

COMMENTS ON FINANCE BILL - 2023

FOR FISCAL YEAR 2023-24

Offices at:

Karachi	Lahore	Faisalabad	Islamabad
Suite No. 1601, Kashif Centre, Shahra-e-Faisal, Karachi. Tele: 021-35640050-3	Amin Building, 65-The Mall, Lahore. Tele: 042-37352661 042-37321043	Office no. 1, 2 nd Floor, Legacy Tower, Kohinoor City, Faisalabad. Tele: 041-8731632	Suite No. 12 Abu Dhabi Tower, F – 11 Markaz, Islamabad. Tele: 051-2700990

www.krestonhb.com

COMMENTS ON FINANCE BILL 2023

This memorandum has been prepared for the convenience, guidance and general knowledge of our valued clients and staff members and may be used as a ready reference to the proposed amendments mentioned in the **Finance Bill 2023 (Bill)**. The memorandum contains Budget – 2023 at a glance, salient features and comments on the changes proposed through this **Bill** in the taxation laws of the country. All changes are effective from July 01, 2023 unless otherwise specified in these comments.

The comments on the **Bill** represent our interpretation and understanding of the proposed amendments as contained therein. We recommend that the actual text of the **Bill** should be read in conjunction with these comments for a better understanding of the proposed changes and for considering the precise effect of a particular change. Further, reference should also be made to the specific wording in the relevant statutes.

These are general comments on the proposed amendments, which shall be enacted when the **Bill** is passed by the National Assembly; accordingly, for specific application of any part of this information, guidance / advice may be obtained separately in order to avoid any risk. The firm therefore accepts no liability for any action taken as a result of this commentary. We would be glad to entertain any further clarification regarding our comments.

The comments on **Finance Bill 2023** can also be accessed on / downloaded from the website of our firm - <http://www.krestonhb.com>

KRESTON HYDER BHIMJI & CO.
CHARTERED ACCOUNTANTS

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BUDGET AT A GLANCE IN COMPARATIVE FORM

	PROPOSED 2023-24	REVISED 2022-23
	<i>..... Rs. in billion</i>	
Revenue		
Tax Revenue	9,200	7,200
Non-Tax Revenue	2,963	1,618
a) Gross Revenue Receipts	12,163	8,818
b) Less: Provincial Share	<u>(5,276)</u>	<u>(4,129)</u>
Net Revenue Receipts (a-b)	6,887	4,689
Expenditure		
Current expenditure	17,921	14,336
Development expenditure	1,609	1,047
	<u>19,530</u>	<u>15,383</u>
Total Deficit	<u>(12,643)</u>	<u>(10,694)</u>
The deficit will be made up as under:		
Domestic debts - non bank	2,531	3,420
Domestic debts - banks	2,474	3,490
Foreign debts	6,973	3,324
Surplus from provinces	650	459
Privatization Proceeds	15	1
Total Resources to Meet the Deficit	<u>12,643</u>	<u>10,694</u>

SALIENT FEATURES OF AMENDMENT PROPOSED IN INCOME TAX ORDINANCE, 2001

A: REVENUE MEASURES

1. Rationalization of Super Tax under section 4C to apply on all persons across the board on income above Rs. 150 (m): insertion of additional three new income slabs of Rs. 350(m) to Rs. 400(m), Rs. 400(m) to Rs. 500(m) and Rs. 500(m) above to be taxed at 6%, 8% and 10% respectively.
2. Re-imposition of 0.6% advance adjustable withholding tax on non-ATL persons on cash withdrawal.
3. 1% increase in withholding tax rates on supply of goods other than sale of rice, cotton seed or edible oils, on rendering of services including service subject to concessionary tax rate of 3% but excluding electronic and print media advertising services and on execution of contracts excluding sportsperson.
4. 0.5% increase in withholding tax rate for commercial importer on import of goods falling in Part III of Twelfth Schedule to the Income Tax Ordinance, 2001.
5. Re-imposition of 10% final withholding tax on issuance of bonus shares by a company (20% for non-ATL).
6. Increase in withholding tax rate from 1% to 5% on payment to non-resident through debit/credit or prepaid cards. (2% to 10% for Non-ATL person).
7. Imposition of an adjustable advance tax at Rs. 200,000 at the time of issuance of work permit/visa on employment of a foreign domestic helper.
8. A new concept of 'additional tax on income, profits and gains' with a capped rate of 50% introduced for extra ordinary incomes arising from economic factors to be determined by the Federal Government for preceding five years. This concept is subject to serious legal challenges in view of the principles laid down by Higher Courts.

B: RELIEF MEASURES:

9. Continuation of concessionary fixed tax rate of 0.25% for IT & ITeS exports for Tax years 2024, 2025 and 2026.
10. Automated issuance of an exemption certificate for payment to a non-resident person within 30 days of application.
11. Withdrawal of Sales Tax return filing requirement for availing concessionary fixed tax rate of 0.25% for IT & ITeS exports.

12. Increase in business turnover limit of a manufacturer from Rs. 250 (m) to Rs. 800 (m) to qualify for concessionary tax regime for SMEs and inclusion of IT & ITeS in SMEs definition.
13. Concessionary tax rate of 20% on banking company's income from additional advances to IT & ITeS sector instead of standard rate of 39%.
14. Enhancement of monetary limit of foreign remittance remitted from outside Pakistan from five million rupees to rupee equivalent of USD 100,000 for the purpose of section 111(4) which places bar on asking nature and source of unexplained income/assets.
15. Waiver of 2% final withholding tax on purchase of immovable property for non-resident individual POC/NICOP holder where immovable property is acquired through foreign remittances remitted from abroad.
16. 10% reduction in tax liability or Rs. 5 (m) whichever is lower for a builder and 10% reduction or Rs. 1 (m) whichever is lower for an individual for own construction of house for three years.
17. 50% reduction in tax liability for three years for youth entrepreneurship (maximum limit of Rs 2 million for Individual / AOP and Rs 5 million for a company). Youth is defined as a natural person upto the age of 30 years.
18. Extension for two years for the purpose of concessionary tax rate of 20% for banking company's income from additional advances to low cost housing, agriculture, and SMEs including IT & ITeS.
19. Encouraging export of commodities (Agriculture produce, gems, metals etc.) through online platform by providing 1% concessionary final tax rate to indirect exporters.
20. Reduction of minimum tax liability on turnover from 1.25% to 1.0% for companies listed on Pakistan Stock Exchange.
21. Extension of exemption for one-year granted to a person to profits and gains on sale of immovable property or share of special purpose vehicle to any type of REIT scheme i.e. upto 30th June, 2024.
22. Extension of Income Tax exemption for one year i.e. upto 30th June, 2024 for resident persons of FATA/PATA.
23. Five years tax holiday for agro based industries being SMEs set up on or after 1st July, 2023 from tax year 2024 to tax year 2028.

C: STREAMLINING MEASURES:

24. Broadening the scope of definition of Permanent Establishment in Pakistan of non-resident person.
25. Streamlining the definition of Associates to make it more succinct and elaborate.
26. Bringing more clarity in carry forward regime of minimum tax on turnover.
27. Removal of technical mistake in banking sector super tax regime by substituting tax year 2022 with tax year 2023.
28. Insertion of enabling provision for computation, collection and payment of super tax under section 4C.
29. Introduction of enabling provision for the purpose of effecting recovery of outstanding non-tax revenue under any other statute or law by the Commissioner Inland Revenue.
30. Giving effect to change of name from “Prime Minister’s Flood Relief Fund 2022” to “Prime Minister’s Relief Fund for Flood, Earthquake and Other Calamities”.

SALIENT FEATURES OF AMENDMENTS PROPOSED IN SALES TAX ACT, 1990

A: REVENUE MEASURES

1. Extension in exemption of sales tax to NMDs (FATA/PATA) for another one year ending 30.06.2024.
2. Grant of exemption of sales tax on contraceptives and accessories.
3. Grant of exemption of sales tax on plant saplings, combine harvesters, dryer for agricultural products, no-till-direct seeder, planters, trans-planters, other planters AND bovine semen.
4. Grant of exemption of sales tax on import of IT equipment by exporters of IT and ITeS registered with Pakistan Software Export Board.

B: RELIEF MEASURES

1. Withdrawal of exemption of sales tax on edible products sold in bulk under brand names or trademarks.
2. Enhancement in reduced rate of sales tax from 12% to 15% on supplies made by the POS retailers dealing in leather and textile products.

C: STREAMLINING MEASURES:

1. The requirement of shop area for tier-1 retailers is proposed to be withdrawn.
2. The Directorate General of Digital Invoicing and Analysis is proposed to be renamed as Directorate General of Digital Initiatives.
3. The scope of penal action is proposed to be enhanced by substituting the “cigarette packs” with “goods specified by the Board”.
4. S. No. 12(xxv) of Fifth Schedule is proposed to be amended by substituting the current description with the “Other drawing, marking out or mathematical calculating instruments (geometry box) (PCT heading 9017.2000)”.
5. Scope of S. No. 21 of Fifth Schedule providing zero-rating to exporter registered under Export Facilitation Scheme, 2021 is proposed to be enhanced by inserting the word “commodities”.
6. For the purpose of clarification regarding exemption of sales tax on transfusion sets not packed in the aluminum foil imported in one consignment with the blood bags, explanation is proposed under S. No. 121 of Table-1 of the Sixth Schedule.
7. Omission of S. No. 159 and 160 of Table-1 of the Sixth Schedule is proposed being redundant as the time bound exemption has already expired on 31.12.2021.

SALIENT FEATURES OF AMENDMENTS PROPOSED IN FEDERAL EXCISE ACT, 2005

A: REVENUE MEASURES:

1. Extension in exemption of sales tax to NMDs (FATA/PATA) for another one year ending 30.06.2024.
2. Imposition of FED on energy inefficient fans @ Rs. 2000 per fan and incandescent bulbs @ 20% ad valorem is proposed as approved by the Federal Cabinet in Case No. 01/01/23, dated 03.01.2023.
3. The scope of FED on services is proposed to be enhanced by adding royalty and fee for technical services.

B: STREAMLINING MEASURES:

4. New clause (e) of sub-section (1) of section 3 is proposed to be added which will elaborate further the chargeability of federal excise duty on goods and services.
 5. The Directorate General of Digital Invoicing and Analysis is proposed to be renamed as Directorate General of Digital Initiatives.
 6. The procedure for publication of general orders and departmental instructions and ruling of the Board on its official website are proposed to align with provisions under the Sales Tax Act, 1990.
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**SALIENT FEATURES OF AMENDMENTS PROPOSED IN ICT
(TAX ON SERVICES) ORDINANCE, 2001**

A: RELIEF MEASURES:

Services provided by restaurants including cafes, food (including ice-cream) parlors, coffee houses, coffee shops, deras, food huts, eateries, resorts and similar cooked, prepared or ready-to-eat food service outlets etc. are proposed to be taxed @ 5% if payment is made through debit or credit cards, mobile wallets or QR scanning.

B: REVENUE MEASURES:

Electric power transmission services are proposed to be taxed @ 15%.

C: STREAMLINING MEASURES:

Granting the status of cottage industry to the freelance exporter of IT and IT enabled services. Such freelance exporters will not be required to file sales tax return.

Rate of tax on IT based system development consultants is proposed to be reduced to 15% from 16%.

Scope of IT and IT enabled services is proposed to be harmonized with scope envisaged under the Income Tax Ordinance, 2001 on the proposal of Ministry of Information Technology.

**COMMENTS ON PROPOSED AMENDMENT PROPOSED
IN THE INCOME TAX ORDINANCE, 2001 VIDE FINANCE BILL 2023**

1. DEFINITIONS

Following new definitions has been added through The Bill

**a) Income - Bonus shares
Section 2 (29)**

The definition of income is proposed to be widened by adding issuance of bonus shares as income in the hands of shareholders, accordingly reference of newly proposed Section 236Z is also added to the definition of income in Section 2 (29).

Under newly proposed Section 236Z issuance of bonus shares is proposed to be treated as deemed income of shareholders and The Bill seeks to levy final tax at the rate of ten percent on the value of bonus of shares (Determined on the basis of day-end price on the first day of closure of books in the case of listed company and the value as prescribed in case of other companies).

**b) Permanent establishment
Section 2 (41)**

i) Currently "Permanent Establishment" in relation to a person, means a **fixed** place of business through which the business of the person is wholly or partly carried on, and includes (sub-clauses not reproduced)

The word "fixed" is proposed to be omitted from the definition of Permanent Establishment. Accordingly, definition of Permanent Establishment is proposed to be expanded to include any place of business whether fixed or not.

Accordingly, it will also include non-resident persons or foreign entities carrying business in Pakistan through online platforms.

ii) Currently "Permanent Establishment" in relation to a person, means a fixed place of business through which the business of the person is wholly or partly carried on, and includes (only clause d reproduced below)

d) the furnishing of services, including consultancy services, by any person through employees or other personnel engaged by the person for such purpose

Presently in the above referred definition, only services rendered by any person through its employees or other personnel are considered for determination of PE of that person, however, there is no mention of services rendered by a person through any other entity. The Bill proposes to expand this definition by covering the furnishing of services, including consultancy services, by any person through any other entities as well in addition to services rendered through employees or other personnel.

It will now include persons carrying business through outsourcing.

c) **Small and medium enterprise (SME) –**

Threshold of Turnover enhanced and also Persons Providing Specified IT services are proposed to be included in the definition of SME

Section 2(59A)

Currently the definition of small and medium enterprises includes only a person who is engaged in manufacturing as defined in clause (iv) of sub-section (7) of section 153 of the Ordinance and his business turnover in a tax year does not exceed **two hundred and fifty million rupees.**

The Bill seeks to:

- i) increase this threshold of two hundred and fifty million to eight hundred million, and
- ii) provide benefits of SME to persons providing or rendering IT services or IT enabled services as defined in clauses (30AD) and (30AE) of Section 2.

Accordingly, the exiting definition of small and medium enterprises is proposed to be substituted as follows;

(59 A) “small and medium enterprise” means a person whose business turnover in a tax year does not exceed eight hundred million rupees and who is engaged in –

- (i) manufacturing as defined in clause (iv) of sub-section (7) of Section 153 of the Ordinance; or
- (ii) providing or rendering IT services or IT enabled services as defined in clauses (30AD) and (30AE) of Section 2:

Provided that if annual business turnover of a small and medium enterprise exceeds eight hundred million rupees, it shall not qualify as small and medium enterprise in the tax year in which annual turnover exceeds that turnover or any subsequent tax year.”

2. SUPER TAX ON HIGH EARNING PERSONS – TO BE INCLUDED WHILE COMPUTING QUARTERLY ADVANCE TAX Section 4C & Section 147(4)

New sub-section 5A is proposed to be inserted in Section 4C, whereby super tax shall also be included in computation of quarterly advance tax under Section 147 of the Ordinance. This would result in increase in the quantum of quarterly advance tax to paid in advance resulting in cash outflows of the taxpayer.

Finance Act, 2022 introduced enhanced tax regime whereby super tax has been levied on specified income levels as given in table below which was made applicable retrospectively from the TY 2022 and the levy was challenged before the courts and now finally the matter is pending before the Honorable Supreme Court of Pakistan and by interim order the rate of super tax of 10% for specified sectors namely airlines, automobiles, beverages, cement, chemicals, cigarette and tobacco, fertilizer, iron and steel, LNG terminal, oil marketing, oil refining, petroleum and gas exploration and production, pharmaceuticals, sugar and textiles where income exceeds Rs. 300 million in TY 2022 were required to pay 4% tax.

Proposed insertion in Division IIB of Part I of First Schedule in acquiescence of the court order super tax for the TY 2022 has been rationalized up to 4% while for the TY 2023 graduated slab up to 10% has been introduced as given below:

S.No. Income Level for Super Tax Rate of Super Tax

	From Rs.	To Rs.	Tax Year 2022	Tax Year 2023
1.	0	Up to 150 Million	0%	0%
2.	150 Million	200 Million	1%	1%
3.	200 Million	250 Million	2%	2%
4.	250 Million	300 Million	3%	3%
5.	300 Million	350 Million	4%	4%
6.	350 Million	400 Million		6%
7.	400 Million	500 Million		8%
8.	Exceeding	500 Million		10%

It is appreciable that the direction of the Honorable Supreme Court of Pakistan have been accepted by the Government at least that related to TY 2022 however levy of super tax at the rate of 10% in addition to normal tax / minimum tax is a harsh measure on Pakistan's documented sector and may prove to be a disincentive for corporate in the year to come.

Previously super tax was not the part of advance tax working u/s 147 of the ITO, 2001 which by amendment in Section 4C sub-section 5 and corresponding amendment in section 147(4) and (4B) has been made an advance tax liability for all taxpayers including individuals which is nothing otherwise than a tax rate increase for income earning taxpayers and unlike the statement that the country's tax rate will be made regressive. It is evident that the Government is pursuing progressive tax rate regime.

**3. INCOME FROM OTHER SOURCES – ISSUANCE OF BONUS SHARES
Section 39**

Amendment has been made in section 39(1)(b) of the ITO, 2001 whereby income arising to the shareholder of the company from the issuance of bonus shares shall be taxable as income from other source while provisions of section 236Z has been introduced whereby every company issuing bonus shares to the shareholders of the company shall withhold 10% of the bonus shares to be issued as a final tax.

Corresponding amendments in section 168(3)(k) and section 169(1)(b) that relates to allowing credit for taxes paid has also been proposed to be inserted.

The proposed Section is as under:

"236Z. Bonus shares issued by companies. –

- (1) Notwithstanding anything contained in any law for the time being in force, every company, issuing bonus shares to the shareholders of the company, shall withhold ten percent of the bonus shares to be issued.
- (2) Bonus shares withheld under sub-section (1) shall only be issued to a shareholder, if the company collects from the shareholder, tax equal to ten percent of the value of the bonus shares issued to the shareholder including bonus share withheld, determined on the basis of day-end price on the first day of closure of books in the case of listed company and the value as prescribed in case of other companies.

- (3) Tax under sub-section (2), shall be deposited by the company, within fifteen days of closure of books, whether or not tax has been collected by the company under sub-section (2).
- (4) A company liable to deposit tax under this section shall be entitled to collect and recover the tax deposited from the shareholder, on whose behalf the tax has been deposited, before the issuance of bonus shares.
- (5) If a shareholder neither makes payment of tax to the company nor collects its bonus shares, within fifteen days of the date of issuance of bonus shares, the company may proceed to dispose of its bonus shares to the extent it has paid tax on its behalf under this section.
- (6) Issuance of bonus shares shall be deemed to be the income of the shareholder and the tax collected by a company under this section or proceeds of the bonus shares disposed of and paid under this section shall be treated to have been paid on behalf of the shareholder.

**4. EXEMPTION UNDER FOREIGN INVESTMENT (PROMOTION AND PROTECTION) ACT, 2022 (XXXV OF 2022)
Section 44A**

Presently Reko Diq Mining Company (Pvt.) Ltd and Barrick Gold Corporation has been specified in Second schedule to the Foreign Investment (Promotion and Protection) Act, 2022 while Third Schedule specifies the protected SROs to these entities.

In our view, the proposed insertion intended to provide for specific exemption under the Income Tax Ordinance 2001 as the same benefits are already accrued under the Foreign Investment (Promotion and Protection) Act, 2022 to the beneficiary entity and eventually creates a vested right.

**5. TAX CREDIT FOR CONSTRUCTION OF HOUSE
Proposed Section 65I**

The Bill proposes to insert new Section 65 I “Tax credit for construction of house”, whereby for tax years 2024 to 2026, a person, being an individual, shall be entitled to a tax credit for a tax year in respect of construction of a new house (layout plan of which is approved by the concerned authority on or after the 1st day of July, 2023), provided that the said house is completed during the said tax year and completion certificate is furnished along with the return.

The amount of tax credit allowed shall be lesser of;

- (a) ten percent of tax assessed to the person for the tax year; or
- (b) one million rupees.

Apparently, this benefit is not likely to be available to person having income subject to final taxation.

**6. ASSOCIATES
Section 85**

The Bill proposes to expand the definition of associates by increasing the scope of associates to the following persons;

- a) One person sufficiently influences, either alone or together with an associate or associates, the other person.

Two persons shall be treated as sufficiently influencing each other, where one or both persons, directly or indirectly, are economically and financially dependent on each other and, decisions are made in accordance with the directions, instructions or wishes of each other for common economic goal.

- b) One person enters into a transaction, directly or indirectly, with the other who is a resident of jurisdiction with zero taxation regime.

Furthermore, The Bill proposes that Jurisdiction with zero taxation regime for Section 85 means jurisdiction as may be prescribed. Above proposed amendments will increase the scope of associates and by making the definition of associate more judgmental the concerned officers will be empowered to treat any persons as associates who, in their judgement, have sufficient influence over each other. Furthermore, The Bill also seeks to treat a person resident of jurisdiction with zero taxation regime, as associate of Pakistan resident person based any transaction carried by these two persons.

7. ADDITIONAL TAX ON CERTAIN INCOME, PROFITS AND GAINS

Proposed Section 99D

Presently the enabling provision have been made applicable to following sectors namely:

- Insurance Companies falling under Fourth schedule whereby clause (6DB) have been proposed to be inserted which is an enabling provision.
- Exploration and Production of Petroleum falling under Fifth schedule whereby clause (4AC) have been proposed to be inserted which is an enabling provision.
- Banking Companies falling under Seventh schedule whereby clause (7CB) have been proposed to be inserted which is an enabling provision.

However it is to be seen by reference to the notification issued by the Federal Government on the subject.

The proposed Section is as under;

99D. Additional tax on certain income, profits and gains.

- (1) Notwithstanding anything contained in this Ordinance or any other law for the time being in force, for any of the preceding five tax years from tax year 2023 and onwards, in addition to any tax charged, paid or payable under any of the provision of the Ordinance, an additional tax shall be imposed on every person who has any income, profit or gains that have arisen to any person or class of persons due to any economic factor or factors that resulted in unexpected income, profits or gains whether or not disclosed in the financial statements.
- (2) Federal Government, may through a notification in the official Gazette –
 - (a) determine economic factor or factors including but not limited to international price fluctuation having bearing on any commodity price in Pakistan or any sector of the economy or difference in income, profit or gains on account of foreign currency fluctuation;
 - (b) provide the rate not exceeding fifty percent of such income, profits or gains;
 - (c) provide for the scope, time and payment of tax payable under this section in such manner and with such conditions as may be specified; and exempt any person or classes of persons, any income or classes of income from the application of this section, subject to any condition as may be specified.";

8. UNEXPLAINED INCOME OR ASSETS – FOREIGN REMITTANCES

Section 111 (4)

Under Section 111, any unexplained credits in the person's books can be treated as income or assets of person, however, foreign remittances **to the extent of five million rupees** are not be considered as unexplained income or assets of any person provided amount of foreign exchange is remitted from outside Pakistan through normal banking channels in a tax year that is en-cashed into rupees by a scheduled bank and a certificate from such bank is produced to that effect.

The Bill proposes to enhance this limit to rupee equivalent of one hundred thousand United States dollars.

The proposed amendment of enhancing the monetary threshold of inward remittance may proved to be counterproductive as it will become controversial to deem the income from foreign source and may be treated as self remitted funds of the taxpayer post amnesty of TY 2018 and 2019 as presently the time limitation with respect to concealment has been done away with.

Furthermore, it will pave the way for continued tax evasions and anti tax compliance measures and will disincentives compliant taxpayers.

9. MINIMUM TAX ON THE INCOME OF CERTAIN PERSONS – EXPLANATION AS TO ADJUSTMENT OF MINIMUM TAX

Section 113 (2)

Following explanation is proposed to be inserted in clause (c) of sub-section 2 of Section 113;

Explanation. –For the removal of doubt it is clarified that the aforesaid Part referred to in this clause means clause (1) of Division I or Division II of Part I of the First Schedule

Provisions of section 113(2)(c) permits carry forward of unabsorbed difference of minimum tax and normal tax as worked out by reference to chargeable tax under clause (1) of division I or Division II of Part I of the First Schedule of the ITO, 2001 and the explanation proposed to be added after 113(2)(c) by the Finance Bill, 2023 intended to restrict from comparison for carry over and adjustment any other tax liability under the ordinance which apparently is the exclusion of charge of super tax u/s 4C or taxes imposed as final taxes under the aegis of the ITO, 2001.

The explanation seems to have been proposed to clarify that the minimum tax carried forward would only be adjusted against future tax liability arising only under clause (1) of Division I or Division II of Part I of the First Schedule, i.e., normal income tax applicable on business income of the individual and associations of persons (Division I) and corporate entities (Division II) and no other tax liability under Part I of first schedule shall be eligible for adjustment against brought forward minimum tax.

10. RECOVERY OF LIABILITY OUTSTANDING UNDER OTHER LAWS

Proposed Section 146D

A new Section is proposed to be inserted whereby the Commissioner (Inland Revenue) will be empowered to collect any outstanding liability under any other statute or law that has either;

- been treated as Income Tax Arrears under that law, or
- that has been required to be recovered or collected by Commissioner (Inland Revenue), or
- that is referred to Commissioner (Inland Revenue) for the recovery.

This Section have been proposed to expedite the recoveries of outstating liabilities that the Inland Revenue Department.

The proposed Section is as under;

146D. Recovery of liability outstanding under other laws. – (1) Where any outstanding liability in or under any other statute or law for the time being in force, in respect of any defaulter is –

- (a) treated as Income Tax arrears in that law;
- (b) required to be recovered or collected by Commissioner (Inland Revenue); or
- (c) is referred to Commissioner (Inland Revenue) for the recovery –

the Commissioner (Inland Revenue) shall recover the said liability and deposit the receipts in the designated account specified in that law.”

11. PAYMENTS TO NON-RESIDENTS.— EXEMPTION FORM WITHHOLDING TAX Section 152 (5A)

Currently under section 152 (5A) the Commissioner is required to pass order **within thirty** days of receiving notice / request for either allowing payments to non-resident without withholding any tax or withholding tax at reduced rate, as the case may, or otherwise making order to make payment after withholding tax.

In order to further expedite the process of allowing exemption The Bill proposes that the exemption shall be automatically allowed by IRIS if request for granting exemption is not responded by the Commissioner within thirty days. However, the Commissioner may modify or cancel the certificate issued automatically by Iris on the basis of reasons to be recorded in writing after providing an opportunity of being heard.”;

12. INCLUSION OF EXPORT FACILITATION SCHEME 2021 Section 154

Hitherto the income law provides the applicability of tax withholding rates by a direct exporter or export house registered under the Duty and Tax Remission for Exports rules 2001 provided in sub-chapter 7 of Chapter XII of the Custom Rules 2001 to an indirect exporter at par with the rates applicable an exporter.

The Bill proposes to prescribe that this applicability of lower rates whilst making payment to indirect exporter, will, henceforth apply to those direct exporter, or export house registered under the Duty and Tax Remission for Exports rules 2001 and Export Facilitation Scheme, 2021.

As a consequence of this change the registration under Duty and Tax Remission for Exports rules 2001 and also under the Export Facilitation Scheme, 2021 will now be applicable.

13. TAX RELIEF TO THE EXPORTER OF COMPUTER SOFTWARE OR IT SERVICES OR IT ENABLED SERVICES

Section 154A

Under the existing provision of income tax law, tax deducted under the aforesaid Section from exporter of computer software or IT services or IT enabled services where the exporter is registered with and duly certified by the Pakistan Software Export Board (PSEB) is final tax with certain condition i.e. (1) return has been filed, (2) withholding tax statement for the relevant year have been filed (3) sales tax return under the Federal or Provincial laws have been filed and (4) no credit for foreign taxes paid shall be allowed.

The Bill proposed to omit the condition no (3) for filing of sales tax return in respect of exporter of computer software or IT services or IT enabled services. Thus providing a relief by exempting this condition.

[Division IVA of Part III of First Schedule]

Furthermore, the reduced rate of tax (0.25%) on export of services related to computer software and IT/IT enabled services by persons registered with Pakistan Software Export Board is proposed to be restricted for tax year 2024 to tax year 2026.

14. REPHRASING THE MARGINAL HEADING (Payment of tax collected or deducted by SWAPS agents):

Section 164A

The Bill proposes change in the marginal heading of the Section from “Payment of tax collected or deducted by SWAPS agents” to “Settlement of transactions liable to withholding tax by SWAPS agents”, merely reconstruct the marginal heading of the Section. It has no effect on the legal provisions of the tax law.

15. SERVICE OF NOTICES AND OTHER DOCUMENTS

Section 218

The existing sub-section dealing with is reproduced hereunder for better clarity to understand the proposed change therein:

“218. Service of notices and other documents.—

- (2) Subject to this Ordinance, any notice, order or requisition required to be served on any person (other than a resident individual to whom sub-section (1) applies) for the purposes of this Ordinance shall be treated as properly served on the person if –
- (a) personally served on the representative of the person;
 - (b) sent by registered post or courier service to the person’s registered office or address for service of notices under this Ordinance in Pakistan, or where the person does not have such office or address, the notice is sent by registered post to any office or place of business of the person in Pakistan; or
 - (c) served on the person in the manner prescribed for service of a summons under the Code of Civil Procedure, 1908 (V of 1908) ; or
 - (d) served on the individual electronically in the prescribed manner.

The Bill proposes the removal of the word "or" occurring at the end of clause (b) in sub-section (2) to ensure that the notices are served on the representative of the person or the person's registered office or address for service of notices under the Ordinance in Pakistan. The implication of this change may be that notices will be more likely to reach the intended recipient and avoid any disputes over service of notices.

16. ESTABLISHMENT OF AN INSTITUTE TO BE KNOWN AS "INTERNATIONAL CENTRE OF TAX EXCELLENCE"

Section 230J

The Bill propose to introduce new provision for establishment of the International Centre of Tax Excellence having significant implications. The Institute's functions include contributing to tax policy development, conducting research, promoting international tax cooperation, and enhancing tax administration. The involvement of various committees and the appointment of an Executive Director and independent members indicate an organized and structured approach.

The salient features of the proposed Section is as under:

230J. International Centre of Tax Excellence.-

- (1) There shall be established an Institute to be known as International Centre of Tax Excellence.
- (2) The functions of the Institute shall be to help contribute to the development of tax policy, prepare model national tax policy, deliver interdisciplinary research in tax administration and policy, international tax cooperation, revenue forecasting, conduct international seminars, workshops and conferences on the current issues faced by tax authorities in the field of international taxation, capacity building of Inland Revenue Officers, tax analysis, improve the design and delivery of tax administration for maximizing revenue within existing provisions to close the tax gap or any other function as directed by the Board or the Federal Government.
- (3) There shall be a Nominating Committee comprising the Minister in-Charge, Secretary Revenue Division and Secretary Finance which shall be responsible for recommending a panel to the Federal Government for the appointment of an Executive Director and independent members of the Executive Committee.
- (4) There shall an Executive Committee comprising Chairman, Federal Board of Revenue, Member (IR-Policy), Member (IR Operations) and two independent members to be appointed by the Federal Government. Executive Director shall act as Secretary of the Executive Committee.
- (5) The Nominating Committee shall apply the prescribed criteria for making recommendations of the panel for Executive Director and independent members of the Executive Committee.

- (6) Executive Director and independent members of the Executive Committee shall be appointed by the Federal Government.
- (7) Executive Director shall also be the Chief Executive of the Institute and shall work to ensure efficient functioning and day to day administrative functions of the Institute and shall be independent in the discharge of its functions specified under sub-section (8).
- (8) Executive Committee, for every fiscal year, shall assign the requirements of the Board to be undertaken by the Institute, during the year.
- (9) The Executive Committee shall prescribe rules for recruitment of the employees of the Institute and Executive Director shall act in accordance with the rules. At least fifty per cent of the employees shall be serving or retired Inland Revenue officers having at least 5 years of experience of tax policy or tax administration.
- (10) The remuneration and term of employment of the employees of the Institute shall be as prescribed by the Federal Government.
- (11) The Board may establish a committee to monitor the establishment of the Institute including appointment of the Project Director for the purpose.
- (12) The Board may, provide such data to the Institute as is necessary for processing and analysis and for discharging its obligations under sub-section (8):
Provided that such data shall be anonymized before transmission to the Institute and identifying particulars of the taxpayers shall be kept confidential and provisions of sub-section (7) of Section 216 shall apply accordingly.
- (13) The Executive Committee may by notification in the official gazette make rules for carrying out the purposes of this Section.

This amendment reflects the Government's emphasis on improving tax expertise, knowledge sharing, and capacity building in the field of taxation.

17. RESUMPTION OF TAX ON CASH WITHDRAWAL- NON-FILER

Section 231AB

The Bill proposes to reinstate the adjustable advance tax on cash withdrawals from the bank in the case of non-filer. The tax is to be withheld on sum total of cash withdrawals exceeding Rs. 50,000/ in a day from individuals not appearing in the active taxpayers' list (ATL) and aims to bring these non-filer to tax net. This amendment will as a consequence will though increase the tax collection but on the other hand can also result in cash dealing and avoiding banking activities.

The proposed Section reads as follows:

“231AB. Advance tax on cash withdrawal. —

(1) Every banking company shall deduct advance adjustable tax at the rate of 0.6% of the cash withdrawal from a person whose name is not appearing in the active taxpayers’ list on the sum total of the payments for cash withdrawal in a day, exceeding fifty thousand rupees.

Explanation. – For removal of doubt, it is clarified that the said fifty thousand rupees shall be aggregate cash withdrawals in a single day.”

**18. INTRODUCTION OF NEW TAX WITHHOLDING MEAN - COLLECTION OF TAX ON FOREIGN DOMESTIC WORKERS FROM THE EMPLOYER
Section 231C**

Advance tax on foreign domestic workers:

The proposed amendment introduces a new tax collection avenue whereby any Authority at the time of issuing or renewing visas of any foreign national as domestic worker shall collect adjustable advance tax of Rs. 200,000 from agency, sponsors, or persons employing foreign nationals as domestic workers.

This change aims to generate revenue from the employment of foreign domestic workers and align their tax obligations with their employers. The tax collected is treated as adjustable advance tax on the income of the employer.

Proposed Section read as follows:

“231C. Advance tax on foreign domestic workers. –

(1) Any authority issuing or renewing domestic aide visa to any foreign national as a domestic worker at the time of issuing or renewing such visa shall collect from the agency, sponsor or the person as the case may be, employing the services of such foreign national a tax of two hundred thousand rupees. (2) The tax collected or collectible under this Section shall be adjustable advance tax for the tax year to which it relates on the such agency, sponsor or a person, as the case may be, employing of such foreign national.”;

**19. EXEMPTION TO NON-RESIDENT INDIVIDUAL AND OVERSEAS PAKISTANIS ON PURCHASE OR TRANSFER OF IMMOVABLE PROPERTY
Section 236K**

Currently the Non-resident Individual and Overseas Pakistanis are subject to adjustable advance tax on purchase or transfer of immovable property and the tax collected is final discharge of tax liability therefor.

The Bill introduces the exemption to non-resident individuals and Overseas Pakistanis holding specific identification cards (Pakistan Origin Card (POC) or National ID Card for Overseas Pakistanis (NICOP) or CNIC) and using specific bank accounts (FCVA or NRVA) upon submission of certificate as may be prescribed for property purchase or transfer and aims to facilitate their property ownership in Pakistan.

As a consequence of proposed amendments these said persons shall not be liable to pay tax on purchase or transfer of property, provided the conditions mentioned are fulfilled.

SCHEDULES OF THE INCOME TAX ORDINANCE, 2001

TAX RATE CARD - FIRST SCHEDULE

MINIMUM TAX

The Bill proposed the new clause in Division IX, in the Table, for S. No. 4 and entries related thereto in columns (2) and (3), the following S. Nos. and entries related thereto in columns (2) and (3) shall be substituted.

“4.	Company listed on Pakistan Stock Exchange, if not covered in S. No.1 to 3 above	1%
5.	In all other cases.	1.25%”;

PAYMENT TO NON-RESIDENT U/S 152

Part III, Division II,

S.No	Section	Old Rate of Tax	Proposed Rate
1	Paragraph (4). The rate of tax to be deducted from a payment referred to in clause (a) of sub-section (2A) of section 152 shall be—		
	(i) in case of a company	4%	5%
	(ii) in any other case	4.5%	5.5%
2	Paragraph (5),		
	(i) In the cases of 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 as defined in 1 [section 2], tracking services, advertising services (other than by print or electronic media), share registrar services, engineering services, car rental services, building maintenance services, services rendered of Pakistan Stock Exchange Limited and Pakistan Mercantile Exchange Limited inspection and certification, testing and training services 2 [, oilfield services];]	3%	4%
	(ii) in cases other than 4 [sub-paragraph (i)		
	a) In case of Company	8%	9%
	b) In any other cases	10%	11%
3	Paragraph (6), sub-paragraph (ii)	7%	8%

Part III Division III

PAYMENTS FOR GOOD AND SERVICES U/S 153

S.No.	Section	Old Rate of Tax	Proposed Rate
1	Paragraph (1), in sub-paragraph (b) in the case of sale of goods including toll manufacturing		
	(i) In case of a company	4%	5%
	(ii) In any other case	4.5%	5.5%
	Paragraph (2),		
	(i) In the cases of 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 as defined in 1 [section 2], tracking services, advertising services (other than by print or electronic media), share registrar services, engineering services, car rental services, building maintenance services, services rendered of Pakistan Stock Exchange Limited and Pakistan Mercantile Exchange Limited inspection and certification, testing and training services 2 [, oilfield services];	3%	4%
	(ii) in cases other than 4 [sub-paragraph (i)]		
	a) In case of Company	8%	9%
	b) In any other cases	10%	11%
	Paragraph (3)		
	(ii) in case of a company the gross amount payable and	6.5%	7.5%
	(iii) In any other case	7%	8%

TAX ON EXPORT SERVICES – Division IVA Part III

The Bill proposes the rate of tax to be deducted under section 154A as under:

S.No.	Types of Receipts	Rate of Tax
1.	Export proceeds of Computer software or IT services or IT Enabled services by persons registered with Pakistan Software Export	0.25% of proceeds
2.	Any other case	1% of proceeds”;

After the word “proceeds”, in S. NO. 1 the expression “for tax years 2024 up to tax year 2026” shall be added.

TAX ON REMITTED ABROAD THROUGH CREDIT, DEBIT AND PREPAID CARD - Part IV, in Division XXVII,

The Bill proposes enhance rate of tax related to advance tax on amount remitted abroad through credit, debit or prepaid cards U/s 236Y from 1% to 5%.

THE SECOND SCHEDULE

TAX EXEMPTION FOR CERTAIN CHARITABLE ORGANIZATIONS - PART I

Finance Bill proposes, income of following organizations to be exempted from income tax by way of inclusion in Table I of Clause 66:

- (i) The Prime Minister's Relief Fund for Flood, Earthquake and Other Calamities with effect on and from the 5th August, 2022.
- (ii) Film and Drama Finance Fund
- (iii) Export-Import Bank of Pakistan
- (iv) Shaheed Mohtarma Benazir Bhutto Institute of Trauma, Karachi
- (v) Shaheed Zulfikar Ali Bhutto Institute of Science and Technology

EXEMPTION FOR COLLECTIVE INVESTMENT SCHEMES OR REIT SCHEMES - PART I

In Clause 99A pertain to Profits and gains accruing to a person on the sale of immoveable property or shares of Special Purpose Vehicle] to any type of REIT scheme upto the 30th day of June, 2023 shall further extended to June 2024.

In clause (145A), for the figure, "2023", the figure "2024" shall be substituted.

After clause (153), the following new clause shall be added, namely: –

"(154) Profits and gains of a small and medium enterprise setup exclusively as agro based industry in a rural area duly notified for a period of five tax years commencing from tax year 2024 and up to tax year 2028:

Provided that such enterprise is setup on or after 1st day of July, 2023 and is not formed by the transfer or reconstitution or reconstruction or splitting up of an existing business.”;

REDUCTION IN TAX LIABILITY - PART III

In Part III, after omitted clause (20), the following new clauses shall be added, namely: –

“(21) (a) For tax year 2024 to tax year 2026, tax payable on profits and gains derived from business chargeable to tax under the head “Income from Business” by a builder registered with Directorate General of Designated Non-Financial Business and Professions from a new building construction project, shall be reduced, not below zero, by ten percent or rupees five million whichever is lower for the tax year in which the builder furnishes along with return the completion certificate issued by the concerned regulatory authority; and

(b) New building project means a project for the construction of building excluding a land development project, layout plan of which is approved by the authority **concerned on or after the 1st day of July, 2023**

(22) (a) For tax years 2024 to tax year 2026, tax payable by a youth enterprise on profit and gains derived from business chargeable to tax under the head “Income from Business” shall be reduced not below zero -

(i) in case of an individual or an association of person by fifty percent or rupees two million whichever is lower; and

(ii) in case of a company, by fifty percent or rupees five million whichever is lower;

(b) for the purpose of this clause –(i) youth enterprise means a startup established on or after first day of July, 2023 as sole proprietorship concern owned by a youth individual or an AOP all of whose members are youth or a company whose hundred percent shareholding is held or owned by youth individual:

Provided that the startup is not **formed by the transfer or reconstitution or** reconstruction or splitting up of an existing business; and

(ii) youth individual means a natural person up to the age of thirty years as on first day of the commencement of the relevant tax year; and

(c) This clause shall not apply where the startup is covered under clause (19) of Part III of the Second Schedule.”

The Bill proposes exemptions for The Prime Minister's Relief Fund for flood, earthquake, and other calamities, effective from August 5, 2022. These exemptions include:

1. Exemption from minimum tax (section 113): The Fund will not be required to pay the minimum tax as stipulated in section 113 of the Income Tax Ordinance, 2001.
2. Exemption from profit on debt tax deduction (section 151): The Fund will be exempt from the application of section 151, which pertains to tax deduction on profit earned from debt investments.
3. Exemption from advance tax on SMS donations (section 236): Amounts donated to the Fund through SMS will be exempted from the provisions of section 236, which relates to advance tax on telephone bills and prepaid cards.
4. Tax credit for Fund investment (section 62): Investors in the Fund will be eligible for a tax credit under section 62 of the Income Tax Ordinance, 2001.

THE SEVENTH SCHEDULE

As per The Bill, there is a proposal to apply a reduced tax rate of 20% on taxable income for the tax years 2024 to 2025 for additional advances granted to the IT and IT-enabled services sector in Pakistan. This reduced tax rate differs from the current normal tax rate applicable to banks.

The Bill defines additional advances as the average amount of advances disbursed to the sector in addition to the average amount disbursed in the preceding tax year (starting from 2023). To determine the eligibility for the reduced tax rate, a certificate from the external auditor must be provided with the tax return, certifying the amounts of advances made in previous tax years, additional advances for the current tax year, and the net mark-up earned from such additional advances. The Commissioner will have the authority to request details of the advances made by the banking company to assess the applicability of the reduced tax rate.

Presently, banking companies benefit from a reduced tax rate of 20% on the following until the tax year 2023:

- Additional advances for micro, small, and medium enterprises
- Additional advances for low-cost housing
- Additional advances as farm credit

The Bill proposes extending these reduced tax rates until the tax year 2025.

THE EIGHTH SCHEDULE

The Bill includes a proposal stating that the National Clearing Company of Pakistan Limited (NCCPL) will be responsible for calculating and collecting tax under section 4C on the amounts of capital gains.

THE THIRTEENTH SCHEDULE

Section 61 of the Income Tax Ordinance allows for a tax credit to be given to individuals who make donations, voluntary contributions, or subscriptions to non-profit organizations and funds listed in the Thirteenth Schedule of the Ordinance. This schedule was introduced through the Finance Act of 2021. The proposed bill seeks to amend S. No. 64 in the Table of the Thirteenth Schedule to reflect the change in the name of the "Prime Minister's Flood Relief Fund, 2022" to the "Prime Minister's Relief Fund for Flood, Earthquake, and other calamities." Furthermore, The Bill suggests the inclusion of the name "Film and Drama Finance Fund" at S. No. 65 in the aforementioned Table of the Thirteenth Schedule. This addition would make the Film and Drama Finance Fund eligible for the tax credit provided under Section 61 of the Income Tax Ordinance.

THE FOURTEENTH SCHEDULE

The Finance Bill proposes to introduce following amendments to the Schedule:

The proposed amendment states that small and medium enterprises (SMEs) will be required to register either with the Federal Board of Revenue (FBR) through its IRIS web portal or with the Small and Medium Enterprises Development Authority (SMEDA) through its SME registration portal (SMERP). However, in the case of SMEs engaged in IT services or IT-enabled services, they will need to register and obtain certification from the Pakistan Software Export Board in addition to registration on SMERP. Increase in tax rates: The Bill suggests amending Rule 3 of the Schedule to introduce a new Category-3 for SMEs with a turnover exceeding 250 million but not exceeding Rs 800 million. SMEs falling under this category and choosing to be taxed under the Normal Tax Regime will be subject to a tax rate of 20% on their taxable income. Furthermore, The Bill proposes amending Rule 4 of the Schedule to introduce a new Category-3 for SMEs with a turnover exceeding 250 million but not exceeding Rs 800 million. SMEs falling under this category and opting for taxation under the Final Tax Regime will be subject to a tax rate of 0.75% of their gross turnover.

**COMMENTS ON AMENDMENTS PROPOSED VIDE FINANCE BILL 2023
IN THE SALES TAX ACT, 1990 - EFFECTIVE FROM JULY 01, 2023,
EXCEPT PROVIDED OTHERWISE**

1. SECTIONS

1.1 Goods

[Section 2 (12)]

The Bill proposed to amend the definition of “Goods” and omit words “production, transmission and distribution of electricity” from its definition. These words were previously added in the definition of “good” and “supply” through the Finance Act, 2022 to reaffirm the Federal Government’s right to tax the same under the Sales Tax Act

After amendment the definition of “goods” shall be read as follows:

12) “goods” include every kind of movable property other than actionable claims, money, stocks, shares and securities;

Now through this proposed amendment, the production, transmission, and distribution of electricity will no longer be classified as goods and now will be treated as service. A corresponding amendment has been proposed in the Islamabad Capital Territory (Tax on Services) Ordinance, 2001 to tax Electric power transmission services.

1.2 Supply

[Section 2(33)]

The Bill also proposed to amend the definition of supply and omit sub clause “(e) production, transmission and distribution of electricity” to exclude the production, transmission and distribution of electricity from the definition of supply of goods.

After the proposed amendment, the amended clause shall be read as follow:

(33) “**supply**” means a sale or other transfer of the right to dispose of goods as owner, including such sale or transfer under a hire purchase agreement, and also includes –

- (a) putting to private, business or non-business use of goods produced or manufactured in the course of taxable activity for purposes other than those of making a taxable supply;
- (b) auction or disposal of goods to satisfy a debt owed by a person;
- (c) possession of taxable goods held immediately before a person ceases to be a registered person;
- (d) in case of manufacture of goods belonging to another person, the transfer or delivery of such goods to the owner or to a person nominated by him; and

Provided that the Board, with the approval of the Federal Minister-in-charge, may, by notification in the official Gazette, specify such other transactions which shall or shall not constitute supply;

1.3 Tier-I retailer

[Section 2(43A)]

The Bill proposed to amend the definition of Tier-I retailer and omit the following sub-clauses (e) and (ga).

- (e) Retailers whose shop measured 1,000 sq ft or more or 2,000 sq ft or more in case of retailers of furniture; and
- (ga) Retailers engaged in supply of articles of jewelry, or parts of metal/ metal clad with precious metals.

Exclusion of the above two category of retailers from the definition of Tier-1 retailers means such retailers shall now pay sales tax through their monthly electricity bills at specified rates.

After the proposed amendment, clause 43A shall be read as follows:

(43A) “**Tier-1 retailer**” means a retailer falling in any one or more of the following categories, namely:-

- (a) a retailer operating as a unit of a national or international chain of stores;
- (b) a retailer operating in an air-conditioned shopping mall, plaza or centre, excluding kiosks;
- (c) a retailer whose cumulative electricity bill during the immediately preceding twelve consecutive months exceeds Rupees twelve hundred thousand;
- (d) a wholesaler-cum-retailer, engaged in bulk import and supply of consumer goods on wholesale basis to the retailers as well as on retail basis to the general body of the consumers;
- (f) a retailer operating an online market place supplying goods through e-commerce platform, whether or not the goods are owned by him;
- (g) a retailer who has acquired point of sale for accepting payment through debit or credit cards from banking companies or any other digital payment service provider authorized by State Bank of Pakistan; and
- (h) any other person or class of persons as prescribed by the Board.

1.4 Directorate General of Digital Initiatives

[Section 30CA]

The Bill proposed to only substitute the title of section 30CA from Directorate General of Digital Invoicing and Analysis to “Directorate General of Digital Initiatives”.

After substitution, section 30CA shall read as under:

30CA. Directorate General of Digital Initiatives.—The Directorate General of Digital Initiatives shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors and Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.

1.5 Offences and penalties

[Section 33]

It has been prescribed in section 33 of the Sales Tax Act that whoever commit any offence described in column (1) of Table of section 33 shall, be liable to the penalty mentioned against that offence in column (2) thereof.

The Bills proposed to amend column (2) of Sr. No. 23 of the Table by broadening the offenses pertaining to selling of cigarette packs with counterfeited tax stamps, banderoles, stickers, labels, or barcodes or without tax stamps, banderoles, stickers, labels, or barcodes by substituting the words "cigarette packs" with goods / class of goods specified by the Board under section 40C(1). Now penalty is made applicable in case of all the persons who are required by the FBR to affix tax stamps, banderoles, stickers, labels, barcodes etc. on taxable goods in the prescribed manner but commit the above referred offence.

Sr. No. 23 of the Table, after amendment shall read as under:

Sr. No.	Offence	Penalties	Section of the Act to which offence has reference
(1)	(2)	(3)	(4)
23.	Any person who manufactures, possesses, transports, distributes, stores or sells goods or class of goods as specified by the Board under section (1) of section 40C with counterfeited tax stamps, banderoles, stickers, labels or barcodes or without tax stamps, banderoles, stickers, labels or barcodes	<p>(i) Such specified goods shall be liable to outright confiscation. Any person committing the offence shall pay a penalty of twenty-five thousand rupees or one hundred per cent of the amount of tax involved, whichever is higher. He shall, further be liable, upon conviction by a Special Judge, to simple imprisonment for a term which may extend to three years, or with additional fine which may extend to an amount equal to the loss of tax involved, or with both.</p> <p>(ii) In case of transport of specified goods with counterfeited tax stamps, banderoles, stickers, labels or barcodes, or without tax stamps, banderoles, stickers, labels or barcodes, permanent seizure of the vehicle used for transportation of non-conforming or counterfeit specified goods; and</p> <p>(iii) In case of repeat sale of specified goods without or with counterfeited, tax stamps, banderoles, stickers, labels or barcodes, the premises used for such sale be sealed for a period not exceeding fifteen days.</p>	40C(2)

2. THE FIFTH SCHEDULE:

In terms of section 4(a) of the Sales Tax Act, 1990, the goods specified in the Fifth Schedule to the Act shall be subjected to zero rating of sales tax.

- 2.1. Insertion of new Sr. No. 8A: The Bill proposed to insert a new Sr. No. 8A in Fifth Schedule to the Act by virtue of which zero rating of sales tax shall be applicable to imports or supplies made by, for or to be qualified investment as specified at Serial No.1 of the First Schedule to the Foreign Investment (Promotion and Protection) Act, 2022 for the period as specified in the Second Schedule to the said Act.
- 2.2. Substitution of clause (xxv) of Sr. No. 12: In terms of clause (xxv) of Sr. No. 12 of Fifth Schedule, zero rating of sales tax is chargeable on import and supply of geometry boxes of PCT heading 9017.2000.

The Bill Proposed to substitute clause (xxv) of Sr. No. 12 and as per substituted provisions zero rating of sales tax shall be charged on other drawing, marking out or mathematical calculating instruments (geometry box) (PCT heading 9017.2000).

- 2.3. Amendment in Sr. No. 21: The Bill proposed to amend Sr. No. 21 of Fifth Schedule and in terms of the amended provisions, zero rating of sales tax shall be charged on local supplies of commodities, raw materials, components, parts and plant and machinery to registered exporters authorized under Export Facilitation Scheme, 2021 notified by the Board with such conditions, limitations and restrictions as specified therein.

3. THE SIXTH SCHEDULE:

The goods specified in Table 1, whether supplied locally or imported, are exempt from sales tax whereas the goods specified in Table 2 are exempt from sales tax only when supplied locally.

A. Exemption of sales tax on import or supply -- Amendments in Table 1:

- 3.1 In terms of Sr. No. 16 of Table 1, exemption of sales tax has been given on import and supply of "red chillies excluding those sold in retail packing bearing brand names and trademarks" classified in PCT headings specified in column (3) against said serial number.

The Bill proposed to amend said Sr. No. 16. If the proposal is accepted then as per amended Sr. No. 16, exemption of sales tax shall be applicable on import and supply of "red chillies excluding those sold under brand names and trademarks".

- 3.2 In terms of Sr. No. 17 of Table 1, exemption of sales tax has been given on import and supply of "Ginger excluding those sold in retail packing bearing brand names and trademarks" classified in PCT heading 09.01.

The Bill proposed to amend said Sr. No. 17. If the proposal is accepted then as per amended Sr. No. 17, exemption of sales tax shall be applicable on import and supply of "Ginger excluding those sold under brand names and trademarks".

- 3.3 In terms of Sr. No. 18 of Table 1, exemption of sales tax has been given on import and supply of “Turmeric excluding those sold in retail packing bearing brand names and trademarks” classified in PCT headings specified in column (3) against said serial number.

The Bill proposed to amend said Sr. No. 18. If the proposal is accepted then as per amended Sr. No. 18, exemption of sales tax shall be applicable on import and supply of “Turmeric excluding those sold under brand names and trademarks”.

- 3.4 In terms of Sr. No. 121 of Table 1, exemption of sales tax has been given on import and supply of “Blood Bag CPDA-1 with blood transfusion set pack in aluminum foil with set” classified in PCT headings specified in column (3) against said serial number.

The Bill proposed to add explanation in column (2) of said serial number which shall prescribe that for removal of doubt, it is clarified that the blood transfusion sets not packed in aluminum foil imported with blood bags CPDA-1, in corresponding quantity in same consignment are also exempt.

- 3.5 The Bill proposed to amend Sr. No. 151 of Table 1 of Sixth Schedule which after amendment shall read as under:

151	<p>a) Supplies; and</p> <p>b) imports of plant, machinery, equipment for installation in tribal areas and of industrial inputs by the industries located in the tribal areas, as defined in the Constitution of Islamic Republic of Pakistan,—</p> <p>as made till 30th June 2024, to which the provisions of the Act or the notifications issued thereunder, would have not applied had Article 247 of the Constitution not been omitted under the Constitution (Twenty- fifth Amendment) Act, 2018 (XXXVII of 2018):</p> <p>Provided that, in case of imports, the same shall be allowed clearance by the Customs authorities on presentation of a post-dated cheque for the amount of sales tax payable under the Sales Tax Act, 1990, and the same shall be returned to the importer after presentation of a consumption or installation certificate, as the case may be, in respect of goods imported as issued by the Commissioner Inland Revenue having jurisdiction:</p> <p>Provided further that if plant, machinery and equipment, on which exemption is availed under this serial number, is transferred or supplied outside the tribal areas, the tax exempted shall be paid at applicable rate on residual value.</p>	Respective heading
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- 3.6 In terms of Sr. No. 152 of Table 1, exemption of sales tax has been given on supplies of electricity, as made from the day of assent to the Constitution (Twenty-fifth Amendment) Act, 2018, till 30th June, 2023, to all residential and commercial consumers in tribal areas, and to such industries in the tribal areas which were set and started their industrial production before 31st May, 2018, but excluding steel and ghee or cooking oil industries.
- The Bill proposed to extend the exemption against aforesaid Sr. No. 152, till 30th June 2024.
- 3.7 In terms of entry at Sr. No. 159 of Table 1, exemption of sales tax was given on import of audio disable syringes till 30th June 2021 with needles and without needles. Since the exemption was granted till 30th June 2021 and the said period has expired, therefore Bill proposed to omit said Sr. No. 159 from Table 1.
- 3.8 In terms of entry at Sr. No. 160 of Table 1, exemption of sales tax was given on import of (i) tabular metal needles; and (ii) rubber gaskets for the manufacture of auto disable syringes till 30th June 2021. Since the exemption was granted till 30th June 2021 and the said period has expired, therefore it has been proposed to omit said Sr. No. 160 from Table 1.
- 3.9 The Bill proposed to insert a new Sr. No. 175 in Table 1 which shall grant exemption of sales tax on import and supply of contraceptive and accessories thereof classified under headings 3926.9020 and 4014.1000.
- 3.10 The Bill proposed to insert a new Sr. No. 176 in Table 1 which shall grant exemption of sales tax on import and supply of bovine semen classified under headings 0511.1000.
- 3.11 The Bill proposed to insert a new Sr. No. 177 in Table 1 which shall grant exemption of sales tax on import and supply of saplings classified under respective headings.
- 3.12 The Bill proposed to insert a new Sr. No. 178 in Table 1 which shall grant exemption of sales tax on import and supply of combined harvester – thresher classified under heading 8433.5100.
- 3.13 The Bill proposed to insert a new Sr. No. 179 in Table 1 which shall grant exemption of sales tax on import and supply of dryer for agricultural products classified under heading 8419.3400.
- 3.14 The Bill proposed to insert a new Sr. No. 180 in Table 1 which shall grant exemption of sales tax on import and supply of “No-till-direct seeder, planters, trans-planters and other planters dryer for agricultural products classified under headings 8432.3100 and 8432.3900.
- 3.15 The Bill proposed to insert a new Sr. No. 181 in Table 1 which shall grant exemption of sales tax on “ import of goods as mentioned under S. No. 159 of Part III of Fifth Schedule to the Customs Act, 1969 (IV of 1969)chargeable to customs duty at the rate of zero percent, subject to the conditions restrictions and limitations mentioned therein, by the software exporters registered with the Pakistan Software Export Board” classified under headings mentioned in column (3) thereof.

B. Exemption of sales tax on local supply -- Amendments in Table 2:

- 3.16 In terms of Sr. No. 32 of Table 2, exemption of sales tax has been given on local supply of “yogurt, excluding that sold in retail packing under a brand name” classified in PCT heading specified in column (3) against said serial number. The Bill to amend said Sr. No. 32. If the proposal is accepted then as per amended Sr. No. 32, exemption of sales tax shall be applicable on local supply of “yogurt excluding that sold under a brand name”.
- 3.17 In terms of Sr. No. 34 of Table 2, exemption of sales tax has been given on local supply of “butter, excluding that sold in retail packing under a brand name” classified in PCT heading specified in column (3) against said serial number. The Bill proposed to amend said Sr. No. 34. If the proposal is accepted then as per amended Sr. No. 34, exemption of sales tax shall be applicable on local supply of “butter excluding that sold under a brand name”.
- 3.18 In terms of Sr. No. 35 of Table 2, exemption of sales tax has been given on local supply of “desi ghee, excluding that sold in retail packing under a brand name” classified in PCT heading specified in column (3) against said serial number. The Bill proposed to amend said Sr. No. 35. If the proposal is accepted then as per amended Sr. No. 35, exemption of sales tax shall be applicable on local supply of “desi ghee, excluding that sold bearing under a brand name”.
- 3.19 In terms of Sr. No. 36 of Table 2, exemption of sales tax has been given on local supply of “cheese, excluding that sold in retail packing under a brand name” classified in PCT heading specified in column (3) against said serial number. The Bill proposed to amend said Sr. No. 36. If the proposal is accepted then as per amended Sr. No. 36, exemption of sales tax shall be applicable on local supply of “cheese, excluding that sold bearing under a brand name”.
- 3.20 In terms of Sr. No. 37 of Table 2, exemption of sales tax has been given on local supply of “processed cheese not grated or powdered, excluding that sold in retail packing under a brand name” classified in PCT heading specified in column (3) against said serial number. The Bill proposed to amend said Sr. No. 37. If the proposal is accepted then as per amended Sr. No. 37, exemption of sales tax shall be applicable on local supply of “processed cheese not grated or powdered, excluding that sold bearing under a brand name”.
- 3.21 In terms of Sr. No. 39 of Table 2, exemption of sales tax has been given on local supply of “products of meat or meat offal excluding sold in retail packing under a brand name or trademark” classified in PCT headings specified in column (3) against said serial number. The Bill proposed to amend said Sr. No. 39. If the proposal is accepted then as per amended Sr. No. 39, exemption of sales tax shall be applicable on local supply of “products of meat or meat offal excluding sold under a brand name or trademark”.
- 3.22 In terms of Sr. No. 41 of Table 2, exemption of sales tax has been given on local supply of “meat of bovine animals, sheep, goat and uncooked poultry meat excluding those sold in retail packing under a brand name” classified in PCT headings specified in column (3) against said serial number. It has been proposed to amend said Sr. No. 41. If the proposal is accepted then as per amended Sr. No. 41, exemption of sales tax shall be applicable on local supply of “meat of bovine animals, sheep, goat and uncooked poultry meat excluding those sold under a brand name”.

3.23 In terms of Sr. No. 42 of Table 2, exemption of sales tax has been given on local supply of “fish and crustaceans excluding those sold in retail packaging under a brand name” classified in PCT headings specified in column (3) against said serial number. The Bill proposed to amend said Sr. No. 42. If the proposal is accepted then as per amended Sr. No. 42, exemption of sales tax shall be applicable on local supply of “fish and crustaceans excluding those sold under a brand name”.

4. THE EIGHT SCHEDULE - Amendments in Eight Schedule:

In terms of section 3(2)(aa) of the Sales Tax Act, 1990, the goods specified in the Eight Schedule shall be charged to tax at such rates and subject to such conditions and limitations prescribed therein.

4.1 In terms of Sr. No. 66, supplies of finished fabric, and locally manufactured finished articles of textile and textile made-ups and leather and artificial leather made by retail outlets as are integrated with Board’s computerized system for real-time reporting of sales are subjected to reduced rate of 12% sales tax subject to the condition that they have maintained 4% value addition during the last six months. The Bill proposed to increase the reduced rate of sales tax from 12% to 15% on aforesaid supplies made by integrated retailers.

4.2 In terms of Sr. No. 81, reduced rate of 1% is chargeable on manufacture or import of substances registered as drugs under Drugs Act, 1976, subject to certain conditions. Now the Bill proposed that such reduced rate is made applicable retrospectively, with effect from July 1, 2022, in respect of ‘only’ those drugs that are classifiable under Chapter 30 of the First Schedule to the Customs Act, 1969 with the following exceptions: (a) filled infusion solution bags imported with or without infusion given sets; (b) scrubs, detergents and washing preparations; (c) soft soap or no soap; (d) adhesive plaster; (e) surgical tapes; (f) liquid paraffin; (g) disinfectants, and (h) cosmetics and toilet preparations.

The proposed substituted provisions of Sr. No. 81 shall read as under:

81.	Substances registered as drugs under the Drugs Act, 1976 (XXXI of 1976) and medicaments as are classifiable under chapter 30 of the First Schedule to the Customs Act, 1969 (IV of 1969) except the following, even if medicated or medicinal in nature, namely:- (a) filled infusion solution bags imported with or without infusion given sets; (b) scrubs, detergents and washing preparations; (c) soft soap or no soap; (d) adhesive plaster; (e) surgical tapes; (f) liquid paraffin; (g) disinfectants, and (h) cosmetics and toilet preparations. This substitution shall be deemed to have been made from the 1st day of July, 2022.	Respective Headings	1%	Subject to the conditions that: (i) Tax charged and deposited by the manufacturer or importer, as the case may be, shall be final discharge of tax in the supply chain (ii) No input tax shall be adjusted by the manufacturer or importer
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4.3. In terms of Sr. 82 Active Pharmaceutical Ingredients (APIs), excluding excipients, for manufacture of drugs registered under the Drugs Act, 1976 and raw materials for the basic manufacture of such ingredients are chargeable to tax at a reduced rate of 1%. Now the Bill proposed that such reduced rate is made applicable retrospectively, with effect from July 1, 2022 in case of 'only' those raw materials/ ingredients, including excipients, which are liable to customs duty not exceeding 11% ad valorem, either under the First Schedule or Fifth Schedule to the Customs Act, 1969 or under a notification issued under section 19 thereof

The proposed substituted provisions of Sr. No. 82 shall read as under:

82.	Raw materials for the basic manufacture of pharmaceutical active ingredients and for manufacture of pharmaceutical products, provided that in case of import, only such raw materials shall be entitled to exemption which are liable to customs duty not exceeding eleven per cent ad valorem, either under the First Schedule or Fifth Schedule to the Customs Act, 1969 (IV of 1969) or under a notification issued under section 19 thereof. This substitution shall be deemed to have been made from the 1st day of July, 2022.	Respective headings	1%	Subject to the conditions that: (i) DRAP shall certify item-wise requirement of manufacturers of drugs and APIs and in case of import shall furnish all relevant information to Pakistan Customs Computerized System; and (ii) No input tax shall be adjusted by the manufacturer or importer.
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**COMMENTS ON AMENDMENTS PROPOSED VIDE FINANCE BILL 2023
IN FEDERAL EXCISE ACT 2005 - EFFECTIVE FROM JULY 01, 2023,
EXCEPT PROVIDED OTHERWISE**

**1. Streamline Measure to Enhance the Scope of Federal Excise Duty
Insertion of Clause (e) in sub-Section(1) of Section 3**

Section 3 of the Federal Excise Act, 2005 deals with the levy of Duties specified in the First Schedule of the Federal Excise Act 2005. The excisable goods are specified in first schedule to the Federal Excise Act, 2005. The Bill proposed to insert “any item specified in the First Schedule” in subsection (1) of Section 3 of the Federal Excise Act, 2005. Hitherto the insertion of the proposed amendment, the scope of FED is intended to be enhanced being a streamline measure.

**2. Authoritative Delegation of powers of Federal Excise Officers
Section 29(2) Clause (d)**

Section 29 of the Excise Act 2005 deals with the Appointment of Federal excise officers and delegation of powers. Section 29(2) deals with the designation of other officer under the Act. The Bill proposed amendment, The Directorate General of Digital Initiatives and directors, Additional Directors, Deputy Directors and Assistant Directors and such other notified officers have been defined as designated officer to exercise powers under the FED Act, 2005.

**3. Procedure of collection, arrangement and publication of Rules
Insertion of Section 40(3)**

Section 40 of the Federal Excise Act, 2005 circumferences the Power of Board to make Rules. By proposed insertion of Sub-Section (3) in section 40, the Bill aims to harmonize and align the procedure of collection, arrangement, and publication of Rules, General Orders and departmental Instructions at par with Section 50 of the Sales Tax Act, 1990. The procedures of availability to general public at some price and its placement on official website of FBR has also been proposed.

Accordingly, the Bill proposed to add sub-section 3 in section 40 of the Federal Excise Act, 2005;

“All rules made under sub-section (1) or any other provisions of this Act, shall be collected, arranged and published along with general orders and departmental instructions and rulings, if any, at appropriate intervals and sold to the public at reasonable price or may be placed regularly on the official website maintained by the Board.”

Note:

All other proposed changes in First Schedule to the Federal Excise Act, 2005 have been discussed separately and we have placed our comments in respective columns of schedules tabulated below:

PROPOSED AMENDMENTS IN TABLE I OF FIRST SCHEDULE OF THE FEDERAL EXCISE ACT 2005

Sr. No.	Sr No. in Table	Existing		Proposed amendments		Comments
		Description	Rate of duty	Description	Rate of duty	
1	60	New insertion	New insertion	"Energy inefficient fans both locally manufactured and imported which do not comply with the MEPS, notified by PSQCA" Under respective heading	Rupees two thousand per fan	3) The bill seeks to levy FED on energy inefficient locally manufactured and imported fans & Incandescent bulbs in order to curtail and discourage the use of such electric instruments. These are very common in their use and due to non-saving energy nature are deemed to be huge burden and barrier in energy saving policies due to heavy energy consumptions. This measure will serve the government as policy measure but also will drive the masses toward purchase of energy efficient fans and bulbs for their ordinary use.
2	61	New insertion	New insertion	"Incandescent bulbs both locally manufactured and imported" under heading 8539.2200 and 8539.9010	"Twenty percent ad valorem."	

PROPOSED AMENDMENTS IN TABLE II OF FIRST SCHEDULE OF THE FEDERAL EXCISE ACT 2005

Sr. No.	Sr No. in Table	Existing		Proposed amendments		Comments
		Description	Rate of duty	Description	Rate of duty	
1	11	Franchise services (under the heading 9812.9410)	Ten percent of Charges	"Franchise services, royalty and fee for technical services" (under respective heading)	Ten percent of Charges	Royalty Fee was already subject to FED @ 10 percent. By virtue of this amendment, "Royalty and Fee for Technical Services" at par with "Franchise Services" have been proposed to be brought under the ambit of Federal Excise Act, 2005.

PROPOSED AMENDMENTS IN TABLE I THIRD SCHEDULE OF THE FEDERAL EXCISE ACT 2005.

Sr. No.	Sr No. in Table	Existing		Proposed amendments		Comments
		Description	Rate of duty	Description	Rate of duty	
1	11	Franchise services (under the heading 9812.9410)	Ten percent of Charges	"Franchise services, royalty and fee for technical services" (under respective heading)	Ten percent of Charges	Royalty Fee was already subject to FED @ 10 percent. By virtue of this amendment, "Royalty and Fee for Technical Services" at par with "Franchise Services" have been proposed to be brought under the ambit of Federal Excise Act, 2005.

PROPOSED AMENDMENTS IN TABLE I THIRD SCHEDULE OF THE FEDERAL EXCISE ACT 2005.

Sr. No.	Sr No. in Table	Existing		Proposed amendments		Comments
		Description	Rate of duty	Description	Rate of duty	
1	26	New insertion	New insertion	"Imports or supplies made by, for or to a qualified investment as specified at Serial No.1 of the First Schedule to the Foreign Investment (Promotion and Protection) Act, 2022 for the period as specified in the Second Schedule to the said Act." (under respective heading)		The Bill seeks to introduce some conditional exemptions on the specified goods subject to levy of FED under Table I of the First Schedule of the FE Act, 2005. In order to harmonize the exemptions available to the project of Reko Diq in the Baluchistan province, under Income Tax Ordinance, Sales Tax Act and Customs Act, these exemptions have been proposed.

PROPOSED AMENDMENTS IN TABLE II THIRD SCHEDULE OF THE FEDERAL EXCISE ACT 2005.

Sr. No.	Sr No. in Table	Existing		Proposed amendments		Comments
		Description	Rate of duty	Description	Rate of duty	
1	15	New insertion	New insertion	Services provided or rendered by, for or to a qualified investment as specified at Serial No.1 of the First Schedule to the Foreign Investment (Promotion and Protection) Act, 2022 for the period as specified in the Second Schedule to the said Act." (under respective heading)		Discussed as above

**COMMENTS ON AMENDMENTS PROPOSED VIDE FINANCE BILL 2023
IN ISLAMABAD CAPITAL TERRITORY (TAX ON SERVICES) ORDINANCE, 2001
- EFFECTIVE FROM JULY 01, 2023, EXCEPT PROVIDED OTHERWISE**

1. REDUCED SALES TAX RATE ON SERVICES PROVIDED BY RESTAURANTS

The Bill proposed to reduce sales tax on services provided by restaurants including cafes, food (including ice-cream) parlors, coffee houses, coffee shops, deras, food huts, eateries, resorts and similar cooked, prepared or ready-to-eat food service outlets etc. from 15% to 5 % in case where payment is made through debit or credit cards, mobile wallets or QR scanning, these restaurants will not be allowed input adjustment. The rate of tax will be charged @15% where the payment is received in cash.

This seems to be the relief measures for the small food outlets and enhance the area of taxing the food business in the Islamabad Capital Territory.

2. ELECTRIC POWER TRANSMISSION SERVICES

For the revenue measures of ICT, the Bill proposed to tax Electric power transmission services @ 15% under Islamabad Capital Territory Sales Tax on Services Ordinance, 2001.

3. STREAMLINING MEASURES

3.1 Freelance Exporters

Those persons who work on self-employed basis, having no employment with others and providing IT and IT enabled services for export purposes. The Bill proposed that they will not be required registration of sales tax and filing of sales tax returns on monthly basis. Freelance exporter means a person who works on per job and on self-employed basis without being attached to or under employment of any other person, having the liberty to work on various tasks simultaneously. The Bill proposed to grant status of Cottage Industry to freelancers who exclusively dealing in export of IT and IT enabled services.

3.2 Services Provided by Software of IT-based System Development Consultants

The Bill proposed that standard rate of sales tax on services of Software or IT based system development consultants (provided in Table I) be reduced from 16% to 15%.

3.3 IT and IT-Enabled Services

The Bill proposed to include IT and IT-Enabled services in Table II at reduced rate of 5% without input tax adjustment or refund of tax.

IT services and IT-enabled services included under the SMEs as defined in the Income Tax Ordinance 2001, subject to the requirement of registration and certification by the Pakistan Software Export Board.

TEXT OF FINANCE BILL – 2023

**For convenience, the complete text of
Finance Bill 2023**

<http://www.krestonhb.com>
