



# Indirect Tax Memorandum 2020

*(A Comparison of Proposed Budget with  
Approved Amendments vide Finance Act 2020)*

## **PREFACE**

The Finance Bill 2020, which was laid down before the National Assembly, was finally passed on 29 June 2020 and was enacted as Finance Act 2020.

This Tax Memorandum summarizes crucial changes, made in indirect tax laws through Finance Act 2020, which are different than those proposed vide in Finance Bill 2020.

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.mooreshekhamufti.com](http://www.mooreshekhamufti.com)

**30 June 2020**

## **SALES TAX ACT 1990**

### **VALUE OF SUPPLY**

#### *Section 2(46)(j)*

The Finance Bill 2020 [the Bill] proposed the insertion of a new sub clause in the definition of value of supply for car dealers purchasing used vehicles from general public. It was proposed that car dealers would be liable to charge and pay sales tax to the extent of their actual value addition instead of gross sale value provided sales tax on such vehicles was already paid at import or manufacturing stage.

Keeping the proposition intact, the Finance Act, 2020 [the Act] further provides that the basis of valuation method to determine the value of above supply will be prescribed by the Federal Board of Revenue [the Board]. It appears that the Board may issue a specific valuation method and special procedures to cater this amendment.

### **ADJUSTABLE INPUT TAX**

#### *Section 8B (4A)*

In line with Government policy to promote electric vehicles in Pakistan, the Act provided various exemptions and reduced rates to electric vehicles industry under Sixth Schedule and Eight Schedule. Therefore, keeping in mind the availability of excess input tax and to avoid the burden of refund in future, the Act seeks to insert a new sub-section 4A after Sub-section 4 of Section 8B, restricting the input tax adjustment for locally manufactured electric vehicles which are taxed at reduced rate under the Eighth Schedule to the extent of output tax. Accordingly, electric vehicles manufacturers will not be entitled for any refund or to carry forward their excess input tax.

### **REAL TIME ACCESS TO INFORMATION AND DATA BASES.**

#### *Section 56AB*

The bill proposed to empower the Board to make arrangement for a real time access to consumer profile and other information from certain organization as listed below;

1. National Database and Registration Authority (NADRA)
2. Federal Investigation Agency (FIA)
3. Bureau of Immigration and Overseas Employment
4. Islamabad Capital Territorial Authority
5. Land Record and Development Authorities
6. Excise and Taxation Department
7. Electricity and Gas transmission and distribution companies

The bill proposed to provide the Board a real time access to information from Federal Investigation Agency and Bureau of Emigration and Overseas Employment with respect to international entry and exit of all persons, and information pertaining to work permits, employment visas and immigration visas. The scope of such information has been restricted to the extent of international travel only.

### **CERTAIN TRANSACTIONS NOT ADMISSIBLE.**

#### *Section 73(4)*

Section 73(4) of Sales Tax Act 1990 (the Act) was introduced vide Tax Laws (Second Amendment) Ordinance 2019, whereby manufacturers were barred from supplying taxable goods to unregistered persons beyond annual threshold of Rs. 100 Million and monthly limit of Rs. 10 Million. Upon taxable supplies to unregistered person beyond aforesaid threshold limits, corresponding input tax attributable to such excess supplies is disallowed on proportionate basis.

Later on, by virtue of Tax Laws (Second Amendment) Act 2020, the provision was amended with certain rephrasing and supplies to the following classes of persons, not engaged in taxable supplies, were exempted from the purview of Section 73(4):

- Federal Government, Local Government, Provincial Government Departments,
- Foreign Missions, Diplomats and Privileged Persons, and
- All other Persons not engaged in taxable supplies.

Vide Finance Act 2020, the scope of Section 73(4) has been enlarged and instead of manufacturer, all registered persons are now obliged to restrict their sales to unregistered person beyond annual threshold of Rs. 100 Million and monthly limit of Rs. 10 Million failing which corresponding input tax attributable to such excess supplies shall be disallowed. The above threshold of disallowance will be computed on the basis of individual unregistered person and not on aggregate sales made to entire registered persons. Further, FBR has been empowered to exclude any person from purview of Section 73(4) of the Act.

### **SIXTH SCHEDULE (Table-I)**

#### **Import & Supply of ships and all floating crafts**

*Extension in exemption under Serial No. 103*

The bill proposed the exemption on import & supply of ships and all floating crafts including tugs, dredgers, survey vessels and other specialized crafts purchased or bare-boat chartered by a Pakistan entity and flying the Pakistan flag till 2023. The Act has increased such an exemption to the year 2030.

### Supplies of oil cake and other solid residues

*Insertion of new exemption under Serial No. 155*

Supplies of oil cake and other solid residues, whether or not ground or in the form of pellets under have been exempted Serial No.155 of table 1 of Sixth Schedule. Prior to such exemption, the said goods were taxable at reduced rate of 5% under Eight Schedule.

### Import of CKD kits

*Insertion of new exemption under Serial No. 156*

In order to promote the electric vehicle industry, import of CKD kits by local manufacturer of certain electric vehicles have been exempted under 156 of table 1 of Sixth Schedule, as exhibited under below table:

Serial No.	Description	Tariff Heading
156	Import of CKD kits by local manufacturers of following Electric Vehicles: –	
	(i) Road Tractors for semitrailers (Electric Prime Movers)	8701.2060
	(ii) Electric Buses	8702.4090
	(iii) Three-Wheeler Electric Rickshaw	8703.8030
	(iv) Three-Wheeler Electric Loader	8704.9030
	(v) Electric Trucks	8704.9059
	(vi) Electric Motorcycle	8711.6090

### SIXTH SCHEDULE (Table-III)

*Insertion of new exemption under Serial No.20*

Besides exemption under Serial No. 156 of Table 1 of Sixth Schedule, exemption has been granted to plant and machinery for the assembly / manufacturing of electric vehicles. Such an exemption shall be admissible on onetime basis for setting up the new assembly and / or Manufacturing facility of the vehicles and expansion in the existing units to the extent of electric vehicles specific plant and machinery, duly approved/ certified and determined by the Engineering Development Board (EDB).

### Eight Schedule

The following entries have been inserted vide Finance Act, 2020 to be taxed at reduced rate of 1%, such to condition provided therein.

S. No	Description	Tariff Heading	Rate of sales tax	Conditions
70	Following locally manufactured electric vehicles			Local supplies only
	(i) Road Tractors for semitrailers (Electric Prime Movers)	8701.2060	1%	
	(ii) Electric Buses	8702.4090	1%	
	(iii) Three-Wheeler Electric Rickshaw	8703.8030	1%	
	(iv) Three-Wheeler Electric Loader	8704.9030	1%	
	(v) Electric Trucks	8704.9059	1%	
	(vi) Electric Motorcycle	8711.6090	1%	

### Ninth Schedule

The schedule proposed an increase in sales tax on Smart Phones up to valuing \$30. Smart phones whether valuing less than \$30 and till \$100 was proposed to be taxed in accordance with sales tax applicable to category as specified under Ninth Schedule to the Act @ Rs.1,320.

However, the Act seeks to substitute the entire Ninth Schedule as follows.

**Table 1**

Sales Tax on supply (payable at the time of supply by CMOs):

Description / specification of goods	Sales tax on supply (payable at time of supply by CMOs)
Subscriber Identification Module (SIM) Cards	Rs. 250

**Table 2**

Cellular mobile phones in CKD/CBU form:

S. No.	Description/specification of goods	Sales tax on CBUs at the time of import or registration (IMEI number by CMOs)	Sales tax on import in CKD / SKD Condition	Sales tax on supply of locally manufactured mobile phones in CBU condition in addition to tax under column (4)
(1)	(2)	(3)	(4)	(5)
1	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 (excluding smart Phones)	130	10	10
	B. Not exceeding US\$ 30 (smart phones)	200	10	10
	C. Exceeding US\$ 30 but not exceeding US\$ 100	200	10	10
	D. Exceeding US\$ 100 but not exceeding US\$ 200	1,680	10	10
	E. Exceeding US\$ 200 but not exceeding US\$ 350	1,740	1,740	10
	F. Exceeding US\$ 350 but not exceeding US\$ 500	5,400	5,400	10
	G. Exceeding US\$ 500	9,270	9,270	10

**Substitution in Liability, procedure and Conditions**

- i) The liability to pay the tax on the goods specified in this Schedule shall be, –
- In case of the goods specified in Table-I, of the Cellular Mobile Operator (CMO);
  - in case of goods specified in columns (3) and (4) of Table-II, of the importer; and
  - in case of goods specified in column (5) of Table-II, of the local manufacturers of the goods.
- ii) The time of payment of tax due under this Schedule shall be the same as specified in section 6;

- iii) The tax paid under this Schedule shall not be deductible against the output tax payable by the purchaser or importer of the goods specified in this Schedule;
- iv) The input tax paid on the input goods attributable to the goods specified in this Schedule shall not be deductible for the tax payable under this Schedule; and
- v) The Board may prescribe further mode and manner of payment of tax due under this Schedule.

It appears that Government is trying to bring this industry in to tax net. We understand that the local manufacturing of mobile phones is in infancy phase and therefore they should be provided with the attractive exemptions. By virtue of the amendments, local manufacturing unit will enjoy low tax rates as compared with that of imported units.

### Tenth Schedule

Currently, bricks falling in PCT heading 6901.1000 are taxed at fixed rate as prescribed under Tenth Schedule.

The Act seeks to further insert a table whereby cement / concrete blocks falling under PCT code 6810.1100 are now taxable at the rates specified under below table with no input tax adjustment.

S. No. (1)	Item (2)	Tax (3)
1	Paver	Rs. 2 per sq. ft
2	Hollow block (volume less than 1 cubic feet)	Rs. 3 per piece
3	Solid block (volume less than 1 cubic feet)	Rs. 3 per piece
4	Kerb Stone (volume less than 1 cubic feet)	Rs. 5 per piece
5	Kerb stone (volume greater than 1 cubic feet)	Rs. 10 per piece

### Eleventh Schedule

Keeping the changes proposed in the Bill, the Act seeks to exclude the supply of sand, stone, gravel / crush and clay to low cost housing schemes sponsored or approved by Naya Pakistan Housing and Development Authority from the ambit of sales tax withholding.



## FEDERAL EXCISE ACT 2005

### REAL TIME ACCESS TO INFORMATION AND DATA BASES.

#### Section 47AB

Identical to the amendment made in Section 56AB of the Sales Tax Act, 1990 for real time access to information from Bureau of Emigration and Overseas Employment with respect to details of international travel is also inserted under Section 47AB of the FED Act, 2005.

### AMENDMENT IN FIRST SCHEDULE

#### Section 3

The bill proposed the changes in Serial No. 8 and 55D of First Schedule to the Federal Excise Act, 2005. The Act seeks to further modify the rates and descriptions against said tariff headings as follows:

Finance Bill 2020				Finance Act, 2020			
Sr. No.	Description of goods	Tariff Heading	Rate	Sr. No.	Description of goods	Tariff Heading	Rate
8	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes	24.01	100% of retail price	8	Cigarettes of tobacco or tobacco substitutes excluding locally produced cigarettes	24.01	Sixty five percent of retail price or the rate of duty as prescribed against S. No. 9 whichever is higher
55D.	Locally manufactured double cabin (4x4) pick-up vehicles	8704.29 8704.319	7.5% ad val	55D	Locally manufactured double cabin (4x4) pickup vehicles except the vehicles booked on or before the 30th June, 2020 subject to the restriction or conditions specified by the Board	8704.2190 8704.3190	7.5% ad val

### REDUCTION IN DUTY ON CEMENT

#### Excisable Goods; Table-I

The Bill proposed to decrease FED on cements, classified under Tariff Heading 25.23 to Rs.1.75 per kilogram. The Act seeks to further decrease the FED on cement to Rs.1.50 per Kilogram.

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