

## COMMENTS ON FINANCE BILL 2018

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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 2018 (Bill). The memorandum contains Budget – 2018 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, 2018 unless otherwise specified in these comments.

The comments on the Bill represent our interpretation and understanding of the proposed amendments as contained therein. We recommended that the actual text of the Bill should be read in conjunction with the 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 statute.

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 information. We would be glad to entertain any further clarification regarding our comments.

The comments on Finance Bill 2018 can also be accessed on / downloaded from the website of our firm - <http://www.krestonhb.com>

Dated: April 27, 2018

**KRESTON HYDER BHIMJI & CO.**  
**CHARTERED ACCOUNTANTS**

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**BUDGET AT A GLANCE**

<u>Description</u>	<u>Budget Estimate</u>		<u>Budget Revised</u>		<u>Budget Estimate</u>	
	<u>2018-19</u>		<u>2017-18</u>		<u>2017-18</u>	
	<u>Rs. in billion</u>	<u>%</u>	<u>Rs. in billion</u>	<u>%</u>	<u>Rs. in billion</u>	<u>%</u>
<b><u>Revenue</u></b>						
Tax revenue	4,889	84	4,147	82	4,330	78
Non-tax revenue	772	13	845	17	980	18
	<u>5,661</u>	<u>98</u>	<u>4,992</u>	<u>99</u>	<u>5,310</u>	<u>96</u>
Public accounts receipt - Net	127	2	69	1	213	4
	<u>5,788</u>	<u>100</u>	<u>5,061</u>	<u>100</u>	<u>5,523</u>	<u>100</u>
Less: Provincial share	2,590	45	2,316	46	2,384	43
Net revenue	<u>3,198</u>	<u>55</u>	<u>2,745</u>	<u>54</u>	<u>3,139</u>	<u>57</u>
<b><u>Expenditure</u></b>						
Development	1,152	20	1,063	21	1,340	24
Current	5,023	87	4,450	88	3,852	70
	<u>6,175</u>	<u>107</u>	<u>5,513</u>	<u>109</u>	<u>5,192</u>	<u>94</u>
Deficit	<u>2,977</u>	<u>52</u>	<u>2,768</u>	<u>55</u>	<u>2,053</u>	<u>37</u>
<b><u>Financed by</u></b>						
Domestic debt on bank	1,015	34	586	21	390	29
Domestic debt non bank	559	19	678	24	428	33
Foreign debts / grants	1,118	38	1,230	44	838	60
Surplus from provinces	285	10	274	10	397	13
	<u>2,977</u>	<u>100</u>	<u>2,768</u>	<u>100</u>	<u>2,053</u>	<u>135</u>

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**SALIENT FEATURES OF AMENDMENT PROPOSED IN INCOME TAX ORDINANCE, 2001 -  
EFFECTIVE FROM JULY 01, 2018 EXCEPT PROVIDED OTHERWISE**

- ✓ Fee for offshore digital services has been defined and to be taxed @ 5% under FTR
- ✓ Definition of permanent establishment has been redefined and realigned to include the concept of cohesive business operations
- ✓ The levy of super tax has been extended to the tax year 2020 with reduction in tax rates by 1% each tax year
- ✓ The tax rate on undistributed profits has been reduced from 7.5% to 5% and limit of dividend / profit distribution has also been reduced from 40% to 20%
- ✓ Tax on bonus shares has been abolished and no longer shall qualify for distribution of profits
- ✓ Income from offshore supplies in relation to construction, assembly or installation contracts proposed to be brought into tax net
- ✓ Applicability of non-recognition rules restricted to gifts from relatives only.
- ✓ Only 50% of business income of a tax year can be set off against unabsorbed tax depreciation and amortization brought forward from previous year. This limit of 50% will not be applicable if the taxable income for the year is less than Rs. 10 million.
- ✓ The threshold for the purpose of tax credit on investment in shares and insurance premium to be enhanced from Rs. 1.5 million to Rs. 2 million.
- ✓ Period of investments in plant and machinery, BMR and new industrial undertakings, under sections 65B, 65D and 65E extended to 2021
- ✓ Transfer pricing regulations and provision relating to geographical source of income made applicable to banking companies.
- ✓ Non-Profit Organization, trusts and welfare institutions may claim 100% tax credit against income from investment in micro finance banks.
- ✓ Gain arising to a non-resident company from disposal or alienation outside Pakistan of an asset located in Pakistan will be treated as Pakistan source income and chargeable to tax at 15%.
- ✓ Income attributable to a controlled foreign company is to be included in the taxable income of a resident person for a tax year in case where capital or voting rights of the resident person is 10% or more and income of the controlled foreign company exceeds Rs. 10 million.
- ✓ Resident persons will be required to provide details for remittances in excess of Rs. 10 million in a tax year.
- ✓ The provision pertaining to unexplained income and asset are being amended as follows:
  - Addition in income of a person on account of an unexplained Pakistani asset or income will be made in the year to which these relate.
  - Addition in income of a person on account of an unexplained offshore asset or income will be made in the immediately preceding tax year in which these are discovered by the Commissioner.
- ✓ Resident individual taxpayers are required to file foreign income and asset statement in case where foreign income exceeds USD 10,000 or foreign asset exceeds USD 100,000.
- ✓ The amount required to be deposited to qualify for an automatic stay of demand reduced from 25% to 10%.
- ✓ Taxation of commercial importers changed to minimum taxation.

- ✓ Tax deducted on payment against services to permanent establishment of non-residents to be treated as minimum tax.
- ✓ Minimum limit for tax deduction on payments for goods enhanced from Rs. 25,000 to Rs. 75,000 and on services enhanced from Rs. 10,000 to Rs. 30,000.
- ✓ Requirements for furnishing of information by banks have been modified by substituting online access with certain specific details relating to cash withdrawals.
- ✓ Non filing of foreign income and asset statement to attract penalty at 2% of the value of such income and assets.
- ✓ Automatic selection of audit being abolished. In a positive move, registered persons will only be subjected to audit once in three years.
- ✓ Non-filers will not be eligible for registration of vehicles and immovable properties over Rs. 4 million.
- ✓ Property rates declared by FBR to be abolished; all transactions to be recorded at actuals.
- ✓ Adjustable tax at 1% to be collected from the buyer on the declared value; existing withholding provisions abolished. Such advance tax may be recovered in installment if the purchase price is being paid in installments. Additional stamp duty at 1% shall be payable to the Provinces at the declared value. Further, the FBR shall have the right to purchase any property transacted within 6 months at twice the declared price for 2018-19; at 1.75 times for 2019-20; and at 1.5 times for 2021.
- ✓ Tax Rates for individuals, recently reduced through an Income Tax Amendment Ordinance 2018, have also been included in the finance bill. A substantial relief is given to individuals having taxable income upto Rs. 1,200,000.
- ✓ Corporate tax rate reduced to 29% for tax year 2019. Thereafter, the rate will reduce by 1% annually until 2023 to bring down the corporate tax rate at 25%.
- ✓ The maximum slab tax rate for AOP to be reduced from 35% to 30%.
- ✓ In order to settle dispute through ADRC, now its decision shall be binding on the aggrieved person as well as the FBR. The ADRC will be required to pass the order within 120 days of its appointment. Further, the aggrieved person and the FBR will be required to withdraw appeal, if filed. On failure of making a decision within 120 days, the appeal shall stand restored under specified procedure.
- ✓ Tax rate of withholding tax for non-filer on banking transactions in cash reduced from 0.6% to 0.4%.
- ✓ Rate of tax on dividend received from a rental REIT by a filer reduced from 12.5% to 7.5%.
- ✓ Reduced minimum tax rate applicable to large trading houses extended to 2021.
- ✓ Domestic film makers tax liability reduced by 50% for a period of 5 years while foreign film makers producing in Pakistan to get a tax rebate of 50%.
- ✓ Import of coal to pay tax at 4% for filer and 6% for non-filer, in case of manufacturers as well as commercial importers.
- ✓ Debit and Credit card transactions outside Pakistan to attract advance tax at 1% for filers and at 3% for non-filers.
- ✓ Withholding tax rates for non-filers increased once again from 7% to 8% in case of companies and from 7.75% to 9% in case of other than companies in respect of sale of goods. For contracts, the rates have been increased from 12% to 14% for companies and from 12.5% to 15% in other cases.

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**Amendment proposed in the Income Tax Ordinance, 2001  
vide Finance Bill 2018**

1. **FEE FOR OFFSHORE SERVICES OF NON-RESIDENTS BROUGHT TO THE TAX-NET ON THE SAME LINES THAT ARE APPLICABLE IN THE CASE OF FEE FOR TECHNICAL SERVICES.**  
Section 2 (22B), Sections 6 & 101(12A)
  - 1.1 The Bill proposes to introduce new definition of “fee for offshore digital services” to mean as *“any consideration for providing or rendering services by a non-resident person for online advertising including digital advertising space, designing, creating, hosting or maintenance of websites, digital or cyber space for websites, advertising, e-mails, online computing, blogs, online content and online data, providing any facility or service for 44 uploading, storing or distribution of digital content including digital text, digital audio or digital video, online collection or processing of data related to users in Pakistan, any facility for online sale of goods or services or any other online facility.*
  - 1.2 The Bill seeks to tax the fee for offshore services of non -residents on the same lines as that applies to fee for technical services
  - 1.3 The Bill also provides fee for offshore services to be a Pakistan-source income on the same lines that are defined in the case of “Fee for technical services and new sub-section (12A) is proposed to be inserted in Section 101 to read as under:  
  
“(12A) A fee for offshore digital services shall be Pakistan-source income, if it is -
    - (a) paid by a resident person, except where the fee is payable in respect of services utilised in a business carried on by the resident outside Pakistan through a permanent establishment; or
    - (b) borne by a permanent establishment in Pakistan of a non-resident person.”
2. **FILERS OF BOARDS OF AZAD JAMMU AND KASHMIR AND GILGIT-BALTISTAN COUNCIL ARE NOW TO BE TREATED AS FILER**  
Section 2 (23A)

Hitherto the term Filer has been defined to mean a taxpayer whose name appears in the active taxpayers list issued by the FBR from time to time or is holder of taxpayer’s card. Thus the power to define a Filer in the active taxpayers list was available with the FBR which now the Bill proposes to extend the scope of filer to include the filers of Boards of AK&K and Gilgit-Baltistan as well.
3. **ISSUE OF BONUS SHARES - TAX WITHHOLDING PROVISIONS AS WELL CHARGING SECTION DELETED AND EXEMPTION RESTORED.**  
Section 2 (29) 236M 236N Section 39 (1) (m)
  - 3.1 Withholding tax on issuance of bonus shares to be withdrawn:  
  
Vide Finance Acts 2014 and 2015 receipt of bonus shares was included in the definition of income. Provisions with respect to withholding of tax under section 236M and 236N of the Income Tax Ordinance, 2001. Tax was chargeable @ 5% on the issuance of bonus shares to shareholders. This issue of taxability remained under debate in various appellate and other forums and also has been under critics in view of the complex nature of calculations.

The Bill proposes to withdraw provisions with respect to withholding tax on issuance of bonus shares and receipt of bonus shares has been ousted from the definition of income under the Income Tax Ordinance, 2001.

**3.2 Exemption from withholding tax on issuance of bonus shares to Mutual Funds:**

Income derived from mutual funds is exempt from income tax if not less than ninety percent of the accounting income of that year is distributed amongst shareholders. However, mutual funds are subjected to withholding tax @ 5% on issuance of bonus shares.

The Bill proposes to withdraw provision with regard to chargeability and tax withholding on bonus issued by mutual funds as well.

**3.3 Under Clause (m) to sub-section (1) of Section 39 income arising from issue of shares has been defined to be taxed under the head “income from other sources” and consequent to exclusion from the definition of income, the same also been proposed to be omitted.**

**4. CHANGES REGARDING “PERMANENT ESTABLISHMENT  
Section 2 (41)**

**4.1 Presently the term “permanent establishment” has been defined as “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 -**

- (a) a place of management, branch, office, factory or workshop, premises for soliciting orders, warehouse, permanent sales exhibition or sales outlet, other than a liaison office except where the office engages in the negotiation of contracts (other than contracts of purchase);
- (b) a mine, oil or gas well, quarry or any other place of extraction of natural resources;
- (ba) an agricultural, pastoral or forestry property;
- (c) a building site, a construction, assembly or installation project or supervisory activities connected with such site or project but only where such site, project and its connected supervisory activities continue for a period or periods aggregating more than ninety days within any twelve-months period ;
- (d) the furnishing of services, including consultancy services, by any person through employees or other personnel engaged by the person for such purpose;
- (e) a person acting in Pakistan on behalf of the person (hereinafter referred to as the “agent”, other than an agent of independent status acting in the ordinary course of business as such, if the agent -
  - (i) has and habitually exercises an authority to conclude contracts on behalf of the other person;
  - (ii) has no such authority, but habitually maintains a stock-in-trade or other merchandise from which the agent regularly delivers goods or merchandise on behalf of the other person; or



- (f) any substantial equipment installed, or other asset or property capable of activity giving rise to income;

4.2 The Bill proposes to amend clauses (e) and also insert a new clause (f) as quoted above to read as under:

“(e) a person acting in Pakistan on behalf of the person (hereinafter referred to as the “agent”, other than an agent of independent status acting in the ordinary course of business as such, if the agent -

- (i) has and habitually exercises an authority to conclude contracts on behalf of the other person or has and habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the person and these contracts are —

- (a) in the name of the person; or

- (b) for the transfer of the ownership of or for the granting of the right to use property owned by that enterprise or that the enterprise has the right to use; or

- (c) for the provision of services by that person; or

“Explanation.— For removal of doubt, it is clarified that an agent of independent status acting in the ordinary course of business does not include a person acting exclusively or almost exclusively on behalf of the person to which it is an associate; or

- (g) a fixed place of business that is used or maintained by a person if the person or an associate of a person carries on business at that place or at another place in Pakistan and—

- (i) that place or other place constitutes a permanent establishment of the person or an associate of the person under this sub-clause; or

- (ii) business carried on by the person or an associate of the person at the same place or at more than one place constitute complementary functions that are part of a cohesive business operation.

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

- (A) the term “cohesive business operation” includes an overall arrangement for the supply of goods, installation, construction, assembly, commission, guarantees or supervisory activities and all or principal activities are undertaken or performed either by the person or the associates of the person; and

- (B) supply of goods include the goods imported in the name of the associate or any other person, whether or not the title to the goods passes outside Pakistan.

**4.3 Payments made for services to permanent establishments of nonresidents:  
Section 153**

Tax deducted on payments to resident persons for rendering or providing of services under section 153(1)(b) of the Ordinance constitutes minimum tax whereas tax deducted on similar payments being made to permanent establishments of non-resident persons does not constitute minimum tax.

The Bill proposes to bring this provision at par with the resident persons whereby the tax deductible on services rendered /provided by permanent establishments of non-resident persons shall also be treated as minimum tax.

**5. CONTINUATION OF THE APPLICABILITY OF SUPER TAX TO TAX YEAR 2018 ONWARD AS WELL BESIDE TAX YEAR 2015, 2016 AND 2017.  
Section 4B**

**5.1** Vide Finance Act 2015 Super Tax was levied for the Tax Year 2015 for rehabilitation of temporarily displaced persons being a one-time tax payable for the Tax year 2015 only. Again, vide Finance Act 2016 and 2017, the levy was extended for the Tax Year 2016 and then for 2017 as well and now vide Finance Bill 2018, the levy of Super Tax has been extended for till Tax Year 2020.

**5.2** The levy is applicable to a banking company @ 4% of the income and also to persons, other than a banking company, having income equal to or exceeding Rs. 500 Million @ 3% of income. The income for this purpose is arrived at after deduction depreciation and brought forward losses.

**5.3** The continuation of this tax for rehabilitation of temporarily displaced person on the part of the Government has already shaken the confidence of taxpayers as this amount is not being incurred for the purpose for which it is being appropriated.

**5.4** It is more pertinent that if any tax is levied and collected for any specific purpose that is to say that for “temporarily displaced persons” the funds collected and utilized should be made public after audit which will facilitate and motivate participation of this tax regime and enhanced transparency.

The Bill now proposes that the super tax now to be gradually withdrawn. It will be continued at the same rate for the financial year 2017-2018, however, the rate of super tax for both banking as well as non-banking persons shall be reduced by 1% for each successive year starting from the financial year 2018-19.

**6. REDUCTION IN TAX RATE ON UNDISTRIBUTED PROFIT:  
Section 5A**

**6.1** Presently under section 5A of the Income Tax Ordinance, 2001 public companies are obliged to distribute at least 40% of their after tax profits through cash or issuance of bonus shares within six months of the end of the financial year, failing which such companies are further subjected to tax @ 7.5% of their accounting profit (before tax).

**6.2** The Bill proposes four changes with respect to it i.e.

- (1) relax the condition of distributing 40% of after tax profits to 20%
- (2) the applicable tax rate upon failure to distribute dividend is being reduced from 7.5% to 5%
- (3) Bonus share is not to be counted for this purpose and only cash dividend will be eligible for determination purposes.
- (4) Presently the tax paid under section 5A has so far been the final tax in so far as tax on undistributed profits is concerned and the Bill now proposes the same to be adjustable against the tax liability of entity.

**6.3** In view of the exclusion from final tax of aforesaid tax on undistributed profit, the same falls under the normal regime and is comparable with the minimum tax however another amendment proposed does not permit it to be adjusted since this activity has been excluded to fall under the head “income from Business” as more fully explained in Para-graph 7 below.

**7. Certain income from business not to be taxed under the head “income from business”  
Section 18 (1) Explanation**

The Bill proposes to insert an explanation in this section whereby it is explained that “For the removal of doubt it is clarified that income subject to taxation under sections 5A, 5AA, 6, 7 and 7A shall not be chargeable to tax under this section.

Consequently the following source income is not to be taxable under the head “Income from Business”. Those are as under:

- Tax on undistributed profit under section 5A.
- Tax on return on investment in Sukuk under Section 5AA.
- Tax on payment of Royalty, Fee for offshore digital services and fee for technical services under section 6.
- Tax on shipping and transport business of non-residents under Section 7
- Tax on shipping business of Residents under Section 7A.

**8. Non-recognition of capital gain on gift to be restricted to relatives:  
Sections 37 and 79**

Hither-to-fore any gift under the aforesaid section has been a non-taxable event accordingly no gain or loss is taken to arise on the disposal of an asset by reason of a gift of the asset under sections 37 and 79 of the Ordinance which the Bill now proposes to restrict it to only a relative of the donor.

Such non-recognition shall now be restricted to gifts given to “relatives” of an individual as defined in section 85(5) of the Income Tax Ordinance, 2001 which read as under:

*“relative” in relation to an individual, means –*

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

**9. POWER TO ISSUE EXEMPTION AND CONCESSION OF MINISTER IN-CHARGE WITHDRAWN.  
DISCLOSURE OF INFORMATION BY PUBLIC SERVANT  
Explanation to Section 53(2) and Section 216 (5)**

- 9.1 Vide Finance Act 2017, FBR was empowered to issue exemption and concession with the approval of Minister in-charge which was agitated while it should been vested to the National Assembly. Under Section 216(5), this power was also extended for disclosure of information by public servant.
- 9.2 The Bill now seeks to restore and the empower the Board to issue exemption or concession as well as disclosure of information by public servant with the approval of Federal Government instead of Minister In-charge.
- 9.3 Like amendment have also been proposed in the sales tax and federal excise laws.

**10. CARRY FORWARD OF DEPRECIATION LOSSES:  
Sections 57 & 59A**

Hitherto-fore such portion of depreciation allowance which cannot be set off against the income wholly is carried forward for setting off against future period income. This treatment has been logical since beside normal depreciation initial and first year allowances were given since depreciation element in those years is generally higher than the later years.

The Bill seeks to limit the element of setting off of brought forward unabsorbed depreciation to the extent of fifty per cent of the business income for a Tax Year except in instances where the taxable income is upto Rs. 10 million. Thus the setting off is proposed to be deferred for adjustment against profit over a long period of time.

**11. ENHANCING LIMIT OF TAX CREDIT FOR INVESTMENT IN SHARES:  
Section 62**

Presently a resident person, not being a company, is allowed a tax credit for

- a. acquiring new shares offered by a public company listed on the stock exchange,
- b. sukuks offered by a listed company or
- c. upon payment of life insurance premium to a life insurance company.

Such tax credit is limited to the extent of 20% of taxable income for the year, total cost of acquiring shares/sukuks or 1.5 Million Rupees whichever is less.

The Bill seeks to increase the threshold of limit of Rs. 1.5 Million to Rs. 2 Million.

**12. EXTENSION OF TAX CREDITS UPTO 30TH JUNE, 2021  
Sections 65B, 65D & 65E**

Tax credit under section 65B is available to companies for the purpose of extension, expansion, balancing, modernization and replacement of plant & machinery at the rate of 10% of the amount invested.

Further, tax credit under section 65D is available to companies setting up a new industrial undertaking for a period of five years.

Moreover Tax credit under section 65E is available to companies for the purchase and installation of plant & machinery through at least 70% new equity.

The above tax credits can be availed by companies making investments upto 30.6.2019.

The Bill seeks to extend the dates against making such investments and setting up of industrial undertakings / manufacturing concerns upto 30th June, 2021.

**13. AMENDMENT FOR TAXATION OF BANKING COMPANIES**  
**Section 100A**

Rules regarding taxation of banking companies are contained in the Seventh Schedule to the Income tax Ordinance 2001. A new sub-section (3) has been proposed to be added which provides that notwithstanding anything contained in sub-section (1) of Section 100, income, profits and gains and tax payable thereon shall be computed subject to the limitations and provisions contained in Chapters VII and VIII i.e. related to “Geographical Source of Income and Taxation” of “Foreign Source of Income”. Thus more vigilance is expected in respect of taxation of banks.

Moreover corresponding amendment have been made in seventh schedule. Due to these amendments now provision with respect to arm’s length and characterization can now be invoked against the banks as well.

**14. TAX CREDIT FOR NON-PROFIT ORGANIZATIONS AND WELFARE INSTITUTIONS**  
**Section 100C**

The income of non-profit organization and welfare institutions were exempt and vide Finance Act 2014 instead of exemption, Non-profit organizations, trusts and welfare institutions have been entitled and allowed to claim 100% tax credit on their income from certain specified heads under section 100C of the Income Tax Ordinance, 2001 and that too was subject to various conditions specified in this behalf. Later on vide Finance Act 2017 surplus funds of NPOs were taxed at 10% and surplus funds meaning were also specified.

One of the incomes that qualify for tax credit under section 100C is profit on debt from scheduled banks.

The Bill now seeks to extend the scope of profit on debt in addition to schedules banks to microfinance banks as well.

Henceforth profit on debt derived by non-profit organizations from micro-finance banks shall also qualify as income eligible for 100% credit under section 100C of the Income Tax Ordinance, 2001.

**15. SCOPE OF GEOGRAPHICAL SOURCE OF INCOME EXTENDED**  
**Section 101 (3) (e) and 101 (12A)**

15.1 The section defines the geographical source of income falling under the ambit of Income Tax Ordinance 2001 and the Bill proposes to extend it to include the following by adding clause (e) to sub-section (3). Consequently business income of a non-resident person shall be Pakistan source income in the following case as well:

- (e) import of goods, whether or not the title to the goods passes outside Pakistan, if the import is part of an overall arrangement for the supply of goods, installation, construction, assembly, commission, guarantees or supervisory

activities and all or principal activities are undertaken or performed either by the associates of the person supplying the goods or its permanent establishment, whether or not the goods are imported in the name of the person, associate of the person or any other person.

Explanation.— For the removal of doubt, it is clarified that where the income is subject to taxation under sections 51 5A, 5AA, 6, 7 and 7A, the income shall not be chargeable to tax under the head income from business.

- 15.2 Moreover as already discussed in paragraph 1.3 above the following will also be a Pakistan source income.

“(12A) A fee for offshore digital services shall be Pakistan-source income, if it is - (a) paid by a resident person, except where the fee is payable in respect of services utilised in a business carried on by the resident outside Pakistan through a permanent establishment; or (b) borne by a permanent establishment in Pakistan of a non-resident person.”

**16. GAIN ON DISPOSAL OF ASSETS OUTSIDE PAKISTAN**  
**Section 101A**

The Bill seeks to expand the scope of taxing the gain from disposal or alienation outside Pakistan of an asset located in Pakistan of a non-resident company to be a Pakistan source income. It provides that :

- (1) Any gain from the disposal or alienation outside Pakistan of an asset located in Pakistan of a non-resident company shall be Pakistan-source
- (2) The gain under sub-section (1) shall be chargeable to tax at the rate and in the manner as specified in sub-section (10).
- (3) Where the asset is any share or interest in a non-resident company, the asset shall be treated to be located in Pakistan, if —
  - (a) the share or interest derives, directly or indirectly, its value wholly or principally from the assets located in Pakistan; and
  - (b) shares or interest representing ten per cent or more of the share capital of the non-resident company are disposed or alienated.
- (4) The share or interest, as mentioned in sub-section (3), shall be treated to derive its value principally from the assets located in Pakistan, if on the last day of the tax year preceding the date of transfer of a share or an interest, the value of such assets exceeds one hundred million Rupees and represents at least fifty per cent of the value of all the assets owned by the non-resident company.
- (5) Notwithstanding the provisions of section 68, the value as mentioned in sub-section (4) shall be the fair market value, as may be prescribed, for the purpose of this section without reduction of liabilities.
- (6) Where the entire assets by the non-resident company are not located in Pakistan, the income of the non-resident company, from disposal or alienation outside Pakistan of a share of, or interest in, such non-resident company shall be treated to be located in Pakistan, to the extent it is reasonably attributable to assets located in Pakistan and determined as may be prescribed.

- (7) Where the asset of a non-resident company derives, directly or indirectly, its value wholly or principally from the assets located in Pakistan and the non-resident company holds, directly or indirectly, such assets through a resident company, such resident company shall, for the purposes of determination of gain and tax thereon under sub-section (8) or, as the case may be, sub-section (9), shall furnish to the Commissioner within sixty days of the transaction of disposal or alienation of the asset by the non-resident company, the prescribed information or documents, in a statement as may be prescribed: Provided that the Commissioner may, by notice in writing, require the resident company, to furnish information, documents and statement within a period of less than sixty days as specified in the notice.
- (8) The person acquiring the asset from the non-resident person shall deduct tax from the gross amount paid as consideration for the asset at the rate of fifteen percent and shall be paid to the Commissioner by way of credit to the Federal Government through remittance to the Government Treasury or deposit in an authorized branch of the State Bank of Pakistan or the National Bank of Pakistan, within fifteen days of the payment to the non-resident.
- (9) The resident company as referred to in sub-section (7) shall collect advance tax as computed in sub-section (10) from the non-resident company within thirty days of the transaction of disposal or alienation of the asset by such non-resident company:
- Provided that where the tax has been deducted and paid by the person acquiring the asset from the non-resident person under sub-section (8), the said tax shall be treated as tax collected and paid under this sub-section and shall be allowed a tax credit for that tax in computing the tax under sub-section (10).*
- (10) The tax to be deducted under sub-section (8) or to be collected under sub-section (9) shall be the higher of –
- (a) 20% of A, where A = fair market value less cost of acquisition of the asset; or
  - (b) 10% of the fair market value of the asset.
- (11) Where tax has been paid under sub-section (8) or (9), no tax shall be payable by the non-resident company in respect of gain under sub-section (8) of section 22 or capital gains under section 37 or 37A.”

**17. TAX TREATIES OVERRIDES THE PROVISIONS OF INCOME TAX LAW AMONGST THE TAXPAYER OF TWO COUNTRIES.  
Section 107**

Hitherto-fore the option has been available to a person to adopt the taxing provision contained in the tax treaties entered into between two countries instead of following respective income tax law of any country.

However the Bill has proposed amendment and with respect to power of applying provision with respect to characterization, provisions of Section 109 will overrides the treatment available under the tax treaty.

**18. TRANSACTIONS BETWEEN ASSOCIATES.  
Section 108**

Presently the taxpayers are required to maintain record as provided in Section 108 (3) of the Ordinance and such record.

The Bill seeks to binds the taxpayer to furnish the same to the Board master file and a local file containing documents and information as may be prescribed.

This amendment may create a great hardship for the taxpayers and may also result in creating dispute and legal proceedings.

**19. RECHARACTERISATION OF INCOME AND DEDUCTIONS**  
**Section 109**

Present legal provisions provides that the Commissioner may For the purposes of determining liability to tax under this Ordinance,

- (a) recharacterise a transaction or an element of a transaction that was entered into as part of a tax avoidance scheme;
- (b) disregard a transaction that does not have substantial economic effect; or
- (c) recharacterise a transaction where the form of the transaction does not reflect the substance.

And “tax avoidance scheme” means any transaction where one of the main purposes of a person in entering into the transaction is the avoidance or reduction of any person’s liability to tax under this Ordinance.

The Bill seeks to extend the scope of recharacterisation to disregard an entity or a corporate structure that does not have an economic or commercial substance or was created as part of the tax avoidance scheme.

The Bill further proposes to provide that reduction in a person's liability to tax as referred to aforesaid means a reduction, avoidance or deferral of tax or increase in a refund of tax and includes a reduction, avoidance or deferral of tax that would have been payable under this Ordinance, but are not payable due to a tax treaty for the avoidance of double taxation as referred to in section 107.

**20. CONTROLLED FOREIGN COMPANY.–**  
**Section 109A**

The Bill seeks to insert a new section with respect to a foreign controlled entity, the salient features of which are as under:

- (1) There shall be included in the taxable income of a resident person for a tax year an income attributable to controlled foreign company as defined in sub-section (2).
- (2) For the purpose of this section, controlled foreign company means a non-resident company, if –
  - a. more than fifty percent of the capital or voting rights of the non-resident company are held, directly or indirectly, by one or more persons resident in Pakistan or more than forty percent of the capital or voting rights of the nonresident company are held, directly or indirectly, by a single resident person in Pakistan;
  - b. tax paid, after taking into account any foreign tax credits available to the non-resident company, on the income derived or accrued, during a foreign tax year, by the non-resident company to any tax authority outside Pakistan is less than sixty percent of the tax payable on the said income under this Ordinance; 57



- c. the non-resident company does not derive active business income as defined under subsection (3); and
  - d. the shares of the company are not traded on any stock exchange recognized by law of the country or jurisdiction of which the non-resident company is resident for tax purposes.
- (3) A company shall be treated to have derived active income if –
- (a) more than eighty percent of income of the company does not include income from dividend, interest, property, capital gains, royalty, annuity payment, supply of goods or services to an associate, sale or licensing of intangibles and management, holding or investment in securities and financial assets; and
  - (b) principally derives income under the head “income from business” in the country or jurisdiction of which it is a resident.
- (4) Income of a controlled foreign company is an amount equal to the taxable income of that company determined in accordance with the provisions of this Ordinance as if that controlled foreign company is a resident taxpayer.
- (5) The amount of attributable income under sub-section (1) for a tax year shall be computed according to the following formula, namely: –
- $$A \times (B/100)$$
- Where - A is the amount of income of a controlled foreign company under sub-section (2); and
- B is the percentage of capital or voting rights, whichever is higher, held by the person, directly or indirectly, in the controlled foreign company.
- (6) The amount of attributable income shall be treated as zero, if the capital or voting rights of the resident person is less than ten percent.
- (7) Income of a controlled foreign company shall be treated as zero, if it is less than ten million Rupees.
- (8) The income of a controlled foreign company in respect of a foreign tax year, as defined in sub-section (9), shall be determined in the currency of that controlled foreign company and shall, for purposes of determining the amount to be included in the income of any resident person during any tax year under the provisions of this section, be converted into Rupees at the State Bank of Pakistan rate applying between that foreign currency and the Rupee on the last day of the tax year.
- (9) Foreign tax year, in relation to a non-resident company, means any year or period of reporting for income tax purposes by that non-resident company in the country or jurisdiction of residence or, if that company is not subject to income tax, any annual period of financial reporting by that company. (10) The income attributable to controlled foreign company under sub-section (1) and taxed in Pakistan under this section shall not be taxed again when the same income is received in Pakistan by the resident taxpayer.

**21. UNEXPLAINED INCOME - INCOME EARNED ABROAD OF ANY PRIOR YEAR TO BE TAXED IN THE YEAR OF DISCOVERY. INCLUSION OF AMENDMENT ENFORCED THROUGH INCOME TAX (AMENDMENT) ORDINANCE, 2018.**

**Section 111 (2)**

- 21.1 Vide Income tax (Amendment) Ordinance 2018, amendment in this section were implemented and also presented for enactment through the Bill.
- 21.2 Before the amendment proposed, unexplained income or asset or expenditure has been liable to be included in the income in the income year to which it relates and Section 122 provided a time limit of five years for this purpose.
- 21.3 However now the Amendment Ordinance as well as the Bill seeks to divide this into two parts one which is related to Pakistan source income where the period of five years will continue to apply while for the other part i.e. foreign source income that is to be taxed in the year of discovery hence the time limit automatically stand deleted and thus addition can be made to income for such unexplained credit in the year of discovery.
- 21.4 The text of amended sub-section (2) read as under as proposed.

“(2) The amount referred to in sub-section (1) shall be included in the person’s income chargeable to tax:

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

Explanation.— For the removal of doubt, it is clarified that where the investment, money, valuable article or expenditure in respect of assets or expenditure situated or incurred outside Pakistan liable to be included in the income of tax year 2018 and onwards on the basis of discovery made by the Commissioner during tax year 2019 and onwards and the person explains the acquisition of such asset or expenditure from sources relating to tax year in which such asset was acquired or expenditure was incurred, such explanation shall not be rejected on the basis that the source does not relate to the tax year immediately preceding tax year in which the asset or expenditure was discovered by the Commissioner.”;

- (b) in sub-section (4), in clause (a), after the word “channels”, the words “not exceeding ten million Rupees in a tax year” shall be inserted.

**22. FOREIGN REMITTANCES THROUGH NORMAL BANKING CHANNELS:**

Prior to the promulgation of the Income Tax (Amendment) Ordinance, 2018 a person was not required to explain the nature as well as the source of any amount of foreign exchange which is remitted from outside Pakistan through normal banking channels and subsequently encashed into Pakistani Rupees by any scheduled bank .In order to discontinue this practice and mode of whitening money amendment has been made in section 111(4) of the Ordinance whereby persons would be required to explain the source of investment if the amount of foreign remittances in a year exceeds Rs.10 million.

**23. FURNISHING OF FOREIGN INCOME AND ASSETS STATEMENT, FILING OF RETURN FOR FOREIGN INCOME AND ASSETS, TIME LIMIT AND PENALTIES.  
Sections 114, 116A, 118 & 182**

These amendment have already been enforced vide Income Tax (Amendment) Ordinance, 2018 and has been include in the Bill in order to comply with the enforceability requirements. The amendments include the following:

**23.1** A new section 116A has been inserted whereby it has been made mandatory for resident individuals to furnish a foreign income and assets statement along-with return of income if such individual earns foreign income equivalent to or exceeding USD 10,000/- or is the owner of foreign assets having a value equivalent to or exceeding USD 100,000-. The foreign income and assets statement shall contain particulars/details regarding total foreign assets and liabilities (as on the last day of the Tax Year) as well as details of foreign assets transferred to another person during the tax year and consideration received in lieu of such transfer. Complete particulars of foreign income earned and the expenditures incurred for earning such income shall also be furnished through this statement. The text of new section reads:

“116A. Foreign income and assets statement.-

- (1) Every resident taxpayer being an individual having foreign income of not less than ten thousand United States dollars or having foreign assets with a value of not less than one hundred thousand United States dollars shall furnish a statement, hereinafter referred to as the foreign income and assets statement, in the prescribed form and verified in the prescribed manner giving particulars of –
  - (a) the person’s total foreign assets and liabilities as on the last day of the tax year;
  - (b) any foreign assets transferred by the person to any other person during the tax year and the consideration for the said transfer; and
  - (c) complete particulars of foreign income, the expenditure derived during the tax year and the expenditure wholly and necessarily for the purposes of deriving the said income.
- (2) The Commissioner may by a notice in writing require any person being an individual who, in the opinion of the Commissioner on the basis of reasons to be recorded in writing, was required to furnish a foreign income and assets statement under sub-section (1) but who has failed to do so to furnish the 63 foreign income and assets statement on the date specified in the notice.”;

**23.2** If an individual meets the conditions stipulated in section 116A of the Income Tax Ordinance,2001 with respect to earning of foreign income or ownership of foreign assets, such individual shall mandatorily be required to file return of Income Tax along-with foreign income and assets statement in terms of section 114(2)(f) of the Ordinance.

**23.3** Through the Income Tax (Amendment) Ordinance, 2018 a proviso has been added in sub-section (5) of section 114 whereby the time limit for issuance of a notice calling for return shall not apply if the Commissioner is satisfied on the basis of reasons to be recorded in writing that a person who failed to furnish his return has foreign income or owns foreign assets.

**23.4** Where a person fails to furnish Foreign Income and Assets statement within the due date, such person shall be subject to levy of penalty of 2% of the foreign income or value of the foreign assets for each year of default under section 182 of the Income Tax Ordinance, 2001.

**24. TIME LIMITATION IN BEST JUDGEMENT ASSESSMENT:  
Section 121**

Notice to furnish a return of income under section 114(4) of the Income Tax Ordinance, 2001 can be issued for one or more of the last ten completed tax years to a person who has not filed return of income for any of the last five tax years. However, presently best judgment assessment under section 121 of the Ordinance can only be made for the last five years.

The Bill proposes amendment whereby best judgment assessment under section 121, in the aforementioned instance can be made within two years from the end of the tax year in which notice to file return of income has been issued.

**25. EXPIRY OF STAY OF RECOVERY BY APPELLATE TRIBUNAL  
Section 131**

The Bill proposes to insert a proviso in sub-section 131 (5) to clarify and empower Commissioner to proceed for recovery of tax under appeal upon expiry of maximum 180 days from the date of stay granted by the Appellate Tribunal. The proposes insertion is as follows;

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

Proposed insertion is an empowerment to the Commissioner-Inland Revenue to initiate recovery proceedings upon conclusion of stay period.

**26. ALTERNATE DISPUTE RESOLUTION - CHANGE IN MECHANISM,  
(Section 134A)**

The Bill proposes amendments in the section 134A in order to make changes in the operation and mechanism of Alternate Dispute Resolution such as

- Change in composition of committee members to include a retired judge of High Court in addition to an Officer of Inland Revenue (not below rank of Commissioner) and a person from the panel of retired chartered accountants and advocates. This means now only retired chartered accountants or advocate can be made part of the Committee whereas currently the Committee may comprise two persons from the panel comprising Chartered and Cost Accountants, Advocates, Income Tax Practitioners or reputable taxpayer in addition to an officer of Inland Revenue.
- Aggrieved person and the Board shall have to withdraw the appeals pending before the Appellate Authority in order to enable the Committee to commence proceeding and in case no order for withdrawal of appeal is received by the Committee within seventy five days the committee shall stand dissolved and provision of section 134A will not be applicable.

- The Committee shall have to decide the dispute within 120 days of appointment (excluding days of correspondence) and the decision shall be binding on the Board and aggrieved person. In case the Committee fails to decide the dispute within 120 days, the Committee shall be dissolved by the Board and the matter shall be decided by the Appellate Authority, which issued the order of withdrawal of appeal within six months of the communication of the order of dissolution. This means the Committee will have power to decide the matter rather than just making recommendations and in case of failure the matter shall be reverted back to the Appellate Authority.

Currently the Committee so constituted has to make recommendation rather than to order within 90 days of its constitution failing which the committee shall be dissolved by the Board and a new committee will be constituted which have to decide the matter within further period of ninety days. In case the matter stands unresolved after the expiration further 90 days the matter shall be taken up by the appropriate forum for decision.

The proposed substitutions, additions and amendments to the provisions of section 134 A. are reproduced below:

- (a) for sub-section (2), the following shall be substituted, namely:-

"(2) The Board after examination of the application of an aggrieved person, shall within sixty days of receipt of such application in the Board appoint a committee consisting of:

- (i) an officer of Inland Revenue not below the rank of Commissioner;
- (ii) a person from a panel comprising of retired Chartered Accountants and Advocates;
- (iii) a retired judge of a High Court for the resolution of the hardship or dispute:

Provided that the mode and manner of appointment of the members of the committee shall as may be prescribed.

- (b) after sub-section (2), substituted as aforesaid, the following new sub-sections shall be inserted, namely:—

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

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

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

- (c) for sub-sections (3), (4) and (4A) the following shall be substituted, namely:—
- “(3) The Committee appointed under sub-section (2) shall examine the issue and may if it deems necessary conduct inquiry, seek expert opinion, direct any officer of the Inland Revenue or any other person to conduct an audit and shall decide the dispute by majority, within one hundred and twenty days of its appointment:
- Provided that in computing the aforesaid period of one hundred and twenty days, the period, if any, for communicating the order of withdrawal under sub-section (3) shall be excluded.
- (4) The decision of the committee made under sub-section (3) shall be binding on the Board and the aggrieved person.
- (4A) If the Committee fails to decide within the period of one hundred and twenty days, under sub-section (3), the Board shall dissolve the committee, by an order in writing, and the matter shall be decided by the Appellate Authority, which issued the order of withdrawal under sub-section (2B) and the appeal shall be treated to be pending before such Appellate Authority as if the appeal has never been withdrawn.
- (d) after sub-section (4A), substituted as aforesaid, the following new sub-sections shall be inserted, namely:
- “(4B) The Board shall communicate the order The Board shall communicate the order of dissolution to the Appellate Authority mentioned in subsection (1) and the Commissioner.
- (4C) The aggrieved person, on receipt of the order of dissolution, shall communicate to the Appellate Authority mentioned in sub-section (1), which shall decide the appeal within six months of the communication of the order of dissolution ”;
- (e) in sub-section (5),—
- (i) for the words “determined by the Board in its order under sub-section (4)”, the words “decided by the committee under sub-section (3)” shall be substituted;
- (ii) for the colon at the end, a full stop shall be substituted and the two provisos thereafter shall be omitted;

**26. DUE DATE FOR PAYMENT OF TAX - (DUE DATE FOR PAYMENT OF ADVANCE TAX U/S 147(7))  
Section 137**

Taxpayers being Companies, AOP's and Individuals are required to make of Advance Tax on specific dates on quarterly basis under the provisions of Income tax Ordinance, 2001.

The Bill seeks to clarify that the advance tax under section (7) shall become due on due dates as specified in subsection (5) and (5A), i.e., on or before 15<sup>th</sup> of September, December, March and June for individuals and on or before 25<sup>th</sup> of September, December and March and 15<sup>th</sup> June in case of AOPs or companies.

Accordingly following proviso is proposed in in section 137, in sub-section (2),

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

The proposed insertion of a proviso seems intended to formalize the payment of advance tax and will also empower the Commissioner to grant installments etc for the purpose.

**27. RECOVERY OF TAX FROM PERSON HOLDING MONEY ON BEHALF OF TAXPAYER  
SECTION 140**

Currently the Commissioner has powers to issue notice to any person who owe or holds tax money to or on account of any taxpayer for recovering the tax due to such taxpayer’s provided that the taxpayer has not filed appeal under section 127 which is pending and the tax payer has deposited 25% of the tax due / demanded.

The Bill proposes to relax this condition of payment of 25% of the amount to 10%.

This is will facilitate the taxpayer’s against whom frivolous tax demands has been created which is obvious from various tax amendment orders made public and that tax demands are unlikely to pass test of appeals and tax demand so created has been recovered by coercive measures which eventually takes shape of refunds that are not released and held for years.

**28. ADVANCE TAX PAID BY THE TAXPAYER  
Section 147**

28.1 The Bill propose to insert proviso in sub-section (4), in component A, i.e.

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

This means while computing advance tax under section 4 in case of association of persons and companies if the amount of turnover for any calendar quarter is not available or not known, the turnover shall be deemed to be the 1.1 times of the turnover for the latest tax year for which return has been filed.

28.2 The Bill proposes to insert the words "including a banking company" in sub-section (4A), after the word "taxpayer", whereby banking companies are now permitted to file estimate of advance income tax liability for the tax year at the time of payment of 2<sup>nd</sup> installment of advance tax and make 50% payment of estimated liability (net of payments made earlier) for that tax year and pay the balance amount of tax in equal installments in third and fourth quarter.

The Bill also proposes to insert the words "excluding banking company" after the word "taxpayer", wherever occurring, in sub-section(6) which implies that the banking companies shall have to pay advance tax based for third and fourth quarter in equal installments based on estimates made in 2<sup>nd</sup> quarter irrespective of any decrease in estimated income / liability in the subsequent quarters.

- 28.3 Currently taxpayer's who are required to make payment of advance tax if estimates at any time before the last installment is due, that the tax payable for the relevant tax year is likely to be less than the amount is required to pay under sub-section (1), the taxpayer may furnish to the Commissioner an estimate of the amount of the tax payable by him, and thereafter pay such estimated amount, as reduced by the amount, if any, already paid. For the purpose no documentary evidence is required of any expense or deduction which may result in decrease in amount of tax payable.

The Bill now propose to insert following two provisos in the section 6, whereby the person will be required to furnish the documentary evidences along with revised estimate to support the decrease in the amount of tax payable;

- "Provided that an estimate of the amount of tax payable shall contain turnover for the completed quarters of the relevant tax year, estimated turnover of the remaining quarters along with reasons for any decline in estimated turnover, documentary evidence of estimated expenses or deductions which may result in lower payment of advance tax and the computation of the estimated taxable income of the relevant tax year:

Provided further that where an estimate of the amount of tax payable is not accompanied by details mentioned in the first proviso, the Commissioner may reject the estimate after providing an opportunity of being heard to the taxpayer and the taxpayer shall pay advance tax according to the formula contained in sub-section (4).";

It appears that the proposed amendment is intended to guarantee the tax revenue for the ensuing years from advance payment of tax and ignorance of business fundamentals and diversities which periodically changes. This aspect cannot be termed business friendly and will open the door of quarterly audits in applicable cases for which resources are available with the FBR and taxpayers.

**29. IMPORTS - (TAX COLLECTED ON CERTAIN IMPORTS TO BE TREATED AS MINIMUM TAX)  
Section 148**

Subsection 8 of Section 148 is proposed to be redrafted as follows:

- “(8) The tax required to be collected from a person under this section shall be minimum tax for a tax year on the import of—
- (a) goods where goods are sold in the same condition as they were when imported;
  - (b) edible oil;
  - (c) packing material; and
  - (d) plastic raw material imported by an industrial undertaking falling under PCT headings 39.01 to 39.12.”

After the proposed amendment tax collected on goods imported and sold in same condition as they were imported shall also be treated as minimum tax. Means tax collected in case of commercial importer will also be treated as minimum tax rather than final taxation. Whereas items that are listed in (b),(c) and (d) above remains will unchanged.



**30. PAYMENTS TO NON-RESIDENTS – (INCLUDING FEE FOR OFFSHORE DIGITAL SERVICES)  
Section 152**

**30.1** The concept of fees of offshore digital services have been introduced in the Bill and accordingly a new sub-section (1BB) is proposed to be inserted as follows accordingly tax at the rate 15% shall also be deductible from the payments made to non-residents or its PE against fee for offshore digital services;

“(1C) Every banking company or a financial institution remitting outside Pakistan an amount of fee for offshore digital services, chargeable to tax under section 6, to a nonresident person on behalf of any resident or a permanent establishment of a non-resident in Pakistan shall deduct tax from the gross amount paid at the rate specified in Division IV of Part I of the First Schedule.”;

**30.2** Tax deducted on payments to non-residents against services is proposed to be treated as minimum tax and the Bill proposes to allow adjustment and carry forward of the tax so deducted within following five years to make it line with the resident persons. Accordingly following subsection is proposed to be inserted after subsection (2AA);

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

**30.3** Payments made to a non-resident in case of importer do not attract Pakistan withholding tax on such imports where title to the goods passes outside Pakistan as specified in sub-section (7), for clause (a), of Section 152, however, the following substitution of clause (7)(a) has been proposed, in order to make tax avoidance arrangement for projects for which import is made, namely:-

- “(a) an import of goods where title to the goods passes outside Pakistan and is supported by import documents, except where –
- i. the supply is made in connection with the overall arrangement for the supply of goods, installation, construction, assembly, commission, guarantees or supervisory activities and all or principal activities are undertaken or performed either by the associates of the person supplying the goods or its permanent establishment, whether or not the title passes outside Pakistan and whether or not the goods are imported in the name of the associate or any other person; or
  - ii. the supply is made by a resident person or a Pakistan permanent establishment of a nonresident person in connection with the overall arrangement as referred to in sub-clause (i); or”

The proposed amendment seems well drafted anti avoidance measure and bring into Pakistan source tax, full amounts of contract revenues being envisaged by such arrangements.

**31. PAYMENT FOR GOODS, SERVICES AND CONTRACTS - SCOPE OF TAX WITHHOLDING WIDENED.**  
**Section 153**

- 31.1 Amendments are proposed in clause (a) and (b) of sub-section (1) of section 153 to exclude deduction of tax on payments against;
- i) Where payment is less than seventy-five thousand Rupees in aggregate, during a financial year in respect of supply of goods and,
  - (i) Where payment is less than thirty thousand Rupees in aggregate, during a financial year in respect of services rendered.

It is imperative that the businesses deals with small vendors and the quantum of tax withholding presently having threshold of Rs. 25,000 and Rs.10,000 for goods and services respectively is very insignificant which has now being revised upwards, however that is suggested to be brought up-to the a reasonable level.

- 31.2 The Bill seeks to substitute words “any of the preceding tax years” for “tax year 2007 or in any subsequent tax year” and “tax year 2009 or in any subsequent tax year” in sub-clause (h) and (i) respectively of clause (i) of sub-section (7) to make it clear that an individual or association of person having turnover of Rs. 50 million or above in any preceding tax year shall be treated as prescribed person to deduct tax on payments under section 153.

- 31.3 Two new sub-clauses (k) and (l) are proposed to be inserted in the clause (i) of subsection (7) to enlarge and include the builders and developers in the scope of prescribed persons who shall collect tax from buyers / allottees of immovable properties, as follows;

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

Proposed introduction into withholding tax collection regime Builders and Developers is a step towards documentation and eradicate distortions.

**32. FURNISHING OF INFORMATION BY BANKS**  
**Section 165A**

The Bill proposes to make amendments in clauses (a), (b) and (c) of section 165 A to restrict the information required to be furnished by banking companies for the following;

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

Currently the banking companies are required to provide online access to its central database containing details of its account holders and all transactions made in their accounts. This has restricted now to cash withdrawal transactions.

- (b) a list containing particulars of deposits aggregating rupees **ten million** or more made during the preceding calendar month. Currently this threshold is one million rupees.

- (c) a list of payments made by any person against bills raised in respect of a credit card issued to that person, aggregating to rupees **two hundred thousand** or more during the preceding calendar month. Currently this threshold is one hundred thousand rupees.

**33. CREDIT FOR TAX COLLECTED OR DEDUCTED**  
**Section 168**

**33.1 Tax credit on share of profit from AOP to a Company**

Currently the share of profit in association of person received by a company which is member of the association is excluded while computing taxation of the association of person and that share is taxed separately, at the rate applicable to the companies. No credit is allowed to the Company in respect of such tax. Similar credit was also available to the Companies which had been abolished in the Finance Act 2014.

The Bill proposes to insert new sub-section (2A) whereby companies which are members of any association of person shall be entitled to tax credit in respect of share of profit from the association which is taxed in accordance with section 92 and an amount of tax has been collected from the association of persons under Division II of this Part or Chapter XII or deducted from a payment made to the said association under Division III of this Part or Chapter XII. The company shall be allowed a tax credit, in respect of tax collected or deducted from the association of persons, according to the following formula, namely: –

$$(A/B) \times C$$

Where –

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

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

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

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

**34. AUDIT SECTION 177 - SPECIAL AUDIT PANEL TO INCLUDE FOREIGN EXPERT IN SUB-SECTION (11)**  
**Section 177**

The Bill seeks to proposed to amend clause (d) and insert a new clause (e) in the sub-Section (11) of section 177 whereby the Board may also appoint following persons as member of the special audit panels where necessary;

- (a) Foreign expert or specialist
- (b) A tax audit expert deployed under an audit assistance programme of an international tax organization or a tax authority outside Pakistan:

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

**35. OFFENCES AND PENALTIES IN THE TABLE, IN COLUMN (1),—  
Section 182**

- (a) The Bill proposes to reduce minimum penalty to Rs. 5000 in case of person who fails to furnish a statement as required under section 115, 165, or 165A or 165B within the due date provided that the person had already paid tax required to be collected or deducted and to be reported in the statement within the due date and filed statement within ninety days from the due date for filing the statement otherwise minimum penalty of ten thousand Rupees shall be applied.
- (b) The Bill proposes penalty of 2 % of foreign income or foreign assets in case of any person fails to furnish a foreign assets and income statement within the due date.

**36. RETURN NOT FILED WITHIN DUE DATE  
Section 182A**

**36.1** The Bill proposes to insert new section 182A for Return not filed within due date in the Ordinance to read as follows:

- (1) Notwithstanding anything contained in this Ordinance, where a person fails to file a return of income under section 114 by the due date as specified in section 118 or by the date as extended by the Board under section 214A or extended by the Commissioner under section 119, as the case may be, such person shall—
  - (a) not be included in the active taxpayers' list for the year for which return was not filed within the due date; and
  - (b) not be allowed, for that tax year, to carry forward any loss under Part VIII of Chapter IV".

Accordingly now the person, who fails to file the tax returns within due date or the date as extended by the Commissioner, shall not be allowed the status of active tax payer for the whole of tax year for not filing tax return and he will also not be allowed to carry forward any losses. This will enable timely compliance of tax return filing and will also enable the effort to enhance tax to GDP ratio of the country.

**36.2 Section 214 “Automatic Selection for Audit”** is proposed to be omitted. Currently under this section a person is automatically selected for audit if the person;

- (a) has not filed the return within due date or the date extended by the Board under section 214A or further extended for a period not exceeding thirty days by the Commissioner under section 119; or
  - (b) the tax payable has not been paid under section 137
- With the omission of this section the cases will no more be selected for the audit that are specifically be selected for audit only due the reason for delay in filing of return or late payment of tax.

**37. DISCLOSURE OF INFORMATION BY A PUBLIC SERVANT.  
Section 216**

The Bill proposes to insert clause (kb) in sub-section (3), after clause (ka), in order to allow the officers to share information of any statements, records, proceedings etc. with National Database and Registration Authority (NADRA) for the purpose of broadening of the tax base.

**38. SERVICE OF NOTICES AND OTHER DOCUMENTS**  
**Section 218**

The Bill proposes to insert following clause after clause (c) in section 218

“(d) served on the individual electronically in the prescribed manner,”

This means the notice served electronically (email or IRIS) will be treated as properly served and arguments of not received physically may no more be acceptable. This will help to expedite the proceeding at field levels. It is however to be noted that presently access to web based services is not used by the taxpayers and mostly done by E-Representatives and it would be better that the concurrent parallel system should also be in vogue so that taxpayers are facilitated.

**39. BAR OF SUITS IN CIVIL COURTS.**  
**Section 227**

The Bill proposes following insertions in section 227, in sub-section (1),–

- (a) after the word “made” occurring for the first time, the words “or any notice issued” shall be inserted; and
- (b) after the word, “made”, occurring for the third time, the words “or notices issued” shall be inserted;
- (c) after sub-section (1), amended as aforesaid, the following explanation shall be added, namely:–

“Explanation.– For the removal of doubt, it is clarified that Civil Court includes any court exercising power of the civil court.

Currently there is only provision that no suit or other legal proceeding shall be brought in any Civil Court against any order made under this Ordinance, i.e., there is bar of suits on orders whereas with the insertion of proposed amendments now the notice served under the Ordinance could also not be challenged in any civil court, which has been proposed to include any court exercising power of the civil court.

**40. RESTRICTION ON PURCHASE OF CERTAIN ASSETS.**  
**Section 227 C**

**(Purchase / Registration of Vehicles and Immovable properties)**

A new section 227C is proposed in the Bill that seeks to bar non-filer from purchase / registration of;

- Any locally manufactured motor vehicle and imported vehicle; and
- Transfer of immovable property

The proposed section is as follows:

227.-Restriction on purchase of certain assets;

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

- (a) any application for booking, registration or purchase of a new **locally manufactured motor vehicle** or for **registration of an imported vehicle** shall not be accepted or processed by any vehicle registering authority of Excise and Taxation Department or a manufacturer of a motor vehicle respectively, **unless the person is a filer.**;
- (b) any application or request by a person from any authority responsible for registering, recording or attesting transfer of any immovable property for registering or attesting the transfer shall not be accepted or processed by such authority, **unless the person is a filer.**”;

The proposed insertion creates bar on acquisition of new cars or immovable property which in general is a very good measure however, there will also be hardship cases where minors (dependents) , legal heirs of deceased persons etc needs exclusions which needs to be considered, with the limitations of showing source of funds.

#### 41. **DIRECTORATE GENERAL OF IMMOVABLE PROPERTY” Section 230F**

The Bill proposes to create **Directorate General of Immovable Property** and an appellate tribunal named as **Appellate Tribunal of Immovable Property** and inter alia collect 1% advance tax on registration of transfer of immovable at the declared amount and in case the amount declared in found to be less than 50% of the fair market value the Bill proposes to empower the Federal Government to purchase the said property pay additional amount of up to 100% of the declared value.

In order to exercise this power a new office named as **Directorate General of Immovable Property** and an appellate tribunal named as **Appellate Tribunal of Immovable Property** is proposed to be constituted in order to monitor the transactions of sale / transfer of immovable property and start proceeding for acquisition of the improvable properties declared at understated values and deal with appeals in such matters.

Salient features of the proposed section are as follows:

- The Directorate General under the proposed section may initiate proceedings, within a period of six months from the end of the month in which the instrument of transfer is registered, where it believes that the fair market value of the immovable property and that the consideration for such transfer as agreed to between the transferor and transferee has been understated in the instrument of transfer for the purposes of –
  - (a) the avoidance or reduction of withholding tax obligations under this Ordinance;
  - (b) concealment of unexplained amount referred to in sub-section (1) of section 111 representing investment in immovable property; or
  - (c) avoidance or reduction of capital gains tax under section 37.
- Where the Directorate-General is satisfied that the fair market value of such property exceeds the consideration by more than fifty per cent of such consideration and that transfer has not been truly stated in the instrument of transfer it may, after obtaining approval of the Board, make an order for acquisition of the immovable property.

- The transferee may prefer appeal to the Appellate Tribunal of Immovable Property against the order of acquisition of any immovable property made by the Directorate General within sixty days of service of a copy of such order.
- The transferee or the Directorate-General aggrieved by any order of the Tribunal may, within sixty days of the date on which the order is served, prefer an appeal against such order to the High Court.
- As soon as may be after the order for acquisition of immovable property becomes final, the Directorate-General may, by notice in writing, order to surrender the immovable property or deliver possession thereof to the Directorate-General within thirty days of the date of the service of the notice.
- Where any immovable property is acquired under this section, the Board shall make the payment of consideration for acquisition to the person or persons entitled thereto, as soon as may be, after the property become vested in the Federal Government.

It may be of interest that Pakistan's various laws are being made shariah compliant being a Islamic state and the proposed introduction of compulsory acquisition of immovable property since creates a preemptive right of state on an individual's property only for improper disclosure of values while consideration is not at discussion, the same also needs to be vetted by the Islamic Ideology Council in order to avoid future reversal of proposed amendments.

The actual proposed section as reproduced hereunder:

***"230F. Directorate General of Immovable Property.—***

- (1) The Directorate-General of Immovable Property, (hereinafter referred to as Directorate-General in this section, shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors and Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.
- (2) The Board may, by notification in the official Gazette, specify the functions and jurisdiction of the Directorate-General and its officers.
- (3) The Directorate-General may, subject to the provisions and conditions as may be prescribed, initiate proceedings for the acquisition of property for the reasons and purposes specified in sub-section (4).
- (4) The proceedings under sub-section (3) shall be initiated, where the Directorate-General, on the basis of valuation made by it, has reason to believe that any immovable property of a fair market value has been transferred by a person, hereinafter referred to as the transferor, to another person, hereinafter referred to as the transferee, for a consideration which is less than the fair market value of the immovable property and that the consideration for such transfer as agreed to between the transferor and transferee has been understated in the instrument of transfer for the purposes of —
  - (a) the avoidance or reduction of withholding tax obligations under this Ordinance;
  - (b) concealment of unexplained amount referred to in sub-section (1) of section 111 representing investment in immovable property; or
  - (c) avoidance or reduction of capital gains tax under section 37.

- (5) The Directorate-General may appoint any valuer or expert as it considers necessary for the purposes of determination of valuation including fair market value of immovable property.
- (6) The mode and manner of appointment of a valuer or expert shall be as may be prescribed.
- (7) The valuation made under sub-section (4) and reasons that consideration is less than the fair market value shall be recorded in writing.
- (8) No proceedings shall be initiated in respect of any immovable property after expiration of a period of six months from the end of the month in which the instrument of transfer in respect of such property is registered, recorded or attested.
- (9) The mode and manner of initiation of proceedings and acquisition of immovable property under this section shall be as may be prescribed:  
Provided that the proceedings shall not be initiated unless the transferee is provided with an opportunity of being heard and where the objection by the transferee, if any, is rejected by the Directorate-General, it shall record in writing the reasons for rejection through an order.
- (10) If the Directorate-General is satisfied with the objections or reasons furnished by the transferee or the transferor, it shall, by order in writing, declare that the property shall not be acquired under this section.
- (11) If after hearing the objections, if any, and after taking into account all the relevant material on record, the Directorate-General is satisfied that the fair market value of such property exceeds the consideration by more than fifty per cent of such consideration and that transfer as agreed to between the transferor and the transferee has not been truly stated in the instrument of transfer it may, after obtaining approval of the Board, make an order for acquisition of the immovable property under this section.
- (12) The transferee may prefer express appeal to the Appellate Tribunal of Immovable Property against the order of acquisition of any immovable property under sub-section (11) within sixty days of service of a copy of such order.
- (13) There shall be established an Appellate Tribunal of Immovable Property to exercise the powers conferred on the Tribunal under this section.
- (14) The appointment of members of the Tribunal, powers, functions, constitution of the Tribunal and mode and manner of disposal of appeals shall be as may be prescribed.
- (15) The Appellate Tribunal may, after giving the appellant and the Directorate-General an opportunity of being heard, pass such order as it thinks fit.
- (16) The transferee or the Directorate-General aggrieved by any order of the Tribunal may, within sixty days of the date on which the order under sub-section (15) is served, prefer an appeal against such order to the High Court.
- (17) As soon as may be after the order for acquisition of immovable property made under sub-section (11) becomes final, the Directorate-General may, by notice in writing, order the transferee or any other person who may be in possession of the immovable property to surrender or deliver possession thereof to the Directorate-General within thirty days of the date of the service of the notice.



- (18) The order referred to in sub-section (11) becomes final if either no appeal has been there against filed or on appeal filed before the Tribunal, the order is confirmed and no appeal is filed before the High Court or on appeal filed before the High Court the order is confirmed.
- (19) Notwithstanding anything contained in any law or any agreement for the time being in force, where order referred to in sub-section (11) becomes final, the immovable property and all rights including ownership rights thereof shall be vested in the Federal Government and shall be treated to be in the same position in relation to such rights as the person in whom such rights would have continued to vest if such order had not become final.
- (20) Where any immovable property is acquired under this section, the Board shall make the payment of consideration for acquisition to the person or persons entitled thereto, as soon as may be, after the property become vested in the Federal Government.
- (21) Notwithstanding the provisions of section 68, for the purpose of this section, –
- (a) “consideration for acquisition” means a sum equal to the aggregate of the amount of the consideration for the transfer of immovable property and hundred per cent of such consideration;
  - (b) “fair market value” in relation to an immovable property means the price that the immovable property would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer of such property;
  - (c) “immovable property” means any land with or without a superstructure or any building or part of a building or any rights therein and includes, where any land or any building or part of a building is transferred along with any machinery, plant, equipment, furniture and fittings; and
  - (d) “transfer” in relation to any immovable property means transfer of such property by way of sale or exchange or lease for a term of not less than ten years.
- (22) The provisions of this section shall come into force on such date as the Federal Government may, by notification in official Gazette, appoint.
- (23) From the date of appointment as mentioned in sub section (21), rates mentioned in column (3) of the Table in Division XVIII shall be 1% and provisions of clause (c) of sub-section (4) of section 111, section 236C, section 236W and Division X of Part IV of the First Schedule shall not apply.”;

**42. COLLECTION OF TAX BY A STOCK EXCHANGE REGISTERED IN PAKISTAN  
Section 233 A**

**(Tax collected by stock exchange proposes to be treated as adjustable not final)**

Currently the tax collected by stock exchange from its members on purchase and sale of shares in lieu of tax on the commission earned by such Members under section 233 A is treated as final tax; however the Bill now proposes same to be treated as adjustable tax by proposing following substitution of words “final tax” with the word “adjustable” in sub-section 2 of 233A.

**43. TAX ON SALE OF CERTAIN PETROLEUM PRODUCTS.  
Section 236HA.**

The Bill proposes new section to be inserted in the Ordinance after section 236H namely:—

“236HA. Tax on sale of certain petroleum products.—

- (1) Every person selling petroleum products to petrol pump operator or distributor, where such operator or distributor is not allowed a commission or discount, shall collect advance tax on ex depot sale price of such products at the rate specified in Division XVA of Part IV of the First schedule.
- (2) The tax deductible under sub-section (1) shall be a final tax on the income arising from the sale of petroleum products to which sub-section (1) applies.”;

Currently, under section 156A, Oil marketing companies and suppliers of petroleum products are required to deduct tax at the rate of 12% (17% in case of non-filer) from the amount of commission or discount allowed to the operator. Now with the insertion of this section the oil marketing companies or supplier of petroleum products to petrol pump operators or distributors shall collect advance tax at the rate of 0.5% (1% in case of non-filers) ex depot sale price of such products, where such operator or distributor is not allowed a commission or discount and same shall be treated as final tax.

This will now bring into ambit withholding taxes to petroleum products where no commission is allowed rather these are purchased by petrol pump operators at ex depot price and sold to end consumers after adding margin instead of predetermined amount of commission.

**44. BONUS SHARES ISSUED BY COMPANIES QUOTED ON STOCK EXCHANGE (SECTION 236M)  
BONUS SHARES ISSUED BY COMPANIES NOT QUOTED ON STOCK EXCHANGE (236N)  
Section 236M & 236N**

The Bill proposes to omit section 236M and 236N where by Bonus shares issued by the Companies to its shareholders are presently taxable at 5%.

The tax on bonus shares was levied through Finance Act 2014 which remained debatable and many taxpayers had challenged this before the Honorable Courts, however with the proposed amendment this will be resolved and no more tax shall be payable on bonus shares.

**45. ADVANCE TAX ON PERSONS REMITTING AMOUNTS ABROAD THROUGH CREDIT OR DEBIT OR PREPAID CARDS.—**

The Bill proposes to collect advance tax on international payments made through credit or debit or prepaid cards at the rate of 1% (2% in case of non-filer) by proposing to insert a new section after section 236X, namely:—

“236Y. Advance tax on persons remitting amounts abroad through credit or debit or prepaid cards.—

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

Presently there is no advance tax required to be collected on payments made abroad through credit or debit / prepaid cards offered by banking companies which is not yet fully grown and is presently SBP is promoting branchless banking which is very good documentation measure, while through the insertion of new section the intentions seems to collect tax on the payments made for online shopping and educational and other fees made through credit cards. This may help national online shopping websites to compete with international giants like Ali Baba and Amazon but at same time will increase the cost of necessary payments that are made through credit cards and accordingly unofficial remittances otherwise than through banking channels may promote and may also be tool for disconnection of global trades and activities by making it costlier.

46. A new sub-section is proposed to be inserted in section 241, namely:—

“(2) Notwithstanding any omission, irregularity or deficiency in the establishment, or conferment of powers and functions, of the Directorate-General (Intelligence and Investigation), Inland Revenue and authorities specified in section 230, all orders passed, notices issued and actions taken in exercise or purported exercise of the powers and functions of the Commissioner under this Ordinance by the Directorate-General (Intelligence and Investigation), Inland Revenue or the authorities specified in section 230 shall be deemed to have been validly passed, issued and taken under this Ordinance.”

The proposed insertion aims to clarify that all the orders, notices and actions of the Directorate-General (Intelligence and Investigation), Inland Revenue (as introduced through this Bill) and the authorities specified in section 230, i.e., Directorate-General of Withholding Taxes, Directorate-General of Law, Directorate-General of Research and Development, Directorate-General of Broadening of Tax Base, Directorate-General of Transfer Pricing and Directorate General of Immovable Property irrespective of any omission, irregularity or deficiency in the establishment, or conferment of powers and functions.

This seems to restrict arguments and cases filed for challenging at rest with respect to the legality, power, validity and functions of the above stated authorities.

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**Important changes proposed by the Finance Bill 2018 in the Schedules to the Income Tax Ordinance, 2001 are briefly explained as under:**

**Amendments in The First Schedule**

**PART - I**

**Division - I: Rates of tax for Individuals**

A substantial income tax relief has been proposed for individuals and AOPs for the tax year 2019 i.e. beginning from July 01, 2018 and onward, whereby the nominal tax liability of Rs. 1,000 and Rs. 2,000 shall be levied for every individual having taxable income upto Rs. 800,000 and Rs. 1,200,000 respectively. Whereas the tax @ 5%, 10% & 15% shall be levied on taxable income of every individual exceeding Rs. 1,200,000, 2,400,000 and 4,800,000 respectively.

The following tables will show the tax rates for the tax year 2019 for individuals and AOPs viz.a.viz. tax rates applicable for the tax years 2017 and 2018:

**Tax rate table for tax year 2019 for every individual taxpayer**

Slabs	Tax rates	No. of Slabs
Where taxable income does not exceed Rs. 400,000	0%	1
Where taxable income exceeds Rs.400,000 but does not exceed Rs. 800,000	Rs. 1,000	2
Where taxable income exceeds Rs.800,000 but does not exceed Rs. 1,200,000	Rs. 2,000	3
Where taxable income exceeds Rs.1,200,000 but does not exceed Rs. 2,400,000	5% of the amount exceeding Rs.1,200,000	4
Where taxable income exceeds Rs.2,400,000 but does not exceed Rs. 4,800,000	Rs. 60,000 + 10% of the amount exceeding Rs. 2,400,000	5
Where taxable income exceeds Rs.4,800,000	Rs. 300,000 + 15% of the amount exceeding Rs.4,800,000	6

**Tax rate table for tax year 2019 for AOPs**

Slabs	Tax rates	No. of Slabs
Where taxable income does not exceed Rs. 400,000	0%	1
Where taxable income exceeds Rs.400,000 but does not exceed Rs. 1,200,000	5% of the amount exceeding Rs.400,000	2
Where taxable income exceeds Rs.1,200,000 but does not exceed Rs. 2,400,000	Rs. 40,000 + 10% of the amount exceeding Rs. 1,200,000	3
Where taxable income exceeds Rs.2,400,000 but does not exceed Rs. 3,600,000	Rs. 160,000 + 15% of the amount exceeding Rs.2,400,000	4
Where taxable income exceeds Rs.3,600,000 but does not exceed Rs. 4,800,000	Rs. 340,000 + 20% of the amount exceeding Rs.3,600,000	5
Where taxable income exceeds Rs.4,800,000 but does not exceed Rs. 6,000,000	Rs. 580,000 + 25% of the amount exceeding Rs.4,800,000	6
Where taxable income exceeds Rs.6,000,000	Rs. 880,000 + 30% of the amount exceeding Rs.6,000,000	7

The previous tax rate tables for individuals are also given below for quick reference and comparison purposes:

Tax rate table applicable for tax year 2018 and before  
For individuals and AOP (other than salaried taxpayers)

		No. of Slabs
Where taxable income does not exceed Rs. 400,000	0%	1
Where taxable income exceeds Rs.400,000 but does not exceed Rs. 500,000	7% of amount exceeding Rs. 400,000	2
Where taxable income exceeds Rs.500,000 but does not exceed Rs. 750,000	Rs. 7,000 + 10% of amount exceeding Rs. 500,000	3
Rs. 750,001 to Rs. 1,500,000	Rs. 32,000 + 15% of amount exceeding Rs. 750,000	4
Rs. 1,500,001 to Rs. 2,500,000	Rs. 144,500 + 20% of amount exceeding Rs. 1,500,000	5
Rs. 2,500,001 to Rs. 4,000,000	Rs. 344,500 + 25% of amount exceeding Rs. 2,500,000	6
Rs. 4,000,001 to Rs. 6,000,000	Rs. 719,500 + 30% of amount exceeding Rs. 4,000,000	7
Rs. 6,000,001 & Above	Rs. 1,319,500 + 35% of amount exceeding Rs. 6,000,000	8

Tax rate table applicable for tax year 2018  
For salaried individuals

		No. of Slabs
Where taxable income does not exceed Rs. 400,000	0%	1
Rs.400,001 to Rs. 500,000	2% of amount exceeding Rs. 400,000	2
Rs. 500,001 to Rs. 750,000	Rs. 2,000 + 5% of amount exceeding Rs. 500,000	3
Rs. 750,001 to Rs. 1,400,000	Rs. 14,500 + 10% of amount exceeding Rs. 750,000	4
Rs. 1,400,001 to Rs. 1,500,000	Rs. 79,500 + 12.5% of amount exceeding Rs. 1,400,000	5
Rs. 1,500,001 to Rs. 1,800,000	Rs. 92,000 + 15% of amount exceeding Rs. 1,500,000	6
Rs. 1,800,001 to Rs. 2,500,000	Rs. 137,000 + 17.5% of amount exceeding Rs. 1,800,000	7
Rs. 2,500,001 to Rs. 3,000,000	Rs. 259,500 + 20% of amount exceeding Rs. 2,500,000	8
Rs. 3,000,001 to Rs. 3,500,000	Rs. 359,500 + 22.5% of amount exceeding Rs. 3,000,000	9
Rs. 3,500,001 to Rs. 4,000,000	Rs. 472,000 + 25% of amount exceeding Rs. 3,500,000	10
Rs. 4,000,001 to Rs. 7,000,000	Rs. 597,000 + 27.5% of amount exceeding Rs. 4,000,000	11
Where taxable income exceeds Rs. 7,000,000	Rs. 1,422,000 + 30% of amount exceeding Rs. 7,000,000	12

We have worked out the tax relief for individuals and AOPs, based on the above mentioned tax rates tables for further understanding:

Taxable income	<b>Tax liability in Rupees</b>						<b>Relief in tax liability - Rs.</b>		
	Proposed for tax year 2019			Tax liability for tax year 2017 / 2018					
	Individuals		AOP	Individuals		AOP			
	Salaried	Non-salaried	AOP	Salaried	Non-salaried	AOP	Individuals	AOP	
Salaried	Non-salaried	AOP	Salaried	Non-salaried	AOP	Salaried	Non-salaried	AOP	
400,000	-	-	-	-	-	-	-	-	
600,000	1,000	1,000	10,000	7,000	17,000	17,000	6,000	16,000	7,000
800,000	1,000	1,000	20,000	19,500	39,500	39,500	18,500	38,500	19,500
1,200,000	2,000	2,000	40,000	59,500	99,500	99,500	57,500	97,500	59,500
2,400,000	60,000	60,000	160,000	242,000	324,500	324,500	182,000	264,500	164,500
3,600,000	180,000	180,000	340,000	494,500	619,500	619,500	314,500	439,500	279,500
4,800,000	300,000	300,000	580,000	817,000	959,500	959,500	517,000	659,500	379,500
6,000,000	480,000	480,000	880,000	1,147,000	1,319,500	1,319,500	667,000	839,500	439,500
8,000,000	780,000	780,000	1,480,000	1,722,000	2,019,500	2,019,500	942,000	1,239,500	539,500
10,000,000	1,080,000	1,080,000	2,080,000	2,322,000	2,719,500	2,719,500	1,242,000	1,639,500	639,500
12,000,000	1,380,000	1,380,000	2,680,000	2,922,000	3,419,500	3,419,500	1,542,000	2,039,500	739,500

*The remaining exemptions and rebates given to certain individuals have been kept intact.*

## Division II - Rates of Tax for companies

There is a proposal for further reduction in the corporate tax rates gradually as indicated by the following table:

<u>Tax Year</u>	<u>Rate of Tax</u>
2018	30%
2019	29%
2020	28%
2021	27%
2022	26%
2023 and onwards	25%

## Division IIA - Rates of super tax

The proposal is also given to gradually reduce the rates of super tax to ultimately eliminate it in the tax year 2021, as apparent from the table given below:

<u>Person</u>	<u>Rate of super tax</u>			
	<u>Rate(percentage of income)</u>			
	<u>Tax Year</u>	<u>Tax Year</u>	<u>Tax Year</u>	<u>Tax Year</u>
	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Banking company	4%	3%	2%	0%
Person other than a banking company, having income equal to or exceeding Rs. 500 million	3%	2%	1%	0%

**Division IV - Rate of tax on certain payments to Non-Residents**

Tax @ 5% of the gross amount of the fee for offshore digital services paid to a non-resident has also been proposed to be inserted in this division alongwith the payment of royalty @ 15%.

**Division VII - Rate of tax on capital gains on disposal of securities**

The capital gains on the early holding of securities, as defined in section 37A of the Income Tax Ordinance, 2001 has been extended to the year 2019, particularly in case of the following eventualities and for the securities acquired after 01-07-2016:

		<b>Tax rate for tax year 2019 for</b>	
		<b>Filer</b>	<b>Non-filer</b>
o	Where holding period of a security is twelve months or more but less than 24 months.	15%	20%
o	Future commodity contracts entered into by members of Pakistan Mercantile Exchange	5%	5%

**Division VIII - Rate of tax on capital gains on disposal of immovable property**

The reference of the proviso of sub-section (1) of section 236C has been substituted for sub-section (4), which reads as under:

*“Provided that this sub-section shall not apply to a seller, being the dependant of a Shaheed belonging to Pakistan Armed Forces or a person who dies while in the service of the Pakistan Armed Forces or the service of Federal or Provincial Government, 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, and the property acquired or allotted is in recognition of or for services rendered by the Shaheed or the person who dies in service.”*

Accordingly, the advance tax on sale or transfer of immovable property shall not be collected from the above persons.

**PART – II**

**Rates of Advance Tax**

Rate of advance tax has also been proposed to apply to the persons importing coal at 4% of the import value as increased by customs duty, sales tax and federal excise duty in case of a filer and @ 6% of such value in case of non-filer.

**PART – III**

**Division - I Advance tax on Dividend**

A further proviso has been inserted in this division to state that the rate of advance tax on dividend received by an individual from a rental Real Estate Investment Trust (REIT) scheme shall be 7.5%.

**Division - III Payments for goods or services**

The withholding tax rate has been further enhanced for non-filers - supplier of goods in the following cases:

	<u>Proposed rates</u>	<u>Previous rates</u>
▪ Companies	<b>8%</b>	7%
▪ All other cases	<b>9%</b>	7.75%

Similarly for payments made on account of execution of contracts, the withholding tax rates for non-filers are proposed in case of:

▪ Companies	<b>14%</b>	12%
▪ All other cases	<b>15%</b>	12.5%

**PART – IV**

**Division - XI Advance tax on Functions and Gatherings**

The following proviso and table is proposed to be added in this division:

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

1	5% of the bill ad valorem or Rs. 20,000 per function, whichever is higher	For Islamabad, Lahore, Multan, Faisalabad, Rawalpindi, Gujranwala, Bahawalpur, Sargodha, Sahiwal, Shekhurpura, Dera Ghazi Khan, Karachi, Hyderabad, Sukkur, Thatta, Larkana, Mirpur Khas, Nawabshah, Peshawar, Mardan, Abbottabad, Kohat, Dera Ismail Khan, Quetta, Sibi, Loralai, Khuzdar, Dera Murad Jamali and Turbat
2	5% of the bill ad valorem or Rs. 10,000 per function, whichever is higher	For cities other than those mentioned above

There are proposals to insert the following new divisions in this part, which read as under:

**Division - XVA Advance tax on sale of certain petroleum products**

The rate of collection of tax under section 236HA shall be 0.5% of ex-depot sale price for filers and 1% for non-filers."; and

**Division - XXI Advance tax on banking transactions otherwise than through cash**

The rate of tax to be collected under section 236P is proposed to be reduced from 0.6% to 0.4% for non-filers.

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

The rate of tax to be deducted under section 236Y shall be 1% of the gross amount remitted abroad for filers and 3% for non-filers.



**Amendments in The Second Schedule**

**PART - I**  
**EXEMPTION FROM TOTAL INCOME**

It is proposed to insert various clauses into this schedule alongwith certain additions or substitutions in the existing clauses, which are reproduced hereunder having been self-explained:

***Clause 39A Newly inserted***

Any amount paid as kit allowance, ration allowance, special messing allowance, SSG allowance, Northern Areas compensatory allowance, special pay for Northern Areas and height allowance to the Armed Forces personnel.

***Clause 57 New sub-clauses added***

- (xv) Khyber Pakhtunkhwa Retirement Benefits and Death Compensation Fund.
- (xvi) Khyber Pakhtunkhwa General Provident Investment Fund.
- (xvii) Khyber Pakhtunkhwa Pension Fund.

***Clause 61 New sub-clauses added***

- (xlvi) Pakistan Sweet Home, Angels and Fairies Place.
- (xlvii) Al-Shifa Trust Eye Hospital.
- (xlviii) Aziz Tabba Foundation.
- (xlix) Sindh Institute of Urology and Transplantation (SIUT) Trust and Society for the Welfare of SIUT.
- (i) Sharif Trust.
- (ii) The Kidney Centre Post Graduate Institute.
- (iii) Pakistan Disabled Foundation.

***Clause 66 New sub-clauses added***

- (xxxv) Third Pakistan International Sukuk Company Limited
- (xlii) SAARC Energy Centre
- (xliii) Pakistan Bar Council
- (xliv) Pakistan Centre for Philanthropy
- (xlv) Pakistan Mortgage Refinance Company Limited
- (xlvi) Aziz Tabba Foundation
- (l) Al-Shifa Trust Eye Hospital
- (li) Saylani Welfare International Trust
- (lii) Shaukat Khanum Memorial Trust
- (liii) Layton Rahmatullah Benevolent Trust (LRBT)
- (liv) The Kidney Centre Post Graduate Training Institute
- (lv) Pakistan Disabled Foundation
- (lvi) Forman Christian College

***Clause 90A Newly inserted***

Any profit on debt derived by any person on bonds issued by Pakistan Mortgage Refinance Company to refinance the residential housing mortgage market, for a period of five years with effect from the 1<sup>st</sup> day of July, 2018.

**Clause 100 Amended**

There is a proposal to include word “manufacturing” into this clause to read as under:

“Any income, not being income from manufacturing or trading activity, of a Modaraba registered under the Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 1980 (XXXI of 1980), for any assessment year commencing on or after the first day of July, 1999”.

It means that the income of the Modaraba from manufacturing or trading activities will now be taxable under the taxation laws.

**Clause 110C Newly inserted**

Any gain by a person on transfer of a capital asset, being a bond issued by Pakistan Mortgage Refinance Company to refinance the residential housing mortgage market, during the period from the 1st day of July, 2018 till the 30th day of June, 2023.

**Clause 126BA Newly inserted**

Profits and gains derived by a refinery set up between the 1st day of July, 2018 and the 30<sup>th</sup> day of June, 2023 with minimum 100,000 barrels per day production capacity for a period of twenty years beginning in the month in which the refinery is set up or commercial production is commenced, whichever is later. Exemption under this clause shall also be available to existing refineries, if :

- (a) existing production capacity is enhanced by at least 100,000 barrels per day;
- (b) the refinery maintains separate accounts for income arising from aforesaid additional production capacity; and
- (c) the refinery is a deep conversion refinery.

**PART – II**  
**REDUCTION IN TAX RATES**

Only one clause is proposed to be added in this Part of the Second Schedule, reproduced as under:

**Clause 24AA Newly inserted**

The rate of tax, under section 152 in the case of M/S CR-NORINCO JV (Chinese Contractor) as recipient, on payments arising out of commercial contract agreement signed with the Government of Punjab for installation of electrical and mechanical (E&M) equipment for construction of the Lahore Orange Line Metro Train Project, shall be 6% of the gross amount of payment.

**PART – III**  
**REDUCTION IN TAX LIABILITY**

The following insertions are proposed through Finance Bill 2018 in this part:

**Clause 6 Partly amended**

An addition has been proposed in clause 6 of this part, whereby the tax payable in respect of any amount paid as yield or profit on investment in Bahbood Savings Certificate or Pensioners Benefit Account and Shuhada Family Welfare Account shall not exceed 10% of such profit.

**Clause 7** *Newly inserted*

The amount of tax payable by foreign film-makers from making films in Pakistan shall be reduced by fifty percent on income from film-making in Pakistan.

**Clause 8** *Newly inserted*

The amount of tax payable by resident companies deriving income from film-making shall be reduced by fifty percent on income from film-making.

**PART – IV**  
**EXEMPTION FROM SPECIFIC PROVISIONS**

The inclusion of new clauses or amendments in the existing clauses as proposed by Finance Bill 2018 with reference to this part of the Second Schedule are as under:

**Clause 11A** *New sub-clause added*

(xxx) Taxpayers qualifying for exemption under clause (126) of Part-I of this Schedule with effect from the tax year 2014.

**Clause 11E** *Newly inserted*

The provisions of clause (b) of sub-section (1) of section 153 shall not apply to payments received by Sui Southern Gas Company Limited and Pakistan LNG Terminal Limited from Sui Northern Gas Pipelines Limited on account of re-gasification charges.

**Clause 12A** *Newly inserted*

The provisions of section 150 shall not apply to dividend paid to Transmission Line Projects under Transmission Line Policy 2015.

**Clause 36A** *Addition*

To include the words “Shuhada Family Welfare Account” to ensure that no withholding tax is applied on its yield or profit on investment in this account as the same exemption was also available to Behbood Savings Certificate or Pensioner Benefit Account.

**Clause 56** *Addition*

The words “Bakri Energy (Private) Limited” shall be included in sub-clause (ia) of this clause.

**Clause 57** *Substitution*

The minimum tax on Companies Operating Trading Houses shall be @ 0.5% until tax year 2021, which hitherto was until tax year 2019.

**Clause 60A** *Newly inserted*

The provisions of section 148 shall not apply for import of plant, machinery and equipment including dumpers and special purposes motor vehicles imported by the following for construction of Sukkur-Multan section of Karachi-Peshawar Motorway project and Karakorum Highway (KKH) Phase-II (Thakot to Havellian Section) of CPEC project respectively, namely:

- (a) Messrs China State Construction Engineering Corporation Ltd. (Messrs CSCEC); and
- (b) Messrs China Communication Construction Company (Messrs CCCC).

**Clause 60AA** *Newly inserted*

The provisions of section 148 of the Income Tax Ordinance, 2001 (XLIX of 2001), shall not apply for import of construction materials or goods up to a maximum of 10,898.000 million rupees imported by China State Construction Engineering Corporation (Messrs CSCEC) for construction of Sukkur-Multan section of Karachi - Peshawar Motorway project of National Highway Authority under CPEC.

**Clause 60B** *Newly inserted*

The provisions of section 148 shall not apply on import of thirty-five armoured and security vehicles imported by or for Ministry of Foreign Affairs, Government of Pakistan meant for security of visiting foreign dignitaries, subject to the following conditions, namely:

- (a) that the vehicles imported under this clause shall only be used for the security purpose of foreign dignitaries and will be parked in Central Pool of Cars (CPC) in the Cabinet Division for further use as and when needed; and
- (b) that the importing Ministry at the time of import shall furnish an undertaking to the concerned Collector of Customs to the extent of customs-dues exempted under this clause on consignment to consignment basis binding themselves that the vehicles imported under this clause shall not be re-exported, sold or otherwise disposed of without prior approval of the Board and in the manner prescribed therefor

**Clause 60C** *Newly inserted*

The provision of section 148 shall not apply on import of equipment to be furnished or installed for Rail Based Mass Transit Projects in Lahore, Karachi, Peshawar and Quetta under CPEC.

**Clause 63** *Amended*

Alongwith Messrs Dawat-e-Hadiya, Karachi, Lahore University of Management Sciences, Lahore has been included to deem to have been approved by the Commissioner for the purpose of sub-section (36) of section 2 notwithstanding the provision of clause (c) of sub-section (36) of section 2.

**Clause 86** *Substituted*

- (a) The provisions of section 111 shall not apply to:
  - (i) investment made by an individual in a greenfield industrial undertaking directly or as an original allottee in the purchase of shares of a company establishing an industrial undertaking or capital contribution in an association of persons establishing an industrial undertaking;
  - (ii) investment made by an association of persons in an industrial undertaking; and
  - (iii) investment made by a company in an industrial undertaking if the said investment is made on or after the 1st day of January, 2014 and commercial production commences on or before the 30th day of June, 2019.

- (b) The concessions given in this clause shall also apply to investment made in -
  - (i) construction industry in corporate sector;
  - (ii) low cost housing construction in the corporate sector;
  - (iii) livestock development projects in the corporate sector;
  - (iv) new captive power plants; and
  - (v) mining and quarrying in Thar coal, Balochistan and Khyber Pakhtunkhawa.
- (c) The concessions given in sub-clause (a) shall not apply to investment made in-
  - (i) arms and ammunitions;
  - (ii) explosives;
  - (iii) fertilizers;
  - (iv) sugar;
  - (v) cigarettes;
  - (vi) aerated beverages;
  - (vii) cement;
  - (viii) textile spinning units;
  - (ix) flour mills
  - (x) vegetable ghee; and
  - (xi) cooking oil manufacturing;
- (d) The term green field industrial undertaking shall include expansion projects for the purposes of this clause;
- (e) Immunity under this clause shall not be available to proceeds of crime relating to offences under the following laws, namely:-
  - (i) Control of Narcotics Substances Act, 1997;
  - (ii) Anti-Terrorism Act, 1997; and
  - (iii) Anti-Money Laundering Act, 2010.

**Clause 95** *Substituted*

The provisions of sections 147, 150A, 151, 152, 231A, 231AA, 236A and 236K shall not apply to “The second Pakistan international Sukuk Company Limited” and the Third Pakistan International Sukuk Company Limited, as a payer.”

**Clause 96** *Substituted*

The provisions of sections 147, 150A, 151, 155 and 236K shall not apply to “The second Pakistan international Sukuk Company Limited” and the Third Pakistan International Sukuk Company Limited, as a recipient.”

**Clause 103** *Newly inserted*

The provisions of section 7B shall not apply to yield or profit on investment in Bahbood Savings Certificate or Pensioner’s Benefit Account, provided that tax on the said yield or profit on debt is paid at the rates specified in Division I of Part I of the First Schedule subject to clause (6) of Part III.

**Clause 104** *Newly inserted*

The provisions of section 5A shall not apply to a company where a restriction has been imposed on distribution of dividend on account of an agreement with the Government of Pakistan.

**Clause 105** *Newly inserted*

The provisions of section 177 and 214C shall not apply to a person whose income tax affairs have been audited in any of the preceding three tax years, provided that the Commissioner may select a person under section 177 for audit, with approval of the Board.

**Amendments in the Seventh Schedule**

There are a couple of amendments proposed in this schedule, whereby the reference of Chapter VII “International / Geographical Source of Income” and Chapter VIII “Anti Avoidance” shall be given before computing the income, profits and gains of a banking company, has been substituted.

Further, the provisions of section 4B of the Income Tax Ordinance, 2001 shall be apply to the banking companies for the tax year 2015 to tax year 2020 (*which hitherto was for the tax year 2015, 2016 and 2017*) and shall be taxed at the rate specified in Division IIA of Part - I of the First Schedule.

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**SALIENT FEATURES OF PROPOSED AMENDMENTS IN SALES TAX ACT, 1990  
AND RULES MADE THEREUNDER**

**THROUGH FINANCE BILL 2018 - EFFECTIVE FROM JULY 01, 2018**

- ❖ The rate of further tax under section 3(1A) of Sales Tax Act, 1990 is being enhanced from 2% to 3%.
- ❖ Input tax paid on import of scrap of compressors is being disallowed by making necessary insertions in section 8 of the Sales Tax Act, 1990.
- ❖ The rate of default surcharge is being proposed to fix at 12% per annum instead of @ KIBOR plus 3% per annum.
- ❖ Restriction is being imposed that sales tax audit of a registered person can be conducted only once in three years.
- ❖ The amount required to be deposited to qualify for an automatic stay of demand of any appeal pending before the Commissioner of appeals is proposed to be reduced from 25% to 10%.
- ❖ Provisions for giving appeal effect are being proposed to be within one year, unless challenged by the department.
- ❖ In order to settle dispute through ADRC, now its decision shall be binding on the aggrieved person as well as the FBR. The ADRC will be required to pass the order within 120 days of its appointment. Further, the aggrieved person and the FBR will be required to withdraw appeal within 75 days, if filed. On failure of making a decision within 120 days, the appeal shall stand restored under specified procedure.
- ❖ Exemption from sales tax is being granted on import of paper weighing 60 g/m<sup>2</sup> by Federal or Provincial Governments and Nashiran-e-Quran registered with the Government for printing of Holy Quran as per quota determined by IOCO.
- ❖ Exemption from sales tax is being granted to Fans for Dairy Farms, Preparations for Making Animal Feed and Bovine Semen which are currently chargeable to sales tax at standard rate of 17%. Likewise, exemption from sales tax is also being provided to Fish Feed which is presently chargeable to sales tax @ 10%. Moreover, sales tax on agriculture machinery is also being reduced from 7% to 5%.
- ❖ Exemption is being granted to Karachi Shipyard Engineering Works Limited on import of machinery, equipment, raw materials, components etc.
- ❖ Exemption is being granted on import of 21 types of computer parts if imported by manufacturers registered with and certified by Engineering Development Board for assembling and manufacturing of personal computers and laptops in accordance with quota determined by IOCO.

- ❖ Exemption is being granted on import of promotional and advertising materials for display at exhibitions.
  - ❖ Reduced rate of sales tax @ 5% is being introduced on import of 19 items of cinematographic equipment for revival of film industry for five years subject to limitations and conditions imposed under the Customs Act, 1969.
  - ❖ Exemption of sales tax on import is being granted to plant and machinery on one time basis for setting up of Special Economic Zone and for installation in that zone by zone enterprises to align exemption from sales tax with the provisions of SEZ Act, 2012.
  - ❖ Reduced rate of sales tax from 17% to 12% is being proposed on import of LNG by Messrs PSO and PLL and on supply of RLNG by these companies to Messrs SNGPL.
  - ❖ Reduced rate of sales tax @ 3% on all fertilizers across the board and to provide for reduced rate from 10% to 5% on supply of natural gas to fertilizer plants for use as feed stock. Moreover, rate of sales tax on LNG imported by fertilizer manufacturers for use as feed stock is also being exempted.
  - ❖ Non-adjustable/non-refundable sales tax @ 5% on import of capital goods, whether or not locally manufactured, for transmission line projects under Standard Implementation Agreement under Policy Framework for Private Sector Transmission Line Projects, 2015 and Projects Specific Transmission Services Agreement is being introduced.
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**THROUGH SRO TO BE ISSUED ON JULY 01, 2018 - EFFECTIVE FROM JULY 01, 2018**

- To waive the value addition tax @ 3% chargeable on import of LNG under Rule-58B of Sales Tax Special Procedure Rules, 2007.
- Zero rating on import of potato is being granted retrospectively on 200,000 metric tonnes imported during the period 5th May, 2014 to 31st July, 2014.
- Leather products ready for use are enjoying reduced rate of 6% of sales tax at import stage. Identical rate is also being provided on import of ready to use articles of artificial leather by specifying description and PCT headings of items of leather and artificial leather generally used by public.
- SRO 1125(I)/2011, dated 31.12.2011 is being amended to provide rate of further tax @1% on local supply of finished fabric.
- Exemption of extra tax and further tax @ 2% is being granted to Pakistani foam manufacturers.
- Exclusion from value addition tax on import of second hand worn clothing and footwear is being provided.
- SRO 962(I)/2015, dated 30.09.2015 is being rescinded to provide for standard rate of sales tax on import and supplies of furnace oil.
- Input tax adjustment is being allowed on packing materials to five export oriented sectors covered under SRO 1125(I)/2011, dated 31.12.2011.
- The rate of sales tax on import and supply of finished articles of leather and textile sector is being increased to 9%. However, all those branded outlets which will be integrated through electronic fiscal devices with FBR online system shall be charged sales tax @6%
- Rate of sales tax for steel sector is being increased to Rs. 13 per unit of electricity consumed from Rs. 10.50 per unit of electricity consumed. Moreover, the rate of sales tax for other allied steel industries i.e. ship breakers and re-rollers is also being rationalized.
- Scope of services under Islamabad Capital Territory (Tax on Services) Ordinance, 2001 is being increased owing to the fact that services which are chargeable to sales tax in provinces are not chargeable to sales tax in Islamabad Capital Territory (Tax on Services) Ordinance, 2001.

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**COMMENTS ON PROPOSED AMENDMENTS VIDE FINANCE BILL 2018  
IN THE SALES TAX ACT, 1990**

**1. SECTIONS**

**1.1 Scope of tax**

[Section 3(1A)]

Sub section (1A) was originally inserted in section 3 of the Act through Finance Act, 1998 through which registered persons were obliged to charge further tax at the rate of 1% on taxable supplies made to a person other than a registered person. Rate of sales tax was changed to 1.5%, 2% and 3% during certain periods till 2004 when sub section (1A) was omitted through Finance Act, 2004.

Sub section (1A) was again inserted through Finance Act 2013 and it was prescribed therein where taxable supplies are made to a person who has not obtained registration number there shall be charged, levied and paid further tax at the rate of 1% of the value in addition to the rates specified in other sub sections of section 3. The rate of further tax was increased from 1% to 2% through Finance Act, 2014. Sub section (1A) was again amended through Finance Act, 2017 and further tax was levied on goods supplied to unregistered person at 0% sales tax u/s 4 of the Act.

Now it has been proposed to again amend sub section (1A) of section 3 through which rate of further tax would be increased from 2% to 3%.

**1.2 Substitution of word “Board with The Approval of the Federal Government of the Federal Minister-In-Charge” with the words “Federal Government” in various Section{ Section 3(2)(b), 3(3A),3(5),4(c),7(3),7(4),7A(1),7A(2),8(1)(b),13(2)(b),60,65,71}**

Through the Finance Act, 2017, amendments were made where the Board is empowered to issue notifications, after having approval of Minister In charge of the Federal Government. Accordingly, in various sections, words "Federal Government" were substituted with the words "Board with the approval of the Federal Minister-in-charge". The vires of notifications issued by the Board with the approval of the Federal Minister-in-charge, were challenged in various High Courts where the Honourable Courts held that notification issued by the Board with the approval of federal minister-in-charge are ultra vires.

In order to nullify the court verdict the Bill proposes to substitute the words "Board with the approval of the Federal Minister-in-charge" with the words "Federal Government" in the following provisions of the Act:

- (a) Clause (b) of sub section (2) of section 3;
- (b) sub section (3A) of section 3;
- (c) sub section (5) of section 3;
- (d) clause (c) of section 4;
- (e) sub section (3) of section 7;
- (f) sub section (4) of section 7;
- (g) sub section (1) of section 7A;
- (h) sub section (2) of section 7A;
- (i) clause (b) of sub section (1) of section 8;
- (j) clause (a) of sub section (2) of section 13;
- (k) section 60;
- (l) section 65;
- (m) section 71;

**1.3 Tax Credit not Allowed**

**[Section 8 (1)(m)]**

Sub section (1) of section 8 overrides the other provisions of the Act and it has been inter alia prescribed therein that the registered person shall not be entitled to reclaim or deduct input tax paid on goods specified in clauses (a) to (l).

It has been proposed to add a new clause (m) through which credit of sales tax paid on "import of scrap of compressors falling under PCT Heading 7204.4940" shall not be admissible to a registered person.

**1.4 Assessment Giving Effect to an order**

**[Section 11B]**

A new section 11B has been proposed to insert in the Act, for giving appeal effect to an appellate order within one year unless an appeal / reference there against has been filed by the Department.

The proposed section 11B would prescribe as under:

**"11B. Assessment giving effect to an order:**

1. Except where sub-section (2) applies, where, in consequence of, or to give effect to, any finding or direction in any order made under Chapter-VIII by the Commissioner (Appeals), Appellate Tribunal, High Court or Supreme Court an order of assessment of tax is to be issued to any registered person, the Commissioner or an officer of Inland Revenue empowered in this behalf shall issue the order within one year from the end of the financial year in which the order of the Commissioner (Appeals), Appellate Tribunal, High Court or Supreme Court, as the case may be, was served on the Commissioner or officer of Inland Revenue.
2. Where, by an order made under Chapter-VIII by the Appellate Tribunal, High Court or Supreme Court, an order of assessment is set aside wholly or partly and the Commissioner or Commissioner (Appeals) or officer of Inland Revenue, as the case may be, is directed to pass a new order of assessment, the Commissioner or Commissioner (Appeals) or officer of Inland Revenue, as the case may be, shall pass the new order within one year from the end of the financial year in which the Commissioner or Commissioner (Appeals) or officer of Inland Revenue, as the case may be, is served with the order:

Provided that limitation under this sub-section shall not apply, if an appeal or reference has been preferred against the order passed by Appellate Tribunal or a High Court.

**1.5 Access to Record, Documents etc.**

**[Section 25(2)]**

Section 25 pertains to access of the officers of Inland Revenue to record and audit. Sub section (1) thereof binds a person who is required to maintain any record under 1990 Act or any other law to allow access to the record and documents to an officer of Inland Revenue authorized by the Commissioner. Sub section (2) thereof further prescribes that the officers of Inland Revenue authorized by the Commissioner, on the basis of the record obtained under sub section (1), may, once in a year conduct audit. Two provisos exist in sub section (2) of section 25. The first proviso empowers the Commissioner to authorize an officer of Inland Revenue not below the rank of ACIR to conduct inquiry or investigation u/s 38. The second proviso further authorizes an officer of Inland Revenue to conduct audit of the record of a registered person even if his record have earlier audited by the auditors of Auditor General of Pakistan.

Now it has been proposed to add a third proviso in sub section (2) which would prescribed that audit under section 25 shall be conducted only once in every three years.

**1.6 Directorate General Intelligence and Investigation Inland Revenue [Section 30A]**

It has been proposed to substitute the provisions of section 30A. Prima facie it appears that the aforesaid provisions have been substituted in order to nullify the judgment of Honourable Lahore High Court Lahore, where it has been held that the Directorate General I&I-IR has been invalidly established and the honorable High Court was pleased to set aside the show cause notices issued in pursuance of reports of Directorate General and FIRs lodged by Directorate General were also quashed. The substituted provisions would prescribe as under:

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

**1.7 Default Surcharge [Section 34(1)(a)]**

As per provisions of clause (a) of sub section (1) of section 34 of the Act, where a registered person does not pay tax due or any part thereof in time or in the manners specified under the Act or the Rules made there under or claims a credit which is not admissible or incorrectly applies the rate of zero percent to supplies made by him, he shall in addition to the due amount of tax, pay default surcharge at the rate of KIBOR + 3% per annum of the amount of tax due or the amount of refund erroneously made. The aforesaid provisions have been proposed to be amended and the amended provisions would prescribed that the defaulter shall pay default surcharge at the rate of 12% per annum of the amount of tax due or the amount of refund erroneously made.

**1.8 Posting of Inland Revenue Officer [Section 40B]**

Section 40B has been proposed to be amended to withdraw the power of Chief Commissioner and Commissioner to post officers of Inland Revenue to the premises of the registered person and now this power would rest with Board only. Accordingly section 40B has been proposed to be amended which would prescribe as under:

**40B. Posting of Inland Revenue Officer-** Subject to such conditions and restrictions, as deemed fit to impose, the Board, ~~or Chief Commissioner~~ may post Officer of Inland Revenue to the premises of registered person or class of such persons to monitor production, sale of taxable goods and the stock position:

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

~~**Explanation.**— For the removal of doubt, it is declared that the powers of the Board, Chief Commissioner and Commissioner under this section are independent of the provisions of section 40.~~

1.9 Alternate Dispute Resolution

[Section 47A]

Section 47A was inserted in the Act through Finance Ordinance 2002 and was substituted through Finance Act, 2004. Section 47A was again substituted through Finance Act, 2007. It has once again been proposed to substitute the provisions of section 47A once again. The substituted provisions would prescribe as under:

**“47A. Alternative dispute resolution.**— (1) Notwithstanding any other provision of this Act or the rules made thereunder, an aggrieved person, who has filed an appeal which is pending before an Appellate Authority, may apply to the Board for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application, except where prosecution proceedings have been initiated or where interpretation of question of law having effect on identical other cases is involved.

- (2) The Board after examination of the application of an aggrieved person shall, within sixty days of receipt of such application in the Board, appoint a committee consisting of an officer of Inland Revenue not below the rank of Commissioner and two persons from a panel comprising of retired High Court judges, retired District and Session Judges, Chartered or Cost Accountants, Advocates, Income Tax Practitioners or reputable taxpayers for the resolution of the hardship or dispute.
- (3) The aggrieved person and the Board, as the case may be, shall withdraw the appeal pending before the appellate authority.
- (4) The committee shall not commence the proceeding under sub-section (2) unless the order of withdrawal from the appellate authority is communicated to the Board: Provided that if the order of withdrawal is not communicated within seventy-five days of the appointment of the committee, the said committee shall be dissolved and this section shall not apply.
- (5) The committee appointed under sub-section (2) shall examine the issue and may, if it deems necessary, conduct inquiry, seek expert opinion, direct any officer of the Inland Revenue or any other person to conduct an audit and shall decide the dispute by majority, within one hundred and twenty days of its appointment: Provided that in computing the aforesaid period of one hundred and twenty days, the period, if any, for communicating the order of withdrawal under sub-section (3) shall be excluded.
- (6) The decision of the committee made under sub-section (5) shall be binding on the Board and the aggrieved person.
- (7) If the committee fails to decide the dispute within the period of one hundred and twenty days under sub-section (5), the Board shall dissolve the committee by an order in writing and the matter shall be decided by the appellate authority, which issued the order of withdrawal under sub-section (3) and the appeal shall be treated to be pending before such appellate authority as if the appeal had never been withdrawn.
- (8) The Board shall communicate the order of dissolution to the appellate authority mentioned in sub-section (1) and the Commissioner.

- (9) The aggrieved person may make the payment of sales tax and other taxes as decided by the committee under sub-section (5) and all decisions, orders and judgments made or passed shall stand modified to that extent and all proceedings under this Act or the rules made thereunder by any authority shall abate.
- (10) The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this section.

**1.10 Recover of Arears of Tax [Section 48(1)]**

Various methods/steps have been prescribed in sub section (1) of section 48 of the Act to recover any amount of tax which is due from any person. A proviso was added through Finance Act, 2017 through which it has been prescribed that the Commissioner Inland Revenue or any officer of Inland Revenue shall not issue notice under this section or the rules made there under for recovery of any tax due from a taxpayer if the said taxpayer has filed an appeal under section 45B in respect of the order under which the tax sought to be recovered has become payable and the appeal has not been decided by the Commissioner (Appeals), subject to the condition that twenty-five per cent of the amount of tax due has been paid by the taxpayer. It has now been proposed to substitute the words "twenty-five" with the word "ten". Payment of 10% of the amount of tax due will provide automatic stay against recovery of sales tax demand till decision by the Commissioner Inland Revenue (Appeals).

**1.11 Liability for payment of Tax of private Companies or Business Enterprises [Section 58]**

By overriding the provisions of Companies Ordinance, 1984, section 58 prescribes liability for payment tax in the case of private companies is wound up on its Directors during the relevant period. Since companies Ordinance, 1984 has been repealed through Companies Act, 2017, therefore a corrective amendment has been made and the expression "Companies Ordinance, 1984 [XLVII of 1984] has been replaced with expression "Companies Act, 2017 (XIX of 2017).

**1.12 Validation [Section 74A]**

In order to nullify the judgement of Supreme Court in the case of Mustafa Impex and validate the notifications which have been held to have been invalidly issued or were hit by the said judgement, a new section 74A was inserted through Finance Act, 2017 which prescribes that all notifications and order issued and notified in exercise of the powers conferred upon the Federal Government, before the commencement of Finance Act 2017 shall be deemed to have been issued and notified in exercise of those powers, notwithstanding anything contained in any judgement of the High Court or Supreme Court.

A new sub-section (2) has been proposed to be inserted to make an attempt to nullify the judgment of honourable Lahore High Court in the case of FM Textile referred supra. Now, the amended provisions would prescribed as under:

**"74A. Validation.--** (1) All notifications and order issued and notified in exercise of the powers conferred upon the Federal Government, before the commencement of Finance Act ~~2017~~ 2018 shall be deemed to have been issued and notified in exercise of those powers.

(2) Notwithstanding any omission, irregularity or deficiency in the establishment of or conferment of powers and functions on the Directorate General (Intelligence and Investigation), Inland Revenue and authorities specified in section 30A, all orders passed, notices issued and actions taken, before commencement of the Finance Act, 2018, in exercise or purported exercise of the powers and functions of the officers of Inland Revenue under this Act by the Director General (Intelligence and Investigation), Inland Revenue or the authorities specified in section 30A shall be deemed to have been validly passed, issued and taken under this Act. “

**2. FIFTH SCHEDULE -ZERO RATING OF SALE TAX**

It has been inter alia prescribed in section 4 of the Act that the goods specified in the Fifth Schedule shall be subjected to zero rating of sales tax.

It has been proposed to grant zero rating of sales tax on stationary items by inserting new clauses (xx) to (xxvii) against Sr. No. 12 as below:

(xx)	Colors in sets (PCT heading 3213.1000).
(xxi)	Writing, drawing and marking inks (PCT heading. 3215.9010 and 3215.9090)
(xxii)	Erasers (PCT heading 4016.9210 and 4016.9290)
(xxiii)	Exercise books (PCT heading 4820.2000)
(xxiv)	Pencil sharpeners (PCT heading 8214.1000)
(xxv)	Geometry boxes (PCT heading 9017.2000)
(xxvi)	Pens, ball pens, markers and porous tipped pens (PCT heading 96.08)
(xxvii)	Pencils including color pencils ( PCT heading 96.09)

**3. SIXTH SCHEDULE - EXEMPTION FROM SALES TAX**

It has been inter alia prescribed in section 13 that the goods specified in the Sixth Schedule shall be exempt from the sales tax subject to the conditions as may be specified.

**3.1 TABLE-1**

Goods have been specified in Sr. Nos. 1 to 136 of Table I of Sixth Schedule which are exempt from sales tax. It has been proposed to add new serial numbers in Table I and new exemption has been granted on the following goods specified in proposed Sr. Nos. 137 to 148:

137.	Paper weighing 60 g/m <sup>2</sup> for printing of Holy Quran imported by Federal or Provincial Governments and Nashiran-e- Quran as per quota determined by IOCO	4802.5510
138.	Fish Feed	Respective heading
139.	Fans for dairy farms	8414.5990
140.	Bovine semen	0511.1000
141.	Preparations for making animal feed	2309.9000
142.	Promotional and advertising material including technical literature, pamphlets, brochures and other give-aways of no commercial value, distributed free of cost by the exhibitors	9920(3)
143.	(i) Hearing aids (all types and kinds) (ii) Hearing assessment equipment; (a) Audiometers (b) Tympanometer (c) ABR (d) Oto Acoustic Omission	9937
144.	Liquefied Natural Gas imported by fertilizer manufacturers for use as feed stock	2711.1100.;
145.	Plant, machinery, equipment including dumpers and special purpose motor	Respective

	vehicles, if not manufactured locally, imported by M/s China State Construction Engineering Corporation Limited (M/s CSCECL) for the construction of Karachi – Peshawar Motorway (Sukkur – Multan Section) and M/s China Communication Construction Company (M/s CCCC) for the construction of Karakorum Highway (KKH) Phase-II (Thakot - Havellian Section) subject to the following conditions:	heading
	(i) that the exemption under this Notification shall only be available to contractors named above;	
	(ii) that the equipment and construction machinery imported under this Notification shall only be used for the construction of the respective allocated projects;	
	(iii) that the importer shall furnish an indemnity bond, in the prescribed manner and format as set out in Annex-A, at the time of import to the extent of customs-duties exempted under this Notification on consignment to consignment basis;	
	(iv) that the Ministry of Communications shall certify in the prescribed manner and format as set out in Annex-B that the imported equipment and construction machinery are bonafide requirement for construction of Sukkur – Multan Section (392.0 km) of Karachi – Peshawar Motorway or for the construction of Karakorum Highway(KKH) Phase-II - Thakot to Havellian Section (118.057 km) as the case may be;	
	(v) for the clearance of imported goods through Pakistan Customs Act,1969 Computerized System the authorized officer of the Ministry shall furnish all relevant information, as set out in Annex- B, online against a specific user ID and password obtained under section 155D of the Customs Act, 1969 (IV of 1969). In Collectorates or Customs stations where the Pakistan Customs Computerized System is not operational, the Director Reforms and Automation or any other person authorized by the Collector in this behalf shall enter the requisite information in the Pakistan Customs Computerized System on daily basis, whereas entry of the data obtained from the customs stations which have not yet been computerized shall be made on weekly basis;	
	(iv) that the equipment and construction machinery, imported under this Notification, shall not be re-exported, sold or otherwise disposed of without prior approval of the FBR. In case goods are sold or otherwise disposed of with prior approval of FBR the same shall be subject to payment of duties as may be prescribed by the FBR;	
	(vii) in case the equipment and construction machinery, imported under this Notification, is sold or otherwise disposed of without prior approval of the FBR in terms of para (vi) above, the same shall be subject to payment of statutory rates of customs duties as were applicable at the time of import;	
	(viii) notwithstanding the condition at para (vi) and (vii) above, equipment and construction machinery, imported under this Notification, may be surrendered at any time to the Collector of Customs having jurisdiction, without payment of any customs- duties, for further disposal as may be prescribed by the FBR;	
	(ix) the indemnity bond submitted in terms of para (iii) above by the importer shall be discharged on the fulfillment of conditions stipulated at para (vi) or (vii) or (viii) above, as the case may be; and	



	(x) that violation of any of the above mentioned conditions shall render the goods liable to payable of statutory rate of customs duties leviable on the date of clearance of goods in addition to any other penal action under relevant provisions of the law.	
146.	Equipment, whether or not locally manufactured, imported by M/s China Railway Corporation to be furnished and installed in Lahore Orange Line Metro Train Project subject to the following conditions:	Respective heading
	(a) that the equipment imported under this Notification shall only be used in the aforesaid Project;	
	(b) that the importer shall furnish an indemnity bond, in the prescribed manner and format as set out in Annex-C to this Notification, at the time of import to the extent of sales tax exempted under this Notification on consignment to consignment basis;	
	(c) that the Punjab Mass Transit Authority, established under the Punjab Mass Transit Authority Act, 2015 (ACT XXXIII of 2015), hereinafter referred as the Regulatory Authority, shall certify in the prescribed manner and format as set out in Annex-D to this Notification that the imported equipment is bona fide requirement of the Project under the Contract No. PMA-CR- NORINCO-OL, dated 20.04.2015, hereinafter referred as the contract, signed between the Regulatory Authority and CR-NORINCO;	
	(d) in the event a dispute arises whether any item is entitled to exemption under this Notification, the item shall be immediately released by the Customs Department against a corporate guarantee, valid for a period of six months, submitted by the importer. A certificate from the Regulatory Authority duly verified by the Transport and Communication Section of the Ministry of Planning, Development and Reform, that the item is covered under this Notification shall be given due consideration by the Customs Department towards finally resolving the dispute. Disputes regarding the local manufacturing only shall be resolved through the Engineering Development Board of the Federal Government;	
	(e) for the clearance of imported equipment through Pakistan Customs Computerized System the authorized officer of the Regulatory Authority shall furnish all relevant information, as set out in Annex-D to this Notification, online against a specific user ID and password obtained under section 155D of the Customs Act, 1969 (IV of 1969). In Collectorates or Customs stations where the Pakistan Customs Computerized System is not operational, the Director Reforms and Automation or any other person authorized by the Collector in this behalf shall enter the requisite information in the Pakistan Customs Computerized System on daily basis, whereas entry of the data obtained from the customs stations which have not yet been computerized shall be made on weekly basis;	
	(f) that the equipment, imported under this Notification, shall not be re-exported, sold or otherwise disposed of without prior approval of the Federal Board of Revenue (FBR). In case goods are sold or otherwise disposed of with prior approval of FBR the same shall be subject to payment of sales tax as may be prescribed by the FBR;	

	<p>(g) in case the equipment, imported under this Notification, is sold or otherwise disposed of without prior approval of the FBR in terms of condition (f), the same shall be subject to payment of statutory rates of sales tax as were applicable at the time of import;</p> <p>(h) notwithstanding the condition (f) and (g), equipment imported under this Notification may be surrendered at any time to the Collector of Customs having jurisdiction, without payment of any sales tax, for further disposal as may be prescribed by the FBR;</p> <p>(i) the indemnity bond submitted in terms of condition (b) above shall stand discharged on submission of a certificate from the Regulatory Authority to the effect that the equipment has been installed or consumed in the said Project. In case the equipment is not consumed or installed in the project the indemnity bond shall be discharged on fulfillment of conditions stipulated at (f) or (g) or (h), as the case may be; and</p> <p>(j) that violation of any of the above conditions shall render the goods liable to payment of statutory rate of sales tax leviable on the date of clearance of goods in addition to any other penal action under relevant provisions of the law.</p> <p><b>Explanation.</b> For the purpose of this provision, “equipment” shall mean machinery, apparatus, materials and all things to be provided under the contract for incorporation in the works relating to Lahore Orange Line Metro Train Project.</p>	
147.	Goods supplied to German Development Agency ( <i>Deutsche Gesellschaft für Internationale Zusammenarbeit</i> ) GIZ	Respective heading
148.	Imported construction materials and goods imported by M/s China State Construction Engineering Corporation Limited (M/s CSCECL), whether or not locally manufactured, for construction of Karachi-Peshawar Motorway (Sukkur-Multan Section) subject to fulfilment of same conditions, limitations and restrictions as are specified under S. No. 145 of this table, provided that total incidence of exemptions of all duties and taxes in respect of construction materials and goods imported for the project shall not exceed ten thousand eight hundred ninety-eight million rupees.	Respective heading”;

3.2 TABLE 3

Exemption from sales tax on import of plant and machinery was granted in SRO 575(I)/2006 which was transposed into Table 3 of Sixth Schedule as was inserted through Finance Act, 2014 which grants exemption of sales tax on import of plant, machinery, equipment and apparatus including capital goods specified in Sr. Nos. 1 to 16 subject to conditions (i) to (iii) prescribed therein. It has been proposed to add new Sr. Nos. 17 to 19 which would grant exemption of sales tax on goods as detailed below:

17.	Machinery, equipment, raw materials, components and other capital goods for use in building, fittings, repairing or refitting of ships, boats or floating structures imported by Karachi Shipyard and Engineering Works Limited.	Respective heading	Nil
18.	The following parts for assembling and manufacturing of personal computers and laptops: (i) Bare PCBs	8534.0000	If imported by manufacturers and assemblers

	(ii) Power Amplifier	8542.3300	of computers and laptops, registered with and certified by Engineering Development Board in accordance with quota determined by IOCO
	(iii) Microprocessor/ Controllers	85.42	
	(iv) Equipment for SMT Manufacturing	8486.2000	
	(v) Laptop batteries	8506.5000	
	(vi) Adopters	8504.4020	
	(vii) Cooling fans	8414.5190	
	(viii) Heat sink	7616.9920	
	(ix) Hard Disk SSD	8471.7020	
	(x) RAM/ROMS	8471.7060 and 8471.7090	
	(xi) System on Chip/FPGA-IC	85.42	
	(xii) LCD / LED Screen	8528.7211	
	(xiii) Motherboards	8534.0000	
	(xiv) power supply	84.73	
	(xv) Optical Drives	8471.7040	
	(xvi) External Ports	8536.2090	
	(xvii) Network cards	8517.6990	
	(xviii) Graphic cards	8471.5000	
	(xix) wireless cards	8517.6970	
	(xx) micro phone	8518.3000	
	(xxi) Trackpad	8471.6020	
19.	Plant and machinery, except the items listed under Chapter 87 of the Pakistan Customs Tariff, imported for setting up of a Special Economic Zone (SEZ) by zone developers and for installation in that zone by zone enterprises, on one time basis as prescribed in the SEZ Act, 2012 and rules thereunder subject to such condition, limitations and restriction as a Federal Board of Revenue may impose from time to time.	9917(2)	Nil"; and

**4. EIGHT SCHEDULE - REDUCED RATE OF SALES TAX**

**4.1 TABLE-1**

In terms of clause (aa) of sub section (2) of section (3) of the Act, the goods specified in the eighth schedule shall be charged to tax at such rates as specified therein. The goods specified in Sr. Nos. 1 to 49 of Table I are subjected to reduced rates of sales tax which are lower than standard rate of 17% sales tax. Certain amendments/substitution/insertion have been proposed in various Serial numbers of Table I as detailed below:

- (i) In terms of entry at Sr. No. 25, agricultural tractors of heading 8701.9020 are subjected to reduced rate of 5% sales tax. It has been proposed to substitute figure "8701.9020" with figures "8701.9220 and 8701.9320".
- (ii) In terms of entry at Sr. No. 26, as many as 20 types of tillage and seed bed preparation equipment specified in clauses (i) to (xx) has been subjected to reduced rate of 7% sales tax. It has been proposed to further reduce rate of sales tax to 5%.
- (iii) In terms of entry at Sr. No. 27, as many as 7 types of seeding or planting equipment specified in clauses (i) to (vii) has been subjected to reduced rate of 7% sales tax. It has been proposed to further reduce rate of sales tax to 5%.
- (iv) In terms of entry at Sr. No. 28, as many as 6 types of irrigation, drainage and agro chemical application equipment specified in clauses (i) to (vi) has been subjected to reduced rate of 7% sales tax. It has been proposed to further reduce rate of sales tax to 5%.

- (v) In terms of entry at Sr. No. 29, as many as 18 types of agricultural equipment specified in clauses (i) to (xviii) has been subjected to reduced rate of 7% sales tax. It has been proposed to further reduce rate of sales tax to 5%.
- (vi) In terms of entry at Sr. No. 30, 2 types of post harvest handling and processing & miscellaneous machinery specified in clauses (i) to (ii) has been subjected to reduced rate of 7% sales tax. It has been proposed to further reduce rate of sales tax to 5%.
- (vii) Various types of fertilizers are subjected to reduced rates of sales tax under Sr. Nos. 33, 35, 36, 37, 38, 39, 40, 41 and 42. It is proposed to omit these serial numbers since all types of fertilizers are proposed to be subjected to reduced rate of 3% sales tax by inserting a new entry at Sr. No. 52 in Table I of Eight Schedule.
- (viii) LNG imported by fertilizers manufacturers for use as feed stock is subjected to reduced rate of 5% sales tax in terms of entry at Sr. No. 48. It is proposed to omit the said Sr. number 48 since exemption of whole of sales tax is being granted by inserting new Sr. No. 144 in Table I of the Sixth Schedule.
- (ix) Natural gas if supplied to fertilizers plants for use as feed stock in the manufacturing of fertilizer is subjected to reduced rate of 10% sales tax in terms of entry at Sr. No. 43. It has been proposed to further reduce rate of sales tax to 5%.
- (x) Fish Feed was subjected to reduced rate of 10% sales tax in terms of entry at Sr. No. 49. It is proposed to omit the said Sr. number 49 since exemption of whole of sales tax is being granted by inserting new Sr. No. 138 in Table I of the Sixth Schedule.
- (xi) It is proposed to insert a new entry at Sr. No. 50 through which LNG will be subjected to reduced rate of 12% sales tax If imported by M/s Pakistan State Oil and M/s Pakistan LNG Limited.
- (xii) It is proposed to insert a new entry at Sr. No. 51 through which RLNG will be subjected to reduced rate of 12% sales tax If supplied by M/s Pakistan State Oil and M/s Pakistan LNG Limited to M/s SNGPL.
- (xiii) It is proposed to insert a new entry at Sr. No. 52 through which all types of fertilizers shall be subjected to 3% sales tax which are presently subjected to sales tax at various rates in terms of Sr. Nos. 33, 35, 36, 37, 38, 39, 40, 41 and 42 which are proposed to be omitted.
- (xiv) It is proposed to insert new Sr. Nos. 53 and 54 :

53.	The following Cinematographic equipment imported during the period commencing on the 1 <sup>st</sup> day of July, 2018 and ending on the 30 <sup>th</sup> day of June, 2023.	5%	Subject to same Limitations and conditions as are specified in Part- 1 of Fifth Schedule to the Customs Act, 1969 Act, 1969 for availing 3% concessionary rate of Customs Act, 1969 duty on the import of these equipment.”;
	(i) Projector	9007.2000	
	(ii) Parts and accessories for projector	9007.9200	
	(iii) Other instruments and apparatus for cinema	9032.8990	

	(iv) Screen	9010.6000		
	(v) Cinematographic parts and accessories	9010.9000		
	(vi) 3D Glasses	9004.9000		
	(vii) Digital Loud Speakers	8518.2200		
	(viii) Digital Processor	8519.8190		
	(ix) Sub-woofer and Surround Speakers	8518.2990		
	(x) Amplifiers	8518.5000		
	(xi) Audio rack and termination board	7326.9090		
	(xii) Music Distribution System	8537.1090		
	(xiii) Seats	8519.8990		
	(xiv) Recliners	9401.7100		
	(xv) Wall Panels and metal profiles	9401.7900		
	(xvi) Step Lights	7308.9090		
	(xvii) Illuminated Signs	9405.4090		
	(xviii) Dry Walls	9405.6000		
	(xix) Ready Gips	6809.1100		
54.	lithium iron phosphate battery (Li-Fe- PO4)	3214.9090	8506.5000	12% Nil

**4.2 TABLE-2**

It is proposed to insert a new entry at Sr. No. 9 in Table 2 of Eighth Schedule through which 5% sales tax shall be charged on Capital goods otherwise not exempted, for Transmission Line Projects however the concession will be available in respect of those Transmission Line Projects which are being executed under Standard Implementation Agreement under Policy Framework for Private Sector 43 Transmission Line Projects, 2015 and Projects Specific Transmission Services Agreement. Provided that sales tax charged under this provision shall be non-adjustable and non-refundable.

**5. SALES TAX BUDGTARY MEASURES TO BE ENFORCED THROUGH SROs EFFECTIVE FROM 01.07.2018**

It has been communicated by FBR that sales tax notification will be issued in due course which will be effective from 01.07.2018 as detailed below:

- (i) To waive the value addition tax @ 3% chargeable on import of LNG under Rule-58B of Sales Tax Special Procedure Rules, 2007.
- (ii) Zero rating of sales tax shall be granted retrospectively on 200,000 MT Potato imported during the period from 05.05.2014 to 31.07.2014.
- (iii) It has been stated in paragraph 13 of budgetary measures that Leather products ready for use are enjoying reduced rate of 6% sales tax at import stage. The same rate of 6% is being provided on import of ready to use articles of artificial leather by specifying description and PCT Headings in terms of leather and artificial leather general used by public. Entry at Sr. No. 4 of Table II of SRO 1125(I)/2011 dated 31.12.2011 will be accordingly amended. In the budgetary measures, it has been stated in paragraph 26 that rate of sales tax on import and supplies of finished articles of leather and textile sector is being increased to 9% however all those branded outlets which will be integrated through electronic fiscal devices with FBR online system shall be charged sales tax at the rate of 6%.

- (iv) In terms of condition No. (xiv) as was inserted in SRO 1125(I)/2011 through SRO 584(I)/2017 dated 01.07.2017, finished articles of five specified sectors are subjected to 2% further tax when supplied to unregistered persons. In response to a letter from Chief Commissioner RTO Faisalabad, FBR has recently issued a ruling that finished fabric is covered under the term "finished articles" hence is subjected to 2% further tax when supplied to unregistered persons. SRO 1125 is however being amended to provide rate of 1% further tax on local supply of finished fabric to unregistered persons.
- (v) In terms of first proviso to condition no. (x) of SRO 1125(I)/2011 as was substituted through SRO 491(I)/2016 dated 30.06.2016, input tax credit or refund paid on packing materials is not admissible to the persons operating in five specified sectors including textiles, leather, carpets, sports and surgical whose products are subjected to zero rating of sales tax. Hundreds of writ petitions have been filed in various High Courts challenging the vires of SRO 491(I)/2016. SRO 1125 is being amended and input tax adjustment is being allowed to five export oriented sectors.
- (vi) In terms of Chapter XIII of Sales Tax Special Procedure Rules as was amended through SRO 896(I)/2013 dated 04.10.2013, 2% extra tax has been levied on a number of classes of goods including foam which is to be paid by the manufacturers or importers. Exemption of extra tax and further tax at the rate of 2% is being granted to Pakistani Foam Manufacturers.
- (vii) Exclusion from value addition tax on import of second hand worn clothing and footwear is being provided as a relief measure to general masses.
- (viii) In terms of SRO 962(I)/2015, import and supplies of furnace oil has been subjected to 20% sales tax. The aforesaid notification is being rescinded and 17% sales tax shall be charged on import and supplies of furnace oil.
- (ix) Rate of sales tax for steel sectors is being increased from Rs. 10.50 per unit to Rs. 13 per unit electricity consumed. Sales Tax Special Procedure Rules 2007 will be amended w.e.f 01.07.2018 accordingly. Rate of sales tax on other allied steel industries i.e. ship breakers and re-rollers is also being rationalized.
- (x) Scope of services under Islamabad Capital Territory [Tax on Services] Ordinance 2001 is being increased on the reason that services, which are chargeable to sales tax in provinces or not chargeable to sales tax in ICT Ordinance, 2001.

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**PROPOSED AMENDMENTS IN FEDERAL EXCISE ACT 2005**  
**SALIENT FEATURES OF BUDGETARY MEASURES IN FEDERAL EXCISE ACT 2005**

The effective date of all the Proposed Changes is 01.07.2018.

- ✚ The bill proposes to re-shift numerous powers of Federal Government back from FBR (Board) and Minister -in-charge to the Federal Government. These powers were delegated last year by virtue of Finance Act, 2017 against the legislative hierarchy and command of the Federal Government.
- ✚ The bill proposes to specify the fix rate of 12% for the calculation of default surcharge instead of existing rate of Kibor plus three percent.
- ✚ Provisions for giving appeal effect under the Federal Excise Act, 2005 are being proposed to be within one year, unless challenged by the department, to facilitate the taxpayers by removing unnecessary disputes in quantification of tax liability pursuant to appeal order passed by Commissioner-IR (Appeals), Appellate Tribunal-IR, High Court or Supreme Court of Pakistan.
- ✚ The bill proposes to revamp the mechanism of Alternative Dispute Resolution. The decision of the ADRC will be binding upon taxpayers as well as upon FBR pursuant to withdrawal of appeals by the taxpayer as well as the department.
- ✚ The bill propose restriction to conduct the federal excise audit of a registered person once in three years.
- ✚ The rate of duty on cement is being proposed to enhanced from Rs.1.25/Kg to Rs.1.50/Kg.
- ✚ By virtue of this amendment, it is proposed to reduce the payment of FED from 25% to 10% for inherent stay against recovery of Federal Excise Duty and penalties demand till decision by the Commissioner Inland Revenue (Appeals).
- ✚ The government aiming to discourage this unhealthy and injurious activity increases FED on cigarettes every year. The bill proposes to continue this policy of enhancement in rate of FED on cigarettes.
- ✚ Health Levy on tobacco has been proposed @ Rs.10/kg which shall be collected by Pakistan Tobacco Board from purchasers/manufacturers of tobacco

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**Comments on Proposed Amendments through Finance Bill 2018-19**

**1. Empowering the Federal Government in place of Board and Federal Minister-in-Charge  
Section 3(1)( c ), 3(4) & 16(2)**

The finance Act 2017-18 had empowered the Board and Federal Minister -in-charge in place of Federal Government to specify such goods, by notification in the official Gazette, as are produced or manufactured in the non-tariff areas and are brought to the tariff areas for sale or consumption therein and also empowered to levy of duty at higher or low rate by notification. Likewise, grant of exemptions from levy of duties had been shifted to the Board from the Federal Government.

The bill proposes to restore these powers of Federal Government, rendering the legislative supremacy and statutory authorities of Federal Government in desired course.

**2. Assessment giving effect to an Order:  
Section 14B**

The bill proposes to introduce provisions for giving appeal effect under the Federal Excise Act, 2005 to facilitate the taxpayers by removing unnecessary disputes in quantification of tax liability pursuant to appeal order passed by Commissioner-IR (Appeals), Appellate Tribunal-IR, High Court or Supreme Court of Pakistan.

The time limitation to give appeal effect has been proposed to be confined within one year from the end of financial year in which such order will be served on the department.

“Provided that limitation under this sub-section shall not apply if an appeal or reference has been preferred against the order passed by Appellate Tribunal or a High Court.”

**3. Freezing of default surcharge rate.  
Section 8**

In case of non-payment of duty as determined by an order, short payment, erroneous refund, or inadmissible adjustment, the taxpayer is charged with default surcharge at the rate equal to KIBOR plus three percent. Since the KIBOR is based upon floating rate of interest offered in inter-bank market and in many times renders the calculation cumbersome accordingly the proposed amendments now seeks to fix the rate at 12%. This amendment is proposed to harmonise the rate of default surcharge with other parallel statutes i.e, Sales Tax Act, 1990 and Income Tax Ordinance, 2001.

**4. Appointment of Directorate General and its Officer and delegation of powers:  
Section 29**

Section 29 deals with the appointment and powers of officers under the Act. The bill proposes to empower the board to specify the functions of the Directorate General (Investigation and Intelligence) and confer powers of authorities under hierarchy of powers.

Accordingly the bill proposes to insert new clause (aa) for this purpose.



**5. Deposit, pending appeal, of duty demanded or penalty levied  
Section 37**

By virtue of Finance Act 2017, automatic stay was enacted against recovery of Federal Excise Duty and penalties demand till decision by the Commissioner Inland Revenue (Appeals) subject to payment of 25% of the amount FED and penalties demand.

This bill proposes to curtail this payment to 10% instead of 25% of the demand. This step is much beneficial to the taxpayers for attaining umbrella of spontaneous stay with the reduce rate of deposit.

**6. Revamping of Alternate Dispute Resolution  
Section 38**

The bill proposes to revamp the mechanism of Alternative Dispute Resolution. The decision of the ADRC has been made binding upon taxpayers as well as upon FBR pursuant to withdrawal of appeals by the taxpayer as well as by the department. The time limitation for withdrawal of appeal is restricted to 75 days of the appointment of the ADRC, otherwise the ADRC shall be dissolved automatically. The time frame for disposal of an appeal before committee is proposed to be 120 days excluding the time frame of withdrawal of appeal.

**7. Access to records and posting of excise staff, etc.  
Section 45**

This section deals with the authoritative powers of tax authorities to have access of record and posting of tax authorities into premises of taxpayers with the approval of Board as well as Chief Commissioners. The bill proposes to eliminate the powers of Chief Commissioner in this regard and the power to appoint tax authorities to monitor production, removal or sale of goods and the stock position or the maintenance of records of a taxpayer have been vested only to the Board.

This was the desire of taxpayers involved in production activities as they blame tax authorities to post their machinery including coercive measures to achieve their revenue targets.

**8. Audit  
Section 46**

Hitherto this change, the taxpayers was selected for audit randomly, sometimes, two consecutive years and sometimes for alternate years. The audit policies of yester years were not uniform for conduction of audit of a taxpayer.

The bill proposes to place restriction that federal excise audit of a registered person can be conducted only once in three years. This measure will give a sigh of relief to the persons who were severally affected by every year audit.

**Note:**

***All other changes have proposed in First and Third Schedules to the Federal Excise Act, 2005 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	9	Locally produced cigarettes if their onpack printed retail price exceeds four thousand five hundred rupees per thousand cigarettes	Rupees three thousand seven hundred and forty per thousand cigarettes	Locally produced cigarettes if their onpack printed retail price exceeds four thousand five hundred rupees per thousand cigarettes.	Rupees three thousand nine hundred and sixty four per thousand cigarettes	The government aiming to discourage this unhealthy and injurious activity increases FED on cigarettes every year. The bill seeks to continue this policy of enhancement in rate of FED on cigarettes. At present, FED is being charged on the basis of specific rates for two tiers applicable on biannual basis. The bill seeks to revamp the structure to be culminated into three tiers for complete year. The revised rates will be effective from 01.07.2017.
2	10	Locally produced cigarettes if their onpack printed retail price exceeds two thousand nine hundred and twenty five rupees per thousand cigarettes but does not exceed four thousand five hundred rupees per thousand cigarettes.	Rupees one thousand six hundred and seventy per thousand cigarettes	Locally produced cigarettes if their onpack printed retail price exceeds two thousand nine hundred and twenty-five rupees per thousand cigarettes but does not exceed four thousand five hundred rupees per thousand cigarettes.	Rupees one thousand seven hundred and seventy per thousand cigarettes	
	10a	Locally produced cigarettes if their onpack printed retail price does not exceed two thousand nine hundred and twenty-five rupees per thousand cigarettes.	Rupees eight hundred per thousand cigarettes	Locally produced cigarettes if their onpack printed retail price does not exceed two thousand nine hundred and twenty-five rupees per thousand cigarettes.	Rupees eight hundred and forty eight per thousand cigarettes	
3	13	Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cements, whether or not coloured or in the form of clinkers	One rupee and twenty-five paisa per kilogram	No Change	One rupee and fifty paisa per kilogram	The Bill seeks to enhance the FED on cement sector. This measure being unjustified will be borne by the general masses.

**PROPOSED AMENDMENTS IN TABLE I OF THIRD SCHEDULE OF THE FEDERAL EXCISE ACT 2005. (Entry No.22 & 23)**

The bill seeks to grant exemption from levy of sales tax and Federal Excise Duty to the equipment imported by China Railway Corporation for Lahore Orange Line Metro Train Project and construction materials and goods imported by China State Construction Engineering Corporation Limited for Sukkur-Multan Motorway.

**PROPOSED AMENDMENTS IN TABLE II OF THIRD SCHEDULE OF THE FEDERAL EXCISE ACT 2005 (Entry No.13)**

The bill seeks to grant exemption from levy of duty on commission paid by the State Bank of Pakistan to National Bank or any other banking company, acting as agents for handling banking services of federal and provincial governments.

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**TEXT OF FINANCE BILL – 2018**

**For convenience, the complete text of Finance Bill 2018  
may be viewed at <http://www.krestonhb.com>**

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