YOUSUF ADIL

Comments on the Tax Laws (Second Amendment) Ordinance, 2021

This memorandum contains a synopsis of "Tax Laws (Second Amendment) Ordinance, 2021" entailing the amendments made in the tax laws specially withdrawals of various tax exemptions. The amendments are introduced to meet the conditions of International Monetary Fund's program to improve the tax collection.

The amendments made through the Ordinance, are applicable with immediate effect, unless otherwise specified.

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Karachi
March 31, 2021

Contents

A. Income Tax Ordinance, 2001

1. Withdrawal of powers of the Board to notify any industrial undertakings [Section 2(29C)(b)]

Under the current law, the Federal Board of Revenue (the Board) has powers to specify in the official gazette any person as industrial undertaking in addition to the industrial undertaking as defined under clause (29C) of section 2 of the Ordinance.

Through the Amendment Ordinance, the powers of the Board to notify any other person as industrial undertaking has been withdrawn and resultantly, an undertaking shall only be treated as industrial undertaking which falls under the definition provided under clause (29C) of section 2 of the Ordinance.

2. Withdrawal of First Year Allowance (FYA) in lieu of initial allowance [Section 23A]

By virtue of section 23A of the Ordinance, First Year Allowance (FYA) at the rate of 90%, in lieu of initial allowance, was allowed for plant, machinery and equipment falling under the definition of eligible depreciable assets, if installed by the following:

- any industrial undertaking set up in specified rural and under developed area;
- any industrial undertaking engaged in the manufacturing of cellular mobile phones and qualifying for exemption under clause (126N) of Part I of the Second Schedule.

Section 23A of the Ordinance, has been deleted and resultantly, FYA shall no longer be allowed in above stated cases. However, the undertakings shall be eligible to claim initial allowance as allowed under section 23 of the Ordinance.

Corresponding changes have been made in section 57 of the Ordinance, in respect of setting off and carrying forward of losses related to FYA.

3. Charitable Donation [Section 61]

Under current law, a person is entitled to claim tax credit on donation only. The legislature enlarged the scope of nature of payments eligible for tax credit by inserting the expression “voluntary contribution or subscription” in section 61(1) of the Ordinance.

Resultantly, now onwards a person shall be entitled to claim tax credit even on any voluntary contribution or subscription paid to the organizations specified under section 61(1) of the Ordinance.

In addition to the above stated amendment, the Amendment Ordinance also added following categories of persons to whom payment of donation, voluntary contribution or subscription shall be eligible for tax credit to the payer of such voluntarily contribution or subscription under section 61 of the Ordinance:

- Any person eligible to tax credit under section 100C of the Ordinance;
- Entities, organization and funds mentioned in the Thirteenth Schedule to the Ordinance.

Through the Amendment Ordinance, clause (61) of Part I of Second Schedule to the Ordinance has been deleted and Thirteenth Schedule to the Ordinance is introduced. All the entities, organization and funds mentioned in the Thirteenth Schedule were listed in the deleted clause. Before this amendment, a person was eligible to claim deduction on account of any amount paid as donation to such entities and therefore was able to claim tax relief at highest slab rate instead of average rate of tax liability to taxable income.

4. Withdrawal of tax credit for persons employing fresh graduates [Section 64C]

Through Finance Act, 2019, the legislature inserted section 64C to encourage employment for freshly graduates. By virtue of section 64C of the Ordinance, a person employing freshly qualified graduates from a university or institution recognized by Higher

Education Commission was entitled to a tax credit on annual salary paid to the freshly qualified graduates for a tax year in which such graduates are employed.

Section 64C has now been deleted and resultantly, tax credit for persons employing fresh graduates has been withdrawn.

5. Withdrawal of tax credit for enlistment. [Section 65C]

This section provides for tax credit against the tax payable for the tax year in which the company is listed and following 3 tax years to encourage enlistment of a Company in any registered stock exchange of Pakistan. Through Finance Act, 2020, this benefit was restricted to a Company, which opts for enlistment on or before June 30, 2022.

Section 65C of the Ordinance has now been deleted and resultantly, tax credit to a Company on account of enlistment on Stock Exchange shall no longer be available.

This is another policy change by the Government which is not likely to be well received by the Stock Exchange considering already low number of listing over the last many years.

6. Omission of tax credit. [Section 65D]

Tax credit applicable for investment in the specific industrial undertakings, meeting specified criteria under section 65D, is going to expire by June 30, 2021. The Amendment Ordinance, therefore, provides for omission of the said section. It has been clarified that the existing beneficiaries shall continue to enjoy the benefits for the specified period, subject to conditions and limitations provided in the section.

This change is likely to dent the confidence of the investors who wanted to invest in relevant sectors as the subject tax credit was introduced in 2011 with corporate dairy farming added in 2012 for the tax credit on investment. Time period for setting up the industrial undertaking was also being extended from 2016 to 2019 and then to 2021.

7. Tax Credit for coal mining projects, startups and IT exporter. [Section 65F]

As per Part I of the Second Schedule to the Ordinance, income of following persons was exempt from tax subject to the limitations mentioned in the relevant clauses:

- **Clause (132B):** Profits and gains derived by a taxpayer from a coal mining project in Sindh, supplying coal exclusively to power generation projects.

- **Clause (133):** Income from exports of computer software or IT services or IT enabled services upto the period ending on 30th day of June, 2025.

- **Clause (143):** Profit and gains derived by a start–up as defined in clause (62A) of section 2 for the tax year in which the start-up is certified by the Pakistan Software Export Board and the following two tax years.

The Amendment Ordinance has deleted aforesaid clauses of Part I of Second Schedule to the Ordinance and inserted new section 65F - Tax credit for certain persons; whereby, income of above stated persons will now no longer be exempt from tax but such persons shall now be allowed to claim tax credit equal to one hundred percent of tax payable including minimum and final taxes. Tax credit equal to one hundred percent shall be available subject to fulfillment of all of the following conditions:

a) return has been filed;

b) tax required to be deducted or collected has been deducted or collected and paid;

c) withholding tax statements for the immediately preceding tax year have been filed; and

d) sales tax returns for the tax periods corresponding to relevant tax year have been filed.

8. Tax Credit for specified industrial undertakings. [Section 65G]

A new section “65G - Tax credit for specified industrial undertakings” has been inserted, by virtue of which, specified industrial undertakings shall be allowed an investment tax credit of 25% of the eligible investment amount against the tax payable under the provisions of the Ordinance including minimum and final taxes.

For the purposes of claiming tax credit, the eligible investment means investment made in purchase and installation of new machinery, buildings, equipment, hardware and software except self-created software and used capital goods.

Following persons / taxpayers shall be eligible for claiming the tax credit under this section:

a) Green field industrial undertaking as defined in clause (27A) of section 2 engaged in-

   (i) the manufacture of goods or materials or the subjection of goods or materials to any process which substantially changes their original condition; or

   (ii) ship building:

   Provided that the person incorporated between the 30th day of June, 2019 and the 30th day of June, 2024 and the person is not formed by the splitting up or reconstitution of an undertaking already in existence or by transfer of machinery, plant, or building from an undertaking established in Pakistan prior to commencement of the new business and is not part of an expansion project; and

b) industrial undertaking set up by the 30th day of June 2023 and engaged in the manufacture of plant, machinery for generation of renewable energy from sources like solar and wind for a period of five years beginning from the date such industrial undertaking is set up.

The tax credit not fully adjusted during the year of investment shall be carried forward to the subsequent tax year upto two tax years.

It is pertinent to note section 65G(i) refers to the expression “the eligible taxpayer defined in sub-section (3)”; however sub-section (3) define “eligible person” rather than eligible taxpayer. Appropriate changes are required in the newly inserted section.

9. Tax Credit for Charitable Organizations. [Section 100C]

Section 100C - Tax credit for certain persons, has been substituted with change in nomenclature as - Tax credit for charitable organisations.

The new section now specifically categorises the persons and types of income derived by such persons eligible for tax credit under the section as under:

9.1 Persons

a) persons specified in Table - 2 of clause (66) of Part I of the Second Schedule to this Ordinance;

b) a trust administered under a scheme approved by the Federal Government and established in Pakistan exclusively for the purposes of carrying out such activities as are for the welfare of ex-employees and serving personnel of the Federal Government or a Provincial Government or armed forces including civilian employees of armed forces and their dependents where the said trust is administered by a committee nominated by the Federal Government or a Provincial Government;

c) a trust;

d) a welfare institution registered with Provincial Or Islamabad Capital Territory (ICT) social welfare department;

e) a not for profit company registered with the Securities and Exchange Commission of Pakistan under section 42 of the Companies Act, 2017;

f) a welfare society registered under the provincial or Islamabad Capital Territory (ICT) laws related to registration of co-operative societies;

g) a waqf registered under Mussalman Waqf Validating Act, 1913 (VI of 1913) or any other law for the time being in force or in the instrument relating to the trust or the institution;

h) a university or education institutions being run by non-profit organization existing solely for educational purposes and not for the purposes of profit;

i) a religious or charitable institution for the benefit of public registered under any law for the time being in force; and

j) international non-governmental organization (INGOs) approved by the Federal Government.

9.2 Incomes

a) income from donations, voluntary contributions and subscriptions;

b) income from house property;

c) income from investments in the securities of the Federal Government;

d) profit on debt from scheduled banks and microfinance banks;

e) grant received from Federal, Provincial, Local or foreign Government;

f) so much of the income chargeable under the head "income from business" as is expended in Pakistan for the purposes of carrying out welfare activities:

Provided that in the case of income under the head "income from business", only so much of such income shall be eligible for tax credit under this section that bears the same proportion as the said amount of business income bears to the aggregate of income from all sources; and

g) any income of the persons mentioned in clauses (a), (b) and (h) as mentioned in 9.1 above.

Further, persons specified in Table - 2 of clause (66) of Part I of the Second Schedule to Ordinance are now covered under section 100C and are eligible for tax credit subject to the criteria and conditions [including obtaining approval under section 2(36) from specified date] as per provisions of section 100C of the Ordinance.

It is important to note that no amendment has been made in sub-clause (2) of clause (66) of Part 1 of Second Schedule to the Ordinance, which still provides for exemption to the persons specified in Table 2. Appropriate amendment needs to be made in this sub-clause.

10. Tax on income of non-resident Company arising of capital gain. [Section 152(1E)]

Section 152(1E) provides that withholding tax deductible shall be a final tax on capital gain arising on the disposal of debt instruments and Government securities including treasury bills and Pakistan investment bonds invested through special convertible rupee account (SCRA) by non-resident company having no permanent establishment in Pakistan. Banking company or a financial institution maintaining such SCRA are required to withhold income tax.

Through the Tax Laws (Amendment) Ordinance, 2021, the scope of final tax regime was extended to the individuals investing in securities through Roshan Digital Accounts (RDA). In order to streamline such changes, the expression "on income of the non-resident company arising out of such capital gain" has been substituted with the expression "in respect of the persons and income mentioned thereon" to cover investment made through RDA by individuals.

11. Offences and penalties

[Section 182]

The Amendment Ordinance has made revisions in penalties prescribed under section 182 of the Ordinance. Table providing comparison of existing and amended position is as under:

S.No.	Existing Offences	Existing Penalties	Existing Applicable Sections	Amendment
1.	Where any person fails to furnish a return of income as required under section 114 within the due date.	Such person shall pay a penalty equal to 0.1% of the tax payable in respect of that tax year for each day of default subject to a maximum penalty of 50% of the tax payable provided that if the penalty worked out as aforesaid is less than forty thousand rupees or no tax is payable for that tax year such person shall pay a penalty of forty thousand rupees. Provided that If seventy-five percent of the income is from salary and the amount of income under salary is less than five million Rupees, the minimum amount of penalty shall be five thousand Rupees. *Explanation.*— For the purposes of this entry, it is declared that the expression "tax payable" means tax chargeable on the taxable income on the basis of assessment made or treated to have been made under section 120, 121, 122 or 122C.	114 and 118	A new proviso has been introduced whereby minimum penalty of Rs. 40,000 is reduced to Rs. 5,000 where taxable income for the year is upto Rs. 800,000. Furthermore, penalty amount shall also be reduced by 75%, 50% or 25% if return is filed within one, two or three months respectively after the due date or extended due date for filing of return.
1A	Where any person fails to furnish a statement as required under section 165, or 165A, or 165B within the due date.	Such person shall pay a penalty of Rs.5000 if the person had already paid the tax collected or withheld by him within the due date for payment and the statement is filed within ninety days from	165, 165A and 165B	Minimum penalty of Rs 10,000 has now been prescribed for instances where no tax was required to be deducted or collected during the relevant period.

S.No.	Existing Offences	Existing Penalties	Existing Applicable Sections	Amendment
		the due date for filing the statement and, in all other cases, a penalty of Rs.2500 for each day of default from the due date subject to a minimum penalty of Rs. 10,000.		
6.	Any person who repeats erroneous calculation in the return for more than one year whereby amount of tax less than the actual tax payable under this Ordinance is paid.	Such person shall pay a penalty of thirty thousand rupees or three *per cent* of the amount of the tax involved, whichever is higher.	137	A proviso has been inserted to clarify that no penalty shall be imposed to the extent of the tax shortfall occurring as a result of the taxpayer taking a reasonably arguable position on the application of this Ordinance to the taxpayer's position.
10.	Any person who— a) makes a false or misleading statement to an Inland Revenue Authority either in writing or orally or electronically including a statement in an application, certificate, declaration, notification, return, objection or other document including books of accounts made, prepared, given, filed or furnished; (b) furnishes or files a false or mis-leading information or document or statement to an Income Tax Authority either in writing or orally or electronically; c) omits from a statement made or information furnished to an Income Tax Authority any matter or thing without	Such person shall pay a penalty of twenty five thousand rupees or 100% of the amount of tax shortfall whichever is higher: Provided that in case of an assessment order deemed under section 120, no penalty shall be imposed to the extent of the tax shortfall occurring as a result of the taxpayer taking a reasonably arguable position on the application of this Ordinance to the taxpayers' position.	114, 116, 174, 176, 177 and general	The maximum penalty threshold of 100% has been reduced to 50%. Furthermore, the penalty clause has also been made applicable to sections 114A "Taxpayer's Profile" and 118 "Method of furnishing returns and other documents".

S.No.	Existing Offences	Existing Penalties	Existing Applicable Sections	Amendment
	which the statement or the information is false or misleading in a material particular.			
11.	Any person who denies or obstructs the access of the Commissioner or any officer authorized by the Commissioner to the premises, place, accounts, documents, computers or stocks.	Such person shall pay a penalty of fifty thousand rupees or one hundred *per cent* of the amount of tax involved, whichever, is higher.	175 and 177	The maximum penalty threshold of 100% has been reduced to 50%.
16.	Any person who fails to display his NTN at the place of business as required under this Ordinance or the rules made thereunder.	Such person shall pay a penalty of five thousand rupees.	181C	The penalty of Rs. 5,000 is also imposed for non-displaying business license, as required under section "181D. Business license scheme'', at the place of business.
19.	Where any manufacturer of a motor vehicle accepts or processes any application for booking or purchase of a locally manufactured motor vehicle in violation of the provisions of clause (a) of section 227C.	Such person shall pay a penalty of 5 percent of the value of the motor vehicle.	227C	Section 227C - Restriction on purchase of certain assets, had imposed restrictions on purchase of immovable property and moveable property by Non-filers. The section was deleted vide Finance Act, 2019. Through the Amendment Ordinance, relevant penalty clauses have also been deleted.
20.	(i) Where any registering authority of Excise and Taxation Department accepts, processes or registers any application for registration of a locally manufactured motor vehicle or for the first registration of an imported vehicle in violation of the provisions of clause (a) of section 227C. (ii) Where any authority responsible for registering, recording or attesting the transfer of immovable property accepts or processes the registration or attestation of such property in violation of the provisions of clause (b) of section 227C.	Such person shall pay a penalty of 3 percent of the value of motor vehicle or immovable property.		

The Second Schedule

A. SIGNIFICANT AMENDMENTS IN PART I OF THE SECOND SCHEDULE

Income of Modaraba - Clause (100)

Clause (100) of Part I of the Second Schedule to the Ordinance, which provides exemption on income, not being income from manufacturing or trading activity, of a Modaraba registered under the Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 1980 has been omitted, accordingly, such income of Modarabas would now be subject to tax.

Intercorporate Dividend Income Clause (103C)

Clause (103C) of Part I of the Second Schedule to the Ordinance which provides exemption on dividend income derived by a company, if the recipient of the dividend, for the tax year is eligible for group relief under section 59B of the Ordinance, has been omitted. As such, dividend income of such entities would now be subject to tax.

This is a major policy deviation, as the said exemption was provided after detailed deliberations and in order to promote corporate group structures in the country. Such reliefs are provided to corporate sector across the globe as an incentive. The change in policy without taking into confidence the stakeholders would discourage the investors and shatter their confidence on policy makers, as this would result in increased tax cost of already existing groups who fulfill the required criteria. This would also likely to result in tax litigations on account of vested rights.

Income of a Special Purpose Vehicle (Clause 136)

Clause (136) of Part I of the Second Schedule to the Ordinance which provides exemption on income of a special purpose vehicle as defined in the Asset Backed Securitization Rules, 1999 made under the Companies Ordinance, 1984 (XLVII of 1984) has been omitted. As such, income derived by Special Purpose Vehicles would now be subject to tax at the normal rate.

This omission needs to be reconsidered as this provides an alternate tax efficient financing option to the industry which is in line with the global practices.

B. WITHDRAWAL OF EXEMPTION FROM TOTAL INCOME AND SHIFT TOWARDS TAX CREDIT REGIME

Through the Amendment Ordinance, exemption from income provided under various clauses of Part I of the Second Schedule to the Ordinance to certain sectors have been withdrawn with a shift towards tax credit regime, thus ensuring no change in tax implications. In this regard, a new section 65F of the Ordinance has been introduce whereby such sectors would be able to claim tax credits on their total income subject to the conditions stipulated under the said section are fulfilled. Clauses withdrawn are listed in the table below:

Clause Omitted	Description of exemption
(126O)	Profits and gains derived by a green field industrial undertaking.
(132B)	Profits and gains derived by a taxpayer from a coal mining project in Sindh, supplying coal exclusively to power generation projects.
(133)	Income from exports of computer software or IT services or IT enabled services.

Clause Omitted	Description of exemption
(143)	Profit and gains derived by a startup as defined under section 2(64a) of the Ordinance.
(126I)	Profits and gains derived by a person from an industrial undertaking and engaged in the manufacture of plant, machinery, equipment and items with dedicated use (no multiple uses) for generation of renewable energy from sources like solar and wind.

C. EXEMPTION FROM TOTAL INCOME

Through the Amendment Ordinance, exemption from income provided under various clauses of Part I of the Second Schedule to the Ordinance of various entities and sectors have been withdrawn as under:

Clause Omitted	Description of exemption
(57)(1)(iii)	Income derived by Sheikh Sultan Trust, Karachi through voluntary contributions, house property and investments in securities of the Federal Government.
(72A)	Income derived by Sukuk holder from Sukuk issued by the "Second Pakistan International Sukuk Company Limited" and "The Third Pakistan International Sukuk Company Limited including any gain on disposal of such Sukuk.
(74)	Profit on debt derived by Hub Power Company Limited on or after July 1, 1991 on its bank deposits or accounts with financial institutions directly connected with financial transactions relating to the project operations.
(90)	Exemption in respect of Profit on debt payable by an industrial undertaking in Pakistan on: ➢ moneys borrowed under a loan agreement entered into with financial institution in a foreign country approved by the Federal Government through a general or special order; and ➢ moneys borrowed or debts incurred by it in a foreign country in respect of the purchase outside Pakistan of capital plant and machinery in any case where such loan or debt is approved by the Federal Government, having regard to its terms generally and in particular to the terms of its payment, from so much of the tax payable in respect thereof as exceeds the tax or taxes on income paid on such interest in the foreign country.
(90A)	Profit on debt derived by any person on bonds issued by Pakistan Mortgage Refinance Company to refinance the residential housing mortgage market, for a period of five years with effect from the 1st day of July, 2018.
(91)	Income of a text book board of a Province established under any law for the time being in force.
(98)	Income derived by any Board (other than Pakistan Cricket Board) or other organization established by Government in Pakistan for the purposes of controlling, regulating, or encouraging major games and sports recognized by Government.
(101)	Profits and gains derived by a Venture Capital Company and Venture Capital Fund registered under Venture Capital Companies and Funds Management Rules, 2000 and a Private Equity and Venture Capital Fund, such exemption was available from the period July 01, 2001 to June 30, 2024.

Clause Omitted	Description of exemption
(104)	Income derived by the Libyan Arab Foreign Investment Company being dividend income received from Pak-Libya Holding Company.
(105)	Income derived by the Government of Kingdom of Saudi Arabia being dividend income received from Saudi-Pak Industrial and Agricultural Investment Company Limited.
(105A)	Income derived by Kuwait Foreign Trading Contracting and Investment Company or Kuwait Investment Authority being dividend income received from Pak-Kuwait Investment Company in Pakistan.
(110B)	Gain derived from transfer of a membership right held by a member of an existing stock exchange, for acquisition of shares and trading or clearing rights acquired by such member in new corporatized stock exchange in the course of corporatization of an existing stock exchange.
(110C)	Any gain derived from transfer of a bond issued by Pakistan Mortgage Refinance Company to refinance the residential housing mortgage market. Such exemption was available for the period July 01, 2018 to June 30, 2023.
(114)	Capital gains derived by a person from an industrial undertaking set up in an area declared by the Federal Government to be a "Zone" within the meaning of the Export Processing Zones Authority Ordinance, 1980 (IV of 1980)
(126B)	Profit and gains derived by Khalifa Coastal Refinery for a period of twenty years beginning in the month in which the refinery is setup or commercial production is commenced, whichever is the later.
(126G)	Profit and gains derived for a period of five years from the date of start of commercial production from specified projects that have been declared 'Pioneer Industry' by Economic Coordination Committee of the Cabinet of the following companies: 1. M/s. Astro Plastics (Pvt.) Ltd. from their Biaxially Oriented Polyethylene, Terephthalate (BOPET) Project; and 2. M/s. Novatex Ltd. from their Biaxially Oriented Polyethylene Terephtalate (BOPET) Project
(131)	Income of the following persons on the conditions that foreign exchange was brought into Pakistan: ➢ Of company having its registered office in Pakistan, as is derived by it by way of royalty, commission or fees from a foreign enterprise in consideration for the use outside Pakistan of any patent, invention, model, design, secret process or formula or similar property right, or information concerning industrial, commercial or scientific knowledge, experience or skill made available or provided to such enterprise by the company or in the consideration of technical services rendered outside Pakistan to such enterprise by the company under an agreement in this behalf, or ➢ Of any other taxpayer as is derived in any assessment year by way of fees for technical services rendered outside Pakistan to a foreign enterprise under an agreement entered into in this behalf.

Clause Omitted	Description of exemption
(132A)	Profit and gains derived by Bosicor Oil Pakistan Limited for a period of seven and half years beginning from the day on which the refinery is set up or commercial production is commenced whichever is later.
(135A)	Income derived by a non-resident from investment in OGDCL exchangeable bonds issued by the Federal Government.
(141)	Profit and gains derived by LNG Terminal Operators and Terminal Owners for a period of five years beginning from the date when commercial operations are commenced.
(146)	Income which was not chargeable to tax prior to the commencement of the Constitution (Twenty-fifth Amendment) Act, 2018 (XXXVII of 2018) of any individual domiciled or company and association of persons resident in the Tribal Areas forming part of the Provinces of Khyber Pakhtunkhwa and Balochistan under paragraph (d) of Article 246 of the Constitution with effect from the 1st day of June, 2018 to the 30th day of June, 2023 (both days inclusive).

D. EXEMPTION ALREADY EXPIRED / EXPIRING ON JUNE 30, 2021

Under Part I of the Second Schedule, there were few exemptions from total income which had either already been expired or expiring on June 2021. The Amendment Ordinance has omitted respective clauses and provided that the existing beneficiaries shall continue to avail benefits of the repealed provisions for the specified periods and subject to the conditions and limitation specified under the repealed provisions. The list of such clauses is as under:

Clause Omitted	Description of exemption
(72)	Profit on debt derived by a non-resident person on the following: ➢ In respect of private loans to be utilized on projects approved by the Federal Government; ➢ On a loan in foreign exchange against export letter of credit which is used exclusively for the export of goods manufactured or processed for exports in Pakistan; and ➢ Being a foreign individual, company or firm or association of person in respect of a foreign loan as is utilized for industrial investment in Pakistan
(126C)	Profits and gains derived by a taxpayer from an industrial undertaking set up in Larkano Industrial Estate between July 1, 2008 and June 30, 2013 for a period of ten years.
(126H)	Profits and gains derived by a taxpayer, from a fruit processing or preservation unit set up in Balochistan Province, Malakand Division, Gilgit-Baltistan and FATA between July 1, 2014 to June 30, 2017 engaged in processing of locally grown fruits, for a period of five years.
(126J)	Profits and gains derived from an industrial undertaking set up between July 1, 2015 and June 30, 2016 engaged in operating warehousing or cold chain facilities for storage of agriculture produce for a period of three years.

Clause Omitted	Description of exemption
(126K)	Profits and gains derived by a taxpayer for a period of fours, from an industrial undertaking set up between July 1, 2015 and June 30, 2017 for establishing and operating a halal meat production and obtained a halal certification in this regard, such exemption.
(126L)	Profits and gains derived from an industrial undertaking set up in the Provinces of Khyber Pukhtunkhwa and Baluchistan between July 1, 2015 and June 30, 2018 for a period of five years.
(126N)	Profits and gains derived from an industrial undertaking which were setup and commercial production has commenced between July 01, 2015 and June 30, 2017 and duly certified by the Pakistan Telecommunication Authority for manufacturing of cellular mobile phones for a period of five year.

E. AMENDMENT IN EXISTING EXEMPTION CLAUSES

Through the Amendment Ordinance, scope of certain existing exemptions provided under Part I of the Second Schedule has been enhanced or restricted as under:

Clause reference	Existing	After amendment
(75)	Income derived on account of profit on debt by an agency of a foreign Government, a foreign national (company, firm or association of persons), or any other non-resident person approved by the Federal Government from money borrowed under a loan agreement or foreign currency instrument approved by the Federal Government was exempt from tax.	The scope of this clause is now been enhanced and capital gains derived from such loan shall also be exempt.
(132)	Profits and gains derived by a taxpayer from power generation project set up in Pakistan on or after July 1, 1988 are exempt from tax subject to the conditions stipulated under clause 132 was exempt from tax.	Exemption from profit and gains shall be restricted to the existing power project and also to those persons who are entering into agreement or to whom letter of intent is issued by the Federal or Provincial Government, for setting up an electric power generation project in Pakistan upto June 30, 2021.
(126BA)	Before the Amendment Ordinance, profits and gains derived by a refinery set up between the 1st day of July, 2018 and the 30th day of June, 2023 with minimum 100,000 barrels per day production capacity for a period of twenty years beginning in the month in which the refinery is set up or commercial production is commenced, whichever is later was exempt from tax. Exemption under this clause was also available to existing refineries, if:	Under the substituted clause, profit and gains derived by a refinery shall be exempt in respect of the following projects: a) from new deep conversion refinery of at least 100,000 barrels per day for which approval is given by the Federal Government before December 31,

Clause reference	Existing	After amendment
	a) existing production capacity is enhanced by at least 100,000 barrels per day; b) the refinery maintains separate accounts for income arising from aforesaid additional production capacity; and c) the refinery is a deep conversion refinery.	2021; or b) for the purpose of upgradation, modernization or expansion project of any refinery existing on the date of commencement of this Ordinance for which such refinery makes undertaking to the Federal Government in writing before December 31, 2021.

F. REDUCTION IN TAX RATES

Part II of the Second Schedule provides reduced tax rates in respect of various taxpayers and specified transactions. Following clauses of Part II have been omitted or amended:

Clause reference	Description / Existing status	Comments on amendment
(3)	Income derived by a taxpayer from services rendered outside Pakistan and construction contracts executed outside Pakistan is subject to tax at the reduced rate i.e. 50% of the tax payable as applicable in case of similar services which are rendered and construction contracts executed in Pakistan. However, such reduce rate is subject to the conditions that foreign exchange is brought into Pakistan.	This clause has been omitted and as such, income derived from such services would now be chargeable at the normal rates as provided under the First Schedule to the Ordinance.
(3B)	Income of Pakistan Cricket Board ("PCB") derived from sources outside Pakistan including media rights, gate money, sponsorship fee, in- stadium rights, out-stadium rights, payments made by International Cricket Council, Asian Cricket Council or any other Cricket Board is subject to taxed at 4% of the gross receipts from such sources.	This clause has been omitted, as such, income would now be chargeable to tax at the normal rates as provided under the First Schedule to the Ordinance.
(5B)	Capital gains derived by a person from the sale of shares or assets by a Private limited company to Private Equity and Venture Capital Fund are subject to tax at 10% of such gains.	This clause has been omitted, as such, capital gain would now be subject to tax at the prescribed rates as provided under the First Schedule to the Ordinance.
(18)	Income of Modaraba is subject to tax at 25% excluding such income which falls	This clause has been omitted, as such, the said income of

Clause reference	Description / Existing status	Comments on amendment
	under Division III, Part I of the First Schedule or section 153 or section 154 applies.	Modaraba would now be subject be tax at the corporate tax rates as provided under the First Schedule to the Ordinance.
(18A)	Company setting up an industrial undertaking between the first day of July, 2014 to the thirtieth day of June, 2017, is subject to reduced tax rate of 20% for a period of five years beginning from the month in which the industrial undertaking is set up or commercial production is commenced whichever is later. Such relief was available in cases where 50% of the cost of the project including working capital is through owner equity foreign direct investment.	This clause has been omitted.
(18B)	Tax liability is reduced by 2% in case of a company whose shares are traded on stock exchange if; • It fulfills prescribed shari'ah compliant criteria approved by State Bank of Pakistan, Securities and Exchange Commission of Pakistan and Board; • Derives income from manufacturing activities only; • has declared taxable income for the last three consecutive tax years: and • has issued dividend for the last five consecutive tax years.	This clause has been omitted, as such, relief of reduction of tax liability by 2% would not be available, hence, the income would be subject to tax at the normal corporate tax rate.
(24AA)	Rate of tax under section 152 in the case of M/S CR-NORINCO JV (Chinese Contractor) as recipient, on payments arising out of commercial contract agreement signed with the Government of Punjab for installation of electrical and mechanical (E&M) equipment for construction of the Lahore Orange Line Metro Train Project is 6% of the gross amount of payment.	This clause has been omitted, as such, concessional rate is no more available.
(24D)	Dealers and sub dealers, whole sellers and retailers of, fast moving consumer goods, fertilizers, sugar, cement and edible oil is subject to minimum tax under section 113	Through the Amendment Ordinance, same relief has also been extended to those retailers who are engaged in the supply

Clause reference	Description / Existing status	Comments on amendment
	of the Ordinance at reduced rate 0.25% on the condition that the names of such dealers and sub-dealers are appearing on the active taxpayers' lists issued under the provisions of the Sales Tax Act, 1990 and the Income Tax Ordinance, 2001.	of locally manufactured mobile phones.
(28A)	Rate of advance tax collection under 148 of the Ordinance on import of Hybrid Cars is subject to reduced rate as following. **Engine Capacity** — **Rate of reduction** Upto 1200 cc — 100% 1201 to 1800 cc — 50% 1801 to 2500 cc — 25%	This clause has been omitted, as such, concessional rate is no more available and accordingly advance tax shall be collected at the rates as applicable in the case of other motor vehicles.
(28B)	Advance tax collection on cash withdrawal was made at the reduce rate of 0.15% under section 231A by an exchange company, duly licensed and authorized by the State Bank of Pakistan, exclusively dedicated for its authorized business related transactions, subject to the condition that a certificate issued by the concerned Commissioner Inland Revenue for a financial year mentioning details and particulars of its Bank Account being used entirely for business transactions is provided.	This clause has been omitted, as such concessional rate would not be available.

G. REDUCTION IN TAX LIABILITY

Part III of the Second Schedule provides for reduction in tax liability of various taxpayers. Following clauses of Part III have been omitted or amended:

Clause reference	Description	Comments on amendment
(2)	Tax liability of a teacher or a researcher, employed in a non-profit education or research institution duly recognized by Higher Education Commission, a Board of Education or a University recognized by the Higher Education Commission, including Government research institution is subject to a reduction to the extent of 25% of gross tax liability in respect of income from salary.	This clause has been omitted, as such, no relief would be available and total salary income of such persons shall be taxed at the normal rate.
(7)	Tax liability of a foreign filmmaker from making films in Pakistan is reduced by	This clause has been omitted, as such, no concession would be

Clause reference	Description	Comments on amendment
	50% on income derived from filmmaking in Pakistan.	available and income derived by such person shall now be subject to tax at the normal tax rates.
(8)	Tax liability of resident companies deriving income from filmmaking shall be reduced by 70% on income from filmmaking.	This clause has been omitted, as such, no concession would be available and total income derived by such resident companies shall be subject to tax at the normal rates.
(9)	Tax liability in respect of profits and gains derived by a person from low cost housing projects where maximum sale price of a single housing unit is Rs. 2.5 Million, is reduced to the extent of 50% subject to certain conditions as laid down under Clause (9), Part III. Under the said clause, no time period was specified during which a person is required to commence such low-cost housing project.	Consequent to the Amendment Ordinance, now only those persons would be able to take benefit of this clause who have commenced their low cost housing projects on or before June 30, 2024.
(9B)	A person was able to avail relief of reduction in tax liability to the extent of 90% in case of low-cost housing developed or approved by NAPHDA or under the Ehsaas Programm. No time period was specified under which a person is required to commence its project. Under the said clause, no time period was specified during which person is required to commence such low-cost housing project.	Through the Amendment Ordinance, now time period has been specified i.e. on or before June 30, 2024 during which a person involved in low-cost housing project is required to commence its project in order to claim relief on tax liability.

H. EXEMPTION FROM SPECIFIC PROVISIONS

Carryforward of losses by an industrial undertaking setup in a Zone - Clause (2) of Part IV.

Before the Amendment Ordinance, tax losses of an industrial undertaking set up in an area declared by the Federal Government to be a "Zone" within the meaning of Export Processing Zones Authority Ordinance, 1980, could be carried forward without any time limitation. Consequent to the omission of the said clause through the Amendment Ordinance, said loss shall now be carried forward upto six tax years as specified under section 57 of the Ordinance.

Amendments specific to Oil and Gas Exploration Companies

Through the Amendment Ordinance, following amendments have been made with respect to the taxation of Oil and Gas Exploration and Production companies [E&P].

Clause (2), Part-II of the Second Schedule to the Ordinance

Clause (2) of Part II of the Second Schedule to the Ordinance provides that income of E&P from letting out of pipeline to other E&P for carriage of petroleum is taxable at the rate prescribed under Part I of the Fifth Schedule. Through the Amendment Ordinance, the said clause has been omitted. We understand that such omission will not have any impact on taxation of E&P Companies as no change has been made in section 100 or Rule I, Part I of the Fifth Schedule which prescribes taxation of E&P companies.

Clause (2), Part-III of the Second Schedule to the Ordinance

Before the Amendment Ordinance, an E&P entity is allowed a reduction in tax liability to the extent of tax liability resulting due to devaluation or revaluation of rupee in any particular tax year, subject to the condition that such reduction is permissible as per relevant terms of the agreement entered into with the Government.

The Amendment Ordinance has omitted the Clause (2), subsequent to which increase in tax liability due to devaluation or revaluation shall not be subject to any reduction. However, it needs to be evaluated whether any provision of the agreement with the Government allows any relief against tax liability under given circumstances.

Third Schedule – Depreciation for Oil and Gas Sector

Before the Amendment Ordinance, E&P entities were allowed to claim 100% depreciation in respect of 'below ground installations'

Through the Amendment Ordinance, entry relating to "below ground installation" has been deleted, consequent to which E&P would now claim initial allowance and depreciation in the same manner as applicable in case of other fixed assets.

Fifth Schedule – Exploration and Extraction of Mineral Deposits

As per Rule (4) of Part II of the Fifth Schedule to the Ordinance, profits and gains as are derived from the refining and concentrating of mineral deposits by an undertaking, which is also involved in extraction and exploration of such deposits, is exempt from tax to the extent of profits not exceeding 10% of the capital employed in such business. The said exemption has now been omitted through the Amendment Ordinance.

The Thirteen Schedule

The Amendment Ordinance has deleted clauses (61), (64A), (64B), (64C) and (65) of Part I of the Second Schedule to the Ordinance and has introduced the "Thirteen Schedule" under the Ordinance, which provides list of those non-profit organizations and funds which are covered in the aforesaid clauses. A person on making donation, voluntarily contribution and subscription to non-profit organizations and funds listed under the "Third Schedule" would be entitled to claim tax credit in the manner prescribed under section 61 of the Ordinance.

S.No	Name
1.	Any Sports Board or institution recognized by the Federal Government for the purposes of promoting, controlling or regulating any sport or game
2.	The Citizens Foundation
3.	Fund for Promotion of Science and Technology in Pakistan.
4.	Fund for Retarded and Handicapped Children
5.	National Trust Fund for the Disabled
6.	Fund for Development of Mazaar of Hazarat Burri imam
7.	Rabita-e-lslami's Project for printing copies of the Holy Quran.
8.	Fatimid Foundation, Karachi.
9.	Al-Shifa Trust
10.	Society for the Promotion of Engineering Sciences and Technology in Pakistan.
11.	Citizens-Police Liaison Committee, Central Repoi1ing Cell, Sindh Governor House, Karachi.
12.	ICIC Foundation.
13.	National Management Foundation..
14.	Endowment Fund of the institutions of the Agha Khan Development Network (Pakistan Listed in Schedule 1 of the Accord and Protocol, dated November 13, 1994, executed between the Government of the Islamic Republic of Pakistan and Agha Khan Development Network.
15.	Shaheed Zulfiqar Ali Bhutto Memorial Awards Society
16.	Iqbal Memorial Fund
17.	Cancer Research Foundation of Pakistan, Lahore.
18.	Shaukat khanum Memorial Trust, Lahore.
19.	Christian Memorial Hospital, Sialkot.
20.	National Museums, National Libraries and monuments or institutions declared to be National Heritage by the Federal Government
21.	Mumtaz Bakhtawar Memorial Trust Hospital, Lahore.
22.	Kashmir Fund for Rehabilitation of Kashmir Refugees and Freedom Fighters.
23.	Institutions of the Agha Khan Development Network (Pakistan) listed in Schedule 1 of the Accord and Protocol, dated November 13, 1994, executed between the Government of the Islamic Republic of Pakistan and Agha Khan Development Network
24.	Azad Kashmir President's Mujahid Fund, 1972.

S.No	Name
25.	National Institute of Cardiovascular Diseases, (Pakistan) Karachi
26.	Businessmen Hospital Trust. Lahore.
27.	Premier Trust Hospital, Mardan
28.	Faisal Shaheed Memorial. Hospital Trust, Gujranwala.
29.	Khair-un-Nisa Hospital Foundation, Lahore.
30.	Sind and Balochistan Advocates' Benevolent Fund
31.	Rashid Minhas Memorial Hospital Fund
32.	Any relief or welfare fund established by the Federal Government.
33.	Mohatta Palace Gallery Trust
34.	Bagh-e-Quaid-e-Azam project, Karachi
35.	Any amount donated for Tameer-e-Karachi Fund
36.	Pakistan Red Crescent Society.
37.	Bank of Commerce and Credit International Foundation for Advancement of Science and Technology
38.	Federal Board of Revenue Foundation
39.	The Indus Hospital, Karachi.
40.	Pakistan Sweet homes Angels and Fairies Place
41.	Al-Shifa Trust Eye Hospital
42.	Aziz Tabba Foundation
43.	Sindh Institute of Urology and Transplantation, SIUT Trust and Society for the Welfare of SIUT.
44.	Sharif Trust.
45.	The kidney Centre Post Graduate Institute
46.	Pakistan Disabled Foundation
47.	Sardar Trust Eye Hospital. Lahore
48.	Supreme Court of Pakistan - Diamer Bhasha & Mohmand Dams – Fund
49.	Layton Rahmatullah Benevolent Trust (LRBT)
50.	Akhuwat
51.	The Prime Minister's COVID-19 Pandemic Relief Fund-2020.
52.	Ghulam Ishaq khan Institute of Engineering Sciences and Technology (GIKI).
53.	Lahore University of Management Sciences
54.	Dawat-e-Hadiya, Karachi
55.	Baitussalam Welfare Trust
56.	Patients’ Aid Foundation
57.	Alkhidmat Foundation.

S.No	Name
58.	Alamgir Welfare Trust International.
59.	Prime Minister’s Special Fund for victims of terrorism
60.	Chief Minister's(Punjab) Relief Fund for Internally Displaced Persons (IDPs) of KPK
61.	Prime Minister's Flood Relief Fund 2010 and Provincial Chief Minister's Relief Funds for victims of flood 2010
62.	Waqf for Research on Islamic History, Art and Culture, Istanbul

B. Sales Tax Act, 1990

Table-1 Sixth Schedule

Exemption has been provided on imports of auto disable syringes and raw materials for manufacture of auto disable syringes till June 30, 2021 through insertion of the following entries in Sixth Schedule to the Sales Tax Act, 1990:

Entry No.	Description	PCT Heading
159.	Import of auto disable Syringes till 30th June, 2021:	
	(i) with needles	9018.3110
	(ii) without needles	9018.3120
160.	Import of following raw materials for the manufacturers of auto disable syringes till 30th June, 2021	
	(i) Tubular metal needles	9018.3200
	(ii) Rubber Gaskets	4016.9310

Contact us

For more information you may contact

Shoaib Ghazi
Chief Executive Officer
Email: sghazi@yousufadil.com

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

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

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

Arshad Mehmood
Partner Tax & Legal
Karachi office
Email: amehmood@yousufadil.com

Muhammad Shahzad Hussain
Director – Business Process Solutions
Tax & Legal
Email: muhahussain@yousufadil.com

Our offices

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

Phones: + 92 (21) 34546494-97
Fax : + 92 (21) 34541314

Email: sghazi@yousufadil.com

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

Phones: + 92 (51) 8350601, + 92 (51) 8734400-3
Fax: + 92 (51) 8350602

Email: shahzad@yousufadil.com

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

Phones: + 92 (42) 35913595-7, 35440520
Fax: + 92 (42) 35440521

Email: rmukhan@yousufadil.com

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

Phones: + 92 (61) 4571131-2
Fax: + 92 (61) 4571134

Email: rmukhan@yousufadil.com

YOUSUF ADIL

Yousuf Adil, Chartered Accountants provides Audit & Assurance, Consulting, Risk and Financial Advisory and Tax & Legal services, through nearly 600 professionals in four cities across Pakistan.