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# COMMENTS ON AMENDMENTS IN FINANCE BILL 2021

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## **Prologue:**

Finance Bill 2021-22 ("The Bill") for the fiscal year 2021-22 was laid before National Assembly on 11th June 2021. The bill had proposed amendments in Income Tax Ordinance, 2001 ("ITO"), Sales Tax Act, 1990 ("STA"), Federal Excise Act, 2005 ("FEA") among other laws.

Certain Amendments were made through Amended Finance Bill, 2021 which was passed on 29th June 2021, which will take effect from 1st July 2021, unless otherwise indicated. This document consists of our comments on the final changes brought through Finance Amendment Bill, 2021.

We have prepared our comments on Finance Bill, 2021 which may be accessed through Link <https://bit.ly/3hhrMG3>.

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

The interpretations of the amendments are based on our understanding of tax law and past practices. These comments are provided for general use of public and should not be used for any specific transaction. We do not guarantee that these interpretations will be acceptable by the tax department. The comments are prepared for general business understanding of masses. In case of any technical query, kindly contact us.

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

Warm Regards

**TOLA ASSOCIATES**

**Tuesday, 29<sup>th</sup> June 2021**

## AMENDMENTS IN INCOME TAX ORDINANCE, 2001

### 1. DEFINITION OF CONCEALMENT OF INCOME – S. 2(13A), 111

The bill proposes to introduce definition of concealment of income through newly proposed clause (13A) in section 2 of ITO. The term ‘concealment of Income’ is defined to include following:

- i. The suppression of any item of receipt liable to tax in whole or in part, or failure to disclose income chargeable to tax;
- ii. Claiming any deduction or any expenditure not actually incurred; and
- iii. Any act referred to in sub-section (1) of section 111

Section 111(1) provides for following actions invoking section 111:

- i. Any amount is credited in a person’s books of account;
- ii. A person has made any investment or is the owner of any money or valuable article;
- iii. A person has incurred any expenditure; or
- iv. Any person has concealed income or furnished inaccurate particulars of income including –
  - a. the suppression of any production, sales or any amount chargeable to tax; or
  - b. the suppression of any item of receipt liable to tax in whole or in part,

And the person offers no explanation about the nature and source of the amount credited or the investment, money, valuable article, or funds from which the expenditure was made, suppression of any production, sales, any amount chargeable to tax and of any item of receipt liable to tax or the explanation offered by the person is not, in the Commissioner’s opinion satisfactory.

#### ❖ AMENDMENT

**The Amended Finance Bill extends the above definition by including the act of ‘claiming of any income or receipt as exempt which is otherwise taxable’. For example, claiming foreign remittance above threshold as exempt will constitute concealment of income.**

### 2. DISPOSAL OF IMMOVABLE PROPERTY BY A BUSINESS – S. 22

Section 22(13)(d) provides that in case of disposal of immovable property, if consideration received is more than cost of the immovable property, the consideration received shall be treated as cost of property.

The bill proposes to tax the difference between cost and consideration received under section 37 i.e. capital gain on Immovable property.

For example, an immovable property costing Rs. 5 million is disposed of for Rs. 6 million. The difference of Rs. 1 million will be taxed as capital gain under section 37 instead of under business income.

#### ❖ AMENDMENT

**The Amended Finance Bill now withdraws the above proposal, and the difference will not be taxed under section 37.**

### 3. GAIN ON DISPOSAL OF IMMOVABLE PROPERTY – S. 37

Currently, gain on disposal of immovable property is taxed at specified rates on the basis of amount of gain and length of holding period as under:

#### ➤ TAXABILITY OF CAPITAL GAIN ON DISPOSAL OF IMMOVABLE PROPERTY

Taxable Capital Gain	Holding Period
100%	Up to 1 year
75%	Exceeds 1 year and up to 2 years
50%	Exceeds 2 year and up to 3 years
25%	Exceeds 3 year and up to 4 years
0%	Exceeds 4 years

#### ➤ TAX RATES ON CAPITAL GAIN ON DISPOSAL OF IMMOVABLE PROPERTY

Amount of Capital Gain	Rate of Tax
Up to Rs. 5 million	2.5%
Rs. 5,000,001 – Rs. 10,000,000	5%
Rs. 10,000,001 – Rs. 15,000,000	7.5%
Over Rs. 15 million	10%

The bill now proposes that in case gains of disposal of immovable property exceeds Rs. 5 million, the same

## AMENDMENTS IN INCOME TAX ORDINANCE, 2001

will be added in normal income of the persons and will be taxed at normal rates applicable to the person. However, the benefit of holding period as mentioned in above table will be available to the person. Taxable gain upto Rs. 5 million is proposed to be taxed at 5%.

The bill further proposes that in case a person is habitually engaged in sale and purchase of immovable property, income from such transactions will be chargeable under Income from business. A proposed amendment in section 113 also treats receipts from disposal of such immovable properties equal to turnover for the purpose of calculating minimum tax.

### ❖ AMENDMENT

The Amended Finance Bill now has withdrawn the above proposal which means capital gain will continue to be taxed as per situation prior to Finance Bill 2021. The Amended Finance Bill has also introduced increased rates of capital gain on immovable property as under:

Amount of Capital Gain	Rate of Tax
Up to Rs. 5 million	3.5%
Rs. 5,000,001 – Rs. 10,000,000	7.5%
Rs. 10,000,001 – Rs. 15,000,000	10%
Over Rs. 15 million	15%

## 4. UNITS OF EXCHANGE TRADED FUNDS | DEFINITION OF SECURITY | TAX CREDITS – S. 37A, 62

Subsection (3) of section 37A provides definition of securities for the purpose of charging of capital gain under separate block of income.

### ❖ AMENDMENT

The Amended Finance Bill has now also included 'units of exchange traded funds' in the definition of securities.

Moreover, Section 62 provides tax credit at average rate of tax for investment in shares, etc. The Amended Finance Bill now has included 'investment in acquisition of unit of exchange traded fund offered to public and traded of stock exchange in Pakistan' in the list of eligible investments for the purpose of tax credit under section 62.

## 5. DEFINITION OF RESIDENT – S. 82

Finance Act 2019 broadened the definition of a resident person. Finance Act 2019 treated a person who is present in Pakistan for cumulative 120 days during the tax year and has also been present in Pakistan for a cumulative 365 days during preceding 4 years as a resident individual.

### ❖ AMENDMENT

The Amended Finance Bill has now withdrawn the above condition. Now, for the purpose of determining residential status of an individual, number of days of stay in Pakistan will be counted only for current year (i.e., the person will be resident if stays for 183 days or more in Pakistan during the year).

## 6. FILING OF RETURN – S. 114

Section 114 provides a list of persons who are required to file return of income. The Amended Finance Bill now adds in such list 'all persons or classes of persons notified by FBR with the approval of the Minister in-charge'.

## 7. TAXPAYER'S PROFILE – S. 2(10A), 114A, 191

Finance Act 2020, vide insertion of section 114A, introduced 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.

The bill proposed to omit section 114A and withdraw requirement of filing of taxpayer's profile.

The bill also proposed to introduce definition of business bank account to be a bank account utilized by the taxpayer for business transactions. The bank

## AMENDMENTS IN INCOME TAX ORDINANCE, 2001

account is also required to be declared through form under 181 on IRIS portal of FBR.

The bill also proposed non-declaration of business bank accounts, in registration form or updated registration form or return of income or wealth statement, in the list of offences punishable on conviction with a fine or imprisonment for a term not exceeding one year, or both.

### ❖ AMENDMENT

**The Amended Finance Bill has kept all the above proposals. Moreover, the bill only proposed definition and penalty for non-declaration of business bank accounts. The Amended Finance Bill now also has mandated declaration of the business bank accounts through substitution of section 114A.**

### 8. POWER TO COMPOUND OFFENCE | SPECIAL JUDGE – S. 202, 203, 203A, 203B, 203C, 203D, 203E, 203F, 203G, 203H, 203I

The Finance Bill 2021 proposed deletion of sections 202 and 203 and suggested amendments in section 203A besides promulgation of section 203B, 203C, 203D, 203E, 203F, 203G and 203H. Section 202 and 203 relates to powers of chief commissioner to compound an offence with payment of tax including default surcharge and penalty; further appointment of Special Judge [SJ] by the Federal Government for prosecution of offences which are in nature of crime such as false statement in verification; improper use of NTN; making false statements; obstructing tax authorities; etc. on which the Code of Criminal Procedure, 1898 (Act V of 1898) [CCP] is applicable and 203A is related to procedure for filing of appeal against the order of special judge.

The substituted section 203A proposed to empower Assistant Commissioner or any other equal rank officer authorized by the Board, to arrest a person who has committed an offence under the ordinance. The arrests made was proposed to be as per CCP. The section further proposed the Chief Commissioner may compound the offence if such person pays the amount of tax due with default surcharge and penalty. In case of company every director or officer responsible shall

be arrested without absolving the Company from payment of due tax.

### ➤ ARREST OF A PERSON: PROPOSED SECTION 203B

The section 203B proposes to lay down procedure for arrest of a person as follows:

- On arrest the officer shall produce the accused person before SJ within 24 hours;
- The SJ may grant or refuse bail on request of the accused person. Further, SJ may revoke the bail at any time;
- SJ may remand the accused person to officer for maximum of 14 days;
- On inquiry if the accused person not found guilty, the officer may discharge him and bind him to appear before SJ when summoned;
- The officer shall maintain a register called 'Register of Arrests and Detentions' in the prescribed form.

### ➤ SPECIAL JUDGE: PROPOSED SECTIONS 203C, 203D, 203E, 203F, 203G, 203H

The Federal Government may appoint as many SJs as it considers necessary and shall specify the territorial limits where more than one SJs are appointed. The proposed sections have given the SJs following powers:

- The SJs shall take cognizance of offence punishable under the Ordinance;
- The SJs shall have exclusive jurisdiction to try an offence under this Ordinance;
- The SJs shall apply CCP to try an offence under this ordinance unless the CCP does not contradict this Ordinance;
- The proceedings may be transferred from one special judge to another for the purpose of justice and convenience;
- The SJs may conduct proceedings at headquarters or any other place for the purpose of convenience.

### ❖ AMENDMENT

**The Amended Finance Bill has restored sections 202, 203 and 203A and has renumbered proposed sections 203A to 203H as 203B to 203I, respectively with following major amendments.**

- **The arrest of the taxpayer has been made subject to following:**

## AMENDMENTS IN INCOME TAX ORDINANCE, 2001

- There is a material evidence is on record as a result of audit;
- An assessment has been made or amended under section 121 (Best Judgement Assessment) or 122 (Amendment of Assessment);
- The officer records a finding that taxpayer has committed an offence of concealment of income resulting in non-payment of tax of:
  - Rs. 100 million or above in case of filer; and
  - Rs. 25 million or above in case of non-filer; and
- Approval of the committee has been obtained. Committee shall comprise of:
  - Minister of Finance and Revenue;
  - Chairman FBR; and
  - Senior Most Member FBR

### 9. REWARDS AND BENEFITS FOR CERTAIN PERSONS – S. 227BA

#### ❖ AMENDMENT

The Amended Finance Bill has introduced a new section to empower FBR as under:

- To sanction rewards to e-intermediaries for filing of returns of new taxpayers
- To announce, benefits, rebates, tax credits, allowances and any other incentives in cash or otherwise for class or classes of persons, with the approval of Federal Minister in-charge.
- To prescribe the procedure and issue notification with respect to above, with the approval of Federal Minister in-charge.

### 10. ADVANCE TAX ON SALES TO DISTRIBUTORS, DEALERS AND WHOLESALERS – S. 236G

Section 236G provides for collection of advance tax at 0.1% (0.7% and 0.25% for fertilizer) on sale of certain items to distributors, dealers and wholesalers by manufacturers and importers. The bill proposed to add pharmaceuticals, poultry and animal feed, edible oil and ghee, battery, tyres, varnishes, chemicals, cosmetics, and IT equipment in the list of such items.

#### ❖ AMENDMENT

The Amended Finance Bill has approved the above proposed additions and has also added 'auto parts' in the above list.

### 11. ADVANCE TAX ON SALES TO RETAILERS – S. 236H

Section 236H provides for collection of advance tax at 0.5% (1% electronics) on sale of certain items to retailers by manufacturer, distributors, dealers, wholesalers, or commercial importers. The bill now proposes to add pharmaceuticals, poultry and animal feed, edible oil and ghee, battery, tyres, varnishes, chemicals, cosmetics, and IT equipment in the list of such items.

#### ❖ AMENDMENT

The Amended Finance Bill has approved the above proposed additions and has also added 'auto parts' in the above list.

### 12. DIVIDEND RECEIVED FROM REIT – DIV. III, PART I, SCH. I AND DIV. I, PART III, SCH. I

#### ❖ AMENDMENT

The Amended Finance Bill introduces Real Estate Investment Trust ("REIT") in the list of entities, dividend of which are taxed at 15%. The rate of withholding of tax has also been set at 15% accordingly.

### 13. MINIMUM TAX ON FLOUR MILLS – S. 113

The bill proposed the rate of turnover tax to be reduced from 1.5% to 1.25%. A comparison of proposed and existing rates is given below:

S.No	Existing	Rate	Proposed	Rates
1.	(a) Oil Marketing companies, Oil refineries, Sui Southern Gas Company Limited and Sui Northern Gas Pipelines Limited (for the cases	0.75%	(a) Oil marketing companies, Sui Southern Gas Company Limited and Sui Northern Gas Pipelines Limited (for the cases where annual	0.75%





## AMENDMENTS IN INCOME TAX ORDINANCE, 2001

### 14. SPECIFIED SERVICES – S. 153(1)(B) AND DIV.III, PART III, SCH. I

Certain services have been specified which are subject to advance tax deduction at reduced rate of 3%. The bill proposed to add oilfield services, telecommunication services, warehousing services, collateral management services and travel and tour services in the above list of reduced rates.

The bill also proposes to clarify that the reduced tax rates shall be applicable only to a service provider whose services are subjected to withholding tax on gross receipts and the service provider has not agitated taxation of gross receipts before any court of law.

#### ❖ AMENDMENT

**The Amended Finance Bill has approved the above proposals and has also included architectural services in the category of engineering services (which is one of reduced rate services category).**

### 15. WITHHOLDING TAX RATE IN CASE OF CONTRACTS – S. 153(1)(C) AND DIV.III, PART III, SCH. I

Currently, the rate of withholding taxes from payments on account of contracts is 7% in case of companies and 7.5% in case of others.

#### ❖ AMENDMENT

**The Amended Finance Bill has now reduced these rates to 6.5% and 7% in case of companies and others, respectively.**

### 16. PROFIT ON DEBT ON PROVIDENT FUND/PENSION FUND – CLAUSE (22),(23),(23C) PART I, SCH. II

The bill proposed to restrict exemption on withdrawal of amount of profit on debt upto Rs. 500,000 only and proposed to tax excess amounts of profit on debt portion of funds at the rate of 10% as separate block of income.

#### ❖ AMENDMENT

**The Amended Finance Bill has now withdrawn above proposal.**

### 17. CHARITABLE DONATIONS – CLAUSE (66), PART I, SCH. II

Table I of clause (66), Part I of Second Schedule provides a list of entities which are eligible for 100% tax credit under section 100C without any conditions specified in section 100C. The Bill proposed to add following in Table I:

- Islamic Naya Pakistan Certificates Company Limited (INPCCL).
- Abdul Sattar Edhi Foundation.
- Patient’s Aid Foundation.
- Indus Hospital and Health Network.
- Securities and Exchange Commission of Pakistan.
- Dawat-e-Hadiya, Karachi.
- Privatization Commission of Pakistan.
- The Citizens Foundation.
- Sundus Foundation.
- Ali Zaib Foundation
- Fauji Foundation.
- Make a Wish Foundation
- Audit Oversight Board.
- Supreme Court Water Conservation Account.
- Political Parties registered with Election.
- Commission of Pakistan.

The bill also proposed to add ‘political parties registered with election commission of Pakistan’ in Table I,

#### ❖ AMENDMENT

**The Amended Finance Bill now has removed the name of ‘political parties registered with election commission of Pakistan’ and instead has added following:**

- Layton Rahmatullah Benevolent Trust
- Baluchistan Education Endowment Fund (BEEF)
- Saylani Welfare International Trust
- Chiniot Anjuman Islamia.

### 18. FREE MEDICAL TREATMENT BY EMPLOYER TO EMPLOYEE – CLAUSE (139), PART I, SCH. II

Clause (139) provides exemption to free medical treatment by employer to employee. The Bill proposed to withdraw this exemption.

## AMENDMENTS IN INCOME TAX ORDINANCE, 2001

### ❖ AMENDMENT

The Amended Finance Bill has not approved the proposal and the exemption shall be available to salaried individuals.

### 19. EXPENSES BY BUYING HOUSES – CLAUSE (149), PART I, SCH. II

### ❖ AMENDMENT

The Amended Finance Bill has inserted a new clause whereby exemption has been provided to following:

- Any sum remitted to Pakistan through normal banking channels in foreign currency received by an international buying house from its non-resident principal to meet its expenses in Pakistan; and
- Any sum chargeable under the head “salary” received by a person who, not being a citizen of Pakistan is engaged as an expert by an international buying house.

### 20. WITHHOLDING TAX ON OIL TANKER CONTRACTOR SERVICES – CLAUSE (28F), PART II, SCH. II AND CLAUSE (43D), PART IV, SCH. II

Clause (43D) provides that the provisions of clause (a) of sub-section (1) of section 153 shall not apply in case of an oil tanker contractor with effect from 1st July 2008, provided that such contractor pays tax @ 2.5%, on the payments for rendering or providing of carriage services w.e.f. tax year 2012.

The bill proposed to include clause (b) of subsection (1) of section 153 in the exemption. The bill also proposed to increase tax rate from 2.5% to 3.5% to be eligible for exemption under clause (43D).

### ❖ AMENDMENT

The Amended Finance Bill has approved extension of scope of exemption to clause (b) of section 153, however, increase in tax rate from 2.5% to 3.5% has not been approved.

The Amended Finance Bill has introduced a new clause (28F) for application of reduced rate of 2% of withholding tax from payments on account of Oil Tanker Contractors Services under section 153(1)(b) of ITO.

### 21. PROFIT ON DEBT FROM INVESTMENT IN GOVERNMENT SECURITIES – CLAUSE (20), PART III, SCH. II

### ❖ AMENDMENT

The Amended Finance Bill has prescribed a rate of 15% for persons other than Banking and Insurance Companies on profit on debt from investment in Federal Government Securities. The 15% tax shall be final tax on such profit on debt.

### 22. WITHHOLDING TAX ON TRANSMISSION OF ELECTRICITY AND GAS - CLAUSE (46AA), PART III, SCH. II

Clause (46AA) provides a list of persons to whom provisions of section 153 (withholding taxes) do not apply.

### ❖ AMENDMENT

The Amended Finance Bill has now included companies receiving payments for the ‘transmission’ of electricity and gas in addition to companies receiving payment for the ‘supply’ of electricity and gas.

### 23. WITHHOLDING TAX ON IMPORT – CLAUSE (56), PART IV, SCH. II

Clause (56) provides a list of goods on which advance tax at the time of import under section 148 is not applicable. The Bill proposed ‘motor vehicles up to 850cc in CBU condition’ to be added in the list.

### ❖ AMENDMENT

The Amended Finance Bill has now extended the scope of exemption from 850cc to 1000cc.

Moreover, the Amended Finance Bill has also added ‘blind talking mobile phones imported by blind persons’ in the list.

### 24. BUILDERS AND DEVELOPERS – SECTION 100D, ELEVENTH SCHEDULE

Section 100D, read with Eleventh Schedule, provides for fixed tax regime of builders and developers registered under section 100D. The builders and developers are allowed to incorporate profits equal to only 10 time of the taxes paid under this regime while excess profits are liable to be taxed at normal tax rates.

## AMENDMENTS IN INCOME TAX ORDINANCE, 2001

### ❖ AMENDMENT

**The Amended Finance Bill now provides that profits in excess of ten times of taxes paid shall be taxed at flat rate of 20% and will be allowed to be incorporated in books/wealth statement of the builders and developers.**

### 25. SMALL AND MEDIUM ENTERPRISES – 2(59A), 100E, FOURTEENTH SCHEDULE

The bill proposes to define Small and Medium Enterprises to be a person:

- i. Who is engaged in manufacturing; and
- ii. Whose business turnover in a tax year or any preceding tax year does not exceed Rs. 250 million.

Small and Medium enterprise as defined above has also been proposed to be excluded from definition of Small Company. Further provisions and rules have been proposed as under:

- A SME must be registered with FBR on IRIS or with SME Development Authority on its portal SMERP.
- For taxability, SME is categorised into two types:
  - a. Whose turnover is not more than 100 million rupees shall be taxed at 7.5% of taxable income; and
  - b. Whose turnover is more than 100 million rupees but not more than 250 million rupees shall be taxed at 15% of taxable income.
- SME is also given an option to be taxed under FTR with following categories:
  - a. Whose turnover is not more than 100 million rupees shall be taxed at 0.25% of gross turnover; and
  - b. Whose turnover is more than 100 million rupees but not more than 250 million rupees shall be taxed at 0.5% of gross turnover.

The above option may be exercised at the time of filing of return and once exercised cannot be revoked for three years. Further, provisions of section 177 and 214C shall not be applicable.

- If an SME is opting for normal tax regime and its tax payable is below the fixed tax to be paid by

SME under FTR, then FBR may invoke section 214C to pursue audit of that SME.

- All other provisions of the ITO were also proposed to be applicable on SMEs.

### ❖ AMENDMENT

**The Amended Finance Bill approved all above proposals and has prescribed following further rules in addition to rules proposed by Bill:**

- Export proceeds of SMEs shall be subject to final taxation at 0.25% in case turnover does not exceed Rs. 100 million. In case the turnover exceeds Rs. 100 million, the rate will be 0.5%.
- The provisions of section 113 (minimum tax) shall not apply to SMEs.
- The tax deductible under section 153(1)(a) on supply of goods by SMEs shall be adjustable.

### 26. BANKING COMPANIES – SEVENTH SCHEDULE

Rule 6C of Seventh Schedule provides that taxable income arising from additional income earned from additional investment in Federal Government securities shall be taxed at increased rate of 37.5% instead of normal corporate rate of 35%.

### ❖ AMENDMENT

**Amended Finance Bill has restricted the application of rate of 37.5% till 2021 only and have made following rates applicable from tax year 2022 and onwards:**

Asset to Deposit ratio as on last day of the tax year	Tax Rate
Upto 40%	40%
40% to 50%	37.5%
Exceeds 50%	35%

**Besides above amendment, the Amended Finance Bill has made cosmetic changes in rule 7C whereby super tax under section 4B has been made applicable indefinitely, which is already provided in section 4B.**

## AMENDMENTS IN SALES TAX ACT, 1990

### 1. ONLINE MARKET PLACE

Online marketplace was brought into tax net by introducing this concept in ITO 2001 through insertion of definition of online marketplace through Finance Act 2017 in Section 2(38), which means an information technology platform run by e-commerce entity over an electronic network that acts as a facilitator in transactions that occur between a buyer and a seller, and minimum tax under Section 113 and Section 233 of ITO.

The Bill had proposed the sale of goods through online market place to be brought into sales tax net by considering the online market place as supplier in respect of third party sales through their platform. This has been done by inserting Clause (c) in Subsection 3 of Section 3 of Act whereby in case of supply of goods through online marketplace, the person running online marketplace will be liable to pay sales tax whether or not own by him.

#### ❖ AMENDMENT

**This proposal is now deleted in amended finance bill, whereby the liability of to pay sales tax on goods sold through online market place will remain with person who owns the goods.**

**A new entry 8 has also been added through amended finance bill in Eleventh Schedule, whereby online marketplace shall withhold 2% of gross value of supplies from persons other than active taxpayer. However, this entry will be effective from the date notified by FBR.**

### 2. MINIMUM PRODCUTION OF STEEL PRODUCTS

Through FA 2019, the special sales tax regime in case of steel products was replaced and excise duty in sales tax mode @ 17% of 'value of supply' was made applicable subject to a 'minimum duty regime' based on 'production criteria' (as tabulated below), with the condition that annual discharge of duty shall not be less than that payable on the basis of minimum regime.

Product Description	Minimum Production
Steel Billets and ingots	One metric ton per 700 kwh of electricity consumed
Steel bars and other re-rolled long profiles of steel	One metric ton per 110 kwh of electricity consumed
Ship plates and other re-rollable scrap	85% of the weight of the vessel imported for breaking

It has also been provided that in case the duty worked out on the basis of 'minimum duty regime' is in excess of the actual liability, the excess amount shall not be refundable.

FED in sales tax mode was levied to counter the alleged misuse of sales tax exemption (as provided in Constitution) by Tribal areas of FATA/PATA

#### ❖ AMENDMENT

**The bill had proposed to remove steel products from FED and include it under sales tax normal regime. Now through amended finance bill, an amendment has been made in Section 3 and new Thirteenth Schedule is added, whereby the Minimum Tax Regime based on production criteria, as was under FED, is now applicable on steel products in sales tax.**

### 3. TIER-1 RETAILERS

The retailers falling under category of Tier-1 are liable to get registered a charged sales tax @17% on their supplies and all the provisions of STA applies on them including liability to get their point of sales terminals connected with FBR. Retailers other than Tier-1 discharge their sales tax liability through their monthly electricity bills, at the rate of five per cent where the monthly bill amount does not exceed rupees twenty thousand and at the rate of seven and half per cent where the monthly bill amount exceeds the aforesaid amount and are not subject to audit and other provisions of STA. Tier-1 retailer conditions is provided in STA as follows in Section 2(43A) of STA:

- A retailer operating as a unit of a national or international chain of stores;
- A retailer operating in an air-conditioned shopping mall, plaza or centre, excluding kiosks;
- A retailer whose cumulative electricity bill during the immediately preceding twelve consecutive months exceeds Rupees twelve hundred thousand;

## AMENDMENTS IN SALES TAX ACT, 1990

- (d) A wholesaler-cum-retailer, engaged in bulk import and supply of consumer goods on wholesale basis to the retailers as well as on retail basis to the general body of the consumers;
- (e) A retailer whose shop measures one thousand square feet in area or more; and
- (f) Any other person or class of persons as prescribed by the Board.

As a relief measure, the bill proposes to increase the threshold of shop area in case of furniture outlet/showrooms to be increased from 1000 sq feet to 2000 sq feet for inclusion in Tier-1 retailer.

The Bill further had proposed to include following in Tier-1 category:

- A retailer operating an online marketplace supplying goods through e-commerce platform, whether or not the goods are owned by him.
- A retailer who has acquired point of sale for accepting payment through debit or credit cards form banking companies or any other digital payment service provider authorized by State Bank of Pakistan.

### ❖ AMENDMENT

**Now through amended finance bill, the proposal to add a retailer operating an online marketplace supplying goods through e-commerce platform in Tier-1 category has been withdrawn.**

### 4. RESTRICTIONS ON INPUT TAX ADJUSTMENT

As per Section 8B of STA, a restriction is in place whereby a registered person shall not be allowed to adjust input tax in excess of ninety per cent of the output tax for that tax period. The FBR is given power to issue SRO to exclude any person or class of person from this restriction and in this regard SRO 1190(I)/2019 dated 2nd October 2019 was issued.

Through FA 2019, all Tier-1 retailers have been required to integrate their retail outlets with Board's computerized system for real-time reporting of sales from such date and in such mode and manner, as prescribed by the Board. Further, FA 2019 provided that in case a Tier-1 retailer does not integrate his retail outlet in the prescribed manner, during a tax

period or part thereof, the adjustable input tax for whole of that tax period shall be reduced by 15%.

### ❖ AMENDMENT

**Now, through amended finance bill the disallowance of 15% has been increased to 60%.**

### 5. COMMON IDENTIFIER NUMBER

Under Income Tax Ordinance, 2001 and Income Tax Rules, 2002, individuals having Computerized National Identity Card (CNIC) issued by the National Database and Registration Authority, CNIC number being used as Tax Identification National Tax Number or Registration Number. A company and an association of persons (AOP) are assigned a National Tax Number or Registration Number when they e-enroll on the FBR Iris portal. In case of individuals, 13 digits Computerized National Identity Card (CNIC) number will be used as NTN or Registration Number and used as main identification number in notices issued and assessments made under ITO.

As a step towards integration between various portals used by FBR into one portal and an initiative for ease of business, the concept of Common Identifier Number is proposed by bill by inserting a new Section 21B whereby from 1st July 2021 and onwards, in the case of individual, having Computerized National Identity Card (CNIC) issued by the National Database and Registration Authority, registered or liable to be registered as per Section 14 of Act, CNIC shall be common identifier number in addition to sales tax registration number (STRN). From the tax period July 2021 and onwards, in case of an association of persons (AOP) or company, having National Tax Number (NTN), registered or liable to be registered under Section 14, NTN shall be common identifier number, whereby CNIC in case of individuals and NTN in other cases shall be primarily used as identifier in sales tax assessment proceedings and notices also.

### ❖ AMENDMENT

**This proposal has been withdrawn in amended finance bill.**

## AMENDMENTS IN SALES TAX ACT, 1990

### 6. FIFTH SCHEDULE- ZERO RATING

Through amended finance bill, the following entries are added in Fifth Schedule (zero rated):

16	Milk (PCT Heading 04.01)
17	Fat filled milk excluding that sold in retail packing under a brand name or a trademark (PCT heading 1901.9090)
18	<p>(i) Supply, repair or maintenance of any ship which is neither;</p> <p>(a) A ship of gross tonnage of less than 15 LDT; nor</p> <p>(b) A ship designed or adapted for use for recreation or pleasure.</p> <p>(ii) Supply of spare parts and equipment for ships falling under (i) above.</p> <p>(iii) Supply of equipment and machinery for salvage, or towage services.</p> <p>(iv) Supply of equipment and machinery for other services provided for the handling of ships in a port.</p>

### 7. SIXTH SCHEDULE

The various exemptions on import and supplies were proposed to be withdrawn, however, through amended finance bill, following entries no. 11, 19 & 84 are now again restored in Table-1 of Sixth Schedule.

#### ➤ TABLE -1 (IMPORT AND SUPPLIES)

Serial No	Description	Tariff Heading
11	Eggs including eggs for hatching	0407.1100, 0407.1900 and 0407.2100, 0407.2900
19	Cereals and products of milling industry, excluding the products of milling industry, other than wheat and meslin flour, as sold in retail packing bearing brand name or a trademark.	1001.1000, 1001.9000, 1002.0000, 1003.0000, 1004.0000, 1005.1000, 1005.9000, 1006.1090, 1006.2000, 1006.3010, 1006.3090, 1006.4000, 1007.0000, 1008.1000, 1008.2000, 1008.3000, 1008.9000, 1101.0010, 1101.0020, 1102.2000, 1102.9000, 1103.1100, 1103.1300, 1103.1900, 1104.2200, 1104.2300, 1104.2900 and 1104.3000
84	Preparations suitable for infants, put up for retail sale	1901.1

Further amended finance bill has removed entry 73 (Milk 01.01) from Table-1 Sixth Schedule.

#### 7.1. THE FOLLOWING AMENDMENTS IN TABLE-1 OF SIXTH SCHEDULE ARE MADE THROUGH AMENDED FINANCE BILL:

- In restored entry 19 (Cereals and products of milling industry) **the products of milling industry, other than wheat and meslin flour, as sold in retail packing bearing brand name or a trademark have also been included** making supply of same exempt.
- In entry 133 Pesticides and their active ingredients registered by the Department, white spirit 2710.1240 and Solvent Oil 2710.1250 has also been added. Therefore, supply of same will be exempt from sales tax.

#### 7.2. TABLE 2 (LOCAL SUPPLIES)

Through bill, following items were inserted in Table-2 whereby their import was made taxable whereas local supplies were proposed to be exempt. Now through amended finance bill now their exemption on import is restored.

- eggs including eggs for hatching (0407.1100, 0407.1900 0407.2100 and 0407.2900)
- Cereals and products of milling industry excluding the products of milling industry, other than wheat and meslin flour, as sold in retail packing bearing brand name or a trademark.
- preparations suitable for infants, put up for retail sales 1901.1000

Through bill, Fat filled milk excluding that sold in retail packing under a brand name or a trademark was inserted in Table-2 whereby their import was made taxable whereas local supplies were proposed to be exempt. Now through amended finance bill, this has been added in Fifth Schedule making their supply zero rated.

Moreover, amended finance bill, has deleted following from Sixth Schedule making them taxable at standard rate of 17%.

## AMENDMENTS IN SALES TAX ACT, 1990

Serial No	Description	Tariff Heading
18	Supplies made by manufacturers of marble and granite having annual turnover less than five million rupees even if their annual utility bill is more than eight hundred thousand rupees	Respective headings
20	Crushed stone (up to 30th June, 2018)	2517.1000

**A new entry 8 has also been added through amended finance bill, whereby online marketplace shall withhold 2% of gross value of supplies from persons other than active taxpayer. However, this entry will be effective from the date notified by FBR.**

### 7.3. TABLE 3

Through amended finance bill, new entry is included in Table-3 of Sixth Schedule as follows making these items exempt from sales tax:

Serial No	Description	Tariff Heading & Conditions
21	Import of POS machines	8470.2900, 8470.9000  POS machines imported for installation on retail outlets as are integrated with the Board's computerized system for real time reporting of sales.

## 8. ELEVENTH SCHEDULE

The eleventh schedule was introduced in Finance Act 2019 whereby the rates of withholding of sales tax were specified for each category of supplier. Through the bill, a new entry 7 had been proposed whereby registered persons manufacturing lead batteries shall withholding whole of sales tax applicable while making payments to persons supplying reclaimed lead or used lead batteries mainly represents un-documented sector.

### ❖ AMENDMENT

**Now through amended finance bill, registered persons manufacturing lead batteries shall withhold 75% of the sales tax applicable when making payments to persons supplying any kind of lead under chapter 78 (PCT Heading; 7801.1000, 7801.9100.**

**Continue from next page**



## AMENDMENTS IN SALES TAX ACT, 1990

### 9. THE EIGHTH SCHEDULE

The following entries were proposed to be omitted vide Finance Bill which have been restored through Amended Finance Bill:

S No	Description	Heading Nos. of the First Schedule to the Customs Act, 1969 (IV of 1969)	Rate of Sales Tax	Condition
6	Plant and machinery not manufactured locally and having no compatible local substitutes	Respective Headings	10%	<p>(i) On import of such plant and machinery by registered manufacturers, postdated cheque(s) equal to the differential amount of sales tax payable at import stage, shall be submitted to the customs authorities, which shall be returned on furnishing proof of filing of first sales tax return after import of such machinery, showing the import of such machinery;</p> <p>(ii) On import by commercial importers good-for-payment cheque, bank guarantee, pay order or treasury challan showing deposit, equal to the differential amount of sales tax payable at import stage, shall be submitted to the customs authorities, which shall be returned back, or as the case may be, refunded, after evidence of subsequent supply to registered manufacturers or industrial users is furnished to the customs authorities;</p> <p>(iii) Supply of such imported plant and machinery by commercial importers to unregistered persons or persons other than manufacturers shall be liable to standard rate of tax, and evidence to that effect shall be produced to the customs authorities for release of the abovementioned instruments or refund of the amount paid at import stage;</p> <p>(iv) Subsequent supply of plant and machinery imported or acquired by registered manufacturers to unregistered persons or persons other than manufacturers shall be liable to tax at standard rate; and</p> <p>(v) the validity period of instruments furnished under this provision shall not be less than one hundred and twenty days.</p> <p><i>Explanation.--</i> For the purpose of this provision, plant and machinery means such plant and machinery as is used in the manufacture or production of goods.</p>
7	Flavoured milk	0402.9900	10%	Sold in retail packing under a brand name
8	Yogurt	0403.1000	10%	Sold in retail packing under a brand name
9	Cheese	0406.1010	10%	Sold in retail packing under a brand name
10	Butter	0405.1000	10%	Sold in retail packing under a brand name

## AMENDMENTS IN SALES TAX ACT, 1990

<b>11</b>	Cream	04.01 and 04.02	10%	Sold in retail packing under a brand name
<b>14</b>	Milk and cream, concentrated or containing added sugar or other sweetening matter	0402.1000 and 0402.2000	10%	Sold in retail packing under a brand name
<b>15</b>	Ingredients of poultry feed, cattle feed, except soya bean meal of PCT heading 2304.0000 and oilcake of cottonseed falling under PCT heading 2306.1000	<p>2301.2090 (Meat and Bone Meal), 2305.0000, 2306.2000, 2306.4100, 2306.5000, 2309.9010, 2309.9020, 2309.9090, 2936.2100, 2936.2200, 2936.2300, 2936.2400, 2936.2500, 2936.2600, 2936.2700, 2936.2800, and 2306.4900 2308.9000 (Guar Meal), 2303.1000 (Corn Gluton Feed/Meal) 2303.1000 (Residues of starch manufacture and similar residues), 3507.9000 (Enzymesother), 2302.1000 (Maize Bran), 2302.2000 (Rice Bran), 2302.3000 (Wheat Bran), 2302.4000 (Other Cereals), 2302.5000 (Bran of Leguminous Plants), 2306.7000 (Oil- cake and other solid residues of Maize (corn) germ), 2306.4900, 2306.9000 (Sesame Meal/other Meal), 2842.1000 (Double or Complex silicates, including Aluminosilicates whether or not chemically defined), 1[2301.2090] (Fish Meal), 0505.9000</p>	10%	

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		(Poultry by Product Meal), and the following items only of Feed Grade: 2827.6000 (Potassium Lodide), 2833.2990 (Manganese Sulphate), 1[2833.2940](Zinc Sulphate), 2817.4000 (Zinc Oxide), 2833.2500 (Copper Sulphate), 2833.2910 (Ferrous Sulphate), 2915.5000 (Propionic acid, its salts and esters), 2930.4000 (DL Methionine) 2930.4000 (Methionine Hydroxy Analogue (liquid)), 2922.4100 (Lysine Monohydro Chloride /sulphate), 2923.2000 (Lecithins), 2[2923.9010 (Betaine)], 2922.4290 (Arganine), 2934.9910 (Furazolidone), 2922.5000 (Threonine), 2835.2600 (Mono Calcium Phosphate) 2835.2500 (Di Calcium Phosphate) and 2835.2600 (Mono Di Calcium Phosphate)		
<b>29.(i)</b>	Harvesting, threshing and storage equipment:		5%	
<b>(ii)</b>	Wheat thresher	8433.5200		
<b>(iii)</b>	Maize or groundnut thresher or sheller	8433.5200		
<b>(iv)</b>	Groundnut digger	8433.5900		
<b>(v)</b>	Potato digger or harvester	8433.5300		
<b>(vi)</b>	Sunflower thresher	8433.5200		
<b>(vii)</b>	Post hole digger	8433.5900		
<b>(viii)</b>	Straw balers	8433.4000		
<b>(ix)</b>	Fodder rake	8433.5900		
<b>(x)</b>	Wheat or rice reaper	8433.5900		
<b>(xi)</b>	Chaff or fodder cutter	8433.5900		
<b>(xii)</b>	Cotton picker	8433.5900		
<b>(xiii)</b>	Onion or garlic harvester	8433.5200		
<b>(xiv)</b>	Sugar harvester	8433.5200		
<b>(xv)</b>	Tractor trolley or forage wagon	8716.8090		
<b>(xvi)</b>	Reaping machines	8433.5900		
<b>(xvii)</b>	Combined harvesters	8433.5100		
<b>(xviii)</b>	Pruner/shears	8433.5900		

## AMENDMENTS IN SALES TAX ACT, 1990

45	Following machinery for poultry sector :	8436.1000	7%	Import and supply
	(i) Machinery for preparing feeding stuff			
	(ii) Incubators, brooders and other poultry equipment	8436.2100 and 8436.2900	7%	
	(iii) Insulated sandwich panels	Respective heading	7%	
	(iv) Poultry sheds	9406.1020 and 9406.9020	7%	
	(v) Evaporative air cooling system	8479.6000	7%	
	(vi) Evaporative cooling pad	8479.9010	7%	
60	Fat filled milk	1901.9090	10%	If sold in retail packing under a brand name or trademark
61	Silver, in unworked condition	7106.1000, 7106.9110 and 7106.9190	1%	
62	Gold, in unworked condition	7108.1100, 7108.1210 and 7108.1290	1%	
63	Articles of jewellery, or parts thereof, of precious metal or of metal clad with precious metal.	71.13	1.5% of value of gold, plus 0.5% of value of diamond, used therein, plus 3% of making charges	No input tax adjustment to be allowed except of the tax paid on the gold

- The bill proposed supply of Locally manufactured or assembled motorcars of cylinder capacity up to 850cc to be charged at 12.5%. The Amended Finance Bill has now extended the scope of reduced rate up to 1000cc.
- In restored Serial no. 63 above (Articles of jewellery, or parts thereof, of precious metal or of metal clad with precious metal, 71.13) the rate of tax was proposed at 1.5% of value of gold, plus 0.5% of value of diamond, used therein, plus 3% of making charges. The amended finance bill has increased rate from 0.5% of value of diamond to 2%.
- Through amended finance bill, Wheat Bran (2302.3000) have been omitted from Eighth Schedule (reduced rate of 10%) and have now been made taxable at standard rate of 17%.
- In entry no. 66, Supplies as made from retail outlets as are integrated with Board's computerized system for real-time reporting of sales, in case of supplied goods are finished fabric, and locally manufactured finished articles of textile and textile made-ups and leather and artificial leather subject to the condition that they have maintained 4% value addition during the last six months, the rate of tax is 12% which is now reduced to 10% in amended finance bill.
- A new entry 74 is added through amended finance bill, whereby, goods supplied from tax-exempt areas of erstwhile FATA/PATA to the taxable areas (Respective Headings) shall be chargeable @16%.

## AMENDMENTS IN FEDERAL EXCISE ACT, 2005

### 1. FIRST SCHEDULE

As per Section 3 of FED Act provides that all goods and services are subject to FED at general rate of 15% except those specified in 1st Schedule on which FED shall be charged on specified rates. However, Section 16 provides that all goods and services are exempt except goods and services specified in 1st Schedule. whereby FED is applicable only on goods and services specified in 1st Schedule whereas sales tax is chargeable on all goods unless specifically exempted under Sixth Schedule.

In Table-1, It was proposed vide Finance Bill to withdraw excise duty payable on:

- Import and local manufacturing of electric vehicles (4 wheelers) till 30th day of June 2026;
- Local manufacturing of vehicles of cylinder capacity of up to 850cc

#### ❖ AMENDMENT

**Now through amendment in finance bill, the proposal to abolish duty on local manufacturing of vehicles of cylinder capacity up to 850cc has been withdrawn.**

**Moreover, through amendment in finance bill the following reduction in FED has been made:**

- a) Of cylinder capacity up to 1000cc = 2.5% to 0%
- b) Of cylinder capacity from 1001cc to 2000cc = 5% to 2.5%
- c) Of cylinder capacity 2001cc and above = 7.5% to 5%

### 2. IN TABLE - 2 (SERVICES),

(FED chargeable only where no provincial sales tax is promulgated and effectively applicable only in Islamabad Capital Territory) the bill proposed to charge duty on following telecommunication services:

- a) Mobile phone call, if call duration exceeds three minutes = One rupee per call in addition to the rates of duty specified under Serial No.6
- b) Internet Services = Five rupees per GB in addition to the rates of duty specified under Serial No.6
- c) SMS services = Ten paisa per SMS in addition to the rates of duty specified under serial no.6

#### ❖ AMENDMENT

**Now through Amended Finance Bill, the proposal to add FED on above has been withdrawn, except Mobile phone call. The Amended Finance Bill has levied additional FED at the rate of 75 paisa per call exceeding five minutes.**

**The Amended Finance bill has omitted Fourth Schedule, (Minimum Production) for steel sector which is now included in Thirteenth Schedule of Sales Tax.**



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