



EY Ford Rhodes
Budget Briefing
2021



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BUDGET BRIEFING 2021

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Budget Briefing

This Memorandum has been prepared as a general guide for the benefit of our clients and is available to other interested persons upon request. This should not be published in any manner without the Firm's consent. This is not an exhaustive treatise as it sets out interpretation of only the significant amendments proposed by the Finance Bill, 2021 (the Bill) in the Income Tax Ordinance, 2001 (the Ordinance), the Sales Tax Act, 1990 (the ST Act), the Customs Act, 1969 (the Customs Act) and the Federal Excise Act, 2005 (the FE Act) in a concise form sufficient enough to amplify the important aspects of the changes proposed to be made. FBR means the Federal Board of Revenue, Government of Pakistan.

Changes of consequential, administrative, procedural or editorial in nature have either been excluded from these comments or otherwise dealt with briefly.

The amendments proposed by the Bill after having been enacted as the Finance Act, 2021, shall, with or without modification, become effective from the tax year 2022, unless otherwise indicated.

It is suggested that the text of the Bill and the relevant laws and notifications, where applicable, be referred to in considering the interpretation of any provision. Since these are only general comments, no decision on any issue be taken without further consideration and specific professional advice should be sought before any action is taken.

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KARACHI: 12 June 2021

Budget at a glance**Budget financials**

The enclosed table depicts key budget financials.

Descriptions	2020-21 Revised	2021-22 Budget	Variance %
	Rs. in Billion		
Tax revenue	4,963	5,829	17%
Non-tax Revenue	1,610	2,080	29%
Gross Revenue	6,573	7,909	20%
Less: Transfer to Provinces	(2,874)	(3,412)	19%
Net Revenue for Federal Government	3,699	4,497	22%
Expenditure			
- Current expenditures	6,346	7,523	19%
- Development expenditures	791	964	22%
	7,137	8,487	19%
Deficit	(3,437)	(3,990)	16%
Financing			
External financing	810	1,246	54%
Domestic financing	2,527	2,492	-1%
Privatization proceeds	100	252	152%
	3,437	3,990	16%

Sources: Budget in Brief (<http://www.finance.gov.pk>)

Budget at a glance**Break up of tax revenue**

For the period 2021-22, tax revenues estimated to contribute around 74% of revenue receipts. The largest contribution is expected to be achieved from indirect taxes, which is estimated around 46% of revenue. Furthermore, Budget estimates show overall increase of PKR 1,138 billion and PKR 375 billion in tax revenue and non-tax revenue respectively.

Descriptions	2020-21 Revised	2021-22 Budget	Variance %
	Rs. in Billion		
Direct Taxes			
Taxes on income	1,780	2,172	22%
Worker's Welfare Fund*	7	8	12%
Worker's Profit Participation Fund*	1	2	12%
Capital Value Tax (CVT)*	1	1	12%
	1,789	2,182	22%
Indirect Taxes			
Customs Duties	700	785	12%
Sales Tax	1,927	2,506	30%
Federal Excise Duties	275	356	29%
	2,902	3,647	26%
Total Tax Revenue	4,691	5,829	24%
Non Tax Revenue			
Levies and fees*	18	30	60%
Income from property and enterprise	177	266	50%
Receipts from civil administration and other functions	728	684	-6%
Miscellaneous receipts	781	1,101	41%
Total Non-Tax Revenue	1,704	2,080	22%
Revenue Receipts	6,395	7,909	24%

* Numbers have been rounded up to nearest billion, while percentage change is based on actual numbers.

Sources: Annual Budget Statement (<http://www.finance.gov.pk>)

Income Tax

- By virtue of insertion of a new Section 154A, following receipts by a taxpayer are proposed to be taxed at 1%, subject to fulfilment of prescribed conditions:
 - exports of computer software or IT services or IT enabled services in case tax credit under Section 65F is not available.
 - services or technical services rendered outside Pakistan or exported from Pakistan.
 - royalty, commission or fees derived by a resident company from a foreign enterprise in consideration for the use outside Pakistan of any patent, invention, model, design, secret process or formula or similar property right, or information concerning industrial, commercial or scientific knowledge, experience or skill made available or provided to such enterprise.
- Fixed or variable allowance paid to the employees, unless expended wholly or exclusively on behalf of the employer in the performance of duty, represent salary and hence proposed to be taxed. In addition, certain exemptions relating to employee benefits have been proposed to be withdrawn.
- It has been proposed that an ultimate holding company can also surrender its losses to its subsidiary under group relief.
- In respect of depreciable asset being immovable property, where the consideration received exceeded the cost of the asset, such consideration was restricted to the cost of such asset. By virtue of such treatment, the gain on disposal was calculated only to the extent of the depreciation claimed over the period and the excess amount was not taxed. The Bill proposes to tax the excess amount of gain under the head 'capital gain'.
- It is proposed that no gain or loss be recognized in the hands of the transfer or even if the transferee is a non-resident, provided that the asset is transferred as a gift to a relative, under inheritance, or under an agreement between spouses to live apart.
- It is proposed to empower the Federal Government to enter into agreements, conventions and similar arrangements with foreign governments for assistance in recovery of taxes.
- It is proposed that subject to fulfillment of specified conditions, payment of tax at the time of registration of immovable property by non-resident buyers and sellers will constitute a final discharge of tax liability.
- It is proposed that collection of advance tax on sale to distributors, dealers, wholesalers and retailers is expanded to pharmaceutical, poultry and animal feed, edible oil and ghee, battery, tyres, varnishes, chemicals, cosmetics and IT equipment sectors.
- Telecommunication companies operating under the license issued by PTA are proposed to be included under the ambit of an industrial undertaking.
- The Bill proposes to allow any person making payment to Provincial WWF and WPPF to claim such payment as deductible allowance. The payments made by trans-provincial organizations to Provincial WWF and WPPF is proposed not be allowed as deductible allowance.
- The Bill proposes to remove the statute of limitation by allowing the CIR to issue notice for submission of return of income for any TY to a person who has failed to furnish his return where that person has foreign income or owns foreign assets.

Highlights

- The Bill seeks to authorize the CIR to waive off the condition of filing revised accounts or audited accounts for revision of return of income, where not deemed necessary.
- The Bills seeks to strengthen the mechanism of Alternate Dispute Resolution by proposing various amendments.
- The Bill proposes that the tax payable determined in an appeal effect order shall be due immediately, notwithstanding the 30 day time limit for payment of such tax.
- The Bill proposes to withdraw the power of the CIR to reject the estimate of advance tax furnished by the taxpayer.
- The Bill proposes various changes in the penalty provisions by inserting a new provision; omitting and changing certain penalty provisions. Further, the Bill also proposes to add an explanation clarifying that establishment of mens rea is not necessary for levying penalty under Section 182 of the Ordinance.
- The Bill proposes to omit the requirement of furnishing or updating the taxpayer's profile which was required to be filed or updated till 30 June 2021. As a consequence, the Bill also proposes to eliminate the penal provisions in case the taxpayer fails to furnish or update their profile.
- The Bill proposes that persons who fail to declare the business bank accounts with the FBR shall now be punishable with a fine or imprisonment for a term not exceeding one year, or both upon conviction.
- During the current financial year, Tax Laws (Second Amendment) Ordinance, 2021 (the Second Amendment) was promulgated to implement corporate income tax reforms to provide level playing field to all businesses. Certain tax credits, concessions and exemptions were withdrawn. The provisions of the Second Amendment Ordinance have been made part of the Bill.
- Income derived by co-operative societies from sale of goods, immovable property or provision of services to its members is proposed to be taxed under the head 'income from business'.
- Notice under Section 122(9) in respect of addition to be made on account of unexplained income or assets under Section 111 is sufficient. No separate notice under Section 111 is required.
- The threshold for individual and AoPs for levy of minimum tax under Section 113 is proposed to be enhanced from PKR 10 million to PKR 100 million.
- Section 113 allows carryforward of minimum tax paid in excess of the normal tax payable for a period of 5 years. By virtue of a judgment of the Sindh High Court, it was held that if there was no tax payable, the benefit of carryforward is not available. The Bill proposes to allow such benefit of carryforward even in case no tax is payable.
- A separate scheme of taxation is proposed to be introduced for SMEs by inserting a new Fourteenth Schedule to the Ordinance. By virtue of the said proposed Schedule, SMEs have the flexibility to be taxed either on bottom line profits at a maximum rate of 15% or on gross amount of turnover at a maximum rate of 0.5%.
- SME is defined as a person who is engaged in manufacturing and whose annual business turnover does not exceed PKR 250 million.
- The power of the Federal Government to introduce concessions and to notify and prescribe special procedures for taxation of various categories of businesses has been proposed to be delegated to FBR with the approval of the Minister-in-Charge and the ECC.

Highlights

- The Bill proposes to mandate submission of annual statement in respect of taxes withheld at source under various sections of the Ordinance. Currently, such requirement exists only for salary payments.
- Taxpayers are required to submit reconciliation of amounts declared in annual statements with those reported in the return of income or audited financial statements. Such reconciliation is required to be submitted by the due date of filing the return of income.
- The process of arrest and prosecution as a result of concealment of income and any other offence warranting prosecution has been extensively captured. The expression 'concealment of income' has also been defined for the purposes of the Ordinance.
- The limit of profit on debt derived by an individual and an AoP to be taxed as a final discharge of tax liability is proposed to be reduced to PKR 5 million from the existing limit of PKR 36 million. As a result, any profit on debt exceeding PKR 5 million would be taxed under the head 'income from other sources' at the applicable rates.
- The Bill proposes to introduce a tax credit for a person integrated with FBR's computerized system for real time reporting of sale or receipt on the amount invested in purchase of point of sale machine.
- The requirement to update taxpayers' profile is proposed to be withdrawn.
- The Bill proposes to introduce electronic processing and issuance of refunds.
- In order to facilitate taxpayers and transparency in the audit/ assessment proceedings, the Bill proposes to introduce the concept of e-hearing.
- The Bill seeks to introduce a Directorate General of Compliance Risk Management.
- The Bill proposes to amend Sub-section (2A) through which every motor vehicle registration authority of Excise and Taxation Department will now be required to collect advance tax on registration; if the locally manufactured motor vehicle is sold prior to registration by the original purchaser of such vehicle.
- The Bills seeks to include all individual and AoPs having annual turnover of PKR 100 million being withholding agent for the purpose of Section 233 of the Ordinance.
- The Bill proposes to collect advance tax on domestic electricity consumption from non-filers for monthly bills exceeding PKR 25,000, instead of present threshold of PKR 75,000.
- The Bill proposes to omit the tax credit for newly established industrial undertaking under Section 65D of the Ordinance.
 - The scope of persons from whom a gift can be received without tax incidence is proposed to be enhanced.
 - The Commissioner is bound to issue exemption certificates to all companies, as opposed to just listed companies, on discharge of advance tax liability within stipulated time.
 - Taxpayers entitled to 100% tax credit under any provision of the Ordinance can also now apply for an exemption certificate under Section 159.
 - The Bill proposes to allow automated issuance of exemption certificates, if the application is not disposed of by the CIR within 15 days.
 - Powers to carry out inquiry for amending assessment under Section 122(5A) were withdrawn.

Highlights

- The Bill proposes to insert timelines within which the tax authorities are expected to frame their assessment under Section 122 or implement the directions given by the CIR under Section 122A.
- The Bill proposes to omit Section 153B of the Ordinance - Royalty paid to resident persons.
- Benefits of repealed provisions in case of exemption or concessionary provisions to be continued for the periods prescribed therein.
- Income from property is now taxable on net income basis for all taxpayers.
- Business loss can now be adjusted against income from property.

First Schedule

- The Bill proposes to reduce the rate of minimum turnover tax applicable under Section 113 of the Ordinance from 1.5% to 1.25%.
- The Bill proposes to extend the benefit of reduced rate of 3% withholding tax under Section 153 to the following 5 sectors:
 - (a) Oil field services
 - (b) Telecommunication services
 - (c) Warehousing services
 - (d) Collateral Management services
 - (e) Travel and tour services
- The Bill proposes that the reduced rate of 3% on specified services under Section 153 would only apply to a service provider whose services are subjected to withholding tax on gross receipts and the service provider has not agitated taxation of gross receipts before any court of law.
- The Bill seeks to increase in threshold for individuals and AoPs for chargeability of minimum tax.
- Tax on domestic electricity consumption proposed to apply at the rate of 7.5% where the monthly bill exceeds PKR 25,000. However, collection would not occur if the name of the consumer appears in the ATL.

Second Schedule

Part - I

- The Bill has proposed to tax payments representing profit on debt earned on contributions to Provident Fund exceeding PKR 500,000 on the entire amount of interest earned on approved Pension Fund at the rate of 10% as a separate block of income.
- The Bill seeks to extend the benefits viz. Special Economic Zones whereby profits and gains derived by the zone developer (10 Years), Zone Enterprises (10 years) & Special Technology Zones Authority by inserting Clause 126EA in Part-I of Second Schedule to the Ordinance.

Highlights**Part - II**

- The Bill seeks to provide the reduced rate to the whole of the supply chain of fastmoving consumer goods, fertilizer, sugar, cement and edible including distributors. Further, it is proposed to include electronics (excluding mobile phones) in the above list of supplies subject to certain conditions.

Part - III

- The Bill seeks to allow a relief of reduced tax rate of 1% on the receipts of an IPP located, wholly or partly in Azad Jammu & Kashmir, subject to fulfillment of the certain conditions.
- the Bills seeks to introduce a rather friendlier tax environment for an enterprise entirely owned by women whereby the tax payable by a woman enterprise on profits and gains derived from business chargeable to tax under the head 'income from business' shall be reduced by 25%.

Part - IV

- The Bill seeks to coin a concept of BSM with a view to ensure sufficient availability of specified edible items within the vicinity of the borders which Pakistan shares with Iran and Afghanistan whereby the provisions of Section 148 regarding collection of tax at import stage and the provisions of Section 154 in relation to collection of tax on export of specified items would not be applicable subject to fulfilment of certain conditions:
- The Bill proposes that withholding tax under Section 153 shall not apply in respect of purchase of used motor vehicles from general public.
- The Bill proposes to extend exemption from levy of minimum tax under Section 113 to Zone Developers and Zone Enterprises established and operating under the Special Economic Zones Act, 2012 and Special Technology Zones Authority Ordinance, 2020.

Tenth Schedule

- The Bill seeks to withdraw the exception currently allowed to rent of immovable property paid to a person not appealing in ATL. Such payment is now proposed to be subject to tax at double the rate of tax applicable under Section 155 of the Ordinance.

Sales Tax

- Threshold for annual turnover to qualify as cottage industry increased from PKR 3 million to PKR 10 million.
- Definition of the term 'online market place' introduced to include an electronic interface and e-commerce platform, including facilitating to online third party sales.
- An online market place would be liable to pay sales tax, even on supply of third party goods through its platform.
- Online market places and retailers accepting payments through bank cards machines declared 'Tier-1 retailer'.
- Area threshold of shops for a Tier-1 retailers of furniture increased from 1,000 to 2,000 square feet.
- Cash back schemes for customers buying goods from Tier-1 retailers would be replaced with 'mystery shopping'.

Highlights

- Payment of sales tax on receipt of advances from customers to be withdrawn.
- Listed companies are excluded from the restriction of input tax adjustment in excess of 90% of output tax.
- Time limit for issuance of show cause notice for recovery of tax is extended to 5 years from the end of the financial year in which the relevant date falls.
- CNIC and NTN to be considered as 'common identification number' alongwith sales tax registration number.
- Procedure and conditions for grant of extension in time for submission of returns prescribed.
- Manufacturers of specified goods are required to obtain brand license for each brand or Stock Keeping Unit from FBR.
- Sales tax recovery provisions under Section 48 would also apply in case of recovery of tax on the request of a foreign tax authority under a tax treaty.
- FBR to share information with the Federal and Provincial Governments subject to certain conditions.
- The CIR may allow adjustment of amounts payable and receivable to and from same party to satisfy requirements of payment under Section 73.
- It is proposed to provide compensation for delayed payment of tax refund determined under Section 66.
- Sales tax on supply of sugar is proposed to be levied at manufacturer's fixed maximum retail price.
- Zero rating on supply of certain items is proposed to be withdrawn.
- Zero rating on local supplies of raw materials, components, parts and plant and machinery to registered exporters authorized under Export Facilitation Scheme, 2021.
- Exemption on import and supply of ice, water, table salt and energy saver lamps etc. withdrawn.
- Exemption on import of various edible products withdrawn. However, exemption on local supply of these items would continue.
- Exemption to export oriented leather manufacturers on import of raw and pickled hides etc. withdrawn.
- Exemption on import and supply of ships and all floating crafts aircrafts, etc. withdrawn.
- Supply of locally produced silos exempted.
- Import of certain items proposed to be exempted that are consumed within Special Technology Zone or under Export Facilitation Scheme, 2021.
- Import of CKD kits for 4-wheeler small electrical cars by local manufacturers proposed to be exempted.
- Supply of such locally manufactured or assembled 4-wheeler electrical vehicles proposed to be taxed at 1%.

Highlights

- Supply of various specified edible agriculture produce and certain other specified raw material etc. proposed to be exempted, if supplied within the limits of the BSM.
- Locally manufactured or assembled motor cars of cylinder capacity up to 850cc proposed to be taxed at 12.5%.
- Import and local supply of hybrid electrical vehicles up to 1800cc proposed to be taxed at 8.5%, whereas, from 1801 cc to 2000 cc vehicles proposed to be taxed at 12.75%.
- Import of 2, 3 and 4-wheeler small electrical vehicles, up to 850cc proposed to be exempted from levy of value added tax at import stage.
- Import of auto disable syringes and raw material for local manufacturing proposed to be exempted up to 30 June 2021.
- Reduced rates available for import and supply of various goods proposed to be withdrawn.
- Sales tax on supply of Subscriber Identification Module (SIM) Cards by Cellular Mobile Operators proposed to be withdrawn with effect from July 2020.

Federal Excise Duty

- Subject to certain conditions, it is proposed to waive the requirement to obtain the approval of the CIR for the revision of a return.
- It is proposed that Section 14 would also apply in case of recovery of duty on the request of a foreign tax authority under a tax treaty.
- It is proposed that the FBR will specify the goods for which a manufacturer is required to obtain a brand license for each brand or Stock Keeping Unit (SKU) from the FBR. Any sales of such goods, without obtaining a brand license, would lead to penal consequences including such goods being treated as counterfeited; leading to their confiscation and destruction.
- It is proposed to empower the FBR to share information relating to FED with the Federal and Provincial Governments subject to certain conditions. It is further proposed to empower the Federal Government to enter into agreements, conventions and similar arrangements with foreign governments for assistance in recovery of duties.
- It is proposed to exempt FED on the following :
 - Edible oils, vegetable ghee, cooking oil, fruit juices, syrups and steel billets etc.
 - Locally manufactured/ assembled vehicles up to 850 cc
 - The MDR portion of digital payment transactions
 - Certain food and related items supplied within limits of Border Sustenance Markets established in cooperation with Afghanistan and Iran
 - Import/ supply of certain items by registered persons under the FBR's Export Facilitation Scheme, 2021
- It is proposed to incorporate the exemption from FED on electric vehicles (4 wheelers) granted through the Second Amendment.

Highlights

- It is proposed to levy FED on electrically heated tobacco products using non-combustive tobacco heating systems.
- The rate of FED on telecommunications services is proposed to be reduced from 17% to 16%. It is also proposed to levy additional fixed FED on mobile phone calls of duration exceeding 3 minutes, internet services and SMS services.

Islamabad Capital Territory (Tax on Services) Ordinance, 2001

- The Bill proposes to treat export of services from ICT as zero rated services.

Customs

- Inclusion of master bill of lading and certificate of origin in the existing definition of document to discourage origin fraud.
- Inclusion of retailing in definition of smuggling to discourage retailers from selling smuggled goods.
- Increasing the period of validity of advance ruling from the current one year to three years.
- FBR is proposed to be empowered to constitute a committee for settlement of disputes regarding classification of goods.
- Concept of common bonded warehousing is proposed to encourage SMEs.
- Data obtained through internet market sources or data exchange protocols with foreign customs administrations may be used for determining the value of goods under Fall Back Method.
- Collector of customs proposed to be empowered to determine customs value. In case of any conflict in valuation of goods determined by the Director Customs Valuation or the Collector of Customs, the Director General Valuation shall determine the valuation of goods.
- Director General Valuation is proposed to be required to dispose off review petitions within 60 days of filing.
- Collection of duty shall not be made as a result of audit or examination if the value of default is less than PKR 20,000.
- Amendment in the import manifest can be made in light of the rules to be notified by FBR.
- Importer required to upload the documents necessary for the assessment of goods at the time of filing of GD.
- GDs filed through green channel will be subject to verification by the customs authorities.
- Shipping lines are now responsible for re-export of banned items imported in commercial quantities.
- A new uniform Export Facilitation Scheme is proposed to be implemented in next two years.
- The Collector is now allowed to extend warehousing period for six months.
- Importers will be allowed to amend manifest till berthing event and make authentic amendments in bonds goods declaration. The customs authorities will issue correction/ corrigendum certificate in case of genuine/ obvious error.

Highlights

- No penalty in case of delay in filing of GD filed for home consumption.
- Higher penalty in case of non-placement of invoice and packing list in container to inculcate compliance.
- The Collector is required to issue a prior notice and afford reasonable opportunity of hearing before suspension of WeBOC registration.
- If a conveyance is apprehended for the third time in case of smuggling, it shall not be released against a redemption fine.
- Cases to be decided within 30 days of issuance of show cause notice of goods lying at sea port, airport or dry ports. The time may be further extended for 15 days by the Collector of Customs.
- Deputy Collector/ Director now also proposed to be authorized to prefer an application/ reference before the High Court.
- Expansion of reward scheme to other law enforcement agencies who assist the Customs officers for the purpose of this section.
- BSM will be established for people residing in border areas to counter smuggling and providing legitimate business opportunities.
- Value of unsolicited gifts through post or courier increased from PKR 20,000 to PKR 30,000.
- Zero percent duty is proposed on professional and technical apparatus, equipment and instruments temporarily imported by foreign nationals, experts and athletes etc. participating in an international event.
- Exemption to Special Technology Zone developer and zone enterprise on import of capital goods, not manufactured locally, including but not limited to materials, plant, machinery, hardware, equipment and software for a period of ten years.
- Customs duty on numerous goods are proposed to be reduced for certain industries including food industry, mineral products, chemicals and allied industries, plastics and articles thereof, rubber and articles thereof, fur skins and artificial fur, wood and articles of wood, paper industry, textile industry, glass and glassware, iron and steel, medical and surgical apparatus.
- Reduction in customs duties is proposed in Fifth Schedule on raw materials/ inputs for several category of goods.

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1. Small and medium enterprises

Clause (59A) of Section 2, Section 100E, and Fourteenth Schedule

The Bill has proposed to introduce a new scheme of taxation for small and medium enterprises. For this purpose, the term 'small and medium enterprise' has been proposed to be defined through insertion of a new Clause namely (59A) in Section 2 of the Ordinance, which provides the term to mean:

- A person who is engaged in manufacturing as defined in Clause (iv) of Sub-section (7) of Section 153; and
- Business turnover thereof does not exceed PKR 250 million. However, an important thing to note here is that if a person's turnover exceeds PKR 250 million in any TY, he would be ousted from the ambit of the mode of taxation introduced for small and medium enterprises in such TY and for all subsequent TYs.

The taxation regime relating to small and medium enterprise has been proposed to be introduced through Section 100E of the Ordinance read with the Fourteenth Schedule, salient features of which are as follows:

- The scheme would be effective from the TY 2021 and onwards;
- A taxpayer qualifying for the scheme would be required to be registered with FBR on IRIS portal or it may register itself with Small and Medium Enterprises Development Authority on its SME registration portal;
- Such an enterprise has been provided with an option to be taxed under FTR. If the option to be tax under FTR is not exercised, the income would be taxable under NTR;
- The option to be taxed under FTR is required to be exercised at the time of filing of the return of income. Once such an option is exercised, it would be irrevocable for subsequent three TYs; and
- All other provisions of the Ordinance (including withholding of tax, filing of withholding tax statements and advance payment of tax under Section 147) would be applicable on small and medium enterprises.

Taxation under Normal Tax Regime

- The rate of tax applicable on the taxable income of a small and medium enterprise would be as follows:

Turnover	Tax Rate
Less than PKR 100 million	7.5%
More than PKR 100 million but less than PKR 250 million	15%

- A small and medium enterprise taxable under NTR would not be selected for tax audit under Section 214C (computer balloting) of the Ordinance subject to the condition that its tax to turnover ratio exceeds 0.25% (where turnover is less than PKR 100 million) or 0.5% (where turnover is more than 100 million but less than PKR 250 million)
- Cases which do not fall under the above category may be selected for tax audit under Section 214C of the Ordinance through risk based parametric computer balloting. This is further subject to the condition that the maximum number of cases to be selected under this category would be 5% of total population of such small and medium enterprises.

Taxation under Final Tax Regime

- For taxation under FTR, the following tax rates on the annual business turnover would apply:

Turnover	Tax Rate
Less than PKR 100 million	0.25%
More than PKR 100 million but less than PKR 250 million	0.50%

- The provisions of Section 177 (selection by the Commissioner) and 214C (computer balloting) of the Ordinance would not be applicable for cases falling under FTR.

This is a welcome scheme introduced in the law and in our view should help in accelerating the growth of cottage and medium scale industry which is direly needed to augment industrialization.

However, it would not be out of place to mention that the corporate law also recognizes the concept of small and medium enterprises and the scope of such enterprises extend beyond manufacturing entities to include traders and service providers, subject to specified limits. It should therefore be considered that in future the scope of small and medium enterprises is enhanced to also bring within its fold other sectors as well.

2. Minimum tax based on turnover

Section 113

The Bill has proposed the following amendments to Section 113 which deals with the levy of minimum tax on certain persons based on turnover:

- (i) The general rate of minimum tax has been proposed to be reduced from 1.50% to 1.25%.
- (ii) For individual taxpayers and AoPs, the levy is applicable if the turnover has been PKR 10 million or above in the TY 2017 or in any subsequent TY. The threshold is proposed to be enhanced to PKR 100 million. The manner in which this amendment has been proposed suggests that even those individual taxpayers who were already paying minimum tax owing to their turnover as above would be exonerated from this levy if their turnover has not breached or will not breach the threshold of PKR 100 million in the TY 2017 or in any subsequent TY.
- (iii) In line with the amendment proposed in Section 37 of the Ordinance, an explanation has been proposed to be inserted in Clause (a) of Sub-section (2) of Section 113 clarifying that in the case of a taxpayer declaring 'income from business', his turnover for the purpose of minimum tax would be turnover from all sources, including receipts from sale and purchase of immovable property.
- (iv) The provisions of Clause (c) of Sub-section (2) of Section 113 allows carry over of minimum tax paid in excess of the normal tax payable for adjustment against normal tax liability in the subsequent five TYs. The Hon'ble Sindh High Court however, in the case of Kassim Textiles Mills (Pvt.) Ltd. (2013 PTD 1420) has interpreted such provisions to the effect that such an adjustment would only be allowed where minimum tax has been paid because normal tax liability was less than the minimum tax. In other words, in a loss situation, since there would not be any normal tax payable, minimum tax paid would not be allowed to be carried forward to succeeding TYs.

While the matter is pending before the Hon'ble Supreme Court of Pakistan, the Hon'ble Lahore High Court in the case of Education Excellence Ltd. (2019 PTD 1994) has held otherwise and allowed the carry forward and adjustment of minimum tax paid in a loss situation.

In order to address the above situation in favour of taxpayers, the Bill now proposes to substitute the proviso to Clause (c) of Sub-section (2) of Section 113, which would provide carry forward of minimum tax paid in a situation where no tax is payable or paid for the year. The period of carry forward remains five TYs succeeding the TY in which the minimum tax was paid.

The result of the proposed amendment would be as under:

- (a) In a situation where normal tax was less than the minimum tax, the excess of minimum tax paid over normal tax is allowed to be carried forward for adjustment; and
- (b) In a situation where minimum tax is paid owing to absence of normal tax, the entire amount of minimum tax paid would be carried forward.

Since the change in law has not been introduced through an explanation, therefore, the proposed amendment would apply prospectively and would not affect the pending litigations on the issue.

3. Amendment of assessment *Section 122*

Under Section 66A of the repealed Income Tax Ordinance, 1979, the Commissioner was initially empowered to make necessary enquiries as he or she deemed fit before issuing revised order. However, such powers were not vested to the Commissioner under Section 122 Sub-section (5A) of the Ordinance.

Subsequently, the Finance Act, 2012, brought about amendments in Section 122 Sub-section (5A), whereby the Commissioner was empowered to conduct enquiry so as to determine whether the assessment is erroneous in so far as it is prejudicial to the Revenue. By virtue of such amendments, the tax authorities initiated proceedings under Section 122 Sub-section (5A) as a matter of fishing expedition. However, such attempts of the tax authorities were laid to rest by the judgement of the ATIR in the case reported as 113 TAX 53, wherein it was held that the order sought to be amended in respect of such issue should be: (i) erroneous; (ii) in so far as prejudicial to the interest of revenue. Further, the notices should not contain fishing or roving inquiries in order to ascertain the correctness or otherwise of the claim being impugned in the notice issued under Section 122(5A) of the Ordinance.

Based on such judgement of the ATIR and perusal of matter with the FBR on different forums, the Bill seeks to withdraw the power from the Commissioner to indulge into enquiries, thereby proceedings would be termed as legally tenable only if these are initiated against the taxpayers when the department would prove that the already completed assessment is erroneous and prejudicial to the interest of revenue on the basis of material/ evidence available on record.

The Bill further seeks to add a proviso to specify a time period of 120 days under which the order under Section 122(5A) of the Ordinance needs to be passed. The said time period would begin to count from the date of issuance of show-cause notice and would be extendable for a further period of 90 days due to reasons to be recorded in writing by the Commissioner. The Bill further proposes that any period during which the proceedings are adjourned, upto a period of 60 days, shall be excluded from the time limit mentioned earlier, if the adjournment is due to:

- Proceedings adjourned on account of stay order.
- Alternative dispute resolution proceedings.
- Agreed assessment proceedings.
- Adjournment applied by taxpayer.

Income Tax

The aforementioned provisions are sought to be applicable on show-cause notices issued prospectively i.e. on or after 01 July 2021.

4. Export of services

Sections 154A, 168 and 169

The Bill proposes to insert a new Section 154A whereby an authorized dealer in foreign exchange, at the time of realization of foreign exchange proceeds, is required to collect 1% tax in respect of the following transactions:

- Exports of computer software or IT services or IT enabled services in case tax credit under Section 65F is not available;
- Services or technical services rendered outside Pakistan or exported from Pakistan;
- Royalty, commission or fees derived by a resident company from a foreign enterprise in consideration for the use outside Pakistan of any patent, invention, model, design, secret process or formula or similar property right, or information concerning industrial, commercial or scientific knowledge, experience or skill made available or provided to such enterprise;
- Construction contracts executed outside Pakistan; and
- Other services rendered outside Pakistan as notified by FBR from time to time

The tax deducted from such proceed constitutes a final discharge of tax liability provided the following conditions are satisfied:

- Return has been filed;
- Withholding tax statements for the relevant TY have been filed;
- Sales tax returns under Federal or Provincial laws have been filed, if required under the law; and
- no credit for foreign taxes paid shall be allowed

In case any of the said conditions are not met, the FTR would not apply. Further, such service providers also has the flexibility to opt for the NTR by exercising such option at the time of filing of return of income each year.

The section further provides that where a taxpayer, while explaining the nature and source of any amount, investment, money, valuable article, expenditure, referred to in Section 111, takes into account any source of income which is subject to final tax in accordance with the provisions of this section, he shall not be entitled to take credit of a sum that can be reasonably attributed to the business activity or activities mentioned above.

5. Telecom sector designated as industrial undertaking

Section 2 Clause (29C)

The status of industrial undertaking is currently available to an undertaking engaged in manufacture of goods or materials, ship-building, generation, conversion, transmission or distribution of electrical energy, or the supply of hydraulic power and working of any mine, oil-well or any other source of mineral deposits, subject to certain conditions. The Finance Act, 2020 extended the scope of industrial undertaking to include a resident company engaged in hotel business in Pakistan and persons directly involved in the construction of buildings, roads, bridges etc. to the extent of import of plant and machinery to be utilized in such activity.

The Bill seeks to further extend the scope of industrial undertaking to include telecommunication companies operating under the license issued by PTA. While this amendment will provide the much sought after relief to the telecommunication companies, the fact that its retrospective applicability has not been clarified may not resolve the controversy existing in all prior years leading up to this amendment.

6. Income from property
Sections 15(6)(7), 15A, 56 and 155

Section 15 computes income chargeable under the head income from property.

Under Sub-section (6), income from property in the hands of an individual or AoP are to be taxed as a separate block of income at specified slab rates on the gross amount of rent without deduction of any expenditure or allowance. However, Sub-section (7) exempts income from property in case income of a taxpayer does not exceed PKR 200,000 in a TY and does not derive taxable income under any other head.

The Bill proposes to omit Sub-section (6) and Sub-section (7) of Section 15, which effectively means that now income from property in case of individual or AoP is to be taxed under normal law on net income basis at applicable tax rates.

Similarly, the Bill seeks to substitute word "Company" with word "Person" in Section 15A of the Ordinance allowing all taxpayers (including individual and AoP) to claim various expenses as listed in Section 15A of the Ordinance against amount of rent to compute income from property.

Since the Bill seeks to tax income from property on net basis, amendments have also been proposed in Section 56 of the Ordinance whereby loss under a head of income (not being speculation loss and capital loss) can be off-set against income taxable under the head 'income from property'.

The Bill also proposes to insert an explanation in Section 155, wherein it has been clarified that withholding tax would be applicable on payments made on account of rent or immovable property irrespective of the head of income. In our view, by virtue of such amendment rent paid on account of sub-lease arrangements would also now become subject to withholding tax under Section 155.

7. Withdrawal of exemption on benefits to salaried persons
Section 12, Clauses (39), (53A) and (139) of Part I of the Second Schedule

Currently, per the provisions of Section 12, any allowance provided by an employer to an employee is taxable as salary. However, the same does not include any allowance solely expended in the performance of duties of employment.

Similarly, Part I of the Second Schedule exempts certain benefits provided by an employer to its employees, including:

- any special allowance or benefit, other than entertainment or conveyance, or other perquisite specially granted to meet expenses wholly and necessarily incurred in the performance of the duties of an office or employment;
- free medical benefits to employees, including reimbursement and medical allowance (not exceeding 10% of salary) subject to fulfillment of certain conditions; and
- perquisites received by an employee, representing free or subsidized food provided by hotels and restaurants to its employees during duty hours, free or subsidized education provided by an educational institution to children of its employees, free or subsidized medical treatment provided by a hospital or a clinic to its employees and any other perquisite for which the employee does not have to bear any marginal cost.

The Bill has proposed to insert an explanation in Section 12 wherein it is clarified that an allowance solely expanded in the performance of the employee's duties does not include:

- an allowance which is paid in monthly salary on fixed basis or percentage of salary; or
- an allowance which is not wholly, exclusively, necessarily or actually spent on behalf of the employer.

In addition, the Bill has proposed to omit the above mentioned exemptions provided in Part I of the Second Schedule.

It would not be out of context to make reference to the judgements of Sindh High Court and the Peshawar High Court (2018 PTD 806) in the case of payment of judicial allowance and special judicial allowance to members of establishment of the High Court as well as to the member of the establishment of subordinate judiciary. Both the Courts held that the said two allowances fall within the exception provided in Clause (c) of Sub-section (2) of Section 12 of the Ordinance and hence, is not chargeable to tax. The proposed amendment by the Bill seems to unwind the judgement of the two Courts.

8. **Group relief**

Section 59B, Sub-section (1)

Currently, only a subsidiary of a holding company is allowed to surrender its losses in a TY to its holding company or its subsidiary or another subsidiary of the holding company. Hence, there is a situation where the ultimate holding company is unable to surrender its losses to its subsidiary. Whilst the intent of the legislation may not have been to restrict such transfer of losses, the manner in which the provisions of Section 59B were couched in the legislation, such restriction prevailed.

The Bill attempts to address such a lacuna by allowing the ultimate holding company to also surrender its losses for a TY to its subsidiary(ies).

9. **Tax on profit on debt**

Section 7B and Division IIIA, Part I of the First Schedule

Section 7B was introduced by the Finance Act, 2015 whereby profit on debt in the hands of an individual and AoP was taxable as a separate block of income at progressive slab rates, being a final discharge of tax liability. Furthermore, profit on debt exceeding PKR 36 million was taxable as 'income from other sources' at rates applicable to the taxpayer depending on his income slab.

The Bill now proposes that profit on debt up to PKR 5 million would be taxed at 15% of the gross amount as a final discharge of tax liability. Moreover, any profit on debt exceeding PKR 5 million would be taxed under the head 'income from other sources' at applicable slab rates. Corresponding amendments has also been proposed in Division IIIA Part I of the First Schedule.

10. **Alternate Dispute Resolution**

Section 134A

The Bills seeks to strengthening the mechanism of Alternate Dispute Resolution (ADR) by proposing various amendments which are summarized below:

- Allowing taxpayers against whom criminal proceeding has been initiated to avail ADR mechanism.
- Expanding the scope of ADR mechanism to include issues involving a mixed question of fact and law, while taking into consideration all relevant facts and circumstances.

- The application for ADR shall be accompanied by an initial proposition for resolution of the dispute, from which the taxpayer would not be entitled to retract.
- Currently, FBR is required to appoint a Committee within 60 days of receipt of the ADR application and the ADR Committee is required to decide the dispute within 120 days. The Bill proposes to reduce the time frame for appointment of ADR Committee to 30 days in order to fast track the ADR process and to facilitate the taxpayers. Additionally, the ADR Committee is also proposed to decide the dispute within 60 days of its appointment, extendable by another 30 days for the reasons to be recorded in writing.
- Under the existing ADR mechanism, the ADR Committee can grant stay against recovery of tax payable in respect of dispute pending before it in case of hardship for a period of 120 days in aggregate or till the decision of the ADR Committee or its dissolution, whichever is earlier. The Bill proposes that the recovery of tax may be stayed on the constitution of the Committee till the final decision or dissolution of the Committee, whichever is earlier.
- Currently, if the ADR Committee fails to decide the dispute within 120 days, FBR is empowered to dissolve the Committee. The Bill proposes that if the Committee fails to decide the dispute within 120 (proposed to be 60) days, the FBR shall dissolve the Committee by an order in writing and re-constitute another Committee in the same manner as the First Committee and all the provisions relating to the ADR mechanism will apply *mutatis mutandis* to the Second Committee.

11. Deductible allowance against WWF and WPPF paid to provinces

Section 60A & 60B

Currently, under Section 60A and 60B of the Ordinance a person is entitled to a deductible allowance for any amount paid in a TY under the WWF Ordinance, 1971 and the WPPF Act, 1968 respectively . The Bill now proposes to allow a deductible allowance for any amount to WWF or WPPF enacted by the Provinces after the Eighteenth Constitutional Amendment Act, 2010 in addition of the WWF Ordinance, 1971 and the WPPF Act, 1968.

Further, the Bill also proposes to add a new proviso whereby any amount paid to Provinces under any provincial law shall not be allowable if paid to the Provinces by trans-provincial organizations. This proviso further aggravates an anomaly regarding payment of WWF and WPPF to provinces by companies having operations in more than one province and Islamabad Capital. Further, the levies having been held by courts to be in the nature of "Fee" rather than a tax, its deductibility as an expense is clearly allowable as a business expense even without a specific deduction being provided in the form of allowance as being proposed.

12. Unexplained income or assets

Sections 2 Clause (13AA), 111 Sub-section (5)

The Hon'ble Lahore High Court in the cases of (i) Commissioner Inland Revenue Vs. Faqir Hussain (2019 PTCL 444 = 2019 PTD 1828), and (ii) Commissioner Inland Revenue Vs. Falah ud din Qureshi (2021 PTD 192) has held that for the purpose of making an addition on account of unexplained income or assets in terms of Section 111 of the Ordinance, a notice issued under Sub-section (9) of Section 122 would not suffice. It was held that therefore, a separate notice issued under Section 111 of the Ordinance confronting the taxpayer for such an addition is mandatory. The learned ATIR following the above judgements has decided a number of appeals in favour of taxpayers.

The Bill proposes to insert an explanation to Sub-section (5) of Section 111 clarifying that a separate notice in terms of Section 111 would not be required if the taxpayer has been properly confronted of the intended addition on account of unexplained income or assets through a notice under Sub-section (9) of Section 122 of the Ordinance.

13. Concealment of income*Section 2 Clause (13AA)*

The term 'concealment of income' has been used in many places in the Ordinance, however, it has not been specifically defined. The Bill proposes to provide an inclusive definition of this term in the following manner:

- “(a) the suppression of any item of receipt liable to tax in whole or in part, or failure to disclose income chargeable to tax;
- (b) claiming any deduction or any expenditure not actually incurred; and
- (c) any act referred to in Sub-section (1) of Section 111.

Explanation - For the removal of doubt, it is clarified that where any item of receipt declared by the taxpayer is claimed as exempt from tax, or where any deduction in respect of any expenditure is claimed, mere disallowance of such claim shall not constitute concealment of income or the furnishing of inaccurate particulars of income, unless it is proved that the taxpayer deliberately claimed exemption from tax in respect of the aforesaid item of receipt or claimed deduction in respect of such expenditure not actually incurred by him.”

The idea to provide the aforesaid definition appears to minimize the controversies in the use of the expression both by the regulators as well as by the taxpayers.

14. Powers to arrest and prosecute taxpayers*Sections 203A, 203B, 203C, 203D, 203E, 203F, 203G, and 203H*

For the purpose of arrest and prosecution of a defaulting taxpayer, the Ordinance contains specific provisions viz. Section 201 to Section 203A. However, the Bill has proposed to introduce a new mechanism that deals with the arrest of a taxpayer who has committed an offence of concealment of income or any other offence liable to prosecution under the Ordinance vis-à-vis the modus operandi to be followed for the purpose.

The Bill proposes to omit Section 202 (Power to compound offenses) and Section 203 (Trial by special judge) and intends to introduce the following provisions in the Ordinance:

- (i) Section 203A - Power to arrest and prosecute;
- (ii) Section 203B - Procedure to be followed on arrest of a person;
- (iii) Section 203C - Special judges;
- (iv) Section 203D - Cognizance of offences by special judges;
- (v) Section 203E - Special judge to have exclusive jurisdiction;
- (vi) Section 203F - Provisions of Code of Criminal Procedure, 1898 to apply;
- (vii) Section 203G - Transfer of cases; and
- (viii) Section 203H - Place of sittings

It needs to be highlighted that the power to arrest and prosecute has been entrusted to an Officer of Inland Revenue not below the rank of an Assistant Commissioner. Such an officer would be authorized by the FBR to proceed for arrest and prosecute the defaulting taxpayer. However, the sensitiveness of such a step suggests that at the least the authorization to an officer for powers to arrest should be on a case to case basis and be granted by FBR itself.

Secondly, it is surprising to note that it is being proposed to allow the officer powers to arrest a person merely on the basis of his belief based on "material evidence" that the person has committed an offence of concealment of income or any offence warranting prosecution under the Ordinance.

However, in order to satisfy the principle of justice, in our view it would only be fair if such powers, if at all, may be exercised in cases where the concealment or any other offence is confirmed by an independent appeal forum, after establishing mens rea on part of the taxpayer, and where the person still does not comply with the law.

This proposal effectively gives a naked sword in the hands of the officer and may be prone to become a tool of harassment for the taxpayers. Whilst this Bill suggests several confidence building measures to boost the confidence of the taxpayer, this suggested amendment seems to be a big blow to such an effort.

15. Prosecution for non-compliance with certain statutory obligations

Section 191

The Bill proposes to insert a new Sub-clause (g) of Sub-section (1) of Section 191 of the Ordinance through which non-declaration of business bank accounts in the registration form or updated registration form or Return of Income or wealth statement shall now be an offence punishable with a fine or imprisonment for a term not exceeding one year, or both upon conviction.

16. Due date for payment of tax

Section 137(2) & 124(1), 124(4)

Presently, as a result of passing of any order, the taxpayer is required to pay the tax demand within 30 days of service of notice of demand in terms of Section 137(2) of the Ordinance.

The Bill proposes to add a new proviso to Sub section (2) of Section 137, whereby tax due shall be payable immediately as a result of issuance of any order passed to give effect to the judgement in appeal by the Commissioner (Appeals), Appellate Tribunal, the High Court or Supreme Court.

This in our view, will create hardship to tax payers as in case of an adverse appeal effect order being passed, the tax authorities will enforce immediate recovery without giving any opportunity to the taxpayer to seek alternate remedy though a further appeal.

17. Advance tax

Section 147

Sub-section (6) of Section 147 allows a taxpayer to furnish an estimate of the amount of tax payable to the CIR and thereafter pay such amount, if he estimates at any time before the last installment is due that the amount of tax payable is likely to be less than the amount of tax payable estimated in previous quarters.

However, the CIR is presently empowered to reject the estimate of advance tax if he is not satisfied with the documentary evidence or the requisite details are not furnished with the estimate. The misuse of such power by the tax authorities was creating undue hardship for the taxpayers and giving rise to unnecessary disputes and litigation. This was despite the fact that the law already protects the interest of revenue by making it mandatory for tax payer to at least pay 90% of its actual tax liability or else suffer levy of default surcharge on the short paid tax.

The Bill seeks to withdraw the power of the CIR to reject the estimate of advance tax furnished by the taxpayer. The proposed amendment shall provide relief to the taxpayer and shall reduce undue litigation.

18. Gain on disposal of immovable property being depreciable assets*Section 22, Sub-section (13), Clause (d) and Section 37*

Currently, where a depreciable asset, being immovable property, is disposed at a consideration higher than its cost, the consideration received is treated as the cost of the asset. Accordingly, gain on disposal of such immovable property equals the amount of tax depreciation claimed over such property. Resultantly, portion of the gain, being the difference between the consideration received and the cost of the asset, is not taxed.

The Bill proposes to tax such untaxed amount as capital gains under Section 37 of the Ordinance.

It would be noted that depreciable assets are specifically excluded from the definition of capital assets as provided under Section 37. In this respect, the proposed amendment may be considered to contradict the fundamental principles of the prevalent law, as the excess amount on disposal of depreciable assets is being charged to tax under the ambit of capital gains. Resultantly, the proposed amendment is attempting to blow hot and cold together and may lead to judicial proceedings.

19. Withdrawal of tax credit for newly established industrial undertaking*Section 65D*

Section 65D of the Ordinance which was introduced through the Finance Act, 2011 provided for tax credit equal to 100% of tax payable to such companies who have been established as an industrial undertaking by way of equity finance.

The eligibility criteria required incorporation of a company by 30th June, 2021. This date is not proposed to be further extended and hence, the Bill seeks to withdraw Section 65D of the Ordinance.

20. Gifts to relatives*Section 39 Sub-section (1)*

Presently, under Section 39, fair market value of any property received without consideration or received as gift, other than gift received from grandparents, parents, spouse, brother, sister, son or a daughter is taxable under the head 'income from other sources'.

The Bill seeks to expand the specified class of persons being relatives by the simplified definition of relative as laid down under Sub-section (5) of Section 85 of the Ordinance which means:

(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 in clause (a);*

Furthermore, it is proposed that return on sukuk and profit on debt is excluded from the scope of 'income from other sources' to the extent that it is already taxable under Sections 5AA and 7B.

21. No gain or loss on disposal of assets by a non-resident*Section 79, Sub-section (2)*

Transfer of asset under certain circumstances is regarded as non-taxable under Section 79 of the Ordinance. However, such non-recognition rule applies only under the situation where the person acquiring the asset (transferee) is a

resident of Pakistan. The Bill proposes to mandate the residency requirements, only in respect of the following three categories of transactions:

- (a) by reason of the compulsory acquisition of the asset under any law where the consideration received for the disposal is reinvested by the recipient in an asset of a like kind within one year of the disposal;
- (b) by a company to its shareholders on liquidation of the company; or
- (c) by an association of persons to its members on dissolution of the association where the assets are distributed to members in accordance with their interests in the capital of the association.

By virtue of the proposed amendment it would appear that in the following three transactions, no gain or loss would be recognized in the hands of the transferor even if the transferee is a non-resident person:

- (a) between spouses under an agreement to live apart;
- (b) by reason of the transmission of the asset to an executor or beneficiary on the death of a person; or
- (c) by reason of a gift of the asset to a relative, as defined in Sub-section (5) of Section 85.

22. Annual withholding tax statement and its reconciliation *Section 165*

In addition to the filing of quarterly withholding tax statement under Section 165 of the Ordinance, the Bill proposes to revive the old position and has introduced e-filing of an annual statement relating to withholding of tax from payments made by a person (other than salary payments) during the entire TY. The above statement is required to be filed within 30 days of the end of the TY.

Simultaneously, the Bill has also proposed to introduce e-filing of a reconciliation of payments made by a person during the entire TY (as reported in the above statement) with the amounts declared in the return of income/ audited accounts/ financial statements. This reconciliation would be required to be filed by the due date of filing the return of income as specified in Section 118 of the Ordinance.

In our view, the above amendment may result in reducing the multiplicity of notices from the FBR whereby taxpayers are being asked to submit similar reconciliation as per the formats given in the notices. At the same time, depending upon the format being introduced, this information may also be used for effective monitoring of withholding tax deductions and to monitor compliance with the provisions of Section 21(c) of the Ordinance.

23. Electronic processing and electronic issuance of refunds by FBR *Section 170A*

Unnecessary delays in issuance of refunds has always been a matter of concern for the taxpayers. In the past, tax bars of the country and other business forums have raised voices for timely issuance of refunds. The Bill now seeks to provide certain level of relief to the taxpayers by inserting Section 170A in the Ordinance through which mechanism of electronic processing and issuance of refunds is being introduced.

It has been proposed that commencing from TY 2021, refunds to the extent verified by the FBR's computerized systems may be processed and issued without any refund application filed by the taxpayers. This proposed amendment endorses the Government's commitment to facilitate the taxpayers.

24. Concept of e-hearing *Section 227E*

The Bill proposes to introduce a concept of e-hearing in connection with the proceedings conducted under the Ordinance including tax audits, amended assessments, monitoring etc. The FBR is empowered to design and prescribe e-hearing module for conducting hearings, electronically received information and other related matters. It has also been proposed that recording of e-hearing proceedings shall be an admissible evidence before any forum or court of law for the purpose of the Ordinance.

The above amendment would be viewed as a positive step towards facilitation of taxpayers and transparency in the proceedings as it would reduce the physical interaction between taxpayers and the tax officials. However, it needs to be re-emphasized that there is significant gap in proper training of basic skills of carrying of audit/ assessment especially among the junior officers which often leads to lack of understanding and resultant inappropriate orders and tax demands which ultimately stand the test of appeal at independent forums. It is therefore suggested that whilst it is good to invest in latest tools and technology, a lot more emphasis needs to be given to extensive training of human resource as well.

25. Income tax return *Section 114*

Currently the persons required to file return of income include any welfare institution approved under Clause (58), Part I of the Second Schedule by virtue of Clause (ad) of Sub-section (1) of Section 114. The Bill now proposes to omit the aforesaid redundant clause as Clause (58) has been omitted and merged into section 100C.

Any person who has furnished a return, discovers any omission or misstatement in the return, can file a revised return subject to the condition, among others, that the revised return is accompanied by the revised accounts. Through a proviso inserted under Sub-section (6)(a), the Bills seeks to authorize the CIR to waive off the condition of filing revised accounts or audited accounts where not deemed necessary.

26. Appeal to the Commissioner (Appeals) *Section 127(2) & 127(3A)*

You would recall that the FBR had earlier notified rules prescribing format and procedure for filing of electronic appeal vide issued SRO 1315 (I)/2020 dated 09 December 2020. The Bill now proposes to add a new Sub-section (3A) to provide legal cover to the rules issued earlier empowering FBR to prescribe mechanism for electronic filing of appeals.

27. Taxpayer's profile *Section 114A, 182 and 182A(2)*

The Finance Act, 2020 inserted a new Section 114A through which certain persons were required to furnish or update taxpayer's profile and also introduced a penalty of PKR 2,500 for each day of default, subject to minimum penalty of PKR 10,000, in case of non-compliance through insertion of Serial No. 4A and entries thereto in column (2), (3) and (4) in Section 182. Further, the Finance Act, 2020 also inserted Sub-section (2) in the Section 182A which provided that non-compliance may lead to non-inclusion of the name of the taxpayer in the ATL with an exception that taxpayer files or updates the profile after the due date and pays surcharge as under:

- PKR 20,000 in case of a company;
- PKR 10,000 in case of an AoP; and
- PKR 1,000 in case of an individual.

The Bill now proposes to omit Section 114A, 182A Sub-section (2) and corresponding penalties.

28. Assistance in the recovery and collection of taxes*Section 107 and 146C*

Under a proposed insertion of a new section, the tax authorities have been empowered to assist in collection and recovery of taxes in pursuance of a request from a foreign jurisdiction under a tax treaty, a multilateral convention, an inter-governmental agreement or similar arrangement or mechanism. Amendments have also been proposed in Section 107 of the Ordinance whereby the Federal Government can now enter into such agreements or arrangement with the foreign governments and authorities.

29. Income from business of co-operative societies*Section 18*

The 'Doctrine of mutuality' which enunciates that neither anybody could make profit out of oneself, nor members could trade with themselves has been an accepted principle in the taxation of mutual associations concerning dealings with their members. This principle, however, is not applicable where such an association is making income from specific activities done with their members. Clause (b) of Sub-section (1) of Section 18 deals with this situation. The Bill has now proposed to insert an explanation clarifying that income earned by co-operative societies from (i) sale of goods, (ii) immovable property, or (iii) provision of services to their members has always been taxable under the Ordinance.

Interestingly, the proposed explanation is specific to 'co-operative societies' and not to other mutual associations. Secondly, while Clause (b) referred above only talks of income from sale of goods and from provision of services to members, the proposed explanation also ropes in income from immovable property earned from members in the sphere of chargeability to tax.

30. Delegation of power to FBR*Sections 2(62A), 53, 99B, 99C and 100*

Before the Finance Act, 2017, the Federal Government was empowered to amend the Second Schedule in order to provide or withdraw exemptions and tax concessions, or to provide conditions in respect thereof. Subsequently, through the Finance Act, 2017, the Minister-in-Charge, pursuant to the approval of the Economic Coordination Committee of the Cabinet, was empowered to make such amendments. However, the powers of the Minister on their own have been challenged and there are decisions of the superior courts, which require the Federal Government to make such changes in the law. Accordingly, the Finance Act, 2018 reverted the position prior to the Finance Act, 2017 and surrendered the powers back to the Federal Government for making all such amendments in the Second Schedule.

The Bill now proposes to revert the position as was there before the changes brought forward by the Finance Act, 2018. It has been proposed to empower FBR to grant exemptions and concessions subject to the approval of the Minister-in-Charge, pursuant to the approval of the Economic Coordination Committee of the Cabinet.

In line with the above proposed amendment, similar amendments have been proposed where the Federal Government is empowered to notify and prescribe special procedures for taxation of various categories of businesses; FBR has been proposed to be delegated with such powers with the approval of the Minister-in-Charge:

- Designating any business of a person or class of persons as a 'startup';
- Small traders and shopkeepers (Section 99B);
- Small businesses, construction businesses, medical practitioners, hospitals, educational institutions and any other sector as may be specified (Section 99C); and

Income Tax

- Profits and gains from exploration and extraction of mineral deposits not being petroleum or natural gas (Sub-section (3) of Section 100)

31. Tax credit for point of sale machine*Section 64D*

The Bill proposes to introduce a new Section 64D, whereby a person who is required to integrate with FBR's computerized system for real time reporting of sale or receipt is entitled to a tax credit in respect of the amount invested in purchase of point of sale machine. The tax credit will be allowed for the TY in which the point of sale machine is installed, integrated and configured with the FBR's computerized system, at the lower of:

- amount actually invested in purchase of point of sale machine; or
- PKR 150,000/ machine

The term 'point of sale machine' is defined as a machine meant for processing and recording the sale transactions for goods or services, either in cash or through credit and debit cards or online payments in an internet enabled environment.

The above proposed amendment is a step towards documentation of the economy by encouraging the retail sector to integrate themselves with the FBR's PoS system.

32. Return on investment in Sukuks*Sections 150A and 151*

Currently, tax deduction from payment of return on investment in Sukuks is provided under Section 150A whereby every special purpose vehicle or a company is required to deduct tax from the gross amount of return on investment in Sukuks at the rate specified in Division IB, Part III of the First Schedule to the Ordinance. In order to eliminate multiple withholding tax provisions, the Bill proposes to provide withholding of tax on return on investment in Sukuks under Section 151 of the Ordinance. Consequently, Section 150A is proposed to be omitted. The rate of withholding tax from payment of return on investment in Sukuks remains unchanged.

33. Directorate General of Compliance Risk Management*Section 230I*

The Bill seeks to introduce a Directorate General of Compliance Risk Management (the Directorate) which shall consist of a Director General and as many directors, additional directors, deputy directors, assistant directors and such other officers as may be notified in the official gazette.

The functions, jurisdictions and powers of the Directorate and its officers will be specified by the FBR through separate notification.

34. Time frame for implementation of decisions of the Commissioner*Section 122A*

Under this Section, the Commissioner is empowered to revise any order passed by any Officer of Inland Revenue.

The Bill seeks to add Sub-section (5) whereby if any order is remanded back to any lower authority by the Commissioner, for modification, alteration, implementation of direction or de-novo proceedings, the order giving effect to the directions of the Commissioner shall be issued by the lower authority within 120 days.

Income Tax

35. Dividend in specie *Sections 150 and 236S*

Currently, collection of tax on dividend in specie is separately covered under Section 236S at the rates prescribed in Division III, Part I of the First Schedule to the Ordinance. In order to eliminate multiple withholding tax provisions, the Bill proposes to provide withholding of tax on dividend in specie under Section 150. Consequently, Section 236S is proposed to be omitted. The rate of withholding tax on dividend in specie remains unchanged.

36. Advance tax on private motor vehicles *Section 231B*

A new Sub-section (2A) was inserted in Section 231B of the Ordinance through the Second Amendment Ordinance dated 12 February 2021 whereby every motor vehicle registration authority of Excise and Taxation Department was required to collect advance tax from the buyers of locally manufactured vehicles who subsequently sell such vehicles within ninety days of delivery whether such sale was made before or after registration.

The Bill proposes to enact Sub-section (2A) after certain modification pursuant to which every motor vehicle registration authority of Excise and Taxation Department is now required to collect advance tax at the time of registration, if the locally manufactured motor vehicle is sold prior to registration by the original purchaser of such vehicle.

37. Brokerage and commission *Section 233*

Currently, an AoP constituted by, or under any law is considered as a withholding agent in respect of payment of brokerage and commission whereas an individual and other AoPs are not withholding agents for this Section. An amendment in Section 233 has been made whereby all individuals and AoPs having turnover of PKR 100 million are proposed to be withholding agents in respect of payment of brokerage and commission.

38. Electricity consumption *Section 235 & Section 235A*

Presently, advance tax collection in respect of domestic electricity consumption is governed under Section 235A of the Ordinance. The Bill now seeks to omit Section 235A of the Ordinance and cover the same under Section 235 of the Ordinance which presently caters commercial and industrial consumers. Further, in respect of collection of tax on electricity consumption from domestic consumers, the monetary threshold of monthly bill of PKR 75,000 is proposed to be reduced to PKR 25,000. The rate of advance tax is 7.5%. The tax will be collected from non-filers only.

The Bill also clarifies that the exemption certificate would be available to those consumers whose liability has been discharged under Section 147 of the Ordinance or otherwise whole of the income of the consumer is subject to minimum or final taxes under any other provisions of the Ordinance.

39. Payment of royalty to resident persons *Section 153B*

The above Section was introduced through the Finance Act, 2019 which provided that every person making payment on account of royalty to a resident person was obliged to deduct withholding tax at the specified rate.

The Bill now seeks to omit this Section.

40. **Payment for goods, services and contracts** *Section 153*

Currently, in terms of first proviso to Sub-section (4) of Section 153 of the Ordinance, the Commissioner is bound to issue exemption certificate on discharge of advance tax liability to a public listed company within 15 days of filing of application. If the Commissioner does not issue the exemption certificate within 15 days, it is automatically processed and issued by the IRIS portal.

The Bill now seeks to substitute for the words “public company listed on registered stock exchange in Pakistan” with “company”. It signifies that now the Commissioner is bound to issue such certificates within stipulated time in case of every company. This is a good step towards speedy processing of exemption certificates.

The Bill further proposes to withdraw the exemption provided from withholding tax to traders of yarn by the taxpayers specified in the zero-rated regime of sales tax.

41. **Payment to non-residents** *Section 152 & Section 152A*

Currently, Sub-sections (1B), (1BB), and (1BBB) which specify that minimum tax on the income of non-resident persons arising from various contracts, insurance premium or reinsurance premium and on advertisement services relaying from outside Pakistan. The Bill now seeks to substitute the above Sub-sections with Sub-section (1B) with the intention to merge the same at one place.

The Bill also proposes to add another Sub-section (1DB) whereby every special purpose vehicle or a company shall deduct tax from the gross amount at varying rates on making payment of a return on investment in sukuks to non-resident person. Such deduction shall be a final tax for such non-resident person in line with taxation of resident person.

Section 152A of the Ordinance specifies that every person responsible for making payment directly or through an agent or intermediary to a non-resident person for foreign produced commercial for advertisement on any television channel or any other media shall deduct tax at the rate of 20% from the gross amount paid. The Bill now proposes to delete this Section and entire law is proposed to be inserted in Sub-section (1BA) of Section 152 of the Ordinance.

42. **Exemption or lower rate certificate** *Section 159*

Presently, Section 159 of the Ordinance empowers the Commissioner to issue an exemption or lower rate certificate only under the following three circumstances viz; i) income of the taxpayer is exempt from tax; ii) the taxpayer is subject to lower rate of taxation than that specified in the First Schedule; or iii) charitable institutions entitled to 100% tax credits.

The Bill now seeks to widen the scope of availability of such exemption certificate to all taxpayers who are entitled to a 100% tax credit under any provisions of the Ordinance.

The Bill also proposes to direct the Commissioner to process the exemption/ reduced rate application within 15 days of its filing. In case the same is not processed within the specified time, the application would be deemed to have been accepted by way of an automated control to be enabled on the IRIS portal of FBR.

However, the Bill also seeks to add another proviso in order to authorize the Commissioner to modify or cancel the aforementioned automatically processed exemption or lower rate certificate if the Commissioner has plausible reasons subject to the condition that those are recorded in writing and an opportunity of being heard has been provided to the applicant taxpayer.

43. Advance Tax on sale and purchase of immovable property*Section 236C and 236K*

Currently, only local authority, housing authority, housing society, co-operative society and registrar of properties are required to collect advance tax from the seller and buyer of immovable property. The Bill now proposes to expand this list to include, public and private real estate projects registered / governed under any law, joint ventures and private commercial concerns.

Furthermore, the Bill has also proposed to regard payment of tax on account of sale of immovable property by a non-resident seller as a final discharge of tax liability, subject to the condition that:

- the said immovable property was acquired through a FCVA or NRVA maintained in Pakistan; and
- the non-resident seller holds a valid POC or NICOP or CNIC.

The Bill proposes similar treatment for the non-resident purchaser of immovable property, regarding the tax paid at the time of registering such purchase as a final discharge of tax liability. Whilst, the legislative power to deem an amount as "income" and payment of tax thereon as a final tax liability cannot be denied, in our experience, adoption of such treatment may lead to litigation. The moot point for such contention may arise on account of the fact that tax has already been deducted as a final discharge of tax liability at the time of purchase. Therefore, subsequent sale of immovable property should not again be taxed.

Furthermore, where the property is purchased in installment, the law permitted collection of tax from the buyer in installments as well pursuant to Section 236K of the Ordinance.

The Bill proposes that no further tax will be collected from the buyer if the tax collected in installments equals the amount of tax.

44. Advance tax on sales to distributors, dealers, wholesalers and retailers*Section 236G and 236H*

Sections 236G and 236H requires collection of tax from sale to distributors, dealers, wholesalers and retailers of specified industries and products. The list of such industries and products has been proposed to include pharmaceuticals, poultry and animal feed, edible oil and ghee, battery, tyres, varnishes, chemicals, cosmetics and IT equipment.

45. Benefits of repealed provisions*Section 242*

The Bill seeks to add a new Section whereby exemptions or concessionary provisions expiring on 30th day of June, 2021 or expired or repealed by the Second Amendment Ordinance shall continue to be available for the periods mentioned in the repealed provisions and subject to the conditions specified therein.

FIRST SCHEDULE

Part I

46. Rates of tax for Individuals and AoPs

The rates of tax chargeable for Individuals and AoPs for the TY 2022 (corresponding to the income year ending at any time between 01 July 2021 to 30 June 2022) and basic threshold have remained unchanged. These are as under:

Individuals (except salaried) and Association of persons

Taxable income	Rate of tax
Up to PKR 400,000	0%
PKR 400,001 - 600,000	5% of amount exceeding PKR 400,000
PKR 600,001 - 1,200,000	PKR 10,000 + 10% of amount exceeding 600,000
PKR 1,200,001 - 2,400,000	PKR 70,000 + 15% of amount exceeding 1,200,000
PKR 2,400,001 - 3,000,000	PKR 250,000 + 20% of amount exceeding 2,400,000
PKR 3,000,001 - 4,000,000	PKR 370,000 + 25% of amount exceeding 3,000,000
PKR 4,000,001 - 6,000,000	PKR 620,000 + 30% of amount exceeding 4,000,000
Amount exceeding PKR 6,000,001	PKR 1,220,000 + 35% of amount exceeding 6,000,000

Individuals (salaried)

Taxable income	Rate of tax
Up to PKR 600,000	0%
PKR 600,001 - 1,200,000	5% of amount exceeding 600,000
PKR 1,200,001 - 1,800,000	PKR 30,000 + 10% of amount exceeding 1,200,000
PKR 1,800,001 - 2,500,000	PKR 90,000 + 15% of amount exceeding 1,800,000
PKR 2,500,001 - 3,500,000	PKR 195,000 + 17.5% of amount exceeding 2,500,000
PKR 3,500,001 - 5,000,000	PKR 370,000 + 20% of amount exceeding 3,500,000
PKR 5,000,001 - 8,000,000	PKR 670,000 + 22.5% of amount exceeding 5,000,000
PKR 8,000,001 - 12,000,000	PKR 1,345,000 + 25% of amount exceeding 8,000,000
PKR 12,000,001 - 30,000,000	PKR 2,345,000 + 27.5% of amount exceeding 12,000,000
PKR 30,000,001 - 50,000,000	PKR 7,295,000 + 30% of amount exceeding 30,000,000
PKR 50,000,001 - 75,000,000	PKR 13,295,000 + 32.5% of amount exceeding 50,000,000
Amount exceeding PKR 75,000,000	PKR 21,420,000 + 35% of amount exceeding 75,000,000

Income Tax**47. Rates of tax for companies**

Rates of tax for companies remains unchanged which are as under:

Companies	Rate		
	Tax Year 2021	Tax Year 2022	Tax Year 2023 and onwards
Public and Private	29%	29%	29%
Cooperative and Finance Society	29%	29%	29%
Banking	35%	35%	35%
Small	22%	21%	21%

48. Rate of Super-tax for rehabilitation of temporarily displaced persons

The levy of super tax under Section 4B of the Ordinance is only applicable to banking companies, the rate whereof remains unchanged for the TY 2021 and onwards being 4%.

49. Rate of tax on dividend income

The rates of tax on dividend income remains unchanged for the TY 2022, which are as under:

Dividend from	Rate
Independent Power Producers where such tax on dividend is a passthrough item under an Implementation Agreement or Power Purchase Agreement or Energy Purchase Agreement and is required to be reimbursed by Central Power Purchasing Agency (CPPA-G) or its predecessor or successor entity	7.5%
Mutual funds and others	15%
Company where no tax is payable by such company due to exemption of income or carry forward of business losses under Part VIII of Chapter III or claim of tax credits under Part X of Chapter III	25%

50. Rate of tax on profit on debt

Presently, profit on debt is taxable in the hands of individuals and AoPs at various rates provided for the different slabs of profit on debt. The Bill proposes to tax the same at the rate of 15% where the profit on debt does not exceed PKR 5,000,000. In view of the proposed change, profit on debt exceeding PKR 5,000,000 will be taxed at the normal rate of tax provided for under Part I of the First Schedule to the Ordinance.

The proposed amendment referred the expression "shall be" in Division IIIA of the First Schedule to the Ordinance and proposes the table therein to be deleted. However, the reference to the expression "shall be" is not there. Accordingly, the typo error may be corrected at the time of enactment of the proposed amendment.

51. Rate of tax on return on investments in Sukuks received from a special purpose vehicle

Rate of tax on return on investments in Sukuks received from a special purpose vehicle for the TY 2022 remains unchanged. These are as under:

Income Tax

Sukuks Holder	Amount of return on investment	Rates
Company	any amount	25%
Individual and AoP	more than PKR one million	12.5%
Individual and AoP	less than PKR one million	10%

52. Rates of tax for non-resident taxpayers for certain transactions

The applicable rates of tax on certain income of non-residents for the TY 2022 remains unchanged. These are as under:

Type of payment	Rate (%)
Fee for offshore digital services	5%
Fee for technical services	15%
Royalty	15%
Shipping income	8%
Air transport income	3%

53. Rate of tax on Income from property

The separate slab rate of tax provided under Section 15 of the Ordinance for income from property, in the case of individuals, AoPs are proposed to be omitted. In view of the proposed change, income from property will be taxed at the normal rate of tax provided for under Part I of the First Schedule to the Ordinance.

54. Rates of tax on capital gains on securities

The rate of tax on income from capital gain on securities is proposed for the TY 2022 and onwards which are as under:

Holding period	Tax Year		Tax Year
	2018, 2019, 2020 and 2021		2022 and onwards
	Security acquired before 01 July 2016	Security acquired on or after 01 July 2016	Security acquired on or after 01 July 2016
Less than 12 months	15%	15%	12.5%
More than 12 months but less than 24 months	12.5%		
More than 24 months but then security was acquired on or after 01 July 2013	7.5%		

Income Tax

Holding period	Tax Year		Tax Year
	2018, 2019, 2020 and 2021		2022 and onwards
	Security acquired before 01 July 2016	Security acquired on or after 01 July 2016	Security acquired on or after 01 July 2016
Where the security was acquired before 01 July 2013	0%	0%	0%
Future commodity contracts entered into by the members of Pakistan Mercantile Exchange	5%	5%	5%

55. Rate of tax on capital gain on immovable property

Presently, capital gain on immovable property is taxable at various rates applicable on different slabs of capital gain ranging from 2.5% to 10%. The Bill, however, proposes to tax the same at 5%, if the amount of capital gain does not exceed PKR 5,000,000/. In the case where it exceeds, it will be taxed at normal rate of tax.

56. Minimum Tax

The rates of minimum tax under Section 113 are proposed to be changed as under:

Taxpayer	Existing Rate of Tax	Proposed
(a) Oil marketing companies, Sui Southern Gas Company Limited and Sui Northern Gas Pipelines Limited (where annual turnover exceeds PKR 1 billion)	0.75%	0.75%
(b) Pakistan International Airlines	0.75%	0.75%
(c) Poultry industry including breeding, broiler production, egg production, feed production	0.75%	0.25%
(d) Dealer or distributors of fertilizers	0.75%	0.25%
(e) Person running an online marketplace as defined in Clause (38B) of Section 2	0.75%	0.25%
(f) Oil refineries	0.75%	0.5%
(g) Motorcycle dealers registered under the Sales Tax Act, 1990	0.3%	0.5%
(h) Distributors of pharmaceutical products, fast moving consumer goods and cigarettes	0.25%	0.25%
(i) Petroleum agents and distributors registered under the Sales Tax Act, 1990	0.25%	0.25%
(j) Rice mills and dealers	0.25%	0.25%

Income Tax

Taxpayer	Existing Rate of Tax	Proposed
(k) Tier-1 retailers of fastmoving consumer goods who are integrated with the FBR or its computerized system for real time reporting of sales and receipts	1.5%	0.25%
(l) Persons engaged in the sale and purchase of used vehicles	1.5%	0.25%
(m) Flour mills	0.25%	1.25%
In all other cases	1.5%	1.25%

PART II**57. Advance tax on imports**

The rate of collection of advance tax on imports by the Collector of Customs remains unchanged. These are as under:

Persons	Rate % (of import value as increased by customs duty, sales tax and federal excise duty)
Person importing goods classified under Part I of the Twelfth Schedule	1%
Person importing goods classified under Part II of the Twelfth Schedule	2%
Person importing goods classified under Part III of the Twelfth Schedule	5.5%

Provided that:

- a reduced rate of 1% to be collected on goods by manufacturer covered under rescinded SRO 1125(l)/2011 dated 31 December 2011
- rate of collection of tax at 4% on import of finished pharmaceutical products that are not manufactured otherwise in Pakistan as certified by the Drug Regulatory Authority of Pakistan
- rate of collection of tax at 1% on import of CKD kits of electric vehicles for small cars or SUVs with 50 kwh battery or below and LCVs with 150 kwh battery or below

The rate of collection of advance tax on imports of mobile phone by any person remain unchanged. These are as under:

S.No.	C&F Value of Mobile Phone (USD)	Tax in Rupees	
		In CBU condition PCT Heading 8517.1219	In CSK/ SKD condition PCT Heading 8517.1211
1.	Up to 30 except smart phones	70	0

Income Tax

S.No.	C&F Value of Mobile Phone (USD)	Tax in Rupees	
		In CBU condition PCT Heading 8517.1219	In CSK/ SKD condition PCT Heading 8517.1211
2.	Exceeding 30 and up to 100 and smart phones up to 100	100	0
3.	Exceeding 100 and up to 200	930	0
4.	Exceeding 200 and up to 350	970	0
5.	Exceeding 350 and up to 500	3,000	5,000
6.	Exceeding 500	5,200	11,500

PART III**58. Advance tax on dividend**

The rate of withholding tax on payment of dividend including dividend in specie remains unchanged.

59. Advance tax on profit on debt

The withholding tax rate on profit on debt remains unchanged at 15%. However, the Bill seeks to omit a proviso which provides the reduced rate of 10% on the payment of profit up to PKR 500,000 on condition of submitting a certificate in this respect to the payer.

60. Advance tax on return on investments in Sukuks received from a special purpose vehicle

The Bill seeks to omit Section 150A and proposes to insert the withholding of tax under Section 151 on payment of a return on investment in Sukuks to a Sukuk holder. However, the rates of withholding tax on payment of return on Sukuk remains unchanged, are as under:

Sukuks Holder	Rates of withholding (%)
Company	25%
Individual or AoP (More than one million)	12.5%
Individual or AoP (Less than one million)	10%

61. Payments to non-residents

The withholding tax rates on payments to non-residents remains unchanged. These are as under:

Types of Payment	Withholding Rate (%)
Fee for technical services	15%

Income Tax

Types of Payment	Withholding Rate (%)
Royalty	15%
Fee for offshore digital services	5%
Shipping income	8%
Air transport income	3%
Execution of a contract <ul style="list-style-type: none"> contract or sub-contract under a construction, assembly or installation project in Pakistan, including a contract for the supply of supervisory activities in relation to such project any other contract for constructions or services rendered relating thereto or a contract for advertising services rendered by TV satellite channels 	7%
Insurance premium/ re-insurance premium	5%
Others (excluding those specifically mentioned herein)	20%
Advertisement services to a media person relaying from outside Pakistan	10%
Receipt on account of sale of goods by a PE of a non-resident in Pakistan <ul style="list-style-type: none"> Company Other taxpayers 	4% 4.5%
Receipt on account of rendering of following services through a PE: Transport services, freight forwarding services, air cargo services, courier services, manpower outsourcing services, hotel services, security guard services, software development services, IT services and IT enabled services as defined in Clause (133) of Part I of the Second Schedule, tracking services, advertising services (other than by print or electronic media), share registrar services, engineering services, car rental services, building maintenance services, services rendered by Pakistan Stock Exchange Limited, Pakistan Mercantile Exchange Limited and inspection and certification, testing and training services	3%
Receipt on account of rendering of services through a PE <ul style="list-style-type: none"> Other than above mentioned services (in the case of a company) Other than above mentioned services (other than a company) 	8% 10%

Income Tax

Types of Payment	Withholding Rate (%)
Receipts on account of execution of contract other than a contract for sale of goods or rendering of services <ul style="list-style-type: none"> • Sports person • Other person 	10% 7%
Capital gain arising on the disposal of debt instruments and Government securities of non- resident person having no permanent establishment in Pakistan and person holding POC, NICOP and CNIC including treasury bills and Pakistan investment bonds invested through special convertible rupee account (SCRA)	10%

The Bill seeks to include the following services in the list of services which are subject to reduced rate of withholding of tax of 3% under Section 153(1)(b) of the Ordinance in the case of payments received for residents:

- oilfield services
- telecommunication services
- warehousing services
- collateral management services, and
- travel and tour services

At present, payments received in respect of specified services in the case of a resident person or a non-resident person having a PE in Pakistan are subject to reduced rate of withholding tax of 3% whereas the rest of the services are subject to 8% of withholding tax rate. Both are subject to minimum tax where corporate tax liability is lower than the amount of tax withheld in respect of such income. The proposed amendment of introducing the abovementioned sectors to enjoy the benefit of reduced rate of withholding tax of 3% is not provided for non-resident services providers. Accordingly, branches of foreign companies engaged in providing offshore services to oil exploration companies may not be able to get the benefit of reduced rate for oilfield services and their tax liability will continue to be determined by comparing higher of the withholding tax of 8% against the ultimate corporate tax liability. Accordingly, in order to provide level playing field, these amendments may also be brought in respect of non-resident service providers having a PE in Pakistan.

Clause (133) of Part I of the Second Schedule to the Ordinance in respect of exemption from tax to IT services or IT enabled services have been omitted through the Tax Laws (Second Amendment) Ordinance, 2021. However, a tax credit is provided for in respect of such incomes under Section 65F of the Ordinance. The consequential change of reference of the deleted Clause from the newly inserted Section 65F has not been provided in Section 152(2A)(b) of the Ordinance.

62. Advance tax on payment to resident for goods, services and execution of contracts

The withholding tax rates for making payments on account of goods, services and contracts remain unchanged as under:

Income Tax

Types of Payment	Rate of tax (%)
For supply of goods including toll manufacturing <ul style="list-style-type: none"> Company Other than company 	4% 4.5%
For supply of rice, cotton seeds or edible oils	1.5%
Transport services, freight forwarding services, air cargo services, courier services, manpower outsourcing services, hotel services, security guard services, software development services, IT services and IT enabled services as defined in Section 65F, tracking services, advertising services (other than by print or electronic media), share registrar services, car rental services, building maintenance services, services rendered by Pakistan Stock Exchange Limited, Pakistan Mercantile Exchange Limited and inspection and certification, testing and training services, oilfield services, telecommunication services, warehousing services, collateral management services, travel and tour services	3%
Rendering of or providing of services including engineering services <ul style="list-style-type: none"> Company Other than company 	8% 10%
Electronic and print media advertising services	1.5%
On the execution of contract <ul style="list-style-type: none"> Sportsperson Company Other than company 	10% 7% 7.5%

The Bill proposes to reduce the withholding tax rate in respect of supply of fastmoving consumer goods, fertilizer, electronics excluding mobile phones, sugar, cement and edible oil where the name of the distributor, dealer, sub-dealer, wholesaler is appearing in both the ATLS issued under the Ordinance and the ST Act, 1990, as under:

Types of Payment	Existing Rate of tax (%)	Proposed rate of tax (%)
<ul style="list-style-type: none"> In case supply is made by a company; and 	2%	0.25%
<ul style="list-style-type: none"> In case supply made by any other person. 	2.5%	0.25%

The Bill also seeks to include following services in the list of services which are subject to reduced rate of withholding of tax of 3% under Section 153(1)(b) of the Ordinance:

- oilfield services
- telecommunication services
- warehousing services
- collateral management services
- travel and tour services

Income Tax

Further an explanation has been proposed for the applicability of reduced rate of 3% in respect of Section 153(1)(b) of the Ordinance that it is only applicable in those cases where the services provider is subjected to withholding tax on gross amount of receipts and also has not agitated taxation of gross receipt before any Court of law. In our view, the insertion of such explanation is in view of the recent decision of the Hon'ble Sindh High Court dated 27 April 2021 on the Petitions filed by certain Human Resource service provider companies. The Petitioners had challenged the applicability of withholding tax of 3% on the gross amount of receipts in respect of manpower outsourcing services instead of on their service portion. The Hon'ble Court had decided the matter in favor of the Petitioners by holding that that the withholding of tax would be made on the amount of gross amount of fee payable (including sales tax) and not on the reimbursable amount of salaries. Accordingly, companies who had challenged the applicability of withholding tax on the gross amount of fee has been proposed to be debarred to enjoy the benefit of reduce withholding tax rate of 3%. It may increase unnecessary litigation from the side of taxpayers who may not be able to take the benefit of reduced rate of 3% in view of the proposed insertion of the explanation.

63. Exports

The rate of collection of tax for exports, indenting commission and services to export house remains unchanged as under:

Types of Payment	Rate
Export proceeds	
Proceeds from sale of goods to an exporter under an inland back-to-back letter of credit or any other arrangement	1% of export proceeds
Export of goods by an industrial undertaking located in an Export Processing Zone	1%
Collection by collector of customs at the time of clearing of goods exported	1%
Indenting commission	5%

64. Exports of Services

The Bill seeks to propose rate of deduction of tax on export of services with reference to Section 154A of the Ordinance at 1%.

65. Income from property

The Bill proposes to revise the existing rates of withholding of tax on the payment of rent to individuals and AoPs. These are as under:

Gross amount of rent	Rate (%)
Where the gross amount of rent does not exceed PKR 300,000	Nil
Where the gross amount exceeds PKR 300,000 but does not exceed PKR 600,000	5% of gross amount exceeding PKR 300,000
Where the gross amount exceeds PKR 600,000 but does not exceed PKR 2,000,000	PKR 15,000 plus 10% of gross amount

Income Tax

Gross amount of rent	Rate (%)
	exceeding PKR 600,000
Where the gross amount exceeds PKR 2,000,000	PKR 155,000 plus 25% of gross amount exceeding PKR 2,000,000

The rate of withholding of tax in the case of company remains unchanged which is 15% of the gross amount of rent.

66. Tax on prize and winnings

The rate of withholding tax on prize bond, crossword puzzle and prize on winnings remains unchanged, as under:

Description	Rate (%)
Prize on prize bond and crossword puzzle	15%
Winnings from a raffle, lottery, prize on winning a quiz, prize offered by a company for promotion of sale	20%

67. Tax on Petroleum Products

The rate of withholding tax on Petroleum Products remain unchanged, being 12%.

PART IV**68. Collection of advance tax on brokerage and commission**

The rate for collection of advance tax remains unchanged, as under:

Description	Rate (%)
For advertising agents	10%
Life insurance agent where commission received is less than PKR.500,000 per annum	8%
Persons not covered above	12%

69. Collection of tax on motor vehicles

The rate of collection of tax remains unchanged, as under:

Passenger transport vehicle having capacity	PKR per seat per annum
Four or more persons but less than ten persons	50
Ten or more persons but less than twenty persons	100

Income Tax

Passenger transport vehicle having capacity	PKR per seat per annum
Twenty persons or more	300
Private motor vehicle having engine capacity	Rate PKR
Upto 1000cc	800
1001cc to 1199cc	1,500
1200cc to 1299cc	1,750
1300cc to 1499cc	2,500
1500cc to 1599cc	3,750
1600cc to 1999cc	4,500
2000cc to & above	10,000

Motor vehicle having engine capacity (collected in lump sum)	Rate PKR
Upto 1000cc	10,000
1001cc to 1199cc	18,000
1200cc to 1299cc	20,000
1300cc to 1499cc	30,000
1500cc to 1599cc	45,000
1600cc to 1999cc	60,000
2000cc & above	120,000

70. Collection of tax on electricity consumption

The Bill proposes to replace the existing Schedule of rates of collection of tax from commercial and industrial consumers on the gross amount of electricity bill. These are as under:

Description	Rate of tax
Up to PKR 500	0
Exceeds PKR 500 but does not exceed PKR 20,000	10% of the amount
Exceeds PKR 20,000	PKR 1,950 plus 12% of the amount exceeding PKR 20,000 for commercial consumers PKR 1,950 plus 5% of the amount exceeding PKR 20,000 for industrial consumers

Income Tax

The Bill proposes to introduce collection of tax on domestic electricity consumption as per the following rates:

Description	Rate of tax
Amount of monthly bill up to PKR 25,000	0
Where amount of monthly bill exceeds PKR 25,000	7.5%

71. Collection of tax on telephone users

The rate of collection of tax on telephone subscribers remained unchanged. However, the Bill seeks to propose reduce rate of collection of tax on subscribers of internet, mobile telephone and pre-paid internet or telephone cards. These are as under:

Description	Existing Rate (%)	Proposed Rate (%)
Telephone subscriber where the amount of monthly bill exceeds PKR 1,000	10% of exceeding amount	Unchanged
Subscriber of internet, mobile telephone and pre-paid internet or telephone card	12.5% of the amount of bill or sales price	10% of the amount of bill or sales price for the TY 2022 8% for succeeding TYs

72. Advance tax on purchase, registration and transfer of motor vehicles

The advance tax on purchase and registration of motor vehicles remains unchanged, as under:

Engine capacity	Amount in PKR
Up to 850cc	7,500
851cc to 1000cc	15,000
1001cc to 1300cc	25,000
1301cc to 1600cc	50,000
1601cc to 1800cc	75,000
1801cc to 2000cc	100,000
2001cc to 2500cc	150,000
2501cc to 3000cc	200,000
Above 3000cc	250,000

Income Tax

Further, the rates of collection of tax on transfer of motor vehicles have also remained unchanged, as under:

Engine capacity	Amount in PKR
Up to 850cc	-
851cc to 1000cc	5,000
1001cc to 1300cc	7,500
1301cc to 1600cc	12,500
1601cc to 1800cc	18,750
1801cc to 2000cc	25,000
2001cc to 2500cc	37,500
2501cc to 3000cc	50,000
Above 3000cc	62,500

The rates for collection of tax under Section 231B of the Ordinance from a person who had booked motor vehicle but had not transferred in his name shall pay advance tax at the following rates which remain unchanged as under:

Engine capacity	Amount of Tax PKR
Up to 1000cc	50,000
1000cc to 2000cc	100,000
2000cc and above	200,000

73. Advance tax at the time of sale by auction

The rate of collection of tax remains unchanged at 10% whereas the rate of collection of advance tax on sale of immovable property is 5%.

74. Advance tax on sale/ transfer of immovable property

The rate of tax to be collected on sale/ transfer of immovable property remains unchanged at 1%.

75. Advance tax on sale to distributors, dealers or wholesalers

Advance tax on sale to distributors, dealers or wholesalers remain unchanged, as under:

Category of sale	Rate of tax (%)
Fertilizers	0.7%
Other than fertilizers	0.1%

Income Tax

The Bill proposes to provide concession in the rate of withholding tax at 0.25% if the sales of fertilizer is made to distributors, dealers, wholesalers where his name is appearing in both the ATLs issued under the Ordinance and the ST Act, 1990.

76. Advance tax on sale of retailers

The Bill proposes to replace the existing rates of collection of tax on sale to retailers on the gross amount of sale to be 0.5%.

77. Collection of tax by educational institutions

The rate of collection of tax remains unchanged at 5% which is only applicable to persons not appearing in the ATL.

78. Advance tax on purchase of immovable property

The rate of tax to be collected on purchase of immovable property under Section 236K remains unchanged at 1% of the Fair Market Value.

79. Payment to a resident person for right to use machinery and equipment

The rate of tax remains unchanged at 10%.

80. Withholding provisions proposed to be deleted

The Bill proposes to omit the withholdings/ collection of advance tax under the following provisions of the Ordinance as well as their references wherever appearing in the Ordinance:

Section Reference	Description of withholding tax	Rate of withholding/ collection of tax
153B	Royalty paid to resident person	15%
231A	Cash withdrawal from bank account	0.6% on the person whose name is not appearing in ATL
231AA	Advance tax on transactions in bank	0.6% on the person whose name is not appearing in ATL
233A	Collection of tax by a Stock Exchange registered in Pakistan	0.02% of the purchase/ sale value
233AA	Collection of tax by NCPPL	10%
234A	CNG Stations	4%
236B	Advance tax on purchase of air ticket	5% of the gross amount of air ticket
236HA	Tax on sale of certain petroleum products	0.5% of ex-depot sales price

Income Tax

Section Reference	Description of withholding tax	Rate of withholding/ collection of tax
236L	Advance tax on purchase of international air ticket	PKR 16,000/ person (First/ Executive class) and PKR.12,000/ person (Other excluding Economy)
236P	Advance tax on banking transactions otherwise than through cash	0.6% on the person whose name is not appearing in ATL
236V	Advance tax on extraction of minerals	5%
236Y	Advance tax on persons remitting amounts abroad through credit or debit or prepaid cards	1%

SECOND SCHEDULE

Amendments in existing Clauses/ insertion of new Clauses in the Second Schedule

The Bill seeks to amend certain Clauses as well as insert the following Clauses in the Second Schedule to the Ordinance.

Part I

81. Payment of profit on debt
Clauses (22), (23) and (23C)

Under the existing provisions of Clause (22) of Part I of the Second Schedule, any payment received from a Provident Fund to which the Provident Fund Act, 1925 applies is exempt from tax. Similarly, accumulated balance due to an employee participating in a recognized Provident Fund is also exempt by virtue of Clause (23) of Part I of the Second Schedule. However, the accumulated balance received by an employee from a Voluntary Pension System is exempt up to 50% of the amount received, under Clause (23A) of Part I of the Second Schedule.

Contributions made by an employer to a recognized Provident Fund in excess of one-tenth of the salary or PKR 150,000, and profit on debt credited on the balance to the credit of the employee in excess of one-third of salary or 16% as notified by the Federal Government is treated to have been received by the employee and taxed under the head salary on an annual basis.

The Bill has proposed to tax payments representing profit on debt earned on contributions to Provident Fund exceeding PKR 500,000 and on the entire amount of interest in an approved Pension Fund, at the rate of 10% as a separate block of income.

The manner in which the amendments are drafted gives rise to significant ambiguity on how the tax would apply and whether it would be levied on an annual basis or at the time of payment of the retirement benefits.

82. Exemption to income of certain charitable and other institutions
Clause (66)

Clause (66) provides exemption from tax to any income of certain charitable and other institutions specified therein. The Finance Act, 2020 has substituted the list of institutions with two tables. Table 1 provided a list of institutions which are fully exempt without any condition. On the contrary, income derived by the institutions specified under Table

2 are exempt subject to compliance with the provisions of Section 100C of the Ordinance with effect from 01 July 2021.

The Bill has proposed to upgrade the following institutions from Table 2 to Table 1:

- Abdul Sattar Edhi Foundation
- Patient's Aid Foundation
- Indus Hospital and Health Network
- Dawat-e-Hadiya Karachi
- The Citizens Foundation
- Audit Oversight Board

The Bill has also proposed addition of the following institutions in Table 1:

- Securities and Exchange Commission of Pakistan
- Privatization Commission of Pakistan
- Sundus Foundation
- Ali Zaib Foundation
- Fauji Foundation
- Make a Wish Foundation
- Supreme Court Water Conservation Account
- Political parties registered with the Election Commission of Pakistan

83. Profits and gains derived by a refinery

Clause (126B)

Clause (126B) has been inserted by the Tax Laws (Second) Amendment Ordinance, 2021 to exempt profits and gains derived by a refinery:

- (i) from new deep conversion refinery of at least 100,000 barrels per day for which approval is given by the Federal Government before 31 December 2021;
- (ii) for the purpose of upgradation, modernization or expansion project of any refinery existing on the date of commencement of the Second Amendment Ordinance for which the refinery files an undertaking in this regard to the Federal Government in writing, before the 31 December 2021.

The Bill has proposed to restrict such exemption for a period of 10 years beginning from the date of commencement of commercial production in the case of new refinery and from the date of completion of upgradation, modernization or expansion project of an existing refinery.

84. Profits and gains in relation to Special Technology Zones

Clause (126EA), Part I, Second Schedule
 Clause (60DA), Part IV, Second Schedule

Currently, income derived by a zone enterprise as defined in the Special Economic Zones Act, 2012 is exempt from tax for a period of 10 years reckoned from the date the developer certifies that the zone enterprise has commenced commercial operations. Similarly, such exemption is also available to a developer of zone starting from the date of

signing of development agreement in Special Economic Zone and to the co-developer as defined under the EPZ Rules, 2013 subject to certain conditions.

The Bill seeks to further extend the benefits viz. Special Economic Zones profits and gains derived by the following shall be exempt as discussed below:

- (a) zone developer as defined in Section 2 of the Special Technology Zones Authority Ordinance, 2020 from development and operations of the zones for a period of ten years starting from the date of signing of the development agreement;
- (b) profits and gains of Zone Enterprises as defined in Section 2 of the Special Technology Zones Authority Ordinance, 2020 for a period of ten years from the date of issuance of license by the Special Technology Zone Authority; and
- (c) Special Technology Zones Authority established under the Special Technology Zones Ordinance, 2020.

The Bill further seeks to insert Clause (60DA) to Part IV of the Second Schedule whereby no tax is proposed to be collected on the import of capital equipment as defined in Section 2 of the Special Technology Zones Ordinance, 2020 by the following:

- (a) zone developers as defined in Section 2 of the Special Technology Zones Ordinance, 2020 for consumption in the special technology zones for the period of 10 years commencing from the date of signing the development agreement;
- (b) zone enterprises as defined in Section 2 of the Special Technology Zones Authority Ordinance, 2020 for a period of ten years from the date of issuance of license by the Special Technology Zone Authority; and
- (c) Special Technology Zones Authority established under the Special Technology Zones Ordinance, 2020.

85. Profits and gains derived from sale of electricity

Clause (132AA)

A new Clause (132AA) has been proposed to be inserted to provide exemption on profits and gains derived from sale of electricity by National Power Parks Management Company Limited commencing from the date of change of ownership as a result of privatization by the Privatization Commission of Pakistan.

86. Incentives to bagasse-based cogeneration power project

Clause (132C)

Clause (18C), Part II of the Second Schedule

A new Clause (132C) is proposed to be inserted to grant exemption on profits and gains derived from a bagasse/ biomass-based cogeneration power project having one or more boilers of not less than 60 bar (kg/CM³) pressure commissioned after 01 January 2013.

A reduced rate of tax at the rate of 7.5% has also been proposed for attributable dividend from a bagasse and biomass-based cogeneration power project qualifying for exemption under Clause (132C) of Part I of the Second Schedule. Attributable dividend shall be determined in the ratio of accounting profit for the year attributable to such project and the total accounting profit for the year before tax. The profit attributable to such project would be determined by an external auditor of the Company who will issue a certificate to this effect.

Part II

87. Withdrawal of reduced rate of withholding tax for large distribution houses*Clause (24A)*

A reduced rate of tax at 1% is available on sale from distributors of cigarette and pharmaceutical products and for large distribution houses who fulfill all the conditions for a large import house as specified under Section 148 of the Ordinance. The Bill has proposed to withdraw the reduced rate benefit available to large distribution houses under the above clause. Consequently, supplies made by large distribution house will be subject to withholding of tax at the general rate of withholding under Section 153(1)(a) of the Ordinance.

88. Expansion of benefit of reduced rate of withholding tax*Clause (24C)*

Currently, reduced rate of 0.25% is available under Section 153(1)(a) of the Ordinance, in the case of dealers and sub-dealers, wholesalers and retailers of fastmoving consumer goods, fertilizer, sugar, cement and edible oil as recipient of payments, provided that the beneficiaries are already sales tax registered or get themselves registered for sales tax within 60 days from the date of promulgation of the Tax Laws (Amendment) Ordinance.

The Bill has proposed to provide the above reduced rate to the whole of the supply chain including distributors. Further, it is proposed to include electronics (excluding mobile phones) in the above list of supplies. To avail the above benefit, it is proposed that the beneficiaries should appear in the ATL issued under the Ordinance and under the ST Act, 1990. It is also proposed that the benefit under this Clause shall only be available to Tier-1 retailers as defined under the ST Act, 1990 who are integrated and configured with FBR or its computerized system for real time reporting of sales or receipts.

89. Expansion of benefit of reduced rate of minimum tax*Clause (24D)*

A reduced rate of minimum tax of 0.25% under Section 113 of the Ordinance is available in the case of dealers and sub-dealers, wholesalers and retailers of locally manufactured mobile phones, fastmoving consumer goods, fertilizer, sugar, cement and edible oil subject to the condition that the beneficiaries are appearing in the ATL issued under the Ordinance and under the ST Act, 1990. The benefit of reduced rate is available to such persons who are already sales tax registered or get themselves registered under the ST Act, 1990 within 60 days of promulgation of the Tax Laws (Amendment) Ordinance.

The Bill has proposed to provide the above reduced rate to the whole of the supply chain including distributors and insertion of electronics (excluding imported mobile phones) in the above list of sectors. It is also proposed that the benefit under this Clause shall only be available to Tier-1 retailers as defined under the ST Act, 1990 who are integrated and configured with FBR or its computerized system for real time reporting of sales or receipts.

90. Increase in time threshold of benefit of reduced minimum tax on traders of yarn*Clause (28E)*

A reduced rate of minimum tax 0.5% under Section 113 of the Ordinance for the tax year 2020 is currently available to traders of yarn being individuals. The Bill has proposed to remove the restriction and consequently, it is proposed that the reduced rate of minimum tax would be available in subsequent tax years as well.

Part III

91. Offshore supply contract of an Independent power producer located wholly or partly in AJ & K
Clause 18

The Bill seeks to insert a new Clause (18) whereby receipts of an IPP located, wholly or partly in Azad Jammu & Kashmir, shall attract withholding of tax at the rate of 1% subject to fulfillment of the following conditions:

- (i) Private Power & Infrastructure Board (PPIB) has issued a Letter of Support for the project;
- (ii) Its EPC contract has been executed and submitted to NEPRA for EPC stage tariff determination prior to the enactment of Finance Act, 2018;
- (iii) Offshore supply contract agreement of offshore supply contractor having permanent establishment in Pakistan falls under the purview of cohesive business operation as contemplated under the Ordinance; and
- (iv) Such 1% tax shall be full and final tax liability of the offshore contractor

92. Reduced tax rates on profits and gains derived by a women enterprise
Clause (19)

In order to empower women, the Bill seeks to introduce a rather friendlier tax environment for an enterprise entirely owned by women. The Bill coins a new term 'women enterprise' which may take any of the following three forms:

- (a) a sole proprietorship concern owned by a woman;
- (b) an AOP all of whose members are women; or
- (c) a Company with 100% shareholding held by women.

The tax payable by a woman enterprise on profits and gains derived from business chargeable to tax under the head 'Income from Business' shall be reduced by 25%. It is worthwhile to highlight that the proposed reduction is for profit and gains and not the income whereby it transpires that the loss, if any, sustained by such enterprise would be fully allowed.

The benefit under the proposed Clause shall, however, not be available to a business that is formed by the transfer or reconstitution or reconstruction or splitting up of an existing business.

Part IV

Amendments in Part IV of the Second Schedule to the Ordinance

93. Exemption from application of minimum turnover tax
Clause (11A) & Section 113

Clause 11A of Part IV of the Second Schedule to the Ordinance prescribes the persons who are absolved from the application of minimum tax based on turnover under Section 113 of the Ordinance. The Bill now seeks to remove the following persons from Clause (11A):

- Non-profit organizations approved under Clause (36) of Section 2 of the Ordinance or Clause (58) or included in Clause (61) of Part I of the Second Schedule to the Ordinance.

Since the Bill proposes to substitute Section 100C of the Ordinance whereby a tax credit would be allowed equal to 100% of the tax payable under any provisions of the Ordinance, the said entry in Clause (11A) would become redundant hence proposed to be deleted;

- Exporters of computer software, IT services or IT enabled services who qualified for exemption under Clause (133) of Part I of the Second Schedule to the Ordinance.

Since the Bill proposes to omit the aforesaid exemption and insert a new Section 65F whereby such exporters are proposed to be allowed tax credit equal to 100% of the tax payable under any provisions of the Ordinance, the said entry in Clause (11A) would become redundant hence proposed to be deleted;

- Modarabas qualifying for exemption under Clause 100 of Part I of the Second Schedule to the Ordinance;
- The corporatized entities of Pakistan Water and Power Development Authority in respect of their receipts from of sale of electricity;
- Companies qualifying for exemption under Clause (132B) of Part I of the Second Schedule to the Ordinance in respect of receipts from a coal mining project in Sindh for supplying coal exclusively to power generation projects;
- Start-up as defined in Clause (62A) of Section 2 who qualifies for exemption under Clause (143) of Part I of the Second Schedule to the Ordinance;

Since the Bill proposes to substitute the said exemption with a new Section 65F whereby such start-ups are proposed to be allowed tax credit equal to 100% of the tax payable under any provisions of the Ordinance, the said entry in Clause (11A) would become redundant hence proposed to be deleted.

In addition, the Bill also seeks to extend the benefit of Clause (11A) to the following taxpayers:

- Islamic Naya Pakistan Certificates Company Limited;
- receipts from sale of electricity produced from a bagasse and biomass-based co-generation power project qualifying for exemption under Clause (132C) of Part I of the Second Schedule to the Ordinance;
- new entity taking over National Power Parks Management Company Limited in the eve of privatization;
- Zone Enterprises as defined in the Special Economic Zones Act, 2012 and Zone Developers defined in Special Economic Zone Rules, 2013 qualifying for exemption under Clause (126E), Part I of the Second Schedule to the Ordinance; and
- Zone developer as defined in Section 2 of the Special Technology Zones Authority Ordinance, 2020 and Zone Enterprises as defined in Section 2 of the Special Technology Zones Authority Ordinance, 2020.

94. Exemption from tax on import of oxygen gas, cylinders and generators etc.

Clause (12M) read with Section 148

In order to fight a universally unprecedented challenge in the shape of Novel Corona Virus Pandemic and to equip the health sector, the Bill seeks to insert a new Clause (12M) in Part IV of the Second Schedule to the Ordinance whereby no tax would be collected on import of oxygen gas, oxygen cylinders, and oxygen concentrators/ generators/ manufacturing plants under the specified tariff for a period of one hundred and eighty days commencing from 14 May 2021.

95. Exemption from tax on import and export of specified items in BMS*Clause (12N) read with Section 148 & 154*

The Bill seeks to coin a concept of BSM with a view to ensure sufficient availability of specified edible items within the vicinity of the borders which Pakistan shares with Iran and Afghanistan. Under the said concept, the provisions of Section 148 regarding collection of tax at import stage and the provisions of Section 154 in relation to collection of tax on export of specified items would not be applicable subject to fulfilment of the following conditions:

- The goods so imported and exported shall be supplied only within the limits of BSM established in cooperation with Iran and Afghanistan;
- If the goods, on which exemption under this Clause has been availed, are brought outside the limits of such markets, income tax shall be charged on the import value as per provisions of Section 148 of the Ordinance;
- Such items in case of import, shall be allowed clearance by the Customs Authorities subject to furnishing of bank guarantee equal to the amount of income tax involved and the same shall be released after presentation of consumption certificate issued by the Commissioner Inland Revenue having jurisdiction;
- The said exemption shall only be available to a person upon furnishing proof of having a functional business premises located within limits of the BSM; and
- Breach of any of the conditions specified above shall attract relevant legal provisions of the Ordinance, besides recovery of the amount of income tax along with default surcharge and penalties involved.

96. Exemption from withholding of tax on payment made to oil tanker contractor*Clause (43D) read with Section 153*

Currently, an oil tanker contractor is absolved from deduction of tax under Section 153(1)(a) of the Ordinance subject to the condition that he pays tax at the rate of 2.5% on payments for rendering or providing of carriage services.

The Bill seeks to extend the benefit of non-withholding of tax under Section 153(1)(b) of the Ordinance as well provided that he shall pay tax at the rate of 3.5% on payment of rendering or providing of carriage services, instead of 2.5%.

97. Exemption from withholding of tax on payment made to goods transport contractor*Clause (43E) read with Section 153*

Currently, a goods transport contractor is absolved from deduction of tax under Section 153(1)(a) of the Ordinance subject to the condition that he pays tax at the rate of 3% on payments for rendering or providing of carriage services.

The Bill now seeks to extend the benefit of non-withholding of tax under Section 153(1)(b) of the Ordinance as well provided that he shall pay tax at the rate of 3.5% on payment of rendering or providing of carriage services, instead of 3%.

98. Exemption from withholding of tax on commodity futures contracts*Clause (43G) read with Section 153*

The Bill seeks to absolve the withholding of tax on payments made in respect of commodity futures contracts listed on a Futures Exchange licensed under the Futures Market Act, 2016.

99. Reduced withholding of tax on payments for supplies and services made by taxpayers falling under covered under SRO 1125

Clause (45A) read with Section 153

Currently, as per the provisions of Clause (45A), Part IV of the Second Schedule to the Ordinance, payments made on account of supply of goods and rendering of services to the following five sectors attracts withholding of tax at the rate of 1%:

- (i) textile and articles thereof;
- (ii) carpets;
- (iii) leather and articles thereof including artificial leather footwear;
- (iv) surgical goods; and
- (v) sports goods.

In addition, goods supplied, and services rendered by yarn traders to above classes of taxpayers attracts withholding of tax at the rate of 0.5%.

The Bill however seeks to insert an explanation whereby it is clarified that the above reduced rate(s) would only be applicable to such local supplies and services provided by taxpayers who are engaged in the above referred categories. We understand that this may not be the intention of the legislator as the proposed Explanation runs against the spirit of the aforesaid provisions. The anomaly needs to be addressed by FBR at the time of enactment of the proposed changes into the Ordinance.

100. Exemption from withholding of tax on sale of used motor vehicles by general public

Clause (45B) read with Section 153

Lately, a rather promising business has shaped up whereby expert centers are created which provide convenient sale and purchase of used motor vehicles. In order to support these businesses and to relieve general public from the burden of tax, the Bill seeks to insert a new Clause (45B) in Part IV whereby no withholding of tax would be applicable on any payment made by a person on account of purchase of used motor vehicles from general public.

101. Payments not subject to withholding of tax under Section 153

Clause (46AA)

In order to harmonize the provisions of the Ordinance, a new Clause (46AA) was inserted in Part IV of the Second Schedule specifying persons whose receipts are absolved from withholding of tax under Section 153 of the Ordinance. The aforesaid Clause (46AA) is *pari materia* to SRO 586(I)/91 dated 30 June 1991.

The Bill now seeks to substitute Sub-clause (iv) of Clause (46AA) whereby persons receiving payments exclusively for supply of agriculture produce would include the following:

- (a) fresh milk;
- (b) fish by any person engaged in fish farming;
- (c) live chicken, birds and eggs by any person engaged in poultry farming;
- (d) live animals by any person engaged in cattle farming;
- (e) unpackaged meat; and
- (f) raw hides

The above exemption is subject to the condition that the above items are directly purchased from the grower and such grower provides a certificate to that effect in the manner prescribed in Clause (12) of Part IV of the Second Schedule to the Ordinance. Further, the agriculture produce has not been subjected to any process other than which is ordinarily performed to render such produce fit to be taken to the market.

The proposed substitution entails two major amendments as discussed below:

- (i) Extended the benefit of exemption to persons receiving payments for following goods which were previously not covered under the aforesaid exemption:
 - (a) live animals by any person engaged in cattle farming;
 - (b) unpackaged meat; and
 - (c) raw hides.
- (ii) Renounced the benefit to an industrial undertaking engaged in poultry processing which has not been subject to any process (other than which is ordinarily performed to render such produce fit to be taken to the market).

102. Withdrawal of exemption from deduction of tax on dividend, profit on debt & commission

Clause (47B)

In line with the withdrawal of exemption for a Modaraba and a Private Equity and Venture Capital Fund, the Bill seeks to withdraw exemptions that were previously available to the above entities from taxes deducted on dividend, profit on debt and commission paid to them.

103. Tax paid at import stage

Clause (56) read with Section 148

The Bill seeks to extend the benefit of Clause 56 regarding exemption from collection of tax at import stage to the following persons/ classes of persons and goods/ classes of goods:

- (a) Goods temporarily imported into Pakistan by international athletes which would be subsequently taken back by them within one hundred and twenty days of temporary import;
- (b) Goods produced or manufactured and exported from Pakistan which are subsequently imported in Pakistan within one year of their exportation, provided conditions of Section 22 of the Customs Act, 1969 are complied with;
- (c) plant and machinery imported for setting up of a bagasse/ biomass-based cogeneration power project qualifying for exemption under Clause (132C), Part I of the Second Schedule;
- (d) persons authorized under Export Facilitation Scheme, 2021 notified by the FBR with such scope, conditions, limitation, restrictions and specification of goods;
- (e) motor vehicles up to 850cc in CBU condition;
- (f) Printed books excluding brochures, leaflets and similar printed material, whether in single sheets (PCT code 49.01);
- (g) Newspapers, journals and periodicals, whether illustrated or containing advertising material (PCT code 49.02).

Income Tax**104. Withdrawal of exemption under Section 153 from payments received by Large Import House***Clause 57A*

Section 148 of the Ordinance requires collection of tax by the Collector of Customs at the time of import of goods. Before the introduction of Finance Act 2020, the tax so collected on the imports of goods by a Large Import House ("LIH ") was an adjustable tax. Similarly, as per Clause (57A) of Part IV of the Second Schedule to the Ordinance, the amount received by LIH was not subject to withholding of tax under Section 153 of the Ordinance.

Vide the Finance Act, 2020, adjustability of advance tax paid at import stage was done away for a LIH. Accordingly, the tax collected at import stage is considered as minimum tax for a LIH subject to the condition that in case of higher tax liability at corporate rate, the difference will be paid by the LIH.

The Bill now proposes to withdraw the exemption from withholding of tax on payment received by a LIH under Section 153 of the Ordinance. Consequent to the amendment made vide the Finance Act, 2020 viz. treatment of tax collected and import stage as a minimum tax and the amendment proposed by the Bill whereby the receipts of LIH would now also be subject to deduction of tax under Section 153 of the Ordinance, such LIHs may end-up in higher stuck refunds which may create liquidity crunch for such LIHs.

105. Withdrawal of Clauses from the Second Schedule

The Bill seeks to withdraw certain Clauses from Part I, Part II, Part III and Part IV of the Second Schedule to the Ordinance. These are listed below:

Part I

Clause No.	Description
4	Salary received by a Pakistani Seafarer working on a Pakistani flag vessel for 183 days or more during a tax year and a Pakistani Seafarer working on a foreign vessel where such income is remitted to Pakistan within 2 months of the relevant tax year through normal banking channels
40	Income of a newspaper employee representing local travelling allowance
53A	Perquisites received by an employee namely free or subsidized food provided by hotels and restaurants to its employees during duty hours, free or subsidized education provided by an educational institution to its children of its employees, free or subsidized medical treatment provided by a hospital or a clinic to its employees and any other perquisite for which the employee does not have to bear any marginal cost
80	Any income derived from a private foreign currency account held with an authorized bank in Pakistan in accordance with the Foreign Currency Accounts Scheme introduced by the State Bank of Pakistan by a resident individual who is a citizen of Pakistan
114AA	Any income chargeable under the head "capital gains" derived by a resident individual from the sale of constructed residential property subject to fulfillment of certain conditions
117	Any income derived by a person from plying of any vehicle registered in the territories of Azad Jammu and Kashmir excluding income arising from the operation of such vehicle in Pakistan to a person who is resident in Pakistan and non-resident in those territories.
126N	Profits and gains derived by a taxpayer from an industrial undertaking duly certified by PTA engaged in the manufacturing of cellphones for a period of 5 years from the month of commencement of commercial production subject to fulfillment of certain conditions

Part II

Clause No.	Description
18A	Reduction in tax rate to 20% for a Company setting up an industrial undertaking between the first day of July 2014 to the 30 th day of June 2017 for a period of 5 years beginning from the month in which the industrial undertaking is set up or commercial production in commenced, whichever is later, subject to fulfilment of certain conditions

Part III

Clause No.	Description
2	The 25% reduction against tax payable of full time teachers or a researcher employed in a non-profit education or research institution duly recognized by Higher Education Commission, a Board of Education or a University recognized by the Higher Education Commission, including government research institution is sought to be withdrawn

Fifth Schedule

106. Exemption from tax of profits from refining or concentrating minerals deposits

Presently, as per Rule 4, undertakings engaged in refining or concentrating the minerals deposits extracted by it in Pakistan, the profits and gains to the extent of 10% of the capital employed by such an undertaking in such business is exempt from tax. The Bill has proposed to withdraw such exemption from tax by deleting this sub-Rule.

Tenth Schedule

Exemption to payment of income from property from application of Tenth Schedule

107. Rent of immovable property subject to the application of Tenth Schedule

As per the Tenth Schedule, wherever tax is required to be deducted or collected under any provision of the Ordinance from a person whose name is not appearing in ATL, the rate of withholding will be doubled in case of deduction or collection of tax from such person. However, the Schedule provides exception in case of several payments on which provisions of the Tenth Schedule do not apply. Currently, the payment of rent of immovable property is ousted from the mischief of the Tenth Schedule.

However, the Bill now seeks to withdraw the said exception whereby any payment of rent of immovable property paid to a person not appealing in ATL would be subject to deduction of tax at double the rate of tax applicable under Section 155 of the Ordinance.

AMENDMENTS INTRODUCED THROUGH INTERIM ORDINANCES

During the financial year 2020-2021, the following Ordinances were introduced:

- The Income Tax (Amendment) Ordinance, 2021;
- The Tax Laws (Amendment) Ordinance, 2021; and
- The Tax Laws (Second Amendment) Ordinance, 2021.

The amendments introduced through the above Ordinances are now being presented before the Parliament as part of the Bill. We have not provided our comments on such amendments in the main body of our publication and instead have provided below our earlier circulated comments on those provisions.

INCOME TAX (AMENDMENT) ORDINANCE, 2021

C.No.F.2(I)/2021-Pub.dated 21 January 2021

The FBR has introduced certain amendments in section 100D, 11th Schedule and Section 120 of the Ordinance through Income Tax (Amendment) Ordinance, 2021, effective from 01 January 2021. Salient features of the amendments are as follows:

108. Section 100D - Special provisions relating to builders and developers:

The Prime Minister of Pakistan announced an incentive package for the Construction Sector aimed to increase employment opportunities in the wake of the COVID-19 outbreak. In this connection, Section 100D read with 11th Schedule of the Ordinance was introduced through Income Tax (Amendment) Ordinance, 2020 providing separate tax regime for Builders & Developers. The said regime is time bound and provides certain deadlines which have been extended in the following manner:

- **Project commencement, commissioning and estimated project life**

Description	Existing Date / Period	New Date / period
Project completion of new and existing Projects	30 September 2022	30 September 2023
Commencement of new project	31 December 2020	31 December 2021
Maximum estimated project life	2.5 years	3.5 years

- **Registration**

Description	Existing Date / Period	New Date / period
Where immunity with respect to source of funds		
<ul style="list-style-type: none"> • Availed 	31 December 2020	30 June 2021
<ul style="list-style-type: none"> • Not availed 	31 December 2020	31 December 2021

Income Tax

- Immunity from inquiry with respect to funds

Description	Existing Date / Period	New Date / period
Deposit of money into bank account by an individual. Transfer of funds into bank through a crossed banking instrument by a Company or an AoP(s).	31 December 2020	30 June 2021
Transfer of land to a Company or an AoP(s) as investment with a condition that person shall have ownership of land as on 19 April 2020.	31 December 2020	30 June 2021

- Other Conditions

Description	Existing Date / Period	New Date / period
Last date for first purchaser of building or unit of building to make full payment through crossed banking instrument.	30 September 2022	31 March 2023
Date after which additional partners or shareholders in a project may join. However, immunity under section 111 of the Ordinance will not be available.	31 December 2020	31 December 2021

109. Section 120 - Assessments:

Before the enactment of the Finance Act, 2020 (the Act), a complete return of income filed by a taxpayer was treated to be an assessment order issued by the tax authorities in respect of the income declared and tax thereon. The Act inserted a new sub-section 2A to introduce a new concept of self- assessment subject to initial scrutiny of the return to arrive at correct amounts of total income, taxable income and tax payable.

After making relevant changes in section 120 with regard to Sub-section (2A), a proviso has been inserted after Section 120(2A) which states that these provisions shall not be applicable, unless its date of operation is notified by FBR. Resultantly, the concept of self-assessment has been restored.

THE TAX LAWS (FIRST AMENDMENT) ORDINANCE, 2021

The government has introduced certain schemes and incentives to attract foreign currency deposits. These include reduced rate of taxation on interest income, capital gains and liberal exchange policies.

Through the Tax Laws (Amendment) Ordinance, 2021 (First Amendment Ordinance), the government has extended certain reliefs, especially to non-resident individuals (NRIs) holding NICOP, POC or CNIC and maintaining a Foreign Currency Value Account (FCVA), or a Non-Resident Pakistani Rupee Value Account (NRVA) with authorized banks in Pakistan. These are summarized as under:

Income Tax

110. Incentives for non-resident individuals

Description	Rate	Conditions
Remittance of proceeds on account of capital gain by a banking company on disposal of government securities	10% withholding tax u/s 152	<ul style="list-style-type: none"> Final tax for NRIs whose transactions are routed through FCVA or NRVA
Immovable property: <ul style="list-style-type: none"> ▪ Sale ▪ Purchase 	1% (u/s 236C) 1% (u/s 236K)	<ul style="list-style-type: none"> No capital gain tax u/s 37 on sale of immoveable property

111. Exemptions from total income and withholding of tax

Profit on debt from foreign currency account and a Rupee Account held with scheduled banks in Pakistan is exempt from tax for certain persons prescribed under Clauses (78) and (79) of Part I of the Second Schedule to the Ordinance, respectively. The First Amendment Ordinance has substituted the categories of these persons in the following manner:

Clause	Current category of persons	New category of persons
(78)	Citizens of Pakistan and foreign nationals residing abroad, foreign association of persons, companies registered and operating abroad and foreign nationals residing in Pakistan	Non-resident individuals, non-resident association of person and non-resident companies
(79)	Citizen of Pakistan residing abroad	Non-resident individuals holding POC or NICOP or CNIC

NRIs claiming exemptions under these clauses will be exempt from payment of tax under Section 151 and 152 of the Ordinance as the rate of withholding tax has been prescribed to be zero percent.

112. Incentives for resident citizens of Pakistan

The First Amendment Ordinance has also introduced certain concessions to resident citizens of Pakistan on account of their investment in Naya Pakistan Certificates and other government securities through FCVA, where such FCVA has already been declared to FBR. In such a case, profit on debt from Government debt securities (whether conventional or Shariah compliant) would be subject to tax withholding at 10%, which shall be considered as full and final discharge of tax liability.

113. Other benefits

- NRIs are not required to obtain National Tax Number and to file return of income, subject to the following conditions:
- Investment is made through FCVA or NRVA
- Has no Pakistan source income, other than interest income and capital gain on government securities, gain on immoveable property, dividend income and capital gain on listed securities and interest income from FCVA and NRVA
- Higher tax rates for withholding of tax (as applicable to persons not appearing on ATL) will not be applicable to NRIs investing through FCVA/ NRVA
- Withholding taxes on the following transactions will not be applicable to NRIs operating through FCVA/ NRVA:

- Cash withdrawal from bank (Section 231A)
- Sale of banking instrument or online transfer of money etc. (Section 231AA)
- All banking transactions, other than cash (Section 236P)

THE TAX LAWS (SECOND AMENDMENT) ORDINANCE, 2021

114. 100% Tax credit for certain persons

Section 65F Clauses (132B), (133) and (143), Part I of Second Schedule

The Second Amendment Ordinance has inserted a new Section 65F that provides 100% tax credit from tax payable, to the following taxpayers:

- Persons engaged in coal mining projects in Sindh supplying coal exclusively to power generation projects;
- A startup as defined in Clause (62A) of Section 2 for the TY in which the startup is certified by the Pakistan Software Export Board and for the following two years;
- Persons deriving income from exports of computer software or IT services or IT enabled services up to the period ending on 30 June 2025 and 80% of the export proceeds are brought into Pakistan in foreign exchange through normal banking channels.

It may be noted that the above persons were provided exemption from tax under the Second Schedule, however, by virtue of Section 65F, they are now entitled to tax credit subject to the following conditions:

- (a) annual return of income has been filed;
- (b) tax required to be deducted or collected has been deducted or collected and deposited in the government treasury;
- (c) withholding tax statements for the immediately preceding TY have been filed; and
- (d) monthly sales tax returns for the tax periods corresponding to the relevant TY have been filed.

The aforementioned taxpayers which are now eligible for tax credit will not be eligible for exemption certificate under Section 159 barring withholding of tax for the reason that corresponding amendment have not been made therein. Prior to the aforementioned amendments, the taxpayers being exempt from tax were able to secure exemption certificates in respect of withholding of tax from their receipts.

It is also pertinent that the Tax Laws Second Amendment Ordinance has inter-alia, omitted Clause (131), Part I of the Second Schedule which provided exemption from tax to persons in respect of royalty, fee for technical services and commission subject to certain conditions including that the receipts would be brought to Pakistan through normal banking channels. We understand that the exemption under Clause (131) was introduced primarily to enhance influx of foreign exchange proceeds into Pakistan. The persons which have now been provided tax credit under Section 65F of the Ordinance like startup business and exporter of IT services and IT enabled services are also bringing foreign exchange proceeds in Pakistan. According, we understand that like treatment should also be provided to persons covered under Clause (131), which has now been omitted.

115. Tax credit for specified industrial undertakings*Section 65G**Clauses (126I) and (126O), Part I of the Second Schedule*

Presently an industrial undertaking set up by 31 December 2016 and engaged in the manufacture of plant, machinery, equipment and items with dedicated use (no multiple uses) for generation of renewable energy from sources like solar and wind, and a greenfield industrial undertaking as defined in Clause (27A) of Section 2 of the Ordinance are exempt from tax in terms of Clauses (126I) and (126O), Part I of the Second Schedule. Further,

turnover tax under Section 113 is also not leviable by virtue of Clause (11A), Part IV of the Second Schedule to the Ordinance to the above industrial undertakings.

The Second Amendment Ordinance whilst has omitted Clauses (126I) and (126O); in their place, a new Section 65G has been inserted which provides for tax credit of 25% of eligible investment amount made by industrial

undertaking covered under the aforesaid clauses. This tax credit will be available against normal tax payable including minimum tax and final taxes, if any. Unadjusted amount of tax credit may be carried forward to two subsequent TY.

It may be noted that an industrial undertaking engaged in ship building is also entitled to avail the aforesaid tax credit subject to fulfilment of the prescribed conditions.

As stated above, the tax credit under Section 65G would be in respect of "eligible investment" which has been defined to mean any investment made in the purchase and installation of new machinery, buildings, equipment, hardware and software except self-created software and used capital goods.

It is also provided that the tax credit would be available to such greenfield industrial undertakings and undertakings engaged in ship building which are incorporated between 30 June 2019 and 30 June 2024 and are not formed by the splitting up or reconstitution of an undertaking already in existence or by transfer of machinery, plant or

building from an undertaking established in Pakistan prior to commencement of the new business and are not part of an expansion project.

As regards industrial undertaking engaged in the manufacture of plant, machinery, equipment and items with dedicated use (no multiple uses) for generation of renewable energy from sources like solar and wind, they are required to be setup by 30 June 2023. It is interesting to note that the scheme of tax credit under Section 65G provides a period of maximum three TY during which the tax credit would be available for adjustment.

However, in respect of the above industrial undertakings, a period of five years beginning from the date of setup of such industrial undertaking has been prescribed. This appears to be a result of some inadvertence which needs rectification.

116. Tax credit for certain persons*Section 100C*

Section 100C allows a tax credit up to 100% to certain non-profit organizations, trusts, and welfare institutions.

Currently, Section 100C is structured in a manner such that Sub-sections (1), (1A), and (1B) set out the conditions and limitations of the tax benefits, and Sub-section (2) sets out a list of persons and their respective incomes which are eligible for the tax credit.

The Second Amendment Ordinance has restructured the provisions of Section 100C. Sub-section (2) of the substituted Section 100C would now set out only the list of persons eligible for the tax credit, whereas Sub-section (3) lists the

incomes eligible for the tax credit. The list of persons and incomes is largely the same as it stood pre- amendment, with the exceptions being:

- Whilst previously all welfare institutions were entitled to tax credit, after the amendment only such welfare institutions that are registered with the provincial social welfare department, and welfare societies registered under provincial laws relating to registration of co-operative societies, would be eligible for a tax credit;
- Persons specified in Table - II of Clause (66) of Part I of the Second Schedule are added to Sub-section (2), thereby becoming eligible for the tax credit;
- Not for profit companies registered with the Securities and Exchange Commission of Pakistan under Section 42 of the Companies Act, 2017, are added to Sub-section (2), thereby becoming eligible for the tax credit; and
- International non-governmental organizations are added to Sub-section (2), thereby becoming eligible for the tax credit.

The conditions and limitations contained in Sub-sections (1), (1A), and (1B) are now to be covered under Sub- sections (4), (5), and (6). These conditions and limitations are the same as they were pre-amendment, with the only exception being that the condition of approval from the Commissioner, as per Clause (36) of Section 2, for persons mentioned in Table - II of Clause (66) shall take effect from 01 July, 2022, and such requirement shall not be applicable for earlier years.

117. Charitable donations

Section 61 and Thirteenth Schedule

Section 61 of the Tax Ordinance provides that a taxpayer shall be entitled to a tax credit for any sum paid or property given as a donation to certain persons. The tax credit is allowed to the donor based on his effective tax rate for the year. There is, however, a cap on the amount of donation eligible for tax credit under this section; being 30% of taxable income (where donor is an individual or AOP) and 20% (where donor is a company). These percentage are reduced by 50% where donor and donee are associates.

The Second Amendment Ordinance has expanded the availability of such tax credit to amounts paid as voluntary contributions and subscriptions to these institutions.

Further, the list of donees' has also been extended to persons eligible for a tax credit under Section 100C, and entities, organizations and funds mentioned in the Thirteenth Schedule.

118. The Thirteenth Schedule

Thirteenth Schedule and Clauses (61), (64A), (64B), (64C), and (65) of Part I of the Second Schedule

Currently, Clauses (61), (64A), (64B), (64C) and (65) of Part I of the Second Schedule to the Tax Ordinance states that any donations made to the entities specified in the said clauses shall not form part of the total income of the donor.

The Second Amendment Ordinance has omitted these clauses, and has consolidated the entities in a single list in a newly introduced Thirteenth Schedule. The Second Amendment Ordinance further proposes that donations made to such entities would now entitle the donor for a tax credit under Section 61.

The effect of such amendment is that the benefit on donations would be restricted per the conditions of Section 61, as opposed to the current situation where the entire donation amount is excluded from the taxable income of the donor.

119. Withdrawal of tax credit for persons employing fresh graduates*Section 64C*

The Finance Act, 2019 introduced Section 64C which provides for tax credit to a person who employs fresh qualified graduates (graduated after 01 July 2017) from any institution or university recognized by the Higher Education Commission. The amount of tax credit is computed in respect of the amount of annual salary paid to the freshly qualified graduates for a TY in which such graduates are employed.

The Second Amendment Ordinance has withdrawn the above discussed provisions.

120. Withdrawal of tax credit for enlistment*Section 65C*

Section 65C which was introduced through the Finance Act, 2010 provides for tax credit to such companies which get themselves enlisted on a registered stock exchange in Pakistan on or before 30 June 2022. Such companies are allowed tax credit equal to 20% of the tax payable for the TY in which such Company was enlisted and for the following three TY.

The Second Amendment Ordinance has omitted Section 65C of the Ordinance.

121. First year allowance abolished*Sections 23A, 57(4), 57(5), Part II, Third Schedule*

First year allowance, instead of initial allowance, is available at the rate of 90% on plant, machinery, and equipment:

- installed by any industrial undertaking owned and managed by a company, set up in specified rural and underdeveloped areas; or,
- installed by cellular mobile phone manufacturers and qualifying for exemption from profits and gains, as specified under Clause (126N) of Part I of the Second Schedule.

The Second Amendment Ordinance has deleted the availability of such First Year Allowance. Resultantly, corresponding amendments have been made across the Tax Ordinance, including in relation to carry forward of unabsorbed depreciation

122. Capital gains tax on SCRA of a non-resident company*Section 152(1E)*

It would be recalled that capital gains arising on debt instruments and Government securities, in Pakistan, to:

- Non-resident companies not having PE investing through Special Convertible Rupee Accounts (SCRA); and,
- Non-resident individuals holding POC, NICOP, or CNIC investing through Roshan Digital Accounts (RDA); were subject to tax at the rate of 10% of the gross amount, as a final discharge of tax liability. Banks were therefore obliged to collect tax at the rate of 10% at the time of recognizing such capital gains in the respective accounts of the non-residents.

Section 152(1E) while providing for final taxation only made reference to capital gains derived by companies, inadvertently missing out over non-resident individuals. In order to effectuate final discharge of tax liability on such non-residents, editorial changes have been brought about in sub-section (1E) of Section 152 of the Tax Ordinance. The Second Amendment Ordinance has now replaced the terms 'non-resident company' and 'capital gains' to cater to all 'persons' and their 'incomes' in general, as provided under Sub-section (1D).

Income Tax

123. Industrial Undertaking

Section 2(29C)

Presently, the Board is empowered to include in the definition of an industrial undertaking, any undertaking other than those particularly provided in the definition.

The Ordinance has now amended the definition to restrict the Board from specifying any other industrial undertaking. Accordingly, the definition of an 'industrial undertaking' is now restricted to the conditions and undertakings specified under Clause 29C.

124. Penalty

Section 182

The Second Amendment Ordinance has brought about changes in certain penalty provisions. The same have been identified in bold in the table below:

S. No.	Offences		Penalties		Section of the Ordinance to which the offence has reference	
	Existing	Revised	Existing	Revised	Existing	Revised
1	Where any person fails to furnish a return of income as required under Section 114 within the due date.	Where any person fails to furnish a return of income as required under Section 114 within the due date.	Such person shall pay a penalty equal to 0.1% of the tax payable in respect of that TY for each day of default subject to a maximum penalty of 50% of the tax payable provided that if the penalty worked out as aforesaid is less than forty thousand rupees or no tax is payable for that TY such person shall pay a penalty of forty thousand rupees	Such person shall pay a penalty equal to 0.1% of the tax payable in respect of that TY for each day of default subject to a maximum penalty of 50% of the tax payable provided that if the penalty worked out as aforesaid is less than forty thousand rupees or no tax is payable for that TY such person shall pay a penalty of forty thousand rupees; Provided that If seventy-five percent of the income is from	114 and 118	114 and 118

S. No.	Offences		Penalties		Section of the Ordinance to which the offence has reference	
	Existing	Revised	Existing	Revised	Existing	Revised
			<p>income is from salary and the amount of income under salary is less than five million Rupees, the minimum amount of penalty shall be five thousand Rupees.</p> <p>Explanation. – For the purposes of this entry, it is declared that the expression “tax payable” means tax chargeable on the taxable income on the basis of assessment made or treated to have been made under Section 120, 121, 122 or 122C.</p>	<p>salary and the amount of income under salary is less than five million Rupees, the minimum amount of penalty shall be five thousand Rupees.</p> <p>Provided further that if taxable income is up to eight hundred thousand Rupees, the minimum amount of penalty shall be five thousand Rupees.</p> <p>Provided also that the amount of penalty shall be reduced by 75%, 50% and 25% if the return is filed within one, two and three months respectively after the due date or extended due date of filing of return as prescribed under the law.</p> <p>Explanation. – For the purposes of this entry, it is declared that the</p>		

S. No.	Offences		Penalties		Section of the Ordinance to which the offence has reference	
	Existing	Revised	Existing	Revised	Existing	Revised
				expression "tax payable" means tax chargeable on the taxable income on the basis of assessment made or treated to have been made under Section 120, 121, 122 or 122C.		
1A	Where any person fails to furnish a statement as required under Section 165, or 165A, 165A or 165B within the due date.	Where any person fails to furnish a statement as required under Section 165, or 165A, 165A or 165B within the due date.	Such person shall pay a penalty of Rs.5000 if the person had already paid the tax collected or withheld by him within the due date for payment and the statement is filed within ninety days from the due date for filing the statement and, in all other cases, a penalty of Rs.2500 for each day of default from the due date subject to a minimum penalty of Rs.10,000.	Such person shall pay a penalty of Rs.5000 if the person had already paid the tax collected or withheld by him within the due date for payment and the statement is filed within ninety days from the due date for filing the statement and, in all other cases, a penalty of Rs.2500 for each day of default from the due date subject to a minimum penalty of Rs.10,000. Provided that where it stands established that no tax was required to be deducted or	165 and 165A, 165A and 165B	165 and 165A, 165A and 165B

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S. No.	Offences		Penalties		Section of the Ordinance to which the offence has reference	
	Existing	Revised	Existing	Revised	Existing	Revised
				collected during the relevant period, minimum amount of penalty shall be ten thousand Rupees.		
6	Any person who repeats erroneous calculation in the return for more than one year whereby amount of tax less than the actual tax payable under this Ordinance is paid.	Any person who repeats erroneous calculation in the return for more than one year whereby amount of tax paid less than the actual tax payable under this Ordinance.	Such person shall pay a penalty of thirty thousand rupees or three per cent of the amount of the tax involved, whichever is higher.	Such person shall pay a penalty of thirty thousand rupees or three per cent of the amount of the tax involved, whichever is higher; Provided that no penalty shall be imposed to the extent of the tax shortfall occurring as a result of the taxpayer taking a reasonably arguable position on the application of this Ordinance to the taxpayer's position	137	137
10	Any person who— (a) makes a false or misleading statement to an Inland Revenue Authority either in writing or orally or electronically including a statement in an application,	Any person who— (a) makes a false or misleading statement to an Inland Revenue Authority either in writing or orally or electronically including a statement in an application, certificate,	Such person shall pay a penalty of twenty five thousand rupees or 100% of the amount of tax shortfall whichever is higher: Provided that in case of an	Such person shall pay a penalty of twenty five thousand rupees or 50% of the amount of tax shortfall whichever is higher: Provided that in case of an	114, 116, 174, 176, 177 and general.	114, 116, 174, 176, 177, 114A, 118

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S. No.	Offences		Penalties		Section of the Ordinance to which the offence has reference	
	Existing	Revised	Existing	Revised	Existing	Revised
	<p>certificate, declaration, notification, return, objection or other document including books of accounts made, prepared, given, filed or furnished under this Ordinance</p> <p>(b) furnishes or files a false or mis-leading information or document or statement to an Income Tax Authority either in writing or orally or electronically;</p> <p>(c) omits from a statement made or information furnished to an Income Tax Authority any matter or thing without which the statement or the information is false or misleading in a material particular.</p>	<p>declaration, notification, return, objection or other document including books of accounts made, prepared, given, filed or furnished under this Ordinance</p> <p>(b) furnishes or files a false or mis-leading information or document or statement to an Income Tax Authority either in writing or orally or electronically;</p> <p>(c) omits from a statement made or information furnished to an Income Tax Authority any matter or thing without which the statement or the information is false or misleading in a material particular.</p>	<p>assessment order deemed under Section 120, no penalty shall be imposed to the extent of the tax shortfall occurring as a result of the taxpayer taking a reasonably arguable position on the application of this Ordinance to the taxpayers' position.</p>	<p>assessment order deemed under Section 120, no penalty shall be imposed to the extent of the tax shortfall occurring as a result of the taxpayer taking a reasonably arguable position on the application of this Ordinance to the taxpayers' position.</p>		
11	Any person who denies or obstructs the access of the Commissioner or any officer authorized by the Commissioner to the premises, place,	Any person who denies or obstructs the access of the Commissioner or any officer authorized by the Commissioner to the premises, place,	Such person shall pay a penalty of fifty thousand rupees or one hundred per cent of the	Such person shall pay a penalty of fifty thousand rupees or fifty per cent of the amount of tax involved,	175 and 177	175 and 177

Income Tax

S. No.	Offences		Penalties		Section of the Ordinance to which the offence has reference	
	Existing	Revised	Existing	Revised	Existing	Revised
	accounts, documents, computers or stocks.	accounts, documents, computers or stocks.	amount of tax involved, whichever, is higher.	whichever, is higher.		
15	Any person who fails to collect or deduct tax as required under any provision of this Ordinance or fails to pay the tax collected or deducted as required under Section 160.	Any person who fails to collect or deduct tax as required under any provision of this Ordinance or fails to pay the tax collected or deducted as required under Section 160.	Such person shall pay a penalty of forty thousand rupees or the 10% of the amount of tax which-ever is higher.	Such person shall pay a penalty of forty thousand rupees or the 10% of the amount of tax which-ever is higher.	148, 149, 150, 151, 152, 153, 153A, 154, 155, 156, 156A, 156B, 158, 160, 231A, 231B, 233, 233A, 234, 234A, 235, 236, 236A	Division II or Division III of Part V of Chapter X or Chapter XII
16	Any person who fails to display his NTN at the place of business as required under this Ordinance or the rules made thereunder.	Any person who fails to display his NTN or business license at the place of business as required under this Ordinance or the rules made thereunder.	Such person shall pay a penalty of five thousand rupees.	Such person shall pay a penalty of five thousand rupees.	181C	181C and 181D
19	Where any manufacturer of a motor vehicle accepts or processes any application for booking or purchase of a locally manufactured motor vehicle in violation of the provisions of Clause (a) of Section 227C	Omitted	Such person shall pay a penalty of 5 percent of the value of the motor vehicle	Omitted	227C	Omitted

S. No.	Offences		Penalties		Section of the Ordinance to which the offence has reference	
	Existing	Revised	Existing	Revised	Existing	Revised
20	<p>(i) Where any registering authority of Excise and Taxation Department accepts, processes or registers any application for registration of a locally manufactured motor vehicle or for the first registration of an imported vehicle in violation of the provisions of Clause (a) of Section 227C</p> <p>(ii) Where any authority responsible for registering, recording or attesting the transfer of immovable property accepts or processes the registration or attestation of such property in violation of the provisions of Clause (b) of Section 227C</p>	Omitted	Such person shall pay a penalty of 3 percent of the value of motor vehicle or immovable property.	Omitted	227C	Omitted

125. Depreciation on below the ground installation abolished
Part I, Third Schedule

Once commercial production commences, Oil and Gas companies engaged in Exploration and Production of petroleum (E&P) are entitled to claim 100% depreciation for below ground installations. Such deduction, in line with the international tax practice, has always been available to E&P companies being a capital-intensive industry.

The Second Amendment Ordinance, however, has withdrawn such benefit of claiming 100% expense on below ground installations by making amendments in Part I of Third Schedule to the Tax Ordinance. By virtue of these amendments, E&P companies would now be able to claim initial allowance and normal depreciation in respect of such installations.

In our view, by virtue of these amendments, E&P companies would be adversely placed as depreciation is merely a timely difference but would significantly impact the cashflows of these companies. Therefore, we recommend that proper consideration should be given to these amendments. This amendment requires reconsideration and a better understanding of the E&P industry and the adverse impact on their cashflows.

126. Exemption of profits from refining or concentrating mineral deposits

Rule 4, Part II, Fifth Schedule

Where an industrial undertaking, engaged in exploration and extraction of mineral deposits, other than petroleum, also engages in the business of refining or concentrating the mineral deposits extracted by it in Pakistan, the profit and gains derived by such an undertaking from refining and concentrating business is exempt from tax, subject to certain limitations and conditions.

The Second Amendment Ordinance has withdrawn such exemption, thereby exposing the profits and gains attributable to refining operations to tax.

127. Amendments in the Second Schedule to the Ordinance

(a) Withdrawal of Clauses from the Second Schedule

The Second Amendment Ordinance has withdrawn certain Clauses from Part I, Part II, Part III and Part IV of the Second Schedule to the Ordinance. These are listed as under:

(i) Part I

Clause No.	Description
57(1)(iii)	Income of Sheikh Sultan Trust, Karachi, derived from voluntary contributions, house property and investments in securities of the Federal Government.
72A	Any income derived by Sukuk holder in relation to Sukuk issued by "The Second Pakistan International Sukuk Company Limited" and the Third Pakistan International Sukuk Company Limited, including any gain on disposal of such Sukuk.
74	Any profit on debt derived by Hub Power Company Limited on or after the 01 July 1991, on its bank deposits or accounts with financial institutions directly connected with financial transactions relating to the project operations.
90	Any profit on debt payable by an industrial undertaking in Pakistan is exempt from tax subject to certain conditions.
90A	Any profit on debt derived by any person 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 01 July 2018.
91	Any income of a text-book board of a Province established under any law for the time being in force, accruing or arising from the date of its establishment.
98	Any income derived by any Board or other organization established by Government in Pakistan for the purposes of controlling, regulating or encouraging major games and

Clause No.	Description
	sports recognized by Government. The exemption of this clause shall not be applicable to the Pakistan Cricket Board.
99A	Profits and gains accruing to a person on sale of immovable property to a REIT Scheme up to 30 June 2015 are exempt. The exemption with respect to a Developmental REIT Scheme with the object of development and construction of residential buildings and with respect to a rental REIT Scheme is available till 30 June 2023.
100	Exemption on any income, not being income from manufacturing or trading activity, of a Modaraba registered under the Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 1980.
101	Profits and gains derived by a venture capital company and venture capital fund registered under Venture Capital Companies and Funds Management Rules, 2000 and a Private Equity and Venture Capital Fund.
103	Any distribution received by a taxpayer from a collective investment scheme registered by the Securities and Exchange Commission of Pakistan under the Non-Banking Finance Companies and Notified Entities Regulations, 2007, including National Investment (Unit) Trust or REIT Scheme or a Private Equity and Venture Capital Fund out of the capital gains of the said Schemes or Trust or Fund is exempt.
103C	Dividend income derived by a company, if the recipient of the dividend, for the TY is eligible for group relief under Section 59B.
104	Any income derived by the Libyan Arab Foreign Investment Company being dividend of the Pak-Libya Holding Company.
105	Any income derived by the Government of Kingdom of Saudi Arabia being dividend of the Saudi-Pak Industrial and Agricultural Investment Company Limited.
105A	Any income derived by Kuwait Foreign Trading Contracting and Investment Company or Kuwait Investment Authority being dividend of the Pak-Kuwait Investment Company in Pakistan from the year of incorporation of Pak-Kuwait Investment Company.
110B	Any gain on transfer of a capital asset, being a membership right held by a member of an existing stock exchange, for acquisition of shares and trading or clearing rights acquired by such member in new corporatized stock exchange in the course of corporatization of an existing stock exchange.
110C	Any gain by a person 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 01 July, 2018 till the 30 June, 2023.
114	Any income chargeable under the head "capital gains" derived by a person from an industrial undertaking set up in an area declared by the Federal Government to be a "Zone" within the meaning of the Export Processing Zones Authority Ordinance, 1980 (IV of 1980).
126BA	Profits and gains derived by a refinery set up between the 01 July 2018 and the 30 June 2023 with minimum 100,000 barrels per day production capacity for a period of twenty years beginning in the month in which the refinery is set up or commercial production is commenced, whichever is later.

Clause No.	Description
126G	Profit and gains derived for a period of five years from the date of start of commercial production by the companies from specified projects that have been declared 'Pioneer Industry' by Economic Coordination of the Cabinet.
131	Income of company or other taxpayers against the income of royalty, fee for technical services etc. is exempt from tax.
132A	Profit and gains derived by Bosicor Oil Pakistan Limited for a period of seven and half years beginning from the day on which the refinery is set up or commercial production is commenced whichever is later.
135A	Any income derived by a non-resident from investment in OGDCL exchangeable bonds issued by the Federal Government.
136	Any income of a special purpose vehicle as defined in the Asset Backed Securitization Rules, 1999 made under the Companies Ordinance, 1984
141	Profit and gains derived by LNG Terminal Operators and Terminal Owners for a period of five years beginning from the date when commercial operations are commenced.
146	Any income which was not chargeable to tax prior to the commencement of the Constitution (Twenty-Fifth Amendment) Act, 2018 (XXXVII of 2018) of any individual domiciled or company and association of persons resident in the Tribal Areas forming part of the Provinces of Khyber Pakhtunkhwa and Balochistan under paragraph (d) of Article 246 of the Constitution with effect from the 01 July 2018 to the 30 June 2023.

The following Clauses of **Part I of the Second Schedule** having already expired/ expiring on 30 June 2021 have been omitted:

- (a) (72)
- (b) (126C)
- (c) (126H)
- (d) (126J)
- (e) (126K)
- (f) (126L)
- (g) (126N)

However, the benefits provided therein will remain available to the existing beneficiaries as per the timelines provided therein.

(ii) **Part II**

Clause	Description
2	Income of persons whose profits or gains from business are computed under the Fifth Schedule to Ordinance as is derived from letting out to other similar persons any pipeline for the purpose of carriage of petroleum shall be charged to tax at the same rate as is applicable to such persons in accordance with the provisions of the said Schedule. The profits of such persons are now taxable as per the rates provided in the First Schedule to the Ordinance.

Clause	Description								
3	<p>The tax in respect of income from services rendered outside Pakistan and construction contracts executed outside Pakistan are charged at 50% of the applicable rates provided that receipts from services and income from contracts are brought into Pakistan in foreign exchange through normal banking channel.</p> <p>The receipts from the aforementioned services would now be taxed at normal rates as provided in the First Schedule of the Ordinance.</p>								
3B	<p>Income of Pakistan Cricket Board derived from sources outside Pakistan including media rights, gate money, sponsorship fee, in-stadium rights, out-stadium rights, payments made by International Cricket Council, Asian Cricket Council or any other Cricket Board is taxed at the rate of 4% of the gross receipts from such sources.</p> <p>Such income would now be charged at normal rates.</p>								
5B	<p>Capital gains derived by a person from sale of shares or assets by a private limited company to Private Equity and Venture Capital Fund is chargeable at the rate of 10% of such gains.</p> <p>Now the above capital gain would be tax in accordance with Section 37 of the Ordinance.</p>								
18	<p>The rate of income tax in the case of Modaraba of 25% of total income excluding such income to which Division III of Part I of the First Schedule or Section 153 or Section 154 applies, will now be taxable at normal at the rate of 29%.</p>								
18B	<p>A Shariah Complaint Listed Company is entitled to reduction in the rate of tax by 2% subject to certain conditions.</p> <p>The aforesaid reduction is no more applicable and as such normal rate of tax will apply.</p>								
24AA	<p>The rate of tax under Section 152 in the case of CR-NORINCO JV as a recipient, on payments arising out of commercial contract signed with the Government of Punjab for installation of electrical and mechanical (E&M) equipment for construction of the Lahore Orange Line Metro Train Project is 6% of the gross amount of payment.</p> <p>After the amendment, the normal rate of 7% would now be applicable under Section 152 of the Ordinance.</p>								
28A	<p>The following reduced rates of tax on the import of hybrid cars have been done away with:</p> <table border="1" data-bbox="516 1318 1166 1457"> <thead> <tr> <th>Engine Capacity</th> <th>Rate of Reduction Up to</th> </tr> </thead> <tbody> <tr> <td>Up to 1200 cc</td> <td>100%</td> </tr> <tr> <td>1201 to 1800 cc</td> <td>50%</td> </tr> <tr> <td>1801 to 2500 cc</td> <td>25%</td> </tr> </tbody> </table> <p>As a result, the rates given in the Twelfth Schedule would now be applicable.</p>	Engine Capacity	Rate of Reduction Up to	Up to 1200 cc	100%	1201 to 1800 cc	50%	1801 to 2500 cc	25%
Engine Capacity	Rate of Reduction Up to								
Up to 1200 cc	100%								
1201 to 1800 cc	50%								
1801 to 2500 cc	25%								
28B	<p>The rate of tax of 0.15% under Section 231A on cash withdrawal by a licensed exchange company, exclusively dedicated for its authorized business related transactions has been withdrawn.</p> <p>Now, tax at the rate of 0% will be collected whereas if the exchange company is not on active taxpayers list, the rate of 0.6% will apply.</p>								

The following Clause of Part II of the Second Schedule which is expiring on 30 June 2021 has been omitted:

Clause	Description
18A	The reduced rate of tax of 20% for a company setting up an industrial undertaking (where 50% of the cost of the project including working capital is through owner equity foreign direct investment) between the 01 July 2014 to 30 June 2017, for a period of five years beginning from the month in which the industrial undertaking is set up or commercial production is commenced whichever is later.

(iii) Part III

Clause	Description
2	The tax payable by a full time teacher or a researcher, employed in a nonprofit education or research institution duly recognized by Higher Education Commission, a Board of Education or a University recognized by the Higher Education Commission, including government research institution, shall be reduced by an amount equal to 25% of tax payable on his income from salary. Provided that this clause shall not apply to teacher of medical profession who derive income from private medical practice or who receive share of consideration received from patients.
7	The amount of tax payable by foreign film makers from making films in Pakistan shall be reduced by fifty percent on income from film-making in Pakistan.
8	The amount of tax payable by resident companies deriving income from film-making shall be reduced by seventy percent on income from film-making.

(iv) Part IV

Clause	Description
2	In the case of losses referred to in Section 57 in respect of an industrial undertaking set up in an area declared by the Federal Government to be a "Zone" within the meaning of Export Processing Zones Authority Ordinance, 1980 (IV of 1980), the period of six TY specified in the said Section shall not apply. From above omission, we understand that an industrial undertaking set up within the meaning of Export Processing Zone can now carry forward losses up to the period of six TY immediately succeeding the TY for which the loss was first computed.

(b) Amendment in existing Clauses/ insertion of new Clauses in the Second Schedule

The Second Amendment Ordinance has amended certain Clauses as well as inserted the following Clauses in Part I, Part II and Part III of the Second Schedule to the Ordinance:

Part I

Clause	Description
66	The income of "Islamic Naya Pakistan Certificates Company Limited (INPCCL) shall now be exempted under this Second Amendment Ordinance.
75	The Second Amendment Ordinance limits the income exemption of foreign agency to the extent of Profit on debt and capital gains. It further excluded a foreign national from the ambit of such exemption.

Clause	Description
132	<p>Profits and gains derived by a taxpayer from an electric power generation project set up in Pakistan was exempt from tax. The Second Amendment Ordinance restricts the exemption for the following:</p> <p>(i) persons entering into agreements,</p> <p>(ii) To whom letter of intents is issued, for setting up an electric power generation project in Pakistan up to 30 June 2021.</p>

Part II

Clause	Description
24D	<p>Minimum tax under Section 113 in case of dealers and sub dealers, sellers and retailers of, fast moving consumer goods, fertilizers, sugar, cement and edible oil shall be 0.25% subject to certain conditions. The Second Amendment Ordinance also added locally manufactured mobile phones in the list of the above goods.</p>

Part III

Clause	Description
9	<p>Clause (9) provides reduction in tax payable to the extent of 50% on profits and gains derived by a person from low cost housing projects. The Second Amendment Ordinance has inserted a proviso according to which exemption under this clause shall continue to remain available to such projects which commence on or before the 30 June 2024.</p>
9B	<p>Clause (DB) provides reduction in tax payable to the extent of 90% on the income, profits and gains of projects of 'low cost housing' developed or approved by Naya Pakistan Housing and Development Authority (NAPHDA) or under the Ehsaas Programme. The Second Amendment Ordinance has inserted a proviso according to which exemption under this clause shall continue to remain available to such projects which commence on or before the 30 June 2024.</p>

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1. Commissioner (Appeals)

Section 2 (4AA)

The Bill seeks to insert a new Sub-section (4AA) under Section 2 of the ST Act whereby the term 'Commissioner (Appeals)' has been defined to mean Commissioner of Inland Revenue (Appeals) as appointed under Section 30 of the ST Act which provides the power and procedure for the appointment of authorities.

2. Cottage industry

Section 2(5AB)

Small manufacturing concerns which have been defined as "cottage industry" are exempt from the levy of sales tax under serial no. 3 of Table II of the Sixth Schedule of the ST Act. One of the conditions inter alia includes that the annual turnover of such a manufacturer does not exceed PKR 3 million. The Bill now seeks to enhance the threshold of PKR 3 million to PKR 10 million which will further incentivize cottage industry in the country.

3. Online market place

Section 2 (18A) & 3 (3)(c)

The Bill seeks to insert a new Sub-section (18A) in Section 2 of the ST Act to define an 'online market place'. Given expansion and robust growth of e-commerce platforms, particularly during the COVID-19 pandemic, it appears that the Federal Government is aiming to bring the businesses being conducted through such online market place into tax net. The definition of online market place proposed to be inserted is inclusive and aiming to include:

- an electronic interface such as a market place
- e-commerce platform
- portal or similar means

which facilitates sales of goods, including third party sales, in any of the following manner

- by controlling the terms and conditions of the sale;
- authorizing the charge to the customers in respect of payment for the supply; or
- ordering or delivering the goods.

Sub-section (3) of Section 3 identifies a person who is liable to pay the tax. Now, the Bill seeks to insert Clause (c) whereby, in case of supply of goods through online market place, the liability to pay tax would be on the person running the online market place, whether or not the goods are owned by him.

We understand the above Clause would inter alia seek to bring into tax net unregistered suppliers who are making supplies through e-commerce platform. In case of registered suppliers who are also using such online facilities for marketing and selling of their products, are discharging their liabilities under the law. The proposed Clause (c) of Section 3(3) apparently oblige the online market platform to pay the tax whereas the original vendor who owns the goods has charged and also paid the tax under the law. This anomaly may need to be addressed appropriately.

4. Tier-1 Retailer

Section 2 (43A) & 3 (9A)

Section 2(43A) defines the term Tier-1 retailer. The Bill now seeks to provide relaxation to certain extent for retailer of furniture and propose shop measurement threshold of two thousand square feet or more instead of one thousand square feet.

The Bill also seeks to add the following retailers within the ambit of Tier-1 retailers by means of insertion of Clause (f) and (g) in Sub-section (43A):

- (f) a retailer operating an 'online market place' supplying goods through e-commerce platform, whether or not the goods are owned by him;
- (g) a retailer who has acquired point of sale for accepting payment through debit or credit cards from banking companies or any other digital payment service provider authorized by State Bank of Pakistan;

Consequently, an online market place involved in supply of goods, whether owned by him or by a third party supplier, would also be treated Tier-1 retailer. Similarly, retailers who are accepting payment through debit or credit cards or other digital mode of payment would be considered as Tier-1 retailers.

The Bill also seeks to omit first proviso of Section 3(9A) which entitled the customers of a Tier-1 retailer to receive a cash back of up to five percent of the tax involved.

5. Time of supply

Section 2 (44)(a)

Section 2 (44) (a) provides time of supply in relation to a supply of goods to mean earlier of the following events:

- the time at which the goods are delivered or
- made available to the recipient of the supply or
- the time when any payment is received by the supplier in respect of that supply.

The payment received in advance by supplier from customer as the time of supply was inserted through the Finance Act, 2013. The above insertion has required the supplier to pay sales tax upfront on receipt of advance even though no delivery of goods or invoice is issued. This resulted in challenges to taxpayers in recording and reporting the advances in their monthly sales tax returns, particularly for the automobile sector, etc. This often created unnecessary hurdles during audits or scrutiny of the financial statements of registered persons and lead to furnishing detailed reconciliations.

The Bill seeks to omit the above stipulation of time of supply and registered persons are now not required to levy sales tax on receipt of advances.

6. Adjustable input tax

Section 8B (1)

Section 8B (1) restricts the adjustment of input tax to the extent of ninety percent of the output tax in relation to a tax period for a registered person.

The Bill proposes that the above restriction of claiming input tax to the extent of ninety percent is no more applicable on public limited companies listed on Pakistan Stock Exchange. Consequently, registered persons who are public limited companies and are listed on the Pakistan Stock Exchange would be excluded from the ambit of Section 8B and would therefore be able to adjust their input tax in full with their respective output tax.

Sales Tax

7. Assessment of tax

Section 11 (5)

Section 11 (5) provides that an officer of Inland Revenue cannot pass an assessment order unless a show cause notice is given within five years of the "relevant date" i.e. date of payment of sales tax along with the sales tax return. Sales tax is paid on a monthly basis, therefore limitation of time for issuing a show cause notice is also determined on a monthly basis.

The Bill seeks to streamline the above provision and bring it in line with the provisions of the Ordinance and the words relevant date are now proposed to be substituted with "end of the financial year in which the relevant date falls". The proposed substitution would enable officers of Inland Revenue to issue show cause notice within maximum of six years from the relevant date.

8. Common identifier number

Section 21B

The Bill seeks to insert a new Section, 21B, to the ST Act wherein individuals who are registered or liable to be registered for sales tax purposes in terms of Section 14 of the ST Act, their Computerized National Identity Card (CNIC) number would become the common identifier number in addition to their sales tax registration number. Similarly, in case of AoP and Companies which are registered or liable to be registered for sales tax purposes in terms of Section 14 of the ST Act, the Bill proposes that their National Tax Numbers (NTNs) would become the common identifier number in addition to their sales tax registration number.

The above insertion appears to be a tool for documentation of economy and obtaining data for broadening tax base and for bringing/ identifying potential taxpayers into the tax net.

9. Records

Section 22(1)(e)(eb)

Section 22 of the ST Act, deals with maintenance of certain records, now through the amendment in Clause (e) of Sub-section (1) of Section 22 of the ST Act, the Bill seeks to add 'cash book' as a record to be maintained by a registered person.

The Bill further seeks insertion of Clause (eb) under Sub-section (1) of Section 22 of the ST Act, making it obligatory for registered persons to maintain all records required to be maintained under Section 22 electronically as well.

The above proposed requirements of maintaining records electronically may cause hardship to common businessmen due to their limited access to information technology and scarcity of resources.

10. Transactions between associates

Section 25AA(2)

Section 25AA of the ST Act has empowered the Commissioner or an officer of Inland Revenue to assess whether the transaction between associates is at fair market value in an arm's length transaction. However, any rules whatsoever for determination of fair market price has not provided for in this regard. The Bill now seeks to insert a Sub-section (2) to Section 25AA of the ST Act, which empowers FBR to prescribe rules for determining transfer price of taxable supplies between associates which would reflect fair market values in an arm's length transaction.

11. Extension of time for furnishing returns*Section 26AB*

The Bill seeks to insert a new Section 26AB to the ST Act which would allow a registered persons to apply for extension in the time for filing of monthly sales tax returns under Section 26 of the ST Act. For this purpose, the registered person would apply before Commissioner by the due date of filing and the Commissioner may grant the approval for extension in time on the basis of satisfactory reasons. The Commissioner may not allow an extension in time for a period of more than 15 days, unless there are exceptional circumstances.

In case the Commissioner has not granted extension, the registered person may file an application for extension before the Chief Commissioner. The Chief Commissioner on such request may allow extension in time for a period of 15 days unless there are exceptional circumstances justifying longer extension in time.

Such extensions in time would not relieve the registered person from payment of default surcharge for such extended period.

Previously, there was no specific provision under the law in terms of which a taxpayer could apply for extension in due date of filing of monthly sales tax returns. However, the office of the Commissioner Inland Revenue was approached for condonation of time period.

The Bill seeks to facilitate the taxpayers through insertion of the proposed section as it would reduce the risk of penal proceedings in case the registered person is unable to file the monthly sales tax return within the stipulated time.

12. Provisions relating to goods supplied from taxes exempt areas*Section 40D (5)*

The Bill seeks to amend the existing Sub-section (5) of Section 40D of the ST Act, which identifies the expression tax exempt areas. Now, BSM, established in cooperation with Iran and Afghanistan, are proposed to be included within the scope of tax exempt areas in addition to Azad Jammu Kashmir, Gilgit Baltistan and previously regarded as Tribal Areas.

13. Licensing of brand name*Section 40E*

The Bill proposes to insert a new Section, 40E, to introduce a requirement for manufacturers of specified goods, to obtain brand licenses from FBR for each brand or Stock Keeping Unit. While the term "Stock Keeping Unit" has not been defined in the ST Act, in common parlance it refers to a scannable bar code, as is printed usually on product labels. This means that all items, whether existing as unique brands or being sold with unique bar codes, will require brand licensing from FBR in the manner to be prescribed by it. This is another step to strengthen documentation of the economy and to capture transactions involving sales of goods in the grey market. The proposed section also outlines penal consequences for the failure to comply with its provisions, whereby any items sold without the brand license will be deemed to be counterfeit goods and may be confiscated and destroyed in a manner as may be prescribed, and without prejudice to additional penal action under the ST Act.

14. Recovery of arrears of tax*Section 48 (3)*

The Bill seeks to insert a new Sub-section (3) under Section 48 of the ST Act wherein the powers of the Officer Inland Revenue are proposed to be enhanced further to provide assistance in collection and recovery of taxes, in pursuance of requests from foreign jurisdictions under tax treaties, multilateral conventions, inter-governmental agreements or similar agreement or mechanism. In this respect, Section 48(1) &(2) of the ST Act would apply *mutatis mutandis*.

15. Agreement for the exchange of information*Section 56A (1A) & (3)*

The existing Section 56A of the ST Act empowers the Federal Government to enter into bilateral or multilateral agreements for the exchange of information (including electronic information) with Provincial Governments and governments of foreign countries, with respect to sales tax imposed under the ST Act or any other law in force in Pakistan or a corresponding law in the foreign country.

The Bill proposes to amend the title of the section by including the words "or assistance in recovery of duties". Consequently, it proposes the insertion of two new Sub-sections, (1A) and (3). Through Sub-section (1A), the FBR will be empowered to share data/ information, including real time videos and images obtained under the ST Act, with the Federal or Provincial Governments. The exercise of these enhanced powers will be subject to the limitations and conditions as may be specified by the FBR.

Through Sub-section (3), it is proposed to empower the Federal Government to enter into bilateral or multilateral conventions, inter-governmental agreements or other mechanisms for assistance in recovery of duties.

16. Prize schemes to promote tax culture*Section 56C (2)*

The Bill seeks to insert Sub-section (2) in Section 56C of the ST Act whereby FBR may prescribe a procedure for mystery shopping with respect to Tier-1 retailers and in case of any discrepancy, due course of action would be taken under all the relevant provisions of the ST Act.

17. Delayed refund*Section 67*

The Bill seeks to insert a proviso under Section 67 of the ST Act whereby, a refund in the consequences of any order passed under Section 66 is not made within 45 days of the date of such order, there shall be, in addition to the amount of refund, a further sum equal to the KIBOR per annum of the refund due from the date of refund order will be paid to the claimant.

18. Certain transactions not admissible*Section 73 (1)*

Sub-section (1) of Section 73 of the ST Act provides that a transaction exceeding value of PKR 50,000, excluding payment against a utility bill, shall be made through crossed banking instrument/ channel from the declared bank account of the buyer in favor of the supplier, otherwise respective input tax of the buyer would be disallowed.

The Bill now seeks to insert a new proviso to the said Sub-section which provides that adjustments made by registered person in respect of amounts payable and receivable to and from the same party shall be treated as payment satisfying the provision of the said sub-section upon fulfilling the following conditions:

- sales tax has been charged and paid by both parties under the relevant provisions of the ST Act and rules prescribed thereunder, wherever applicable.
- the registered person has sought prior approval of the Commissioner before making such adjustments.

This is a much awaited amendment which is now proposed to be inserted and is in lines with the business norms which also satisfies the spirit of Section 73 i.e. transactions should be documented and verifiable.

19. Third Schedule*Section 3(2)(a)*

The Third Schedule lists down the goods that are subject to sales tax at retail price. The Bill proposes to insert sugar in Third Schedule except where it is supplied as an industrial raw material to pharmaceutical, beverage and confectionery industries.

Effectively, now sugar manufacturers and importers are required to fix and print maximum retail price on packaging.

20. Fifth Schedule*Section 4*

The Fifth Schedule of the ST Act deals with levy of zero rate of sales tax.

The Bill proposes to withdraw zero rating on following goods:

- (i) Aircrafts, ships of specified weight or used for recreation or pleasure purpose and spare parts and equipment thereof (Serial No.1).
- (ii) Equipment and machinery for pilotage, salvage, towage, air navigation and other services related to handling of ships and aircrafts in a port (Serial No.1).
- (iii) Supply of locally manufactured plant and machinery to petroleum and gas sector, exploration and production companies, their contractors and sub-contractors. (Serial No. 6)
- (iv) Petroleum crude oil having PCT heading 2709.0000 (Serial No. 10).
- (v) Raw materials, components, sub-component and parts, if imported or purchased locally, for use in the manufacturing of zero rated plants and machinery (Serial No. 11).

The Bill also proposes to insert a new entry No.15, whereby local supplies of raw materials, components, parts and plant and machinery to exporters authorized under the Export Facilitation Scheme, 2021 will be zero rate.

21. Export Facilitation Scheme*Sr. No.15 of Fifth Schedule,**Sr. No.101 and 162 of Sixth Schedule*

There are various incentive schemes available for exporters under the Customs Act and the ST Act. In budget documents FBR has shown its intention to introduce a new uniform Export Facilitation Scheme, 2021 and phase out the existing schemes. Accordingly, the Bill proposes to zero rate and exempt local supply and import.

The Bill proposes to insert new Serial No.15 in Fifth Schedule to zero rate as discussed above.

Similarly, the Bill proposes to insert Serial No.162 in Table-1 of the Sixth Schedule for granting exemption on import of raw materials, components, parts and plant and machinery by exporters authorized under the Export Facilitation Scheme, 2021.

Currently, Serial 101 of the Sixth Schedule provides specific exemption to registered leather goods manufacturers on import of various raw material meant for manufacturing of goods wholly for export. The Bill now proposes to withdraw this specific exemption.

Sales Tax**22. Sixth Schedule**
Section 13

The Sixth Schedule deals with exemptions of goods from levy of sales tax.

Table-1

Table-1 of the Sixth Schedule exempts import as well as local supplies of goods listed therein. The Bill seeks to withdraw exemption on following goods either imported or local supply.

S.No.	Brief Description
24	Edible oils and vegetable ghee, including cooking oil, on which FED is charged, levied and collected by a registered manufacturer or importer as if it were a tax payable under Section 3 of the Customs Act.
27	Ordinary ice and waters
29	Table salt including iodized salt
29C	Glass bangles
91	Energy saver lamps
93	Bicycles
103	Import and supply of ships and all floating crafts including tugs, dredgers, survey vessels and other specialized crafts
106	Import of Halal edible offal of bovine animals
108	Components or sub-components of energy saver lamps
109	Plant, machinery and equipment imported for setting up fruit processing and preservation units in Gilgit-Baltistan, Balochistan Province and Malakand Division
123	Aircraft, whether imported or acquired on wet or dry lease
124	Maintenance kits for use in trainer aircrafts of PCT headings 8802.2000 and 8802.3000
125	Spare parts for use in aircrafts, trainer aircrafts or simulators
128	Aviation simulators imported by airline company recognized by Aviation Division
153	Steel billets, ingots, ship plates, bars and other long re-rolled profiles, on such imports and supplies by the manufacturer on which FED is payable in sales tax mode

Edible oils, vegetable ghee including cooking oil, steel billet, ship plates and other re-rolled products of steel sector are currently subject to FED in sales tax mode, therefore, sales tax on the aforesaid supplies are exempt.

The Bill simultaneously seeks to withdraw levy of FED on the aforesaid goods as well as exemption from sales tax. Consequently, these products would now be subject to sales tax at the prevailing sales tax rate.

Sales Tax

Below entries were inserted in Table-1 of the Sixth Schedule vide the Tax Law Second Amendment Ordinance, 2021 and Tax Laws (Second Amendment) Ordinance, 2021. The Government now proposes to enact the above amendments through the Bill.

S.No.	Description
157	Import of CKD (in kit form) of following electric vehicles (4 wheelers) by local manufacturers till 30 th June, 2026: (i) Small cars/SUVs with 50 kwh battery or below; (ii) Light commercial vehicles (LCVs) with 150 kwh battery or below
158	Goods temporarily imported into Pakistan by international athletes which shall be subsequently taken by them within 120 days of temporary import
159	Import of auto disable syringes till 30 th June, 2021 (i) with needles (ii) without needles
160	Import of following raw materials for the manufacturers of auto disable syringes till 30 th June, 2021 (i) Tubular metal needles (ii) Rubber gaskets

The Bill seeks to insert Serial No.161 to the Table-1 of the Sixth Schedule for exemption on import of plant, machinery, equipment and raw materials for consumption of these items within Special Technology Zone by the Special Technology Zone Authority, zone developers and zone enterprises.

Table - 2

Table-2 deals with exemption on local supply of goods.

The Bill seeks to insert Serial No. 26 in Table-2 of the Sixth Schedule thereby exempting supply of locally produced silos till 30 June 2026.

Various entries of the Sixth Schedule which are sought to be withdrawn from Table-1 are proposed to be inserted into Table-2 of the Sixth Schedule. Resultantly, these goods will be subject to sales tax at import stage whereas supplies of such good locally would remain exempt. Following entries are proposed to be transferred from Table-1 to Table-2 of the Sixth Schedule:

S. No. (Table-2)	Brief Description
27	Eggs including eggs for hatching
28	Cereals and products of milling industry excluding the products of milling industry, other than wheat and meslin flour, as sold in retail packing bearing brand name or a trademark
29	Sugar beet

S. No. (Table-2)	Brief Description
30	Fruit juices, whether fresh, frozen or otherwise preserved but excluding those bottled, canned or packaged
31	Milk and cream, concentrated or containing added sugar or other sweetening matter, excluding that sold in retail packing under a brand name
32	Flavored milk, excluding that sold in retail packing under a brand name
33	Yogurt, excluding that sold in retail packing under a brand name
34	Whey, excluding that sold in retail packing under a brand name
35	Butter, excluding that sold in retail packing under a brand name
36	Desi ghee, excluding that sold in retail packing under a brand name
37	Cheese, excluding that sold in retail packing under a brand name
38	Processed cheese not grated or powdered, excluding that sold in retail packing under a brand name
39	Sausages and similar products of poultry meat or meat offal excluding sold in retail packing under a brand name or trademark
40	Products of meat or meat offal excluding sold in retail packing under a brand name or trademark
41	Preparations suitable for infants, put up for retail sale
42	Fat filled milk excluding that sold in retail packing under a brand name or a trademark

Table-4

The Government is intending to establish BSM so as to mitigate problems faced by the people residing in border areas due to fencing and counter-smuggling measures. The Bill proposes to insert a new Table-4 to the Sixth Schedule wherein exemption, on certain specified conditions, is provided to supply of specified edible agriculture produce, certain raw materials, household machines and equipment which are supplied within the limits of the Border Sustenance Markets, established in cooperation with Iran and Afghanistan.

23. Eighth Schedule Section 3(2)(aa)

The Eighth Schedule deals with goods subject to specific rates of sales tax.

The Bill seeks to omit the following entries from the Eight Schedule, resultantly, seventeen percent sales tax will be levied on their import or supply:

S.No.	Description	Rate of Tax
1	Soya bean meal	10%
5	Import of raw cotton and ginned cotton	10%

Sales Tax

S.No.	Description	Rate of Tax
6	Plant and machinery not manufactured locally and having no compatible local substitutes	10%
7	Flavored milk sold in retail packing under a brand name	10%
8	Yogurt sold in retail packing under a brand name	10%
9	Cheese sold in retail packing under a brand name	10%
10	Butter sold in retail packing under a brand name	10%
11	Cream sold in retail packing under a brand name	10%
14	Milk and cream, concentrated or containing added sugar or other sweetening matter sold in retail packing under a brand name	10%
15	Ingredients of poultry feed, cattle feed except soya bean meal of PCT heading 2304.0000 and oil cake of cotton-seed falling under PCT heading 2306.1000	10%
19	Local supply of waste paper	5%
20	Plant, machinery, and equipment used in production of bio- diesel	5%
22	Soya bean seed on import by solvent extraction industries	10%
29	Harvesting, threshing and storage equipment	5%
45	Machinery for poultry sector	7%
50	Import of LNG/RLNG	12%
51	Supply of LNG/RLNG to gas transmission and distribution Companies	12%
60	Fat filled milk sold in retail packing under a brand name	10%
61	Silver, in unworked condition	1%
62	Gold, in unworked condition	1%
63	Articles of jewelry, or parts thereof, of precious metal or of metal clad with precious metal.	1.5% of value of gold, plus 0.5% of value of diamond, used therein, plus 3% of making charges
65	Ginned cotton	10%
67	LNG imported for servicing CNG sector and local supplies thereof	5%

The rate of sales tax on potassium chlorate is proposed to be increased from PKR 80 per kg to PKR 90 per kg in addition to 17% standard rate.

Sales Tax

Further, the Bill seeks to insert the following new entries in Table-1 of the Eighth Schedule to the ST Act.

S.No.	Description	Rate of tax	Condition
71	Following locally manufactured or assembled electric vehicles (4 wheelers) till 30 th June, 2026: (i) Small cars/ SUVs with 50 kwh battery or below; and (ii) Light commercial vehicles (LCVs) with 150 kwh battery or below	1%	If supplied locally
72	Motorcars	12.5%	Locally manufactured or assembled motorcars of cylinder capacity upto 850cc
73	Import and local supply of Hybrid Electric Vehicles: (a) Upto 1800 cc (b) From 1801 cc to 2500 cc	8.5% 12.75%	

24. Ninth Schedule*Section 3(3b)*

The Ninth Schedule deals with the levy of sales tax on import or supply of cellular mobile phones etc.

Sales tax on import of cellular mobile phones are subject to fixed amount of sales tax based on their nature, however, collection of sales tax on such imported phone is made at the time of sale/activation of SIM cards by the Cellular Mobile Operators (CMO).

The Finance Act, 2020, split the Table given under the Ninth Schedule into Table-1 and Table-2. Under Table-1, SIM cards are treated as separate supply of goods and subject to sales tax at PKR 250 per SIM card. Chargeability of sales tax on SIM card under Table-1 has been challenged by CMOs on the ground that no ownership is transferred to the customer rather it is a conduit for operating cellular phones. Such litigations are pending adjudication.

Now, the Bill seeks to insert a proviso to Table-1 of the Ninth Schedule which makes it redundant retrospectively from 01 July 2020. However, it is explained that the above proposed amendment shall not prejudicially affect the FBR's stance or position in pending cases on the issue of chargeability of sales tax on SIM cards before any court of law.

25. Eleventh Schedule*Section 3(7)*

The Eleventh Schedule specifies the withholding agents and provides the rates of sales tax withholding.

The Bill seeks to require manufacturers of lead batteries to withhold the entire amount of applicable sales tax (i.e. 17%) while purchasing reclaimed lead or used lead batteries.

26. Twelfth Schedule (Minimum Value Addition Tax)*Section 7A(2)*

The Twelfth Schedule to the ST Act levies minimum value addition tax at the rate of three percent at import stage.

Procedure and conditions to the Twelfth Schedule provides certain exclusions from levy of minimum value addition tax at import stage. The Bill seeks to exclude certain goods from levy of minimum value addition tax and for that purpose the following exclusions are proposed to be inserted into procedure and conditions;

- (xi) Electric vehicles (4 wheelers) CKD kits for small cars/SUVs, with 50 kwh battery or below and LCVs with 150 kwh battery of below till 30th June, 2026;
- (xii) Electric vehicles (4 wheelers) small cars/SUVs, with 50 kwh battery or below and LCVs with 150 kwh battery of below in CBU condition till 30th June, 2026";
- (xii) Electric vehicles (2-3 wheelers and heavy commercial vehicles) in CBU condition till 30th June, 2025; and
- (xiii) motor cars of cylinder capacity up to 850cc

We note that the CKD of electrical vehicles are proposed to be exempt from levy of sales tax and therefore, exemption from minimum value addition tax appears to be irrelevant.

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ISLAMABAD CAPITAL TERRITORY (TAX ON SERVICES) ORDINANCE, 2001

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1. Scope of tax
Section 3(1A)

The services specified in the Schedule to the ICT Ordinance are subject to Sales Tax at the rates specified therein, if the same are rendered or provided in the ICT. The existing regime of Sales Tax on Services under the ICT Ordinance does not contain any specific provision applicable to zero rated services, and also does not envision the export of services. However, services rendered to specific categories of persons as listed in the Fifth Schedule to the ST Act are subject to zero rating, owing to the provisions of the ST Act applying mutatis mutandis to the ICT Ordinance.

The Bill proposes to insert a new Sub-section (1A) to tax services that are not rendered or provided in the ICT but are instead exported from the ICT, at the rate of zero percent. This may contradict the SRO issued by FBR on 01 July, 2017, whereby the export of IT services was declared as exempt from the purview of Sales Tax on services under the ICT Ordinance. In view of this contradiction, the aforesaid SRO would be required to be subsequently rescinded.

Nevertheless, once this proposed amendment is approved, exporters shall be eligible to seek adjustments/ refunds of admissible input tax, that was hitherto unavailable.

FEDERAL EXCISE DUTY

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1.	Filing of return and payment of duties	<i>Section 4 Sub-section (4)</i>	87
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1. Filing of return and payment of duties

Section 4 Sub-section (4)

Presently, under Section 4, registered persons can revise their Sales Tax Returns within 120 days of the filing of the return with the approval of the concerned CIR. However, this provision was not harmonized with Section 26 *Sub-section (3)* of the ST Act, whereby registered persons can revise their Sales Tax Returns within 60 days from the filing date without seeking approval of the concerned CIR, on the condition that the revision has the consequence of either reducing a refund claimed, or increasing the amount of Sales Tax originally paid.

The Bill seeks to add a proviso in Sub-section (4) of Section 4 to the FE Act, to harmonize the mechanism of revision of returns with the existing provisions of the ST Act.

2. Recovery of unpaid duty or of erroneously refunded duty or arrears of duty

Section 14 Sub-section (4)

Section 14 of the FE Act empowers the Officer Inland Revenue to issue a show cause notice to any person who has not levied or paid, or short-levied or short-paid FED, or where FED has been refunded erroneously. Sub-section (2) of Section 14 of the FE Act further empowers the Officer Inland Revenue to determine the duty payable by such a person together with any applicable penalty and default surcharge. Through the insertion of Sub-section (4), the powers of the Officer Inland Revenue are proposed to be enhanced further to provide assistance in collection and recovery of duties, in pursuance of requests from foreign jurisdictions under tax treaties, multilateral conventions, inter-governmental agreements or similar agreement or mechanism.

3. Licensing of brand name

Section 45AA

The Bill proposes to insert a new section, 45AA, to introduce a requirement for manufacturers of specified goods, to obtain brand licenses from the FBR for each brand or Stock Keeping Unit. While the term "Stock Keeping Unit" has not been defined in the FE Act, in common parlance it refers to a scannable bar code, as is printed usually on product labels. This means that all items, whether existing as unique brands or being sold with unique bar codes, will require brand licensing from FBR in the manner to be prescribed by it. This is another step to strengthen documentation of the economy and to capture transactions involving sales of goods in the grey market. The proposed section also outlines penal consequences for the failure to comply with its provisions, whereby any items sold without the brand license will be deemed to be counterfeit goods and may be confiscated and destroyed in a manner as may be prescribed, and without prejudice to additional penal action under the FED Act.

4. Agreement for the exchange of information

Section 47A

The existing Section 47A of the FE Act empowers the Federal Government to enter into bilateral or multilateral agreements for the exchange of information (including electronic information) with Provincial Governments and governments of foreign countries, with respect to FED levied under the FE Act or any other law in force in Pakistan or a corresponding law in the foreign country.

The Bill proposes to amend the title of the section by including the words "or assistance in recovery of duties". Consequently, it proposes the insertion of two new Sub-sections, (1A) and (3). Through Sub-section (1A), the FBR will be empowered to share data/ information, including real time videos and images obtained under the FE Act, with the Federal or Provincial Governments. The exercise of these enhanced powers will be subject to the limitations and conditions as may be specified by the FBR.

Federal Excise Duty

Through Sub-section (3), it is proposed to empower the Federal Government to enter into bilateral or multilateral conventions, inter-governmental agreements or other mechanisms for assistance in recovery of duties.

5. Fee and service charges

Section 49

Section 49 was inserted in the FE Act vide Finance Act, 2019 to empower FBR to levy fees and service charges for valuation in respect of any other service or control mechanism provided by any formation under its control, including public-private partnership arrangements. Now the Bill proposes to add a new Sub-section (2), through which FBR may authorize and prescribe the manner of utilization of the fees and services charges levied under this section.

6. Amendments in the First Schedule

Section 31

The First Schedule to the FE Act, provides a list of goods and services on which FED is leviable at the rates prescribed against such goods and services. Table I specifies the goods and Table II of the Schedule specifies a list of services on which FED is leviable.

Table-I-Goods

The Bill proposes to exempt FED on the following goods, including electric vehicles (4 wheelers) on which exemption was earlier granted through the Tax Laws (Amendment) Ordinance, 2021 by amending existing entries as follows:

S.No.	Existing			Proposed		
	Description	Tariff Heading	Duty	Description	Tariff Heading	Duty
55	Imported motor cars, SUVs and other motor vehicles, excluding auto rickshaws, principally designed for the transport of persons (other than those of headings 87.02), including station wagons and racing cars:	87.03		Imported motor cars, SUVs and other motor vehicles, excluding auto rickshaws, principally designed for the transport of persons (other than those of headings 87.02 and till the 30th day of June, 2026 electric vehicles (4 wheelers) , including station wagons and racing cars:	87.03	
	(a) of cylinder capacity up to 1000cc		2.5% ad val	(a) of cylinder capacity up to 1000cc		2.5% ad val
	(b) of cylinder capacity from 1001cc to 1799cc		5% ad val	(b) of cylinder capacity from 1001cc to 1799cc		
	(c) of cylinder capacity 1800cc to 3000cc		25% ad val	(c) of cylinder capacity 1800cc to 3000cc		25% ad val
	(d) of cylinder capacity exceeding 3001cc		30% ad val	(d) of cylinder capacity exceeding 3001cc		30% ad val

Federal Excise Duty

S.No.	Existing			Proposed		
	Description	Tariff Heading	Duty	Description	Tariff Heading	Duty
55B	Locally manufactured or assembled motor cars, SUVs and other motor vehicles, excluding auto rickshaws principally designed for the transport of persons (other than those of headings 87.02), including station wagons and racing cars:	87.03		Locally manufactured or assembled motor cars, SUVs and other motor vehicles, excluding auto rickshaws principally designed for the transport of persons (other than those of headings 87.02 and till the 30 th day of June, 2026 electric vehicles (4 wheelers)), including station wagons and racing cars:	87.03	
	(a) of cylinder capacity up to 1000cc		2.5% ad val	(a) of cylinder capacity up to 851cc to 1000cc		2.5% ad val
	(b) of cylinder capacity from 1001cc to 2000cc		5% ad val	(b) of cylinder capacity from 1001cc to 2000cc		5% ad val
	(c) of cylinder capacity 2001cc and above		7.5% ad val	(c) of cylinder capacity 2001cc and above		7.5% ad val

PCT code of filter rod for cigarettes provided at Sr. No. 56 of the First Schedule is proposed to be rectified from 5502.0090 to 5502.9090.

The Bill seeks to insert the following new entry in Table I of the First Schedule to the FE Act to levy FED on electrically heated tobacco products using non-combustive tobacco heating systems:

S.No.	Description	Tariff Heading	Duty
8c	Tobacco mixture in an electrically heated tobacco product by whatever name called, intended for consumption by using a tobacco heating system without combustion	2403.9990	Rupees five thousand two hundred per kg

The Bill proposes to exempt FED on the following items by omitting entries from the existing Table-I of the First Schedule to the FE Act. Such items were exempt from the purview of Sales Tax under the ST Act, however, FED on edible oils, vegetable ghee and cooking oil and steel billets, ingots, ship plates, bars and other long re-rolled products is currently leviable in Sales Tax mode in terms of Section 7 read with Second Schedule to the FE Act. Consequently, the Bill proposes to withdraw the exemption of Sales Tax from all such items.

S.No.	Description	Tariff Heading	Duty
1	Edible oils excluding deoxidized soybean	15.07, 15.08, 15.09, 15.10, 15.11, 15.12, 15.13, 15.14, 15.15, 15.16 1517, and 15.18,	17% ad val
2	Vegetable ghee and cooking oil (a) in retail packing (b) not in retail packing	Respective heading	17% of retail price 17% ad val
57	Fruit juices, syrups and squashes, waters containing added sugar or sweetening matter etc. excluding mineral and aerated waters	Respective heading	Five percent of retail price
58	Steel billets, ingots, ship plates, bars and other long re-rolled products	Respective heading	5% ad val

Table-II-Services

The Bill proposes to reduce FED on telecommunication services specified in Sr. No. 6 of Table-II of the First Schedule to the FE Act from 17% to 16%.

The Bill also proposes to levy fixed FED on the following services by inserting following new entries in Table II of the First Schedule to the FE Act:

S.No.	Description	Tariff Heading	Duty
6A	Telecommunication services: (a) Mobile phone call, if call duration exceeds three minutes; (b) Internet services; (c) SMS services;	Respective sub-heading of 98.12 9812.6000 9812.1710	One rupee per call in addition to the rates of duty specified under Serial No.6 Five rupees per GB in addition to the rates of duty specified under Serial No.6 Ten paisa per SMS in addition to the rates of duty specified under Serial No.6

The Bill also proposes to correct the heading of column 2 which erroneously states "Description of Goods" instead of "Description of Services".

Additionally, the Bill proposes to exempt FED on MDR received by banking companies on services related to acceptance of digital payments.

7. Amendments in the Second Schedule Section 7

The following goods are proposed to be excluded from the purview of FED under the FE Act by amending Table-I of the First Schedule to the FE Act. To give effect to the changes proposed in the Bill, the Bill also proposes to omit the following entries from the Second Schedule to the FE Act:

Federal Excise Duty

S.No.	Description	Tariff Heading
1	Edible oils excluding deoxidized soybean	15.07, 15.08, 15.09, 15.10, 15.11, 15.12, 15.13, 15.14, 15.15, 15.16 1517, and 15.18
2	Vegetable ghee and cooking oil	Respective heading
4	Steel billets, ingots, ship plates, bars and other long re-rolled products	Respective heading

8. Amendments in the Third Schedule
Section 16 Sub-section (1)

The Third Schedule to the FE Act provides a list of goods and services on which FED is exempt, subject to certain conditions and limitations as provided therein. The Bill seeks to insert the following new entries in Table I of the Third Schedule to the FE Act:

S.No.	Description	Tariff Heading
24	<p>The following goods, when supplied within the limits of the BSM, established in cooperation with Iran and Afghanistan:</p> <ul style="list-style-type: none"> i. Animal fats and oil and their fractions ii. Vegetable fats and their fractions iii. Vegetable oils and their fractions <p>Provided that, such items in case of import, shall be allowed clearance by the Customs Authorities subject to furnishing of bank guarantee equal to the amount of duty involved and the same shall be released after presentation of consumption certificate issued by the CIR having jurisdiction:</p> <p>Provided further that, the said exemption shall only be available to a person upon furnishing proof of having functional business premises located within limits of the BSM.</p>	<p>1516.1000</p> <p>1516.2010</p> <p>1516.2020</p>
25	Import and supply of raw materials, components, parts and plant and machinery by registered persons authorized under Export Facilitation Scheme, 2021 notified by FBR with such conditions, limitations and restrictions.	Respective headings

CUSTOMS

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1. Definitions

Section 2

The Bill seeks to amend the following definitions:

- **Documents**
Section 2(kka)

The Bill seeks to expand the definition of documents by adding the words “master bill of lading and certificate of origin” in order to discourage the frauds related to origin of goods.

- **Smuggle**
Section 2(kka)

The Bill seeks to broaden the scope of the definition by including the act of retailing of smuggled goods as part of “smuggling”.

The Bill seeks to insert the following new definitions:

- **Electronic assessment**
Section 2(kkc)

“Electronic assessment” means assessment of a GD in customs computerized system by an officer of Customs or by the computerized system according to the selectivity criteria. The purpose is to provide legal cover to the assessment/ check by the customs computerized system and avoid unnecessary litigations.

- **Vessel Intimation Report (VIR)**
Section 2(ld)

“Vessel Intimation Report (VIR)” means an intimation regarding impending arrival of a vessel at a customs sea port, to the customs authorities in the form and manner, by the carrier or his agent, as may be prescribed by rules. The purpose is to bring clarity and avoid undue litigation.

- **Owner**
Section 2(oo)

“Owner” of goods includes any person who is for the time being entitled, either as owner or agent for the owner, to the possession of the goods.

2. Directorate General of National Nuclear Detection Architecture

Section 3CCB

It is proposed to establish a new Directorate General of National Nuclear Detection Architecture and appoint officers therein to comply with the international obligations on Pakistan, being a member state of International Atomic Energy Agency (“IAEA”). The Directorate will prevent smuggling of nuclear and radiological materials and avert any possibility of nuclear/ radiological terrorism.

3. Directorate General of Marine *Section 3CCC*

It is also proposed to establish a new Directorate General of Marine and appoint officers therein in order to deal with customs matters, especially anti-smuggling activities at sea.

4. Power to appoint or license public warehouses/ private warehouses *Section 12 and Section 13*

These sections prescribe the power, procedure for grant of license and its cancellation by the Collector of Customs for public and private warehouses, respectively. The Bill proposes some clarificatory amendments in these sections whereby the aforementioned authority and procedure may only be exercised by the respective Collector of Customs having jurisdiction. Further, it is provided that application for warehouse license shall be submitted electronically, wherever the customs computerized system is operational.

5. Power to appoint or license common warehouses *Section 12A*

The Bill proposes to provide power to the respective Collector of Customs having jurisdiction to grant licenses for operating common warehouses. The application for warehouse license shall be submitted electronically, wherever the customs computerized system is operational. The Collector shall also have the power to cancel the license on non-fulfillment of any conditions laid down in the license.

6. Pakistan Customs Tariff *Section 18E*

This section deals with the power of FBR to make changes in the Pakistan Customs Tariff specified in First Schedule to the Customs Act, 1969. The Bill seeks to insert a proviso empowering FBR to constitute a committee or a center to settle disputes regarding classification of goods. The proposed amendment will help avoid unnecessary litigation.

7. General powers to exempt customs duties *Section 19(5)*

It is proposed that all notifications issued after 01 July 2016, if not rescinded and placed before the National Assembly earlier, shall continue and remain in force up to 30 June 2022. Previously, the limit was provided up to 30 June 2021.

8. Value of imported and exported goods *Section 25(9)*

This section deals with the determination of value of goods for import and export. The Bill seeks to make a clarificatory amendment in Sub-section (9) which deals with the Fall Back Method of valuation. It is proposed to add the words "on reasonable means" in the said Sub-section. Meaning thereby, when the customs value cannot be determined under any of the previous methods, it may be determined using reasonable means consistent with the principles and general provisions of the WTO Valuation Agreement and on the basis of data available in the country of importation. To the greatest extent possible, this method should be based on previously determined values and methods with a reasonable degree of flexibility in their application. After the amendment, the data obtained through internet or market sources or data exchange protocols with foreign customs administrations may be used for determining the value of goods.

9. Power to determine the customs value

Section 25A

This section deals with the power of Director of Customs Valuations, who may determine the customs value of goods on his own or on a reference made to him by any person or officer of the Customs. The Director shall determine the value by following the methods prescribed under Section 25 of the Act. The Bill seeks to extend this power to Collector of Customs as well.

In line with the amendment proposed in Section 25 Sub-section (9) of the Act as discussed above, the Bill also seeks to add a proviso to extend the powers of the Director of Customs Valuations to enable him to determine the value of goods by considering the values from internationally acclaimed publications, periodicals, bulletins or official websites of manufacturers or indenters of goods. Interestingly, the proviso does not include the Collector of Customs to exercise this power.

The Bill also seeks to insert a proviso in Sub-section (2) in order to give authority to the Director General of Valuation to determine the value, if there is any conflict in value determined by the Director of Customs Valuation or the Collector of Customs with the value determined under Section 25.

10. Power to take over the imported goods

Section 25C

The Collector of Customs, with the prior approval of FBR, can take over the goods from the importer and sell it to the person who has agreed to buy the goods at the value declared by the importer in the GD, which is not the actual transactional value.

The Bill seeks to shift the approving authority from FBR to the Chief Collector to avoid unnecessary delays.

11. Review of the value determined

Section 25D

Against the valuation determined by the Director of Customs Valuations under Section 25A of the Customs Act, 1969, a review petition may be filed before the Director General of Valuation within a period of 30 days.

Through the amendment, it is proposed that the Director General of Valuation may also review the valuation determined by the Director of Customs Valuation on his own. Further, the Director General is directed to conclude the proceedings within 60 days.

12. Allowing mutilation or scrapping of goods

Section 27A

This section deals with mutilation and scrapping of the old and used goods by the custom authorities at the request of the owner. The Bill seeks to amend the section to clarify that such request shall be filed by the owner before the filing of GD.

13. False statement, error, etc.

Section 32(3A)

If, as a result of an audit or examination of an importer's or exporter's records, it is discovered that any duty, tax or charge has not been levied or short-levied or erroneously refunded, the Custom Authorities may issue a show cause notice for collection of the duty or taxes. However, no proceedings can be initiated if the amount is less than PKR 100.

The Bill seeks to enhance the limit from PKR 100 to PKR 20,000.

14. Mis-declaration of value for illegal transfer of funds into or out of Pakistan

Section 32C(1)

This section deals with the misstatement of value of goods for illegal transfer of funds in or outside Pakistan. Second proviso to section 32C states that a team consisting of Additional Collector along with an expert and an officer of State Bank of Pakistan (SBP) shall submit a report of said offence to the Chief Collector and SBP for their action. The Bill now seeks to substitute the said proviso by authorizing FBR to frame the rules, in this regard.

15. Delivery of import manifest in respect of a conveyance other than a vessel

Section 44

This section requires submission of import manifest within twenty four hours after arrival of conveyance at land customs-station or customs-airport. The Bills seeks to reduce the dwell time to three hours in case of arrival of conveyance at customs airport and for land customs-station, at the time of entry of conveyance in the country.

16. Signature and content of import manifest and amendments

Section 45(2),(3)

This section prescribes that the person-in-charge of a conveyance or his duly authorized agent may correct any obvious error in the import manifest by furnishing an amended or supplementary import manifest after the permission of an authorized officer.

It is proposed that the amendment in the import manifest can be made in the light of rules to be notified by the FBR.

17. Declaration and assessment for home consumption or warehousing and determination of customs duty

Section 79 and section 30

Section 79 requires the importer to submit GD along with prescribed documents within 10 days of arrival of goods whether for home consumption, warehousing, transshipment or for any other purposes. The Bill now requires the importer to upload the documents necessary for the assessment of goods along with the aforementioned goods while filing the GD.

Corresponding amendment has also been proposed in Section 30 of the Customs Act which states that where a GD has been filed in advance of the arrival of goods, the date for determination of rate of import duty shall be the date on which the GD is filed for home consumption or for warehousing. However, in case the rate of customs duty changes after the submission of GD and before the berthing of the vessel, the rate of customs duty prevailing at the date of berthing of the vehicle shall be used for calculation of customs duty payment.

18. Checking of goods declaration by the customs

Section 80(4)

GD filed under Section 79 is subject to verification under Section 80 by the customs authorities. The Bill proposes to expand the scope of checking of goods to GDs filed through green channel, with the prior approval of the customs authorities.

19. Procedures in case of goods not cleared or warehoused or transshipped or exported or removed from the port within fifteen days after unloading or filing of declaration

Section 82

It is proposed that an importer or, if the importer is not traceable, the shipping line will be responsible to re-export the banned or restricted items out of Pakistan; if such items are not cleared or auctioned within sixty days from the date of their arrival.

20. Receipt of goods at warehouse

Section 88(5)

This Sub-section prescribes that the quantity or value of any goods incorrectly stated in the GD, due to inadvertence or *bona fide* error, can be rectified before the warehousing of goods, and not subsequently. It is proposed to substitute the Sub-section by allowing the Collector of Customs to direct the correction of any such error.

21. Period for which goods may remain warehoused

Section 98(1)(a)

This section prescribes that perishable and non-perishable goods may remain in the warehouse for a period of one month and six months, respectively. Currently, the Collector of Customs may extend the period of warehousing for one month in case of notified perishable goods and three months in case of non-perishable goods. It is now proposed that the Collector of Customs may extend the period of warehousing up to six months for both perishable and non-perishable goods.

22. Cancellation of registration of registered user

Section 155F

This Section provides a list of events where non-compliance may lead to suspension and cancellation of registration. Currently, the Collector of Customs may suspend the registration of any person on violation of any provisions of the Customs Act. The Bill now requires the Collector to issue a prior notice and affording reasonable opportunity of hearing before suspension.

23. Correction of clerical error

Section 155R

This Section empowers the Collector of Customs to direct the correction of any clerical or typographical error in the customs computerize system. The Bill now proposes to authorize the concerned officer, not below the rank of Assistant Collector, to issue a certificate for the correction in the computerized GD, upon filing of an application by the importer/ exporter.

24. Punishment for offences

Section 156

The Bill seeks to increase penalties on importers who fail to place invoice/ packing list in the containers and proposes new penalty for non-compliance of proposed amendment in Section 79 of the Customs Act.

Offence	Existing Penalties	Proposed Penalties
Sr. No.(1)(ii) If any person contravenes the requirement of placement of invoice and packing list inside the import container or consignment	Such person shall be liable to a penalty not exceeding PKR 50,000	Such person shall be liable to a penalty as under; 1 st time PKR 100,000 2 nd time PKR 500,000 3 rd time PKR 1,000,000 4 th time outright confiscation of goods and blockage of WeBOC user ID for one year
Sr. No.(1)(iii) If any person fails to attach or electronically upload mandatory documents required under section 79 or 131 of the Customs Act	N/A	Such person shall be liable to a penalty as under; 1 st time PKR 50,000 2 nd time PKR 100,000 3 rd time PKR 150,000 4 th time PKR 200,000 5 th time PKR 250,000, and onwards
Sr. No. 89 & 90 Retailers selling smuggled goods	N/A	Ten times of the value of goods if value of goods is up to PKR 300,000 Ten times of the value of goods and imprisonment up to six years, if value of goods exceeds PKR 300,000

The Bills further proposes to delete the penalty for non-filing of GD within the prescribed period of ten days.

25. Extent of confiscation

Section 157(2)

A conveyance seized by the officer of customs for confiscation may be temporarily released during the pendency of the adjudication process, upon submission of sufficient bank guarantee. The Bill proposes that if a conveyance is apprehended for a third time, it shall not be released against a redemption fine.

26. Power of adjudication

Section 179(3)

Power of adjudication and jurisdiction of officers of customs for the cases involving confiscation of goods, recovery of duty and other taxes not levied, short levied or erroneously refunded, imposition of penalty or any other contravention is mentioned in Section 179 of the Customs Act. The proceedings shall be generally decided within 90 days of the issuance of show cause notice which may be extended for further 60 days by the Collector of Customs.

It is now proposed to decide the cases of goods lying at sea port, airport or dry ports within 30 days of the issuance of show cause notice, which can be further extended up to 15 days by the Collector of Customs.

Custom**27. Reference to High Court***Section 196(1)*

Currently, the officer not below the rank of Additional Collector/ Director is authorized to prefer an application/ reference before the High Court. It is proposed to reduce the work load on Additional Collector/ Director and to give this authority to the officer not below the rank of Deputy Collector/ Director.

28. Reward to Customs officers and officials of Customs and law enforcement agencies*Section 202B(1)*

Currently, cash rewards are paid to the customs officers and the informers who provide credible information of evasion of customs duty, other taxes and confiscation of goods. The Bill proposes to expand the reward scheme to other law enforcement agencies who assist the customs officers for the purpose of this section.

29. Advance ruling*Section 212B(5)*

It is proposed to increase the period of validity of advance ruling on customs, from one year to three years.

30. Amendments in First Schedule

Customs duty on numerous goods are proposed to be reduced. Chapter wise summary of significant changes in the duty is provided hereunder :

Chapters	Existing rates	Proposed rates
Food Industry (Chapter 21)		
Flavoring powder for preparation of food	20%	11%
Mineral Products (Chapters 25-27)		
Unroasted iron pyrites, Sulphur of all kinds, other than sublimed sulphur, precipitated sulphur and colloidal sulphur, Natural graphite, other clays, chalk, natural calcium phosphates, natural aluminum calcium phosphates and phosphatic chalk, Pumice stone, pebbles, gravel, broken or crushed stone, natural magnesium carbonate, gypsum, mica, including splitting; mica waste, natural borates, feldspar; leucite; nepheline and nepheline syenite; fluorspar etc.	3%	0%
Creosote oil	11%	3%
Solvent oil	16%	11%
Chemicals and allied Industries (Chapters 28-38)		
Boron, Iodine, fluorine, phosphorus, arsenic, selenium, sulphurous acid gas, hydrogen fluoride, hydrogen cyanide and other various chemicals	3%	0%
Hydrogen, oxides of boron, hydrogen fluoride, boric acid, acetic anhydride, dibutyl orthophthalates	11%	3%
Disodium sulphate	16%	11%

Chapters	Existing rates	Proposed rates
Surgical tape in jumbo rolls	20%	11%
Varnishes, master batches, organic composite solvents and thinners, not elsewhere specified or included; prepared paint or varnish removers.	20%	16%
Plastics and articles thereof, rubber and articles thereof (Chapters 39 & 40)		
Copolymers, ethers polyvinyl	11%	3%
Epoxide resins, petroleum resins	16%	11%
Polymers of vinyl chloride, other plastics	20%	11%
Unsaturated resins	20%	16%
Bagomatic bladder scrap	11%	3%
Fur skins and artificial fur (Chapter 43)		
Raw fur skins (including heads, tails, paws and other pieces or cuttings, suitable for furriers' use), other than raw hides and skins of heading 41.01, 41.02 or 41.03.	3%	0%
Tanned or dressed fur skins (including heads, tails, paws and other pieces or cuttings), unassembled, or assembled (without the addition of other materials) other than those of heading 43.03.		
Wood and articles of wood (Chapter 44)		
Sheets for veneering (including those obtained by slicing laminated wood), for plywood or for similar laminated wood and other wood, sawn lengthwise, sliced or peeled, whether or not planed, sanded, spliced or end-jointed, of a thickness not exceeding 6 mm.	3%	0%
Paper Industry (Chapter 48)		
Uncoated paper and paperboard, of a kind used for writing, printing or other graphic purposes, and non-perforated punch-cards and punch tape paper, in rolls or rectangular (including square) sheets, of any size, other than paper of heading 48.01 or 48.03; hand-made paper and paperboard.	20%	16%
Composite paper and paperboard (made by sticking flat layers of paper or paperboard together with an adhesive), not surface-coated or impregnated, whether or not internally reinforced, in rolls or sheets.		
Textile Industry (Chapters 50-63)		
Silk-worm cocoons suitable for reeling, raw silk (not thrown), silk waste (including cocoons unsuitable for reeling, yarn waste and garneted stock etc.	3%	0%
Wool, not carded or combed, Fine or coarse animal hair, not carded or combed, waste of wool or of fine or coarse animal hair, including yarn waste but excluding garneted stock etc.		

Chapters	Existing rates	Proposed rates
Yarn of wool or of fine animal hair, put up for retail sale, Cotton waste (including yarn waste and garneted stock)	11%	0%
Synthetic filament yarn (other than sewing thread), not put up for retail sale, including synthetic monofilament of less than 67 decitex.		
Woven fabrics of cotton, containing 85 % or more by weight of cotton, weighing not more than 200 g/m2.	20%	11%
Woven fabrics of cotton, containing less than 85 % by weight of cotton, mixed mainly or solely with man- made fibers, weighing not more than 200 g/m2		
Woven fabrics of cotton, containing less than 85 % by weight of cotton, mixed mainly or solely with man- made fibers, weighing more than 200 g/m2		
Woven fabrics of synthetic filament yarn, including woven fabrics obtained from materials of heading 54.04 and 54.05.	16%	11%
Woven fabrics of synthetic staple fibers, containing 85 % or more by weight of synthetic staple fibers, Woven fabrics of synthetic staple fibers, containing less than 85 % by weight of such fibers, mixed mainly or solely with cotton, of a weight exceeding/ not exceeding 170 g/m2.		
Nonwovens, whether or not impregnated, coated, covered or laminated.	11%	3%
Synthetic/ artificial filament tow, synthetic/ artificial staple fibres, not carded, combed or otherwise processed for spinning, sewing thread of man- made staple fibres, whether or not put up for retail sale, yarn (other than sewing thread) of synthetic staple fibres, not put up for retail sale	11%, 3%	0%
Glass and glassware (Chapter 70)		
Glass fibres (including glass wool) and articles thereof (for example, yarn, woven fabrics).	20%, 11%	11%, 0%
Iron and Steel (Chapter 72)		
Flat- rolled products of iron or non- alloy steel, of a width of 600 mm or more, hot-rolled, not clad, plated or coated	20%, 11%	0%
Stainless steel in ingots or other primary forms; semi- finished products of stainless steel, flat- rolled products of stainless steel, of a width of 600 mm or more, flat- rolled products of stainless steel, of a width of less than 600 mm.	3%	0%
Zinc dust, powders and flakes	11%	3%

Medical and surgical apparatus (Chapter 90)		
Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electro-medical apparatus and sight-testing instruments.		
Apparatus based on the use of X-rays or of alpha, beta or gamma radiations, whether or not for medical, surgical, dental or veterinary uses, including radiography or radiotherapy apparatus, X-ray tubes and other X-ray generators, high tension generators, control panels and desks, screens, examination or treatment tables, chairs and the like.	3%	0%
New Insertions/ Rate increased		
Himalayan rock salt	N/A	20%
Others	N/A	20%
Motor spirit	3%	11%
Submersible pumps having 5 to 10 inches diameters	N/A	11%

The Bill seeks to propose following further concessions, reductions and exemptions from customs duty;

- On imports by persons authorized under Export Facilitation Scheme notified by FBR.
- On professional and technical apparatus, equipment and instruments temporarily imported by foreign nationals, experts and athletes etc. participating in an international event.
- Exemption to Special Technology Zone developer and zone enterprise on import of capital goods, not manufactured locally, including but not limited to materials, plant, machinery, hardware, equipment and software for a period of ten years. The period of exemption for zone developer shall be reckoned from the date of signing of the development agreement with the Special Technology Zones Authority. For zone enterprise, the period of exemption shall be reckoned from the date of issuance of license by the Authority.
- Enhancement of the value of unsolicited gifts through post or courier from PKR 20,000 to PKR 30,000.

31. Amendments in Fifth Schedule

The duty on following goods is proposed to be reduced, if the goods are imported by the relevant industry registered under the ST Act, 1990 and subject to annual quota determination by Input Output Co-Efficient Organization (IOCO);

Industry	Items	Existing Rates	Proposed Rates
Manufacturer of optical fiber cable	Polyester rigid film, backed	20%	5%
	Weighing more than 150 g/m ² (Nonwovens), gimped yarn, and strip and the like of heading 54.04 or 54.05, gimped (other than those of heading 56.05 and gimped horsehair yarn); chenille yarn	11%	5%

Custom

Industry	Items	Existing Rates	Proposed Rates
	(including flock chenille yarn); loop wale-yarn		
Manufacturers of infant formula milk	Cans of iron and steel	20%	10%
	Malt extracts and foods prep	20%	5%
Manufacturers of paper sizing agents	Cationic	20%	5%
	Finishing agent	16%	5%
Manufacturer of home appliances <i>Certification from Inland Revenue Department that all dealers of the manufacturing unit are registered with Sales Tax Department is also required</i>	Articles of glass, transformers	20%	0%
	AC motors, single phase	16%	0%
Manufacturers of ready to use supplementary Foods (RUSF) and ready-to-use therapeutic food (RUTF), duly authorized by United Nations World Food Program (UNWFP)	Multiple items	Multiple rates	0%
Manufacturers of auto-disable syringes <i>NOC from National Health Services Regulation and Coordination (MoNHSR&C) is also required</i>	Plasticized, gaskets of rubber, printing paper, others	20	0%
	Others	16%	0%
	Polypropylene, propylene copolymers, tubular metal needles and needles for sutures	11%	0%
	Epoxide resins, Biaxially Oriented Polypropylene (BOPP) film, laminated	10%	0%
Manufacturers of pharmaceutical packaging	Film and sheet of polyamides " 20 microns to 40 microns"	16%	0%
	Aluminum foil rolled but not further worked "7 microns to 100 microns"	15%	0%
	PVC rigid film "50 microns to 400 microns"	10%	0%
First aid bandages manufacturing industry	Others	different rates	5%
	Other woven fabrics (dyed)	16%	5%

Industry	Items	Existing Rates	Proposed Rates
Manufacturers of food processing industry	Ednozym Pectofruit, Endozym Pectofruit PR, Endozym AlphamyI MG	5%	3%
	Silite Normal Speed, Silite High Speed and Spindasol FJ under	different rates	3%
Shoe manufacturers	Outer soles and heels of rubber	20%	15%
	Phenolic resins, of polymers of ethylene, uppers and parts thereof, other than stiffeners and others	20%	5%
	Shoe lasts, buckle	16%	5%
	Shoe adhesives	11%	5%
Manufacturers of artificial leather <i>Import of PVC Emulsion Grade is subject to lab test</i>	Release paper	20%	3%
	PVC emulsion grade	11%	0%
Manufacturers of decorative printed industry	Specialized decorative printed papers	20%	0%
Manufacturers of aerosol	Spray valves/pumps with or without spray cap/ actuator for aerosol products	16%	0%
Manufacturers of polyester staple fiber	PET Scrap	20%	11%
Manufacturers of boilers	Safety or relieve valves	16%	10%
	Butt welding	11%	3%
	Iron and alloy steel U-sections of various heights	different rates	10%
Manufacturers of bobbins & cops	Other uncoated paper, paperboard and Vegetable parchment	20%	0%
Manufacturers of machine made carpets	Woven fabrics obtained from strip and the like	16%	5%
Manufacturers of industrial chain	Chain parts	20%	15%
Manufacturers of flexible packaging industry	Specialty paper 40-50 grams having specification of wood free, white, glossy and one side coated for gravure printing process	20%	0%

Industry	Items	Existing Rates	Proposed Rates
Manufacturers of solid surface Sheet The concessions admissible till 30 June 2022	Unsaturated Solyester resin (UPR)	20%	5%
Agriculture sector <i>Subject to certification by Ministry of National Food and Security (MoNFS&R) that imported goods are bona fide requirement for use. The authorized officer of the Ministry shall furnish all relevant information on line to Pakistan customs computerized system against specific user ID and Password obtained under section 155D of the Customs Act, 1969</i>	Hermetic bags and cocoons	different rates	0%
Manufacturers of lithium-ion batteries	Lithium Ion cells	11%	0%
Oil refineries <i>The concession is admissible till 30 June 2022</i>	Petroleum oils and oils obtained from bituminous minerals, crude	3%	2.5%
Pharmaceutical Manufacturers <i>Subject to NOC issued by DRAP</i>	Raw materials used in the manufacturing of the COVID-19 related items i.e., VTM, IV Cannula, N95 masks, surgical masks, Face shields, Tyvek suits	different rates	0%

The Bill also seeks to reduce the customs duty on the following sectors and goods;

Industry	Goods	Existing Rates	Proposed Rates
Poultry Sector	Medicaments	11%	3%
Dairy sector	Glucose precursors, yeast, toxin binders, energy supplements for cows transition period, acidifiers, electrolytes for calves, biotin, buffers, copper boluses, non-protein nitrogen sources	different rates	5%
Sales tax registered manufacturers	Carbon black other than rubber grade	16%	5%

The following amendments have also been proposed:

- Exemption of duty to the agriculture sector on import of grain storage silos duly fitted with mechanical systems during the period commencing on the 1st July 2021 and ending on 30th June 2026.
- Reduced rate of duty at 5% on import of plant, machinery and equipment by registered pharmaceutical manufacturers for their own use subject to NOC from Ministry of Health.
- Reduced rate of duty from 5%/ 3% to 0% on import of Active Pharmaceutical Ingredients (API). In addition, it is also proposed to exempt duty on import of certain drugs.
- In order to promote the tourism industry, it is proposed to reduce the duty by 50% on import of certain items subject to certification by the concerned Secretary of Provincial Tourism Department or equivalent Authorized Officer of the Federal Government.
- In order to promote the industry of electric vehicles, it is proposed to reduce the duty on import of Electric Vehicles 4 - Wheelers (CBU condition) as per the following rates and conditions;

Customs Duty	Conditions
10%	The concession shall be admissible till 30 th June 2022.
25%	The concession shall be admissible w.e.f. 1st July, 2022 till 30 th June 2026.
50% of the rate of customs duty of 10%/ 25% as mentioned above	The concession shall be admissible till 30 th June 2026, on import of Electric Vehicles 4-wheelers (CBU) per company of the same variant to be assembled / manufactured to the extent of maximum 100 units per company, duly approved/certified by Engineering Development Board (EDB). EDB shall monitor compliance with EV Policy 2020 and intimate FBR immediately in case of violation by any manufacturer to stop further clearance at the said concessional rate.

- It is also proposed to reduce the duty on import of components for assembly/ manufacture of Electric Vehicles - 4 Wheelers (CKD form);

Description of Goods	Custom Duty	Conditions
EV Specific components for assembly/ manufacture in any kit-form (CKD)	1%	The concession shall be admissible to manufacturers of electric vehicles 4+ wheelers till 30 th June 2026, subject to certification and quota determination by the EDB.
Components for assembly/manufacture in any kit-form (CKD) nonlocalized parts.	10%	The concession shall be admissible till 30 th June 2026 subject to the condition mentioned at Para-2 of the SRO 656(I)/2006 dated 22.06.2006.
Components for assembly/ manufacture in any kit-form (CKD) localized parts.	25%	

- It is proposed to reduce the duty to 5%, 10% and 20% to certain category of goods at the time of import at joint BSM. The purpose of establishing BSM is to mitigate the problems faced by the people residing in the border areas due to fencing and counter-smuggling measures.

List of Abbreviations**List of Abbreviations**

AoP	Association of Persons
ADR	Alternative Dispute Resolution
ATL	Active Taxpayer's List
ATIR	Appellate Tribunal Inland Revenue
CIR	Commissioner Inland Revenue
CNIC	Computerized National ID Card
EDB	Engineering Development Board
FBR	Federal Board of Revenue
FCVA	Foreign Currency Valve Account
FED	Federal Excise Duty
FTR	Final Tax Regime
GD	Goods Declaration
ICT	Islamabad Capital Territory
IOCO	Input Output Coefficient Organization
KIBOR	Karachi Inter-Bank Offer Rate
NICOP	National ID Card for Overseas Pakistani
NRVA	NRP Rupee Value Account
NTR	Normal Tax Regime
OECD	Organization for Economic Cooperation and Development
POC	Pakistan Origin Card
PoS	Point of Sale
PTA	Pakistan Telecommunication Authority
RD	Regulatory Duty
SCRA	Special Convertible Rupee Account
SECP	Securities and Exchange Commission of Pakistan

SEZ	Special Economic Zone
SME	Small and Medium Enterprises
The Bill	Finance Bill, 2019
The Customs Act	The Customs Act, 1969
The ST Act	The Sales Tax Act, 1990
TY	Tax Year
WPPF	Worker's Profit Participation Fun
WWF	Worker's Welfare Fund Ordinance 1971

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