

# **FINANCE ACT 2021 WITH FBR COMMENTARY**

**PRESENTATION OF**



**GCA TEAM**

# GCA OFFICIAL

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**WINTER-21, SPRING-22, SUMMER-22 & AUTUMN-22 ONLY.**

- Effective date of applicability of these changes will be **July 1, 2021** unless otherwise mentioned.
- Nothing contained in this document shall be construed as our advice in general or on a given case, accordingly, for ascertaining any effect of these changes in general or particular, the wordings in the bill should carefully be examined, taking into consideration the applicable laws and regulations, and precise advice should be sought before taking any decision based on, or acting up on any of the contents hereof.



A close-up photograph of a wooden stamp. The stamp is rectangular and has the words "INCOME TAX" engraved in a bold, black, sans-serif font. The stamp is resting on a document with a ruler. The ruler is partially visible at the bottom of the frame, showing markings in centimeters. The background is slightly blurred, showing the texture of the document and the ruler.

**INCOME TAX**

# **BUSINESS BANK ACC (CLAU : 10A)**

- Previously, there was no definition of term “Business Bank Account”
- Business Bank Account shall be the bank account of taxpayer which the taxpayer will declare in Form 181 at the time of initial registration or subsequent amendment.
- Taxpayer has to declare the details of all the bank accounts in its FBR profile.

## **IT SERVICES [CLAUSE (30AD) OF SECTION 2]**

“Information Technology (IT) services include software development, software maintenance, system integration, web design, web development, web hosting and network design.

## **IT ENABLED SERVICES [CLAUSE (30AE) OF SECTION 2]**

- Earlier part of 65F
- “IT enabled services include inbound or outbound call centers, medical transcription, remote monitoring, graphics design, accounting services, Human Resource (HR) services, telemedicine centers, data entry operations, cloud computing services, data storage services, locally produced television programs and insurance claims processing”.



# **NEW IT ENABLED SERVICES**

- Cloud computing services
- Data storage services

# **TAX CREDIT FOR INVESTMENT IN SHARES AND INSURANCE [SECTION 62(1)(IB)]**

- “Unit of exchange trade fund”
- A resident person other than a company is entitled to a tax credit for a tax year in respect of cost of acquiring in the tax year for the unit of exchange traded fund offered to public and traded on stock exchange in Pakistan.

# DEFINITION OF RESIDENT (SEC : 82)

- Finance act 2019 treated a person who is present in Pakistan for cumulative 120 days during the tax year and has also been present in Pakistan for a cumulative 365 days during preceding 4 years as a resident individual.
- **Now, for the purpose of determining residential status of an individual, number of days of stay in Pakistan will be counted only for current year (i.e., The person will be resident if stays for 183 days or more in Pakistan during the year).**



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## **Definition of resident individual**

The provisions relating to the definition of resident individual have been modified. Now in order to become a resident, a person shall be required to be in Pakistan for a period in aggregate to 183 days or more in a tax year. The other conditions have been waived off by omitting clause (ab) of section 82 of the Ordinance.

**DEFINITION OF SMALL COMPANY**  
**[CLAUSE (59AB) OF SECTION 2]**

Condition added that it is not a  
small and medium enterprise  
as defined in clause 59A.

## **SMALL AND MEDIUM ENTERPRISES CLAUSE (59A) OF SECTION 2, SECTION 100E, AND FOURTEENTH SCHEDULE**

- New tax scheme for small and medium enterprise.
- New Section – 2(59A)
  - A person who is engaged in manufacturing [clause (iv) of sub-section (7) of section 153] and
  - Business turnover does not exceed PKR 250 million. (Turnover exceeds PKR 250 million would be ousted from the ambit of the mode of taxation in such & all subsequent TY).

# **SALIENT FEATURES (SECTION 100E OF THE ORDINANCE READ WITH THE 14TH SCHEDULE)**

**The scheme would be effective from the TY 2021 and onwards**

**Require to be registered with FBR on IRIS portal or it may register itself with Small and Medium Enterprises Development Authority on its SME registration portal**

**Option for NTR or FTR taxation.**



**FTR option is required to be exercised at the time of filing of the return of income. Once such an option is exercised, it would be irrevocable for subsequent three TYs; and**

**All provisions of Ordinance shall apply.**

**Minimum Tax – 113 will not apply**

**The tax deductible on supply of goods under section 153 shall not be minimum tax where payments are received on sale or supply of goods by SME's**

## **NTR TAXATION:**

<b>S. No.</b>	<b>Category</b>	<b>Turnover</b>	<b>Rate of Tax</b>
<b>1</b>	<b>Category-1</b>	Where annual business turnover does not exceed Rs 100 Million	7.5% of taxable income
<b>2</b>	<b>Category-2</b>	Where annual turnover exceeds Rs 100 Million but does not exceed Rs 250 Million	15% of taxable income

- Will not be selected for tax audit under section 214C (computer balloting) subject to the condition that its tax to turnover ratio exceeds:
  - 0.25% (where turnover is less than PKR 100 million) **OR**
  - 0.5% (where turnover is more than 100 million but less than PKR 250 million).
- Above rule not apply if selected for tax audit under section 214C of the ordinance via risk based parametric computer balloting. This is further subject to the condition that the maximum number of cases to be selected under this category would be 5% of total population of such SME.

## **FTR TAXATION:**

<b>S. No.</b>	<b>Category</b>	<b>Turnover</b>	<b>Rate of Tax</b>
<b>1</b>	<b>Category-1</b>	Where annual business turnover does not exceed Rs 100 Million	0.25% of gross turnover
<b>2</b>	<b>Category-2</b>	Where annual turnover exceeds Rs 100 Million but does not exceed Rs 250 Million	0.5% of gross turnover



The provisions of section 177  
(selection by the commissioner)  
and 214C (computer balloting)  
will not apply on FTR stream.



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### **Special tax regime for manufacturing small and medium enterprises**

A special tax regime has been introduced for manufacturing sector small and medium enterprises. For this purpose following amendments have been introduced in law:

**a. Definition of SME**

SMEs have been defined in clause (59A) of section 2 as manufacturing enterprises irrespective of their status as an individual, AOP or company having turnover up to Rs. 250 million. The manufacturing SMEs being companies falling under this definition have been excluded from the definition of small companies.

**b. Legal Framework**

Enabling legal provision has been provided in section 100E and Fourteenth Schedule of the Ordinance. Board has been empowered to prescribe simplified return form for such SMEs.

**c. Rules for Taxability**

The rules have been prescribed in Fourteenth Schedule of the Ordinance. The SMEs have been divided into two categories for taxation purposes

- (i) **Category –I** SMEs having turnover upto Rs. 100 Million would pay tax at 7.5% of their taxable income
- (ii) **Category – II** SMEs having turnover exceeding Rs. 100 Million and upto Rs. 250 Million would pay tax at 15% of their taxable income

Another salient feature of this regime is the option to pay tax on turnover basis under final tax regime.

- (i) **Category –I** SMEs having turnover up to Rs. 100 Million may opt to pay tax at 0.25% of their turnover
- (ii) **Category – II** SMEs having turnover exceeding Rs. 100 Million and up to Rs. 250 Million may opt to pay tax at 0.5% of their turnover



It is also clarified that provisions of section 113 shall not apply and tax deducted under section 153 shall not be minimum tax. Moreover, tax collectible under section 148 on import of plant & machinery and raw material shall be adjustable in case of manufacturing SME being industrial undertaking. The export proceeds of SMEs shall be taxed at the reduced rate of 0.25% and 0.5% final tax on the basis of their category. The SMEs will be required to obtain reduced rate certificate from concerned Commissioner.

# MINIMUM TAX BASED ON TURNOVER SECTION 113

Old Rate

1.50%

New Rate

1.25%.

## **NEW MINIMUM TAX**

Proceeds from sale of  
immovable properties taxable  
as 'Business income'.

**Old Limit (Ind & AOP)**

**\*TY2017 & Above**

- **PKR 10 Million**

**Old Limit (Ind & AOP)**

**\*TY2017 & Above**

- **PKR 100 Million**



- In line with the amendment in section 37 of the ordinance, an explanation inserted in clause (a) of sub-section (2) of section 113 clarifying that in the case of a taxpayer declaring 'income from business', his turnover for the purpose of minimum tax would be turnover from all sources, including receipts from sale and purchase of immovable property.
- Clause (c) of sub-section (2) of section 113 allows carry over of minimum tax paid in excess of the normal tax payable for adjustment against normal tax liability in the subsequent five TYs. The hon'ble Sindh High Court however, in the case of Kassim Textiles Mills (Pvt.) Ltd. (2013 PTD 1420) has interpreted such provisions to the effect that such an adjustment would only be allowed where minimum tax has been paid because normal tax liability was less than the minimum tax. In other words, in a loss situation, since there would not be any normal tax payable, minimum tax paid would not be allowed to be carried forward to succeeding TYs.
- While the matter is pending before the Hon'ble Supreme Court of Pakistan, the Hon'ble Lahore High Court in the case of education excellence ltd. (2019 PTD 1994) has held otherwise and allowed the carry forward and adjustment of minimum tax paid in a loss situation.

- In order to address the above situation in favour of taxpayers which would provide carry forward of minimum tax paid in a situation where no tax is payable or paid for the year. The period of carry forward remains five TYs succeeding the TY in which the minimum tax was paid.
- The result would be as under:
  - (a) Normal tax < Minimum tax, the excess of minimum tax paid over normal tax is allowed to be carried forward for adjustment; and
  - (b) Minimum tax is paid owing to absence of normal tax, the entire amount of minimum tax paid would be carried forward.
- It would apply prospectively and would not affect the pending litigations on the issue.



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### **Conditional concessionary rate for supply chain below importers and manufacturer for ATL taxpayers**

The major concern of distributors, dealers, sub-dealers, wholesalers and retailers is the higher withholding tax rate on supply of goods that is 4.5% and minimum turnover tax rate that is 1.5%. Certain dealers, sub-dealers, wholesalers and retailers of certain sectors were incentivized by reduced rate of 0.25% under sections 153(1)(a) and section 113 under clauses (24C) and (24D) of Part II of the second schedule. Certain changes have been introduced in these clauses to the effect that:

- a) reduced rate of withholding tax and turnover tax has been extended to distributors of specified sectors .
- b) concessionary rates have been made available subject to the condition that beneficiaries appear on Active Taxpayers' List of Income Tax and Sales Tax.
- c) benefit has been extended to Tier-1 retailers who integrate with Board's Point of Sale real time reporting system.



# AMENDMENT OF ASSESSMENT SECTION 122

- Under section 66A of the repealed ITO, 1979, the commissioner was initially empowered to make necessary enquiries as he or she deemed fit before issuing revised order.
- Such powers were not vested to the commissioner under section 122 sub-section (5A) of the ITO, 2001.
- FA - 2012, brought about amendments in section 122 sub-section (5a), whereby the commissioner was empowered to conduct enquiry so as to determine whether the assessment is erroneous in so far as it is prejudicial to the revenue. By virtue of such amendments, the tax authorities initiated proceedings under section 122 sub-section (5A) as a matter of fishing expedition. However, such attempts of the tax authorities were laid to rest by the judgement of the ATIR in the case reported as 113 TAX 53, wherein it was held that the order sought to be amended in respect of such issue should be: (i) erroneous; (ii) in so far as prejudicial to the interest of revenue. Further, the notices should not contain fishing or roving inquiries in order to ascertain the correctness or otherwise of the claim being impugned in the notice issued under section 122(5A) of the ordinance.
- Based on such judgement of the ATIR and perusal of matter with the FBR on different forums, s-122 power be withdrawn from the commissioner to indulge into enquiries, thereby proceedings would be termed as legally tenable only if these are initiated against the taxpayers when the department would prove that the already completed assessment is erroneous and prejudicial to the interest of revenue on the basis of material/ evidence available on record.

- The order under section 122(5A) of the ordinance needs to be passed within time period of 120 days. The said time period would begin to count from the date of issuance of show-cause notice and would be extendable for a further period of 90 days due to reasons to be recorded in writing by the commissioner.
- Any period during which the proceedings are adjourned, upto a period of 60 days, shall be excluded from the time limit mentioned earlier, if the adjournment is due to:
  - Proceedings adjourned on account of stay order.
  - Alternative dispute resolution proceedings.
    - Agreed assessment proceedings.
    - Adjournment applied by taxpayer.
- The aforementioned provisions will be applicable on show-cause notices issued prospectively i.e. on or after 01 July 2021.

# **EXPORT OF SERVICES SECTIONS 154A, 168 AND 169**

- A new section 154A
- An authorized dealer in foreign exchange, at the time of realization of foreign exchange proceeds, is required to collect 1% tax in respect of the following transactions:

**Exports of computer software or IT services or IT enabled services in case tax credit under section 65F is not available;**

**Services or technical services rendered outside Pakistan or exported from Pakistan;**

**Construction contracts executed outside Pakistan;**

**Other services rendered outside Pakistan as notified by FBR from time to time**

**Royalty, commission or fees derived by a resident company 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;**



- The tax deducted will be **final tax** provided the following conditions are satisfied:
  - return has been filed;
  - withholding tax statements for the relevant TY have been filed;
  - sales tax returns under federal or provincial laws have been filed, if required under the law; and
    - no credit for foreign taxes paid shall be allowed

- FTR would not apply if conditions not met. Further, such service providers also has the flexibility to opt for the NTR by exercising such option at the time of filing of return of income each year.
- The section further provides that where a taxpayer, while explaining the nature and source of any amount, investment, money, valuable article, expenditure, referred to in section 111, takes into account any source of income which is subject to final tax in accordance with the provisions of this section, he shall not be entitled to take credit of a sum that can be reasonably attributed to the business activity or activities mentioned above.



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## **Export of services**

In line with the policy of the Government to attract legal flow of remittances into the country and to promote export of services in all sectors of economy, a special regime at par with export of goods regime has been introduced through insertion of section 154A. The service providers would be subjected to 1% withholding tax under Division IVA of Part III of First Schedule on their export proceeds remitted in Pakistan through Banks and authorized dealers of foreign exchange. This would be final tax. The Board has also been empowered to include or exclude certain services from operation of this section. Moreover, the Board may prescribe rules for the purposes of this section.



# TELECOM SECTOR DESIGNATED AS INDUSTRIAL UNDERTAKING SECTION 2 CLAUSE (29C)

- Industrial undertaking is defined in section: 2.
- FA - 2020 extended the scope of industrial undertaking to include a resident company engaged in hotel business in Pakistan and persons directly involved in the construction of buildings, roads, bridges etc. to the extent of import of plant and machinery to be utilized in such activity.
- Now, it includes telecommunication companies operating under the license issued by PTA. Applicability period is not clarified yet.



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## **Telecommunication sector**

Following provisions relating to Telecommunication sector have been introduced in Finance Act, 2021:

- a) Inclusion of telecommunication sector in the definition of industrial undertaking under clause (29C) of section 2 of the Ordinance. This will enable them to adjust tax deducted under section 148 on import of capital equipment and plant & machinery for their own use.
- b) Reduction of withholding tax rate under section 153(1) (b) on telecommunication services from 8% to 3% under minimum tax regime.
- c) Reduction of advance tax under section 236 on internet and mobile phone usage from 12.5% to 10% for tax year 2022 and 8% onwards.
- c) Reduction of advance tax under section 236 on internet and mobile phone usage from 12.5% to 10% for tax year 2022 and 8% onwards.

# **INCOME FROM PROPERTY SECTIONS 15(6)(7), 15A, 56 AND 155**

- Omitted sub-section (6) and sub-section (7) of section 15
- Now property income in case of individual or AOP is to be taxed under normal law on net income basis at applicable tax rates.
- Word “company” be substituted with word “person” in section 15A of the ordinance allowing all taxpayers (including individual and AOP) to claim various expenses as listed in section 15A of the ordinance against amount of rent to compute income from property.



- Loss under a head of income (not being speculation loss and capital loss) can be off-set against income taxable under the head 'income from property'.
- Govt can introduce enabling provisions (exemption/reduced rates).
- WHT would be applicable on payments made on account of rent or immovable property irrespective of the head of income. By virtue of such amendment rent paid on account of sub-lease arrangements would also now become subject to withholding tax under section 155.

**Old Exemption  
Limit (Ind & AOP)**

- **PKR 200,000/-**

**New Exemption  
Limit (Ind & AOP)**

- **PKR 300,000/-**



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## **Property Income**

The block taxation for property income available to non-corporate entities has been done away with. Following changes governing taxation of income chargeable to tax under the head income from property have been introduced;

- a) Property income of companies was taxable as normally computable income. However, in case of individuals and AOPs there was an option for property income to be taxed on gross rental bases. This distinction has been withdrawn and now property income shall be chargeable to tax under the head income from property under normal tax regime after admissible deductions. Necessary changes have been introduced in sections 15 and 15A of the Ordinance. Subsequently, Division VIA of Part I of First Schedule has been omitted.



- b) Current year's loss under any head of income has been allowed to be set off against the person's income chargeable to tax under the head "income from property" by amending section 56 of the Ordinance.
- c) Withholding tax regime dealing with rental income from immovable properties has been rationalized. The ambiguity regarding withholding of tax on rental income of immovable property of sub-lessee has been removed. It has been explained that all persons making payment on account of immovable property are required to withhold tax at the prescribed rates which have also been rationalized in Division V of Part III of First schedule.

## **EXPLANATION OF SECTION 12, CLAUSE (53A) OF PART I OF THE 2<sup>ND</sup> SCHEDULE**

An explanation is added in section 12 wherein it is clarified that an allowance solely expended in the performance of the employee's duties does not include:

- an allowance which is paid in monthly salary on fixed basis or percentage of salary; or
- an allowance which is not wholly, exclusively, necessarily or actually spent on behalf of the employer.



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## Salary Income

Provisions of clause (c) of sub-section (2) of section 12 were prone to misuse regarding the exemption available to allowance solely expended in the performance of employee's duty in conjunction with clause (39) of Part I of second schedule. The provisions were used to avoid tax. In order to streamline, an explanation has been inserted in clause (c) of sub-section (2) of section 12 whereby the exempt allowance has been explained and consequently clause (39) of Part I of second schedule has been omitted. Any allowance which is paid on fixed basis or percentage of salary basis shall not constitute allowance for the performance of duties.



# **GROUP RELIEF**

## **SECTION 59B, SUB-SECTION (1)**

- Currently, only a subsidiary of a holding company is allowed to surrender its losses in a TY to its holding company or its subsidiary or another subsidiary of the holding company.
- Now, ultimate holding company can surrender its losses for a TY to its subsidiary(ies).

# **TAX ON PROFIT ON DEBT**

## **SECTION 7B AND DIVISION IIIA, PART I OF THE FIRST SCHEDULE**

- Section 7B via FA, 2015 states that whereby profit on debt in the hands of an individual and AOP was taxable as a SBI at progressive slab rates, being a final discharge of tax liability. Furthermore, profit on debt exceeding PKR 36 million was taxable as 'income from other sources' at rates applicable to the taxpayer depending on his income slab.
- Corresponding amendments has also been proposed in division IIIA part I of the first schedule.

## **CHANGES TO SECTION: 7B**

### **Number - 01**

- Profit on debt up to PKR 5 million would be taxed at 15% of the gross amount. It will be final tax.

### **Number - 02**

- Profit on debt exceeding PKR 5 million would be taxed under the head 'income from other sources' at applicable slab rates

# **ALTERNATE DISPUTE RESOLUTION SECTION 134A**

**Allowing taxpayers against whom criminal proceeding has been initiated to avail ADR mechanism.**

**Expanding the scope of ADR mechanism to include issues involving a mixed question of fact and law, while taking into consideration all relevant facts and circumstances.**

**The application for ADR shall be accompanied by an initial proposition for resolution of the dispute, from which the taxpayer would not be entitled to retract.**



**Currently, FBR is required to appoint a committee within 60 days of receipt of the ADR application and the ADR committee is required to decide the dispute within 120 days. Now, time frame for appointment of ADR committee to 30 days in order to fast track the ADR process and to facilitate the taxpayers.**

**ADR committee to decide the dispute within 60 days of its appointment, extendable by another 30 days for the reasons to be recorded in writing.**

Under the existing ADR mechanism, the ADR committee can grant stay against recovery of tax payable in respect of dispute pending before it in case of hardship for a period of 120 days in aggregate or till the decision of the ADR committee or its dissolution, whichever is earlier. Now, the recovery of tax may be stayed on the constitution of the committee till the final decision or dissolution of the committee, whichever is earlier.

Currently, if the ADR committee fails to decide the dispute within 120 days, FBR is empowered to dissolve the committee. Now, if the committee fails to decide the dispute within 120 (proposed to be 60) days, the FBR shall dissolve the committee by an order in writing and re-constitute another committee in the same manner as the first committee and all the provisions relating to the ADR mechanism will apply *mutatis mutandis* to the second committee.

# **DEDUCTIBLE ALLOWANCE AGAINST WWF AND WPPF PAID TO PROVINCES**

## **SECTION 60A & 60B**

- Currently, under section 60A and 60B of the ordinance a person is entitled to a deductible allowance for any amount paid in a TY under the WWF ordinance, 1971 and the WPPF act, 1968 respectively .
- Now, a deductible allowance for any amount to WWF or WPPF enacted by the provinces after the Eighteenth Constitutional Amendment act, 2010 be allowed in addition of the WWF ordinance, 1971 and the WPPF act, 1968.
- Any amount paid to provinces under any provincial law shall not be allowable if paid to the provinces by trans-provincial organizations. This proviso further aggravates an anomaly regarding payment of WWF and WPPF to provinces by companies having operations in more than one province and Islamabad capital. Further, the levies having been held by courts to be in the nature of “fee” rather than a tax, its deductibility as an expense is clearly allowable as a business expense even without a specific deduction being provided in the form of allowance.



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## WWF & WPPF

After the 18<sup>th</sup> constitutional amendment, the matters regarding WWF and WPPF have been devolved to the Provinces. Provinces have promulgated their own workers welfare fund and workers profit participation fund laws. The statutory contributions made by businesses to these funds under federal laws are deductible allowances. However, the contributions made under provincial laws were inadmissible expenses. Now contributions made to provinces have made deductible allowances. Necessary changes have been made in sections 60A and 60B of the Ordinance. However, in case of trans-provincial organizations, the admissibility of these allowances shall be subject to payment to federal government, which follows the Honorable Apex Court judgment on the subject.

## **UNEXPLAINED INCOME OR ASSETS SECTIONS 2 CLAUSE (13AA), 111 SUB-SECTION (5)**

An explanation be added to sub-section (5) of section 111 clarifying that a separate notice in terms of section 111 would not be required if the taxpayer has been properly confronted of the intended addition on account of unexplained income or assets through a notice under sub-section (9) of section 122 of the ordinance.



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## **Removal of requirement of multiple notices in concealment cases**

It has been provided under law that where notice for amendment of assessment has been issued confronting taxpayer regarding concealment of income, no separate notice under section 111 will be required.



## **CONCEALMENT OF INCOME SECTION 2 CLAUSE (13AA)**

The term 'concealment of income' has been defined in the following manner:

**(a) the suppression of any item of receipt liable to tax in whole or in part, or failure to disclose income chargeable to tax;**

**(b) claiming any deduction or any expenditure not actually incurred; and**

**(c) any act referred to in sub-section (1) of section 111.**

**(d) claiming any income or receipt as exempt which is otherwise taxable.**

## **EXPLANATION**

For the removal of doubt, it is clarified that where any item of receipt declared by the taxpayer is claimed as exempt from tax, or where any deduction in respect of any expenditure is claimed, mere disallowance of such claim shall not constitute concealment of income or the furnishing of inaccurate particulars of income, unless it is proved that the taxpayer deliberately claimed exemption from tax in respect of the aforesaid item of receipt or claimed deduction in respect of such expenditure not actually incurred by him.



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### **Prosecution for concealment of income**

Law already provides for prosecution mechanism under sections 201 to 203A of the Ordinance whereby prosecution can be carried out for offences enumerated in sections 191 to 200.

Under the Finance Act, 2021 a new mechanism has been introduced whereby the concealment of income has been made cognizable offence by introduction of sections 203B to 203I. In order to attract new mechanism the amount of concealed tax should be Rs. 100 million or above in case of filer and Rs. 25 million or above in case of no-filers. Moreover, this concealment should be established through an assessment or amended assessment under section 121 or 122 of the Ordinance consequent upon third party audit under section 177 or 214C of the Ordinance. The accused can be arrested, only after the written approval of committee consisting of Finance Minister, Chairman and senior most Member of the Board. The post arrest procedure to be followed has been laid down in newly inserted sections 203B to 203I. This procedure is harmonized with the procedure laid down in Sales Tax Act, 1990.

In order to streamline actions referred above, the act of concealment has been defined under newly inserted clause (13AA) in section 2 of the Ordinance. In order for an act to constitute concealment, it must be willful. Mere disallowance of an expense or rejection of an exemption claim cannot be construed as concealment if the taxpayer has taken a reasonably arguable position.

Furthermore, where notice for amendment of assessment has been issued confronting taxpayer regarding concealment of income, no separate notice will be required to be issued under section 111(5) of the Ordinance, as statute does not provide for any such notice.

# **POWERS TO ARREST AND PROSECUTE TAXPAYERS SECTIONS 203A, 203B, 203C, 203D, 203E, 203F, 203G, AND 203H**

- New sections in next slide.
- Omitted following sections:
  - section 202 (power to compound offenses) and
  - section 203 (trial by special judge)

- **Section 203A – Power to arrest and prosecute;**
- **Section 203B – Procedure to be followed on arrest of a person;**
- **Section 203C – Special judges;**
- **Section 203D – Cognizance of offences by special judges;**
- **Section 203E – Special judge to have exclusive jurisdiction;**
- **Section 203F – Provisions of Code of Criminal Procedure, 1898 to apply;**
- **Section 203G – Transfer of cases;**



Taxpayer can only be arrested when based on material evidence brought on record, as a result of audit conducted, an assessment is made or amended under section 121 or 122 of this ordinance, as the case may be, and the assessing officer records a finding that the taxpayer has committed the offence of concealment of income which has resulted in nonpayment of tax of PKR.100 million and above in case of a filer and PKR.25 million or above in case of non-filer. The taxpayer may be arrested after obtaining written approval of the committee.

# **PROSECUTION FOR NON-COMPLIANCE WITH CERTAIN STATUTORY OBLIGATIONS SECTION 191**

- Non-declaration of business bank accounts in the registration form or updated registration form or return of income or wealth statement shall now be an offense
- Punishable with a fine or imprisonment for a term not exceeding one year, or both upon conviction.



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### **Business bank account**

In order to promote documentation and to streamline action under section 21(l) and 21(m), the concept of business bank account has been introduced in the Ordinance by inclusion of definition of business bank account in section 2. The obligation to declare business bank account has been placed on taxpayers through substituted section 114A. Failure to notify such account may attract penal provisions of section 182 and it has also been included in definition of offences under the Ordinance.



## **DUE DATE FOR PAYMENT OF TAX SECTION 137(2) & 124(1), 124(4)**

- Presently, as a result of passing of any order, the taxpayer is required to pay the tax demand within 30 days of service of notice of demand - 137(2).
- Tax due shall be payable immediately as a result of issuance of any order passed to give effect to the judgement in appeal by the commissioner (appeals), appellate tribunal, the high court or supreme court.

# ADVANCE TAX SECTION 147

- Sub-section (6) of section 147 allows a taxpayer to furnish an estimate of the amount of tax payable to the CIR and thereafter pay such amount, if he estimates at any time before the last installment is due that the amount of tax payable is likely to be less than the amount of tax payable estimated in previous quarters.
- CIR is presently empowered to reject the estimate of advance tax if he is not satisfied with the documentary evidence or the requisite details are not furnished with the estimate.
- CIR power be withdrawn to reject the estimate of advance tax furnished by the taxpayer.

## **WITHDRAWAL OF TAX CREDIT FOR NEWLY ESTABLISHED INDUSTRIAL UNDERTAKING SECTION 65D**

- Section 65D of the ordinance which was introduced through the finance act, 2011 provided for tax credit equal to 100% of tax payable to such companies who have been established as an industrial undertaking by way of equity finance.
- This section be withdrawn now.

# GIFTS TO RELATIVES

## SECTION 39 SUB-SECTION (1)

- Presently, under section 39, fair market value of any property received without consideration or received as gift, other than gift received from grandparents, parents, spouse, brother, sister, son or a daughter is taxable under the head ‘income from other sources’.
- **Relative, now, is defined as follows:**
  - (a) an ancestor, a descendant of any of the grandparents, or an adopted child, of the individual, or of a spouse of the individual; **OR***
  - (b) a spouse of the individual or of any person specified in clause (a);*
- Return on sukuk and Profit on debt is excluded from the scope of ‘income from other sources’ to the extent that it is already taxable under Sections 5AA and 7B. **(FTR Income)**



# CAPITAL ASSET ACQUIRED AS GIFT

- Presently, section 37(4) provides that where an Asset is acquired under gift from a relative [Defined in section 85(5)], the FMV on the date of transfer/acquisition is to be treated as cost.
- **Where such asset is disposed of by the transferee within 02 years of the acquisition and the commissioner is satisfied that the gift arrangement is part of a ‘tax avoidance scheme’, then such asset in the hands of the transferee will be treated to be of the same character and cost as that in the hands of the transferor at the time of transfer.**

# **NO GAIN OR LOSS ON DISPOSAL OF ASSETS BY A NON-RESIDENT** **SECTION 79, SUB-SECTION (2)**

Transfer of asset under certain circumstances is regarded as non-taxable under section 79 of the ordinance. However, such non-recognition rule applies only under the situation where the person acquiring the asset (transferee) is a resident of Pakistan. Residency requirements is made mandatory only in respect of the following three categories of transactions:

- (a) by reason of the compulsory acquisition of the asset under any law where the consideration received for the disposal is reinvested by the recipient in an asset of a like kind within one year of the disposal;
- (b) by a company to its shareholders on liquidation of the company; or
- (c) by an association of persons to its members on dissolution of the association where the assets are distributed to members in accordance with their interests in the capital of the association.

No gain or loss would be recognized in the hands of the transferor even if the transferee is a non-resident person in following cases:

- (a) between spouses under an agreement to live apart;
- (b) by reason of the transmission of the asset to an executor or beneficiary on the death of a person; or
- (c) by reason of a gift of the asset to a relative, as defined in subsection (5) of section 85.



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### **Streamlining certain transactions**

Law provides special mechanism for treatment of transfer of assets under certain transactions. The non-recognition rules provide that no gain or loss shall arise on disposal of assets under certain special arrangements enumerated in sub-section (1) of section 79. However, these rules did not apply if the recipient was a non-resident person. This was giving rise to anomalous situations in certain circumstances therefore, non-recognition rules have been extended in cases of disposal of assets between spouses under an agreement to live apart, inheritance and gift from a relative in case of non-residents.

Sub-section (4A) of section 37 provides valuation of assets received under certain transactions. However, this was manipulated to avoid tax therefore a proviso has been inserted whereby the commissioner has been empowered to undo such tax avoidance scheme. Gifts received from certain persons were made taxable in the hands of recipients. The provision has been broadened to exclude gifts received from relatives from this taxation in line with other provisions. Necessary changes have been made in clause (1a) of sub-section (1) of section 39 of the Ordinance.

# **ANNUAL WITHHOLDING TAX STATEMENT AND ITS RECONCILIATION**

## **SECTION 165**

- In addition to the filing of quarterly withholding tax statement under section 165 of the ordinance, old position was revived and has introduced e-filing of an annual statement relating to withholding of tax from payments made by a person (other than salary payments) during the entire TY. The above statement is required to be filed within 30 days of the end of the TY.
- E-filing of a reconciliation of payments made by a person during the entire TY (as reported in the above statement) with the amounts declared in the return of income/ audited accounts/ financial statements. This reconciliation would be required to be filed by the due date of filing the return of income as specified in section 118 of the ordinance.



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### **Improved and automated monitoring of withholding taxes**

Earlier income tax withholding agents were required to file quarterly withholding tax statements. Now taxpayers are required to file annual withholding tax statement in respect of periods pertaining to the tax year observed by the taxpayer along with reconciliation statement in addition to quarterly statements. The annual statement is required to be filed within 30 days of end of tax year whereas reconciliation statement is required to be submitted along with return.



## **ELECTRONIC PROCESSING AND ELECTRONIC ISSUANCE OF REFUNDS BY FBR SECTION 170A**

- New section 170A.
- Commencing from TY 2021, refunds to the extent verified by the FBR's computerized systems may be processed and issued without any refund application filed by the taxpayers.



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**a. Automated issuance of refunds**

In order to claim refunds, a taxpayer has to file refund application and provide documents for physical verification. To facilitate taxpayers, centralized automated refund system has been introduced where there will be no requirement for application and verification. The system based verified refunds would be issued directly into the bank accounts of taxpayers without any face to face contact. Enabling legal framework has been provided through insertion of section 170A in the Ordinance.

## **CONCEPT OF E-HEARING SECTION 227E**

- New concept of e-hearing
- Recording of e-hearing proceedings shall be an admissible evidence before any forum or court of law for the purpose of the ordinance.





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## E-hearing

In order to provide faceless tax administration, reducing compliance cost and saving precious time of the taxpayers, the mechanism of e-hearing has been devised. Enabling legal provisions for admissibility of evidence collected during e-hearing have been introduced through 227E of the Ordinance.

# **REWARD & BENEFIT SECTION 227BA**

- Through the act, a new section is introduced to empower the board to sanction rewards to e-intermediaries for filing of returns of new taxpayers.
- The board, with the approval of federal minister in charge, is now empowered to announce benefits, rebates, tax credits, allowances and any other incentive in cash or otherwise for class or classes of persons.

# **INCOME TAX RETURN SECTION 114**

- Clause (AD) of sub-section (1) of section 114 be omitted.
- Relates to filing return by welfare institution.
- CIR is authorized to waive off the condition of filing revised accounts or audited accounts where not deemed necessary.





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## **Return of income**

- a) The law provides for time limitation of 5 years for calling of return however, where taxpayer is a non-filer this limitation is 10 years. Now it has been provided that this time limitation shall not be applicable to a person who has foreign income or foreign assets. Necessary changes have been introduced by adding proviso to sub section sub section (5) of section 114 of the Ordinance.
- b) Section 114 enumerates persons who are required to file return under law. Now the Board with the approval of the Minister in charge has been empowered to notify persons or classes of persons who are required to file the return of income.

**APPEAL TO THE COMMISSIONER (APPEALS)  
SECTION 127(2) & 127(3A)**

Provide legal cover to SRO 1315  
(I)/2020 dated 09 December 2020



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## **Electronic filing of appeal**

The mechanism of online filing of appeals has been made available to taxpayers. However, enabling legal provisions were lacking which have been introduced through section 127 in the Ordinance.

# **TAXPAYER'S PROFILE**

## **SECTION 114A, 182 AND 182A(2)**

Omitted following sections:

- 114A,
- 182A sub-section (2) and
- corresponding penalties.



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### **Minimizing requirements for tax compliance**

Taxpayers are subject to multiple compliances. Currently they are required to update their profile periodically. This requirement costs time, energy and resources. In order to facilitate taxpayers in line with ease of doing business this requirement has been withdrawn through substitution of section 114A of the Ordinance.



# **ASSISTANCE IN THE RECOVERY AND COLLECTION OF TAXES SECTION 107 AND 146C**

- Tax authorities have been empowered to assist in collection and recovery of taxes in pursuance of a request from a foreign jurisdiction under a tax treaty, a multilateral convention, an inter-governmental agreement or similar arrangement or mechanism.
- Now, federal government can now enter into such agreements or arrangement with the foreign governments and authorities.



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#### **4. Assistance in recovery on the request of foreign jurisdictions**

Pakistan is signatory to many international bilateral and multilateral tax treaties and agreements. However, the law did not provide legal cover to recovery of taxes on the request of foreign jurisdiction. In order to cater to this, enabling provisions have been introduced by amending section 107 and introducing new section 146C of the Ordinance.

# **INCOME FROM BUSINESS OF CO-OPERATIVE SOCIETIES**

## **SECTION 18(1)(B)**

- The 'doctrine of mutuality' which enunciates that neither anybody could make profit out of oneself, nor members could trade with themselves has been an accepted principle in the taxation of mutual associations concerning dealings with their members.
- This principle, however, is not applicable where such an association is making income from specific activities done with their members.
- Explanation added that income earned by co-operative societies from (i) sale of goods, (ii) immovable property, or (iii) provision of services to their members has always been taxable under the ordinance.



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## Clarity regarding taxation of income of co-operative societies from sale to its own members

Doctrine of mutuality that enunciates that transactions between society and its members will not be taxable under specific circumstances has become a major tool of tax avoidance. In order to curb this practice, explicit provision has been added to the Ordinance for giving clarification on interpretation of law in the context of doctrine of mutuality. Necessary changes have been introduced in section 18 of the Ordinance.

# DELEGATION OF POWER TO FBR SECTIONS 2(62A), 53, 99B, 99C AND 100

- Before the FA, 2017, the FG was empowered to amend the 2<sup>nd</sup> schedule in order to provide or withdraw exemptions and tax concessions, or to provide conditions in respect thereof. Subsequently, through the FA, 2017, the minister-in-charge, pursuant to the approval of the economic coordination committee of the cabinet, was empowered to make such amendments. However, the powers of the minister on their own have been challenged and there are decisions of the superior courts, which require the FG to make such changes in the law. Accordingly, the FA, 2018 reverted the position prior to the FA, 2017 and surrendered the powers back to the federal government for making all such amendments in the second schedule.
- FBR, now, had been empowered to grant exemptions and concessions subject to the approval of the minister-in-charge, pursuant to the approval of the economic coordination committee of the cabinet.

FBR has been delegated with such powers with the approval of the minister-in-charge:

- designating any business of a person or class of persons as a 'startup';
- small traders and shopkeepers (section 99B);
- small businesses, construction businesses, medical practitioners, hospitals, educational institutions and any other sector as may be specified (section 99C);  
and
- Profits and gains from exploration and extraction of mineral deposits not being petroleum or natural gas (sub-section (3) of section 100)



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## **Delegation of powers of federal government**

Certain powers of the Federal Government, as per direction of the Cabinet have been delegated. The powers in respect of taxes, rates of tax and exemptions have been delegated to Board with the approval of the Federal Minister in charge in pursuant to the decision of the Economic coordination committee of the Cabinet from time to time. Necessary changes have been made in section 53 of the Ordinance. Powers in relation to procedures have been delegated to the Board with the approval of the Federal Minister in charge and necessary changes have been made in sections 2, 99B , 99C, 114 and 204 of the Ordinance.



# TAX CREDIT FOR POINT OF SALE MACHINE SECTION 64D

- New section 64D
- A person who is required to integrate with FBR's computerized system for real time reporting of sale or receipt is entitled to a tax credit in respect of the amount invested in purchase of point of sale machine. The tax credit will be allowed for the TY in which the point of sale machine is installed, integrated and configured with the FBR's computerized system, at the lower of:
  - (a) amount actually invested in purchase of point of sale machine; or
  - (b) PKR 150,000/ machine
- 'Point of sale machine' is defined as a machine meant for processing and recording the sale transactions for goods or services, either in cash or through credit and debit cards or online payments in an internet enabled environment.



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### **Tax credit for point of sale (POS) machines**

All Tier 1 retailers are required to integrate with Board's Point of Sale online real time reporting system. In order to encourage integration with point of sale real time reporting system of FBR, tax credit for POS machines has been introduced through introduction of new section 64D. Tax credit of Rs.150, 000 or the cost of the machine whichever is lower shall be extended to the Tier 1 retailers installing and integrating machines with Board's system.

# **RETURN ON INVESTMENT IN SUKUKS SECTIONS 150A AND 151**

- Section : 150A omitted.
- WHT for return of investment in sukuk brought under section: 151.
- Rates remain unchanged.

# **DIRECTORATE GENERAL OF COMPLIANCE RISK MANAGEMENT SECTION 230I**

- New directorate was introduced
- Directorate General of Compliance Risk Management (The Directorate)
- Shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as may be notified in the official gazette.
- The functions, jurisdictions and powers of the directorate and its officers will be specified by the FBR through separate notification.





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## **Establishment of compliance risk management**

FBR is undergoing reforms in consultation with different development partners. Although the mechanism of compliance risk management is already present but it required a properly structured and dedicated organization. In order to provide structured mechanism, Directorate General of Compliance Risk Management shall be established for which governing provisions have been made available in section 230I of the Ordinance.

## **TIME FRAME FOR IMPLEMENTATION OF DECISIONS OF THE COMMISSIONER SECTION 122A**

- Under this section, the commissioner is empowered to revise any order passed by any officer of inland revenue.
- If any order is remanded back to any lower authority by the commissioner, for modification, alteration, implementation of direction or de-novo proceedings, the order giving effect to the directions of the commissioner shall be issued by the lower authority within 120 days.



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### **Powers of tax authorities**

- a) Tax authorities can conduct inquiry under section 122(5A) in certain matters regarding amendment of assessment without selection of case for audit under section 177 of the Ordinance. This power to conduct inquiry has been withdrawn.
- b) The law prescribes time limit of 5 years for amendment of assessment. Such proceedings were usually dragged for long periods after issuance of show cause notices. Now the time limit of 120 days has been prescribed to conclude these proceedings after issuance of show cause notice. Necessary changes have been made in section 122(9) of the Ordinance.
- c) The power of the commissioner to reject advance tax estimates has also been withdrawn. Necessary changes have been made in section 147 of the Ordinance.
- d) Law has not provided any time limitation to complete proceedings in pursuant to the orders of the commissioner under section 122A. Now proceedings shall be concluded within the time limit of 120 days.



## **DIVIDEND IN SPECIE SECTIONS 150 AND 236S**

- 236S is omitted.
- The rate of withholding tax on dividend in specie remains unchanged.
- Included in section 150.

# **ADVANCE TAX ON PRIVATE MOTOR VEHICLES SECTION 231B**

- A new sub-section (2A) was inserted in section 231B
- Every motor vehicle registration authority of excise and taxation department is now required to collect advance tax at the time of registration, if the locally manufactured motor vehicle is sold prior to registration by the original purchaser of such vehicle.



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### **Discouraging “on” money on vehicles**

In order to discourage “on” money, additional tax of Rs.50,000 , Rs.100,000 and Rs.200,000 for vehicles upto 1000 cc, between 1000cc and 2000cc and beyond 2000cc respectively was imposed where a vehicle is sold within 90 days of its ownership. This was introduced vide Tax Laws (Amendment) Ordinance, 2021. It was applicable till 30.06.2021. Due to its positive impact, it has been continued. Further, the period of 90 days has been withdrawn. Now the persons buying motor vehicles would be required to get them registered in their own names otherwise, this tax would be collectable.

# **BROKERAGE AND COMMISSION SECTION 233**

## **OLD**

- AOP constituted by, or under any law is considered as a WHT agent in respect of payment of brokerage and commission whereas an individual and other AOPs are not withholding agents

## **NEW**

- All individuals and AOPs having turnover of PKR 100 million will be WHT agents in respect of payment of brokerage and commission.





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## **Individual and AOPs as withholding agent for commission income**

Under the other provisions of the Ordinance individuals and AOPs having turnover of 100 million or more are withholding agents. However, this provision was not provided for commission agents. Necessary amendments have been made in section 233 of the Income Tax Ordinance, 2001.

# **ELECTRICITY CONSUMPTION SECTION 235 & SECTION 235A**

- Section 235A omitted.
- The rate of advance tax is 7.5%.
- The tax will be collected from non-filers only.
- Exemption certificate would be available to those consumers whose liability has been discharged under section 147 of the ordinance or otherwise whole of the income of the consumer is subject to MTR or FTR under any other provisions of the ordinance.

## **OLD**

- Monetary threshold of monthly bill is PKR 75,000

## **NEW**

- Monetary threshold of monthly bill is PKR 25,000



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## Withholding tax on electricity consumption.

- a) Withholding tax rates for industrial and commercial consumers have been revised in Division IV of Part IV of First Schedule.
- b) Withholding tax on domestic electricity consumption was collected at the flat rate of 7.5% if the monthly domestic electricity bill exceeded Rs. 75,000. In order to promote documentation and broadening of tax base this withholding tax has been:
  - i. done away with in case of persons appearing on Active Taxpayer's List irrespective of amount of bill.
  - ii. threshold for collection of tax has been reduced from Rs. 75,000 to Rs. 25,000.

c) Taxpayer's are entitled for exemption certificate under section 235 on discharge of their advance tax liability. However the language of law was constructed to the effect that advance tax liability for the whole tax year was required to be discharged to obtain this certificate. Now this ambiguity has been resolved by making necessary changes in sub section (3) of section 235 of the Ordinance. Now the taxpayer can obtain certificate for a quarter by discharging their advance tax liability for the quarter.

**PAYMENT OF ROYALTY TO RESIDENT PERSONS  
SECTION 153B**

**Section omitted**

# **PAYMENT FOR GOODS, SERVICES AND CONTRACTS SECTION 153**

- Currently, in terms of first proviso to sub-section (4) of section 153 of the ordinance, the commissioner is bound to issue exemption certificate on discharge of advance tax liability to a public listed company within 15 days of filing of application. If the commissioner does not issue the exemption certificate within 15 days, it is automatically processed and issued by the IRIS portal.
- Substitute for the words “public company listed on registered stock exchange in Pakistan” with “Company”. It signifies that now the commissioner is bound to issue such certificates within stipulated time in case of every company. This is a good step towards speedy processing of exemption certificates.
- Exemption provided from withholding tax to traders of yarn by the taxpayers specified in the zero-rated regime of sales tax be withdrawn.



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## **Prompt issuance of exemption certificate**

The delay in the issuance of exemption certificate is a major concern of taxpayers. Time limitation of fifteen days shall be observed for issuance of exemption certificate for all corporate taxpayers which was earlier available to public listed companies only. After the lapse of statutory time limit, the web portal would automatically issue exemption certificate to the taxpayers. Necessary changes have been introduced in Section 153 and 159 of the Ordinance. However, commissioner has been empowered to cancel or modify the certificate with reasons in writing.

# **PAYMENT TO NON-RESIDENTS SECTION 152 & SECTION 152A**

- Currently, sub-sections (1B), (1BB), and (1BBB) which specify that minimum tax on the income of non-resident persons arising from various contracts, insurance premium or reinsurance premium and on advertisement services relaying from outside Pakistan.
- Sub-section (1db) added whereby every special purpose vehicle or a company shall deduct tax from the gross amount at varying rates on making payment of a return on investment in sukuks to non-resident person. Such deduction shall be FTR.
- Foreign produced commercial will be taxed at 20%. It will be FTR.

Section 152A had been  
deleted (foreign produced  
commercial).

# **EXEMPTION OR LOWER RATE CERTIFICATE SECTION 159**

- Section 159 of the ordinance empowers the commissioner to issue an exemption or lower rate certificate.
- Exemption certificate given to all taxpayers who are entitled to a 100% tax credit under any provisions of the ordinance.
- Commissioner be directed to process the exemption/ reduced rate application within 15 days of its filing. In case the same is not processed within the specified time, the application would be deemed to have been accepted by way of an automated control to be enabled on the IRIS portal of FBR.



Commissioner be authorized to modify or cancel the aforementioned automatically processed exemption or lower rate certificate if the commissioner has plausible reasons subject to the condition that those are recorded in writing and an opportunity of being heard has been provided to the applicant taxpayer.





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## Streamlining withholding tax collection on sale and purchase of immovable property

- a) All persons effecting sale and purchase of properties are required to collect tax under section 236C and 236K of the Ordinance. However, due to the lack of explicit provision certain persons like public and private real estate projects, joint ventures and private commercial concerns are not collecting these taxes which is giving rise to undue litigation. These have been added in the list of withholding agents in section 236C and 236K.
- b) Law provides mechanism for collection of tax on purchase of property in installments where payment for purchase of property is made in installments. Such taxpayers have to pay withholding tax again at the time of transfer. It has been made possible that such person may not be subjected to double withholding tax collection by amending explanation in section 236K .

# ADVANCE TAX ON SALE AND PURCHASE OF IMMOVABLE PROPERTY SECTION 236C AND 236K

- Currently, only local authority, housing authority, housing society, co-operative society and registrar of properties are required to collect advance tax from the seller and buyer of immovable property. Following is addition:
  - Public and private real estate projects registered / governed under any law,
    - Joint ventures and
    - Private commercial concerns.
- Payment of tax on account of sale of immovable property by a non-resident seller as a final discharge of tax liability, subject to the condition that:
  - the said immovable property was acquired through a FCVA or NRVA maintained in Pakistan; and
  - the non-resident seller holds a valid POC or NICOP or CNIC.

- Tax paid by non-resident purchaser of immovable property at the time of registering such purchase as a final discharge of tax liability.
- Where the property is purchased in installment, the law permitted collection of tax from the buyer in installments as well pursuant to section 236k of the ordinance.
- No further tax will be collected from the buyer if the tax collected in installments equals the amount of tax.



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## Clarity regarding taxation of income of co-operative societies from sale to its own members

Doctrine of mutuality that enunciates that transactions between society and its members will not be taxable under specific circumstances has become a major tool of tax avoidance. In order to curb this practice, explicit provision has been added to the Ordinance for giving clarification on interpretation of law in the context of doctrine of mutuality. Necessary changes have been introduced in section 18 of the Ordinance.

# **ADVANCE TAX ON SALES TO DISTRIBUTORS, DEALERS, WHOLESALERS AND RETAILERS SECTION 236G AND 236H**

- Sections 236G and 236H requires collection of tax from sale to distributors, dealers, wholesalers and retailers of specified industries and products.
- New industries and products include:
  - Pharmaceuticals, Poultry and animal feed,
  - Edible oil and ghee, Battery,
  - Tyres, Varnishes,
  - Chemicals, Cosmetics and
  - IT equipment.



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### Broadening of scope of section 236G and 236H

Presently sections 236G and 236H provide a mechanism for collection of tax on sale to distributors, dealers, sub-dealers wholesalers and retailers. The scope of withholding tax has been extended as following:

<b>Section</b>	<b>Services already present</b>	<b>New services</b>	<b>Rates</b>
236G	electronics, cement, iron and steel products, motorcycles, pesticides, cigarettes, glass, textile, beverages, paint or foam	sugar, fertilizer, pharmaceuticals, poultry and animal feed, edible oil and ghee, auto-parts, tyres, varnishes, chemicals, cosmetics and IT equipment	for distributor, dealer and wholesaler of fertilizer – 0.25% if appearing on ATL and 0.7% otherwise 0.1% for others

### Broadening of scope of section 23G and 236H

Presently sections 236G and 236H provide a mechanism for collection of tax on sale to distributors, dealers, sub-dealers wholesalers and retailers. The scope of withholding tax has been extended as following:

<b>Section</b>	<b>Services already present</b>	<b>New services</b>	<b>Rates</b>
236H	electronics, cement, iron and steel products, motorcycles, pesticides, cigarettes, glass, textile, beverages, paint or foam	sugar, pharmaceuticals, poultry and animal feed, edible oil and ghee, auto-parts, tyres, varnishes, chemicals, cosmetics and IT equipment	0.5%



# **BENEFITS OF REPEALED PROVISIONS SECTION 242**

Exemptions or concessionary provisions expiring on 30th day of June, 2021 or expired or repealed by the second amendment ordinance shall continue to be available for the periods mentioned in the repealed provisions and subject to the conditions specified therein (Grandfather Clause).

# **GRANDFATHER CLAUSE**

A grandfather clause (or grandfather policy or grandfathering) is a provision in which an old rule continues to apply to some existing situations while a new rule will apply to all future cases. Those exempt from the new rule are said to have grandfather rights or acquired rights, or to have been grandfathered in.

**THANK YOU FOR READING.**

**Any suggestions/criticisms can be sent  
to :**

**[gcaconsultants@gmail.com](mailto:gcaconsultants@gmail.com)**

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