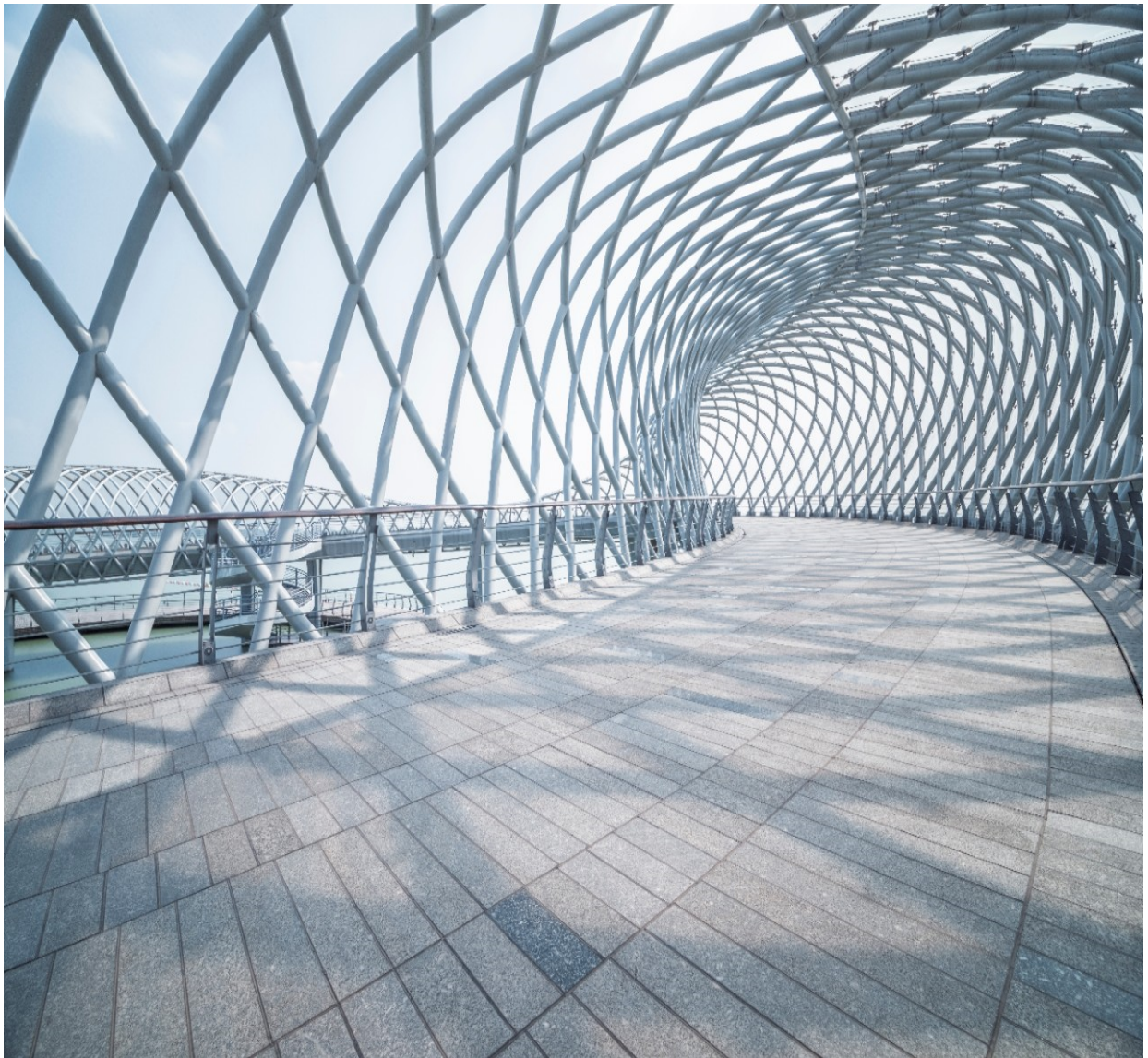


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# *Finance Act, 2023*



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## **FINANCE ACT, 2023**

### **PREFACE**

This booklet contains notes and comments on the amendments made in the fiscal laws through the Finance Act, 2023 passed by the Parliament.

We consider that readers will find the booklet useful. They are, however, requested to seek specific opinion on issues emanating from the amendments.

We thank the staff which has helped us in preparing this booklet. The text of this booklet can also be accessed on our website [www.pwc.com/pk](http://www.pwc.com/pk)

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### **Table of Contents**

<b><i>Income Tax</i></b>	<b><i>1</i></b>
<b><i>Sales Tax</i></b>	<b><i>14</i></b>
<b><i>Federal Excise Duty</i></b>	<b><i>18</i></b>
<b><i>Customs Duty</i></b>	<b><i>19</i></b>
<b><i>Islamabad Capital Territory</i></b>	
<b><i>(Sales Tax on Services) Ordinance, 2001</i></b>	<b><i>23</i></b>
<b><i>Foreign Investment (Promotion and</i></b>	
<b><i>Protection) Act, 2022</i></b>	<b><i>23</i></b>
<b><i>Petroleum Products (Petroleum Levy)</i></b>	
<b><i>Ordinance, 1961</i></b>	<b><i>24</i></b>

# INCOME TAX

## **PERMANENT ESTABLISHMENT (PE)**

### **[Section 2(41)]**

The definition of PE has been amended through the Finance Act, 2023 (FA 2023) in the following manner:

- i) The term 'fixed' has been omitted from the main definition of PE which refers to place of business. This amendment has been made in relation to another amendment regarding 'virtual business presence', described in (ii) below.
- ii) The scope of PE has been expanded by incorporating virtual business presence in Pakistan including any business where transactions are conducted through internet or any other electronic medium, with or without having any physical presence.
- iii) Currently, a PE is also considered to exist where a non-resident provides services in Pakistan including consultancy services through its personnel or employee. An amendment has now been made whereby the services provided through an 'entity' will also give rise to a PE.

Non-residents covered by Double Tax Treaties (DTT) will not be affected by the changes made through FA 2023 and consequently their PE status will continue to be determined under the relevant DTT provisions.

## **SUPER TAX ON HIGH EARNING PERSONS**

### **[Sections 4C & 147 And Rule (49A) of the Eighth Schedule]**

Through the Finance Act 2022 (FA 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. The higher rate of 10% was applicable in both the cases only where income exceeded Rs. 300 million.

In relation to the retrospective application of super tax for tax year 2022 and enhanced rate applicable for specified sectors, Constitutional 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 sub-judiced before the Supreme Court. The Lahore High Court has also recently held the application of higher rate of 10% on specified sectors *ultra vires* being discriminatory; however, LHC has upheld the levy of super tax for tax year 2022.

Through FA 2023, the Government has introduced new slab rates for super tax for taxpayers having income in excess of Rs 350 million. As a result, the highest slab rate of 10% will be applicable on taxpayers of all sectors having income in excess of Rs 500 million; thus, eliminating the discrimination.

The revised table for super tax rates is as under.

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

**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 FA 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.

### **Super Tax to be collected along with advance tax**

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

### **Collection of Super Tax by NCCPL on disposal of Securities** **[Rule 4A of the Eighth Schedule]**

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

After the amendments through FA 2023, super tax on such capital gains shall now be collected by NCCPL along with capital gains tax on a monthly basis under the mechanism prescribed in Eighth Schedule.

### **TAX ON DEEMED INCOME** **(Sections 7E and 236C)**

Through FA 2022, a resident individual owning immovable properties in Pakistan is subjected to tax on deemed income from such properties for tax year 2022 and onwards. Such deemed income is effectively taxed at 1% of the FBR values of immovable properties. The said tax is not applicable on certain immovable properties which *inter alia* include the following:

- one immovable property owned by the resident person;
- any property from which income is chargeable to tax under the Ordinance and tax leviable is paid thereon;
- immovable property in the first tax year of acquisition where tax under section 236K has been paid;
- where the fair market value of the properties in aggregate excluding certain specified properties does not exceed Rupees twenty-five million.



By way of an amendment through FA 2023, the abovementioned properties will only be excluded from the purview of tax on deemed income if the name of the person holding such properties is appearing on the Active Taxpayers' List (ATL). However, if any person is not required to file a return of income and obtains certificate to that effect as provided under the Tenth Schedule then such person would not be liable to pay tax on deemed income under section 7E despite not appearing on the ATL.

If the tax liability under section 7E is not discharged, then the registrar or the person registering the transfer is required not to register the transfer of the subject property.

### **THRESHOLD FOR SALARY PAYMENT OTHERWISE THROUGH BANKING CHANNEL** **[Section 21]**

Presently, salary payments exceeding Rs 25,000 per month are not allowed as admissible deduction while computing income from business. The said limit is now enhanced to Rs 32,000 per month.

### **CAPITAL MARKET**

#### **a) Public Offer** **[Sections 37 and 37A]**

Through the Finance (Supplementary) Act, 2023, capital gains arising on disposal of shares of listed company which is made otherwise than through stock exchange and which are not settled through NCCPL, is taxed under section 37 of the Ordinance. The said amendment had resulted in unwarranted tax implications on public offerings of listed securities.

Through an amendment made by FA 2023, disposal of shares through initial public offer during the listing process will remain subject to tax under section 37A of the Ordinance provided the details of such disposal are furnished to NCCPL for the computation of Capital Gains and tax thereon.

#### **b) Securities acquired prior to July 1, 2013** **[Section 37A read with Division VII, Part I of the First Schedule]**

Prior to FA 2023, capital gains arising on disposal of securities acquired prior to July 1, 2013 were subject to flat tax of 12.5%.

Through FA 2023, capital gains arising on disposal of such securities have been subjected to tax at 0%. The said amendment has resolved the unwarranted anomaly arisen due to an amendment made through FA 2022.

### **TAX ON BONUS SHARES** **[Sections 2, 39 And 236Z]**

Through FA 2023, tax on bonus shares has been re-introduced. Earlier, such tax was introduced through FA 2014 and omitted through FA 2018.

Prior to the amendments made through FA 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 FA 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 FA 2018.

FA 2023 re-introduces 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 is in 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.

### **ASSOCIATES**

#### **[Section 85]**

Through FA 2023, the definition of ‘associates’ has significantly been 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, may become applicable.

### **ADDITIONAL TAX ON WINDFALL INCOME**

#### **[Section 99D]**

Through FA 2023, a new section has been inserted 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 windfall income, profits or gains.

The salient features of this provision are as under:

- (a) The section has an overriding effect over other provisions of the Ordinance or any other law for the time being in force;
- (b) Additional tax can be levied on income, profit or gains earned in any of the three (3) 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 the sectors to which the said section will apply, windfall income, profits / gains and the 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 aforesaid notification is required to be placed before the Parliament within ninety (90) days of notification or June 30 of the financial year, whichever is earlier.
- (e) The applicability of the said tax will only be restricted to 'companies' operating in sectors as may be notified;
- (f) The rate will not exceed 50% of the income, profit or gains; and
- (g) The scope, manner of payment and any exemptions shall be covered by the aforesaid notification.

Corresponding amendments have also been made for application of the above provisions to 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.

### **MINIMUM TAX ON TURNOVER** **[Section 113]**

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 minimum tax so 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 of minimum tax can also be made against the minimum tax liability of these subsequent tax years.

Through FA 2023, an explanation has been inserted to clarify that the minimum tax carry forward is only available for adjustment against the normal tax payable by the taxpayer.

### **ALTERNATIVE DISPUTE RESOLUTION (ADR)** **[Section 134A]**

The concept of ADR was introduced in the law to avoid protracted litigation and delay in settlement of cases. This mechanism was introduced in parallel with taxpayer's right to appeal before appellate forums. Despite of various amendments made over the years, this forum has not achieved the desired results.

To make this forum effective, following amendments have been made through FA 2023:

- Under the revised mechanism, the committee shall include a retired judge, not below the rank of a judge of a High Court, who shall also be the Chairperson of the Committee. The retired judge would be nominated by FBR from the panel notified by the Law and Justice Division. The other two members of the Committee shall be the concerned Chief Commissioner Inland Revenue and a person to be nominated by the taxpayer from the panel notified by FBR. The decision of Committee will be by majority.
- Presently, the taxpayer needs to withdraw his appeal for seeking relief under the ADR. Under the revamped procedure, the taxpayer, if satisfied with the ADRC decision, is required to withdraw appeal and communicate the withdrawal to the Commissioner within 60 days of the ADRC decision.

- Presently, the offer of tax payment made by taxpayer in initial proposal for resolution of dispute, accompanied with the application for ADR, is irrevocable. Through amended provisions, such offer would not be binding.
- Under the amended mechanism, the decision of the Committee shall only be binding upon the Commissioner if the taxpayer has withdrawn the appeal and has communicated the same to the Commissioner within 60 days of service of decision of the Committee. In such circumstances, Commissioner is also required to withdraw his appeal within 30 days of appeal withdrawal notice from the taxpayer.
- Time period for the appointment of Committee as well as time period prescribed for the decision of the dispute has also been reduced in the following manner:

Description	Current	Amended
	----- <i>number of days</i> -----	
Constitution of committee	45 days of receipt of application	15 days of receipt of application
Decision in dispute	120 days	45 days, extended by 15 days

Similar amendments have been made in the Sales Tax Act, 1990 and the Federal Excise Act, 2005. In the Customs Act, 1969, amendments on above lines were made through FA 2020 except for appointment of a retired judge as member of the ADRC which amendment has now been made through FA 2023.

### **RECOVERY OF LIABILITY UNDER ANY OTHER LAWS**

#### **[Section 146D]**

Through FA 2023, a new section has been introduced to empower the Commissioner to recover any outstanding liability under any other statute or law for the time being in force enacted through an Act of Parliament, in respect of any defaulter where such liability is:

- treated as income tax arrears in that law;
- required to be recovered or collected by the Commissioner Inland Revenue; or
- 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.

### **ADVANCE TAX ON CONSTRUCTION / DISPOSAL OF BUILDINGS AND PLOTS**

#### **[Section 147(5C)]**

An amendment has been made in section 147 through FA 2023, which requires payment of advance tax on project-by-project basis in four equal instalments by persons deriving income from business from the following:

- construction and disposal of residential, commercial and other buildings
- development and sale of residential, commercial and other plots

The said advance tax is required to be discharged by the dates prescribed for corporate and non-corporate persons, as the case may be. The rates prescribed for advance tax are aligned with the tax rates applicable on builders and developers who opted to be taxed under section 100D read with Eleventh Schedule.



Builders or developers in respect of projects registered / covered under the Eleventh Schedule will continue to discharge their tax liability (including advance tax) under the said Schedule. However, for projects which are not registered / covered under the Eleventh Schedule, the advance tax liability under section 147 will be discharged as stated above whilst their taxability will be governed under normal provisions of the law.

### ***AUTOMATIC ISSUANCE OF EXEMPTION CERTIFICATE ON PAYMENTS TO NON-RESIDENTS***

#### ***[Section 152]***

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.

Henceforth, 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 on 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. This will create practical challenges in cases where the payments have been made without tax deduction after issuance of system generated certificate but before modification or cancellation by the Commissioner.

### ***FINAL TAX ON INDIRECT EXPORTERS***

#### ***[Section 154]***

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

### ***FINAL TAX ON EXPORT OF IT SERVICES***

#### ***[Section 154A and Division IVA, Part III of the First Schedule]***

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 condition of filing sales tax returns for availing final tax regime in respect of export of computer software or IT services or IT enabled services (where the exporter is registered with the Pakistan Software Export Board) has been waived through FA 2023.

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 restricted for tax year 2024 to tax year 2026.

### ***INTERNATIONAL CENTRE OF TAX EXCELLENCE***

#### ***[Section 230J]***

A new institute with the name of 'International Centre of Tax Excellence' is 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.

**ADVANCE TAX ON CASH WITHDRAWAL BY NON-FILERS****[Section 231AB]**

Adjustable advance tax on cash withdrawals by non-filers has been reintroduced through FA 2023 at the rate of 0.6% where the sum of the payments for cash withdrawal in a day exceeds Rs 50,000. Since the said tax is applicable on non-filers only, corresponding amendment has also been made in the Tenth Schedule to avoid duplicate implications.

**ADVANCE TAX ON FOREIGN DOMESTIC WORKERS****[Section 231C]**

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.

## INCOME TAX SCHEDULES

### **INCREASE IN TAX RATES FOR NON-CORPORATE TAXPAYERS**

#### **[Division I, Part I of the First Schedule]**

Through FA 2023, the rate of tax for tax year 2024 and onwards has been increased as under:

- Flat increase of 2.5% in the tax rates applicable on salaried individuals earning more than Rs 2.4 Million per annum with highest slab rate of 35% starting from Rs 6 Million per annum (previously Rs 12 Million).
- Flat increase of 2.5% in the tax rates applicable on non-salaried individuals and AOPs earning more than Rs 600,000 per annum with highest slab rate of 35% starting from Rs 4 Million (previously Rs 6 Million).

### **SALARIED INDIVIDUALS (COMPARISON OF EXISTING AND NEW RATES)**

<b>Sr No.</b>	<b>Taxable income</b>	<b>Previous Rates</b>	<b>New Rates</b>
1.	Where the taxable income does not exceed Rs 600,000	Rs. 0	Rs. 0
2.	Where the taxable income exceeds Rs 600,000 but does not exceed Rs 1,200,000	2.5% of the amount exceeding Rs 600,000	2.5% of the amount exceeding Rs 600,000
3.	Where the taxable income exceeds Rs 1,200,000 but does not exceed Rs 2,400,000	Rs 15,000 + 12.5% of the amount exceeding Rs 1,200,000	Rs 15,000 + 12.5% of the amount exceeding Rs 1,200,000
4.	Where the taxable income exceeds Rs 2,400,000 but does not exceed Rs 3,600,000	Rs 165,000 + 20% of the amount exceeding Rs 2,400,000	Rs 165,000 + 22.5% of the amount exceeding Rs 2,400,000
5.	Where the taxable income exceeds Rs 3,600,000 but does not exceed Rs 6,000,000	Rs 405,000 + 25% of the amount exceeding Rs 3,600,000	Rs 435,000 + 27.5% of the amount exceeding Rs 3,600,000
6.	Where the taxable income exceeds Rs 6,000,000 but does not exceed Rs 12,000,000	Rs 1,005,000 + 32.5% of the amount exceeding Rs 6,000,000	Rs 1,095,000 + 35% of the amount exceeding Rs 6,000,000
7.	Where the taxable income exceeds Rs 12,000,000	Rs 2,955,000 + 35% of the amount exceeding Rs 12,000,000	

The impact of the above-mentioned changes is illustrated as under:

<b>Annual taxable income</b>	<b>Tax Year 2023</b>	<b>Tax Year 2024</b>	<b>Excess tax</b>
<b>----- Rupees -----</b>			
600,000	-	-	-
1,200,000	15,000	15,000	-
2,400,000	165,000	165,000	-
3,600,000	405,000	435,000	30,000
6,000,000	1,005,000	1,095,000	90,000
12,000,000	2,955,000	3,195,000	240,000

**NON-SALARIED INDIVIDUALS / AOPs (COMPARISON OF EXISTING AND NEW RATES)**

<b>Sr No.</b>	<b>Taxable income</b>	<b>Prevoius Rate</b>	<b>New Rate</b>
1.	Where the taxable income does not exceed Rs 600,000	0%	0%
2.	Where the taxable income exceeds Rs 600,000 but does not exceed Rs 800,000	5% of the amount exceeding Rs 600,000	7.5% of the amount exceeding Rs 600,000
3.	Where the taxable income exceeds Rs 800,000 but does not exceed Rs 1,200,000	Rs 10,000 + 12.5% of the amount exceeding Rs 800,000	Rs 15,000 + 15% of the amount exceeding Rs 800,000
4.	Where the taxable income exceeds Rs 1,200,000 but does not exceed Rs 2,400,000	Rs 60,000 + 17.5% of the amount exceeding Rs 1,200,000	Rs 75,000 + 20% of the amount exceeding Rs 1,200,000
5.	Where the taxable income exceeds Rs 2,400,000 but does not exceed Rs 3,000,000	Rs 270,000 + 22.5% of the amount exceeding Rs 2,400,000	Rs 315,000 + 25% of the amount exceeding Rs 2,400,000
6.	Where the taxable income exceeds Rs 3,000,000 but does not exceed Rs 4,000,000	Rs 405,000 + 27.5% of the amount exceeding Rs 3,000,000	Rs 465,000 + 30% of the amount exceeding Rs 3,000,000
7.	Where the taxable income exceeds Rs 4,000,000 but does not exceed Rs 6,000,000	Rs 680,000 + 32.5% of the amount exceeding Rs 4,000,000	Rs 765,000 + 35% of the amount exceeding Rs 4,000,000
8.	Where the taxable income exceeds Rs 6,000,000	Rs 1,330,000 + 35% of the amount exceeding Rs 6,000,000	

The impact of the above-mentioned changes is illustrated as under:

<b>Annual taxable income</b>	<b>Tax Year 2023</b>	<b>Tax Year 2024</b>	<b>Excess tax</b>
<b>----- Rupees -----</b>			
600,000	-	-	-
800,000	10,000	15,000	5000
1,200,000	60,000	75,000	15,000
2,400,000	270,000	315,000	45,000
3,000,000	405,000	465,000	60,000
4,000,000	680,000	765,000	85,000
6,000,000	1,330,000	1,465,000	135,000

**ENHANCEMENT OF RATE OF TAX ON COMMERCIAL IMPORTERS**  
**[Part II of the First Schedule]**

Rate of tax on commercial importers of goods covered under Part III of the Twelfth Schedule has been 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 CERTAIN WITHHOLDING TAXES BY 1%**  
**[Divisions II and III of Part II of the First Schedule]**

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.

Through FA 2023, the Government has enhanced withholding tax rates by 1% for payments covered by sections 152(2A) and 153 as referred above.

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

Description	Previous Rate	Revised 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:		
o by company	8%	9%
o any other case	10%	11%
Execution of contract other than sports persons:		
- In case of company (resident)	6.5%	7.5%
- All other cases	7%	8%

**ADVANCE TAX ON MOTOR VEHICLES**  
**[Division VII, Part IV of the First Schedule]**

Through FA 2023, the rate of advance tax collected on registration of motor vehicle by motor registration authority or by the manufacturer on sale of motor vehicle has been amended as under:

S. No.	Engine Capacity	Existing Tax	Revised Tax / Rate of Tax
1	Upto 850cc	Rs 10,000	Rs 10,000
2	851cc to 1000cc	Rs 20,000	Rs 20,000
3	1001cc to 1300cc	Rs 25,000	Rs 25,000
4	1301cc to 1600cc	Rs 50,000	Rs 50,000
5	1601cc to 1800cc	Rs 150,000	Rs 150,000
6	1801cc to 2000cc	Rs 200,000	Rs 200,000
7	2001cc to 2500cc	Rs 300,000	6% of the Value
8	2501cc to 3000cc	Rs 400,000	8% of the Value
9	Above 3000cc	Rs 500,000	10% of the Value



For the purpose of advance tax, the value of motor vehicle above 2000cc will be as follows:

- i) **Imported vehicle** – value assessed by the customs authorities as increased by the customs duty, federal excise duty and sales tax payable at import stage
- ii) **Locally manufacture / assembled vehicles** – invoice value inclusive of all duties and taxes
- iii) **Auctioned vehicle** – the auction value inclusive of all duties and taxes

There is no change in rate of advance tax collected on transfer of registration of motor vehicle.

**ADVANCE TAX ON PURCHASE / SALE / TRANSFER OF IMMOVABLE PROPERTY**  
**[Sections 236C and 236K]**

Through FA 2023, the rate of advance tax to be collected from buyer or seller on purchase / sale / transfer of property has also been increased from 2% to 3%. As a result, rate of tax on those not appearing on the ATL will also be increased as under:

- (i) On purchase of property - from 7% to 10.5%
- (ii) On sale of property - from 4% to 6%

**ENHANCEMENT OF RATE OF TAX ON REMITTANCE ABROAD THROUGH CREDIT, DEBIT OR PREPAID CARD**  
**[Division XXVII, Part IV of the First Schedule]**

The rate of adjustable advance tax required to be collected by the banking companies on transfer of any sum remitted outside Pakistan through credit, debit or prepaid cards has been enhanced from 1% to 5% of the gross amount remitted abroad.

**TAX EXEMPTION FOR CERTAIN ORGANIZATIONS**  
**[Clause (66), Part I of the Second Schedule]**

Income of following organizations has been 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

Income of following organizations has been included in Table 2 of Clause (66) of Part I contained in the Second Schedule:

- (i) Balochistan Bar Council
- (ii) Islamabad Bar Council
- (iii) Khyber Pakhtunkhwa Bar Council
- (iv) Punjab Bar Council
- (v) Sindh Bar Council
- (vi) Shaheed Zulfikar Ali Bhutto Foundation

***TAX EXEMPTION EXTENDED FOR ERSTWHILE TRIBAL AREA RESIDENTS***  
***[Clause (145A) in Part I and Clauses (109A) and (110) in Part IV of Second Schedule]***

The period of exemption on income of residents of erstwhile Tribal Areas exempt prior to the Constitution (25<sup>th</sup> Amendment) Act, 2018 was due to expire on June 30, 2023. The said exemption along with exemption from withholding tax has now been extended to June 30, 2024.

***EXEMPTION TO PM'S RELIEF FUND FROM SPECIFIC PROVISIONS***  
***[Clauses (11A), (121), (122) and (123), Part IV of the Second Schedule]***

The Prime Minister's Relief Fund for Flood, Earthquake and Other Calamities has been exempted from following with effect from August 5, 2022:

- 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.

Retrospective exemption is allowed 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.

***TAXATION OF BANKING COMPANIES [Seventh Schedule]***

***Applicability of Super Tax***  
***[Rule 7CA]***

The levy of Super Tax under section 4C is applicable on the banking companies with effect from tax year 2023. Through a corresponding amendment vide FA 2023 in the Seventh Schedule, the same has also been given effect. However, the way the amendment has been worded, it appears that the same may give rise to a conflict as to whether the same would be applicable on banking companies with effect from tax year 2023 or 2024.

***Profit on debt and capital gains from Federal Government's sovereign debt***  
***[Sub-rule (4) of Rule 8]***

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 has now been incorporated with certain amendments through FA 2023.

***Higher rate of tax on income from government securities***  
***[Sub-rule (6A) of Rule 6C]***

Banking companies are subject to higher rates of tax on income arising from investments in Federal Government securities based on the 'gross advances to deposits ratio' as on last day of the tax year. The said provision was made inapplicable on tax year 2024 through SRO 226(I)/2023 dated February 27, 2023. Through FA 2023, the said amendment has now been ratified.

***THIRTEENTH SCHEDULE***

Through FA 2023, the following names have been added in the list of entities / funds under the Thirteenth Schedule for which tax credit on donation, voluntary contribution or subscription is available under the provisions of section 61:

- (i) The Prime Minister's Relief Fund for Flood, Earthquake and Other Calamities with effect from August 5, 2022;
- (ii) Film and Drama Finance Fund.

## SALES TAX

### **PRODUCTION, TRANSMISSION AND DISTRIBUTION OF ELECTRICITY**

#### **[Section 2(12)]**

Last year, the expression ‘production, transmission and distribution of electricity’ was included in the definition of ‘goods’ and ‘supply’ through FA 2022. The amendment was probably made to reaffirm the Federal Government’s right to tax the same under the Sales Tax Act. However, this led to a legal controversy that whether the activity of transmission of electricity on standalone basis, being in the nature of a ‘service’, can be taxed by Federal Government. As per Entry 49 of Federal Legislative List, sales tax on sale or purchase of goods is a Federal subject, whereas sales tax on services is a Provincial subject. Since ‘electricity’, by nature, is ‘goods’, specific inclusion thereof in definition of supply and goods was essentially not required.

FA 2023 has withdrawn the above amendment (made through FA 2022) and as a result, the definition of ‘goods’ and ‘supply’, as was applicable prior to insertion of expression ‘production, transmission and distribution of electricity’ therein stands restored.

Corresponding amendment has also been made in the Islamabad Capital Territory (Tax on Services) Ordinance, 2001 to tax electric power transmission services provided in the Islamabad Capital Territory. The Federal Government has, thus, implemented the understanding earlier reached with the Provincial governments (in a meeting of National Tax Council) whereby electric power transmission services had been subject to tax under relevant laws of sales tax on services.

### **TIER-1 RETAILER**

#### **[Section 2(43A)]**

Following persons have been excluded 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.

### **INCREASE IN RATE OF FURTHER TAX**

#### **[Section 3(1A)]**

Further tax is required to be charged on supply of taxable goods to person who has not obtained registration or not an active taxpayer, subject to certain exclusions.

The FA 2023 has increased rate of further tax from 3% to 4%.

### **PENALTY**

#### **[Section 33(23)]**

Penalty was 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.

Through FA 2023, such penalty has been 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.

## **FIFTH SCHEDULE – ZERO RATING**

### ***PREPARATIONS SUITABLE FOR INFANTS [Clause (xvii) in S. No. 12]***

Supply of ‘preparation suitable for infants’, put up for retail sale not exceeding Rs 500 per 200 grams as well as raw materials, packing materials, components etc. used in manufacturing thereof are subject to sales tax at the rate of 0%.

Through FA 2023, the threshold of ‘Rs 500 per 200 grams’ has been enhanced to ‘Rs 600 per 200 grams’.

### ***SUPPLY OF GEOMETRY BOX [Clause (xxv) in S. No. 12]***

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%.

Through FA 2023, the benefit of zero-rating has been 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.

### ***SUPPLIES TO REGISTERED EXPORTERS AUTHORISED UNDER EXPORT FACILITATION SCHEME, 2021 [S. No. 21]***

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. Now, such zero-rating is also made applicable in respect of local supplies of ‘commodities’ to aforementioned exporters.

## **SIXTH SCHEDULE - EXEMPTIONS**

Prior to FA 2023, supply of following goods was exempt from sales tax unless 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.

Through FA 2023, the scope of above exemption has been restricted and all of the above goods (whether or not supplied in retail packing) under a brand name/ trademark have been made taxable.

Through FA 2023, exemption in respect of following goods has been 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

Import and supply of blood bags CPDA-1 with blood transfusion set pack in aluminum foil with set is exempt from sales tax. Through FA 2023, it has been 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.

***Diammonium Phosphate (DAP)***  
***[S. No. 168 in Table 1]***

Through FA 2023, exemption in respect of import or supply of DAP has been withdrawn and the same has been made subject to sales tax at a reduced rate of 5%, with no refund of excessive input tax.

***Erstwhile tribal areas***  
***[S. Nos. 151 & 152 in Table 1]***

In line with exemption extended for income tax for erstwhile tribal areas, sales tax exemption provided in respect of following supplies and imports has also been extended by one year (i.e., till June 30, 2024):

- (i) Supplies meant for consumption in tribal areas;
- (ii) Import of plant, machinery, equipment for installation in tribal areas;
- (iii) Import of industrial inputs by the Industries located in tribal areas;
- (iv) Supplies of electricity to all residential and commercial consumers in tribal areas; and
- (v) 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***  
***[S. No. 66]***

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 were subject to sales tax @ 12%.

Through FA 2023, rate of sales tax on such supplies has been enhanced to 15%.

***Pharma sector***  
***[S. Nos. 81 & 82]***

The reduced rate of 1% provided in respect of substances registered as drugs under Drugs Act, 1976 (subject to certain conditions), has also been extended to medicaments 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.

The above amendment has been made applicable from July 1, 2022.



Prior to July 1, 2023, 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 were subject to sales tax at a reduced rate of 1%. Through FA 2023, such reduced rate has been made applicable in case of all raw materials, including excipients, for manufacture of APIs and pharmaceutical products. However, in case of import, reduced rate of 1% would be applicable in respect of 'only' those raw materials 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.

Further, while specifying the reduced rate of 1% in respect of above-mentioned pharmaceutical products or related raw materials/ ingredients, bar on input tax was placed only in case of manufacturer or importer of such products. Now, through FA 2023, it has been provided that such input tax adjustment would not be available to any person in the supply chain of these products/ raw materials.

## FEDERAL EXCISE DUTY (FED)

### **DUTIES OF EXCISE TO BE LEVIED**

#### **[Section 3(1)]**

FED has historically been an activity-based charge which, however, is collected at the time of supply of excisable goods and services. Mere supply of excisable goods by a person has never been 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.

FA 2023 has added a new clause (e) to sub-section (1) of section 3, which reads as under:

*“(e) any item not covered in clause (a) to (d) above and specified in the First Schedule”*

The amendment seems to cover imposition of FED on items which are neither goods (imported or manufactured) nor services, specified in the First Schedule.

### **PUBLICATION OF RULES, GENERAL ORDERS AND DEPARTMENTAL INSTRUCTIONS**

#### **[Section 40]**

Section 40 empowers the FBR to make Rules. The FA 2023 now introduces 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 made to align this section with section 50 of the Sales Tax Act, 1990.

### **FIRST SCHEDULE**

#### **DUTIABLE GOODS**

(a) The FA 2023 has increased FED on following dutiable goods:

<i>Description</i>	<i>Existing Rate</i>	<i>Revised Rate</i>
Tobacco mixture in an electrically heated tobacco product by whatever name called, intended for consumption by using a tobacco heating system without combustion	Rs 5,200 per kg	Rs 16,500 per kg
Sugary Fruit juices, syrups and squashes, waters whether or not containing added sugar or artificial sweeteners excluding mineral and aerated waters	10% of retail price	20% of retail price

(b) The FA 2023 has further imposed FED on Fertilizers at a rate of 5% ad valorem.

(c) To discourage use of high energy consuming electric appliances, FA 2023 has introduced new dutiable goods subject to levy of FED from January 1, 2024, as tabulated below:

<i>Description</i>	<i>HS Code</i>	<i>Rate</i>
Imported and locally manufactured energy inefficient fans which do not comply with the MEPS, notified by PSQCA	Respective heading	Rs 2,000 per fan
Imported and locally manufactured incandescent bulbs	8539.2200 8539.2990	20% ad valorem

### **EXCISABLE SERVICES**

Earlier, franchise services have been subject to FED at the rate of 10%. The FA 2023 extends the scope to include royalty and fee for technical services as well at the rate of 10%.

## CUSTOMS ACT

### **DEFINITION OF SMUGGLE**

#### **[Section 2]**

The definition of ‘smuggle’ has been 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**

#### **[Section 7]**

‘Provincial Levies and Khasadar Force’ has been added 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.

### **EXEMPTION FROM CUSTOMS DUTIES**

#### **[Section 19]**

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

### **VALIDATION OF NOTIFICATIONS**

#### **[Section 19]**

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

### **POWER TO DETERMINE CUSTOMS VALUE**

#### **[Section 25A]**

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 amended so as to harmonize these with the ‘World Trade Organisation Valuation Agreement’ whereby the Director of Customs Valuation may consult prices of goods from the aforesaid sources for valuation purposes.

### **FILING OF GOODS DECLARATION**

#### **[Section 79]**

In order to ease congestion at land Customs stations at borders, the owner of any imported goods is now required to file the Goods Declaration within three days of the arrival of goods at border customs station.

### **WAREHOUSING PERIOD**

#### **[Section 98]**

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

## **DECLARATION BY A REPRESENTATIVE OF PASSENGERS**

### **[Section 139]**

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, the filing of declaration by a representative on behalf of the group has also been allowed.

## **PENALTIES**

### **[Section 156]**

For redressing grievances of trade, 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 restricted to Rs 50,000.

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 introduced at an amount not less than the value of goods in order to make these penal provisions more stringent.

## **ADJUDICATION**

### **[Section 179]**

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

## **CONFISCATED PROPERTY**

### **[Section 182]**

FBR is empowered to authorize the Customs officials to use the confiscated vehicles for operational purposes. Through FA 2023, use of such authority has been subjected to be governed by the rules. In addition, 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.

## **TRANSFER OF CASES**

### **[Section 185D]**

The Federal Government has the power to direct the transfer of cases. Through FA 2023, FBR has now been empowered to direct transfer of investigation of criminal case from one field formation to another at any stage of investigation.

### **APPEAL TO THE APPELLATE TRIBUNAL** **[Section 194A]**

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

### **ADVANCE RULING** **[Section 212B]**

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.

The option of seeking advance rulings in the above scenario has been withdrawn through FA 2023, based on the position that matters involving interpretation of any statute does not lie in the FBR's domain and thus remain outside the purview of Advance Ruling.

### **AMENDMENTS IN THE FIRST SCHEDULE TO THE CUSTOMS ACT**

Customs Duty (CD) on the PCT Code 2849.1000 - Carbides of calcium whether or not chemically defined are enhanced from 3% to 11%. Furthermore, CD applicable on import of "In aqueous solution (soda lye or liquid soda)" @ Rs 4,000 per metric ton is now 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 IN THE FIFTH SCHEDULE TO THE CUSTOMS ACT**

- Exemption already provided on import of specified goods by industries setup in erstwhile FATA areas has been extended to June 30, 2024;
- Customs Duty leviable on import of Paper of certain specifications, art cards and boards used for printing the Holy Quran is exempted;
- The concession provided to Moxifloxacin (API) has been withdrawn.

### **Automobile sector**

The FA 2023 has streamlined 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 prescribed.

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



### ***Increase in the Customs Duty / Taxes***

Following cap of fixed duties and taxes on import of old and used vehicles of Asian Makes above 1300cc under SRO 557(I)/2005 is withdrawn:

<b>Automotive vehicles of Asian makes meant for transport of persons</b>	<b>Duty and taxes in US\$ or equivalent amount in Pak rupee</b>
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

### ***Regulatory Duty (RD)***

RD has been imposed on the following goods:

<b>PCT Code</b>	<b>Description</b>	<b>Rate of Regulatory Duty</b>
2849.1000	Calcium (Carbides)	5%
3824.9980	Chloroparaffins liquid	10% till December 31, 2023 and 5% from Jan 1, 2024 to June 30, 2024
7002.3200	Tubes of other glass having a linear coefficient of expansion not exceeding $5 \times 10^{-6}$ per Kelvin within a temperature of $0^{\circ}\text{C}$ to $300^{\circ}\text{C}$	10%

RD on following has been increased:

- Import of certain articles of glass and glassware – subjected to RD @ 30%;
- Import of inefficient Tungsten Filament Incandescent Bulbs and parts – Subjected to RD @ 20%; and
- Export of Molasses – subjected to RD @ 15%.

**Note:** Certain concession / exemptions of regulatory duty and additional customs duty that were announced through the Finance Bill (including on synthetic filament yarn of polyester and secondhand clothing etc.) have not been approved by FA 2023.

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

### **REDUCED SALES TAX RATE ON SERVICES PROVIDED BY RESTAURANTS**

The rate of 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. has been reduced 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**

The standard rate of sales tax on services of Software or IT based system development consultants (provided in Table I) has been 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. These services have now been subjected to tax under Islamabad Capital Territory Sales Tax on Services Ordinance, 2001 at 15%.

## 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; Federal Excise Act, 2005 and the Customs Act, 1969 vis-à-vis the Reko Diq Project, Reko Diq Mining 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 as under:

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

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

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

The Fifth Schedule to the Sales Tax Act, 1990 has been 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 has been 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 has also been 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 Fifth Schedule to the Customs Act, 1969 has been amended through insertion of S. No. 8(a) which zero rates all the imports or exports made by or for Reko Diq Mining Company (Private) Limited as well as the household goods of eligible employees of that company.

## **PETROLEUM PRODUCTS (PETROLEUM LEVY) ORDINANCE, 1961**

Through FA 2023, the maximum petroleum levy rate as specified in the Fifth Schedule to the Petroleum Products (Petroleum Levy) Ordinance, 1961 has been increased from Rs. 50 to Rs. 60 for High Speed Diesel Oil and Motor Gasoline.