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# TAX MEMORANDUM

## FINANCE ACT, 2024-25



## PREFACE

The Finance Bill 2024-2025 (the Bill) was presented in the National Assembly on 12th June 2024. Certain amendments were made in the Bill before passage of the same from the National Assembly on 28 June 2024 as Finance Act, 2024.

This document contains brief comments on the amendments made after the introduction of Finance Bill, 2024. All the changes will be effective from July 1, 2024.

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 tax memorandum is also available at our website: [www.mooreshekhamufti.com](http://www.mooreshekhamufti.com)

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## CHANGES IN TAXATION OF CAPITAL GAIN

### Exclusions from the Implications of Advance Tax on the Sale of Immovable Property Section 236C

The exemption to pay the Advance Tax on the Sale of Immovable Property under Section 236C of the Ordinance is given to the dependent of Shaheed of Pakistan Armed Forces or of a person who dies while either in the services of Pakistan Armed Forces or the service of Federal or Provincial Government. The exemption is in respect of first sale of immovable property acquired from or allotted by the Federal Government or Provincial Government or any authority duly certified by the official allotment authority.

Through the Amended Finance Bill, the scope of above exclusion has been enhanced to include the persons being a war wounded while in service of Pakistan Armed Forces or Federal or Provincial Government or an ex-serviceman and serving personnel of Armed Forces or Ex-Employees or Serving Personnel of Federal and Provincial Government.

Moreover, a corresponding amendment has also been inserted under Clause 114B, Part-I, of 2nd Schedule of the Ordinance, whereby the profit or gains from the disposal of first sales of above immovable property has been exempted for the person as specified under Section 236C of the Ordinance.

### Changes in Withholding by Stock Fund Section 37A

Through the Finance Bill, an amendment was proposed that Stock Fund would withhold 20% where the dividend receipt of the Fund is less than the capital gain of the Fund. The withholding rate is now proposed to be 15%.

### Condition Relaxed for Late Filers Section 236C

Through the Finance Bill, another category of Late Filer was introduced, whereby it was proposed that the advance income tax at the time of selling property by a Late Filer, will be collected twice the rate as compared to Filer based on the fair market value.

Through the Amended Finance Bill, the strict condition to pay double tax has slightly been relaxed to the extent that if a person who has failed to file the current tax return within due date, however, he has submitted his Tax Return within due date for the last three preceding Tax Years, the aforesaid provision / rate of Late Flier shall not be applied.

## CHANGES IN PERSONAL TAXATION

### Non-Filers to fall under Exit Control List (ECL) Automatically

#### Section 114B

In the Finance Bill, it has been proposed to restrict non-filers to travel abroad with exceptions to minors, students, overseas Pakistanis (NICOP holders).

Now the Amended Finance Bill has proposed to include the persons going abroad for “Hajj” or “Umrah” into the list of people that will not be restricted from traveling abroad,

### Assets of Spouse in Wealth Statement

#### Section 116

The Amended Finance Bill has proposed to add a new explanation in Section 116(1)(b) of the Ordinance that the assets of spouse shall only be included in the wealth statement of a person if the spouse is a dependent.

The Amended Bill has also proposed to add the words “including foreign assets” in Section 116(1)(c) of the Ordinance, whereby, the Commissioner will be empowered to ask for a wealth statement specifying transfer of foreign assets by an individual (resident or non-resident) and consideration received for the period or periods specified in such notice and the consideration for the transfer.

### Tax Credit to Full-Time Teachers & Researchers

#### Clause 2, Part III, 2nd Schedule.

The Finance bill proposed to remove the 25% rebate on the tax payable on the income from salary to a full-time teacher or a researcher employed in a non-profit education or research institution duly recognized by Higher Education Commission, a Board of Education or a University recognized by the Higher Education Commission, including government research institution.

The Amended Finance Bill has proposed to restore a 25% rebate.

### Reduction in Rates & Additional Surcharge in Business Taxation

#### Clause-1, Division-I, Part-I of the First Schedule

No change in tax rates has been proposed in the Amended Finance Bill except for in the cases of Audit Firms and Law Firms, which cannot transfer into a corporate structure with limited liability, have been reduced from 45% to 40%.

## **10% Surcharge; if Taxable Income is more than Rs.10(M)** **[SALARIED, BUSINESS INDIVIDUAL & AOP]** **Section 4AB**

The Amended Finance Bill has proposed to add a new Section 4AB in the Ordinance, whereby, either a Salaried, Business individual and an Association of Persons (AOP), whose taxable income exceeds Rs.10 million to pay 10% surcharge on the amount of income tax on their taxable income.

In the case of a 10% surcharge on Salaried Individuals, employers as withholding agent have been made responsible to ensure withholding of this surcharge as well alongside the normal tax deductions as per salary slabs.

Since 10% surcharge has been imposed on the table covered under Division 1 of Part 1 of the First Schedule of the Ordinance, we understand that neither final taxation nor fixed taxation under any other table of the first schedule will be subject to 10% surcharge. Accordingly, capital gains on shares, securities, properties and intangible will be excluded from 10% surcharge.

Lastly, since the table of super tax is also different, we understand there will not be levied any 10% surcharge on the amount of super tax under section 4C of the Ordinance.

## **Year of Discovery in case Foreign Concealment: Clarified** **Sub-Section 2A of Section 111**

The Amended Finance Bill has proposed to add a new sub-Section 2A in Section 111 of the Ordinance, whereby it has clarified the “year of discovery” for foreign assets or expenditure or concealed income as the year in which the Commissioner issues a notice. This clarifies that “immediate preceding tax years” will be the tax year preceding the tax year of notice by the Commissioner.

## **CHANGES IN ASSESSMENT & APPEALS**

### **Best Judgement Assessment and Sectoral Benchmark Ratios** **Section 121(1)**

The Finance Bill proposed to extend authority of a Commissioner by granting additional powers to assess taxable income of taxpayer who fail to file a return of income after receiving a notice under Section 117 of the Ordinance, particularly in cases where the business is being discontinued.

Now the Amended Finance Bill apart from adopting the above measure, has also inserted a new subsection to allow the Commissioner to assess the taxable income of taxpayers based on sectoral benchmark ratios prescribed by the Board. We understand that this will minimize errors and enhance the accuracy of the Commissioner's best judgement assessment order.

The Amended Finance Bill has also explicitly defined the term “sectoral benchmark ratios” to include financial ratios, production ratios, gross profit ratios, net profit ratios, recovery ratios, wastage ratios, and other relevant metrics.

Similar powers are already available with the commissioner in cases where the taxpayer fails to provide the information requisite by a notice issued under section 177 of the Ordinance.

## **Pecuniary Jurisdiction in Appeals**

### **Section 126A**

Section 126A, introduced through the Tax Laws (Amendment) Act, 2024 specified the appropriate appellate authority based on the value of the assessment. If the assessment value is below Rs. 20 million, the appeal is to be heard by the Commissioner Appeals. If the value exceeds this threshold, the appeal is directed to the Appellate Tribunal Inland Revenue.

The Finance Bill proposed an explanation which defines the value of the assessment as the net increase in tax liability resulting from the assessment order. In cases of refunds, it defines the value as the net reduction in the refund resulting from the order. The explanation has been retained in the Amended Finance Bill.

However, ambiguity still remains regarding orders that result in a reduction of a tax loss without creating a liability. This ambiguity needs to be resolved to provide clarity on the appropriate appellate authority in such scenarios.

Furthermore, under the Tax Laws (Amendment) Act, 2024, the Commissioner Appeals was instructed to transfer all pending appeals with an assessment value or reduction of refund exceeding Rs. 20 million to the Appellate Tribunal Inland Revenue by June 16, 2024. This deadline was proposed to be extended to September 16, 2024. However, any appeals transferred during this extended period will be considered as having been transferred effective from June 16, 2024. The Amended Finance Bill has further extended the deadline to December 31, 2024.

The Amended Finance Bill has also clarified the commencement period for settlement of these cases transferred to the Appellate Tribunal Inland Revenue. The commencement period for these cases were proposed to begin from June 16, 2024, which has been amended in the Finance Act to begin from the actual date of transfer.

It has been proposed to provide the provision with “Non Obstante” clause, which implies to have been made applicable notwithstanding any other contrary provision under the Ordinance.

## **Appeal to the High Court**

### **Section 133**

The Amended Finance Bill has made the following amendments:

- 1:** The applicant is required to file complete record of the CIRA within 15 days of preferring an application. Previously, the applicant was only required to file record of ATIR.
- 2:** It has been clarified through an explanation that reference against order of the CIRA shall lie before the High Court if communicated after the date of Tax Laws (Amendment) Act, 2024. Accordingly, any pending litigation on the jurisdiction of appeals, after the order of CIRA, in superior courts stands squashed. However, fate of those appeals, which have already been filed in tribunal remains in limbo.
- 3:** The High Court may grant a stay from recovery of tax conditional upon deposit of at least 30% of the tax determined by the CIRA. Previously, the said condition was applicable only on the order of the ATIR.

## **CHANGES RELATED TO WITHHOLDING PROVISIONS**

### **Non-Resident can avail only a Reduced Rate Certificate**

#### **Section 152(4A)**

The Finance Bill proposed to abolish the facility of availing exemption certificate from withholding tax. Henceforth, only a reduced rate certificate was to be issued by the Commissioner. However, no reduced rate was specified in the Finance Bill.

The Amended Finance Bill, while retaining the above proposition, has introduced a reduced rate. The commissioner has been restricted to give maximum relief of 80% of the applicable rate.

### **Manufacturer can avail Exemption Certificate only at Reduced Rate of 1%**

#### **Section 153(4)/153(1)(a)**

Earlier, the Commissioner had the provision to grant withholding exemptions as they deemed fit, where the tax deductible was not minimum tax, by issuing a certificate to make payments without tax deduction or with a reduced rate of tax. It was proposed to omit the provision of issuance of exemption certificate from withholding. The Commissioner may now issue only a reduced rate certificate once the advance tax liability has been discharged. However, no reduced rate was specified in the Finance Bill.



The Amended Finance Bill, while retaining the above proposition, has introduced a reduced rate. The commissioner has been restricted to give maximum relief of 80% of the applicable rate. Hence, a corporate manufacturer can now avail only a reduced rate certificate of 1%. It is apprehended that the commissioners will revoke the exemption certificate already issued at the rate of 0% for the Tax Year 2025 even to those taxpayers who have discharged their advance tax liability and will re-issue them another exemption certificate with the reduced rate of 1%.

### **Facility of obtaining Exemption Certificate Restored** **Section 159**

The Commissioner can issue exemption certificates to person whose income is exempt from tax or eligible for a 100% tax credit. The Finance Bill proposed a significant change to Section 159 of the Ordinance by omitting the entire provision for availing exemptions certificate by exempt entities or by an NPO impacting entities such as mutual funds, retirement funds and non-profits.

In the Amended Finance Bill, however, the above proposal has been rejected, thereby restoring the facility of obtaining exemption by these entities.

## **CHANGES IN PENALTY PROVISION**

### **Reduction in Harsh Penalty introduced through Finance Bill** **Section 182**

Through the Finance Bill, FBR proposed to impose a draconian penalty, if a person fails to comply with any income tax general order issued by the Board. Such person would pay 100(M) for the first default and 200(M) for the subsequent default.

Through the above Amended Finance Bill, the above proposed penalties have been brought down to 50(M) for the first default and 100(M) for the subsequent default.

## **OTHER IMPORTANT CHANGES**

### **Advance Tax for the Exporters** **Section 154 read with Section 147**

The Finance Bill proposed converting the final tax regime for exporters of goods, Export Processing Zone (EPZ) entities, indirect exporters, and similar categories to a minimum tax regime. Additionally, it introduced an additional advance tax of 1% for direct exporters of goods.

Under the Amended Finance Bil, a new provision has been added to Section 147 (Advance Tax), which mandates specified withholding agents to collect a 1% advance income tax from both direct and indirect exporters of goods at the time of realizing export proceeds. Consequently, the previously proposed collection of advance tax under Section 154 for direct exporters of goods is withdrawn.

Nonetheless, it remains unclear why these amendments were made under Section 147 rather than being inserted into the main Section 154, which specifically deals with the deduction and collection of tax from exporters.

### **Disallowance of Advertisement Expense for Associates Paying Royalties** **Section 108**

The Finance Bill proposed to disallow 25% of total expenses related to sales promotion, advertisement, and publicity for the year 2024 and onwards. This 25% is to be allocated to an associate if any amount of royalty is paid or payable to the associate, directly or indirectly, for the use of any brand name, logo, patent, invention, design or model, secret formula or process, copyright, intellectual property, or other similar property or right, or contractual right, and is claimed as a deduction for the year or any of the two preceding years.

The aforementioned disallowance will now occur solely upon receipt of a notice issued by the Commissioner, in case where the taxpayer fails to provide any explanation or evidence demonstrating that no benefit has actually been conferred upon the associate due to the advertising expenditure incurred.

However, it is unclear how the commissioner can ascertain that the transaction between the associates isn't made at arm's length, as no specific information is prescribed to ascertain the genuineness of such expense.

To address this issue, the legislature should prescribe specific rules to ensure compliance with the Ordinance. Meanwhile, taxpayers should maintain records of such expenses, including royalties, in accordance with the rules prescribed by the Board.

It is also important to mention that Section 108 does not carry any provision to disallow an expenditure, which is fundamentally subject of Section 21 of the Ordinance.

Moreover, the applicability of this newly proposed provision in the Tax Year 2024 on the basis of payment of Royalty made in the Tax Years 2022 and 2023, when this provision was never there in the statute book, is uncalled for and is prone to litigation.

## **Enhance the Scope of Non-Resident having Business Connection in Pakistan**

### **Section 101**

The business income of a non-resident is considered Pakistan sourced income if it is directly or indirectly attributable to a 'Business Connection' in Pakistan. The concept of 'Business Connection' now encompasses 'significant economic presence in Pakistan' for non-residents.

Significant economic presence has been defined as:

(a) Conducting transactions involving goods, services, or property with any person in Pakistan, including the provision of data or software downloads in Pakistan, where the aggregate payments from such transactions during a tax year exceed the prescribed amount;

(b) Systematically and continuously soliciting business activities or engaging in interactions through digital means with a prescribed number of users in Pakistan, regardless of whether the transaction agreements are signed in Pakistan, the non-resident has a residence or business place in Pakistan, or services are rendered in Pakistan.

We understand that Non-resident covered under the provision of double tax treaty shall remain exempt from these newly proposed provisions, as double tax treaties take precedence over domestic tax laws, subject to specific general anti-avoidance rules.

## **New Tax Regime for Builders and Developers**

### **Section 7F**

Previously, Section 7C was introduced through the Finance Act, 2016, establishing separate tax schemes for builders and developers.

The insertion of Section 7F has been made part of the Amended Finance Bill, introducing a separate tax regime for the taxable profits of the person engaged in the business of following activities:

- (i) Construction and sale of residential, commercial, or other buildings;
- (ii) Development and sale of residential, commercial, or other plots; or
- (iii) Both construction and development activities as mentioned above.

This new tax regime will levy income taxes on taxable profits derived from these activities at the rates specified in Division I or II of Part I of the First Schedule. The taxable profit is defined as follows:

- (i) 10% of gross receipts from the construction and sale of residential, commercial, or other buildings;
- (ii) 15% of gross receipts from the development and sale of residential, commercial, or other plots; and
- (iii) 12% of gross receipts from both construction and development activities.

To remove any doubt, a proviso has been inserted stating that the provisions of Section 7F shall apply only to income derived from the specified activities and will not apply to income from other sources or under any other head of income for which separate taxation or tax is applicable under the Ordinance.

The Amended Finance Bill made the following additional changes therein;

- (i) If a taxpayer explains the nature and source of credited amounts, investments made, money or valuable articles owned, or the funds used for expenditures by citing income subject to tax under Section 7F, the taxpayer shall be allowed to claim such credit not exceeding the amount of taxable limit.
- (ii) If the taxable income under Section 9 exceeds the taxable profit specified under Section 7F, the taxpayer can claim credit for the higher taxable income, subject to the tax rates specified in Division I or II of Part I of the First Schedule.
- (iii) The provisions of Section 7F do not apply to builders or developers established through an Act of Parliament, a Provincial Assembly, or by a Presidential Order, who are specifically engaged in activities for the benefit of their employees or other purposes, including planning, development, and the provision of ancillary facilities in a specified or notified area.

## **Exemption from Minimum Tax on Turnover for Special Economic Zone Entities**

### **Clause 11A of Part IV of Second Schedule**

Section 126E of Part I of the Second Schedule of the Ordinance exempts the income of enterprise operating in the Special Economic Zone (SEZ) for ten (10) years. However, due to absence of clause 126E under clause 11A of Part IV of the Second Schedule of the Ordinance, they were liable to pay Minimum tax on turnover.

Previously, SEZ was included in the exemption list provided under clause 11A, which was omitted by Finance Act 2022. This led the companies to file litigations on the matter. Now the Amended Finance Bill has restored the exemption of minimum tax on turnover to SEZ, which will now put the litigation to rest.

## **Limit the Rate of Default Surcharge**

### **Section 205**

The Finance Bill proposed changing the default surcharge rate from 12% to "KIBOR plus 3%". In line with the increased interest rates by the State Bank of Pakistan.

Under the Amended Finance Bill, the default surcharge rate has been amended to be the higher of 12% or "KIBOR plus 3%," thereby establishing a minimum benchmark rate of 12%.

## **Establishment of Tax Fraud Investigation Wing**

### **Section 230K**

Through the Amended Finance Bill, a proposition to form a Tax Fraud Establishment Wing Inland Revenue is given. The function / objective of aforesaid investigation team is to detect, analyse, investigate, combat and prevent tax evasion and fraud.

In the above Investigation Wing, the following Units shall be included;

Fraud Intelligence and Analysis Unit	Digital Forensic and Scene of Crime Unit
Fraud Investigation	Administrative Unit
Legal Unit	Any Other Unit approved by the Board
Accountants Unit	

Moreover, the Tax Fraud Investigation Wing Inland Revenue shall consist of a Chief Investigator, Senior Investigators, Investigators, Junior Investigators or any other officer of Inland Revenue with any other designation along with a Senior Forensic Analyst, Forensic Analysts, Junior Forensic Analysts, a Senior Data Analyst, Data Analysts and Junior Data Analysts as well.

The Board has been empowered to specify the functions, jurisdictions and power of the officers of the Wing.

This seems to be yet another attempt by the FBR to combat the menace of fraud in the taxation system after its repeated efforts to establish the Directorate of Intelligence & Investigation. It is, therefore, awaited to be seen the real tangible fruits of any efforts at the FBR level.

## **SALES TAX ACT, 1990**

### **Associate / Associated Persons**

#### **Section 2(3)**

The Finance Bill, 2024 (the Bill) proposed to align the definition of the term “associated persons” with the Income Tax Ordinance, 2001 [IT Ordinance, 2001]. However, the scope of definition was restricted to the extent of provisions of sub-section (1) of the IT Ordinance, 2001.

By virtue of Amended Finance Bill, the legislature has removed sub-section (1), meaning thereby, the definition of associate person as provided at Section 85 of IT Ordinance, 2001 would be applicable in entirety which was otherwise having restrictive applicability through Finance Bill.

The aforesaid inclusion at ST Act would lead to wider sales tax implications in relation to value of supply based on open market instead of normal value transaction.

### **Input Tax**

#### **Section 2(14)**

By virtue of Amended Finance Bill, the definition clause for ‘input tax’ has been amended to include the expression “excluding those services as specified by the Board through notification in the official Gazette subject to such conditions, restrictions and limitations as mentioned therein”.

Consequently, the FBR has been vested with the power to exclude sales tax paid on any taxable service from the definition of “input tax” to deprive the registered persons from their right of adjustment against output tax.

### **Tax Fraud Proceedings**

#### **Sections 2(37)**

The Finance Bill proposed to reconstruct the definition of tax fraud by specifying wide range of offences or acts executed or alleged to have been executed by the taxpayer. The proposed definition focused on intentionality and includes a broader range of acts like sales suppression, false claim of input / refund claims, non-deposition of due tax, tempering of records, dealing in confiscated goods, etc.

Through Amended Finance Bill, the legislature has inserted an expression “intentionally understating or underpaying the tax liability or overstating the entitlement to tax credit or tax refund in contravention of duties or obligations imposed under this Act by way of” at definition clause of tax fraud at Section 2(37).

As per our understanding, the said insertion has further widened the scope of tax fraud to include the element of mere understating the tax liability and overstating entitlement of tax credit or refund at their declarations by taxpayers.

The Amended Finance Bill has also included 'falsification of tax invoices' in the ambit of tax fraud. In addition to above, the Act has also enacted sub-clauses (j) & (k) at this definition by widening its scope in cases such as 'making of taxable supplies without getting sales tax registration' and intentional doing or causing omission of any act which leads to loss of tax. We note that such inclusions except clause (j) are merely addition to repealed definition of tax fraud which was omitted through Finance Bill.

### **Reconstruction And Expansion in Scope of Assessment Provisions:**

The Bill proposed revamping of assessment provision under the Act by aligning it with that under the income tax laws. The key implications of this change include omission of Section 11 and transposing its various subsections to separate independent provisions with some expansion scope thereof.

The key changes in relation to assessment proceedings as introduced through Finance Bill were Section 11D, Section 11E, Section 11F & Section 11G. The Amended Finance Bill has made certain changes to the newly introduced assessment provisions of law. For sake of ready reference, such new amendments are enumerated as under:-

### **Best Judgement Assessment Section 11D**

The Bill proposed the scope of best judgment assessment in the cases where the taxpayer fails to file sales tax return and make payment of due tax along with non-provisions of documents as required by tax officer. The Bill also provided that notice for such non-compliance and resultant order will stand abate provided the taxpayers file return and make payment of due tax liability after such assessment order made by assessing officer.

The Amended Finance Bill has introduced a timeline for registered person to file sales tax returns within 60 days of issuance of assessment order as passed under Section 11D to abate such order otherwise the best judgment assessment will attain finality. The said amendment seems to have been introduced to close down assessment proceedings in timely manner which would equally benefit to the taxpayer and the department as well.

## **Assessment of Tax and Recovery of Tax not Levied or Short Levied or Erroneously Refunded Sections 11E**

Section 11E as proposed through Finance Bill, dealt in assessment of tax in case of non or short payment of sales tax or inadmissible input tax credit / refund on account of any reason.

The Amended Finance Bill has categorically included the element of 'collusion or deliberate act' at Section 11E. The said insertion as per our understanding has empowered tax officer to make assessment to cases having element of tax fraud or otherwise.

In addition to above, we also understand that the legislature has skipped to introduce corresponding provision at Section 45B which would empower to Commissioner-Appeals to admit appeals against assessment orders passed in terms of Sections 11B, Sections 11C, Section 11D, Section 11E, Section 11F & Section 11G. This anomalous position had created legitimacy of filings appeals to be filed before Commissioner- Appeals, Inland Revenue.

## **Tax Fraud Investigation Wing-Inland Revenue Section 30AB**

New Section has been added through Amended Finance Bill to establish a wing known as 'Tax Fraud Investigation Wing-Inland Revenue' in place of concept of 'Investigative Audit' as proposed through Finance Bill. The following units, inter alia, under this wing may be established:

- Fraud Intelligence & Analysis Unit
- Fraud Investigation Unit
- Legal Unit
- Accountant Unit
- Digital Forensic & Scene of Crime Unit
- Administration Unit

FBR is empowered to appoint Chief Investigator, Investigators, Forensic Analyst, and Data Analyst.

Presently, such investigation is being conducted by Inland Revenue officers under supervision of the Chief Commissioners of the relevant jurisdiction. Besides these officers under present regime, officers of Directorate General Intelligence & Investigation has also powers to call for evidences, issue summons, arrest, search, seize, and access to records & premises.

It appears that this new wing will mostly engage in desk works such as analysis and investigation before making the case of tax fraud against any person.



## Penalties

### Section 33 - Clauses 12, 14, 22, 23 & 24

Through the Amended Finance Bill, imprisonment and fine imposed upon conviction of Special Judge has been made independent to the prescribed penalty imposed by tax officer. By virtue of these amendments, Special Judge may also convict for imprisonment and impose fine in addition to penalty imposed by tax department.

## Default Surcharge

### Section 34

The Amended Finance Bill has increased the rate of default surcharge to 12% per annum or KIBOR + 3% per annum, whichever is higher. The rationale behind such amendment to keep the rate of default surcharge in accordance with the prevailing rate of interest in the market. Earlier, the Bill proposed to increase the rate of default surcharge to KIBOR + 3% per annum from 12% per annum.

## Transfer of Pending Appeals to the Tribunal

### Section 43A

The deadline for transferring the pending cases (having the value of assessment of duty or refund of tax exceeding Rs.10 Million) to the Appellate Tribunal Inland Revenue from the Commissioner (Appeals) has been extended till 31 December 2024 with effect from 16 June 2024. Earlier, Finance Bill proposed to extend the date till 16 September 2024.

## Certain transactions not admissible

### Section 73

Payment of the amount for a transaction exceeding value of Rs.50,000 (inclusive of sales tax) except utility bill is required to make through a banking instrument. In case of non-compliance, the buyer is not entitled to claim input tax on such transaction. In other words, the cash payment on account of transaction below Rs.50,000 (inclusive of sales tax) is allowed as many as numerous payments to a supplier in a tax period. Through Amended Finance Bill, cash payment upto Rs.50,000 (inclusive of sales tax) restricted to a single supplier in a tax period.

## AMENDMENTS IN SCHEDULES

### Withdrawal of Exemption & Reduced Rate of Sales Tax on Stationary Items

Initially, the Bill proposed removing zero rating from all goods listed at Serial No. 12 of the Fifth Schedule. The Amendments in the Finance Bill then proposed to withdraw zero rating specifically from goods used in manufacturing stationary items listed under different clauses of Serial No. 12, except for "Exercise Books" under PCT heading 4820.2000.

Under the Amended Finance Bill, only "Exercise Books" and the materials used in their production remain zero-rated under Serial No. 12(xxiii) of the Fifth Schedule, subject to conditions as prescribed in Chapter XV of the Sales Tax Rules, 2006.

Similarly, the exemption from sales tax on 'Exercise Books' continues under Serial No. 32 of the Sixth Schedule, unless specific approval is obtained under Chapter XV of the Sales Tax Rules, 2006. This exemption was initially proposed for removal in the Finance Bill; Serial No. 32 was later retained through amendments.

### **Exemption on Supplies to Tribal Areas covered under Sr. No. 151 & 152 of Sixth Schedule**

Currently, sales tax exemption on plant, machinery, and equipment for installation in tribal areas, including electricity, was valid until June 30, 2024. Initially, the Bill proposed to remove these exemptions for former FATA/PATA and introduce a reduced sales tax rate of 6% until June 30, 2025, and 12% from July 1, 2025, to June 30, 2026. However, these proposals were withdrawn through amendments in the Finance Bill.

The Amended Finance Bill has extended the existing exemption until June 30, 2025, and modified conditions, including changing the mode of payment of the security deposit from a post-dated cheque to a pay order. It also specifies that the pay order shall be returned to the importer within six months of presenting the consumption and installation certificate issued by the relevant Commissioner of Inland Revenue.

### **Exemptions intact under Sixth Schedule (Table-I)**

The Finance Bill had initially proposed withdrawal of exemptions on some items covered under Sixth Schedule. However, said proposition has not become part of the Amended Finance Bill to the extent of following goods. Hence, the same shall remain exempt from sales tax under the Act.

- ✓ Newsprints and Books
- ✓ Exercise Books
- ✓ Disposables and other equipment used in cardiology/cardiac surgery, neurovascular, electrophysiology, endosurgery, endoscopy, oncology, urology and gynecology, disposables and other equipment.
- ✓ Goods imported by or donated to hospitals run by NPOs.
- ✓ Goods Supplied to Hospitals run by Charitable Hospitals having fifty beds or more.

### New Exemption under Sixth Schedule (Table-I)

The Bill initially proposed new exemptions by adding them to serial numbers 175 and 176 of the Sixth Schedule to the Act. However, the Amended Finance Bill has been enacted with additional exemptions on the following goods:

S.No.	Description	PCT Heading
177	Supply of electricity to Azad Jammu and Kashmir	Respective Heading
178	Import of gold under entrustment scheme under SRO 760(I)/2013	Respective Heading
179	Import of cystagon, cysta drops and trientine capsules (for personal use only)	3004.9099
180	Bovine semen	0511.1000

### New Exemption under Sixth Schedule (Table-II)

The Finance Bill had initially proposed exemption on local supply of Milk and Iron and Steel scrap. However, the Amended Finance Bill has incorporated said exemptions under Table-II of Sixth Schedule of the Act alongwith certain exclusions/modifications as under.

S.No.	Description	PCT Heading
56	Milk excluding: (i) that sold under a brand name; or (ii) supplied by corporate dairy farms	04.01
57	Iron and steel scrap excluding supplied by manufacturer-cum-exporter of recycled copper, authorized under Export Facilitation Scheme, 2021.	7204.4100, 7204.3000, 7204.4990.”.

The above exemptions suggest that only supplies of milk will be entitled for exemption from sales tax if made by the non-corporate dairy farms and sold without brand name by any person.

Likewise, the manufacturer-cum-exporters of recycled copper authorized under the Export Facilitation Scheme, 2021 will not be entitled for the exemption on the supply and import of iron and steel scrap.

## **Withdrawal of Reduced Rate Facility on Hybrid Electric Vehicles**

Currently, locally manufactured hybrid electric vehicles are subject to reduced rate of sales tax under Serial No. 73 of Table-I of Eighth Schedule to the Act. Through the Bill, the reduced rate facility was proposed to be withdrawn. However, the Amended Finance Bill has been enacted with the restriction of effectiveness of such reduced rate facility up to 30 June 2026.

## **Reduce Rate on Poultry & Cattle Feeds & Meals**

Currently, local supply of the following were exempted from sales tax under Serial No. 21 of Table-I of Sixth Schedule of the Act. The Finance Bill had initially proposed to transpose such items from exemption to reduce rate facility subject to condition that refund of excess input tax (if any) shall not be admissible.

- ✓ poultry feed
- ✓ cattle feed
- ✓ sunflower seed and meal
- ✓ rape seed meal
- ✓ canola seed meal

The Amended Finance Bill has given effect to said proposition by withdrawing exemption and levying reduced rate of 10% at Serial No. 88 of Table-I of Eighth Schedule of the Act without specifying any restriction or condition thereunder.

## FEDERAL EXCISE ACT, 2005

### Definition

#### Section 2(4)

Through the Amended Finance Bill, the definition of 'Board' has been amendment for the purpose of harmonization between tax laws.

### Default Surcharge

#### Section 8

The Amended Finance Bill has increased the rate of default surcharge to 12% per annum or KIBOR + 3% per annum, whichever is higher. The rationale behind such amendment to keep the rate of default surcharge in accordance with the prevailing rate of interest in the market. Earlier, the Bill proposed to increase the rate of default surcharge to KIBOR + 3% per annum from 12% per annum.

### Tax Fraud Investigation Wing-Inland Revenue

#### Section 29A

New Section has been added to establish a wing known as 'Tax Fraud Investigation Wing-Inland Revenue'. The following units, inter alia, under this wing may be established:

- Fraud Intelligence & Analysis Unit
- Fraud Investigation Unit
- Legal Unit
- Accountant Unit
- Digital Forensic & Scene of Crime Unit
- Administration Unit

FBR is empowered to appoint Chief Investigator, Investigators, Forensic Analyst, and Data Analyst.

Presently, such investigation is being conducted by Inland Revenue officers under supervision of the Chief Commissioners of the relevant jurisdiction. Besides these officers under present regime, officers of Directorate General Intelligence & Investigation has also powers to call for evidences, issue summons, arrest, search, seize, and access to records & premises.

It appears that this new wing will mostly engage in desk works such as analysis and investigation before making the case of tax fraud against any person.

## FIRST SCHEDULE

### Table I – Excisable Goods

#### Increase in Rate of Duty

Rate on the following goods has been further increased to Rs.4 per KG through Amended Finance Bill. Earlier, Finance Bill proposed to increase to Rs.3 per KG.

S.No.	Description of Goods	Existing Rate of Duty	New Rate of Duty
13.	Portland Cement, Aluminous Cement, slag cement, super sulphate cement and similar hydraulic cements or in the form of clinkers	Rs.2 per KG	Rs.4 per KG

#### New Levy of Duty

In addition to levying duty on goods as mentioned in Finance Bill, new entry has been added through Amended Finance Bill:

S.No.	Description of Goods	Rate of Duty
63	Lubricating oil (HS Codes 2710.1951, 2710.1952 & 2710.1953)	5% ad valorem

#### Minimum Price of Locally Produced Cigarette Restriction read with Serial No. 9

Restriction is imposed on pricing and selling at retail price (excluding sales tax) lower than 60% of the Retail Price mentioned at Serial No. 9, Table I. Through Amended Finance Bill, such threshold has been reduced to 55% of the Retail Price.

### Table II - Excisable Services

Rate of Duties on the services provided or rendered in respect of travel by air of passengers embarking on international journey from Pakistan has been increased.

S.No.	Description of Goods	Existing Rate of Duty	New Rate of Duty
3(b)	(i) Economy and economy plus	Rs.5,000	Rs.12,500
	(ii) Club, business and first class air tickets issued on or after the date of commencement of the Finance (Supplementary) Act, 2023:		
	(a) IATA Traffic Conference Area 1 (North, Central, South America and Environs)	Rs.250,000	Rs.350,000
	(b) IATA Traffic Conference Area 2 (I) Middle East and Africa (I) Middle East and Africa	Rs.75,000	Rs.105,000
		Rs.150,000	Rs.210,000
(c) IATA Traffic Conference Area 3 (Far East, Australia, New Zealand and Pacific Islands)	Rs.150,000	Rs.210,000	

### Table III - Other Excisable Items

Through Amended Finance Bill, the following entries proposed through Finance Bill has been transposed in new Table and the scope has been enhanced for the purpose of levying excise duty under Section 3(1)(e) of the Federal Excise Act, 2005

S.No.	Description of Goods	
1	Allotment or transfer of commercial property and first allotment or first transfer of open plots or residential property by any developer or builder in such mode and manner and subject to such conditions and restrictions as may be prescribed by the Board	3% of gross amount of consideration involved where the buyer is Active Taxpayer under Income Tax Ordinance, 2001 on the date of acquisition of property
		5% of gross amount of consideration involved where the buyer is Late Filer of Income Tax Return by due date as specified in proviso to Rule 1A of Tenth Schedule to the Income Tax Ordinance, 2001
		7% of gross amount of consideration involved where the buyer is not appearing on active taxpayer list maintained under section 181A of the Income Tax Ordinance, 2001 on the date of acquisition of property.
2	Supply of white crystalline sugar by any person to a manufacturing, processing or packaging entity	Rs.15 per KG

## CHANGES IN CAPITAL VALUE TAX

Through the Amended Finance Bill, Capital Value Tax (CVT) was imposed at a fixed amount on farmhouses (as defined in section 7E of the Income Tax Ordinance, 2001) and residential houses situated within the Islamabad Capital City on the basis of area (irrespective of its value).

CVT has been levied on properties of Islamabad only as the rights of taxing immovable properties rest with provinces while federal government can tax properties of Islamabad.

The rate of CVT is as follows:

S.No.	Description	Rate	Area
1	Farmhouse	Rs 500,000	2,000 square yards to 4,000 square yards
		Rs 1,000,000	In excess of 4,000 square yards
2	Residential House	Rs 1,000,000	1,000 square yards to 2,000 square yards
		Rs 1,500,000	In excess of 2,000 square yards

CVT in above cases would be payable at the time the income tax return for the tax year is due.





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