

Note on changes in the Finance Act, 2019

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NOTE ON CHANGES IN THE FINANCE ACT, 2019 **VIS-À-VIS THOSE PROPOSED IN THE FINANCE BILL, 2019**

The Federal Government presented Finance Bill 2019 (**FB**) in the National Assembly on June 11, 2019. After the debate in the Senate and National Assembly, the Government presented Amendments in FB (**AFB**), which alongwith FB were passed, as Finance Act, 2019 (**FA**). After the approval of the President of Pakistan, FA 2019 has become effective from July 1, 2019.

This note summarises the major changes through AFB.

INCOME TAX

Super Tax

Through Finance Act, 2016, the definition of ‘income’ for the purpose of levying super tax on banking companies was amended to exclude the impact of brought forward depreciation and business losses. Through AFB, the impact of brought forward amortization is now also to be excluded from the ‘income’ for the purpose of levying super tax.

Corresponding amendment has, however, not been made in Rule 7C of the Seventh Schedule, which may give rise to interpretational issues.

Individuals and Association of Persons deriving income from property

Income from property derived by an individual or an Association of Persons [**AOPs**] is a separate block of income, liable to tax at the specified slab rates. FB increased these rates of tax, applicable on ‘gross’ amount of rental income. To provide relief, an option has been provided through AFB to individuals or AOPs deriving income from property exceeding Rs 4 million to claim deductions under section 15A and pay tax at normal rates specified in Division I of Part I of the First Schedule.

It may be noted that tax withholding on gross rentals under section 155 (at higher rate) may result in tax refunds if filing of such option is applicable at the time of filing of return of income.

Commission in respect of Third Schedule Items

The FB proposed to disallow any expenditure incurred on account of commission in respect of supplies covered by the Third Schedule to the Sales Tax Act, 1990 (**STA**), if the amount of commission paid exceeds 0.2% of gross amount of supplies in case:

- (i) the commission recipient is not registered under the STA; and
- (ii) his name is not appearing on ATL.

Since recipient of commission is not required to be registered under the STA; a clarificatory amendment has been made so as to withdraw the condition of registration under STA.

As a result, commission paid or payable in excess of 0.2%, in respect of Third Schedule products, shall be disallowed if recipient of commission is not appearing on ATL.

FBR is expected to clarify that:

- in case commission exceeds 0.2% threshold, only the excess amount will be disallowed; and
- if the recipient of commission is not appearing on ATL for a period of time, then proportionate commission expense will be disallowed.

Capital Gains on disposal of immovable properties

Prior to FB, capital gains on disposal of immovable properties were taxable as a separate block of income at the rates specified in the First Schedule, determined on the basis of holding period of immovable property.

The FB proposed to completely revamp the taxation of capital gains on disposal of immovable properties. It was proposed to tax gain on disposal of open plots as well as constructed properties at normal rates, subject to reduction in the amount of gain on the basis of holding period exceeding the specified thresholds.

Through AFB, the taxability of gain arising on disposal of immovable properties as separate block of income has been restored. However, the slab rates specified for such taxation are now based on the amount of gain, which are specified as under:

S. No.	Description	Rate of tax
1.	Where the gain does not exceed Rs 5 million	5%
2.	Where the gain exceeds Rs 5 million but does not exceed Rs 10 million	10%
3.	Where the gain exceeds Rs 10 million but does not exceed Rs 15 million	15%
4.	Where the gain exceeds Rs 15 million	20%

Further, the holding period of property for ascertaining capital gain has been reduced vis-à-vis that proposed in the FB as under:

- (a) For open plot of land, the gain chargeable to tax will be reduced by 25% if the holding period exceeds one year but does not exceed 8 years (as against 10 years proposed in the FB). Further, where the holding period exceeds 8 years (as against 10 years proposed in the FB), gain will be taken as zero.
- (b) For constructed properties, the gain chargeable to tax will be reduced by 25% if the holding period exceeds one year but does not exceed 4 years (as against 5 years proposed in the FB). Further, where the holding period exceeds 4 years (as against 5 years proposed in the FB), gain will be taken as zero.

Set off of losses of companies operating hotels

Under the income tax law, where a company registered in Pakistan or Azad Jammu and Kashmir (AJ&K), operating hotel in Pakistan or AJ&K sustains a business loss in any tax year, such company is entitled to have the amount of loss set-off against the company's income for tax year 2007 and onwards.

Such entitlement shall now be restricted to public companies defined in the Companies Act, 2017. Further, the public companies operating hotels in Gilgit Baltistan shall also be entitled to avail the benefit of this provision.

Resident Individual

Previously, an individual was considered a resident in a tax year subject to the only condition that his stay in Pakistan in a tax year is more than 182 days. FB proposed to re-instate the position that existed prior to 2003 whereby if an individual is present in Pakistan for 90 days in any tax year and in aggregate 365 days in 4 preceding years, he will be considered as resident. AFB has enhanced the period of stay for ascertaining the residential status of an individual from the proposed 90 days to 120 days in a tax year.

Withholding Tax from Payment to Non-Residents under Cohesive Business Operations

FB proposed that in case of payment that constitutes part of an overall arrangement of a cohesive business operation, on application made by the payer, the Commissioner may allow the person to make payment after deduction of tax equal to 30% of tax chargeable on such payment under section 152(2). FB inadvertently made reference to payments made under section 152(2) instead of section 152(1A) as a result of which effective withholding rate had become 6% (i.e., 30% of 20%). Such correction has been made through AFB resulting effectively in the rate of tax being worked at 2.1% (being 30% of 7%) in case of filer.

Power to Confiscate Certain Undeclared Assets

FB proposed to empower the Commissioner to raid any premises where there is reliable information of undeclared gold, bearer security or foreign currency and confiscate the same in order to enforce any provision of the Ordinance. Such proposal has been withdrawn and not made part of the FA.

Penalty and prosecution for Offshore Assets

FB proposed prosecution for the below referred offences, which has been relaxed through AFB as under:

Prosecution for	Punishment	
	Proposed in the Bill	Amendment through the Act
Concealment of an offshore asset. (The minimum revenue impact of such concealment has been increased Rs 10 million, as against proposed impact of Rs 100,000).	Imprisonment upto 7 years or with fine upto 200% of the amount of tax evaded, or both.	Imprisonment upto 3 years or with fine upto Rs 500,000, or both.
Non-compliance with notice under section 116A requiring filing of Foreign income and assets statement.	Imprisonment upto 2 years or with a fine up to a penalty of 2% of the offshore asset not declared or both.	Imprisonment upto 1 year or with a fine up to Rs 50,000 or both.

Changes in Rate of Tax / Withholding on Dividend

FB proposed to enhance the applicable tax rate including collection of advance tax from 7.5% to 15% on dividend distributed by purchaser of power project privatized by WAPDA or on shares of company set-up for power generation or share of company supplying coal exclusively to the power generation projects. The FA has re-instated the reduced rate of 7.5% only in case of dividend paid by Independent Power Producers where such dividend is a pass through item under an implementation Agreement or Power Purchase Agreement or Energy Purchase Agreement and is required to be reimbursed by Central Power Purchasing Agency (CPPA-G) or its predecessor or successor entity.

FB proposed to withdraw the special rates provided for dividend received from REITs and Mutual Funds. Consequently, dividends received from such schemes, whose income becomes exempt, was proposed to be taxed at 25%. The FA has now provided a standard rate of 15% for dividend received from mutual funds. It appears that dividend received from REIT will be taxed at 25% if REIT does not pay tax on its income in terms of exemption provided for REIT.

For withholding tax on dividend, a standard rate of 15% has been specified in all cases other than Independent Power Producers, as stated aforesaid. The withholding tax rate for dividend otherwise subject to 25% enhanced rate should have been aligned with charge of tax.

The withholding and tax rates applicable on dividend after FA are as under:

Sr. No.	Category of Dividend Paying Companies	Rate of Tax Withholding	Rate of Taxability
(a)	Independent Power Producers (IPPs) where such dividend is a pass-through item under an Implementation Agreement or Power Purchase Agreement or Energy Purchase Agreement and is required to be reimbursed by Central Power Purchasing Agency or its predecessor or successor entity.	7.5%	7.5%
(b)	Mutual Funds and cases other than those covered in S. Nos. (a) and (c).	15%	15%
(c)	Company in whose case no tax is payable by such Company (due to exemption of income or carry forward of business losses or claim of tax credits).	15%	25%

Minimum Tax Regime for Corporate Service Providers

The rate of minimum tax of 4% proposed in FB for certain corporate service providers specified in (omitted) Clause (94) of Part IV of Second Schedule to the Ordinance, has been reduced to 3%.

Prior to FB, the non-resident person having Permanent Establishment (PE) in Pakistan and providing services as specified in Clause (94) were eligible for 2% Minimum Tax Regime (MTR), in line with such regime available for resident corporate service providers. Such MTR for resident corporate service providers has now made subject to Minimum Tax @ 3% as stated above.

Corresponding amendment ought to be made in section 152 for non-resident PE (service provider) has not been made in FA, resulting that such non-resident service providers, earlier part of Clause (94), are now subject to MTR at the standard rate.

Reduction in tax rates of dealers and distributors of Sugar, Cement and Edible Oil

The rate of tax deduction under section 153(1)(a) in case of dealers and sub-dealers of sugar, cement and edible oil as recipient of payment has been reduced to 0.25% of the gross amount of payment.

Correspondingly, the rate of minimum under section 113(1) in case of dealers and sub-dealers of sugar, cement and edible oil as recipient of payment has also been reduced to 0.25% subject to the condition that the names of such dealers and sub-dealers are appearing on the active taxpayers list.

Import of Mobile Phones

A new clause has been inserted whereby the provisions relating to collection of advance tax at import stage under section 148 shall not be applicable on mobile phones brought in personal baggage under the Baggage Rules, 2006.

Seventh Schedule

It was proposed through FB that for tax year 2020 and onwards, the taxable income arising from additional income earned from additional investment in Federal Government securities be taxed at the rate of 37.5% instead of existing rate of 35%.

Through AFB, the definition of term 'additional income earned' has been rephrased to mean income earned from additional investment in Federal Government securities by the bank for the tax year. The term 'additional investment' has also been defined to mean average investment made in Federal Government securities by the bank during the tax year, in addition to the average investments held during the tax year 2019.

For the application of enhanced rate of tax, markup income earned from the additional investment for the year is now required to be considered for proration instead of 'net' markup income as earlier proposed through the FB. As a result of that, specific mark-up expense utilized towards earning mark-up from Government securities (taxable at higher rates) may also be prorated.

Tenth Schedule – Rules for persons not appearing in Active Taxpayers' List [Persons not required to file return or statement]

FB sought to provide a 100% higher rate of withholding for payments to persons not appearing on ATL, in respect of certain withholding provisions. The FB, however, provided a mechanism in those cases where a withholding agent is satisfied that the person not appearing in the ATL is not required to file a return of income or a statement of final taxation and hence, enhanced rate of deduction or collection of tax should not be attracted on payments to such person. In such a case, the 'withholding agent' was required to electronically furnish a notice to the Commissioner, providing certain details and the Commissioner was required to decide the matter within 30 days of such notice.

Through AFB, in addition to the 'withholding agent', the person from whom tax is required to be collected or deducted, has also been allowed to furnish such notice to the Commissioner.

Certain clarificatory and procedural amendments have also been made for provisional assessment of those persons not appearing on ATL and subject to higher tax withholding under the Tenth Schedule.

As a result of these amendments, such persons shall be subject to a complete process of assessment of their concealed income and assessments, and it would be very difficult for these persons to remain out of tax net.

Apart from the above, the tax collected under section 236 from telephone and internet users has been included in the list of withholding provisions outside the ambit of Tenth Schedule.

SALES TAX

Cottage industry

The definition of cottage industry was amended through FB. It was defined to mean a manufacturing concern that fulfils each of the following conditions:

- does not have an industrial gas or electricity connection;
- is located in a residential area;
- does not have a total labour force of more than 10 workers; and
- Annual turnover from all supplies does not exceed Rs. 2 million.

Through AFB, the aforesaid limit of turnover from all supplies has been enhanced from Rs 2 million to Rs 3 million.

Tier – I Retailer

Through FA, all Tier-1 retailers have been required to integrate their retail outlets with Board's computerized system for real-time reporting of sales from such date and in such mode and manner, as prescribed by the Board. Further, FA provided that in case a Tier-1 retailer does not integrate his retail outlet in the prescribed manner, during a tax period or part thereof, the adjustable input tax for whole of that tax period shall be reduced by 15%.

Tier-1 retailers include the following:

- (a) a retailer operating as a unit of a national or international chain of stores;
- (b) a retailer operating in an air-conditioned shopping mall, plaza or centre, excluding kiosks;
- (c) a retailer whose cumulative electricity bill during the immediately preceding 12 consecutive months exceeds Rs. 600,000;
- (d) a wholesaler-cum-retailer, engaged in bulk import and supply of consumer goods on wholesale basis to the retailers as well as on retail basis to the general body of the consumers; and
- (e) a retailer whose shop measures 1,000 square feet or more in area.

Limit of adjustable input tax

Input tax in excess of 90% of output tax for a tax period is required to be carried forward. Through FB, it was proposed to empower the Board to issue notification relaxing the aforesaid limit to 95% in certain cases. However, FA has not extended such empowerment to the Board.

Withholding of Sales Tax

Through FB, withholding tax rates were made part of the STA under Eleventh Schedule. Two major changes were made in respect of withholding provisions while transpositioning the withholding Rules:

- (i) Exemption from withholding available to those appearing on ATL was proposed to be withdrawn. As a result, withholding was made applicable at 1/5th of sales tax charged by registered persons, whether or not appearing on ATL. The above change has now been restored through the FA. Therefore, exemption from withholding provisions for suppliers appearing in ATL shall continue to apply.
- (ii) Withholding tax rate of unregistered persons was increased from 1% to 5%. Said change has been retained in FA.

The enabling provisions relating to Sales tax withholding provided in Special Procedure Rules have been made part of Chapter XIV-D of the Sales Tax Rules, 2006 with following changes:

- (i) Exemption from withholding has been withdrawn for steel melters, re-rollers and ship breakers.
- (ii) Goods subject to FED on retail price under sales tax mode have been provided exemption from sales tax withholding.

Levy of Sales Tax on basis of Minimum Value Addition

Through FB, Twelfth Schedule was introduced for incorporating Special Procedure Rules relating to Minimum Value Addition Tax (MVAT).

Certain exclusions from MVAT previously proposed in FB to be withdrawn have now been restored, as a result of which the following goods remain not subject to MVAT at import stage:

- LNG / RLNG; and
- Second hand and worn clothing or footwear.

Following new exclusions from MVAT have been introduced through AFB:

- Gold, in un-worked condition; and
- Silver, in un-worked condition.

Exclusion from MVAT in FB proposed on raw material and intermediary goods meant for use in an industrial process subject to customs duty at 16% or 20% ad valorem has now been provided to raw material and intermediary goods subject to customs duty at less than 16% ad valorem.

Tax invoices

NTN or CNIC are now required to be mentioned in tax invoice in respect of supply to unregistered persons. In the FB, only CNIC was proposed to be mentioned on tax invoice. Further through FA, such requirements have been made effective from 1st August, 2019. However, an exception from such requirement has been introduced through FA for supplies made by a retailer where the transaction value inclusive of sales tax does not exceed rupees fifty thousand, if sale is being made to an ordinary consumer. The term 'Ordinary Consumer' has also been explained in the FA as a person who is buying goods for his own consumption and not for the purpose of re-sale or processing.

It has been further provided in the FA that in case it is subsequently proved that CNIC provided by the purchaser was not correct, liability of tax or penalty shall not arise against the seller, in case of sale made in good faith.

Liability in case of a Private Company or Business Enterprise

Previously owners of, partners in and directors of a private company or business enterprise were jointly and severally liable for payment of tax on winding up / liquidation of a private company or business enterprise if tax is not paid by the said company or business enterprise.

It was proposed in FB that any director, partner or shareholder who pay tax will be entitled to recover the same from the Company or business enterprise or a share of tax from other director or partner or a share in proportion of holding from another shareholder.

In the FA, it has been further clarified that any tax paid by the shareholder is recoverable from the private company or from another shareholder owning not less than 10% of paid up capital in proportion to the shares owned by that other shareholder.

Third Schedule – Retail Price taxation

Following additions have been made in the Third Schedule through AFB:

Entry No.	Description	PCT Heading
47.	Biscuits in retail packing with brand name	Respective Headings
48.	Tiles	Respective Headings
49.	Auto-parts, in retail packing, excluding those sold to automotive manufacturers or assemblers	Respective Headings

Prior to FA, the above goods were subject to Extra Tax. Since, the Extra Tax regime has been abolished and goods subject to Extra Tax have been made part of Third Schedule regime, FB incorporated almost all the goods (subject to Extra Tax) in the Third Schedule, except for the above, which has now been corrected in the FA.

Fifth Schedule – Zero Rating

Items enlisted at Serial No 12 of the Fifth Schedule are now entitled to zero rating subject to fulfilment of conditions, restriction and limitation as prescribed by the Board. Previously, such conditions, restrictions and limitations were specified in Chapter XIV of the Sales Tax Special Procedure Rules, 2007.

Sixth Schedule - Exemptions

Through AFB, exemption has also been withdrawn from imports / local supplies of Vessels for breaking up which was earlier not proposed in FB.

Exemption to following items proposed to be withdrawn in FB has been retained through AFB:

- frozen, prepared or preserved sausages and similar products of poultry meat or meat offal sold in retail packing under a brand name or trade mark; and
- meat and similar products of prepared frozen or preserved meat or meat offal of all types including poultry meat and fish sold in retail packing under a brand name or trade mark;

Local supply of wheat bran was proposed to be exempted; however, no such exemption has been extended through FA.

Eighth Schedule – Specified Rates

Rate of sales tax on import of soya bean seed by solvent extraction industries subject to condition has been enhanced through FA from 6% to 10%. In FB, it was proposed to withdraw the reduced rate concession to make it liable to sales tax at standard rate.

Through FA, description appearing at Serial No 26(xx), providing reduced rate of 5% for certain seeding or planting equipment, has been substituted to include Laser land leveler comprising of laser transmitter, laser receiver, control box, rigid mast pack, with or without scrapper. No such amendment was proposed in FB.

Reduced rate was proposed in FB for certain items relating to milling industry. Out of those items, items falling under PCT heading “1101.0010” and “1101.0020” have not been considered for reduced rate in FA.

It was proposed in FB that silver and gold in unworked condition will be subject to concessionary rate of 1% plus 2% value addition. Through AFB, the aforesaid 2% value addition tax has been withdrawn.

In FB concessionary rate of 15 percent was proposed on supplies of finished articles of textile, textile made-ups, leather and artificial leather, as made by retailers if they are integrated with FBR's online system. However, in FA concessionary rate of 14% (instead of 15%) has been provided for supplies made from retail outlets (as are integrated with Board's computerized system for real-time reporting of sales) provided supplied goods are finished fabric, and locally manufactured finished articles of textile and textile made-ups and leather and artificial leather subject to the condition that they have maintained 4% value addition during the last six months.

Concessionary rates have been provided through AFB for items tabulated below which were earlier not proposed in FB:

Entry No.	Description	HS Code	Rate
68	Frozen prepared or preserved sausages and similar products of poultry meat or meat offal	1601.0000	8%
69	Meat and similar products of prepared frozen or preserved meat or meat offal of all types including poultry, meat and fish	1602.3200, 1602.3900, 1602.5000, 1604.1100, 1604.1200, 1604.1300, 1604.1400, 1604.1500, 1604.1600, 1604.1900, 1604.2010, 1604.2020 and 1604.2090	8%

SROs relating to Sales Tax

SRO 690(I)/2019 dated June 29, 2019 - Value of supply to the CNG consumers for the purpose of charging of sales tax from CNG stations by the gas transmission and distribution companies

The value of supply to the CNG consumers for the purpose of charging of sales tax from CNG stations by the gas transmission and distribution companies has now been fixed under sub-section (8) of section 3 read with first proviso to clause (46) of section 2 of the Act as follows:

S.No.	Description	Rate
(i)	For Region-1	Rs 69.57 per kg
(ii)	For Region-II	Rs. 74.04 per kg

Region-I: Khyber Pakhtunkhwa, Baluchistan and Potohar Region (Rawalpindi Islamabad and Gujjar Khan); and

Region-II: Sindh and Punjab excluding Potohar Region.

SRO 674(I)/2019 dated June 28, 2019 – Amendments in SRO 492(I)/2009 dated June 13, 2009 [Exemption from Customs Duty and Sales Tax on Temporary import]

Following amendments have been made in the exemption provided for customs duty and sales tax on temporary importation of goods for subsequent exportation (subject to certain conditions):

- Power to grant further extension in exceptional circumstances in excess of first 6 months extension have been transferred to the Chief Collector from the Board;
- A provision has been added where left over quantities of raw material which could not be exported for certain reasons may be allowed removal in its original and unprocessed form by the Assistant Collector of Customs on:
 - case to case basis;
 - reasons to be recorded in writing; and
 - after filing of GD on payment of duties and taxes leviable thereon.

SRO 671(I)/2019 dated June 28, 2019 – Amendments in SRO 678(I)/2004 dated August 7, 2009 [Temporary import of FSRU]

Explanation earlier inserted for import provisions on Floating Storage and Regasification Unit (FSRU) have been substituted. The amendment provides that no sales tax and customs duty is chargeable on replacement of FSRU from sales tax and customs duty imported for a period of 180 days in respect of a primary FSRU. However, where replacement FSRU is imported for more than 180 days period, duty is leviable on differential value of replacement and primary FSRU. Sales tax would continue to be exempted.

SRO 691(I)/2019 dated June 29, 2019 – Amendments in SRO 190(I)/2002 dated April 2, 2002 [Zero rating of goods exported to Afghanistan]

SRO 190(I)/2002 dated April 2, 2002 had excluded certain goods from zero-rating of export of goods to Afghanistan. Amendments have been brought to entitle export of PVC and PMC materials (PCT Code 39.01 to 39.14), as are manufactured in the Export Processing Zones or in manufacturing bonds, for zero rating.

SRO 692(I)/2019 dated June 29, 2019 – Amendments in SRO 648 (I)/2013 dated July 9, 2013 [Exclusion from Further Tax]

SRO 648(I)/2013 dated July 9, 2013 had excluded certain taxable supplies from further tax. Amendments have been made to further exclude the following from the levy of further tax:

- supplies made to Government, semi-government and statutory regulatory bodies ; and
- supply of white crystalline sugar (PCT heading 1701.9910 and 1701.9920).

SRO 693(I)/2019 dated June 29, 2019 – Amendments in SRO 509(I)/2013 dated June 12, 2013 [Exclusion from Further Tax]

Through SRO 509(I)/2013 dated June 12, 2013; extra tax was levied at the rate of 5% on supplies of electric power and natural gas to persons having industrial or commercial connections to the extent and in manner stated in the said SRO. Supply of natural gas to CNG stations were however, excluded from this levy. Amendments have been made in the SRO 509 dated June 12, 2013 to further exclude supply of of electric power to Government, semi-government and statutory regulatory bodies from the levy of extra tax.

SRO 698(I)/2019 dated June 29, 2019
[Amendment in Rules relating to registration]

The process for registration and documentation requirements relating thereto have been automated. Registration is now provided through online furnishing of required documentation without physical verification of original documents. A physical verification is however, required for bio-metric verification and e-Sahulat Centre of NADRA within a month, failing which person's name shall be taken off the sales tax Active Taxpayers List. The Board may require post-verification through field offices or a third party authorized in this behalf.

RESCINDMENT OF SROs EARLIER ISSUED

SRO 694(I)/2019 dated June 29, 2019

Following SROs have been rescinded through SRO 694(I)/2019 dated June 29, 2019:

- SRO 68(I)/2006, dated the 28th January, 2006 [Entitlement to the solvent extraction industries to deduct the entire amount of input tax paid on import of rapeseed from the output tax charged on supply of oil extracted]
- SRO 480(I)/2007, dated the 9th June, 2007 [Sales Tax Special Procedures Rules, 2007]
- SRO 660(I)/2007, dated 30th June, 2007 [The Sales Tax Special Procedure (Withholding) Rules, 2007]
- SRO 769 (I)/2009, dated the 4th September, 2009 [Zero-rating of polyethylene and polypropylene for the purpose of local manufacturing of mono filament yarn and net cloth]
- SRO 1125(I)/2011 dated the 31st December, 2011 [Zero-rating of major export-oriented sectors]
- SRO 398(I)/2015 dated 8th May, 2015 [Providing reduced rate of 5% on LNG imported for servicing CNG sector and fertilizer produced by using imported LNG]

SRO 699(I)/2019 dated June 29, 2019

Following SROs have been rescinded through SRO 699(I)/2019 dated June 29, 2019:

- SRO. 697(I)/1996, dated 22nd August, 1996 [Approval of keeping business records on computer by registered person]
- SRO 26(I)/2006, dated 9th January, 2006 [Functions, powers and jurisdiction of the officers of the Directorate General of Inspection and Internal Audit]
- SRO 524(I)/2006, dated 5th June, 2006 [Designated branches of NBP]
- SRO 751(I)/2006, dated 21st July, 2006 [Furnishing of prescribed statements by Petroleum exploration and production companies]
- SRO 993(I)/2006, dated 21st September, 2006 [Composite repayment-cum-drawback of sales tax and FED on the export of vegetable ghee]

- SRO 1211(I)/2006, dated 04th December, 2006, [Refund of sales tax as input tax credit on raw materials of Fan]
- SRO 1260(I)/2006, dated 16th December, 2006, [Appointment of Chartered Accountant firms and Cost and Management Accountant firms for special audit]
- SRO 170(I)/2008, dated 22nd February, 2008 [Value of re-rollable scrap (PCT heading 72.04), imported through the land routes of Iran and Afghanistan]
- SRO 345(I)/2010, dated 24th May, 2010 [Fixed value of locally produced Goods/Amendment in special procedure rules 2007]

SALES TAX GENERAL ORDER NO. 100 OF 2019

All earlier Sales Tax General Orders allowing zero-rating facility of sales tax on Electricity, Gas, Coal, Furnace Oil, Diesel Oil has been rescinded w.e.f. July 1, 2019.

FEDERAL EXCISE DUTY

Aerated Waters / Beverages

Through FB, the rate of duty in case of aerated waters / beverages was proposed to be enhanced from 11.5% to 14% of retail price, though in the 'budget speech', it was stated that such rate would be enhanced to 13%.

Through AFB, the above anomaly has been addressed and duty is now payable @ 13% of retail price.

Unmanufactured Tobacco

Through Finance (Supplementary) Amendment Act, 2018, rate of duty on unmanufactured tobacco was enhanced from Rs 10/ kilogram to Rs 300/ kilogram. Through AFB, the earlier applicable rate of Rs 10/ kilogram has been restored.

MOTOR VEHICLES – FIRST SCHEDULE

Locally manufactured/ assembled motor vehicles

Through FB, rate of duty on locally manufactured/ assembled motor vehicles proposed at varying rates from 2.5% to 7.5% (ad val.) depending upon engine capacity. Through AFB, 'auto rickshaws' have been excluded from the scope of such levy.

Imported motor vehicles

Previously, excise duty was leviable only on imported motor vehicles/SUVs having engine capacity of more than 1799 cc as under:

- (i) cylinder capacity of 1,800 cc to 3,000 cc (25% ad-val.); *and*
- (ii) cylinder capacity of 3,000 cc or above (30% ad val.)

Through FA, all imported vehicles (except auto rickshaws) have been made subject to levy of excise duty in line with regime applicable to locally manufactured vehicles in the following manner:

<i>Description</i>	<i>Duty</i>
Imported motor vehicles of cylinder capacity up to 1,000 cc.	2.5% <i>ad valorem</i>
Imported motor vehicles of cylinder capacity of 1,001 cc to 1,799 cc.	5% <i>ad valorem</i>
Imported motor vehicles of cylinder capacity of 1,800 cc to 3,000 cc.	25% <i>ad valorem</i>
Imported motor vehicles of cylinder capacity exceeding 3,001 cc.	30% <i>ad valorem</i>

Edible Oil / Vegetable Ghee & Cooking Oil

Through FB, edible oil/vegetable ghee & cooking oil was proposed to be made subject to excise duty in sales tax mode at full rate. Following notifications earlier prescribing fixed rates of duty in this regard stand rescinded:

- Notification SRO 24(I)/2016 dated January 7, 2006;
- Notification SRO 507(I)/2013 dated June 12, 2013; and
- Notification SRO 508(I)/2013 dated June 12, 2013.

Moreover, SRO 993(I)/2006 dated September 21, 2006, prescribing mechanism / procedure for repayment-cum-duty draw-back of sales tax/excise duty on export of vegetable ghee, cooking oil & margarine has been rescinded.

Locally produced Cigarettes

The enhanced rates of excise duty on locally produced cigarettes, proposed through the FB were given effect to by Board through notification SRO 608(I)/2019 dated June 11, 2019. Since such rates have now been enacted through the FA, said notification has been rescinded.

Withdrawal of Exemption on Bandwidth services by foreign Satellite Companies

Exemption from levy of excise duty earlier available to bandwidth services used by registered/licensed software exporting firms/ data & internet service providers was proposed to be restricted through the FB to the extent of 'terrestrial' bandwidth services.

In the FA, such exclusion has been further clarified so as bandwidth services rendered by 'foreign satellite companies' shall not enjoy exemption.

Steel Products

Through FB, special sales tax regime applicable in case of steel products was proposed to be replaced and excise duty in sales tax mode @ 17% of 'value of supply' was made applicable subject to a 'minimum duty regime' based on 'production criteria' (as tabulated below), with the condition that annual discharge of duty shall not be less than that payable on the basis of minimum regime.

<i>Product Description</i>	<i>Minimum Production</i>
Steel Billets and ingots	One metric ton per 700 kwh of electricity consumed
Steel bars and other re-rolled long profiles of steel	One metric ton per 110 kwh of electricity consumed
Ship plates	75% of the weight of the vessel imported for breaking

Through AFB, following amendments have been made:

- in the case of 'ship plates', minimum production threshold of 75% has been enhanced to 85%, with 'other re-rollable scrap' also included in such category;
- it has also been provided that in case the duty worked out on the basis of 'minimum duty regime' is in excess of the actual liability, the excess amount shall not be refundable; and
- minimum values per metric ton of production of these steel products has been prescribed vide SRO 697 (I) / 2019 dated June 29, 2019 as under:

<i>Product Description</i>	<i>Value (Rs/ Metric Ton)</i>
Steel Bars	83,000
Steel Billets	74,000
Steel Ingots/ Bala	72,000
Ship Plates	72,000
Other re-rollable iron & steel scrap	47,000

Exemption from sales tax withholding available to steel melters, re-rollers and ship breakers has been withdrawn, as a result of change in their tax regime.

CUSTOMS ACT

Illegal transfer of funds into or out of Pakistan

In order to restrict illegal transfer of funds across border, the FB proposed that where any person overstates the value of imported goods or understates the value of exported goods or vice versa, such person shall be served with a notice within a period of two months from seizure of goods to show cause as to why such goods may not be confiscated. Penalty not exceeding Rs 200,000 or three times the value of goods in respect of which such offence is committed, whichever is greater, was also proposed with such goods liable to confiscation. Upon conviction by a special judge, imprisonment for a term not exceeding 10 years and a fine not exceeding Rs 1,000,000 was proposed.

Through the AFB, illegal transfer of funds into or out of Pakistan has been further elaborated to include other means including short-shipment or over-shipment by a person. The time period for issuance of show cause notice has also been increased from two months of seizure of goods to 2 years from the date of detection of such mis-declaration. However, the maximum imprisonment term upon conviction by a Special Judge has been reduced to 5 years.

It has also now been provided that prior approval of the Board shall be required for initiating any proceeding in this regard. A report along with the relevant evidence shall be submitted with the Chief Collector and the said report may also be sent to the State Bank of Pakistan for taking necessary action under the law.

Filing of Goods Declaration

FB proposed to reduce the time limit for filing of goods declaration and payment of duty, taxes and other charges from 15 to 10 days. Further, penalty for non-filing of the declaration within the stipulated time was also proposed to be amended from Rs 15,000 to Rs 5,000 per day for the initial five days of default, and thereafter, at a rate of Rs 10,000 per day for each day of default.

The FA has further provided that the maximum penalty in this regard shall not exceed Rs 100,000.

Revamping of Alternative Dispute Resolution (ADR) Mechanism

Through FB, the procedure for settlement of disputes through ADR mechanism was proposed to be revamped inter-alia to the effect that, the option of seeking remedy in ADR Committee be made available only if the applicant waives his right of appeal before the appellate forums. Moreover, the recommendations of ADR Committee was proposed to be made binding on both the parties (which was not the case earlier). Moreover, certain other amendments were proposed for governing the procedure / constitution of the ADR Committee.

Through the AFB, certain procedural changes have been made as under:

- i) Every ADR Committee shall include a retired judge not below the rank of District and Sessions Judge; and
- ii) The Committee will be required to decide the matter within ninety days failing which the appeal will be reinstated (this time period had been mentioned as 120 days at one instance in the FB, which has now been rectified).

The above amendments have been made to align the procedure of ADRC, presently existing in income tax and sales tax laws.

Reduction in rate of Customs Duty

Through FB, rate of customs duty was proposed to be reduced from 16% to 11% in the case of Fibreboard of wood of certain specifications. Such proposal has been withdrawn and not made part of FA.

Exemption from Customs Duty

Through FA, exemption from customs duty has also been extended in case of import of certain agricultural machinery used for soil preparation or cultivation and harvesting.

Plant and Machinery for setting up industry in FATA

Through FB, exemption from customs duty on import of plant and machinery (during the period July 1, 2014 through June 30, 2020) for setting up industries in FATA was proposed to be withdrawn. Such proposal has not been made part of FA and consequently, the said exemption still remains intact.

SROs relating to Customs Duty

SRO 645(I)/2018 dated May 24, 2018 (SRO 645) amended vide SRO 675(I)/2019 dated June 28, 2019 (SRO 675)

SRO 645 provides for levy of regulatory duty on **export** of specified goods subject to certain conditions specified therein. Para 3 of this SRO states that the specified regulatory duty shall stand rescinded on June 30, 2019.

Through SRO 675, para 3 has been omitted and thus the said levy would remain in force.

SRO 680(I)/2019 dated June 28, 2019

Regulatory duty was levied by Federal Government through SRO 640(I)/2018 dated May 24, 2018 on **import** of various items, which remained effective till June 30, 2019.

Through SRO 680(I)/2019 the Federal Government has levied regulatory duty on import of various items specified therein (at rates ranging from 5% to 90%) subject to certain exclusions.

The said notification would remain in force till June 30, 2020 (unless rescinded earlier).

SRO 492(I)/2009 dated JUNE 13, 2009 (SRO 492)
amended vide SRO 674(I)/2019 dated June 28, 2019 (SRO 674)

SRO 492 provides exemption from whole of the customs duty and sales tax on temporary importation of certain goods for subsequent exportation, subject to conditions specified therein.

Condition (iv) in SRO 492 earlier required that the importer shall export temporarily imported goods after due processing thereof within eighteen months of their import. In this respect, the concerned Collector is empowered to allow extension in the processing of temporarily imported goods for a period of six months on payment of 1% surcharge per month on C&F value, with powers for grant of 'further' extension rested with the Board (in exceptional circumstances).

Through amendment in SRO 492, the power to grant further extension has now been conferred upon the Chief Collector Customs, subject to the payment of 1% surcharge per month on C&F value.

Further new condition (xviii) has been inserted, empowering the concerned Assistant Collector to allow on case to case basis, removal of leftover quantities of raw material imported (in its original and unprocessed form for home consumption) which could not be utilized in export for certain reasons (to be recorded in writing), after filing of GD on payment of duties and taxes leviable thereon.

SRO 565(I)/2006 dated June 5, 2006 (SRO 565)
amended vide SRO 676(I)/2019 dated June 28, 2019 (SRO 676)

SRO 565 provides exemption in case of certain raw materials, sub-components, components, sub-assemblies and assemblies, as are not manufactured locally imported for the manufacture of certain goods, from so much of customs-duty leviable under the First Schedule to the Customs Act, 1969, as are in excess of the specified rates, subject to certain exclusion and conditions specified therein.

Earlier, as per condition (iii), the clearance of inputs were allowed through one port or dry port only. Through SRO 676, the aforesaid condition has been amended to the effect that:

- the clearance of inputs through any port or dry port to the importers having user ID of Customs Computerized System. However, importers using 'One Customs System' for clearance of goods under this concession shall import through one port or dry port only; and
- in case of liquid bulk cargo imported at Karachi, the facility of clearance from either port i.e Port Qasim or Karachi Port shall be allowed subject to maintenance of centralized record of quota debiting at the port for which the Provisional or Final Certificate is issued.

SRO 268(I)/2015 dated April 2, 2015 (SRO 268)
amended vide SRO 673(I)/2019 dated June 28, 2019 (SRO 673)

Through SRO 268, coal mining equipment and machinery including vehicles for site use, if not manufactured locally, imported for Thar Coal Field is exempt from levy of whole of customs duty subject to the conditions specified therein. Earlier, the condition (ii) required that the goods shall not be sold or otherwise disposed of without prior approval of the Board and the payment of customs duties and taxes leviable at the time of import.

Through SRO 673, the said condition has been substituted to the effect that:

- goods can now be sold or otherwise disposed of after the expiry of 10 years subject to the payment of duties and taxes as prescribed by the Board;
- where goods are sold or disposed of before the expiry of 10 years, earlier condition shall remain applicable. These goods shall, however, be allowed to be transferred to other entitled projects of the sector, with prior approval of the Board and subject to the payment of duties and taxes, if applicable; and
- re-export of these goods may also be allowed subject to prior approval of the Chief Collector of Customs.

SRO 630(I)/2018 dated May 24, 2018
amended vide SRO 670(I)/2019 dated June 28, 2019

Previously, Additional Customs Duty ['ACD'] was applicable at flat rate of 2% on import of goods specified under the First Schedule of the Customs Act, 1969, subject to certain exemptions/exclusions.

Through SRO 670(I)/2019, such uniform rate has been done away with and ACD has now been levied on such imports at varying rates ranging from 2% to 7%, depending on relevant Customs duty tariff slabs in which these items are classifiable. Moreover, certain additional items have also been allowed exemption from levy of ACD.

SRO 678(I)/2004 dated August 7, 2004
amended vide SRO 671(I)/2019 dated June 28, 2019

Customs duty on import of Floating Storage and Regasification Unit (‘FSRU’) by LNG developers, terminal operators and national gas infrastructure importers is exempt as is in excess of 5% (with no sales tax leviable thereon) subject to fulfilment of certain conditions.

It has now been provided that:

- no duty shall be chargeable in cases where FSRU is temporarily imported for a period of 180 days in place of the primary FSRU on which duty has been paid; and
- when an initial FSRU is being imported in the place of a primary FSRU, customs duty shall be paid at the time of import of primary FSRU and on the basis of differential values of the initial/primary FSRUs.

SRO 327(I)/2007 dated April 18, 2007
amended vide SRO 672(I)/2019 dated June 28, 2019

Equipment and materials, not manufactured locally, imported for the purpose of construction and operation of Gwadar Port and development of Free Zone for Gwadar Port are exempt from the levy of Customs Duty for a specified period, subject to certain conditions/restrictions.

Previously, where goods so imported (other than ship bunkers) could only be disposed of with the prior approval of the Board and upon payment of customs duty/ taxes that were leviable at the time of import. Such condition has now been substituted to the effect that:

- where goods are sold / disposed of after 10 years of importation, the same shall be subject to payment of duties and taxes as prescribed by the Board;
- where goods are disposed of before expiry of 10 years or without prior approval of the Board, the same shall be subject to payment of duties and taxes as were applicable at the time of import. Such goods shall, however, be allowed to be transferred to other entitled projects of the sector with prior approval of the Board & subject to payment of applicable duties and taxes; and
- The re-export of these goods (other than ship bunkers) shall be allowed subject to prior approval of the Chief Collector of Customs.

Amendments in SROs pertaining to imports from various countries under FTA

Through following SROs, the Board has taken measures for rationalization of duty & tariff structure (relating to import of goods from various jurisdictions) provided for under the relevant Free Trade Agreements / Preferential Trade Agreements executed by the Government of Pakistan:

- (i) SROs 677(I)/2019 and 678(I)/2019 amending SROs 659(I)/2007 and SRO 1296(I)/2005 respectively – pertaining to goods imported from China;
- (ii) SRO 679(I)/2019 amending SRO 1261(I)/2007 – pertaining to goods imported from Malaysia;
- (iii) SRO 681(I)/2019 amending SRO 1274(I)/2006 – pertaining to goods imported from SAARC Member States;
- (iv) SRO 683(I)/2019 amending SRO 280(I)/2014 – pertaining to goods imported from Malaysia; and
- (v) SRO 684(I)/2019 amending SRO 894(I)/2006 – pertaining to goods imported from Iran.

LAWS APPLICABLE IN ISLAMABAD CAPITAL TERRITORY

ISLAMABAD CAPITAL TERRITORY (TAX ON SERVICES) ORDINANCE, 2001 [ICTO]

Through the FB, scope of ICTO was proposed to be enhanced by inclusion of various services. In the AFB, all other services proposed through the FB have been included except for the below-referred service:

S. No.	Description
46.	Services provided or rendered for purchase or sale or hire of immovable property