

# Budget Briefing 2014

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# BUDGET BRIEFING 2014

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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 This should not be published in any manner without the Firm's consent.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, 2014 (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), the Federal Excise Act, 2005 (the FE Act), the Income Support Levy Act, 2013 (the ISL Act) and the Gas Infrastructure Development Cess Act, 2011 (the GIDC Act) in a concise form sufficient enough to amplify the important aspects of the changes proposed to be made. The Repealed Ordinance means the Income Tax Ordinance, 1979 since repealed. The Board 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, 2014, shall, with or without modification, become effective from the tax year 2015, 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: 04 June 2014

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**Income Tax**

- Like Sales tax, the concept of active and non-active taxpayers introduced viz. "filers" and "non-filers". Higher withholding tax rates are proposed in case of non-filers.
- Project financed through equity based foreign direct investment of at least 50% subject to reduced corporate tax rate of 20% for a period of five years.
- Where corporate tax falls short of 17% of the accounting income, Alternative Corporate Tax is required to be paid as minimum tax per newly introduced Section 113C. The difference between the corporate tax and Alternative Corporate Tax can be carried forward to set off corporate tax for a maximum period of ten years.
- Gain on disposal of securities will be taxed at the following rates:

Holding period	Existing rate	Proposed rate
Securities held for a period of less than 6 months	17.5%	12.5%
Securities held for a period of more than 6 months but less than 12 months	9.5%	12.5%
Securities held for a period of more than 12 months but less than 24 months	0%	10%
Securities held for a period of more than 24 months	0%	0%

- Debt securities issued by the Government, Government agencies and local and foreign companies and corporations registered in Pakistan now covered under the definition of "securities" for the purpose of Section 37A.
- Issuance of bonus shares by a company to its shareholders deemed as "income" of the shareholder. Such income is subject to collection of tax @ 5% on the determined value as a final discharge of tax liability.
- Banking companies deriving dividend income and capital gains from sale of listed shares held for a period of more than one year are proposed to be taxed on net income basis. Further, whereas rate of tax on dividend continues to remain at 10%, the rate of tax on capital gains arising from disposal of listed shares held for a period of more than one year are proposed to be taxed at 12.5% as against the existing rate of 10%.
- Dividend distributed by a stock fund is proposed to be taxed at the rate of 10%. However, if dividend receipts of the fund are less than the capital gains, the dividend

distributed by the fund would be taxable at the rate of 12.5%.

- Dividend received by a company from any fund other than stock fund is proposed to be taxed at the rate of 25%.
- Tax is required to be withheld from payment of directorship fee at 20% which is adjustable against the final tax liability.
- Withholding tax rate on payment of profit on debt to non-filers proposed at 15%.
- Share of profit of a company being a member of an Association of Persons (AOP) is not to be taxed in the hands of the AOP; rather it is proposed to be taxed directly in the hands of the company.
- Non-resident members of trade bodies and professional organizations are no longer required to file the return of income.
- The rates of withholding tax under Section 153 on account of sale of goods, rendering of services and execution of contracts are proposed to be enhanced, depending on the status of the taxpayers receiving the amount.
- The rate of withholding tax on commission received by advertising and other agents proposed to be enhanced to 7.5% and 12% respectively as against the existing rates of 5% and 10% pursuant to Section 233 of the Ordinance.
- Registration as a taxpayer now mandatory to obtain a commercial or industrial electricity or gas connection.
- Separate advance tax rates proposed under section 231B for filers and non-filers on purchase, import or registration of motor vehicles.
- Non-adjustable tax @ Re.1 per unit of electricity consumed proposed to be collected from steel-melters, steel re-rollers and composite steel units registered for the purpose of Sales Tax Special Procedures, 2007.
- Separate advance tax rates proposed for filers and non-filers under the newly inserted section 236K on purchase or transfer of immovable property.
- Collection of advance tax of 3% and 6% for filers and non-filers respectively on purchase of First / Business / Club Class air tickets. Withholding not applicable to economy class tickets.

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### Sales Tax

- Insertion of the Eighth Schedule to the Sales Tax Act, 1990 specifying reduced rates of tax.
- Insertion of the Ninth Schedule to the Sales Tax Act, 1990 specifying fixed rates of tax.
- Exemption available to import of various plant & machinery not manufactured locally withdrawn.
- Fifth Schedule and the Sixth Schedule to the Sales Tax Act, 1990 expanded.
- Amendments brought through the Amending Ordinance on 23 March 2014 formally incorporated in the Sales Tax Act, 1990.
- Input tax adjustment on goods curtailed whilst input tax adjustment on services appears to be unavailable.
- 'Retailers' taxable under a two-tier system whilst exemption threshold of Rs.5 million abolished.

### Customs

- Significant changes in rates of custom duty.
- Insertion of the Fifth Schedule to the Customs Act, 1969 to replace SRO 575(1)/2006 relating to import of plant and machinery with changes to certain rates of duty.
- Empowerment to the Customs Authorities for recovery of all types of taxes and charges in addition to duty.
- Experience requirement for technical members of Customs Tribunal reduced from five to three years.

### Federal Excise

- Powers given to the Board to specify zones or areas where higher retail prices may be determined for the purpose of levy of duty.
- Rate of duty on locally manufactured cigarettes modified.
- The structure for rate of duty on cements changed.
- 10% ad-valorem duty is restricted to imported motor cars only.
- Rate of duty on air travel tickets enhanced.

- Reduction in the rate of duty on telecommunication services. Duty is not collectable on telecommunication services which are subject to provincial sales tax.
- Inclusion of chartered flight services in the list of excisable services.

### Income Support Levy

- Income Support Levy Act, 2013 repealed

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## 1. Concept of filers and non-filers

*Section 2 sub-section (23A) and (35C)*

One of the biggest challenges that the present government faces in improving the economy of Pakistan is alarmingly the small tax base and consequential low tax to GDP ratio. Tax experts of the Federal Government as well as tax professionals have been engaged for years in trying out various methodologies for convincing the population at large to get themselves registered as taxpayers. However, so far voluntary compliance has been very negligible due to various reasons including fear of harassment and corruption. The Finance Bill, 2014 seeks to introduce the concept of recognizing a person as a filer or a non-filer. The Bill defines a filer as a taxpayer whose name appears in the active taxpayers list issued by the Board and updated regularly or a person who has a taxpayer's card. As we glance through the contents of the Finance Bill we note that a significant distinction has been created between a filer and a non-filer under the withholding tax provisions where higher rates/ amounts of withholding taxes have been proposed for non-filers.

It needs to be noted that merely obtaining a National Tax Number registration would not suffice to qualify as an active taxpayer as only those taxpayers are reflected in the list of active taxpayers who have up-to-date compliance and filing record.

Conceptually this is a valid distinction created to augment tax registration, however, given the fact that people are not willing to register compounded by the overall environment of harassment and corruption that prevails in the field offices of the FBR, it needs to be seen whether this measure would be enough to persuade people to register as taxpayer and start regular filing and compliance. On the other hand such measures in the past have resulted in hardship being faced by compliant withholding agents as the brunt of higher rate of withholding is often borne by them in the shape of higher prices being charged by suppliers who are non-filers to compensate for the higher withholding rate.

Further, this measure would create additional burden on the withholding agent to ensure that the person to whom he is making the payment is an active taxpayer since the status of a taxpayer may change even if he misses a single compliance of Income-tax or Sales-tax if he is registered for both. Further, we foresee that this requirement may not work for certain withholding requirements that may occur frequently and without the control of the collecting agent like in the case of banks on cash withdrawal. In such cases unless there is a real time connectivity between the bank's system

and the active taxpayers list, ensuring this compliance does not seem practical if it is to be done and managed by the banks themselves.

## 2. Capital gain on sale of securities

*Section 37A, Section 100B Division VII of Part I of the First Schedule*

The Finance Act, 2010 introduced a tax on sale of securities. This tax was made applicable on disposal of such securities which were held for a period of upto 1 year. The Bill now seeks to remove the cap of non-taxability of securities held for more than 1 year and instead now seeks to provide taxability of securities held for a period upto two years.

Presently, the rate of taxes vary for securities held for a period upto 6 months and for securities held for more than 6 months but upto 1 year. The Bill provides for such basis of taxability upto the tax year 2014. However, for tax year 2015, it is proposed to tax the gain on sale of securities on the following basis -

➤ Holding period of security less than 12 months	12.5%
➤ Holding period of security 12 months or more but less than 24 months	10%
➤ Holding period of security is 24 months or more	0%

Effectively holding period of security for it to be exempt from tax has been extended from 1 year to 2 years. It also needs to be appreciated that the rate of tax for securities held upto 1 year for tax year 2014 is 8% which is now proposed to be increased to 12.5% for the tax year 2015, thus effectively increasing the tax rate by more than 50% of the prevailing rate.

The definition of the term "securities" is also proposed to be enhanced to include "debt securities" meaning thereby that such securities which fall in the definition of debt securities would also now be liable to tax under Section 37A. The term debt securities is proposed to be defined as follows -

- “(4) For the purpose of this section, “debt securities” means-
- (a) Corporate Debt Securities such as Term Finance Certificates (TFCs), Sukuk Certificates (Sharia Compliant Bonds), Registered Bonds, Commercial Papers, Participation Term Certificates (PTCs) and all kinds of debt instruments issued by any

Pakistani or foreign company or corporation registered in Pakistan; and

- (b) Government Debt Securities such as Treasury Bills (T-bills), Federal Investment Bonds (FIBs), Pakistan Investment Bonds (PIBs), Foreign Currency Bonds, Government Papers, Municipal Bonds, Infrastructure Bonds and all kinds of debt instruments issued by Federal Government, Provincial Governments, Local Authorities and other statutory bodies."

Presently apart from certain types of securities that qualify as an instrument of redeemable capital, any gain on redemption or sale/ transfer of all other securities listed in the aforesaid definition are liable to normal taxation either as business income, income from other sources or capital gains depending on the nature of business of the debt holder. By inclusion of the above securities within the definition of "securities" in this section, any gain on redemption or sale/ transfer of debt securities (other than gain arising to a company) will be liable to be taxed either at the reduced rate of tax under this section or be taxable at 0% if the holding period of such securities is more than 2 years.

Section 100B states that computation of capital gains on disposal of securities and tax thereon under Section 37A will be made in accordance with the Eighth Schedule. However, the section restricted its applicability to certain person or classes of persons one of which were "Foreign Institutional Investor" who were registered with NCCPL as such. The Bill now seeks to remove the inapplicability of the Eighth Schedule on Foreign Institutional Investors, which means that they will now be eligible for taxation under Section 37A instead of being taxed under normal provisions of law.

### 3. Bonus shares to be treated as income of the shareholders

*Section 2 Clause (29), Section 39, Section 236M*

Under the scheme of taxation that has prevailed in Pakistan historically, the face value of bonus shares or the amount of any bonus declared, issued or paid by a company to its shareholders (Bonus Shares) was excluded from the definition of "income". Non-taxability of bonus shares at the time of their issuance was based on the simple principle that the shareholder does not derive any real income from the receipt of bonus shares and consequentially income, if any, was

taxed as capital gain at the time when the bonus shares were actually disposed-off by the shareholder. It would be recalled that the Finance Ordinance, 2001 had amended the definition of income and included within its ambit the face value of Bonus Shares declared, paid by a company to its shareholders. However, such an amendment lasted only for a year and the original concept was restored by the Finance Ordinance, 2002 by excluding the face value of Bonus Shares declared, issued or paid by a company to its shareholders from the scope of the income.

The Bill now seeks to omit the words "but does not include, in case of a shareholder of a company, the amount representing the face value of any bonus share or the amount of any bonus declared, issued or paid by the company to the shareholders with a view to increasing its paid up share capital", appearing in the definition of the income. The proposed amendment would have the effect of reversing the above situation and charging tax on income arising to the shareholder of a company from the issuance of bonus shares.

Accordingly, a consequential amendment has also been sought whereby the list of income to be taxed under the head "Income from Other Sources" has been expanded to include "income arising to the shareholder of a company from the issuance of bonus shares".

The Bill also seeks to introduce a new Section 236M whereby:

- a company issuing bonus share is obliged to collect tax from its shareholders @ 5% on the value of bonus shares determined on the basis of day end price of the first day of closure of books.
- If the company fails to collect the tax, the said tax shall be collected from the company, without prejudice to any other liability which it may incur under the Ordinance.
- The tax required to be collected shall be a final tax on the income of the shareholders of the company arising from the issuance of bonus shares.

The Rules with regard to computation of capital gain on disposal of securities vis-à-vis bonus shares may also need to be appropriately amended.

### 4. Alternative Corporate Tax Section 113C

In order to reinforce revenue mobilization measures, the legislature seems to have deemed expedient again

to burden the corporate sector by introducing the concept of alternative corporate tax in the Bill.

The salient features are as under:

- Section 113C of the Ordinance has an overriding effect on other provisions of the Ordinance and provides that the tax payable by a company shall be the higher of "corporate tax" or "alternative corporate tax". The alternative corporate tax rate is 17% of the "accounting income".
- "Accounting Income" means the accounting profit before tax for the tax year, as disclosed in the financial statements excluding share from the associates recognized under equity method subject to deduction of the following categories of income:
  - Exempt income;
  - Capital gain on disposal of securities subject to tax under Section 37A;
  - Income subject to final tax on imports of goods under sub section (7) of Section 148;
  - Dividend subject to final tax under Section 150;
  - Income subject to final tax on account of sale of goods and execution of contracts under sub section (3) of Section 153;
  - Income subject to final tax on account of exports under sub section (4) of Section 154;
  - Prize and winning subject to final tax under Section 156;
  - Brokerage and commission subject to final tax under sub section (3) of Section 233; and
  - Income qualified for tax credit under Section 65D and 65E.

Appropriate expenses shall be apportioned to the income to be excluded from the accounting income as discussed above.

The resultant accounting income after the aforesaid adjustments shall be treated as "taxable income" for the purpose of Alternative Corporate Tax.

- "Alternative Corporate Tax" means the tax at the rate of seventeen percent of a sum equal to the "accounting income".
- "Corporate Tax" means total tax payable by the company, including tax payable on account of minimum tax and final taxes payable, under any of the provisions of this Ordinance excluding tax paid on:

- Dividend, royalty and fee for technical services derived by a non-resident person;
- Shipping and air transport income of a non-resident;
- Tax collected under Section 161 of the Ordinance from the taxpayer who fails to collect and deduct tax;
- Tax collected from a taxpayer whose tax was not collected or deducted at source pursuant to Section 162 of the Ordinance; and
- Any amount of default surcharge or penalty and the tax payable under this Section.

- The excess of "Alternative Corporate Tax" paid over the "Corporate Tax" payable for the tax year shall be carried forward and adjusted against the tax payable under Division II of Part I of the First Schedule to the Ordinance. This Schedule prescribes the following rates for different categories of corporate tax payer:
  - On taxable income of small companies @ 25%; and
  - On taxable income of other companies excluding banking companies @ 34%.
- The excess of alternative tax paid over the corporate tax payable shall be carried forward for ten years immediately succeeding the tax year for which the excess was first computed.
- If corporate tax or alternative corporate tax is enhanced or reduced as a result of any amendment, or as a result of any order under the Ordinance, the excess amount to be carried forward shall be reduced or enhanced accordingly.
- The alternative corporate tax is not applicable on insurance companies, companies engaged in exploration and production of petroleum and extraction mineral deposits and banking companies.
- The Commissioner may make adjustments and proceed to compute accounting income as per historical accounting pattern after providing an opportunity of being heard.

As if the corporate sector was not already contributing towards the economy, another blow has been struck towards it in the guise of alternative corporate tax. The accounting profits are made the benchmark for computing such alternative corporate tax and where such tax is determined to be higher than the tax computed under the general scheme of taxation under the Ordinance, the company is expected to pay the

differential. One should not lose sight of the fact that on similar lines a taxpayer is required to pay minimum tax under a fiction of law. In substance, alternative corporate tax is another fiction of law which is definitely contrary to the basic cannons of taxation of income.

The methodology and basis of apportionment of expenses has always been a bone of contention between the taxpayer and the taxation authorities. Since the scheme of alternative corporate tax also requires such apportionment of expenses against specified income, the question as to what actually constitutes accounting income would again become a moot point with the tax authorities.

The said section also empowers the Commissioner to re-compute the accounting income of the company which will again lead to difference of opinion among the stake holders.

It appears that the legislature finds it convenient to recover more taxes from the existing documented sector instead of broadening the tax base. The legitimate allowances, concessions and tax credits would eventually become ineffective where tax is collected on fictional income. This would mean that where a taxpayer who may otherwise not pay tax due to availability of say tax depreciation, amortization and brought forward losses would still be subject to tax under the alternative corporate tax.

##### 5. Taxes on dividend distributed by Collective Investment Scheme or a Mutual Fund

*Section 5 Division III of Part I and Division I of Part III of the First Schedule*

The tax rate on dividend distributed by a Collective Investment Scheme or a Mutual Fund have been segregated into two different categories based on the nature of investments made by the Collective Investment Scheme or Mutual Fund.

For the purpose of charging dividend a new concept of "Stock Fund" is proposed to be introduced. The term Stock Fund is defined as follows:

"stock fund" means a collective investment scheme or a mutual fund where the investible funds are invested by way of equity shares in companies, to the extent of more than seventy per cent of the investment;"

It is proposed that the rate of tax on dividend distributed by a Collective Investment Scheme or Mutual Fund for the tax year 2015 and onwards shall be as follows:

Unit Holder	Stock Fund		Money Market Fund, Income Fund or any other Fund
	Where dividend receipts of the Fund are <b>more</b> than the capital gains	Where dividend receipts of the Fund are <b>less</b> than the capital gains	
Individual	10%	12.5%	10%
AOP	10%	12.5%	10%
Company	10%	12.5%	25%

##### 6. Company as a member of Association of Persons (AOP)

*Section 88A and Section 92(1)*

Presently, under the Ordinance, an AOP is liable to tax separately from its members and the share of profit received by its members is exempt from tax in their hands. Section 88A of the Ordinance, however, provides that where a company is a member of an AOP, the share of profit derived by the company from the AOP shall be added to the taxable income of the company. The company is allowed a tax credit proportionate to the profit derived by the company from the AOP. Such method of taxation, in our view, is designed to ensure that the company is taxed at the higher rate than what is applicable to the AOP.

While adopting the above methodology of taxation, there are various anomalies particularly when the income of the AOP is subject to tax under the final tax regime. In such a situation the following questions arise:

- Whether a member company of the AOP is to be assessed under the normal tax regime vis-à-vis its profit from the AOP pursuant to Section 88A of the Ordinance or not?
- The tax which was deducted from the AOP at source and is treated as a final tax as far as income of the AOP is concerned can be attributable to the share of profit of the company from the AOP or not?

It would be recalled that under the Repealed Ordinance an exemption was provided to the share of profit derived by members of an AOP, where the

income of AOP was assessed under the final tax regime. However, the corresponding exemption is not available under the Ordinance which causes confusion in the application of the relevant provisions.

It appears that the Bill attempts to address the above difficulties being faced by the corporate taxpayers being members of an AOP by proposing to omit Section 88A of the Ordinance.

Simultaneously, the Bill seeks to insert a proviso to sub section (1) of Section 92 of the Ordinance which provides that if at least one member of the AOP is a company, the share of such company or companies shall be excluded for the purpose of computing the total income of the AOP and the company or companies shall be taxed separately, at the rate applicable to the companies to their shares.

From the manner in which the suggested amendments are couched particularly when Section 88A of the Ordinance is sought to be omitted, it would appear that when a company is a member of an AOP and the income of the AOP is subject to the final tax regime, the amount received by its members out of its income will be exempt from tax. However, the proviso sought to be added to sub-section (1) of Section 92 of the Ordinance effectively envisages that in case the income of the AOP is subject to the bottom line profit taxation, the share of the company in the income of the AOP shall be excluded. The company shall pay tax on its share from the income of the AOP separately at the rate applicable to the company.

#### 7. Capital gain on immovable property *Section 37 sub-section (1A)*

The Finance Act, 2012 introduced for the first time a tax on disposal of immovable property. This tax was made applicable on disposal of such immovable property which has been held for a period upto 2 years. The gain arising on disposal was made taxable in the following manner:

- |  |     |
|--|-----|
| 1. Immovable property held for a period upto 1 year                          | 10% |
| 2. Immovable property held for a period of more than 1 year but upto 2 years | 5%  |

The Bill now seeks to remove the condition of holding period of upto two years from the law which otherwise means that all transactions of disposal of immovable property become chargeable to tax under this section.

However, a corresponding amendment has been made in the First Schedule by inserting entry No.3 in the

table given in Division VIII providing the following in addition to the above two rates :

- |  |    |
|--|----|
| 3. Immovable property held for a period of more than 2 years | 0% |
|--|----|

Therefore, effectively gain on immovable property held for a period of more than 2 years still remains non-taxable.

#### 8. Compulsory registration in certain cases *Section 181AA*

With a view to broaden the tax base, the Bill proposes to place a restriction on the processing of any application for commercial or industrial connection for electricity or natural gas unless the person making the application for the connection has duly obtained a tax registration. The proposed law is enforced with a non-obstante clause which provides overriding powers over anything contained in any other law to the contrary.

This was a long provided suggestion to the Board by many professional bodies as a compulsory provision for broadening the tax base. It may, however, be noted that presently certain requirements for obtaining an NTN work the other way round whereby electricity meter connection evidence is a requirement for obtaining an NTN. Therefore, in the case of a fresh business unit, it may become difficult for the applicant to obtain both the NTN as well as the desired connection. Accordingly, proper procedure would need to be established to overcome such hitches.

#### 9. Non-Profit Organizations, Welfare and Charitable Institutions and Trusts *Section 100C and Clauses (58), (58A), (59) and (60), Part I of the Second Schedule*

Charitable organizations including Welfare Trusts and Non-Profit Organizations (NPOs) enjoy exemption from tax in respect of certain receipts and subject to fulfillment of certain conditions as specified in the various clauses of the Second Schedule to the Ordinance. These also include Trusts administered for the benefit and welfare of ex-servicemen and serving personnel including civilian employees of armed forces, ex-employees and service personnel of the Federal and Provincial Governments, Universities and Educational Institutions run by NPOs and other institutions working for religious or charitable purposes for the public at large. However, most of such institutions and organizations do not comply with their filing and other obligations under the Ordinance despite they being holders of NTNs while some of them do not even register themselves with the FBR.



In order to make them tax compliant, the Bill proposes to introduce a scheme of allowing tax credit to such charitable organizations, Welfare Trusts and NPOs as specified and to the extent of incomes/ receipts discussed in Clauses (58), (58A), (59) and (60), Part I of the Second Schedule to the Ordinance. It is proposed to allow tax credit equal to 100% of the tax payable including minimum tax and final tax payable under the Ordinance for the tax year provided they fulfill the following conditions:

- i) the return of income for the tax year is filed;
- ii) the obligation of collection and deduction of tax and its deposit as specified under the Ordinance is met; and
- iii) withholding tax statements for tax collected/ deducted as above, are filed.

Consequent to the above, it is proposed to omit Clauses (58), (58A), (59) and (60), Part I of the Second Schedule to the Ordinance.

#### 10. Return of income *Section 114(1Xb)*

The Finance Act, 2013 inserted Sub-clause (ix) to Clause (b) of sub-section (1) of Section 114 of the Ordinance specifying that any person who is registered with certain business associations or professional bodies is also required to file the Income-tax return.

The said amendment created an anomaly as regards such members of the above associations/ bodies who are not resident in Pakistan but were made liable to file the income-tax return.

The Bill now proposes to restrict the obligation of filing the income-tax return to only such members who are resident persons under the Ordinance.

#### 11. Tax withholding from Director's fee *Section 149*

The definition of the term "employment" includes a directorship or a position entitling the holder to a fixed or ascertainable remuneration. Based on this, it is considered that payment of fee to directors of a company for attending meetings constitutes income under the head salary since the payment generates a relationship between the company and the director. Accordingly, it was opined that withholding of tax from such payments would fall under Section 149 of the Ordinance. On the other hand, there are views that

payment of meeting fee does not arise from exercise of employment and therefore, tax withholding would fall under Section 153 of the Ordinance.

The Bill proposes to amend Section 149 of the Ordinance providing the responsibility of withholding of tax from payment for directorship fee or fee for attending board meetings including like payments at the rate of twenty percent of the gross amount. It is further proposed that such tax deduction would be an advance tax for the recipient which would be adjustable against his final tax liability.

#### 12. Amendments in taxation of dividend and capital gains of Banking Companies *Rule 6 of the Seventh Schedule*

Through the Finance Act 2007, Seventh Schedule was introduced providing rules for the computation of profits and gains of a bank and tax payable thereon.

Under Rule 6 of the aforesaid Schedule, as earlier amended through the Finance Acts 2011 and 2012, dividend income of a bank, other than dividend received from its asset management company and dividend received from Money Market Funds and Income Funds was subject to tax at the rate of ten percent of the gross amount of dividend.

Further, capital gain on sale of shares of a listed company was also subjected to tax at the rate of ten percent of the gross amount, where the holding period of the shares was more than one year.

The Bill now seeks to propose that net income from dividend and capital gains (as proposed to be computed by inserting new rules 6A and 6B) shall be taxed on a net income basis instead of gross income. This effectively means that expenses shall now be allocated against the income from dividend and capital gain irrespective of the fact whether the gross expenses include any expenses relating to income from dividend or capital gains.

The Bill further seeks to provide for the mechanism of allocation of expenses against dividend income and capital gains based on the ratio the dividend income / capital gain bears to the total receipts of the bank including dividend income / capital gain irrespective of the fact whether the expenses have actually been incurred or not to derive such income.

This proposed amendment is fundamentally flawed since it is against the very spirit of the Seventh Schedule which primarily treats the entire income of the bank as income from Business in terms of Rule 6.

In the presence of due recognition of entire income as business income, the question of apportionment of expense is irrelevant and against the concept of taxation of Scheduler income. Even otherwise under the general provisions of the Ordinance and the Rules in relation to apportionment of expenses, specific expenses are always required to be allocated against the class of income for which they have been incurred and only common expenditure is required to be apportioned on a pro-rata basis.

It is further proposed that the rate of tax on capital gains be enhanced from 10% to 12.5% while tax on dividend income remains the same at 10%.

### 13. Minimum Tax

#### Section 113 Division IX of Part I of the First Schedule

No substantial change has been sought to be made in this Section. Presently, sub-section (2) of Section 113 of the Ordinance prescribes the minimum tax being an amount equal to 1% of the person's turnover for the year. Simultaneously Part III of the Second Schedule to the Ordinance includes various clauses such as (7), (8), (9), (10), (12), (13), (14) and (15) which provide reduced rates of minimum tax for various classes of taxpayers.

The Bill seeks to introduce Division IX of Part I of the First Schedule to the Ordinance which specifies different minimum tax rates applicable to various categories of taxpayers in one place. Consequently, the Bill proposes to delete the rate of 1% specified in the Section and make reference to the First Schedule where the rates for different categories of taxpayers are specified.

The new Division IX of Part I of the First Schedule to the Ordinance which is now sought to be introduced is as follows:

S. No	Person(s)	Minimum Tax as percentage of the person's turnover for the year
(1)	(2)	(3)
1.	(a) Oil marketing companies, Oil refineries, Sui Southern Gas Company Limited and Sui Northern Gas Pipelines Limited ( for the cases where annual turnover exceeds rupees one billion.); (b) Pakistan International Airlines Corporation; and (c) Poultry industry including poultry breeding, broiler production, egg production and poultry feed production.	0.5%

2.	(d) Distributors of pharmaceutical products, fertilizers and cigarettes; (e) Petroleum agents and distributors who are registered under the Sales Tax Act, 1990; (f) Rice mills and dealers; and (g) Flour mills.	0.2%
3.	Motorcycle dealers registered under the Sales Tax Act, 1990.	0.25%
4.	In all other cases.	1%

The Bill further proposes to omit clauses (7), (8), (9), (10), (12), (13), (14) and (15) of Part III of the Second Schedule to the Ordinance since the reduced rates as provided under these clauses are now prescribed under the proposed Division IX of Part I of the First Schedule to the Ordinance.

It is to be noted that clause (8) of Part III of the Second Schedule to the Ordinance prescribes a reduced rate of 0.2% for distributors of pharmaceutical products, fertilizer and consumer goods. However, Serial No.2(a) of the proposed Division IX of Part I of the First Schedule to the Ordinance prescribes the minimum tax rate of 0.2% for distributors of pharmaceutical products, fertilizers and cigarettes whereas distributors of consumer goods including fast moving consumer goods are omitted. This means that distributors of consumer goods including fast moving consumer goods are now liable to pay minimum tax @ 1% of their turnover. if this is not the intention of the legislature, appropriate amendments may be made in the proposed Division IX of Part I of the First Schedule while enacting the Bill.

### 14. Profit on debt

#### Section 151

The Bill proposes a distinction between the rate of withholding tax on profit on debt paid to a filer and a non-filer. The rate for filers is proposed to be 10% and for non-filers it is 15% provided the profit on debt is in excess of Rupees five hundred thousand.

It is further proposed that for a non-filer, other than a company, the 10% withholding tax will be final tax and any excess will be treated as advance tax adjustable against his tax liability.

**15. Increase in withholding rates and contract payments to a Sports person**  
*Section 153*

The existing rate of withholding contained in Section 153 are proposed to be enhanced in the range of 0.5% to 3% under various categories of payments.

The provisions of Section 153 of the Ordinance cast upon the payers, the responsibility of withholding tax from payments including for execution of contracts. This is provided in Clause (c) of sub-section (1) of Section 153 where execution of a contract other than a contract for the sale of goods or the rendering of or providing of services are made liable to tax withholding.

The Bill proposes to include payments made to a sports person pursuant to a contract signed by such person liable to tax withholding under the Section 153(1)(c) of the Ordinance. It is pertinent to note that tax deductible under the above provisions is final discharge of tax liability. It is also to be noted that the sports person, pursuant to the contract signed, renders services which otherwise are ousted from Section 153(1)(c) *ibid*, and therefore, the tax deducted therefrom is not a final tax.

It may be recalled that a famous Pakistani test cricketer claimed that his receipts from the Pakistan Cricket Board are covered by Section 153(1)(c) and contended that such receipts were liable to final tax. The tax authorities objected to this and levied tax on such receipts under the normal tax regime. The matter went before the Appellate Tribunal which ruled in favour of the test cricketer via its judgment reported as 2004 PTD 2749. It appears that the above decision has now been accepted as a result of which the amendment is being proposed albeit with a higher rate of tax.

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

Presently, the motor vehicle registration authority is required to withhold tax on motor vehicles at the time of registering a new locally manufactured motor vehicle.

The Bill proposes to also authorize a manufacturer of motor car or jeep to collect tax at the time of sale. It also proposes to introduce collection of tax by motor vehicle registration authority at the time of transfer of motor vehicle registration or ownership of private motor vehicles.

However, to avoid multiple withholding it is proposed that no advance tax will be collected by the Excise and Taxation Department at the time of registration of the vehicle, provided the person produces evidence that tax was collected from the same person in respect of the same vehicle at the time of transfer of ownership, in the case of locally manufactured vehicles or at the time of import in the case of imported vehicles.

The advance tax on motor vehicles is proposed to be adjustable.

A higher tax withholding is proposed for non-filers under Division VII Part IV of the First Schedule which prescribes advance tax on motor vehicles.

The existing exemption from collection of tax from the Federal Government, Provincial Government, Local Government, foreign diplomat, a diplomatic mission in Pakistan is proposed to be continued.

**17. Domestic electricity consumption**  
*Section 235A*

The Bill proposes to introduce advance tax on domestic electricity consumption by inserting a new Section in the Ordinance.

Under this new section advance tax at the rate of 7.5% is proposed to be collected from a domestic electricity consumer by the person preparing the electricity consumption bill if the monthly domestic electricity bill is rupees one hundred thousand or more.

**18. Tax on steel melters, re-rollers etc.**  
*Section 235B*

Presently Steel Melters and Re-Rollers are paying tax on different basis at reduced rates given in Part II of Second Schedule.

It is now proposed to charge tax at the rate of one rupee per unit of electricity consumed for the production of steel billets, ignots and mild steel excluding stainless steel, which is to be collected by the person preparing the electricity consumption bill.

The tax so charged would be non-adjustable and the taxpayer is not allowed to claim credit for this tax.

**19. Advance tax on purchase of domestic air ticket**  
*Section 236B*

The Bill has proposes two amendments to this section. Firstly the airline issuing the air ticket has been made responsible to charge the advance tax instead of the

person preparing the air ticket who could be the travel agent having access to online ticketing as well.

Secondly, an additional sub-clause 2A, has been added, which states that the mode, manner and time of collection shall be in accordance with the Income Tax Rules 2002, which will be issued in due course.

**20. Advance tax on purchase or transfer of immovable property**  
*Section 236K*

It may be recalled that the Finance Act, 2012 introduced Section 236C in the Ordinance thereby providing for collection of tax from the seller or transferor of immovable property to be collected by the person responsible for registering or attesting transfer of such property at the time of registering or attesting the transfer. The tax is to be collected @0.5% of the gross amount of the consideration received by the seller or transferor and is an advance tax.

The Bill now proposes to introduce Section 236K in the Ordinance whereby the above tax collection is being made applicable on the purchaser or transferee. Such advance tax is to be collected in the same manner as prescribed in Section 236C above. However, the rate of collection of this advance tax has been linked with the return filing status of the purchaser or transferee in the following manner -

Value of immovable property	Rate %	
	Filer	Non-filer
Upto Rs.3 million	0	0
More than Rs.3 million	1	2*

The Federal Government, a Provincial Government, a Local Government or a foreign diplomatic mission in Pakistan are exempt from collection of the above advance tax.

\* The rate for non-filer will remain 1% until notified by the Board.

**21. Advance tax on purchase of international air ticket**  
*Section 236L*

Similar to Section 236B which deals with collection of advance tax at the time of issuance of air ticket for domestic travel, the Bill seeks to introduce a new Section 236L whereby, every airline operating in Pakistan is obliged to collect advance tax from the gross amount of international air tickets issued to passengers booking tickets from Pakistan. The rate of

collection of advance tax has been linked with the return filing status of the person in the following manner:

Type of Ticket	Rate %	
	Filer	Non-filer
Economy Class	0	0
First/ Business/ Club Class	3	6

**22. Member of the Appellate Tribunal Inland Revenue**  
*Section 130*

The Appellate Tribunal is said to be the final fact finding authority under the tax appellate system of the country. Any decision given by the Appellate Tribunal deciding a matter of fact is not challengeable before the High Courts as well as before the Supreme Court of Pakistan. Since inception, the composition of a division bench of the Appellate Tribunal consists of a Judicial member and an Accountant member. The idea of having a Judicial as well as an Accountant member in a division bench appeared to be that a tax case involves both legal interpretation and application of the provisions of the tax law vis-à-vis examination of the accounting treatment of the disputed transaction.

The Finance Act, 2010 substituted the criteria of appointment of Accountant Member to the Appellate Tribunal thereby enabling a person being a chartered accountant within the meaning of the Chartered Accountants Ordinance, 1961 and who is in professional practice for not less than 10 years. The Bill now proposes to also enable a person who has practiced professionally as a cost and management accountant within a meaning of Cost and Management Accountants Act, 1966 for not less than 10 years to become an Accountant Member.

However, it may be recalled that the Finance Act, 2013 also enabled an officer of Inland Revenue Service in BS-20 or above and is a law graduate to become a Judicial Member of the Appellate Tribunal. This amendment was not welcomed by the stakeholders being the taxpayers and their representatives for the reason that before this amendment only such person could become a Judicial member who was qualified to be a Judge of a High Court. Accordingly, it was demanded that the amendment affected the composition of the division benches for, a person capable of becoming a Judge of a High Court cannot be equated with an Inland Revenue Service officer even though he may be a law graduate and having at least 20 years' service in BS-20 and above.

However, it is noted that the Bill does not contain any proposal to undo the above unpopular amendment.

### 23. Trial by Special Judge

*Sections 2 sub-section (59B) and 203*

Under Section 203, the Federal Government is empowered to appoint special judges (being a Sessions Judge) to try certain offences punishable under the Ordinance upon a written complaint by the Commissioner. However, so far, no special judge has been appointed under the Ordinance.

On the other hand, under the Customs Act, 1969 via Section 185 thereof, the Federal Government has the authority and has constituted Customs Courts where it has appointed special judges to try offences punishable under the Customs Act.

The Bill proposes to insert a proviso to Section 203 authorizing the Federal Government to declare a special judge appointed under Section 85 of the Customs Act, 1969 to be a judge appointed for the purposes of trying offences punishable under the Ordinance. The Bill also proposes to provide for the definition of special judge to mean a special judge appointed under Section 203.

### 24. Surcharge

*Section 4A and Clause (11), Part III of the Second Schedule*

It may be recalled that the Income Tax (Amendment) Ordinance, 2011 inter alia, inserted Section 4A to the Ordinance which levied surcharge @15% of the income tax payable by every taxpayer relating to the period from 15 March 2011 to 30 June 2011. It also provided that the surcharge would be levied for the tax year 2011 and not for any other tax year, prior or later. Subsequently, Clause (11) was inserted in Part III of the Second Schedule which rationalized the levy of surcharge on the income tax liability for three and a half months.

The Section 4A having become redundant is now been proposed to be omitted. Consequent to this, the Bill also proposes to omit Clause (11) as well.

### 25. Transfer to participatory reserve

*Section 31*

The provisions of Section 31 of the Ordinance allow a deduction to a company for any amount transferred to a participatory reserve created under the Companies Ordinance, 1984 in accordance with an agreement relating to participatory redeemable capital entered into between the company and a banking company as

defined under the Banking Tribunals Ordinance, 1984. It may be recalled that the Banking Tribunals Ordinance, 1984 was repealed via the Banking Companies (Recovery of Loans, Advances, Credits and Finances) Act, 1997 which was then repealed via the Financial Institutions (Recovery of Finances) Ordinance, 2001.

In line with the above, the Bill proposes to replace the reference to the Banking Tribunals Ordinance, 1984 with the Financial Institutions (Recovery of Finances) Ordinance, 2001.

### 26. Income from sale of spectrum licenses

*Section 49*

On 23 April 2014, the much awaited Spectrum Auction for Next Generation Mobile Services - commonly known as 3G and 4G spectrum licences, took place whereby the Federal Government collected an aggregate of USD 1.1 billion from four cellular companies which were declared successful in the auction process. This contributed positively to the depleting foreign exchange reserves of the Country. The auction was held by the Pakistan Telecommunication Authority (PTA) which being an Authority constituted under Section 3 of the Pakistan Telecommunication (Re-organization) Act, 1996 is taxable in respect of the above auction receipts.

The Bill proposes to insert a proviso to Section 49 of the Ordinance in order to provide cover to the auction receipts from taxation under the Ordinance. It is proposed that income from sale of spectrum licenses after 1 March 2014 shall be deemed to be income of the Federal Government and not of PTA.

## THE FIRST SCHEDULE

## 27. Rates of tax for individuals and Association of Persons

The rates of tax chargeable for the tax year 2015 (corresponding to the income year ending at any time between 01 July 2014 to 30 June 2015) have remained unchanged and are as under:

**Salaried taxpayers**

Salaried taxpayers	Rate
Upto Rs.400,000	Nil
Rs.400,001 - 750,000	5% of excess over Rs.400,000
Rs.750,001 - 1,400,000	Rs.17,500 + 10% of excess over Rs.750,000
Rs.1,400,001 - 1,500,000	Rs.182,500 + 12.5% of excess over Rs.1,400,000
Rs.1,500,001 - 1,800,000	Rs.95,500 + 15% of excess over Rs.1,500,000
Rs.1,800,001 - 2,500,000	Rs.140,000 + 17.5% of excess over Rs.1,800,000
Rs.2,500,001 - 3,000,000	Rs.262,500 + 20% of excess over Rs.2,500,000
Rs.3,000,001 - 3,500,000	Rs.365,000 + 22.5% of excess over Rs.3,000,000
Rs.3,500,001 - 4,000,000	Rs.475,000 + 25% of excess over Rs.3,500,000
Rs.4,000,001 - 7,000,000	Rs.600,000 + 27.5% of excess over Rs.4,000,000
Over Rs.7,000,000	Rs.1,425,000 + 30% of excess over Rs.7,000,000

**Non-salaried taxpayers**

Non Salaried taxpayers	Rate
Upto Rs.400,000	Nil
Rs.400,001 - 750,000	10% of excess over Rs.400,000
Rs.750,001 - 1,500,000	Rs.35,000 + 15% of excess over Rs.750,000
Rs.1,500,001 - 2,500,000	Rs.147,500 + 20% of excess over Rs.1,500,000

Non Salaried taxpayers	Rate
Rs.2,500,001 - 4,000,000	Rs.347,500 + 25% of excess over Rs.2,500,000
Rs.4,000,001 - 6,000,000	Rs.722,500 + 30% of excess over Rs.4,000,000
Over Rs.6,000,000	Rs.1,322,500 + 35% of excess over Rs.6,000,000

## 28. Association of Persons

Association of persons continues to be taxed as per the rate card of non-salaried taxpayers for the tax year 2015.

## 29. Tax year

Tax year means a period of twelve months ending on 30 June and corresponds to the period to which the income of the taxpayer relates.

## 30. Salaried taxpayer

Salaried taxpayer is a person having salary income in excess of 50% of his/her taxable income.

## 31. Reduction in tax liability

A senior citizen of Pakistan, being a taxpayer, aged sixty years or more on the first day of the relevant tax year, is allowed a rebate of 50% of the tax payable if his/her taxable income in that tax year is Rs.1,000,000/- or less. The said rebate continues and the rule, that in determining the threshold as above, income under final tax regime shall be excluded, also remains unchanged.

In addition, it is now being proposed that the relief as above shall also be available to an individual who, irrespective of his age, is registered as a disabled person according to his/her Computerized National Identity Card.

## 32. Rate of tax on retailers

The rate of tax applicable for the tax year 2015 on a retailer continues to be 1% of the turnover in case his declared turnover is Rs.5 million or less.

## 33. Rates of tax for companies

The rates of tax for companies, for tax year 2015, have remained unchanged, and are as under:

Companies	Rate %
Public and Private	34
Cooperative and Finance Society	34
Banking	35
Small	25

### 34. Rate of tax on dividend income

The rate of tax on dividend received by all taxpayers for tax year 2015 have been revised and are as under:

Dividend from	Rate %
Companies owning power project privatized by WAPDA, companies set-up for power generation and companies supplying coal, exclusively to power generation projects	7.5
Others	10
Stock fund, if dividend receipts are less than capital gains	12.5

Dividend received by a company from a collective investment scheme or a mutual fund, other than a stock fund, shall be taxed at the rate of 25%.

### 35. Rates of tax on capital gains on securities

The rate card for levying tax on capital gains arising on sale of securities, as referred to in Section 37A, remains unchanged for disposals in tax years 2011-2014 and is as under:

Tax year	Holding period of a security	
	Less than six months (%)	More than 6 months but less than 12 months (%)
2011	10	7.5
2012	10	8
2013	10	8
2014	10	8

It is proposed that the rate of tax for tax year 2015 shall be as under:

Holding period of a security		
Less than 12 months (%)	More than 12 months but less than 24 months (%)	More than 24 months (%)
12.5	10	0

### 36. Rate of tax on capital gain on immovable property

The rate of tax on capital gain on immovable property remained unchanged and are as under:

Holding period of immovable property	Rate %
Upto 1 year	10
More than 1 year but not more than two years	5
More than 2 years	-

### 37. Income from property

The rates of tax to be paid in respect of income from property for the tax year 2015 (corresponding to the income year ending at any time between 01 July 2014 to 30 June 2015) have remained unchanged and are as under:

#### i) Individuals and Association of Persons

Gross amount of rent	Rate
Upto Rs.150,000	-
Rs.150,001 - Rs.1,000,000	10% of excess over Rs.150,000
Over Rs.1,000,000	Rs.85,000 + 15% of excess over Rs.1,000,000

#### ii) Company

15% of the gross amount of rent.

### 38. Minimum Tax

The rates of minimum tax as a percentage of the taxpayers' turnover have been revised for tax year 2015, and are as under:

Taxpayer	Rate %
Oil marketing companies, oil refineries, Sui Southern Gas Company Limited and Sui Northern Gas Pipelines Limited (where annual turnover exceeds Rs.1 billion.)	0.5
Pakistan International Airlines Corporation	
Poultry industry including breeding, broiler production, egg production and feed production	0.2
Distributors of pharmaceutical products, fertilizers and cigarettes	
Petroleum agents and distributors registered under the Sales Tax Act, 1990	
Rice mills and dealers	
Flour mills	0.25
Motorcycle dealers registered under the Sales Tax Act 1990	
In all other cases	1

### 39. Advance tax on imports

The table for collection of tax at imports has been substituted for tax year 2015 and now reads as under:

Taxpayer	Rate % (of import value as increased by customs duty, sales tax and federal excise duty)
Industrial undertaking importing remelttable steel (PCT Heading 72.04) and directly reduced iron for its own use	1
Persons importing potassic fertilizers in pursuance of Economic Coordination Committee of the cabinet's decision No. ECC-155/12/2004 dated 9 December 2004	
Persons importing urea	
Manufacturers covered under Notification No. S.R.O. 1125(I)/2011 dated 31 December 2011	
Persons importing pulses	2

Taxpayer	Rate % (of import value as increased by customs duty, sales tax and federal excise duty)
Commercial importers covered under Notification No. S.R.O. 1125(I)/2011 dated 31 December 2011	3
Ship breakers on import of ships	Proposed at 4.5 from the existing rate of 5.5
Industrial undertakings not covered above	Proposed at 5.5 from the existing rate of 5
Companies not covered above	Proposed at 5.5 from the existing rate of 5
Persons not covered above	Proposed at 6 from the existing rate of 5.5

### 40. Advance tax on dividends

The general rates of advance tax to be deducted, at the time of payment of dividends, for tax year 2015 are equivalent to the rates of tax levied on dividend income.

However, in the case of dividend from companies, (other than power projects, stock funds, money market funds, income or other funds) the proposed rate of advance tax is 15% for recipients who are non-return filers. The proposed 15% rate represents a 5% withholding in excess of the income tax levied on such dividend income.

### 41. Advance tax on profit on debt

The general rate of advance tax on profit on debt for tax year 2015 continues to be 10%. However, the advance tax rate for recipients who are non-return filers is proposed to be 15%, provided that the profit on debt received by such non-filers is more than Rs.500,000.

### 42. Advance income tax on private motor vehicles

Advance income tax payable for tax year 2015 at the time of paying annual motor vehicle tax, in the case of



private motor vehicles, is proposed to be amended as under:

Engine capacity	Amount of tax	
	For return filers	For non-filers
Up to 1000 cc	Rs.1,000	Rs.1,000
1001 cc - 1199 cc	Rs.1,800	Rs.3,600
1200 cc - 1299 cc	Rs.2,000	Rs.4,000
1300 cc - 1499 cc	Rs.3,000	Rs.6,000
1500 cc - 1599 cc	Rs.4,500	Rs.9,000
1500* cc - 1999 cc	Rs.6,000	Rs.12,000
Over 1999 cc	Rs.12,000	Rs.24,000

\* Seems to be a typing error in the budget proposals. Should be 1600 cc.

#### 43. Motor vehicle tax when collected in lump sum

Engine capacity	Amount of tax	
	For return filers	For non-filers
Up to 1000 cc	Rs.10,000	Rs.10,000
1001 cc - 1199 cc	Rs.18,000	Rs.36,000
1200 cc - 1299 cc	Rs.20,000	Rs.40,000
1300 cc - 1499 cc	Rs.30,000	Rs.60,000
1500 cc - 1599 cc	Rs.45,000	Rs.90,000
1600 cc - 1999 cc	Rs.60,000	Rs.120,000
Over 1999 cc	Rs.120,000	Rs.240,000

#### 44. Advance tax on registration of private motor vehicle

The collection of advance tax on purchase of motor vehicle has been enhanced and the applicable rates are as follows for tax year 2015:

Engine capacity	Amount of tax	
	For return filers	For non-filers
Up to 850 cc	Rs.10,000	Rs.10,000
851 cc - 1000 cc	Rs.20,000	Rs.25,000
1001 cc - 1300 cc	Rs.30,000	Rs.40,000
1301 cc - 1600 cc	Rs.50,000	Rs.100,000
1601 cc - 1800 cc	Rs.75,000	Rs.150,000
1801 cc - 2000 cc	Rs.100,000	Rs.200,000
2001 cc - 2500 cc	Rs.150,000	Rs.300,000
2501 cc - 3000 cc	Rs.200,000	Rs.400,000
Over 3000 cc	Rs.250,000	Rs.450,000

#### 45. Advance tax on goods transport vehicles

The slab rate card of collection of advance tax at five rupee per kilogram of the laden weight continues for tax year 2015.

For goods transport vehicle with laden weight of 8,120 kilogram or more, advance tax after a period of 10 years from the date of first registration in Pakistan would continue to be collected at Rs.1,200/- per annum.

#### 46. Advance tax on passenger transport vehicles

The collection of advance tax from passenger transport vehicles plying for hire continues as under:

Seating capacity	Amount of tax (per seat per annum)
Four or more persons but less than ten persons	Rs.25
Ten or more persons but less than twenty persons	Rs.60
Twenty persons or more	Rs.500

#### 47. Advance tax on electricity consumption

The rate of collection of advance tax for tax year 2015 on electricity consumption continues at 5% for industrial consumers and at 10% for commercial consumers on electricity bill exceeding Rs.20,000/-.

The Bill proposes collection of advance tax on domestic electricity consumption at the rate of 7.5% where the monthly bill exceeds Rs.100,000.

#### 48. Advance tax on purchase of domestic air tickets

The rate of collection of tax at the rate of 5% of the gross amount of domestic air ticket continues to be leviable.

#### 49. Advance tax on purchase of international air tickets

It is proposed that advance tax for tax year 2015 at the following rates be collected on the purchase of international air tickets:

Type of ticket	Rate %	
	For return filers	For non-filers
Economy	-	-
First/Business/Club class	3	6

**50. Advance tax on sale or transfer of immovable property**

The rate of collection of advance tax for tax year 2015 continues to remain 0.5% for return filers. However, for non-filers, the rate has been fixed at 1%.

**51. Advance tax at the time of sale by auction or auction by a tender**

The rate of collection of tax by a person making sale by public auction of any property or goods to which Section 236A applies continues to be 10% of the gross sale price of such property or goods for tax year 2015.

**52. Advance tax on functions and gatherings**

The Bill proposes a reduction in the rate of advance tax from 10% to 5%.

**53. Advance tax on foreign-produced films and TV plays**

The collection of advance tax on foreign produced films, TV plays and serials to which Section 236E applies continues to be as follows:

Foreign-produced TV drama serial	Rs.100,000/- per episode
Foreign-produced TV play (single episode)	Rs.100,000/-

**54. Advance tax on cable operations and other electronic media**

The collection of advance tax for tax year 2015 in the case of Cable Television Operator to which Section 236F applies, continues to be as under:

License Category as provided in PEMRA Rules 2009	Tax on License Fee	Tax on Renewal
H	Rs.7,500	Rs.10,000
H-I	Rs.10,000	Rs.15,000
H-II	Rs.25,000	Rs.30,000

License Category as provided in PEMRA Rules 2009	Tax on License Fee	Tax on Renewal
R	Rs.5,000	Rs.30,000
B	Rs.5,000	Rs.40,000
B-1	Rs.30,000	Rs.50,000
B-2	Rs.40,000	Rs.60,000
B-3	Rs.50,000	Rs.75,000
B-4	Rs.75,000	Rs.100,000
B-5	Rs.87,500	Rs.150,000
B-6	Rs.175,000	Rs.200,000
B-7	Rs.262,500	Rs.300,000
B-8	Rs.437,500	Rs.500,000
B-9	Rs.700,000	Rs.800,000
B-10	Rs.875,500	Rs.900,000

The rate of tax collected by PEMRA in the case of IPTV, FM Radio MMDS, Mobile TV, Mobile Audio, Satellite TV Channel and Landing Rights continue to be 20% of the permission fee or renewal fee as the case may be.

**55. Advance tax on sale to distributors, dealers or wholesalers**

The rate of collection of advance tax on sale to distributors, dealers or wholesalers to which Section 236G applies continues at 0.1% of the gross amount of sales for tax year 2015.

**56. Advance tax on sale to retailers**

The collection of advance tax for tax year 2015 on sale to retailers continues at the rate of 0.5% of the gross amount of sales.

**57. Collection of advance tax by educational institutions**

Collection of tax by educational institutions for tax year 2015 continues at the rate of 5% of the amount of fee.

**58. Advance tax on dealers, commission agents and arhatis, etc.**

The collection of advance tax on dealers, commission agents and arhatis for tax year 2015 continues to be as under:

Group	Amount of tax (per annum)
Group or Class A	Rs.10,000
Group or Class B	Rs.7,500
Group or Class C	Rs.5,000
Any other category	Rs.5,000

#### 59. Advance tax on purchase of immovable property

The Bill proposes collection of advance tax on purchase of immovable property, effective tax year 2015, at the following rates:

Value of property	Rate %
Up to Rs.3 million	0
Above Rs.3 million	Return filers 1%
	Non-filers 2% (however, rate remains 1% until issuance of notification)

#### 60. Withholding tax rates

Type of payment	Rate %		Whether under final tax regime
	Existing	Proposed	
<b>Profit on debt</b>			
a) Yield on a National Savings Deposit Certificate including a Defence Savings Certificate under the National Savings Scheme	10	10 for filer	Yes**
	10	15 for non-filer	Yes***
b) Profit on a debt, being an account or deposit maintained with a banking company or a financial institution	10	10 for filer	Yes**
	10	15 for non-filer	Yes***
c) Profit on any bond, certificate, debenture, security or instrument of any kind (excluding loan agreement between a borrower and a banking company or a development finance institution) issued by a banking company, a financial institution, company as defined in the Companies Ordinance, 1984 and a body corporate formed by or under any law for the time being in force, to any person other than a financial institution	10	10 for filer	Yes**
	10	15 for non-filer	Yes***
d) Profit on any security issued by the Federal Government, a Provincial Government or a local authority to any person other than a financial institution	10	10 for filer	Yes**
	10	15 for non-filer*	Yes***

\* In case of profit/yield is more than Rs.500,000/-.

\*\* Other than a company.

\*\*\* Yes excess tax deduction is adjustable.

Type of payment	Rate %		Whether under final tax regime
	Existing	Proposed	
<b>Goods and services</b>			
a) Sale of rice, cotton seed or edible oils	1.5	No change	Yes*
b) Sale of cigarettes and pharmaceutical products by distributors of such goods	1	No change	Yes*
c) Sale of any other goods			
- Companies	3.5	4	Yes*
- Other taxpayers	4	4.5	Yes
d) For passenger transport services			
- Companies	2	No change	No
- Other taxpayers	2	No change	Minimum
e) For other services			
- Companies	6	8	No
- Other taxpayers	8*** (7)	10	Minimum
f) Execution of a contract			
- Companies	6	7	Yes**
- Other taxpayers	6.5	7.5	Yes
- Sportspersons	0	10	Yes
g) Payment by exporter or an export house to a resident person or PE of a non-resident person in Pakistan for rendering services of stitching, dying, printing, embroidery, washing, sizing and weaving.	0.5	1	Yes
<b>CNG Station - Refer to Section 234A</b>	4	No change	Yes
<b>Exports</b>			
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	No change	Yes
Export of goods by an industrial undertaking located in an Export Processing Zone			Yes
Collection by collector of customs at the time of clearing of goods exported	1	No change	Yes
Indenting commission	5	No change	Yes

\* Except for a company engaged in manufacturing and a public company listed on a registered stock exchange(s) in Pakistan engaged in supply of such goods.

\*\* Except for a public company listed on a registered stock exchange(s) in Pakistan.

\*\*\* Typing error

Type of payment	Rate %		Whether under final tax regime
	Existing	Proposed	
<b>Income from property</b> Annual rent of immovable property including rent of furniture and fixtures and amounts for services relating to such property	At varying slab rates of 5 to 10 for individuals, AOPs and companies	At varying slab rates of 5 to 17.5 for individuals, AOPs and companies	Yes
<b>Prizes and winnings</b>			
- Amount of prize bond or cross-word puzzle	10	15	Yes
- Amount of raffle/ lottery winning or prize on winning a quiz, prize offered by companies for promotion of sales	20	No change	Yes
<b>Telephone users</b>			
- Telephone subscriber (other than mobile telephone)	10 of amount exceeding Rs.1,000	No change	No
- Amount of bill of mobile telephone, sale price of prepaid telephone card or sale of units through any electric medium (for CD) or whatever form	15	14	No
<b>Banking transactions</b>			
On cash withdrawal of the amount exceeding Rs.50,000	0.3 of the amount withdrawn	0.3 of the amount withdrawn for return filers and 0.5 for non-filers	No
<b>Commission or discount allowed on sale of petroleum products by a petrol pump operator</b>			
Amount of commission or discount	10	12	Yes
<b>Commission income of advertising agents</b>			
Amount of payment	5	7.5	Yes
<b>Commission income of others</b>			
Amount of payment	10	12	Yes
<b>Collection of tax by a stock exchange</b>			
- Purchase of shares	0.01 of purchase value	No change	No
- Sale of shares	0.01 of sale value	No change	No
- Trading of shares	0.01 of traded value	No change	No
- Financing of COT	10 of the COT charge	Omitted	No
<b>Collection of tax by NCCPL</b>			
- Profit or markup or interest earned by the member margin financier or securities lender	10 of the amount	No change	No

## 61. Rates of tax for non-resident taxpayers

The applicable withholding tax for tax year 2015 on certain payments to non-residents is as under:

Type of payment	Rate (%)	
	Existing	Proposed
<b>Dividends from:</b>		
- Companies owning power project privatized by WAPDA, companies set-up for power generation and companies supplying coal, exclusively to power generation projects	7.5	No change
- others	10	No change
Branch profit remittance tax (other than branch offices of E&P companies)	10	No change
Technical services fee	15	No change
Insurance premium / re-insurance premium	5	No change
Advertisement services to a media person relaying from outside Pakistan	10	No change
Royalty	15	No change
Shipping income	8	No change
Air transport income	3	No change
Profit on debt	20	No change
Profit on debt where non-resident does not have a PE in Pakistan	10	*
Others (excluding those specifically mentioned herein)	20	No change
<b>Execution of a contract</b>		
- 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	6	No change
- contract for construction or services rendered relating thereto	6	No change
- a contract for advertisement services rendered by TV satellite channels	6	No change

The taxes withheld in all of the above cases except "Others" and profit on debt would generally constitute

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full and final settlement of the non-resident's tax liability in Pakistan in respect of such income.

\* Tax deducted at 10% from profit on debt from debt instruments, government securities including treasury bills and Pakistan Investment Bonds where the investments are exclusively made through a special Rupee Convertible Bank Account maintained with a bank in Pakistan by a non-resident having no PE in Pakistan shall be final tax.

A non-resident contractor earning income from "execution of contract" can opt to be taxed under the final tax regime, which means that the taxes withheld would be construed as its full and final settlement of tax liability. The option must be exercised within three months of the commencement of the tax year and shall remain irrevocable for three years. In case the option has not been exercised by the non-resident person, the taxable income shall be assessed on the basis of his net business profits and the taxes withheld would be treated as advance tax adjustable against his eventual tax liability.

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## THE SECOND SCHEDULE

## PART-I

## 62. Deletions

The Bill proposes to omit the following clauses:

Clause	Description
(35)	The clause exempted any income representing compensatory allowance paid to a citizen locally recruited in Pakistan Mission abroad, as did not exceed 75% of his gross salary.
(81A)	The clause exempted holders, other than banks or financial institutions, of Foreign Currency Bearer Certificates from tax on interest thereon till such certificates were encashed.
(88A)	The clause exempted any income derived by non-resident persons (excluding those operating in Pakistan) from Federal Government securities and redeemable capital listed on a registered stock exchange, where the investments were made exclusively from foreign exchange remitted into Pakistan through a Special Convertible Rupee Account.
(135)	The clause exempted any amount received on encashment of Special US Dollar Bond issued under the Special US Dollar Bonds Rules, 1998.

The following clauses have been proposed to be omitted since the time limits prescribed therein have expired and the clauses have consequently become redundant:

Clause	Description
(92A)	The clause exempted until 30 June 2011, any income of an educational institute established in the most and moderately affected areas of Khyber Phaktunkhwa, FATA and PATA.
(93A)	The clause exempted profits and gains derived by taxpayers from any recognized vocational, technical or poly-technical institutes. The exemptions were, at most, available till 30 June 2013.

The Bill proposes to omit the following clauses since the exemptions contained therein have been incorporated within the main body of the Ordinance by virtue of tax credits provided to Non Profit Organizations:

Clause	Description
(58)	The clause exempted income of trusts, welfare institutions and Non Profit Organizations, approved by the Federal Government and established solely for the benefit and welfare of ex-servicemen and serving personnel (including their dependents) of the Armed Forces or ex-employees and serving personnel (including their dependents) of the Federal or Provincial Government, or any such organization approved by the Regional Commissioner of Income Tax, arising from donations, voluntary contributions, subscriptions, house property, investments in Federal Government securities and so much of its "Income from business" as is expended in Pakistan for the purposes of carrying out welfare activities.
(58A)	The clause exempted income of any educational institute run by a non-profit organization solely for educational purposes.
(59)	The clause exempted any income derived from investment in Federal Government securities, profit on debt from scheduled banks, Government grants, foreign grants and house property held under trust or other legal obligations, wholly or partly for religious or charitable purposes and actually applied or set apart for application thereto.
(60)	The clause exempted income of religious or charitable institutions derived from voluntary contributions and applicable solely for religious or charitable purposes.
(66)(v)	The clause exempted any income derived by "Hamdard Laboratories (Waqf) Pakistan".

**63. Exemption to Sindh Province Pension Fund***Clause (57) sub clause (3)*

The Bill proposes to grant exemption to any income derived by Sindh Province Pension Fund established under the Sindh Province Pension Fund Ordinance, 2002.

**64. Exemption to Greenstar Social Marketing Pakistan (Guarantee) Limited***Clause (66) sub clause (xxx)*

The Bill proposes to grant exemption to any income derived by Greenstar Social Marketing Pakistan (Guarantee) Limited by incorporating the same in Clause (66).

**65. Income of Collective Investment Scheme or a REIT Scheme***Clause (99)*

The Bill proposes to insert a proviso which seeks to provide that for the purposes of determining 90% distribution of income being a condition of exemption of such schemes, distribution through bonus shares, units or certificates shall not be taken in to account. The amendment seeks to be consequential since bonus shares constitute income as a result of an amendment proposed in the definition of the said term.

**66. Income of certain industrial undertakings***Clause (126)*

Under the aforesaid clause, exemption was provided to income of certain industrial undertakings for a particular time period. The exemptions available therein expired and the relief provided became infructuous. The Bill accordingly proposes to omit the above clause.

**67. Income of China Overseas Port Holding Company Limited***Clause (126A)*

The Bill proposes to grant exemption to income derived by China Overseas Port Holding Company Limited from Gwadar port operations for a period of twenty years reckoned from 6 February 2007. The exemption under the same clause was previously available to other companies who seemed to have abandoned their contract.

**68. Income of fruit processing or preservation units***Clause (126H)*

A new clause is being proposed to be inserted as a consequence of which profits and gains derived by a

taxpayer, between 1 July 2014 to 30 June 2017, from a fruit processing or preservation unit setup in Balochistan Province, Malakand Division, Gilgit-Baltistan and FATA shall be granted exemption of 5 years reckoned from the date the undertaking is setup or commercial production is commenced, whichever is later.

**69. Coal mining project in Sindh***Clause (132B)*

A new clause is being proposed to be inserted by virtue of which profits and gains derived by a coal mining project in Sindh, which exclusively supplies coal to a power generation project, will be exempt.

**PART-II****70. Income from services rendered and construction contracts outside Pakistan***Clause (3)**Clause (3A)*

Income from construction contracts and from services rendered outside Pakistan are subject to tax at 1% of the gross receipts provided the said receipts are brought in to Pakistan through normal banking channels. These exemptions are presently available in clause (3) and (3A). The amendment seeks to embody both the exemptions in clause (3) while clause (3A) has been deleted being infructuous.

**71. Clauses (9B), (9C), (13E), (13HH), (17), (19), (20), (23), (24), (24B), (26), (29) and (30) omitted**

The Bill proposes to omit the above clauses since either the relief provided under these clauses has been duly provided for elsewhere in these proposals or these have become redundant.

**72. Industrial undertaking setup through Foreign Direct Investment (FDI)***Clause (18A)*

The Bill seeks to propose a reduced corporate tax rate of 20% for a company setting up an industrial undertaking, between 1 July 2014 to 30 June 2017, through FDI of at least 50% of the cost of the project, including working capital, for a period of five years beginning from the month in which the industrial undertaking is setup or commercial production is commenced, whichever is later.

## PART-III

**73. Allowances of pilots**

*Clause (1)*  
*Clause (1AA)*

The Bill seeks to amend clause (1) and insert a new clause (1AA) as a consequence of which flying allowance of pilots which were taxed at 2.5% as a separate block of income are now to be taxed in a different mode and manner. The amendment provides that the total allowances received by a pilot of any Pakistani airline shall be taxed at 7.5% provided that the reduction shall be available only to so much of the allowance as exceeds an amount equal to basic pay.

**74. Bahbood Savings Certificates or Pensioners Benefit Account**

*Clause (5)*

Under the aforesaid clause the tax liability on profit on debt received from investment in Bahbood Saving Certificates or Pensioners Benefit Account is restricted to 10% of the amount of such profit. The Bill proposes to omit the above exemption with the result that such income would now be taxable at the applicable rate of the respective recipient.

**75. Clause (1A), (7), (8), (9), (10), (12), (13), (14) and (15) omitted**

The above clauses are being proposed to be omitted since the relief provided under these clauses has been embodied in other parts of these proposals.

## Part-IV

**76. Deduction of tax by steel melters, steel re-rollers, composite steel units**

*Clause (9A)*

Consequent to the proposed insertion of Section 235B in the Ordinance where inter-alia, it has been provided that the tax collected shall be deemed to be the tax required to be deducted under Section 153(1) on the payments for local purchase of scrap, the Bill proposes to exempt steel melters, steel re-rollers, composite steel units from deduction of tax, as a payer, in respect of purchase of scrap.

**77. Deduction of tax from Ship-breakers**

*Clause (9AA)*

Through an amendment proposed in Section 148 of the Ordinance, Ship-breakers have been brought in the final tax regime in respect of tax collected at the time of import of ships. The Bill also seeks to insert a new

Clause (9AA) whereby the application of Section 153(1) has been waived on ship-breakers as recipient of payments. Though the proposed clause does not specify which payments would be exempted from Section 153 but the rationale suggests that these would be payments for sale of scrap of the ships.

**78. US Dollar Bond Rules, 1998**

*Clause (10)*

Clause (10) which provides immunity from Section 111, penalty provisions and provisions containing prosecution in respect of investment in Special US Dollar Bonds issued under the special US Dollar Bonds Rules, 1998 is proposed to be deleted.

**79. Exemptions for businesses in KPK, FATA and PATA Clause (10A)**

The time bound exemption available to businesses located in most affected and moderately affected areas of Khyber Pakhtunkhwa, FATA and PATA from levy of penalty under Section 182, levy of default surcharge under Section 205, collection of advance tax from consumers of electricity, withholding of tax from imports and exports under Sections 148 and 154 of the Ordinance, having lapsed are proposed to be omitted.

**80. Coal Mining Projects in Sindh - Exemption from minimum tax**

*Clause (11A), Sub-clause (v)*

With the proposed exemption from tax to profits and gains derived from a coal mining project in Sindh supplying coal exclusively to power generation projects under Clause (132B), Part I of the Second Schedule to the Ordinance, the bill proposes to exempt such project from the levy of minimum tax under Section 113 of the Ordinance also.

**81. Tax withholding on dividend income in the case of Islamic Development Bank**

*Clauses (38B) and (38C)*

Clause (38C) contains exemptions in respect of Islamic Development Bank from tax withholding under various Sections of the Ordinance excluding Section 150 which deals with tax withholding from dividend income. On the other hand, the exemption from tax withholding from dividend income is separately provided for in Clause (38B).

The Bill proposes to consolidate the above provisions by omitting Clause (38B) and inserting the relevant provisions providing for exemption from tax



withholding under Section 150 in respect of dividend income in clause (38C) above.

#### 82. Option to opt out of final tax regime

The Finance Act, 2012 inserted Clauses (41A), (41AA) and (41AAA) which provided options to persons who wished to opt out of the final tax regime in respect of imports, exports or sale of goods subject to the condition that their minimum tax liability should not be less than certain percentage (ranging from 50% to 70%) of the tax already collected / deducted as the case may be, under the respective Sections. The Bill now proposes to omit these Clauses and in place thereof to insert Clauses (56B), (56C) and (56D). According to these proposed Clauses, the persons engaged in the business of import of goods or supply of goods or execution of contracts may opt out of the final tax regime by filing the return of income alongwith accounts and documents as may be prescribed subject to the condition that their minimum tax liability under normal tax regime shall not be less than the tax already collected / deducted at the applicable rates of the respective Sections. It appears that under the proposed Clauses, the tax liability of such persons would be higher than the tax liability they were required to pay under the existing Clauses.

The Bill also proposes to insert Clauses (56E), (56F) and (56G) on similar lines. Under Clause (56E), the option to opt out of the final tax regime is being provided to a person who provides services of stitching, dying, printing, embroidery, washing, sizing and weaving to exporters or an export house. In terms of Clause (56F) the petrol pump operator is provided such an option whereas under Clause (56G), the person earning commission or brokerage is provided with such an option.

#### 83. Foreign news agencies, syndicate services and non-resident news contributors *Clause (41B)*

Section 152(2) of the Ordinance provides for a general rate of tax withholding of 20% of the gross amount of payment to a non-resident where the payment does not fall under other sub-sections of Section 152. However, Clause (41B) of Part IV of the Second Schedule exempts payments to foreign news agencies, syndicate services and non-resident news contributors which do not have a permanent establishment in Pakistan.

The Bill proposes to delete Clause (41B) as a result of which the above payments would become liable to withholding tax under section 152(2) of the Ordinance. But where the non-resident belongs to a

country with which Pakistan has signed an agreement for avoidance of double taxation and the non-resident does not have a permanent establishment in Pakistan, such payment would still be exempted from the charge of tax under Section 152(2) of the Ordinance. Nevertheless, in such a case, the payer would need to obtain prior approval from the concerned Commissioner for making payment to the non-resident without deduction of tax in terms of section 152(5) of the Ordinance. The non-resident may also obtain exemption certificate from the concerned Commissioner in terms of section 159 of the Ordinance to the effect that based on the treaty provisions, the payment is not liable to Pakistan tax.

#### 84. Exemption to large trading houses *Clause (57)*

Large trading houses, subject to certain conditions, are exempt from certain provisions of the Ordinance including withholding provisions of Section 153 of the Ordinance. It has been contended by them that Section 153 does not apply to them both in the capacity of a payer as well as a recipient.

The Bill intends to end this controversy and propose to insert an explanation to Clause (57) to clarify that the exemption under Section 153 would be available as recipient and not as a withholding agent.

The effect of an explanation is taken as declaratory and therefore, has a retrospective effect. Accordingly, if the large trading houses, in the past, have not withheld tax from payments as required under the Ordinance, they may be held liable for such default of tax not withheld.

### THE THIRD SCHEDULE

#### 85. First year allowance *Part-II, Clause (1)*

The Bill proposes to reduce the rate of initial allowance applicable on buildings from the present 25% to 10%.

## SALES TAX

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Ernst & Young Ford Rhodes Sidat Hyder

## 1. Definitions – retail price

### Section 2(27)

This sub-section defines retail price to mean the price fixed by the manufacturer at which any particular brand or variety of any article should be sold to the general body of consumers. Where more than one fixed price exists for the same brand or variety, the highest price would be applicable.

A proviso has been proposed to be added to this definition whereby the Board is empowered through a General Order to specify zones or areas for the purpose of determination of the highest retail price for any brand or variety of goods. Through this amendment it is proposed to empower the Board to determine the retail price at which sales tax is to be charged.

It seems that the proposed amendment is in accordance with the demand of various sectors of the business community who want to fix different retail prices for different parts of the country in view of additional costs of the products on account of transportation, etc.

## 2. Scope of tax

### Section 3

This section is the charging section and lays down various tax rates that may be charged under the ST Act. Following amendments are proposed in this section:

#### Sub-section 2(aa)

A new clause (aa) to sub-section 2 is proposed to be added to cover sales tax to be charged on goods specified in the newly introduced Eighth Schedule to the ST Act at such rates and subject to such conditions and limitations as specified in the aforesaid Schedule. The Eighth Schedule contains goods that are subject to sales tax at reduced rates.

#### Sub-section 3B

A new sub-section 3B is proposed to be added whereby sales tax on import and supply of goods specified in the newly introduced Ninth Schedule to the ST Act shall be charged, collected and paid at the rates stated therein in the manner, time, procedure and conditions specified therein. The Ninth Schedule contains goods that are subject to sales tax at fixed rates on various categories of cellular mobile phones and satellite phones. These are currently subject to sales tax under SRO 460(I)/2013 dated 30 May 2013. However, on the specific petition filed by the certain

importers, the Honorable Islamabad High Court has suspended the operation of SRO 460(I)/2013.

With the proposed insertion of sub-section 3B and the Ninth Schedule as part of the ST Act, the levy of sales tax on imports / activation of cellular mobile phones and satellite phones would be subject to sales tax under the Ninth Schedule. Presumably the SRO 460 is going to be rescinded with effect from 1 July 2014.

#### Sub-section 8

This sub-section was amended through the Presidential Ordinance of 2014 dated 23 March 2014. This section deals with charging of sales tax at the rate of 17% of the value of supply to CNG stations by the gas distribution company. Although the above rate is applicable with effect from 23 March 2014, it is now proposed to be formally incorporated into the Act.

#### Sub-section 9

A new sub-section 9 is proposed to be inserted in connection with charging of sales tax on monthly electricity bills of retailers at the following rates:

- 5% where the monthly bill does not exceed Rs.20,000; and
- 7.5% where the monthly bill exceeds Rs.20,000.

The above tax is in addition to the tax payable on supply of electricity at the normal rate of 17%, and in the case of unregistered retailers, further tax at the rate of 1% and extra tax at the rate of 5%.

Sales Tax Special Procedure Rules for retailers are proposed to be amended in order to prescribe the procedure for the collection of sales tax from under this sub-section.

## 3. Collection of excess tax, etc.

### Section 3B

Sub-section 2 of section 3B was also substituted through the Presidential Ordinance of 2014 dated 23 March 2014. Under this section any sales tax collected in excess of the tax or charge actually payable and the incidence of which has been passed on to the consumer is required to be deposited to the Federal Government. This sub-section was modified through the Presidential Ordinance of 2014 dated 23 March 2014 to override anything contained in any law or judgment of the court including superior courts in the right of recovery of excess tax by the Federal Government and inadmissibility of refund claim by a registered person. Although this sub-section is

applicable with effect from 23 March 2014, it is now proposed to be formally incorporated into the ST Act.

#### 4. Zero rating Section 4

This section specifies goods that are chargeable to sales tax at the rate of zero percent. Under clause (d), the Board is empowered to specify goods supplied to registered person or class of registered persons engaged in the manufacturing and supply of zero rated goods through a General Order.

It is now proposed to replace the term zero rated goods with goods supplied at reduced rate of sales tax. It seems that the Board wants to provide legal cover to various General Orders issued earlier in respect of the supply of electricity and gas to various export oriented manufacturers and local supply of goods taxable at the reduced rates under SRO 1125(1)/2011.

#### 5. Determination of tax liability Section 7

This section deals with determination of tax liability and more particularly adjustment of input tax from output tax. Section 8 of the Act deals with input tax that is not admissible. It is now proposed to make a corrective amendment in section 7 by making a reference to section 8 at the time of determination of the tax liability.

It is also proposed to exclude the amount of further tax from the scope of output tax while making adjustment for input tax. Further tax at the rate of 1% is required to be charged under section 3(1A) to persons who are not registered for sales tax purposes. Effectively input tax will not be available for adjustment against further tax and therefore the amount of further tax will have to be deposited into the Government treasury.

Sub-section 2 of section 7 specifies conditions for entitlement to deduct input tax from the output tax. A new clause (iiia) has been inserted which reads as follows:

(iiia) the goods and services against which input tax is claimed are-

- (a) imported or purchased for the purpose of sale or re-sale by the registered person on payment of tax;
- (b) used directly as raw material, ingredient, part, component or packing material by the registered person in the manufacture or production of taxable goods;

- (c) electricity, natural gas and other fuel consumed directly by the registered person in his declared business premises for the manufacture, production or supply of taxable goods; or
- (d) plant, machinery and equipment used by the registered person in his declared business premises for the manufacture, production or supply of taxable goods.

The proposed change leads to the interpretation that input tax paid on goods that are directly used or consumed in making taxable supplies can be claimed as an adjustment against output tax. In other words, all input tax paid on acquiring of services or other indirect goods will not be available for adjustment.

As far as services are concerned, it is contrary to the definitions of input tax and Provincial sales tax as defined in the ST Act and also negates the admissibility of provincial sales tax by way of input tax as notified by the Board through the recently issued SRO 212(I)/2014 dated 26 March 2014.

Apart from the above interpretational issues and litigation is likely to arise in ascertaining what constitutes direct and indirect goods.

#### 6. Tax credit not allowed Section 8

This section deals with restrictions of claim of input tax and it is proposed to add goods and services not related to taxable supplies made by registered persons. By and large this section incorporates into the main ST Act the restrictions on claim of input tax that were covered under SRO 490(I)/2004 dated 12 June 2004. Presumably this SRO is going to be rescinded with effect from 1 July 2014.

The four situations which are proposed to be inserted are as follows:

- goods and services not related to the taxable supplies made by the registered person;
- goods and services acquired for personal or non-business consumption;
- goods used in, or permanently attached to, immoveable property, such as building and construction materials, paints, electrical and sanitary fittings, pipes, wires and cables, but excluding such goods acquired for sale or re-sale or for direct use in the production or manufacture of taxable goods; and
- vehicles falling in Chapter 87 of the First Schedule to the Customs Act, 1969 (IV of 1969), parts of such vehicles, electrical and gas appliances,

furniture, furnishings, office equipment (excluding electronic cash registers), but excluding such goods acquired for sale or re-sale.

**7. Posting of Inland Revenue Officer**  
*Section 40B*

This section deals with posting of an Inland Revenue Officer to the premises of the registered person or a class of such persons for monitoring purposes. An explanation is proposed to be incorporated in this section to clarify that the powers under this section are independent of the provision of section 40 which deals with searches under a warrant issued by a Magistrate. Effectively the explanation clarifies that a warrant from a Magistrate is not necessary for the purposes of the monitoring exercise that may be done by an Officer of the Inland Revenue.

**8. Electronic scrutiny and intimation**  
*Section 50B*

It is proposed to introduce a new section dealing with the implementation of a computerized system for the purposes of automated scrutiny, analysis and cross matching of returns and other available data relating to the registered persons and to electronically send intimation to the same on any issue detected by the system.

The intimation sent by the computerized system would be in the nature of an advice or advance notice in order to enable the registered person to clarify the issue, rectify any mistake or take other corrective action before any legal or penal action is initiated. The computerized system would keep records of issues detected, intimation sent, responses received and actions taken and shall present such information to the Officer of the Inland Revenue and the Board in the prescribed manner. The Board is going to prescribe procedures and specifications for the smooth and efficient operation of the computerized system.

Introduction of the above section basically seeks to incorporate in law what by and large is currently being practiced through CREST.

**9. Amendments in the Fifth Schedule - zero rated goods**

The Fifth Schedule to the Act lists goods that are zero rated. Presently, imports and supply of certain goods are subject to sales tax at zero rate through various notifications including SRO 549(1)/2008 dated 11 June 2008 and SRO 670(1)/2013 dated 18 July 2013. The proposed amendment in the Fifth Schedule aims to include the zero rated goods mentioned in the aforesaid notifications within the body of the Fifth

Schedule. It is likely that the respective SROs will be rescinded with effect from 01 July 2014.

Sr. No.	Description
(1)	(2)
	<b>Items listed in SRO 549(I)/2008 dated 11 June 2008 proposed to be incorporated in the Fifth Schedule</b>
9.	Goods exempted under section 13, if exported by a manufacturer who makes local supplies of both taxable and exempt goods.
10.	Petroleum Crude Oil (PCT heading 2709.0000).
11.	Raw materials, components, sub-components and parts, if imported or purchased locally for use in the manufacturing of such plant and machinery as is chargeable to sales tax at the rate of zero percent, subject to the condition that the importer or purchaser of such goods holds a valid sales tax registration showing his registration category as "manufacturer"; and in case of import, all the conditions, restrictions, limitations and procedures as are imposed by Notification under section 19 of the Customs Act, 1969 (IV of 1969), shall apply.
	<b>Items listed in SRO 670(I)/2013 dated 18 July 2013 proposed to be incorporated in the Fifth Schedule</b>
2.	The following goods and the raw materials, packing materials, sub-components, components, sub-assemblies and assemblies imported or purchased locally for the manufacture of the said goods, subject to the conditions, limitations and restrictions as specified in Chapter XIV of the Sales Tax Special Procedure Rules, 2007:- <ul style="list-style-type: none"> <li>(i) Colors in sets (PCT heading 3213.1000)</li> <li>(ii) Writing, drawing and marking inks (PCT heading 3215.9010 and 3215.9090)</li> <li>(iii) Erasers (PCT heading 4016.9210 and 4016.9290)</li> <li>(iv) Exercise books (PCT heading 4820.2000)</li> <li>(v) Pencil sharpeners (PCT heading 8214.1000)</li> <li>(vi) Geometry boxes (PCT heading 9017.2000)</li> <li>(vii) Pens, ball pens, markers and porous tipped pens (PCT heading 96.08)</li> <li>(viii) Pencils including color pencils (PCT heading 96.09)</li> <li>(ix) Milk including flavored milk (PCT heading 04.01 and 0402.9900)</li> <li>(x) Yogurt (PCT heading 0403.1000)</li> </ul>

(xi)	Cheese (PCT heading 0406.1010)
(xii)	Butter (PCT heading 0405.1000)
(xiii)	Cream (PCT heading 04.01 and 04.02)
(xiv)	Desi ghee (PCT heading 0405.9000)
(xv)	Whey (PCT heading 04.04)
(xvi)	Milk and cream, concentrated and added sugar or other sweetening matter (PCT heading 0402.1000)
(xvii)	Preparations for infant use put up for retail sale (PCT heading 1901.1000)
(xviii)	Fat filled milk (PCT heading 1901.9090)
(xix)	Bicycles (PCT heading 87.12).

#### 10. Amendments in the Sixth Schedule Table I (Import & Supply of goods)

The Sixth Schedule to the ST Act lists goods that are exempt from sales tax. Table I grants exemption on the import and supply of goods. Some of the exemptions are also available through various notifications including SRO 501(1)/2013 dated 12 June 2013, SRO 551(1)/2008 dated 11 June 2008, SRO 492(I)/2009 dated 13 June 2009 and SRO 575(I)/2006 dated 05 June 2006. The proposed amendment in the Sixth Schedule aims to include the exempt goods mentioned in the aforesaid notifications within the body of the Sixth Schedule as described in the Table below. It is likely that the respective SROs will be rescinded with effect from 01 July 2014.

Sr. No.	Description	Tariff Heading
(1)	(2)	(3)
24.	Edible oils, new PCT code of palm crude oil (new addition)	1511.1000
59.	Artificial body part, "cochlear implants system" (new addition)	99.37
	<b>Items listed in SRO 501(I)/2013 dated 12 June 2013 proposed to be incorporated in Table I of the Sixth Schedule</b>	
72.	Uncooked poultry meat	02.07
73.	Milk and cream	04.01 and 04.02
74.	Flavored milk	0402.9900 and 22.02
75.	Yogurt	0403.1000
76.	Whey	04.04
77.	Butter	0405.1000
78.	Desi ghee	0405.9000
79.	Cheese	0406.1010
80.	Processed cheese not grated or powdered	0406.3000
81.	Cotton seed	1207.2000
82.	Frozen, prepared or preserved sausages and similar products of poultry meat or meat offal	1601.0000

Sr. No.	Description	Tariff Heading
(1)	(2)	(3)
83.	Meat and similar products of prepared frozen or preserved meat or meat offal of all types including poultry meat and fish	1602.3200, 1602.3900, 1602.5000, 1604.1100, 1604.1200, 1604.1300, 1604.1400, 1604.1500, 1604.1600, 1604.1900, 1604.2010, 1604.2020, 1604.2090, 1604.3000
84.	Preparations for infant use, put up for retail sale	1901.1000
85.	Fat filled milk	1901.9090
86.	Colours in sets (Poster colours)	3213.1000
87.	Writing, drawing and marking inks	3215.9010 and 3215.9090
88.	Erasers	4016.9210 and 4016.9290
89.	Exercise books	4820.2000
90.	Pencil sharpeners	8214.1000
91.	Energy saver lamps	8539.3910
93.	Sewing machines of the household type	8452.1010 and 8452.1090
93.	Bicycles	87.12
94.	Wheelchairs	8713.1000 and 8713.9000
95.	Vessels for breaking up	89.08
96.	Other drawing, marking out or mathematical calculating instruments (geometry box)	9017.2000
97.	Pens and ball pens	96.08
98.	Pencils including colour pencils	96.09
99.	Compost (non-chemical fertilizer) produced and supplied locally	Respective headings
100.	Construction materials to Gwadar Export Processing Zone's investors and to Export Processing Zone Gwadar for development of Zone's infrastructure	Respective headings
	<b>Items listed in SRO 551(I)/2008 dated 11 June 2008 proposed to be incorporated in Table I of the Sixth Schedule</b>	

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Sr. No.	Description	Tariff Heading
(1)	(2)	(3)
101.	Raw and pickled hides and skins, wet blue hides and skins, finished leather, and accessories, components and trimmings, if imported by a registered leather goods manufacturer, for the manufacture of goods wholly for export, provided that conditions, procedures and restrictions laid down in rules 264 to 278 of the Customs Rules, 2001 are duly fulfilled and complied with.	Respective headings
102.	Machinery, equipment and materials imported either for exclusive use within the limits of Export Processing Zone or for making exports therefrom, and goods imported for warehousing purpose in Export Processing Zone, subject to the conditions that such machinery, equipment, materials and goods are imported by investors of Export Processing Zones, and all the procedures, limitations and restrictions as are applicable on such goods under the Customs Act, 1969 (IV of 1969) and rules made thereunder shall <i>mutatis mutandis</i> , apply	Respective headings
103.	Import and supply thereof, up to the year 2020, of ships of gross tonnage of less than 15 LDT and all floating crafts including tugs, dredgers, survey vessels and other specialized crafts purchased or bare-boat chartered by a Pakistani entity and flying the Pakistan flag, except ships or crafts acquired for demolition purposes or are designed or adapted for use for recreation or pleasure purposes, subject to the condition that such ships or crafts are used only for the purpose for which they were procured, and in case such ships or crafts are used for demolition purposes within a	Respective headings

Sr. No.	Description	Tariff Heading
(1)	(2)	(3)
	period of five years of their acquisition, sales tax applicable to such ships purchased for demolition purposes shall be chargeable.	
104.	Substances registered as drugs under the Drugs Act, 1976 (XXXI of 1976) and medicaments as are classifiable under Chapter 30 of the First Schedule to the Customs Act, 1969 (IV of 1969) except the following, even if medicated or medicinal in nature, namely:-  (a) filled infusion solution bags imported with or without infusion given sets;  (b) scrubs, detergents and washing preparations;  (c) soft soap or no-soap soap;  (d) adhesive plaster;  (e) surgical tapes;  (f) liquid paraffin;  (g) disinfectants; and  (h) cosmetics and toilet preparations.	Respective headings
105.	Raw materials for the basic manufacture of pharmaceutical active ingredients and for manufacture of pharmaceutical products, provided that in case of import, only such raw materials shall be entitled to exemption which are liable to customs duty not exceeding ten per cent advalorem, either under the First Schedule to the Customs Act, 1969 (IV of 1969) or under a notification issued under section 19 thereof.	Respective headings

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Sr. No.	Description	Tariff Heading
(1)	(2)	(3)
106.	Import of Halal edible offal of bovine animals.	0206.1000, 0206.2000, 0206.8000 and 0206.9000
107.	Import and supply of iodized salt bearing brand names and trademarks whether or not sold in retail packing.	
108.	Components or sub-components of energy saver lamps, namely:-	
	(a) Electronic Circuit	8539.9040
	(b) Plastic Caps (Upper and Lower)	8539.9040
	(c) Base Caps B22 and E27	8539.9040
	(d) Tungsten Filaments	8539.9040
	(e) Lead-in-wire	8539.9040
	(f) Fluorescent Powder (Tri Band Phosphor)	3206.5010
	(g) Adhesive Additive	3824.9099
	(h) Al-Oxide Suspension	3824.9099
	(i) Capping Cement	3214.1050
	(j) Stamp Pad Ink	3215.9010
	(k) Gutter for Suspension	2850.0000
	<b>Items listed in SRO 492(I)/2009 dated 13 June 2009 proposed to be incorporated in Table 1 of the Sixth Schedule</b>	
109.	Goods imported temporarily with a view to subsequent exportation, as concurred by the Board, including passenger service item, provision and stores of Pakistani Airlines.	Respective headings
	<b>Items listed in SRO 551(I)/2008 dated 11 June 2008 proposed to be incorporated in Table 1 of the Sixth Schedule</b>	
110.	The following items with dedicated use of renewable source of energy like solar and wind, subject to certification by the	8541.5000 8539.3990 9405.1090 8502.3100 8513.1040

Sr. No.	Description	Tariff Heading
(1)	(2)	(3)
	Alternative Energy Development Board (AEDB), Islamabad:-	8513.1090 8541.4000, 8504.4090, 9032.8990 and 8507.0000
	(a) Solar PV panels;	
	(b) LVD induction lamps;	
	(c) SMD, LEDs with or without ballast, with fittings and fixtures;	
	(d) Wind turbines including alternators and mast;	
	(e) Solar torches;	
	(f) Lanterns and related instruments;	
	(g) PV modules along with related components, including invertors, charge controllers and batteries.	
111.	White crystalline sugar	1701.9910 and 1701.9920
112.	Following cardiology/cardiac surgery, neurovascular, electrophysiology, endosurgery, endoscopy, oncology, urology, gynaecology, disposables and other equipment:-	Respective headings
	A. Specified Angioplasty Products	
	B. Specified Angiography Products	
	C. Specified Contrast Media For Angiography/Angioplasty	
	D. Specified Temporary Pacemakers	
	E. Specified Permanent Pacemaker (With Leads, Connectors And Accessories)	
	F. Specified Heart Failure Devices (With Leads, Connectors And Accessories)	

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Sr. No.	Description	Tariff Heading
(1)	(2)	(3)
	G. Specified Implantable Cardiovertes (With Leads, Connectors And Accessories)	
	H. Specified Cardiac Electrophysiology Products	
	I. Specified Lear Cardiology Products	
	J. Specified Cardiac Surgery Products	
	K. Specified Equipment	
	L. Specified Peripheral Interventions Equipment	
	<b>Items listed in SRO 575(I)/2006 dated 05 June 2006 proposed to be incorporated in Table 1 of the Sixth Schedule</b>	
113.	High Efficiency Irrigation Equipment.  (If used for agriculture sector)	
	1) Submersible pumps (up to 75 lbs and head 150 meters)	8413.7010
	2) Sprinklers including high and low pressure (center pivotal) system, conventional sprinkler equipment, water reel traveling sprinkler, drip or trickle irrigation equipment, mint irrigation sprinkler system.	8424.8100 8424.2010
	3) Air release valves, pressure gauges, water meters, back flow preventers, and automatic controllers.	8481.1000, 8481.3000, 9026.2000, 9032.8990
114.	Green House Farming and Other Green House Equipment.	

Sr. No.	Description	Tariff Heading
(1)	(2)	(3)
	(If used for agriculture sector)	
	1) Tunnel farming equipment.	8430.3100, 8430.3900
	2) Green houses (prefabricated)	9406.0010
	New insertions providing exemption to imports for specified undeveloped areas	
115.	Plant, machinery and equipment imported for setting up fruit processing and preservation units in Gilgit-Baltistan, Balochistan Province and Malakand Division subject to the same conditions and procedure as are applicable for import of such plant, machinery and equipment under the Customs Act, 1969 (IV of 1969).	Respective headings
116.	Plant, machinery and equipment imported for setting up industries in FATA subject to the same conditions and procedure as are applicable for import of such plant, machinery and equipment under the Customs Act, 1969 (IV of 1969).	Respective headings

#### 11. Amendments in the Sixth Schedule Table II (Local Supply of goods only)

Currently the retailers whose annual turnover is less than Rs.5 million during the last twelve tax periods along with cottage industries are exempt from the levy of sales tax. The Bill seeks to restrict such exemption only to cottage industries, thereby exemption available to retailers under serial No.3 of Table II is proposed to be withdrawn.

Local supplies of certain goods are exempt from sales tax through SRO 551(I)/2008 dated 11 June 2008. The proposed amendment in the Sixth Schedule -Table II aims to include the local supply of exempt goods mentioned in the aforesaid notification within the body of the Sixth Schedule as described in the Table below.

It is likely that the SRO will be rescinded with effect from 01 July 2014.

Sr. No.	Description	Tariff Heading
(1)	(2)	(3)
3.	Supplies made by cottage industries. (it means that exemption available to retailers under this serial number is being proposed to be withdrawn)	Respective headings
<b>Items listed in SRO 551(I)/2008 dated 11 June 2008 proposed to be incorporated in Table II of the Sixth Schedule</b>		
13.	Reclaimed lead, if supplied to recognized manufacturers of lead batteries	Respective headings
14.	Waste paper	Respective headings
15.	(a) Sprinkler Equipment (b) Drip Equipment (c) Spray Pumps and nozzles	Respective headings
16.	Raw cotton and ginned cotton	Respective headings

## 12. Amendments in the Sixth Schedule Table III (Import of goods only)

Table III is proposed to be inserted in the Sixth Schedule. Import of certain goods are exempt from sales tax through SRO 575(I)/2006 dated 05 June 2006. The proposed amendment in the Sixth Schedule -Table III aims to include the exemption on certain goods at import stage mentioned in the aforesaid notification within the body of the Sixth Schedule as described in the Table below. It is likely that the SRO will be rescinded with effect from 01 July 2014.

Sr. No.	Description	Tariff Heading
(1)	(2)	(3)
1.	Machinery and equipment for initial installation, balancing, modernization, replacement or expansion of desalination plants, coal firing system, gas processing plants and oil and gas field prospecting.	Respective headings
2.	Specific machinery, equipment, apparatus, and medical, surgical, dental and veterinary furniture, materials, fixtures and fittings imported by hospitals and medical or diagnostic institutes:-	Respective headings

Sr. No.	Description	Tariff Heading
(1)	(2)	(3)
	A. Medical Equipment B. Cardiology/Cardiac Surgery Equipment C. Disposable Medical Devices E. Other Related Equipment	
3.	1. Machinery, equipment, materials, capital goods, specialized vehicles (4x4 non-luxury) i.e. single or double cabin pickups, accessories, spares, chemicals and consumables meant for mine construction phase or extraction phase. 2. Construction machinery, equipment and specialized vehicles, excluding passenger vehicles, imported on temporary basis as required for mine construction or extraction phase.	Respective headings  Respective headings
4.	Coal mining machinery, equipment, spares, including vehicles for site use i.e. single or double cabin pick-ups, imported for Thar Coal Field.	Respective headings
5.	1. Machinery, equipment and spares meant for initial installation, balancing, modernization, replacement or expansion of projects for power generation through oil, gas, coal, wind and wave energy including under construction projects, which entered into an implementation agreement with the Government of Pakistan. 2. Construction machinery, equipment and specialized vehicles, excluding passenger vehicles, imported on temporary basis as required for the construction of project.	Respective headings  Respective headings

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Sr. No.	Description	Tariff Heading
(1)	(2)	(3)
6.	<p>1. Machinery, equipment and spares meant for initial installation, balancing, modernization, replacement or expansion of projects for power generation through gas, coal, hydel, and oil including under construction projects.</p> <p>2. Construction machinery, equipment and specialized vehicles, excluding passenger vehicles, imported on temporary basis as required for the construction of project.</p>	Respective headings
7.	<p>1. Machinery, equipment and spares meant for initial installation, balancing, modernization, replacement or expansion of projects for power generation through nuclear and renewable energy sources like solar, wind, micro-hydel bio-energy, ocean, waste-to-energy and hydrogen cell etc.</p> <p>2. Construction machinery, equipment and specialized vehicles, excluding passenger vehicles, imported on temporary basis as required for the construction of project.</p> <p>Explanation:- The expression "projects for power generation" means any project for generation of electricity whether small, medium or large and whether for supply to the national grid or to any other user or for in house consumption.</p>	Respective headings
8.	<p>1. Machinery and equipment meant for power transmission and grid stations including under construction projects.</p>	Respective headings

Sr. No.	Description	Tariff Heading
(1)	(2)	(3)
	<p>Explanation:- For the purpose of this serial number, "machinery and equipment" shall mean:</p> <p>(a) machinery and equipment operated by power of any description, such as is used in the generation of power;</p> <p>(b) apparatus, appliances, metering and testing apparatus, mechanical and electrical control, transmission gear and transmission tower, power transmission and distribution cables and conductors, insulators, damper spacer and hardware and parts thereof adapted to be used in conjunction with the machinery and equipment as specified in clause (a) above; and</p> <p>(c) component parts of machinery and equipment, as specified in clause (a) and (b) above, identifiable for use in or with machinery imported for the project and equipment including spares for purposes of the project.</p> <p>2. Construction machinery, equipment and specialized vehicles, excluding passenger vehicles, imported on temporary basis as required for the construction of project.</p>	
9.	Specified machinery, equipment and other education and research related items imported by technical, training institutes, research institutes, schools, colleges and universities.	Respective headings
10.	Machinery, equipment, raw materials, components and other capital goods for use in buildings, fittings, repairing or	Respective headings

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Sr. No.	Description	Tariff Heading
(1)	(2)	(3)
	refitting of ships, boats or floating structures imported by Karachi Shipyard and Engineering Works Limited.	
11.	Specified machinery and equipment for marble, granite and gem stone extraction and processing industries.	Respective headings
12.	Machinery, equipment and other project related items including capital goods, for setting up of hotels, power generation plants, water treatment plants and other infrastructure related projects located in an area of 30 km around the zero point in Gwadar.	Respective headings
13.	Effluent treatment plants.	Respective headings
14.	Specified items with dedicated use of renewable source of energy like solar, wind, geothermal etc.	Respective headings
15.	Specified items for promotion of renewable energy technologies.	Respective headings
16.	Plant, machinery, equipment and specific items used in production of bio-diesel.	Respective headings

Service sectors requiring such goods for their business purposes were covered under SRO 575(I)/2006 dated 05 June 2006, however, in terms of the Eighth Schedule the exemption would not be available to the service sectors.

### 13. Eighth Schedule under Section 3 (2) (aa) of the Act

Eighth Schedule is proposed to be introduced. Imports of certain goods were exempt from the levy of sales tax under SRO 501(I)/2013 dated 12 June 2013, SRO 551(I)/2008 dated 11 June 2008 and SRO 727(I)/2011 dated 01 August 2011.

The Bill seeks to introduce Table I to the Eighth Schedule whereby the items listed therein would be liable to sales tax at the rate of 5% subject to certain specified conditions. The list of such items is as follows:

Sr. No.	Description	Tariff Heading
(1)	(2)	(3)
	Items listed in SRO 501(I)/2013 dated 12 June 2013 proposed to be incorporated in the Eighth Schedule	
1.	Soya bean meal	2304.0000
2.	Oil cake and other solid residues, whether or not ground or in the form of pellets	2306.1000
3.	Directly reduced iron	72.03
	Items listed in SRO 551(I)/2008 dated 11 June 2008 proposed to be incorporated in the Eighth Schedule	
4.	Oilseeds meant for sowing	Respective headings
5.	Raw cotton and ginned cotton	Respective headings
	Items listed in SRO 727(I)/2011 dated 01 August 2011 proposed to be incorporated in the Eighth Schedule	
6.	Plant and machinery not manufactured locally and having no compatible local substitutes	Respective headings

### 14. Eighth Schedule - Table II under Section 3 (2) (aa) of the Act.

Presently, import of goods mentioned in SRO 575(I)/2006 dated 05 June 2006 are exempt from the levy of sales tax.

The Bill seeks to introduce Table II to the newly inserted Eighth Schedule whereby the items listed therein will be subject to reduced rate of sales tax of 5% subject to certain specified conditions. The list of such items is as follows:

Sr. No.	Description	Tariff Heading
(1)	(2)	(3)
1.	Machinery and equipment for development of grain handling and storage facilities.	Respective headings
2.	Cool chain machinery and equipment.	Respective headings
3.	Following items imported by Call Centers, Business Processing Outsourcing	

Sr. No.	Description	Tariff Heading
(1)	(2)	(3)
	facilities duly approved by Telecommunication Authority:-	
	1) UPS inverters/converters	8504.4010, 8504.4090
	2) Fax machines	8443.3260
	3) Photo copiers	8443.3910
	4) IP Phones	8517.1890 8517.1100
	5) Telephone sets/head sets	8517.7000
	6) Dialers	8502.1200 8544.4990
	7) Generator	
	8) Cat 5/Cat 6/Power cables	8517.6290 8528.6110
	9) PAPX Switch	8525.8090
	10) Multimedia projectors	8525.8010 8528.7212
	11) Video conferencing equipment	8525.8090 8517.6290
	12) CCTV	
	13) Plasma TV	8517.7000
	14) PUD's	8519.8990
	15) Dedicated telephone exchange system for call centers.	8525.8990
	16) Parts, voice cards.	
	17) Other (digital call recorders)	
	18) VAST terminals	
4.	1. Machinery, equipment, materials, capital goods, specialized vehicles (4x4 non luxury) i.e. single or double cabin pickups, accessories, spares, chemicals and consumables meant for mineral exploration phase.	Respective headings

Sr. No.	Description	Tariff Heading
(1)	(2)	(3)
	2. Construction machinery, equipment and specialized vehicles, excluding passenger vehicles, imported on temporary basis as required for the exploration phase.	
5.	Complete plants for relocated industries	Respective headings
6.	Machinery, equipment and other capital goods meant for initial installation, balancing, modernization, replacement or expansion of oil refining (mineral oil, hydro-cracking and other value added petroleum products), petrochemical and petrochemical downstream products including fibers and heavy chemical industry, cryogenic facility for ethylene storage and handling.	Respective headings
7.	Specified Proprietary Formwork System for building/structures of a height of 100 ft and above and its respective various items/components	Respective headings

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### 15. Ninth Schedule under Section 3 (3B) of the Act

Ninth Schedule is proposed to be introduced. Imports and further supply of mobile phones and satellite phones are subject to fixed rates of sales tax vide SRO 460(I)/2013 dated 30 May 2013. The implementation of this notification was challenged and its operation has been suspended now by a judgment of the Islamabad High Court.

The Bill seeks to introduce the Ninth Schedule which provides the manner and collection rate of sales tax on the import and local supply of cellular mobile phones and satellite phones in Pakistan as follows:

Description / Specification of Goods	Sales Tax payable at the time of import	Sales tax payable at the time of registration of a new International Mobile Equipment Identity (IMEI) number
(1)	(2)	(3)
A. Low Priced Cellular Mobile Phones or Satellite Phones	Rs.150 per phone	Rs.250 per registration
B. Medium Priced Cellular Mobile Phones or Satellite Phones	Rs.250 per phone	Rs.250 per registration
C. Smart Cellular Mobile Phones or Satellite Phones	Rs.500 per phone	Rs.250 per registration

Under this SRO sales tax on supplies of cellular mobile phones was required to be charged, collected and paid by the cellular company operators on every new sale or activation of SIM card.

## CUSTOMS

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**Significant legislative changes****1. Goods dutiable**  
*Section 18 (1A)*

This section is the charging section and lays down various types of goods and rates of duties that may be collected on such goods under the Customs Act. The Bill seeks to introduce a new sub-section (1A) to Section 18 to cover the newly introduced Fifth Schedule which specifies certain goods that will be subject to custom duty at a prescribed rate, subject to certain conditions and limitations.

**2. Untrue Statement, Error**  
*Sections 32, 80 and 81*

Under the above referred sections, if any duty, by reason of any inadvertence, has not been collected or paid at the time of import, the Customs Authorities are empowered to assess and recover the amount of duty involved from the importer. The Bill seeks to introduce the words "taxes and other charges levied thereon" along with the term "duty" at many places in the above referred sections. Apart from custom duty, the proposed amendment would empower the Customs Authorities to assess and recover all types of dues like sales tax and federal excise duty as well.

**3. Appellate Tribunal**  
*Section 194*

The Bill seeks to reduce the experience requirement for technical members of Customs Tribunal from five to three years.

**4. Concessions and exemptions included in the Schedule of Customs**

Various exemptions and concessional rates of custom duty are available through notifications. It is proposed to include such exemptions and concessions with or without modifications within the Schedule of Customs thereby eliminating the need to have separate notifications. It is likely that such notifications currently granting these exemptions and concessional rates will be rescinded from 1 July 2014.

**5. First Schedule - Significant changes in rates of custom duty**

The following significant changes have been proposed in the custom duties of various items:

- 0% rate of duty will be replaced with 1% duty on various items;
- General rate of 30 % will be reduced to 25%;

- Hybrid Electric Vehicles will be encouraged with increased exemption;
- Duty on Satellite mobile phones will be reduced from 25% to 10%; and
- Duty on UPS will be reduced from 20% to 15%, and on import of generators above 1100 KVA, the duty will be levied at the rate of 5%.

**6. Introduction of Fifth Schedule to the Customs Act, 1969**

SRO 575(1)/2006 dated 05 June 2006 providing exemption from sales tax and reduced rate of custom duty from 0% to 5% on import of plant, machinery, equipment and apparatus including specified capital goods is proposed to be deleted. Almost all the items included therein are now proposed to be included in the Customs Act in a new schedule by way of Fifth Schedule. The Fifth Schedule proposes custom duty at the rate of 0% and 5% on most of the exempt goods and 10% and 15% on certain other goods.

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## FEDERAL EXCISE

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### 1. Determination of value for the purposes of duty Section 12

Section 12 of the FE Act, deals with the mode and manner of valuation of goods and services for the purposes of levy of duty. Sub Section (4) provides the manner in which duty is chargeable on the basis of retail price of goods. The Bill seeks to add a new proviso whereby the Board by way of General Order may specify Zones or Areas for the purpose of determination of higher retail price for any brand or variety of goods.

### 2. Rate of duty on cigarettes modified

First Schedule, Table I

The rate of duty on cigarettes have been proposed to be changed by substituting serial Nos.9 and 10 of Table I of the First Schedule to the FE Act along with the description of goods. Proposed entries are as follows:

Table No.	Relevant entry in Table	Existing Provision		Proposed Provision	
		Description	Rate of duty	Description	Rate of duty
I	9	Locally produced cigarettes if their on-pack printed retail price exceeds rupees two thousand two hundred and eighty six per thousand cigarettes	2,325 per thousand cigarettes	Locally produced cigarettes if their on-pack printed retail price exceeds rupees two thousand seven hundred and six per thousand cigarettes	Rupees 2,600 per thousand cigarettes
I	10	Locally produced cigarettes if their on-pack printed retail price does not exceed rupees two thousand two hundred and eighty six per thousand cigarettes	Rupees 880 per thousand cigarettes	Locally produced cigarettes if their on-pack printed retail price does not exceed rupees two thousand seven hundred and six per thousand cigarettes	Rupees 1,085 per thousand cigarettes

The Finance Act, 2008 and 2012 brought restriction in the interpretation clause as given in Table I of the First Schedule to the FE Act which provides that for the purpose of levy, collection and payment of duty at the prescribed rate in respect of locally produced cigarettes as mentioned in serial Nos.9 and 10 of Table I of the

First Schedule, no cigarette manufacturer shall reduce the price from the level adopted on the day of the announcement of the latest budget. The bill now seeks to substitute year 2012, 2013 with the words current financial year.

### 3. Rate of duty on cement modified

First Schedule, Table I

The rate of duty on Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cements, whether or not coloured or in the form of clinkers is presently fixed at Rs.400/- per metric ton. The rate of duty in respect of various types of cement is proposed to be substituted at 5% of the retail price.

### 4. Reduction in duty on motor vehicles

First Schedule, Table I

Currently motor cars, SUVs and other motor vehicles of cylinder capacity of 1800 or above are subject to 10% ad-valorem duty. This rate has been provided in entry No.55 of Table I of the First Schedule to the FE Act. The Bill seeks to revise the duty structure on motor vehicles and it is now proposed to restrict the applicability of levy of the aforesaid duty to the extent of imported motor cars only. This proposed amendment would give favourable impact on the local manufacturing sector enabling them to reduce the retail price of the motor vehicles, providing relief to the end consumer.

### 5. Rate of duty on air travel enhanced

First Schedule, Table II

The rate of duty on services provided or rendered in respect of travel by air of the passenger embarking on international journey from Pakistan has been enhanced as follows.

Description	Existing rate of duty	Proposed rate of duty
Travel in Economy and Economy Plus	Rs.3,840	Rs.5,000
Club, business and first class	Rs.6,840	Rs.10,000

**6. Travel by air through chartered flights***First Schedule, Table II*

The following service is proposed to be brought under the purview of excisable services by including the same in Table II of the First Schedule to the FE Act.

Entry No.	Nature of service	Rate of duty
15	Chartered flights	16% of the charges

banks, leasing companies, etc. which are already subject to provincial sales tax. The action of the Officers of Inland Revenue is being contested by such service providers at various appellate forums.

**7. Reduction in rate of duty on telecommunication services***First Schedule, Table II*

Presently the rate of duty on telecommunication services is prescribed at 19.5% of the charges. It has been proposed that such charges are not collectable on telecommunication services if such service is rendered in the area of the Province where such Province has imposed Provincial sales tax and has started collecting such tax through its own Board or Authority as the case may be. It means that FED will not be applicable in the provinces of Sindh, Punjab and Khyber PakhtunKhuwa.

Further, the rate of duty on telecommunication services is proposed to be decreased from 19.5% to 18.5%.

**8. Excise duty on services**

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In pursuance of the 18<sup>th</sup> Amendment to the Constitution of Pakistan, it has now been settled that revenue pertaining to services falls within the Provincial domain and in this respect, the Sindh Revenue Board, the Punjab Revenue Authority and Khyber Pakhtunkhwa Revenue Authority have already been established which administer and collect sales tax on services in the provinces of Sindh, Punjab and Khyber Pakhtunkhwa respectively.

Although it was anticipated that the Federal Government would withdraw excise duty from excisable/taxable services at the Federal level since the sales tax on services is a Provincial levy, however, it has not yet withdrawn such excise duty (other than excise duty on telecommunication services which has been proposed to be withdrawn through the current Bill) even after the passage of three years of the amendment to the Constitution of Pakistan. Given the circumstances, the anomaly that a respective service (other than telecommunication services) remains exposed to both provincial sales tax as well as federal excise duty at the same time remains unresolved.

It should also be noted that the Officers of Inland Revenue inspite of the 18<sup>th</sup> Amendment, are creating demands of FED on the services of certain sectors like

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The Finance Act, 2013 introduced Income Support Levy Act, 2013 thereby levying Income Support Levy (ISL) on individual taxpayers @ 0.5% of the "net moveable wealth" exceeding Rs.1 million with the object of providing financial assistance and social protection to economically distressed persons and families.

The levy of ISL was invariably considered to be a bad piece of legislation being ill conceived as a consequence a large number of taxpayers challenged it in the High Courts of Pakistan as ultra vires of the constitution. The levy was questioned on the grounds that it is discriminative in nature as it is applicable and collectable from a taxpayer and from no other person. Further, the levy is a fee and cannot be passed as a Money Bill through an Act of the Parliament. The levy was also challenged on the grounds that it does not fall within the definition of the Federal Consolidated Fund, hence, not passed in accordance with the provisions of Article 77 of the Constitution.

The Honourable Sindh High Court (SHC) in a number of cases, stayed the application of ISL and allowed the taxpayers to file their tax returns (for the tax year 2013) manually, without payment of ISL which was otherwise not possible. As a result, the Federal Government failed to generate sufficient funds as it anticipated via introduction of ISL.

On the other hand, the interim order of the Honourable SHC in one of the taxpayer's case was challenged before the Honourable Supreme Court of Pakistan which suspended the Honourable SHC's interim order. The matter is therefore, currently pending before the Honourable High Courts as well as before the Honourable Supreme Court.

The proposal to repeal the ISL suggests that the question raised by the taxpayers seemed justified since the reasons which were given for its levy continues and there is no letup in the plight of the economically distressed persons and their families. Therefore, it would be prudent and wise on the part of the Legislature, if the levy is repealed retrospectively.



The Federal Government enacted the Gas Infrastructure Development Cess Act, 2011 (the GIDC Act) on 15 December 2011 with a view to provide for imposition and collection of infrastructure development cess on natural gas and other connected matters. It also provides that the cess collected would be utilized for or in connection with the infrastructure development of Iran Pakistan Pipeline Project, Turkemenistan Afghanistan Pakistan India Pipeline Project, LNG or other Projects or for price equalization of other imported alternative fuels including LPG. Under the GIDC Act the cess is chargeable from gas consumers other than domestic consumers. The First Schedule to the GIDC Act prescribes the companies which are required to levy and collect the cess from their consumers whereas the Second Schedule details the consumers which are subject to the cess and the rates applicable. Section 5 of the GIDC Act provides that the cess paid by a company shall be allowed as an expenditure while computing profits and gains of the company under the Ordinance.

The Bill proposes to widen the scope of the GIDC Act by authorizing the Federal Government to levy such cess on any category of gas consumers as per the rates provided in the Second Schedule. Moreover, it has also been proposed to insert the name of Oil and Gas Development Company Limited in the First Schedule among the companies which are responsible to levy and collect the cess. The Bill further proposes to burden any other company engaged in the sale of gas to any category of gas consumers as notified in the official Gazette. The Bill also proposes to replace the Second Schedule which now provides a flat rate of Rs.300 per MMBTU of the cess on the class of gas consumers instead of the varying rates that are currently specified.

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