

# Tax Commentary 2013



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For Clients only

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# Finance Bill - 2013

We are pleased to present today, the 24<sup>th</sup> issue of our comments on Finance Bills. In the light of our submission we are pleased to present our comments on the Finance Bill, 2013 on the amendments proposed in the Income Tax Ordinance, 2001, Sales Tax Act, 1990, Federal Excise Act, 2005 and other relevant amendments proposed in the bill.

The present bill will be remembered in the history of our country for introducing and compiling various amendments in a very short period of time as the Government took charge just few days back. The Country is currently facing various issues in the economic field, some of which are grave and need immediate actions. It is therefore of prime importance that in this time of hardship, the common man should not be burdened.

We have time and again pointed out towards the small number of taxpayers in the country and therefore, once again suggest to the Board for expansion of tax net, to provide relief to the existing tax payers. The proposal from various forums for the taxation of agriculture income has been a persistent demand. This issue must be considered by the parliament for enlarging tax net and sharing of tax burden by all the citizens in their earning proportion. We hope these measures and active efforts by the FBR will further increase the number of taxpayers, so that the burden of tax financing is spread to our country's population at large.

This Commentary has been formulated with the sole intention of providing our clients the impact and implication of the amendments to be made, therefore, this is not an exhaustive document and for interpretation of any section, reference should be made to specific wording of the relevant section.

We would like to take this opportunity to thank Mr. Wasif Iqbal, Mr. Gul Abbas & Mr. Ammar Ather Saeed, who kept us company during the night and researched and assisted us in our efforts. They were ably assisted by Mr. Syed Amjad Ali, Mr. Hashim Lodhi & Mr. Arif Rafiq and all credits for these comments must go to them. Mr. Muhammad Hussain, Mr. Saleem Javaid Qureshi & Mr. Usman Alam provided us assistance and coordinated our efforts. Khawaja Mazharuddin & Mr. Rizwan Shoaib were assigned the responsibilities to supervise the assignment. Processing and compiling of these entire comments were undertaken by Mr. Khalid Zia assisted by Syed Haris Naseem and Syed Baqar Hasnain, who worked tirelessly in their efforts to bring out the final result in the shortest possible time.

Qazi Asad our printer and his team managed to print the entire manuscript in a few hours time. We would like to acknowledge the contribution of all these gentlemen.

We hope our clients will find the commentary helpful and we will be available to explain and clarify any point on which they may require clarification.

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## **HIGHLIGHTS (INCOME TAX)**

- COMMISSIONER DELEGATED POWERS TO CALL FOR RECORD ETC.
- DISPLAY OF NATIONAL TAX NUMBER (NTN) AT BUSINESS PREMISES.
- PENALTY ENHANCED ON OFFENCES OF NON COMPLIANCE.
- FBR TO KEEP PARAMETERS FOR SELECTION OF AUDIT – CONFIDENTIAL.
- ADVANCE TAX ON FUNCTIONS AND GATHERING.
- ADVANCE TAX ON FILMS, CABLE OPERATORS ETC.
- ADVANCE TAX ON SALES TO DISTRIBUTORS, DEALERS, RETAILERS ETC.
- ADVANCE TAX ON SALES TO RETAILERS.
- ADVANCE TAX BY EDUCATIONAL INSTITUTIONS.
- ADVANCE TAX ON DEALERS, COMMISSION AGENTS.
- APPELLANT TRIBUNAL – CRITERIA FOR APPOINTMENT AMENDED.
- SALES TAX REGISTERED PERSON – BECAME WITHHOLDING AGENTS.
- INCOME FROM PROPERTY – SCOPE ENHANCED.
- FURNISHING OF INFORMATION BY BANKS TO FBR.
- TAX ON DIVIDEND INCOME BY COMPANY – FINAL TAX.

- CNIC FOR TAX PAYERS REGISTRATION IN PLACE OF NTN.
- ADJUSTMENT OF LOSSES AGAINST SALARY – RESTRICTED
- RATE OF TURN OVER TAX - ENHANCED.
- MINIMUM TAX ON BUILDERS – INTRODUCED.
- MINIMUM TAX ON DEVELOPERS - INTRODUCED.
- FILING OF RETURN FOR MEMBERS OF PROFESSIONAL BODIES - MANDATORY.
- PROCEDURE FOR FILING REVISED RETURN – AMENDED.
- FILING OF WEALTH STATEMENTS – MANDATORY.
- FILING OF TAX RETURN BY SALARY CLASS – MANDATORY.
- WITHHOLDING TAX ON CASH WITHDRAWAL – ENHANCED.
- RATES OF TAXES FOR BUSINESS INDIVIDUAL/AOPS – AMENDED.
- CORPORATE TAX RATE – REDUCED.
- SLABS OF TAX ON PROPERTY INCOME – AMENDED.
- WITHHOLDING TAX ON COMMERCIAL IMPORTS – REVISED.
- WITHHOLDING TAX RATES REVISED FOR MANY TAX PAYERS.
- WITHDRAWAL OF EXEMPTIONS IN SECOND SCHEDULE.

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## **AMENDMENTS IN THE INCOME TAX ORDINANCE, 2001**

### **Section 8**

#### **General provisions relating to taxes imposed under sections 5, 6 and 7:**

The bill seeks to omit the proviso (that provisions of this section shall not apply to dividend received by a company). The effect of this omission is to make tax on dividend received by banking companies as final tax.

### **Section 56 Sub-section 1**

#### **Set off of losses:**

The amendment is proposed to be made by insertion of certain words whereby to restrict the adjustment of losses against salary income.

### **Section 80**

#### **Person:**

The proposed changes seeks amendment in the definition of company

### **Section 111**

#### **Unexplained income or assets:**

The amendment is proposed to add the following proviso to section 111 of the Income Tax Ordinance:

*“Provided that where a taxpayer explains the nature and source of the amount credited or the investment made, money or valuable article owned or funds from which the expenditure was made, by way of agricultural income, such explanation shall be accepted to the extent of agricultural income worked back on the basis of agricultural income tax paid under the relevant provincial law.”*

The effect of the amendment is to restrict the credit of agricultural income to cases where provincial agricultural Income tax has been paid.

Section 113

Minimum tax on the income of certain persons:

The amendments seek to enhance the turn over tax from “one half” to one percent.

Section 113A

Minimum Tax on builders:

Section 113A is proposed to be substituted and the following shall be the new section 113A

*Minimum tax on builders.- (1) Subject to this Ordinance, where a person derives income from the business of construction and sale of residential, commercial or other buildings, he shall pay minimum tax at the rate of rupees twenty five per square foot as per the construction or site plan approved by the relevant regulatory authority.*

*(2) The minimum tax to be paid under this section shall be computed on the basis of total number of square feet sold or booked for sale during the year.*

*(3) The tax paid under this section shall be minimum tax on the income of the builder from the sale of such residential, commercial or other building.”*

The proposed amendment seeks to introduce minimum tax on builders.

Section 113B

Minimum Tax on Land Developers:

The amendment proposes to substitute section 113B and the substituted section shall be as follows:

*Minimum tax on land developers.- (1) Subject to this Ordinance, where a person derives income from the business of development and sale of residential, commercial or other plots, he shall pay minimum tax at the rate of rupees fifty per square yard as per the lay out or site plan approved by the relevant regulatory authority.*



*(2) The tax computed under sub-section (1) shall be paid on the basis of total number of square yards sold or booked for sale during the year.*

*(3) The tax paid under this section shall be minimum tax on the income of the developer from the sale of such residential, commercial or other plots sold or booked.”*

The amendment seeks to introduce minimum tax on developers.

### Section 114

#### Return of income:

The amendments proposed to amend / substitute the provision of the section, such as

(a) Filing of return Income by holder of Commercial or Industrial connection of electrically where the amount of annual bill exceeds rupees five hundred thousand.

(b) A new sub clause (ix) is proposed to be added.

*“(ix) is registered with any Chamber of Commerce and Industry or any trade or business association or any market committee or any professional body including Pakistan Engineering Council, Pakistan Medical and Dental Council, Pakistan Bar Council or any Provincial Bar Council, Institute of Chartered Accountants of Pakistan or Institute of Cost and Management Accountants of Pakistan.”*

(c) The threshold of individuals required to file tax return is now rupees four hundred thousand.

(d) The approval of Commissioner in writing for revision of tax return is made essential.

**Section 115**

**Persons not required to furnish a return of income:**

The amendment seeks to substitute subsection (4) of section 115. The new subsection (4) is as follows:

*“(4) Any person who is not obliged to furnish a return for a tax year because all the person’s income is subject to final taxation under sections 5, 6, 7, 15, 148, 151 and 152, sub-section (3) of section 153, sections 154, 156 and 156A, sub-section (3) of section 233, sub-section (5) of section 234 or sub-section (3) of section 234A shall furnish to the Commissioner a statement showing such particulars relating to the person’s income for the tax year in such form and verified in such manner as may be prescribed.”*

The proposed amendments require the return filing for members of professional bodies mandatory.

**Section 116**

**Wealth statement:**

The proposed amendments seek to remove the threshold of declared or assessed income of an individual for filing of wealth statement. After the amendment the Commissioner may require any individual (without recourse to his income) to furnish wealth statement.

**Section 118**

**Method of furnishing returns and other documents:**

The amendment is proposed wherein in cases of salaried employees filing of employer’s certificate under section 115 has been done away with.

Further, where salary income for the tax year is rupees five hundred thousand or more the tax payer is required to file return electronically in the prescribed form, together with proof of tax payment/deduction and wealth statement required under section 116.

This amendment seeks to make return filing mandatory for salaried taxpayers.

Section 119

Extension of time for furnishing returns and other documents:

The amendment seeks to make technical changes regarding filing of tax return.

Section 120A

Investment Tax on income:

This proposed amendment seeks to delete the said section which was introduced vide Finance Act 2008 and gave authority to FBR to introduce and make investment tax schemes.

Section 122 C

Provisional assessment:

The amendment seeks to curtail the period from sixty days to forty five days for the submission of revised tax return, where after the commissioner may make a provisional assessment order.

Section 130

Appointment of the Appellate Tribunal:

The amendment seeks to expand the criteria for appointment of member for the appellate tribunal. Now an officer of Inland Revenue Service and a law graduate having at least fifteen years of service in BS-17 and above, may be appointed as a judicial member.

In our opinion, this amendment is not a healthy amendment and if the state finds it difficult to attract advocate of high court to fill up the assignment, they should stipulate reasons for it, instead of lowering the criteria of appointment.

**Section 152**

**Payments to non-residents:**

The amendment seeks to prescribe withholding agents.

**Section 153**

**Payments for goods, services and contracts:**

The amendment proposed in this section seeks to make sales tax registered persons withholding agents for income tax.

**Section 155**

**Income from property:**

Various amendments are proposed in this section whereby the scope of withholding of tax on rental income has been enhanced.

Further, the following have been included as prescribed persons, to act as withholding agents, to withhold tax from rent:

(vi a) a private educational institution, a boutique, a beauty parlor, a hospital, a clinic or a maternity home;

(vi b) individuals or association of persons paying gross rent of rupees one and a half million and above in a year.

**Section 164**

**Certificate of collection or deduction of tax:**

The amendment seeks to omit the provision of certification by the employer and instead now all salaried tax payers are required to file their tax return individually.

**Section 165**

**Statements:**

The following amendment is proposed to be made in this section:

*“An explanation has been proposed to be added to sub section (1), as follows:*

*Explanation.- for the removal of doubt, it is clarified that this sub-section overrides all conflicting provisions contained in the protection of Economic Reforms Act, 1992 (XII of 1992), the Banking Companies Ordinance, 1962 (LVII of 1962), the foreign Exchange Regulation Act, 1947 (VII of 1947) and the regulations made under the state bank of Pakistan Act, 1956 (XXXII of 1956) if any, on the subject, in so far as divulgence of information under section 165 is concerned.”*

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

A new section 165 A has been proposed to be added, as follows:

*“165A. Furnishing of information by banks.- (1) Notwithstanding anything contained in any law for the time being in force including but not limited to the Banking Companies Ordinance, 1962 (LVII of 1962), the Protection of Economic Reforms Act, 1992 (XII of 1992), the Foreign Exchange Regulation Act, 1947 (VII of 1947) and the regulations made under the State Bank of Pakistan Act, 1956 (XXXIII of 1956), if any, on the subject, every banking company shall make arrangements to provide to the Board in the prescribed form and manner,-*

*(a) Online access to its central database containing details of its account holders and all transactions made in their accounts;*

*(b) a list containing particulars of deposits aggregating rupees one million or more made during the preceding calendar month;*

*(c) a list of payments made by any person against bills raised in respect of a credit card issued to that person, aggregating to rupees on hundred thousand or more during the preceding calendar month;*

*(d) a consolidated list of loans written off exceeding rupees one million during a calendar year; and*

*(e) a copy of each Currency Transactions Report and Suspicious Transactions Report generated and submitted by it to the Financial Monitoring Unit under the Anti-Money Laundering Act, 2010 (VII of 2010).*

*(2) Each banking company shall also make arrangements to nominate a senior officer at the head office to coordinate with the Board for provision of any information and documents in addition to those listed in sub-section (1), as may be required by the Board.*

*(3) The banking companies and their officers shall not be liable to any civil, criminal or disciplinary proceedings against them for furnishing information required under this Ordinance.*

*(4) Subject to section 216, all information received under this section shall be used only for tax purposes and kept confidential.”*

## Section 169

### Tax collected or deducted as a final tax

The proposed amendment seeks to omit from section 169, sub section 3, the words “other than dividend received by a company”. The effect of the omission will be that tax deducted from dividend, in case of companies, shall be final tax.

Section 171

Additional payment for delayed refunds

The proposed amendment seeks to clarify when the refund becomes due for the purpose of compensation. The following explanation is proposed in section 171:

*“Explanation.- For the removal of doubt, it is clarified that where a refund order is made on an application under sub-section (1) of section 170, for the purpose of compensation, the refund becomes due from the date refund order is made and not from the date the assessment of income treated to have been made by the Commissioner under section 120.”*

Section 172

Representatives

The following explanation is being proposed in this section to clarify who shall be representative of a non resident.

*“Explanation.- In this clause the expression “business connection” includes transfer of an asset or business in Pakistan by a non-resident;”*

Section 177  
Section 214 C

Audit

The proposed amendment in the form of an explanation is being inserted, which is as follows:

*“Explanation.- For the removal of doubt, it is declared that the powers of the Commissioner under this section are independent of the powers of the Board under section 214C and nothing contained in section 214C restricts the powers of the Commissioner to call for the record or documents including books of accounts of a taxpayer for audit and to conduct audit under this section.”*

Simultaneously same explanation has been inserted in section 214C.

The amendment seeks to provide enormous power to the CIR for selecting of any case for audit and call for production of records or documents including books of accounts of any taxpayer not selected by FBR under section 214C. These powers can be misused and the legislatures should review the amendment accordingly.

### Section 181

#### Taxpayer's registration:

The amendment seeks to provide in case of individuals use of CNIC issued by National Data base and registration authority in place of national tax number.

### Section 181 C

#### Display of National Tax Number:

The amendment seeks to provide for the display of NTN at business premises. The following section 181 C has been introduced which is as follows:

*“181C. Displaying of National Tax Number.- Every person deriving income from business chargeable to tax, who has been issued a National Tax Number, shall display his National Tax Number at a conspicuous place at every place of his business.”*

### Section 182

#### Offences and penalties

The amendment seeks to amend the table of penalties for non compliance.

The penalty for non compliance has been enhanced and it shall be as follows:

*“Such person shall pay a penalty equal to 0.1% of the tax payable in respect of that tax year for each day of default subject to a maximum penalty of 50% of the tax payable provided that if the penalty worked out as aforesaid is less than twenty thousand rupees or no tax is payable for that tax year such person shall pay a penalty of twenty thousand rupees”*



Furthermore it is proposed to insert the following:

S.No.	Offences	Penalties	Section of the Ordinance to which offence has reference
"1A.	<i>Where any person fails to furnish a statement as required under section 115, 165 or 165A within the due date.</i>	<i>Such person shall pay a penalty of Rs.2,500 for each day of default subject to a minimum penalty of fifty thousand rupees:</i>	<i>115, 165 and 165A</i>

**Section 214 C**

**Selection for audit by the Board**

It is proposed to insert sub section (1A) which is as follows:

*"(1A) Notwithstanding anything contained in this Ordinance or any other law, for the time being in force, the Board shall keep the parameters confidential"*

**Section 227 A**

**Reward to Inland Revenue officers and officials**

It is proposed to insert a new section providing rewards to Inland Revenue Officers and officials for their meritorious conduct in cases involving concealment or evasion of taxes.

**Section 234**

**Tax on motor vehicles**

The proposed amendments seeks to introduce new rates for person making lump sum payments of motor vehicle tax and further treating the tax withheld from goods transport vehicles as adjustable.

Section 236 D

Advance Tax on functions and gatherings

A new section, 236D is proposed to be inserted, which is as follows

*“236D. Advance tax on functions and gatherings.- (1) Every prescribed person shall collect advance tax at the rate specified in Division XI of Part IV of the First Schedule on the total amount of the bill from a person arranging or holding a function in a marriage hall, marquee, hotel, restaurant, commercial lawn, club, a community place or any other place used for such purpose.*

*(2) Where the food, service or any other facility is provided by any other person, the prescribed person shall also collect advance tax on the payment for such food, service or facility at the rate specified in Division XI of Part IV of the First Schedule from the person arranging or holding the function.*

*(3) The advance tax collected under sub-section (1) and sub-section (2) shall be adjustable.*

*(4) In this section,-*

*(a) “function” includes any wedding related event, a seminar, a workshop, a session, an exhibition, a concert, a show, a party or any other gathering held for such purpose; and*

*(b) “prescribed person” includes the owner, a leaseholder, an operator or a manager of a marriage hall, marquee, hotel, restaurant, commercial lawn, club, a community place or any other place used for such purpose.*

Section 236 E  
Section 236 F

Advance Tax on Films / Cable operators

It is proposed to insert another new section 236 E and 236 F to collect advance tax on foreign-produced films, TV plays and serial, cable operator and other electronic media, which is as follows:

***“236E. Advance tax on foreign-produced films, TV plays and serials.-***

*(1) Any person responsible for censoring or certifying a foreign-produced film, a TV drama serial or a play, for screening and viewing, shall, at the time of censoring or certifying, collect advance tax at the rates specified in Division XII of Part IV of the First Schedule.*

*(2) The advance tax collected under sub-section (1) shall be adjustable.*

***236F. Advance tax on cable operators and other electronic media.-***

*(1) Pakistan Electronic Media Regulatory Authority, at the time of issuance of license for distribution services or renewal of the license to a licensee, shall collect advance tax at the rates specified in Division XIII of Part IV of the First Schedule.*

*(2) The tax collected under sub-section (1) shall be adjustable.*

*(3) For the purpose of this section, "cable television operator", "DTH", "Distribution Service", "electronic media", "IPTV", "loop holder", "MMDS", "mobile TV", shall have the same meanings as defined in Pakistan Electronic Media Regulatory Authority Ordinance, 2002 (XIII of 2002) and Pakistan Electronic Media Regulatory Authority Rules, 2009.*

Section 236 G  
Section 236 H

Advance tax on sale to Distributors, Dealers, Retailers  
etc

Another proposal to be inserted in law is collection of advance tax on sales to distributors, dealers and wholesalers. Further amendment to collect advance tax on sale to retailers reads as follows.

*“236G. Advance tax on sales to distributors, dealers and wholesalers.- Every manufacturer or commercial importer of electronics, sugar, cement, iron and steel products, fertilizer, motorcycles, pesticides, cigarettes, glass, textile, beverages, paint or foam sector, at the time of sale to distributors, dealers and wholesalers, shall collect advance tax at the rate specified in Division XIV of Part IV of the First Schedule, from the aforesaid person to whom such sales have been made. (2) Credit for the tax collected under sub-Section (1) shall be allowed in computing the tax due by the distributor, dealer or wholesaler on the taxable income for the tax year in which the tax was collected.*

**236H Advance tax on sales to retailers.-** (1)Every manufacturer, distributor, dealer, wholesaler or commercial importer of electronics, sugar, cement, iron and steel products, fertilizer, motorcycles, pesticides, cigarettes, glass, textile, beverages, paint or foam sector, at the time of sale to retailers, shall collect advance tax at the rate specified in Division XV of Part IV of the First Schedule, from the aforesaid person to whom such sales have been made.

*Credit for the tax collected under sub-section (1) shall be allowed in computing the tax due by the retailer on the taxable income for the tax year in which the tax was collected.”*

Section 236 I

Collection of advance tax by educational institutions:

It is proposed through a new section to collect advance tax as specified in Div XVI of Part IV of First schedule on the amount of fee paid to an educational institution. This tax will be collected and shall be adjustable against the tax liability of the parents/guardian, where annual fee does not exceed two hundred thousand rupees.

Section 236 J

Advance tax on dealers, commission agents and arhatis etc:

Another proposed amendment seeks to collect advance tax from dealers, commission agent and arhatis etc at the rate specified, at the time of issuance or renewal of licenses, which shall be adjustable tax.

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## AMENDMENTS MADE IN THE FIRST SCHEDULE

The rate of tax for AOPs and Individual taxpayers are enhanced to 35%. New table of tax rates is set out as under:

TABLE AOPs & BUSINESS INDIVIDUALS

S.No	Taxable income	Rate of tax
(1)	(2)	(3)
1.	Where the taxable income does not exceed Rs.400,000	0%
2.	Where the taxable income exceeds Rs.400,000 but does not exceed Rs.750,000	10% of the amount exceeding Rs.400,000
3.	Where the taxable income exceeds Rs.750,000 but does not exceed Rs.1,500,000	Rs.35,000 + 15% of the amount exceeding Rs.750,000
4.	Where the taxable income exceeds Rs.1,500,000 but does not exceed Rs.2,500,000	Rs.147,500 + 20% of the amount exceeding Rs.1,500,000
5.	Where the taxable income exceeds Rs.2,500,000 but does not exceed Rs.4,000,000	Rs.347,500 + 25% of the amount exceeding Rs.2,500,000
6.	Where the taxable income exceeds Rs.4,000,000 but does not exceed Rs.6,000,000	Rs. 722,500 + 30% of the amount exceeding Rs.4,000,000
7.	Where the taxable income exceeds Rs.6,000,000	Rs. 1,322,500 + 35% of the amount exceeding Rs.6,000,000"; and

Impact of the above amendment is reproduced herein as under for the benefit of our readers:

**Business Individuals' Tax Calculation**

<b>Taxable Income</b>	<b>Tax Liability 2012</b>	<b>Tax Liability 2013</b>
410,000	1,000	1,000
900,000	57,500	57,500
1600,000	167,500	167,500
2,600,000	372,500	372,500
4,000,000	722,500	722,500
5,000,000	972,500	1,022,500
6,500,000	1,347,500	1,497,500

Where the income of an individual chargeable under the head 'salary' exceeds fifty percent of his taxable income, the rates of tax to be applied shall be as set out in the following table:

**TABLE SALARIED INDIVIDUALS**

<b>S.N o.</b>	<b>Taxable income.</b>	<b>Rate of tax.</b>
(1)	(2)	(3)
1.	Where the taxable income does not exceed Rs.400,000	0%
2.	Where the taxable income exceeds Rs.400,000 but does not exceed Rs.500,000	5% of the amount exceeding Rs.400,000
3.	Where the taxable income exceeds Rs.500,000 but does not exceed Rs.800,000	Rs.5,000 + 7.5% of the amount exceeding Rs.500,000
4.	Where the taxable income exceeds Rs.800,000 but does not exceed Rs.1,300,000	Rs.27,500 + 10% of the amount exceeding Rs.800,000
5.	Where the taxable income exceeds Rs.1,300,000 but does not exceed Rs.1,800,000	Rs.77,500 + 12.5% of the amount exceeding Rs.13,00,000

6.	Where the taxable income exceeds Rs.1,800,000 but does not exceed Rs.2,200,000	Rs.140,000 + 15% of the amount exceeding Rs.1,800,000
7.	Where the taxable income exceeds Rs.2,200,000 but does not exceed Rs.2,600,000	Rs.200,000 + 17.5% of the amount exceeding Rs.2,200,000
8.	Where the taxable income exceeds Rs.2,600,000 but does not exceed Rs.3,000,000	Rs.270,000 + 20% of the amount exceeding Rs. 2,600,000
9.	Where the taxable income exceeds Rs.3,000,000 but does not exceed Rs.3,500,000	Rs.350,000 + 22.5% of the amount exceeding Rs. 3,000,000
10.	Where the taxable income exceeds Rs.35,00,000 but does not exceed Rs.4,000,000	Rs. 462,500 + 25% of the amount exceeding Rs.3,500,000
11.	Where the taxable income exceeds Rs.40,00,000 but does not exceed Rs.7,000,000	Rs.587,500 + 27.5% of the amount exceeding Rs.4,000,000
12.	Where the taxable income exceeds Rs.7,000,000	Rs.1,412,500 + 30% of the amount exceeding Rs.7,000,000”;

The legislature has proposed to omit the only available relief in the shape of marginal relief for the salaried taxpayers. The said omission will enhance the tax liability, if the taxpayers' income just slipped to the other slab, therefore, the omission of this need to be reviewed for the benefits of the taxpayers.



Impact of the above amendment is reproduced herein as under for the benefit of our readers:

<b>Total Salary</b>	<b>Tax liability 2012</b>	<b>Tax liability 2013</b>
420,000	1,000	1,000
735,000	16,750	22,625
1,200,000	62,500	67,500
1,700,000	125,000	127,500
2,100,000	192,500	185,000
2,500,000	262,500	252,500
3,000,000	520,000	350,000
3,500,000	620,000	462,500
4,000,000	720,000	587,500
7,000,000	1,320,000	1,412,500
7,500,000	1,420,000	1,562,500

**Div. 1A      Rate of tax on certain persons:**

Div. 1A is omitted in consequence of omission proposed for section 113 A.

**Div. II      Rates of Tax for Companies:**

Rate of companies, other than a banking company, has been reduced to 34 % for the tax year 2014.

**Div. VI      Income from Property**

The legislature has proposed to expand the slabs of Individuals, AOPs and Companies having gross amount of rent from Rs. 1,000,000/- to Rs. 2,000,000/- and onwards. The amended Division VI (a) & (b) are reproduced as under:

**Individual and association of persons,**

S.No.	Gross amount of rent	Rate of tax
(1)	Where the gross amount of rent does not exceed Rs.150,000.	Nil
(2)	Where the gross amount of rent exceeds Rs.150,000 but does not exceed Rs.400,000.	5 percent of the gross amount exceeding Rs.150,000.
(3)	Where the gross amount of rent exceeds Rs.400,000 but does not exceed Rs.1,000,000.	Rs.12,500 plus 7.5 percent of the gross amount exceeding Rs.400,000.
(4)	Where the gross amount of rent exceeds Rs.1,000,000 but does not exceed Rs.2,000,000	Rs.57,500 plus 10 percent of the gross amount exceeding Rs.1,000,000.
(5)	Where the gross amount of rent exceeds Rs.2,000,000 but does not exceed Rs.3,000,000.	Rs.157, 500 plus 12.5 per cent of the gross amount of rent exceeding Rs.2,000,000.
(6)	Where the gross amount of rent exceeds Rs.3,000,000 but does not exceed Rs.4,000,000.	Rs.282, 500 plus 15 per cent of the gross amount of rent exceeding Rs.3,000,000
(7)	Where the gross amount of rent exceeds Rs.4,000,000	Rs.432, 500 plus 17.5 per cent of the gross amount of rent exceeding Rs.4,000,000

Impact of the above amendment is reproduced herein as under for the benefit of our readers:

Rent	Tax Liability 2012	Tax Liability 2013
150,000	NIL	NIL
400,000	12,500	12,500
1,000,000	57,500	57,500
2,000,000	157,500	157,500
3,000,000	257,500	282,500
4,000,000	357,500	432,500
4,100,000	367,500	450,000

### Companies

S.No.	Gross amount of rent	Rate of tax
(1)	Where the gross amount of rent does not exceed Rs.400,000.	5 percent of the gross amount of rent.
(2)	Where the gross amount of rent exceeds Rs.400,000 but does not exceed Rs.1,000,000.	Rs.20,000 plus 7.5 percent of the gross amount of rent exceeding Rs.400,000.
(3)	Where the gross amount of rent exceeds Rs.1,000,000, but does not exceed Rs.2,000,000	Rs.65,000 plus 10 percent of the gross amount of rent exceeding Rs.1,000,000.
(4)	Where the gross amount of rent exceeds Rs.2,000,000 but does not exceed Rs.3,000,000.	Rs.165, 000 plus 12.5 per cent of the gross amount of rent exceeding Rs.2,000,000
(5)	Where the gross amount of rent exceeds Rs.3,000,000 but does not exceed Rs.4,000,000.	Rs.290, 000 plus 15 per cent of the gross amount of rent exceeding Rs.3,000,000.
(6)	Where the gross amount of rent exceeds Rs.4,000,000.	Rs.440, 000 plus 17.5 per cent of the gross amount of rent exceeding Rs.4,000,000.”; and

Impact of the above amendment is reproduced herein as under for the benefit of our readers:

Rent	Tax Liability 2012	Tax Liability 2013
400,000	20,000	20,000
1,000,000	65,000	65,000
2,000,000	165,000	165,000
3,000,000	265,000	290,000
4,000,000	365,000	440,000
4,100,000	375,000	457.500

## Part II

### RATE OF ADVANCE TAX

The legislature has proposed to categorize the importers into three categories namely with the following rates:

(a) In the case of industrial undertakings	5%
(b) All other cases of companies	5%
(c) All taxpayers other than above	5.5%

## Part III

### Div. III 1(b),2(ii) & 3.

The legislature has proposed to divide suppliers, service providers and contractors in two categories i.e. companies and other than companies and has proposed rates as under:

	Companies	Other than Companies
Suppliers	3.5%	4%
Service	6%	7%
Contractor	6%	6.5%

**Div. V** The said amendment is in consequence of the proposed amendment made in Division VI of Part I of First Schedule and the rates are mutatis mutandis:

**Div. VI** The legislature has proposed to enhance the tax rate on prizes and winnings from 10 % to 15% of the gross amount paid.

### **Part IV**

**Div. IIA** The legislature has proposed to omit serial no. 04.

**Div. IIB** A new division has been proposed to be added for three persons namely member, margin financier and security lenders. The rate of deduction in the said division is proposed to be @ 10% of profit, mark-up or interest earned.

**Div. III** The legislature has proposed to give an option to the taxpayer for making onetime lump sum payment by adding para (iv) to this division. The legislature has also realized the inequity in withholding tax on motor vehicle whereby it was treated as final tax and has therefore proposed to make the said tax payment adjustable from the tax liability of the taxpayer.

**Div. VI** The legislature has proposed to enhance the rate from 0.2% to 0.3% on cash withdrawal in a day exceeding Rs. 50,000/-

**Div. VII** The legislature has proposed to substitute the rate of advance tax on purchase of Motor Cars and Jeeps at the time of registration. The new proposed rates are as under:

Engine capacity	Amount of tax
upto 850cc	Rs. 10,000
851cc to 1000cc	Rs. 20,000
1001cc to 1300cc	Rs. 30,000
1301cc to 1600cc	Rs. 50,000
1601cc to 1800cc	Rs. 75,000
1801cc to 2000cc	Rs. 100,000
Above 2000cc	Rs. 150,000

**Div. VIII** The legislature has proposed to increase the rate of advance tax from 5% to 10% for sale by auction.

The legislature has enhanced the scope of advance tax regime manifolds by adding division XI to XVII. These additions will lead to documentation and contribution from all segments of the society to Govt. Ex-chequer. These new divisions are reproduced as here & under:

#### DIVISION XI

##### Advance tax on functions and gatherings

The rate of tax to be collected under each sub-sections (1) and (2) of section 236D shall be 10%.

#### DIVISION XII

##### Advance tax on foreign-produced films and TV plays

Foreign-produced film	Rs. 1,000,000/-
Foreign-produced TV drama serial	Rs. 100,000/- per episode
Foreign-produced TV play (single episode)	Rs. 100,000

## Division XIII Cable Television Operator

License Category as provided in PEMRA Rules 2009	Tax on License Fee	Tax on Renewal
H	Rs.7,500	Rs.10,000
H-1	Rs.10,000	Rs.15,000
H-II	Rs.25,000	Rs.30,000
R	Rs.5,000	Rs.30,000
B	Rs.5,000	Rs.40,000
B-1	Rs.30,000	Rs.50,000
B-2	Rs.40,000	Rs.60,000
B-3	Rs.50,000	Rs.75,000
B-4	Rs.75,000	Rs.100,000
B-5	Rs.87,500	Rs.150,000
B-6	Rs.175,000	Rs.200,000
B-7	Rs.262,500	Rs.300,000
B-8	Rs.437,500	Rs.500,000
B-9	Rs.700,000	Rs.800,000
B-10	Rs.875,500	Rs.900,000

## Other Distribution Services

Type of Channel as provided in PEMRA Rules 2009	Tax on Issuance of license	Tax on Renewal
IPTV	Rs.100,000	Rs.1,000,000
FM Radio	Rs.100,000	Rs.100,000
MMDS	Rs.200,000	Rs.100,000
Mobile TV	Rs.100,000	Rs.50,000
<b>Satellite TV station</b>		
News or Current	Rs.1,000,000	Rs.2,000,000
Sports	Rs.1,000,000	Rs.1,000,000
Regional Language	Rs.700,000	Rs.700,000
Health or Agro	Rs.300,000	Rs.300,000
Education	Rs.300,000	Rs.300,000
Entertainment	Rs.1,000,000	Rs.1,000,000
Specialized subject station	Rs.500,000	Rs.200,000

Landing Rights per channel		
News/Current Affairs	Rs.1,000,000	Rs.5,000,000
Sports	Rs.500,000	Rs.2,500,000
Educational	Rs.200,000	Rs.1,000,000
Entertainment	Rs.200,000	Rs.2,000,000
Children	Rs.350,000	Rs.1,500,000;

**Division XIV**

Advance tax on sale to distributors, dealers or wholesalers

The rate of collection of tax under section 236G shall be 0.1% of the gross amount of sales.

**Division XV**

Advance tax on sale to retailers

The rate of collection of tax under section 236H shall be 0.5% of the gross amount of sales.

**Division XVI**

Collection of advance tax by educational institutions

The rate of collection of tax under section 236I shall be 5% of the amount of fee.

**Division XVII**

Advance tax on dealers, commission agents and arhatis, etc.

Group	Amount of tax (per annum)
Group or Class A:	Rs. 10,000
Group or Class B:	Rs. 7,500
Group or Class C:	Rs. 5,000
Any other category:	Rs. 5,000.

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## **AMENDMENTS MADE IN THE SECOND SCHEDULE**

### **PART-I**

#### **Clause 53A, 92, 98A & 103B :**

The legislature has proposed to withdraw exemptions available in different clauses to bring different sectors of society at par with the taxpayers. Exemptions withdrawn include benefits tickets, food, education, medical treatment, etc., provided by different organization to their employees. Exemptions provided to Income of non-profit school(s) and universities, Income of different international cricket bodies /councils and salaries of their employee(s) and dividend in form of shares derived by the company, are also proposed to be withdrawn.

#### **Clause 126 E**

The legislature has proposed to substitute the clause primarily by increasing the tax holiday period from 5 years to 10 years. The same is reproduced as under:

*“(126E) income derived by a zone enterprise as defined in Special Economic Zones Act ,2012 (XX of 2012) for a period of ten years starting from the date the developer certifies that the zone enterprise has commenced commercial operation and for a period of ten years to a developer of zone starting from the date of signing of the development agreement in the special economic zone as announced by the Federal Government*

**PART-II**

**Clause 28:**

Govt. has realized the importance of energy and petroleum crisis in the country and has come up with a different proposal to cater the need of time. The legislature has proposed this addition in light of Govt. policy which is reproduced as under:

*“(28) The rate of tax under section 148 on import of hybrid cars shall be reduced as below:-.*

Engine capacity	Rate of reduction
Up to 1200 cc	100%
1201 to 1800 cc	50%
1801 to 2500 cc	25 %

**PART-III**

**Clause 1:**

The legislature has proposed to withdraw the reduction in tax liability on flying allowance to pilots, flight engineers, navigators of Pakistan Armed Forces, Pakistani Airlines or Civil Aviation Authority, Junior Commissioned Officers or other ranks of Pakistan Armed Forces; and submarine allowance to the officers of the Pakistan Navy.

**Clause 2:**

The legislature has proposed to withdraw the reduction of amount equal to 75% on the tax liability of a full time teacher or a researcher, employed in a non profit education or research institution duly recognized by Higher Education Commission, a Board of Education or a University recognized by the Higher Education Commission, including government training and research institution.

The reason that the Govt. has used to withdraw this reduction is that some taxpayers are misusing this reduction for their benefits. We fail to understand why has FBR, which has a huge infrastructure, failed to stop this misuse of reduction and it is because of them the legitimate beneficiaries will suffer. The professors, researchers are the blood for the future development of our country and any benefit that is available to them for the recognition of their services cannot be done away on a plain that somebody is misusing the said reduction.

We strongly recommend to intact this reduction for researcher and professors and further recommend that FBR should take serious actions if any misuse is unearthed.

Clause 7:

The legislature has proposed to enhance the relief available under the said clause to all persons as specified under the ordinance.

PART-IV

Clause 56A

The legislature has proposed to insert the said clause and the same is reproduced as under:

*“(56A) The provisions of sub-section (7) of section 148 and clause (a) of sub-section (1) of section 169 shall not apply to a person who is liable to withholding tax under section 236E.”;*

Clause 59

The legislature has proposed to delete sub clause iv (a) and has thereby done away with the threshold available in the said sub-clause.

This proposed amendment is negating the basic threshold to pay the tax available under the ordinance, therefore it need to be reviewed and intact.

Clause 72A

The legislature has proposed to insert the said clause and the same is reproduced as under:

*“(72A) The provisions of clause (l) of section 21, sections 113 and 152 shall not apply in case of a Hajj Group Operator in respect of Hajj operations provided that the tax has been paid at the rate of Rs.3,500 per Hajji for the tax year 2013 and Rs.5,000 per Hajji for the tax year 2014 in respect of income from Hajj operations.”*

Clause 72B

The legislature has proposed to insert the said clause and the same is reproduced as under:

*(72B) 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.”*

The said proposed amendment is a relief for the industrial taxpayers who are over burdened from withholding tax under various sections. Now they can estimate their tax liability on the basis of two prior years and avoid further tax deduction u/s. 148 at the time of import of raw materials.

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## **AMENDMENTS MADE IN THE THIRD SCHEDULE**

Following amendment is proposed in Part II of the Third Schedule:

**Clause (1):** It is proposed that rate of initial allowance under section 23 shall be 25% for plant and machinery.

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## **AMENDMENTS MADE IN THE SEVENTH SCHEDULE**

Following amendment is proposed in the Seventh Schedule:

**Rule 6:** The legislature has intended to amend the third proviso but in the budget document it has been inadvertently printed as second proviso. The said omission will restrict the rate of tax to 25% on dividends from money market for banking companies for Tax Year 2014 onwards.

\*\*\*\*\*

## **INCOME SUPPORT LEVY ACT, 2013**

The Govt. has proposed to introduce a new act under the name of Income Support Levy Act, 2013. The preamble of the act is very catchy for the political millage but the impact of this Act on the citizens of this country, who are contributing their due shares since long time is equally important and needs to be assessed. We understand the anxiety of the Government to overcome the circular debt, but Government should understand that if they overburden the existing taxpayers, it will not be beneficial for the Government in the long run. The taxpayers who have over the period of accumulated movable asset and invested it in different investment schemes and all the yield and profits from these investments are subjected to tax. Hence, before the said investments, the taxpayers have already paid their due taxes on the income as well.

The proposed Act imposes 0.5% tax on movable assets of the taxpayer which is already taxed. Therefore, there is no justification of double tax on the same income. However, if the Government is serious and wants to broaden the tax net then in our opinion, any asset(s) created through exempt income need to be taxed under this act, which gives the Government a long term benefit to enhance the tax base and tax to GDP ratio.

We strongly recommend to review the proposed act in the light of facts narrated above to make it acceptable for the taxpayers at large. We are reproducing the act which is for the benefit of our clients to evaluate their tax liabilities, if the Government fails to consider our recommendations.

## Income Support Levy Act 2013.—

There is hereby imposed an Income Support Levy for the purposes herein after appearing;

AN ACT to provide for charge and collection of Income Support Levy

WHEREAS it is desirable to provide financial assistance and other social protection and safety net measures to economically distressed persons and families;

AND WHEREAS under the principles of policy as given in the Constitution of the Islamic Republic of Pakistan, the State is obliged to promote social and economic well-being of the people and to provide basic necessities of life;

AND WHEREAS it is expedient to provide for financial resources for running an income support fund for the economically distressed persons and their families through a Levy to be called Income Support Levy;

It is hereby enacted as follows:-

**1. Short title, extent and commencement.**- (1) This Act may be called the Income Support Levy Act, 2013.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

**2. Definitions.**- (1) In this Act, unless the context otherwise requires

(a) “Levy” means the Income Support Levy leviable or payable under this Act;

(b) “net moveable wealth” means the amount by which the aggregate value of the moveable assets belonging to a person as declared in the wealth statement for the relevant tax year, is in excess of the aggregate value of all the liabilities owed by that person on the closing date of the tax year.

Explanation.- For the purpose of this clause,-

(i) where liability claimed relates wholly and exclusively to an immovable asset, it shall not be claimed and allowed while computing the net moveable wealth. However, where the liability claimed relates wholly and exclusively to a moveable asset, it shall be claimed and allowed as a straight deduction while computing net moveable wealth; and

(ii) where the gross wealth of a person, declared in the wealth statement includes both moveable and immovable assets and the nature of assets to which the liability relates is not determinable, the liability to be allowed while determining the net moveable wealth shall be calculated by the following formula:-

$$(A / B) \times C$$

Where -

A is the gross value of moveable assets;

B is the gross value of both moveable and immovable assts; and

C is the gross value of debts owed;

(c) “Officer of Inland Revenue” means the Officer of Inland Revenue as defined under clause (38A) of section 2 of the Ordinance;

(d) “Ordinance” means the Income Tax Ordinance, 2001 (XLIX of 2001);

(e) “person” means an individual;

(f) “prescribed” means prescribed by the rules made under this Act;

(g) “tax year” means the tax year as defined in clause (68) of section 2 of the Ordinance; and



(h) “wealth statement” means a wealth statement required to be filed under section 116 of the Income Tax Ordinance, 2001.

(2) All other words and impressions used, but not defined herein, shall have the same meaning as is assigned to them under the Ordinance.

**3. Charge of Levy.**- Subject to the provisions contained in this Act, there shall be charged for every tax year commencing on and from tax year 2013 a Levy, in respect of value of net moveable assets held by a person on the last date of the tax year at the rate specified in section 9 and in the manner specified hereunder.

**4. Time and manner of payment of Levy.**- A person who is liable to pay the Levy under this Act shall pay the Levy along with wealth statement.

**5. Assessment of Levy.**- The Officer of Inland Revenue shall, by an order in writing, determine the Levy payable, and shall serve upon the person a notice of demand specifying the sum payable and the time within which it shall be paid and thereupon such sum shall be paid to such account and in such manner as may be prescribed, within the time specified in the notice.

**6. Default surcharge.**- Without prejudice to any liability under any other law for the time being in force, where a person fails to pay Levy as provided under section 4 or the levy so paid is less than the amount payable, he shall be liable to pay default surcharge at the rate of sixteen per cent per annum on the amount not paid or the amount by which the Levy paid falls short of the amount payable, calculated from the date it was payable to the date it is paid or the date of an order under section 5, whichever is earlier.

**7. Recovery of Levy.**- The provisions of the Ordinance shall, so far as may be practicable, apply to the collection of Levy under this Act as they apply to the collection of tax under the Ordinance.

**8. Appeals, revisions and rectifications.-** The provisions of the Ordinance shall, so far as may be practicable, apply to an appeal against, or revision or rectification of, an order under this Act as they apply to an appeal, revision or rectification under the Ordinance.

**9. Rate of Levy.-** The rate of levy payable under this Act shall be 0.5% of the net moveable wealth exceeding one million rupees.

**10. Power to make rules.-** The Federal Board of Revenue may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

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## **HIGHLIGHTS (SALES TAX)**

- Enhancement in standard rate of sales tax from 16% to 17%, effective from the 13.06.2013.
- Commissioner (Appeals) empowers to grant stay of 30 days
- Provisions for rectification introduced under the Sales Tax Act, 1990
- Charging further tax @ 2% on taxable supplies to a person who has not obtained registration number, effective from the 13.06.2013.
- Withdrawing sales tax exemption on milk preparations obtained by replacing one or more constituent of milk by another substance and supplies against international tender, effective from the 13.06.2013.
- Charging sales tax @ 5% in addition to the standard of 16% on non-registered commercial and industrial consumers of electricity and gas having monthly bill in excess of Rs. 15,000, and S.R.O. 509(I)/2013 and S.R.O. 510(I)/2013, both dated 12.06.2013, effective from the 13.06.2013
- Disallowing input tax adjustment in cases where discrepancies indicated by CREST or input tax of purchases is not verifiable in the supply chain, effective from the 13.06.2013.
- Expansion in list of items which are chargeable to sales tax on retail price (in 3<sup>rd</sup> Schedule) effective from the 13.06.2013.
- Withdrawing the concessions available to thirteen districts of Khyber Pakhtunkhwa, FATA and PATA on the pattern of Income Tax exemptions already withdrawn vide S.R.O. 500(I)/2013 and 503(I)/2013, both dated 12.06.2013.

- zero-rating on items of non export oriented sectors vide S.R.O. 501(I)/2013 and S.R.O. 502(I)/2013, both dated 12.06.2013.
- Exclusion of finished consumer goods from the list of items chargeable to sales tax @ 2%, vide SRO 504 (I)/2013 dated 12-06-2013.
- Expansion of scope of withholding regime for withholding of whole of amount of tax by withholding agents on purchases made from unregistered persons vide SRO 505 (I)/2013 dated 12-06-2013.
- Record relating to gate passes and transport receipts are prescribed as the documents to be maintained under Sales Tax Act, 1990 and Federal Excise Act, 2005, effective from the 01.07.2013.
- Rules Modified for registration of registered persons vide SRO 506 (I)/2013 dated 12-06-2013.
- Monitoring or tracking of manufacturing activities, sales, clearances, etc. by electronic or other means, effective from the 01.07.2013.
- Reward for the Inland Revenue officers/officials in detection of cases involving concealment or evasion of duty and taxes, effective from the 01.07.2013.

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## **AMENDMENTS IN THE SALES TAX ACT, 1990**

- Section 2 Seeks to define CREST by inserting clause (5AC) Computerized Risk-based Evaluation of Sales Tax (CREST)
- The purpose of insertion of the new clause is for computerized program for analyzing and cross-matching of sales tax returns.
- Section 2 Seeks to substitution of Provincial Sales Tax in clause (22A). Provincial Sales Tax means tax levied under provincial laws or laws relating to Islamabad Capital Territory, which are declared by the Federal Government through notification in the official Gazette, to be provincial sales tax for the purpose of input tax
- Section 2 Seeks to insert supply chain by inserting clause (33A)
- supply chain means the series of transactions between buyers and sellers from the stage of first purchase or import to the stage of final supply
- Section 2 Seeks amendment in definition of time of supply by amending sub-clause (a) of clause (44).
- The amended sub-clause (a) of clause (44) is as under:
- (a) a supply of goods, other than under hire purchase agreement, means the time at which the goods are delivered or made available to the recipient of the supply or the time when any payment is received by the supplier in respect of that supply, whichever is earlier.
- Seeks amendment in sub-clause (c) of clause 44 by adding a proviso. The amended sub-clause (c) of clause (44) is as under:

(c) services, means the time at which the services are rendered or provided,

Provided that in respect of sub-clause (a), (b) or (c), where any part payment is received,

(i) for the supply in a tax period, it shall be accounted for in the return for that tax period; and

(ii) in respect of exempt supply, it shall be accounted for in the return for the tax period during which the exemption is withdrawn from such supply.

Section 3 Seeks amendment in sub-section (1) of section 3 to enhance standard rate of sales tax from 16% to 17%.

Insertion of this provision for chargeability of further tax, taxation on capacity basis and fixed basis by inserting two new sub-section (1A) and (1B)

The newly proposed sub-section (1A) and (1B) are reproduce below

(1A) Subject to the provision of sub-section (6) of section 8 or any notification issued there under, where taxable supplies are made to a person who has not obtained registration number, there shall be charged, levied and paid a further tax at the rate of two per cent of the value in addition to the rate specified in sub-sections (1), (1B), (2), (5) and (6) of this section:

Provided that the Federal Government may, by notification in the official Gazette, specify the taxable supplies in respect of which the further tax shall not be charged, levied and paid

(1B) The Board may, by notification in the official Gazette, in lieu of levying and collecting tax under sub-section (1) on taxable supplies, levy and collect tax:

(a) on the production capacity of plants, machinery, undertaking, establishments or installations producing or manufacturing such goods; or

(b) on fixed basis, as it may deem fit, from any person who is in a position to collect such tax due to the nature of the business.”; and

Seeks amendment in sub-section 5 of section 3. The amended sub-section 5 is reproduced below:

The Federal Government may in addition to the tax levied under sub-section (1) sub-section (2) and sub-section (4), levy and collect tax at such extra rate or amount of tax not exceeding [sixteen] per cent of the value of such goods or clause of goods and on such persons or class of persons, in such mode, manner and at time, and subject to such conditions and limitations as it may, rules, prescribe.

Section 8 Seeks insertion of a new clause (caa) in sub-section (1) of section 8 to disallow adjustments on the basis of discrepancies indicated by CREST or where input tax is not verifiable in the supply chain. The inserted new clause (caa) to sub-section 1 of section 8 is reproduce below.

(caa) purchases, in respect of which a discrepancy is indicated by CREST or input tax of which is not verifiable in the supply chain.

Section 21 Seeks to amend sub-section (3) of section 21 to omit reference of section 73 and insert new sub-section 4.

The amended sub-section 3 of section 21 is reproduced below.

(3) During the period of suspension of registration, the invoices issued by such persons shall not be entertained for the purposes of Sales Tax refund or input tax credit, and once such persons in blacklisted, the refund or input tax credit claimed against the invoices issued by him, whether prior or after such blacklisting shall be rejected through a

self-speaking appealable order and after affording an opportunity of being heard to such person.

The newly inserted sub-section 4 of section 21 is reproduced below

(4) notwithstanding anything contained in this Act, where the Board, the Commissioner or any officer authorized by the Board in this behalf has reasons to believe that a registered person is engaged in issuing fake or flying invoices, claiming fraudulent input tax or refunds, does not physically exist or conduct actual business, or is committing any other fraudulent activity, the Board, Commissioner or such officer may after recording reasons in writing, block the refunds or input tax adjustments of such person and direct the concerned Commissioner having jurisdiction for further investigation and appropriate legal action.

Section 22 Seeks amendment in clause (e) of sub-section (1) to allow for insertion of new clause.

The amended clause (e) of sub-section (1) of section 22

The amended clause (e) is reproduced below.

(e) Invoice credit notes, debit notes, bank statements, [banking instruments in terms of section 73] inventory records [utility bills, salary, and labour bills, rental agreements, sale-purchase agreements and lease agreements],

(ea) record relating to gate passes, inward or outward, and transport receipts.

Section 25 Seeks to insert explanation in section 25, 38, 38A, 38B and 45A and for removal of doubt regarding powers of Board, Commissioner and officer of Inland Revenue under these sections as compared to section 72B.

After sub-section (5), the following explanation shall be added, namely



**Explanation.**- For the purpose of sections 25, 38, 38A, 38B and 45A and for removal of doubt, it is declared that the powers of the Board, Commissioner or officer of Inland Revenue under these sections are independent of the powers of the Board under section 72B and nothing contained in section 72B restricts the powers of the Board, Commissioner or officer of Inland Revenue to have access to premises, stocks, accounts records, etc. under these sections or to conduct audit under these sections.

Section 40B In section 40B, after the word “Board” the words “or Chief Commissioner” shall be inserted.

The amended section 40B is reproduced below

Subject to such conditions and restrictions, as deemed fit to impose, [Board] of the Chief Commissioner may post Officer of [Inland Revenue] to the premises of registered person or class of such persons to monitor production sales of taxable goods and the stock position;

Provided that if a [Commissioner] on the basis of material evidence, has reason to believe that a registered person is involved in evasion of sales tax or tax fraud, he may by recording the reason in writing, post an Officer of [Inland Revenue] to the premises of such registered person to monitor productions or sale of taxable goods and the stocks position].

Section 40C After section 40B, the following new section shall be inserted, namely

**Monitoring or tracking by electronic or other means.—** (1) Subject to such conditions, restrictions and procedures, as it may deem fit to impose or specify, the Board may, by notification in the official Gazette, specify any registered person or class of registered persons or any good or class of goods in respect of which monitoring or tracking of production, sales, clearances, stocks or any other related

activity may be implemented through electronic or other means as may be prescribed.

(2) From such date as may be prescribed by the Board, no taxable goods shall be removed or sold by the manufacturer or any other person without affixing tax stamp, banderole, stickers, labels, etc. in any such form, style and manner as may be prescribed by the Board in this behalf.

Section 45B In section 45B, in sub-section (1), the following new sub-section shall be inserted,

(1A) Where in a particular case, the Commissioner (Appeals) is of the opinion that the recovery of tax levied under this Act, shall cause undue hardship to the taxpayer, he, after affording opportunity of being heard to the Commissioner or officer of Inland Revenue against whose order appeal has been made, may stay the recovery of such tax for a period not exceeding thirty days in aggregate.

Section 57 Seeks substitution of section 57 to harmonize concept of rectification of mistake on lines.

The substituted section 57 is reproduced below

the Commissioner (Appeals) or the Appellate Tribunal may, by an order in writing, amend any order passed by him to rectify any mistake apparent from the record on his or its own motion or any mistake brought to his or its notice by a taxpayer or, in the case of the Commissioner (Appeals) or the Appellate Tribunal, the Commissioner.

(2) No order under sub-section (1) which has the effect of increasing an assessment, reducing a refund or otherwise applying adversely to the taxpayer shall be made unless the taxpayer has been given a reasonable opportunity of being heard.

(3) to the notice of the Commissioner or Commissioner (Appeals), as the case may be, and no order has been made under sub-section (1), before the expiration of the financial year next following the date on which the mistake was brought to their notice, the mistake shall be treated as rectified and all the provisions of this Act shall have effect accordingly.

(4) No order under sub-section (1) shall be made after five years from the date of the order sought to be rectified

Section 72C Seeks insertion of section 72C to allow provision of reward to officers and officials of Inland Revenue in case of detection of concealment and evasion of sales tax.

The newly inserted section 72C is reproduced below

**Reward to Inland Revenue officers and officials.-** (1) In cases involving concealment or evasion of sales tax and other taxes, cash reward shall be sanctioned to the officers and officials of Inland Revenue for their meritorious conduct in such cases and to the informer providing credible information leading to such detection, as may be prescribed by the Board, only after realization of part or whole of the taxes involved in such cases.

(2) The Board may, by notification in the official Gazette, prescribe the procedure in this behalf and specify the apportionment of reward sanctioned under this section for individual performance or to collective welfare of the officers and officials of Inland Revenue

Section 73 Seeks amendment in explanation of section 73 to prescribe change in bank account through sales tax registration form or through change in particulars in registration database.

The amended explanation of section 73 is reproduced below

Explanation: for the purpose of this section, the term “business bank account mean a bank account utilized by the registered person for business transaction, declared to the [Commissioner] in whose jurisdiction he is registered]

- |                 |  |
|-----------------|--|
| Third Schedule  | Seeks to add items in Third Schedule of the Act to charge sales tax on retail price basis on these items.  |
| Clause 3(14)(a) | Seeks to omit S. No. 25 of Table-I of the Sixth Schedule of the Act to withdraw exemption of sales tax on milk preparations obtained by replacing one or more constituents of milk by another substance. |
| Clause 3(14)(b) | Seeks to omit S. No. 12 of Table-II of the Sixth Schedule to withdraw exemption of sales tax on supplies against international tender.   |

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**SROs AND NOTIFICATIONS**  
**(SALES TAX)**

SRO#	TITLE
SRO. 500(I)/2013	Rescinding various Sales Tax and Federal Excise notifications.
SRO 501(I)/2013	To exempt goods that were earlier zero-rated under SRO.549(I)/2008 dated 11.06.2008.
SRO. 502(I)/2013	To delete items from SRO/549(I)/2008 dated 11.06.2008 as these items are now exempt under SRO.501(I)/2013, dated 12.06.2013
SRO. 503(I)/2013	To delete clause (4) of S.No.1, which was inserted under the fiscal relief package for Khyber Pakhtunkhwa, FATA & PATA.
SRO. 504(I)/2013	To exclude finish articles, goods and made-ups from the purview of SRO.1125(I)/2011, dated 31.12.2011.
SRO. 505(I)/2013	To expand scope of withholding regime by making all withholding agents responsible to withhold whole of sales tax on purchases from unregistered persons.
SRO. 506(I)/2013	To amend Sales Tax Rules, 2006 to change clauses related to place of registration.
SRO. 509(I)/2013	To levy extra tax @ 5% on non-registered industrial and commercial connections where monthly bills exceed 15,000 per month.
SRO. 510(I)/2013	Amendment in Sales Tax Special Procedure Rules, 2007 to prescribe the rules for chargeability of extra tax levied under SRO.509(I)/2007 dated 09.06.2007.

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## **FEDERAL EXCISE HIGHLIGHTS**

- The rate of federal excise duty on aerated beverages is being increased from 6% to 9% and introduction of capacity based taxation on aerated beverages to stop evasion and malpractices in the sector
- The three tier structure of chargeability of FED on cigarettes is being replaced by a two tier specific rate structure, effective from the 01.07.2013.
- Federal Excise Duty @ 40 paisa per kg on imported seeds, Rs. 1/ per kg on locally produced oil and 10% *ad.val.* on motor vehicles of cylinder capacity of 1800cc or above is being charged, effective from the 13.06.2013.
- The scope of chargeability of Federal Excise Duty on financial services is being expanded by making all kinds of financial services falling under PCT 98.13 chargeable to Federal Excise Duty @ 16%.
- Exemption of Federal Excise Duty on hydraulic cement and services provided or rendered by Asset Management Companies is being withdrawn, effective from the 13.06.2013.

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## **AMENDMENTS IN THE FEDERAL EXCISE ACT, 2005**

- Clause 5(1)            Seeks to add new sub-section (3A) in section 3 to allow chargeability of further duty on excisable goods and services.
- Clause 5(2)            Seeks to add clause (da) in sub-section (1) of section 17 to prescribe inward and outward gate passes and transport receipts as legal document.
- Clause 5(3)            Seeks to insert new sub-section (1A) in section 33 to allow Commissioner (Appeals) to grant stay of recovery to maximum of 30 days in hardship basis.
- Clause 5(4)            Seeks to insert explanation in section 35, 45 and 46 and for removal of doubt regarding powers of Board, Commissioner and officer of Inland Revenue under these sections as compared to section 42B.
- Clause 5(5)            Seeks to amend section 42C to allow for provision of reward to officers and officials of Inland Revenue on detection of cases of concealment and evasion of duty.
- Clause 5(6)            Seeks to amend section 45 to equate powers of Board and Chief Commissioner regarding posting of officers or officials of Inland Revenue to business premises for monitoring.
- Clause 5(7)            Seeks to insert section 45A to allow legal powers for monitoring or tracking by electronic or other means.
- Clause 5(8)(a)(i)      Seeks to amend S. No. 4, 5 and 6 of Table-I of the First Schedule to increase rate of FED from 6% to 9% on aerated beverages.

- Clause 5(8)(a)(ii) Seeks to substitute S. No. 9 and 10 of Table-I of the First Schedule to replace three tier structure with two tier specific structure for chargeability of FED on cigarettes.
- Clause 5(8)(a)(iii) Seeks to omit S. No. 11 of Table-I of the First Schedule as a corrective measure to allow two tier specific structure for chargeability of FED on cigarettes.
- Clause 5(8)(a)(iv) Seeks to insert two new S. Nos. 54 and 55 in Table-I of the First Schedule to charge FED on oilseeds and motor vehicles.
- Clause 5(8)(b)(i) Seeks to omit S. No. 7 of Table-II of the First Schedule as all financial services have been clubbed for chargeability of FED.
- Clause 5(8)(b)(ii) Seeks to amend S. No. 8 of Table-II of the First Schedule to charge FED on all types of financial services as specified in PCT heading 98.13.
- Clause 5(9)(a) Seeks to omit S. No. 5, 7 and 8 from Table-I of Third Schedule to withdraw exemption of FED on hydraulic cement, lubricating oil and transformer oil.
- Clause 5(9)(b) Seeks to omit S. No. 8 from Table-II of Third Schedule to withdraw exemption of FED on services rendered or provided by Asset Management Companies.

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**SROs AND NOTIFICATIONS**  
**(2013-14)**  
**(FEDERAL EXCISE)**

SRO#	TITLE
SRO. 500(I)/2013	Rescinding various Sales Tax and Federal Excise Notifications.
SRO. 503(I)/2013	To delete clause (4) of S.No.1 which was inserted under the fiscal relief package for Khyber Pakhtunkhwa, FATA & PATA
SRO.507(I)/2013	To charge Re.1 per kg on locally produced oil.
SRO.508(I)/2013	To charge / levy Rs.0.40 per kg on import of oilseeds.

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## **CUSTOMS HIGHLIGHTS**

- The reduction in duty & taxes on Hybrid Electric Vehicles (HEVs) ranging from 25% to 100%, according to their engine capacity.
- Duty free import of “bio re-absorbable vascular scaffold” (heart stents) to decrease their cost for heart patients.
- The Exemption of duty and sales tax on energy saving tubes presently @ 20% duty to encourage use of energy efficient electrical equipment.
- The Streamlining and deregulation of the procedure for exempt import of renewable energy resources compatible equipment to promote their use and incentivize investment in this field.
- The Reduction of customs duty on office or school supplies from 25% to 20% to lower their price and reduce classification disputes.
- The Duty & sales tax free import of solar submersible pumps presently @ 20% duty to encourage use of energy efficient electrical equipment.
- The Reduction of duty on water treatment & purifying machinery and equipment from 20% to 15% to make them accessible to general public.
- The Streamlining the procedure for re-import of machinery & equipment sent abroad for repair etc by industrial importers.
- The Reduction of customs duty on Medium Density Fiber (MDF) Board.
- Creation of separate PCT codes of newly indigenized vehicles to incentivize local auto industry.
- Creation of new PCT code for classification of satellite phone and water dispenser to reduce classification disputes and improve import statistics.

- Editorial corrections of description and classification in the Tariff.
- Regulatory control on exempt/concessionary import of agricultural machinery, tourism sector, packaging industry and pharmaceutical sector is being strengthened to ensure that the benefit is availed by bonafide importers only. Editorial changes for simplification of concessionary SROs is also being made to remove duplications, spelling errors or redundant entries.
- Increase in duty on betel nuts from 15% to 20% and betel leaves from Rs.200/kg to Rs. 300/kg to discourage their use on account of adverse health effects.
- Amendment in section 2 (1a) of the Customs Act, 1969 will provide legal cover for filing of transshipment goods declaration in Computerized Clearance System.
- Introduction of new section 3DDD in the Customs Act, 1969 to provide legal cover to the Directorate General of Input Output Co-efficient Organization (IOCO).
- Amendment in section 14-A of the Customs Act, 1969 whereby terminal operators/custodian of goods will be bound to entertain the delay and detention certificates issued by customs authorities for waiver of demurrage charges. This measure will mitigate the financial hardship faced on this count by genuine importers.
- Amendment in section 14-A of the Customs Act, 1969 will require the custodian of goods/terminal operator to provide adequate security and residential accommodation to the customs staff.
- Sub-section (4) of section 32 empowers the appropriate officer to determine payable amount. Presently this section does not cover the liability found on account of Post Clearance Audit. Inclusion of sub-section-3A in sub-section 4 will fulfill this legal requirement.

- Amendment in section 81 of the Customs Act, 1969, to delete Post Dated Cheque as an acceptable security against provisional assessment.
- Section 80-A appearing in sub-section 2 of Section 83 is being proposed to be omitted. The reference of section 80-A under section 83 is meaningless since section 80-A is already omitted.
- Amendment in section 179 of the Customs Act, 1969 will fix the adjudication powers in case of exported goods in relation to their FOB value as against duty and taxes in case of imported goods.
- Amendment in section 196 will authorize Director of Customs Valuation to file appeals before the High Court in such cases where he is aggrieved by the orders of the Tribunal.
- Amendment in section 202 B of the Customs Act, 1969 to correct the nomenclature of Customs Service of Pakistan.

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