sup> SCH

To be collected for industrial, commercial and scientific equipment & machinery.	10%	Final Tax
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**Note: WHT deduction shall not be applicable in the following cases:**

- a. Agricultural machinery; and
- b. Machinery owned and leased by leasing companies, investment bank, modarabas, scheduled banks or DFIs.

### DIVIDEND IN SPECIE SEC 236S

In the case of dividend paid by Independent Power Purchasers (IPPs)	7.5%	15%	Final Tax
Other than Independent Power Purchasers (IPPs)	15%	30%	

### EXTRACTION OF MINERALS | SEC 236V, DIV XXVI PT IV 1<sup>ST</sup> SCH

To be collected by provincial revenue authority/ board on value of minerals extracted, produced, dispatched & carried away from licensed or leased areas of mines.	5% of the value of minerals	Advance Tax
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## WITHHOLDING CARD 2020-21

### REMITTANCE ABROAD THROUGH CREDIT, DEBIT OR PREPAID CARDS | SEC 236Y, DIVISION XXVII PT IV 1<sup>ST</sup> SCH

Gross amount remitted from abroad.	1%	2%	Advance Tax
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