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# **CONTENTS**

Preamble	01
Economic Overview	03
Highlights	11
Income Tax	19
Sales Tax	69
Other Laws	85



# Then which of the favors of your Lord will you deny?

# **PREAMBLE**

#### Alhamdulillah!

RIAZ AHMAD SAQIB GOHAR & CO. RASG is pleased to present the 'highlights, comparison and comments' on this year's budget with a, "Fitness for Growth" theme, to its client, friends and associates. While developing this document every endeavor has been made to keep the presentation simple, with the view to help our readers understand the amendments in the various statutes through the Finance Bill, 2018.

This commentary reflects our understanding of the legislation and we recommended that reference should be made to the precise wording of the Bill wherever necessary. We would also recommend that the professional advice should be sought before acting upon any of the amendments.

The current budgetary measures are the last proposals being introduced by the present government. When the government is at the blink of completing its term; its possess an extra responsibility and one can also judge the sincerity with which it is handing over the matters to its successors. In its latest endeavor, two important measures were introduced by giving the opportunity to the citizens of Pakistan to declare both their domestic and foreign assets. It is too early to forecast and predict the fate of these measures; however much will depend upon how the people perceive the government 's intention to effectively implement the stringent measures for those who fail to avail the schemes.

It goes without saying that we at RASG cherish our mutual respect and strive to excel. It is our team work which makes us proud and enable us to serve our clients in a most effective manner.

Gohar Manzoor Founder & Managing Partner

Karachi: April 28, 2018



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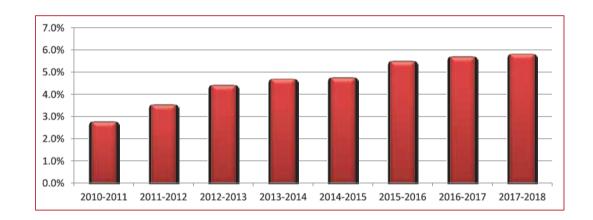


# **ECONOMIC OVERVIEW**

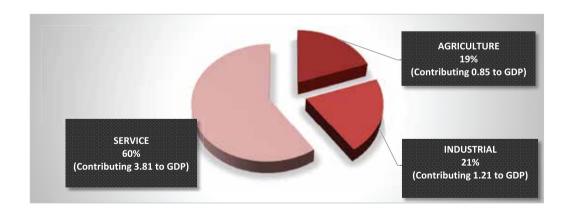
# INTRODUCTION

Pakistan has always been an economy which has never utilized its true potential. As per the Economic Survey the Gross Domestic Product (GDP) of Pakistan has expanded by 5.8% in 2018 being the highest recorded during previous 13 years. GDP Growth Rate of Pakistan has averaged 4.91 % from 1952 until 2017, reaching an all-time high of 10.22% in 1954 and a record low of -1.80% in 1952.

#### HISTORICAL GROSS DOMESTIC PRODUCT (GDP) GROWTH RATE TREND



#### SECTOR WISE CONTRIBUTION TO THE GDP









The Table below reveals that Forestry was the major contributor in the Agricultural Sector, Construction played a key role in Industrial Sector while wholesale and the retail trade in the Services Sector was the leader in contributing major growth to the GDP. No doubt in the recent years' retail sector has gained momentum; attracting major investment.

Sr.	SECTOR	GROWTH	LAST YEAR	
No.				
1.	AGRICULTURAL SECTOR			
	Crops	3.83	2.07	
	Livestock	3.76	2.99	
	Forestry	7.17	-2.37	
	Fishing	1.63	1.23	
2.	INDUSTRIAL SECTOR			
	Mining and quarrying	3.04	-0.38	
	Manufacturing	6.24	5.82	
	Electricity generation and distribution and gas	1.84	5.82	
	distribution			
	Construction	9.13	9.84	
3.	SERVICES SECTOR			
	Wholesale and retail trade	7.51	7.46	
	Transport, storage and communication	3.58	4.44	
	Finance and insurance	6.13	10.78	
	Housing services	4.00	3.99	
	General government services	11.42	5.95	
	Other private services	6.15	7.98	

The main reason for this volatility is said to be political instability, lack of planning and inconsistent economic policies. This leads us to seek answer as to what are the characteristics of the economic that can be termed as "Fit for Growth"; growth which is sustainable in order to reap its long term benefits and push the economy towards an upward trend. In the ensuing paragraphs we analyze Pakistan's economy in the perspective of "Fit for Growth".

#### WHAT MAKES AN ECONOMY FIT FOR GROWTH?

A growing economy is like living organism showing signs of life and is able to survive in the toughest conditions. One can relate such characteristic to a "Plum Blossom" flower also known as the meihua (梅花); i.e. the national flower of the Republic of China. The flower is a symbol of resilience and perseverance in the face of adversity, because plum blossoms often blooms most vibrantly even amidst the harsh winter snow.

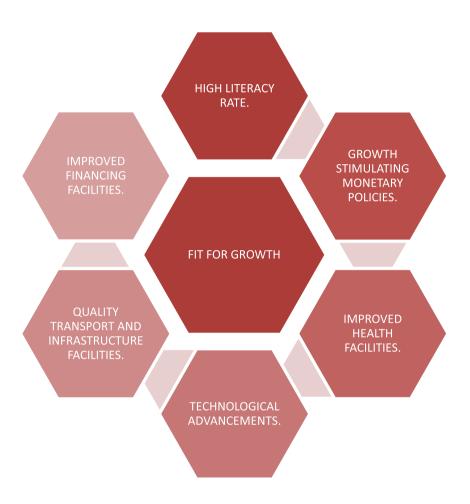






#### ELEMENTS OF AN ECONOMY 'FIT FOR GROWTH'

Resilience and perseverance even though are important they do not fully describe the characteristics needed for an economy in order to be "Fit for Growth". As portrayed below a growing needs to have at least the following characteristics:



#### **HIGH LITERACY RATE:**

Education is the vehicle for human resource development and literacy is the pre-requisite to consult and benefit from major sources of information and knowledge in today's world. Hence, for an economy to be "Fit for Growth" it is necessary that literacy rates should be at an ideal point in order to stimulate growth. Currently the literacy rate of Pakistan is ranging between 58% to 60% which is rather low for our developing economy to be fit for sustainable growth.





According to a survey conducted by the World Bank, the expenditure incurred by the government is only approximately 2.8% (2017: 2.2%) of the country's entire GDP. Although it is showing an upward trend from past years, the increase is at a rather slow pace.





#### GROWTH STIMULATING MONETARY POLICIES

A monetary policy which creates harmony between expenditure and savings is a necessary ingredient in a "Fit for Growth" theorem. The government ensures this harmony through managing interest rates, ensuring price stability and controlling the supply of money. Interest rates have followed a downward trend during the past years which indicates the objective of the government to encourage expenditure and make financing affordable





According to latest monetary compendium issued by the State Bank of Pakistan, inflation rate is estimated to be 4% as compared to 3.6% last year. A major misconception in the minds of people is that inflation is unfavorable. A general and persistant increase in price levels stimulates growth in an economy, hence it cannot be regarded as undesirable.

#### IMPROVED HEALTH FACILITIES

Human capital is an important resource in the economic environment of any country and to ensure quality health facilities as provided by the state play a pivotal role in making an economy "Fit for Growth". A healthy labor force ensures high productivity in the work environment stimulating growth in the economy.

Pakistan has been working hard to join the league of countries who have successfully eradicated polio as last year only 2 cases were reported. It is expected that within the next year polio will be eradicated completely from our country. Despite these



efforts the expenditure being incurred in the health sector is rather low; i.e. 1.12% of the GDP of Pakistan in the current financial year which shows a slight improvement from the previous year being 0.91%.

#### TECHNOLOGICAL ADVANCEMENTS

In this era of advanced Information Technology, research and development in this field has become essential for an economy to become "Fit for Growth" via innovation. The use of outdated machinery and lagging behind in the race for technological advancements would render the economy not being able to compete in the international market. Pakistan is not on par with some of the developing economies of the world in terms of technological advancements. Our last significant breakthrough in the field of Information technology was the introduction of 4G and 3G technology in the telecommunication spectrum back in 2014.



Technological advancement is positively correlated to investment in the education sector of the country which explains our current position.









Pakistan and China are executing Cross-border fiber optic project (Khunjerab-Rawalpindi). Completion of the 820 KM long cable is planned in August 2018. The project will surely support IT Sector development in Northern parts of the country.

#### QUALITY TRANSPORT AND INFRASTRUCTURE FACILITIES

Transportation and infrastructure facilities are an essential component in the "Fit for Growth" mix. These facilities are aimed at ensuring that goods are transported in a timely manner and reach their destinations safely.



Economies are known to prosper in the past when their transportation and infrastructure facilities have shown drastic improvements for example Dubai. Emirates Airlines has become one of the world's largest in the world with currently 244 aircrafts operating in its fleet and reporting a profit of 340 Million Dollars during the financial year ended 2017. On the other hand, Pakistan International Airlines which founded in 1946 currently has 33 aircrafts in its fleet currently reports a loss of roughly 388 Million Dollars. This comparison indicates a major room for improvement for our national flag carrier which is on the verge of being privatized.



All is not gloomy in the transportation and infrastructure sector of the country as the 136 KM. M-9 motorway from Karachi to Hyderabad has been substantially completed along with several other projects making inter-city travelling more convenient and reducing journey times for goods transporters. This is the result of the on-going China Pak Economic Corridor (CPEC) project which aims to connect Gawadar port to Khunjerab and onwards to China. The estimated total length of the road development projects ongoing for the purpose of CPEC is 2,497 KM



The economy has recently embarked on the expedition for providing better public transport facilities for the citizens of the country with projects such as the Karachi Green line project underway. This project is the first phase of the Karachi Metro bus project which aims to improve connectivity with in the financial hub of the country which has been deprived of the basic public transport needs for many years.



Under the Public Private Partnerships, Pakistan Railways has started several trains such as the reknown business train to cater to the needs of business community and general public. During the Financial Year ended 2018, 74 Kms of track was rehabilitated on the Pakistan Railway network besides laying of new tracks. However, there is still room for improvements in order for this sector to become a contributory towards the "Fit for Growth" mix of our economy.







#### IMPROVED FINANCING FACILITIES

Finance is an essential component for any organization within an economy to grow and chase its strategic objectives. The growths of these organizations are directly related to the GDP of the economy. Hence, in order for an economy to meet the "Fit for Growth" criteria, it must provide convenient and affordable financing facilities. As discussed earlier, the lending rates and interbank rates have been following a downward trend making finance more affordable.



The Credit to the Private Sector (CPS) has increased to Rs. 747.9 billion in the financial year ended 2017 as compared to Rs. 446.5 billion in 2016. On year on year basis, it registered growth of 16.8%. CPS in terms of GDP inched up to 5 years high during the financial year ended 2017. During the financial year ended 2018 the economy continued to benefit from higher development spending, accommodative monetary policy and progress on CPEC related projects along with global economic recovery.

Since Pakistan is an agricultural intensive economy, the importance of microfinance facilities is great. The target market of the microfinance sector in Pakistan is estimated to be 25 to 30 million borrowers and the government has set the outreach goal posts to at least 15 million by 2020. According to the State Bank of Pakistan's (SBP) official policy, the role of microfinance is: "Pivotal for inclusive and sustainable economic growth of the country; crucial to livelihood creation; and a key driver of grass-root level development."





According to a recent research carried out on the sector by Pakistan Economic and Social Review, although the microfinance sector in Pakistan adopted an extensive growth strategy (over the last decade) and made some good progress in various indicators of outreach and performance, yet the challenge remains for increasing the breadth, depth and scope of its outreach at a low or lower cost.

One can conclude that as far as the results are concerned definitely the economy has shown positive signs for growth. Now it would be the responsibility of the coming government to keep up with the pace and grow.





# GILGHTS



# **HIGHLIGHTS:**

## **INCOME TAX**

- Minimum threshold increased for individual taxpayers upto Rs. 1,200,000/- from Rs. 400,000/- subject to nominal tax payment i.e. Rs. 1,000/- payment upto income of Rs. 800,000/- and; Rs. 2,000/- payment upto income of Rs. 1,200,000/-.
- Tax slabs for Individuals reduced from maximum 35% to maximum 15%
- Tax slabs for AOP reduced from maximum 35% to maximum 30%
- Tax slabs for corporate sector i.e. for Companies to be gradually reduced @ 1% per year i.e. upto 25% till Tax Year 2023
- Basic threshold attracting no with-holding tax deduction provisions against payment of services enhanced from Rs. 10,000/- to Rs. 30,000/- and; against payment of goods from Rs. 25,000 to Rs. 75,000/-.
- Bonus shares granted exmption from tax
- Super Tax extended upto Tax Year 2021 with gradual reduction of 1% per year till Tax Year 2021
- Automatic selection from audit u/s 214D for Late Filers of Income Tax Returns withdrawn
- Late filers to be penalized by categorizing them as NON ACTIVE TAX PAYER with bar on adjustment of their carry forward losses upto 01 year
- Relaxation from re-selection from audit upto next 2 subsequent years provided
- Grant of automatic stay from recovery proceedings subject to 10% payment instead of 25%
- Rate of tax for advance tax collection on bank transactions for Non-Filers reduced from 0.6% to 0.4% with PER DAY aggregate limit of Rs. 50,000/- from all bank accounts
- Taxability and adjustment under Normal regime for advance tax collection on commission by Stock Exchange from FTR Regime restored
- Online notice servicing as valid notice without subject to its servicing vides manual mode of courier or postal approved
- Advance tax deduction on dividends of Rental REIT reduced by 5%
- Tax Credit u/s 65B, 65D & 65E extended upto Tax Year 2021
- Non-Filers barred from purchase of property and motor vehciles







- Further enhancement of advance tax with-holding for Non-Filers on payment of supplies and contracts
- Advance tax collection on purchase/transfer of property u/s 236K on their advance payments made applicable
- Penalty of late/non filing of withholding tax statement from maximum penalty of Rs. 10,000/- to maximum of Rs. 5,000/- subject of filing thereof within 3 months reduced.
- Commercial Importers not to be covered under final tax regime. Advance tax collection u/s 148 to be Minimum Tax.
- Limit fixed for adjustment of unabsorbed depreciation
- Introduction of provisions regarding explanation of source of income on account of foreign remittances of above Rs. 10 Million during a tax year and; filing of statement of foreign Income and Assets on earning of foreign income above USD 10,000/- or; having owned foreign assets value exceeding USD 100,000/-

## **SALES TAX**

- Rate of further tax on supply of taxable goods to unregistered persons enhanced from 2% to 3%.
- Powers of Federal Government, which were earlier transferred to the Federal Minister-in-charge, are now restored.
- Adjustment of input tax on import of scrap of compressors withdrawn.
- Introduction of an appeal effect order to be passed within one year to give effect to the findings or directions of the Commissioner (Appeals), Appellate Tribunal, High Court or Supreme Court.
- Sales tax audit to be conducted only once in every three years.
- FBR authorized to specify the functions and jurisdictions of the Directorate General (Intelligence and Investigation) and its officers and confer the powers in line with the powers being exercised by Officer of Inland Revenue.
- Rate of default surcharge fixed at 12%. Earlier it was KIBOR plus 3% per annum.
- Chief Commissioner no longer empowered to post Officers of Inland Revenue to the premises of registered person. Now these powers are only vested with the FBR.
- Revamping the mechanism of Alternate Dispute Resolution (ADR) making the recommendation of ADR Committee binding on both parties.
- Minimum threshold for obtaining stay order till disposal of appeal by the Commissioner (Appeals) reduced from 25% to 10%.





- Validation provided to all the previous orders passed, notices issued and actions taken by the Directorate General (Intelligence and Investigation), Inland Revenue.
- Sales tax levied at standard rate of 17% on import and supplies of furnace oil.
- Input tax adjustment allowed to five export-oriented sectors on packing materials.
- Sales tax rate for steel sector enhanced to Rs 13 per unit of electricity consumed.
- Rate of sales tax for other allied steel industries i.e. ship breakers and re-rollers rationalized.
- Widened the scope of services under Islamabad Services Tax Laws.
- Zero rating granted to stationery items

#### **Various Exemptions / Withdrawal Granted from Levy of Sales Tax Proposed**

- Import or supply of paper, fish feed, fans for dairy farms, bovine semen, preparations for making animal feed and certain plant, machinery equipment items.
- LNG imported by fertilizer manufacturers for use as feed stock
- Import of plant and machinery on one-time basis for setting up of special economic zone.
- Extra tax and further tax @ 2% for Pakistani foam manufacturers.
- Value addition tax on import of second hand worm clothing and footwear.
- Value addition tax at 3% on import of LNG.
- All types and kinds of imported hearing aids.
- 21 types of computer parts imported by manufacturers registered certified by EDB.
- Import of machinery, equipment, raw materials, components and other capital goods for use in building, fittings, repairing or refitting of ships, boats or floating structures by Karachi Shipyard and Engineering Works Limited.

#### **Various Reduction in Sales Tax Rate Proposed**

- Reduce sales tax rate on agriculture machinery from 7% to 5%.
- Reduced rate on supply of natural gas from 10% to 5%.
- Levy of sales tax at a reduced rate of 3% on all fertilizers across the board.
- Reduction in sales tax rate on LNG imported by PSO and PLL from 17% to 12%.
- Reduced rate on supply of RLNG by PSO and PLL to SNGPL from 17% to 12%.







- Levy of sales tax at reduced rate of 5% on import of 19 items of cinematographic equipment imported during the period commencing on July 1, 2018 and ending on June 30, 2023.
- Reduction in levy of sales tax on import of lithium iron phosphate batteries from 17% to 12%.
- Levy of a non-adjustable / non-refundable sales tax at a rate of 5% on capital goods for Transmission Line Projects.
- Reduced rate of 6% on import of leather products ready for use.

## FEDERAL EXCISE DUTY

- Powers of Federal Government, which were earlier transferred to the Federal Minister-in-charge, are now restored.
- Rate of default surcharge fixed at 12%. Earlier it was KIBOR plus 3% per annum.
- Introduction of an appeal effect order to be passed within one year to give effect to the findings or directions of the Commissioner (Appeals), Appellate Tribunal, High Court or Supreme Court.
- Excise audit to be conducted only once in every three years.
- Chief Commissioner no longer empowered to post Officers of Inland Revenue to the premises of registered person. Now these powers are only vested with the FBR.
- Revamping the mechanism of Alternate Dispute Resolution (ADR) making the recommendation of ADR Committee binding on both parties.
- Minimum threshold for obtaining stay order till disposal of appeal by the Commissioner (Appeals) reduced from 25% to 10% of the amount of duty due.
- Validation provided to all the previous orders passed, notices issued and actions taken by the Directorate General (Intelligence and Investigation), Inland Revenue.
- Enhanced FED on cigarette and cement products.
- Exemption from levy of FED granted on equipment imported by China Railway Corporation for Lahore Orange Line Metro Train Project subject to certain conditions
- Exemption from levy of FED on commission paid by SBP and its subsidiaries to NBP or any other banking company for handling banking services of Federal or Provincial Government as SBP's agent.
- Introduction of health levy on tobacco and mobile handset levy.





# **CUSTOM DUTY**

- Extension in the customs enforcement activities in the sea up to 24 nautical miles from existing 12 nautical miles (1 nautical mile = 1.852 kilometer) thus bringing the same in line with the international standards.
- Restoration of powers of the Federal Government to issue notification under the customs regulation and rules.
- Legal cover for utilizing any data obtained through mutual assistance agreements, for the purpose
  of assessment and valuation provided
- The Collector (Appeals) empowered to grant stay against recovery of duty/taxes for a maximum period of 30 days when an appeal has been filed.
- Additional custom duty to be increased from 1% to 2%.
- The first and fifth schedules are being amended for relief measures and tariff rationalization.





# 



# **INCOME TAX**

**Definition** 

Fee For Off Shore Digital Services

Existing

"New Clause shall be added"

Subject to this Ordinance, a tax shall be imposed, at the rate specified in Division IV of Part I of the First Schedule, on every non-resident person who receives any Pakistan-source royalty or fee for technical services.

Any fee for technical services where the services giving rise to the fee are rendered through a permanent establishment in Pakistan of the non-resident person

Any Pakistani-source royalty or fee for technical services received by a non-resident person to which this section does not apply by virtue of clause (a) or (b) of sub-section (3) shall be treated as income from business attributable to the permanent establishment in Pakistan of the person.

"New Sub Section shall added"

Section 2(22B) Section 6 Section 152(IC)

#### **Proposed Amendment**

"Fee for offshore digital services" means any consideration for providing or rendering services by a nonresident person for online advertising including digital advertising space, designing, creating, hosting or maintenance of websites, digital or cyber space for websites, advertising, e-mails, online computing, blogs, online content and online data, providing any facility or service for uploading, storing or distribution of digital content including digital text, digital audio or digital video, online collection or processing of data related to users in Pakistan, any facility for online sale of goods or services or any other online facility."; and

After the word "royalty", a comma and the words", fee for offshore digital services" shall be inserted;

After the word "services", occurring for the first time, the words "or fee for offshore digital services" shall be inserted;

In sub-section (4), after the word "royalty", a comma and the words ", fee for offshore digital services" shall be inserted;

"(1C) Every banking company or a financial institution remitting outside Pakistan an amount of fee for offshore digital services, chargeable to tax under section 6, to a nonresident person on behalf of any resident or a permanent establishment of a non-





#### **Definition**

#### **Fee For Off Shore Digital Services**

Section 2(22B) Section 6 Section 152(IC)

resident in Pakistan shall deduct tax from the gross amount paid at the rate specified in Division IV of Part I of the First Schedule.";

**OUR COMMENTS:** A new definition of "Fee for off shore digital services" is being introduced to provide for taxation of services with respect to fee online advertising, etc. Consequently in section 6 which provides for tax on certain payments to non-residents, the payment on account of fee for off shore digital services is been included which will attract all the provisions leading to taxation of such fee and would also enjoy exclusion from taxation as provided in section 6 sub-section 3 i.e. the tax on payment to nonresident will not apply where the fee is effectively connected with the permanent establishment in Pakistan of the non-resident person or the fee where the services giving rise to the fee are rendered through a permanent establishment in Pakistan of the non-resident person or where such fee is against services that are exempt from tax under this Ordinance.

In section 152 sub section 1C has also been introduced requiring with holding of tax @5% by every banking company, etc. remitting such fee outside Pakistan on behalf of its customers.

Definition - Filer Section 2(23A)

#### **Existing**

Filer means a taxpayer whose name appears in the active taxpayers' list issued by the Board from time to time or is holder of a taxpayer's card;

#### **Proposed Amendment**

in clause (23A), after the word "Board" the expression "or AJ&K Council Board of Revenue or Gilgit-Baltistan Council Board of Revenue" shall be inserted

**OUR COMMENTS:** The definition of filer is being broaden to include the active taxpayers' list issued by AJ & K Council Board of Revenue or Gilgit Baltistan Council Board of Revenue.

#### **Definition – Income**

Section 2 Clause (29) Section 39(1),(k),(l),(m)

#### **Existing**

Income includes any amount chargeable to tax under this Ordinance, any amount subject to collection or deduction of tax under section 148, 150, 152(1), 153, 154, 156, 156A, 233, 233A, sub-section (5) of section 234, 236M and 236N any amount treated as income under any provision of this Ordinance] and any loss of income;

Proposed Amendment
In clause (29) for the expression

In clause (29), for the expression ", 236M and 236N," the word "and" shall be substituted;

Any amount received by a person as consideration for vacating the possession of a building or part thereof, reduced by any amount paid by the person to acquire

For full stop at the end, a semi colon and the word "and" shall be substituted;





#### **Definition – Income**

Section 2 Clause (29) Section 39(1),(k),(l),(m)

possession of such building or part thereof.

Any amount received by a person from Approved Income Payment Plan or Approved Annuity Plan under Voluntary Pension System Rules, 2005; and For the semi colon and the word "and" a full stop shall be substituted; and

Income arising to the shareholder of a company, from the issuance of bonus shares.

Sub-section (1) Clause M shall be omitted"

**OUR COMMENTS:** The reference of section 236 M and 236 N is being excluded from the definition of income as it is proposed to exempt the bonus shares from the levy of tax, therefore, due to the exclusion the collection of tax under section 236 M and 236 N shall no more constitute income of the recipient.

Similar amendments are being made in section 39, sub section 1 dealing with income from other sources whereby clause M is been omitted which provided for taxability of income arising to the shareholder of a company from the issuance of bonus shares.

# Permanent Establishment Existing

Has and habitually exercises an authority to conclude contracts on behalf of the other person

# Section 2 Clause 41 (e) (i) (ii) Proposed Amendment

- "(i) has and habitually exercises an authority to conclude contracts on behalf of the other person or has and habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the person and these contracts are —
- (a) in the name of the person; or (b) for the transfer of the ownership of or for the granting of the right to use property owned by that enterprise or that the enterprise has the right to use; or (c) for the provision of services by that person; or";
- "Explanation.— For removal of doubt, it is clarified that an agent of independent status acting in the ordinary course of business does not include a person acting exclusively or almost exclusively on behalf of the person to which it is an associate; or";



#### **Permanent Establishment**

#### Section 2 Clause 41 (e) (i) (ii)

**OUR COMMENTS:** The scope of definition of permanent establishment is been broaden for an agent who not only habitually exercises an authority to conclude contracts on behalf of other persons but would also include agents who habitually play principal role leading to the conclusion of contracts. The proposed amendment further goes on to broaden the scope of contracts which will if concluded by the agent would come within the mischief for inclusion has been done under the umbrella of permanent establishment. These contracts will include;

- a) Contracts in the name of person,
- b) Contracts for transfer of ownership,

Contract granting the right to use property owned by that enterprise, or that enterprise has the right to use.

# **Permanent Establishment- Cohesive Business Operation**

**Existing** 

"New Sub Clause shall be Added"

Section 2 Clause 41 (g)

#### **Proposed Amendment**

- "(g) a fixed place of business that is used or maintained by a person if the person or an associate of a person carries on business at that place or at another place in Pakistan and—
- (i) that place or other place constitutes a permanent establishment of the person or an associate of the person under this sub-clause; or
- (ii) business carried on by the person or an associate of the person at the same place or at more than one place constitute complementary functions that are part of a cohesive business operation.

Explanation.- For the removal of doubt, it is clarified that —

- (A) the term "cohesive business operation" includes an overall arrangement for the supply of goods, installation, construction, assembly, commission, guarantees or supervisory activities and all or principal activities are undertaken or performed either by the person or the associates of the person; and
- (B) supply of goods include the goods imported in the name of the associate or any other person, whether or not the title to the goods passes outside Pakistan.";

**OUR COMMENTS:** By the introduction of this new sub clause, the term "Cohesive business operation" is been introduced; whereby any activity coming or attracting the characteristic of cohesive business operation as defined by this sub clause shall be treated as permanent







#### Establishment-Permanent **Cohesive Business Operation**

Section 2 Clause 41 (g)

establishment of a person and its associate. In simple terms it would mean that, in case of overall arrangement for projects whereby the goods are supplied (the title of which need not pass outside Pakistan) by foreign entity but installation, commissioning or supervisory role etc. is exercised by local entity on behalf of the foreign entity; this execution by the local entity will make it a permanent establishment of the foreign entity.

#### Rehabilitation of Super Tax For **Temporarily Displaced Persons**

#### Section 4B(1)

#### **Existing**

super tax shall be imposed for rehabilitation of temporarily displaced persons, for tax years 2015 to 2017, at the rates specified in Division IIA of Part I of the First Schedule, on income of every person specified in the said Division.

#### **Proposed Amendment**

for the figure "2017" the figure "2020" shall be substituted;

**OUR COMMENTS:** By the virtue of above amendment the applicability of super tax for rehabilitation of temporarily displaced person is been extended till the year 2020.

#### Tax on Undistributed Profit

Section 5A(1)

#### General Provisions Relating to Taxes Imposed Under Sections 5, 6 and 7

#### Section 8 (1)

#### **Existing**

For tax year 2017 and onwards, a tax shall be imposed at the rate of seven and a half percent of its accounting profit before tax on every public company, other than a scheduled bank or a modaraba, that derives profit for a tax year but does not distribute at least forty percent of its after tax profits within six months of the end of the tax year through cash or bonus shares:

1)-Subject to this Ordinance, the tax imposed under Sections 5, 5A, 5AA 6, 7, 7A and 7B shall be a final tax on the amount in respect of which the tax is imposed and

#### **Proposed Amendment**

- (a) for the words "seven and a half", the word "five" shall be substituted;
- (b) for the word "forty", the word "twenty" shall be substituted; and
- (c) the words "or bonus shares" shall be omitted;

the expression "5A," shall be omitted;

**OUR COMMENTS:** Currently, in case a public company other than scheduled bank or modarba driving profit for a tax year, if it does not distribute at least 40 % of its profit within six months after the end of the tax year, through cash or bonus shares is penalized by levy of tax @ 7.5%. Now it is proposed to reduce the tax rate to 5% with the maximum limit for distribution of profit to 20%. Further as the bonus shares would remain no more taxable under





#### Tax on Undistributed Profit

Section 5A(1)

#### **General Provisions Relating to Taxes Imposed Under Sections 5, 6 and 7**

Section 8 (1)

the Income Tax Ordinance the words "or" bonus shares is also been omitted. In addition to the above, any tax imposed under this section was considered as final tax, now by the virtue of amendment in section 8 the tax so levied under this section shall become adjustable.

#### **Income From Business**

**Section 18(1)(e)** 

#### **Existing**

#### **Proposed Amendment**

"Explanation shall be Added"

"Explanation.— For the removal of doubt it is clarified that income subject to taxation under sections 5A, 5AA, 6, 7 and 7A shall not be chargeable to tax under this section.";

**OUR COMMENTS:** It is proposed to add an explanation under this section specifying the various sections; as detailed below to exclude these from the purview of the scope of "Income from business" under this Ordinance,

- 5A (Tax on undistributed profit),
- 5AA (Tax on return on investments in Sukuks),
- 6 (Tax on certain payments to non-residents),
- 7 (Tax on shipping and air transport income of a non-resident person), and
- 7A (Tax on shipping of a resident person).

#### Capital gains

Section 37(4A)(a)

**Existing** 

#### Proposed Amendment

Under a gift, bequest or will;

After the word "gift", the expression "from a relative as defined in sub-section (5) of section 85" shall be inserted:

**OUR COMMENTS:** Section 37 (4A) deals with the method for determination of fair value of capital asset becoming property of a person under a gift etc. Now it is proposed to limit the gift to those gifts received only from a relative. The term relative has further been referred to as defined in section 85, which says that, a "relative" in relation to an individual means-

- a) an ancestor, a descendant of any of the grandparents, or an adopted child, of the individual, or of a spouse of the individual,
- b) a spouse of the individual or of any person specified in clause (a).





#### Section 53(2)

# **Exemptions and Tax Concessions in The Second Schedule.**

#### **Existing**

The Board with the approval of Federal Minister-in-charge may, from time to time .....in which the notification is issued

#### **Proposed Amendment**

For the expression "Minister-in-charge may, from time to time pursuant to the approval of the Economic Coordination Committee of Cabinet", the word "Government" shall be substituted;

**OUR COMMENTS:** Under the current provisions the Federal Minister In-charge was bestowed with the powers to approve various actions leading to granting of various exemptions, concessions, etc. Now, it is proposed to give those powers to the Government directly.

#### **Carry Forward of Business Losses**

#### **Existing**

Where a person sustains a loss for a tax year under the head —Income from Business (other than a loss to which section 58 applies) and the loss cannot be wholly set off under section 56, so much of the loss that has not been set off shall be carried forward to the following tax year and set off against the person's income chargeable under the head —Income from Businessll for that year.

**Section 57(1)(4)** 

#### **Proposed Amendment**

(1) after the word "which", the expression "subsection (4) or" shall be inserted; and

Where the loss referred to in sub-section (1) includes deductions allowed under sections 22, 23, 23A, 23B and 24 that have not been set off against income, the amount not set off shall be added to the deductions allowed under those sections in the following tax year, and so on until completely set off

(4) The loss attributable to deductions allowed under sections 22, 23, 23A, 23B and 24 that has not been set off against income, the loss not set off shall be set off against fifty percent of the person's balance income chargeable under the head "income from business" after setting off loss under sub-section (1), in the following tax year and so on until completely set off: Provided that such loss shall be set off against hundred percent of the said balance income if the taxable income for the year is less than ten million Rupees";

**OUR COMMENTS:** This section deals with procedures for carry forward of business losses whereby, until now 100% business losses were allowed to be carried forward for set off against future business income. Now it is proposed to limit carry forward of such losses (until complete set off) to the extent of 50% of the person's balance income charge-able under the head Income from business, as are attributable to deductions allowed under section 22 (Depreciation), section 23 (Initial allowance), section 23 A (First year allowance), section 23 B (Accelerated depreciation to alternate energy projects) and section 24 (Intangibles). However, there is an exception that, if the taxable income of any year is less than Rs. 10 Million these attributable losses as mentioned above can be set off 100%.





# Limitations on Set Off and Carry Forward of Losses.—

#### Section 59A(5)

#### **Existing**

The Board with the approval of Federal Minister-in-charge may, from time to time .....in which the notification is issued

#### **Proposed Amendment**

(5) Subject to sub-section (4) of section 57, sub-section (12) of section 22 and subsection (6), ....... under the head "income from business" for the next following year and so on for succeeding years.";

**OUR COMMENTS:** Under this section the sub-section 5 is being substituted with a new provisions which are in line with amendments proposed under section 57 sub section 4 discussed above. Accordingly the losses will be allowed to be set off gradually in a manner that these are adjusted to an extent of 50% of the person's income charge-able under the head Income from business for a particular tax year, till these are fully adjusted.

# Tax Credit for Investment in Shares and Insurance

Section 62(2)

#### **Existing**

One and a half million rupees.

#### **Proposed Amendment**

For the words "one and a half", the word "two" shall be substituted

**OUR COMMENTS:** This section deals with allowing of tax credit to a resident person other than company for acquiring new shares offered by a public company listed on stock exchange, sukuks offered by a listed company or upon payment of life insurance premium to a life insurance company. Such tax credit is limited to the extent of 20% of the taxable income for the year, total cost of acquiring shares/sukuks or Rs. 1.5 million whichever is less. Now it is proposed to increase this rate of 1.5 Million Rupees to 2 Million Rupees.

# **Miscellaneous Provisions Relating to Tax Credits**

Tax Credit for Newly Established Industrial Undertakings

Tax Credit for Industrial Undertakings Established Before The First Day of July, 2011

#### Section 65B(2)

Section 65D(2)(a)

Section 65E(4)

#### **Existing**

Any tax credit allowed under this Part shall be applied in accordance with sub-section (3) of section 4.

The company is incorporated and industrial undertaking is setup between the first day of July, 2011 and 30th day of June, 2019;

The provisions of sub-section (1) shall apply if the plant and machinery is installed at any time between the first day of July,

#### **Proposed Amendment**

for the figure "2019" the figure "2021" shall be substituted

in clause (a), for the figure "2019" the figure "2021" shall be substituted;

for the figure "2019" the figure "2021" shall be substituted;





Miscellaneous Provisions Relating to Tax **Credits** 

Tax Credit for Newly Established **Industrial Undertakings** 

Section 65D(2)(a)

Tax Credit for Industrial Undertakings Established Before The First Day of July, 2011

Section 65E(4)

Section 65B(2)

2011 and the 30th day of June, 2019.

**OUR COMMENTS:** The time limit for availing tax credit under the above sections which were expiring on 30th day of June 2019 is proposed to be extended till 30<sup>th</sup> day of June 2021.

#### **Non-Recognition rules**

**Section 79(1)(c)** 

#### **Existing**

#### **Proposed Amendment**

By reason of a gift of the asset

After the word "asset" the expression "to a relative, as defined in sub-section (5) of section 85" shall be inserted:

**OUR COMMENTS:** This section provides for various benefits whereby no gain or loss is taken to arise on disposal of an asset provided it fulfills various conditions, including if the asset is disposed off by reason of a gift of the asset. Now it is being proposed to limit the receipt of gifts only from a relative as defined in sub section 5 of section 85.

#### Special Provisions Relating To Banking Business

Section 100A(3)

#### **Existing**

#### **Proposed Amendment**

"New Sub Section Shall be Added"

Notwithstanding anything contained in subsection (1), income, profits and gains and tax payable thereon shall be computed subject to the limitations and provisions contained in Chapters VII and VIII.";

**OUR COMMENTS:** This is technical correction whereby, nexus of tax computed is being made with the limitation and provisions contained in Chapter VII and VIII.

#### **Tax Credit for Certain Persons**

**Section 100C(2)(e)** 

#### **Existing**

#### **Proposed Amendment**

Any income which is derived from investments in securities of the Federal Government. profit on debt ..... in which it was set apart, whichever is the greater, and the provisions of section 122 shall not apply to any assessment made or to be made in pursuance of this proviso.

After the word "banks", the words "and microfinance banks" shall be inserted





#### **Tax Credit for Certain Persons**

**Section 100C(2)(e)** 

**OUR COMMENTS:** The scope of this section defining the eligibility criteria for availing tax credit is being expanded which presently applies to banks, etc. i.e. under this section profit on debt received from a scheduled bank by Non-profit organizations, trusts and welfare institution qualify for tax credit. Now, it is proposed to add the words "and microfinance banks" by virtue of which profit on debt received from microfinance banks by the entities mentioned above will also be entitled for such tax credit.

#### **Geographical Source of Income**

**Section 101(3)(e)** 

**Existing** 

**Proposed Amendment** 

"New Clause Shall be Added"

"(e) import of goods, whether or not the title to the goods passes outside Pakistan, if the import is part of an overall arrangement for the supply goods. installation. of construction, assembly, commission, guarantees or supervisory activities and all or principal activities are undertaken performed either by the associates of the person supplying the goods or its permanent establishment, whether or not the goods are imported in the name of the person, associate of the person or any other person.

Explanation.— For the removal of doubt, it is clarified that where the income is subject to taxation under sections 5A, 5AA, 6, 7 and 7A, the income shall not be chargeable to tax under the head income from business."; and

**OUR COMMENTS:** The scope of sub-section 3 of section 101 defining the business income of a non- resident person treated as Pakistan source income is proposed to include, income arising on import of goods; irrespective of whether the title to the goods passes outside Pakistan whereby, the import is part of an overall arrangement for the supply of goods, installation, construction, assembly, commission, guarantees or supervisory activities. This shall include activities undertaken or performed either by the associates of the non-resident person or its permanent establishment, regardless of imports been made either in the name of the non- resident person, associate or any other person. However if the income falls within the purview of following sections, the subject income shall be excluding from Income from business of the non-resident, namely:

- 5A (Tax on undistributed profit),
- 5AA (Tax on return on investments in Sukuks),
- 6 (Tax on certain payments to non-residents),
- 7 (Tax on shipping and air transport income of a non-resident person), and
- 7A (Tax on shipping of a resident person).





#### Geographical Source of Income.

#### **Existing**

"New Sub Section Shall be Added"

**Section 101(12A)** 

#### **Proposed Amendment**

"(12A) A fee for offshore digital services shall be Pakistan-source income, if it is – (a) paid by a resident person, except where

the fee is payable in respect of services utilised in a business carried on by the resident outside Pakistan through permanent establishment; or

(b) borne by a permanent establishment in Pakistan of a non-resident person.":

**OUR COMMENTS:** The introduction of the proposed sub section is to define that when the 'Fee for Offshore digital services' will be paid by a resident person (except when the service is utilized outside Pakistan through a PE) or a PE of a non-resident person than the same will be Pakistan Source Income, as is the case with most of the incomes under this section.

#### Gain on Disposal of Assets Outside Pakistan

**Existing** 

"New Section Shall be Added"

### Section 101A

#### **Proposed Amendment**

Any gain from the disposal or alienation outside Pakistan of an asset located in Pakistan of a non-resident company shall be Pakistan-source

- (2) The gain under sub-section (1) shall be chargeable to tax at the rate and in the manner as specified in sub-section (10)
- (3) Where the asset is any share or interest in a nonresident company, the asset shall be treated to be located in Pakistan, if
- (a) the share or interest derives, directly or indirectly, its value wholly or principally from the assets located in Pakistan; and (b) shares or interest representing ten per cent or more of the share capital of the non-resident company are disposed or alienated.
- (4) The share or interest, as mentioned in sub-section (3), shall be treated to derive its value principally from the assets located in Pakistan, if on the last day of the tax year preceding the date of transfer of a share or an interest, the value of such assets exceeds one hundred million Rupees and represents at least fifty per cent of the value of all the assets owned by the non-resident company.







# Gain on Disposal of Assets Outside Pakistan

#### Section 101A

- (5) Notwithstanding the provisions of section 68, the value as mentioned in sub-section (4) shall be the fair market value, as may be prescribed, for the purpose of this section without reduction of liabilities.
- (6) Where the entire assets by the non-resident company are not located in Pakistan, the income of the non-resident company, from disposal or alienation outside Pakistan of a share of, or interest in, such non-resident company shall be treated to be located in Pakistan, to the extent it is reasonably attributable to assets located in Pakistan and determined as may be prescribed.
- (7) Where the asset of a non-resident company derives, directly or indirectly, its value wholly or principally from the assets located in Pakistan and the non-resident company holds, directly or indirectly, such assets through a resident company, such resident company shall, for the purposes of determination of gain and tax thereon under sub-section (8) or, as the case may be, sub-section (9), shall furnish to the Commissioner within sixty days of the transaction of disposal or alienation of the asset by the non-resident company, the prescribed information or documents, in a statement as may be prescribed:

Provided that the Commissioner may, by notice in writing, require the resident company, to furnish information, documents and statement within a period of less than sixty days as specified in the notice.

(8) The person acquiring the asset from the non-resident person shall deduct tax from the gross amount paid as consideration for the asset at the rate of fifteen percent and shall be paid to the Commissioner by way of credit to the Federal Government through remittance to the Government Treasury or deposit in an authorized branch of the State Bank of Pakistan or the National Bank of Pakistan, within fifteen days of the payment to the non-

"New Section Shall be Added"





#### Gain on Disposal of Assets Outside Pakistan

resident.

(9) The resident company as referred to in sub-section (7) shall collect advance tax as computed in sub-section (10) from the non-resident company within thirty days of the transaction of disposal or alienation of the asset by such non-resident company:

Provided that where the tax has been deducted and paid by the person acquiring the asset from the non-resident person under sub-section (8), the said tax shall be treated as tax collected and paid under this sub-section and shall be allowed a tax credit for that tax in computing the tax under sub-section (10).

- (10) The tax to be deducted under subsection (8) or to be collected under subsection (9) shall be the higher of —
  (a) 20% of A, where A = fair market value less cost of acquisition of the asset; or (b) 10% of the fair market value of the asset.
- (11) Where tax has been paid under subsection (8) or (9), no tax shall be payable by the non-resident company in respect of gain under sub-section (8) of section 22 or capital gains under section 37 or 37A.";

**OUR COMMENTS:** This is a new section which proposes to set the stage for taxation (as Pakistan-source) of any gain from disposal or alienation outside Pakistan of an asset located in Pakistan of a non-resident company under various scenarios.

According to the proposed provisions in case of an assets (i.e. share or interest in a non-resident company) will be supposed to be located in Pakistan if the share or interest derives, directly or indirectly, its value wholly or principally from assets located in Pakistan or if the shares or interest representing 10% or more of the share capital of the nonresident company are disposed of alienated.

Provided further that the share or interest as mentioned above shall be treated to derive its value principally from assets located in Pakistan if on the last day of the tax year preceding the date of transfer of such assets exceeds Rs. 100 million or represents at least 50% of the value of all assets owned by the non-resident company. This section also gives discretionary powers to ascertain income of a non-resident from disposal..etc. where the assets of non-resident are not located in Pakistan entirely. It also levies responsibility on the resident through which

"New Section Shall be Added"





#### Gain on Disposal of Assets Outside Pakistan

**Section 101A** 

assets are held by non-resident to furnish details of such transactions with 60 days to the Commissioner.

The tax will be charged on Higher of 20% of fair market value less cost of acquisition or 10% of the fair market value of the assets against which 15% tax deduced by the person acquiring the asset will be claimable as tax credit. Further, if tax is paid under this section than no tax will be payable under section 22(8) - Depreciation, 37 - Capital gains or 37A - Capital gains on sale of securities.

# Agreements For The Avoidance of Double Taxation and Prevention of Fiscal Evasion.

**Section 107(2)** 

#### **Existing**

Where any agreement is made in accordance with sub-section (1), the agreement and the provisions made by notification for implementing the agreement shall, notwithstanding anything contained in any law for the time

#### **Proposed Amendment**

For the word "Where" the words "Subject to section 109, where" shall be substituted;

**OUR COMMENTS:** This is a corrective amendment introducing an overriding effect to the double treaty with the intervention of Commissioner's power to re-characterize the transaction. In our opinion such powers will create issues and increase litigations.

#### **Transactions Between Associates**

Section 108(3)(b) Section 108(4)

#### **Existing**

keep and maintain prescribed country-bycountry report, where applicable;

A taxpayer who has entered into a transaction with its associate shall furnish, within thirty days the documents and information to be kept and maintained under sub-section (3) if required by the Commissioner in the course of any proceedings under this Ordinance.;

#### **Proposed Amendment**

For the word "and maintain" the expression', maintain and furnish to be Board shall be substituted:

After the word "under", occurring for the first time, the expression "clause (a), (c) or (d) of" shall be inserted;

**OUR COMMENTS:** The proposed amendments is of technical nature whereby reporting of transaction between associates (country by country) and in addition to the maintenance of records under this section is also to be furnished to the board (this will be applicable mainly on PE on non-residents).



#### Section 109(1)(d), (3)

## Re-characterization of Income and Deductions

#### **Existing**

"New Clause shall be Added"

"New Sub Section shall be Added"

#### **Proposed Amendment**

"(d) to disregard an entity or a corporate tructure that does not have an economic or commercial substance or was created as part of the tax avoidance scheme.";

Reduction in a person's liability to tax as referred to in sub-section (2) means a reduction, avoidance or deferral of tax or increase in a refund of tax and includes a reduction, avoidance or deferral of tax that would have been payable under this Ordinance, but are not payable due to a tax treaty for the avoidance of double taxation as referred to in section 107.";

**OUR COMMENTS:** The proposed amendment seeks to introduce a condition for recharacterization of income whereby a Commissioner may disregard a corporate structure not having commercial or economic substance. Further, clarification as to what is considered as a "reduction" in a person's liability is also being inserted.

# Controlled Foreign Company Existing

#### Section 109A

#### **Proposed Amendment**

There shall be included in the taxable income of a resident person for a tax year an income attributable to controlled foreign company as defined in sub-section (2)

- (2) For the purpose of this section, controlled foreign company means a non-resident company, if
- (a) more than fifty percent of the capital or voting rights of the non-resident company ......, directly or indirectly, by a single resident person in Pakistan;
- (b) tax paid, .... is less than sixty percent of the tax payable on the said income under this Ordinance;
- (c) the non-resident company ..... is resident for tax purposes.
- (3) A company shall be treated to have

"New Section Shall be Added"







#### **Controlled Foreign Company**

#### Section 109A

derived active income if —

- (a) more than eighty percent of income of the company does not include income from dividend, interest, property, capital gains, royalty, annuity payment, supply of goods or services to an associate, sale or licensing of intangibles and management, holding or investment in securities and financial assets; and
- (b) principally derives income under the head "income from business" in the country or jurisdiction of which it is a resident.
- (4) Income of a controlled foreign company is an amount equal to the taxable income of that company determined in accordance with the provisions of this Ordinance as if that controlled foreign company is a resident taxpayer.
- (5) The amount of attributable income under sub-section (1) for a tax year shall be computed according to the following formula, namely:—

 $A \times (B/100)$ 

Where -

A is the amount of income of a controlled foreign company under sub-section (2); and B is the percentage of capital or voting rights, whichever is higher, held by the person, directly or indirectly, in the controlled foreign company.

- (6) The amount of attributable income shall be treated as zero, if the capital or voting rights of the resident person is less than ten percent.
- (7) Income of a controlled foreign company shall be treated as zero, if it is less than ten million Rupees.
- (8) The income of a controlled foreign company in respect of a foreign tax year, as defined in sub-section (9), ...... State Bank of Pakistan rate applying between that foreign currency and the Rupee on the last day of the tax year.

"New Section Shall be Added"



(9) Foreign tax year, in relation to a non-resident company, means ...... when the same income is received in Pakistan by the resident taxpayer.";

**OUR COMMENTS:** Through the proposed section, the concept of 'Controlled Foreign Company' is being introduced, whereby income attributable to Controlled Foreign Company will be included in the taxable income of a resident person for a tax year.

Attributable income shall be calculated being total income (i.e. taxable income of the company as if it is resident tax payer of Pakistan) multiplied by the share or voting right of the resident person under consideration. The attributable income shall be treated as zero if capital or voting rights of a single person is less than 10% or income of the controlled foreign company is less than Rs. 10 Million.

The definition of a Controlled Foreign Company can be summarized in the following manner:

	Controlled Foreign Company - Conditions						
1	More than 50 % capital or voting rights directly or indirectly by one or more persons resident in Pakistan	More than 40 % capital or voting rights directly or indirectly by single resident person					
2	Tax paid after taking into account foreign tax credits is less than 60% of the tax payable on such income under the Income Tax Ordinance, 2001						
3	Company is not deriving active business income i.e. not principally deriving business income and income from dividend, interest, property, capital gains, royalty, annuity payment, supply of goods or services to an associate, sale or licensing of intangibles and management, holding or investment in securities and financial assets is more than 20% of the Total Income						
4	The shares of the company are not traded on any stowhere the company is resident for tax purposes	ock exchange of the country					

The income will be determined in the currency of the controlled foreign company as per its tax year. Further, if the attributable income is included in the resident tax payer's income under this section, then it will not be taxed again when it is received by the resident tax payer in Pakistan.

#### **Unexplained Income or Assets.**

#### **Existing**

The amount referred to in sub-section (1) shall be included in the person's income chargeable to tax in the tax year to which such amount relates.

#### Section 111(2), (4)(a)

#### **Proposed Amendment**

- "(2) The amount referred to in sub-section (1) shall be included in the person's income chargeable to tax:
- (i) in the tax year to which such amount







#### **Unexplained Income or Assets.**

#### Section 111(2), (4)(a)

relates if the amount representing investment, money, valuable article or expenditure is situated or incurred in Pakistan or concealed income is Pakistan-source; and 60

(ii) in the tax year immediately preceding the tax year in which the investment, money, valuable article or expenditure is discovered by the Commissioner and is situated or incurred outside Pakistan and concealed income is foreign-source.

Explanation.— For the removal of doubt, it is clarified ..... immediately preceding tax year in which the asset or expenditure was discovered by the Commissioner."; 61 (b) in sub-section

To any amount of foreign exchange remitted from outside Pakistan through normal banking channels that is encashed into rupees by a scheduled bank and a certificate from such bank is produced to that effect (4), in clause (a), after the word "channels", the words "not exceeding ten million Rupees in a tax year" shall be inserted.

**OUR COMMENTS:** The proposed amendment was introduced in the Income Tax Amendment Ordinance, 2018 along with amendments/introduction in other sections and is included in the Finance Bill to fulfill legal requirements. The amendment seeks to define as to in which tax year concealed income will be included in the person's income:

Particulars	Source	Tax year
Amount representing investment, money, valuable	Pakistan	In the year to which
article or expenditure is situated or incurred in Pakistan		the amount relates
Amount representing investment, money, valuable	Foreign	In the immediately
article or expenditure is situated or incurred outside		preceding tax year in
Pakistan.		which it was
The source of above amounts (if explanation is		discovered
available) will not be rejected based on the reason that		
it does not relate to preceding tax year of discovery.		

Further, a limit of Rs. 10 million has been set for amount which will not to be considered as unexplained if remitted from outside Pakistan and encashment certificate is available against such amount. It further means that irrespective of the fact that amount was remitted from abroad and encashment certificate is available but since the amount exceeds the limit of Rs. 10 million the source of receipt is questionable.



#### **Return of Income**

#### **Existing**

Is the holder of commercial or industrial connection of connection of electricity where the amount of annual bill exceeds rupees five hundred thousand; or

Is a resident person registered with any chamber of commerce and industry or any trade or business association or any market committee or any professional body including Pakistan Engineering Council, Pakistan Medical and Dental Council, Pakistan Bar Council or any Provincial Bar Council, Institute of Chartered Accountants of Pakistan or Institute of Cost and Management Accountants of Pakistan.

Shall be accompanied with evidence of payment of due tax as per return of income; and

"New Clause Shall be Added"

Section 114(1)(b)(Viii), (2)(f)

#### **Proposed Amendment**

the word "or" at the end shall be omitted;

In sub-clause (ix), for full stop at the end, a semicolon and the word "; or" shall be substituted and thereafter the following new sub-clause shall be added, namely:-

"(x) every resident person being an individual required to file foreign income and assets statement under section 116A."; and

The word "and" at the end shall be omitted; and

Shall be accompanied with a foreign income and assets statement as required under section 116A."; and

**OUR COMMENTS:** The proposed amendment is a result of introduction of 'Section 116A-Foreign Income and Assets Statement', thereby making compulsory on every resident person required to file statement under section 116A to file return on income. Further, a procedural amendment that statement under section 116A shall be accompanied with return of income and other statements required under this section.

#### **Foreign Income And Assets Statement**

#### **Existing**

"New Section Shall be Added"

**Section 116A** 

#### **Proposed Amendment**

(1) Every resident taxpayer being an individual having foreign income of not less than ten thousand United States dollars or having foreign assets with a value of not less than one hundred thousand United States dollars shall furnish a statement, hereinafter referred to as the foreign income and assets statement, in the prescribed form and verified in the prescribed manner giving particulars of

(a) the person's total foreign assets and Liabilities as on the last day of the tax year;

(b) any foreign assets transferred by the person to any other person during the tax year and the consideration for the said transfer; and







#### **Foreign Income And Assets Statement**

#### Section 116A

Section 118(1), (2A)

(c) Complete particulars of foreign income, the expenditure derived during the tax year and the expenditure wholly and necessarily for the purposes of deriving the said income.

"New Section Shall be Added"

(2) The Commissioner may by a notice in writing require ..... (1) but who has failed to do so to furnish the foreign income and assets statement on the date specified in the notice.";

**OUR COMMENTS:** A new filing/declaration requirement has been introduced through this section, whereby every resident tax payer having foreign income of \$10,000 or more or assets of \$100,000 or more shall be required to file statement and declare foreign income/assets under this section

#### Method of Furnishing Returns and Other **Documents**

#### **Existing**

(1) A return of income under section 114, a statement required under sub-section (4) of section 115 or a wealth statement under section 116 shall be furnished in the prescribed manner.

Where salary income for the tax year is five hundred thousand rupees or more, the taxpayer shall file return of income electronically in the prescribed form and it shall be accompanied by the proof of deduction or payment of tax and wealth statement as required under section 116

**Proposed Amendment** in sub-section (1),-

- (i) for the word "or" a comma shall be substituted:
- (ii) after the figure "116" the expression "or a foreign income and assets statement under 116A, if applicable" shall be inserted; and

After the figure "116", the expression "or a foreign income and assets statement under 116A, if applicable" shall be added;

**OUR COMMENTS:** The proposed amendment seeks to give method of furnishing of foreign income and assets statement, whereby it shall be filed electronically.

#### **Best Judgment Assessment**

#### Existing

An assessment order under this section shall only be issued within five years after the end of the tax year or the income year to which it relates.

#### Section 121(3) Proviso

#### **Proposed Amendment**

For full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:—

"Provided that where notice for furnishing a return of income under sub-section (4) of section 114 is issued in respect of one or





#### **Best Judgment Assessment**

#### **Section 121(3) Proviso**

more of the last ten completed tax years in pursuance of proviso to sub-section (5) of section 114 an assessment order under this section shall only be issued within two years from the end of tax year in which such notice is issued.":

**OUR COMMENTS:** In case of non-filers notice to the effect can be issued for the period preceding ten years. Now it is proposed to add a proviso fixing the time limit of two years from the issuance of the notice within which the assessment order shall have to be issued.

#### Appeal to the Appellate Tribunal Existing

Notwithstanding that an appeal has been filed under this section, tax shall, unless recovery thereof has been stayed by the Appellate Tribunal, be payable in accordance with the assessment made in the case .... Provided further that in computing the aforesaid period of one hundred and eighty days, the period, if any, for which the recovery of tax was stayed by a High Court, shall be excluded.

# Section 131(5) Second Proviso Proposed Amendment

For the expression ":—" at the end, a colon shall be substituted and thereafter the following new proviso shall be inserted, namely:—

"Provided further that where recovery of tax has been stayed under this section, such stay order shall cease to have effect on expiration of the said period of one hundred and eighty days following the date on which the stay order was made and the Commissioner shall proceed to recover the said tax:";

**OUR COMMENTS:** The proposed amendment seeks to clarify that on expiry of stay period under the first proviso i.e. 180 days recovery of tax can be done by the Commissioner.

#### **Alternative Dispute Resolution**

#### **Existing**

The Board after examination of the application of an aggrieved person, shall within sixty days of receipt of such application in the Board appoint committee consisting of an officer of Inland Revenue not below the rank Commissioner and two persons from a panel comprising of Chartered or Cost Accountants, Advocates, Income Practitioners or reputable taxpayers for the resolution of the hardship or dispute

#### Section 134A(2),(2A), (2B),(3),(4),(4A),(4B),(4C) & (5) Proposed Amendment

"(2) The Board after examination of the application of an aggrieved person, shall within sixty days .... Provided that the mode and manner of appointment of the members of the committee shall as may be prescribed.;

(2A) The aggrieved person and the Board, as the case may be, shall withdraw the appeals pending before the Appellate Authority.





#### **Alternative Dispute Resolution**

Section 134A(2),(2A), (2B),(3),(4),(4A),(4B),(4C) & (5)

"New Sub Sections Shall be Added"

(2B) The committee shall not commence the proceedings under sub-section (3), unless the order of withdrawal by the Appellate Authority is communicated to the Board:

Provided that if the order of withdrawal is not communicated within seventy five days of the appointment of the committee, the said committee shall be dissolved and this section shall not apply.

- (3) The Committee constituted under subsection (2) shall examine the issue and may if it deem fit necessary conduct inquiry seek.... resolved the matter shall be taken up by the appropriate forum for decision.
- (3) The Committee appointed under subsection (2) shall examine the issue and may if it deems necessary conduct inquiry, ...., within one hundred and twenty days of its appointment:

Provided that in computing the aforesaid period of one hundred and twenty days, the period, if any, for communicating the order of withdrawal under sub-section (3) shall be excluded

- (4) The Board may, on the..... the Board under this sub-section.
- (4) The decision of the committee made under sub-section (3) shall be binding on the Board and the aggrieved person.
- (4A) Notwithstanding anything contained in sub-section (4), the Chairman Federal...... an error in order or decision, pass such order as may be deemed just and equitable.
- (4A) If the Committee fails to decide within the period .... the appeal shall be treated to be pending before such Appellate Authority as if the appeal has never been withdrawn.";

"New Sub Section Shall be Added"

"(4B) The Board shall communicate the order of dissolution to the Appellate Authority mentioned in subsection (1) and the Commissioner.

"New Sub Section Shall be Added"

(4C) The aggrieved person, on receipt of the order of dissolution, shall communicate to the Appellate Authority mentioned in subsection (1), which shall decide the appeal within six months of the communication of the order of dissolution ";

The aggrieved person may make the

For the words "determined by the Board in





#### **Alternative Dispute Resolution**

payment..... or court as if no such order had been made by the Board.

Section 134A(2),(2A), (2B),(3),(4),(4A),(4B),(4C) & (5)

its order under sub-section (4)", the words "decided by the committee under sub-section (3)" shall be substituted; for the colon at the end, a full stop shall be substituted and the two provisos thereafter shall be omitted;

**OUR COMMENTS:** The proposed amendment seeks to introduce some procedural and structural changes in the Alternative Dispute Resolution forum and strengthen this form by making the decisions made by this forum binding on the Board and the aggrieved person. The structure is proposed to be changed to include a retired judge of High Court in the committee formed for resolution, with increase in decision making time from 90 days to 120 days. Further in case of no conclusion on 120<sup>th</sup> day will lead to dissolution of the Committee and referring back the case to the Appellate forum. Further, it would be a pre-requite to withdraw appeal, within 75 days of the appointment of committee, from all appellate fora enabling the committee to commence the proceedings.

#### **Due Date for Payment of Tax**

#### **Existing**

Where any tax is payable under an assessment...... date of service of the notice

# Section 137(2) Proviso Proposed Amendment

for full stop at the end, a colon shall be substituted and thereafter the following new proviso shall be added, namely:—

"Provided that the due date for payment of tax payable under sub-section (7) of section 147 shall be the date specified in subsection (5) or sub-section (5A) or first proviso to sub-section (5B) of section 147.";

**OUR COMMENTS:** Before this amendment, the High Courts and Supreme Courts had annulled the orders issued by the Taxation Officer for recovery of advance tax on the basis that no power was available. However, through this amendment a technical correction is being made, whereby the due date for payment of advance tax is included under section 137, making it possible for officers to serve notice for payment of advance tax.

#### Recovery of Tax From Persons Holding Money on Behalf of A Taxpayer

#### **Existing**

For the purpose of recovering..... been paid by the taxpayer.

#### Section 140(1) Proviso

#### **Proposed Amendment**

In the proviso, for the expression and figure "twenty-five" the word "ten" shall be substituted;

**OUR COMMENTS:** This amendment seeks to reduce percentage of tax to be paid from 25% to 10% for obtaining stay of recovery proceedings (i.e. through attachment of bank accounts etc.) initiated by the Commissioner Inland Revenue during the pendency of appeal before the Commissioner (Appeals).







#### Advance Tax Paid by The Taxpayer

#### **Existing**

A is the taxpayer's turnover for the quarter;

# (4A) Any taxpayer who is required to make payment of advance tax in accordance with...... of the third and fourth quarter of the tax year.

If any taxpayer who is required to make payment of advance tax under sub-section (1) estimates at any time before the last installment is due, that the tax payable by him for the relevant tax year is likely to be less than the amount he is required to pay under sub-section (1), the taxpayer may furnish to the Commissioner an estimate of the amount of the tax payable by him, and thereafter pay such estimated amount, as reduced by the amount, if any, already paid under sub-section (1), in equal installments on such dates as have not expired

#### Section 147(4) Component A Proviso, (4A), (6),(6) Proviso

#### **Proposed Amendment**

(a) in sub-section (4), in component A, for semi-colon, a colon shall be substituted and thereafter the following proviso shall be added, namely:—

"Provided that where the taxpayer fails to provide turnover or the turnover for the quarter is not known, it shall be taken to be one-fourth of one hundred and ten percent of the turnover of the latest tax year for which a return has

been filed;";

After the word "taxpayer", wherever occurring, the words "including a banking company" shall be inserted; and

- (i) after the word "taxpayer", wherever occurring, the words "excluding a banking company" shall be inserted;
- (ii) for full stop at the end a colon shall be substituted and thereafter the following provisos shall be added, namely:—

"Provided that an estimate of the amount of tax payable shall contain ...... the estimate after providing an opportunity of being heard to the taxpayer and the taxpayer shall pay advance tax according to the formula contained in sub-section (4).";

**OUR COMMENTS:** A proviso has been proposed to be added to the Component A of the formula determining advance tax, whereby in the absence of information relating to turnover, the turnover shall be taken to be 25% of 125% of the turnover as per the return filed for the latest tax year.

Further, despite banking company has been included in the purview of sub-section 4A i.e. revision of advance tax estimates on higher side but the Rule 5 of the Seventh Schedule has not been amended to omit exception of applicability of subsection 4A to a banking company which will need a correction as it seems contradictory.

Furthermore, whereby a company files an estimate that the advance tax payable will be lower than previous estimates due to reduction of turnover than the same shall be supported by evidence and in case the Commissioner is not satisfied by the evidence of such lower estimate and rejects the lower estimate after opportunity of being heard than the advance tax will have to be paid based on original estimate.





#### **Imports**

#### **Section 148(8)**

#### **Existing**

# The tax required to be collected from a person under this section on the import of plastic raw material imported by an industrial undertaking falling under PCT heading 39.01 to 39.12, edible oil and packing material for a tax year shall be minimum tax.

#### **Proposed Amendment**

The tax required to be collected from a person under this section shall be minimum tax for a tax year on the import of—

- (a) goods where goods are sold in the same condition as they were when imported;
- (b) edible oil;
- (c) packing material; and
- (d) plastic raw material imported by an industrial undertaking falling under PCT headings 39.01 to 39.12.";

**OUR COMMENTS:** By virtue of the proposed amendment, goods imported and sold in the same condition as were imported shall be considered to attract minimum tax. Previously such goods were under final tax regime.

#### Payments To Non-Residents.

#### **Proposed Amendment**

**Existing** 

"New Sub Section Shall be Added"

"(2B) The tax deductible under clause (b) of subsection (2A) shall be a minimum tax and the provisions of sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (3) and subsection (4A) of section 153 shall *mutatis mutandis* apply.";

**OUR COMMENTS:** The proposed introduction of sub section 2B seeks to make the payment for rendering/providing of services by a permanent establishment (PE) of a non-resident person as minimum tax together with the facility to carry forward and adjust the excess in subsequent years as is provided under section 153 (3)(b) of the ordinance.

#### **Payments To Non-Residents**

#### **Existing**

an import of goods where title to the goods passes outside Pakistan.....resident person; or

**Section 152(7)(a)** 

**Section 152(2B)** 

#### **Proposed Amendment**

an import of goods where title to the goods passes outside Pakistan and is supported by import documents, except where —

(i) the supply is made in connection with the overall arrangement for the supply of goods, installation, construction, assembly, commission, guarantees or supervisory activities and all or principal activities are undertaken or performed either by the associates of the person supplying the goods or its permanent establishment, whether or not the title passes outside Pakistan and whether or not the goods are imported in the





#### **Payments To Non-Residents**

#### **Section 152(7)(a)**

name of the associate or any other person; or (ii) the supply is made by a resident person or a Pakistan permanent establishment of a nonresident person in connection with the overall arrangement as referred to in subclause (i); or":

**OUR COMMENTS:** This amendment seeks to extend the scope (earlier being limited to 'import' in connection with an overall arrangement of supply of goods their installation, commission and guarantees) whereby application to Commissioner is required for making payment to non-resident without deduction of tax. Now it is proposed to make it applicable to 'any supply' in connection with an overall arrangement for supply of goods, installation, construction, assembly, commission, guarantees or supervisory activities by any associate or PE of non-resident or any resident person.

# Payments For Goods, Services and Contracts

#### **Existing**

Every prescribed person..... recipient and the recipient shall collect tax along with the payment received.

An association of persons, having turnover of fifty million rupees or above in tax year 2007 or in any subsequent tax year;

An individual, having turnover of fifty million rupees or above in the tax year 2009 or in any subsequent year; or

A person registered under the Sales Tax Act, 1990;

"New Clause Shall be Added"

#### Section 153(1)(a),(b), 7(h),(i),(k)& (l)

#### **Proposed Amendment**

in clause (a), after the word "goods", the expression ",except where payment is less than seventy-five thousand Rupees in aggregate, during a financial year" shall be inserted; and in clause (b), after the word "services", the expression "except where payment is less than thirty thousand Rupees in aggregate, during a financial year" shall be inserted;

For the expression "tax year 2007 or in any subsequent tax year", the expression "any of the preceding tax years" shall be substituted;

For the expression "the tax year 2009 or in any subsequent year", the expression "any of the preceding tax years" shall be substituted; and the word "or", at the end, shall be omitted;

After the semicolon, the word "or" shall be inserted;

"(k) a person deriving income from the business of construction and sale of residential, commercial or other buildings(builder); or (l) a person deriving income from the business of development and sale of residential, commercial or other plots (developer).";





**OUR COMMENTS:** The amendment seeks to increase the minimum limit for payment without attracting the withholding tax provisions on supplies and services from Rs. 25,000 to Rs. 75,000 and Rs.10,000 to Rs. 30,000 respectively during a financial year. Further, criteria for ascertaining the turnover of individual and association of person to become a prescribed persons having turnover of fifty million or above has been extended to in any of the preceding tax years (previously it was limited to the tax prior years upto 2009/2007 respectively). Furthermore, Builders and Developers are being included in the definition of prescribed person irrespective of any limit.

# Furnishing Of Information By Banks **Existing**

Online access to its central database containing details of its account holders and all transactions made in their accounts:

A list containing particulars of deposits aggregating rupees one million or more made during the preceding calendar month

A list of payments made by any person against bills raised in respect of a credit card issued to that person, aggregating to rupees one hundred thousand or more during the preceding calendar month;

# Section 165A(a), (b)&(c) Proposed Amendment

A list of persons containing particulars of cash withdrawals exceeding fifty thousand Rupees in a day and tax deductions thereon for filers and non-filers, aggregating to Rupees one million or more during each preceding calendar month.";

For the word "one" the word "ten" shall be substituted;

For the word "one" the word "two" shall be substituted:

**OUR COMMENTS:** This proposed amendment seeks increase the burden on banks for making arrangements to provide information to the Board relating to the persons making cash withdrawal of Rs. 50,000 or more/ day and withdrawals aggregating to Rs. 1 Million or more in each calendar month along with tax deducted thereon whether the person is filer or non-filer. Further, in relation to particulars of deposits to be provided the limit has been increased from Rs. 1 Million to Rs. 10 Million and for credit cards payments from Rs. 100,000 the limit has been increased to Rs. 200,000.

#### **Credit for Tax Collected or Deducted**

**Section 168(2A),(2B)** 

**Existing** 

#### **Proposed Amendment**

After the word "sub-sections" the expression "(2A), (2B)," shall be inserted;

"New Sub Section Shall be Added"

"(2A) Where a company is a member of an association of persons which is taxed in accordance with section 92 and an amount of tax has been collected from an association of persons under Division II of







#### Credit for Tax Collected or Deducted

#### **Section 168(2A),(2B)**

this Part or Chapter XII or deducted from a payment made to the said association under Division III of this Part or Chapter XII, the company shall be allowed a tax credit, in respect of tax collected or deducted from the association of persons, according to the following formula, namely:—

(A/B) x C Where —

**A** is the amount of share of profits before tax received by the company as a member from the association of persons;

**B** is the taxable income of the association of persons; and

C is the amount of tax withheld in the name of the association of persons.

"New Sub Section Shall be Added"

(2B) No tax credit shall be allowed for any tax collected or deducted from an association of persons in respect of an amount for which credit has been allowed under sub-section (2A) to a company being a member of the association.";

**OUR COMMENTS:** The proposed amendment seeks to introduce the concept of apportionment of tax credit for association of persons where a Company is also a part of such association of persons.

#### Audit

#### **Existing**

Any other person as directed by the Board......Commissioner on case-to-case basis.

"New Clause Shall be Added"

#### **Section 177(11)(d)(e)**

#### **Proposed Amendment**

In clause (d), after the word "person", occurring for the first time, the words "including a foreign expert or specialist" shall be inserted;

After clause (d), amended as aforesaid, the following new clause shall be added, namely:-

"(e) a tax audit expert deployed under an audit assistance programme of an international tax organization or a tax authority outside Pakistan:

Provided that in case the member is not an officer of Inland Revenue, the person shall only be included as a member in the special audit panel if an agreement of confidentiality has been entered into between the Board and





#### **Section 177(11)(d)(e)**

the person, international tax organization or a tax authority, as the case may be.";

**OUR COMMENTS:** Through this proposed amendment foreign expert or specialist may be included in the special audit panels formed by the Board. Further, tax audit experts of other tax authorities or tax organizations outside Pakistan may also be included subject to confidentiality agreement.

#### **Offences And Penalties**

#### Section 182(1A)Column (3) Section 182(1AAA) Column (3)

#### **Proposed Amendment**

#### **Existing**

Such person shall pay a penalty of Rs.2, 500 for each day of default subject to a minimum penalty of ten thousand rupees.

Against S. No. (1A), in column (3), after the word "of", occurring for the first time, the words "five thousand Rupees

if the person had already paid tax required to be collected or deducted and to be reported in the statement within the due date and filed statement within ninety days from the due date for filing the statement and ten thousand Rupees otherwise" shall be inserted;

New Serial No Shall be Added"

S. No.	Offence	Proposed	Section
		Amendment	182(1AA
		<b>Penalties</b>	)
1AAA	Where	Such persons	
	any	shall pay a	116A
	person	penalty of 2	
	fails to	percent of	
	furnish a	the foreign	
	foreign	income or	
	assets	value of the	
	and	foreign assets	
	income	for each year	
	statement	of default.	
	within		
	the due		
	date.		

**OUR COMMENTS:** Through this amendment the penalty amount is being relaxed to Rs. 5,000 where a person has paid the required tax collected and filed the statements under section 115, 165, 165A or 165B within 90 days of the due date. Further, with the introduction of section 116A (i.e. Foreign Assets and Income Statement) related penalty is also being introduced to the extent of 2 percent of income or value of assets for each year of default.





#### **Return Not Filed Within Due Date**

Section 182A Section 214D

#### **Existing**

#### **Proposed Amendment**

"New Section Shall be Added"

Notwithstanding anything contained in this Ordinance, where a person fails to file a return of income under section 114 by the due date as specified in section 118 or by the date as extended by the Board under section 214A or extended by the Commissioner under section 119, as the case may be, such person shall—

(a) not be included in the active taxpayers' list for the year for which return was not filed within the due date; and (b) not be allowed, for that tax year, to carry forward any loss under Part VIII of Chapter IV";

A person shall be automatically .....effect from the date as the Board may, by notification in the official Gazette, appoint.

"Section is Omitted"

**OUR COMMENTS:** Through this proposed amendment a new section has been introduced whereby if a person fails to file return with in due date, than his name will not be included in the active taxpayer's list for the year (exposing that person to non-filer rates) and he will not be allowed to carry forward any losses for that tax year. This amendment may be termed as penalizing the person otherwise through the provision of section 214D i.e. the automatic selection of audit on filing after due date, as the same has been omitted.

# Disclosure Of Information By A Public Servant

**Section 216(3)(kb) Section 216(5)** 

#### **Existing**

#### **Proposed Amendment**

"New Clause Shall be Added"

"(kb) to National Database and Registration Authority for the purpose of broadening of the tax base;"; and

Nothing contained in sub-section (1) shall prevent the Board from publishing, with the prior approval of the Federal Minister-incharge, any such particulars as are referred to in that sub-section.

For the expression "Minister-in-charge" the word "Government" shall be substituted;

**OUR COMMENTS:** Through this amendment particulars relating to taxpayers can be disclosed to NADRA. Further, for the disclosure of information approval from the Government will be required.





#### **Service Of Notices And Other Documents**

#### Section 218(1)(d), (2)(d)

#### **Existing**

#### "New Clause Shall be Added"

"New Clause Shall be Added"

#### **Proposed Amendment**

"(d) served on the individual electronically in the prescribed manner,";

"(d) served on the individual electronically in the prescribed manner,";

**OUR COMMENTS:** Through this amendment electronically served notice, order or requisition be proposed to be included under the law as properly served. This was a long awaited amendment.

#### **Bar Of Suits In Civil Courts**

#### **Existing**

No suit or other legal proceeding shall be brought in any Civil Court against any order made under this Ordinance, and no prosecution, suit or other proceedings shall be made against any person for anything which is in good faith done or intended to be done under this Ordinance or any rules or orders made thereunder. (2) Notwithstanding anything contained in.

#### **Section 227(1)**

#### **Proposed Amendment**

(a) after the word "made" occurring for the first time, the words

"or any notice issued" shall be inserted; and

(b) after the word, "made", occurring for the third time, the words

"or notices issued" shall be inserted;

(c) after sub-section (1), amended as aforesaid, the following explanation shall be added, namely:—

"Explanation.— For the removal of doubt, it is clarified that Civil Court includes any court exercising power of the Civil court.";

**OUR COMMENTS:** The proposed amendment, in addition to any suit or legal proceedings, now also bars even a notice issued by a person in good faith to be contested in a civil court.

# **Restriction On Purchase Of Certain Assets**

**Existing** 

"New Section Shall be Added"

**Section 227C** 

#### **Proposed Amendment**

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

(a) any application for booking, registration or purchase of a new locally manufactured motor vehicle or for registration of an imported vehicle shall not be accepted or processed by any vehicle registering authority of Excise and Taxation Department







# **Restriction On Purchase Of Certain Assets**

Section 227C

"New Section Shall be Added"

or a manufacturer of a motor vehicle respectively, unless the person is a filer.:

(b) any application or request by a person from any authority responsible for registering, recording or attesting transfer of any immovable property for registering or attesting the transfer shall not be accepted or processed by such authority, unless the person is a filer.":

**OUR COMMENTS:** Through this proposed section a non-filer will not be allowed/entertained for the purchase of motor vehicle or registering/ recording any immovable property in his name.

Directorate General of Immovable		Section 230F			
Property					
"New Section Added"					

The Directorate-General of Immovable Property, (hereinafter referred to as Directorate-General in this section, shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors and Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.

- (2) The Board may, by notification in the official Gazette, specify the functions and jurisdiction of the Directorate-General and its officers. (3) The Directorate-General may, subject to the provisions and conditions as may be prescribed, initiate proceedings for the acquisition of property for the reasons and purposes specified in sub-section (4).
- (4) The proceedings under sub-section (3) shall be initiated, where the Directorate-General, on the basis of valuation made by it, has reason to believe that any immovable property of a fair market value has been transferred by a person, hereinafter referred to as the transferor, to another person, hereinafter referred to as the transferee, for a consideration which is less than the fair market value of the immovable property and that the consideration for such transfer as agreed to between the transferor and transferee has been understated in the instrument of transfer for the purposes of —
- (a) the avoidance or reduction of withholding tax obligations under this Ordinance; (b) concealment of unexplained amount referred to in sub-section (1) of section 111 representing investment in immovable property; or (c) avoidance or reduction of capital gains tax under section 37.
- (5) The Directorate-General may appoint any valuer or expert as it considers necessary for the purposes of determination of valuation including fair market value of immovable property. (6) The mode and manner of appointment of a valuer or expert shall be as may be prescribed.
- (7) The valuation made under sub-section (4) and reasons that consideration is less than the fair market value shall be recorded in writing. (8) No proceedings shall be initiated in respect of any immovable property after expiration of a period of six months from the end of the month in which the instrument of transfer in respect of such property is registered, recorded or attested.





<b>Directorate General of Immovable</b>		Section 230F			
Property					
"New Section Added"					

(9) The mode and manner of initiation of proceedings and acquisition of immovable property under this section shall be as may be prescribed:

Provided that the proceedings shall not be initiated unless the transferee is provided with an opportunity of being heard and where the objection by the transferee, if any, is rejected by the Directorate-General, it shall record in writing the reasons for rejection through an order.

- (10) If the Directorate-General is satisfied with the objections or reasons furnished by the transferee or the transferor, it shall, by order in writing, declare that the property shall not be acquired under this section. (11) If after hearing the objections, if any, and after taking into account all the relevant material on record, the Directorate-General is satisfied that the fair market value of such property exceeds the consideration by more than fifty per cent of such consideration and that transfer as agreed to between the transferor and the transferee has not been truly stated in the instrument of transfer it may, after obtaining approval of the Board, make an order for acquisition of the immovable property under this section.
- (12) The transferee may prefer express appeal to the Appellate Tribunal of Immovable Property against the order of
- acquisition of any immovable property under sub-section (11) within sixty days of service of a copy of such order. (13) There shall be established an Appellate Tribunal of Immovable Property to exercise the powers conferred on the Tribunal under this section.
- (14) The appointment of members of the Tribunal, powers, functions, constitution of the Tribunal and mode and manner of disposal of appeals shall be as may be prescribed.
- (15) The Appellate Tribunal may, after giving the appellant and the Directorate-General an opportunity of being heard, pass such order as it thinks fit.
- (16) The transferee or the Directorate-General aggrieved by any order of the Tribunal may, within sixty days of the date on which the order under sub-section (15) is served, prefer an appeal against such order to the High Court.
- (17) As soon as may be after the order for acquisition of immovable property made under subsection (11) becomes final, the Directorate-General may, by notice in writing, order the transferee or any other person who may be in possession of the immovable property to surrender or deliver possession thereof to the Directorate-General within thirty days of the date of the service of the notice.
- (18) The order referred to in sub-section (11) becomes final if either no appeal has been there against filed or on appeal filed before the Tribunal, the order is confirmed and no appeal is filed before the High Court or on appeal filed before the High Court the order is confirmed.
- (19) Notwithstanding anything contained in any law or any agreement for the time being in force, where order referred to in sub-section (11) becomes final, the immovable property and all rights including ownership rights thereof shall be vested in the Federal Government and shall be treated to be in the same position in relation to such rights as the person in whom such rights would have continued to vest if such order had not become final.
- (20) Where any immovable property is acquired under this section, the Board shall make the payment of consideration for acquisition to the person or persons entitled thereto, as soon as may be, after the property becomes vested in the Federal Government. (21) Notwithstanding the provisions of section 68, for the purpose of this section,—
- (a) "consideration for acquisition" means a sum equal to the aggregate of the amount of the consideration for the transfer of immovable property and hundred per cent of such consideration;







<b>Directorate General of Immovable</b>	Section 230F
Property	

#### "New Section Added"

- (b) "fair market value" in relation to an immovable property means the price that the immovable property would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer of such property;
- (c) "immovable property" means any land with or without a superstructure or any building or part of a building or any rights therein and includes, where any land or any building or part of a building is transferred along with any machinery, plant, equipment, furniture and fittings; and (d) "transfer" in relation to any immovable property means transfer of such property by way of sale or exchange or lease for a term of not less than ten years.
- (22) The provisions of this section shall come into force on such date as the Federal Government may, by notification in official Gazette, appoint.
- (23) From the date of appointment as mentioned in subsection (21), rates mentioned in column (3) of the Table in Division XVIII shall be 1% and provisions of clause (c) of sub-section (4) of section 111, section 236C, section 236W and Division X of Part IV of the First Schedule shall not apply.";

**OUR COMMENTS:** Through this proposed section the 'Directorate General of Immovable Property' is being introduced consisting of Directors, Additional Directors, Deputy Directors, Assistant Directors and Officers. The Directorate will, in addition to the other than the functions prescribed, be responsible to initiate proceedings for acquisition of property that is suspected to be not declared at its fair value. Such proceedings can be initiated within six months of the month end when the transfer deed/other transfer instrument was registered.

To proof the understatement of value in relation to a property the Directorate may hire a valuer and on the basis of such valuation and after providing opportunity of being heard to the transferee may order with the approval of the Board to acquire such property, where the fair value exceeds fifty percent of the declared consideration. Such order can be appealed in Appellate Tribunal within sixty days or after the order of Appellate Tribunal, an appeal may be filed in High Court.

However, if the decision from appeal forums are not in the favor of the transferee or the appeals are not filed than the rights/ownership of property will vest with the Federal Government and payment will be made to the transferee equal to 100 percent more than the consideration declared. For the purpose of acquisition the advance tax for transferor/transferee shall not apply.

#### **Collection of Tax by a Stock Exchange Registered in Pakistan**

**Section 233A** 

#### **Existing**

#### **Proposed Amendment**

The tax collected under sub-section (1) shall be final tax.

For the words "final tax", the word "adjustable" shall be substituted;

**OUR COMMENTS:** The proposed amendment seeks to provide a big relief to the shares brokerage industry by again making the advance tax on sale or purchase of shares as 'adjustable' rather than being final tax. This will present positive impact on the brokerage industry and the stock market as a whole.





# Tax on Sale Of Certain Petroleum Products

Section 236HA

#### **Existing**

#### **Proposed Amendment**

# "236HA. Tax on sale of certain petroleum products.—

"New Section Shall be Added"

(1) Every person selling petroleum products to a petrol pump operator or distributer, where such operator or distributer is not allowed a commission or discount, shall collect advance tax on exdepot sale price of such products at the rate specified in Division XVA of Part IV of the First schedule.

"New Section Shall be Added"

(2) The tax deductible under sub-section (1) shall be a final tax on the income arising from the sale of petroleum products to which sub-section (1) applies.";

**OUR COMMENTS:** This new section is proposed to be introduced whereby any person selling petroleum products to any operator/distributor not in the mode of commission/discount will collect advance tax from such person, which will be treated as final tax. The said amendment is being brought in wake of the deregulation of high speed diesel.

# Advance Tax on Purchase or Transfer of Immovable Property

Section 236K(3)

#### **Existing**

#### **Proposed Amendment**

"New Sub Section Shall be Added"

"(3) Any person responsible for collecting payments in installments for purchase or allotment of any immovable property where the transfer is to be effected after making payment of all installments, shall at the time of collecting installments collect from the allotee or transferee advance tax at the rate specified in Division XVIII of Part IV of the First Schedule.";

**OUR COMMENTS:** The proposed amendment seeks to introduce the collection of advance tax where the purchase of any immovable property is done on installment basis.

#### **Bonus Shares Issued by Companies Quoted on Stock Exchange**

Section 236M

# **Bonus Shares Issued by Companies Not Quoted on Stock Exchange**

**Existing** 

Notwithstanding anything contained in any law for the time .....arising from issuing of bonus shares.

Section 236N

**Proposed Amendment** 

"Section is Omitted"





#### Section 236M

#### **Bonus Shares Issued by Companies Quoted on Stock Exchange**

# **Bonus Shares Issued by Companies Not Quoted on Stock Exchange**

Section 236N

Section 236Y

Notwithstanding anything contained in any law .....rules for determination of value of shares under sub-section (1).

"Section is Omitted"

**OUR COMMENTS:** Since through this Finance Bill, tax on bonus shares is proposed to be abolished therefore related tax deduction section on bonus shares have been omitted.

Advance Tax On Persons Remitting Amounts Abroad Through Credit Or Debit Or Prepaid Cards

**Existing** 

"New Section Shall be Added"

#### **Proposed Amendment**

Every banking company shall collect advance tax, at the time of transfer of any sum remitted outside Pakistan, on behalf of any person who has completed a credit card transaction, a debit card transaction, or a prepaid card transaction with a person outside Pakistan at the rate specified in Division XXVII of Part IV of the First Schedule. (2) The advance tax collected under this section shall be adjustable.";

**OUR COMMENTS:** A new section has been proposed through which payments made outside Pakistan through debit/credit or prepaid cards will be subject to advance tax on the person remitting the amount at rate of 1% for Filer and 3% for Non-Filer.

Validation Section 241

#### **Existing**

All notifications and orders issued and notified, in exercise of the powers conferred upon the Federal Government, before the commencement of Finance Act, 2017 shall be deemed to have been validly issued and notified in exercise of those powers.

#### **Proposed Amendment**

the existing provision thereof shall be numbered as sub-section (1) of that section and thereafter the following new subsection shall be added, namely:—

Notwithstanding "(2) any omission. irregularity deficiency or establishment, or conferment of powers and Directorate-General functions. of the (Intelligence and Investigation), Inland Revenue and authorities specified in section 230, all orders passed, notices issued and actions taken in exercise or purported exercise of the powers and functions of the Commissioner under this

Ordinance by the Directorate-General (Intelligence and Investigation), Inland



Validation Section 241

Revenue or the authorities specified in section 230 shall be deemed to have been validly passed, issued and taken under this Ordinance.";

**OUR COMMENTS:** This is a rectification amendment whereby all order passed by Director General (Intelligence and Investigation) and his subordinates as given in section 230 have been declared valid under the Ordinance.

# FIRST SCHEDULE

Rate of tax for Individuals - Part-I, Division I

Rate of tax for finds	1 557 5	DIVISION				
Taxable Income	Tax Rate	Proposed Tax for	Existing Tax		Tax Relief	
Taxable meome	(%)	Individuals (Rs.)	Salaried Individual	Business Individual	Salaried Individual	Business Individual
Where the taxable income does not exceed Rs. 400,000	0	NIL	NIL	NIL	NIL	NIL
Where the taxable income exceeds Rs 400,000 but does not exceed Rs 800,000	Nominal Tax	Rs. 1,000	Rs. 0 to 19,500	Rs. 0 to Rs. 39,500	(Rs. 18,500)	(Rs. 38,500)
Where the taxable income exceeds Rs 800,000 but does not exceed Rs 1,200,000	Nominal Tax	Rs. 2,000	Rs. 19,501 to Rs. 59,500	Rs. 39,501 to Rs. 99,500	(Rs. 17,500) to (Rs. 57,500)	(Rs. 37,500) to (Rs. 97,500)
Where the taxable income exceeds Rs 1,200,000 but does not exceed Rs 2,400,000	5% of the amount exceeding Rs. 1,200,000	Rs. 2,000 to Rs. 60,000	Rs. 59,501 to Rs. 242,000	Rs. 99,501 to Rs. 324,500	(Rs. 57,500) to (Rs. 182,000)	(Rs. 97,500) to (Rs. 64,500)
Where the taxable income exceeds Rs 2,400,000 but does not exceed Rs 4,800,000	Rs 60,000 + 10% of the amount exceeding Rs 2,400,000	Rs. 60,000 to Rs. 300,000	Rs. 242,001 to Rs. 817,000	Rs. 324,501 to Rs. 959,500	(Rs. 182,000) to (Rs. 517,000)	(Rs. 64,500) to (Rs. 659,500)
Where the taxable income exceeds Rs 4,800,000	Rs 300,000 + 15% of the amount exceeding Rs 4,800,000	Rs. 300,000 and above	Rs. 817,001 and above	Rs. 959,501 and above	(Rs. 517,000) and above	(Rs. 659,500) and above

**OUR COMMENTS:** The bill proposes to relax tax burden on Individual taxpayers proposing nominal tax of Rs.1,000 & Rs.2,000 as per above mentioned slabs and attempts to harmonize the tax rates for salaried and business individuals vide introduction of single slab for both categories of individuals. This impact can be observed on the complete slab of Individuals as reproduced above.







#### **Rate of tax for Association of Persons**

Taxable Income	Tax Rate (%)	Proposed Tax (Rs.)	<b>Existing Tax</b>	Tax Relief
Where the taxable income does not exceed Rs. 400,000	0	NIL	NIL	NIL
Where the taxable income exceeds Rs 400,000 but does not exceed Rs 1,200,000	5% of the amount exceeding Rs. 400,000	Rs. 0 to Rs. 40,000	Rs. 0 to 99,500	Rs. 0 to (Rs. 59,500)
Where the taxable income exceeds Rs 1,200,000 but does not exceed Rs 2,400,000	Rs 40,000 + 10% of the amount exceeding Rs 1,200,000	Rs. 40,001 to Rs. 160,000	Rs. 99,501 to Rs. 324,500	(Rs. 59,500) to (Rs. 164,500)
Where the taxable income exceeds Rs 2,400,000 but does not exceed Rs 3,600,000	Rs 160,000 + 15% of the amount exceeding Rs 2,400,000	Rs. 160,001 to Rs. 340,000	Rs. 324,501 to Rs. 619,500	(Rs. 164,500) to (Rs. 279,500)
Where the taxable income exceeds Rs 3,600,000 but does not exceed Rs 4,800,000	Rs 340,000 + 20% of the amount exceeding Rs 3,600,000	Rs. 340,001 to Rs. 580,000	Rs. 619,501 to Rs. 959,500	(Rs. 279,500) to (Rs. 379,500)
Where the taxable income exceeds Rs 4,800,000 but does not exceed Rs 6,000,000	Rs 580,000 + 25% of the amount exceeding Rs 4,800,000	Rs. 580,001 to Rs. 880,000	Rs. 959,501 to Rs. 1,319,500	(Rs. 379,500) to (Rs. 439,500)
Where the taxable income exceeds Rs 6,000,000	Rs 880,000 + 20% of the amount exceeding Rs 6,000,000	Rs. 880,001 and above	Rs. 1,319,501 and above	(Rs. 439,500) and above

**OUR COMMENTS:** The bill proposes to relax tax burden on AOP taxpayers by proposing changes in tax slabs. This impact can be observed on the complete slab of AOPs as reproduced above.



#### Rate of Tax for Companies - Division II

#### **Proposed Amendment:**

In clause (i), the following table is proposed to be added after third proviso para, namely:-

Tax Year	Rate of Tax
2019	29%
2020	28%
2021	27%
2022	26%
2023 and onwards	25%"

**OUR COMMENTS:** As is apparent from the above table the bill seeks to gradually reduce the rate of tax on companies other than banking companies by reduction of tax rate by 1% per year starting from Tax Year 2019 downto 25% till Tax Year 2023.

#### Rate of Super Tax - Division IIA

#### **Proposed Amendment:**

		Rate of super tax					
S.	Person	Rate(percentage of income)					
No.		Tax Year 2018	Tax Year 2019	Tax Year 2020	Tax Year 2021		
(1)	(2)	(3)	(4)	(5)	(6)		
1	Banking company	4%	3%	2%	0%		
2	Person other than a banking company, having income equal to or exceeding Rs. 500 million	3%	2%	1%	0%		

**OUR COMMENTS:** The Super Tax rates under section 4B are also being reduced by 1% each year which will finally be abolished in the year 2021.



#### Rate of Tax on Certain Payments to Non-residents - Division IV

#### **Proposed Amendment:**

After the word "services", the expression "and 5% of the gross amount of the fee for offshore digital services" shall be inserted

**OUR COMMENTS:** The bill seeks to cover payments made to non-resident offshore digital companies for digital services @5%.

#### Capital Gains on Disposal of Securities - Division VII

#### **Proposed Amendment:**

"Tax Year 2018" is proposed to be substituted with "Tax Year 2018 and 2019"

**OUR COMMENTS:** The bill seeks to continue the current rate of taxability on capital gain on disposal of securities in Tax Year 2019 as was in the Tax Year 2018.

#### Capital Gains on Disposal of Immoveable Properties - Division VIII

#### **Proposed Amendment:**

In third row, for the expression "sub-section (4)", the expression " the proviso to sub-section (1)" is proposed to be substituted

**OUR COMMENTS:** The bill seeks to rationalize and clarify the provision of law.

#### Advance Tax on Imports under Section 148 - Part – II

#### **Proposed Amendment:**

After serial No. 03 of the Table in column (1), the following new entry is proposed to be added:

S. No.	Persons	Rate	
		Filer	Non-Filer
3A.	Persons importing Coal	4%	6%

**OUR COMMENTS:** The bill seeks to introduce specific rate of withholding tax on import of coal for Filer and Non-Filer taxpayers.

#### Advance Tax on Dividends - Part - III, Division I

#### **Proposed Amendment:**

After the fourth proviso, full stop at the end a colon shall be substituted and thereafter the following new proviso shall be added, namely:-

"Provided also that the rate of tax on dividend received by an individual, from a Rental REITScheme shall be 7.5%.";

**OUR COMMENTS:** The bill seeks to introduce separate advance tax deduction rate on dividend of Rental REIT Scheme.





#### Payments for Goods or Services - Division III

S. No.	<b>Nature of Payment</b>	Ex	Existing		sed Rate
		Filer	Non- Filer	Filer	Non- Filer
1.	Sale of Goods - Companies - Other taxpayers	7%	7.75%	8% 4.5%	9% 4.5%
3.	On execution of contract - Companies - Other taxpayers	N/A	12% 12.5%	N/A	14% 15%

**OUR COMMENTS:** The bill seeks to enhance with-holding tax deduction rates on payment for sale of goods on general basis and for Non-Filers; specifically for payment against execution of contracts.

#### Advance tax on functions and gatherings – Part IV, Division XI

#### **Proposed Amendment:**

For the full stop at the end a colon shall be substituted and thereafter the following new proviso and Table shall be added, namely:-

"Provided that the rate for the function of marriage in a marriage hall, marquee, hotel, restaurant, commercial lawn, club, a community place or any other place used for such purpose shall be as set out in the Table below;-

S. No.	Rate of tax		
(1)	(2)	(3)	
1	5% of the bill advalorem or Rs. 20,000 per function, whichever is higher	For Islamabad, Lahore, Multan, Faisalabad, Rawalpindi, Gujranwala, Bahawalpur, Sargodha, Sahiwal, Shekhurpura, Dera Ghazi Khan, Karachi, Hyderabad, Sukkur, Thatta, Larkana, Mirpur Khas, Nawabshah, Peshawar, Mardan, Abbottabad, Kohat, Dera Ismail Khan, Quetta, Sibi, Loralai, Khuzdar, Dera Murad Jamali and Turbat.	
2	5% of the bill advalorem or Rs. 10,000 per function, whichever is higher	For cities other than those mentioned above	

**OUR COMMENTS:** The bill seeks to clarify and categorize the advance tax collection rates on general functions/gatherings and; marriage functions with the above new specified thresholds in different regions.





#### Collection of Advance tax on sale of certain petroleum products - Division XVA

		Rate of Tax	
Value of Transaction	Filer	Non- Filer	
Ex-Sale Depot Price	0.5%	1%	

**Our Comments:** The bill proposes to introduce collection of advance tax by Petroleum product sellers u/s 236HA against sale to petrol pump operator or distributer, where such operator or distributer is not allowed a commission or discount.

#### Collection of Advance tax on Banking Transactions Otherwise Than Cash - Division XXI

#### **Proposed Amendment:**

The bill seeks to substitute "0.6%" rate with new "0.4%" rate and;

also to delete both provisos in Division XXI

**OUR COMMENTS:** The bill seeks to ascertain advance tax collection rate on banking tansactions at 0.4%.

### Collection of Advance tax on on amount remitted abroad through credit, debit or prepaid cards - Division XXVII

	Rate of Tax	
Value of Transaction	Filer	Non-
		Filer
Gross amount remitted abroad	1%	3%

**Our Comments:** The bill proposes to introduce collection of advance tax by Banking Compansies u/s 236Y at the time of transfer of any sum remitted outside Pakistan, on behalf of any person who has completed a credit card transaction, a debit card transaction, or a prepaid card transaction with a person outside Pakistan.





# **SECOND SCHEDULE**

#### Part – I - Exemption from Total Income

Clause	Description	Impact
57(3)	Khyber Pakhtunkhwa Retirement Benefits and	Income of the new
(xv),	Death Compensation Fund.	funds exempted.
(xvi),	Khyber Pakhtunkhwa General Provident	
(xvii)	Investment Fund.	
	Khyber Pakhtunkhwa Pension Fund."	
(1	Delicate Consent Harris American di Frincia Di Di	NI
61	Pakistan Sweet Home, Angels and Fairies Place.	New exemption on
(xlvi),	Al-Shifa Trust Eye Hospital. Aziz Tabba Foundation.	donation granted to
(xlvii),	Sindh Institute of Urology and Transplantation, SIUT	the institutions.
(xlviii),	Trust and Society for the Welfare of SIUT.	
(xlix)	(l) Sharif Trust. (li) The Kidney Centre Post Graduate Institute.	
	(lii) Pakistan Disabled Foundation.";	
	(III) Fakistan Disabled Foundation.,	
66	Third Pakistan International Sukuk	New exemption
(xxxv)	Company Limited."	granted to any
(xlii),	SAARC Energy Centre.	income derived by
(xliii),	Pakistan Bar Council.	the institutions.
(xliv),	Pakistan Centre for Philanthropy.	
(xlv),	Pakistan Mortgage Refinance Company	
(xlvi)	Limited.	
	Aziz Tabba Foundation.	
	(l) Al-Shifa Trust Eye Hospital.	
	(li) Saylani Welfare International Trust.	
	(lii) Shaukat Khanum Memorial Trust.	
	(liii) Layton Rahmatullah Benevolent Trust (LRBT).	
	(liv) The Kidney Centre Post Graduate Training Institute.	
	(lv) Pakistan Disabled Foundation.	
	(lvi) Forman Christian College.";	



Clause	Description	Impact
90A	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.	Exemption granted.
100	Any income, not being income from <b>manufacturing or</b> trading activity, of a modaraba registered under the Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 1980 (XXXI of 1980), for any assessment year commencing on or after the first day of July, 1999	Scope of exemption enhanced to manufacturing also.
110C	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."	Exemption granted.
126BA	Profits and gains derived by a refinery set up between the 1st day of July, 2018 and the 30 <sup>th</sup> 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 shall also be available to existing refineries, if—  (a) existing production capacity is enhanced by at least 100,000 barrels per day;  (b) the refinery maintains separate accounts for income arising from aforesaid additional production capacity; and (c) the refinery is a deep conversion refinery."	Exemption granted.

PART – II Reduction in Tax Rate

Clause	Description	Impa	act	
24AA	The rate of tax, under section 152 in the case of M/S	Reduction	in	rate
	CR-NORINCO JV (Chinese Contractor) as recipient, on	allowed.		
	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, shall be 6% of the gross amount of payment			





#### PART – III Reduction in Tax Liability

Clause	Description	Impact
6(a)	The tax payable under clause (c) of sub-section (1) of	Scope of exemption
	section 39, in respect of any amount paid as yield or profit	enhanced.
	on investment in Bahbood Savings Certificate or	
	Pensioners Benefit Account and Shuhada Family	
	Welfare Account shall not exceed 10% of such profit.[]	
7	The amount of tax payable by foreign film-makers from	Reduction in tax
	making films in Pakistan shall be reduced by fifty	liability allowed to
	percent on income from film-making in Pakistan.	foreign film-makers.
8	The amount of tax payable by resident companies	Reduction in tax
	deriving income from film-making shall be reduced by	liabilities allowed to
	fifty percent on income from film-making.	resident film-
		makers.

PART – IV Exemption from specific provisions

Clause	Description	Impact
11A	Taxpayers qualifying for exemption under clause (126) of	Exemption from
(xxx)	Part-I of this Schedule with effect from the Tax Year 2014	minimum tax u/s 113 for public sector university established solely for educational purposes.
11E	The provisions of clause (b) of sub-section (1) of section 153 shall not apply to payments received by Sui Southern Gas Company Limited and Pakistan LNG Terminal Limited from Sui Northern Gas Pipelines Limited on account of re-gasification charges.	Exemption granted.
12A	The provisions of section 150 shall not apply to dividend paid to Transmission Line Projects under Transmission Line Policy 2015.	Exemption granted.
36A	The provisions of clause (a) of sub-section (1) of section 151 shall not apply in respect of any amount paid as yield or profit on investment in Bahbood Savings Certificate or Pensioner's Benefit Account and Shuhada Family Welfare Account.	Scope of exemption enhanced.



Clause	Description	Impact
56 (ia)	for the expression "Bakri Trading Company Pakistan (Pvt) Ltd, Overseas Oil Trading Company (Pvt) Ltd " the expression "Bakri Energy (Private) Limited" shall be substituted.	Substitution of name of company.
56B	The provision of sub-section (7) of section 148, and clause (a) of sub-section (1) of section 169 shall not apply to a person being a commercial importer if the person opts to file return of total income along with accounts and documents as may be prescribed, subject to the condition that minimum tax liability under normal tax regime shall not be less than 5.5%, of the imports, if the person is a company and 6% otherwise.]	Change in taxability of Commercial Importers vide change in treatment of their advance tax collection u/s 148 as Minimum Tax, from Final Tax
57	In the second proviso, for the figure "2019" the figure "2021" shall be substituted	Time limit enhanced.
60A	The provisions of section 148 shall not apply for import of plant, machinery and equipment including dumpers and special purposes motor vehicles imported by the following for construction of Sukkur-Multan section of Karachi-Peshawar Motorway project and Karakorum Highway (KKH) Phase-II (Thakot to Havellian Section) of CPEC project respectively, namely:- (a) M/s China State Construction Engineering Corporation Ltd. (M/s CSCEC); and (b) M/s China Communication Construction Company (M/s CCCC).	Exemption granted.
60AA	The provisions of section 148 of the Income Tax Ordinance, 2001(XLIX of 2001), shall not apply for import of construction materials or goods up to a maximum of 10,898.000 million rupees imported by China State Construction Engineering Corporation (M/s CSCEC) for construction of Sukkur-Multan section of Karachi-Peshawar Motorway project of National Highway Authority under CPEC.	Exemption granted.



Clause	Description	Impact	
60B	The provisions of section 148 shall not apply on import of thirty-five armoured and security vehicles imported by or for Ministry of Foreign Affairs, Government of Pakistan meant for security of visiting foreign dignitaries, subject to the following conditions, namely: -  (a) that the vehicles imported under this clause shall only be used for the security purpose of foreign dignitaries and will be parked in Central Pool of Cars (CPC) in the Cabinet Division for further use as and when needed; and (b) that the importing Ministry at the time of import shall furnish an undertaking to the concerned Collector of Customs to the extent of customs-dues exempted under this clause on consignment to consignment basis binding themselves that the vehicles imported under this clause shall not be re-exported, sold or otherwise disposed of without prior approval of the Board and in the manner prescribed therefore.	Specific exemption granted.	
60C	The provision of section 148 shall not apply on import of equipment to be furnished or installed for Rail Based Mass Transit Projects in Lahore, Karachi, Peshawar and Quetta under CPEC.	Exemption granted.	
63	After the word "Karachi" the expression "and Lahore University of Management Sciences, Lahore" shall be inserted.	Scope of exemption enhanced to the highlighted.	
94	a) after the expression "Mercantile Exchange Limited", the expression "inspection, certification, testing and training services" shall be inserted; (b) for the figure "2018", the figure "2019" shall be substituted; (c) in the first proviso, for the figure "2018", the figure "2019" shall be substituted; and (d) in the second proviso,— (i) for the figure "2018" the figure "2019" shall be substituted; and (e) for the figure "2017", the figure "2018" shall be substituted;	Scope of exemption and timeline enhanced.	





Clause	Description	Impact	
100	The provisions of section 236U shall not apply to an	Substitution of	
	insurance company collecting premium under-	clause for technical	
	(a) Crop Loan Insurance Scheme (CLIS); and	correction.	
	(b) Livestock Insurance Scheme (LIS).		
103	The provisions of section 7B shall not apply to yield or	Specific exemption	
103	profit on investment in Bahbood Savings Certificate or	granted.	
	1	granieu.	
	Pensioner's Benefit Account, provided that tax on the said		
	yield or profit on debt is paid at the rates specified in		
	Division I of Part I of the First Schedule subject to clause		
	(6) of Part III.		
104	The provisions of section 5A shall not apply to a company	Specific exemption	
	where a restriction has been imposed on distribution of	granted.	
	dividend on account of an agreement		
	with the Government of Pakistan.		
105	The provisions of section 177 and 214C shall not apply to	Relaxation granted	
	a person whose income tax affairs have been audited in	for audit.	
	any of the preceding three tax years:		
	Provided that the Commissioner may select a person under		
	section 177 for audit, with approval of the Board		
	Section 177 for audit, with approval of the board		

# **SEVENTH SCHEDULE**

Rules for the computation of the profits and gains of a banking company and tax payable thereon.

Rule	Description	Impact
1	For the word "Income", occurring for the first time, the	Sets Rule for
	expression "Subject to the provisions of Chapter VII and	assessment of
	VIII, income" shall be substituted.	Income of banking
		company as per
		Chapter VII and
		VIII.
7C	For the expression "year 2015, 2016 and 2017" the	Chargeability of
	expression "years 2015 to 2020" shall be substituted.	super tax on
		banking company
		extended 2020 and
		rates to be reduced
		gradually untill
		withdrawn in the tax
		year 2020.





## SALES TAN



## **SALES TAX**

Scope of Tax Section 3(1A)

#### **Existing**

Subject to the provision of sub section (6) of section 8 or any notification issued thereunder, where taxable supplies are made to a person who has not obtained registration number, there shall be charged, levied and paid a further tax at the rate of 6[two] percent of the value In addition to the rate specified in sub sections (1), (1B), (2), (5), (6) and section 4 provided that the Federal Govt. may, by notification in the official Gazette, specify the taxable supplies in respect of which the further tax shall not be charged, levied and paid.

8[(1B) The Board may, by notification in the Official Gazette, in lieu of levying and collecting tax under sub section (1) on taxable supplies, levy and collect tax

#### **Proposed Amendment**

In sub-section (1A), for the word "two", the word "three" shall be substituted;

**OUR COMMENTS:** Supply of taxable goods to unregistered persons was subject to tax at the rate of 19%. This rate of 19 % represents 17% being the standard sales tax and 2% on account of further tax. Now, this rate of 19% is proposed to be increased to 20% by increasing the rate of further tax to 3%.

Scope of Tax

Section 3 (2)(b)

#### **Existing**

The Board with the approval of the Federal Minister-in-charge may, subject to such conditions and restrictions as it may impose, by notification in the official Gazette, declare that in respect of any taxable goods, the tax shall be charged, collected and paid in such manner and at such higher or lower rate or rates as may be specified in the said notification

**Proposed Amendment** 

in sub-section (2), in clause (b), for the words "Board with the approval of the Federal Minister-in-charge", the words "Federal Government" shall be substituted

**OUR COMMENTS:** Powers of Federal Government, which were earlier transferred to Federal Minister-in-charge through Finance Act 2017, are now proposed to be restored.



#### Scope of Tax

#### Section 3(3A)

### Existing

Notwithstanding anything contained in clause (a) of sub-section (3), the Board with the approval of the Federal Minister-incharge may, by a notification in the official Gazette, specify the goods in respect of which the liability to pay tax shall be of the person receiving the supply

#### **Proposed Amendment**

In sub-section (3A), for the words "Board with the approval of the Federal Minister-incharge", the words "Federal Government" shall be substituted; and

**OUR COMMENTS:** Powers of Federal Government, which were earlier transferred to Federal Minister-in-charge through Finance Act 2017, are now proposed to be restored.

Scope of Tax Section 3(5)

#### **Existing**

The Board with the approval of the Federal Minister-in-charge may, in addition to the tax levied under sub-section (1) 3[...], 4[...] sub-section (2) and sub-section (4), levy and collect tax at such extra rate or amount not exceeding seventeen per cent of the value of such goods or class of goods and on such persons or class of persons, in such mode, manner and at time, and subject to such conditions and limitations as it may, by rules, prescribe.

#### **Proposed Amendment**

In sub-section (5), for the words "Board with the approval of the Federal Minister-incharge", the words "Federal Government" shall be substituted;

**OUR COMMENTS:** Powers of Federal Government, which were earlier transferred to Federal Minister-in-charge through Finance Act 2017, are now proposed to be restored.

**Zero Rating** 

#### **Existing**

such other goods as the Board with the approval of the Federal Minister-in-charge may, by notification in the Gazette, specify:

Section 4(c)

#### **Proposed Amendment**

in section 4, in clause (c), for the words "Board with the approval of the Federal Minister-in-charge", the words "Federal Government" shall be substituted;

**OUR COMMENTS:** Powers of Federal Government, which were earlier transferred to Federal Minister-in-charge through Finance Act 2017, are now proposed to be restored.





#### **Determination of Tax Liability**

#### **Existing**

- (3) Notwithstanding anything in subsections (1) and (2), the Board with the approval of the Federal Minister-in-charge may, by a special order, subject to such conditions, limitations or restrictions as may be specified therein allow a registered person to deduct input tax paid by him from the output tax determined or to be determined as due from him under this Act.
- (4) Notwithstanding anything contained in this Act or rules made there under, the Board with the approval of the Federal Minister-in-charge may, by notification in the official Gazette, subject to such conditions, limitations or restrictions as may be specified therein, allow a registered person or class of persons to deduct such amount of input tax from the output tax as may be specified in the said notification.

**Section 7(3) & (4)** 

#### **Proposed Amendment**

In sub-section (3), for the words "Board with the approval of the Federal Minister-incharge", the words "Federal Government" shall be substituted; and

In sub-section (4), for the words "Board with the approval of the Federal Minister-incharge", the words "Federal Government" shall be substituted:

**OUR COMMENTS:** Powers of Federal Government, which were earlier transferred to Federal Minister-in-charge through Finance Act 2017, are now proposed to be restored.

## Levy And Collection Of Tax On Specified Goods On Value Addition

#### **Existing**

- (1) Notwithstanding anything contained in this Act or the rules made there under, the Board with the approval of the Federal Minister-in-charge may specify, notification in the official Gazette, that sales tax chargeable on the supply of goods of such description or class shall, with such limitations or restrictions as may be prescribed, be levied and collected on the difference between the value of supply for which the goods are acquired and the value of supply for which the goods, either in the same state or on further manufacture, are supplied.
- (2) Notwithstanding anything contained in this Act or the rules made there under, the Board with the approval of the Federal

**Section 7A(1) & (2)** 

#### **Proposed Amendment**

In sub-section (1), for the words "Board with the approval of the Federal Minister-incharge", the words "Federal Government" shall be substituted; and

In sub-section (2), for the words "Board with the approval of the Federal Minister-incharge", the words "Federal Government"







#### **Section 7A(1) & (2)**

## Levy And Collection Of Tax On Specified Goods On Value Addition

Minister-in-charge may, by notification in the official Gazette, and subject to the conditions, limitations, restrictions and procedure mentioned therein, specify the minimum value addition required to be declared by certain persons or categories of persons, for supply of goods of such description, or class as may be prescribed, and to waive the requirement of audit or scrutiny of records if such minimum value addition is declared.

shall be substituted;

**OUR COMMENTS:** Powers of Federal Government, which were earlier transferred to Federal Minister-in-charge through Finance Act 2017, are now proposed to be restored

#### **Tax Credit Not Allowed**

#### **Existing**

Any other goods or services which the Board with the approval of the Federal Minister-in-charge may, by a notification in the official Gazette, specify

"New Clause shall be added"

Section 8(1)(m)

#### **Proposed Amendment**

in clause (b), for the words "Board with the approval of the Federal Minister-in-charge", the words "Federal Government" shall be substituted:

"(m) import of scrap of compressors falling under PCT heading 7204.4940

**OUR COMMENTS:** Entitlement to reclaim input tax or deduct input tax on import of scrap of compressors falling under PCT heading 7204.4940 is proposed to be withdrawn through insertion of a new sub-clause (m) in Section 8.

#### **Assessment Giving Effect To An Order**

**Section 11B** 

**Existing** 

"New Section shall be added"

#### **Proposed Amendment**

Except where sub-section (2) applies, where, in consequence of, or to give effect to, any finding or direction in any order made under Chapter-VIII by the Commissioner (Appeals), Appellate Tribunal, High Court or Supreme Court an order of assessment of tax is to be issued to any registered person, the Commissioner or an officer of Inland Revenue empowered in this behalf shall issue the order within one year ......, if an appeal or reference has been preferred against the







order passed by Appellate Tribunal or a High Court.

**OUR COMMENTS:** It is proposed to insert a new section in the Sales Tax Act 1990 requiring that an appeal effect order to be passed within one year to give effect to the findings or directions of the Commissioner (Appeals), Appellate Tribunal, High Court or Supreme Court of Pakistan.

The provision is being introduced to facilitate the taxpayers for early finalization og the appeal effect order pursuant to appeal order passed by the Commissioner (Appeals), Appellate Tribunal, High Court or Supreme Court of Pakistan.

Exemption Section 13(2)(a)

#### **Existing**

The Board with the approval of the Federal Minister-in-charge may pursuant to the approval of the Economic Coordination Committee of Cabinet. whenever circumstances exist to take immediate action for the purposes of national security, natural disaster, national food security in emergency situations, protection of national economic interests in situations arising out of abnormal fluctuation in international commodity prices, removal of anomalies in taxes, development of backward areas and implementation of bilateral, multilateral agreements matters and relating international financial institutions or foreign government-owned financial institutions by notification in the official Gazette, exempt any taxable supplies made or import or supply of any goods or class of goods, from the whole or any part of the tax chargeable under this Act, subject to the conditions and limitations specified therein;

#### **Proposed Amendment**

In clause (a), the expression "with the approval of the Federal Minister-in-charge" shall be omitted;

**OUR COMMENTS:** In circumstances where immediate action for the purpose of national security, natural disaster etc. required, the Board with the approval of Federal Minister-Incharge may take immediate action. Through the amendment, it is proposed to done away with the requirement of approval of Federal-Minister In-charge.



#### Access To Record, Documents, etc.

#### **Existing**

The officer of Inland Revenue authorized by the Commissioner, on the basis of the record, obtained under sub-section (1), may, once in a year, conduct audit:

Provided that in case the Commissioner has information or sufficient evidence showing that such registered person is involved in tax fraud or evasion of tax, he may authorize an officer of Inland Revenue, not below the rank of Assistant Commissioner, to conduct an inquiry or investigation under section 38:

Provided further that nothing in this subsection, shall bar the officer of Inland Revenue from conducting audit of the records of the registered person if the same were earlier audited by the office of the Auditor-General of Pakistan.

#### **Proposed Amendment**

In the second proviso, for the full stop at the end, a colon shall be substituted and thereafter the following new proviso shall be added, namely:—

"Provided also that audit under this section shall be conducted only once in every three years.";

**OUR COMMENTS:** By insertion of a new proviso in sub-section 2 of Section 25, sales tax audit is now proposed to be conducted only once in every three years.

## Directorate General, (Intelligence and Investigation) Inland Revenue

#### **Existing**

The Directorate General (Intelligence and Investigation) Inland Revenue shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors and Assistant Directors and such other officers as the Board, may by notification in the official Gazette, appoint

**Section 30A** 

Section 25(2)

#### **Proposed Amendment**

- (1) The Directorate General (Intelligence and Investigation) Inland Revenue shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors and Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.
- (2) The Board may, by notification in the official Gazette,—
- (a) specify the functions and jurisdiction of the Directorate General and its officers; and
- (b) confer the powers of authorities specified in section 30 upon the Directorate General and its officers.";

**OUR COMMENTS:** Finance Bill 2018 seeks to authorize the Board to specify the functions and jurisdictions of the Directorate General (Intelligence and Investigation) and its officers and to confer the powers in line with the powers being exercised by Officer of Inland Revenue.



#### **Existing**

The person liable to pay any amount of tax or charge or the amount of refund erroneously made, shall pay default surcharge at the rate of KIBOR plus three per cent per annum, of the amount of tax due or the amount of refund erroneously made; and

#### **Proposed Amendment**

For the expression "KIBOR plus three", the word "twelve" shall be substituted;

**OUR COMMENTS:** Presently, the rate of default surcharge is KIBOR plus three percent per annum for a registered person who does not pay the tax due or claim a tax credit, refund or make inadmissible adjustment. The rate of default surcharge is now proposed to be substituted with a fixed rate of 12% per annum.

#### **Posting of Inland Revenue Officer**

#### **Existing**

Subject to such conditions and restrictions, as deemed fit to impose, the Board, or Chief Commissioner may post Officer of Inland Revenue to the premises of registered person or class of such persons to monitor production, sale of taxable goods and the stock position:

Provided that if a Commissioner, on the basis of material evidence, has reason to believe that a registered person is involved in evasion of sales tax or tax fraud, he may, by recording the reason in writing, post an Inland Revenue to the premises of such registered person to monitor production or sale of taxable goods and the stocks position.

#### **Section 40B**

#### **Proposed Amendment**

- (a) the words "or Chief Commissioner" shall be omitted; and
- (b) for the colon at the end, a full stop shall be substituted and thereafter the proviso and the explanation shall be omitted;

**OUR COMMENTS:** The powers of the Chief Commissioner to post Officers of Inland Revenue to the premises of registered person are proposed to be withdrawn. Now these powers will only vested with the Federal Board of Revenue.





#### **Existing**

Notwithstanding any other provisions of this Act, or the rules made there under, any registered person aggrieved in connection with any dispute pertaining to:—

- (a) the liability of tax against the registered person, or admissibility of refunds, as the case may be;
- (b) the extent of waiver of default surcharge and penalty;
- (c) the quantum of input tax admissible in terms of sub-section (3) of section 7;
- (d) relaxation of any procedural or technical irregularities and condonation of any prescribed time limitation; and
- (e) any other specific relief required to resolve the dispute, may apply to the Board for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application, .....
- (6) The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this section.

#### **Proposed Amendment**

Notwithstanding any other provision of this Act or the rules made thereunder, an aggrieved person, who has filed an appeal which is pending before an Appellate Authority, may apply to the Board for the appointment of a committee for the resolution of any hardship or dispute

(10) The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this section.";

**OUR COMMENTS:** The mechanism of Alternate Dispute Resolution (ADR) is being revamped by making the recommendation of ADR Committee binding on both parties. The main features of the proposed ADR are as under:

An aggrieved person may apply to the Federal Board of Revenue (FBR) for the appointment of a committee for the resolution of any hardship or dispute mentioned in application. FBR shall, within sixty days of receipt of application, appoint a committee for the resolution of the hardship or dispute. It would be a pre-requisite that the aggrieved person or the Board, as the case may be shall withdraw the appeal pending before the appellate authority enabling the committee to initiate the proceedings.

The committee shall examine the issue and may conduct inquiry, seek expert opinion, direct any officer of the Inland Revenue or any other person to conduct an audit and shall decide the dispute within one hundred and twenty days of its appointment. The decision of the committee shall be binding on the FBR and the aggrieved person.

If the committee fails to decide the dispute within the period of one hundred and twenty days, FBR shall dissolve the committee and the matter shall be decided by the appellate authority.



#### **Recovery Of Arrears Of Tax**

Section 48(1)

Section 58

Section 60

#### **Existing**

Provided that the Commissioner Inland Revenue...... twenty-five per cent of the amount of tax due has been paid by the taxpayer.

#### **Proposed Amendment**

For the words "twenty-five", the word "ten" shall be substituted;

**OUR COMMENTS:** Presently, the taxpayer is required to pay at least 25% of amount of tax due for obtaining stay order till disposal of appeal by the Commissioner (Appeals). This threshold is now proposed to be reduced to 10%.

## Liability For Payment Of Tax In The Case Of Private Companies Or Business Enterprises

#### **Existing**

Notwithstanding anything contained in the Companies Ordinance 1984-----during the relevant period shall, jointly and severally with such persons, be liable for the payment of such tax.

#### **Proposed Amendment**

for the expression "Companies Ordinance, 1984 (XLVII of 1984", the expression "Companies Act, 2017 (XIX of 2017)" shall be substituted;

**OUR COMMENTS:** The proposed amendment seeks to substitute Companies Ordinance 1984 with the newly introduced Companies Act 2017.

## **Powers To Deliver Certain Goods**Without

**Existing** 

#### **Proposed Amendment**

Payment of tax.— Subject to such conditions, limitations or restrictions...... without payment of the whole or any part of the tax payable thereon to the following persons, namely:—

For the words "Board with the approval of the Federal Minister-in-charge", the words "Federal Government" shall be substituted;

**OUR COMMENTS:** Powers of Federal Government, which were earlier transferred to Federal Minister-in-charge through Finance Act 2017, are now proposed to be restored.

## **Exemption Of Tax Not Levied Or Short Levied As A Result Of General Practice**

#### **Proposed Amendment**

#### **Existing**

Notwithstanding anything contained in this Act, if in respect of any supply the Board with the approval of the Federal Minister-in-charge is satisfied that inadvertently and as a general practice:

for the words "Board with the approval of the Federal Minister-in-charge", the words "Federal Government" shall be substituted;

RESULT ASSURED Services for Growth



Section 65



## **Exemption Of Tax Not Levied Or Short Levied As A Result Of General Practice**

Section 65

**OUR COMMENTS:** Powers of Federal Government, which were earlier transferred to Federal Minister-in-charge through Finance Act 2017, are now proposed to be restored.

#### **Special Procedure**

#### **Section 71(1)**

#### **Existing**

# Notwithstanding anything contained in this Act, the Board with the approval of the Federal Minister-in-charge may, by notification in the official Gazette, prescribe special procedure for scope and payment of tax, registration, book keeping and invoicing requirements and returns, etc. in respect of such supplies as may be specified therein.

#### **Proposed Amendment**

For the words "Board with the approval of the Federal Minister-in-charge", the words "Federal Government" shall be substituted;

**OUR COMMENTS:** Powers of Federal Government, which were earlier transferred to Federal Minister-in-charge through Finance Act 2017, are now proposed to be restored.

Validation Section74A

#### **Existing**

All notifications and orders issued and notified in exercise of the powers conferred upon the Federal Government, before the commencement of Finance Act, 2017 shall be deemed to have been validly issued and notified in exercise of those powers.

#### **Proposed Amendment**

The existing provision thereof shall be numbered as sub-section (1) of that section;

- (b) in sub-section (1), numbered as foresaid, for the figure "2017", the figure "2018" shall be substituted; and
- (c) after sub-section (1), numbered and amended as aforesaid, the following new sub-section (2) shall be added, namely:—
- "(2) Notwithstanding anv omission, irregularity or deficiency in the establishment of or conferment of powers and functions on the Directorate General (Intelligence and Investigation), Inland Revenue authorities specified in section 30A, all orders passed, notices issued and actions taken, before commencement of the Finance Act, 2018, in exercise or purported exercise of the powers and functions of the officers of Inland Revenue under this Act by the Director General (Intelligence and Investigation), Inland Revenue or the authorities specified in section 30A shall be deemed to have been validly passed, issued and taken under this Act.";

**OUR COMMENTS:** It is proposed to provide Validation to all the previous orders passed, notices issued and actions taken by the Directorate General (Intelligence and Investigation), Inland Revenue by proposing appropriate amendment in Section 74A.



## FIFTH SCHEDULE

#### Zero rating granted to stationery items

Zero rating on supplies of 'stationery items' was withdrawn through Finance Act 2016. Through this amendment, zero rating facility is now proposed to be restored by inserting the following entries against serial number 12 in the Fifth Schedule:

- (xx) Colors in sets (PCT heading 3213.1000)
- (xxi) Writing, drawing and marking inks (PCT heading 3215.9010)
- (xxii) Erasers (PCT heading 4016.9210 and 4016.9290)
- (xxiii) Exercise books (PCT heading 4820.2000)
- (xxiv) Pencil sharpeners (PCT heading 8214.1000)
- (xxv) Geometry boxes (PCT heading 9017.2000)
- (xxvi) Pens, ball pens, markers and porous tipped pens (PCT heading 96.08)
- (xxvii) Pencils including color pencils (PCT heading 96.09)

### SIXTH SCHEDULE

#### **Exempted Supplies**

#### Table 1

#### **Exemption from levy of sales tax**

The Finance Bill 2018 seeks to provide exemption on import or supply of various items by inserting following entries in Table 1 of the Fifth Schedule:

- Paper weighing 60 g/m2 for printing of Holy Quran imported by Federal or Provincial Governments and Nashiran-e-Quran as per quota determined by IOCO
- 138 Fish Feed
- Fans for dairy farms
- 140 Bovine Semen
- 141 Preparations for making animal feed
- Promotional and advertising material including technical literature, pamphlets, brochures and other give-aways of no commercial value, distributed free of cost by the exhibitors
- 143 (i) Hearing aids (all types and kinds)
  - (ii) Hearing assessment equipment;

Audiometers

**Tympanometer** 

**ABR** 

Oto Acoustic Omission

144 Liquefied Natural Gas imported by fertilizer manufacturers for use as feed stock







- Plant, machinery, equipment including dumpers and special purpose motor vehicles, if not manufactured locally, imported by M/s China State Construction Engineering Corporation Limited (M/s CSCECL) for the construction of Karachi Peshawar Motorway (Sukkur Multan Section) and M/s China Communication Construction Company (M/s CCCC) for the construction of Karakorum Highway (KKH) Phase-II (Thakot Havellian Section) subject to certain conditions
- Equipment, whether or not locally manufactured, imported by M/s China Railway Corporation to be furnished and installed in Lahore Orange Line Metro Train Project subject to certain conditions
- Goods supplied to German Development Agency (Deutsche Gesellschaft für Internationale Zusammenarbeit) GIZ
- Imported construction materials and goods imported by M/s China State Construction Engineering Corporation Limited (M/s CSCECL), whether or not locally manufactured, for construction of Karachi-Peshawar Motorway (Sukkur Multan Section) subject to fulfilment of same conditions, limitations and restrictions as are specified under S. No. 145 of this table, provided that total incidence of exemptions of all duties and taxes in respect of construction materials and goods imported for the project shall not exceed ten thousand eight hundred ninety-eight million rupees.

#### Table 3

#### **Exemption on import of computer parts**

By inserting entry in Table 3 to the Sixth Schedule to the Sales Tax Act, 1990, it is being proposed to grant exemption, to the manufacturers registered with and certified by Engineering Development Board for assembling and manufacturing of personal computers and laptops in accordance with quota determined by IOCO, on import of 21 types of computer parts:

#### **Exemption to Special Economic Zone**

Exemption is being proposed to be granted on Plant and machinery, except the items listed under Chapter 87 of the Pakistan Customs Tariff, imported for setting up of a Special Economic Zone (SEZ) by zone developers and for installation in that zone by zone enterprises, on onetime basis as prescribed in the SEZ Act, 2012 and rules thereunder subject to such condition, limitations and restriction as a Federal Board of Revenue may impose from time to time.





## **EIGHTH SCHEDULE**

#### Table 1

#### Reduced rate on agricultural machinery

Presently certain equipment of agricultural machinery is subject to levy of sales tax at a rate of 7%. Through Finance Bill 2018, it is being proposed to reduce the sales tax rate on agriculture machinery from 7% to 5% by making appropriate amendments in the Eighth Schedule.

#### Reduced rate on supply of natural gas

Natural gas supplied to fertilizer plants for use as feed stock is presently subject to levy of sales tax at a rate of 10%. It is being proposed to reduce this rate to 5%.

#### Levy of sales tax on fertilizers

Finance Bill 2018 seeks to provide levy of sales tax at a reduced rate of 3% on all fertilizers across the board.

#### LNG imported by PSO and PLL

Import of LNG by M/s. Pakistan State Oil and M/s. Pakistan LNG Limited is currently subject to levy of sales tax at a standard rate of 17%. Finance Bill, 2018 seeks to levy of sales tax at a reduced rate 12% by adding respective entries in the Eighth Schedule to the Sales Tax Act, 1990.

Further, supply of RLNG by M/s. Pakistan State Oil and M/s. Pakistan LNG Limited to M/s. Sui Northern Gas Pipelines Limited is presently subject to levy of standard rate of sales tax at a rate of 17% which is now proposed to be reduced to 12%.

#### Levy of sales tax on cinematographic equipment

For revival of film industry, the Finance Bill 2018 seeks to introduce levy of sales tax at a reduced rate of 5% on import of nineteen items of cinematographic equipment, imported during the period commencing on July 1, 2018 and ending on June 30, 2023 subject to limitations and conditions imposed under the Customs Act, 1969.

#### Levy of sales tax on import of lithium iron phosphate batteries

Import of Lithium Iron Phosphate Batteries are presently subject to levy of sales tax at a standard rate of 17%. This rate is being proposed to be reduced to 12%.

#### Table 2

#### Capital goods for transmission line projects

It is being proposed to levy a non-adjustable / non-refundable sales tax at a rate of 5% on capital goods for Transmission Line Projects. The concession will be available in respect of those Transmission Line Projects which are being executed under Standard Implementation Agreement







under Policy Framework for Private Sector Transmission Line Projects, 2015 and Projects Specific Transmission Services Agreement.

Various other budgetary measures introduced by the Finance Bill have been included under budget high lights:





## OTHER LAWS



## FEDERAL EXCISE DUTY

#### Powers of 'Federal Government' restored

Powers of Federal Government, which were earlier transferred to the Federal Minister-in-charge through Finance Act 2017, are now proposed to be restored.

Default surcharge Section 8

Presently, the rate of default surcharge is KIBOR plus three percent per annum for a registered person who does not pay the duty due or claim a refund of duty, duty drawback or make inadmissible adjustment. The rate of default surcharge is now proposed to be substituted with a fixed rate of 12% per annum.

#### Assessment giving effect to an order

Section 14B

Finance Bill 2018 seeks to insert a new section in the Federal Excise Act 2005 introducing an appeal effect order to be passed within one year to give effect to the findings or directions of the Commissioner (Appeals), Appellate Tribunal, High Court or Supreme Court of Pakistan.

**Section 29 (2)** 

The bill seeks to insert a new clause (aa) after clause (a) in subsection (2) of section 29 empowering the Board to specify the functions and jurisdiction of the Directorate General and its officers and confer powers of authorities specified in section 30 upon the Directorate General and its officers.

#### Thresh hold for obtaining stay order reduced

**Section 37 (3)** 

Presently, the taxpayer is required to pay minimum threshold of 25% of amount of duty due for obtaining stay order till disposal of appeal by the Commissioner (Appeals). This threshold is now proposed to be reduced to 10%.

#### Alternate dispute resolution

**Section 38** 

Finance Bill 2018 seeks to revamp the mechanism of Alternate Dispute Resolution (ADR) making the similar amendments as proposed in case of other statues.

#### Posting of Inland Revenue staff

**Section 45 (2)** 

The powers of the Chief Commissioner to post Officers of Inland Revenue to the premises of registered person are proposed to be withdrawn. Now these powers are only vested with the Federal Board of Revenue.





Audit Section 46 (10)

By insertion of a new sub-section (10) of Section 46, audit under Federal Excise Act 2005 is now proposed to be conducted only once in every three years.

Validation Section 47C

It is proposed to provide validation to all the previous orders passed, notices issued and actions taken by the Directorate General (Intelligence and Investigation), Inland Revenue by proposing appropriate amendment in Section 47C.

## FIRST SCHEDULE

The Finance Bill, 2018 seeks to enhance the rate of Federal Excise Duty (FED) on various excisable goods in the following manner:

#### Table I – Excisable Goods

Item Description	Existing	Proposed
Locally produced cigarettes if their on- pack printed retail price exceeds Rs. 4,500 per thousand cigarettes	Rs 3,740	Rs 3,964
Locally produced cigarettes if their on- pack printed retail price exceeds Rs. 2,925 up to Rs 4,500 per thousand cigarettes	Rs 1,670	Rs 1,770
Locally produced cigarettes if their on- pack printed retail price up to Rs. 2,925 per thousand cigarettes	Rs 800	Rs 848
Portland cement aluminous cements super sulphate cements, whether or not coloured or in the form of clinkers	Rs 1.25 per KG	Rs 1.50 per KG

### THIRD SCHEDULE

Exemption from levy of FED is being proposed to be granted to equipment, whether or not locally manufactured, imported by M/s China Railway Corporation to be furnished and installed in Lahore Orange Line Metro Train Project subject to certain conditions.





Finance Bill 2018 seeks to grant exemption from levy of FED on commission paid by State Bank of Pakistan (SBP) and its subsidiaries to National Bank of Pakistan or any other banking company for handling banking services of Federal or Provincial Government as SBP's agent.

#### Health levy on tobacco

Pakistan Tobacco Board or its contractor shall collect Health Levy tax at a rate of Rs 10/kg of tobacco from every person purchasing tobacco including manufacturers of cigarettes.

#### Mobile handset levy

Mobile handset levy on import of smart phones of following different categories is being proposed:

Import value of handset (including duties and taxes)	Rate of levy (per set)	
Up to Rs 10,000	NIL	
Rs 10,001 to Rs 40,000	Rs 1,000	
Rs 40,001 to Rs 80,000	Rs 3,000	
Rs 80,001 and above	Rs 5,000	



## **CUSTOM DUTY**

#### SIGNIFICANT AMENDMENTS

The Bill proposes the following significant amendments in the Customs Act, 1969. For the sake of brevity and quick understanding of our clients we have tried to keep our comments brief and to the point.

#### Section 2(p) Pakistan custom-waters

Clause (p) of section 2 is proposed to be amended with the intent to extent the customs enforcement activities in the sea up to 24 nautical miles from existing 12 nautical miles (1 nautical mile = 1.852 kilometer) thus bringing the same in line with the international standards.

#### Section 2(pa) Person

Clause (pa) of section 2 will now also include a "local manufacturer" in the definition of person.

#### Section 18 Goods dutiable

Keeping in line with the similar amendment introduced in the other statue the bill also proposes to restore the powers of the Federal Government for levying of regulatory duty by substituting the words "Federal minister-in-charge" in subsection (3) of the said section with the words "Federal Government". Further bill also proposes to amend subsection (5) of the said section to exclude regulatory duty from the purview of obligation relating to multilateral agreement.

#### Section 19 General power to exempt from custom-duties

Similarly as mentioned in section 18 above the bill proposes to restore the powers of the Federal Government to exempt customs duty/allow various concessions, etc. by substituting the words "Federal minister-in-charge" in subsection (1) of the said section with the words "Federal Government". Further in order to keep the sanctity of the notification issued earlier the bill also proposes to amend subsection (5) of the said section to extend the validity of notification till 2019.

## Section 25AA Power to use data exchange information for determination of custom value

A new section 25AA is being inserted to provide for legal cover for utilizing any data obtained through mutual assistance agreements, as per section 219A, for the purpose of assessment and valuation.

#### Section 25C Power to take over the imported goods

The bill proposes to empower Chief Collector, instead of the Federal Board, to allow Collector to take over the imported goods by amending in subsection (1) of the said section.

#### Section 32 False statement, error, etc.

The bill proposes to amend subsection (3) of the said section by adding second proviso to meet the requirements of Trade Facilitation Agreement, where voluntarily payment is considered a mitigating factor for establishing a penalty.

#### Section 33 Refund to be claimed within one year

By insertion of this new subsection (3A) a time period of 180 days from the date of the filing claim has been fixed for deciding the fate of the refund claim. However, the collector of customs may extend the time for a further period not exceeding 90 days after recording reasons in writing.





#### Section 42 Arrival of conveyance

The bill proposes to amend subsection (2) of said section to ensure provision of accurate and complete information of passenger in advance to thwart attempts of money laundering and currency smuggling.

## Section 55 Power to refuse port clearance to vessels or permission for departure to other conveyance

The bill proposes to make the shipping agents responsible for the dues charged and collected by them in connection with the discharge and delivery of goods by amending subsection (1) of the said section.

#### Section 83B Provisional release of imported goods

The proposes to insert new section 83B, in compliance with requirements under Trade Facilitation Agreement and in order to provide for release of imported goods on furnishing of bank guarantee or pay order against monetary penalties involved thereof.

#### Section 138 Frustrated cargo how dealt with

The bill proposes to allow the export of goods brought into a customs station, where the consignee has dishonored his commitment.

#### Section 156 Punishment for offences

The bill proposes to amend, clause 12A of said section, to bring noncompliance of electronic notices under section 155M at par with section 126A. Further bill also seeks to amend clause 63 of said section to enhance penalties for pilferage, replacement enroute or in case transshipped goods failed to reach the port destination.

#### Section 182 Vesting of confiscated property in the Federal Government

The bill proposes to empower an officer or person authorized by the Collector or Director to take and hold possession of confiscated goods by amending said section.

#### Section 193A Procedure in appeal

By inserting a new subsection (2A) the bill proposes to empower Collector (Appeals) to grant stay against recovery of duty and taxes, for a period not exceeding 30 days.

#### Section 194B Orders of Appellate Tribunal

The bill proposes to amend the said section to replace the word "Controller" with "Director" in consequence to the re-designation of the post after insertion of section 3D.

#### Section 207 Customs house agents to be licensed

The bill proposes to amend the said section to give special reference to shipping agent and for providing legal cover to the shipping rules.

#### Section 212A Authorized economic operator proramme

The bill proposes to insert a new section to introduce authorized economic operator programme enabling it to meet the obligation of the Trade Facilitation Agreement.

#### Section 219 Power to make rule

The bill proposes to amend said section, by inserting new subsection (3A), to provide opportunity to the public for offering comments before enforcing any rule to comply with the requirements of Trade Facilitation Agreement.

#### Section 221A Validation

The bill proposes to amend said section, by inserting new subsection (2), to validate levy and collection of regulatory duty already collected before decision of the honorable Sindh High Court.







## **AMENDMENTS IN THE FIRST & FIFTH SCHEDULE**

The First and Fifth Schedules are being amended allowing for following relief measures;

Sr. No.	Name	Schedule	Part/Chapter	Existing	Proposed
	7.5.1.1.1		10	Rate	Rate
1	Multi-ply	1st	48	20%	18%
2	Aluminum foil	1st	76	20%	18%
3	Growth promoter	5th	Part-III	10%	5%
4	Vitamin premix	5th	Part-III	10%	5%
5	Vitamin B12	5th	Part-III	10%	5%
6	Vitamin H2	5th	Part-III	10%	5%
7	Optical Fiber	1st	85	20%	5%
8	Equipment in cinema	1st	90	3%	3%
9	Acetic acid	1st	20	20%	16%
10	Plasters	1st	25	16%	11%
11	Ethylene	1st	39	20%	16%
12	Carbon Black	1st	28	20%	16%
13	Aluminum alloys	1st	76	16%	8%
14	Coal	5th	Part-VI	5%	3%
15	Fire Fighting	1st	87	30%	10%
16	Electric Vehicles	1st	87	50%	25%
17	kits of electric vehicle	1st	87	50%	10%
18	Glasses	1st	70	11%	3%
19	Lithium	1st	85	11%	8%
20	Bovine semen	1st	5	3%	Exempted
21	Tasigna	5th	Part-II	5%	Exempted
22	LED parts	5th	Part -I	5%	Exempted
23	Hides	1st	84	3%	Exempted
24	Hydrogen Bromide	1st	38	11%	Withdrawal
25	Electric Vehicles	1st	87	15%	Exempted

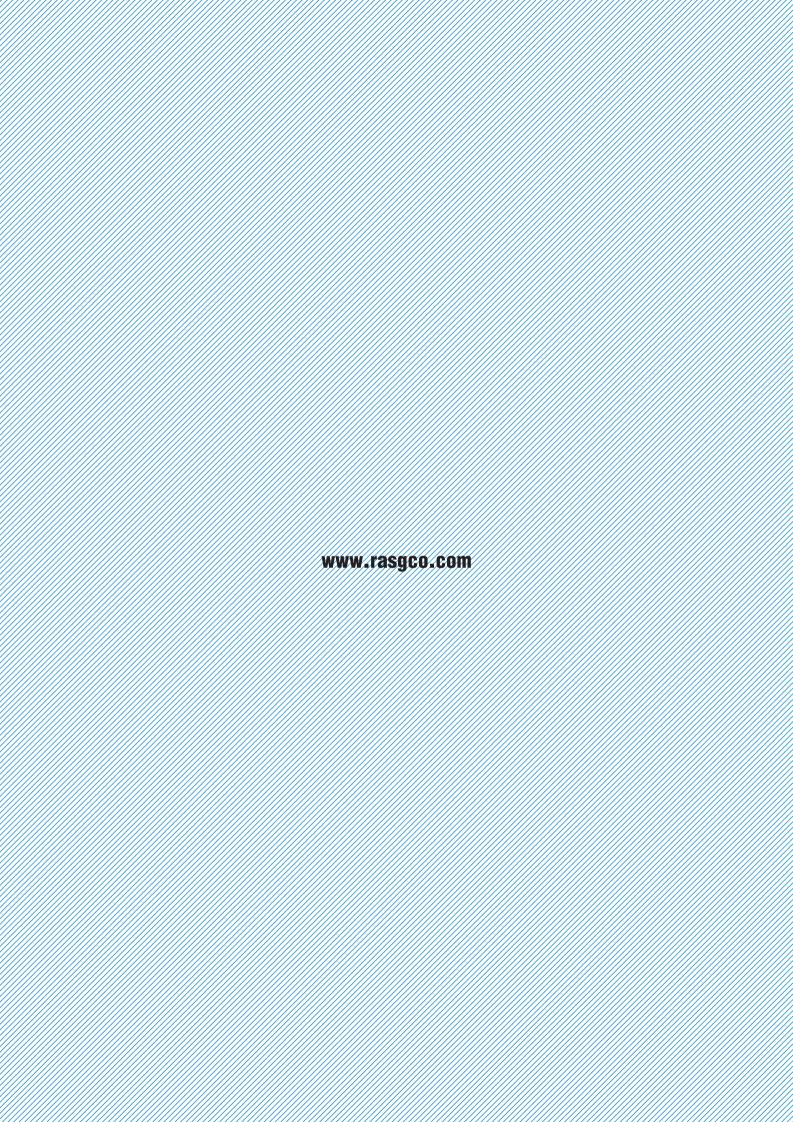
Further the First and Fifth Schedules are also being amended enabling rationalization of tariff as under;

Sr. No.	Name	Schedule	Part/Chapter	Existing	Proposed
				Rate	Rate
1	Double-sided tape	1st	39	3%	11%
2	Rickshaw Tyre	1st	40	11%	20%
3	Soya bean oil	1st	15	Rs.9050/MT	Rs.12,000/MT
4	Soya bean oil	1st	15	Rs.10200/MT	Rs.13,200/MT
5	Aluminum auto	1st	76	30%	35%
6	Di-Octyl	1st	29	3%	20%











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