

# TAX HANDBOOK - FINANCE ACT 2022 (COMPARATIVE STUDY)

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**AMMENMENTS IN INCOME TAX ORDINANCE, 2001**

SECTION / CLAUSE	BEFORE AMENDMENT	AFTER AMENDMENT
<p><b>Section 2(7A) &amp; 181 E</b></p>	<p><b>Definition of “Beneficial Owners” and “Record of Beneficial Owners”</b></p> <p>Before Amendment there was no Definition of Beneficial Owners and there was no requirement to maintain Record of Beneficial Owners, in the Ordinance.</p>	<p>New Definition of “Beneficial Owner” has been inserted in <b>Clause 7 of Section 2</b> i.e.</p> <p><b>“Beneficial Owner”</b> means a natural person who;</p> <ul style="list-style-type: none"> <li>a) ultimately owns or controls a Company or association of persons, whether directly or indirectly, through at least twenty five percent shares or voting rights; or</li> <li>b) exercise ultimate effective control, through direct or indirect means, over the company or association of persons including control over the finances or decisions or other affairs of the company or association of persons.</li> </ul> <p><b>A new Section 181E</b> has been inserted, which requires that every Company and Association of Persons (AOP) shall electronically furnish particulars of its beneficial owners in such form and manner as may be prescribed. It shall also update the particulars of its beneficial owners as and when there is a change in the particulars of the beneficial owners.</p>
<p><b>Section 2(18A)</b></p>	<p><b>Definition of “Distributor”</b></p> <p>Before Amendment there was no Definition of Distributor, in the Ordinance, whereas there are various provisions, which apply on a distributor.</p>	<p>New Definition of “Distributor” has been inserted in <b>Clause 18 of Section 2</b> i.e.</p> <p><b>“Distributor”</b> means a person appointed by a manufacturer, importer or any other person for a specified area to purchase goods from him for further supply.</p>

SECTION / CLAUSE	BEFORE AMENDMENT	AFTER AMENDMENT
<p><b>Section 2(30AD) and 2(30AE)</b></p>	<p><b>IT Service &amp; IT Enabled Services</b></p> <p>Clause 30AD mention that <b>IT Services</b> include software development, software maintenance, system integration, web design, web development, web hosting and network design.</p> <p>Clause 30AE mention that <b>IT Enabled Services</b> include inbound or outbound call centers, medical transcription, remote monitoring, graphics design, accounting services, Human Resource (HR) services, telemedicine centers, data entry operations, cloud computing services, data storage services, locally produced television programs and insurance claims Processing.</p>	<p>In clauses <b>30AD “Information Technology Services”</b> and <b>30AE “IT Enabled Services</b>, after the word "include", the words “but not limited to” have been inserted respectively. Now Scope of IT &amp; IT Enabled Services has been broadened and these are not limited to services mentioned in these clauses i.e., some other services of similar nature can be treated as IT &amp; IT Enabled Services.</p>
<p><b>Section 2(62B), 164A &amp; 182</b></p>	<p><b>Synchronized Withholding Administration and Payment System (SWAPS)</b></p> <p>A new concept of SWAPS Agents has been introduced in Clause 62B of Section 2. <b>“SWAPS Agent”</b> means any person or class of persons notified by Board to collect or deduct withholding taxes through Synchronized Withholding Administration and Payment System.</p> <p>New <b>Section 164A “Payment of Tax Collected or Deducted by SWAPS Agents”</b> has been Inserted. The section requires that;</p> <p>a) The Board may, by notification in the official gazette, notify any person or class of persons required to deduct or collect tax under the Ordinance to integrate with Synchronized Withholding Administration and Payment System and to act as SWAPS agent within the time and in the manner as may be prescribed.</p>	

	<p>b) The tax collected or purported to be collected or deducted or purported to be deducted under the Ordinance by a notified SWAPS agent and credited to the Commissioner through digital mode, shall be treated to have been paid under section 160 of the Ordinance.</p> <p>c) Where tax has been paid by a notified SWAPS agent in accordance with sub-section (2) of this section, copy or number of SWAPS Payment Receipt (SPR) shall replace copy or number of Computerized Payment Receipts (CPR) for the purposes of the Ordinance.</p> <p>d) Any notified SWAPS agent shall not be eligible for tax credit under Part X of Chapter III of the Ordinance and exemption under any of the provisions of the Ordinance if notified SWAPS agent fails to integrate with Board.</p> <p>e) All persons from whom the tax has been collected or deducted by the notified SWAPS agents shall be eligible for credit of tax withheld against SPR issued by SWAPS Agent.</p> <p>f) All other provisions of the Ordinance, not specifically dealt with in this section, shall, mutatis mutandis, apply to the notified SWAPS agents.</p> <p><b>Section 182</b> mention that Failure to integrate or perform roles and functions as SWAPS Agent can attract following penalties:</p> <p>a) Rs.50,000 for first default of seven days</p> <p>b) Rs. 100,000 for second default of next seven days</p> <p>c) Rs. 50,000 for each week after the second consecutive week of default.</p>
<p><b>Section 4C &amp; Division IIB of Part I of the First Schedule</b></p>	<p><b>Super Tax on High Earning Persons</b></p> <p>A new Section 4C has been inserted, which states that;</p> <ol style="list-style-type: none"> <li>1. A super tax shall be imposed for tax year 2022 and onwards at the rates specified in Division IIB of Part I of the First Schedule, on income of every person Provided that this section shall not apply to a banking company for tax year 2022.</li> <li>2. For the purposes of this section, “income” shall be the sum of the following;             <ol style="list-style-type: none"> <li>a) profit on debt, dividend, capital gains, brokerage and commission,</li> <li>b) taxable income (other than brought forward depreciation and brought forward business losses) under section 9 of the Ordinance, excluding amounts specified in clause (i),</li> <li>c) imputable income as defined in clause (28A) of section 2 excluding amounts specified in clause (i); and</li> <li>d) Income computed, other than brought forward depreciation, brought forward amortization and brought forward business losses under Fourth, Fifth and Seventh Schedules.</li> </ol> </li> </ol>

3. The tax payable under sub-section (1) shall be paid, collected and deposited on the date and in the manner as specified in sub-section (1) of section 137 and all provisions of Chapter X of the Ordinance shall apply.
4. Where the tax is not paid by a person liable to pay it, the Commissioner shall by an order in writing, determine the tax payable, and shall serve upon the person, a notice of demand specifying the tax payable and within the time specified under section 137 of the Ordinance.
5. Where the tax is not paid by a person liable to pay it, the Commissioner shall recover the tax payable under sub-section (1) and the provisions of Part IV, X, XI and XII of Chapter X and Part I of Chapter XI of the Ordinance shall, so far as may be, apply to the collection of tax as these apply to the collection of tax under the Ordinance.
6. The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this section.”

**Division IIB of Part I of the First Schedule - Super Tax on high earning persons** under section 4C shall be;

Sr. No	Income under section 4C	Rate of Tax
1.	Where income does not exceed Rs.150 million	0% of the income
2.	Where income exceeds Rs. 150 million but does not exceed Rs. 200 million	1% of the income
3.	Where income exceeds Rs. 200 million but does not exceed Rs. 250 million	2% of the income
4.	Where income exceeds Rs. 250 million but does not exceed Rs. 300 million	3% of the income
5.	Where income exceeds Rs. 300 million	4% of the income:

**Enhanced Super Tax, @ 10%, on Specified Sectors for Single Tax Year, where Income exceeds Rs 300 million**

- a) **For tax year 2022** for persons engaged, whether partly or wholly, in the business of airlines, automobiles, beverages, cement, chemicals, cigarette and tobacco, fertilizer, iron and steel, LNG terminal, oil marketing, oil refining, petroleum and gas exploration and production, pharmaceuticals, sugar and textiles the rate of tax shall be 10% where the income exceeds Rs. 300 million:
- b) In case of **banking companies for tax year 2023**, the rate of tax shall be 10% where the income exceeds Rs.300 million.

**Note:** As per the charging provisions, banking companies will not be liable to pay super tax for tax year 2022; however, the Seventh Schedule provides for such tax to be applicable for tax year 2022 as well. It is expected that the FBR will clarify this ambiguity through an explanatory circular.

SECTION / CLAUSE	BEFORE AMENDMENT	AFTER AMENDMENT
<p><b>Section 6 &amp; Section 152</b></p>	<p><b>Payments to Non-Residents for International Financial Transactions &amp; Fee for Offshore Digital Services</b></p> <p>Before amendment Section 6 and 152 did not deal with payments to Non-Residents in the form of fee for money transfer operations, card network services, payment gateway services, interbank financial telecommunication services.</p>	<p>Non-resident persons not having a Permanent Establishment in Pakistan deriving income in the form of fees for money transfer operations, card network services, payment gateway services, interbank financial telecommunications services will be taxed @ 10%.</p> <p>Enabling withholding provisions have also been introduced in section 152 as under:</p> <ul style="list-style-type: none"> <li>a) The banking companies will be responsible to withhold tax while making payments on account of any transaction fee or licensing fee or service charges or commission or fee or interbank financial telecommunication services.</li> <li>b) The exchange company licensed by the State Bank of Pakistan will be required to withhold tax while making payment to non-resident global money transfer operators, international money transfer operators or other persons on account of service charges or commission or fee in relation to international money transfers or other cross border remittances facilitating outward remittances.</li> </ul> <p>In case of retention of above amounts by the non-resident persons, the local banking or exchange company, will be required to collect the amount of advance tax from such persons.</p> <p>Non-residents protected by the double tax treaties may be entitled to invoke the business profits article to claim exemption from such tax.</p> <p>The rate of tax on ‘fees for offshore digital services’ has also been enhanced from 5% to 10%.</p>

**Section 7E****Tax on Deemed Capital Income**

A new Section 7E has been inserted which requires that A resident person owning capital assets in Pakistan will be taxed on deemed income arising from capital assets for tax year 2022 and onwards. For this purpose, such deemed income shall be computed as 5% of the Fair Market Value (as determined by the FBR under section 68) of capital assets. The rate of tax on such income is prescribed as 20%. This translates into an effective tax at 1% of Fair Market Value of capital assets.

An exclusionary definition of ‘**capital asset**’ has been provided, which effectively means that such tax is leviable only in respect of ‘immovable property’ situated in Pakistan owned by resident persons.

For the purposes of such tax; however, while following immovable properties shall stand excluded, the Federal Government has been empowered to notify any exclusion or inclusion of any person and/ or property from the scope of such tax:

- a) one immovable property owned by the resident person;
- b) self-owned business premises from where the business is carried out by the persons appearing on the active taxpayers’ list at any time during the year;
- c) self-owned agriculture land where agriculture activity is carried out by person excluding farmhouse (defined in a specified manner) and land annexed thereto;
- d) immovable property allotted to:
  - a shaheed or dependents of a shaheed belonging to Pakistan Armed Forces;
  - a person or dependents of the person who dies while in the service of Pakistan armed forces or Federal or provincial government;
  - a war wounded person while in service of Pakistan armed forces or Federal or provincial government; or
  - an ex-serviceman and serving personnel of armed forces or ex-employees or serving personnel of Federal and provincial governments, being original allottees of the capital asset duly certified by the allotment authority;
- e) any property from which income is chargeable to tax under the Ordinance and tax leviable is paid thereon;
- f) immovable property in the first tax year of acquisition where tax under section 236K has been paid;
- g) where the fair market value of the capital assets in aggregate excluding the capital assets mentioned in clauses (a) through (f) above does not exceed **Rs 25 million**;

	<p>h) immovable property owned by a provincial government or a local government; or          i) immovable property owned by a local authority, a development authority, builders and developers for land development and construction, subject to the condition that such persons are registered with Directorate General of Designated Non-Financial Business and Professions.</p> <p>The constitutional validity of this tax in relation to entry 50 of the Fourth Schedule to the Constitution of Pakistan and the scope of any amount which can be deemed as income will have to be tested.</p>
<b>Section 21</b>	<p><b>Deductions Not Allowed</b></p> <ol style="list-style-type: none"> <li>1. <b>Contribution to Approved Gratuity &amp; Pension Funds - Section 21(ea)</b>            Amount in excess of 50% contributions to an approved gratuity, pension and superannuation fund will be an inadmissible expense in computing the income from business.</li> <li>2. <b>Payment through Digital Means – Section 21(a)</b>            Through the Tax Laws (Third Amendment) Ordinance, 2021, payments made by a company for a transaction under a single account head exceeding Rs 250,000 other than through ‘digital means’ was made inadmissible, subject to certain exclusions. Due to challenges and practical difficulties in the implementation of the said provision, the FBR deferred its implementation from time to time till December 31, 2021. Through Finance (Supplementary) Act, 2022 the effective date was deferred indefinitely till it is notified by the FBR. It has been provided that when effective date of implementation of such provision will be notified, the companies will be required to make all payments through digital means only to claim as admissible business expense.</li> <li>3. <b>Expenditure by Persons Failing to Integrate Business with FBR’s System – 21(q)</b>            Through SRO 779(I)/2020 dated August 26, 2020, the FBR introduced a Chapter VIIA in the Income Tax Rules, 2002 whereby certain businesses were required to install prescribed fiscal electronic device and software for integration with FBR’s system. A new provision has now been enacted to disallow expenditure attributable to sales claimed by any person who fails to integrate his business with the FBR’s system in the above prescribed manner. However, disallowance of expenditure shall not exceed 8% of the allowable deduction.</li> </ol>

	<p><b>4. Tax Depreciation – 21(8) &amp; 2(13)</b> For depreciable assets used for the first time after July 1, 2020, the normal tax depreciation allowance was limited to 50% in the first year as well as in the year of disposal. Both these limits have now been withdrawn. As a result, the pre-2020 situation has been reinstated. Furthermore, with regard to depreciation on passenger transport vehicles not plying for hire, the limit on cost at Rs 2.5 million has been enhanced to Rs 7.5 million. Where such vehicle is obtained on lease, the rentals relating to the principal amount are restricted to Rs 2.5 million. In line with the above enactment, this limit also needs to be enhanced.</p>	
<p><b>SECTION / CLAUSE</b></p>	<p><b>BEFORE AMENDMENT</b></p>	<p><b>AFTER AMENDMENT</b></p>
<p><b>Section 22</b></p>	<p><b>Depreciation</b></p> <ol style="list-style-type: none"> <li>1. There was a proviso in Sub Section 2 that “where a depreciable asset is used in the person’s business for the first time in a tax year commencing on or after the 1st day of July, 2020, the depreciation deduction shall be reduced by fifty percent.”</li> <li>2. There was as proviso in Sub Section 8 that “where a depreciable asset is used in the person’s business for the first time in a tax year commencing on or after the 1st day of July, 2020, depreciation deduction equal to fifty percent of the rate specified in Part I of the Third Schedule shall be allowed in the year of disposal.”</li> </ol>	<ol style="list-style-type: none"> <li>1. The proviso has been omitted by Finance Act 2022.</li> <li>2. The proviso has been omitted by Finance Act 2022.</li> </ol>

	<p>3. Sub Section 13(a) required that the cost of a depreciable asset being a passenger transport vehicle not plying for hire shall not exceed <b>Rs. 2.5 million rupees.</b></p>	<p>3. Sub Section 13(a) now require that the cost of a depreciable asset being a passenger transport vehicle not plying for hire shall not exceed <b>Rs 5 million rupees.</b></p>																																			
<p><b>Section 23</b></p>	<p><b>Initial Allowance</b> Through Finance Act, 2019, initial allowance on buildings was removed from the Third Schedule.</p>	<p>A corresponding amendment has been now made in section 23 whereby the building being immovable property including structural improvements (even if classifiable as part of plant &amp; machinery) will no more be eligible for initial allowance of depreciation.</p>																																			
<p><b>Section 37</b></p>	<p><b>Capital Gains</b></p> <p><b>1. Capital Gains on Immovable Properties</b> Taxation of capital gains on disposal of immovable property has been revamped. Capital gains relating to disposal of immovable properties situated in Pakistan will be taxed at the following rates;</p> <table border="1"> <thead> <tr> <th rowspan="2">Holding Period</th> <th colspan="3">Rate of Tax</th> </tr> <tr> <th>Plots</th> <th>Constructed Property</th> <th>Flats</th> </tr> </thead> <tbody> <tr> <td>Does not exceed one year</td> <td>15%</td> <td>15%</td> <td>15%</td> </tr> <tr> <td>Exceeds one year but does not exceed two years</td> <td>12.5%</td> <td>10%</td> <td>7.5%</td> </tr> <tr> <td>Exceeds two years but does not exceed three years</td> <td>10%</td> <td>7.5%</td> <td>0%</td> </tr> <tr> <td>Exceeds three years but does not exceed four years</td> <td>7.5%</td> <td>5%</td> <td>0%</td> </tr> <tr> <td>Exceeds four years but does not exceed five years</td> <td>5%</td> <td>0%</td> <td>0%</td> </tr> <tr> <td>Exceeds five years but does not exceed six years</td> <td>2.5%</td> <td>0%</td> <td>0%</td> </tr> <tr> <td>Exceeds six years</td> <td>0%</td> <td>0%</td> <td>0%</td> </tr> </tbody> </table>		Holding Period	Rate of Tax			Plots	Constructed Property	Flats	Does not exceed one year	15%	15%	15%	Exceeds one year but does not exceed two years	12.5%	10%	7.5%	Exceeds two years but does not exceed three years	10%	7.5%	0%	Exceeds three years but does not exceed four years	7.5%	5%	0%	Exceeds four years but does not exceed five years	5%	0%	0%	Exceeds five years but does not exceed six years	2.5%	0%	0%	Exceeds six years	0%	0%	0%
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	<p>Consequently, capital gains relating to disposal of immovable properties situated outside Pakistan will be taxed at applicable rates irrespective of holding period.</p> <p><b>2. Capital Assets held for more than one year – Section 37(2)</b> Capital gains arising on disposal of capital assets (other than certain securities) held for more than one year are now fully taxable. The reduction of 25% (in computing taxable gain on disposal of such assets held for more than one year) has been done away with.</p> <p><b>3. Capital Assets acquired in certain tax neutral transactions – Section 37 (4A)</b> Capital assets acquired under certain tax neutral transactions such as by way of gift, succession, inheritance, devolution, distribution of assets on dissolution of AOP or on liquidation of company are deemed to have a cost equal to the FMV of such assets at the time of acquisition. However, where such assets were acquired by way of a gift and are disposed within two years as part of a tax avoidance scheme, their cost was deemed as the cost as was in the hands of the transferor. Section 37(4A) allowing FMV at the time of such transfer was in conflict with section 79(3) of the Ordinance. The said provision has now been omitted through the Finance Act.</p>	
<b>SECTION / CLAUSE</b>	<b>BEFORE AMENDMENT</b>	<b>AFTER AMENDMENT</b>
<b>Section 44</b>	<p><b>Exemptions under International Agreements</b></p> <p>Presently, income received by any person (not being a citizen of Pakistan) engaged as a contractor, consultant, or expert on a project in Pakistan is exempt from tax to the extent provided for in a bilateral or multilateral technical assistance agreement between the Federal Government and a foreign government or public international organization, subject to certain conditions. Such exemption is limited to agreements where ‘technical assistance’ is being provided.</p>	<p>The Finance Act 2022, has enhanced the scope of above exemption by removing the term ‘technical assistance’ from the above provision, meaning thereby now all sorts of agreement between Federal Government and a foreign government or public international organization would be covered under the above exemption. Furthermore, the exemption would also be available to a citizen of Pakistan provided such person is either a non-resident person or a resident person solely by reason of the performance of services under the agreement.</p> <p>The Act has also empowered the Federal Government to grant exemption on income of any person on a case-to-case basis through a notification in the Official Gazette in respect of an official development assistance financed loans and grant-in-aid, subject to such conditions and limitations as may be specified.</p>

<p><b>Section 60C</b></p>	<p><b>Deductible Allowance for Profit on Debt</b> Every individual was entitled to a deductible allowance for the amount of any profit or share in rent and share in appreciation for value of house paid by the individual in a tax year on a loan.</p>	<p>The Section has been omitted and Deductible Allowance on Profit on Debt is no more available to Individuals.</p>
<p><b>Section 62</b></p>	<p><b>Tax credit for Investment in Shares and Insurance.</b> A resident person other than a company was be entitled to a tax credit, for a tax year, against Investment in Shares and Insurance.</p>	<p>The Section has been omitted and no such Tax Credit is available now.</p>
<p><b>Section 62A</b></p>	<p><b>Tax credit for Investment in Health Insurance.</b> A resident person other than a company was entitled to a tax credit for a tax year in respect of any health insurance premium or contribution paid to any insurance company.</p>	<p>The Section has been omitted and no such Tax Credit is available now.</p>
<p><b>Section 63</b></p>	<p><b>Contribution to an Approved Pension Fund</b>  An eligible person as defined in sub-section (19A) of section 2 deriving income chargeable to tax under the head “Salary” or the head “Income from Business” was entitled to a tax credit for a tax year in respect of any contribution or premium paid in the year by the person in approved pension fund under the Voluntary Pension System Rules, 2005.</p>	<p>The Section has been omitted and no such Tax Credit is available now.</p>

<p><b>Section 65F</b></p>	<p><b>Tax credit for Export of IT &amp; IT Enabled Services</b></p> <p>Clause c of Sub Section 1 allowed tax credit income against export of IT &amp; IT enabled Services, equal to one hundred per cent of the tax payable.</p>	<p>The said clause has been omitted and now no such tax credit is available.</p>
<p><b>Section 82</b></p>	<p><b>Resident Individual</b></p> <p>Previously, an individual was only considered as resident in Pakistan if his stay was for more than 182 days in any tax year.</p>	<p>The definition of resident individual has been amended to include those Pakistani citizens who are either not tax residents of any other country or have not stayed in one foreign country for more than 182 days during a tax year.</p>
<p><b>Section 92</b></p>	<p><b>Principles of taxation of Associations of Persons</b></p> <p>Section mention that an association of persons shall be liable to tax separately from the members of the association and where the association of persons has paid tax the amount received by a member of the association in the capacity as member out of the income of the association shall be exempt from tax.</p> <p>Provided that if at least one member of the association of persons is a company, the share of such company or companies shall be excluded for the purpose of computing the total income of the association of persons and the company or the companies shall be taxed separately, at the rate applicable to the companies, according to their share.</p>	<p>For removal of doubt, it has been clarified that if the income of association of persons is exempt and no tax is payable under the Ordinance due to this exemption, the share received in the capacity as member out of the income of the association shall remain exempt.</p>

<p><b>Section 99A &amp; Section 235(1A)</b></p>	<p><b>Simplified Tax Regime for Retailers and Specified Service Providers</b></p> <p>For other than Tier – 1 retailers and specified service providers, a ‘final tax’ has been levied on the basis of gross amount billed for commercial electricity connections at the following rates:</p> <table border="1" data-bbox="387 392 2114 711"> <thead> <tr> <th>Gross Amount of Monthly Bill</th> <th>Tax (Rupees)</th> </tr> </thead> <tbody> <tr> <td>Where the amount does not exceed Rs. 30,000</td> <td>3,000</td> </tr> <tr> <td>Where the amount exceeds Rs. 30,000 but does not exceed Rs. 50,000</td> <td>5,000</td> </tr> <tr> <td>Where the amount exceeds Rs. 50,000 but does not exceed Rs. 100,000</td> <td>10,000</td> </tr> <tr> <td>Specified retailers and service providers through Income Tax General Order</td> <td>200,000</td> </tr> </tbody> </table> <p>The aforesaid tax shall be collected by the electricity companies through monthly bills in addition to withholding tax under section 235. However, in case sales tax is collected from such retailers through electricity bills under section 3(9) of Sales Tax Act, 1990, the sales tax will constitute discharge of tax liability under this section and thus no tax will be charged/ collected along with electricity bills. The Federal Government is empowered to issue income tax general order for implementing this scheme and to specify service providers eligible for this regime.</p>		Gross Amount of Monthly Bill	Tax (Rupees)	Where the amount does not exceed Rs. 30,000	3,000	Where the amount exceeds Rs. 30,000 but does not exceed Rs. 50,000	5,000	Where the amount exceeds Rs. 50,000 but does not exceed Rs. 100,000	10,000	Specified retailers and service providers through Income Tax General Order	200,000
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<p><b>Section 100C</b></p>	<p><b>Tax Credit for Charitable Organizations</b></p> <p>Institutions mentioned in Table II of Clause (66) of Part I of the Second Schedule are eligible for income tax exemption subject to certain conditions under section 100C, including an approval from the Commissioner as an NPO under section 2(36).</p>	<p>The waiver from requirement of NPO approval, currently available till June 30, 2022, has been extended up to June 30, 2023.</p>										

<p><b>Section 109.</b></p>	<p><b>Recharacterization of Income and Deductions</b></p> <p>The general Anti-avoidance provisions of section 109 have been amended with retrospective effect from tax year 2018 to empower the Commissioner to apply the concept of ‘cohesive business’ in cases of suspected tax avoidance. This reaffirms the position that the concept of cohesive business operation was only applicable where the activities were split by a non-resident person for tax avoidance purposes.</p> <p>As the concept of cohesive business operation was effective from tax year 2019, the amendment to take effect from tax year 2018 appears to be a mistake.</p>
<p><b>Section 111 (4A)</b></p>	<p><b>Unexplained Income or Assets</b></p> <p>The credit for income subject to final tax (such as exports) in the wealth statement or books of account of a taxpayer in excess of ‘imputable income’ will only be acceptable if the same is supported by financial statements audited by a Chartered Accountant and is reasonably attributable to such business.</p>
<p><b>Section 113.</b></p>	<p><b>Minimum Tax on the Income of Certain Persons</b></p> <p>The carry forward of unadjusted minimum tax credit (i.e., minimum tax paid in excess of normal tax liability) for subsequent five tax years has been reduced to three tax years.</p> <p>Furthermore, the rate of minimum tax in case of Oil Marketing Companies has been reduced to 0.5% from 0.75%.</p> <p>Further, for determining the applicability of minimum tax, super tax, levied on high earning persons, paid by a person is not to be taken into account.</p>
<p><b>114 B</b></p>	<p><b>Powers to Enforce Filing of Returns</b></p> <ol style="list-style-type: none"> <li>1. New Section 114B has been inserted, which states that the FBR shall have the powers to issue income tax general order in respect of persons who are not appearing on active taxpayers’ list but are liable to file return under the provisions of the Ordinance.</li> </ol>

	<p>2. The income tax general order issued under sub-section (1) may entail any or all of the following consequences for the persons mentioned therein, namely;</p> <ul style="list-style-type: none"> <li>• disabling of mobile phones or mobile phone SIMS;</li> <li>• discontinuance of electricity connection; or</li> <li>• Discontinuance of gas connection.</li> </ul> <p>3. The Board or the Commissioner having jurisdiction over the person mentioned in the income tax general order may order restoration of mobile phones, mobile phone SIMS and connections of electricity and gas, in cases where he is satisfied that;</p> <ul style="list-style-type: none"> <li>• the return has been filed; or</li> <li>• Person was not liable to file return under the provisions of the Ordinance.</li> </ul> <p>4. No person shall be included in the general order under sub-section (1) unless following conditions have been met with, namely;</p> <ul style="list-style-type: none"> <li>• notice under sub-section (4) of section 114 has been issued;</li> <li>• date of compliance of the notice under sub-section (4) of section 114 has elapsed; and</li> <li>• The person has not filed the return.</li> <li>• The action under this section shall not preclude any other action provided under the provisions of the Ordinance.</li> </ul>
<p><b>Section 121</b></p>	<p><b>Best Judgement Assessment</b></p> <p>The time limitation for passing a best judgement assessment has been enhanced from five to six years.</p>
<p><b>Section 122</b></p>	<p><b>Amendment of Assessments</b></p> <p>The time period of 120 days to pass an amendment order from the issuance of a show cause notice has been extended to 180 days.</p>
<p><b>Section 134A</b></p>	<p><b>Alternative Dispute Resolution</b></p> <p>Under the revamped procedure for ADR in all three fiscal laws, an aggrieved person may apply for resolution of a dispute pending before any court of law or appellate forum, through ADR mechanism in following case;</p>

	<p>a) Where the liability of tax is Rs 100 million or above or admissibility of refund;                  b) The extent of waiver of default surcharge &amp; penalty; or                  c) Any other specific relief required to resolve the dispute.</p> <p>However, any case where criminal proceedings have been initiated fall outside the purview of ADR mechanism.</p> <p>Previously, in case of a dispute where a mixed question of law and fact was involved, the FBR was empowered to examine as to whether ADR Committee should be constituted or not. This hindrance has been removed.</p> <p>Under the new mechanism, the taxpayer has a right to nominate a person from the panel notified by the FBR except where the relevant Chartered Accountant or an Advocate has been an authorised representative of the taxpayer.</p> <p>Furthermore, the taxpayer will have to withdraw his appeal for seeking relief under ADR.</p>	
<p><b>Section 148</b></p>	<p><b>Imports</b></p> <p>Previously, in case of goods imported by an industrial undertaking for own use, the advance tax on imports did not constitute minimum tax if the same were subjected to advance tax collection @ 1% or 2%. There were various items which were in the nature of raw material but were subjected to standard rate of 5.5%. The tax authorities were misinterpreting these provisions to deny the adjustability of tax collected @ 5.5%.</p>	<p>This regime has been amended and now the advance tax on raw materials imported by an industrial undertaking for own use will not be minimum tax irrespective of the applicable rate. However, advance tax on import of following items will be treated as minimum tax in respect of income arising from such Imports;</p> <p>a) Edible oil;                  b) Packaging material;                  c) Paper and paper board; or                  d) Plastics.</p>

<p><b>Section 154 &amp; 154A</b></p>	<p><b>Export of Services</b></p> <p><b>Indenting Commission</b> Rate of tax on indenting commission, remitted in foreign currency through banking channels, has been reduced from 5% to 1%.</p> <p><b>Income from IT &amp; IT Enabled Services</b> Income tax holiday upto tax year 2025 was available on income from export of software, IT services and IT enabled services. Through Tax Laws (Second Amendment) Ordinance, 2021, the said exemption was withdrawn and a concept of 100% tax credit was introduced as part of section 65F upto tax year 2025, subject to certain conditions. Taxpayers of the same sector who did not qualify for tax credit were being subjected to 1% withholding income tax on export proceeds under section 154A.</p> <p>With effect from July 1, 2022; 100% tax credit regime on export of software, IT services and IT enabled services has been withdrawn. Withholding tax under section 154A at 0.25% of export proceeds has been levied on the entire sector and such reduced rate of tax has been made conditional upon registration with Pakistan Software Export Board.</p>	
<p><b>Section 174</b></p>	<p><b>Records</b></p> <p>Through Finance Act, 2018, the provisions of section 111 were amended to empower the tax authorities to probe into the source of unexplained offshore assets and foreign source income irrespective of any limitation period.</p> <p>In relation to the above provision, the Appellate Tribunal held that the provisions of section 111 cannot be applied without any regard to the limitation period particularly when section 174 only requires a taxpayer to maintain his record for a period of six years.</p>	<p>Through Finance Act, 2022 section 174 has been amended to nullify the effect of such interpretation.</p>

**Section 175B  
 (New Section  
 Inserted)**
**National Database and Registration Authority (NADRA)**

1. The National Database and Registration Authority shall, on its own motion or upon application by the Board, share its records and any information available or held by it, with the Board, for broadening of the tax base or carrying out the purposes of the Ordinance.
2. The National Database and Registration Authority may
  - a) submit proposals and information to the Board with a view to broadening the tax base;
  - b) identify in relation to any person, whether a taxpayer or not
    - income, receipts, assets, properties, liabilities, expenditures, or transactions that have escaped assessment or are under-assessed or have been assessed at a low rate, or have been subjected to excessive relief or refund or have been misdeclared or misclassified under a particular head of income or otherwise;
    - the value of anything mentioned in sub-clause (a) of clause (ii), if such value is at variance with the value notified by the Board or the district authorities, as the case may be, or if no such value has been notified the true or market value; and
    - Enter into a memorandum of understanding with the Board for a secure exchange and utilization of a person's information.
3. The Board may use and utilize any information communicated to it by the National Database and Registration Authority and forward such information to an income tax authority having jurisdiction in relation to the subject matter regarding the information, who may utilize the information for the purposes of the Ordinance.
4. The National Database and Registration Authority may compute indicative income and tax liability of anyone mentioned under sub-sections (1) or (2) by use of artificial intelligence, mathematical or statistical modeling or any other modern device or calculation method.
5. The indicative income and tax liability computed by the National Database and Registration Authority under sub-section (4) shall be notified by the Board to the person in respect of whom such indicative income and tax liability has been determined, who shall have the option to pay the determined amount on such terms, conditions, installments, discounts, reprieves pertaining to penalty and default surcharge, and time limits that may be prescribed by the Board.
6. In case the person against whom a liability has been determined under sub-section (4), does not pay such liability within the time prescribed under sub-section (5), the Board shall take action under the Ordinance, upon the basis of tax liability computed under sub-section (4).

	<p>7. If the person against whom the liability has been determined under sub-section (4) pays such liability in terms of sub-section (5), such payment shall be construed to be an amended assessment order under section 120 or sub-section (1) of section 122 or sub-section (4) of section 122, as the case may be.</p> <p>8. For the purposes of sub-sections (4) and (5), the Board may prescribe the extent of installments, reprieves pertaining to penalty and default surcharge and time limits.</p>
<p><b>Section 182</b></p>	<p><b>Offenses &amp; Penalties</b></p> <p><b>Penalty for Non- Filing of Income Tax Return</b></p> <p>Serial No. 1 of table in subsection (1) of section 182 provides for penalty for non-filing of return of income within the time limit specified in law. Through the Finance Act, the following amendments have been made so as to ratify the amendments earlier introduced through Tax Laws (Third Amendment) Ordinance, 2021:</p> <ul style="list-style-type: none"> <li>• Higher of 0.1% of the tax payable for each day of default or Rs. 1,000 per day;</li> <li>• Maximum - 200% of tax payable;</li> <li>• Minimum - Rs. 10,000 if 75% or more is salary income and Rs. 50,000 in other cases</li> <li>• Amount of penalty reduced by 75%, 50% &amp; 25% in case return is filed within one, two &amp; three months respectively after the due date.</li> </ul> <p><b>Penalty for Non-Issuance of Prescribed Invoice Number or without QR Code</b></p> <p>Penal provisions have been introduced in law for persons who are integrated with FBR’s system but who avoid monitoring, tracking, reporting or recording of transactions or issued prescribed invoice without invoice number or QR code or bears duplicate invoice number or counterfeit QR code or defaces the prescribed invoice number or QR code or any person who abets commissioning of such offence. Such person shall pay a penalty of Rs. 500,000 or 200% of the amount of tax involved, whichever is higher.</p>

**Penalty for Failure to Integrate with FBR**

Penal provisions have also been introduced for any person who is required to integrate his business for monitoring, tracking, reporting or recording of sales, services and similar business transactions with the Board or its computerized system, and who fails to get himself registered under the Ordinance, and if registered, fails to integrate in the manner as required under law. Such person shall be liable to:

- Penalty up to Rs 1,000,000, and
- If the offence continues after a period of two months of imposition of penalty as aforesaid, his business premises shall be sealed till such time he integrates his business in the manner as stipulated under sub-section (3) of section 237A of the Ordinance, as the case may be.

**Penalty for not generating Fiscal Invoices**

A specific penalty provision has also been introduced for a person required to integrate his business in the prescribed manner for generating fiscal invoices as stipulated under sub-section (3) of section 237A of the Ordinance, who fails to get himself registered under the Ordinance, and if registered, fails to integrate in the manner as required under the law and rules made thereunder.

Such person shall be liable to penalty of:

- Rs 500,000 for first default, provided that such penalty shall be waived if business is integrated with in fifteen days of first default;
- Rs 1,000,000 for second default after fifteen days of order for first default;
- Rs 2,000,000 for third default after fifteen days of order for second default;
- Rs 3,000,000 for fourth default after fifteen days of order for third default;
- Sealing of business premises after fifteen days of fourth default.

<p><b>Section 214A</b></p>	<p><b>Condonation of Time Limit</b></p> <p>The FBR is empowered to extend the time limitation for any application to be made or any act or thing to be done. In this context, the Courts and Appellate Tribunal have interpreted that such powers cannot be exercised by the FBR once the limitation period for amendment proceedings has already elapsed.</p>	<p>In order to nullify the effect of such judgements, an amendment has been made in relevant provisions empowering the FBR to extend the time period even after the expiry of such period.</p>
<p><b>Section 236C</b></p>	<p><b>Advance Tax on Sale or Transfer of Immovable Property</b></p> <p>Currently, no advance tax is collected from the seller or transferor of immovable property in case the holding period is more than four years as the gain arising on such properties is not taxable.</p>	<p>The said holding period of four years has now been amended to six years for open plots, the advance tax provisions have been made applicable irrespective of the holding period.</p>
<p><b>Section 236I</b></p>	<p><b>Collection of Advance Tax by Educational Institutions</b></p> <p>Previously, advance tax was collected by educational institutions @ 5% on the amount of fee paid to such institutions subject to certain specific exclusions.</p>	<p>Through the Finance Act, 2022, the said provisions have been omitted, and resultantly, such advance tax collection is no longer required.</p>

<p><b>Section 236Q</b></p>	<p><b>Payment to residents for use of machinery and equipment</b></p> <p>Every prescribed person was previously required to deduct tax @ 10% on payment to a resident person for use or right to use industrial, commercial and scientific equipment, and on account of rent on machinery. The tax so deductible was considered as minimum tax on the income of such resident person.</p>	<p>Through the Finance Act, 2022, the said provisions have been omitted.</p>
<p><b>Section 236Y (New Section Inserted)</b></p>	<p><b>Advance Tax on Persons remitting amounts abroad through Credit or Debit or Prepaid Cards</b></p> <p>(1) Every banking company shall collect advance tax, at the time of transfer of any sum remitted outside Pakistan, on behalf of any person who has completed a credit card or debit card or prepaid card transaction with a person outside Pakistan at the rate specified in Division XXVII of Part IV of the First Schedule.</p> <p>(2) The advance tax collected under this section shall be adjustable.</p>	

## Tax Rates for Non-Salaried Individuals – Revised Rates

S#	FIRST SCHEDULE Taxable Income	Rate of Tax
1.	Where taxable income does not exceed Rs.600,000/-	0%
2.	Where taxable income exceeds Rs. 600,000 but does not exceed Rs. 800,000	5% of the amount exceeding Rs. 600,000
3.	Where taxable income exceeds Rs. 800,000 but does not exceed Rs. 1,200,000	Rs. 10,000 + 12.5% of the amount exceeding Rs.800,000
4.	Where taxable income exceeds Rs.1,200,000 but does not exceed Rs. 2,400,000	Rs.60,000 + 17.5% of the amount exceeding Rs.1,200,000
5.	Where taxable income exceeds Rs.2,400,000 but does not exceed Rs. 3,000,000	Rs. 270,000 + 22.5% of the amount exceeding Rs.2,400,000
6.	Where taxable income exceeds Rs.3,000,000 but does not exceed Rs. 4,000,000	Rs.405,000 + 27.5% of the amount exceeding Rs.3,000,000
7.	Where taxable income exceeds Rs.4,000,000 but does not exceed Rs. 6,000,000	Rs. 680,000 + 32.5% of the amount exceeding Rs.4,000,000
8.	Where taxable income exceeds Rs.6,000,000	Rs. 1,330,000 + 35% of the amount exceeding Rs.6,000,000.

**Tax Rates for Salaried Individuals – Revised Rates**

#	Taxable Income	Rate of Tax
1.	Where taxable income does not exceed Rs. 600,000	Rs. 0
2.	Where taxable income exceeds Rs.600,000 but does not exceed Rs.1,200,000	2.5% of the amount exceeding Rs. 600,000
3.	Where taxable income exceeds Rs.1,200,000 but does not exceed Rs.2,400,000	Rs. 15,000 + 12.5% of the amount exceeding Rs.1,200,000
4.	Where taxable income exceeds Rs.2,400,000 but does not exceed Rs.3,600,000	Rs. 165,000 + 20% of the amount exceeding Rs.2,400,000
5.	Where taxable income exceeds Rs.3,600,000 but does not exceed Rs.6,000,000	Rs. 405,000 + 25% of the amount exceeding Rs.3,600,000
6.	Where taxable income exceeds Rs.6,000,000 but does not exceed Rs.12,000,000	Rs. 1,005,000 + 32.5% of the amount exceeding Rs.6,000,000
7.	Where taxable income exceeds Rs.12,000,000	Rs. 2,955,000 + 35% of the amount exceeding Rs. 12,000,000

### Tax Rates for Companies

Type of Company	Rate of Tax
Small company	20%
Banking company	39%
Any other company	29%.”.

### Tax Rates on Disposal of Securities

S.No	Holding Period	Rate of Tax for Tax year 2023 and onwards
1.	Where the holding period does not exceed one year	15%
2.	Where the holding period exceeds one year but does not exceed two years	12.5%
3.	Where the holding period exceeds two years but does not exceed three years	10%
4.	Where the holding period exceeds three years but does not exceed four years	7.5%
5.	Where the holding period exceeds four years but does not exceed five years	5%
6.	Where the holding period exceeds five years but does not exceed six years	2.5%
7.	Where the holding period exceeds six years	0%
8.	Future commodity contracts entered into by members of Pakistan Mercantile Exchange	5%:

For securities (other than future commodity contracts entered into by members of Pakistan Mercantile Exchange):

- a) the above-referred revised rates shall apply on disposal of securities acquired on or after July 1, 2022; and
- b) rate of 12.5% shall apply on disposal of those securities which were acquired on or before June 30, 2022 irrespective of holding period.

Previously, in respect of Mutual Fund or Collective Investment Scheme or a REIT scheme, no capital gains tax was deductible if the holding period of the security was more than 4 years. Through Finance Act, such holding period has now been increased to 6 years.

**Tax to be Deducted on Proceeds from Export of Services**

S.No.	Types of Receipts	Rate of Tax
1.	Export proceeds of Computer software or IT services or IT Enabled services by persons registered with Pakistan Software Export Board	0.25% of proceeds
2.	Any other case	1% of proceeds

**Advance Tax on Passenger Transport Vehicles**

S.No	Capacity	Rs. per seat per annum Non-Air Conditioned	Rs. per seat per annum Air Conditioned
1.	4 or more persons but less than 10 persons	500	1000
2.	10 or more persons but less than 20 persons	1500	2000
3.	20 persons or more	2500	4000”;

**Advance Tax on Passenger Transport Vehicles**

S.No	Engine Capacity	Tax
1.	Upto 850 cc	Rs.10,000
2.	851cc to 1000cc	Rs.20,000
3.	1001cc to 1300cc	Rs.25,000
4.	1301cc to 1600cc	Rs.50,000
5.	1601cc to 1800cc	Rs.150,000

6.	1801cc to 2000cc	Rs.200,000
7.	2001cc to 2500cc	Rs.300,000
8.	2501cc to 3000cc	Rs.400,000
9.	Above 3000cc	Rs.500,000

The Act has also imposed advance tax of Rs. 20,000 on transfer of motor vehicles of unspecified engine capacity (e.g. electric vehicles) having value of Rs. 5 million or more. The said rate of Rs. 20,000 shall be reduced by 10% each year from the date of first registration in Pakistan.

For the purposes of tax collection under section 231B, the definition of ‘motor vehicles’ has been amended and now defined to include car, caravan automobiles, jeep, limousine, pickup, sports utility vehicle, trucks, vans, wagon and any other automobile excluding:

- a) a motor vehicle used for public transportation, carriage of goods and agriculture machinery;
- b) a rickshaw or a motorcycle rickshaw and
- c) any other motor vehicle having engine capacity upto 200cc.;

### **Advance Tax on Transfer of Immovable Property**

Advance tax required to be collected from the buyer and seller of immovable property has been increased from 1% to 2% of the fair market value.

### **Advance Tax on Advertisement**

<b>Sr. #</b>	<b>Description</b>	<b>Rate of Tax</b>
1.	Foreign-produced TV drama serial or play	Rs.1,000,000 per episode
2.	Foreign-produced TV play (single episode)	Rs.3,000,000
3.	Advertisement starring foreign actor	Rs.100, 000 per second

### SECOND SCHEDULE

#### **WITHDRAWAL OF TAX EXEMPTIONS - [Clauses (5) & (23B) of Part I]**

The legislature has withdrawn tax exemptions in respect of following incomes:

- a) Receipt of monthly instalment from income payment plan invested out of accumulated balance of specified individual pension accounts or approved annuity plan;
- b) Allowance/ perquisite paid or allowed outside Pakistan by Government to a Pakistani citizen for rendering services outside Pakistan.

#### **RATIONALIZATION OF EXEMPTION FOR COLLECTIVE INVESTMENT SCHEMES OR REIT SCHEMES [Clause (99) of Part I]**

The Collective Investment Schemes or REIT Scheme are entitled to income tax exemption subject to distribution of 90% of accounting income, excluding capital gains, amongst the unit/ certificate holders. Through the Act, adjustment of 'accumulated loss' against 'accounting income' has been allowed for the purposes of meeting the specified criteria. The above amendment is aimed at addressing the impracticality associated with profit distribution by the Schemes, who having incurred accounting losses in previous tax years are not able to meet the said exemption criteria owing to lower retained earnings/ accumulated profits.

#### **TAX EXEMPTION FOR SIYAHKALEM ENGINEERING CONSTRUCTION AND TRADE COMPANY LIMITED ('SECTCL) [Clause (150) of Part I]**

Income derived by SECTCL from contract dated May 23, 2017 entered into with Earthquake Reconstruction and Rehabilitation Authority has been exempted from tax, with effect from tax year 2017.

#### **EXEMPTION OF INCOME OF CINEMA OPERATIONS AND PRODUCTION OF FEATURE FILMS [Clauses (151) & (153) of Part I]**

Income from cinema operations has been exempted from tax for a period of five years from commencement of cinema operations. Further profits and gains derived by a resident producer or production house from production of feature films have been exempted from tax upto June 30, 2027.

#### **EXEMPTION OF PROFITS AND GAINS BY A VENTURE CAPITAL COMPANY AND FUND [Clause (152) of Part I]**

Profits and gains derived by a venture capital companies and venture capital funds were exempted from levy of tax upto June 30, 2024 which exemption was withdrawn through Finance Act, 2021. Such exemption has now been restored with its validity also extended to June 30, 2025.

#### **REDUCED RATE OF WITHHOLDING TAX IN CASE OF SUPPLIES OF GOLD & SILVER [Clause (31) of Part II]**

A reduced rate of withholding tax of 1%, applicable under section 153, has been prescribed in respect of supplies of gold and silver which is also 'adjustable'.

### **REDUCED RATE OF MINIMUM TAX AND WITHHOLDING TAX IN CASE OF CERTAIN PERSONS [Clause (24C) & (24D) of Part II]**

Through the Tax Laws (Third Amendment) Ordinance, 2021, rate of ‘turnover tax’ (leviable under section 113 of the Ordinance) and ‘withholding tax’ (deductible on supply of goods) was reduced to 0.25% in case of distributors, dealers, sub-dealers, wholesalers and retailers of ‘steel’. Now, such amendments have been ratified by the Parliament.

### **TAX CONCESSION ON PROFIT ON CERTAIN INVESTMENTS [Clause (6) of Part III]**

The rate of tax on profit from investment in Bahbood Savings Certificate or Pensioners Benefit Account and Shuhada Family Welfare Account has been further reduced from 10% to 5%.

### **WITHDRAWAL OF EXEMPTION FROM MINIMUM TAX IN CASE OF SEZ DEVELOPERS AND ENTITIES [Clause (11A) of Part IV]**

Exemption from levy of minimum tax under section 113 of the Ordinance available to entities operating from and developers of special economic zones has been withdrawn. This is in contrast with exemption provided in SEZ legislation and thus litigation may ensue in this respect.

### **EXEMPTION FROM MINIMUM TAX TO LOCAL MOBILE PHONE MANUFACTURERS [Clause (11A) of Part IV]**

Exemption from levy of minimum tax under section 113 of the Ordinance earlier introduced in the case of local mobile phone manufacturers through Tax Laws (Third Amendment) Ordinance, 2021 has now been ratified through the Act.

### **EXEMPTION FROM APPLICABILITY OF TAX ON IMPORTS [Clauses (12BA), (12O) & (12P) of Part IV]**

Exemptions earlier notified by the FBR in respect of collection of income tax on import of following items are now enacted through the Act:

- (i) Thirty million adult 3xPly Knit face masks received as humanitarian assistance from M/s Hanes Brands Inc. North Carolina, USA, for distribution within the population of Lahore Division, Govt of Punjab – SRO No. 1009(I)/2021 dated August 9, 2021; and
- (ii) (ii) Drones donated by Ministry of Agriculture and Rural Affairs, Government of China to Pakistan through Sea Route – SRO No. 1407(I)/2021 dated October 29, 2021.

Further, import of cinematographic equipment as notified by the Federal Government is also exempted from collection of advance tax at import stage.

### **EXEMPTION FROM WITHHOLDING OF TAX ON PAYMENTS TO DISTRIBUTOR, PRODUCER OR IMPORTER OF FEATURE FILMS [Clause (43H) of Part IV]**

Withholding of tax on payments made by an exhibitor or distributor of a feature film to producer, importer or intermediary distributor has been exempted.

### **EXEMPTION FROM WITHHOLDING PROVISIONS IN CASE OF CERTAIN EXEMPT ENTITIES [Clause (120) of Part IV]**

Entities/persons qualifying for exemption under Table I of Clause 66 of Part I of Second Schedule are exempted from applicability of withholding provision in respect of their receipts.

**IMMUNITY FROM AUDIT [Clause (105A) of Part IV]**

A person, whose income tax affairs have been audited in any of the preceding four tax years, has been granted immunity from selection of audit by the Commissioner as well as Board. Nevertheless, the Commissioner would remain empowered to select such cases for audit with Board’s approval.

**INAPPLICABILITY OF ENHANCED RATE OF TAX COLLECTION ON SALE/ PURCHASE OF IMMOVABLE PROPERTY BY OVERSEAS PAKISTANIS**

**[Clause (111AC) of Part IV]**

A person whose name is not appearing in ‘Active Taxpayers List’ is liable to withholding/ collection of taxes at double the prescribed rates. Since, names of overseas Pakistanis, not being liable to tax filing in Pakistan, do not appear in Active Taxpayers List, such provisions meant that they were liable to enhanced amounts of tax collection while buying/ selling properties in Pakistan. Such enhanced rates of tax collection on sale/ purchase of properties, applicable under Tenth Schedule, are now made inapplicable for overseas Pakistanis, having POCs and NICOPS.

**SEVENTH SCHEDULE – Taxation of Banking Companies**

For tax year 2023 and onwards, the general rate of tax applicable to the taxable income of banking companies has been enhanced from 35% to 39%. The applicable rate of super tax has been explained in earlier part of this Memorandum under Section 4C. Through the Finance Act, 2021, for tax year 2022 onwards, higher rates of tax were prescribed for the banking companies in respect of the taxable income attributable to investment in the Federal Government Securities. Such rates have now been enhanced for tax year 2022 and onwards in the following manner:

<b>Gross advances to deposit ratio as on the last day of the tax year</b>	<b>Rates prior to Finance Act, 2022</b>	<b>Substituted through Finance Act, 2022</b>
Upto 40%	40%	55%
Exceeding 40% but not exceeding 50%	37.5%	49%
Exceeding 50%	35% (tax year 2022 onwards)	35% (tax year 2022) 39% (tax year 2023 onwards)

In this respect, an explanation has also been added to clarify that these tax rates are applicable to total income attributable to total investment in Federal Government securities.

## TENTH SCHEDULE

Through the Finance Act, 2019, rules for persons not appearing on the Active Taxpayers List [‘ATL’] were introduced by way of Tenth Schedule whereby the rates of tax required to be deducted or collected were increased by 100% of the rates prescribed under the law, with few exceptions. The said regime was in continuation of the concept of filer and non-filer under the Income Tax laws.

Through the Act, the tax required to be collected in respect of the following sections are enhanced in the manner given below if the person is not appearing on the ATL:

Description	Rate of withholding tax enhanced by
Advance Tax on Private Motor Vehicle (under section 231B)	200%
Advance tax on purchase or transfer of immovable property (under section 236K)	250%

Moreover, tax withholding in respect of export of services (under section 154A) has been included in the ‘exception list’ (Rule 10) and, thus, the provisions relating to enhanced withholding tax would not apply in such cases.

**AMMENMENTS IN SALES TAX ACT, 1990**

SECTION / CLAUSE	BEFORE AMENDMENT	AFTER AMENDMENT
<p><b>Section 2 (12) &amp; 2(33)</b></p>	<p><b>Definition of “Goods” &amp; “Supply”</b></p> <p>Previously words “Production, Transmission &amp; Distribution of Electricity” were not included in Definition of Goods &amp; Supply.</p>	<p>“Production, Transmission and Distribution of Electricity” has been included in the definitions of ‘Goods’ as well as ‘Supply’. The amendment appeared to reaffirm the Federal Government’s stance that such activities fall within the purview of their legislative competence rather than Provincial domain. The amendment attempts to address an issue between federal government and provinces on their rights to tax such activities under their sales tax laws. However, it would have been appropriate if the amendment is made with consensus, and under all the relevant sales tax laws.</p>
<p><b>Sec 2 (29A)</b></p>	<p><b>Definition of “Sales Tax”</b></p> <p>Section 76 was inserted through Finance Act, 2019 to empower Board, with approval of the Federal Minister-in-charge, to impose fee and service charges for valuation in respect of any other service or control mechanism provided by the Board.</p>	<p>Such fee and service charges imposed or levied under section 76 have been excluded from the definition of ‘sales tax’. A similar amendment has also been made in the Federal Excise Act.</p>
<p><b>Sec 2 (43A)</b></p>	<p><b>Definition of “Tier-1 retailer”</b></p> <p>The scope of definition of the term ‘Tier-1 retailer’ has been enhanced to include a person engaged in supply of articles of jewelry or parts thereof, of precious metal excluding a person whose shop area measures 300 square feet in area or less. Consequently, such persons are now required to integrate their retail outlets with Board’s computerized system for real-time reporting of sales to avoid disallowance of input tax by 60%. Further, supply of locally manufactured articles of jewelry, or parts thereof, of precious metal or of metal clad with precious metal by such person will be chargeable at 3% subject to the condition that no input tax adjustment shall be allowed.</p>	

	<p>Consequently, failure to integrate with Board’s computerized system for real-time reporting of sales will not result in disallowance of input tax since the input tax adjustment is otherwise barred. However, a penalty up to Rs 1 million will be imposed if business is not integrated and if the non-integration continues after a period of two months, business premises may be sealed till such integration.</p>	
<b>Sec 2 (46)</b>	<p><b>Definition of “Value of Supply”</b></p> <p>It has been clarified that value of supply will not include the amount of subsidy provided by the Federal Government or Provincial Government to the electricity consumer and has never been chargeable to tax under the Sales Tax Act, 1990. The amendment appears to refute the department’s position on the chargeability of sales tax on government subsidy to the electricity consumers.</p>	
<b>Sec 3 (1A)</b>	<p><b>Further Tax</b></p> <p>Presently, further tax is chargeable @ 3% (in addition to applicable rate), if taxable supplies are made to a person who has not obtained registration number.</p>	<p>Finance Act, 2022 provides that further tax would also be chargeable on taxable supplies made to a person who is not an active taxpayer. Under Sales Tax Act, 1990, a registered person may be delisted from Active Taxpayers List under following circumstances.</p> <ul style="list-style-type: none"> <li>• Blacklisted or whose registration is suspended;</li> <li>• Does not file the return by the due date for two consecutive tax periods;</li> <li>• fails to file an Income Tax return by due date;</li> <li>• fails to file income tax withholding statement.</li> </ul> <p>In order to apply the amended provisions, FBR may need to amend its online portal to account for situation where a registered person may be active taxpayer, but not at the time of filing of sales tax return, or for a vice versa situation.</p>
<b>Sec 3 (7)</b>	<p><b>Sales Tax Withholding &amp; Online Market Place</b></p> <p>It has been clarified that the services liable to sales tax under a provincial enactment will not attract sales tax withholding implications under the Sales Tax Act, 1990.</p> <p>Further, the companies, as defined under the Income Tax Ordinance, 2001, engaged in exporting surgical instruments are no longer required to withhold sales tax since these have been excluded from withholding agent enlisted in the Eleventh Schedule to the Sales Tax Act, 1990.</p>	

	<p>With effect from September 15, 2021, an operator of online marketplace is liable to withhold sales tax at 2% of gross value of supplies in the case of sale of third party’s goods through such online marketplace where suppliers are not active taxpayers. Such provision was introduced earlier through the Tax Laws (Third Amendment) Ordinance, 2021 WHICH has now been ratified through Finance Act, 2022. Further, operator of online marketplace is now required to withhold sales tax at 1% (previously 2%).</p>	
<p><b>Sec 3 (9)</b></p>	<p><b>Fixed Tax on other than Tier -1 Retailers</b></p> <p>Earlier, retailers other than those falling in Tier-1, were subject to collection of sales tax by the electricity supplier @ 5% where the monthly bill did not exceed Rs 20,000 and @ 7.5% where the monthly bill exceeded Rs 20,000.</p>	<p>Now, collection of sales tax by the electricity supplier from such retailers is provided as under:</p> <ul style="list-style-type: none"> <li>• Rs 3,000 per month where the monthly bill amount does not exceed Rs 30,000;</li> <li>• Rs 5,000 per month where the monthly bill amount exceeds Rs 30,000 but does not exceed Rs 50,000; and</li> <li>• Rs 10,000 per month where the monthly bill amount exceeds Rs 50,000.</li> </ul> <p>It has been further provided that above rates of tax shall be increased by 100% if the name of the person is not appearing, on the date of issuance of monthly electricity bill, in the Active Taxpayers List issued under the Income Tax Ordinance, 2001.</p> <p>Sales tax so collected would represent final discharge of income tax of such retailers. For that purpose, corresponding amendment has been made in the Income Tax Ordinance, 2001.</p> <p>FBR has been empowered to prescribe, through a general order, persons or class of persons to pay Rs 200,000 per month through their monthly electricity bill.</p>
<p><b>Sec 6</b></p>	<p><b>Time and Manner of Payment.</b></p> <p>The Federal Government has been empowered to allow payment of sales tax in respect of import or supply of any goods on installment basis by:</p> <ul style="list-style-type: none"> <li>(i) Federal Government;</li> <li>(ii) Provincial Governments; or</li> <li>(iii) any public sector organization</li> </ul> <p>Such payment of sales tax on installment basis may be allowed by the Federal Government from any previous date.</p>	

<p><b>Sec 8 (1)</b></p>	<p><b>Tax credit not allowed</b> Claim of admissible input tax in a tax period is restricted to the extent of 90% of the output tax for that period under section 8B of the Act barring certain exceptions.</p> <p>Through Finance Act, 2021, a positive amendment was made to exclude public limited companies listed on the Pakistan Stock Exchange. There was a demand from corporate sector then such benefit be extended to all the companies, as input tax under the STRIVE System is allowed where supplies has paid the sales tax, and now there are lesser chances of factionary claims at least in corporate sector.</p>	<p>However, Finance Act, 2022, instead of extending the exclusion of section 8B to corporate sector has withdrawn such benefit from listed companies.</p>
<p><b>Sec 14AB (New Section Inserted)</b></p>	<p><b>Discontinuance of Gas and Electricity Connections</b></p> <p>Notwithstanding anything contained in this Act or any other law for the time being in force, the Board shall have power through Sales Tax General Order to direct the gas and electricity distribution companies for discontinuing the gas and electricity connections of any person who fall in the following categories, namely;</p> <ul style="list-style-type: none"> <li>a) Any person, including tier-1 retailers, who fail to register for sale tax purpose or</li> <li>b) Notified tier-1 retailers registered but not integrated with the Board’s Computerized System</li> </ul> <p>Provided that upon registration or integration, as the case may be, of the above said persons, the Board shall notify the restoration of their gas or electricity connection through Sales Tax General Order.</p>	
<p><b>Sec 23 (1)</b></p>	<p><b>Tax Invoice</b></p> <p>Through Finance Act, 2019 the requirement to include CNIC / NTN on tax invoice issued for supplies to unregistered persons was introduced, primarily for documentation of economy.</p>	<p>Through the Finance Act, 2022 the said requirement has now been restricted to supplies by manufacturer or importer to unregistered distributor. If such requirement is violated, then input tax on goods/ services attributable to such supplies will be disallowed on pro-rata basis.</p>

<p><b>Section 33</b></p>	<p><b>Penalties</b> Defacing the prescribed invoice number or the barcode or QR code has been introduced as an offence subject to levy of penalty of higher of Rs 500,000 or 200% of the amount of tax involved. Upon conviction by a Special Judge, a simple imprisonment for a term which may extend to two years, or with additional fine which may extend to two million rupees, or with both may also be imposed. Any person who abets commissioning of such offence has also been made liable, upon conviction by a Special Judge, to simple imprisonment for a term which may extend to one year, or with additional fine which may extend to two hundred thousand rupees, or with both. Certain penalties were introduced through Tax Laws (Third Amendment) Ordinance, 2021 on failure of Tier-1 retailers to register and integrate business which have now been ratified in the Act.</p>
<p><b>Section 33A</b></p>	<p><b>Criminal Proceedings</b> The powers of the FBR to prescribe rules for initiating criminal proceedings against any specified authority for wilful or deliberate acts/omissions resulting in personal benefits and undue advantage to authority, person or taxpayer have been withdrawn. Earlier, the FBR was empowered to this effect through Finance Act, 2019.</p>
<p><b>Sec 47A</b></p>	<p><b>Alternative Dispute Resolution.</b>  The ADR mechanism provided in Sales Tax law has been revamped in line with the amended mechanism provided in the Income Tax &amp; Federal Excise laws.</p>
<p><b>Fifth Schedule</b></p>	<p><b>Zero Rating</b>  <b>Fat Filled Milk</b> Zero rating of fat filled milk sold in retail packing under a brand name has been ratified which was earlier introduced through Tax Laws (Third Amendment) Ordinance, 2021. Consequently, withdrawal of reduced rate @10% has also been ratified.  <b>Plant &amp; Machinery</b> Zero rating on local supplies of raw materials, components, part and plant and machinery to registered exporters authorized under Export Facilitation Scheme, 2021 notified by the Board with certain conditions has been reintroduced which was earlier withdrawn through Finance (Supplementary) Act, 2022.</p>

## SIXTH SCHEDULE – EXEMPTIONS

Sales tax exemption on import or local supply of globe artichoke, a flower bud used mostly for medication, is withdrawn. Consequently, import or supply of such items shall be subject to levy of sales tax at 17%.

Through Finance (Supplementary) Act, 2022, exemption on import or supply of books was restricted to only educational textbooks which was earlier available to all kinds of books. Through Finance Act, 2022 the prior position has been restored and import or supply of all kinds of books have been exempted.

Import of art card by Federal Government, Provincial Government and Nashiran-e-Quran for printing of Holy Quran as per the quota determined by Input/output Co-efficient Organisation (IOCO) has also been exempted by Finance Act, 2022.

In addition to above, following exemptions on import or supply are introduced:

Sr. No	Description	Comments
163	Goods imported by various agencies of United Nations, diplomats, diplomatic missions, privileged persons and privileged organizations which are covered under various Acts and orders, rules and regulations subject to certain conditions with effect from January 15, 2022	The exemption was earlier omitted through Finance (Supplementary) Act, 2022 WHICH has now been restored with effect from the date of its earlier omission
163	Goods imported by various agencies of United Nations, diplomats, diplomatic missions, privileged persons and privileged organizations which are covered under various Acts and orders, rules and regulations subject to certain conditions with effect from January 15, 2022	The exemption was earlier omitted through Finance (Supplementary) Act, 2022 WHICH has now been restored with effect from the date of its earlier omission
164	Photovoltaic cells whether or not assembled in modules or made up into panels	New insertion

165	Goods imported by or donated to hospitals run by non-profit institutions subject to certain conditions	Similar exemption was available to hospitals run by federal / provincial governments and certain non-profit making institutions prior to the omission of Serial No 52 by the Finance (Supplementary) Act, 2022. Now the same has been restored for non-profit making institutions only
166	Goods excluding electricity and natural gas supplied to hospitals run by the charitable hospitals of fifty beds or more	Prior to omission of serial No 52A by the Finance (Supplementary) Act, 2022 similar exemption was available to hospital run by specified person including charitable hospitals of 50 beds or more. Now the same has been restored to charitable hospitals of fifty beds or more
167	Goods temporarily imported, meant for subsequent exportation, charged to zero rate of customs duty subject to certain conditions	Prior to omission of serial No 57 by the Finance (Supplementary) Act, 2022 similar exemption was available which has been restored
168	Fertilizers	Fertilizers are now exempt from levy of sales tax. Earlier, it was subject to sales tax at 2% of retail price
169	Oil cake and other solid residues	The exemption was earlier omitted through Finance (Supplementary) Act, 2022 WHICH has now been restored
170	Tractors	To encourage and promote the agriculture sector, exemption is introduced. Earlier, it was chargeable to sales tax @ 5% under Eighth Schedule to the Act.
171	Seeds for sowing	Exemption has been restored which was earlier withdrawn through the Finance (Supplementary) Act, 2022
172	Machinery, equipment and materials imported either for exclusive use within the limits of Export Processing Zone or for making exports therefrom, and goods imported for warehousing purpose in Export Processing Zone, subject to certain conditions	Exemption has been restored which was earlier withdrawn through the Finance (Supplementary) Act, 2022 through omission of Serial No 102
173	Goods produced or manufactured in and exported from Pakistan which are subsequently imported in Pakistan within one year of their exportation, provided condition of section 22 of the Customs Act, 1969 are complied with	Exemption has been restored which was earlier withdrawn through the Finance (Supplementary) Act, 2022

174	Machinery and equipment as listed at serial No 32 of the Table of Part-I of Fifth Schedule to the Customs Act, 1969 subject to specified conditions	New insertion
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**Table-2 (local supply only)**

Local supply of prepared food or foodstuff by restaurants and caterers is exempted. Earlier, such supplies were taxable at the reduced rate of 7.5%, which was omitted vide Finance (Supplementary) Act, 2022 and made chargeable to sales tax at the standard rate of 17%.

The supply of food is a good or service has been a matter of dispute between Federal and Provincial Governments. While recently there has been underlining between Federal and Provincial Governments on jurisdiction for collection of sales tax on certain economic activities, amongst which included

collection of sales tax on supply of food by Province, the amendment made by Finance Act, 2022 for allowing exemption (instead of excluding the same from the ambit of supply / goods) indicates that Federal Government does not want to concede its legal position.

Exemption from levy of sales tax on vermicillies, sheer mal, bun and rusk sold in restaurants or food chains has been introduced. Local supply of these items by bakeries and sweet shops falling in the category of Tier-1 retailers will remain taxable.

Exemption from levy of sales tax on ‘All types of breads, nans and chapattis’ has been introduced.

Earlier, such exemption was not available on supply made by bakeries, restaurants, food chains and sweet shops falling in the category of Tier-1 retailers.

Exemption from levy of sales tax on raw hides and skins has been introduced.

**Table-3 (Conditional Exemptions for power sector)**

In order to encourage investment in and facilitate expansion of existing projects of power sector, the import of machinery equipment and spares has been exempted from sales tax. The under-construction projects in respect whereof an implementation agreement has been signed with the Federal Government, prior to January 15, 2022, is also entitled to such exemption.

Further, construction machinery, equipment and specialized vehicles, excluding passenger vehicles, imported on temporary basis as required for the construction projects of power sectors has also been exempted from sales tax on submission of a post-dated cheque for the differential amount of sales tax along with an undertaking to pay sales tax at statutory rates in case such goods are not re-exported on conclusion of the project.

The exemption is also made available to primary contractors subject to the fulfilment of following conditions:

- Submission of the underlying contract;
- Submission of certificate by the chief executive officer of the contracting company on the prescribed format; and
- Goods shall not be disposed of without the prior approval of FBR on payment of sales tax leviable at import stage.

Similar exemption was earlier available to projects for power generation through oil, gas, coal, wind and wave energy which was withdrawn through the Finance (Supplementary) Act, 2022.

### **EIGHTH SCHEDULE – REDUCED RATES**

#### **Supply of Locally Produced Coal**

Supply of locally produced coal is now chargeable to sales tax at higher of 17% ad valorem or Rs 700 per metric tonne. Earlier, it was chargeable to sales tax at higher of 17% ad valorem or Rs 425 per metric tonne.

#### **Import of Electric Vehicle in CBU condition**

To discourage the import of vehicle in CBU condition, import of electric vehicle in CBU condition is chargeable to sales tax at 17%. Earlier, the import of electric vehicle in CBU condition was subject to levy of sales tax at reduced rate of 12.5% introduced through Finance (Supplementary) Act, 2022. However, import of electric vehicle in CBU condition of 50 kwh battery or below is still subject to sales tax at 12.5%. In addition, EV transport buses of 25 seats or more in CBU condition are now subject to sales tax at 1%.

#### **Import and Supply of Potassium Chlorate**

Import and supply of Potassium Chlorate is chargeable to sales tax @ Rs 60/kg in addition to the sales tax charged @ 17%. Earlier, the rate of ‘additional’ sales tax was Rs 90/kg.

### **PHARMA SECTOR - (S. No. 81 & 82 in Table I in Eighth Schedule)**

Prior to the amendments made through the Finance (Supplementary) Act, 2022, the entire pharma sector was exempt from levy of sales tax both at input as well as output stage, except for certain packing materials.

The aforesaid exemption regime was converted into a zero-rating regime for import and local supplies for finished items of pharma sector, however, sales tax was imposed at standard rate of 17% on purchase / import of Active Pharmaceutical Ingredients (API). As a result, the pharma sector was allowed to claim sales tax refund on all purchases including APIs and provincial sales tax on services. A faster – pharma system for expeditious processing of refund claims for pharma sector was introduced.

These amendments were made with the aim to improve documentation of the pharma sector. A special tax regime for Pharma Sector has now been introduced whereby manufacture or import of substances registered as drugs under the Drugs Act, 1976 shall be subject to 1% sales tax with the condition that such tax shall be final discharge of tax in the supply chain and no input tax shall be allowed to the importer and manufacturer of such goods.

Furthermore, APIs, excluding excipients, for manufacture of drugs registered under the Drugs Act, 1976 or raw materials for the basic manufacture of Active Pharmaceutical Ingredients shall also be subject to 1% sales tax with no input tax adjustment and subject to certification by DRAP and certain procedural conditions.

### **TWELFTH SCHEDULE**

#### **Value addition tax on imports**

Import of following items even if imported as raw material or intermediary goods by a manufacturer for in-house consumption is now chargeable to value addition tax at 3% on Compressor scrap, Motor scrap and Copper cable cutting scrap. Earlier such items were excluded from the levy of value addition tax.



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