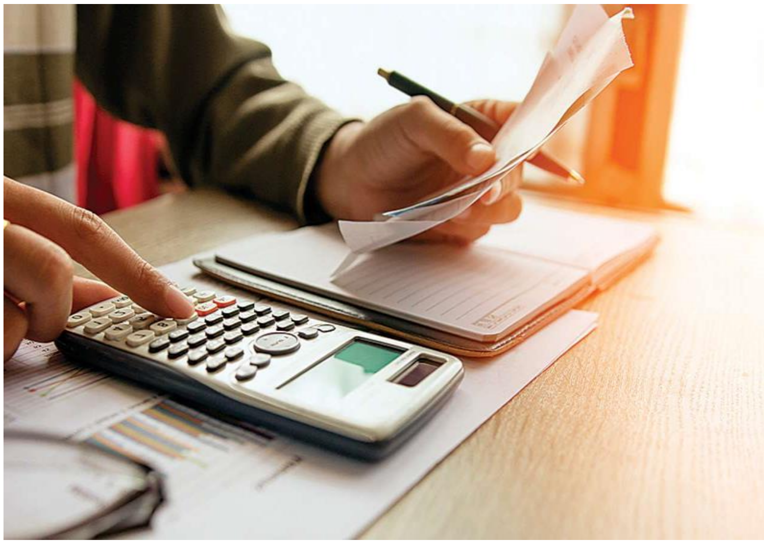
YOUSUF ADIL

Significant Amendments through Finance Act, 2023

Tax

Foreword



This memorandum contains our comments in respect of significant amendments made in the Finance Bill, 2023 through the recently promulgated Finance Act, 2023.

The amendments enacted through the Finance Act, 2023 will take effect from July 1, 2023 unless stated otherwise.

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Karachi
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Contents

Income Tax Ordinance, 2001

1. Permanent Establishment [Section 2(41)]

The Bill proposed to amend the definition of the Permanent Establishment by omitting the word 'fixed' wherever used in the definition. The Act has approved this amendment despite objections raised by the tax practitioners at various forums.

Such amendment is contrary to global practices for international taxation and guidance provided by OECD. The said change will also be deviation from the prevailing provisions of double tax treaties signed by the Pakistan with other countries and is not only likely to result litigations but also will disturb the legal precedents set by the appellate forums and Courts, decided based on global practices.

This amendment is made apparently to broaden the scope of the definition, recognizing the digitalization of the global economy which makes it easier for a foreign business to sell goods or services into a jurisdiction without a physical presence. As a consequence of omission of the word "fixed", foreign businesses could be considered as having a permanent establishment in Pakistan even without having a physical presence where they are considered to have a place of business (not necessarily physical) through which they are carrying on business wholly or partly.

Through the Act, a new clause (bb) is inserted under the definition of Permanent Establishment, to cover virtual business presence in Pakistan, including any business where transactions are conducted through internet or any other electronic medium with or without having any physical presence.

The Act also approved the amendment proposed by the Bill in the definition of Permanent Establishment on account of furnishing of services by a non-resident through an entity, in addition to employees or other personnel covered under the existing definition.

2. Small and Medium Enterprise (SME) [Section 2(59A)]

The Bill proposed to enhance the turnover limit for SMEs from Rs 250 million to Rs 800 million, to align the definition under the Ordinance with the definition of Small Medium Enterprise under the State Bank of Pakistan regulations. Further, the Bill also proposed to cover persons providing or rendering IT services or IT enabled services as defined in clauses (30AD) and (30AE) of section 2 under definition of SMEs, thereby extending tax incentives available to SMEs to IT sector.

The aforesaid proposal has not been enacted and therefore, the business turnover limit will remain the same i.e. up to 250 million for the SMEs and IT sector will not be covered under the definition of SMEs.

3. Discharge of Super Tax through Advance Tax [Section 4C (2), (5A) & 147]

The Bill proposed amendment in the Eighth Schedule to the Ordinance for collection of super tax by the NCCPL on account on capital gain on securities through advance tax. Through the Act, corresponding amendment has been made in section 4C.

4. Tax on deemed income [Section 7E]

The Finance Act, 2022 introduced a new concept of deemed income and the levy of income tax on capital assets situated in Pakistan. Section 7E prescribes 20% income tax on 5% of the fair market value of capital assets situated in Pakistan. Certain conditional exclusions to certain capital assets are also provided from clause (a) to (i) of sub section (2) of Section 7E of the Ordinance which are not considered for computation of deemed income:

Through the Act, it is now provided that following exclusions will not apply to persons not appearing in Active Taxpayers List, other than persons covered under rule 2 of the Tenth Schedule (i.e. a person not required to file a return of income):

(a) one capital asset owned by the resident person;

(e) any property from which income is chargeable to tax under the Ordinance and tax leviable is paid thereon;

(f) capital asset in the first tax year of acquisition where tax under section 236K has been paid;

(g) where the fair market value of the capital assets in aggregate excluding the capital assets mentioned in clauses (a), (b), (c), (d), (e) and (f) does not exceed Rs. 25 million.

5. Deductions not allowed [Section 21]

Section 21 provides that payment of salary to the employees, other than through a bank account or digital modes of payment i.e. in cash form above Rs 25,000 is not allowable expense.

Through the Act, the above limit of salary payment in cash has been increased from Rs. 25,000 per month to Rs 32,000 per month. This is inline with the inflation and enhanced limit of Minimum Wage.

6. Capital gain on disposal of securities [Section 37A]

The Finance (Supplementary) Act, 2023 had inserted a new proviso under section 37A of the Ordinance, whereby capital gain derived from the disposal of securities covered under section 37A which are made otherwise than through registered stock exchange and which are not settled through NCCPL, shall be subject to tax under section 37 of the Ordinance instead of section 37A of the Ordinance.

By virtue of the aforesaid amendment, the capital gain arising on sale of shares of listed companies otherwise through stock exchange and that are not settled through NCCPL will not be able to take the benefit of the reduced tax rates that are applicable in respect of securities chargeable to tax under section 37A.

Through the Act, the above proviso introduced through Supplementary Act 2023 has been substituted. The substituted proviso has continued the aforesaid restrictions for availing the benefits of reduced tax rates in respect of capital gain on disposal of shares of a listed company made otherwise than through registered stock exchange and which are not settled through NCCPL. Therefore, to avail the benefits of the reduced tax rates applicable under Section 37A of the Ordinance, the shares are required to be traded through registered stock exchange or settled through NCCPL.

The substituted proviso extends the above conditions to the capital gain earned through initial public offer (IPO) by the company, except where the detail of such disposal is furnished to

NCCPL for computation of capital gain and tax thereon.

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

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

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

In order to incentivize the Foreign investment, as envisaged under the above mentioned Foreign Investment Act, the Bill proposed exemption from taxes. The Act extends the scope of the incentives to include exemption on income (including capital gains), advance taxes, withholding taxes, minimum and final taxes under the Ordinance for the period and to the extent provided in the Second and Third Schedule to the Foreign Investment Act.

It is now clarified that the terms defined under the Second and Third Schedules to the said Foreign Investment Act shall apply mutatis mutandis to this Ordinance.

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

The Bill proposed an incentive to promote construction activities in the country by inserting new section 65I of the Ordinance, whereby an individual taxpayer would be able to claim a tax credit, against his tax liability, equal to lower of 10% of the tax assessed for the tax year or Rs 1 Million in respect of construction of a new house. The proposed Tax credit was subject to the condition that construction is completed during the said tax year and completion certificate is furnished at the time of filing of return of income. New house meant a residential house, layout plan of which was approved by the concerned authority on or after July 1, 2023.

The above relief has not been enacted through the Act.

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

The Bill introduced a new section 99D "**Additional tax on certain income, profits or gains**". by virtue of which, for any of the last five tax years preceding from tax year 2023 and onwards, in addition to any tax charged, paid or payable under any of the provision of the Ordinance, an additional tax shall be imposed on every person, who has any income, profit or gains that have arisen to any person or class of persons due to any economic factor or factors that resulted in, profits or gains.

Through the Act, prescribed time period for preceding 5 years has been reduced to 3 years. Further, it is clarified that this section shall apply to a person, being a company. The Act provides that this additional tax will be levied on windfall income.

10. Unexplained income or assets [Section 111]

Under the existing provisions of law, tax authorities cannot raise queries under section 111 as to the source of income from a person in respect of an amount of foreign exchange remitted from outside Pakistan through normal banking channels not exceeding Rs. 5 million in a tax year that is encashed into rupees by a scheduled bank and a certificate from such bank is produced as provided under sub section (4) of Section 111 of the Ordinance.

Through the Bill, the aforesaid limit of foreign remittance brought into Pakistan through normal banking channel was proposed to be increased from Rs. 5 million to USD 100,000. Various professional forums have condemned such proposition which may have opened the door to bring the untaxed money from unknown sources into Pakistan.

A positive step is made by abolishing such proposition while finalizing the Act. Therefore, the limit of foreign remittance brought into Pakistan through banking channel would remain Rs.5 million as currently provided under the Ordinance.

11. Alternative Dispute Resolution (ADR) [Section 134A]

The Act substitutes the existing ADR process under section 134A of the Ordinance, whereby an aggrieved person may apply for appointment of ADR in connection with any dispute pertaining to:

(i) the liability of tax of Rs. 100 million and above against the aggrieved person or admissibility of refund, as the case may be;

(ii) the extent of waiver of default surcharge and penalty; or

(iii) any other specific relief required to resolve the dispute.

Application for appointment of ADRC can be made for the resolution of any hardship or dispute mentioned in detail in the application, which is under litigation in any court of law or an Appellate Authority, except where criminal proceedings have been initiated.

Following are the main features in the new scheme of ADR, as compared to existing provisions:

(i) Previously, application for dispute resolution was required to be accompanied with an initial proposition including an offer by the applicant for payment of tax that was non-retractable. Through the changes made, the condition for the offer to be non-retractable is waived, hence the offer for payment of tax is not binding on the applicant.

(ii) Reduced the time limit from 45 days to 15 days to constitute ADRC. Previously, the time limit was increased from 30 days to 45 days.

(iii) Inclusion in ADRC of a retired Judge, not below the rank of a judge of a High Court, who shall also be the Chairperson of the Committee, to be nominated by the Board from a panel notified by the Law and Justice Division for such purpose.

(iv) Exclusion of the person from ADCRC that was nominated by the consensus of Chief Commissioner

Inland Revenue and the person nominated by the taxpayer from the panel notified by the Board.

(v) Omission of mandatory requirement earlier introduced through the Finance Act, 2022 for withdrawal of appeal by the aggrieved person, Commissioner or both that is pending before any court or an appellate authority after constitution of ADRC. Accordingly, a person can now opt for ADRC without withdrawing its appeal.

(vi) Waiver of restriction on ADRC for commencement of proceedings prior to the communication of withdrawal of appeal to the Board. This restriction was introduced through Finance Act, 2022, through which if the order of withdrawal of appeal is not received within 75 days of formation of ADRC, the Committee was dissolved and no related provisions would apply.

(vii) The Board is now required to communicate the order of appointment of Committee to the aggrieved person, court of law or the appellate authority, where the dispute is pending and the concerned Commissioner.

(viii) Time limit to decide the case is reduced from 120 to 45 days that can be extended to further 15 days for reasons to be recorded in writing.

(ix) Previously, decision of ADRC was binding on Commissioner Inland Revenue and the aggrieved person. However, as per recent changes, decision of ADRC is binding on the Commissioner, if the aggrieved person has withdrawn appeal, filed before any court of law or an appellate authority and has communicated withdrawal to the Commissioner. In case withdrawal is not communicated within 60 days of service of the decision of the Committee upon the aggrieved person, the decision does not stand binding on the Commissioner.

(x) An obligation is imposed on the Commissioner to withdraw the appeal, if pending, before any court of law or an appellate authority within 30 days of the communication of the order of withdrawal by the aggrieved person to the Commissioner.

The amendments in ADRC mechanism have been introduced, considering a huge number of pending cases before the appellate forums, to provide an effective alternate forum for resolution of disputes between the taxpayers and tax authorities. It is likely that these changes will make the process more efficient, facilitating the aggrieved persons through quick resolution of their pending matters.

12. Advance Tax paid by the taxpayer [Section 147(5C)]

Through the Act, a new sub-section 5C is inserted under section 147 of the Ordinance for the purpose of quarterly payment of advance tax by the persons deriving income from the business of:

(i) Construction and disposal of residential, commercial or other buildings; or

(ii) Development and sale of residential, commercial or other plots for itself or otherwise.

The person as specified above shall be liable for payment of adjustable advance tax in four equal installments at the specified rates. A fixed slab rate system is provided for each city for different categories among commercial, residential and industrial area etc. The slab rates are applicable on per square feet area basis as introduced in Part IIB of the First Schedule of the Ordinance, which are as under:

Part IIB
Rates of Advance Tax
[see sub-section (5C) of section 147]

Rate in respect of			
(1)	(2)	(3)	(4)
Area in	Karachi, Lahore and Islamabad	Hyderabad, Sukkur, Multan, Faisalabad, Rawalpindi, Gujranwala, Sahiwal, Sialkot, Bahawalpur, Peshawar, Mardan, Abbottabad, Quetta	Urban Ares not specified in columns (2) and (3)
Tax on Persons falling under Section 147(5C)(i) FOR Commercial Buildings			
Sq. Ft.			
Any size	Rs. 250 per Sq. ft.	Rs. 230 per Sq. ft.	Rs. 210 per Sq. ft.
Tax on Persons falling under Section 147(5C)(i) for Residential Buildings			
Sq. Ft.			
Up to 3000	Rs. 80 per Sq. ft.	Rs. 65 per Sq. ft.	Rs. 50 per Sq. ft.
3000 and above	Rs. 125 per Sq. ft.	Rs. 110 per Sq. ft.	Rs. 100 per Sq. ft.
Tax on Persons falling under Section 147(5C)(ii)			
Sq. Ft.			
Any size	Rs. 150 per Sq. ft.	Rs. 130 per Sq. ft.	Rs. 100 per Sq. ft.
Tax on Persons falling under Section 147(5C)(ii) for development of Industrial Area			
Sq. Ft.			
Any size	Rs. 20 per Sq. ft.	Rs. 20 per Sq. ft.	Rs. 10 per Sq. ft.

In case of mixed used buildings having both commercial and residential areas, respective rates mentioned above shall be applied.

In case of development of plots and construction buildings on the same plots as one project, both rates shall be applied.

The aforesaid amendment is introduced with an aim to collect income tax in advance at the time of initiation of any construction project or development of residential/commercial areas who are normally taxed on project to project basis at the bottom line profit at the end of the financial year. This would increase the cash out-flow of builder/developer in terms of cash payment of income tax at each quarter.

13. Advance Tax on sale or transfer of immovable property [Section 236C]

Through the Act, a new sub section is inserted in section 236C to put bar on registration, recording and attestation of any immovable property by a person responsible in this regard, until an evidence of discharge of tax liability under section 7E is furnished to him by the seller or transferor of immovable property.

The Federal Government introduced the concept of deemed income vide the Finance Act 2022 where any additional property subject to certain conditions is being taxed at 20% of the 5% of the value of the property as notified by FBR. The taxpayers who avoided the payment of income tax on such deemed income are now restricted from selling the immoveable property, without payment of due taxes under section 7E of the Ordinance.

This amendment is likely to create practical difficulties for the seller especially where such seller was not liable to pay tax on such property under section 7E.

14. Advance Tax on purchase or transfer of immovable property [Section 236K]

The Bill proposed an exclusion to the non-residents from payment of advance tax under section 236K on purchase or transfer of immovable property, when such buyer or transferee is a non-resident individual holding a Pakistan Card (POC) or National ID Card for Overseas Pakistanis (NICOP) or Computerized National ID Card (CNIC) and who acquires the immovable property through a Foreign Currency Value Account (FCVA) or NRP Rupee Value Account (NRVA) maintained with authorized banks in Pakistan under the foreign exchange regulations issued by the State Bank of Pakistan who submits the certificate in this regard.

The above proposal has not been enacted in the Act. Consequently, the non-residents will continue to pay advance tax on purchase or transfer of immoveable property at the specified rates of filer and non-filer and tax collected from non-resident under section 236K will be treated as final discharge of tax liability.

The First Schedule

Rates of Tax

Part I

Division I

Clause I -Rates of Tax for Non- Salaried Individuals and Association of Persons

The Finance Act, Tax rates on salaried class and non-salaried class have been increased for collection of additional taxes, apparently on the advice of International Monetary Fund. Newly enacted tax slabs are as follows:

Tax rates for AOP and non-salaried individual:

S. No.	Income Slabs	Previous Rates	New Rates
1	Where taxable income does not exceed Rs. 600,000	0%	0%
2	Where taxable income exceeds Rs. 600,000 but does not exceed Rs. 800,000.	5% of the amount exceeding Rs. 600,000.	7.5% of the amount exceeding Rs. 600,000.
3	Where taxable income exceeds Rs. 800,000 but does not exceed Rs. 1,200,000	Rs. 10,000 plus 12.5% of the amount exceeding Rs. 800,000	Rs. 15,000 plus 15% of the amount exceeding Rs. 800,000
4	Where taxable income exceeds Rs. 1,200,000 but does not exceed Rs. 2,400,000	Rs. 60,000 plus 17.5% of the amount exceeding Rs. 1,200,000	Rs. 75,000 plus 20% of the amount exceeding Rs. 1,200,000
5	Where taxable income exceeds Rs. 2,400,000 but does not exceed Rs. 3,000,000	Rs. 270,000 plus 22.5% of the amount exceeding Rs. 2,400,000	Rs. 315,000 plus 25% of the amount exceeding Rs. 2,400,000
6	Where taxable income exceeds Rs. 3,000,000 but does not exceed Rs. 4,000,000	Rs. 405,000 plus 27.5% of the amount exceeding Rs. 3,000,000	Rs. 465,000 plus 30% of the amount exceeding Rs. 3,000,000

<table>
<tr><th>S. No.</th><th>Income Slabs</th><th>Previous Rates</th><th>New Rates</th></tr>
<tr><td>7</td><td>Where taxable income exceeds Rs. 4,000,000 but does not exceed Rs. 6,000,000</td><td>Rs. 680,000 plus 32.5% of the amount exceeding Rs. 4,000,000</td><td rowspan="2">Rs. 765,000 plus 35% of the amount exceeding Rs. 4,000,000</td></tr>
<tr><td>8</td><td>Where taxable income exceeds Rs. 6,000,000</td><td>Rs. 1,330,000 plus 35% of the amount exceeding Rs. 6,000,000</td></tr>
</table>

1. Below is the comparison of tax liability between different amounts of taxable income taxed currently and as per the amendments for non-salaried persons and AOPs:

S. No.	Annual Taxable Income (Rs)	Annual Tax Liability (Rs)		
		Previous Rates	**New Rates**	**Increase / (Decrease)**
1	1,000,000	35,000	45,000	10,000
2	2,000,000	200,000	235,000	35,000
3	2,800,000	360,000	415,000	55,000
4	3,200,000	460,000	525,000	65,000
5	3,600,000	570,000	645,000	75,000
6	4,200,000	745,000	835,000	90,000
7	6,300,000	1,435,000	1,570,000	135,000

Rates of Tax for Salaried Individuals

Amended tax slabs for salaried individuals are as follows:

S. No.	Income Slabs	Previous Rates	Newly enacted Rates
1	Where taxable income does not exceed Rs. 600,000	0%	No change
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	No change
3	Where taxable income exceeds Rs. 1,200,000 but does not exceed Rs. 2,400,000	12.5% Plus Rs.15,000 of the amount exceeding Rs. 1,200,000	No change

S. No.	**Income Slabs**	**Previous Rates**	**Newly enacted Rates**
4	Where taxable income exceeds Rs. 2,400,000 but does not exceed Rs. 3,600,000	Rs. 165,000 plus 20% of the amount exceeding Rs. 2,400,000	Rs. 165,000 plus 22.5% 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 plus 25% of the amount exceeding Rs. 3,600,000	Rs. 435,000 plus 27.5% 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 plus 32.5% of the amount exceeding Rs. 6,000,000	Rs. 1,095,000 plus 35% of the amount exceeding Rs. 6,000,000
7	Where taxable income exceeds Rs. 12,000,000	Rs. 2,955,000 plus 35% of the amount exceeding Rs. 12,000,000	

Below is the comparison of between different amounts of salaries taxed at current tax rates and potential tax liability as per the amended tax rates:

S. No.	**Annual Taxable Income (Rs)**	**Annual Tax Liability (Rs)**			
		Existing Rates	**New Rates**	**Increase / (Decrease) Annually**	**Increase / (Decrease) per month**
1	2,700,000	225,000	232,500	7,500	625
2	4,200,000	555,000	600,000	45,000	3,750
3	5,400,000	855,000	930,000	75,000	6,250
4	6,600,000	1,200,000	1,305,000	105,000	8,750
5	9,000,000	1,980,000	2,145,000	165,000	13,750
6	9,600,000	2,175,000	2,355,000	180,000	15,000
7	10,200,000	2,370,000	2,565,000	195,000	16,250
8	10,800,000	2,565,000	2,775,000	210,000	17,500
9	12,000,000	2,955,000	3,195,000	240,000	20,000

Division VII

Rates of Tax for Capital gain on Disposal of Securities.

The Act has amended following provision to the tax rates on capital gain on disposal of securities:

S. No.	Previous Rates	New Rates
1	The rate of 12.5% tax shall be charged on capital gain arising on disposal where the securities are acquired on or before the 30Th day of June 2022 irrespective of holding period of such securities.	The rate of 12.5% tax shall be charged on capital gain arising on disposal where the securities are acquired on or after the first day of July 2013 but on or before the 30Th day of June 2022 and The rate of 0% tax shall be charged on capital gain arising on disposal where the securities are acquired before the first day of July 2013.

Part-IV

Division VII

Advance Tax on Purchase, Registration and Transfer of Motor Vehicles:

The Act has amended advance tax rates for the Motor Vehicle having engine capacity from 2000cc, as under:

S. No.	Engine Capacity	Existing Rates	Approved Rates
1	2001cc to 2500cc	Rs.300,000	6% of the value
2	2501cc to 3000cc	Rs.400,000	8% of the value
3	Above 3000cc	Rs.500,000	10% of the value

Value for the purpose of above Table shall be in case of motor vehicle –

(i) imported in Pakistan, the import value assessed by the Customs authorities as increased by customs duty, federal excise duty and sales tax payable at import stage;

(ii) manufactured or assembled locally in Pakistan, the invoice value inclusive of all duties and taxes; or

(iii) auctioned, the auction value inclusive of all duties and taxes:

It is provided that in cases where engine capacity is not applicable and value of vehicle is Rs 5 million or more, the rate of collectible shall be 3% of the import value as increased by customs duty, sales tax and federal excise duty in case of imported vehicles or invoice value in case of locally manufactured or assembled vehicles.

Division X

Advance Tax on Sales or Transfer of Immovable Property

The Act enhanced the advance tax collection rate on sale or transfer of immovable property from 2% to 3% of the consideration received. Accordingly, advance tax rate for persons not appearing on Active Taxpayers List will enhance from 4% to 6%.

Division XVIII
Advance Tax on Purchase of Immovable Property

The Finance Act has enhanced the advance tax collection rate on purchase of immovable property from 2% to 3% of the fair market value. Accordingly, advance tax rate for persons not appearing on Active Taxpayers List will enhance from 7% to 10.5%.

Division XXVIII

Advance Tax on Amount Remitted Abroad Through Credit, Debit or Prepaid Cards

The Finance Act has enhanced the advance tax collection rate on payment made through Credit, Debit or prepaid Cards from 1% to 5% of the gross amount remitted abroad.

The Second Schedule

Part I

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

The Bill proposed to add certain entities under Clause (66), thereby extending exemption of tax on their income. The Act while keeping those entities has added following entities under the said Clause:

S. No	**Name**
(xlvi)	Baluchistan Bar Council
(xlvii)	Islamabad Bar Council
(Xlviii)	Khyber Pakhtunkhwa Bar Council
(xlix)	Punjab Bar Council
(l)	Sindh Bar Council
(li)	Shaheed Zulfiqar Ali Bhutto Foundation (SZABF)

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

The Finance Bill proposed to extend the period for exemptions on profits and gains accruing to a person on the sale of immoveable property or shares of Special Purpose Vehicle to any type of REIT scheme from June 30, 2023 to June 30, 2024.

The aforementioned extension in period of exemption has not been approved.

Tax Exemption for Agro based industry in rural area
[Clause (154)]

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

The proposed amendment could have encouraged creation of employment and business opportunities in such rural areas; however, the same has not been approved.

Part III

Reduction in income tax payable for Builders

The Bill proposed to provide a tax relief to builders registered with Directorate General of Designated Non-Financial Business and Professions for the tax years 2024 till tax year 2026. The tax payable on income from business was proposed to be reduced by the lower of 10% or Rs. 5 million. Such relief was to be introduced for new building construction projects possessing completion certificate issued by the concerned regulatory authority excluding a land development projects.

However, the above proposal is not approved.

Reduction in income tax payable for Youth Enterprises

The Bill proposed 50% reduction in tax liability for three years for youth entrepreneurship up to PKR 2 million for Individual/AOP and PKR 5 million for a company.

However, the proposed amendment is not approved.

Extension in exemption from withholding income taxes for residents of Tribal Areas
[Clause (109A) & (110)]

Through the Act, the time limit for the exemption from provisions of withholding income taxes, as provided under clauses (109A) and (110) of Part IV of the Second Schedule to the Ordinance, is extended from June 30, 2023 to June 30, 2024.

The Seventh Schedule

Extension in period of relief for Banking Companies

[Rule 7D, 7E and 7F]

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

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

The above referred tax relief is currently available up to tax year 2023. The Bill proposed to extend the period of relief up to tax year 2025. However, the proposal for extending relief till tax year 2025 has not been approved, as such, the relief will expire in tax year 2023.

The Tenth Schedule

[Rule 10]

The Bill introduced withholding tax at 0.6% on cash withdrawals of Rs 50,000 in a single day by a person not appearing on Active Taxpayers List.

Through the Act, Rule 10 of the Tenth Schedule has been amended to exclude section 231AB. Accordingly, withholding tax on cash withdrawal will not be enhanced by 100% for a person not appearing on the Active Taxpayer’s List.

Sales Tax Act, 1990

1. Further Tax [Section 3(1A)]

Through the Act, the rate of further tax has been enhanced from 3% to 4%, on taxable supplies made to unregistered and inactive persons.

2. Alternate Dispute Resolution [Section 47A]

Through the Act, provisions of Alternate Dispute Resolution have been revamped with an intent to broaden the scope and purpose of ADRC to the concerns of aggrieved person, including shortening the period of appointing the committee therein and other provisions etc. The amendment has been made in harmonization to the similar substitution made in the respective provision of the Income Tax Ordinance, 2001. Please refer to page 7.

3. Zero rating eligibility threshold increased for preparations suitable for infants [Fifth Schedule]

Previously, zero rating was available in case of the preparations suitable for infants, put up for retail sale with the price capping of Rs. 500 / 200 grams. Considering the effect of inflation over the years, the said price capping has been increased to Rs.600 /200 grams.

4. Exemptions [Sixth Schedule]

a) **Propositions made through Bill not adapted:**

The proposition made through the Bill for exemption on import and supplies of the following goods, has not been adapted through the Act:

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

b) **Limitation of existing exemption on Fertilizer:**

Previously, import and supply of fertilizers were exempt under serial number 168 without any classification. Through the Act, said exemption has been restricted to fertilizers excluding Diammonium Phosphate (DAP) with making corresponding amendment in the Eighth Schedule whereby DAP been made chargeable to sales tax at the reduced rate of 5%.

c) **Retrospectivity provided to exemption on supply of Wheat Bran:**

Previously, local supply of wheat bran was made exempt from sales tax through insertion of entry No. 27 to the Table II of the Sixth Schedule to the ST Act vide Finance Act, 2021. Through amendment made vide the Act in the description of the said entry, the aforesaid exemption has been given retrospective effect from July 1, 2018.

5. Reduced rating [Eighth Schedule]

a) Pharma Sector

i. Irregularity in the proposed description removed:

The description of the condition proposed through the Bill mentioned that only such raw materials shall be entitled to 'exemption' which are liable to customs duty at the rate not exceeding 11%. Through the Act, this apparent irregularity has been removed by replacing the proposed words of 'exemption' with 'reduced rate' as the Bill proposed the reduced sales tax rate of 1% on raw materials of pharma products and their active ingredients.

ii. Retrospective application of revised description not adapted in case of raw materials and ingredients:

The Bill proposed to provide retrospective application from July 01, 2022, to the substituted description of entry No. 81. i.e. substances registered as Drugs including medicaments with certain exclusions and entry 82. i.e. Raw materials for the basic manufacture of pharmaceutical active ingredients and for manufacture of pharmaceutical products.

The Act has not adapted proposition in this respect for entry No. 82 as such application to imports of active ingredients or raw materials would have resulted in to application of 17% sales tax on such imports where CD rate was more than 11%.

iii. Restriction on input adjustment extended to all in supply chain

Earlier, the restriction on input tax adjustment was specified in case of manufacturer and importers of drugs registered under Drugs Act, 1976 and medicaments classifiable under Chapter 30 of the First Schedule to the Customs Act, 1969, which are chargeable at reduced sales tax rate of 1%. Through amendment made vide the Act, said restriction has been extended to apply to all persons in the supply chain.

b) Fertilizer (DAP)

Through the Act, the following new entry has been inserted into the Schedule. Please refer to page 19 for comments.

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**
83.	DAP	Respective Headings	Exempt	NIL	5% Subject to the condition that no refund of excessive input tax, if any, shall be admissible.

Federal Excise Act, 2005

First Schedule

Table-I

i. Duties enhanced

Through the Act, FED on following goods has been increased as per the table below:

S.No.	Description of goods	Old Rate	Revised Rate
8c	Tobacco mixture in an electrically heated tobacco product by whatever name called, intended for consumption by using a tobacco heating system without combustion	Rs. 5,200 per kg	Rs. 16,500 per kg
59	Sugary fruit juices, syrups and squashes, waters whether or not containing added sugar or artificial sweeteners excluding mineral and aerated waters	10% of retail price	20% of retail price

ii. Application of FED on Energy inefficient fans and incandescent bulbs deferred till January 01, 2024

The Bill proposed FED on Energy inefficient fans and Incandescent bulbs @ Rs.2,000 per fan and 20% ad Valorem respectively through insertion of entry no. 60 and 61 in Table I to the FE Act. The said propositions have been adopted by the Act however, their effective date has been amended to have effect from January 1, 2024.

iii. FED introduced on Fertilizer:

The Act has introduced FED on fertilizer at 5% ad valorem through insertion of entry no. 62 in Table-I of the First Schedule.

Customs Act, 1969

1. Vesting of confiscated properties in the Federal Government [Section 182]

In addition to adaptation of the proposition made by the Bill to enhance the scope of usage of confiscated properties by including therein confiscated conveyance or any other equipment, the Act has further provided that such usage will be subject to rules to be introduced in future.

2. Alternate Dispute Resolution [Section 195C]

Previously, the nomination by the Board in the Committee was to be from the panel notified by the Board, comprising of:

(i) chartered accountants and advocates having minimum 10 years' experience in the field of taxation; and

(ii) reputable businessmen as nominated by Chambers of Commerce and Industry:

Consequent to the substitution made through the Act, now the nomination by the Board shall be from a panel notified by the Law and Justice Division for such purpose, who shall be a retired judge not below the rank of a judge of High Court and shall also be the Chairperson of the Committee.

3. Zero rating to Reko Diq Project [Fifth Schedule]

The Bill proposed income tax exemption and zero rating under other indirect tax laws (sales tax/FED) in respect of Reko Diq Mining Company (Private) Ltd. Through the Act, such zero rating has also been provided from applicability of Customs duty in respect of such project subject to certain conditions.

4. Proposed exemption from Customs Duty not adapted by the Act:

The Act has not adapted the exemption from applicability of Customs Duty on import of following goods:

i. Specified machinery, equipment, and inputs for manufacturing of solar panels, inverters and batteries by local assembler / manufacturer of renewable energy sector.

ii. Seeds for sowing purposes.

iii. Raw materials for manufacturing of diapers & sanitary.

iv. Organic composite solvents and thinners for manufacture of Butyl Acetate and Dibutyl Orthophthalates.

v. Roasted peanuts for manufacturing of Ready to Use Supplementary and Therapeutic Foods.

vi. Raw materials / inputs by manufacturers of Adhesive Tapes, Moulds and Dies, Miningmachinery, Machine Tools and Rice mill machinery.

vii. Baby shrimp/prawns/juvenile for breeding in commercial fish farms and hatcheries.

viii. Active Pharmaceutical Ingredients (APIs) Dextrose Anhydrous Injectable Grade (Pyrogen Free) USP

ix. Gefitnib, Caspian (Caspofungin 50 mg and 70 mg injection) and Bovine Lipid Extract Surfactant

x. Flavouring powders for food preparation.

5. Regulatory Duty (RD)

Through amending SRO 966(I)/2022 dated June 30, 2022, the Act has imposed/ enhanced RD on certain items and revised the scope of existing exclusion from RD for steel sector products, as under:

a. RD levied

Sr. No.	Heading	Description	RD Rate
140A	3824.9980	Calcium (Carbides)	5%
168A	3824.9980	Choloroparaffins liquid	10% till December 31, 2023 and; 5% from January 01, 2024 to June 30, 2024
297A	7002.3200	Tubes of other glass having a linear coefficient of expansion not exceeding 5 x 10-6 per Kelvin within a temperature of 00C to 3000C	10%

b. RD rate enhanced:

Sr. No.	Heading	Description	Old Rate	Enacted Rate
299	70.05	Float glass and surface ground or polished glass, in sheets, whether or not having an absorbent, reflecting or non-reflecting layer, but not otherwise worked (except PCT code 7005.3000)	15%	30%

c. Change in description of items excluded from applicability of RD:

The Act has amended description of following goods in Para 2 of the SRO on which RD is not applicable:

Sr. No.	Old Description	Amended Description
Para 2 (g)	Import of special steel round bars and rods of non-alloy steel exceeding djameter 75 mm (PCT code 7214.9990) by the seamless pipes manufacturers registered under the Sales Tax Act, 1990,	Import of special steel round bars and rods of non-alloy steel of **diameter 50 mm and exceeding djameter 50** mm (PCT code 7214.9990) by the seamless pipes manufacturers registered under the Sales Tax Act, 1990,

Islamabad Capital Territory (Tax on Services) Ordinance, 2001

a) Proposition regarding exemption from registration and filing to freelancer exporters of IT Services not adapted in the Act:

Through the Finance Bill 2023, freelance exporters exclusively engaged in the export of IT and IT-enabled services were proposed to be treated as ‘cottage industry’ (as per section 2(5AB)(d) of the Sales Tax Act, 1990 having turnover upto Rs. 8 million). The said proposition has not been adapted through the Act.

b) Proposition regarding reduced rating of IT and IT enabled services not adapted in the Act:

Through the Finance Bill, 2023, IT Services and IT enabled services were proposed to be taxed at reduced rate of 5% (through proposed insertion in Table-II). Through the Act, these service have been made chargeable to tax at the standard rate of 15% vide insertion of respective entries in Table-I.

Petroleum Products (Petroleum Ordinance), 1961

The Act has legislated rise in petroleum levy on Motor Gasoline and High Octane Blending Component from Rs. 50 per liter to Rs. 60 per liter.

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