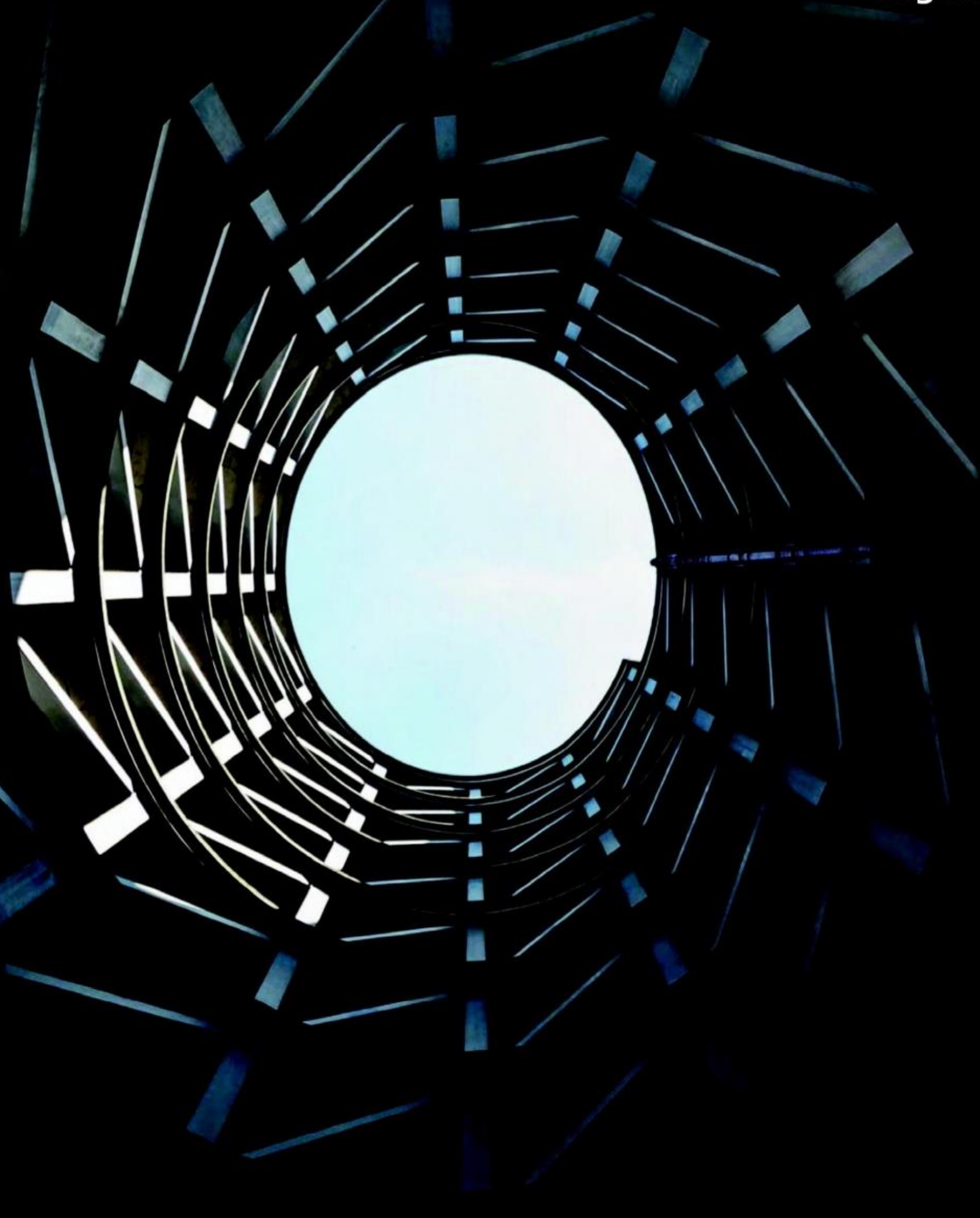
YOUSUF ADIL

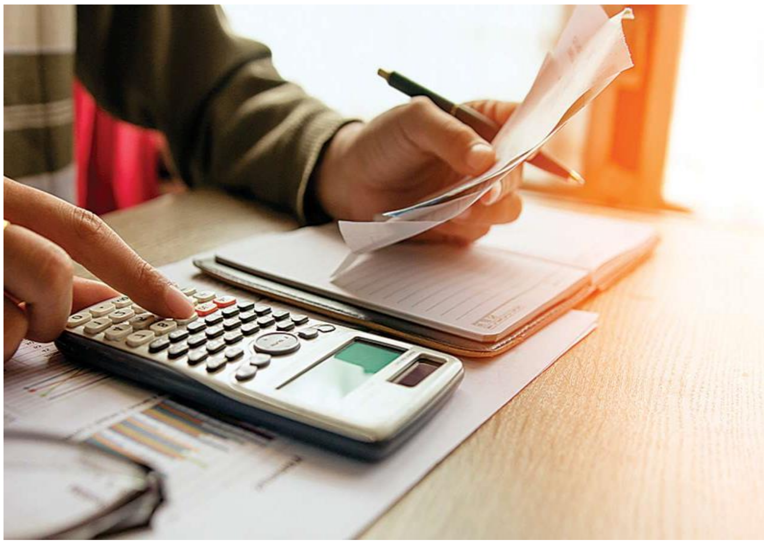
Budget 2023-24

Highlights & Comments



Tax

Foreword



This publication contains an economic review, highlights of fiscal proposals and explanatory description of the significant changes in the Income Tax, Sales Tax, Federal Excise, Customs Duty and Islamabad Capital Territory (Tax on Services) Ordinance, 2001.

Amendments proposed in the Finance Bill, 2023 will take effect from July 01, 2023, once it is approved by the Parliament.

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Karachi
June 10, 2023

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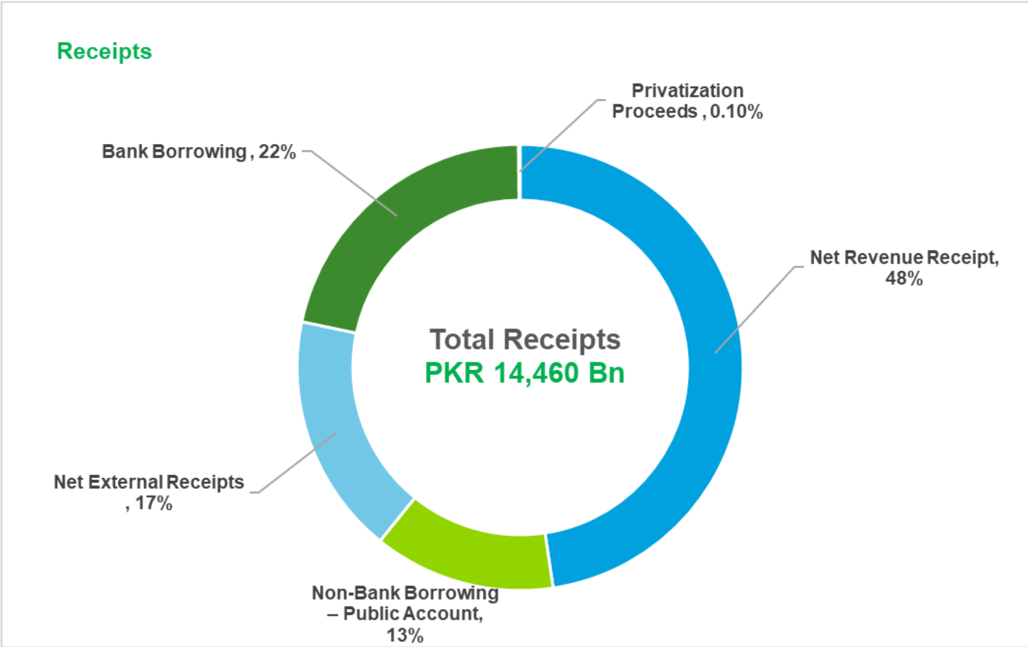
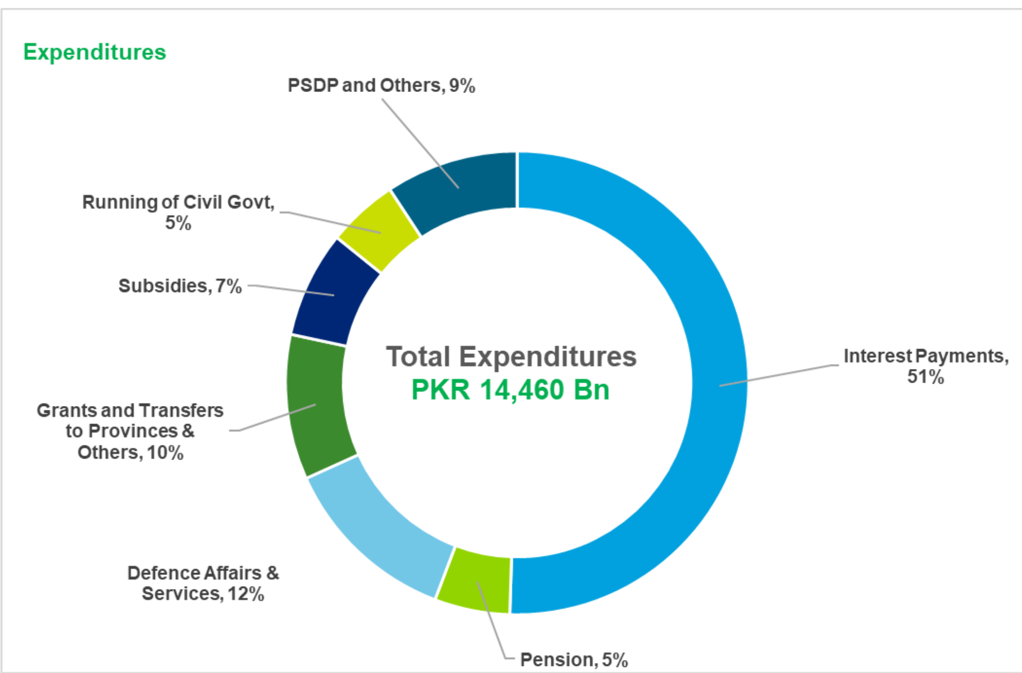
Budget at a glance

Receipts	PKR (Billion)	Expenditures	PKR (Billion)
Tax Revenue	9,200	Interest Payments	7,303
Non-Tax Revenue	2,963	Pension	761
Provincial Share	(5,276)	Defence Affairs & Services	1,804
Net Revenue Receipt	**6,887**	Grants and Transfers to Provinces & Others	1,464
Non-Bank Borrowing – Public Account	1,906	Subsidies	1,074
Net External Receipts	2,527	Running of Civil Govt.	714
Bank Borrowing	3,124	PSDP and Others	1,340
Privatization Proceeds	15		
Total Receipts	**14,460**	**Total Expenditures**	**14,460**

Source: Budget Document



Source: Budget Document



Source: Budget Document

Economic review 2022-23

The second budget of the PMLN government for FY2023-24 was presented on June 09, 2023 by the Finance Minister, Ishaq Dar with aggregate total outlay of PKR 14.46 trillion, that envisages Annual Development Programme of PKR 1,140 billion, including public sector development program of PKR 950 billion and net lending of PKR 190 billion.

	FY 2022	FY 2023 E
Real GDP Growth	6.10%	0.29%*
Inflation CPI	11.0%	28.2%
Debt to GDP Ratio	74%	70%*
Policy Rate	13.75%	21.00%

* These metrics reflect the period from July to April 2023.

Overview

The global economy is experiencing the accumulative effects of the severe and relentless shocks - especially, the lingering ongoing Russia-Ukraine war, the ever-worsening impacts of climate change, the long-reaching aftereffects of the COVID-19 pandemic, the escalating monetary tightening, and growing policy challenges - have driven many countries perilously close to crisis. The conflict's impact on commodities markets, commerce, and financial systems will have far-reaching global implications. While economic development is hindered, inflation is on the rise. The invasion has disrupted supply routes for crude oil, natural gas, and wheat, leading to rapid increases in fuel and food prices. This puts pressure on emerging and developing countries. Rising inflation makes it challenging for central banks to balance price control and growth preservation. Moreover, many nations have limited fiscal policy options to mitigate the conflict's effects on their economy.
The International Monetary Fund (IMF) has forecasted global growth at 2.8 percent in 2023 and expected to see a modest recovery to 3.0 percent next year. IMF foresees the growth to remain around 3.0 percent over the next five years. The baseline forecast of 3.0 percent until 2028 makes

it the lowest medium-term growth projection since 1990 and is quite below the average of 3.8 percent from the two previous decades.

Pakistan, an emerging market economy in the Asia Pacific region, faces unique challenges in addition to those experienced by developed nations. The country's geopolitical situation, challenging financial environment, and high inflationary pressures have significantly affected global growth prospects. These factors also pose substantial economic risks for Pakistan. Furthermore, devastating floods and political unrest have further worsened the situation.

In FY2022, Pakistan’s economy witnessed a high growth rate of 6.1 percent, however, it was unsustainable as it was largely driven by domestic demand, which was stimulated by expansionary fiscal policy and ended up with a high fiscal and current account deficit.

During July-April in FY2023, CPI inflation stood at 28.2%, significantly higher than the 11.0% recorded in the same period the previous year. Various factors have contributed to this inflation, including adjustments in power and gas costs, a significant rise in food prices, currency depreciation, soaring global fuel and commodity prices, and recent devastating floods. To counter inflationary pressures, the SBP raised the policy rate by 725 basis points in the past year.

In the latter half of FY2023, political instability has caused a significant rise in economic uncertainty, impacting the economy at individual, firm, and government levels. To mitigate this uncertainty, political stability is crucial, as it can be achieved through transparent policy statements that build trust among domestic and foreign investors, as well as the business community.

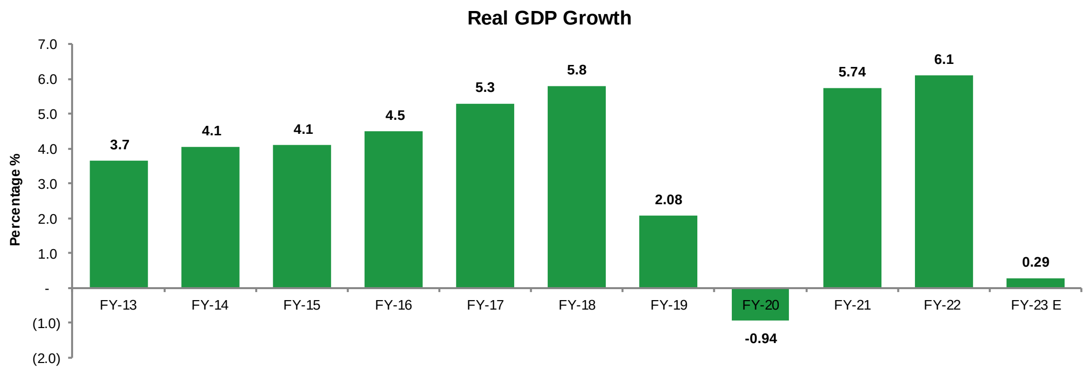
However, a rise in global commodity prices is putting pressure on imports by driving up import payments dramatically. As a result, the large trade imbalance of USD 32.9 billion between July-April FY2022 was somewhat offset by substantial remittances. Thus, the current account deficit for the period under consideration was USD 3.3 billion during July-April FY2023, compared to a deficit of USD 13.7 billion for the same time previous year. However, Pakistan’s economy still faces pressures from an uncertain global security situation, higher inflation driven by a spike in food prices, the bewildering stock market, perceptible contraction in large-scale manufacturing, lower than anticipated foreign inflows, and burgeoning absolute financing requirements. Resultantly, abatement of inflationary pressure remained persistent and depicting price stubbornness.

Real GDP

GDP over the years

2020	2021	2022	2023E
-0.94%	5.74%	6.10%	0.29%

(Data Source: PES, 2022-23)



(Data Source: PES, 2022-23)

In FY2023, Pakistan's real GDP growth rate remained at 0.29% from 6.10% as compared to last year. This slowdown was mainly due to factors such as devastating floods, policy tightening, and necessary measures taken to address fiscal and external imbalances. Despite these challenges, the country has shown a V-shaped economic recovery.

GDP Growth 2022-23

5.0% Budget

0.29% Actual

(Data Source: PES, 2022-23)

Pakistan’s economy has been drastically impacted by political instability and floods. For FY2023, real GDP displayed a growth of 0.29% due to negative growth of 2.94% in the industrial sector, followed by growth of 0.86% and 1.55% in Services and Agriculture sector.

Sector Performance

Industrial	Services	Agriculture
-2.94%	**0.86%**	**1.55%**
Growth	Growth	Growth
Target was 5.90% growth	**Target was 5.10% growth**	**Target was 3.90% growth**

(Data Source: PES, 2022-23)

In FY2023, the industrial sector experienced a negative growth rate of 2.94%. The manufacturing sector, which makes up 65% of the industrial sector, saw a negative growth rate of 7.98%. This decline was primarily driven by various sub-sectors such as food, tobacco, textile, coke and petroleum products, chemicals, pharmaceuticals, fertilizers, non-metallic products (including cement), iron & steel products, electrical equipment, automobiles and other transport equipment. However, the electricity, gas, and water industry showed a growth rate of 6.03%. The construction industry witnessed a negative growth rate of 5.53%, while mining and quarrying declined by 4.4%. Within manufacturing, small scale and slaughtering posted growth rates of 9.0% and 6.3% respectively. Finally, the sub-sector of electricity, gas, and water supply experienced a growth rate of 6.0%.

The services sector, contributing 58% to the GDP, grew by 0.86%, falling short of the 5.1% target. The wholesale & retail trade, comprising 30.7% of services and 18% of GDP, declined by 4.46%. However, other components of the service sector experienced growth, including education (10.4%), transport and storage (4.7%), human health and social work (8.5%), accommodation and food services (4.1%), real estate (3.7%), information and communication (6.9%), and other private services (5.0%). The finance and insurance industry decreased by -3.8%, while public administration and social security activities saw a negative growth rate of -7.8%.

During FY2023, the agriculture sector grew by 1.55%, falling short of the 3.90% target. Important crops saw a decline of 3.20%, with negative growth in cotton (41.0%) and rice (21.5%), while wheat (5.4%), sugarcane (2.8%), and maize (6.9%) experienced positive growth. Cotton production decreased to 4.9 million bales and rice production reduced to 7.3 million tonnes. However, wheat, sugarcane, and maize production increased. The livestock industry, accounting for 62% of agricultural output, grew by 3.7%. The fishing sector, with a 1.39% share, grew at 1.44%, and the forestry sector, with a 2.23% share, grew at 3.93% due to increased timber production.

Trade & Payments

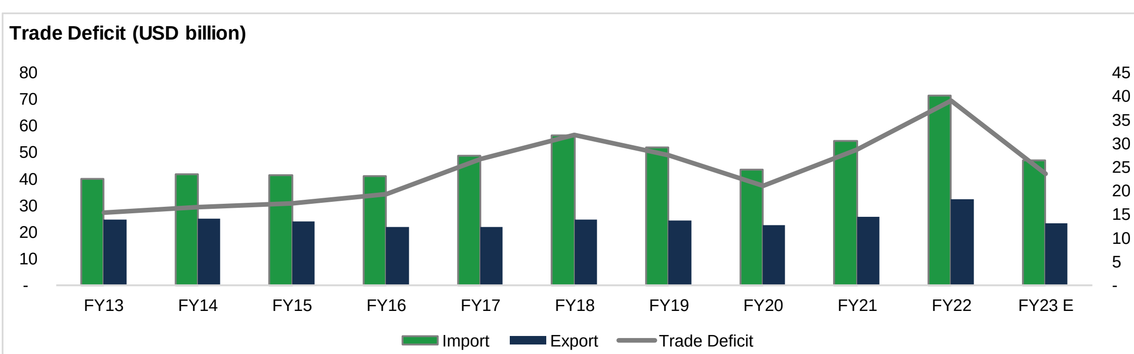
Current Account

	FY 22	FY 23
Current Account First 10 Months of FY	**($3.3) B**	**($13.7) B**

(Data Source: PES, 2022-23)

In July-April FY2023, the current account deficit (CAD) improved as imports decreased by 23%, this decrease primarily due to restrictions on import. However, the State Bank of Pakistan's foreign exchange reserves declined to USD 4.5 billion due to loan repayments and liabilities. Additionally, the Pakistani rupee depreciated by an average of 27.8% against the US Dollar during the same period, reflecting external account pressures on foreign exchange markets.

Remittances fell 10.8 percent to USD 20.5 billion, despite a major drop in remittances offsets the goods and services trade imbalance. The current account deficit improved, however, financial account underperformance depleted foreign reserves and put the exchange rate under significant pressure.



(Data Source: SBP, PES, 2022-23)

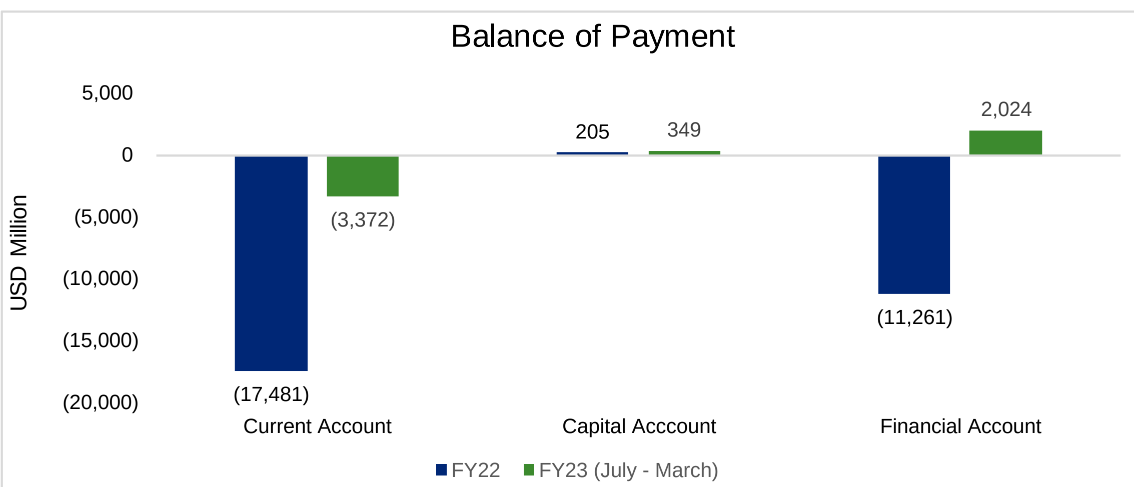
In July-March FY2023, exports decreased by 11% to USD 21.1 billion, while imports declined by 21.3% to USD 41.5 billion. This resulted in a trade deficit improvement of 29.7% to USD 20.4 billion compared to the previous year. The decline in the deficit is primarily attributed to reduced imports of services (39.7%), transport services (45.3%), and other business services (43.9%).

Financial Account

In July-March FY2023, Pakistan experienced net outflows of FDI amounting to USD 2 billion, contrasting with inflows of USD 8.4 billion in the previous year. Net outflows of FX loans and liabilities were USD 1.7 billion in July-March FY2023, compared to net inflows of USD 9.5 billion in July-March FY2022. However, Pakistan received a tranche of USD 1.2 billion from the IMF in August and received loans from the ADB (USD 1.9 billion), the World Bank's IDA branch (USD 1.1 billion), and Saudi Arabia (USD 782 million) for flood relief projects and oil facilities.

In July-March FY2023, foreign portfolio investment in Pakistan experienced a net inflow of USD 161.6 million, in contrast to a net outflow of USD 1017.7 million in the previous year. China was the largest contributor to FDI, providing USD 319.2 million (30.4% of total FDI), a decline of 16.5% compared to USD 382.2 million. The power sector attracted the highest FDI of USD 460.1 million (43.9% of total FDI), followed by the financial business (USD 248.2 million), oil & gas exploration (USD 116.2 million), and transport equipment (automobile) (USD 96.3 million).

By March 2023, the foreign exchange reserves of the State Bank of Pakistan (SBP) decreased to USD 4.2 billion, while commercial banks' reserves fell by USD 83 million. The decline in reserves was influenced by government loan amortization, reduced FDI and FPI inflows, despite some inflows from the IMF and other sources. The current account deficit led to a depreciation of the Pakistani Rupee by 14.1% in the first nine months of FY2022. The SBP's forex reserves were significantly impacted by the repayment of long-term liabilities (USD 1.6 billion) and Sukuk bond payments (USD 1 billion) in November and December 2022, respectively.

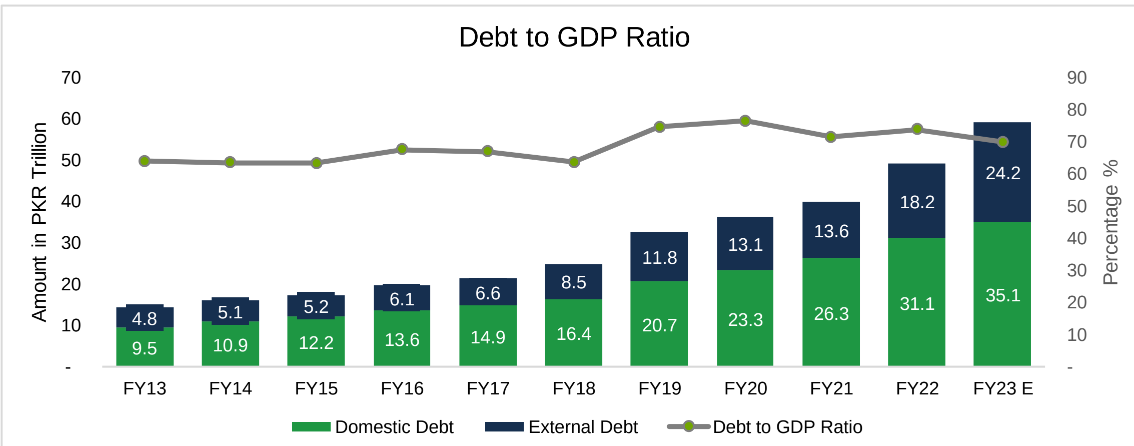


(Data Source: PES, 2022-23)

The PKR experienced a 27.8% interbank devaluation, declining from an exchange rate of 204.8 in June 2022 to 283.8 in March 2023. This devaluation was influenced by the worsening external account balance.

Public Debt

By March 2023, Pakistan's public debt reached PKR 59,247 billion, increasing by PKR 10,005 billion since June 2022. This rise is higher than the PKR 9,376 billion increase observed during the same period last year. The depreciation of the Pak-Rupee against the US Dollar by approximately 39% contributed to the significant growth in the external public debt when converted into Pak-Rupee. The government repaid PKR 310 billion of its debt to the SBP and rolled over deposits of USD 3,000 million each from China and Saudi Arabia for budgetary support.



(Data Source: PES, 2022-23)

The primary factors that contributed towards the rise in external public debt, include federal primary surplus (PKR 48 billion), interest on debt (PKR 3,582 billion), currency depreciation (PKR 7,170 billion) and decrease in government cash balance (PKR 699 billion). The Debt-to-GDP ratio of Pakistan stood at 70% as at March, 2023.

Domestic Debt

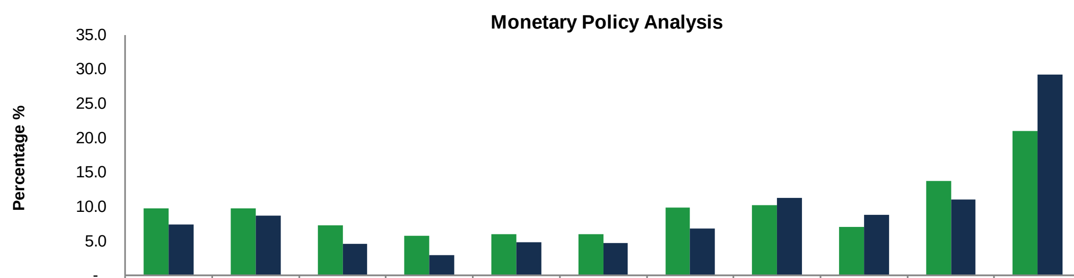
Domestic debt was recorded to the tune of PKR 35,076 billion at the end of March 2023, measuring an increase of PKR 3,991 billion during the first nine months of FY2023. At the end of March 2023, permanent debt, floating debt and unfunded debt accounted for 71% (PKR 24,885 billion), 18% (PKR 6,295 billion) and 9% (PKR 2,998 billion), of the domestic debt portfolio, respectively.

External Debt

By the end of March 2023, Pakistan's external public debt was PKR 24,171 billion or USD 85.2 billion, showing a decrease of approximately USD 3.7 billion during the first nine months of FY2023. The major portion of the Pakistan's external public debt i.e. 52%, is represented by Multilateral loans, followed by Bilateral loans, Commercial loans, Eurobonds/ Sukuks, which accounts for 23%, 08%, and 09%, respectively.

The government aims to reduce debt through measures such as primary budget surpluses, stable inflation, sustainable economic growth, and a sound exchange rate regime. It is committed to fiscal discipline by increasing revenue and reducing spending. With a smaller budget deficit and efforts to improve the debt maturity structure, public debt is expected to decrease steadily, enhancing debt sustainability.

Monetary Policy



	FY13	FY14	FY15	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23 E
Average Interest Rate	9.7	9.8	7.3	5.8	6.0	6.0	9.9	10.1	7.0	13.8	21
Inflation CPI	7.4	8.6	4.5	2.9	4.8	4.7	6.8	11.2	8.8	11.0	29.2

(Data Source: PES 2022-23)

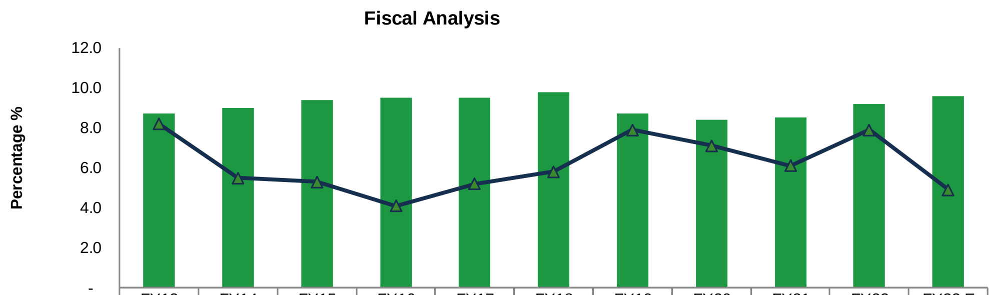
The State Bank of Pakistan (SBP) decided to raise the policy rate by 725 bps to 21% in FY2023 to counter the inflationary pressure and sustainable economic recovery.

In response to rising government borrowings, massive inflationary pressures, and a widening current account deficit, SBP increased the policy rate as per Monetary Policy Statement of State Bank of Pakistan.

During July-April FY2023, the Consumer Price Index (CPI) inflation reached 28.2%, significantly higher than the 11% observed in the same period last year. Factors such as rising international commodity prices, adjustments in electricity and fuel prices, weaker exchange rates, political unrest, and catastrophic floods contributed to inflationary pressures. These pressures were influenced by recent floods, supply chain disruptions following the COVID-19 pandemic, and the Russia-Ukraine conflict impacting international commodity prices.

During July-April FY2023, the Sensitive Price Indicator (SPI) reached 31.7%, significantly higher than the 16.9% in the same period last year. The Wholesale Price Index (WPI) also increased to 34% from 22.9% in July-April FY2023. Core inflation for Urban and Rural areas was 15.6% and 19.4% respectively, compared to 7.6% and 8.3% last year. The rise in core inflation was driven by increased domestic demand and the impact of exchange rate depreciation.

Fiscal Policy



	FY13	FY14	FY15	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23 E
Tax Revenue to GDP Ratio	8.7	9.0	9.4	9.5	9.5	9.8	8.7	8.4	8.5	9.2	9.6
Fiscal Deficit as % of GDP	8.2	5.5	5.3	4.1	5.2	5.8	7.9	7.1	6.1	7.9	4.9

(Data Source: PES, 2022-23)
* FY23E reflects the period from July to April 2023.

Tax Collections and Budget Deficit

From July to March of FY2023, the fiscal deficit was reduced to 3.6% of GDP, compared to 3.9% in the previous year. The primary balance improved, achieving a surplus of PKR 503.8 billion, in contrast to a deficit of PKR 447.2 billion last year. This improvement was driven by slower growth in non-markup expenses. However, the revenue deficit worsened due to increased markup payments, leading to higher growth in current expenditures.

Total Revenue

During July-March FY2023, total revenue grew by 18.1% to PKR 6,938.2 billion, driven by a significant increase of 16.5% in tax collection. Non-tax revenues also rose by 25.5% to PKR 1,320.5 billion during the same period.

Total Expenditure

From July-March 2023, total expenditure rose significantly to PKR 10,016.9 billion, compared to PKR 8,439.8 billion in the previous year. Markup payments experienced a remarkable increase of 69.1% during this period. Current expenditures accounted for 70.2% of the total, while development expenditures represented 29.8%.

Development expenditure in July-March FY2023 reached PKR 1060.4 billion, compared to PKR 1051.1 billion in the previous year. Non-markup expenditures grew by 7.7% during the same period, in contrast to a significant increase of 32.1% in the previous year.

FBR Tax Collection

In July-March FY2023, FBR collected PKR 5,617.7 billion (provisional) in net tax revenues, showing a significant growth of 16.5%. The estimated tax collection for FY2023 is projected to reach PKR 9.2 trillion.

Pakistan relies heavily on indirect taxes, which contribute 59.3% of total FBR tax collection, while direct taxes contribute only 40.7%. In recent years, the FBR has implemented measures to boost tax collection, with a particular emphasis on increasing direct tax revenue.

Key highlights of Budget FY24

- The size of the Annual Development Program is fixed at PKR 1,150 billion, which includes PSDP amounting to PKR 950 billion and net lending amounting to PKR 190 billion.
- IT sector recognized as SME (limit enhanced from PKR 250M to 800M)
- Exemption of custom duty on import of raw material for batteries, solar panels and inverters
- Duty free IT related imports up to 1% of export proceeds
- A progressive super tax regime has been introduced in the range of 1 to 10%, previously it was capped at 4%
- GST raised on Tier-1 retailers of leather and textile from 12% to 15%
- Withholding tax on overseas payments made through debit/credit cards is raised to 5/10% for filers/non-filers from 1%
- Minimum Turnover tax reduced from 1.25 to 1% for PSX listed firms
- 0.6% tax has been imposed on cash withdrawal by non-ATL
- The Dasu Hydropower Project has been allocated the maximum of PKR 58.59 billion.
- PKR 17 billion have been allocated for the Karachi Greater Water Supply Scheme
- PKR 14.86 billion have been allocated for the Karachi Coastal Power Project
- PKR 16 billion will be spent on the Pakistan-Tajikistan transmission line
- For the rehabilitation of flood-affected areas, PKR 6 billion have been earmarked
- PKR 5.70 billion have been allocated for the Hyderabad-Sukkur Motorway project and PKR 5 billion for the New Gwadar International Airport
- PKR 107 billion have been allocated for the Ministry of Water Resources
- The Higher Education Commission is set to get PKR 59.71 billion
- Re-imposition of 10% final withholding tax on issuance of bonus shares by a company
- 50% tax on unexpected earnings arising from exchange gain
- 50% reductions in tax liability for three years for youth entrepreneurship (maximum limit of PKR 2 million for Individual/AOP and PKR 5 million for a company)
- Imposition of additional tax at the rate not exceeding fifty percent on income profit and gains of a person or class of persons on account of extraordinary gains due to exogenous factors
- Increase in Benazir Income Support Programme allocation from PKR 400 billion to PKR 450 billion
- Salaries of government employees increased by 35% & 30% of Grade 1 to 16 & Grade 17 to 22 in order to improve their purchasing power
- Upward revision in pensions and increase in minimum pension to PKR 12,000

Highlights of Important Fiscal Proposals

Income Tax

1. The scope of Permanent Establishment (PE) is widened by deleting the word 'Fixed' from the definition, whereby any place of business which is used for carrying on business by a non-resident person wholly or partly will be treated as a PE of a non-resident person. Further, furnishing of services by any person through an entity, besides services through employees and other personnel, will also be considered as a criteria for creating a PE of a non-resident person.

2. Super tax under Section 4C is required to be discharged through quarterly advance tax. Further, three new slabs for levy of Super Tax on taxable income exceeding Rs 350 million are introduced with Super tax rates from 6% to 10%.

3. Bonus shares are included in the definition of income and to be taxed under the head 'income from other sources'.

   Every company, issuing bonus shares, is required to withhold 10% of the bonus shares to be issued. Bonus shares withheld shall only be issued to the shareholder, if the company collects from the shareholder, tax equal to 10% of the value of the bonus shares issued to the shareholder.

4. Tax incentive for 30 years is provided to Reko Diq project, being qualified investment under the Foreign Investment (Promotion and Protection) Act, 2022.

5. Tax credit for the construction of the new residential house, amounting to Rs.1 million or 10% of the amount of tax assessed, whichever is lower, is introduced subject to certain conditions.

6. Reduction in tax liability of a builder by 10% or Rs.5 million whichever is lower is introduced.

7. Scope of the term 'Associates' under Section 85 is extended to cover persons having sufficient influence on other person for economic and financial dependence.

8. Additional tax is to be levied on any income, profit or gains, arising due to economic factors to be notified by the Government for preceding 5 years from tax year 2023 and onwards. Such additional tax will also be applicable for entities covered under Fourth, Fifth and Seventh Schedules to the Ordinance.

9. No explanation will be sought under section 111 for inward foreign exchange remittance upto USD 100,000 or rupee equivalent, as compared to current limit of Rs. 5 million.

10. Commissioner Inland Revenue is empowered to collect non-tax revenues under other laws.

11. Automatic issuance of exemption certificate through IRIS introduced, where the Commissioner Inland Revenue does not process the exemption application, for payments to non-residents, within 30 days of filing of application.

12. Sales tax return filing requirement withdrawn for availing final tax regime for exporters of software, IT services and IT-enabled services, certified by the Pakistan Software Export Board.

13. Business turnover threshold for Small Medium Enterprises (SMEs) enhanced from Rs 250 million to 800 million.

14. IT services and IT-enabled services are included under the definition of SMEs.

15. Category 3 SMEs, having turnover above Rs. 250 million but not exceeding Rs 800 million introduced. Depending on the option elected by such SMEs, these SMEs will be subject to tax at 20% of taxable income under normal tax regime and 0.75% of gross turnover under final tax regime.

16. International Centre of Tax Excellence to be established by FBR which intends to develop national tax policy, research in tax administration, international tax cooperation, workshop, seminars and conferences for knowledge and upgradation of tax officials.

17. Advance tax at the rate of 0.6% restored, to be collected on the total amount of cash withdrawals from the bank account exceeding Rs.50,000 in a single day by the persons not appearing on the Active Taxpayer's List.

18. Adjustable advance tax of Rs.200,000 introduced on the renewal of a domestic aide visa to any foreign national working in Pakistan.

19. Advance tax on purchase or transfer of property will not apply to the non-resident individuals holding POC, NICOP and CNIC, acquiring property through Foreign Currency Value Account or NRV Rupee Value Account.

20. Tax under section 113 - minimum tax is reduced from 1.25% to 1% for companies listed on stock exchange, excluding listed companies which are already subject to specified reduced minimum tax rates.

21. Rate of tax to be collected under section 148 for commercial importers of finished goods is enhanced from 5.5% to 6%.

22. Withholding tax rate under section 152(2A) for payment to non-residents on the sale of goods has been increased from 4% to 5% in the case of a company and from 4.5% to 5.5% in the case of other than companies.

23. Withholding tax rate under section 152(2A) for payment to non-residents on the rendering of services has been increased from 8% to 9% in the case of a company and from 10% to 11% in the case of other than companies.

24. Withholding tax rate under section 152(2A) for payment to non-residents against contracts has been increased from 10% to 11% for sportspersons and from 7%% to 8% in case of others.

25. Withholding tax rate under section 153 for payment to residents on the sale of goods has been increased from 4% to 5% in the case of a company and from 4.5% to 5.5% in the case of other than companies.

26. Withholding tax rate under section 153 for payment to residents on the rendering services has been increased from 8% to 9% in the case of a company and from 10% to 11% in the case of other than companies.

27. Tax under section 153 for payment to residents on the rendering of specified services has been increased from 3% to 4%. No change in withholding tax rate of 1.5% for print and electronic media.

28. Withholding tax rate under section 153 for payment to residents on contracts has been increased from 10% to 11% in the case of a sportsperson and from 7% to 8% in the case of others.

29. Adjustable advance tax rate is increased from 1% to 5% on payments to non-residents through debit/credit or prepaid cards.
30. Reduction in tax liability to 50% for 3 years for youth entrepreneurship is introduced with a maximum limit of Rs. 2 million for Individuals / AOP and Rs. 5 million for a Company. Youth is defined as a natural person up to the age of 30 years.

31. Reduced rate of tax of 20% is introduced for banking companies in respect of income from advances for information technologies services and information technology enabled services.

32. Income of Export-Import Bank of Pakistan, Film and Drama Finance Fund and certain other entities is exempted from tax.

33. Profits and gains of an SME setup as agro based industry in rural areas is exempted for a period of 5 years from tax year 2024 to 2028.

34. Time limit for the exemption on any income of any individual domiciled or Company and Association of Persons resident in the Tribal Area forming part of the Provinces of KPK and Balochistan is extended till June 30, 2024.

Sales Tax

1. Amendment brought through Finance Act, 2022 to treat transmission and distribution of electricity as ‘goods’ reverted in line with the recent consensus amongst the federation and provinces for taxing the same as a service.

2. Retailers of jewelry items and other retailers qualifying as Tier-1 retailers presently on the basis of shop’s area, brought out of the scope of Tier-1 retailers.

3. Zero rating facility extended to supply chain in relation to Reko Diq Project and local supplies of commodities to registered exporters under the Export Facilitation Scheme.

4. Exemption withdrawn on various edible goods sold under brand name including Red chillies, Ginger, Turmeric, Yogurt, Butter, meat and meat offal regardless of their packaging.

5. Exemption provided on the import or supply of specified items, including contraceptives, bovine semen, saplings, combined harvesters, agricultural dryers, planters, and certain goods for software exporters.

6. Expansion in scope of existing reduced rating of 1% to medicaments falling under Chapter 30 of the Customs Act, 1969, excluding specific items, with retrospective effect from July 1, 2022.

7. Extension in sales tax exemption to FATA/PATA till June 30, 2024.

8. Increase in sales tax rate from 12% to 15% on finished articles of textile and leather supplied by the POS integrated retailers.

Customs Act, 1969

1. Municipal limits being within the territorial jurisdiction of Pakistan, assigned to customs authorities for conducting anti-smuggling operations.
2. Provincial Levies and Khasadar Force to provide assistance to customs authorities whenever requested.
3. Extension of in field exemption notifications issued on or after the first day of July, 2016, up to June 30, 2024.
4. The Director of Customs Intelligence to consult the international publications in assigning the values of goods to be imported or exported.
5. Warehousing period for perishable items to be enhanced from one month to three months.
6. Passengers travelling in groups can now file their baggage declarations through representatives.
7. Penalty imposed on failure to place documents with the consignment to be withdrawn.
8. Penalty in respect of failure to upload documents with the goods declaration is capped to upper limit of Rs. 50,000.
9. Lower limits for penalties has been prescribed to deter smuggling and evasion of duty/taxes.
10. Option for online adjudication through Customs Computerized Systems to be provided.
11. The usage spectrum of confiscated items enhanced to any item / equipment deemed useful in anti-smuggling operations.
12. Transfer of ongoing cases to different field formations to be allowed for achieving merit.
13. Classification of orders passed by the Chief Collector of Customs as appellate and quasi-judicial orders, enabling appeals before the Appellate Tribunal to make it aligned with Kyoto Convention.
14. Persons qualifying as compliant taxpayers per the FBR shall be able to self-file their goods declarations.
15. Applicability of certain notifications from the scope of advance rulings, has been excluded.
16. Exemption of CD to be provided on certain items on inputs of Holy Quran printing, Solar panel manufacturing, Diapers, sanitary napkins, adhesive tape, Organic composite solvent and thinners, Molds and dies, Mining machinery, Rice mill machinery, Machine tools, Seeds for sowing, Shrimps/prawns/juveniles for breeding and Roasted peanuts for RUSF manufacturing.
17. One additional Active Pharmaceutical Ingredient (API) and three drugs are to be included in the existing duty-free regime.

18. Customs duty withdrawn on import of IT-related equipment for exporters of IT and IT enabled Services to the extent of 1% of their export proceeds.
19. Reduction of customs duties on intermediary/industrial inputs falling under specific codes.
20. Customs duty concession provided on raw materials/inputs for capacitor manufacturers.
21. Customs duty reduced on non-localized CKD and heavy commercial vehicles from 10% to 5%.
22. As per salient features, ACD exemption to be provided on raw materials for hemodialyzer fluid/powder.
23. Exemption on import of machinery and equipment for erstwhile FATA areas extended until June 2024.
24. Customs duty concession on import of flavoring powders for snack manufacturers to be extended till June 2024.
25. Customs duty reduction on import of pet scrap for polyester filament yarn manufacturers.
26. Part V of Fifth Schedule of the Customs Act to be streamlined with the Auto Industry Development and Export Policy (AIDEP) 2021-26.
27. Enhancement of Customs duty on calcium carbides from 3% to 11% to safeguard the local industry.
28. As per salient features, Regulatory Duty (RD) to be abolished on:
    - second-hand clothing to provide relief to destitute.
    - various products including second-hand clothing, fish, tiles, sports goods.
    - IT-related equipment.
    - synthetic filament yarn of polyester.
    - parts for flat panels, monitors, projectors.
    - silicon steel sheets.
    - special steel round bars and rods.
29. As per salient features, export RD to be enhanced on molasses from 10% to 15%.
30. RD to be enhanced on articles of glass to protect local industries
31. RD on tungsten filament incandescent bulbs to be levied at 20%.
32. Introduction of new PCT codes for smart watches and wooden splint of matches.
33. As per salient features, capping of the fixed duties and taxes on the import of old and used vehicles of Asian Makes above 1300 CC, to be withdrawn.

Federal Excise Duty

1. FED levied at Rs. 2,000 per fan on energy inefficient fans and at 20% ad valorem on incandescent bulbs.

2. Fee for technical services and royalty specifically included in Schedule of dutiable services.

3. Exemption from FED on entire supply chain in relation to Reko Diq Project under the Foreign Investment (Promotion and Protection) Act, 2022.

Islamabad Capital Territory (Tax on Services) Ordinance, 2001

1. Freelance exporters of IT and IT-enabled services exempt from registration requirements, subject to their annual turnover capped at Rs. 8 million.

2. Zero rating facility for taxable services provided in relation to Reko Diq Project.

3. Services of restaurants, cafes, and similar food outlets subjected to 5% sales tax rate when payments are made through debit/credit cards, mobile wallets, or QR scanning.

4. Introduction of 15% service sales tax on “Electric Power Transmission Services”.

5. IT services and IT-enabled services again made chargeable to sales tax at reduced rate of 5% with no input admissibility.

6. Rate of sales tax on services of IT based system development consultants reduced from 16% to 15%.

Income Tax Ordinance, 2001

1. Bonus shares to be treated as income and will be subject to advance tax Sections 2(29) and 39 & 236Z]

The Bill proposes to include bonus shares issued by a company in the definition of income under section 2(29) of the Ordinance. The treatment of bonus shares as an income in the hands of shareholders has remained a disputed matter since the time of repealed Income Tax Ordinance, 1979 (the repealed Ordinance) as previously, under the repealed Ordinance, for a very brief period, bonus shares received by a shareholder of a company were treated as "income" and it was through Finance Ordinance, 2002 that these were specifically excluded from the definition of "income".

However, subsequently, through the amendments brought via Finance Act, 2014, bonus shares issued by the companies listed on stock exchange and unlisted companies were included in the definition of income and tax at the rate of 5% was levied on such income which was required to be collected by the company issuing bonus shares. This levy of tax on bonus shares was also challenged before the courts in Pakistan on the contention that the same is not in the nature of income in the hands of shareholders. The matter was, however, decided against the shareholders.

Being a disputed matter, changes were again made in the definition of income and Finance Act, 2018 excluded bonus shares from the ambit of income of a shareholder.

The Bill now proposes to include bonus shares once again in the definition of income.

Moreover, the Bill also proposes a corresponding amendment in section 39 of the Ordinance, treating the income arising to the shareholder of a company from the issuance of bonus shares as taxable under the head "income from other sources".

The Bill also proposes to insert a new section 236Z in the Ordinance which requires every company, issuing bonus shares, to withhold 10% of the bonus shares to be issued.

Bonus shares withheld shall only be issued to the shareholder if the company collects from the shareholder, tax equal to 10% of the value of the bonus shares issued to the shareholder including bonus shares withheld, determined on the basis of day end price on the first day of book closure in the case of listed company and the value as prescribed in the case of other companies.

Tax on bonus shares shall be deposited by the company issuing bonus shares within fifteen days of the closure of books. A company liable to deposit tax under this section shall be entitled to collect and recover the tax deposited from the shareholder, before the issuance of bonus shares.

Under the newly proposed section 236Z, the Company depositing tax on behalf of the shareholder has been given an option to proceed with the disposal of bonus shares to the extent it has paid tax on behalf of the shareholder, where the shareholder neither makes payment of tax to the company nor collects the bonus shares, within 15 days of the date of issuance of bonus shares.

Issuance of bonus shares shall be deemed to be the income of the shareholder and the tax collected by a company under this section or proceeds of the bonus shares disposed of and paid under this section shall be treated have been paid on behalf of the shareholder. Tax paid under this section would be treated as final tax on the income of the shareholder of the company arising from issuing of bonus shares.

2. Permanent Establishment [Section 2(41)]

Fixed place of business

A permanent establishment (PE) is an international tax concept, which means a non-resident entity could be subject to tax in foreign countries where they conduct business.

There are a few common types of PEs, including fixed places of business. The criteria for a PE are the following:

- A place of business has been established in a foreign country.
- The place of business is **"fixed"** or permanent.
- The business is wholly or partly operated through that fixed establishment

A fixed place of business is the most common type of PE. This means having a physical business presence in a foreign country.

In line with the OECD model convention, the term PE is defined under the Ordinance to mean as a fixed place of business through which the business of a person is wholly or partly carried on.

The Bill now proposes to omit the word "fixed" from the definition of PE. The proposed change appears to broaden the scope of the definition, recognizing the digitalization of the global economy which makes it easier for a foreign business to sell goods or services into a jurisdiction without a physical presence.

As a consequence of omission of the word "fixed", foreign businesses could be considered as having a permanent establishment in Pakistan even without having a physical presence where they are considered to have a place of business (not necessarily physical) through which they are carrying on business wholly or partly.

However, it is pertinent to note that the concept of PE in international tax treaties remains largely tied to concepts of physical presence or a fixed place of business. Accordingly, relying on section 107 of the Ordinance, the definition of the term PE as provided under the double tax treaty, as agreed between any contracting state (country) with Pakistan, shall prevail over the amended definition of the Ordinance.

Furnishing of services through an entity

Employer of record arrangements enable companies to outsource employment responsibilities such as payroll, benefits, and compliance to a third-party organization, while maintaining control over their workforce. Employer of record act as the legal employer of the workers, but day-to-day work is managed by the contracting company. Such arrangements are usually adopted by the foreign companies to avoid the risk of creation of permanent establishment in another country. In the recent past there have been conflicting decisions of the overseas courts with respect to treatment of such arrangements to be considered as having a PE in other country.

The Finance Bill now proposes to amend the definition which seeks to treat the furnishing of services including consultancy services, by any person through another entity engaged by the person for such purpose as creating a PE of the non-resident person in Pakistan. By virtue of this amendment any such arrangement where an entity is furnishing services on behalf of the non-resident person including acting as employer of record will be considered as creating a PE of the non-resident person in Pakistan.

3. Small and medium enterprise [Section 2(59A)]

Under the existing law, small and medium enterprise (SMEs) means a person who is engaged in manufacturing as defined in clause (iv) of the section 153(7) of the Ordinance and whose business turnover does not exceed Rs 250 million.

The Bill enhances the turnover limit from Rs 250 million to Rs 800 million.

The proposed amendment intends to align the definition under the Ordinance with the definition of Medium Enterprise given by the State Bank of Pakistan.

Further, Bill now proposes to cover persons providing or rendering IT services or IT enabled services as defined in clauses (30AD) and (30AE) of section 2 under definition of SMEs, thereby extending tax incentives available to SMEs to IT sector.

4. Discharge of Super Tax through Advance Tax [Section 4C(5A) & 147(4), (4AA), (4B)]

The current provisions of section 147, requiring payment of quarterly advance tax, does not cover the amount of super tax levied under section 4C of the Ordinance.

The Bill proposes to amend section 147 of the Ordinance which seeks to treat the provisions of section 147 of the Ordinance related to discharge of advance tax as applicable on super tax payable under section 4C of the Ordinance.

The manner in which section 147 is proposed to be amended, it seems that the legislature is of the view that super tax payable under section 4C was always covered under the quarterly advance tax payment mechanism as envisaged under section 147 of the Ordinance. However, such interpretation may be challenged by the taxpayers where confronted by the tax authorities in respect of tax year 2022.

5. Exemption under Foreign Investment (Promotion and Protection) Act, 2022 (XXXV of 2022) [Section 44A]

Federal Government promulgated Foreign Investment (Promotion and Protection) Act, 2022 (the Act) on December 13, 2022 providing incentives and tax reliefs for qualified investment as notified through the First Schedule to the Act.

Currently *qualified investment* under the Act covers the Reko Diq project in province of Balochistan, which includes all work done by Reko Diq Mining Company (Private) Limited and its associated companies since its date of incorporation as well as Reko Diq Phase 1, Reko Diq Phase 2 and all subsequent phases. The Act also required to propose amendments in tax laws for providing tax incentives.

In order to incentivize the Foreign investment, as envisaged under the above mentioned Act, the Bill proposes exemption of taxes on income (including capital gains), withholding taxes, minimum and final taxes under

the Ordinance to the extent provided in Second and Third Schedule to the Act in respect of *qualified investment*.
All investors and shareholders of the *qualified investment*, their associates and companies specified in Second and Third Schedule including third party lenders on account of any loan shall also be exempt from taxes and other provisions of the Ordinance to the extent provided in Second and Third Schedule to the said Act.

It is proposed that the provisions of the Ordinance relating to Anti-Avoidance to the extent specified in the said Act including sections 106, 106A, 108, 109 and 109A of the Ordinance shall not apply to the persons making qualified investments as explained above.

The Bill further proposes that the rates of depreciation, initial allowance and pre-commencement expenditure under sections 22, 23 and 25 of the Ordinance as applicable on March 20, 2022 shall continue to be applicable for 30 years as provided in the Third Schedule to the said Act in respect of persons qualifying for the exemption under this section.

Exemption proposed, is apparently targeted towards Reko Diq Mining Company (Private) Limited, a company having 50% ownership of a foreign company, and applicable retrospectively from the date of its incorporation. This project is expected to create a large number of jobs in Balochistan in the coming years.

6. Tax Credit on Construction of New Houses [Section 65I]

In order to incentivize the construction activities in the country, which is considered as a single largest source of creating jobs, the Bill proposes to introduce a new section, whereby an individual taxpayer would be able to claim a tax credit, against his tax liability, equal to lower of 10% of the tax assessed for the tax year or Rs 1 Million in respect of construction of a new house.

Tax credit is subject to the condition that construction is completed during the said tax year and completion certificate is furnished at the time of filing of return of income.

New house means a residential house, layout plan of which is approved by the concerned authority on or after July 1, 2023.

As per plain reading of the newly introduced section, it appears that tax credit cannot be claimed against those houses which are currently under construction and whose layout plan has already been approved by the concerned authority. Here questions would arise that whether taxpayer would be required to maintain relevant documentary evidence related to the construction of a new house and to what extent the same shall be accepted by the tax authority, considering the fact Pakistan is cash based economy where there is no trend and culture amongst individuals to maintain such documents.

Obtaining the completion certificate may also create challenges considering the prevalent practices.

7. Associates [Section 85]

The Bill proposes to enhance the scope of definition of Associates.

Sufficient Influence

The Bill proposes that two persons will now be treated as Associated for the purpose of Ordinance, where one person sufficiently influences, either alone or together with an associate or associates, the other person.

It is explained that two persons shall be treated as sufficiently influencing each other, where one or both persons, directly or indirectly, are economically and financially dependent on each other and, decisions are made in accordance with the directions, instructions or wishes of each other for common economic goal.

"Sufficient influence" as introduced by the Bill appears to be a lower threshold than control. This is a major change which, in addition to the existing criteria for persons to be treated as Associates, would also cover entities who are economically and financially dependent on each other, even when there is no control through shareholding or voting rights.

In this respect, sufficient influence can be exercised by parties acting as equals where they are acting "in accordance with the direction, instructions and wishes of each other" and is not limited to a unidirectional analysis of control.

While companies with the same boards of directors will not automatically be associates of each other, as a consequence of this amendment; however, the relationship between companies and their behaviour needs to be considered to determine if otherwise independent parties have sufficient influence over one another. There are likely to be a number of commonplace commercial dealings that now have the increased potential of creating an associate relationship between entities.

Moreover, this amendment will have implications over thin capitalisation rules (sections 106 and 106A), employee share scheme provisions (section 14), certain targeted anti-avoidance rules (section 108).

Invoking these provisions in absence of precedents, is likely to result in disputes. Proper explanation and criteria are, therefore, to be introduced through detailed regulations to avoid any litigations.

Jurisdiction with zero tax regime

The Bill further extend the definition of Associate by proposing that two person shall be treated as associated where one person enters into a transaction, directly or indirectly, with the other who is a resident of jurisdiction with zero taxation regime.

It is clarified that jurisdiction with zero taxation regime means jurisdiction as may be prescribed. This amendment appears to be in the context of transfer pricing between associates, consequently requiring the dealings to be at arm's length where a transactions being entered into with a person who is resident of a jurisdiction having zero tax regime.

8. Additional tax on certain income, profits and gains [Section 99D]

The Bill proposes to insert a new section 99D "Additional tax on certain income, profits or gains". by virtue of which, for any of the preceding five tax years from tax year 2023 and onwards, in addition to any tax charged, paid or payable under any of the provision of the Ordinance, an additional tax shall be imposed on every person who has any income, profit or gains that have arisen to any person or class of persons due to any economic factor or factors that resulted in unexpected income, profits or gains whether or not disclosed in the financial statements.

Federal Government through a notification in official gazette may notify the following:

- Determine the economic factor which would lead to unexpected gain or profits but not limited to international price fluctuation having bearing on any commodity price in Pakistan or any sector of the economy or difference in income, profit or gains on account of foreign currency fluctuation;

- Provide the rate not exceeding 50% of such income, profits or gains (clarification is required);
- Scope, time, and payment of tax payable;
- Exempt any person/income or classes of person/income from additional tax.

The proposed section, besides enabling the government to levy such tax, does not provide any specific details as to levy of such tax. Further, the time limit of preceding five tax years is also ambiguous and should be clarified when a notification is issued for matters discussed above. If the intention is to levy such additional tax retrospectively then the law should clearly provide for that.

This section is an enabling provision providing the legislature the power to levy and collect additional taxes from such sectors of economy which have benefited in the form of income in the past few years or may benefit in the future due to any economic factor. It is a known fact that certain sectors have benefited disproportionally in the recent past due to high volatility in the currency market which resulted in loss to other sectors in the economy triggering the record inflation which resulted in high interest rates by the central bank.

9. Unexplained income or assets [Section 111]

Currently, tax authorities cannot raise queries under section 111 as to the source of income from a person in respect of an amount of foreign exchange remitted from outside Pakistan through normal banking channels not exceeding Rs. 5 million in a tax year that is encashed into rupees by a scheduled bank and a certificate from such bank is produced.

The Bill proposes to enhance the limit from Rs. 5 million to USD 100,000. Prior to Finance Act 2019, the limit was Rs. 10 million and prior to that there was no limit on account of foreign exchange remitted from outside Pakistan.

Considering the abysmal state of US Dollars reserves available with the central bank, this amendment is apparently introduced to encourage the inflow of foreign currency into Pakistan.

However, this policy may once again promote money laundering and inflow of untaxed money from unknown sources. This may also create problem for the Government in terms of compliance to FATF framework.

10. Explanation on adjustment of Minimum Tax [Section 113 (2(C))]

The Bill proposes to insert an explanation, clarifying that the unadjusted Minimum tax paid shall be carried forward to subsequent tax years and shall only be adjusted against the Normal Tax Liability payable under Division I or Division II of Part I (providing tax rates for individuals, AOPs and Companies) of the First Schedule to the Ordinance.

The above explanation seeks to remove the ambiguity and practice followed by the taxpayers, whereby unadjusted minimum tax of prior tax years was adjusted against minimum tax liability under section 113 of future tax years.

11. Recovery of liability outstanding under other laws [Section 146D]

The Bill propose to insert a new section for the purpose of initiating a recovery by the Commissioner Inland Revenue from any defaulter in respect of outstanding liability payable under any other statute or law for the time being in force.

Section provides that where any outstanding liability in or under any other statute or law for the time being in force, in respect of any defaulter is:

(a) treated as Income Tax arrears in that law;

(b) required to be recovered or collected by Commissioner (Inland Revenue); or

(c) is referred to Commissioner (Inland Revenue) for the recovery –

The Commissioner (Inland Revenue) shall recover the said liability and deposit the receipts in the designated account specified in that law.

These provisions are introduced for enabling the Commissioner Inland Revenue to recover outstanding non-tax revenue under any other statute or law.

12. Payment to Non-Resident [Section 152(5A)]

Current provisions require the Commissioner to issue the exemption certificate / order within 30 days of filing of application by the person who intends to make payment to a non-resident person without payment of tax. The said period of 30 days is not mandatory.

The Bill now proposes to insert two new provisos under Section 152(5A) which further explains the procedure of application of exemption certificate while making payment to non-resident.

The proposed amendment introduces a mechanism for automatic processing and issuance of exemption certificates by IRIS, where no action is taken by the concerned Commissioner after the lapse of 30 days of filing of application by the taxpayer. It is also proposed that the Commissioner may modify or cancel such certificate of exemption as issued by IRIS on the basis of reasons to be recorded in writing after providing an opportunity of hearing.

This automatic issuance of certificate by IRIS is a step forward for digitization of standard procedures to facilitate the taxpayers for the very purpose of payments to non-resident persons without deduction of taxes. This would be also a source of big relief to the payers and the non-residents as currently in majority of the cases the Commissioners take months to either accept or reject the application.

13. Exports [Section 154(3B)]

The Bill proposes to include exporters duly covered under Export Facilitation Scheme, 2021 under Section 154A for the purpose of tax deduction at source whilst making payment to an indirect exporter.

FBR issued the SRO-957(1)/2021 on 9th July 2021 to announce the Export Facilitation Scheme-2021 [EFS 2021] for exporters, manufacturers-cum-exporters, common export houses, commercial exporters and international toll manufacturers along with pronouncement that all existing old schemes shall be phased out in next two years since then.

The proposed amendment seems to cover such categories of exporters as defined under the EFS 2021 in addition to those categories covered under Duty and Tax Remission for Exports Rules, 2001 for the purpose of tax deduction at source against payments to indirect exporters.

14. Export of Services [Section 154A (2) (c)]

Currently, in order to avail final tax regime on account of tax deduction under section 154A, every exporter involved in exports of computer software or IT services or IT enabled services, where the exporter is registered with and duly certified by the Pakistan Software Export Board (PSEB), is required to file the Sales Tax Returns with the Federal and Provincial tax authorities respectively.

The Bill seeks to insert new proviso in sub clause (c) of sub Section 2 of Section 154A, which proposes to waive off the condition of filing of Sales Tax Return for the exporters of computer software or IT services or IT enabled services. The tax deducted under Section 154A(1) is proposed to be remain final tax despite the fact that such exporters have not filed their sales tax returns with respective authorities.

15. Payment of tax collected or deducted by SWAPS agents [Section 164A]

Section 164A provides Synchronized Withholding Administration and Payment System (SWAPS) of tax collected or deducted for payment through digital mode. Under this system the Board will notify withholding agents to act as SWAPS agents and make payment of tax collected or deducted through digital mode and issue SWAPS Payment Receipt (SPR) against the tax deposited by them, within the time and manner as notified. However, this system is not notified through any SRO, Notification or Rules etc. till date.

The Bill proposes to change the title of the Section 164A. Earlier this Section was titled as “Payment of tax collected or deducted by SWAPS agents”. The Bills has proposed to change its title to “Settlement of transactions liable to Withholding Tax by SWAPS agents”. There is a likelihood that FBR may notify this system soon to take step forward towards digitization.

16. International Centre of Tax Excellence [Section 230J]

The Bill proposes to insert a new Section 230J to establish an Institute which would be known as International Centre of Tax Excellence. With this proposition FBR intends to develop following functions at national and international level which are as follows:

- development of tax policy.
- preparation of model national tax policy.
- delivering of interdisciplinary research in tax administration and policy.
- international tax cooperation.
- revenue forecasting.
- conducting international seminars, workshops and conferences on the current issues faced by tax
- authorities in the field of international taxation.
- capacity building of Inland Revenue Officers,
- tax analysis,

- improve the design and delivery of tax administration for maximising revenue and
- any other functions as directed by the Board or the Federal Government.

The proposed institute would be a composition of Nominating Committee and Executive Committee. Nominating Committee would be comprising of Federal Minister in Charge, Secretary Revenue Division and Secretary Finance whereas, the Executive Committee includes Chairman FBR, Member (IR-Policy), Member (IR- Operations) and two independent members appointed by the Federal Government.

The procedures of recruitment, remuneration and such other procedures may be prescribed through rules for special purposes and this information will be kept confidential under Section 216(7).

17. Advance Tax on Cash Withdrawal [Section 231AB]

The Bill proposes to introduce new section 231AB for collection of adjustable advance tax by every banking company at the rate of 0.6% on total amount of cash withdrawals exceeding Rs 50,000 in a single day by a person not appearing on the Active Taxpayer's List [ATL] issued from time to time by the Board.

This proposed amendment is restoration of earlier omitted section 231A of the Ordinance which was aimed to assist the government to broaden the tax base and documentation of the economy based on filer and non-filer status of the countrymen. Previously, such provisions did not provide expected outcome and as per some reports it promoted cash economy.

It also appears that the person whose income is exempt from tax or not liable to tax would also become subject to this sort of advance tax collection on its cash withdrawals, because the proposed amendment does not exclude such cases.

18. Advance Tax on Foreign Domestic Workers [Section 231C]

The Bill proposes to insert a new Section 231C to collect an adjustable advance tax of Rs. 200,000 from the agency, sponsor or from a person engaging services of a foreign national in Pakistan.

This proposed advance tax is required to be collected at the time of renewal of domestic aide visa to any foreign national working in Pakistan. The responsibility of collection and deduction of this advance tax lies with the Authority issuing or renewing the visa. The proposed tax under this Section 231C would be collected from the agency, sponsor or from any person who engages services of a foreign national in Pakistan and is adjustable from the liability of that person for the relevant tax year.

19. Advance tax on purchase or transfer of immovable property [Section 236K]

Section 236K provides collection advance tax deduction on account of purchase or transfer of immoveable property in Pakistan. Currently, a proviso to Sub Section (2) of Section 236K treats the advance tax deducted as final withholding tax for the non-resident individual holding a Pakistan Origin Card (POC) or National ID Card for Overseas Pakistanis (NICOP) or

Computerized National ID Card (CNIC) who has acquired the said immovable property through a Foreign Currency Value Account (FCVA) or NRP Rupee Value Account (NRVA) maintained with authorized banks in Pakistan under the foreign exchange regulations issued by the State Bank of Pakistan.

The Bill now proposes to exclude such non-residents from withholding tax on purchase or transfer of immoveable property in Pakistan and accordingly above referred proviso as to treating tax withholding as final tax for such persons is also proposed to be omitted.

The First Schedule

Rates of Tax

Part I

Division IIB

The proposed amendment seeks to increase super tax rates for the income, earned by high earning persons, exceeding 350 million rupees as per the following table for tax year 2023 and onwards:

<table>
<tr><th rowspan="2">S. No.</th><th rowspan="2">Income under section 4C</th><th colspan="2">Rate of tax</th></tr>
<tr><th>For tax year 2022</th><th>For Tax year 2023 and Onwards</th></tr>
<tr><td>1</td><td>Where income does not exceed Rs. 150 million</td><td>0% of the Income</td><td>0% of the Income</td></tr>
<tr><td>2</td><td>Where income exceeds Rs. 150 million but does not exceed Rs. 200 million</td><td>1% of the income</td><td>1% of the Income</td></tr>
<tr><td>3</td><td>Where income exceeds Rs. 200 million but does not exceed Rs. 250 million</td><td>2% of the income</td><td>2% of the Income</td></tr>
<tr><td>4</td><td>Where income exceeds Rs. 250 million but does not exceed Rs. 300 million</td><td>3% of the income</td><td>3% of the Income</td></tr>
<tr><td>5</td><td>Where income exceeds Rs. 300 million but does not exceeds 350 million</td><td rowspan="4">4% of the income</td><td>4% of the Income</td></tr>
<tr><td>6</td><td>Where income exceeds Rs. 350 million but does not exceeds 400 million</td><td>6% of the Income</td></tr>
<tr><td>7</td><td>Where income exceeds Rs. 400 million but does not exceeds 500 million</td><td>8% of the Income</td></tr>
<tr><td>8</td><td>Where income exceeds Rs. 500 million</td><td>10% of the Income</td></tr>
</table>

Division IX

Tax under section 113

The Bill proposes to reduce the rate of turnover tax from 1.25% to 1% for a company listed on Pakistan Stock Exchange other than the companies or sectors specified under serial no. 1 to 3 as follows:

<table>
<tr><th rowspan="2">S. No.</th><th rowspan="2">Income Slabs</th><th>Existing</th><th>Proposed</th></tr>
<tr><th>Rate of Tax</th><th>Rate of Tax</th></tr>
<tr><td>1</td><td>(a) Sui Southern Gas Company Limited and Sui Northern Gas Pipelines Limited (for the cases where annual turnover exceeds rupees one billion.)

(b) Pakistan International Airlines Corporation; and

(c) Poultry industry including poultry breeding, broiler production, egg production and poultry feed production;</td><td>0.75%</td><td>0.75%</td></tr>
<tr><td>2</td><td>(a) Oil refineries

(b) Motorcycle dealers registered under the Sales Tax Act, 1990

(c) Oil marketing companies</td><td>0.50%</td><td>0.50%</td></tr>
<tr><td>3</td><td>(a) Distributors of pharmaceutical products, fast moving consumer goods and cigarettes;

(b) Petroleum agents and distributors who are registered under the Sales Tax Act, 1990;

(c) Rice mills and dealers;

(d) Tier-1 retailers of fast moving consumer goods who are integrated with Board or its computerized system for real time reporting of sales and receipts;

(e) Person’s turnover from supplies through e-commerce including from running an online marketplace as defined in clause (38B) of section 2.

(f) Persons engaged in the sale and purchase of used vehicles; and

(g) Flour mills</td><td>0.25%</td><td>0.25%</td></tr>
<tr><td>4</td><td>Company listed on Pakistan Stock Exchange, if not covered in S. No.1 to 3 above</td><td rowspan="2">1.25%</td><td>1%</td></tr>
<tr><td>5</td><td>In all other cases.</td><td>1.25%</td></tr>
</table>

Rates of Advance Tax
[Division II of Part II of First Schedule]

The proposed amendment seeks to enhance the rate of advance tax to be collected under section 148 of the Ordinance from 5.5% to 6% for commercial importers importing goods classified in Part III of the Twelfth Schedule.

Payments to Non-residents
[Division II of Part III of First Schedule]

The Bill proposes to increase the withholding tax rate on payments to a permanent establishment in Pakistan of a non-resident person as follows:

	Company		Other Than Company	
	Existing	**Proposed**	**Existing**	**Proposed**
Sale of Goods	4%	5%	4.5%	5.5%
Providing of Specified Services	3%	4%	3%	4%
Providing services other than specified services	8%	9%	10%	11%
Execution of contracts other than contracts for sale of goods or provision of services	7%	8%	7%	8%

Payment for Goods, Services and Execution of Contracts to Resident Persons
[Division III of Part III of First Schedule]

The Bill proposes to increase the withholding tax rate on payments for goods, services and execution of contracts to resident persons as follows:

	Company		Other Than Company	
	Existing	**Proposed**	**Existing**	**Proposed**
Sale of Goods	4%	5%	4.5%	5.5%
Providing of Specified Services	3%	4%	3%	4%
Providing services other than specified services	8%	9%	10%	11%
Execution of contracts other than contracts for sale of goods or provision of services	7%	8%	7%	8%

Note: No change has been proposed in withholding tax rate in respect of payments to electronic and print media for advertising services which is currently 1.5% of the gross amount payable.

Export of Services
[Division IVA of Part III of First Schedule]

Currently, exports proceed of IT sector are subject to tax deduction at 0.25% without stating any time limit. The Bill proposes to fix the withholding tax rate of 0.25% for tax years 2024 to 2026 applicable on export proceeds of Computer software or IT services or IT Enabled services by persons registered with Pakistan Software Export Board.

Advance Tax on Persons remitting amounts abroad through credit, debit or prepaid cards
[Division XXVII of Part IV of First Schedule]

The Bill proposes to increase the advance withholding tax from 1% to 5% on amounts remitted abroad through credit, debit or prepaid cards.

The Second Schedule

Part I

Insertion of new entities in Clause (66)
[Clause (66)]

The Bill proposes to exempt income earned by following entities:

S.No	Name
(lxiii)	The Prime Minister's Relief Fund for Flood, Earthquake and Other Calamities with effect on and from the 5th August, 2022.
(lxiv)	Film and Drama Finance Fund.
(lxv)	Export-Import Bank of Pakistan.
(lxvi)	Shaheed Mohtarma Benazir Bhutto Institute of Trauma, Karachi.
(lxvii)	Shaheed Zulfikar Ali Bhutto Institute of Science and Technology.

Extension in exemption period for REIT
[Clause (99A)]

The Bill proposes to extend the exemption on Profits and gains accruing to a person on the sale of immoveable property or shares of Special Purpose Vehicle to any type of REIT scheme from June 30, 2023 to June 30, 2024.

Extension in exemption for residents of Tribal Areas
[Clause (145A)]

The Bill proposes to extend time limit for the exemption on any income which was not chargeable to tax prior to the commencement of the Constitution (Twenty-fifth Amendment) Act, 2018 of any individual domiciled or Company and Association of Persons resident in the Tribal Area forming part of the Provinces of Khyber Pakhtunkhwa and Baluchistan under paragraph (d) of Article 246 of the Constitution with effect from the 1st day of June, 2018.

Presently, this exemption is upto June 30, 2023, which is proposed to be extended upto June 30, 2024.

Exemption to entities working on ERRA contracts [Clause (150)]

Presently, income of "Siyahkalem Engineering Construction Industry" and "Trade Company Limited" derived from contract dated May 23, 2017 with Earthquake Reconstruction and Rehabilitation Authority, financed by the Saudi Fund for Development is exempt with effect from tax year 2017.

The Bill proposes to extend this exemption to "Alteraz Engineering Consultant".

Insertion of new Clause for promotion of Agro based industry in rural area [Clause (154)]

The Bill proposes to exempt Profits and gains of a small and medium enterprise setup exclusively as agro based industry in a rural area duly notified for a period of five tax years commencing from tax year 2024 and up to tax year 2028.

Exemption is applicable if such enterprise is setup on or after July 1, 2023 and is not formed by the transfer or reconstruction or splitting up of an existing business.

This targeted exemption is introduced to encourage creation of employment and business opportunities in such rural areas.

Part III

Reduction in income tax payable for Builders [Clause 21]

In order to incentivize new construction projects, tax relief is proposed to be given to builders registered with Directorate General of Designated Non-Financial Business and Professions.

The Bill proposes that the tax payable for the Tax Years 2024 till 2026 on profits and gains derived from business chargeable to tax under the head "Income from Business" by a builder for new building construction projects excluding a land development projects, whose layout plan are approved by the authority concerned on or after the 1st day of July, 2023, shall be reduced by the lower of:

- 10%, or
- Rs. 5 million;

However, the reduced amount of tax calculated as above shall not be reduced below zero.

To avail such reduction, the builder will be required to furnish the completion certificate issued by the concerned regulatory authority alongwith return of income.

Part IV

[Clause (11A)]

The Bill seeks to include the "The Prime Minister's Relief Fund for Flood, Earthquake and other Calamities" in the list of entities which are not subject to minimum tax under section 113, with effect from the 5th August, 2022.

[Clause (121) and (122)]

Through the SRO 1590(I)/2022 dated August 23, 2022, new Clauses (121) and (122) were inserted, wherein an exemption from the applicability of tax withholding under sections 151 and 236 respectively, was provided to the Prime Minister's Flood Relief Fund, 2022 with effect from 5th August 2022.

Through the proposed Bill the above clauses are proposed to be amended to provide exclusion to the Fund, whose name was changed from "Prime Minister's Flood Relief Fund, 2022" to "Prime Minister's Relief Fund for Flood Earthquake and other calamities".

The Fourth Schedule

Application of section 99D on Insurance Companies
[Clause 6DB]

The Bill proposes that the proposed section 99D of the Ordinance, introduced for levying additional tax on certain income, profits and gains, shall also apply to Insurance business falling under the ambit of the Fourth Schedule of Ordinance.

The Fifth Schedule

Application of section 99D on Companies engaged in Exploration and Production of Petroleum
[Clause 4AC]

The Bill proposes that the proposed section 99D of the Ordinance, introduced for levying additional tax on certain income, profits and gains, shall also apply to entities involved in exploration and production of petroleum falling under the ambit of the Fifth Schedule of Ordinance.

The Seventh Schedule

Streamlining of technical mistake for super tax regime

[Rule 7CA]

The Finance Act, 2022 introduced section 4C, through which super tax was imposed on high earning persons from tax year 2022 onwards and the same was also imposed on Banking Companies through insertion of Rule 7CA in Seventh Schedule to the Ordinance.

However, Banking Companies, were exempted from Super Tax for the tax year 2022 under the proviso to section 4C(1) of the Ordinance but due to a technical mistake, the rule 7CA of the Seventh Schedule to the Ordinance provided that Super Tax was effective from tax year 2022 onwards.

The Bill proposes to streamline the provisions of section 4C of the Ordinance with rule 7CA of the Seventh Schedule, by amending effective date for applicability of super tax under section 4C on banking sector from tax year 2023 and onwards.

Tax on unexpected incomes, gains and profits on Banking Companies [Rule 7CB]

The Bill proposes that the proposed section 99D of the Ordinance, introduced for levying additional tax on certain income, profits and gains, shall also apply to banking companies falling under the ambit of Seventh Schedule of the Ordinance.

Extension in period of relief for Banking Companies [Rule 7D, 7E and 7F]

The Finance Supplementary (Second Amendment) Act, 2019 introduced reduced rates of tax on the following incomes arising to Banking Companies:

- Additional advances to micro, small and medium enterprises;
- Additional advances for low cost housing finance; and
- Additional advances for farm credit.

The above referred tax relief is currently available up to tax year 2023. The Bill proposes to extend this relief period up to tax year 2025.

Relief for Banking Companies on additional advances to IT and IT Enabled Services [Rule 7G]

The Bill proposes to introduce a new rule 7G, providing for the reduced rate of tax of 20% in respect of taxable income arising in the hands of banking companies from additional advances for IT Services and IT Enabled Services, for the tax years 2024 to 2025, subject to the procedures and guidance as provided in the rule.

It is proposed that the reduced rate shall be applicable on Banking Companies, subject to the condition of furnishing certificate from external auditor along with accounts while e-filing return of income. The said certificate should certify:

- the amount of such advances made in the preceding tax year;
- additional advance made for the tax year; and
- net mark-up earned from such additional advances for the tax year.

For the purposes of rule 7G “IT and IT Enabled Services” shall have the same meaning as provided in section 2 of this Ordinance.

"Additional advances" means any average advances disbursed in addition to average amount of such advances made in such sector by the bank for the immediately preceding tax year starting from 2023.

Through the proposed insertion, taxable income arising from additional advances shall be determined according to the below formula:

Taxable income subject to reduced rate of tax = A x B/C
Where:

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

Relief for approved non-resident banking companies on investment in Federal Government sovereign debt instrument
[Rule 8(4)]

The Bill proposes to introduce a new through which approved non-resident banking companies shall be provided exemption from tax on profit on debt or capital gains earned from the Federal Government's sovereign debt or a sovereign debt instrument.

Relief for Banking Companies on Investment in Federal Government Securities
[Rule 8(5)]

The Finance Act, 2021 introduced a new sub-rule (6A) through which the Banking Companies were required to pay enhanced tax rates upto 55% on taxable income derived from investment in the Federal Government Securities. Through the SRO 226 (1)/2023 dated February 27, 2023 applicability of enhanced tax rates on such income was withdrawn for tax year 2024 by inserting rule 8(5).

The Bill proposes to incorporate the said relief, as provided under the SRO, by inserting rule 8(5).

The Eight Schedule

NCCPL shall compute and collect Super Tax
[Rule 4A]

Through Finance Act 2012, Rules related to computation of Capital gain on listed securities was introduced in the Eighth Schedule to the Ordinance and responsibility to compute and collection of tax was delegated to the NCCPL.

Since then, any capital gain or loss arising to persons through disposal of listed securities which is subject to tax under section 37A and to which section 100B apply, shall be computed and determined in accordance with provision of Eighth Schedule to the Ordinance and tax thereon shall be collected and deposited on behalf of a person by NCCPL.

The amount collected by NCCPL on behalf of the taxpayer is to be deposited on yearly basis by July 31st next following the financial year in which amount was collected.

As per existing provisions of the Ordinance, super tax liability, if any, arising from capital gain would be discharged by the person at the time of filing of return of income.

The Bill proposes to extend the scope of NCCPL to include computation of super tax payable under section 4C of the Ordinance on the amount of capital gain derived from the disposal of listed shares. The taxpayer would however may be required to re-compute its super tax liability under section 4C of the Ordinance at the time of filing of return of income after taking into consideration income from all sources in the manner prescribed under section 4C of the Ordinance.

Subsequent to the said proposed amendments, a dispute may arise in case NCCPL compute and collect super tax on those capital gains which are exempted under the Ordinance (securities acquired prior to July 1, 2013) or subject to zero rate, as there are views among tax advisors that no super tax is payable on such securities.

Therefore, a clarification should be issued by the Board to resolve any dispute and unnecessary litigations.

The Thirteenth Schedule

Section 61 of the Ordinance provides for tax credit to a person in respect of any sum paid or property given by the person as donation, voluntary contribution or subscription to non-profit organizations and funds as listed in the Thirteenth Schedule to the Ordinance, which was inserted vide Finance Act, 2021.

The Bill proposes to amend S. No. 64 of the Table in the Thirteenth Schedule to give effect to the change of name of “Prime Minister’s Flood Relief Fund, 2022” to “Prime Minister’s Relief Fund for Flood Earthquake and other calamities”.

The Bill also proposes to insert the name of ‘Film and Drama Finance Fund’ at S. No. 65 in the aforementioned Table.

The Fourteenth Schedule

Rules for computation of Profit and Gains for Small and Medium Enterprises (SMEs)

The Finance Bill proposes to introduce following amendments to the Schedule:

Registration: Small and medium enterprise shall be required to register with FBR on its IRIS web portal or Small and Medium Enterprises Development Authority on its SME registration portal (SMERP).

Considering the proposed amendment in the definition of SMEs to include persons engaged in IT services or IT enabled services, the rules now require that such persons shall be registered with and duly certified by the Pakistan Software Export Board, in addition to registration on SMERP.

Increase in tax rates: The Bill proposes to amend Rule 3 of the Schedule to introduce new Category-3 for SMES having turnover exceeding 250 million but not exceeding Rs 800 million. SMEs falling under such category and opting for taxation under Normal Tax Regime, will be subject to tax at 20% of the taxable income.

The Bill further proposes to amend Rule 4 of the Schedule to introduce new Category-3 for SMES having turnover exceeding 250 million but not exceeding Rs 800 million. SMEs falling under such category and opting for taxation under Final Tax Regime, will be subject to tax at 0.75% of the gross turnover.

Sales Tax Act, 1990

1. Definitions

i. Goods [Clause (12) Section 2]

Through Finance Act, 2022, the scope of the term 'goods' as defined under the above said clause of the Sales Tax Act, 1990 (ST Act) was broadened by classifying 'production, transmission and distribution of electricity' within the scope of the said term.

It is pertinent to note that recently in 2023, there has been a consensus between the provincial and federal governments regarding rules for place of provision of services in respect of certain specified services. In the light of the said rules, the transmission and distribution of electricity has been treated as a service for which the taxing rights between provinces and the federation would be in accordance with the specified rules which shall be effective from July 01, 2023. Consequent to said change, a taxable service entry is also proposed to be inserted through this Bill under serial number 60 of Table 1 of the Schedule of services provided under the ICT Ordinance, 2001 with applicable tax rate of 15%.

Consequently, the Bill proposes to restore the previous definition of the term "goods" prior to amendment made by the Finance Act of 2022, by removing the words 'production, transmission, and distribution of electricity' from the definition of 'goods'.

ii. Supply [Clause (33) Section 2]

The Bill proposes to synchronize the definition of supply by removing 'production, transmission and distribution of electricity' from the definition of supply. The proposed amendment is in line with the amendment proposed for definition of goods.

iii. Tier-1 retailer [Clause (43A) Section 2]

The Bill proposes to curtail the current list of qualification criteria for Tier-1 retailers outlined in the ST Act. By virtue of this amendment, the retailers of articles of jewelry, precious metal, or metal clad with precious metal, as well as the retailers qualifying on the basis of shop area based criteria, would be brought out of the of the scope of Tier-1 retailers provided that they are not covered for the reason of meeting any other qualification criteria specified under clause (43A) for Tier-1 retailer.

2. Directorate General of Digital Invoicing and Analysis [Section 30CA]

By substitution of Section 30CA, the Bill proposes to change the reference of Directorate General of Digital Invoicing and Analysis with the Directorate General of Digital Initiatives.

3. Offences and Penalties [Section 33]

Presently, any person who manufactures, possesses, transports, distributes, stores or sells cigarette packs with counterfeited tax stamps, banderoles, stickers, labels or barcodes or without tax stamps, banderoles, stickers, labels or barcodes is subject to certain penalties under serial number 23 of the Table provided under section 33 of the ST Act which inter alia includes confiscation of goods and monetary penalty of Rs. 25,000 or 100% of the amount of tax involved, whichever is higher.

The Bill proposes to expand the scope of such penal action by substituting "cigarette packs" with "goods specified by the Board under Section 40C".

Fifth Schedule (Zero Rated Supplies)

a) New insertion

The Bill proposes to insert the following new entry into the Fifth Schedule to provide zero rating facility on imports and supplies made to and by Reqo Diq Project:

S.No.	Description
8A	Imports or supplies made by, for or to a qualified investment as specified at Serial No.1 of the First Schedule to the Foreign Investment (Promotion and Protection) Act, 2022 for the period as specified in the Second Schedule to the said Act.

b) Scope of existing entry enhanced

(i) The Bill proposes to enhance the scope of zero rating by amending description of clause (xxv) in column 2 of serial no. 12 to bring it in line with the description of PCT Code 9017.2000 as explained below:

Existing Description	Proposed Description
Geometry Boxes (PCT heading 9017.2000)	Other drawing, marking out or mathematical calculating instruments (geometry box) (PCT heading 9017.2000)

(ii) The Bill proposes to enhance scope of zero rating for exporter registered under Export Facilitation Scheme, 2021, by adding the term "commodities" to the description in column 2 of serial no. 21 as explained below:

Existing Description	Proposed Description
Local supplies of raw materials, components, parts and plant and machinery to registered exporters authorized under Export Facilitation Scheme, 2021 notified by the Board with such conditions, limitations and restrictions as specified therein.	Local supplies of commodities, raw materials, components, parts and plant and machinery to registered exporters authorized under Export Facilitation Scheme, 2021 notified by the Board with such conditions, limitations and restrictions as specified therein.

Sixth Schedule (Exempt Goods)

Table I – Imports or Supplies

a) Omission of items currently exempt from sales tax:

The Bill proposes to omit following entries from Table I of the Sixth Schedule, which have already become redundant due to the expiration of the exemption's time limit mentioned in their description:

S.No.	Description	Tariff Heading
159	Import of auto disable Syringes till 31st December, 2021 (i) with needles (ii) without needles	9018.3110 9018.3120
160	Import of following raw materials for the manufacturers of auto disable syringes till 31st December, 2021 (i) Tubular metal needles (ii) Rubber Gaskets	9018.3200 4016.9310

b) Limitation on scope of existing exemptions:

Currently the exemption from sales tax is available to the following goods only in case where such goods are sold otherwise than in retail packing under brand name or trademarks. The Bill now proposes to withdraw exemption on following goods sold under a brand name or trademark even sold otherwise than in retail packing. The proposed revisions in the description of such entries are explained below:

Sr. No.	Existing Description	Proposed Description
16	Red chillies excluding those sold in retail packing bearing brand names and trademarks.	Red chillies excluding those sold under brand names and trademarks.
17	Ginger excluding those sold in retail packing bearing brand names and trademarks.	Ginger excluding those sold under brand names and trademarks.
18	Turmeric excluding those sold in retail packing bearing brand names and trademarks.	Turmeric excluding those sold under brand names and trademarks.

c) Scope of existing exemptions enhanced

(i) In serial no. 121 of Table-I, the Bill proposes to add an explanatory note to clarify that blood transfusion sets not packed in aluminum foil imported with blood bags CPDA-1, in corresponding quantity in same consignment are also exempt.

(ii) The Bill proposes to increase the time limit of exemption for following entries from June 30, 2023 to June 30, 2024.

- entry no. 151 which pertains to supplies and imports of plant, machinery, equipment for installation in tribal areas.

- entry no. 152 which pertains to supplies of electricity to residential and commercial consumers in tribal areas.

d) New insertion allowing exemption of sales tax

The Bill proposes to exempt sales tax on import or supply of the following items by inserting the respective new entries under Table-I of the Sixth Schedule to the ST Act:

Sr. No.	Description	Headings
175	Contraceptive and accessories thereof	3926.9020 and 4014.1000
176	Bovine semen	0511.1000
177	Saplings	Respective heading
178	Combined Harvester – Thresher	8433.5100
179	Dryer for agricultural products	8419.3400
180	No-till-direct seeder, planters, trans-planters and other planters	8432.3100 and 8432.3900
181	Import of goods as mentioned under S. No. 159 of Part III of Fifth Schedule to the Customs Act, 1969 (IV of 1969) chargeable to customs duty at the rate of zero percent, subject to the conditions, restrictions and limitations mentioned therein, by the software exporters registered with the Pakistan Software Export Board.	7471.3010, 8471.3020, 8471.3090, 8471.4110, 8471.6010, 8471.6020, 8471.6090, 8471.7040, 8471.9020, 8471.7020, 8471.5000 and 8517.6270.”.

Table II – Local supplies only

a) Limitation on scope of existing exemptions:

Presently, the exemption from sales tax is not available to following goods sold in retail packing under brand name. The Bill proposes to withdraw exemption on following goods sold under a brand name, either in retail packing or otherwise. The proposed descriptions of such entries are given below:

Sr. No.	Existing Description	Proposed Description
32	Yogurt, excluding that sold in retail packing under a brand name	Yogurt, excluding that sold under a brand name
34	Butter, excluding that sold in retail packing under a brand name	Butter, excluding that sold under a brand name
35	Desi ghee, excluding that sold in retail packing under a brand name	Desi ghee, excluding that sold under a brand name
36	Cheese, excluding that sold in retail packing under a brand name	Cheese, excluding that sold under a brand name
37	Processed cheese not grated or powdered, excluding that sold in retail packing under a brand name	Processed cheese not grated or powdered, excluding that sold under a brand name
39	Products of meat or meat offal excluding sold in retail packing under a brand name or trademark	Products of meat or meat offal excluding sold under a brand name or trademark
41	Meat of bovine animals, sheep, goat and uncooked poultry meat excluding those sold in retail packing under a brand name	Meat of bovine animals, sheep, goat and uncooked poultry meat excluding those sold under a brand name
42	Fish and crustaceans excluding those sold in retail packaging under a brand name	Fish and crustaceans excluding those sold under a brand name

Eighth Schedule (Goods subject to Specified rates)

Table – I

a) Revision in reduced sales tax rate

The Bill proposes to amend sales tax applicable on the supplies made from retail outlets which are integrated with Board's computerized system as under:

Sr. No.	Description	Heading Nos. of the First Schedule to the Customs Act, 1969 (IV of 1969)	Existing Rate	Proposed Rate
66.	Supplies as made from retail outlets as are integrated with Board's computerized system for real time reporting of sales.	Respective headings	12%	15%

b) Scope of reduced sales tax rate enhanced

The reduced rate of 1% is presently restricted to substances registered as drugs under the Drugs Act, 1976 and Active Pharmaceutical Ingredients, excluding excipients, for manufacture of drugs registered under the Drugs Act, 1976 or raw materials for the basic manufacture of pharmaceutical active ingredients. Said reduced rate of 1% is now enhanced to the medicaments classified under chapter 30 of the First Schedule to the Customs Act, 1969 with certain exceptions. It is important to note that this relief is proposed to be applied retrospectively from July 1, 2022. The tariff headings, reduced rate of sales tax, and conditions for the application of the reduced rate remain unchanged. The proposed descriptions of entry 81 and 82 are as follows:

Sr. No.	Existing Description	Proposed Description
81	Manufacture or import of substances registered as drugs under the Drugs Act, 1976 (XXXI of 1976)	Substances registered as drugs under the Drugs Act, 1976 (XXXI of 1976) and medicaments as are classifiable under chapter 30 of the First Schedule to the Customs Act, 1969 (IV of 1969) except the following, even if medicated or medicinal in nature, namely:- (a) filled infusion solution bags imported with or without infusion given sets; (b) scrubs, detergents and washing preparations; (c) soft soap or no soap;

Sr. No.	Existing Description	Proposed Description
		(d) adhesive plaster; (e) surgical tapes; (f) liquid paraffin; (g) disinfectants, and (h) cosmetics and toilet preparations. This substitution shall be deemed to have been made from the 1st day of July, 2022.
82	Active Pharmaceutical Ingredients, excluding excipients, for manufacture of drugs registered under the Drugs Act, 1976 (XXXI of 1976) or raw materials for the basic manufacture of pharmaceutical active ingredients.	Raw materials for the basic manufacture of pharmaceutical active ingredients and for manufacture of pharmaceutical products, provided that in case of import, only such raw materials shall be entitled to exemption which are liable to customs duty not exceeding eleven percent ad valorem, either under the First Schedule or Fifth Schedule to the Customs Act, 1969 (IV of 1969) or under a notification issued under section 19 thereof. This substitution shall be deemed to have been made from the 1st day of July, 2022.

Federal Excise Act, 2005

1. Duties specified in the First Schedule to be levied [Section 3]

The Bill suggests introducing a new clause (e) to sub-section (1) of section 3 of the Federal Excise Act, 2005 (FE Act), expanding the scope of ad valorem (fifteen percent) to cover any item listed in the First Schedule to the FE Act. This amendment aims to streamline the application/ chargeability of Federal Excise Duty on goods and services.

2. Appointment of Federal excise officers and delegation of powers [Section 29]

In order to regulate digitalized invoicing, the Bill proposes to introduce office of the Directorate General of Digital Initiatives, through insertion of a clause (d) in sub-section 2 of section 29 of the FE Act which shall consist of a Director General and various other officers appointed by the Board.

3. Power of Board to make rules [Section 40]

The Bill proposes to introduce a new sub-section (4) into section 40 of the Act which requires that all rules made by the Board under the Act shall be collected, arranged and published along with the general orders and departmental instructions and rulings, if any, and sold to public at reasonable price or it may be placed on the Board's official website on regular basis.

First Schedule

Table-I – Excisable Goods

The Bill proposes to insert the following new entries to Table-I of the First schedule to the FE Act:

S. No.	Description of goods	Heading/Sub Heading Number	Rate of Duty
60	Energy inefficient fans both locally manufactured and imported which do not comply with the MEPS, notified by PSQCA	Respective heading	Rs.2,000 per fan
61	Incandescent bulbs both locally manufactured and imported	8539.2200 and 8539.9010	20% ad Valorem

Table-II - Excisable Services

Although, the term 'Franchise' as defined under the FE Act already included technical fee and royalty within its scope, application of FED on royalty and technical fee under the head 'franchise' has been a debatable matter subjected to litigations. In order to overcome this ambiguity, the Bill proposes to expressly include the fee for technical services and royalty in the dutiable service heading, by substituting the existing description in entry No 11 of the Table-II in the following manner:

S. No.	Existing Description	Proposed Description
11	Franchise services	Franchise services, royalty and fee for technical services

Third Schedule

The Bill proposes to insert a new entry No. 26 to Table-I and 15 to Table-II of Third Schedule of the FE Act, 2005 to provide exemption from charging FED on entire supply chain of goods and services in relation to Reko Diq Project, presently being considered as qualified investment in Foreign Investment (Promotion and Protection) Act, 2022.

Customs Act, 1969

1. Smuggle [Section 2(s)]

At present, the definition of ‘smuggle’ includes the activity of pilferage of transit goods, but its territorial domain was not defined.

By amending the above said definition, the Bill proposes to assign the municipal limits for customs authorities for conducting anti-smuggling operations in case of pilferage of transit goods as ‘anywhere within the territorial jurisdiction of Pakistan’.

2. Customs Academy of Pakistan (CAP) [Section 3C]

The Bill proposes to amend nomenclature of section 3C of the Customs Act, 1969 to replace the existing name of Pakistan Customs Academy (PCA) with Customs Academy of Pakistan (CAP) to avoid duplication with the term Post Clearance Audit (PCA) as already stated under section 3DD of the Customs Act.

3. Assistance to the officers of customs [Section 7]

The Bill proposes to include “Provincial Levies and Khasadar Force” and its officers in the list of departments which are bound to provide assistance to officers of customs whenever requested.

4. General power to exempt from customs-duties [Section 19]

At present, the Federal Government is empowered to exempt custom duties in various specified circumstances and contingencies as mentioned in section 19(1) of the Act. The Bill proposes to extend such powers of Federal Government to the event of implementation of an agreement of the Government of Pakistan with any entity.

The Bill also proposes to extend the protection, to all in field exemption notifications issued on or after the first day of July, 2016, up to June 30, 2024.

5. Power to determine the customs value [Section 25A]

At present, Director of Customs Intelligence may incorporate values as benchmark, from internationally acclaimed publications, periodicals, bulletins or official websites of manufacturers of indenters, while assigning the values to imported or exported goods.

The Bill proposes to rephrase the expression with an intent of authorizing the Director of Customs to consult prices of goods available from the above international published sources to ensure that the Director of Customs Intelligence use such values only as a reference while apply his independent mind in assigning the values to imported or exported goods, rather to merely quote the values from above mentioned journals.

6. Declaration and assessment for home consumption or warehousing or transshipment [Section 79]

At present, the owner of imported goods is required to make entry of such goods for home consumption or warehousing or transshipment or for any other approved purposes, within ten days of their arrival.

The Bill proposes to shorten the time limit to three days for making such declaration in respect of goods imported at land customs station at border.

7. Warehousing period of the goods [Section 98(1)]

The existing sub-section (1) of Section 98 of the Customs Act provides that the perishable goods notified by the Board may remain in the warehouse for a period of one month following the date of their admission.

The Bill proposes to enhance the warehousing period for perishable items upto three months in order to facilitate their trade.

8. Declaration by passenger or crew of baggage [Section 139]

Currently, a passenger or member of the crew being owner of the baggage is required to make a verbal or written declaration of contents of baggage in the prescribed manner to the appropriate officer.

In order to facilitate passengers travelling as a group, the Bill proposes to also allow their representative to file baggage declaration on their behalf.

9. Punishment for offences. [Section 156]

i. With respect to existing penalties as enlisted in the Table 1 of section 156 of the Customs Act, 1969 the Bill proposes to introduce amendments in the following manner:

a. Penalties Relaxed:

i. At present, sub serial (i) of serial No. 1, if any person contravenes the requirement of placement of invoice and packing list inside the import consignment, such person is liable to fine from Rs. 50,000 to Rs. 500,000 and onward for every recurring violation.

   Giving consideration to the grievances of the trade, the Bill seeks to omit this penalty.

ii. Currently sub serial (iii) of Serial no. 1 of section 156 of the Customs Act provides penalty from Rs. 50,000 to Rs. 250,000 and onwards for every recurring contravention of electronically uploading mandatory documents as required under section 79 or 131 of the Customs Act, 1969.

   The Bill proposed to restrict the penalty under this offence to a maximum amount of Rs. 50,000.

b. Penalties enhanced:

At present no lower limit had been prescribed in the below-mentioned clauses for imposition of penalty. The Bill now seeks to set lower limit to make penal provision more stringent whereby penalty cannot be charged at a value less than value of the goods:

i. Smuggling of goods into or outside Pakistan is liable to penalty under Clause (b),(c),(d) and (e) of sub serial (i) of serial No. 8 up to an amount not exceeding two, three, four and five time of the value of goods respectively depending upon the value of such goods.

ii. In relation to the goods imported or exported in contravention of the restrictions imposed as per serial No. 9, the maximum penalty may be of an amount not exceeding two times the value of the goods.

a. Any person acquires possession of, or is in any way concerned in carrying, removing, depositing, harbouring, keeping or concealing, retailing, or in any manner dealing with smuggled goods or any goods in respect to which there may be reasonable suspicion that they are smuggled goods, the maximum amount of penalty is ten times of the value of goods as per sub serial (i) of serial No. 89.

b. Any person involved in evasion of duty / taxes and breach of prohibitions or restrictions as laid down in Serial No. 90 is liable to a penalty not exceeding ten times the value of the goods.

10. Power of adjudication [Section 179]

Currently, subsection (2) of section 179 provides powers to the Board to fix, vary, or transfer the jurisdiction of any Officer of Customs and assign any case irrespective of the territorial jurisdiction.

In order to reduce the clearance time and to eliminate human interaction, the Bill seeks to provide an option to the importer / exporter of the goods to opt for adjudication through the customs computerized system.

11. Vesting of confiscated property in the Federal Government [Section 182]

At present, Federal Government is empowered to authorize the use of confiscated vehicles for operational purposes by the Board or; to its sub-ordinated officers.

The Bill proposes to enhance the scope of such confiscated properties by including therein confiscated conveyance or any other equipment.

12. Transfer of cases [Section 185D]

The Bill proposes to facilitate ongoing investigation of criminal cases through transfer thereof from one field formation to other, as per need regardless of their stage of investigation.

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

At present, certain orders are prescribed under section 194A of the Customs Act against which appeal before Appellate Tribunal can be filed.

The Bill proposes to add one more classification of order being an appellate order or a quasi-judicial order passed by the Chief Collector of Customs against which appeal before Appellate Tribunal can be filed however, subject to the condition that such appeal shall be heard by a special bench consisting of one technical member and one judicial member.

As per notes to the clauses published by the Federal Government, said provision is being introduced to keep the respective provisions of the Customs Act streamlined with Chapter 10 of the revised Kyoto Convention of World Customs Organization.

14. Person to produce authority if required [Section 208]

At present, customs agents holding customs license are mainly allowed to transact business on behalf of importers including filing of Goods Declarations (GDs) while importers are also allowed to do so by themselves.

The Bill proposes to introduce proviso in the above section that Federal Board of Revenue may issue rules in respect of eligibility of a person for self-filing of GDs by importers in line with the provisions of registered users specified in section 155C of the Customs Act.

15. Advance Ruling [Section 212B]

At present advance ruling can be sought in respect of following questions of law;

(i) classification of goods under the First Schedule to this Act;

(ii) determination of origin of the goods under the rules of origin notified for bilateral and multilateral agreements;

(iii) applicability of notifications issued in respect of duties under this Act or any tax or duty chargeable under any of the law for the time being in force in the same manner as duty of customs leviable under Customs Act; or

(iv) any other matter as the Board may specify by notification in the official Gazette

The Bill proposes to close the door for obtaining advance ruling in respect of applicability of notifications mentioned in (iii) above through omission of the same, on the premise that interpretation of any statute concerning leviability in respect of ongoing transactions which otherwise lies in the domain of FBR, falls outside the purview of Advance Ruling.

Islamabad Capital Territory (Tax on Services) Ordinance,

1. Scope of Tax [Section 3]

Sub-section (2A) of section 3 of the Islamabad Capital Territory (Tax on Services) Ordinance, 2001 specifies certain provisions of the Sales Tax Act, 1990 (ST Act), which shall *mutatis mutandis* apply to the services rendered or provided under the said Ordinance.

The Bill proposes to enhance the scope of the said sub-section with the following effect:

i. Freelance exporters of IT and IT-enabled services would not be required to obtain registration subject to capping of annual turnover of Rs. 8 million:

By virtue of substitution of clause (a), the limit of freelance exporters exclusively engaged in the export of IT and IT-enabled services has been proposed to be treated as 'cottage industry' as defined under Section 2 (5AB) of in the ST Act for which no requirement for registration and filing of return exists under the ST law. This immunity from sales tax registration requirement to the freelance exporters of IT and IT-enabled services would be subject to meeting the condition of maximum annual turnover specified for cottage industry of Rs.8 million under clause (d) of section 2(5AB) of the ST Act.

The above intention of the law to provide immunity from registration requirement needs to be streamlined by making corresponding amendment in section 14(1)(a) of the ST Act or otherwise as the said clause of section 14(1) excludes cottage industries as manufacturers only.

Besides, for the purpose of the above said proposition, the Bill explains freelance exporter as a person who works on per job and on self-employed basis without being attached to or under employment of any other person, having the liberty to work on various tasks simultaneously.

ii. Zero rating facility to services provided in relation to Reko Diq Project

Through expanding the scope of existing clause (b) of sub-section (2A) of section 3 regarding zero rating entries in Fifth Schedule to the ST Act, the Bill proposes to extend zero rating facility to taxable services provided in relation to Reko Diq Project, presently being considered as qualified investment in Foreign Investment (Promotion and Protection) Act, 2022 for which imports and supplies have also been proposed to be zero rated through insertion of entry number 8A in the Fifth Schedule to the ST Act.

A. Services Taxable at Standard Rate - Table 1

i. Description substituted

The Bill proposes to substitute the existing description of services specified in serial no.1 of the Table-1 with new description. By virtue of this amendment, services of restaurants including cafes, and similar cooked, prepared or ready-to-eat food service outlets are now chargeable to sales tax at the rate of 5% if payment is received through debit or credit cards, mobile wallets or QR scanning. The proposed substitution is explained as follows:

<table>
<tr><th>S.No</th><th>Existing description</th><th>Existing Rate</th><th>Proposed description</th><th>Proposed Rate</th></tr>
<tr><td rowspan="2">1.</td><td rowspan="2">Services provided or rendered by hotels, motels, guest houses, farmhouses, restaurants, marriage halls, lawns, clubs and caterers.

Services provided are rendered by hotels motels, guest houses and farmhouses.

Services provided or rendered by restaurants.

Services provided or rendered by marriage halls and lawns.

Services provided or rendered by clubs.

Services provided or rendered by carters, suppliers of food and drinks.</td><td rowspan="2">15%</td><td>(i) Services provided or rendered by hotels, motels, guest houses, farmhouses, marriage halls, lawns, clubs and caterers.</td><td>(i) 15%</td></tr>
<tr><td>(ii) Services provided by Restaurants including cafes, food (including ice-cream) parlors, coffee houses, coffee shops, deras, food huts, eateries, resorts and similar cooked, prepared or ready-to-eat food service outlets etc.</td><td>(ii) (a) 5% where payment against services is received through debit or credit cards, mobile wallets or QR scanning subject to the condition that no input tax adjustment or refund shall be admissible; and

(b) 15% where payment received in cash.</td></tr>
</table>

ii. Reduction in Standard rate

The Bill proposes to reduce the standard rate of sales tax to 15% for services specified in Table-1 as under:

S.No.	Description	Existing Rate	Proposed Rate
11	Services provided by software or IT-based system development consultants.	16%	15%

iii. New insertion

The Bill proposes to insert the following service to be chargeable to sales tax under ICT Ordinance:

S.No.	Description	PCT Heading, if applicable	Rate of Tax
60	Electric Power Transmission Services	----	15%

B. Services Taxable at Reduced Rate - Table 2

Through Finance Act, 2022, the entry of IT services and IT-enabled services specified under S.no.11 of Table-2 to the ICT Ordinance was substituted with the description of 'Services provided by Software or IT based System Development Consultants' which was taxable at 5% with no restriction on input tax adjustment. The Bill proposes to restore the previous position prior to such substitution by replacing the existing entry as follows:

S.No.	Proposed Description	Proposed PCT Heading	Proposed Rate of Tax
11	IT services and IT-enabled services. Explanation:- For the purpose of this entry- (a) "IT services" include but not limited to software development, software maintenance, system integration, web design, web development, web hosting and network design; and (b) "IT enabled services" include but not limited to inbound or outbound call centres, medical transcription, remote monitoring, graphics design, accounting services, human resources (HR) services, telemedicine centres, data entry operations, cloud computing services, data storage services, locally television programs and insurance claims processing.	Respective headings	5% subject to the conditions that no input tax adjustment or refund shall be admissible.

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Yousuf Adil, Chartered Accountants provides Audit & Assurance, Consulting, Risk Advisory, Financial Advisory and Tax & Legal services, through nearly 550 professionals in four cities across Pakistan. For more information, please visit our website at www.yousufadil.com.