



COMMENTS ON FINANCE BILL

2021-22

BUDGET 2021-22

[ZENITH OF OPTIMISM]



- AMBITIOUS TAX TARGETS
- ECONOMICS GROWTH
- SMOOTH SAILING WITH IMF
- CONTROLLED FISCAL DEFICIT
- ENHANCED FOREX RESERVES



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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 has proposed amendments in Income Tax Ordinance, 2001 ("ITO"), Sales Tax Act, 1990 ("STA"), Federal Excise Act, 2005 ("FEA") among other laws.

We have prepared our comments on significant amendments proposed in ITO, STA & FEA. The comments presented are brief and detailed comments will follow after passage of the bill in the National Assembly along with passage of Provincial Finance Bills in respective Provincial Assemblies.

The amendments made through Tax Laws (Amendment) Ordinance, 2021 and Tax Laws (Second Amendment) Ordinance, 2021 are also proposed to be incorporated in ITO, STA & FEA through the bill, we have not covered these amendments in this commentary, for detail comments please click the following links:

1. <https://bit.ly/35jYRLD> (**Annexure A**)
2. <https://bit.ly/2TWc6jj> (**Annexure B**)

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

Saturday, 12th June 2021

BUDGET BRIEF

The Federal Government has announced Budget for the year 2021-22, emphasizing on 'expansionary fiscal policy' despite high fiscal deficit, aimed to achieve balance between countering pandemic third wave and moving towards robust growth. As per government, inclusive and sustainable budget announced to bring back economy on track. Pakistan's GDP growth likely to be expanded to 3.94% as per provisional estimates 2020-21 coming out of worst recessionary situation of 2019-20 due to some relief in policy rate and vaccination derive. Our comments on Economic overview can be downloaded by clicking "<https://bit.ly/3ijpguD>".

The key highlights of the Federal Budget 2021-22 are as under;

➤ KEY HIGHLIGHTS:

- The total outlay of the Federal budget 2021-22 is Rs.8.5 trillion which is 15% more than the size of the budget (revised) estimates 2020-21.
- The projected interest payment in the budget is estimated at Rs.3,060 billion, which is 7% higher than the figures of Rs. 2,851 billion in (revised) budget 2020-21.
- Current expenditure of the country is estimated at Rs. 7,524 billion vs. Rs.6,561 billion a year ago.
- The total federal expenditure is estimated at Rs. 8,488 billion (Current Expenditure plus Development expenditure)
- The current expenditure accounts 88.64% of the total estimated expenditures which is substantial growth.
- Defence budget is estimated at Rs. 1,370 billion which is 6% higher than the revised figures of Rs.1,295 billion last year.
- Federal Government will increase subsidies by Rs. 252 billion from Rs.430 billion in revised estimates 2020-21 to Rs. 682 billion in 2021-22 mainly in power sector, which will fuel inflation.
- Provincial share in NFC is estimated at Rs. 3,412 billion.
- The size of the PSDP is estimated at Rs. 2,135 billion, which includes Federal PSDP Rs.900 billion and provincial PSDP is estimated at Rs. 1235 billion.
- Federal Government has projected 24% growth in the FBR's tax revenue from current year projected figures of Rs.4,691 billion.
- With the projected GDP growth is 4.8% and inflation of 8% during 2021-22, FBR's projected tax revenues growth by 24% seems unrealistic.
- With inherent situation of a parallel base economic structure and tough condition of IMF, FBR's tax revenue would be around Rs. 5.3 to 5.5 trillion, would hanging sword further widen the tax gap and increase in fiscal deficit.
- The Finance Bill, according to our estimates, proposes additional revenue measures worth PKR 225 to 250 billion. The balance of PKR 280 billion can only be achieve if government will take drastic administrative measures and taxing the income where insignificant taxes are being collected.

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BUDGET BRIEF

➤ BUDGET AT A GLANCE 2021-22

(Rs. In Billion)				
	Budget 2021-22	Revised budget 2020-21	Difference	Growth %
FBR	5,829	4691	1,138	24%
Non Tax Revenue	2,080	1,704	376	22%
Gross Revenue Receipts	7,909	6,395	1,514	24%
Less: Transfer to Provinces	3,412	2,704	708	26%
Net Revenue Receipts - Federal Share	4,497	3,691	806	22%
Expenditure				
Current	7,524	6,561	963	15%
Domestic Debt	2,757	2,611	146	6%
Foreign Debt	302	240	62	26%
Pension	480	470	10	2%
Defence Affairs & Services	1,370	1,295	75	6%
Grants & transfers to provinces	1,168	932	236	25%
Subsidies	682	430	252	59%
Running civil Govt	479	488	-9	-2%
Provision for contingencies	25	0	25	-
Pay and Pension	160	0	160	-
Provision for Disaster/ Emergency/ Covid	100	95	5	5%
Development	964	792	172	22%
Federal PSDP	900	650	250	38%
Other Development & net lending	64	142	-78	-55%
Total Expenditure	8,488	7,353	1,135	15%
Federal Budget Deficit	-3,991	-3,662	-329	9%
Projected GDP	53,867	45,567	8,300	18%
Fiscal Deficit as % of GDP	-7.41%	-8.04%		

(Sources: Finance Ministry, IMF and Budget Document 2021-22)

Official figures show that from July to May of FY2020-21, FBR's tax revenue stood at Rs.4,170 billion – 17% or Rs.621 billion higher against last year's collection of Rs.3,549 billion. It still needs Rs.521 million more to reach the targeted revised tax revenue of Rs.4,691 billion for FY2020-21. Reaching the target revenue seems likely in the remaining period.

IMF and Pakistan have reached a Staff-Level Agreement under IMF's Extended Fund Facility which revived Pakistan's 'suspended' IMF program. The plan envisages FBR's tax collection target of Rs.6,000 billion for 2021-22 which would be 24% higher as compared to revised Rs.4,691 billion (previous target of Rs.4,963 billion) for 2020-21.

The target seems unlikely to be achieved in view of projected GDP at 4.8% and inflation at 8%. The realistic target, therefore, may not be more than Rs.5.3

trillion to 5.5 trillion. According to our estimates of net revenue measures of around of PKR 225 to PKR 250 billion have been proposed. Big ticket items are related to Sales tax and Federal Excise duty estimated to be PKR 150 to 175 billion including levy of FED on mobile phone calls exceeding three minutes and SMS; Removal of zero rating on crude oil; Imposing standard rates on LNG/RNLNG and Gold/Silver; Withdrawal of exemption of imported luxury food items; Sales Tax on online marketing; Prize scheme etc. In income tax major concessions proposed includes reduction in turnover tax from 1.5% to 1.25%; Reduction of WHT on mobile phone services; Withdrawal of withholding of taxes in twelve types of transaction; whereas withdrawal of 100% tax credit for new industrial undertakings is major revenue measure proposed. In custom duties, imposition of RD

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on mobile phones and miscellaneous luxury goods are major revenue measures whereas rationalization of tariff on automobiles is a major proposed relief. The collection of remaining Rs.280 billion is still possible but only if strong and radical regulatory actions are taken. Scope and quantum of taxation needs to be widened to those segments from where no or insignificant taxes are generated in order to bring in the required revenue. For example, the share of agriculture and wholesale trade in total direct taxes is around 1.5%, although these sectors make up 44% in aggregate of the real GDP. Similarly, the exports constitute 10% of the GDP but only contribute 1% in direct taxes. There is an urgent need to tap the potential of these sources for their optimum contribution towards national exchequer which will not only remove inequities in tax regime; but will also provide the much-needed additional revenue to the government.

FBR's Tax Revenue for 2021-22			
(Rs in Billion)	Budget 2021-22	Revised Budget 2020-21	Change %
FBR Taxes	5,829	4,691	24
Direct Taxes	2,182	1,789	22
Indirect Taxes	3,647	2,902	26
Non-Tax Revenues	2,080	1,704	22
Gross Revenue Receipts	7,909	6,395	24
Less provincial Share	3,412	2,704	26
Net Revenue Receipts	4,497	3,691	22

(Source: Budget Document 2021-22, Finance Division)

- Regarding the non-tax revenues target of Rs.2,080 billion in budget 2021-22, Federal government is relying mainly on petroleum levy to accomplish its targets and estimate massive funds worth Rs. 610 billion in 2021-22, which is 36% higher than last year.
- Federal Government's fiscal deficit would be around Rs. 3,991 billion during 2021-22 but if government incorporate estimated provincial surplus of Rs. 570 billion. Then only, the overall fiscal deficit of the country would be Rs. 3,420 billion during 2021-21, with breakup as follows;

(Rs in billion)	Budget 2021-22	Revised Budget 2020-21
Net Federal Revenue	4,497	3,691
Total Federal Expenditure	8,487	7,353
Federal Budget Deficit	-3,990	-3,662
Estimated Provincial Surplus	570	242
Overall Fiscal Deficit	-3,420	-3,420
Primary Deficit	-360	-249
Nominal GDP	53,867	45,567
Overall Fiscal Deficit as % of GDP	-6.3%	-7.5%
Primary Deficit as Percentage of GDP	-0.5%	-0.7%

Source: (Source: Budget Document 2021-22, Finance Division)

- The financing of the budget deficit is the most critical factor for the economy and financing of fiscal deficit to remain a key challenge for the policy makers.
- The Federal government can rely on domestic financing for the fiscal deficit in 2021-22 (rather than to use provincial surplus), with 62% through domestic resources and 31% through external resources. The details of the financing are as under;

(Rs in billion)	2021-22
Gross External loans	2,748
Debt Repayments & servicing	(1,502)
A. Net External Financing	1,246
i- Multilateral and Bilateral Sources	369
ii- Commercial Sources	877
B. Domestic Financing	2,492
C. Privatization Proceeds	252
Grand Total	3,991

Source: (Source: Budget Document 2021-22, Finance Division)

- Federal Government has had high fiscal deficit of 8.1% of GDP in 2019-20. While projected figure of fiscal deficit would be 7.1% in 2019-20. Therefore, country has experienced two consecutive high fiscal deficits, which is unprecedented in the history.
- The next year's fiscal deficit is estimated at Rs. 3,991 billion which is 7.41% of GDP. Whereas primary balance is estimated at -0.7% of GDP.
- To curtail the fiscal deficit, Federal Govt. has heavily depended on the revenue collection which is unlikely to achievable because more tax rate

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increase will put more inflationary pressure which derive more unemployment ultimately lead to low GDP. This approach is so unrealistic when country needed to stimulate the economy for jobs creation and economic development, However rise in PSDP is a good measure for economic development.

- Federal PSDP is estimated at Rs 900 billion for 2021-22 which is 43% higher than last year.
- The country's mark-up is the biggest expense of the current expenditure, which is 46% of total current expenditure
- On one hand government has increased the salaries and pensions, but on the other hand appreciated its own expenditure by 2% in 2021-22.
- Mark up payments and Defence budget constitutes 67% of the total current expenditure, details are as follows;

Size of National PSDP in Federal Budget 2020-21			
(Rs in billion)	Budget 2021-22	Revised Budget 2020-21	Percentage change
A. Total Federal PSDP	900	630	43%
B. Provinces	1,235	674	83%
Size of PSDP	2,135	1,304	64%

(Sources: Finance Ministry, IMF, and Budget Document 2021-22)

- The stagnant position in provincial surplus which probability is higher under present scenario, will likely increase the fiscal deficit and exhaust fiscal space of the country.
- Country's larger share of taxes comes from indirect taxes which is contingent with the economic activity and GDP growth. If tax base is not going to increase moving forward, country's tax revenues growth to drop further and it might end up dead weight loss to the economy.
- Pakistan has achieved almost all economic targets set for 2020-21 including agriculture sector, industry, services sector, tax revenue, investment etc. Next fiscal year targets mainly depends on how government will regulate more financial inclusion in the economy.
- Budget 2021-22 document lacks prudent strategy by Federal Government that how ambitious

growth of 24% in tax revenues is going to be achieved, and ignored the ground realities.

- As far as Pakistan's economy fiscal operation concern, "let's decide once and for all, tax will derive the economy of Pakistan or economy will derive taxation system of Pakistan" Under the current IMF program, the fiscal deficit consolidation is a fundamental objective to contain Pakistan's fiscal deficit, boost country's economic growth and reduce the vulnerabilities while keeping buffers in place. As far as recipe of Pakistan's economy concern with a huge parallel and these policies of IMF are imposing more and more taxes clipping the wings of many concern sectors, as it cost economy in deep recession for the last three years.

Amendments in Income Tax Ordinance, 2001

1. DEFINITION OF BUSINESS BANK ACCOUNT – S. 2(10A), 191

The bill proposes to introduce definition of business bank account to be a bank account utilized by the taxpayer for business transactions. The bank account is also required to be declared through form under 181 on IRIS porta of FBR.

The bill also proposes 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.

It is also possible payments of expenses from any non-declared business bank account may be disallowed by the tax officials on the contention that payments were not made through valid account.

2. 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.

The bill also proposes to insert explanation to the definition, and it is clarified that mere disallowance by the Commissioner of any exempt income declared or any expenditure claimed shall not be treated as concealment of income unless it is **proved** that the act of taxpayer was deliberate.

3. INDUSTRIAL UNDERTAKING | TELECOMMUNICATION COMPANIES – S. 2(29C)

The bill has proposed to include Telecommunication Companies operating under the license of Pakistan Telecommunication Authority (PTA) in the definition of Industrial Undertaking.

The proposed change will enable Telecommunication Companies to be eligible for benefits under ITO available to Industrial Undertakings. This was a long outstanding demand of the Telecommunication sector, however, the effect of the proposed amendment has been diluted due to structural changes in section 148 vide Finance Act, 2020.

4. DEFINITION OF IT SERVICES AND IT ENABLED SERVICES – S. 2(30AD)(30AE)

Tax laws (Second Amendment) Ordinance, 2021 dated 22nd March, 2021 introduced tax credit vide newly inserted section 65F for persons deriving income from exports of IT and IT Enabled services. Section 65F also provided definition of IT services and IT enabled services. The same definition has been reproduced under clauses (30AD) and (30AE) also, as under:

Amendments in Income Tax Ordinance, 2001

Information Technology (IT) services include software development, software maintenance, system integration, web design, web development, web hosting and network design; and IT enabled services include inbound or outbound call centres, medical transcription, remote monitoring, graphics design, accounting services, Human Resource (HR) services, telemedicine centers, data entry operations, cloud computing services, data storage services, locally produced television programs and insurance claims processing.

5. 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 Ordinance shall apply the same.

6. POWERS OF FEDERAL GOVERNMENT TO FBR

The bill proposes to delegate powers of Federal Government to the FBR with approval of Federal Minister Incharge as vested to Federal Government under following provisions of ITO:

Section	Description
2(62A)	Definition – Startup.
53(2)	Exemptions and tax concessions in the Second Schedule.
99B	Special procedure for small traders and shopkeepers
99C	Special procedure for certain persons.
100	Special provisions relating to the production of oil and natural gas, and exploration and extraction of other mineral deposits.
204	Power to tender immunity from prosecution.

7. PROFIT ON DEBT – S. 7B

Section 7B provides for taxation of profit on debt for persons other than Company at following rates:

Amount of profit on Debt	Tax Rate
Rs. 0 to Rs. 5,000,000	15%
Rs. 5,000,001 to Rs. 25,000,000	17.5%
Rs. 25,000,001 to Rs. 36,000,000	20%

Section 7B also provides that section 7B is not applicable in case profit on debt exceeds Rs. 36 million. The bill proposes to reduce the limit of Rs. 36 million to Rs. 5 million. In other words, the bill proposes to tax profit on debt under normal taxation regime in case profit on debts exceeds Rs. 5 million. The rate of tax for profit on debts below Rs. 5 million will remain 15%.

Amendments in Income Tax Ordinance, 2001

Following is a comparison of tax incidence for profit on debt earned by an Individual:

Amount	Existing		Proposed	
	Tax rate	Liability	Tax rate	Liability
Rs. 25,000,000	17.5%	Rs. 4,375,000	Rs. 1,220,000 + 35% of amount exceeding Rs. 6,000,000	Rs. 7,870,000
Rs. 30,000,000	20%	Rs. 6,000,000	Rs. 1,220,000 + 35% of amount exceeding Rs. 6,000,000	Rs. 9,620,000

8. ALLOWANCES BY EMPLOYER – S. 12

Section 12 of ITO provides from amounts to be treated as salary of a taxpayer. Clause (c) of subsection (2) of section 12 provides that any amount which is solely expended in the performance of employee's duties of employment shall not be treated as salary and will not be taxable in hands of employee.

The bill now proposes to add an explanation to clarify that the allowance solely expended in the performance of employee's duty does not include:

- allowance which is paid in monthly salary on fixed basis or percentage of salary; or
- allowance which is not wholly, exclusively, necessarily or actually spent on behalf of the employer.

9. INCOME FROM PROPERTY – S. 15, 15A AND 155

As per currently applicable sections 15 and 15A, property income in the hands of an individual or AOP is taxable as a separate block of Income at the applicable tax rates on the gross chargeable rent without deduction of any expenditure or allowance.

However, an individual or AOP as owner may opt to tax their property income at normal slab rates after claiming allowable deductions i.e. at normal tax regime instead of separate block of income.

Income from property is taxable under normal tax structure at chargeable rent less allowable deductions alongwith other normal taxable income.

The bill now proposes to withdraw option available to Individuals and AOPs to charge tax on income from property under separate block of Income. The bill also proposes to allow set off of losses from income from property with other heads of income.

A further explanation has been introduced in section 155 to clarify that tax shall be withheld under section 155 irrespective of head of income. A comparison of existing and proposed advance tax rates are as under:

Amount	Existing rates	Proposed rates
Not exceeding Rs. 200,000	0%	0%
Exceeding Rs. 200,000 but not exceeding Rs. 300,000	5%	0%
Exceeding Rs. 300,000 but not exceeding Rs. 600,000	5%	5% of < Rs. 300,000
Exceeding Rs. 600,000 but not exceeding Rs. 1,000,000	Rs. 20,000 + 10% of amount exceeding Rs. 600,000	Rs. 15,000 + 10% of amount exceeding Rs. 600,000
Exceeding Rs. 1,000,000 but not exceeding Rs. 2,000,000	Rs. 60,000 + 15% of amount exceeding Rs. 1,000,000	
Exceeding Rs. 2,000,000 but not exceeding Rs. 4,000,000	Rs. 210,000 + 20% of amount exceeding Rs. 2,000,000	Rs. 155,000 + 25% of amount exceeding Rs. 2,000,000
Exceeding Rs. 4,000,000 but not exceeding Rs. 6,000,000	Rs. 610,000 + 25% of amount exceeding Rs. 4,000,000	
Exceeding Rs. 6,000,000 but not exceeding Rs. 8,000,000	Rs. 1,110,000 + 30% of amount exceeding Rs. 6,000,000	
Exceeding Rs. 8,000,000	Rs. 1,710,000 + 35% of amount exceeding 8,000,000	

10. INCOME OF CO-OPERATIVE SOCIETIES – S. 18

The bill proposes to clarify that that income derived by co-operative societies from the sale of goods, immovable property or provision of services to its members is and has always been chargeable to tax under the provisions of this Ordinance.

Amendments in Income Tax Ordinance, 2001

11. 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.

12. 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 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.

13. COST OF GIFTED CAPITAL ASSET – S. 37

Section 79 of ITO provides that where a capital asset becomes property of a person under a gift from a relative, the fair market value of the asset on the date of its transfer shall be treated to be the cost of the asset.

Finance bill proposes that if the capital asset acquired through gift is disposed of within two years of acquisition and the Commissioner is satisfied that such gift arrangement is a part of tax avoidance scheme, then the cost of asset in the hands of recipient of the gift will be equal to the cost of the asset for the transferor.

For example, a person purchased shares of a private limited company costing Rs. 20 million. Five years later, the fair market value of the shares becomes Rs. 30 million. The person then gives these shares to his son. As per section 79, son will record these shares in his wealth statement at Rs. 30 million. If the son sells these shares after 6 months for Rs. 32 million, his capital gain will be Rs. 2 million. However, as per proposed amendment, since he has disposed of shares with two years of gift, the commissioner will have power to treat the cost of shares as Rs. 20 million instead of Rs. 30 million and may tax the son on capital gain of Rs. 12 million instead of Rs. 2 million.

14. WWF AND WPPF – S. 60A AND 60B

After the Eighteenth Constitutional Amendment, provinces were empowered to collect amounts of Workers' Welfare Fund and Workers' Profit Participation Funds. However, there was confusion amongst taxpayers as to whether the amounts should be deposited into Funds established by Federal Government or into funds established by the provinces due to the reason that deductibility

Amendments in Income Tax Ordinance, 2001

allowance for amounts paid to provincial funds was not available under law. This confusion has been proposed to be resolved by the bill adding reference to funds established under any law by provinces in section 60A and 60B. A legal confusion will be resolved by the proposal as the taxpayers will now be eligible to claim deductions from their incomes of amounts paid to funds established by provinces also. The proposal will also generate revenue for the provinces.

However, the bill also proposes to add a proviso to provide that the claim of deduction will not be available to amounts paid by trans provincial establishments. The language of this proviso needs to be amended so that trans provincial establishments are eligible for deductions in case they pay the amounts to federation, else this will further create confusion and litigations.

15. TAX CREDIT FOR POINT-OF-SALE MACHINES – 64D

The bill proposes a tax credit for any person for a tax year in which the person installs, integrates, and configures the Point of Sales machine with Board's computerized system. The amount of tax credit will be lesser of following:

- i. Amount actually invested in purchase of point of sale machine; or
- ii. Rupees one hundred and fifty thousand per machine

16. GIFT TO NON-RESIDENT PERSON – S. 79

Section 79 specifies certain circumstances in which no gain or loss shall be taken to arise on disposal of asset from one person to another. Subsection (2) of section 79 places a restriction for such non-recognition of gain or loss and provides that where the acquirer is a non-resident person at the time of acquisition, the benefit of non-recognition will not be available to the transferor. The bill now proposes to waive this condition in case of transfer of assets to non-resident person under following circumstances:

- i. Transfer of assets between spouse under an agreement to live apart;

- ii. Transfer of assets by reason of transmission of the asset to an executor or beneficiary on the death of a person; and
- iii. Transfer of assets by reason of a gift of the asset to a relative.

17. SEPARATE NOTICE UNDER SECTION 111 IS NOT REQUIRED – S. 111

The bill proposes to add an explanation to clarify that a separate notice under this section is not required to be issued if the explanation regarding nature and sources of amount credited or the investment of money, valuable article, or the funds from which expenditure was made has been confronted to the taxpayer through a notice under sub-section (9) of section 122 of this Ordinance.

The bill has proposed to add this explanation in wake of a judgement 2021 PTD 192 by Honorable Lahore High Court wherein it was decided that a separate notice under section 111 of ITO is required to invoke section 111 and make additions in income of the taxpayer of unexplained income, assets or expenditures.

18. MINIMUM TAX – S. 113

Section 113 provides for a minimum tax at specified rates on all Companies irrespective of their volume and on Individuals and AOPs having turnover not more than Rs. 10 million in tax year 2017 or any subsequent tax year.

The bill proposes to extend this limit of Rs. 10 million to Rs. 100 million. This means that section 113 shall not apply to individual and AOPs having turnover nor than Rs. 100 million in tax year 2017 or any subsequent tax year.

Moreover, there was also a controversy with respect to interpretation of proviso to clause (c) of subsection (2) between tax machinery and taxpayers. Tax department was of the view that minimum tax paid shall not be carried forward in case no tax is payable by the taxpayer, whereas, taxpayers were of the opinion that minimum tax paid can be carried forward in all cases.

Amendments in Income Tax Ordinance, 2001

Honorable Sindh High Court in case of CIR, Zone-II, Karachi vs. Messrs Kassim Textile Mills (Pvt.) Limited, reported as 2013 PTD 1420, held in favour of department's interpretation of carry-forward of minimum tax us/ 113 that the benefit is available only when some tax had actually been paid but was less than that minimum tax. In case zero tax is paid the carry forward of differential will not be available.

Whereas, judgement of Honorable Lahore High Court titled as CIR vs M/s Education Excellence Ltd. ITR No. 255/16, which is passed after SHC order held that the amount paid as minimum tax is eligible to be carried forward in case of loss also.

Now the above controversy is intended to be resolved by introducing an amendment in proviso to clause (c) of subsection (2). The amount of minimum tax paid will now be available in case of losses also.

The rate of turnover tax has also been reduced from 1.5% to 1.25%. A comparison of proposed and existing rates is given below:

S.No	Existing	Rates	Proposed	Rates
1.	(a) Oil Marketing companies, Oil refineries, Sui Southern Gas Company Limited and Sui Northern Gas Pipelines Limited (for the cases where annual turnover exceeds one rupees one billion.);	0.75 %	(a) Oil marketing companies, Sui Southern Gas Company Limited and Sui Northern Gas Pipelines Limited (for the cases where annual turnover exceeds rupees one billion.)	0.75 %
	(b) Pakistani Airlines; and		(b) Pakistan International Airlines Corporation; and	
	(c) Poultry industry including poultry breeding, broiler production, egg		(c) Poultry industry including poultry breeding, broiler	

	production and poultry feed production;		production, egg production and poultry feed production;	
	(d) Dealers or distributors of fertilizers; and			
	(e) Person running an online marketplace as defined in clause (38B) of section 2.			
2.	(a) Distributors of pharmaceutical products, fast moving consumer goods and cigarettes;	0.75 %	(a) Oil refineries	0.5%
	(b) Petroleum agents and distributors who are registered under the Sales Tax Act, 1990;		(b) Motorcycle dealers registered under the Sales Tax Act, 1990	
	(c) Rice mills and dealers;	0.25 %		
	(d) Flour Mills.			
3.	(b) Motorcycle dealers registered under the Sales Tax Act, 1990	0.3%	(a) Distributors of pharmaceutical products, fast moving consumer goods and cigarettes;	0.25 %
			(b) Petroleum agents and distributors who are registered under the Sales Tax Act, 1990;	

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			<p>(c) Rice mills and dealers;</p> <p>(d) Tier-1 retailers of fast moving consumer goods who are integrated with Board or its computerized system for real time reporting of sales and receipts;</p> <p>(e) Person's turnover from supplies through e-commerce including from running an online marketplace as defined in clause (38B) of section 2.</p> <p>(f) Persons engaged in the sale and purchase of used vehicles</p>	
4.	In all other cases	1.5%	In all other cases	1.25%

19. TIME LIMIT FOR ISSUANCE OF NOTICE TO FILE RETURN – S. 114

Section 114 provides that commissioner may issue notice for filing of return in respect of any of last five years and where no return for last five years is filed, the notice may be issued for any of last 10 tax years.

The bill proposes to abolish these time limitations where commissioner is satisfied on the basis of reasons to be recorded in writing that a person who failed to furnish his return has foreign income or owns foreign assets.

20. FILING OF REVISED RETURN – S. 114

Section 114 allows for revision of return subject to certain conditions. One of such condition is that the

revised return should be accompanied by revised accounts or revised audited accounts.

The bill now proposes to empower commissioner to waive this condition if he is satisfied that filing of revised accounts or audited accounts is not necessary.

21. TAXPAYER'S PROFILE – S. 114A

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 now proposes to omit section 114A and withdraw requirement of filing of taxpayer's profile.

22. AMENDMENT OF ASSESSMENT – S. 122(5A)

Section 122(5A) has been excessively misused by the tax department as a tool to for fishing and roving inquiries with the intention of amendment of assessments and post fictitious target achievements. The bill now proposes to largely limit the powers of Commissioners to seek amendment of assessment using section 122(5A) by withdrawing the powers of inquiries by the Commissioner. The amendment under section 122(5A) will now only be possible in case the commissioner himself possesses such information as a result of which he considers that the assessment is erroneous in so far it is prejudicial to the interest of revenue.

23. Time limitation to pass order under section 122 – S. 122(9)

The bill proposes a timeline to finalize the assessment order under section 122 within 120 days of issuance of show cause notice under section 122(9). This time

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may further be extended by the commissioner for reasons to be recorded in writing to a maximum of 90 days.

The bill also proposes that such time limit will exclude adjournments on account of stay order, Alternate Dispute Resolution Proceedings or agreed assessment proceedings or time taken through adjournments by the taxpayer.

However, these time limitations will only apply for notices issued after July 01, 2021.

24. TIME LIMIT FOR APPEAL EFFECT ORDER – S. 122A

The bill proposes that where any order is remanded back to any lower authority by the Commissioner for modification, alteration, implementation of directions or de novo proceedings, the order giving effect to the directions of the Commissioner shall be issued within 120 days.

25. ASSISTANCE IN RECOVERY AND PAYMENT OF TAXES – S. 146C

The bill proposes that provisions of following sections will apply mutatis mutandis in respect of assistance in collection and recovery of taxes in pursuance of a request from a foreign jurisdiction under a tax treaty, a multilateral convention, an intergovernmental agreement or similar arrangement or mechanism:

Section	Name
138	Recovery of tax out of property and through arrest of taxpayer.
138A	Recovery of tax by District Officer (Revenue).
138B	Estate in bankruptcy.
139	Collection of tax in the case of private companies and associations of persons.
140	Recovery of tax from persons holding money on behalf of a taxpayer.
141	Liquidators.
142	Recovery of tax due by non-resident member of an association of persons.
143	Non-resident ship owner or charterer.
144	Non-resident aircraft owner or charterer.
145	Assessment of persons about to leave Pakistan.

146	Recovery of tax from persons assessed in Azad Jammu and Kashmir and Gilgit-Baltistan.
146A	Initiation, validity, etc., of recovery proceedings.
146B	Tax arrears settlement incentives scheme.

For example, in pursuance of request from a foreign jurisdiction under a tax treaty, the Commissioner may attach bank account of the person involved without any local proceedings, etc.

26. ESTIMATION OF ADVANCE TAX – S. 147

Section 147 of ITO provides for payment of advance tax on quarterly basis for each year on the basis of previous year's tax return. Subsection (6) provides option of filing of estimation of advance tax by taxpayer who estimates that his tax payable for relevant year will be less than the amount of advance tax he is required to pay under section 147. However, a proviso to subsection (6) empowers the Commissioner to reject such estimation filed by the taxpayer forcing him to pay more amount of advance tax than he is actually required to pay.

The bill now proposes to withdraw such power of the Commissioner by proposing to remove the relevant proviso.

27. EXPEDITIOUS EXEMPTION CERTIFICATE TO ALL COMPANIES – S. 153, 159

To facilitate listed companies, Finance Act 2020 introduced an amendment to enable the Commissioner to issue exemption certificate, on the basis of advance tax payment for the year, within fifteen days of filing of application, failing which the certificate will be automatically issued through the system.

This benefit has now been extended to all companies.

28. ADVANCE TAX ON PAYMENT OF ROYALTY – S. 153B

Section 153 provides for deduction of advance tax at 15% of gross amount of royalty payable to a resident person. This amount was adjustable for the person to whom royalty was paid.

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The bill now proposes to omit this section.

29. EXPORT OF SERVICES UNDER FTR – S. 154A

The bill proposes to insert a new section 154A for deduction of tax at 1% from proceeds, in line with exports proceeds, on account of following:

- i. Exports of computer software or IT services or IT enabled services in case tax credit under section 65F is not available;
- ii. Services or technical services rendered outside Pakistan or exported from Pakistan;
- iii. Royalty, commission or fees derived by a resident company from a foreign enterprise in consideration for the use outside Pakistan of any patent, invention, model, design, secret process or formula or similar property right, or information concerning industrial, commercial or scientific knowledge, experience or skill made available or provided to such enterprise;
- iv. Construction contracts executed outside Pakistan; and
- v. Other services rendered outside Pakistan as notified by the Board from time to time.

The bill also proposes to make tax deductible under this section to be final tax upon fulfillment of following conditions:

- i. Return has been filed;
- ii. Withholding tax statements for the relevant tax year have been filed;
- iii. Sales tax returns under Federal or Provincial laws have been filed, if required under the law; and
- iv. No credit for foreign taxes paid shall be allowed

The bill also proposes that any income attributed under this section shall not be taken into account to avail further benefit as foreign remittance under section 111 of ITO.

30. ANNUAL WITHHOLDING STATEMENT AND RECONCILIATION – S. 165

The bill propose amendment in section 165 requiring withholding agents to e-file annual withholding statements within 30 days of end of tax year. This annual statement is in addition to the annual statement filed for tax deductions under section 149.

The bill also requires the withholding agents to e-file reconciliation statements with return of income. The reconciliation statements should reconcile amounts in annual withholding statement and amounts in return of income, audited accounts, or financial statements.

31. ELECTRONIC PROCESSING AND ELECTRONIC ISSUANCE OF REFUNDS BY THE BOARD – S. 170A

Commencing from tax year 2021, the bill proposes that the Board may process and issue refund to the taxpayer who has filed the return of income without requiring refund application by the taxpayer to the extent of tax credit verified by the Board's computerized system as may be prescribed. The refund amount sanctioned under this section shall be electronically transferred in the taxpayer's notified bank account.

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

The Finance Bill 2021 proposes deletion of sections 202 and 203 and suggesting amendments in section 203A besides promulgation of section 203B, 203C, 203D, 203E, 203F, 203G and 203H. The 202 and 203 sections are related 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 proposes 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 shall be as per CCP. The section further proposes the Chief Commissioner may compound the offence if such person pays the amount of tax due with

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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.

33. E-HEARINGS – S. 227E

The bill proposes to empower the Board design and prescribe e-hearing module for the purpose of

conducting hearings, granting opportunity of being heard and electronically receiving any information for the purpose of ITO.

The recording of e-hearing proceedings shall be admissible as evidence before any forum or court of law for the purpose of this Ordinance.

34. ADVANCE TAX ON CASH WITHDRAWALS AND TRANSACTIONS IN BANK – S. 231A, 231AA

Currently, tax at the rate of 0.6% is deducted in case of cash withdrawal of an amount exceeding Rs. 50,000 in a day by a non-active person. Similar tax is deducted at the rate of 0.6% in case of banking transaction of an amount exceeding Rs. 50,000 in a day by a non-active person.

The bill proposes to omit these sections and abolish such advance tax.

35. ADVANCE TAX ON MOTOR VEHICLES – S. 231B

Every motor vehicle registering authority of Excise and Taxation Department is required to collect advance tax at the time of registration of a new locally manufactured motor vehicle, at the rates prescribe with respect to engine capacity.

The proposes that every motor vehicle registering authority of Excise and Taxation Department is required to collect advance tax in addition to above from the buyers of locally manufactured motor vehicles who subsequently sell it within 90 days of delivery of such vehicle whether prior to or after registration at the following rates.

S.No.	Engine Capacity	Tax
1	Up To 1000cc	Rs 50,000
2	1000cc to 2000cc	Rs 100,000
3	2000cc and above	Rs 200,000

The tax has been introduced to discourage the 'On Money' culture in Pakistan which has been a major factor in price hikes in car prices over the past years.

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36. BROKERAGE AND COMMISSION – S. 233

Currently, advance tax is required to be deducted while making payment of brokerage or commissioner by Federal Government, Provincial Government, a local government, a company or an association of person constituted by or under any law.

The bill proposes to extend the above list of withholding agents by adding every Individual having turnover of Rs. 100 million or more as withholding agent. However, in case of AOP, the scope of withholding agent has been restricted to only such AOPs having turnover of Rs. 100 million or more.

37. OMISSION OF ADVANCE TAX PROVISIONS

Following advance tax provisions have been proposed to be omitted:

Section	Description
234A	Advance Tax collected from CNG Stations
235A	Advance tax on domestic electricity consumption
236B	Advance tax on purchase of air ticket
236HA	Tax on sale of certain petroleum products
236L	Advance tax on purchase of international air ticket
236P	Advance tax on banking transactions other than cash
236S	Dividend in specie (merged with section 150)
236V	Advance tax on extraction of minerals
236Y	Advance tax on persons remitting amount abroad

38. ADVANCE TAX ON ELECTRICITY CONSUMPTION – S. 235

Section 235 provides for collection of advance tax on electricity consumption by commercial or industrial consumers.

The bill now proposes to also make domestic consumers, not appearing in active tax payers' list, liable for advance tax collection through electricity bills.

Following is a comparison of existing and proposed rates:

➤ Commercial and Industrial Consumers

Gross amount of Bill	Existing Rates	Proposed Rates
Does not exceed Rs. 400	Rs. 0	Rs. 0
Exceeds Rs. 400 but does not exceed Rs. 500	Rs. 80	Rs. 80
(b) Exceeds Rs. 500 but does not exceed Rs. 600		10% of the amount
(c) Exceeds Rs. 600 but does not exceed Rs. 800	Rs. 100	
(d) exceeds Rs. 800 but does not exceed 1000	Rs. 160	
(e) exceeds Rs. 1000 but does not exceed Rs. 1500	Rs. 300	
(f) exceeds 1500 but does not exceed 3000	Rs. 350	
(g) exceeds 3000 but does not exceed Rs. 4500	Rs. 450	
(h) exceeds Rs. 4500 but does not exceed Rs. 6000	Rs. 500	
(i) exceeds Rs. 6000 but does not exceed Rs.10000	Rs. 650	
(j) exceeds Rs. 10000 but does not exceed Rs.15000	Rs. 1000	
(k) exceeds Rs. 15000 but does not exceed Rs.20000	Rs. 1500	
Exceeds Rs. 20,000	(i) at the rate of 12% for commercial consumers; (ii) at the rate of 5% for industrial consumers.	Rs. 1950 plus 12% of the amount exceeding Rs. 20,000 for commercial consumers Rs. 1950 plus 5% of the amount exceeding Rs. 20,000 for industrial consumers

➤ Domestic Consumers

Rate	Existing threshold of monthly bill	Proposed threshold of monthly bill
0%	Less than Rs. 75,000	Less than Rs. 25,000
7.5%	RS. 75,000 or more	RS. 25,000 or more

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39. ADVANCE TAX ON SALE OR TRANSFER AND PURCHASE OF IMMOVABLE PROPERTY – S. 236C, 236K

The bill proposes to add public and private real estate projects registered/governed under any law, joint ventures, and private commercial concerns in the list of persons responsible for collection of advance taxes.

The bill also proposes that if the seller or transferor or buyer is a non-resident individual holding Pakistan Origin Card (POC) or National ID Card for Overseas Pakistanis (NICOP) or Computerized National ID Card (CNIC) who had acquired the said immovable property through a Foreign Currency Value Account (FCVA) or NRP Rupee Value Account (NRVA) maintained with authorized banks in Pakistan under the foreign exchange regulations issued by the State Bank of Pakistan, the tax collected under section 236C from such persons may be final discharge of tax liability in lieu of capital gains taxable under section 37 earned by the seller or transferor from the property so disposed of. The tax collected from buyer under section 236K shall be final discharge of liability for such buyer.

40. 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 now proposes to add pharmaceuticals, poultry and animal feed, edible oil and ghee, battery, tyers, varnishes, chemicals, cosmetics, and IT equipment in the list of such items.

41. 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, tyers, varnishes,

chemicals, cosmetics and IT equipment in the list of such items.

42. BENEFITS OF REPEALED PROVISIONS – S. 242

The bill proposes that the existing beneficiaries of exemptions or concessionary provisions of the Ordinance, already expired or expiring, on thirtieth day of June, 2021 or repealed by Tax Laws (Second Amendment) Ordinance, 2021 shall continue to enjoy benefits of the repealed provisions for the periods prescribed therein and subject to conditions and limitations specified therein.

43. CAPITAL GAIN TAX ON SECURITIES – S. 37A, DIV. VII, PART I, SCH. I

The bill proposes to reduce capital gain tax on disposal of securities from 15% to 12.5% for tax years 2022 and onwards.

44. ADVANCE TAX IN CASE OF SUPPLIES MADE BY THE DISTRIBUTOR OF FMCG – DIV.III, PART III, SCH. I

Currently, supplies made by distributors of fast moving consumer goods are subject to advance tax deduction of 2% in case of company and 2.5% in other cases. While supplies of dealers, sub-dealers, wholesalers and retailers of fast moving consumer goods are subject to 0.25% of advance tax.

The bill proposes to omit Div. III, Part III, Sch. I. the proposed omission will subject supplies by distributors to normal advance tax rates.

45. SPECIFIED SERVICES – S. 153(1)(B), 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 proposes 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

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gross receipts and the service provider has not agitated taxation of gross receipts before any court of law.

46. RATES FOR COLLECTION OF TAX FROM TELEPHONE USERS – S. 236, DIV. V, PART IV, SCH. I

The bill proposes to change rates of advance tax from telephone users as under:

Description	Existing rates	Proposed rates
In case of a telephone subscriber (other than mobile phone subscriber) where the amount of monthly bill exceeds Rs. 1,000	10% of the amount exceeding Rs. 1,000	10% of the amount exceeding Rs. 1,000
In case of subscriber of internet, mobile telephone and prepaid internet or telephone	12.5% of the amount of bill or sales price of internet pre-paid card or prepaid telephone card or sale of units through any electronic medium or whatever form	10% for tax year 2022 and 8% onwards of the amount of bill or sales price of internet pre-paid card or prepaid telephone card or sale of units through any electronic medium or whatever form

47. FOLLOWING CLAUSES OF SECOND SCHEDULE HAVE BEEN PROPOSED TO BE AMENDED

a. Profit on Debt by Provident fund/pension fund – clause (22),(23),(23C) Part I, Sch. II

The bill proposes to restrict exemption on profit on debt upto Rs. 500,000 only and proposes to tax excess amounts of profit on debt earned by Provident funds at the rate of 10% as separate block of income. The person making payment of profit on debt is also required to deduct tax at these rates.

b. Clause 80, Part I

Clause (80) provides for exemption of Any income derived from a private foreign currency

account held with an authorized bank in Pakistan, or certificate of investment issued by investment banks in accordance with the Foreign Currency Accounts Scheme introduced by the State Bank of Pakistan, by a resident individual who is a citizen of Pakistan.

The bill proposes to withdraw this clause.

c. Clause (99A) , Part I

Profits and gains accruing to a person on sale of immovable property to a REIT Scheme are exempt up to 30th June 2015. The bill proposes to extend such exemption till 30th June, 2023.

d. Clause (103) , Part I

Clause (103) provides exemption to any distribution received by a taxpayer from a collective investment scheme registered by the Securities and Exchange Commission of Pakistan under the Non-Banking Finance Companies and Notified Entities Regulations, 2007, including National Investment (Unit) Trust or REIT Scheme or a Private Equity and Venture Capital Fund out of the capital gains of the said Schemes or Trust or Fund.

The bill proposes to omit this clause.

e. Clause (103D) , Part I

The bill proposes to exempt dividend income and long term capital gains of any venture capital fund from investments in zone enterprises as defined in clause (p) of section 2 of the Special Technology Zones Authority Ordinance, 2020 for a period of ten years commencing from issuance of license by the Authority to the zone enterprise.

f. Clause (114AA) , Part I

Clause (114AA) inserted vide Finance Act, 2020, exempts any income chargeable under the head “capital gains” derived by a resident individual from the sale of constructed residential property. The bill proposes to omit this clause.

g. Clause (117) , Part I

Any income derived by a person from plying of any vehicle registered in the territories of Azad

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Jammu and Kashmir is exempt. The bill proposes to withdraw such exemption.

h. Clause (126EA), Part I

The bill proposes to exempt Profits and gains derived by:

- i. zone developer as defined in section 2 of the Special Technology Zones Authority Ordinance, 2020 from development and operations of the zones for a period of ten years starting from the date of signing of the development agreement;
- ii. profits and gains of Zone Enterprises as defined in section 2 of the Special Technology Zones Authority Ordinance, 2020 for a period of ten years from the date of issuance of license by the Special Technology Zone Authority; and
- iii. Special Technology Zones Authority established under the Special Technology Zones Ordinance 2020

i. Clause (132AA), Part I

The bill proposes to exempt profits and gains derived from sale of electricity by National Power Parks Management Company Limited commencing from the date of change of ownership as a result of privatization by the Privatization Commission of Pakistan.

j. Clause (132C), Part I

The bill proposes to exempt profits and gains derived by a taxpayer from a bagasse/biomass-based cogeneration power project having one or more boilers of not less than 60 bar (kg/CM³) pressure each, commissioned after the first day of January 2013.

k. Clause (18C), Part II

The bill proposes that the rate of tax on dividends shall be reduced to 7.5% in case of dividends declared by a company as are “attributable” to profits and gains derived from a bagasse and biomass-based cogeneration power project qualifying for exemption under clause (132C) of Part-I of this Schedule

l. Clause (18), Part III

The bill proposes that the rate of withholding tax on value of offshore supply contract of an Independent Power Producer located wholly or partly in territories of AJ and K shall be 1% provided:

- i. PPIB has issued Letter of Support for the project;
- ii. its EPC Contract has been executed and submitted to NEPRA for EPC stage tariff determination prior to the enactment of Finance Act, 2018;
- iii. offshore supply contract arrangement of offshore supply contractor having permanent establishment in Pakistan falls under the purview of cohesive business operation as contemplated under Income Tax Ordinance, 2001; and
- iv. such 1% tax shall be full and final liability of the offshore contractor.

m. Clause (19), Part III

The bill proposes that the tax payable by woman enterprises on profit and gains derived from business chargeable to tax under the head “Income from Business” shall be reduced by 25%

n. Clause (4A), Part IV

The bill proposes that no provisions of law shall apply for recouping of tax credit already allowed to National Power Parks Management Company Limited for investment in plant and machinery in the eve of privatization merely for the reasons of change in its ownership pattern or debt to equity ratio.

o. Clause (11A), Part IV

Clause (11A) provides a list of where section 113 with respect to minimum tax is not applicable. The bill proposes to exclude following from such list:

- i. non-profit organizations approved under clause (36) of section 2 or clause (58) or included in clause (61) of Part-I of this Schedule

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- ii. a taxpayer who qualifies for exemption under clause (133) of Part-I of this Schedule, in respect of income from export of computer software or IT services or IT enabled services;
- iii. a venture capital company, venture capital fund and Private Equity and Venture Capital Fund which is exempt under clause (101) of Part-I of this Schedule;
- iv. The corporatized entities of Pakistan Water and Power Development Authority, so far as they relate to their receipts on account of sales of electricity, from the date of their creation upto the date of completion of the process of corporatization i.e. till the tariff is notified
- v. companies, qualifying for exemption under clause (132B) of Part-I of this Schedule, in respect of receipts from a coal mining project in Sindh, supplying coal exclusively to power generation projects
- vi. start-up as defined in clause (62A) of section 2.

The above exclusions are made due to corresponding changes in taxation of above entities.

The following new entities are also proposed to be added in the list:

- i. Islamic Naya Pakistan Certificates Company Limited (INPCCL)
- ii. receipts from sale of electricity produced from a bagasse and biomass based co-generation power project qualifying for exemption under clause (132C) of Part-I of this Schedule;
- iii. new entity taking over National Power Parks Management Company Limited in the eve of privatization;
- iv. Persons qualifying for exemption under clause (126E) of Part I of this Schedule for tax year 2021 and onwards
- v. Persons qualifying for exemption under clause (126EA) of Part I of this Schedule;
- vi. Persons mentioned in Table I of clause (66) of Part I of Second Schedule

p. Clause (12N), Part IV

The bill proposes to exempt application of section 148 and 154 on import and export, respectively of specified goods which takes place within the jurisdiction of Border sustenance Markets.

The exemption shall be available subject to following conditions:

- i. Such goods shall be supplied only within the limits of Border Sustenance Markets established in cooperation with Iran and Afghanistan;
- ii. If the goods, on which exemption under this table has been availed, are brought outside the limits of such markets, income tax shall be charged on the import value as per provisions of section 148 of this Ordinance;
- iii. Such items in case of import, shall be allowed clearance by the Customs Authorities subject to furnishing of bank guarantee equal to the amount of income tax involved and the same shall be released after presentation of consumption certificate issued by the Commissioner Inland Revenue having jurisdiction
- iv. The said exemption shall only be available to a person upon furnishing proof of having a functional business premises located within limits of the Border Sustenance Markets; and
- v. Breach of any of the conditions specified herein shall attract relevant legal provisions of the Ordinance, besides recovery of the amount of income tax along with default surcharge and penalties involved

q. Clause (43D), Part IV

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.

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The bill proposes to include clause (b) of subsection (1) of section 153 in the exemption. The bill also proposes increase tax rate from 2.5% to 3.5%.

r. Clause (43E), Part IV

Clause (43E) provides that the provisions of clause (a) of sub section (1) of section 153 shall not apply in case of goods transport contractors, provided that such contractors pay tax at the rate of 3% on payments for rendering or providing of carriage services.

The bill proposes to include clause (b) of subsection (1) of section 153 in the exemption. The bill also proposes increase tax rate from 3% to 3.5%.

s. Clause (43G), Part IV

The bill proposes that the provisions of section 153 may not apply to commodity futures contracts listed on a Futures Exchange licensed under the Futures Market Act, 2016 (XIV of 2016).

t. Clause (45A), Part IV

Clause (45A) provides for reduced rates of tax deduction under section 153 (1)(a) and (b) with respect to supplies to five specified sectors. The bill proposes to clarify that such benefit of reduced rate will be available only where supplies are made from five specified sectors.

u. Clause (45B), Part IV

The bill proposes that the provisions of section 153 may not apply on the purchase of used motor vehicles from general public.

v. Clause (46AA), Part IV

Clause (46AA) provides for exemption of section 153 on certain persons as recipient of payment. Sub-clause (iv) specifies 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.

The bill proposes to substitute above sub-clause (iv) with following:

“subject to fulfillment of procedure laid down in clause (12) of Part IV of Second Schedule, persons receiving payments exclusively for the supply of agriculture produce including following –

- a. fresh milk;
- b. fish by any person engaged in fish farming;
- c. live chicken, birds and eggs by any person engaged in poultry farming;
- d. live animals by any person engaged in cattle farming;
- e. unpackaged meat; and
- f. raw hides.

Provided that this clause shall not apply to the payments for agriculture produce which has been subjected to any process other than that which is ordinarily performed to render such produce to be fit to be taken to the market

w. Clause (47B), Part IV

The bill proposes to exclude modaraba and private equity and venture capital fund as recipient of payments from application of section 150, 151, 233, 37A.

x. Clause (57A), Part IV

Clause (57A) provides for exemption of section 153 and 169 to large import houses. The bill proposes to omit this clause.

y. Clause (60DA), Part IV

The bill proposes that the provisions of section 148 shall not apply to the import of the capital equipment as defined in section 2 of the Special

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Technology Zones Ordinance 2020 (XIII of 2020) by:

- i. zone developers as defined in section 2 of the Special Technology Zones Ordinance 2020 for consumption in the special technology zones for the period of 10 years commencing from the date of signing the development agreement;
- ii. zone enterprises as defined in section 2 of the Special Technology Zones Authority Ordinance, 2020 for a period of ten years from the date of issuance of license by the Special Technology Zone Authority; and
- iii. Special Technology Zones Authority established under the Special Technology Zones Ordinance 2020

z. Clause (91), Part IV

The bill proposes to exempt section 148 on import of Corn harvester/corn picker and silage maker with their respective PCT heading.

- aa.** Following clauses have been amended/introduced/omitted vide multiple notifications since July 2020. These have now been made part of the bill to pass through National Assembly.

29 September 2020	SRO 922(I) 2020	Exemption for importers of sprayers for Anti Locust operation.	12I
03 February 2021	SRO 132 (I) 2021	Exemption for importers of wheat through tendering process.	12J
23 February 2021	SRO 235 (I) 2021	Exemption for importers of Cryogenic tanks for oxygen.	12K
23 February 2021	SRO 235 (I) 2021	Exemption on import and supply of 500,000 metric tons of white sugar by Trading Corporation of Pakistan.	12L
25 May 2021	SRO 589(I) 2021	Exemption for importers of Oxygen Cylinders and related products for a period of 180 days starting from 14 th May 2021.	12M

Date	Notification No.	Short Description	Clause Part IV, 2 nd Schedule
28 July 2020	SRO 642 (I) 2020	Exemption for importers of wheat.	12F
20 August 2020	SRO 750 (I) 2020	Exemption on import of 300,000 metric tons of white sugar by Trading Corporation of Pakistan.	12G
24 August 2020	SRO 772 (I) 2020	Exemption for importers of Oxygen Cylinders and related products for a period of 3 months starting from 23 rd June 2020.	12H

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48. TECHNICAL CORRECTIONS ETC.

Section / Schedule	Description	Particular
2(1B)	Seeks to make a technical correction by updating reference regarding Companies Act, 2017	Definition - Amalgamation
2(19)	Seeks to make a technical correction by updating reference regarding Companies Act	Definition - Dividend
2(23)	Seeks to make a technical correction by updating reference regarding Companies Act	Definition – Fee for Technical Services
2(24)	Seeks to make a technical correction by updating reference regarding Companies Act	Definition – Financial Institution
2(29)	Seeks to make technical correction	Definition - Income
2(29C)	Seeks to make technical correction	Definition – Industrial Undertaking
2(35AA)	Seeks to make a technical correction by updating reference regarding Companies Act, 2017.	Definition – National Clearing Company of Pakistan Limited
2(42A)	Seeks to make a technical correction by updating reference regarding Companies Act, 2017.	Definition – Pakistan Mercantile Exchange Limited
2(59A)	Seeks to make a technical correction by updating reference regarding Companies Act, 2017.	Definition – Small Company
2(62A)	Seeks to make a technical correction by substitute the expression “Board with the approval of Minister-In-Charge” for the expression “Federal Government” in sub-clause (ii) of clause (62A).	Definition - Startup
8	Seeks to make technical correction through amendment of marginal note of section 8 to include 5AA, 7A, 7B, 7C and 7D.	General provisions relating to taxes imposed under sections 5, 5A, 6, 7, 7A, 7B, 7C and 7D.
20	Seeks to make technical correction to correct grammatical expression.	Deductions in computing income chargeable under the head “Income from Business”
31(1)	Seeks to make a technical correction by updating reference of Companies Act, 2017	Transfer to participatory reserve
37	Seeks technical correction by omit the expression “and 3B”.	Capital Gains
37	Seeks to make a technical correction by updating reference of Companies Act, 2017.	Capital Gains
39	Seeks to make technical correction.	Income from other sources.
57	Seeks to make technical correction.	Carry forward of business losses.
57	Seeks to make technical correction.	Carry forward of business losses.
59AA	Seeks to make a technical correction by updating reference of Companies Act, 2017	Group Taxation
59B(2)	Seeks to make a technical correction by updating reference of Companies Act, 2017	Group Relief
64B(3)(c)	Seeks to make a technical correction by updating reference of Companies Act, 2017	Tax credit for employment generation by manufacturers.
80(2)(b)(i)	Seeks to make a technical correction by updating reference of Companies Act, 2017	Person
114	Seeks to make technical correction.	Return of Income
127	Seeks to make technical correction by removing repetitive clauses	Appeal to the Commissioner (Appeals)
130	Seeks to make technical correction by replacing Regional Commissioner with Chief Commissioner.	Appellate Tribunal
137	Seeks to make a technical correction by updating reference of Companies Act, 2017	Due date for payment of tax.
182A	Seeks to make technical correction regarding omitted section	Return not filed within due date.

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202 and 203	Seeks to make technical correction regarding omitted section	Power to compound offences. And Trial by Special Judge
216(3)(k)	Seeks to make a technical correction by updating reference of Companies Act, 2017	Disclosure of information by a public servant
225	Seeks to make a technical correction by updating reference of Companies Act, 2017	Proceedings against companies under liquidation
Second Schedule – Part 1 (Clause 57)	Seeks to make a technical correction by updating reference of Companies Act, 2017	Any income derived by Mutual Fund Investment Company.
Second Schedule – Part 1 (Clause 126M)	Seeks to make a technical correction by updating reference of Companies Act, 2017	Profits and Gains derived by a taxpayer from a transmission line project.
Second Schedule – Part 1 (Clause 132)	Seeks to make a technical correction by updating reference of Companies Act, 2017	Profits and Gains derived by a taxpayer from an electric power generation project.
Second Schedule – Part 4 (Clause 19)	Seeks to make a technical correction by updating reference of Companies Act, 2017.	Provisions of Section 113 and 151 shall not apply to non-residents
Second Schedule – Part 4 (Clause 59)	Seeks to make a technical correction by updating reference of Companies Act, 2017.	Withholding under section 151 does not apply on Term Finance certificates.
Eighth Schedule – (Rule No. 6)	Seeks to make a technical correction by updating reference of Companies Act, 2017.	Responsibility and obligation of NCCPL.
Tenth Schedule – (Rule No. 10)	Seeks to make technical corrections	Provision of this schedule will not apply on tax collectable or deductible under section 149, 152, 154, 155, 156B, 231A, 231AA, 233AA, 235, 235A, 236, 236B, 236I, 236L, 236P & 236Q

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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.

Solving the digital issue, specifically identifying appropriate tax rules to deal with digital business has been designated the number 1 action in the OECD Base Erosion and Profit Shifting (BEPS) Action plan in 2015. In 2019 OECD conducted Global Forum on VAT in Melbourne Australia, in which measures proposed in a new report by the OECD on The Role of Digital Platforms in the Collection of VAT/GST on Online Sales. The report includes new measures to make e-commerce marketplaces liable for the VAT/GST on sales made by online traders through their platforms. Other measures include data sharing and enhanced co-operation between tax authorities and online marketplaces. These new measures provide governments with the tools needed to ensure that online platforms play their part in the collection of VAT/GST. They will also level the playing field for those on high streets and in malls, who have had to compete against online competitors enjoying a tax advantage. The importance of these measures is underlined by OECD analysis, which shows that two-thirds of all cross-border e-commerce sales of goods are made through online marketplaces. Tracking these online marketplaces to ensure that VAT/GST is paid by making them liable and through data sharing, will allow tax authorities to focus their compliance efforts on the relatively small number of marketplaces rather than on the millions of small traders operating through them.

Now the Bill proposes 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. Definition of online marketplace also proposed to be inserted in Section 2(18A), whereby Online marketplace includes an electronic interface such as marketplace, e-commerce platform, portal or similar means which facilitates sale of goods, including third party sale, in any of the following manner:

- a) By controlling the terms and conditions of sale;
- b) Authorizing the charge to the customers in respect of the payment for the supply; or
- c) Ordering or delivering the goods.

These are also no proposed to be included in definition of Tier-1 retailers, please see point no. 5 for detail.

2. BRAND LICENSE SCHEME

The Business Licensing Scheme is already in ITO in Section 181D, whereby every person engaged in any business, profession or vocation shall be required to obtain and display a business license as prescribed by the FBR.

Track and trace system is also in place in Sales Tax for specified sectors for monitoring mass tax evasions in the country. Now for specified goods, the Bill proposes, to make it mandatory for manufacturers of such goods to obtain brand license for each separate brand or Stock Keeping Unit ("SKU"). SKU is a scannable bar code, most often seen printed on product labels in a retail store. The label allows vendors to automatically track the movement of inventory. The characters are a code that track the price, product details, and the manufacturer.

It is done through insertion of new propose Section 40 E in STA, whereby Manufacturers of the specified goods shall be required to obtain brand license for each brand or stock keeping Unit (SKU) in such a manner as may be latter prescribed by the FBR in Rules. Any specified brand and SKU found to be sold without obtaining a license from FBR shall be deemed counterfeit goods and liable to outright confiscation

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and destruction in the prescribed manner and any other penal actions.

3. PRIZE SCHEMES TO PROMOTE TAX CULTURE

As Per Section 56C inserted vide Finance Act 2015, the FBR may prescribe prize schemes to encourage general public to make purchases only from registered persons issuing tax invoices.

Similar measure was taken by FBR through amendment in Section 3(9A) through finance Act, 2019, whereby the customers of a Tier-1 retailer were entitled to receive a cash back of up to five percent of the tax involved, from such date, in the manner and to the extent, as may be prescribed by the Board and rules were also promulgated. Now through the bill, this proposed to be omitted.

To ensure that the said incentive is not misused, the bill proposes an amendment in Section 56C, whereby the FBR may prescribe procedure in Rules for “mystery shopping” in respect of invoices issued by Tier-1 retailers integrated with FBR online system randomly and in case of any discrepancy, all the relevant provisions of Act shall apply. Mystery Shopping is a process in which a person visits a retail store, restaurant, bank branch or any such location with the objective of measuring the quality of customer experience. To ensure that these processes are followed, these companies hire Mystery Shopping Companies to conduct regular audits on their locations and will be now conducted by FBR to ensure compliance with laws.

4. COTTAGE INDUSTRY

The Cottage industry is exempt for sales tax under entry no. 3 of Sixth Schedule of STA and accordingly not liable to get registration under Section 14 of STA. As per definition of cottage industry provided in Section 2(5AB) a manufacturing concern, which fulfills each of following conditions,

- (a) Does not have an industrial gas or electricity connection;
- (b) Is located in residential area;

- (c) Does not have a total labor force of more than ten workers; and
- (d) annual turnover from all supplies does not exceed **three million Rupees**.

As a relief measure provided to cottage industry the bill proposes to increase the above threshold of 3 million to 10 million.

5. 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) A retailer operating as a unit of a national or international chain of stores;
- (b) A retailer operating in an air-conditioned shopping mall, plaza or centre, excluding kiosks;
- (c) A retailer whose cumulative electricity bill during the immediately preceding twelve consecutive months exceeds Rupees twelve hundred thousand;
- (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 proposes to include following in Tier-1 category:

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- 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 from banking companies or any other digital payment service provider authorized by State Bank of Pakistan.

6. RELIEF FOR PUBLIC COMPANIES

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.

Now the bill proposes to exclude public limited companies (Listed and unlisted) from restriction of Section 8B whereby they can now adjust 100% input tax for the tax period from their output liability and will not suffer further liquidity issues when they already have lower value additions and operating profits.

7. 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.

8. ASSESSMENT AND RECOVERY OF TAX

In Income tax Ordinance, 2001 the Commissioner may make amendment in assessment in case of wrong or short assessment within 5 years of financial year in which return has been filed.

The assessment of tax and recovery of tax not levied or short levied or erroneously refunded in sales tax is governed by Section 11 of STA, which is normally invoked after Audit is conducted under Section 25. However, there is time limit of 5 years from **relevant date**, for issuance of Show cause notice. The relevant date in case of Sales Tax is particular date of month in which tax was liable to be paid, as sales tax is payable on monthly basis. However, as a common practice the FBR conduct audits and issue SCN on full year basis not consider this technical aspect of time limitation. Further as a practice the income tax and sales tax audit are conducted simultaneously for the same financial year and in such cases there are instance where sales tax audit may be time barred for few months where as income tax is not which creates glitch in tax management and causes time wasting litigations.

In order to bring both tax laws at par, it is proposed through the bill that the time limitation in sales tax will also be 5 years at the end of financial year in which the relevant date falls.

9. COMMISSIONER APPEALS

A new definition of Commissioner Appeals is proposed to be inserted in Section 2(4AA) whereby

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Commissioner Appeal means Commissioner of Inland Revenue (Appeals) appointed under Section 30, only to make correction in legal deficiencies.

10. EXTENSION OF TIME FOR FURNISHING OF RETURNS

Currently there is no provisions whereby the registered person can apply for extension in dates of filling monthly sales tax return. A new Section 26AB is proposed to be inserted by the bill whereby a registered person required to furnish a return under Section 26 may apply, in writing, to the Commissioner for an extension of time. The application for extension to be made within due date for furnishing the return, for following reasons:

- (a) Absence from Pakistan,
- (b) Sickness or otherwise misadventure,
- (c) Any other reasonable cause

The Commissioner on satisfaction on above cause, by order grant the applicant an extension of time for furnishing the return. The extension in time shall not exceed 15 days from the due date of furnishing of return i.e., 18th of each month, unless there are exceptional circumstances justifying a longer extension of time.

If Commissioner not grant extension, the Chief Commissioner may on an application made by registered person for extension or further extension, grant extension or further extension for a period not exceeding 15 days, unless there are exceptional circumstances justifying a longer extension of time. However, it is clarified that this extension will not affect the calculation of default surcharge u/s 34 which will be calculated from date is due to be paid i.e. 15th of each month.

11. RECORDS TO MAINTAINED

Section 22 prescribe the various records to be maintained by registered person making taxable supplies and now the bill has proposed to add cash book also to be maintained. It also proposed to maintain electronic version of all records to be maintained under this section in addition to hardcopies.

12. TRANSACTIONS BETWEEN ASSOCIATES

Section 25AA was inserted through Finance Act, 2010, whereby the Commissioner or an officer of Inland Revenue may, in respect of any transaction between persons who are associates, determine the transfer price of taxable supplies between the persons as is necessary to reflect the fair market value of supplies in an arm's length transaction. Now through the bill, the FBR is proposed to be given power to prescribe rules in this regard.

In Finance Act, 2019 a provision was made in Section 108 of ITO, 2001 to provide for professional support to the Commissioner to seek services of a Chartered Accountant or Cost Management Accountant with permission of FBR for determination of fair market value of the asset, product, expenditure, or service at the time of transaction. Similar provisions can also be made in this section of sales tax for determination of fair value of product or services.

13. SUPPLIES FROM TAX EXEMPT AREAS

Section 40D of STA prescribe rules to be governed on supplies from tax exempt areas of Pakistan viz Azad Jammu and Kashmir, Gilgit-Baltistan, Tribal Area as defined in Article 246 of the Constitution of the Islamic Republic of Pakistan and such other areas as may be prescribed to taxable area. Now through the bill, it is proposed that **Border Sustenance Markets** also included for the purpose of these rules and related exemptions are proposed to be given on food related other consumable goods in Sixth Schedule.

14. RECOVERY OF AREARS OF TAX

Section 48 provides various modes to tax officer to recover tax through attachment of bank accounts, counterfeiting goods, sealing business premises, attachment if movable or immovable properties etc. Now it is proposed through the bill that same recovery modes will applied if request is made by a foreign country for collection and recovery of tax under tax treaty, bilateral or a multilateral convention, and inter-governmental agreement or similar agreement or mechanism.

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15. AGREEMENT FOR THE EXCHANGE OF INFORMATION

Through Finance Act, 2015, section 56A was introduced in Sales Tax Act, 1990 through which Federal Government was empowered to enter into bilateral or multilateral agreements with provincial Government or governments of foreign countries for exchange of information including electronic exchange of information relating to sales tax law or any other law of the country. These provisions are similar to the relevant provision for exchange of information provided under the Income Tax Ordinance, 2001.

Through the Tax Law (Amendment) Ordinance, 2021 FBR has been empowered for sharing of data or information including real time data videos, images received under the provisions of the Sales Tax Act, 1990 with the Ministries or Divisions of Federal and Provincial governments subject to such limitations and conditions as may be specified by FBR. This now proposed to be added in Act through the Bill. Further it is proposed to give power to Federal Government to enter into bilateral or multilateral convention, and inter-governmental agreement or similar agreement or mechanism for assistance in the recovery of tax.

16. CONDONATION OF REFUND AND RELIEF ON DELAYED REFUNDS

As per Section 67 of STA, where a refund is due under section 10 is not made within the time specified in this behalf, there shall be paid to the claimant in addition to the amount of refund due to him, a further sum equal to KIBOR per annum of the amount of refund due.

As per Section 66, no refund of tax claimed to have been paid or overpaid through inadvertence, error or misconstruction or refund on account of input adjustment not claimed within the relevant tax period, shall be allowed, unless the claim is made within one year of the date of payment. However, in case where a registered person did not deduct input tax within the relevant tax period, the Commissioner may, after satisfying himself that input tax adjustment is due and

admissible, allow the registered person to take such adjustment in the tax period as specified by the Commissioner.

Now the bill proposes the relief under 67 to be extended in cases where condonation of time is allowed through Order in section 66, whereby after order u/s 66 refund due is not made within 45 days of date of such order, there shall be paid to the claimant in addition to the amount of the refund due to him, a further sum equal to KIBOR per annum of the amount of refund, due from the date of the refund order.

17. CERTAIN TRANSACTIONS NOT ADMISSIBLE

The concept of constructive receipt is already in Income Tax Ordinance, 2001, a person shall be treated as having received an amount, benefit, or perquisite if it is –

- (a) actually, received by the person;
- (b) applied on behalf of the person, at the instruction of the person or under any law; or
- (c) made available to the person.

As per Section 73 of STA, payment of the amount for a transaction exceeding value of fifty thousand rupees shall be made by a crossed cheque drawn on a bank or by crossed bank draft or crossed pay order or any other crossed banking instrument showing transfer of the amount of the sales tax invoice in favour of the supplier from the business bank account of the buyer. The buyer shall not be entitled to claim input tax credit, adjustment or deduction, or refund, repayment or draw-back or zero-rating of tax under this Act if payment for the amount is made otherwise than in the manner prescribed above. However, there were practical difficulties in compliance of this section where entities make adjustments with their counter parties in respect of amount receivable from payable to same parties as no payment been made in this case. There were cases that tax officers disallowed input where such adjustment has been made.

Now to remove their anomaly, the concept of constructive payments has also been proposed to be introduced in Section 73 whereby adjustments made

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by a registered person in respect of amounts payable and receivable to and from the same party shall be treated as payments satisfying the provisions of Section 73, if following conditions are adhered to:

- (a) Sales tax has been charged and paid by both parties under the relevant provisions of STA,
- (b) The registered person has sought prior approval of the Commissioner before making such adjustments

18. FEE AND SERVICE CHARGES

Section 76 inserted by Finance Act , 2019 The FBR with approval of the Federal Minister-in-charge may, by notification in the official Gazette, subject to such conditions, limitations or restrictions as it may deem fit to impose, levy fee and service charges for valuation, in respect of any other service or control mechanism provided by any formation under the control of the FBR, including ventures of public-private partnership, at such rates as may be specified in the notifications. Now the bill proposed that FBR may authorized and prescribe the manner in which fee and service charges collected shall be expended.

19. SUPPLY OF SUGAR

The white crystalline sugar (Tarriff heading 1701.9910 and 1701.9920) was exempt from sales tax (entry no. 111 of Table 1 of Sixth Schedule) prior to Finance Act, 2016. Through Finance Act 2016 it was inserted in eighth Schedule serial no. 32 and become taxable @8% which was omitted by Finance Act 2019 and become taxable at 17% under normal tax regime.

Now in view of collection issues in sugar sector, reports of tax evasions and continues rise in prices, sugar (respective it is proposed to be included in Third Schedule of STA in entry no. 50, except for sugar where it is supplied as industrial raw material to pharmaceutical, beverages and confectionary industries. The items in third schedule shall be charged to tax at the rate of 17% of the retail price and the retail price thereof along with the amount of sales tax shall be legibly, prominently, and indelibly printed or embossed by the manufacturer, or the importer, in

case of imported goods on each article, packet, container, package, cover or label. Further third schedule items are also exempt from withholding of sales tax under eleventh schedule and from value addition tax at import under Twelfth Schedule.

20. FIFTH SCHEDULE- ZERO RATING

The bill proposes to add a new entry no. 15, local supplies of raw material, components, parts and plant and machinery to registered exporters authorized under Export Facilitation Scheme, 2021 notified by the FBR with such conditions, limitations, and restrictions. Presently, different schemes are used by the exporters which would be integrated into a single scheme.

The following entries are proposed to be deleted and now taxable under normal tax regime:

Serial no.	Description
1.	<ul style="list-style-type: none"> i. Supply, repair or maintenance of any ship which is neither; <ul style="list-style-type: none"> (a) A ship of gross tonnage of less than 15 LDT; nor (b) A ship designed or adapted for use for recreation or pleasure. ii. Supply, repair or maintenance of any aircraft which is neither; <ul style="list-style-type: none"> (a) An aircraft of weight-less than 8000 kilograms; nor (b) An aircraft designed or adapted for use for recreation or pleasure. iii. Supply of spare parts and equipment for ships and aircraft falling under (i) and (ii) above. iv. Supply of equipment and machinery for pilot age, salvage, or towage services. v. Supply of equipment and machinery for air navigation services. vi. Supply of equipment and machinery for other services provided for the handling of ships or aircraft in a port or Customs Airport.
6	Supplies of such locally manufactured plant and machinery to the petroleum and gas sector Exploration and Production companies, their contractors and sub-contractors as may be specified by the Federal Government, by notification in the official Gazette, subject to

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	such conditions and restrictions as may be specified in such notification.
10	Petroleum Crude Oil (PCT heading 2709.0000).
11	Raw materials, components, sub-components and parts, if imported or purchased locally for use in the manufacturing of such plant and machinery as is chargeable to sales tax at the rate of zero percent, subject to the condition that the importer or purchaser of such goods holds a valid sales tax registration showing his registration category as “manufacturer”; and in case of import, all the conditions, restrictions, limitations and procedures as are imposed by Notification under section 19 of the Customs Act, 1969 (IV of 1969), shall apply.

21. SIXTH SCHEDULE

The following exemptions on import and supplies proposed to be withdrawn whereby these are subject to sales tax @17%, however, some of entries highlighted in **RED** are now proposed to be inserted in table-2 whereby the exemption on local supplies is maintained.

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
22	Sugar beet.	1212.91
24	Edible oils and vegetable ghee, including cooking oil, on which Federal Excise Duty is charged, levied and	1507.9000, 1508.9000, 1509.1000, 1509.9000, 1510.0000, 1511.1000] 1511.9020, 1511.9030, 1512.1900, 1513.1900, 1513.2900, 1514.1900,

	collected by a registered manufacturer or importer as if it were a tax payable under section 3 of the Act.	1514.9900, 1515.2900, 1515.5000, 1516.2010, 1516.2020, 1517.1000,
	<i>Explanation.</i> – Exemption of this entry shall not be available on local supplies made by importers] distributors, wholesalers or retailers.	1517.9000 and 1518.0000.
26	Fruit juices, whether fresh, frozen or otherwise preserved but excluding those bottled, canned or packaged.	2009.1100, 2009.1200, 2009.1900, 2009.2100, 2009.2900, 2009.3100, 2009.3900, 2009.4100, 2009.4900, 2009.5000, 2009.6100, 2009.6900, 2009.7100, 2009.7900, and 2009.9000.
27	Ice and waters excluding those for sale under brand names or trademarks.	2201.101
29	Table salt including iodized salt excluding salt sold in retail packing bearing brand names and trademarks.	2501.001
29C	Glass bangles	7020.009
73A	Milk and cream, concentrated or containing added sugar or other sweetening matter, excluding that sold in retail packing under a brand name	4.02
74	Flavored milk, excluding that sold in retail packing under a brand name	402.99
75	Yogurt, excluding that sold in retail packing under a brand name	403.1
76	Whey, excluding that sold in retail packing under a brand name	4.04
77	Butter, excluding that sold in retail packing under a brand name	405.1

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78	Desi ghee, excluding that sold in retail packing under a brand name	405.9
79	Cheese, excluding that sold in retail packing under a brand name	406.101
80	Processed cheese not grated or powdered, excluding that sold in retail	406.3
82	Frozen, prepared or preserved sausages and similar products of poultry meat or meat offal excluding those sold in retail packing under a brand name or a trademark	1601
83	Meat and similar products of prepared frozen or preserved meat or meat offal of all types including poultry meat and fish 3[excluding those sold in retail packing under a brand name or a trademark.	1602.3200, 1602.3900, 1602.5000, 1604.1100, 1604.1200, 1604.1300, 1604.1400, 1604.1500, 1604.1600, 1604.1900, 1604.2010, 1604.2020, 1604.2090,
84	Preparations suitable for infants, put up for retail sale	1901.1
85	Fat filled milk excluding that sold in retail packing under a brand name or a trademark.	1901.909
91	Energy saver lamps	8539.311
93	Bicycles	87.12
101	Raw and pickled hides and skins, wet blue hides and skins, finished leather, and accessories, components, and trimmings, if imported by a registered leather goods manufacturer, for the manufacture of goods wholly for export, provided that conditions,	Respective headings

	procedures and restrictions laid down in rules 264 to 278 of the Customs Rules, 2001 are duly fulfilled and complied with.	
103	Import and supply thereof, up to the year 2030, of ships and all floating crafts including tugs, dredgers, survey vessels and other specialized crafts purchased or bare-boat chartered by a Pakistan entity and flying the Pakistan flag, except ships or crafts acquired for demolition purposes or are designed or adapted for use for recreation or pleasure purposes, subject to the condition that such ships or crafts are used only for the purpose for which they were procured, and in case such ships or crafts are used for demolition purposes within a period of five years of their acquisition, sales tax applicable to such ships purchased for demolition purposes shall be chargeable.	Respective headings
106	Import of Halal edible offal of bovine animals.	0206.1000, 0206.8000 and 0206.9000
108	Components or sub-components of energy saver lamps, namely:- (a) Electronic Circuit (b) Plastic Caps (Upper and Lower) (c) Base Caps B22 and E27 (d) Tungsten Filaments (e) Lead-in-wire	8539.904

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	(f) Fluorescent Powder (Tri Band Phosphor)	8539.904
	(g) Adhesive Additive	8539.904
	(h) Al-Oxide Suspension	8539.904
	(i) Capping Cement	8539.904
	(j) Stamp Pad Ink	
	(k) Gutter for Suspension	3206.501 3824.84 3824.9099 3214.105 3215.901 2850
115	Plant, machinery and equipment imported for setting up fruit processing and preservation units in Gilgit-Baltistan, Balochistan Province and Malakand Division upto the 30 th June 2019 subject to the same conditions and procedure as are applicable for import of such plant, machinery and equipment under the Customs Act, 1969 (IV of 1969).	Respective headings
123	Aircraft, whether imported or acquired on wet or dry lease: Provided that in case of import or acquisition on wet or dry lease by Pakistan International Airline Corporation, this exemption shall be available with effect from 19 th March, 2015	8802.2000, 8802.3000, 8802.4000
124	Maintenance kits for use in trainer aircrafts of PCT headings 8802.2000 and 8802.3000	Respective headings
125	Spare parts for use in aircrafts, trainer aircrafts or simulators	Respective headings
128	Aviation simulators imported by airline	Respective headings

	company recognized by Aviation Division	
153	Steel billets, ingots, ship plates, bars and other long re-rolled profiles, on such imports and supplies by the manufacturer on which federal excise duty is payable in sales tax mode	Respective headings

Following new entries are proposed to be inserted, the same were introduced through Tax Laws (Amendment) Ordinance, 2021 and Tax laws (Second Amendment) Ordinance, 2021

Serial No	Description	Tariff heading
157	Import of CKD (in kit form) of following electric vehicles (4 wheelers) by local manufacturers till 30 th June, 2026: i. Small cars/SUVs with 50 Kwh battery or below; and ii. Light commercial vehicles (LCVs) with 150 kwh battery or below	Respective headings
158	Goods temporarily imported into Pakistan by International Athletes which shall be subsequently taken by them within 120 days of temporary import	Respective headings
159	Import of auto disable Syringes till 30 th June, 2021 i. with needles ii. without needles	9018.3110 9018.3120
160	Import of following raw materials for the manufacturers of auto disable syringes till 30 th June, 2021 i. Tubular metal needles ii. Rubber Gaskets	9018.3200 4016.9310
161	Import of plant, machinery, equipment and raw materials for consumption of these items within Special Technology Zone by the Special Technology Zone	Respective headings

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	Authority, zone developers and zone enterprises	
162	Import of raw materials, components, parts and plant and machinery by registered persons authorized under Export Facilitation Scheme, 2021 notified by the Board with such conditions, limitations and restrictions.	Respective headings

TABLE 2 COLUMN (Local Supplies)

Following is proposed to be inserted.

Serial No	Description	Tariff Heading
26	Supply of locally produced silos till 30.06.2026	Respective heading
27	Eggs including eggs for hatching	0407.1100, 0407.1900, 0407.2100 and 0407.2900
28	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
29	Sugar beet	1212.9100
30	Fruit juices, whether fresh, frozen or otherwise preserved but excluding those bottled, canned or packaged.	2009.1100, 2009.1200, 2009.1900, 2009.2100, 2009.2900, 2009.3100, 2009.3900, 2009.4100, 2009.4900, 2009.5000, 2009.6100, 2009.6900, 2009.7100, 2009.7900, and 2009.9000
31	Milk and cream, concentrated or containing added sugar or other sweetening matter, excluding that sold in	04.02

	retail packing under a brand name	
32	Flavored milk, excluding that sold in retail packing under a brand name	0402.9900
33	Yogurt, excluding that sold in retail packing under a brand name	0403.1000
34	Whey, excluding that sold in retail packing under a brand name	04.04
35	Butter, excluding that sold in retail packing under a brand name	0405.1000
36	Desi ghee, excluding that sold in retail packing under a brand name	0405.9000
37	Cheese, excluding that sold in retail packing under a brand name	0406.1010
38	Processed cheese not grated or powdered, excluding that sold in retail packing under a brand name	0406.3000
39	Sausages and similar products of poultry meat or meat offal excluding sold in retail packing under a brand name or trademark	1601.0000
40	Products of meat or meat offal excluding sold in retail packing under a brand name or trademark	1602.3200, 1602.3900, 1602.5000, 1604.1100, 1604.1200, 1604.1300, 1604.1400, 1604.1500, 1604.1600, 1604.1900, 1604.2010, 1604.2020 and 1604.2090
41	Preparations suitable for infants, put up for retail sale	1901.1000
42	Fat filled milk excluding that sold in retail packing under a brand name or a trademark	1901.9090;

The following are proposed to be deleted, whereby now taxable @17%

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Serial No	Description	Tarriff Heading
17	Raw and pickled hides and skins, wet blue hides and skins	41.01, 41.02, 41.03, 4104.1000, 4105.1000, 4106.2100, 4106.3000, 4106.9000
19	Bricks (up to 30th June, 2018)	6901.1000
24	LED or SMD lights and bulbs meant for conservation of energy.	8539.5010, 8539.5020, 9405.1030 and 9405.4020
25	Cotton seed oil	1512.2100 and 1512.2900

A new Table-4 in Sixth Schedule proposed to be inserted for Sustenance Markets in Border areas with following provisions and entries

The goods specified in column (2) of the Annexure below falling under the PCT codes specified in column (3) of the said Annexure, when supplied within the limits of the Border Sustenance Markets, established in cooperation with Iran and Afghanistan, shall be exempted from the whole of the sales tax, subject to the following conditions, namely:-

(i) Such goods shall be supplied only within the limits of Border Sustenance Markets established in cooperation with Iran and Afghanistan;

(ii) If the goods, on which exemption under this Table has been availed, are brought outside the limits of such markets, sales tax shall be charged on the value assessed on the goods declaration import or the fair market value, whichever is higher;

(iii) Such items in case of import, shall be allowed clearance by the Customs Authorities subject to furnishing of bank guarantee equal to the amount of sales tax involved and the same shall be released after presentation of consumption certificate issued by the Commissioner Inland Revenue having jurisdiction;

(iv) The said exemption shall only be available to a person upon furnishing proof of having a functional business premises located within limits of the Border Sustenance Markets; and

(v) Breach of any of the conditions specified herein shall attract relevant legal provisions of this Act, besides recovery of the amount of sales tax alongwith default surcharge and penalties involved.

Annexure		
S.No	Description	Tarriff Heading
1	Seed (Potatoes)	0701.1000
2	Tomatoes, fresh or chilled	0702.0000
3	Onions and shallots	0703.1000
4	Garlic	0703.2000
5	Cauliflowers cabbage	0704.9000
6	Carrots and turnips	0706.1000
7	Cucumbers and gherkins fresh or chilled	0707.0000
8	Peas (pisum sativum)	0708.1000
9	Beans (vigna spp., phaseolus spp.)	0708.2000
10	other leguminous vegetables	0708.9000
11	Peas (Pisum sativum)	0713.1000
12	Grams (Dry/Whole)	0713.2010
13	Dried leguminous vegetables	0713.2090, 0713.9090
14	Beans of the species Vigna mungo (L.) Hepper or Vigna radiata (L.) Wilczek	0713.3100
15	Small red (Adzuki) beans (Phaseolus or Vigna angularis)	0713.3200
16	Kidney beans including white beans	0713.3300
17	Bambara - vigna subteranea or vaahdzeia subterrea	0713.3400
18	Beans vigna unguiculata	0713.3500
19	Other	0713.3990
20	Lentils (Dry/Whole)	0713.4010
21	Broad beans (Vicia faba var. major) and horse beans (Vicia faba var. equina, Vicia faba var. minor)	0713.5000
22	Pigeon peas (cajanus cajan)	0713.6000
23	Vanilla (Neither crushed nor ground)	0905.1000
24	Cinnamon	0906.1100
25	Other (Cinnamon And Cinnamon Tree Flowers)	0906.1900
26	Neither crushed nor ground (Cloves)	0907.1000
27	Crushed or ground (Cloves)	0907.2000
28	Neither Crushed nor ground (Nutmeg)	0908.1100
29	Crushed or ground (Nutmeg)	0908.1200
30	Neither crushed nor ground (Maze)	0908.2100

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31	Crushed or ground (Maze)	0908.2200	60	Dried (Grapes)	0806.2000
32	Large (Cardammoms)	0908.3110	61	Melons	0807.1100, 0807.1900
33	Small (Cardammoms)	0908.3120	62	Apples	0808.1000
34	Crushed or ground (Cardammoms)	0908.3200	63	Green Tea	0902.1000
35	Neither crushed nor ground (Coriander)	0909.2100	64	Other Green Tea	0902.2000
36	Crushed or ground (Coriander)	0909.2200	65	Crushed or ground (Ginger)	0910.1200
37	Neither crushed nor ground (Seeds of Cumins)	0909.3100	66	Turmeric (curcuma)	0910.3000
38	Crushed or ground (Seeds of Cumins)	0909.3200	67	Other (spice)	0910.9990
39	Neither crushed nor ground (Seeds of Anise, Badian, Caraway, Fennel etc)	0909.6100	68	Lactose (Sugar)	1702.1110
40	Crushed or ground (Seeds of Anise, Badian, Caraway, Fennel etc)	0909.6200	69	Sugar Syrup	1702.1120
41	Thyme; bay leaves	0910.9910	70	Sugar Other	1702.1900
42	Barley (Seeds)	1003.1000, 1003.9000	71	Caramel	1702.9020
43	Sunflower seeds ,whether or not broken	1206.0000	72	Oil-cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of soya bean oil.	2304.0000
44	Locust beans	1212.9200	73	Other (animal feed)	2309.9000
45	Cereal straws and husks	1213.0000	74	For Sewing (Thread)	5204.2010
46	Knives and cutting blades for paper and paper board	8208.9010	75	For embroidery (Thread)	5204.2020
47	Of a fat content, by weight, not exceeding 1 % (milk and cream)	0401.1000	76	Spades and shovels	8201.1000
48	Of a fat content, by weight, exceeding 1 % but not exceeding 6 % (milk and cream)	0401.2000	77	Tools for masons, watchmakers, miners and hand tools nes	8205.5900
49	Of a fat content, by weight, exceeding 6 % but not exceeding 10% (Milk and Cream)	0401.4000	78	For kitchen appliances or for machines used by the food industry	8208.3000
50	Of a fat content, by weight, exceeding 10 % (Milk and Cream)	0401.5000	79	Other kitchen appliances	8208.9090
51	Leeks and other alliaceous vegetables	0703.9000	80	Yogurt	0403.1000
52	Cauliflowers and headed broccoli	0704.1000	81	Other (Potatoes)	0701.9000
53	Brussels sprouts	0704.2000	82	Sweet corn	0710.4000
54	Cabbage lettuce (head lettuce)	0705.1100	83	Mixtures of vegetables	0710.9000
55	Lettuce	0705.1900	84	Fresh (Dates)	0804.1010
56	Chicory	0705.2100, 0705.2900	85	Dried (Dates)	0804.1020
57	Fruits of the genus Capsicum or of the genus Pimenta	0709.6000	86	Apricots	0809.1000
58	Figs	0804.2000	87	Sour cherries (Prunus cerasus)	0809.2100
59	Fresh (grapes)	0806.1000	88	Other (Apricots)	0809.2900
			89	Peaches, including nectarines	0809.3000
			90	Plums and sloes	0809.4000
			91	Strawberries	0810.1000
			92	Kiwi Fruit	0810.5000
			93	Neither crushed nor ground (Ginger)	0910.1100
			94	Wheat and Meslin(Other)	1001.1900
			95	Wheat and Meslin (Other)	1001.9900
			96	Of Wheat (Flour)	1101.0010
			97	Of Meslin	1101.0020
			98	Vermacelli	1902.1920
			99	Other (Packed Cake)	
			100	Homogenised perparations	2007.1000
			101	Citrus Fruit	2007.9100
			102	Other (jams)	2007.9900

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103	Organic surface-active products and preparations for washing the skin, in the form of liquid or cream and put up for retail sale, whether or not containing soap	3401.3000
104	Preparations put up for retail sale	3402.2000
105	Other (washing preparations)	3402.2000
106	Tableware and kitchenware of porcelain or china	6911.1090
107	Household articles nes & toilet articles of porcelain or china	6911.9000
108	Glassware for table or kitchen purposes (excl. glass having a linear c	7013.4900
109	Glassware nes (other than that of 70.10 or 70.18)	7013.9900
110	Spoons	8215.9910
111	Tableware articles not in sets and not plated with precious metal	8215.9990
112	Bicycles and other cycles (including delivery tricycles), not motorised	8712.0000
113	Vacuum flasks	9617.0010
114	Vacuum flasks/vacuum vessels complete w/cases; parts o/t glass inners (others)	9617.0020.”;

supplying reclaimed lead or used lead batteries mainly represents un-documented sector.

24. TWELFTH SCHEDULE

The said schedule was inserted by Finance Act, 2019 which prescribes rules related to value addition tax @3% levied at import stage and exemption from value addition. Now following are also proposed to be exempt from value addition tax at import stage, previously introduced vide Tax Laws (Amendment) Ordinance, 2021:

- Electric vehicles (4 wheelers) CKD kits for small cars/SUVs, with 50 kwh battery or below and LCVs with 150 kwh battery of below till 30th June 2026
- Electric vehicles (4 wheelers) small cars/SUV, with 50 kwh battery or below and LCVs with 150 kwh battery of below in CBU condition till 30th June 2026
- Electric vehicles (2-3 wheelers and heavy commercial vehicles) in CBU condition till 30th June 2025; and
- Motor cars of cylinder capacity upto 850cc.

22. NINTH SCHEDULE

A special tax regime for SIM cards & cellular mobile phones was introduced vide Finance Act 2014 whereby sale tax on supply of SIM Cards was subject to sales tax Rs 250 payable at the time of supply by CMOs. Now this proposed to be omitted w.e.f. 1st July 2021, whereby it will be now subject to normal tax regime @17%. It is also clarified that this shall not prejudicially affect, the FBR’s stance or position in pending cases on the issue of chargeability of sales tax on SIM cards before any court of law.

23. 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. Now through the bill, a new entry 7 has been proposed whereby registered persons manufacturing lead batteries shall withholding whole of sales tax applicable while making payments to persons

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25. THE EIGHTH SCHEDULE

The following entries are proposed to be omitted with effect that now to be changed at Normal Sales tax @17%.

S No	Description	Heading Nos. of the First Schedule to the Customs Act, 1969 (IV of 1969)	Rate of Sales Tax	Condition
1	Soyabean Meal	2304.000	10%	
5	Raw cotton and ginned cotton	Respective Headings	5%	Import thereof subject to the condition that Plant Protection Department of Ministry of Food, Agriculture and Livestock certified that imported seeds are fungicide and insecticide treated and are meant for sowing.
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</p>

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				such plant and machinery as is used in the manufacture or production of goods.
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
11	Cream	04.01 and 04.02	10%	Sold in retail packing under a brand name
14	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
15	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	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 (Enzymes/other), 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	10%	

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		<p>Aluminosilicates whether or not chemically defined), 1[2301.2090] (Fish Meal), 0505.9000 (Poultry by Product Meal), and the following items only of Feed Grade: 2827.6000 (Potassium Iodide), 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 Monohydrochloride /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)</p>		
22	Soya been seed	1201.1000	10%	On import by solvent extraction industries, subject to the condition that no refund of input tax shall be admissible
29.(i)	Harvesting, threshing and storage equipment:		5[5]%	
(ii)	Wheat thresher	8433.5200		
(iii)	Maize or groundnut thresher or sheller	8433.5200		
(iv)	Groundnut digger	8433.5900		
(v)	Potato digger or harvester	8433.5300		
(vi)	Sunflower thresher	8433.5200		
(vii)	Post hole digger	8433.5900		
(viii)	Straw balers	8433.4000		
(ix)	Fodder rake	8433.5900		
(x)	Wheat or rice reaper	8433.5900		
(xi)	Chaff or fodder cutter	8433.5900		
(xii)	Cotton picker	8433.5900		

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(xiii)	Onion or garlic harvester	8433.5200		
(xiv)	Sugar harvester	8433.5200		
(xiv)	Tractor trolley or forage wagon	8716.8090		
(xvi)	Reaping machines	8433.5900		
(xvii)	Combined harvesters	8433.5100		
(xviii)	Pruner/shears	8433.5900		
45	Following machinery for poultry sector : (i) Machinery for preparing feeding stuff (ii) Incubators, brooders and other poultry equipment (iii) Insulated sandwich panels (iv) Poultry sheds (v) Evaporative air cooling system (vi) Evaporative cooling pad	8436.1000 8436.2100 and 8436.2900 Respective heading 9406.1020 and 9406.9020 8479.6000 8479.9010	7% 7% 7% 7% 7%	Import and supply
50.	LNG/RLNG	2711.1100	12%	Import thereof
51.	LNG/RLNG	2711.1100 and 2711.2100	12%	If supplied to gas transmission and distribution companies]
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
65	Ginned cotton	Respective headings	10%	
67	LNG imported for servicing CNG sector and local supplies thereof	2711.1100, 2711.2100	5%	

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New entries proposed to be added

71.	Following locally manufactured or assembled electric vehicles (4 Wheelers) till 30 th June 2026 (i) Small cars/SUVs with 50 Kwh battery or below; and (ii) Light commercial vehicles (LCVs) with 150 kwh battery or below	Respective heading	1%	If supplied locally
72.	Motorcars	87.03	12.5%	Locally manufactured or assembled motorcars of cylinder capacity upto 850cc
73	Import and local supply of Hybrid Electric Vehicles: (a) Upto 1800 cc (b) From 1801 cc to 2500 cc	87.03 87.03	8.5% 12.75%;	

In Serial no. 56 Potassium Chlorate (KClO₃) with rate 17% along with rupees 80 per kilogram with condition Imports and supply thereof. Provided that rate of rupees 80 per kilogram shall not apply on imports made by and supplies made to organizations under the control of Ministry of Defence Production. Now it is proposed that Rate of tax now 17% along with rupees 90 per kilogram.

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Amendments in Federal Excise Act, 2005

1. FILING OF RETURN AND PAYMENT OF DUTY

Section 4 of FEA prescribes rules for filling of return and payment of duty. Inter alia, it provides that a registered person may, subject to approval of the Commissioner Inland Revenue having jurisdiction, file a revised return within one hundred and twenty days of the filing of return under sub-section (1), to correct any omission or wrong declaration made therein. Now the bill proposes that the approval under this sub-section shall not require if revised return is filed within 60 days of filling of the original return and either the duty payable as per the revised return is more than the amount paid or the refund claimed therein is less than amount as claimed, under the return sought to be revised. This is in line with similar provisions made in Sales Tax Act in Section 26 vide Finance Act, 2019.

2. RECOVERY OF UNPAID DUTY OR OF ERRONEOUSLY REFUNDED DUTY OR ARREARS OF DUTY

In line with similar provisions proposed to be inserted in Section 48, now it is also proposed in Section 14 of FEA, that same recovery modes will applied if request is made by a foreign country for collection and recovery of tax under tax treaty, bilateral or a multilateral convention, and inter-governmental agreement or similar agreement or mechanism.

3. BRAND LICENSE SCHEME

In line with similar proposal in Sales Tax Act, now for specified goods The Bill proposes to make it mandatory for manufacturers of such goods to obtain brand license for each separate brand or Stock Keeping Unit (SKU).

It is done through insertion of new propose Section 45AA in FEA, whereby Manufacturers of the specified goods shall be required to obtain brand license for each brand or stock keeping Unit (SKU) in such a manner as may be latter prescribed by the FBR in Rules. Any specified brand and SKU found to be sold without obtaining a license from FBR shall be deemed counterfeit goods and liable to outright confiscation

and destruction in the prescribed manner and any other penal actions.

4. AGREEMENT FOR THE EXCHANGE OF INFORMATION

In line with proposals in Sales Tax Act, 1990, the FBR proposed to empowered for sharing of data or information including real time data videos, images received under the provisions of the FEA with the Ministries or Divisions of Federal and Provincial governments subject to such limitations and conditions as may be specified by FBR. It is also proposed to give power to Federal Government u/s 47A of FEA to enter into bilateral or multilateral convention, and inter-governmental agreement or similar agreement or mechanism for assistance in the recovery of tax.

5. 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. It means that 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.

Following are proposed to be omitted in first schedule therefore exempt for FED:

Table -1 (Goods)

S. No.	Description of goods	Tarriff Heading	Rate of duty
1	Edible oils excluding epoxidized soyabean oil falling under heading 15.18 (now chargeable to sales tax @17% after proposed omission of clause 24 of Sixth Schedule)	15.07, 15.08, 15.09, 15.10, 15.11, 15.12, 15.13, 15.14, 15.15, 15.16, 15.17, and 15.18	Seventeen per cent ad val

Amendments in Federal Excise Act, 2005

2.	Vegetable ghee and cooking oil (a) in retail packing (b) not in retail packing (now chargeable to sales tax @17% after proposed omission of clause 24 of Sixth Schedule)	Respective headings	Seventeen per cent of retail price Seventeen per cent ad val
57	Fruit juices, syrups and squashes, waters containing added sugar or sweetening matter etc. excluding mineral and aerated waters. (Fresh Juices excluding packaged on import is now taxable after proposed omission in Serial no. 26 of Sixth Schedule, however its local supply is still exempt under Serial no. 30 of Table 2) (Syrups and squashes previously chargeable to Fed and Third Schedule, now only third schedule applicable)	Respective headings	Five percent of retail price.
58	Steel Billets, ingots, ship plates, bars and other long re-rolled products (Now chargeable to Sales Tax @17% after proposed omission in Serial 153 Sixth Schedule)	Respective headings	Seventeen percent ad val.

The following entry is proposed to be inserted.

8c	Tobacco mixture in an electrically heated tobacco product by whatever name called, intended for consumption by using tobacco heating system without combustion.	2403.9990	Rupees five thousand two hundred per kg
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The following amendment is made:

Before amendment	After amendment
55. Imported motor cars, SUVs and other motor vehicles, excluding auto rickshaws, principally designed for the transport of persons (other than those of headings 87.02), including station wagons and racing cars.	Imported motor cars, SUVs and other motor vehicles, excluding auto rickshaws, principally designed for the transport of persons (other than those of headings 87.02 and till the 30th June 2026 electric vehicles (4 wheelers)), including station wagons and racing cars. This has an effect that FED is now exempt on electric vehicles till 30 th June 2026.
55B. Locally manufactured or assembled motor cars, SUVs and other motor vehicles, excluding auto rickshaws principally designed for the transport of persons (other than those of headings 87.02), including station wagons and racing cars: (a) of cylinder capacity up to 1000cc (b) of cylinder capacity from 1001cc to 2000cc (c) of cylinder capacity 2001cc and above	55B. Locally manufactured or assembled motor cars, SUVs and other motor vehicles, excluding auto rickshaws principally designed for the transport of persons (other than those of headings 87.02 and till the 30th June 2026 electric vehicles (4 wheelers)), including station wagons and racing cars: (a) of cylinder capacity 851 to up to 1000cc (b) of cylinder capacity from 1001cc to 2000cc (c) of cylinder capacity 2001cc and above
56. Filter rod for cigarettes 5502.0090	56. Filter rod for cigarettes 5502.0090 5502.9090

Table - 2 (Services), (FED chargeable only where no provincial sales tax is promulgated and effectively applicable only in Islamabad Capital Territory)

The following amendment is proposed.

Before Amendments	After Amendments
6. Telecommunication services, excluding such services in the area of a Provincial sales tax and has started collecting the same through its own Board or	6. Telecommunication services, excluding such services in the area of a Provincial sales tax and has started collecting the same through its own Board or

Amendments in Federal Excise Act, 2005

Authority, as the case may be	Authority, as the case may be
Seventeen per cent of charges	Sixteen per cent of charges
8. Services provided or rendered by banking companies, insurance companies, cooperative financing societies, modarabas, musharikas, leasing companies, foreign exchange dealers, non-banking financial institutions, Assets Management Companies and other persons dealing in any such services	Services provided or rendered by banking companies excluding Merchant Discount Rate (MDR) for accepting digital payments, insurance companies, cooperative financing societies, modarabas, musharikas, leasing companies, foreign exchange dealers, non-banking financial institutions, Assets Management Companies and other persons dealing in any such services.

Following new entry proposed to be inserted.

6A	Following telecommunication services:		One rupee per call in addition to the rates of duty specified under Serial No.6
	(a) Mobile phone call duration exceeds three minutes	Respective sub-heading of 98.12	
	(b) Internet Services	9812.6000	Five rupees per GB in addition to the rates of duty specified under Serial No.6
	(c) Sms Services	9812.1710	Ten paisa per sms in addition to the rates of duty specified under serial no.6

6. SECOND SCHEDULE (GOODS ON WHICH DUTY IS COLLECTIBLE UNDER SALES TAX MODE WITH ENTITLEMENT FOR ADJUSTMENT WITH SALES TAX AND VICE VERSA)

Following entries are proposed to be omitted.

1.	Edible oil excluding epoxidized soyabean oil falling under heading 15.18	15.07, 15.09, 15.11, 15.13,	15.08, 15.10, 15.12, 15.14
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		15.15, 15.16, 15.17 & 15.18
2.	Vegetable ghee and cooking oil	Respective headings.
4	Steel Billets, ingots, ship plates, bars and other long re-rolled products	Respective headings

7. THIRD SCHEDULE (TABLE-1)(LIST OF GOODS WITH CONDITIONAL EXEMPTIONS)

Proposed to new entries.

24	The following goods, when supplied within the limits of the Border Sustenance Markets, established in cooperation with Iran and Afghanistan: (a) Animal Fats and Oil and their fractions (b) Vegetable Fats and their fractions (c) Vegetable Oils and their fractions Provided that, such items in case of import, shall be allowed clearance by the Customs Authorities subject to furnishing of bank guarantee equal to the amount of duty involved and the same shall be released after presentation of consumption certificate issued by the Commissioner Inland Revenue having jurisdiction: Provided further that, the said exemption shall only be available to a person upon furnishing proof of having a functional business premises located within limits of the Border Sustenance Markets	1516.1000 1516.2010 1516.2020
25	Import and supply of raw materials, components, parts and plant and machinery by registered persons authorized under Export Facilitation Scheme, 2021 notified by the Board with such conditions, limitations and restrictions.	Respective headings



Amendments in Federal Excise Act, 2005

➤ ISLAMABAD CAPITAL TERRITORY (TAX ON SERVICES) ORDINANCE, 2001

The bill proposes to exempt sales tax on export of services from Islamabad Capital Territory shall be charged at zero percent.

Continue from next page

COMMENTS ON TAX LAWS (AMENDMENT) ORDINANCE, 2021 [THE ORDINANCE]

PROLOGUE

The President of Pakistan has promulgated the Ordinance dated 12th February 2021 to make amendments in Income Tax Ordinance, 2001[ITO], Sales Tax Act, 1990[STA] and Federal Excise Act, 2005[FED] and Customs Act. We are pleased to submit our comments on the effect of the said Ordinance on ITO, STA and FED.

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The comments in this document are based on the judgment and experience of the author, along with publicly available information. Therefore, it cannot be said with certainty that the author's comments are acceptable by everyone. Tola Associates does not accept nor assume any responsibility, whatsoever, for any purpose. This document is circulated electronically free of cost for general public to create tax awareness in the country.

The readers are advised to consult the actual text of the Ordinance when interpreting specific provisions, and to consult our tax department for clear advice on specific issues.

Lastly, we would like to extend our warm regards to all of you during these tough times. You can visit our website www.tolaassociates.com, or download our mobile Application, in order to access our monthly publications, and other publications similar to this, that are issued in light of (a) major development(s). The aforesaid application can be downloaded from the links hereunder:

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

Best Regards

TOLA ASSOCIATES

A. Amendments in Income Tax Ordinance, 2001[ITO]

1. Payment to non-resident - Section 152

Section 152 prescribes rules for withholding of tax when payment is made to non-residents on account of royalty, fee for technical services, contract of construction services, contract for digital services, contract for advertisements, etc.

Now through Ordinance, every banking company maintaining a Foreign Currency Value Account (FCVA) or a non-resident Pakistani Rupee Value Account (NRVA) of a non-resident individual holding Pakistan Origin Card (POC) or National ID Card for Overseas Pakistanis (NICOP) or Computerized National ID Card shall deduct tax @10% on capital gain arising on the disposal of debt instruments and government securities and certificates (including Shariah compliant variant) invested through FCVA and NRVA, and this shall be final tax liability for such non-resident persons.

2. Advance Tax on Motor Vehicle-Section 231B

Every motor vehicle registering authority of Excise and Taxation Department is required to collect advance tax at the time of registration of a new locally manufactured motor vehicle, at the rates prescribe with respect to engine capacity.

Now through Ordinance, every motor vehicle registering authority of Excise and Taxation Department is required to collect advance tax in addition to above from the buyers of locally manufactured motor vehicles who subsequently sell it within 90 days of delivery of such vehicle whether prior to or after registration at the following rates. This tax is adjustable and is applicable till 30th June 2021 only.

S.No.	Engine Capacity	Tax
1	Up To 1000cc	Rs 50,000
2	1000cc to 2000cc	Rs 100,000
3	2000cc and above	Rs 200,000

The tax has been introduced to discourage the 'On Money' culture in Pakistan which has been a major factor in price hikes in car prices over the past years.

3. Advance Tax on sale or transfer of immovable Property -Section 236C

Any person responsible for registering, recording or attesting transfer of any immovable property, at the time of registering, recording or attesting the transfer, is required to collect from the seller or transferor advance tax at the rate of 1%. The Advance tax collected is adjustable, however, where immovable property is acquired and disposed of within the same tax year, the tax collected under this section is minimum tax.

Now through Ordinance, if the seller or transferor is a non-resident individual holding POC or NICOP or Computerized National ID Card, who had acquired the immovable property through a FCVA or a NRVA maintained with authorized banks in Pakistan shall be final tax in lieu of capital gains earned by the seller or transferor from the property so disposed off.

For instance, if Mr. A, who is a non-resident Pakistani holding POC acquires an immovable property through FCVA costing Rs. 100 million and later disposes off the property after one year for Rs. 107 million, he will be required to pay advance tax of Rs. 1,070,000 (107,000,000x1%) at the time of disposal. At the time of filing of return at year end, he will be required to only declare capital gain of Rs.

7 million and will not be required to pay any further tax on such gain.

This fixed tax regime is a discrimination against local buyers and sellers of immovable property. The regime may also be used as a tool to whiten the black money as fictitious capital gains may be booked as was done through earlier fixed tax regime.

On the other hand, if the above transactions have been done by a resident individual, he would have been charged tax on capital gain of Rs. 7 million at 5% as per slab rate provided in division III, Part I, First Schedule.

4. Advance tax on purchase or transfer of immovable property - Section 236K

Any person responsible for registering, recording or attesting transfer of any immovable property, is required at the time of registering, recording or attesting the transfer to collect from the purchaser or transferee advance tax at the rate 1% of fair market value. The advance tax collected shall be adjustable.

Now through Ordinance, if the buyer or transferee is a non-resident individual holding POC or NICOP or Computerized National ID Card who acquires the immovable property through a FCVA or NRVA maintained with authorized banks in Pakistan, the tax shall be final tax for such buyer.

In the above example when Mr. A acquired property through FCVA, he was charged 1% advance tax at the time of purchase of property under section 236K. Therefore, effectively the buyer of the property is charged approximately 2% of the value of property (1% at time of acquisition and 1% at time of disposal) plus 1% on capital gain (as capital gain being part of value of property at the time of disposal) in lieu of capital gain tax under section 37 of ITO.

5. Super Tax on Banking Companies

Section 4B was inserted vide FA 2015, for rehabilitation of temporarily displaced persons to be paid by prescribed persons at the rate prescribed under Division IIA of Part I of the First Schedule. Through Tax Year 2020 onwards the tax was only applicable on Banking companies @ 4% till Tax year 2021. Now this tax has been extended for indefinite period.

6. Advance Tax on Import-Section 148

Currently advance tax rates on imports are as under:

S No.	Persons	Rate
1	Persons importing goods classified in Part I of the Twelfth Schedule	1% of the import value as increased by customs-duty, sales tax and federal excise duty.
2	Persons importing goods classified in Part II of the Twelfth Schedule	2% of the import value as increased by customs-duty, sales tax and federal excise duty
3	Persons importing goods classified in Part III of the Twelfth Schedule, commercial imports	5.5% of the import value as increased by customs-duty, sales tax and federal excise duty

Through Ordinance, the rate in case of importers of CKD kits of electric vehicles for small cars or SUVs with 50kwh battery or below and LCVs with 150 kwh battery or below is prescribed at 1%

7. Advance tax on sale to distributors, dealers or wholesalers - Section 236G

As per Section 236G, every manufacturer or commercial importer of electronics, sugar, cement, iron and steel products, fertilizer,

motorcycles, pesticides, cigarettes, glass, textile, beverages, paint or foam, at the time of sale to distributors, dealers and wholesalers, shall collect advance tax at the rate 0.7% from fertilizer, and at 0.1% other than fertilizer, from the aforesaid person to whom such sales have been made.

Now through Ordinance, incentive is given in the form of reduced rate to support voluntary registration. The rate of advance tax on sale to distributors, dealers or wholesalers of fertilizer is reduced to 0.25%, if they already are or get themselves registered under the Sales Tax Act, 1990 within 60 days of the promulgation of this Ordinance.

8. Exemptions from Total Income-Part 1 of Second Schedule

8.1 Profit on Debt - Clause 78

Currently, any profit on debt derived from foreign currency accounts held with authorised banks in Pakistan, or certificate of investment issued by investment banks in accordance with Foreign Currency Accounts Scheme introduced by the State Bank of Pakistan, by **citizens of Pakistan and foreign nationals residing abroad, foreign association of persons, companies registered and operating abroad and foreign nationals residing in Pakistan** is exempt from tax.

Now through Ordinance such exemption has been restricted to only **non-resident individuals, non-resident association of person and non-resident companies**.

8.2 Profit on Debt- Clause 79

Currently, any profit on debt derived from a rupee account held with a scheduled bank in Pakistan by a **citizen of Pakistan residing abroad**, where the deposits in the said account are made exclusively from foreign

exchange remitted into the said account is exempt from tax.

Now through Ordinance such exemption has been restricted to only **non-resident individual holding a POC or NICOP or CNIC**.

The restriction of above exemptions to only non-residents is discriminatory against residents. There are approximately USD 7 billion reserves in these foreign currency accounts. Out of these USD 7 billion, USD 5 billion to USD 6 billion are used by the Government to showcase as foreign exchange reserves and to net off foreign exchange liabilities. On the other hand, the above discriminatory incentives are being granted for only USD 458 million of Foreign Direct Investments in addition to paying them interest at 7%.

8.3 Transmission Line Project- Clause 126M

Currently, exemption is available on Profits and gains derived by a taxpayer from a transmission line project set up in Pakistan on or after 1st July, 2015 for a period of ten years. The exemption under this clause shall apply to such project which is

(a) owned and managed by a company formed for operating the said project and registered under the Companies Ordinance, 1984 (XLVII of 1984), and having its registered office in Pakistan;

(b) not formed by the splitting up, or the reconstruction or reconstitution, of a business already in existence or by transfer to a new business of any machinery or plant used in a business which was being carried on in Pakistan at any time before the commencement of the new business; and

(c) owned by a company fifty per cent of whose shares are not held by the Federal Government or Provincial Government or a Local Government or which is not controlled

by the Federal Government or a Provincial Government or a Local Government:

The exemption under this clause was not available to projects which are set up on or after the 30th June, 2018. Now through Ordinance, the deadline for project setup has been extended to 30th June 2022.

8.4 Islamic Naya Pakistan Certificates Company Limited (INPCCL) - Clause 148

Through Ordinance, exemption of tax is given on any income derived by INPCCL.

9. Reduction in Tax Rates-Part II of Second Schedule

9.1 Profit on Debt to non-resident - Clause 5A

Currently, the rate of tax to be deducted under sub-section (2) of section 152, in respect of payments from profit on debt payable to a non-resident person, having no permanent establishment in Pakistan, is 10% of the gross amount paid. The tax deducted on profit on debt from debt instrument, Government securities including treasury bills and Pakistan Investment Bonds is final tax on profit on debt payable to a non-resident person having no permanent establishment in Pakistan and the investments are exclusively made through a special Rupee Convertible Account maintained with a Bank in Pakistan.

Now, through Ordinance, changes have been made whereby this advance tax will not apply if exemption from total income under Clause 78 and 79 of Part 1 is availed, as discussed in 8.1 & 8.2 above.

9.2 Profit on Debt on Resident - Clause 5AB

The rate of tax to be deducted under section 151 have been reduced to 10% (from 15%) from the profit on debt instruments, whether conventional or Shariah compliant, issued by Federal Government under the Public Debt Act, 1944 or its wholly owned special purpose

company, purchased by a resident citizen of Pakistan who has already declared foreign assets to the FBR through FCVA maintained with authorized banks in Pakistan under the foreign exchange regulation issued by the State Bank of Pakistan. The tax so deducted will be final tax.

9.3 Profit on Debt to non-resident/resident - Clause 5AC

The rate of advance tax to be deducted under Section 152(2) or Section 151 have been reduced to 0% of the gross amount of profit on debt paid which are covered under clause 79 and 78 of part 1 as discussed in 8.1 and 8.2 above.

9.4 Deduction on payment u/s 153(1)(a)-Clause 24C

Currently, the rate of tax under clause (a) of sub-section (1) of section 153 in case of dealers and sub-dealers of sugar, cement and edible oil, as recipient of the payment, is 0.25% of the gross amount of payments.

Now through Ordinance, **wholesaler and retailers** of fast moving consumer goods, fertilizer, sugar, cement and edible oil, have also been added in the above category as recipient of the payment.

However, the benefit of reduced rate shall be available to those dealers, sub-dealers, wholesalers and retailers of above sectors who already are or get themselves registered under the Sales Tax Act, 1990 within 60 days of promulgation of this Ordinance.

9.5 Minimum Tax u/s 113-Clause 24D

Currently, the rate of minimum tax under sub-section (1) of section 113 in case of dealers and sub-dealers of sugar, cement and edible oil is 0.25% subject to the condition that the names of such dealers and sub-dealers are appearing on the active taxpayers' lists issued under the provisions of

the Sales Tax Act, 1990 and the Income Tax Ordinance, 2001.

Now, **wholesalers and retailers of fast moving consumers goods, fertilizer**, sugar, cement and edible oil have also been included in the above category.

However, the benefit of reduced rate shall be available to those dealers, sub-dealers, wholesalers and retailers of above sectors who already are or get themselves registered under the Sales Tax Act, 1990 within 60 days of promulgation of this Ordinance.

10. Reduction In Tax Liability - Part III of Second Schedule-Clause 17

With effect from 1st July 2019, the maximum tax payable by cotton ginnerers on their income and profits is capped at 1% of sum of their turnover from cotton lint, cotton seed, cotton seed oil and cotton seed cake. It shall be final tax on cotton ginning and oil milling activities.

11. Exemption from specific provisions - Part IV of Second Schedule

11.1 Minimum tax u/s 113- Clause 11A

Now through Ordinance, Islamic Naya Pakistan Certificates Company limited(INPCCL) is exempt from application of section 113.

11.2 Tax on Import u/s 148- Clause 56

Through Ordinance, exemption has been granted to goods temporally imported into Pakistan by international athletes which would be subsequently taken back by them within 120 days of temporary import.

11.3 National Telecommunication Corporation- Clause 79A

Exemption from withholding tax u/s 153(1)(b) have been extended on services provided by NTC against telecommunication services including ancillary services specified

in Section 41 of Pakistan Telecommunication (Re-organization) Act, 1996.

11.4 Non-resident can be non-filer with filer rates- Clause 111AB

The provisions of Section 100BA and rule 1 of the Tenth Schedule i.e. double rate of tax on non-filer, have been made not applicable on non-resident individual holding POC, or NICOP or CNIC maintaining a FCVA or NRVA.

11.5 Tax on Banking Transaction u/s 236P- Clause 112A

Currently, the provisions of section 236P are not applicable to a non-resident rupee account repatriable (NRAR) or a foreign currency account maintained with a banking company in Pakistan of a non-resident individual investing in a debt instrument, whether conventional or shariah compliant, issued by the Federal Government under the Public Debt Act, 1944.

Now changes have been made whereby, the provisions of **section 231A and 231AA and 236P** are not applicable to the **holders of FCVA or NRPRVA in respect of these account only.**

11.6 Return of income u/s 114 and Taxpayer registration u/s 181- Clause 114A

Section 114 prescribes list of persons who are required to file return of income including every person whose income for the year is subject to final taxation under any provision of ITO [Section 114(1)(ae)]. Currently, the provisions of clause (ae) of sub-section (1) of section 114 and section 181 shall not apply to a non-resident individual solely by reason 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, NRAR or a

foreign currency account maintained with a banking company in Pakistan.

Now amendment has been introduced whereby the provisions of clause (ae) of sub-section (1) of section 114 and section 181 are not applicable to a non-resident individual holding Pakistan Origin Card, or National ID for Overseas Pakistanis(NICOP) or CNIC maintaining a FCVA or NRVA.

It is clarified that the person will be required to file return and obtain registration u/s 181 if he has Pakistan Source income. However, following Pakistan Source income will get exemption from Section 114 and 181:

- Profit on debt on FCVA or NRVA.
- Profit on Debt earned on Government of Pakistan (GOP) securities either conventional or Shariah Compliant where investment has been made from proceeds of FCVA or NRVA.
- Capital gain on disposal of immovable property acquired from proceeds of FCVA or NRVA.
- Capital gain on disposal of securities traded on PSX and units of mutual fund that are acquired from proceeds of FCVA or NRVA.
- Dividend income from securities traded on PSX and Mutual funds that are acquired from proceeds of FCVA or NRVA.

11.7 Islamic Naya Pakistan Certificates Company, Limited (INPCCL) - Clause 117

Amendments have been introduced whereby the provisions of withholding taxes, as provided in ITO, are not applicable to INPCCL as a recipient of payment.

11.8 Withholding agent u/s 153(1)(a) - Clause 118

Amendment has been introduced whereby the provisions of Section 153(1)(a) are not applicable to distributors, dealers,

wholesalers and retailers of locally manufactured mobile phone devices as withholding agent with effect from 1st July 2020.

B. Amendments in Sales Tax Act, 1990[STA]

1. Agreement for the exchange of information - Section 56A

Section 56 empowers Federal Government to enter into bilateral or multilateral agreements with provincial governments or with governments of foreign countries for the exchange of information, including electronic exchange of information, with respect to sales tax imposed under this Act or any other law of Pakistan and under the corresponding laws of such countries and may, by notification in the official Gazette, make such provisions as may be necessary for implementing such agreements.

Now, FBR has been given power to share data or information including real time data videos and images received under the provisions of this Act with any other Ministry or Division of the Federal Government or Provincial Government.

2. Sales Tax Exemptions - Sixth Schedule

Exemptions from sales tax have been provided in case of following:

- Import of CKD kits for the following electric vehicles (4 wheelers) by local manufacturers till 30th June 2026.
 - Small cars and SUVs with 50 kwh battery or below; and
 - Light Commercial Vehicles with 150 kwh battery or below.
- Goods temporarily imported into Pakistan by international athletes or sportsmen which would be subsequently taken back by them within 120 days of temporary import.

3. Specific Rates of Sales Tax - Eight Schedule

A new entry 71 is introduced in Eight Schedule whereby reduced rate of sales tax at 1% has been prescribed on following locally manufactured or assembled electric vehicles (4 wheelers) on local supply till 30th June 2026:

- (a) Small cars or SUVs with 50 kwh battery or below; and
- (b) Light commercial vehicles (LCVs) with 150 kwh battery or below

4. Minimum Value Addition Sales Tax - Twelfth Schedule

Following have been exempted from levy of value addition tax @3% at import stage on following:

- Electric vehicles (4 wheelers) CKD kits for small cars or SUVs, with 50 kwh battery or below and light commercial vehicles (LCVs) with 150 kwh battery or below till the 30th June 2026
- Electric vehicles (4 wheelers) small cars or SUVs with 50 kwh battery or below and light Commercial Vehicles (LCVs) with 150 kwh battery or below in CBU condition till 30th June 2026.
- Electric vehicles (2-3 wheelers and heavy commercial vehicles) in CBU condition till 30th June 2026.

C. Amendments in Federal Excise Tax Act, 2005 [FED]-First Schedule

An amendment has been introduced whereby imported and locally manufactured 4 wheeler electric vehicles have been excluded from levy of federal excise duty.

Annexure B



PROLOGUE:

The Government was likely to introduce Finance Bill after Cabinet approval in Session of National Assembly to be called Tax Laws (First Amendment) Act, 2021, whereby it would be proposing to withdraw/streamlining majority of exemptions in Income Tax Ordinance, 2001 **w.e.f. from 1st July 2021**. The withdrawal of exemptions were made in line with on-going negotiations with IMF to withdraw income tax exemptions worth Rs 140 billion. We have issued our comments based on publicly available version of the Bill on Social Media on Saturday, 13 March 2021. Since Parliament is not in session, the President of Pakistan has now issued same amendments with some modifications through Ordinance dated 22nd March 2021 **with immediate effect**. Some amendments have also been made in Sales Tax Act, 1990[STA].

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Ashfaq Tola – FCA

Friday, 26 March, 2021

INCOME TAX ORDINANCE, 2001

1. INDUSTRIAL UNDERTAKING - SECTION 2 (29C)

The scope of industrial undertaking is defined in Section 2(29C) to be eligible for various benefits under ITO. The definition also empowers FBR to specify any other entity as industrial undertaking. Now through Ordinance this power of FBR has been withdrawn.

2. FIRST YEAR ALLOWANCE - SECTION 23A

As per Section 23A, plant, machinery and equipment installed by any industrial undertaking set up in specified rural and underdeveloped areas and owned and managed by a company are allowed first year allowance at 90% of the cost in lieu of initial allowance. Now through the Ordinance, this allowance is withdrawn.

3. REBATE ON DONATION - SECTION 61, CLAUSE 61 PART-1 OF SECOND SCHEDULE, THIRTEENTH SCHEDULE

As per section 61, a person is entitled to a tax credit in respect of any sum paid, or any property given by the person in the tax year as a donation to:

- any board of education or any university in Pakistan established by, or under, a Federal or a Provincial law;
- any educational institution, hospital or relief fund established or run in Pakistan by Federal Government or a Provincial Government or a Local Government; or
- any non-profit organization
- The tax credit is allowed at average rate of tax on the lower of the following:
- Actual amount of donation or Fair Market Value of property at the time it is given; or
- 30% of taxable income (20% in case of a company)

To extend the scope of this section, now voluntary contribution or subscription has also been included to calculate tax credit. The Ordinance also clarify that non-profit organization includes persons eligible for tax credit under Section 100C of ITO.

4. DONATIONS AS DIRECT DEDUCTIONS - CLAUSE (61), (64A), (64B), (64C) AND (65) AND THIRTEENTH SCHEDULE

As per clauses (61), (64A), (64B), (64C) and (65) of Part 1 of Second Schedule, donations to certain institutions are **straight forward deduction** from income of the donor (instead of calculating rebate at average rate of tax as done under section 61). Maximum limit on donations under this clause is 30% of taxable income in case of an individual or AOP and 20% of taxable income in case of a company with respect to donations to institutions specified in clause (61).

Now these clauses are omitted by the Ordinance, and all the institutions mentioned therein are now part of newly inserted Thirteenth Schedule read with Section 61 of ITO. Therefore, donations, voluntary contributions and subscription to these institutions will no more be direct deduction from income of the donor, rather will be a rebate at average rate of tax. Following is a comparison of impact of change on tax liability of a salaried person having total income of Rs. 3,200,000 who donates an amount of Rs. 640,000 to institutions listed under clause (61).

	Pre Bill	Post Bill
Total Income	3,200,000	3,200,000
less: Donation to institutions under clause 61	(640,000)	-
Taxable income	2,560,000	3,200,000
Tax at slab rate	282,000	420,000
Less: Rebate at average rate	-	(84,000)
Net Tax Liability	282,000	336,000

5. TAX CREDIT FOR PERSONS EMPLOYING FRESH GRADUATES- SECTION 64C

Section 64C inserted through Finance Act 2019, provides that a person employing freshly qualified graduates from a university or institution recognized by Higher Education Commission shall be entitled to a tax credit in respect of the amount of annual salary paid to the freshly qualified graduates for a tax year in which such graduates are employed. Now through the Ordinance, this tax credit is withdrawn.

INCOME TAX ORDINANCE, 2001

6. TAX CREDIT FOR ENLISTMENT- SECTION 65C

As per this section, where a taxpayer being a company opts for enlistment in any registered stock exchange in Pakistan on or before the 30th day of June 2022, a tax credit equal to twenty per cent 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. Now through the Ordinance, this tax credit is withdrawn.

7. TAX CREDIT FOR NEWLY ESTABLISHED INDUSTRIAL UNDERTAKING- SECTION 65D

As per Section 65D, where a taxpayer being a company formed for establishing and operating a new industrial undertaking including corporate dairy farming sets up a new industrial undertaking including a corporate dairy farm, it shall be given a tax credit, on basis of ratio of equity investment in industrial undertaking to total investment, of the tax payable, including on account of minimum tax and final taxes payable for a period of five years beginning from the date of setting up or commencement of commercial production, whichever is later. This tax credit was available to the company that is incorporated and industrial undertaking is setup between the first day of July, 2011 and 30th day of June, 2021.

Now through Ordinance this is omitted with condition that existing beneficiaries shall continue to avail benefits of repealed provisions for the periods and subject to conditions and limitations specified in this Section.

8. TAX CREDIT FOR CERTAIN PERSONS - SECTION 65F

A new Section 65F is inserted through Ordinance, whereby income of following taxpayers shall be allowed a tax credit equal to 100 % of the tax payable including minimum and final taxes as follows: -

- (a) Persons engaged in coal mining projects in Sindh supplying coal exclusively to power generation projects; [Previously in Clause 132A of Part 1 of Second Schedule now omitted].
- (b) A startup as defined in clause (62A) of section 2 for the tax year in which the startup is certified by the Pakistan Software Export Board and the following two tax years; [Previously in Clause 143 of Part 1 of Second Schedule now omitted].
- (c) Persons deriving income from exports of computer software or IT services or IT enabled services upto the period ending on the 30th day of June, 2025:

Provided that eighty per cent of the export proceeds is brought into Pakistan in foreign exchange remitted from outside Pakistan through normal banking channels.

Explanation. - For the purpose of this clause,

- i. "IT services" include software development, software maintenance, system integration, web design, web development, web hosting and network design; and
- ii. "IT enabled services" include inbound or outbound call centers, medical transcription, remote monitoring, graphics design, accounting services, HR services, telemedicine centers, data entry operations, locally produced television programs and insurance claims processing. [Previously in Clause 133 of Part 1 of Second Schedule now omitted]

The above tax credit shall be available subject to fulfillment of the following conditions, namely:-

- (a) return has been filed;
- (b) tax required to be deducted or collected has been deducted or collected and paid;
- (c) withholding tax statements for the immediately preceding tax year have been filed;
- (d) sales tax returns for the tax periods corresponding to relevant tax year have been filed;

The above credits will not preclude the provision of audit under section 214C and section 177.

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We understand that the changes made are in line with latest Supreme Court Order in Civil Appeal No.647 of 2018 dated 28.09.2020 in which scope of exemption vs tax credit was clarified by Apex Court. The reclassification will render the respective taxpayers ineligible for applying for exemption certificate under section 159 for exemption from withholding tax provisions.

9. TAX CREDIT FOR SPECIFIED INDUSTRIAL UNDERTAKING – SECTION 65G

A new Section 65G is inserted through the Ordinance, whereby **eligible capital investment** done by **eligible taxpayers** shall be allowed to take an investment tax credit of 25% of the eligible investment amount, against tax payable under the provisions of this Ordinance including minimum and final taxes. The tax credit not fully adjusted during the year of investment shall be carried forward to the subsequent tax year subject to the condition that it may be carried forward for a period not exceeding two years.

Eligible investment means investment made in purchase and installation of new machinery, buildings, equipment, hardware and software, except self-created software and used capital goods.

Eligible person means –

- (a) green field industrial undertaking as defined in clause (27A) of section 2 of this Ordinance
1. engaged in –
 - The manufacture of goods or materials or the subjection of goods or materials to any process which substantially changes their original condition; or
 - Ship building;
 2. A person incorporated between the 30th day of June, 2019 and the 30th day of June, 2024; and
 3. A person not formed by the splitting up or reconstitution of an undertaking already in existence or by transfer of machinery, plant or building from an undertaking established in Pakistan.

- (b) industrial undertaking set up by the 30th day of June 2023 and engaged in the manufacture of plant, machinery, equipment and items with dedicated use (no multiple uses) for generation of renewable energy from sources like solar and wind, for a period of five years beginning from the date such industrial undertaking is set up. (Previously in clause (126I, Part I of Second Schedule)

On the other hand, The Ordinance omit Clause 126O of Part 1 of Second Schedule whereby Profits and gains of a company from a green field industrial undertaking for a period of five years incorporated on or after the first day of July, 2019, are exempt

10. 100% TAX CREDIT FOR NOT FOR PROFIT ORGANIZATION – SECTION 100C

The Ordinance have restructured the section 100C of the income Tax Ordinance as follows;

1. The Conditions and limitations to claim tax credit under Section 100C has been removed from sub-section 1 and has been added back vide subsection (4) to the same section, with no changes in the Conditions and limitations itself. However, the condition of approval from Commissioner for persons mentioned in Table-II of clause (66) of Part I of Second Schedule, to take effect from 1st July, 2022 and conditions of section 2(36) are not applicable for earlier years for these persons.
2. The taxation of surplus funds of non-profit organization and the definition of surplus funds previously provided under sub-section 1A and 1B has been omitted and added back vide sub-section 5 and 6 to the same section, with no changes in the taxation of surplus funds of non-profit organization and the definition of surplus funds.
3. Previously the Persons and income eligible for Tax credit were provided under sub-section 2 of Section 100C. Now through Ordinance these are bifurcated in the Persons eligible for Tax credit and income eligible for Tax credit under Section 100C vide insertion of sub-section 2 and sub-

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section 3. The restructuring adds the persons and incomes as follows:

• Persons

- (a) Institutions, foundations, societies, boards, trusts and funds as are provided in Second Schedule, Clause 66 Part 1, Table 2 of the Income Tax Ordinance, 2001;
- (b) A trust administered under a scheme approved by Federal Government and established in Pakistan exclusively for the purposes of carrying out such activities as are for the welfare of ex-employees and serving personnel of the Federal Government or a Provincial Government or
- (c) Nominated by the Federal Government or a Provincial Government.
- (d) A trust
- (e) a welfare institution registered with Provincial or Islamabad Capital Territory (ICT) social welfare department;
- (f) armed forces including civilian employees of armed forces and their dependents where the said trust is administered by a committee
- (g) a not for profit company registered with the Securities and Exchange Commission of Pakistan under section 42 of the Companies Act, 2017;
- (h) a welfare society registered under the provincial or Islamabad Capital Territory (ICT) laws related to registration of co-operative societies; and
- (i) International non-governmental organizations (INGOs) approved by the Federal Government.
- (j) A waqf registered under Mussalman Waqf Validating Act, 1913(VI of 1913) or any other law for the time being in force or in the instrument relating to the trust or the institution.
- (k) A university or education institutions being run by non-profit organization existing solely for educational purposes and not for the purpose of profit.
- (l) A religious or charitable institution registered under any law for the time being in force.

• Income

- (a) Income from donations, voluntary contributions, and subscription
- (b) Income from house property
- (c) Income from investments in the securities of Fed Gov.
- (d) Profit on debt from schedule banks and microfinance banks
- (e) Grant received from FG, PG, Local or Foreign Gov.
- (f) So much of income from business as is expended in Pakistan for purpose of carrying out welfare activities on proportionate basis.

11. PENALTY- SECTION 182

The following amendments have been made in section 182 whereby, certain penalties have been revised:

BEFORE AMENDMENT	AFTER AMENDMENT
<p>Sr.1 Where any person fails to furnish a return of income as required under section 114 within due date Such person shall pay a penalty equal to 0.1% of the tax payable in respect of that year for each day of default subject to a maximum penalty of 50% of the tax payable provided that if the penalty worked out as aforesaid is less than 4 [forty] thousand rupees or no tax is payable for that tax year such person shall pay a penalty of 5 [forty] thousand rupees.</p> <p>However, that if 75% of the income is from salary and the amount of income under salary is less than five million Rupees, the minimum amount of penalty shall be five thousand Rupees.]</p>	<p>Sr.1 Where any person fails to furnish a return of income as required under section 114 within due date Such person shall pay a penalty equal to 0.1% of the tax payable in respect of that year for each day of default subject to a maximum penalty of 50% of the tax payable provided that if the penalty worked out as aforesaid is less than 4 [forty] thousand rupees or no tax is payable for that tax year such person shall pay a penalty of 5 [forty] thousand rupees.</p> <p>However, that if 75% of the income is from salary and the amount of income under salary is less than five million Rupees, the minimum amount of penalty shall be five thousand Rupees.</p>

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<p>Explanation.- For the purposes of this entry, it is declared that the expression “tax payable” means tax chargeable on the taxable income on the basis of assessment made or treated to have been made under sections 120, 121, 122 or 122C.</p>	<p>Provided further that if taxable income is up-to eight hundred thousand Rupees, the minimum amount of penalty shall be five thousand Rupees:</p> <p>Provided also that the amount of penalty shall be reduced by 75%, 50% and 25% if the return is filed within one, two and three months respectively after the due date or extended due date of filing of return as prescribed under the law.</p> <p>Explanation. - For the purposes of this entry, it is declared that the expression “tax payable” means tax chargeable on the taxable income on the basis of assessment made or treated to have been made under sections 120, 121, 122 or 122C.</p>	<p>6. Any person who repeats erroneous calculation in the return for more than one year whereby amount of tax less than the actual tax payable under this Ordinance is paid.</p> <p>Such person shall pay a penalty of 2 [thirty] thousand rupees or three per cent of the amount of the tax involved, whichever is higher.</p>	<p>Provided that where it stands established that no tax was required to be deducted or collected during the relevant period, minimum amount of penalty shall be ten thousand Rupees.</p> <p>5. Any person who repeats erroneous calculation in the return for more than one year whereby amount of tax paid is less than the actual tax payable under this Ordinance.</p> <p>Such person shall pay a penalty of thirty thousand rupees or three per cent of the amount of the tax involved, whichever is higher.</p> <p>Provided that no penalty shall be imposed to the extent of the tax shortfall occurring as a result of the taxpayer taking a reasonably arguable position on the application of this Ordinance to the taxpayer’s position.</p>
<p>1A. Where any person fails to furnish a statement as required under section 115, 165, 165A or 165B within the due date.</p> <p>Such person shall pay a penalty of Rs. 5000 if the person had already paid the tax collected or withheld by him within the due date for payment and the statement is filed within ninety days from the due date for filing the statement and, in all other cases, a penalty of Rs. 2500 for each day of default from the due date subject to a minimum penalty of Rs. 10,000</p>	<p>1A. Where any person fails to furnish a statement as required under section 115, 165, 165A or 165B within the due date.</p> <p>Such person shall pay a penalty of Rs. 5000 if the person had already paid the tax collected or withheld by him within the due date for payment and the statement is filed within ninety days from the due date for filing the statement and, in all other cases, a penalty of Rs. 2500 for each day of default from the due date subject to a minimum penalty of Rs. 10,000,</p>	<p>10. Any person who-</p> <p>(a) makes a false or misleading statement to an Inland Revenue Authority either in writing or orally or electronically including a statement in an application, certificate, declaration, notification, return, objection or other document including books of accounts made, prepared, given, filed or furnished under this ordinance;</p> <p>(b) furnishes or files a false or misleading</p>	<p>10. Any person who-</p> <p>(a) makes a false or misleading statement to an Inland Revenue Authority either in writing or orally or electronically including a statement in an application, certificate, declaration, notification, return, objection or other document including books of accounts made, prepared, given, filed or furnished under this ordinance;</p> <p>(b) furnishes or files a false or misleading</p>

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<p>information or document or statement to an Income tax Authority either in writing or orally or electronically;</p>	<p>information or document or statement to an Income tax Authority either in writing or orally or electronically;</p>	<p>rupees or one hundred per cent of the amount of tax involved, whichever is higher.</p>	<p>rupees or one hundred 50 per cent of the amount of tax involved, whichever is higher</p>
<p>(c) Omits from a statement made or information furnished to an Income tax Authority any matter or thing without which the statement or the information is false or misleading in a material particular.</p>	<p>(c) Omits from a statement made or information furnished to an Income tax Authority any matter or thing without which the statement or the information is false or misleading in a material particular.</p>	<p>15. Any person who fails to collect or deduct tax as required under any provision of this Ordinance or fails to pay the tax collected or deducted as required under section 160.</p>	<p>15. Any person who fails to collect or deduct tax as required under any provision of this Ordinance or fails to pay the tax collected or deducted as required under section 160.</p>
<p>Such person shall pay a penalty of twenty five thousand rupees or 100% of the amount of tax shortfall whichever is higher:</p>	<p>Such person shall pay a penalty of twenty-five thousand rupees or 50% 100% of the amount of tax shortfall whichever is higher:</p>	<p>Such person shall pay a penalty of 1 [forty] thousand rupees or 10% of the amount of tax whichever is higher.</p>	<p>Such person shall pay a penalty of 1 [forty] thousand rupees or 10% of the amount of tax whichever is higher.</p>
<p>Provided that in case of an assessment order deemed under section 120, no penalty shall be imposed to the extent of the tax shortfall occurring as a result of the taxpayer taking a reasonably arguable position on the application of this Ordinance to the taxpayer's position.</p>	<p>Provided that in case of an assessment order deemed under section 120, no penalty shall be imposed to the extent of the tax shortfall occurring as a result of the taxpayer taking a reasonably arguable position on the application of this Ordinance to the taxpayer's position.</p>	<p>Section 148, 149, 150, 151, 152, 153, 153A, 154, 155, 156, 156A, 156B, 158, 160, 231A, 231B, 233, 233A, 234, 234A, 235, 236, 236A</p>	<p>Division II or Division III of Part V of Chapter X or Chapter XII</p>
<p>Section 114, , 116, 174, 176, 177 and general.</p>	<p>Section 114, , 116, 174, 176, 177 and general 114A, 118.</p>	<p>16. Any person who fails to display his NTN at the place of business as required under this Ordinance or the rules made thereunder.</p>	<p>16. Any person who fails to display his NTN or business license at the place of business as required under this Ordinance or the rules made thereunder.</p>
<p>11. Any person who denies or obstructs the access of the Commissioner or any officer authorized by the Commissioner to the premises, place, accounts, documents, computers or stocks.</p>	<p>11. Any person who denies or obstructs the access of the Commissioner or any officer authorized by the Commissioner to the premises, place, accounts, documents, computers or stocks.</p>	<p>Such person shall pay a penalty of five thousand rupees.</p>	<p>Such person shall pay a penalty of five thousand rupees.</p>
<p>Such person shall pay a penalty of fifty thousand</p>	<p>Such person shall pay a penalty of fifty thousand</p>	<p>Section 181C.</p>	<p>Section 181C and 181D.</p>
<p>11. Any person who denies or obstructs the access of the Commissioner or any officer authorized by the Commissioner to the premises, place, accounts, documents, computers or stocks.</p>	<p>11. Any person who denies or obstructs the access of the Commissioner or any officer authorized by the Commissioner to the premises, place, accounts, documents, computers or stocks.</p>	<p>19. Where any manufacturer of a motor vehicle accepts or processes any application for booking or purchase of a locally manufactured motor vehicle in violation of the provisions of clause (a) of section 227C.</p>	<p>Omitted as corresponding section 227C has already been omitted vide Finance Act, 2019</p>
<p>Such person shall pay a penalty of fifty thousand</p>	<p>Such person shall pay a penalty of fifty thousand</p>	<p>20. (i) Where any registering authority of Excise and Taxation Department accepts, processes or registers any</p>	<p>Omitted as corresponding section 227C has already been omitted vide Finance Act, 2019</p>

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application for registration of a locally manufactured motor vehicle or for the first registration of an imported vehicle in violation of the provisions of clause (a) of section 227C (ii) Where any authority responsible for registering, recording or attesting the transfer of immovable property accepts or processes the registration or attestation of such property in violation of the provisions of clause (b) of section 227C.

FOLLOWING CLAUSE OF PART I OF SECOND SCHEDULE HAVE BEEN WITHDRAWN:

- i. **Clause (57)** - Exemption of income from voluntary contributions, house property and investments in securities of the Federal Government derived by Sheikh Sultan Trust, Karachi.
- ii. **Clause (72)** - Exemption of profit on debt payable to a non-resident person:
 - a. In respect of private loans to be utilized on projects approved by the Federal Government;
 - b. On a loan in foreign exchange against export letter of credit which is used exclusively for the export of goods manufactured or processed for exports in Pakistan; and
 - c. Being a foreign individual, company or firm or association of person in respect of a foreign loan as is utilized for industrial investment in Pakistan.

However, the existing beneficiaries shall continue to avail benefits of repealed provisions for the periods and subject to conditions and limitations specified in this Clause.
- iii. **Clause (72A)** - Exemption of income derived by Sukuk Holder in relation to Sukuk issued by "The Second Pakistan International Sukuk Company Limited" and "The Third Pakistan International Sukuk Company Limited", including any gain on disposal of such Sukuk.
- iv. **Clause (74)** - Exemption on profit on debt derived by Hub Power Company Limited on its bank deposits or accounts with financial institutions directly connected with financial transactions directly related to the project operations.
- v. **Clause (90)** – Exemption on profit on debt payable by an industrial undertaking in Pakistan:
 - a. On moneys borrowed under a loan agreement entered into with an approved financial institution in a foreign country; and
 - b. on moneys borrowed or debts incurred by it in a foreign country in respect of the purchase outside Pakistan of capital plant and machinery in any case where the loan or debt is approved by the Federal Government, having regard to its terms generally and in particular to the terms of its payment, from so much of the tax payable in respect thereof as exceeds the tax or taxes on income paid on such interest in the foreign country.
- vi. **Clause (90A)** – Exemption on any profit on debt derived by any person on bonds issued by Pakistan Mortgage Refinance Company to refinance the residential housing mortgage market, for a period of five years with effect from the 1st day of July, 2018
- vii. **Clause (91)** – Exemption on any income of a text-book board of a Province established under any law for the time being in force.
- viii. **Clause (98)** – Exemption on any income derived by any Board or other organization established by Government in Pakistan for the purposes of controlling, regulating, or encouraging major games and sports recognized by Government.
- ix. **Clause (100)** – Exemption on any income, not being income from manufacturing or trading activity, of a Modaraba registered under the Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 1980.
- x. **Clause (101)** – Exemption on profits and gains derived between the 1st July, 2000 and the 30th June, 2024, by a venture capital company and venture capital fund registered under Venture Capital Companies and Funds Management Rules, 2000 and a Private Equity and Venture Capital Fund.
- xi. **Clause (103C)** – Exemption on dividend income derived by a company, if the recipient of the

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- dividend, for the tax year is eligible for group relief under section 59B.
- xii. **Clause (104)** – Exemption on any income derived by the Libyan Arab Foreign Investment Company being dividend of the Pak-Libya Holding Company.
- xiii. **Clause (105)** – Exemption on any income derived by the Government of Kingdom of Saudi Arabia being dividend of the Saudi-Pak Industrial and Agricultural Investment Company Limited.
- xiv. **Clause (105A)** – Exemption on any income derived by Kuwait Foreign Trading Contracting and Investment Company or Kuwait Investment Authority being dividend of the Pak-Kuwait Investment Company in Pakistan from the year of incorporation of Pak- Kuwait Investment Company.
- xv. **Clause (110B)** – Exemption on any gain on transfer of a capital asset, being a membership right held by a member of an existing stock exchange, for acquisition of shares and trading or clearing rights acquired by such member in new corporatized stock exchange in the course of corporatization of an existing stock exchange.
- xvi. **Clause (110C)** – Exemption on any gain by a person on transfer of a capital asset, being a bond issued by Pakistan Mortgage Refinance Company to refinance the residential housing mortgage market, during the period from the 1st day of July, 2018 till the 30th day of June, 2023.
- xvii. **Clause (114)** – Exemption on any income chargeable under the head “capital gains” derived by a person from an industrial undertaking set up in an area declared by the Federal Government to be a “Zone” within the meaning of the Export Processing Zones Authority Ordinance, 1980 (IV of 1980).
- xviii. **Clause (126BA)** – Exemption on profits and gains derived by a refinery set up between the 1st day of July, 2018 and the 30th day of June, 2023 with minimum 100,000 barrels per day production capacity for a period of twenty years beginning in the month in which the refinery is set up or commercial production is commenced, whichever is later. Exemption under this clause is also available to existing refineries, if:
- existing production capacity is enhanced by at least 100,000 barrels per day;
 - the refinery maintains separate accounts for income arising from aforesaid additional production capacity; and
 - The refinery is a deep conversion refinery.
- xix. **Clause (126C)** - (1) Profits and gains derived by a taxpayer from an industrial undertaking set up in Larkano Industrial Estate between the 1st day of July, 2008 and the thirtieth day of June, 2013, both days inclusive, for a period of ten years beginning with the month in which the industrial undertaking is set up or commercial production commenced, whichever is the later. (2) Exemption under this clause shall apply to an industrial undertaking which is owned and managed by a company registered under the Companies Ordinance 1984 (XLVII of 1984) and formed exclusively for operating the said undertaking.
- However, the existing beneficiaries shall continue to avail benefits of repealed provisions for the periods and subject to conditions and limitations specified in this Clause.
- xx. **Clause (126H)** - Profits and gains derived by a taxpayer, from a fruit processing or preservation unit set up in Balochistan Province, Malakand Division, Gilgit-Baltistan and FATA between the first day of July, 2014 to the thirtieth day of June, 2017, both days inclusive, engaged in processing of locally grown fruits, for a period of five years beginning with the month in which the industrial undertaking is set up or commercial production is commenced, whichever is later
- However, the existing beneficiaries shall continue to avail benefits of repealed provisions for the periods and subject to conditions and limitations specified in this Clause.
- xxi. **Clause (126G)** – Exemption on Profit and gains derived for a period of five years from the date of start of commercial production by the companies from specified projects that have been declared ‘Pioneer Industry’ by Economic Coordination Committee of the Cabinet. The Companies and projects are:
- M/s. Astro Plastics (Pvt.) Ltd. from their Biaxially Oriented Polyethylene, Terephthalate (BOPET) Project; and
 - M/s. Novatex Ltd. from their Biaxially Oriented Polyethylene Terephthalate (BOPET) Project

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xxii. **Clause (126I)** – Exemption on profits and gains derived by a taxpayer, from an industrial undertaking set up by 31st day of December, 2016 and engaged in the manufacture of plant, machinery, equipment and items with dedicated use (no multiple uses) for generation of renewable energy from sources like solar and wind, for a period of five years beginning from first day of July, 2015. This exemption is also available to such undertaking set up between the 1st March, 2019 and the 30th June, 2023 for a period of five years beginning from the date such industrial undertaking is set up. The concession has been proposed to be provided as Tax credit under newly proposed section 65G.

xxiii. **Clause (126J)** Profits and gains derived by a taxpayer, from an industrial undertaking set up between 1 st day of July, 2015 and 30th day of June, 2016 engaged in operating warehousing or cold chain facilities for storage of agriculture produce for a period of three years beginning with the month in which the industrial undertaking is set up or commercial operations are commenced, whichever is later

However, the existing beneficiaries shall continue to avail benefits of repealed provisions for the periods and subject to conditions and limitations specified in this Clause.

xxiv. **Clause (126K)** Profits and gains derived by a taxpayer, from an industrial undertaking set up between the first day of July, 2015 and the 30th day of June, 2017 for establishing and operating a halal meat production unit, for a period of four years beginning with the month in which the industrial undertaking commences commercial production. The exemption under this clause shall apply if the industrial undertaking is – (a) owned and managed by a company formed for operating the said halal meat production unit and registered under the Companies Ordinance, 1984 (XLVII of 1984), and having its registered office in Pakistan;

(b) not formed by the splitting up, or the reconstruction or re constitution, of a business already in existence or by transfer to a new business of any machinery or plant used in a business which was being carried on in Pakistan at

any time before the commencement of the new business; and

(f) Halal meat production unit is established and obtains a halal certification within the period between the first day of July, 2015 and the 30th day of June, 2017.

However, the existing beneficiaries shall continue to avail benefits of repealed provisions for the periods and subject to conditions and limitations specified in this Clause.

xxviii. Clause (126L) Profits and gains derived by a taxpayer, from an industrial undertaking set up in the Provinces of Khyber Pukhtunkhwa and Baluchistan between 1st day of July, 2015 and 30th day of June, 2018 for a period of five years beginning with the month in which the industrial undertaking is set up or commercial production is commenced, whichever is later: Provided that exemption under this clause shall be admissible where

(a) the industrial undertaking is setup between the first day of July, 2015 and 30th day of June, 2018, both days inclusive; and

(b) The industrial undertaking is not established by the splitting up or reconstruction or reconstitution of an undertaking already in existence or by transfer of machinery or plant from an undertaking established in Pakistan at any time before 1st July 2015.

However, the existing beneficiaries shall continue to avail benefits of repealed provisions for the periods and subject to conditions and limitations specified in this Clause.

xxviii. Clause (126N) Profits and gains derived by a taxpayer from an industrial undertaking, duly certified by the Pakistan Telecommunication Authority, engaged in the manufacturing of cellular mobile phones, for a period of five years, from the month of commencement of commercial production: Provided that the industrial undertaking has been set up and commercial production has commenced between the first day of July, 2015 and the thirtieth day of June, 2017 and the industrial undertaking is not formed by the splitting up, or the reconstruction or reconstitution, of a business already in existence or by transfer to a new business of any machinery or plant used in a business which was being carried on in Pakistan.

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However, the existing beneficiaries shall continue to avail benefits of repealed provisions for the periods and subject to conditions and limitations specified in this Clause.

xxv. **Clause (126O)** - This clause has been proposed to be omitted and the provisions of the same are incorporated under newly inserted section 65F.

xxvi. **Clause (131)** – Exemption on any income:

- a. Of company registered under the Companies Ordinance 1984 (XLVII of 1984), and having its registered office in Pakistan, as is derived by it by way of:
 - i. royalty,
 - ii. commission or
 - iii. fees

from a foreign enterprise in consideration for the use outside Pakistan of any patent, invention, model, design, secret process or formula or similar property right, or information concerning industrial, commercial, or scientific knowledge, experience or skill made available or provided to such enterprise by the company or in the consideration of technical services rendered outside Pakistan to such enterprise by the company under an agreement in this behalf, or

- b. of any other taxpayer as is derived by him, in the income year relevant to assessment year beginning with the first day of July, 1982 and any assessment year thereafter, by way of fees for technical services rendered outside Pakistan to a foreign enterprise under an agreement entered into in this behalf: -

The exemption is available subject to condition that income is received in Pakistan.

xxvii. **Clause (132A)** - This clause has been omitted and the provisions of the same are incorporated under newly inserted section 65F.

xxviii. **Clause (132B)** – Exemption on Profits and gains derived by a taxpayer from a coal mining project in Sindh, supplying coal exclusively to power generation projects.

xxix. **Clause (133)** - This clause has been omitted and the provisions of the same are incorporated under newly inserted section 65F.

xxx. **Clause (135A)** – Exemption on any income derived by a non-resident from investment in OGDCL

exchangeable bonds issued by the Federal Government.

xxxi. **Clause (136)** – Exemption on any income of a special purpose vehicle as defined in the Asset Backed Securitization Rules, 1999 made under the Companies Ordinance, 1984.

xxxii. **Clause (141)** – Exemption on profit and gains derived by LNG Terminal Operators and Terminal Owners for a period of five years beginning from the date when commercial operations are commenced.

xxxiii. **Clause (143)** - This clause has been omitted and the provisions of the same are incorporated under newly inserted section 65F.

xxxiv. **Clause (146)** – Exemption on any income which was not chargeable to tax prior to the commencement of the Constitution (Twenty-fifth Amendment) Act, 2018 of any individual domiciled or company and association of persons resident in the Tribal Areas forming part of the Provinces of Khyber Pakhtunkhwa and Balochistan under paragraph (d) of Article 246 of the Constitution with effect from the 1st day of June 2018 to the 30th day of June, 2023.

xxxv. **Clause (148)** – Exemption on any income derived by Islamic Naya Pakistan Certificates Company Limited (INPCCL). INPCCL have also been made part of Table I of Clause (66), which means there is no change in exemption status.

12. FOLLOWING CLAUSES HAVE BEEN PROPOSED TO BE AMENDED:

i. Table I of Clause 66 of part I of Second Schedule provides list of entities, incomes of which are exempt from Tax. The Ordinance has added “Islamic Naya Pakistan Certificates Company Limited (INPCCL)” in this list.

ii. Clause (75) of part I of Second Schedule provides exemption of any income of an agency of a foreign government, a foreign national, or any other non-resident person approved by Federal Government, from profit on moneys borrowed under a loan agreement or in respect of foreign currency instrument approved by the Federal Government.

Now Ordinance has restricted such exemption only to profit on debt and capital gains. The

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Ordinance also exclude foreign national as beneficiary of above exemption. Moreover, the scope of exemption of profit on debt and capital gain has been made to be specifically from debts and debts instruments.

- iii. Clause (126B) provides for exemption on profit and gains derived by Khalifa Coastal Refinery for a period of twenty years beginning in the month in which the refinery is setup or commercial production is commenced, whichever is the later.

The Ordinance extended the above exemption for indefinite period to following instead of Khalifa coal refinery:

- new deep conversion refinery of at least 100,000 barrels per day for which approval is given by the Federal Government before the 31st day of December, 2021, or
- For the purpose of upgradation, modernization or expansion project of any refinery existing on the date of commencement of Ordinance for which purpose such refinery makes undertaking to the Federal Government in writing before the 31st day of December, 2021.

- iv. Clause (132) of Part I of second schedule provides exemption, subject to certain conditions, of profits and gains derived by a taxpayer from an electric power generation project set up in Pakistan on or after the 1st day of July, 1988. The Ordinance restricts the exemption for persons entering into agreements, or to whom letter of intents is issued, for setting up an electric power generation project in Pakistan up to 30th June 2021.

13. REDUCTION IN TAX RATES - PART II, SECOND SCHEDULE

A. The Ordinance omits following Clauses:

13.1. Oil and Gas Sector - [Clause 2]

Any income of persons whose profits or gains from business are computed under the Fifth Schedule to this Ordinance as is derived from letting out to other similar persons any pipeline for the purpose of carriage of petroleum shall be charged to tax at the same rate as is applicable to such persons in accordance with the provisions of the said Schedule.

Now, profits from such shall be chargeable to tax at normal rates provided in First Schedule.

13.2. Construction Contracts Outside Pakistan - [Clause 3]

The tax in respect of income from services rendered outside Pakistan and construction contracts executed outside Pakistan are charged at the rates as specified in sub-clause (b), provided that receipts from services and income from contracts are brought into Pakistan in foreign exchange through normal banking channel.

(b) The rates in respect of income from services rendered outside Pakistan shall be 50% of the rates as specified in clause (2) of Division III of Part III of the First Schedule and the rates in respect of contracts executed outside Pakistan shall be 50% of the rates as specified in clause (3) of Division III of Part III of the First Schedule.

Now tax will be charged at normal rates as provided in First Schedule.

13.3. Pakistan Cricket Board - [Clause 3B]

The income of Pakistan Cricket Board ("PCB") derived from sources outside Pakistan including media rights, gate money, sponsorship fee, in-stadium rights, out-stadium rights, payments made by International Cricket Council, Asian Cricket Council or any other Cricket Board is taxed at a rate of four per cent of the gross receipts from such sources.

Now normal rates of taxes will be charged on Income of PCB.

13.4. Private Equity & Venture Capital - [Clause 5B]

The tax in respect of capital gains derived by a person from the sale of shares or assets by a private limited company to Private Equity and Venture Capital Fund are charged at the rate of ten percent of such gains.

Now rates and provisions provided in Section 37 will apply in this case.

13.5. Modaraba - [Clause 18]

In the case of a modaraba the rate of income tax is 25% of total income excluding such part of total

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income to which Division III of Part I of the First Schedule or section 153 or section 154 applies.

Now normal rates provided in First Schedule i.e. 29% will apply.

13.6. Industrial Undertaking - [Clause 18A]

The rate of tax as specified in Division II of Part I of the First Schedule shall be reduced to 20% for a company setting up an industrial undertaking between the first day of July, 2014 to the thirtieth day of June, 2017, for a period of five years beginning from the month in which the industrial undertaking is set up or commercial production is commenced, whichever is later:

Provided that fifty percent of the cost of the project including working capital is through owner equity foreign direct investment.

However, the existing beneficiaries shall continue to avail benefits of repealed provisions for the periods and subject to conditions and limitations specified in this Clause.

13.7. Shariah Compliant Listed Companies (Clause 18B)

The rate of tax is reduced by 2% in case of a company whose shares are traded on stock exchange if;

- (a) it fulfills prescribed shari'ah compliant criteria approved by State Bank of Pakistan, Securities and Exchange Commission of Pakistan and Board;
- (b) derives income from manufacturing activities only;
- (c) has declared taxable income for the last three consecutive tax years: and
- (d) Has issued dividend for the last five consecutive tax years.

Now rates of Normal Tax i.e., 29% will apply.

13.8. Lahore Orange Line Metro Train Project - [Clause 24AA].

The rate of tax, under section 152 in the case of M/S CR-NORINCO JV (Chinese Contractor) as recipient, on payments arising out of commercial contract agreement signed with the Government of Punjab for installation of electrical and mechanical (E&M)

equipment for construction of the Lahore Orange Line Metro Train Project, is 6% of the gross amount of payment.

Now, normal rate of 7% under section 152 will apply

13.9. Hybrid Cars - [Clause 28A]

The rate of tax under section 148 on import of hybrid cars is currently reduced as below:-

<u>Engine capacity</u>	<u>Rate of reduction</u>
Up to 1200 cc	100%
1201 to 1800 cc	50%
1801 to 2500 cc	25%

Now rates provided in Twelfth Schedule will apply.

13.10. Cash Withdrawal by Exchange Company - [Clause 28B]

The rate of tax is 0.15% under section 231A on cash withdrawal by an exchange company, duly licensed and authorized by the State Bank of Pakistan, exclusively dedicated for its authorized business-related transactions, subject to the condition that a certificate issued by the concerned Commissioner Inland Revenue for a financial year mentioning details and particulars of its Bank Account being used entirely for business transactions is provided.

Now, tax at rate of 0% will be charged (0.6% if the exchange company is not on active taxpayers list)

B. Other Amendments in Second Schedule

13.11. Minimum Tax on Dealers Retailers of Specified Sectors - Clause (24D), Part II

Clause (24D) provides that minimum tax under sub-section (1) of section 113 in case of dealers and sub-dealers, whole sellers and retailers of, fast moving consumer goods, fertilizers, sugar, cement and edible oil shall be 0.25% subject certain conditions.

The Ordinance also adds locally manufactured mobile phones in the list of above goods.

14. Reduction In Tax Liability- Part III Second Schedule

A. The Ordinance omitted following clauses from Part III of Second Schedule:

14.1. Full Time Teacher - [Clause 2]

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Clause (2) provides 25% reduction in tax liability of a full-time teacher.

14.2. Foreign Film Makers - [Clause 7]

The amount of tax payable by foreign filmmakers from making films in Pakistan is reduced by fifty percent on income from filmmaking in Pakistan.

14.3. Resident Film Makers - [Clause 8]

The amount of tax payable by resident companies deriving income from filmmaking shall be reduced by seventy percent on income from filmmaking.

B. The Ordinance to make amendments in Part III of Second

14.4. Low-Cost Housing Projects - [Clause 9]

Clause (9) provides for reduction in tax liability by 50% in case of Low-Cost Housing Projects subject to certain conditions. The Ordinance restricts such concession for projects commencing up to 30th June, 2024.

14.5. Naya Pakistan Housing and Development Authority - (Clause 9B)

Clause (9B) provides for reduction in tax liability by 90% in case of Low-cost housing developed or approved by NAPHDA or under the Ehsaas Program. The Ordinance restricts such concession for projects commencing up to 30th June, 2024.

15. Exemption from Specific Provisions -Part IV of Second Schedule

The bill proposes to omit Clause 2, in which in the case of losses referred to in section 57 in respect of an industrial undertaking set up in an area declared by the Federal Government to be a "Zone" within the meaning of Export Processing Zones Authority Ordinance, 1980, the period of six tax years specified in the said section shall not apply.

16. Third Schedule - Depreciation for Oil and Gas Sector

As per 3rd Schedule the depreciation rates in case of mineral oil concerns the income of which is liable to be computed in accordance with the rules in Part-I of the Fifth Schedule for below ground installations was 100% is now omitted. Now the rates for below ground installations will be same as for offshore platform and production installations i.e. 20%.

17. Oil & Gas Sector - 5th Schedule

The Ordinance withdraw following concessions provided to Oil and Gas sector under fifth Schedule:

Rule 4 Part II

Rule 4 provides for exemption of profits and gains up to 10% of capital employed in case of an undertaking involved in exploration and extraction of mineral deposits and is also engaged in the business of refining or concentrating in Pakistan. The Ordinance to withdraw the exemption.

SALES TAX ACT, 1990

The Ordinance has made new entries in Sixth Schedule Table 1, whereby following items are exempt from sales tax on import and further supplies:

159. Import of auto disable Syringes till 30th June, 2021 with needles 9018.3110 without needles

9018.3110

9018.3120

**160. Import of following raw materials for the manufacturers of auto disable syringes till 30th June, 2021 Tubular metal needles 9018.3200
Rubber Gaskets**

9018.3200

4016.9310



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