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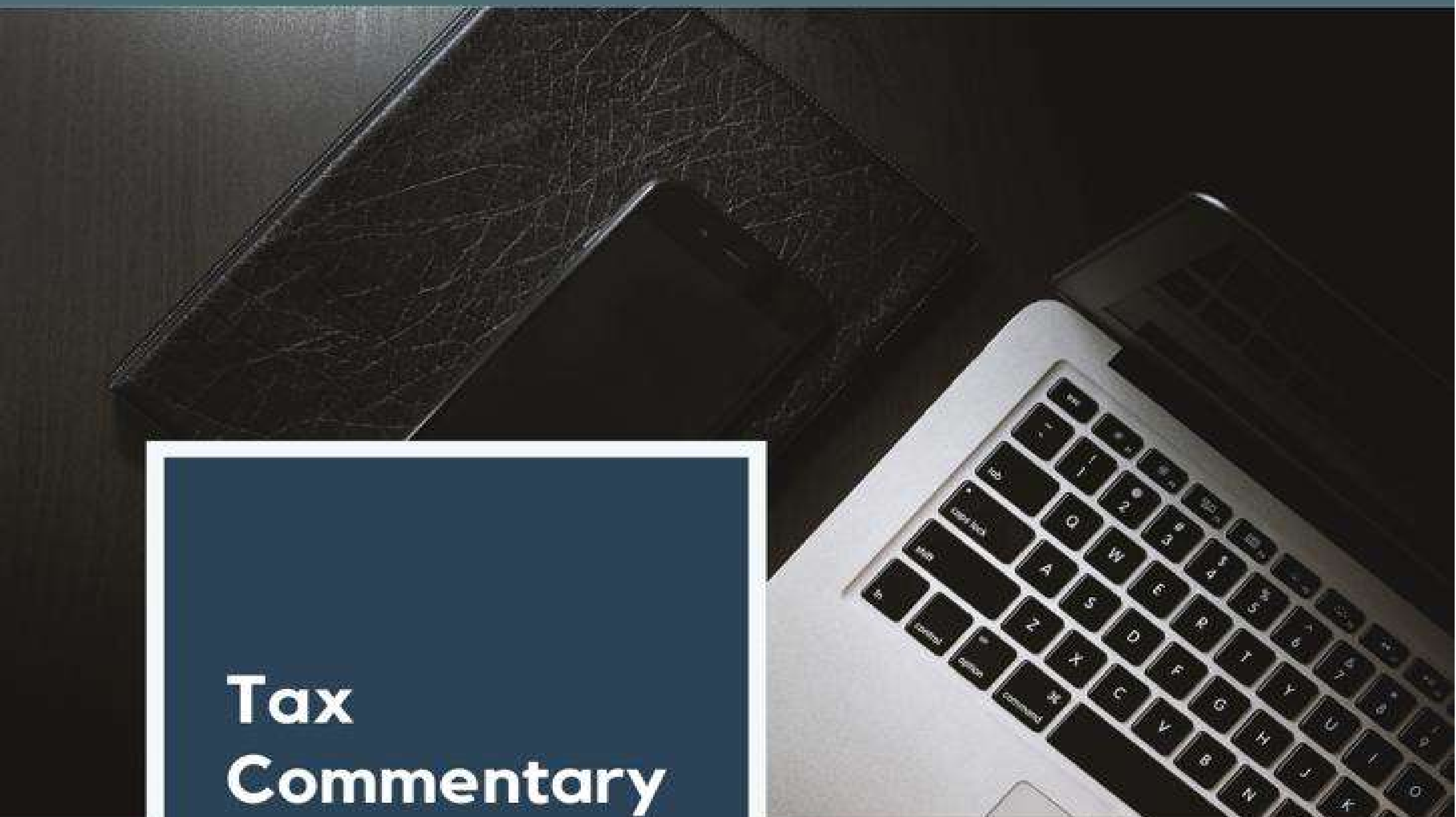

Tax Commentary

2023

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INTRODUCTION TO FINANCE BILL 2023

10th June 2023

The financial year 2022-2023 was a very bad year for the economy of the country due to the dollar reaching unprecedented heights and inflation in all the factors of the economy resulting in the middle class and the lower middle class not being able to make their ends meet.

On the basis of this disastrous economic year and the fact that International Monetary Fund had levied countless conditions and despite meeting most of the conditions no staff level agreement could be reached till the date of the presenting of the budget the talk of the country going in default was on the lips of all and sundry.

However, the amendments made in the Income Tax Ordinance, 2001 ("Ordinance") and the Sales Tax Act, 1990 ("Act") have come as a pleasant surprise to the businessmen and other taxpayers as very few revenue generating provisions have been proposed in the Finance Bill. But the Finance Minister in his speech has warned that the inflation may rise more than 20% in the next fiscal year.

This is the shortest Finance Bill which we have seen in a number of years and there are very few amendments which we will be discussing in our comments. A glimpse at the budget makes us confident that there are reasonable changes that elections which have been in limbo will be held this year as this appears to be an 'Election Budget'.

We have time and again in our comments reiterated that the economic woes of Pakistan arise due to very meagre tax base which is between 1% to 2% of the entire population. The FBR has despite being provided with a very good opportunity by the provisions incorporated in the Ordinance in the last few years whereby withholding tax on non-filers had been substantially enhanced, had once again failed to take advantage of the data being collected, which could have resulted in a reasonable increase in tax base.

We have also in our previous comments highlighted our belief that if corruption which is rampant in the revenue department is curtailed and the taxpayer is convinced that if he evades taxes neither sifarish nor bribe will come to his rescue, then the evasion will be greatly reduced, because evasion takes place when the evader is convinced that he will not be taken to task. However, the present government neither in the previous year nor in this year has taken any steps to document the economy and no deterrent provisions have been proposed to nab the tax evaders and their abettors the tax officers.

This year also once again there is a proposal to levy withholding tax on cash withdrawals from banks by non-filers and we are of the opinion that if the data collected on the basis of such withholding tax is properly utilized there will definitely be a chance to nab not only the tax evaders but also enhance the number of tax filers.

In our country whichever government comes into power, levies corruption charges on their opposite numbers and despite all efforts of the previous governments and this government, till today no recovery has been made from politicians who have been nabbed. But no government is willing to take steps to eliminate the corruption at the grass root levels i.e. in the revenue departments, the building control departments, the police departments and all other government departments. We are definite that if any government starts making laws and takes steps to eliminate corruption at the grass root level then Pakistan's economy will strengthen and we may be in a position not to accept conditions for taking loans from the world's financial institutions.

Another aspect which we had been advocating for a long period is the curtailment of the discretionary powers of the assessing officers. However, in the last few years the discretionary powers of the assessing officers have been enhanced manifold and now not only they can take steps without following procedures for amending the assessments but also issuing manifold notices for monitoring of withholding tax. These amendments as already expressed by us in our last comments will empower the assessing officers to use their discretion and looking at the past history, we are sure that this discretion will be used either to harass the taxpayer or for malafide reasons.

In the light of our above comments, we are presenting not only the interpretation of the various provisions but our critical comments and appreciation on the amendments proposed to be made and if the Government or the opposition find our suggestions and recommendations to their satisfaction, we hope they will try to incorporate these in the law.

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

We would like to thank Mr. Wasif Iqbal our Senior Associate who has assisted us in preparation of this commentary. Our thanks are also due to our Associates Mr. Saleem Qureshi, Mr. Hashim Lodhi, Mr. Usman Alam, Mr. Arif Rafique, Mr. Riyaz Butt, Ms. Hamna Faruqui and our Junior Associates Mr. Adnan Ahmed, Mr. Shaheer Zia, Mr. Taha Hasan and our intern Mr. Abdullah Bhiriya who assisted us in the research and the preparation of the comments we have made in the various portions of the proposed amendments of Sales Tax and Income Tax. This year, as usual, our man Friday was Mr. Sheheryar Zaidi, who despite not being a computer man processed and compiled the entire document without any assistance. All these persons are responsible for bringing out this commentary in the shortest possible time.

We would also like to take this opportunity to thank Mr. Justice Muhammad Ather Saeed for his guidance and advice and for remaining with us at the office throughout the period of compilation of this commentary.

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.

(ANWAR KASHIF MUMTAZ)
ADVOCATE SUPREME COURT

(AMMAR ATHER SAEED)
ADVOCATE SUPREME COURT

INCOME TAX ORDINANCE, 2001

HIGHLIGHTS

- PROGRESSIVE RATES OF SUPER TAX ON HIGH EARNING PERSONS. MAXIMUM RATE OF 10% FOR INCOME EXCEEDING RS. 500,000,000/-.
- SUPER TAX PROPOSED TO BE ACCOUNTED FOR IN CALCULATION OF ADVANCE TAX LIABILITY FOR EACH QUARTER.
- SUPER TAX TO BE APPLICABLE ON BANKING COMPANIES FOR TAX YEAR 2023 AND ONWARDS.
- ADDITIONAL TAX UPTO 50% TO BE IMPOSED ON UNEXPECTED INCOME, PROFITS OR GAINS OF ANY PERSON THAT AROSE DUE TO ECONOMIC FACTORS WHETHER OR NOT DISCLOSED IN THE FINANCIAL STATEMENTS.
- RE-INTRODUCTION OF 10% TAX ON BONUS SHARES ISSUED BY COMPANIES UNDER FINAL TAX REGIME.
- REIMPOSITION OF 0.6% ADVANCE TAX ON CASH WITHDRAWALS BY NON-FILERS.
- ENHANCEMENT OF WITHHOLDING INCOME TAX RATES FOR SUPPLIERS FROM 4% TO 5% FOR COMPANIES AND 4.5% TO 5.5% FOR OTHER THAN COMPANIES, SERVICE PROVIDERS FROM 8% TO 9% FOR COMPANIES AND 10% TO 11% FOR OTHER THAN COMPANIES, FOR SPECIFIED SERVICE PROVIDERS FROM 3% TO 4% AND FOR CONTRACTS FROM 6.5% TO 7.5% AND 7% TO 8% FOR OTHER THAN COMPANIES.
- INCREASE IN WITHHOLDING TAX RATE OF COMMERCIAL IMPORTER ON IMPORT OF FINISHED GOODS FROM 5.5% TO 6%.
- WITHHOLDING TAX RATE INCREASED FROM 1% TO 5% FOR FILERS ON FOREIGN PAYMENTS MADE THROUGH DEBIT/ CREDIT CARDS.
- ADVANCE TAX AMOUNTING TO RS. 200,000/- TO BE CHARGED AT THE TIME OF ISSUANCE OF WORK PERMIT/ VISA ON EMPLOYMENT OF A FOREIGN DOMESTIC WORKER.
- EXEMPTION OF ADDITION ON ACCOUNT OF UNEXPLAINED INCOME U/S 111 OF THE INCOME TAX ORDINANCE, 2001 ENHANCED FROM RS. 5,000,000/- TO USD 100,000/-.
- REDUCTION IN RATE OF MINIMUM TAX BY 0.25% ON TURNOVER FOR LISTED COMPANIES.

- REDUCED RATE OF 0.25% ON EXPORT PROCEEDS OF IT SERVICES OR IT ENABLED SERVICES LIMITED UPTO TAX YEAR 2026.
- BENEFIT OF REDUCED RATE ON EXPORT OF IT SERVICES NO LONGER CONTINGENT ON FILING OF SALES TAX RETURNS UNDER FEDERAL OR PROVINCIAL SALES TAX LAWS.
- REDUCED RATE OF 20% INTRODUCED FOR BANKING COMPANIES ON ADVANCES FOR INFORMATION TECHNOLOGY SERVICES AND INFORMATION TECHNOLOGY ENABLED SERVICES FOR TAX YEARS 2024 AND TAX YEARS 2025.
- 2% ADVANCE TAX ON PURCHASE OF IMMOVEABLE PROPERTY NO LONGER APPLICABLE ON PURCHASE OF PROPERTIES BY NONRESIDENT INDIVIDUALS SUBJECT TO CERTAIN CONDITIONS.
- TAX LIABILITY TO BE REDUCED BY LOWER OF 10% OR RS. 1,000,000/- OF AN INDIVIDUAL ON ACCOUNT OF CONSTRUCTION OF HOUSE FOR TAX YEARS 2024
- REDUCTION OF TAX LIABILITY ON BUSINESS INCOME OF YOUTH ENTERPRISES.
- ANNUAL TAX LIABILITY ON PROFITS AND GAINS OF A BUILDER U/S 7C TO BE REDUCED BY LOWER OF 10% OR RS. 5,000,000/- FOR TAX YEARS 2024 TO TAX YEAR 2026.
- TAX EXEMPTION ON GAIN ON SALE OF PROPERTY OR SHARE OF SPV TO ANY TYPE OF REIT EXTENDED TILL 30TH JUNE, 2024.
- INCOME TAX HOLIDAY FOR SMALL MEDIUM ENTERPRISES SET UP EXCLUSIVELY FOR AGRO BASED INDUSTRY IN RURAL AREAS GIVEN FOR TAX YEARS 2024 TO 2028.
- DEFINITION OF PERMANENT ESTABLISHMENT MODIFIED TO ENHANCE ITS SCOPE.
- DEFINITION OF “ASSOCIATES” EXPANDED TO MAKE IT MORE ENCOMPASSING.
- COMMISSIONER INLAND REVENUE AUTHORIZED TO RECOVER OUTSTANDING NONTAX REVENUE.
- EXEMPTION CERTIFICATE DEEMED TO BE ISSUED WITHIN 30 DAYS OF SUBMISSION OF APPLICATION TO THE COMMISSIONER IN RESPECT OF PAYMENTS TO BE MADE TO NON-RESIDENTS.

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AMENDMENTS IN INCOME TAX ORDINANCE, 2001

After the passing of the Finance Act, 2022, two further amendment acts were made in the Ordinance namely the Finance (Supplementary) Act, 2023 which was passed on 28.02.2023 and the Tax Laws (Amendment) Act, 2023 which passed on 20.04.2023 both of which have now become a part of the law. However, we would only like to comment on the amendments made in the Ordinance vide Finance (Supplementary) Act, 2023 dated 28.02.2023 by which an amendment has been made in Section of the Ordinance.

With the above background, we are now commenting on the various provisions which have been made by Finance (Supplementary) Act, 2023 and proposed in this Finance Bill.

Section 2 (29), (41), (59A) – Definitions

By the three amendments proposed to be made in the definition section of the Ordinance. The following amendments have been proposed to be made:

I. Bonus shares have been included within the definition of income as defined in Section 2(29).

II. By the proposal to amend the definition of "permanent establishment" it is intended to remove word "fixed" appearing before place of business and the word "entity" to be added after the words "employees or other personnel" in sub clause (d) of the same. The effect of this amendment is that now even a mobile office will be treated as a permanent establishment and consultancy rendered by non-resident persons though an entity will also be considered to be a permanent establishment.

   Without commenting on the aforesaid, we would advise the legislature/FBR to review whether the above amendments or are not conflict with the definitions in the tax treaties, failing which a lot of controversy will arise and the matter may go into the court, where the interpretation of the tax treaties will prevail.

III. The definition of small and medium enterprises has been expanded to include within its ambit IT and IT enabled services and the turnover limit has also been increased to Rs.800 Million.

The first and third definitions are proposed to be incorporated to avoid any anomalies when these items are used in any other Sections of the Ordinance.

Section 4C – Super tax on high earning persons	Section 4C had been introduced vide Finance Act, 2022 as super tax on the income of high earning persons which was levied retrospectively from tax year 2022 onwards @1% to 4% and for certain specific industries @10%. This insertion was challenged before the Honourable High Courts with the High Court of Sindh and Lahore High Court taking different view while deciding the same. The matter finally ended up in the Honourable Supreme Court of Pakistan wherein the Honourable Supreme Court vide its Interim order directed the petitioners from Punjab to deposit 50% and petitioners from Sindh to deposit entire amount of super tax from the tax year 2022 @ 1% to 4% till the final decision. The legislature seeks to bring the payment of super tax under Section 4C within the purview of advance tax under Section 147 of the Ordinance. The legislature has also proposed a progressive rate of taxation on persons having income which exceeds Rs.150 Million and the tax slabs have been set at 1 % to 10% respectively. As pointed out above no final decision has been given by the Honoruable Supreme Court of Pakistan and the fate of super tax will rest on their final decision.
Section 37 – Capital Gains	By way of the amendment made vide Finance (Supplementary) Act, 2023 dated 28.02.2023 it has been provided that any person acquiring the shares of a company shall deduct advance adjustable tax on the fair market value of the shares and the Commissioner has been empowered to issue a tax emption or reduced payment certificate and all the provisions applicable to withholding tax will apply. There is some confusion as to what should be the fair market value because the only provision which prescribes the fixation of fair market value that is Section 68 of the Ordinance, has been made a non-obstante clause for this purpose.
Section 39 – Income from other sources r/w **Section 236Z –** Bonus shares issued by companies And **Section 168 –** Credit for tax	Bonus shares issued to shareholders by the respective companies have been included within the ambit of income from other sources. By way of the proposed insertion of Section 236Z of the Ordinance, the legislature has once again opted to levy tax on deemed income in respect of issuance of bonus shares. For a long period of time this provision has been inserted in and deleted from the Ordinance

collected or deducted. and **Section 169 –** Tax collected or deducted as final tax	By way of the proposed amendments in Section 168 and Section 169, tax deducted or paid under Section 236Z at the time of issuance of bonus shares has been brought within the ambit of final tax regime. The said amendment is to tax the benefit in kind granted to shareholders of companies which does not fall within the definition of income under the Ordinance has been proposed to be subjected to tax. We recommend that the Government should revisit this proposed amendment, if they are serious to enhance the corporate culture within Pakistan.
Section 44A – Exemption under Foreign Investment (Promotion and Protection) Act, 2022	Through the proposed insertion the legislature intends to provide exemption to the income including capital gains, withholding tax, minimum and final tax etc. in respect of the Reko Diq project in the province of Balochistan as provided for in the Second and Third Schedule of the Foreign Investment (Promotion and Protection) Act, 2022. Reko Diq has been one of the most valuable copper mines in the country, which was being operated by a foreign company. Due to mishandling of the facts of the case the Honourable Supreme Court gave a judgment against the foreign contractor of Reko Diq which was taken to the International Court of Arbitration and a heavy penalty was levied on Pakistan. Now the project has been re-started and to prevent such mishaps in the future, the above exemptions have been granted, which is in the interest of Pakistan.
Section 65I – Tax Credit for construction of house	Through the proposed insertion the legislature intends to give relief to individuals who from their own source of income build and complete their residential house during the tax year shall be entitled to tax credit of 10% of the tax assessed for the tax year in question or Rs.1 million whichever is lower. This relief is applicable from tax year 2024 to 2026. The proposed insertion will provide a sigh of relief to the individuals who with all economic crisis and adversities are finally able to construct their residential house.
Section 85 – Associates	Through this proposed amendment the legislature has increased the discretionary power of the Commissioner to ascertain the existence of a relationship of “associates” between two persons. Prior to this amendment, the definition of “associates” was clear in so far as to who can be categorized as an “associate” and how one can become an associate due to the impact of any transaction.

In our opinion this proposed amendment will open a Pandora box for re-characterization of any transaction between two persons and they have been left to the mercy of the Commissioner, which has the potential of ending up in multiple litigations and increase the cost of doing business in Pakistan multifold. Therefore, we feel that the legislature should revisit the proposed amendment and leave the existing conditions to determine an "associate relationship" as is.

In addition to the above, the legislature has also covered transactions between associates if one of the associates is based in a zero tax jurisdiction. The jurisdiction of the said transaction may be prescribed in Pakistan. Apparently this amendment has been made to tax residents of the countries where there is zero tax regime in Pakistan where such person enters into a transaction made with a Pakistani associate and relative.

We are of the opinion that this amendment is very disastrous for Pakistan as non residents from zero tax rated countries will refrain from making any transactions or business relationship in Pakistan.

We are reminded of an earlier tax provision where on a contract executed by a foreigner in Pakistan the rate of final tax was 6% for ordinary contracts and 8% for turnkey contracts and the department being 'Penny Wise Pound Foolish' was treating even ordinary contracts as turnkey contracts, thus scaring away foreign contractors.

Since we have gone through that experience we are apprehensive that now the department will try to make every transaction between a Pakistani resident and a zero tax rated jurisdiction's foreign entity a transaction between associates thereby rendering a blow to the Pakistani businesses.

We therefore recommend that the amendment proposed to be made vide sub clause (iii) of Clause 1 in Section 85 be withdrawn.

Section 99D – Additional tax on certain income, profits and gains

By way of this proposed insertion the legislature intends to tax unexpected gain on income, profits and gains arising due to economic factors or any other factors. The said amendment and additional tax so proposed to be levied has been applied retrospectively for the preceding 5 years from tax year 2023 i.e. tax year 2018.

In our view the said amendment is intended to discourage general public from investing into commodities and currencies by taking advantage of economic factors such as currency fluctuation in Pakistan.

We recommend that the implication of this Section may not be on the unrealized gain or on earnings of long term investments and the application of this Section may be from the tax year 2023 onwards because the retrospective amendment of any charging provision of the Ordinance will increase the trust deficit between the government and the tax filer.

In the alternative, we recommend that specific definition of income taxable under this Section may be provided in the Ordinance.

We are also of the view that such economic factors have also resulted in loss to a number of persons and therefore we recommend that since loss also falls within the definition of income therefore such persons may be allowed to adjust the losses against their other incomes.

We further recommend that if this provision becomes law, tax at a flate rate should be levied on such income and discretion should not be left to the assessing officer, failing which it is apprehended that every assessing officer will tax income under this Section at the rate of 50%.

Section 111 – Unexplained income or assets

This amendment proposed to be made is intended to extend the limit of foreign exchange remittance from Rs.5 million to the rupee equivalent of United States $ 100,000/-.

This is a realistic proposal as the Pak Rupee depreciated drastically against the foreign currency, therefore the limit of Rs.5 million even for the domestic purposes is very low.

Section 113- Minimum Tax on the income of certain persons

By way of the proposed amendment the legislature has reduced the rate of minimum tax applicable on listed public companies from 1.25% to 1%.

This a realistic amendment as the public listed companies have their properly audited financial statements, therefore they have to be treated in a preferential manner.

Section 146D – Recovery of liability outstanding under other laws.

The proposed insertion is intended to bring the liability under other laws against the other laws to be recovered by the tax authorities.

This amendment will burden the tax authorities from the recovery of liabilities. The factual position is that the FBR itself fails to recover its own outstanding demands, therefore question of collecting liabilities under other laws is not practical and effective. However, if the Government takes the advantage of artificial intelligence by integrating all the departments as per the best practices in the developed countries, the system itself can restrict any person to pass over any unpaid liability without any reason.

We recommend that the various laws, the arrears of which may be collected by the tax department may be specified.

Section 147- Advance Tax	The proposed amendment is intended to bring super tax levied under Section 4C within the purview of advance tax under Section 147 of the Ordinance. This proposed amendment will be subject to the judgment of the Honourable Supreme Court of Pakistan where judgment on the vires of super tax is still pending.
Section 152 – Payment to non-residents.	By way of the proposed insertion of proviso in Section 152(5A) of the Ordinance, the Commissioner has been made bound to issue exemption certificate within 30 days, failing which the certificate will be deemed to be automatically issued. In our view the proposed amendment is a positive amendment because in some cases taxpayers who have to make payment to their non-resident principals/partner/vendors have had to run pillar to post to acquire the said exemption certificate. We would recommend that this time period should be made mandatory and not directory.
Section 154A – Export of Services	The proposed insertion of proviso is intended to provide relief to taxpayers engaged in exports of computer software, export services related to IT and IT enabled services registered with the Pakistan Software Export Board (PSEB) now they are no longer required to file sales tax returns while claiming the benefit of reduced rate of tax.
Section 164(A) – Payment of tax collected or deducted by SDWAPS agents.	By way of the proposed amendment the scope of Synchronized Withholding Administrative and Payment System (SWAPS) has been enhanced to include within its ambit "*Settlement of transactions liable to withholding tax*".
Section 218 – Service of Notices and other documents	The proposed amendment is intended to restrict the taxation officer from passing ex-parte orders without exhausting all modes of service of notice to the taxpayer. The said amendment is in line with Article 10A of the Constitution of Pakistan wherein every citizen has the right to be heard and a right to fair trial by proper service of notice and will ensure a taxpayer is not condemned unheard to ensure principles of natural justice and fairness are met.

Section 230J – International Center of Tax Excellence	By way of the proposed insertion a new institute under the name of International Center of Tax Excellence is proposed to be established for research and contribution in development of national tax policy. This is a positive way forward but we are afraid that if the outcome of the said institute will not contribute to implementation of productive tax system in Pakistan and if it remains an ineffective body. In the past we have experienced similar types of initiatives which ended up becoming a burden instead of a supplementary initiative to the tax system.
Section 231AB – Advance tax on cash withdrawals	By way of this proposed insertion, the legislature has re-introduced the tax on cash withdrawals @ 0.6% from banks by non-filers in excess of Rs. 50,000/- in aggregate in a day. This is a positive amendment and we hope that this time the Government will sustain the pressure to withdraw the same, as was the case in the past. At the same time, the FBR should do mapping of all non-filers whose tax has been deducted under this Section and issue them notices and convert them into regular tax filers.
Section 231C – Advance tax on foreign domestic workers	By way of this proposed insertion, the legislature has introduced a new Section to collect advance tax from the employer of the foreign domestic workers of Rs.200,000/- per employee for a tax year and the same will be adjustable from the final tax liability of the employer.

Section 236K – Advance tax on purchase or transfer of immoveable property	By way of the proposed amendment the legislature has given relief to the non-resident Pakistani from withholding of tax required to be deducted while transferring of property under Section 236K. If the following conditions have been met:
	
	• Property has been purchased through a foreign currency value account, NRP Rupee value account maintained with the authorized banks in Pakistan under the foreign exchange regulations issued by the State Bank of Pakistan upon submission of certificate by following individuals:
	    o Pakistan Origin Card
	    o National ID Card for Overseas Pakistanis
	    o Computerized National ID Card
	
	This is a positive amendment which will encourage non-resident Pakistanis to invest in Pakistan.

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AMENDMENTS MADE IN THE FIRST SCHEDULE

PART-I
DIVISION IIB
SUPER TAX

Income under section 4C	Tax Year 2022	For tax year 2023 and onwards
0 – 150,000,000	0% of the income	0% of the income
150,000,001 – 200,000,000	1% of the income	1% of the income
200,000,001 – 250,000,000	2% of the income	2% of the income
250,000,001 – 300,000,000	3% of the income	3% of the income
300,000,001 – 350,000,000	4% of the income	4% of the income
350,000,001 – 400,000,000	4% of the income	6% of the income
400,000,001 – 500,000,000	4% of the income	8% of the income
Above 500,000,000	4% of the income	10% of the income

PART-I
Division IX
Minimum tax under section 113

S.No.	Person(s)	Minimum Tax as percentage of the person's turnover for the year
4	Company listed on Pakistan Stock Exchange, if not covered in S. No.1 to 3 above	1%
5	In all other cases.	1.25%

PART-II
RATES OF ADVANCE TAX
[See Division II of Part V of Chapter X]

Rate of tax on commercial importers of goods classified in Part III of the Twelfth Schedule is proposed to be enhanced from 5.5% to 6% of the import value as increased by customs duty, sales tax and federal excise duty

PART-III
Division II
Payments to non-residents

Description	Tax year 2023	Proposed Tax 2024
Permanent establishment of a non-resident person in case of Companies - Sale of goods	4%	5%
Permanent establishment of a non-resident person in case of other than companies Sale of goods	4.5%	5.5%
Permanent establishment of a non-resident person – Companies & other than Companies providing following 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, tracking services, advertising services (other than print or electronic media), share registrar services, engineering services, car rental services, building maintenance services, services rendered by Pakistan Stock Exchange Limited and Pakistan Mercantile Exchange Limited inspection, certification, testing and training services, oilfield services.	3%	4%
Permanent establishment of a non-resident person in case of other than above services for Companies	8%	9%
Permanent establishment of a non-resident person in case of other than above services for other than companies	10%	11%
Permanent establishment of a non-resident person in case of Contracts	7%	8%

PART-III
Division II
Payments for Goods or Services

Description	Tax year 2023	Proposed Tax 2024
In case of companies sale of goods	4%	5%
In case of other than companies sale of goods	4.5%	5.5%
Companies & other than Companies providing following 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 section 2, tracking services, advertising services (other than print or electronic media), share registrar services, engineering services including architectural services, warehousing services, services rendered by asset management companies, data services provided under license issued by the Pakistan Telecommunication Authority, telecommunication infrastructure (tower) services, car rental services, building maintenance services, services rendered by Pakistan Stock Exchange Limited and Pakistan Mercantile Exchange Limited, inspection, certification, testing and training services, oilfield services, telecommunication services, collateral management services, travel and tour services, RIET management services, services rendered by National Clearing Company of Pakistan Limited.	3%	4%
In case of other than above services in case of Companies	8%	9%
In case of other than above services in case of other than companies	10%	11%
In case of Companies – Contracts	6.5%	7.5%
In case of other than companies – Contracts	7%	8%

PART-III
Division IVA
Export of Services

Types of Receipts	Rate of Tax
Export proceeds of Computer software or IT services or IT Enabled services by persons registered with Pakistan Software Export Board.	0.25% of proceeds for tax years 2024 up to tax year 2026

PART-III
Division XXVII
Advance tax on amount remitted abroad through credit, debit or prepaid cards

The rate of tax to be deducted under section 236Y shall be 5% of the gross amount remitted

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AMENDMENTS MADE IN THE SECOND SCHEDULE

The Finance Bill proposes various amendments, insertions, omissions in Part I, Part III and Part IV of the Second Schedule

PART I

Clause 66	Through this proposed insertion following organizations is proposed to be included in Table 1 of Clause (66) of Part I contained in the Second Schedule: (i) The Prime Minister's Relief Fund for Flood, Earthquake and Other Calamities with effect on and from August 5, 2022 (ii) Film and Drama Finance Fund (iii) Export-Import Bank of Pakistan (iv) Shaheed Mohtarma Benazir Bhutto Institute of Trauma, Karachi (v) Shaheed Zulfikar Ali Bhutto Institute of Science and Technology.
Clause 99A	Through this proposed insertion, tax exemption on gain on sale of property or share of SPV to any type of REIT extended till 30th June, 2024.
Clause 145A	Through this proposed insertion tax exemption on income of persons in Tribal Areas has been extended till 30th June 2024.
Clause 153	Through this proposed insertion Small & Medium enterprises set up exclusively for agro based industry in rural areas have been exempted from tax for tax years 2024 to 2028.

PART III

Clause 21, 22 Through these proposed insertions tax payable on

- Profits and gains of a builder u/s 7C to be reduced by lower of 10% or Rs. 5,000,000/- for tax years 2024 to tax year 2026
- business income of youth enterprises shall be reduce not below zero ;
  - In case of individual or an AOP by lower of 50% or 2 Million
  - In case of Company by lower of 50% or 5 Million

AMENDMENTS MADE IN THE SEVENTH SCHEDULE

By this proposed insertion and In line with the reduce rate available for certain sectors under Seventh Schedule, a new provision is proposed for reduced rate of tax (20%) on income from additional advances to IT Sector. The same will be applicable for tax years 2024 and 2025

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SALES TAX ACT, 1990

HIGHLIGHTS

- TRANSMISSION AND DISTRIBUTION OF ELECTRICITY EXCLUDED FROM THE DEFINITION OF GOODS AND SUPPLY AFTER AGREEMENT BETWEEN HE FEDERAL AND THE PROVINCIAL GOVERNMENTS.

- ENTIRE SUPPLY CHAIN OF JEWELERS EXCLUDED FROM TIER 1 RETAILERS ALONG WITH SMALL RETAILERS OCCUPYING SHOPS OF MORE THAN 1000 SQUARE FEET OR MORE, RETAILERS OF FURNITURE ITEMS OCCUPYING SHOPS OF MORE THAN 2000 SQUARE FEET OR MORE.

- RATE ON TAXABLE SUPPLIES OF FINISHED ARTICLES OF LEATHER AND TEXTILE MADE BY POS INTEGRATED TIER 1 RETAILERS INCREASED FROM 12% TO 15%.

- SUPPLY CHAIN IN REKO DIQ PROJECT ENTITLED FOR ZERO RATING.

- EXEMPTION ON CERTAIN FOODS ITEMS SOLD UNDER BRAND NAME WITHDRAWN.

- MEDICAMENT UNDER CHAPTER 30 OF THE FIRST SCHEDULE TO CUSTOMS ACT, 1969 TO BE CHARGED TO SALES TAX AT THE REDUCED RATE OF 1%.

- PENALTY IMPOSED ON GOODS TO BE SPECIFIED OTHER THAN CIGARETTES ON FAILURE TO COMPLY WITH TRACK AND TRACE SYSTEM.

- SCOPE OF EXPORT FACILITATION SCHEME HAS BEEN EXTENDED TO COVER “COMMODITIES”.

- IMPORT OF SPECIFIED EQUIPMENT BY IT EXPORTERS EXEMPTED FROM SALES TAX.

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AMENDMENTS IN THE SALES TAX ACT, 1990

Section 2(12) & (33) **(Goods) & (Supply)**	Through this proposed deletion "production, transmission and distribution of electricity" which was brought under the definition of Goods and supply through the Finance Act, 2022 is excluded from the purview of Sales Tax Act, 1990 and now has been brought under the ambit of ICT (TAX ON SERVICES) ORDINANCE, 2001.
Section 2(43A)(e) & (ga) **(Tier-1 Retailer)**	Through these proposed deletions, the definition of Tier-1 retailer has been narrowed down and now the requirement of shop area for Tier-1 retailers is proposed to be withdrawn alongwith supply chain of articles of Jewelry & precious metals which was brought into the act last year has also been excluded from the purview of tier-1 retailer. Now these retailers are not required to install POS for real-time reporting of the transactions to FBR. In our opinion, this is a step towards non documentation which will result in the non-declaration of sales which will directly affect the revenue collection.
Section 30CA **(Directorate General of Digital Initiatives)**	Through this proposed substitution, the Directorate General of Digital Invoicing and Analysis has been renamed as Directorate General of Digital Initiatives.
Section 33 **(Serial # 23)** **(Offences and penalties)**	Through this proposed substitution, the scope of penal action has been enhanced by substituting the "cigarette packs" with "goods or class of goods as specified by the Board" on any person who manufactures, possesses, transports, distributes, stores or packs "specified goods" with counterfeited tax stamps, banderoles, stickers, labels or barcodes or without tax stamps, banderoles, stickers, labels or barcodes.

AMENDMENTS TO THE SCHEDULES OF THE SALES TAX ACT, 1990

<table>
<tr><td>Fifth Schedule
S # 8A</td><td>The proposed insertion seeks to grant zero rating for the imports or supplies made by, for or to a qualified investment i.e Riko Diq as specified at Serial No.1 of the First Schedule to the Foreign Investment (Promotion and Protection) Act, 2022 for the period as specified in the Second Schedule to the said Act.</td></tr>
<tr><td>Fifth Schedule
S # 12 (xxv)</td><td>The proposed substitution seeks to expand the zero rating to other drawing, marking out or mathematical calculating instruments (geometry box) (PCT heading 9017.2000), which was previously restricted to geometry box only.</td></tr>
<tr><td>Fifth Schedule
S # 21</td><td>This proposed insertion seeks to include Local supplies of commodities under zero rating, provided to registered exporters authorized under Export Facilitation Scheme, 2021 notified by the Board with such conditions, limitations and restrictions as specified therein.</td></tr>
<tr><td>Sixth Schedule
Table 1
S # 16, 17, 18</td><td>The proposed substitution seeks to exclude red chillies, ginger, turmeric sold under brand names and trademark from the ambit of Sixth Schedule. Now these goods are liable to be taxed at standard rate sold under brand names and trademark.</td></tr>
<tr><td>Sixth Schedule
Table 1
S # 121</td><td>This proposed explanation seeks to clarify that the blood transfusion sets not packed in aluminum foil imported with blood bags CPDA-1, in corresponding quantity in same consignment are also exempt.</td></tr>
<tr><td>Sixth Schedule
Table 1
S # 151 & 152</td><td>Through this proposed substitutions seeks to extend exemptions granted to Newly Merged Districts of FATA & PATA for another year.</td></tr>
<tr><td>Sixth Schedule
Table 1
S # 175, 176, 177, 178, 179, 180 & 181</td><td>Through this proposed insertion following items have now been included in the Sixth Schedule
<table>
<tr><td>Contraceptive and accessories thereof</td><td>3926.9020 and 4014.1000</td></tr>
<tr><td>Bovine semen</td><td>0511.1000</td></tr>
<tr><td>Saplings</td><td>Respective heading</td></tr>
<tr><td>Combined Harvester – Thresher</td><td>8433.5100</td></tr>
<tr><td>Dryer for agricultural products</td><td>8419.3400</td></tr>
<tr><td>No-till-direct seeder, planters, trans-planters and other planters</td><td>8432.3100 and 8432.3900</td></tr>
<tr><td>Import of goods as mentioned under S. No. 159 of Part III of Fifth Schedule to the Customs Act, 1969 (IV of 1969) chargeable to customs duty at the rate of zero percent, subject to the conditions, restrictions and limitations mentioned therein, by the software exporters registered with the Pakistan Software Export Board.</td><td>7471.3010, 8471.3020, 8471.3090, 8471.4110, 8471.6010, 8471.6020, 8471.6090, 8471.7040, 8471.9020, 8471.7020, 8471.5000 & 8517.6270.”.</td></tr>
</table></td></tr>
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<table>
<tr><td>Sixth Schedule
Table 2
S # 32, 34, 35 36, 37, 39, 41 & 42</td><td>Through this proposed omissions following goods have been made taxable if sold under a brand name:

- Yogurt;
- Butter;
- Desi ghee;
- Cheese;
- Processed cheese not grated or powdered;
- Products of meat or meat offal;
- Meat of bovine animals, sheep, goat and uncooked poultry meat; and
- Fish and crustaceans</td></tr>
<tr><td>Eight Schedule
S # 16</td><td>Through this proposed substitution reduced rate of sales tax has been enhance from 12% to 15% on supplies made by the POS retailers dealing in leather and textile products.</td></tr>
<tr><td>Eight Schedule
S # 81</td><td>Through this proposed substitution medicament falling under Chapter 30 of the First Schedule of the Customs Act, 1969 have bene brought under the reduced rate regime at the rate of 1% with retrospective effect from 1 July, 2022.

<table>
<tr><td>Substances registered as drugs under the Drugs Act, 1976 (XXXI of 1976) and medicaments as are classifiable under chapter 30 of the First Schedule to the Customs Act, 1969 (IV of 1969) except the following, even if medicated or medicinal in nature, namely:-
(a) filled infusion solution bags imported with or without infusion given sets;
(b) scrubs, detergents and washing preparations;
(c) soft soap or no soap;
(d) adhesive plaster;
(e) surgical tapes;
(f) liquid paraffin;
(g) disinfectants, and
(h) cosmetics and toilet preparations.
This substitution shall be deemed to have been made from the 1st day of July, 2022</td><td>Respective Headings</td><td>1%</td><td>Subject to the conditions that:
(i) Tax charged and deposited by the manufacturer or importer, as the case may be, shall be final discharge of tax in the supply chain
(ii) No input tax shall be adjusted by the manufacturer or importer</td></tr>
</table></td></tr>
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	Raw materials for the basic manufacture of pharmaceutical active ingredients and for manufacture of pharmaceutical products, provided that in case of import, only such raw materials shall be entitled to exemption which are liable to customs duty not exceeding eleven per cent ad valorem, either under the First Schedule or Fifth Schedule to the Customs Act, 1969 (IV of 1969) or under a notification issued under section 19 thereof. This substitution shall be deemed to have been made from the 1st day of July, 2022.	Respective Headings	1%	Subject to the conditions that: (i) DRAP shall certify item wise requirement of manufacturers of drugs and APIs and in case of import shall furnish all relevant information to Pakistan Customs Computerized System; and (ii) No input tax shall be adjusted by the manufacturer or importer.”.

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ISLAMABAD CAPITAL TERRITORY (TAX ON SERVICES) ORDINANCE 2001

HIGHLIGHTS

- FREELANCE EXPORTER OF IT SERVICE BROUGHT UNDER THE DEFINITION OF COTTAGE INDUSTRY AND THUS NOT REQUIRED TO REGISTER IF THE TURNOVER IS LESS THAN RS. 8,000,000/-.

- IT AND IT ENABLED SERVICES TO BE TAXED AT THE RATE OF 5% WITH NO INPUT TAX ADJUSTMENT.

- ELECTRIC POWER TRANSMISSION SERVICES TO BE TAXED AT THE RATE OF 15%.

- SERVICES PROVIDED BY RESTAURANTS TO BE TAXED AT THE RATE OF 5% IF PAYMENT IS MADE THROUGH DEBIT/ CREDIT CARDS, MOBILE WALLETS OR QR SCANNING.

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FEDERAL EXCISE ACT, 2005

HIGHLIGHTS

- SUPPLY CHAIN IN REKO DIQ PROJECT EXEMPTED FROM FED.
- ROYALTY AND FEE FOR TECHNICAL SERVICES SUBJECTED TO 10% FED.

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THE CUSTOMS ACT, 1969

HIGHLIGHTS

- EXEMPTION FROM CUSTOMS DUTIES / REGULATORY DUTY ON IT EQIPMENT FOR EXPORTERS OF IT AND IT ENABLING SERVICE PROVIDERS

- EXEMPTION FROM CUSTOMS DUTIES / REGULATORY DUTY ON VARIOUS MACHINERY, EQUIPMENT AND INPUTS USED FOR MANUFACTURING SOLAR PANELS, INVERTERS AND BATTERIES

- EXEMPTION FROM CUSTOMS DUTIES / REGULATORY DUTY ON RAW MATERIAL OF DIAPERS, SANITRY NAPKING ETC.

- EXEMPTION OF CUSTOM DUTIES ON SPECIFIC PAPERS AND ART CARD AND BOARD FOR PRINTING OF HOLY QURAN

- REMOVAL OF REGULATORY DUTY ON SECONDHAND CLOTHING TO PROVIDE RELIEF TO THE POOR SEGMENT OF THE SOCIETY.

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