



TAXPAK

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Disclaimer



Chairman's Message

Assalam-o-alaikum. We hope this monthly issue of TaxPak finds you in good spirits and immaculate health! Tola Associates welcomes you to another edition of TaxPak, our monthly publication the purpose of which is to provide a monthly update on the ongoing tax related developments in Pakistan. Alhamdulillah, 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.



Moreover, we would like to apprise the readers 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 ("FBR") and its provincial counterparts. Moreover, Notifications from the Corporate regulatory body i.e., SECP are also discussed. As our main aim is to keep the masses updated regarding the developments in the Pakistani tax law, we usually discuss a (relatively) recent judgement passed by the courts of law. This edition of TaxPak consists a discussion of a judgement has been passed by the Hon'ble Supreme Court of Pakistan ("SCP") wherein the Hon'ble SCP has discussed in detail the mandatory nature of statutory time limits for tax adjudication under the Sales Tax Act, 1990, and clarifies the scope of FBR's power to condone delays under Section 74.

Towards the end of the newsletter, we have discussed our Topic of the month titled as Proposals for Revenue Mobilization. The said topic provides a brief overview of two key tax reform proposals that should be considered in the upcoming Budget 2025–2026.

All our readers are requested to visit our website www.tolaassociates.com, or download our mobile application in order to access previously published editions of TaxPak along with other publications, and to stay updated of future notifications. 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.

Warm Regards,

Ashfaq Yousuf Tola – FCA, FCMA

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FEDERAL BOARD OF REVENUE (“FBR”) NOTIFICATIONS

A. INCOME TAX NOTIFICATIONS

1) Insertion of Draft Amendment to Rule 231C of the Income Tax Rules, 2002

The Federal Board of Revenue (FBR), vide S.R.O. 765(I)/2025, dated 8th May, 2025, has proposed amendments to the Income Tax Rules, 2002. The following change has been proposed:

In rule 231C, for sub-rule (11), the following changes shall be implemented, namely:

(11) Members of the Committee except the Chief Commissioner Inland Revenue appointed under sub-section (3) of section 134A of the Ordinance shall, after the decision by the Committee under sub-rule (8), be paid a lump sum one-time remuneration as under:

(a) three hundred thousand Rupees and one hundred and fifty thousand Rupees for the Chairperson and member of the Committee respectively except the Chief Commissioner Inland Revenue, if the amount of tax liability is up to fifty million Rupees;

(b) five hundred thousand Rupees and two hundred and fifty thousand Rupees for the Chairperson and member of the Committee respectively except the Chief Commissioner Inland Revenue, if the amount of tax liability exceeds fifty million Rupees; and

(c) Chairperson or a member of the Committee may be allowed TA/DA equal to the entitlement of BPS-22 and BPS-21 officers of the Federal Government respectively.

This draft amendment proposes a revised lump sum, one-time remuneration for members of the Committee for deciding an application under Section 134A of the Income Tax Ordinance, 2001. Previously, all members, excluding the Chief Commissioner having jurisdiction over the case, received a uniform amount of one hundred thousand rupees.

For further insight: FBR

B. SALES TAX NOTIFICATIONS

1) Extension in Submission of Sales Tax Return

The SBR vide letter bearing reference no. C.No. 9(11) ST-LP&E/Misc/2016/68963-R dated 30th May 2025, has extended the due date for submission of Sales Tax and Federal Excise Return for the tax period of April 2025, from 18.05.2025 to 05.06.2025

SINDH REVENUE BOARD (“SRB”) NOTIFICATIONS

1) Exemption of Sindh Sales Tax on Services for KW&SC Project

The Sindh Revenue Board (SRB), vide Notification No. SRB-3-4/25/2025, dated 22nd May, 2025, has granted an exemption under section 10 of the Sindh Sales Tax on Services Act, 2011. The following change has been implemented:

The whole of the tax leviable on the services received or procured by M/s Karachi Water & Sewerage Corporation (SNTN: 9033200-8) from M/s Wah Construction (Pvt) Ltd (NTN: 7260405-6) for the project "Construction of New Hub Canal and Rehabilitation of existing Hub Canal" has been exempted, subject to the following conditions and restrictions:

(a) the project is completed in all respect within 12 months from the date of its commencement and no further extension shall be allowed in this regard; and

(b) the project is completed at the cost of Rs. 12.72 billion without any cost overruns whatsoever:

Provided that while making payments to M/s Wah Construction (Pvt) Ltd (NTN: 7260405-6) for its services covered by this notification, M/s KW&SC shall issue a Certificate, duly signed by its Chief Operating Officer (COO), which shall be given to the service provider and a copy thereof shall also be sent to the Commissioner (Audit) of Sindh Revenue Board.

This exemption provides full Sindh sales tax relief on specified services related to the New Hub Canal project, subject to project timeline and cost compliance.

*For further insight: **SRB***

PUNJAB REVENUE AUTHORITY (“PRA”) NOTIFICATIONS

1) Mandatory PRA Registration Verification for Licensing Authorities in Punjab

The Punjab Revenue Authority (PRA), vide Notification No. PRA/Misc.01/2024/795, dated 22nd May, 2025, has issued instructions to enforce compliance with Section 76A of the Punjab Sales Tax on Services Act, 2012. The following directive has been implemented:

All licensing and permission-granting authorities of the Government of Punjab are required to verify that applicants engaged in taxable services are duly registered with the PRA prior to issuance or renewal of licenses or permissions, in accordance with PRA Notification No. PRA.Order.06/2012/752 dated 14th April, 2025.

This directive mandates PRA registration verification as a prerequisite for licensing of service providers under the Punjab Sales Tax on Services Act, 2012.

*For further insight: **PRA***

CORPORATE NOTIFICATIONS

1) Alterations in Seventh Schedule of Companies Act, 2017

The SECP vide S.R.O.819(I)/2025 dated May 9, 2025 has updated the fees to be paid to the Registrar and the Commission with respect to Sharing of Electronic Mortgage Register through Financial Institution (FI) Portal.

For further insight: **SECP**

CASE LAW: 2025 SLD 1117 : A DISPUTE OVER THE NATURE OF STATUTORY TIME LIMITS IN TAX PROCEEDINGS

BACKGROUND:

This review petition arose from a conflict between two prior judgments of the Hon'ble Supreme Court of Pakistan. In *Collector of Sales Tax, Gujranwala v. Super Asia Mohammad Din* (2017 SCMR 1427), the Court had held that statutory time limits for adjudication under the Sales Tax, 1990 ("the Act") are mandatory, and any order passed after expiry of those limits is invalid. Later, a different bench in *WAK Limited v. Collector Central Excise* (2018 SCMR 1474) expressed reservations about *Super Asia*, stating that the time limits were meant only to ensure speedy proceedings and should not invalidate otherwise lawful tax liabilities. As a result, a larger bench was constituted to resolve this legal conflict

ARGUMENTS BY THE PETITIONER'S COUNSEL (FBR):

The Department argued that the earlier *Super Asia* decision was wrongly decided. Its counsel submitted that the word "shall" in these tax provisions should be interpreted as directory, especially in fiscal laws aimed at efficient and timely tax collection. They contended that the time limits were intended to enforce administrative discipline, not to cancel tax liabilities entirely. The absence of any explicit penalty for missing these deadlines was cited to support the view that the time limits are not mandatory. The Department referred to Article 254 of the Constitution and general principles of statutory interpretation, including the "mischief rule." They also relied on recent case law, notably *Sarwaq Traders II* (2025 SCMR 341), which held that similar time-bar provisions in appellate cases were directory rather than mandatory. The Director General (Law) of the FBR further highlighted inconsistencies in the *Super Asia* judgment, pointing out that while the Court treated Section 11(5)'s limitation period as mandatory, it simultaneously imposed a six-month limit on the FBR's power to condone delays under Section 74—although Section 74 itself contains no such limit.

ARGUMENTS BY THE RESPONDENT'S COUNSEL (TAXPAYERS):

The respondent taxpayers supported the *Super Asia* judgment and urged that it be upheld. Their counsels referred to the precedent set by a five-member bench in *Abbasi Enterprises v. Collector of Sales Tax* (2019 SCMR 1989), which had affirmed *Super Asia*'s interpretation. They asserted that the specific insertion of time periods through statutory amendments showed a clear legislative intent to make these timelines mandatory. The use of "shall," they argued, indicated a mandatory requirement, particularly since no such time limit existed prior to 2000, and its later inclusion was deliberate. Counsel also highlighted legislative amendments like the 2006 insertion in Section 45(2), which retroactively extended deadlines, indicating that had the provisions been directory, no such amendment would have been necessary.

KEY LEGAL ISSUES/QUESTIONS

- Whether the time limits prescribed for passing orders under sections 11(5), 11G, and the former section 36 of the Sales Tax Act are mandatory or merely directory.
- Whether the use of the term “shall” in these provisions imposes a strict legal obligation to adhere to the specified timelines.
- Whether Super Asia was correctly decided in holding the provisions mandatory
- The scope and effect of section 74 in allowing extension of time limits, such as the six-month limit established in Super Asia, remain valid and consistent with the statute.

COURT’S ANALYSIS:

The Court examined the language of sections 11(5), 11G(2), and section 74. It concluded that both uses of “shall” in the provisions are mandatory, especially when combined with the words “in no case.” The Court held that reading the timelines as directory would render critical parts of the statute meaningless. The Court held that Section 74 does not give FBR unlimited power to extend time. Any extension must be based on objective and reasonable grounds. It reaffirmed that the six-month limit set in Super Asia strikes a fair balance between administrative discretion and legal certainty, helping prevent delays, abuse of power, and uncertainty in tax matters. The Court also noted that Sarwaq Traders II (2025 SCMR 341), cited by the Department, was distinguishable as it dealt with appellate proceedings, not initial adjudication. Furthermore, it held that the 2024 amendments retaining the same time structure strongly confirmed Super Asia’s interpretation.

CONCLUSION:

The Supreme Court upheld the ruling in Super Asia and held that time limits prescribed in the Sales Tax Act, 1990 for issuance of adjudication orders are mandatory. Any order passed beyond the prescribed or extended period (as allowed under section 74) is invalid. The Court also reaffirmed that section 74 extensions are limited by objective standards and cannot be used to bypass clear statutory safeguards. The review petitions challenging Super Asia were also dismissed.

TOPIC OF THE MONTH: PROPOSALS FOR REVENUE MOBILIZATION

The Federal Budget 2025–2026 is set to be presented soon. Whilst the policymakers might be focusing on innovative yet equitable ways to enhance tax collection without stifling growth or burdening lower-income segments. Two forward-looking revenue measures are suggested to broaden the tax base and ensure equity within the tax system. These are summarized below:

1) Introduction of Minimum Asset Tax (MAT) via Capital Value Tax (CVT)

To ensure high-net-worth individuals contribute a fair share to national revenue, it is proposed to introduce a **Minimum Asset Tax (MAT)** by expanding the scope of **Capital Value Tax (CVT)**.

- The MAT would apply to **resident individuals** whose **domestic assets exceed PKR 100 million**.
- The tax will be charged at **1% of the fair market value** of the assets exceeding this threshold.
- MAT will be **adjustable against the individual's income tax liability**, serving as a minimum threshold for direct taxation rather than imposing an extra tax burden.

Example:

- Total Domestic Assets: Rs. 1,000 million
- Exempt Threshold: Rs. 100 million
- Taxable Amount: Rs. 900 million
- MAT (1% of 900 million): Rs. 9 million

Scenario	Income Tax (IT) Liability	MAT (calculated)	Final MAT Payable
Scenario A: Lower IT	Rs. 8 million	Rs. 9 million	Rs. 1 million
Scenario B: Higher IT	Rs. 10 million	Rs. 9 million	Rs. 0

2) Modernization of the Definition of “Resident Individual” for Tax Purposes

The current residency definition under **Section 82 of the Income Tax Ordinance, 2001**, which classifies a resident as someone spending **183 days or more in Pakistan**, is outdated and lacks alignment with more nuanced residency rules in other jurisdictions. A revised framework is proposed:

A more appropriate definition of residency would classify an individual as a Resident if they stay in Pakistan for 182 days or more during a financial year.

For individuals who stay between **120 and 181 days**, their residency status should depend on both **citizenship** and **income**. Specifically:

- A **Pakistani citizen** (as defined under the Pakistan Citizenship Act, 1951) or a person holding a **Pakistan Origin Card (POC)** who:
 - earns **income exceeding a prescribed threshold** (excluding foreign-sourced income), and
 - has **no tax liability in any other country**,

should be treated as a **Resident but Not Ordinarily Resident (RNOR)**.

Those who do not meet these criteria should be classified as **Non-Residents**.

Individuals who spend **less than 120 days** in Pakistan during the financial year should be treated as **Non-Residents, regardless of their income or nationality**.

These proposals are aimed at strengthening Pakistan’s tax system by introducing MAT for individuals with substantial assets to pay a minimum level of tax to promote fair contribution from wealthy individuals who might otherwise pay minimal income tax and updating outdated residency criteria ensuring better alignment with international tax practices, and preventing tax avoidance through manipulative residency declarations, ensuring fairness and fiscal sustainability in the years ahead.



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