

## COMMENTS ON FINANCE BILL 2022

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## COMMENTS ON FINANCE BILL 2022

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 2022 (Bill)**. The memorandum contains Budget – 2022 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, 2022 unless otherwise specified in these comments.

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

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

The comments on **Finance Bill 2022** can also be accessed on / downloaded from the website of our firm - <http://www.krestonhb.com>

Dated: June 11, 2022

KRESTON HYDER BHIMJI & CO.  
CHARTERED ACCOUNTANTS

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## **BUDGET AT A GLANCE IN COMPARATIVE FORM**

	<b>2022-23</b>	<b>Revised 2021-22</b>
	<i>..... Rs. in billion .....</i>	
<b><u>Revenue</u></b>		
Tax Revenue	7,004	6,000
Non-Tax Revenue	2,000	1,315
a) Gross Revenue Receipts	9,004	7,315
b) Less: Public account receipts (net)	(125)	(244)
c) Less: Provincial Share	(4,100)	(3,512)
Net Revenue Receipts (a-b)	<b>4,779</b>	<b>3,559</b>
<b><u>Expenditure</u></b>		
Current expenditure	11,397	10,190
Development expenditure	1,023	434
	<b>12,420</b>	<b>10,624</b>
<b>Total Deficit</b>	<b>(7,641)</b>	<b>(7,065)</b>
The deficit will be made up as under:		
Non-Bank Borrowing (NSSs & Other)	2,407	2,508
External Receipts (net)	3,166	3,114
Estimated Provincial Surplus	800	570
Bank Borrowing (T-Bills, PIBs, Sukuk)	1,172	873
Privatization Proceeds	96	-
<b>Total Resources to Meet the Deficit</b>	<b>7,641</b>	<b>7,065</b>
<b>Surplus / Deficit</b>	<b>-</b>	<b>-</b>

**SALIENT FEATURES OF AMENDMENT PROPOSED IN INCOME TAX ORDINANCE, 2001 –  
EFFECTIVE FROM JULY 01, 2022 (Tax Year 2023), EXCEPT PROVIDED OTHERWISE**

**A: REVENUE MEASURES**

1. Tax rate for the taxable income of the banks increased from 39% to 45% for tax year 2023 onwards.
2. Tax on high earning persons for poverty alleviation for tax year 2022 and onwards.
3. Tax on deemed income from unutilized property above Rs. 25 million including luxury farmhouses and exclusive of one self-owned house to be computed @ 1% of the fair market value of such immovable property.
4. Increase in rate from 1% to 2% on sale and purchase of property for filers.
5. Increase in rate from 100 percent to 250 percent in case of purchase of property by persons who are not active taxpayers.
6. Increase in rate of 200 from 100 percent in case of purchase of motor vehicles by persons who are not active taxpayers.
7. Level playing field for all classes of assets. Capital gain tax on disposal of securities and real estate synchronized along with incentives for vertical growth of cities.
8. Increase in advance tax rate on private vehicles of 1600 cc and above.
9. Increase in yearly advance tax rate on tax on passenger vehicles.
10. Omission of deductible allowance for profit on debt and tax credit for investment in shares, health insurance and pension funds.
11. Restriction on carry forward of minimum tax in subsequent years.
12. Omission of exemption on flying allowances and submarine allowance.
13. Omission of reduced rate of taxation for investment in Government securities.
14. Withdrawal of Income Tax (Amendment) Ordinance, 2022.
15. The tax collected u/s 148 on the commercial imports of certain sectors has again been subjected to final tax regime instead of minimum tax regime.
16. Withdrawal of 100% tax credit on export of IT services and software and now export proceed of this sector will be subjected to final tax @ 0.25%.

**B: RELIEF MEASURES:**

1. Fixed tax regime for retailers and specified service providers.
2. Restriction on frequency of audits to once in four years.
3. Adjustment of tax collected on all materials at import stage for industrial undertaking for own use.
4. Relief on taxation for salaried and business individuals by increasing threshold for taxation.
5. Admissibility of 100% depreciation in first year.

6. Reduction in tax rate from 10% to 5% on Bahbood certificates.
7. Withdrawal of withholding tax on educational expenses payments.
8. Exemption from tax on income of certain non-profit entities.
9. Reduced rate of 3% on provision of services by REIT management company and NCCPL.
10. Withdrawal of withholding tax on rent of machinery.
11. Exemption from advance taxes to exempt entities.

**C: STREAMLINING MEASURES:**

1. Requirement for adoption of digital mode of payment for companies.
2. Clarification regarding exempt income of partners if income of AOP is exempt.
3. Introduction of Synchronized Withholding Administration Payment System.
4. Streamlining of audit procedures.
5. Increase in time limitation for best judgment from 5 to 6 years.
6. Enhancement of restriction for passing of order in from 120 to 180 days.
7. Clarification regarding remittance through money transfer operations.

**D: DOCUMENTATION OF ECONOMY MEASURES:**

1. Inclusion of concept of beneficial owner.
  2. Alignment of Point of Sale regime with Sales Tax provisions and introduction of prize scheme.
  3. Increase in scope of tax on payments to non-residents and enhancement of rate from 5% to 10% on offshore digital services.
  4. Increase in scope of criteria for becoming tax resident individuals.
  5. Introduction of advance adjustable tax on credit/debit card payments.
  6. Sharing of information between NADRA and FBR for tax base broadening.
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**COMMENTS ON AMENDMENT PROPOSED VIDE FINANCE BILL 2021  
IN THE INCOME TAX ORDINANCE, 2001**

**1. Definitions**

Following new definitions has been added through the Bill

**a) Beneficial Owner Section 2 (7A)**

“(7A) “beneficial owner” means a natural person who –

- (a) ultimately owns or controls a Company or association of persons, whether directly or indirectly, through at least ten percent shares or voting rights; or
- (b) exercise ultimate effective control, through direct or indirect means, over the company or association of persons including control over the finances or decisions or other affairs of the company or association of persons;”

Provision in this respect has also been proposed to be inserted in the Bill under Section 181E which is being commented upon separately in the section-wise serial of this commentary.

**b) Distributor Section 2 (18A)**

“(18A) “distributor” means a person appointed by a manufacturer, importer or any other person for a specified area to purchase goods from him for further supply;”

In view of this new interpretation, all persons appointed by a manufacturer or any other person for a specified area will fall in the purview of distribution which may include wholesalers, retailers, agents etc.

**c) Fair Market Value Section 2 (22AA)**

“(22AA) “fair market value” means value as provided in section 68;”

This definition was restricted to certain legal provisions of the Income Tax Ordinance, however, with the incorporation of this definition, the definition of fair market value will apply to all the provisions of the income tax law. This will also apply to tax deeming provision with respect to imposing tax on deemed income from unutilized immovable property above Rs. 25 million including luxury farmhouses and exclusive of one self-owned house. Complete details of which are stated under the respective section of this commentary given hereunder under Section 7E.

**d) Synchronized Withholding Administration & Payment System agent” or “SWAPS agent Section 2 (62B)**

“(62B) “Synchronized Withholding Administration and Payment System agent” or “SWAPS agent” means any person or class of persons notified by Board to collect or deduct withholding taxes through Synchronized Withholding Administration and Payment System;

Provision in this respect has also been proposed to be inserted in the Bill under Section 164A which is being commented upon separately in the section-wise serial of this commentary.

**e) Tax Invoice**

**Section 2 (66A)**

“(66A) “tax invoice” means an invoice as prescribed under the Income Tax Rules, 2002”

The Bill seeks to define tax invoice as prescribed under the Income Tax Rules, 2002 and accordingly the contents of the same will be implemented through amendments in the income tax rules and it is expected that this should be in line with the definition given for this purpose under the sales tax laws.

**2. Tax on taxable Income**

**Section 4**

In view of inclusion of new sections relating to tax on high earning person for poverty alleviation under section 4C, changes in taxation of non-residents under section 6 and tax on deemed income on unutilized property under section 7E, technical amendments has been proposed in this section which bring the new sections in the ambit of charging section. This amendment will also incorporate the tax on return on investment in Sukuk under Section 5AA, Tax on shipping of a resident person under section 7A, Tax on profit ton debt under section 7B etc.

**3. Tax on higher earning persons for poverty alleviation for tax year 2022 and onwards  
Section 4C**

The Bill Seeks to insert a new section 4C to impose tax on high earning persons for poverty alleviation, the salient features of which are as under:

- (1) A tax shall be imposed for poverty alleviation for tax year 2022 and onwards at the rates specified in Division II B of Part I of the First Schedule, on income of every person.
- (2) For the purposes of this section, “income” shall be the sum of the following:
  - (i) profit on debt, dividend, capital gains, brokerage and commission;
  - (ii) taxable income (other than brought forward depreciation and brought forward business losses) under section 9 of the Ordinance, if not included in clause (i);
  - (iii) imputable income as defined in clause (28A) of section 2 excluding amounts specified in clause (i); and
  - (iv) Income computed, other than brought forward depreciation, brought forward amortization and brought forward business losses under Fourth, Fifth and Seventh Schedules.
- (3) The tax payable under sub-section (1) shall be paid, collected and deposited on the date and in the manner as specified in sub-section (1) of section 137 and all provisions of Chapter X of the Ordinance shall apply.
- (4) Where the tax is not paid by a person liable to pay it, the Commissioner shall by an order in writing, determine the tax payable, and shall serve upon the person, a notice of demand specifying the tax payable and within the time specified under section 137 of the Ordinance.



- (5) Where the tax is not paid by a person liable to pay it, the Commissioner shall recover the tax payable under sub-section (1) and the provisions of Part IV, X, XI and XII of Chapter X and Part I of Chapter XI of the Ordinance shall, so far as may be, apply to the collection of tax as these apply to the collection of tax under the Ordinance.
- (6) The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this section.

#### **4. Tax on certain payments to Non-resident**

#### **Section 6**

The Bill Seeks to add additional services for the purpose of imposing tax on non-resident persons under section 6(1) of the Ordinance to include fee for money transfer operations, card network services, payment gateway services and interbank financial telecommunication services along-with Pakistan source royalty fee for offshore digital services and fee for technical services.

The Bill also proposes to incorporate amendments in sub-section (2) seeking to incorporate changes where all the services now incorporated along-with royalty, fee for offshore digital services and technical services are at par at the relevant rate prescribed for this purposes.

The Bill also proposes inapplicability of this section where the services giving rise to the fee are rendered through a permanent establishment in Pakistan of the non-resident person and in which case these are taxed in the hands of that permanent establishment as income from business attributable to the permanent establishment in Pakistan of the person.

Thus with the enforcement of these amendments the scope of tax on payments to non-residents has been widened. Increase in tax rates from 5% to 10% on offshore digital services has been proposed which is also being discussed in the commentary on tax rates as prescribed in the first schedule.

#### **5. Tax on deemed income from unutilized property above Rs. 25 million exclusive of one self-owned house**

#### **Section 7E**

The Bill seeks to enforce taxing the unutilized property kept in hand by the person out of their savings treating as deemed rental income effective from tax year 2022. The proposed amendment reads out as under:

##### **“7E. Tax on deemed income**

- (1) Notwithstanding anything contained in the Ordinance, for tax year 2022 and onwards, a tax shall be imposed at the rates specified in Division VIII C of Part-I of the First Schedule, on the income specified in this section.
- (2) A resident person shall be treated to have received rent equal to five percent of the fair market value of an immovable property situated in Pakistan whether such property has actually been rented out for any consideration or not.

- (3) This section shall not apply to –
- (a) one self-owned immovable property;
  - (b) self-owned business premises from which business is carried out;
  - (c) self-owned agriculture land where agriculture activity is carried out by person but does not include farmhouse and land annexed thereto;
  - (d) where the fair market value of the property or properties, in aggregate, excluding properties mentioned in clauses (a), (b) and (c) does not exceed twenty-five million Rupees;
  - (e) a Provincial Government, a Local Government, a local authority or a development authority;
  - (f) land development and construction projects of builders and developers registered with Directorate General of Designated Non-Financial Businesses and Professions of Board;
  - (g) a property which is subject to tax under section 15 of the Ordinance and the tax chargeable is more than tax chargeable under this section:

Provided that if tax chargeable under section 15 is less than the tax chargeable under this section so much of the amount of tax which is in excess of tax chargeable under section 15 shall be paid under this section

- (4) The Federal Government may include or exclude any person or property for the purpose of this section.

It is proposed that 20% tax on such deemed rental income (1% of fair value) be imposed which seems a very high rate as in fact no real income is generated from this source to the property owner which needs to be curtailed to a small rate initially.

As stated in the budget speech the tax has been imposed in order to discourage the savings being invested in real estate. Accordingly, the value of properties will be determined as specified in Section 68 and for which amendments for determination of fair market value has been incorporated in Section 2 (22AA) as also commented in the captioned heading “definitions”.

This is likely that this tax incidence will be on the active tax payers and the government machinery will not be able to implement this section to those are not on the ATL.

## **6. Consequential amendments**

## **Section 8**

The Bill seeks to incorporate consequential amendments in this section pursuant to amendment proposed in section 4 to 7.

## **7. Deductions not admissible as business expense**

## **Section 21**

Section 21 governs the inadmissibility of certain expenditures/payment on various grounds mentioned in this section as business expense. The Bill seeks to include the following as well amongst them:

- (a) A new clause (ea) has been proposed to be inserted which provides that an amount in excess of fifty percent of contribution made by a person to an approved gratuity fund, an approved pension fund or an approved superannuation fund shall be inadmissible.

This reduction of genuine business expense is neither logical nor fair. It does not provide when this disallowed amount will be allowed. On the other hand the recipients will continue to enjoy the same as per the existing provisions of the law. It is therefore, strongly recommended that this amendment be withdrawn forthwith.

- (b) The applicability of cash payment under clause (l) is proposed to be applied to taxpayers other than a company since the company is liable in respect of cash payments under clause (la).
- (c) Vide Tax Laws (Third Amendment) Ordinance 2021 new clause i.e. clause (la) was enacted whereby in the case of a company, where expenditure under a single account head exceeds two hundred fifty thousand rupees made other than by digital means from business bank account was inadmissible. The Bill proposes to increase this threshold from 250,000 to Rupees one million.
- (d) Vide Tax Laws (Third Amendment) Ordinance 2021, digital mode of payment in respect of payment of salaries was included. The Bill seeks to incorporate the same as well.
- (e) The Bill seeks to insert a new clause (r) in section 21 disallowing expenditure upto 10% to any person who is required to integrate but fails to integrate his business with the Board through approved fiscal electronic device and software.

## **8. Normal Depreciation**

## **Section 22**

### **8.1 Reduction of allowance for depreciation on additions**

Vide Finance Act 2020, normal depreciation on all addition made during a tax year was restricted to 50%. The Bill seeks to omit this inadmissibility. The amendment proposed will not only rationalize the admissibility, it will also result in removing the cumbersome calculation involved in it as well.

### **8.2 Similar amendment has also been proposed in respect of reduction of depreciation of 50% in the case of disposal of assets.**

### **8.3 Hitherto admissibility of depreciation on motor vehicle not plying for hire was restricted upto Rs. 2,500,000. The Bill seeks to increase the admissibility to Rs. 5 million. Of course this has been the need of the hour as the prices of vehicles have increased manifold and even this level needs to be increased further as per prevailing situation.**

## 9. Initial Depreciation

## Section 23

Hitherto, initial depreciation was eligible to all assets except following assets:

- (a) Road transport vehicle plying for hire
- (b) Furniture including fittings
- (c) Plant and machinery previously used in Pakistan
- (d) Plant and machinery on which depreciation is allowed under any other section for the entire cost of asset.

The Bill seeks to insert new clause (e) to section 23(5) to restrict the benefit of initial depreciation to immovable property or structural improvement to the immovable property from purview of eligible depreciable assets for claiming initial allowance. Exclusion of structural improvement seems to be harsh since in various cases including retail outlets structural changes are made in order to meet the business needs. Thus restricting it to immovable properties seems to be fair however, with regard to structural improvement this needs to be rationalized.

## 10. Capital Gains arising on disposal of capital assets

## Section 37

Hitherto tax on disposal of immovable properties and upon disposal of capital assets other than immovable properties were taxed separately while mechanism for capital gain on listed investment was provided under section 100B which was administered by the NCCPL as provided in 8<sup>th</sup> Schedule to the Ordinance.

The Bill seeks to consolidate the legal provision of taxing sale of immovable properties and other capital assets excluding the mechanism provided for capital gain on securities in Section 37A read with eighth schedule.

As a consequence of which the following changes will take place:

- (i) 25% exemption available upon disposal of capital asset other than immovable property and on disposal of securities under section 37A read with eighth schedule will no more be available.
- (ii) Benefit of receipt of capital assets under a gift or by succession, inheritance or devolution or distribution of asset on dissolution or distribution of assets on liquidation shall not be available as provided in sub-section (4) which has been proposed to be omitted.
- (iii) Taxing immovable property in four years will be spread to six year. Refer amendment in First Schedule of this commentary and relevant extracts of Division VIII are as follows;

The rate of tax to be paid shall under sub-section (1A) of section 37 shall be as follows:

S.No	Holding Period	Rate of Tax		
		Open Plots	Constructed Property	Flats
(1)	(2)	(3)	(4)	(5)
1.	Where the holding period does not exceed one year	15%	15%	15%
2.	Where the holding period exceeds one year but does not exceed two years	12.5%	10%	7.5%
3.	Where the holding period exceeds two years but does not exceed three years	10%	7.5%	0
4.	Where the holding period exceeds three years but does not exceed four years	7.5%	5%	-
5.	Where the holding period exceeds four years but does not exceed five years	5%	0	-
6.	Where the holding period exceeds five years but does not exceed six years	2.5%	-	-
7.	Where the holding period exceeds six years	0%	-	-

#### 11. Exemptions under international agreements Section 44 (3)

- a) Presently exemption under sub-section (3) of section 44 seems to be applicable to income received by a person (not being a citizen of Pakistan) engaged as a contractor, consultant, or expert only under bilateral or multilateral technical assistance agreement between the Federal Government and a foreign government or public international organization.

The Bill seeks to omit words “technical assistance” in order to generalize the term agreement and widen the scope of exemptions under international bilateral or multilateral agreement.

- b) In order to empower the Federal Government to provide exemptions to income of any person in respect of official development assistance financed loans and grants-in-aid, a new sub-section 44 (4) is proposed to be inserted after sub section 3 as follows;

“Federal Government may, in respect of an official development assistance financed loans and grants-in-aid, subject to such conditions and limitations as it may specify, exempt income of any person on a case to case basis through a notification in the official Gazette.”;

#### 12. Exemptions and tax concessions in the Second Schedule Section 53 (2)

Vide Tax Laws (Third Amendment) Ordinance 2001 an amendment was made in section 53 (2) of the Ordinance by inserting the words “Federal Government and the”. The said amendment empowered the Federal Government to make amendments in the Second Schedule 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, implementation of bilateral and multilateral agreements or granting an exemption from any tax imposed under the Ordinance including a reduction in the rate of tax imposed under the Ordinance or a reduction in tax liability under the Ordinance or an exemption from the operation of any provision of the Ordinance to any international financial institution or foreign Government owned financial institution operating under an agreement, memorandum of understanding or any other arrangement with the Government of Pakistan.

The Bill seeks to enact the said amendment empowering the Federal Government to make amendments in second schedule.

**13. Carry forward of business losses of sick industrial units Section 59C**

The Income Tax (Amendment) Ordinance, 2022, as part of a promotion package for revival of sick industrial units, inserted section 100F. Under the said section 100F the Company, acquiring under a scheme of acquisition majority share capital of another company being an industrial sick unit, is entitled to adjust loss for the latest tax year and brought forward assessed business losses excluding capital losses of the sick industrial unit subject to conditions and limitation specified in the section 59C and 57.

The Bill proposes to withdraw the said section with effect from March 2, 2022. Consequently, no benefit of adjustment of business losses of acquired sick industrial unit shall be available.

**14. Withdrawal of certain deductible allowances and tax credits Section 60C, 62, 62A, 63**

Presently eligible individuals are allowed following:

- a) Deductible allowance for profit on debt incurred on house financing – Section 60C;
- b) Tax credit for investment in new shares of listed companies, mutual funds or life insurance policies, Sukuk, etc. – section 62;
- c) Tax credit for purchase of Health insurance policies – section 62A; and
- d) Tax credit for investment in Approved Voluntary Pension Schemes (VPS) - section 63

The above deductible allowance and tax credits are proposed to be withdrawn by omitting section 60C, 62,62A and 63 from the Ordinance.

These credits and deductible allowances are being used as attraction for investments in new shares, mutual funds, life and health insurance policies etc. However, withdrawal of these credits / allowable deductions might affect such investments.

**15. Tax credit on income from export of software, IT services and IT enabled services Section 65F**

Presently 100% tax credit on income from export of software, IT services and IT enabled services is available up to tax year 2025, subject to certain conditions.

Taxpayers of same sector who do not qualify for tax credit are subject to 1% withholding income tax on export proceeds under section 154A.



The Bill seeks to withdraw said 100% tax credit regime with effect from July 1, 2022 and consequently, the entire sector will be subject to withholding tax under section 154A at proposed revised rate of 0.25% of export proceeds.

**16. Tax credit for foreign investment for industrial promotion Section 65H**

Vide Tax laws (Third Amendment) Ordinance 2022 benefit of this tax credit was enacted whereby a taxpayer being

- a non-resident Pakistani citizen having continued non-residential status for more than five years; or
- a resident individual having foreign assets declared in terms of section 116 or 116A by the 31st December, 2021

invests in the Company incorporated on or after March 1, 2022, to set up an industrial undertaking in Pakistan with equity, not less than Rs. 50 million, with funds remitted into Pakistan through proper banking channel, at any time up to December 31, 2022, that company is entitled to a one-time tax credit equal to 100% of the amount remitted and credited in rupees in the bank account of such company against tax liability for the tax year in which commercial production commences before June 30, 2024.

The Bill proposes to omit these provisions hence Tax credit for foreign investment for industrial promotion will no more be available and effect of such omission shall be apply retrospectively i.e. w.e.f. March 03, 2022.

**17. Resident Individual – Citizen of Pakistan not being tax resident of any other country to be treated as resident individual Section 82**

Presently an individual is treated as a resident individual for a tax year if the individual:

- is present in Pakistan for a period of, or periods amounting in aggregate to, 183 days or more in the tax year;
- is an employee or official of the Federal Government or a Provincial Government posted abroad in the tax year.

The Bill seeks to insert a condition and the scope of resident individual has been extended to include a citizen of Pakistan to be treated as resident if he is not a tax resident of any other country.

**18. Principles of taxation of associations of persons Section 92**

Presently an association of persons is be liable to tax separately from the members of the association and where the association of persons has paid tax the amount received by a member of the association in the capacity as member out of the income of the association is exempt from tax:

Provided that if at least one member of the association of persons is a company, the share of such company or companies shall be excluded for the purpose of computing the total income of the association of persons and the company or the companies shall be taxed separately, at the rate applicable to the companies, according to their share.

The Bill proposes to insert an explanation note after the above proviso, which explains that:

“For removal of doubt it is clarified that if the income of association of persons is exempt and no tax is payable under the Ordinance due to this exemption, the share received in the capacity as member out of the income of the association shall also remain exempt.”

By this provision application of average of tax will not be applicable in the instant case.

**19. Special provisions relating to payment of tax through electricity connections  
Section 99A**

The Bill proposes to substitute the provisions of legal text of tax on retailers (other than Tier-I retailers) and specified service providers and tax is proposed to be charged and collected on commercial electricity connections based on gross amount of monthly bills, as a final discharge of tax liability. However, retailer who has paid sales tax under the Sales Tax Act, 1990 are not liable to pay this tax.

For the purposes of this section, Board with the approval of the Minister in-charge may issue an income tax general order to –

- a. provide the scope, time, payment, recovery, penalty, default surcharge, adjustment or refund of tax payable under this section in such manner and with such conditions as may be specified.
- b. provide record keeping, filing of return, statement and assessment in such manner and with such conditions as may be specified;
- c. provide mechanism of collection, deduction and payment of tax in respect of any person; or
- d. include or exempt any person or classes of persons, any income or classes of income from the application of this section, in such manner and with such conditions as may be specified.

Tax rates provided in clause (2A) of Division IV, Part IV of the First Schedule:

Monthly Bill Amount	Tax in Rupees
Where the amount does not exceed Rs. 30,000	3,000
Where the amount exceeds Rs. 30,000 but does not exceed Rs. 50,000	5,000
Where the amount exceeds Rs. 50,000 but does not exceed Rs. 100,000	10,000
Specified retailers and service providers through Income Tax General Order	50,000



**20. Tax credit for charitable organization** **Section 100C**

Sub-section 4 clause (e) state that condition of approval in respect of persons mentioned in Table-II of clause (66) of Part I of the Second Schedule to this Ordinance, shall take effect from the first day of July, 2022 and the requirements of clause (36) of section 2, shall not be applicable for earlier years.

The Bill proposes to extend the period for obtaining the approval of Commissioner in case above referred charitable organizations and accordingly condition of approval shall take effect from the first day of July, 2024 and shall not be applicable for earlier years.

**21. Special provisions relating to investment for industrial promotion** **Section 100F**

Vide Tax laws (Third Amendment) Ordinance 2022, section 100F was inserted whereby benefits have been provided to a person investing undeclared funds in an industrial undertaking provided an amount equivalent to 5% of the funds declared has been paid by the eligible persons who intended to disclose omitted / undeclared funds by September 30, 2022. This has been subject to such condition and restriction as specified in section 100F.

The Bill proposes to omit this section 100F, hence special provisions relating to benefits of declaring undeclared funds will no more be available.

The Bill also proposes to give its impact retrospectively with effect from March 03, 2022.

**22. Recharacterisation of income and deductions** **Section 109**

Presently, for the purposes of determining liability to tax under this ordinance, the Commissioner may –

- (a) Recharacterise a transaction or an element of a transaction that was entered into as part of a tax avoidance scheme;
- (b) Disregard a transaction that does not have substantial economic effect; or
- (c) Recharacterise a transaction where the form of the transaction does not reflect the substance.
- (d) for tax year 2018 and onwards, disregard an entity or a corporate structure that does not have an economic or commercial substance or was created as part of the tax avoidance scheme.

The Bill proposes to widen the power of commissioner to determine tax liability of permanent establishment under the Ordinance by inserting following clause (e) in section 109 (1);

- “(e) from tax year 2018 and onwards, treat a place of business in Pakistan as a permanent establishment, if the said place fulfills the conditions as specified in sub-clause (g) of clause (41) of section 2.”

**23. Unexplained income or assets** **Section 111**

As per Sub-section (4) of the section 111 any amount of foreign exchange remitted from outside Pakistan through normal banking channels not exceeding five million Rupees in a tax year that is en-cashed into rupees by a scheduled bank and a certificate from such bank is produced to that effect shall not considered as unexplained income or assets.

Vide Tax Laws (Third Amendment) Ordinance 2021, an explanation was inserted in sub-section (4) which clarified that the remittance through money service bureaus, exchange companies or money transfer operators shall be deemed to constitute foreign exchange remitted from outside Pakistan through normal banking channels.

Vide Tax Laws (Third Amendment) Ordinance 2021, an other explanation was inserted under sub-section (5) which is provide for removal of doubt, it is clarified that a separate notice under this section is not required to be issued if the explanation regarding nature and sources of;

- (i) Any amount credited in a person's books of accounts; or
- (ii) Any investment made or ownership of money or valuable article; or
- (iii) Funds from which expenditure was made; or
- (iv) Suppression of any production, sales, or any amount chargeable to tax; or
- (v) Suppression of any item of receipt liable to tax in whole or in part has been confronted to the taxpayer through a notice under sub-section (9) of section 122 of the Ordinance.

The Bill proposes to enact that explanation note, which has already been included in Income tax amendment Ordinance 2022.

**24. Minimum tax on the income of certain persons – Withdrawal of benefit available to carry forward minimum tax and adjustment thereof against future tax liability Section 113**

Under section 113 minimum tax at the prescribed rate of turnover is payable by specified taxpayers in cases where normal tax payable by such taxpayers is nil or lower than minimum tax.

Presently the excess of minimum tax over the normal tax liability (where it is lower than minimum tax) is allowed to be carried forward for adjustment against the taxpayers' normal tax liability of subsequent five tax years. The Finance Act 2021 further clarified that said carry forward of minimum tax is also available even in case where no normal tax is payable.

The Bill now seeks to omit this section 113 sub-section (2), hence special provision relating to carry forward is now proposed to be withdrawn and consequently minimum tax shall no more be available for carry forward and adjustment against future tax liability of the specified taxpayers.

**25. Powers to enforce filing of returns Section 114B**

Section 114 state that Prescribed persons are required to furnish return of income for a tax year subject to certain terms and conditions. The manner and mode of filing of return of income has also been explained in the said section.

Vide Tax Laws (Third Amendment) Ordinance 2021, a new section 114B was inserted which is proposed to be enacted. The said section provided that;

- (1) Not with standing anything contained in any other law for the time being in force, the Board shall have the powers to issue income tax general order in respect of persons who are not appearing on active tax payers 'list but are liable to file return under the provisions of the Ordinance.

- (2) The income tax general order issued under sub-section (1) may entail any or all of the following consequences for the persons mentioned there in, namely:
- (a) Disabling of mobile phones or mobile phone SIMS;
  - (b) Discontinuance of electricity connection; or
  - (c) Discontinuance of gas connection.
- (3) The Board or the Commissioner having jurisdiction over the person mentioned in the income tax general order may order restoration of mobile phones, mobile phone SIMS and connections of electricity and gas, in cases where he is satisfied that—
- (a) the return has been filed; or
  - (b) person was not liable of File return under the provisions of the Ordinance.
- (4) No person shall be included in the general order under sub-section (1) unless following conditions have been met with, namely:
- (a) Notice under sub-section (4) of section 114 has been issued;
  - (b) Date of compliance of the notice under sub-section (4) of section 114 has elapsed; and
  - (c) the person has not filed the return.
- (5) The action under this section shall not preclude any other action provided under the provisions of the Ordinance.

**26. Increase in period of making Best Judge Assessment                                          Section 121 (3)**

Hitherto, the Commissioner may, based on any available information or material and to the best of his judgment, make an assessment of the taxable income or income of the person and the tax due thereon and the assessment, if any, treated to have been made on the basis of return or revised return filed by the taxpayer shall be of no legal effect.

It further provides that assessment order is only to be issued within five years after the end of the tax year or the income year to which it relates.

The Bill seeks to increase the period of five years to six years as a result the Commissioner may make assessment in respect of any of past six preceding years.

**27. Increase in period of making Amendment of assessments                                          Section 122 (9)**

Presently the Commissioner may amend an assessment order, treated as issued under section 120 or issued under section 121, by making such alterations or additions as the Commissioner considers necessary within five years from the end of the financial year in which the Commissioner has issued or treated to have issued the assessment order to the taxpayer.

Order in this respect is required to made **within one hundred and twenty days** of issuance of show cause notice or within such extended period as the Commissioner may, for reasons to be recorded in writing, so however, such extended period shall in no case exceed ninety days.

The Bill proposes to increase this period of making assessment order from one hundred and twenty days of issuance of show cause notice to **one hundred and eighty days.**

## 28. Alternate Dispute Resolution

## Section 134A

The Bill proposes to revamp current mechanism of Alternate Dispute Resolution (ADR) in order to immediate relief to taxpayers. Certain changes proposed in the existing mechanism of Alternate Dispute Resolution are as follows;

- 1) Cases where the quantum of tax involve is Rs. 100 million or more can be referred to ADR
- 2) Time period of 30 days for appointing committee has been extended to 45 days.
- 3) Taxpayer is proposed to have option to nominate a committee member from a panel notified by the Board.

Proposed section 134A provides that

- (1) Notwithstanding any other provision of the Ordinance, or the rules made there under, an aggrieved person in connection with any dispute pertaining to;
  - (a) the liability of tax of one hundred million and above against the aggrieved person or admissibility of refund, as the case may be;
  - (b) the extent of waiver of default surcharge and penalty; or
  - (c) any other specific relief required to resolve the dispute;

may apply to the Board for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application, which is under litigation in any court of law or an Appellate Authority, except where criminal proceedings have been initiated.

- (2) The application for dispute resolution shall be accompanied by an initial proposition for resolution of the dispute, including an offer of tax payment, from which, the applicant would not be entitled to retract.
- (3) The Board may, after examination of the application of an aggrieved person, appoint a committee, within 45 days of receipt of such application in the Board, comprising:
  - (i) Chief Commissioner Inland Revenue having jurisdiction over the case;
  - (ii) person to be nominated by the taxpayer from a panel notified by the Board comprising –
    - (a) chartered accountants, cost and management accountants and advocates having a minimum of ten years' experience in the field of taxation;
    - (b) officers of the Inland Revenue Service who have retired in BS 21 or above; or
    - (c) reputable businessmen as nominated by Chambers of Commerce and Industry;

Provided that the taxpayer shall not nominate a Chartered Accountant or an advocate if the said Chartered Accountant or the advocate is or has been an auditor or an authorized representative of the taxpayer; and

(d) person to be nominated through consensus by the members appointed under (i) and (ii) above, from the panel as notified by the Board in (ii) above:

Provided that where the member under this clause cannot be appointed through consensus, the Board may nominate a member proposed by the taxpayer eligible to be nominated as per clause (ii).

(4) The aggrieved person, or the Commissioner, or both, as the case may be, shall withdraw the appeal pending before any court of law or an Appellate Authority, after constitution of the committee by the Board under sub-section (3), in respect of dispute as mentioned in sub-section (1).

(5) The committee shall not commence the proceedings under sub-section (6) unless the order of withdrawal by the court of law or the Appellate Authority is communicated to the Board:

Provided that if the order of withdrawal is not communicated within 75 days of the appointment of the committee, the said committee shall be dissolved and provisions of this section shall not apply.

(6) The Committee appointed under sub-section (3) shall examine the issue and may, if it deems necessary, conduct inquiry, seek expert opinion, direct any officer of the Inland Revenue or any other person to conduct an audit and shall decide the dispute by majority, within one hundred and twenty days of its appointment:

Provided that in computing the aforesaid period of one hundred and twenty days, the period, if any, for communicating the order of withdrawal under sub-section (5) shall be excluded.

(7) The decision by the Committee under sub-section (6) shall not be cited or taken as a precedent in any other case or in the same case for a different tax year.

(8) The recovery of tax payable by a taxpayer in connection with any dispute for which a Committee has been appointed under sub-section (3) shall be deemed to have been stayed on withdrawal of appeal up to the date of decision by the Committee or the dissolution of the Committee whichever is earlier.

(9) The decision of the committee under sub-section (6) shall be binding on the Commissioner and the aggrieved person.

(10) If the Committee fails to decide within the period of one hundred and twenty days under sub-section (6), the Board shall dissolve the committee by an order in writing and the matter shall be decided by the court of law or the Appellate Authority which issued the order of withdrawal under sub-section (5) and the appeal shall be treated to be pending before such court of law or the Appellate Authority as if the appeal had never been withdrawn.

- (11) The Board shall communicate the order of dissolution to the court of law or the Appellate Authority and the Commissioner.
- (12) The aggrieved person, on receipt of the order of dissolution, shall communicate it to the court of law or the Appellate Authority, which shall decide the appeal within six months of the communication of said order.
- (13) The aggrieved person may make the payment of income tax and other taxes as decided by the committee under subsection (6) and all decisions, orders and judgments made or passed shall stand modified to that extent.
- (14) The Board may prescribe the amount to be paid as remuneration for the services of the members of the Committee, other than the member appointed under clause (i) of sub-section (3).
- (15) The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this section.

## **29. Imports**

## **Section 148 and 169**

### **a) i) Tax collected from commercial importers to be final tax**

Up till June 30 2019, tax collected under section 148 was final discharge of tax liability and Vide Finance Act 2019 the tax collected on import of goods by commercial importers is treated as minimum tax.

The Bill now proposes to restore the final tax regime on collection of tax on imports on commercial importer and accordingly the tax collected shall be final tax in case of commercial importers.

### **ii) Tax collected from Industrial Undertakings Importing goods for its own use is proposed to be adjustable tax**

Presently the tax collected on import of goods other than tax collected at the rate of 1% or 2% by an industrial undertaking for its own use is treated as minimum tax. The Bill however proposes that in case of all industrial undertakings importing goods for its own use, the tax so collected is adjustable irrespective of rate of collection of tax

### **b) Tax collected on imports of edible oil, packing material, paper and paper board and plastics**

The Bill proposes to treat the tax collected on import as minimum tax on the income of every person arising from of import of edible oil, packing material, paper and paper board and plastics.

Accordingly, new sub-section (7A) in section 148 is proposed to be inserted in section 148 of the Income Tax Ordinance 2001 as follows;

Notwithstanding anything contained in sub-section (7), the tax required to be collected under this section shall be minimum tax on the income every person arising from imports of following goods –



- i. edible oil;
- ii. packaging material;
- iii. paper and paper board; or
- iv. plastics:

Provided that the Board with the approval of Minister incharge may, by a notification in the official Gazette, add any entry thereto or omit any entry there from or amend any entry therein this sub-section.”

**30. Salary – Tax collection without adjustment of tax credits proposed to be abolished  
Section 149**

The Bill proposes to abolish tax credit for investment in shares and insurance and tax credit on Contribution to an Approved Pension Fund presently available under section 62 and 63 respectively. Whereas the tax credit on profit on debt on loans acquisition of house was already omitted through Finance Act, 2015. Accordingly, employer is now required to collect tax from employees under section 149 without adjustment of such tax credits. Hence, consequent amendment has been proposed by omitting reference of section 62, 63 and 64 from section 149.

**31. Payments to non-residents: Scope of tax Withholding widened on payment of service charges or commission or fee  
Section 152**

Presently under section 6 of the Ordinance only payments on account of royalty, fee for offshore digital services and fee for technical services made to non-residents are liable for collection of tax. In order to broaden the tax collection on payments to non-residents under section 6 of the Ordinance, the Bill has proposed to collect tax at the rate of ten percent on payments to non-residents in respect of fee for money transfer operations, card network services, payment gateway services, interbank financial telecommunication services.

The said tax collected shall be final tax.

Accordingly, new sub-section are proposed to be inserted in section 152, whereby licensed exchange companies and banking companies are proposed to be made liable to deduct tax at the time of making such payments.

Proposed sub-sections are as follows:

- i) **152 (1DC)** “Every exchange company licensed by the State Bank of Pakistan shall deduct tax at the time of making payment of service charges or commission or fee, by whatever name called, to the global money transfer operators, international money transfer operators or such other persons engaged in international money transfers or cross-border remittances for facilitating outward remittances, at the rates given in Division IV, Part I of the First Schedule;

Provided that where such person retains service charges or commission or fee, by whatever name called from the amount payable to the exchange company on any account, the exchange company shall be deemed to have paid the service charges or commission or fee, by whatever name called and the exchange company shall collect the tax accordingly.

- ii) **152 (1DD)** “Every banking company while making payment to card network company or payment gateway or any other person, of any transaction fee or licensing fee or service charges or commission or fee by whatever name called or interbank financial telecommunication services, shall deduct tax at the rates given in Division IV, Part I of the First Schedule:

Provided that where card network company or payment gateway or any other person retains money in relation to aforementioned services from the amount payable to the banking company on any account, the banking company shall be deemed to have paid the amount and the banking company shall collect the tax accordingly.”

**32. Export of Services: Withholding of tax from realization of proceeds of export of computer software, IT Services or IT enabled services Section 154A**

Through section 65F inserted in the Ordinance vide Finance Act 2021, tax credit equal to one hundred percent of tax payable under the Ordinance is presently allowed to income from exports of computer software or IT services or IT enabled services upto the period ending on the 30th day of June, 2025, provided that eighty percent of the export proceeds is brought into Pakistan in foreign exchange remitted from outside Pakistan through normal banking channels. Furthermore, eligible exporters of such services are presently exempt from withholding of one percent tax from their export proceeds at the time of realization.

However, the Bill has proposed to abolish the said credit for computer software or IT services or IT enabled services and consequently exemption from withholding of tax at one percent is proposed to be eliminated by proposing omission of reference of section 65F in section 154A(1(a)).

**33. Certificate of Collection or deduction of Tax – Computerized Payment Receipt (CPR) Section 164**

The Bill proposes amendment and insertion of a new proviso in section 164 (1) in order to replace the word “Challan of Payment” with “Computerized Payment Receipt (CPR)” provided that in case of persons or class of persons notified as SWAPS agent, SWAPS Payment Receipt (SPR) shall be replaced with Computerized Payment Receipt (CPR).

**34. Payment of tax collected or deducted by SWAPS agents Section 164 A**

The Bill proposes to introduce concept of Synchronized Withholding Administration and Payment System (SWAPS) and notify any person required to deduct or collect tax under the Ordinance to integrate with Synchronized Withholding Administration and Payment System and to act as SWAPS agent. Accordingly following new section is proposed to be inserted;

**“164A. Payment of tax collected or deducted by SWAPS agents.**

- (1) Subject to the Ordinance, the Board may, by notification in the official gazette, notify any person or class of persons required to deduct or collect tax under the Ordinance to integrate with Synchronized Withholding Administration and Payment System and to act as SWAPS agent within the time and in the manner as may be prescribed.



- (2) The tax collected or purported to be collected or deducted or purported to be deducted under the Ordinance by a notified SWAPS agent and credited to the Commissioner through digital mode, shall be treated to have been paid under section 160 of the Ordinance.
- (3) Where tax has been paid by a notified SWAPS agent in accordance with sub-section (2) of this section, copy or number of SWAPS Payment Receipt (SPR) shall replace copy or number of Computerized Payment Receipts (CPR) for the purposes of the Ordinance.
- (4) Any notified SWAPS agent shall not be eligible for tax credit under Part X of Chapter III of the Ordinance and exemption under any of the provisions of the Ordinance if notified SWAPS agent fails to integrate with Board.
- (5) All persons from whom the tax has been collected or deducted by the notified SWAPS agents shall be eligible for credit of tax withheld against SPR issued by SWAPS Agent.
- (6) All other provisions of the Ordinance, not specifically dealt with in this section, shall, mutatis mutandis, apply to the notified SWAPS agents.”

### **35. Records**

### **Section 174**

Section 174 obliges taxpayers to maintain records under Section 174(3) of the Ordinance for a period of six years. However, the Bill proposes to abolish this limit for records relating to matters specified in the proposed inserted proviso.

Accordingly, a proviso has been inserted in the Explanation to sub-section (3), which reads as under:

“Provided that limitation prescribed under this sub-section shall not apply to the records pertaining to income, assets, expenses or transactions to which clause (ii) of sub-section (2) of section 111 applies.”

### **36. Sharing of information by ‘National Database and Registration Authority (NADRA)’ Section 175B**

Vide Tax Laws (Third Amendment) Ordinance 2021, above captioned provisions were enforced with the intent to aiming to broaden the tax base through collaboration between NADRA and the FBR. Sub-section (1) of section 175B requires NADRA to shares its database and records with the FBR either by itself or upon application by the board.

Sub-section (2) thereof allows NADRA to compute indicative income and tax liability on the basis of various expenses, receipts, assets, properties and liabilities etc. using artificial intelligence, mathematical or statistical modeling or any modern methods.

The Board may forward such information to the concerned tax authorities having jurisdiction in connection to the subject matter relating to the information, who may utilize the information for the purpose of levy of tax.

The Bill aims to revalidate these provisions in substitution of existing provisions.

**37. Issuance of audit report**

**Section 177**

Sub-section (6) and (6A) of the Ordinance previously stipulated that an audit report is mandatory to be issued prior to the issuance of the notice of amendment. However, the Bill now proposes to eliminate the requirement for the issuance of audit report. Hence, if this proposed amendment is adopted, then the tax authorities would be able to complete the audit without concluding audit report and proceed to issue a notice of amendment.

**38. Record of Beneficial Owners**

**Section 181E**

The section 181E “Record of Beneficial Owners” is proposed to be inserted in the Ordinance which states that:

- “(1) Every company and association of persons shall electronically furnish particulars of its beneficial owners in such form and manner as may be prescribed.
- (2) Every company and association of persons shall update the particulars of its beneficial owners as and when there is a change in the particulars of the beneficial owners.”

Specific rules are expected to be promulgated in this regard. A penalty of Rs 1 million is proposed for each default.

These provisions are already in existence in the Company law and return of beneficial is required to be furnished to SECP in the cases mentioned for this purpose.

**39. Penalty for non-filing of return of income within due date**

**Section 182**

**39.1** The Bill proposes to revise penalty for non-filing to return of income within due date. In this respect, Serial no. 1 of table in sub-section (1) of Section 182 has been amended as follows:

*“Such person shall pay a penalty equal to higher of –*

- (a) *0.1% of the tax payable in respect of that tax year for each day of default;*  
*or*  
(b) *rupees one thousand for each day of default:*

*Provided that minimum penalty shall be —*

- (i) *rupees ten thousand in case of individual having seventy-five percent or more income from salary; or*  
*rupees fifty thousand in all other cases:*

*Provided further that maximum penalty shall not exceed two hundred percent of tax payable by the person in a tax year:*

*Provided also that the amount of penalty shall be reduced by 75%, 50% and 25% if the return is filed within one, two and three months respectively after the due date or extended due date of filing of return as prescribed under the law;*

*Explanation.— For the purposes of this entry, it is declared that the expression “tax payable” means tax chargeable on the taxable income on the basis of assessment made or treated to have been made under section 120, 121, 122 or 122D.”*

**39.2** Moreover, further penalties in Section 181 have also been added for the persons as enlisted below:-

- (a) Any company or Association of Persons who contravenes the provisions of Section 181E. A penalty of Rs 1 million is proposed for each default in this case;
- (b) Any person who fails to integrate or perform roles and functions as specified, after being duly notified by the Board as SWAPS Agent. Failure to integrate or perform roles and functions as SWAPS Agent can attract following penalties:
  - Rs.50,000 for first default of seven days
  - Rs. 100,000 for second default of next seven days
  - Rs. 50,000 for each week after the second consecutive week of default
- (c) Any person, who is integrated for monitoring, tracking, reporting or recording of sales, services and similar business transactions with the Board or its computerized system. Such person shall be liable to the following penalty:
  - Penalty up to Rs 1,000,000, and
  - If the offence continues after a period of two months of imposition of penalty as aforesaid, his business premises shall be sealed till such time he integrates his business in the manner as stipulated under sub-section (3) of section 237A of the Ordinance, as the case may be.
- (d) A person required to integrate his business as stipulated under sub-section (3) of section 237A, who fails to get himself registered under the Ordinance, and if registered, fails to integrate in the manner as required under the law and rules made there under. Such person shall be liable to penalty of:
  - Rs 500,000 for first default, provided that such penalty shall be waived if business is integrated with in fifteen days of first default;
  - Rs 1,000,000 for second default after fifteen days of order for first default;
  - Rs 2,000,000 for third default after fifteen days of order for second default;
  - Rs 3,000,000 for fourth default after fifteen days of order for third default;
  - Sealing of business premises after fifteen days of fourth default.

**40. Prosecution for non-compliance with certain statutory obligations Section 191**

Following categories are proposed to be further included in the list of prosecutable offences as enlisted under Section 191 of the Ordinance:

- (a) Any person who fails to integrate his business with the Board's computerized system; and
- (b) Generate tax invoices verifiable by the Board's system.

**41. Enactment of provision regarding ‘Uniform’** **Section 209A**

The following new section is proposed to be inserted:

**“209A. Uniform.-**The Board may by notification in the official gazette, prescribe rules for wearing of uniform by officers and staff of Inland Revenue Service of Pakistan.”;

**42. Condonation of time limit** **Section 214A**

Section 214A empowers the FBR to extend the time limit for any application to be made or any act or thing to be done. However, the Courts and the Tribunal, in this respect, have interpreted that the FBR is not authorized to allow such extension once the time period for the same has expired. Therefore, in order to clarify the same, an amendment has been proposed therein, which elucidates that the FBR can extend the time limit even after the expiry of such period in this case.

**43. Disclosure of information by a public servant** **Section 216**

- a. Vide Income Tax (Amendment) Ordinance 2022 these amendments were already incorporated in sub-section (2) of this section. The Bill now proposes to substitute this sub-section with the following text which prima facie seems to be reconstruction of the previous sub-section.

(2) “Notwithstanding anything contained in Qanun- e-Shahadat, 1984 (P.O. No. 10 of 1984), the National Accountability Ordinance, 1999 (XVIII of 1999), the Federal Investigation Agency Act, 1974 (VIII of 1975) and the Right of Access to Information Act, 2017 (XXXIV of 2017), or any other law for the time being in force, public servant shall not disclose or produce any return, accounts, documents, records relating to any proceeding under this ordinance and declaration made under Voluntary Declaration of Domestic Assets Act 2018 or the Assets Act, 2019 or any record of income tax department before court or any other authority.”

The Bill also proposes to omit the reference to declarations made under section 100F of this Ordinance consecutive to proposed omission of the said section 100F.

- b. Through Finance Act 2018 clause (Kb) was added in sub-section (3) of Section 216 whereby the disclosure of information were to remain confidential by National Database and Registration Authority. However, this clause has already been omitted vide Tax (Amendment) Ordinance 2022 as NADRA is already empowered under Section 175B to share its record with the Board.

**44. Proceedings Against Authority and Persons** **Section 216A**

The Bill proposes to omit Section 216A of Income Tax Ordinance 2001. The said section empowered the Board to initiate criminal proceedings and prescribed rules for initiating any such proceedings against any willfully and deliberately, commits or omits an act, which results in undue benefit or advantage to the authority or the officer or official or to any other person as specified in section 207.

**45. Service of Notice and other Documents** **Section 218(1)(b)**

The amendment proposed in the Bill is in the nature of technical correction.

**46. Directorate General of Training and Research** **Section 229**

The Bill proposes to substitute of the authority name from “Directorate General of Training and Research” to “Inland Revenue Service Academy”.

**47. Electricity Consumption- Collection of tax from retailers (other than Tier-1) through electricity bill** **Section 235**

The Bill seeks to charge and collect full and final tax from retailers (other than Tire-1 retailers) and specified service providers at specified rates. Consequently, insertion of new sub-section (1A) in Section 235 is proposed to collect tax, from retailers and specified service provider, through the monthly electricity bills by way of tax collection at source.

**48. Advance tax on sale or transfer of immoveable property** **Section 236C (3)**

Hitherto advance tax under above section on sale or transfer is inapplicable where the holding period of the property exceeds four years.

It is proposed to increase the holding period of property from four years to ten years. This period seems to be illogical as after six years of holding, no tax is chargeable hence the same needs to be linked with charging section.

**49. Section 236I and 236Q shall be omitted**

**a) 236I. Collection of advance tax by educational institutions**

Presently, this section is applicable to a person not appearing on the active taxpayer list and rate specified in Division XVI of Part-IV of the First Schedule on the amount of fee paid to an educational institution. Fee includes tuition fee and all charges received by the educational institution, by whatever name called, excluding the amount which is refundable. Tax collected under this section shall be adjustable against the tax liability of either of the parents or guardian making payment of the fee. This section is not applicable to non-resident person or fee is remitted directly from abroad through normal banking channel to the bank account of the educational institution.

**b) 236Q. Payment to residents for use of machinery and equipment**

Presently, every prescribed person making a payment in full or in part including a payment by way of advance to a resident person for use or right to use industrial, commercial and scientific equipment and rent of machinery shall deduct tax from the gross amount at the rate specified in Division XXIII of Part IV of the First Schedule. The deductible tax under this section shall be minimum tax on the income of resident person.

This section shall is not applicable in respect of —

- a) agricultural machinery; and
- b) machinery leased by a leasing company, an investment bank or a modaraba or a scheduled bank or a development finance institution in respect of assets owned by the leasing company or an investment bank or a modaraba or a scheduled bank or a development finance institution.

The Bill proposes to omit above two sections, hence tax withholding in respect of above mentioned sources will no more be required to be withheld.

**50. Extension of tax withholding on amount transferred to abroad through credit or debit or prepaid cards Section 236Y**

The Bill Seeks to insert new tax withholding era whereby, under the newly proposed section 236Y, tax is to be withheld on remitting money abroad. The section read as follows:

**“236Y. Advance tax on persons remitting amounts abroad through credit or debit or prepaid cards.—**(1) Every banking company shall collect advance tax, at the time of transfer of any sum remitted outside Pakistan, on behalf of any person who has completed a credit card or debit card or prepaid card transaction with a person outside Pakistan at the rate specified in Division XXVII of Part IV of the First Schedule.

(2) The advance tax collected under this section shall be adjustable.”

**51. Further updating in Electronic record Section 237A**

Presently contents to section 237A are as follows:

- (1) The Board may require any person to use its information system and electronic resource, in order to replace or supplement, its manual business processes by automated business processes and substitute its paper based records by electronic record.
- (2) Electronic record generated, maintained, issued, served, received, filed or requisitioned through the electronic resource of the Board shall by itself sufficiently and conclusively prove its validity, authenticity and integrity and shall be treated to have been done so according to the provisions of this Ordinance.]

The Bill further seeks to insert new sub-section (3) in the above section regarding compulsory requirement of generating of invoice in the prescribed format. The sub-section is as follows:

“(3) In case of an integrated enterprise, no sale shall be made or service shall be rendered, as the case may be, without generating fiscal invoices as prescribed.”;

**52. Prize schemes to promote tax culture**

**Section 237B**

The Bill seeks to insert new section empowering the Board towards prize scheme and encourage consumer / general public to obtain services or purchase goods only from those enterprises who are integrated and generate tax invoices. The section is as follows:-

**“237B Prize schemes to promote tax culture.-** (1) The Board may prescribe prize schemes to encourage the general public to make purchases, or avail services only from integrated enterprises issuing tax invoices.

- (2) The Board may prescribe procedure for mystery shopping in respect of invoices issued by integrated enterprises randomly and in case of any discrepancy, all the relevant provisions of the Ordinance shall apply accordingly.”;

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**IMPORTANT CHANGES PROPOSED BY THE FINANCE BILL 2022 IN THE SCHEDULES TO THE INCOME TAX ORDINANCE, 2001 ARE BRIEFLY EXPLAINED AS UNDER:**

**53. FIRST SCHEDULE**

**53.1 SALARIED CASES– Division I Part I  
Tax card salaried cases Before Amendment**

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



### SALARIED CASES– Proposed Rates in Finance Bill, 2022

Sr No.	Taxable income	Existing Rate
1.	Where the taxable income does not exceed Rs 600,000	0%
2.	Where the taxable income exceeds Rs 600,000 but does not exceed Rs 1,200,000	Rs. 100
3.	Where the taxable income exceeds Rs 1,200,000 but does not exceed Rs 2,400,000	7% of the amount exceeding Rs 1,200,000
4.	Where the taxable income exceeds Rs 2,400,000 but does not exceed Rs 3,600,000	Rs 84,000 + 12.5% of the amount exceeding Rs 2,400,000
5.	Where the taxable income exceeds Rs 3,600,000 but does not exceed Rs 6,000,000	Rs 234,000 + 17.5% of the amount exceeding Rs 3,600,000
6.	Where the taxable income exceeds Rs 6,000,000 but does not exceed Rs 12,000,000	Rs 654,000 + 22.5% of the amount exceeding Rs 6,000,000
7.	Where the taxable income exceeds Rs 12,000,000	Rs 2,004,000 + 32.5% of the amount exceeding Rs 12,000,000

### 53.2 NON SALARIED CASES– Division I Part I NON SALARIED CASES– Before Amendment

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

## SALARIED CASES– Proposed Rates in Finance Bill, 2022.

Sr No.	Taxable income	Rate
1.	Where the taxable income does not exceed Rs 600,000	0%
2.	Where the taxable income exceeds Rs 600,000 but does not exceed Rs 800,000	5% of the amount exceeding Rs 600,000
3.	Where the taxable income exceeds Rs 800,000 but does not exceed Rs 1,200,000	Rs 10,000 + 12.5% of the amount exceeding Rs 800,000
4.	Where the taxable income exceeds Rs 1,200,000 but does not exceed Rs 2,400,000	Rs 60,000 + 17.5% of the amount exceeding Rs 1,200,000
5.	Where the taxable income exceeds Rs 2,400,000 but does not exceed Rs 3,000,000	Rs 270,000 + 22.5% of the amount exceeding Rs 2,400,000
6.	Where the taxable income exceeds Rs 3,000,000 but does not exceed Rs 4,000,000	Rs 405,000 + 27.5% of the amount exceeding Rs 3,000,000
7.	Where the taxable income exceeds Rs 4,000,000 but does not exceed Rs 6,000,000	Rs 680,000 + 32.5% of the amount exceeding Rs 4,000,000
8.	Where the taxable income exceeds Rs 6,000,000	Rs 1,330,000 + 35% of the amount exceeding Rs 6,000,000

### 53.3 RATES OF TAX FOR COMPANIES – Division II Part I

The Bill proposed the rate of taxes for other than individual and AOP as under:

Type of Company	Existing Rate of Tax for tax year 2022	Proposed Rate of Tax
Small company	20%	20%
Banking company	35%	45%
Any other company	29%	29%

### 53.4 TAX ON HIGH EARNING PERSONS FOR POVERTY ALLEVIATION – Division IIB Part I

The Bill proposed the rate of taxes under section 4C as under:

Income under section 4C	Rate of tax
Where income does not exceed Rs. 300 million	0% of the income
Where income exceeds Rs. 300 million	2% of the income

**53.5 TAX ON PAYMENT OF ROYALTY OR FEE FOR TECHNICAL SERVICES –  
Division IV Part I**

The tax rate imposed u/s 6 on payments shall be 15% of the gross amount of royalty or fee for technical services and 10% in any other case. Comparison is as follows;

Type of Payment	Existing Rate of Tax	Proposed Rate of Tax
Royalty or fee for technical services	15%	15%
Offshore digital services	5%	10%
Any other cases (fee for money transfer operations, card network services, payment gateway services, interbank financial telecommunication services)	—	10%

**53.6 TAX RATES ON CAPITAL GAINS ARISING ON SALE OF SECURITIES –  
Division VII Part I**

Existing Capital gain on sale of securities is chargeable to tax at the rate of 12.5 per cent for tax year 2022 and onwards irrespective of the holding period.

The proposed rates of tax for tax year 2023 and onwards on capital gains on sale of securities under section 37A will be as under:

Holding Period	Proposed Tax Rate
Less than 1 year	15 %
From 1 year to 2 years	12.5%
From 2 years to 3 years	10%
From 3 years to 4 years	7.5%
From 4 years to 5 years	5%
From 5 years to 6 years	2.5%
More than 6 years	0%

**53.7 TAX RATES ON CAPITAL GAINS ARISING ON SALE OF IMMOVABLE ASSETS -  
Division VIII Part I**

The proposed rates of tax on capital gains on sale of immovable assets under section 37(1A) will be as under:

S. No.	Holding Period	Rate of Tax		
		Open Plots	Constructed Property	Flats
1.	Where the holding period does not exceed one year	15%	15%	15%
2.	Where the holding period exceeds one year but does not exceed two years	12.5%	10%	7.5%
3.	Where the holding period exceeds two years but does not exceed three years	10%	7.5%	0
4.	Where the holding period exceeds three years but does not exceed four years	7.5%	5%	-

**53.8 TAX ON HIGH EARNING PERSONS FOR POVERTY ALLEVIATION –  
Division VIII C Part I**

The Bill proposed the rate of taxes under section 4C as under:

Income under section 4C	Rate of tax
Where income does not exceed Rs. 300 million	0% of the income
Where income exceeds Rs. 300 million	2% of the income

**53.9 RATE OF TAX WITHHOLDING ON IMPORT OF MOBILE PHONES –  
Part II**

Tax collection on import of mobile phones of the below tabulated values are proposed to be changed as under:

Import of mobile phones of value:	Existing Rate of tax withholding		Proposed Rate of tax withholding	
	In CBU condition	In CKD / SKD condition	In CBU condition	In CKD / SKD condition
More than USD. 350 upto USD. 500	Rs. 3,000	Rs. 5,000	Rs. 5,000	Rs. 3,000
More than USD. 500	Rs. 5,200	Rs. 11,500	Rs. 11,500	Rs. 5,200

**53.10 REDUCED RATE OF TAX WITHHOLDING FOR CERTAIN SERVICES –  
Division III Part III**

Tax withholding rates on payments against rendering of services is 8%, however reduced rate of 3% is proposed for certain service providers. The Bill now proposes such reduced rate of 3% for REIT Management services and services rendered by National Clearing Company of Pakistan.

**53.11 TAX ON EXPORT SERVICES –  
Division IVA Part III**

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

S. No.	Types of Receipts	Existing Rate of Tax	Proposed Rate of Tax
1.	Export proceeds of Computer software or IT services or IT Enabled services by persons registered with Pakistan Software Export Board	1% of export proceeds other than export services eligible for tax credit u/s 65F (1(c))	0.25% of proceeds
2.	Any other case	1% of proceeds	1% of proceeds";

**53.12 ADVANCE TAX ON PASSENGER TRANSPORT VEHICLES –  
Division III Part IV**

Advance tax on passenger transport vehicles plying for hire is collected on a uniform basis based on the seating capacity. Now the Bill proposes advance tax on such vehicles as under:

Seating Capacity	Existing Rate	Proposed Rate	
		Air-conditioned	Non-Air conditioned
	(Rupees per seat Per annum)		
4 to 9 persons	Rs. 50	Rs. 1,000	Rs. 500
10 to 19 persons	Rs. 100	Rs. 2,000	Rs. 1,500
20 or more persons	Rs. 300	Rs. 4,000	Rs. 2,500

**53.13 FIXED TAX ON ELECTRICITY BILLS OF RETAILERS  
Division IV Part IV Read with 99(A)/235(1A):**

Gross amount of monthly bill	Tax
Where the amount does not exceed Rs. 30,000	Rs. 3,000
Where the amount exceeds Rs. 30,000 but does not exceed Rs. 50,000	Rs. 5,000
Where the amount exceeds Rs. 50,000 but does not exceed Rs. 100,000	Rs. 10,000
Specified retailers and service providers through Income Tax General Order	Rs. 50,000

**53.14 ADVANCE TAX ON REGISTRATION / TRANSFER OF PRIVATE MOTOR VEHICLES  
Division VII Part IV,**

Rates of tax collection at the time of registration of the private motor vehicles are proposed to be revised as follows:

Engine Capacity	Existing Rate	Proposed Rate
Upto 850cc	Rs. 7,500	Rs. 10,000
851cc to 1,000cc	Rs. 15,000	Rs. 20,000
1,001cc to 1,300cc	Rs. 25,000	Rs. 25,000
1,301cc to 1,600cc	Rs. 50,000	Rs.50,000
1,601cc to 1,800cc	Rs. 75,000	Rs. 150,000
1,801cc to 2,000c	Rs. 100,000	Rs. 200,000
2,001cc to 2,500cc	Rs. 150,000	Rs. 300,000
2,501cc to 3,000cc	Rs. 200,000	Rs. 400,000
Above 3,000cc	Rs. 250,000	Rs. 500,000
Where engine capacity is not applicable and value of vehicle is Rs. 5 million or more	Nil	3% of the import value (as increased by sales tax, customs duty and FED) or invoice value in case of locally manufactured vehicle

Finance Bill proposes the collection of advance tax of Rs. 20,000 on transfer of private motor vehicles of unspecified engine capacity (e.g. electric vehicles) and having value of Rs. 5 million or more. The said rate of Rs. 20,000 is proposed to be reduced by 10% each year from the date of first registration in Pakistan.

#### **53.15 ADVANCE TAX ON TRANSFER OF IMMOVABLE PROPERTY**

Advance tax of 1% is required to be collected from the buyer as well as seller which are now proposed to be increased to 2%.

#### **53.16 ADVANCE TAX ON ADVERTISEMENT**

Finance Bill proposes to decrease advance tax on commercials for advertisement starring foreign actors from Rs. 500,000 per second to Rs. 100,000 per second.

#### **53.17 ADVANCE TAX ON AMOUNT REMITTED ABROAD THROUGH CREDIT, DEBIT OR PREPAID CARDS DIVISION XXVII Part IV**

The Bill proposes the rate of tax to be deducted under section 236Y shall be 1% of the gross amount remitted abroad.

### **54. THE SECOND SCHEDULE**

#### **54.1 CHANGES IN EXEMPTION OF ACCUMULATED BALANCE FROM VOLUNTARY PENSION SCHEMES**

##### **Part I**

In respect of accumulated balance received from voluntary pension schemes offered under voluntary pension schemes Rules, 2005, exemption is currently available to the extent of 50% of such accumulated balance, if withdrawn in case of certain events of retirement, disability & death.

The restriction of 50% is proposed to be withdrawn and such exemption has been available on withdrawal of the entire accumulated balance, at one time.

#### **54.2 WITHDRAWAL OF TAX EXEMPTIONS Part I**

Finance Bill proposes withdrawal of exemption from tax currently available in respect of following incomes:

- i. Receipt of monthly installment from income payment plan invested out of accumulated balance of specified individual pension accounts or approved annuity plan; and
- ii. Income representing subsidy allowed by Federal Government.

### **54.3 TAX EXEMPTION FOR CERTAIN CHARITABLE ORGANIZATIONS**

#### **Part I**

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

- i. The Pakistan Global Sukuk Programme Company Limited;
- ii. Karandaaz Pakistan from tax year 2015 onwards;
- iii. Public Private Partnership Authority for tax year 2022 and subsequent four tax years; and
- iv. Hamdard Laboratories (Waqf) Pakistan.

Furthermore, the following Organizations, currently entitled to tax exemption subject to fulfillment of conditions specified in section 100C of the Ordinance, are now proposed to be extended unconditional tax exemption,

- i. Pakistan Mortgage Refinance Company Limited;
- ii. Pakistan Sweet Homes Angels and Fairies Place; and
- iii. Dawat-e-Islami Trust.

### **54.4 EXEMPTION FOR COLLECTIVE INVESTMENT SCHEMES OR REIT SCHEMES**

#### **Part I**

The Collective Investment Schemes or REIT Schemes are entitled to income tax exemption subject to distribution of 90% of accounting income, excluding capital gains, amongst the unit/ certificate holders.

Through the Finance Bill, adjustment of 'accumulated loss' against 'accounting income' is also proposed to be allowed for the purposes of meeting the specified criteria.

The proposed amendment is aimed at addressing the impracticality associated with profit distribution by the Schemes, who having incurred accounting losses in preceding years.

### **54.5 EXEMPTION FOR ELECTRIC POWER GENERATION PROJECTS**

#### **Part I**

Tax exemption available to electric power generation projects, the law, by introduction of Finance Supplementary Act, 2022, specified a condition that such exemption would be available to those units who were issued letter of intent ('LOI') by the Federal or Provincial Government by June 30, 2021 and also obtained letter of support ('LOS') by June 30, 2023. Such amendment resulted in to the discussion as to whether Projects, where exemption was not dependent upon LOI and LOS under relevant power policy, stood excluded from scope of such exemption or not.

On the background, through the Finance Bill, it is proposed to be clarified that the above exemption would remain available to units who were exempt from tax on or before June 30, 2021 and further clarified that exemption shall be restricted to lifecycle of project or 25 years.



## 54.6 PROMOTION OF CINEMA OPERATIONS

### Part I

Income from cinema operations is proposed to be exempted from tax in cases where such operations are carried out in a tehsil where there is no cinema and further, construction of cinema is commenced on or before December 31, 2023.

## 54.7 TAX RATE ON DISTRIBUTORS

### Part II

Distributors of steel products are proposed to be brought in to reduced rate tax regime whereby rate of 'turnover tax' (leviable under section 113 of the Ordinance) and 'withholding tax' (deductible on supply of goods) was reduced to 0.25% in case of distributors, dealers, sub-dealers, wholesalers and retailers of 'steel'.

## 54.8 WITHDRAWAL OF TAX CONCESSIONS

### Part II

Through the Finance Bill, it is proposed that tax concessions available to following persons is withdrawn:

Persons	Income	Tax concession Presently available
<ul style="list-style-type: none"><li>- Flight engineers</li><li>- Navigators of Pakistan Armed Forces, Pakistani Airlines or Civil Aviation Authority,</li><li>- Junior Commissioned Officers</li><li>- Other ranks of Pakistan Armed Forces</li></ul>	Flying allowance	Taxable @ 2.5% as a separate block of income in case allowance does not exceed basic salary
<ul style="list-style-type: none"><li>- Officers of the Pakistan Navy</li></ul>	Submarine allowance	
<ul style="list-style-type: none"><li>- Pilots of any Pakistani airlines</li></ul>	Total allowance	Allowance exceeding the basic pay chargeable to tax @ 7.5%
<ul style="list-style-type: none"><li>- Ex-servicemen and serving personal of Armed Forces or ex-employees or serving personnel of Federal and Provincial Governments, as original allottee</li></ul>	Capital gain on first sale of immovable property	Gain reduced to 50% in case of disposal of property before three years and thereafter, 75%
<ul style="list-style-type: none"><li>- Person other than a banking or insurance company</li></ul>	Profit on debt from investment in Federal Government securities	Subject to final tax @ 15%

## 54.9 REDUCTION IN TAX RATES ON NATIONAL SAVINGS INVESTMENTS

### Part III

Profit on NSC in Bahbood Savings Certificate or Pensioners Benefit Account and Shuhada Family Welfare Account are currently charged to tax at a reduced rate of 10% which has been proposed to be lowered to 5%.

## 54.10 EXEMPTION FROM MINIMUM TAX TO LOCAL MOBILE PHONE MANUFACTURERS

### Part IV

Exemption from levy of minimum tax under section 113 of the Ordinance was earlier introduced in the case of local mobile phone manufacturers through Tax Laws (Third Amendment) Ordinance, 2021. Now, the same is proposed to be ratified through the Finance Bill.



#### **54.11 EXEMPTION FROM APPLICABILITY OF TAX ON IMPORTS Part IV**

Exemption from collection of income tax on import of following items is proposed to be allowed:

- (i) Thirty million adult 3x Ply Knit face masks received as humanitarian assistance from M/s Hanes Brands Inc. North Carolina, USA, for distribution within the population of Lahore Division, Govt of Punjab;
- (ii) Drones donated by Ministry of Agriculture and Rural Affairs, Government of China to Pakistan through Sea Route;
- (iii) Cinematographic equipment as notified by the Federal Government.

#### **54.12 EXEMPTION FROM WITHHOLDING PROVISIONS IN CASE OF CERTAIN EXEMPT ENTITIES Part IV**

In the case of entities/persons qualifying for exemption under Table I of Clause 66 of Part I of Second Schedule, exemption from collection/ deduction of taxes (excluding advance tax under section 147/147A) is proposed to be extended in the capacity of recipients of any amount.

#### **54.13 IMMUNITY FROM AUDIT Part IV**

Finance Bill proposed to immune from selection of audit to those tax payers whose cases have been picked in any of the preceding four tax years. However, the Powers of Commissioner remains intact to select cases for audit with FBR approval.

### **55 FOURTH SCHEDULE - Rules for the Computation of the Profits and Gains of Insurance Business**

The Rule 6DA is proposed to be inserted to read as under:

“The provisions of section 4C shall apply to the taxpayers under this Schedule and shall be taxed at the rates specified in Division IIB of Part I of the First Schedule from tax year 2022 onwards.”

### **56 FIFTH SCHEDULE - Rules for the Computation of the Profits & Gains from the Exploration and Production of Petroleum**

The Rule 4AA is proposed to be inserted to read as under:

“The provisions of section 4C shall apply to the taxpayers under this Schedule and shall be taxed at the rates specified in Division IIB of Part I of the First Schedule from tax year 2022 onwards.”

## 57 SEVENTH SCHEDULE- TAXATION OF BANKING COMPANIES

The rate of tax applicable to the taxable income of banking companies is proposed to be enhanced to 45 per cent from 35 per cent for tax year 2023 and onwards. Also, the Bill proposes to abolish super tax currently applicable on banking companies at the rate of 4 per cent from tax year 2023 and onwards.

It is also proposed that from tax year 2022 onwards, the tax on high earning persons for poverty alleviation at the rate of 2% will also be applicable on the banking companies where the income exceeds PKR 300 Million.

Description	Tax year 2022	Tax year 2023
Normal rate	35%	45%
Super tax	4%	0%
Poverty alleviation tax	2%	2%
<b>Effective tax rate</b>	<b>41%</b>	<b>47%</b>

Through the Finance Act, 2021, for the tax year 2022 onwards, higher rate of tax was prescribed for the banking companies in respect of the taxable income attributable to investment in the Federal Government Securities. The said rates are now proposed to be further enhanced in the following manner:

Gross advances to Deposit Ratio on the last day of the tax year	Existing Tax Rate	Proposed Tax Rate
· Upto 40%	40%	55%
· Exceeding 40% but not exceeding 50%	37.5%	49%
· Exceeding 50%	35%	42%

**An explanation is also proposed to be added that the said tax rate is applicable to total income attributable to total investment in Federal Government securities.**

## 58 TENTH SCHEDULE

Through the Finance Act, 2019, rules for persons not appearing on the Active Taxpayer List was introduced by way of Tenth Schedule whereby the rate of tax required to be deducted or collected was increased by 100% of the rates prescribed under the law. The said regime was in continuation of the concept of filer and non-filer under the Income Tax laws.

It is now proposed that the tax required to be collected in respect of the following sections shall be enhanced in the manner given below if the person is not appearing in the Active Taxpayer List:

Description	Rate of tax enhanced by
Advance Tax on Private Motor Vehicle (under section 231B)	200%
Advance tax on purchase or transfer of immovable property (under section 236K)	250%

It is also proposed that the provisions relating to enhanced tax liability on persons not appearing on the ATL shall not be applicable on export of services.

## 59 TWELFTH SCHEDULE

It is proposed that the following PCT code is reclassified from Part II of the Twelfth Schedule to the Part I of the Twelfth Schedule hence subject to 1% (instead of 2%) advance tax on the import value as increased by customs-duty, sales tax and federal excise duty.

PCT Code	Description
27.01	Coal; briquettes, ovoids and similar solid fuels manufactured from coal

Further, the following PCT codes are proposed to be included in Part II of the Twelfth Schedule to the Ordinance, hence, subject to advance tax at 2% (instead of 5.5%) on the import value as increased by customs-duty, sales tax and federal excise duty.

PCT Code	Description
8504.3100	SMD Inductors for LED Bulb and Lights.
8504.4090	Constant Current Power Supply of LED Lights and Bulbs.
8532.2200	Electrical Capacitors Aluminum Electrolytic for LED Bulbs and Lights.
8539.9020	Base Cap for all Kinds of LED Bulbs.
8539.9090	Bare or Stuffed Metal Clad Printed Circuit Boards (MCPCB) for all kinds of LED Bulbs. Housing / Shell, Shell Cover and Base Cap for all Kinds of LED Bulbs.
9001.9000	Lenses for LED Bulbs and Lights.
9405.1090	Housing / Shell, Shell Cover and Base Cap for all Kinds of LED Lights.
9405.9900	Bare or Stuffed Metal Clad Printed Circuit Boards (MCPCB) for all kinds of LED Lights.

## 60 THIRTEENTH SCHEDULE - Section 100E

The following entry serial number 63 is proposed to be added after serial number 62 of Table I of this schedule:

All entities mentioned in Table-I of clause (66) of Part-I of the Second Schedule of the Ordinance.

**SALIENT FEATURES OF AMENDMENTS PROPOSED IN SALES TAX ACT, 1990 -  
EFFECTIVE FROM JULY 01, 2022, EXCEPT PROVIDED OTHERWISE**

**A: REVENUE MEASURES**

1. The scope of further tax has been enhanced to include non-active taxpayers as well.
2. Regime of other than Tier-1 retailer has been streamlined.
3. VAT has been imposed on compressor scrap, motor scrap and copper cutting scrap even when imported by manufacturers

**B: RELIEF MEASURES**

1. The condition of CNIC/NTN in case of supply to unregistered person have been removed.
  2. Sales Tax exemption has been granted on import and supply of all types of seeds.
  3. Sales Tax on Tractor is withdrawn.
  4. Exemption has been granted on imports by UN diplomats/diplomatic missions and privileged persons.
  5. Import and supply of solar panels (PV module) has been exempted from sales tax.
  6. Goods imported by or donated to non-profit charitable hospitals has been exempted. Furthermore, good supplied to charitable hospitals of fifty beds or more have also been exempted from sales tax.
  7. Temporary imports have been exempted from the levy of the sales tax.
  8. Made up jewellery has been made chargeable to 3% fix tax on local supply and 4% fix tax on imports.
  9. Plant and machinery imported by power generation projects that entered into implementation agreement with GoP has been exempted from sales tax.
  10. Rs.90 per kg is reduce to Rs.60 per kg on potassium chlorate.
  11. Import by EPZ has been exempted from sales tax.
-

**COMMENTS ON AMENDMENTS PROPOSED VIDE FINANCE BILL 2022  
IN THE SALES TAX ACT, 1990**

**1. SECTIONS**

**1.1 Goods [Section 2 (12)]**

The Bill proposed to amend the definition of “Goods” by inserting words “production, transmission and distribution of electricity”

After amendment it shall be read as follows:

(12) “**goods**” include **production, transmission and distribution of electricity**, every kind of movable property other than actionable claims, money, stocks, shares and securities;

**1.2 Sales Tax [Section 2(29A)]**

The Bill proposed to amend sub clause (b) of clause (29A) to exclude POS fee from the definition of sales tax, which has been prescribed in section 76 of the Act.

After the amendment, the amended clause (29A) shall be read as follows:

(29A) “**sales tax**” means – –

- (a) the tax, additional tax, or default surcharge levied under this Act;
- (b) a fine, penalty or fee imposed or charged under this Act **excluding fee and service charges imposed and collected under section 76**; and
- (c) any other sum payable under the provisions of this Act or the rules made thereunder;

**1.3 Supply [Section 2(33)]**

The Bill proposed to amend the definition of supply and proposed to insert sub clause “(e) production, transmission and distribution of electricity” to include the production, transmission and distribution of electricity as supply of goods.

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

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

- (a) putting to private, business or non-business use of goods produced or manufactured in the course of taxable activity for purposes other than those of making a taxable supply;
- (b) auction or disposal of goods to satisfy a debt owed by a person;

- (c) possession of taxable goods held immediately before a person ceases to be a registered person;
- (d) in case of manufacture of goods belonging to another person, the transfer or delivery of such goods to the owner or to a person nominated by him; and
- (e) production, transmission and distribution of electricity;

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

### 1.3 Tier-I retailer

[Section 2(43A)]

The Bill proposed to amend the definition of Tier-I retailer by inserting sub-clause (ga).

“(ga) a person engaged in supply of articles of jewellery, or parts thereof, or precious metal or of metal clad with precious metal”

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

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

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

(ga) **a person engaged in supply of articles of jewellery, or parts thereof, or precious metal or of metal clad with precious metal;**

(h) any other person or class of persons as prescribed by the Board.

#### 1.4 SCOPE OF TAX

[Section 3]

##### A) Further sales tax

[Section 3(1A)]

It has been prescribed in sub section (1A) that where taxable supplies are made to a person who has not obtained sales tax registration number, there shall be charged, levied and paid further tax at the rate of 3% of the value in addition to the rate specified in sub sections (1), (1B), (2), (5), (6) and section 4.

In certain cases where the name of a registered person is excluded from ATL, the department required the supplier to charge further tax on supplies made to such a person. It was invariably contended that a registered person whose name is excluded from ATL, shall remain a registered person and the provisions of sub section (1A) shall not be attracted.

In order to nullify the aforesaid argument, The Bill proposed to amend the provisions of sub section (1A) which after amendment shall be read as under:

“(1A) Subject to the provision of sub section (6) of section 8 or any notification issued thereunder, where taxable supplies are made to a person who has not obtained registration number **or he is not an active taxpayer**, there shall be charged, levied and paid a further tax at the rate of three percent of the value in addition to the rate specified in sub sections (1), (1B), (2), (5), (6) and section 4.

Provided that the Federal Govt. may, by notification in the official Gazette, specify the taxable supplies in respect of which the further tax shall not be charged, levied and paid.”

##### B) Sales tax withholding

[Section 3(7)]

Through Tax Laws Third Amendment Ordinance, 2021 promulgated on 15.09.2021, a proviso was added in sub section (7). The aforesaid Ordinance was extended for a further period of 120 days w.e.f. 12.01.2022 by National Assembly's Resolution dated 30.12.2021.

The said proviso lost legal sanctity on 12.05.2022. Now Bill proposed to add the said proviso in sub section (7) through Finance Act 2022 which shall be read as under:

“Provided that in case of the online market place facilitating the sale of third party goods, the liability to withhold tax on taxable supplies of such party at the rates specified in column (4) against S. No. 8 of the Eleventh Schedule to the Sales Tax Act, 1990 shall be on the operator of such market place.”

Sub section (7) shall now be read as follow:



“(7) The tax shall be withheld at the rate as specified in the Eleventh Schedule, by any person or class of persons being purchaser of goods or services 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:

**Provided that in case of the online market place facilitating the sale of third party goods, the liability to withhold tax on taxable supplies of such party at the rates specified in column (4) against S. No. 8 of the Eleventh Schedule to the Sales Tax Act, 1990 shall be on the operator of such market place.**

In our view, during the period from 13.05.2022 to 30.06.2022 this proviso shall be considered unavailable on statute book.

**C) Tax from retailers other than Tier-I retailers [Section 3(9)]**

The Bill proposed to amend the rates of sales tax to be collected from the retailers other than Tier-1 retailers through electricity bills.

Accordingly, it has been proposed to amend sub section (9) and delete the words “five percent where the monthly bill amount does not exceed rupees twenty thousand and at the rate of seven and half per cent here the monthly bill amount exceeds the aforesaid amount”. And replaced with words “rupees three thousand per month where the monthly bill amount does not exceed rupees thirty thousand, rupees five thousand per month where the monthly bill amount exceeds rupees thirty thousand but does not exceed rupees fifty thousand and rupees ten thousand per month where the monthly bill amount exceeds rupees fifty thousand”

Further the Bill proposed to insert the following proviso:

“Provided that the Board may through a general order prescribe any persons or class of person who shall pay rupees fifty thousand per month through their monthly electricity bill”

After the proposed amendment sub section shall be read as follow:

“(9) Notwithstanding anything contained in subsection (1), tax shall be charged from retailers, other than those falling in Tier-1, through their monthly electricity bills, at the rate of **rupees three thousand per month where the monthly bill amount does not exceed rupees thirty thousand, rupees five thousand per month where the monthly bill amount exceeds rupees thirty thousand but does not exceed rupees fifty thousand and rupees ten thousand per month where the monthly bill amount exceeds rupees fifty thousand**, and the electricity supplier shall deposit the amount so collected directly without adjusting against his input tax:

**Provided that the Board may through a general order prescribe any persons or class of person who shall pay rupees fifty thousand per month through their monthly electricity bill:**

Provided **further** 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 **also** 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.”

**D) Integrate invoice issuing machines with Board’s Computerized System [Section 3(11)]**

The Bill proposed to insert a new sub section (11) after the repealed sub section (10) which has the same language as contained in sub section (10).

**“(11) Notwithstanding anything contained in the Act, the Board through Notification in the official Gazette, may require any person or class of persons to integrate their invoice issuing machines with the Board’s Computerized System for real time reporting of sales in such mode and manner and from such date as may be prescribed.”**

**1.5 Time and manner of payment [Section 6(5)]**

Sub section (4) was omitted from section 6 through Finance Act, 1996. Now the Bill proposed to add a new sub section (5) after the omitted sub section (4). The proposed sub section (5) shall read as under:

**“(5) The Federal Government may, subject to such conditions, limitations and restrictions as it may impose, by notification in the official Gazette, allow payment of sales tax on installments basis by the Federal or Provincial Governments or any public sector organization on import or supply of any goods or class of goods:**

**Provided that such payment may be allowed from any previous date specified in the notification under this sub-section.”**

**1.6 Tax credit not allowed [Section 8(1)]**

It has been prescribed in section 8(1)(m) of the Act that a registered person shall not allowed to reclaim or deduct input tax paid on input goods or services attributable to supplies made to un-registered person, on pro-rata basis, for which sale invoices do not bear the NIC number or NTN as the case may be, of the recipient as stipulated in section 23.

The Bill proposed to omit the said clause (m) from sub section (1) of section 8.

**1.7 Adjustable input tax [Section 8B(1)]**

Through Finance Act, 2021, public limited companies listed on Pakistan Exchange were excluded from mischief of section 8B(1). The Bill proposed to subject those companies again to the provisions of sub section (1) of section 8B therefore the words “other than public limited companies listed on Pakistan Stock Exchange” has been proposed to be deleted.

The effect of this proposed amendment will be that now Public limited companies listed on the Pakistan Stock Exchange will also be subject to the restriction of not being able to adjust input tax in excess of ninety percent of the output tax for the said tax period.

**1.8 Discontinuance of gas and electricity connections [Section 14AB]**

Through Tax Laws Third Amendment Ordinance, 2021 promulgated on 15.09.2021, a new section 14A was added. The aforesaid Ordinance was extended for a further period of 120 days w.e.f. 12.01.2022 by National Assembly's Resolution dated 30.12.2021. The said section 14A stands repealed on 12.05.2022 on account of afflux of time. It has been proposed to add a new section 14AB after repealed section 14A which has the same language as was contained in sub section 14A.

“14AB. Discontinuance of gas and electricity connections.—Notwithstanding anything contained in this Act or any other law for the time being in force, the Board shall have power through Sales Tax General Order to direct the gas and electricity distribution companies for discontinuing the gas and electricity connections of any person who fall in the following categories, namely:—

- (a) Any person, including tier-1 retailers, who fail to register for sales tax purpose or
- (b) Notified tier-1 retailers registered but not integrated with the Board's Computerized System

Provided that upon registration or integration, as the case may be, of the above said persons, the Board shall notify the restoration of their gas or electricity connection through Sales Tax General Order.”

**1.9 Tax invoices [Section 23(1)(b)]**

Clause (b) ibid was substituted through Finance Act, 2019 and w.e.f. 01.07.2019 the registered person has been required to specify name, address and registration number of buyer of goods and CNIC or NTN of unregistered person excluding the supplies made by a retailer where transaction value inclusive of sales tax does not exceed Rupees One Hundred Thousand if sale is being made to an ordinary person.

The Bill proposed to substitute the said clause (b) and after substitution the registered person shall be required to only specify name, address and registration number of the recipient and shall not be obliged to specify NTN or CNIC of unregistered buyers.

**1.10 Directorate General of Training & Research [Section 30C]**

The Bill proposed to amend nomenclature of section 30C from Directorate General of Training and Research to Inland Revenue Services Academy. According the section 30C which after amendment section 30C shall read as under:

“**30C Inland Revenue Services Academy.**—The Inland Revenue Services Academy shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors and Assistant Directors and such other officers as the Board, may by notification in the official Gazette, appoint.”

### 1.11 Offences and penalties

[Section 33]

Whoever commits any offence described in column (1) of Table of section 33 shall, be liable to the penalty mentioned against that offence in column (2) thereof.

The Bill proposed to insert the words “ QR code” after the words “ barcode” and after the words “barcode”, occurring for the second time, the words ‘ or QR code or defaces the prescribed invoice number of barcode or QR code’ in column 1 in Sr. No. 24 of the Table, which after amendment shall read as under:

Sr. No.	Offence	Penalties	Section of the Act to which offence has reference
	(1)	(2)	(3)
24.	Any person, who is integrated for monitoring, tracking, reporting or recording of sales, production and similar business transactions with the Board or its computerized system, conducts such transactions in a manner so as to avoid monitoring, tracking, reporting or recording of such transactions, or issues an invoice which does not carry the prescribed invoice number or barcode <b>or QR code</b> or bears duplicate invoice number or counterfeit barcode <b>or QR code</b> or <b>defaces the prescribed invoice number of barcode or QR code</b> , or any person who abets commissioning of such offence.	<p>Such person shall pay a penalty of five hundred thousand rupees or two hundred per cent of the amount of tax involved, whichever is higher. He shall, further be liable, upon conviction by a Special Judge, to simple imprisonment for a term which may extend to two years, or with additional fine which may extend to two million rupees, or with both.</p> <p>Notwithstanding above, the business premises of such person shall be liable to be sealed by an officer of Inland Revenue in the manner prescribed.</p> <p>Any person who abets commissioning of such offence, shall be liable, upon conviction by a Special Judge, to simple imprisonment for a term which may extend to one year, or with additional fine which may extend to two hundred thousand rupees, or with both.</p>	sub-section (9A) of section 3 and section 40C.

### 1.12 Uniform

[Section 77]

The Bill proposed to add a new section 77 which shall read as under:

**“77. Uniform.—The Board may, by notification in the official Gazette, prescribe rules for wearing of uniform by officers and staff of Inland Revenue Services.”**

## 2. THE THIRD SCHEDULE:

In terms of section 3(2)(a) of the Sales Tax Act, 1990, taxable supplies and import of goods specified in the Third Schedule shall be charged to tax at the rate of 17% of retail price which 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.

As per Sr. No. 7 of Third Schedule to the Act, detergents classified under PCT Heading 3402.2000 are subjected to sales tax at the rate of 17% of the retail price. PCT Heading 3402.2000 covers detergent preparations put up for retail sale.

The Bill proposed to substitute the expression "3402.2000" with the words "respective headings". After amendment detergents classified in any of PCT Headings shall be subjected to sales tax on the basis of retail price.

## 3. THE SIXTH SCHEDULE:

In terms of sub section (1) of section 13 of the Act supplies or import of goods specified in Sixth Schedule shall be exempt from sales tax. Sixth Schedule contains four Tables.

### **Exemption of sales tax on import or supply – Amendments in Table 1:**

- 3.1 In terms of entry at Sr. No. 13 of Table 1, exemption of sales tax is given on edible vegetables imported from Afghanistan including roots and tubers, except ware potato and onions, whether fresh, frozen or otherwise preserved (e.g. in cold storage) but excluding those bottled or canned classified in headings specified in column (3) against the said Sr. No. 13. The Bill proposed to omit two headings 0709.5910 [globe artichokes]; and 0709.5990 [other truffles]. After omission the vegetables classified under the said two headings shall be subjected to 17% sales tax on their import even from Afghanistan.
- 3.2 In terms of existing provisions of Sr. No. 32, exemption of sales tax is available on import or supply of newsprint and educational text books but excluding brochures, leaflets and directories classified under PCT Headings 4801.0000, 4901.9100, 4901.9990 and 4903.0000. The Bill proposed to substitute Sr. No. 32. After substitution exemption of sales tax shall be available on import or supply of newsprint and books but excluding brochures, leaflets and directories classified under any of PCT Headings.
- 3.3 In terms of entry at Sr. No. 45, exemption of sales tax is available on import or supply of dextrose and saline infusion giving sets along with empty non-toxic bags for infusion solution, Dextrose and saline infusion giving sets, Artificial parts of the body, Intra-Ocular lenses and Glucose testing equipment classified under PCT Headings 9018.3910; 9018.3920; 9021.3100; 9021.3900; and 9027.8000. The Bill proposed to substitute expression "9027.8000" with the words "respective headings".
- 3.4 In terms of entry at Sr. No. 120, exemption of sales tax is available on import or supply of diagnostic kits or equipment classified under heading 3822.0000. The Bill proposed to substitute expression "3822.0000" with the words "respective headings".

- 3.5 In terms of entry at Sr. No. 133, exemption of sales tax is available on import or supply of pesticides and their active ingredients registered by the Department of Plant Protection under the Agricultural Pesticides Ordinance, 1971(II of 1971), stabilizers, emulsifiers and solvents as have been specified in column (2) classified in PCT Headings specified in column (3). The Bill proposed to substitute expressions "2930.9090", "2931.0010", "2931.0090", "2932.2920", "2933.3930", "2941.9050", "3402.1110", "3402.1190", "3402.1290", "3402.1300" and "3402.1990", with the expression "respective headings".
- 3.6 The Bill proposed to amend entry at Sr. No. 137. In terms of amended provisions, exemption of sales tax shall be available on import or supply of paper weighing 60 g/m<sup>2</sup>, art paper and printing paper art card for printing of Holy Quran imported by Federal or Provincial Governments and Nashiran-e-Quran as per quota determined by IOCO classified under PCT Headings 4802.5510, 4810.1990, 4910.1910, 4802.6990 and 4802.2900.
- 3.7 Bill proposed to insert a new Sr. No. 163 which shall grant exemption of sales tax on goods imported by various agencies of the United Nations, diplomats, diplomatic missions, privileged persons and privileged organizations which are covered under various Acts and, Orders, rules and regulations made thereunder; and agreements by the Federal Government classified under PCT heading 99.01, 99.02, 99.03 and 99.06.
- Provided that such goods are charged to zero-rate of customs duty under the Customs Act, 1969 (IV of 1969), and the conditions laid therein. Provided further that exemption under this serial shall be available with effect from the 15th day of January, 2022.
- 3.8 The Bill proposed to insert a new Sr. No. 164 which shall grant exemption of sales tax on import or supply of photovoltaic cells whether or not assembled in modules or made up into panels classified under PCT headings 8541.4200 and 8541.4300.
- 3.9 The Bill proposed to insert a new Sr. No. 165 which shall grant exemption of sales tax on goods imported by or donated to hospitals run by the non-profit making institutions classified under headings 99.13 and 99.14 subject to the similar restrictions, limitations, conditions and procedures as are envisaged for the purpose of applying zero-rate of customs duty on such goods under the Customs Act, 1969,(IV of 1969).
- 3.10 The Bill proposed to insert a new Sr. No. 166 which shall grant exemption of sales tax on goods excluding electricity and natural gas supplied to hospitals run by the charitable hospitals of fifty beds or more.
- 3.11 The Bill proposed to insert a new Sr. No. 167 which shall grant exemption of sales tax on goods classified under PCT headings 99.19, 99.20 and 99.21 temporarily imported into Pakistan, meant for subsequent exportation charged to zero-rate of customs duty subject to the similar restrictions, limitations, conditions and procedures as are envisaged for the purpose of applying zero-rate of customs duty on such goods under the Customs Act, 1969 (IV of 1969).
- 3.12 The Bill proposed to insert a new Sr. No. 168 which shall grant exemption of sales tax on import or supply of silver, in unworked condition classified under PCT headings 7106.1000, 7106.9110 and 7106.9190.



- 3.13 The Bill proposed to insert a new Sr. No. 169 which shall grant exemption of sales tax on import or supply of gold, in unworked condition classified under PCT Headings 7108.1100, 7108.1210 and 7108.1290.
- 3.14 In terms of Sr. No. 25 of Table 1 of Eighth Schedule, agricultural tractors are subjected to reduced rate of 5% sales tax. The Bill proposed to insert a new Sr. No. 170 in Table 1 of Sixth Schedule which shall grant exemption of sales tax on import or supply of tractor of PCT headings 8701.9220 and 9701.9320. Correspondingly Sr. No. 25 of Eighth Schedule has been proposed to be omitted.
- 3.15 The Bill proposed to insert a new Sr. No. 171 which shall grant exemption of sales tax on import or supply of seeds for sowing.
- 3.16 The Bill proposed to insert a new Sr. No. 172 which shall grant exemption of sales tax on machinery, equipment and materials imported either for exclusive use within the limits of Export Processing Zone or for making exports therefrom, and goods imported for warehousing purpose in Export Processing Zone, subject to the conditions that such machinery, equipment, materials and goods are imported by investors of Export Processing Zones, and all the procedures, limitations and restrictions as are applicable on such goods under the Customs Act, 1969 and rules made thereunder shall mutatis mutandis, apply.

**Exemption of sales tax on local supply – Amendments in Table 2:**

- 3.17 In terms of entry at Sr. No. 11 of Table 2, exemption of sales tax is available on local supply of ware potato and onions. The Bill proposed to withdraw the exemption by omitting Sr. No. 11.
- 3.18 In terms of entry at Sr. No. 32 of Table 2, exemption of sales tax is available on local supply of yogurt classified under PCT Heading 0403.1000 excluding that sold in retail packing under a brand name. The Bill proposed to expand the scope of exemption on local supply of yogurt classified under any of headings excluding that sold in retail packing under a brand name.
- 3.19 The Bill proposed to substitute Sr. No. 45 of Table 2. As per substitution provisions, exemption of sales tax shall be available on local supply of edible vegetables classified under respective headings including roots and tubers whether fresh, frozen or otherwise reserved (e.g. in cold storage) but excluding those bottled or canned.
- 3.20 The Bill proposed to insert a new Sr. No. 52 in Table 2 which shall grant exemption of sales tax on local supply of articles of jewellery classified under PCT Heading 71.13, or parts thereof, of precious metal or of metal clad with precious metal on which tax has been paid at the import stage @ 4%.
- 3.21 The Bill proposed to insert a new Sr. No. 53 in Table 2 which shall grant exemption of sales tax on prepared food or foodstuff supplied by Restaurants and caterers.



**Exemption of sales tax on import of plant machinery, equipment including capital goods -- Amendments in Table 3:**

- 3.22 The Bill proposed to add a new Sr. No. 22 in the Annexure of Table 3 which shall grant exemption of sales tax on import of (1) machinery, equipment and spares meant for initial installation, balancing, modernization, replacement or expansion of projects for power generation through hydel, oil, gas, coal, nuclear and renewable energy sources including under construction projects entered into an implementation agreement with the Government of Pakistan prior to 15th day of January, 2022; (2) construction machinery, equipment and specialized vehicles, excluding passenger vehicles, imported on temporary basis as required for the construction of project. The said exemption shall also be available to primary contractors of the project upon fulfilment of the conditions, namely:- (a) the contractor shall submit a copy of the contract or agreement under which he intends to import the goods for the project; (b) the Chief Executive or head of the contracting company shall certify in the prescribed manner and format as per Annex-A that the imported goods are the projects bona fide requirement; and (c) the goods shall not be sold or otherwise disposed of without prior approval of the FBR on payment of sales tax leviable at the time of import. The temporarily imported goods shall be cleared against a security in the form of a post-dated cheque for the differential amount between the statutory rate of sales tax and the amount payable along with an undertaking to pay the sales tax at the statutory rates in case such goods are not re-exported on conclusion of the project.

**Exemption of sales tax on supply of goods within the limits of the Border Sustenance Market established in cooperation with Iran and Afghanistan -- Amendments in Table 4:**

- 3.23 The Bill proposed to substitute in the Annexure, against serial number 80, in column (1), in column (3), for the expression "0403,1000, with the expression "0403,2000.

**4. THE EIGHT SCHEDULE:**

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

- 4.1 In terms of Sr. 25 sales tax at reduced rate of 5% is leviable on Agricultural tractors. the Bill proposed to insert a new Sr. No. 170 in Table 1 of Sixth Schedule which shall grant exemption of sales tax on import or supply of tractor of PCT headings 8701.9220 and 9701.9320. Correspondingly Sr. No. 25 of Eighth Schedule has been proposed to be omitted.
- 4.2 In terms of entry at Sr. No. 43, sales tax at reduced rate of 5% is leviable on natural gas supplied to fertilizer plants for use as feed stock in manufacturing of fertilizer. The Bill proposed to increase the rate of sales tax from 5% to 10%.
- 4.2 In terms of entry at Sr. No. 44, sales tax at reduced rate of 5% is leviable on phosphoric acid if imported by fertilizer company for manufacturing of DAP. The Bill proposed to increase the rate of sales tax from 5% to 10%.

- 4.3 In terms of entry at Sr. No. 47 locally produced coal is subjected to reduced rate of Rs. 425 per MT or 17% ad valorem whichever is higher. The Bill proposed to omit the said Sr. No. 47.
- 4.4 In terms of entry at Sr. No. 52, sales tax at reduced rate of 2% is leviable on all types of fertilizers. The Bill proposed to increase the rate of sales tax from 2% to 10%.
- 4.5 The Bill proposed to amend Sr. No. 56. In terms of the amended provisions, import and supply of potassium chlorate shall be subjected to sales tax at the rate of 17% along with Rs. 60 per kg provided that rate of Rs. 60 per kg shall not apply on imports made and supplies made to organization under the control of M/o Defence Production.
- 4.6 In terms of entry at Sr. No. 75 sales tax at reduced rate of 12.5% is leviable on import of electric vehicle in CBU condition. The Bill proposed to omit said Sr. No. 75 so electric vehicle in CBU condition shall be subjected to standard rate of 17% sales tax at import stage.
- 4.7 The Bill proposed to add a new Sr. No. 78 through which sales tax at the reduced rate of 3% shall be leviable on supply of articles of jewellery classified under PCT heading 71.13, or parts thereof, of precious metal or of metal clad with precious metal subject to the condition that no input tax shall be adjusted.
- 4.8 The Bill proposed to add a new Sr. No. 79 through which sales tax at the reduced rate of 4% shall be leviable on import of articles of jewellery, or parts thereof, of precious metal or of metal clad with precious metal subject to the condition that no input tax shall be adjusted.
- 4.9 The Bill proposed to add a new Sr. No. 80 through which sales tax at the reduced rate of 1% shall be leviable on local supply of reclaimed lead subject to the condition that (i) Supplies are made to registered manufacturers of lead and lead batteries; and (ii) No refund of input tax shall be admissible.

## 5. THE NINTH SCHEDULE:

**Sales Tax on Cellular Phones** -- Amendments in the Ninth Schedule -- Change in rate of sales tax from specific to ad valorem on import of medium and high end cellular phones:

- 5.1 In terms of category D of Sr. No. 1 of Table 2 of Ninth Schedule sales tax at the rate of Rs. 10 is chargeable on import of cellular phones having value exceeding US\$100 but not exceeding US\$ 200 in CKD / SKD condition. The Bill proposed to change the rate of sales tax from Rs. 10 to 10% ad valorem.
- 5.2 In terms of category E of Sr. No. 1 of Table 2 of Ninth Schedule sales tax at the rate of Rs. 1,740 is chargeable on import of cellular phones having value exceeding US\$200 but not exceeding US\$ 350 in CKD / SKD condition. The Bill proposed to change the rate of sales tax from Rs. 1,740 to 10% ad valorem.

- 5.3 In terms of category F of Sr. No. 1 of Table 2 of Ninth Schedule sales tax at the rate of Rs. 5,400 is chargeable on import of cellular phones having value exceeding US\$350 but not exceeding US\$ 500 in CKD / SKD condition. The Bill proposed to change the rate of sales tax from Rs. 5400 to 10% ad valorem.
- 5.4 In terms of category G of Sr. No. 1 of Table 2 of Ninth Schedule sales tax at the rate of Rs. 9,270 is chargeable on import of cellular phones having value exceeding US\$500 in CKD / SKD condition. The Bill proposed to change the rate of sales tax from Rs. 9,270 to 10% ad valorem.

## **6. THE ELEVENTH SCHEDULE:**

**Withholding provisions under the Sales Tax Act, 1990-** Amendment in Sr. No. 7 of Eleventh Schedule:

In terms of Sr. No. 7 registered persons manufacturing lead batteries are obliged to deduct 75% of the sales tax applicable from the payments made to persons supplying any kind of lead classified under various PCT headings of Chapter 78 or scrap batteries under Chapter 85 [PCT Headings 8548.1010 and 8548.1090].

The Bill proposed to substitute the expressions "8548.1010 and 8548.1090" with the expressions "respective headings".

## **7. THE TWELFTH SCHEDULE:**

**Value addition tax-** Amendment in Twelfth Schedule:

In terms of sub section (2) of section 7A read with Twelfth Schedule to the Act, all imported goods shall be subjected to 3% value addition tax subject to exclusions as in conditions and procedure prescribed therein. The Bill proposed to make amendment in sub clause (1) of clause (2) of "procedure and conditions". By virtue of said amendment, value addition tax under Twelfth Schedule shall not be charged on raw material and intermediary goods imported by the manufacturer for in-house consumption excluding compressor scrap (PCT heading 7204.4940), motor, motor scrap (PCT heading 7204.4990) and copper cable cutting scrap (PCT heading 7404.0090).

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**SALIENT FEATURES OF AMENDMENTS PROPOSED  
IN FEDERAL EXCISE ACT 2005 -  
EFFECTIVE FROM JULY 01, 2022, EXCEPT PROVIDED OTHERWISE**

**REVENUE MEASURES**

1. The bill seeks to enhance the Rate of FED on locally manufactured cigarettes.
2. Rate of excise duty on Telecommunication services increased from 16% to 19.5 %.
3. The bill seeks to enhance rate of FED on club, business and first-class travel by air from Rs. 10,000 to Rs. 50,000.

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**COMMENTS ON AMENDMENTS PROPOSED VIDE FINANCE BILL 2020-2021  
IN FEDERAL EXCISE ACT 2005**

**1. Revamping the definition of Duty  
Insertion in Clause 9 of Section 2**

Hitherto the insertion of the proposed amendment, the term Duty has been defined as “Any sum payable under the provisions of this Act or the rules made there under and includes the default surcharge and the duty chargeable at the rate of zero percent”.

The bill seeks to exclude the fee and services charges imposed and collected under section 49 of the Federal Excise Act, 2005 from the purview of “Duty”. By virtue of this amendment the fee and service charges are no more covered under the definition of Duty for the purpose of levy.

**2. Authoritative Delegation of powers of Federal excise officers  
Section 29(2) Clause (c)**

Section 29 of the Excise Act 2005 deals with the Appointment of Federal excise officers and delegation of powers. Section 29(2) deals with the designation of other officer under the Act. Hitherto proposed amendment, The Directorate General of Training & Research has been defined as designated officer to exercise powers under the FED Act, 2005. The bills seek to substitute “Inland Revenue Services Academy” in place of The Directorate General of Training & Research, being a procedural departure.

**3. Harmonizing the requirement to wear Uniform  
Insertion of Section 50**

In line with the proposed amendments under Sales Tax Act, 1990 & Income Tax Ordinance, 2001 vide Finance Bill 2022-23, the bill seeks to empower the Board to prescribe rules for wearing uniform by the officers and staff of Inland Revenue Services.

Accordingly, the Bill proposed to add section 50 after section 49 of the Federal Excise Act, 2005;

“The Board may, by notification in the official Gazette, prescribe rules for wearing of uniform by officers and staff of Inland Revenue Services.”;

**Note:**

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

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

Sr. No.	Sr No. in Table	Existing		Proposed amendments	Comments
		Description	Rate of duty	Rate of duty	
1	8a	E-liquids by whatsoever name called, for electric cigarette kits	Rupees ten per ml	Rupees ten thousand per kg	The Federal Excise Duty was first time imposed on E-Liquids by virtue of Finance Act, 2020. 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 e-cigarettes.
2	9	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	Rupees five thousand and Six hundred per thousand cigarettes	The government aiming to discourage this unhealthy and injurious activity regularly increases FED on cigarettes every year. The bill seeks to continue this policy this year.
3	10	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	Rupees one thousand eight hundred and fifty per thousand cigarettes	Same as above
4	56	Filter rod for cigarettes	Rupee one per filter rod	Rupee fifteen hundred per kg	Same as above

**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	Rate of duty	
1	3	(b) Services provided or rendered in respect of travel by air of passengers embarking on international journey from Pakistan (i) Economy and economy plus (ii) Club, business and first class	Five thousand rupees Ten thousand rupees	Five thousand rupees Fifty thousand rupees	The bill seeks to enhance the FED on Club, Business and First Class air tickets. This revenue measure is desirable as posh community can bear such extra burden.
2	6	Telecommunication services, excluding such services in the area of a Province where such Province has imposed Provincial sales tax and has started collecting the same through its own Board or Authority, as the case may be.	Sixteen percent of Charges	Nineteen and half percent of Charges	Previous year FED on such services was reduced from 17% to 16%. Now the bill seeks to enhance the duty from 16 to 19.5% aiming to generate revenue from this sector.

## **CAPITAL VALUE TAX (CVT)**

The Bill proposes to levy Capital Value Tax (CVT) in respect of the following assets and in the following manner:

<b>Category of asset</b>	<b>Rate of CVT</b>	<b>Basis of valuation</b>	<b>Authority to collect CVT</b>
a) Motor vehicle held in Pakistan having value exceeding rupees 5 million	2%	(i) If imported, as assessed by the Customs authorities as increased by the custom duty;	Collector of Customs at the time of import.
		(ii) where manufactured or assembled in Pakistan, the sales value;	Manufacturer or assembler at the time of sale.
		(iii) If auctioned, the auction price;	Auctioneer
		(iv) in any other case, the total consideration paid;	Motor vehicle registering authority.
		The above values carry annual depreciation rate of 10% up to the 0 carrying value - after 10 years from year of acquisition of vehicle; or - where the value after reduction as mentioned above is less than or equal to Rs. 5 million.	
b) Movable and immovable assets, held abroad of resident individual having value in excess of Rs. 100 million.	1%	The value shall be: (i) the total consideration paid to acquire, alter or improve the asset; or (ii) the fair market value of the asset. Whichever is higher	Commissioner Inland Revenue having jurisdiction.
c) Assets or class of assets as may be specified by the Federal Government through a notification in the official Gazette.	Rate and manner of collection of CVT to be prescribed in notification.	The basis of valuation shall be as specified in such notification.	Federal Government to notify the manner in which CVT is to be collected.

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**TEXT OF FINANCE BILL – 2022**

**For convenience, the complete text of  
Finance Bill 2022**

**<http://www.krestonhb.com>**

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