

ICMA Pakistan's

Pre-Budget 2014-15 Proposals



ICMA
Pakistan

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Table of Contents

	<u>Page no.</u>
I. <i>Key Proposals</i>	2
II. <i>Proposed measures to broaden tax base and increase tax revenues</i>	6
III. <i>Proposed measures to facilitate taxpayers and improve tax collection</i>	8
IV. <i>Proposed amendments in Income Tax Ordinance, 2001</i>	9
V. <i>Proposed addition of new Sections 63A and 63B in Income Tax Ordinance, 2001</i>	17
VI. <i>Proposed amendments in Sales Tax Act, 1990</i>	19
VII. <i>Proposed amendments in Sales Tax Rules, 2006</i>	21
VIII. <i>Abolishing / Amending unnecessary SROs / Notifications</i>	22

Key Proposals

ICMA Pakistan proposes following measures to broaden tax base and increase tax revenues:

- ❖ A 'Business Registration Authority' be set up to maintain database of all businesses in Pakistan and its yearly renewal be based on tax compliance
- ❖ Retail sector offers lucrative source for generating tax revenue
- ❖ A fixed tax may be imposed on Transport sector
- ❖ Universities which charge heavy fees from students should be taxed and exemption given to them under IT Ordinance, 2001 should be withdrawn
- ❖ Proper valuation of imported goods be made to check mis-declarations
- ❖ Complete Immunity from Tax Audit be given under Section 122 (5)(A)
- ❖ Individuals be given relaxation in Utility Bills on paying minimum tax
- ❖ Final Tax Regime and Minimum Tax Regime should be abolished

ICMA Pakistan proposes following measures to facilitate taxpayers and improve tax collection:

- ❖ Income Tax Return Forms should be made part of Finance Bill 2014
- ❖ Submission of Withholding Tax and Sales Tax should be on the same date
- ❖ Sales Tax Registration Procedure should be simplified
- ❖ One rate of WH tax should be prescribed for suppliers and contractors
- ❖ SRO culture should be abolished

ICMA Pakistan proposes following amendments in Income Tax Ordinance, 2001:

- ❖ Dividend Income of Companies should be exempt from tax as this is not being charged in many Asian countries and is double taxation [Section 5 – Tax on Dividends]
- ❖ Upward Revision in limit of single banking transaction related to business and salary payments for Inflation Adjustments [Section 21 (l) and (m)]
- ❖ Intra-Corporate Dividend should also be exempted from income tax to encourage formation of group companies [Section 59AA and Section 59B]
- ❖ Treatment of 'Foreign Losses' is contrary to the concept of global taxation and it may be omitted from Income tax ordinance [Section 104(2)]
- ❖ Minimum Turnover Tax may be charged on Gross Profit and it should also brought down to previous level of one-half percent [Section 113 (2b)]
- ❖ Requirement of approval of Commissioner for revision of return should be mandatory only in case of decrease in tax liability [Section 114]
- ❖ Further Amendment of Assessment Order may not be allowed to bring certainty to tax payers' affairs [Section 122(4)]
- ❖ Cost and Management Accountants should also be appointed as an Accountant member of Appellate Tribunal [Section 130 (4)]
- ❖ Tax Recovery Procedure should be made lenient and the element of harassment to taxpayers should be removed [Section 138]
- ❖ This provision be eliminated from definition of prescribed person [Sub-Section 7 (i) of Section 153 – Definition of Prescribed Person]
- ❖ Submission of monthly withholding statement should be done away with as the required information already provided in CPR [Section 165]
- ❖ Monitoring should not be carried out in isolation unless the tax payer is selected for the audit [Section 176]
- ❖ The words ' a firm of Cost and Management Accountants' has been omitted in sub-section (c) of Section 176 – may be inserted [Section 176]
- ❖ Proper audit procedure be adopted and audit proceeding should be conducted by expert staff to facilitate the tax payers [Section 177]

- ❖ Scope of Taxpayer's Privilege /Honour Card should be broadened to include individuals paying income tax of more than Rs. One lac [Section 181B]
- ❖ Advance tax of 0.3% collected on bank transaction should be abolished to bring more funds into the banking channel [Section 231A and 231AA]
- ❖ Provision for advance tax collection from distributors be withdrawn [Section 236G]
- ❖ Corporate tax rate may be reduced to 30% in 2015 and annually by 1% to bring it a par with the region and attract more investments [Clause (i) in Division II, Part I of First Schedule of IT Ordinance]
- ❖ Public Sector Universities should also be allowed tax exemption as they use their income for educational purposes only [Clause 58(A) of Part-I of Second Schedule of IT Ordinance]
- ❖ Tax exemption upto Rs. one million to Senior Citizen - Income over Rs. 1 million should be charged tax to increase tax recovery [Clause 1(A) of Part-III of Second Schedule of IT Ordinance]
- ❖ 75% Tax rebate for teachers and researchers should be restored [Clause 2 of Part-III of Second Schedule of IT Ordinance]

ICMA Pakistan proposes addition of the following new Sections 63A and 63B in Income Tax Ordinance, 2001 to provide relief to the salaried taxpayers:

- ❖ Tax Credit may be allowed on educational expenditure of Self or dependent children
- ❖ Tax Credit may be allowed on actual expenditure incurred on Utilities

ICMA Pakistan proposes following amendments in the Sales Tax Act, 1990:

- ❖ Definition of 'Time of Supply' may be rephrased [Section 2- Definition]
- ❖ Sale Tax rate may be brought down to 12.5% in 2015 and finally to 10% to reduce cost of doing business and provide relief to people [Section 3 – Scope of Tax]
- ❖ This provision should be eliminated as it makes a registered person liable for failure to deposit sales tax on the part of buyer [Section 8 (1) (ca) - Tax Credit not allowed]
- ❖ Registered Purchaser should not be held liable for non-payment of sales tax by the Seller and this Section 8A may be deleted [Section 8A – Liability of Registered Person in Supply Chain]

- ❖ Full tax adjustment should be allowed to all taxpayers [Section 8B - Adjustable Input Tax]
- ❖ Requirement for Commissioner's approval to file revised sales tax return should be done away in case of no decrease in liability [Section 26 – Return]
- ❖ Normal mechanism be adopted in case of tax evasion or fraud [Section 40B – Posting of Inland Revenue Officer]
- ❖ Cement should be excluded from the Third Schedule [Third Schedule – Sales Tax Act 1990]

ICMA Pakistan proposes following amendments in the Sales Tax Rules, 2006:

- ❖ Requirement for filing annual sales tax return should be abolished [Rule 17]
- ❖ Post-sanction audit of refund claims be made with consultation [Rule 36]

ICMA Pakistan proposes that following SROs / Notifications may be abolished or amended:

- ❖ [SRO 904 dated 8th October, 2013] -Income Support Levy should be withdrawn as it is discriminatory in nature and tantamount to double taxation on individuals and companies
- ❖ [SRO 450 dated 27th May 2013] - Making further amendment in SRO 490 dated 12th June 2004
- ❖ [SRO 497 dated 12th June 2013] - Making further amendment in SRO 567 dated 5th June 2006

Proposed Measures to broaden tax base and increase tax revenues

1) A 'Business Registration Authority' be set up to maintain database of all businesses in Pakistan and its yearly renewal be based on tax compliance

There are three types of business entities in Pakistan i.e. (1) Individuals comprising of small traders and shopkeepers who can register with any of the government agency; (2) Partnership firms which are normally registered with local District Registrar of Firms, and (3) Companies which are registered with the Tax Departments, however all of them are not active taxpayers

ICMA Pakistan proposes that the Government should consider establishing a single 'Business Registration Authority' to maintain complete data base of business entities or else this charge may be given to NADRA with whom every business entity must be registered. Further, there should be annual renewal requirement for every business, irrespective of its status, and such renewal must be subject to tax compliances like filing of Annual Income Tax Return. This would help broaden tax base and increase tax revenues.

2) Retail sector offers lucrative source for generating tax revenue

The Retail sector contribute a nominal share in tax collection and signify a lucrative sector from where FBR can generate maximum revenue. According to estimate, around 70% to 80% of retailers comprising of small traders and shopkeepers earn more than the exemption limit.

ICMA Pakistan proposes that the government should bring the retail sector under tax net by offering some kind of incentives such as providing them guarantee that in case of any disaster, they would be compensated by an amount equal to their last updated stock without any legal formality. It should be made mandatory for retailers to maintain an electric cash register which may be linked to FBR server. They may also be required to update their stock daily and pay one percent tax on all kinds of purchases.

3) A fixed tax may be imposed on Transport sector

The transport sector also contribute a lesser share in national exchequer despite the fact that medium transporters earn around Rs. 3000/- per day whereas heavy transporters like buses, trucks and trailers earn upto Rs. 10,000/- on daily basis. This accumulate into taxable income.

To generate tax revenue, it is proposed that FBR should impose tax on medium and heavy transporters. As their income is not verifiable, they should be charged a fixed annual tax i.e. Rs. 10,000/ - for medium transporters and Rs. 15,000/ - to 25,000/- for heavy transporters.

4) Universities which charge heavy fees from students should be taxed and exemption given to them under IT Ordinance, 2001 should be withdrawn

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Through the Finance Act 2013, a new Clause (58A) was inserted in Part I of Second Schedule of Income Tax Ordinance, 2001, whereby the 'income of a University or other education institution being run by a non-profit organization existing solely for education purposes and not for purposes of profit' was given exemption from total income.

ICMA Pakistan feels that as the Universities generally charge heavy fee from students and are in a good position to pay income tax. As such, this exemption given to Universities under Clause 58A should be withdrawn. This would help generate tax revenue for the government.

5) Proper valuation of imported goods be made to check mis-declarations

Many importers declare less value of their goods during valuation process to avoid taxes which results in loss of revenue for the government.

ICMA Pakistan proposes that proper and exact valuation process at import must be ensured, so that importers pay exact amount of tax and duties. This would help increase tax collection.

6) Complete Immunity from Tax Audit be given under Section 122 (5)(A)

Through Income tax circular # 15 of 2013, the FBR clarified that all companies and individuals can avail immunity from tax audit under section 177 and 214C read with clause 84 of Part IV of second schedule as per SRO.1040(I)/2013 dated 5.12.2012, by paying 25% higher tax for TY13 against tax paid/assessed for TY12. A prescribed form for claiming exemption / immunity from audit was also issued by the FBR.

ICMA Pakistan is of the view that above incentives given by the government cannot bring fruitful results unless the Commissioner continues to have powers under Section 122(5)(A) to call explanation and 'make enquiries as he deems necessary'. The taxpayers' confidence can only be built by ensuring complete immunity. As such, the businesses and individuals be granted immunity from Section 122(5)(A) which would help broaden tax base and increase revenues.

7) Individuals be given relaxation in Utility Bills on paying minimum tax

The individuals paying a minimum annual tax should be given relaxation in utility bills. This would help generate additional tax revenues for FBR as people would opt to pay minimum tax to avail concessions in their utility bills (electricity, gas, telephone, water etc).

8) Final Tax Regime and Minimum Tax Regime should be abolished

The government should consider to abolish discriminatory practices like Final Tax Regime (FTR) and Minimum Tax Regime (MTR) and it should not be applicable on companies are charged tax only under the Normal Tax Regime. As a transitory phase, the FTR or MTR should be made more reasonable and applicable in a standard manner across industries which would lead to increase in tax collections. This would also help provide greater equitability among the taxpayers.

Proposed measures to Facilitate taxpayers and Improve tax collection

1) Income Tax Return Forms should be made part of Finance Bill 2014

The 'Format of Tax return' should be finalized before announcement of the Federal budget and it should be made part of Finance Act, 2014. This would ensure timely submission of tax returns and help in early recovery of taxes by the FBR.

2) Submission of Withholding Tax and Sales Tax should be on the same date

The dates for submission of withholding tax and sales tax statements falls on the same date i.e. 15th of each month. This causes hardships to the taxpayers as they have to submit these statements in urgency. It is proposed that the submission of both WT and ST statements should be on different dates. This would facilitate taxpayers to file accurate and timely returns.

3) Sales Tax Registration Procedure should be simplified

The sales tax registration process is too cumbersome, due to which tax payers are reluctant to get themselves registered under the Sales Tax Act. The registration process should be simplified. This would increase registration and increase the recovery of sales tax by the FBR.

4) One rate of WH tax should be prescribed for suppliers and contractors

Withholding tax is deducted by withholding agents at different rates from suppliers of goods, services and contractors, which creates confusion to both the tax payers and the Withholding agents. It is proposed that one rate of withholding tax be prescribed. This would facilitate the withholding agents for deduction of tax at uniform rate and also facilitate the taxpayers.

5) SRO culture should be abolished

Frequent issuance of SRO's leads to corruption as such it should be stopped forthwith in order to create a tax culture and improve tax compliance.

Proposed Amendments in Income Tax Ordinance, 2001

1.	Amendment Required In	Section 5 – Tax on Dividends
	Nature of Amendment	Dividend Income of Companies should be exempt from tax as this is not being charged in many Asian countries and is double taxation

Under Section 5 of Income Tax Ordinance, 2001, a 10% tax has been imposed on every person who receives a dividend from a company or on any distributions made by a company which are treated as dividend under clause 19 of Section 2 of ITO 2001.

ICMA Pakistan is of the view that 'Tax on dividend' need to have a second thought in current budget as this tax is not being charged in many Asian countries like India, Singapore, Philippines and Malaysia. The Pakistani companies are facing hardships due to double taxation – as they have to pay corporate tax at 35% and from the distributable profit they have to withhold another 10 percent. Secondly, the income from investment received by a company automatically becomes part of its distributable profit and in case it is also offering dividends to its shareholders, again it has to withheld 10% for tax on dividend.

It is therefore suggested that dividend income should be completely exempted from tax to provide relief to companies so that they have additional funds available to be utilized in productive channels.

2.	Amendment Required In	Section 21 (l) and (m)
	Nature of Amendment	Upward Revision in limit of single banking transaction related to business and salary payments for Inflation Adjustments

Under Clause 21 (l) of Income Tax Ordinance, 2001, deduction has not been allowed in computing income of a person under the head of "Income from Business" for any expenditure on a single account transaction which exceeds Rs. 50,000/-, showing transfer of amount from business bank account of taxpayer. Similarly, under Clause 21 (m), deduction is also not allowed on any salary paid or payable exceeding Rs. 15,000/- per month, other than by a crossed cheque or direct transfer of funds to the employee's bank account.

ICMA Pakistan feels that considering the current level of inflation, the above ceilings on single transaction may be revised upward to atleast Rs. 150,000/- and that for monthly salary payments to Rs. 25,000/- to provide some relief to the business and salaried class persons.

3.	Amendment Required In	Section 59AA and Section 59B
	Nature of Amendment	Intra-Corporate Dividend should also be exempted from income tax to encourage formation of group companies

Currently, inter-corporate dividend within the group companies, entitled to group taxation under section 59AA or section 59B of Income Tax Ordinance, 2001, is exempt from levy of tax.

ICMA Pakistan is of the view that intra-group dividend should also be exempted from income tax as it would encourage group formation in the corporate sector. If this is not done, this would lead to double taxation, at company and group levels. It is also suggested that in addition to locally registered companies, this tax exemption facility on intra-corporate dividend may be also extended to foreign subsidiaries of the group.

4.	Amendment Required In	Section 104(2)
	Nature of Amendment	Treatment of 'Foreign Losses' is contrary to the concept of global taxation and it may be omitted from Income tax ordinance

As per Section 104(2) if the total deductible expenditures incurred by a person in deriving foreign-source income exceeds the total foreign source income for a tax year chargeable to tax under a head of income, the resulting 'foreign loss' shall be carried forward to the following tax year and set off against foreign source income chargeable to tax under that head in that year.

ICMA Pakistan is of the view that Section 104(2) is contrary to the concept of global taxation and as such it should be done away with from the Income Tax Ordinance. It may be added here that there was no such restriction in the repealed Income Tax Ordinance, 1979.

5.	Amendment Required In	Section 113 (2b)
	Nature of Amendment	Minimum Turnover Tax may be charged on Gross Profit and it should also brought down to previous level of one-half percent

Sub-section 2(b) of Section 113 of Income Tax Ordinance relates to minimum turnover tax rate to be paid as income tax for the tax year by a person having turnover of Rs. 50 million or above. Through the Finance Act, 2013, the turnover tax was increased from 0.5% to 1 percent.

It is proposed that the minimum turnover tax be brought to the previous level of one-half i.e. 0.5% and it should be levied on gross profit (Turnover less Cost of Sales). This would help the companies driven on volume with nominal margins to make further investments and expand business, thereby increasing their contributory share to the national economy.

6.	Amendment Required In	Section 114
	Nature of Amendment	Requirement of approval of Commissioner for revision of return should be mandatory only in case of decrease in tax liability

Through the Finance Act 2013, a new clause (ba) was inserted in sub-section 6 of Section 114 of ITO 2001 whereby it was made necessary for tax payer to submit a written approval of the Commissioner at the time of filing revised income tax return, along with the revised audited accounts and the reasons for revision of return in writing.

It is suggested that the requirement for getting approval of Commissioner for revised return should be made mandatory only in case of decrease in tax liability and not for other conditions (such as in case of small error of mistake in annual income tax return). This would facilitate and save precious time of the taxpayers in getting the approval of the Commissioner.

7.	Amendment Required In	Section 122(4)
	Nature of Amendment	Further Amendment of Assessment Order may not be allowed to bring certainty to tax payers' affairs

As per Section 122 (4), the Commissioner has been authorized to make further amendments (as many time as may be necessary) in the original amended assessment order, within prescribed time limit, which creates uncertainty in the tax payers affairs.

It is suggested that once an assessment order has been passed by the Commissioner, further amendment should not be made unless there is some genuine concern of the tax payer.

8.	Amendment Required In	Section 130 (4)
	Nature of Amendment	Cost and Management Accountants should also be appointed as an Accountant member of Appellate Tribunal

Through Finance Act, 2013, an amendment was made in sub-section (4) of Section 130 of ITO 2001 by inserting a new clause (c) which allows a Chartered Accountant, having not less than ten years of professional practice, to be appointed as an accountant member of an Appellate Tribunal. Previously, Subsection (4) of Section 130 only allowed an officer of Inland Revenue Service (equivalent to the rank of Regional Commissioner); or a Commissioner Inland Revenue or Commissioner Inland Revenue (Appeals), having at least three years' experience as Commissioner or Collector, to be appointed as an accountant member of Appellate Tribunal.

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ICMA Pakistan strongly feels that the practicing Cost and Management Accountants should have also been included in the above clause having equivalency as provided in other provisions of the taxation laws. Cost Accountants having equally recognized qualification should be given equal opportunity as provided in other sections of all the taxation laws.

Accordingly, the sub-section (c) of Section 130 (4) should be amended as follows:

Section 130

4) A person may be appointed as an accountant member of an appellate tribunal if,—

(c) a person who has, for a period of not less than ten years, practiced professionally as a chartered accountant within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961) or a Cost and Management Accountant within the meaning of the Cost and Management Accountants Act, 1966 (XIV of 1966).

9.	Amendment Required In	Section 138
	Nature of Amendment	Tax Recovery Procedure should be made lenient and the element of harassment to taxpayers should be removed

Under sub-section (2) of Section 138 of ITO 2001, the Commissioner has been authorized that in case of non-recovery of taxes within specified time, he may proceed to recover the said amount either by attachment and sale of any movable or immovable property of taxpayer or appointment of a receiver for property management or arrest the tax payer and detain him in prison for a period not exceeding six months. This procedure seems quite authoritative and gives unlimited powers to the tax authorities with possibility of misuse or harassment.

ICMA Pakistan is of the considered view that Section 138 should be amended so as to make the tax recovery procedure lenient and free from any possibility of harassment or misuse by the tax authorities. Secondly, the recovery proceeding should not be initiated against a tax payer in case he has filed an appeal before the Commission Appeal.

10.	Amendment Required In	Sub-Section 7 (i) of Section 153 – Definition of Prescribed Person
	Nature of Amendment	This provision be eliminated from definition of prescribed person

Through the Finance Act, 2013, a new Clause (j) was inserted in sub-section 7 (i) of Section 153 of Income Tax Ordinance, 2001 which included 'a person registered under the Sales Tax Act, 1990' in the definition of a 'Prescribed Person' as defined under Section 153 of IT Ordinance, making payment for goods, services and contracts, including advance payment to a resident person or for the sales of goods or for rendering of or providing of services or on execution of a contract.

As small traders having low turnover are also registered under the Sales Tax Act, 1990 just to secure business from public and private sector organizations, as such it is suggested that this provision should be eliminated from the definition of a prescribed person in the Finance Act, 2014.

11.	Amendment Required In	Section 165
	Nature of Amendment	Submission of monthly withholding statement should be done away with as the required information already provided in CPR

Under Section 165 of ITO 2001, a withholding agent is required to file monthly statement to the Commissioner providing all the details on deduction of taxes from payments.

As the required information is mentioned in CPR, as such the requirement for submission of monthly withholding statement should be done away with, as it tantamount to repetition of information already submitted to the tax authorities at the time of payment of withholding tax.

12.	Amendment Required In	Section 176
	Nature of Amendment	Monitoring should not be carried out in isolation unless the tax payer is selected for the audit

Under Section 176, the Commissioner has powers to issue written notice to any taxpayer to furnish information or evidence or attend in person for examination on oath.

It has been observed that tax authorities issue notice of monitoring of withholding tax under Section 176 to any person who is not even selected for audit under Section 177. In that case, two different tax officers issue notices at the same time, which creates difficulty for taxpayers to comply both the notices.

It is, therefore, proposed that the monitoring of withholding tax should not be carried out in isolation unless tax payer is selected for the audit.

13.	Amendment Required In	Section 176
	Nature of Amendment	The words ‘ a firm of Cost and Management Accountants’ has been omitted in sub-section (c) of Section 176 – may be inserted

Under sub-section (c) of Section 176, it has been stated that “the firm of Chartered Accountants, as appointed by the Board or Commissioner to conduct audit under Section 177, for any tax year, may with the prior approval of the Commissioner concerned, enter the business premises of a taxpayer, to obtain any information, require production of any record, on which the required information is stored and examine it within such premises; and such firm may if specifically delegated by the Commissioner, also exercise the powers as provided in sub-section (4).”

It is pointed out here that through the Finance Act 2010, the words “or a firm of Cost and Management Accountants as defined under the Cost and Management Accountants Act, 1996 (XIV of 1966)” was inserted in sub-section 8 of Section 177 of the ITO 2001. However, it seems that the same was inadvertently omitted in the above sub-section (c) of Section 176.

Hence, it is suggested that sub-section (c) of Section 176 may be re-phrased as under:

“the firm of Chartered Accountants or the firm of Cost and Management Accountants, as appointed by the Board or Commissioner to conduct audit under Section 177, for any tax year, may with the prior approval of the Commissioner concerned, enter the business premises of a taxpayer, to obtain any information, require production of any record, on which the required information is stored and examine it within such premises; and such firm may if specifically delegated by the Commissioner, also exercise the powers as provided in sub-section (4)”.

14.	Amendment Required In	Section 177
	Nature of Amendment	Proper audit procedure be adopted and audit proceeding should be conducted by expert staff to facilitate the tax payers

Sub-section (6) of Section 177 gives powers to the Commissioner to amend the assessment order under sub-section (1) and sub-section (4) of Section 122 related to 'Amendment of Assessments'.

It has come to the notice of ICMA Pakistan that the tax authorities, while finalizing the audit proceedings or amendments under the above Sections 122 and 177, respectively, make unjustified additions to the income of a taxpayer, thereby enhancing his tax liability. Such additions are, however, reversed after going through the appellate process. The whole exercise creates problems both for the taxpayers and for the tax department. Therefore, such actions should be avoided.

It is suggested that proper audit procedure should be adopted and the audit proceedings should be conducted by expert staff, hired by FBR. This would facilitate the tax payers.

15.	Amendment Required In	Section 181B
	Nature of Amendment	Scope of Taxpayer's Privilege /Honour Card should be broadened to include individuals paying income tax of more than Rs. One lac

In pursuance of the provision of Section 181B inserted in the IT Ordinance through the Finance Act, 2012, the FBR as part of Prime Minister Tax Incentive Package, introduced a Taxpayers' Privilege and Honour Card Scheme under which cards were to be issued to top one hundred taxpayers in categories of salaried individuals, non-salaried individuals, association of persons and companies. A final list of such taxpayers has been published by the FBR.

ICMA Pakistan appreciates this initiative which would encourage the non-tax payers to come forward and pay due taxes, resulting in increase in tax revenues for the FBR. It is suggested that FBR may consider to broaden the scope of this Scheme gradually by including individuals who are paying income tax of Rs. 100,000/-. In this connection, various categories like Gold, Silver and Platinum Cards may be introduced with varied benefits as per the amount of tax paid.

16.	Amendment Required In	Section 231A and 231AA
	Nature of Amendment	Advance tax of 0.3% collected on bank transaction should be abolished to bring more funds into the banking channel

Section 231AA prescribes deduction of advance tax at the rate of 0.3% on a bank transaction worth Rs.25,000/= and above in a day whereas Section 231A prescribes advance tax rate of 0.3% on cash amount withdrawn in a day worth Rs. 50,000/- and above.

ICMA Pakistan strongly recommends to abolish this provision of collecting 0.3% advance tax on bank transactions as the government does not earn any significant additional revenue from this tax because tax deducted is adjusted against the tax liability if the taxpayer. Secondly, this provision also discourages opening of banks accounts and inflow of funds into the banking channel.

17.	Amendment Required In	Section 236G
	Nature of Amendment	Provision for advance tax collection from distributors be withdrawn

Under Section 236G, every manufacture or commercial importer of electronics, sugar, cement, iron and steel products, fertilizer, motorcycles, pesticides, cigarettes, glass, textile, beverages, paint or foam sector, at the time of sale to distributors, dealers and wholesalers, shall collect advance tax at the rate of 0.1% of the gross amount of sales from the above persons.

ICMA Pakistan suggests that this provision should be withdrawn as 0.1% tax on distributors is many times higher than their actual liability. It should be restricted to those distributors only who are not registered under the Sales Tax Act, 1990.

18.	Amendment Required In	Clause (i) in Division II, Part I of First Schedule of IT Ordinance
	Nature of Amendment	Corporate tax rate may be reduced to 30% in 2015 and annually by 1% to bring it a par with the region and attract more investments

As per Clause (i) given in Division II, Part 1 of First Schedule of IT Ordinance, the rate of tax imposed on taxable income of a company for tax year 2007 and onwards was set at 35 percent. However, through Finance Act, 2013, a provision has been added in this clause whereby the rate of tax has been reduced to 34% for the tax year 2014. The Finance Minister assured that this would be eventually brought down to 25% by reducing it by 1% every year.

It is a fact that the average tax rate on corporate incomes in the Asian region is less than 23%, whereas in Europe it is less than 21%. The global average of corporate tax rate is 24%. In case of Pakistan, the corporate sector, other than the banking companies, has to face multiplicity of taxes due to which, in addition to 34% normal tax, it has to pay additional 2% on account of Workers Welfare Fund (WWF) and 5% for Workers Participation Fund (WPF)- which increases the tax rate on corporate income to 42 percent, which is quite high as compared to countries in the region. Even China has brought down the corporate tax rate to attract more investment.

ICMA Pakistan strongly suggests that the government should consider to bring down the corporate tax rate to 30% in the next fiscal year i.e. 2014-2015 and reduce it gradually to 25% in during next five years. This proposal is long pending and the tax collectors and taxpayer have common opinion that the tax rate should be brought down to the regional average level so that the Pakistani companies can prosper and bring more investments into the industries. This would also lead to corporatization, improve tax compliance and reduce tax evasion.

19.	Amendment Required In	Clause 58(A) of Part-I of Second Schedule of IT Ordinance
	Nature of Amendment	Public Sector Universities should also be allowed tax exemption as they use their income for educational purposes only

Through the Finance Act, 2013, a new Clause 58(A) was inserted in Part 1 of Second Schedule of ITO 2001, whereby tax exemption has been allowed on income of a university or other educational institution being run by a non-profit organization, existing solely for educational purposes and not for purposes of profit. This provision, however, does not provide any tax relief to those public sector universities which are being operated by the Federal and provincial governments and duly recognized by the Higher Education Commission of Pakistan. These public sector universities are not engaged in any profit making activities and are also not involved in distribution of dividend / profit in any manner.

ICMA Pakistan suggests that appropriate amendment be made in clause 58(A) so as to allow the public sector universities as well to avail tax exemptions, which would result in availability of additional funds (that otherwise have been paid as taxes) to be used for educational purposes.

20.	Amendment Required In	Clause 1(A) of Part-III of Second Schedule of IT Ordinance
	Nature of Amendment	Tax exemption upto Rs. one million to Senior Citizen - Income over Rs. 1 million should be charged tax to increase tax recovery

The taxable income of a senior citizen (aged 60 years or more) has been given rebate/ exemption of 50% (w.e.f. 1st July 2010) provided the income does not exceed Rs. one million.

As per above provision, if the income of senior citizen exceeds Rs. one million, it is subject to tax. Due to this the taxpayer conceals the income exceeding Rs. one million to evade income tax.

It is suggested that income tax should be charged over and above Rs. one million. This would be more easy for the taxpayer to pay some amount of tax at prescribe rate instead of concealing the money. This measure for help the government to improve tax collection.

21.	Amendment Required In	Clause 2 of Part-III of Second Schedule of IT Ordinance
	Nature of Amendment	75% Tax rebate for teachers and researchers should be restored

Tax exemption/ rebate of 40% on taxable income from salary has been allowed to a full time teacher or a researcher, employed in a non profit education or research institution, Board of Education or a University recognized by the HEC, including government training and research institution. Earlier, the tax rebate was 50% on taxable income of teachers and researchers but through Finance Act 2013, this has been reduced to 40 percent. This has been termed as an anti-education measure by the education sector as well as the research-based organizations.

ICMA Pakistan recommends that tax rebate to teachers and researchers should be brought to previous level of 75% in consonance with government' policy to promote education and research in the country.

Proposed Addition of New Sections 63A and 63B in Income Tax Ordinance, 2001 to provide relief to the Salaried taxpayers

1.	New Section Proposed	New Section 63A proposed to be inserted in IT Ordinance
	Brief of Proposal	Tax Credit may be allowed on educational expenditure of Self or dependent children to provide relief to Salaried Class

Previously under Clause (2E) of Part IV of First Schedule to the repealed Income Tax Ordinance 1979, a reduction in tax payable of an assessee was allowed, equal to five percent of expenditure on education of dependent children subject to maximum of Rs. 30,000/= per child subject to production of receipt bearing NTN of educational institution. However this tax reduction facility was subsequently withdrawn in the Income Tax Ordinance, 2001.

Since the salaried people represent the only class in this country who pay their income tax honestly, therefore just to provide them some relief and to reduce their hardships due to current high inflation, ICMA Pakistan feels that they may be allowed a tax credit on expenditure on education of self or their dependent children. For this purpose, a new Section 63A is proposed to be inserted in the Income Tax Ordinance, 2001.

63A. *Expenditure on education of self or dependent children.— (1) Any resident person deriving income chargeable to tax under the head “Salary” shall be entitled to a tax credit for a tax year in respect of any expenditure on education of self or his dependent children incurred in the year by the person.*

(2) The amount of a person’s tax credit allowed under sub-section (1) for a tax year shall be computed according to the following formula, namely: —

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

Where.-

A is the amount of tax assessed to the person for the tax year, before allowance of any tax credit under this Part;

B is the person’s taxable income for the tax year; and

C is the lesser of —

(i) the total expenditure on education of self or his dependent children referred to in sub-section (1) paid by the person in the year; or

(ii) Ten percent of the salaried person’s taxable income for the relevant tax year;

Provided that the receipt of such expense bears National Tax Number of the educational institution.

2.	New Section Proposed	New Section 63B proposed to be inserted in IT Ordinance
	Brief of Proposal	Tax Credit may be allowed on actual expenditure incurred on Utilities to provide relief to Salaried Class

Previously as per Clause (38) of Part I of Second Schedule to the Income Tax Ordinance 2001, exemption was granted on utility allowance upto ten percent of basic salary of the tax payer. However, subsequently, this exemption was withdrawn through Finance Act, 2006.

Since the salaried people represent the only class in this country who pay their income tax honestly, therefore just to provide them some relief and to reduce their hardships due to current high inflation, it is suggested that they may be allowed a tax credit on their actual expenditure on account of utilities (i.e. electricity, gas, telephone and water bills).

63B. *Expenditure on account of utilities.— (1) Any resident person deriving income chargeable to tax under the head "Salary" shall be entitled to a tax credit for a tax year in respect of any expenditure on account of utilities (electricity, gas, telephone and water) incurred in the year by the person.*

(2) The amount of a person's tax credit allowed under sub-section (1) for a tax year shall be computed according to the following formula, namely: —

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

Where.-

A is the amount of tax assessed to the person for the tax year, before allowance of any tax credit under this Part;

B is the person's taxable income for the tax year; and

C is the lesser of —

(i) the total expenditure on account of utilities (Electricity, Gas, Telephone and Water) referred to in sub-section (1) paid by the person in the year; or

(ii) Ten percent of the salaried person's taxable income for the relevant tax year.

Proposed Amendments in Sales Tax Act, 1990

1.	Amendment Required In	Section 2- Definition
	Nature of Amendment	Definition of 'Time of Supply' may be rephrased

The 'Time of Supply' has been defined under sub-section 44(a) of Section 2 (Definitions) as " a supply of goods, other than under hire purchase agreement, means the time at which the goods are delivered or made available to the recipient of the supply".

Since the mechanism has not yet been defined as per Budget 2012-13, as such it is suggested that in sub-section (a), after the words "recipient of the supply", the words "or the time when any payment is received by the supplier in respect of that supply, whichever is earlier" shall be inserted. The previous law should be restored as no mechanism has yet been defined as per budget 2013-14

2.	Amendment Required In	Section 3 – Scope of Tax
	Nature of Amendment	Sale Tax rate may be brought down to 12.5% in 2015 and finally to 10% to reduce cost of doing business and provide relief to people

Under sub-section (1) of Section 3 of the Sales Tax Act 1990, the sales tax is to be charged at the rate of 17% of the value of taxable supplies made by a registered person and on goods imported into Pakistan.

ICMA Pakistan strongly suggests to bring down the sales tax rate initially to 12.5% in 2015 and gradually to 10% in order to reduce the cost of doing business and also to provide relief to the common people who are hit by rising inflation. The reduction in sales tax rate will bring the following benefits:

- a) Unregistered persons will opt to get registered so as to avail benefit of input adjustment
- b) Undocumented sector will come under the tax net
- c) Boost the economic activity
- d) Control rising inflation, especially of essential commodities
- e) Minimize sales tax evasion resulting in more revenue for the government

3.	Amendment Required In	Section 8 (1) (ca) - Tax Credit not allowed
	Nature of Amendment	This provision should be eliminated as it makes a registered person liable for failure to deposit sales tax on the part of buyer

Under Section 8 (1) (ca) of the Sales Tax Act, 1990, a registered person has not been entitled to reclaim or deduct input tax paid on the goods or services in respect of which sales tax has not been deposited in the Government treasury by the respective supplier.

ICMA Pakistan is of the view that this provision of Sales tax act is highly unreasonable as it makes the registered person (buyer) liable to ensure deposit of sales tax into government treasury by the seller. The Lahore High Court has already passed a judgment in D.G. Khan cement case that Section 8(1)(ca) of the Sales Tax Act, 1990 violates the constitution of Pakistan. In view of this, FBR may eliminate this section from the Sales Tax Act.

4.	Amendment Required In	Section 8A – Liability of Registered Person in Supply Chain
	Nature of Amendment	Registered Purchaser should not be held liable for non-payment of sales tax by the Seller and this Section 8A may be deleted

Under Section 8A, a registered person (purchaser) has also been made liable in case of non-payment of sales tax by the seller of goods from whom the registered person has purchased. This provision is inequitable and discriminatory in nature as 'a person is penalized for an offence not committed by him'. In fact, after verifying the seller's status at the time of purchase, it is not the responsibility of the purchaser to monitor his future acts and offences.

ICMA Pakistan, therefore, proposes that this provision may be deleted from the Sales Tax Act.

5.	Amendment Required In	Section 8B - Adjustable Input Tax
	Nature of Amendment	Full tax adjustment should be allowed to all taxpayers

Under Section 8B, a registered person has not been allowed to adjust input tax in excess of ninety percent (90%) of the output tax in a tax period. However, tax charged on acquisition of fixed assets can be adjustable against the output tax in twelve equal monthly installments.

This provision in the Sales Tax Act creates discrimination as distributors are exempt whereas the wholesalers are not exempted. It is, therefore, proposed that full tax adjustment should be allowed to all tax payers and 100% carry forward be allowed in case of input exceeding output in a tax period through amendment in Section 8B as well as Section 10 of the Sales Tax Act, 1990.

6.	Amendment Required In	Section 26 - Return
	Nature of Amendment	Requirement for Commissioner's approval to file revised sales tax return should be done away in case of no decrease in liability

As per Section 26, a registered person is required to obtain approval of Commissioner Inland Revenue to file a revised return to correct any omission or wrong declaration made in the original sales tax return.

The above provision creates hardship for the tax payer as even in case of a small clerical mistake in the return, he has to go through the whole process of not less than audit to get the permission for revision.

It is suggested that requirement for Commissioner's approval for revised return should be made easy in cases where no refund is enhanced or no liability is decreased to avoid hardship for registered person.

7	Amendment Required In	Section 40B – Posting of Inland Revenue Officer
	Nature of Amendment	Normal mechanism be adopted in case of tax evasion or fraud

Section 40B authorizes the FBR or the Commissioner to post officer of Inland Revenue to the premises of registered person or class of such persons, to monitor production, sales of taxable goods and the stocks position, in case there is any material evidence of tax fraud or sales tax evasion against the person.

ICMA Pakistan feels that this provision may lead to misuse of power or authority and undue harassment by the tax authorities. As such, it is proposed that normal mechanism be adopted if the tax department realizes that proper tax is not being paid by the registered person.

8	Amendment Required In	Third Schedule – Sales Tax Act 1990
	Nature of Amendment	Cement should be excluded from the Third Schedule

Through the Finance Act 2013, several items, including cement, has been added (Sr. 22 to 30) in the list of 21 items already mentioned under the ‘Third Schedule’ of the Sales Tax Act, 1990. The inclusion of cement in third schedule has resulted in increase in retail prices of cement in local market and additional tax burden on the cement manufacturers.

ICMA Pakistan suggests that cement should be brought under the normal sales tax regime by removing this head from the third schedule of Sales tax Act 1990. This would help the cement manufacturers to reduce price for the retail market that would give boost to the construction activity in the country. Federal Excise on cement should also be abolished.

Proposed Amendments in Sales Tax Rules, 2006

1.	Amendment Required In	Rule 17
	Nature of Amendment	Requirement for filing annual sales tax return should be abolished

Under Rule 17 of Sales Tax Rules, 2006 read with Section 26 (1) of Sales Tax Act, 1990, every registered private or public limited company is required to file annual sales tax return with the Collector.

It is proposed that the requirement for filing annual sales tax return under Rule 17 should be done away with as the companies already file monthly returns electronically and this would tantamount to be duplication of data submission by the taxpayer. Under Section 26 of ST Act as well it has been provided that the ‘..... return filed electronically on the web or any magnetic media or any other computer readable media shall also be deemed to be a return....’

2.	Amendment Required In	Rule 36
	Nature of Amendment	Post-sanction audit of refund claims be made with consultation

Under Rule 36 of Sales Tax Rules, 2006 the officer-in-charge, after disposing of the refund claims, forwards the relevant file to the Post Refund Audit Division for post-sanction audit and scrutiny which also includes verification of input tax payment by the respective suppliers.

It is suggested that post-sanction audit should be conducted on the basis of parameter mutually decided in consultation with all the stakeholders. Secondly, the processing time for outstanding refund claim should be reduced to 30 days as it would improve the working capital position of exporters, especially exporters of textile products, who are availing the maximum benefit of GSP Scheme.

Abolishing / Amending Unnecessary SROs / Notifications

1.	SRO #	SRO 904 dated 8th October, 2013
	Nature of SRO	Income Support Levy should be withdrawn as it is discriminatory in nature and tantamount to double taxation on individuals and companies

Through the Finance Act, 2013, an 'Income Support Levy' was introduced, the rules of which were notified vide S.R.O. 904(I)/2013 dated 08 October 2013 has notified the rule for payment of this levy. This levy is to be paid by every individual, having net movable assets exceeding Rs.1 million, through wealth statements. Infact, this levy is not part of the income tax law, rather it is a separate and independent law and introduced by the government to generate resources for providing financial assistance and other social protection measure to economically distressed persons and their families.

ICMA Pakistan recommends to immediately withdraw the 'income support levy' as it is discriminatory in nature as it double tax the existing taxpayers who have already paid tax on their income and savings out of the said taxed income, which are again being taxed. Secondly, instead of broadening tax net, it has over burdened the existing taxpayers. This would also discourage savings and deposits in banks and national Savings Schemes and encourage investment in land and other immovable assets.

2.	SRO #	SRO 450 dated 27th May 2013
	Nature of SRO	Making further amendment in SRO 490 dated 12th June 2004

Through SRO # 450 dated 27th May 2013, further amendment was made in previous SRO # 490 dated 12th June 2004, whereby, in addition to other items, building materials including cement, bricks, paints, varnishes, distempers etc were also added in the list of items on which input tax cannot be claimed by a registered person, unless otherwise acquired as 'stock in trade'.

ICMA Pakistan recommends that SRO 450 should be abolished so that the registered person can claim input tax on construction items which would give impetus to the construction activity, especially in the textile industries which are improving their infrastructure to get maximum benefit from GSP Scheme. This would also help bring down the cost of doing business.

3.	SRO #	SRO 497 dated 12th June 2013
	Nature of SRO	Making further amendment in SRO 567 dated 5th June 2006

Through SRO # 497 dated 12th June 2013, further amendment was made in previous SRO # 567 dated 5th June 2006, whereby, a sentence was added in heading 'D' of SRO 567 that 'the exemption under this heading shall be available to the Pharmaceutical sector as per requirements determined by the IOCO'. This notification has been applicable w.e.f. 13th June 2013.

Pharma Industry imports high quality items e.g. printed aluminum foils, glass vials, bottles and rubber plugs etc. After enforcement of SRO 497, the custom authorities are demanding 'IOCO Certificates' due to clearance of shipments are delayed and importers have to pay heavy demurrages. The procedure for getting certification is also lengthy and require physical inspection/audit to be performed by FBR.

ICMA Pakistan recommends that the requirement for getting IOCO certificate should be done away with so that importers of pharma products are relieved from this unnecessary and futile exercise of obtaining the certificate and paying heavy port demurrages.

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