

COMMENTS ON FINANCE BILL 2019

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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 2019(Bill). The memorandum contains Budget –2019 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, 2019 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 2019 can also be accessed on / downloaded from the website of our firm - <http://www.krestonhb.com>

Dated: June 12, 2019

KRESTON HYDER BHIMJI & CO.
CHARTERED ACCOUNTANTS

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BUDGET AT A GLANCE

	2019-20		2018-19	
	Rs.	%	Rs.	%
Receipts				
Revenue Receipts				
Direct taxes	5,555	83	4,150	82
Indirect taxes	267	4	244	5
	<u>5,822</u>	<u>88</u>	<u>4,394</u>	<u>87</u>
Non-tax revenue	894	12	638	13
Gross revenue receipts	6,717	100	5,032	100
Less: Provincial share	(3,255)	(40)	(2,463)	(38)
Net revenue receipts	3,462	42	2,569	40
Capital receipts	832	10	1,032	16
External resources	3,032	38	1,403	22
Cash balance	423	5	59	1
Bank borrowings	339	4	1,356	21
Privatization proceeds	150	2	-	-
Total Resources	8,238	100	6,419	100
Expenditure				
Current Expenditure				
Defence	1,153	14	1,138	17
General public services	5,607	68	4,048	63
Others	529	6	403	6
	<u>7,288</u>	<u>88</u>	<u>5,589</u>	<u>87</u>
Development expenditure	950	12	830	13
Total Expenditure	8,238	100	6,419	100

**SALIENT FEATURES OF AMENDEMENT PROPOSED IN INCOME TAX ORDINANCE, 2001 -
EFFECTIVE FROM JULY 01, 2019 EXCEPT PROVIDED OTHERWISE**

- ❖ Tax collected / deducted at source to be treated as minimum tax rather than full and final tax liability in case of the following transactions:
 - Commercial imports
 - Ship breakers
 - Profit on debt (other than a company) for amount exceeding Rs. 36 million
 - Non-resident person on account of certain contracts and services
 - Payment on account of supply of goods
 - Payment on account of rendering of services
 - Payment on account of execution of contracts
- ❖ Tax on capital gain from disposal of immovable property is now taxable at normal rates of tax.
- ❖ A new provision for payment of refund claims has been introduced through issuance of promissory notes, to be issued by a newly incorporated limited company namely FBR Refund Settlement Company Limited.
- ❖ Brought forward depreciation as well as brought forward business losses not to be taken into account for the purpose of working out super tax for banking, insurance, E&P companies and income covered under Eighth Schedule.
- ❖ Tax credit for investment in plant and machinery under Section 65B is restricted to investments made upto 30 June 2019; and the rate is also reduced from 10% to 5% for the tax year 2019.
- ❖ Purchase of assets should be made through banking channel; otherwise adverse consequences proposed.
- ❖ Limit on non-questionable remittance of foreign exchange from abroad is reduced from Rs. 10 million to Rs. 5 million in a tax year by a taxpayer.
- ❖ Due date of filing of return of income for salaried individual and for filing of statement for FTR income has been extended to 30thSeptember.
- ❖ A person filing return of income after the due date would be included in the Active Taxpayers' List (ATL) after payment of prescribed surcharge.
- ❖ Dealer's margin to be added to the income of a person supplying products listed in Third Schedule of the Sales Tax Act, 1990 and / or any other products prescribed by FBR, to a person under dealership arrangement who is not registered under the Sales Tax Act, 1990 or is not appearing in the active taxpayers list

- ❖ Bad debts classified as “doubtful” to be excluded for the purpose of computing allowable provision under Rule 1(c) of the Seventh Schedule.
- ❖ If a tax payable by an association of persons in respect of any tax year cannot be recovered from it, the same can be recovered from the members of the association of persons
- ❖ Conclusion of tax audit by the Commissioner now requires issuance of audit report which will then form the basis for making amendment of assessment under Section 122.
- ❖ Failure to comply with notice for filing statement of foreign income and assets may lead to prosecution.
- ❖ Offshore tax evasion will now be severely penalized and prosecuted.
- ❖ Where a taxpayer, other than a company, earns profit on debt exceeding Rs. 36 million, the entire profit on debt will be taxable as part of its normal taxable income. For profit on debt up to Rs. 36 million, the rate of tax under Section 7B has been revised upwards.
- ❖ Intangibles may now be amortized over their actual useful life, or where the useful life is not ascertainable, over a period of 25 years.
- ❖ The receipt of a gift shall be taxable, unless received from immediate family members.
- ❖ A tax credit shall be allowed to a person for hiring fresh qualified graduates in the tax year in which they are employed.
- ❖ Definition of resident individual expanded to include an individual who is present in Pakistan for 90 days or more in the tax year, and who in the four preceding tax years was present in Pakistan for 365 days or more in aggregate.
- ❖ Every trust and welfare institution, with effect from 1st July, 2020 must now mandatorily obtain approval of the Commissioner in order to claim a tax credit under Section 100C. Furthermore, trusts and welfare institutions may not confer any private benefits to relatives of the donor.
- ❖ Where the Commissioner is of the opinion that a transaction has not been declared at arm's length, the Commissioner may obtain a report from an independent chartered accountant or cost and management accountant.
- ❖ A withholding tax of 15% shall apply on payment of royalty to resident persons.
- ❖ Every person engaged in any business, profession or vocation shall be required to obtain and display a business licence.
- ❖ Failure to furnish details, or furnishing incorrect details, in the withholding tax statements is punishable by fine or imprisonment, or both.

- ❖ Newly introduced Tenth Schedule to govern collection and deduction of advance income tax, computation of income and tax payable of persons not appearing in the Active Taxpayers List.
- ❖ It is proposed that every person engaged in any business, profession or vocation shall obtain and display a business license as prescribed by the Federal Board of Revenue.
- ❖ The Bill proposes to revise the slab rates as well as rate of tax for salaried persons, non-salaried persons and association of persons, whereby the minimum threshold for non-chargeability of salaried individual is proposed to be Rs. 600,000 and for non-salaried persons / association of persons to be Rs. 400,000. Further, the highest tax rate applicable on these taxpayers is proposed to be enhanced to 35%.
- ❖ The corporate tax rate for the tax year 2019 is 29% which was to be reduced by 1% on yearly basis upto 25%. It is now proposed to restrict such rate at 29% for tax year 2019 and onwards.
- ❖ Reduced rate of 7.5% applicable on dividend received from power companies is proposed to be enhanced to 15%.
- ❖ Rates of tax of profit on debt proposed to be enhanced by 5% for each slab.
- ❖ The slabs for rates of tax on income from property in the case of individual and AOPs are proposed to be increased up to 35% from 20%.
- ❖ Exemption on capital gain proposed to vary on the basis of holding period of open plots or constructed property i.e. over ten years and five years respectively. Whereas normal tax rates have been proposed to be applicable instead of reduced tax rates presently applicable.
- ❖ The general rate of minimum tax on turnover under Section 113 of the Ordinance is proposed to be increased to 1.5%.
- ❖ The advance tax rate on profit on debt is proposed to be increased from 10% to 15%.
- ❖ The rate of withholding tax on transport services for resident persons is proposed to be enhanced to 4% from 2%, wherein several other services are also to be included in the category.
- ❖ The rate of adjustable withholding tax on royalty payable to a resident person is proposed at 15% of the gross amount.
- ❖ Advance tax on dealers, commission agents and arhatis proposed to be enhanced significantly, whereas a flat rate of 1% has been proposed as the advance tax on purchase of immovable property.
- ❖ Exemption of a couple of more allowances to armed forces personnel proposed.

- ❖ Exemption proposed for the income of residents of the Tribal areas of Khyber Pakhtunkhwa & Baluchistan.
 - ❖ Reduction in rate of rebate from 40% to 25% has been proposed, along with withdrawal of this rebate to teachers of medical profession who derive income from private medical practice or who receive share of consideration from patients.
 - ❖ Exemption from selection of audit under Section 177 and 214C to persons who have been audited in the preceding three tax years has been proposed to be withdrawn.
 - ❖ The Bill proposes to withdraw the initial allowance on building available at the rate of 15%.
 - ❖ The definition as well as separate tax rates for filer and non-filer are proposed to be eliminated and a new regime for taxation introduced for persons not covered in the active taxpayer list of the FBR through the insertion of Tenth Schedule to the Income Tax Ordinance, 2001.
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**Amendment proposed in the Income Tax Ordinance, 2001
vide Finance Bill 2018**

1 **Definitions**

Section 2

Following definitions are proposed to be inserted in section 2 of the Ordinance which will be referred at the relevant proposed amendments;

- i. **"active taxpayers' list"** means the list instituted by the Board under section 181A and includes such list issued by the Azad Jammu and Kashmir Council Board of Revenue or Gilgit-Baltistan Council Board of Revenues";

With the proposed insertion of this definition, the Bill also proposed to omit definition of filer and non-filer. Accordingly reference of filer and non-filer is proposed to be deleted wherever is referred in the Ordinance and following substitution is proposed in respect of filer and non-filer;

- Filer substituted with "A person whose name appears in active taxpayers' list"
- Non-Filer substituted with "A person whose name does not appears in active taxpayers' list"

- ii. **"asset move"** means the transfer of an offshore asset to an unspecified jurisdiction by or on behalf of a person who owns, possesses, controls, or is the beneficial owner of such offshore asset for the purpose of tax evasion;";

- iii. **"FBR Refund Settlement Company Limited"** means the company with this name as incorporated under the Companies Act, 2017 (XIX of 2017), for the purposes of settlement of income tax refund claims including payment by way of issuing refund bonds under section 171A;";

- iv. **"offshore asset"** in relation to a person, includes any movable or immovable asset held, any gain, profit, or income derived, or any expenditure incurred outside Pakistan;

- v. **"offshore enabler"** means a person who owns, possesses, controls, or is the beneficial owner of an offshore asset and does not declare, or under declares or provides inaccurate particulars of such asset to the Commissioners.;

- vi. **"offshore evader"** includes any person who, enables, assists, or advises any person to plan, design, arrange or manage a transaction or declaration relating to an offshore asset, which has resulted or may result in tax evasion;";

- vii. **"specified jurisdiction"** means any jurisdiction which has committed to automatically exchange information under the Common Reporting Standard with Pakistan;"; and

- viii. **"unspecified jurisdiction"** means a jurisdiction which is not a specified jurisdictions.";

2. **Super Tax - Adjustment of carried forward depreciation and business losses for specialized organizations**

Section 4B

Through Finance Act, 2016 an amendment was introduced whereby adjustment of brought forward depreciation business losses was excluded for the purposes of computation of super tax in case of person other than Banking, Insurance and Oil and Mineral exploration entities. In order to bring consistency the Bill proposed to insert the expression “(other than brought forward depreciation and brought forward business losses)” in clause (iv) of section 4B (2).

After the proposed amendment brought forward depreciation and business losses will also be excluded from the total income while computing super tax for specialized industries (Banking, Insurance and Oil) whose income is computed under fourth, fifth, seventh and eighth schedule.

3. **Profit on Debt**

Section 7B

Currently the profit on debt is taxable at the specified rates for person other than companies and the same is treated as final tax; however the Bill now proposed to tax the profit on debt at the specified revised rates except for profit on debt that—

- (a) is exempt from tax under this Ordinance; or
- (b) exceeds thirty six million rupees.”;

Profit on debt of amount exceeding twenty five million is currently taxable at 15% and is being treated as final tax for person other than companies. With the proposed amendment the amount exceeding thirty six million will now be subject to normal taxation at normal tax rates as applicable to the person’s income.

Also refer our comments with regard to tax withholding under section 151 below.

4. **Inadmissibility of expense on account of Commission in respect of supply of third schedule items**

Section 21

Following new clause is proposed to be inserted in section 21, after clause (c),namely:—

“(ca) any amount of commission paid or payable in respect of supply of products listed in the Third Schedule of the Sales Tax Act, 1990, where the amount of commission paid exceeds 0.2 percent of gross amount of supplies thereof unless the person to whom commission is paid or payable, as the case may be, is registered under the Sales Tax Act, 1990 and is appearing in the active taxpayer list under this Ordinance.”

This proposed amendment to restrict the amount of commission being paid to taxpayers who are unregistered under Sales Tax Act or are not active taxpayers list. With the proposed insertion the commission paid in excess of 0.2 percent of gross amount of supplies will not be admissible expense for the business purpose unless these two conditions are met.

It seems that the Bill proposed to discourage the informal channels used by the taxpayers to avoid tax by making arrangements of higher commissions. This also is step towards documenting the economy and broadening tax net.

5. **Intangibles – Ascertainable Useful life and Internally Generated Goodwill**
Section 24

A) Currently the life of intangible asset with ascertainable useful life is restricted to 10 years whereby cost of the intangible is allowed to be amortized over maximum ten years. The Bill now seeks to amend sub-section 4 of the section 24 whereby an intangible that does not have an ascertainable useful life shall be treated as if it had a normal useful life of twenty-five years.

With the proposed amendment the amortization of intangible assets, whose life is not ascertainable, shall be spread over twenty five years.

(B) in sub-section (11), after the expression "land)", the following expression is proposed to be inserted;

"but shall not include self-generated goodwill or any adjustment arising on account of accounting treatment in the manner as may be prescribed"

Currently goodwill, in case of business involving mergers, amalgamation and acquisitions, is amortized for computing taxable income; however through above insertions the Bill seeks to exclude the internally generated good will and any adjustment arising on account of accounting treatment from the definition of intangible asset and this will result in add backs of such amortization or adjustments. This amendment also authorizes the Board to prescribe the rules etc in this respect.

6. **Capital Gain on Open Plot and Constructed Property**
Section 37

Presently capital gain on all immovable properties is being taxed at reduced rates under sub-section (1A) of section 37 wherein capital gain on immovable properties disposed within three years of acquisition is taxable at the reduced specified rates whereas tax on capital gain on immovable properties disposed off after three years is zero.

The Bill now seeks to bifurcate immovable properties into Open Plot and Constructed Properties and extend the holding period of three years to ten years and five years in case of open plot and constructed property respectively. Accordingly following amendments are proposed in section 37:

- (A) sub-section (1A) is proposed to be omitted;
- (B) after sub-section (3), the following new sub-sections shall be inserted , namely:—

"(3A) Notwithstanding anything contained in subsection (3), the amount of any gain arising on disposal of immovable property being an open plot shall be computed in accordance with the following formula, namely:—

1	Where the holding period of open plot does not exceed one year	A
2	Where the holding period of open plot exceeds one year but does not exceed ten years	$A \times \frac{3}{4}$
3	Where the holding period of open plot exceeds ten years	0

where A is the amount of the gain determined under subsection (2).

(3B) Notwithstanding anything contained in sub-section (3), the amount of any gain arising on disposal of immovable property being a constructed property shall be computed in accordance with the following formula, namely:—

1	Where the holding period of constructed property does not exceed one year	A
2	Where the holding period of constructed property exceeds one year but does not exceed ten years	$A \times \frac{3}{4}$
3	Where the holding period of constructed property exceeds ten years	0

where A is the amount of the gain determined under sub-section (2).";

With the above amendments the Bill proposes to tax capital gain on open plot disposed of within ten years of acquisition with 25% credit after passing one year. Whereas in case constructed property the period of taxability is limited to five years.

The proposed insertions seem to have been introduced to achieve revenue targets on one hand and encourage real buying and selling of the immovable properties on the other.

7. **Transfers without consideration and Gifts - Income from other sources** Section 39

The Bill seeks to bring the gifts and transfer without consideration into tax net by treating same as income from other sources by inserting following clause (1a) in sub-section (1) of section 39;

"(1a) subject to sub-section (3), any amount or fair market value of any property received without consideration or received as gift, other than gift received from grandparents, parents, spouse, real brother, real sister, son or a daughter."

With the proposed insertion of this sub-section, the gifts and transfers without consideration will be taxable at fair market values other than close relatives will be taxable. This amendment seems to restrict the ways to restrict all these manners of and in the absence, the funding requirements will now be met through loans instead.

8. **Exemptions and tax concession in the Second Schedule**

Section 53

Presently the Federal Government enjoys the power of taking immediate actions on matters stated in Section 53 including circumstances namely "removal of anomalies in taxes and development of backward areas,

The Bill seeks to restrict this power in above cases thus having the power on circumstances stated in Section 53 (2) other than above circumstances.

9. **Tax credit for persons employing fresh graduates**

Section 64C

The Bill seeks to introduce new tax credit in order to create employment opportunities for fresh graduates who have graduated after 1st July 2017. This credit is available to all persons who employ fresh graduates, i.e. the graduates who have graduated from HEC recognized universities on or after July 01, 2017.

The tax credit is available at the average rate of tax applicable to the person employing such graduates (maximum up-to 15% of the total employees) on the lower of following amounts;

- the total amount of salaries paid to these graduates or
- five percent of the person's taxable income for the year.

This will be in addition to the deduction of salaries for computation of taxable income paid as business expenditure and intended to generate employment to youth.

10. **Tax credit for investment in plant and machinery**

Section 65B

Presently the companies are allowed a tax credit equal to ten percent of amount of investment made in plant and machinery for extensions, expansion, balancing and modernization of already installed plant and machinery. This tax credit is currently allowable for the investments made up-to June 2021.

However the Bill now seeks to restrict this tax credit to five percent of that investment for the tax year 2019 and that the tax credit will no more be available for the investments made after tax year 2019; however, the Bill proposes that unabsorbed tax credit relating to prior years shall continue to be carried forward after June 30, 2019 as per current provision.

In our view, this incentive should be continued for the envisaged period as industries have planned the investments based upon the availability of the said clause for the tax year 2019 and later and it is vested right of such businesses. Moreover, retrospective reduction i.e. for Tax Year 2019 will also hamper and disturb the tax planning of the businesses as advance tax for the tax year 2019 has already been paid off by companies for the tax year 2019 by estimating their respective tax liabilities. During the tax year 2019, capacities of Cement manufacturing units (which are mostly in listed sectors and is fully documented) have doubled relying upon the tax credit and it will hamper the profitability and growth of those units which will shatter the confidence of businesses and this move needs to be reviewed.

11. **Purchase of assets through banking channel**
Section 75A

In order to document the economy and widen tax base, the Bill seeks to introduce new section 75A whereby restriction on purchase of immovable properties and other assets are proposed. The Bill propose to restrict that payment should be made through crossed banking instrument showing transfer of amount from one bank account to another bank account in following cases;

- immovable properties having fair market value of greater than five million rupees;
- other assets having fair market value of more than one million rupees.

If payment is made otherwise than crossed banking instrument no deduction in respect of depreciation, initial allowances, first allowance, amortization etc. shall be allowed and also the cost of such assets will not be admissible while computing gain on disposal.

Fair market value means value notified by the Board under sub-section (4) of section 68 or value fixed by the provincial authority for the purposes of stamp duty, whichever is higher. Though the move is for documentation, however markets cannot fully be regulated through taxation mechanism as the proposed insertion disincentives for business assets through non-banking settlements while parking of funds in real estate and motor cars bookings have nothing to do with business assets.

12. **Resident Individual**
Section 82

The Bill seeks to insert new sub-section in section 82 as follows;

"(ab) is present in Pakistan for a period of, or periods amounting in aggregate to, ninety days or more in the tax year and who, in the four years preceding the tax year, has been in Pakistan for a period of, or periods amounting in aggregate to, three hundred and sixty-five days or more; or";

Presently the individuals who are present in Pakistan for period of 180days in aggregate are treated as a resident; however with the proposed amendments any individual who was present for ninety day in current year and total of three hundred sixty five days in the preceding years will also be treated as resident individuals.

With the scope of resident individual being widened, Pakistanis working abroad may also be required to file tax return based on worldwide income and wealth statements as well, which will be futile exercise

13. **Special procedure for certain persons– Small Business, construction business, education and medical hospital and practitioners**
Section (99C)

The Bill proposes to insert following section in the Ordinance in order to authorize federal Government for making special procedures for record keeping, taxation and assessment in respect of small business, construction business, hospitals etc;

"99C. Special procedure for certain persons.— Notwithstanding anything contained in this Ordinance, the Federal Government may, by notification in the official Gazette, prescribe special procedure for scope and payment of tax, record keeping, filing of return and assessment in respect of such small businesses, construction businesses, medical practitioners, hospitals, educational institutions and any other sector specified by the Federal Government, in such cities or territories, as may be specified therein."

14. **Special provisions relating to persons not appearing in active taxpayers' list**
Section 100BA and Tenth Schedule

In order to eliminate certain ambiguities and redundancies, the Bills seeks to define special provisions for computation and deduction of taxes from the person whose name does not appear in the active tax payers list; accordingly a new section 100BA and Tenth Schedule are proposed to inserted in the ordinance.

Through proposed insertion of this section 100Band Tenth Schedule, the special provisions for collection or deduction of advance income tax, computation of income tax and tax payable thereon are proposed for the person whose name does not appear in the active tax payers' list. Detailed comments in this respect are at section of Tenth Schedule. Concept of filer and non-filer is proposed to be eliminated and new definition of "active tax payers' list has been introduced.

15. **Tax credit for certain person – non-profit organizations**
Section 100C.

Presently the non-profit organization are allowed 100% tax credit against their tax liability provided certain condition as mentioned in sub-section (1) of section 100C are fulfilled. The Bill now seeks to insert two more conditions to avail that credit i.e.

- e) Approval of commissioner under section 2 (36) is required to be obtained from the commissioner for the period after 1st July 2020, and

- f) That none of the assets of trusts or welfare institutions confers, or may confer, a private benefit to the donors or family, children or author of the trust or his descendants or the maker of the institution or to any other person

Provided that where such private benefit is conferred, the amount of such benefit shall be added to the income of the donor:"; and

It has been seen that in certain cases tax credit is being claimed without obtaining approval under section 2(36) by the non-profit organization so with proposed amendment approval of commissioner for non-profit organization will be compulsory for claiming tax credit. Further through the proposed benefits, if are conferred to donors or makers or authors, will be taxable in the hands of the donors.

16. **Disclosure of information under agreement for avoidance of double taxation**
Section 107 and 2016

Currently the information received under a tax treaty, tax information exchange agreements, etc. under section (1B) of section 107 is treated as confidential without any exceptions. The Bill now seeks to insert the expression "subject to clause (a) of sub-section (3) of section 216 of this Ordinance" , in sub-section (1B), after the expression "(XCVI of 2002)".

After this proposed amendment any person acting in the execution of the Ordinance will be able to obtain such information, where the disclosure of the same information is necessary for the purpose of the Ordinance.

17. **Report from independent chartered accountant or cost and management accountant - Transactions at arm's length**
Section 108 A

The Bill seeks to insert section 108A in the Ordinance in order to empower the Commissioner to obtain report from Chartered Accountant (CA) or Cost and Management Accountant (CMA) for determining fair market value of any asset , product or expenditure where the Commissioner is of the view that the transactions has not been carried at arm's length. Provided the commissioner shall seek the approval of board for such report and the terms scope, and form of the report shall as may be prescribed. If the commissioner is satisfied with the report, the same shall be treated as definite information and in case the Commissioner is not satisfied with the report he record the reason and require report another CA or CMA.

In our view, considering Chartered Accountants and Cost and Management Accountants as valuers for the purpose of determining fair market value is beyond professional mandate of these professions unless they rely upon the brokers and agents operating in the field.

18. **Transactions under dealership arrangements**

Section 108B

A new section 108 (B) is proposed to be inserted in the Ordinance as follows;

108B Transactions under dealership arrangements (108B)

- (1) Where a person supplies products listed in the Third Schedule to the Sales Tax Act, 1990 or any other products as prescribed by the Board, under a dealership arrangement with the dealers who are not registered under the Sales Tax Act, 1990 and are not appearing in the active taxpayers' list under this Ordinance, an amount equal to seventy-five percent of the dealer's margin shall be added to the income of the person making such supplies.
- (2) For the purposes of operation of this section, ten percent of the sale price of the manufacturer shall be treated as dealers margin."

Through the insertion of this section the Bill proposes to restrict the supplies of third schedule items that are not registered under Sales Tax Act 1990 and are not persons appearing in Active Taxpayers' list. In case the supplies are made to such dealers the 75% of the margin will be added to the income of Supplier and minimum margin for this purpose shall be 10%.

19. **Unexplained income or asset**

Section 111

Presently unexplained credits in the books of tax payer is added to total income of the person and is subject to tax except the foreign exchange remitted through normal banking channel up to an amount of ten million rupees. The Bill now proposes to reduce this limit of un-explained foreign exchange remittance to five million rupees.

Further clause (c) of sub-section 4 of section is proposed to be omitted, which is consequential amendment due to amendment in section 236W as discussed below.

In our view, money whitening channel of inward remittances be done away with in entirety in order to cleanse the economy and make it documented.

20. **Return of Income – Owner of Immovable Property**

Section 114

Currently any person who own immovable property with a land area of 250 square yards is required to file return. The Bill now proposes amended in section 114(1) (b (iii)) to increase this limit to 500 square yards means now a person who own property with area of 500 square yards instead of 250 square yards will be required to file return.

21. **Date to furnish statement of final taxation under section 115(4) and e-filing of salaried class Tax Return has been extended to 30th September 30 from existing 31st August.**

Section 118(3)(a)

Presently the law required furnishing of statement of final taxation under section 115(4) and e-filing of salaried class Tax Return by 31st August next following the end of the Tax year to which it relates which have now been extended to 30th September next following the end of the Tax year to which it relates.

The intent and purpose of the amendment is rationalization of filing dates for all types.

22. **Immunity from proceedings under Income Tax Law for Declarations under Amnesty Scheme 2019.**

Section 120B

The introduction of Section 120B in the Income Tax Ordinance, 2001 places restrictions on pursuing any proceedings under the Income Tax Ordinance, 2001 on any declarations made under the Assets Declaration Act, 2019 in respect of :-

- ❖ undisclosed assets,
- ❖ undisclosed expenditure, and
- ❖ undisclosed sales

Moreover, sub-section (2) of newly proposed insertion of section 120B which is overriding provision also restricted the declaration so made as Confidential except for the purposes as specified in section 216(3)(a) to (g) of the Income Tax Ordinance, 2001.

In our view, the intent and purpose of the proposed insertion is to grant sanctity to the Amnesty Declaration and creates bar on misuse of the information of the declaration and is a confidence building measure.

23. **Alternate Dispute Resolution**

Section 134A

In order to facilitate and redeem the tax conflicts through the arbitration process named as “Alternate Dispute Resolution” was in place wherein a committee is formed comprising of Commissioner, Senior Chartered Accountants and senior Advocates as well as businessman so recommended by their Chambers.

The proposed amendment enlarged the scope so as to include “Cost and Management Accountants” in the ambit. Furthermore, the insertion the words “minimum ten years” with the words “experience in the field of taxation” elaborated further the criterion for selection of the member.

24. **Collection of tax in respect of private companies and association of persons**
Section 139

Amendment proposed by insertion of sub-section (5) and (6) of section 139 which enables to recover tax from the members of association of persons (AOP) and making the members jointly and severally liable for the tax in respect of tax year in which they were members. The law further enables those members to recover the amount of tax from the AOP in their respective ratios.

The proposed amendments enable the collection of tax from the members disproportionately and likely to create disequilibrium in the business operations.

25. **Assessment of persons about to leave Pakistan**
Section 145

The Bill proposes to insert sub-section (5) in section 145 of the Ordinance that provides for enabling powers to the Commissioner to freeze the domestic assets of that person including assets beneficially owned by him for 120 days or till the finalization of proceedings including but not limited to recovery proceedings under this Ordinance whichever is earlier.

Proposed insertion is intended to be applied by the Commissioner where on the basis of information received from any offshore jurisdiction, the Commissioner has reason to believe that:-

- ❖ may be involved in offshore tax evasion, or
- ❖ such person is about to dispose of any such domestic asset

In our view, the proposed amendment is likely to create hardship for genuine cases as our tax history is full of past experiences of misuse and abuse of powers. Prematurely freezing the domestic assets on the basis of information without exhausting all legal remedies seems unjust and arbitrary action which may hinder the process of confidence building measure. Furthermore, these should be specific exclusions for Non-Residents and Overseas Pakistanis who are bringing in foreign currency remittances into Pakistan and continuing their employment and businesses outside Pakistan and investing in Pakistan based assets.

26. **Reference of the word “Filer” has been replaced with words “whose name was appearing in the active taxpayers' list”.**

Concept of the word “Filer” was introduced in previous Finance Acts in order to encourage and motivate persons to file tax return and declare income. The analogy used was to prescribe higher withholding tax rates to financially pinch the person opts not to file the tax returns. Subsequently FBR introduced “Active Payers List” that contains the particulars of the tax return filers. However, in order to gradually rationalize the concept the proposed amendments intend to replace the word “Filer” with words “whose name was appearing in the active taxpayers' list”.

27. **Imports**

Section 148(7) and (8A)

Provisions of section 148 requires collection of advance income tax at import stage by the Collector of Customs which except for industrial undertakings, large import house, import of foreign films and ship breaking industry was a final tax. The proposed amendment intended to substitute this final tax with the minimum tax.

The amendment is intended to eliminate distortions which have been created due to final tax regime as the application whereof resulted into uneven distribution of wealth among various income earners of the same society due to different tax proportions applied to different income streams.

28. **Profit on Debt**

Section 151(3)

Presently income from profit on debt arising to a non-company taxpayer's fell under Final Tax. The Proposed amendment replaced the word "Final" with minimum sub-section (3) of section 151 as read with section 7B and amended tax charts in First Schedule Part I, Division IIIA and Part III Division IA renders the as applicable to non-company taxpayer's under specified tax regime to the extent of income up-to Rs.36 Million in a tax year while in case of income above the threshold normal tax table is applicable.

Tax table applicable is re-produced in relevant portion.

29. **Payments to non-residents**

Section 152(1B), and insertion of sub-section (4B)

Non-resident contractor's receipts is presently taxed at specified rates and that was final tax except where such contractor opt out of final tax regime which the proposed amendment intend to place under minimum tax regime, thus tax withholding so made on contract payments will be tax chargeable however that non-resident contractor will be required to furnish tax return and computation of income along-with financial statements in order to justify income and chargeable tax thereon.

Insertion of section 4(B) in section 152 of the Ordinance, 2001 as proposed is reproduced here- under:-

"(4B) The Commissioner may, in case of payment that constitutes part of an overall arrangement of a cohesive business operation as referred to in paragraph (ii) of sub-clause (g) of clause (41) of section 2, on application made by the person making payment and after making such inquiry, as the Commissioner thinks fit, allow by order in writing, the person to make payment after deduction of tax equal to thirty percent of the tax chargeable on such payment under sub-section (2)"

30. **Final tax in respect of supplies and execution of contracts has been withdrawn and tax deducted under this section shall be treated as minimum tax.**

Section 153 (3)

Hitherto tax deducted on supplies and on execution of services has been deemed as final tax which the Bill now seeks to treat the same as minimum tax instead. Accordingly henceforth those persons receiving income under these heads will be required to offer their net income to tax at normal rates and in case the tax liability is greater than the tax deducted the difference has to be paid whereas in case the tax liability is less than the tax deducted then the tax deducted will be treated as minimum tax.

The proposal is not only result in exposure to increased tax liability but they will also be exposed to follow the audit proceeding of the tax officials if selected for audit.

31. **Minimum tax at lower rate @ 2% for taxpayer rendering services covered under clause (94) of Part IV of Second Schedule withdrawn**

Section 153 (3) (b), (4A) & Clause (94) of Part IV of Second Schedule

Certain sectors providing services working with lower rates of profits were given option of minimum tax @ 2% under clause (94) of Part IV of Second Schedule read with section 153 (3) (b) provided they fulfill the condition prescribed for this purpose. Provision with respect to applicability of this lower minimum tax rates are proposed to be omitted thus they will no more be able to have this benefit.

However amendments in the first schedule have been made in the whereby the tax withholding rate of 4% will apply in this case The aforesaid clause (94) is being omitted and the tax rate for services therein having reduced rate of 2% of turnover, is being increased to 4% of the gross amount of turnover.

Further the present rate of 2% for transport services is also proposed to be increased to 4%.

32. **Withholding tax on royalty to a resident person:**

Section 153B

The Bill seeks to enlarge the scope of tax withholding by adding applicability to tax on payment of royalty to a resident person. Hitherto withholding tax on payment of royalty was applicable to a nonresident person only. Accordingly a withholding tax at the rate of 15% of the gross amount of royalty to be deducted from resident persons is required to be deducted by payers.

Withholding tax on royalty to a resident person: At present withholding tax is deducted on any payment of royalty to a nonresident person. However, there is no such withholding tax in case of payment of royalty to a resident person. Therefore a withholding tax at the rate of 15% of the gross amount of royalty to be deducted from resident persons is being introduced.

The newly inserted section reads as under:

“153B. Payment of royalty to resident persons.—

- (1) Every person paying an amount of royalty, in full or in part including by way of advance, to a resident person shall deduct tax from the gross amount payable (including Federal excise duty and provincial sales tax, if any) at the rate specified in Division IIIB of Part III of the First Schedule.
- (2) The tax deductible under sub-section (1) shall be adjustable.”

33. **Amendments in the Order passed under Section 161 (1) on failure to pay tax collected or deducted.**

Section 161 (3)

The present legal provision provides that upon failure to withhold tax or failure to pay the tax collected or deducted, the same is recoverable from the withholding agent through a recovery order. Such order to recover tax is at times contains errors and there is no provision in law to amend such order. Therefore a provision to amend order of recovery has been introduced subject to the condition that such power shall not be exercised by an officer below the rank of Additional Commissioner Inland Revenue.

The newly inserted sub-section reads as under:

- “(3) The Commissioner may, after making, or causing to be made, such enquiries as he deems necessary, amend or further amend an order of recovery under sub-section (1), if he considers that the order is erroneous in so far it is prejudicial to the interest of revenue: Provided that the order of recovery shall not be amended, unless the person referred to in sub-section (1) has been provided an opportunity of being heard.

34. **Furnishing of information by Banks**

Section 165A

Presently the banks are required to furnish information of filers and non-filers to the Board in the prescribed format.

The Bill proposes to make two amendments in this section first being removal of differentiation of filer and non-filer and second for elimination of limit of profit on debt from one million to zero in the case of filer and maintain the limit of rupees five hundred thousand in the case of non-filers.

35. **Consequential amendments in Section 168 (3) for payment of taxes under final tax regime**
Section 168 (3)

Consequential amendments have been made in section 168 (3) for admissibility of tax paid in the case of payment of taxes where concept of final tax has been converted to minimum tax.

36. **Adjustability of Final tax collection or deduction in the hands of non-filer**
Section 169 (4)

Presently where the tax collected or deducted is final tax under any provision of the Ordinance and separate rates for filer and non-filer have been prescribed for the said tax, the final tax shall be the tax rate for filer and the excess tax deducted or collected on account of higher rate of non-filer shall be adjustable in the return filed for the relevant tax year

The Bill seeks to restrict the adjustability of this excess tax in the hands of those who are not on active taxpayers list only in case the return is filed before finalization of assessment as proposed to be provided in the newly enacted Tenth Schedule.

The substituted sub-section reads as under:

“(4) Where the tax collected or deducted is final tax under any provision of this Ordinance and hundred percent higher tax rate has been prescribed for the said tax under the Tenth Schedule, the final tax shall be the tax rate prescribed in the First Schedule and the excess tax collected under the Tenth Schedule specified for persons not appearing in the active taxpayers’ list shall be adjustable in case the return is filed before finalization of assessment as provided in rule 4 of the Tenth Schedule.”

37. **Refund through income tax refund bonds**
Section 171A

Excess tax paid by taxpayer stands refundable and the same stands stuck up resulting in creating liquidity crisis for businesses. Thus huge refunds have accumulated in this period of time. In order to cope this situation concept of issuance of bonds has been introduced whereby promissory notes would be issued to claimants at their option through FBR Refund Settlement Company. Consequently the Bill seeks to introduce new provision for issuance of bonds against the income tax refunds. The provision reads as under:

“171A. **Payment of refund through income tax refund bonds.—**

- (1) Notwithstanding anything contained in sections 170 and 171, the income tax refunds payable under this Ordinance may also be paid through income tax refund bonds to be issued by FBR Refund Settlement Company Limited, in book-entry form through an establishment licensed by the Securities and Exchange Commission of Pakistan as a central depository under the Securities Act, 2015 (III of 2015), in lieu of payment to be made through issuance of cheques or bank debit advice.

- (2) The Board shall issue a promissory note to FBR Refund Settlement Company Limited, hereinafter referred to as the company, incorporating the details of refund claimants and the amount of refund determined as payable to each for issuance of income tax refund bonds, hereinafter referred to as the bonds, of the same amount.
- (3) The bonds shall be issued in values in multiples of one hundred thousand rupees.
- (4) The bonds so issued shall have a maturity period of three years and shall bear annual simple profit at ten percent.
- (5) The bonds shall be traded freely in the country's secondary markets.
- (6) The bonds shall be approved security for calculating the statutory liquidity reserve.
- (7) The bonds shall be accepted by the banks as collateral.
- (8) There shall be no compulsory deduction of Zakat against the bonds and Sahib-e-Nisab may pay Zakat voluntarily according to Shariah.
- (9) After period of maturity, the company shall return the promissory note to the Board and the Board shall make the payment of amount due under the bonds, along with profit due, to the bond holders.
- (10) The bonds shall be redeemable in the manner as in subsection (9) before maturity only at the option of the Board along with simple profit payable at the time of redemption in the light of general or specific policy to be formulated by the Board.
- (11) The refund under sub-section (1) shall be paid in the aforesaid manner to the claimants who opt for payment in such manner.
- (12) The Federal Government may notify procedure to regulate the issuance, redemption and other matters relating to the bonds, as may be required.

The enactment of this provision will of course provide some relief for the stuck up refunds as has been in the case of sales tax and it is likely that the taxpayer will opt to avail at-least this opportunity of having some other assets instead of income tax refund.

38. **Powers of raid in addition to Power to enter and search premises**
Section 175 (6A)

The Bill seeks to empower the income tax Commissioner, subject to the condition as may be prescribed, to carry out raid in any premises where there is reliable information of undeclared gold, bearer security or foreign currency and confiscate the same in order to enforce any provision of this Ordinance.

This amendment, in our view, should in return be also made punitive in case of false and fake raids searches made with the malafide intentions of the concerned officials.

39. **Issuance of audit report and amendment in assessment order**

Section 177 sub-sections (6) & (6A)

The provision of tax audit are being proposed to be substituted in a manner whereby the audit reports are to be prepared based on the audit of taxpayers conducted under section 177 and on the basis of which the order may be amended under section 122. The text of the sub-section are presented for quick reference.

“(6) After completion of the audit, the Commissioner shall, after obtaining taxpayer’s explanation on all the issues raised in the audit, issue an audit report containing audit observations and findings.”; and

“(6A) After issuing the audit report, the Commissioner may, if considered necessary, amend the assessment under sub-section (1) or sub-section (4) of section 122, as the case may be, after providing an opportunity of being heard to the taxpayer under sub-section (9) of section 122.”

Present practice of the field formation is conclude the audit after obtaining explanations through show cause notice seems to be discontinued with the above changes and may likely to restrict amendments made on cursory views of the information available and will in turn the commencement of meaningful audit exercise. Moreover concept of under by the field formation needs to be widened as presently audit is carried based on the available information and records instead of third part verifications as generally done by the Auditors which is the need of the time and is stressed to be introduced in section 177

40. **Business license scheme in order to attract and increase number of taxpayers**

Section 181D

The Bill seeks to empower the Board to make a business license scheme for person engaged in any business, profession or vocation who shall be required to obtain and display a business license as prescribed by the Board.

It is likely that schemes for collection of taxes from shopkeepers in various areas including in various markets may be introduced through issuance of business license schemes and as a result of which number of taxpayers could be increased with the passage of time which will increase the number of tax payers.

41. **Increase in the quantum of penalties.**

Section 182

41.1 Section 182 deals with the offences and penalties and contains a long list of committing various offences. The details where the penalty has been increased is tabulated below.

- 41.2 The Bill proposes to increase the quantum of penalties in the following cases by rupees twenty thousand.
- Where any person fails to furnish a return of income as required under section 114 within the due date.
 - Where a taxpayer who, without any reasonable cause, in non-compliance with provisions of section 177 (a) fails to produce the record of documents on receipt of first notice.
 - Any person who fails to furnish the information required or to comply with any other term of the notice served under section 176 or 108
 - Any person who— (a) makes a false or misleading statement to an Inland Revenue Authority either in writing or orally or electronically including a statement in an application, certificate, declaration, notification, return, objection or other document including books of accounts made, prepared, given, filed or furnished under this Ordinance.
 - Any person who denies or obstructs the access of the Commissioner or any officer authorized by the Commissioner to the premises, place, accounts, documents, computers or stocks.
 - Where a person has concealed income or furnished inaccurate particulars of such income, including but not limited to the suppression of any income or amount chargeable to tax, the claiming of any deduction for any expenditure not actually incurred or any act referred to in sub-section (1) of section 111, in the course of any proceeding under this Ordinance before any Income Tax authority.
 - Any person who obstructs any Income Tax Authority in the performance of his official duties.
 - Any person who fails to collect or deduct tax as required under any provision of this Ordinance or fails to pay the tax collected or deducted as required under section 160.
 - Any reporting financial institution or reporting entity who fails to furnish information or country-by- country report to the Board as required under section 107, 108 or 165B within the due date.
- 41.3 The Bill further proposes to specify minimum penalty at five thousand rupees in case if seventy-five percent of the income is from salary and the amount of income under salary is less than five million rupees,.
- 41.4 The Bill also proposes to increase the penalty in the case of those person who fails to furnish wealth statement or wealth reconciliation statement under section 114, 115 or 116 from “0.1% of the taxable income per week or Rs.20,000 whichever is higher” to “0.1% of the taxable income per week or Rs. 100,000 whichever is higher.

- 41.5 The Bill also proposes to increase the penalty in the case of those persons who is required to apply for registration under this Ordinance but fails to make an application for registration from rupees five thousand to rupees ten thousand.
- 41.6 The Bill proposes to increase the penalty under section 137 where any person who repeats erroneous calculation in the return for more than one year whereby amount of tax less than the actual tax payable under this Ordinance is paid from "five thousand rupees or three per cent of the amount of the tax involved, whichever is higher" to "thirty thousand rupees or three per cent of the amount of the tax involved, whichever is higher"
- 41.7 The Bill proposes to increase the penalty under section 175 or 177 where any person who denies or obstructs the access of the Commissioner or any officer authorized by the Commissioner to the premises, place, accounts, documents, computers or stocks from "twenty five thousand rupees or one hundred per cent of the amount of tax involved, whichever, is higher" to "fifty thousand rupees or one hundred per cent of the amount of tax involved, whichever, is higher".
- 41.8 The Bill proposes to increase the penalty under section 20 or 111 or any other section where a person has concealed income or furnished inaccurate particulars of such income, including but not limited to the suppression of any income or amount chargeable to tax, the claiming of any deduction for any expenditure not actually incurred or any act referred to in sub-section (1) of section 111, in the course of any proceeding under this Ordinance before any Income Tax authority or the appellate tribunal from " twenty five thousand rupees or an amount equal to the tax which the person sought to evade whichever is higher" to "one-hundred thousand rupees or an amount equal to the tax which the person sought to evade whichever is higher".
- 41.9 The Bill proposes to increase the penalty in case any person who fails to collect or deduct tax as required under any provision of this Ordinance or fails to pay the tax collected or deducted as required under section 160 from " twenty five thousand rupees or the 10% of the amount of tax whichever is higher." to "forty thousand rupees or the 10% of the amount of tax whichever is higher.".
- 41.10 The Bill proposes to enlarge the scope of penalties by enacting the following additional penalties for the offences mentioned below:

21	Any person who purchases immovable property having fair market value greater than rupees five million through cash or bearer cheque.	Such person shall pay a penalty of five percent of the value of property determined by the Board under subsection (4) of section 68 or by the provincial authority for the purposes of stamp duty, Whichever is higher.	75A
22	Where an offshore tax evader is involved in offshore tax evasion in the course of any proceedings under this Ordinance before any Income Tax authority or the appellate tribunal.	Such person shall pay a penalty of one hundred thousand rupees or an amount equal to two hundred per cent of the tax which the person sought to evade, whichever is higher.	General
23	Where in the course of any transaction or declaration made by a person an enabler has enabled, guided, advised or managed any person to design, arrange or manage that transaction or declaration in such a manner which has resulted or may result in offshore tax evasion in the course of any proceedings under this Ordinance.	Such person shall pay a penalty of three hundred thousand rupees or an amount equal to two hundred per cent of the tax which was sought to be evaded, whichever is higher.	General
24	Any person who is involved in asset move as defined in clause (5C) of section 2 of the Ordinance from a specified territory to an un-specified territory.	Such person shall pay a penalty of one hundred thousand rupees or an amount equal to one hundred per cent of the tax whichever is higher.	General
25	Where a Reporting Financial Institution fails to comply with any provisions of section 165B of the Ordinance or Common Reporting Standard Rules in Chapter XIII A of Income Tax Rules, 2002.	Such Reporting Financial Institution shall pay a penalty of Rs.10, 000 for each default and additional Rs. 10,000 each month until the default is redressed.	
26	Where a Reporting Financial Institution files an incomplete or inaccurate report under provisions of section 165B of the Ordinance and Common Reporting Standard Rules in Chapter XIII A of Income Tax Rules, 2002.	Such Reporting Financial Institution shall pay a penalty of Rs.10, 000 for each default and an additional Rs. 10,000 each month until the default is redressed.	
27	Where a Reporting Financial Institution fails to obtain valid self-certification for new accounts or furnishes false self-certification made by the Reportable Jurisdiction Person under Common Reporting Standard Rules in Chapter XIII A of Income Tax Rules, 2002.	Such Reporting Financial Institution shall pay a penalty of Rs. 10,000 for each default and an additional Rs.10,000 each month until the default is redressed.	
28	Where a Reportable Jurisdiction Person fails to furnish valid self-certification or furnishes false self-certification under Common Reporting Standard Rules in Chapter XIII A of Income Tax Rules, 2002.	Such Reportable Jurisdiction Person shall pay a penalty of Rs. 5,000 for each default and an additional Rs. 5,000 each month until the default is redressed.”	

42. **Inclusion of name in Active Taxpayer List for cases where Return is not filed within due date.**

Section 182A.

42.1 Vide Finance act 2018 new provision were enacted whereby a person who 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, was —

- (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.

The Bill proposes to provide an opportunity of restoring the name in the active taxpayers list provided that without prejudice to any other liability under this Ordinance, that person shall be included in the active taxpayers' list on filing return after the due date, if the person pays surcharge at rupees—

- (i) twenty thousand in case of a company;
- (ii) ten thousand in case of an association of persons;
- (iii) one thousand in case of an individual."

42.2 The Bill further provides following circumstances where the name of the taxpayer will not be included in the active taxpayer list namely:

- He will not be issued refund during the period the person is not included in the active taxpayers' list; and
- He will not be entitled to additional payment for delayed refund under section 171 and the period the person is not included in the active taxpayers' list, shall not be counted for computation of additional payment for delayed refund.

43. **Prosecution for non-compliance with certain statutory obligations. —**

Section 191

The Income Tax Ordinance 2001 provides various circumstances where the prosecution proceeding for non-compliance with statutory obligations are enlisted in section 191. The Bill seeks to include those who without reasonable cause fails to furnish particulars or complete or accurate particulars of persons mentioned in sub-section (1) of section 165 amongst that list as well.

44. **Enacting imprisonment or fine or both in respect of**

1. **Prosecution for concealment of an offshore asset**
Section 192B
2. **Prosecution for non-compliance with notice under section 116A.**
Section 195A
3. **Prosecution for enabling offshore tax evasion.**
Section 195B

The Bill seeks to enact prosecutor provision with respect to an offshore asset and provides that:

Under Section 192B “Any person who fails to declare an offshore asset to the Commissioner or furnishes inaccurate particulars of an offshore asset and revenue impact of such concealment or furnishing of inaccurate particulars is one hundred thousand rupees or more shall commit an offence punishable on conviction with imprisonment up to seven years or with a fine up to two hundred percent of the amount of tax evaded or both.”

Under Section 195A any person who, without reasonable excuse, fails to comply with a notice under sub-section (2) of section 116A; shall commit an offence punishable on conviction with imprisonment up to two years or with a fine up to a penalty of two percent of the offshore asset not declared or both.

Under Section 195B any enabler who enables, guides or advises any person to design, arrange or manage a transaction or declaration in such a manner which results in offshore tax evasion, shall commit an offence punishable on conviction with 129 imprisonment for a term not exceeding seven years or with a fine up to five million rupees or both.

45. **Removal of distinction of filer etc. for furnishing of returns, documents etc.**
Section 215

The Bill seek to amend the text of this section by removal of the word filer being persons or class of persons or the filer with the word person thus extending the scope irrespective of the scope to filer to any person.

46. **Disclosure of information by public servant.**
Section 216 (6A) & (6B)

This section deals with the manner of disclosure of information by the Board mentioned therein. The Bill seeks to provide for furnishing of information of offshore tax evaders and offshore tax enablers. The Bill seeks to empower the Board disclosure of information in the following cases as well.

- (6B) Nothing contained in sub-section (1) shall prevent the Board from publishing the names of offshore evaders, in the print and electronic media who have evaded offshore tax equal to or exceeding rupees two and half million.
- (6C) Nothing contained in sub-section (1) shall prevent the Board from publishing the names of offshore tax enablers, in the print and electronic media who have enabled offshore tax evasion.

47. **Proceeding against persons involving in criminal proceedings against officers and taxpayers who indulge in financial malpractices**

Section 216A

The Bill seeks to introduce a new section empowering the Board to formulate rules for initiating criminal proceedings in the manner quote hereunder:

- (1) Subject to section 227, the Board shall prescribe rules for initiating proceedings including criminal proceedings against any authority mentioned in section 207 and officer of the Directorates General mentioned in Part II and Part III of Chapter XI including any person subordinate to the aforesaid authorities or officers of the Directorates General who willfully and deliberately commits or omits an act which results in personal benefits and undue advantage to the authority or the person or taxpayer or both.
- (2) Where proceedings under sub-section (1) have been initiated against a person or authority, the Board shall simultaneously intimate the relevant Governmental agency to initiate criminal proceedings against the taxpayer.
- (3) The proceedings under this section shall be without prejudice to any liability that the authority, person or taxpayer may incur under any other law for the time being in force.

48. **Restriction on Purchase of Certain assets by Non-Filers Withdrawn**

Section 227C

Vide Finance act 2018, a bar was imposed on non-filer from purchase registration of locally manufactured motor vehicle or imported vehicle and transfer of immovable property.

The Bill seeks to omit these provisions and henceforth they will be entitled to purchase them. However they will be liable to pay higher rates of taxation as applicable to non-filers.

49. **Automated Impersonal Tax Regime to minimize personal interaction between taxpayers and officers**

Section 227D

The Bill seeks to empower the Board to introduce new section empowering the Board to design alternate regime for removal of personal interaction of taxpayers and tax personnel. The text of new section reads as under:

227D. Automated impersonal tax regime.—

- (1) The Board may design an alternate impersonal taxation regime whereby personal interaction will be minimized.
- (2) The Board may, by notification in the official Gazette, prescribe the procedure in this behalf.
- (3) This section shall be applicable only for low risk and compliant taxpayers as may be prescribed.

50. **Directorate General of Immovable Property**
Section 230F.

Vide Finance Act 2018, a new authority to administer the acquisition of immovable properties declared to be acquired at less than market were enacted whereas the applicability date was linked with the date to be announced by the Federal Government for this purpose. The Bill seeks to delete the provisions with respect to such announcement since the Bill seeks to bring the applicability date from commencement of new financial year.

51. **Establishment of Directorates General of Special Initiative and Valuation**
Sections 230G & 230H

The Bill proposes to insert to two income tax authorities as captioned above. The provisions proposed to be inserted read as under:

230G. Directorate General of Special Initiative.—

- (1) The Directorate General of Special Initiative shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, 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, jurisdiction and powers of the Directorate General of Special Initiative and its officers; and
 - (b) confer the powers of authorities specified in section 207 upon the Directorate General and its officers.

230H. Directorate General of Valuation.—

- (1) The Directorate General of Valuation shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, 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, jurisdiction and powers of the Directorate General of Valuation and its officers; and
 - (b) confer the powers of authorities specified in section 207 upon the Directorate General and its officers.

52. **Income from Brokerage and commission and CNG Stations**

Section 233 & 234A

Hitherto-fore the income from above sources have been subject to final taxation and the tax deducted from the amount of the income is being treated as final tax.

The Bill seeks to exclude this source of income from final tax regime and it proposes that tax deducted from these payments shall be treated as minimum tax. Thus henceforth those persons receiving income under these heads will be required to offer their net income to tax at normal rates and in case the tax liability is greater than the tax deducted the difference has to be paid whereas in case the tax liability is less than the tax deducted then the tax deducted will be treated as minimum tax.

The proposal is not only result in exposure to increased tax liability but they will also be exposed to follow the audit proceeding of the tax officials if selected for audit.

53. **Advance Tax on sale or transfer of immovable Property**

Section 236C

Presently the law do not provide for tax collection on sale or transfer of immovable property if the holding period exceeds three years.

The Bill seeks to enhance the holding period for the seller from three to five years in respect of withholding tax of sale of property.

54. **Tax on purchase or transfer of immovable property**

Section 236W

In order to coop with the issue of valuation of properties, tax under section 236W was being collected from those purchasers of immovable properties whose value has been lesser than FBR prescribed values and the tax was being collected under that section @3% of the differential value while the tax was not adjustable against any liability and there against, the purchasers were exempted from the issue of valuation of properties.

In line with the measured for adoption of market values in these cases the Government formed a directorate for acquiring properties at lower rates than the market rate. The government intends to bring the applicability date with the commencement of new financial year hence this provision is being proposed to be omitted and thus the purchasers of immovable properties will now be exposed to application of these provisions if the authorities that the value of property is less than certain percentage of market value.

Important changes proposed by the Finance Bill 2019 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 and Association of Persons (AOPs)

It is really unfortunate that tax rate schedule is being changed every year to create difficulty for an individual particularly the salaried persons and small businessmen for the computation and anticipation of their tax liability. Rather in the tax year 2019, these rates were changed quite a number of times. At first instance the tax rates and slabs were drastically reduced particularly for the lower income group and then again revised and almost brought to the same level of tax liability of these taxpayers as was in the past, rather the tax rate has been increased to 35% in their case. Such frequent revision in itself tells the story of our taxation system and financial and political status of the country as a whole. Anyway, the tax rate schedules now applicable for the tax year 2020, commencing from July 01, 2019, for individuals and AOPs are given below:

Tax rate table for tax year 2020 for non-salaried individuals and AOPs

S. No	Taxable Income	Rate of Tax
1.	Where taxable income does not exceed Rs. 400,000	0%
2.	Where taxable income exceeds Rs. 400,000 but does not exceed Rs. 600,000	5% of the amount exceeding Rs. 400,000
3.	Where taxable income exceeds Rs. 600,000 but does not exceed Rs. 1,200,000	Rs. 10,000 plus 10% of the amount exceeding Rs. 600,000
4.	Where taxable income exceeds Rs. 1,200,000 but does not exceed Rs. 2,400,000	Rs. 70,000 plus 15% of the amount exceeding Rs. 1,200,000
5.	Where taxable income exceeds Rs. 2,400,000 but does not exceed Rs. 3,000,000	Rs. 250,000 plus 20% of the amount exceeding Rs. 2,400,000
6.	Where taxable income exceeds Rs. 3,000,000 but does not exceed Rs. 4,000,000	Rs. 370,000 plus 25% of the amount exceeding Rs. 3,000,000
7.	Where taxable income exceeds Rs. 4,000,000 but does not exceed Rs. 6,000,000	Rs. 620,000 plus 30% of the amount exceeding Rs. 4,000,000
8.	Where taxable income exceeds Rs. 6,000,000	Rs. 1,220,000 plus 35% of the amount exceeding Rs. 6,000,000

Tax rate table for tax year 2020 for salaried persons

(including those individuals whose salaries constitute more than 75% of their taxable income, as against more than 50% per the existing law)

S. No	Taxable Income	Rate of Tax
1.	Where taxable income does not exceed Rs. 600,000	0%
2.	Where taxable income exceeds Rs. 600,000 but does not exceed Rs. 1,200,000	5% of the amount exceeding Rs. 600,000
3.	Where taxable income exceeds Rs. 1,200,000 but does not exceed Rs. 1,800,000	Rs. 30,000 plus 10% of the amount exceeding Rs. 1,200,000
4.	Where taxable income exceeds Rs. 1,800,000 but does not exceed Rs. 2,500,000	Rs. 90,000 plus 15% of the amount exceeding Rs. 1,800,000
5.	Where taxable income exceeds Rs. 2,500,000 but does not exceed Rs. 3,500,000	Rs. 195,000 plus 17.5% of the amount exceeding Rs. 2,500,000
6.	Where taxable income exceeds Rs. 3,500,000 but does not exceed Rs. 5,000,000	Rs. 370,000 plus 20% of the amount exceeding Rs. 3,500,000
7.	Where taxable income exceeds Rs. 5,000,000 but does not exceed Rs. 8,000,000	Rs. 670,000 plus 22.5% of the amount exceeding Rs. 5,000,000
8.	Where taxable income exceeds Rs. 8,000,000 but does not exceed Rs. 12,000,000	Rs. 1,345,000 plus 25% of the amount exceeding Rs. 8,000,000
9.	Where taxable income exceeds Rs. 12,000,000 but does not exceed Rs.30,000,000	Rs. 2,345,000 plus 27.5% of the amount exceeding Rs.12,000,000
10.	Where taxable income exceeds Rs. 30,000,000 but does not exceed Rs.50,000,000	Rs. 7,295,000 plus 30% of the amount exceeding Rs. 30,000,000
11.	Where taxable income exceeds Rs. 50,000,000 but does not exceed Rs.75,000,000	Rs. 13,295,000 plus 32.5% of the amount exceeding Rs.50,000,000
12.	Where taxable income exceeds Rs.75,000,000	Rs. 21,420,000 plus 35% of the amount exceeding Rs. 75,000,000";

The previous tax rate tables for individuals and AOPs for the tax year 2019 are also given below for quick reference and comparison purposes:

Tax rate table for tax year 2019 for individuals both salaried and non-salaried

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. 24,000 + 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

It can be seen from the following table that tax liability has been substantially increased over the last year in all the cases of individuals and AOPs, particularly for those having annual taxable salary / income over Rs. 1.2 million:

Taxable income	Tax liability in Rupees						Increase in tax liability - Rs.		
	Proposed for tax year 2020			Tax liability for tax year 2019					
	Individuals		AOP	Individuals		AOP	Individuals		AOP
	Salaried	Non-salaried		Salaried	Non-salaried		Salaried	Non-salaried	AOP
400,000	-	-	-	-	-	-	-	-	-
600,000	-	10,000	10,000	1,000	1,000	10,000	(1,000)	9,000	-
800,000	10,000	30,000	30,000	1,000	1,000	20,000	9,000	29,000	10,000
1,200,000	30,000	70,000	70,000	2,000	2,000	40,000	28,000	68,000	30,000
2,400,000	180,000	250,000	250,000	60,000	60,000	160,000	120,000	190,000	90,000
3,600,000	390,000	520,000	520,000	180,000	180,000	340,000	210,000	340,000	180,000
4,800,000	630,000	860,000	860,000	300,000	300,000	580,000	330,000	560,000	280,000
6,000,000	895,000	1,220,000	1,220,000	480,000	480,000	880,000	415,000	740,000	340,000
8,000,000	1,345,000	1,920,000	1,920,000	780,000	780,000	1,480,000	565,000	1,140,000	440,000
10,000,000	1,845,000	2,620,000	2,620,000	1,080,000	1,080,000	2,080,000	765,000	1,540,000	540,000
12,000,000	2,345,000	3,320,000	3,320,000	1,380,000	1,380,000	2,680,000	965,000	1,940,000	640,000
48,000,000	12,695,000	15,920,000	15,920,000	6,780,000	6,780,000	13,480,000	5,915,000	9,140,000	2,440,000
60,000,000	16,545,000	20,120,000	20,120,000	8,580,000	8,580,000	17,080,000	7,965,000	11,540,000	3,040,000
80,000,000	23,170,000	27,120,000	27,120,000	11,580,000	11,580,000	23,080,000	11,590,000	15,540,000	4,040,000

Note: The tax computation in the above table has been made without taking into account any tax credit, rebate, if any, applicable to these assesseees / persons.

**Division – II:
Rates of Tax for companies**

There is a proposal for freezing of tax rate at 29% for companies from tax year 2019 and onwards, which is better explained by the following comparative chart:

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

Division - III

Rate of dividend tax

There is also a proposal to revise the tax rate on dividend received by the persons as under:

1. 15% in case of dividends declared or distributed by the purchaser of a power project privatized by WAPDA or on shares of a company set up for power generation or on shares of a company, supplying coal exclusively to power generation projects. Currently the tax rate on such dividend is 7.5%.
2. 25% in case of a person receiving dividend from a company where no tax is payable by such company due to exemption of income or carry forward of business losses or claim of tax credits.
3. 15% in case other than mentioned above.
4. The existing provision of paragraph (c) & proviso regarding dividend from mutual fund, Development REIT scheme, etc. is proposed to be omitted.

Division – IIIA

Rate for profit on debt

The bill proposes to increase the rate of tax on profit on debt, which is apparent from the following table:

PROPOSED TABLE			EXISTING TABLE		
<u>S. No.</u>	<u>Profit on debt</u>	<u>Rate of tax</u>	<u>S. No.</u>	<u>Profit on debt</u>	<u>Rate of tax</u>
1	Where profit on debt does not exceed Rs.5,000,000	15%	1	Where profit on debt does not exceed Rs.5,000,000	10%
2	Where profit on debt exceeds Rs.5,000,000 but does not exceed Rs.25,000,000	17.50%	2	Where profit on debt exceeds Rs.5,000,000 but does not exceed Rs.25,000,000	12.5%
3	Where profit on debt exceeds Rs.25,000,000 but does not exceed Rs.36,000,000	20%	3	Where profit on debt exceeds Rs.25,000,000 but does not exceed Rs.36,000,000	15%

Division - VIA
Income from property

It is proposed in the finance bill to increase the slabs and rate of tax on property income, in case of individual and AOPs, without changing the existing schedule except for its serial no. 5, to read as under:

PROPOSED TABLE			
<u>S.No.</u>	<u>Gross amount of rent</u>	<u>Rate of tax</u>	
1	Where gross amount of rent does not exceed Rs.200,000	0%	Existing slabs and rates
2	Where gross amount of rent exceeds Rs. 200,000 but does not exceed Rs.600,000	5% of the gross amount exceeding Rs. 200,000	
3	Where gross amount of rent exceeds Rs. 600,000 but does not exceed Rs. 1,000,000	Rs. 20,000 plus 10% of the gross amount exceeding Rs. 600,000	
4	Where gross amount of rent exceeds Rs. 1,000,000 but does not exceed Rs. 2,000,000	Rs. 60,000 plus 15% of the gross amount exceeding Rs. 1,000,000	
5	Where gross amount of rent exceeds Rs. 2,000,000 but does not exceed Rs. 4,000,000	Rs. 210,000 plus 20% of the gross amount exceeding Rs. 2,000,000	Proposed slabs and rates
6	Where gross amount of rent exceeds Rs. 4,000,000 but does not exceed Rs. 6,000,000	Rs. 610,000 plus 25% of the gross amount exceeding Rs. 4,000,000	
7	Where gross amount of rent exceeds Rs. 6,000,000 but does not exceed Rs. 8,000,000	Rs. 1,110,000 plus 30% of the gross amount exceeding Rs. 6,000,000	
8	Where gross amount of rent exceeds Rs. 8,000,000	Rs. 1,710,000 plus 35% of the gross amount exceeding Rs. 8,000,000	

Division - VII

Rate of tax on capital gains on disposal of securities

The capital gains according to the holding period of securities, as defined in section 37A of the Income Tax Ordinance, 2001 have been revised to read as under:

S.No	Period of holding	Tax years					
		2015	2016	2017	2018, 2019 & 2020		
				Securities acquired before 01.07.2016		Securities acquired after 01.07.2016	
1	Where holding period of a security is less than twelve months	12.5%	15%	15%	15%	15%	
2	Where holding period of a security is twelve months or more but less than twenty-four months	10%	12.5%	12.5%	12.5%		
3	Where holding period of a security is twenty four months or more but the security was acquired on or after 1st July, 2013.	0%	7.5%	7.5%	7.5%		
4	Where the security was acquired before 1st July, 2013	0%	0%	0%	0%	0%	
5	Future commodity contracts entered into by the members of Pakistan Mercantile Exchange	0%	0%	5%	5%	5%	

The provision that the rate of tax on cash settled derivatives traded on stock exchange shall be 5% for the tax years 2018 to 2020, is now applicable only in case of a mutual fund or collective investment scheme or a REIT scheme.

Division - VIII

Rate of tax on capital gains on disposal of immovable property

This division has been proposed to be omitted as the capital gain to be computed in line with the provisions of newly inserted subsections (3A) and (3B) of section 37 of the Ordinance, which state that the capital gains would be brought to tax under normal tax regime at the normal tax rates.

Division - IX

Minimum tax under section 113

The bill proposes to increase the minimum tax rates as under:

Sr. No.	Person(s)	Proposed	Existing
		Minimum tax as percentage of the person's turnover for the year	Minimum tax as percentage of the person's turnover for the year
1	(a) Oil marketing companies, oil refineries, Sui southern Gas Company Limited and Sui Northern Gas Pipelines Limited (for	0.75%	0.50%
	(b) Pakistani Airlines; and		
	(c) Poultry industry including poultry breeding, broiler production, egg production and poultry feed production.		
	(d) Dealers or distributors of fertilizers; and		
	(e) Person running an online market place as defined in clause (38B) of section 2.		
2	(a) Distributors of pharmaceutical products, fast moving consumer goods and cigarettes	0.25%	0.20%
	(b) Petroleum agents and distributors who are registered under the Sales Tax Act, 1990;		
	(c) Rice mills and dealers; and		
	(d) Flour mills		
3	Motorcycle dealers registered under the Sales Tax Act, 1990	0.30%	0.25%
4	In all other cases	1.50%	1.25%

PART – II

Rates of Advance Tax

The table of rates of tax to be collected by the Collector of Customs under section 148 has been revised to the extent only to eliminate the separate rates for non-filer and is reproduced below for early reference:

S. No.	Persons	Rate
1	(i) Industrial undertaking importing re-meltable steel (PCT Heading 72.04) and directly reduced iron for its own use; (ii) Persons importing potassic fertilizers in pursuance of Economic Coordination Committee of the cabinet's decision No.ECC-155/12/2004 dated the 9th December, 2004; (iii) Persons importing urea; (iv) Manufacturers covered under Notification No. S.R.O. 1125(I)/2011 dated the 31st December, 2011 and importing items covered under S.R.O. 1125(I)/2011 dated the 31st December, 2011; (v) Persons importing Gold; (vi) Persons importing Cotton; and (vii) Persons importing LNG]	1% of the import value as increased by customs-duty, sales tax and federal excise duty
2	Persons importing pulses	2% of the import value as increased by customs-duty, sales tax and federal excise duty
3	Commercial importers covered under Notification No. S.R.O. 1125(I)/2011 dated the 31 st December, 2011 and importing items covered under S.R.O. 1125(I)/2011 dated the 31 st December, 2011.	3% of the import value as increased by customs-duty, sales tax and federal excise duty
4	Persons importing coal	4%
5	Persons importing finished pharmaceutical products that are not manufactured otherwise in Pakistan, as certified by the Drug Regulatory Authority of Pakistan	4%
6	Ship breakers on import of Ships	4.5%
7	Industrial undertakings not covered under S. Nos. 1 to 6	5.5%
8	Companies not covered under S. Nos. 1 to 7	5.5%
9	Persons not covered under S. Nos. 1 to 8	6%

PART – III**Division – I****Advance tax on Dividend**

The proposed change in this part is to equalize the advance tax rate with the rate of tax on dividend as discussed in Division – III of Part – I of this schedule, i.e. 15% on dividend from power generation companies as well as other companies, without any discrimination between filers and non-filers as is enacted in the existing provisions.

Division – IA**Profit on debt**

The advance tax rate has also been revised in line with the tax rate on profit on debt i.e. 15% as against 10% currently being applied. However, the tax rate would be 10% in case yield or profit paid is Rs. 500,000 or less.

Division – II**Payments to non-resident**

The bill proposes to omit the separate / additional rates of deduction of tax at source (advance tax) for non-filers' non-residents. Now, the same rates as applicable to filers would be applied, whereas the non-filers will be dealt with according to the new provisions in case of non-filers, already discussed in the foregoing paragraphs and as per Tenth Schedule, being reproduced at the end of these comments.

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

The separate withholding tax rates for non-filers have been deleted, wherever provided in this division / schedule, while the following substitutions have been proposed for sub-clause (i) and (ii) of Clause – 2 of this division, reproduced below:

- (i) 4% of the gross amount payable, in the cases of transport services, freight forwarding services, air cargo services, courier services, manpower outsourcing services, hotel services, security guard services, software development services, IT services and IT enabled services as defined in clause (133) of Part I of the Second Schedule, tracking services, advertising services (other than by print or electronic media), share registrar services, engineering services, car rental services, building maintenance services, services rendered by Pakistan Stock Exchange Limited and Pakistan Mercantile Exchange Limited inspection, certification, testing and training services;
- (ii) in case of rendering of or providing of services other than sub-clause (i),—
 - (a) in case of a company, 8% of the gross amount payable;
 - (b) in any other case, 10% of the gross amount payable; and
 - (c) in respect of persons making payments to electronic and print media for advertising services, 1.5% of the gross amount payable

Division – IIIB**Royalty paid to resident persons**

The rate of tax to be deducted under section 153B shall be 15% of the gross amount payable.

Division – V
Income from property

The only change proposed in this division is just to equalize the withholding tax rate viz.a.viz. tax rates applicable to income / rent from property, as tabulated in Division – VIA of Part – I of this schedule.

PART – IV
Division – II
Brokerage and commission

The only change proposed in this division is to delete the withholding tax rates separately given for the non-filers.

Division – III
Tax on motor vehicles

The only change proposed in this division is to delete the withholding tax rates separately given for the non-filers.

Division –
VI & Cash withdrawal from a bank
VIA Advance tax on transactions in bank

The only change proposed in these divisions to replace the word “non-filer” with “the person whose name is not appearing in the active taxpayers list”.

Division – VII
Advance tax on purchase, registration and transfer of motor vehicles

The only change proposed in this division is to omit / withdraw the withholding tax rates separately given for the non-filers.

Division – XVII
Advance tax on dealers, commission agents and Arhatis, etc.

The rates of advance tax under section 236J have been substantially revised upward, which can be viewed from the following table:

Group or Class	Proposed	Existing
	Amount of tax (per annum)	Amount of tax (per annum)
 Rupees	
Group or Class A	100,000	10,000
Group or Class B	75,000	7,500
Group or Class C	50,000	5,000
Any other category	50,000	5,000

The changes as proposed in the finance bill in other divisions and parts of this schedule are mostly related to the omission of non-filer rates as well as to replace the word “non-filer” with “the person whose name is not appearing in the active taxpayers list”, hence not being discussed here.

Amendments in The Second Schedule

PART - I
EXEMPTION FROM TOTAL INCOME

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

Clause 39A The following allowances of the armed forces personnel have also been proposed for exemption:

- Internal security allowance
- Compensation in lieu of bearer allowance.

Clause 61 *New sub-clauses added*

- (lv) Layton Rahmatullah Benevolent Trust (LRBT)
- (lvi) Akhuwat

Clause 66 *New sub-clauses added*

- (lxvi) Akhuwat
- (lxvii) Audit Oversight Board

Clause 99A A proviso in this clause has been added to read as under:

“Provided further that the profit and gains on sale of immovable property to a rental REIT scheme shall be exempt up to the 30th day of June, 2021.”

Clause 114B *Newly inserted*

Profit and gains accruing to persons mentioned in proviso to sub-section (1) of section 236C 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 services rendered by the Shaheed or the person who dies in service.

Clause 146 *Newly inserted*

Any income which was not chargeable to tax prior to the commencement of the Constitution (Twenty-fifth Amendment) Act, 2018 (XXXVII of 2018) of any individual domiciled or company and association of persons resident in the Tribal Areas forming part of the Provinces of Khyber Pakhtunkhwa and Balochistan under paragraph (d) of Article 246 of the Constitution with effect from the 1st day of June, 2018 to the 30th day of June, 2023 (both days inclusive);

PART – III
REDUCTION IN TAX LIABILITY

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

Clause 2 *Partly amended*

The main change made in this clause is to scale down the reduction in tax liability of a full time teacher / researcher in specified educational or research institutions duly recognized by the Higher Education Commission (HEC) from 40% to 25%. In addition to this a proviso is inserted in this clause to read as under:

“Provided that this clause shall not apply to teachers of medical profession who derive income from private medical practice or who receive share of consideration received from patients.”

Clause 9A After clause (9), the new clause shall be added to read as under

The amount of tax payable on income chargeable under the head, "Capital Gains" on disposal of immovable property shall be reduced by fifty percent on the first sale of immovable property acquired or allotted to ex-servicemen and serving personnel of Armed Forces or ex-employees or serving personnel of Federal and Provincial Governments, being original allottees of the immovable property, duly certified by the allotment authority.

PART – IV
EXEMPTION FROM SPECIFIC PROVISIONS

The major change in this Part is the insertion of the following clause:

Clause 110 The provisions of sections in Division III of Part V of Chapter X and Chapter XII of this Ordinance for deduction or collection of withholding tax which were not applicable prior to commencement of the Constitution (Twenty-fifth Amendment) Act, 2018 (XXXVII of 2018) shall not apply to individual domiciled or company and association of persons resident in the Tribal Areas forming part of the Provinces of Khyber Pakhtunkhwa and Balochistan under paragraph (d) of Article 246 of the Constitution with effect from the 1st day of June, 2018 to the 30th day of June, 2023 (both days inclusive).

Clause 43E *This clause will be read as under after proposed amendment*

The provisions of clause (a) of sub section (1) of section 153 shall not apply in case of goods transport contractors, provided that such contractors pay tax @ 3% on payments for rendering or providing of carriage services.

As per the existing law the rate for payment of tax by these contractors is 2.5% on payments for rendering or providing of carriage services.

The following clauses have been omitted by the finance bill 2019:

Clauses – 81 The provisions of clause (a) of section 165, shall not apply to any manufacturer, distributor, dealer and wholesaler required to collect advance tax under sub section (1) of section 236H.

Clause - 94 The provisions of clause (b) of the proviso to sub-section (3) of section 153 shall not apply for the period beginning on the first day of July, 2015 and ending on the thirtieth day of June 2018 to a company being a filer and engaged in providing or rendering freight forwarding services, air cargo services, courier services, manpower outsourcing services, hotel services, security guard services, software development services, IT services and IT enabled services as defined in clause (133) of Part I of this Schedule tracking services, advertising services (other than by print or electronic media), share registrar services, engineering services, car rental services, building maintenance services, services rendered by Pakistan Stock Exchange Limited and Pakistan Mercantile Exchange Limited:

Provided that the tax payable or paid on the income from providing or rendering aforesaid services shall not be less than two percent of the gross amount of turnover from all sources and that the company furnishes in writing an irrevocable undertaking by the fifteenth day of November, 2015 to present its accounts to the Commissioner within thirty days of filing of return, for audit of its income tax affairs for any of the tax years 2016 to 2018.

Provided further that for tax year 2018, the company shall furnish irrevocable undertaking by November, 2017, to present its accounts to the Commissioner.

Clause – 105 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 Third Schedule PART – II

The bill proposes the withdrawal of initial depreciation allowance on buildings @ 15%.

Amendments in the Fourth Schedule

The bill seeks to insert the following rule:

Rule - 6E Notwithstanding anything contained in this Schedule, the Commissioner shall be authorized to examine and amend the amount of income as disclosed in the financial statement presented to the Securities and Exchange Commission of Pakistan with respect to commission paid and claimed for losses.

Amendments in the Seventh Schedule

Rule – 1(c) The following explanation has been inserted in the Finance Bill 2019:

“Explanation.— For removal of doubt, it is clarified that:

- (i) provision for advances and off balance sheet items allowed under this clause, at the rate of 1 percent or 5 percent, as the case may be, shall be exclusive of reversals of such provisions;
- (ii) reversal of “bad debts” classified as “doubtful” or “ loss” are taxable as the respective provisions have been allowed under this clause; and
- (iii) with effect from tax year 2020 and onward; reversal of “bad debts” classified as “ loss” are taxable as the respective provisions have been allowed under this clause.”

Similarly another explanation has been proposed to be inserted after clause (h) of Rule – 1 to read as under:

“Explanation.— For removal of doubt, it is clarified that nothing contained in this Schedule shall be so construed as to restrict power of Commissioner, while conducting audit of the income tax affairs under section 177, to call for record or such other information and documents as he may deem appropriate in order to examine accounts and records to conduct enquiry into expenditure, income, assets and liabilities of a banking company and all provisions of this Ordinance shall be applicable accordingly.”

A new rule has been included in this Schedule which reads as under:

Rule – 6C Enhanced rate of tax on taxable income from Federal Government securities

- (1) The taxable income arising from additional income earned from additional investment in Federal Government securities for the tax years 2020 and onwards, shall be taxed at the rate of 37.5% instead of the rate provided in Division II of Part I of the First Schedule
- (2) A banking company shall furnish a certificate from external auditor along with accounts while e-filing return of Income certifying the amount of such money invested in Federal Government securities in preceding tax year, additional investments made for the tax year and net mark-up earned from such additional investments for the tax year.
- (3) Notwithstanding anything contained in this Ordinance, the Commissioner may require the banking company to furnish details of the investments in Federal Government securities to determine the applicability of the enhanced rate of tax.

- (4) Additional income earned" means any average earned in addition to average amount of such income earned from investment in Federal Government securities by the bank for the tax year.
- (5) The taxable income arising from additional investment under sub-rule (1) shall be determined according to the following formula, namely:-

Taxable income subject to enhanced rate of tax = $A \times B/C$

Where-

- A. is taxable income of the banking company;
- B. is net mark up income earned from such additional income earned for the tax year as declared in the annual accounts; and
- C. is total of the net mark-up and non mark-up income of the banking company as per accounts.

The Tenth Schedule

The Finance Bill 2019 proposes to add this schedule to specify and comply with the provisions of section 100BA of the Income Tax Ordinance, 2001, also inserted by the bill, which having been self explanatory reproduced as under:

RULES FOR PERSONS NOT APPEARING IN THE ACTIVE TAXPAYERS' LIST

1. Rate of deduction or collection of tax—Where tax is required to be deducted or collected under any provision of this Ordinance from persons not appearing in the active taxpayers' list, the rate of tax required to be deducted or collected, as the case may be, shall be increased by hundred percent of the rate specified in the First Schedule to this Ordinance.
2. Persons not required to file return or statement
 - (1) Where the withholding agent is satisfied that a person not appearing in the active taxpayers' list was not required to file a return of income under section 114, or a statement under sub-section (4) of section 115, as the case may be, he shall before collecting or deducting tax under this Ordinance, furnish to the Commissioner a notice in writing electronically setting out—
 - (a) the name, CNIC or NTN and address of the person not appearing in the active taxpayers' list;
 - (b) the nature and amount of the transaction on which tax is required to be collected or deducted; and
 - (c) reason on the basis of which it is considered that the person was not required to file return or statement, as the case may be.

- (2) The Commissioner, on receipt of a notice under sub-rule (1), shall within thirty days pass an order accepting the contention or making the order under sub-rule (3).
- (3) Where the withholding agent has notified the Commissioner under sub-rule (1) and the Commissioner has reasonable grounds to believe that the person not appearing in the active taxpayers' list was required to file return or statement, as the case may be, the Commissioner may, by an order in writing, direct the withholding agent to deduct or collect tax under rule 1:

Provided that in case the Commissioner does not pass any order within thirty days of receipt of notice under sub-rule (1), the Commissioner shall be deemed to have accepted the contention under sub-rule (2) and approval shall be treated to have been granted.

3. **Provisional assessment**

- (1) Where for a tax year a person's tax has been collected or deducted in accordance with rule 1 and the person fails to file return of income or statement, as the case may be, for that tax year within the due date provided in section 118 or as extended by the Board, the Commissioner shall notwithstanding anything contained in sub-sections (3) and (4) of section 114 or sub-section (5) of section 115, within sixty days of the due date provided in section 118 or as extended by the Board make a provisional assessment of the taxable income of the person and issue a provisional assessment order specifying the taxable income assessed and tax due thereon.
- (2) In making the provisional assessment under sub-rule (1), the Commissioner shall impute taxable income on the amount of tax deducted or collected under rule 1 by treating the imputed income as concealed income for the purposes of clause (d) of sub-section (1) of section 111.

4. **Finalization or abatement of provisional assessment**

- (1) The provisional assessment under rule 3, shall be treated as the final assessment order after the expiry of forty-five days from the date of service of order of provisional assessment and the provisions of this Ordinance shall apply accordingly.
- (2) The provisional assessment shall stand abated and shall be taken to be assessment finalized under sub-section (1) of section 120 where the returns of income for the relevant tax year and the preceding tax year along with prescribed forms, statements or documents are filed by the person within a period of forty-five days of receipt of provisional assessment order.
- (3) Where returns have been filed before provisional assessment or under sub-rule (2), the tax deducted or collected under rule 1 shall be adjustable against the tax payable in the return filed for the relevant tax year.

5. Where the provisional assessment has been treated as final assessment under sub-rule (1) of rule 4, the Commissioner may within thirty days of the final assessment initiate proceedings for imposition of penalties under section 182 on account of non-furnishing of return and concealment of income.
6. **For the purposes of this Schedule, imputed income means**
 - (a) income for individuals and association of persons which would have resulted in the amount of tax given in paragraph (1) of Division I of the First Schedule equal to the tax collected or deducted under rule 1 for not appearing in the active taxpayers' list; or
 - (b) income for companies which would have resulted in the amount of tax given in Division II of the First Schedule equal to the tax collected or deducted at the higher rate under rule 1 for not appearing in the active taxpayers' list.
7. Where the withholding agent fails to furnish in the withholding statement complete or accurate particulars of persons not appearing on active taxpayers' list, the Commissioner shall initiate proceedings under sections 182 and 191 against the withholding agent within thirty days of filing of withholding statement under section 165.
8. **Amendment of assessment**
 - (1) The Commissioner may amend an assessment order where on the basis of definite information acquired from an audit or otherwise, the Commissioner is satisfied that
 - (a) any income chargeable to tax has escaped assessment; or
 - (b) total income has been under-assessed, or assessed at too low a rate, or has been the subject of excessive relief or refund; or
 - (c) any amount under a head of income has been misclassified.
 - (2) Notwithstanding the provisions of sub-rule (1), where a provisional assessment has been treated as final assessment or where in response to the provisional assessment, return has been filed within forty five days or where assessment has been amended under sub-rule (1) and the assessment order is considered erroneous in so far it is prejudicial to the interest of revenue, the Commissioner may, after making or causing to be made, such enquiries as he deems necessary, amend the assessment order.
 - (3) For the purposes of sub-rule (1), "definite information" shall have the same meaning as defined in sub-section (8) of section 122.

9. Provisions of Ordinance to apply

The provisions of this Ordinance not specifically dealt with in the aforesaid rules shall apply, mutatis mutandis, in the case of proceedings against the persons not appearing on active taxpayers' list.

10. The provisions of this Schedule shall not apply on tax collectible or deductible in case of the following sections:-

- (a) tax deducted under section 149;
- (b) tax deducted under section 152 other than sub-section (1), (1AA), (2), (2A)(b) and (2A)(c) of section 152
- (c) tax collected or deducted under section 154;
- (d) tax deducted under section 155;
- (e) tax deducted under section 156B.
- (f) tax deducted under section 231A;
- (g) tax deducted under section 231AA;
- (h) tax collected under section 233AA;
- (i) tax deducted under section 235;
- (j) tax deducted under section 235A;
- (k) tax collected under section 235B;
- (l) tax collected under section 236B;
- (m) tax collected under section 236D;
- (n) tax collected under section 236F;
- (o) tax collected under section 236I;
- (p) tax collected under section 236J ;
- (q) tax collected under section 236L;
- (r) tax collected under section 236P;
- (s) tax collected under section 236Q;
- (t) tax collected under section 236R;
- (u) tax collected under section 236U;
- (v) tax collected under section 236V; and
- (w) tax collected under section 236X."

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

The effective date of all the Proposed Changes is 01.07.2019

- ❖ The term ‘Cottage industry’ is sought to be re-defined as a manufacturer located in a residential area with less than ten workers and annual turnover up to two million rupees without having industrial gas and electricity connection.
- ❖ The term “retail price” is proposed to include the price fixed by an importer.
- ❖ The value of supply in case of toll manufacturing is defined as actual consideration received by the toll manufacturer for its value addition.
- ❖ The sales tax on bricks is proposed to be levied under fixed tax regime as under:

Category A	Rs. 12,500	per month
Category B	Rs. 10,000	per month
Category C	Rs. 7,500	per month
- ❖ The rates for withholding/deduction of sales tax by withholding agents are proposed to be introduced under the newly inserted Eleventh Schedule to the Sales Tax Act.
- ❖ Tier-1 retailer inter-alia includes a retailer whose shop measures 1,000 sq.ft. or more.
- ❖ The Tier-1 retailers shall pay sales tax at the applicable rates and option to pay sales tax on turnover basis or at threats specified in SRO 1125 shall not be available anymore.
- ❖ Customers of Tier-1 retailers may receive cash back up to 5% of the sales tax paid on their purchases from such date or manner and to the extent as may be prescribed by FBR.
- ❖ The regime of value addition tax on imports inserted with some modifications by introducing the Twelfth Schedule to the Sales Tax Act.
- ❖ NIC number of un-registered buyers required to be mentioned on the sales tax invoice; otherwise, related input tax adjustment shall not be available to the suppliers on pro-rata basis.
- ❖ FBR may relax the limit of input tax adjustment to 95%.
- ❖ Audit of the records of a registered person may be conducted in each year.
- ❖ The sales tax return may be revised without permission of the Commissioner subject to the condition that the revised return is filed within sixty days and tax payable is higher than the already tax paid or refund claim is less than originally claimed.

- ❖ FBR may prescribe rules to initiate criminal proceedings against the Officials of Sales Tax.
 - ❖ The penalty for non-filing of sales tax return is enhanced from Rs. 5,000 to Rs. 10,000. Where return filing is not delayed more than 10 days, the penalty is increased from Rs. 100 to Rs. 200 for each day of default.
 - ❖ Parameters for selection of sales tax audit by FBR to be kept confidential.
 - ❖ The extra sales tax regime withdrawn and certain goods to be inserted into the Third Schedule subject to sales tax at retail price.
 - ❖ The sales tax exemption on certain items including silver and gold, electricity and gas supplied to hospitals, frozen meat and sausages sold in retail packing, fat filled milk sold in retail packing is proposed to be withdrawn.
 - ❖ New exemptions introduced in the Sixth Schedule on supply of electricity and other goods including import of plant and machinery to Tribal areas, import or supply of steel products by the manufacturers on which FED is levied under sales tax mode and local supplies of Cottonseed oil and Wheat Bran.
 - ❖ Reduced rate of sales tax proposed to be withdrawn from Eight Schedule on reclaimed lead, rapeseed, sunflower, canola, soya been seed and white crystalline sugar.
 - ❖ Reduced rate of sales tax to be levied on various goods under the Eighth Schedule to the Act.
 - ❖ The rate of sales tax on handsets proposed to be reduced.
 - ❖ The list of sales tax on services levied under Islamabad Capital Territory (Tax on Services) Ordinance, 2001 expanded in lines with the provincial sales tax laws.
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**COMMENTS ON PROPOSED AMENDMENTS VIDE FINANCE BILL 2018
IN THE SALES TAX ACT, 1990**

The effective date of all the Proposed Changes is 01.07.2019

1. SECTIONS

1.1 Cottage industry

[Section 2 (5AB)]

Clause (5AB) was inserted in section 2 through Finance Act, 2007 and defines the term “Cottage industry”. Supplies made by Cottage industry are exempt from sales in terms of entry No. 3 of Table-2 of Sixth Schedule to the Act.

The term “Cottage Industry has been defined as under:

(5AB) “cottage industry” means a manufacturer whose annual turnover from taxable supplies made in any tax period during the last twelve months ending any tax period does not exceed ten million rupees or whose annual utility (electricity, gas and telephone) bills during the last twelve months ending any tax period do not exceed eight hundred thousand rupees;

The Bill proposed to redefine the term "cottage industry" which means a manufacturing concern, which fulfils each of following conditions, namely: –

- (a) does not have an industrial gas or electricity connection;
- (b) is located in a residential area;
- (c) does not have a total labour force of more than ten workers; and
- (d) annual turnover from all supplies does not exceed two million rupees;

1.2 FBR Refund Settlement Company Limited

[Section 2(11A)]

Clause (11A) of section 2 defines: “FBR Refund Settlement Company (Private) Limited” means the company with this name as incorporated under the Companies Ordinance, 1984(XLVII of 1984), for the purpose of settlement of sales tax and income tax refund claims including payment by way of issuing refund bonds under section 67A.

The Bill proposed to omit the expression “(Private)” and for the substitution of expression “Companies Ordinance,1984(XLVII of 1984 with “Companies Act, 2017 (XIX of 2017)”

1.3 Retail price

[Section 2(27)]

Clause (27) of section 2 defines the term “retail price” with reference to Third Schedule items. The Bill proposed to add word “or importer, in case of imported goods”.

The amended clause (27) would be read as under:

“(27) “**retail price**”, with reference to the Third Schedule, means the price fixed by the manufacturer, or importer, in case of imported goods inclusive of all duties, charges and taxes (other than sales tax) at which any particular brand or variety of any article should be sold to the general body of consumers or, if more than one such price is so fixed for the same brand or variety, the highest of such price.

Provided that the Board may through a general order specify zones or areas for the purpose of determination of highest retail price for any brand or variety of goods.”

By virtue of the foresaid amendment, the goods specified in the Third Schedule to the Act, if imported, shall be charged to sales tax on the basis of retail price which will be fixed by the importer.

1.4 Supply

[Section 2(33)]

Clause (33) of section 2 defines the term “supply”. A proviso of this clause empowers the Federal Government to specify through notification such other transactions which shall or shall not constitute supply.

The Bill proposed to substitute the expression “Board, with the approval of the Minister-in-charge,” with the existing words “Federal Government “.

The amended clause (33) would be read as under:

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

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

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

1.5 Tax period [Section 2(43)]

Clause (43) of section 2 defines the term “Tax period”.

“*tax period*” means a period of one month or such other period as the Federal Government may, by notification in the official Gazette, specify;

The Bill proposed to substitute the words “Board, with the approval of the Minister-in-charge” with the existing words “Federal Government”.

The amended clause (43) of section 2 which would read as under:

“(43) “*tax period*” means a period of one month or such other period as the Board, with the approval of the Minister-in-Charge may, by notification in the official Gazette, specify”.

1.6 Tier-1 retailers [Section 2(43A)]

Clause (43A) of section 2 defines the term “Tier-1 retailers”.

The Bill proposed to insert a new sub-clause (e) after sub-clause (d) : “(e) a retailer, whose shop measures one thousand square feet in area or more”

The amended clause would be read as under:

“(43A) Tier-1 retailers means,—

- (a) a retailer operating as a unit of a national or international chain of stores;
- (b) a retailer operating in an air-conditioned shopping mall, plaza or centre, excluding kiosks;
- (c) a retailer whose cumulative electricity bill during the immediately preceding twelve consecutive months exceeds Rupees six hundred thousand;
- (d) a wholesaler-cum-retailer, engaged in bulk import and supply of consumer goods on wholesale basis to the retailers as well as on retail basis to the general body of the consumers; and
- (e) a retailer, whose shop measures one thousand square feet in area or more.”

1.7 Value of supply

[Section 2(46)]

Clause (46) of section 2 defines the term “value of supply”.

The Bill proposed to amend the sub clause (d) to exclude the value of supply for those items specified in the Third Schedule.

The Bill also proposed to substitute the existing sub-clause (f) to define the value of supply in case of toll manufacturing.

The Bill also proposed to add two new sub-clause (h) and (i) to define value of supply for independent power producer and electric and gas distribution companies:

- (h) in case of supply of electricity by an independent power producer, the amount received on account of energy purchase price only; and the amount received on account of capacity purchase price, energy purchase price premium, excess bonus, supplemental charges etc. shall not be included in the value of supply; and
- (i) in case of supply of electric power and gas by a distribution company, the total amount billed including price of electricity and natural gas, as the case may be, charges, rents, commissions and all duties and taxes local, provincial and federal but excluding the amount of late payment surcharge and the amount of sales tax; “

The amended clause (46) of section 2 would be read as under:

“ (46) “*value of supply*” means:--

- (a)
- (b)
- (c)
- (d) in case of imported goods excluding those as specified in the Third Schedule, the value determined under section 25 of the Customs Act,1969 Act, including the amount of Customs Act,1969-duties and central excise duty levied thereon;
- (e) in case where there is sufficient reason to believe that the value of a supply has not been correctly declared in the invoice, the value determined by the Valuation Committee comprising representatives of trade and the Inland Revenue constituted by the Commissioner;
- (f) in case of manufacture of goods belonging to another person, the actual consideration received by the manufacturer for the value addition carried out in relation to such goods;

- (g) in case of a taxable supply, with reference to retail tax, the price of taxable goods excluding the amount of retail tax, which a supplier will charge at the time of making taxable supply by him, or such other price as the Board may, by a notification in the official Gazette, specify;
- (h) in case of supply of electricity by an independent power producer, the amount received on account of energy purchase price only; and the amount received on account of capacity purchase price, energy purchase price premium, excess bonus, supplemental charges etc. shall not be included in the value of supply; and
- (i) in case of supply of electric power and gas by a distribution company, the total amount billed including price of electricity and natural gas, as the case may be, charges, rents, commissions and all duties and taxes local, provincial and federal but excluding the amount of late payment surcharge and the amount of sales tax;

Provided that, where the Board deems it necessary it may, by notification in the official Gazette, fix the value of any imported goods or taxable supplies or class of supplies and for that purpose fix different values for different classes or description of same type of imported goods or supplies:

Provided further that where the value at which import or supply is made is higher than the value fixed by the Board, the value of goods shall, unless otherwise directed by the Board, be the value at which the import or supply is made”.

1.8 SECOPE OF TAX

[Section 3]

[Section 3(1B)]

Sub-section (1B) of section 3 empowers Board to levy and collect tax other than tax levy and collectable on taxable supplies under sub-section (1) of section 3 on the production capacity of plant , machinery , undertaking, establishment or installations, producing or manufacturing such goods or levy and collect tax on fixed base as it may deem fit from any person who is in the position to collect such tax due to the nature of the business.

Sub Section (1B) was inserted in Section 3 of the Act through Finance Act 2013 and in pursuance thereof sales tax on the basis of capacity was levied on aerated waters. The rules framed by FBR were subsequently declared ultra-vires to the Act.

The Bill proposed to substitute the existing provision of sub section (1B) of section, which would be read as:

“(1B) On the goods specified in the Tenth Schedule, in lieu of levying and collecting tax under sub-section (1), the tax shall be levied and collected, in the mode and manner specified therein:

- (a) on the production capacity of plants, machinery, undertaking, establishments or installation producing on manufacturing such goods; or
- (b) on fixed basis, from any person who is in a position to collect such tax due to the nature of the business and different rates may be so prescribed for different regions or areas.”

[Section 3(2)(a)]

Clause (a) of sub-section (2) of Section 3 specify the levy of sales tax on the taxable supplies specified in the Third Schedule on the retail price or in case of taxable supplies specified in Eight Schedule at the rate specified at the retail price and the retail price thereof along with the amount of sales tax which shall be legibly, prominently and indelibly printed or embossed by the manufacturer on each article, packet, container, package, cover or label as the case may be.

The Bill proposed to inserted imported goods in such category. Accordingly, the amended clause (a) of sub-section (2) of section 3 would be read as under:

“(2) Notwithstanding the provisions of sub-section (1):

- (a) taxable supplies and import of goods specified in the Third Schedule shall be charged to tax at the rate of seventeen per cent of the retail price or in case such supplies or imports are also specified in the Eighth Schedule, at the rates specified therein and the retail price thereof, along with the amount of sales tax shall be legibly, prominently and indelibly printed or embossed by the manufacturer or the importer in case of imported goods on each article, packet, container, package, cover or label, as the case may be;

Provided that the Federal Government, may, by notification in the official Gazette, exclude any taxable supply or import from the said Schedule or include any taxable supply or import therein; “

[Section 3(3A)]

The Bill proposed to substitute the words “Board, with the approval of the Minister-in-charge” with the existing words “Federal Government”.

The amended sub section (3A) of section 3 which would read as under:

“(3A) Notwithstanding anything contained in clause (a) of sub-section (3), Board, with the approval of the Minister-in-Charge may, by a notification in the official Gazette, specify the goods in respect of which the liability to pay tax shall be of the person receiving the supply.”

[Section 3(7)]

Sub- section (7) of Section 3 empowers the Federal Government to specify any person or class of person as withholding agent for the purpose of deduction and deposit of tax at the specified rate in such manner and subject to such conditions or restrictions as the Federal Government may prescribed in this behalf. In exercise of those powers Federal Government has issued Special Procedure Withholding Rules 2007 which have been notified through SRO 660(I)/2007 dated 30.6.2007. The Federal Government has decided to rescind special procedures therefore it has been proposed to substitute sub section (7) of section 3 to provide that the rate or extent of withholding/deducting sales tax by the buyer be specified in the Eleventh Schedule to the Act and the power to make rules be given to FBR and the substituted provisions would read as under:

“(7) The tax shall be withheld by the buyer at the rate as specified in the Eleventh Schedule, by any person or class of persons as withholding agent for the purpose of depositing the same, in such manner and subject to such conditions or restrictions as the Board may prescribe in this behalf through a notification in the official Gazette.”

[Section 3(9)]

Sub-section (9) of Section 3 prescribed the levy of tax on retailer on the basis of monthly electricity bill.

The Bill proposed to exclude Tier-1 retailer from the preview of this sub-section. The Bill further proposed for non-adjustment of input sales tax by the electricity supplier against output tax. The Bill also proposed that the Commissioner of Inland Revenue having jurisdiction shall issue order to the electricity supplier regarding exclusion of a person who is either a Tier-1 retailer, or not a retailer.

The amended sub-section (9) would be read as under:

“(9) Notwithstanding anything contained in subsection (1), tax shall be charged from retailers other than those falling in Tier-I through their monthly electricity bills, at the rate of five percent where the monthly bill amount does not exceed rupees twenty thousand and at the rate of seven and half per cent where the monthly bill amount exceeds the aforesaid amount, and the electricity supplier shall deposit the amount so collected directly without adjusting against his input tax:

Provided that the tax under this sub-section shall be in addition to the tax payable on supply of electricity under sub section (1), (1A) and (5):

Provided further that the Commissioner of Inland Revenue having jurisdiction shall issue order to the electricity supplier regarding exclusion of a person who is either a Tier-1 retailer, or not a retailer.”

[Section 3(9A)]

Sub-section (9A) of section 3 prescribed the tax payable by the Tier-1 retailer under different scenario like payment of tax at standard rate of 17%, payment of sales tax at reduced rate in case of items of five export sectors fall under SRO 1125 and option to pay sales tax on the basis of turnover without adjustment of input sales tax.

The Bill proposed to withdraw the exemption available to five export sectors by rescinding the SRO 1125. Further an incentive has been proposed for the customers of Tier-1 retailer of cash back of up to five percent of tax involved from such date in the manner and to the extent, as may be prescribed by Board.

The amended sub-section (9A) would be read as under:

“(9A) Notwithstanding anything contained in this Act, Tier-1 retailers shall pay sales tax at the rate as applicable to the goods sold under relevant provisions of this Act or a notification issued there under:

Provided that the customers of a Tier-1 retailer shall be entitled to receive a cash back of up to five percent of the tax involved, from such date in the manner and to the extent, as may be prescribed by the Board.”

1.9 Zero rating

[Section 4 clause (c) and (d)]

Clause (c) of section 4 empowers Federal Government to specify goods supplied to be charged at the rate of zero percent. Clause (d) of section 4 empowers the Federal Government to specify a registered person or class of registered persons engaged in the manufacture and supply goods at a reduced rate of sales tax.

The Bill proposed to restrict such power of the Federal Government in case of emergency situations or for the implementation of bilateral and multilateral agreement only. The Bill also proposed to delete clause (d) of section 4.

The amended section 4 would be read as under:

“4. Zero rating.– Notwithstanding the provisions of section 3 except those of sub-section (1A), the following goods shall be charged to tax at the rate of zero per cent:--

- (a) goods exported, or the goods specified in the Fifth Schedule;
- (b) supply of stores and provisions for consumption aboard a conveyance proceeding to a destination outside Pakistan as specified in section 24 of the Customs Act, 1969 (IV of 1969);
- (c) such other goods, as the Federal Government may specify by notification in the official Gazette, whenever circumstances exist to take immediate action for the purposes of national security, natural disaster, national food security in emergency situations and implementation of bilateral and multilateral agreements:

Provided that nothing in this section shall apply in respect of a supply of goods which—

- (i) Are exported, but have been or are intended to be re-imported into Pakistan; or
- (ii) Have been entered for export under section 131 of the Customs Act, 1969(IV of 1969), but are not exported; or
- (iii) Have been exported to a country specified by the Federal Government , by notification in the official Gazette.

Provided further that the Federal Government may, by a notification in the official Gazette, restrict the amount of credit for input tax actually paid and claimed by a person making a zero rated supply of goods otherwise chargeable to sales.”

1.10 Determination of tax liability [Section 7(2)(i), section 7(3)]

Sub-section (2) of section 7 specify the conditions without which a registered person shall not be entitled to deduct input sales tax from output tax. Clause (i) of sub-section (2) allows the adjustment of input sales tax in respect of a taxable supply made by the registered person if he holds a tax invoice in his name and bearing his registration number in respect of supply for which a return is furnished.

The Bill proposed to substitute the expression “ or in case of supply of electricity or gas, a bill bearing his registration number and the address where the connection is installed with the existing words “ for which a return is furnished”

The amended clause would be read as under:

- “(i) in case of a claim for input tax in respect of a taxable supply made, he holds a tax invoice in his name and bearing his registration number in respect of such supply for which a return is furnished, or in case of supply of electricity or gas, a bill bearing his registration number and the address where is connection is installed:

Provided that from the date to be notified by the Board in this respect, in addition to above , if the supplier has not declared such supply in his return or he has not paid amount of tax due as indicated in his return;”

The Bill also proposed to substitute the words “Board, with the approval of the Minister-in-charge” with the existing words “Federal Government” in sub section 3 of section 7.

1.11 Levy and collection of tax on specified goods on value addition[Section 7A(2)]

Sub-section (2) of section 7A empowers the Federal Government to specify the minimum value addition required to be declared by certain persons or categories of person, for supply of goods of such description, or classes may be prescribed and to waive the requirement of audit or scrutiny of records if such minimum value addition is declared.

Now the Bill proposed to substitute the sub-section (2) as under:

“(2) Notwithstanding anything contained in this Act or the rules made thereunder, in respect of the goods or class of goods specified in the Twelfth Schedule, the minimum value addition tax, against the value added by the registered person, shall be payable, at the rate and by the registered persons or class of registered persons, specified therein, subject to the conditions, limitations, restrictions and procedure specified therein:

Provided that the Federal Government may, through a notification published in the official Gazette, amend any provision of the said Twelfth Schedule.”

Correspondingly it has been proposed to insert a new Twelfth Schedule specifying minimum value addition of 3% on all imported goods subject exclusions as in the condition and procedures given after the table.

1.12 Tax credit not allowed [Section 8(1)(m), section 8(6)]

The Bill proposed to restrict the input sales tax attributable to supplies made to unregistered person, or pro-rata basis, for which sales invoices do not bear the NIC number of buyers. Accordingly, existing clause (m) is proposed to be deleted and the substitute clause (m) of sub-section (1) of section 8 as under:

“(m) the input goods attributable to supplies made to un-registered person, on pro-rata basis, for which sale invoices do not bear the NIC number of the buyer.”

By virtue of substituted provision of Clause (m) of section 8(1) of the Act, a registered person supplying goods to unregistered persons shall be bound to specify CNIC of the buyer in the invoice otherwise he will not be entitled to claim credit of input tax attributable to supplies made to such unregistered persons on pro-rata basis. Corresponding amendment has also been made in section 23 of the Act through which the registered persons have been bound to specify CNIC of the unregistered buyer in the invoice.

The Bill also proposed to substitute the words “Board, with the approval of the Minister-in-charge” with the words “Federal Government” in sub-section (6) of section 8.

1.13 Adjustable input tax

[Section 8B(1)]

Sub-section (1) of section 8B restrict a registered person to adjust input sales tax adjustment in excess of ninety percent of the output tax for a tax period. However, this condition is not applicable in case of input sales tax related to fixed assets or capital goods. Proviso to sub-section (1) of section 8B empowers the Board to exclude any person or class of person from the purview of sub-section (1). Accordingly Board through SRO 647(I)/2007 dated 27-06-2007 notify certain registered person to whom section 80B(1) shall not apply.

The Bill proposed to further empower the Board to relax this limit to ninety five percent of the output tax.

The amended sub -section (1) of section 8B would be read as under:

“8B. Adjustable input tax.– (1) Notwithstanding anything contained in this Act, in relation to a tax period, a registered person shall not be allowed to adjust input tax in excess of ninety per cent of the output tax for that tax period:

Provided that the restriction on the adjustment of input tax in excess of ninety percent of the output tax, shall not apply in case of fixed assets or Capital goods:

Provided further that the Board may by notification in the official Gazette, exclude any person or class of persons from the purview of sub-section (1) and may also in the like manner relax the aforesaid limit to ninety-five per cent.”

1.14 Refund of input tax

[Section 10(1)]

The Bill proposed to substitute the words “ at the fixed rates and in the manner as “ with the words “ along with duty drawback at the rates” in the second proviso of sub section (1) of section 10.

1.15 Exemption

[Section 13(2)(a)]

Clause (a) of sub section (2) of section 13 empowers the Federal Government to exempt any taxable supplies made or import or supply of any goods or class of goods, from the whole or any part of the tax chargeable under this Act, subject to the conditions and limitation specified in the relevant notification.

The Bill proposed to restrict such power of the Federal Government in case of emergency situations or for the implementation of bilateral and multilateral agreement only. Accordingly, the existing clause (a) of sub section (2) of section 13 proposed to be substituted and would be read as under:

“(a) the Federal Government may, whenever circumstances exist to take immediate action for the purposes of national security, natural disaster, national food security in emergency situations and implementation of bilateral and multilateral agreements, by notification in the official Gazette, exempt any supplies made or imports, of any goods or class of goods from the whole or any part of the tax chargeable under this Act, subject to the conditions and limitations specified therein;”

1.16 Tax invoices

[Section 23(1), 23(1)(b), 23(1)(d)]

Sub-section (1) of section 23 requires a registered person making a taxable supply to issue a serial numbered tax invoices at the time of supply of goods containing certain particulars.

The Bills proposed to clarify that particulars on the sales tax invoice may be in Urdu or English language.

Clause (b) of sub-section (1) of section 23 requires that the sales tax invoice shall contain the name, address and registration number of the recipient.

Clause (d) of sub-section 1 of section 23 requires that he sales tax invoice shall contain the description and quantity of goods.

The Bill proposed to amend clause (b) and clause (d) of sub section (1) of section 23 as under:

- “(b) name, address and registration number, or in case of supplies to unregistered persons, NIC number of the recipient;
- (d) description, including count, denier and construction in case of textile yarn and fabric and quantity of goods;”

1.17 Access to record, documents, etc.

[Section 25(2)]

The Bill proposed to delete the third proviso of sub-section (2) of Section 25.

Third proviso was added in sub-section (2) of section 25 of the Act through Finance Act 2018 which prescribed that audit under section 25 shall be conducted only once in three years. This was a big relief given to the taxpayers as it was observed that certain taxpayers were repeatedly selected for audit. In a recent judgment, the Honorable High Court has also declared that the operation of aforesaid third proviso would be retrospective and will be applicable to all cases as were pending when the said proviso was inserted. It has been proposed to omit the aforesaid third proviso which means that the names of registered persons can be repeatedly selected for audit.

1.18 Return.
[Section 26(3)]

In line with the provisions of Income Tax Ordinance, 2001. The Bill proposed to a relax the provision of filing a revised sales tax return to correct any omission or wrong declaration made therein without the permission of the Commissioner Inland Revenue under the Sales Tax Act, 1990 provided that the revised sales tax return shall be filed within sixty days of filling of concerned sales tax return and the tax payable therein is more than the amount paid or the refund claimed herein is less than the amount as claimed, under the return sought to be revised.

Accordingly the Bill proposed to add a new proviso in sub section (3) of section 26 as under:

“Provided that the approval under this sub-section shall not be required if revised return is filed within sixty days of filing of return and either the tax payable therein is more than the amount paid or the refund claimed therein is less than the amount as claimed, under the return sought to be revised.”

The amended sub-section (3) of section 26 would be read asunder:

“(3) A registered person may, subject to approval of the Commissioner Inland Revenue having jurisdiction, file a revised return within one hundred and twenty days of the filing of return under sub-section (1) or, as the case may be, sub-section (2), or under clause (a) or clause (b) of section 27, to correct any omission or wrong declaration made therein.

Provided that the approval under this sub-section shall not be required if revised return is filed within sixty days of filing of return and either the tax payable therein is more than the amount paid or the refund claimed therein is less than the amount as claimed, under the return sought to be revised.”

1.19 Offences and penalties
[Section 30A]

Penalties have been prescribed for the registered persons who commit offences under the Act or violates any of the provisions of the Act. The Bill proposed to amend Sr. No. 1 of section 33 which would read as under:

Offences	Penalties	Section of the Act to which offense has reference
(1)	(2)	(3)
1. Where any person fails to furnish a return within the due date	Such person shall pay a penalty of Rs. 10,000: Provided that in a case a person files a return within ten days of the due date, he shall pay a penalty of Two Hundred Rupees for each day of default	26

1.20 Proceedings against person

[Section 33A]

The bill proposed to insert a new section 33A

“33A. Proceedings against persons.– (1) Subject to section 51, the Board shall prescribe rules for initiating criminal proceedings against any authority mentioned in section 30 to 30DDD including any person subordinate to the aforesaid authorities, who willfully and deliberately commits or omits an act which results in personal benefits and undue advantage to the authority or the person or taxpayer or both.

(2) Where proceedings under sub-section (1) have been initiated against a person or authority, the Board shall simultaneously intimate the relevant government agency to initiate criminal proceedings against the taxpayer.

(3) The proceedings under this section shall be without prejudice to any liability that the authority, person or taxpayer may incur under any other law for the time being in force.”

1.21 Procedure to be followed on arrest of a person

[Section 37B]

The Bill proposed that the words "a sales tax officer" and "the sales tax officer" wherever occurring in section 37B to be substituted with the words "an officer of Inland Revenue". Furthermore in sub-section (13) the words "Federal Government" has been proposed to be substituted with the words "Board, with the approval of Minister-in-Charge".

1.22 Liability for payment of tax in the case of private companies or business enterprises
[Section 58]

The Bill proposed to substitute the existing section 58. The substituted provisions will enable directors /partners to recover the paid amount from the company, on the same pattern as already provided in the Income Tax Ordinance, 2001 the substituted provisions would read as under:

“58. Liability for payment of tax in case of private companies or business enterprises.–

(1) Notwithstanding anything contained in the Companies Act, 2017 (XIX of 2017), where any private company or business enterprise is wound up and any tax chargeable on the company or business enterprise, whether before, or in the course, or after its liquidation, in respect of any tax period cannot be recovered from the company or business enterprise, every person who was an owner of, or partner in, or director of, or a shareholder, owning not less than ten per cent of the paid-up capital, in the company or business enterprise, as the case may be, during the relevant period shall jointly and severally with such persons, be liable for the payment of such tax.

- (2) Any director, partner or shareholder, who pays tax under sub- section (1) shall be entitled to recover the tax paid by him from the company or business enterprise, or a share of the tax from other director or partner, or a share in the proportion of holding from another shareholder, as the case may be.
- (3) The provisions of this Act shall apply to any amount due under this section as if it were tax due under an order for assessment made under this Act.”

1.23 Payment of refund through sales tax refund bonds [Section 67A]

Section 67A was inserted in the Act through Finance Supplementary Second Amendment Act 2019, which prescribes payment of sales tax refund through sales tax refund bonds to be issued by FBR Refund Settlement Company (Private) Limited. The definition of “FBR Refund Settlement Company (Private) Limited” given in section 2 has been proposed to be amended omitting the expression “(Private)” therefore it has been proposed to omit the words "(Private)" wherever occurring in section 67A. Furthermore, in sub-section (12) the expression "Federal Government" has been proposed to be substituted with the expression "Board, with the approval of Minister-in-Charge".

1.24 Special procedure [Section 71(1)]

The Bill proposed to amend sub section (1) of section 71:

The amended sub section (1) of section 71 would read as under:

“71. Special procedure.– (1) Notwithstanding anything contained in this Act, the Federal Government Subject to the provisions of this Act, the Board may, by notification in the official Gazette, prescribe special procedure for scope and payment of tax, registration, book keeping and invoicing requirements and returns, etc. in respect of such supplies as may be specified therein.”

1.25 Selection for audit by the Board [Section 72B]

Section 72B was inserted in the Act through Finance Act 2010 and empowers FBR to select persons or classes of persons for audit of sales tax affairs through computer ballot which may be random or parametric as the Board may deem fit. In cases where parametric computer ballot was held, the taxpayers had challenged their selection that the Board was obliged to disclose the selection parameters. Parallel provisions have been prescribed in section 214C of the Income Tax Ordinance where sub-section 1A has already been inserted authorizing Board to keep the selection parameters confidential. The Bill proposed to insert a new sub section (1A) in section 72B of the Act which would read as under:

“(1A) Notwithstanding anything contained in this Act or any other law, for the time being in force, the Board shall keep the selection parameters confidential.”

2. THE THIRD SCHEDULE:

Taxable supplies subject to sale tax on the basis of retail price

Nine more categories of goods subjected to sales tax at the rate of 17% of the retail price:

Through Finance Act 2013, new serial numbers were added in the Third Schedule to the Act and a number of goods were subjected to sales tax on the basis of retail price. Subsequently these serial numbers were omitted and the goods were subjected to two percent extra tax in addition to standard rate of seventeen percent sales tax. Chapter XIII of Sales Tax Special Procedure Rules 2007 was amended accordingly. Now the government has decided that extra tax regime will be done away with and the goods as are subjected to 17% sales tax + 2% extra tax, shall be charged to 17% sales tax on the basis of retail price. A few more classes of goods are proposed to be included in Third Schedule. In terms of provisions contained in section 3(2)(a) of the Act, the taxable supplies specified at Sr. Nos. (1) to (37) are subjected to sales tax on the basis of retail price. It has been proposed to insert new entries from Sr. No. (38) to (46) on which sales tax @ 17% of retail price would be levied on following items of respective headings.

“38.	Household electrical goods, including air conditioners, refrigerators, deep freezers, televisions, recorders and players, electric bulbs, tube-lights, electric fans, electric irons, washing machines and telephone sets.	Respective headings
39.	Household gas appliances, including cooking range, ovens, geysers and gas heaters.	Respective headings
40.	Foam or spring mattresses and other foam products for household use.	Respective headings
41.	Paints, distempers, enamels, pigments, colours, varnishes, gums, resins, dyes, glazes, thinners, blacks, cellulose lacquers and polishes sold in retail packing	Respective headings
42.	Lubricating oils, brake fluids, transmission fluid, and other vehicular fluids sold in retail packing	Respective headings
43.	Storage batteries excluding those sold to automotive manufacturers or assemblers	Respective headings
44.	Tyres and tubes excluding those sold to automotive manufacturers or assemblers	Respective headings
45.	Motorcycles	Respective headings
46.	Auto rickshaws	Respective headings

3. THE SIXTH SCHEDULE:

3.1 In terms of section 13(I) of the Act, the goods specified in the Sixth Schedule shall be exempt from sales tax. Sixth Schedule contains three tables.

The goods specified in Table-1 [Imports or Supplies] are exempt from sales tax in the case of supplies made locally or imported.

The Bill proposed the following amendments in Table I (Import or Supplies):

- (i) It has been proposed to make amendment in Sr. No. 2. After amendment exemption of sales tax shall be available on “Meat of bovine animals, sheep and goat excluding poultry and offal, whether or not fresh, frozen or otherwise, preserved or packed” of PCT headings 02.01, 02.02 and 02.04
- (ii) It has been proposed to make amendment in Sr. No. 3. After amendment exemption of sales tax shall be available on “Fish and crustaceans excluding live fish whether or not fresh, frozen or otherwise preserved or packed” of PCT headings 03.02, 03.03, 03.04, 03.05 and 03.06
- (iii) It has been proposed to make amendment in Sr. No. 19. After amendment exemption of sales tax shall be available on cereals and products of milling industry, excluding the products of milling industry, other than wheat and meslin flour as sold in retail packing bearing brand name or a trademark classified under PCT Heading 1001.1000, 1001.9000, 1002.0000, 1003.0000, 1004.0000, 1005.1000, 1005.9000, 1006.1090, 1006.2000, 1006.3010, 1006.3090, 1006.4000, 1007.0000, 1008.9000, 1101.0010, 1101.0020, 1102.2000, 1102.9000, 1104.2200, 1104.2300, 1104,2900 and 1104.3000.

By virtue of this amendment, exemption of sales tax on these cereals and products of milling industry including maize, rye, barley, oat, basmati rice, broken rice, brown rice sold in retail packing bearing brand names or trademark shall be withdrawn however exemption of sales tax on wheat flour and meslin flour sold in retail packing bearing brand names shall remain intact. Corresponding entry at Sr. No. 59 is proposed to be added in Table 1 of the Eight Schedule through which these cereals and products of milling industry, shall become liable to 10% sales tax

- (iv) In terms of entry at Sr. No. 36, exemption of sales tax is available on import and supply of “silver, in unworked condition classified under PCT headings 7106.1000, 7106.9110 and 7106.9190. It has been proposed to omit entry at Sr. No. 36 and the aforesaid goods shall become liable to sales tax at the rate of 1% plus 2% value addition in terms of proposed entry at Sr. No. 61 in Table 1 of the Eight Schedule.
- (v) In terms of entry at Sr. No. 37, exemption of sales tax is available on import and supply of “gold, in unworked condition classified under PCT headings 7108.1100, 7108.1210 and 7108.1290. It has been proposed to omit entry at Sr. No. 37 and the aforesaid goods shall become liable to sales tax at the rate of 1% plus 2% value addition in terms of proposed entry at Sr. No. 62 in Table 1 of the Eight Schedule.
- (vi) In Sr. No. 52A, exemption of sales tax is available on goods supplied to hospitals run by the Federal or Provincial Governments or charitable operating hospitals of fifty beds or more of the teaching hospitals of statutory universities of 200 or more beds. It has been proposed to exclude electricity and natural gas supplied to the said hospitals from exemption of sales tax.³

- (vii) It has been proposed to amend entry at Sr. No. 72 After amendment exemption of sales tax shall be available on import and supply of un-cooked poultry meat whether or not fresh, frozen or otherwise preserved or packed.
- (viii) In terms of Sr. No. 73A exemption of sales tax has been granted on “Milk and cream not concentrated nor containing added sugar or other sweetening matters, excluding that sold in retail packing classified under PCT Headings 04.01 and 04.02. In terms of entry at Sr. No. 14 of Table 1 of Eight Schedule, “Milk and cream, concentrated and added sugar or other sweetening matter sold in retail packing under a brand name of PCT heading 0402.1000” is subjected to reduced rate of 10% sales tax. In salient features, FBR has stated that presently sales tax regime on various forms of milk is uneven; milk and cream concentrated and unsweetened/unflavoured is subject to high rate while the sweetened is enjoying exemption therefore it has been proposed to rationalize the same and both categories are proposed to be taxed at 10%. It has been proposed to withdraw the exemption on the goods covered under PCT Heading 04.01 however exemption from sales tax to milk and cream, concentrated or containing added sugar or otherwise sweetening matter covered PCT Heading 04.02 shall remain available. The entry at Sr. No. 14 of Table 1 of Eight Schedule is also being correspondingly substituted.
- (ix) In terms of Sr. No. 82 exemption of sales tax has been granted on “Frozen, prepared or preserved sausages and similar products of poultry meat or meat offal of PCT heading 1601.0000”. It has been proposed to withdraw exemption of sales tax on frozen, prepared or preserved sausages and similar products of poultry meat or meat offal sold in retail packing under a brand name or trademark from exemption therefore these products sold in retail packing under a brand name are trademark shall be subjected to sales tax.
- (x) In terms of Sr. No. 83 exemption of sales tax has been granted on “Meat and similar products of prepared frozen or preserved meat or meat offal of all types including poultry, meat and fish classified under various sub-headings of PCT headings 16.02 and 16.04”. It has been proposed to withdraw exemption of sales tax on Meat and similar products of prepared frozen or preserved meat or meat offal of all types including poultry, meat and fish sold in retail packing under a brand name or trademark from exemption therefore these products sold in retail packing under a brand name are trademark shall be subjected to sales tax.
- (xi) In terms of Sr. No. 85 exemption of sales tax has been granted on “Fat filled milk” of PCT heading 1901.9090. It has been proposed to withdraw exemption of sales tax on fat filled milk sold in retail packing under a brand name or trademark therefore fat filled milk sold in retail packing under a brand name are trademark shall be subjected to sales tax at reduced rate of 10% by virtue of proposed entry at Sr. No. 60 of Table 1 of the Eight Schedule.

- (xii) Through 25th Constitutional Amendment FATA/PATA were merged in KPK and Balochistan with effect from 31/5/2018 and in order to address the concerns of the people of FATA and PATA raised on account of imposition of sales tax on these areas, the Federal Government issued SRO 1212(I) 2018 dated 5/10/2018 through which the position in relation to the levy of sales tax to the erstwhile tribal areas, was restored. It has been proposed to rescind SRO 1212(I) 2018 and incorporate the exemptions in Sixth Schedule. It has also been proposed to grant exemption from Sales Tax on import of plant, machinery, equipment for installation in tribal areas, and of industrial inputs by the industries located in the tribal areas. Additionally, it has been proposed to grant exemption of sales tax supplies of electricity to all residential and commercial consumers, and to industries which were set up and started their industrial production before 31/5/2018 but excluding steel and ghee/cooking oil industries. Accordingly, it has been proposed that following new serial numbers would be added and the exemption from sales tax would be available on the goods specified therein subject to the conditions prescribed therein:

"151.	<p>(a) Supplies; and</p> <p>imports of plant, machinery, equipment for installation in tribal areas and of industrial inputs by the industries located in the tribal areas, as defined in the Constitution of Islamic Republic of Pakistan,—</p> <p>as made till 30th June, 2023, to which the provisions of the Act or the notifications issued thereunder, would have not applied had Article 247 of the Constitution not been omitted under the Constitution (Twenty-fifth Amendment) Act, 2018 (XXXVII of 2018):</p> <p>Provided that, in case of imports, the same shall be allowed clearance by the Customs authorities on presentation of a post-dated cheque for the amount of sales tax payable under the Sales Tax Act, 1990, and the same shall be returned to the importer after presentation of a consumption or installation certificate, as the case may be, in respect of goods imported as issued by the Commissioner Inland Revenue having jurisdiction:</p> <p>(b) Provided further that if plant, machinery and equipment, on which exemption is availed under this serial number, is transferred or supplied outside the tribal areas, the tax exempted shall be paid at applicable rate on residual value</p>	Respective heading
153.	Supplies of electricity, as made from the day of assent to the Constitution (Twenty-fifth Amendment) Act, 2018, till 30th June, 2023, to all residential and commercial consumers in tribal areas, and to such industries in the tribal areas which were set and started their industrial production before 31st May, 2018, but excluding steel and ghee or cooking oil industries	2716.0000

- (xiii) RESTORATION OF NORMAL REGIME FOR TEXTILE SECTOR: Special regime of taxation for the whole of the steel sector contained in Special Procedure Rules 2007, is being abolished. It has been proposed to insert a new Sr. No. 154 in Table 1 of the Sixth Schedule which would grant exemption of Sales tax on billets, ingots, bars, ship plates and other long profiles at the manufacturing and import stage, and in lieu thereof FED at 17% in sales tax mode may be imposed for the reason that there is no exemption of FED for tribal areas. The proposed entry at Sr. No. 154 is as under:

154.	Steel billets, ingots, ship plates, bars and other long re-rolled profiles, on such imports and supplies by the manufacturer on which federal excise duty is payable in sales tax mode	Respective headings
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3.2 THE SIXTH SCHEDULE:

Exemption of sales tax is available on supplies (Local supplies only) specified Sr. Nos. 1 to 24. Following amendments are proposed in Table II (Local Supplies Only):

- (i) In terms of entry at Sr. No. 16 exemption of sales tax has been granted on raw cotton and ginned cotton. It has been proposed to withdraw the exemption of sales tax on supply of ginned cotton.
- (ii) It has been proposed to insert following new serial numbers 25 & 26 in Table II Meaning thereby the exemption of sales tax would be available to the goods referred below:

“25.	Cottonseed oil	1512.2100 and 1512.2900
26	Wheat Bran	2302.3000”;

4. THE EIGHTH SCHEDULE:

Sales tax at reduced rates

In terms of provisions contained in section 3(2)(aa) of the Act, the goods specified in the Eight Schedule shall be charged and taxed at the rates specified therein.

Following amendments have been proposed in Table I of Eight Schedule:

- (i) In terms of Sr. No. 73A exemption of sales tax has been granted on “Milk and cream not concentrated nor containing added sugar or other sweetening matters, excluding that sold in retail packing classified under PCT Headings 04.01 and 04.02. In terms of entry at Sr. No. 14 of Table 1 of Eight Schedule, “Milk and cream, concentrated and added sugar or other sweetening matter sold in retail packing under a brand name of PCT heading 0402.1000” is subjected to reduced rate of 10% sales tax. In salient features, FBR has stated that presently sales tax regime on various forms of milk is uneven; milk and cream concentrated and unsweetened/unflavoured is subject to high rate while the sweetened is enjoying exemption therefore it has been proposed to rationalize the same and both categories are proposed to be taxed at 10%. It has been proposed to withdraw the exemption on the goods covered under PCT Heading 04.01 however exemption from sales tax to milk and cream, concentrated or containing added sugar or otherwise sweetening matter covered PCT Heading 04.02 shall remain available. The entry at Sr. No. 14 of Table 1 of Eight Schedule is also being correspondingly substituted which would read as follows:

“14.	Milk and cream, concentrated and added sugar or other sweetening matter	0402.1000 and 0402.2000	10%	Sold in retail packing under a brand name
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- (ii) In terms of entry at Sr. No. 18, reclaimed lead is subjected to reduced rate of 5% sales tax if supplied to recognized manufacturers of lead and lead batteries. It has been proposed to omit the aforesaid entry meaning thereby that reclaimed lead shall be subjected to standard rate of 17%.
- (iii) Restoration of normal procedure for - increase in FED on ghee/cooking oil
 - (a) In terms of entry at Sr. No. 21, rapeseed, sunflower seed and canola seed classified under PCT headings 1205.0000 and 1206.0000 are subjected to reduced rate of 16% sales tax if imported by solvent extraction industries. It has been proposed to omit the aforesaid entry meaning thereby that rapeseed, sunflower seed and canola seed shall be subjected to standard rate of 17%.
 - (b) In terms of entry at Sr. No. 22, soya bean seed classified under PCT headings 1201.1000 is subjected to reduced rate of 6% sales tax if imported by solvent extraction industries subject to the condition that no refund of input tax shall be admissible. It has been proposed to omit the aforesaid entry meaning thereby that soya bean seed shall be subjected to standard rate of 17%.
- (iv) In terms of entry at Sr. No. 27, 5% sales tax is levy able on (a) cotton or maize planter of PCT heading 8432.3090; 9 (b) potato planter of PCT heading 8432.3090 and (c) rice transplanted of heading 8432.3090. It has been proposed to make corrective amendment by replacing figure “8432.3090” with figure “8432.3900”.
- (v) In terms of entry at Sr. No. 32, white crystalline sugar is subjected to reduced rate of 8% sales tax. It has been proposed to omit the aforesaid entry meaning thereby that white crystalline sugar shall be subjected to standard rate of 17%.
- (vi) In terms of entry at Sr. No. 56, import and supply of Potassium chlorate ($KClO_3$) is subjected to sales tax at the rate of 17% along with Rs. 65 per kg provided that rate of Rs. 65 per kg shall not apply on imports made by and supplies made to organizations under the control of Ministry of Defence Production. It has been proposed to increase the rate from Rs. 65 per kg to Rs. 70 per kg.
- (vii) Cereals and products of milling industry were exempt from sales tax in terms of entry at Sr. No. 19 of Table 1 of the Sixth Schedule. The aforesaid entry has been amended and exemption of sales tax has been withdrawn on products of milling industry, other than wheat and meslin flour as sold in retail packing bearing brand name or a trademark. Corresponding entry at Sr. No. 59 is proposed to be added in Table 1 of the Eight Schedule through which these cereals and products of milling industry, shall become liable to 10% sales tax.
- (viii) “Fat filled milk” of PCT heading 1901.9090 is exempt from sales tax in terms of Sr. No. 85 of Table 1 of Sixth Schedule. It has been proposed to withdraw exemption of sales tax on fat filled milk sold in retail packing under a brand name or trademark which shall be subjected to sales tax at reduced rate of 10% by virtue of proposed entry at Sr. No. 60 of Table 1 of the Eight Schedule.

- (ix) In terms of entry at Sr. No. 36, exemption of sales tax is available on import and supply of “silver, in unworked condition classified under PCT headings 7106.1000, 7106.9110 and 7106.9190. It has been proposed to omit entry at Sr. No. 36 and the aforesaid goods shall become liable to sales tax at the rate of 1% plus 2% value addition in terms of proposed entry at Sr. No. 61 in Table 1 of the Eight Schedule.
- (x) In terms of entry at Sr. No. 37, exemption of sales tax is available on import and supply of “gold, in unworked condition classified under PCT headings 7108.1100, 7108.1210 and 7108.1290. It has been proposed to omit entry at Sr. No. 37 and the aforesaid goods shall become liable to sales tax at the rate of 1% plus 2% value addition in terms of proposed entry at Sr. No. 62 in Table 1 of the Eight Schedule.
- (xi) It has been proposed to add a new Sr. No. 63 in Table 1 of the Eight Schedule through which “ Articles of Jewellery, or parts thereof, of precious metal or of metal clad with precious metal” classified under PCT heading 71.13 shall be subjected to sales tax at the rate of 1.5% of the value of the value of gold plus 0.5% of the value of the diamond used therein plus 3% of making charges subject to the condition that no input tax adjustment shall be allowed except for the tax paid on gold.
- (xii) Reduction of rate of sales tax on food supplied by restaurants, bakeries, caterers: The activities of serving food by restaurants and caterers, has been covered under the provincial sales tax laws and the services provided by restaurants and caterers have been subjected to sales tax under the respective provincial sales tax laws. The services provide in Islamabad are governed under Islamabad Capital Territory Sales Tax on Services Ordinance 2001. It has been stated by FBR in salient features that in lieu of the undocumented features in the above referred three sectors and very low input for adjustment, there is disincentive to pay sales tax at the rate of 17% therefore in order to encourage compliance it is proposed to reduce sale tax from 17% to 7.5% with no input adjustment. Instead of making amendment in 2001 Ordinance, it has been proposed to add a new Sr. No. 64 in Table 1 of the Eight Schedule to 1990 Act through which “Prepared food, food stuff and sweetmeats supplied by restaurants, bakeries, caterers and sweetmeat shops” shall be subjected to sales tax at the rate of 7.5% subject to the condition that no input tax adjustment shall be adjusted.
- (xiii) In terms of entry at Sr. No. 16 of Table 2 of the Sixth Schedule exemption of sales tax has been granted on raw cotton and ginned cotton. It has been proposed to withdraw the exemption of sales tax on supply of ginned cotton which shall be subjected to reduced rate of 10% sales tax by virtue of proposed entry at Sr. No. 65 in Table 1 of the Eight Schedule.
- (xiv) The rate of sales tax on local supplies of finished articles of textile and leather and finished fabric may be increased from current 6% for integrated businesses, and 9% for others, to 15% and 17% respectively. It has been proposed to insert a new entry at Sr. No. 66 of Table 1 of Eight Schedule through which “Supplies of finished articles of textile, textile made-ups, leather and artificial leather, as made by retailers” shall be subjected to 15% sales tax if such retailers are integrated with FBR’s online system and data is transmitted to FBR’s computerized system in real time in such mode and manner as may be prescribed by the Board.

- (xv) It has been proposed to add a new entry at Sr. No. 67 through which “LNG imported for servicing CNG sector and local supplies thereof shall be subjected to reduced rate of 5% sales tax.

5. THE NINTH SCHEDULE:

**Sales tax on import and supply of goods specified in Ninth Schedule
Mobile Phones**

It has been proposed to substitute Sr. No. 2 of Table given in Ninth Schedule. After substitution Ninth Schedule would read as under:

S. No.	Description / Specification of Goods	Sales tax on import or local supply	Sales tax chargeable at the time of registration (IMEI number by CMOs)	Sales tax on supply (payable at time of supply by CMOs)
(1)	(2)	(3)	(4)	(5)
1.	Subscriber Identification Module (SIM) cards			Rs. 250
2.	Cellular mobile phones or satellite phones to be charged on the basis of import value per set, or equivalent value in rupees in case of supply by the manufacturer, at the rate as indicated against each category:--			
	A. Not exceeding US\$ 30	Rs. 135	Rs. 135	
	B. Exceeding US\$ 30 but not exceeding US\$ 100	Rs. 1,320	Rs. 1,320	
	C. Exceeding US\$ 100 but not exceeding US\$ 200	Rs. 1,680	Rs. 1,680	
	D. Exceeding US\$ 200 but not exceeding US\$ 350	Rs. 1,740	Rs. 1,740	
	E. Exceeding US\$ 350 but not exceeding US\$ 500	Rs. 5,400	Rs. 5,400	
	F. Exceeding US\$ 500	Rs. 9,270	Rs. 9,270	

6. THE TENTH SCHEDULE:

Fixed tax on brick kiln"Insertion of Tenth Schedule"

It has been proposed to substitute provisions of sub-section 1B of section 3 of the Act and in pursuance thereof it has been further proposed to insert Tenth Schedule to levy fixed amount of sales tax on bricks falling in PCT Heading 6901.1000 which shall be paid on fixed basis, on monthly returns at the rate specified in the table below.

TENTH SCHEDULE [See sub-section (1B) of section 3]

The tax on bricks, falling in PCT heading 6901.1000, shall be paid on fixed basis, on monthly return, at the rates specified in Table below:–

TABLE

S. No.	Region or area	Tax payable per month
(1)	(2)	(3)
1.	Lahore, Rawalpindi and Islamabad districts	Rs. 12,500
2.	Attock, Chakwal, Jehlum, Mandi Bahauddin, Sargodha, Gujrat, Sialkot, Narowal, Gujranwala, Hafizabad, Sheikhupura, Kasur, Nankana Sahib, Chiniot, Faisalabad, Jhang, Toba Tek Singh, Okara and Sahiwal districts	Rs. 10,000
3.	Khushab, Mianwali, Bhakar, Layyah, Muzaffarghar, Dera Ghazi Khan, Rajanpur, Multan, Lodhran, Khanewal, Vehari, Bahawalpur, Pakpattan, Bahawalnagar, Rahim Yar Khan districts; and Sindh, Khyber-Pakhtunkhwa and Baluchistan provinces	Rs. 7,500

7. THE ELEVENTH SCHEDULE:
**Rates of withholding or deduction by withholding agent
 “Insertion of Eleventh Schedule”**

The Bill proposed to substitute sub-section 7 of section 3 therefore it has been correspondingly proposed to insert Eleventh Schedule which will replace Special Procedure Withholding Rules, 2007. Proposed Eleventh Schedule is reproduced as under:

ELEVENTH SCHEDULE [see sub-section (7) of section 3]

TABLE

The rates for withholding or deduction by the withholding agent

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

8. THE TWELFTH SCHEDULE

Minimum value addition on imported goods—“Insertion of Twelfth Schedule”

The Bill proposed to substitute sub-section 2 of section 7A of the Act which prescribes in respect of the goods or class of goods specified in the Twelfth Schedule, the minimum value addition tax, against the value added by the registered person, shall be payable, at the rate and by the registered persons or class of registered persons, specified therein, subject to the conditions, limitations, restrictions and procedure specified therein. Correspondingly it has been proposed to insert a new Twelfth Schedule specifying minimum value addition of 3% on all imported goods subject to exclusions as in the conditions and procedures given after the table:

TWELFTH SCHEDULE [See sub-section (2) of section 7A]

TABLE

S. No.	Goods or class of goods	PCT Heading	Rate
(1)	(2)	(3)	(4)
1.	All imported goods subject to exclusions as in conditions and procedure given after the Table	Respective Heading	3% ad valorem

Procedure and conditions:—

- (1) The sales tax on account of minimum value addition as payable under this Schedule (hereinafter referred to as value addition tax), shall be levied and collected at import stage on all taxable goods as are chargeable to tax under section 3 of the Act or any notification issued thereunder at the rate specified in the Table in addition to the tax chargeable under section 3 of the Act or a notification issued thereunder:
- (2) The value addition tax under this Schedule shall not be charged on,—
 - (i) Raw materials and intermediary goods meant for use in an industrial process which are subject to customs duty at 16% or 20% ad valorem under First Schedule to the Customs Act, 1969;
 - (ii) The petroleum products falling in Chapter 27 of Pakistan Customs Tariff as imported by a licensed Oil Marketing Company for sale in the country;
 - (iii) Registered service providers importing goods for their in-house business use for furtherance of their taxable activity and not intended for further supply; and
 - (iv) Cellular mobile phones or satellite phones.
- (3) The value addition tax paid at import stage shall form part of input tax, and the importer shall deduct the same from the output tax due for the tax period, subject to limitations and restrictions under the Act, for determining his net liability. The excess of input tax over output tax shall be carried forwarded to the next tax period as provided in section 10 of the Act.

- (4) In no case, the refund of excess input tax over output tax, which is attributable to tax paid at import stage, shall be refunded to a registered person.
- (5) The registered person, if also dealing in goods other than imported goods, shall be entitled to file refund claim of excess carried forward input tax for a period as provided in section 10 or in a notification issued there under by the Board after deducting the amount attributable to the tax paid at import stage i.e. sum of amounts paid during the claim period and brought forward to claim period. Such deducted amount may be carried forward to subsequent tax period.

9. WITHDRAWAL OF 3% VALUE ADDITION TAX ON PETROLEUM PRODUCTS AND MOBILE PHONES:

3% value addition sales tax is payable on all commercial imports. One of the exclusion from levy is available to those petroleum products imported by oil marketing companies whose prices are regulated. This exclusion does not cover furnace oil, which is being proposed now. Notification to that extent will be issued accordingly. It has also been proposed to exclude mobile cellular phones and satellite phones from preview of 3% value addition. This 3% regime has also been proposed to be transferred from special procedure rules to new Twelfth Schedule.

10. REMOVAL OF BAR ON EXPORT OF PMC AND PVC TO AFGHANISTAN :

In exercise of powers conferred under clause iii of first proviso to section 4 of the Act, the Federal Government has issued SRO 190(I)/2002 dated 02.04.2002 through which it has notified various goods inter alia including PMC and PVC materials on which the provisions of section 4 shall not apply if these goods are exported to Afghanistan and through Afghanistan to Central Asian Republics by air or via land route. It is proposed that SRO 190(I)/2002 may be amended to delete entries relating to PVC and PMC materials, thus allowing zero rating on export of these items to Afghanistan and CARs.

11. EXCLUSION OF GOVERNMENT BODIES FROM PREVIEW OF EXTRA TAX AND FURTHER TAX:

Further tax at 3% is chargeable on all supplies made to unregistered persons under section 3 (1A) of the Act. Similarly under SRO 509(I)/2013 dated 12.06.2013, 5% extra tax is chargeable on electricity and gas bills from all unregistered industrial and commercial consumers whose monthly bill exceeds Rs.15,000. It is proposed that government/semi-government and statutory regulatory authorities may be excluded from preview of both these taxes.

12. STREAMLINING SRO 1125(I)/2011 DATED 31.12.2011 REGIME:

SRO 1125 provides for zero rating of sales tax on inputs and products of five export oriented sectors i.e. textile, leather, carpets, sports goods and surgical goods. It has been stated in the salient features that the objective was to resolve delay in refund payments however zero rating has created loop hole and the benefit is being availed by unintended beneficiaries/non-exporters; reduced rates for finished goods is also harming revenue; huge misuse of SRO on import of fabric and processed fabrics has been reported. To streamline and prevent alleged revenue leakage

- (a) SRO 1125 is being rescinded thus restoring standard rate of 17% of items covered under said SRO.
- (b) Finished articles of leather and textile shall be subjected to 15% sales tax if supplied by retailers integrated by FBR system whereas these shall be subjected to 17% sales tax if supplied by other retailers.
- (c) Zero rating of utilities (gas, electricity and fuels) allowed to these export oriented sectors through various sales tax general orders be withdrawn
- (d) Refund of sales tax to these sectors be automated thus ensuring that the sales tax paid on inputs is immediately refunded. RPOs shall be immediately sent to State Bank for payment as soon as these are generated.
- (e) Exemption of sales tax from Jim Carton has been withdrawn.

13. WITHDRAWAL OF ZERO RATING OF SALES TAX ON IMPORT OF POLYETHYLENE AND POLYPROPYLENE FOR THE MANUFACTURE OF MONO FILAMENT YARN AND NET CLOTH:

In order to promote local manufacturing of mono filament yarn and net cloth, the federal government has issued SRO 769(I)/2009 dated 04.09.2009 through which it has granted facility of zero rating of sales tax on import and supply of raw materials of these products i.e polyethylene and polypropylene. The facility is available to the manufacturers having in house manufacturing facility if the supplies are made to greenhouse farming. It is proposed to rescind the said notification being similar in nature to SRO 1125, and that granting zero rating to local supplies is to be discouraged

14. SPECIAL PROCEDURE FOR MARBLE INDUSTRY:

Presently, sales tax is payable by marble industry under special procedure whereby sales tax is charged at Rs. 1.25 / unit of electricity consumed. In view of low yield to this tax, it is proposed that special procedure may be done away with and standard regime of 17% sales tax be restored.

15. SIMPLIFICATION OF SALES TAX REGISTRATION – EASE OF DOING BUSINESS:

It is proposed to issue sales tax registration through an automated interface without any physical contact with the tax officers. Biometric verification shall be done within a month of a registration through NADRA e-Sahulat centers.

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 01.07.2019 except specifically mentioned in respective clauses

- 1) The bill seeks to withdraw exemption of FED on internet services and foreign satellite bandwidth services. Telecom services provided in Islamabad Capital Territory are subject to FED under the Federal Excise Act, 2005. However, internet services are presently exempt from payment of FED under Third Schedule to the Federal Excise Act, 2005. Similarly, bandwidth services are also exempted from payment of FED. In order to protect local services providers, it is proposed to withdraw exemption on services provided by foreign satellites and maintain exemption only on terrestrial bandwidth services.
- 2) In order to facilitate the exporters of unmanufactured tobacco, it is proposed that the FED shall be charged at zero per cent on unmanufactured tobacco as supplied to a registered person / trader who intends to export the same subject to furnishing of necessary security.
- 3) In order to generate much need revenue, rate of FED on aerated waters is proposed to be increased from 11.5% to 14%.
- 4) Special Regime of taxation of the whole of the steel sector is being abolished Sales tax on billets, ingots, bars, ship plates and other long profiles may be exempted at manufacturing and import stage, and in lieu thereof FED at 17% in sales tax mode may be imposed for the reason that there is no exemption of FED for tribal areas
- 5) In order to do restore normal regime, in addition to measures included in the Finance Bill, the following notifications providing for Rs. 1/ kg and Rs. 0.40 per kg rates are proposed to be rescinded Accordingly, it is proposed to increase rate of FED to 17% on edible oils / ghee / cooking oil.
- 6) The government aiming to discourage unhealthy and injurious activity of smoking increases FED on cigarettes every year. FED on cigarettes is levied on fixed rate basis. It is proposed to enhance the rates and redefine the thresholds by abolishing the third tier introduced earlier.
- 7) In order to generate revenue and also to provide level playing field for aerated water which are proposed to be subjected to higher FED at 14%, is proposed that the non-aerated packaged sugary drinks, such as juices, syrups and squashes may be subjected to FED at 5% of retail price.
- 8) Cement is chargeable to federal excise duty @ 1.5 per kg. It is now proposed to increase federal excise duty on cement to Rs. 2 per kg.

- 9) Presently, FED on LNG is payable at Rs. 17.18 per 100 cubic meters. The rate is substantially lower and generates only Rs. 2 to 3 million annually. Accordingly, it is proposed to increase FED on LNG from Rs. 17.18 per 100 cu. m to Rs. 10 per MMBTU bringing it to same level as for local gas.
- 10) Through Finance Supplementary (Second Amendment) Act, 2019, FED on locally manufactured / assembled cars of 1700 cc and above was introduced @10%. Now, in order to rationalize this levy, it is proposed to enlarge the scope of FED and following slabs are being proposed:
- Cars from 0 to 1000cc 2.5%
 - Cars from 1001cc to 2000cc 5%
 - Cars from 2001cc and above 7.5 %
- 11) It is proposed that services which have been subjected to sales tax by the provinces and are not included in the Schedule to ICT (Tax on Services) Ordinance, 2001, may be included in the Schedule and subjected to sales tax at standard rate of 16% under the said Ordinance. For clarity, it is mentioned that the services which are already being taxed under the Federal Excise Act, 2005, are not included in the services to be added to ICT law.
- 12) Cabinet Division has directed to propose amendments in the relevant statutes and Rules to replace the words “Federal Government” wherever possible. Accordingly, both ST & FED laws have been scrutinized. Substantive powers may remain with the Federal Government, whereas procedural powers are proposed to be assigned to the Board.
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COMMENTS ON PROPOSED AMENDMENTS THROUGH FINANCE BILL 2019-20

1. **Empowering the Board with the approval of Minister-in-Charge in place of Federal Government.**

Section 2(23a), 7(2) & 22(12)

The bill seeks to empower the Board with the approval of Minister -in-charge in place of Federal Government to specify goods and transactions which are covered under the definition of supply. Further Board and Federal Minister -in-charge have been empowered to adapt any of the provisions of the Sales Tax Act,1990, relating to the levy of and exemption from sales tax, registration, book keeping and invoicing requirements, returns, offences and penalties, appeals and recovery of arrears shall, with such modifications and alterations as it may consider necessary or desirable in respect of the duty leviable under this Federal Excise Act. These powers have also been proposed to be extended to authorize any other officer working under the Board to exercise the powers and perform the functions of an officer of Inland Revenue under this section, subject to such conditions, if any, that it may deem fit to impose.

The bill seeks to shift above narrated powers of Federal Government to the Board and Minister in charge, in contravention of legislative supremacy and statutory authorities of Federal Government in desired course.

2. **Liability to pay Federal Excise Duty :**

Section 3(5A)

Sub-Section 5 of section 3 deals with the liability to pay FED. The bill seeks to insert sub-section 5A of section 3 alongwith fourth schedule for determination of minimum production for steel products as well as and implementation of FED on steel melters and re-rollers. It is proposed that in respect of goods, specified in the Fourth Schedule, the minimum production for a month shall be determined on the basis of a single or more inputs as consumed in the production process as per criterion specified in the Fourth Schedule and if minimum production so determined exceeds the actual supplies for the month, such minimum production shall be treated as quantity supplied during the month and the liability to pay duty shall be discharged accordingly.

3. **Exemptions**

Redrafting of sub-section 2 of Section 16

Sub-section 3 of section 16 deals with the powers of Federal Government to grant exemption from levy of FED in special circumstances. At present, the Federal Government has the power to grant exemption from any tax/duty or reduce a tax/duty rate or tax/duty liability whenever circumstances exist to take immediate action for the

purposes of national security, natural disaster, national food security in emergency situations, protection of national economic interests in situations arising out of abnormal fluctuation in international commodity prices, removal of anomalies in taxes, development of backward areas, implementation of bilateral and multilateral agreements or granting an exemption from any tax imposed under this Ordinance to any international financial institution or foreign Government owned financial institution. Now the aforesaid power to grant exemption is being limited to the extent of emergency situations only and that the power to grant exemption to remove anomaly in taxes and for development of backward areas is being be withdrawn. Any exemption in the case of anomaly of taxes and for development of backward areas would be granted through an Act of Parliament or through an Ordinance if the Parliament is not in session.

4. **Offences, penalties, fines and allied matters**
sub-section 2 of Section 19

The bill seeks to insert clause “d” in subsection 2 of section 19 aiming to include the persons selling cigarettes in retail at a price lower than the retail price plus the amount of sales tax as printed thereon, under the mischief of penalty which may extend to Twenty Thousand Rupees.

5. **Proceeding against persons:**
Section 19A

In order to effectively check misuse of authority to gain financial benefit, a new enabling provision is being introduced to prescribe rules for initiating criminal proceedings against officers and officials of the Board who deliberately commit acts or fail to act for personal benefits. Similar action would also be taken against persons who offer bribes or other financial benefits to the tax employees.

For this purpose, the bill seeks to insert new section 19A wherein Board has been empowered to prescribe rules for initiating criminal proceedings against the authorities and taxpayers engaged in malpractices.

Note:

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

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

Sr. No.	Sr No. in Table	Existing		Proposed amendments		Comments
		Description	Rate of duty	Description	Rate of duty	
1	1	Edible oils excluding deoxidized soybean	Sixteen percent ad val.	Edible oils excluding deoxidized soybean	Seventeen percent ad val.	The bill seeks to enhance FED on edible oil resulting in price hike of this common use fast moving consumer item..
2	2	Vegetable ghee and cooking oil	Sixteen percent ad val.	Vegetable ghee and cooking oil (a) in retail packing (b) not in retail packing	Seventeen percent of retail price Seventeen percent ad val	The bill seeks to enhance FED on vegetable ghee and cooking oil resulting in price hike of this common use fast moving consumer item..
3	4	Aerated waters	Eleven and half per cent of retail price	Aerated waters	Fourteen per cent of retail price	The bill seeks to enhance FED on aerated waters resulting in price hike of aerated waters.
4	5	Aerated waters, containing added sugar or other sweetening matter or flavored		Aerated waters, containing added sugar or other sweetening matter or flavored		
5	6	Aerated waters if manufactured wholly from juices or pulp of vegetables, food grains or fruits and which do not contain any other ingredient, indigenous or imported, other than sugar, coloring materials, preservatives or additives in quantities prescribed under the West Pakistan Pure Food Rules, 1965		Aerated waters if manufactured wholly from juices or pulp of vegetables, food grains or fruits and which do not contain any other ingredient, indigenous or imported, other than sugar, coloring materials, preservatives or additives in quantities prescribed under the West Pakistan Pure Food Rules, 1965		
6	7	Un-manufactured tobacco	Three hundred rupee per kilogram	Un-manufactured tobacco "Explanation:– The duty payable under this serial number shall always be borne by the cigarette manufacturer and the burden thereof shall not be passed on to the tobacco grower in any manner.";		The bill seeks to fix the liability of FED to the cigarette manufacturer and restrict to pass on the burden to the grower.
7	9	Locally produced cigarettes if their on-pack printed retail price exceeds four thousand five hundred rupees per thousand cigarettes.	Rupees four thousand five hundred per thousand cigarettes	Locally produced cigarettes if their on-pack printed retail price exceeds five thousand nine hundred and sixty rupees per thousand cigarettes.	Rupees five thousand two hundred 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. The revised rates has been effective from 11.06.2019 vide S.R.O.608(I)/2019.
8	10	Locally produced cigarettes if their on-pack 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 eight hundred and forty per thousand cigarettes	Locally produced cigarettes if their on-pack printed retail price does not exceed five thousand nine hundred and sixty rupees per thousand cigarettes.	Rupees one thousand six hundred and fifty 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. The revised rates has been effective from 11.06.2019 vide S.R.O.608(I)/2019.
9	10a	Locally produced cigarettes if their on-pack printed retail price does not exceed two thousand nine hundred and twenty-five rupees per thousand cigarettes	Rupees one thousand two hundred and fifty per thousand cigarettes	omitted	omitted	
10	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 fifty paisa per kilogram	Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cements, whether or not coloured or in the form of clinkers	two rupees per kilogram	The Bill seeks to enhance the FED on cement sector. This measure being unjustified will be borne by the general masses.
11	31	Liquefied Natural Gas	Seventeen rupees and eighteen paisa per hundred cubic meters	Liquefied Natural Gas	Ten rupees per Million British Thermal Unit (MMBTu)	Presently, FED on LNG is payable at Rs. 17.18 per 100 cubic meters. The rate is substantially lower and generates only Rs. 2 to 3 million annually. Accordingly, it is proposed to increase FED on LNG from Rs. 17.18 per 100 cu. m to Rs. 10 per MMBTU bringing it to same level as for local gas.
12	54	Oilseeds	Forty Paisa per kg	omitted	omitted	The FED on oilseeds is proposed to be omitted.
13	55B	Locally manufactured or assembled motor cars, SUVs and other motor vehicles of cylinder capacity of 1700cc or above, principally designed for the transport of persons (other than those of headings 87.02), including station wagons and racing cars of cylinder capacity of 1700cc or above	Ten percent ad val	Locally manufactured or assembled motor cars, SUVs and other motor vehicles, principally designed for the transport of persons (other than those of headings 87.02), including station wagons and racing cars; (a) of cylinder capacity up to 1000cc (b) of cylinder capacity from 1001cc to 2000cc (c) of cylinder capacity 2001cc and above	2.5% ad val. 5% ad val. 7.5% ad val.	Through Finance Supplementary (Second Amendment) Act, 2019, FED on locally manufactured / assembled cars of 1700 cc and above was introduced @10%. Now, in order to rationalize this levy, it is proposed to enlarge the scope of FED and mentioned slabs are being proposed.
14	57	New insertion	New insertion	Fruit juices, syrups and squashes, waters containing added sugar or sweetening matter etc. excluding mineral and aerated waters	Five percent of retail price	The bill seeks to impose 5% duty on retail price of fruit juices and allied items to enhance the prices of these items.
15	58	New insertion	New insertion	Steel Billets, ingots, ship plates, bars and other long re-rolled products	Seventeen percent ad val	The bill seeks to impose 17% duty on steel billets ingots ship plates etc which will burden this industry to enhance the prices of these items.

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

Sr. No.	Sr No. in Table	Existing		Proposed amendments		Comments
		Description	Rate of duty	Description	Rate of duty	
1	3	Facilities for travel (a) Services provided or rendered in respect of travel by air of passengers within the territorial jurisdiction of Pakistan (i) Long routes (ii) Short routes	 Two thousand rupees One thousand two hundred and fifty rupees	Facilities for travel (a) Services provided or rendered in respect of travel by air of passengers within the territorial jurisdiction of Pakistan (i) Long routes (ii) Short routes	 Fifteen hundred rupees Nine hundred rupees	The bill seeks to decrease FED on travel facilities to encourage tourism.

PROPOSED AMENDMENTS IN SECOND SCHEDULE OF THE FEDERAL EXCISE ACT 2005

Sr. No.	Sr No. in Table	Existing		Proposed amendments		Comments
		Description	Heading/ sub-heading Number	Description	Heading/ sub-heading Number	
1	4	New insertion	New insertion	Steel Billets, ingots, ship plates, bars and other long re-rolled products	Respective headings	Discussed as above.

PROPOSED AMENDMENTS IN TABLE II OF THIRD SCHEDULE OF THE FEDERAL EXCISE ACT 2005. (Entry No.2 Clause i & ii)

The bill seeks to withdraw exemption of FED on internet services and foreign satellite bandwidth services. Telecom services provided in Islamabad Capital Territory are subject to FED under the Federal Excise Act, 2005. However, internet services are presently exempt from payment of FED under Third Schedule to the Federal Excise Act, 2005. Similarly, bandwidth services are also exempted from payment of FED. In order to protect local services providers, it is proposed to withdraw exemption on services provided by foreign satellites and maintain exemption only on terrestrial bandwidth services.

PROPOSED ADDITION OF FOURTH SCHEDULE OF THE FEDERAL EXCISE ACT 2005

FOURTH SCHEDULE” (Minimum Production) [See sub-section (5A) of section 3]

1. Minimum production of steel products

The minimum production for steel products shall be determined as per criterion specified against each in the Table below:

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

2. Procedure and conditions

- (i) Both actual and minimum production, and the local supplies shall be declared in the monthly return. In case, the minimum production exceeds actual supplies for the month, the liability to pay duty shall be discharged on the basis of minimum production:

Provided that in case, in a subsequent month, the actual supplies exceed the minimum production, the registered person shall be entitled to get adjustment of excess duty on account of excess of minimum production over actual supplies:

Provided further that in a full year, as per financial year of the company or registered person, or period starting from July to June next year, in other cases, the duty actually paid shall not be less than the liability determined on the basis of minimum production for that year:

Provided also that in case of ship-breaking, the liability against minimum production, or actual supplies, whichever is higher, shall be deposited on monthly basis on proportionate basis depending upon the time required to break the vessel.

- (ii) The Board, may notify minimum values for steel products as mentioned in the Table above in exercise of powers under sub-section (5) of section 12.
 - (iii) The payment of FED on ship plates in aforesaid manner does not absolve ship breakers of any tax liability in respect of items other than ship plates obtained by ship-breaking.
 - (iv) The melters and re-rollers employing self-generated power shall install a tamperproof meter for measuring their consumption. Such meter shall be duly locked in room with keys in the custody of a nominee of the Commissioner Inland Revenue having jurisdiction. The officers Inland Revenue having jurisdiction shall have full access to such meter.
 - (v) The minimum production of industrial units employing both distributed power and self-generated power shall be determined on the basis of total electricity consumption.
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TEXT OF FINANCE BILL – 2019

**For convenience, the complete text of Finance Bill 2019
may be viewed at <http://www.krestonhb.com>**
