

COMMENTS ON THE TAX LAWS (AMENDMENT) BILL, 2024

Preamble



The amendments to the federal tax laws covering income tax, sales tax and federal excise duty have been proposed to strengthen the enforcement and compliance framework of Pakistan’s tax laws. These changes are intended to ensure that taxes are paid proportionately to the income and consumption levels of taxpayers. The amendments aim to promote financial transparency, facilitate the completion of the value chain for businesses, and enhance the Federal Government’s ability to generate financial resources for economic development.

As per the Statement of Objects and Reasons provided by the legislature, the key purpose of these amendments is to bolster the effectiveness of tax compliance measures. By introducing enhanced monitoring, reporting, and enforcement mechanisms, the government seeks to broaden the tax base, prevent tax evasion, and ensure that individuals and businesses pay their fair share of taxes.

These amendments cover a wide range of areas, including restrictions on financial transactions for non-compliant taxpayers, enhanced information-sharing mechanisms with financial institutions, and the appointment of external auditors to improve tax audits. Collectively, these measures aim to create a fairer and more transparent tax environment that supports the government's revenue generation goals.

This publication contains general information only, and Yousuf Adil, Chartered Accountants, by means of this publication, is not rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional advisor

Yousuf Adil accepts no duty of care or liability for any loss occasioned to any person acting or refraining from action as a result of any material in this publication.

This publication can be accessed on our Website.

www.yousufadil.com

Karachi
December 19, 2024

Contents

- Income Tax Ordinance, 2001 4**
 - 1. Section 114C: Restriction on Economic Transactions by Certain Persons 4
 - 1.1. Key Provisions of Section 114C 4
 - 2. Section 175AA: Exchange of Banking and Tax Information Related to High-Risk Persons 5
 - 2.1. Sharing of Taxpayer Information with Banks 5
 - 2.2. Information Sharing by Banks 5
 - 2.3. Confidentiality Clause 5
 - 3. Section 207: Amendments in the Hierarchy of Tax Authorities 5
 - 3.1. Appointment of an Auditor 5
 - 4. Section 216: Sharing of Information with Contractual Auditors 5
 - 4.1. New Clause for Information Sharing 5
 - 4.2. Conditions for Information Sharing 5
 - 5. Section 222: Appointment of Auditors on a Contractual Basis 6
 - 6. Implications for Taxpayers and Banks as a consequence of these amendments 6
 - 6.1. Compliance and Transparency 6
 - 6.2. Challenges for Financial Institutions 6
 - 6.3. Increased Accountability 6

- Sales Tax Act, 1990 7**
 - 1 Section 8B: Adjustable input tax 7
 - 2 Section 14AC, 14AD & 14AE: Bar on operations of Bank Accounts, transfer of immovable property and other coercive actions for non-registration. 7
 - 2.1 Bar on operations of Bank Accounts: 7
 - 2.2 Bar on transfer of immovable property 7
 - 2.3 Other coercive actions for non-registration 7
 - 2.4 Order for removal of bar under aforesaid sections 7
 - 2.5 Appeal against the order passed under aforesaid sections 8
 - 2.6 Effective date of aforesaid provisions 8
 - 3 Section 32B: Appointment of experts and auditors 8
 - 4 Section 56B: Disclosure of information by a public servant 8
 - 5 Section 73: Certain transactions not admissible 8

- Federal Excise Act, 2005 9**
 - Power to Seize and Confiscation of Goods Subject to Federal Excise Duty [Section 26 and 27] 9

- Islamabad Capital Territory (Tax on Services) Ordinance, 2001 10**
 - Scope of Tax [Section 3] 10

Income Tax Ordinance, 2001

1. Section 114C: Restriction on Economic Transactions by Certain Persons

The insertion of Section 114C, introduces significant restrictions on economic transactions by certain 'ineligible persons' to enhance tax compliance and broaden the tax base. This section empowers the Federal Board of Revenue (FBR) to impose specific conditions and limitations on financial transactions for individuals and entities that do not comply with their tax obligations.

1.1. Key Provisions of Section 114C

(a) Restrictions on Economic Transactions

The following transactions are prohibited for 'ineligible persons':

- **Motor Vehicles:** Manufacturers and vehicle registration authorities are prohibited from processing applications for booking, purchase, or registration of motor vehicles for ineligible persons.
- **Immovable Property:** The registration, transfer, or recording of immovable property beyond a specified threshold (as notified by the FBR) is not allowed for ineligible persons.
- **Securities and Mutual Funds:** The sale, opening of accounts, or clearing of transactions for securities, debt instruments, or mutual funds is restricted for ineligible persons.
- **Banking Restrictions:** Banking companies are required to:
 - Refrain from opening or maintaining current or savings accounts (except Asaan accounts) for ineligible persons.
 - Disallow cash withdrawals from bank accounts exceeding limits as prescribed by the FBR.

All or any of the above restrictions imposed shall come into force as the Board may by notification in the official Gazette appoint with the approval of the Federal Government.

(b) Exemptions from Restrictions

The following transactions are exempted from the restrictions under Section 114C(2):

- **Motor Vehicles:** Purchase of rickshaws, motorcycle rickshaws, and tractors.
- **Small Pickup Vehicles:** Purchase of pickup vehicles with engine capacity up to 800 cc.
- **Special Vehicles:** Trucks, buses, and certain other vehicles subject to FBR-specified restrictions.
- **Investment in Securities:** Investment in securities up to limits as notified by the FBR.
- **Ineligible Persons Filing Returns:** If an ineligible person files a return of income for the latest tax year and submits a "Sources of Investment and Expenditure Statement," the restrictions do not apply.
- **Non-Residents and Public Companies:** Transactions made by non-resident persons or public companies are exempt, except for cash withdrawals exceeding the FBR-notified amount.

(c) Sources of Investment and Expenditure Statement

An ineligible person can escape the restrictions by filing a statement of sources of funds on the FBR’s web portal, specifying the source of funds for the relevant transaction. However, this declaration does not constitute "nature and source of income" for the purpose of

Section 111 of the Ordinance (Unexplained Income or Assets).

(d) Definitions and Key Concepts

- **Eligible Person:** A person who has filed a return for the preceding tax year and has sufficient resources declared in their wealth statement or financial statements. For an individual, this extends to their immediate family members.
- **Immediate Family Members:** Includes parents, spouse, minor children, unmarried or divorced daughters, and children with long-term physical, mental, or intellectual disabilities.
- **Ineligible Person:** Any person who is not an eligible person.
- **Sources of Investment and Expenditure Statement:** A declaration of funds used for transactions, submitted on the FBR web portal.
- **Sufficient Resources:** Refers to 130% of the cash and equivalent assets declared in the most recent wealth or financial statement.
- **Cash Equivalent Assets:** Assets that can be prescribed by the FBR.

2. Section 175AA: Exchange of Banking and Tax Information Related to High-Risk Persons

2.1. Sharing of Taxpayer Information with Banks

FBR is now authorized to share key taxpayer information with scheduled banks in Pakistan, including:

- Turnover, taxable income, and other financial details from income tax returns, wealth statements, and financial statements.
- Data-based algorithms that banks can use to identify high-risk persons.

2.2. Information Sharing by Banks

Banks must provide particulars, including names and account numbers, of persons where banking information is inconsistent with the data algorithms shared by the FBR. This provision aims to address discrepancies and ensure tax compliance by tracking and reconciling financial transactions.

2.3. Confidentiality Clause

All information received under Section 175AA will be used strictly for tax and related purposes and will be kept confidential to avoid misuse or unauthorized disclosure.

3. Section 207: Amendments in the Hierarchy of Tax Authorities

3.1. Appointment of an Auditor

An additional clause (m) has been inserted in Section 207(1), which authorizes the appointment of an auditor under Section 222.

4. Section 216: Sharing of Information with Contractual Auditors

4.1. New Clause for Information Sharing

A new clause (ba) has been added to Section 216(3) to enable FBR to share taxpayer information with auditors engaged on a contractual basis or through third-party payroll firms.

4.2. Conditions for Information Sharing

The information can only be shared after a non-disclosure agreement (NDA) is signed between the FBR and the contractual auditor. The NDA is intended to ensure confidentiality and limit the use of taxpayer information for audit purposes only.

This amendment allows the FBR to increase its audit capacity through the use of private-sector auditors. It may lead to more frequent and in-depth audits for taxpayers, thereby increasing pressure for accurate compliance.

5. Section 222: Appointment of Auditors on a Contractual Basis

Section 222 has been amended to empower the FBR to appoint auditors on a contractual basis or through third-party arrangements. This amendment strengthens the audit capacity of the FBR, allowing it to engage private-sector auditors for carrying out audits of taxpayers.

The primary objective is to address resource constraints within the FBR and ensure a larger audit coverage for taxpayers. This provision allows the FBR to supplement its in-house audit capacity with private-sector expertise.

Taxpayers should expect an increase in audit activity, as the FBR can now engage external auditors to conduct in-depth scrutiny of taxpayer information. Businesses must ensure proper documentation and compliance to avoid disputes or penalties.

6. Implications for Taxpayers and Banks as a consequence of these amendments

6.1. Compliance and Transparency

The changes introduced under Sections 114C, 175AA, 207, 216, and 222 collectively aim to enhance tax compliance and curb tax evasion. By restricting financial transactions for ineligible persons and enabling greater exchange of information between the FBR, banks, and auditors, these amendments encourage non-filers to enter the tax net.

6.2. Challenges for Financial Institutions

Banks, financial institutions, and regulatory bodies must implement robust systems to track and monitor transactions. They must ensure that their operations comply with the data-sharing requirements of the FBR and protect the confidentiality of information.

6.3. Increased Accountability

The appointment of auditors under Section 222 and the enhanced information-sharing powers of Section 216 enable the FBR to conduct targeted audits and hold taxpayers accountable for discrepancies in their declarations.

Sales Tax Act, 1990

1 Section 8B: Adjustable input tax

Sub-section (4) of section 8B of the Sales Tax Act, 1990 (ST Act) empowers the Board to prescribe any limit of input tax adjustment for any person or class of persons. The Bill proposes to enhance the scope of said sub-section thereby allowing the Board to use data based risk management system to defer certain input tax or fix higher or lower limits of input tax adjustment.

A remedy in this respect has been proposed to be allowed to the registered person who may contest any action taken under above said subsection (4) for restricting input tax adjustment, by filing application and documents with the concerned Commissioner who shall decide the case within sixty days of such application.

Under the provisions of section 72 of the ST Act, all officers of Inland Revenue including Commissioners are bound to follow any orders, instructions or directions of the Board except given so as to interfere with the discretion of officers of Inland Revenue in the exercise of their quasi-judicial functions. It appears that the review powers under subsection (4) are proposed to be granted to the Commissioner to address the genuine grievances of the registered person as long as order of the Commissioner passed in this regard, is not inconsistent with the procedures/limits prescribed by the Board.

2 Section 14AC, 14AD & 14AE: Bar on operations of Bank Accounts, transfer of immovable property and other coercive actions for non-registration.

To enforce sales tax registration for persons liable to be registered, strict measures have been proposed to be adopted through insertion of new sections 14AC, 14AD and 14AE which are summarized as under:

2.1 Bar on operations of Bank Accounts:

The Commissioner Inland Revenue (CIR) is empowered to freeze bank accounts of

the person who fails to get registered for the purpose of the ST Act, by directing the banking companies, schedule banks and financial institutions through order in writing.

2.2 Bar on transfer of immovable property

The CIR is empowered to restrict transfer of immovable property of the person who fails to get registered for the purpose of the ST Act, by directing the property registering authority through order in writing.

2.3 Other coercive actions for non-registration

The Chief Commissioner Inland Revenue (CCIR) is empowered to seal the business premises, seize the movable property or appoint a receiver for the management of the taxable activity of a person who fails to get registration under the ST Act. However, such coercive action shall not be taken unless following activities are carried out by the CCIR.

- i. Public notice is issued specifying the date of implementation of such actions;
- ii. Opportunity of being heard is provided to the person through an open court before a committee comprising of CCIR, CIR and a representative from the Chamber of Commerce or Trade Bodies; and
- iii. Such decision is made public by placement on the Board’s website and newspaper as well.

2.4 Order for removal of bar under aforesaid sections

In case the person subsequently gets registered under the Act, order for removal of bar on operation of bank account, transfer of immovable property or appointment of receiver under the aforesaid provisions shall be issued and conveyed by the CIR or CCIR as the case may, be within two working days.

2.5 Appeal against the order passed under aforesaid sections

A person being aggrieved from the order passed in aforesaid sections, may prefer an appeal before the CCIR against the order of the CIR or make representation before the Board against the order of the CCIR, within thirty day of receipt of the order. However, the provisions relating to manner and time within which in such appeals shall have to be decided, have not been proposed in the Bill.

2.6 Effective date of aforesaid provisions

The above provisions shall be effective from date to be notified by the Board through notification in official gazette.

3 Section 32B: Appointment of experts and auditors

New section has been proposed to be inserted empowering the Board or the CIR to appoint experts for assistance in audit, investigation, litigation or valuation for the purposes of the ST Act.

Further, the Board is also empowered to appoint as many auditors as it deems fit for the purposes of the ST Act whether through direct engagement or through a third party including a payroll firm and confer such powers as may be deemed necessary to assist the Inland Revenue Officers down to the level of Assistant

Commissioner as per the terms, conditions, limitations and restrictions as may be prescribed.

4 Section 56B: Disclosure of information by a public servant

Section 56B, restricts disclosure of information acquired by the public servants under any provision of the ST Act which is required to be kept confidential and shall only be disclosed as provided under section 216 of the Income Tax Ordinance, 2001. The Bill proposes to extend such restriction to experts and auditors appointed under above new insertion of section 32B.

5 Section 73: Certain transactions not admissible

Presently, sub-section (4) of section 73 provides restriction to claim input tax adjustment attributable to taxable supplies made to unregistered person of value exceeding in aggregate Rs. 100 million in a financial year or Rs. 10 million in a tax period.

The Bill proposes to replace the above threshold of Rs. 100 million or Rs. 10 million with the threshold to be specified by the Board through a Sales Tax General Order (STGO). However, such amendment shall be effective from the date to be notified by the Board in the official gazette.

Federal Excise Act, 2005

Power to Seize and Confiscation of Goods Subject to Federal Excise Duty [Section 26 and 27]

Section 26 and 27 empowers the Federal Board of Revenue (FBR) to seize or confiscate goods which are subject to federal excise duty under the Federal Excise Act, 2005 (FE Act).

Currently, FBR officials are empowered to seize and confiscate counterfeited goods (cigarettes or beverages etc.) which have been either unlawfully produced or on which excise duty has not been paid by the taxpayer.

As you are aware that FBR has introduced monitoring and tracking system for real-time monitoring of production and supplies of certain goods subject to federal excise duty.

To further strengthen the monitoring the Amendment Bill proposes to extend FBR's powers of seizure and confiscation of such dutiable goods which are issued without affixing tax stamp or affixing of counterfeited tax stamps banderoles, stickers, labels or barcodes etc. as required under Section 45A for monitoring or tracking by electronic or other means.

For the aforesaid purpose, it is also proposed that FBR may appoint any employee of Federal or Provincial Government, through a notification in the official gazette, to exercise the powers and functions of an Officer Inland Revenue, as provided under Section 26(1) (Seizure) and 27 (Confiscation) of the FE Act.

The proposed amendment aims to impose further restrictions and enhance penal consequences such as confiscation or seizures of those dutiable goods which are supplied without following the monitoring or tracking procedures as prescribed by FBR.

The proposed amendments to Sections 26 and 27 of the FE Act, reflect a shift towards stricter control and monitoring of dutiable goods. By incorporating the requirement for affixing and tracking tax stamps, labels, and barcodes, and empowering Federal and Provincial Government officers to act as Officers of Inland Revenue, the amendments aim to reduce tax evasion, curb counterfeit goods, and increase revenue collection. Businesses involved in the production, import, and sale of dutiable goods must ensure compliance with these new requirements to avoid penalties and disruption of their operations.

Islamabad Capital Territory (Tax on Services) Ordinance, 2001

Scope of Tax [Section 3]

FBR is taking additional steps to streamline the real time tracking and integration of taxpayers system. To support such actions, a proviso is proposed to be inserted after the first proviso of Sub Section (1) of Section 3 of the Islamabad Capital Territory (Tax on Services) Ordinance, 2001.

The Bill introduced a new proviso to section 3(1) which empowers FBR to provide for, through a general order, for any service provider, as

provided under Table 1 or Table 2 of the Schedule, to integrate its business with FBR's computerized system for real time reporting of provision of services, from such date and in such mode and manner as may be prescribed by FBR.

The primary objective of this amendment is to enforce real-time reporting of services provided by service providers listed in Table 1 or Table 2 of the Schedule. By integrating their businesses with the FBR's computerized system, the aim is to enhance the transparency, traceability, and timely reporting of taxable services, ensuring proper tax collection.

CONTACT US

For more information you may contact

Atif Mufassir
Partner - National Leader Tax & Legal
Karachi Office
Email: amufassir@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

Imran Ali Memon
Partner Tax & Legal
Karachi Office
Email: immemon@yousufadil.com


Arshad Mehmood
Senior Advisor Tax & Legal
Karachi Office
Email: arshadmehmood@yousufadil.com


Sufian Habib
Executive Director Tax & Legal
Islamabad Office
Email: sufianhabib@yousufadil.com

Muhammad Shahzad Hussain
Partner Business Process Solutions
Karachi Office
Email: muhahussain@yousufadil.com

Our Offices


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


 Phones: + 92 (021) 34546494-97

 Fax: + 92 (021) 34541314

 Email: sghazi@yousufadil.com


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


 Phones: + 92 (051) 8350601
+ 92 (051) 8734400-3

 Fax: + 92 (051) 8350602

 Email: shahzad@yousufadil.com


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


 Phones: + 92 (042) 35913595-7
+ 92 (042) 35440520

 Fax: + 92 (042) 35440521

 Email: rmukhan@yousufadil.com

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

 Phones: + 92 (061) 4571131-2

 Fax: + 92 (061) 4571134

 Email: rmukhan@yousufadil.com

About Yousuf Adil

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

This publication contains general information only and is not intended to address the matters of any particular individual or entity. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional advisor. No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this publication, and nor the Firm, its employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this publication.

© 2024. For information, contact Yousuf Adil, Chartered Accountant