



Tax Memorandum 2014

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TAX MEMORANDUM

This tax memorandum summarizes crucial changes proposed in the Finance Bill 2014 in Income Tax, Sales Tax, Federal Excise Duty and Customs Duty Laws.

All changes through the Finance Bill 2014 are effective from 01 July 2014.

The tax memorandum contains the comments, which represent our interpretation of the legislation. We, therefore, recommend that while considering their application to any particular case, reference be made to the specific wordings of the relevant statute(s).

The memorandum can also be accessed on our website www.shekhamufti.com

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HIGHLIGHTS – AMENDMENTS IN INCOME TAX ORDINANCE 2001

- Companies will pay lower tax @ 20% in the first five (05) years in case of foreign investment is made up to 50% of the cost of a project.
- The corporate tax rate is proposed to be reduced to 33% from 34% for Tax Year 2015.
- The tax liability is proposed to be reduced by 50% in case of Disabled if his taxable income is up to 1 million and holds Computerized National Identity Card (CNIC) for disabled persons issued by the National Database Registration Authority (NADRA).
- Income Support Levy Act was promulgated through the Finance Act, 2013. It has now been proposed to be repealed.
- It is proposed that Non-resident companies working in joint venture with a local partner be taxed separately at their applicable rate differently from the JV.
- The filers and non-filers concept has been introduced whereby only Active taxpayers (ATL) to be recognized as filers. The rates under various withholding provisions for non-filers would be much higher than those for filers.
- Director's fee or fee for attending board meetings liable to deduction of tax @ 20% of the gross fee and is adjustable against the final tax liability.
- Rate of Withholding on function and gathering is proposed to be reduced from 10% to 5%.
- Filing of Annual Tax Return for persons who are members of trade bodies and professional organizations is now applicable to resident persons only.
- Rate of withholding tax on supplies, services and execution of contracts enhanced for both corporate and non-corporate persons.
- Rate of tax withholding on advertising and other agents is proposed to be enhanced to 7.5% and 12% respectively.
- NTN registration would be mandatory for a person applying for a commercial or industrial electricity or gas connection.
- A company to pay at least 17% tax on its Profit Before Tax (PBT) as per its Accounts as per new section 113C "Alternative Corporate Tax".
- Gain on securities held upto two years are proposed to be taxable from the tax year 2015. The rate of tax for gain on securities held for one year is proposed to be enhanced from 8% to 12.5% and upto two years is proposed at 10%.
- The gain on sale/redemption of debt securities (other than gain realized by a company) would be taxable and if they are held for more than two years, shall not be taxable.
- Every company issuing bonus shares to its shareholder is now to collect tax @ 5% on the value of bonus shares determined on the basis of day-end price. The tax so collected shall be a final tax.

HIGHLIGHTS – AMENDMENTS IN SALES TAX ACT 1990

- Rationalization of sales tax on steel sector, ship breakers and steel melters
- New Tax Regimes for retailers on the basis of place of business and monthly electric bills
- Input tax adjustments restricted on actual consumption of goods and services; indirect inputs disallowed
- Electronic scrutiny and intimations system introduced for conducting all checks and analysis and to issue electronic intimations to taxpayers
- Re-introduction of Normal Tax Regime to aerated waters
- Further tax @ 1% not to be adjusted against input tax
- Major reshuffling in SRO 575(I)/2006, 551(I)/2008 and 501(I)/2013. 7 Sectors listed in SRO 575(I)/2006 made subject to reduced rate of sales tax @ 5%. Tax concessions for 9 Sectors withdrawn. 9 items exempted in SRO 551(I)/2008 to continue enjoy exemption while 2 items taxed @ reduced rate of 5%. 3 items listed in SRO 501(I)/2013 to be taxed @ reduced rate of 5% while few items will still enjoy exemption
- Import and supply of plant and machinery, not manufactured locally, taxed @ 5%, subject to fulfilment of conditions
- Transposition of zero rating SRO 549(I)/2008 to 5th Schedule.
- Rapeseed, sunflower seed and canola seed to attract 17% sales tax instead of 14%.
- Transposition of several SROs into Schedules
- Reduced Tax Regime for 5 export oriented sectors modified.
- Tax exemption granted to high efficiency irrigation equipment and greenhouse farming equipment
- Sales tax on local supply of tractors reduced from 16% to 10%.
- Exemption on import of plant, machinery and equipment for Gilgit - Baltistan, Balochistan, Malakand Division and FATA
- Search warrants exempted for monitoring of taxpayers business premises by tax officials

HIGHLIGHTS – AMENDMENTS IN FEDERAL EXCISE ACT 2005

- FED on cigarettes enhanced.
- FED on cement sector replaced from Rs. 400 per MT to 5% on retail price.
- FED on international travel enhanced
- FED on chartered flights levied at 16% of charges
- Provision for specifying zones for the purpose of charging sales tax and FED on the basis of retail prices in respective zones introduced.
- FED on Telecommunication Services reduced from 19.5% to 18%
- FED on Telecommunication Services exempted in Provinces collecting Provincial Sales Tax thereon.
- Uniform treatment of crude palm oil introduced in line with that of other edible oils.
- FED @ 10% on locally manufactured motor vehicles exceeding 1800cc withdrawn

HIGHLIGHTS – AMENDMENTS IN CUSTOMS ACT 1969

- Plant, machinery and equipment imported for setting up fruit processing and preservation industrial units in Gilgit-Baltistan, Balochistan and Malakand Division exempted from customs duty
- Plant, machinery and equipment imported for setting up industries in FATA, exempted from customs duty.
- Customs duty on UPS reduced from 20% to 15%
- Customs duty on petroleum coke not-calcined decreased from 5% to 1%.
- Maximum general tariff rate of 30% reduced to 25%.
- Exemption of duty and taxes on Hybrid Electric Vehicles (HEVs) upto 1800 cc granted 50% exemption of duty and taxes. HEVs above 1800 cc granted 25% exemption of duty and taxes.
- Substitution of 0% duty slab with 1% customs duty in Tariff.
- Customs duty on networking equipment increased from 5% to 10%.
- Fixed amounts of duty and taxes on used vehicles revised upward by 10% approx.
- Customs duty on flat-rolled products of alloy steel increased from 0% and 5% to 10%
- Customs duty @ 5 % levied on import of generators above 1100 KVA.
- A uniform rate of 15% customs duty levied on dyes except basic dyes and indigo blue dyes.
- 10% customs duty levied on all kinds of CDs / DVDs.
- Customs duty on flavoring powders enhanced from 10% to 20%
- 10% duty levied on Liquid paraffin and White oil.
- Customs duty on dryers increased from 5% to 10%.
- 15% duty levied on starches
- Customs duty on coloring matters enhanced from 5% to 10%
- Customs duty on Satellite mobile phones whether or not functional on cellular networks reduced from 25% to 10%.
- Regulatory duty levied on luxury goods.
- Fifth Schedule added to the Customs Act, 1969 to levy specified conditional rates of customs duty on goods and class of goods.
- Clause (d) of Sub-Section (5) of Section 25 omitted.

INCOME TAX ORDINANCE, 2001**1) CHANGES IN TAXATION OF COMPANIES****a) Alternate Corporate Tax (ACT)**
Section 113C

Corporates have once again been proposed to be burdened with a new alternate income tax named ACT whereby they have to pay income tax at higher of either 17% of their 'accounting income' or 34% on their taxable profits.

This measure has been proposed apparently to curb the tax avoidance made by declaring taxable losses every year. In the presence of minimum tax regime this measure appears to be more of a revenue generating measures instead of controlling the revenue leakages. Moreover it exhibits the helplessness of the FBR to generate more revenues from broadening of tax base by taxing the Corporates which are already highly regulated and more tax compliant than the much larger group of tax payers which are AOPs and Individuals.

The budgetary proposal is discriminatory in nature as well, as the same is applicable to Corporates only, resulting in serious discouragement to corporatization. Moreover Corporates are being deprived of much entitled business losses as available to the companies for the adjustment against the taxable profits.

Making this measure more catastrophic the same is proposed to be applicable right from the current Tax Year 2014. Resultantly the Companies will be required to re-compute the advance tax liability by considering the ACT while discharging their 4th installment of advance tax due by this very June 15th.

In cases of Companies following special tax year, whose tax year have already ended, clarification is required to be issued otherwise those will be exposed to additional tax / penalty for short payment of advance tax, incase ACT working ends in higher tax incidence.

Under the basics of ACT, Accounting income is defined as accounting profit before tax (PBT) as per Audited Accounts after making adjustment / deduction of the following:

- ✓ Exempt income,
- ✓ Capital Gains on Securities
- ✓ Incomes subject to tax under Final Tax Regime, namely:
 - Income from commercial imports u/s 148(7) of the Ordinance,
 - Dividend Income
 - Income from sale of goods and contractual receipts u/s 153(5) of the Ordinance.
 - Income from exports under Section 154(4) of the Ordinance,
 - Income from prizes and winnings under Section 156
 - Commission Income under Section 233(3) of the Ordinance.
- ✓ Income subject to tax credits under Section 65D and 65E of the Ordinance.
- ✓ Share from an Associate (Equity method of accounting).

It is pertinent to mention that expenses will be apportioned between the above heads of income while deriving 'Accounting Income'

ACT is calculated on accounting income duly considering the following deductions:

- ✓ Deductible allowances namely Zakat, Workers Welfare Fund and Workers' Participation Fund as given under Sections 60, 60A and 60B of the Ordinance,
- ✓ Tax Credits for Investment under Section 65B of the Ordinance.

One may not lose the sight that even after the introduction of ACT minimum tax provisions under Section 113 are still applicable. Resultantly Corporates are required to pay highest of the following three (3):

- ✓ Tax on taxable income @ 34% including final taxes
- ✓ ACT @ 17% on net accounting income
- ✓ Minimum tax on the annual turnover

In case ACT is payable being highest of the above three, the excess of ACT over normal tax including final tax is adjustable and can be carried forward up to ten (10) tax years immediately succeeding the tax year for which the excess was first worked out.

Explanation has been inserted whereby adjustment and carry forward of excess minimum tax is still applicable under Section 113(2)(c) of the Ordinance in case minimum tax is paid being higher of ACT and normal tax at corporate rate.

Commissioner Inland Revenue can amend the accounting profit/ income as per historic accounting pattern in case the same was not followed to hide accounting income.

The levy of WWF remains subject to clarification as after the insertion of ACT, the corresponding provisions of the WWF Ordinance needs to be suitably amended.

b) Lower Taxation for Manufacturing Companies with Foreign Capital

Clause 18A of Part IV of 2nd Schedule

Lower taxation @ 20% on profits has been proposed for companies setting up a new Industrial Undertaking with a foreign partner. The details can be narrated as under;

- ✓ The foreign partner has to invest equity capital in the company.
- ✓ At least 50% of the cost of the Project is to be financed by the Foreign Capital.
- ✓ The cost of the Project includes the Working Capital as well.
- ✓ The lower rate of tax of 20% will continue for 5 years.
- ✓ The period of 5 years will start from earlier of the month of set up or start of commercial production.
- ✓ The Industrial Undertaking Project should be set up latest by June 30, 2017.

Prima facie the proposals appear to be encouraging, the same however, needs to be examined as to what real benefits can be derived from this lower taxation in view of the already available tax credit under Sections 65B and 65D of the Ordinance owing to which the probability of any taxability is not likely to arise at all in the first few years.

c) Lower Rate on Companies
First Schedule

Like last year the corporate rate of tax has been reduced by 1% to 33% from prevailing rate of 34%. Earlier the same was reduced from 35% in last year. The 33% rate will apply for Tax Year 2015.

d) Income Tax Withholding Rates

Contrary to the above reduction of corporate tax rate, the tax withholding rates, as currently applicable to the corporate tax payers have been exhaustively revised upward. The same is exhibited in withholding tax part of our Memorandum as given in the succeeding pages.

2) CHANGES IN TAXATION OF MUTUAL FUNDS

a) Cash Dividends must for Exemption of Mutual Fund

The income of mutual fund is exempt from income tax if 90% of its accounting income is distributed either as cash Dividends or Stock Dividend (Bonus Shares).

It has now been proposed that the exemption will be available only if the whole of the 90% of the Accounting Profit is distributed in Cash.

The Mutual Funds cannot further avail benefit of the said exemption in case of distribution of Bonus Shares or Unit or Certificate to its shareholder/unit holders instead of Cash Dividend.

b) Tax on Dividend from Mutual Funds

It has been proposed to segregate the Stock Fund from other categories of funds. The definition of Stock Fund has been proposed, wherein it means a collective investment scheme or a mutual fund where the investible funds are invested by way of equity shares in companies, to the extent of more than seventy percent of the Investment.

The rate of tax on dividends proposed to be deducted by a collective investment scheme or a mutual fund has been summarized in the following tabulation;

Category	Stock Fund	Money Market Fund, Income Fund or any other Fund
Individual	10%	10%
Company	10%	25%
AOP	10%	10%

Moreover, in case of a Stock Fund where dividends receipts are less than capital gains, the rate of tax deduction shall be applicable @ 12.5% for its unit holders.

3) CHANGES IN TAXATION OF BONUS SHARES

Section 2(29) and Section 39 & Section 236M

Bonus Shares have been brought back in the line items for taxable income yet once again. It's taxability in the hands of shareholder has remained subjected to court proceedings. And therefore this proposed amendment is yet to be tested as to whether it withers or withstands.

The definition of "Income" under which the exclusion for Bonus Share was couched has been changed and taken out for taxation.

Like Dividend Income, the issue of Bonus Shares will also be classified as "Income from other Sources" under Section 39 of the Ordinance. The same however will fall under the Final Tax Regime once the income tax has been collected and deposited by the company issuing the bonus shares.

Accordingly, a new Section 236M has now been introduced, whereby every company shall collect tax @ 5% on the face value of the Bonus Shares. The value will be determined on the basis of day end price on the first day of closure of books.

Through the said amendment, the company is responsible to make suitable arrangement for collection of said tax. If the company fails to collect the said tax, so the said tax along with default shall be collected from the Company.

It is notable here that the withholding or collection of income tax on bonus shares has been prescribed for listed companies only as there is no concept of 'Day end Price on the first day of Book Closure' in case of a Private limited company.

The taxability, however, remain invariably the same in case of a private limited company as the exclusion from the definition of "Income" remains applicable for all.

4) CHANGES IN TAXATION OF CAPITAL GAIN ON SHARES

a) CGT rates on shares reduced for TY 2015

First Schedule; Division VII

The scheduled jump in tax rate from 10% to 17.5% in the coming Tax Year of 2015 has been clipped and brought down to 12.5% instead. The reduction in CGT Rates has apparently been proposed to contain any negative impact on the stock exchanges, which would happen due to the steep hike in tax rate.

b) Holding period increased for getting exemption

Section 37A

However this reduction in tax rate has come with a compromise and with a mix of give and take. The holding period will now be two (02) years for getting tax exemption instead of one. On the other hand the quick gain of six (06) months has been made at par with the gain of twelve (12) months and therefore will not taxed at any higher rate. This will be applicable from Tax Year 2015 as well.

After the proposed changes the categories would now be as follows;

- ✓ Short term gain (sale within 12 months) Taxable
- ✓ Short term gain (sale within 12 to 24 months) Taxable
- ✓ Long term gain (sale after 24 months) Exempt

A comparison between rates for previous Tax Years and the Tax Year 2015 is being tabulated;

Tax Year 2011 to Tax Year 2014;

Tax Year	Holding Period of Securities		
	Less than six (06) months	Between six to twelve months	Over twelve (12) months
2011	10	7.5	Exempt
2012	10	8	Exempt
2013	12.5	8.5	Exempt
2014	15	9	Exempt

For the Tax Year 2015;

Holding Period of Securities	Tax Rate
Less than twelve (12) months	12.5%
Between twelve (12) to twenty four (24) months	10%
Over twenty four (24) months	Exempt

It is important to note that the 12.5% rate has been given merely for Tax Year 2015 and no compatible commitment is visible on the part of the government for the years after 2015.

c) CGT on Debt Securities*Section 37A (4)*

A new sub Section has been proposed to be introduced, whereby the definition of security has been amended to include "Debt Securities" in it. Debt Securities will include both Corporate Debt Securities and Government Debt Securities.

Under Corporate Debt Securities it will include TFC, Sukuk Certificate, Registered Bond, Commercial Paper, PTCs and other debt instruments issued by Companies registered in Pakistan.

Under Government Debt Securities it will include Treasury Bills (TB), Federal Investment Bond (FIB), Pakistan Investment Bonds (PIB), Foreign Currency Bonds and all kind of debt Instruments issued by the Federal Government, Provincial Government, Local Authorities and other statutory bodies.

The gain arising on the disposal of a debt securities shall now be taxable as Capital Gain in the Tax Year 2015 and onwards. The calculation of capital gain shall be computed with the following formula;

$$A - B$$

Whereas;

A = Amount of the disposal of a Security

B = Cost of acquisition of the Security

However the provisions of the eighth (8th) Schedule will not be applicable on a company in respect of Debt Securities.

d) Foreign Institutional Investor now under the ambit of NCCPL*Section 100B*

The Foreign Institutional Investor (FII) has now been brought under the withholding regime of capital gain tax after getting registered with NCCPL as FII.

Through the Finance Bill 2014-15, it has been proposed that the NCCPL shall now calculate and compute the capital gain and its taxes of FII on trading of Securities in Pakistan.

Meaning thereby, the Special provision related to capital gain tax shall now be applicable to the FII from the Tax Year 2015 and onwards.

5) CHANGES IN TAXATION OF IMMOVEABLE PROPERTY

a) Purchase of Property

Section 236K

Income Tax on purchaser of all kind of Immoveable Properties is proposed to be collected @ 1% if the value of the property is more than 3 million. The payment of income tax will be made at the time of registration of the property or its transfer. The income tax will be collected by the person or the authority that will be registering or attesting the transfer. The income tax paid at this stage will be an advance tax and can be claimed back at the time of filing the Annual Tax Return.

The income tax is payable irrespective of the kind and types of property as to whether it is;

- ✓ Agricultural
- ✓ Industrial
- ✓ Commercial or
- ✓ Residential

It is understood that immoveable property would include self-occupied House, Vacant house, Land, Garden, Orchard, Shop, Warehouse, Flat, Apartment, Building, etc.

We further understand that the Builder and Developers will also be covered under the ambit of above change as purchase of the immoveable property.

Under the new concept of filer and non-filer of tax return, the collection of tax is proposed to be collected from the non-filer @ double than the rate of Filer of Tax Return. The following tabulation will be helpful.

S. No.	Holding Period	Rate of Tax	
1	Where value of Immovable Property is up to 3 million.	0%	
2	Where the value of Immovable property is more than 3million	Filer	Non-Filer
		1%	2%

b) Sale of Property

Section 236C

Income tax on the seller of the property was introduced in June 2012 which was @ 0.5% of value of property. Under this Budget a similar change has been proposed in case of non-filer who now will have to pay 1% instead of 0.5%.

c) Holding period of Property for exemption
(Section 37(1A); First Schedule)

A change has been proposed to harmonize the provisions placed at two different places under the Ordinance. The exemption on gain on sale of property remains intact if the sale is being made after two (02) years of its purchase.

6) CHANGES IN TAXATION OF NON RESIDENT & JOINT VENTURE

a) Taxation of Joint Venture (JV)
Sections 88A and 92

Joint Venture is Association of Persons and is assessed as one fiscal unit of assessment. This treatment remains the same despite that one of the JV partner is a company or not whether one of them is even a non-resident company or not.

The Finance Bill has proposed that if one JV partner is a company, it should be taxed separately at its applicable rate.

Similarly, a non-resident JV Partner faces the similar hardship and that too despite the presence of any double tax treaty between the countries. The nonresident companies were, therefore, effectively not able to retain their status as non-resident.

It is therefore proposed that the share of the JV Partner which if a Company, either resident or non-resident will be excluded from income of the AOP and then the separate shares will be taxed separately as per their respective tax rates.

However since the taxability and deductibility are different facets under the Ordinance, the withholding tax obligations remains unaffected from the above concession which in the instant case are governed under Section 153(1)(c) of the Ordinance whereby every person is required to withhold tax @ 6.5% while paying to the JV being in the legal status of an AOP under the provision of Section 80 of the Ordinance. There is confusion in tax withholding as required to be deducted @ 7% in case of AOP being the Joint Venture while 6% will be in case one of the AOP member is a company.

We understand that the since matter of taxability has been settled, a necessary clarification in this respect for lower withholding is imminent.

b) Withholding on payment to Foreign News Agencies;
Clause 41B of Part IV of Second Schedule

This Clause provides exemption from withholding tax where agencies have no permanent office or establishment in Pakistan. However, income of foreign news agencies was never exempt. Now the exemption from withholding is also proposed to be taken back. This will imply a deduction of 20% on their payments.

7) CHANGES IN TAXATION OF DIVIDENDS*Section 150*

Reduced tax rates on dividend income as available in various concessionary provisions of the 2nd Schedule to the Ordinance are proposed to be subsumed in 1st Schedule to the Ordinance wherein following tax rate is specified for Dividends;

S. No.	Dividend Paying Company	Tax Rate
1.	Purchaser of power project privatized by WAPDA	7.5%
2.	Company set up for power generation	7.5%
3.	Company supplying coal exclusively to power generation projects	7.5%
4.	Stock Fund; if dividend receipts are less than capital gains	12.5%
5.	Money Market Fund/ Income Fund; Other Fund (For Companies)	25%
6.	Collective investment Scheme other than Stock Fund	25%
7.	All other Cases; Filers	10%
8.	All other Cases; Non-Filers	15%

8) CHANGES IN TAXATION OF NOT FOR PROFIT ORGANIZATIONS (NPO's)*Section 100C*

NPOs enjoying tax exemptions under various exemption clauses of 2nd Schedule to the Ordinance have been subsumed in a newly introduced Section 100C of the Ordinance. Furthermore amendments as proposed in the taxation of NPOs are narrated as under:

- ✓ Tax Exemptions for NPO is apparently withdrawn while concept of tax credit is being specified whereby 100% tax credit including minimum taxes and final taxes is prescribed to various NPOs;
- ✓ Additionally tax credits as mentioned above are available to tax compliant NPOs that are making compliance to the following tax obligations;
 - Income Tax Return has been filed
 - Tax required to be deducted/ collected has been deducted/ collected and paid.
- ✓ Tax Exemptions is now proposed to be given and limited to the public- sector Universities only.

9) CHANGES IN TAXATION OF MINIMUM TAX*Section 113*

Earlier single rate of minimum tax was specified under Section 113 of the Ordinance. However further concessional minimum tax rates (lower than 1%) was granted to various industries under various concessionary provisions of the 2nd Schedule to the Ordinance. These concessionary clauses are now proposed to be subsumed in a single chart of minimum tax rates proposed to be inserted in 1st schedule to the Ordinance. The comparison of the minimum tax rates is given as under:

S. No.	Industry	Existing Minimum Tax Rate	Proposed Rate
1.	Cigarettes Distributors	0.2%	0.2%
2.	Distributors of Pharma products	0.2%	0.2%
3.	Distributors of Fertilizers	0.2%	0.2%
4.	Distributors of Consumer Goods	0.2%	0.2%
5.	Oil Marketing Companies, Oil Refineries	0.5%	0.5%
6.	SSGC & SNGPL	0.5%	0.5%
7.	Flour mills	0.2%	0.2%
8.	PIA	0.5%	0.5%
9.	Distributors and Agents of Petrol	0.2%	0.2%
10.	Rice Mills and Rice Dealers	0.2%	0.2%
11.	Poultry Industry	0.5%	0.5%
12.	Motorcycle dealers	0.25%	0.25%

List of organizations / sector are given in Clause 11A, Part IV, 2nd Schedule to the Ordinance whereby complete exemption is available against the levy of minimum tax. Now it is proposed to grant exemption to minimum tax to the taxpayers on income from coal mining projects in Sindh as well supplying coal to power generation projects only.

10) DIFFERENCE BETWEEN FILERS & NON-FILERS HIGHLIGHTED

Section 2 (23A)

Discrimination between of Filer and Non Filer of Tax has been emphasized in this Budget and has been demonstrated in the Finance Bill in terms of higher taxation for Non-Filer. This concept has been introduced in line with Sales Tax law as currently is. Moreover, such an attempt has also been made in decent farther past wherein, higher withholding rate on payment of goods and services were prescribed for non NTN holders. This time the attempt looks a bit more serious as mere being an NTN holder will not save from higher withholding but he will have to go through the rigorous test of being in the list of Active Tax Payers (ATL) List all the time or either he should be the bonafide holder of the Tax Payers' Privilege Card.

The concept and the exercise are actually aimed towards documentation. As to which extent this will remain successful, only the time can tell that whether the increased withholding from Non-Filer will actually lead to detecting some non-compliant and non-filer or will end merely as a petty revenue increasing measure.

Higher withholding rates for Non-Filer have been given at number of places under the Ordinance. Few of them are being narrated hereunder. However, to provide a rational and equitable system, the non-filers have an option to claim refund or adjustment of such excess of advance tax paid by filing their tax returns.

a) Tax on Dividend
Section 150

It is proposed that rate of withholding tax on dividend for non-filer is enhanced as compared to Filer of Tax Returns as under;

FILER	NON-FILER
10%	15%

The lower tax withholding @ 7.5% in case of dividend on shares of a power project privatized by WAPDA or shares of Companies who invested on power generation, supplying coal to power generation projects remains the same.

b) Profit on Debt (Interest Income)
Section 151

It is proposed that rate of withholding tax on Interest Income of non-filer is enhanced as under, if the interest Income is more than Rupees 500,000/;

FILER	NON-FILER
10%	15%

However, the non-compliant has an option to claim refund or adjustment of such advance tax paid at any time by filing return.

c) Advance Tax on Private Motor Cars
Section 234(3)

It is proposed that rate of withholding tax on private motor cars with engine capacity above 1000cc for non-filer should be twice than the filers, as under;

S. No.	Engine Capacity	Filers	Non-Filers
1	Upto 1000cc	Rs. 1,000	Rs. 1,000
2	1001cc to 1199cc	Rs. 1,800	Rs. 3,600
3	1200cc to 1299cc	Rs. 2,000	Rs. 4,000
4	1300cc to 1499cc	Rs. 3,000	Rs. 6,000
5	1500cc to 1599cc	Rs. 4,500	Rs. 9,000
6	1600cc to 1999cc	Rs. 6,000	Rs. 12,000
7	2000cc & above	Rs. 12,000	Rs. 24,000

d) Motor Vehicle Tax collected in Lump Sum
Section 234(4)

It is proposed that rate of motor vehicle tax in lump sum for the above 1000cc for non-filer should be double as compare to the filers, as under;

S. No.	Engine Capacity	Filers	Non-Filers
1	Upto 1000cc	Rs. 10,000	Rs. 10,000
2	1001cc to 1199cc	Rs. 18,000	Rs. 36,000
3	1200cc to 1299cc	Rs. 20,000	Rs. 40,000
4	1300cc to 1499cc	Rs. 30,000	Rs. 60,000
5	1500cc to 1599cc	Rs. 45,000	Rs. 90,000
6	1600cc to 1999cc	Rs. 60,000	Rs. 120,000
7	2000cc & above	Rs. 120,000	Rs. 240,000

It is proposed that tax at the same rate be collected by the manufacturers of motor vehicles. If the person registering a motor vehicle for the first time and is the same person who purchased the car locally or imported it, and paid tax at the time of purchasing, the advance tax will not be collected at the time of registration. Otherwise advance tax at the time of registration will be collected.

Furthermore, every manufacturer of the motor car or jeep shall collect tax at the time of sale of motor car or jeep.

e) Withholding on Cash Withdrawal
Section 231A

It is proposed that rate of withholding tax on cash withdrawal for non-filer is enhanced, as under;

FILER	NON-FILER
0.3%	0.5%

f) Advance Tax on Purchase of Motor Cars & Jeep
Section 231B

It is proposed that rate of motor vehicle tax in lump sum for above 850cc for non-filers should be double than the filers, as under;

S. No.	Engine Capacity	Tax For Filer	Tax For Non-Filer
1	Upto 850cc	Rs. 10,000	Rs. 10,000
2	851cc to 1000cc	Rs. 20,000	Rs. 25,000
3	1001cc to 1300cc	Rs. 30,000	Rs. 40,000
4	1301cc to 1600cc	Rs. 50,000	Rs. 100,000
5	1601cc to 1800cc	Rs. 75,000	Rs. 150,000
6	1801cc to 2000cc	Rs. 100,000	Rs. 200,000
7	2001cc to 2500cc	Rs. 150,000	Rs. 300,000
8	2501cc to 3000cc	Rs. 200,000	Rs. 400,000
9	Above 3000cc	Rs. 250,000	Rs. 450,000

g) Advance Tax on International Air Ticket*Section 236L*

It is proposed that airlines operating in Pakistan shall collect advance tax on the gross amount of international air tickets. The Airlines are to collect the Advance Tax for First Class / Business Class only.

The rate of withholding tax on purchasing of international air tickets by for non-filers is double, are as under;

S. No.	Type Of Ticket	Rate of Tax	
		Filer	Non-Filer
1	Economy class	0%	
2	First/Business/Club class	3%	6%

11) CHANGES IN WITHHOLDING TAX PROVISIONS

As an easy way out to meet the revenue targets prevailing tax withholding rates have been exhaustively revised upward. Moreover certain new transactions have been made liable for tax withholding. The proposed amendments are briefly discussed section wise in the ensuing paragraphs.

a) Increased Tax Withholding at Import Stage*Section 148*

The general rate of tax collection at import stage for companies / industrial undertakings is proposed to be increased from prevailing 5% to 5.5%. The facility for availing exemption from tax collection at import stage is intact for manufacturers / Industrial undertakings. Certain reduced rates are proposed for specified industries, the tabulation of the same is given as under:

S. No	Section	Nature of Payment/ Items	Provision of Section	Existing Tax Rates	Proposed Tax Rates
1	148	Industrial undertaking		5%	5.5%
		In case of Companies		5%	5.5%
		All other Cases		5.5%	6%
		Reduced rates at import stage for Specified industries			
		- Remeltable steel			1%
		- Potassic Fertilizers under cabinet decision			1%
		- Urea			1%
		- Other Manufacturers under SRO 1125(I)2011, dated 31 st December 2011			3%
		- Commercial Importers under SRO 1125(1)/2011			3%
		- Pulses			2%
		- Ships by ship breakers			4.5%

b) Increase in Withholding Tax on Goods and Services

Section 153

Similar to the case of imports it is proposed to increase the rate of withholding tax on goods and services as well for both corporate and non-corporate taxpayers. Moreover, special withholding rate of 10% is proposed for the sports person under the contract receipt. The tabulation of new rates as under:

S. No.	Sections	Nature of Payment	Provision of Section	Existing Tax Rates	Proposed Tax Rates
2.	153	Payments to residents	- Sale of rice, cotton, seed, edible oil.	1.5%	No change
	153(1)(a)	Payments to residents	- Sale of other goods in case of 'Companies'	3.5%	4%
		Payments to residents	- Sale of Other goods in other cases (non-Corporate)	4%	4.5%
3.	153(1)(b)	Payments to residents	- Transport Services	2%	No change
		Payments to residents	- Other Services in case of 'Company'	6%	8%
		Payments to residents	- Other Services in other cases (non-corporate)	7%	10%
4.	153(1)(C)	Payments to residents	- Execution of Contract in case of 'Companies'	6%	7%
		Payments to residents	- Execution of Contracts in other cases (non-Corporate)	6.5%	7.5%
		Payments to residents	- Execution of Contract in case of 'Sports person'		10%

c) Increase in Withholding Rates on Exports related services

Section 153(2)

The rate of withholding tax on export related service like stitching, dying, printing, embroidery, washing, sizing and weaving, is proposed to be enhanced from existing 0.5% to 1%.

d) Increase in Advance Tax on Private Motor Car and Jeep
Section 231B

Rates of advance tax to be collected at the time of registration of newly manufactured motor vehicles are being little amended. Moreover separate enhanced rates are specified for Non-filers as tabulated below:

S. No.	Section	Nature of Payment	Engine Capacity	Tax Rates for Filers	Tax Rates for Non-filers
5.	231B	Purchase of Motor car	Up to 850cc	10,000	10,000
			851cc to 1000cc	20,000	25,000
			1001 to 1300cc	30,000	40,000
			1301cc to 1600cc	50,000	100,000
			1601cc to 1800cc	75,000	150,000
			1801cc to 2000cc	100,000	200,000
			2000cc to 2500cc	150,000	300,000
			2500cc to 3000cc	200,000	400,000
			Above 3000cc	250,000	450,000

Additionally advance tax is also proposed to be collected by the manufactures at the above applicable rates. In case advance tax is collected by the manufacturers than no further tax is collectible at the time of registration by the motor vehicle registration authority.

e) Increase Advance Tax on Brokerage and Commission
Section 233

The withholding tax rates in case of brokerage and Commission has also been proposed to be revised upward as tabulated below;

S. No.	Section	Nature of Payment	Provision of Section	Existing Tax Rates	Proposed Tax Rates
6.	233	Brokerage and Commission	- In case of Advertising Agents	5%	7.5%
			- In all other cases	10%	12%

f) New Withholding Tax on Domestic Electricity Consumption
Section 235A

Similar to the industrial / commercial consumers, domestic consumers are also proposed to be subjected to advance tax collection on their electricity bills. Accordingly every person preparing the bill for domestic consumption of electricity is required to collect the advance tax @ 7.5% in case where monthly bill is of Rupees 100,000/- or more. No tax collection is required in case monthly electricity is less than Rupees 100,000/-

g) New Withholding Tax on International Air Ticket
Section 236L

Similar to the advance tax collection on domestic air tickets, every airline, operating in Pakistan, issuing the international air tickets is required to collect advance tax as per the tabulation below;

S. No	Sections	Nature of Payment	Provision of Section	Existing Tax Rates	Proposed Tax Rates
7.	236L	Advance tax on purchase of International Air Ticket.	First / Business/ Club class		3% on Filers
			First / Business/ Club class		6% on Non-filers
		Advance tax on purchase of International Air Ticket	Economy		0%

h) Reduced Withholding Tax on Mobile Phone Subscriber/ Prepaid Cards / Units
Section 236

The tax withholding on captioned is proposed to be reduced from 15% to 14%.

i) Reduced Withholding Tax on Function & Gatherings
Section 236D

The tax withholding on captioned is proposed to be reduced from 10% to 5%.

j) Increased Withholding Tax on Petroleum Products
Section 156A

The tax withholding on commission to petroleum agents is proposed to be increased from existing 10% to 12%.

k) Clause 57 of Part IV; Trading Houses are Withholding Agent

An "Explanation" has been added where by Companies operating LARGE Trading House has been made Withholding Agent. The way the "Explanation" has been placed is a feeble attempt on the part of FBR to demonstrate as if there has always been the position of law as such.

l) Initial Depreciation
Third Schedule

Initial depreciation allowance of 25% on Buildings has been cut down to mere 10% while the normal depreciation allowance is also 10%.

m) Rescission of Income Support Levy 2013

Income Support Levy Act was promulgated through the Finance Act, 2013. It has now been proposed to rescind the Income Support Levy Act, 2013 through Finance Bill 2014-15.

12) OTHER IMPORTANT CHANGES

a) Director or Board Meeting Fee

Section 149

Every person responsible for making payment, for directorship fee or fee for attending board meeting or such fee, shall deduct tax at the rate @ 20% of the gross fee. 20% tax withholding shall invariably be made whether Salary or Salaries of the directors is less than the taxable limits or not.

Under the definition of “employment” in Section 2(22) of the Ordinance, directorship or any other office involved in the management of the company is treated as ‘employment’. Hence, the withholding on such payments is, therefore, to be made as per applicable rates for the income under the head ‘Salary’.

b) Tax on Steel Melters and Re-Rollers etc.

Section 235B

The new Section has been inserted in the Ordinance for collecting tax on their electricity bills from every steel melter, steel re-roller, and composite steel units registered under the Sales Tax Act.

The person preparing the electricity bill shall collect tax of Rupee 1 per unit of electricity consumed for the production of steel billets, ingots and mild steel products excluding stainless steel.

The above collection shall be treated as tax on the payment of local purchase of scrap and shall be non-adjustable and its credit shall not be allowed to any person.

c) 50% Reduction in Tax Liability of Disabled Persons

Division I, First Schedule

Senior citizen taxpayers only are allowed 50% rebate in their tax liability in case where their taxable income does not exceed Rupees 1,000,000/- per annum.

The above relief has been proposed to be extended to disabled persons only if they hold a Computerized National Identity Card (CNIC) issued by the National Database Registration Authority (NADRA) for Disabled persons.

It is pertinent to mention that in both the cases, the income under Final Tax Regime would not get the above rebate and neither would be included in determining the limit of Rupees 1,000,000/-.

d) Option to come out under Final Tax by the certain persons

Clauses 56B to 56G

It needs to be recalled that the Finance Act, 2013 had introduced Clauses 41A to 41B of Part IV to the Second Schedule whereby an option was forwarded to tax payers of the Final Tax Regime in case they wish to opt out of FTR to Normal Tax Regime.

The Bill now seeks to omit above Clauses and proposed to be introduced with certain modifications whereby the provisions relating to Final Tax Regime would not apply if the person opts to file return of total income along with accounts and documents as may be prescribed, subject to the condition that minimum tax liability under normal tax regime shall not be less than:-

- (a) Commercial Importer; 5.5% in case of a company and 6% in other cases.
- (b) Sale of goods; 3.5% in case of a company and 4% in other cases.
- (c) Contracts; 6% in case of a company and 6.5% in other cases.
- (d) Export Related Services; (Stitching, Dying, Printing, Embroidery, Washing, Sizing and Weaving); 0.5% of the gross amount of services received;
- (e) Petrol Pump Operators; 10% of the commission or discount on sale of petroleum products.
Commission agents; 10% of the amount of brokerage or commission

SALES TAX ACT, 1990**Retail Price***Section 2(27)*

The Finance Bills proposes to insert a proviso under definition of retail price. Through such insertion, the Board has been empowered to declare zones or areas for the purpose of highest retail price with relation to goods listed in Third Schedule of the Sales Tax Act 1990 (ST Act).

We understand manufacturers of cement, fertilizer, beverage etc. were facing immense difficulties subsequent to last year's reclassification of such goods into Retail Price Regime. The core problem was fixation of different retail price for up-country shipments / sales due to additional transportation cost / freight charges. The cement industry, in particular, had demanded from the Board that either cement should be excluded from Third Schedule of ST Act or fixation of Maximum Retail Price (MRP) may be allowed on the basis of two different zones. The Government has now accepted one of the major demands raised by the cement industry.

With the said amendment, manufacturer of goods falling under the Retail Price Regime may fix two different retail prices for two different areas or zones. The Board will facilitate such fixation and tax / duty assessment thereof through issuance of general order.

Scope of Tax*Section 3(1)(aa) & 8th Schedule*

The Bill proposes to include a new clause (aa) in the charging section 3 of the ST Act. Under such new clause, a new 'Eight Schedule' has been included under ST Act which specifies specified goods, which will attract 5% sales tax ad val. on the import and supply thereof, subject to fulfillment of conditions as provided in the law.

Prior to such insertion in the ST Act, such specified goods were either zero rated or exempted from sales tax under various notifications. The aforesaid amendments are proposed to be introduced w.e.f 01 July 2014 meaning thereby the earlier exemption / zero rating would remain applicable for the month of June 2014. Detail of such goods viz-a-viz previous and existing taxation domain and other related information is tabulated below:

EIGHT SCHEDULE (TABLE-1)

S. No.	Description	PCT Headings	Notification Reference	Comments
1.	Soyabean meal	2304.0000	SRO 501(I)2013, dated 12 June 2013	Exemption on import and supply withdrawn and replaced with 5% sales tax
2.	Oil cake & other solid residues	2306.1000	- do -	- do -

S. No.	Description	PCT Headings	Notification Reference	Comments
3.	Directly reduced iron	72.03	SRO 501(I)2013, dated 12 June 2013	Exemption on import and supply withdrawn and replaced with 5% sales tax
4.	Oilseeds meant for sowing	Respective Headings	SRO 551(I)/2008 dated 11 June 2008	Exemption on import and supply withdrawn and replaced with 5% sales tax. However, the earlier condition of certificate from Plant Protection department remains intact.
5.	Raw cotton and ginned cotton	Respective Headings	- do -	Exemption on import of raw cotton and ginned cotton is proposed to be withdrawn and replaced with 5% sales tax. However, local supply of raw cotton and ginned cotton would continue to be exempt under Table-II of the Sixth Schedule. This measure has been taken to promote to local ginners and growers and to discourage import of cotton in manufacturing of yarn and other products.

Exemption on Plant and Machinery withdrawn

SRO 727(I)/2011 dated 01 August 2011

Plant and machinery not manufactured locally and having no compatible local substitutes

The exemption on plant and machinery has now been withdrawn and conditional rate of 5% has been imposed thereon. We understand that this is one of the major steps taken by the Federal Government which may adversely affect the investment climate and economy which would eventually increase the cost of doing business.

The exemption of plant and machinery which are not manufactured locally and having no compatible substitute was earlier available to registered manufacturer and industrial importers under S.R.O 727(I)/2011 dated 01 August 2011. This exemption was notified in the Year 2011 after huge resentment and demand of the industry after the Government abolished zero rating on plant and machinery from SRO 549(I)/2008 dated 11 June 2008.

S.No.	Category of registered person	Tax Structure on import of plant & machinery	Tax Structure on local supply of plant & machinery
1.	Registered manufacturer	5% sales tax on import subject to the condition that post dated cheque(s) equal to the differential amount of sales tax (i.e. 12%) is duly submitted to custom authorities which shall be returned on declaration of such plant and machinery in the first sales tax return after import of such machinery, showing the import of such machinery	Local supply of imported and locally purchased plant and machinery to registered manufacturer would be subject to 5% of sales tax. Local supply of imported and locally purchased plant & machinery to person other than registered manufacturer or unregistered persons would be subject to 17% sales tax
2.	Commercial Importer	5% sales tax on import of plant and machinery, subject to furnishing of guarantee of differential amount of sales tax (i.e. 12%) in form of bank guarantee, pay order etc. which shall be returned back after furnishing evidence of subsequent supply to registered manufacturers or industrial users.	Local supply of imported plant and machinery to registered manufacturer would be subject to 5% sales tax Local supply of imported and locally purchased plant & machinery to person other than registered manufacturer or unregistered persons would be subject to 17% sales tax

The remaining conditions are the same as were mentioned in the previous SRO 727(I)/2011.

Withdrawal of exemption on Plant and machinery, equipment, apparatus and capital goods imported by specific sectors and for specific purpose earlier notified vide SRO 575(I)2005 dated 05 June 2006.

Through SRO 575(I)/2006 dated 05 June 2006, exemption from whole of the sales tax on import of plant and machinery, equipment, apparatus and capital goods was granted which were meant to be imported by for specific purpose. However, such exemption was subject to fulfillment of certain conditions and procedures.

The Federal Government has proposed to make a substantial leap in form of withdrawal of exemption from sales tax on many entries of SRO 575(I)/2006 dated 05 June 2005 and imposed sales tax @ 5%, subject to certain conditions. The following major entries are proposed to be included in the Table II of the Eighth Schedule are as follows:

EIGHT SCHEDULE (TABLE-2)

S.No.	Particulars of machinery, equipment etc.	Reference in SRO 575
1.	Machinery and equipment for development of grain handling and storage facilities.	Serial No. 2
2.	Cool chain machinery and equipment.	Serial No. 3
3.	Certain items imported by Call Centers, Business Processing Outsourcing facilities duly approved by Telecommunication	Serial No. 4
4.	1. Machinery, equipment, materials, capital goods, specialized vehicles (4x4 non luxury) i.e., single or double cabin pickups, accessories, spares, chemicals and consumables meant for mineral exploration phase. 2. Construction machinery, equipment and specialized vehicles, excluding passenger vehicles, imported on temporary basis as required for the exploration phase.	Serial No.9
5.	Complete plants for relocated industries.	Serial No. 15
6.	Machinery, equipment and other capital goods meant for initial installation, balancing, modernization, replacement or expansion of oil refining (mineral oil, hydro- cracking and other value added petroleum products), petrochemical and petrochemical downstream products including fibers and heavy chemical industry, cryogenic facility for ethylene storage and handling.	Serial No. 20
7.	Certain items for Proprietary Formwork System for building / structures of a height of 100 ft and above and its various items/ components.	Serial No. 30

Furthermore, the following entries have been deleted from SRO 575 and now import of the following items would attract sales tax @ 17%:

S.No.	Particulars of machinery, equipment etc.	Reference in SRO 575
1.	Machinery, equipment and other items required for setting up, upgradation and expansion of hotels (3 stars and above), tourism; sporting and other recreation services related projects as approved by the Ministry of Tourism.	Serial No. 8 <i>(Notification awaited)</i>
2.	Machinery, equipment and other capital goods for Service Sectors mentioned below: a) Wholesale, distribution and retail trade, b) Transportation, c) Storage,	Serial No. 16 <i>(Notification awaited)</i>

S.No.	Particulars of machinery, equipment etc.	Reference in SRO 575
	d) Communication, e) Infrastructure projects including development of f) industrial zones, g) Telecommunication equipment; h) Technical testing facilities, i) Audio-visual services, j) Rental services relating to transport equipment and k) machinery; l) Environmental services; and m) Foreign Direct Investment (FDI) in any other activity of n) Service sector.	
3.	Certain machinery, equipment and capital goods imported for establishing wholesale / retail chain stores	Serial No. 17 (Notification awaited)
4.	Air Handling Units	Serial No. 24 (Notification awaited)
5.	Following items imported by the manufacturing sector: a) Fin tubes; b) Dish heads; c) Induced draught fans; d) High pressure valves; e) Safety valves including non return valves; f) Control valves for steam duty; and g) Core wire of base metal in coils (for machine welding)	Serial No. 25 (Notification awaited)
6.	Heat ventilation air conditioner	Serial No. 32 (Notification awaited)
7.	Certain machinery and equipment relating to broadcasting	Serial No. 33 (Notification awaited)
8.	Certain machinery and equipment imported by surgical industry.	Serial No. 37 (Notification awaited)
9.	Certain machinery and equipment imported by cutlery industry	Serial No. 38 (Notification awaited)

Tax on Mobile Phones

Section 3(3B) & 9th Schedule

Through Finance Bill, the legislature proposes to insert new sub-section 3B at Section 3 of ST Act. Under such sub-section, Ninth Schedule has also been introduced whereby import and supply of cellular phones will attract different rates of sales tax in the manner so prescribed therein.

Prior to such insertion in the ST Act, cellular phones were subject to sales tax under SRO 460/2013. The Government has now placed SRO 460 in the 9th Schedule to ST Act. Accordingly, it is expected that the Federal Government will do away with SRO 460.

Section 3(3B) has an overriding effect over Section 3(1) & 3(3) of ST Act. Accordingly, we understand that Value Addition Tax envisaged under Rule 58C of Chapter XIII of Sales Tax Special Procedure Rules 2007 and presently demanded by Customs authorities from mobile phone importers and dealers on import of mobile phones, will not be collectable any longer.

Tax on CNG

Section 3(8)

The Finance Bills proposes to amend Sub-Section 8 of Section 3 of ST Act. Under such amendment, rate of sales tax on supply of natural gas to CNG stations has been proposed @ 17% ad val. Through subject insertion, an effort has been made by legislature to give legal protection to Sales Tax (Amendment) Ordinance 2014 whereby the subject amendment was made part of the statute.

Tax on Retailers

Section 3(9)

Sales tax regime for retailers has been completely revamped with introduction of two-tier mechanism for registration of retailers and discharge of their sales tax liabilities. Amendment is also proposed in Serial No. 3 of Table II of the Sixth Schedule to exclude retailers from the exemption criteria.

Retailers in First Tier

The retailers falling in first tier would comprise of retailers which are:

- ✓ retail outlets operating as part of national or multinational chains;
- ✓ operating in air-conditioned malls;
- ✓ provide facility of debit or credit cards; and
- ✓ consume electricity exceeding Rs. 50,000 per month

Such retailers are being brought under the normal tax regime and would be required to charge sales tax on normal rate of sales tax.

Retailers in Second Tier

The retailers falling in second tier would be all other retailers which do not fall in the first tier. The sales tax from such retailer is proposed to be collected through their monthly electricity bills. Two different tax rates of 5% and 7.5% are proposed to be charged from such retailers via their monthly bills, depending upon their monthly consumption of electricity. Electricity bill upto Rs. 20,000 pm will entail a sales tax liability of 5%; whereas bill exceeding Rs. 20,000 pm will attract sales tax @ 7.5%.

Such sales tax levies of 5% and 7.5% will be in addition of extra tax @ 5% and further tax @ 1%, which is already leviable on electricity bills of unregistered commercial / industrial users. Therefore, the sales tax suffered by retailers on their electricity bills would be as follows:

We understand that retailers who do not opt for registration under the ST Act and suffer monthly electric bill of Rs 20,000 will have to pay as high as 30.5% sales tax on electricity their bills on different accounts.

The above steps, though positive, pose a serious challenge upon the Government and require strict enforcement thereof in order to broaden the tax base and to bring retailers into the sales tax net.

On the practical side, the imposition of sales tax through electricity bills requires detailed exercise and scrutiny to be carried out by the FBR field formation with the help of electricity transmission and distribution companies for the correct identification of retailers and charging of sales tax thereon. For instance, problems would emerge where electric connection is not in the name of retailer operating the business.

Collection of excess tax

Section 3B(2)

This amendment has been brought in the Finance Bill to provide legal backing and in continuation of the amendments brought through Sales Tax (Amendment) Ordinance 2014 in Section 3(2) of the ST Act. The aforesaid amendment was introduced to protect the disbursement of refund of excess amount of sales tax of 9% on supply of CNG levied vide Section 3(8) of the ST Act which was declared to be void and unconstitutional by the Supreme Court of Pakistan.

We understand that such amendment proposed by the Federal Government is unwarranted and an attempt to override the judicial supremacy and verdicts of judicial forums. We feel that the proposed amendment may soon be put to judicial scrutiny with respect to its enforceability.

Zero Rating

Section 4

The Federal Government vide SRO 154(I)/2013 dated 28 February 2014 had revamped the scheme of zero rating of sales tax to five export orient sectors notified vide SRO 1125(I)/2011 dated 31 December 2011.

In terms of SRO 1125, zero rating was replaced with reduced rate taxation on local supply of taxable goods made by five export oriented sectors. However, the supply of electricity and gas to registered manufacturers and exporters of such five sectors were continued to be subject to zero rate of sales tax. The FBR was also awarding such zero rating of electricity and gas to five sectors by issuance of Sales Tax General Orders in terms of clause (d) of the Section 4 of the ST Act. However, in clause (d), there was no reference of zero rated supply of goods to person subject to reduced rate of sales tax.

Such an anomaly with respect to providence to zero rating facility on supply of electricity and gas to reduced rate sectors vide general orders has now been addressed and rectified.

Determination of Tax Liability*Section 7(1)*

- (a) An amendment has been made in Section 7(1) of ST Act whereby reference of Section 8 has been inserted besides Section 8B and 73. Thus, the determination of monthly tax liability will be subject to stipulations of Section 8, 8B and 73 of ST Act.
- (b) By virtue of another amendment proposed in Section 7(1), adjustment of further tax against input tax has been excluded. Earlier, an identical restriction was also placed vide Finance Act 2003 and remained in Section 7 for one year which was subsequently deleted with the abolition of further tax vide Finance Act, 2004.

Through the Finance Act 2013, the concept of 'further tax' was re-introduced to promote documentation of the country and to compel the unregistered persons to obtain sales tax registration. Subject to certain exemptions, further tax @ 1% is leviable on taxable supplies made to person who has not obtained sales tax registration number under the ST Act.

During the entire fiscal year 2013-2014, the issue of adjustment of input tax against further tax remained an unresolved issue between the revenue and taxpayers. Despite no legal support, the tax department was not allowing adjustment of input tax from further tax and has made several cases against such taxpayers who had adjusted the same in their sales tax return. Furthermore, arrangements were made whereby the FBR web portal was also restricting any adjustment from further tax.

After such amendments in Section 7(1) of the ST Act, no adjustment of input tax against further tax will be available. However, in view of proposed amendment in Section 7(1) of the ST Act, the ongoing dispute will be put to rest. Nevertheless, the proposed amendment will also settle all the previous cases initiated by the tax department on the subject matter.

- (c) A significant amendment has been made by insertion of new clause (iiia) in Section 7(2) which contains an exhaustive list of negativity whereby input tax shall remain inadmissible to the taxpayer, in addition to goods mentioned in Section 8 of the ST Act.

According to the proposed amendment, input tax shall not be claimable against the following goods and services:

- 1) imported or purchased for the purpose of sale or re-sale by the registered person on payment of tax;
- 2) used directly as raw material, ingredient, part, component or packing material by the registered person in the manufacture or production of taxable goods;
- 3) electricity, natural gas and other fuel consumed directly by the registered person in his declared business premises for the manufacture, production or supply of taxable goods; or
- 4) plant, machinery and equipment used by the registered person in his declared business premises for the manufacture, production or supply of taxable goods.

A close analysis of the foregoing amendment transpires that the newly inserted clause (iiia) prescribes harsh, too narrow and subjective criteria for adjustment of input tax as against Section 7(1) of the ST Act which is a much broader provision existing in the statute for a very long time now. Hence, on account of the following assertions, both Sub Section 1 and Sub Section 2(iiia) of Section 7 are contradictory to each other:

- ✓ The proposed amendment aims to allow input tax credit on goods imported or purchased for sale or resale. With respect to manufacturing, the input tax credit has now been shifted on the basis of *consumption* as against Section 7(1) which allows input tax credit on total procurements / imports made for the *purpose* of making taxable supplies made or to be made by the taxpayer.

We understand computation and accounting for input tax according to consumption pattern will be both tedious and subjective exercise. Even with use of sophisticated IT software, it will remain difficult for a business to determine the exact quantity, batch and size of goods and respective tax component used in its manufacturing activity for a specific month. Such an exercise, on a monthly basis, will be even more difficult. Above all, the tax officers will also find it quite difficult to trace such details with accuracy. This may eventually lead to sheer discrimination and harassment of taxpayers under the garb of Section 7(2)(iiia) of the ST Act.

- ✓ The entitlement of input tax credit has been made subject to payment of (input) tax against purchase / import bill. In other words, the criteria of input tax adjustment have been shifted to cash basis instead of accrual basis prescribed in Section 7(1) and Section 73 of the ST Act.
- ✓ The Finance Bills proposes to allow input tax only on direct ingredients used in production processes leaving a wide range of indirect inputs / material and services which are acquired or used by the businesses as part of its operations.

A close reading of the proposed amendments transpires that questions will emerge as to whether a particular raw material is a direct or an indirect ingredient. Further, it appears sales tax / FED paid on services including that paid on telecommunication services will not be an adjustable item anymore. We reckon such measure would increase the cost of doing business to a great extent, make SRO 212(I)/2014 redundant and again ignite severe litigation by taxpayers who suffer provincial sales tax / FED on acquisition of services.

Tax Credit Not Allowed

Section 8

Section 8 has also been amended whereby with minor modifications, the negative list specified in SRO 490/2004, has been brought in the main statute. Following items have proposed to be added in Section 8 of the ST Act:

- (f) goods and services not related to the taxable supplies made by the registered person;
- (g) goods and services acquired for personal or non-business consumption;

- (h) goods used in, or permanently attached to, immoveable property, such as building and construction materials, paints, electrical and sanitary fittings, pipes, wires and cables, but excluding such goods acquired for sale or re-sale or for direct use in the production or manufacture of taxable goods; and
- (i) vehicles falling in Chapter 87 of the First Schedule to the Customs Act, 1969 (IV of 1969), parts of such vehicles, electrical and gas appliances, furniture, furnishings, office equipment (excluding electronic cash registers), but excluding such goods acquired for sale or re-sale.

We understand that the proposed amendments in Section 7(2)(iiia) do not allow the taxpayer any input tax except the restricted input tax directly attributable to his business. Hence, on this account, the foregoing disallowances proposed in Section 8 appear to be mere duplication.

Posting of Officers

Section 40B

An explanation is proposed to be inserted in Section 40B of the ST Act in order to give legal protection and to extend the powers of the Board, Chief Commissioner and Commissioner for posting of any officer of the Inland Revenue to the premises of the any registered person for the monitoring of production, sales and stock position under Section 40B. The proposed explanation stipulates that such powers conferred to the Chief Commissioner, Commissioners are independent of the powers under Section 40 of the ST Act.

We understand such an explanation aims to negate the recent judgment pronounced by Appellate Tribunal Inland Revenue wherein it was held that posting of the Officer of the Inland Revenue under Section 40B is subject to the requirements of Section 40 of the ST Act and obtaining warrant from the magistrate.

Through this amendment, blanket powers are intended to be given to the Chief Commissioner and Commissioners for posting of Officers without any search warrants as required under Section 40 of the ST Act.

Electronic Scrutiny and Intimation

Section 50B

A new Section 50B is proposed to be inserted after Section 50A of the ST Act to give legal coverage to various electronic intimation and notices sent through computerized systems. Further, a new computerized system similar to "CREST" is intended to be implemented which will make automatic scrutiny, analysis, cross matching of the returns and other available data of the registered person and to issue electronic notices to the registered taxpayers.

Consolidation of Zero Rating SROs

Fifth Schedule

In the Finance Bill, a major shift has been made to club zero rating notifications as part of the Fifth Schedule to ST Act. The zero rated items notified vide SRO 549(I)/2008 and SRO 670(I)/2013 are included as part of the Fifth Schedule to the ST Act.

The goods earlier mentioned in SRO 670(I)/2013 are subject to zero rating of sales tax subject to the conditions and requirements of the newly inserted Chapter XIV in the Sales Tax Special Procedure Rules, 2007. We understand that the conditions mentioned in SRO 670 will become part of the said special procedure with certain modifications. However, exemptions on the same goods earlier available vide SRO 501(I)/2013 been kept intact by inclusion thereof in the Sixth Schedule. The detailed procedures are not yet notified by the Federal Government. The detail of goods subject to conditional zero rating is as follows:

S.No.	Description of goods	PCT Headings
1.	Colors in sets	3213.1000
2.	Writing, drawing and marking inks	3215.9010 and 3215.9090
3.	Erasers	4016.9210 and 4016.9290
4.	Exercise books	4820.2000
5.	Pencil sharpeners	8214.1000
6.	Geometry boxes	9017.2000
7.	Pens, ball pens, markers and porous tipped pens	96.08
8.	Pencils including color pencils	96.09
9.	Milk including flavored milk	04.01 and 0402.9900
10.	Yogurt	0403.1000
11.	Cheese	0406.1010
12.	Butter	0405.1000
13.	Cream	04.01 and 04.02
14.	Desi ghee	0405.9000
15.	Whey	04.04
16.	Milk and cream, concentrated and added sugar or other sweetening matter	0402.1000
17.	Preparations for infant use put up for retail sale	1901.1000
18.	Fat filled milk	1901.9090
19.	Bicycles	87.12

New Exemptions / Consolidation of Exemptions

Sixth Schedule

Consolidation of Exemption Notification in Sixth Schedule

The exemption earlier provided to various numerous, goods, plant and machinery, equipment, apparatus, and capital goods vide S.R.O 501(I)/2013, SRO 551(I)/2008, SRO 575(I)/2006, SRO 727(I)/2011 and SRO 69(I)/2006 has been grouped into following two categories:

- (a) Inclusion in Eight Schedule to the ST Act and subject to sales tax rate of 5% (this part is covered with Eight Schedule); and

(b) Inclusion in the Sixth Schedule to the ST Act

New Exemptions

New tax exemptions on import and supply of following are proposed to be included in the Sixth Schedule to the ST Act:

S.NO.	Description	PCT Heading	Comments
1.	Edible oils and vegetable ghee, including cooking oil	1511.1000	To streamline with exemption available to other edible oils
2.	Cochlear implants system-hearing aids	99.37	Extension of exemption on medical instruments to facilitates handicapped person
3.	Goods imported temporarily meant for export subject to certain conditions	Respective Headings	
4.	High efficiency irrigation equipment	8413.7010, 8424.8100, 8424.2010, 8481,1000, 8481.3000, 9026.2000, 9032.8990	This exemption is proposed to promote agriculture equipment. Exemption to sprinkle equipment also moved to Sixth Schedule
5.	Green House Farming and Other Green House Equipment (if used for agriculture sector)	8430.3100, 8430.3900, 9406.0010	-----do-----
6.	Plant, Machinery and equipment imported for setting up fruit processing and preservation units in (Gilgit Baltistan, Balochistan Province and Malakand Division) as per Customs Act, 1969	Respective Headings	These are specific measure to promote industrialization in the areas of Gigit, Baltistan, Balochistan, and Malakan division. The Government has also announced five years tax holidays for these regions.
7.	Plant, Machinery and equipment imported for setting up industries in FATA as per Customs Act, 1969	Respective Headings	To promote industrialization in FATA

SRO 501(I)2013 dated 12 June 2013

Serial Number 1,2,3,4,5,6,7,8,9,10,11,12,13,14,17,18,19,20,22,23,24,26,27,28,29,30,31,32 and 33 as mentioned in SRO are proposed to be included in the Table II of the Sixth Schedule.

Exemption earlier available on purpose build taxis is to be withdrawn.

SRO 551(I)2008 dated 11 June 2008

All the goods mentioned in the SRO are proposed to be included in the Table-II of the Sixth Schedule with exception of Re-meltable Scrap (PCT Heading 72.04) which will be subject to normal rate of sales tax and Oil Seed meant for sowing which is proposed to be included in the Eight Schedule.

SRO 575(I)2006 dated 05 June 2006

Serial Numbers 1, 5, 6, 7, 10, 11, 12, 13, 14, 18, 19, 21, 22, 23, 26, 27, 28, 29, 31, 34, 35, 36 of the SRO alongwith the related Annexure are proposed to be included in Table III of the Sixth Schedule subject to the conditions as prescribed.

SRO 69(I)/2006 dated 28 January 2006

The lower rate of sales tax of 14% which was applicable on import of rapeseed, sunflower and canola by solvent extracting units is to be withdrawn.

SRO 1125

To strengthen the local industry, import of finished articles of textile, leather, etc. have been made subject to sales tax at normal rate @ 17%. In this respect, SRO 420(I)/2014 dated 4 June 2014 has been issued by the Federal Government whereby imports of finished garments, leather and other goods mentioned in SRO 1125 will attract 17% sales tax alongwith 2% Value Addition Tax. However, supply of such goods will continue to be taxed @ 5%, which is likely to result in refunds / excessive input tax in the hands of such traders.

SRO 420 has been issued w.e.f. 04 June 2014 which suggests that all imports w.e.f. 04 June 2014 have become subject to 17% sales tax. However, on the other hand, the Salient Features of Budget 2014 issued by the Government clearly suggested that the new tax regime will take effect from 01 July 2014. We understand such an anomaly needs to be addressed and rectified at the earliest.

** All notifications are not yet issued by the Federal Government or Federal Board of Revenue*

FEDERAL EXCISE ACT 2005**Determination of Value for the Purpose of Duty***Section 12*

By virtue of amendment proposed in Section 12 of the Federal Excise Act 2005 (FED Act), the Board has been empowered to determine the highest retail price for any brand or variety of goods after issuing a specific general order according to specify zone or areas.

We understand manufacturers of cement, fertilizer, beverage etc. were facing immense difficulties subsequent to last year reclassification of such goods into Retail Price Regime. The core problem was fixation of different retail price for up-country shipments / sales due to additional transportation cost / freight charges. The cement industry in particular had demanded from the Board that either cement should be excluded from Third Schedule of Sales Tax Act 1990 or fixation of Maximum Retail Price (MRP) may be allowed on the basis of two different zones. The Government has now accepted one of the major demands raised by the cement industry.

With the said amendment, manufacturer of goods falling under the Retail Price Regime may fix two different retail prices for two different areas or zones. The Board will facilitate such fixation and tax / duty assessment thereof through issuance of general order.

First Schedule - Table I
Cigarettes

The structure of chargeability of FED on cigarettes has been amended as follows:

S.No	OLD REGIME		NEW REGIME	
	Description of Goods	FED	Description of Goods	FED
9	Locally produced cigarettes if their on pack printed retail price exceeds Rs. 2,286 per thousand cigarettes	Rs. 2,325 per thousand cigarettes	Locally produced Cigarettes if their on pack printed retail price exceeds Rs. 2,706 per thousand cigarettes	Rs. 2,632 per thousand cigarettes
10	Locally produced cigarettes if their on pack printed retail price does not exceeds Rs. 2,286 per thousand cigarettes	Rs. 880 per thousand cigarettes	Locally produced cigarettes if their on pack printed retail price does not exceed Rs. 2,706 per thousand cigarettes	Rs. 1,085 per thousand cigarettes

First Schedule - Table I
Cement

OLD REGIME			NEW REGIME	
S.No	Description of Goods	FED	Description of Goods	FED
13	Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cements, whether or not coloured or in the form of clinkers.	Four hundred rupees per metric tone	Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cements, whether or not coloured or in the form of clinkers.	5% of the Retail Price

First Schedule - Table I
Vehicles

The Finance Bill proposes to withdraw FED @ 10% on locally manufactured motor vehicles.

FED @ 10% was imposed on Motor Cars, Sports Utility Vehicles (SUVs) and other motor cars exceeding 1800cc through Finance Act 2013. We understand withdrawal of FED on locally manufactured cars would encourage and prosper the local industry.

First Schedule - Table II
Air Travel

OLD REGIME			NEW REGIME	
S. No	Description of Services	FED	Description of Services	FED
3(b)(i)	Facilities of travel (b) Services provided or rendered in respect of travel by air of the passengers embarking on international journey from Pakistan. (i) Economy and economy plus.	Rs. 3,840	Facilities of travel (b) Services provided or rendered in respect of travel by air of the passengers embarking on international journey from Pakistan. (i) Economy and economy plus.	Rs. 5,000
3(b)(ii)	(ii) Club, business and first class.	Rs. 6,840	(ii) Club, business and first class.	Rs. 10,000
15	Chartered Flights	NIL	Chartered Flights	16%

First Schedule - Table II
Telecommunication

As a major relief measure, the Finance Bill proposes to reduce FED on telecommunication services from 19.5% to 18.5%.

Further, as a first but incomplete step towards elimination of FED on services separately taxed by provincial tax authorities, the Bill proposes to withdraw FED from Telecommunication Services rendered in provinces of Sindh, Punjab and Khyber Paktunkhaw where such Provinces are separately collecting provincial sales tax under their respective statutes.

We understand that in line with the above amendment, FED should be completely withdrawn on all services which are taxed under the Provincial Sales Tax Laws. This would eliminate double taxation.

CUSTOMS ACT 1969**Customs Station***Section 2*

The Bill proposes to substitute definition of the term ‘Customs Station’ in Section 2(k) of Customs Act 1969 (CD Act). According to the new definition, customs-station would mean any customs-station, customs-airport, an inland river port, land customs-station or any place declared as such under Section 9 of CD Act. By virtue of the new definition, two separate definitions of ‘customs station’ prescribed under clauses (k) and (m) of Section 2 have now been merged in single definition. Resultantly, clause (m) of Section 2 of CD Act has been omitted.

Goods Dutiable*Section 18*

New Sub Section (1A) has been proposed to be inserted in Section 18 to add the 5th Schedule of the CD Act to levy specified conditional rates of customs duty on goods and class of goods.

Value of Imported and Imported Goods*Section 25*

In order to ensure an equitable applicability of valuation data in cases of imported goods, Clause (d) of Sub-Section (5) of Section 25 is proposed to be omitted. Consequently, reference available of Clause (d) in Sub-Section (6) has also been omitted.

Determination of Liability*Sections 32, 80 and 81*

The foregoing provisions of CD Act deal with untrue statement / declaration filed by the importer, error filed by the person before the customs authorities and provisional assessment. Presently, Section 32 covers only cases of duty which has not been levied or short levied or has been erroneously refunded by the reason of any false documents or statement. The amendment has been proposed for inserting the word “taxes” in sub-sections (2), (3) and (3A) of Section 32 to recover non-levied and short levied taxes.

Similarly, the words “taxes and other charges levied thereon” have been inserted in Sub-Section (3) of Section 80 and Sub Section (1) of Section 81 to include taxes and other charges on reassessment of goods.

Special Judge to have Exclusive Jurisdiction*Section 185B*

Presently, no Court other than the Special Judge having jurisdiction can try an offence punishable under the CD Act. In order to explain the ambit of Special Judge’s jurisdiction, it has been clarified that the offences relating to narcotics and narcotic substances shall be tried by the Special Courts established under the Control of Narcotics Substances Act, 1997.

Appellate Tribunal
Section 194

In line with reclassification of Civil Service Structure of Pakistan and to bring harmony with Section 202B, the 'Customs and Excise Group' has now been renamed as 'Customs Service of Pakistan'.

Further, the minimum experience required for a Member (Customs), Chief Collector, Director General or Collector to become Member of Customs Appellate Tribunal has been aligned with Section 130 of Income Tax Ordinance, 2001. Accordingly, the said Customs Officials with minimum 3 years of service as such will become eligible for appointment as Technical Member of the Appellate Tribunal.

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