TOLA ASSOCIATES
TAX & CORPORATE ADVISORS

COMMENTS ON TAX LAWS (SECOND AMMENDMENT) ACT, 2021

DATED: FRIDAY, 12 MARCH 2021

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PROLOGUE:

The Government is likely to introduce Finance Bill ("The Bill") in next Session of National Assembly to be called Tax Laws (Second Amendment) Act, 2021, whereby it will be proposing to withdraw/streamlining majority of exemptions in Income Tax Ordinance, 2001. The withdrawal of exemptions is made in line with on going negotiations with IMF to withdraw income tax exemptions worth Rs 140 billion. The proposed amendments, if enacted, will take effect from 1st day of July, 2021.

These comments are based on publicly available version of the Bill on social media.

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Saturday, March 13, 2021

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INCOME TAX ORDINANCE, 2001

1. INDUSTRIAL UNDERTAKING – SECTION 2 (29C)

The scope of industrial undertaking is defined in Section 2(29C) to be eligible for various benefits under ITO. The definition also empowers FBR to specify any other entity as industrial undertaking. The Bill proposes to withdraw this power of FBR.

2. FIRST YEAR ALLOWANCE – SECTION 23A

As per Section 23A, plant, machinery and equipment installed by any industrial undertaking set up in specified rural and underdeveloped areas and owned and managed by a company are allowed first year allowance at 90% of the cost in lieu of initial allowance. Now through the Bill, this allowance is proposed to be withdrawn.

3. REBATE ON DONATION – SECTION 61, CLAUSE 61 PART-1 OF SECOND SCHEDULE, THIRTEENTH SCHEDULE

As per section 61, a person is entitled to a tax credit in respect of any sum paid, or any property given by the person in the tax year as a donation to:

- any board of education or any university in Pakistan established by, or under, a Federal or a Provincial law;
- any educational institution, hospital or relief fund established or run in Pakistan by Federal Government or a Provincial Government or a Local Government; or
- any non-profit organization

- The tax credit is allowed at average rate of tax on the lower of the following:
- Actual amount of donation or Fair Market Value of property at the time it is given; or
- 30% of taxable income (20% in case of a company)

To extend the scope of this section, now voluntary contribution or subscription has also been proposed to be included to calculate tax credit. The bill also proposes to clarify that non-profit organization includes persons eligible for tax credit under Section 100C of ITO.

4. DONATIONS AS DIRECT DEDUCTIONS – CLAUSE (61), (64A), (64B), (64C) AND (65) AND THIRTEENTH SCHEDULE

As per clauses (61), (64A), (64B), (64C) and (65) of Part 1 of Second Schedule, donations to certain institutions are **straight forward deduction** from income of the donor (instead of calculating rebate at average rate of tax as done under section 61). Maximum limit on donations under this clause is 30% of taxable income in case of an individual or AOP and 20% of taxable income in case of a company with respect to donations to institutions specified in clause (61).

Now these clauses are proposed to be omitted by the Bill, and all the institutions mentioned therein are now part of newly proposed Thirteenth Schedule read with Section 61 of ITO. Therefore, donations, voluntary contributions and subscription to these institutions will no more be direct deduction from income of the donor, rather will be a rebate at average rate of tax. Following is a comparison of impact of change on tax liability of a salaried person having total income of Rs. 3,200,000 who donates an amount of Rs. 640,000 to institutions listed under clause (61).

	Pre Bill	Post Bill
Total Income	3,200,000	3,200,000
less: Donation to institutions under clause 61	(640,000)	-
Taxable income	2,560,000	3,200,000
Tax at slab rate	282,000	420,000
Less: Rebate at average rate	-	(84,000)
Net Tax Liability	282,000	336,000

5. TAX CREDIT FOR PERSONS EMPLOYING FRESH GRADUATES- SECTION 64C

Section 64C inserted through Finance Act 2019, provides that a person employing freshly qualified graduates from a university or institution recognized by Higher Education Commission shall be entitled to a tax credit in respect of the amount of annual salary paid to the freshly qualified graduates for a tax year in which such graduates are employed. Now through the Bill, this tax credit is proposed to be withdrawn.

6. TAX CREDIT FOR ENLISTMENT- SECTION 65C

As per this section, where a taxpayer being a company opts for enlistment in any registered stock exchange in Pakistan on or before the 30th day of June 2022, a tax credit equal to twenty per cent of the tax payable shall be allowed for the tax year in which the said company is enlisted and for the following three tax years, However, the tax credit for the last two years shall be 10% of the tax payable. Now through the Bill, this tax credit is proposed to be withdrawn.

7. TAX CREDIT FOR CERTAIN PERSONS - SECTION 65F

A new Section 65F is proposed to be inserted, whereby income of following taxpayers shall be allowed a tax credit equal to 100 % of the tax payable including minimum and final taxes as follows: -

(a) Persons engaged in coal mining projects in Sindh supplying coal exclusively to power generation projects; [Previously in Clause 132A of Part 1 of Second Schedule. now proposed to be omitted].

(b) A startup as defined in clause (62A) of section 2 for the tax year in which the startup is certified by the Pakistan Software Export Board and the following two tax years; [Previously in Clause 143 of Part 1 of Second Schedule].

(c) Persons deriving income from exports of computer software or IT services or IT enabled services upto the period ending on the 30th day of June, 2025:

Provided that eighty per cent of the export proceeds is brought into Pakistan in foreign exchange remitted from outside Pakistan through normal banking channels.

Explanation. - For the purpose of this clause, –

i. "IT services" include software development, software maintenance, system integration, web design, web development, web hosting and network design; and
ii. "IT enabled services" include inbound or outbound call centers, medical transcription, remote monitoring, graphics design, accounting services, HR services, telemedicine centers, data entry operations, locally produced television programs and insurance claims processing. [Previously in Clause 133 of Part 1 of Second Schedule.]

The above tax credit shall be available subject to fulfillment of the following conditions, namely:-

(a) return has been filed;
(b) tax required to be deducted or collected has been deducted or collected and paid;
(c) withholding tax statements for the immediately preceding tax year have been filed;
(d) sales tax returns for the tax periods corresponding to relevant tax year have been filed;

The above credits will not preclude the provision of audit under section 214C and section 177.

We understand that the changes made are in line with latest Supreme Court Order in Civil Appeal No.647 of 2018 dated 28.09.2020 in which scope of exemption vs tax credit was clarified by Apex Court. The reclassification will render the respective taxpayers ineligible for applying for exemption certificate under section 159 for exemption from withholding tax provisions.

8. TAX CREDIT FOR SPECIFIED INDUSTRIAL UNDERTAKING – SECTION 65G

A new Section 65G is proposed to be inserted through the Bill, whereby **eligible capital investment** done by **eligible taxpayers** shall be allowed to take an investment tax credit of 25% of the eligible investment amount, against tax payable under the provisions of this Ordinance including minimum and final taxes. The tax credit not fully adjusted during the year of investment shall be carried forward to the subsequent tax year subject to the condition that it may be carried forward for a period not exceeding two years.

Eligible investment means investment made in purchase and installation of new machinery, buildings, equipment, hardware and software, except self-created software and used capital goods.

Eligible person means –

(a) green field industrial undertaking as defined in clause (27A) of section 2 of this Ordinance
   1. engaged in –
      - The manufacture of goods or materials or the subjection of goods or materials to any process which substantially changes their original condition; or
      - Ship building;
   2. A person incorporated between the 30th day of June, 2019 and the 30th day of June, 2024; and
   3. A person not formed by the splitting up or reconstitution of an undertaking already in existence or by transfer of machinery, plant or building from an undertaking established in Pakistan.

(b) industrial undertaking set up by the 30th day of June 2023 and engaged in the manufacture of plant, machinery, equipment and items with dedicated use (no multiple uses) for generation of renewable energy from sources like solar and wind, for a period of five years beginning from the date such industrial undertaking is set up. (Previously in clause (126I, Part I of Second Schedule)

On the other hand, The Bill proposes to omit Clause 126O of Part 1 of Second Schedule whereby Profits and gains of a company from a green field industrial undertaking for a period of five years incorporated on or after the first day of July, 2019, are exempt

9. 100% TAX CREDIT FOR NOT FOR PROFIT ORGANIZATION – SECTION 100C

The Bill proposes to restructure the section 100C of the income Tax Ordinance as follows;

(c) a not for profit company registered with the Securities and Exchange Commission of Pakistan under section 42 of the Companies Act, 2017;

(d) a welfare society registered under the provincial or Islamabad Capital Territory (ICT) laws related to registration of co-operative societies; and

(e) International non-governmental organizations (INGOs) approved by the Federal Government.

- **Income**
  Any income generated by Institutions, foundations, societies, boards, trusts, and funds

1. The Conditions and limitations to claim tax credit under Section 100C has been removed from sub-section 1 and has been added back vide subsection (4) to the same section, with no changes in the Conditions and limitations itself. However, the condition of approval from Commissioner is proposed to take effect from 1st July, 2022 and conditions of section 2(36) are proposed to be not applicable for earlier years.
2. The taxation of surplus funds of non-profit organization and the definition of surplus funds previously provided under sub-section 1A and 1B has been omitted and added back vide sub-section 5 and 6 to the same section, with no changes in the taxation of surplus funds of non-profit organization and the definition of surplus funds.
3. Previously the Persons and income eligible for Tax credit were provided under sub-section 2 of Section 100C. Now the bill proposes to bifurcate the Persons eligible for Tax credit and income eligible for Tax credit under Section 100C vide insertion of sub-section 2 and sub-section 3. The proposed restructuring adds the persons and incomes as follows:

- **Persons**

(a) Institutions, foundations, societies, boards, trusts and funds as are provided in Second Schedule, Clause 66, Table 2 of the Income Tax Ordinance, 2001;

(b) a welfare institution registered with Provincial or Islamabad Capital Territory (ICT) social welfare department;

as are provided in Second Schedule, Clause 66, Table 2 of the Income Tax Ordinance, 2001.

10. PENALTY- SECTION 182

The following amendments have been proposed in section 182 whereby, certain penalties have been revised:

BEFORE AMENDMENT	AFTER AMENDMENT
Sr.1 Where any person fails to furnish a return of income as required	Sr.1 Where any person fails to furnish a return of income as required

under section 114 within due date Such person shall pay a penalty equal to 0.1% of the tax payable in respect of that year for each day of default subject to a maximum penalty of 50% of the tax payable provided that if the penalty worked out as aforesaid is less than 4 [forty] thousand rupees or no tax is payable for that tax year such person shall pay a penalty of 5 [forty] thousand rupees. However, that if 75% of the income is from salary and the amount of income under salary is less than five million Rupees, the minimum amount of penalty shall be five thousand Rupees.] **Explanation.-** For the purposes of this entry, it is declared that the expression "tax payable" means tax chargeable on the taxable income on the basis of assessment made or treated to have been made under sections 120, 121, 122 or 122C.	under section 114 within due date Such person shall pay a penalty equal to 0.1% of the tax payable in respect of that year for each day of default subject to a maximum penalty of 50% of the tax payable provided that if the penalty worked out as aforesaid is less than 4 [forty] thousand rupees or no tax is payable for that tax year such person shall pay a penalty of 5 [forty] thousand rupees. However, that if 75% of the income is from salary and the amount of income under salary is less than five million Rupees, the minimum amount of penalty shall be five thousand Rupees. Provided further that if taxable income is up-to eight hundred thousand Rupees, the minimum amount of penalty shall be five thousand Rupees: Provided also that the amount of penalty shall be reduced by 75%, 50% and 25% if the return is filed within one, two and three months respectively after the due date or extended due date of filing of return as prescribed under the law. **Explanation. -** For the purposes of this entry, it is declared that the expression "tax payable" means tax chargeable on the taxable income on

	the basis of assessment made or treated to have been made under sections 120, 121, 122 or 122C.
1A. Where any person fails to furnish a statement as required under section 115, 165, 165A or 165B within the due date. Such person shall pay a penalty of Rs. 5000 if the person had already paid the tax collected or withheld by him within the due date for payment and the statement is filed within ninety days from the due date for filing the statement and, in all other cases, a penalty of Rs. 2500 for each day of default from the due date subject to a minimum penalty of Rs. 10,000	1A. Where any person fails to furnish a statement as required under section 115, 165, 165A or 165B within the due date. Such person shall pay a penalty of Rs. 5000 if the person had already paid the tax collected or withheld by him within the due date for payment and the statement is filed within ninety days from the due date for filing the statement and, in all other cases, a penalty of Rs. 2500 for each day of default from the due date subject to a minimum penalty of Rs. 10,000, Provided that where it stands established that no tax was required to be deducted or collected during the relevant period, minimum amount of penalty shall be ten thousand Rupees.
6. Any person who repeats erroneous calculation in the return for more than one year whereby amount of tax less than the actual tax payable under this Ordinance is paid. Such person shall pay a penalty of 2 [thirty] thousand rupees or three per cent of the	6. Any person who repeats erroneous calculation in the return for more than one year whereby amount of tax paid is less than the actual tax payable under this Ordinance. Such person shall pay a penalty of thirty thousand rupees or three per cent of the

amount of the tax involved, whichever is higher.	amount of the tax involved, whichever is higher. Provided that no penalty shall be imposed to the extent of the tax shortfall occurring as a result of the taxpayer taking a reasonably arguable position on the application of this Ordinance to the taxpayer's position.
10. Any person who- (a) makes a false or misleading statement to an Inland Revenue Authority either in writing or orally or electronically including a statement in an application, certificate, declaration, notification, return, objection or other document including books of accounts made, prepared, given, filed or furnished under this ordinance; (b) furnishes or files a false or misleading information or document or statement to an Income tax Authority either in writing or orally or electronically; (c) omits from a statement made or information furnished to an Income tax Authority any matter or thing without which the statement or the information is false or misleading in a material particular.	10. Any person who- (a) makes a false or misleading statement to an Inland Revenue Authority either in writing or orally or electronically including a statement in an application, certificate, declaration, notification, return, objection or other document including books of accounts made, prepared, given, filed or furnished under this ordinance; (b) furnishes or files a false or misleading information or document or statement to an Income tax Authority either in writing or orally or electronically; (c) omits from a statement made or information furnished to an Income tax Authority any matter or thing without which the statement or the information is false or misleading in a material particular.

Such person shall pay a penalty of twenty five thousand rupees or 100% of the amount of tax shortfall whichever is higher: Provided that in case of an assessment order deemed under section 120, no penalty shall be imposed to the extent of the tax shortfall occurring as a result of the taxpayer taking a reasonably arguable position on the application of this Ordinance to the taxpayer's position. Section 114, , 116, 174, 176, 177 and general.	Such person shall pay a penalty of twenty-five thousand rupees or 50% ~~100~~% of the amount of tax shortfall whichever is higher: Provided that in case of an assessment order deemed under section 120, no penalty shall be imposed to the extent of the tax shortfall occurring as a result of the taxpayer taking a reasonably arguable position on the application of this Ordinance to the taxpayer's position. Section 114, , 116, 174, 176, 177 ~~and general~~ 114A, 118.
11. Any person who denies or obstructs the access of the Commissioner or any officer authorized by the Commissioner to the premises, place, accounts, documents, computers or stocks. Such person shall pay a penalty of fifty thousand rupees or one hundred per cent of the amount of tax involved, whichever is higher.	11. Any person who denies or obstructs the access of the Commissioner or any officer authorized by the Commissioner to the premises, place, accounts, documents, computers or stocks. Such person shall pay a penalty of fifty thousand rupees or ~~one hundred~~ 50 per cent of the amount of tax involved, whichever is higher
15. Any person who fails to collect or deduct tax as required under any provision of this Ordinance or fails to pay the tax collected or deducted as required under section 160. Such person shall pay a penalty of 1 [forty] thousand rupees or 10%	15. Any person who fails to collect or deduct tax as required under any provision of this Ordinance or fails to pay the tax collected or deducted as required under section 160. Such person shall pay a penalty of 1 [forty] thousand rupees or 10%

of the amount of tax whichever is higher. Section 148, 149, 150, 151, 152, 153, 153A, 154, 155, 156, 156A, 156B, 158, 160, 231A, 231B, 233, 233A, 234, 234A, 235, 236, 236A	of the amount of tax whichever is higher. Division II or Division III of Part V of Chapter X or Chapter XII
16. Any person who fails to display his NTN at the place of business as required under this Ordinance or the rules made thereunder. Such person shall pay a penalty of five thousand rupees. Section 181C.	16. Any person who fails to display his NTN or business license at the place of business as required under this Ordinance or the rules made thereunder. Such person shall pay a penalty of five thousand rupees. Section 181C and 181D.
19. Where any manufacturer of a motor vehicle accepts or processes any application for booking or purchase of a locally manufactured motor vehicle in violation of the provisions of clause (a) of section 227C.	Omitted as corresponding section 227C has already been omitted vide Finance Act, 2019
20. (i) Where any registering authority of Excise and Taxation Department accepts, processes or registers any application for registration of a locally manufactured motor vehicle or for the first registration of an imported vehicle in violation of the provisions of clause (a) of section 227C (ii) Where any authority responsible for registering, recording or attesting the transfer of immovable property accepts or processes the registration or attestation of such property in violation of the provisions of clause (b) of section 227C.	Omitted as corresponding section 227C has already been omitted vide Finance Act, 2019

11. FOLLOWING CLAUSE OF PART I OF SECOND SCHEDULE HAVE BEEN PROPOSED TO BE WITHDRAWN:

i. **Clause (57) -** Exemption of income from voluntary contributions, house property and investments in securities of the Federal Government derived by Sheikh Sultan Trust, Karachi**.**

ii. **Clause (72) -** Exemption of profit on debt payable to a non-resident person:

   a. In respect of private loans to be utilized on projects approved by the Federal Government;
   b. On a loan in foreign exchange against export letter of credit which is used exclusively for the export of goods manufactured or processed for exports in Pakistan; and
   c. Being a foreign individual, company or firm or association of person in respect of a foreign loan as is utilized for industrial investment in Pakistan.

iii. **Clause (72A) -** Exemption of income derived by Sukuk Holder in relation to Sukuk issued by "The Second Pakistan International Sukuk Company Limited" and "The Third Pakistan International Sukuk Company Limited", including any gain on disposal of such Sukuk.

iv. **Clause (74) -** Exemption on profit on debt derived by Hub Power Company Limited on its bank deposits or accounts with financial institutions directly connected with financial transactions directly related to the project operations.

v. **Clause (90) –** Exemption on profit on debt payable by an industrial undertaking in Pakistan:

   a. On moneys borrowed under a loan agreement entered into with an approved financial institution in a foreign country; and
   b. on moneys borrowed or debts incurred by it in a foreign country in respect of the purchase outside Pakistan of capital plant and machinery in any case where the loan or debt is approved by the Federal Government, having regard to its terms generally

and in particular to the terms of its payment, from so much of the tax payable in respect thereof as exceeds the tax or taxes on income paid on such interest in the foreign country.

vi. **Clause (90A)** – Exemption on any profit on debt derived by any person on bonds issued by Pakistan Mortgage Refinance Company to refinance the residential housing mortgage market, for a period of five years with effect from the 1st day of July, 2018

vii. **Clause (91)** – Exemption on any income of a text-book board of a Province established under any law for the time being in force.

viii. **Clause (98)** – Exemption on any income derived by any Board or other organization established by Government in Pakistan for the purposes of controlling, regulating, or encouraging major games and sports recognized by Government.

ix. **Clause (99A)** – Exemption on profits and gains accruing to a person on sale of immovable property to a REIT Scheme up to thirtieth day of June 2015. The exemption with respect to a Developmental REIT Scheme with the object of development and construction of residential buildings and with respect to a rental REIT Scheme is available till 30th June 2023.

x. **Clause (100)** – Exemption on any income, not being income from manufacturing or trading activity, of a Modaraba registered under the Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 1980.

xi. **Clause (101)** – Exemption on profits and gains derived between the 1st July, 2000 and the 30th June, 2024, by a venture capital company and venture capital fund registered under Venture Capital Companies and Funds Management Rules, 2000 and a Private Equity and Venture Capital Fund.

xii. **Clause (103)** – Exemption on any distribution received by a taxpayer from a collective investment scheme registered by the Securities and Exchange Commission of Pakistan under the Non-Banking Finance Companies and Notified Entities Regulations, 2007, including National Investment (Unit) Trust or REIT Scheme or a Private Equity and Venture Capital Fund out of the capital gains of the said Schemes or Trust or Fund.

xiii. **Clause (103C)** – Exemption on dividend income derived by a company, if the recipient of the dividend, for the tax year is eligible for group relief under section 59B.

xiv. **Clause (104)** – Exemption on any income derived by the Libyan Arab Foreign Investment Company being dividend of the Pak-Libya Holding Company.

xv. **Clause (105)** – Exemption on any income derived by the Government of Kingdom of Saudi Arabia being dividend of the Saudi-Pak Industrial and Agricultural Investment Company Limited.

xvi. **Clause (105A)** – Exemption on any income derived by Kuwait Foreign Trading Contracting and Investment Company or Kuwait Investment Authority being dividend of the Pak-Kuwait Investment Company in Pakistan from the year of incorporation of Pak- Kuwait Investment Company.

xvii. **Clause (110B)** – Exemption on any gain on transfer of a capital asset, being a membership right held by a member of an existing stock exchange, for acquisition of shares and trading or clearing rights acquired by such member in new corporatized stock exchange in the course of corporatization of an existing stock exchange.

xviii. **Clause (110C)** – Exemption on any gain by a person on transfer of a capital asset, being a bond issued by Pakistan Mortgage Refinance Company to refinance the residential housing mortgage market, during the period from the 1st day of July, 2018 till the 30th day of June, 2023.

xix. **Clause (114)** – Exemption on any income chargeable under the head "capital gains" derived by a person from an industrial undertaking set up in an area declared by the Federal Government to be a "Zone" within the meaning of the Export Processing Zones Authority Ordinance, 1980 (IV of 1980).

xx. **Clause (126BA) –** Exemption on profits and gains derived by a refinery set up between the 1st day of July, 2018 and the 30th day of June, 2023 with minimum 100,000 barrels per day production capacity for a period of twenty years beginning in the month in which the refinery is set up or commercial production is commenced, whichever is later. Exemption under this clause is also available to existing refineries, if:

a. existing production capacity is enhanced by at least 100,000 barrels per day;
b. the refinery maintains separate accounts for income arising from aforesaid additional production capacity; and
c. the refinery is a deep conversion refinery.

xxi. **Clause (126G)** – Exemption on Profit and gains derived for a period of five years from the date of start of commercial production by the companies from specified projects that have been declared 'Pioneer Industry' by Economic Coordination Committee of the Cabinet. The Companies and projects are:

a. M/s. Astro Plastics (Pvt.) Ltd. from their Biaxially Oriented Polyethylene, Terephthalate (BOPET) Project; and
b. M/s. Novatex Ltd. from their Biaxially Oriented Polyethylene Terephtalate (BOPET) Project

xxii. **Clause (126I)** – Exemption on profits and gains derived by a taxpayer, from an industrial undertaking set up by 31st day of December, 2016 and engaged in the manufacture of plant, machinery, equipment and items with dedicated use (no multiple uses) for generation of renewable energy from sources like solar and wind, for a period of five years beginning from first day of July, 2015. This exemption is also available to such undertaking set up between the 1st March, 2019 and the 30th June, 2023 for a period of five years beginning from the date such industrial undertaking is set up. The concession has been proposed to be provided as Tax credit under newly proposed section 65G.

xxiii. **Clause (126O)** - This clause has been proposed to be omitted and the provisions of the same are incorporated under newly inserted section 65F.

xxiv. **Clause (131)** – Exemption on any income:

a. Of company registered under the Companies Ordinance 1984 (XLVII of 1984), and having its registered office in Pakistan, as is derived by it by way of:
   i. royalty,
   ii. commission or
   iii. fees

from a foreign enterprise in consideration for the use outside Pakistan of any patent, invention, model, design, secret process or formula or similar property right, or information concerning industrial, commercial, or scientific knowledge, experience or skill made available or provided to such enterprise by the company or in the consideration of technical services rendered outside Pakistan to such enterprise by the company under an agreement in this behalf, or

b. of any other taxpayer as is derived by him, in the income year relevant to assessment year beginning with the first day of July, 1982 and any assessment year thereafter, by way of fees for technical services rendered outside Pakistan to a foreign enterprise under an agreement entered into in this behalf: -

The exemption is available subject to condition that income is received in Pakistan.

xxv. **Clause (132A)** - This clause has been proposed to be omitted and the provisions of the same are incorporated under newly inserted section 65F.

xxvi. **Clause (132B)** – Exemption on Profits and gains derived by a taxpayer from a coal mining project in Sindh, supplying coal exclusively to power generation projects.

xxvii. **Clause (133)** - This clause has been proposed to be omitted and the provisions of the same are incorporated under newly inserted section 65F.

xxviii. **Clause (135A)** – Exemption on any income derived by a non-resident from investment in OGDCL exchangeable bonds issued by the Federal Government.

xxix. **Clause (136)** – Exemption on any income of a special purpose vehicle as defined in the Asset Backed Securitization Rules, 1999 made under the Companies Ordinance, 1984.

xxx. **Clause (141) –** Exemption on profit and gains derived by LNG Terminal Operators and Terminal Owners for a period of five years beginning from the date when commercial operations are commenced.

xxxi. **Clause (143) -** This clause has been proposed to be omitted and the provisions of the same are incorporated under newly inserted section 65F.

xxxii. **Clause (146) –** Exemption on any income which was not chargeable to tax prior to the commencement of the Constitution (Twenty-fifth Amendment) Act, 2018 of any individual domiciled or company and association of persons resident in the Tribal Areas forming part of the Provinces of Khyber Pakhtunkhwa and Balochistan under paragraph (d) of Article 246 of the Constitution with effect from the 1st day of June 2018 to the 30th day of June, 2023.

xxxiii. **Clause (148) –** Exemption on any income derived by Islamic Naya Pakistan Certificates Company Limited (INPCCL). INPCCL have also been proposed to be made part of Table I of Clause (66), which means there is no change in exemption status.

12. FOLLOWING CLAUSES HAVE BEEN PROPOSED TO BE AMENDED:

i. Table I of Clause 66 of part I of Second Schedule provides list of entities, incomes of which are exempt from Tax. The Bill proposes to add “Islamic Naya Pakistan Certificates Company Limited (INPCCL)” in this list.

ii. Clause (75) of part I of Second Schedule provides exemption of any income of an agency of a foreign government, a foreign national, or any other non-resident person approved by Federal Government, from profit on moneys borrowed under a loan agreement or in respect of foreign currency instrument approved by the federal government.

The bill proposes to restrict such exemption only to profit on debt and capital gains. The bill also proposes to exclude foreign national as beneficiary of above exemption. Moreover, the scope of exemption of profit on debt and capital gain has been proposed to be specifically from debts and debts instruments.

iii. Clause (126B) provides for exemption on profit and gains derived by Khalifa Coastal Refinery for a period of twenty years beginning in the month in which the refinery is setup or commercial production is commenced, whichever is the later.
The bill proposes to extend the above exemption for indefinite period to following instead of Khalifa coal refinery:

- new deep conversion refinery of at least 100,000 barrels per day for which approval is given by the Federal Government before the 31st day of December, 2021, or
- for the purpose of upgradation, modernization or expansion project of any refinery existing on the date of commencement of this Act for which purpose such refinery makes undertaking to the Federal Government in writing before the 31st day of December, 2021.

iv. Clause (132) of Part I of second schedule provides exemption, subject to certain conditions, of profits and gains derived by a taxpayer from an electric power generation project set up in Pakistan on or after the 1st day of July, 1988. The bill proposes to restrict the exemption for persons entering into agreements, or to whom letter of intents is issued, for setting up an electric power generation project in Pakistan up to 30th June 2021.

13. REDUCTION IN TAX RATES - PART II, SECOND SCHEDULE

A. The Bill proposes to omit following Clauses:

13.1. Oil and Gas Sector - [Clause 2]

Any income of persons whose profits or gains from business are computed under the Fifth Schedule to this Ordinance as is derived from letting out to other similar persons any pipeline for the purpose of carriage of petroleum shall be charged to tax at the same rate as is applicable to such persons in accordance with the provisions of the said Schedule.

Now, profits from such shall be chargeable to tax at normal rates provided in First Schedule.

13.2. Construction Contracts Outside Pakistan - [Clause 3]

The tax in respect of income from services rendered outside Pakistan and construction contracts executed outside Pakistan are charged at the rates as specified in sub-clause (b), provided that receipts from services and income from contracts are brought into Pakistan in foreign exchange through normal banking channel.

(b) The rates in respect of income from services rendered outside Pakistan shall be 50% of the rates as specified in clause (2) of Division III of Part III of the First Schedule and the rates in respect of contracts executed outside Pakistan shall be 50% of the rates as specified in clause (3) of Division III of Part III of the First Schedule.

Now tax will be charged at normal rates as provided in First Schedule.

13.3. Pakistan Cricket Board - [Clause 3B]

The income of Pakistan Cricket Board ("PCB") derived from sources outside Pakistan including media rights, gate money, sponsorship fee, in-stadium rights, out-stadium rights, payments made by International Cricket Council, Asian Cricket Council or any other Cricket Board is taxed at a rate of four per cent of the gross receipts from such sources.

Now normal rates of taxes will be charged on Income of PCB.

13.4. Private Equity & Venture Capital - [Clause 5B]

The tax in respect of capital gains derived by a person from the sale of shares or assets by a private limited company to Private Equity and Venture Capital Fund are charged at the rate of ten percent of such gains.

Now rates and provisions provided in Section 37 will apply in this case.

13.5. Modaraba - [Clause 18]

In the case of a modaraba the rate of income tax is 25% of total income excluding such part of total income to which Division III of Part I of the First Schedule or section153 or section 154 applies.

Now normal rates provided in First Schedule i.e. 29% will apply.

13.6. Shariah Compliant Listed Companies (Clause 18B)

The rate of tax is reduced by 2% in case of a company whose shares are traded on stock exchange if;

(a) it fulfills prescribed shari'ah compliant criteria approved by State Bank of Pakistan, Securities and Exchange Commission of Pakistan and Board;
(b) derives income from manufacturing activities only;
(c) has declared taxable income for the last three consecutive tax years: and
(d) has issued dividend for the last five consecutive tax years.

Now rates of Normal Tax i.e., 29% will apply.

13.7. Lahore Orange Line Metro Train Project - [Clause 24AA].

The rate of tax, under section 152 in the case of M/S CR-NORINCO JV (Chinese Contractor) as recipient, on payments arising out of commercial contract agreement signed with the Government of Punjab for installation of electrical and mechanical (E&M) equipment for construction of the Lahore Orange Line Metro Train Project, is 6% of the gross amount of payment.

Now, normal rate of 7% under section 152 will apply

13.8. Hybrid Cars - [Clause 28A]

The rate of tax under section 148 on import of hybrid cars is currently reduced as below:-

Engine capacity	Rate of reduction
Up to 1200 cc	100%
1201 to 1800 cc	50%
1801 to 2500 cc	25%

Now rates provided in Twelfth Schedule will apply.

13.9. Cash Withdrawal by Exchange Company - [Clause 28B]

The rate of tax is 0.15% under section 231A on cash withdrawal by an exchange company, duly licensed and authorized by the State Bank of Pakistan, exclusively dedicated for its authorized business-related transactions, subject to the condition that a certificate issued by the concerned Commissioner Inland Revenue for a financial year mentioning details and particulars of its Bank Account being used entirely for business transactions is provided.

Now, tax at rate of 0% will be charged (0.6% if the exchange company is not on active taxpayers list)

B. Other Amendments in Second Schedule

13.10. Minimum Tax on Dealers Retailers of Specified Sectors – Clause (24D), Part II

Clause (24D) provides that minimum tax under sub-section (1) of section 113 in case of dealers and sub dealers, whole sellers and retailers of, fast moving consumer goods, fertilizers, sugar, cement and edible oil shall be 0.25% subject certain conditions.

The bill now proposes to also add locally manufactured mobile phones in the list of above goods.

14. Reduction In Tax Liability- Part III Second Schedule

A. The bill proposes to omit following clauses from Part II of Second Schedule:

14.1. Full Time Teacher - [Clause 2]

Clause (2) provides 25% reduction in tax liability of a full-time teacher.

14.2. Foreign Film Makers - [Clause 7]

The amount of tax payable by foreign filmmakers from making films in Pakistan is reduced by fifty percent on income from filmmaking in Pakistan.

14.3. Resident Film Makers - [Clause 8]

The amount of tax payable by resident companies deriving income from filmmaking shall be reduced by seventy percent on income from filmmaking.

B. The Bill proposes to make amendments in Part III of Second

14.4. Low-Cost Housing Projects - [Clause 9]

Clause (9) provides for reduction in tax liability by 50% in case of Low-Cost Housing Projects subject to certain conditions. The bill proposes to restrict such concession for projects commencing up to 30th June, 2024.

14.5. Naya Pakistan Housing and Development Authority – (Clause 9B)

Clause (9B) provides for reduction in tax liability by 90% in case of Low-cost housing developed or approved by NAPHDA or under the Ehsaas Programm. The bill proposes to restrict such concession for projects commencing up to 30th June, 2024.

15. Exemption from Specific Provisions -Part IV of Second Schedule

The bill proposes to omit Clause 2, in which in the case of losses referred to in section 57 in respect of an industrial undertaking set up in an area declared by the Federal Government to be a "Zone" within the meaning of Export Processing Zones Authority Ordinance, 1980, the period of six tax years specified in the said section shall not apply.

16. Third Schedule – Depreciation for Oil and Gas Sector

As per 3rd Schedule the depreciation rates in case of mineral oil concerns the income of which is liable to be computed in accordance with the rules in Part-I of the Fifth Schedule for below ground installations was 100% is now proposed to be omitted. Now the rates for Below ground installations will be same as for Offshore platform and production installations i.e. 20%.

17. Oil & Gas Sector - 5th Schedule

The Bill proposes to withdraw following concessions provided to Oil and Gas sector under fifth Schedule:

Rule 4 Part II

Rule 4 provides for exemption of profits and gains up to 10% of capital employed in case of an undertaking involved in exploration and extraction of mineral deposits and is also engaged in the business of refining or concentrating in Pakistan. The bill proposes to withdraw the exemption.

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