

# COMMENTS ON THE FINANCE ACT, 2018

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## **COMMENTS ON THE FINANCE ACT, 2018**

The Comments on the Finance Act, 2018 contains a review of key changes by the Finance Act, 2018 as they relate to Income Tax, Sales Tax and Federal Excise Duty. The amendments proposed by the Finance Bill, 2018 have now been enacted through the Finance Act, 2018 with some changes in the proposed amendments and also incorporating some new amendments. This document contains the review of changes proposed through Finance Bill as well as amendments enacted through the Finance Act.

The provisions of the Finance Act, 2018 are generally applicable from 01 July 2018, unless otherwise specified.

This document contains the comments, which represent our interpretation of the legislation, and we recommend that while considering their application to any particular case, reference be made to the specific provisions of the relevant statutes.

These comments can be downloaded from our website at [www.mzco.com.pk](http://www.mzco.com.pk)

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## **INCOME TAX**

### **FEE FOR OFFSHORE DIGITAL SERVICES**

### **SECTION 2(22B)**

The Finance Act, 2018 has brought the income from digital services rendered from outside Pakistan under the ambit of tax and, hence, a definition “fee for offshore digital services” has been introduced as “any consideration for providing or rendering services by a non-resident person for online advertising including digital advertising space, designing, creating, hosting or maintenance of websites, digital or cyber space for websites, advertising, e-mails, online computing, blogs, online content and online data, providing any facility or service for uploading, storing or distribution of digital content including digital text, digital audio or digital video, online collection or processing of data related to users in Pakistan, any facility for online sale of goods or services or any other online facility”.

### **FILER**

### **SECTION 2(23A)**

The Finance Act, 2018 has amended the definition of “filer” in order to include the tax filers with AJ&K Council Board of Revenue or Gilgit-Baltistan Council Board of Revenue under the definition of “filer”.

### **TAX ON BONUS SHARES**

### **SECTION 2(29)**

The Finance Act, 2014 introduced tax on Bonus Shares received from quoted and non-quoted companies. This in effect resulted in companies avoiding to issue bonus shares. Therefore, the Finance Act, 2018 has now excluded the issuance of bonus shares once again from the scope of income.

### **PERMANENT ESTABLISHMENT**

### **SECTION 2(41)**

The Finance Act, 2018 has broadened the scope of local agents to include those agents who have and habitually exercises an authority to conclude contracts on behalf of the other person or habitually concludes contracts or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the person and these contracts:

- a) are in the name of the person; or
- b) for the transfer of the ownership of or for the granting of the right to use property, which is owned by that enterprise or that the enterprise has the right to use; or
- c) for the provision of services by that person.

The Act has also included an explanation clarifying that an 'agent of independent status acting in the ordinary course of business does not include a person acting exclusively or almost exclusively on behalf of the person to which it is an associate'.

A new criterion for determining the permanent establishment status for non-residents is also adopted which is applicable to cases with a fixed place of business that is used or maintained by a non-resident if that non-resident or its associate carries on business at that place or at any other place in Pakistan and:

- a) that place or other place constitutes a permanent establishment of the non-resident or its associate; or
- b) business carried on by the non-resident or its associate at the same place or at more than one place constitute complementary functions that are part of a cohesive business operation.

It has also been explained that:

- a) the term "cohesive business operation" includes an overall arrangement for the supply of goods, installation, construction, assembly, commission, guarantees or supervisory activities and all or principal activities are undertaken or performed either by the person or the associates of the person; and
- b) supply of goods includes the goods imported in the name of the associate or any other person, whether or not the title to the goods passes outside Pakistan.

## **SUPER TAX**

## **SECTION 4B**

The Super Tax was levied in the Tax Year 2015 for rehabilitation of temporarily displaced persons being one-time tax only. However, the same was extended in the Tax Years 2016 and 2017. Now, the Finance Act, 2018 has also extended it for the Tax Year 2018. However the rate of Super Tax will gradually be reduced by 1% for each successive year starting from the financial year 2018-19. Currently the applicable rate is 4% for banking company and 3% to any other person having income equal to or exceeding Rs. 500 million.

## **TAX ON UNDISTRIBUTED PROFITS**

## **SECTION 5A**

Tax at 7.5% on undistributed profits was applicable for tax year 2017 and onwards on accounting profit before tax for every public company, other than a scheduled bank or a modaraba, that derives profit for a tax year but does not distribute at least 40% of its after-tax profits within six months of the end of the tax year through cash or bonus shares.

The Finance Act, 2018 has now made following amendments:

- a) Reduced the rate of tax from existing 7.5% to 5%;
- b) The minimum profit distribution threshold reduced to 20% from previous 40%;
- c) Excluded bonus distribution from the purview of profit distribution for the purpose of this tax; and

- d) Previously the tax paid under section 5A was the final tax, however now the same is adjustable against the tax liability.

**INCOME FROM BUSINESS****SECTION 18**

The Finance Act, 2018 has included explanation that income subject to taxation under following sections shall not be chargeable to tax under the head income from business:

- a) Tax on undistributed profits (Section 5A).
- b) Tax on return on investments in sukuks (Section 5AA).
- c) Tax on certain payments to non-residents (Section 6).
- d) Tax on shipping and air transport income of non-residents (Section 7).
- e) Tax on shipping of residents (Section 7A)

**TAXATION OF GIFTS****SECTION 37 & 79**

Any gift under section 37 and 79 has been a non-taxable event and therefore no gain or loss was taken to arise on the disposal of an asset by reason of gift. Now the Finance Act, 2018 has restricted the scope of gift only to gifts to a relative as defined in Section 85(5) i.e.:

- a) an ancestor, a descendant of any of the grandparents, or an adopted child, of the individual, or of a spouse of the individual; or
- b) a spouse of the individual or of any person specified above.

Consequently, gift of assets to non-relatives will be taxable.

**POWER OF MINISTER-IN-CHARGE WITHDRAWN****SECTION 53**

Vide Finance Act 2017, FBR was empowered to issue exemption and concession with the approval of Minister-in-Charge. Under Section 216(5), this power was also extended for disclosure of information by public servant. Now, the Finance Act, 2018 has restored and empowered the Board to issue exemption or concession as well as disclosure of information by public servant with the approval of Federal Government instead of Minister In-charge

**CARRY FORWARD OF BUSINESS LOSSES****SECTION 57**

Previously, depreciation, initial allowance, first year allowance and amortization not fully set-off against current year's business income got set-off against business income of subsequent tax years.

The Finance Act, 2018 has enacted to limit the setting off of brought forward unabsorbed depreciation to the extent of 50% of the business income for a Tax Year. However, in case where the taxable income is below Rs. 10 million, the setting off will be allowed at 100%. Through this limiting enactment the setting off will be deferred for adjustment against profit over a prolonged period of time.

**TAX CREDIT FOR INVESTMENT IN SHARES AND INSURANCE****SECTION 62**

A resident person, not being a company, is allowed a tax credit for;

- a) acquiring new shares offered by a public company listed on the stock exchange;
- b) sukuks offered by a listed company; or
- c) payment of life insurance premium to a life insurance company.

This tax credit is limited to the extent of 20% of taxable income for the year, total cost of acquiring shares / sukuks or Rs. 1.5 million whichever is less. The Finance Act, 2018 has increased this threshold of Rs. 1.5 million to Rs. 2 million.

**EXTENSION OF TAX CREDITS UPTO 30<sup>TH</sup> JUNE, 2021****SECTION 65B, 65D & 65E**

The time limitation for following tax credits have been extended till the year 2021:

- a) Companies investing in extension, expansion and BMR (Section 65B);
- b) Newly established industrial undertakings owned by companies (Section 65D); and
- c) Industrial undertakings established before the first day of July, 2011 (Section 65E).

**PROVISIONS RELATING TO BANKING BUSINESS****SECTION 100A**

Previously, the Seventh Schedule to the Ordinance provided that the taxable income of a banking company be taken as the balance of income from all sources disclosed in the audited financial statements, while taking into consideration only the specified adjustments provided in the said Schedule. Thereby all the other provisions relating to the determination of tax liability in the Ordinance were not essentially applied to a banking company.

Now the Finance Act, 2018 amends Section 100A to provide that the provisions related to the international taxation, double tax treaties, geographical source of income and anti-avoidance rules including adjustment for transaction between associates (Section 108) and re-characterization of income and deductions (Section 109) be applied to the banking companies.

**TAX CREDITS FOR RELIGION AND CHARITABLE PURPOSES****SECTION 100C**

Income derived for religious and charitable purposes from various sources including profit on debt from scheduled banks is subject to 100% tax credit. The Finance Act, 2018 added profit on debt from microfinance bank as well for the purpose of this tax credit.

**GEOGRAPHICAL SOURCE OF INCOME****SECTION 101**

Vide Finance Act, 2018 it has been enacted that business income of a non-resident person shall be Pakistan-source income to the extent to which it is directly or indirectly attributable to import of goods, whether or not the title to the goods passes outside Pakistan, if the import is part of an overall arrangement for the supply of goods, installation, construction, assembly, commission, guarantees or supervisory activities and all or principal activities are undertaken or performed

either by the associates of the person supplying the goods or its permanent establishment, whether or not the goods are imported in the name of the person, associate of the person or any other person.

It has also been clarified by way of explanation that any income on account of the following shall not be chargeable under the head income from business for non-residents:

- a) Tax on undistributed profits (Section 5A);
- b) Tax on return on investments in sukuks (Section 5AA);
- c) Tax on certain payments to non-residents (Section 6);
- d) Tax on shipping and air transport income of non-residents (Section 7); and
- e) Tax on shipping of residents (Section 7A).

Moreover, the fee for offshore digital services has been declared as Pakistan-source income, where this fee is:

- a) paid by a resident person, except where the fee is payable in respect of services utilized in a business carried on by the resident outside Pakistan through a permanent establishment; or
- b) borne by a permanent establishment in Pakistan of a non-resident person.”

## **GAIN ON DISPOSAL OF ASSETS OUTSIDE PAKISTAN**

## **SECTION 101A**

A new section has been inserted that aims to tax gains from the disposal or alienation outside Pakistan of an asset of a non-resident company located in Pakistan.

Where the asset is any share or interest in a nonresident company, the asset shall be treated to be located in Pakistan, if:

- a) the share or interest derives, directly or indirectly, its value wholly or principally from the assets located in Pakistan; and
- b) shares or interest representing ten per cent or more of the share capital of the non-resident company are disposed or alienated.

The share or interest shall be treated to derive its value principally from the assets located in Pakistan, if on the last day of the tax year preceding the date of transfer of a share or an interest, the value of such assets exceeds Rs. 100 million and represents at least 50% of the value of all the assets owned by the non-resident company.

The fair market value shall be determined under the prescribed rules instead of provisions under section 68; and shall be without reduction of liabilities.

Where the entire assets by the non-resident company are not located in Pakistan, the income of the non-resident company, from disposal or alienation outside Pakistan of a share of, or interest in, such non-resident company shall be treated to be located in Pakistan, to the extent it is reasonably attributable to assets located in Pakistan and determined as may be prescribed.



Where the asset of a non-resident company derives, directly or indirectly, its value wholly or principally from the assets located in Pakistan and the non-resident company holds, directly or indirectly, such assets through a resident company, such resident company shall, for the purposes of determination of gain and tax thereon shall furnish to the Commissioner within 60 days of the transaction of disposal or alienation of the asset by the non-resident company, the prescribed information or documents, in a statement as may be prescribed.

The Commissioner may, by notice in writing, require the resident company, to furnish information, documents and statement within a period of less than 60 days as specified in the notice.

The person acquiring the asset from the non-resident person shall deduct tax from the gross amount paid as consideration for the asset at the rate of 10% and shall be paid to the Commissioner by way of credit to the Federal Government through remittance to the Government Treasury or deposit in an authorized branch of the State Bank of Pakistan or the National Bank of Pakistan, within 15 days of the payment to the non-resident.

The resident company, referred above, shall collect advance tax as computed from the non-resident company within 30 days of the transaction of disposal or alienation of the asset by such non-resident company.

Where the tax has been deducted and paid by the person acquiring the asset from the non-resident person, the said tax shall be treated as tax collected/ paid and shall be allowed a tax credit for that tax in computing the tax. In case this gain is taxable under section 101A and also under any other provision of the Ordinance then the gain will be taxable under the other provision of the Ordinance.

The tax to be deducted or to be collected shall be the higher of:

- a) 20% of A, where A = fair market value less cost of acquisition of the asset; or
- b) 10% of the fair market value of the asset.

No tax shall be payable by the non-resident company in respect of gain under sub-section (8) of section 22 or capital gains under section 37 or 37A where tax has been collected, deducted or paid under section 101A.

## **TRANSACTIONS BETWEEN ASSOCIATES**

## **SECTION 108**

Previously the taxpayers were required to maintain record as provided in Section 108 (3) of the Income Tax Ordinance, 2001. The Finance Act, 2018 now enacts to bind the taxpayer to furnish the same to the Board master file and a local file containing documents and information as may be prescribed.

**RE-CHARACTERISATION OF INCOME AND DEDUCTIONS****SECTION 107 & 109**

To do away with the corporate immunity, the Commissioner has been empowered to disregard an entity or a corporate structure that does not have an economic or commercial substance or was created as part of the tax avoidance scheme.

Furthermore, it has also been enacted to clearly link the provisions of re-characterization of income with offshore income under section 107.

These powers have been made effective specifically from tax year 2018 and onwards.

**CONTROLLED FOREIGN COMPANY****SECTION 109A**

A new section has been inserted on income of foreign companies owned/ controlled by residents as under:

- 1) There shall be included in the taxable income of a resident person for a tax year an income attributable to controlled foreign company;
- 2) Controlled foreign company would mean a non-resident company, if:
  - a) 50% or more of the capital or voting rights of the non-resident company are held, directly or indirectly, by one or more persons resident in Pakistan or more than forty percent of the capital or voting rights of the nonresident company are held, directly or indirectly, by a single resident person in Pakistan;
  - b) tax paid, after taking into account any foreign tax credits available to the non-resident company, on the income derived or accrued, during a foreign tax year, by the non-resident company to any tax authority outside Pakistan is less than 60% of the tax payable on the said income under the Ordinance;
  - c) the non-resident company does not derive active business income as defined above; and
  - d) the shares of the company are not traded on any stock exchange recognized by law of the country or jurisdiction of which the non-resident company is resident for tax purposes;
- 3) A company shall be treated to have derived active income if:
  - a) more than 80% of income of the company does not include income from dividend, interest, property, capital gains, royalty, annuity payment, supply of goods or services to an associate, sale or licensing of intangibles and management, holding or investment in securities and financial assets; and
  - b) principally derives income under the head "income from business" in the country or jurisdiction of which it is a resident;
- 4) Income of a controlled foreign company is an amount equal to the taxable income of that company determined in accordance with the provisions of the Ordinance as if that controlled foreign company is a resident taxpayer;
- 5) The amount of attributable income for a tax year shall be computed according to the following formula:

$$A \times (B/100)$$

Where:

A is the amount of income of a controlled foreign company; and

B is the percentage of capital or voting rights, whichever is higher, held by the person, directly or indirectly, in the controlled foreign company.

6. The amount of attributable income shall be treated as zero, if the capital or voting rights of the resident person is less than ten percent;
7. Income of a controlled foreign company shall be treated as zero, if it is less than Rs. 10 million;
8. The income of a controlled foreign company in respect of a foreign tax year shall be determined in the currency of that controlled foreign company and shall, for purposes of determining the amount to be included in the income of any resident person during any tax year under the provisions of this section, be converted into Rupees at the State Bank of Pakistan rate applying between that foreign currency and the Rupee on the last day of the tax year;
9. Foreign tax year, in relation to a non-resident company, means any year or period of reporting for income tax purposes by that non-resident company in the country or jurisdiction of residence or, if that company is not subject to income tax, any annual period of financial reporting by that company; and
10. The income attributable to controlled foreign company and taxed in Pakistan shall not be taxed again when the same income is received in Pakistan by the resident taxpayer.

The above provisions of this new section were proposed in the Finance Bill, 2018. The proposed section 109A did not provide the rate of tax on income of Controlled Foreign Company (CFC) in the hands of resident person. The enacted section vide Finance Act, 2018 now provides that CFC's income will be taxed at the rate applicable to dividend income. Moreover, tax credit to eliminate double taxation has also been allowed to resident person receiving dividend distributed by the CFC, after deduction of tax on dividend equal to the lesser of:

- (i) Foreign tax paid (including foreign withholding tax) on dividends; or
- (ii) Pakistan tax payable for the tax year in which the dividend is received by the resident taxpayer.

## **UNEXPLAINED INCOME OR ASSETS**

## **SECTION 111(2)**

Section 111(2) provided that an unexplained income or asset etc. would be included in the person's income chargeable to tax in the tax year to which such amount relates.

Vide Finance Act, 2018, the concept of differentiating between Pakistan-sourced and foreign-sourced income has been introduced whereby the unexplained amount shall be included in the person's income chargeable to tax:

- i. in the tax year to which such amount relates if the amount representing investment, money, valuable article or expenditure is situated or incurred in Pakistan or concealed income is Pakistan-source; and

- ii. in the tax year immediately preceding the tax year in which the investment, money, valuable article or expenditure is discovered by the Commissioner and is situated or incurred outside Pakistan and concealed income is foreign-source.

An explanation has also been introduced to provide cover to the effect that in case of assets situated outside Pakistan or expenditure incurred outside Pakistan, explanation offered, regarding acquisition of such asset or expenditure from sources relating to tax year in which such asset was acquired or expenditure was incurred, shall not be rejected on the basis that the source does not relate to the tax year immediately preceding tax year in which the asset or expenditure was discovered by the Commissioner.

#### **IMMUNITY ON REMITTANCE FROM ABROAD**

#### **SECTION 111(4)**

Previously a person was not required to explain the nature as well as the source of any amount of foreign exchange which is remitted from outside Pakistan through normal banking channels and subsequently encashed into Pakistani Rupees by any scheduled bank. In order to curb money laundering an amendment has been made in section 111(4) of the Ordinance whereby persons would be required to explain the source of income / investment if the amount of foreign remittances in a year exceeds Rs.10 million.

#### **STATEMENT OF FOREIGN INCOME & ASSETS**

#### **SECTION 116A, 114 & 118**

A new section 116A has been inserted whereby it has been made mandatory for resident individuals to furnish a foreign income and assets statement along with return of income if such individual earns foreign income equivalent to or exceeding USD 10,000/- or is the owner of foreign assets having a value equivalent to or exceeding USD 100,000-. The foreign income and assets statement shall contain particulars/details regarding total foreign assets and liabilities as on the last day of the Tax Year as well as details of foreign assets transferred to another person during the tax year and consideration received in lieu of such transfer. Complete particulars of foreign income earned and the expenditures incurred for earning such income shall also be furnished through this statement.

Section 116A also empowers Commissioner to issue a notice requiring filing, to an individual who in his view is required to furnish this statement, on the date specified in the notice but has failed to do so.

Necessary amendments have also been made in Section 114 and 118 to give effect to the filing requirement for statement under section 116A.

Penalty of 2% of the foreign income or foreign assets for each year of default has also been introduced in Section 182 for not filing of foreign income and assets statement within the due date.

**ALTERNATIVE DISPUTE RESOLUTION****SECTION 134A**

The Finance Act, 2018 has enacted following changes concerning the composition of the Committee and mechanism of Alternate Dispute Resolution;

The composition of the Committee members has been changed to include a retired judge of High Court in addition to an Officer of Inland Revenue (not below rank of Commissioner) and a person from the panel of retired chartered accountants and advocates.

For filing an application, the aggrieved person and the Board, as the case may be, shall withdraw the appeals pending before the Appellate Authority. The committee shall not commence the proceedings, unless the order of withdrawal by the Appellate Authority is communicated to the Board within 75 days of the appointment of the committee, otherwise, the said committee shall be dissolved.

Previously, the Committee was bound to make its recommendations within 90 days from its appointment or another committee could be formed by the Board in case a committee couldn't make its recommendations with the stipulated timeframe. Furthermore, the Board also had a timeframe of 90 days to pass an order. Now, the Finance Act, 2018 empowered the Committee to pass a decision which is binding on both the Board and the aggrieved person within a total timeframe of 120 days from the date of communication of appeal withdrawal order. It has also been enacted that If the Committee fails to decide within the period of 120 days, the Board shall dissolve the Committee and the matter shall be decided by the Appellate Authority, which issued the order of withdrawal and the appeal shall be treated to be pending before such Appellate Authority as if the appeal has never been withdrawn. The Board shall communicate the order of dissolution to the Appellate Authority and the Commissioner. The aggrieved person, on receipt of the order of dissolution, shall communicate to the Appellate Authority mentioned, which shall decide the appeal within six months of the communication of the order of dissolution.

In addition to above as proposed by the Finance Bill, 2018, the Finance Act, 2018 has also enacted automatic stay against the tax payable on withdrawal of appeal has been allowed up to the date of the decision of the ADRC.

**RECOVERY OF TAX FROM PERSONS HOLDING MONEY  
ON BEHALF OF A TAXPAYER****SECTION 140**

The Commissioner is restrained from issuing notice under section 140(1) for recovery of any tax due from a taxpayer if the taxpayer files an appeal under section 127 by paying 25% of the amount of tax due. The Finance Act, 2018 has enacted to lower requirement for payment of 25% to 10%.

**ADVANCE TAX PAID BY THE TAXPAYER****SECTION 147**

A new proviso has been inserted after component A of section 147(4) whereby the taxpayer fails to provide turnover or the turnover for the quarter is not known, the same shall be taken to be one-fourth of 110% of the turnover of the latest tax year for which a return has been filed.

It has also been enacted to provide clarity that estimates for reduction of advance tax shall be supported by necessary documentary evidence.

**IMPORTS****SECTION 148**

Tax collected in case of commercial imports was final tax. Now, these imports will be treated under minimum tax regime, whereby the tax collected at import stage will be compared to normal tax liability and the shortfall with the later needs to be paid along with return of income. Consequently, the option for normal tax regime available to importers under clause (56B) of Part IV of Second Schedule has also been withdrawn. Furthermore, the minimum tax on this income has been restricted to 5% of the import value as increased by customs duty, sales tax and FED.

Moreover, concessional rates for import of coal at 4% for filers and 6% for non-filers have also been enacted.

**PAYMENTS TO NON-RESIDENTS ON ACCOUNT OF OFFSHORE DIGITAL SERVICES****SECTION 152(1C)**

A new sub-section (1C) has been inserted to section 152 in order to make it mandatory on banks while remitting outside Pakistan any amounts on account of fee for offshore digital services, to non-residents on behalf of resident or PEs of non-residents to withhold tax at the prescribed rate under Division IV of Part I of First Schedule.

**PAYMENTS TO PE OF NON-RESIDENTS ON ACCOUNT OF SERVICES SECTION 152(2B)**

A new sub-section 2B to section 152 has been inserted in order to make the tax withheld from PE of non-resident rendering services to be treated as minimum tax instead of advance tax. The concession and provisions applicable to cases of residents under clause 94 of Part IV of Second Schedule of the Ordinance will also apply to PEs of non-residents.

**PAYMENTS FOR GOODS, SERVICES AND CONTRACTS****SECTION 153**

Previously SRO 586(I)/1991 provided monetary limits of exemption from withholding of taxes on payments in respect of goods and services at Rs. 25,000 and Rs. 10,000 respectively in a financial year. The Finance Act, 2018 has not enhanced these limits to Rs. 75,000 and Rs. 30,000 respectively.

Moreover, it has also been enacted to require individuals and AOPs with turnover of Rs. 50M in any of the preceding tax years to withhold tax on payment for goods, services and contracts.

Builders and developers have also been included in the list of withholding agents.

## **FURNISHING OF INFORMATION BY BANKS**

## **SECTION 165A**

Banks were required to provide online access to its central database containing details of its account holders and all transactions made in their accounts to the FBR. Instead of this, the banks will now be required to provide a list of persons containing particulars of cash withdrawals exceeding Rs. 50,000 in a day and aggregating to Rs. 1 million or more during each preceding calendar month including tax deductions thereon for filers and non-filers. Moreover, the monthly threshold for reporting deposits has been increased from existing Rs. 1 million to Rs. 10 million and the monthly threshold for reporting credit card transactions has been increased from existing Rs. 100,000 to Rs. 200,000.

## **CREDIT FOR TAX COLLECTED OR DEDUCTED**

## **SECTION 168**

The Finance Act, 2018 has given relief to companies which are member of an AOP in respect of advance tax collected or deducted from AOP by allowing credit of this tax to such companies instead of the AOP in which a company is a member. This tax credit is allowed as per the following formula:

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

Where:

- A. is the amount of share of profits before tax received by the company as a member from the association of persons;
- B. is the taxable income of the association of persons; and
- C. is the amount of tax withheld in the name of the association of persons.

## **AUDIT**

## **SECTION 177**

The Finance Act 2015 introduced a concept of special audit panels empowering FBR to appoint audit panels to conduct an audit under Section 177 including a forensic audit of the income tax affairs of taxpayers. Such panel is headed by a Chairman, being an Officer of Inland Revenue, and to comprise two or more members from the following:

- (i) An officer or officers of Inland Revenue;
- (ii) A firm of Chartered Accountants;
- (iii) A firm of Cost and Management Accountants; or
- (iv) Any other person as directed by FBR.

The Finance Act, 2018 now empowers FBR to include:

- Foreign experts or specialist; and

- A tax audit expert deployed under an audit assistance programme of an international tax organization or tax authority outside Pakistan.

The Finance Act, 2018 also enacts that person other than Officer of Inland Revenue shall only be included in the panel if an agreement of confidentiality has been entered into between the FBR and the person, international tax organization or a tax authority, as the case may be.

## **OFFENCES AND PENALTIES**

## **SECTION 182**

The minimum penalty for delayed filing was Rs. 10,000 for;

- Withholding Statements u/s 165;
- Information to be furnished by banks u/s 165A and 165B; and
- Statement of final tax u/s 115.

The Finance Act, 2018 has now reduced the minimum penalty to Rs. 5,000 for cases where the required statement is filed and tax paid within 90 days of the due date.

A new penalty at 2% per annum of the foreign income or value of the foreign assets has also been imposed for delayed filing of statement of foreign assets under section 116A.

## **RETURN NOT FILED WITHIN DUE DATE**

## **SECTION 182A**

The Finance Act, 2018 has inserted a new section whereby non-filing of return of income within the due date or the extended due date shall be subject to following consequence in addition to penal provisions;

- The name of the person will not be included in the Active Taxpayers List for that year; and
- Such person will not be allowed to carry forward any loss for that year.

This section will apply from tax year 2018 and onwards.

## **AUTOMATIC SELECTION FOR AUDIT**

## **SECTION 214D**

Previously cases for delayed filing of returns were automatically exposed to audit proceedings. Now the Finance Act, 2018 has withdrawn these provisions by removing the section.

## **DISCLOSURE OF INFORMATION BY A PUBLIC SERVANT**

## **SECTION 216**

The Finance Act, 2018 has enacted to include information received from National Database and Registration Authority (NADRA) for the purpose of broadening of the tax base within framework of publicly available information.

## **SERVICE OF NOTICES AND OTHER DOCUMENTS**

## **SECTION 218**

The Finance Act, 2018 has included the electronic servicing of notice, order or requisition in the prescribed mode of servicing.



**RESTRICTION ON PURCHASE OF CERTAIN ASSETS BY NON-FILER****SECTION 227C**

It has been enacted that non-filers will no longer be able to book or purchase new locally manufactured or imported motor vehicle. However, registration of imported vehicles after first registration is allowed for non-filers.

Furthermore, the non-filer will not be able to purchase or sale any immovable property valuing more than Rs. 5 million.

**DIRECTORATE GENERAL OF IMMOVABLE PROPERTY****SECTION 230F**

In order to monitor the transactions of sale / transfer of immovable property and start proceeding for acquisition of the improvable properties declared at understated values and deal with appeals in such matters, a new section has been introduced to create Directorate General of Immovable Property and an appellate tribunal named as Appellate Tribunal of Immovable Property. It has been enacted to collect 1% advance tax on registration of transfer of immovable property at the declared amount and in case the amount declared in found to be less than 50% of the fair market value then the Federal Government has been empowered to purchase the said property paying additional amount of up to 100% of the declared value.

The new section 230F is reproduced as below;

“

- (1) The Directorate-General of Immovable Property, (hereinafter referred to as Directorate-General in this section, shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors and Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.
- (2) The Board may, by notification in the official Gazette, specify the functions and jurisdiction of the Directorate-General and its officers.
- (3) The Directorate-General may, subject to the provisions and conditions as may be prescribed, initiate proceedings for the acquisition of property for the reasons and purposes specified in sub-section (4).
- (4) The proceedings under sub-section (3) shall be initiated, where the Directorate-General, on the basis of valuation made by it, has reason to believe that any immovable property of a fair market value has been transferred by a person, hereinafter referred to as the transferor, to another person, hereinafter referred to as the transferee, for a consideration which is less than the fair market value of the immovable property and that the consideration for such transfer as agreed to between the transferor and transferee has been understated in the instrument of transfer for the purposes of –
  - a) the avoidance or reduction of withholding tax obligations under this Ordinance;
  - b) concealment of unexplained amount referred to in sub-section (1) of section 111 representing investment in immovable property; or
  - c) avoidance or reduction of capital gains tax under section 37.

- (5) The Directorate-General may appoint any valuer or expert as it considers necessary for the purposes of determination of valuation including fair market value of immovable property.
- (6) The mode and manner of appointment of a valuer or expert shall be as may be prescribed.
- (7) The valuation made under sub-section (4) and reasons that consideration is less than the fair market value shall be recorded in writing.
- (8) No proceedings shall be initiated in respect of any immovable property after expiration of a period of six months from the end of the month in which the instrument of transfer in respect of such property is registered, recorded or attested.
- (9) The mode and manner of initiation of proceedings and acquisition of immovable property under this section shall be as may be prescribed:  
Provided that the proceedings shall not be initiated unless the transferee is provided with an opportunity of being heard and where the objection by the transferee, if any, is rejected by the Directorate-General, it shall record in writing the reasons for rejection through an order.
- (10) If the Directorate-General is satisfied with the objections or reasons furnished by the transferee or the transferor, it shall, by order in writing, declare that the property shall not be acquired under this section.
- (11) If after hearing the objections, if any, and after taking into account all the relevant material on record, the Directorate-General is satisfied that the fair market value of such property exceeds the consideration by more than fifty per cent of such consideration and that transfer as agreed to between the transferor and the transferee has not been truly stated in the instrument of transfer it may, after obtaining approval of the Board, make an order for acquisition of the immovable property under this section.
- (12) The transferee may prefer express appeal to the Appellate Tribunal of Immovable Property against the order of acquisition of any immovable property under sub-section (11) within sixty days of service of a copy of such order.
- (13) There shall be established an Appellate Tribunal of Immovable Property to exercise the powers conferred on the Tribunal under this section.
- (14) The appointment of members of the Tribunal, powers, functions, constitution of the Tribunal and mode and manner of disposal of appeals shall be as may be prescribed.
- (15) The Appellate Tribunal may, after giving the appellant and the Directorate-General an opportunity of being heard, pass such order as it thinks fit.
- (16) The transferee or the Directorate-General aggrieved by any order of the Tribunal may, within sixty days of the date on which the order under sub-section (15) is served, prefer an appeal against such order to the High Court.
- (17) As soon as may be after the order for acquisition of immovable property made under sub-section (11) becomes final, the Directorate-General may, by notice in writing, order the transferee or any other person who may be in possession of the immovable property to surrender or deliver possession thereof to the Directorate-General within thirty days of the date of the service of the notice.
- (18) The order referred to in sub-section (11) becomes final if either no appeal has been there against filed or on appeal filed before the Tribunal, the order is confirmed and no appeal is filed before the High Court or on appeal filed before the High Court the order is confirmed.

- (19) Notwithstanding anything contained in any law or any agreement for the time being in force, where order referred to in sub-section (11) becomes final, the immovable property and all rights including ownership rights thereof shall be vested in the Federal Government and shall be treated to be in the same position in relation to such rights as the person in whom such rights would have continued to vest if such order had not become final.
- (20) Where any immovable property is acquired under this section, the Board shall make the payment of consideration for acquisition to the person or persons entitled thereto, as soon as may be, after the property becomes vested in the Federal Government.
- (21) Notwithstanding the provisions of section 68, for the purpose of this section:
- a) "consideration for acquisition" means a sum equal to the aggregate of the amount of the consideration for the transfer of immovable property and hundred per cent of such consideration;
  - b) "fair market value" in relation to an immovable property means the price that the immovable property would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer of such property;
  - c) "immovable property" means any land with or without a superstructure or any building or part of a building or any rights therein and includes, where any land or any building or part of a building is transferred along with any machinery, plant, equipment, furniture and fittings; and
  - d) "transfer" in relation to any immovable property means transfer of such property by way of sale or exchange or lease for a term of not less than ten years.
- (22) The provisions of this section shall come into force on such date as the Federal Government may, by notification in official Gazette, appoint.
- (23) From the date of appointment as mentioned in subsection (21), rates mentioned in column (3) of the Table in Division XVIII shall be 1% and provisions of clause (c) of subsection (4) of section 111, section 236C, section 236W and Division X of Part IV of the First Schedule shall not apply."

**COLLECTION OF TAX BY STOCK EXCHANGE**

**SECTION 233A**

The tax collected by Stock Exchange on sale and purchase of shares in lieu of tax on the commission earned by stock brokers was made final tax vide the Finance Act, 2017. The Finance Act, 2018 now once again makes this collection as advance tax.

**ADVANCE TAX ON FUNCTIONS AND GATHERINGS**

**SECTION 236D**

Advance tax at 5% is collectible on functions and gathering. The Finance Act, 2018 now enacts a minimum prescribed amount of advance tax to be collected in respect of function of marriage in a marriage hall, marquee, hotel, restaurant, commercial lawn, club, a community place or any other place used for such purpose, as set out in the table below:

5% of the bill ad valorem or Rs. 20,000 per function, whichever is higher	For Islamabad, Lahore, Multan, Faisalabad, Rawalpindi, Gujranwala, Bahawalpur, Sargodha, Sahiwal, Shekhpura, Dera Ghazi Khan, Karachi, Hyderabad, Sukkur,
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	Thatta, Larkana, Mirpur Khas, Nawabshah, Peshawar, Mardan, Abbottabad, Kohat, Dera Ismail Khan, Quetta, Sibi, Loralai, Khuzdar, Dera Murad Jamali and Turbat
5% of the bill ad valorem or Rs. 10,000 per function, whichever is higher	For cities other than those mentioned above

**TAX ON PETROL PUMP OPERATORS AND DISTRIBUTORS****SECTION 236HA**

The Finance Act, 2018 has broadened the scope of withholding taxes on petrol pump operators as well as distributors who are not allowed commission or discount. The rates of deductible taxes are 0.5% and 1% of ex-depot sale price of specified products in case of filer and non-filer respectively.

**ADVANCE TAX COLLECTION BY EDUCATIONAL INSTITUTIONS****SECTION 236I**

Educational institutions are required to collect adjustable advance tax @ 5% where the annual fee exceeds Rs. 200,000. The Finance Act, 2018 has waived collection of this tax on an amount which is paid by way of scholarship.

**ADVANCE TAX ON PURCHASE OR TRANSFER OF IMMOVABLE PROPERTY****SECTION 236K**

Advance tax is collectible by local authorities, housing authorities, housing societies, co-operative societies and registrar of properties on purchase or transfer of immovable property. It has now been enacted to link collection of this advance tax with payment in installments too.

**ADVANCE TAX ON BANKING TRANSACTIONS OTHERWISE THAN THROUGH CASH****SECTION 236P**

The Finance Act, 2018 has reduced the rate of tax to be collected on banking transactions otherwise than through cash from 0.6% to 0.4% of the transaction for non-filers.

**ADVANCE TAX ON PERSONS REMITTING AMOUNTS ABROAD THROUGH CREDIT OR DEBIT OR PREPAID CARDS****SECTION 236Y**

It has been enacted to collect advance tax on all foreign payments made through credit cards, debit cards or prepaid cards at the rate of 1% and 3% for filers and non-filers respectively.

**VALIDATION****SECTION 241**

The Finance Act, 2018 has enacted to provide validity to all orders passed, notices issued and actions taken by the Directorate-General (Intelligence and Investigation) and his subordinate

authorities notwithstanding any omissions, irregularities or deficiencies in its establishment or conferment of powers and functions.

**THE FIRST SCHEDULE  
PART-I**

**DIVISION - I**

**Rates of tax for individuals**

Tax rate table for tax year 2019 for every individual taxpayer is as follows:

Slabs	Tax Rates
Where taxable income does not exceed Rs. 400,000	0%
Where taxable income exceeds Rs. 400,000 but does not exceed Rs. 800,000	Rs. 1,000
Where taxable income exceeds Rs. 800,000 but does not exceed Rs. 1,200,000	Rs. 2,000
Where taxable income exceeds Rs. 1,200,000 but does not exceed Rs. 2,400,000	Rs. 2,000 + 5% of the amount exceeding Rs. 1,200,000
Where taxable income exceeds Rs. 2,400,000 but does not exceed Rs. 4,800,000	Rs. 60,000 + 10% of the amount exceeding Rs. 2,400,000
Where taxable income exceeds Rs. 4,800,000	Rs. 300,000 + 15% of the amount exceeding Rs. 4,800,000

**Rates of tax for AOPs**

Tax rate table for tax year 2019 for AOPs is as follows:

Slabs	Tax Rates
Where taxable income does not exceed Rs. 400,000	0%
Where taxable income exceeds Rs. 400,000 but does not exceed Rs. 1,200,000	5% of the amount exceeding Rs. 400,000
Where taxable income exceeds Rs. 1,200,000 but does not exceed Rs. 2,400,000	Rs. 40,000 + 10% of the amount exceeding Rs. 1,200,000
Where taxable income exceeds Rs. 2,400,000 but does not exceed Rs. 3,600,000	Rs. 160,000 + 15% of the amount exceeding Rs. 2,400,000
Where taxable income exceeds Rs. 3,600,000 but does not exceed Rs. 4,800,000	Rs. 340,000 + 20% of the amount exceeding Rs. 3,600,000

Where taxable income exceeds Rs. 4,800,000 but does not exceed Rs. 6,000,000	Rs. 580,000 + 25% of the amount exceeding Rs. 4,800,000
Where taxable income exceeds Rs. 6,000,000	Rs. 880,000 + 30% of the amount exceeding Rs. 6,000,000

**DIVISION - II****Rates of tax for Companies**

The corporate tax rate applicable to companies is 30% for the tax year 2018 which will be reduced to 25% gradually as follows:

<b>Tax year</b>	<b>Rate of tax</b>
2018	30%
2019	29%
2020	28%
2021	27%
2022	26%
2023 and onwards	25%

**Rates of tax for Small Companies**

The corporate tax rate applicable to small companies is 25% for the tax year 2018 which will be reduced to 20% gradually as follows:

<b>Tax year</b>	<b>Rate of tax</b>
2018	25%
2019	24%
2020	23%
2021	22%
2022	21%
2023 and onwards	20%

**DIVISION - IIA****Super Tax**

The levy of super tax has been extended to tax year 2020, with gradual decrease in rate by 1% each year up to tax year 2021.

The Finance Act, 2018 has specified the rate for a banking company, with zero rate for tax year 2018 and gradual reduction of applicable tax rate by 1% from tax year 2019 to 2021. The rate for

tax year 2019, 2020 and 2021 shall be 4%, 3% and 2% respectively. For tax year 2019, the banking company is obliged to pay super tax on estimate basis, by 30<sup>th</sup> June 2018.

#### **DIVISION - IV**

##### **Rates of tax on certain payments to non-residents**

Tax @ 5% of the gross amount of the fee for offshore digital services paid to a non-resident has also been inserted in this division along with the payment of royalty @ 15%.

#### **DIVISION - VII**

##### **Rates of tax on capital gains on disposal of securities**

The capital gains on the early holding of securities, as defined in section 37A has been extended to the year 2019, particularly in case of the followings and for the securities acquired after 1<sup>st</sup> July 2016:

	<b>Tax year 2019</b>	
	<b>Filer</b>	<b>Non-filer</b>
Where holding period of a security is 12 months or more but less than 24 months	<b>15%</b>	<b>20%</b>
Future commodity contracts entered into by members of Pakistan Mercantile Exchange	<b>5%</b>	<b>5%</b>

#### **PART-II**

##### **Rates of advance tax**

Persons importing coal will be charged advance tax @ 4% of the import value as increased by custom duty, sales tax and federal excise duty in case of a filer and @ 6% of such value in case of non-filer.

#### **PART-III**

#### **DIVISION - I**

##### **Advance tax on dividend**

A further proviso has been inserted in this division to state that the rate of advance tax on dividend received by an individual from a rental Real Estate Investment Trust (REIT) scheme shall be 7.5%.

Dividend received by company from a collective investment scheme, REIT scheme or mutual fund other than stock fund, was liable to tax and withholding tax @ 25%. The Finance Act, 2018 has reduced this rate to 15%.

Tax and withholding tax on dividend received by a person from a Developmental REIT scheme setup by 30<sup>th</sup> June 2018 was eligible for reduction by 50%.

The Finance Act, 2018 has extended the aforesaid reduction in rate of dividend received from REIT scheme set up by 30<sup>th</sup> June 2020. Further, the reduced rate shall be available for three years from the date of setting up of the said scheme.

### **DIVISION - III**

#### **Payments for goods or services**

The withholding tax rates have been increased for non-filers as given below;

	<b>Revised rates</b>	<b>Previous rates</b>
Supply of goods:		
Companies	8%	7%
All other cases	9%	7.75%
Execution of contracts:		
Companies	14%	12%
All other cases	15%	12.5%

## **THE SECOND SCHEDULE**

### **PART-I (EXEMPTIONS FROM TOTAL INCOME)**

Exemptions have been granted under the following clauses;

#### **Allowances to armed forces personnel**

**Clause (39A)**

Amounts paid as kit allowance, ration allowance, special messing allowance, SSG allowance, Northern Areas compensatory allowance, special pay for Northern Areas and height allowance to the Armed Forces personnel.

#### **Exemption on total income**

**Clause (57)**

- Khyber Pakhtunkhwa Retirement Benefits and Death Compensation Fund;
- Khyber Pakhtunkhwa General Provident Investment Fund; and
- Khyber Pakhtunkhwa Pension Fund.



**Exemption on donations****Clause (61)**

- Pakistan Sweet Home, Angels and Fairies Place;
- Al-Shifa Trust Eye Hospital;
- Aziz Tabba Foundation;
- Sindh Institute of Urology and Transplantation, SIUT Trust and Society for the Welfare of SIUT;
- Sharif Trust;
- The Kidney Centre Post Graduate Institute; and
- Pakistan Disabled Foundation.
- Sardar Trust Eye Hospital, Lahore

**Exemption on income****Clause (66)**

Any income derived by:

- SAARC Energy Centre;
- Pakistan Bar Council;
- Pakistan Centre for Philanthropy;
- Pakistan Mortgage Refinance Company Limited;
- Aziz Tabba Foundation;
- Al-Shifa Trust Eye Hospital;
- Saylani Welfare International Trust;
- Shaukat Khanum Memorial Trust;
- Layton Rahmatullah Benevolent Trust (LRBT);
- The Kidney Centre Post Graduate Training Institute;
- Pakistan Disabled Foundation;
- Forman Christian College;
- Habib University Foundation;
- Begum Akhtar Rukhsana Memorial Trust Hospital;
- Al-Khidmat Foundation;
- Dawat-e-Islami Trust; and
- Sardar Trust Eye Hospital, Lahore.

**Profit on debt paid by Pakistan Mortgage Refinance Company****Clause (90A)**

Profit on debt on bonds issued by Pakistan Mortgage Refinance Company to refinance the residential housing mortgage market for a period of five years with effect from the 1st day of July, 2018.

**Income of modarabas****Clause (100)**

The existing conditional exemption available to modarabas for trading activities will also be available to manufacturing activities.

**Capital gains on bonds issued by Pakistan Mortgage Refinance Company** **Clause (110C)**

Gain on transfer of a capital asset, being a bond issued by Pakistan Mortgage Refinance Company to refinance the residential housing mortgage market, during the period from the 1st day of July, 2018 till the 30th day of June, 2023.

**Income of new refineries** **Clause (126BA)**

Profits and gains derived by a refinery set up between the 1st day of July, 2018 and the 30th day of June, 2023 with minimum 100,000 barrels per day production capacity for a period of 20 years beginning in the month in which the refinery is set up or commercial production is commenced, whichever is later. Exemption under this clause shall also be available to existing refineries, if:

- a) existing production capacity is enhanced by at least 100,000 barrels per day;
- b) the refinery maintains separate accounts for income arising from aforesaid additional production capacity; and
- c) the refinery is a deep conversion refinery.

**Income from export of computer software, IT services and IT enabled services** **Clause (133)**

Exemption to income from exports of computer software or IT services or IT enabled services has been extended up to the period ending on 30<sup>th</sup> June 2025.

**PART-III (REDUCTION IN TAX LIABILITY)**

Exemptions have been granted under the following clauses;

**Income from film making** **Clause (7) & (8)**

70% reduction in tax payable on income from film-making in Pakistan for foreign and local film-makers.

**Profits and gains derived from low cost housing projects** **Clause 9**

50% reduction in tax payable on profits and gains derived by a company from low cost housing projects. The exemption shall apply to such project, which is:

- Owned and managed by a company formed for operating the said project and registered under the Companies Act, 2017 and having its registered office in Pakistan;
- Not formed by the splitting up, or the reconstruction or reconstitution, of a business already in existence or by transfer to a new business of any machinery or plant used in a business which was being carried on in Pakistan at any time before the commencement of the new business; and
- A low cost housing project under which the maximum sale price of a single housing unit is Rs. 2.5 million.

**PART-IV (EXEMPTIONS FROM SPECIFIC PROVISIONS)**

Exemptions have been granted under the following clauses;

**Exemption from minimum tax under section 113** **Clause (11A)(xxx)**

Exemption from minimum tax under section 113 with effect from the tax year 2014 to be granted to public sector universities established solely for educational purposes and not for the purposes of profit.

**Exemption from withholding tax on rendering of services** **Clause (11E)**

Exemption from withholding tax on rendering of services on payments received by Sui Southern Gas Company Limited and Pakistan LNG Terminal Limited from Sui Northern Gas Pipelines Limited on account of re-gasification charges.

**Exemption from withholding tax on dividends** **Clause (12A)**

Exemption from withholding tax on dividends paid to Transmission Line Projects under Transmission Line Policy 2015.

**Exemption from withholding tax on imports** **Clause (56)(ia) & Clause (60AA)**

- Consequent to the merger of Bakri Trading Company Pakistan (Pvt.) Ltd. and Overseas Oil Trading Company (Pvt.) Ltd. the exemption from withholding tax at import stage now to be granted to Bakri Energy (Private) Limited.
- Import of construction materials or goods up to a maximum of Rs. 10,898M imported by China State Construction Engineering Corporation (M/s CSCEC) for construction of Sukkur-Multan section of Karachi-Peshawar Motorway project of National Highway Authority under CPEC to be granted immunity from collection of tax at import stage.

**Non-profit organization** **Clause (63)**

Lahore University of Management Sciences to be granted the status of non-profit organization.

***Extension in the period of exemption*****Large trading houses** **Clause (57)**

The period for concessionary rate of 0.5% available to large trading houses has been extended to tax year 2021.

**Withholding tax on services rendered****Clause (94)**

Filer companies, rendering the following services, are exempt from the withholding provisions of section 153(1)(b), subject to certain conditions including that the tax payable or paid on income shall be at least 2% of the gross amount of turnover:

- Freight forwarding services;
- Air cargo services;
- Courier services;
- Manpower outsourcing services;
- Hotel services;
- Security guard services;
- Software development services;
- Tracking services;
- Advertising services, other than by print or electronic media;
- Share registrar services;
- Engineering services; and
- Car rental services.

The Finance Act, 2018 has now extended the timeframe for this concession up to June 30, 2019 provided that an irrevocable declaration shall be filed with the Commissioner by November 2018.

Moreover, it is also enacted to include the inspection, certification, testing and training services in the above list.

**BANKING COMPANIES (SEVENTH SCHEDULE)**

There was an implicit immunity for banking companies from the provisions contained in Chapter VII (International) and Chapter VIII (Anti-avoidance). The Finance Act, 2018 has now done away with this implicit immunity. Pursuant to these changes to section 100A, related amendments have also been made to the Seventh Schedule. Likewise, pursuant to the extension in applicability timelines for super tax, consequent amendment has also been made to the Seventh Schedule

Banking companies are required to pay advance tax on monthly basis under Rule 5A of Seventh Schedule. It has been the demand of the banking sector that, like other companies, banks should also be allowed to pay advance tax on the basis of lower estimated tax liability for the year. The Finance Act, 2018 has amended the provisions of section 147 and rule 5 of the Seventh Schedule to allow the banking companies to pay advance tax on the basis of estimated tax payable. Now the banks, besides being obligated to file higher estimate, will also be able to file lower estimate and discharge their advance tax payable on the basis of such estimate.

## **SALES TAX**

### **FURTHER TAX**

### **SECTION 3(1A)**

A further tax @ 2% over and above the regular 17% was chargeable on supplies to persons who have not obtained sales tax registration in order to discourage dealings with non-registered person. Vide the Finance Act, 2018, this further tax has now been increased to 3%.

### **INADMISSIBLE INPUT TAX**

### **SECTION 8(1)(m)**

Sales tax paid on acquisition of certain items is considered as inadmissible input tax under section 8 of the Sales Tax Act, 1990. Import of scrap of compressors falling under PCT heading 7204.4940 has now been included in the list of inadmissible items.

### **TIME LIMIT TO PASS APPEAL EFFECT ORDER**

### **SECTION 11B**

A new section has been inserted in the Sales Tax Act, 1990 for giving appeal effect to an appellate order within one year unless an appeal / reference there against has been filed. Parallel amendment has also been made in the Federal Excise Act, 2005.

### **AUDIT TO BE CONDUCTED ONCE IN THREE YEARS ONLY**

### **SECTION 25(2)**

It has been enacted that a composite audit in case of companies will be conducted once in three years. In fact, this provision has been introduced in all three taxation legislations i.e income tax, sales tax and excise duty.

### **DIRECTORATE GENERAL, (INTELLIGENCE AND INVESTIGATION) INLAND REVENUE**

FBR has been granted power to specify the functions, jurisdiction and powers of the officers of this directorate through notification. Similar amendment has also been made in the Federal Excise Act, 2005.

**DEFAULT SURCHARGE****SECTION 34(1)(a)**

Similar as change in the Income Tax Ordinance, 2001, the rate of default surcharge has been fixed at 12% p.a. from “KIBOR + 3% p.a.”. The same amendment has been made in the Federal Excise Act, 2005.

**POSTING OF INLAND REVENUE OFFICER****SECTION 40B**

The discretionary power to post officers of Inland Revenue by Chief Commissioner and Commissioner to premises of registered person has been withdrawn. Similar amendment has also been made in the Federal Excise Act, 2005.

**REVAMPING OF ALTERNATIVE DISPUTE RESOLUTION MECHANISM****SECTION 47A**

The procedure of settlement of dispute through Alternative Dispute Resolution mechanism is essentially recommendatory in nature. The Federal Board of Revenue is not mandatorily required to accept the recommendation of the ADRC. Consequently, the appellant is not necessarily required to withdraw the appeal filed before an appellate forum for seeking remedy under the ADRC.

Under the revamped scheme, the whole structure has been changed. Firstly, the option of seeking remedy in ADRC shall only be available if the applicant waives his right of appeal in the appellate authorities. Secondly, the recommendations of ADRC will now consequently be binding on both the parties.

There are certain procedural changes, which include:

- Every ADRC shall include a retired Judge of High Court; and
- The Committee will be required to decide the matter within 120 days failing which the appeal will be reinstated.

Parallel amendments have also been made in the Federal Excise Act, 2005.

**AUTOMATIC STAY ON PAYMENT OF TAX @ 10%****SECTION 48**

The taxpayer has the option of precluding recovery on payment of 25% of the tax demand during the pendency of appeal before the Commissioner Inland Revenue Appeals. This threshold has now been reduced to 10% of the tax demand. It has been enacted to reduce payment of tax from 25%

to 10% to avail stay against recovery proceedings until the disposal of appeal by the Commissioner Inland Revenue (Appeals).

Parallel amendments have also been made in the Federal Excise Act, 2005.

**PROTECTION TO EXISTING NOTIFICATIONS /APPOINTMENTS**

**SECTION 74A**

Amendments have been enacted to extend the legal cover to un-rescinded notifications under the Sales Tax Act, 1990 upto July 1, 2018; and establish / confer powers of Directorate General (Intelligence and Investigation) and all notices and actions before commencement of Finance Act 2018 under the Sales Tax Act, 1990.

**FIFTH SCHEDULE – ZERO RATING**

Zero rating has been restored on certain stationery items under Fifth Schedule subject to conditions specified therein. Earlier these items were exempt through Finance Act 2016. However, no corresponding amendment has been made to omit these entries from Table 1 of the Sixth Schedule.

DESCRIPTION	PCT HEADING
Colors in sets	3213.1000
Writing, drawing and marking inks	3215.9010 & 3215.9090
Erasers	4016.9210 & 4016.9290
Exercise books	4820.2000
Pencil sharpeners	8214.1000
Geometry boxes	9017.2000
Pens and ball pens, markers and porous tipped pens	96.08
Pencils including color pencils	96.09

**SIXTH SCHEDULE - EXEMPTIONS**

a) Import or supply of following items have been exempted from levy of sales tax through insertion in Table I to the Sixth Schedule to the Sales Tax Act, 1990.

ENTRY #	DESCRIPTION	HS CODE
137	Paper weighing 60 g/m <sup>2</sup> for the printing of Holy Quran imported by Federal or Provincial Governments and	4802.5510

	Nashiran-e-Quran as per quota determined by IOCO	
139	Fans for dairy farms	8414.5990
140	Bovine semen	0511.1000
141	Preparations for making animal feed	2309.9000
142	Promotional and advertising material including technical literature, pamphlets, brochures and other give-aways of no commercial value, distributed free of cost by the exhibitors	9920(3)
143	Hearing aids (all types and kinds) and hearing assessment equipments	9937
145	Conditional exemption on the import (if not manufactured locally) of plant, machinery, equipment including dumpers and special purpose motor vehicles by M/s China State Construction Engineering Corporation Limited and M/s China Communication Construction Company for specified purposes	Respective heading
146	Conditional exemption on import of equipment by M/s China Railway Corporation for installation in Lahore Orange Line Metro Train Project	Respective heading
148	Conditional exemption on import (whether or not locally manufactured) of construction materials and goods by M/s China State Construction Engineering Corporation Limited for specified purposes provided that total incidence of exemptions of all duties and taxes in respect of construction materials and goods imported for the project shall not exceed ten thousand eight hundred ninety-eight million rupees.  The above stated limit will include the exemption availed before 30 <sup>th</sup> June 2018 under the provisions of the Sales Tax Act, 1990, the Customs Act, 1969, the Federal Excise Act, 2005 and the Income Tax Ordinance, 2001 and notification issued thereunder	
149	Micro feeder equipment	8437.8000

b) Import or supply of following items have been exempted from levy of sales tax. Previously these items were subject to reduced rate under Eighth Schedule to the Sales Tax Act, 1990. Corresponding amendments have been enacted to omit such entries from the Eighth Schedule.

ENTRY #	DESCRIPTION	HS CODE
138	Fish feed	Respective heading
144	Liquefied Natural Gas imported by Fertilizer manufactures for use as feed stock	2711.1100



c) Exemption on import or supply of following items has been enacted. Previously this exemption was available under SRO 641(I)/2017 dated July 13, 2017.

ENTRY #	DESCRIPTION	HS CODE
147	Goods supplied to German Development Agency GIZ	Respective heading

d) Following items have been exempted from levy of sales tax subject to specified conditions through insertion in Table III to the Sixth Schedule to the Sales Tax Act, 1990.

ENTRY #	DESCRIPTION	HS CODE
18	Following parts for assembling and manufacturing of personal computers and laptops: (i) Bare PCBs (ii) Power amplifier (iii) Microprocessor/ Controllers (iv) Equipment for SMT manufacturing (v) Laptop batteries (vi) Adapters (vii) Cooling fans (viii) Heat sink (ix) Hard Disk SSD (x) RAM / ROMs (xi) System on Chip / FPGA-IC (xii) LCD / LED Screen (xiii) Motherboards (xiv) Power supply (xv) Optical drives (xvi) External ports (xvii) Network cards (xviii) Graphic cards (xix) Wireless cards (xx) Micro phone (xxi) Trackpad	8534.0000 8542.3300 85.42 8486.2000 8506.5000 8504.4020 8414.5190 7616.9920 8471.7020 8471.7060 8471.7090 85.42 8528.7211 8534.0000 84.73 8471.7040 8536.2090 8517.6990 8471.5000 8517.6970 8518.3000 8471.6020
19	Plant and machinery, except the items listed under Chapter 87 of the Pakistan Customs Tariff, imported for setting up of a Special Economic Zone (SEZ) by zone developers and for installation in that zone by zone enterprises, on one time	9917(2)

	basis as prescribed in the SEZ Act, 2012 and rules thereunder subject to specified conditions	
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e) Following items have been exempted from levy of sales tax. Previously these items were exempt under SRO 335(I)/1991 dated April 6, 1991.

ENTRY #	DESCRIPTION	HS CODE
17	Machinery, equipment, raw materials, components and other capital goods for use in building, fittings, repairing or re-fitting of ships, boats or floating structures imported by Karachi Shipyard and Engineering Works Limited	Respective heading
23	Match boxes	Respective heading

### EIGHTH SCHEDULE

a) Reduced rate of tax on agricultural tractors PCT heading 8701.9020 has been substituted with PCT headings 8701.9220 and 8701.9320 (Agricultural tractors, having an engine capacity exceeding 26kW but not exceeding 75kW) at serial number 25 of Table I;

b) Sales tax has been reduced from 7% to 5% in respect of following items

SERIAL # OF TABLE 1	DESCRIPTION
26	Tillage and seed bed preparation equipment:
27	seeding or planting equipment
28	irrigation, drainage and agro-chemical application equipment
29	harvesting, threshing and storage equipment
30	post-harvest handling and processing & miscellaneous machinery

c) All fertilizers are now subject to sales tax @ 3%.

d) Sales tax rate has been reduced from 10% to 5% for natural gas (if supplied to fertilizer plants for use as feed stock in manufacturing of fertilizer).

e) Following items have been subjected to lower rate:

SERIAL # OF TABLE 1	DESCRIPTION	PCT HEADING	RATE OF TAX
50	LNG	2711.1100	12%
51	RLNG	2711.2100	12%
52	Fertilizers	Respective headings	2%

53	The following cinematographic Equipment imported during the period commencing on the 1 <sup>st</sup> day of July, 2018 and ending on the 30 <sup>th</sup> day of June, 2023.		
53	(i) Projector (ii) Parts and accessories for projector (iii) Other instruments and apparatus for cinema (iv) Screen (v) Cinematographic parts and accessories (vi) 3D Glasses (vii) Digital Loud Speakers (viii) Digital Processor (ix) Sub-woofer and Surround Speakers (x) Amplifiers (xi) Audio rack and termination board (xii) Music Distribution System (xiii) Seats (xiv) Recliners (xv) Wall Panels and metal profiles (xvi) Step Lights (xvii) Illuminated Signs (xviii) Dry Walls (xix) Ready Gips	9007.2000 9007.9200  9032.8990  9010.6000 9010.9000  9004.9000 8518.2200  8519.8190 8518.2990  8518.5000 7326.9090 8537.1090 8519.8990  9401.7100 9401.7900 7308.9090  9405.4090 9405.6000 6809.1100 3214.9090	5%
54	lithium iron phosphate battery (Li-Fe- PO4)	8506.5000	12%
55	Fish babies/ seedlings	Respective headings	5%
56	Potassium Chlorate (KCLO3)	Respective headings	17% along with Rs. 40 per kg
57	Rock phosphate	Respective headings	10%

- f) Value addition tax of 3% chargeable on import of LNG under Rule 58B of the Sales Tax Special Procedure Rules, 2007 has been waived off.

- g) Capital goods otherwise not exempted for Transmission Line Projects (respective headings) have been subject to reduce rate of sales tax @ 10%, subject to specified condition, through insertion in Table-2.

## FEDERAL EXCISE DUTY

### ENHANCED FED ON CIGARETTES AND CEMENT

The levy of excise duty on locally manufactured cigarettes and Cement have been enhanced respectively by 6% and 20% in the following manner:

*Table I of First Schedule*

DESCRIPTION	AMOUNT OF DUTY	
	Previous	Revised
<b>CIGARETTES</b>		
For on-pack printed retail price exceeding Rs 4,500 per 1,000 cigarettes.	Rs 3,740 per 1,000 cigarettes	Rs 3,970 per 1,000 cigarettes
For on-pack printed retail price between Rs 2,925 and Rs 4,500 per 1,000 cigarettes.	Rs 1,670 per 1,000 cigarettes	Rs 1,776 per 1,000 cigarettes
For on-pack printed retail price up to Rs 2,925 per 1,000 cigarettes.	Rs 800 per 1,000 cigarettes	Rs 854 per 1,000 cigarettes
<b>CEMENT</b>		
Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cements, whether or not coloured or in the form of clinkers	Re. 1.25 per Kg.	Re. 1.5 per Kg.

*Table II of First Schedule*

<b>DESCRIPTION</b>	<b>AMOUNT OF DUTY</b>
	<b>Revised rate</b>
Facilities for Travel (a) Services provided or rendered in respect of travel by air of passengers within the territorial jurisdiction of Pakistan (b) Long routes	Rs. 2,000

**LEVY ON FED ON MOBILE PHONES**

The Federal Board of Revenue shall collect levy on Mobile handsets valuing in excess of Rs. 10,000 in the following manner:

<b>CATEGORY OF SMARTPHONE</b>	<b>RATE OF LEVY PER SET</b>
For sets having import value (including duties and taxes) between Rs 10,000 and Rs 40,000.	Rs. 1,000
For sets having import value (including duties and taxes) between Rs 40,000 and Rs 80,000.	Rs. 3,000
For sets having import value (including duties and taxes) exceeding Rs 80,000	Rs. 5,000

**COMMISSION PAID BY STATE BANK OF PAKISTAN TO BANKS**

Duty has been exempted on commission paid by State Bank of Pakistan and its subsidiaries to banking companies for handling banking services of Federal/ Provincial Government.

This exemption is neutral from revenue perspective and seemingly aims administrative ease.

**EXEMPTION OF DUTY ON IMPORT OF EQUIPMENT/ MATERIALS BY CONTRACTORS OF SPECIFIED INFRASTRUCTURE PROJECTS**

In line with exemptions from sales tax, duty has also been exempted in respect of following to certain procedural requirements:

*Table-I (Goods)*

<b>DESCRIPTION</b>
Import of equipment (machinery, apparatus, materials etc.) by M/s China Railway Corporation for installation in Lahore Orange Line Metro Train Project.
Import of construction material and goods imported by M/s China State Construction Engineering Corporation Limited for construction of Sukkar-Multan section of Karachi-Peshawar Motorway with exemption for all duties/taxes capped at Rs 10.9 billion.

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