



Tax Memorandum 2018

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PREFACE

This tax memorandum summarizes crucial changes proposed in the Finance Bill 2018 in Income Tax, Sales Tax, Federal Excise Duty and Customs Duty Laws.

All changes through the Finance Bill 2018 are effective from 01 July 2018 except where specifically indicated.

The tax memorandum contains the comments, which represent our interpretation of the intended legislation. We, therefore, recommend that while considering their application to any particular case, reference be made to the specific language of the relevant statute(s).

The memorandum is also accessible on our website www.shekhamufti.com

April 29, 2018

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INCOME TAX LAW

- Tax rate for companies tapered down from 30% to 25% in next 5 years.
- Tax rate for Individual lowered down to 15% in 6 slabs.
- Tax rates for AOPs are reduced from 35% to 30% in 7 slabs.
- Bonus Shares taken out from the Ambit of the Income Tax Ordinance right from the core.
- Super tax is proposed to be tapered off in next 3 years. It will be reduced by 1% every year.
- Audit only for once in 3 years unless FBR approves in specific case.
- Automatic selection for Tax Audit under Section 214D of the Ordinance on late filing of Tax Return has been done away with.
- A late filer out of the ATL for the whole year for he filed the return late.
- Tax losses will be disallowed to a late filer.
- Automatic stay of tax demand can be obtained after payment of 10% of the tax demand before the Commissioner (Appeals).
- Depreciation losses cannot be set off against more than 50% of the annual taxable income.
- Commercial Importers are out of 5.5% Final Tax Regime.
- Non-Filer cannot buy property after 1st of July, 2018.
- Non-Filer cannot buy new motor vehicle (local or imported) after 1st of July, 2018.
- Property rates as notified by FBR in 2016 are proposed to be abolished.
- The FBR can buy/confiscate property if it finds property value is declared lower than the market value.
- Option for 2% taxation under Clause (94) of Part-IV of 2nd Schedule of the Ordinance can be availed up to 30 June 2019.
- The draconian penalty for non-filing of monthly withholding statement is proposed to be rationalized.
- The threshold for withholding of income tax in respect of sale of goods and services rendered are proposed to be enhanced from Rs.25,000 and Rs.10,000 to Rs.75,000 and Rs.30,000 respectively.
- The tax rebate on investment in shares / insurance policy is proposed to be enhanced further from Rs.1.5 (M) to Rs. 2(M).
- Foreign Remittance will be questioned if its remittance exceeds Rs. 10(M) in a Tax Year.
- The Tax Credits under Sections 65B, 65D and 65E of the Ordinance can be availed up to June 30, 2021.

SALES TAX

- Rate of further tax enhanced from 2% to 3%
- Powers of Federal Government, which was earlier transferred to FBR and Federal Finance Minister, have been restored
- Adjustment of input tax on import of scrap of compressor has been debarred
- Introduction of an appeal effect order within one year for giving effect to the finding or direction of the Commissioner (Appeals), Appellate Tribunal, High Court, or Supreme Court.
- Sales tax audit will only be conducted once in 3 years.
- Officer of Directorate of Intelligence & Investigation vested with powers in line with powers being exercised by Officer of Inland Revenue
- Rate of default surcharge fixed @ 12% per annum. Earlier it was KIBOR plus 3%.
- Chief Commissioner no longer empowered to post Tax Officers at taxpayers' business premises. This power now only vests with FBR
- Commissioner no longer empowered to post Tax Officers at taxpayers' premises to monitor production
- Mechanism of Alternative Dispute Resolution Committee (ADRC) revamped by making the recommendation of ADRC binding on both parties
- Validation provided to all the previous proceedings of Directorate General (Intelligence and Investigation), Inland Revenue
- Zero rating granted to stationery items
- Minimum threshold for obtaining stay during the pendency of appeal before Commissioner (Appeals) reduced from 25% to 10%
- Sales tax reduced on import and supplies of furnace oil
- Input tax adjustment allowed on packing materials to five export oriented sectors
- Sales tax increased to 9% on import and supply of finished articles of leather and textile sector. All branded outlets which will become integrated with FBR online system through electronic fiscal devices shall pay sales tax @ 6%
- Rate of sales tax for steel sector increased to Rs. 13 per unit of electricity consumed.
- Rate of sales tax for other allied steel industries i.e. ship breakers and re-rollers rationalized
- Scope of services under Islamabad Services Tax Laws enlarged

SALES TAX EXEMPTIONS

- Import or supplies of Paper, Fish Feed, Fans for dairy farms, Bovine semen, preparations for making animal feed and certain equipment etc.
- Value addition tax @ 3% on import of LNG
- LNG imported by fertilizer manufacturers for use as feed stock
- 21 types of computer parts imported by manufacturers registered with and certified by EDB Import of plant and machinery on one time basis for setting up of Special Economic Zone
- Extra tax and further tax @ 2% exempted for Pakistani foam manufacturers
- Imported hearing aids of all types and kinds
- Value Addition Tax exempted on import of second hand worn clothing and footwear

REDUCTION IN SALES TAX

- Reduced rate of sales tax @ 3% on all types of fertilizers
- Reduced rate of sales tax from 10% to 5% on supply of natural gas to fertilizer plants for use as feed stock
- Reduced rate of sales tax @ 6% on import of ready to use articles of artificial leather
- Local supply of finished fabric to unregistered persons to attract further tax @ 1%

FEDERAL EXCISE DUTY

- Powers of Federal Government, which was earlier transferred to FBR and Federal Finance Minister, have been restored
- Rate of default surcharge fixed @ 12% per annum. Earlier it was KIBOR plus 3%.
- Introduction of an appeal effect order within one year for giving effect to the finding or direction of the Commissioner (Appeals), Appellate Tribunal, High Court, or Supreme Court.
- Officer of Directorate of Intelligence & Investigation vested with powers in line with powers being exercised by Officer of Inland Revenue
- Minimum threshold for obtaining stay during the pendency of appeal before Commissioner (Appeals) reduced from 25% to 10%
- Mechanism of Alternative Dispute Resolution Committee (ADRC) revamped by making the recommendation of ADRC binding on both parties
- Curtailing the powers of Chief Commissioner and Commissioner for accessing to records and posting of excise staff at taxpayers' premises
- Excise audit will only be conducted once in 3 years.
- Validation provided to all the previous proceedings of Directorate General (Intelligence and Investigation), Inland Revenue
- FED on cigarettes and cement products enhanced

FED EXEMPTIONS

- Equipment imported by China Railway Corporation for Lahore Orange Line Metro Train Project
- Imported construction materials and goods imported by China State Construction Engineering Corporation Limited for construction of Karachi-Peshawar Motorway (Sukkur-Multan Section)
- Commission paid by State Bank of Pakistan and its subsidiaries to National Bank of Pakistan or any other banking company for handling banking services of Federal or Provincial Governments as agent of State Bank of Pakistan

INCOME TAX ORDINANCE, 2001**1- CHANGES IN TAXATION OF COMPANIES****DEPRECIATION AND AMORTIZATION DISALLOWED UPTO 50% OF ANNUAL TAXABLE INCOME;**

(Section 57 & 59A)

Section 57 provides that any unabsorbed depreciation, initial allowance, first year allowance, accelerated depreciation and amortization for the year shall be fully allowable for deductions from business income of following tax years until they are completely set off.

In a much unexpected move, the current bill now proposes to amend provisions of setting off in such a way that these deductions shall be adjusted only to the extent of 50% of the annual business income of following year. The balance shall be carried forward to next year and hence and so forth, will be adjusted similarly in following years until completely adjusted. This way, the number of years required to set off the less will be become instantly double than normal.

An exception to this rule has been provided that, in case the business income is less than 10 million in any tax year, the above unabsorbed deductions would be allowed against the whole 100% of the income and limit of 50% shall not apply.

The unexpected proposed amendment is clearly an impediment to the genuine taxpayer who would be forced to pay tax even though he has genuine depreciation losses available. The amendment is obviously prompted by higher revenue collection target of the FBR and is fairly unfair on all the count of judicious taxation.

There is, however, another angle of looking at the implication of this proposed amendment. We understand that almost contrary to the intention of legislature, this unfair taxation will somehow, ensure that the above deductions are available for adjustment from future taxable profits as other previously the taxpayer would be paying Minimum either tax U/s 113 and Alternate Corporate Tax U/s 113C even though it had nil taxable income due to adjustment of the above deductions.

Moreover, this will also resolve the issue of carry forward of Minimum Tax U/s 113(2)(C) where due to availability of the above deduction at full, the taxable income of the current year were completely set off resulting in nil normal tax liability thereby restricting the genuine claim of taxpayer of carry forward and adjust the minimum tax paid in excess of normal tax as per the ruling of the Sindh High Court in the case of Kassim Textile Mills Private Limited that "Zero" is not considered as tax payable.

The table below explaining the consequences of the above amendment is presented below:

Before Amendment:

Tax Year	In millions						
	Turnover	Taxable income before depreciation	Depreciation	Taxable income after depreciation	Normal Corporate Tax	Minimum Tax	Minimum tax carry forward
2018	500	12	15	0	0	6.25	0
2019	400	11	13	0	0	5.00	0
2020	300	9	10	0	0	3.75	0

After Amendment:

Tax Year	In millions						
	Turnover	Taxable income before depreciation	Depreciation	Taxable income after depreciation	Normal Corporate Tax	Minimum Tax	Minimum tax carry forward
2018	500	12	15	6	1.8	6.25	4.45
2019	400	11	13	5.5	1.60	5.00	3.41
2020	300	9	10	0	0	3.75	0

SUPER TAX TAPERED OFF;

(Section 4B)

Super tax was initially levied vide Finance Act 2015 for one year only. Thereafter it was extended for Tax Year 2016 & 2017. The rate of Super Tax was 4% for banking companies without any income ceiling and 3% for non-banking companies with income ceiling of more than Rupees 500 million.

Since the first day of its imposition, the super tax has always been a contentious issue and has remained a subject to litigation by number of effected taxpayers who obtained the stay orders from the High Court. The single bench of Lahore High Court though has finally decided the matter in favour of the department the petition is still pending with the Sindh High Court. With this proposed amendment it is seemingly obvious that the government has finally succumb to the demands of the various professional bodies and by the industry at large and has proposed to taper off the levy of super tax in 3 years till 2020 by reducing the rate by 1% each year. Reduction of super tax rate by 1% in each year along with proposed reduction of corporate tax rate by 1% in each year is certainly a sign of relief for taxpayers.

A comparison of Corporate Tax along with Super Tax rates for the years 2018 to 2021 is presented below:

Tax Year	Rate		
	Corporate Tax	Super Tax for Companies	Super Tax for banks
2018	30%	3%	4%
2019	29%	2%	3%
2020	28%	1%	2%
2021	27%	0%	0%

TAX ON LISTED COMPANIES ON NON-PAYMENT OF CASH DIVIDEND;

(Section 5A)

The last finance act revamped the section of tax on undistributed reserve into tax on undistributed profit and tax @ 7.5% was imposed on the accounting profits of Public Companies with the exception to scheduled banks, modarabas, power generation companies and SOEs, that do not distribute cash or scrip dividend equal to forty per cent (40%) of their after tax profits within six (6) months of the end of the tax year.

The current bill has now proposed to reduce the above tax rate from 7.5% to 5% in addition to reduction in the percentage (%) of dividend payout from 40% to 20%.

The bill also proposes to exclude those companies, who have to follow any restriction by the government on distribution of dividend, from the vires of the above section, through the proposed insertion of clause 104 in Part IV of the Second (2nd) Schedule of the Ordinance.

Distribution through bonus shares was allowed for computing the 40% payout as an option to cater for companies with liquidity problems which however, has now been proposed to be restricted to cash dividend only.

This change along with the other proposed amendment to abolish income tax on bonus share is to ensure that public companies distribute at least 20% of its profit as cash dividend.

The bill also proposes to exclude the above section from Final Tax Regime under Section 8 of the Ordinance, after which it can be implied that companies are now allowed to adjust any tax paid under the said section from the overall tax liability of the Company.

INVESTMENT CREDIT CAN BE CLAIMED UPTO JUNE 2021;

(Section 65B, 65D & 65E)

Currently income tax credits on account of investment in Expansion, Extension, Balancing, Modernization and Replacement of Plant & Machinery are available on investments made upto June 30, 2019 only.

The bill has proposed to extend the time period of these tax credits upto June 30, 2021.

This is undoubtedly a very welcoming and a necessary change for industrialization and manufacturing in the country. A practical hiccup, however, also needs to be removed that exemptions from withholdings provisions both on the import of raw material and local sales should be allowed to avail the benefits of tax credits in true sense. The issue being faced by the companies remain the withholding of income tax which they still have to suffer despite the availability of clear cut credits against tax.

On a different note it would not be out of context to comment here that it has been a strong demand of the industry to allow the tax credits on the Factory Building and Land as well on the same pattern as is available on plant and machinery. It goes without saying that purchase of factory Land and Building have become equally capital intensive.

MINIMUM TAXATION ON SERVICES PERSISTS;

(Clause 94 of Part IV of Second Schedule)

Clause 94 of Part IV, was introduced by the Income Tax (Second Amendment) which provides exemption from applicability of Minimum tax under section 153(b) of the Ordinance on specified corporate service sectors from 1st July-2015 till 30 June 2016. However, specified service sectors will be subjected to at least 2% taxation if they file irrevocable undertaking to the Commissioner- IR for submission of its accounts for income tax audit for Tax Year 2016, 2017 or 2018, as the case may be. Upon filing such undertaking, the Commissioner-IR was empowered to issue exemption certificate from withholding tax @ 8% under section 153 by collecting 2% tax on gross turnover from all sources.

It has now been proposed by the Finance Bill to extend the scheme for another one (01) year up to 30th June of 2019 with a mandatory condition to submit the undertaking by November 2018. It has, further, been proposed that services of inspection, certification, testing and training will also enjoy the exemption as available to other 14 service sectors for getting benefit of Clause 94 of Part IV of the Second Schedule.

INTIMATION OF QUARTERLY ADVANCE TAX NEEDS EVIDENCES;

(Section 147)

Under Section 147 of the Ordinance, quarterly advance tax is required to be computed by applying the methodology of the tax-to-turnover ratio for the quarter in the case of company or AOP.

A new provision is proposed to be inserted, whereby in case if a taxpayer fails to provide the turnover for the said quarter or the quantum of turnover is not known, the Tax Officer is empowered to compute the advance tax liability for the quarter. He can work out by taking the turnover for the quarter equal to ¼th of 110% of the turnover of the latest tax year, for which a return has been filed.

In the Finance Bill 2018-19, it has also been proposed to amend Section 147(4A) of the Ordinance, whereby the banking companies would be included within the ambit of a taxpayer: resultantly the banking companies will be required to pay their advance tax liability in accordance with the provisions of sub-section (4A) of Section 147 of the Ordinance. However, it remains important to mention here that the right for filing of lower estimation are not permitted for banking companies.

Presently, the taxpayer can file a lower estimation of advance tax under Section 146(6) of the Ordinance without furnishing any basis of such lower estimate or provide any documentary evidences, however, through the Finance Bill 2018-19, the following details are proposed to be submitted to the Commissioner – IR while working out the estimate of the amount of tax payable:

- i. Turnover for completed quarters;
- ii. Estimated turnover of the remaining quarters along with reasons for any decline (if any);
- iii. Documentary evidence of estimated expenses or deductions which may result in lower payment of advance tax; and
- iv. Computation of the estimated taxable income of the relevant tax year.

The Commissioner IR has also been empowered to reject the estimation filed by the taxpayer if it is not accompanied by above details, after providing an opportunity of being heard.

TAX CREDIT FOR JOINT VENTURE (JV) PARTNER;*(Section 168)*

The bill proposes to provide a tax credit to company, which is a partner in Joint Venture in respect of taxes paid by the JV. The formula for tax credit is proposed to be $(A/B) \times C$, where

- A- share of profits before tax
- B- is taxable income of the JV
- C- is amount of tax withheld in the name of the JV.

A practical problem still persist that the income tax would be deducted in the name of JV with its own NTN. As to how its credit can possibly be claimed by the JV partner, that can only be made possible, if appropriate amendments are incorporated in the Return of Income on IRIS to allow the company to avail the benefit of the tax deduction made on the NTN of the AOP.

GRADUAL REDUCTION IN CORPORATE TAX RATE;*(Division I of Part I of the First Schedule)*

The corporate tax rates other than bank are proposed to be reduced from 30% to 25% over a period of next five years as under:

Tax Year	Tax Rate
2019	29%
2020	28%
2021	27%
2022	26%
2023	25%

The practice of the FBR to provide for tax rates for certain number of tax years relates to the practice of yester years and is certainly a welcome and much desired change and gesture as it provides a degree of certainty to the business community for planning ahead.

This reduction in tax rates was equally necessary owing to the reduction in the tax rates of Salaried and Business Individuals and AOP without which it would only discourage corporatization in the country.

One must not loose the sight from the plight of Small Company whereby the rate of 25% has been static right from the year 2005 when the concept of small company was introduced for the first time.

2- CHANGES IN PERSONEL TAXATION

GIFTS FROM RELATIVES & NON RELATIVES;

(Section 37 (4A) & Section 79)

Implication on transferor/Donor/Gifter

Rules of Non Recognition of taxable gain or loss on certain transactions as contained under Section 79 of the Ordinance provides exemption from recognizing gain or loss on transfer of capital asset to the person if the transfer is by way of a gift whether the gift is given to relative or friend or teacher or on any other account.

It has now been proposed under Non Recognition rules that gift given only to relatives will qualify for Non-Recognition Rules. Needless to mention that section 79 fundamentally addresses the concern of the transfer (the donor or the Gifter). Hence the suggested amendment casts in fact a serious impact on the donor that in the event he is making a gift to a non-relative, then giving a gift will become a taxable event for him. This is because of the fact that after the amendments are in place the gift to a non-relative will then be considered as disposal of assets on the part of the donor and hence taxable, on the net taxable gain as would have been earned in the event of actual disposal/sale of gifted asset.

Implication on transferee/Donee/Giftee

Provisions of Section 37(4A) provides that if capital assets are transferred to a person by way of a gift then the fair market value of the asset on the date of transfer shall be the cost of the asset in the hands of the transferee whether received from relative or friend or teacher or on any other account.

It has now been proposed that the Fair market value of the gifted asset will become the cost to the transferee (Donee or the Giftee) only if the gift is received from a relative. This would mean that where gift is taken from a non-relative, the FMV will not be allowed as cost, any more, under 37 of the Ordinance. On the other hand, after the proposed amendment under section 79 of the ordinance, even the cost of asset in the hand of Donee will not be allowed as the cost of gifted asset because only gifts from relative fall under the preview of section 79.

A point should however be clear that receiving gift is not a taxable event for the Donee at the time of receiving it so far under the ordinance under any of its current provisions. It is only taxable when the capital gain will accrue in the event of disposal/sale of the gifted assets.

A clarification is however necessary after the Gift tax Act, 1963 is not in place any more.

Relative has been defined to mean;

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

PROPERTY TRANSACTION AFTER 1ST JULY 2018
NEW DIRECTORATE GENERAL OF IMMOVABLE PROPERTY [DGIP] INTRODUCED;
(Section 230F)

The Finance Bill 2018 has proposed to insert a new Section 230F, whereby, a DGIP would be appointed to initiate proceedings for the acquisition of immovable property for the reasons as specified.

- (i) Avoidance of withholding tax obligations
 - (ii) Concealment of unexplained amount for investment in immovable property
 - (iii) Avoidance or reduction of capital gain tax under Section 37
- a) The DGIP shall be assigned with powers to acquire a property, where DGIP has reasons to believe that any "Immovable Property" has been transferred on "Consideration of Acquisition" lesser than the "Fair Market Value" (FMV).

Where;

"Immovable Property" means any land with or without a superstructure or any building or part of a building or any rights therein and includes, where any land or any building or part of a building is transferred along with any machinery, plant, equipment, furniture and fittings;

"Consideration for Acquisition" means a sum equal to the aggregate of the amount of the consideration for the transfer of immovable property and hundred per cent of such consideration;

"Fair Market Value" in relation to an immovable property means the price that the immovable property would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer of such property;

"Transfer" in relation to any immovable property means transfer of such property by way of sale or exchange or lease for a term of not less than ten years.

- b) The DGIP may appoint any valuer OR expert for the purpose of determination of immovable property.
- c) The property rates notified by FBR and DC rates are abolished for the purpose of collection of taxes on sale/purchase of immovable property.
- d) No proceeding shall be initiated in respect of any immovable property after expiration of a period of 6 months from the end of the month in which the property transfer is registered or recorded.
- e) The proceeding shall also not be initiated unless the transferee is provided with an opportunity of being heard.
- f) Federal Board Revenue, shall have the rights to purchase any property within the six months of registration by paying a certain amount over and above the declared value which may be 100% for Tax Year 2019, 75% for Tax Year 2020 and 50% for Tax Year 2021.

- g) The transferee may appeal to the appellate tribunal of immovable property against the order to the acquisition within 60 days of the order issued by the DGIP. If appellate Tribunal has passed order in favor or against to Transferee or DGIP, both transferee and DGIP may, prefer an appeal against such order to the High Court within 60 days.
- h) If the order has been passed by the DGIP is become final, the DGIP may by notice in writing to transferee or any other person to surrender or deliver possession of immovable property within in 30 days of the date of notice.
- i) Advance Tax @ 1% shall be collected from the purchaser on the declared value and the Section 111(4)(c), 236C & 236W, shall not apply.

NON-FILER CAN NOT PURCHASE MOTOR VEHICLE OR IMMOVABLE PROPERTY;

(Section 227C)

A major step has been taken in order to restrict a Non-filer from purchasing Motor Vehicle and Property. A new Section 227C has been proposed to be introduced, which overrides any other law for the time being in force.

Under this Section, a taxpayer not appearing in the Active Taxpayers' List (ATL), issued by the Federal Board of Revenue, will not be allowed;

- a) Booking, registration or purchase of a newly manufactured vehicle or imported vehicle.
- b) By any authority, any registration, recording, attesting immovable property.

Moreover, those persons who are non-filers as their income is not chargeable to tax due to exemptions or other concessions such as persons acquiring such assets out of funds generated from exempt incomes, such as Agriculture income. A mechanism should be in place to cater for these situations.

As per '**salient features**' of the budget released along with the Finance Bill, the prohibition on purchase of immovable property by non-filers is for the properties with declared value exceeding Rupees 4,000,000/-only. However, no such threshold has been given under the Finance Bill.

INVESTMENTS REBATE/ LIFE INSURANCE REBATE INCREASED;

(Section 62)

The upper limit for claiming the tax credit either for investment in respect of the cost of new shares offered by a Public Company listed on a stock exchange in Pakistan and cost of Sukuks offered by a Public Company listed and traded on a stock exchange in Pakistan **or** for life insurance premium has been proposed to be increased from Rupees 1,500,000/- to Rupees 2,000,000/-

The limit for investment in shares or premium upto 20% of the taxable income and the holding period of shares for Two (02) years have remained unchanged.

What change, however, needs to be brought in is that where the investment is made by the taxpayer both in shares and life Insurance within the limit of Rupees 2,000,000/- the rebates should be allowed in both the cases which seems to have missed the keen eye of the Budget makers.

Lastly, the amendment is not applicable for current Tax Year of 2018. It is effective from next Tax Year 2019.

A sample computation of Rebate on investment in Shares and Sukuks or Life Insurance Premiums for Tax Year 2019;

Description		Tax Year 2019
Taxable Salary		4,800,000
Income tax on above		300,000
Tax Rebate on Investment/LIP	Rebate = $\frac{\text{Tax X Insurance}}{\text{Taxable Income}}$	60,000
Net Tax Payable		240,000
Lesser of;		
Actual Investment	1,000,000	
20% of taxable income	960,000	
Limit under Section 62	2,000,000	

PROFIT ON DEBTS (BEHBOOD SAVINGS CERTIFICATE);
(Section 103)

The Bill proposes that the provisions of section 7B of the Ordinance shall not apply in respect of profit on investment in Bahbood Saving Certificates or Pensioner's Benefit Account provided that the tax on the said profit is paid at the applicable rate as provided under Part-I of the First Schedule to the Ordinance. However, the tax payable in respect of this income shall not exceed 10% of such profit as provided under Clause (6) of Part III of the Second Schedule to the Ordinance.

FOREIGN INCOME AND ASSETS AND STATEMENT;
(Section 114, 118 and new Section 116A)

A very essential change has been made with respect to foreign assets and foreign income.

It has been proposed to insert a new Section 116A that, every resident Individual should declared foreign Income and Assets with the tax return of income under Section 114 of the Ordinance.

Every resident taxpayer with foreign income equal to or in excess of US\$ 10,000 or having foreign Assets of US \$100,000 or more shall be required to file a separate statement of foreign income and foreign assets as specified;

- a) Total foreign assets and liabilities as on the last day of the tax year;
- b) Foreign assets transferred during the tax year and the consideration thereof; and
- c) Foreign income and expenditure derived wholly and necessarily for the purposes of deriving the said income.

The tax authorities are proposed to be empowered to ask any taxpayer to file a return in respect of foreign assets and foreign income for any prior tax year without any time limitation.

The above amendments are now being made part of the Finance Bill, however, with a further additional explanation to the effect that the concept of taxability in the year preceding the year of discovery will not be applicable if the person explains the source of asset or investment at the time of assessment being made in the year of discovery.

Every person who is required to file a 'foreign income and assets statement is also required to file return of income under section 114 of Income Tax Ordinance, 2001.

PENALTY PROVISION NON-FILING STATEMENT UNDER SECTION 116A;

(Section 182)

The penalty has been fixed for failure to furnish a foreign income and foreign Assets statement at the rate of 2% of the foreign income or value of the foreign assets for each year of default.

3- CHANGES IN TAXATION OF NON RESIDENTS

OFF SHORE DIGITAL SERVICES TAXABLE IN PAKISTAN

[(Section 2(22B), 6, 101(12A), 152(1C)]

It is an arrival of new concept by proposing to insert new definition of "offshore digital services" whereby payment to non-resident person for online advertising including digital advertising space, designing, creating, hosting or maintenance of websites, digital or cyber space for websites, advertising, e-mails, online computing, blogs, online content and online data, providing any facility or service for uploading, storing or distribution of digital content including digital text, digital audio or digital video, online collection or processing of data related to users in Pakistan, any facility for online sale of goods or services or any other online facility, has been held taxable in Pakistan.

The scheme of these payment is proposed to be in line with the taxation of Royalty Income and Fee for Technical Services of Non-resident not having Permanent establishment under Section 6 of the Ordinance. The rate of taxation has been proposed at 5% of gross amount as payment.

Corresponding similar amendments have been proposed on the same principles as are applicable in cases of Royalty and Fee for Technical Services under Section 101 of the Ordinance for the determination of geographical status for the taxability in Pakistan. Through insertion of new sub-provision (12A) in the provision of Section 101 of the Ordinance.

We understand that the proposed amendment is an effort to tap the Non Resident earning and receiving payment from Pakistan. The idea though may not altogether be ruled out, however, the attempted will be foiled in case of presence of DTTs. It is settled under rule of International taxation that Business Income is taxable strictly in the Host country wherein it has its permanent office. It cannot be taxed in the source country unless it has an office in the Source Country.

There always have been efforts on the part of the Commissioner's office to disregard this critical rule and to attempt to tax these payment majorly under the Head of "Fee for technical services" which does not need the pre requisite of Permanent office in the Source Country to be taxed.

In major of the cases the taxpayer have made their cases way through and the remittances were being made without deduction of tax. The commissioner Inbox have always been filled with the number of "Intimation of Non-Resident" with on the same notion of non-deduction.

Through this amendment there is seemingly another attempt by the FBR to tax all those payments which could not be classified as FTS earlier on the ground of Business Income with PE.

Accordingly a larger and a much elaborated concept of "Fee of Offshore Digital Services" has been proposed with an impressive entitlement of almost all the Digitalized services included therein from Advertising Services to Educational and Medical Services in its ambit.

We understand the provisions will open another floodgate of small legislation over payment to Non Resident although the rate of withholding has very wisely been kept at as low as 5% to prevent the same.

MINIMUM TAXATION ON SERVICES OF NON-RESIDENTS PERMANENT ESTABLISHMENTS;

[Section (152 2A (b))]

Currently, the services rendered by Permanent Establishments (PE) of Non-residents in Pakistan and at source withholding suffered under the provisions of Section 152 (2A) (b) of the Ordinance is adjustable as falling under normal tax regime. Whereas, the services rendered by Resident person with a source deductions under Section 153 (1) (b) of the Ordinance is subject to minimum tax. Thereby, proposal has been made so as to bring the equality in the treatment by bringing the PE of Non-resident under minimum taxation under Normal Tax Regime.

Similarly, PE of Non-resident is also entitled for the benefit of clause 94 Part-IV of Second Schedule of the Ordinance as applicable vis.a.vis to Resident person under the provision of Section 153 (4A) of the Ordinance whereby it can file an option for lower taxation @ 2% of turnover.

TRANSFER PRICING DOCUMENTATION;

(Section 108)

At present, there are certain documents and report which taxpayers are required to maintain in respect with having transaction with their associates companies as envisaged under Chapter VIA of the Income Tax Rules, 2002 wherein tax payer is required to furnish the said report to FBR within specified timelines.

However, the condition of furnishing of report was not explicitly provided in the Section 108 of the Ordinance therefore it has now been proposed to amend the aforementioned as to bring it in consonance with the rules.

ENHANCING SCOPE OF PERMANENT ESTABLISHMENT;

[Section 2 (41) (e) & (f)]

It has been proposed to enhance scope of Permanent Establishment (PE) of Non-Resident person by making certain addition to the existing definition of PE as envisaged under the provisions of Section 2(41) of the Ordinance. Such amendment suggest to bring the definition of PE in consonance with most of agreements of avoidance of double taxation.

Dependent Agent;

Where PE of non-resident has been formed on the basis of existence of agency relationship between agent and non-resident person, currently, those agent or person which are having authority to conclude contract and even where agent is maintaining stock or merchandise for regular delivery on behalf of person or their associates does constitutes PE.

Now, it has been proposed to bring those person or agent which plays leading role in conclusion of contract regularly without material modification by the non-resident person does constitute PE on the basis of agency relationship provided where contracts are:

- (a) in the name of the person; or
- (b) for the transfer of the ownership of or for the granting of the right to use property owned by that enterprise or that the enterprise has the right to use; or
- (c) for the provision of services by that person.

Proposed clarification has also made to exclude those person from the definition of independent agent who are acting exclusively on behalf of person or associate.

Fixed Business Place

It has been proposed to include a fixed place of business that is used or maintained by a person if the person or an associate of a person carries on business at that place or at another place in Pakistan and:

- that place or other place constitutes a permanent establishment of the person or an associate of the person; or
- Business carried on by the person or an associate of the person at the same place or at more than one place constitute complementary functions that are part of a cohesive business operation.

For this purpose, the inclusive definitions of the terms "cohesive business operation" and "supply of goods" have been proposed as follows: -

"Cohesive business operation" includes an overall arrangement for the supply of goods, installation, construction, assembly, commission, guarantees or supervisory activities and all or principal activities are performed by the person or his associate.

"Supply of Goods" includes goods that have imported in the name of associates or any other person whether or not the title of goods passes outside the Pakistan as being supply of goods.

GEOGRAPHICAL SOURCE OF INCOME

[Section 101(3)(e)];

The Bill proposes to add a new sub Section 'e' after sub-Section (3) of Section 101 which states that where the supply of goods is a part of an overall arrangement including installation, construction, assembly, commission, guarantee or supervisory activities and all or principal activities are performed by the person or its associate or any other person, then the whole income of a non-resident is to be treated as 'Pakistan Source of Income'.

Further amendments have also been proposed in the same Section, that the import in the name of an associate or any other person whether or not the title passes outside Pakistan shall be the 'Pakistan Source of Income'. The objective of this amendment read with the amendment made in Section 101 appears to tax the income of a non-resident arising from a transaction wholly undertaken outside Pakistan such as income relating to supply of goods where the title is passed outside Pakistan. Such matter needs to be revisited with respect to nexus of Pakistan law for a transaction undertaken outside Pakistan.

Nevertheless it is pertinent to mention here that the Double Tax Treaty provisions will always override local laws as per Section 107 of the Ordinance. If the proposed amendment is accepted, it shouldn't be applicable on the Countries having the Agreement for Avoiding the Double Tax Treaty (DTT) with Pakistan, on the other hand, the proposed amendments will be applicable for Non-Treaty Countries.

TAXATION OF GAIN ON DISPOSAL OF ASSETS LOCATED INSIDE PAKISTAN BY NON-RESIDENT

(Section 101A)

In the Past, the immovable properties and certain rights as described under sub-Sections 9 and 10 of Section 101, were subjected to Tax in Pakistan.

The Bill now seeks to introduce the concept of Pakistan Source of Income of a non-resident by adding a new Section 101A which dictates that any gain from disposal made outside Pakistan, of an assets located in Pakistan, shall be treated as 'Pakistan Source of Income'. After the proposed amended a gain arising to a non-resident company that is otherwise not taxable, in Pakistan, will become Pakistan Source of Income if it relates to an asset located in Pakistan.

The concept of taxation is generally limited to real estate properties and shares where the right to tax is the right of the country wherein these assets are situated. The generalization of this principle to 'all assets' is somehow new to tax regime in Pakistan.

The Bill further proposes condition for application of provisions of Section 101A;

With respect to the Shares of a Company, the asset shall be treated to be located in Pakistan if:

- (i) The share or interest derives directly or indirectly, its value principally or wholly from the assets located in Pakistan;
- (ii) Share or interest representing 10% of more or the share capital of the non-resident company are disposed or alienated.
- (iii) The share or interest as mentioned above, derives its value principally from an asset located in Pakistan if on the last day of preceding tax year the value of such asset exceeds Rs.100 Million and represents at least 50% of value of total assets.

Where the entire assets of the non-resident company are outside Pakistan, a share or interest in such company will be treated as located in Pakistan to the extent of reasonable attribution & determination as prescribed by the Board.

The gain on disposal of an assets under this provision, is taxable as higher of:

- (i) 20% of differential between fair market value less cost of acquisition of the asset; or
- (ii) 10% of the fair market value of the asset.

Under the newly proposed Section, a resident Company shall provide the information of such disposal to the Commissioner-IR within sixty (60) days of the transaction of disposal or alienation of assets. The practical implication of this provisions needs to be examined as the Company may not be aware to the transaction if the same is held through interposed entities.

A resident Company requires to collect tax from the non-resident company and deposits it into designated branch of State Bank of Pakistan within thirty (30) days. Any tax already deducted by the acquirer will be adjustable against such tax collection.

Moreover, acquirer of non-resident's assets is required to deduct tax @ of 15% from the gross amount paid as consideration for the asset and the same has to be deposited within fifteen days of the payment. Where the tax is paid in the above manner, there will be no further tax liability on gain of such assets under the head 'Income from Business' or 'Capital Gains'.

PARENT COMPANY TO PAY TAX ON PROFIT OF ITS FOREIGN SUBSIDIARY;

(Section 109A)

The bill proposes to add a new concept of a controlled foreign entity by adding a new section 109A. The objective seemingly appears to tax the income of foreign controlled subsidiaries in the hands of resident company even prior to distribution of actual profits.

Certain procedures have been laid down in the provisions for the following:

1. Conditions to constitute as a foreign controlled subsidiaries
2. Exclusions from vires of the said section
3. Formula for determination of income

4- CHANGES IN PROVISIONS RELATED TO INCOME TAX AUDIT

FBR CAN APPOINT FOREIGN AUDITOR & FOREIGN EXPERT

[Section 177(11)(e)]

Under the proposed amendment in the finance bill, FBR can hire foreign expert and foreign specialist for tax audit of taxpayer Pakistan. In addition to the freedom of hiring a foreign expert, FBR can also use the services of the nominated tax audit expert under audit assistance program of an international organization or any other foreign tax authority. Needless to mention that the power to hire foreign expert is in addition to the powers to hire chartered accountants and management accountants locally. Confidentiality of income tax affairs has been guaranteed by way of confidentiality agreement to be entered into between the board and the auditor or international tax organization or the foreign tax authority.

AUDIT ONCE IN THREE (03) YEARS

(Clause 105)

The new clause has been proposed in finance bill in order to provide relief to the taxpayer from the repetitive audits. As a matter of exemption from the application of specific provisions, it has been proposed in the 2nd Schedule that a taxpayer shall not be selected for Audit either under Section 177 and 214C of the Ordinance, if audit has already been conducted in any of the last three (03) Tax Years. An exception to this rule, however, has been provided that a Commissioner-IR can select a taxpayer after he has taken a prior approval of the FBR.

It will not be irrelevant to place an apprehension here that there has not been granted any such relief in the body of the main Section 177 of the Ordinance and the relief has been sanctioned through exemption under rule, which remains a subordinate law to the law provided in the Ordinance.

AUTOMATIC SELECTION FOR AUDIT ON LATE RETURN FILING DONE AWAY WITH

(Section 214D)

This section was inserted in the Finance Act, 2015 for carrying out the Income Tax Audit of a person who fails to file tax return within the stipulated time by automatically selecting him for its Tax Audit under Section 214D.

As a result of the automatic provision for audit selection, it was very much imaginable that thousands and thousands of late filers were got selected for their audit automatically, without any desk audit. Even the cases falling under Final Tax Regime would get selected due to late filing which actually cannot yield any tax revenue to the FBR even after Audit. Selection for Audit due to late filing of return was simply acting as a deterrence to the individual and non-corporate taxpayers at large, which was factually creating discomfort among them.

After numerous proposals, suggestions and requests were forward from different platform for striking off this Section from the statute Book, the FBR has finally now proposed to do away with the Section 214D.

The deletion, though will take effect from 1st July 2018, a clarification, however, cannot be ruled out so as to decide the fate of the pending and potential audit of last years.

FATAL PUNISHMENT FOR LATE FILING

(Section 182A)

The Bills proposes to insert a new section, whereby if the person fails to file a return of income by the due date or within the extended date, he shall not be included in the "Active Taxpayers List" for the year for which return was not filed within time. It is surprising to see that on one hand the bill has proposed to omit the Section 214D of automatic selection, while on the other, it has proposed to prescribed even harder and bigger punishment than was being considered in the shape of Section 214D. The penalty or the punishment should be reasonably proportionate to the gravity of the offence in fiscal law. By keeping one person completely out of the ATL for whole of the relevant tax year is too inflicting than getting picked up for audit.

The proposed amendment has taken one extra mile further into punishing the late filers of the return by depriving him of his due and genuineness tax losses which he is very much entitled to adjust against his taxable income. This extreme measure is way out of proportion and incomprehensible on the part of the legislature and therefore should be brought down to the boundaries of reasonableness. One should not be dis entitled of ones vested interest and rights for an offence of being merely late in filing return, especially in the case when the revenue has already protected its interest through Default Surcharge.

The proposed amendment has travelled beyond serving the cause of being a disciplinary measure by the lawmaker in bringing compliance home.

5- OTHER IMPORTANT CHANGES

COMMERCIAL IMPORTER IS NO MORE FULL & FINAL TAX;

(Section 148)

The Commercial Importers have been enjoying taxation under Final Tax Regime since the introduction of final tax regime back in 1991. The tax deducted at import stage under Section 148 of the Ordinance becomes the Final Tax on their income and thereafter, they are not required to file their Income Tax Return and compute their taxable income.

In a very surprise move, the Finance Bill, 2018-19 has proposed to take them out from the comfort club of "Final Taxation" and make them a part of Minimum Taxation under Normal Tax Regime. If this amendment is implemented which it is proposed to be with effect from July 01, 2018, the tax deducted at import stage would become their minimum tax at the time of filing of tax return and will have to offer their bottom line profit for taxation. The scheme of taxation has comprehensively been planned for Commercial Importer as other related provisions have also been proposed to be amended, accordingly.

Needless to mention that getting taxed under the Normal Tax regime has its own implication on the taxpayer. A few to mention of them are that they can get selected for the tax audit affairs under Section 214C read with Section 177 of the Ordinance. The chances for proceeding of amendment in assessment are now ever increased and bright.

It remains important to mention here that the Commercial Importer would also become liable to file their Quarterly Advance Tax under Section 147 of the Ordinance and file their estimation of income at the time of 2nd quarterly installment in December 2018.

This would be in addition to the withholding on their supplies which they will have to suffer. We understand that the sudden change is prove to ignite resistance to this move as it will effect a larger portion of the traders ranging from importer of;

- 1) Generator
- 2) Cars
- 3) Home Appliances
- 4) Chemicals
- 5) Medicines
- 6) Consumer Goods
- 7) Mobile Phones etc.

Lastly, it is not less than surprising that the taxation of local trading has not been changed at all and has remained the same as Final Tax Regime.

FOREIGN REMITTANCE ARE QUESTIONABLE;

(Section 111)

It would not be wrong on one's part to comment here that almost for the very first time in history of tax laws and practice in the country, the sacred cow of foreign remittance has been held and subject the explanation to a tax officer. The ever expanding launder shop which could laundry to an unlimited amount without any taxation and question being asked has now been proposed to be cut down to size of not more than 10M (1 Crore) a year.

This is certainly a very necessary change which has always been a part of budgetary proposals made every year to FBR by various professional bodies to curb the illicit and untaxed money.

One only would hope that proposal in the Bill sees the light of the day and takes its place in the Act in perpetuity.

POWER TO REJECT AND RECHARACTERIZE SHELL COMPANIES & FORMATION OF TRUST;

(Section 109)

Section 109 of the Ordinance describes the power of Commissioner-IR to re-characterize a transaction or an element of a transaction which was carried out as a tax avoidance scheme.

Through the Finance Bill 2017-18, it has been proposed to extend the power of Commissioner – IR where after it can disregard an entity or a corporate structure that does not have any commercial or economic substance or was created as a part of tax avoidance scheme. This would mean that the Commissioner – IR can question the beneficial ownership vested in any property, whether in or outside Pakistan and can judge the scheme of corporate structure on the basis of the principle of ‘Substance over form’ as to whether the corporate person actually has any tangible sense in its making or was merely put in place to hoodwink the tax authorities.

If the said proposed amendment is passed by the National Assembly and become the part of the Ordinance, the Commissioner would become empowered to not only to re-characterize the transaction but also an entity or a corporate structure which in his opinion is formed under tax avoidance scheme.

POWER TO RECHARACTERIZE TREATY SHOPPING;

(Section 109)

Another very important amendment has been proposed under Section 109 of the Ordinance which proposes to define as to what would mean to include under the definition of “Reduction in person liability” under the tax law.

It would be for the very first time in the history of our tax regime in the contrary that the provisions of Double Tax Treaties and the benefit or the reduction in tax liability available under it, have been proposed to be subjected to the provision of re-characterization and reclassification by the Commissioner.

This amendment has been proposed to be brought with the simultaneous and corresponding change under Section 107 of the Ordinance which provides for “Agreement for avoidance of Double Tax treaty” and thereby the provisions of 107 of the Ordinance which always have had overriding effect over the rest of the Ordinance, have effectively now been made subservient to the empowering provisions of the Commissioner-IR under the Ordinance. Hence, therefore, in the event the proposed amendments are in place, the Commissioner would be empowered to re-characterize the transaction or the tax avoidance protected even under the Article of Double Tax Treaties.

TAXATION OF UNEXPLAINED INCOME AND ASSETS;

(Section 111)

Section 111 of the Ordinance prescribes that if any assets or income whether domestic or foreign, are identified and remain unexplained by the taxpayer, will become chargeable to tax in his hands in the Tax Year to which such income or assets are related.

Through the proposed amendment under Section 111 of the Ordinance, the concept for taxation of concealed assets or income in terms of time period in which it can be taxed, has been categorized from the stand point as to whether the concealment is related to domestic assets or income or foreign.

In case of Pakistan Source of Income or where investment or expenditure was incurred in Pakistan, the provision of taxation will remain the same that if the concealed or unexplained income are identified that would be chargeable to tax in the Tax Year to which such amounts are related. Hence, the time of limitation of 6 years up to which an assessment can be opened, will apply.

In case of foreign assets and foreign income, the concept of year of discovery is being proposed to be introduced instead of year of acquisition. Meaning thereby, the tax authorities would become empowered effectively to inquire any taxpayer to file a return in respect of foreign assets and income for any prior Tax Year without any time limitation of 6 years.

This is certainly a discriminately provision and the repercussions to the same can be gauged for any taxpayer who has ever failed to declare his foreign assets or income.

However, there has been some relaxation that if the person explains the source of asset or investment during the assessment proceeding being made in the year of discovery that would be acceptable by the tax authorities.

INCOME FROM BONUS SHARES OUT OF AMBIT OF TAX ORDINANCE;

[Section 2(29), Section 39, Section 236M & Section 236N of the Ordinance]

Issuance of Bonus Shares was brought back in the definition of taxable income through the Finance Act, 2014-15 in the hands of the shareholder. Further every company was made to collect tax @ 5% on the face value of the Bonus Shares at the time of its issuance through a very cumbersome process of collection 5% either directly from the shareholder or through the sale of his shares.

The issue of Bonus Shares was classified as "Income from other Sources" under Section 39 of the Ordinance and was treated therein under Final Tax Regime.

Right from the first day of its taxation there has been demands and requests on genuine grounds by the concerned quarters and the stake holders to reverse the provision. It took the Government 3 years to address the situation when it witness the constant decline in the practice of issuance of Bonus Shares by the listed companies in the country.

Finally through the current Finance Bill 2018-19, it has been proposed to restore the position of Bonus Shares as before the Finance 2014-15 and do away with the taxation on bonus shares right from the core.

Consequently, the withholding provisions under Sections 236M & 236N of the Ordinance have also been proposed to be omitted altogether.

We understand that this amendment will be helpful for the corporate entities to maintain and increase the Business Capital for future business plans.

EXEMPTION TO LARGE TRADING HOUSES;

(Clause 57 of Part IV)

Companies operating large trading houses had the exemption from minimum tax in the first ten (10) years. After the lapse of ten (10) years, the FBR through the Finance Act, 2015-16 introduced the concept of reduced minimum tax @ 0.5% instead of then 1% to be applicable till Tax Year 2019.

Through the Finance Bill 2018-19, the FBR has proposed to extend the period of concessional Minimum tax till Tax Year 2021.

POWER OF DG-I&I FURTHER ENHANCED;

(Section 241)

The provision for the power of Director General (Intelligence and Investigation) always remain controversial. If we recall, the Federal Board of Revenue (FBR) had decided to rescind controversial SRO 351(I)/2014, withdrawing assessment and recovery powers of Directorate General (Intelligence & Investigation), Inland Revenue (IR) and that it would issue afresh SRO in this context with clear cut powers, functions and jurisdiction of the directorate. However, the SRO 351(I)/2014 did not get rescinded and is still in the field.

Instead of withdrawing the above SRO, the FBR has proposed to enhance the power of Directorate General (Intelligence & Investigation) under Section 230 of the Ordinance.

According to the proposed amendment in Section 241 of the Ordinance, all orders passed, notices issued and actions taken by them shall be deemed to have been validly passed, issued and taken under the Ordinance.

ALTERNATE DISPUTE RESOLUTION COMMITTEE REFUELLED;

[Section 134A]

Currently it is not mandatory for Federal Board of Revenue or the aggrieved person to accept the recommendations of the committee. If the aggrieved person is seeking remedy under ADRC then the appellant is not required to withdraw the appeal filed before any appellant authority.

Following proposed amendments have been made to make the mechanism of ADRC more effective:

- 1- Recommendations of ADRC will be binding on both the parties' i.e. Board and Aggrieved Person.
- 2- ADRC shall only hear the case after withdrawal of Appeal pending before any appellate authority.
- 3- ADRC shall comprise of retired judge of High Court and tax professionals comprising of Retired Chartered Accountants and Advocates in addition to representatives of FBR.

We understand that the powers and composition of ADRC have been enhanced by inserting proposed amendments whereby it can resolve any pending disputes which are pending before any Appellate Authority. Further refinement in process of ADRC sounds a good change. But at the same time the condition of withdrawal of appeal not appear to be safe with regard to recovery of demand as how could the aggrieved person may secure stay order after withdrawal of appeal. This will seriously impede the taxpayers from availing the ADRC facility.

AUTOMATIC STAY OF DEMAND

[Section 140]

Currently if the taxpayer has filed an appeal before the Commissioner (Appeals) and the appeal has not yet been decided then automatic stay from the recovery of the contentious demand can be obtained by paying 25% of contested demand.

It has been proposed to reduce the rate of 25% to 10%.

EXCLUSION FROM BUSINESS INCOME;

(Section 18 of the Ordinance)

Under Section 18 of the Ordinance, it has been proposed to insert an explanation to clarify that the income and tax charge for the below described Sections shall not be the part of 'income from business' for any purpose of the Ordinance:

- a) **Section 5A;** Undistributed Profits
- b) **Section 5AA;** Return on investment in Sukuks (Section 5AA);
- c) **Section 6;** Royalty, fees for technical services and fees for offshore digital services of non-residents
- d) **Section 7;** Shipping and Air transport income of nonresidents
- e) **Section 7A;** Shipping income of resident persons

6- CHANGES IN TAX EXEMPTIONS**CREDIT ON DONATION TO CHARITABLE INSTITUTIONS / NON-PROFIT ORGANIZATION;**

(Clause 61 of Part I of Second Schedule)

The following institutions are proposed to be added to the existing list of the non-profit organization / institutions in which case donations are eligible for straight deduction in the hands of donors:

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

EXEMPTION FROM INCOME TAX;

(Clause 66 of Part I of Second Schedule)

The Income derived by the following persons is proposed to be exempt from tax:

- (i) Third Pakistan International Sukuk Company Limited.
- (ii) SAARC Energy Centre.
- (iii) Pakistan Bar Council.
- (iv) Pakistan Centre for Philanthropy.
- (v) Pakistan Mortgage Refinance Company Limited.
- (vi) Aziz Tabba Foundation.
- (vii) Al-Shifa Trust Eye Hospital.
- (viii) Saylani Welfare International Trust.
- (ix) Shaukat Khanum Memorial Trust.
- (x) Layton Rahmatullah Benevolent Trust (LRBT).
- (xi) The Kidney Centre Post Graduate Training Institute.
- (xii) Pakistan Disabled Foundation.
- (xiii) Forman Christian College

EXEMPTION WITHDRAWN OF MANUFACTURING MODARABA;

(Clause 100 of Part I of Second Schedule)

Currently, income of a modaraba registered under the Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 1980 (XXXI of 1980), excluding income earned from trading activity, was exempted from tax.

It has been proposed to include manufacturing activity in the above exclusion list.

After the proposed amendment, income earned from manufacturing activity by a Modaraba shall be taxable.

PROFIT AND GAINS DERIVED FROM REFINERY OPERATION;

(Clause 126BA of Part I of Second Schedule)

The Bill proposes to insert a new clause (126BA) to provide exemption from tax on profit and gains derived by a refinery setup between 01 July 2018 and 30 June 2023 with a minimum production capacity of 100,000 barrels per day for a period of 20 years. The exemption period starts from the month in which the refinery is setup or commercial production is commenced whichever is later.

This exemption is also available to existing refineries if;

- Existing production capacity is enhanced by at least 100,000 barrels per day.
- Existing refineries would additionally be required to maintain separate accounts for income arising from additional production capacity in order to avail this exemption.
- The refinery is a deep conversion refinery.

PROMOTION OF FILM INDUSTRY;

(Clause 7 & 8 of Part III of Second Schedule)

The Bill proposes to half the rate of tax payable by foreign film makers on income from film-making in Pakistan. The Bill also proposes to half the rate of tax payable by resident companies deriving income from film making both inside & outside Pakistan.

EXEMPTION TO PUBLIC SECTOR UNIVERSITIES;

(Clause 126 of Part IV of Second Schedule)

The Bill proposes to provide exemption to Public sector universities from Levy of 1.25% minimum tax on turnover. This exemption is available retrospectively with effect from Tax Year 2014 as also mentioned in SRO No 29(I)/2018 dated January 12, 2018.

7- CHANGES IN WITHHOLDING PROVISIONS

FILER STATUS; AJK & GILGIT BALTISTAN RESIDENTS;

[Section 2(23A)]

In order to provide relief to the residents of AJK & Gilgit Baltistan from higher deduction of tax at non-filer rates due to their inactive status in the FBR ATL as their returns are filed in respective territories. The expression of AJ&K & Gilgit Baltistan Board of Revenue has been proposed to be included in the ATL, through the Finance Bill.

Consequently, while carrying out a transaction with the above Resident, the ATL Status shall also be verified through the ATL list issued by the Boards of AJK & Gilgit Baltistan.

INCREASE IN MINIMUM THRESHOLD OF PAYMENT ON SUPPLIES & SERVICES;

[Section 153 (1)(a) & 153 (1)(b)]

The minimum threshold for deduction of withholding tax on payments of supplies and services which was earlier covered by SRO 586 of 1991 has now been included in the Ordinance as follows;

- Payments made against **Supplies**; Limit increased from 25,000 to 75,000/- in collective, during a financial year
- Payments made against **Services**; Limit increased from 10,000 to 30,000/- in collective, during a financial year

As for the threshold for payment of Contract, the same 10,000/- limit is applicable as per SRO 586 of 1991.

FURNISHING OF INFORMATION BY BANKS;

(Section 165A)

In the current finance bill, it has been proposed that banks should provide details of cash payment exceeding Rs.50,000 per day both in case of Filers and Non-Filers aggregating to one million or more per month.

The monthly threshold for providing details of deposit in any account has also been proposed to be enhanced from Rs.1 million to Rs.10 million. Similarly, the threshold of credit card transactions is also proposed to be increased from Rs.100,000 to Rs.200,000 per month.

PENALTY ON FAILING TO FILE WITHHOLDING STATEMENTS REVISED:

[Section 182(1A)]

The existing penalty is of Rs.2,500/- per day for the withholding agents who fail to file withholding tax statements within the due date under section 182 of the Ordinance. In this context, a relief has been proposed to remove Rs.2,500/- per day penalty and impose a minimum penalty of Rs.5,000/- only to the withholding agents who have nil liability to pay tax or for those who have deducted and deposited the tax withheld within the prescribed time limit but could not file withholding tax statement with the condition that the statement is filed within three months of the due date. However existing penalty of Rs.2,500/- per day (from the due date of filing of withholding tax statement) would apply if the statement is not filed after a period of three months from the due date. There appears to be a drafting lacuna which needs to be corrected.

COLLECTION OF TAX BY A STOCK EXCHANGE REGISTERED IN PAKISTAN;

[Section 233A(2)]

Currently the tax which is collected by Stock Exchange against Sale or Purchase of shares is Final tax which now has been proposed to become Adjustable tax.

ADVANCE TAX ON FUNCTIONS AND GATHERINGS;

[Section 236D]

Currently Advance tax rate is 5% on gross amount of bill on functions/gatherings/marriage parties.

The same has been proposed to be fixed at higher of 5% or Rs.20,000 for such arrangers in larger cities which are [Islamabad, Lahore, Multan, Faisalabad, Rawalpindi, Gujranwala, Bahawalpur, Sargodha, Sahiwal, Shekhurpura, Dera Ghazi Khan, Karachi, Hyderabad, Sukkur, Thatta, Larkana, Mirpur Khas, Nawabshah, Peshawar, Mardan, Abbottabad, Kohat, Dera Ismail Khan, Quetta, Sibi, Loralai, Khuzdar, Dera Murad Jamali and Turbat] and Rupees 10,000 in other than the above cities is made applicable in case of marriage/functions/gatherings.

WITHHOLDING TAX ON SALE OF CERTAIN PETROLEUM PRODUCTS;

(Section 236HA)

A new withholding final tax provision has been proposed by this Finance Act which requires every person selling petroleum products to a petrol pump operator or distributor to collect advance tax on ex-depot sale price of such products at the rate of 0.5% from a filer and 1% from a non-filer.

COLLECTION OF ADVANCE TAX ON PURCHASE OF PROPERTY IN INSTALLMENTS;

[Section 236K(3)]

Currently the advance tax under section 236K of the Ordinance is collected from the purchaser of property at the time of transfer of such property. The purchaser has to bear the entire burden of collection of such advance tax at the time of transfer or property.

Sub section 236K(3) has been introduced through this Finance Bill by which advance tax on purchase of property shall be collected with each installment at the rates prescribed in section 236K.

ADVANCE TAX ON WITHDRAWALS FROM BANK;

(Section 236P)

Advance income tax under section 236P on banking transactions by non-filers is proposed to be permanently reduced @ rate of 0.4%.

Currently, it was prescribed at 0.6% of the amount involved but was time to time again reduced to 0.4%. The proposal is aimed to address the ambiguity and introduce a permanent rate of advance tax in this respect.

EXEMPTION ON PREMIUM BY INSURANCE COMPANIES;

(Section 236U)

In recent finance bill, it has been proposed that advance tax under section 236U shall not apply to an Insurance company collecting premium under;

- (a) Crop Loan Insurance Scheme (CLIS); and
- (b) Livestock Insurance Scheme (LIS).

WITHHOLDING TAX ON FOREIGN PAYMENT THROUGH CREDIT, DEBIT & PREPAID CARDS;

(Section 236Y)

The bill proposes to impose a provision aimed at broadening of tax base whereby Banking companies will deduct a tax on foreign payment through debit, credit and prepaid cards. Proposed rates are as follows;

For Filers;	1% of remittance gross amount
For Non-Filers;	3% of remittance gross amount

REDUCED RATE OF TAX FOR INDIVIDUALS (SALARIED AND NON-SALARIED);

(First Schedule, Part-I, Division I)

The rates of tax for Individuals, which are in pursuance of the policy announced by the PM through the Income Tax (Amendment) Ordinance, 2018 [Ordinance No. V of 2018] on April 08, 2018, have been proposed to be revised from July 01, 2018.

Revised rates are given in withholding chart enclosed with this summary.

REDUCED RATE OF TAX FOR AOP;

(First Schedule, Part-I, Division I)

Consequent to reduction in tax rates for individuals, the rates of tax for AOP's have been reduced to 30% and the existing seven slabs have been reduced to six slabs. Revised rates are given in withholding chart enclosed with this summary.

REDUCED TAX RATE ON DIVIDENDS FROM RENTAL REIT'S RECEIVED BY INDIVIDUALS;

(First Schedule, Part-III, Division I, Fourth Proviso)

In order to encourage investment in Rental REIT schemes, tax rate applicable on dividend received by an individual from Rental REIT has been proposed to be reduced from 12.5% to 7.5%.

WITHHOLDING TAX RATE DOUBLED FOR NON-FILERS FOR SUPPLIES OF GOODS AND EXECUTION OF CONTRACTS;

(First Schedule, Part-III, Division III, Paragraph 1 & 3)

The withholding tax rate for Non-Filers for deduction on payment of goods supplied i.e. 153(1)(a) and execution of contract i.e. 153(1)(c) have been proposed to be doubled both in case of corporate & non-corporate taxpayer. Illustration of the same is given below;

Category	Supplies of Goods		Execution of Contract	
	Current (Non-Filer)	Proposed (Non-Filer)	Current (Non-Filer)	Proposed (Non-Filer)
Company	7%	8%	12%	14%
Other than Company	7.75%	9%	12.5%	15%

SALES TAX ACT, 1990**FURTHER TAX***[Section 3(1A)]*

The Finance Bill proposes to enhance rate of further tax to 3% from 2%. It has always been used as a tool by Federal Government to increase the cost of doing business of the unregistered persons and to bring them into tax net. Keeping in view the said object, the legislature has proposed increase in rate of further tax. However, such amendment has largely become a revenue tool instead of broadening tax net.

TAX CREDIT NOT ALLOWED*[Section 8(1)(m)]*

Input tax on import of scrap of compressors falling under PCT heading 7204.4940 is proposed to be disallowed. It is notable that such disallowance is already specified under Rule 58H(2A) of Sales Tax Special Procedure Rules, 2007.

APPEAL EFFECT*(Section 11B)*

The Bill proposes a new section whereby the Commissioner Inland Revenue or an Officer of Inland Revenue is empowered to issue appeal effect order of any finding or direction at any order made by Commissioner (Appeals), Appellate Tribunal, High Court or Supreme Court.

The Bill also proposes that the Commissioner or Commissioner (Appeals) or Officer of Inland Revenue is required to pass the new assessment order to give appeal effect of the order made by the Appellate Tribunal, High Court or Supreme Court which is set aside by any of such forum whether wholly or partly.

It is also suggested that the aforesaid appeal effect orders are required to be made within one year from the end of the financial year. However, the limit of one year shall not apply, if an appeal or reference has been preferred against the order passed by Appellate Tribunal or High Court.

The proposed amendment, identical with Section 124 of the Income Tax Ordinance 2001, is aimed to facilitate the taxpayers in cases where remand back or set aside proceedings are delayed for long time. However, we understand corresponding amendment of Section 127 of Income Tax Ordinance 2001 has not been made in the Act to make the appeal effect order appealable before the appellate fora.

We also understand that time limit of one year prescribed in the amendment should commence from the date of order rather than from the date of service of the order, since delay in service of orders would delay issuance of appeal effect orders.

ACCESS TO RECORD, DOCUMENTS, ETC.*(Section 25)*

The Bill proposes to insert new proviso whereby audit under Section 25 of the Act will be conducted only once in every three years.

At present, no mandatory time limes are prescribed under the Act for Officer of Inland Revenue to conduct audit of registered person. Rather, it has always been a discretionary power of Commissioner to select cases for audit once in a year. This has often been agitated by the taxpayers with complaints of harassment. The proposed amendment is likely to address this issue.

In his budget speech before the floor of National Assembly, the Minister of Finance & Revenue has also announced that such audits would be composite audits of all 3 fiscal laws, i.e., Income Tax, Sales Tax & Federal Excise Duty. We understand in the past superior courts have disputed the concept of composite audits of all 3 federal taxes in the absence of ancillary legal supports in tax laws. Therefore, we suggest appropriate legal framework may be made part of all 3 tax laws to avoid such legal deterrence.

Secondly, combined reading of Sections 25 and 72B of the Act suggests that while a time limit has been placed under Section 25, no such timeline has been laid down in Section 72B of the Act. This would mean that while Commissioner may not select any taxpayer's case for manual audit before 3 years' time, such case may always be selected under computerized selection by FBR. We, therefore, recommend that identical time restrictions of 3 years may also be placed under Section 72B of the Act.

DIRECTORATE GENERAL (INTELLIGENCE AND INVESTIGATION)

[Sections 30A, 74A(2)]

The Bill seeks to substitute existing Section 30A of the Act with a new provision which empowers the Board to specify the functions, powers and jurisdiction of the Directorate General I&I and its officers. This new insertion aims at granting parallel powers which are already conferred upon Officer of the Inland Revenue under Section 30 of the Act.

Apparently, the aforesaid amendment seems to have been introduced in line with the dictum of Honorable Lahore High Court (LHC) in WP No.37358 of 2016 wherein LHC had struck down SRO 116 of 2015 on the ground that appointment of Officer of DGI&I as an Officer of Inland Revenue had not fulfilled the purpose of establishment of the Directorates and its functions under Section 30A. The LHC had also FBR to frame specific rules for the Directorate and its operations.

Furthermore, a new proviso has also been inserted under Section 74A(2) which specifically grants legal coverage to notices and orders passed by officers of Directorate of I&I in the past irrespective of omission or irregularities in establishing, conferment of power and functions of the Directorate. It is pertinent to mention that the proposed validation of Directorate's actions appears to be contrary to dictum of Superior Courts who have specifically held that legislation or sub-legislation aiming to undo the earlier judgments of the superior courts are invalid and illegal.

DEFAULT SURCHARGE

(Section 34)

The Bill proposes an amendment in the rate of default surcharge to 12% per annum in place of existing rate of KIBOR plus three per annum. The amendment will address taxpayers' concerns regarding varying rate of KIBOR and problems in quantification of exact liability.

POSTING OF INLAND REVENUE OFFICER*(Section 40B)*

Prior to Finance Bill 2018, blanket / discretionary powers were conferred upon the Chief Commissioners and Commissioners Inland Revenue to post Officers of Inland Revenue at taxpayers' premises to monitor production, sales of taxable goods and stock position. At times, such powers were employed to the detriment and disadvantage of genuine and compliant taxpayers. This resultantly triggered litigation before Superior Courts.

By virtue of amendment in Finance Bill, such discretionary power to post Tax Officers at taxpayers' premises will only vest with FBR.

ALTERNATIVE DISPUTE RESOLUTION COMMITTEE*(Section 47A)*

It has been proposed to change and simplify the procedure of Alternative Dispute Resolution Committee [ADRC] for enhancing its effectiveness for dispute resolution.

Under the new framework, an aggrieved taxpayer, who has also filed an appeal which is pending before the Appellate Tribunal or Commissioner Appeals [Appellate Authority], may apply to FBR for the appointment of ADRC for the resolution of his dispute. However, the aforesaid application cannot be filed where prosecution proceedings have been initiated or where interpretation of question of law having effect on identical other cases exists. Further, the appellant, i.e., taxpayer / FBR will have to withdraw the pending appeal before ADRC starts functioning.

The committee shall be required to decide the dispute within 120 days of its appointment. Its decision shall be binding on both the FBR and the aggrieved person.

Presently, the role of ADRC is only limited to forward the recommendations to Federal Board Revenue [FBR] which is empowered to pass an order on the recommendations of ADRC. In majority cases, FBR do not accept recommendations of ADRC which are in favor of the taxpayer. This veto power has made the entire mechanism of ADRC redundant and insignificant. Consequently, ADRC has not been able to reduce tax litigations.

The concept of ADRC was first introduced in Sales Tax Laws in Year 2004. At such time, unanimous recommendations of ADRC were binding on both the sides. However, with the passage of time, the ADRC framework was made closer to international best practices and its scope was limited to that of a recommending body with no constraints on parallel judicial process. In 2018, we are experiencing a U-Turn in this framework.

We understand in order to genuinely reduce the tax litigations, the extent of ADRC may also be extended to disputes pending before the Courts. The fundamental requirement of withdrawal of pending appeal may be done away with since this condition may act as the biggest deterrent for the taxpayers to approach for this route. Further, the role of ADRC should also be extended to other disputes which may not be pending before any appellate authority.

RECOVERY OF ARREARS OF TAX

(Section 48)

In order to curb litigation and to recover more revenues at the assessment stage, the Finance Bill proposes reduced rate of tax demand to avail automatic stay against the recovery of assessed demand during the pendency of the case before Commissioner (Appeals). The existing rate is 25% of the impugned demand has been proposed to be reduced to 10%.

We understand serious questions cast the genuineness and merits of the assessment orders passed by tax authorities. Due to such frivolous orders, taxpayers prefer opting for contesting rather than making payment / partial payment to the tax department and seeking administrative stay. The tedious system for obtaining refund of such payment is also a big obstacle in success of the subject scheme.

VALIDATION

[Section 74A(1)]

An amendment has been proposed to provide legal coverage and protection to all notifications and orders issued by the Federal Governments before the introduction of Finance Bill 2018. Presently, the said coverage was available for all such previously issued notifications and orders as were issued prior to 30 June 2017.

ISSUANCE OF NOTIFICATION BY FEDERAL GOVERNMENT

[Section 3(2)(b), 3 (3A), 3 (5), 4 (c), 7 (3)(4), 7A (1)(2), 8(1)(b), 60, 65, 71(1)]

Upto 30 June 2017, the Federal Government had vested powers to issue notification. Through Finance Act 2017, power to issue notification was transposed from Federal Government to FBR who could issue such notification with prior approval of the Federal Minister-in-Charge.

Through Finance Bill, it is proposed to restore power of Federal Government to issue notification instead of FBR in the manner as it had prior to Finance Act, 2017.

In CP D-7159 of 2017, the Honorable High Court of Sindh while interpreting Article 99 of Constitution of Pakistan and also relying on judgment of Honorable Supreme Court in case of Mustafa Impex vs. Federation of Pakistan has held that those functions of the Federal Government that relates to exercise of legislative power cannot be delegated at all. Keeping in view such constitutional position, the Court declared the amendment made through Finance Act 2017 as ultra vires.

Since the Honorable High Court had struck down above referred amendment of Finance Act 2017, the legislature was left with no option but to restore powers of Federal Government.

FIFTH SCHEDULE [ST ACT]

Section 4

In the Finance Bill, following items, presently mentioned at Serial No(s): 86 to 90, and 96 to 98 of the Sixth Schedule to the Act, have been included at Fifth Schedule by inserting new Clauses, i.e. XX to XXVII at Serial No. 12 of said Schedule. Such zero rating is offered to manufactures of such goods. For other categories in the supply chain, sales tax shall remain exempt from sales tax.

Description of Goods	PCT Headings
Colors in sets	3213.1000
Writing, drawing and marking inks	3215.9010 and 3215.9090
Erasers	4016.9210 and 4016.9290
Exercise books	4820.2000
Pencils sharpeners	8214.1000
Geometry boxes	9017.2000
Pens, ball pens, markers and porous tipped pen	96.08
Pencils including color pencils	96.09

SIXTH SCHEDULE (TABLE – I)

The Finance Bill proposes following new tax exemptions:

Serial No	Proposed Entry	PCT Heading
137	Paper weighing 60 g/m ² for printing of Holy Quran imported by Federal or Provincial Governments and Nashiran-e- Quran as per quota determined by IOCO	4802.5510
139	Fans for dairy farms	8414.5990
140	Bovine semen	0511.1000
141	Preparations for making animal feed	2309.9000
142	Promotional and advertising material including technical literature, pamphlets, brochures and other give-aways of no commercial value, distributed free of cost by the exhibitors	9920(3)
143	(i) Hearing aids (all types and kinds) (ii) Hearing assessment equipment; (a) Audiometers (b) Tympanometer (c) ABR (d) Oto Acoustic Omission	9937
145	Plant, machinery, equipment including dumpers and special purpose motor vehicles, if not manufactured locally, imported by M/s China State Construction Engineering Corporation Limited and M/s China Communication Construction Company, subject to certain conditions.	Respective heading
146	Conditional exemption on Equipment, whether or not locally manufactured, imported by M/s China Railway Corporation to be furnished and installed in Lahore Orange Line Metro Train Project.	Respective heading
148	Conditional exemption on Imported construction materials and goods imported by M/s China State Construction Engineering Corporation Limited, whether or not locally manufactured subject to fulfilment of same conditions, limitations and restrictions as are specified for S. No. 145 [supra].	Respective Heading

New Exemptions (Transposition from 8th Schedule)

Serial No	Proposed Entry	PCT Heading
138	Fish Feed	Respective heading
144	Liquefied Natural Gas imported by fertilizer manufacturers for use as feed stock	2711.1100

New Exemptions (Transposition from SRO 641(I)/2017 dated 13 July 2017)

Serial No	Proposed Entry	PCT Heading
147	Goods supplied to German Development Agency (<i>Deutsche Gesellschaft für Internationale Zusammenarbeit</i>) GIZ	Respective heading

SIXTH SCHEDULE (TABLE – 3)
Exemptions @ Import Stage

S. No	Proposed Entry	Tariff Heading
17	Machinery, equipment, raw materials, components and other capital goods for use in building, fittings, repairing or refitting of ships, boats or floating structures imported by Karachi Shipyard and Engineering Works Limited.	Respective heading
18	The following parts for assembling and manufacturing of personal computers and laptops subject to certain conditions, if any.	
	(i) Bare PCBs	8534.0000
	(ii) Power Amplifier	8542.3300
	(iii) Microprocessor / Controllers	85.42
	(iv) Equipment for SMT Manufacturing	8486.2000
	(v) Laptop batteries	8506.5000
	(vi) Adapters	8504.4020
	(vii) Cooling fans	8414.5190
	(viii) Heat sink	7616.9920
	(ix) Hard Disk SSD	8471.7020
	(x) RAM/ROMS	8471.7060 8471.7090
	(xi) System on Chip/FPGA-IC	85.42
	(xii) LCD / LED Screen	8528.7211
	(xiii) Motherboards	8534.0000
	(xiv) Power supply	84.73
	(xv) Optical Drives	8471.7040
	(xvi) External Ports	8536.2090
	(xvii) Network cards	8517.6990
	(xviii) Graphic cards	8471.5000
	(xix) Wireless cards	8517.6970
	(xx) Micro phone	8518.3000
(xxi) Trackpad	8471.6020	
19	Plant and machinery, except the items listed under Chapter 87 of the Pakistan Customs Tariff, imported for setting up of a Special Economic Zone (SEZ) by zone developers and for installation in that zone by zone enterprises, on one time basis as prescribed in the SEZ Act, 2012 and rules thereunder subject to such condition, limitations and restriction as a Federal Board of Revenue may impose from time to time.	9917(2)

EIGHTH SCHEDULE (Table-I)

Proposed Changes in existing entries of Table-I to the Eight Schedule.

- Reduced rate of tax on agricultural tractors PCT heading 8701.9020 is proposed to be substituted with PCT headings 8701.9220 and 8701.9320 (Agricultural tractors, having an engine capacity exceeding 26kW but not exceeding 75kW) at serial number 25 of Table I;
- It is proposed to reduce sales tax from 7% to 5% in respect of serial numbers from 26 to 30 of table 1 to the Eight Schedule which levied on the heading of Tillage and seeds bed preparation equipment.
- All fertilizers are now proposed to be subject to sales tax @ 3%, including the following items:

Serial No.	Description	Existing Tariff Heading	Existing Rate
33	Urea, whether or not in aqueous solution	3102.1000	5%
35	DAP	Respective Heading	Rs.100 per 50 kg bag
36	NP (22-20)	Respective Heading	Rs. 168 per 50 kg bag
37	NP (18-18)	Respective Headings	Rs. 165 per 50 kg bag
38	NPK-I	Respective Heading	Rs. 251 per 50 kg bag
39	NPK-II	Respective Heading	Rs. 222 per 50 kg bag
40	NPK-III	Respective Heading	Rs. 341 per 50 kg bag
41	SSP	Respective Heading	Rs. 31 per 50 kg bag
42	CAN	Respective Heading	Rs. 98 per 50 kg bag
48	Liquefied Natural Gas	2711.1100	5%
49	Fish feed	2309.9090	10

- Decrease of sales tax rate from 10% to 5% for natural gas, if supplied to fertilizer plants for use as feed stock in manufacturing of fertilizer.

EIGHTH SCHEDULE (Table-I)

Following new entries shall be added in Table-I to the Eight Schedule

Serial No.	Description	Respective Heading	Rate of sales tax	Condition
50	LNG	2711.1100	12%	If imported by M/s Pakistan State Oil and M/s Pakistan LNG Limited
51	RLNG	2711.2100	12%	If supplied by Pakistan State Oil Ltd. and Pakistan LNG Limited to SNGPL
53	The following cinematographic equipment imported during the period commencing on the 1st day of July, 2018 and ending on the 30th day of June, 2023.		5%	Subject to same limitations and conditions as are specified in Part-1 of Fifth Schedule to the Customs Act, 1969 for availing 3% concessionary rate of customs duty on the import of these equipment
	(i) Projector	9007.2000		
	(ii) Parts and accessories for projector	9007.9200		
	(iii) Other instruments and apparatus for cinema	9032.8990		
	(iv) Screen	9010.6000		
	(v) Cinematographic parts and accessories	9010.9000		
	(vi) 3D Glasses	9004.9000		
	(vii) Digital Loud Speakers	8518.2200		
	(viii) Digital Processor	8519.8190		
	(ix) Sub-woofer and Surround Speakers	8518.2990		
	(x) Amplifiers	8518.5000		
	(xi) Audio rack and termination board	7326.9090 8537.1090		
	(xii) Music Distribution System	8519.8990		
	(xii) Music Distribution System	8519.8990		
	(xiii) Seats	9401.7100		
	(xiv) Recliners	9401.7900		
	(xv) Wall Panels and metal profiles	7308.9090		
	(xvi) Step Lights	9405.4090		
	(xvii) Illuminated Signs	9405.6000		
	(xviii) Dry Walls	6809.1100		
	(xix) Ready Gips	3214.9090		
54	Lithium iron phosphate battery (Li-Fe-PO4)	8506.5000	12%	NIL

EIGHTH SCHEDULE (Table-II)

After Serial 8, the following new entries shall be added in Table-II to the Eight Schedule.

Serial No.	Description	Respective Heading	Rate of sales tax
9	Capital goods otherwise not exempted, for Transmission Line Projects, subject to certain conditions.	Respective heading	12%

SALES TAX SPECIAL PROCEDURES 2007 & SROs (Proposed Amendments)

WAIVER OF VALUE ADDITION TAX ON IMPORT OF LNG & SECOND HAND WORN CLOTHING AND FOOTWEAR

(Rule 58B of Sales Tax Special Procedure Rules, 2007)

Value Addition Tax has been waived on import of LNG. Vide this amendment, the Government intends to reduce the tax impact on import of LNG and to improve cash flows / cost savings of the commercial importers, which will encourage usage of LNG as a substitute of high cost fuels to overcome energy crises in the country.

The waiver of value addition tax is also suggested to be given on import of second hand worn clothing and footwear by the commercial importers. The step taken by the Government is to reduce the cost of clothing & footwear mainly used by less privileged class of the society.

ZERO RATING ON IMPORT OF POTATOS

[SRO 338(I)/2014 dated 02 May 2014]

Import of 200,000 metric ton potatos made during the period from 5 May 2014 to 31 July 2014 is proposed to be zero rated with retrospective effect.

The above zero rating for the same period was earlier available through SRO 338(I)/2014 dated 02 May 2014 which was rescinded on 26 June 2014 vide SRO 573(I)/2014. Through the proposed notification, the Federal Government actually intends to revive zero rating facility for potatos imported during the period from 26 June 2014 to 31 July 2014.

A question arises whether FBR will sanction refunds to those importers who had already paid sales tax on such potatos at import stage after rescinding SRO 338(I)/2014 dated 02 May 2014.

REDUCE RATE OF SALES TAX

[SRO 1125(I)/2011 dated 31 December 2011]

- Sales tax @ 6% is proposed to be levied on import and supply of article of artificial leather generally used by public.
- The rate of further tax is proposed to be reduced from 2% to 1% on local supply of finished fabrics to unregistered person.

- ❑ Federal Government proposes to allow input tax adjustment on packing material to five export oriented sector. Presently, such sectors are debarred from claiming input tax adjustment on packing material in terms of amendment brought in SRO 1125 through SRO 491 (I)/2016 dated 30.06.2016. However, after series of litigations and the orders passed by Superior Courts, the Federal Government have agreed to restore benefit of input tax adjustment on packing material to five export oriented sector.
- ❑ Rate of sales tax on import and local supply of finished articles of leather and textile sector is proposed to be enhanced from 6% to 9%. However, rate of sales tax on import and local supply of aforesaid items made by the branded outlets integrated through electronic fiscal devices with FBR online system shall enjoy a reduced rate of tax @ 6%.

**EXEMPTION OF EXTRA TAX AND FURTHER TAX ON SUPPLY OF FOAM
BY PAKISTANI FOAM MANUFACTURERS**

[Chapter XI of Sales Tax Special Procedure Rules, 2007 and SRO 648(I)/2013]

Supply of foam made by Pakistani foam manufacturers is proposed to be exempted from extra tax and further tax. With the proposed tax waivers, the locally manufactured foam and its subsequent supply chain will fall again into normal tax regime @ 17% and eligible to issue tax invoices. Such relief is also expected to decrease the prices of local foam.

STANDARD RATE OF SALES TAX ON IMPORT & SUPPLY OF FURNACE OIL

[SRO 962(I)/2015 dated 30 September 2015]

A proposition is made to rescind SRO 962(I)/2015 dated 30 September 2015. With this, the rate of sales tax on import and local supply of furnace oil would be decreased to 17% from 20%. This reduction in rate of sales tax will decrease the cost of furnace oil for industrialist or IPPs using furnace oil as fuel to generate electricity or to melt iron and steel.

RATE OF SALES TAX FOR STEEL SECTORS

(Chapter XI of Sales Tax Special Procedure Rules, 2007)

The Federal Government seeks to increase the rate of sales tax for steel melters, re-rollers and composite units of steel melting and re-rolling having electricity meter from Rs. 10.5 to Rs. 13 per unit of electricity consumed. Federal Government has also proposed rationalization of sales tax for other allied steel industries.

FEDERAL EXCISE ACT, 2005

DEFAULT SURCHARGE

(Section 8)

Amendments Identical to those made in Section 34(1)(a) of Sales Tax Act 1990 have been replicated in Federal Excise Act, 2005.

APPEAL EFFECT

(Section 14B)

Amendments Identical to those made in Section 11B of Sales Tax Act 1990 have been replicated in Federal Excise Act, 2005.

APPOINTMENT OF FEDERAL EXCISE OFFICERS AND DELEGATION OF POWERS

[Section 29(2)(aa)]

Amendments Identical to those made in Sub-Section (2) of Section (30A) of Sales Tax Act 1990 have been replicated in Federal Excise Act, 2005.

RECOVERY OF ARREARS OF TAX

(Section 37)

Amendments Identical to those made in Section 48(1) of Sales Tax Act 1990 have been replicated in Federal Excise Act, 2005.

ALTERNATIVE DISPUTE RESOLUTION

(Section 38)

Amendments Identical to those made in Section 47A of Sales Tax Act 1990 have been replicated in Federal Excise Act, 2005.

ACCESS TO RECORDS AND POSTING OF EXCISE STAFF, ETC

[Section 45(2)]

Amendments Identical to those made in Section 40B of Sales Tax Act 1990 have been replicated in Federal Excise Act, 2005.

AUDIT

[Section 46(10)]

Amendments Identical to those made in Section 25(2) of Sales Tax Act 1990 have been replicated in Federal Excise Act, 2005.

VALIDATION

(Section 47C)

Amendments Identical to those made in Section 74A of Sales Tax Act 1990 have been replicated in Federal Excise Act, 2005.

RE-STRUCTURE OF FEDERAL EXCISE DUTY ON CIGARETTES

Excisable Good; Table-I of First Schedule to the Federal Excise Act, 2005

FED on cigarettes was enhanced from time to time which are classified under Tariff Heading 24.02. Through the recent amendments proposed in Finance Bill 2018-19, rate of duty on locally produced cigarettes is being enhanced as under:

Existing Situation			Proposed Situation 2018-19		
S. No	Description of goods	Rate	S. No	Description of goods	Rate
9	Locally produced cigarettes if their on pack printed retail price exceeds four thousand five hundred rupees per thousand cigarettes. [< 4,500 / cigarettes]	Rupees three thousand seven hundred and forty per thousand cigarettes	9	Locally produced cigarettes if their on pack printed retail price exceeds four thousand five hundred rupees per thousand cigarettes. [< 4,500 / cigarettes]	Rupees three thousand nine hundred and sixty four per thousand cigarettes
Tier I					
10	Locally produced cigarettes if their on pack printed retail price exceeds two thousand nine hundred and twenty five rupees per thousand cigarettes but does not exceed four thousand five hundred rupees per thousand cigarettes. [2,925> 4,500 / cigarettes]	Rupees one thousand six hundred and seventy per thousand cigarettes	10	Locally produced cigarettes if their on pack printed retail price exceeds two thousand nine hundred and twenty five rupees per thousand cigarettes but does not exceed four thousand five hundred rupees per thousand cigarettes. [2,925> 4,500 / cigarettes]	Rupees one thousand seven hundred and seventy per thousand cigarettes
Tier II					
10a	Locally produced cigarettes if their on pack printed retail price does not exceed two thousand nine hundred and twenty-five rupees per thousand cigarettes. [2,925< / cigarettes]	Rupees eight hundred per thousand cigarettes	10a	Locally produced cigarettes if their on pack printed retail price does not exceed two thousand nine hundred and twenty-five rupees per thousand cigarettes. [2,925< / cigarettes]	Rupees eight hundred and forty eight per thousand cigarettes"; and
Tier III					

Aforesaid amendment shall have effect on the next day of assent given to Finance Act 2018 by the President of Pakistan.

INCREASE IN FEDERAL EXCISE DUTY ON CEMENT

(Excisable Goods - Table I of First Schedule)

The Bill proposes to enhance FED on cements, classified under Tariff Heading 25.23. Currently FED on cement is chargeable on fixed rate basis which was Rs.1.25 per kilogram. Such rate is proposed to be enhanced to Rs.1.50 per kilogram.

We understand it is a revenue measure which will increase the cement prices. Retail cement bags are sold normally in 50 Kg packs. Under proposed regime, FED will now be collected Rs.75 per bag (1.50/Kg).

Aforesaid amendment shall have effect on the next day of assent given to Finance Act 2018 by the President of Pakistan

INSERTION OF NEW ENTRY IN THIRD SCHEDULE

(Exemptions on Goods – Table-I)

The Bill proposes to insert Serial No. 22 at Third Schedule to Federal Excise Duty Act, 2005 whereby equipment whether locally manufactured or imported by M/s China Railway Corporation furnished and installed in Lahore Orange Line Metro Train Project has been granted exemption from FED upon certain conditions.

The Bill proposes to insert Serial No. 23 at Third Schedule to FED Act, whereby imported construction materials and goods imported by M/s China State Construction Engineering Corporation Limited, whether or not locally manufactured subject to fulfilment of same conditions, limitations and restrictions as are specified at S. No. 145 of Table-1 of Sixth Schedule to ST Act.

INSERTION OF NEW ENTRY IN THIRD SCHEDULE

(Conditional Exemptions on Services - Table II)

The Bill proposes to insert Serial No. 14 of the Table II of Third Schedule to Federal Excise Act 2005, whereby commission paid by State Bank of Pakistan and its subsidiaries to National Bank of Pakistan or any other banking company for handling banking services of Federal or Provincial Government as State Bank of Pakistan's agent, shall remain exempt from FED.

CUSTOMS ACT, 1969

- The Bill seeks amendment in Section 2(p) in order to increase custom enforcement activities in the sea. The range of Pakistan Territory Jurisdiction for customs purpose is enhanced from 12 nautical miles to 24 nautical miles.
- The Bill proposes to insert local manufacturer into the definition of a "person" in Section 2(pa). Currently, a company, an association, a body of individuals whether incorporated or not are included in the definition of a person.
- The Bill proposes to insert a new Section 25AA whereby the Board can obtain a data and information from international organizations/foreign customs authorities for the purposes of assessment including valuation.
- The Bill proposes amendment in Section 25C now collector is required to seek approval to take over the imported goods where the declared value is not the actual transactional value from Chief Collector instead of the Board.
- The Bill proposes to insert proviso in Sub-Section 3 of Section 32 that no proceedings will be initiated against a person by reason of any inadvertence, error or misconstruction, any duty, taxes or charge has not been levied or has been short-levied or has been erroneously refunded, if the said person makes voluntarily payment of short paid duties, taxes or other charges before the audit inquiry is initiated.
- The Bill proposes to insert Sub-Section 3A in Section 33 to bind the authority to dispose of the refund claimed within 180 days of filing of such claim. However, the said period may be further extended to 90 days by the Collector for reasons to be recorded in writing. Currently there is no time period is prescribed for processing of refund claim.
- The Bill proposes to make the shipping agent answerable under clause (e) of subsection (1) of section 55 for the dues charged and collected in connection with discharge and delivery of goods.
- The Bill proposes to insert section 193A to the Custom Act, 1969 in order to empower the Collector (Appeals) to grant stay against recovery of duty and taxes for a period not exceeding 30 days on filing of appeal and after affording opportunity of being heard to the concerned officer.
- The Bill seeks to introduce section 212A to authorize Economic Operator Programme [EOP] to provide facilitations relating to secure supply chains of imported and exported goods through simplified procedures.
- The Bill proposes to penalize the goods loaded for transshipment which are pilfered, replaced en-route or fails to reach destination port including goods which are not allowed to be transshipped. Such goods and the conveyance illegally carrying these goods shall be liable to confiscation for both goods as well as conveyance carrying such goods for a penalty not exceeding ten times value of goods and he shall be further liable for an imprisonment for maximum term of seven years under section 156 of the Customs Act, 1969.

CHANGES IN CUSTOM TARIFF

- To standardize printing and preservation of Holy Quran, import of duty free paper weighing 60 g/m² is allowed besides extending this facility to Nashir-e-Quran registered with the government.
- Increase of CD on double-sided tape from 3% to 11%.
- For promotion of exports, CD on raw materials / inputs (104 PCTs) withdrawn and (28 PCTs) reduced.
- To protect domestic manufacturers, increase of CD on rickshaw tyres from 11% to 20%.
- Reduction of CD on Multi-ply and Aluminum foil from 20% to 18% for Liquid Food Packaging Industry.
- Increase of CD on Soya bean oil from Rs.9050/MT & Rs.10200/MT to Rs.12000/MT and Rs.13,200/MT respectively.
- Reduction of CD on finished rooms (Pre-fabricated structures) from 20% to 10% for setting up of new hotels/motels.
- Increase of CD on aluminum auto parts scrap from 30% to 35%.
- To support dairy sector, CD exempted on bovine semen, and preparations for making animal feed reduced from 10% to 5% and import of fans for corporate dairy farmers allowed at concessionary rate of 3%.
- Increase of CD on Di-octyl Terephthalate (DOTP) from 3% to 20%.
- Reduction of CD on growth promoters premix, vitamin premix, Vitamin B12 and Vitamin H2 for poultry sector from 10% to 5%.
- Reduction of CD on corrective glasses from 11% to 3%.
- To encourage local manufacturing of Optical Fiber Cables, CD on input materials i.e, Optical fiber (20%), Cable filing compound (11%), Polybutylene (20%), Fiber reinforced plastic (20%) and Water blocking/ swellable tape (11%) reduced to 5% besides reduction of RD on Optical Fiber Cables from 20% to 10%.
- CD on specified equipment used in cinema industry reduced to 3%.
- Reduction of CD from 16% to 11% and levy of 5% RD on Medium Density Fiber.
- Withdrawal of 11% CD on acrylic tow.
- Reduction of CD on Lithium iron phosphate battery (LiFePO₄) from 11% to 8%.
- Exemption of 3% CD on Micro Feeder Equipment used for food fortification.
- New PCT codes created for Radial tyres, CKD/SKD kits for home appliances, CKD / SKD of Mobile Phone, Semi-automatic washing machines, Petrol Generating sets, Kerosene based mineral oils, Relays, Fuses, Gear pumps and Turbo chargers for vehicles, Electric conductors, Light fittings with fixed/fitted LED/SMD, , Refrigerated out door cabinet designed for insertion of electric and electronic apparatus, Digital/Processed Printing Inks, DOTP (Di-Octyl Terephthalate) and Pigments and preparations based thereon.

- Exemption of 5% CD on Tasigna (an anti-cancer medicines).
- Levy of 30% RD on export of waste & scrap of copper
- Reduction of CD on Acetic Acid from 20% to 16%.
- Exemption of 16% CD on charging stations for electric vehicles.
- Review of RD on non-essential and luxury items
- Reduction of CD on plasters from 16% to 11%.
- 10% RD levied on CKD/SKD kits of specified Home Appliance
- Reduction of CD on film of ethylene from 20% to 16% for Liquid Food Packaging Industry.
- Increase of additional customs duty from 1% to 2%
- Reduction of CD on Carbon Black (rubber grade) from 20% to 16%.
- Reduction of concessionary rate of CD from 10% to 5% on silicon electrical steel sheets for manufacturing transformers.
- Exemption of 5% CD on specified LED parts and components for manufacturers of LED lights and Levy of 2% RD on LED bulb & Tubes, Energy Saving Bulbs & Tube to protect local industry.
- Exemption of 3% CD on tanned hides in wet state.
- Withdrawal of CD on two catalysts for use by PTA industry i.e. Hydrogen Bromide (11%) and Palladium-on-carbon (3%)
- Reduction of CD from 16% to 8% on Coils of aluminum alloys used in manufacturing of Aluminum beverage cans
- Reduction of CD on import of coal, across the Board, from 5% to 3%.
- Reduction of CD on import of Fire fighting vehicles from 30% to 10%
- Concessionary import of vintage or classic cars and jeeps at fix duty/taxes of US\$ 5,000.
- Levy of RD @ Rs.175/set on CKD/SKD kits of mobile phone
- Reduction of CD from 50% to 25% and Exemption of 15% RD on Electric Vehicles and CD on kits of electric vehicle reduced from 50% to 10%.
- Import of solar panels were exempted from the condition of 'local manufacturing' till 30th June 2018 which is extended till 30th June, 2019.

OTHER LEVIES**OTHER LEVIES PURPOSED ON TABACCO**

Pakistan Tobacco Board or its contractors, shall collect Health Levy at the rate of Rs. 10 per kilogram of tobacco from every person purchasing tobacco including manufacturers of cigarettes.

OTHER LEVIES PURPOSED ON SMART PHONES

Mobile handset Levy shall be collectable on smart phones as prescribed in below table:

S. No	Category of Smart Phone	Rate of levy per set (Rupees)
(1)	(2)	(3)
1.	Where Import value of handset (including duties and taxes) does not exceed Rs.10,000/-	Nil
2.	Where Import value of handset (including duties and taxes) exceeds Rs.10,000 but does not exceed Rs.40,000 /-	1,000
3.	Where Import value of handset (including duties and taxes) exceeds Rs.40,000 but does not exceed Rs.80,000 /-	3,000
4.	Where Import value of handset (including duties and taxes) exceeds Rs.80,000	5,000

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