



# TAX PAK

NEWSLETTER BY  
TOLA ASSOCIATES

SEPTEMBER  
**2021**



<https://goo.gl/LFiWyx>



<https://goo.gl/QDM4ZM>

## ADDRESS



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



Email: [connect@tolaassociates.com](mailto:connect@tolaassociates.com)



Ph# 35303294-6



Website: [www.tolaassociates.com](http://www.tolaassociates.com)

**THIS PAGE IS LEFT BLANK INTENTIONALLY**

## CONTENTS

**Tax Notifications/ Circulars**

**Corporate Notifications / Circulars**

**The Selection of Sales Tax Audit Is Through Proper Procedure- LHC**

**Topic of the Month - Tax Related Issues in FATA/PATA**

## CONTRIBUTORS

**Mr. Ashfaq Tola - FCA**  
Editor in Chief

**Mr. Muhammad Furqan - ACA**  
Managing Editor

**Mr. Muhammad Amayed Tola** - Contributor

**Mr. Talha Shahid** - Contributor

**Mr. Haseeb Naushad**  
Designer

## EDITORIAL NOTE

Greetings everyone! Hope this monthly issue of TAXPAK finds you in good spirits and immaculate health! Although by now you already know, but nonetheless, I will still briefly state that the purpose of this newsletter is to provide a monthly update on the ongoing legal and administrative developments that take place within the world of tax in Pakistan. Alhumdulillah, so far, we have been successful in our mission to educate about, and keep the public-at-large updated of, these developments on a monthly basis.



Moving on to the content of this letter, I would like to apprise the reader of what information you can expect in this document. This newsletter contains an elaboration of important notifications and circulars issued by the Federal Board of Revenue and its provincial counterparts. Moreover, notifications from the corporate regulatory body i.e. SECP are also discussed. Furthermore, keeping in mind the aforementioned stated purpose of this document, a recent judgment passed by the Lahore High Court on Section 25 of the Sales Tax Act, 1990 has also been discussed. The said judgment pertained to a notice issued for calling of record and "Sales Tax Audit". This judgment on the sales tax audit can be helpful for aggrieved persons in a similar situation hit by Section 25. Lastly, this newsletter is concluded with our Topic of the month which for this month happens to be "TAX RELATED ISSUES IN FATA/PATA". The topic is of interest to the people having or are interested in having trade/business in the merged areas of FATA/PATA.

I wish you all a splendid month ahead!

All our readers are requested to visit our website [www.tolaassociates.com](http://www.tolaassociates.com), or download our mobile application from the links mentioned below, in order to access previously published editions of this monthly issue along with other publications, and to stay updated of future notifications.

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

Lastly, we request our readers to circulate this e-copy within their circle, as our primary aim is to benefit the masses. Feedback is always welcomed.

**Ashfaq Tola - FCA**  
Editor in Chief

## 1. NOTIFICATIONS/ CIRCULARS

### 1. RELAXATION IN FILLING OF DECLARATION UNDER ASSETS DECLARATION ORDINANCE, 2019

The FBR has issued letter no. C.No.6(9)S(IR-Operations)/2021/129744-R dated, 10<sup>th</sup> September 2021, that relates to the Assets Declaration Ordinance 2019 promulgated on May 14<sup>th</sup> 2019 for payment of tax and declaration of corresponding assets by June 30<sup>th</sup>, 2019. The due date had been extended until July 3<sup>rd</sup>, 2019. However, the FBR had received various references from citizen taxpayers, wherein it was conveyed to the FBR that due to certain technological impediments, many citizen taxpayers/persons, intending to avail the benefit of the Ordinance, deposited the due tax, but could not file their declarations of assets by the due date i.e. July 3<sup>rd</sup>, 2019.

Now, the FBR, considering the hardship caused and to facilitate the aggrieved citizen taxpayers, has decided to allow the filling of declaration of assets for all those citizens taxpayers/persons who have deposited tax under the Ordinance within due date i.e. July 3<sup>rd</sup>, 2019 but could not file their declarations due to any reason. The system was allowed for the purpose, and all taxpayers were permitted to file their declarations between September 10<sup>th</sup> 2021 till September 25<sup>th</sup> 2021.

### 2. GENERAL ADJOURNMENT FILED IN CASES OF TAX BAR MEMBERS, CONCERNING APPEALS, TILL THE CLOSURE DATE OF INCOME TAX RETURNS 2021.

The General Secretary of Faisalabad Tax Bar Association had written a letter no. FTBA/136/2021, dated 15.09.2021, through which they had requested for a general adjournment of hearings in appeal cases of tax bar members, till the end date of Income Tax Returns 2021. In response, the FBR issued letter no. C.No.3(25)Secy.Appeals/2020 Vol-I, dated 21<sup>st</sup> September 2021. The Second Secretary (Appeals) has addressed the issue by stating that the opportunity for adjournment may be availed in the manner as prescribed under the provisions mentioned infra, by submitting an application for adjournments in appeal cases before the Commissioner Inland Revenue (Appeals);

- i. Section 129(4) of the Income Tax Ordinance 2001

- ii. Section 45B(2) of the Sales Tax Act, 1990

- iii. Section 33(2) of the Federal Excise Act, 2005.

### 3. ENHANCEMENT OF EXTRA RATE OF TAX

The FBR has issued a SRO bearing No. 1222(I)/2021, dated 17<sup>th</sup> September 2021. Through the said SRO, the FBR has levied extra tax in addition to the 17% sales tax on supplies of electric power and natural gas to persons having industrial or commercial connections, but who have either not obtained sales tax registration number or are not there on the Active Taxpayers List maintained by the FBR. The rates are as follows:

S.No	Type Of Consumer Connection	Amount Of Monthly Bill	Rate
1	Industrial		17%
2	Commercial	Upto Rs 10,000	5%
		10,001 to 20,000	7%
		20,001 to 30,000	10%
		30,001 to 40,000	12%
		40,001 to 50,000	15%
		50,001 and above	17%

### 4. INCLUSION OF KP SALES TAX IN MARKET RATE SYSTEM 2021

The KPK Finance Department has issued letter no. BO(Res-III) FD/2-2/2019-20/Vol-IV, dated 07<sup>th</sup> September 2021. Through the said letter, it is notified that KP Sales Tax has been included in the Market Rate System (MRS) 2021, pursuant to the decision of the Provincial Cabinet in its 39<sup>th</sup> meeting, held on 21<sup>st</sup> July 2021. The peculiarities of the said letter are the following:

- a. KPRA Sales Tax @ 2% on construction services is set to be included in the un-approved ADP Scheme with effect from 01-07-2021
- b. KPRA Sales Tax @2% may be included in all item codes of MRS 2021 on analogy of Income Tax already included in

MRS 2021. Moreover, this tax will be paid to KPRA, as specified under Serial no. 14 of the Khyber Pakhtunkhwa Finance Act, 2021.

It is worthwhile to note that all departments in general and the nation-building departments in particular, should follow MRS for preparation of PC-I and execution of work in the province.

## 5. EXCLUSION FROM PURVIEW OF FURTHER TAX TO STEEL AND EDIBLE OIL SECTORS

The FBR, has issued SRO 1223(I)/2021 dated 17th September 2021, whereby it has amended a previously issued SRO bearing No. 648(I)/2013, dated 9th July 2013. Pursuant to the recent amending SRO, the supplies by steel sector and supplies by edible oil sectors are excluded from purview of further tax, i.e. no further tax will be charged on supplies to unregistered persons.

## 6. CHANGES IN SALES TAX OF PETROLEUM PRODUCTS

The FBR has issued a SRO bearing No. 1225(I)/2021, dated 18<sup>th</sup> September 2021. The said SRO provides for the following rates and makes them effective from 16<sup>th</sup> September 2021:

S.No	Description	PCT Heading	Current Rate	Previous Rate
1	MS (Petrol)	2710.1210	10.54% ad valorem	10.54% ad valorem
2	High Speed Diesel Oil	2710.1931	11.64% ad valorem	17.00% ad valorem
3	Kerosene	2710.1911	6.70% ad valorem	6.70% ad valorem
4	Light Diesel Oil	2710.1921	0.20% ad valorem	0.20% ad valorem

## 7. PROCESSING OF MULTI TAX PERIOD CARRY FORWARD BASED SALES TAX REFUND

The FBR has issued letter no. C.No.1(222)STM/2019-Pt/127790R, dated 8th September 2021, addressed to all Chief Commissioners Inland Revenue. Through this letter,

the FBR has directed that registered persons claiming non-export and/or input tax carry-forward based sales tax refunds in terms of rule 34 of the Sales Tax Rules, 2006 are required to file such claims through submission of Form-7A with the Sales Tax Return.

It is to be noted that the said form is not enabled and registered persons claiming refunds under the aforesaid rule are facing difficulties in filling of refund claim through Form STR-7A, while non-export claims require scrutiny and cannot be processed in tandem with export based claims through FASTER. In order to remove the difficulty in implementing the provisions of rules and to address refund issues faced by the registered persons, the FBR has allowed filling of carry-forward based or non-export related refunds, through RCPS at tax offices in STARR or through Expeditious Refund System (ERS) up to 30<sup>th</sup> June 2022. The field formations are accordingly advised to receive, process and dispose such refund claims expeditiously, as per law.

## 8. EXTENSION IN DATE OF FILLING OF INCOME TAX RETURNS/STATEMENTS FOR TAX YEAR 2021

The FBR has issued Circular 08 of 2021, dated September 30th 2021, whereby it has extended the date of filling of income tax return for the Tax Year 2021 by 15 days, i.e. up to 15.10.2021 due to serious technical problems in the online return filling system known as IRIS

## 9. LEVY OF SERVICE CHARGES AT A RATE OF RUPEE ONE PER INVOICE ISSUED THROUGH INTEGRATED POS

Section 76 of the Sales Tax Act, 1990 empowers the FBR to levy a fee and service charges for valuation, in respect of any other service or control mechanism provided by any formation under the control of the Board, including ventures of public-private partnership, at such rates as may be specified in the notification.

In this regard, the FBR has issued SRO 1279(I)/2021, dated 30<sup>th</sup> September 2021, whereby it has levied service charges at a rate of PKR One per invoice issued through all points of sale (POS) integrated with the Board's computerized system for the real time reporting of sales. This shall be collected by Tier1 retailers integrated with the Board's computerized system and deposited in a designated

account along with monthly payment of sales tax and filing of the sales tax return.

## 2. CORPORATE NOTIFICATIONS / CIRCULARS

### 1. AMENDMENTS IN THE PUBLIC OFFERING REGULATIONS 2017

The SECP, vide SRO 1214 dated 15<sup>th</sup> September 2021, made amendments to the Public offering Regulations 2017. By virtue of this SRO, a new chapter has been added to the aforementioned regulations.

The inserted chapter contains provision(s) for Special Purpose Acquisition Company or “SPAC”. The definitions, functions and other related requirements are also a part of this Chapter. The Chapter can be perused by clicking on the link given below.

[Special People Acquisition Company](#)

## 3. THE SELECTION OF SALES TAX AUDIT IS THROUGH PROPER PROCEDURE- LHC

### 1. BACKGROUND

#### 1.1 SELECTION OF AUDIT - A TWO WAY PROCESS

As per Section 25(1) of the Sales Tax Act, 1990 (STA) a person who is required to maintain any record or documents, when required by Commissioner, shall produce records or documents which are in his possession or control or in the possession or control of his agents. Moreover, the officer of Inland Revenue on the basis of such submitted record may conduct audit once a year.<sup>1</sup>

It has been departmental practice to issue a single notice under Section 25 of the STA to taxpayers for selection of audit and calling of records. However, in the Indus Motor Company case, reported as **2020 PTD 297**, the Division Bench of the High Court of Sindh noted that sub sections (1) and (2) of Section 25 deal with two stages of the process relating to calling for record and selection for audit. Therefore, summoning of record/documents and selection for audit of a taxpayer cannot be done through a single notice. The opinion to be formed by the Commissioner Inland Revenue for the selection for audit must be based on the record/documents supplied by the taxpayer and its examination.

A similar case was raised before the Lahore High Court, through a writ petition reported as W.P No. 25793 of 2021, in which notices issued under the same Section 25 for selection of Audit were challenged.

### 2. GROUND BY PETITIONERS: COMMISSIONER TO GIVE REASON FOR SELECTION OF AUDIT

Section 25, in the first instance, requires summoning of the record or documents from the taxpayer by the Commissioner Inland Revenue. After that, the case for audit can be selected. The discretion vested in the Commissioner is not unrestricted and he is required to give reasons for selecting a case for audit. Reliance was placed on the judgment passed under the Indus Motor Company case mentioned above.

### 3. REBUTTAL FROM THE DEPARTMENT:

The department issued a rebuttal to defend their case. The following arguments were put forward from the Department’s end during their rebuttal:

#### 3.1 NOTICES CONTAIN DETAILED REASONING

The notices issued contained detailed reasons for selecting the cases for audit of the petitioners. Therefore, the Indus Motors Company case is not applicable in the case at hand.

#### 3.2 NOTICE FOR AUDIT SELECTION CAN BE ISSUED WITHOUT ANY PRECONDITION OF A NOTICE OF ‘RECORD CALLING’

It was argued that all the necessary documents are appended with the tax return filed by the taxpayer as prescribed by Section 22 of the STA and that in case discrepancies are found therein, the Commissioner can exercise power u/s 25 of the said Act.

#### 3.3 OBJECTION AGAINST THE NOTICE DIRECTLY BEFORE THE LHC IS NOT MAINTAINABLE

The department further argued that any objections that the petitioner may have with regards to the notices, can be taken before the Commissioner Inland Revenue. Hence, they are not maintainable before the LHC directly.

### 4. LHC OBSERVATIONS & JUDGEMENT

#### 4.1 NOTICES DO NOT REQUIRE A REASON FOR THE SELECTION OF AN AUDIT

The LHC did not concur with the decision of the SHC which held that the Commissioner is required to give reasons

<sup>1</sup> Section 25(2) of the Sales Tax Act 1990.



while selecting a case for audit u/s 25. Although, the language of Section 25(1) does not make it clear, it is reasonable to assume that the decision by the Commissioner to require a taxpayer to produce record/documents shall necessarily be made on the examination of the tax return and documents attached therewith. The expression “as and when required” used in Sub Section (1) supports this hypothesis.

Moreover, the summoning of record/documents is not an idle exercise and must be for a purpose. It is thus at the stage of summoning the record/documents that Commissioner is required to communicate reasons to the taxpayer so that he becomes aware of what is required from him and to satisfy the queries and concerns of the Commissioner, if needed. Of Course, if the Commissioner is not satisfied with the record supplied and explanation offered by the taxpayer, he can select his case for audit, for which he has full authority under section 25. In this way sub-Sections (1) and (2) are interlinked and have a nexus to each other. Even otherwise, keeping in view the legal pronouncements on the nature of audit, **no purpose would be served in imposing an obligation on the Commissioner to give reason for selection of audit** when section 25 does not support such a requirement.

#### 4.2 SELECTION OF AUDIT IS NOT A HARDSHIP

The Supreme Court of Pakistan (SCP), in 2018 SCMR 1328 has reiterated the legal position that mere selection for audit does not cause any actionable injury to the taxpayer. In another case reported as 2018 PTD 82, the SCP termed audit as an administrative exercise. Similarly, the LHC in a judgment reported as 2018 PTD 208 held audit as a right of Tax Administrator, being administrative in nature, and the same is not detrimental to the interest of a taxpayer. Besides creating deterrence by punishing the defaulting taxpayer, an effective audit program pinpoints noncompliant trends, defects in system and ambiguities in practice and law. On the basis of gathered information and intelligence from an effective audit, and its publication, future tax administration can be reshaped and necessary steps can be taken to suggest curative legislation and clarifications of ambiguities in the practices.

#### 4.3 SAFEGUARDS AVAILABLE TO TAXPAYERS

After audit, the Tax Officer is obliged to seek an explanation from the taxpayer on all the issues raised in the audit, before passing an order under Section 11 of the STA. The order under Section 11 is itself appealable. Hence, the process thus provides enough safeguards to the taxpayer to clarify his position, during and after audit. The audit selection, therefore, does not provide any cause for grievances to the taxpayer. The examination of notices reflect that detailed reasons have been given for summoning the record/documents from the petitioners thereby satisfying the requirement of Section 25.

#### 4.4 RECORD UNDER SECTION 22 FILED WITH RETURN IS NOT SUFFICIENT FOR AUDIT U/S 25

The LHC rejected the argument put forward by the Department that sufficient material is available with the Commissioner to select the case of a taxpayer for audit. In the first place, all the notices issued in this case required the taxpayers to produce specific record, a fact that itself negates the said stance of the department. This is because if the record was already there then why would there be need to seek further record. Secondly, Section 25 prescribes a particular procedure to be followed by the Commissioner leading up to his decision to select a case for audit and the process prescribed by Section 25 must be followed in the manner stated therein.

#### 4.5 CONCLUSION REACHED BY THE LAHORE HIGH COURT.

The LHC divided the notice into two parts and issued a separate treatment for each part. The LHC held the petitions to be maintainable in favor of the taxpayers by setting aside portion of notice dealing with selection of audit under Sub Section 2, thus partially agreeing with the decision of SHC. However, the court held the second part of the said notices that asked for calling of record to be maintainable. Hence, the whole notice was converted into a notice issued under Section 25(1) and the petitioners were directed to supply, forthwith, all the requisite record to the Commissioner.

In other words, the SHC decision that sub sections (1) and (2) of Section 25 deal with two stages of the process relating to calling for record and selection for audit was accepted, and it was held that actions of summoning of record/documents and selection for audit of a taxpayer cannot be performed through a single notice.

#### 4. TOPIC OF THE MONTH

##### TAX RELATED ISSUES IN FATA/PATA

###### 1. PREAMBLE

In the end, we conclude our newsletter with our very own Topic of the month. For this month, we will discuss tax related issues in the Federally Administered Tribal Areas (FATA) and Provincially Administered Tribal Areas (PATA).

As per Article 1 of the Constitution Republic of Pakistan 1973 ("the Constitution"), Pakistan consists of the following territories: a) Provinces of Baluchistan, Khyber Pakhtunkhwa (KPK), Punjab and Sindh; b) the Islamabad Capital Territory; and c) such States and territories as are or may be included in Pakistan, whether by accession or otherwise.. Article 246 of the Constitution specifies the areas, which are territories to be treated as Tribal Areas for the purposes of the Constitution.

(A) "Tribal Areas" means the areas in Pakistan which, immediately before the commencing day, were Tribal Areas, and includes –

(i) The Tribal Areas of Balochistan and the Khyber Pakhtunkhwa Province;

(ii) The former States of Amb, Chitral, Dir and Swat;

(B) "Provincially Administered Tribal Areas" means –

(i) The districts of Chitral, Dir and Swat (which includes Kalam) the Tribal Area in Kohistan district, Malakand Protected Area, the Tribal Area adjoining Mansehra district and the former State of Amb; and

(ii) Zhob district, Loralai district (excluding Duki Tehsil), Dalbandin Tehsil of Chagai district and Marri and Bugti tribal territories of Sibi district; and

(C) "Federally Administered Tribal Areas" includes –

(i) Tribal Areas adjoining Peshawar district;

(ii) Tribal Areas adjoining Kohat district;

(iii) Tribal Areas adjoining Bannu district;

(iiia) Tribal Areas adjoining, Lakki Marwat district;

(iv) Tribal Areas adjoining Dera Ismail Khan district;

(iva) Tribal Areas adjoining Tank district.

(v) Bajaur Agency;

(va) Orakzai Agency;

(vi) Mohmand Agency;

(vii) Khyber Agency;

(viii) Kurram Agency;

(ix) North Waziristan Agency; and

(x) South Waziristan Agency.

###### 2. PRIOR TO 25th AMENDMENT

Prior to the 25th amendment in the Constitution through Act No. XXXVII of 2018, dated 05.06.2018, there was a separate mechanism for extension of laws to the erstwhile FATA in Article 247(3) of Constitution. The Income Tax as well as Sales Tax Laws were never extended to FATA. However, there had been a dispute apparently between the Federal Board of Revenue ("FBR") and the trade community/business community of the tribal areas. The dispute concerned the levying of income and sales on the import of raw material for manufacturing units located in the FATA. The Supreme Court of Pakistan in **Pakistan through Chairman, FBR and others Vs. Hazrat Hussain (2018 SCMR 939)**, has held that the business concerns/manufacturing units located in the PATA are immune from the imposition of both, income and sales tax. Similarly, the goods or machinery, which they are importing for their home consumption are equally immune from the imposition of both taxes at the import stage. However, to make sure that consumption of goods does not cross the boundary of a non-tariff area, the petitioners have to provide a security in form of post-dated cheques equal to the value of the imported goods.

###### 3. AFTER 25th Amendment

The area(s) under FATA were merged with the Khyber Pakhtunkhwa, whereas the area(s) under PATA merged with their respective provinces on May 28, 2018 through the 25th Amendment. The decision to merge FATA and PATA in the manner aforementioned was taken to provide number of opportunities to the people of these regions for constitutional rights and protection, equality, growth and development.

After the 25th amendment, the trade community has raised voice for continuance of the said exemption from



imposition of income tax and sales tax. The Federal Government through SRO.1212 (1)/2018 dated 05.10.2018 and SRO. 1213(1)/2018 dated 05.10.2018 had allowed the said exemption to the resident/domicile of the erstwhile FATA/PATA. Moreover, by inserting entry No. 151 and 152 in the 6<sup>th</sup> Schedule of the Sales Tax Act, 1990, a mechanism was provided for availing exemption of the sale tax on import of goods which were meant for its consumption in FATA.

However, the issue of safe transportation and avoiding the leakage of public Revenue still remained the concern of FBR as they had no mechanism for ensuring that the goods imported by a manufacturing unit located at FATA would be solely consumed in the FATA.

#### **4. TAX EVASION ISSUES IN THE REGION OF FATA/PATA**

The threat of tax evasion in possible collusion with the government official can be a looming threat to the tax system. The Supreme Court in Messrs Elahi Cotton Mills LTD and others vs. Federation of Pakistan through Secretary M/o Finance, Islamabad and 6 others (2016 PTD 1555) has considered various aspects of this issue. The relevant paras are as follows:-

“In the scenario of the corruption obtaining in Government and semi-Government Departments and so also to curb the dishonest tendency on the part of the tax-payers to evade the payment of lawful taxes by using unfair means, the Legislature is bound to adopt modern and progressive approach with the object to eliminate leakage of public revenues and to generate revenues which may be used for running of the State and welfare of the people”.

In view of the above, the FBR introduced various measures to eliminate leakage of public revenues and to generate revenue which are discussed later. These measures were objected to by businessmen as being against their right of freedom to trade. However, the Superior Courts ratify these measures in best interest of tax management.

#### **5. TAX COLLECTION FOR THE DEVELOPMENT OF PEOPLE OF PREVIOUSLY KNOWN FATA/PATA AFTER MERGER.**

As we are discussing the development of the previously known FATA/PATA regions, it is notable to mention that, throughout time various government regimes have collected a lot of tax revenue through the placement of Section 4B of the Income Tax Ordinance, 2001 under the title “ for rehabilitation of temporarily displaced persons” from the Year 2016. These collections are still taking place on Banks even after Tax Year 2021. The collection of these taxes were challenged in the Sindh High Court, vide Case No. **122 Tax 208** and in the Lahore High Court vide Case No. **121 Tax 381** on constitutional grounds. However, they were dismissed by the above-mentioned honorable courts stating that levy of taxation under section 4B of the Income Tax Ordinance, 2001 is not against the Constitution of the Islamic republic of Pakistan. The said tax was challenged on the grounds that the government must brief the nation regarding collection of tax under section 4B and it’s spending on the people who were displaced in the process of the merger of FATA/PATA.

These are the same concerns as are raised for CPEC projects as they are supposed to give benefits to people of Pakistan.

#### **6. THE SUPPLY FROM FATA/PATA TO TAXABLE AREAS**

Through the Finance Act 2021, a new entry No. 74 has been added in the 8th Schedule to the STA to charge sales tax @ 16% on all Goods supplied from tax-exempt areas of erstwhile FATA/PATA to the taxable areas.

Accordingly, a person domiciled in FATA/PATA bearing the status of an the as per Section 2(1) of the STA can still import raw materials for consumption at his own manufacturing site, against the depositing of post-dated cheques , in line with the determined installed production capacity thereof. Importation, transportation, exemption, and consumption of raw materials have been elaborately dealt with through FBR’s COO # 1 of 2021, Circular No. 5 of 2021, Circular No. 9 of 2021 and Circular No. 13 of 2021, which continue to be applicable. As per Circular No. 9 of 2021, the Customs authorities will release stuck containers against postdated cheques and send to their destination

(FATA and PATA) under standard tracker mechanism. The Collector Customs (Enforcement & Compliance) will issue detention orders for the raw materials effective from the day the consignment reaches the manufacturing premises of importers. The importer/manufacturer will be responsible to take the import documents along with the detention order to the concerned RTO Peshawar and make arrangements to have the manufacturing premises, raw material, machinery, or goods imported verified. The concerned RTO Peshawar will be liable to verify/undertake physical visit as conducted by the importer/manufacturer to the manufacturing premises where the goods are kept under detention and allow the raw material to be consumed in writing.

Similarly, the RTO Peshawar will ensure monthly stock-taking of the raw materials to consume in the production of manufactured goods by these manufacturing units. This stock-taking will facilitate in issuance of the consumption certificate.

Moreover, the residents of FATA/PATA will apply for tax exemption certificates under Section 159 of the Income Tax Ordinance 2001 for the import of raw material and/or machinery in light of the Peshawar High Court, Mingora Bench (Dara-ul-Qaza) Swat's decision on Nov 24, 2020.

As per Circular No. 3 of 2022, issued by the FBR, in order to facilitate the operationalization of benefits laid down in the law, the FATA/PATA-domiciled industrial units may acquire Installed Capacity Determination Certificate (ICDC) from the Khyber Pakhtunkhwa Department of Industries or the Ministry of Industries, Government of Pakistan. The said circular further states that the Commissioner concerned shall accept the ICDC presented until he has reasons to believe that the actual capacity installed is less than the capacity determined and certified. It goes without saying that only the goods meant for value addition are to be imported and not finished products.

Towards the end the circular also states that in order to undertake foolproof surveillance of exit points from nontaxable to taxable territories, Inland Revenue Enforcement Network (IREN) check posts under Section 40D of the STA, 1990 are being established and functionalized to ensure that due tax is paid at the rate of 16 percent on goods supplied into taxable territories. The

Regional Tax Office, Peshawar shall also establish a tax office in Malakand Division for prompt release of consignments, processing of Consumption and Exemption Certificates and effective and timely implementation of law.

## DISCLAIMER

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

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

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

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



## **OFFICES IN PAKISTAN**

### **Karachi Address:**

**Office no. 408, 4th Floor, CTC  
Building, Clifton Block-8,  
Karachi**

**Tel #: +92 21 3530 3293-6**

### **Islambad Address:**

**144, 1st Floor, Street No.82  
Sector E-11 / 2 FECHS  
Islamabad 44000,**

**Tel #: +92 51-835 1551**

### **Lahore Address:**

**202-E, 2nd Floor, Sadiq Plaza  
69-The Mall Road, Lahore**

**Tel #: +92 42 3628 0403**