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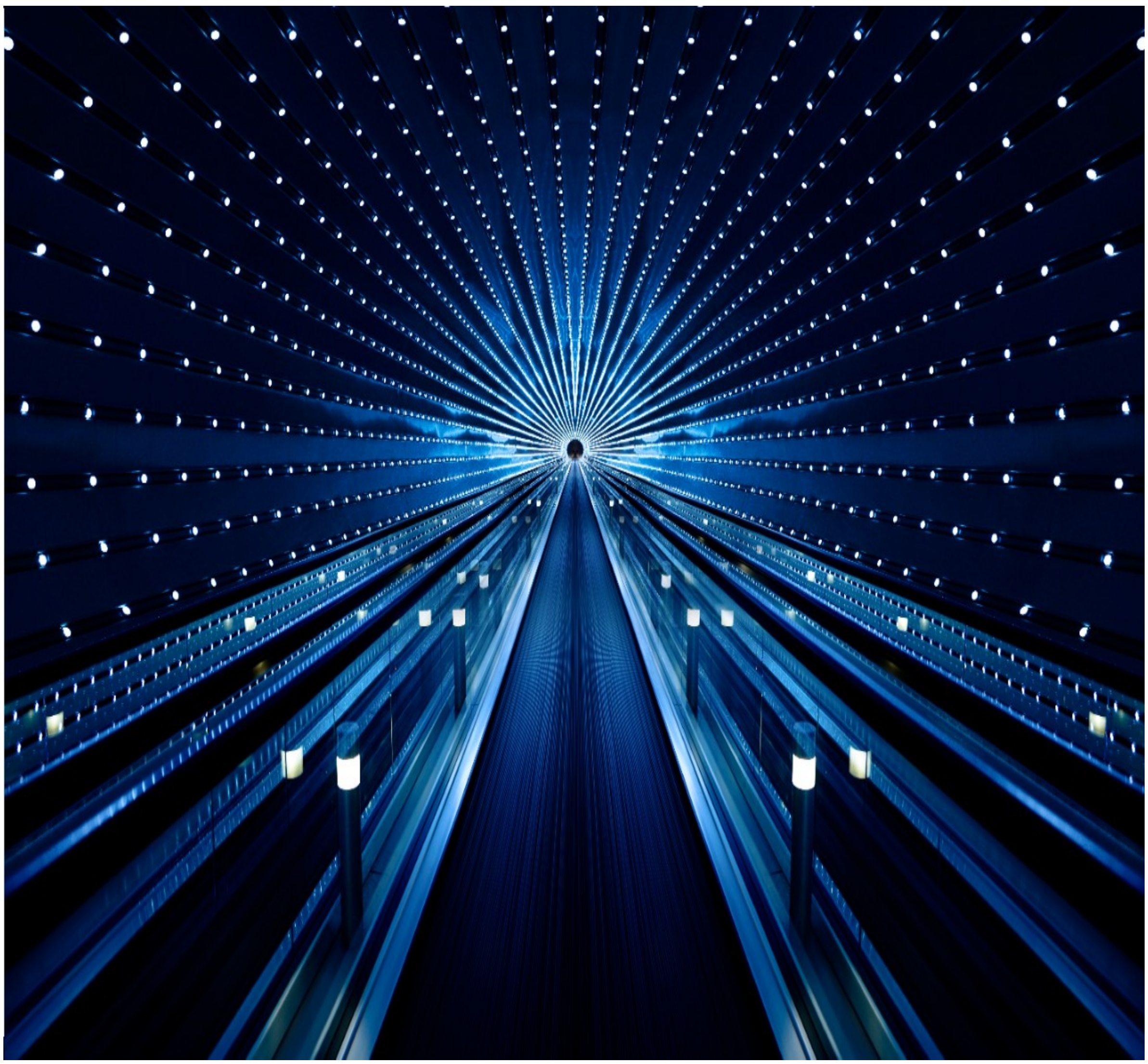
Federal Budget 2023



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FEDERAL BUDGET 2023

This memorandum gives a brief overview of Pakistan economy and significant amendments proposed by the Finance Bill 2023. All changes proposed through the Finance Bill 2023, subject to approval by National Assembly and Presidential assent, are effective July 1, 2023.

This memorandum can also be accessed on our website https://www.pwc.com.pk

June 10, 2023

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KEY ECONOMIC INDICATORS

Economic Survey 2022-23

The geopolitical situation, difficult financial environment, and high inflationary pressures have all had a substantial impact on the prospects for global growth. All these factors posed significant economic risks for Pakistan's economy as well. Devastating floods and political unrest further aggravated the situation. Thus, FY2023 has been a challenging year for Pakistan's economy. In FY2022, Pakistan's economy witnessed a high growth rate of 6.1 percent, however, it was unsustainable as it was largely driven by domestic demand, which was stimulated by expansionary fiscal policy and ended up with a high fiscal and current account deficit. Subsequently, the economy signalled excessive demand and overheating.

Pakistan's economy still faces pressures from an uncertain global security situation, higher inflation driven by a spike in food prices, the bewildering stock market, perceptible contraction in large-scale manufacturing, lower than anticipated foreign inflows, and burgeoning absolute financing requirements.

	FY 22 – 23	*FY 21 – 22*
GDP growth rate	0.3%	6.1%
Per capita income - US$	1,568	1,766
FDI (July – March) US$ million	1,048	1,353
Consumer price index (July – March)	28.2%	12.2%
Public debt (PKR billion)		
- **Domestic**	35,076	31,085
- **Foreign**	24,171	18,157
	59,247	49,242
Budget deficit - %age of GDP	4.9%	7.9%

Source: Economic Survey of Pakistan 2022-2023

BUDGET AT GLANCE

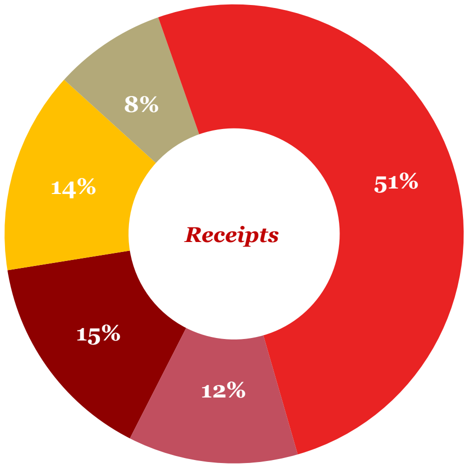
Budget Financials

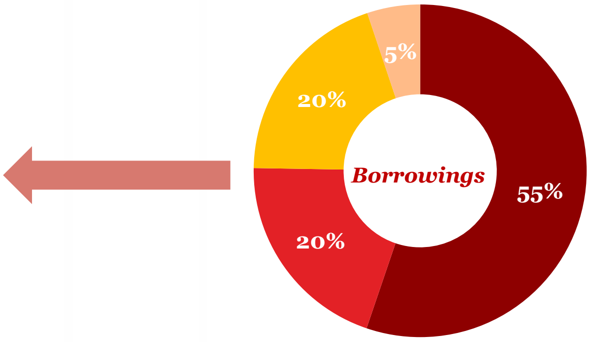
The following table sets out the Key Budget Financials:

	2023-2024		***2022-2023 (Revised)***	
	Rs in Billion	***%***	***Rs in Billion***	***%***
Tax revenue	9,200		7,200	
Non-tax revenue	2,963		1,618	
Gross revenue receipts	12,163		8,818	
Public account receipt – net	7		(389)	
Total receipts	12,170	100	8,429	100
Less: Provincial share in Federal taxes	(5,276)	(43)	(4,129)	(49)
Net revenue receipts	6,894	57	4,300	51
Expenditure				
- Current expenditure	(17,928)	(147)	(13,947)	(165)
- Development expenditure	(1,609)	(13)	(1,047)	(12)
	(19,537)	(160)	(14,994)	(177)
Deficit	**(12,643)**	**(103)**	**(10,694)**	**(126)**
- Domestic debts non-bank	2,531		3,420	
- Domestic debts banks	2,474		3,490	
- Foreign debts / grants	6,973		3,324	
- Privatization proceeds	15		1	
- Surplus from provinces	650		459	
	12,643		**10,694**	

WHERE FROM THE RUPEE COMES IN AND WHERE IT GOES OUT

IN

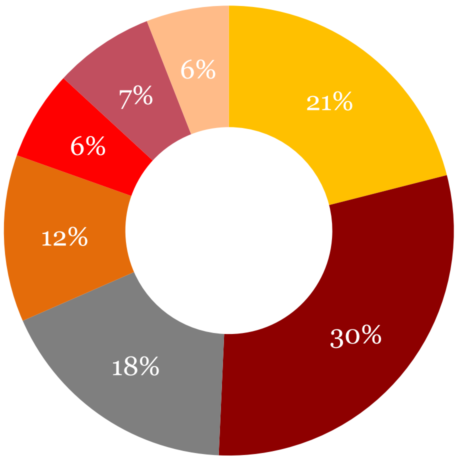




- Income Tax (15%)
- Sales Tax (14%)
- Customs Duty (6%) & FED (2%)
- Borrowings (51%)
- Non-tax revenue (12%)

- Foreign debts / Grants (55%)
- Domestic debts non-bank (20%)
- Domestic debts banks (20%)
- Surplus from provinces (5%)

OUT



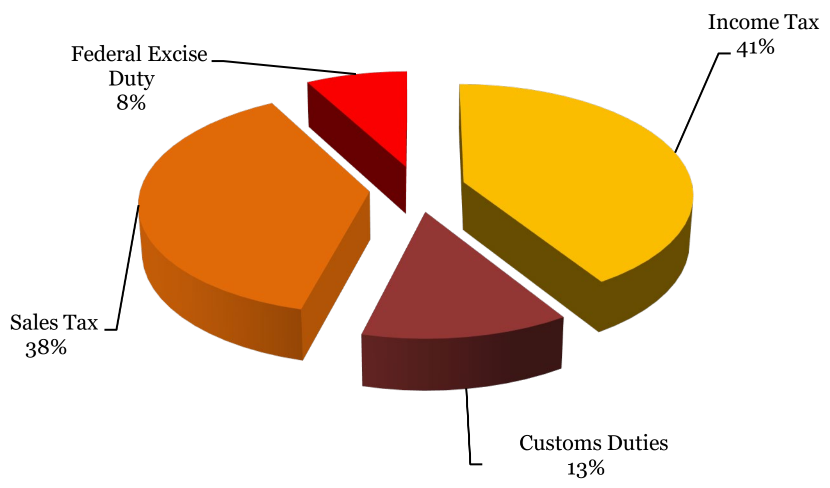
- Provincial share in Federal taxes (21%)
- Debt servicing (30%)
- Foreign Loan repayments (18%)
- Federal Government expenses including pensions (12%)
- Development expenditure (6%)
- Defence Affairs and Services (7%)
- Grants and transfers (6%)

BREAK-UP OF TAX REVENUE

There is no significant change in the ratio of direct taxes in the overall tax collection.

A substantial and incremental shift is required to decrease disparity in income and reduce the burden of indirect taxes on common man.

	FY 23 –24	***FY 22 –23 (Revised)***
	Rs in Billion	***Rs in Billion***
Direct Taxes:		
• Income Tax	3,714	2,817
• WWF, WPPF & Others	45	34
	3,759	2,851
Indirect Taxes:		
• Customs Duty	1,178	1,084
• Sales Tax	3,538	2,808
• Federal Excise Duty	725	457
	5,441	4,349
	9,200	7,200



EXECUTIVE SUMMARY

The Finance Bill 2023 did not bring any substantial change in the tax policy as all major revenue measures are aimed to tax already taxed sectors. Big businesses are subjected to higher rates of taxes with multiple taxation incidence. No serious amendments are made to reduce the tax gap attributable to undocumented sectors. Certain relaxations may result in encouragement of undocumented economy. By enhancing the rates of withholding taxes, the reliance on indirect taxation has further increased. All quick fixes aim to meet the short fall in revenue targets without realizing their long-term adverse impact on overall economic growth. No major tax relief has been given to lower income groups including salaried class.

Salient features of the amendments proposed in various fiscal laws are as under:

1. Progressive rates proposed for super tax on high earning persons ranging from 1% to 10%. In complete disregard to the commitment of seeking a one-time 10% super tax from certain sectors, the same has been extended to persons from all sectors having income in excess of Rs 500 million. Such higher rate of tax has been made perpetual thus substantially increasing the overall tax costs for the businesses.

2. Re-introduction of 10% final tax on bonus shares issued by companies.

3. A new concept of 'additional tax on income, profits and gains' with a capped rate of 50% introduced for extra ordinary incomes arising from economic factors to be determined by the Federal Government for preceding five years. This concept is subject to serious legal challenges in view of the principles laid down by Higher Courts.

4. Enhancement of withholding income tax rates for suppliers, service providers, contractors and commercial importers.

5. Sales tax rate on retailers of textile and leather products enhanced from 12% to 15%.

6. Withdrawal of exemption of sales tax on edible products sold in bulk under brand names or trademarks.

7. Reduction in rate of minimum tax by 0.25% on turnover for listed companies.

8. Special tax regime for Small & Medium Enterprises extended to IT & IT enabled services. Turnover threshold enhanced from Rs 250 million to Rs 800 million. Five years' income tax holiday introduced for certain Agro based SMEs.

9. Instead of completely eliminating the misused immunity from probe into sources of foreign remittances, the threshold of immunity has been enhanced from Rs 5 million to equivalent USD 100,000 per annum.

10. Reintroduction of 0.6% advance tax on cash withdrawals by non-filers.

11. Definition of associates for income tax purposes expanded to include transactions with persons resident in zero taxed jurisdictions.

12. Exclusion of non-resident Pakistanis from collection of 2% advance tax on purchase of immovable properties.

13. 50% reduction in tax liability for three years for youth entrepreneurship.

14. Exemption on profits and gains on sale of immovable property or share of special purpose vehicle to REIT scheme extended upto June 30, 2024.

15. Lower rate (20%) prescribed for banking companies in relation to income from additional advances to IT Sector.

16. Production, transmission and distribution of electricity to be excluded from the purview of federal sales tax and corresponding inclusion in Islamabad sales tax on services in accordance with the decision of National Tax Council.

17. Amendment in the definition of Tier-1 retailers to exclude jewelers and certain shop covered area-based retailers.

18. The scope of FED on services is proposed to be enhanced by adding royalty and fee for technical services.

19. Granting the status of cottage industry to the freelance exporter of IT and IT enabled services with consequential exemption from registration and filing requirements.

20. Exemptions provided in fiscal laws to erstwhile tribal areas extended till June 30, 2024.

21. The definition of 'smuggle' is proposed to be amended to enable the Customs authorities to conduct anti-smuggling operations anywhere within the territorial limits of the country.

22. Penalties leviable under Customs Act in connection with non-placement of invoices/ packing lists inside the import container or consignment are abolished.

23. Capped amounts of fixed duties and taxes on the import of old and used vehicles of Asian Makes above 1300 CC is proposed to be withdrawn.

INCOME TAX

SUPER TAX ON HIGH EARNING PERSONS

Through Finance Act 2022, the Government had introduced concept of Super tax on high earning persons to be paid at the time of filing of tax return. Slab-wise rates were prescribed for tax year 2022 with a maximum rate of 4%. With regard to certain specified sectors, an enhanced rate of 10% was prescribed for tax year 2022 only and for banking companies, 10% super tax was to be applicable for tax year 2023.

In relation to the retrospective application of super tax for tax year 2022 and enhanced rate applicable for specified sectors, Constitution Petitions were filed before different High Courts. The High Court of Sindh held the same to be inapplicable for tax year 2022 and enhanced rate for certain specified sectors in excess of 4% was declared *ultra vires* being discriminatory. The said decision is currently subjudice before the Supreme Court.

The Finance Bill 2023 has proposed to introduce new slab rates for super tax for taxpayers having income in excess of Rs 300 million. As a result, the highest slab rate of 10% will be applicable on taxpayers from all sectors having income in excess of Rs 500 million, thus, eliminating the discrimination.

The revised table for super tax rates is as under.

<table>
<tr><th>Sr No.</th><th>Income under section 4C</th><th>For tax year 2022</th><th>For tax year 2023 and onwards</th></tr>
<tr><td>1.</td><td>Upto Rs 150 million</td><td>0%</td><td>0%</td></tr>
<tr><td>2.</td><td>Exceeding Rs 150 million but does not exceed Rs 200 million</td><td>1%</td><td>1%</td></tr>
<tr><td>3.</td><td>Exceeding Rs 200 million but does not exceed Rs 250 million</td><td>2%</td><td>2%</td></tr>
<tr><td>4.</td><td>Exceeding Rs 250 million but does not exceed Rs 300 million</td><td>3%</td><td>3%</td></tr>
<tr><td>5.</td><td>Exceeding Rs 300 million but does not exceed Rs 350 million</td><td rowspan="4">4%
(Note)</td><td>4%</td></tr>
<tr><td>6.</td><td>Exceeding Rs 350 million but does not exceed Rs 400 million</td><td>6%</td></tr>
<tr><td>7.</td><td>Exceeding Rs 400 million but does not exceed Rs 500 million</td><td>8%</td></tr>
<tr><td>8.</td><td>Exceeding Rs 500 million</td><td>10%</td></tr>
</table>

Note: *The proviso to the existing table has not been omitted meaning thereby that the enhanced rate of 10% applicable for specified sectors for tax year 2022 remain intact. For Banking companies, there has been no change relating to tax year 2023 i.e. 10% for income exceeding Rs 300 million.*

When the provisions of Super Tax were introduced through Finance Act, 2022, it was mentioned that enhanced rate of 10% for specified sectors was one-time and thereafter maximum rate of 4% was prescribed. Now with the above amended Table, it is evident that the maximum rate of super tax has been enhanced to 10% besides being extended to all taxpayers having income exceeding Rs 500 million irrespective of their sector for tax year 2023 and onwards. This has translated into a perpetual enhancement of effective tax rate for all such taxpayers.

Advance tax to include super tax

Super tax under section 4C as introduced through the Finance Act, 2022 envisaged payment of such tax along with the return. In order to enable the collection of such super tax as advance tax, enabling amendments have been made in sections 4C and 147. The amendments shall take effect from July 1, 2023.

Collection of super tax by NCCPL on disposal of securities

Capital gains on disposal of certain securities is subjected to collection of tax by National Clearing Company of Pakistan Limited (NCCPL). As such, Super Tax was required to be paid by persons earning such income along with their annual tax return.

It is now proposed that Super Tax shall also be collected on capital gains on disposal of such securities under the Eighth Schedule through NCCPL.

TAX ON BONUS SHARES

Prior to the amendments made by the Finance Act, 2014 the term 'income' as defined in section 2(29) excluded the amount representing the face value of bonus shares in the case of shareholders of a company. Withholding provisions were introduced by the Finance Act, 2014 whereby 'final tax' was introduced separately for bonus shares issued by unlisted and listed companies along with omission of the aforesaid exclusion from the definition of income.

There were judgements of Higher Courts from Pakistan and Indian jurisdiction whereby it was held that bonus shares were not in the nature of 'income'. Relying on said judgements, the validity of this tax was challenged before the High Court of Sindh by way of a Suit which was dismissed. An appeal against the said judgement is currently pending before the higher courts. The said provision was subsequently omitted through the Finance Act, 2018.

The Bill proposes to re-introduce the above taxation measure by amending the definition of 'income', expanding the scope of 'income from other sources' and introducing a withholding tax provision (i.e., section 236Z) which will take effect from July 1, 2023.

Following are the salient features of these taxation measures:

(a) Every company will be required to collect 10% tax from each shareholder at the time of issuance of bonus shares. The rate of tax for inactive taxpayers shall be 20%.

(b) The value for such purpose shall be taken as equivalent of day-end price on the first day of book closure in the case of listed company. In case of unlisted company, the value shall be taken as prescribed. It is expected that necessary Rules will be issued by the Federal Board of Revenue (FBR) in this respect.

(c) Such tax will be treated as final tax.

(d) In case of non-payment of tax by the shareholders, the company is required to dispose of the shares to the extent of tax liability.

SPECIAL TAX REGIME FOR SMALL AND MEDIUM ENTERPRISES (SME)

The Finance Act, 2021 introduced Fourteenth Schedule as a special tax regime for SME sector, which is currently defined to include manufacturers (as defined in section 153) having annual turnover upto Rs 250 million. This regime entailed the option to be taxed on final tax basis whilst special reduced rates were prescribed under net income basis linked with the turnover threshold. SMEs were also exempted from application of minimum tax on their turnover.

The Bill proposes following changes in the aforesaid tax regime:

(a) The definition of SME is expanded to include persons engaged in the provision of **IT services** and **IT enabled services** as defined in the Ordinance, subject to the requirement of registration and certification by the Pakistan Software Export Board.

(b) The special tax regime under the Fourteenth Schedule has been extended to SMEs having turnover in excess of Rs 250 Million but not exceeding Rs 800 Million.

(c) The updated table of tax rates is as under:

Category	Turnover	Rates	
		Normal	Final*
I	Where annual business turnover does not exceed Rs 100 Million	7.5%	0.25%
II	Where annual business turnover exceeds Rs 100 Million but does not exceed Rs 250 Million	15%	0.5%
III	Where annual business turnover exceeds Rs 250 Million but does not exceed Rs 800 Million	20%	0.75%

* *For IT and IT enabled services, withholding tax is applicable at a higher rate (4%) which may become minimum tax if the taxpayer does not opt for final tax regime. For taxpayers opting for final tax regime, the excess withholding tax will become refundable. Necessary amendments are required to be made to align rate of withholding tax on such services with the applicable regime under the Fourteenth Schedule.*

Tax holiday for the SME setup exclusively as Agro based industry in a rural area

A new clause is proposed to be inserted in the Second Schedule to introduce a tax holiday for SMEs setup exclusively as Agro based industry in a rural area duly notified, subject to the following conditions:

(a) The profits and gains shall be exempt from tax year 2024 to tax year 2028;

(b) The enterprise is required to be setup on or after July 1, 2023; and

(c) The enterprise should not be formed by the transfer or reconstitution or reconstruction or splitting up of an existing business.

It appears that the above tax holiday shall be available to SMEs as defined for the purpose of Fourteenth Schedule.

ADDITIONAL TAX ON CERTAIN INCOME, PROFITS AND GAINS

A new provision is proposed to empower the Federal Government to impose additional tax on persons or classes of persons who have any income, profits or gains arisen due to any economic factors that resulted in unexpected income, profits or gains whether or not disclosed in the financial statements.

The salient features of this provision are as under:

(a) The provision has an overriding effect over other provisions of the Ordinance or any other law for the time being in force;

(b) Applicable for any of the five years preceding the tax year from tax year 2023 and onwards;

(c) The Federal Government by way of notification in the official gazette will determine economic factors including but not limited to international price fluctuation having bearing on any commodity price in Pakistan or any sector of the economy or difference in income, profits or gains on account of foreign currency fluctuation;

(d) The rate will not exceed 50% of the income, profit or gains; and

(e) The scope, manner of payment and any exemptions shall be covered by the aforesaid notification.

Corresponding amendments have been made for application of the above provisions for insurance companies (Fourth Schedule), Oil & Gas Exploration (Fifth Schedule) and Banking companies (Seventh Schedule).

A legal challenge to the implementation of these provisions may arise on certain constitutional grounds and principles laid down by the Superior Courts including with regard to past and closed transactions.

ENHANCEMENT OF RATE OF CERTAIN WITHHOLDING TAXES BY 1%

Section 152(2A) relates to withholding tax from payments to non-residents' Permanent Establishments on account of sale of goods, rendering of services and execution of contracts. Whereas section 153(1) deals with similar payments to resident persons.

The Bill proposes to enhance withholding tax rates by 1% for payments covered by sections 152(2A) and 153 as referred above.

A comparison of the existing and proposed rates is given as under:

Description	*Existing Rate*	*Proposed Rate*
Sale of goods:		
- In case of company	4%	5%
- All other cases	4.5%	5.5%
Provision or rendering of:		
- Certain specified services	3%	4%
- Other services: ○ by company ○ any other case	 8% 10%	 9% 11%
Execution of contract other than sports persons:		
- In case of company (resident)	6.5%	7.5%
- All other cases	7%	8%

ENHANCEMENT OF RATE OF TAX ON COMMERCIAL IMPORTERS

Rate of tax on commercial importers of goods classified in Part III of the Twelfth Schedule is proposed to be enhanced from 5.5% to 6% of the import value as increased by customs duty, sales tax and federal excise duty.

ENHANCEMENT OF RATE OF TAX ON REMITTANCE ABORAD THROUGH CREDIT, DEBIT OR PREPAID CARD

Every banking company is required to collect adjustable advance tax from transfer of any sum remitted outside Pakistan through credit, debit or prepaid cards.

Rate of tax to be deducted on the above-referred transactions is proposed to be enhanced from 1% to 5%.

BANKING COMPANIES

Reduced rate of tax on income from additional advances to certain sectors

The provisions of Seventh Schedule provide for reduced rate of tax (20%) on income arising from additional advances to the following sectors computed in accordance with the respective formulae:

a) Micro and SME
b) Low-cost housing
c) Farm credit

These provisions were applicable upto tax year 2023. The Bill proposes to extend the same upto tax year 2025.

Reduced rate of tax on income from additional advances to IT Sector

In line with the aforesaid concept, a new provision is proposed for reduced rate of tax (20%) on income from additional advances to IT Sector. The same will be applicable for tax years 2024 and 2025.

Profit on debt and capital gains from Federal Government's sovereign debt

Exemption was introduced through SRO 213(I)/2023 dated February 22, 2023 in respect of profit on debt and capital gains from Federal Government's sovereign debt or a sovereign debt instrument, derived by any non-resident banking company approved by the Federal Government under a sovereign agreement. The said exemption is now proposed to be incorporated with certain amendments through the Finance Bill.

Higher rate of tax on income from government securities

Through the Finance Act, 2019, higher rate of tax on income of banking companies from additional investments in government securities was introduced. The Finance Act, 2022 amended the provisions to make it applicable for tax year 2022 and onwards whereby the mechanism of taxation was changed from additional investment to entire income arising from such investments where the advance to deposit ratio did not exceed 50%.

Through SRO 226(I)/2023 dated February 27, 2023, the aforesaid provisions were made inapplicable for tax year 2024. The Bill now proposes to incorporate the said amendment.

Advance tax on cash withdrawal from non-filers

Adjustable advance tax on cash withdrawals of non-filers has been reintroduced at the rate of 0.6% where the sum total of the payments for cash withdrawal in a day exceeds Rs 50,000. Earlier similar provisions were introduced in 2005 which remained applicable till June 30, 2021. There were various clarifications issued in respect of the earlier provisions which would remain applicable.

MINIMUM TAX ON TURNOVER

Minimum tax on turnover under section 113 is applicable on certain taxpayers where no tax is payable by the taxpayers due to any reason including exemption or loss adjustments, etc. or the tax payable is less than the prescribed threshold.

The standard rate of minimum tax is 1.25% of turnover except for certain sectors where reduced rates are prescribed. It is now proposed to reduce the standard rate from 1.25% to 1% in case of listed companies.

Minimum tax paid in a tax year is allowed to be carried forward for adjustment against 'tax payable' for subsequent three tax years. The language of this provision suggested that the adjustment can also be made against the minimum tax liability of subsequent three tax years. An amendment is proposed to the effect that the adjustment of minimum tax carry forward is only available against the normal tax payable by the taxpayer.

IMMUNITY ON FOREIGN REMITTANCES

The Commissioner is empowered to probe into sources of any unexplained investment, assets, etc. and in case of unsatisfactory explanations, such amount is added to the income of taxpayer and taxed accordingly. Such probe cannot be made in respect of remittances received from abroad through permissible channels. Upto tax year 2018, there was no cap on such remittances, however, the same was introduced at Rs 10 million per annum with effect from July 1, 2017, subsequently further reduced to Rs 5 million by Finance Act, 2019.

It is now proposed to enhance the above limit to equivalent USD 100,000 per annum. This immunity is prone to misuse and hence, there has been a consistent demand from documented sectors to remove this provision altogether.

PERMANENT ESTABLISHMENT (PE)

The concept of PE is of paramount importance in the context of non-residents' taxation in Pakistan. This concept universally exists and well defined in international commentaries as well as judgements of Higher Courts of Pakistan. Within Pakistan tax law, the definition of PE contains various clauses to cater for different situations.

The Bill proposes to make following amendments to certain clauses of this definition:

i) The term 'fixed' is proposed to be omitted from the main definition of PE which refers to place of business. It appears that the legislative intent behind such proposal is to capture those places of business which may not be fixed owing to technological advancements.

ii) Currently, a PE is also considered to exist where a non-resident provides services in Pakistan including consultancy services through its personnel or employee. By way of proposed amendment, services provided through an 'entity' will also give rise to a PE.

The above amendments that are in conflict with the double tax treaties will not have an impact for non-residents covered by such treaties.

TAX CREDIT FOR CONSTRUCTION OF NEW HOUSE

A new tax credit is introduced for an individual with regard to construction of a new residential house, subject to following conditions:

a) Available for tax year 2024 through tax year 2026;

b) The said house is completed during the said tax year and completion certificate is furnished along with return;

c) The amount of tax credit shall be lesser of:

   (i) 10% of tax assessed to the person for the tax year; or

   (ii) one million rupees; and

d) Layout plan is approved by the concerned authority on or after the July 1, 2023.

ADVANCE TAX ON PURCHASE OF IMMOVABLE PROPERTY

Advance tax is collected from the purchaser of immovable property at the rate of 2% of fair market value, which is treated as final tax in respect of certain Pakistani expatriates.

It is now proposed that advance tax would not apply if the buyer or transferee is a non-resident individual holding a Pakistan Origin Card (POC) or National Identify Card for Overseas Pakistanis (NICOP) or Computerized National ID Card (CNIC) who has acquired the said 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 upon submission of certificate as may be prescribed.

REDUCTION IN TAX LIABILITY ON NEW BUILDING CONSTRUCTION PROJECT

It is proposed to allow reduction in tax liability by the lower of 10% or Rs. 5 million, on income from business for tax year 2024 to tax year 2026 to a 'builder' from a new building construction subject to certain conditions.

TAX EXEMPTION EXTENDED FOR SALE OF IMMOVEABLE PROPERTY TO REIT

The period of exemption on profits and gains on the sale of immoveable property or shares of Special Purpose Vehicle to any REIT scheme was due to expire on June 30, 2023. The same is now proposed to be extended to June 30, 2024.

ASSOCIATES

The definition of 'associates' is proposed to be significantly widened to also include the following:

(i) a person who sufficiently influences (either alone or together with an associate or associates), the other person. It has been explained that for the purpose of this section, two persons shall be treated as sufficiently influencing each other, where one or both persons, directly or indirectly, are economically and financially dependent on each other and, decisions are made in accordance with the directions, instructions or wishes of each other for common economic goal; or

(ii) a person who enters into a transaction, directly or indirectly, with another person who is a resident of jurisdiction with zero taxation regime. The jurisdiction with zero taxation regime shall be the one as may be prescribed.

By virtue of the above amendments, the provisions otherwise relating to transactions between associates, such as transfer pricing, would become applicable.

RECOVERY OF LIABILITY UNDER ANY OTHER LAWS

A new section is proposed to be introduced to empower the Commissioner to recover any outstanding liability under any other statute or law for the time being in force, in respect of any defaulter where such liability is:

a) treated as income tax arrears in that law;
b) required to be recovered or collected by the Commissioner Inland Revenue; or
c) referred to the Commissioner Inland Revenue for the recovery.

In the aforesaid cases, the Commissioner shall recover the amount and deposit the receipts in the designated account specified in that law.

AUTOMATIC ISSUANCE OF EXEMPTION CERTIFICATE ON PAYMENTS TO NON-RESIDENTS

Where a payer is required to remit an amount to a non-resident without deduction of tax, he can apply to the Commissioner for an exemption certificate under section 152(5) of the Ordinance. The Commissioner is required to pass an order within thirty days from the receipt of such application.

It is now proposed that in case of Commissioner's failure to pass such an order within the period of thirty days (excluding the period for which the taxpayer sought any adjournment), the certificate shall be automatically processed and issued by IRIS web-portal. The Commissioner is, however, empowered to modify or cancel such automatically issued certificate after recording reasons in writing and providing an opportunity of being heard.

FINAL TAX ON INDIRECT EXPORTERS

Local supplies to exporters authorized under Export Facilitation Scheme, 2021 made under a firm contract are proposed to be treated at par with local supplies to exporters authorised under DTRE Rules, 2001. Consequently, payments will be subject to 1% final withholding tax.

FINAL TAX ON EXPORT OF IT SERVICES

Export of Computer Software and IT or IT enabled services is subject to withholding tax at the time of realization of export proceeds at the applicable rate. Such withholding tax is treated as final tax subject to fulfillment of various conditions including filing of sales tax returns under Federal or Provincial laws, if required under the law.

The Bill proposes to waive the condition of filing sales tax returns for availing final tax regime in respect of exports of computer software or IT services or IT enabled services where the exporter is registered with the Pakistan Software Export Board.

Furthermore, the reduced rate of tax (0.25%) on export of services related to computer software and IT/IT enabled services by persons registered with Pakistan Software Export Board is proposed to be restricted for tax year 2024 to tax year 2026.

ADVANCE TAX ON FOREIGN DOMESTIC WORKERS

A new advance tax provision has been introduced on employment of foreign nationals as domestic workers. Such tax shall be collected by the authority issuing or renewing domestic aide visa to such nationals from the agency, sponsor or the employer, as the case may be. The amount of advance tax is prescribed as Rs 200,000 which will be adjustable against the tax payable on income of the agency, sponsor or the employer, as the case may be.

TAX EXEMPTION FOR CERTAIN ORGANIZATIONS

Through the Finance Bill, income of following organizations is proposed to be included in Table 1 of Clause (66) of Part I contained in the Second Schedule:

(i) The Prime Minister's Relief Fund for Flood, Earthquake and Other Calamities with effect on and from August 5, 2022

(ii) Film and Drama Finance Fund

(iii) Export-Import Bank of Pakistan

(iv) Shaheed Mohtarma Benazir Bhutto Institute of Trauma, Karachi

(v) Shaheed Zulfikar Ali Bhutto Institute of Science and Technology

TAX EXEMPTION EXTENDED FOR ERSTWHILE TRIBAL AREA RESIDENTS

The period of exemption on income of residents of erstwhile Tribal Areas exempt prior to the Constitution (25^{th} Amendment) Act, 2018 was due to expire on June 30, 2023. The said exemption is now proposed to be extended to June 30, 2024. Similar amendments have been proposed in other fiscal laws.

REDUCTION IN TAX LIABILITY FOR YOUTH ENTERPRISE

It is proposed to allow reduction in tax liability on Income from business for tax years 2024 to tax years 2026 to youth enterprise subject to certain conditions in case of:

i) Individual or Association of Persons by 50% or Rs 2 million, whichever is lower; and

ii) Company by 50% or Rs 5 million, whichever is lower.

Youth enterprise is defined as a start up established after July 1, 2023 as sole proprietorship owned by a youth individual (a natural person upto the age of 30 years as of the start of relevant tax year) or an AOP all of whose members are youth or a company whose 100% shareholding is held or owned by youth individual.

EXEMPTION TO PM'S RELEIF FUND FROM SPECIFIC PROVISIONS

The Prime Minister's Relief Fund for Flood, Earthquake and Other Calamities with effect on and from the August 5, 2022 is proposed to be exempted from the provisions of:

- Minimum tax on turnover under section 113; and
- Withholding tax on profit on debt under section 151.

Further, donations through SMS will not be subject to tax withholding under section 236.

EXEMPTION FROM TAX COLLECTION ON IMPORT

It is proposed to allow retrospective exemption on goods imported for relief operations for flood affectees certified by NDMA or PDMA and import of tomato and onions during specified period. These exemptions were originally allowed through statutory notifications.

INTERNATIONAL CENTRE OF TAX EXCELLENCE

A new institute with the name of International Centre of Tax Excellence is proposed to be established to help contribute to the development of tax policy, prepare model national tax policy, deliver interdisciplinary research in tax administration and policy, international tax cooperation, revenue forecasting, conduct international seminars, workshops and conferences on the current issues faced by tax authorities in the field of international taxation, capacity building of Inland Revenue Officers, tax analysis, improve the design and delivery of tax administration for maximizing revenue within existing provisions to close the tax gap or any other function as directed by the FBR or the Federal Government.

SALES TAX

PRODUCTION, TRANSMISSION AND DISTRIBUTION OF ELECTRICITY

Through Finance Act, 2022, ‘production, transmission and distribution of electricity’ were included in the definition of ‘goods’ and ‘supply’ to reaffirm the Federal Government’s right to tax the same under the Sales Tax Act. This led to a legal controversy that whether the activity of transmission of electricity, being in the nature of a ‘service’, can be taxed by Federal Government consequent to the Eighteenth Amendment in the Constitution of Pakistan. Further, since it had already been held by higher courts that ‘electricity’ was in the nature of ‘goods’, specific inclusion thereof in definition of supply and goods was not essentially required.

Now, through the Bill, it has been proposed that such earlier amendment is done away and earlier applicable definition is restored.

Corresponding amendment has been made in the Islamabad Capital Territory (Tax on Services) Ordinance, 2001 to tax Electric power transmission services. The Federal Government has, thus, implemented the understanding earlier reached with the Provincial governments in a meeting of National Tax Council.

TIER-1 RETAILER

The Bill proposes to exclude following persons from the definition of ‘Tier-1 retailer’:

(i) retailers transacting business in shops measuring specified covered area (2,000 square feet or more for retailers of furniture and 1,000 square feet or more for other retailers); and

(ii) Jewelers.

As a result of the above, such persons (not falling under any other criteria of Tier-1 retailer) will no longer be required to integrate their outlets with FBR’s computerized system for real-time reporting of sales.

PENALTY

Penalty has been specified in case of a person who manufactures, possesses, transports, distributes, or sells cigarette packs with counterfeited tax stamps, banderoles, stickers, labels or barcodes or without tax stamps, banderoles, stickers, labels or barcodes.

Now, it is proposed that such penalty is made applicable in case of all the persons who are required by the FBR to affix tax stamps, banderole, stickers, labels, barcodes etc. on taxable goods in the prescribed manner but commit the above referred offence.

SUPPLIES TO REGISTERED EXPORTERS AUTHORIZED UNDER EXPORT FACILITATION SCHEME, 2021

Currently, local supplies of raw materials, components, parts and plants and machinery to registered exporters authorized under Export Facilitation Scheme, 2021 are covered under the zero-rated regime of sales tax subject to conditions/ limitations as specified therein.

Through the Bill, it has been proposed that zero-rating is also made applicable in respect of local supplies of ‘commodities’ to aforementioned exporters.

SUPPLY OF GEOMETRY BOX – ZERO RATING

At present, supply of geometry box covered under the PCT heading 9017.2000 as well as raw materials, packing materials, components etc. used in manufacturing thereof are subject to sales tax at the rate of 0%.

Now, it is proposed that the benefit of zero-rating is extended to all the items specified under the aforesaid PCT heading, i.e. 'other drawing, marking out or mathematical calculating instruments', and the related raw materials, packing materials, components etc.

SIXTH SCHEDULE - EXEMPTIONS

Presently, supply of following goods is exempt from sales tax unless these are supplied in retail packing under the brand name/ trademark:

(a) Red chillies;
(b) Ginger;
(c) Turmeric;
(d) Yogurt;
(e) Butter;
(f) Desi ghee;
(g) Cheese;
(h) Processed cheese not grated or powdered;
(i) Products of meat or meat offal;
(j) Meat of bovine animals, sheep, goat and uncooked poultry; and
(k) Fish and crustaceans.

It is proposed that the scope of above exemption is restricted and all supplies (whether or not supplied in retail packing) under a brand name/ trademark are proposed to be made taxable.

Presently, import and supply of blood bags CPDA-1 with blood transfusion set pack in aluminum foil with set is exempt from sales tax. Through the Bill, it is proposed to be clarified that the aforesaid exemption is also available in respect of blood transfusion sets not packed in aluminum foil, if the same are imported with blood bags CPDA-1 in corresponding quantity in the same consignment.

Further, imports and supplies of following goods are proposed to be exempted from levy of sales tax:

Description	Heading
Contraceptive and accessories thereof	3926.9020 4014.1000
Bovine semen	0511.1000
Saplings	Respective Heading
Combined Harvester –Thresher	8433.5100
Dryer for agricultural products	8419.3400
No-till-direct seeder, planters, trans-planters and other planters	8432.3100 8432.3900
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 @ 0%, 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 8517.6270

Exemption in respect of following goods is proposed to be withdrawn:

Description	Heading
Import of auto disable syringes, with or without needles	9018.3110 9018.3120
Import of tubular metal needles and rubber gaskets	9018.3200 4016.9310

Exemptions relating to erstwhile tribal areas

Sales tax exemption presently available, till June 30, 2023, in respect of following supplies and import is proposed to be extended by one year i.e. till June 30, 2024:

(i) Supply/ import of plant, machinery, equipment for installation in tribal areas;
(ii) Supply/ import of industrial inputs by the Industries located in tribal areas;
(iii) Supplies of electricity to all residential and commercial consumers in tribal areas; and
(iv) Supplies of electricity to such industries (excluding steel and ghee or cooking oil industries) in the tribal areas which were set up and started their industrial production before March 31, 2018.

EIGHTH SCHEDULE

Enhanced rate for textile & leather retailers

Presently, reduced rate of 12% is chargeable in case of supplies of finished fabric, locally manufactured finished article of textile and textile made ups, leather and artificial leather (subject to the condition that 4% value addition has been maintained during the last six months) made by Tier-1 retailers.

It is proposed that such rate is enhanced from 12% to 15%.

Pharma sector

At present, reduced rate of 1% is chargeable on manufacture or import of substances registered as drugs under Drugs Act, 1976, subject to certain conditions.

It is proposed that such reduced rate is made applicable retrospectively, with effect from July 1, 2022, in respect of **'only'** those drugs that are classifiable under Chapter 30 of the First Schedule to the Customs Act, 1969 with the following exceptions:

(a) filled infusion solution bags imported with or without infusion given sets;
(b) scrubs, detergents and washing preparations;
(c) soft soap or no soap;
(d) adhesive plaster;
(e) surgical tapes;
(f) liquid paraffin;
(g) disinfectants, and
(h) cosmetics and toilet preparations.

Currently, Active Pharmaceutical Ingredients (APIs), excluding excipients, for manufacture of drugs registered under the Drugs Act, 1976 and raw materials for the basic manufacture of such ingredients are chargeable to tax at a reduced rate of 1%.

Now, it has been proposed that such reduced rate is made applicable retrospectively, with effect from July 1, 2022 in case of '**only**' those raw materials/ ingredients, including excipients, which are liable to customs duty not exceeding 11% ad valorem, either under the First Schedule or Fifth Schedule to the Customs Act, 1969 or under a notification issued under section 19 thereof.

FEDERAL EXCISE DUTY (FED)

DUTIES OF EXCISE TO BE LEVIED

FED is historically an activity-based charge which is, however, being collected at the time of supply of excisable goods and services. Mere supply of excisable goods by a person is not subject to FED unless the person supplying the goods himself produced, manufactured, or imported such goods. Similarly, excisable services are subject to FED when such services are provided or rendered in Pakistan. Excisable goods and services are specified in the First Schedule.

A new clause (e) is proposed to be added to sub-section (1) of section 3, statedly not as a revenue measure but as a streamlining measure, to further elaborate the chargeability of FED on goods and services. This reads as under:

> *"(e) any item specified in the First Schedule"*

The way this clause is drafted does not elaborate or clarify any aspect of the chargeability of FED on goods and services rather it is likely to lead to an apparently unintended or ambiguous result leading to protracted litigations as it could be interpreted to create a charge on supply of excisable items even by a distributor, dealer or retailer.

This does not seem to be the legislative intent. The Federal Government should reconsider this amendment before finalisation.

PUBLICATION OF RULES, GENERAL ORDERS AND DEPARTMENTAL INSTRUCTIONS

Section 40 empowers the FBR to make Rules. The Finance Bill has proposed the procedure for collection, arrangement and publication of these Rules along with general orders, departmental instructions and rulings through sale to public at a reasonable price or placing the same on official website of the FBR.

The amendment has been proposed to align this section with section 50 of the Sales Tax Act, 1990.

FIRST SCHEDULE

TABLE I: DUTIABLE GOODS

To discourage use of high energy consuming electric appliances, the Finance Bill proposes to introduce new dutiable goods subject to FED as tabulated below:

Description	*HS Code*	*Proposed duty*
Imported and locally manufactured energy inefficient fans which do not comply with the MEPS, notified by PSQCA	Respective heading	2000 per fan
Imported and locally manufactured incandescent bulbs	8539.2200 8539.9010	20% ad valorem

TABLE II: EXCISABLE SERVICES

Earlier, franchise services have been subject to FED at the rate of 10%. The Finance Bill proposes to extend the scope to include royalty and fee for technical services as well at the rate of 10%.

CUSTOMS ACT

DEFINITION OF SMUGGLE

The definition of 'smuggle' is proposed to be amended to include the expression 'anywhere within the territorial jurisdiction of Pakistan'. This amendment is aimed to enable the Customs authorities to conduct anti-smuggling operations anywhere within the territorial limits of the country.

ASSISTANCE TO THE CUSTOMS OFFICERS

It has been proposed to add 'Provincial Levies and Khasadar Force' to the list of Government agencies empowered and required to assist Customs officers in discharge of their functions including anti-smuggling operations in Khyber Pakhtunkhwa and Baluchistan.

POWER TO EXEMPT GOODS

Powers of the Federal Government to exempt Customs duties have been proposed to be extended to cover grant of exemption for implementation of agreements of Government of Pakistan with an entity.

VALIDATION OF NOTIFICATIONS

The validity of exemption notifications issued on or after July 1, 2016 (that were placed for ratification before the National Assembly) is proposed to be extended from June 30, 2023 to next fiscal year i.e. up to June 30, 2024.

POWER TO DETERMINE CUSTOMS VALUE

Presently, the Director of Customs Valuation has been conferred with wide powers for valuation of goods, whereby he can straightaway incorporate customs value from internationally acclaimed publications, periodicals, bulletins or official websites of manufacturers or indenters of goods. Such provisions are now proposed to be amended so as to harmonize these with the 'World Trade Organisation Valuation Agreement' and it has been proposed that the Director of Customs Valuation may consult prices of goods from the aforesaid sources for valuation purposes.

FILING OF GOODS DECLARATION

In order to ease congestion at border Customs stations, it has been proposed that the owner of any imported goods shall file the Goods Declaration within three days of the arrival of goods at border customs station.

WAREHOUSING PERIOD

Presently, perishable items can be kept at Customs warehouses for a period of up to one month. In order to facilitate trade, it has been proposed to enhance the said warehousing period to three months.

DECLARATION BY A REPRESENTATIVE OF PASSENGERS

The owner of any baggage, whether a passenger or crew member, is required to make verbal or written declaration of the contents of the baggage, individually to an appropriate officer in the prescribed manner. In order to facilitate passengers travelling as a group, it has now been proposed to allow filing of declaration by a representative on behalf of the group.

PENALTIES

For redressing grievances of trade, it has been proposed that penalties leviable in connection with non-placement of invoices/ packing lists inside the import container or consignment are abolished.

Also, penalty imposed on account of failure to attach or electronically upload mandatory documents with Goods Declarations (ranging from Rs 50,000 to Rs 250,000), has been proposed to be restricted to Rs 50,000.

At present, penalties with respect to the various offences, including those listed below, have been made leviable on the basis of value of goods, without prescription of any minimum threshold:

- Smuggling of essential commodities;
- Contravention of import/export restrictions;
- Possessing, carrying, removing, depositing, harbouring, keeping concealing, retailing or in any manner dealing with smuggled goods; or
- Dealing with goods which have been unlawfully removed from a warehouse and evasion of duty/taxes thereon.

In this regard, a minimum threshold of penalty is now proposed to be introduced at an amount not less than the value of goods in order to make these penal provisions more stringent.

ADJUDICATION

In order to reduce clearance time and human interaction, it has been proposed to provide the respondents with the option of adjudication through Customs computerized system, with respect to such goods and offences as may be notified by the FBR.

CONFISCATED PROPERTY

Presently the FBR is empowered to authorize the Customs officials to use the confiscated vehicles for operational purposes. It has now been proposed that the FBR may also authorize the concerned officials, to use any confiscated conveyance and any other useful equipment for operational purposes, including anti-smuggling operations.

APPEAL TO THE APPELLATE TRIBUNAL

Provisions enabling the filing of appeal against an appellate order or a quasi-judicial order passed by the Chief Collector of Customs, before the Appellate Tribunal are proposed to be introduced to align with international standards. Such an appeal is proposed to be heard by a special bench consisting of one technical member and one judicial member.

ADVANCE RULING

Presently, Advance ruling can inter-alia be sought by applicants in relation to the applicability of notifications issued in respect of duties leviable under the Customs Act, 1969 or any tax or duty chargeable under any other law for the time being in force.

It has now been proposed to withdraw the option of seeking advance rulings in the above scenario, based on the position that matters involving interpretation of any statute lie in the FBR's domain and thus remain outside the purview of Advance Ruling.

AMENDMENTS PROPOSED IN THE FIRST SCHEDULE TO THE CUSTOMS ACT

Customs Duty on the following has been rationalized:

PCT code	Description	Existing %	Proposed %
2710.1995	Liquid paraffin	3	0
2849.1000	Carbides of calcium whether or not chemically defined	3	11
3206.4100	Ultramarine and preparations based thereon	16	11
3823.7000	Industrial fatty alcohols	16	11
3920.4910	Polyvinyl Chloride (PVC) Rigid film	20	16
3920.9900	Plates, sheets, films, foils and strips of plastics	20	16
4805.2500	Testliner (recycled liner board) weighing more than 150 g/ m²	20	16
4805.9190	Other uncoated paper or paperboard weighing 150 g / m² having di-electric strength less than 0.5 Kv per milimeter	20	16
4806.2000	Greaseproof papers	20	16
8421.9990	Centrifuges, including centrifugal dryers filtering or purifying machinery and apparatus for liquid or gases	20	16
8503.0020	Parts for use with the machines of headings 8501.5340, 8501.5390, 8502.1110, 8502.1390 & 8502.2000	11	3

Customs Duty applicable on import of In aqueous solution (soda lye or liquid soda) @ Rs 4,000 per metric ton is proposed to be levied @ 16% ad valorem.

In addition to above, changes have been made in various PCT headings as well as description to rationalise the duty structure.

AMENDMENTS PROPOSED IN THE FIFTH SCHEDULE TO THE CUSTOMS ACT (CONCESSION / EXEMPTION)

Exemption of Customs Duty

Customs Duty leviable on import of following is proposed to be exempted:

(i) Certain machinery, equipment, and inputs for manufacturing of solar panels, inverters and batteries by local assembler / manufacturer of renewable energy sector subject to certain conditions and quota determination / approvals;

(ii) Seeds for sowing;

(iii) Raw materials imported by manufacturers of diapers & sanitary napkins;

(iv) Paper of certain specifications, art cards and boards used for printing the Holy Quran;

(v) Organic composite solvents and thinners for manufacture of Butyl Acetate and Dibutyl Orthophthalates;

(vi) Roasted peanuts for manufacturing of Ready to Use Supplementary Foods (RUSF) & Ready to Use Therapeutic Foods (RUTF), subject to certain conditions;

(vii) Import of specified raw materials / inputs by manufacturers of Adhesive Tapes, Moulds and Dies, Mining machinery, Machine Tools and Rice mill machinery; and

(viii) Baby shrimp/prawns/juvenile for breeding in commercial fish farms and hatcheries.

Exemptions already provided are proposed to be extended as under:

(i) import of specified goods by industries setup in erstwhile FATA areas extended to June 30, 2024; and

(ii) import of Flavouring powders for food preparation till June 30, 2024.

Reduction in Customs Duty

Customs Duty leviable on import of the following goods is proposed to be reduced:

Description	Existing %	Proposed %
PET scrap, if imported for the manufacture of polyester filament yarn	20	11
Import of specified raw materials / inputs by manufacturers of Capacitors	16	5

The Bill proposes reduction in the assessed value of the IT related equipment, for the purpose of levying customs duty in case of imports by the software exporters registered with Pakistan Software Export Board subject to certain conditions. The reduction is proposed to be capped at 1% of the export proceeds of the previous financial year cumulatively on an annual basis.

Pharma sector

(i) Exemption from customs duty has been proposed on import of Active Pharmaceutical Ingredients (APIs) Dextrose Anhydrous Injectable Grade (Pyrogen Free) USP, whereas concession provided to Moxifloxacin is proposed to be withdrawn.

(ii) Exemption from customs duty on import of following drugs is proposed:

S. No.	PCT Code	Description
1	3004.9099	Gefitinib,
2	3004.9099	Caspian (Caspofungin 50 mg and 70 mg injection)
3	3004.3900	Bovine Lipid Extract Surfactant

(iii) Customs duty on import of Printed Composite Packaging of Aluminum Foil backed with Paper and Plastic used in the packaging of pharma products is proposed to be reduced from 10% to 5%.

Automobile sector

The Bill proposes certain amendments to streamline the concessions provided for electric vehicles in line with the Auto Industry Development and Export Policy (AIDEP) 2021-2026.

There are no changes in the rates of customs duties on import of hybrid electrical vehicles and parts of hybrid electric vehicles and plug-in hybrid vehicles however certain additional conditions are proposed.

Furthermore, reduced rate of customs duty at 1% prescribed for fully dedicated LNG, LPG and CNG buses (CBU) is proposed to be withdrawn.

ANNOUNCEMENT MADE BUT NOTIFICATION / AMENDMENTS AWAITED

Announcement in respect of the following has been made through the salient features issued along with the Finance Bill, however relevant notifications / amendments to that effect are awaited:

Regulatory duties (RD)

(i) Removal of RD on the following:
  a) second-hand clothing;
  b) IT related equipment;
  c) Synthetic Filament Yarn of Polyester not manufactured locally;
  d) parts for flat panels, monitors, projectors; and
  e) Silicon Steel Sheets.

(ii) Increase of RD on the following:
  a) import of articles of glass;
  b) 20% RD on import of inefficient Tungsten Filament Incandescent Bulbs and parts; and
  c) RD on export of Molasses from 10% to 15%.

(iii) Reduction of RD on 151 PCT codes pertaining to second-hand clothing, fish, tiles, sports goods.

(iv) Exemption of RD on special steel round bars and rods of non-alloy steel exceeding diameter 50 mm.

Increase in the Customs Duty / Taxes

Following cap of fixed duties and taxes on the import of old and used vehicles of Asian Makes above 1300 CC under SRO 577(I)/2005 is proposed to be withdrawn:

Automotive vehicles of Asian makes meant for transport of persons	Duty and taxes in US$ or equivalent amount in Pak rupee
From 1301 cc to 1500 cc	US$ 16,900
From 1501 cc to 1600 cc	US$ 20,500
From 1601 cc to 1800 cc (excluding jeeps)	US$ 25,400

Exemption of Additional Customs Duty

Additional customs duty is proposed to be exempted on import of raw materials of Hemodialyzers fluid / powder.

Reduction in Customs duty

It is proposed to reduce customs duty on import of non-localized (CKD) of Heavy Commercial Vehicles (HCVs) from 10% to 5%.

ISLAMABAD CAPITAL TERRITORY (SALES TAX ON SERVICES) ORDINANCE, 2001

FREELANCE EXPORTERS

It is proposed to grant the status of cottage industry to the freelance exporters exclusively dealing in export of IT and IT-enabled services. Resultantly, the Freelance Exporters will not be required to obtain registration, issue sales tax invoice and file sales tax return.

For this purpose, Freelance Exporter means a person who works on per job and on self-employed basis without being attached to or under employment of any other person, having the liberty to work on various tasks simultaneously

REDUCED SALES TAX RATE ON SERVICES PROVIDED BY RESTAURANTS

It is proposed to reduce sales tax on services provided by restaurants including cafes, food (including ice-cream) parlors, coffee houses, coffee shops, deras, food huts, eateries, resorts and similar cooked, prepared or ready-to-eat food service outlets etc. from 15% to 5 % in case where payment is made through debit or credit cards, mobile wallets or QR scanning with restriction of input adjustment.

SERVICES PROVIDED BY SOFTWARE OR IT BASED SYSTEM DEVELOPMENT CONSULTANTS

It is proposed that standard rate of sales tax on services of Software or IT based system development consultants (provided in Table I) be reduced from 16% to 15%.

ELECTRIC POWER TRANSMISSION SERVICES

Electric power transmission services were previously classified as goods and chargeable to tax under the Sales Tax Act, 1990. Now it is proposed to tax the same under Islamabad Capital Territory Sales Tax on Services Ordinance, 2001 at 15%.

IT AND IT-ENABLED SERVICES

IT and IT-Enabled services are proposed to be included in Table II at reduced rate of 5% subject to the condition that no input tax adjustment or refund shall be admissible. A specific definition of IT and IT-enabled services has also been added which is aligned with the definition of same term as per Income Tax Ordinance, 2001.

FOREIGN INVESTMENT (PROMOTION AND PROTECTION) ACT, 2022

In December 2022, 'Foreign Investment (Promotion and Protection) Act, 2022 ['FIPPA'] was passed with a view to attract, encourage, and protect, large scale investments in Pakistan. The enactment was made to ensure sustainable economic activity, legislative entrenchment of investment incentives granted by the Federal and/or Provincial governments, and to boost investors' confidence in the stability and continuity of regulatory environment.

Through Section 3 of FIPPA, the Federal Government has been empowered to notify any investment, sector, industry or project as 'Qualified Investment' by listing it in the First Schedule to FIPPA. Although Section 3(3) of FIPPA lays down that no investment shall be notified as 'Qualified Investment' unless the amount to be invested (either in the form of equity or debt) exceeds the threshold of 500 million USD or equivalent PKR, the proviso to the said sub-section empowers the Federal Government to notify, after recording reasons in writing, any investment as 'Qualified Investment' even if it is below the qualifying threshold of 500 million USD.

Presently, the Reko Diq Project in the Province of Balochistan, including the Reko Diq Mining Company (Private) Limited and its associated companies, have been listed in the First Schedule to the FIPPA as Qualified Investment.

The FIPPA further elaborately defines the term 'Investment Incentive' to include *inter alia* exemptions from and reduction/concessions in the rates of any Federal, Provincial or local duties, charges, taxes, levies, fees and cesses as may be mutually agreed by an investor and a concerned government through an investment agreement. An investment incentive which is listed in the Second or Third Schedule to FIPPA is termed as a 'Protected Benefit' which has been granted special legislative protection by Section 11 of FIPPA. The said sub-Section provides that a Protected Benefit that is a 'legislated amendment' shall continue in force for the term specified in the Second and Third Schedules to FIPPA and that no change/modification/alteration or substitution shall be made therein that disadvantages a Qualified Investment/investor. It further lays down that in case a statute on the basis of which a Protected Benefit is provided is itself amended in a manner that operates to the disadvantage of a Qualified Investment/investor, the unamended statute shall be deemed to continue in force with respect to the Qualified Investment.

The Second and Third Schedules to FIPPA, as passed by the parliament on December 13, 2022, contained a list of certain amendments in the Income Tax Ordinance, 2001, Sales Tax Act, 1990 and Federal Excise Act, 2005 vis-à-vis the Reko Diq Project, Reko Diq Minining Company (Private Limited) and its associated companies.

Whilst as a result of the above enactment already passed by the Parliament, the respective amendments have already been made and consequently all concessions and exemptions envisaged in FIPPA have been legally enforceable. However, it appears that in order to avoid procedural hassle relating to implementation of these concessions with regard to FBR's system, all such concessions are now incorporated in the fiscal laws administered by the FBR.

- ***Income Tax Ordinance, 2001***

Section 44A is proposed to be introduced in the Income Tax Ordinance, 2001 which adopts all the exemptions/concessions listed in the Second and Third Schedule to FIPPA which currently relate to the Reko Diq Project. With the introduction of section 44A in the Income Tax Ordinance, 2001 and other enabling amendments in respective fiscal laws, all concessions mentioned therein will be read in conjunction with FIPPA.

- ***Sales Tax Act, 1990***

The Fifth Schedule to the Sales Tax Act, 1990 is proposed to be amended through insertion of entry No. 8A which zero rates all the supplies made by, for or to Reko Diq Mining Company (Private) Limited for the period as specified in FIPPA.

- ***Federal Excise Act, 2005***

Table I of the Third Schedule to the Federal Excise Act, 2005 is proposed to be amended to exempt import or supplies of any goods made by, for or to Reko Diq Mining Company (Private) Limited for the period specified in FIPPA. Similarly, Table II is also proposed to be amended to exempt all the services provided by, for or to Reko Diq Mining Company (Private) Limited for the same time period.

- ***Customs Act, 1969***

The Second Schedule to FIPPA includes certain amendments/exemptions relating to the Customs Act, 1969 which are currently not included in the Bill. This appears to be an omission which is expected to be rectified.