



# Tax Memorandum 2019

**MOORE STEPHENS**

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## **PREFACE**

This Tax Memorandum summarizes crucial changes proposed in the Finance Bill 2019 in Income Tax, Sales Tax, Federal Excise Duty and Customs Duty Laws.

All changes through the Finance Bill 2019 are effective from 01 July 2019.

The tax memorandum contains the comments, which represent our interpretation of the legislation. We, therefore, recommend that while considering their application to any particular case, reference be made to the specific wordings of the relevant statute(s).

The memorandum can also be accessed on our website [www.shekhamufti.com](http://www.shekhamufti.com)

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**SALIENT FEATURES*****Income Tax***

- The Filer and Non-Filer is being proposed to be shelved with its existing concept and framework and being re-launched with a new and more ferocious set of business rules with them.
- There was a discrimination between the Non-Filers & Late Filers of Tax Return which has perhaps now been addressed by introducing a new concept & scheme that the Late Filers can enter into the Filer list after making the payment of surcharge into the Government treasury.
- The Non-Filer was previously restricted from registering of new locally manufactured or imported motor vehicles and purchase of immovable property. The aforesaid restriction placed on purchase of immovable property is proposed to be withdrawn.
- The concept for equal treatment of holding period for constructed and unconstructed property (plots) for tax exemption has been abolished and two different holding periods have been introduced.
- The mechanism of fixed rate or slab rate of tax on capital gain on immovable property has also been replaced altogether with Normal Tax rate as is applicable to the taxpayer.
- Purchase of immovable property having fair market value of five million rupees or more and any other asset having fair market value of one million rupees or more, required to be transacted through banking channel. If done through any other mode than such asset not to be eligible for depreciation / amortization and the purchase price not to be recognized as cost at the time of computing gain on sale of such asset.
- The Bill proposes to introduce mechanism for issuance of income tax refunds by the FBR through promissory notes / bonds to be issued by FBR Refund Settlement Company Limited.
- The Rate of Corporate tax was to be reduced by 1% on yearly basis up to 25%. The Bill is now being proposed to restrict such rate at 29% for the Tax Year 2019 and onwards.
- The general rate of minimum tax on turnover under section 113 of the Ordinance is proposed to be increased to 1.5%.
- The Exemption from Minimum Tax is being proposed to be withdrawn as available to the Companies falling the Sectors as specified under Clause 94, Part IV of the 2nd Schedule.

- The Finance Bill seeks to reduce the Rate of Withholding Tax from 8% to 4% on the transaction as referred under sub Section (1)(b) of Section 153 of the Ordinance. It is further proposed to enhance withholding rate on transport services to 4% from 2%.
- The Tax credit @ 10% on investment in Plant & Machinery under Section 65B of the Ordinance for BMR, is proposed to be retrospectively reduced by 50% as per existing Rate for the Tax Year 2019. The period for investment in plant and machinery for availing tax credit is also to be curtailed to 30 June 2019 from 30 June 2021.
- The Bill proposes to withdraw the initial allowance on building available at the rate of 15%.
- The proceedings of Monitoring of withholding tax already carried out under Section 161 of the Ordinance, may further be re-examined, reassessed by the Commissioner-IR after affording an opportunity of being heard to the assessee.
- The Tax deducted or deductible on certain transactions fallen under Final Tax, has now been proposed to come into Minimum Tax. Few of them are as under;
  - a) Income arising from commercial imports
  - b) Income from profit on debt (other than a company)
  - c) Income arising to a non-resident person on account of certain contracts and services
  - d) Income arising from supply of goods
  - e) Income from execution of contracts except for a contract in respect of a sportsperson
  - f) Commission income
  - g) Income of CNG Stations
- The threshold for non-questionable foreign remittance under section 111(4) proposed to be reduced to five million rupees in a tax year from the present threshold of ten million rupees.
- Minimum threshold for non-chargeability of salaried individual is proposed to be enhanced to Rs.600,000. Further, the highest tax rate applicable on salaried individuals is proposed to be enhanced to 35%.
- Any amount or fair market value of any property received without consideration or received as gift, is proposed to be chargeable to tax as 'other income' in the hands of the recipient except for the gift received from grandparents, parents, spouse, real brother, real sister, son or a daughter.
- Penalties for various offences under the Ordinance are proposed to be substantially enhanced. In addition, certain new penalties are proposed to be introduced for various offences as well.

- The date of filing of return of income for salaried individuals is proposed to be aligned with the due date prescribed for other individuals i.e. 30 September instead of 31 August.
- The rate of adjustable withholding tax on royalty payable to a resident person is proposed at 15% of the gross amount.
- The Bill proposes to seek a new proviso in clause (99A) whereby profit and gains on sale of immovable property to a rental REIT Scheme shall be exempt from tax upto 30 June 2021. Previously, this exemption was available on profit and gain on sale of immovable property to a developmental REIT Scheme, which is upto 30 June 2020.
- Currently, reduction of tax rate @ 40% is available for a full time teacher or a researcher who is employed in a non-profit education or research institution duly recognized by the Higher Education Commission (HEC), a Board of Education or a University recognized by the HEC including government training and research institution. The Bill proposes to reduce the rate of rebate to 25% from 40% as well as withdrawal of this rebate to teachers of medical profession who derive income from private medical practice or who receive share of consideration from patients.

## Sales Tax, Excise Duty & Customs Duty

- Zero rating facility provided to textile, leather, carpets, sports and surgical goods sector is to be withdrawn; restoring the standard tax regime i-e sales tax @17% for such goods
- All specified goods presently subject to extra tax except arms & ammunition, auto parts, tiles and confectionary items have been shifted to Third Schedule meaning thereby that now will be subject to standard tax at retail price
- Commercial importers of consumer products covered under Third Schedule, now have been made liable to print retail sale price on such products and pay sales tax thereon at par with local manufacturers of such items
- Turnover tax regime for retailers has been abolished, retailers liable to pay tax at applicable rate are now compulsory required get their point of sales integrated with the FBR online system for real time reporting. For inducement of customers to require proper sales tax invoice, 5% cash back offer has been introduced
- Supply of Auto Rickshaws and motorcycles is also to be subjected to sales tax at retail price
- Steel sector now exposed to FED @ 17% in sales tax mode. Further minimum production has been prescribed with reference to power consumption or weight of vessel imported for breaking
- Fixed tax regime for cooking oil and ghee has been done away with, now subject to FED @17% in sales tax mode
- Withholding of sales tax in respect of taxable purchases from unregistered supplier has been enhanced from 1% to 5% of gross value
- Supply of Ginned Cotton to be taxed @ 10%
- FED on cars presently applicable on vehicles with engine capacity in excess of 1700cc @ 10%, is being replaced with regime whereby FED is applicable on almost all vehicles @ 2.5% to 7.5 % depending on the engine capacity
- FED on aerated waters is to be enhanced from 11.5% to 14%
- Exemption granted under SRO-1212 (I)/2019 for supplies and imports made for consumption in erstwhile FATA /PATA region has been made part of Sixth Schedule
- Supply of electricity to all residential, commercial and industrial consumers in FATA/PATA region except for edible oil and steel sector has been exempted from sales tax

- Furnace Oil, mobile phone and raw material having suffered custom duty @ 16 & 20 at import stage have been provided exemption from payment of VAT at import stage
- Supply of food stuff by restaurants , bakeries and caterers etc. has been made taxable at reduced rate of 7.5 % without any right of input adjustment
- Supply of milk in all forms sold in retail packing under brand is now taxable @ 10%
- Internet Services and satellite based bandwidth services provided in Islamabad Capital Territory are now subject to FED
- Government departments, semi government and statutory regulatory authorities have been exempted from levy of further tax and extra tax
- Sales tax on supply of Sugar has been enhanced from 8% to 17%
- Parameters for cottage industry have redefined to narrow down its scope in a focused way
- Sugary drinks, juices, syrups and squashes have been subjected to FED @ 5%
- FED on cement has been enhanced from Re. 1.5/Kg to Rs. 2/Kg
- Scope of sales tax under ICT (Tax on Service) Ordinance has been widely extended in line with provincial sales tax laws
- Input tax attributable to sales made to individuals without obtaining their NIC number is to be disallowed.
- Board empowered to relax restriction on adjustment of input tax from 90% to 95%.
- Powers of Federal Government to grant exemptions and zero rating in appropriate cases has been curtailed
- Restriction of audit once in three years has been abolished, now audit can be selected for consecutive years
- Approval for revision of return from Commissioner is not required in cases where the revised return is filed within sixty days.
- Penalty for late filing of return has been enhanced from five to ten thousand
- FBR empowered to keep the audit selection parameters confidential
- Exemption withdrawn on following supplies:
  - Supply of electricity and natural gas to hospitals
  - Gold and Silver (unworked condition) (now taxable at reduced rate of 1% & 2% respectively)
  - Raw cotton and ginned cotton (now taxable at reduced rate of 10%)

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## INCOME TAX ORDINANCE, 2001

### 1- CHANGES IN PROVISIONS OF PERSONAL TAXATION

#### **Gift from Non-Relatives**

*(Section 39(1))*

Currently, it is not required to pay tax on receipt of gift from any person. It has now been proposed that the receipt of gift is brought within the ambit of taxable income under the head of "income from other sources". Accordingly, any gift whether monetary or non-monetary will now be made taxable except for those which were received from grandparents, parents, spouse, real brother, real sister, son or daughter.

One would recall that receipt of gift, whether received from relative or non-relative already becomes taxable, if it is received in cash. Hence, it appears that proposed amendments are aimed to further narrow-down the provision that even if received through banking channel, gift from non-relatives will become taxable. If this appears to be the proposed intension, the drafting of the current amendment should be edited.

As for the non-monetary gift or in other words gift in kind for which there was no provision available earlier has also now been catered under the proposed amendment and has been proposed to be meted out with the same treatment. The fair market value of the property gifted shall be taken into account for the purpose of computing the taxable income.

What appears anomalous is that definition of relative which is already available in sub-section 4 of Section 85 of the Ordinance, where it's include an ancestor, a descendant of any of the grandparents, or an adopted child, of the individual, has not been followed and instead a listing of relatives has been given which is an un-presented phenomena.

#### **Change in Definition of Resident Individual**

*(Section 82)*

Currently, a resident individual is the one, who is present in Pakistan for a total of one hundred and eighty-three (183) days or more in a tax year or either is an employee of the Federal Government or a Provincial Government.

It is now proposed to re-introduce the clause (ab) after sixteen (16) years, whereby an individual could also become resident for tax purposes, if he is present in Pakistan for ninety (90) days in the current year and who, in the last four (4) year was in Pakistan for a total of three hundred and sixty-five (365) days or more.

This would mean that, even if a person's stay in Pakistan is less than 183 days in a tax year his stay in the last four years would have relevance for determination of his residential status.

The apparent objective of the above provision is to ensure broader taxing rights on otherwise non-resident individuals.

**Reducing the Tax Free Foreign Remittance***(Section 111(4))*

It has been proposed that the foreign remittance through banking channel be reduced from Rs. 10 M (1 Crore) to Rs. 5 M (50 lacs) in a year to be eligible for exemption from investigation from FBR.

The bill also proposes to abolish the section 236W and withdraw the immunity to the differential amount invested in acquisition of property by payment of 3% tax under section 236W, consequent to new scheduler assessment of non-filers.

**Condition of Filing of Tax Return***(Section 114(1))*

It has been proposed that the condition of ownership of property of 250 square yards within the City limits to file return to be enhance to 500 square yards.

The above proposed provision does not seem to be in line with the corresponding condition of ownership of flat for which there is no limit of size of the covered area.

Needless to mention that the value of plot of 500 square yards is higher than the value of any flat.

**Return Filing Date for Salaried Individuals***(Section 118(3))*

It has been proposed that the due date for filing of return for salaried individual would be September 30, 2019 instead of August 31, 2019.

The above provision is a welcome and necessary change as now enough time will be provided to file the tax return in 120 days. The earlier, due date used to coincide with the due dates of filing of bi-annual statement under Section 165 and issuance of Withholding Tax Certificate under Rule 42 by the Employer.

**Recovery of Income Tax from Partner***(Section 139)*

It has been proposed that where any recovery of tax payable by an association of persons cannot be made, the same would be recovered from the partner of the Association. The partner would thereafter be allowed to recover the tax paid by him from the AOP.

It is proposed that any partner should be held responsible only and strictly to the extent of his percentage (%) of partnership in the Firm.

**Power to Enter and Search Premises**

*(Section 175)*

It has been proposed that bill has further empowered the commissioner to raid any premises where there is reliable information of (1) undeclared gold, (2) bearer security, or (3) foreign currency and to confiscate the same in order to enforce any provision of this ordinance.

We understand that this power of confiscation by the Commissioner would have a far reaching effect specially, in cases of undeclared and Benami Assets and account and annexed lockers with the bank.

**Reduction of Tax Rebate on Teachers and Researchers**

*(Clause 2 of P-III of 2<sup>nd</sup> Schedule)*

Full time teachers and researcher employed in a non-profit education or researcher institute duly recognized by the HEC including government training and research institute are currently enjoying 40% tax credits on their Salaries.

It has been proposed to clamp the above credit for full time teachers and professors and researchers which, will now be reduced to 25%.

Further it is proposed that the tax credit shall not be available to full time teachers or researcher of government training institute and to the teacher of medical profession who derive income from their private medical practices or who receive share consideration from hospital patient.

We understand that this will cause hardship to the genuine teachers and researchers and, therefore, instead of taking back the Rebate, the misuse of the same should be put to check and monitoring via Monitoring of withholding of taxes.

## 2- CHANGES IN TAXATION OF CAPITAL GAIN ON PROPERTIES

### Capital Gains Tax Exemption on Property

[Section 37(1A)]

The concept to bring the income of property gain in the tax net was introduced in the Finance Act, 2012 which was amended from passage of time. Initially, the holding period for exemption of capital gain tax on property was introduced for two (02) years, which was subsequently enhanced up to five (5) years. However, later on, it has again been restricted up to three (03) years.

Through the Finance Bill 2019-20, it has been proposed to enhance the holding period of property irrationally from three (03) years to ten (10) years.

Moreover, the concept for equal treatment of holding period for constructed and unconstructed property (plots) for tax exemption has also been abolished and two different holding periods have been introduced through the aforesaid Finance Bill, which are being narrated hereunder;

#### Constructed Property

S. No.	Holding Period of Property	FY 2020 Onwards
1	Where the holding period is up to one year	100% Taxable
2	Where the holding period is more than one year but less than five years	75% Taxable
3	Where the holding period is more than five year	0% Taxable

#### Un-Constructed Property (Plots)

S. No.	Holding Period of Property	FY 2020 Onwards
1	Where the holding period is up to one year	100% Taxable
2	Where the holding period is more than one year but less than ten years	75% Taxable
3	Where the holding period is more than ten year	0% Taxable

It remains important to mention here that the concept of fixed rate or slab rate of tax on capital gain has also been replaced altogether with Normal Tax rate as is applicable to the taxpayer. It appears that the changes in taxation of Capital Gain on property has been introduced on the same lines as that of taxation of capital gain on trading of shares of any Private Limited Company.

From 2020 onwards, the property seller has to club the capital gain on sale of his property in his taxable income and has to give income tax as per applicable slab rates, accordingly. Meaning thereby, if a person is classified under the salary slab between 3.5M to 5M, he has to give income tax on capital gain @ 20% which may well be enhanced up to @ 35%.

Moreover, one cannot afford to ignore another aspect of this taxation that due to income of capital gain, if a person could not meet the threshold of 75% of his salary income, he will fall in to Business Slab rates instead of Salaried Slab rates and has to bear highly heavy taxation not only on his capital gain but also on salary income as well which is proven to be double edge sword to him

We understand that the enhancement of holding period of property for tax exemption from three (03) years to five (05) and ten (10) years along with changing of methodology of taxation from Fixed to Normal are highly disturbing for the property holders and property dealers as well. This may seem fair on the statute books but any radical change has its own serious repercussions.

As per '**salient features**' of the budget released along with the Finance Bill, it has been mentioned that the gain on disposal of open plots would be reduced on the basis of net present value. However, no such provision has been given under the Finance Bill.

### **Income Tax on Purchase of Property**

*(Section 236W)*

The tax on purchase / transfer of property was introduced through the Supplemental Act / Fourth Amendment Act, 2016, whereby the purchaser is required to pay 3% tax on the difference between the DC value and FBR value of property to explain the source of investment to the extent of differential between FBR value and DC value. The tax collected under this Section is also not adjustable for the purchaser.

Through the Finance Bill 2019-20, the aforesaid tax under Section 236W of the Ordinance is proposed to be withdrawn as the FBR has been taking the measure steps to enhance the rates of immovable properties which may be brought to be closer the actual market value.

### **Income Tax on Purchase of Property**

*(Section 236K)*

Through the Finance Act, 2014, the Federal Board of Revenue introduced the advance tax collection from the purchaser on all kind of Immoveable Properties. Initially, the income tax from the purchaser was introduced to be collected @ 1% (Filers) and 2% (Non-Filer) which was later on enhanced the same from 1% to 2% for Filers while 2% to 4% for Non-Filers.

Through this Finance Bill, the FBR now seeks to reduce the tax rate of aforesaid advance tax from 2% to 1% from Filers irrespective of any threshold. The minimum threshold of four million (4M) as given under the Ordinance is accordingly, proposed to be abolished.

Moreover, it remains important to mention here that this advance tax shall now be collected on the fair market value rather than DC value / FBR value of property.

**Non-Filer Can Now Buy the Property***(Section 227C)*

Through the Finance Act, 2018-19, a major step was taken in order to restrict a Non-filer from purchasing the property exceeding five million rupees. Under this Section, a taxpayer not appearing in the Active Taxpayers' List (ATL), issued by the Federal Board of Revenue, will not be allowed to get the immovable property registered / transferred on his name from any authority.

Through this Finance Bill, the FBR has proposed to withdraw the aforesaid restriction, meaning thereby, the person whose name is not appearing in the ATL (Non-Filer) can now purchase any immovable property without considering the threshold of 5M as given under the Ordinance. This is because of the fact that a new mechanism of double taxation and scheduler assessment have been introduced for Non-Filers.

### 3- CHANGES IN TAXATION OF BUSINESS INCOME:

#### **New Tax Credit for Giving Jobs to Fresh Graduates**

*(Section 64C)*

A new tax credit has been proposed on employing fresh graduates. The tax Credit shall be allowed if the person employs fresh university graduates recognized by Higher Education Commission (HEC).

The mechanism for calculation of tax rebate has been based on the average rate of tax applicable on the person with upper limit on the amount of eligible tax credit at the lower of following:

- i) Actual Annual salary paid to employee
- ii) 5% of Taxable Income of the person

The tax credit is invariably available to Individual, Association of Persons and companies whether involved in the business of manufacturing, trading or providing Service.

It is patently visible that the amendment has been brought in to reduce the level of unemployment among the youth in the country by way of giving tax incentives to employers on their employment.

An anomaly however, which appears to exist in the drafting of the provision needs to be removed, which states that the tax credit is restricted to 15% of total number of employees employed by the company. This anomalous drafting gives impression either the restriction applies only in case of employment by companies which is discriminatory or that the whole tax credit of jobs to fresh graduates is for companies alone.

#### **Tax Credit on Purchase of Plant & Machinery Done Away With**

*(Section 65B)*

A company is entitled to claim the tax credit for investment in plant & machinery for the purpose of expansion, extension and BMR up till June 30, 2021 at the rate of 10% on the amount of plant & machinery.

The bill has now proposed to make the Tax Year 2019 as the last year for claiming the credit and that too at a reduced rate of 5%. Therefore, the Tax Year 2019 is the last year to claim the tax credit against investment in plant & machinery. However, any unused tax credit has been spared to be carry forward after tax year 2019.

It is a case nothing short of irrational withdrawal of a very prudent and sane tax credit and that too without any warning that instead of further enhancing the rate of tax credit or at least maintaining the same, the FBR has surprisingly proposed to withdraw the whole of the 10% tax credit altogether.

This change is unexpected and contrary to the government policy of promoting industrialization. Where on the one hand the government wishes to increase foreign or local

investment in Pakistan and on the other hand is disincentivizing the persons willing to invest in Industries.

**Increase in Minimum Tax on Turnover**

(Section 113)

The bill has proposed to increase the rate of Minimum tax payable on turnover for tax year 2020 as follows:

S.No	Person(s)	Minimum Tax for tax year 2019	Minimum Tax for tax year 2020
1.	(a) Oil marketing companies; <ul style="list-style-type: none"> <li>• PSO</li> <li>• Shell</li> <li>• Total</li> <li>• Hascol &amp; etc.</li> </ul> (b) Oil refineries; <ul style="list-style-type: none"> <li>• Pakistan Refinery Limited</li> <li>• National Refinery Limited</li> <li>• Pakistan Arab Refinery Limited</li> <li>• Attock Refinery Limited</li> <li>• Enar Petroleum Refining Facility &amp; etc.</li> </ul> (C) Sui Southern Gas Company Limited (d) Sui Northern Gas Pipelines Limited (e) Pakistani Airlines <ul style="list-style-type: none"> <li>• Airblue</li> <li>• Pakistan International Airlines</li> <li>• Serene Air &amp; etc.</li> </ul> (f) Poultry industry (g) Dealers or distributors of fertilizer (h) Person running an online marketplace	0.5%	0.75%
2.	(a) Distributors of <ul style="list-style-type: none"> <li>• Pharmaceutical products</li> <li>• Fast Moving Consumer Goods (FMCG)</li> <li>• Cigarettes</li> </ul> (b) Petroleum Agents and Distributors (c) Rice Mills and Dealers (d) Flour Mills.	0.2%	0.25%
3.	Motorcycle dealers	0.25%	0.3%
4.	In all other cases.	1.25%	1.5%

**Corporate Tax Rate; No More Tapering Off***(Division II Part 1 of First Schedule)*

The tax rate for companies has gradually been decreased from 35% in tax year 2013, to 30% in tax year 2018. Through the Finance Act, 2018, the tax rate for companies was further intended to be reduced from 30% in tax year 2018 to 25% in tax year 2023. At present, for tax year 2019 the tax rate is 29%. The government has retracted from its previous proposition and the bill has now proposed to freeze the corporate tax rate to 29% from tax year 2019 and onwards.

**Commission Paid to Unregistered Person to be Disallowed***(Section 21(ca))*

The bill has proposed to disallow commission paid to unregistered person, if it is paid at more than 0.2% of the gross sale, if he is not registered in Sales Tax and not appearing in the Active Taxpayers List. This disallowance however, is limited to sales and supplies of products listed in the Third Schedule of the Sales Tax Act 1990 alone.

This section will increase the cost of doing business with unregistered agents thereby compelling them to get registered and get into the tax net. We understand that the introduction of this section will broaden the tax base and will ensure documentation of such transaction.

**Sales Margin of Unregistered Dealers Will Become Income of the Manufacturer***(Section 108AB)*

The bill has proposed to introduce a new section where 75% of the dealer's margin would be taxed in the hands of the manufacturer in respect of products listed in the Third Schedule of the Sales Tax Act 1990, if sold to unregistered dealers and to those who are not appearing in the Active Taxpayers List. Moreover, the section has also proposed to deem the percentage of margin at not less than 10% of the sale price.

We understand that these provisions have been proposed to curb the practice of profit shifting to dealers who are part of the same group and which still remains out of tax net.

This section, therefore, will increase the cost of doing business with unregistered dealers if they continue to remain unregistered, thereby compelling them to get registered and get into the tax net. The introduction of this section therefore will broaden the tax base and will ensure documentation of such transaction.

It is pertinent to mention that this section caters for only dealers whereas the disallowance of expense under section 21(ca) would be made on commission paid to either dealers, distributors or wholesaler.

**Amortization of Intangible Asset Can Go Over Ten Years***(Section 24)*

Currently the intangibles, whose useful life is either not known or is known to be more than 10 years is to be amortized within 10 years which means that earlier it was tilted towards taxpayer advantage which now has been catered for The revenue. The bill has proposed to allow the amortization of the intangibles over their actual useful life and where actual useful life is not known, it may go over a period of 25 years.

A necessary amendment has further been proposed to exclude self-generated Goodwill from the definition of intangibles. We understand that the amendment has been introduced to curb any malpractice and to bring the tax provision in consonance with International Accounting Standards.

**Depreciation and Cost of Property Not Be Allowed If Purchased In Cash***(Section 75A)*

In another striking move against undocumented segment of the economy the bill has proposed to introduce a new Section to discourage the purchase of immovable property in Cash.

It has been proposed that if any immovable property of Rs 5 million or more or if any other property of Rs. 1 million or more is purchased otherwise than through crossed banking channel, the purchaser of the asset/property will not be eligible to claim either initial allowance, normal depreciation, amortization on either intangible or pre-commencement expenditure.

The bill also proposes that such cost of these asset/property purchased in Cash will not be allowed to be deducted at the time of sale of such asset/property.

As if the streak of amendments to discourage the cash payment was not enough, the bill also proposes to introduce penalty of 5% of the value of the property making it a cognizable offence under the Ordinance.

We understand that the amendment tantamount to double jeopardy for the taxpayer as not only will the taxpayer not be allowed to claim tax depreciation thereby already paying a higher tax on its income but will also be paying higher tax on its subsequent sale due to disallowance of cost.

Another fallout of the amendment may follow that since no depreciation is allowed, the said asset will be excluded from the definition of business asset and would thus be classified as Capital asset and subsequently any sale of such asset would then be taxable under the head of capital gain under Section 37 of the Ordinance instead of been taxed under Section 18 as income from business.

**No More Withholding Exemption for Service Companies under Minimum Tax**

*(Clause 94 of Part IV of Second Schedule)*

*(Section 153(1)(b))*

Clause 94 of Part IV of Second Schedule, was introduced by the Income Tax (Second Amendment) Act, 2016 which provides for exemption from Minimum tax to corporate service provider up to Tax Year 2019. However, these service providers were subjected to 2% Minimum tax if they file irrevocable undertaking to the Commissioner-IR for submission of its accounts for income tax affairs. Upon filing such undertaking, the Commissioner-IR was empowered to issue exemption certificate from withholding tax under section 153 by collecting 2% tax on entire turnover from all sources. Those specified corporate service providers were as follows:

1. Freight forwarding services
2. Air cargo services
3. Courier services
4. Manpower outsourcing services
5. Hotel services
6. Security guard services
7. Software development services
8. IT services and IT enabled services
9. Tracking services
10. Advertising services (other than by print or electronic media)
11. Share registrar services
12. Engineering services
13. Car rental services
14. Building maintenance services
15. Services rendered by Pakistan Stock Exchange Limited
16. Services rendered by Pakistan Mercantile Exchange Limited
17. Inspection services
18. Certification services
19. Testing services
20. Training services

The bill has now proposed to do away with the clause 94 from tax year 2020 and onwards where after exemption certificate for non-deduction of withholding tax under Section 153(1)(b) of the Ordinance will not be necessitated.

The bill has, however, proposed to reduce the rate of withholding tax of above service providers from 8% to 4%.

We apprehend that withholding tax rate of 4% is still higher as even with this reduced rate, a company would still be required to have earned a net margin of 14% in order to fully absorbed the tax withholding of 4% suffered at the time of payment.

#### 4. CHANGES IN TAXATION OF INTEREST INCOME

##### CHANGES IN TAXATION OF INTEREST INCOME

[Sections 7B & 151]

- 1- It has been proposed that the withholding on interest income is treated as minimum tax, which currently is in Fixed Tax Regime.

The slab tax rates is being tabulated as under;

Section	Head	Individuals / AOP			
		Tax Rates			
		Existing		Proposed	
Sections 7B & 151	Interest on Income	Up to 5,000,000	10%	Up to 5,000,000	15%
		5,000,000 to 25,000,000	12.5%	5,000,000 to 25,000,000	17.5%
		Up to 25,000,000	15%	25,000,000 to 36,000,000	20%

The comparison between existing and proposed amendment in interest income is being tabulated as under;

Interest on Income (Individual/AOP)				
Comparison Between Existing & Proposed				
Slab	Interest Income	Tax Year 2019 Existing	Tax Year 2020 Proposed	Increase / (Decrease)
1	5,000,000	500,000	750,000	250,000
2	10,000,000	1,250,000	1,750,000	500,000
3	20,000,000	2,500,000	3,500,000	1,000,000
4	25,000,000	3,125,000	4,375,000	1,250,000
5	30,000,000	4,500,000	6,000,000	1,500,000
6	36,000,000	5,400,000	7,200,000	1,800,000

- 2- Further, the rate of withholding is also proposed to be increased from 10% to 15% in all cases except where annual interest does not exceed Rs. 500,000/-
- 3- The provisions of minimum tax, however, will not be applicable on the interest income covered under the slab rate taxation of interest income under section 7B of the Ordinance.
- 4- The slab rate provides for taxation for only up to Rs. 36 Million of interest income per annum.
- 5- If the annual interest income exceeds Rs. 36 Million it will be made part of the total income and taxed at normal rates in case of Individual and AOP.

**5. CHANGES IN TAXATION OF RENTAL INCOME**

[Sections 15 & 155]

At present there are five (05) slabs of rental income with the highest slab rate at Rs. 200,000/- plus 20% of rental income exceeding Rs. 2,000,000/-.

It has been proposed to increase the number of slabs of Income in the hands of Individuals and Association of Persons (AOPs). The taxation in case of companies has also been proposed to be enhanced from 15% to 17.5%

After the change the new slab of rates has also been suggested in the Budget whereby the tax incidence has been proposed to be increased progressively.

Section	Head	INDIVIDUALS / AOP				Company	
		Gross Amount		Tax Rates		Existing	Proposed
		Existing	Proposed	Existing	Proposed		
Section 15 & 155	Income From Property	Up to 200K	Up to 200K	Nil	Nil	15% on Gross Rental Payment	17.5% on Gross Rental Payment
		200K to 600K	200K to 600K	5% on exceeding of 200k	5% on exceeding of 200K		
		600K to 1M	600K to 1M	20,000 plus 10% on exceeding of 600K	20,000 plus 10% on exceeding of 600K		
		1M to 2M	1M to 2M	60,000 plus 15% on exceeding of 1M	60,000 plus 15% on exceeding of 1M		
		Above 2M	2M to 4M	210,000 plus 20% on exceeding of 2M	210,000 plus 20% on exceeding of 2M		
		-	4M to 6M	-	610,000 plus 25% on exceeding of 4M		
		-	6M to 8M	-	1,110,000 plus 30% on exceeding of 6M		
		-	Above 8M	-	1,710,000 plus 35% on exceeding of 8M		

As can be seen that there have been given eight (08) tax slabs instead of five (05) tax slabs of last year, the comparative tax advantage has also been taken away as would be demonstrated in the following table: -

INCOME FROM PROPERTY (S. 15)				
Comparison Between Existing & Proposed				
Slab	Rental Income	Tax Year 2019 (FTR)	Tax Year 2020 (FTR)	Increase / (Decrease)
1	200,000	-	-	-
2	600,000	20,000	20,000	-
3	1,000,000	60,000	60,000	-
4	2,000,000	210,000	210,000	-
5	4,000,000	610,000	610,000	-
6	6,000,000	1,010,000	1,110,000	100,000
7	8,000,000	1,410,000	1,710,000	300,000
8	8,500,000	1,510,000	1,885,000	375,000

## 6- CHANGES IN TAXATION OF DIVIDEND INCOME

*(Section 150)*

In order to encourage the investment in power generation companies, WAPDA and coal supplying companies to power generation projects, a reduced tax rate on dividend was introduced @ 7.5%. It has now been proposed to enhance the tax rate from 7.5% to 15%.

Moreover, a very unexpected amendment has been proposed that in case where no tax is payable by the company either due to any exemption or carry forward of business losses or due to any tax credits, the withholding of income tax on dividend by such companies shall be 25% instead of 15%. Simultaneously, the reduced / special rates provided for dividends received from Collective Investment Schemes, REITs and Mutual Funds are also proposed to be withdrawn.

After the above proposed amendment are in place, the income tax on dividend by the following companies / Funds shall be @ 25%;

- Mutual Funds
- REIT Schemes
- Modaraba
- Collective Investment Schemes
- IT enables companies
- Companies having brought forward losses
- Companies claiming tax credits 65B, 65D, 65E etc.
- Any other exempt company under the Ordinance

We understand that the proposed amendment will drastically inflict the investment in exempt companies like Mutual Fund / REIT Schemes etc. due to heavy taxation on dividend income and also may be reduced the share price of listed companies as well.

## 7- CHANGES IN PENALTY PROVISIONS

### *Section 182;*

The bill proposes to increase penalties for certain offence and non-compliances as follows:

- Minimum Penalty on late filing of return is doubled from Rs. 20,000 to Rs. 40,000.
- Minimum Penalty on late filing of Salary return is limited for Rs. 5,000 instead of Rs. 40,000 if his Salary income does not exceed five (05) million.
- Minimum Penalty for non-filing wealth statement is jacked up Rs. 20,000 to Rs. 100,000.
- Penalty for failure to register under the Ordinance is doubled from Rs. 5,000 to Rs. 10,000.
- Minimum Penalty for repeated miscalculation in the return is jacked up from Rs. 5,000 to Rs. 30,000.
- Minimum Penalty for denying or obstructing the access of the Commissioner to the premises, place, accounts, documents, computers or stocks, is doubled from Rs. 25,000 to Rs. 50,000.
- Minimum Penalty for concealment of income or furnishing of inaccurate particulars of such income, is jacked up from Rs. 25,000 to Rs. 100,000.
- Minimum Penalty for failure on withholding of tax is enhance from Rs. 25,000 to Rs. 40,000.

The bill also proposes to introduce new Penalties as follows:

- Any person who purchases immovable property of rupees five (05) million or more in cash, it shall pay a penalty of 5% of the value of property.
- Where an offshore tax evader is involved in offshore tax evasion, it shall pay higher of Rs. 100,000 or 200% of the tax involved as penalty.
- Where an offshore enabler is involved in offshore tax evasion, it shall pay higher of Rs. 300,000 or 200% of the tax involved as penalty.
- Any person who is involved in asset move, it shall pay higher of Rs. 100,000 or 100% of the tax involved as penalty.
- Where a Reporting Financial Institution fails to comply with any provisions of section 165B of the Ordinance or Common Reporting Standard Rules in Chapter XIIA of Income Tax Rules, 2002, it shall pay a penalty of Rs. 10,000 for each default and continuing penalty of Rs. 10,000 each month until the default is redressed.

- Where a Reporting Financial Institution files an incomplete or inaccurate report under provisions of section 165B of the Ordinance and Common Reporting Standard Rules in Chapter XIIA of Income Tax Rules, 2002, it shall pay a penalty of Rs. 10,000 for each default and continuing penalty of Rs. 10,000 each month until the default is redressed.
- Where a Reporting Financial Institution fails to obtain valid self-certification for new accounts or furnishes false self-certification made by the Reportable Jurisdiction Person under Common Reporting Standard Rules in Chapter XIIA of Income Tax Rules, 2002, it shall pay a penalty of Rs. 10,000 for each default and continuing penalty of Rs. 10,000 each month until the default is redressed.
- Where a Reportable Jurisdiction Person fails to furnish valid self-certification or furnishes false self-certification under Common Reporting Standard Rules in Chapter XIIA of Income Tax Rules, 2002, it shall pay a penalty of Rs. 5,000 for each default and continuing penalty Rs. 5,000 each month until the default is redressed.

## 8- OTHER SIGNIFICANT CHANGES:

### (i) Scheduler Assessment for Non-Filer

*Section 101BA; the 10<sup>th</sup> Schedule*

Categorization of Non-Filer of tax return as a Non-Filer and keeping it out of actual tax payers list and making it to suffer even with higher withholding tax did not make the break through as the Non-Filer chose to live with higher withholding over filing the much desired and much due tax return. Hence, after experiencing the stigma for over eight (08) years, the whole concept of Filer and Non-Filer is being proposed to be shelved with its existing concept and framework and being re-launched with a new and more ferocious set of business rules with them.

2- The Bill now seeks to propose that Non-Filers shall now not only be punishable by paying hundred percent higher withholding tax but shall be subjected to Provisional Assessment on the basis of imputed income by the department.

3- The whole process of catching the Non-Filer is proposed to be triggered from the withholding statements filed by the Withholding Agents, wherefrom the Commissioner can draw the withholding tax amount and make the Provisional Assessment by imputing the income on the amount of tax so deducted or collected under the Ordinance.

4- On the down side of this new proposed scheme, the withholding agents under the Ordinance, who remain unpaid for all this job, has further been asked to ask and to write to the Commissioner and to wait for his reply for thirty (30) days, where he thinks that a withholder, though is a Non-Filer but was never required to file a tax return and due to which he thinks that the inflicting 100% excess withholding tax should not be deducted from him. This is no less than tedious and rather an impractical side of the whole scheme. In absence of an order within thirty (30) days, an intimation shall be deemed to have been accepted and granted by the Commissioner-IR.

5- A pragmatic approach could have been to allow the Withholding Agent to continue with his deducting and filing and any short filing could have been deducted in the year and at the time of monitoring.

6- The inflicting 100% excess withholding tax on Non-Filer or to say whose names do not appear in Active Taxpayers List, has certain exceptions and exemptions which have been enlisted hereunder;

Under Section 149; Salaries

Under Section 152 except sub Section (1), (1AA), (2), (2A)(b) & (2A)(c);

Payment to Non-resident

Under Section 154; Export

Under Section 155; Rental  
Under Section 156B; Price & Winning  
Under Section 231A; Cash Withdrawal  
Under Section 231AA; Bank Instruments  
Under Section 233AA; Collection of Tax by NCCPL  
Under Section 235; Electricity Bills; Commercial & Industrial Consumers  
Under Section 235A; Electricity Bill; Domestic Consumers  
Under Section 235B; Steel Melters  
Under Section 236B; Domestic Air Tickets  
Under Section 236D; Function & Gatherings  
Under Section 236F; Cable Operators & Electronic Media  
Under Section 236I; Educational Institutions  
Under Section 236J; Dealers, Commission Agents & Arhatis  
Under Section 236L; International Air Tickets  
Under Section 236P; Banking Transactions  
Under Section 236Q; Machinery & Equipment  
Under Section 236R; Education Expense remit aboard  
Under Section 236U; Insurance Premium  
Under Section 236V; Extraction of Minerals  
Under Section 236X; Tobacco

We understand that the enhanced Withholding Rates in cases of non-residents, will have limited effect as FBR itself has clarified that non-residents will not be subjected to higher tax due to protection under their respective tax treaty.

**Non-Filer Can Now Become Filer;**

*Section 182A;*

The provisions of Section 182A of the Ordinance where mere introduced only last year proved to be the most controversial amendment as it provided for a fatal punishment for the late Filer of the returns that made a late Filer, a Non-Filer for whole of the year. It appears that the Federal Government has finally paid heed to the outcry of this illogical and irrational amendment and under this Budget and has proposed to do away with the same. Under the newly proposed Section, the Late Filer can enter into the Filer list after making the payment of Surcharge to the Commissioner-IR as per the following table;

1. Company Rs. 20,000
2. Association of persons Rs. 10,000
3. Non-salaried individuals Rs. 3,000
4. Salaried individuals Rs. 1,000

As per '**salient features**' of the budget released along with the Finance Bill, an amount of tax to Rs. 3,000/- is to be payable by the Non-Salaried Individuals. However, no such threshold has been given under the Finance Bill.

This imposition of Surcharge, no matter low or high, seems to be completely out of place. There should not arise any in finest place need to pay on extra amount of money as an entrance fee to enter the list, once after you have filed the return along with additional tax and penalty. Let alone apart the excessive 100% withholding taxes and rigour of provisional assessment. This amendment and the charge of Surcharge seems very superfluous and frivolous. The other damaging provision of prohibiting the carry forward of loss to Non-Filer remains the same.

It may be assumed that the Federal Board shall and the necessary changes in the Iris for the payment of Surcharge and the ATL so that the Non-filer may become the Filer.

### **Non-Filer Can Now Purchase Property and Car**

#### *Section 227C*

In the Past, the Non-filer was restricted from purchasing the Motor Vehicle and Property. Consequent to the introduction of double taxation and scheduler assessment of Non-Filer or to say 'Persons not appearing in the Filer List', the aforesaid restriction placed on purchase of immovable property is proposed to be withdrawn.

### **(ii) Final Tax Regime Ended For Certain Business**

Final tax regime was initially introduced in 1991 where under the tax deducted at the stage of import, export, commission, execution of contract and sale of goods under the Ordinance becomes the Final Tax on their income and thereafter, they are not required to file their Income Tax Return and compute their taxable income.

In a very unprecedented move, the Finance Bill, 2019-20 has proposed to take certain transaction out from the comfort club of "Final Taxation" and make them a part of Minimum Taxation under Normal Tax Regime. If this amendment is implemented, the tax deducted would become their minimum tax at the time of filing of tax return and will have to offer their bottom-line profit for taxation.

The transactions and business which have been shifted from final tax regime to minimum tax regime are as follows:

1. Tax deducted under Section 148 from commercial importers
2. Tax deducted under Section 148 of ship breakers

3. Tax deducted under Section 151 on Profit on Debt (Interest Income)
4. Tax deducted under Section 152(1A) and 152(1AA) (Payments to Non-resident)
5. Tax deducted under Section 153(1)(a) on sale of goods other than by a manufacturing company or a listed company
6. Tax deducted under Section 153(1)(b) on Advertising service for payments to Electronic and Print media
7. Tax deducted under Section 153(1)(C) on execution of contract
8. Tax deducted under Section 153(1)(C) on contract with a sports person
9. Tax deducted under Section 233 on Commission Income
10. Tax deducted under Section 234A on CNG stations

We understand that the sudden change is prove to ignite resistance to this move as it will affect a larger portion of the taxpayer.

The amendment is half baked and in seemingly without giving enough thought on the sensitivities of the subject altogether is nothing short of bringing in a radical change in tax system.

It is important to point out that similar amendments were proposed in the last budget for commercial importer alone, which however, after heavy resistance from importers was withdrawn by the same government in the Finance Supplementary (2<sup>nd</sup> amendment) Act 2019.

A phase wise change with categorization of necessary imports and luxury cannot be ruled out which could at least provide a basis or framework for amendment of this magnitude before it actually takes place.

**(iii) Income Tax Refund Bonds;**  
(Section 171A)

The concept for issuance of tax refunds through Refund Bonds was devised by the Federal Board of Revenue (FBR) in the Sales Tax recently in its 2<sup>nd</sup> Amendment Act, 2019.

The same methodology is proposed to be implemented in the Income Tax as well. Through the Finance Bill 2019-20, it has been proposed that the FBR Refund Settlement Company Limited will issue the interest-bearing refund bonds to the taxpayer on behalf of FBR.

The promissory bonds shall be issued for a period of not less than three (03) years after which the payment of the principle amount of refund and its three (03) years interest @ 10% shall be made to the refund bond holder.

Moreover, the taxpayer refund bonds can trade in the secondary market and that it shall be accepted by banks as collateral for any lending.

Amongst the other details, included notably are the exemption of Zakat and that it is optional for the taxpayer to chase and opt for refund bond instead of pursuing refunds.

We understand that the proposed amendment will though be helpful for the Government in these times of scarce funds but depends on the taxpayer as to whether they respect this new commitment against their tax refunds coupled with the fact that the overriding effect of this Section will not jeopardize their right of compensation under Section 171 of the Ordinance for the date before their opt for Bonds.

#### **(iv) Change In Income Tax Audit Procedure**

*Section 177(6A);*

Under the proposed amendment it is mandatory for the Commissioner-IR to issue audit report to the taxpayer after the completion of his audit proceedings.

Apparently, the above amendment has been proposed to fortified the rulings of the superior Courts that the Commissioner is required to disclose and communicate reasons to the taxpayers in writing, provide them an opportunity of hearing, decide the objections through reasoned orders and thereafter proceed further (if necessary) justly, fairly and strictly in accordance with law.

#### **Relief from Repetitive Income Tax Audit Done Away With**

*(Clause 105 of P-IV of 2<sup>nd</sup> Schedule)*

The Finance Act 2018 provided relief to the taxpayer from the repetitive audits and inserted a clause in the 2nd Schedule of the Ordinance that a taxpayer would not be selected for Audit either under Section 177 and 214C of the Ordinance, if his income tax audit has been conducted in any of the last three (03) Tax Years. An exception to this rule, however, has been provided that a Commissioner-IR can select a taxpayer after he has taken a prior approval of the FBR.

The bill proposes to withdraw the above relief by deleting the said clause altogether from the Second Schedule of the Ordinance. Now the taxpayer can be selected for Audit either under Section 177 and 214C of the Ordinance for any or for all of the Tax Years without any exception.

Any sudden change in law and that too which was meant to provide administrative relief to taxpayer has its own repercussions and makes him more apprehensive

Hence, this amendment will further detract the genuine taxpayer from joining the tax net because of the apprehension of harassment by the tax machinery.

**(v) Harmonization of Procedure; Non for Profit Organizations**

*Section 100C*

The Finance Bill has proposed that the person eligible for 100% tax credit, shall obtain the approval from the Commissioner-IR under Section 2(36) of the Ordinance with immediate effect from 1<sup>st</sup> day of July, 2020. It appears typo error which should have the effect from 2019 instead of 2020. Prior to Finance Bill 2019, the non-profit organization, Trust, welfare institutions enjoying the exemption from tax once after fulfilling the requirements as prescribed under sub Section 1 of Section 100C of the Ordinance.

The Bill has further proposed to withdraw the power of the Chief Commissioner-IR who was previously empowered to grant the exemption from tax under the Income Tax Rules, 2002. One can be apprehended that as to whether the approvals already granted by the Chief Commissioner-IR to the Non for Profit Organizations will remain effective or not. This anomaly needs to be thrashed out on this matter by the Board.

## CHANGES IN WITHHOLDING PROVISIONS (SUBJECT WISE)



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Section	Payment / Transaction	Withholding Tax Rates							
		Individuals & AOPs (Manufacturers)		Individuals and AOPs (Non-Manufacturers)		Companies (Manufacturers or not)			
A. IMPORTS		Filer	Non-Filer	Filer	Non-Filer	Filer	Non-Filer		
IMPORTS	148 Imports (minimum tax except manufacture & Listed Companies)	5.5%	11%	6%	12%	5.5%	11%		
B. INDIVIDUAL		Slabs Rates							
INDIVIDUAL	Salary	Slab		Rate on Exceeding Amount		Fixed Tax			
		Up to 600,000		Nil		Nil			
		600,001 to 1,200,000		5%		Nil			
		1,200,001 to 1,800,000		10%		30,000			
		1,800,001 to 2,500,000		15%		90,000			
		2,500,001 to 3,500,000		17.5%		195,000			
		3,500,001 to 5,000,000		20%		370,000			
		5,000,001 to 8,000,000		22.5%		670,000			
		8,000,001 to 12,000,000		25%		1,345,000			
		12,000,001 to 30,000,000		27.5%		2,345,000			
		30,000,001 to 50,000,000		30%		7,295,000			
50,000,001 to 75,000,000		32.5%		13,295,000					
75,000,000 and above		35%		21,420,000					
<ul style="list-style-type: none"> <li>The Comparison of Salary is being attached as Annexure "A" (Page# 39)</li> </ul>									
C. DIVIDEND		Individual/AOP		Companies					
DIVIDEND	150	Cash Dividend	15%	30%	15%	30%	30%		
		Stock Fund	25%	50%	25%	50%	50%		
		Money Market Fund =< 2.5 million	25%	50%	25%	50%	50%		
		Money Market Fund > 2.5 million	25%	50%	25%	50%	50%		
		Income Fund or REIT Scheme or any other fund	25%	50%	25%	50%	50%		
		Power Generation	15%	30%	15%	30%	30%		
	236S	Specie Dividend	15%	30%	15%	30%	30%		
150A	Dividend on Sukuk	12.5% [> 1 million]	25%	50%	15%	30%			
		10% [< 1 Million]	20%	40%					
D. INTEREST		Filer		Non-Filer					
INTEREST	151	Interest							
	151(1)(a)	Interest on National Saving							
	151(1)(b)	Interest on Bank Account							
	151(1)(c)	15%	10%	30%	30%	(If > 500,000/- p.a.)			
	151(1)(d)	Interest on Company Loans							
E. NON-RESIDENT		Filer		Non-Filer					
NON-RESIDENT	152(1)	Royalty or Fee for Technical		15%					
	152(1A)	Construction Contract							
		Construction Services		7%	14%				
		Advertisement by TV Satellite							
	152(1AAA)	Media Person Advertisement		10%	20%				
	152(1)(c)	Fee for Offshore Digital		5%	10%				
	152(2A)	(a)	Supply Of Goods		Filer	Non Filer	Filer	Non Filer	
			4%	8%	4.5%	9%			
		(b)	Services		8%	10%			
		(c)	Contract		7%	7%			
152A	Foreign Produced Commercial		20%		40%				

F. GOODS, SERVICES & CONTRACTS		Companies		IND./AOP		
		Filer	Non-Filer	Filer	Non-Filer	
GOODS, SERVICES & CONTRACTS	153(1)(a)	Rice, Cotton Seed Oil, Edible Oils	1.5%	3%	1.5%	3%
		Other Goods (if the Supplies more than 75,000 Per Annum)	4%	8%	4.5%	9%
	153(1)(ab)	Distributors of FMCG (excluding durable goods)	2%	4%	2.5%	5%
	153(1)(b)	Services (if the Services more than 30,000 per Annum)	8%	16%	10%	20%
		Transport Services				
		Freight Forwarding Services				
		Air Cargo Services				
		Courier Services				
		Manpower Outsourcing Services				
		Hotel Services				
		Security Guard Services				
		Software Development Services				
		IT Services and IT Enabled Services				
		Tracking Services				
		Advertising Services (Other than Print / Electronic Media)				
Share Registrar Services		4%		8%		
Engineering Services						
Car Rental Services						
Building Maintenance Services						
Services Rendered by Pakistan Stock Exchange Limited and Pakistan Mercantile Exchange Limited						
	<ul style="list-style-type: none"> <li>• Inspection</li> <li>• Certification</li> <li>• Testing</li> <li>• Training Services</li> </ul>					
	Electronic and Print Media Advertising Services	1.5%	3%	1.5%	3%	
153(1)(c)	Contracts (if the Contract more than 10,000 per (Annum)	7%	14%	7.5%	15%	
	Sportsman	10%			20%	
153(2)	Stitching, Dying, Printing, Embroidery etc.	1%			2%	
153(B)	Royalty paid to Resident Persons	15%			30%	
G. EXPORTS		Filer				
EXPORTS	154	Exports		1%		
	154(1)	Export of Goods		1%		
	154(2)	Export Commission		5%		
	154(3)	Inland Bank to Bank Letter of Credit		1%		
	154(3A)	Export Processing Zone		1%		
	154(3B)	Indirect Exporter; SPO		1%		

H. RENT			Company	IND./AOP		
RENT	155	Rent (On Gross Rental Payment)	Filer	Slabs	Rate on Exceeding Amount	Fixed Tax
			15%	Up to 200,000	Nil	Nil
				200,000 to 600,000	5%	Nil
				600,000 to 1,000,000	10%	20,000
				1,000,000 to 2,000,000	15%	60,000
				2,000,000 to 4,000,000	20%	210,000
				4,000,000 to 6,000,000	25%	610,000
				6,000,000 to 8,000,000	30%	1,110,000
				8,000,000 and above	35%	1,710,000
I. PRIZE AND WINNINGS			Companies/ IND./AOP			
PRIZE & WINNING	156	Prize Bonds	Filer	Non-Filer		
			15%	30%		
		Prizes, Winning, Lottery, Raffles	20%	40%		
J. PETROL AND CNG			Companies/ IND./AOP			
PETROL & CNG	156A	Petrol & Petroleum Products	Filer	Non-Filer		
			12%	24%		
	234A	CNG Stations	4%	8%		
K. WITHDRAWALS FROM BANK			Filer	Non-Filer		
BANK	231A	Cash Withdrawal (if > 50k/day)	0.3%			
	231AA	Bearer Banking Transaction (if > 25k/day)	0.3%			
	236P	Banking Transaction Other than Cash	0% (Omitted)			

L. PURCHASE OF MOTOR VEHICLES			Engine Capacity	Filer	Non-Filer
PURCHASE OF MOTOR VEHICLES	231B(1A)	At the time of Motor Vehicle Leasing	Any Motor Vehicle	-	-
	231B(1) & (3)	On Registration by Excise & Taxation Dept. & On Sale by Manufacturer (Car or Jeep)	Up to	7,500	15,000
			851cc to 1000cc	15,000	30,000
			1001 to	25,000	50,000
			1301cc to 1600cc	50,000	100,000
			1601cc to 1800cc	75,000	150,000
			1801cc to 2000cc	100,000	200,000
			2000cc to 2500cc	150,000	300,000
			2500cc to 3000cc	200,000	400,000
			Above	250,000	500,000
			231B(2)	(Tax rate shall be reduced by 10% each year from the date of 1 <sup>st</sup> registration)	Engine Capacity
	Up to 850cc	-			-
	851cc to 1000cc	5,000			10,000
	1001 to	7,500			15,000
	1301cc to 1600cc	12,500			25,000
	1601cc to 1800cc	18,750			37,500
	1801cc to 2000cc	25,000			50,000
	2000cc to 2500cc	37,500			75,000
	2500cc to 3000cc	50,000			100,000
	Above	62,500			125,000
234	Private Motor Vehicle	Engine Capacity	Filer	Non-Filer	
		Up to 1000cc	800	1,600	
		1001cc to 1199cc	1,500	3,000	
		1200cc to 1299cc	1,750	3,500	
		1300cc to 1499cc	2,500	5,000	
		1500cc to 1599cc	3,750	7,500	
		1600cc to 1999cc	4,500	9,000	
		2000cc & above	10,000	20,000	

M. BROKERAGE AND COMMISSION			Companies	IND./AOP	
BROKERAGE & COMMISSION	233	Advertising Agents	Filer	Non-Filer	
		Life Insurance Agent (If < 500,000)	10%	20%	
		Other Commissions	8%	16%	
	236J	Commission Agents (Fruits & Vegetables) and Arhatis	12%	24%	Group
			Amount of Tax (p.a.)		Filer
			Group or Class A	100,000	
			Group or Class B	75,000	
	Group or Class C	50,000			
	Any Other Category	50,000			
N. SHARES SALE & PURCHASE			Description	Filers	Non-Filers
SHARES	233A	Collection by Pakistan Stock Exchange (Adjustable)	Purchase of Shares	0.02% of Purchase Value	0.04% of Purchase Value
			Sale of Shares	0.02% of Sale Value	0.04% of Sale Value
	233AA	Collection by NCCPL	10%		
O. ELECTRICITY					
ELECTRICITY	235	Commercial	12%		
		Industrial	5%		
	235A	Domestic	Not < 75,000	0%	
			Exceeding 75,000	7.5%	
P. PHONE & INTERNET			Filers	Non-Filers	
PHONE & INTERNET	236	Telephone Bill	12.5%	25%	
		Internet Bills			
		Phone Cards			
Q. AIR TICKETS			Companies/ IND./AOP		
AIR TICKET	236B	Domestic Air Tickets (Except Baluchistan Coastal Belt, Azad Jammu Kashmir, FATA Gilgit, Baltistan and Chitral)	5%		
		International Air Tickets			
	236L	First/Executive Class	16,000/- Per Person		
		Others Excluding Economy Economy	12,000/- Per Person 0		
R. PROPERTY SALE AND PURCHASE			Filer	Non-Filer	
PROPERTY	236C	Sale of Property;	2%	4%	
	236K	On Purchase of immovable Property and person responsible for collecting payments in Installment on the Fair Market Value	1%	2%	
	236W	Purchase/Transfer of Property;(Unadjustable)	(Omitted)		
S. Function & Gatherings			Cities of Pakistan	Tax Rate	
FUNCTION & GATHERINGS	236D	Marriage related Functions	For Islamabad, Lahore, Multan, Faisalabad, Rawalpindi, Gujranwala, Bahawalpur, Sargodha, Sahiwal, Shekhpura, Dera Gazi Khan, Karachi, Hyderabad, Sukkur, Thatta, Larkana, Mirpurkas, Nawabshah, Peshawar, Mardan, Abbottabad, Kohat, Dera Ismail Khan, Sibi, Loralai, Khuzdar, Dera Murad Jamail and Turbat.	5% of the Bill ad-valorem or Rs.20,000 per function whichever is higher.	
			For cities other than those mentioned above.	5% of the Bill ad-valorem or Rs.10,000 per function whichever is higher	
		Other Functions & Gatherings	5%		

T. DISTRIBUTORS, DEALERS, WHOLESALERS		Filer	Non-Filer		
DISTRIBUTORS DEALER	236G	Fertilizers	0.7%	1.4%	
		Other than Fertilizers	0.1%	0.2%	
	236H	Sales to Retailers/Wholesalers by Distributors/Dealer			
		Electronics	1%	2%	
	Others	0.5%	1%		
	236HA	Sale of Certain Petroleum Products (Final)	1%	2%	
U. EDUCATION EXPENSES					
EDUCATION	236I	For Institutions in Pakistan			
	236R	For Institutions outside Pakistan		5%	
V. TOBACCO					
TOBACCO	236X	On the purchase value of Tobacco		5%	
W. OTHER VARIOUS WITHHOLDING SECTIONS;					
OTHERS	156B	Voluntarily Pension Scheme	3 years Average	3 years Average	
	235B	Steel Metals, Re-roller etc.	Rs.1/- per unit of Electricity		
	236F	Cable Operators	As per slab.		
	236Q	Rent of Machinery and Equipment	10%		
	236U	Premium by Insurance Companies	<b>Non-Filer Only</b>		
			<b>Types of Premium</b>		Omitted
			<b>Rate</b>		
			General Insurance Premium	4%	
	Life Insurance Premium if exceeding of Rs.0.3 Million per annum	1%			
		Corp Loan Insurance Scheme (CLIS), Live Stock Insurance Scheme (LIS) & Others	0%		
236V	Extraction of Minerals	<b>Filer</b> 0%	<b>Non-Filer</b> Omitted		
236A	Auction	15%	30%		
236O	Advance tax under this chapter shall not be collected from	<ul style="list-style-type: none"> <li>▪ Federal Government , Provincial Government</li> <li>▪ Foreign Diplomats, Diplomatic Mission</li> <li>▪ Exemption Certificate</li> </ul>			
236Y	Any amount Remitted outside Pakistan through Credit, Debit or Prepaid Cards	3%	6%		

**Annexure "A"**

The comparison of Salary tax between last year and the current year can be seen in following table;

S.No	Existing			Proposed			Differential Paid	
	Salary Income	Slab	Tax	Salary Income	Slab	Tax		
01	400,000/-	up to 400,000	Nil	500,000/-	up to 600,000	Nil	Nil	
	800,000/-	400,001 to 800,000	1,000	800,000/-	600,001 to 1,200,000	5% on exceeding of 600,000	10,000	9,000
02	1,200,000/-	800,001 to 1,200,000	2,000	1,200,000/-	600,001 to 1,200,000	5% on exceeding of 600,000	30,000	28,000
03	1,800,000/-	1,200,001 to 2,500,000	5% on exceeding of 1,200,000	1,800,000/-	1,200,001 to 1,800,000	30,000 plus 10% on exceeding of 1,200,000	90,000	60,000
04	2,500,000/-	1,200,001 to 2,500,000	5% on exceeding of 1,200,000	2,500,000/-	1,800,001 to 2,500,000	90,000 plus 15% on exceeding of 1,800,000	195,000	130,000
05	3,500,000/-	2,500,001 to 4,000,000	65,000 plus 15% on exceeding of 2,500,000	3,500,000/-	2,500,001 to 3,500,000	195,000 plus 17.5% on exceeding of 2,500,000	370,000	155,000
	4,000,000/-	2,500,001 to 4,000,000	65,000 plus 15% on exceeding of 2,500,000	4,000,000/-	3,500,001 to 5,000,000	370,000 plus 20% on exceeding of 3,500,000	470,000	180,000
06	5,000,000/-	4,000,001 to 8,000,000	290,000 plus 20% on exceeding of 4,000,000	5,000,000/-	3,500,001 to 5,000,000	370,000 plus 20% on exceeding of 3,500,000	670,000	180,000

07	8,000,000/-	4,000,001 to 8,000,000	290,000 plus 20 % on exceeding of 4,000,000	1,090,000	8,000,000/-	5,000,001 to 8,000,000	670,000 plus 22.5 % on exceeding of 5,000,000	1,345,000	255,000
08	12,000,000/-	8,000,000 and above	1090,000 plus 25 % on exceeding of 8,000,000	2,090,000	12,000,000/-	8,000,001 to 12,000,000	1,345,000 plus 25 % on exceeding of 8,000,000	2,345,000	255,000
09	30,000,000/-	8,000,000 and above	1090,000 plus 25 % on exceeding of 8,000,000	6,590,000	30,000,000/-	12,000,001 to 30,000,000	2,345,000 plus 27.5 % on exceeding of 12,000,000	7,295,000	705,000
10	50,000,000/-	8,000,000 and above	1090,000 plus 25 % on exceeding of 8,000,000	11,590,000	50,000,000/-	30,000,001 to 50,000,000	7,295,000 plus 30 % on exceeding of 30,000,000	13,295,000	1,705,000
11	75,000,000/-	8,000,000 and above	1090,000 plus 25 % on exceeding of 8,000,000	17,840,000	75,000,000/-	50,000,001 to 75,000,000	13,295,000 plus 32.5 % on exceeding of 50,000,000	21,420,000	3,580,000
12	80,000,000/-	8,000,000 and above	1090,000 plus 25 % on exceeding of 8,000,000	19,090,000	80,000,000/-	75,000,001 & above	21,420,000 plus 35 % on exceeding of 75,000,000	23,170,000	4,080,000

## AMENDMENTS IN SALES TAX ACT 1990

### COTTAGE INDUSTRY

#### Section 2(5AB)

It has been proposed to amend the definition of cottage industry and new conditions are proposed to be included for the purpose of exemption from sales tax on supplies made by cottage industry under Serial No. 3, Table-2, Sixth Schedule to the Sales Tax Act 1990 (the Act).

Present Conditions	Proposed Conditions
Cottage Industry whose:	Cottage Industry:
Annual turnover from taxable supplies made in any tax period during the last twelve months ending any tax period does not exceed Rs.10,000,000 or	Does not have an industrial gas or electricity connection
Annual utility (electricity, gas and telephone) bills during the last twelve months ending any tax period do not exceed Rs.800,000/-	Is located in a residential area
	Does not have a total labour force of more than ten workers;
	Annual turnover from all supplies does not exceed Rs.2,000,000/-

This change appears to narrow down the benefits available to cottage industry. It is pertinent to note that the sales tax exemption available to cottage industry has already become irrelevant after STGO 68 dated 11 August 2014 which states that if cottage industry receives payment after deduction of income tax by the withholding agent registered under Income Tax Ordinance, 2001, it becomes liable to be registered as wholesaler under the Act.

### RETAIL PRICE REGIME EXTENDED TO IMPORTER

#### Sections 2(27), 2(46)(d), and Section 3(2)(a), Third Schedule

This Bill proposes to include importers in retail price regime. By virtue of such amendments, Sales tax @ 17% will be paid @ import stage on retail price fixed by importer for the product which will be sold to general body of consumers. Importer will also be required to print or embossed retail price on each imported article or product.

Further tax will not be applicable on supply of such imported goods as provided under SRO 648 dated 9 July 2013.

We understand that minimum value addition tax may not be applicable as sales tax will be discharged at retail price instead on value of goods declared or determined at import stage.

It appears that FBR will issue guidelines for payment of sales tax on the stock available as on 30 June 2019.

**TAX ON RETAILERS***Section 2(43A), 3(9) & 3(9A)*

The Bill seeks to add new clause in Section 2(43A) of the Act to widen the scope of Tier-1 retailers. The new clause will cover all those retailers whose shops are on one thousand square feet in area or more.

Earlier, Tier 1 retailers could pay sales tax either in normal tax regime or turnover regime. The change has been proposed to withdraw the option of turnover regime @ 2%. Accordingly, all retailers falling under Tier 1 will only pay sales tax under normal tax regime which makes the retailers liable to pay sales tax on goods at applicable rate (i.e. 17%) after the adjustment of legitimate input tax.

A cash back up to 5% of tax paid on goods has been proposed for the customers of Tier 1 retailers. Such customers can only avail such benefit if they collect tax invoices from Tier 1 retailers. This condition has been placed to encourage the will of purchase of customers against tax invoice.

Retailers, other than those falling under Tier 1, will continue to pay sales tax through electricity bills which will be deposited by the electricity supplier without adjustment of input tax. However, for the authentication of retailers as to which will fall under Tier 1 or be classified as a retailer, an amendment has been proposed whereby Commissioner Inland Revenue having jurisdiction will issue an order to the relevant Electricity Distribution Company over the person's classification as Tier-1 Retailer or otherwise.

We understand that this order would be issued upon the request of person seeking exclusion from the list of either Tier 1 retailers or retailer's category altogether. This change will preclude those persons who are being charged additional taxes through electricity bills without being falling under retailer's category, for e.g., service providers.

We understand this amendment was much needed as it would stop collection of unwarranted sales tax from certain persons through electricity bills.

The retailers of specified goods (i.e. household electrical goods, paints) which were earlier exempt from registration and payment of sales tax have now come within the ambit of tax net.

**VALUE OF SUPPLY***Section 2(46)(f)*

The Bill seeks to substitute Section 2(46)(f) of the Sales Tax Act 1990 (the Act) with a new provision providing that conversion charges against Toll Manufacturing are to be treated value of supply and chargeable to Sales Tax for person engaged in toll manufacturing. Currently, market value of such goods manufactured on toll basis is considered as value of supply for the purpose of levying sales tax. The substituted provision seems more reasonable being reflective of the substance of underlying taxable activity.

It is notable to point out that taxability of toll manufacturing is a controversial subject between federal and provincial tax authorities after passage of 18<sup>th</sup> Amendment to the Constitution.

The definition of "supply" under Section 2(33) of the Act stipulates that toll manufacturing is a taxable supply under the Act. On the other hand, the Sindh Government imposed Sindh Sales Tax on toll manufacturing with effect from 01 July 2013. Presently, such services are exposed to Sindh Sales Tax @ 13% under Tariff Heading 9830.0000 of Second Schedule to Sindh Sales Tax on Services Act, 2011.

Therefore, we understand that Sindh Revenue Board may keep demanding sales tax on "toll manufacturing" and the same may be confronted before the Sindh High Court on the basis of applicable provisions the Act whereby litigation on the same issue is already pending.

### **VALUE OF ELECTRICITY SUPPLY**

*Section 2(46)(h) & 2(46)(i)*

The mechanism for determination of value for levy of sales tax on supply of electricity by independent power producers and power distribution company has been proposed to be provided in new clauses (h) and (i) of Section 2(46) of the Sales Tax Act, 1990. Presently, it is being governed under Rule 13 of Sales Tax Special Procedure Rules, 2007 which has now been proposed to be abolished.

### **ISSUANCE OF NOTIFICATION BY FEDERAL GOVERNMENT**

*Section 3(2)(b), 3 (3A), 3 (5), 4 (c), 7 (3)(4), 7A (1)(2), 8(1)(b), 60, 65, 67A, 71(1)*

It is for the 3<sup>rd</sup> consecutive year that the powers of the Federal Government, for issuance of Notification / SRO, has been transposed to FBR for issuance of notifications with prior approval of the Federal Minister-in-Charge.

Upto 30 June 2017, the Federal Government had vested powers to issue notification. Through Finance Act 2017, power to issue notification was transposed from Federal Government to FBR who could issue such notification with prior approval of the Federal Minister-in-Charge. However, vide Finance Bill 2018, the powers of Federal Government to issue notification were again restored instead of FBR in the manner as it had prior to Finance Act, 2017.

In CP D-7159 of 2017, the Honorable High Court of Sindh while interpreting Article 99 of Constitution of Pakistan and also relying on judgment of Honorable Supreme Court in case of Mustafa Impex vs. Federation of Pakistan has held that those functions of the Federal Government that relates to exercise of legislative power cannot be delegated at all. Keeping in view such constitutional position, the Court declared the amendment made through Finance Act 2017 as ultra vires.

Since the Honorable High Court had struck down above referred amendment of Finance Act 2017, the legislature was left with no option but to restore powers of Federal Government vide Finance Act 2018.

We understand in line with the legal precedence, it is likely that the subject amendment may again be challenged before a Court of Law.

**SCOPE OF TAX**

*Section 3(7)*

In line with Government’s policy of abolishing the Sales Tax Special Procedure Rules 2007, the Government has abolished the Sales Tax (Withholding Tax) Rules 2007 and made them part of the Act as 11<sup>th</sup> Schedule thereof.

A perusal of proposed Schedule suggests that withholding in respect transactions between registered persons, which was abolished by the last outgoing Government, has again been restored. The rate of deduction of sales tax withholding on purchases from un-registered person has also been enhanced from 1% to 5%. Further, this bill also intends to exclude person registered as exporter from the category of withholding agent.

It is pertinent to mention here that after launching of STRIVE system in 2016, the purpose of sales tax withholding rules became redundant to the extent of transactions between registered persons. Hence, we believe that sales tax withholding on transactions between registered persons has no revenue impact; rather it creates unnecessary administrative burden both for withholding agents and tax authorities.

The 11<sup>th</sup> Schedule inserted in the Act prescribes withholding tax rates as under:

S. No.	Withholding Agent	Supplier Category	Rate or Extent of Deduction
1.	(a) Federal and provincial government departments; autonomous bodies; and public sector organizations (b) Companies as defined in the Income Tax Ordinance, 2001	Registered persons	1/5th of Sales Tax as shown on invoice
2.	(a) Federal and provincial government departments; autonomous bodies; and public sector organizations (b) Companies as defined in the Income Tax Ordinance, 2001	Person registered as a wholesaler, dealer or distributor	1/10th of Sales Tax as shown on invoice
3.	Federal and provincial government departments; autonomous bodies; and public sector organizations	Unregistered persons	Whole of the tax involved or as applicable to supplies on the basis of gross value of supplies
4.	Companies as defined in the Income Tax Ordinance, 2001 (XLIX of 2001)	Unregistered persons	5% of gross value of supplies
5.	Registered persons as recipient of advertisement services	Person providing advertisement services	Whole of sales tax applicable

The proposed schedule also confirms our earlier stance that withholding of sales tax is not applicable on services provided in Islamabad under Islamabad Capital Territory (Tax on Services) Ordinance, 2001 except for advertisement services.

The Eleventh Schedule is also unclear regarding exclusions of sales tax withholding provided under Rule 5 of Sales Tax Special Procedure (Withholding) Rules, 2007 to certain goods, if supplied by a registered person. We anticipate that the expected notification will be issued by the Board which will provide desired clarity in this respect.

### **NAME & REGISTRATION NUMBER ON UTILITY BILLS**

#### *Section 7(2)*

The Finance Bill has proposed disclosure of registration number and address on electricity and gas bills for the purpose of claiming input tax.

### **MINIMUM VALUE ADDITION TAX**

#### *Section 7A & 12<sup>th</sup> Schedule*

The Finance Bill has been proposed to transpose Rules 58A to 58E covered under Chapter X of the Sales Tax Special Procedures Rules, 2007 relating the imposition of minimum value addition sales tax at import stage.

It is worth noting that presently under Special Procedures persons registered as manufacturers are not required to pay value addition tax at import stage on any goods imported for self-consumption. However, conditions envisaged in the proposed Schedule suggest that now said benefit will only be available to the extent of raw material on which custom duty @ 16 % or 20% has been paid at import stage.

In a landmark judgment reported as 2017 PTD 130, Sindh High Court (SHC) held that minimum value addition tax [VAT], payable on commercial imports, is illegal.

SHC was seized with a question whether VAT @ 3% on imports in terms of Rule 58B of Sales Tax Special Procedure Rules 2007 is in accordance with the vires of Sales Tax Act 1990. While interpreting Section 7A of the Act, the SHC observed that law empowers the Federal Government to levy sales tax on specified goods, which is payable on the difference between value of purchase and value of sale of such good. Section 7A specifically prescribes payment of VAT upon supply of goods. As such commercial imports cannot be burdened with VAT because value addition comes into play at post importation stage and not at import stage. Thus, the SHC held that Rule 58B of the rules is inconsistent with the provisions of the Act.

We understand that such legal lacuna has been taken care of in the Finance Bill 2019.

### **TAX INVOICES**

#### *Sections 8(1)(m) & 23(1)(b)*

As a significant amendment, it is proposed that the registered suppliers will be liable to disclose CNIC of the unregistered buyer to whom the goods are sold. This disclosure is proposed to be made on the face of the tax invoice. Suppliers whose sale invoices do not bear CNIC of the unregistered buyers, will be deprived of the input tax on pro-rata basis.

We understand that identical measures were announced by the Board which introducing electronic Sales Tax cum Federal Excise return. Later on, such an amendment was part of Finance Bill 2009. However, upon agitation by the un-documented sector and the practical

issues, the proposal was done away with. Now again similar provision is proposed by way of an amendment in the format of tax invoice and corresponding disallowance of tax credit.

While it is understood that the proposed amendment is a step towards the documentation of business transaction and ultimately widening of the tax net, yet such a requirement is expected to involve the following serious issues:

- The law does not define an 'unregistered person'. However, an analysis of the overall tax regime transpires that an unregistered person could be a person who is liable to be registered under the Act but who has avoided his statutory obligation. Going by this understanding, the question arises how the supplier would ascertain whether the buyer is a person in default of his legal duties. If such a distinction is not clarified, it would mean that a common man (end consumer) going to market might also be asked to furnish his CNIC for his purchases.
- The law is silent as to whether it is the duty of the supplier to obtain CNIC of the buyer. What if the buyer refuses to share his identify details with the seller?
- The proposed amendment does not specify how far the registered supplier would be accountable in relation to the authenticity of the NTN / CNIC furnished by his un-registered buyer.
- The determination / calculation of proposed disallowance of input tax on pro-rata basis would be almost an impossible task since input tax per unit of goods sold may neither be determined nor verified by tax authorities.
- An element of double jeopardy also exists in the proposed law. On one hand, the supplier charges further tax from an unregistered buyer as a penalty of not getting registration. On the other hand, the supplier also faces disallowance of input tax if he doesn't mention such buyer's CNIC on sales invoice.
- The law does not elaborate how the businesses might avoid or tackle the misuse of CNIC / NTN. Today, CNICs of consumers are available by all Banks, Telecom Companies, Credit Card Agencies, etc. In the absence of any concrete scheme, we are afraid CNICs / NTNs might be misused by unscrupulous elements resulting in distortion of FBR's database. This might also lead to creation of tax demands against persons who actually did not purchase goods at all but whose CNIC / NTN was misused and reported on tax invoices.

Another condition proposed in Section 23 requires disclosure of count, denier and construction in case of textile yarn and fabric on the face of tax invoice.

In view of the foregoing apprehensions, it is expected that a second thought will be given to the issue and the subject amendment proposed in both Section 8 and Section 23 will be withdrawn.

**RELAXATION ON RESTRICTION ON INPUT TAX ADJUSTMENT***Section 8B*

The Finance Bill has proposed to empower FBR to allow relaxation on restriction on input tax adjustment to 95% from 90%. This amendment is likely to ease liquidity pressures upon the taxpayers.

**EXEMPTIONS***Section 13(2)*

Presently the Federal Government enjoys vast powers to grant tax exemptions with immediate effect whenever it considers necessary for the purposes of national security, natural disaster, national food security in emergency situation, protection for the economic interest of the country in situations arising out of abnormal situation in international commodity prices, for removal of anomalies in taxes, development of backward areas and implementation of bilateral and multilateral agreements. Previously such powers have been invariably exercised in granting generous exemptions to industrial units operating in Special Economic Zones, Export Oriented Units, privileged institutions and for regularization of smuggled vehicles.

Now such powers have been curtailed to the circumstances of national security, natural disaster, national food security in emergency situation and implementation of bilateral and multilateral agreements only. In the changed scenario, it will not be convenient for the Federal Government to grant politically motivated or otherwise economically justifiable exemptions to projects of its choice as it will be required to get the exemption approved from the parliament by introducing amendment in Sixth Schedule to the Act.

**AUDIT***Section 25*

The recently awarded restriction, as was imposed on the tax functionaries to conduct audit only once in every three years, is proposed to be deleted. This step appears to be detrimental to the taxpayers and will hinder in smooth functioning of day to day operation of the business and will suffer huge compliance cost of the taxpayer as the tax officer is now free to conduct an audit every year.

The purpose to place three years condition in the existing law was to avoid harassment, corruption, malpractices and to make the taxpayers stressed free from undue inspection and examination of their records so that they can focus on their businesses and contribute more taxes towards nation in a relaxed way. We understand that audit should be conducted in a systematic and organized way to ensure that a registered person is subject to audit not more than only once in every certain years unless surfacing and serious situation calls for continuing or conducting audit for every year. Hence, we understand that the proposed changes should be reversed in order to gain the trust of taxpayer.

**REVISION OF RETURN***Section 26(3)*

Under the proposed changes, the taxpayer will not be required to have an approval from the concerned Commissioner Inland Revenue if the following two conditions are met:

- a) revision of return is filed within sixty days of the filing of return; and
- b) the tax payable determined for revised return is more than the original tax return or the refund claimed is less than the original return.

This amendment is in line with the Provincial laws which is beneficial in nature for the taxpayers.

**PENALTY***Section 33*

The bill intends to enhance penalty on non-submission of sales tax return within due from Rs. 5,000/- to Rs. 10,000/-. Moreover, in case of filing of return within 10 days of due date, the penalty would be Rs. 200 per day instead of Rs. 100/- per day.

**PROCEEDINGS AGAINST PERSONS***Section 33A*

The bill intends to empower Board to prescribe rules by introducing Section 33A to initiate criminal proceedings against any authority mentioned in section 30 to 30DDD including any person subordinate to the aforesaid authorities, who willfully and deliberately commits or omits an act which results in personal benefits and undue advantage to the authority or the person or taxpayer or both.

Further, where proceedings has been initiated under Section 33A, the Board shall simultaneously intimate the relevant Government agency to initiate criminal proceedings against the taxpayer.

We understands that by introducing the said provision of the law, the Government had tried to curtail corrupt practices adopted by the officers and taxpayer for suppressing the sales tax liabilities and sanctioning refund claims.

**LIABILITY FOR PAYMENT OF TAX IN CASE OF PRIVATE COMPANIES OR BUSINESS ENTERPRISES***Section 58*

The bill proposes to substitute Section 58 of the Act whereby irrecoverable tax demand with respect to wound up Company, apart from its directors, now can also be recovered from the shareholder owning not less than 10% of paid up capital.

However, the new Section expressly provides that any director, partner or shareholder who pays tax on behalf of the company or business enterprises shall be entitled to recover the tax paid by him from the company and from the share of tax from other director or partner in the proportion of holding from another shareholder.

**SELECTION OF AUDIT BY THE BOARD***Section 72B*

An amendment has been proposed by inserting sub-Section (1)(A) to Section 72B of the Act in order to provide legal coverage for keeping parameters of audit selection confidential from the taxpayers.

We understand that a number taxpayers have already obtained stay orders from the High Court(s) on the basis of irrelevant and unappropriated parameters adopted by the FBR for selection of tax audits. The proposed provision too, is against the principles of natural justice; therefore may again provoke litigation.

### **SALES TAX EXEMPTION FOR FATA / PATA ON SUPPLIES / IMPORTS**

*Serial No. 151 - Sixth Schedule*

The Salient Features of the Finance Bill 2019 reveal that SRO 1212 dated 05 October 2018 relating exemption of sales tax on supplies and imports for FATA / PATA has been rescinded and transposed to Sixth Schedule of the Act.

The Federal Government had granted exemption of sales tax through SRO 1212 to persons engaged in supply of goods if made within or outside such areas till 30 June 2023. The said SRO 1212 stated that the position in relation to levy of sales tax to PATA / FATA (Non-Tariff Area) stood restored as it was before May 2018 (before Constitution Amendment in Article 247).

It appears that aforesaid amendment has been proposed to implement the order of Peshawar High Court [PHC]'s reported as PTCL 2016 CL 402 in light of direction passed by Supreme Court of Pakistan reported as 2018 SCMR 939. In the aforesaid case, PHC had held that sales tax levied under Section 3(1)(b) of the Act is not payable on imports of goods intended to be consumed in FATA or PATA. PHC further directed that Federal Government must take appropriate steps for formulating a uniform policy for seeking securities in form of post-dated cheques from the person importing goods for its consumption in FATA or PATA. Such securities may be returned upon production of consumption certificate.

By virtue of amendment, imports of plant and machinery in tribal areas by industries located in the tribal area are exempted from sales tax subject to submission of posted-dated cheques with Customs Authorities. Such cheques will be returned upon presentation of consumption / installation certificate. In case when such plant and machineries supplied outside tribunal area, sales tax will be charged.

Serial No. 153 of 6<sup>th</sup> Schedule also states that electricity supplied from tariff area to FATA / PATA shall also be free from sales tax. However, Entry No. 151 needs to be clarified whether all supplies made to FATA / PATA from tariff areas are exempted or only supplies made from tribal areas to other area of Pakistan (tariff area) or both transactions enjoy tax relief. The said question of law is already *subjudice* before PHC.

### **SALES TAX EXEMPTION ON ELECTRICITY IN TRIBAL AREAS**

*Serial No. 153 of the Sixth Schedule*

It is proposed that supplies of electricity during the period from May 2018 till June 2023 to all residential & commercial consumers in tribal area and industries established before May 2018 in tribal areas shall remain exempted. However, supplies of electricity to steel and ghee & cooking oil industries will be exposed to sales tax.

We understand that such discriminatory treatment to such steel and ghee & cooking oil industries may land as dispute before Court of Law.

**SRO 1125 DATED 31ST DECEMBER 2011***Abolishment - After Effects*

Five export oriented sectors i.e. textile, leather, carpets, sports and surgical goods tax regime of zero & reduced rates was introduced vide SRO 1125 by the Federal Government which was applicable from 1st January 2012. After non-stop 19 amendments were made from time to time in the said SRO. Finally Finance Bill 2019 proposed to withdraw the SRO upon reported misuse thereof and availing benefits by the unintended beneficiaries / non-exporters. This way, a long history of facilitation to five export oriented sectors via tax reduction / exemption appears to have ended.

We reckon following impacts would be emerge after abolishment of SRO 1125:

- a) The goods which were notified under SRO 1125 now would restored at standard rate of sales tax i.e. 17%;
- b) Supplies of finished articles of textile, textile made ups, leather and artificial leather as made retailers would be subject to sales tax @ 15% subject to integration with FBR online system and data is transmitted to the FBR's computerized system in real time in such mode and manner as may be prescribed by the Board;
- c) Zero rating on import of plant & machinery (not manufactured locally) by textile industry would be abolished and will be subject to sales tax @ 10% under Eight Schedule to the Act;
- d) Ginned cotton, one of the majeure raw material of textile sector will become subject to sales tax @ 10% under Eight Schedule to the Act which was previously zero rated under SRO 1125 for the textile sectors and exempted under Sixth Schedule to the Act for others;
- e) Zero rating facility on "raw cotton" would be waived however, same will be exempted under Sixth schedule to the Act;
- f) Zero rating facility on furnace oil, diesel oil, coal, electricity and gas will be withdrawn.

**EXPORT OF PMC AND PVC TO AFGHANISTAN AND CENTRAL ASIAN REPUBLIC***SRO 190(1)/2002 (to be issued)*

Salient Features reveal that zero rating facility on export of PMC and PVC to Afghanistan and Central Asian Republic is proposed to be withdrawn by amending SRO 190(1)/2002 dated 2 April 2002. Resultantly, such export of goods will become subject to sales tax @ 17% after amendment SRO.

It is pertinent note that Peshawar High Court declared SRO 190 as ultra vires through its reported judgment i.e. 2018 PTD 1729.

**EXEMPTION FROM FURTHER TAX***SRO 648(I)/2013 (to be amended)*

Government/ semi-government and statutory regulatory authorities are proposed to be excluded from the purview of further tax @ 3% chargeable on supplies made to unregistered person under Section 3(1A).

Further, Salient Features reveal that exemption on supply of further tax to un-registered person will also be allowed.

**EXEMPTION FROM EXTRA TAX TO GOVERNMENT AUTHORITIES**

*SRO 509(I)/2013 (to be amended)*

Government/ semi-government and statutory regulatory authorities are proposed to be excluded from the purview of extra tax @ 5% chargeable on electricity and gas bills.

**SIMPLIFICATION OF SALES TAX REGISTRATION**

*Sales Tax Rules (to be amended)*

Budget documents reveal that:

- an automated interface without any physical contact with the tax officers will be introduced. Biometric verification will be made within a month of registration through NADRA e-Sahulat centres.
- The process of deregistration will also simplified. No return will be required to file during the process of deregistration.

**THIRD SCHEDULE**

*Transposition of specified goods subject to Extra Tax*

The Government has announced to abolish all Sales Tax Special Procedures. Thus, majority goods presently specified under Chapter XIII of the Sales Tax Special Procedures Rules 2007 have been proposed to be transposed to the Third Schedule to the Act. However, certain such goods will now be subject to sales tax at standard rate. The proposed taxability of the specified goods currently subject to extra tax is tabulated below:

Existing Position – Specified goods subject to extra tax	Proposed to be transposed to Third Schedule	Proposed to taxed under standard tax regime
Household electrical goods, including air conditioners, refrigerators, deep freezers, televisions, recorders and players, electric bulbs, tube-lights, electric fans, electric irons, washing machines and telephone sets.	Household electrical goods, including air conditioners, refrigerators, deep freezers, televisions, recorders and players, electric bulbs, tube-lights, electric fans, electric irons, washing machines and telephone sets.	-
Household gas appliances, including cooking range, ovens, geysers and gas heaters.	Household gas appliances, including cooking range, ovens, geysers and gas heaters.	-

Foam or spring mattresses and other foam products for household use.	Foam or spring mattresses and other foam products for household use.	-
<i>Lubricating oils, brake fluids, transmission fluid, and other vehicular fluids and maintenance products</i>	Lubricating oils, brake fluids, transmission fluid, and other vehicular fluids sold in retail packing.	-
Auto parts and accessories	-	Auto parts and accessories
Tyres and tubes	Tyres and tubes excluding those sold to automotive manufacturers or assemblers	-
Storage batteries	Storage batteries excluding those sold to automotive manufacturers or assemblers	-
Paints, distempers, enamels, pigments, colours, varnishes, gums, resins, dyes, glazes, thinners, blacks, cellulose lacquers and polishes sold in retail packing	Paints, distempers, enamels, pigments, colours, varnishes, gums, resins, dyes, glazes, thinners, blacks, cellulose lacquers and polishes sold in retail packing	-
Arms and Ammunitions,	-	Arms and Ammunitions
Tiles	-	Tiles
Biscuits, confectionary, chocolates, toffees & candies	-	Biscuits, confectionary, chocolates, toffees & candies

Entry No.	Description	Tariff Heading
45.	Motorcycles	Respective headings
46.	Auto rickshaws	Respective headings

Supply of Motorcycles and Auto Rickshaws is also proposed to be taxed at retail price

**Sixth Schedule – Table I**

The Bill proposes following insertions and deletions in existing entries of Table-I to the Sixth Schedule to the Act.

S. No	Existing		Proposed	
	Description	Tariff Heading	Description	Tariff Heading
2.	Meat of bovine animals, sheep and goat, excluding poultry and offal, whether or not fresh, frozen or otherwise, preserved.	02.01, 02.02 and 02.04	Meat of bovine animals, sheep and goat, excluding poultry and offal, whether or not fresh, frozen or otherwise, preserved or packed.	
3.	Fish and crustaceans excluding live fish whether or not fresh, frozen or otherwise preserved.	03.02, 03.03, 03.04, 03.05 and 03.06	Fish and crustaceans excluding live fish whether or not fresh, frozen or otherwise preserved or packed.	
19.	Cereals and products of milling Industry.	1001.1000, 1001.9000, 1002.0000, 1003.0000, 1004.0000, 1005.1000, 1005.9000, 1006.10 90, 1006.2000, 1006.3010, 1006.3090, 1006.4000, 1007.0000, 1008.1000, 1008.2000, 1008.3000, 1008.9000, 1101.0010, 1101.0020, 1102.1000, 1102.2000, 1102.9000, 1103.1100, 1103.1300, 1103.1900, 1104.2200,	Cereals and products of milling Industry excluding the products of milling industry, other than wheat and meslin flour, as sold in retail packing bearing brand name or a trademark.	1001.1000, 1001.9000, 1002.0000, 1003.0000, 1004.0000, 1005.1000, 1005.9000, 1006.1090, 1006.2000, 1006.3010, 1006.3090, 1006.4000, 1007.0000, 1008.1000, 1008.2000, 1008.3000, 1008.9000, 1101.0010, 1101.0020, [*****] 1102.2000, 1102.9000, 1103.1100, 1103.1300, 1103.1900, 1104.2200,

		1104.2300, 1104.2900 and 1104.3000		1104.2300, 1104.2900 and 1104.3000
52A.	Goods supplied to hospitals run by the Federal or Provincial Governments or charitable operating hospitals of fifty beds or more or the teaching hospitals of statutory universities of two hundred or more beds.	Respective headings	Goods <i>excluding electricity and natural gas</i> supplied to hospitals run by the Federal or Provincial Governments or charitable operating hospitals of fifty beds or more or the teaching hospitals of statutory universities of two hundred or more beds.	
72.	Uncooked poultry Meat	02.07	Uncooked poultry Meat <i>whether or not fresh, frozen or otherwise, preserved or packed</i>	
73A.	Milk and cream, concentrated or containing added sugar or other sweetening matter, excluding that sold in retail packing under a brand name	04.01 and 04.02		[****] 04.02
82.	Frozen prepared or preserved sausages and similar products of poultry meat or meat offal	1601.0000	Frozen prepared or preserved sausages and similar products of poultry meat or meat offal <i>excluding those sold in retail packing under a brand name or a trademark</i>	
83.	Meat and similar products of prepared frozen or preserved meat or meat offal of all types including poultry, meat and fish.	1602.3200, 1602.3900, 1602.5000, 1604.1100, 1604.1200, 1604.1300, 1604.1400, 1604.1500, 1604.1600,	Meat and similar products of prepared frozen or preserved meat or meat offal of all types including poultry, meat and fish <i>excluding those sold in retail packing</i>	

		1604.1900, 1604.2010. 1604.2020, 1604.2090	<i>under a brand name or a trademark.</i>	
85.	Fat filled milk	1901.9090	Fat filled milk <i>excluding that sold in retail packing under a brand name or a trademark</i>	

**Transposition of Tax Exemptions to Reduced Rate Taxation**

S. No	Description	Tariff Heading
36.	Silver, in unworked condition.	7106.1000, 7106.9110 and 7106.9190
37.	Gold, in un-worked condition	7108.1100, 7108.1210 and 7108.1290

**Sixth Schedule – Table I**

The Finance Bill 2019 proposes to impose FED in Sales Tax Mode on steel sector. Corresponding entry providing exemption from sales tax has been proposed to be inserted in Sixth Schedule Table-1 as under:

S. No	Description	Tariff Heading
154.	Steel billets, ingots, ship plates, bars and other long re-rolled profiles, on such imports and supplies by the manufacturer on which federal excise duty is payable in sales tax mode	Respective headings

**SIXTH SCHEDULE**

*Table-II*

Bill proposed insertions of new entries in Table-II to the Sixth Schedule to the Act.

S. No	Description	Tariff Heading
25.	Cottonseed oil	1512.2100 and 1512.2900
26.	Wheat Bran	2302.3000

Bill proposed deletions in following existing entry of Table-II to the Sixth Schedule to the Act.

S. No	Existing	Tariff Heading	Proposed
	Description		Description
16.	Raw cotton and ginned cotton	Respective Headings	Raw cotton

### EIGHT SCHEDULE

Following changes of explanatory nature have been proposed in existing entries of Eight Schedule to the Act (changed text is high light as **Bold**):

S. No	Existing		Proposed		Rate of Sales Tax	Condition
	Description	Tariff Heading	Description	Tariff Heading		
14.	Milk and cream, concentrated and added sugar or other sweetening matter	0402.1000	Milk and cream, concentrated <b>or containing</b> added sugar or other sweetening matter	0402.1000 and <b>0402.2000</b>	10%	Sold in retail packing under a brand name

S. No	Description	Existing	Proposed	Rate of Sales Tax
		Tariff Heading	Tariff Heading	
27.	Seeding or planting equipment:			5%
	(i) Seed-cum-fertilizer drill (wheat, rice barley, etc.)	8432.3010	8432.3010	
	(ii) Cotton or maize planter with fertilizer attachment	8432.3090	<b>8432.3900</b>	
	(iii) Potato planter	8432.3090	<b>8432.3900</b>	
	(iv) Fertilizer or manure spreader or broadcaster	8432.4100	8432.4100	

	(v) Rice trans-planter	8432.3090	<b>8432.3900</b>	
	(vi) Canola or sunflower Drill	8432.3100	8432.3100	
	(vii) Sugarcane planter	8432.3900	8432.3900	

Fixed rate for goods covered under following entry is proposed to be enhanced (the changed rate is highlighted as **Bold**)

S. No	Description	Tariff Heading	Existing		Proposed	
			Rate of sales tax	Condition	Rate of sales tax	Condition
56.	Potassium Chlorate (KCLO3)	Respective headings	17% alongwith Rupees 65 per kilogram	Import and supply thereof. Provided that rate of rupees 65 per kilogram shall not apply on imports made by and supplies made to organizations under the control of Ministry of Defence Production.	17% alongwith Rupees <b>70</b> per kilogram	Import and supply thereof. Provided that rate of rupees <b>70</b> per kilogram shall not apply on imports made by and supplies made to organizations under the control of Ministry of Defence Production.

Following new entries are proposed to be inserted, the goods covered thereunder are presently taxed either at standard rate or exempt are now being proposed to be taxed at reduced rate as under:

S. No	Description	Tariff Heading	Rate of sales tax	Condition
63.	Articles of jewellery, or parts thereof, of precious metal or of metal clad with precious metal.	71.13	1.5% of value of gold, plus 0.5% of value of diamond, used therein, plus 3% of making charges	No input tax adjustment to be allowed except of the tax paid on gold

64.	Prepared Food, foodstuff and sweetmeats supplied by restaurants, bakeries, caterers and sweetmeat shops	Respective headings	7.5%	Supplies only, subject to condition that no input tax shall be adjusted
67.	LNG imported for servicing CNG sector and local supplies thereof	2711.1100, 2711.2100	5%	

Following goods presently exempt under Table-I of Sixth Schedule are being proposed to be charged at reduced rate by inserting new entries in Eighth Schedule as specified below:

S. No	Description	Tariff Heading	Rate of sales tax	Condition
59.	Products of milling industry except wheat and meslin flour	1101.0010, 1101.0020, 1102.2000, 1102.9000, 1103.1100, 1103.1300, 1103.1900, 1104.2200, 1104.2300, 1104.2900 and 1104.3000	10%	If sold in retail packing under a brand name or trademark
60.	Fat filled milk	1901.9090	10%	If sold in retail packing under a brand name or trademark
61.	Silver, in unworked Condition	7106.1000, 7106.9110 and 7106.9190	1% plus 2% value addition	
62.	Gold, in unworked condition	7108.1100, 7108.1210 and 7108.1290	1% plus 2% value addition	

The Bill proposed to transpose following items from Table-II of Sixth Schedule to Eight Schedule. Goods covered thereunder, presently exempt from sales tax are now being proposed to be charged at reduced rate as specified below:

S. No	Description	Tariff Heading	Rate of sales tax	Condition
65.	Ginned cotton	Respective headings	10%	

As the zero rating facility for five zero rated sectors has been done away with, finished products of these sectors sold by retailers who get their POS integrated with the FBR online system are being proposed to be charged at reduced rate as specified below.

S. No	Description	Tariff Heading	Rate of sales tax	Condition
66.	Supplies of finished articles of textile, textile made-ups, leather and artificial leather, as made by retailers	Respective headings	15%	If they are integrated with FBR's online system and data is transmitted to the FBR's computerized system in real time in such mode and manner as may be prescribed by the Board

Following existing entries of Eight Schedule to the Act have been proposed to be deleted, meaning thereby that supply of goods covered thereunder is to be taxed at standard rate:

S. No	Description	Tariff Heading	Rate of sales tax	Condition
18.	Reclaimed lead	Respective headings	5%	If supplied to recognized manufacturers of lead and lead batteries
21.	Rapeseed, sunflower seed and canola seed	1205.0000, 1206.0000	16%	On import by solvent extraction industries
22.	Soya bean seed	1201.1000	6%	On import by solvent extraction industries, subject to the condition that no refund of input tax shall be admissible
32.	White crystalline sugar	1701.9910 and 1701.9920	8%	

**NINTH SCHEDULE**

Sales tax rate for supply of mobile phone have been proposed to be revised as under:

Entry No.	Description	Existing		Proposed	
		Sales Tax on Import [or local supply	Sales tax chargeable at the time of registration (IMEI number by CMOs)	Sales Tax on Import [or local supply	Sales tax chargeable at the time of registration (IMEI number by CMOs)
2.	Cellular mobile phones or satellite phones to be charged on the basis of import value per set, or equivalent value in rupees in case of supply by the manufacturer, at the rate as indicated against each category:--				
	A. Not exceeding US\$ 30	Rs. 150	Rs. 150	Rs. 135	Rs. 135
	B. Exceeding US\$ 30 but not exceeding US\$ 100	Rs. 1,470	Rs. 1,470	Rs. 1,320	Rs. 1,320
	C. Exceeding US\$ 100 but not exceeding US\$ 200	Rs. 1,870	Rs. 1,870	Rs. 1,680	Rs. 1,680
	D. Exceeding US\$ 200 but not exceeding US\$ 350	Rs. 1,930	Rs. 1,930	Rs. 1,740	Rs. 1,740
	E. Exceeding US\$ 350 but not exceeding US\$ 500	Rs. 6,000	Rs. 6,000	Rs. 5,400	Rs. 5,400
	F. Exceeding US\$ 500	Rs. 10,300	Rs. 10,300	Rs. 9,270	Rs. 9,270

**TENTH SCHEDULE**

*Section 3(1B)*

Fixed Tax regime has been proposed to be introduced with respect to Supply of bricks falling in PCT heading 6901.1000 at the rates specified in Table below:--.

S. No	Region or Area	Proposed tax payable Per Month
1.	Lahore, Rawalpindi and Islamabad districts	Rs. 12,500
2.	Attock, Chakwal, Jehlum, Mandi Bahauddin, Sargodha, Gujrat, Sialkot, Narowal, Gujranwala, Hafizabad, Sheikhpura, Kasur,	Rs. 10,000

	Nankana Sahib, Chiniot, Faisalabad, Jhang, Toba Tek Singh, Okara and Sahiwal districts	
3.	Khushab, Mianwali, Bhakar, Layyah, Muzaffargarh, Dera Ghazi Khan, Rajanpur, Multan, Lodhran, Khanewal, Vehari, Bahawalpur, Pakpattan, Bahawalnagar, Rahim Yar Khan districts; and Sindh, Khyber-Pakhtunkhwa and Baluchistan provinces	Rs. 7,500

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

*New Services Brought into Tax Net*

The Finance Bill 2019-20 proposed to reduce rate of sales tax from 18.5% to 17% on call centre services as specified at Serial No. 41 of schedule of the ICT Ordinance.

S. No.	Description	Tariff Heading	Existing Rate of Tax	Proposed Rate of Tax
41.	Call centres	--	18.5%	17%

The Bill seeks to insert following new entries in the Schedule of the ICT Ordinance in order to bring taxability of services provided in the Islamabad Capital Territory in line with the provinces.

S. No.	Description	Tariff Heading	Rate of Tax
43.	Advertisement on hoarding boards, pole signs and signboards, and websites or internet	9802.9000	16%
44.	Services provided by landscape designers	9814.4000	16%
45.	Sponsorship services	9805.9100	16%
46.	Services provided or rendered for purchase or sale or hire of immovable property	--	16%
47.	Services provided or rendered by legal practitioners and Consultants	9815.2000	16%
48.	Services provided by accountants and auditors	9815.3000	16%
49.	Service provided or rendered by Stockbrokers, future brokers and commodity brokers, money exchanger, surveyors, outdoor photographers, event photographers, videographers, art painters, auctioneers (excluding value of goods) and registrar to an issue	9819.1000, 9819.2000, 9819.5000, 9819.7000, 9819.8000, 9819.9100, 9819.9500 9819.9090	16%
50.	Services provided by race clubs: Entry/ admission and other services	--	16%
51.	Services provided or rendered by corporate law consultants	9815.9000	16%

52.	Visa processing services, including advisory or consultancy services for migration or visa application filing services	--	16%
53.	Debt collection services and other debt recovery services	--	16%
54.	Supply chain management or distribution (including delivery) services	--	16%
55.	Services provided or rendered by persons engaged in intercity transportation or carriage of goods by road or through pipeline or conduit	--	16%
56.	Ready mix concrete services	--	16%
57.	Public relations services	--	16%
58.	Training or coaching services other than education services	--	16%
59.	Cleaning services including janitorial services, collection of waste and processing of domestic waste	9822.2000, 9822.3000 and 9822.9000	16%

**FEDERAL EXCISE ACT, 2005**

**RE-STRUCTURING OF FEDERAL EXCISE DUTY**

*Excisable Goods; Table-I of First Schedule to the Federal Excise Act, 2005*

Through the recent Finance Bill, certain changes in rate of duty, description and category of goods have been proposed in First Schedule to the Federal Excise Act, 2005 which are compared with the existing situation as follows:

Existing Situation				Proposed Situation 2019-20			
Sr. No.	Description of goods	Tariff Heading	Rate	Sr. No.	Description of goods	Tariff Heading	Rate
1.	Edible oils excluding deoxidized soybean	15.07, 15.08, 15.09, 15.10, 15.11, 15.12, 15.13, 15.14, 15.15, 15.16, 15.17, and 15.18,	16% ad val.	1.	Edible oils excluding deoxidized soybean	15.07, 15.08, 15.09, 15.10, 15.11, 15.12, 15.13, 15.14, 15.15, 15.16, 15.17, and 15.18	17% ad val.

2.	Vegetable ghee and cooking oil.	Respective heading	16% ad val.	2.	Vegetable ghee and cooking oil.  (a) in retail packing  (b) not in retail packing	Respective heading	17% of retail price  17% ad val.
4.	Aerated waters	2201.1020	11.5% of retail price.	4.	Aerated waters	2201.1020	14% of retail price.
5.	Aerated waters, containing added sugar or other sweetening matter or flavored	2202.1010	11.5% of retail price.	5.	Aerated waters, containing added sugar or other sweetening matter or flavored	2202.1010	14% of retail price.
6.	Aerated waters if manufactured wholly from juices or pulp of vegetables, food grains or fruits and which do not contain any other ingredient, indigenous or imported, other than sugar, coloring materials, preservatives or additives in quantities prescribed under the West	Respective headings	11.5% of retail price.	6.	Aerated waters if manufactured wholly from juices or pulp of vegetables, food grains or fruits and which do not contain any other ingredient, indigenous or imported, other than sugar, coloring materials, preservatives or additives in quantities prescribed under the West	Respective headings	14% of retail price.

	Pakistan Pure Food Rules, 1965.				Pakistan Pure Food Rules, 1965.		
7.	Un-manufactured tobacco	24.01	300 rupees per kg	7.	Un-manufactured tobacco  <b>Explanation:</b> The duty payable under this serial number shall always be borne by the cigarette manufacturer and the burden thereof shall not be passed on to the tobacco grower in any manner.	24.01	300 rupees per kg
9.	Locally produced cigarettes if their on-pack printed retail price exceeds four thousand five hundred rupees per thousand cigarettes.	24.02	4500 rupees per thousand cigarettes	9.	Locally produced cigarettes if their on-pack printed retail price exceeds five thousand nine hundred and sixty rupees per thousand cigarettes.	24.02	5200 rupees per thousand cigarettes.
10.	Locally produced cigarettes if their on-pack printed retail price exceeds two thousand nine hundred and twenty-five rupees	24.02	1840 rupees per thousand cigarettes.	10.	Locally produced cigarettes if their on-pack printed retail price does not exceed five thousand nine hundred and sixty rupees per	24.02	1650 rupees per thousand cigarettes

	per thousand cigarettes but does not exceed four thousand five hundred rupees per thousand cigarettes				thousand cigarettes		
10a	Locally produced cigarettes if their on-pack printed retail price does not exceed two thousand nine hundred and twenty-five rupees per thousand cigarettes.	24.02	1250 rupees per thousand cigarettes	10a	"Omitted"	"Omitted"	"Omitted"
13.	Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cements, whether or not coloured or in the form of clinkers	25.23	one rupee and fifty paise per kg	13.	Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cements, whether or not coloured or in the form of clinkers	25.23	two rupees per kg
31.	Liquefied Natural Gas	2711.1100	17 rupees and 18 paise per hundred cubic meters.	31.	Liquefied Natural Gas	2711.1100	Ten rupees per Million British Thermal Unit (MMBTu)

54.	Oilseeds	Respective headings	Forty Paisa per kg	54.	"Omitted"	"Omitted"	"Omitted"
55B	Locally manufactured or assembled motor cars, SUVs and other motor vehicles of cylinder capacity of 1700cc or above, principally designed for the transport of persons other than those of headings 87.02 including station wagons and racing cars of cylinder capacity of 1700cc or above	87.03	10% ad val.	55B	Locally manufactured or assembled motor cars, SUVs and other motor vehicles, principally designed for the transport of persons other than those of headings 87.02 including station wagons and racing cars:  <b>(a)</b> of cylinder capacity up to 1000cc  <b>(b)</b> of cylinder capacity from 1001cc to 2000cc  <b>(c)</b> of cylinder capacity 2001cc and above	87.03	2.5% ad val.  5% ad val.  7.5% ad val.

**INSERTION OF NEW ENTRIES IN FIRST SCHEDULE**

*Excisable Goods; Table-I of First Schedule to the Federal Excise Act, 2005*

This is the list of new goods which have been proposed to be excisable goods under First Schedule to the Federal Excise Act, 2005 at the rate specified next to each goods.

S. No.	Description of goods	Tariff Heading	Rate
57.	Fruit juices, syrups and squashes, waters containing added sugar or sweetening matter etc. excluding mineral and aerated waters	Respective headings	5% of retail price
58.	Steel Billets, ingots, ship plates, bars and other long re-rolled products	Respective headings	17% ad val.

**REDUCTION OF FED ON TRAVEL BY AIR**

*Excisable Services; Table-II of First Schedule to the Federal Excise Act, 2005*

The rate for services provided or rendered in respect of travel by air of passengers within the territorial jurisdiction of Pakistan in case of long routes and short routes have been proposed to be decreased from 2,000/- rupees to 1,500/- rupees and 1,250/- rupees to 900 rupees, respectively.

**INSERTION OF NEW GOODS IN SECOND SHCEDULE TO THE FEDERAL EXCISE ACT, 2005**

*Section 7*

An amendment is proposed to include steel billets, ingots, ship plates, bars and other long re-rolled products in Second Schedule to the Federal Excise Act, 2005 which deals with those goods on which duty is collectable under sales tax mode with entitlement of input tax adjustment. However, such goods are proposed to be exempted from sales tax.

**WITHDRAWAL OF FED EXEMPTION ON CERTAIN TELECOMMUNICATION SERVICES**

*Table-II of Third Schedule to the Federal Excise Act, 2005*

Exemption on internet services whether dialup or broadband including email services, data communication network services (DCNS) and value added data services have been done away with. As a result of such proposed changes, all such services would be subject to subject to FED @ 17% of charges excluding those which are provided in the area of a Province where such Province has imposed Provincial Sales Tax and has started collecting the same through its own Board or Authority, as the case may be.

The word bandwidth services has been replaced with terrestrial services in Serial No. 2(ii) of Table-II of Federal Excise Duty, 2005. The exemption would be available accordingly.

**INTRODUCTION OF NEW SCHEDULE TO THE FEDERAL EXCISE ACT, 2005**

*Fourth Schedule; Section 3(5A)*

The Bill seeks to insert new sub section and the Fourth Schedule to provide mechanism for levying duty in respect of steel products on the basis of production criterion as provided in Fourth Schedule (below).

<b>S. No.</b>	<b>Products</b>	<b>Production criteria</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
1.	Steel billets and ingots	One metric ton per 700 kwh of electricity consumed
2.	Steel bars and other re-rolled long profiles of steel	One metric ton per 110 kwh of electricity consumed
3.	Ship plates	75% of the weight of the vessel imported for breaking

Further, the duty @ 17% is imposed through insertion of steel products in First Schedule to the Federal Excise Act, 2005. Such duty is chargeable under sales tax mode which will allow the registered person to claim input tax against thereof.

It is pertinent to note that all such steel products are currently being governed under the Sales Tax Special Procedure Rules, 2007 which have now been proposed to be abolished. Further, the said products have been transposed to Sixth Schedule of the Sales Tax Act, 1990 in order to provide exemption from sales tax.

**THE CUSTOMS ACT, 1969**

**RISK PARAMETERS & CONTROLS/CRITERIA**

*Section 2-Definition*

The Bills seeks to insert new clauses of definitions of customs control, risk management system and selectivity criteria which are being introduced to enable the custom authorities to identify, analyze, monitor, review, treat risk associated with arrival and clearance of goods and risk parameters determination by the Risk management committee.

**POWER TO DETERMINE THE VALUE FOR CUSTOMS DUTY**

*Section 25A*

Currently, Collector of Customs or Director Valuation on his motion, may determine the customs value of any goods or category of goods imported into or exported out of Pakistan as per prescribed manners. The bills proposes to restrict the power upto the Collector valuation. It is a beneficial amendment.

**MIS-DECLARATION OF IMPORTS/EXPORTS VALUE FOR ILLEGAL TRANSFER OF FUNDS***Sections 32C & 156*

The Bills seeks to insert new section after section 32B in the Act. Through this section, the procedure for issuance of notices in cases where valuation of goods imported or exported has been manipulated is being introduced. This measure is being taken to control illegal transfer of funds across the borders. It has also been proposed to impose penalty not exceeding Rs. 200,000 or three times the value of goods in respect of which such offence is committed, whichever is greater.

Such goods shall also be liable to confiscation. Further, upon conviction by a special judge, such person shall also be liable to imprisonment for a term not exceeding 10 years and to a fine not exceeding Rs. 1,000,000. Such person shall also be liable to forfeiture of property involved in money laundering in accordance with the provisions of the Anti-Money Laundering Act, 2010.

**TIME FRAME OF FILING GOODS DECLARATION (GD) & PENALTY***Sections 79 & 156(47A)*

The time prescribed for filing of GD by persons importing goods, whether for consumption or warehousing has been reduced from 15 days to 10 days. The penalty for failure to file the goods declaration within prescribed period is set at Rs. 5,000 per day for the first 5 days of default and Rs. 10,000 per day after 5 days.

**AUCTION OF UN-CLEARED GOODS***Section 82*

The Bills seeks amendment in the section 82 whereby uncleared goods can now be placed in auction after 15 days of their arrival at a customs station and such time can only be extended up to 5 days.

**DISPOSAL OF CASES / APPEALS***Section 193A*

Currently, the adjudicating authority or Collector (Appeals) is obligatory to pass an order within 120 days from the issuance of show cause notice or filing of appeal, as the case may be. The Bills seeks to reduce the time limit upto ninety days for early disposal of cases.

**APPEAL TO THE COLLECTOR (APPEALS)***Section 193*

At present, there is no option for filing an appeal against an order passed under section 131 relating to clearance of exports. After validating the proposed amendment, appeal against order passed under section 131 of the Customs Act, 1969 will be made before the Collector (Appeals).

**REVAMPING OF ALTERNATIVE DISPUTE RESOLUTION (ADR) MECHANISM**

*Section 195C*

The Bills seeks permission to substitute the existing mechanism as provided in section 195C of the Act which deal with ADR. Similar changes have already been done in the Sales Tax Act, 1990, Federal Excise Act, 2005 and Income Tax Ordinance, 2001 vide Finance Act, 2018.

Under new ADR scheme, any aggrieved taxpayer may apply to the Board for constitution of committee for resolution of specified dispute. The Board after examining the application, if satisfied, may appoint a Committee within sixty days, for resolution of dispute

After constitution of ADR Committee, any appeal either departmental or taxpayer’s pending on the disputed matter, is required to be withdrawn. The ADR Committee will not commence the proceedings until such withdrawal is intimated to him.

Chairperson of ADR Committee is vested with the powers necessary for conduct of proceedings of the committee and disposal of matter in line with procedures as provided at such rules.

ADR Committee is bound to decide the matter within 120 days from intimation of withdrawal of appeals. Such decision would be binding both on department as well as taxpayer.

In case the withdrawal of pending appeals is not intimated within seventy five days of constitution of committee or Committee remains indecisive till prescribed time limit i.e., one hundred and twenty days, then Committee will be dissolved and appeals withdrawn will stand restored.

It is important to recall that under old ADR scheme applicable prior to Finance Act 2018, the role of Committee was restricted as a mere recommending body. In majority cases of relief to taxpayer, the Board did not accede to such recommendations. Such treatment from FBR had made the ADR mechanism almost redundant and unpopular among taxpayers. However, under the old scheme, there were no constraints upon parallel judicial process. We feel that such restrictions in the revised scheme may again hamper ADR’s acceptability among taxpayers.

**FIRST SCHEDULE | EXEMPTION FROM CUSTOM DUTY**

The Bill seeks to exempt customs duty on the following items:

PCT Code	Description	Custom Duty (Existing)	Custom Duty (proposed)
Chapter 84.39	Machinery for making pulp of fibrous cellulosic material or for making or finishing paper or Paperboard.	3%	0%
3701.1000 3701.2000 3701.3010 3701.9100 3701.9900	Photographic plates and film in the flat, sensitized, unexposed, of any material other than paper, paperboard or textiles; instant print film in the flat, sensitized, unexposed, whether or not in packs.	3%	0%

5402.4410	Elastomeric yarn mainly composed of polyurethane (like spandex and lycra excluding other poly-urethane yarn)	3%	0%
4408.9010	Wood slate	3%	0%
Chapter 84.79 excluding 8479.8960	Machines and mechanical appliances having individual functions, not specified or included elsewhere in this Chapter	3%	0%
2508.3000 2508.4000 2508.5000 2508.6000 2508.7000	Fire- clay, Andalusite, kyanite and sillimanite, Mullite and Chamotte or dinas earths	3%	0%
99.14	Imports by Charitable Institutions and Hospitals:  (4) Modular/Particle Free Operation Theatre equipped with OT Lights, wall panels with anti-bacterial spray / coating, specialized ventilating system for germ free air flow, anti-static door panel to avoid short circuit and Sterilized Flooring panels;  (5) Mobile health unit/clinic with standard accessories (PCT 8705.9000)	-	0% (New insertion)
4706.2000	Pulps of fibers derived from recovered (waste and scrap) paper or paperboard	3%	0%

**FIRST SCHEDULE | REDUCTION IN CUSTOM DUTY**

The Bill seeks to reduce custom duties on the following items:

PCT Code	Description	Custom Duty (Existing)	Custom Duty (proposed)
4408.1000 4408.3100 4408.3900 4408.9090	Sheets for veneering (including those obtained by slicing laminated wood), for plywood or for similar laminated wood and other wood, sawn lengthwise, sliced or peeled, whether or not planed, sanded, spliced or end- jointed, of a thickness not exceeding 6 mm.	11%	3%
4802.5510 and 4802.5600	Writing and printing papers	20%	16%
2915.2100	Acetic acid	16%	11%
2917.1110	Oxalic acid	11%	3%
4822.0000	Bobbins and spool of paperboard	20%	16%

**Fifth Schedule | Exemption from Custom Duty**

The Bill seeks to exempt customs duty on the following items:

PCT Code	Description	Custom Duty (Existing)	Custom Duty (proposed)	Condition
4802.5510 4810.1310 4810.1990	Paper having specification 60 gm/m <sup>2</sup> in 23X36 inches or 20X30 inches sheets  Art paper having specification 20x30 inches, 23x30 inches, 23x33 inches, 23x36 inches and 700x1000 mm	20%	0%	(i) If imported by a Federal or Provincial Government Institution or a Nashir-e-Quran approved by respective Provincial Quran Board for printing of Holy Quran; and (ii) In case of Nashir-e-Quran the quantity of paper to be imported would be determined by IOCO.
2710.1993	Base oil	11%	0%	If imported by manufacturers of coning oil, white oil and other textile oils, registered under the Sales Tax Act, 1990 [ST Act] , subject to annual quota determination by the Input Output Co-efficient Organization (IOCO)
8309.9010	Aluminum lids	11%	0%	If imported by registered local manufacturer of aluminum beverage cans subject to quota determination by IOCO.

**FIFTH SCHEDULE | REDUCTION IN CUSTOM DUTY**

The bill seeks to reduce custom duty on the following items:

PCT Code	Description	Custom Duty (Existing)	Custom Duty (proposed)	Condition
9406.1090 9406.9090	Pre-fabricated room/structures	20%	8%	(i) The concerned ministry or

	for setting up of new hotels /motels in Hill Stations, Gilgit-Baltistan, AJK, and Coastal Areas of Baluchistan (excluding Hub)			department shall approve the project. The Authorized Officer of the ministry or department shall certify in the prescribed format and manner as per Annex-B that the imported goods are bona fide project requirement and shall furnish all relevant information online to Pakistan Customs Computerized System against a specific user ID and password obtained under section 155D of the Customs Act, 1969.
8529.9090	Glass board for manufacturing TV panels (LCD, LED, OLED, HDI etc.)	20%	10%	If imported by manufacturers of Home Appliances, registered under the Sales Tax Act, 1990, subject to annual quota determination by the IOCO; and certification from Inland Revenue Department that all dealers of the manufacturing unit are registered with Sales Tax department.
4805.9290	Uncoated paper and paperboard	20%	15%	If imported by the Liquid food packaging industry for dairy and juices registered under the ST Act and subject to annual quota determination by the IOCO
4810.9200	Multi-ply (clay coated paper and paper board)	20%	15%	If imported by a Sales Tax registered manufacturer of Aseptic liquid food packaging material, subject to quota determination by IOCO
7606.1100, 7606.9190, 7606.9290, 7607.1990	Aluminum sheets, Coils and foil for the manufacturing of pre-sensitized printing plate	11%,16%, 20%	5%	If imported by manufacturers of photo polymers & CTP plates and pre-sensitized printing plate, registered under

				the ST Act subject to annual quota determination by the IOCO.
3907.9900 and 3907.3000	Polyester Resin and Epoxide resin used as raw material in powder coating industry	20%, 16%	10%	If imported by the manufacturers of Powder Coatings, registered under the ST Act and subject to annual quota determination by the IOCO
2524.9000	Chrysotile Asbestos used as raw material in powder coating industry	20%	15%	-do-
3809.9200	Raw materials i.e. AKD wax and dispersing agents	16%	5%	If imported by manufacturers of Paper sizing agents, registered under ST Act subject to annual quota determination by the IOCO.
7606.9290	Coils of aluminum alloys	16%	5%	If imported by registered local manufacturer of aluminum beverage cans subject to quota determination by IOCO.
5603.9200 and 5603.9300	Non-woven fabric	20%, 16%	5%	-
2917.1110	Oxalic acid	11%	5%	Nil

The bill also proposes following further amendments in first and second schedule (fifth schedules) to the customs act, 1969:

- The bill proposed to exempt the custom duties on machinery parts and accessories of textile sector.
- Regulatory duty on mobile phones, smuggling prone items and tyres are proposed to be reduced.
- Custom Duty on import of LNG is proposed to be levied at the rate of 5%.
- It is proposed to exempt the custom duties on 18 medicinal items/inputs.
- It is proposed to exempt the custom duties on medicines of certain rare diseases.
- The bill seeks to rationalize the tariff structure for SIM card manufacturing industry.
- It is proposed to exempt the custom duties on more than 1650 raw material/industrial inputs.

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