GOVERNMENT OF PAKISTAN
REVENUE DIVISION
FEDERAL BOARD OF REVENUE
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Circular No. 04 of 2017
(Income Tax)

SUBJECT: FINANCE ACT 2017- EXPLANATION OF IMPORTANT AMENDMENTS MADE IN THE INCOME TAX ORDINANCE, 2001

Finance Act 2017, has brought certain amendments in the Income Tax Ordinance, 2001. Some important amendments are explained hereunder:-

1. Definition of "Fast Moving Consumer Goods" [Section 2(22A)]

Definition of "Fast moving consumer goods" has been amended to specifically exclude "durable goods". The words "durable goods" have not been defined in the Income Tax Ordinance, 2001 however the dictionary meaning is as under:

"a durable good or a hard good is a good that does not quickly wear out , or more specifically, one that yields utility over time rather than being completely consumed in one use."

"goods not for immediate consumption and able to be kept for a period of time."

"Consumer goods that are designed to be used repeatedly over a long period, such as automobiles and personal computers."

A few examples of durable goods are cars, household goods (home appliances, consumer electronics, furniture etc), sports equipment etc.

Even prior to the present amendment, durable goods were not classifiable as Fast Moving Consumer Goods. However, the objective of the amendment is to specifically oust durable goods from the ambit of definition of Fast Moving Consumer Goods to guard against any possibility of misinterpretation.

2. Insertion of Definition of Liaison Office [Section 2(30C)]

Prior to the Finance Act, 2017 the term "Liaison Office" was not defined in the Income Tax Ordinance, 2001. A liaison office is not included in the definition of "permanent establishment" as per section 2(41) of the Ordinance, except in circumstances where such office engages in the negotiation of contracts barring contracts of purchase.

The determination of whether or not a place of business or an entity constitutes a liaison office is therefore pivotal for establishing the existence of a permanent establishment in Pakistan of a non-resident person which, in turn, has far reaching consequences with regard to taxation. Through the Finance Act, 2017 the term "liaison office" has been explicitly defined in order to impart greater clarity and explicitly delineate the scope of a Liaison Office. Insertion of this definition will also assist in plugging revenue leakages from interpretational issues arising with respect to definition and scope of the term "liaison Office". An office or establishment which engages in the negotiations of contract (other than purchase contracts) or commercial or trading activities will not be treated as a "liaison office". However, activities only of an exploratory or preparatory nature to determine the possibilities of trading with or in Pakistan or the possibility of collaboration or promotion of products which are yet to be sold in Pakistan and where the liaison office or its associated establishments do not have an existing commercial business in Pakistan providing after sales services and marketing or promoting pharmaceutical products shall be treated as commercial activities and engaging in such activities will be beyond the scope of liaison office. It is also clarified that w.e.f. 1st July, 2017 , an establishment treated as liaison office by any other department or organization shall not be treated as liaison office unless it is a liaison office as per the definition introduced through the Finance Act, 2017.

3. Expansion in scope of definition of NCCPL [Section 2(35AA)]

Prior to the Finance Act, 2017 the National Clearing Company of Pakistan Limited was defined as a company incorporated under the Companies Ordinance, 1984 and licensed as a "Clearing House" by the Securities and Exchange Commission of Pakistan. The scope of definition of National Clearing Company of Pakistan Limited has been enhanced through the Finance Act, 2017 by including within its ambit any subsidiary of NCCPL that has been notified by the Federal Board of Revenue.

4. Extending scope of definition of "Officer of Inland Revenue". [Section 2(38A), Section 207]

Through the Finance Act, 2017 the scope of definition of Officer of Inland Revenue has been extended to include District Taxation Officer Inland Revenue and the creation of a new Inland Revenue Authority designated as District Taxation Officer has been envisaged. The main impetus behind creating the position of a District Taxation Officer is to expand the outreach of Inland Revenue Officers in smaller Districts where there are no Regional Tax Offices. The presence of District Taxation Officers at the level of districts will aid in facilitation of taxpayers at their doorstep, ensure greater efficiency in collection and administration of Federal taxes and fortify efforts for broadening of the tax base. In addition, "Assistant Director Audit" has also been made part of the definition of "Officer of Inland Revenue" and designated as an Income Tax Authority.

5. Introducing concept of an "Online Marketplace" [Section 2(38B)]

The Finance Act, 2017 has introduced the concept of an online marketplace and the same has been defined as an information technology platform run by an e-commerce entity over an electronic network that acts as a facilitator in transactions that occur between a buyer and a seller. A person running an online marketplace shall be subject to reduced /concessionary rate of minimum tax under section 113 of the Ordinance @ 0.5% for the Tax Year 2018. Moreover, in terms of clause (28C) of Part II of the Second Schedule to the Ordinance inserted through the Finance Act, 2017 the rate of collection of advance tax on brokerage and commission for a person running an online marketplace shall be 5% which shall constitute final tax.

6. Introducing concept of start – ups. [Section 2(62A)]

In order to promote and encourage innovation and entrepreneurship in Pakistan, particularly in the field of Information Technology the concept of start–up has been introduced through the Finance Act, 2017. A start-up has been defined as a business set-up by a resident individual, AOP or a company having turnover upto Rs.100 Million in the last five tax years, registered and certified by the Pakistan Software Export Board (PSEB) as an information technology entity engaged in offering technology driven products or services to any sector of the economy .

For incentivizing start-ups, exemption has been accorded to profits earned by such entities in the tax year in which the entity is certified by Pakistan Software Export Board (PSEB) and the subsequent two tax years. Existing undertakings engaged in similar businesses incorporated or registered on or after July 1, 2012 are also entitled to this exemption subject to certification by Pakistan Software Export Board (PSEB). Furthermore, the Federal Government has also been empowered, through the Finance Act, 2017 to notify any business as a "startup" subject to specific conditions. Moreover, exemption has also been accorded to such "Start-ups" from levy of minimum tax under section 113 of the Ordinance in terms of sub-clause (xxix) of clause (11A) of Part IV of the Second Schedule inserted through the Finance Act, 2017 as well as deduction of withholding tax upon receipt of payments specified in section 153 of the Ordinance in terms of clause (43F) Part IV of the Second Schedule to the Ordinance inserted through the Finance Act, 2017.

7. Extension of Super Tax [Section 4B]

Super tax for rehabilitation of Temporary Displaced Persons was introduced @ 3% for every person (other than a banking company), having income of Rs.500 Million and above and @4% for every banking company for the Tax Year 2015 and subsequently for the Tax Year 2016. It has now been extended for the Tax Year 2017.

8. Tax on undistributed profits [Section 5A]

A tax on undistributed reserves was introduced vide the Finance Act, 2015 whereby a company, other than a scheduled bank or a modaraba, which did not distribute dividends within 6 months of the end of the Tax Year or distributed dividends to an extent that its reserves, after such distribution, exceeded 100% of its paid up capital was subject to tax @10%.However, this tax was not to apply to a public company which distributed either 40% of its after tax profits or 50% of its paid up capital within six months of the end of the financial year.

This provision has been further amended through the Finance Act,2017 whereby the tax on undistributed reserves has been substituted by a new concept of tax on undistributed profits for the Tax Year 2017 and onwards. The Finance Act,2017 stipulates that every public company barring a scheduled bank or a modaraba shall be subjected to tax @7.5% of its accounting profit before tax if it fails to distribute a least forty percent of its after tax profits in the form of cash or bonus shares within six months of the end of the tax year. The basis of levy of such tax, is therefore solely dependent upon the extent to which a public company distributes/disburses its after tax profits. This tax is applicable from the Tax Year 2017. As in the case of earlier tax on undistributed reserves the tax on undistributed profits too, shall remain inapplicable in the case of power companies and State Owned companies.

Example 1

Accounting profit before tax	Rs.10,000,000/-
40% of profit	Rs.4,000,000/-
Dividend paid (within six months of the end of the tax year)	Nil
Tax @7.5% under section 5A	Rs.750,000/-

Example 2

Accounting profit before tax	Rs.10,000,000/-
40% of profit	Rs.4,000,000/-
Dividend paid (within six months of the end of the tax year)	Rs.2,500,000/-
Tax @7.5% under section 5A	Rs.750,000/-

Example 3

Accounting profit before tax	Rs.10,000,000/-
40% of profit	Rs.4,000,000/-
Dividend paid (within six months of the end of the tax year)	Rs.5,000,000/-
Tax @7.5% under section 5A	Nil

9. Scope of tax on return on investment in Sukuks to be extended. [Section 5AA. Section 150A]

Under section 5AA of the Ordinance, every person who receives a return on investment in Sukuks from a Special Purpose Vehicle as defined in Clause (60) of section 2 of the Income Tax Ordinance, 2001 is subjected to tax at the rates specified in Division IIIB of Part-I of the First Schedule. Sukuks, however, are not exclusively being issued by Special Purpose Vehicles, rather, several corporate entities are issuing Sukuks as well. The scope of tax on return on investment in Sukuks is therefore being enlarged to include return on investment in Sukuks received by a person from a company in addition to a Special Purpose Vehicle.

Corresponding amendment has also been made in section 150A of the Ordinance which is the enabling provision for deduction of tax on the gross amount of return on investment in Sukuks.

10. Abolition of fixed tax regime for Builders and Developers [Section 7C and 7D]

The Finance Act, 2013 introduced minimum tax upon the income of builders from the business of construction and sale of residential or commercial buildings and the income of developers from the business of sale of residential or commercial plots. Thereafter, the minimum tax regime was abolished and a fixed tax regime for builders as well as developers was introduced through the Finance Act, 2016 whereby the tax liability was based on square footage of area developed/constructed under section 7C and 7D of the Ordinance.

The fixed tax regime available to builders and developers has now been abolished/withdrawn through the Finance Act, 2017.Tax shall now be charged on the income of builders and developers under the normal tax regime for the Tax Year 2018 onwards. However, for projects initiated and approved during Tax Year 2017 the provisions of section 7C and 7D shall remain applicable, subject to fulfillment of the following conditions:-

(a) Payment has been made by the developer/builder during the Tax Year 2017 in accordance with Rule 13S of the Income Tax Rules, 2002.

(b) The Chief Commissioner has issued online schedule of advance tax installments to be paid under Rule 13U of the Income Tax Ordinance, 2002 in the case of builders and under Rule 13ZB of the Income Tax Rules, 2002 in the case of land developers.

11. Determination of perquisite in case of interest free/concessional loans by an employer to an employee [Section 13(7)]

Prior to the Finance Act, 2017 in terms of sub-section (7) of section 13 of the Ordinance if an employer extended an interest free loan to an employee the interest on such loan was computed on the basis of the benchmark rate [as defined in clause (a) of sub-section (14) of section 13] and was treated as salary of such employee. Likewise, if an employer extended loan at a concessional interest rate to an employee viz-a-viz the benchmark rate the differential of the interest rate charged and the benchmark rate [as defined in clause (a) of sub-section (14) of section 13] was treated as salary of the employee. The aforementioned treatment was, however, not applicable in respect of interest free/concessional loans extended by employers upto Rs.500,000/-.The limit of Rs.500,000/- has now been enhanced to Rs.1,000,000/- through the Finance Act,2017.

12. Enhancement in limit for sales promotion, advertisement and publicity expense by pharmaceutical companies. [Section 21(o)]

A new provision i.e. section 21(o) was introduced through the Finance Act, 2016 whereby expenditure incurred by pharmaceutical companies on sales promotion, advertisement and publicity, in excess of 5% of their turnover was liable to be disallowed as an admissible expense against Business Income of such pharmaceutical company. Through the Finance Act, 2017 the limit for expenditure incurred by such pharmaceutical companies on sales promotion, advertisement and publicity allowable as a deduction against their business income has been increased from 5% to 10% of turnover.

13. Promotion of Islamic Banking – Admissibility of depreciation in the case of *Musharika* financing or *Diminishing Musharika Financing*. [Section 22(15)]

Prior to the Finance Act, 2017 depreciation under section 22 of the Income Tax Ordinance, 2001 was allowable as an admissible deduction against business income, only if the dual conditionalities of ownership of asset as well as its usage for business purposes were satisfied. Depreciation on assets financed through Musharika/diminishing Musharika Financing was not admissible because the asset is jointly owned by the borrower and the Islamic Financial Institution i.e. neither has absolute ownership of the asset which is a necessary pre-condition for allowance of depreciation. This treatment conferred a comparative disadvantage upon customers of Islamic Financial Institutions viz-a-viz customers of conventional banks and made such financing through Islamic mode unviable. Customers borrowing from conventional banks could avail benefit of depreciation on the fixed assets provided as security to financial institutions under long /short term financing arrangement whereas such benefit could not be availed by customers under a *Musharika/diminishing Musharika* arrangement.

To bring parity between Islamic banking and conventional banking, a proviso has been added to the definition of "depreciable asset" in section 22(15) of the Ordinance through the Finance Act, 2017 which stipulates that where a depreciable asset is jointly owned by a taxpayer and an Islamic Financial Institution licensed by the State Bank of Pakistan or Securities and Exchange Commission of Pakistan in pursuance of an arrangement of *Musharika* Financing or *diminishing Musharika* Financing the taxpayer shall be treated as having absolute ownership of the asset. This amendment would enable customers of Islamic Financial Institutions to claim depreciation on assets jointly owned with an Islamic Financial Institutions in pursuance of an arrangement of *Musharika* or *Diminshing Musharika* Financing thereby providing a level playing field to customers of Islamic Financial Institutions viz-a-viz customers of conventional banking.

14. Tax Credit for investment in Sukuks/ Insurance [Section 62]

Prior to the Finance Act, 2017 a resident individual or an AOP could avail tax credit in a Tax Year in respect of the expense incurred on acquiring new shares offered by a public company listed on a Pakistani stock exchange subject to the condition that the resident individual or AOP is either the original allottee of the shares or the shares are acquired from the Privatization Commission of Pakistan. The scope of such tax credit has now been extended through the Finance Act, 2017 and the same shall now be available to a resident individual or AOP for cost of acquiring Sukuks offered by a public company listed and traded on a stock exchange in Pakistan subject to the condition that the resident individual/AOP is the original allottee of the Sukuks.

Tax credit is also available to a resident individual/AOP deriving income under the head "salary" or "Income from business" who pays life insurance premium on a policy to a life insurance company registered by the SECP under the Insurance Ordinance, 2000.Appropriate amendment has been made through the Finance Act, 2017 whereby the concerned Commissioner has been empowered to recoup such tax credit and recompute the tax liability of a taxpayer for the tax year/years in which such credit was allowed in case the insurance policy, in respect of which insurance premium was paid, is surrendered within two years of its acquisition.

15. Further relief on deductible allowance for education expenses. [Section 64AB and 60D]

Prior to the Finance Act, 2017 individuals having annual taxable income of less than one million rupees were entitled to a deductible allowance in respect of education expenses incurred by them. Through the Finance Act, 2017 the threshold of taxable income for individuals entitled to a deductible allowance in respect of education expenses incurred is being enhanced from Rs.1,000,000/- per annum to Rs.1,500,000/- per annum. Furthermore, being in the nature of a deductible allowance the same has now been placed under the head "Deductible Allowances" under Part-IX of Chapter III of the Income Tax Ordinance, 2001 as Section 60D.

16. Further relief in Tax credit for investment in Health Insurance. [Section 62A]

Prior to the Finance Act, 2017 a resident individual or AOP, being a filer and deriving income from salary or business was entitled to a tax credit for a Tax Year upon payment of health insurance premium or contribution paid to any insurance company registered by the SECP.

The aforementioned tax credit was computed according to the following formula:-

$$(A/B)*C$$

Where:-

A is the amount of tax assessed to the person for the tax year before allowance of tax credit under this section

B is the person's taxable income for the Tax Year; and

C is the lesser of -

(a) the total contribution or premium paid by the person referred to in sub-section (1) in the year;

(b) five percent of the person's taxable income for the year; and

(c) one hundred thousand rupees

Through Finance Act, 2017 the threshold of one hundred thousand rupees specified in paragraph (c) of component C has been enhanced to one hundred and fifty thousand rupees.

17. Withdrawal of tax credit under section 65A

Tax credit under section 65A of the Ordinance equal to 3% of tax liability was available to all manufacturers who make 90% of their sales to sales tax registered persons. This tax credit has been withdrawn through the Finance Act, 2017.

18. Further relief in tax credit for enlistment. [Section 65C]

Prior to the Finance Act,2017 if a company opted for enlistment in any registered stock exchange in Pakistan it was entitled to avail tax credit equal to twenty percent of the tax payable in the Tax Year in which the company was enlisted and the following Tax Year. By virtue of amendment through the Finance Act, 2017 such tax credit is now admissible for the Tax Year in which the company is enlisted and the following three Tax Years i.e. for a period of four tax years in aggregate. However, such tax credit shall be restricted to 10% of the tax payable for the last two Tax Years, instead of 20%.

19. Taxation of profits and gains from Sui Gas Fields [Section 100]

Section 100 of the Ordinance stipulates that profits and gains emanating from the exploration and production of petroleum (including natural gas), refineries set-up at Dhodak and Bobi fields, pipeline operations of exploration and production companies and manufacture and sale of LNG or CNG are to be computed in accordance with Part-I of the Fifth Schedule. However, profits and gains attributable to production of petroleum and natural gas discovered prior to 24th September, 1954 do not fall within the ambit of Part-I of the Fifth Schedule to the Ordinance.

Appropriate amendment has been made in section 100 of the Ordinance, whereby the profits and gains derived from Sui Gas Field, discovered prior to 24th September, 1954 have been brought within the purview of the Fifth Schedule to the Income Tax Ordinance, 2001 from the Tax Year 2017 and onwards.

20. Tax credit for Non-Profit Organizations, Trusts or Welfare Institutions. [Section 100C]

Prior to Finance Act 2017, non-profit organizations, trusts and welfare institutions enjoyed 100% tax credit equal to the tax payable subject to fulfillment of the following conditions:

(a) return has been filed;

(b) tax required to be deducted or collected has been deducted or collected and paid; and

(c) withholding tax statements for the immediately preceding tax year have been filed.

Through Finance Act 2017, a new condition (d) has been added for availing this credit, which reads as under:

(d) the administrative and management expenditure does not exceed 15% of the total receipts.

This amendment introduced through the Finance Act, 2017 is to prescribe a limit of 15% on administrative expenses. However, this limit does not place any restriction on the operational activities of the NPOs as the project expenses are not covered under administrative expenses. The rationale behind this amendment is to stop misuse of receipts/donations etc. received by NPOs and discourage them from spending such amounts on huge administrative salaries, vehicles etc.

Moreover, the newly inserted condition will not apply to a non-profit organizations, if—

(a) charitable and welfare activities of the non-profit organization have commenced for the first time within the last three years; and

(b) total receipts of the non-profit organization during the tax year are less than one hundred million Rupees.

It may also be mentioned that this condition applies only to non-profit organization and not to "trusts" and welfare institutions"

The following examples shall elucidate this amendment:

Example-A

XYZ is an NPO running a project for providing primary education free of cost to the needy. The NPO has appointed an Administrative Officer and administrative staff for recruiting teachers and staff and hiring of buildings for schools. The salaries payable to the Administrative Officer and staff and salaries payable to teachers and staff, for schools and other expenses are as under:

Receipts (donations, voluntary contributions, subscriptions)		Rs. 3,200,000
Expenses		Rs 2,540,000
Administrative and Management Expenses		
Salaries of Administrative officer and	Rs. 100,000	

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staff:		
Rent of office of XYZ	Rs. 20,000	
Other Administrative expenses(utilities etc.)	Rs. 35,000	
Vehicle running expenses	Rs 85,000	
Total Administrative and Management Expenses	Rs. 240,000	
Project Expenses		
Salaries of teachers	Rs. 900,000	
Salaries of school staff	Rs. 350,000	
Rent of school buildings	Rs. 200,000	
Books and Stationery	Rs 300,000	
Utilities	Rs 150,000	
Transport	Rs 400,000	
Total Project Expenses	Rs. 2,300,000	

In this example 15% of the total receipts is Rs 480,000 (15% of 3,200,000) whereas total administrative and management expenses are 240,000 which are less than 15% of total receipts, therefore the Non-profit Organization, namely XYZ, qualifies for 100% tax credit under section 100C of the Ordinance.

Example-B

ABC is an NPO running a project for providing primary education free of cost to the needy. The NPO has appointed an Administrative Officer and administrative staff for recruiting teachers and staff and hiring of buildings for schools. The salaries payable to the Administrative officer and staff and salaries payable to teachers and staff for schools and other expenses are as under:

Receipts		Rs. 3,200,000
Expenses		Rs. 2,200,000

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Administrative and Management Expenses		
Salaries of Administrative officer and staff	Rs. 400,000	
Rent of office of XYZ	Rs. 20,000	
Other Administrative expenses(utilities etc.)	Rs. 95,000	
Vehicle running expenses	Rs 85,000	
Total Administrative and Management Expenses	Rs. 600,000	
Project Expenses		
Salaries of teachers	Rs. 500,000	
Salaries of school staff	Rs. 250,000	
Rent of school buildings	Rs. 200,000	
Books and Stationery	Rs 150,000	
Utilities	Rs 100,000	
Transport	Rs 400,000	
Total Project Expenses	Rs. 1,600,000	

In this example 15% of the total receipts is Rs 480,000 (15% of 3,200,000) whereas total administrative and management expenses are Rs.600,000 which are not less than 15% of total receipts, therefore the Non-profit Organization, namely ABC, does not qualify for 100% tax credit under section 100C of the Ordinance .

Example-C

PQR is an NPO running a project for providing primary education free of cost to the needy. The NPO has appointed an Administrative Officer and administrative staff for recruiting teachers and staff and hiring of buildings for schools. The salaries payable to the Administrative officer and staff and salaries payable to teachers and staff for schools and other expenses are as under:

Receipts		Rs. 3,200,000
Expenses		Rs. 1,800,000
Administrative and Management Expenses		
Salaries of Administrative officer and staff	Rs. 150,000	
Rent of office of XYZ	Rs. 10,000	
Other Administrative expenses(utilities etc.)	Rs. 25,000	
Vehicle running expenses	Rs 15,000	
Total Administrative and Management Expenses	Rs. 200,000	
Project Expenses		
Salaries of teachers	Rs. 500,000	
Salaries of school staff	Rs. 250,000	
Rent of school buildings	Rs. 200,000	
Books and Stationery	Rs 150,000	
Utilities	Rs 100,000	
Transport	Rs 400,000	
Total Project Expenses	Rs. 1,600,000	

In this example 15% of the total receipts is Rs 480,000 (15% of 3,200,000) whereas total administrative and management expenses are Rs. 200,000 which are not less than 15% of total receipts, therefore the Non-profit Organization, namely PQR, qualifies for 100% tax credit under section 100C of the Ordinance.

Another amendment with respect to taxation of non-profit organizations is the taxation of their "surplus funds" at the rate of 10%.

For this purpose the term "surplus funds" has been defined to mean funds or monies:

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(a) not spent on charitable and welfare activities during the tax year;

(b) received during the tax year as donations, voluntary contributions, subscriptions and other incomes;

(c) which are more than twenty-five percent of the total receipts of the non-profit organization received during the tax year; and

(d) are not part of "restricted funds".

The term "restricted funds" has also been defined to mean any fund received by the organization which could not be spent and treated as revenue during the year due to any obligation placed by the donor.

Prior to Finance Act 2017, if Non-Profit Organizations did not spend more than 75% of their income on charitable and welfare activities, they lost the status of NPO and their entire income was liable to be taxed @ 30%. To remove this hardship it was proposed that if NPOs are unable to spend more than 75% of their income on charitable and welfare activities, the amount not spent be taxed @ 10% whereas their status of NPO shall remain intact. This is therefore actually a relief measure.

Illustration

In Example-A above, total receipts from donations, voluntary contributions and subscriptions is Rs. 3,200,000 and 25% of the same is Rs. 800,000. However, since surplus funds amount to Rs. 660,000 (Rs 3,200,000 - Rs 2,540,000), which is less than 25% of the total receipts, therefore, the same shall not be taxed @ 10%.

In Example-B, although the amount not spent is more than 25% of the total receipts i.e. Rs.1,000,000 (Rs. 3,200,000 - Rs. 2,200,000), however, tax @ 10% on the amount of Rs. 1,000,000 shall not be charged since the NPO does not qualify for tax credit in the first place and corporate tax rate of 30% shall be applicable on the entire income.

In Example-C, the amount not spent is more than 25% of the total receipts i.e. Rs. 1,400,000 (Rs.3,200,000 - Rs.1,800,000), therefore, tax @ 10% shall not be restricted to the amount exceeding 25% of receipts but shall be charged on the entire amount of Rs. 1,400,000.

21. Enhancement in rate of minimum tax. [Section 113]

Minimum tax under section 113 of the Ordinance is applicable in the case of a resident company, or an individual or Association of Persons having turnover of Rs.10 Million or above in the Tax Year 2017 or in any subsequent tax year if no tax is payable for a Tax Year or the tax payable is less than 1% of the turnover from all sources. At present the standard rate for minimum tax is 1% of turnover. The rate of minimum tax has now been increased from 1% to 1.25%. The reduced rates of minimum tax specified in Division IX of Part-I of the First Schedule applicable to certain classes of taxpayers, would, however remain intact.

22. Enlargement in scope of persons not required to file a return of income [Section 115]

Prior to the Finance Act, 2017 under section 115(3) of the Ordinance, a widow, an orphan below the age of 25 years, a disabled person and in the case of ownership of immovable property, a non-resident person was not legally obliged to furnish a return of income solely on account of owning immovable property with a land area of 250 square yards or more or any flat located in areas falling within the municipal limits (existing immediately before the commencement of Local Government laws in the provinces),areas in a cantonment or the Islamabad Capital Territory.

Through the Finance Act, 2017 the scope of the concession/relief accorded to the aforementioned category of persons has been enlarged, resultantly, such persons shall forthwith not be required to file return of income solely by reason of:-

(i) owning immovable property with a land area of 500 square yards or more located in a rating area;

(ii) owning a flat having a covered area of 2000 square feet or more located in a rating area and

(iii) owning a motor vehicle having engine capacity above 1000CC.

23. Revision of Wealth Statement under section 116 of the Income Tax Ordinance, 2001

Prior to the Finance Act, 2017 a person was legally empowered to file revised wealth statement alongwith wealth reconciliation and reasons for filing of such revised wealth statement at any time before the passing of an amended assessment order under section 122(1) or 122(4) of the Ordinance.

Suitable amendment has been made in sub-section (3) of section 116 of the Ordinance through the Finance Act, 2017 whereby a taxpayer shall forthwith only be able to revise wealth statement prior to issuance of notice under section 122(9) of the Ordinance for proposed amendment of assessment. This amendment shall not be applicable for the cases where wealth statements have been revised prior to 1st July, 2017.

24. Extension in time for furnishing of returns and other documents by Chief Commissioner. [Section 119]

Prior to the Finance Act, 2017 taxpayers had no remedy or legal recourse in case the concerned Commissioner did not entertain an application made by a taxpayer for extension or further extension in time for filing of income tax return, statement of final taxation or wealth statement. Amendment has been in sub-section (4) of section 119 of the Ordinance through the Finance Act, 2017 whereby the concerned Chief Commissioner has been empowered to grant extension or further extension to a taxpayer for filing of income tax return, statement of final taxation or wealth statement for a maximum period of fifteen days. The Chief Commissioner has also been authorized to grant such extension or further extension for a period exceeding fifteen days in case there are exceptional circumstances justifying a longer extension of time.

25. Concept of provisional assessment has been abolished. [Section 122C]

Prior to the Finance Act, 2017, under section 122C of the Ordinance the Commissioner was empowered to make provisional assessment specifying the income assessed and the tax payable thereon, by exercising his best judgment and utilizing any available information in respect of any person who has failed to furnish a return of income in response to a notice under sub-section (3) or (4) of section 114 of the Ordinance. Such order attained finality after the expiry of 45 days from the date of service of such order if the taxpayer failed to furnish a complete return of income.

Also, there was no right of appeal under section 127 of the Ordinance against a provisional assessment order passed under section 122C of the Ordinance which attained finality after the expiry of 45 days from the date of service of such order. Through the Finance Act, 2017 the concept of provisional assessment has been done away with.

However, simultaneously an amendment has been made in section 121 of the Ordinance, whereby, as an alternative to invocation of 122C of the Ordinance, Commissioners have now been empowered to make a best judgment assessment on the basis of available material/information if a taxpayer fails to furnish a return in response to notice issued under section sub-section (3) or sub-section (4) of the Income Tax Ordinance, 2001.Therefore,with effect from 1st July, 2017 section 121 shall be invoked as a result of the failure of a taxpayer to furnish a complete return of income in response to a notice under sub-section (3) or (4) of section 114 of the Ordinance.

26. Appointment of Appellate Tribunal [Section 130]

The Appellate Tribunal Inland Revenue comprises of judicial as well as accountant members. Prior to the Finance Act, 2017 the qualification criteria for appointment as judicial members were as under:-

(i) A person who has exercised the powers of a District Judge and is qualified to be a Judge of the High Court;

(ii) A person who is or has been an advocate of a High Court and is qualified to be a judge of the High Court; or

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(iii) A person who is an officer of Inland Revenue Service in BS-20 or above and is a law graduate.

In an effort to augment the confidence of taxpayers over appellate fora and to promote greater transparency, an Officer of Inland Revenue has now been barred from appointment as Judicial Member of the Appellate Tribunal Inland Revenue. Officers of Inland Revenue shall continue to be eligible for appointment as accountant members under sub-section (4) of section 130 of the Ordinance.

27. Recovery of Tax from Persons assessed in Gilgit –Baltistan [Section 146]

Prior to the Finance Act, 2017 Commissioner Inland Revenue within the territory of Pakistan was empowered to collect tax on behalf of the Income Tax Authorities in Azad Jammu and Kashmir if a taxpayer assessed to tax under the Tax Law in Azad Jammu and Kashmir failed to pay tax and the authorities in Azad Jammu and Kashmir were unable to recover such tax because the person's residence was in Pakistan, or because the person had no movable or immovable property in the Azad Jammu and Kashmir.

Since, Gilgit-Baltistan has also adopted the Income Tax Ordinance, 2001 therefore, similar powers have been granted to Commissioner Inland Revenue in respect of taxpayers of Gilgit-Batistan.

28. Reduction in threshold for paying advance tax in the case of an individual. [Section 147]

Prior to the Finance Act, 2017 an individual was obliged to pay advance tax under section 147 of the Ordinance if his latest assessed taxable income was Rs.500,000 or more. The threshold for payment of advance tax, on the basis of latest assessed taxable income, has now been enhanced from Rs.500,000/- to Rs.1,000,000/- through the Finance Act, 2017.

29. Import of Fertilizer brought under the Final Tax Regime [Section 148(7)]

Prior to the Finance Act, 2017 tax collected at the import stage on the import of fertilizer by manufacturers of fertilizer was adjustable against the tax liability of such manufacturer i.e. it did not fall within the ambit of the final tax regime.

Finance Act, 2017 stipulates that advance tax collected under section 148 of the Ordinance from manufacturers of fertilizers at the import stage shall now constitute final discharge of tax liability. This amendment has been made to provide a level playing field to commercial importers of fertilizer viz-a-viz manufacturers-cum-importers of fertilizers. The tax collected on import of raw materials by the fertilizer manufacturers shall continue to be adjustable against their tax liability.

30. Tax collected on import of plastic raw material to constitute minimum tax [Section 148(8)]

Tax collected under section 148 of the Ordinance from an industrial undertaking importing plastic raw material falling under PCT heading 39.01 to 39.12 shall now constitute minimum tax on the income of such importer.

Furthermore, commercial importers and industrial undertakings importing plastic raw material falling under PCT heading 39.01 to 39.12 and being filers shall forthwith be subject to collection of advance tax at the following rates:-

(i) 1.75% of the import value as increased by customs duty, sales tax and Federal Excise duty in the case of an industrial undertaking, being a filer, and importing plastic raw material falling under PCT Heading 39.01 to 39.12 for its own use .As explained above such tax shall be minimum tax in the case of an industrial undertaking.

(ii) 4.5% of the import value as increased by customs duty , sales tax and Federal Excise duty in the case of a commercial importer, being a filer, and importing plastic raw material falling under PCT Heading 39.01 to 39.12

31. Payments to non-residents on account of contracts. [Section 152(1B)]

Prior to the Finance Act, 2017 tax deductible from payments made to a non-resident person upon the execution of a contract or sub-contract under a construction, assembly or installation project in Pakistan (including a contract for the supply of supervisory activities relating to such project), any other contract for construction or services rendered relating thereto, or a contract for advertisement services rendered by T.V satellite channel under section 152(1A) read with section 152(1B) of the Ordinance constituted a final tax on the income of a non-resident person arising from such contract. However, clause (41) of Part-IV of the Second Schedule stipulated that such final tax shall only apply if such non-resident opts for the Final Tax Regime within three months of the commencement of the Tax Year.

Clause (41) of Part-IV of the Second Schedule has been deleted through the Finance Act,2017 and , in turn, a proviso enabling a non-resident to opt for the Final Tax Regime has now been inserted in 152(1B) of the Ordinance. This amendment has been made for purposes of clarity and simplicity and shall have no material impact on the taxability of non-residents under section 152 of the Ordinance.

32. Extending facility of exemption certificates to non-resident persons [Section 152(4A)]

Prior to the Finance Act, 2017 a Commissioner ,under sub-section (4A) of section 152 of the Ordinance, was legally empowered to issue an exemption certificate to a permanent establishment in Pakistan of a non-resident person receiving payments on account of sale of goods, rendering or providing of services or execution of contracts thereby enabling such taxpayer to receive the aforementioned payments without deduction of tax or deduction of tax at a reduced rate in cases where the tax deductible on receipt of such payments is adjustable.

The Finance Act, 2017 has now empowered Commissioners to also issue such exemption certificates to non-resident persons having a permanent establishment in Pakistan and receiving payments for execution of the contracts specified hereunder:-

- a contract or sub-contract under a construction, assembly or installation project in Pakistan, including a contract for the supply of supervisory activities in relation to such project; or
- any other contract for the construction or services relating thereto; or
- a contract for advertisement services rendered by T.V Satellite Channels

Non-resident persons, not having a Permanent Establishment in Pakistan or non-resident persons having a Permanent Establishment in Pakistan but opting for final taxation under section 152(1B), shall not have the option of applying to the concerned Commissioner for issuance of exemption certificate.

33. Retention of service charges to be treated as payment for the purpose of deduction of tax. [Section 153(1)(b)]

Payments made to a resident person for rendering or providing of services are liable to deduction of tax under section 153(1)(b) of the Ordinance. In many cases, particularly where the service provider is rendering services of collecting funds (banks collecting utility bills, electricity distribution companies collecting television license fee etc) , service charges or fee for services rendered or provided is retained by the service provider and the net collection is remitted to the person on whose behalf funds were collected.

In order to bring clarity with regard to treatment to be accorded to such payments in future, a new proviso has been inserted after section 153(1)(c) of the Ordinance, whereby, if a person appoints an agent or a third party for collection of certain charges on its behalf in lieu of providing /rendering of services and that agent or third party remits payment to the service provider after retention of service charges or fee (irrespective of the nomenclature assigned to the retained amount) the service provider shall be treated to have paid the service charge / fee to the agent or the third person and the service provider receiving the payment from the agent/third party shall be legally obliged to collect tax along with the payment received.

Example

Bank collecting utility bills:

Amount of utility bills collected by bank on behalf of utility company from customers	Rs.100 (M)
Less: Service charges retained by bank @2%	Rs.(-) 2 (M)
Balance amount to be remitted to the utility company	Rs.98 (M)
Amount collectable by Utility Company under section 153(1)(b) @8% on service charges retained by bank	Rs.0.16 (M)
Total amount paid by agent/third party to the utility company	Rs.98.16 (M)

34. Revision of withholding tax statements [Section 165(2A)]

Prior to the Finance Act, 2017 there was no provision which enabled withholding agents to revise the withholding tax statements filed by them under section 165 of the Ordinance.

In order to facilitate withholding agents, necessary amendment has been made in section 165 of the Ordinance whereby a withholding agent shall be able to file a revised withholding tax statement within 60 days of the filing of such statement upon discovery of any omission, error or wrong statement in such statement.

35. Furnishing of information by financial institutions for "reportable persons". [Section 165B, Section 182]

Prior to the Finance Act, 2017, financial institutions were required to make arrangements for furnishing of information to FBR for non-resident persons in the prescribed form and manner for the purpose of automatic exchange of information under bilateral agreements or multilateral conventions .Subsequently, in September 2016, Pakistan signed OECD's "Multilateral Convention on Mutual Administrative Assistance in Tax Matters". In light of the recently introduced Common Reporting Standard Rules as per Chapter XIIA of the Income Tax Rules, 2002 vide SRO 166(I)/2017 dated 15th March, 2017 the scope of information which financial institutions are required to provide to FBR has been extended to include "other reportable" persons as defined under the Common Reporting Standard Rules through the Finance Act, 2017.

Under the Common Reporting Standard Rules a "Reportable Person" means a Reportable Jurisdiction /Person other than :-

(i) a corporation the stock of which is regularly traded on one or more established securities markets;

(ii) any corporation that is a Related Entity of a corporation described in (i) above ;

(iii) a Governmental entity

(iv) an International Organization

(v) a Central Bank ; or

(vi) a Financial Institution

The Reportable Jurisdiction Person has also been defined in the Common Reporting Standard Rules as an individual or Entity that is resident in a Reportable Jurisdiction or an estate of a decedent that was a resident of Reportable Jurisdiction. For this purpose, an Entity such as a partnership, limited liability partnership or similar legal arrangement that has no residence for tax purposes shall be treated as resident in the jurisdiction in which its place of effective management is situated.

Furthermore, the term "financial institution" is not specifically defined for purposes of section 165B of the Ordinance, therefore, definition contained in section

2(24) is applicable. This definition is restricted to financial institutions as defined under the Companies Ordinance, 1984. On the other hand, Common Reporting Standard's definition of "financial institution" means "a Custodial Institution, a Depository Institution, an Investment Entity or a Specified Insurance Company." These types of financial institutions have been explained in detail in the Common Reporting Standards. To forestall any interpretational issues and to align the provisions of section 165B with Common Reporting Standards (CRS) through insertion of Chapter XII in the Income Tax Rules, 2002 the Finance Act, 2017 stipulates that the term "reportable person" and "financial institution" shall have the same meaning as provided in the "Common Reporting Standards".

Moreover, through appropriate amendment in section 182 of the Ordinance the Finance Act, 2017 has also introduced a new penalty of Rs.2000 for each day of default subject to a minimum penalty of Rs. 25,000 where a financial institution or reporting entity fails to furnish information or country by country report to the Board as required under section 107,108 of 165B by the due date.

36. Firm of "Cost and Management Accountants" eligible to enter business premises for conducting audit of Income Tax affairs of a person under section 177 of the Ordinance. [Section 176]

Section 177(8) of the Ordinance provides that a firm of Chartered Accountants, a firm of Cost and Management Accountants appointed by the Board can conduct audit of the Income Tax affairs of a person under section 177 of the Ordinance. However, prior to the Finance Act, 2017 under clause (c) of sub-section (1) of section 176, only a firm of chartered accountants, as appointed by the Board or the Commissioner could enter business premises. Now, a firm of "Cost and Management Accountant" is also empowered to enter business premises.

37. Transfer Pricing –Audit and Penalties [Section 108 read with section 182, Section 230E]

Under section 108 of the Ordinance the concerned Commissioner is empowered to distribute, apportion or allocate income, deductions or tax credits in respect of transactions amongst persons who are "associates" as is necessary to reflect the income that the persons would have realized in an arm's length transaction. For this purpose, Rules 20 to 27 of the Income Tax Rules, 2002 have been prescribed. Moreover, the Finance Act, 2016 introduced various reporting requirements in section 108 of the Ordinance for taxpayers who enter into transactions with associates.

In order to organize and streamline efforts for detection and enforcement of provisions relating to transfer pricing, a Directorate–General of Transfer Pricing has been established through the Finance Act, 2017 by insertion of section 230E of the Ordinance for purposes of conducting "Transfer Pricing Audit". The scope of such audit would encompass audit for determination of the transfer price at arm's length in transactions between associates and would be independent of audit under section 177, 214C or 214D of the Ordinance.

The Finance Act, 2017 has also introduced the following penalties in section 182 of the Ordinance relating to transfer pricing provisions contained in section 108 of the Ordinance:-

Offence	Penalty
Failure to maintain records required under the Ordinance or the rules made thereunder under section 108 of the Ordinance	Rs.10,000 or 5% of the amount of tax on income , whichever is higher
Failure to furnish the information required or to comply with any other term of the notice served under section 108 of the Ordinance	Rs.25,000 for the first default and Rs.50,000 for each subsequent default
Failure of a reporting financial institution or reporting entity to furnish information or country-by-country report to the Board as required under section 107,108 or 165B within the due date	Rs.2000 for each day of default subject to a minimum penalty of Rs.25,000.
Failure of a person to keep and maintain documents and information required under section 108 or the related Income Tax Rules,2002	1% of the value of transactions the record of which is required to be maintained under section 108 of the Ordinance and the related Income Tax Rules ,2002

38. Ambit of prosecution under section 191 of the Ordinance to be extended [Section 191]

Prior to the Finance Act, 2017, non-filing of return in response to notice under section 114(4) and failure to comply with the legal obligations relating to transitional advance tax were not prosecutable offences under Chapter XII of the Ordinance. Through the Finance Act, 2017, such non-compliance without reasonable excuse has been made a prosecutable offence punishable on conviction with a fine or imprisonment for a term not exceeding one year or both.

39. Rationalization of default surcharge for taxpayers having a Special Tax Year [Section 205]

Prior to Finance Act, 2017, a taxpayer who failed to discharge at least 90% of its tax liability for a tax year through payment of advance tax under section 147 of the Ordinance, default surcharge was chargeable under section 205 of the Ordinance @ 12% per annum from the 1st April in that year to the date on which assessment is made or 30th June of the next financial year next, whichever is earlier.

Computation of default surcharge on the aforementioned basis was disadvantageous for taxpayers who had a special tax year extending from 1st January to 31st December. To remove this anomaly and rationalize the period of default in the case of a taxpayer following a special tax year a proviso has been inserted in sub-section

(1B) of section 205 of the Ordinance whereby default surcharge shall be computed from the first day of the fourth quarter till the date on which assessment is made or the last day of the special tax year, whichever is earlier.

40. Scope of Advance Ruling under Section 206A of the Ordinance to be extended [206A]

Prior to the Finance Act, 2017, the scope of Advance Ruling under section 206A of the Ordinance was restricted to a non-resident. In order to facilitate and bring about a certain degree of predictability for non-resident taxpayers having a permanent establishment in Pakistan in respect of decisions regarding their business and investment strategies, the scope of Advance Ruling under section 206A of the Ordinance has been extended to non-resident taxpayers having a permanent establishment in Pakistan.

41. Disclosure of Information to Employees Old-age Benefit Institution [Section 216]

As per sub-section (1) of section 216 of the Ordinance, public servants are not authorized to disclose any particulars contained in :-

(i) Any statement made, return furnished, or accounts or documents produced under the provisions of the Ordinance.

(ii) Any evidence given, or affidavit or deposition made in the course of any proceedings under this Ordinance barring proceedings under Part XI of Chapter X of the Ordinance.

(iii) Any record of assessment proceedings or any proceeding relating to the recovery of a demand.

However, disclosure of such information is permissible in specific circumstances and to specific persons delineated under sub-section (3) of section 216 of the Ordinance.

Through the Finance Act, 2017 the scope of disclosure of information by FBR has been extended to the Employees Old Age Benefit Institution in respect of information regarding salaries furnished through withholding tax statements filed under section 165 of the Income Tax Ordinance, 2001. Disclosure of such information shall enable EOBI to cross check information regarding the number of employees and salaries being disbursed by various employers and shall assist EOBI in preventing revenue leakages.

42. Reward to Whistleblowers made contingent upon furnishing of supporting evidence [Section 227B]

Section 227B of the Ordinance empowers the Federal Board of Revenue to sanction reward to whistleblowers in cases of concealment, evasion of income tax, fraud, corruption or misconduct or in case of providing credible information leading to such detection of tax evasion. The claim for reward by whistleblowers is subject to rejection in certain circumstances i.e. providing information which is of no value, information which is already in the possession of the Board, information which is available in public records or if no collection of taxes is made from the information provided by the whistleblower.

The Finance Act, 2017 has introduced an additional condition by virtue of which the claim for reward by a whistleblower can be rejected if the information provided by him is not supported by evidence.

43. Collection of tax on motor vehicles leased to non-filers through Sharia'h compliant mode. [Section 231B]

Prior to the Finance Act, 2017 every leasing company, scheduled bank, investment bank or development finance institution or modarba was obliged to collect advance tax under section 231B of the Ordinance @ 3% upon leasing of a motor vehicle to a non-filer.

Through the Finance Act, 2017 the ambit of collection of such tax has been extended in addition to above institutions, to a non-banking financial institution and both sharah compliant or conventional mode, either through ijara or otherwise have been included in its ambit. Furthermore the rate of collection of advance tax under section 231B on lease of motor vehicle has been increased from 3% to 4% of the value of the motor vehicle.

44. Payment of commission to an advertising agent directly or through electronic or print media. [Section 233(2A)]

Vide Circular No.25 of 1980, the Board provided a mechanism for deduction of tax by the advertiser (the principal) on advertising services and commission. As per the said Circular the advertiser is required to deduct separately, tax on commission and tax on advertising services. It is also provided in the Circular that commission is to be taken as 15% of the total amount and advertising services as 85%.

However, confusion prevailed regarding the implementation of the said circular, with regard to who is required to deduct tax, therefore clarity was required in situations;

i. where the entire amount was paid to advertising agent who, after retaining its commission makes the remaining payment to the print or electronic media person.
ii. where the payment is made to the commission agent and media separately.
iii. where entire payment is made to media person who after retaining its share for advertising services, makes the payment of commission to the commission agent.

Through insertion of sub-section (2A) of section 233, vide Finance Act, 2017, it has been clarified that in all the above situations the responsibility to deduct tax in respect of both (commission agent and print/electronic media) shall be on the principal i.e. advertiser, whether the payment is made directly to the commission agent or is made through the print/electronic media person. The amount representing commission on which tax is required to be deducted by the principal has been specified as (Ax15)/85, where A is the amount paid to print or electronic media for advertising services (excluding commission). The principal is also required to deduct tax on A (advertising services) under section 153 of the Ordinance, in addition to the tax required to be deducted in respect of Commission.

45. Collection of tax by Stock Exchange from its members to be made final tax [Section 233A]

Prior to the Finance Act, 2017, a stock exchange registered in Pakistan was obliged to collect advance tax from its members on purchase and sale of shares in lieu of tax on commission earned by such members. Previously such tax wax adjustable, however, through amendment in the Finance Act, 2017 advance tax collected by a stock exchange from its members shall constitute final tax in the hands of the members of the Stock Exchange.

46. Final Tax Regime for CNG Stations to be extended. [Section 234A]

Tax collected @ 4% on gas consumption bill of a CNG station under section 234A of the Ordinance is treated as final tax in respect of income of a CNG station arising from the consumption of gas. Moreover, it was categorically specified in sub-section (4) of section 234A of the Ordinance that such taxpayers shall not be entitled to claim any adjustment of withholding tax collected or deducted under any other head , during the Tax Year. The intention behind this legislation was that in lieu of tax collected on gas consumption bill of CNG station being treated as final tax, such taxpayers would not be entitled to adjust tax collected or deducted under any other section /provision of law against such final tax.

Inspite of the above, some confusion prevailed and there was litigation owing to varying interpretations with regard to the adjustment of taxes collected or deducted under other heads, particularly advance tax collected under section 235 of the Ordinance on electricity consumption against the final tax liability of CNG stations.

In order to put this matter at rest, necessary amendment has been made through the Finance Act, 2017 whereby it has been explicitly stated that advance tax collected on the amount of gas bill as well as the electricity bill of a CNG station shall constitute final tax on the income of a CNG station. Therefore, forthwith:-

(i) The tax collected from gas bills and electricity bills shall be a final tax on the income of CNG stations.

(ii) CNG stations shall be entitled to claim all adjustable advance taxes collected or deducted at source under any other head, except electricity.

It has also been clarified through the Finance Act, 2017 that the amount of gas bill subject to collection of advance tax under section 234A of the Ordinance shall mean the gas bill inclusive of sales tax and all other incidental charges. Such clarification has been inserted with a view towards explaining the existing law therefore it shall have retrospective effect.

47. Tax on electricity bills of commercial or industrial consumers to be treated as minimum tax on annual basis.

Prior to the Finance Act, 2017, tax collected from commercial or industrial consumers on electricity bills upto Rs.30,000/- per month was treated as minimum tax (non-refundable). Consequently, if in any particular month the electricity bill exceeded this limit such tax became adjustable. For the sake of simplicity and greater ease in claiming adjustment of such tax whilst filing annual income tax returns the Finance Act,2017 has specified such threshold on annual basis i.e Rs.360,000/- per annum. Henceforth, irrespective of monthly bills, if the aggregate amount of electricity bills exceeds Rs.360,000/- per annum the tax collected shall be adjustable, otherwise it shall be minimum tax.

Furthermore, it has also been clarified through the Finance Act, 2017 that the quantum of electricity bill in the case of commercial, industrial or domestic consumers of electricity subject to collection of advance tax under section 235 and 235A of the Ordinance shall mean the electricity bill inclusive of sales tax and all other incidental charges. This amendment has been made to clarify that the amount of electricity bill subject to collection of advance tax under the Ordinance is treated to be an amount inclusive of sales tax and all other incidental charges.

48. Steel re-rollers excluded from the purview of section 235B of the Ordinance

Prior to the Finance Act, 2017, steel melters, re-rollers and composite steel units registered under the Sales Tax Special Procedure Rules, 2007 were subject to collection of non-adjustable tax @ Rs.1 per unit of electricity consumed for the production of steel billets, ingots and mild steel in addition to tax payable otherwise on electricity consumption. Such tax is collected in lieu of their liability to withhold tax from payments made for local purchase of scrap under section 153(1) of the Ordinance.

Through the Finance Act, 2017 steel re-rollers have been excluded from the ambit of section 235B of the Ordinance, since in the exclusive business of re-rolling purchase of scrap is not involved. Corresponding amendments have also been made in Clause (9A) of Part-IV of the Second Schedule.

49. Expansion in scope of authorities liable to collect tax on real estate transactions. (Section 236C, Section 236K and Section 236W)

Prior to the Finance Act, 2017, the obligation to collect tax under sections 236C, 236K and 236W of the Ordinance lay with any person responsible for "registering or attesting transfer of any immovable property". However, the term "registering or attesting transfer" was being misinterpreted restrictively as being applicable only to provincial registration authorities. Moreover, certain cooperative societies etc were of the opinion that they are neither responsible for registering nor attesting transfer of immovable properties as they simply transferred allotments. Appropriate amendment has been made in accordance with legislative intent through the Finance Act, 2017 whereby the term "registering or attesting transfer" has been extended to also include a person "recording transfer" of such immovable property. This shall circumvent any attempt to avoid collection of taxes on sale/purchase of immovable property by cooperative societies, authorities etc.

In order to elucidate the existing /prevalent law an explanation has also been added in sections 236C, 236K and 236W of the Ordinance whereby a local authority, housing authority, housing society, co-operative society and a registrar of properties has also been specifically clarified to fall within the purview withholding agents obliged to collect tax under section 236C, 236K and 236W of the Ordinance. Such explanation shall be applicable retrospectively as it merely explains the prevalent law.

50. Minimum tax on immovable property acquired and sold in the same Tax Year [Section 236C]

Prior to the Finance Act, 2017, if an immovable asset was purchased and sold in the same year the capital gain arising from the sale of such immovable asset was zero if the FBR notified rates for immovable property remained static during the currency of the Tax Year.

In order to cater for the aforementioned situation, if immovable property is purchased and sold within the same Tax Year the tax collected under section 236C of the Ordinance on the sale/transfer of property shall forthwith constitute minimum tax in respect of the seller/transferor of such property.

51. Advance Tax on Tobacco [Section 236X]

A new provision has been introduced through the Finance Act, 2017 whereby the Pakistan Tobacco Board or its contractors are now legally obliged to collect advance tax @ 5% of the purchase value of tobacco from every person purchasing tobacco (including manufacturers of cigarettes) at the time of collecting cess on tobacco directly or indirectly.

52. Significant amendments in the First Schedule to the Income Tax Ordinance, 2001.

(i) Increase in tax rate on dividend income (Division III Part-I of First Schedule)

Description	Tax rates Prior to Finance Act, 2017	Tax rates w.e.f. 1st July, 2017
A. Dividend received from :- (I) purchaser of a power project privatized by WAPDA (II) a company set up for power generation (III) a company supplying coal exclusively to power generation projects	7.5%	7.5%
B. Dividend received by a person from a mutual fund	10%	- 12.5% if the amount of dividend is greater than Rs.2.5 Million - 10% if the amount of dividend is less than or equal to Rs.2.5 Million
C. Dividend received by a person from a person other than A and B above	12.5%	15%

(ii) Tax on profit on debt received by an individual or AOP under section 7B (Division IIIA ,Part-I of First Schedule)

Tax rates Prior to Finance Act, 2017

S.No	Profit on Debt	Rate of tax
(1)	(2)	(3)
1.	Where profit on debt does not exceed Rs.25,000,000	10%
2.	Where profit on debt exceeds Rs.25,000,000 but does not exceed Rs.50,000,000	2,500,000 + 12.5% of the amount exceeding Rs.25,000,000
3.	Where profit on debt exceeds Rs.50,000,000	Rs.5,625,000+15% of the amount exceeding Rs.50,000,000

Tax rates w.e.f. 1st July, 2017

S.No	Profit on Debt	Rate of tax
(1)	(2)	(3)
1.	Where profit on debt does not exceed Rs.5,000,000	10%
2.	Where profit on debt exceeds Rs.5,000,000 but does not exceed Rs.25,000,000	12.5%
3.	Where profit on debt exceeds Rs.25,000,000	15%

(iii) Capital Gains on disposal of securities [Division VII Part-I]

The Finance Act,2017 has introduced rate(s) of tax for the Tax Year 2018 on Capital Gains emanating from disposal of securities under section 37A of the Ordinance as under:-

"S.No.	Period	Tax Year 2015	Tax Year 2016	Tax Year 2017		Tax Year 2018			
						Securities acquired before 01.07.2016		Securities acquired after 01.07.2016	
				Filer	Non-Filer	Filer	Non-Filer	Filer	Non-Filer
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	Where holding period of a security is less than twelve months	12.5%	15%	15%	18%	15%	18%		
2.	Where holding period of a security is twelve months or more but less than twenty-four months	10%	12.5%	12.5%	16%	12.5%	16%	15%	20%
3.	Where holding period of a security is	0%	7.5%	7.5%	11%	7.5%	11%		

	twenty - four months or more but the security was acquired on or after 1st July, 2013.								
4.	Where the security was acquired before 1st July, 2013	0%	0%	0%	0%	0%	0%	0%	0%
5.	Future commodity contracts entered into by members of Pakistan Mercantile Exchange	0%	0%	5%	5%	5%	5%	5%	5%

A new proviso has also been inserted whereby it has been clarified that for the Tax Years 2018 to 2020, rate of tax on cash settled derivatives traded on the stock exchange shall be 5%.

(iv) <u>Reduction in rate of tax on import of the plastic raw material under section 148 of the Ordinance. (Part-II of the First Schedule and clause (72B) of Part-IV of the Second Schedule)</u>

Commercial importers and industrial undertakings importing plastic raw material falling under PCT heading 39.01 to 39.12 and being filers shall forthwith be subject to collection of advance tax at the following rates:-

a. 1.75% of the import value as increased by customs duty, sales tax and Federal Excise duty in the case of an industrial undertaking, being a filer, and importing plastic raw material falling under PCT Heading 39.01 to 39.12 for its own use. As explained above such tax shall be minimum tax in the case of an industrial undertaking.

b. 4.5% of the import value as increased by customs duty, sales tax and Federal Excise duty in the case of a commercial importer, being a filer, and importing plastic raw material falling under PCT Heading 39.01 to 39.12

Moreover, tax collected under section 148 of the Ordinance from an industrial undertaking importing plastic raw material falling under PCT heading 39.01 to 39.12 shall now constitute minimum tax on the income of such importer.

(v) Advance Tax on Dividend under section 150 and 236S [Division I, Part-III]

The rates for advance tax on dividend have been enhanced in line with chargeability of tax on dividend income as under:-

Description	Tax rates Prior to Finance Act, 2017		Tax rates w.e.f. 1st July, 2017	
	Filer	Non-filer	Filer	Non-filer
A. Dividend paid by (i) purchaser of a power project privatized by WAPDA (ii) a company set up for power generation (iii) a company supplying coal exclusively to power generation projects	7.5%	7.5%	7.5%	7.5%
Dividend paid by persons other than "A" above	12.5%	20%	15%	20%

The rate of tax required to be deducted by a stock fund, money market fund, income fund, REIT scheme or any other fund upon payment of dividend has been increased from 10% to 12.5% through the Finance Act, 2017 as under:-

Person	Stock Fund		Money Market Fund , Income Fund , REIT Scheme or any other fund			
	Tax rates Prior to Finance Act, 2017	Tax rates w.e.f. 1st July, 2017	Tax rates Prior to Finance Act, 2017		Tax rates w.e.f. 1st July, 2017	
			Filer	Non-filer	Filer	Non-filer
Individual	10%	12.5%	10%	15%	12.5%	15%
Company	10%	12.5%	25%	25%	25%	25%
AOP	10%	12.5%	10%	15%	12.5%	15%

The Finance Act, 2017 also stipulates that the rate of advance tax on dividend received by a person, not being a company, from a money market mutual fund shall be 10% if the amount of dividend being paid does not exceed Rs.2.5 Million.

(vi) Tax deduction on sale of rice, cotton seed oil and edible oil [Division III, Part III]

Prior to the Finance Act, 2017 the rate of tax to be deducted under section 153(1)(a) of the Ordinance on the sale of "rice, cotton seed or edible oils" was 1.5% of the gross amount payable.

An explanation has been added in sub-paragraph (a) of paragraph (1) of Division III of Part III of the First Schedule in accordance with legislative intent to the effect that "cotton seed and edible oils" means "cotton seed oil and edible oils". This explanation is applicable retrospectively as it is clarifying the prevalent /existing law. Therefore, tax @1.5% is to be deducted upon sale of rice, cotton seed oil and edible oil under section 153(1)(a) of the Ordinance.

(vii) Reduction in withholding rates on payments to distributors of Fast Moving Consumer Goods under section 153(1)(a) [Division III ,Part-III]

FMCG Distributor	Rates	
	Tax rates Prior to Finance Act, 2017	**Tax rates w.e.f. 1st July, 2017**
Company	3%	2%
Other than a company	3.5%	2.5%

(viii) Collection of tax under section 235 to be made on the basis of the gross amount of electricity bill.[Division IV, Part IV]

As a corollary to the explanation added in section 235 of the Ordinance clarifying that electricity consumption bill means electricity bill inclusive of sales tax and all incidental charges, appropriate amendment has also been made to the effect that tax under section 235 on electricity consumption shall be collected on the basis of the gross amount of electricity bill.

(ix) Reduction in rate of collection of tax under section 236 of the Ordinance from mobile phone subscribers. [Division V, Part IV]

Rate of withholding income tax for mobile phone subscribers has been reduced from 14% to 12.5%.

(x) Reduction in rates of collection of Advance tax under section 231B on the purchase , registration and transfer of motor vehicles [Division VII, Part-IV]

In order to encourage and incentivize compliant taxpayers who are filers the rates of collection of advance tax under section 231B of the Ordinance on the purchase , registration and transfer of motor vehicles have been reduced as under:-

S.No	Engine Capacity	Tax rates Prior to Finance Act, 2017 for filers	Tax rates w.e.f. 1st July, 2017 for filers
1.	Upto 850cc	Rs.10,000	Rs.7,500
2.	851cc to 1000cc	Rs.20,000	Rs.15,000
3.	1001cc to 1300cc	Rs.30,000	Rs.25,000

(xi) Advance Tax on sale to retailers under section 236H [Division XV, Part-IV]

Category of Sale	Tax rates Prior to Finance Act, 2017		Tax rates w.e.f. 1st July, 2017	
	Filers	Non-filers	Filers	Non-filers
Electronics	0.5%	0.5%	1%	1%
Others	0.5%	0.5%	0.5%	1%

(xii) Advance Tax on Insurance Premium under section 236U [Division XXV, Part IV]

Prior to the Finance Act, 2017 rate of 1% withholding tax was applicable at the time of making payment of life insurance premium by non-filers, if the insurance premium exceeded Rs. 0.2 Million. Through the Finance Act, 2017 this threshold has been enhanced to Rs. 0.3 Million

(xiii) Increase in withholding tax rates for non-filers

Continuing with its policy of increasing the cost of doing business for non-filers , withholding tax rates have been increased for non-filers across a multitude of transactions through the Finance Act, 2017 as under:-

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S.No	Section	Transaction	Tax rates Prior to Finance Act, 2017		Tax rates w.e.f. 1st July, 2017	
			Filer	Non-filer	Filer	Non-filer
1.	152(1A)	Payments to non-residents on execution of a contract under a construction, assembly or installation project Any contract for construction or services rendered relating thereto Any contract for advertisement services rendered by T.V satellite channels	7%	12%	7%	13%
2.	152(2A)(a)	Payments to permanent establishment of a non-resident for the sale of goods	4% (company)	6% (company)	4% (company)	7% (company)
			4.5% (non-company)	6.5% (non-company)	4.5% (non-company)	7.75% (non-company)
3.	152(2A)(b)	Payments to permanent establishment of a non-resident for rendering services	8% (company)	12% (company)	8% (company)	14% (company)
			10% (Non-company)	15% (Non-company)	10% (Non-company)	17.5% (Non-company)
4.	152(2A)(c)	Payments to permanent establishment of a non-resident for the execution of a contract	7%	12%	7%	13%
5.	153(1)(a)	Payments for sale of goods	4% (company)	6% (company)	4% (company)	7% (company)
			4.5% (non-company)	6.5% (non-company)	4.5% (non-company)	7.75% (non-company)
6.	153(1)(b)	Payments for rendering of services	8% (company)	12% (company)	8% (company)	14.5% (company)
			10% (non-company)	15% (non-company)	10% (non-company)	17.5% (non-company)
7.	153(1)(c)	Payments for contracts	7% (company)	10% (company)	7% (company)	12% (company)

			7.5% (non-company)	10% (non-company)	7.5% (non-company)	12.5% (non-company)
8.	**155**	Payment for rent (Company)	**15% of gross rent**	**15% of gross rent**	**15% of gross rent**	**17.5% of gross rent**
9.	**156**	Prize on prize bond or cross word puzzle	**15%**	**20%**	**15%**	**25%**
10.	**156A**	Commission/discount to a petrol pump operator	**12%**	**15%**	**12%**	**17.5%**
11.	**234A**	Gas bill of a CNG station	**4%**	**4%**	**4%**	**6%**
12.	**236A**	Advance tax on sale by auction	**10%**	**10%**	**10%**	**15%**

53. Significant amendments in the Second Schedule to the Income Tax Ordinance, 2001

(i) Enhancement in limit for importing raw material by manufacturers without collection of income tax at the import stage [Clause (72B) of Part-IV of the Second Schedule]

Prior to the Finance Act, 2017, the upper limit for import of raw material by an industrial undertaking for its own use, without collection of tax at the import stage under section 148 of the Ordinance, was 110% of the raw material imported and consumed by such industrial undertaking in the previous tax year.

The limit for import of raw material by industrial undertakings, without collection of income tax at the import stage, on the basis of exemption certificate issued by the Commissioner, has been increased from 110% to 125% of the raw material imported and consumed in the previous tax year.

Furthermore, henceforth industrial undertakings importing edible oil, plastic raw materials falling under PCT Heading 39.01 to 39.12 and packing material shall not be entitled to exemption certificate under clause (72B) of Part IV of the Second Schedule to the Ordinance.

(ii) Scope of Concessionary Minimum Tax Regime extended to certain specified service sectors [Clause (94) of Part IV of the Second Schedule]

Through amendment made vide the Finance Act 2015, the tax deducted from payment on account of services to companies under section 153(1)(b) of the Ordinance has been treated as minimum tax and clause (94) of Part-IV of the Second Schedule was inserted whereby facility of reduced rate of minimum tax @ 2% of gross turnover from all sources was made available to

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various service sectors subject to certain conditions. Such concession has been extended for the Tax Year 2018 for the service sectors specified in Clause (94) of Part-IV of the Second Schedule to the Ordinance provided that the concerned company furnishes an irrevocable undertaking to present its accounts to the Commissioner for audit of its income tax affairs for the Tax Year 2018.

Furthermore, the concession of reduced rate of minimum tax @ 2% of gross turnover from all sources has been extended to building maintenance services, services rendered by Pakistan Stock Exchange Limited and Pakistan Mercantile Exchange Limited for the Tax Year 2018.

(iii) Exemption on cash withdrawal by Branchless Banking Agents under section 231A of the Ordinance. [Clause (101) of Part-IV of the Second Schedule]

Tax @ 0.3% and 0.6% is deducted upon aggregate cash withdrawals exceeding Rs.50,000 per day by filers and non-filers respectively. In order to promote digital payments in the country exemption has been accorded to branchless banking agents operating under the Asaan Mobile Account Scheme from withholding tax on cash withdrawals made for the purpose of making payments to their respective customers.

(iv) Exemption from collection of advance tax on vehicles leased under the Prime Ministers Youth Loan Scheme [Clause (102) of Part-IV of the Second Schedule]

Advance tax @ 4% is collected under section 231B (1A) of the Ordinance at the time of leasing motor vehicles to a non-filer. In order to facilitate the generation of employment opportunities among the unemployed youth and to mitigate their hardship, exemption from collection of advance tax is being accorded to vehicles leased under the Prime Ministers Youth Loan Scheme.

54. Amendment in the Seventh Schedule

Income, profits and gains of a banking company is taken to be the balance of the income, from all sources before tax, as disclosed in the annual accounts required to be furnished to the State Bank of Pakistan, subject to certain specified conditions. Clause (g) of Rule 1 of the Seventh Schedule stipulates that whilst arriving at its taxable income, a banking company shall exclude adjustments made in the annual accounts on account of application of IAS 30 and 40. IAS 39 and 40 requires valuation of Investment and Investment property, respectively, at Fair Market Value at the balance sheet date, thus recognizing notional gain or loss.

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A clarification explaining the existing /prevalent law has been inserted after Rule 1(g) of the Seventh Schedule which prohibits the allowance of notional loss or the taxation of notional gain in respect of any investment under any regulation or instruction unless all the events that determine such gain or loss have occurred and the gain or loss can be determined with reasonable accuracy. This explanation is in line with the underlying accounting concept of accrual and the provisions of section 34(3) of the Ordinance and is applicable retrospectively in accordance with legislative intent.

Reema Masud

(Reema Masud)
Secretary (Income Tax Budget)