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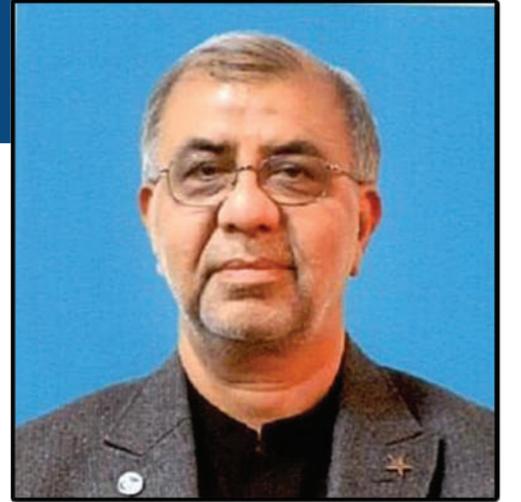
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Disclaimer



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 discussion of a judgement passed by the Hon'ble Supreme Court of Pakistan ("SCP") wherein the Hon'ble SCP has held that criminal proceedings under Section 37A of the Sales Tax Act, 1990, without prior determination or assessment of tax under Section 11 of the STA, are unwarranted and unlawful.

Towards the end of the newsletter, we have discussed our Topic of the month titled as Eligible Persons: Section 114C, an impractical reform. The said topic provides a brief overview of Section 114C of the Income Tax Ordinance, 2001, highlighting the restrictions imposed on high-value transactions by ineligible persons and the practical and legal, challenges that may arise from its implementation.

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

Chairman

Tola Associates.

FEDERAL BOARD OF REVENUE (“FBR”) NOTIFICATIONS

A. INCOME TAX NOTIFICATIONS

1) **Revised Withholding Tax Rates on National Savings Schemes (“NSS”) and Prize Bonds**

The Central Directorate of National Savings, vide letter bearing reference no, F.No. 13(1)(Rules)/PD/2024-25 dated 30th June, 2025, has communicated updated rate of withholding tax on profit on debt and prize bonds for persons not appearing in the Active Taxpayers’ List (“ATL”) shall be 30% with effect from July 1, 2025.

The applicable withholding tax rates on National Savings Schemes (under section 151) and Prize Bonds (under section 156) effective July 1, 2025, shall be as follows:

Section 151

Persons appearing in ATL: 15%
Persons not appearing in ATL: 30%

Section 156

Persons appearing in ATL: 15%
Persons not appearing in ATL: 30%

B. SALES TAX NOTIFICATIONS

1) **Fixation of Minimum Retail Price of Cement**

The FBR vide S.R.O. 1126(I)/2025 dated 27th June, 2025 have informed the minimum retail price of cement for the purpose of payment of sales tax. The following change has been implemented in supersession of S.R.O. 746(I)/2025, dated 29th April, 2025:

The price shall be the monthly average of—

1. Prices of cement in Karachi, Lahore, Faisalabad, and Peshawar; and
2. Average of prices in Rawalpindi and Islamabad, as last published by the Pakistan Bureau of Statistics (PBS) on its website during the preceding month, reduced by twenty-five rupees.

This amendment introduces a revised averaging method to determine the taxable retail price of cement.

For further insight: FBR

2) Extension in Electronic Integration of Taxpayers

The FBR, vide its letter addressed to all Chief Commissioners of LTOs, MTO, CTOs, and RTOs, bearing reference no. F. No. 1(141) ST-L&P/2025/77394-R dated 20th June, 2025 have informed that there shall be an extension of deadlines for electronic integration of taxpayers with the FBR's computerized system, as mandated under Rule 150Q of the Sales Tax Rules, 2006.

The revised deadlines are as follows:

1. **Corporate registered persons** are required to complete integration with the FBR's system by **July 1, 2025**.
2. **Non-corporate registered persons** must complete integration by **August 1, 2025**.

For further insight: FBR

KHYBER PAKHTUNKHWA REVENUE AUTHORITY ("KPRA") NOTIFICATIONS.

1) General Information Regarding Information Development Cess

The Khyber Pakhtunkhwa Revenue Authority ("KPRA"), vide its notification dated 24th June, 2025, has informed that Infrastructure Development Cess ("IDC") at the rate of 2% of the value shall be applicable on all goods consignments, either entering into the province or leaving for abroad from the province of Khyber Pakhtunkhwa, as mandated under section 3 of the Khyber Pakhtunkhwa Infrastructure Development Cess Act, 2022.

The collection of IDC shall continue at the following locations:

Air Freight Unit, Bacha Khan International Airport, Peshawar, Risalpur, Azakhel, Kharlachi, Ghulam Khan, Torkham and any other customs stations of the province as may be prescribed.

This notification clarifies the scope and enforcement locations for IDC on cross-border and inter-provincial consignments, reaffirming KPRA's authority to collect IDC.

For further insight: KPRA

CASE LAW: THE HON'BLE SUPREME COURT OF PAKISTAN HELD THAT CRIMINAL PROCEEDINGS UNDER SECTION 37A OF THE SALES TAX ACT, 1990, WITHOUT PRIOR DETERMINATION OR ASSESSMENT OF TAX UNDER SECTION 11 OF THE STA, ARE UNWARRANTED AND UNLAWFUL.

INTRODUCTION:

The Hon'ble Supreme Court of Pakistan ("SCP") was moved by the Directorate of Intelligence & Investigation, FBR ("Appellant"), against various taxpayers including Taj International (Pvt) Ltd. ("Respondent"), alleging sales tax fraud by issuing fake invoices and claiming inadmissible input tax adjustments. The FIRs were registered under Section 37A of the Sales Tax Act, 1990 ("Act"), and arrests were made without a prior determination of tax liability under Section 11 of the Act. A large number of constitutional petitions were filed before various High Courts, challenging the legality of such criminal proceedings.

BRIEF FACTS OF THE CASE:

The Respondent taxpayer was subjected to criminal proceedings initiated by the Appellant department. The Appellant registered First Information Reports (FIRs) and made arrests pursuant to the FIRs, alleging that the Respondent(s) were involved in tax fraud by issuing fake sales tax invoices and unlawfully claiming input tax adjustments/refund of sales tax. These actions were undertaken without first determining the actual tax liability under Section 11 of the Act. The Respondents challenged the legality of these actions through constitutional petitions filed in various High Courts across Pakistan, arguing that such coercive measures violated due process and were without legal basis. The High Courts ruled in favor of the taxpayers/ Respondents.

The matter eventually came before the Hon'ble SCP, which heard a large number of connected civil appeals to decide whether criminal proceedings can be initiated before tax assessment is conducted u/s 11 of the Act and whether the Appellant had valid authority to proceed.

Legal Question:

- Whether the FBR can initiate criminal proceedings (e.g., registration of FIRs and arrests) under Section 37A without first determining tax liability under Section 11 of the Sales Tax Act, 1990

ARGUMENTS BY THE LEARNED COUNSEL FOR THE APPELLANT:

The counsel for the Appellant argued that civil and criminal proceedings are not mutually exclusive and, therefore, can be initiated and proceed simultaneously. It was further argued that there is no legal barrier to initiating action without first completing the civil assessment proceedings. As such, it was argued that the department has the discretion to opt for either of the two enforcement mechanisms. The counsel further submitted that criminal prosecution can be triggered if material evidence is available and the concerned officer has reason to believe that the taxpayer has committed tax fraud or any offence warranting prosecution. It was further argued by the learned Appellant that the compoundability of the offence is determined based on the amount of tax due as calculated by the department, rather than the amount determined through the adjudicatory process under the Act. Hence, the assessment of tax due through civil adjudication has no bearing on the initiation of criminal proceedings against a taxpayer or person involved in tax fraud. On the contrary, criminal investigation and arrest support the assessment and adjudication of the tax liability of a registered person.

It was also argued by the counsel for the Appellant that, as per the scheme of the law, an Inland Revenue Officer is empowered to proceed against a registered person solely for the purposes of assessing tax liability under Section 11 of the Act. In contrast, the provisions of Section 37A read with Section 37B can be invoked against persons who are abettors or connivers in the commission of tax fraud particularly those who generate fake invoices to facilitate tax evasion by a registered taxpayer. Therefore, the provisions of Sections 37A and 37B can be invoked independently, irrespective of the assessment proceedings under Section 11 of the Act.

ARGUMENTS BY COUNSEL FOR THE LEARNED RESPONDENT:

It was argued on behalf of the Respondents by their counsels that the entire criminal proceedings initiated under Section 37A of the Act, including FIRs and arrests, were unlawful and without jurisdiction, as no tax liability had been determined under Section 11 of the Act. It was further argued that in the list of offences under Section 33 of the Act, the term "shall be further liable" appearing in the column of penalties highlights its chronological significance. It was argued on behalf of the Respondents that only after the determination of tax liability (i.e., civil liability) through assessment and adjudication can criminal prosecution be initiated in cases of tax fraud. It was further argued on behalf of the Respondents that, under Section 37A(4), the Commissioner may, at any stage, compound the offence if the taxpayer pays the amount of tax due along with the default surcharge and penalty, as determined after the assessment of tax liability under the Act.

The learned Respondent also argued that the fines under Section 33 of the Act are dependent on the amount of "tax involved"; therefore, no sentence can be awarded unless the amount of sales tax is first determined. This authority, it was contended, is not vested in the Special Judge, particularly when the Act specifically provides for a civil adjudication system to determine the amount of sales tax. It was also argued that the Additional Director, Intelligence and Investigation, FBR, does not have the jurisdiction to initiate criminal prosecution, as the said Directorate exercises no jurisdiction under the Act.

FINDINGS OF THE HON'BLE SCP:

The Hon'ble SCP held that the initiation of criminal proceedings, including the registration of FIRs and arrest of taxpayers under Section 37A of the Act, without prior assessment or adjudication of tax liability under Section 11 of the Act, is unlawful and in violation of constitutional guarantees of due process and fair trial enshrined in Articles 4 and 10-A of the Constitution. The Hon'ble SCP held that the statutory scheme of the Act does not permit the independent exercise of penal powers in the absence of a determined liability. The Hon'ble SCP also held that provisions of section 37A of the Act shows that unless these provisions are read in harmony with other corresponding provisions of the Act, and invoked as per scheme of the law after assessment/adjudication of the amount of sales tax due, it can be abused by initiating criminal proceedings, including arrest of a registered person, on the mere allegation of tax fraud and default in payment of presumed tax liability which is yet to be determined through process of assessment or adjudication. Hence, such interpretation of the provisions of section 37A of the Act, would bring uncertainty of taxation, which is against the very spirit and purpose of imposition of any tax. In light of the foregoing, the Hon'ble SCP also held that penal provisions including registration of FIR and arrest of any person is without jurisdiction and lawful authority. The Hon'ble SCP also emphasized that it is a settled principal of interpretation of taxing statute that any provision of statute cannot be read in isolation, particularly, when it is dependent upon or complimentary to other provision of the law. In case of any ambiguity or overlapping of the provisions of law, harmonious construction is to be made, so that such provision of law may not render the other provisions as redundant or nugatory.

Accordingly, the Hon'ble SCP upheld the High Courts' judgments in favor of the Respondent taxpayers and dismissed the appeals filed by the Appellant department, thereby reinforcing the principle that tax enforcement must follow legal and procedural safeguards, not precede them. The Hon'ble SCP held that without investigative audit or issuance of show cause notice of providing opportunity to explain the matters, the registration of F.I.R., initiation of criminal proceeding and arrest of registered person is without jurisdiction and lawful authority. The Hon'ble SCP also emphasized that criminal prosecution follows adjudication and assessment of tax under Section 11 of the Act, therefore, pre-trial steps including arrest and detention cannot be given effect to unless the tax liability of the taxpayer is determined in accordance with the law.

ELIGIBLE PERSONS: SECTION 114C, AN IMPRACTICAL REFORM.

The Federal Government (FG), through the Tax Laws (Amendment) Bill 2024 (“2024 Bill”), introduced the concept of an “Eligible Person” vide a newly proposed Section 114C in the Income Tax Ordinance 2001 (“ITO”). For our comments on Section 114C proposed through the 2024 Bill, you may [click here](#).

Thereafter, certain amendments thereto, were proposed vide the Finance Bill 2025 (“FB 2025”). Our comments on the said amendments can be found by clicking on this [link](#).

However, after pressure from different circles, the caved in, and made certain amendments to Section 114C, vide the Finance Act 2025 (“Act”). Section 114C (as amended by the Finance Act 2025) is as under:

Quote

114C. Restriction on economic transactions by certain persons. —

(1) Notwithstanding anything contained in any law for the time being in force, —

(a) any application, by any ineligible person, for booking, purchase or registration of a motor vehicle of the value exceeding the threshold given in Fifteenth Schedule, shall not be accepted or processed by any manufacturer of a motor vehicle or vehicle registering authority of Excise and Taxation Department, as the case may be;

(b) any application or request by any ineligible person, to any authority responsible for registering, recording or attesting transfer of any immovable property, of the value exceeding the threshold given in Fifteenth Schedule, shall not be accepted or processed by such authority;

(c) Any person authorized to open and maintain an account in respect of securities, units of mutual fund or similar investment, shall not open an account or maintain such account if the total investment by an ineligible person in any such account exceeds the threshold specified in Fifteenth Schedule; and

(d) a banking company shall not allow cash withdrawal from any of the bank account of any person, exceeding the threshold as specified in Fifteenth Schedule.

(2) The provisions of sub-section (1), shall not apply on transactions made by a non-resident person or a public company except that mentioned in clause (d) of sub-section (1).

(3) The sources of investment and expenditure statement filed by the person and sufficient resources mentioned in sub-section (5), shall not be construed as nature and source of income for the purposes of section 111.

(4) For the purposes of this section, —

- (a) eligible person shall mean a person who has filed-
- (i) a return of income for the tax year immediately preceding the year of transaction mentioned in sub-section (1) and has sufficient resources in the wealth statement in case of an individual, or financial statement in case of a company or an association of persons, as the case may be, for such transaction; or
 - (ii) sources of investment and expenditure statement declaring sufficient resources and furnishing explanation thereof for a particular purchase or investment transaction covered in clauses (a), (b) and (c) of sub-section (1):

Provided that in case of an individual, the eligible person shall include his immediate family members.;

- (b) - immediate family members in respect of an individual, shall include his parents, spouse and dependent children;
- (c) - ineligible person shall mean a person who is not an eligible person as defined in clause (a) of this sub-section;
- (d) - sources of investment and expenditure statement shall mean a declaration by a person filed on the Board's web portal, specifying the sources of funds for making such transaction; and
- (e) - sufficient resources shall mean one hundred and thirty percent of the cash and equivalent assets comprising cash denominated in local or foreign currency, fair market value of gold, net realizable value of stocks, bonds, receivables or any other cash equivalent asset as may be prescribed, declared by a person either in his sources of investment and expenditure statement, or wealth statement filed for the latest tax year and in the case of a company or association of persons, cash and equivalent assets, declared in the financial statements attached with the income tax return for the latest tax year:

Provided that where an asset mentioned in sub-section (1), other than clause (d) of this subsection, has been purchased by way of exchange of capital assets already declared in the wealth statement, or financial statement, or sources of investment and expenditure statement, the disposal of such capital assets shall be treated to be part of cash equivalent assets to the extent of the value mentioned in the agreement.

(5) All or any of the restrictions or limitations imposed on the ineligible person under this section shall come into force on such date as the Federal Government may, by notification in official Gazette, appoint with such reductions and enhancements in the thresholds specified in the Fifteenth Schedule as deemed appropriate.

Unquote

Comments:

The aforesaid restrictions shall come into play on the date notified by the Federal Government as mentioned in Section 114C(5).

The upshot of the above amendments are as follows:

- (i) For restriction under Section 114(1)(a) pertaining to application for booking, purchase or registration of motor vehicle: The threshold limitation has been fixed at more than PKR 7 million in the Fifteenth Schedule. The transaction value taken shall be the invoice value for locally manufactured vehicles, or the import value assessed by Customs including all taxes, duties, levies and charges under the Fifteenth Schedule.

This means cars up to PKR 7 million can be purchased by persons, including non-filers, without obtaining a certificate of eligibility for such purchase. This may potentially increase the demand for used cars, and adversely affect the market for brand new cars.

- (ii) For restriction under Section 114(1)(b) pertaining to application for registering recording or attesting transfer of any immovable property: The threshold limitation has been fixed at more than PKR 100 million for commercial immovable properties and more than PKR 50 million for residential immovable properties, under the Fifteenth Schedule. The transaction value taken shall be the fair market value as defined under Section 2(22AA) of the ITO under the Fifteenth Schedule.

- (iii) For restriction under Section 114(1)(c) pertaining to investment in securities, debt securities, units of mutual funds or money market instruments: The threshold limitation has been fixed at more than PKR 50 million under the Fifteenth Schedule. The transaction value shall be the acquisition cost of securities or debt securities or unit of mutual funds or money market instruments under the Fifteenth Schedule.

This will only apply where the investment amount up to PKR 50 million shall be new investment in any financial year excluding reinvestment either by liquidation or similar type of securities and / or reinvestment of returns earned on already held securities.

- (iv) For restriction under Section 114C(1)(d)(i) with respect to opening or maintaining of bank account: The restriction has only been placed on opening or maintaining of bank accounts except savings accounts.
- (v) For restriction under Section 114C(1)(d)(ii) with respect to annual cash withdrawal limit: The threshold has been fixed for equal to or more than PKR 100 million in all bank accounts held by an individual.

Comments on Section 114C:

- The thresholds fixed seem to be arbitrary in nature, and will exclude majority of the ineligible persons that the Government should have sought to bring within the tax net.
- Overall, this provision will do only little to broaden the tax net, and will only add a bureaucratic hurdle for wealthy people to obtain eligibility certificates for specific transactions.
- This section is also against the self-assessment scheme of the ITO, and may be subject to litigation on this ground.
- Further, it is a harsh and penalizing requirement that a compliant taxpayer shall have to file an income and expenditure statement and get a eligibility certificate before conducting a transaction beyond the aforesaid thresholds. This prejudices his right of self-assessment provided for under Section 120 of the ITO, and disrupts the entire mechanism of the ITO.



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