

# Holistic View of Budget 2024-2025

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## Preamble

The Finance Bill, 2024 outlines the government's fiscal policies and tax measures for the upcoming financial year. As the country grapples with various macroeconomic challenges, including high inflation, rising debt levels, and sluggish economic growth, the tax measures proposed in the Finance Bill, 2024 hold significant importance in shaping Pakistan's financial and economic landscape.

This commentary aims to provide a comprehensive analysis of the key features, implications, and potential financial impact of measures proposed vide the Finance Bill, 2024. By examining the proposed changes in taxation, we will delve into the policy objectives, their alignment with the broader economic strategy, and the anticipated consequences for businesses, individuals, and the overall economy.

In this commentary we'll chronologically analyze the Finance Bill, 2024, with parlance of changes proposed in following statute:

- Income Tax Ordinance, 2001
- Sales Tax Act, 1990
- Federal Excise Act, 2005
- Customs Act, 1969

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### **Economic Resurgence and Policy Dynamics: Pakistan's Fiscal Year 2024 in Review**

In FY2024, Pakistan's economy exhibited significant signs of recovery and growth, marked by a 2.38 percent increase in real GDP. This turnaround from negative growth in the previous fiscal year was attributed to prudent policy management, renewed inflows from multilateral and bilateral partners, and gradual economic rebound in major trading partners. The agriculture sector emerged as a key driver of growth, experiencing its highest expansion in 19 years, with a remarkable 6.25 percent increase driven primarily by substantial growth in the production of wheat, rice, and cotton.

Despite prolonged inflationary pressures, inflation showed a downward trend since the third quarter of FY2024, bolstering aggregate demand alongside a resilient external sector and fiscal consolidation efforts. At current market prices, GDP surged to Rs. 106,045 billion, representing a 26.4 percent growth over the previous year. Per capita income also saw a rise to US\$1680, attributed to increased economic activity and exchange rate appreciation. However, the investment to GDP ratio decreased to 13.14 percent due to contractionary macroeconomic policies and political uncertainty.

In terms of sectoral performance, the industrial sector posted a modest growth of 1.21 percent, led by manufacturing and construction activities. Services retained their position as the largest contributor to GDP at 57.7 percent, with a moderate growth rate of 1.21 percent. Notably, the mining and quarrying sector rebounded with a growth rate of 4.9 percent.

Fiscal measures aimed at consolidation resulted in boosted revenues, but expenditure remained under pressure primarily due to higher markup payments. The fiscal deficit stood at 3.7 percent of GDP, consistent with the previous year. However, efforts to control non-markup spending and enhance revenue mobilization contributed to an improved primary surplus.

Monetary policy remained tight to combat historic high inflation, with the State Bank of Pakistan maintaining the policy rate at 22% throughout the fiscal year. This stance, along with coordinated policy responses, led to a significant reduction in inflation to 11.8 percent in May 2024 from its peak of 38 percent in May 2023.

Efforts to manage public debt were also notable, with total public debt reaching Rs. 67,525 billion by end-March 2024. The government pursued diversified debt management strategies, including the issuance of Shariah-compliant Sukuk instruments, and relied on long-term domestic debt securities.

Furthermore, the economy witnessed positive developments in the tech and telecom sectors, with initiatives like the launch of Pakistan's first women's software technology park and significant contributions to the national exchequer by the telecom sector during the fiscal year. Additionally, Pakistan-based freelancers and startups made substantial contributions to foreign exchange earnings and job creation, highlighting the growing resilience and potential of the country's economic landscape.

| <b>Budget 2024-25 at Glance</b>                            |        |  |        |
|--|--------|--|--------|
| <b>Government Budget 2024-25</b>                           |        |  |        |
| (Rs .in Billion)   |        |  |        |
| Resources  |        | Expenditure                                |        |
| Tax Revenue (FBR)-Federal Consolidated Fund                | 12,960 | A Current                                  | 17,203 |
| Non- Tax Revenue   | 4,845  | Interest Payments                          | 9,775  |
| a) Gross Revenue Receipts                                  | 17,815 | Pension                                    | 1,014  |
| b) Less Provincial Share                                   | 7,438  | Defence Affairs & Services                 | 2,122  |
| 1 Net Revenue Receipts (a-b)                               | 10,377 | Grants and Transfers to Provinces & Others | 1,777  |
| 2 Non Bank Borrowing (NSSs & Others)-Public Account        | 2,662  | Subsidies                                  | 1,363  |
| 3 Net External Receipts-Fed Consolidated Fund              | 666    | Running of Civil Govt.                     | 839    |
| 4 Bank Borrowing (T-Bills,PIB,Sukuk)-Fed Consolidated Fund | 5,142  | Provision for Emergency & others           | 313    |
| 5 Privatization Proceeds-Fed. Consolidated Fund            | 30     | B. Development & Net Lending               | 1,674  |
| Total (2+3+4+5)  | 8,500  | Federal PSDP                               | 1,400  |
|  |        | Net Lending                                | 274    |
| Total Resources (1 to 5)                                   | 18,877 | Total Expenditure (A+B)                    | 18,877 |

### INCOME TAX ORDINANCE, 2001

#### Discontinuance of Final Tax Regime for Exporters of Goods u/s 154

The Bill proposes to discontinue the Final Tax Regime and introducing a Minimum tax regime for the export of goods u/s 154 including indirect exporters and taxpayers operating in Export Processing Zones EPZs. This means exporters of the goods will have to pay tax on their taxable income at the applicable tax rate of 29% or the normal slab rate under First Schedule in case of AOP/Individuals, whichever applicable. The 1% collected from export proceeds will be the minimum tax the taxpayer will pay for that tax year. If the tax collected at the time of export proceeds, which will be 1%, is less than the tax owed at the corporate rate or normal slab rate, the exporters will have to pay the difference.

Additionally, the option to opt out of the final tax system will be removed. Corresponding changes will also be made, such as removing specific clauses related to tax credits and final tax deductions in sections 168 and 169 of the Ordinance.

As a result, exporters will be able to use the 1% advance tax collected at the time of export as a credit against their corporate tax liability. Additionally, they will need to pay quarterly advance tax under section 147 of the Ordinance. Moreover, under the proposed regime, exporters can also claim a tax credit for any foreign taxes paid. Moreover, the exporters would now have to maintain proper books of accounts as required under the Income Tax Rules.

The drastic impact of the proposed changes is illustrated as follows:

### Scenario No.1 In case of exporter is an AOP/ Individuals

| Particular  | Existing FTR u/s 154 | Proposed Minimum Regime | Effective Tax rate |
|---|----------------------|-------------------------|--------------------|
| Sales (Export Proceeds)   | 1,000,000,000        | 1,000,000,000           | N/A                |
| Profit Before Tax (Assuming Taxable income at 15% of the Turnover)  | 150,000,000          | 150,000,000             | N/A                |
| Tax liability @ 1% - Existing Regime  | (10,000,000)         | -                       | 6.7% of PBT        |
| Tax liability @ Proposed Slab rate under Division I, Part 1, 1st Schedule – Serial 6 (Without taking into consideration the Super tax 4C) | -                    | (66,590,000)            | 44.4% of PBT       |
| Profit After Tax  | 140,000,000          | 83,410,000              |                    |

### Scenario No.2 In case of exporter is a Company

| Particular   | Existing FTR u/s 154 | Proposed Minimum Regime | Effective Tax rate |
|--|----------------------|-------------------------|--------------------|
| Sales (Export Proceeds)  | 1,000,000,000        | 1,000,000,000           | N/A                |
| Profit Before Tax (Assuming Taxable income)  | 150,000,000          | 150,000,000             | N/A                |
| Tax liability @ 1% - Existing Regime   | (10,000,000)         | -                       | 6.7% of PBT        |
| Tax liability @ 29 % (Without taking into consideration ACT u/s 113C and Super tax 4C) | -                    | (43,500,000)            | 29% of PBT         |
| Profit After Tax   | 140,000,000          | 106,500,000             |                    |

It is pertinent to mention that the legislator did not take into consideration the fact that before 1991-92, when exporters' income was liable to be taxed under the normal tax regime, they were entitled to an export rebate of 50% to 75%. Consequently, their effective tax rate was around 8%, even though they were taxed under the normal tax regime

### SALARIED INDIVIDUALS

Proposed tax rates for salaried individuals is given below:

| S.No. | Taxable Income   | Proposed Rates  |
|-------|--|---|
| 1     | Upto Rs. 600,000   | -   |
| 2     | Where taxable income exceeds Rs. 600,000 but does not exceed Rs. 1,200,000   | 5% of the amount exceeding Rs 600,000                   |
| 3     | Where taxable income exceeds Rs. 1,200,000 but does not exceed Rs. 2,200,000 | Rs. 30,000 + 15% of the amount exceeding Rs 1,200,000   |
| 4     | Where taxable income exceeds Rs. 2,200,000 but does not exceed Rs. 3,200,000 | Rs. 180,000 + 25% of the amount exceeding Rs. 2,200,000 |
| 5     | Where taxable income exceeds Rs. 3,200,000 but does not exceed Rs. 4,100,000 | Rs. 430,000 + 30% of the amount exceeding Rs. 3,200,000 |
| 6     | Where taxable income exceeds Rs. 4,100,000                                   | Rs. 700,000 + 35% of the amount exceeding Rs. 4,100,000 |



### NON- SALARIED INDIVIDUALS / AOPs

| S.No. | Taxable Income   | Proposed Rates  |
|-------|--|---|
| 1     | Upto Rs. 600,000   | -   |
| 2     | Where taxable income exceeds Rs. 600,000 but does not exceed Rs. 1,200,000   | 15% of the amount exceeding Rs 600,000                    |
| 3     | Where taxable income exceeds Rs. 1,200,000 but does not exceed Rs. 1,600,000 | Rs. 90,000 + 20% of the amount exceeding Rs. 1,200,000    |
| 4     | Where taxable income exceeds Rs. 1,600,000 but does not exceed Rs. 3,200,000 | Rs. 170,000 + 30% of the amount exceeding Rs. 1,600,000   |
| 5     | Where taxable income exceeds Rs. 3,200,000 but does not exceed Rs. 5,600,000 | Rs. 650,000 + 40% of the amount exceeding Rs. 3,200,000   |
| 6     | Where taxable income exceeds Rs. 5,600,000                                   | Rs. 1,610,000 + 45% of the amount exceeding Rs. 5,600,000 |

The tax structure for non-salaried individuals and AOPs has been revised to streamline it into six slabs, while retaining the exemption for individuals with taxable income up to Rs. 600,000 annually.

Notably, the highest tax rate for this group has been raised from 35% to 45%.

It is pertinent to mention that taxpayer (AOPs and non-salaried individuals) having taxable income in total from different sources such as Profit on Debt, Income from Property in total of more than Rs 5,600,000/- during the tax year are subjected to drastic rate of 45% of the amount exceeding the Rs. 5,600,000/- in addition to the fixed amount of Rs. 1,160,000.

### CAPITAL GAIN TAX ON DISPOSAL OF IMMOVABLE PROPERTIES U/S 37

The Finance Bill proposes to tax capital gains from immovable property acquired on or after July 1, 2024, at a flat rate of 15%, provided the individual is in the ATL at the time of the property's disposal, regardless of the holding period. If the individual is not in the ATL, they will be taxed according to the progressive slab rates. The highest tax rate is 45% for the amount exceeding Rs. 5,600,000 for non-salaried individuals and AOP, 35% for the amount exceeding Rs. 4,100,000 for salaried individuals, and the applicable corporate tax rate for companies, subject to a minimum tax rate of 15% for all person.

**RATE OF TAX ON DISPOSAL OF SECURITIES U/S 37A**

As of now, the tax rates on capital gains from the sale of listed shares and other securities depend on the holding period. For securities acquired on or after July 1, 2024, the proposed tax treatment is as follows:

| CATEGORY   | PROPOSED             |  |
|--|----------------------|--|
| Individuals listed in the Active Taxpayers List (ATL) at the time of acquiring and disposing of securities     | Flat rate of 15%     |  |
| Individuals not listed in the Active Taxpayers List (ATL) at the time of acquiring and disposing of securities | Company              | Corporate Rate of tax as specified in Division II of Part I to the First Schedule      |
|  | Individuals and AOPs | Higher of 15% or slab rates as specified in Division I of Part I to the First Schedule |

The taxation of the following is proposed to remain unchanged:

1. Capital gains on securities obtained between July 1, 2022, and June 30, 2024, will remain subject to the existing tax rules as follows:

| Holding Period          | Rate   |
|-------------------------|--------|
| Less than 1 year        | 15%    |
| From 1 year to 2 years  | 12.50% |
| From 2 years to 3 years | 10%    |
| From 3 years to 4 years | 7.50%  |
| From 4 years to 5 years | 5%     |
| From 5 years to 6 years | 2.50%  |
| More than 6 years       | 0%     |

2. Capital gain on the following dates are also unchanged:

| Date of Acquisition          | Rate   |
|------------------------------|--------|
| Before July 1, 2013          | 0%     |
| July 1,2013 to June 30, 2022 | 12.50% |

### INVESTMENTS IN MUTUAL FUNDS & REIT SCHEMES

#### a) Increase in Tax on Capital Gains

The following table shows the proposed changes to withholding tax rates on capital gains from Mutual Funds or REIT Schemes:

| Category           | Existing Rate |             | Proposed Rate |             |
|--------------------|---------------|-------------|---------------|-------------|
|                    | Stock Funds   | Other Funds | Stock Funds   | Other Funds |
| Individual and AOP | 10%           | 10%         | 15%           | 15%         |
| Company            | 10%           | 25%         | 15%           | 25%         |

For stock funds where capital gains exceed dividend receipts, the proposed tax deduction rate is 20%, compared to the current rate of 12.5%.

At present, no tax is deducted on capital gains for securities held over six years. This benefit is now proposed to be limited to securities acquired by June 30, 2024.

#### b) Increase in rate of tax of tax / withholding on dividend

The proposed tax rate and withholding on dividends from mutual funds that derive 50% or more of their income from Profit on Debt will increase to 25%, up from the current 15%.

### ADVANCE TAX IMPOSED ON THE ACQUISITION, SALE, OR TRANSFER OF IMMOVABLE PROPERTY

The current rate of advance tax collected from buyers or sellers on the purchase, sale, or transfer of property is 3% of the Fair Market Value or consideration received. Proposed progressive advance tax rates are suggested for property transactions across three categories:

1. Individuals listed in the Active Taxpayers List (ATL).
2. Individuals not listed in the ATL.
3. Individuals listed in the ATL who have filed their returns after the due date or the extended due date, referred to as late filers.

A new proposal introduces enhanced advance tax rates for the sale and purchase of immovable property specifically targeting late filers. This amendment aims to discourage the practice of filing income tax returns only at the time of property transactions to avoid higher advance tax rates applicable to individuals not listed in the Active Taxpayers List (ATL), as outlined in the Tenth Schedule. The enhanced rates for late filers are set higher than those for individuals appearing in the ATL but lower than those for individuals not appearing in the ATL.

### ADVANCE TAX U/S 236C AND 236K:

#### a) SALE OR TRANSFER OF IMMOVABLE PROPERTY

| S. No. | Gross Consideration Received           | Tax Rates                |   |                                  |
|--------|--|--------------------------|---|----------------------------------|
|        |  | Persons appearing in ATL | Persons appearing in ATL who filed returns after due date | Persons not appearing in ATL     |
| 1      | Upto Rs. 50 million                    | 3%                       | 6%  | 10% of the Gross Amount Received |
| 2      | Over Rs. 50 million to Rs. 100 million | 3.50%                    | 7%  |                                  |
| 3      | Exceeding Rs. 100 million              | 4%                       | 8%  |                                  |

### b) PURCHASE OF IMMOVABLE PROPERTY

| S.NO. | Fair market value                      | Tax Rates                |   |                              |
|-------|--|--------------------------|---|------------------------------|
|       |  | Persons appearing in ATL | Persons appearing in ATL who filed returns after due date | Persons not appearing in ATL |
| 1     | Upto Rs. 50 million                    | 3%                       | 6%  | 12%                          |
| 2     | Over Rs. 50 million to Rs. 100 million | 3.50%                    | 7%  | 16%                          |
| 3     | Exceeding Rs. 100 million              | 4%                       | 8%  | 20%                          |

### ADVANCE TAX ON ACQUISITION OF SHARES IN UNLISTED COMPANIES

A new law introduced in 2023 (Finance Act) requires a tax to be paid when buying shares in unlisted Pakistani companies. This tax is 10% of the fair market value of the shares, which is determined following specific rules. Similar to how capital gains tax works, you'll need to pay this tax at the same time you pay for the shares.

Proposed amendments suggest that the advance tax will be deducted at the earlier of two points:

- (a) Upon payment, or
- (b) Upon registration of shares by the SECP or SBP, as applicable.

### 8(a) PENALTY IN CASE FAILURE TO PAY TAX UPON ACQUISITION OF SHARES

A potential penalty is under consideration for individuals who fail to comply with the recently introduced withholding tax on unlisted Pakistani company shares. This tax, established by the Finance (Supplementary) Act, 2023, requires a 10% levy on the fair market value of the shares.

The proposed penalty is a significant deterrent, set at 50% of the amount of tax involved.

This proposed penalty underscores the importance of timely tax payment on share purchases in unlisted companies.

### REVOCATION OF AUTHORITY TO ISSUE TAX EXEMPTION CERTIFICATES

The Commissioner possesses the authority to issue exemption certificates, particularly in cases where an individual's income is exempt from tax or eligible for a 100% tax credit, such as with non-profit organizations.

Additionally, the Commissioner is authorized to issue these exemption certificates for payments related to the sale of goods, services rendered, and the execution of contracts by both resident and non-resident entities, provided certain conditions are met. This authority allows for flexibility in the application of tax obligations, ensuring compliance with specific statutory provisions and recognizing qualifying exemptions.

The current authority of the Commissioner to issue exemption certificates in certain situations is proposed to undergo revisions. While the power to grant complete tax exemptions (0% withholding tax) may be withdrawn in the aforementioned cases, the Commissioner's ability to issue certificates for reduced withholding tax rates will likely remain. This proposed change aims to streamline tax collection and potentially increase government revenue.

The proposal is stringent and should be reconsidered, as it would negatively impact cases where the income is either tax-exempt or eligible for a 100% tax credit under specific provisions.

### TAX TREATMENT OF PARTNER'S SHARE OF PROFIT IN AN ASSOCIATION OF PERSONS

A new regulation is under consideration that would impact the tax treatment of partners in Associations of Persons (AOPs).

Key Points:

- Threshold for Scrutiny: The proposal targets AOPs with a turnover exceeding PKR 300 million during the current or any preceding tax year.
- Loss of Exemption: For such AOPs, the exemption on a member's share of profits would be revoked if the AOP fails to file audited financial statements alongside its income tax return.
- Qualified Auditors: The required audit must be conducted by a Chartered Accountants Firm as defined in the CA Ordinance 1961 or a Cost and Management Accountants Firm as defined in the CMA Act 1966.

If implemented, this regulation would necessitate AOPs exceeding the PKR 300 million threshold to engage qualified auditors and ensure their financial statements are audited alongside their tax filings. Failure to comply would result in the loss of exemption for partner's share of profits, potentially leading to increased tax burdens for the individual members.

### **TAX RATES APPLICABLE TO NON-FILERS: A BREAKDOWN OF THE TENTH SCHEDULE**

Under the current provisions of the Tenth Schedule, the rate of tax to be collected or deducted is enhanced as follows for individuals not appearing in the Active Taxpayer List (ATL):

- a) For advance tax collected on motor vehicles (section 231B) and on the purchase of immovable property (section 236K), the rate of advance tax is increased by 200% and 250% respectively.
- b) In all other cases, except for certain specified exceptions, where the tax rate is prescribed in the First Schedule, the rate of tax is increased by 100%.

These adjustments are intended to encourage compliance with tax obligations among individuals not listed in the ATL, aligning with broader tax policy objectives.

### **EXPANSION OF SCOPE**

The Bill proposes a significant expansion of the Tenth Schedule. This schedule currently governs withholding tax rates for non-filers (individuals who haven't filed tax returns). The proposed amendment aims to include various withholding taxes currently unspecified in the First Schedule (the main tax rate schedule) within the purview of the Tenth Schedule. This would encompass taxes like capital gains on share purchases (section 37) and indirect share transfers (section 101A).

For individuals not registered on the Active Taxpayer List (ATL), the amendment proposes a 100% increase in these newly included withholding tax rates. This effectively doubles the withholding tax burden for non-compliant taxpayers.

### **PROPOSED INCREASE IN WITHHOLDING TAXES FOR NON-FILERS**

The proposed legislation outlines revisions to the withholding tax regime for individuals not registered on the Active Taxpayers List (ATL) :

| S. NO | DESCRIPTION   | EXISTING | PROPOSED |
|-------|---|----------|----------|
| 1.    | On yield or profit on debt - Section 151  | 30%      | 35%      |
| 2.    | On the gross amount of sale to distributors, dealers or wholesalers other than sale of fertilizers - Section 236G | 0.2%     | 2%       |
| 3.    | On the gross amount of sales to retailers - Section 236H  | 1%       | 2.5%     |

### TAX COLLECTED AT SOURCE ON SALES TO DISTRIBUTORS, WHOLESALERS, AND RETAILERS

Currently, businesses of specific industries (including manufacturers, distributors, wholesalers and commercial importers) must collect advance tax at prescribed rates from their distributors, dealers, wholesalers, and retailers. This tax is meant to be paid to the government upfront. The government is proposing to expand this rule to all businesses, regardless of their industry.

Additionally, for businesses selling to customers who haven't registered with the government (not on the Active Taxpayers List or ATL), the proposed tax they need to collect upfront will be increased. This aims to encourage businesses to only sell to registered customers.

### REVOCAION OF TAX EXEMPTIONS

The following tax breaks are proposed to be eliminated:

- Government Subsidies: Income received from government subsidies to implement government initiatives would no longer be exempt from taxation.
- Tax Credit for Educators and Researchers: The 25% tax credit currently available to qualifying full-time teachers and researchers at approved non-profit institutions would be withdrawn. This includes institutions recognized by the Higher Education Commission, Boards of Education, universities recognized by the HEC, and government research institutions.

### PENALTY AND PROSECUTION FOR FAILURE OF SMALL TRADER OR SHOPKEEPER TO REGISTER UNDER THE ORDINANCE

The government is proposing stricter regulations for small traders and shopkeepers. Under a new scheme called "Tajir Dost" (outlined in section 99B of the ordinance), these businesses are required to register.

Failing to register or neglecting to pay advance tax under this scheme will result in penalties:

**First Offense**: Shop closure for 7 days. This temporary shutdown aims to encourage compliance.

**Repeat Offenses**: For subsequent violations, the closure period will be extended to 21 days.



Additionally, non-compliance will be considered a criminal offense. Upon conviction, penalties could include:

- Fines
- Imprisonment for up to 6 months
- Both a fine and imprisonment

This highlights the importance of registering your business and complying with tax regulations under the Tajir Dost scheme. Early registration and timely tax payments will help you avoid these penalties and ensure your business can operate smoothly.

### PENALTY FOR NON-COMPLIANCE WITH FBR GENERAL ORDER RESULTING IN UTILITY DISCONNECTION

A penalty is proposed for individuals who do not adhere to an income tax general order issued by the Board. This directive applies to individuals not listed in the active taxpayers' list but are required to file returns under the Ordinance within 15 days of the order's issuance. The penalty for the first instance of non-compliance is set at Rs 100,000,000, increasing to Rs 200,000,000 for subsequent violations. This penalty is intended to apply to utility companies and telecom sector firms if they fail to comply with FBR's general order instructing them to disconnect services for taxpayers who are in default.

### CONSEQUENCES OF INCOMPLETE TAX FILINGS: FINES AND LEGAL ACTION FOR COMPANIES AND AOPS

The government is proposing stricter penalties for companies, including banks, and Associations of Persons (AOPs) that fail to submit complete and accurate tax returns. This applies to all information required by law, including supporting documents.

#### What happens if you file an incomplete return?

- **Penalty:** Companies failing to provide all necessary details, including complete annexures, statements, or documents as required, could face a penalty of either:
  - Rs 500,000 (a fixed amount)
  - 10% of the tax payable on their taxable income (whichever is higher)

- **Criminal Offense:** In addition to the penalty, incomplete filings may be considered a criminal offense. A conviction could result in:
  - Fines
  - Imprisonment for up to one year
  - Both a fine and imprisonment

### **LIMITATION ON THE ASSERTION OF EXPENSES RELATED TO SALES PROMOTIONS AND ADVERTISING.**

According to current regulations, deductions for royalties paid to an associated entity are permissible if they comply with arm's length principles. However, if a transaction is not conducted at arm's length, the Commissioner has the authority to disallow an expense if it surpasses the arm's length value, determined by prescribed methods. Notably, there are no limitations on claiming expenses for sales promotion and advertising in such arrangements.

A proposed amendment outlines that 25% of the total expenses incurred on sales promotion, advertising, and publicity would be restricted and reallocated to an associated entity. This would occur when there's an existing arrangement for royalty payment related to certain intangible assets, and the claimed royalty deduction has been made in the current tax year or within the previous two tax years. This proposed change is slated to come into effect from the tax year 2024 onwards.

In scenarios involving non-resident associates, it's customary that such expense allocation wouldn't be allowable, as their royalty income would have already undergone taxation under the final tax regime. However, for non-residents protected by an applicable double tax treaty, there's a contention that such allocation might not be permissible, provided the royalty itself adheres to arm's length standards. Additionally, the applicability of this proposed provision for the tax year 2024 warrants thorough examination, particularly in relation to principles governing past and closed transactions.

### **ADVANCE TAX u/s 147**

For AOPs and companies, the quarterly advance tax amount is currently calculated based on the turnover-to-tax ratio. If this information is not provided or the turnover amount is unknown, the quarterly turnover is assumed to be one-fourth of 110% of the turnover from the latest tax year for which a return was filed. It is now proposed to increase this threshold from 110% to 120%.

Additionally, concerning the provision that allows taxpayers to file a lower estimate of advance tax, it is proposed to restore the Commissioner's authority to reject such estimates. These powers were previously in place from July 1, 2018, to June 30, 2021.

### **MINIMUM VALUE OF IMPORTS FOR ADVANCE TAX COLLECTION**

Currently, the value of imported goods for the purpose of collecting advance tax is determined by taking the customs assessed value and enhancing it by adding customs duty and sales tax. If the goods are subject to sales tax based on their retail price, that retail price is used instead.

The proposal aims to authorize the Federal Board of Revenue to establish the minimum value of specific goods for advancing tax collection through an official gazette notification. For these goods, advance income tax will be levied based on this designated minimum value, adjusted by applicable customs duty and sales tax. Consequently, this could result in varying values for imported goods used in the assessment of both indirect and direct taxes.

### **WITHHOLDING TAX RATES ON TELEPHONE AND INTERNET USAGE**

The FBR has the authority, among other powers, to suspend mobile phone services and terminate electricity and gas connections for individuals not listed in the Active Taxpayers List (ATL) but who are obligated to file income tax returns. This action can be initiated through a general order issued by the FBR.

The proposed increase in the withholding tax rate for individuals listed in the aforementioned general order is from 15% to 75% of the bill amount or sale price of items such as internet prepaid cards, prepaid telephone cards, or units sold through any electronic medium.

It seems that despite filing their income tax return and having their mobile connection restored as per the process outlined in the mentioned general order, individuals will remain subject to the collection of increased withholding tax until their name is removed from the list.

### **TAX EXEMPTION EXTENDED FOR ERSTWHILE TRIBAL AREA RESIDENTS**

The period of exemption on income for residents of the erstwhile Tribal Areas, which was set to expire on June 30, 2024, is now proposed to be extended along with exemption from withholding tax for another year until June 30, 2025.

### **WITHHOLDING TAX RATES FOR DISTRIBUTORS OF CIGARETTES**

It is proposed to increase withholding tax rate from 1% to 2.5% under section 153 of the Ordinance on gross amount of payment to distributors of cigarettes.

### **TAX CREDIT ON COAL MINING PROJECTS IN SINDH**

A tax credit equal to 100% of tax payable is inter alia available to persons engaged in coal mining projects in Sindh supplying coal exclusively to power generation projects, subject to certain conditions. The Bill proposes to add explanation whereby such credit will be restricted to income derived by such persons from operation of aforesaid coal mining projects. The purpose of this Explanation is to exclude the non-operational income (such as interest income) of such persons from eligibility of tax credit.

### **FOREIGN TRAVEL RESTRICTIONS FOR NON-FILERS**

In 2021, section 114B was introduced, granting the Federal Board of Revenue (FBR) the authority to take specific actions via general orders regarding individuals not listed on the Active Taxpayers' List. These actions included disabling mobile phones and/or disconnecting utility services.

The proposed bill seeks to enhance FBR's authority by allowing it to also restrict foreign travel for Pakistani citizens who are not listed on the Active Taxpayers' List. However, individuals holding a NICOP, minors, students, and other designated groups notified by the FBR will be exempted from this restriction.

### **DEFAULT SURCHARGE RATE**

The proposed amendment suggests changing the default surcharge rate from 12% per annum to KIBOR (Karachi Interbank Offered Rate) plus 3%.

### **PENALTY AND POTENTIAL PROSECUTION FOR FAILURE TO SUBMIT A FINAL RETURN UPON BUSINESS DISCONTINUATION**

A penalty is proposed for individuals who fail to submit an income tax return for a discontinued business as required by the Commissioner within the specified time. The penalty would be either 0.1% of the tax payable for each day of default or Rs 1,000 per day of default, whichever is higher. However, a minimum penalty of Rs 10,000 is proposed for individuals and Rs 50,000 for other cases. Furthermore, such individuals would be considered to have committed an offense punishable upon conviction with a fine, imprisonment for up to one year, or both.

### **REVISED WITHHOLDING TAX RATES APPLICABLE TO TOLL MANUFACTURING**

The Finance Act 2020 introduced a specific withholding tax rate for payments related to toll manufacturing. The current bill proposes increasing these rates as follows:

| Taxpayer Category | Existing | Proposed |
|-------------------|----------|----------|
| Company           | 5%       | 9%       |
| Others            | 5.5%     | 11%      |

### **ADVANCE TAX ON PURCHASE, REGISTRATION AND TRANSFER OF MOTOR VEHICLES**

Every Motor Vehicle Registration Authority must collect Advance Tax at fixed rates based on the engine capacity for vehicles up to 2000 cc. For vehicles with higher engine capacities, the Advance Tax rates are based on the vehicle's value.

It is proposed that tax rates will be determined based on the value of Motor Vehicles regardless of engine capacity, as outlined below:

| S.NO. | ENGINE CAPACITY | TAX              |                   |
|-------|-----------------|------------------|-------------------|
|       |                 | CURRENT          | PROPOSED          |
| 1     | Upto 850 cc     | Rs. 10,000       | 0.5% of the value |
| 2     | 851 - 1000 cc   | Rs.20,000        | 1% of the value   |
| 3     | 1001 - 1300 cc  | Rs.25,000        | 1.5% of the value |
| 4     | 1301 - 1600 cc  | Rs.50,000        | 2% of the value   |
| 5     | 1601 - 1800 cc  | Rs.150,000       | 3% of the value   |
| 6     | 1801 - 2000 cc  | Rs.200,000       | 5% of the value   |
| 7     | 2001 - 2500 cc  | 6% of the value  | 7% of the value   |
| 8     | 2501 - 3000 cc  | 8% of the value  | 9% of the value   |
| 9     | Aove 3000 cc    | 10% of the value | 12% of the value  |

### **PENALTY AND PROSECUTION FOR COMPANY AND ASSOCIATION OF PERSONS WHO FAIL TO FURNISH INFORMATION IN RETURN OF INCOME**

A penalty is proposed for any company (including banking companies) and Association of Persons (AOP) that fail to fully disclose all relevant particulars or information as required in the tax return form, including the declaration of records, or submit any incomplete or blank annexure, statement, or document as prescribed in subsection 2 of section 114 of the Ordinance. Such entities will incur a penalty of Rs 500,000 or 10% of the tax chargeable on their taxable income,

whichever is greater. Additionally, these parties will be deemed to have committed an offense, punishable upon conviction with a fine, imprisonment for up to one year, or both.

### PECUNIARY JURISDICTION IN APPEALS

The Tax Laws (Amendment) Act, 2024 introduced significant changes to the two-tier appeal system by implementing pecuniary jurisdiction in appeals. Now, appeals up to a specified threshold are handled by the Commissioner Inland Revenue – Appeal (CIRA). Appeals involving assessments of tax or refunds exceeding this threshold are to be filed directly with the Appellate Tribunal Inland Revenue (ATIR). A brief comparison is provided below:

| Forum of Appeal                       | Income Tax               | Sales Tax                | Federal Excise Duty     |
|---------------------------------------|--------------------------|--------------------------|-------------------------|
| Commissioner Inland Revenue – Appeals | Rs. 20 million and under | Rs. 10 million and under | Rs. 5 million and under |
| Appellate Tribunal Inland Revenue     | Over Rs. 20 million      | Over Rs. 10 million      | Over Rs. 5 million      |

### SALES TAX ACT, 1990

#### Sales Tax Earlier of Advance or Time of Supply

By virtue of proposed amendment, the sales tax is payable earlier of either advance payment or at the time of supply. In other words sales tax is payable at the earliest of either:

- When an advance payment is made
- When the supply of goods/services is made

#### Tax Assessment and Determination

Currently, the assessment of uncollected or under-collected taxes is regulated by section 11 of the Act. However, there is a proposal to restructure this section into three separate sections: 11E, 11F, and 11G.

The proposed section 11E of the Act grants authority to tax officers, not below the rank of Assistant Commissioner, to assess taxes, penalties, and default surcharges. This applies when individuals have failed to pay or underpaid sales tax, made improper claims for input tax credit or refunds, or obtained unwarranted refunds. Additionally, this section allows tax officers to reject input tax claims lacking proper documentation. Provisions regarding assessment due to collusion, deliberate acts, inadvertence, or errors are subsumed under the broader category of "for any other reason".

Section 11F of the Act introduces measures for initiating recovery proceedings in cases where sales tax has not been properly withheld or deposited by withholding agents, or in instances of underpayment. These provisions, currently housed in section 11(4A), are slated for removal.

The proposed section 11G of the Act establishes the timeframe for issuing show cause notices under sections 11D, 11E, and 11F, and specifies the period within which these proceedings must be completed. These timelines are generally in line with those currently prescribed under section 11 of the Act.

### **Custom Value of imported goods**

With the amendments introduced by the Finance Act, 2019, the 'retail price regime' was extended to apply to the import of goods listed in the Third Schedule. Under section 2(46), the Board has the authority to determine the 'value of supply' for any imported or local goods. The Bill now proposes to extend this power to the Board for setting the value of imported goods specified in the Third Schedule as well. This amendment appears to be clarification in nature.

### **Sales tax returns and Limitation of Assessment**

Currently, taxation authorities can charge and collect sales tax for previous tax periods, including situations where sales tax returns have not been filed, by assessing sales tax that was not levied or was under-levied. However, these assessment proceedings cannot be conducted for tax periods that are more than five years past the end of the financial year in which the sales tax return should have been filed.

The proposal now states that anyone required to file a sales tax return but who has failed to do so may be issued a written notice to submit the return within a specified time-frame set by the assessing officer. In cases of tax fraud, a time limit of fifteen years from the end of the financial year in which the return was due is proposed. For all other cases, a time limit of five years is proposed.

Currently, under section 24 of the Act, sales tax records must be maintained for six years after the end of the tax period to which they relate, or until the finalization of assessment or appellate proceedings. This record retention requirement needs to be aligned with the proposed amendment that would require taxpayers to file sales tax returns for up to the past 15 years.



### Aggregate threshold of Payment through banking channels

Currently, section 73 of the Act stipulates that payments for any transaction exceeding Rs 50,000 must be made through proper banking channels. If these provisions are not followed, the buyer is not entitled to claim input tax credit adjustments, refunds, repayments, drawbacks, or zero-rating of tax under the Act.

The Bill now proposes that the Rs 50,000 limit should be considered in aggregate. However, there is ambiguity regarding whether the 'Rs 50,000 in aggregate' threshold applies to a single tax period or to transactions with a single supplier. This aspect requires further clarification.

### Associated persons and Arm`s Length Transaction

Under sales tax regulations, if the supplier and recipient have a close relationship as associates or associated persons, and if the supply is either provided without charge or at a price lower than the open market rate, the value of the supply is deemed to be the open market price. Additionally, starting in 2021, rules akin to transfer pricing in income tax laws were introduced for transactions between associates to ensure fair determination of arm`s length pricing. However, specific guidelines for implementing these rules have not yet been established by the Federal Board of Revenue (FBR).

In the given context, there is a proposal to align the definition of associates or associated persons with that outlined in the Income Tax Ordinance. It is suggested that this expression adopt the same definition as specified in section 85(1) of the Income Tax Ordinance. Both existing definitions in the statutes were largely similar, with the key difference being that under the Ordinance, 'associates' encompassed (i) the notion of 'sufficient influence', and (ii) transactions involving residents of jurisdictions with a 'zero taxation regime'.

The proposed amendment aims to synchronize the definitions used in both tax laws. However, the current Bill specifies that the term shall adhere strictly to the definition provided in section 85(1) of the Ordinance, thereby excluding certain categories of individuals covered in other subsections that were previously included in the Act's definition of 'associates'. This discrepancy is anticipated to be rectified when the Finance Act is passed.

### **Broadened Definition of Tax fraud**

The current definition of 'tax fraud' in the Act is broad and does not encompass certain specific transactions or events. The proposed Bill seeks to overhaul this definition by expanding its scope considerably. The revised definition of 'tax fraud' is now intended to cover intentional acts such as evading legally owed taxes, obtaining unjustified refunds through false returns, statements, or documents, withholding accurate information or documents, and includes:

- (i) suppression of sales/ receipts chargeable to tax under this Act;
- (ii) false claim of input tax credit;
- (iii) making taxable supplies without issuing any tax invoice, in violation of the provisions of this Act or the Rules;
- (iv) issuance of tax invoice without supply of goods leading to inadmissible claim of input tax credit or refund;
- (v) evasion of tax by availing undue input tax credit or obtaining inadmissible refund by any means/ methods other than that covered under clauses (i) to (iv);
- (vi) collection of tax but failing to deposit the same in the prescribed manner beyond a period of three months from due date;
- (vii) falsification or substitution of financial records or production of fake accounts or documents or furnishing of any false information through human, mechanical or electronic means with an intention to evade tax due or claim inadmissible refund;

(viii) tampering/ destroying any material evidence/ documents required to be maintained under this Act or the Rules through human/ digital means; or

(ix) acquisition, possession, transportation, disposal or in any way removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner dealing with, any goods in respect of which there are reasons to believe that these are liable to confiscation under this Act or the Rules.

Additionally, an explanatory provision has been proposed to clarify that any act or omission specified in this clause will be presumed to be intentional unless the accused individual proves that they had no intention, motive, knowledge, or reason to believe they were committing tax fraud.

### **Scope of Audit of Sales Tax Affairs**

The Finance Bill 2024 proposes a comprehensive revision of Section 25 of the Act. Currently, this section primarily addresses the access to records by tax authorities and empowers an officer of inland revenue to conduct audits based on records obtained from registered persons by the Commissioner. Constitutional Courts in the country have interpreted Section 25 to mandate that a registered person cannot be selected for audit by the Commissioner without first obtaining their records. To potentially nullify the impact of these judgments, the requirement to procure records before selecting a case for

audit is proposed to be eliminated. Instead, the Commissioner would be empowered to direct an audit officer, not below the rank of Assistant Commissioner, to conduct audits of registered persons based on reasons documented in writing.

As regards the selection of a registered person for audit, the proposed section further stipulates that:

(i) The Commissioner, while intimating the registered person about selection for audit, shall also communicate the reasons for selection to the registered person;

(ii) The reasons for selection are required to be based on scrutiny of the records including sales tax and federal excise returns, income tax returns, withholding statements, financial statements or third party record;

(iii) The basis for selection should not be merely verification of input tax, output tax, refund claim and compliance to various legal provisions without identifying the risk factors requiring such verification; and

(iv) The Commissioner is under no legal obligation to provide an opportunity of being heard to the registered person while directing the audit officer to carry out the audit of a registered person.

Regarding the conduct of the audit, the proposed section states that:

(i) The audit officer is permitted to call for any records or documents from the registered person inter-alia including the records maintained under the Act and the Rules made thereunder or maintained under any law for the time being in force;

(ii) The officer is authorized to conduct or cause to conduct inquiries from third party to obtain information/ documents required for conduct of sales tax audit of a registered person; and

(iii) No record of registered person can be requisitioned after expiry of six years from the end of the financial year to which they relate.

Currently, under section 25, audits are restricted to once per year. The proposed section, however, removes this limitation on the frequency of audits.

The proposed section empowers the audit officer to conduct an investigative audit under section 25AB of the Act with approval from the relevant Commissioner. This authorization comes into play if, during the audit process, there is suspicion that the registered person is engaged in 'tax fraud'. The scope of 'tax fraud' is slated to undergo significant enhancement through the Finance Bill 2024.

Following an audit based on documents or information obtained from the registered person or third parties, the audit officer has the authority, under section 11E of the Act, to issue an assessment order for taxes that were not levied, undercharged, or incorrectly refunded. However, if the registered person fails to provide the requested records or information, the proposed amendment empowers the audit officer to conduct a 'best judgment assessment' under section 11D, as outlined in the Finance Bill 2024.

The regulations concerning the voluntary deposit of underpaid sales tax before and during audit proceedings, along with the corresponding penalty relief, remain unchanged.

### **Investigative Audit for the fraud**

The Finance Bill 2024 introduces a new section allowing for investigative audits in cases of suspected 'tax fraud'. According to the proposed section, if during an audit under section 25 of the Act or otherwise, the audit officer reasonably suspects, based on the balance of probabilities, that a registered person is engaged in 'tax fraud', they may initiate an investigative audit with approval from the relevant Commissioner. This audit must be completed within ninety days of its commencement.

In addition to issuing orders under sections 11E and 11D, as a result of the investigative audit, the officer is authorized to:

- (i) Blacklist the registered person under section 21 of the Act; and
  
- (ii) Impose penalty and cause prosecution of the registered person in terms of Serial No. 13 of the Table in Section 33 of the Act.

We believe that the language used in the proposed section 25AB is unclear and ambiguous, granting discretionary powers to the officer conducting the investigative audit. These vague terms may lead to unnecessary and prolonged legal disputes. Furthermore, there appears to be a contradiction between the provisions of proposed section 25AB and section 21(2) of the Act, which stipulates that the authority to issue orders of blacklisting rests solely with the Commissioner.

### **Orders giving effect to an appeal**

Section 11B of the Act currently governs the procedure for issuing appeal effects' orders following directives from CIRA, ATIR, High Court, or Supreme Court. The proposed amendment aims to align these provisions with those in section 124 of the Income Tax Ordinance. This change seeks to enhance clarity and address certain aspects related to the issuance of appeal effect or remand orders that are currently not covered adequately in the existing provisions.

### **Authorized Licensed Integrator**

Previously, the Board mandated electronic invoicing for specific sectors through relevant SROs. Now, corresponding enabling provisions are being introduced into the law. Additionally, a new concept called 'licensed integrator' is proposed, stipulating that only individuals licensed by the Board can offer electronic invoicing systems for integrating registered persons.

### **Review by Chief Commission for De-registration, blacklisting and suspension of registration**

Section 21 of the Act currently grants authority to the Commissioner to blacklist or suspend a taxpayer in cases involving the issuance of fake invoices or commission of tax fraud. Presently, such decisions by the Commissioner can be appealed before the Appellate Tribunal. The proposed Bill seeks to empower the Chief Commissioner to review blacklisting orders issued under section 21(2) by the Commissioner and make modifications if necessary. The Chief Commissioner may initiate this review independently or based on an application submitted by the taxpayer. Corresponding amendments have also been suggested for the provisions governing appeals filed before the Tribunal.

### **Assessment made with due care**

A concept similar to the 'best judgment assessment' currently in the Ordinance is now proposed to be introduced into the Act. Under this proposal, if a person (i) fails to submit a sales tax return in response to a notice, and (ii) does not provide the tax authorities with requested accounts, records, or documents under sections 25, 25AB, or 38A of the Act, the competent officer may, after issuing a show cause notice, assess the payable tax or refund based on any available information to the best of their judgment.

If a best judgment assessment has been conducted for situation (i) mentioned above, and the individual subsequently files the return along with payment of the owed tax, the show cause notice or assessment order will be canceled.

It has been proposed that when determining a person's liability under a best Judgment assessment, the officer will establish this liability according to the FBR's specified conditions for determining the person's minimum tax liability, where applicable.

### **Penalty Compliance with FBR's Traceability System**

Currently, individuals engaged in the manufacturing, transportation, distribution, or sale of specific goods with counterfeit stamps, banderoles, stickers, labels, or without them, face penalties such as confiscation of goods without conditions. Additionally, repeated sales of these specified goods can lead to the sealing of premises for 15 days. Furthermore, businesses failing to integrate into the 'track and trace system' risk having their premises sealed until integration is completed. Proposed changes will introduce separate procedures for confiscating counterfeit goods and sealing premises related to such activities or non-compliance with the track and trace system, while other penalties remain unchanged.

Currently, specific penalties are imposed on Tier-1 retailers who are either not registered under the Act or have not integrated their systems with the FBR. It is now proposed that these penalties will also apply to individuals or classes of persons required by the FBR to integrate their electronic invoicing systems but fail to do so.

A penalty, set at the greater of Rs 1 million or 1% of the value of suppressed sales, is proposed to be imposed on the 'licensed integrator' of the electronic invoicing system who fails to carry out the integration as prescribed.

Separate procedures are now proposed for the confiscation of retail goods that do not have the retail price printed on them or goods brought into Pakistan from tax-exempt areas in violation of prescribed rules. Previously, such confiscation was not subject to any specific rules or procedures.

### **Tax evasion and non-compliance**

Currently, penalties for offenses related to 'tax fraud' involve a fine that is the greater of Rs 25,000 or 100% of the tax amount in question. Upon conviction by a Special Judge, penalties can also include imprisonment for up to 3 years or a fine up to the amount of tax involved, or both.

Under the proposed changes, individuals who commit, cause to commit, or attempt to commit 'tax fraud' will face a penalty set at the greater of Rs 25,000 or 100% of the evaded or attempted



to be evaded tax amount. Additionally, those who aid or abet in the commission of tax fraud will also be liable. Upon conviction by a Special Judge, these individuals may face imprisonment:

- for a period upto 5 years in case the amount involved is not more than Rs 1 billion; and
- upto 10 years in case the amount involved is Rs 1 billion or above.

and fine upto the amount of tax evaded or sought to be evaded.

### In Addition to the Above

It is also proposed that, notwithstanding the provisions of the Code of Criminal Procedure, 1898, the punishment for offenses under the Act may be extended to a period of up to 10 years.

### Third Schedule

Presently, the supply of DAP is subject to a 5% ad valorem sales tax. It is now proposed that the sales tax on this supply be levied based on the 'retail price'.

### Fifth Schedule

The following goods are presently subject to a zero percent sales tax rate:

- Fat filled milk (PCT heading 1901.9090); and
- Local supplies of commodities, raw materials, components, parts and plant and machinery to registered exporters authorized under Export Facilitation Scheme, 2021.
- Milk (PCT heading 04.01);

The Bill proposes to eliminate the zero-rating benefit for the aforementioned goods. Consequently, the supply of these goods will become subject to an 18% sales tax, except for milk not sold under a brand name, which is proposed to be exempt from sales tax.

Additionally, the following goods, as well as their raw materials, packing materials, sub-components, components, sub-assemblies, and assemblies imported or purchased locally for their manufacture, are currently covered under the zero-rated sales tax regime:

- Colors in sets (PCT heading 3213.1000);
- Erasers (PCT heading 4016.9210 and 4016.9290);
- Pencil sharpeners (PCT heading 8214.1000);
- Other drawing, marking out or mathematical calculating instruments (geometry box) (PCT heading 9017.2000);
- Pens, ball pens, markers and porous tipped pens (PCT heading 96.08); and
- Pencils including color pencils (PCT heading 96.09)
- Preparations suitable for infants, put up for retail sale not exceeding rupees six hundred per two hundred grams (PCT Heading 1901.1000);
- Writing, drawing and making ink (PCT heading. 3215.9010 and 3215.9090);
- Exercise books (PCT heading 4820.2000);

Furthermore, the import or supply of the aforementioned finished goods is currently exempt from sales tax.

The Bill proposes to withdraw the sales tax exemption and zero-rating for these goods, along with their related raw materials and components. Instead, the supply of such finished articles will be subject to a reduced sales tax rate of 10%. However, 'preparations suitable for infants' will be subject to the standard sales tax rate of 18%.

### Sixth Schedule to the Act

Through the Bill, the following imports and supplies are proposed to be exempted from sales tax:

| Description   | Heading  |
|---|--|
| Goods received as gift by Pakistani organizations from Church World Services or the Catholic Relief Services as are certified by the Ministry of Health, that these imports are made under agreements signed by the Government of Pakistan with the Church World Service and with the Catholic Relief Service   | 9908   |
| Relief goods donated for free distribution among the victims of natural disaster or other catastrophe, as are certified by the authorized officer of Federal/Provincial Government (ii) Plant, machinery and equipment imported by way of donation for installation in the earthquake hit districts as certified by ERRR/National Disaster Management Authority | 9911(i)  |
| Importation or supply of petroleum, oil, and lubricants (POL products):<br><br>1) MS (Petrol)<br>2) Kerosene<br>3) Light Diesel Oil<br>4) High Speed Diesel Oil   | 2710.1210<br>2710.1911<br>2710.1921<br>2710.1931 |
| Domestic supply of iron and steel scrap   | 7204.4100<br>7204.3000<br>7204.4990              |

### Removal of Exemption

Through the Bill, the proposed withdrawal of sales tax exemption for the import and supply of the following goods.

- a) The proposal in the Bill suggests withdrawing sales tax exemption for imported edible vegetables from Afghanistan, including roots and tubers, except ware potatoes and onions, whether fresh, frozen, or otherwise preserved (e.g., in cold storage), but excluding those that are bottled or canned.
- b) Fruit imported from Afghanistan, excluding apples classified under PCT 0808.1000.
- c) Cardiology/cardiac surgery, neurovascular procedures, electrophysiology, endosurgery, endoscopic techniques, oncological treatments, urological interventions, gynecological procedures, disposables, and other specified equipment as outlined in relevant entries.

Furthermore, the following goods currently exempt from sales tax are proposed to be taxed at a reduced rate of 10%:

- Import or supply of newsprint and books, excluding brochures, leaflets, and directories.
- Import or supply of oil cake and other solid residues.
- Import or supply of tractors.
- Domestic supply of vermicelli, sheer mal, bun, and rusk, excluding those sold in bakeries and sweet shops classified as Tier-1 retailers.
- Domestic supply of poultry feed, cattle feed, sunflower seed meal, rape seed meal, and canola seed meal.

Additionally, the proposed sales tax rate on the local supply of poultry feed, cattle feed, sunflower seed meal, rape seed meal, and canola seed meal will be contingent upon the condition that input tax refunds will not be allowed.

### **Exemptions relating to erstwhile tribal areas**

The sales tax exemption currently applicable to the following supplies and imports will expire on June 30, 2024:

- 1) Supplies intended for consumption in tribal areas.
- 2) Importation of plant, machinery, and equipment intended for installation in tribal areas.
- 3) Importation of industrial inputs by industries located in tribal areas.
- 4) Supply of electricity to all residential and commercial consumers in tribal areas.
- 5) Supply of electricity to industries (excluding steel and ghee or cooking oil industries) in tribal areas established and commenced industrial production before March 31, 2018.

The Bill proposes to impose sales tax on these supplies at a rate of 6% from July 1, 2024, to June 30, 2025, and at a rate of 12% from July 1, 2025, to June 30, 2026.

### Exemptions relating to charitable hospitals

Currently, goods (excluding electricity and natural gas) supplied to hospitals operated by charitable institutions with fifty beds or more, and goods imported by hospitals operated by non-profit institutions, are exempt from sales tax. The Bill now proposes to eliminate this exemption.

### **Eighth Schedule**

Currently, sales tax is applicable at a reduced rate on the following goods:

| Description  | Present rate of sales tax |
|--|---------------------------|
| LPG (import thereof and local supplies of such imported LPG)   | 10%                       |
| Supplies as made from retail outlets as are integrated with Board's computerized system for real-time reporting of sales | 15%                       |
| Locally manufactured Hybrid electric vehicles:<br>(a) Upto 1800 cc<br>(b) From 1801 cc to 2500 cc                        | 8.5%<br>12.75%            |

Through the Bill, it has been proposed that the above goods be made subject to sales tax at standard rate of 18%.

The Bill also proposes that imported personal computers, laptop computers, and notebooks (whether or not incorporating a multimedia kit) be subject to increase of reduced rate of 5% to 10%.

### Pharma sector

Following amendments introduced by the Finance Act, 2023, medicaments classified under Chapter 30 of the First Schedule to the Customs Act, 1969, with specific exceptions, currently

attract a reduced sales tax rate of 1%. The proposed amendment in the Bill seeks to reverse this reduced tax rate mandated by previous legislation and impose the standard rate of 18%.

### Ninth Schedule

The Bill proposes an increase in the sales tax rate for the supply of cellular mobile phones or satellite phones. The current and proposed rates are detailed in the table below:

#### Existing Rates

| Description / Specification of Goods              | Sales tax on CBUs at the time of import or registration (IMEI number by CMOs) | Sales tax on import in CKD/SKD Condition | Sales tax on supply of locally manufactured mobile phones in CBU condition in addition to tax under column (4) |
|---|---|--|--|
| A. Not exceeding US\$ 30 (excluding smart phones) | Rs. 130   | Rs. 10                                   | Rs. 10   |
| B. Not exceeding US\$ 30 (smart phones)           | Rs. 200   | Rs. 10                                   | Rs. 10   |
| C. Exceeding US\$ 30 but not exceeding US\$ 100   | Rs. 200   | Rs. 10                                   | Rs. 10   |
| D. Exceeding US\$ 100 but not exceeding US\$ 200  | Rs. 1680  | Rs. 10                                   | Rs. 10   |
| E. Exceeding US\$ 200 but not exceeding US\$ 350  | 18% ad valorem  | Rs. 1,740                                | Rs. 10   |
| F. Exceeding US\$ 350 but not exceeding US\$ 500  | 18% ad valorem  | Rs. 5400                                 | Rs. 10   |
| G. Exceeding US\$ 500                             | 25% ad valorem  | Rs. 9270                                 | Rs. 10   |

**Proposed Rates**

| Description/Specification of Goods | Sales tax on CBUs at the time of import or registration (IMEI number by CMOs) | Sales tax on import in CKD/SKD condition | Sales tax on supply of locally Manufactured mobile phones in CBU condition in addition to tax under column (4) |
|------------------------------------|---|--|--|
| A. Not exceeding US\$ 500          | 18% ad valorem  | 18% ad valorem                           | 18% ad valorem   |
| B. Exceeding US\$ 500              | 25% ad valorem  | 18% ad valorem                           | 18% ad valorem   |

Furthermore, the Bill proposes to permit purchasers and importers to offset input tax expenses incurred on mobile phones and related inputs against the sales tax liability outlined in this schedule.

**Eleventh Schedule**

**Withholding sales tax on lead batteries**

The proposed amendment increases the rate of sales tax to be withheld by registered manufacturers of lead batteries purchasing lead or scrap batteries from 75% to 80%.

Additionally, it is proposed that sales tax be withheld at 80% of the applicable rate for the following items:

| Withholding agent                       | Supplier category  |
|---|--|
| Registered persons manufacturing cement | Persons supplying any kind of gypsum under Chapter 25 or limestone flux under chapter 25 |
| Registered Persons                      | Persons supplying any kind of coal under Chapter 27                                      |
| Registered Persons                      | Persons supplying any kind of waste of paper and paper board                             |
| Registered Persons                      | Persons supplying any kind of plastic waste  |
| Registered Persons                      | Persons supplying crush stone and silica   |

Currently, sales tax withholding does not apply to supplies made by an active taxpayer, as defined in the Act, except for advertisement services. The Bill proposes to extend sales tax withholding to the following supplies or services provided by active taxpayers to another registered person:

- 1) supply of lead or scrap batteries to manufacturer of lead batteries;
- 2) supply of any kind of gypsum to cement manufacturers;
- 3) supply of waste paper and paper board;
- 4) supply of any kind of plastic waste; and
- 5) supply of crush stone and silica.
- 6) advertisement services;
- 7) supply of coal;



**FEDERAL EXCISE ACT, 2005**

**Increase in FED Rate**

The Finance Bill proposes to enhance FED on the following dutiable goods as tabulated below:

| Description  | HS Code             | Current Duty                        | Proposed Duty  |
|--|---------------------|-------------------------------------|--|
| E-liquids by whatsoever name called, for electric cigarette kits.  | Respective Heading  | Rupees Ten Thousand per Kilogram    | Rupees ten thousand per Kilogram or sixty five percent of retail price whichever is Higher |
| Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cements, whether or not colored or in the form of clinkers | 25.23               | Two rupees per Kilogram             | Three Rupees per Kilogram  |
| Filter rod for Cigarettes  | Respective Headings | Rupees Fifteen Hundred per Kilogram | Rupees Eighty Thousand per Kilogram  |

**Violations and Penalties**

The Finance Bill proposes a fine on individuals who install or remove plant and machinery valued at Rs. 50 million or more without obtaining prior permission from the Commissioner. This fine could be up to Rs. 50,000 or five times the duty involved, whichever is higher, and may also include imprisonment of up to five years or both. Additionally, the Finance Bill suggests sealing the retail outlet of any retailer selling cigarette packs without affixed tax stamps, banderoles, stickers, labels, or barcodes, or with counterfeit versions of these, as prescribed.

### Proposed increase in Retail Cigarette Prices

The Finance Bill suggests raising the retail prices for various tiers of cigarettes produced in Pakistan, as outlined in the table below. This aims to maintain different brands within the same tiers despite price hikes due to inflationary pressures.

| S. No | Duty Rates                    | Current Description  | Proposed Description  |
|-------|-------------------------------|--|---|
| 9.    | Rs 16,500 per 1000 cigarettes | Locally produced cigarettes if their on-pack printed retail price exceeds Rs 9,000 per 1,000 cigarettes          | Locally produced cigarettes if their on-pack printed retail price exceeds Rs 12,500 per 1,000 cigarettes.         |
| 10.   | Rs 5,050 per 1,000 cigarettes | Locally produced cigarettes if their on-pack printed retail price does not exceed Rs 9,000 per 1,000 cigarettes. | Locally produced cigarettes if their on-pack printed retail price does not exceed Rs 12,500 per 1,000 cigarettes. |

It seems that for specific cigarette categories, even with the rise in retail prices, the adjustment to the Federal Excise Duty (FED) hasn't been made proportionately.

### Limitation on new variants of cigarette brands

To eliminate ambiguity in defining brand variants within the FE Act, the Finance bill suggests introducing an explanation stating that a brand variant refers to any cigarette brand sharing similar logos, names, colors, designs, patterns, or any distinctive marks associated with the existing brand family.

### Goods in Table I of the Third Schedule

The Finance bill suggests granting exemptions on imports of the listed goods for diplomats, diplomatic missions, privileged individuals, and organizations covered by legislation, orders, rules, regulations, and agreements enacted or approved by the Parliament or the Government of Pakistan.

| PCT Heading | Detail   |
|-------------|--|
| 99.01       | Goods imported by various agencies of the United Nations under the United Nations (privileges and immunities) Act, 1948 (Act XX of 1948), as certified by the Ministry of Foreign Affairs                                  |
| 99.02       | Goods imported by diplomats/embassies/consulates under the Diplomatic and Consular Privileges Act, 1972 (Act IX of 1972) as certified by the Ministry of Foreign Affairs   |
| 99.05       | Household articles and personal effects including vehicles and goods for donation to projects established in Pakistan, imported by the rulers and dignitaries of UAE and Qatar and Bahrain subject to specified conditions |

### Assignment or Transfer of Commercial and Residential Real Estate

A new item is proposed to be added to the list of excisable goods, introducing a 5% Federal Excise Duty (FED) on the allotment or transfer of commercial and residential properties. This would be implemented according to the methods, conditions, and restrictions set by the Board.

It appears that the amendment to section 3 of the Federal Excise Act made through the Finance Act of 2023, which extended the scope of the charging provision to items beyond goods and services, is now being applied by imposing FED on immovable properties. If this levy is enforced on properties located in the provinces, the Federal Government's legislative authority may need to be reviewed by the Courts under Constitutional provisions.

### Initial Schedule

Table A: Taxable Goods

### Fresh Additions

The Finance Bill proposes imposition of FED on the following:

| S. No | Description      | HS Code            | Proposed Duty                                  |
|-------|------------------|--------------------|--|
| 7a.   | Acetate tow      | Respective Heading | Rupees Forty-Four Thousand per Kilogram        |
| 8d.   | Nicotine Pouches | Respective Heading | Rupees One Thousand & Two Hundred per Kilogram |

### PETROLEUM LEVY

In the Finance Bill, there is a proposed increase in the maximum rate of Petroleum Levy, which is a component of the fuel price, as specified in the Fifth Schedule to the Petroleum Products (Petroleum Levy) Ordinance, 1961. Additionally, minimum rates are introduced for certain products as outlined below:

| S. No | Petroleum Product  | Unit       | Present           | Proposed |           |
|-------|--|------------|-------------------|----------|-----------|
|       |  |            | Maximum           | Minimum  | Maximum   |
|       |  |            | (Rupees per unit) |          |           |
| 1     | High Speed Diesel Oil (HSDO)                             | Litre      | 60                | 60       | <b>80</b> |
| 2     | Motor Gasoline   | Litre      | 60                | 60       | <b>80</b> |
| 3     | Superior Kerosene Oil (SKO)                              | Litre      | 50                | 50       | 50        |
| 4     | Light Diesel Oil (LDO)                                   | Litre      | 50                | 50       | 50        |
| 5     | High Octane Blending Component (HOBC)                    | Litre      | 50                | 50       | 50        |
| 6     | E-10 Gasoline  | Litre      | 50                | 50       | 0         |
| 7     | Liquefied Petroleum Gas (produced/extracted in Pakistan) | Metric Ton | 30,000            | 30,000   | 30,000    |

### CUSTOMS ACT, 1969

#### SANCTIONS FOR VIOLATIONS UNDER SECTION 156

Preventing the Smuggling of Nuclear and Radioactive Material: To combat this, specific penalties are proposed, including confiscation, imprisonment, and fines. Offenders could face imprisonment from seven years to life and fines between 1 to 5 million rupees. The punishment severity for nuclear material depends on its quantity and form per PAK/925 regulations, while penalties for radioactive material are based on the activity to dangerous value ratio per PAK/926 regulations or any PNRA amendments.

#### *Interference with duty & authority:*

Currently, a fine of Rs 25,000, along with imprisonment for up to two years, is imposed on individuals who obstruct or hinder the discharge of duty or exercise of power. This includes falsely accusing, implicating, threatening, molesting, or assaulting a customs official, obstructing searches, damaging confiscatable items, or preventing someone's detention. There's now a proposal to increase this fine to Rs 100,000 or more.

#### *Illicit Removal, Exchange, Pilferage, or Disposal of Goods: The following proposals are made:*

- If an individual in possession or control of 'smuggled goods' subject to confiscation and seizure is found to unlawfully remove, exchange, pilfer, or dispose of them in any manner, they shall incur a penalty not exceeding ten times the value of the goods. Upon conviction, the person may face imprisonment for up to six years or a fine not exceeding 10 million rupees, or both.
- If an individual in possession or control of 'goods other than smuggled goods' subject to confiscation and seizure is found to unlawfully remove, exchange, pilfer, or dispose of them in any manner, they shall incur a penalty not exceeding two times the value of the goods. Upon conviction, the person may face imprisonment for up to six months or a fine not exceeding 50 thousand rupees, or both.

### **PROCEDURES IN APPEAL**

In alignment with the amendments enacted under the Income Tax, Sales Tax, and Federal Excise laws via the Tax Laws (Amendment) Act, 2024, the Bill proposes the following modifications to streamline the appeals process.

#### **Appellate Tribunal under Section 194**

The Bill proposes that members of the Appellate Tribunal be appointed by the Federal Government, instead of the Prime Minister. The Federal Government will also establish procedural rules for the Tribunal, including the constitution of benches, case management, and case distribution.

The Bill revises the eligibility criteria for technical and judicial members of the Tribunal as follows:

- (a) A practicing High Court advocate with at least fifteen years of experience in Customs Laws and a record of handling at least fifty Customs cases.
- (b) A BS-21 or higher grade officer of the Customs Service of Pakistan.
- (c) A BS-20 grade officer of the Customs Service of Pakistan with at least three years in that grade.

The Chairman, who must meet the criteria in (a), will be appointed by the Federal Government for a three-year term. Members, including the Chairman, will vacate their positions at age 62 or upon reaching superannuation.

#### **Appeals to the Appellate Tribunal under Section 194**

The proposed bill aims to streamline the appeals process to the Appellate Tribunal by reducing the filing duration from 60 to 30 days and adjusting the fee to Rs 20,000 for companies and Rs 5,000 for other entities.

The bill also proposes reducing the stay duration granted by the Tribunal from 180 to 90 days. Appeals against orders by the Director General of Customs Valuation under section 25D should be heard by a bench of at least two members, one Judicial and one Technical, chaired by the Chairman. If the Chairman is unavailable, the bench can be reconstituted.

Currently, appeals must be resolved within 60 days, extendable with written reasons, or within 30 days in smuggling cases. The bill suggests all appeals be resolved within 90 days, extendable by 60 days with mutual agreement and written reasons.

The Tribunal must set appeal dates without adjournments, except for compelling reasons, documented in writing, and with a cost of at least Rs 50,000. Errors in orders must be rectified within 15 days instead of one year. If the Collector or any party prefers a reference to the High Court within 30 days, the Tribunal's order will remain pending during this period.

### **Alternative Dispute Resolution (ADR) under Section 196**

The proposed bill includes the following changes to the Alternate Dispute Resolution (ADR) process:

**Initial Proposal Requirement:** Applicants must submit an initial proposal for resolving the dispute, including an offer to pay duties and taxes.

**ADR Eligibility with FIRs:** ADR will be allowed even if an FIR has been lodged, provided criminal proceedings have not started.

**Committee Appointment Timeframe:** The Board must appoint a committee within 15 days of receiving the application, reduced from 30 days.

**Committee Composition:** The committee should include the concerned officer (not below the rank of Chief Commissioner) with jurisdiction over the case, rather than any Chief Collector.

**Notified Panel Members:** The panel from which the applicant nominates a member will now also include retired Customs Service officers of BS 21 or above.

**Communication of Appointment:** The Board will inform the aggrieved individual about the committee's appointment.

**Resolution Timeframe:** The committee must resolve disputes within 45 days, extendable by 15 days under specific circumstances, documented in writing.

**Withdrawal of Appeals:** The aggrieved party must withdraw any pending appeals and inform the Collector within 30 days, shortened from 60 days. Failure to do so will make the order non-binding on the Collector.

### Reference to High Court

Presently, a reference to the High Court regarding a question of law can be initiated within 90 days from the date of the order's communication. To streamline this process, the Bill suggests reducing the timeframe for filing such a reference to 30 days, encompassing questions of law or mixed questions of law and fact arising from the Appellate Tribunal's order.

Additionally, the proposed amendment suggests increasing the existing fee for filing a reference application from Rs 100 to Rs 50,000.

Furthermore, the Bill proposes that the Collector refrain from duty recovery for 15 days following the communication of the Appellate Tribunal's order. It is also suggested that the applicant must submit a comprehensive record of the Appellate Tribunal within 15 days of initiating a reference application.

### **Proposed Amendments in the First Schedule to the Customs Act**

#### *Streamlining of Customs Duty*

| PCT Code                      | Description   | Current (%) | Proposed (%) |
|-------------------------------|---|-------------|--------------|
| 2710.1931                     | High speed diesel oil   | 10*         | 0            |
| 2711.1100                     | Natural Gas   | 5*          | 0            |
| 7311.0040                     | Containers for Aerosol Products   | 11          | 16           |
| 8413.7019                     | Other parts of Submersible pumps having diameters other than 5 to 10 inches | 3           | 0            |
| 9004.9090                     | Other Spectacles, goggles and the like corrective, protective               | 3           | 11           |
| 9018.3989                     | Other Syringes, needles, catheters, cannulae                                | 0           | 20           |
| 9004.9010                     | Night vision goggles  | 3           | 11           |
| 9018.3981                     | Blood collection tube of glass  | 0           | 20           |
| 9018.3982                     | Blood collection tube of PET  | 0           | 20           |
| <i>*As per Fifth Schedule</i> |   |             |              |



### Zero Rating for certain goods

The following adjustments have been implemented concerning zero rating:

- (i) Extending zero rating on the import of Ship bunker oil by the Concession holder at Gwadar port to encompass their operating companies, contractors, and subcontractors, contingent upon specific conditions.
- (ii) Introducing zero rating for the reimportation of duty-paid containers utilized in transporting export cargo.
- (iii) Removing zero rating on the import of medical herbs (including heing and zeera) from Afghanistan intended for subsequent export.

### Further amendments

- The proposal suggests that the exemption from customs duty, applicable to gifts/donations received by federal/provincial/public sector organizations, will only be granted upon verification/undertaking from the relevant ministry, ensuring the authenticity of such cases and the proper utilization of goods for their intended purpose.
- It is proposed to grant the Chief Collector of Customs the authority to extend the time limit for the re-export of goods temporarily imported into Pakistan for subsequent exportation.

### **Proposed Amendments in the Fifth Schedule (Concession/Exemption)**

#### New Exemptions on certain goods

Customs duty on the import of the following items is proposed to be waived, contingent upon specific conditions:

- (i) Machinery and equipment, including raw materials (parts), intended for the manufacturing of PV modules/solar inverters/lithium-ion batteries, subject to specified conditions and quota determinations/approvals.
- (ii) A pharmaceutical drug named "Bovine Lipid Extract Surfactant" for the Pharma sector.
- (iii) Livestock designated for research purposes.

- (iv) Machinery and equipment used in fish or shrimp farming and seafood processing.
- (v) Specific machinery and equipment utilized in fish or shrimp farming and seafood processing.
- (vi) Live fish and shrimp/prawns (baby/brood stocks) intended for breeding and production in commercial farms and hatcheries.

### Revocation of Exemption/Concession of certain goods

It is proposed to withdraw exemptions / concessions allowed for the following goods

- (a) Concessionary rate of 10% on fresh and dry fruits except apples from Afghanistan;
- (b) Cane sugar;
- (c) Wheat;
- (d) Import of beet sugar;
- (e) White Crystalline beet sugar;
- (f) White Crystalline cane sugar;
- (g) Printed Circuits; and
- (h) Concessionary rate of 25% on electric vehicles (4 wheelers) with value exceeding USD 50,000.

### Customs Duty Increment

The proposal suggests removing the exemption from customs duty and instead offering concessional rates for the import of the following goods:

| PCT Code  | Description  | Current (%) | Proposed (%) |
|-----------|--|-------------|--------------|
| 8534.0000 | Bare Metal Clad Printed Circuit Board (MCPCB)                      | 0           | 11           |
| 8529.9090 | Glass board for manufacturing TV panels (LCD, LED, OLED, HDI etc.) | 0           | 10           |

### Removal of Concessions of custom duty

There's a proposal to eliminate the customs duty concession on the import of hybrid vehicles.

### Additional Customs Duty on certain goods

- It is proposed to impose an additional customs duty on locally produced auto parts to stimulate the local manufacturing sector.
- An exemption from additional customs duty is proposed for the import of raw materials such as fluids and powders used in hemodialyzers.

### Other Information

The announcement regarding the following has been communicated through the key features provided alongside the Finance Bill. However, the notifications/amendments are to be announced.

(i) Implementation/Introduction of RD on the following:

- a) Flat rolled products made of iron and non-alloy steel.
- b) Specific items utilized in local manufacturing.

(ii) Removal of RD exemption on the importation of:

- a) Groundnuts and margarine brought in by Food Confectionary.
- b) Silver cans and lollipop sticks.

(iii) Adjustment of RD on the importation of new and pre-owned vehicles.

(iv) Sustaining RD on the importation of liquid chloroparaffins.

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