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BUDGET BRIEFING 2016

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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 This should not be published in any manner without the Firm's consent.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, 2016 (the Bill) in the Income Tax Ordinance, 2001 (the Ordinance), the Sales Tax Act, 1990 (the ST Act), the Customs Act, 1969 (the Customs Act) and the Federal Excise Act, 2005 (the FE Act) in a concise form sufficient enough to amplify the important aspects of the changes proposed to be made. 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, 2016, shall, with or without

modification, become effective from the tax year 2017, 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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Income-tax

- Builders and developers to pay tax based on area of constructed and/or developed commercial or residential buildings and plots. Tax so paid constitutes full and final discharge of tax liability of builders and developers
- Individuals and association of persons now to pay tax on gross rental income from property at the specified rates with a maximum rate of 20% on income exceeding Rs.2,000,000
- Availability of tax credit under Section 65D and 65E to new and already established industrial undertaking extended up to 30 June, 2019. Further, condition of 100% equity investment has been relaxed to 70% thereby allowing long term debt financing up to 30%
- Common deductions to be apportioned under Section 67 to include allowances as well as expenses
- Value of an asset for the purposes of determining stamp duty to be disregarded in determining the fair market value
- Transfer pricing documentation now made mandatory for all transactions between associates
- Definition of a company now includes foreign trust
- Super tax is proposed to be extended for a further period of one year to tax year 2016. For the computation of income for levy of super tax, depreciation and business losses shall not be taken into account
- Disallowance due to non-deduction of tax on specified expenses is proposed to be expanded to all expenses. Disallowance however not to exceed 20% of expenses representing purchase of raw materials and finished goods
- Expenditure incurred by a pharmaceutical manufacturer in respect of sales promotion, advertisement and publicity not to exceed maximum of 5% of turnover
- Depreciation of building, furniture, plant or machinery used by exempt business, shall be deemed to have been allowed. After expiration of the exemption period, the WDV of such asset to be derived after taking effect of the deemed depreciation
- Derivative includes future commodity contracts entered into by the members of the Pakistan Mercantile Exchange
- Restrictions proposed on the quantum of loss that can be surrendered to another group company for the purpose of group relief
- Inter-corporate dividend no longer exempt for group companies that are entitled to group relief
- Tax credit proposed to a resident person (other than a company) in respect of health insurance premium or contribution paid to any insurance company registered with the SECP
- Additional contribution to an approved pension fund of 2% per annum for person joining a pension fund for each year of age exceeding 40 years, restricted up to the year ending 30 June 2019. Overall limit of allowable contribution reduced from 50% to 30% of the previous year's taxable income
- Threshold of deductible allowance against profit on debt paid by a person on a housing loan enhanced from Rs.1 million allowed to the lower of 50% of the taxable income or Rs.2 million
- Deductible allowance for education expenses comprising tuition fee paid by an individual whose taxable income is less than Rs.1 million in the year proposed
- Eligible period for tax credit for employment generation by a manufacturer for setting up a new manufacturing unit extended up to 30 June 2019. It is further proposed that the rate of tax credit at 1% be enhanced to 2%
- Tax credit available to a manufacturer registered under the Sales Tax Act, 1990 of 2.5% of tax payable for a tax year if 90% of the sales are made to registered persons proposed to be enhanced to 3%
- Tax credit to a company enlisted on stock exchange during a tax year of 20% of the tax payable in the year of enlisting proposed to be available for the following tax year as well
- Tax credit for investment in purchase of plant and machinery for the purpose of extension, expansion and BMR extended up to 30 June 2019
- Individuals and AOPs having turnover of Rs.10 million or above in the tax year 2017 to pay minimum tax under section 113 of the Ordinance
- Companies declaring gross loss before depreciation and other inadmissible expenses are required to pay minimum tax

- Super tax paid under section 4B not to be included in "tax payable or paid" for the purpose of minimum tax under section 113 of the Ordinance
- ACT proposed to be considered for working out advance tax liability
- Withholding tax @ 20% to apply on payments to non-resident person for foreign produced commercials on television channel
- Withholding tax on payment to electronic and print media for advertisement services enhanced to 1.5% in case of filers and made a final tax
- The excess tax collected from a non-filer as compared to the rate applicable to a filer is proposed to be made adjustable where such tax is a final tax
- Penalty proposed for non-filing of statement required to be filed under section 165B by the financial institutions including banks
- For the purpose of tax collection on cash withdrawals and collection of tax from non-cash transactions of non-filers, aggregate cash withdrawals of Rs.50,000 in a single day would be considered. This limit is to be reckoned on all bank accounts of the account holder
- Leasing Company, Schedule Bank, Investment Bank, DFI or a Modaraba required to collect advance tax from non-filers @ 3% of the value of motor vehicle at the time of lease of vehicle
- Advance tax from seller of immovable property not to apply where the property was held for a period of more than 5 years
- Collection of tax from non-filers on insurance premium proposed
- Advance tax of 5% to apply on royalty collected from non-filer lease holders of mines or any persons extracting minerals
- Provincial sales tax authorities required to collect 3% advance tax from a non-filer who is a provincial sales tax registered person
- The 0% rate on disposal of securities held for a period exceeding 48 months is proposed to be withdrawn. However, any security acquired before 01 July, 2012 and held for more than 24 months is proposed to be taxed at 0%.
- The taxability of sale of immovable property has been proposed to be extended from 02 years to 05 years. Accordingly, where the holding period of immovable property is less than 05 years, it is proposed that capital gain tax at 10% is charged.

The First Schedule

- The rate of advance tax applicable on non-filers under various sections has been enhanced.
- It is proposed that the withholding tax on supplies by distributors of fast moving consumer goods is reduced to 3% for corporate entities and 3.5% for non-corporate entities.
- The rate of tax on commission earned by life insurance agents under Section 233 is proposed to be reduced to 8% where such commission is less than Rs.0.5 million per annum.

The Second Schedule

Part-I

- Exemption from tax on income earned from Gawadar Port operations and levy of minimum tax to certain companies. Further, exemption from tax on dividend received from certain companies by China Overseas Ports Holding Company Limited and China Overseas Ports Holding Company Pakistan (private) Limited.
- Exemption from tax for a period of 23 years from business set up in Gawadar Free Zone Area.
- Exemption from tax for 23 years to contractors or sub-contractors of certain companies earning income from Gawadar Port operations. Further, exemption from tax on profit on debt is also provided for financing China Overseas Ports Holding Company Limited.
- Conditional extension in period of exemption to income arising from export of computer software and other IT services.

Part-II

- Significant increase in rate of tax of services rendered and construction contracts executed outside Pakistan.

Part-IV

- Withdrawal of exemption from minimum tax to Large Trading Houses and levy of minimum tax on them at a reduced rate.
- Audit under Section 214C has been proposed to be made mandatory for obtaining exemption certificate under Section 148.

- Extension in period of commencement of commercial production to 30 June 2019 to avail exemption for tax for investment in Greenfield industrial undertakings.
- Specified companies granted exemption from minimum tax on services extended up to the tax year 2017.

The Fourth Schedule

- Insurance companies taxable on dividend income and capital gain on disposal of securities at the corporate tax rates.

The Eighth Schedule

- Capital gains on disposal of units of open ended mutual funds is to be computed and determined under the Eighth Schedule.

Sales Tax

- Enhancement in the exemption threshold for Cottage Industries
- Amendment in the definition of due date
- Omission of Provincial sales tax levied on services from the definition of Input Tax
- Change in the time and manner of payment of sales tax
- Change in requirement of claim of input tax
- Tax credit not allowed if the same is not in line with the new filing system of the sales tax return
- Provisions for assessment and recovery on account of short payment of sales tax withholding
- Expansion in the scope of exemption relating to any matter of International Financial Institutions or Foreign Government owned financial institutions
- Omission for filing of special sales tax return where the rate of tax has changed in a tax period
- Expansion in the scope of general offence and penalties
- Transfer of taxable activity or transfer of ownership
- Confidentiality on disclosure of information by a public servant

- Mineral/ bottled water are subject to sales tax on retail price
- Stationery, milk and fat filled milk are proposed to be omitted from the Fifth Schedule
- Import or local supply of materials and equipment for construction and operation of various projects at the Gwadar ports exempted
- Various goods inserted in the Sixth Schedule including laptops, pesticides etc
- Rates of sales tax on ingredients of poultry feed , cattle feed etc. enhanced from 5% to 10%
- Insertion of white crystalline sugar and urea in the Eighth Schedule
- Rates of sales tax enhanced on import of mobile phones.

Islamabad Capital Territory (Tax on Services) Ordinance, 2001

- Certain provisions of Sales Tax Act, 1990 are proposed to be inserted to apply *mutatis mutandis* under this law
- Regulatory and licensing services rendered or provided by an organization established by or under a Federal Statute proposed to be excluded from the ambit of service tax

Federal Excise Duty

- Change in due date and condition to claim adjustment of excise duty
- Certain amendments made in time and manner of payment of duty and filing of sales tax returns
- The power of the Federal Government to grant exemption from excise duty with the approval ECC of Cabinet to matters relating to any International Financial Institution or Foreign Government owned Financial Institution operating under a Memorandum of Understanding (MoU), agreement or any other arrangement with the Government of Pakistan
- Disclosure of information of foreign agreements of Government of Pakistan by Public Servant
- Rate of duty enhanced and modified on certain goods such as; aerated waters, cigarettes, cement

- Withdrawal of duty on certain excisable services which are already taxed under Provincial Sales Tax laws
- Withdrawal of duty on White Crystalline Sugar which is in VAT mode
- Exemption on levy of duty on operations of certain projects located at Gawadar Port
- Duty withdrawn on White Cement
- Restriction is placed on disclosure of any information acquired under any provision of FE Act and any information received or supplied in pursuance of bilateral or multilateral agreements with the government of foreign country
- The Bill proposes to substitute the present provision of Section 47B, whereby any information acquired under any provision of the FE Act will be confidential and no public servant shall disclose any such information except as provided under Section 216 of the Income Tax Ordinance, 2001

Customs

- Tariff slabs of First Schedule to be reduced from 5 to 4. New proposed slab rates, applicable to all goods other than vehicles, are 3%, 11%, 16% and 20%.
- Slab rates of 2% and 5% to be replaced with 3%.
- Fifth Schedule to the Customs Act relating to imports of plant and machinery reduced the customs duty rate from 5% to 2% on dairy, livestock and poultry and from 5% to 3% on certain other machineries and equipment.
- Customs duty is proposed at 0% on import of certain machinery and equipment of textile industry not manufactured locally.

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1. Tax on builders and developers
Sections 7C, 7D, 8, 113A and 113B Divisions VIII A and VIII B of Part 1 of First Schedule

Property builders and developers who are playing a major role in developing infrastructure and housing facilities in the country but it is felt that their contribution toward the government exchequer is comparatively less than what it should be. The Bill seeks to introduce new sections as one of the measures to collect tax from builders and developers.

The salient features of Sections 7C and 7D applicable to builders and developers respectively are as under:

- Tax shall be imposed on the profits and gains of a person deriving income from the business of construction and sale of residential, commercial or other buildings at the rates specified in Division VIII A of Part I of the First Schedule.
- Tax shall be imposed on the profits and gains of a person deriving income from the business of development and sale of residential, commercial or other plots at the rates specified in Division VIII B of Part I of the First Schedule.
- The tax shall be computed by applying the relevant rates of tax to the area of the residential, commercial or other buildings and plots for sale.
- The Board may prescribe:
 - a) the mode and manner for payment and collection of tax;
 - b) the authorities granting approval for computation and payment plan of tax; and
 - c) responsibilities of the authorities approving, suspending and cancelling no objection certificate to sell and the matters connected and ancillary thereto.
- This section shall apply to business or projects undertaken for construction and sale of residential, commercial or other buildings and development of plots initiated and approved after 01 July 2016.

The Bill also seeks to amend Section 8 whereby the tax paid under Sections 7C and 7D would constitute full and final discharge of tax liability of builders or developers as the case may be.

Whilst it is appreciated that the Government intends to collect due tax from these business sectors, it needs to be considered that the cardinal principle of taxing

income under the final tax regime remains that it is levied on an amount which is presumed to be income for this purposes. However, the manner in which the Bill proposes to introduce Sections 7C and 7D and make corresponding changes in Section 8 reflects that there is a substantial deviation from this recognized principle as there is no amount on which such tax is to be charged; rather tax is to be computed based on area of commercial or residential property being constructed or developed for sale. In our view, since the tax on builders and/or developers is based on area of the concerned property and not on amounts received, it is recommended that the legislature draftsmen should give due consideration to the principle of taxation under the final tax regime before enactment of the proposed new sections.

Following the proposed insertion of Sections 7C and 7D, the Bill proposes to omit Sections 113A and 113B, which imposed specific minimum tax on builders and land developers respectively. It should nonetheless be noted that the provisions of Section 113A stood deferred until 01 July, 2019 and are not, at present, effective.

2. Income from property derived by non-corporate taxpayers
Section 15 and 15A, Division VI A of Part 1 of First Schedule

Presently income from property is chargeable to tax on net income basis after claiming eligible deductions provided in Section 15A. Taxation of income from property has its unique features which comprises specific deductions not otherwise available to other heads of income. Conversely, deductions that are generally available to other heads of income like depreciation etc. are not eligible in case of income from property. The Bill now seeks to tax non-corporate taxpayers i.e. individuals and association of persons on account of income from property on a gross basis without allowing for any deduction against the gross rental income. The gross rent in the hands of individuals and association of persons is now proposed to be subject to tax at the rates specified in Division VI A of Part 1 of the First Schedule.

The Bill also suggests that an individual or association of persons who derives income from property which does not exceed Rs. 200,000 would not be chargeable to tax under this Section.

This effectively means that the income from property of a company remains chargeable to tax on a net income basis after claiming eligible deductions as provided in Section 15A.

3. Tax credit for newly established industrial undertaking
Section 65D

The Finance Act, 2011 introduced Section 65D with the objective of promoting and encouraging industrial investment in the country by the corporate sector. This Section allows a tax credit equal to 100% of tax payable to a company setup after 01 July, 2011 through 100% equity. The tax credit is available for a period of 5 years from the date of setting up or commencement of commercial production. The object is not to have any part of investment in the industrial undertaking to be debt financed.

The Bill now seeks to extend the availability of the tax credit to companies' setup until 30 June, 2019. Further the Bill proposes that the tax credit may be recouped if the business is discontinued in the subsequent 5 years after the credit has been allowed.

The Bill further proposes to relax the requirement of 100% equity investment by reducing the threshold of equity investment to 70% instead. Therefore, it appears that the intention of the law is to allow up to 30% investment through long term debt financing since short term financing is already permitted. However, the proposed wordings do not completely encapsulate this intention since no specific reference to long term debt financing has been made.

Following the proposed relaxation by allowing up to 30% investment through debt financing, the Bill now seeks to restrict the amount of credit by inserting a new Sub-section whereby the following formula for working out tax credit has been prescribed:

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

where–

- A is the amount of tax assessed to the person for the tax year before allowance of any tax credit for the tax year; and
- B is the equity raised through issuance of new shares for cash consideration.

It may be noted that the above formula appears to be flawed since it provides an absolute and very nominal denominator. For the sake of understanding if a person has a tax payable of Rs.100,000 and has raised equity of Rs.1,000,000, his tax credit under the proposed formula would amount to Rs.1 billion which seems to be an absurd result.

In our view, the intention of the proposed amendments is to restrict the credit only to the extent of the equity investment in circumstances where both equity and debt financing is utilized for investment.

Such an intention would be better captured by using the following formula:

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

where–

- A is the amount of tax assessed to the person for the tax year before allowance of any tax credit for the tax year;
- B is the equity raised through issuance of new shares for cash consideration; and
- C is the sum of the equity raised through issuance of new shares for cash consideration and long term debt financing.

It would, therefore, be suggested that the legislature draftsman revisits the proposed amendments in view of our above comments.

4. Tax credit for BMREE to already established industrial undertaking
Section 65E

In line with allowing a tax credit to a newly established industrial undertaking, Section 65E allows a similar tax credit to industrial undertakings established prior to 01 July, 2011 which invest through equity in new projects or balancing, modernization, replacement, expansion or extension (BMREE) of the existing plant and machinery.

The Bill now proposes to amend Section 65E along similar lines it had proposed for Section 65D. Accordingly, the time period for availability of the tax credit has been extended to 2019 and such credit may be recouped if the business is discontinued in the subsequent 5 years.

Furthermore, similar to the proposed amendments in Section 65D it has been proposed to relax the requirement of 100% equity finance investment to 70%. Consequently, the formula for determination of tax credit has been proposed.

In this context it may be noted that the flaws in the formula discussed above also exist in the proposed amendments to Section 65E and the same should be revisited in line with our earlier comments on Section 65D.

5. Apportionment of deductions *Section 67*

Section 67 read with Rule 13 of the Rules deals with apportionment of common expenses incurred by a taxpayer in deriving more than one source of income, including exempt income and income governed under the final tax regime.

In the past, there has been a difference of opinion between taxpayers and tax officials as to whether allowances, including depreciation, initial allowance, amortization of intangibles etc., would also be apportioned since, per se, the same does not constitute an expense in the true sense of the term. The appellate authorities had also a divergent view on the issue and whereas some decisions had favoured taxpayers not allowing apportionment of allowances, other appellate authorities had held otherwise and subscribed to the view point of the tax authorities and allowed apportionment of allowances.

The Bill now lays to rest this controversy in favour of the Revenue by substituting the word "expenditure" with the expression "expenditures, deductions and allowances". This would effectively mean that now all common deductions whether in the nature of an actual expenditure or an allowance would be apportioned amongst the various streams of income.

6. Fair market value *Section 68*

Presently where the fair market value of a particular asset cannot be easily determined, reference is made to the value of the asset determined for stamp duty or other similar purposes. However, it is a general perception that the values determined for stamp duty purposes do not generally correspond to the actual fair market values and are usually significantly lower.

In order to cater to this anomaly, the Bill now proposes to amend Section 68 so as to disregard the value fixed or notified by any provincial authority for the purposes of stamp duty or for any other purpose for determination of the fair market value.

7. Transfer pricing documentation *Section 108*

Presently, although the Ordinance prescribes general rules governing transfer pricing regulations for transaction between related parties, there is no requirement to mandatorily maintain any transfer pricing documentation, as is required in other countries.

In line with the growing global emphasis on the concept of Base Erosion and Profit Shifting (BEPS) and transparency in transactions between related parties, the Bill now proposes to introduce a requirement to maintain transfer pricing documentation in respect of all transactions undertaken with associates.

The Bill proposes the following amendments in Section 108:

- Every taxpayer who has entered into a transaction with its associate shall:
 - a) maintain a master file and a local file containing documents and information as may be prescribed;
 - b) keep and maintain prescribed country-by-country report, where applicable;
 - c) keep and maintain any other information and document in respect of transaction with its associate as may be prescribed; and
 - d) keep the files, documents, information and reports specified in clauses (a) to (c) for the period as may be prescribed.

Where information relating to such transaction is required by the tax authorities, a taxpayer is required to furnish the same within 30 days. However, an extension not exceeding 45 days may be obtained from the Commissioner unless there are exceptional circumstances justifying a longer extension.

Although the Bill does not provide a practical mechanism in relation to the requirements or the prescribed format for preparing the information, it is anticipated that these would be incorporated in the Rules. Furthermore, we expect that the requirements and prescribed format would, in all probability, be similar to the guidelines issued by the Organization for Economic Cooperation and Development (OECD) on transfer pricing documentation.

8. Company now includes foreign trust *Section 80*

The Bill proposes to insert an explanation to Clause (vb) of Sub-section (2) of Section 80 whereby it is clarified that trusts include foreign trusts.

By virtue of Clause (vb), trusts are included in the definition of a company, hence foreign trust may now also constitute a company for tax purposes.

9. Super tax for rehabilitation of temporarily displaced persons
Section 4B

The Finance Act, 2015 introduced a one-time super tax on all persons for the tax year 2015 on all types of income whether taxable under the normal law or under the final tax regime. The Finance Bill now proposes to extend this levy for a further period of one year i.e. to the tax year 2016.

The scheme of levy of super tax by and large remains the same except that it is now proposed that for the computation of income for the purpose of levy of super tax, depreciation and business losses shall not be taken into account. It is our view that the intent of the proposed amendment is to restrict the adjustment of brought forward depreciation and business losses against the current year's income. However, the proposed amendment does not mention the term "brought forward" depreciation and business losses.

10. Disallowance of expenditure in case of non-deduction of tax from certain payments
Clause (c) of Section 21

Presently, the aforesaid Clause disallows expenses on account of salary, rent, brokerage or commission, profit on debt, payment to non-resident and payment for services and fee on account of non-deduction/collection of tax from payments of these expenses.

The Bill now proposes to expand the applicability of the aforesaid Clause to any expenditure from which the person is required to deduct or collect tax under the withholding provisions contained in the Ordinance. It would mean that this restriction will not only apply to specified profit & loss account expenses but to all expenses whether part of trading account or profit & loss account. The proposed amendment however, restricts the disallowance of expenses debited to the trading account to a maximum of 20% on purchase of raw materials and finished goods.

It is further proposed that where tax has been recovered from the person who was required to deduct the tax, or from the person from whom the tax was supposed to be deducted, then the tax so recovered shall be considered as tax paid and accordingly, the disallowance envisaged under the aforesaid Clause will not apply to such a case.

11. Limit on claim of sales promotion, advertisement and publicity expenses by pharmaceutical manufactures
Clause (o) of Section 21

The Bill proposes to restrict the claim of expenditure by a pharmaceutical manufacturer in respect of sales promotion, advertisement and publicity up to a maximum of 5% of turnover.

12. Restriction on depreciation during tax holiday period
Sub-section (5) of Section 22

Presently, the written down value (WDV) of a depreciable asset at the beginning of the tax year is the cost of the asset less total depreciation deductions allowed to the person in respect of the asset.

The Bill now proposes to insert an explanation to clarify that where any building, furniture, plant or machinery is used for the purposes of business, the income of which is exempt from tax, the admissible depreciation (normal and initial depreciation) shall be deemed to have been allowed and after expiration of the exemption period, the WDV of such asset will be worked out after taking into effect the depreciation deemed to have been so allowed.

13. Definition of derivative products
Clause (b) of Sub-section (3A) of Section 37A

The Bill proposes to add an explanation to the definition of debt securities to provide that derivative products include future commodity contracts entered into by the members of Pakistan Mercantile Exchange whether or not settled by physical delivery or otherwise. It is noted that derivative products are covered within the meaning of the term "securities" under Sub-section (3) of Section 37A. However, it appears that the proposed amendment is inadvertently placed under Sub-section (3A) that defines debt securities.

14. Exemption and tax concessions in the Second Schedule
Section 53

Through the Finance Act, 2015, vast powers available to the Federal Government to grant exemption and tax concessions were extensively curtailed and made subject to approval of the Economic Coordination Committee of the Cabinet after which amendments to the Second Schedule to the Ordinance were permissible in case of the following conditions:

- National security issues
- Natural disaster

- National food security in emergency situations
- Protection of national economic interests in situations arising out of fluctuation in international commodity prices
- Development of backward areas
- Implementation of bilateral / multilateral agreements

The Bill now proposes to extend these powers of the Federal Government for the following:

- Granting exemption from tax imposed under the Ordinance
- Reduction in rate of tax imposed under the Ordinance
- Reduction of tax liability under the Ordinance
- Exemption from the operation of any provision of the Ordinance

The aforesaid proposed provisions would be exercised in case of the following:

- an international financial institution
- foreign Government owned financial institution operating under an agreement, memorandum of understanding or any other arrangement with the Government of Pakistan

15. Group relief
Section 59B
Clause 103A of Part I of the Second Schedule

Under this section the concept of transfer of losses within the group companies was introduced through the Finance Act, 2004 which was later comprehensively amended through the Finance Act, 2007. Under the present law, subject to fulfilment of certain conditions, group companies are allowed to surrender losses of a tax year within the group to accelerate the realization of available business losses. At present whatever loss is available to a company can be entirely surrendered to another group company subject to fulfilment of specified conditions.

The Bill now proposes to place a restriction on the quantum of loss that can be surrendered to another group company by inserting a formula to restrict the losses to the extent of the percentage of share capital that is held by the holding company in such loss surrendering company.

Presently inter-corporate dividend within the group companies that are entitled to group taxation under

Section 59AA or group relief under Section 59B is exempt from tax.

The Bill now proposes to withdraw the exemption to inter-corporate dividend to such companies that fall within the scheme of Section 59B availing group relief.

16. Tax credit for investment in health insurance
Section 62A

It is proposed to insert a new Section 62A in the Ordinance whereby a resident person other than a company deriving salary income or income from business would be entitled to a tax credit in respect of health insurance premium or contribution paid to any insurance company registered with the Securities and Exchange Commission of Pakistan under the Insurance Ordinance, 2000. The amount of tax credit shall be restricted to the lesser of:

- Total contribution or premium
- 5% of person's taxable income
- Rs.100,000

17. Tax credit on contribution or investment to an approved pension fund
Section 63

Currently, tax credit under Section 63 is allowed on contribution or premium paid in a tax year by an eligible person to an approved pension fund under the Voluntarily Pension System Rules, 2005. The tax credit eligible on such contribution is lesser of:

- contribution or premium paid
- 20% of taxable income:
- the person shall be entitled to additional contribution of 2% per annum for each year of age exceeding 40 years. However, the total contribution allowed shall not exceed 50% of the total taxable income of the preceding year.

The proposed amendment now restricts the 2% additional contribution up to the year ending 30 June 2019, irrespective of the number of years the credit has been allowed to the individual.

It is further proposed that the total contribution allowed to such person should not exceed 30% of total taxable income of the preceding year.

18. Deductible allowance for profit on debt
Section 64A

Through the Finance Act, 2015, instead of tax credit that was previously allowable against profit on debt paid by a person on a loan obtained for the purposes of construction of a new house or acquisition of a house, deductible allowance was introduced for the amount of profit on debt paid by the person for the above purposes. The deduction was restricted to the extent of 50% of the taxable income of the person or Rs.1 million whichever is lower.

The Bill now proposes to enhance the limit of Rs.1 million to Rs.2 million.

19. Deductible allowance for education expenses
Section 64AB

One of the popular demands of taxpayers was entitlement of tax concession on account of education expenses that are incurred on education. The Bill proposes to introduce a deductible allowance for education expenses comprising of tuition fee paid by an individual whose taxable income is less than Rs.1 million in the tax year. The allowance is however restricted to the lesser of -

- 5% of the total tuition fee paid
- 25% of the person's taxable income
- an amount computed by multiplying sixty thousand with number of children of the individual

The proposed section further provides that where any allowance or part thereof cannot be availed in a tax year the same shall not be available for carry forward to subsequent tax year.

It is further proposed that the allowance can be claimed against the tax liability of either of the parent making payment of the fee and also makes it mandatory to furnish the name or National Tax Number of the educational institution. It is further provided that the allowance under this section shall not be adjustable by the employer for the purpose of calculating the tax deductible from the salary of the employee.

20. Tax credit for employment generation by manufacturers
Section 64B

Through the Finance Act, 2015, a tax credit was introduced whereby a company which sets up a new manufacturing unit between 01 July 2015 to 30 June

2018 was eligible for a tax credit for a period of 10 years @ 1% for every 50 employees registered with EOBI and Employees Social Security Institution of the Provincial Government subject to fulfilment of certain conditions.

The Bill now proposes to extend the period of setting-up of a new manufacturing unit to 30 June 2019 instead of 2018. It is further proposed that the rate of tax credit of 1% be enhanced to 2%. All other conditions to avail the tax credit remain the same.

21. Tax credit to a person registered under the Sales Tax Act, 1990
Section 65A

Currently, every manufacturer registered under the Sales Tax Act, 1990 is entitled to a tax credit of 2.5% of the tax payable for a tax year if 90% of the sales are made to sales tax registered person(s).

The Bill now proposes to enhance the limit of tax credit to 3% of the tax payable as compared to the current limit of 2.5%.

22. Tax credit for investment
Section 65B

Currently, corporate taxpayers investing any amount for purchase of plant and machinery for the purpose of extension, expansion, balancing, modernization and replacement of plant and machinery already installed in an industrial undertaking are entitled to a credit equal to 10% of the amount so invested against the tax payable subject to the condition that the plant and machinery is purchased and installed at any time between 01 July 2010 to 30 June 2016.

The Bill now proposes to extend the date to 30 June 2019.

23. Tax credit for enlistment
Section 65C

Currently, a corporate taxpayer which opts for enlistment in Stock Exchange in Pakistan is entitled to a tax credit equal to 20% of the tax payable in the year the said company is enlisted.

The Bill now proposes to allow the tax credit for one more year i.e. in the following tax year as well.

24. Agreements for the avoidance of double taxation and prevention of fiscal evasion
Section 107

The current provisions of Section 107 provide authority to the Federal Government to enter into bilateral and multilateral agreements with foreign governments for the avoidance of fiscal evasion and exchange of information including automatic exchange of information concerning taxes on income imposed under the Ordinance or under any other law for the time being in force. These provisions have been proposed to be substituted to provide for more powers to the Federal Government to enter into like instruments or mechanism, tax information exchange agreement for the avoidance of double taxation or for the exchange of information for the prevention of fiscal evasion or avoidance of taxes including automatic exchange of information, for the aforesaid purposes.

Sub-section 1B of Section 107 provides that the information received or supplied or communication or correspondence made under a tax treaty and other like arrangement shall be confidential and that the tax authorities will not disclose such information provided that the information may be disclosed for the purposes as defined in Section 216(3) where the information is required by a court or by a Government or regulatory authority.

The Bill now proposes to restrict the disclosure of information for the purpose of Section 216(3) of the Ordinance as well.

25. Minimum tax
Section 113

Through the Finance Act, 2010, individuals and association of persons having turnover of Rs.50 million or above in a tax year were brought in the ambit of minimum tax.

The Bill now proposes to reduce the threshold of turnover to Rs. 10 million for both individuals and association of persons effective from the tax year 2017.

Presently, a company which has declared gross loss before depreciation and other inadmissible expenses is ousted from the applicability of minimum tax.

The Bill now seeks to omit this provision. Accordingly effective from the tax year 2017, companies which have a declared gross loss shall also be liable to minimum tax.

The Bill further seeks to substitute the explanation of the term "tax payable or paid" to inter-alia exclude super tax paid under Section 4B of the Ordinance. Effectively, this would mean that for the purposes of determination of minimum tax, super tax paid under Section 4B shall be excluded from the tax paid under normal basis. It is interesting to note that the levy of super tax under Section 4B has been extended to tax year 2016 therefore the amendment with respect to exclusion of super tax under Section 4B has been brought in through an explanation to give retrospective effect.

26. Revision of return of income
Sub-section 6 of Section 114

The Bill seeks to substitute the proviso to the above Sub-section to provide that the Commissioner's approval shall be deemed to have been granted if an order of approval for revision of return on an application made by the taxpayer is not issued within 60 days from the date of such application or in cases where there is an upward revision of income.

27. Provisional assessment
Section 122C

Presently, the Commissioner is empowered to pass a provisional assessment in the case of a person who fails to file his return of income for any tax year in response to a notice from the Commissioner calling for filing of return. The provisional assessment so carried out is treated as final assessment order after the expiry of 45 days from the date of service of such order. However, if the taxpayer files a return of income alongwith wealth statement and wealth reconciliation and other required documents then such return of income is accepted and the provisional assessment becomes ineffective.

The Bill seeks to impose a condition that where a provisional assessment order has been passed and the person (including a company) to whom such order has been passed files his return of income alongwith supporting documents, he will also have to present his accounts and documents for conducting an audit of his tax affairs for that tax year.

28. Advance tax
Section 147

The Bill seeks to provide an explanation whereby the tax assessed to the taxpayer shall include minimum tax and Alternate Corporate Tax (ACT). Corresponding amendments have been made in this section to include ACT as part of tax assessed for the purpose of upward and downward estimate of quarterly advance tax.

It is pertinent to mention that insertion of ACT as part of assessed tax by way of an explanation intends to bring retrospective effect to the amendment which may give rise to exposure of default surcharge and penalty for short payment of advance tax.

29. Payment for foreign produced commercials
Section 152A

The Bill seeks to introduce a new section of withholding where every person making a payment directly or through an agent to a non-resident person on account of foreign produced commercials for advertisement on any television channel or any other media is proposed to collect tax @ 20% of the gross amount paid. The Bill further proposes to treat the tax so deducted as a final tax on the income of the non-resident person.

30. Withholding tax on payment to electronic and print media for advertisement services
Sub-section 3 of Section 153

Presently, persons make payments to electronic and print media for advertisement services is required to withhold tax @ 1% from a filer and 12% from a non-filer company and 15% from a non-corporate non-filer. It is proposed the rate of tax of 1% applicable to a filer shall be enhanced to 1.5 % and the tax so collected shall be treated as full and final tax liability of the person from rendering of such services.

31. Tax collected from filer and non-filers
Section 169

The Bill seeks to provide that where a tax collected or deducted is a final tax under the Ordinance and the rates of deduction or collection are separately provided for filers and non-filers, the final tax shall be the tax rate that is applicable to a filer and the excess tax collected at the higher rate from a non-filer shall be adjustable.

32. Refund of tax
Section 170

Presently, an application for a refund by a taxpayer is required to be made within 2 years of the later of the date on which the Commissioner has issued the assessment order to the taxpayer for the tax year for which the refund application is filed or the date on which the tax was paid.

The Bill now seeks to extend the time frame for filing the refund application from 2 years to 3 years.

33. Penalty for non filing of statement
Section 182

The Bill seeks to extend the penalty for non-filing of statement required to be filed under Section 165B in respect of information required to be submitted by financial institutions including banks.

34. Tax collection on cash withdrawal from a bank
Section 231A

At present, every banking company is required to collect tax from payments for cash withdrawal exceeding Rs.50,000 in a day.

The Bill seeks to insert an explanation to clarify that the aggregate sum of Rs.50,000 withdrawn from all bank accounts of the account holder in a single day would be considered for withholding of tax. It needs to be seen how this requirement will practicably be possible to implement as there could be instances where an account holder could have multiple bank accounts in a bank at several locations across the country, therefore it could be a challenge for some of the banks to generate such information on a daily basis from country wide branches.

35. Advance tax on private motor vehicles
Section 231B

The Bill seeks to introduce collection of advance tax from non-filers @ 3% of the value of motor vehicle at the time of lease of vehicle by a Leasing Company, Scheduled Bank, Investment Bank, Development Financial Institution or a Modaraba.

Through the Finance Act, 2014, motor vehicle registering authority of Excise and Taxation department was authorized to collect advance tax at the time of registering a motor vehicle. Presently, the collection of advance tax is not made on transfer of vehicles after 5 years from the date of first registration in Pakistan. Sub-section (6) of Section 231B provides the date of first registration for certain specified categories as follows:

- The date of issuance of Bar Arrow numbers shall be the date of registration in case of vehicle is acquired by the Armed Forces of Pakistan
- The date of registration by the Ministry of Foreign Affairs shall be date of first registration in case of vehicle acquired from a Foreign Diplomat or a Diplomatic Mission in Pakistan
- The last day of a year of a manufacturer in case of acquisition of an un-registered vehicle from a Federal or a Provincial Government

The Bill seeks to provide that no collection of advance tax shall be made after 5 years from the date of first registration as specified in the aforesaid cases.

36. Advance tax at the time of sale by auction
Section 236A

The Bill seeks to treat the tax collected from a person on auction of right to collect tolls as a final tax.

37. Advance tax on sale of immovable property
Section 236C

At present, the Registrar of Properties is required to collect tax from the seller of immovable property at the time of registering or attesting transfer of such immovable property.

The Bill now seeks to withdraw the collection of tax from sale of such immovable property which was held by the seller for a period of more than 5 years.

38. Collection of tax on banking transactions from non-filers
Section 236P

The Finance Act, 2015 introduced collection of tax @ 0.6% (currently the applicable rate is 0.4% till 30 June 2016) on every banking transaction otherwise through cash carried out by non-filers. The collection of tax is applicable on all transactions cumulatively exceeding Rs.50,000 in a day. As is being proposed for collection of tax from cash withdrawals, the Bill also seeks to insert similar explanation in this section to clarify that Rs.50,000 shall be the aggregate withdrawal from all the bank accounts in a single day. This may also turn out to be a big challenge for some of the banks in cases where customers have multiple bank accounts at multiple locations spread throughout the country.

39. Advance tax on insurance premium
Section 236U

The Bill seeks to introduce a new section whereby every insurance company at the time of collection of insurance premium from non-filers is required to collect advance tax @ 4% on general insurance premium, and @ 1% on life insurance premium exceeding Rs.200,000.

The Bill further seeks to elaborate that insurance premium collected through agents of the insurance company shall be treated to have been collected by the insurance company. The tax so collected shall be an advance tax adjustable against the tax liability of the person from whom the tax has been collected.

40. Advance tax on extraction of minerals
Section 236V

A new section has been proposed whereby provincial authority collecting royalty from the lease holders of mines or any person extracting minerals shall be required to collect advance tax at 5% of the value of minerals for non-filers. The tax so collected as an advance tax adjustable against the tax liability of the person from whom the tax has been collected.

41. Advance tax from provincial sales tax registered person
Section 236W

The Bill seeks to require every provincial revenue authority to collect advance tax @ 3% of the turnover from a non-filer who is a provincial sales tax registered person. The advance tax is proposed to be collected alongwith sales tax return filed with the provincial revenue authority. It is also proposed that the provincial revenue authority shall not accept sales tax return unless the tax required to be collected under this section has been collected or deposited. The tax so collected shall be treated as an advance tax.

THE FIRST SCHEDULE

42. Rates of tax for individuals and Association of Persons

The rates of tax chargeable for the tax year 2017 (corresponding to the income year ending at any time between 01 July 2016 to 30 June 2017) and basic threshold have remained unchanged, and are as under:

Salaried taxpayers

Salaried taxpayers	Rate
Up to Rs.400,000	Nil
Rs.400,001 - 500,000	2% of excess over Rs.400,000
Rs.500,001 - 750,000	Rs.2,000 + 5% of excess over Rs.500,000
Rs.750,001 - 1,400,000	Rs.14,500 + 10% of excess over Rs.750,000
Rs.1,400,001 - 1,500,000	Rs.79,500 + 12.5% of excess over Rs.1,400,000
Rs.1,500,001 - 1,800,000	Rs.92,000 + 15% of excess over Rs.1,500,000
Rs.1,800,001 - 2,500,000	Rs.137,000 + 17.5% of excess over Rs.1,800,000
Rs.2,500,001 - 3,000,000	Rs.259,500 + 20% of excess over Rs.2,500,000
Rs.3,000,001 - 3,500,000	Rs.359,500 + 22.5% of excess over Rs.3,000,000
Rs.3,500,001 - 4,000,000	Rs.472,000 + 25% of excess over Rs.3,500,000
Rs.4,000,001 - 7,000,000	Rs.597,000 + 27.5% of excess over Rs.4,000,000
Over Rs.7,000,000	Rs.1,422,000 + 30% of excess over Rs.7,000,000

Non-salaried taxpayers

Non-Salaried taxpayers	Rate
Up to Rs.400,000	Nil
Rs.400,001 - 500,000	7% of excess over Rs.400,000
Rs.500,001- 750,000	Rs.7,000 + 10% of excess over Rs.500,000
Rs.750,001- 1,500,000	Rs.32,000 + 15% of excess over Rs.750,000
Rs.1,500,001 - 2,500,000	Rs.144,500 + 20% of excess over Rs.1,500,000
Rs.2,500,001 - 4,000,000	Rs.344,500 + 25% of excess over Rs.2,500,000
Rs.4,000,001 - 6,000,000	Rs.719,500 + 30% of excess over Rs.4,000,000
Over Rs.6,000,000	Rs.1,319,500 + 35% of excess over Rs.6,000,000

43. Rates of tax for companies

Rates of tax for companies, for the tax year 2017 are as under:

Companies	Rate
Public and Private	31%
Cooperative and Finance Society	31%
Banking	35%
Small	25%

44. Rate of Super tax for rehabilitation of temporarily displaced persons

Rates of super tax for rehabilitation of temporarily displaced persons under Section 4B (which is proposed to be extended for the tax year 2016) are as under:

Taxpayer	Rate
Banking Company	4%
Person, other than a banking company, having income of Rs.500 million or more	3%

45. Rate of tax on dividend income

Rates of tax on dividend received by all taxpayers for the tax year 2017 are as under:

Dividend from	Rate		
	Filer	Non-Filer	
		Existing	Proposed
Companies owning power project privatized by WAPDA, companies set-up for power generation and companies supplying coal, exclusively to power generation projects	7.5%	7.5%	7.5%
Others	12.5%	17.5%	20%
Stock fund, if dividend receipts are less than capital gains	12.5%	12.5%	12.5%

46. 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 is proposed to be as under:

Holding period	Tax Year		
	2016	2017	
		Filer	Non-Filer
Less than 12 months	15%	15%	18%
More than 12 months but less than 24 months	12.5%	12.5%	16%
More than 24 months but then security was acquired on or after 01 July 2012	7.5%	7.5%	11%
Where the security was acquired before 01 July 2012	0%	0%	0%
Future commodity	0%	5%	5%

contracts entered into by the members of Pakistan Mercantile Exchange.			
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47. Rate of tax on capital gain on immovable property

Rates of tax on capital gain on immovable property are proposed as under:

Holding period of immovable property	Rate
Up to 5 years	10%
More than 5 years	0%

48. Rate of tax on Builders

The Bill proposes to introduce fixed tax on builders. Proposed rates are as under:

Karachi, Lahore & Islamabad	Hyderabad, Sukkur, Multan, Faisalabad, Rawalpindi, Gujranwala, Sahiwal, Peshawar, Mardan, Abbotabad, Quetta		Urban Areas not specified		
	For commercial buildings				
Rs.210/Sq.Ft		Rs.210/Sq.Ft		Rs.210/Sq.Ft	
For residential building					
Area in Sq.Ft	Rate/Sq.Ft Rs.	Area in Sq.Ft	Rate/Sq.Ft Rs.	Area in Sq.Ft	Rate/Sq.Ft Rs.
Up to 750	20	Up to 750	15	Up to 750	10
751 to 1500	40	751 to 1500	35	751 to 1500	25
1501 and more	70	1501 and more	55	1501 and more	35

49. Rate of tax on Developers

The Bill proposes to introduce fixed tax on developers. The rates as proposed are as under:

Karachi, Lahore & Islamabad		Hyderabad, Sukkur, Multan, Faisalabad, Rawalpindi, Gujranwala, Sahiwal, Peshawar, Mardan, Abbotabad, Quetta		Urban Areas not specified	
For commercial buildings					
Rs.210/Sq.Yd		Rs.210/Sq.Yd		Rs.210/Sq.Yd	
For residential building					
Area in Sq. Yd	Rate/ Sq.Yd Rs.	Area in Sq. Yd	Rate/ Sq.Yd Rs.	Area in Sq. Yd	Rate/ Sq.Yd Rs.
Up to 120	20	Up to 120	15	Up to 120	10
121 to 200	40	121 to 200	35	121 to 200	25
201 & more	70	201 & more	55	201 & more	35

50. Income from property

The rate of tax on income from property are proposed to be as under:

Gross amount of rent	Rate
Up to Rs.200,000	Nil
Rs.200,001 to 600,000	5% of the amount exceeding Rs.200,000
Rs.600,001- 1,000,000	Rs.20,000 plus 10% of the amount exceeding Rs.600,000
Rs. 1,000,001- 2,000,000	Rs.60,000 plus 15% of the amount exceeding Rs.1,000,000
Over Rs.2,000,000	Rs.210,000 + 20% of the amount exceeding Rs.2,000,000

The above rates also apply for the purpose of withholding of tax from rent of immovable property.

51. Tax on prize and winnings

The rate of tax for filers remain unchanged at 15% while for non-filers, the proposed rate is 20%.

52. Advance income tax on payment to resident on payments for goods and services

The rate of withholding tax for non-filer when making payments on account of goods and services remain unchanged which are as under:

	Rate			
	Company		Other than - company	
	Filer	Non filer	Filer	Non filer
For supply of goods	4%	6%	4.5%	6.5%
For services other than transport services	8%	12%	10%	15%
For execution of contract	7%	10%	7.5%	10%

The Bill proposes to enhance the rate of withholding tax on advertising services for electronic and print media to 1.5% from the existing rate of 1%.

The Bill seeks to introduce withholding rates on fast moving consumer goods as under:

	Rate	
	Company	Other than - company
For fast moving consumer goods	3%	4%

53. Collection of advance income tax on Brokerage and Commission

The Bill seeks to enhance the rate of collection of tax from advertising agents along with introduction of rate of collection of tax from a non-filer which are as under:

	Rate	
	Filers	Non-filers
For advertising agents	10%	15%
Life insurance agent where commission received is less than Rs.500,000 per annum	8%	16%

	Rate	
	Filers	Non-filers
Persons not covered above	12%	15%

54. Collection of advance income tax on goods transport vehicles

The rates of collection of tax on goods transport vehicles remain unchanged which are as under:

	Amount of tax	
	Filers	Non-filers
Amount of tax on per KG of laden weight	Rs. 2.5	Rs. 4

55. Advance tax on sale/transfer of immovable property

The rate of advance tax to be collected on sale/transfer of immovable property are proposed to be enhanced as under:

	Existing Rate	Proposed Rate
Filer	0.5%	1%
Non-Filer	1%	2%

56. Advance tax on purchase of immovable property

The rate of advance tax to be collected on purchase of immovable property are proposed to be enhanced as under:

	Existing Rate	Proposed Rate
Filer	1%	2%
Non-Filer	2%	4%

57. Rates for collection of tax by a Stock Exchange registered in Pakistan

S.No.	Description	Rate
1.	Purchase of shares as per Clause (a) of Sub-section (1) of Section 233A	0.02% of purchase value
2.	Sale of shares as per Clause (b) of Sub-section (1) of section 233A	0.02% of sale value

THE SECOND SCHEDULE

PART - I

58. Exemption to Micro Finance Banks
Clause (66)(xviii)

The Bill proposes to omit Sub-clause (xviii) of Clause (66) which provided exemption of income to Micro Finance Banks as the exemption period provided therein had already expired on 30 June 2012 and the Clause had resultantly become redundant.

59. Exemptions for controlling regulating or encouraging major games and sports recognised by the Government
Clause (98)

Initially, the above Clause provided exemption to income of any Board or other organisations established by the Government for the purpose of controlling, regulating or encouraging major games and sports recognised by the Government. The Finance Act, 2003 omitted the condition of establishment of such Board or organisation by the Government of Pakistan.

The Bill now proposes to reinstate the above condition meaning thereby that exemption under the above Clause will only be available to such Boards or other organisations which are established by the Government of Pakistan.

60. Exemption to income derived by certain companies
Clause (126A)

Currently income derived by China Overseas Port Holding Company Limited from Gawadar Port operations is exempt for 23 years. The Bill now proposes to also extend the above exemption to the following entities -

- China Overseas Ports Holding Company Pakistan (Private) Limited
- Gawadar International Terminal Limited
- Gawadar Marine Services Limited
- Gawadar Free Zone Company Limited

61. Exemption for setting up businesses in Gawadar Free Zone Area
Clause (126AA)

A free trade zone is a designated area that eliminates traditional trade barriers such as tariffs and taxes and

minimizes bureaucratic regulations. Its goal is to enhance global market presence by attracting new businesses and foreign investments.

The Government of Pakistan, in order to bring investments to the country and to enhance the economic growth through industrial development has developed various tax free zones in the past. Continuing the practice, a new Free Trade Zone in Gawadar is established namely "Gawadar Free Zone".

To achieve the aforesaid objectives, a new clause (126AA) is being proposed to be inserted by virtue of which profits and gains derived by taxpayers from businesses set up in Gawadar Free Zone Area will be exempt from tax for a period of twenty three years commencing from 01 July 2016.

62. Exemption to foreign lenders or local banks
Clause (126AB)

A new clause is being proposed to be inserted by virtue of which profit on debt derived under a Financing Agreement with the China Overseas Ports Holding Company Limited by foreign lenders or local banks (where the Government or State Bank of Pakistan holds more than 75% shares in such local bank) will be exempt from tax.

63. Exemption to income derived by contractors and sub-contractors of certain companies
Clause (126AC)

A new clause is being proposed to be inserted as a consequence of which income from Gawadar Port Operations earned by contractors or sub-contractors of the following entities would be exempt from tax -

- China Overseas Ports Holding Company Limited
- China Overseas Ports Holding Company Pakistan (Private) Limited
- Gawadar International Terminal Limited
- Gawadar Marine Services Limited
- Gawadar Free Zone Company Limited

The above exemption would be available for a period of 23 years commencing from 01 July 2016.

64. Exemption to dividend income derived by China Overseas Ports Holding Company Limited and China Overseas Ports Holding Company Pakistan (Private) Limited
Clause (126AD)

A new Clause is being proposed to be inserted by virtue of which dividend derived by China Overseas Ports Holding Company Limited from the following entities would be exempt from tax.

- China Overseas Ports Holding Company Pakistan (Private) Limited
- Gawadar International Terminal Limited
- Gawadar Marine Services Limited
- Gawadar Free Zone Company Limited

Similarly, dividend derived by China Overseas Ports Holding Company Pakistan (Private) Limited from the following entities is proposed to be exempted from tax under the aforesaid Clause.

- Gawadar International Terminal Limited
- Gawadar Marine Services Limited
- Gawadar Free Zone Company Limited

65. Exemption to income arising from export of computer software or IT services or IT enabled services
Clause (133)

Clause 133 provides exemption to income arising from exports of computer software or IT services or IT enabled services up to the period ending 30 June 2016. The Bill now proposes to extend the above period of exemption up to 30 June 2019 provided that 80% of the export proceeds are brought into Pakistan in foreign exchange through normal banking channel.

PART - II

66. Export of services rendered and construction contracts executed outside Pakistan
Clause (3)

Presently, income from services rendered and construction contracts outside Pakistan are charged to tax at a reduced rate of 1% of the gross receipts provided that the said receipts are brought into Pakistan through normal banking channel. The Bill proposes to enhance the rate of tax and specifies 50% of the rate as prescribed for various services and contracts in Division-III of Part-III of First Schedule to

the Ordinance. The proposed rates of tax are summarized as under.

	Rate			
	Corporate		Non-Corporate	
	Filer	Non filer	Filer	Non filer
For transport services	1%	1%	1%	1%
For services other than transport services	4%	6%	5%	7.5%
For construction contracts	3.5	5%	3.75%	5%

67. Income of Pakistan Cricket Board
Clause (3B)

A new clause is being proposed to be inserted by virtue of which income of Pakistan Cricket Board (PCB) from sources outside Pakistan including certain income as specified in the said Clause will be taxed at 4% of the gross receipts. Furthermore, an option has been proposed whereby the PCB can opt to pay tax at 4% of gross receipts from tax year 2010 onwards subject to withdrawal of all appeals.

PART - IV

68. Exemption from minimum tax to certain companies
Clause (11A)(xxvi)

With the proposed exemption from tax in respect of income derived by entities specified in Clause (126A), Part I of the Second Schedule to the Ordinance, the Bill proposes to exempt such entities from the levy of minimum tax under Section 113 of the Ordinance also, for a period of twenty three years commencing from 06 February 2007.

69. Exemption from minimum tax in respect of transmission line project
Clause (11A)(xxvii)

The Finance Act, 2015 inserted a new Clause (126M) by virtue of which exemption from tax was provided in respect of profits and gains derived by a taxpayer from transmission line project set-up in Pakistan between 01 July 2015 and 30 June 2018.

In line with the above exemption, the Bill now proposes to also provide exemption from the levy of minimum tax under Section 113 of the Ordinance.

70. Exemption from withholding of tax in respect of inter corporate dividends and profit on debt
Clause (11B) & (11C)

With the proposed withdrawal of exemption available in respect of inter-corporate dividend for companies opting for group relief under Section 59B of the Ordinance, the Bill also proposes to withdraw the exemption available from withholding of tax under Sections 150 and 151 of the Ordinance in respect of inter-corporate dividend and profit on debt respectively, for companies opting for group relief under Section 59B.

71. Exemption from withholding of tax from dividends to certain companies
Clause (38AA)

With the proposed insertion of Clause (126AD) in Part I of the Second Schedule whereby, exemption from tax in respect of dividend income for entities mentioned therein have been provided, the Bill proposes to exempt such dividend from withholding of tax under Section 150 of the Ordinance for the period of twenty three years.

72. Large Trading Houses
Clause (57)

Large Trading Houses, subject to certain conditions, are exempt from payment of minimum tax under Section 113 of the Ordinance and are not subject to withholding of tax under Section 153 of the Ordinance. The Bill seeks to withdraw the exemption from minimum tax under Section 113 of the Ordinance. However, the Bill further proposes that Large Trading Houses are required to pay minimum tax under Section 113 of the Ordinance at reduced rates which are as under.

Tax Year(s)	Reduced Rate
For the tax years 2017 to 2019	0.5%
For the tax year 2020 and onwards	1%

73. Withholding tax provision under Section 151 on profit on debt
Clause (59) (i)

The above Clause inter-alia grants exemption from deduction of tax under Section 151 of the Ordinance in respect of profit or interest paid on Term Finance Certificate held by a Company which was issued on or after the 01 July 1999. The Bill proposes to withdraw the said exemption.

74. Hajj group operators
Clause (72A)

The said Clause was inserted by Finance Act, 2013 and by virtue of above Clause, the provision of Section 21(1), Section 113 and Section 152 shall not apply in case of Hajj Group Operator in respect of Hajj operations. The concession is conditional upon the fact that tax has been paid @ Rs.3,500/- per Haji for the tax year 2013 and Rs.5,000/- per Haji for the tax years 2014 and 2015 in respect of income from Hajj operation. The Bill proposes to include the tax year 2016 whereby Rs.5,000/- per Haji is required to be paid.

75. Concession of exemption from payment of tax under Section 148
Clause (72B)

By virtue of this Clause an industrial undertaking shall not be liable for payment of tax under Section 148 of the Ordinance, if the determined tax liability for any of the two preceding years, whichever is higher, has been paid and a certificate to that effect has been issued by the concerned Commissioner subject to fulfilling the conditions as specified. The FBR, for said purposes, issued SRO 717(1)/2014 dated 07 August 2014 whereby, the manner and conditions for issuance of exemption certificate under Section 148 of the Ordinance were specified. The Bill proposes to impose certain other conditions for issuance of exemption under Section 148 of the Ordinance which are as under.

- The quantity of raw material to be imported which is sought to be exempted from tax under Section 148 shall not exceed 110% of the quantity of raw material imported and consumed during the previous tax year (this condition is also mentioned in SRO 717).
- The Commissioner shall conduct audit of taxpayers' accounts during the financial year in which the certificate is issued in respect of consumption, production and sales of the latest tax year for which the return has been filed and the taxpayer shall be treated to have been selected for audit under Section 214C.
- If, the taxpayer fails to present accounts or documents to the Commissioner or the Officer authorized by the Commissioner, he shall, by an order in writing, cancel the certificate issued and shall proceed to recover the tax not collected under Section 148 for the period prior to such cancellation and all the provisions of the Ordinance shall apply accordingly.

76. Relaxation for filing of wealth statement
Clause (82)

Every resident taxpayer being an individual, filing a return of income for any tax year is required to furnish a wealth statement and a wealth reconciliation for that year along-with such return as provided under Section 116(2) of the Ordinance. By virtue of SRO 978(1)/2013 dated 13 November 2013, the Government has given a relaxation for filing of wealth statement to those individuals whose last declared or assessed income or the declared income for the year is less than Rs.1 million for the tax year 2013. Subsequently, through Finance Act, 2014, this relaxation was extended for the tax year 2014. However, no such relaxation was provided for the tax year 2015. The Bill now seeks to withdraw the above Clause.

77. Exemption from invocation of Section 111
Clause (86)

The above Clause was inserted in the Ordinance through SRO 1065(I)/2013 dated 20 December 2013, whereby, the investment made by an individual, AOP or company in a Greenfield industrial undertaking was granted exemption, subject to certain conditions as specified therein, from probe of source of investment under Section 111 of the Ordinance. One such condition is that the investment has to be made on or after 01 January 2014 and commercial production of the said industrial undertaking has to be commenced on or before 30 June 2017. The Bill proposes to extend the period of commencement of commercial production from 30 June 2017 to 30 June 2019.

78. Minimum Tax on Service Sector Companies
Clause (94)

By virtue of the deletion of Clause (79) of Part-IV of the Second Schedule to the Ordinance vide Finance Act, 2015, the tax deductible from payments against services rendered under Section 153(1)(b) of the Ordinance would be a minimum tax in respect of such services in case of companies. Subsequently, the income tax (Second Amendment) Ordinance, 2015 (effective from 31 October 2015) was promulgated by the Government. The salient features of the said Ordinance are as under:-

- The tax deductible from payments against service rendered by following corporate service providers will be no longer be treated as minimum tax and

would be adjustable against the final tax liability for the tax year 2016.

- Freight forwarding services
 - Air cargo services
 - Courier services
 - Manpower outsourcing services
 - Hotel services
 - Security guard services
 - Software development services
 - Tracking services
 - Advertising services (other than print or electronic media)
 - Share registrar services
 - Engineering services
 - Car rental services
- It is provided that the tax liability in respect of above service provider shall not be less than 2% of the gross amount of turnover from all sources.
 - The service provider is required to furnish an irrevocable undertaking in writing by 15 November 2015 confirming submission of their accounts to the Commissioner within 30 days of filing of annual tax return for the tax year 2016 for the purpose of tax audit
 - It is also provided that service provider can apply for withholding tax exemption certificate on quarterly basis to the concerned Commissioner subject to the fulfillment of the condition that advance tax payment made for the relevant quarter is equivalent to 2% of the total turnover of the preceding tax quarter.

The Bill proposes to amend the above Clause as under.

- IT Services and IT enable services as defined in Clause (133) of Part-I of Second Schedule have been proposed to be included in the above list of corporate service sector providers.
- The concession is proposed to be extended to the tax year 2017.
- For the tax year 2017, the irrevocable undertaking referred above is required to be furnished by November 2016.

THE FOURTH SCHEDULE

79. Enhancement in rate of capital gains and dividends derived by insurance companies
Rule (6B)

Presently insurance companies, capital gain on disposal of shares of listed companies, vouchers of Pakistan Telecommunication Corporation, modaraba certificates or instruments of redeemable capital and derivative products are taxable at the slab rates based on the holding period of such securities (subject to a maximum rate of 15%).

The Bill now proposes to tax the income from capital gains at the corporate tax rates specified in Division II, Part I of the First Schedule to the Ordinance, effective from the tax year 2017.

Recently, the Taxation Authorities opined that dividend income in case of insurance companies, being part of business income, is taxable at the corporate tax rates specified in Division II, Part I of the First Schedule to the Ordinance. However, it was the contention of the taxpayer that the First Schedule provides reduced rate in respect of dividend income which should be applied and tax be accordingly charged. The Appellate Tribunal Inland Revenue (ATIR), in a recent judgment in ITA Nos.1274 to 1278/LB/2015 dated 18 November 2015, also fortified the viewpoint of the taxpayers with the observation that the dividend income in case of insurance companies is chargeable to tax at reduced rate (i.e. 10% up to the tax year 2015 and 12.5% for the tax year 2016) as specified in Division III of Part I of the First Schedule to the Ordinance.

The Bill seeks to amend Rule (6B) of the Fourth Schedule whereby dividend income is proposed to be taxed at the corporate tax rates as specified in Division II, Part I of the First Schedule to the Ordinance. It follows that this amendment (which would be applicable from the tax year 2017) has been proposed to undo the above decision of the ATIR. However, the amendment fortifies the view of the taxpayer that before this amendment, dividend income in case of insurance companies was chargeable to tax at the reduced rate specified in Division III of Part I of the First Schedule to the Ordinance.

THE SIXTH SCHEDULE

80. Employer's annual contribution to a recognised provident fund when deemed to be income of an employee
Part-I, Rule 3 Sub-rule (a)

The employer's contribution to a recognised provident fund in excess of one tenth of the salary or Rs.100,000 whichever is lower is presently deemed to be income of an employee.

The Bill seeks to enhance the limit of Rs.100,000 to Rs.150,000.

Asset Management Companies, Pakistan Mercantile Exchange and any other person shall furnish information when required by NCCPL for discharging obligations under the Eighth Schedule.

THE EIGHTH SCHEDULE

81. *Open ended mutual funds*
Section 100B

The Eighth Schedule and Section 100 was inserted vide the Finance Act, 2012 which contains special provisions relating to the capital gain tax which states that capital gain on disposal of listed securities and tax thereon shall be computed, determined, collected and deposited in accordance with the Rules. The Eighth Schedule assigned the responsibility of computation of capital gains including the collection and payment of tax on capital gains to National Clearing Company of Pakistan Limited (NCCPL).

The Bill proposes that capital gain on disposal of units of open ended mutual funds to which Section 100B applies shall also be computed and determined under the Eighth Schedule and tax thereon shall be collected and deposited by NCCPL in the prescribed manner.

The Bill further proposes that gains or loss arising to persons through trading of future contracts on the Pakistan Mercantile Exchange, subject to tax under Section 37A and to which Section 100B apply shall be computed and determined under the Eighth Schedule and tax thereon shall be collected and deposited on behalf of the taxpayers by NCCPL in the prescribed manner.

Under Rule (3) of the Eighth Schedule, the Central Depository Company of Pakistan Limited is required to furnish information to NCCPL for discharging obligations under the Eighth Schedule. It is proposed that a proviso to Rule (3) be added which provides that if the said information is not furnished, NCCPL shall forward the details to the Commissioner who shall exercise powers under the Ordinance to enforce furnishing of the said information including all penalty provisions. In addition, it is also proposed that the

82. General Comments

Issues which do not appear in the Finance Bill

The Federal Government and the Federal Board of Revenue in particular carried out extensive consultation over a period of several months with different stakeholders. The Government officials inter-alia met several Associations representing corporate sector and discussed various proposals regarding issues faced by them. These proposals largely focused on broadening of tax base, reducing the cost of doing business, accelerating industrialization, bringing simplicity in the law and simplifying administration of tax regime.

Except for extension of the tax rebate on equity investment, the other broad based proposals from the large scale industries and businesses have not made their way into the Finance Bill.

These proposals included proposals for putting up restrictions on unchecked flow of foreign exchange in our country which facilitates tax evasion and whitening of undeclared income through foreign remittance, withdrawal of Alternate Corporate Tax, rationalization of minimum tax on services, rationalization of the taxation under the Final Tax Regime to gradually bring it to profit based taxation at least for the corporate sector.

On the other hand, some of the proposed amendments like restrictions of input tax in respect of sales tax paid under the provincial sales tax on services laws and enhancement in the withholding tax regime are totally against the expectations of the corporate sector which will by and large further increase the cost of doing business and decrease profitability.

There is still time for the legislature to look into some of the genuine demands of the taxpayers and include these proposals in the final version of the Bill which can then be enacted by the Parliament.

SALES TAX

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1. Definitions

- Cottage Industries
Section 2(5AB)

Under the Sales Tax Act, 1990 (the ST Act), supplies made by Cottage Industries are exempt from levy of sales tax. An industry, inter alia, is a cottage industry, if its annual turnover does not exceed Rs. 5 million. The incentive is provided to small business units, however, after passing almost Nine years it is felt that the ceiling limit of Rs. 5 million is not sufficient, which is causing undue hardship to the Cottage industry and pushing them to get sales tax registration and start making compliance of the sales tax law.

Therefore, now the Bill seeks to enhance the threshold limit of Rs. 5 million to Rs.10 million.

- Due date
Section 2 (9)

The Bill seeks to amend the definition of due date of filing of sales tax and federal excise return. Clause (9) of Section 2 prescribes the due date for normal return and return filed by retailers under Section 26AA of the ST Act. Since, the retailers are not filing the sales tax returns under section 26AA of the ST Act, the Bill seeks to omit the reference of section 26AA from the definition of "due date".

The Bill further seeks to insert various filing dates for different Annexures to the returns, instead of one fixed date of filing. This proposed amendment is in line with the FBR's decision to launch a new automated system for e-filing of sales tax and federal excise return to facilitate the taxpayers. The new system is expected to be put in place from 01 July 2016.

The current filing system of return is causing problems while cross-matching the declarations of buyers and sellers.

The new system will require early submission of sales invoice data, enabling buyers to claim input tax adjustment against the same. The new filing system will eliminate post-return filing queries, which presently cause inconvenience to the registered persons. The new system will also substantially reduce department's contact with the registered persons.

More importantly, under the proposed new filing system of return there will be no need to

separately file the refund claim, which will expedite the refund payment process.

- Input tax
Section 2(14) Sub-clause (d)

Section 2(14) of the ST Act provides definition of input tax which inter-alia includes, under Sub-clause (d), the provincial sales tax levied on services rendered or provided to the person. The aforesaid Sub-clause (d) is now proposed to be deleted. Resultantly, the registered persons will not be able to claim the input tax paid on services chargeable to sales tax under the provincial sales tax laws. The proposed deletion will not only increase the cost of doing business but it will also increase the prices of finished goods.

It is worth mentioning that after the 18th Amendment to the Constitution of Pakistan; whereby, the provincial sales tax laws were promulgated, adjustment of input tax on services and goods remains bone of contention between the Federal and Provincial Revenue Authorities. The Federal and Provincial Tax Authorities are in contact with each other to resolve this controversy and it was expected that the authorities will soon reach to a conclusion. The proposed amendment will cause a serious setback to these efforts.

- ## 2. Time and manner of payment
- Section 6 Sub-section (2)*

Currently under Sub-section (2), tax in respect of taxable supplies made during a tax period shall be paid by the registered person at the time of filing of return of that period. The prevailing time and manner of filing of return is proposed to be omitted and the Bill now seeks to propose any other date(s) prescribed in this regard.

- ## 3. Determination of tax liability
- Section 7 Sub-section (2)*

The Bill seeks to add an additional condition for admissibility of the input tax claim. It is proposed to allow the input tax adjustment only when the supplier declares the supplies in his return or pays the due tax as shown in his return.

- ## 4. Tax credit not allowed
- Section 8 Sub-section (1) Clause (l)*

Section 8 provides conditions under which a registered person is entitled to reclaim or deduct input tax. Sub-clause (l) specifies that such reclaim or deduction of

input tax paid will not be allowed, if such goods and services, which at the time of filing of return by the buyer, have not been declared by the supplier in his return.

The Bill seeks to provide additional condition whereby the input tax deduction will not be allowed if the supplier has not paid the amount of tax due as indicated in his return.

The amendments proposed in Sections 2(9), 6(2), 7(2), 8(1)(l) of the ST Act are proposed to bring the legal provisions under the ST Act in line with the proposed online reporting of sales tax returns system which enables the taxpayers (buyers) to cross match supplies declared by the suppliers in their sales tax returns. The new system aims to resolve the controversies arising from CREST involving undue litigation and to ensure that the taxpayers claim their due input tax / refund on a timely basis.

5. Assessment of tax and recovery of tax not levied or short-levied or erroneously refunded
Section 11(4A)

Section 11 of the ST Act empowers the Officer Inland Revenue (OIR) to assess and recover tax where tax is not levied or short levied on taxable supplies or input tax credit or refund has been claimed which is not admissible under the ST Act. Under the existing provisions of the ST Act, the OIR is not empowered to recover the principal amount of tax from the payer (buyer) which was not deducted or deposited into the Government Treasury. However, it is witnessed that in number of cases the OIR initiated the proceedings for recovery of tax alongwith default surcharge, where the taxpayer failed to withhold tax or deposit such tax so deducted into the Government Treasury.

The Bill seeks to insert a new Sub-section (4A), whereby the OIR is empowered to determine the amount of default where the buyer fails to withhold tax.

It is pertinent to mention that in terms of section 3(3)(a) of the ST Act, the liability to pay sales tax on supply of goods rests with the person making such supplies. The amendment proposed has not addressed the issue where the supplier has paid the amount of tax due at the time of filing his return. Considering the scheme of payment of tax as envisaged under Section 3(3)(a) of the ST Act, the interpretation that the principle amount of tax is to be recovered would tantamount to duplicate payment of tax on a single transaction.

6. Exemption
Section 13

Under Section 13 of ST Act, the Federal Government may pursuant to the approval of the Economic Coordination Committee of Cabinet, exempt any taxable supply or imports of goods from the levy of sales tax through a notification.

The approval is sought for whenever circumstances arise to take immediate action for the purposes of national security and certain other specified instances.

The Bill proposes to expand the scope of aforementioned exemptions to any matter relating to International Financial Institutions or Foreign Government owned financial institutions.

The proposed amendment is aimed to enable the Government to meet its international obligations and commitments.

7. Returns
Section 26(2)

Section 26 deals with the matter relating to filing of returns. Sub-section 2 requires filing a separate return in case of change in the rate of tax during a tax period. However, after the introduction of online filing system, the requirement envisaged under Sub-section 2 became redundant. Accordingly, the Bill now seeks to omit the aforesaid provision of Sub-section 2.

8. Offences and penalties
Section 33

Section 33 contains a Table which provides general and specific penalties under specified circumstances. Entry No.19 of the table, provides a penalty in respect of any default in the provision of ST Act for which no specific penalty is prescribed.

The Bill now seeks to expand the scope of penalty prescribed in entry No.19 to include defiance of any Rule made under the Act.

9. Transfer of taxable activity or transfer of ownership
Section 49(2)

This section provides a mechanism for charging of sales tax in case of transfer of taxable business activities or part thereof from registered person to un-registered person or a registered person to another registered person.

Sub-section (2) of Section 49 provides that in case of transfer of ownership of taxable goods of business

unit between registered persons, the sales tax chargeable on such taxable goods shall be accounted for and paid by the registered buyer.

The intention of the legislature is that there is no sales tax impact on transfer of taxable goods in case of sale of business on ongoing basis between registered persons. However, ambiguity exists on the above interpretation.

The Bill now proposes to substitute the above Sub-section 2 by classifying such transaction as zero rated.

10. Disclosure of Information by a Public Servant Section 56B

The Bill proposes to substitute the existing provision of Section 56B of the ST Act. The existing provisions places restrictions regarding information acquired under any provisions of the ST Act, or in pursuance of a bilateral or multilateral agreement with Government of Foreign Countries for exchange of information under section 56A or tax information exchange agreement is to be treated as confidential and no public servant shall disclose any such information, except as provided under section 216 of the Ordinance. However, the above information provided by a public servant was not protected from the Freedom of Information Ordinance, 2002 (XCVI) of 2002. It is now proposed to protect provision of section information from any disclosure under the provision of Freedom of Information Ordinance, 2002.

11. Sales Tax measures announced in the budget documents

Through the salient features it was observed that certain measures were taken in sales tax and federal excise duty however coverage of the same was not provided under the Finance Bill. It appears that since the SRO's have not been issued with the Budget, therefore the below listed measures in sales tax and federal excise duty would be covered when the related SRO's are issued -

- In order to facilitate the exporters and provide for a No-Tax, No-Refund Regime for five export oriented sectors, the items as specified in the SRO 1125(1)/2011 dated 31 December 2011 and the purchase of energy i.e. electricity, gas, furnace oil and coal, are to be subjected to zero rate of sales tax. The retail sales of locally manufactured finished goods of these sectors levied to sales tax @ 5%.

- Sales tax is currently levied @5% on the import stage, @3% as value addition tax and 2% as further tax on second hand and worn clothing, which results in cumulative impact of sales tax at 10%. In order to provide relief to the low income segment, using second hand worn clothing, exemption from further tax will be provided.
- Under the Special Procedure Rules, 2007 for payment of sales tax by the retailers, Tier -1 retailers are presently obliged to pay sales tax at the standard rate after input tax adjustment. It is proposed to provide an option to these retailers to pay sales tax at a flat rate of 2% of their total turnover without any input adjustment.
- Marble Cutting and Polishing Industry is mostly un-registered and not paying sales tax. As such considering major consumption of electricity in the sectors it is proposed to introduce new procedures for payment of sales tax by the Marble Industry under the Special Procedures Rule, 2007.
- In order to bring Marble industry in the ambit of sales tax, it is proposed to charge sales tax at Rs.1.25 per KWH of electricity consumed. The proposed tax shall be in addition to standard sales tax of 17% on supply of electricity as well as extra tax of 5%.
- The special procedure for payment of sales tax from the steel sector, ship breaking sectors and steel melters are liable to payment of sales tax on the basis of fixed rate. Such fixed rates will be proposed to be revised upwards.

12. Amendments in the Third Schedule- Tax on retail price

The third schedule lists goods that are taxable on the basis of manufacturer's retail price. It is proposed to include the following item thereto:

S.No.	Description	Tariff Heading
37	Mineral/bottled water	Respective headings

13. Amendments in the Fifth Schedule- Zero rated goods

The Fifth schedule to the ST Act list goods that are zero rated. The Bill proposes omission from zero rating of the following items covered under serial No.12.

Clause No.	Description	PTC Heading
(i)	Colors in sets	3213.1000
(ii)	Writing, drawing and marking inks	3215.9010 and 3215.9090
(iii)	Erasers	4016.9210 and 4016.9290
(iv)	Exercise books	4820.2000
(v)	Pencil sharpeners	8214.1000
(vi)	Geometry boxes	9017.2000
(vii)	Pens, ball pens, markers and porous tipped pens	96.08
(viii)	Pencils including color pencils	96.09
(ix)	Milk	04.01
(xviii)	Fat filled milk	1901.9090

The above listed items are exempt from sales tax under the Sixth Schedule to the ST Act as well as zero-rated under the Fifth Schedule to the ST Act thereof. It is proposed to withdraw zero-rating on stationery items and their inputs.

14. Amendments in the Sixth Schedule

The Sixth Schedule deals with exemption of goods from levy of sales tax. The Bill has proposed to include the following goods in the Sixth Schedule to the ST Act:

Table 1 (on import and local supply)

S.No.	Description	Tariff Heading
100A	Materials and equipment for construction and operation of the Gawadar Port and development of Free Zone for the Gawadar Port as imported by or supplied to China Overseas Ports Holding Company Limited (COPHCL) and its operating companies namely (i) China Overseas Ports Holding Company Pakistan (Private) Limited, (ii) Gawadar International Terminals Limited, (iii) Gawadar Marine Services Limited and (iv) Gawadar Free Zone Company Limited, their contractors	Respective headings

S.No.	Description	Tariff Heading
	and sub-contractors; and Ship Bunker Oils bought and sold to the ships calling on/visiting Gawadar Port, having Concession Agreement with the Gawadar Port Authority, for a period of forty years, subject to the conditions and procedure as specified under (A) and (B) of 100A in the manner prescribed in Annexure-I.	
100B	Supplies made by the businesses to be established in the Gawadar Free Zone for a period of twenty-three years within the Gawadar Free Zone, subject to the condition that the sales and supplies outside the Gawadar Free Zone and into the territory of Pakistan shall be subjected to Federal Excise Duty.	Respective headings

The Bill also proposes certain new entries after Serial No.129 of Table-I of the Sixth Schedule to the ST Act. The Bill also proposes to exempt certain items including laptops, note books and computers, pesticides and their active ingredients, which are presently liable to sales tax at a reduced rate. The proposed entries are as follows.

S.No.	Description	Heading Nos. of the First Schedule to the Customs Act, 1969 (IV of 1969)
130.	Premises for growth stunting	Respective Headings, and subject to conditions imposed for importation under the Customs Act, 1969;
131.	Laptop computers, notebooks whether or not incorporating multimedia kit	8471.3010

S.No.	Description	Heading Nos. of the First Schedule to the Customs Act, 1969 (IV of 1969)
132.	Personal computers	8471.3020
133.	Pesticides and their active ingredients registered by the Department of Plant Protection under the Agricultural Pesticides Ordinance, 1971 (II of 1971), stabilizers, emulsifiers and solvents, namely:-	38.03
	Xylol (xylenes)	2707.3000
	- Beta Pinene / Agrotin 527 / Terpenic derivative	2902.1990
	Toluene	2902.3000
	Mixed xylene isomers	2902.4400
	Naphthalene	2902.9010
	Solvento-100, 150, 200	2902.9090
	Ingredients for pesticides	2903.3040
	Cadusafos Technical Material	2903.6900
	Methanol (methyl alcohol)	2905.1100
	Propylene glycol (propane-1, 2-diol)	2905.3200
	- Adhesives Polyvinyl Acetate - Polyvinyl Alcohol	2905.4900
	Ingredients for pesticides	2906.2910
	Other Ingredients for pesticides	2906.2990
	- Solvenon MP / 1-Methoxy 2-Propanol - Methylglycol Acetate	2909.4910
	Methanal (formaldehyde)	2912.1100
	Cyclo-hexanone and methyl- cyclo-hexanones	2914.2200
	- Cyclohexanon - Cyclohexanone Mixed petroleum Xylene (1,2 & 1,3 & 1,4 dimethyl benzene and ethyle benzene)	2914.2990
	Acetic anhydride	2915.2400
	Ingredients for pesticides	2916.3920
	Diocetyl orthophthalates	2917.3200
	Ingredients for pesticides	2918.9010
	Ingredients for pesticides	2919.0010
	Other Ingredients for pesticides	2919.0090
	Endosulfan Technical Material	2920.9020

S.No.	Description	Heading Nos. of the First Schedule to the Customs Act, 1969 (IV of 1969)
	Other Ingredients for pesticides	2920.9090
	Diethylamine and its salts	2921.1200
	Ingredients for pesticides	2921.4310
	Other Ingredients for pesticides	2921.4390
	Ingredients for pesticides	2921.5110
	Triethanolamine and its salts	2922.1300
	Dimethyl Formamide (DMF)	2924.1990
	Ingredients for pesticides	2924.2930
	Other Ingredients for pesticides	2924.2990
	Alpha cyano, 3-phenoxybenzyl (-) cis, trans 3-(2,2-dicloro vinyl) 2,2 dimethyl cyclopropane carboxylate	2926.9010
	(S) Alpha cyano, 3-phenoxybenzyl (S)-2-(4, chloro phenyl)-3 mehtyl butyrate	2926.9020
	Cyano, 3-phenonyl benzyl 2,2,3,3 tetra methyl cyclopropane carboxalate	2926.9030
	- Cypermethrin, Alpha Cypermethrin, Beta-Cypermethrin, Zeta-Cypermethrin, Lambda Cyalothrin, Deltamethrin, Fenprothrin, Esfenvalerate, Bifenthrin Technical Material-Acetamiprid, Imidacloprid Technical Material-Monomehypo, Chlorothalonil Technical Material-Bromoxynil Technical Material	2926.9050
	Other nitrite compounds-Cyfluthrin, Beta Cyfluthrin Technical Material	2926.9090
	2-N, N-Dimethyl amino-l sodium thiosulphate, 3-thiosulfourropane	2930.2010
	Ingredients for pesticides	2930.2020
	2- N,N-dimethymino 1,3 disodium thiosulphate propane	2930.9010

S.No.	Description	Heading Nos. of the First Schedule to the Customs Act, 1969 (IV of 1969)
	O,S-dimethyl phosphoramidothioate	2930.9020
	S-S (2 dimethyl amino (trimethylene) bis (thio carbamate)	2930.9030
	Diafethiuran technical (itertbutyl) 3-2-6 disopropyl (4-phenoxyphenyl) thiourene	2930.9040
	O-O diethyl O-(3,5,6 trichloro pyridinyl) phosphorothioate phosphorothioate	2930.9050
	O-(4-bromo, 2-chloro phenyl) o-ethyl s- propyl (phosphorothioate)	2930.9060
	O,O duethyl O-(3,5,6-trichloro 2-pyridyl) phosphorothioate	2930.9070
	Ingredients for pesticides	2930.9080
	Other orgonosulpher compounds- Ethion, Methamidophos Technical Material - Dimethylsulfoxid	2930.9090
	Ingredients for pesticides	2931.0010
	Other Ingredients for pesticides	2931.0090
	Ingredients for pesticides	2932.2920
	2,3 Dihydro 2-2 dimethyl-7 benzo furanyl methyl-carbamate	2932.9910
	Other ingredients for pesticides Carbosulfan Technical Material	2932.9990
	Fipronil	2933.1900
	Ingredients for pesticides	2933.3930
	Other Ingredients for pesticides	2933.3990
	Chlorpyrifos, Triazophos, Diazinon Technical Material	2933.5950
	Other Ingredients for pesticides	2933.5990
	Pyrimethanine	2933.6910
	Ingredients for pesticides	2933.6940
	- Atrazine Technical Material	2933.6990
	Isatin (lactam of istic acid)	2933.7910
	1-Vinyl-2-pyrrol-idone	2933.7920
	- Triazophos Technical Material	2933.9910

S.No.	Description	Heading Nos. of the First Schedule to the Customs Act, 1969 (IV of 1969)
	Ingredients for pesticides	2934.1010
	Ingredients for pesticides	2934.9920
	-Methyl benzimidazol - 2 - ylcarbamate. -Dicopper chloride trihydroxide	2938.9010
	Ingredients for pesticides	2939.9910
	Abamectin, Emamectin Technical Material	2941.9050
	Other Ingredients for pesticides	2941.9090
	Sulphonic acid (Soft)	3402.1110
	Other surface active agents	3402.1190
	Catonic	3402.1290
	Non ionic surface active agents	3402.1300
	Other organic surface active agents	3402.1990
		3402.9000
	Chemical preparations	3824.9099
	Solvent C-9	2707.5000";

15. Amendments in the Eighth Schedule

The Eighth Schedule deals with items that are liable to sales tax at reduced rate.

The Bill proposes enhancement in the rates of sales tax for the following goods listed in Table I to the Eighth Schedule.

S.No.	Description	Existing Rate of Sales Tax	Proposed Rate of Sales Tax
15	Ingredients of poultry feed , cattle feed, except soya bean meal of PCT heading 2304.0000 and oil-cake of cottonseed falling under PCT HEADING 2306.1000	5%	10%

The Bill also seeks substitution of respective headings in the schedule below-

S.No	Existing		Proposed	
	Description	Tariff Heading	Description	Tariff Heading
15	Others (Flour meals etc.)	2301.2090	Meat and Bone Meal	2301.1000
	Betafin	2923.9000	Betaine	2923.9010
20	Plant, machinery equipment and specific items used in production of bio-diesel	Respective headings	Plant, machinery, equipment used in production of bio-diesel	Respective headings

Description	Sales Tax on Import		Sales Tax at the time of registration of IMEI	
	Rs.1,000	Rs.1500	Rs.1,000	Rs.1500
C.Smart Cellular Mobile Phones or Satellite Phones				

The Bill seeks to omit serial No.31 relates to various pesticides from the relevant Table -1 of the Eighth Schedule. However, the same entries are now proposed to be inserted to Serial No.133 of Table-I to the Sixth Schedule of the ST Act for the purpose of sales tax exemption.

The Bill proposes the addition of the following goods in Table -1 to the Eighth Schedule -

S No.	Description	Tariff Heading	Rate
32	White Crystalline Sugar	1701.9910 and 1701.9920	8%
33	Urea, whether or not in aqueous solution	3102.1000	5%

16. Amendments in the Ninth Schedule

Ninth Schedule deals with the levy of sales tax on import and supply of locally manufactured cellular phones at the fixed amount of tax. The Bill proposes enhancement in the rates of sales tax for Cellular phones listed in the Table to the Ninth Schedule-

Description	Sales Tax on Import		Sales Tax at the time of registration of IMEI	
	Existing Rate of Sales Tax	Proposed Rate of Sales Tax	Existing Rate of Sales Tax	Proposed Rate of Sales Tax
B.Medium priced Cellular Mobile Phones or Satellite Phones	Rs.500	Rs.1000	Rs.500	Rs.1000

1. Scope of Tax
Section 3

It is proposed to insert a new sub section (2A) and extend *mutatis mutandis* application of following provisions of the Sales Tax Act, 1990 to the services provided under the Islamabad Capital Territory (Tax on Services) Ordinance, 2001:

- power of the Federal Government to levy sales tax subject to conditions and restrictions in addition to tax already chargeable;
- zero rated supply to diplomats, diplomatic missions, privileged persons and privileged organizations which are covered under various Acts, Orders, Rules, Regulations and Agreements passed by the Parliament or issued or agreed by the Government of Pakistan;
- power of the Federal Government related to granting of exemptions with approval of the Economic Coordination Committee of the Cabinet; and
- goods imported or supplied under grants-in-aid for which specific consent has been obtained from the FBR, supplies and imports under agreements signed by the Government of Pakistan before 30 June 1996, provided the agreements contained the provision for exemption of tax at the time of signing of agreements.

The Bill also seeks to insert another sub section (2B) to exclude from the ambit of service tax, regulatory and licensing services rendered or provided by an organization established by or under a Federal Statute. This proposed amendment will put to rest the controversy created due to applying the service tax on revenue of regulators performing regulatory functions of the State.

FEDERAL EXCISE

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1. Due date & Adjustment of duties of excise
Section 2(8a) & Section 6(2A)

The Bill seeks to amend the definition of due date for filing of Sales Tax and Federal Excise return. The Bill further seeks to insert various filing dates for different parts or annexures to the return.

Further, a new Sub-section (2A) is proposed in Section 6, which restricts the allowability on input of excise duty only if the supplier of input goods and services has declared such supply in his return and he has paid the amount of tax due as indicated in his return. The said provisions would be effective from the date to be notified by the Board.

The proposed amendments are in line with the FBR decision to introduce a new automated system for e-filing of sales tax and federal excise returns with effect from 1 July 2016.

The current system is causing problems in post-return cross-matching of input taxes claimed by the buyers with the output taxes declared by the suppliers. In order to deal with this problem, the new system is visualised in the manner where the suppliers will submit the data/annexure related to output tax due on their sales earlier than the due date for filing of return so that their customers/buyers can automatically pick the corresponding input tax invoices from the data base. In this system, the customer/buyer at the time of filing of return can verify the payment of sales tax made by the supplier in respect of supplies made to him.

The new system will require early submission of sales invoice data, enabling buyers to claim input against the same.

Moreover, the proposed system will eliminate post-return input discrepancies, which presently causes inconvenience. It will also reduce substantially department's contact with registered persons.

2. Time and manner of payment of duty and filing of return
Section 4

Currently, a registered person is liable to pay duty in respect of the dutiable supplies made or services rendered during a tax period at the time of filing of the return of that period. The Bill now seeks to replace the requirement for payment of duty at the time of filing of return with the date prescribed in this respect.

Moreover, under Sub-section 3, the requirement of filing of special return in case of different rates of duty is also proposed to be omitted.

3. Exemptions to levy duty on goods or services
Section 16

Under Sub-section 2, the Federal Government pursuant to the approval of the Economic Coordination Committee of the Cabinet (ECC), may exempt any goods or class of goods from the whole or any part of duty leviable under the FE Act.

The approval is sought for whenever circumstances arise to take immediate action for the purposes of national security, natural disaster, national food security in emergency situations protection of national economic interest on situation arising out of abnormal fluctuation in international commodity prices, removal of anomalies in duties, development of backward areas and implementation of bilateral and multilateral agreements.

The Bill proposes to expand the power of the Federal Government to grant exemption from excise duty with the approval of ECC of the Cabinet to matters relating to any International Financial Institution or Foreign Government owned Financial Institution operating under a Memorandum of Understanding (MoU), agreement or any other arrangement with the Government of Pakistan.

The proposed amendment is aimed to enable the Government to meet its international obligations and commitments.

4. Offences and Penalties
Section 19

Under Section 19, a new Sub-section (13) is proposed to be inserted whereby a general penalty is levied for contravention of any provisions of the FE Act or rules made thereunder equal to Rs.5,000 or 3% of the amount of duty involved, whichever is higher.

5. Disclosure of information by a public servant
Section 47B

The Bill proposes to substitute the existing provisions of Section 47B of the FE Act, which place restriction on disclosure of any confidential information, which is acquired under any provision of FE Act or in pursuance of a bilateral or multilateral agreement or tax information exchange agreement, by a public servant except as provided under section 216 of the Income Tax Ordinance, 2001. The proposed provision while keeping the restriction on disclosure of any

information acquired under the provision of FE Act or any information received or supplied in pursuance of a bilateral or multilateral agreement with government of foreign countries for exchange of information has also extended the scope of such restriction by providing overriding effect to the Freedom of Information Ordinance, 2002.

6. Rate of duty on aerated waters enhanced
First Schedule, Table I

The rate of duty on aerated waters, as mentioned in serial Nos. 4, 5 and 6 of Table I of the First Schedule to the FE Act, have been proposed to be enhanced from "10.5% of retail price" to "11.5% of retail price". The proposed entries are as follows:

TABLE - I

S No.	Description	Rate of Duty
4	Aerated waters	11.5 % of retail price
5	Aerated waters, containing added sugar or other sweetening matter or flavoured	11.5 % of retail price
6	Aerated waters if manufactured wholly from juices or pulp of vegetables, food grains or fruits and which do not contain any other ingredient, indigenous or imported, other than sugar, colouring materials, preservatives or additives in quantities prescribed under the West Pakistan Pure Food Rules, 1965	11.5 % of retail price

7. 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 No.9 with 9a and 9b, covering different periods whereas serial No.10 is substituted by 10a and 10b of Table I of the First Schedule to the FE Act along with the description of goods. The proposed entries, as reproduced below, enhance rate of duty in two phases:

TABLE - I

Existing Provision			Proposed Provision		
Serial No.	Description	Rate of duty	Serial No.	Description	Rate of duty
9	Locally produced cigarettes if their on-pack printed retail price exceeds rupees three thousand three hundred and fifty per thousand cigarettes	Rupees 3,030 per thousand cigarettes	9a.	For the period from 01-07-2016 to 30-11-2016, locally produced cigarettes if their on-pack printed retail price exceeds four thousand rupees per thousand cigarettes	Rupees 3,436 per thousand cigarettes
			9b.	For the period from 01-12-2016 onwards, locally produced cigarettes if their on-pack printed retail price exceeds four thousand four Hundred rupees per thousand cigarettes	Rupees 3,705 per thousand cigarettes
10	Locally produced cigarettes if their on-pack printed retail price does not exceed rupees three thousand three hundred and fifty per thousand	Rupees 1,320 per thousand cigarettes	10a	For the period from 01-07-2016 to 30-11-2016, locally produced cigarettes if their on-pack printed retail price does not exceed	Rupees 1,534 per thousand cigarettes

Existing Provision			Proposed Provision		
Serial No.	Description	Rate of duty	Serial No.	Description	Rate of duty
	cigarettes			four thousand rupees per thousand cigarettes	
			10b	For the period from 01-12-2016 onwards, locally produced cigarettes if their on-pack printed retail price does not exceed four thousand four hundred rupees per thousand cigarettes	Rupees 1,649 per thousand cigarettes

The rate of duty as specified in above Table at Sr.No.9a and 10a are effective from 4 June 2016 vide SRO 473(I)/2016 dated 03 June 2016

8. 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 at 5% of the retail price. It is now proposed to be substituted by Rs. 1 per kilogram.

9. Withdrawal of duty on certain excisable services
First Schedule, Table II

Sales tax on services was introduced through four separate Provincial Sales Tax Ordinances since 2000 in order to levy tax on certain identical services such as hotels, clubs, advertisement on T.V. and radio, courier. Subsequently, the Islamabad Capital Territory (Tax on Services) Ordinance, 2001 was also introduced wherein similar services were subjected to sales tax. The administration and collection of the

provincial as well as Islamabad Capital Territory sales tax was with the Federal tax authority.

Additionally, certain services such as telecommunication, banking, insurance and franchise etc. were subjected to levy of excise duty under the Federal Excise Act, 2005.

In pursuance of the 18th amendment to the Constitution of Pakistan and the 7th NFC award the Provinces of Sindh, Punjab and Khyber Pakhtunkhwa, Baluchistan established their respective Revenue Authorities to administer and collect sales tax on services. Accordingly the respective Provincial Sales Tax Ordinances of 2000 were repealed and replaced with the respective Provincial Sales Tax on Services Act wherein significant additional services were brought into the tax net.

Accordingly, in July 2011 it was clarified by the FBR through press release that certain services, previously subject to Federal Excise Duty (being collected in Sales Tax mode), have now been subjected to Sales Tax by the Provinces through their legislation; therefore, the Excise Duty on such services is withdrawn from the date of introduction of provincial sales tax on such services through a notification. However, no such notification was issued till to date. Non issuance of the notification created disputes among the tax authorities and taxpayers which resulted in immense litigation before various appellate forums. A number of Constitutional Petitions were also filed before the courts. The Honorable High Court of Sindh has recently issued a detailed judgment by declaring the levy of Excise Duty as ultra vires the Constitution, with effect from the date of enactment of respective Provincial Sales Tax law.

It is declared that on account of the 18th Amendment to the Constitution (which took effect from 19.10.2010) the Provinces alone have the legislative power to levy a tax on the rendering or providing of services.

In order to end this controversy, the bill proposes to insert a note after Table -II of the First Schedule to the FE Act by withdrawing duty on the following excisable services rendered in the province where the sales tax is charged under the respective provincial sales tax law.

TABLE - II (SERVICES)

S.No.	Description of goods	Heading / sub-heading Number
1	Advertisement on closed circuit T.V.	9802.3000
2	Advertisements on cable T.V. network.	9802.5000
2A	Advertisements in newspapers and periodicals (excluding classified advertisements) and on hoarding boards, poles signs and sign boards.	9802.4000 and 9802.9000
5	Shipping agents	9804.1000
8	Services provided or rendered by banking companies, cooperative financing societies, modarbas , musharikas, leasing companies, foreign exchange dealers, non-banking financial institutions, assets management companies and other persons dealing in any such services.	98.13
11	Franchise services	9812.9410
13	Services provided or rendered by stock brokers	9819.1000

However, the services such as facilities for travel in respect of travel by air, Inland carriage of goods by air and services provided or rendered by port and terminal operators in relation to imports excluding stevedoring services remain subject to duty under Table-II to the FE Act on the basis that right of collection of duty and taxes on such services rests with the Federation under the Constitution of Pakistan.

10. Withdrawal of duty in VAT mode
Second Schedule

“White Crystalline Sugar” under tariff heading 1701.9910 and 1701.9920 is subject to federal excise duty in VAT mode @ 8% as listed at Serial No.3 of the Second Schedule to the FE Act. The Bill seeks to replace this duty with sales tax. Keeping in view, it is proposed to delete Serial No.53 of Table-I of the First Schedule and Serial No.3 of the Second Schedule

of the FE Act and insert Sr. No. 32 in the Eighth Schedule to the ST Act to levy sales tax @ 8% on the White Crystalline Sugar. This proposition is made only to streamline the sales tax laws under the scheme of Federal Government and does not have any significant change in rate or levy of duty or sales tax.

11. Amendments in the Third Schedule
Section 16

The Third Schedule to the FE Act lists down the goods and services that are exempt from excise duty whether conditionally or otherwise. The Bill proposes to omit the exemption available at Serial No.18 on supply of white cement under tariff heading 25.23. . Further, the Government is focused to develop the Gwadar port and therefore proposed exemption on materials and equipment required for construction and operation of the Gwadar port imported by and for China Overseas Ports Holding Company Limited (COPHCL) and its operating companies for a period of 40 years as well as for Supplies made by the businesses to be established in the Gwadar Free Zone for a period of 23 years by inserting Serial No.19 and 20 in Table I of the Third Schedule. The proposed entries are as follows:

TABLE - I (GOODS)

Entry No.	Description of goods	Heading / sub-heading Number
19	Materials and equipment for construction and operation of the Gawadar Port and development of the Free Zone for Gawadar Port as imported by or supplied to China Overseas Ports Holding Company Limited (COPHCL) and its operating companies namely (i) China Overseas Ports Holding Company Pakistan (Private) Limited, (ii) Gwadar International Terminals Limited, (iii) Gwadar Marine Services Limited and (iv) Gwadar Free Zone Company Limited, their contractors and sub-contractors; and Ship Bunker Oils bought and	Respective Headings

Entry No.	Description of goods	Heading / sub-heading Number
	sold to the ships calling on/visiting Gawadar Port, having Concession Agreement with the Gawadar Port Authority, for a period of forty years, subject to the conditions and procedure as specified under S.No. 100A of Table-1 of Sixth Schedule to the Sales Tax Act, 1990.	
20	Supplies made by the businesses to be established in the Gawadar Free Zone for a period of twenty-three years within the Gawadar Free Zone, subject to the condition that the sales and supplies outside the Gawadar Free Zone and into the territory of Pakistan shall be subjected to Federal Excise Duty.	Respective Headings

CUSTOMS

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Customs Act, 1969

1. General Powers to Exempt Customs Duties
Section 19

Under section 19, the Federal Government, with the approval of the Economic Coordination Committee of the Cabinet, may exempt any goods or class of goods from the whole or any part of customs duty leviable under the Act and may remit any fine, penalty, charge or any other amount recoverable under the Act through a notification in the official Gazette.

The said exemption can only be granted to take immediate action for the purposes of national security, natural disaster, national food security in emergency situations arising out of abnormal fluctuation in international commodity prices, removal of anomalies in duties, development of backward areas and implementation of bilateral and multilateral agreements.

The Bill seeks to expand the scope of aforementioned exemptions to include any International Financial Institution or Foreign Government owned Financial Institution operating under a Memorandum of Understanding, an agreement or any other arrangement with the Government of Pakistan.

The proposed amendment is aimed to enable the Government to fulfill its international obligations and commitments.

2. Confidentiality of information
Section 155H

This section provides for confidentiality of the information gathered by the Customs Authorities during clearance of goods and restricts its use for:

- Statistical purposes by the department and other Government organizations;
- purposes of comparison and evidence as against other imports and exports; and
- production before a legal forum as an evidence or an organization explicitly so authorized by the Federal Government;

The Bill proposes to expand the confidentiality and restrictions of the use of information for the following:

- sharing of agreed data contents under a memorandum of understanding, bilateral,

regional, multilateral agreements or conventions; or

- public disclosure of valuation data through any medium containing description of items, origin, currency, declared and assessed unit value without disclosing names and addresses of the importer or exporter or their suppliers.

The proposed amendment is aimed to share data with:

- other countries in order to comply with mutual agreements; and
- the public for transparency and awareness.

3. First Schedule - Significant changes in rates of customs duty
Section 18(1)

The following significant amendments are proposed in the customs duties of various items:

- Tariff slabs to be reduced from 5 to 4
- Slab rates of 2% and 5% to be replaced with 3%
- Slab rates of 10% and 15% to be increased by 1% each.
- New proposed slab rates, applicable to all goods other than vehicles, are 3%, 11%, 16% and 20%.

4. Fifth Schedule- Import of Plant and Machinery etc.
Section 18(1A)

The Fifth Schedule to the Act provides the reduced rate/exemption of Customs duty (duty) with certain conditions, limitations or restrictions. The following significant propositions are being introduced:

Part-I (Plant, machinery, equipment, apparatus including capital goods)

- Customs Duty is reduced from 5% to 2% in case of dairy, livestock and poultry.
- Customs Duty is reduced from 5% to 3% in case of certain machinery related to green-house farming, grain handling and storage facilities including silos, cool chain machinery equipment, desalination plants, coal firing system, gas processing plants and oil and gas field prospecting, gymnasium equipment, mine construction equipment, plant and machinery for power generation through oil, gas, coal, hydel, wind and wave energy, plant and machinery for power transmission and grid stations, machine and tool for stone work, sand blasting machines,

machinery, equipment and other project related items for setting up of hotels located in an area of 30 km around the zero point in Gwadar and effluent treatment plants.

Part-II (Active pharmaceutical ingredients, chemical, drugs etc.)

- Customs Duty is reduced from 5% to 3% in case of certain pharma ingredients like, Moxifloxacin, Alfalcidole, Lactulose etc.

Part-III (Raw Materials/Inputs for Poultry and Textile Sector; Other Goods)

- Customs Duty is proposed at 0% on certain goods including seeds of sun flower, mustard and canola, Sodium Iron and other premixes of Vitamins, Minerals and Micro- nutrients (food grade).
- Certain raw materials, including paper and paper board, Chrysotile Asbestos etc. enjoying concessionary duty of 15% under SRO 565(I)/2006 are proposed to be moved in Part-III, without any change in the rate of duty.
- Customs duty is proposed at various reduced rates on certain new items.

Part-IV (Imports of Machinery and Equipment for Textile Sector)

- It is proposed to charge Customs duty at 0% on import of certain machinery and equipment items, not manufactured locally, if imported by textile industrial units registered with Ministry of Textile Industry.
- Previously Part IV was designated to deal with miscellaneous goods, which is now proposed to be renumbered as Part VII, with certain new entries.

Part-V (Import of Automotive Vehicles (CBUs) under Automotive Development Policy (ADP) 2016-21)

- It is proposed to reduce Customs duty from 2% to 1% for LNG/LPG/CNG buses if imported in CBU condition.
- Customs duty is proposed to be reduced to 1% on Hybrid Electric Vehicles if imported in CBU condition.
- Previously Part V was designated to "imports of aviation related goods", which is now proposed to be renumbered as Part VI.

A new condition is proposed to explain the applicability of rate of customs duty in respect of goods for which two rates of customs duty (i.e. 3% and 5%) have been mentioned. It explains the rate of tax of 3% shall only apply to such goods which are mentioned in the First Schedule as goods subject to levy of duty @ 3%.

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