



YOUSUF ADIL

**Comments on
Significant
Amendments
through
Finance Act,
2022**

Foreword



This memorandum contains our comments in respect of significant amendments made in the Finance Bill, 2022 through the recently promulgated Finance Act, 2022.

The amendments enacted through the Finance Act, 2022 will take effect from July 1, 2022 unless stated otherwise.

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Contents

Income Tax Ordinance, 2001	04
Sales Tax Act, 1990	19
Customs Act, 1969	28
Federal Excise Act, 2005	35
Islamabad Capital Territory (Tax on Services) Ordinance, 2001	36
Petroleum Products (Petroleum Levy) Ordinance, 1961	37
Capital Value Tax, 2022	38

Income Tax Ordinance, 2001

1. Definitions [Section 2]

1.1 Shareholding and Voting rights criteria enhanced for Beneficial Owner [Section 2(7A)]

The Bill proposed to introduce the definition of "beneficial owner" as under:

"beneficial owner" means a natural person who –

- ultimately owns or controls a Company or association of persons, whether directly or indirectly, through at least **10%** shares or voting rights; or
- exercise ultimate effective control, through direct or indirect means, over the company or association of persons including control over the finances or decisions or other affairs of the company or association of persons.

Through the Finance Act, the threshold of shareholding or voting rights has been increased from 10% to 25%.

1.2 Scope of Information Technology services and IT enabled services extended [Section 2(30AD) and 2 (AE)]

Currently following definition are provided under the Ordinance:

(30AD) Information Technology (IT) services **include** software development, software maintenance, system integration, web design, web development, web hosting and network design; and

(30AE) IT enabled services **include** inbound or outbound call centres, medical transcription, remote monitoring, graphics design, accounting services, Human Resource (HR) services, telemedicine centers, data entry operations, cloud computing services, data storage services, locally produced television programs and insurance claims processing;

The Act has enhanced the scope of the IT services by inserting the words "but not limited to" after the word "include" in the above definitions.

2. Super tax on high earning persons introduced [Section 4C]

The Bill proposed to impose tax under the name of 'Tax on high earning persons for poverty alleviation' under section 4C. The Act has renamed the tax as 'Super tax on high earning persons'.

The Bill proposed to impose the tax for the tax year 2022 and onwards for poverty alleviation on every person earning income above Rs.300 million at the rate of 2% of income.

For the purpose of Super Tax, "income" shall be the sum of the following:

- i) profit on debt, dividend, capital gains, brokerage, and commission;
- ii) taxable income (other than brought forward depreciation and brought forward business losses) under section 9 of the Ordinance, excluding amounts specified in clause (i);
- iii) imputable income as defined in clause (28A) of section 2 excluding amounts specified in clause (i); and

- iv) income computed, other than brought forward depreciation, brought forward amortization and brought forward business losses under Fourth, Fifth and Seventh Schedules.

Super tax shall be levied at following rates:

S.NO	Income under section 4C	Rate of Tax
(1)	(2)	(3)
1.	Where income does not exceed Rs.150 million	0% of the income
2.	Where income exceeds Rs. 150 million but does not exceed Rs. 200 Million	1% of the income
3.	Where income exceeds Rs. 200 million but does not exceed Rs. 250 Million	2% of the income
4.	Where income exceeds Rs. 250 million but does not exceed Rs. 300 Million	3% of the income
5.	Where income exceeds Rs. 300 million	4% of the income

The Finance Act further provides that the rate of Super Tax would be 10% for the persons, where the income exceeds Rs. 300 million for the tax year 2022, who are engaged, whether partly or wholly in the business of:

- airlines
- automobiles
- beverages
- cement
- chemicals
- cigarette and tobacco
- fertilizer

- iron and steel
- LNG terminal
- oil marketing
- oil refining
- petroleum and gas exploration and production
- pharmaceuticals
- sugar
- textiles

Banks have been excluded from the scope of this section for the tax year 2022, as they are already subject to Super Tax at 4% for tax year 2022. For the tax year 2023, the rate of super tax on banks shall be 10% where the income exceeds Rs. 300 million.

3. Scope of Tax on deemed income extended [Section 7E]

The Bill proposed to impose tax for the tax year 2022 and onwards on the deemed income of a resident person derived from an immovable property. Under the proposed section, a resident person is to be treated to have received rent equal to 5% of the fair market value of an immovable property situated in Pakistan, whether or not such property has actually been rented out for any consideration. Tax under this section is payable at 20% of 5% of the fair market value i.e. effective tax rate of 1% of fair market value.

Finance Act has made various changes in the proposed section, which are as follows:

- All Capital assets situated in Pakistan are subject to the provisions of section 7E. Previously, only Immovable property situated in Pakistan whether actually rented or not for consideration was in the scope of this section.
- The section will apply in respect of capital assets held on the last day of tax year.

- Following assets have been excluded from the scope of this section:
 - a. One capital asset owned by the resident person;
 - b. Self-owned business premises from where the business is carried out by the persons appearing on the active taxpayers' list at any time during the year (The Bill did not provide for the condition relating to the appearance of the person's name in the ATL);
 - c. Self-owned agriculture land where agriculture activity is carried out by person excluding farmhouse and land annexed thereto;
 - d. Capital asset allotted to:
 - (i) a Shaheed or dependents of a shaheed belonging to Pakistan Armed Forces;
 - (ii) a person or dependents of the person who dies while in the service of Pakistan armed forces or Federal or provincial government;
 - (iii) a war wounded person while in service of Pakistan armed forces or Federal or provincial government; or
 - (iv) an ex-serviceman and serving personal of armed forces or ex-employees or serving personnel of Federal and provincial governments, being original allottees of the capital asset duly certified by the allotment authority;
 - e. A property which is chargeable to tax under the Ordinance and

tax leviable is paid thereon.

- f. (The Bill had excluded such property which is subject to tax under section 15 of the Ordinance and the tax chargeable is more than the tax chargeable under this section).
- g. Capital asset in the first tax year of acquisition where advance tax under section 236K at the time of purchase or transfer has been paid;
- h. Capital assets where the fair market value of them in aggregate excluding the capital assets mentioned in clauses (a), (b), (c), (d), (e) and (f) does not exceed Rupees twenty-five million;
- i. Capital assets owned by a provincial government or a local government; or
- j. Capital assets owned by a local authority, a development authority, builders and developers for land development and construction, subject to the condition that such persons are registered with Directorate General of Designated Non-Financial Businesses and Professions

The Finance Act has introduced the following definitions for this section:

- Capital asset means property of any kind held by a person, whether or not connected with a business, but does not include:
 - (i) any stock-in-trade, consumable stores or raw materials held for the purpose of business;
 - (ii) any shares, stocks or securities;

(iii) any property with respect to which the person is entitled to a depreciation deduction under section 22 or amortization deduction under section 24; or

(iv) any movable asset not mentioned in clauses (i), (ii) or (iii)

- farmhouse” means a house constructed on a total minimum area of 2000 square yards with a minimum covered area of 5000 square feet used as a single dwelling unit with or without an annex:

Provided that where there are more than one dwelling units in a compound and the average area of the compound is more than 2000 square yards for a dwelling unit, each one of such dwelling units shall be treated as a separate farmhouse.

4. Deductions Not Allowed [Section 21(la) and 21(r)]

4.1 Payment limits through banking channel

The Bill proposed to increase the expenditure limit for a taxpayer, being a Company, for a transaction, paid or payable under a single account head, in aggregate, exceeding Rs. 1,000,000 from the previous limit of amount exceeding Rs. 250,000, made other than by digital means from business bank account of the taxpayer. The Act restored the existing limit of Rs 250,000 as well as per the pre Finance Bill position, not requiring the payment to be made by digital means but through crossed cheque, crossed bank draft or crossed pay order or any other crossed banking instrument.

4.2 Curtailment of disallowance of expenses due to non-integration with FBR’s Fiscal device

The Bill also proposed to introduce a new clause (r), disallowing any expenditure attributable to sales claimed by a person who is required to integrate his business with the Board through approved fiscal electronic device and software, but fails to do so. The disallowance was however proposed to be restricted to 10% of the allowable deduction.

The Finance Act has curtailed the disallowance from 10% to 8% of the allowable deduction.

5. Depreciable Cost for Passenger Transport Vehicle not plying for hire revised [Section 22 (8)]

Previously, the cost of passenger transport vehicle not plying for hire for the purpose of depreciation was restricted upto to Rs. 2.5 million.

The Bill proposed to enhance the cost of passenger transport vehicle not plying for hire for the purpose of depreciation from Rs 2.5 million to Rs. 5 million.

Finance Act, 2022 has now further increased the limit to Rs. 7.5 million in this regard. This is a positive change considering the inflation and increase in car prices that have been seen in the recent years. This would benefit the taxpayers claiming tax depreciation on such vehicles.

6. Exemptions under International Agreements revised [Section 44(3)]

Previously, under sub section (3) of section (44) of the Ordinance, 2001 any income received / earned by a person (not being a citizen of Pakistan),

engaged in providing services as a contractor, consultant or an expert on a project in Pakistan was exempt from tax under the Ordinance subject to conditions and extent provided in bilateral or multilateral agreements for technical assistance between the Federal Government and the Foreign Government.

The Bill proposed to broaden the scope of agreements by omitting the word "technical assistance" from the proviso which would eventually include all type of agreements that the Federal Government and the Foreign Government enters into while satisfying the conditions that have been laid down under sub-section (3) of the Ordinance.

Approving the above amendment, the Finance Act has also extended the scope of exemption under this section to any person including citizen Pakistan. It was earlier only available to foreigners.

7. Criteria for determining Residential status of an Individual revised [Section 82]

Previously, a resident individual was defined to be an individual who is present in Pakistan for a total of 183 days or more in a tax year or either is an employee of the Federal Government or a Provincial Government.

The Bill proposed to expand the scope of the definition of resident individual by amending section 82 to include an individual who is a citizen of Pakistan but not the tax resident of any other country. This would mean that citizen of Pakistan who stays in Pakistan for less than 183 days and is not a tax resident of any other country would be treated as a resident individual for taxation purposes under the Ordinance.

The Finance Act has made further amendment in the definition of the

resident individual as proposed through the Bill, whereby a citizen of Pakistan shall be treated as a resident person where:

- he is not present in any other country for more than 182 days;
- or not a resident taxpayer in any other country.

This new requirement of having period of stay of more than 182 days would provide relief to a large number of Pakistani expatriates, who otherwise would have to prove their residential status in any other country.

However, such individuals may still face issues in proving their stay in any other country for the specified period of more than 182 days as there are many countries who do not stamp the passport on arrival and departure.

8. Time Limit for obtaining Commissioner's approval for claiming credit under section 100C revised [Section 100C]

Previously, in order to claim 100% tax credit under section 100C, prescribed persons were required to obtain approval from the Commissioner under section 2(36) of the Ordinance. As per proviso to sub-section (4)(e), this requirement of seeking approval from the Commissioner was applicable from July 1, 2022.

The Bill proposed to extend the effective date for the requirement to get Commissioner's approval for such persons from July 1, 2022 to July 1, 2024.

However, the Finance Act has suggested the effective date of such requirement to be from July 1, 2023.

9. Restriction on FTR source income pertaining to unexplained income or assets introduced [Section 111 (4A)]

Through the Finance Act, a new sub-section has been inserted in section 111 which provides that where a taxpayer, while explaining the nature and source of any amount referred to in sub-section (1) of 111, takes into account any source of income which is subject to final tax under the Ordinance, the taxpayer shall not be entitled to take credit of any sum in excess of the imputable income, unless:

- the excess amount is reasonably attributed to the business activities subject to final tax; and
- the taxpayer furnishes financial statements and accounts duly audited by a chartered accountant

10. Minimum Tax can now be carried forward for three years [Section 113(1)]

The Bill proposed to omit clause (c) of section 113(2), which allows the taxpayers to carry forward the excess amount of minimum tax paid under section 113(1) over and above the actual tax payable as per the normal tax rates and adjust it against the tax liability, of subsequent five tax years calculated as per normal tax rates. Consequent to which, taxpayer would have not been able to carry forward and adjust the minimum tax paid under this section against subsequent tax year's tax liability.

The proposed amendment has not been approved in the Finance Act; however, the period for which minimum tax paid can be carried forward has now been reduced from 5 years to 3 years. Accordingly, from tax year 2023 and onwards, taxpayers can carry forward and adjust the minimum tax paid under

section 113 for subsequent three years against normal tax liability as against five years that was previously allowed.

Further, an amendment in the explanation under sub-section (1) has been made, whereby the newly introduced Super Tax paid or payable on High Earning Persons under section 4C of the Ordinance is not to be considered as tax paid or payable for the purpose of computation of minimum tax under section 113.

11. Adjustment of tax credit for Contribution to an approved Pension Fund against Salary tax allowed [Section 149]

The Bill proposed to make consequential changes under section 149, deleting the reference of sections 62 (Tax credit for investment in shares) and 63 (Contribution to an approved pension fund) from sub-section (1) on account of adjustment by employers while deducting tax from salary payments, as a consequence of proposed deletion of above mentioned section.

The Finance Act has approved the deletion of section 62 only, retaining the section 63 (Contribution to Approved Pension Fund) and has accordingly retained the reference of section 63 under section 149 whereby employer can continue to adjust the tax credit on account of contribution to approved pension fund made by an employee against such employee's tax liability for that particular tax year.

12. Change in taxation of Indenting Commission agents [Section 154]

The commission income derived by an indenting commission agent was subject to tax at the rate of 5% on the gross amount and authorized dealers of

foreign exchange were responsible for collection of such tax at the time of realization of export proceed. Such tax collection was treated as full and final discharge of tax liability for such indenting commission agents.

The Finance Act has now omitted sub-section (2), consequent to which foreign commission derived by indenting commission agent would not be taxable under section 154.

Further, the Finance Act has included a new category of service under section 154A, consequent to which foreign commission received by an indenting commission agent (that was earlier liable to tax withholding at 5% under section 154) shall be subject to tax at the rate of 1% of the gross amount and such tax deduction shall be full and final discharge of tax liability.

**13. Change in taxation for Exports of IT Services
[Section 154A]**

Through the Finance Act 2021, 1% tax on exports of services was introduced in the Ordinance, which includes exports of computer software, IT services, or IT-enabled services. As per section 154A, every authorized dealer in foreign exchange, at the time of realization of foreign exchange proceeds on account of the services mentioned in the section shall deduct tax @ 1% from the proceeds. No tax is to be deducted from the proceeds of exports of computer software or IT services or IT enabled services in case of tax credit under section 65F is available.

The Bill proposed to omit the tax credit available under section 65F to the exporters of computer software or IT services or IT-enabled services accordingly corresponding changes were also proposed in section 154A to omit the withholding tax exemption available to such IT exporters.

Accordingly, the bank would deduct tax at the time of realization of foreign exchange proceeds on account of exports of computer software or IT services or IT enabled services at 0.25%, which shall be a final tax on the income of IT exporters, upon fulfillment of the conditions mentioned in the section.

The Finance Act has now inserted a clause under sub-section (1), whereby export proceeds would be taxable at the rate of 0.25% only in case where such payment is received by an exporter who is registered with and duly certified by the Pakistan Software Export Board (PSEB).

**14. Requirement for issuance of audit report by Commissioner Inland Revenue restored
[Section 177(6)]**

Under current law, there is procedural requirement for the Commissioner Inland Revenue to issue an audit report, containing audit observations and findings, upon completion of audit of the income tax affairs of the taxpayers prior to issuing the amendment order.

The Bill proposed to delete such requirement. The Finance Act has not approved the proposed amendment, thereby, requirement for issuance of audit report upon completion of audit prior to issuing the amendment order will still be applicable.

**15. Scope of Advance Tax on Motor Vehicles extended
[Section 231B]**

This section provides for the collection of advance tax by every motor vehicle registering authority of Excise and Taxation Department at the time of registration of a motor vehicle at the

rates specified in the First Schedule to the Ordinance.

The Finance Act has defined the term "motor vehicles" (only for the application of section 231B) to include car, caravan automobiles, jeep, limousine, pickup, sports utility vehicle, trucks, vans, wagon and any other automobile and exclude following vehicles:

- a motor vehicle used for public transportation, carriage of goods and agriculture machinery;
- a rickshaw or a motorcycle rickshaw; and
- any other motor vehicle having engine capacity upto 200cc.

The Act has also deleted the reference of "Private" wherever appearing in this section and in the marginal heading.

16. Clarification related to Advance Tax on Sale or Transfer of Immoveable Property [Section 236C]

Prior to promulgation of Finance Act, 2022, a person responsible for registering, recording or attesting transfer of any property shall at time of registering, recording or attesting the transfer is required to collect from the seller or transferor advance tax at specified rates. Such tax collection was not applicable if property was held for a period exceeding four years.

The Bill proposed to extend the holding period from four years to ten years for the transaction not to be liable to tax withholding.

The reference of the period of 10 years appears to be a mistake as the intent of the legislature appeared to replace the period of 4 years with 6 years in line with the amendment proposed in the

Division VIII of Part I of the First Schedule providing for exemption of capital gain tax in respect of properties held for a period of more than 6 years as against the period of 4 years currently provided.

The Finance Act has now omitted subsection (3), by virtue of which advance income tax collection shall be made at the time of transfer of the immovable property, irrespective of the holding period. This amendment appears to be in conflict with amendment made in the First Schedule which provides for exemption from capital gains in respect of properties held for more than 6 years. So effectively, the taxpayer would be entitled to a tax refund due to the tax collection under section 236C where the property being transferred was held for more than 6 years.

The First Schedule

Rates of Tax

Part I

Division I

Clause II - Rates of Tax for Salaried Individuals revised

The Bill sought to provide relief to salaried class earning below Rs. 1,500,000 per month by proposing low tax rates, which have not been approved through the Finance Act. Tax rates on salaried class have been increased apparently on the advice of International Monetary Fund. New tax slabs for salaried individuals are enacted as follows:

S. No.	Income Slabs	Rate of Tax Proposed
1	Where taxable income does not exceed Rs. 600,000	0%
2	Where taxable income exceeds Rs. 600,000 but does not exceed Rs. 1,200,000.	2.5% of the amount exceeding Rs. 600,000
3	Where taxable income exceeds Rs. 1,200,000 but does not exceed Rs. 2,400,000	15,000+ 12.5% of the amount exceeding Rs. 1,200,000
4	Where taxable income exceeds Rs. 2,400,000 but does not exceed Rs. 3,600,000	Rs. 165,000 + 20% of the amount exceeding Rs. 2,400,000
5	Where taxable income exceeds Rs. 3,600,000 but does not exceed Rs. 6,000,000	Rs. 405,000 + 25% of the amount exceeding Rs. 3,600,000
6	Where taxable income exceeds Rs. 6,000,000 but does not exceed Rs. 12,000,000	Rs. 1,005,000 + 32.5% of the amount exceeding Rs. 6,000,000
7	Where taxable income exceeds Rs. 12,000,000	Rs. 2,955,000 + 35% of the amount exceeding Rs. 12,000,000

Below is the slab wise comparison for tax rates on salaried individuals:

S. No	Existing		Approved	
	Income Slabs	Rate of Tax	Income Slabs	Rate of Tax
1	Where taxable income does not exceed Rs. 600,000	0%	Where taxable income does not exceed Rs. 600,000	0%

S. No	Existing		Approved	
	Income Slabs	Rate of Tax	Income Slabs	Rate of Tax
2	Where taxable income exceeds Rs. 600,000 but does not exceed Rs. 1,200,000	5% of the amount exceeding Rs. 600,000	Where taxable income exceeds Rs. 600,000 but does not exceed Rs. 1,200,000	2.5% of the amount exceeding Rs. 600,000
3	Where taxable income exceeds Rs. 1,200,000 but does not exceed Rs. 1,800,000	Rs. 30,000 plus 10% of the amount exceeding Rs. 1,200,000	Where taxable income exceeds Rs. 1,200,000 but does not exceed Rs. 2,400,000	15,000+ 12.5% of the amount exceeding Rs. 1,200,000
4	Where taxable income exceeds Rs. 1,800,000 but does not exceed Rs. 2,500,000	Rs. 90,000 plus 15% of the amount exceeding Rs. 1,800,000	Where taxable income exceeds Rs. 2,400,000 but does not exceed Rs. 3,600,000	Rs. 165,000 + 20% of the amount exceeding Rs. 2,400,000
5	Where taxable income exceeds Rs.2,500,000 but does not exceed Rs. 3,500,000	Rs. 195,000 plus 17.5% of the amount exceeding Rs. 2,500,000	Where taxable income exceeds Rs. 3,600,000 but does not exceed Rs. 6,000,000	Rs. 405,000 + 25% of the amount exceeding Rs. 3,600,000
6	Where taxable income exceeds Rs. 3,500,000 but does not exceed Rs. 5,000,000	Rs. 370,000 plus 20% of the amount exceeding Rs. 3,500,000	Where taxable income exceeds Rs. 6,000,000 but does not exceed Rs. 12,000,000	Rs. 1,005,000 + 32.5% of the amount exceeding Rs. 6,000,000
7	Where taxable income exceeds Rs. 5,000,000 but does not exceeds Rs. 8,000,000	Rs. 670,000 plus 22.5% of the amount exceeding Rs. 5,000,000	Where taxable income exceeds Rs. 12,000,000	Rs. 2,955,000 + 35% of the amount exceeding Rs. 12,000,000.”
8	Where taxable income exceeds Rs. 8,000,000 but does not exceeds Rs. 12,000,000	Rs. 1,345,000 plus 25% of the amount exceeding Rs. 8,000,000		
9	Where taxable income exceeds Rs. 12,000,000 but does not exceeds Rs. 30,000,000	Rs. 2,345,000 plus 27.5% of the amount exceeding Rs. 12,000,000		
10	Where taxable income exceeds Rs. 30,000,000 but does	Rs. 7,295,000 plus 30% of the amount exceeding Rs. 30,000,000		

S. No	Existing		Approved	
	Income Slabs	Rate of Tax	Income Slabs	Rate of Tax
	not exceeds Rs. 50,000,000			
11	Where taxable income exceeds Rs. 50,000,000 but does not exceeds Rs. 75,000,000	Rs. 13,295,000 plus 32.5% of the amount exceeding Rs. 50,000,000		
12	Where taxable income exceeds Rs. 75,000,000	Rs. 21,420,000 plus 35% of the amount exceeding Rs. 75,000,000]		

Below is the comparison between different amounts of salaries taxed at current tax rates and tax liability as per tax rates approved by the Finance Act:

S. No.	Annual Taxable Income (Rs)	Annual Tax Liability (Rs)		
		Existing rates	Approved rates	Increase / (Decrease)
1	600,000		-	-
2	1,200,000	30,000	15,000	(15,000)
3	1,800,000	90,000	90,000	-
4	2,500,000	195,000	185,000	(10,000)
5	3,500,000	370,000	385,000	15,000
6	5,000,000	670,000	755,000	85,000
7	8,000,000	1,345,000	1,655,000	310,000
8	12,000,000	2,345,000	2,955,000	610,000
9	30,000,000	7,295,000	9,255,000	1,960,000
10	50,000,000	13,295,000	16,255,000	2,960,000
11	75,000,000	21,420,000	25,005,000	3,585,000

Tax rates for banking companies revised [Division II]

The Bill proposed to increase the rate of tax for banking companies from 35% to 45%. However, the Finance Act now provides for the rate of 39% as against the proposed rate of 45%. This would mean that the banks would be liable to 39% tax rate from tax year 2023 and onward.

Tax rates in respect of Capital Gain on Disposal of Securities revised [Division VII]

The Bill proposed to replace the table provided under the Division-VII, Part-I which was applicable before the promulgation of Finance Act, 2022 with the following table relating to tax rates on capital gain on the disposal of securities:

S.No.	Holding Period	Rate of Tax for Tax year 2023 and onwards
(1)	(2)	(3)
1.	Where the holding period does not exceed one year	15%
2.	Where the holding period exceeds one year but does not exceed two years	12.5%
3.	Where the holding period exceeds two years but does not exceed three years	10%
4.	Where the holding period exceeds three years but does not exceed four years	7.5%
5.	Where the holding period exceeds four years but does not exceed five years	5%
6.	Where the holding period exceeds five years but does not exceed six years	2.5%
7.	Where the holding period exceeds six years	0%
8.	Future commodity contracts entered into by members of Pakistan Mercantile Exchange	5%

The Finance Act has approved above amendment, however, has included following provision.

- The above reduced rates on capital gain from the disposal shall be applicable in respect of those securities which are acquired on or after July 01, 2022
- The tax rate of 12.5% on capital gain from the disposal shall be applicable in respect of those securities which are acquired on or before June 30, 2022.

Minimum Tax on Turnover for Oil Marketing Companies reduced Division IX

Prior to promulgation of Finance Act, 2022, Oil Marketing Companies were liable to pay turnover tax under section 113 at the rate of 0.75%.

Finance Act has now reduced turnover tax rate from 0.75% to 0.5% for Oil Marketing Companies.

Part IV

Scope of Tax on Motor Vehicles extended [Division III]

Section 234 prescribes the advance tax to be collected from goods transport vehicles, passenger transport vehicles and other private motor vehicles in addition to motor vehicle tax.

The Finance Act has enhanced the scope of tax previously collected from other private motor vehicles to other motor vehicles. Accordingly, besides collecting advance tax on goods transport vehicles, passenger transport vehicles, all other motor vehicles, whether private or public, will be subject to advance tax under section 234 at prescribed rates.

**Special provision relating to traders
[Division IV]**

The Bill proposed to charge and collect tax of Rs. 50,000 as envisaged under the newly inserted section 99A (Special provisions relating to payment of tax through electricity connections), from retailers and service providers specified through Income Tax General Order. Finance Act has now enhanced the amount of tax to be collected to Rs. 200,000.

The Finance Act has inserted a proviso in section 235 providing that tax shall not be collectable under this section where tax has been collected under sub-section (9) of section 3 of the ST Act as provided in the general order issued under section 99A of the Ordinance.

- disability rendering him unable to work; or
- death by his nominated survivor.

**Allowances Paid by the Government of Pakistan to a citizen outside Pakistan will now be taxable
[Clause 5]**

Currently, any allowance or perquisite paid or allowed outside Pakistan by the Government of Pakistan to a citizen of Pakistan for the services rendered outside Pakistan is exempt from tax under clause (5) of Part I of the Second Schedule to the Ordinance.

The Finance Act has omitted the above-mentioned clause from the Second Schedule. Accordingly, such allowance and perquisite would now be subject to tax in Pakistan.

The Second Schedule

Part I

**Exemption of accumulated balance from Voluntary Pension System restored to 50% limit
[Clause 23A]**

The Bill proposed 100% exemption to a person receiving the accumulated balance from the voluntary pension system offered by a pension fund manager under the Voluntary Pension System Rules, 2005, as compared to the exemption upto 50% of accumulated balance received as already provided under the law. The said amendment has not been enacted through the Finance Act.

Accordingly, exemption will continue to be available up to 50% of the accumulated balance received by an eligible person at the time of his:

- retirement; or

**Income of institutions exempted
[Clause 66]**

This clause provides a list of institutions, foundations, societies, boards, trust and funds whose income is exempt from tax. The Bill has proposed addition of certain institutions in the list. The Finance Act, while approving the insertion of those institutions has included following additional institutions under the purview of clause (66) sub-clause (2) of Table 2:

Sr. No.	Name of Institutions
(xliii)	Burhani Qarzan Hasnan Trust
(xliv)	Saiffee Hospital Karachi
(xlv)	Saifiyah Girls Taalim Trust

**Exemption on Subsidy by Federal Government restored
[Clause 102A]**

The clause (102A) provides for exemption in respect of income of a person as represents subsidy granted to him by the Federal Government for the purpose of implementation of any orders of the Federal Government.

The Bill proposed to omit clause (102A). However, the omission has not been approved by the Finance Act. Therefore, any income representing subsidy granted to the person by the Federal Government for the above specified purpose would still be tax exempt.

Proposed Time bound exemption on Profits and gains derived by a taxpayer from an electric power generation project not enacted [Clause 132]

The Bill proposed to insert an explanation in clause (132) to clarify that exemption under this clause shall continue to remain available to those persons to whom exemption under this clause was available on or before June 30, 2021.

The sixth proviso provides that no exemption shall be available to persons who enter into agreement or to whom letter of intent is issued by Federal or Provincial Government for setting up an electric power generation project in Pakistan after the 30th day of June, 2021.

It was further proposed that the exemptions granted on or before the introduction of said proviso shall remain intact for the life cycle of the project or 25 years from the date of commencement of commercial production, whichever is earlier.

Finance Act has not approved the above amendments and as such time bound exemption i.e. earlier of life cycle of the project or 25 years from the date of commencement of commercial production, will not apply.

Introduction of new Exemptions [Clauses 152 and 153]

Following new exemptions have been enacted through the Finance Act:

Clause Reference	Description of exemption
(152)	Profit and gains derived between the first day of July, 2022 and the thirtieth day of June, 2025 both days inclusive, by a venture capital company and venture capital fund registered under relevant Venture Capital Companies and Fund Management Rules issued by Securities and Exchange Commission of Pakistan.
(153)	Profit and gains from the production of feature film derived between the first day of July, 2022 and the thirtieth day of June, 2027 both days inclusive by a resident producer or a resident production house.

Part II

Withholding on payment against sale of Gold, Silver and articles thereof [Clause 31]

The Finance Act has introduced a new clause (31), whereby reduced rate of withholding tax of 1% is specified on payments made against sale of gold, silver and articles made therefrom. Tax withheld on such transactions would be adjustable.

Part III

Withdrawal of omission from taxability of Capital Gains on disposal of Immovable Property [Clause 9A]

Under clause (9A) of Part III of the Second Schedule to the Ordinance, the amount of tax payable on income chargeable under the head, "Capital Gains" on disposal of

immovable property was reduced by fifty percent on the first sale of immovable property acquired or allotted to ex-servicemen and serving personnel of Armed Forces or ex-employees or serving personnel of Federal and Provincial Governments, being original allottee of the immovable property, duly certified by the allotment authority.

The Bill proposed to omit such reduced rate taxation by omitting clause (9A).

The above omission not been approved. Accordingly, the relief would continue to be available under clause (9A) to the individuals specified therein.

Part IV

Exclusion from applicability of Minimum tax under section 113

The Finance Act has excluded sub-clause (xlii) from the list in Part IV on which provisions of minimum tax under section 113 do not apply, on persons qualifying under clause (126E) of Part I of the Second Schedule whose income is already exempt from tax.

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

New Exclusions Introduced

The Finance Act has included the following new clauses in Part IV of the Second Schedule to the Ordinance:

Clause Reference	Description
(43H)	Through the insertion of clause 43H, deduction of tax under section 153(1)(b) of the Ordinance will not apply on exhibitor or a distributor of a feature film, as a payer, while making payment to a

Clause Reference	Description
	distributor, producer or importer of a feature film.
(111AC)	Provisions of section 100BA of the Ordinance and rule 1 of the Tenth Schedule (in case of persons not appearing in ATL for transactions) in case of transactions involving purchase, sale or transfer of immoveable properties requiring tax collection under sections 236C and 236K of the Ordinance, will not be applicable in the case of a non-resident individual holding National Identity Card for Overseas Pakistanis (NICOP) or Pakistan Origin Card (POC).

Sales Tax Act, 1990

1. Definitions

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

The Bill proposed to enhance the existing list of qualification criteria of Tier-1 retailers provided under the Sales Tax Act, 1990 (ST Act) by bringing therein supplier of articles of jewellery, precious metal or metal clad with precious metal. As a consequence, thereof, the proposed amendment was to inter-alia obligate jewellers to ensure registration under the ST Act and for compliance of its obligations because they will be controlled through integration of their outlets with FBR.

Through the Act, a jeweler whose shop area measures 300 square feet or less, has been excluded from the scope of Tier -1 retailer with an intention of keeping the small jewelers out of the requirement of sales tax registration and collecting sales tax from them through the electricity bills.

b. Value of supply [Clause (46) Section 2]

Through the Act, an explanation has been added to the value of supply clarifying that the value of supply does not include the amount of subsidy provided by the federal or provincial governments to the consumers of electricity and has never been chargeable to tax under ST Act. The amendment is of clarificatory nature which shall apply retrospectively. By virtue of this amendment, the amount of subsidy shall not be considered as part of value of supply of electricity and the sales tax shall apply (and shall

always be deemed to have been applicable) on net electricity charges excluding subsidy.

This will resolve the long pending contention between the tax authorities and the electricity suppliers regarding chargeability of sales tax on government subsidy.

2. Scope of Tax

a. Scope of Withholding Provisions [Section 3(7)]

Section 3(7) specifies that purchaser of goods and services are required to withhold applicable sales tax in accordance with Eleventh Schedule of the ST Act. Through the Act, services which are liable to sales tax under the provincial enactment have been excluded from the scope of this provision. This amendment will make the procedure of sales tax withholding consistent with the charging provisions which refrain Federal tax authorities from collecting tax on services falling within the domain of provinces.

b. Sales tax on small retailers [Section 3(9)]

Earlier, fixed sales tax were collected by electricity companies from retailers (other than Tier-1 retailers) at the rate of 5% on their monthly electricity bills of up to Rs.20,000 and 7.5% in case of electricity bills exceeding Rs.20,000. The Bill proposed to re-fix the amount of sales tax as under:

Amount of Monthly Electricity Bill	Amount of Sales Tax
Upto Rs.30,000	Rs.3,000
Rs.30,001 to Rs.50,000	Rs.5,000
More than Rs.50,000	Rs.10,000

The Bill also proposed to empower the Board through issuance of general order to prescribe persons or class of persons to pay Rs.50,000 per month through their monthly electricity bill.

Through the Act, in addition to adapting above proposed amendments, a proviso has also been inserted by virtue of which the above sales tax rates would be increased by 100% if the name of the person is not appearing in the ATL issued by the Board under section 181A of the Income Tax Ordinance, 2001 on the date of issuance of electricity bill.

c. Board's powers to integrate [Section 3(11)]

The Bill proposed to empower the Board to require any person or class of persons to integrate their invoice issuing machines with the Board's Computerized System for real time reporting of sales.

Through the Act, the scope of such proposed extensive powers of the Board has been restricted to the extent of 'class of persons' only by excluding 'any person' therefrom as originally proposed through the Bill.

3. Tax credit not allowed [Section 8(1)(m), 23(1)(b)]

As per section 8(1)(m), input tax on goods or services attributable to supplies made to unregistered persons (with the exception of sales made by retailers to ordinary consumers of the prescribed amount of Rs.100,000 per invoice), is disallowed on pro-rata basis where sales invoices do not bear CNIC number or NTN of the customer (which was introduced vide Finance Act, 2019 as a measure for documentation of economy). The Bill proposed to abolish the said provisions of the Act.

Through the Act, the above proposition to omit the provisions related to said

requirement and its consequential inadmissibility has not been fully adapted. Rather, the scope has been restricted to the extent of supplies made by manufacturer or importer to unregistered distributor instead of any unregistered person.

The amendment proposed earlier was seen as a business friendly measure but at the same time it was defeating the entire objective of documentation of economy. The Act has taken into account the said issue partially and requirement of providing CNIC/NTN has been limited to the distributors, which means that retailers, etc. in supply chain, are not bound to provide said identification numbers.

4. Penalties [Section 33]

Certain amendments in the penalty provisions regarding non integration of Tier-1 retailers (i.e. S.No. 25 and 25A) which were introduced through repealed Finance Third (Amendment) Ordinance, 2021 as further amended by the Finance Supplementary Act of 2022, have now been regularized through the Act.

5. Proceedings against persons [Section 33A]

Through Finance Act, 2019, section 33A was inserted empowering the Board to prescribe rules for initiating criminal proceedings against any authority mentioned in sections 30 to 30DDD including any person subordinate to the aforesaid authorities, who willfully and deliberately commits or omits an act which results in personal benefits and undue advantage to the authority or the person or taxpayer or both.

Through the Act, this section 33A has now been omitted.

6. Alternative Dispute Resolution (ADR) [Section 47A]

Through Finance Bill, 2022, the ADR process given in 134A of the Income Tax Ordinance, 2001 was proposed to be revamped, however, no such propositions were made in the Bill for sales tax and federal excise laws.

In order to align the provisions related to ADR under respective tax laws, similar scheme for ADR has been adopted by substitution of section 47A and section 38 in the ST Act and the FED Act respectively.

In revised scheme, aggrieved person may apply to the Board for appointment of ADR Committee (ADRC) for the resolution of hardship or dispute other than criminal proceeding, which is under litigation in any court of law or an Appellate Authority, pertaining to:

- (i) the liability of tax of Rs.100 million or above or admissibility of refund;
- (ii) the extent of waiver of default surcharge and penalty; or
- (iii) any other specific relief required to resolve the dispute.

Following are the main features of new scheme:

- (i) Omission of the requirement whereby the Board, in cases involving a mixed question of fact and law, shall consider all relevant facts and circumstances, and decide whether or not ADRC may be constituted.
- (ii) Inclusion of a non-retractable tax payment offer by the applicant along with the proposition accompanying the application.

- (iii) Reduced the time limit to forty-five days from sixty days of the application to constitute ADRC.
- (iv) Entitling the registered person to nominate a person from the panel notified by the Board for the formation of ADRC.
- (v) For including a reputable business man in the panel notified by the Board, it is now required that the businessman shall be nominated by Chamber of Commerce and Industry.
- (vi) The Board may also include the officer of the Inland Revenue Service who has retired in BS 21 or above in the panel.
- (vii) Restricts registered person through the introduction of a proviso not to appoint a Chartered Accountant or advocate who is or has been an auditor or an authorized representative of the registered person.
- (viii) Mandatory requirement for withdrawal of appeal pending before any court or an appellate authority and order of withdrawal should be communicated to the Board within 75 days after constitution of ADRC, otherwise the Committee shall be dissolved.
- (ix) The Committee shall conduct inquiries, seek expert opinion etc. and shall decide the case within 120 days from the date of its appointment (excluding the period for communication of withdrawal of the order as referred above).
- (x) Due to the given change, decision of the ADRC shall be binding on both the aggrieved person and the Commissioner.
- (xi) The decision of the ADRC shall not be taken as a precedent in any

other case or in the same case for a different tax period.

- (xii) Recovery of tax shall be stayed automatically on withdrawal of appeal till the date of decision of ADRC or dissolution of ADRC, whichever is earlier. Previously, granting of stay was at the discretion of the Committee.
- (xiii) After the dissolution of ADRC, the court or the respective appellate authority would be required to decide the appeal within six months of the communication of the order of dissolution.

The substituted sections suggest that the legislature intends to give a real alternate to the registered persons for resolving their disputes in an amicable manner as the decision of the ADRC will also be binding on the Commissioner.

7. Condonation of time-limit [Section 74]

This section empowers the Board to condone the time limit provided under the said Act on an application made to the Board in this regard.

Earlier, the section was silent regarding the timing during which such condonation could have been granted by the Board. The Act through insertion of phrase "at any time before or after the expiry of such time or period" has added clarity to the effect that the Board may provide respective condonation at any time before or after the expiry of the time limit concerned.

Third Schedule (Retail Price goods)

Entry Omitted

Consequent to exemption of Fertilizer through insertion of respective entry in Table I to the Sixth Schedule of the ST Act, the following

entry being redundant has been omitted from the Third Schedule:

Sr. No.	Description	Headings
32	Fertilizers	Respective heading

Fifth Schedule (Zero Rated Goods)

Inclusion of fat filled milk sold in retail packing under a brand name or a trademark

Currently, under entry 17 to the Fifth Schedule to the ST Act, fat filled milk that is sold in retail packing under a brand name or a trademark is excluded from the scope of zero rating. The said scope was broadened through the Tax Laws Third (Amendment) Ordinance, 2021 to include such items within the scope of zero rating, however, such amendment could not take effect as such Ordinance became repealed subsequently. The Finance Act, 2022 has now adapted such amendment to regularize the change brought through such repealed Ordinance in the following manner:

S.No.	Old Description	New Description
17.	Fat filled milk excluding that sold in retail packing under a brand name or a trademark (PCT heading 1901.9090)	Fat filled milk (PCT heading 1901.9090)

New Insertion (Entry 21)

Through the Act, following new entry has been inserted into the Fifth Schedule:

S.No.	Description
21.	Local supply 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.
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Sr. No.	Description	Headings
	restrictions specified thereunder.	

Sixth Schedule (Exempt Goods)

Table I – Imports or Supplies

a) New insertion allowing exemption of sales tax

Through the Act, sales tax on import and supply of the following items has been exempted vide insertion of the respective new entries under Table-I of the Sixth Schedule to the ST Act:

Sr. No.	Description	Headings
168.	Fertilizers	Respective heading
169.	Oil cake and other solid residues	2306.1000
173.	Goods produced or manufactured in and exported from Pakistan which are subsequently imported in Pakistan within one year of their exportation, provided conditions of section 22 of the Customs Act, 1969 (IV of 1969), are complied with.	Respective heading
174	Machinery and equipment as listed at serial number 32 of the Table of Part-I of Fifth Schedule to the Customs Act, 1969, subject to the conditions, limitations and	Respective heading

Table II – Local supplies only

a) Substitution of description of goods

The existing description of the following entry has been revised through the Act:

Sr. No.	Existing Description	Proposed Description
7	Breads, vermicillies, naans, chappatis, sheer mal, bun and rusk excluding those sold in bakeries, restaurants, food chains and sweet shops falling in the category of Tier 1 retailers.	Vermicillies, sheer mal, bun and rusk excluding those sold in bakeries, and sweet shops falling in the category of Tier 1 retailers.

b) New insertion granting exemption of sales tax

In addition to adapting the entries proposed through Finance Bill (except for jewelry as discussed in (c) below) the following new entry has been inserted through the Act thereby granting exemption of sales tax on local supplies of these items:

Sr. No.	Description	Heading
54.	All types of breads, nans and chapattis	Respective headings

c) Proposition not adapted in the Act:

The following proposition for exemption on sales of imported jewelry has not been adapted through the Act for the reason of being redundant due to non-adaptation of reduced rating of 4% on import of jewelry:

Sr. No.	Description	Heading	Sr. No.	Description	Heading
52.	Supply of articles of jewelry, or parts thereof, of precious metals or of metal clad with precious	71.13		metal on which tax has been paid at the import stage @ 4%.	

Eighth Schedule (Goods subject to Specified rates)

Table – I

a) Omission/Addition of entries

Sr. No	Description	Heading Nos. of the First Schedule to the Customs Act, 1969 (IV of 1969)	Rate of Sales Tax before Finance Bill	Proposed sales tax rates as per the Bill	Sales tax rates as per the Finance Act
44.	Phosphoric Acid	2809.2010	5%	10%	5%
47.	Locally produced coal	27.01	Rs. 425 per metric tonne or 17% ad valorem, whichever is higher	17%	Rs. 700 per metric tonne or 17% ad valorem, whichever is higher
52.	Fertilizers	Respective heading	2%	10%	Exempt Transferred to Sixth Schedule at entry No. 168
60.	Fat Filled Milk (if sold in retail packing)	1901.9090	10%	No change proposed	0% Transferred to Fifth Schedule at entry No. 17
75.	Import of Electric Vehicle in CBU Conditions	8703.8090	12.5%	17%	12.5% Reduced rating restricted to vehicles with battery of 50kwh or below
80.	EV transport buses of 25 seats or more in CBU condition	Respective heading	17%	No change proposed	1%
81.	Manufacture or import of substances registered as drugs under the Drugs	Respective heading	17%	No change proposed	1% Subject to the conditions that:

Sr. No	Description	Heading Nos. of the First Schedule to the Customs Act, 1969 (IV of 1969)	Rate of Sales Tax before Finance Bill	Proposed sales tax rates as per the Bill	Sales tax rates as per the Finance Act
	Act, 1976 (XXXI of 1976)				(i) Tax charged and deposited by the manufacturer or importer as the case may be, shall be final discharge of tax in the supply chain (ii) No input tax shall be adjusted by the manufacturer or importer
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	Respective heading	17%	No change proposed	Subject to the conditions that: (i) DRAP shall certify item-wise requirement of manufacturers of drugs and APIs and in case of import shall furnish all relevant information to Pakistan Customs Computerized System; and (ii) No input tax shall be adjusted by the manufacturer or importer

b) Description revised

The proposed description of the following entry has been revised through the Act:

S. No	Proposed Description	Description Adapted
78.	Supply of articles of jewellery, or parts thereof, of precious metal or of metal clad with precious metal.	Supply of locally manufactured articles of jewellery, or parts thereof, of precious metal or of metal clad with precious metal.

c) Proposition not adapted in the Act:

Sr. No	Description	Heading Nos. of the First Schedule to the Customs Act, 1969 (IV of 1969)	Proposed sales tax rates as per the Bill
79.	Import of articles of jewelry, or parts thereof, of precious metal or of metal clad with precious metal.	71.13	3%
80.	Local supply of reclaimed lead	Respective heading	1% Subject to the conditions that: (i) Supplies are made to registered manufacturers of lead and lead batteries; and (ii) No refund of input tax shall be admissible.

Eleventh Schedule (Withholding of Sales Tax)

a) Exclusion from withholding agent

The Act through amendment in entry 4 has excluded companies exporting surgical instruments from the scope of withholding agent in case of supplies made to persons other than Active taxpayers.

Sr. No.	Old Description of Withholding Agent	New Description of Withholding Agent	Supplier Category	Rate of STWH
4.	Companies as defined in the Income Tax Ordinance, 2001 (XLIX of 2001)	Companies as defined in the Income Tax Ordinance, 2001 (XLIX of 2001) excluding companies exporting surgical instruments	Persons other than Active taxpayers	5% of gross value of supplies

b) Change in rate of sales tax withholding

The Act through amendment in entry 8 of the Table has reduced the rate of sales tax withholding in case of Online Market Place to be collected from persons other than Active taxpayers from 2% to 1% of gross value of supplies.

Sr. No.	Withholding Agent	Supplier Category	Old Rate	New Rate
8.	Online Market Place	Persons other than Active taxpayers	2% of gross value of supplies: Provided that the provisions of this entry shall be effective from the date as notified by the Board.	1% of gross value of supplies: Provided that the provisions of this entry shall be effective from the date as notified by the Board.

Customs Act, 1969

1. Bordering and Coastal Areas [Section 2(bbc)]

The Bill proposed to introduce definition of "bordering and coastal areas" which means all districts located along international borders including coastal areas of Pakistan, notified as such by Provincial Governments.

Through the Finance Act 2022, the definition of "bordering and coastal areas" has been modified whereby "bordering and coastal areas" means areas along international borders as notified by the Board.

2. Provisional Determination of Liability [Section 81(1) & (2)]

At present, an officer not below the rank of Assistant Collector of Customs may provisionally determine duties, taxes and other charges in respect of goods which he thinks requires further inquiry. However, such assessment has to be converted in final assessment within six months of the provisional determination which can be extended for further ninety days.

In order to facilitate trade as well as to avoid delay in realization of Government revenue, the Bill proposed to shrink afore-said time period for assessment completion from six months to ninety days, and the extension period from ninety days to thirty days respectively.

Besides adapting above proposition, the Finance Act 2022 has also

inserted third proviso in sub section (1) of section 81 which prohibits provisional determination of value in those cases where a Valuation Ruling (VR) issued under section 25A of the Customs Act is already in field irrespective of whether any review or revision is pending against such VR.

3. Punishment for offences [Section 156]

- i. With an objective to ensure protection of data integrity and compliance, the Bill proposed to introduce certain penalties after entry No. 105 of section 156(1) of the Customs Act, 1969 for offences related misuse of data and information in the Pakistan Single Window System or; in any of its ancillary system, its sharing or; tampering in any manner that may be prejudicial to the interests of Pakistan Customs.

Through the Act, the description of offences prescribed under the proposed insertions have been revised, to deliver more comprehensive and broader scope for application of penalties, as follows:

Description of Offence		Proposed penalties as adapted in the Act
Proposed as per Bill	Revised as per the Act	
(i) Un-authorized access to information, data or personal details of registered user of Pakistan Single Window system or systems connected or ancillary thereto;	If any person makes or attempts to make un-authorized access to information, data or personal details of registered user of Pakistan Single Window system or systems connected or ancillary thereto;	Imprisonment upto 6 months or; fine upto Rs. 100,000 or; both
(ii) Un-authorized copy, transmission or cause to transmit any data, information or detail in relations to Pakistan Single Window system or systems connected or ancillary thereto;	If any person makes or attempts to make un-authorized copy, transmission or cause to transmit any data, information or detail in relations to Pakistan Single Window system or systems connected or ancillary thereto;	Imprisonment upto 6 months or; fine upto Rs. 100,000 or; both
(iii) Un-authorized interference, or attempt to interfere, or damage or attempt to damage any part of whole of the Pakistan Single Window system or data or system connected to or ancillary thereto;	If any person makes un-authorized interference, or attempt to interfere, or damage or attempt to damage any part of whole of the Pakistan Single Window system or data or system connected to or ancillary thereto;	Imprisonment upto 3 years or; fine upto Rs. 500,000 or; both
(iv) Use of any information system, device or data to make any illegal claim or title or cause any person to part	If any person makes or attempts to make use of any Information system,	Imprisonment upto 4 years or; fine upto Rs. 1,000,000 or; both

Description of Offence		Proposed penalties as adapted in the Act
Proposed as per Bill	Revised as per the Act	
with property or to enter into any express or implied contract or intent to commit fraud by any input, alteration, deletion or suppression of data, resulting in unauthentic data with the intent that such data be considered or acted upon for legal purpose as if it were authentic in relations to Pakistan Single Window system or Systems connected or ancillary thereto;	device or data to make any illegal claim or title or cause any person to part with property or to enter into any express or implied contract or intent to commit fraud by any input, alteration, deletion or suppression of data, resulting in unauthentic data with the intent that such data be considered or acted upon for legal purpose as if it were authentic in relations to Pakistan Single Window system or Systems connected or ancillary thereto;	
(v) Use, make, supply, retain, obtain device, system or software for offences under section 13 of the Pakistan Single Window Act, 2021 (III of 2021);	If any person uses, makes, supplies, retains, obtains device, system or software for offences under section 13 of the Pakistan Single Window Act, 2021 (III of 2021);	Imprisonment upto 6 months or; fine upto Rs. 100,000 or; both
(vi) Obtain, sell, process, use or transmit another person's Unique User Identifier or make an attempt thereof without authorization;	If any person obtains, sells, process, uses or transmits another person's Unique User Identifier or makes an attempt thereof without authorization;	Imprisonment upto 4 years or; fine upto Rs. 1,000,000 or; both

Description of Offence		Proposed penalties as adapted in the Act
Proposed as per Bill	Revised as per the Act	
(vii) Tamper with or attempt to tamper with, alter, re-programme any Pakistan Single Window system or system connected or ancillary thereto for un-authorized use;	If any person tampers with or attempts to tamper with, alter, re-programme any Pakistan Single Window system or system connected or ancillary thereto for un- authorized use;	Imprisonment upto 4 years or; fine upto Rs. 1,000,000 or; both with confiscation of any devices or system
(viii) Write, offer, make available, distribute or transmit a malicious code or abet in the same with intent to cause harm to Pakistan Single Window system or data resulting in or intending to result in corruption, destruction alteration, suppression, theft or loss to the Pakistan Single Window system or data, or any attempt thereof;	If any person writes, offers, makes available, distributes or transmits a malicious code or abet in the same, with intent to cause harm to Pakistan Single Window system or data resulting in or intending to result in corruption, destruction alteration, suppression, theft or loss to the Pakistan Single Window system or data, or any attempt thereof;	Imprisonment upto 4 years or; fine upto Rs. 5,000,000 or; both with confiscation of any devices or system

4. Wharfage or storage fees [Section 203]

Before introduction of Finance Bill 2022, Collector of Customs had powers only to fix the expiry period of goods left in customs area, wharf or other landing place.

The Bill, through substitution of section 203 of the Customs Act, 1969 proposed to enhance the powers of Collector of Customs to fix the port charges on import & export of goods for services rendered by terminal operators, as well as, fees for storing confiscated goods in declared State warehouse, having jurisdiction.

The afore-said proposition has not been adapted by the Finance Act, 2022.

5. Protection of action of Provincial government [Section 217]

At present, Federal Government, public servant, governmental agency and officials thereof are protected under section 217 of the Customs Act, 1969 against legal proceedings, investigation and enquiry for actions taken by them in good faith in pursuance of Customs Act, rules and instructions of Federal Board of Revenue.

The Bill proposed to include Provincial Government into the scope of above protection under section 217 of the Customs Act.

The afore-said proposition has not been adapted by the Finance Act, 2022.

First Schedule

Enhancement in proposed rates:

The Act enhanced the rates of Customs Duties on import of raw materials/ industrial inputs of items covered under Chapter 32 of Pakistan Customs Tariff (viz. Synthetic organic colouring matter etc.) as follows:

PCT Code	Description	CD (%)	
		Proposed	Adapted
3204.1200	- - Acid dyes, whether or not pre-metallised, and preparations based thereon; mordant dyes and preparations based thereon	11	16
3204.1400	- - Direct dyes and preparations based thereon	11	16
3204.1600	- - Reactive dyes and preparations based thereon	11	16
3204.2000	- Synthetic organic products of a kind used as fluorescent brightening agents	16	20

Fifth Schedule

Proposed rate reduced (Part I):

The Customs Duty rate on imports of Cinematographic equipment has been adapted through the Act at 0% as against the proposed rate of 3%. These items are listed as under:

S.No.	PCT Code	Description	CD (%)	
			(Proposed)	(Adapted)
32	9007.2000	Cinematographic equipment imported during the period commencing on the July 01, 2018 and ending on the June 30, 2023. (1) Projector (2) Parts and accessories for projector (3) Other instruments and apparatus for cinema (4) Screen (5) Cinematographic parts and accessories (6) 3D Glasses (7) Digital Loud Speakers (8) Digital Processor (9) Sub-woofer and Surround Speakers (10) Amplifiers (11) Audio rack and termination board (12) Music Distribution System (13) Seats (14) Recliners (15) Wall Panels and metal profiles (16) Step Lights (17) Illuminated Signs (18) Dry Walls (19) Ready Gips	3	0

ii. New insertions (Part III):

The Act inserted following entries relating to zero rating of customs duties on import of smartphones ;

S.No.	PCT Code	Description	CD	Condition
99	8517.1390	Smartphones	0	Nil
99A	8517.1310	Smartphones in CKD / SKD conditions	0	i. If imported by local assemblers/ manufacturers duly certified by Pakistan Telecommunication Authority (PTA) subject to quota determination by the input Output Co-efficient Organization (IOCO).

S.No.	PCT Code	Description	CD	Condition
				ii. Imports shall be subject to production of type approval certificate from PTA.
				iii. Local assemblers / manufacturers shall furnish consignment wise NOC from PTA.

Federal Excise Act, 2005

1. Proceedings against authority and persons [Section 19A]

The Act has omitted section 19A of the Federal Excise Act, 2005 (FE Act), which was authorizing the Board to prescribe rules for initiating criminal proceedings against inland revenue officers mentioned in section 29, who willfully and deliberately commits or omits an act which results in undue benefit or advantage to the officer or any other person.

2. Alternative Dispute Resolution (ADR) [Section 38]

In order to align the provisions related to ADR with the propositions made through the Bill in respect of the Income Tax Ordinance, 2001, similar scheme for ADR has been adopted by substitution of section 47A and section 38 of the ST Act and the FED Act respectively.

For key features of the revised ADR scheme under the FED Act, kindly refer our comments in this publication on section 47A of the ST Act. (Refer page No.21.

3. Removal of difficulties and condonation of time limit etc [Section 43(2)]

Sub section 2 of section 43 of the FE Act empowers the Board to condone the time limit provided under the said Act on an application made to the Board in this regard.

Earlier, the section was silent regarding the timing during which such condonation could have been granted by the Board. The Act through insertion of phrase "at any time before or after the expiry of such time or period" has added clarity to the effect that the Board may provide respective condonation at any time before or after the expiry of the time limit concerned.

4. First Schedule:

The Act has changed the description and rate of duty for excisable goods and services in following manner:

S. No.	Old Description	New Description	Rate of Duty	
			Old	New
Table-I Excisable Goods				
9	Locally produced cigarettes if their on-pack printed retail price exceeds five thousand nine hundred and sixty rupees per thousand cigarettes.	Locally produced cigarettes if their on-pack printed retail price exceeds six thousand six hundred and sixty rupees per thousand cigarettes.	Rs.5,200 per 1,000 cigarettes	Rs.5,900 per 1,000 cigarettes
10	Locally produced cigarettes if their on-pack printed retail price does not exceed five thousand nine hundred and sixty rupees per thousand cigarettes.	Locally produced cigarettes if their on-pack printed retail price does not exceed six thousand six hundred and sixty rupees per thousand cigarettes.	Rs.1,650 per 1,000 cigarettes	Rs.1,850 per 1,000 cigarettes
35	Other Liquefied petroleum gases and gaseous hydrocarbons		Rs.17.18 per 100 cubic meters	Rs.6 per 100 metric tonne

The Act does not adopt the proposed change of rate in duty Rs.1,850 per 1,000 cigarettes in entry 56 of the Table I of the First Schedule so the existing duty Re.1 per filter rod for cigarettes shall remain applicable.

Islamabad Capital Territory (Tax on Services) Ordinance, 2001

Through Finance Bill 2022, entry no 11 of Table 2 was proposed to be omitted however instead of omission, the Finance Act 2022 has changed the description and specified heading of the services in following manner:

S. No.	Description		Heading	
	Old	New	Old	New
Table-2				
11	IT services and IT enabled services	Services provided by software or IT- based system development consultants	Respective Heading	9815.6000

The rate of tax on above service remain unchanged i.e. 5%.

Petroleum Products (Petroleum Levy) Ordinance, 1961

Through the Finance Act, 2022, the Fifth Schedule to the Petroleum Products (Petroleum Levy) Ordinance, 1961 is revised as under:

Serial No	Petroleum Products	Unit	Maximum Petroleum Levy Rate (Rupees per unit)
1	High Speed Diesel Oil (HSDO)	Litre	50
2	Motor Gasoline	Litre	50
3	Superior Kerosene Oil (SKO)	Litre	50
4	Light Diesel Oil (LDO)	Litre	50
5	High Octane Blending Component (HOBC)	Litre	50
6	E-10 Gasoline	Litre	50
7	Liquefied Petroleum Gas (produced/extracted in Pakistan)	Metric Ton	30,000

The Capital Value Tax, 2022

1. Revision in scope of CVT with respect to Motor Vehicles (MV) held in Pakistan:

The Bill proposed to levy Capital Value Tax (CVT) on various assets, including motor vehicles held in Pakistan having value of more than Rs.5 million which were proposed to be taxed at 2% of the value.

Through Finance Act, 2022, the applicable rate and criteria for applying CVT on motor vehicles, has been revised as under:

Description	Rate
Motor vehicles held in Pakistan, where – (i) the engine capacity exceeds 1300 cc or (ii) in case of electric vehicles, the battery power exceeds 50KWh	1% of the value

2. Value of Motor Vehicle (MV):

The proposed criteria for determination of MV for the purpose of levy of CVT has been amended as under:

Proposition as per Finance Bill	Adapted as per Finance Act
For the purpose of CVT, the value of MV shall be reduced by 10% each year and shall become zero: - After 10 years of acquisition, or - Where the value after reduction is less than or equal to Rs.5 million	For the purpose of CVT, the value of MV shall be reduced by 10% each year and shall become zero: - After 05 years of acquisition

3. Foreign Assets of a resident individual:

The proposed criteria for determination of value of foreign assets for the purpose of levy of CVT has been amended as under:

Proposition as per Finance Bill	Adapted as per Finance Act
The tax shall be levied on the higher of – - total consideration paid to acquire, alter or improve the assets, or - the Fair Market Value (FMV) of the assets	The tax shall be levied on: - total cost of the foreign assets on the last day of the tax year using exchange rate of the said day, or - FMV of the assets on the last day of the tax year where cost cannot be determined

4. Any other assets as specified by the Federal Government:

The Bill proposed to empower the Federal Government (FG) to charge CVT on any other assets at such rate as may be specified by the FG. Through the Act, a capping of 5% for specification of CVT rates by the FG, has been provided.

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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.

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