

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



TAX LAWS (THIRD AMENDMENT) ORDINANCE, 2021



HEAD OFFICE

Plot 2, Mezzanine Floor, Khumrial Plaza, I&T Center Street 22, Sector G-8/4, Islamabad. +92 51 2253303-6

BRANCH OFFICE (DHA-II, ISB)

Plot No 16, Second Floor, Sector A, Iqbal Boulevard, DHA, Phase II, Islamabad.

BRANCH OFFICE (PESHAWAR)

Flat No. 203, 2nd Floor, Creative House, Phase 3 Chowk, Main Jamrud Road, Peshawar. +92 91 5611714

ASSOCIATE OFFICE (KARACHI)

Office No G-15, Mezzanine Floor, Spanish Homes, Main Korangi Road, Phase 1, DHA, Karachi

ASSOCIATE OFFICE (LAHORE)

53 K- 1st Floor, Commercial Area, Sector K Phase 1, DHA, Lahore

Email:

info@khilji.net.pk

Web:

www.khilji.net.pk

DISCLAIMER

Khilji & Co (Chartered Accountants) is pleased to present commentary on Tax Laws (Third Amendment) Ordinance, 2021, which is primarily aimed to help in understanding the impact of changes that are made by the said Ordinance relating to Income Tax, Sales Tax and Customs Duty. 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. 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 document 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.

EDITORIAL GROUP:

- | | |
|-----------------------------------|-----------------------|
| 1. Mr. Muhammad Waheed Iqbal, FCA | Chief Editor |
| 2. Mr. Saif Uddin Khilji | Editor |
| 3. Ms. Haroona Gul | Designer & Composer |
| 4. Syed Asim Habib | In charge circulation |

TAX LAWS (THIRD AMENDMENT)
ORDINANCE, 2021

Amendments of the Sales Tax Act, 1990:

1. A proviso has been added in sub section 7 of Section 3 of Sales Tax Act, 1990 (Act) to place duty of withholding agent on the operator of online market place at the rates as provided against Serial No. 8 of Eleventh Schedule. the proviso states that in case of the online marketplace facilitating the sale of third party goods, the liability to withhold tax on taxable supplies of such party shall be on the operator of such market place.
2. A new subsection 9AA has been added in Section 3 of the Act, whereby FBR has been empowered to require any person or class of persons to integrate their invoice issuing machines with the Board's computerized system for real time reporting of sales in such mode and manner and from such date as may be prescribed. Apparently, this sub section has been added in anticipation of any court ruling which may come on various pending litigations against the FBR efforts to get Tier-1 retailers integrate their invoice issuing machines with the Board's computerized system for real time reporting of sales
3. A new Section 14A has been inserted to empower the Board to issue directions to gas and electricity distribution companies for discontinuing the gas and electricity connections

of any person who falls in the following categories;

- a. any person, including tier-1 retailers, who fails to register for sales tax purpose, or
- b. notified tier-1 retailers registered but not integrated with the Board's computerized system:

Upon registration or integration, as the case may be, of the above said persons, the Board shall notify the restoration of their gas or electricity connection through sales tax general order

4. Serial No. 25A has been inserted in Table of Section 33 of the Act to prescribe penalty for a person who fails to get himself registered under the Act, and if registered, fails to integrate such person shall be liable to pay penalty of five hundred thousand rupees for first default, penalty of one million rupees for second default after fifteen days of order for first default, penalty of two million rupees for third default after fifteen days of order for second default and penalty of three million rupees for fourth default after fifteen days of order for third default. Moreover, business premises shall be sealed after fifteen days of fourth default till integration;

However, if the retailer integrates his business with the Board's Computerized System before imposition of penalty for second default, penalty

for first default shall be waived by the Commissioner.

5. Fat filled milk excluding that sold in retail packing under a brand name or a trademark was made zero rated vide Finance Act, 2021. Serial 15 of Fifth Schedule of the Act has been amended whereby the facility of zero rating has now also been extended to Fat filled milk sold in retail packing under a brand name or a trademark shall be charged at the rate of zero percent. Accordingly, Serial 60 of Eighth Schedule of the Act has been omitted which provided reduced rate of tax at 10% on fat filled milk sold on related packing under a brand name or trademark.
6. Edible Fruits excluding imported (except for imported from Afghanistan) are exempt under Serial 15 of the Sixth Schedule of the Act. Through an amendment made in the said serial 15, fruits imported from Afghanistan are also now excluded from Sixth Schedule
7. Exemption for Import of auto disable Syringes extended till December 31, 2021.
8. Exemption for Import of raw materials for the manufacturing of auto disable Syringes extended till December 31, 2021.
9. New serial "A has been inserted in Table-3 of the Sixth Schedule of the Act to specified item of raw material imported by registered manufacturers of auto disabled syringes. This concession is

available to registered manufacturers of auto disabled syringes with quota determination by IOCO and subject to NOC from Ministry of National Health Services Regulation and Coordination.

10. A new serial 66A has been inserted in Eighth Schedule of the Act which states that Supplies made from retail outlets integrated with Board shall be charged at the rate of 16% if payment is made through digital mode.
11. Similarly, Serial 66B has been inserted to provide that, import of remeltable scrap shall be charged at the rate of 14% if imported by steel melters.
12. Serial 75 has been inserted to prescribe reduced rate of 5% on Import of electric vehicle in CBU condition.
13. Serial 76 has been inserted which states that B2B transactions specified by the Board shall be charged at the rate of 16.9% if payment is made through digital mode;

**Amendments of the Income Tax Ordinance, 2001
(Ordinance XLIX of 2001):**

1. A new clause “la” has been inserted in Section 21 of ITO, 2001 whereby any expenditure by a company for a transaction under a single account head which, in aggregate, exceeds two hundred and fifty thousand rupees made otherwise than by digital means from business bank account of the taxpayer notified to the Commissioner under section 114A shall not be allowed as deduction. It means that even payment is made from business bank account but not declared under section 114A, no deduction shall be allowed in such case.

However, the exceptions as provided in clause 1 are also available in clause la.

2. Explanations has been inserted in Section 111, to clarify that for the remittance through Money Service Bureaus (MCBs), Exchange Companies (ECs) and Money Transfer Operators (MTOs) such as Western Union, Money Gram and Ria Finance or other like entities shall be deemed to constitute foreign exchange remitted from outside Pakistan through normal Banking channels.
3. In order to enforce persons to file income tax returns a new section 114B has been inserted in ITO 2001 whereby Board shall have been empowered to issue Income Tax General Order in respect of persons who are not appearing on ATL but are liable to file returns which may entail

consequences such as disabling of Mobile Phones or Mobile Phone Sims, discontinuance of electricity and gas connections.

The Board or the Commissioner having jurisdiction over the person mentioned in the income tax general order may order restoration of mobile phones, mobile phone sims and connections of electricity and gas, in cases where he is satisfied that the return has been filed or person was not liable to file return under the provisions of the Ordinance.

4. A new section 175B has been inserted whereby NADRA is authorized either on its own motion or an application by FBR to share information available or held by it, with the Board, for broadening of the tax base or carrying out the purposes of this Ordinance.

NADRA may compute indicative income and tax liability of anyone by use of artificial intelligence, mathematical or statistical modeling or any other modern device or calculation method.

Such liability if paid by the taxpayer shall be construed to be an amended assessment order under Section 120 or 122(1) or 122(4) as the case may be.

In case the person against whom a liability has been determined does not pay such liability within the time prescribed, the Board shall take action

under the Ordinance, upon the basis of tax liability computed.

5. Section 182 has been amended w.r.t prescribed penalty for non filing of income tax return. it now prescribes that where any person fails to furnish a return of income as required under section 114 within the due date such person shall pay a penalty equal to higher of 0.1% of the tax chargeable for each day of default or rupees one thousand for each day of default. Provided that minimum penalty shall be rupees ten thousand in case of salaried individual and rupees fifty thousand in all other cases. However, the amount of penalty shall be reduced by 75%, 50% and 25% if the return is filed within one, two and three months respectively after the due date.

6. Section 198 relating to prosecution for unauthorized disclosure of information by a public servant has been deleted and shall always be deemed to have been so omitted since the commencement of the ITO, 2001

7. Additional Advance Tax under section 235 shall be collected from professionals (accountants, lawyers, doctors, dentists, health professionals, engineers, architects, IT professionals, tutors, trainers and other persons engaged in provision of services) not appearing on ATL and operating from residential premises having domestic electric connections from DISCOs.

Tax collected from domestic consumer under Section 235 shall be adjustable against his tax liability.

Additional advance tax to be collected at following rates:

Where the bill does not exceed 10,000 rupees	5%
Where the bill exceeds 10,000 rupees but does not exceed 20,000 rupees	10%
Where the bill exceeds 20,000 rupees but does not exceed 30,000 rupees	15%
Where the bill exceeds 30,000 rupees but does not exceed 40,000 rupees	20%
Where the bill exceeds 40,000 rupees but does not exceed 50,000 rupees	25%
Where the bill exceeds 50,000 rupees but does not exceed 75,000 rupees	30%
Where the bill exceeds 75,000 rupees	35%

8. Exemption from total income granted to Pakistan Mortgage Refinance Company Limited by addition in Clause 66 of Part 1 of First Schedule of ITO, 2001.
9. The reduce rate of withholding tax @ 0.25% under clause 24C, Part II to the Second Schedule is now also available to the supplier of steel.

10. The reduce rate of minimum tax @ 0.25% under clause 24D, Part II to the Second Schedule is now also available to the supplier of steel.
11. The provisions of minimum tax shall not apply to Mobile Phone manufacturers engaged in the local manufacturing of mobile phone devices.
12. All entities mentioned in Table – I of clause (66) of Part I of the Second Schedule of the Ordinance are now part of thirteenth schedule for the purpose of Section 61 meaning thereby that the person would be entitled to a tax credit in respect of any sum paid, or any property given by the person in the tax year as a donation, voluntary contribution or subscription to such entities.

Amendments of Customs Act, 1969 (IV of 1969)

1. A new provision has been added under Section 25D whereby a person aggrieved of the value determined by DG Valuation may file an Appeal to the Member Customs (Policy) within thirty days of communication of such Order, who may pass an order annulling, modifying or confirming the order passed by the Director General.
2. An amendment has been made in Sub section 3 of Section 80 through which the Goods within three years of their clearance can be reassessed to duty, taxes and other charges levied thereon.

3. Corporate Guarantee is now acceptable where certain Goods require further inquiry and liability of taxes, duties is determined provisionally. However, it is provided that no provisional determination of value shall be allowed in those cases where a valuation ruling (VR) is in field.

SOCIAL MEDIA PRESENCE

Please visits our pages and do provide your valuable comments.

FACEBOOK

<https://www.facebook.com/khiljiandco/>

LINKEDIN

<https://www.linkedin.com/in/khilji-and-co-chartered-accountants-982b73143/>

TWITTER:

<https://twitter.com/AndKhilji>

WHATSAPP:

<https://chat.whatsapp.com/BHCSFRh1rfuIBSwtIWJWFp>

YOUTUBE:

https://www.youtube.com/channel/UCA4UjhDS_AMKNOFVu7_Qivg