YOUSUF ADIL
PACE ALIGNED...

Comments on Amended Finance Bill, 2024

Tax

Foreword

This memorandum contains our comments in respect of significant amendments proposed through the amended Finance Bill, 2024 as approved by the Parliament on June 28, 2024 vis a vis Finance Bill, 2024, presented on June 12, 2024.

The Bill would become an Act after receiving the assent of the President of Pakistan. The amendments, enacted through the Finance Act, 2024, will take effect from July 1, 2024 unless stated otherwise.

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Income Tax Ordinance, 2001

1. Surcharge [Section 4AB]

Amended Bill has introduced new section by virtue of which every salaried and business individual, including an Association of Persons (AOP), having taxable income above Rs. 10 Million in a tax year, will be liable to pay surcharge at the rate of 10% of the income tax imposed under Division I of Part I of the First Schedule.

As a consequence of the proposed amendment, the taxable income derived by the above listed persons under normal tax regime would be liable to 10% surcharge. Thus any income derived that is liable to tax under final tax regime would not be subject this newly introduced surcharge.

Needless to mention that this additional tax would add more burden to the Business Individual and AOP who are already heavily taxed in this fiscal year by enhancement of the maximum tax rates from 35% to 45%.

After this amendment, if AOP earns more than Rs. 500 million in a tax year, it would be liable to pay at the rate of 60% (approx.) including super tax and surcharge which is very exorbitant and does not have any precedent in the region.

Amended Bill also seeks to make corresponding amendment in section 149 of the Ordinance, whereby the employer, making salary payment to the employee, would be responsible to deduct surcharge under section 4AB of the Ordinance, where taxable income of the employee exceeds Rs.10 million in a tax year.

2. Tax on Builders and Developers [Section 7F]

The amended Finance Bill proposes to introduce a special tax regime for 'Builders' and 'Developers'. As per newly introduced section, taxable profit would be computed in accordance with following formula instead of net income basis (i.e. revenue minus actual expenses incurred):

Sr. No.	Nature of activities	Taxable profits computed on gross receipts basis
1	Construction and sale of residential, commercial or other buildings	10%
2	Development and sale of residential commercial or other plots	15%
3	Carrying on both activities as mentioned in (1) and (2) above.	12%

Tax rate to be applied on the taxable profit, computed in accordance with the above formula, shall be as specified under Division I or II, Part I of the First Schedule, depending on whether such Builder and Developer is an individual, an AOP or a company.

The amended Bill further proposes that the tax to be levied in the above manner shall not be applicable on any other source of income derived by the

'Builders' and 'Developers' during a tax year.

The newly introduced section further provides that where a taxpayer, while explaining the nature and source of:

- the amount credited or
- the investment made,
- money or valuable article owned
- or the funds from which the expenditure was made,

takes into account any source of income which is subject to tax under this section, the taxpayer shall not be allowed to take credit of any sum as is in excess of taxable profits as computed above.

If, however, his actual taxable income is more than the taxable profits as computed above, taxpayer shall be entitled to take credit of such excess income subject to the payment of tax at the applicable normal rates.

The provisions of section 7F shall not be applicable to a builder or developer established by an Act of the Parliament or a Provincial Assembly or by a Presidential Order and who is engaged in activities for the benefit of its employees or otherwise (including activities for the planning and development of and for providing and regulating housing and ancillary facilities in a specified or notified area).

3. Geographical Source of Income [Section 101] - Significant Economic Presence

Under the existing law, Business income of a non-resident person shall be Pakistan-source income to the extent to which it is directly or indirectly attributable to –

(a) a permanent establishment of the non-resident person in Pakistan;

(b) sales in Pakistan of goods merchandise of the same or similar kind as those sold by the person through a permanent establishment in Pakistan;

(c) other business activities carried on in Pakistan of the same or similar kind as those effected by the non-resident through a permanent establishment in Pakistan; or

(d) any business connection in Pakistan; or

(e) import of goods, whether or not the title to the goods passes outside Pakistan, if the import is part of an overall arrangement for the supply of goods, installation, construction, assembly, commission, guarantees or supervisory activities and all or principal activities are undertaken or performed either by the associates of the person supplying the goods or its permanent establishment, whether or not the goods are imported in the name of the person, associate of the person or any other person.

The Amended Finance Bill now proposes to expand the source rule for taxation of non-residents through expanding the scope of 'business connection' to provide that a Significant Economic Presence (SEP) of a non-resident in Pakistan shall constitute a business connection in Pakistan. As a result, such SEP will result in taxable presence of the non-resident in Pakistan for taxing its business income in Pakistan.

Significant economic presence in Pakistan shall mean:

a) transaction in respect of any goods, services or property carried out by a nonresident with any person in Pakistan including provision of download of data or software in Pakistan, if the aggregate of payments arising from such transaction or transactions during the tax year exceeds such amount as may be prescribed;

b) systematic and continuous soliciting of business activities or engaging in interaction through digital means with such number of users in Pakistan as may be prescribed, irrespective of whether or not—

(i) the agreement for such transactions or activities is signed in Pakistan;

(ii) the non-resident has a residence or place of business in Pakistan; or

(iii) the non-resident renders services in Pakistan

The Amended Bill further provides that only so much of income as is attributable to the transactions or activities referred to in clause (a) or clause (b) shall be deemed to accrue or arise from a business connection in Pakistan.

The world is rapidly changing, newer business models are emerging. Digitalization has emerged as the way of living and doing businesses. With a dramatic shift in traditional, "brick and mortar" business models, countries are trying to align their laws, and in particular, tax laws to cope up with these changes. Global efforts are centered around tackling these challenges arising from Digitalization.

The Task Force constituted for Action Plan 1 for Base Erosion and Profit Shifting by the OECD, identified three methods of tackling the tax challenges posed by the digital economy and amongst them one of the method was a new nexus rule based on SEP.

The concept of SEP as per the OECD relates to the taxation of businesses in jurisdictions where they may not have a physical presence but still conduct significant economic activities. With the rise of the digital economy and remote business activities, it became necessary to update tax regulations to capture economic value generated in countries where companies operate but do not have a physical presence. SEP expands the scope of taxable presence beyond physical borders to include digital and remote activities.

Under the Ordinance, currently non-resident entities are typically taxed in Pakistan if they have a Permanent Establishment or business connection in Pakistan. However, with the increasing digitalization of the economy, many companies are able to generate significant revenue from Pakistan users without having a physical presence in the country, thus escaping taxation.

To address this issue, the Finance Bill has introduced the concept of SEP. However, it appears that the concept of continuity and regularity which are attributes of a business connection are disregarded in the manner in which the provisions are currently drafted. Stand-alone, stray and isolated transaction could also be held to constitute SEP, if the monetary thresholds are breached.

SEP and Double Tax Treaties signed by Pakistan

Through the above amendment, the transactions carried on by e-commerce entities in Pakistan have been brought under the ambit of Pakistan tax. However, the taxation of non-residents depends on their presence through a Permanent Establishment especially where there exist double tax treaty between Pakistan and respective jurisdiction. Accordingly, in case definition of Permanent Establishment under the double tax treaty does not cater for such activities or criteria covered under significant economic presence, then relying on the provisions of double tax treaties, non-residents can still argue that their income from such activities is not taxable in Pakistan.

Challenges while applying the SEP

- The scope and extent of the SEP rules is quite expansive and can potentially cover any transaction carried out by a nonresident in Pakistan, irrespective of whether it is through digital means or

otherwise. It may also cover transactions such as physical import of goods by a Pakistani resident from a nonresident based in countries with whom Pakistan does not have a tax treaty.

- Certain terms in the SEP rules are not clearly defined, such as, what shall be the meaning of terms "digital mean", "systematic and continuous soliciting"?

- Whether the SEP provisions will cover all transactions or only revenue generating transactions?

- Here will be challenges associated with tracking the data and counting the number of users to accurately determine the thresholds. If the same user logs into the account with multiple devices, there will be multiple IP addresses, which would increase the user threshold if the IP address is considered to be the benchmark for counting purposes.

- Although the current SEP provisions provide certain parameters related to the attribution of profits, the guidance seems limited on how profits can be attributed in Pakistan in instances where a nonresident has a SEP in Pakistan. The Taxation Officer seems to have been provided a discretionary power to compute and attribute profits in the manner he deems fit.

- Non-resident entities having SEP in Pakistan will be required to obtain NTN and file tax returns in Pakistan. This imposes an onerous task on non-residents of compiling the necessary information and analyzing transactions which need to be reported in the return.

The proposed introduction of SEP in Pakistan tax laws reflects the legislature's commitment to ensuring that digital businesses operating in Pakistan contribute to the country's tax revenue, thereby creating a level playing field for both domestic and foreign businesses.

4. Transactions between associates [Section 108]

The Bill proposed to insert new subsection in section 108, which provided that for the tax year 2024 and onwards, 25% of the total expenditure for the tax year in respect of sales promotion, advertisement and publicity shall be disallowed and allocated to the said associate, where any amount is claimed as deduction for the tax year or for any of the two preceding tax years on account of royalty paid or payable to an associate directly or indirectly in respect of use of any brand name, logo, patent, invention, design or model, secret formula or process, copyright, trademark, scientific or technical knowledge, franchise, license, intellectual property or other like property or right or contractual right.

The taxpayers and tax advisers raised queries as to rationale for introducing such provisions through different forums including determination of 25% rate for disallowance of sales promotion and advertisement expenses. As per some news reports, it was decided to reduced the 25% disallowance to 8%.

Through the Finance Act, the proposal is enacted with slight amendment whereby for the tax year 2024 and onwards, where any amount is claimed as deduction for the tax year or for any of the two preceding tax years on account of royalty paid or payable to an associate directly or indirectly in respect of use of any brand name, logo, patent, invention, design or model, secret formula or process, copyright, trademark, scientific or technical knowledge, franchise, license, intellectual property or other like property or right or contractual right and **on a notice issued by the Commissioner, the taxpayer fails to furnish any explanation or evidence that no benefit has been conferred**

on the associate, 25% of the total expenditure for the tax year in respect of sales promotion, advertisement and publicity shall be disallowed and allocated to the said associate.

Considering the above, before disallowance of 25% expenditure, a notice will be issued by the Commissioner requiring the taxpayer to furnish explain or provide evidence that no benefit has been conferred on the associate due to advertisement and sales promotion to whom royalty payment is paid.

Although, the above amendment now provides an opportunity to the taxpayer for explaining its position, however, in absence of any clarification as to basis and rational for determination of 25% disallowance for all sectors and any specific regulations as to what would constitute evidence that the associate has or has not been benefited from expenses incurred in Pakistan, this provision is likely to trigger litigations. FBR should therefore issue detailed regulations addressing concerns raised by the taxpayers as to determination disallowance percentage, guidelines as to documentation supporting their contention as to what extent associates have been benefited from expenditure incurred in Pakistan to avoid such litigations.

5. Unexplained income or assets [Section 111]

Under the existing provisions of law, additions under section 111 are to be made in the tax year immediately preceding the tax year in which the investment, money, valuable article or expenditure is discovered by the Commissioner and is situated or incurred outside Pakistan or concealed income is foreign-source.

Through the Finance Act, it is clarified that "year of discovery of foreign assets or expenditure or concealed income", shall mean the year in which the Commissioner has issued a notice requiring the person to explain the nature and source of such foreign assets, expenditure or concealed income.

6. Powers to enforce filing of returns [Section 114B]

The Finance Bill proposed to empower the FBR to issue a general order restricting the foreign travel from Pakistan of such citizens of Pakistan whose name are not appearing on ATL. As per Finance Bill, such restriction for traveling was not to apply on the following persons:

- Persons holding a National Identity Card for Overseas Pakistanis (NICOP);
- Minors;
- students;
- Such other classes of persons as notified by FBR.

The Amended Bill seeks to extend the above list of persons by including the person travelling abroad for Hajj or Umrah.

7. Wealth Statement [Section 116]

The Finance Bill proposed to insert the reference of "foreign assets", thus empowering the Commissioner to ask for the details of foreign assets owned by an individual or individual's spouse, minor children or other dependents. This amendment was of a clarificatory nature as taxpayer do provide details of both domestic and foreign assets while filing wealth statement.

Through the Amended Bill, the above proposal is substituted to cover 'both foreign assets and foreign liabilities' and accordingly, the Commissioner is empowered to ask for details both for foreign assets as well as foreign liabilities.

Further, the Amended Bill has also added explanation to the above section by virtue of which assets of spouse shall only be included in the wealth statement of the person if the spouse is dependent.

It is advisable that the term "dependent" is defined under the Ordinance, otherwise this would open more gates for unnecessary litigation.

8. Best judgement assessment [Section 121]

The Bill proposed to insert clause (ac) under sub-section (1) of Section 121, empowering the Commissioner to serve a notice for the purpose of making best judgment assessment, where tax payer fails to furnish Return of Income / statement in response to notice issued under section 117(3) catering a person who has discontinued the business or is likely to discontinue the business.

The amended Bill now proposes to insert sub section (1A) which empowers the Commissioner to determine taxable income on the basis of sectoral benchmark ratios as prescribed by the Board.

The amended Bill defines "Sectoral Benchmark Ratios" to mean standard business sector ratios notified by the Board on the basis of comparative cases including financial ratios, production ratios, gross profit ratio, net profit ratio, recovery ratio, wastage ratio and such other ratios in respect of such sectors, as may be prescribed.

9. Pecuniary Jurisdiction in Appeals [Section 126A]

The amended Bill propose to substitute the expressions "Subject to other provisions of this Act," with the wordings "Notwithstanding anything contained in any other provision of this Ordinance,-" to give its superseding effect on the other provisions of the Ordinance.

The Tax Laws (Amendment) Act, 2024, provides that all cases, having the value of assessment above Rs. 20 million, pending with the Commissioner (Appeals) will be treated to be transferred to Appellate Tribunal by June 16, 2024. The Bill initially proposes to extend the date of transfer from June 16, 2024 to September 16, 2024. Through the amended Bill, the date of transfer of cases is proposed to be extended to December 31, 2024.

Through the Amended Bill, further amendments are proposed under subsection (5) of Section 126A whereby the period of transfer of cases from the Commissioner (Appeals) is proposed to be commenced from December 31, 2024 instead of June 16, 2024.

Under existing sub section (5), the Appellate Tribunal is required to decide the transferred appeals within the period prescribed under section 132 of the Ordinance (i.e. within six months period). The Amended Bill also seeks to consider the date of transfer of such cases as the commencement date, which may fall any day between June 16, 2024 to December 31, 2024, as the date for period of limitation (i.e. within six months period) for passing of orders by the Appellate Tribunal.

10. Appeal to the Commissioner (Appeals) [Section 127]

Pecuniary Jurisdiction in Appeals was introduced through Tax Laws (Amendment) Act, 2024 through insertion of new provision of Section 126A where the value of assessment of tax or refund exceeds twenty million for filing appeal before the Commissioner (Appeals). While, Section 127 where the procedure of appeals to the Commissioner (Appeals), where no threshold limit is provided, remained unchanged.

This created an anomaly for the taxpayers as to whether the new pecuniary jurisdiction would be applicable on the appeals currently being filed under Section 127. Few taxpayers also contested such pecuniary jurisdiction before the Lahore High Court and obtained interim orders where the directions were issued to FBR for accepting the appeals filed by the taxpayers under Section 127 irrespective of the threshold limit introduced through Section 126A.

Through this amended Bill, a corresponding amendment is proposed whereby the procedure of filing of appeals as prescribed under Section 127 will only be applicable subject to the provision of Section 126A (pecuniary jurisdiction in appeals).

The aforesaid amendment affirms the contention of the taxpayers that threshold limit is not applicable for the appeals filed before Commissioner (Appeals) during the period from May 06, 2024 to June 30, 2024. Consequent to the proposed amendment, it has been clarified that the pecuniary jurisdiction under Section 126A will be applicable on Section 127 with effect from July 01, 2024.

11. Reference to the High Court [Section 133]

The provision of section 133 of the Ordinance is recently revamped through the Tax Laws (Amendment) Act, 2024. After these significant amendments, the orders of Appellate Tribunal, Inland Revenue (ATIR) and the orders passed by the Commissioner (Appeals), Inland Revenue (CIRA) are now required to be referred directly before the High Court.

Through the amended Bill, certain changes are made under the existing provision of Sub section (1) of Section 133 whereby the applicant is now also required to file complete record of the Commissioner (Appeals) within 15 days after filing of reference before High Court. Previously, only the record of the Appellate Tribunal was required to be filed before the High Court.

An explanation is also inserted to provide clarification for the cases pending before CIRA prior to the date of enforcement of the Tax Laws (Amendment) Act, 2024 but where the order of CIRA was communicated after the commencement of the Tax Laws (Amendment) Act, 2024. These orders passed by CIRA are now required to be contested through a reference before the High Court instead of filing appeal before the ATIR.

The other sub sections of Section 133 where the reference of ATIR is given, now the reference of CIRA is proposed to be inserted to further clarify the implications of such provision on the orders passed by CIRA.

The stay obtained from High Court is subject to payment of 30% of the tax demand involved. This condition will now also be applicable on the orders of CIRA challenged before the High Court.

The fee of Rs 50,000, as provided under Section (12) of Section 133 for filing reference before the High Court has been waived off for the concerned Commissioner, Inland Revenue filing reference against the taxpayers. Whereas the aggrieved taxpayers will remain liable to pay such hefty amount of fees for seeking justice from the High Court.

12. Advance tax paid by the taxpayer [Section 147]

The Bill proposed to abolish final tax regime and replace the same with minimum tax regime in case of export of goods. Consequent to proposed amendment, exporter of goods will be liable to pay tax on taxable income at the corporate tax rate i.e. 29%, if tax

collected at the rate of 1% at the time of realization of export proceeds is less than tax liability computed at the corporate tax rate. Tax collected at the rate of 1% at the time of realization of exports shall be considered as a minimum tax liability for that tax year.

A new sub section (6C) is proposed to be inserted under Section 147 which requires the persons specified in section 154 of the Ordinance i.e. Authorized dealers, Banking company, Export Processing Zone Authority, Direct Export and an Export House and Collector of Customs to deduct or collect, advance income tax under section 147 of the Ordinance at the rate of 1%, at the time of realization of foreign exchange proceeds, or realization of the proceeds on account of sale of goods, or export of goods, or at the time of making payment to an indirect exporter, or clearing of goods exported, respectively.

Tax collected in advance under Section 147 is in addition to tax collectable or deductible at the rate of 1% under section 154 of this Ordinance and would be adjustable against tax payable at the corporate tax rate i.e. 29%.

Initially the Finance bill had proposed collection of additional advance tax under section 154 at the rate of 1% on export proceeds; however, through the amended Finance Bill, such 1% advance tax is now proposed to be collected under section 147 as discussed above.

13. Payments to Non-residents [Section 152]

As per the existing provision Section 152(4A) of the Ordinance, the Commissioner may, on application by the recipient of payment referred to in sub-section (1A) having permanent establishment in Pakistan, or by a recipient of payment referred to in sub-section (2A), as the case may be, and after making such inquiry as the Commissioner thinks fit, allow by order in writing, in cases where the tax deductible under sub- section (1) or sub-section (2A) is not minimum tax, any person to make the payment without deduction of tax or deduction of tax at a reduced rate.

The payments covered under section 152(1A) includes a payment in full or part (including a payment by way of advance) to a non-resident person on the execution of:

(a) a contract or sub-contract under a construction, assembly or installation project in Pakistan, including a contract for the supply of supervisory activities in relation to such project; or

(b) any other contract for construction or services rendered relating thereto; or

(c) contract for advertisement services rendered by T.V. Satellite Channels.

The payment under section 152(2A) includes a payment in full or part including a payment by way of advance to a permanent establishment in Pakistan of a nonresident person—

(a) for the sale of goods except where the sale is made by the importer of the goods and tax under section 148 in respect of such goods has been paid and the goods are sold in the same condition as they were when imported]

(b) for the rendering of or providing services; and

(c) on the execution of a contract, other than a contract for the sale of goods or the rendering of or providing services, shall, at the time of making the payment, deduct tax from the gross amount payable (including sales tax, if any).

The Finance Bill proposed certain amendments to sub section (4A) whereby the powers of Commissioner to issue an exemption certificate on account of specified payments covered under section 152 were withdrawn.

Through the amended Bill, the abolishment of power of the Commissioner to issue exemption certificate for above payments are proposed to remain intact, whereas the Commissioner is now empowered to issue a reduced or lower rate certificate. However, such reduction shall not exceed 80% of the rate specified in the said Division.

The legislature, realizing that the withdrawal of power to issue an exemption certificate would create chaos, creating huge tax refunds, thereby forcing the taxpayers to file refund applications and wait for years foe it to be rejected or accepted, now empowers the Commissioner to issue reduced rate or lowered rate certificate to the extent of 80% of applicable withholding tax rate.

14. Payment for goods, services and contract [Section 153]

Through the Bill, powers of Commissioner to issue exemption certificate on account of specified payments covered under section 153 were withdrawn.

Through the amended Bill, the Commissioner is now empowered to issue a reduced or lower rate certificate, however, such reduction shall not exceed 80% of the rate specified in the said Division.

This amendment has clarified the anomaly of reduced rate or lowered rate certificate and also provided the extent of reduced rate certificate i.e. 80% of applicable withholding tax rate. Accordingly, a person who is subject to withholding tax at 5%, can obtain reduced rate certificate for 1% withholding tax.

15. Exemption or lower rate certificate [Section 159]

The Bill proposed to abolish the powers of Commissioner, Inland to grant exemption and restricted it to issue a lower rate certificate under Section 159 against such amount to which Division II or III of this Part or Chapter XII applies on:

(a) exempt from tax under this Ordinance; or

(b) subject to tax at a rate lower than that specified in the First Schedule; or

(c) is subject to hundred percent tax credit under this Ordinance,

The proposed amendments are omitted in through the amended Bill. Consequently, the person whose income is either exempt or are eligible for 100% tax credit can continue to obtain exemption certificate from the concerned Commissioner, Inland Revenue.

16. Offence and Penalties [Section 182]

The Bill proposed penalties for certain persons not following instructions issued by FBR through the general orders. Through the amended Bill proposed penalties are reduced as under:

S.No.	Offences	Penalties (As per the Finance Bill)	Penalties (As per the amended Bill)	Section of the Ordinance to which offence has reference
10A	Any person who fails to comply with income tax general order issued by the Board within fifteen days of issue of such order.	Such person shall pay penalty of Rs 100 million for first default and Rs 200 million for each subsequent default.	Such person shall pay penalty of Rs 50 million for first default and Rs 100 million for each subsequent default: Provided that said penalty shall be imposed effective from such date as the Board may notify	114B

17. Default Surcharge [Section 205]

The default surcharge rate was KIBOR plus 3%, before it was amended to 12% through the Finance Act, 2015. The Bill proposed to revise the default surcharge rate to KIBOR + 3%. As per the amended Bill, default surcharge will now be levied at higher of KIBOR plus 3% or 12%.

18. Tax Fraud Investigation Wing Inland Revenue [Section 230K]

The Amended Bill has inserted new Section 230K to introduce the Tax Fraud Investigation Wing Inland Revenue. The functions and features of this wing are discussed as under:

1) Tax Fraud Investigation Wing Inland Revenue (TFIW) will be established by FBR.

2) The functions of the TFIW is to detect, analyze, investigate, combat and prevent tax evasion and fraud.

3) The TFIW comprises of Fraud Intelligence and Analysis Unit, Fraud Investigation Unit, Legal Unit, Accountants Unit, Digital Forensic and Scene of Crime Unit, Administrative Unit or any other Unit as may be approved by the Board or the Federal Government.

4) The TFIW shall consist of a Chief Investigator and as many following officers, as may be notified by the Board:

   (a) Senior Investigators, Investigators, Junior Investigators or any other officer of Inland Revenue with any other designation;

   (b) a Senior Forensic Analyst and as many Forensic Analysts and Junior Forensic Analysts; and

   (c) a Senior Data Analyst and as many Data Analysts and Junior Data Analysts.

   The newly inserted section further provides that the Board may, by notification in the official Gazette:

   a) specify the functions and jurisdiction of the Tax Fraud Investigation Wing Inland Revenue and its officers; and

   b) confer the powers of authorities specified in section 207 upon the Tax Fraud Investigation Wing Inland Revenue and its officers in clause (a) of sub-section 4.

It is further provided that the provision of this section will not prevent the authorities appointed under section 207 and 208 or any other authority or officer conferred with the power of authorities under section 207 and 208 from conducting prosecution Part XI of Chapter X of the Ordinance.

19. Advance Tax on Sale or Transfer of Immoveable Property [Section 236C]

Section 236C deals with collection of advance tax from the seller or transferor at the time of registering, recording, attesting the transfer of any immoveable property.

The amended bill has made amendments to the proviso of Section 236C where certain persons are excluded from collection of advance tax under Section 236C on first sale. The list of sellers to whom such provision will not apply is extended to cover:

- War wounded person while in service of Pakistan Armed Forces; or
- Federal or Provincial Government; or
- an ex-serviceman and serving personnel of armed forces; or
- ex-employees or serving personnel of Federal and Provincial Government.

Such exclusion from collection of tax will also apply in cases where the property acquired or allotted in recognition of or for their services rendered by:

- a war wounded person while in service of Pakistan Armed Forces or
- Federal or Provincial Government or
- an ex-serviceman and serving personnel of armed forces or
- ex-employees or serving personnel of the Federal and Provincial Government

The First Schedule

Part I

Rate of tax for Non-Salaried Individual & Association of Persons

Division I

The Bill proposed the enhancement of maximum tax rate from 35% to 45% for non-salaried individuals and AOPs.

The amended Bill now provides for a new proviso restricting the maximum tax rate to 40% on amount exceeding Rs 5,600,000, for an Association of Persons (being a Professional Firm, who is prohibited from incorporating by any law or the rules of the body regulating its profession).

It seems that the legislature, realizing the limitations of such AOPs to become a corporate entity under their byelaws, now restricts the maximum tax rate of 40%.

However, tax rates for business individual remain higher compared to the salaried individuals. The legislature should realize the importance of aligning tax rates for both salary earners and business. These high tax rates could potentially discourage a conducive business environment, which is important in these challenging times.

Division VII

The Bill proposed to enhance the tax rate from 12.5% to 20% on the capital gain derived from the disposal of mutual funds units, in case of a stock fund if dividend receipts of the fund are less than capital gains.

Through the amended Bill the tax rate is increased to 15% as compared to proposed 20% on the capital gain derived from disposal of units of such mutual fund, which is now aligned with the capital gain tax rates of listed securities covered under section 37A.

Part-III

Exports

Division IV

The Bill proposed to insert new clause (2A) to Division IV, providing for the advance tax to be collected at the rate of 1% of the export proceeds under section 154, in addition to the tax collected at the rate of 1%.

The amended Bill withdraws the introduction of the above clause in the First Schedule, and instead now propose to collect such 1% advance tax on realization of export proceeds under section 147 and has accordingly proposed consequential changes in section 147.

Accordingly, additional advance tax as initially proposed to be deducted by banks under section 154 will now be deducted as advance tax under section 147. Accordingly, banks will be collecting 2% tax from export proceeds effectively.

The Second Schedule

Part I

Exemptions from total income [Clauses 99B]

The amended Bill seeks to insert a new clause whereby income of a Special Purpose Vehicle buying Diversified Payment Rights from the Authorized Dealers in Pakistan shall be exempt for tax.

It is explained that for purpose of this clause, Diversified Payment Rights, Special Purpose Vehicle and Authorized Dealers shall mean the 'Diversified Payment Rights', 'Special Purpose Vehicle' and Authorized Dealers', respectively, in each case, as referred in the State Bank of Pakistan's Circular(s) or Regulations on Diversified Payment Rights.

[Clause (114B)]

Through the Finance Act, 2019 exemption was provided by inserting a new clause, whereby profit and gain derived from disposal of immovable property shall be exempted under the Ordinance subject to the conditions that the seller:

- is the dependent of a Shaheed belonging to Pakistan Armed Forces or
- a person who dies while in the service of the Pakistan Armed Forces or
- the service of Federal or Provincial Government,

in respect of first sale of immovable property acquired from or allotted by the:

- Federal Government or
- Provincial Government or
- any authority duly certified by the official allotment authority,

and the property acquired or allotted is in recognition of or for services rendered by the Shaheed or the person who dies in service.

The amended Bill has substituted the word "Shaheed or the person who dies in service" with "persons specified in the said proviso".

Consequential amendment is also proposed in section 236 C inserting the reference of a war wounded person while in service of:

- Pakistan Armed Forces or
- Federal or Provincial Government
- or an ex-serviceman and serving personnel of armed forces or
- ex-employees or serving personnel of Federal and Provincial Government.

Through the above amendments, profit and gain derived from disposal of immovable property shall also be exempted in the hands of recipient as listed above.

Part III

Reduction in tax liability

[Clauses 2]

The Bill proposed to withdraw tax credit (reduced by 25% of tax payable) to full time teacher and researcher employed in a non-profit educational institution recognized by HEC.

The amended Bill does not contain the above omission. Accordingly, the relief would continue to be available under clause (2) to the full time teachers specified in the clause.

Part IV

Exemption from specific provisions

[Clause 11A]

Clause (126E) of Part I of the Second Schedule provides for exemption of income derived by zone enterprise as defined in Special Economic Zone Act, 2012 for a period of 10 years.

Clause 11A of Part IV of the Second Schedule provides an exclusion from the minimum tax payable under section 113 to various classes of person and entities. However, under the existing clause, no exclusion is provided for zone enterprises whose income are exempted under clause (126E) of Part I of the Second Schedule.

The amended Bill has included such zone enterprises in Clause 11A, Part IV. Consequently, minimum tax payable under section 113 would not apply to zone enterprise as defined in clause (126E), Part-I of the Second Schedule.

Through the Finance Act, 2022, exclusion from applicability of minimum tax payable under section 113 of the Ordinance was omitted from clause 11A, Part IV of the Second Schedule which lead to a dispute that Special Economic Zone entities being exempted from tax would be liable to pay tax minimum tax. Consequent to the proposed amendment, this dispute now stands resolved.

[Clause 38AAA]

The amended Bill has inserted new clause providing for non-applicability of tax withholding as provided under section 152 of the Ordinance on the income of a Special Purpose Vehicle, referred in clause (99B) of Part of the Schedule, on account of buying Diversified Payment Rights from the Authorized Dealers in Pakistan.

The Seventh Schedule

Rule 3A

Following new rule is now proposed to be inserted through the amended Bill:

The amended Bill now seeks to insert a new Rule which provides that notwithstanding any other provision of this Ordinance, where any assets are transferred by an Authorized Dealer, as a consequence of a Diversified Payment Rights transaction, to a Special Purpose Vehicle, it shall be treated as a financing transaction irrespective of the method of accounting adopted by the Authorized Dealer.

For the purpose of this clause, Diversified Payment Rights, Special Purpose Vehicle and Authorized Dealer shall mean the 'Diversified Payment Rights', 'Special Purpose Vehicle' and 'Authorized Dealer', respectively, in each case, as referred in the State Bank of Pakistan's Circular(s) or Regulations on Diversified Payment Rights

The Tenth Schedule

Rule 1A

The Bill proposed to specify rate of tax to be collected under sections 236C (**Advance Tax on Sales or transfer of Immovable Property**) and 236K (**Advance Tax on Purchase or Transfer of Immovable Property**) of the Ordinance in respect of late filer i.e. person who are appearing in Active Taxpayers' List but have not filed return of income by the due date as specified in sections 118, 119 and 214A of the Ordinance.

The rates specified for collection of tax under section 236C of the Ordinance are as follows:

S. No.	Gross Amount of Consideration Received	Tax Rate
1	Where the gross amount of consideration received does not exceed Rs. 50 million	6%
2	Where the gross amount of consideration received exceeds Rs. 50 million but does not exceed Rs. 100 million	7%
3	Where the gross amount of consideration received exceeds Rs. 100 million	8%

The rates specified for collection of tax under section 236K of the Ordinance are as follows:

S. No.	Fair Market Value of Immovable Property	Tax Rate
1	Where the fair market value does not exceed Rs. 50 million	6%
2	Where the fair market value exceeds Rs. 50 million but does not exceed Rs. 100 million	7%
3	Where the fair market value exceeds Rs. 100 million	8%

The amended bill now seeks to provide that the above specified tax rates would not be applicable on a person, who has filed return of income by the due date specified in section 118 or by the due date as extended under section 119 (as allowed by the concerned Commissioner) or section 214A of the Ordinance, for all of the last three tax years preceding the tax year for which the return has not been filed by the due date specified in above-mentioned sections.

Sales Tax Act, 1990

1. Definitions

i. Associates (associated person) [Clause (3) Section 2]

The Bill proposed to amend the existing scope of term "Associates" for the purpose of sales tax by aligning the definition to the extent as defined under sub-section (1) of section 85 of the Income Tax Ordinance, 2001 (ITO) resulting in inclusion of following persons in the category of associate for the purpose of sales tax.

a. a person who sufficiently influences the other person either alone or together with an associate or associates; or

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

Adaptation of definition provided in ITO to the extent of subsection (1) would have resulted into broadening of scope term 'Associate' for the purpose of sales tax. However, the Amended Bill now aligns the definition of 'Associate' with that provided under section 85 of the ITO in totality to remove this irregularity.

ii. Input Tax [Clause (14) Section 2]

The Act empowers the Board to restrict the scope of input tax related to provincial sales tax on services through notification in Official Gazette subject to such conditions as may be prescribed.

iii. Tax Fraud [Clause (37) Section 2]

The Bill proposed to broaden the scope of the term 'tax fraud' by substituting the existing definition.

The Amended Bill has slightly rephrased the earlier proposed definition. The revised version with amended clauses identified in *italic* is as under:

"**tax fraud**" means *intentionally understating or underpaying the tax liability or overstating the entitlement to tax credit or tax refund* in contravention of duties or obligations imposed under the Act by way of submission of false return, statements or false documents or withholding of correct information or documents to cause loss of tax and includes-

(a) suppression of *supplies* that are chargeable to tax under this Act;

(b) false claim of input tax credit;

(c) making taxable supplies of goods without issuing any tax invoice, in violation of the provisions of this Act or the rules made thereunder;

(d) issuance of any tax invoice without supply of goods leading to inadmissible claim of input tax credit or refund;

(e) evasion of tax by availing undue input tax credit or obtaining inadmissible refund by any means or methods other than that covered under clauses (a) to (d);

(f) collection of any amount as tax but failing to deposit the same in the prescribed manner beyond a period of three

months from due date of payment of tax;

(g) falsification or *causing falsification of invoice or* substitution of financial records or production of fake accounts or documents or furnishing of any false information through human, mechanical or electronic means with an intention to evade tax due or claim inadmissible refund;

(h) tampering with or destroying of any material evidence or documents required to be maintained under this Act or the rules made thereunder through human or digital means; or

(i) acquisition, possession, transportation, disposal or in any way removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner dealing with, any goods in respect of which there are reasons to believe that these are liable to confiscation under this Act or the rules made thereunder,

(j) making of taxable supplies without getting registration under this Act; or

(k) intentional doing of any act or causing to do an act or omitting to take any action or causing the omission to take any action to cause loss of tax under this Act

The term "intentional" as used in the aforesaid clause has been explained as any act or omission as aforesaid unless the person accused of tax fraud proves that he had no intention, motive, knowledge, or reason to believe that he was committing a tax fraud.

2. Best judgment Assessment [Section 11D]

As per proposed provision relating to best judgment assessment, in case of non-filing of a sales tax return by a person, any show-cause notice and the assessment order shall abate where such person files return with tax payable along with default surcharge and penalty. However, no time limitation was proposed for filing of return and making sales tax payment along with default surcharge and penalty in order to become entitled for such abatement. The Amended Bill has specified time limitation of 60 days from issuance of order for best Judgment assessment.

3. Assessment of Tax and Recovery of tax not levied or short levied or erroneously refunded [Section 11E]

The Officer of Inland Revenue is empowered to make assessment of tax and recovery of tax not levied or short levied or not paid by a person due to any reason.

The Amended Bill specifies that any such reasons may include collusion or a deliberate act for making assessment or recovery of tax.

4. De-registration, blacklisting and suspension of registration [Section 21]

The Bill proposed to empower the Commissioner Inland Revenue to issue an order of blacklisting under Section 21 of the Act which is currently not covered under the substantive provision of the Act.

It was also proposed that the Chief Commissioner on his own motion or on an application made by the registered person, may call for and examine the record of proceedings and the order of blacklisting under sub-section (2) and after making such inquiry as is necessary, may modify the such order as he deem fit.

The Amended Bill now extends the above powers of the Commissioner and Chief Commissioner Inland Revenue also in respect of order of suspension.

5. Audit of sales tax affairs [Revamping of Audit Procedures (Section 25)]

The Bill proposed to substitute section 25 of the ST Act in order to revamp the audit procedures. However, the proposed provisions contained an anomaly regarding powers of the Commissioner to pass an order before issuance of notice. The Amended Bill has now removed such anomaly.

Further, where records or document are kept on electronic data, the Act requires the registered person to allow access only to the authorized Officer of Inland Revenue for use of machine and software on which data is kept for the purpose of sales tax audit which powers were earlier proposed to also extend in case of any sales tax authority authorized by such officer.

Consequent to non-adaptation of proposed insertion of section 25AB regarding investigative audit (as discussed below), the proposition regarding powers of the officer to conduct investigative audit upon suspecting involvement of a registered person in tax fraud during the audit proceeding, have also not been adapted.

6. Investigative Audit - (Section 25AB)

The Bill proposed to introduce the concept of investigative audit through insertion of proposed section 25AB.

However, said proposition is withdrawn through the Amended Bill.

7. Tax Fraud Investigation Wing – Inland Revenue [Section 30AB]

The Amended Bill introduced the concept of new authority whose function shall be to detect, analyze, investigate, combat and prevent tax fraud.

- **Composition:**

The tax fraud Investigation Wing-Inland Revenue shall comprise of Fraud Intelligence and Analysis Unit, Fraud Investigation Unit, Legal Unit, Accountants Unit, Digital Forensic and Scene of Crime Unit, Administrative Unit or any other Unit as may be notified by the Board through notification in the official Gazette.

The tax fraud Investigation Wing-Inland Revenue shall consist of a Chief Investigator and as many following officers, as may be notified by the Board:

(a) Senior investigators, investigators, Junior investigators or any other officer of Inland Revenue with any other designation;

(b) a Senior Forensic Analyst and as many Forensic Analysts and Junior Forensic Analysts; and

(c) a Senior Data Analyst and as many Data Analysts and Junior Data Analysts.

- **Powers & functions**

The Board may, by notification in the official Gazette:

i. specify the functions and jurisdiction of the Tax Fraud Investigation Wing-Inland Revenue and its Units and its officers; and

ii. confer the powers of authorities specified in section 30 upon the tax fraud Investigation Wing-Inland Revenue and its officers listed above.

8. Offences and Penalties [Section 33]

Through the Amended Bill, the basis for computation of penalties as per serial numbers 12, 14, 18, 22, 23 and 24 of the Table provided under Section 33 has been changed from 'equal to the amount of tax involved' to ' equal to the amount of tax evaded or sought to be evaded'

The Amended Bill has further amended / enhanced the penalties as under:

Entry No.	**Offences**	**Relevant penalties**	**Penalties (as per Finance Bill)**	**Penalties (as per Amended Finance Bill)**
	(1)	(2)	(2)	(2)
11	(a) Submission of a false or forged document (b) destruction, alteration, or falsification of the records including a sales tax invoice; or (c) Knowingly or fraudulently making false statement, declaration	Upon conviction by a Special Judge, imprisonment for a term which may extend to three years, or with fine which may extend to an amount equal to the amount of tax involved, or with both.	Imprisonment proposed to be increased to five years if the tax evaded or sought to be evaded is **upto five hundred million or above**, which may extend to ten years if the tax evaded or sought to be evaded is **one billion and above** and fine which may extend to an amount equal to the amount of tax evaded or sought to be evaded. The person who abets or connives in commissioning of tax fraud shall also be liable to the above proposed penalties.	As per adaptation of the Act, the threshold of tax evaded or sought to be evaded for imposition of penalty of upto 5 years imprisonment has been changed to an amount of tax evaded or sought to be evaded of less than **one billion,** in place of the proposed threshold of **upto five hundred million or above**.
13	Any person who commits, causes to commit or attempts to commit the tax fraud, or abets or connives in commissioning of tax fraud.	Upon conviction by a Special Judge, imprisonment for a term which may extend to three years, or with fine which may extend to an amount equal to the amount of tax involved, or with both.	Imprisonment proposed to be increased to five years if the tax evaded or sought to be evaded is **up to five hundred million or above**, which may extend to ten years if the tax evaded or sought to be evaded is one billion and above and fine which may extend	As per adaptation on the Act, the threshold of tax evaded or sought to be evaded for imposition of penalty of up to 5 years imprisonment, has been changed to an amount of tax evaded or sought to be evaded of

Entry No.	Offences	Relevant penalties	Penalties (as per Finance Bill)	Penalties (as per Amended Finance Bill)
	(1)	(2)	(2)	(2)
			to an amount equal to the amount of tax evaded or sought to be evaded. The person who abets or connives in commissioning of tax fraud shall also be liable to the above proposed penalties.	less than **one billion,** in place of the proposed threshold of **upto five hundred million or above**.

Furthermore, the Bill proposed to insert a new subsection (2) regarding imprisonment upto 10 years for offences under the Sales Tax Act, 1990 and to give such provision an overriding effect over any conflicting provisions found in the Code of Criminal Procedure 1898. However, the Amended Bill has not adapted the said proposition made through the Bill.

9. Default Surcharge [Section 34]

The Bill proposed to enhance the rate of default surcharge from 12% to KIBOR plus 3%. The Amended Bill has adapted such change with further providing minimum rate of default surcharge as 12%.

10. Pecuniary jurisdiction in appeals [Section 43A]

Through the Bill, the date of transfer of cases involving the value of assessment of tax or refund of tax exceeding ten million rupees from Commissioner (Appeals) to the Appellate Tribunal Inland Revenue, was proposed to be extended till September 16, 2024. As per adaptation in the Amended Bill, the said date has been extended till December 31, 2024.

11. Certain transactions not admissible [Section 73]

Section 73 of the Act restricts the admissibility of input tax if payment for a transaction exceeding Rs. 50,000 (excluding utility bill) is made otherwise than through a banking channel. The Bill proposed that said amount shall be considered in aggregate for the purpose of admissibility of input tax. The Amended Bill further clarifies that the limit of Rs. 50,000 in aggregate shall apply to a single supplier in a tax period.

Fifth Schedule (Zero Rated Supplies)

The Bill proposed to withdraw exemption on stationary items including exercise books and to charge sales tax thereon at the reduced rate of 10% under serial no. 84 of Eighth Schedule. The Amended Bill has adapted such proposition for items other than exercise books resulting which exercise books shall remain zero rated.

Sixth Schedule (Exempt Goods)

Table I – Imports or Supplies

a) Exemptions retained:

The Bill proposed to omit following entries from Table I of the Sixth Schedule thereby charging sales tax at the import and local supply of such goods. The said proposition has not been adapted by the Amended Bill, as a result, these items will continue to remain exempt:

S.No.	Description	Status
32	Newsprint and books	Exempt
112	Items for cardiology / cardiac surgery, neurovascular, electrophysiology, endosurgery, endoscopy, oncology, urology, gynaecology, disposables and other equipment *(Please refer serial no. 112 for list of items covered)*	Exempt
151	(a) Supplies; and (b) imports of plant, machinery, equipment for installation in tribal areas and of industrial inputs by the industries located in the tribal areas, as defined in the Constitution of Islamic Republic of Pakistan,– as made till *30th June, 2024*, to which the provisions of the Act or the notifications issued thereunder, would have not applied had Article 247 of the Constitution not been omitted under the Constitution (Twenty-fifth Amendment) Act, 2018 (XXXVII of 2018): Provided that, in case of imports, the same shall be allowed clearance by the Customs authorities on presentation of a *post-dated cheque* for the amount of sales tax payable under the Sales Tax Act, 1990, and the same shall be returned to the importer after presentation of a consumption or installation certificate, as the case may be, in respect of goods imported as issued by the Commissioner Inland Revenue having jurisdiction: Provided further that if plant, machinery and equipment, on which exemption is availed under this serial number, is transferred or supplied outside the tribal areas, the tax exempted shall be paid at applicable rate on residual value	The Bill proposed to levy 6% sales tax till 30.06.2025 with proposition to further increase it to 12% thereafter till 30.06.2026 under serial no. 85 of the Eighth Schedule. ***The Amended Bill withdrawn above proposition and extended the period of exemption upto 30.06.2025*** ***Further, exemption on imports shall be allowed on presentation of pay order instead of post-dated cheque. Such pay order shall be returned to importer within six month after presentation of consumption or installation certificate***.

S.No.	Description	Status
152	Supplies of electricity, as made from the day of assent to the Constitution (Twenty-fifth Amendment) Act, 2018, till 30th June, 2024, to all residential and commercial consumers in tribal areas, and to such industries in the tribal areas which were set and started their industrial production before 31st May, 2018, but excluding steel and ghee or cooking oil industries	The Bill proposed to charge 6% sales tax till 30.06.2025 with proposition to further increase it to 12% thereafter till 30.06.2026 under Serial no. 86 of the Eighth Schedule ***The Amended Bill withdrawn above proposition and extended the period of exemption to 30.06.2025***
166	Goods supplied to hospitals run by the charitable hospitals of fifty beds or more.	Exempt

b) New insertion allowing exemption of sales tax

The Amended Bill provides for exemption from sales tax on import or supply of the following items by inserting the respective new entries under Table-I of the Sixth Schedule to the ST Act:

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

Table II – Local Supplies

a) Change in scope of the exemptions proposed by the Bill

The Amended Bill restricts the scope of the exemptions proposed by the Bill in respect of the following items:

S. No.	Exemption Proposed by the Bill	Exemption Adapted by the Act
56	Milk excluding that sold under a brand name	Milk excluding: i. that sold under a brand name; or ii. supplied by corporate diary farms
57	Iron and steel scrap	Iron and steel scrap excluding supplied by manufacturer-cum-exporter of recycled copper, authorized under Export Facilitation Scheme, 2021.

Eighth Schedule (Goods subject to specified rates)

Table – I

a) Omission of entries

The Bill proposed to withdraw reduced rating through omission of the following items from the Eighth Schedule, however, the Amended Bill maintains reduced rating of such items for a period of two years i.e. till June 30, 2026:

S. No.	Description	Rate of Sales Tax
73	Locally manufactured Hybrid electric vehicle: (a) Upto 1800 cc (b) From 1801 cc to 2500 cc	 8.5%. 12.75%

b) Withdrawal of condition regarding inadmissibility of refund of excess input tax

The Bill proposed to withdraw exemption and apply reduced rating under serial no. 90 of the Eighth Schedule on local supply of poultry feed, cattle feed, sunflower seed meal, rape seed meal and canola seed meal subject to the condition that the refund of excess input tax, if any, shall not be admissible. However, the Amended Bill has withdrawn the proposed condition. Hence, refund of excess input tax shall become admissible against supply of such items.

Federal Excise Act, 2005

1. Default surcharge [Section 8]

The Bill proposed to enhance the rate of default surcharge from 12% to KIBOR plus 3%. The Amended Bill has adapted such change with further providing minimum rate of default surcharge as 12%.

2. Tax Fraud Investigation Wing – Inland Revenue [Section 29A]

The Amended Bill introduced the concept of new authority whose function shall be to detect, analyze, investigate, combat and prevent tax fraud.

- **Composition:**

  The tax fraud Investigation Wing-Inland Revenue shall comprise of Fraud Intelligence and Analysis Unit, Fraud Investigation Unit, Legal Unit, Accountants Unit, Digital Forensic and Scene of Crime Unit, Administrative Unit or any other Unit as may be notified by the Board through notification in the official Gazette.

  The tax fraud Investigation Wing-Inland Revenue shall consist of a Chief Investigator and as many following officers, as may be notified by the Board:

  (a) Senior investigators, investigators, Junior investigators or any other officer of Inland Revenue with any other designation;

  (b) a Senior Forensic Analyst and as many Forensic Analysts and Junior Forensic Analysts; and

  (c) a Senior Data Analyst and as many Data Analysts and Junior Data Analysts.

- **Powers & functions**

  The Board may, by notification in the official Gazette:

  (b) specify the functions and jurisdiction of the Tax Fraud Investigation Wing-Inland Revenue and its Units and its officers; and

  (c) confer the powers of authorities specified in section 29 upon the tax fraud Investigation Wing-Inland Revenue and its officers listed above.

3. Pecuniary jurisdiction in appeals [Section 33A]

Through the Bill, the date of transfer of cases involving the value of assessment of tax or refund of tax exceeding five million rupees from Commissioner (Appeals) to the Appellate Tribunal Inland Revenue, was proposed to be extended till September 16, 2024. As per adaptation in the Amended Bill, the said date has been extended till December 31, 2024.

First Schedule

Table-I – Excisable Goods

The Amended Bill has further enhanced the duty rates in respect of the following item.

S. No.	Description of goods	Existing Rate	Rate Proposed in the Bill	Adaptation of Rate in the Amended Bill
13	Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cements, whether or not colored or in the form of clinkers	Two rupees per Kilogram	Three rupees per Kilogram	Four rupees per Kilogram

The Amended Bill has imposed federal excise duty on following item through insertion of new entry to Table-I of the First Schedule to the Federal Excise Act:

S. No.	Description of goods	Heading/Sub Heading Number	Rate of Duty
63.	Lubricating Oil	2710.1951, 2710.1952 and 2710.1953	Five percent ad valorem

Minimum Price [Restriction 3]

Previously, no brand of locally produced cigarettes having on-pack printed retail price exceeding nine thousand rupees per thousand cigarettes, could be priced and sold at a retail price (excluding sales tax) lower than sixty percent of such retail price.

The Amended Bill has reduced the minimum price for such cigarettes from sixty percent of retail price to fifty-five percent.

Table II – Excisable Services

The Amended Bill has enhanced the duty on travel by air for passengers embarking on international journey from Pakistan as given under.

S. No.	Description of goods	Previous Duties	Amended Duties as per the Amended Bill
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 air tickets	Five Thousand Rupees	Twelve thousand five hundred rupees (for air tickets issued on or after the 1st day of July, 2024)

S. No.	Description of goods	Previous Duties	Amended Duties as per the Amended Bill
	a) IATA Traffic Conference Area 1 (North, Central, South America and Environs)	Two hundred and fifty thousand rupees	a) Three hundred and fifty thousand rupees
	b) IATA Traffic Conference Area 2		
	I. Middle East and Africa	(I). Seventy-five thousand rupees	(b)(I) One hundred and five thousand rupees
	II. Europe	(II). One hundred and fifty thousand rupees	(b)(II) Two hundred and ten thousand rupees
	(c) IATA Traffic Conference Area 3 (Far East, Australia, New Zealand and Pacific Islands)	One hundred and fifty thousand rupees	(c) Two hundred and ten thousand rupees.

Table-III

The Amended Bill inserted the following new table to charge duty on excisable items other than those mentioned Under Table-I And Table-II of the First Schedule to the FE Act.

"TABLE-III

(EXCISABLE ITEMS OTHER THAN THOSE MENTIONED UNDER TABLE-I AND TABLE-II)

[See clause (e) of sub-section (1) of section 3]

S. No.	Description of Items	Heading/sub-heading Number	Rate of Duty
(1)	(2)	(3)	(4)
*1.	Allotment or transfer of commercial property and first allotment or first transfer of open plots or residential property by any developer or builder in such mode and manner and subject to such conditions and restrictions as may be prescribed by the Board	Respective headings	(i) 3% of gross amount of consideration involved where the buyer is appearing on active taxpayer list maintained under section 181A of the Income Tax Ordinance, 2001 on the date of acquisition of property; (ii) 5% of gross amount of consideration involved where the buyer has not filed the income tax return by due date as specified in proviso to Rule 1A of Tenth Schedule to the Income Tax Ordinance, 2001; and

S. No.	Description of Items	Heading/sub-heading Number	Rate of Duty
			(iii) 7% of gross amount of consideration involved where the buyer is not appearing on active taxpayer list maintained under section 181A of the Income Tax Ordinance, 2001 on the date of acquisition of property.
2.	Supply of white crystalline sugar by any person to a manufacturing, processing or packaging entity.	Respective heading	Rupees fifteen per kg.

***Previously this entry was proposed to be introduced through insertion of entry no 63 in Table 1 of the First Schedule which was related to dutiable goods. The rate previously introduced was flat rate of 5% without specifying the value to which it was to apply.*

The Amended Bill has removed the above identified ambiguity and proposed slab rates of duties ranging from 3% to 7% instead of flat rate of 5% in all cases.

Back to Contents

Customs Act, 1969

1. Directorate General of Trade Based Money Laundering (Section 3CCE)

The Bill proposed to insert a new section whereby a Directorate General of Trade Based Money Laundering (TBML) is to be established with the aim to enhance regulatory measures and enforcement actions.

Through the Amended Bill, the name of office has been modified from DG of Trade Based Money Laundering to DG of Combatting Trade Based Money Laundering. The change of name adapted in the Amended Bill appears to have no impact on the aims and objectives of the authority introduced through the Bill.

2. Procedure of Appellate Tribunal [Section 194 & 194C]

The Bill proposed to omit section 194C of the Act being redundant as procedure of the Appellate Tribunal was proposed to be regulated through the rules in accordance with sub-section (6) of the revised section 194 as proposed to be substituted by the Bill.

The Amended Bill has reinstated section 194C whereas proposed introduction of sub-section (6) of section 194 has not been adapted.

3. Appeals to the Appellate Tribunal [Section 194A]

The Bill proposed to substitute the entire section 194A of the Act. The substituted section explains the appeal process, and the criteria of constitution of special benches for certain appeals which were to be mandatorily required to be presided by the Chairman.

The Amended Bill, redefined the proposed criteria of constitution of such special benches whereby now it is not mandatory for the Chairman to preside the Bench, which condition was mandatory as per proposition in the Bill.

4. Alternative Dispute Resolution (ADR) [Section 195C]

The Bill proposed to substitute the entire section, providing mechanism for dispute resolution including appointment of dispute resolution committees, application requirement and withdrawal of litigation. The Amended Bill adapted the proposition with a change whereby now a Cost and Management Accountant can also be appointed as Committee Member.

Contacts us

For more information you may contact

Atif Mufassir
Partner - National Leader Tax & Legal
Karachi Office
Email: amufassir@yousufadil.com

Imran Ali Memon
Partner
Karachi Office
Email: immemon@yousufadil.com

Muhammad Shahzad Hussain
Partner Business Process Solutions
Karachi Office
Email: muhahussain@yousufadil.com

Zubair Abdul Sattar
Partner Tax & Legal
Karachi Office
Email: zsattar@yousufadil.com

Arshad Mehmood
Senior Advisor Tax & Legal
Karachi Office
Email: amehmood@yousufadil.com

Rana Muhammad Usman Khan
Partner
Lahore Office
Email: rmukhan@yousufadil.com

Sufian Habib
Executive Director Tax & Legal
Islamabad Office
Email: sufianhabib@yousufadil.com

Our Offices

Karachi
Cavish Court, A-35, Block 7 & 8
KCHSU, Shahrah-e-Faisal
Karachi - 75350, Pakistan

Phones: + 92 (021) 34546494-97
Fax : + 92 (021) 34541314
Email: sghazi@yousufadil.com

Islamabad
18-B/1
Chohan Mansion, G-8 Markaz
Islamabad, Pakistan

Phones: + 92 (051) 8350601
+ 92 (051) 8734400-3
Fax: + 92 (051) 8350602
Email: shahzad@yousufadil.com

Lahore
134-A, Abubakar Block
New Garden Town,
Lahore, Pakistan

Phones: + 92 (042) 35913595-7
+ 92 (042) 35440520
Fax: + 92 (042) 35440521
Email: rmukhan@yousufadil.com

Multan
4th Floor Mehr Fatima Tower,
Opposite High Court, Multan Cantt,
Multan, Pakistan

Phones: + 92 (061) 4571131-2
Fax: + 92 (061) 4571134
Email: rmukhan@yousufadil.com

About Yousuf Adil

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