IN THE NAME OF ALLAH ALMIGHTY, THE MOST MERCIFUL, MOST BENEFICENT

KHILJI & CO.
Chartered Accountants

TAX BRIEFING
FINANCE BILL 2020

AN UNBIASED COMMENTARY ON FINANCE BILL 2020

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TAX MEMORANDUM

FINANCE BILL 2020

DISCLAIMER & ACKNOWLEDGMENT

Khilji & Co (Chartered Accountants) is pleased to present this tax memorandum, which is primarily aimed to help in understanding the impact of the Budget changes that are brought by the Finance bill 2020 relating to Income Tax, Sales Tax Laws, Federal Excise Duty, and Customs Duty. This document has been prepared according to the guide lines of the Finance Bill as announced on June 12, 2020, Although the highest standard of Professional Competence and Care has been followed regarding the showing of facts & figures in this Budget Commentary. However, Khilji & Co, (Chartered Accountants) does not assume any responsibility as to the correctness, alteration or change of these fact & figures in future which may be expected when the bill is presented in National Assembly of Pakistan for its approval Moreover, Khilji & Co, Chartered Accountants will not be held responsible for any action taken / not taken on the basis of information contained in this document. The information provided in this document should only be used in conjunction with professional opinion from tax/ legal advisor and checked for updated position of law. This document as a whole or its any part should not be reproduced in any form without prior written approval from Khilji & Co. This newsletter is distributed free of cost to our clients only. We humbly request our readers to please provide us the most valuable comments to make this more informative and useful.

This has always been a pleasure to be of service to our clients.

KHILJI & CO

CHARTERED ACCOUNTANTS

JUNE 22, 2020

اَللّٰهُمَّ اِنِّیۡ اَعُوۡذُ بِكَ مِنَ الۡبَرَصِ وَالۡجُنُوۡنِ
وَالۡجُذَامِ وَسَیِّءِ الۡاَسۡقَامِ

Oh Allah I seek Your refuge from leprosy, insanity, mutilation and from all serious illnesses

COVID-19 PREVENTIVE MEASURES

- It is matter of our fundamental faith that Almighty Allah is the most merciful and beneficent and the foremost thing to do at all times particularly difficult times like these is to seek forgiveness from Allah for all our intentional and unintentional mistakes.

- Let us pray and seek forgiveness from Allah for all sins and wrongdoings committed by us deliberately or otherwise. May Allah keep all humanity including us and our families safe from this and all kinds of diseases. AMEEN

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OVERVIEW OF ECONOMY

The world changed dramatically during the fiscal year FY2020, a novel virus, (COVID-19), emerged in Wuhan, China, and WHO on March 11 declared COVID-19 a pandemic. Since then, the virus has engulfed the entire world, disrupting the supply chains and paralyzing the continents. The pandemic is not only inflicting unprecedented damage to human lives but it has also taken a heavy toll on global economic activity. The Coronavirus outbreak is a human tragedy, affecting hundreds of thousands of people globally. It is also having a growing adverse impact on the global economy including Pakistan. The severity of the COVID-19 impact is yet to be fully determined due to its unprecedented nature. However, it has exposed vulnerabilities which provide an opportunity to reassess our development priorities to fill gaps which have been laid bare by the shock. The last time Pakistan witnesses a negative GDP growth in Pakistan was in 1951-52. Under the incumbent regime, the GDP size in US dollar terms has dropped to $264 billion in 2019-20. Whereas, the size of the GDP was recorded at $315 billion and $279 billion in 2017-18 and 2018-19, respectively.

SALIENT FEATURES OF ECONOMIC SURVEY 2019-20

- Pakistan's GDP growth has dropped to -0.38% in 2019-20 vs target of 4% of Planning Commission 2019-20.
- The GDP growth for 2018-19 has also been revised down to 1.91% vs. provisional figures of 3.3%.
- Agriculture sector grew by 2.67% in 2019-20, whereas Industrial sector deteriorated by 2.64% in 2019-20.
- Services sector's growth dropped to -0.59%, that grew by 3.75% a year ago.
- Exports dropped by 7% to $19.79 billion during July-May 2019-20 vs $21.25 billion last year.
- Pakistan's projected GDP growth is estimated at 2.10% for 2020-21.
- FBR's tax collection stood at Rs.3,518 billion during July-May 2019-20 vs Rs.3,266 billion last year.

The pandemic has amplified the lack of health facilities and the need to urgently invest in the same. The dire need for reliable data availability and data banks has strongly emerged to better monitor the effectiveness of policy intervention and serve our large population. Lack of investment in research and development, especially in the areas of health, medicine and related equipment to increase self-reliance has not been able to seek warranted attention.

Many businesses face problem in managing cash flows. Strategic interventions in specific industries are being undertaken to safeguard the common man and accelerate economic activities. Under the current crisis top priority of the government is to protect the vulnerable segments of the society. Therefore, prime focus areas of the government are health, social safety, industry, farming, trade etc. The government is constantly monitoring the COVID-19 situation in the country and accordingly taking all out measures to mitigate its adverse effects on the economy and general public.

FEDERAL BUDGET HIGHLIGHTS

RECEIPTS		EXPENDITURE	
TAX REVENUE	5,464	A. CURRENT	6,345
FBR Taxes	4,963	Interest Payments	2,946
Other Taxes	501	Pension	470
NON-TAX REVENUE	1,109	Defence Affairs & Services	1,289
a) Gross Revenue Receipts	6,573	Grants and Transfers	905
b) Less Provincial Share	2,874	Subsidies	209
		Running of Civil Govt.	476
I. Net Revenue Receipts (a-b)	3,700	Provision for Pay & Pension	0
II. Capital Receipts (Non-Bank)	1,395	Provision for Contingencies	50
III. External Receipts (net)	810	B. DEVELOPMENT	792
IV. Estimated Provincial Surplus	242	Federal PSDP	650
V. Bank Borrowing	889	Net Lending	72
VI. Privatization Proceeds	100	Other Dev. Expenditure	70
TOTAL RESOURCES (I to VI)	7,136	TOTAL EXPENDITURE(A+B)	7,136

SUMMARY OF KEY AMENDMENTS

INCOME TAX ORDINANCE, 2001

- Incentives for revival of the construction industry proposed in April 2020 through Tax Laws (Amendment) Ordinance, 2020 have been inserted in the Finance Bill 2020.
- Fixed tax per ton of gross registered tonnage per annum proposed for Pakistan resident ship owning company registered with the Securities and Exchange Commission of Pakistan.
- Limit of admissible deduction for administration and collection charges has been proposed to be reduced from 6% to 2% of the rent chargeable in respect of income from property.
- Limit of income exceeding Rs. 4 million for individuals and association of persons for opting to pay normal tax on income from property has been withdrawn. Now all persons can claim deductible expenses and opt to pay tax on net income basis.
- Limit of payment for any expenditure under a single account head through banking channel has been proposed to be increased from Rs. 50,000 to Rs. 250,000.
- Limit of single payment through banking channel has been proposed to be increased from Rs. 10,000 to Rs. 20,000. Further, limit of payment of salary though crossed cheque or direct transfer has been proposed to be increased from Rs. 15,000 to Rs. 25,000 per month.
- Expenditure on utility bill in excess of prescribed limits and in violation of prescribed conditions has been proposed to be made inadmissible business expense.
- Expenditure attributable to sales made to persons required to be registered but not registered under the Sales Tax Act, 1990 by an industrial undertaking has been proposed to be made inadmissible business expense subject to maximum limit twenty percent of total deductions claimed.
- Normal depreciation on assets to be claimed as admissible deduction is proposed to be 50% in the year of acquisition and 50% in the year of disposal.
- Cost of a passenger transport vehicle not plying for hire is proposed to be limited to two and a half million rupees for the purpose of determining the deduction on account of lease rentals.
- Capital gains on open plots and constructed property exempt where the holding period of an immoveable property exceeds four years. Before this change holding period of eight years was necessary for capital gain on disposal of open plots to be exempt. Further, extent of taxability of gain made dependent upon holding period of immovable property.
- Limit of claiming tax credits for charitable donations has been proposed to be reduced in case of donation made to an associate by a donor.
- Tax credit for enlistment has been proposed to be restricted to only those companies who opts for enlistment on or before the 30th day of June, 2022.

- For non-profit organizations seeking 100% tax credit under section 100C, a new condition of filing of statement of voluntary contributions and donations received in the immediately preceding tax year has been proposed to be inserted along with existing conditions.

- Surplus funds of a non-profit organization which could not be spent due to an obligation placed by a donor is proposed to be made taxable if donor is an associate of such organization.

- Restriction has been proposed to be placed on deduction for foreign profit on debt claimed by a foreign-controlled resident company during a tax year.

- Scope of minimum tax under Section 113 has been proposed to be widened to also include permanent establishment of a non-resident company.

- Persons earning whole income subject to final taxation are also proposed to be brought under the ambit of section 114 for return filing instead of separate statement under section 115(4).

- Taxpayer's profile has been proposed to be prescribed in order to capture data relevant to the taxpayer. The profile shall be filed once and not every year and shall be updated by the taxpayer in case there is any change in particulars already submitted. Penalty has been proposed for failure to provide information or update the profile. Such person shall not be included in the active taxpayers' list for the latest tax year ending prior to the due date.

- Revision of wealth statement is proposed to be to subject to approval from Commissioner. Further, clarification has been inserted that wealth statement cannot be revised after the expiry of five years from the due date of filing of return of income for that tax year.

- Returns filed under section 120 shall be processed through automated system to arrive at correct amounts of total income, taxable income and tax payable by making adjustments for any arithmetical error, any apparent incorrect claim, disallowance of any loss, deductible allowance or tax credit and disallowance of carry forward of any loss. The return shall be taken as assessment order on the date such adjustments were made.

- An assessment under section 122 is proposed also to be amended in pursuance of audit alone independent of the requirement of obtaining definite information from such.

- Concept of agreed assessment has been introduced whereby a taxpayer in response to a notice under sub-section (9) of section 122, intends to settle his case, he may file offer of settlement in the prescribed form before the assessment oversight committee which may decide to accept or modify the offer of the taxpayer through consensus and communicate its decision to the taxpayer.

- Prescribed fee for filing appeals has been proposed to be increased.

- Payment by the taxpayer of ten percent of the amount of tax upheld by the Commissioner (Appeals) is proposed to be made mandatory before filing of appeal to the Appellate Tribunal.

- The process and composition Alternate Dispute Resolution committee has been proposed to be amended to make it more taxpayer friendly. Now, the decision of ADRC, once it is conveyed by the taxpayer to the tax authorities is binding upon the tax authorities.

- Scope of recovery measures is proposed to be enhanced to include stoppage of clearance of imported or manufactured goods, attachment of bank accounts, sealing of business premises etc.

- Advance tax at import stage regime is proposed to be shifted from person specific rates to goods specific rates. A new Twelfth Schedule specifying the goods has been inserted for this purpose.

- Tax deductible from payment for advertisement services to a non-resident media person relaying from outside Pakistan is proposed to a minimum tax on the income of non-resident person arising out of such payment.

- Tax deduction from permanent establishment of nonresident under section 152(2A) is proposed to be made minimum tax for sale/supply of goods and execution of contracts.

- Withholding tax on toll manufacturing is proposed to be made in line with rates applicable on manufacturers supplying goods.

- It is proposed that certificate for payment for sale of goods without deduction of tax shall be issued by the Commissioner within fifteen days of filing of application to a public company listed on a registered stock exchange in Pakistan if advance tax liability has been discharged. The Commissioner is deemed to have issued the exemption certificate upon the expiry of fifteen days and the certificate shall be automatically processed and issued by IRIS.

- Turnover limits for individual and AOPs have been proposed to be enhanced from Rs. 50 million to Rs. 100 million to include them under the ambit of withholding agent. Further, only sales tax registered person having turnover of exceeding Rs. 100 million or more in any of the preceding tax years will be required to act as withholding agent.

- Biannual statement of withholding tax under section 165 is proposed to be submitted quarterly within 20 days of the end of each quarter.

- Limit of Rs. 500,000 on account of bank profits is proposed to be withdrawn for furnishing of information by banks to FBR under section 165A.

- New section has been introduced to provide real-time access to information and databases to the Board by various authorities such as NADRA, FIA, provincial excise & taxation departments etc.

- Concept of conducting audit proceedings through electronic means introduced.

- Where a taxpayer has not furnished record or documents including books of accounts, has furnished incomplete record or books of accounts or is unable provide sufficient explanation regarding the defects in records, documents or books of accounts, the Commissioner shall determine taxable income on the basis of sectoral benchmark ratios prescribed by the Board.

- The concept of Automated Case Selection System has been proposed to be inserted for conferment upon or assignment of jurisdiction to any Officer of Inland Revenue.

- Delegation of powers by the Commissioner of amendment of an order of recovery under sub-section (3) of section 161 has been proposed to restricted only to Additional Commissioner of Inland Revenue.
- Advance/withholding tax on following heads have been withdrawn:

  - Collection of advance tax on education related expenses remitted abroad
  - Tax on steel melters and composite units
  - Tax on withdrawal of balance under pension fund
  - Tax on local purchase of cooking oil or vegetable ghee by certain persons
  - Advance tax on functions and gatherings
  - Advance tax on cable operators and other electronic media
  - Advance tax on dealers, commission agents and arhatis etc.
  - Advance tax on insurance premium
  - Advance tax on tobacco

- Tax deducted on payment to a resident person for use or right to use industrial, commercial and scientific equipment is proposed to be made minimum tax.

- Rates on capital gains form disposal on securities have been proposed to be reduced.

- Advance tax on import is proposed to 1%, 2% and 5.5 % on goods specified in Part 1, Part II and Part III respectively of newly introduced Twelfth Schedule.

- Rate of tax on dividend is proposed to be 25% in case of dividend is received from a company where no tax is payable by such company, due to exemption of income or carry forward of business losses or claim of tax credits.

- Rate of advance tax on bank profits in all cased would be 15% except the taxpayer furnishes a certificate to the payer of profit that during the tax year the profit is Rs. 500,000 or less. The 10% rates would be applicable only on provision of such certificate.

- Advance tax on return on investment in Sukuks is proposed to be enhanced to from 15% to 25% in cases where sukuk holder is a company.

- 3% withholding tax rate on the gross amount payable to non-resident on specified services is proposed to bring them in line with resident service providers.

- Advance tax on sale of immovable property through auction is proposed to be 5% of the gross sale price.

SALES TAX 1990

- Value of supply for registered person who is engaged in purchasing used vehicles from general public on which sales tax had already been paid at the time of import or manufacturing has been defined as the difference between sale and purchase price of the said vehicle.

- FBR has been empowered to impose restrictions on wastage of material on which input tax has been claimed in respect of the goods or class of goods.

- Similar to Section 124A of ITO, 2001 a new section has been proposed to be inserted to empower tax authorities to follow the decision in case of registered persons where a question of law has been decided notwithstanding that tax authorities have preferred an appeal against the said decision.

- The threshold of supplies by retailers for obtaining CNIC of the buyers is proposed to be increased from Rs 50,000 to 100,000.

- Concept of conducting audit proceedings through electronic means introduced.

- Prescribed fee for filing appeals has been proposed to be increased.

- The process and composition Alternate Dispute Resolution committee has been proposed to be amended to make it more taxpayer friendly. Now, the decision of ADRC, once it is conveyed by the taxpayer to the tax authorities, is binding upon the tax authorities.

- New section has been introduced to provide real-time access to information and databases to the Board by various authorities such as NADRA, FIA, provincial excise & taxation departments etc.

- The scope of section 73 is proposed to be widened to cover all registered persons to supply taxable goods to sales tax registered person excluding supplies not exceeding prescribed limits.

- Tax concessions and exemptions to Gawadar Port and Gawadar Free Zone granted through the Tax Laws Amendment Ordinance 2019 have been inserted in the Finance Bill 2020.

- Exemption allowed on import of dietetic foods intended for special medical purposes for the children suffering from Inherited Metabolic Syndrome.

- Rate of sales for Supplies as made from retail outlets as are integrated with Board's computerized system for real-time reporting of sales has been proposed to be reduced from 14% to 12%.

FEDERAL EXCISE DUTY

- Increase in the rate of FED on cigars, cheroots , and cigarillos and cigarettes from 65% to 100% of retail price; increase in the rate of FED on filter rods from Rs 0.75 to Rs 1 per filter rod.

- Levy of FED on e-liquids of electric cigarettes @ Rs 10 per ml.

- Levy of FED on caffeinated energy drinks @ 25%;

- Levy of FED @ 7.5% ad valorem in case of locally manufactured double cabin (4x4) pick-up vehicles and @ 25% in the case of imported ones.

- It has been proposed to reduce FED on cement from Rs. 2 per kg to Rs. 1.75 per kg.

- Board is empowered to fix minimum production on the basis of single or more inputs and for fixation of wastage;

- The scope of seizure of non-duty paid goods is extended to all products subject to FED besides cigarettes and beverages;
- Prescribed fee for filing appeals has been proposed to be increased.
- The process and composition Alternate Dispute Resolution committee has been proposed to be amended to make it more taxpayer friendly. Now, the decision of ADRC, once it is conveyed by the taxpayer to the tax authorities, is binding upon the tax authorities.
- New section has been introduced to provide real-time access to information and databases to the Board by various authorities such as NADRA, FIA, provincial excise & taxation departments etc.

CUSTOMS ACT, 1969

- Exemption of additional custom duties on those tariff lines which are now @ 0% customs duty in tariff.
- Reduction of custom duty on 40 raw materials of various industries.
- Tariff rationalization under National Tariff Policy 2019, by reducing customs duty on 90 tariff lines from 11% to 3% and 0%.
- Exemption from customs duties on import of 61 COVID19 related items, which was due to expire on 20th June has been extended due to the continuation of pandemic.
- Exemption from 2% ACD on import of edible oils and oil seeds under PM's COVID19 Relief Package has been extended.
- Exemption of duties & taxes on import of Dietetic Foods for Children with inherited metabolic disorders.
- Exemption of all duties & taxes on import of Diagnostic Kits for Cancer and Corona Virus.
- Extension up to 2023, in exemption of customs duties on imports for setting up new industries in erstwhile FATA area.
- Regulatory duty on several industrial inputs proposed to be reduced to decrease their cost of doing business
- Tariff protection for domestic industry by increasing/levy of regulatory duty on import of those items which are also locally manufactured
- Enhancing scope of concessions available to Special Economic Zones

SIGNIFICANT AMENDMENTS INCOME TAX

GENERAL

Definitions **Section 2**

The bill seeks to insert definition of the following terms in section2 of the Income Tax Ordinance, 2001.

Integrated Enterprise

"integrated enterprise means a person integrated with the Board through approved fiscal electronic device and software and who fulfills obligations and requirements for integration as may be prescribed."

IRIS

"IRIS" means a web based computer programme for operation and management of Inland Revenue taxes administered by the Board."

Local Government

"Local Government" shall have the same meaning for respective provisions and Islamabad Capital Territory as contained in the Baluchistan Local Government Act, 2010 (V of 2010), the Khyber Pakhtunkhwa Local Government Act, 2013 (XXVIII of 2013), the Sindh Local Government Act, 2013 (XLII of 2013), the Islamabad Capital Territory Local Government Act, 2015 (X of 2015) and the Punjab Local Government Act, 2019 (XIII of 2019)."

Tax on shipping income of a resident person: **Section 7A**

Currently resident ship owners are under presumptive tax regime and required to pay tax at the rates provided under clause a and b of sub-section 1 of section 7A. The bill seeks to insert new clause (c) and create a new category to charge tax on a Pakistan resident ship owning company registered with SECP after 15th November 2019 and having its own sea worthy vessel to pay tonnage tax of an amount equivalent to seventy-five US Cents per ton of gross registered tonnage per annum.

The bill further seeks to extend applicability of presumptive tax regime on shipping of a resident person from 30th June 2020 to 30th June 2023.

Deductions in computing income chargeable under the head "Income from Property" **Section 15A**

The bill seeks to reduce the threshold for expenditure allowed including administrative and collection charges against Income from Property from 6% to 2% of the annual rent chargeable to tax.

Sub-section (7) was inserted through Finance Act, 2019 whereby individuals and AOPs deriving income from property exceeding Rs. 4 million were allowed to opt taxation under normal tax regime. Now the bill seeks to remove the condition of Rs. 4 million and any individual and AOP can opt for taxation under normal tax regime.

Deductions not allowed **Section 21**

Currently as per section 21 (l), where total expenditure exceeds Rs.50,000 in an account head then all expenditure must be paid through cross banking instrument except for a single transaction that does not exceed Rs.10,000. Now the bill proposes to enhance the threshold for deduction for cash payment from Rs.50,000 to Rs. 250,000 and single transaction limit from Rs. 10,000 to 25,000.

Currently any salary paid or payable exceeding Rs. 15,000 per month is required to be paid by a crossed Cheque or through direct transfer to the employee's account otherwise such expense will be disallowed. The bill seeks to enhance this limit from Rs. 15,000 to Rs. 25,000.

The bill seeks to insert new clause (p) to disallow expenditure on account of utility bill in excess of such limits and in violation of such conditions as may be prescribed.

The bill further seeks to insert a new clause (q) to limit the allowed expenditure for an industrial undertaking attributable to sales made to persons required to be registered but unregistered under the Sales Tax Act, 1990. The disallowance of expenditure to be computed according to following formula:

(A/B) x C

Where-

A is the total amount of deductions claimed under this Part;
B is the turnover for the tax year; and
C is the total amount of sales exclusive of sales tax and federal excise duty to persons required to be registered but not registered under the Sales Tax Act, 1990 where sales equal or exceed rupees one hundred million per person:

Provided that disallowance of expenditure under this clause shall not exceed twenty percent of total deductions claimed under this Part.

Depreciation **Section 22(2)**

Currently, full years' depreciation is allowed as deduction in the year when depreciable asset is used in the person's business for the first time while no depreciation is allowed in the year of disposal.

The bill proposes to amend this method for depreciable assets acquired or put into business use for the first time in a tax year after the 1st day of July, 2020, whereby depreciation deduction is to be reduced by fifty percent (50%) in the year of acquisition/ put into business use and fifty percent (50%) od depreciation would be allowed in the year of disposal.

This amendment is particularly going to impact oil & gas sector companies who claim 100% depreciation on below ground installations.

Profit on debt, financial costs and lease payments **Section 28**

Currently as per section 28(1)(b), any lease rental incurred by a person in a tax year for an asset used by the Person for the purpose of business is allowed as deduction against business income. Now the bill seeks to insert new proviso to limit the cost of transport vehicle to the extent of two and a half million rupees for claim of lease rental to be allowable deduction against business income.

Tax credit for enlistment **Section 65C**

Presently where a taxpayer being a company opts for enlistment in any registered stock exchange in Pakistan, a tax credit equal to 20% of the tax payable is allowed for the tax year in which the said company is enlisted and for the following three years.

The bill seeks to restrict tax credit for enlistment and tax credit is available only if such company opts for enlistment on or before 30th day of June, 2022.

Unexplained income or assets **Section 111**

Presently, Section 111 provides that where a person offers no explanation about the nature and source of the amount credited or the investment, money, valuable article, or funds from which the expenditure was made, suppression of any production, sales, any amount chargeable to tax and of any item of receipt liable to tax or the explanation offered by the person is not, in the Commissioner's opinion, satisfactory, the amount credited, value of the investment, money, value of the article, or amount of expenditure suppressed amount of production, sales or any amount chargeable to tax or of any item of receipt liable to tax shall be included in the person's income chargeable to tax under head "Income from Other Sources" to the extent it is not adequately explained

The bill proposes to bifurcates the above into two categories and now the unexplained amount credited, value of the investment, money, value of the article, or amount of expenditure shall be included in the person's income chargeable to tax under the head "Income from Other Sources" while unexplained suppressed amount of production, sales or any amount chargeable to tax or of any item of receipt liable to tax to be included in person's income chargeable to tax under the head "Income from Business" instead of "Income from other sources" to the extent it is not adequately explained.

NON-PROFIT ORGANIZATIONS/ DEVELOPMENT SECTOR/ DONATIONS

Non-Profit Organizations
Definition & Tax Credit **Section 2 (36) & 100C**

The bill seeks to amend clause (a) by substituting the expression "development purposes" with "purposes for general public".

Sub-section (1) of section 100C prescribes that income of Non-profit organizations, trusts or welfare institutions shall be allowed a tax credit equal to 100% of the tax payable subject to certain conditions.

The bill proposes to add a new condition through insertion of a clause (g) that a statement of voluntary contributions and donations received in the immediately preceding tax year which has been filed in the prescribed form and manner.

Further, currently surplus funds of non-profit organization as defined in the Ordinance are taxed at a rate of ten percent. The bill seeks to tax the surplus funds of trusts & welfare organizations as well.

Further, currently the "Surplus funds" do not include "restricted funds" received from the donor irrespective that the donor is associate or otherwise. The bill now seeks to amend the explanation of restricted funds and now the funds received from associate of the organization are not to be treated as part of "restricted fund". Accordingly, any funds received from associates and not spent during the year would be considered as "surplus" even if they are "restricted funds" under general accounting terms. This would lead to further tax complications for non-profit organizations particularly International non-profit organizations receiving funds from their international associated entities. This may also impact local non-profit organizations who receive substantial funds from their associated business entities.

It is interesting to note that a number of changes have been proposed by the Finance bill in section 100C, section 61 and clause 61, Part 1, Second Schedule to Income Tax Ordinance, 2001 which discourage the business community to do charitable work through their associated non-profit organizations.

Charitable donations **Section 61**

A tax credit is allowed in respect of any sum paid, or any property given by the person in the tax year as a donation to any board of education or any university in Pakistan established by, or under, a Federal or a Provincial law, any educational institution, hospital or relief fund established or run in Pakistan by Federal Government or a Provincial Government or Local Government, or any non-profit organization. The credit is restricted to 30% of taxable income in case of individual and AOP and 20% of the taxable income in case of donation is given by company.

The bill seeks to reduce the tax credit in respect of donations given to an associate by the donor. Such tax credit is proposed to be restricted to:

(i) 15% of the taxable income for the year in case of an individual or AOP; or
(ii) 10% of the taxable income for the year in case of a company

Clause 61, Part I, Second Schedule

If donation is paid to approved non-profit organization, tax credit is available under section 61 of Income Tax Ordinance, 2001 however if donation is paid to non-profit organization listed in clause 61, part I, Second Schedule than straight deduction from income is allowed to the donor.

Section 61 provides tax credit only if the donation is made through crossed banking instrument however for donations made to entities listed in clause 61, part I, Second Schedule, the donations are allowed to be made in cash. Now it is proposed that the donations under clause 61 shall only be allowed as deduction if the donations are made through crossed banking instrument.

The bill also seeks to add proviso to clause 61 for the restricting deductions from income on account of donation to 10% and 15% of taxable income for individual and company respectively if donation is received from associate

The bill also seeks to add the following serial numbers under clause 61:

(lvii) The Prime Minister's COVID-19 Pandemic Relief Fund-2020
(lviii) Ghulam Ishaq Khan Institute of Engineering Sciences and Technology (GIKI)
(lvxi) Lahore University of Management Sciences
(lvxii) Dawat-e-Hadiya, Karachi
(lvxiii) Baitussalam Welfare Trust
(lvxiv) Patients' Aid Foundation
(lvxv) Alkhidmat Foundation

Clause 66, Part I, Second Schedule

The Finance bill seeks to distribute name of institution, foundation, societies, Board, Trust fund and fund in two tables for exemption under clause 61 of part I of the Second Schedule.

Income of institution, foundation, societies, Board, Trust fund and fund listed in **TABLE-I** can claim exemption with no condition.

Income of institution, foundation, societies, Board, Trust fund and fund listed in **TABLE-II** can claim exemption subject to fulfillment of conditions specified in Section 100C provided that exemption criteria of fulfilling the conditions specified in section 100C is effective from July 1, 2021. Tables are given at the end as ***Annex-B***

REAL ESTATE, CONSTRUCTION, BUILDERS, DEVELOPERS

Capital Gain **Section 37 (3A)**

The bill seeks to omit separate holding periods for taxation of gain on disposal of open plots and constructed property. The proposed amendments provide for taxation of gain on sale of immovable property at the tax rates provided in First Schedule as follows:

Sr. #	Holding period	Gain represented by "A"
1	Where the holding period of an immoveable property does not exceed one year	A
2	Where the holding period of an immoveable property exceeds one year but does not exceed two years	A x ¾
3	Where the holding period of an immoveable property exceeds two years but does not exceed three years	A x ½
4	Where the holding period of an immoveable property exceeds three years but does not exceed four years	A x ¼
5	Where the holding period of an immoveable property exceeds four years	0

The impact of proposed change is that the gain on sale of immovable property is fully taxable if holding period is up to one year however if holding period is more than one year but up to 2 years then 25% of such gain is exempt and where holding period exceeds 02 years but up to 03 years then 50 of such gain is exempt and where holding period exceeds 03 years but up to 04 years then 75% of such gain is exempt while the holding period exceeds 04 years then 100% of such gain is exempt from tax.

The bill proposes following rates for taxation on capital Gains on disposal of Immovable Property by amending division VIII of Part 1 of First Schedule

S.No.	Amount of Gain	Rate of Tax
(1)	(2)	(3)
1.	Where the gain does not exceed Rs. 5 million	2.5%
2.	Where the gain exceeds Rs. 5 million but does not exceed Rs. 10 million	5%
3.	Where the gain exceeds Rs. 10 million but does not exceed Rs. 15 million	7.5%
4.	Where the gain exceeds Rs. 15 million	10%

Advance tax on Sale of Immovable Property **Section 236C**

Corresponding amendment is proposed in section 236 to reduce holding period from five to four years for collection of tax at the time of sale of immovable property.

Tax Incentive Package

The tax incentive package announced in April 2020 for revival of construction sector through a Ordinance is now made part of the Finance Bill, 2020 for approval by the Parliament as required by the Constitution. While there are no significant changes from the amendments brought earlier, it would be appropriate to present those changes again in a consolidated document.

Capital Value Tax

This is not part of Income Tax Ordinance, 2001 but as part of tax incentive package it is important to identify here that Capital Value Tax has been abolished and no more applicable in Islamabad Capital Territory.

Definition of industrial undertaking **Section 2(29C)**

Section 2(29C) has been amended to revise definition of the "Industrial Undertaking" by adding following new clause.

> *"(aa) from the 1st day of May, 2020, a person directly involved in the construction of buildings, roads, bridges and other such structures or the development of land, to the extent and for the purpose of import of plant and machinery to be utilized in such activity, subject to such conditions as may be notified by the Board."*

This means that from Ist May 2020, status of construction sector has been made as Industry and various benefits and tax credits available to other industrial units at the time of import of plant and machinery under the provision of Income Tax Ordinance, 2001 would also be available to construction sector.

Special provisions relating to builders and developers **Section 100D**

A new section has been introduced in the Income Tax Ordinance, 2001 whereby for Tax Year 2020 and onward, Builders and Developers who opts to pay tax under this section, shall be pay a **"Fixed tax"** to be calculated on square feet/ square yard basis at the rates as prescribed in Rule 10 of Eleventh Schedule to the aforesaid Ordinance. The said tax shall be calculated on a project by project basis in respect of their income from sale of building or sale of plots.

We will discuss the changes introduced through this section and Eleventh Schedule in detail.

Definitions

For the purpose of this section, following terms have been defined as follows:

(a) **"builder"** means a person who is registered as a builder with the Board and is engaged in the construction and disposal of residential or commercial buildings;

(b) **"capital investment"** means investment as equity resources and does not include borrowed funds;

(c) **"developer"** means a person who is registered as a developer with the Board and is engaged in the development of land in the form of plots of any kind either for itself or otherwise;

(d) **"existing project"** means a construction or development project, which –
(i) has commenced before the date of commencement of the Tax Laws (Amendment) Ordinance, 2020;
(ii) is incomplete;
(iii) is completed on or before the 30th day of September, 2022; and
(iv) a declaration is provided in the registration form under Eleventh Schedule to the effect of percentage of the project completed up to the last day of the accounting period pertaining to tax year 2019;

(e) **"first purchaser"** means a person who purchases a building or a unit, as the case may be, directly from the builder and does not include a subsequent or a substituted purchaser;

(f) **"new project"** means a construction or development project, which –

(i) is commenced during the period starting from the date of commencement of the Tax Laws (Amendment) Ordinance, 2020 and ending on the 31st day of December, 2020; and
(ii) is completed on or before the 30th day of September, 2022;

(g) **"project"** means a project for construction of a building with the object of disposal, or a project for development of land into plots with the object of disposal or otherwise;

Eligible projects
Two types of projects are eligible for taxation under this section.

a) a new project to be completed by the 30th day of September 2022; or
b) an incomplete existing project to be completed by the 30th day of September 2022.

Other provision relating to Computation of income

- Any income, profits and gains of a builder or developer of an incomplete existing project earned up to tax year 2019 shall be subject to the provisions of the Ordinance as were in force prior to the commencement of the Tax Laws (Amendment) Ordinance, 2020.

- Builders or developers who do not opts or who is not eligible to taxation under this section be subject to tax as per the normal provisions of the Income Tax Ordinance, 2001.

- The income chargeable under this section would be separately taxed and would be chargeable to tax under any head of income in computing the taxable income of the person.

- No deduction shall be allowed under the Ordinance for any expenditure incurred in deriving the income.

- Deductible allowance under Part IX of Chapter III shall be not allowed in order to reduce the taxable income.

- Losses shall not be allowed to set off against income chargeable to tax under this section.

- Only tax credit for tax under 236K collected from the builder or developer after the commencement of the Tax Laws (Amendment) Ordinance, 2020 on purchase of immoveable property utilized in a project, shall be allowed against the tax payable under this section.

- there shall be no refund of any tax collected or deducted under the Ordinance.

- If the tax payable has not been paid or short paid, the said amount of tax may be recovered and all the provisions of the Income Tax Ordinance, 2001 shall apply accordingly.

- Turn over tax under sections 113 and Alternate Corporate Tax under 113C shall not apply on the turnover, income, profits and gains of a builder or developer from a project.

Non-Application of Section 111 (unexplained income or assets)

Tax authorities have the powers to initiate proceedings against any person u/s 111 of ITO, 2001 to explain the source of his investment or assets however provisions of section 111 shall not apply to capital investment made in the form of money or land in new project against an investor who fulfills the following conditions:

If Investment is made by Builder or developer who are individual.

- If the investment is made in the form of money, such builder or developer shall open a new bank account and deposit such amount in it on or before the 31st day of December, 2020

- if the investment is made in the form of land, such builder or developer shall have the ownership title of the land at the time of commencement of the Tax Laws (Amendment) Ordinance, 2020;

If investment is made by a person in a project through an Association of persons or a company.

- such company or association of person shall be a single object (builder or developer) company or association of persons registered under the Companies Act, 2017 (XIX of 2017) or the Partnership Act, 1932 (IX of 1932), as the case may be, after the date of commencement of the Tax Laws (Amendment) Ordinance, 2020 and before the 31st day of December, 2020; and

- the person shall be a member or shareholder of such association of persons or company, as the case may be.

- in case of capital investment in the form of money, such amount is required to be invested through a crossed banking instrument deposited in the bank account of such association of persons or company, as the case may be, on or before the 31st day of December, 2020;

- in case of capital investment in the form of land such land is required to be transferred to such association of persons or company, as the case may be, on or before the 31st day of December, 2020. However, person should have the ownership title of the land at the time of commencement of this tax amendment Ordinance.

Other conditions

- a person making an investment as described above is required to submit a prescribed form on IRIS web portal to be able to be eligible to claim exemption from application of section 111.

- the money or land invested should be be wholly utilized in a project.

- Certification of completion of the project as per procedure described below:

  in case of a builder

  The map approving authority or NESPAK shall certify that grey structure as per the approved map has been completed by the builder on or before the 30th day of September, 2022; and

  in case of a developer

  (A) the map approving authority or NESPAK shall certify that landscaping has been completed on or before the 30th day of September, 2022;

(B) a firm of chartered accountants having an ICAP QCR rating of 'satisfactory', notified by the Board for this purpose, shall certify that at least 50% of the plots have been booked for sale and at least 40% of the sale proceeds have been received by the 30th day of September, 2022; and

(C) at least 50% of the roads have been laid up to sub-grade level as certified by the approving authority or NESPAK.

Non-Application of Section 111 to buyer of building and plots
Amnesty has also been proposed to be provided to buyers of buildings and plots subject to certain conditions as discussed below:

Purchaser of a building or a unit of the building
First purchaser of building or a unit of building from the builder will be exempt from application of section 111 in respect of purchase price of the building or unit of the building if

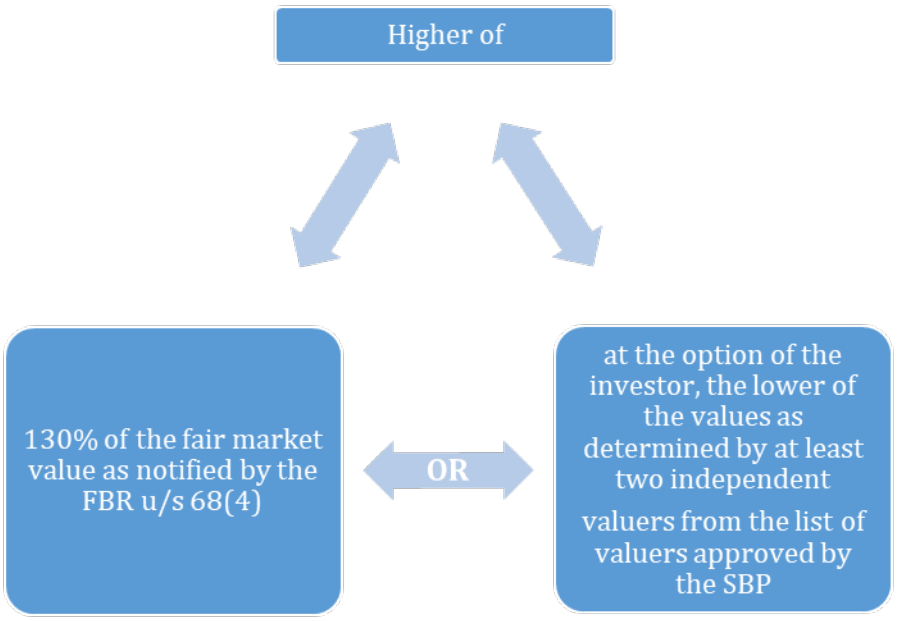
- In case of purchase is from a new project, he made full payment through a crossed banking instrument to be builder during a period starting from the date of registration of the project with the Board under this section and ending on the 30th day of September, 2022

- in case the purchase is from an existing incomplete project, he made full or balance payment through a crossed banking instrument to be builder during a period starting from the date of registration of the project with the Board under this section and ending on the 30th day of September, 2022

Purchaser of a plot
Purchaser of a plot who intends to construct a building on the said plot is also eligible for exemption from application of 111 in respect of such purchase of plot if

- Purchase is made on or before Dec 31, 2020
- Full payment is made through crossed banking instrument on or before Dec 31, 2020
- Construction is commenced on or before Dec 31, 2020
- Construction is completed on or before Sep 30, 2022
- The person registers himself with FBR via IRIS portal

Value or price of land or building
The value or price of land or building, invested or purchased, in all above scenarios where exemption from section 111 is sought by investor shall be



Non eligibility of immunity under Section 111
Following persons are not eligible to immunity as granted in the form of non-application of Section 111 on investment as discussed above;

- Holder of any Public Office [as defined in the Voluntary Declaration of Domestic Asset Act 2018 or his benamidar as defined in the Benami Transactions (Prohibition) Act, 2017 or his spouse or dependents;
- A public listed company, a real estate investment trust or a company whose income is exempt under any provision of the Ordinance
- Any proceeds derived from the commission of a criminal offence including the crimes of money laundering, extortion or terror financing but excluding the offences under the Ordinance

Dividend income
Dividend income paid to a person by a builder or developer being a company out of the profits and gains derived from a project shall be exempt from tax.

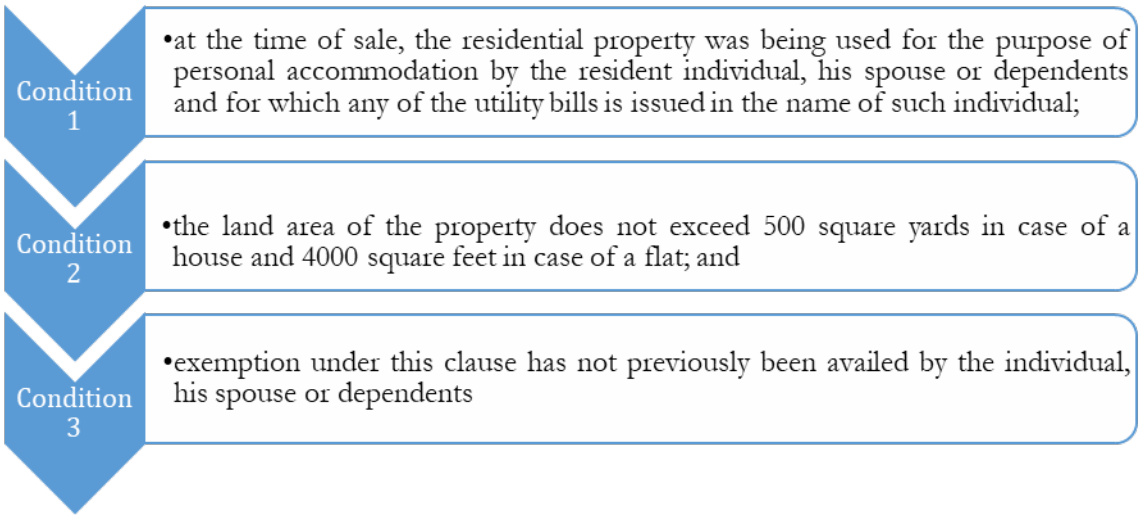
Misrepresentation or suppression of facts
Any return or declaration made through misrepresentation or suppression of facts, other than a bona fide mistake, shall be void and all the provisions of the Ordinance shall apply.

Reduction in tax rate for sale through auction.
Division VIII, Part IV of First Schedule have been amended whereby, rate of advance tax under 236A has been reduced from the existing 10% to 5% of the gross sale price in case of immovable properties sold through auction

CLAUSE 114AA

Part I, Second Schedule
The Finance bill seeks to insert new clause (114AA) for exemption of income chargeable under the head capital gain by resident individual from the sale of constructed residential property.

Provided that exemption shall only apply if following conditions are fulfilled;



CLAUSE 9B
Part III, Second Schedule [Reduction In Tax Liability]
A new clause has been inserted in Part III of Second Schedule to the ITO, 2001 whereby the tax payable, on income from low cost housing project's developed or approved by NAPHDA or under Ehsaas Program will be reduced by 90% (i.e. exemption up to 90%).

Eleventh Schedule
A new schedule to the Income Tax Ordinance, 2001 has been introduced for prescribing rules for computation of profits and gains of builders and developers and tax payable under section 100D.

Scope and payment of tax **Rule 2**

- Income computed and tax payable thereon shall be on Project-by-Project basis which shall be computed and paid at the rates provided in rule 10.

- The annual tax liability for a project shall be worked out as per given formula:

$$\frac{\text{Tax liability as per the rates in rule 10}}{\text{Estimated project life in years}}$$

- Estimated project life for tax purposes shall not exceed two and a half years. However, for existing projects the estimated project life shall be treated as three years from tax year 2020 through tax year 2022.
- Tax payable in respect of existing incomplete projects will be reduced by the percentage of completion up to the last day of the accounting period pertaining to tax year 2019 as declared in the registration form to be filed with FBR.

- The tax liability so calculated and paid shall be final tax

Registration and filing of return **Rule 3**

- Registration of a project is required by builder or developer via IRIS with FBR by Dec 31, 2020.
- Two separate registration forms are required to be filed in case the developer is also a builder for the project.
- Details of shareholder or member is also required to be given by builder or developer.
- Opting for the project to be assessed under this regime shall be irrevocable

Certification **Rule 4**

- Certification is required from every builder or developer from approving authority or map approving authority or NESPAK (i.e. National Engineering Services Pakistan) and same would be provided to FBR. Certification should covered the following:

Area	Measurement
Total land area	Sq. Yds.
Covered area	Sq. Ft.
Saleable area	Sq. Ft.

Type (Commercial, residential or industrial) of saleable area or the total land area

ADVANCE TAX **Rule 5**

Tax shall be paid in advance in four equal instalments in the manner laid down in section 147 of the Ordinance. It may kindly be noted that eligibility to pay advance tax will be determined under section 100D read with rules in 11th Schedule. Only procedure laid down in section 147 will be adopted. Further it may also be noted that three quarter have already been lapsed so it appears that only latest quarter (i.e. June) is under consideration for TY 2020 however practically the requirement to pay advance tax in four installments start from TY 2021.

Incorporation of profits and gains for computation of income **Rule 6**

- Builders and Developers who opts for taxation under section 100D shall not be allowed to incorporate their profits and gains in books of accounts (including wealth statements as the case may be) exceeding ten times of the amount of tax paid under this regime.

Exemption from withholding of tax **Rule 7**

- Withholding tax provisions of section 153 on building material other than steel and cement and on services of plumbing, electrification, shuttering and other similar and allied services other than those provided by companies shall be not be applicable.

- The provisions of section 150 shall not apply to payment of dividend that is exempt under section 100D.

Restriction on change in pattern of ownership of a builder or developer before completion of a project. **Rule 8**

- Where immunity from section 111 is claimed in respect of capital investment made by an individual or a person through a Company or AOP, the following restrictions shall apply

  - A shareholder or a partner in a developer shall not be allowed to change ownership of an incomplete project except where at least fifty percent of total project cost, as certified by ICAP

QCR rated firm of chartered accountants notified by the Board, has been incurred till the date of change of ownership

- The succession to legal heirs in case of deceased shareholder or a partner shall be allowed.

- The additional partners or shareholders in a developer after the thirty first of December, 2020 may join but additional partners or shareholders shall not be eligible for exemption provided under sub-section (4) of section 100D.

Definition **Rule 9**

(a) "**area**" means

(i) in case of a builder, –

(a) in case of a commercial or a residential building excluding a house, the saleable area of the building; and

(b) in case of a house, the covered area of house;

(ii) in case of a developer, the total land area of the project;

(b) "**building**" means a residential or commercial building or unit thereof;

(c) "**commercial building**" includes any building or part thereof which is to be used for commercial purposes in accordance with the relevant laws;

(d) "**commencement of project**" means,–

(i) in case of a construction project, when layout plan is approved by the concerned authority; and

(ii) in case of a development project, when the development plan is approved by the concerned authority:

Provided that where the builder or developer has taken all actions and done all things which are required and necessary to procure any approvals but any such approval is delayed beyond a period of 30 days from date of relevant application and the cutoff date of 31st day of December, 2020 is not adhered to by the builder or developer, the Board may provisionally accept commencement of such project on a case to case basis;

(e) **"completion of project"** means. –

(i) in the case of a builder, the date on which the grey structure is completed:

(ii) in the case of a developer, the date on which –

(A) at least 50% of the total plots have been booked in name of buyers;

(B) at least 40% of the sale proceeds have been received;

(C) landscaping has been completed; and

(D) at least 50% of the roads have been laid up to sub-grade level as certified by the approving authority or NESPAK;

Provided that such grey structure shall only be considered as completed when the roof of the top floor has been laid as per the approved plan;

(f) **'low cost housing'** means a housing scheme as developed or approved by NAPHDA or under the 'Ehsaas Programme';

(g) "**NAPHDA**" means Naya Pakistan Housing and Development Authority;

(h) "**NESPAK**" means National Engineering Services Pakistan (Private) Limited;

(i) "**residential building**" means a building which is not a commercial building but does not include buildings used for industrial purposes;

(j) "**saleable area**" in case of buildings, means saleable area as determined by the approving authority or map approving authority or NESPAK under the relevant laws;

(k) "**unit**" means a self-contained or independent building or part thereof including houses, apartments, shops, offices, etc.

Rate and computation of tax liability **Rule 10**
The rate of tax under section 100D shall be computed in accordance with the Table below

	Rate in respect of		
A	**B**	**C**	**D**
Area	**Karachi, Lahore & Islamabad**	**Hyderabad, Sukkur, Multan, Faisalabad, Rawalpindi, Gujranwala, Sahiwal, Peshawar, Mardan, Abbottabad, Quetta**	**Urban Area not specified in Col. B & C**
TAX ON BUILDERS FOR COMMERCIAL BUILDING			
Area in Sq. Ft.	**Rate per Sq. Ft.**		
Any Size	Rs. 250	Rs. 230	Rs. 210
FOR RESIDENTIAL BUIDLING			
Area in Sq. Ft.	**Rate per Sq. Ft.**		
Up to 3000	Rs. 80	Rs. 65	Rs. 50
3000 and above	Rs. 125	Rs. 110	Rs. 100
TAX ON DEVELOPERS FOR ENTIRE PROJECT			
Area in Sq. Yd.	**Rate per Sq. Yd.**		
Any Size	Rs. 150	Rs. 130	Rs. 100
FOR DEVELOPMENT OF INDUSTRIAL AREA			
Area in Sq. Yd.	**Rate per Sq. Yd.**		
Any Size	Rs. 20	Rs. 20	Rs. 10

- In case of mixed use of buildings having both commercial and residential areas, respective rates mentioned above in each section shall apply.

- In case of development of plots and constructing buildings on the same plots as one project, both rates shall apply. It means that first tax will be calculated by applying development rates on land are in Sq. Yd. rates, and thereafter the tax will be computed as per covered area of building on foregoing plot.

- In the case of 'low cost housing' and all projects developed by NAPHDA, the higher rates shall apply.

NON-RESIDENT PERSONS, PE AND FOREIGN-CONTROLLED RESIDENT COMPANY

Restriction on deduction of profit on debt payable to associated enterprise **Section 106A**

This bill proposes to insert new section to restrict deduction on profit on debt payable to associated enterprise to 15% in case of foreign controlled resident company as per following formula:
[B] – [(A+B) x 0.15]

Where-
A is the taxable income before depreciation and amortization; and

B is the foreign profit on debt claimed as deduction
This section shall apply where total profit on debt claimed as deduction exceeds ten million rupees for a tax year. The unadjusted amount of foreign profit on debt shall be carried forward in the following tax year and so on for three tax years.

Date of application of this section in respect of foreign profit on debt accrued with effect from the first day of July, 2020 even if debts were contracted before the first day of July, 2020.

Foreign-controlled resident company has been defined as a resident company in which fifty per cent or more of the underlying ownership of the company is held by a non-resident person either alone or together with an associate or associates;

Foreign profit on debt has been defined as interest paid or payable to non-resident person or an associate of the foreign-controlled resident company and includes.

- interest on all forms of debt;
- payments made which are economically equivalent to interest;
- expenses incurred in connection with the raising of finance;
- payments under profit participating loans;
- imputed interest on instruments such as convertible bonds and zero coupon bonds;
- amounts under alternative financing arrangements such as islamic finance;
- the finance cost element of finance lease payments;
- capitalized interest included in the balance sheet value of related asset, or the amortisation of capitalised interest;
- amounts measured by reference to a funding return under transfer pricing rules;
- where applicable, notional interest amounts under derivative instruments or hedging arrangements related to an entity's borrowings;
- certain foreign exchange gains and losses on borrowings and instruments connected with the raising of finance;
- guarantee fees with respect to financing arrangements; and
- arrangement fee and similar cost related to the borrowing funds.

Spontaneous exchange of information **Section 107**

The bill seeks to incorporate spontaneous exchange of information as an international obligation for Federal Government to enter into an agreement with other government.

Minimum tax application on PE of a non-resident **Section 113**

The bill seeks to extend the scope of minimum tax under section 113 to permanent establishment of a non-resident company.

Payment for advertisement services **Section 152(1AAA)**

Tax deducted at the of payment for advertisement services to a non-resident media person relaying from outside Pakistan is proposed to be made minimum tax.

Payment to Permanent Establishment (PE) of a non-resident **Section 152**

The bill proposes to change the taxation regime of PE of a non-resident person from normal taxation to minimum taxation except sale of goods by a company being a manufacturer of such goods as is in the case of resident person.

Cohesive business operation **Section 152(4B)**

Currently, in case of payment that constitutes part of an overall arrangement of a cohesive business operation the Commissioner is empowered to allow on an application made by the person making the payment to make payment after deduction of tax equal to thirty percent of the tax chargeable on such payment.

The bill proposes to reduce the limit of 30% to 20%.

PAYMENTS TO NON-RESIDENTS **DIVISION-II [SECTION 152]**

The Bill proposes to amend division II of Part-II of First Schedule to provide a level playing field for permanent establishment (PE) of non-residents viz-a-viz resident taxpayers by reducing withholding rate from 8%/10% to 3% of the gross amount payable on account of payment for following certain services:

- transport services,
- freight forwarding services,
- air cargo services,
- courier services,
- manpower outsourcing services,
- hotel services,
- security guard services,
- software development services,
- IT services and IT enabled services as defined in clause (133) of Part I of the Second Schedule,
- tracking services,
- advertising services (other than by print or electronic media),
- share registrar services,
- car rental services,
- building maintenance services,
- services rendered by Pakistan Stock Exchange Limited and Pakistan Mercantile Exchange Limited
- inspection and certification,
- testing and training services

ADVANCE TAX & WITHHOLDING TAX PROVISIONS

Advance tax **Section 147**

The bill proposed to add a new provision wherein the Board may prescribe the procedure for filing and calculation turnover for the quarter through an automated system.

This may lead to differences of calculation of turnover by the taxpayers and the automated system.

Imports **Section 148**

A paradigm shift has been proposed to be implemented in case of advance tax on imports whereby focus has been shifted from person specific rates of taxation to goods specific rates. The bill proposes to make following changes in this section:

A new Twelfth Schedule has been introduced containing three parts. Rates currently given in the Part II of the First Schedule has been proposed to be substituted with new rates in respect to goods falling in Part I, II and III respectively of the Twelfth Schedule.

Further, the bill proposes that the tax collected shall not be minimum tax in case goods on which tax is required to be collected under this section at the rate of 1% or 2% by an industrial undertaking for its own use. All other cases of minimum tax as specified under sub sections 7, 8 and 8A of section 148 have been proposed to be omitted.

Currently, Value of goods means value of the goods as determined under the Customs Act, 1969 (IV of 1969), as if the goods were subject to ad valorem duty increased by the customs-duty, federal excise duty and sales tax, if any, payable in respect of the import of the goods. The current definition is proposed to continue except for goods chargeable to tax at retail price under the Third Schedule of the Sales Tax Act, 1990.

The bill proposes that value of goods in case of goods chargeable to tax at retail price under the Third Schedule of the Sales Tax Act, 1990, shall mean the retail price of such goods increased by sales tax payable in respect of the import and taxable supply of the goods.

The rate of advance tax to be collected by the Collector of Customs under section 148 have proposed as follows:

RATES OF ADVANCE TAX

[Division II of Part V of Chapter X]

S. No.	Persons	Rate
(1)	(2)	(3)
1.	Persons importing goods classified in Part I of the Twelfth Schedule	1% of the import value as increased by customs-duty, sales tax and federal excise duty
2.	Persons importing goods classified in Part II of the Twelfth Schedule	2% of the import value as increased by customs-duty, sales tax and federal excise duty
3.	Persons importing goods classified in Part III of the Twelfth Schedule	5.5% of the import value as increased by customs-duty, sales tax and federal excise duty”;

Sseparate tax rate are proposed for the following:

- manufacturers covered under rescinded SRO 1125(I)/2011 dated 31 December 2011 as it stood on 28 June 2019 shall be taxed at 1%
- persons importing finished pharmaceutical products not manufactured otherwise in Pakistan shall be taxed at 4%; and
- persons importing mobile phone in CBU and CKD/SKD condition shall be taxed at the rates in the following table .

C & F Value of mobile phone (US Dollar)	Tax (Rs.)	
	In CBU condition PCT Heading 8517.1219	In CKD/SKD condition under PCT Heading 8517.1211
Up to 30 except smart phones	70	0
Exceeding 30 and up to 100 and smart phones up to 100	100	0
Exceeding 100 and up to 200	930	0
Exceeding 200 and up to 350	970	0
Exceeding 350 and up to 500	3,000	5,000
Exceeding 500	5,200	11,500

Clause 56, Part IV, Second Schedule

The proposed amendment appears to replace SRO 947 dated September 05, 2008 by making amendment to clause (56), Part IV, Second Schedule. The proposed new sub-clauses are highlighted in green after sub-clause (v)

i) Goods classified under Pakistan Customs Tariff falling under Chapter 86 and 99 except PCT Heading 9918

(ia) Petroleum oils and oils obtained from bituminous minerals crude (PCT Code 2709.0000), Furnace-oil (PCT Code 2710.1941), High speed diesel oil (PCT) Code 2710.1931), Motor spirit (PCT Code 2710.1210), J.P.1 (PCT Code 2710.1912), base oil for lubricating oil (PCT Code 2710.1993), Light diesel oil (PCT Code 2710.1921) and Super Kerosene Oil imported **by** Pakistan State Oil Company Limited, Shell Pakistan Limited, Attock Petroleum Limited, Byco Petroleum Pakistan Limited, Admore Gas Private Limited, Chevron Pakistan Limited, Total-PARCO Pakistan(Private) Limited, Hascol Petroleum Limited, [Barki Energy (Private) Limited], Gas and Oil Pakistan (Pvt.) Ltd [or any other oil marketing company licensed by Oil and Gas Regulatory Authority (OGRA)] and oil refineries.

ii) Goods imported by direct and indirect exporters covered under sub-chapter 7 of Chapter XII of SRO 450(I)/2001 dated June 18, 2001;

iii) Goods temporarily imported into Pakistan for subsequent exportation and which are exempt from customs duty and sales tax under Notification No.492(I)/2009, dated the 13th June, 2009

iv) Manufacturing Bond as prescribed under Chapter XV of Customs Rules, 2001 notified vide S.R.O. 450(I)/2001, dated June 18, 2001

v) Mineral oil imported by a manufacturer or formulator of pesticides which is exempt from customs-duties under the customs Notification No. S.R.O. 857(I)/2008, dated the 16th August, 2008

vi) The Federal Government

vii) A Provincial Government

viii) A Local Government

ix) **a foreign company and its associations whose majority share capital is held by a foreign government**
x) **a person who imports plant and machinery for execution of a contract with the Federal Government or a provincial government or a local government and produces a certificate from that government**
xi) **companies importing high speed diesel oil, light diesel oil, high octane blending component or kerosene oil, crude oil for refining and chemical used in refining thereof in respect of such imports; and**
xii) **companies importing high speed diesel oil, light diesel oil, high octane blending component or kerosene oil, crude oil for refining and chemical used in refining thereof in respect of such imports vehicles imported by such companies**

Tax on local purchase of cooking oil or vegetable ghee by certain persons **Section 148A**

Currently the manufacturers of cooking oil or vegetable ghee, or both are chargeable to tax at the rate of two percent on purchase of locally produced edible oil being the final tax in respect of income accruing from locally produced edible oil.

The bill proposes to omit the section 148A. The manufacturers of cooking oil or vegetable ghee, or both shall accordingly fall under normal tax regime.

Payments for supplies, services & Contracts **Section 153**

Payment for Toll manufacturing **Section 153(1)**

Presently, toll manufacturer is considered as service provider and is subject to withholding of tax under section 153(1)(b) of the Ordinance, 2001. The Bill proposes to classify payment to 'toll manufacturer' as sale of goods and subject to withholding of tax under section 153(1)(a) of the Ordinance.

Issuance of exemption certificate **Section 153(4)**

A new proviso has been inserted in the said section, whereby an expeditious procedure for issuance of certificate for non-deduction of withholding tax u/s 153 to a public company listed on registered stock exchange in Pakistan is proposed. The Commissioner are obliged to issue an exemption certificate within 15 days of filing of application if advance tax liability has been discharged. If the commissioner fails to issue the exemption certificate within the time as stipulated above the exemption will be granted automatically on the IRIS. However, the Commissioner can withdraw the exemption on the basis of appropriated reason after providing proper opportunity of being heard to taxpayer.

Prescribed person for tax withholding purposes **Section 153(7)**

Currently, the threshold of turnover of Rs. 50 million or more has been prescribed for an individual and AOP for becoming a prescribed person and accordingly act as withholding agent under the Ordinance. Further, sales tax registered persons are currently considered as prescribed person without any limit and condition.

In order to ease burden and cost of compliance of small business, this threshold has been proposed to be increased from Rs. 50 million to Rs. 100 million. Further, only those sales tax registered person have been proposed to act as withholding agent who earns turnover of one hundred million rupees or more in any of the preceding tax years.

Clause 46AA, Part IV, Second Schedule

The proposed amendment apparently seeks to replace SRO 586 dated June 30, 1990 and replace it with a new clause (46AA) to exempt various persons from the provisions of section 153 in respect of payments made for sale of goods and rendering services. The persons are listed below:

- A Provincial Government
- A Local Authority
- Persons who are residents of Azad Kashmir and execute contracts in Azad Kashmir only and produce a certificate to this effect from the concerned income tax authority
- Persons receiving payments from a company or an association of persons having turnover of fifty million rupees or more or from an individual having turnover of fifty million rupees or more exclusively for the supply of agriculture produce including fresh milk, fish by any person engaged in fish farming, live chicken, birds and eggs by any person engaged in poultry farming and by an industrial undertaking engaged in poultry processing which has not been subjected to any process other than that which is ordinarily performed to render such produce fit to be taken to market
- Person engaged in fish farming, live chicken, birds and eggs by any person engaged in poultry farming and by an industrial undertaking engaged in poultry processing which has not been subjected to any process other than that which is ordinarily performed to render such produce fit to be taken to market
- Companies receiving payments for the supply of crude oil
- Hotels and restaurants receiving payments in cash for providing accommodation or food or both, as the case may be and
- Shipping companies and air carriers receiving payments for the supply of passenger tickets and for the cargo charges of goods transported

It is pertinent to note that the limit of Rs.50 million has been increased to Rs.100 million for individual & Association of Persons as prescribed withholding agent however the aforementioned proposed clause 46AA still contains the limit of Rs.50 million which need to be modified.

Withdrawal of balance under Pension Fund **Section 156B**

Section 156B has been proposed to be omitted by the bill however a proviso to clause 23A, Part I, Second Schedule is proposed to be inserted requiring pension fund manager to act as a withholding agent.

Exemption or lower rate certificate **Section 159**

The proposed change provides for prescribed form for the purpose of filing of exemption application under sub-section (1) & (2) of section 159.

Withholding Statements **Section 165**

Amendment has been proposed to be made in clause (a), (b) and (c) of the section 165(1) whereby every person deducting/collecting tax shall be required to file a Quarterly statement instead of Biannual.

A sub section (1A) has been proposed to be inserted whereby person engaged in economic transaction as prescribed by the Board shall be required to furnish quarterly statement.

The proposed deadline for filling of Withholding statements is proposed to be on or before the 20th of the next month after the end of the quarter.

Furnishing of information by banks **Section 165A**

Currently, banking companies are required to furnish list of persons receiving profit on debt exceeding Rs.500,000 and tax deductions thereon during preceding financial year.

The Bill proposes to omit the said limit. This means that banking company will be required to furnish details of persons receiving profit on debt irrespective of the quantum of profit on debt.

Advance tax on private motor vehicles **Section 231B**

The bill proposes to insert explanation to sub-section (7) in section 231B to exclude rickshaw, motorcycle-rickshaw and any other motor vehicle having engine capacity upto 200cc from the perview of the term "Motor Vehicle" for the purposes of advance tax.

Advance tax Sale by auction **Section 236A**

The bill proposes to add an explanation to include renewal of license in definition of auction and to collect advance tax on each installment under this section.

Collection of advance tax by educational institutions **Section 236I**

Currently, advance tax is collected by educational institutions where annual fee exceeds Rs, 200,000. The bill seeks to amend section 236I to restrict collection of advance tax on tuition fee by educational institutions only from person not appearing active taxpayer list.

Payment to residents for use of machinery and equipment **Section 236Q**

Currently, withholding of tax from payment to resident person for use of machinery and equipment is subject to final tax under section 236Q. The bill proposes to change the regime from 'final tax' to 'minimum tax'.

Omission of withholding / collection of advance tax

The proposes to omit the following withholding / advance tax provisions:

Section	Description
148A	Tax on local purchase of cooking oil or vegetable ghee by certain persons
156B	Tax on withdrawal of balance under pension fund
235B	Tax on steel melters and composite units
236D	Advance tax on functions and gatherings
236F	Advance tax on cable operators and other electronic media
236J	Advance tax on dealers, commission agents and arhatis etc.
236R	Collection of advance tax on education related expenses remitted abroad
236U	Advance tax on insurance premium
236X	Advance tax on tobacco

RETURNS, AUDIT, ASSESSMENT, APPEALS, RECOVERY, REFUND

Filing of tax return for the income subject to final taxation **Section 114 (1)**

Presently, any person whose entire income in a year is subject to final taxation is not required to file return under section 114. Instead such person(s) are required to file a separate statement as prescribed under section 115(4).

Through proposed insertion of new clause (ae) in Section 114, now persons whose income is subject to final taxation under any provision of ITO, 2001, are also required to furnish a return of income for a tax year instead of statement under 115(4).

Further, it has been provided that Board may prescribe different returns for different classes of income or persons including persons' subject to final taxation.

Approval for revision of return **Section 114 (6)**

The bill seeks to add proviso to sub-section 6 of section 114 requiring the Commissioner to grant approval for revision of income tax return in case of a bonafide omission or wrong statement.

Taxpayer's profile **Section 114A**

The bill seeks to insert new section making it compulsory for certain persons to furnish and update profile in prescribed manner and time.

According to said section the following persons shall furnish a profile.

- every person applying for registration under section 181;
- every person deriving income chargeable to tax under the head, "income from business";
- every person whose income is subject to final taxation;
- any non-profit organization as defined in clause (36) of section 2;
- any trust or welfare institution; or
- any other person prescribed by the Board.

A taxpayer's profile

- Shall be in the prescribed form and shall be accompanied by such annexures, statements or documents as may be prescribed;
- shall fully state, in the specified form and manner, the relevant particulars of
    - bank accounts;
    - utility connections;
    - business premises including all manufacturing, storage or retail outlets operated or leased by the taxpayer;
    - types of businesses; and
    - such other information as may be prescribed;
- shall be signed by the person being an individual, or the person's representative where section 172 applies; and
- shall be filed electronically on the web as prescribed by the Board.

Timelines for furnishing of taxpayer's profile are proposed to be as follows:

Where person registered under section 181 before 30.09.2020	on or before 31.12.2020
Where person not registered before 30.09.2020	within ninety days of registration
In case of any change in any of the relevant particulars of information	within ninety days of change

Revision of wealth statement subject to approval by Commissioner **Section 116**

Currently, wealth statement can be revised any number of times without prior approval of the Commissioner. Now, through the proposed amendment, prior approval by the Commissioner is required for revision of wealth statement. The approval for revision shall be granted in case of a bonafide omission or wrong statement. It has been further clarified that wealth statement cannot be revised after the expiry of five years from due date of filing of return of income for that tax year.

Assessment **Section 120**

Section 120 provides that the Commissioner shall be taken to have made an assessment of taxable income for that tax year, and the tax due thereon, equal to those respective amounts specified in the return and the return shall be taken for all purposes of this Ordinance to be an assessment order issued to the taxpayer by the Commissioner on the day the return was furnished.

The bill seeks to insert a concept of processing of submitted return through automated system to arrive at correct amounts of total income, taxable income and tax payable by making adjustments. A new sub section 2A has been added which provides that the return of income furnished under sub-section (2) of section 114 shall be processed through automated system to arrive at correct amounts of total income, taxable income and tax payable by making adjustments for

- any arithmetical error in the return
- any incorrect claim, if such incorrect claim is apparent from any information in the return
- disallowance of any loss, deductible allowance or tax credit under Parts VIII, IX and X respectively of Chapter III; and
- disallowance of carry forward of any loss under clause (b) of sub-section (1) of section 182A:

Provided that no such adjustments shall be made unless a system generated notice is given to the taxpayer specifying the adjustments intended to be made and the response received from the taxpayer, if any, shall be considered before making any adjustment, and in a case where no response is received within thirty days of the issue of such notice, adjustments shall be made.

Provided also that where no such adjustments have been made within six month of filing of return, the amounts specified in the return as declared by the taxpayer shall be deemed to have been taken as adjusted amounts on the day the return was filed and the taxpayer shall be intimated automatically through IRIS.

Further, terms used in this section has been defined as

(a) “arithmetical error” includes any wrong or incorrect calculation of tax payable including any minimum or final tax payable.
(b) "an incorrect claim apparent from any information in the return" shall mean a claim, on the basis of an entry, in the return,—
(i) of an item, which is inconsistent with another entry of the same or some other item in such return;
(ii) regarding any tax payment which is not verified from the collection system; or
(iii) in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction.”

We feel that this change if adopted by Parliament will shake the very foundation of Universal Self-Assessment Scheme and will further dilute the confidence of taxpayer.

Best judgement assessment **Section 121**

Applicability of best judgement assessment in case of statement of final taxation as envisaged under section 121 has been proposed to be deleted in line with changes in section 115(4).

Amendment of assessments. **Section 122(5)**

As per Section 122(5), the Commissioner is empowered to amend or further amend an assessment order on the basis of definite information acquired from an audit or otherwise.

The bill now seeks to empower the Commissioner to amend or further amend an assessment order on the basis of audit or on the basis of definite information.

The impact of legal objections and various announced judgments will be nullified by this amendment.

Agreed assessment in certain cases **Section 122D**

The amendment seeks to insert a new section to prescribe procedure and mechanism for agreed assessment in certain cases, Where a taxpayer, in response to a notice under sub-section (9) of section 122, intends to settle his case, he may file offer of settlement in the prescribed form before the assessment oversight committee, in addition to filing reply to the Commissioner and after examining the record of the case and affording opportunity of being heard to the taxpayer, may decide to accept or modify the offer of the taxpayer through consensus and communicate its decision to the taxpayer.

Where the taxpayer is satisfied with the decision of the Committee the taxpayer shall deposit the amount of tax payable including any amount of penalty and default surcharge as per decision of the Committee and the Commissioner shall amend assessment in accordance with the decision of the Committee after tax has been paid by the taxpayer. and the taxpayer shall waive the right to prefer appeal against such amended assessment and no further proceedings shall be undertaken under this Ordinance in respect of issues decided by the Committee unless the tax has not been deposited by the taxpayer.

Where the Committee has not been able to arrive at a consensus or where the taxpayer is not satisfied with the decision of the Committee, the case shall be referred back to the Commissioner for decision on the basis of reply of the taxpayer in response to notice under section 122(9). The proceedings or decision, if any, of the Committee shall comprise of the income tax authorities having jurisdiction over the taxpayer.

The provisions of this section shall not apply in cases involving concealment of income or where interpretation of question of law is involved having effect on other cases. The Board may make rules regulating the procedure of the Committee and for any matter connected with, or incidental to the proceedings of the Committee.

Appeals to the Commissioner **Section 127**

The proposed adjustment order under Section 120(2A) is made appealable through appropriate amendment in section 127 in case the taxpayer is dissatisfied.

Further, the bill seeks to increase the appeal fee against the assessment order from Rs.1,000 to 5,000 in case of company and R.s 1,000 to 2,500 in case of individual/AOP and in preferred appeal other than

assessment order the fee will be Rs.1,000 to 5,000 in case of company and Rs. 200 to 2,500 in case of individual/AOP.

Furthermore, it has been proposed that the Commissioner (Appeals) shall specify the amount of tax upheld in the order passed by him.

Appeal to the Appellate Tribunal **Section 131**

The bill seeks to insert new condition for filing of appeal to the Appellate Tribunal which says that no appeal under sub-section (1) shall be admitted by the Appellate Tribunal unless ten percent of the amount of tax upheld by the Commissioner (Appeals) has been deposited by the taxpayer.

The proposed amendment will create hardship for the taxpayer as 10% of tax demands may become a significant amount in certain cases and may become an impediment in exercising right of appeal.

Further, the prescribed fee for filing the appeal has been proposed to be increased from Rs.2,000 to Rs.5,000 in case of company and from Rs.2,000 to Rs.2,500 in cases other than company.

Alternative dispute resolution **Section 134D**

The composition and process of Alternate dispute resolution committee has been proposed to be revamped by substituting the existing section 134D. The proposed new section provides the following.

Composition

Currently the Committee comprises of an Officer of Inland Revenue not below the rank of Commissioner. The bill proposes to replace it with Chief Commissioner Inland Revenue having jurisdiction over the case.

Currently one person from a panel notified by the Board comprising of Chartered Accountants, Cost and Management Accountant, Advocates, having minimum of ten years in the field of taxation can be nominated by the taxpayer. The bill proposes to appoint two, instead of one, person from the panel and will be appointed by the Board.

A reputable businessman nominated by Chambers of Commerce is not part of proposed provision of 134D. Further, currently a member of committee includes a retired judge not below the rank of District and Sessions Judge as agreed by Officer of Inland and the other nominated person. The proposed bill has omitted this provision.

Procedure

Currently the aggrieved person and the Board are required to withdraw the appeals pending before the appellate authority in the absence of which the committee shall not commence its proceedings. Further that an order to this effect is to be communicated to the Board within 75 days of the appointment of ADRC else the ADRC shall be dissolved.

This requirement is proposed to be withdrawn. It is now proposed that the Board shall now communicate the order of appointment of committee to the court of law or the appellate authority where the dispute is pending and the Commissioner.

Decision

It is proposed that the decision of the committee shall be binding on the Commissioner when the aggrieved person, being satisfied with the decision, has withdrawn the appeal pending before the court of law or any appellate authority and has communicated the order of withdrawal to the Commissioner within sixty days of the service of decision of the committee upon the aggrieved person.

In case of dissolution of the committee, upon of receipt of the order of dissolution by the taxpayer the court of law of the Appellate Authority is currently required to decide the appeal within six months. This time limit is proposed to be removed.

Recovery

Currently recovery of tax payable by a taxpayer in connection with dispute before committee is deemed to be stayed on withdrawal of appeal by the taxpayer. This is now proposed to be replaced. The Committee may grant stay against recovery of tax payable by a taxpayer in case of hardship for a period not exceeding 120 days in aggregate or till the decision of the committee or it's dissolution, whichever is earlier.

Recovery of tax out of property and through arrest of taxpayer Section 138

Currently, the Commissioner is empowered to proceed to recover from the taxpayer outstanding amount of tax demand in the notice under section 138(1) by one or more of the following modes:

(a) attachment and sale of any movable or immovable property of the taxpayer;
(b) appointment of a receiver for the management of the movable or immovable property of the taxpayer; and
(c) arrest of the taxpayer and his detention in prison for a period not exceeding six months.

The bill proposes to insert following others mode of recovery of outstanding tax demand as specified under clauses (a), (ca) and (d) of sub-section (1) of Section 48 of the Act 1990.

- deduct the amount from any money owing to person from whom such amount is recoverable and which may be at the disposal or in the control of such officer or any officer of Income Tax, Customs or Central Excise Department;
- require by a notice in writing any person to stop clearance of imported goods or manufactured goods or attach bank accounts
- Sealing of premises

Income tax refunds Section 170

An enabling provision has been proposed to be inserted in section 170 which empowers Board to make rules regulating procedure for expeditious processing and automatic payment of refunds through centralized processing system with effect from a date to be notified by the Board.

Real-time access to information and databases by various agencies Section 175A

The bill proposes to insert a new section relating to real-time access of information and database by various agencies. The section provides that arrangements shall be made to provide real-time access of information and database to the Board in the prescribed form and manner by the

- National Database and Registration Authority with respect to information pertaining to National Identity Card, Pakistan Origin Card, Overseas Identity Card, Alien Registration Card, and other particulars contained in the Citizen Database.
- The Federal Investigation Agency and the Bureau of Emigration and Overseas Employment with respect to details of international entry and exit of all persons and information pertaining to work permits, employment visas and immigration visas.
- The Islamabad Capital Territory, provincial and local land record and development authorities with respect to record-of-rights including digitized edition of record-of-rights, periodic record, record of mutations and report of acquisition of rights;
- The Islamabad Capital Territory and provincial Excise and Taxation Departments with respect to information regarding registration of vehicles, transfer of ownership and other associated record.
- All electricity suppliers and gas transmission and distribution companies with respect to particulars of a consumer, the units consumed and the amount of bill charged or paid and where the

connection is shared or is used by a person other than the owner, the name and CNIC of the owner and the user shall also be furnished and all electricity suppliers and gas transmission and distribution companies shall make arrangements by the 1st day of January, 2021 for allowing consumers to update the ratio of sharing of a connection or the particulars of users

- and any other agency, authority, institution or organization notified by the Board.

The Board shall make arrangements for laying the infrastructure for real-time access to information and database and aligning it with its own database, until real-time access to information and database is made available and such information and data shall be provided periodically in such form and manner as may be prescribed and all information received under this section shall be used only for tax purposes and kept confidential.

Audit **Section 177**

E Audit **Section (2A)**

The bill proposes to insert a new sub section (2A) empowering the Commissioner to conduct audit proceedings electronically through video links or any other facility prescribed by the Board.

Sectoral Benchmark ratios **Section 2AA**

The bill proposes to insert a new sub section (2AA) to empower commissioner to determine taxable income on the basis of sectoral benchmark ratio prescribed by the Board. The expression "sectoral benchmark ratios" means standard business sector ratios notified by the Board on the basis of comparative cases and includes financial ratios, production ratios, gross profit ratio, net profit ratio, recovery ratio, wastage ratio and such other ratios in respect of such sectors as may be prescribed.

Offences and penalties **Section 182**

The bill proposes to introduce following new penalties for failing to update profile and for contravening the provisions relating to compulsory registration in certain cases.

Sr.No.	Offence	Penalty
4A	*Any person who is required to furnish or update a taxpayer's profile but fails to furnish or update within the due date. ``*	*Such a person shall pay a penalty of Rs. 2,500 for each day of default from the due date subject to a minimum penalty of Rs. 10,000.*
4B	*person who contravenes the provisions of section 181AA.*	*Such a person shall pay a penalty at the rate of Rs. 10,000 for each connection provided to an unregistered person.*

Non-inclusion in Active taxpayers' list **Section 182A**

The bill proposes to insert new sub section to provide that where a person fails to furnish or update a taxpayer's profile within the due date or time period such person shall not be included in the active taxpayers' list for the latest tax year ending prior to the aforesaid due date or extended date.

Assessment of default surcharge without payment of tax **Section 205**

The bill proposes to empower the Commissioner to make assessment of default surcharge under section 205 for the period of default or part thereof despite that the tax due has not actually been paid.

Jurisdiction of income tax authorities **Section 209**

The bill proposes to introduce a new concept of electronic and randomized allocation of cases through an automated case selection system. After a case has been selected for audit, the jurisdiction for audit and

adjudication is proposed to be assigned to separate officers through automated case selection system which is an algorithm for randomly assigning cases to officers through technological modes.

Delegation of power **Section 210**

The Commissioner is empowered to amend or further amend an order of withholding tax recovery if he considers that the original order is erroneous and prejudicial to the interest of revenue.

The bill proposes to restrict the Commissioner not to delegate these powers below the rank of Additional Commissioner.

AMENDMENTS IN FIRST SCHEDULE

Tax rate on capital gains on disposal of Securities

The bill proposes to maintain the tax rate as applicable in tax years 2018 to 2020 on capital gains for tax year 2021 and onwards on disposal of securities taxable under section 37A of the Ordinance.

RATES OF ADVANCE TAX **Section 150**

To align the rate of charging section with withholding section in respect of dividend, profit on debt and return on investment on sukuk where the sukuk holder is a company. The bill proposes to add new clause in Division l, amending proviso to lA, and lB of Part-III of First Schedule.

Advance tax on Dividend **(Division I, Part III, First Schedule)**

The bill proposes a tax rate of 25% in case of a person receiving dividend from a company where no tax is payable by such company, due to exemption of income or carry forward of business losses under Part VIII of Chapter III or claim of tax credits under Part X of Chapter III".

Tax on profit on debts **(Division IA, Part III, First Schedule)**

Currently, the withholding tax rate of 10% is applicable where the yield or profit on debt is Rs. 500,000 or less.

The bill now proposes that rate of advance tax on bank profits in all cased would be 15% except the taxpayer furnishes a certificate to the payer of profit that during the tax year the profit is Rs. 500,000 or less. The 10% rates would be applicable only on provision of such certificate.

Return on Investment in Sukuks **(Division IB, Part III, First Schedule)**

The bill proposes to enhance the withholding tax rate from 15% to 25% on payment of return on investment in sukuk to a company.

PAYMENTS FOR GOODS AND SERVICES

DIVISION-III [SECTION 153]

The Finance bill seeks to amend Division III of Part-III of First Schedule to include **toll manufacturer** for deduction of tax at the rate of 4% for company and 4.5% for others.

Further **"engineering services"** are now excluded from the list of specified services for deduction of advance tax at reduced rate of 3%.

ADVANCE TAX AT THE TIME OF SALE BY AUCTION DIVISION-VIII [SECTION 236A)

The bill seeks to add a new proviso in Division-VIII, Part-IV for collection of tax @ 5% of the gross sale price where immoveable property is sold by auction.

ADVANCE TAX ON EXTRACTION OF MINERALS DIVISION XXVI [SECTION 236V)

Seeks to omit the expression "for person who are not appearing in the active taxpayers' list" in Division XXVI in Part IV to extend scope of collection of advance tax on extraction of mineral to those who appear on active taxpayer list.

Existing	Proposed
The rate of tax to be collected under section 236V shall be 5% of the value of the minerals for persons who are not appearing in the active taxpayers' list.	The rate of tax to be collected under section 236V shall be 5% of the value of the minerals

AMENDMENTS IN SECOND SCHEDULE

CLAUSE 23A, PART I [EXEMPTION FROM TOTAL INCOME]

Seeks to add a new proviso to clause 23(A) for deduction of tax by pension fund manager in certain cases in case of withdrawal of before retirement age. This need to be read with omission of section 156B of Income Tax Ordinance, 2001.

CLAUSE 99A, PART I

The Finance bill seeks to extend exemption to Developmental REIT Scheme from tax year 2020 to 2021 under clause 99A of Part I of Second Schedule.

Existing (Proviso 1)	Proposed (Proviso 1)
Provided that profit and gains on sale of immovable property to a Developmental REIT Scheme with the object of development and construction of residential buildings shall be exempt up to **thirtieth day of June, 2020**	Provided that profit and gains on sale of immovable property to a Developmental REIT Scheme with the object of development and construction of residential buildings shall be exempt up to **thirtieth day of June, 2021**

CLAUSE 126A, PART I

The Finance bill seeks to insert Gwadar Free Zone in clause (126A) for exemption with effect from 1st June, 2020.

CLAUSE 126AB, PART I

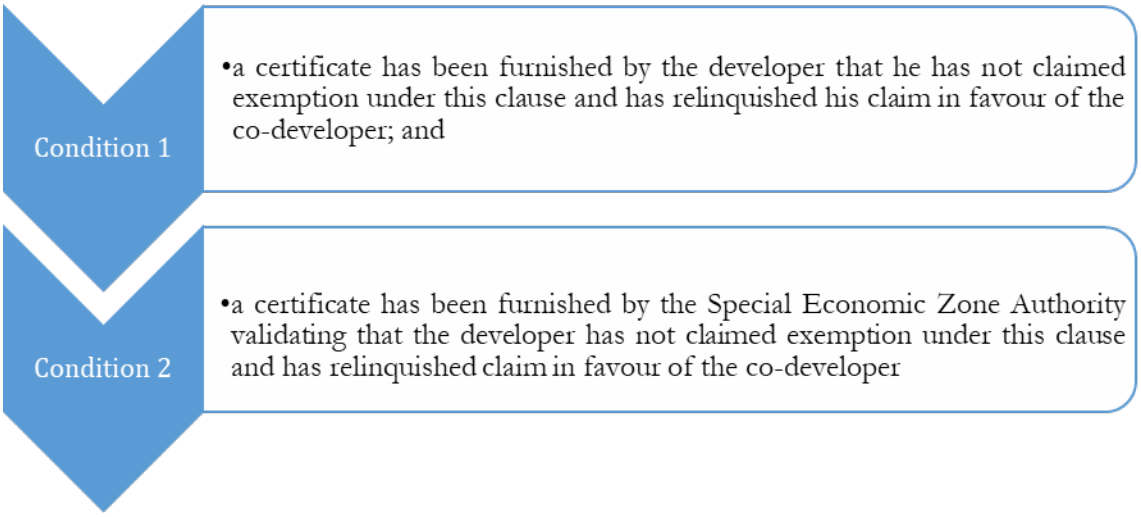
The Finance bill seeks to insert income tax exemption on account of profit on debt for China Overseas Port Holding Company Pakistan (Private) Limited, Gwadar International Terminals Limited, Gwadar Marine Services Limited and Gwadar Free Zone Company Limited under clause 126AB of Part I of Second Schedule with effect from 1st June, 2020.

CLAUSE 126AC, PART I

The Finance bill seeks to insert Gwadar Free Zone in clause (126AC) for exemption with effect from 1st June, 2020.

CLAUSE 126E, PART I

The Finance bill Seeks to exempt co-developer as defined in Special Economic Zone Rules, 2013 under clause (126E) subject to certain condition listed below



CLAUSE 147, PART I

The Finance bill seeks to add new clause 147 in Part I of Second Schedule for exemption of any income derived by the Federal Government Employees Housing Authority for tax year 2020 and following four tax year.

CLAUSE 5AA, PART II [REDUCTION IN TAX RATES]

- The Finance bill seeks to add new clause (5AA) in Part II of Second Schedule for deduction of tax on profit and debt under section 152(2) @ 10% of the gross amount paid in respect of payments to an individual earned from a debt instrument, whether conventional or shariah compliant, issued by the Federal Government under the Public Debt Act, 1944 and purchased exclusively through a bank account maintained abroad, a non-resident rupee account repatriable (NRAR) or a foreign currency account maintained with a banking company in Pakistan.
- The tax deducted shall be final tax.

CLAUSE 24C, PART II

Through this newly inserted clause a reduced rate has been announced for persons other than a company for goods supplied (i.e. specified below) to Utility Corporation of Pakistan.

Applicable section	153(1)(a)
Applicable rate	1.5% of the gross amount
Specified goods	Tea Spices Salt Dry Milk Sugar Pulses Wheat Flour and Ghee

Proviso 1 This clause is **not applicable to** supply of tea, spices, salt and dry milk which are **sold under a brand name.**

Proviso 2 This clause is also **not applicable** where rate of tax under section 153(1) (a) is less than 1.5% of the gross amount of payment under any provisions of the Ordinance.

Note: This clause is inserted through SRO 287(I)/2020 dated April 7, 2020 and is valid till June 30, 2020. The period is extended for a further period of three months (i.e. till September 30, 2020).

CLAUSE 9A, PART IV [EXEMPTION FROM SPECIFIC PROVISIONS]
The Finance bill seeks to omit 9A of Part IV of Second Schedule in case of steel melters to be exempt from section 153(1) (a) as prescribed person.

CLAUSE 11A, PART IV
The Finance bill seeks to exempt the following from provision of minimum tax under section 113;

- **A Modaraba qualifying for exemption under clause 100 of Part-I of Second Schedule**
- **Prime Minister COVID-19 Pandemic Relief Fund-2020; and**
- **Federal Government Employees Housing Authority for the TY 2020 and the following four tax years (i.e. till TY 2024)**

Note: PM COVID-19 Relief Fund-2020 is added via SRO 300(I)/2020 dated April 10, 2020.

CLAUSE 12B, PART IV
The Finance bill seeks to add a new clause (12B) to provide exemption from advance tax at import stage u/s 148 for various items imported in respect of fitting COVID-19 Pandemic. The following items were notified earlier through SRO dated 236(I)/2020 dated March 20, 2020.

DELETED CLAUSE
PART IV
The proposed amendment seeks to omit the following clauses:

56C	The provisions of sub-section (3) of section 153, in respect of sale of goods and clause (a) of sub-section (1) of section 169 shall not apply to a person, if the person opts to file return of total income along with accounts and documents as may be prescribed subject to the condition that minimum tax liability under normal tax regime shall not be less than 3.5% of the gross amount of sales, if the person is a company and 4% otherwise
56D	The provisions of sub-section (3) of section 153, in respect of contracts and clause (a) of sub-section (1) of section 169 shall not apply to a person if the person opts to file return of total income along with accounts and documents as may be prescribed subject to the condition that minimum tax liability under normal tax regime shall not be less than 6% of contract receipts, if the person is a company and 6.5 %otherwise
56E	The provisions of sub-section (2) of section 153 and clause (a) of sub-section (1) of section 169 shall not apply in respect of a person if the person opts to file return of total income along with accounts and documents as may be prescribed subject to the condition that minimum tax liability under normal tax regime shall not be less than 0.5% of gross amount of services received.]
56G	The provisions of sub-section (3) of section 233 and clause (a) of sub-section (1) of section 169 shall not apply in respect of a person if the person opts to file return of total income along with accounts and documents as may be prescribed, subject to the condition that minimum tax liability under normal tax regime shall not be less than 10% of the commission.
63	M/s Dawat-e-Hadiya, Karachi 2[and Lahore University of Management Sciences, Lahore] shall be deemed to have been approved by the Commissioner for the purpose of sub-section (36) of section 2 notwithstanding the provisions of clause (c) of sub-section (36) of section 2.

S.No.	Description	PCT
1	Real time PCR system (standard 96-well plate and 0.2ml tubes, 5 channel)	Respective Headings
2	Biosafety Cabinet	
3	Auto Clave 50 Liter Capacity	
4	Multi-channel pipette 0.5-10ul	
5	Single channel pipette a) 2 ul b) 10 ul c) 200 ul d) 1000 ul	
6	Multi-channel pipette 20-200 ml	
7	Vacuum fold	
8	Micro Centrifuge (Non-refrigerated, Rotor Capacity: 12 x 1.5/2.0 ml vessels, 2 x PCR strip, Max. speed: 12, 100 x g (13,400 rpm)	
9	PCR Cabinet (HEPA filter system, UV and white light)	
10	Real time PCR kit for the detection of Coronavirus (SARS-CoV-2)	
11	Viral RNA Extraction Kit & Machine (Automatic Extractors)	
12	VTM (Viral Transport Medium)	
13	Dr. Oligo Synthesizer	
14	Refrigerator/Freezer (-20 C)	
15	Vortex Machine	
16	Refrigerated Centrifuge Machine (Rotor Capacity 1.5ml x 24, max. speed 14000 rpm)	
17	UPS (6 KVA)	
18	Tyvek Suits	
19	N-95	
20	Biohazard Bags (18 Liters)	
21	PAPR (Powdered Air Purifying respirators)	
22	Multimode ventilator with air compressor	
23	Vital sign monitor with 2IBPand ETco2 two Temp	
24	ICU motorized patient bed with side cabinet and over bed table	
25	Syringe infusion pump	
26	Infusion pump	
27	Electric suction machine	
28	Defibrillator	
29	X-Ray Mobile Machine	
30	Simple Nebulizer	Respective Headings
31	Ultrasound machine	
32	Noninvasive BIPAP	
33	ECG Machine	
34	Pulse Oximeters	
35	Ripple mattress	
36	Blood gas analyzer	
37	AMBU Bag	
38	Nitrile Gloves	
39	Latex Gloves	
40	Goggles	
41	Face Shields	
42	Gum Boots	
43	Mackintosh bed sheets	
44	Surgical Masks	
45	Air Ways	

46	Diaflow	
47	Disposable Nebulizer Mask Kit	
48	ECG Electrodes	
49	ETT Tube (Endotracheal Tubes) All sizes	
50	Humidifier Disposable Flexible	
51	IV Cannula all sizes	
52	IV Chambers	
53	Oxygen Recovery Kit	
54	Padded Sheets	
55	Stomach Tube	
56	Stylet for Endotracheal Tube	
57	Suction Tube control valve	
58	Tracheostomy Tube 7, 7.5, 8	
59	Ventilator Circuit	
60	Ventury Masks	
61	Disposable shoes cover (water proof)	

CLAUSE 12C, PART IV

The proposed amendment seeks to add a new clause (12C) to exempt persons importing pluses from advance tax at import stage. Previously 2% (Filer) or 3% (Non-Filer) of the import value as increased by customs-duty, sales tax and federal excise duty was collected under section 148 (Division II, Part II of First Schedule) from persons importing pulses.

Note: This clause is inserted via SRO 287(I)/2020 dated April 7, 2020 and is valid till June 30, 2020. The period is extended for a further period of three months (i.e. till September 30, 2020).

CLAUSE 72AA, PART IV [SECTION 152]

The proposed amendment seeks to add a new clause to provide exemption to Haj Operator from withholding provisions of payments made to non-residents.

CLAUSE 72B, PART IV

The proposed amendment seeks to omit the following clause:

The provisions of section 148 shall not apply to an industrial undertaking if the tax liability for the current tax year, on the basis of determined tax liability for any of the preceding two tax years, whichever is the higher, has been paid and a certificate to this effect is issued by the concerned Commissioner.

Provided that the certificate shall only be issued by the Commissioner if an application for the said certificate is filed before the Commissioner, in the manner and after fulfilling the conditions as specified by notification in the official Gazette, issued by the Board for the purpose of this clause:

Provided further that the quantity of raw material to be imported which is sought to be exempted from tax under section 148 shall not exceed 125 per cent of the quantity of raw material imported and consumed during the previous tax year:

Provided also that the Commissioner shall conduct audit of taxpayer's accounts during the financial year in which the certificate is issued in respect of consumption, production and sales of the latest tax year for which return has been filed and the taxpayer shall be treated to have been selected for audit under section 214C:

Provided also if the taxpayer fails to present accounts or documents to the Commissioner or the officer authorized by the Commissioner, the Commissioner shall, by an order in writing, cancel the certificate

issued and shall proceed to recover the tax not collected under section 148 for the period prior to such cancellation and all the provisions of the Ordinance shall apply accordingly.

Provided also that exemption certificate shall not be issued to an industrial undertaking importing raw materials, specified in sub-section (8) of section 148.

CLAUSE 101AA, PART IV
The Finance bill seeks to add a new clause (101AA) to provide exemption from withholding provisions in respect of various banking payments for Pak Rupee Account to the extent of foreign remittances credit. Withholding provisions are listed below:

- Section 231A (Cash withdrawal from a bank)
- Section 231AA (Advance tax on transactions in bank)
- Section 236P (Advance tax on banking transactions otherwise than through cash)

CLAUSE 102A, PART IV
The Finance bill seeks to add a new clause (102A) to provide exemption to Ehsaas Emergency Cash Transfer Programme from the withholding provision of advance tax on brokerage and commission payment U/S 233. Please note that this program has been planned in the context of economic hardship experienced by the vulnerable due to ongoing COVID-19 crisis. It may also be noted that only needy family will be able to get Rs. 12,000/- through the aforesaid program.

Note: This clause is inserted via SRO 315(I)/2020 dated April 16, 2020 and is valid till June 30, 2020. The period is extended for a further period of three months (i.e. till September 30, 2020).

CLAUSE 111A, PART IV
The proposed amendment seeks to add a new clause (111A) in order to provide exemption from 10th schedule to the extent of payment of dividend to non-resident persons.

CLAUSE 112A, PART IV
The proposed amendment seeks to add a new clause (112A) in order to provide exemption from provisions of section 236P to non-resident individual investing in a debt instrument whether conventional or shariah compliant issued by the Federal Government under the Public Debt Act, 1944 on non-resident rupee account reportable (NRAR) or a foreign currency account maintained with a banking company in Pakistan.

CLAUSE 114A, PART IV
The proposed amendment seeks to insert new clause (114A) for exempting non-resident individual from clause (ae) of sub-section 114 and section 181 solely by reason of profit on debt earned from a debt instrument.

CLAUSE 116, PART IV
The Finance bill seeks to add new clause whereby provision of following sections shall not apply to the Fund namely "The Prime Minister's COVID-19 Pandemic Relief Fund-2020".

- Section 151 (Profit on debt)
- Section 231A (Cash withdrawal from a bank)
- Section 231AA (Advance tax on transactions in bank)
- Section 236P (Advance tax on banking transactions otherwise than through cash)

Note: This clause is previously inserted via SRO 300(I)/2020 dated April 10, 2020.

CLAUSE 117, PART IV

The bill seeks to add new clause whereby provision of section 236P (i.e. (Advance tax on banking transactions otherwise than through cash) **shall not apply** at the time of transfer of any sum to the Fund namely "The Prime Minister's COVID-19 Pandemic Relief Fund-2020"

SEVENTH SCHEDULE, RULE 7C

The proposed amendment seeks to extend the provision of section 4B (i.e. super tax) for Banks for another year (i.e. TY 2021)

TENTH SCHEDULE, RULE 2(1)

The proposed amendment seeks to omit the expression "or a statement under sub-section 4 of section 115" in rule 2(1) of tenth schedule as a consequential change to section 115(4).

RULE 3(1)

The proposed amendment seeks to omit the expression "or a statement, as the case may be" and ""or a statement under sub-section 4 of section 115" in rule 3(1) of tenth schedule as a consequential change to section 115(4).

RULE 10(b)

The proposed amendment seeks to substitute the expression "(2A) (a)" for the expression "(1), (1AA), (2)" in sub-rule (b) of rule 10 of tenth schedule. The result of these proposed changes is that 100% extra tax will not be applicable on payment to non-resident person on account of royalty, fee for technical services, insurance & reinsurance premium and general/ unspecified payment which is subject to 20% tax under section 152(2) while payment on account of sale of goods to PE of non-resident person is now subject to 100% extra tax. It is pertinent to reproduce here text of our commentary last year whereby we had already identified these anomalies and finally the Government has realized its mistake:

Quote

- There appear some anomalies which need to be addressed in respect of payments subjected to 100% extra withholding tax under tenth schedule discussed hereunder.
- Payments to non-resident persons on account of Royalty, fee technical services, insurance & reinsurance premium, foreign produced films are proposed to be subjected to 10th schedule hence subject to 100% extra withholding tax if the non-resident person receiving such payment is not on ATL. Whereas payments to non-resident persons on account of construction services & related services, advertisement services rendered by T.V. satellite channels, advertisements by non-resident media person relaying from outside Pakistan and fee for offshore digital services are proposed be kept out of the purview of 10th schedule i.e. no extra tax would be charged if such non-resident persons receiving such payments are not on ATL. Interestingly the position of law under the current concept of filer & non-filer was not the same whereby rates for non-filer non-resident persons were only provided in respect of construction & related services.
- For PE of non-resident persons, tenth schedule has not been made applicable in case of supplies however same is applicable for PE rendering services & contracts while also applicable for residents rendering supplies, services & contracts. **Unquote**

RULE 10(bb)

The proposed amendment seeks to insert a new-sub-rule (bb) in rule 10.
"Tax deducted under sub-section (2) of section 152 to the extent of clause (5AA) of Part II." This is in consonance with clause 5AA inserted in Part II of Second Schedule however the text proposed to be inserted here does not give complete reference.

RULE 10(k), (n), (o), (q), (u), (v), (w) and (x)

The proposed amendment seeks to omit the following sub-rules in rule 10 of tenth schedule.

10(k) tax collected under section 235B
10(n) tax collected under section 236D
10(o) tax collected under section 236F
10(q) tax collected under section 236J
10(u) tax collected under section 236R
10(v) tax collected under section 236U
10(w) tax collected under section 236V
10(x) tax collected under section 236X

ANNEXURE -A

Sr.No. (1)	Name (2)
(i)	International Islamic Trade Finance Corporation.
(ii)	Islamic Corporation for Development of Private Sector.
(iii)	National Memorial Bab-e-Pakistan Trust.
(iv)	Pakistan Agricultural Research Council.
(v)	The corporatized entities of Pakistan Water and Power Development Authority from the date of their creation upto the date of completion of the process of corporatization i.e. till the tariff is notified.
(vi)	The Prime Minister's Special Fund for victims of terrorism.
(vii)	Chief Minister's (Punjab) Relief Fund for Internally Displaced Persons (IDPs) of NWFP.
(viii)	The Institutions of the Agha Khan Development Network (Pakistan) as contained in Schedule 1 of the Accord and Protocol, dated November 13, 1994, executed between the Government of the Islamic Republic of Pakistan and the Agha Khan Development Network.
(ix)	Pakistan Council of Scientific and Industrial Research
(x)	The Pakistan Water and Power Development Authority established under the Pakistan Water and Power Development Authority Act, 1958 (W. P. Act XXXI of 1958).
(xi)	WAPDA First Sukuk Company Limited.
(xii)	Pension of a former President of Pakistan and his widow.
(xiii)	State Bank of Pakistan and State Bank of Pakistan Banking Services Corporation
(xiv)	International Finance Corporation established under the International Finance Corporation Act, 1956 (XXVIII of 1956) and provided in section 9 of Article VI of Articles of Agreement 1955 as amended through April 1993.
(xv)	Pakistan Domestic Sukuk Company Ltd.
(xvi)	ECO Trade and Development Bank.
(xvii)	The Islamic Chamber of Commerce and Industry under the Organization of Islamic Conference (OIC)
(xviii)	Commission on Science and Technology for Sustainable Development in the South (COMSATS) formed under International Agreement signed on 5th October, 1994.
(xix)	WAPDA on issuance of twenty billion rupees TFC's/SUKUK certificates for consideration of DiamerBhasha Dam Projects
(xx)	Federal Board of Revenue Foundation.
(xxi)	WAPDA Second Sukuk Company Limited.
(xxii)	Pakistan International Sukuk Company Limited.
(xxiii)	Second Pakistan International Sukuk Company Limited.
(xxiv)	Third Pakistan International Sukuk Company Limited.
(xxv)	Asian Infrastructure Investment Bank and persons as provided in Article 51 of Chapter IX of the Articles of

	Agreement signed and ratified by Pakistan and entered into force on the 25th December, 2015.
(xxvi)	Supreme Court of Pakistan – DiamerBhasha & Mohmand Dams – Fund.
(xxvii)	National Disaster Risk Management Fund.
(xxviii)	Deposit Protection Corporation established under sub-section (l) of section 3 of Deposit Protection Corporation Act, 2016 (XXXVII of 2016).
(xxix)	SAARC Energy Centre.
(xxx)	The Asian Development Bank established under the Asian Development Bank Ordinance, 1971 (IX of 1971)
(xxxi)	The Prime Minister's COVID-19 Pandemic Relief Fund-2020.
(xxxii)	Saarc Arbitration Council (SARCO).
(xxxiii)	International Parliamentarians' Congress.

ANNEXURE -B

Sr.No. (1)	Name (2)
(i)	Abdul Sattar Edhi Foundation.
(ii)	Al-Shifa Trust.
(iii)	Bilquis Edhi Foundation.
(iv)	Fatimid Foundation.
(v)	Pakistan Engineering Council.
(vi)	The Institution of Engineers.
(vii)	Liaquat National Hospital Association.
(viii)	The Citizens Foundation.
(ix)	Sindh Institute of Urology and Transplantation, SIUT Trust and Society for the Welfare of SIUT
(x)	Greenstar Social Marketing Pakistan (Guarantee) Limited.
(xi)	Indus Hospital, Karachi.
(xii)	Gulab Devi Chest Hospital.
(xiii)	Pakistan Poverty Alleviation Fund.
(xiv)	National Academy of Performing Arts.
(xv)	Pakistan Sweet Homes Angels and Fairies Place.
(xvi)	National Rural Support Programme.
(xvii)	Pakistan Bar Council.
(xviii)	Pakistan Centre for Philanthropy.
(xix)	Pakistan Mortgage Refinance Company Limited.
(xx)	Aziz Tabba Foundation.
(xxi)	ShaukatKhanum Memorial Trust.
(xxii)	Layton Rahmatullah Benevolent Trust (LRBT).
(xxiii)	The Kidney Centre Post Graduate Training Institute.
(xxiv)	Pakistan Disabled Foundation..
(xxv)	Forman Christian College..
(xxvi)	Habib University Foundation.
(xxvii)	Begum AkhtarRukhsana Memorial Trust Hospital.
(xxviii)	Al-Khidmat Foundation.
(xxix)	Dawat-e-Islami Trust.
(xxx)	Sardar Trust Eye Hospital, Lahore..
(xxxi)	Akhuwat.

(xxxii)	Audit Oversight Board..
(xxxiii)	Patient's Aid Foundation.
(xxxiv)	Al-Shifa Trust Eye Hospital.
(xxxv)	Saylani Welfare International Trust.
(xxxvi)	SARMAYA-E-PAKISTAN LIMITED.
(xxxvii)	Lahore University of Management Sciences, Lahore.
(xxxviii)	Dawat-e-Hadiya, Karachi.
(xxxix)	Ghulam Ishaq Khan Institute of Engineering Sciences and Technology.
(xl)	Society for the Promotion of Engineering Sciences and Technology in Pakistan (SOPREST).
(xli)	Businessmen Hospital Trust.
(xlii)	Baitussalam Welfare Trust.

SIGNIFICANT AMENDMENTS SALES TAX

Active taxpayer **Section 2 (1)**

The bill seeks to make following amendment in definition of the term active taxpayer.

i. Seeks to omit the words "or is blocked" in sub-clause (a) in clause (1) of section 2; and

ii. to substitute the word "quarterly" with the words "two consecutive monthly" in sub-clause (d) in clause (1) of section 2

Since in terms of deregistration under section 21, there is no concept of blocking of taxpayer registration, therefore this been removed from definitions to bring in line with Section 21.
Further, the requirement of filing monthly withholding statements under 165 of Income tax Ordinance, 2001 was changed to bi annual via Finance Act, 2019 which is further proposed to be amended to Quarterly in the Finance Bill 2020. Accordingly, the bill now proposes to harmonize Clause (d) with provisions of section 165 of the Ordinance whereby registered person who fails to file quarterly statement under the Ordinance will no longer be an active taxpayer.

Output tax **Section 2(20)**

The definition of output tax is proposed to be substituted so as to change the provincial sales tax with the sales tax levied under Islamabad Capital Territory (Tax on Services) Ordinance, 2001, which remains within the domain of FBR.

Value of Supply **Section 2(46)**

The proposed amendment in clause "h" seeks to include WAPDA also in addition to independent power producers for the levy of sales tax on the value of supply made by them with effect from sales made from 1st July, 2019.
Further, the bill seeks to include a new clause "j", as per which for any vehicle purchased from general public by a registered person, but later on sold by him in open market after making value additions, sales tax by such registered person shall be charged on the difference between purchase price and the sale proceeds/ value charged by him.

Scope of Tax **Section 3(7)**

Through the proposed amendment, with respect to withholding of sales tax, the word buyer has been omitted and substituted with the "being purchaser of goods or services" for better understanding and clarity purposes.

Determination of tax liability **Section 7**

The bill proposes to insert sub-section (5) in section 7 whereby the Board will be empowered to restrict wastage of materials on which input tax has been claimed in respect of goods or class of goods.

Tax credit not allowed **Section 8**

Clause "m" of sub section 1 of section 8 provides that a registered person shall not be entitled to reclaim or deduct input tax paid on the input goods attributable to supplies made to un-registered person, on pro-rata basis, for which sale invoices do not bear the NIC number or NTN as the case may be, of the recipient as stipulated in section 23.

The bill seeks to also include supply of services to un-registered person for bar on entitlement to reclaim or deduct input tax as above.

Power of tax authorities to modify orders, etc **Section 11C**

The bill proposes to insert new section 11C, which specifies that where question of law has been decided by a High Court or the Appellate Tribunal on or after 01 July 1990 in the case of a registered person, the Commissioner or the Officer of Inland Revenue may follow the said decision in case of said taxpayer in so far as it applies to question of law arising in any assessment pending before the Commissioner or an officer of Inland Revenue, until the decision of the High Court or of the Appellate Tribunal is reversed or modified. This is similar to Section 124A of the Income Tax Ordinance, 2001.

Further, it is proposed that in case subsequently, decision of the High Court or the Appellate Tribunal is reversed or modified, the Commissioner or the Officer of Inland Revenue may, within a period of one year of receipt of decision, modify the assessment so that it conforms with the final decision. In such case, expiry of the limitation period will not apply.

Tax Invoice **Section 23**

Through Finance Act, 2019 it was made necessary that tax invoice shall also bear the CNIC number in case of supplies made to unregistered persons, excluding supplies made by a retailer where transaction value inclusive of sales tax does not exceed fifty thousand rupees.

The bill now seeks to increase the limit of Rs. 50,000 to Rs. 100,000.

Access to record, documents, etc **Section 25**

A new sub section 2 is proposed to be inserted to whereby Commissioner may conduct audit proceeding electronically through video links, or any other such facility prescribed by the Board.

Offences and Penalties **Section 33**

The bill proposes to make following amendment to penalties for offences at serial no 25.

1. in case of failure to integrate business with FBR computerized system and fails to adhere the same, business premises are now proposed to be sealed after two months of imposition of penalty in this regard, instead of existing period of six months.

2. Further, premises of such person shall remain sealed, till the time business is integrated with FBR computerized system.

Following new offence and penalty has been proposed to be inserted as serial no 28.

28. Any person who fails to share information required under proposed section 56AB, may be levied with penalty of rupees twenty five thousand for first default and fifty thousand for each subsequent default.

Authorized officers to have access to premises, stocks, accounts and records **Section 38**

The authorized officers have free access to business or manufacturing premises, registered office, or any other place where any stock or record is maintained or kept by the registered person.

The bill proposes to extend the scope of access to include real time electronic access to records of the registered person. Further, it is proposed that the Board may make rules in relation to real time access for audit.

Appeals **Section 45B**

The existing appeal filing fee of one thousand rupees is proposed to be increased as follows:

Person	Against assessment	Any other case
In case of company	Rs. 5,000	Rs. 5,000
Other than company	Rs. 2,500	Rs. 1,000

Further, the bill proposes to insert new sub-section (5) in section 45B of the Act which provides that the Commissioner (Appeals) shall not admit any documentary evidence which was not produced before the assessing officer unless the Commissioner (Appeals) is satisfied that the appellant was prevented by sufficient cause from producing such material or evidence before the assessing officer.

Alternative dispute resolution **Section 47A**

Existing section 47A, is proposed to be substituted with amended section as follows:

1. Any person aggrieved with the liability of tax or admissibility of refund, extent of waiver of default surcharge or penalty and other dispute, may apply to Board for the appointment of committee for its resolve, expect where criminal proceeding are initiated or where interpretation of question of law having effect on identical cases is involved having effect on other cases.

2. The board upon examination of the application, appoint a committee within sixty days of receipt of application, comprising

   (a) the Chief Commissioner Inland Revenue having jurisdiction over the case and;

   (b) two persons from a panel notified by the Board comprising of chartered accountants, cost and management accountants, advocates, having minimum of ten years' experience in the field of taxation and reputable businessmen.

3. The Board shall communicate the order of appointment of committee to the court of law or the appellate authority where the dispute is pending and the Commissioner.

4. The Committee, upon examination of issue may conduct its inquiries and shall decide the dispute through consensus, within one hundred and twenty days of its appointment.

5. The Committee, in case of any hardship may grant stay for a period not exceeding one hundred and twenty days in aggregate or till the decision of the Committee or its dissolution, whichever is earlier.

6. The decision of Committee shall be binding on the Commissioner, when the aggrieved person, being satisfied with the decision, has withdrawn the appeal pending before any appellate authority or the court of law and has communicated the order of withdrawal to the Commissioner, provided that order of withdrawal is communicated to Commissioner within sixty days of service of the decision by the Committee.

7. In case of failure of Committee to decide the case within the period of one hundred and twenty days, Committee by an order in writing shall be dissolved, and the matter shall be decided the matter shall be decided by the court of law or the appellate authority where the dispute is pending.

8. The Board shall communicate the order of dissolution to the court of law or the Appellate Authority and the Commissioner.

9. The aggrieved person, on receipt of the order of dissolution, shall communicate it to the court of law or the appellate authority, where the dispute is pending.

10. The aggrieved person may make the payment of sales tax and other taxes as decided by the committee under sub-section (4) and all decisions and orders made or passed shall stand modified to that extent.

11. The Board may prescribe the amount to be paid as remuneration for the services of the members of the Committee, other than the member appointed under clause (i) of sub-section (2).

12. The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this section.

Real-time access to information and databases **Section 56AB**

In line with the proposed amendment in ITO, 2001 relating to empowering the Board to receive real time access of information and databases from organizations / authorities, similar amendment is also proposed to be made under Sales Tax Act, 1990.

Certain transactions not admissible **Section 73**

Section 73 was amended via Tax Laws (Amendment) Act, 2020 whereby registered manufactures or producers were restricted to make all taxable supplies exceeding value of Rs. 100 million in a financial year and Rs. 10 million in a month, to registered persons. The bill now proposes to enhance the scope of this sub-section by imposing the restriction to all registered persons.

Amendments in 5th Schedule

In order to support economic activity and reduce cost of production in Gawadar Free Zone, zero rating benefit in terms of section 4 of the 1990 Act, is proposed to be made available to manufacturers utilizing raw material, components and goods in the region for further manufacturing meant for its subsequent export as well on the supply of locally manufactured plant and machinery to manufacturers in the region, by adding serial no. 13 & 14 in column (1) and the entries relating thereto in column (2):-
These were earlier incorporated in Fifth Schedule of through Tax Laws (Amendment) Ordinance, 2019.
These shall be effective from the June 01, 2020

13.	Supplies of raw materials, components and goods for further manufacture of goods in the Gwadar Free Zone and export thereof, provided that in case of supply to tariff area of Pakistan, tax shall be charged on the value assessed on the Goods Declaration for import.
14.	Supplies of locally manufactured plant and machinery of the following specifications, to manufacturers in the Gwadar Free Zone, subject to the conditions, restrictions and procedure given below, namely:− (i) plant and machinery, operated by power of any description, as is used for the manufacture or production of goods by that manufacturer. (ii) apparatus, appliances and equipment specifically meant or adapted for use in conjunction with the machinery specified in clause (i). (iii) mechanical and electrical control and transmission gear, meant or adapted for use in conjunction with machinery specified in clause (i).

	(iv) parts of machinery as specified in clauses (i), (ii) and (iii), identifiable for use in or with such machinery. Conditions, restrictions and procedures:− (a) the supplier of the machinery is registered under the Act; (b) proper bill of export is filed showing registration number; (c) the purchaser of the machinery is an established manufacturer located in the Gwadar Free Zone and holds a certificate from the Gwadar Port Authority to that effect; (d) the purchaser submits an indemnity bond in proper form to the satisfaction of the concerned Commissioner Inland Revenue that the machinery shall, without prior permission from the said Commissioner, not be sold, transferred or otherwise moved out of the Gwadar Free Zone before a period of five years from the date of entry into the Zone; (e) if the machinery is brought to tariff area of Pakistan outside Gwadar Free Zone, sales tax shall be charged on the value assessed on the Goods Declaration for import; and (f) breach of any of the conditions specified herein shall attract legal action under the relevant provisions of the Act, besides recovery of the amount of sales tax along with default surcharge and penalties involved.”;

Amendments in 6th Schedule

(A) In Table-1, in column (1),–

(a) against Serial No. 100A, in column (2),−

(i) after the word “Port”, occurring for the third time, the words, “by the aforesaid operating companies” shall be inserted with effect from the 1st June, 2020.

The proposed amendment seeks to restrict the exemption available under this schedule on material and equipment, appliances for construction and operation of Gawadar port either imported by or supplied to China Overseas Ports Holding Company Limited and its various operating companies, contractors and sub-contractors having concession agreement with Gawadar port authority.

(ii) under the heading “(A). Conditions and procedure for imports” are proposed to be amended in condition (iii).

(I) after the word “imported”, the expression “and also those already imported under Notification No. S.R.O. 115(I)/2008, dated the 6th February, 2008,” shall be inserted with effect from the 1st June, 2020; and

(II) for the words “time of import”, the words “applicable rate on residual value” shall be substituted with effect from the 1st June, 2020.

The proposed amendments seeks to include goods so imported under S.R.O. 115(I)/2008, dated the 6th February, 2008 also whereby for all such exempt goods, is proposed to be levied at applicable rate on residual value, instead of earlier requirement of tax levied at time of import.

(b) after S. No. 100C and the entries relating thereto in columns (2) and (3), the following new serial number and the entries relating thereto shall with effect from the 1st June, 2020 be added, namely:–

100D.	Machinery, equipment, materials and goods imported either for exclusive use within the limits of Gwadar Free Zone, or for making exports therefrom, subject to the conditions that such machinery, equipment, materials and goods, are imported by investors of Gwadar Free Zone, and all the procedures, limitations and restrictions as are applicable on such goods under the Customs Act, 1969 (Act IV of 1969) and rules made thereunder shall, mutatis mutandis, apply provided that if any of such goods is taken out of the Zone for purpose other than the export, the tax on the same shall be paid by the importer	Respective headings

The proposed amendment seeks to extend the benefit of exemptions under this schedule to investors having imported machinery, equipment, materials and goods for use within the boundaries of Gawadar Free Zone or for making exports therefrom subject to various limits and restrictions mentioned. However, the tax on the same shall become payable if being taken out of of the Zone.
The above is already inserted by Tax Laws (Amended) Ordinance 2019 is now being made part of the 1990 Act.

(c) Exemption against S. No. 103, in column (2), till year "2020", is proposed to be enhanced till year "2023" available on import and supply of ships and floating crafts including tugs, dredgers, survey vessels and other specialized crafts purchased or bare-boat chartered by a Pakistan entity and flying the Pakistan flag.

(d) New sub-clause is proposed to be added after S.No. 153 to be read as follows:

154.	Dietetic foods intended for consumption by children suffering from inherent metabolic disorder subject to the conditions that the importer shall acquire approval and quota from Ministry of National Health Services, Regulations and Coordination.	Respective headings.' and

(B) in Table-3, in column (1),–

(a) for S. No. 15A and the entries relating thereto in columns (2), (3) and (4), the following S. No. and the entries relating thereto shall be substituted, namely:

Proposed Amended Table under S.No. 15A

15A.	Parts and Components for manufacturing LED lights:-		Respective headings
	(i) Housing /shell. Shell cover and base cap for all kinds of LED lights and bulbs	Respective heading	

	(ii) Bare and stuffed Metal Clad Printed Circuit Boards (MCPCB) for LED	8534. 0000	If imported by LED light manufacturers registered under the Sales Tax Act, 1990 subject to annual quota determination by the Input Output Co-efficient Organization (IOCO)";
	(iii) Constant Current Power Supply for of LED Lights and Bulbs (1-300W)	8504.4090	
	(iv) Lenses for LED lights and bulbs	9001.9000	

This is being amended to harmonize with corresponding custom laws.

Amendments in 8th Schedule

(a) For Potassium Chlorate, sales tax levied at standard rate of 17%, along with existing rupees 70 per kg is now proposed to rupees 80 per Kg as appearing in Table-1, in column (1), against S. No. 56.

(b) For supplies including finished fabric, and locally manufactured finished articles of textile and textiles made-ups and leather and artificial leather, made from retail outlets, having POS integrated with FBR, rate of sales tax is proposed to be reduced to 12% from existing 14% as appearing in Table-1, in column (1), against S. No.66, in column (4).

Amendments in 9th Schedule

The bill proposes to charge fixed sales tax of Rs. 200/- instead of Rs. 130 on smart phones up to the value of USD 30.

Amendments in 11th Schedule

In 11th schedule, in the Table, –

(a) after the heading "TABLE", after the word "agent", for the words "not applicable to goods and supplies specified at the end of the following Table", the expression "are specified as below provided that withholding tax shall not be applicable to the goods and supplies specified vide clauses (i) to (viii) after the Table" shall be substituted;

(b) in column (1), against S. No. 1, in column (3), for the words "Registered persons", the words "Active Taxpayers" is proposed to be substituted;

(c) in column (1), against S. No. 2, in column (3), for the word "Person", the words "Active Taxpayer" is proposed to be substituted; and

(d) in column (1), against S. Nos. 3, 4 and 6, in column (3), for the words "Unregistered persons", the words "persons other than Active Taxpayers" is proposed to be substituted; and

Amendments in 12th Schedule

The bill proposes to amend the condition (2), for clause (i), under the heading "Procedure and conditions" to relax the conditions and to exempt from charging value addition tax on all raw materials and intermediary goods imported by a manufacturer for in-house consumption.

SIGNIFICANT AMENDMENTS FEDERAL EXCISE

Adjustment of duties of excise **Section 6(2AB)**

The bill proposes to insert new sub-section (2AB) under Section 6 of Federal Excise Act, 2005 (Act, 2005) which empowers the Board to impose restrictions on wastage of material on which input tax has been claimed in respect of the goods or class of goods.

Power of Tax Authorities to Modify Orders, etc. **Section 14C**

The bill proposes to insert section 14C in the Act, 2005 which states that wherever taxpayer has preferred an appeal against the order of High Court or Appellate Tribunal, Commissioner or an officer of Inland Revenue can still follow the said decision against taxpayer, as far as it applies to question of law arising, until same is reversed by the High Court or Appellate Tribunal.

If the decision is subsequently reversed or modified in favor of taxpayer, Commissioner or an officer of Inland Revenue, within a period of one year of receipt of the modified/ reversed decision, shall modify the assessment order to conform to the final decision.

Power to seize **Section 26 (1)**

The bill proposes to enhance the scope of seizure of goods to all dutiable goods. currently, these provisions are applicable to cigarette, beverages and un-manufactured tobacco.

Confiscation of goods subject to Federal Excise Duty **Section 27**

The amendment seeks to enhance the scope of Section 27 from "Cigarettes, un-manufactured tobacco or beverages" to "dutiable goods".

Appeals to Commissioner (Appeals) **Section 33**

The existing appeal filing fee of one thousand rupees is proposed to be increased as follows:

Person	Against assessment	Any other case
In case of company	Rs. 5,000	Rs. 5,000
Other than company	Rs. 2,500	Rs. 1,000

Further, the bill proposes to insert new sub-section (4) in section 33 of the Act which provides that the Commissioner (Appeals) shall not admit any documentary evidence which was not produced before the assessing officer unless the Commissioner (Appeals) is satisfied that the appellant was prevented by sufficient cause from producing such material or evidence before the assessing officer.

Appeal before Appellate Tribunal **Section 34 (3)**

The bill seeks to provide that appeal by Appellate Tribunal under the Act, 2005 shall be decided as per procedures laid down under Section 131 and 132 of the Income Tax Ordinance, 2001 and rules made thereunder.

Alternative Dispute Resolution **Section 38**

The bill proposes to amend section related to Alternative Dispute Resolution in line with the proposed changes being made in Income Tax Ordinance, 2001 and Sales Tax, 1990.

Selection for audit by the Board **Section 42B**

The proposed amendment seeks to make it mandatory for the Board to keep the audit parameters confidential.

Audit **Section 46(10)**

The bill proposes to omit the provision of subsection 10 of Section 46 of the Act, 2005 which presently provide for conducting audit only once in three years.

Real-time access to information and databases **Section 47AB**

Similar to proposed insertion in Income tax Ordinance, 2001 and Sales Tax, 1990, he bill proposes to insert Section 47AB to make arrangement with National Database and Registration Authority, Federal Investigation Agency, Bureau of Emigration and Overseas Employment, Federal and Provincial Local land and Development Authority etc. to enable provision of real time access of information and database about taxpayer in the prescribed form and manner from such authorities.

Amendments in 1st Schedule

Proposed introduction of FED following goods.

S. No.	Description	Tariff Heading	Proposed rate
"6a.	Caffeinated energy drinks	2202.1010 2202.9900	25% of the retail price
"8a	8a E-liquids by whatsoever name called, for electric cigarette kits	Respective heading	Rupees ten per ml";
"55C.	Imported double cabin (4x4) pick-up vehicles	8704.2190 8704.3190	25% ad val
55D	Locally manufactured double cabin (4x4) pickup vehicles	8704.2190 8704.3190	7.5% ad val"; and

Proposed enhancement of FED rate of following:

Sr. No	Description	Existing rate	Proposed rate
8	Cigars, cheroots, cigarillos and cigarettes of tobacco and tobacco substitutes	65% of retail price	100% of retail price
56	Filter rod for cigarettes	Re. 0.75 per filter rod	Rs. 1 per filter rod

The bill has proposed to reduce FED rate on Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cements, whether or not colored or in the form of clinkers from existing Rs. 2 per kg to Rs. 1.75 per Kg.

SIGNIFICANT AMENDMENTS IN CUSTOMS ACT 1969

Advance ruling **Section 2(ai)**

The definition of advance ruling is proposed to be amended as under:

"Advance ruling" means a written decision by the Board or any officer or a committee authorized by Board, on the request of an applicant for determination of classification, origin or applicability of a particular relief or exemption on goods prior to their importation or exportation, valid for a specified period of time"

Smuggle **Section 2(s)**

The proposed amendment seeks to include transportation, storage and safe-keeping of smuggled goods in the definition of smuggling to render it more comprehensive

Assistance to the officers of customs. **Section 7**

The amendment seeks to legally bound Border Military Police (BMP) to assist customs officers in discharge of their official functions.

Detention, seizure and confiscation of goods imported in violation of section 15 or section 16 **Section 17**

The amendment seeks to insert following proviso to Section 17 to stipulate the period of detention of goods for early resolution of cases as under:

"Provided that the period of detention shall not exceed fifteen days which may be extended by the Chief Collector or Director General for a period not exceeding fifteen days."

General power to exempt from customs duties **Section 19**

The bill seeks to amend section 19 so as to provide legal cover to notifications issued by the Federal Government under this section upto 30 June 2021.

Minimal duties not to be demanded **Section 19C**

The bill seeks to enhance the monetary limit of duty free goods to provide relief to common man and to facilitate trade and business especially e-commerce. The section is proposed to be substituted as under

"Where the value of imported goods does not exceed five thousand rupees, no duties and taxes shall be demanded, subject to conditions and restrictions as may be prescribed by the Board under the rules."

Allowing mutilation or scrapping of goods. **Section 27A**

The proposed amendment seeks to bar the scrapping and mutilation goods imported in new condition and to classify them as chargeable to leviable duty and taxes as new goods.

False statement, error, etc. **Section 32A**

The proposed amendment seeks to include the following in the purview of false statement namely:

"If any person, in connection with any matter of customs declares value which is significantly higher or lower than the actual value, that is, the price actually paid or payable for the goods when sold for export to Pakistan, proceedings may be initiated under this section subject to conditions or limitations as may be prescribed by the Board under the rules"; and

To propose that an offence, having no revenue implication but covered under sub-section (1), shall also be served with show cause notice within a period of one hundred and eighty days of detection of such fraud for penal action under the relevant provisions of law.

Checking of goods declaration by the Customs. Section 80

The bill seeks to amend section 80 to provide opportunity of hearing to the importer in case of reassessment of goods after their release so as to meet the requirement of "fair notice" in dispensation of natural justice.

Declaration by passenger or crew of baggage. Section 139

The proposed amendment seeks to include following offences under this section namely;

Where any passenger or a member of the crew makes a false declaration or fails to make such declaration as required under sub-section (1), he shall be guilty of an offence under this Act, and

Where any person attempts to bring into or takes out of Pakistan, currency, gold, precious metals or stones, in any form, through concealment in baggage or circumventing customs controls at airports, sea-ports and land border custom-stations, he shall be guilty of an offence of smuggling within the meaning of clause (s) of section 2."

Punishment for offences. Section 156

The proposed amendment seeks to include following offences and penalties under this section namely;

(i)	where any goods be smuggled into or out of Pakistan,-	such goods shall be liable to confiscation and any person concerned in the offence shall be liable to
	(a) if the value of the goods is from PKR 150,001 to 3,000,000 (both inclusive);	a penalty not exceeding the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding two years;
	(b) if the value of the goods is from PKR 3,000,001 to 5,000,000 (both inclusive);	a penalty not exceeding two times the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding three years. Provided that the sentence of the imprisonment shall not be less than two years
	(c) if the value of the goods is from PKR 5,000,001 to 7,500,000 (both inclusive)	a penalty not exceeding three times the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding five years: Provided that the sentence of the imprisonment shall not be less than two and half years.
	(d) if the value of the goods is from PKR 7,500,001 to 10,000,000 (both inclusive);	a penalty not exceeding four times the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding ten years: Provided that the sentence of the imprisonment shall not be less than three years.
	(e) if the value of the goods exceeds PKR 10,000,000;	a penalty not exceeding five times the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding fourteen years: Provided that the sentence of the imprisonment shall not be less than five years and the whole or any part of his moveable and

		immoveable assets and property shall also be liable to forfeiture in accordance with section 187 of the Customs Act, 1969: Provided further that, in the case of such goods as may be notified by the Federal Government in the official Gazette, the sentence of imprisonment shall not be less than five years and the whole or any part of his property shall also be liable to forfeiture.

(iii)	If the smuggled or prohibited goods comprise currency, gold, silver, platinum or precious stones in any form	such currency or goods shall be liable to confiscation and any person concerned in the offence shall be liable to-
	(a) if the value of the currency or goods is upto US $ 10,000 or equivalent in value (currency of other denomination) etc;	a penalty not exceeding the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding two years;
	(b) if the value of the currency or goods is from US $ 10,001 to US $ 20,000 (both inclusive) or equivalent in value (currency of other denomination) etc;	a penalty not exceeding two times the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding three years: Provided that the sentence of the imprisonment shall not be less than two years.
	(c) If value of the currency or goods is from US $20,001 to US $50,000 (both inclusive) or equivalent in value (currency of other denomination) etc	penalty not exceeding three times the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding five years: Provided that the sentence of the imprisonment shall not be less than two and half years.
	(d) if the value of the currency or goods is from US $ 50,001 to US $100,000 (both inclusive) or equivalent in value (currency of other denomination) etc;	a penalty not exceeding four times the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for

		a term not exceeding ten years: Provided that the sentence of the imprisonment shall not be less than three years.
	(e) if the value of the currency or goods exceeds US $ 100,000 or equivalent in value (currency of other denomination) etc;	a penalty not exceeding five times the value of the goods; and upon conviction by a Special Judge he shall further be liable to imprisonment for a term not exceeding fourteen years: Provided that the sentence of the imprisonment shall not be less than five years and the whole or any part of his moveable and immoveable assets and property shall also be liable to forfeiture in accordance with section 187 of the Customs Act, 1969.

Power of adjudication. **Section 179**

The bill seeks to decrease the time limit for adjudicating cases of smuggling under section 2(s) from ninety to thirty days.

Burden of proof as to lawful authority etc. **Section 187**

The proposed amendment seeks to enable customs authorities to proceed against the properties, acquired by a person in his own name or in the name of someone else, by the proceeds of smuggling and also to make him liable to provide evidence of the lawful possession of such properties.

Orders of Appellate Tribunal. **Section 194B**

Under section 194-B the Appellate Tribunal shall be required to decide the appeal within sixty days or within such extended period as the Tribunal may, for reasons to be recorded in writing fix.

The bill proposes that in the case of smuggling, appeals shall be decided within a period of 30 days.

Alternative Dispute Resolution. **Section 195C**

The proposed amendment seeks to make following changes as regards Alternative Dispute Resolution;

(i) Any person can now be nominated by the Board from the panel mentioned sub-section 2 instead of retired judge

(ii) The Board shall communicate the order of appointment of committee to the court of law or the appellate authority and the Collector.

(iii) The condition that the aggrieved person or the concerned Collector under Alternative Dispute Resolution shall withdraw the appeal pending before any court of law is no more applicable.

(iv) The decision of the committee under sub-section (5) shall be binding on the Collector when the aggrieved person, being satisfied with the decision, has withdrawn the appeal pending before the court of law or any appellate authority and has communicated the order of withdrawal to the Collector. Provided that if the order of withdrawal is not communicated to the Collector within sixty days of the service of decision of the committee upon the aggrieved person, the decision of the committee shall not be binding on the Collector.

Procedure for sale of goods and application of sale proceeds. Section 201

The proposed amendment seeks to restrict the share of importer in sale proceeds of goods other than the confiscated to the extent of the declared value so as to discourage mis-declaration of value.

Regulation of business in gold, etc. Section 212A

Under section 212A, the Federal Government may devise authorized economic operator programme to provide facilitations relating to secure supply chains of imported and exported goods through simplified procedures.

The proposed amendment seeks to provide legal cover to the benefits granted to the Authorized Economic Operators (AEOs). A new sub section 3 in section 212A is added for this purposes as under:

"(3) Notwithstanding anything contained in this Act or any other law for the time being in force, the Board may, subject to such conditions, limitations or restrictions as it thinks fit to impose, grant benefits to the authorized economic operators, in such manner as may be provided under the rules made, including-

(a) laying down any procedure or mode for collection of customs duties, fee, surcharge, penalty or any other levy under this Act or any other law;

(b) deferring collection of customs duties, fee, surcharge, penalty or any other levy either in whole or in part;

(c) condoning or substituting whole or part of the bank guarantee or pay order of a scheduled bank required under this Act with any other financial instrument as deemed appropriate.

Advance ruling.-. Section 212B

The proposed amendment seeks to insert a new section as under:

"**212B. Advance ruling.-** (1) An applicant desirous of advance ruling shall make an application in such form and in such manner as may be prescribed under the rules, stating any of the questions as contained in sub-section (2), on which the advance ruling is sought.

(2) The question on which advance ruling is sought shall be in respect of-

i. classification of goods under First Schedule to this Act;
ii. determination of origin of the goods under the rules of origin notified for bilateral and multilateral agreements;
iii. applicability of notifications issued in respect of duties under this Act or any tax or duty chargeable under any other law for the time being in force in the same manner as duty of customs leviable under this Act; or
iv. any other matter as the Board may specify by notification in the official Gazette.

(3) The advance ruling issued under sub-section (1) shall be binding on the applicant.

(4) The advance ruling issued under sub-section (1) shall be binding on the customs collectorates for the period specified by the Board in the rules, unless there is a change in law or facts or circumstances on the basis of which the advance ruling was pronounced.";

Amendments in 1st Schedule

Customs duty on specified imports made for construction, development and operation of 'Gwadar port and Free Zone Area' is presently leviable @ 0%, subject to certain conditions / limitations.

Following amendments are proposed and be deemed to have been made with effect from the June 01, 2020.

- Import of equipment/ materials by concession holders, its operator companies and their contractors/sub- contractors to now specifically include Gwadar International Terminals Limited and Gwadar Marine Services Limited and their following operating entities & their contractors / subcontractors within the scope thereof.
- Presently, ship bunker oils imported by concession holders for supply of fuel/lubricants to ships used in the Port only, enjoy the subject concession. Now the same is proposed to cover all visiting ships including all local/ foreign/ fishing vessels;
- All the imports made for port related businesses upto a specified period, presently enjoy this concession. Now it is proposed to be made applicable (w.e.f July 1, 2016) only to packaging, distribution, stuffing and de-stuffing, CFS, container yard, warehousing including cool and cold rooms, transshipment, labelling, light end assembly and reassembly, imports and exports/value added exports, value adding of imports, other similar or related businesses activities and such commercial activities as are required to support the free zone.

Amendments in 5th Schedule

Imports of Plant, Machinery, Equipment and Apparatus, including Capital Goods for various industries/sectors: Part-I Fifth Schedule

The Bill proposes to enhance the meaning of capital goods given under Part-I of the Fifth Schedule to include within its scope plant, machinery and equipment imported by the IT sector, storage, communication and for infrastructure development of SEZs by Zone Developer whereby a duty free import of such goods will be allowed to these sectors which is currently available to other industries like mining, agriculture, fisheries etc.

CD on import of Plant machinery and equipment for setting up of industries in erstwhile FATA Areas

Under serial number 26 of the table under Part-I, the bill proposes to extend the period of exemption from custom duty on import of Plant machinery and equipment for setting up of industries in erstwhile FATA Areas from existing June 30, 2020 to June 30, 2023.

Further, the Bill proposes to reduce the rate of customs duty on items imported under following PCT headings under table to the Part I subject to the condition mentioned against the same.

			Customs duty %		Condition
Sr. No.	**Description**	**PCT Code**	**Existing**	**Proposed**	
23	Parts, Components and inputs for manufacturing LED lights: (ii) Pickling preparations for metal surfaces; soldering brazing or welding powders and pastes consisting of metal and other materials (iii) Poly Butylene Terephthalate	 3810.9090 3907.7000	 20 20	 0 0	If imported by LED Light and Bulbs manufacturers registered under the Sales Tax Act, 1990 subject to annual quota determination by the Input Output Coefficient Organization (IOCO).
36	Machinery, equipment and other project related items for setting up of Submarine Cable Landing stations				
	(i) Tubes Pipes and hollow profiles of cast iron	7303.0000	20	0	If imported by Internet Service providers registered under the Sales Tax Act 1990, duly certified by the Ministry of Information Technology and Telecommunication and Pakistan Telecommunication Authority (PTA), and subject to annual quota determination by the Input Output Co-efficient Organization (IOCO).
	(ii) Articles of non-malleable cast iron	7325.1000	20	0	
	(iii) Static Converters	8504.4090	16	0	
	(iv) Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus	8517.6290	16	0	
	(v) Optical fiber Cables	8544.7000	20	0	
37	Other Electric Conductors exceeding 32000 V	8544.6090	20	11	If imported by manufacturers of transformers, registered under the Sales Tax Act 1990.

Import of Active Pharmaceutical Ingredients, Excipients/Chemicals, Drugs, Packing Material/ Raw Materials for Packing and Diagnostic Kits and Equipment, Components and other Goods

The Bill proposes to reduce customs duty from 11% to 0% on "Meglumine antimonite" under PCT heading '3004.9099' without any applicable condition under Table C of Part-II.

Ships and Floating crafts, Nashir-e-Quran, Raw Materials/Inputs for Poultry and Textile Sector; Other Goods

The Bill seeks to extend the period of exemption from CD on import of Ships and other floating crafts including tugs, survey vessels and other specialized crafts purchased or bare-boat chartered by a Pakistani entity and flying Pakistani flag from June 30, 2020 to June 30, 2030 under serial number 105 of the table under Part-III.

The Bill proposes to allow exemption for those Nashir-e-Quran who do not have their own in-house printing facility in respect of paper of certain specification imported for printing of Holy Quran subject to certain conditions.

The Bill proposes to further reduce rate of customs duty on import of following goods under Part-III as given hereunder:

			Customs duty %	
Sr. No.	**Description**	**PCT Code**	**Existing**	**Proposed**
96	(i) Coils of aluminium alloys	7606.9290	5	0
109	(i) Other craft paper	4804.3900	16	15
116	(xiii) Glass board for manufacturing TV panels (LCD, LED, OLED, HDI etc.)	8529.9090	10	0

After S.No.118, the following new S. Nos. and entries relating thereto in columns (2), (3), (4) and (5), shall be added, namely: -

Sr. No.	Description	PCT Code	Existing under First Schedule	Proposed	Condition
"119	Organic composite solvents and thinners, not elsewhere specified or included; prepared paint or varnish removers.	3814.0000	20%	5%	If imported by manufacturers of Butyl Acetate registered under the Sales Tax Act 1990, subject to annual quota determination by Input Output Co-efficient Organization (IOCO).
120	Semi-finished products of Iron or non- alloy steel	7207.1110 7207.1190 7207.1210 7207.1290 7207.1910 7207.1920	11%	5%	If imported by manufacturers of Wire Rods registered under the Sales Tax Act 1990,

		7207.1990 7207.2010 7207.2020 7207.2090			subject to annual quota determination by Input Output Co-efficient Organization (IOCO).
121	Plasticised (Poly Vinyl Chloride)	3904.2200	20%	0%	If imported by manufacturers of disposable syringes and saline infusion sets, registered under the Sales Tax Act 1990, subject to annual quota determination by Input Output Co-efficient Organization (IOCO).
122	Other unsaturated Polyesters	3907.9100	20%	0%	If imported by manufacturers of buttons, registered under the Sales Tax Act 1990, subject to annual quota determination by Input Output Coefficient Organization (IOCO).
123	Other saturated Polyesters	3907.9900	20%	5%	If imported by manufacturers of interlining/ buckram, registered under the Sales Tax Act 1990, subject to annual quota determination by Input Output

					Coefficient Organization (IOCO).
124	(i) Skimmed milk powder	0402.1000	20%	0%	If imported by manufacturers of Ready to Use Supplementary Foods (RUSF), duly authorized by United Nations World Food Program (UNWFP) and subject to annual quota determination by Input Output Coefficient Organization (IOCO).; and
	(ii) Chickpeas	0713.2010	3%	0%	
	(iii) Soyabean oil	1507.9000	Rs 11700MT	0%	
	(iv) Palm Olein	1511.9030	Rs 9050MT	0%	
	(v) Hydrogenated vegetable fats	1516.2010	Rs 10200MT	0%	
	(vi) Malto Dextrins	1702.9030	11%	0%	
	(vii) Premixes of vitamins and minerals	2106.9090	20%	0%	
	(viii) Emulsifier	3404.9090	11%	0%	
	(ix) Antioxidant	3824.9999	11%	0%	

(D) in Part VI, in the Table, in column (1), after S.No.6, and the entries relating thereto in columns (2), (3), (4) and (5), the following shall be added, namely:-

Sr. No.	Description	PCT Code	Existing rate	Proposed rate	Condition
"7	Aircraft engine	8407.1000	3%	0%	For use in aircraft and trainer aircraft."

THANKING NOTE

Lastly, it is matter of true privilege for Khilji & Co, Chartered Accountants, to thank all its team members for their contributions during preparation of this document. It was really helpful to have all inputs. KCO considers itself extremely fortunate to have this highly capable, dedicated and exemplary team.

It has been a monumental effort for all team members contributing through their services and expertise to make this document possible in such a short span of time. We hope and believe that this document would assist our clients and team members in better understanding and evaluation of the Budget proposals.

We value your feedback as it helps us improve. We would appreciate feedback on the document.

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