

Federal & Provincial Finance Acts, 2016



A. F. FERGUSON & CO.

FEDERAL AND PROVINCIAL FINANCE ACTS, 2016

PREFACE

This booklet contains notes and comments on the amendments made in the fiscal laws passed by Federal and Provincial assemblies of Sindh, Punjab and KPK as they stand on July 1, 2016. Balochistan Finance Act, 2016 is not covered by this booklet for the reason that the same is not yet available with us. Further, this booklet also contains comments on various SROs issued under the Federal fiscal laws.

Through various Memorandums released by our Firm during June 2016 on Federal and Provincial Finance Bills, 2016, we presented general comments, suggestions and effects of the various proposals made in the Finance Bills laid before the respective assemblies for their approval.

Notes and comments in the booklet provide views on certain matters which have generally been made with positive connotation, however readers are requested to seek specific opinions and views on contentious issues especially for the reason that executive field officers and at times even the appellate and judicial forums apply and interpret the laws on the basis of text, ignoring the intention of law.

For unsettled industry issues arising from the above amendments, we intend to separately approach the respective industries.

We consider that readers will find the booklet useful which contains our comments on amended provisions in sequential order and not in preference of importance. We thank the staff which has helped us in preparing this booklet. The text of this booklet can also be accessed on our website www.pwc.com.pk

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July 5, 2016

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CHAPTER 1 – EXECUTIVE SUMMARY OF AMENDMENTS IN FEDERAL FISCAL LAWS

INCOME TAX

- 1) Super tax as applicable for tax year 2015 has been extended to tax year 2016 also.
- 2) Fixed tax Regime for Builders and Developers has been introduced for business or projects, initiated and approved after July 1, 2016.
- 3) The time limit for tax on sale of immovable property has been extended from 2 to 5 years, with flat rate of tax of 10%, irrespective of holding period.
- 4) Advance tax @ 3% of the turnover to be paid by a person, being a non-filer for FBR purposes, if such person is registered with a provincial revenue authority.
- 5) The right to surrender losses within a group is restricted to the percentage holding in the entity.
- 6) Exemption for inter corporate dividends in a group structure (other than 100% owned group) is abolished.
- 7) Tax credit for investment in new Industrial undertakings, corporate dairy farms, BMR Projects, etc. has been extended to June 30, 2019.
- 8) Tax credits for investments under sections 65D and 65E is now available to entities with equity of 70% and above.
- 9) Specific documents and information (to be prescribed) are required to be maintained in respect of transactions with associates.
- 10) Withholding tax at 3% of value of motor vehicle is required to be collected from non-filer lessees by leasing company and certain financial institutions.
- 11) Rationalised minimum tax regime for specified service sectors extended to June 30, 2017 whilst also including IT services and IT enabled services.
- 12) Entire income of insurance business now to be taxed at the applicable corporate tax rate.
- 13) Scope of Eighth Schedule enhanced to include collection of tax on gain on redemption of mutual fund units and future commodity contracts of PMEX.
- 14) Services rendered / contracts executed outside Pakistan now to be taxed at higher rates.

- 15) Alternate Dispute Resolution mechanism amended in all three fiscal laws to make more efficient.
- 16) No recovery measures (including freezing bank accounts) will be made during pendency of first appeal subject to payment of 25% of tax demand.
- 17) Reduction in corporate tax rate by 2% introduced for certain shariah compliant listed companies.

SALES TAX

- 1) Five export oriented sectors (textile, leather, carpet, surgical and sports goods) now subject to zero rated regime.
- 2) Provincial input tax no more adjustable against Federal Sales Tax.
- 3) A 'zero-rated invoice' to be issued on sale of taxable activity or transfer of ownership as an ongoing concern.
- 4) The threshold for turnover for qualifying as cottage industry enhanced at Rs 10 million.
- 5) Certain retailers are allowed to opt for payment of tax at 2% of their turnover without input adjustment.
- 6) A new mechanism introduced for filing of monthly sales tax returns.

FEDERAL EXCISE DUTY

- 1) FED on certain services which are subject to provincial sales tax now withdrawn.
- 2) FED on aerated beverages and locally produced cigarettes enhanced.
- 3) FED on certain types of cement modified.
- 4) Exemption from duty withdrawn on White Cement.

CHAPTER 2 – INCOME TAX

SUPER TAX

[Section 4B of the Income Tax Ordinance, 2001]

Through the Finance Act, 2015, Super tax was imposed on (i) banking companies; and (ii) other taxpayers having income of Rs. 500 million or above, at the rate of 4% and 3% respectively for tax year 2015 only. Through the Finance Act, 2016, the said levy has been extended to tax year 2016 also.

Contrary to the scheme of law, the Federal Board of Revenue (FBR) stated in its Circular No. 2 of 2015 dated July 24, 2015 that such levy shall be calculated on the income without taking the effect of brought forward business and depreciation losses. This matter was therefore challenged and is currently subjudice in the High Court.

The aforesaid contention of the FBR, which was not in line with the legislative scheme, has now been incorporated in the relevant law, and the definition of ‘income’ for the levy of super tax has been amended to provide that super tax shall be levied on income, without taking effect of brought forward depreciation and business losses.

TAX ON BUILDERS AND DEVELOPERS

[Sections 7C & 7D, read with Divisions VIIIA and VIIIB of Part I of the First Schedule]

The Finance Act, 2016 has introduced a unique non-income based Fixed Tax Regime for ‘Builders’ and ‘Developers’. Under this regime, tax liability for the builders and developers shall be determined on the basis of area, instead of the value of property or actual transaction value as per the following table:

Rates of tax applicable on builders under section 7C:

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

Rates of tax applicable on land developers under section 7D:

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

Builders and developers to whom the above provisions are to apply are the persons engaged in construction and sale of residential, commercial or other buildings and plots under the projects initiated and approved by the relevant land and building authorities (as may be prescribed) after July 1, 2016.

Notwithstanding being a Fixed Tax Regime, this amendment is likely to incentivize recording of the actual value of the developed property, as the declaration of the real value will not result in any income based tax incidence for the seller which is fixed on area basis.

As a consequence of the introduction of the above, the minimum tax regime under sections 113A and 113B for builders and land developers has been withdrawn. The said regime for builders was not made effective till June 30, 2018. Further, the Federal Government did not issue any notification to make minimum tax regime effective for land developers.

RENTAL INCOME

[Section 15 read with Division VIA of Part I of the First Schedule]

Prior to the Finance Act, 2016, property income for all cases was subject to tax on net-income basis. By way of amendment made through the Finance Act, 2016, tax has been made payable in the case of individuals and Association of Persons (AOP) on the basis of 'gross rent', instead of 'net income'.

Following tax rates have been prescribed for chargeability and withholding on annual gross rentals derived by individuals and AOPs where such annual gross rentals exceed Rs. 200,000:

Rent slabs	Rate of tax
Above Rs 200,000 and up to Rs 600,000	5% of the gross amount of rent exceeding Rs 200,000
Above Rs 600,000 and up to Rs 1,000,000	Rs 20,000 plus 10 % of the gross amount exceeding Rs 600,000
Above Rs 1,000,000 and up to Rs 2,000,000	Rs 60,000 plus 15 % of the gross amount exceeding Rs 1,000,000
Above Rs 2,000,000	Rs 210,000 plus 20% of the gross amount exceeding Rs 2,000,000

Property income in the hands of individuals and AOPs of an amount less than Rs 200,000 in a tax year shall not be taxable, subject to the condition that such person does not derive income from any other head. The 'income from property' so taxed shall not be clubbed with any other head of income.

DEDUCTION OF TAX ON BUSINESS EXPENDITURE

[Section 21]

Prior to the Finance Act, 2016, the income tax provisions relating to disallowance of expenditure due to non-deduction of tax at source were restricted to salary, rent, brokerage or commission, profit on debt, payments to non-residents and for services. Through the Finance Act, 2016, these provisions have now been extended to 'all expenditure' in respect of which a person is required to deduct or collect withholding tax under the Ordinance. Disallowance for non-deduction of tax on payments for raw material and finished goods purchases shall not be made for a sum exceeding 20% of the value of payments for such purchases.

There had been a circular in the past where disallowance in respect of purchases was not allowed, inter alia in certain mode, despite non-compliance of certain provisions. The limit of 20% on disallowance of payments for raw material and finished goods appears to be an extension of that concept that purchases of raw materials and finished goods cannot be disallowed for any non-compliance of withholding provision over and above the percentage prescribed in the law. At present, this percentage as per the proviso is 20% of the amount of total purchases of raw materials and finished goods. This would mean that if the compliance exceeds 20% on transaction-wise basis, there will not be a disallowance of expenses beyond 20% of total purchases.

It has been further clarified that taxes collected from the withholding agents and recipients (under sections 161 and 162) shall be considered as taxes paid for purpose of admissibility of such expenditure.

This clarification reiterates the position accepted by the appellate authorities.

ADVERTISEMENT EXPENDITURE FOR PHARMA SECTOR

[Section 21]

Through the Finance Act, 2016, a restriction has been placed on admissibility of expenditure incurred by pharmaceutical manufacturers on sales promotion, publicity and advertisement. The restriction is that any sales promotion, publication and advertisement expenditure over and above 5% of turnover shall not be treated as admissible business expenditure.

This provision is the introduction in the income tax law of a scheme already present in the Drugs Act, 1976. The disallowances made by tax officers on the basis of Drugs Act, 1976 were considered as ultra vires by the higher appellate authorities. To cater this issue, this provision has been introduced as part of the income tax law.

DEPRECIATION RELATING TO EXEMPT PERIOD

[Section 22]

As per the strict application of law, the written down value (at the expiration of the exempt period) of an asset used in a business whose income was exempt from tax for a certain period was the 'original cost' of such asset. Tax depreciation was not treated to have been allowed during the exempt period. An explanation has been inserted in the law to the effect that it was always intended by the legislature that such value shall be determined after the expiration of the exempt period on the basis as if tax depreciation (including initial allowance) was deemed to have been allowed. The effect of this retrospective amendment needs to be examined.

In case of loss during the exempt period, the depreciation deemed to have been allowed will form part of the unabsorbed depreciation.

PAKISTAN MERCANTILE EXCHANGE LIMITED (PMEX)

[Sections 37A and 236T read with Division XII of Part IV of First Schedule]

Through the Finance Act, 2016, an explanatory proviso has been included in Section 37A (3) for the purpose of taxing capital gains on a 'future commodity contract', being a 'derivative product'. It has been clarified that derivative products include future commodity contracts entered into by the members of PMEX, whether or not settled by physical delivery. This means that with effect from July 1, 2016, capital gains on settlement of future commodity contracts have been brought into NCCPL's mechanism as laid down in the Eighth Schedule and separate rate of 5% has also been prescribed for taxation of such gains.

The provisions relating to collection of 0.05% adjustable withholding tax by PMEX from its Members on purchase and sale of future commodity contracts have therefore been omitted.

FEDERAL GOVERNMENT'S POWER TO PROVIDE EXEMPTIONS UNDER THE SECOND SCHEDULE

[Section 53]

Federal Government is empowered to grant exemption from tax in a manner specified in the relevant provision of law. Under the amendment made through the Finance Act, 2016, a general power has been made available for exemption or reduction of tax in the following cases:-

- (i) Any International Financial Institution, (such as IFC); and
- (ii) Foreign government owned financial institution operating under an Agreement, Memorandum of Understanding or any other arrangement with the Government of Pakistan.

RESTRICTION ON RIGHT TO SURRENDER LOSSES IN GROUPS

[Section 59B]

A restriction has been introduced in respect of the right to surrender losses within a group.

Prior to the Finance Act, 2016, the right of surrender of losses was not related to the percentage holding of shares by that entity in the group if such entity was part of the group on the basis of holding as prescribed in the law.

Under the amendment made through the Finance Act, 2016, the surrender of losses will be related and restricted to the percentage holding of the group in the entity surrendering the losses.

This amendment is not in line with the concept of group taxation under the internationally acceptable norms. The amount of loss to be surrendered cannot be related to the percentage holding of group in the entity surrendering the losses as there is a clear provision for payment of equivalent cash by the respective entity.

INTER CORPORATE DIVIDENDS IN GROUP

[Clause 103A of Part I and Clause 11A and 38AA of Part IV of the Second Schedule]

The exemption for inter corporate dividends in a group structure prescribed under section 59B has been withdrawn. Consequently, exemption from tax withholding on intra-group dividend and interest payments has also been withdrawn.

This amendment will effectively dilute the adequately introduced concept of group taxation. The purpose of this exemption is to avoid double taxation within a holding company structure. As a result of this amendment, there will be no basis or reason to form the group except where the holdings are 100%. Accordingly, the exemption as provided in Clause (103A) of Part I of the Second Schedule has effectively become meaningless.

Furthermore, the question of vested right to groups formed before the withdrawal of exemption needs to be examined.

TAX CREDIT FOR INVESTMENT IN HEALTH INSURANCE

[Section 62A]

A new section 62A has been introduced whereby tax credit shall be allowed in respect of amount of contribution or premium paid by a non-corporate resident taxpayer for health insurance to any insurance company approved by SECP. The tax credit is, however, only available to persons (being filers) deriving 'income from salary' or 'income from business' and is to be allowed as per the following formula:

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

where—

- A* is the amount of tax assessed to the person for the tax year before allowance of this tax credit;
- B* is the person's taxable income for the tax year; and
- C* is the lesser of —
- (a) the total contribution or premium paid by the person;
 - (b) five per cent of the person's taxable income for the year; and
 - (c) Rs. 100,000.

CONTRIBUTION TO AN APPROVED PENSION FUND

[Section 63]

Prior to the amendment made through the Finance Act, 2016 the amount of tax credit in respect of contributions to approved pension funds under the Voluntary Pension System Rules, 2005 was based on the lesser of:

- (1) The total contribution paid in a particular tax year; or
- (2) 20% of the eligible person's taxable income for the tax year.

With regard to (2) above, the eligible person joining pension fund at the age of 40 years or above, during the first ten years starting from July 1, 2006 was allowed additional contribution of 2% per annum for each year of age exceeding 40 years, subject to an overall limit of 50% of his taxable income of the preceding tax year.

The above-referred provision regarding concession of 2% additional contribution available to persons joining after 40 years or above was expiring on June 30, 2016. The Finance Act, 2016 has extended the same till June 30, 2019 subject to the condition that total contribution allowed to such persons will not exceed 30% of the total income of the preceding tax year.

DEDUCTIBLE ALLOWANCE FOR EDUCATION EXPENSES

[Section 64AB]

A new section has been introduced whereby every individual having taxable income of less than Rs. 1 million rupees in a tax year will be allowed deductible allowance for tuition fee paid for the education of his / her children. The deductible allowance shall not exceed the lesser of the following:

- (i) 5% of the total tuition fees paid
- (ii) 25% of the individual taxable income
- (iii) an amount worked out by multiplying Rs. 60,000 with the number of children of the individual.

Only either of the parents can claim the tax credit on tuition fees on furnishing of NTN or name of the educational institution. Moreover, allowance under this section shall not be taken into account for computation of tax deduction from salary under section 149.

TAX CREDIT FOR EMPLOYMENT GENERATION BY MANUFACTURERS

[Section 64B]

The tax credit eligibility period for new employment generation manufacturing projects has been extended till June 30, 2019.

TAX CREDIT ON SALES TO REGISTERED PERSONS

[Section 65A]

The rate of tax credit claimable in case at least 90% of the sales are made to sales tax registered persons has been increased to 3% of tax payable. Prior to the Finance Act, 2016, the rate of such tax credit was 2.5% of tax payable.

TAX CREDIT FOR INVESTMENT IN BMR PROJECTS, ETC*[Section 65B]*

The tax credit eligibility period for investment in plant and machinery for BMR Projects, etc., which was due to expire on June 30, 2016, has been extended till June 30, 2019.

TAX CREDIT FOR ENLISTMENT*[Section 65C]*

Tax credit for a company opting for enlistment in any stock exchange in Pakistan is now to be allowed at 20% of the tax payable in the year of enlistment and the following year. Prior to the Finance Act, 2016, such tax credit was available only in the year of enlistment.

TAX CREDIT FOR EQUITY BASED INVESTMENTS*[Sections 65D & 65E]*

Prior to the Finance Act, 2016, tax credits for investments were available to companies making 100% equity based investments for industrial undertaking and corporate dairy farm set up by June 30, 2016 (sections 65D and 65E).

By way of an amendment through the Finance Act, 2016, such credits have been made available to entities with equity of 70% and above, according to the following formula:

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

A is the amount of tax assessed for the tax year before allowance of any tax credit for the tax year;

B is the equity raised through issuance of new shares for cash consideration; and

C is the total amount invested in setting up the new industrial undertaking / plant and machinery, as the case may be.

The eligibility date for setting up an industrial undertaking for tax credit has also been extended till June 30, 2019.

FAIR MARKET VALUE OF IMMOVABLE PROPERTY*[Section 68(4)]*

The fair market value of immovable property will be determined on the basis of valuation made by a panel of valuers approved by the State Bank of Pakistan.

As a result of this amendment, the earlier circular and instructions issued by the FBR regarding acceptance of declared value of immovable property is effectively withdrawn.

This is a major deviation as deemed / practical acceptance of single value has been dispensed with and the possibility of different valuation by various persons within the panel cannot be overruled.

It is anticipated that the amendment will not only have an impact on collection of Capital Gains Tax on immovable property transactions but will also form basis of issuance of notice under section 111 for seeking explanation of source of investments in such properties in case of differential in declared value and the value determined by the panel.

AGREEMENTS FOR AVOIDANCE OF DOUBLE TAXATION AND PREVENTION OF FISCAL EVASION*[Sections 107 & 108]*

These provisions have been substituted to enable the Federal Government to enter into a tax treaty or tax information and exchange agreement or multilateral convention or inter government agreement or similar agreement or mechanism for the avoidance of taxation or exchange of information for prevention of fiscal evasion.

This extension of eligibility has been made to enable the Federal Government to enter into arrangements with organizations, such as OECD, etc. in the matters of exchange of information relating to double taxation and prevention of fiscal evasion in addition to arrangements and agreements with other Governments.

Under the present apparatus of international tax arrangements, all the Governments should have mechanisms for collating and exchanging information with other Governments and supranational bodies, etc.

Another important change has been made in this section whereby the information obtained through the aforesaid agreements or treaties shall remain confidential and any breach of such confidentiality could attract prosecution under section 198. Previously, such confidentiality was not applicable in case the information was required for certain specified purposes as laid down in section 216(3), which inter alia include SECP, SBP, Civil Courts, etc.

The rationale of removing the right of using such information needs to be examined. This is for the reason that after the present amendment, there could be restriction on use of information by relevant authorities in Pakistan.

TRANSACTIONS WITH ASSOCIATES - TRANSFER PRICING AND COUNTRY BY COUNTRY REPORTING

[Section 108]

Specific documents and information (including a master file, local file, country-by-country report, etc.) are now required to be maintained by a taxpayer in respect of transactions with its associates and such information is required to be furnished to the Commissioner Inland Revenue within thirty days if required during the course of any proceedings under the Ordinance.

This is an important amendment since this section is applicable both to resident and non-resident associates of the taxpayers. Furthermore, it is important that the information to be maintained is in line with the internationally acceptable norms (such as those prescribed by OECD) especially in the case of non-resident associates.

It is expected that corresponding amendments will also be made in the Income Tax Rules prescribing the documents and information required to be maintained under this section along with the period for which such documents will have to be kept by the taxpayer.

MINIMUM TAX ON TURNOVER

[Section 113]

The threshold of turnover for individuals and AOPs has been reduced from Rs. 50 million to Rs. 10 million for tax year 2017 and onwards.

Under another amendment, it has now been provided for that imposition of minimum tax is in addition to final taxes and super tax.

Prior to the Finance Act, 2016, minimum tax was not payable by companies having gross loss which represents the excess of expenditure (other than depreciation and other inadmissible expenditure) over turnover. Under the amendment, minimum tax shall also be payable by entities having gross loss.

In our opinion, the applicability of minimum tax provisions in gross loss situation for a company will be unfair for the reason that the corporate taxpayers will be under compulsion to pay minimum tax even if they are in a gross loss situation. In addition, it is our view that the amendment should have been examined in the light of guidelines laid down by the Supreme Court in the case of Elahi Cotton Mills.

NOTICE FOR FILING OF RETURN*[Section 114(5)]*

Through the Act, a new proviso has been added to section 114 empowering the FBR to issue a notice for filing of return of income for one or more of the last ten completed tax years in case of a person who has not filed return for any of the last five completed years. The retrospective impact of this amendment to past and closed years requires examination.

REVISION OF RETURN*[Section 114(6)]*

The revision of return is generally allowed after seeking prior approval of the Commissioner in all cases. It is now provided that such approval will not be required if the revision of return is made for increase in taxable income or decrease in tax loss. Further, in other cases, if the Commissioner fails to pass an order for the revision of return within sixty days, such approval shall be deemed to have been allowed after expiry of sixty days. Necessary amendment will be required on the web portal to implement such deemed approval.

PROVISIONAL ASSESSMENT*[Section 122C]*

Under the previous scheme of law, a 'provisional assessment' abates upon filing of return and wealth statement / accounts within 45 days of such assessment.

The Finance Act, 2016 has prescribed another condition for such abatement of provisional assessment whereunder a taxpayer shall have to present accounts and other documents for the 'Audit' of income tax affairs for that tax year.

ALTERNATE DISPUTE RESOLUTION*[Section 134A]*

With a view to improve and revive the Alternate Dispute Resolution mechanism, following amendments have been introduced:

- Alternate Dispute Resolution committee would include a Commissioner Inland Revenue instead of Additional Commissioner Inland Revenue;
- Board is required to pass an order on the recommendation of the Committee within ninety days instead of forty five days; and
- In case order is not passed by the Board within ninety days, the recommendation of the committee shall be treated as an order passed by the Board.

Similar amendments have been made in the Sales Tax and Federal Excise Laws.

RECOVERY OF TAX*[Section 140]*

In order to curb the practice of taking coercive measures including freezing of bank accounts even in those cases where the matter is subjudice in appeals, an amendment is made to section 140 whereby no action under the said provision will be taken if the appeal filed by the taxpayer relating to such tax is pending before the Commissioner – Appeals subject to the condition that 25% of the said tax is paid by the taxpayer. This also means that if 25% of demand has been paid, there cannot be recovery by way of freezing of bank accounts.

In cases where the taxpayer would not be willing to pay 25% of the said tax, he will remain entitled to approach the Commissioner – Appeals / High Court for stay of full demand.

If, however, there is no stay and the taxpayer does not voluntarily pay 25% of the demand, the FBR is requested to clarify that even in such a case, the recovery measure will be restricted to 25% of the demand. Further, there is no time limitation on the Commissioner – Appeals to pass an appellate order in such cases.

ADVANCE TAX

[Section 147]

Alternative Corporate Tax shall also be considered for the purposes of determining advance tax liability under the Ordinance.

ADVANCE TAX FROM PROVINCIAL SALES TAX REGISTERED PERSONS

[Section 147A]

A new section has been introduced for tax collection from such non-filers, who are otherwise registered with Provincial Sales Tax authorities. Under the new mechanism, monthly adjustable advance tax at 3% of turnover will be payable by the non-filer of FBR, who is registered with provincial revenue authority. Advance tax paid under section 147A will be payable at the time when provincial sales tax return is filed, and the tax so paid will be taken into account while working out advance tax payable under section 147 of the Ordinance. The requirement to pay advance tax will not be applicable on a person who was filer on 30th June of the previous tax year. Practical application of this provision would have to be prescribed.

PAYMENTS TO NON-RESIDENT IMPORTERS

[Section 152]

In order to remove the ambiguity, section 152 has been amended (in line with section 153) to exclude the payments for sale of imported goods of non-residents from the purview of withholding tax deduction subject to the collection of tax at import stage and supply of goods in similar state. This is a corrective measure.

PAYMENTS FOR FOREIGN PRODUCED COMMERCIALS

[Section 152A]

A new withholding tax has been introduced for payments made directly or through an agent or intermediary to a non-resident person for foreign produced commercials or advertisement on any television channel or any other media. Such tax shall be withheld at the rate of 20% of the gross amount of payment and will be treated as final tax on the income of the non-resident person.

The implications of the above withholding tax on payment to a non-resident of Treaty Country will have to be examined.

MINIMUM TAX REGIME FOR CORPORATE SERVICE SECTOR

[Section 153 and Clause (94) of Part IV of the Second Schedule]

Through the Finance Act, 2015, service sectors companies were subjected to Minimum Tax Regime under section 153 of the Ordinance, wherein tax withholding at applicable rate was made Minimum Tax (8%). The said regime was however rationalized for twelve service sectors for the period July 1, 2015 till June 30, 2016, under Clause (94) of Part IV of Second Schedule to the Ordinance. The said date has now been extended to June 30, 2017.

Through the Finance Act, 2016, a new service sector [i.e., providing IT services and IT enabled services as defined in Clause (133) of Part I of Second Schedule] has also been added to the above rationalized regime for service sector.

The above concession for tax year 2017 is available to taxpayers subject to filing of irrevocable undertaking by November 2016 to present their accounts to the Commissioner.

ELECTRONIC AND PRINT MEDIA FOR ADVERTISEMENT SERVICES

[Section 153 read with Division III of Part III of the First Schedule]

Payments to Electronic and Print media for advertisement services have been made subject to withholding tax at the rate of 1.5% of the value of services. Prior to the Finance Act, 2016, such payments were subject to withholding at the rate of 1%.

A fundamental change has been made with regard to taxability of such income and with effect from July 1, 2016, tax withheld at source shall be treated as final tax in respect of such receipts.

FURNISHING OF INFORMATION BY BANKS AND FINANCIAL INSTITUTIONS

[Section 165B & 182]

Prior to amendment, confidentiality of the information obtained from a financial institution (including a bank) regarding non-resident persons for the purpose of automatic exchange of information under bilateral or multilateral conventions was not applicable if such information was required by certain specified institutions, such as SECP, SBP, Civil Courts, etc. A restriction has now been placed on dissemination of the information so obtained.

Failure to furnish the information required under section 165B will also now attract a penalty.

ADVANCE TAX ON CASH WITHDRAWALS & CERTAIN BANKING TRANSACTIONS

[Sections 231A & 236P]

Prior to the Finance Act, 2016, deduction of tax at source on cash withdrawal and certain banking transactions by 'non-filers' was applicable only if the cash withdrawal or sum of such transactions in a day exceeded Rs 50,000. An explanation has now been introduced to clarify that the limit of Rs 50,000 shall be the aggregate withdrawals / transfers from 'all the bank accounts' in a single day. There may be practical problems for the banks to implement this amendment.

ADVANCE TAX ON LEASED MOTOR VEHICLES

[Section 231B]

A new withholding tax provision has been introduced for lessees, being 'non-filers'. Under this provision, there shall be a tax withholding equal to 3% of the value of motor vehicle at the time of leasing of motor vehicles to such non-filers by leasing company and certain financial institutions.

This appears to be a mechanism to collect tax equal to 3% of the value of motor vehicle acquired on lease by a non-filer.

Nevertheless, under the general provisions, such non-filer may claim the refund / adjustment of the same by filing his return of income.

ADVANCE TAX AT THE TIME OF SALE BY AUCTION

[Section 236A]

Under section 236A, advance tax of 10% is collected on sale by public auction or auction by tender of any property or goods, lease of the right to collect toll tax, etc.

The above provision has been amended to make the collection of advance tax on lease of the right to collect toll tax as final tax. In other cases, this tax will remain adjustable.

TAX ON SALE OF IMMOVABLE PROPERTY

[Section 236C read with Division X of Part IV of the First Schedule]

The seller or transferor of immovable property is subject to withholding tax. This represents tax on income from sale or transfer of that property. Prior to the Finance Act, 2016, this provision was applicable only if property was sold within two years of acquisition.

Through the amendment, the time limit has been extended from two years to five years. Further, flat rate of 10% has been levied on gain on sale of immovable property if holding period is upto 5 years.

The validity of this amendment needs to be examined as the time period of two years was introduced to cater for the cases of gains arising on sale of property being an adventure in the nature of trade as otherwise the gain on sale of immovable property is arguably not taxable by the Federal Government under the Constitution. The extension of period to five years is not in line with this concept.

The matter of taxability of gain on immovable property by Federal or Provincial Government, especially in view of 18th amendment to the Constitution, is already subjudice in courts.

Gain arising on the disposal of immovable property by a person in a tax year to a Rental REIT Scheme shall be taxable at the rate of 5% upto June 30, 2019 irrespective of the holding period. It may be noted that gain on disposal of immovable property to developmental REIT is exempt from tax upto June 30, 2020 under Clause (99A) of Part I of the second schedule.

Rate of tax to be collected by the Registering or Attesting authority has been increased as under:

Transaction	By	Rate of tax
Sale or transfer of immovable property	Filer	1% of declared consideration
	Non- filer	2% of declared consideration
Purchase or transfer of immovable property having value of more than Rs. 3 million	Filer	2% of declared consideration
	Non- filer	4% of declared consideration

As per the amendment made in section 236C, this provision shall be applicable only on sale or transfer of immovable property within five years of acquisition.

ADVANCE TAX ON INSURANCE PREMIUM

[Section 236U read with Division XXV of Part IV of the First Schedule]

A new provision has been inserted whereby every insurance company shall collect advance tax from non-filer policy holders in the following manner:

Type of Premium	Rate
General insurance premium	4%
Life insurance premium if exceeding Rs 0.2 million per annum	1%
Others	0%

ADVANCE TAX ON FOREIGN PRODUCED TV PLAYS AND SERIALS

[Section 236E & F read with Divisions XII & XIII of Part IV of First Schedule]

Section 236E inserted through Finance Act 2013 whereby adjustable advance tax of Rs 100,000 per episode was required to be collected by the licensing authority from foreign produced TV plays has now been deleted.

However, PEMRA will now be required to collect adjustable advance tax under section 236F at the rate of 50% of the permission fee or renewal fee from every TV Channel on which foreign TV drama serial or a play in any language, other than English, is screened or viewed. Modalities and effects of the same need to be examined.

ADVANCE TAX ON EXTRACTION OF MINERALS

[Section 236V]

Leaseholders of mines or any person, being a non-filer, extracting minerals shall be subject to collection of advance tax at the rate of 5% of the value of minerals. The responsibility to collect such tax lies with the Provincial authority collecting royalty from the leaseholder or person extracting minerals. This section is not applicable on lease / concession issued by the Federal Government.

CAPITAL GAINS TAX ON DISPOSAL OF SECURITIES

[Division VII of Part I of First Schedule]

Gain on sale of securities was subjected to tax by Finance Act, 2010 in case such securities were held for less than 12 months. Through the Finance Act, 2015, the gain arising on disposal of securities with holding period up to 48 months was taxed and as such, zero rate of tax was made applicable only where the holding period of securities exceeded 48 months.

Under the amendment made through the Finance Act, 2016, the exemption will only be available on disposal of securities acquired on or before July 1, 2012. This means that the exemption presently available on holding period of securities held for more than 4 years has been withdrawn from tax year 2017.

In addition to the above, the Finance Act, 2016 has also introduced separate rates of tax for 'filer' and 'non-filer' in respect of capital gains earned on disposal of securities as well as future commodity contracts entered into by members of Pakistan Mercantile Exchange. A comparison of tax rates applicable for tax year 2016 (i.e., prior to the Finance Act, 2016) with the rates applicable for tax year 2017 is as under:

RATES FOR TAX YEAR 2016	
Holding Period	Tax Rate
Where holding period of a security is less than twelve months	15%
Where holding period of a security is twelve months or more but less than twenty-four months	12.5%
Where holding period of a security is twenty four months or more but less than four years	7.5%
Where holding period of a security is more than four years	0%

RATES FOR TAX YEAR 2017		
Holding period	Tax rate	
	Filer	Non-Filer
Where holding period of a security is less than twelve months	15%	18%
Where holding period of a security is twelve months or more but less than twenty-four months	12.5%	16%
Where holding period of a security is twenty-four months or more but the security was acquired on or after July 1, 2012	7.5%	11%
Where the security was acquired before July 1, 2012	0%	0%
Future commodity contracts entered into by the members of Pakistan Mercantile Exchange	5%	5%

The above rates are now also applicable on 'debt securities' held by a 'company'. Prior to the Finance Act, 2016, gain on debt securities in the hands of a company was taxable at the corporate rate.

**ADVANCE TAX COLLECTION FROM
DIVIDEND RECIPIENTS (NON-FILER)**

[Division I of Part III of First Schedule]

The rate of withholding tax on dividends distributed by companies (other than power generation companies or companies supplying coal exclusively to power generation project) where the recipient is a 'non-filer' has been increased from 17.5% to 20%.

MUTUAL FUNDS

[Division I of Part III of First Schedule]

a) Tax on Dividends from Mutual Funds

Through Finance Act, 2016, separate rates of tax on dividends from Mutual Funds have been prescribed for 'Filers and Non-Filers'. Tax rates for tax year 2017 are as under:

Tax Year 2017	Stock Fund	Money market Fund, Income Fund or REIT Scheme or any other fund	
		Filer	Non-Filer
Individual	10%	10%	15%
Company	10%	25%	25%
AOP	10%	10%	15%

b) Taxation of Capital Gain on Disposal of Mutual Fund Units under the Eighth Schedule
[Eighth Schedule]

Through Finance Act, 2012, the Eighth Schedule was inserted in the Ordinance to introduce a special regime for taxation of capital gains arising on sale of shares of listed companies. Under that Schedule, NCCPL was effectively made the taxing agent for computing and collecting the tax on such gains. Nevertheless, gain on disposal of units of open ended mutual funds was kept outside the ambit of Eighth Schedule.

By way of an amendment made through the Finance Act, 2016, a new sub-rule (1A) has been inserted in the Eighth Schedule whereby the applicability of Eighth Schedule has been extended to include open ended mutual fund units and therefore, NCCPL has now been made responsible to compute, determine and collect capital gains tax on disposal of units of open ended mutual funds. It has also been provided that the Asset Management Company / companies managing the fund shall be responsible for providing necessary information to NCCPL for computing taxable gain and tax thereon on redemption of units.

It has also been noted that the following separate rates for deduction of capital gains tax by mutual funds, collective investment schemes and REIT schemes (which were earlier prescribed in Second and Third proviso in Division VII of Part I of the First Schedule) have been omitted due to substitution through Finance Act, 2016 of the relevant Division VII of Part I of First Schedule to the Ordinance:

Category	Rate
Individual and association of persons	10%* for stock funds 10% for other funds
Company	10%* for stock funds 25% for other funds

(*12.5% in case of dividend receipts of the stock fund being less than capital gains)

The above amendments apparently depict that the requirement for mutual funds, collective investment schemes and REIT schemes to deduct Capital Gains Tax has been done away with. However, the confusion arises due to proviso contained in above-referred new sub-rule (1A) in the Eighth Schedule which specifies that "the Second and Third proviso in Division VII of Part I of the First Schedule regarding capital gains arising on redemption of securities shall continue to apply".

In view of the above, an ambiguity has arisen as to whether the mutual funds, collective investment schemes and REIT schemes are still required to deduct Capital Gains Tax on redemption of securities, despite that the Second and Third provisos [referred to in sub-rule (1) of the Eighth Schedule] are no longer contained in Division VII of Part I of the First Schedule.

The omission of Second and Third provisos in Division VII while substituting the table in Division VII does not appear to be an intentional amendment and therefore, under the provisions of sub-rule (1A) inserted in the Eighth Schedule, capital gains tax on redemption of securities will be collected by NCCPL from mutual funds, collective investment schemes and REIT schemes.

In the meanwhile deduction of capital gains tax may be made at the rates currently mentioned in the table contained in Division VII of Part I of the First Schedule.

WITHHOLDING TAX FROM PAYMENTS TO NON-RESIDENTS FOR CONTRACTS AND ADVERTISEMENT SERVICES

[Division II of Part III of First Schedule]

The rate of withholding tax on payments to non-residents for execution of certain contracts and advertisement services rendered by TV Satellite channels is presently prescribed at 6% irrespective of the filer status. Now, separate rates of 7% and 12% are prescribed for filers and non-filers respectively.

Similarly, payments to Permanent Establishments of non-residents for execution of contracts, sale of goods and services rendered will also be subject to withholding tax of 7% and 12% for filers and non-filers respectively.

PAYMENTS TO DISTRIBUTORS OF FMCG

[Division III of Part III of First Schedule]

The rate of withholding tax on payments for purchase of goods from the distributors of FMCG will be as under:

Status of distributor of FMCG supplying the goods	Rate of tax
Company	3%
Other than a company	3.5%

The above rates will not apply on distributor of cigarettes and pharmaceutical products which are subject to tax withholding at 1% under clause (24A) of Part II of Second Schedule.

PRIZES AND WINNINGS [NON-FILERS]

[Division VI of Part III of First Schedule]

For 'non-filers', the rate of withholding tax on a prize on prize bond or crossword puzzle has been enhanced from 15% to 20%.

BROKERAGE AND COMMISSION

[Division II of Part IV of First Schedule]

The rates of withholding tax on payment of brokerage or commission have been increased as under:

Description	Increased from
Advertisement agents [Non-filers]	10 to 15 percent
Other than advertisement agents [Non-filers]	12 to 15 percent

Moreover, separate rate of tax on brokerage and commission paid to life insurance agents has been introduced at the rate of 8% (16% for non-filers). This rate is applicable only if the annual commission received by life insurance agents is less than Rs. 500,000. Life insurance agents deriving annual commission of Rs 500,000 and above will remain taxable at general rates of 12% (for filers) and 15% (for non-filers).

COLLECTION OF TAX BY A STOCK EXCHANGE REGISTERED IN PAKISTAN

[Division IIA of Part IV of First Schedule]

Rate of advance tax collection by stock exchange on sale and purchase of shares has been increased from 0.01% to 0.02% of transaction value.

COLLECTION OF TAX ON COMMERCIAL ELECTRICITY CONSUMPTION

[Division IV of Part IV of First Schedule]

Rate of tax collection for commercial consumers on electricity bill exceeding Rs. 20,000 has been increased from 10% to 12%.

COLLECTION OF TAX FROM CABLE TELEVISION OPERATORS

[Division XIII of Part IV of First Schedule]

Rate of tax collection under section 236F for renewal of license in the case of certain categories of Cable Television Operator has been amended as under:-

Description	Decreased from
Category R	Rs 30,000 to 12,000
Category B-1	Rs 50,000 to 35,000
Category B-2	Rs 60,000 to 45,000

EXEMPTION OF GRATUITY FROM APPROVED UNFUNDED SCHEMES

[Clause (13) of Part I of the Second Schedule]

Any payment received by an employee on his retirement, or by his heirs in the event of his death, by way of gratuity from an Approved Unfunded Gratuity Scheme is presently exempt upto Rs. 200,000. This limit has been increased to Rs. 300,000.

MICRO FINANCE BANK

[Clause (66)(xviii) of Part I of the Second Schedule]

Exemption allowed to Micro-Finance banks till June 2012, being redundant, has been withdrawn.

SPORTS BOARD / ORGANISATION

[Clause (98) of Part I of the Second Schedule]

Exemption allowed to a Board or other organization established in Pakistan for the purposes of controlling, regulating or encouraging major games and sports recognized by the Government has been restricted only where such Board or organization is established by the Government. As a result, the position prior to Finance Act, 2003 has been restored.

INCENTIVES FOR GWADAR FREE ZONE

[Clauses (126A), (126AA), (126AB), (126AC) & (126AD) of Part I, Clauses (11A) & (38AA) of Part IV of the Second Schedule]

Tax exemption available to China Overseas Ports Holding Company Limited [**COPH**] from Gawadar Port operations for a period of 23 years (w.e.f. February 6, 2007) has been extended to the following group companies of COPH:

- (a) China Overseas Ports Holding Company Pakistan (Private) Limited – **COPHPL**;
- (b) Gawadar International Terminal Limited;
- (c) Gawadar Marine Services Limited; and
- (d) Gawadar Free Zone Company Limited.

In addition, following further exemptions have been allowed:

- (i) Exemption from Minimum Tax under section 113 for a period of 23 years effective July 1, 2007 for all the above entities.
- (ii) Exemption from tax on income of contractors and sub-contractors of COPH and its above group entities from Gawadar Ports Operations for a period of 20 years effective July 1, 2016.
- (iii) Exemption from tax on dividend income received by COPH as well as by COPHPL from above group entities. Tax withholding on such dividend income has also been exempted for a period of 23 years w.e.f July 1, 2016.
- (iv) Exemption from tax on Profits and gains derived by a taxpayer from businesses setup in Gawadar Free Zone Area for a period of 23 years w.e.f. July 1, 2016.
- (v) Exemption from tax on Profit on debt earned by a foreign lender or a local bank (owned more than 75% by the Government of Pakistan or State Bank of Pakistan) under a Financing Agreement with COPH, for a period of 23 years w.e.f July 1, 2016.

EXPORT OF COMPUTER SOFTWARE / IT SERVICES

[Clause (133) of Part I of Second Schedule]

Tax exemption available on income from export of computer software or IT services or IT enabled services has been extended from June 30, 2016 to June 30, 2019, provided that at least eighty per cent of the export proceeds is brought into Pakistan in the form of foreign exchange through normal banking channels.

SERVICES RENDERED AND CONSTRUCTION CONTRACTS EXECUTED OUTSIDE PAKISTAN

[Clause (3) of Part II of Second Schedule]

Prior to the Finance Act, 2016, gross receipts from services rendered and construction contracts executed outside Pakistan were taxed at the rate of 1%, provided the receipt from services, and income from construction contract are brought into Pakistan through normal banking channel. The tax rate of 1% has now been increased and linked with 50% of the withholding rate applicable on services and contracts under section 153 of the Ordinance. Based on the existing withholding rates prescribed for section 153, the tax rate applicable on services rendered and construction contract executed outside Pakistan shall be as under:

Description	Company		Non-Corporate sector	
	new rate	Rate previously applicable	new rate	Rate previously applicable
Services rendered outside Pakistan	4% (50% of 8%)	1%	5% (50% of 10%)	1%
Construction Contracts executed outside Pakistan	3.5% (50% of 7%)	1%	3.75% (50% of 7.5%)	1%

NEW TAX REGIME FOR PAKISTAN CRICKET BOARD - PCB

[Clause (3B) of Part II of Second Schedule]

PCB's income derived from sources outside Pakistan including media rights, gate money, sponsorship fee, in-stadium rights, out-stadium rights, payments made by International Cricket Council, Asian Cricket Council or any other Cricket Board will be taxed at 4% of the gross receipts from such sources.

SHARIAH COMPLIANT LISTED COMPANIES

[Clause 18B of Part II of Second Schedule]

A new clause (18B) is now inserted in Part II of the Second Schedule whereby the corporate rate of tax specified in First schedule will be reduced by 2% in case of listed companies subject to following conditions:

- (i) it fulfils prescribed *shari'ah* compliant criteria approved by State Bank of Pakistan, Securities and Exchange Commission of Pakistan and the Board;
- (ii) derives income from manufacturing activities only;
- (iii) has declared taxable income for the last three consecutive tax years; and
- (iv) has issued dividend for the last five consecutive tax years.

It appears that *shari'ah* compliance criteria is being developed jointly by the regulators.

TRANSMISSION LINE PROJECTS

[Clause 11A (xxvii) of Part IV of Second Schedule]

Profits and gains derived by companies from a transmission line project which are exempt from tax under clause (126M) of Part I of Second Schedule to the Ordinance are now also exempt from Minimum Tax provisions of section 113.

TRADING HOUSES

[Clause (57) of Part IV of Second Schedule]

Exemption from Minimum Tax under section 113 allowed to companies operating Trading Houses for a period of 10 years has been withdrawn and is now replaced by reduced (minimum tax) rate of 0.5% upto tax year 2019 and 1% thereafter.

TERM FINANCE CERTIFICATES

[Clause (59) of Part IV of Second Schedule]

Exemption from withholding tax on profit on debt paid to a company in respect of a Term Finance Certificate issued on or after July 1, 1999 has been withdrawn.

CERTAIN CONCESSIONS TO HAJJ GROUP OPERATORS

[Clause (72A) of Part IV of Second Schedule]

The exemption from applicability of section 21(1), 113 (Minimum Tax) and 152 (withholding tax from payments to non-residents) in case of a Hajj Group Operator in respect of Hajj operations has been extended subject to payment of Rs 5,000 per Hajji for tax year 2016.

EXEMPTION FROM TAX COLLECTION ON IMPORT OF RAW MATERIALS

[Clause (72B) of Part IV of Second Schedule]

Prior to the Finance Act, 2016, taxpayers were allowed to apply for exemption from tax collection on import of raw materials, provided that the tax liability of current tax year, determined on the basis of tax liability of higher of the two preceding tax years, was paid. That facility was however, subject to compliance of FBR's SRO No. 717(I)/2014 which inter alia included a restriction that exempted quantity of raw material should not exceed 110 per cent of the quantity imported / consumed in the last tax year. The said restriction, through the SRO, was challenged by taxpayers before the Hon'ble Lahore High Court, which declared the same extra-jurisdictional on part of FBR to provide for a condition which is not part of law.

The above restriction (of 110% of quantity) has now been made part of a statute under clause (72B) of Part IV of Second Schedule to the Ordinance. The Commissioner will be entitled to audit the taxpayer availing the exemption, in respect of the consumption, production and sales of the latest tax year (for which return is filed), whilst deeming the selection for such audit under section 214C of the Ordinance. In case the taxpayer fails to produce requisite documents during the audit, recovery of unpaid tax under section 148 will be made from the taxpayer.

INVESTMENT IN INDUSTRIAL UNDERTAKING - IMMUNITY FROM SECTION 111

[Clause (86) of Part IV of Second Schedule]

Prior to the Finance Act, 2016, immunity was provided to investments made by a company to setup an industrial undertaking, from provisions of section 111 (unexplained sources of income / receipts), subject to certain conditions which inter alia include commencement of commercial production by such undertaking on or before June 30, 2017. The said date has been extended to June 30, 2019.

EXEMPTION FROM COLLECTION OF TAX ON IMPORT OF SHIPS AND AIRCRAFTS

[Clause (98) of Part IV of Second Schedule]

Collection of withholding tax at import stage under section 148 will not be applicable in the following cases:

- (a) Import of ships and other floating crafts including tugs, survey vessels and other specialized crafts purchased or bare-boat chartered by a Pakistani entity and flying Pakistani flag upto the year 2020 subject to the condition that imports ships, etc. are used for the purpose for which they were imported. In case of ships and crafts used for demolition purposes, the import tax will be applicable.
- (b) Import or acquisition of aircraft on wet or dry lease by PIA with effect from March 19, 2015.

Corresponding concessions have also been provided in Sales Tax and Customs Law, wherever applicable.

INSURANCE COMPANIES

[Rule 6B of Fourth Schedule]

In the case of insurance companies, there is a concept of 'one basket income' taxation. This means that all sources / heads of income of an insurance company are taxed at the applicable corporate tax rate. However, prior to the Finance Act, 2016, there was a specific provision whereby capital gains on disposal of shares and dividends of listed companies, vouchers of PTC and instruments of redeemable capital, modaraba certificates and derivative products were subject to tax at the reduced rates applicable otherwise on such heads of income.

This special dispensation has been removed through the Finance Act, 2016 and the entire income of insurance business is now subject to tax at the applicable corporate tax rate.

In the past, there was litigation on the subject (including the decision of Supreme Court of Pakistan). The application of specific rate was introduced on the premise that the provisions relating to the Fourth Schedule are governed by the First Schedule for tax purposes. Accordingly, notwithstanding the specific concept of 'one basket income', validity of the aforesaid amendment needs to be examined with reference to the question whether or not the head of income (such as section 5 for all dividend income) can override the taxability under a specific Schedule or vice versa.

CONTRIBUTIONS TO RECOGNISED PROVIDENT FUND

[Rule 3(a) of Part I of the Sixth Schedule]

The exemption limit on annual contribution by an employer to a recognized provident fund has been increased from Rs 100,000 to Rs 150,000.

CHAPTER 3 - SALES TAX

COTTAGE INDUSTRY

[Section 2 (5AB) of the Sales Tax Act, 1990]

The threshold of turnover for qualifying as cottage industry, which is exempt from tax, has been enhanced at Rs. 10 million from Rs. 5 million.

RETURNS OF SALES TAX AND FEDERAL EXCISE

[Section 2(9)]

Concept of specifying different dates for furnishing of different parts or annexures of the return has been introduced.

Requirement for separate return in case of change in rate of tax during a tax period has been withdrawn.

PROVINCIAL INPUT TAX

[Section 2(14)]

Fundamental departure has been introduced in the sales tax regime which is governed under the VAT principles.

Provincial input tax (including Islamabad Capital Territory Sales Tax) is no longer adjustable against Federal Sales Tax. As a result, through SRO 489(I)/2016 dated June 30, 2016, the SRO 212(I)/2014 dated March 26, 2014 which allowed adjustment of provincial sales tax as input tax has been rescinded.

In economic sense, this would imply dual indirect taxation in the country since the indirect taxes paid to Provinces shall not reduce the incidence of sales tax paid to Federation. This will further result in litigation as the taxpayers may explore the possibilities of approaching the Court if the Federal and Provincial Governments do not resolve this matter.

RECOVERY OF WITHHOLDING SALES TAX

[Section 11 (4A)]

Provisions have been enacted in the Federal sales tax law to enable recovery proceedings for sales tax not/short withheld or failure to deposit such tax by withholding agents.

This amendment aims to counter the effect of decisions of the Appellate authorities whereby such actions were unapproved in the past.

SALES TAX EXEMPTION FOR INTERNATIONAL FINANCIAL INSTITUTIONS, ETC.

[Section 13]

In line with the amendments made in the Income Tax Ordinance, 2001, Federal Government has also been empowered to allow exemptions on sales tax in relation to the international financial institutions and foreign government owned financial institutions.

PENALTY

[Section 33]

Scope of penalty provisions has been enhanced to include contravention of any rules made under the sales tax law.

SALE OF TAXABLE ACTIVITY OR TRANSFER OF OWNERSHIP*[Section 49]*

Under section 49 of the Sales Tax Act, 1990, sale of taxable activity or part thereof or transfer of ownership of such activity as an ongoing concern to another registered person is a non-taxable event.

It has now been prescribed that in order to substantiate and document the aforesaid non-taxable nature of transaction, in the case of such sale or transfer, a 'zero-rated invoice' is required to be issued by the transferor to the transferee.

DISCLOSURE OF INFORMATION OF SALES TAX AND FEDERAL EXCISE*[Section 56(B)]*

In line with the amendments made in Income Tax Ordinance, 2001, disclosure of information received or supplied in pursuance of bilateral or multilateral agreements with foreign governments are now confidential notwithstanding the status of the Freedom of Information Ordinance, 2002.

**SUPPLY OF MINERAL / BOTTLED WATER
THIRD SCHEDULE**

Supply of mineral/bottled water by manufacturer is to be taxed at retail price, under the Third Schedule.

FIFTH SCHEDULE – ZERO RATING

Conditional zero rating on import and supply of following items has been withdrawn, however, these will continue to fall under Sixth Schedule:

Description	PCT Heading
Colors in sets	3213.1000
Writing, drawing and marking inks	3215.9010 & 3215.9090
Erasers	4016.9210 & 4016.9290
Exercise books	4820.2000
Pencil sharpeners	8214.1000
Geometry boxes	9017.2000
Pens and ball pens	96.08
Pencils including color pencils	96.09
Milk	04.01
Fat filled milk	1901.9090

Zero rating on import and supply of "Markers and porous tipped pens" (PCT Heading 96.08) has been withdrawn.

SIXTH SCHEDULE - EXEMPTIONS

- (a) Conditional exemption from sales tax allowed under SRO 115(I)/2008 dated February 6, 2008, on import and supply of materials and equipment for construction and operation of Gawadar Port and development of Free Zone is now restricted to certain specified entities and their contractors/sub-contractors subject to specified conditions. SRO 115(I)/2008 has now been withdrawn through SRO 489(I)/2016 dated June 30, 2016.

Exemption on supplies made within Gawadar free zone by businesses to be established in said zone is for a period of 23 years.

- (b) Import or supply of following items has been exempted:

Description	PCT Heading
Premixes for growth stunting	Respective heading and subject to conditions imposed under Customs Act
Laptop computers, notebooks whether or not incorporating multimedia kit	8471.3010
Personal computers	8471.3020

- (c) Import of dump trucks for Thar Coal field is now conditionally exempted.

EIGHTH SCHEDULE

- (a) Increase of sales tax rate on ingredients of poultry and cattle feed has been increased from 5% to 10% and following PCT headings are now included in this respect:

PCT Heading
2301.1000 (Meat and Bone Meal)
2833.2940 (Zinc Sulphate)
2923.9010 (Betaine)

Following items have been removed from Eighth Schedule:

PCT Heading
2301.2010 (Shrimp meal)
2833.2600 (Zinc Sulphate)
2923.9000 (Betafin)

- (b) The following items have been added in the Eighth Schedule with effect from June 25, 2016:

Description	PCT Heading	Rate	Condition
1. Set top boxes for gaining access to internet	8517.6950	5%	Subject to type approval by PEMRA. his concession shall be available upto June 30, 2017.
2. TV broadcast transmitter	8525.5020		
3. Reception apparatus for receiving satellite signals of a kind used with TV (satellite dish receivers)	8528.7110 and 8528.7220		
4. Other set top boxes	8528.7190 and 8528.7290		

- (c) Reduction in rate allowable to specific items used in production of biodiesel as certified by Alternate Energy Development Board is withdrawn. However, reduction in rate to related plant, machinery and equipment shall continue.

- (d) Import of grain holding silos has now been subjected to sales tax @ 10%. Further, following Plant & Machinery are subject to sales tax at reduced rate of 10%:

Description	PCT Heading	Condition
1. Milk chillers.	8418.6910 and 8418.6990	If imported by registered manufacturer who is member of Pakistan Dairy Association.
2. Tubular heat exchanger (for pasteurization).	8419.5000	
3. Milk processing plant, milk spray drying plant, Milk UHT plant.	8419.3900 and 8419.8100	
4. Milk filters	8421.2900	
5. Any other machinery and equipment for manufacturing of dairy products.	Chapter 84 and 85	

NINTH SCHEDULE

Sales tax rates under the Ninth Schedule on import or local supply and/or registration of IMEI by Cellular Mobile Operators on medium priced cellular phones and smart cellular phones have been increased as under:

- Medium priced cellular phones from Rs 500 to Rs 1,000
- Smart cellular phones from Rs 1,000 to Rs 1,500.

REVAMPING OF SALES TAX REGIME FOR CERTAIN ITEMS

Certain pesticides and their active ingredients registered by the Department of Plant Protection under the Agricultural Pesticides Ordinance, 1971 previously covered under Eighth Schedule are exempt under Sixth Schedule with effect from June 25, 2016.

Supply of Urea, whether or not in aqueous solution (PCT heading 3102.1000), is now to be taxed @ 5%. Previously, this was included in Fertilizers under Third Schedule.

SROs issued relating to Sales Tax

FURTHER TAX

SRO 487(1)/2016 (SRO 487)

SRO 648(I)/2013 lists down goods which are exempt from the levy of further tax at the rate of two percent, on supply of taxable goods to un-registered persons.

Through SRO 487, second hand worn clotting and other worn articles have been included in the list of items which are exempt from further tax.

SALES TAX SPECIAL PROCEDURE RULES, 2007 ('STSPR')

SRO 488(1)/2016 (SRO 488)

Retailers

STSPR envisage two categories of Retailers. The first category (hereinafter referred to as 'Tier 1') of retailers is that of those who fall in any of the following:

- (i) Retailers operating as a unit of national or international chains of stores;
- (ii) Retailers operating in air-conditioned shopping mall, plaza or center excluding kiosks;
- (iii) Retailers whose cumulative electricity bill in excess of Rs. 600,000 in immediately preceding twelve months; and
- (iv) wholesaler-cum-retailer, engaged in bulk import or supply of consumer goods.

Tier 1 retailers (except for those dealing in goods specified in SRO 1125) are at present liable to register and charge sales tax under normal law. Through SRO 488, Tier 1 retailers have now been allowed an option to pay sales tax at the rate of two percent of their entire turnover including exempt supply without adjustment of input tax *provided such retailers furnish option to Chief Commissioner of respective Large Taxpayers Unit or Regional Tax Office by July 15, 2016*. It appears that this option will only be available prospectively.

Tier 2 Retailers (i.e. those retailers who do not fall in Tier 1) will continue to pay sales tax through electricity bills.

Marble Industry

Special procedures are prescribed for payment of sales tax by marble industry.

Marble and granite manufacturer operating on electric power and having valid registration with "All Pakistan Marble Industries Association" shall pay sales tax at the rate of one rupee and twenty five paise per unit of electricity consumed as a final discharge of his net sales tax liability to the extent of marble and granite manufacturing, grinding and polishing process. The tax shall be collected by electricity distribution companies in addition to other sales tax recoverable by such companies.

No input tax adjustment shall be allowed to the marble and granite manufacturer paying such sales tax. However, the manufacturers would issue sales tax invoices but sales tax indicated on such invoices would not be available as adjustment at any subsequent stage.

Commissioner is authorized to permit to exclude aforesaid sales tax from electricity bill in case the supplies include more than fifty percent of exports.

SALES TAX ON PETROLEUM PRODUCTS
S.R.O 490(1)/2016 (SRO 490)

Through S.R.O 57(1)/2016, sales tax was levied in rupee terms per liter instead of percentage of value of supply of different petroleum products. The regime prior to S.R. O 57(1)/2016 is brought back to overcome the difficulties of HSD based power producers as follows

S. No.	Description	PCT heading	Rate
1.	Motor spirit excluding HOBC	2710.1210	17% ad valorem
2.	HOBC	2710.1210	17% ad valorem
3.	Kerosene	2710.1911	7% ad valorem
4.	High Speed diesel oil	2710.1931	28% ad valorem
5.	Light diesel oil	2710.1921	5% ad valorem

WHITE CRYSTALLINE SUGAR
S.R.O 492(1)/2016 (SRO 492)

After the withdrawal of FED, white crystalline sugar is now taxable at reduced sales tax rate of 8% under the Eight Schedule. Through SRO 492, the value of domestically produced white crystalline sugar for the purposes of levy of sales tax is fixed at Rupees 56 per Kg whereas the value of imports for its assessment at import stage has been enhanced from US \$ 440 per metric ton to US \$ 725 per metric ton.

The tax incidence on supply chain beyond manufacturing stage needs to be clarified.

SALES TAX RETURN – RULE 18 OF SALES TAX RULES, 2006
S.R.O 493(1)/2016 (SRO 493)

With a view to implement the amendments introduced in sections 7 and 8 of the Sales Tax Act, 1990 through Finance Act, 2016, following amendments in the rules have been made.

- (i) A registered sales tax supplier (supplier) is required to enter data of supplies and debit/credit notes by 10th day of the following month in Annexure – C and Annexure – I, respectively, of the monthly sales tax return.
- (ii) The registered sales tax buyer (buyer) would be informed of the respective input tax and debit/credit notes.
- (iii) In case supplier has not filed his monthly sales tax return of the related period, the buyer would be informed but would be allowed provisional adjustment of input tax against invoices. However, if the supplier fails to file his return by the 10th of the next month, the input tax would be adjusted or recovered and in case the supplier files his monthly return subsequently, the buyer would be informed that the objection on related invoices stands settled, and input tax will be allowed in next return.
- (iv) Similarly, in case buyer fails to declare withholding sales tax in his return, the supplier shall be allowed provisional adjustment. However, in case the withholding sales tax is again not declared in the return of the buyer by 10th of next month, the adjustment allowed to supplier would be reversed and in case buyer declares withholding tax subsequently, the supplier shall be informed of settlement of objection raised, and reduction in output tax in respect of withholding will be allowed in next return.
- (v) Similar provisions are introduced for debit/credit notes.

**ZERO RATING OF INPUT USED IN EXPORT-ORIENTED SECTORS UNDER SRO 1125
S.R.O 493(1)/2016 (SRO 493)**

Exports are zero rated for sales tax purposes. On account of governance issues and various other factors, there had always been a debate about the procedures to be adopted for lower incidence and speedy refund of the sales tax borne by such exporters. There was a major change in 2004 which was substantially modified in 2011. In 2011, by way of SRO 1125 dated December 31, 2011, sales tax was levied at a lower rate of 5 percent on local supply of 5 export oriented sectors. Nevertheless, there had been constant complaints of accumulation and non-settlement of refunds.

Since then, various changes have been made in the system to resolve the issues arising on account of refunds. This problem is aggravated on account of the fact that a large number of players in that sector have composite business being local supply and exports and consequently there are common inputs. Further, some industrial input and supply of these sectors are not sector-oriented such as packing material, electricity etc. This adds to the problem.

In order to address the problem of accumulation of refunds on account of sales tax levy at input stage, the Government has reverted back to the old scheme of zero rating the local supply as was in practice in 2004.

Under the new scheme, import and supply of 'industrial inputs' have been zero rated which was previously subject to sales tax at 3 percent.

Now, sales tax at 5 percent will be applicable on supply of finished goods post manufacturing, whereas goods imported in finished form will remain subject to sales tax at normal rate of 17 percent.

The scheme although built on the concept of 'No tax, No Refund' doctrine is expected to partially resolve the issue of refunds as the same may continue to accumulate on items of multi-industrial use like packing materials. Incidence of Provincial Sales Tax is a separate subject to be dealt with.

Salient features of the new scheme laid down in SRO 1125, as a result of amendments through SRO 491 effective July 1, 2016 are as under:

- 1) Import and supply of industrial input (including fabric) have been zero rated (previously, these were subject to sales tax @ 3 percent with value addition tax @ 1 percent at import stage).
- 2) Supplies of industrial input to outside 5 sectors remain subject to sales tax @ 17 percent.
- 3) Supply of locally manufactured goods of textile and textile made up and leather and artificial leather will be subject to sales tax @ 5 percent (i.e., no change from existing scheme).
- 4) Supply of finished fabric to manufacturers will be subject to sales tax @ 0 percent (previously 3 percent), whereas supply of finished fabric to and by retailer will be subject to sales tax @ 5 percent (previously 3 percent).
- 5) Supply of coal, furnace oil and diesel to registered manufacturers of 5 sectors will be zero rated, subject to issuance of general order by the FBR.
- 6) Credit of input tax suffered (if any) including refund will be allowed as per the provisions of the Sales Tax Act, 1990 and related rules and procedures, however no input tax credit or refund will be allowed for packing material of any sort against the local supplies. Needless to say that export sales will remain entitled to adjustment of all input taxes (including that relating to packing materials). Conditions for pre-refund audit and furnishing of revolving bank guarantee (for cases having less than 10 percent value addition) have been withdrawn. Now, only post-refund audit and scrutiny will be conducted as per the Sales Tax Rules, 2006.

CHAPTER 4 – FEDERAL EXCISE DUTY

RETURNS OF SALES TAX AND FEDERAL EXCISE

[Section 2 (8A) of the Federal Excise Act, 2005]

Concept of specifying different dates for furnishing of different parts or annexures of the return has been introduced.

Requirement for separate return in case of change in rate of tax during a tax period has been withdrawn.

ADJUSTMENT OF EXCISE DUTY

[Section 6 (2A)]

Adjustment on input duty (goods or services) has been made conditional to the declaration in the supplier's return and payment of duty. This condition will be effective upon notification by the FBR.

DISCLOSURE OF INFORMATION OF SALES TAX AND FEDERAL EXCISE

[Section 47B]

In line with the amendments made in Income Tax Ordinance, 2001, disclosure of Information received or supplied in pursuance of bilateral or multilateral agreements with foreign governments is now confidential notwithstanding the status of the Freedom of information Ordinance, 2002.

EXEMPTION OF DUTY FOR INTERNATIONAL FINANCIAL INSTITUTIONS, ETC.

[Section 56 (B)]

Federal Government has been empowered to allow exemptions on excisable goods or services in relation to the international financial institutions and foreign government owned financial institutions.

AERATED WATERS / BEVERAGES

[Table I of First Schedule]

Effective from July 1, 2016, the rate of duty on aerated waters and beverages has been enhanced from 10.5% to 11.5% of retail price.

LOCALLY PRODUCED CIGARETTES

[Table I of First Schedule]

Description of and duty on the locally produced cigarettes (PCT heading 24.02) have been modified / enhanced. Revised rates as applicable from June 4, 2016 are tabulated as under:

<i>Description of goods</i>	<i>Revised rate</i>	
	<i>From June 4 to November 30, 2016</i>	<i>From December 1, 2016 & onwards</i>
Locally produced cigarettes if their on-pack printed retail price exceeds Rs 4,000* per 1,000 cigarettes.	Rs 3,436 per 1,000 cigarettes	Rs 3,705 per 1,000 cigarettes
Locally produced cigarettes if their on-pack printed retail price does not exceeds Rs 4,000* per 1,000 cigarettes.	Rs 1,534 per 1,000 cigarettes	Rs 1,649 per 1,000 cigarettes

* This will be Rs 4,400 effective from December 1, 2016.

CEMENT*[Table I of the First Schedule]*

With effect from July 1, 2016, the basis of levy of excise duty on various types of cement, classified under PCT heading 25.23, has been changed from “5% of retail price” to “Re 1 per kg”.

This change will effectively double the amount of duty presently payable on cement bag which contains 50 kg of cement.

Exemption from duty has been withdrawn on ‘White Cement’ (PCT heading 25.23).

EXEMPTIONS*[Table I of the Third Schedule]*

Certain exemptions have been allowed in relation to Gawadar Port and development of Gawadar Free Zone. These exemptions are identical to serial 100A and 100B which have been introduced in Table 1 of the Sixth Schedule of the Sales Tax Act, 1990.

WHITE CRYSTALLINE SUGAR*[Second Schedule]*

The ad valorem duty on white crystalline sugar has been withdrawn and replaced by the sales tax regime at a reduced rate of 8%.

This is aimed at collection of sales tax on value addition by ‘post manufacturing distribution chain’ and the related effect thereto.

SERVICES SUBJECT TO PROVINCIAL SALES TAX*[Table II of First Schedule]*

The much awaited withdrawal of FED on services which are now subject to provincial sales tax has been made in the Finance Act 2016. Following services will not be subject to FED:

- Advertisements;
- Shipping agents;
- Franchise services;
- Stock brokers; and
- Services provided or rendered by banking companies, insurance companies, cooperative financing societies, modarabas, musharikas, leasing companies, foreign exchange dealers, non-banking financial institutions, asset management companies and other persons dealing in any such services

Prior to this amendment, there was a question of duplication of incidence of indirect tax on such services both by Federation and Provinces. There had been litigation on this subject and the Sindh High Court has recently resolved the controversy in favour of taxpayers deciding that services (other than shipping agents) taxed by Provincial Government cannot be subject to FED. The aforesaid issue was aggravated by the amendment made in the Finance Act, 2015 where the exclusion was made only for telecommunication services.

CHAPTER 5 – ISLAMABAD CAPITAL TERRITORY (TAX ON SERVICES) ORDINANCE, 2001 (ICTO)

The provisions of Federal Sales Tax Act relating to the following powers of Federal Government have now been made applicable to ICTO:

- Specifying a higher or lower rate of tax, subject to such conditions and restrictions.
- Levy and collect such amount of tax as it may deem fit on any services or class of services in lieu of sales tax.
- Allow exemptions under section 13 of the Federal Sales Tax Act.
- Notify any person or class of person as withholding agent for the purpose of deduction and deposit of sales tax.

Zero rating facility available under Federal Sales Tax Act to diplomats shall also be available under ICTO.

Exemptions available under Federal Sales Tax Act to grants-in-aid shall also be available under ICTO.

Tax levied under ICTO shall not apply to regulatory and licensing services rendered or provided by an organization established under a Federal statute.

ISLAMABAD CAPITAL TERRITORY SRO 495(I)/2016 (SRO 495)

Through SRO 495, Federal Government has introduced reduced sales tax rate regime for the following services taxable in Islamabad Capital Territory with no input tax adjustment, in line with similar regime applicable under sales tax laws of certain Provinces.

S. No.	Service Description	PCT Heading	Conditions
(1)	(2)	(3)	(4)
1	Construction services, excluding:		
	(i) Construction projects (industrial and commercial) of the value (excluding actual and documented cost of land) not exceeding Rs. 50 million per annum.	9824.0000 And 9814.2000	Five per cent subject to the condition that no input tax adjustment or refund shall be admissible
	(ii) The cases where sales tax is otherwise paid as property developers or promoters.		
	(iii) Government civil works including Cantonment Boards.		
	(iv) Construction of industrial zones, consular buildings and other organizations exempt from income tax.		
	(v) Residential construction projects where covered area does not exceed 10,000 square feet for houses and 20,000 square feet for apartments.		

S. No.	Service Description	PCT Heading	Conditions
(1)	(2)	(3)	(4)
2	Services provided for personal care by beauty parlours, clinics and slimming clinics, body massage centres, pedicure centres; including cosmetic and plastic surgery by such parlours / clinics, but excluding cases where: (i) Annual turnover does not exceed Rs. 3.6 million; or (ii) The facility of air-conditioning is not installed or available in the premises	9810.0000, 9821.4000 and 9821.5000	Five per cent subject to the condition that no input tax adjustment or refund shall be admissible.
3	Services provided by freight forwarding agents, and packers and movers.	9805.3000 and 9819.1400	Rs. 1,000 per bill of lading, whichever is higher
4	Services provided by tour operators and travel agents including all their allied services or facilities (other than Hajj and Umrah)	9805.5100, 9805.5000 and 9803.9000	Five per cent subject to the condition that no input tax adjustment or refund shall be admissible
5	Services provided by specialized workshops or undertakings (auto-workshops; workshops for industrial machinery, construction and earth-moving machinery or other special purpose machinery etc; workshops for electric or electronic equipments or appliances etc. including computer hardware; car washing or similar service stations and other workshops)	98.20	Five per cent subject to the condition that no input tax adjustment or refund shall be admissible
6	Services provided by health clubs, gyms, physical fitness centres, indoor sports and games centres and body or sauna massage centres	9821.1000, 9821.2000 and 9821.4000	Five per cent subject to the condition that no input tax adjustment or refund shall be admissible
7	Services provided by laundries and dry cleaners	9811.000	Five per cent subject to the condition that no input tax adjustment or refund shall be admissible
8	Services provided by property dealers and realtors	-	Five per cent subject to the condition that no input tax adjustment or refund shall be admissible
9	Services provided by car / automobile dealers	-	Five per cent subject to the condition that no input tax adjustment or refund shall be admissible

CHAPTER 6 – CUSTOMS DUTY

LOCAL SUBSTITUTE OF IMPORTS BY POWER UNITS

Import of new plant, machinery, equipment and apparatus, including capital goods for new power units of 25MV and above are subject to concessional rates of customs duty, subject to the condition that such goods are not locally manufactured. The said condition has been done away with in respect of those power projects which are on IPP mode meant for supply of electricity to national grid.

TARIFF SLAB RATIONALIZATION

Goods which were previously subject to duty at the rate of 5% and 2% are now to be assessed at 3% in order to reduce number of tariff slabs from 5 to 4. The changes in the First and Fifth Schedules to the Customs Act are effective from June 25, 2016.

REDUCTION IN CUSTOMS DUTY

- (i) By virtue of amendment in First and Fifth Schedules, reduction in customs duty has been made for the following items:

Items	Rate	
	Old	New
Raw material of PVC Resin	5%	3%
White Spirits	10%	3%
Stamping Foil	20%	16%
Fatty Alcohol Ethoxylate	15%	5%
CFC Free Gases	15%	11%
Aluminum Sheet in Coil	20%	11%
Thermostats of Deepfreezes	20%	3%
Bicycle chain parts	20%	15%
Uncoated paper and paperboard	20%	15%
Blister paper	20%	10%
Plastic film medical grade	20%	10%
Polyester resin	20%	15%
Chrysotile asbestos	20%	15%

- (ii) Under the Fifth Schedule, reduction in customs duty rates has been made for following sectors:

Sector	Concession
Fish Farming	Reduction in customs duty on import of water aerators from 15% to 2% and feed pellet (floating type) machinery from 5% to 2%. Reduction in customs duty on import of fish and shrimp feed from 10% / 20% to 0%.
Cool Chain Industry	Reduction in customs duty on import of Cool Chain Machinery from 5% to 3% subject to certain conditions. Reduction in customs duty on import of capital goods to 3% subject to certain conditions.

Sector	Concession
Dairy, Livestock and Poultry Sector	Customs duty on various machinery used in dairy, livestock and poultry reduced from 5% to 2%.
LED Manufacturers	Concession of customs duty on import of parts and components used for local manufacturing of LED lights from 20% to 5%.
Automotive Sector	Various concessions have been proposed for implementation of automotive development policy 2016-2021.
Textile sector	Part IV to the Fifth Schedule has been added to exempt customs duty on import of machinery and equipment for textile sector.

- (iii) Import of solar panels are subject to concessionary duty till June 30, 2016. That date has now been extended to June 30, 2017.

INCREASE IN CUSTOMS DUTY

As part of review / rationalization of customs duty, following major changes have been made:

- (i) General rates of customs duty of 10% and 15% have been increased to 11% and 16% respectively;
- (ii) Rates of customs duty on following items under the First and Fifth Schedule have been increased as under:

Items	Rate	
	Old	New
Betel nuts	10%	20%
Betel Leaves	Rs. 300/Kg	Rs. 600/Kg
Almonds	10%	20%
Frozen fish	10%	20%
Medium Density Fiber board	15%	20%
Cement Clinker	2%	11%
Semi Printed/Printed Security Paper	5%	16%
Live Chicken stock and Eggs of chicken	5%	11%
Birds eggs(not in shell)	5%	16%
Polyester not exceeding 2.22 decitex	6%	7%

EXEMPTION FROM CUSTOMS DUTY

- (i) Exemption from customs duty is allowed on following items:
- Water Quality Testing Kits
 - Linear Akyl Benzene
 - Import of Premixes to prevent growth stunting
 - Old and used Ambulances imported by Edhi Foundation
 - Sodium iron
- (ii) Scope of the exemption from customs duty allowed to Renewable Energy Technologies and Charitable Non-profit making institutions Operating hospitals has been enhanced to certain additional items.

LEVY OF REGULATORY DUTY

Regulatory duty is levied on following items at the rate of 25%:

- Powdered Milk
- Whey Powder

WITHDRAWAL OF REGULATORY DUTY

Regulatory duty on following items has been withdrawn:

- Bead wire for tyres Manufacturers
- Carbon steel strips used by Razor blade manufacturers

SROs issued relating to Customs Duty

***SRO 568(I)/2014 DATED JUNE 26, 2014 (SRO 568)
AMENDED VIDE SRO 475(I)/2016 DATED JUNE 24, 2016 (SRO 475)
(SRO 475 EFFECTIVE FROM JUNE 25, 2016)***

Following changes have been made in SRO 568 which deals with imposition of regulatory duty on import of certain goods:

- (i) Through SRO 475, regulatory duty has been imposed on following additional items by amending SRO 568:

Items	Rate
Milk and cream, concentrated or containing sugar or other sweetening matter	25%
Whey powder	25%
Woven fabrics of synthetic filament yarn, including woven fabrics obtained from materials of heading 54.04	5%
Woven fabrics of synthetic filament yarn, including woven fabrics obtained from materials of heading 54.05	5%
Woven fabrics of synthetic staple fibres, containing 85% or more by weight of synthetic staple fibres.	5 %
Woven fabrics of synthetic staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight not exceeding 170 g/m ² .	5 %
Woven fabrics of synthetic staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight exceeding 170 g/m ² .	5 %
Other woven fabrics of synthetic staple fibres	5 %
Woven fabrics of artificial staple fibres	5 %

- (ii) Regulatory duty has been withdrawn on import of bead wire (PCT code 7217.3010).
- (iii) Exemption from Regulatory Duty on import of special steel round bars and rods of non alloy steel is now restricted to seamless Pipe Manufacturers registered under the Sales Tax Act, 1990.

***SRO 236(I)/2006 DATED MARCH 21, 2016 (SRO 236)
AMENDED VIDE SRO 477(I)/2016 DATED JUNE 24, 2016 (SRO 477)
(SRO 477 EFFECTIVE FROM JUNE 25, 2016)***

Time bounded Regulatory duty was introduced on import of certain items of iron / steel industry SRO 236 dated March 21, 2016, applicable until June 30, 2016. Through SRO 477, said levy has been extended by removing time bound restriction.

Summary of changes in regulatory duty structure initially made through SRO 236 now extended vide SRO 477 is as under:

S. No.	Description	Regulatory Duty Rate	
		New	Old
1	Bars and rods, hot- rolled, in irregularly wound coils, of iron or non- alloy steel	30%	15%
2	Other bars and rods of iron or non- alloy steel, not further worked than forged, hot- rolled, hot- drawn or hot- extruded, but including those twisted after rolling	30%	15%
3	Other bars and rods of iron or non- alloy steel	30%	15%
4	Angles, shapes and sections of iron or non-alloy steel	30%	15%
5	Wire of iron or non-alloy steel	30%	15%
6	Bars and rods, not rolled, in irregularly wound coils, of other alloy steel	25%	10%
7	Other bars and rods of other alloy steel; angles, shapes and sections, of other alloy steel; hollow drill bars and rods, of alloy or non- alloy steel	30%	15%
8	Wire of other alloy steel	35%	20%
9	Standard wire, ropes, cables, plaited bands, slings and the like, of iron or steel, not electrically insulated	25%	10%
10	Screws, bolts, nuts, coach screws hooks, rivets, cotters, cotter-pins, washers (including spring washers) and similar, article, of iron or steel.	25%	10%
11	Wire, rods, tubes, plates, electrodes and similar products, of base metal or of metal carbides, coated or cored with flux material, of a kind used for soldering, brazing, welding or deposition of metal or of metal carbides; wire and rods, of agglomerated base metal powder, used for metal spraying.	25%	10%
12	Aluminum Alloys	10%	0%

***SRO 565(I)/2006 DATED JUNE 05, 2005 (SRO 565)
AMENDED VIDE SRO 474(I) / 2016 DATED JUNE 24, 2016 (SRO 474)
(SRO 474 EFFECTIVE FROM JULY 01, 2016)***

SRO 565 provides concessionary rates of customs duty on import of raw material used in manufacturing of specified goods.

Through SRO 474, amendments have been made in SRO 565, whereby certain concessions have been withdrawn, and certain concessions have been amended which are summarized as under:

(i) ***Concessions Withdrawn:***

S. No.	Item / Industry	Concessionary Rates
1.	Powder Coatings.	10%
2.	Chrysotile Cement Pipes, Sheets & Fittings.	10%
3.	Aluminum pre-sensitized printing plates.	5%
4.	Artificial leather industry	10%

S. No.	Item / Industry	Concessionary Rates
5.	Diapers and Sanitary Napkins.	10% to 15%
6.	Disposable/Auto Disable Syringes	5%
7.	High Pressure Laminate (Formica) and Low Pressure Laminates.	10%
8.	Metallic Yarn / Powder	10%
9.	Printing ink.	10% to 15%
10.	Seamless pipes.	5%
11.	(1) Sugar Mill. (2) Cement plant. (3) Plants for the production of industrial chemicals. (4) Thermal power plant. (5) Hydel Power Plant. (6) Fertilizer plants. (7) Heat exchangers, pressure vessels, Coloumns, filters, production separators, coolers and boilers, Bundle of Heat Exchanger, Economizer / Deaerator / Storage Tanks / Silencer, Heat Recovery Steam Generator HRSG, Heater / Flaker. (8) Machinery for the manufacture of surgical goods, sports goods and stuffed toys. (9) Machinery supplied to the approved manufacturers / assemblers of vehicles, capital goods, electronics equipment and system, consumer durable items and auto parts. (10) Marble processing industry. (11) Steel pipes/tubes industry. (12) Machinery and capital goods or engineering goods meant for export. (13) Textile machinery. (14) Certain types of oil and gas development plants. (15) Machinery, equipment, intermediary or capital goods and specialized vehicles (4 x 4 non luxury) excluding passenger vehicles. (16) Machinery, equipment, vehicles and intermediary or capital goods. (17) Any other industrial plant recommended and approved by FBR.	5%
12.	Agriculture Diesel Engines (Single Cylinder of 3-36 HP)	5% to 15%
13.	Liquid Food Packaging Industry for dairy and juices.	10%
14.	Flexible Packaging Laminates Industries excluding Cigarettes Industries	10%
15.	Gypsum Board	10%
16.	Gum Base	5%
17.	Butyl Acetate	10%

(ii) Following changes have been made in concessionary rates in respect of certain items / industry:

Item / Industry	Old rates	New rates
Steel balls not exceeding 1mm diameter	5%	3%

***SRO 809(I)/2009 DATED SEPTEMBER 19, 2009 (SRO 809)
AMENDED VIDE SRO 478(I)/2016 DATED JUNE 24, 2016 (SRO 478)
(SRO 478 EFFECTIVE FROM JUNE 25, 2016)***

SRO 809 provided exemption from customs duty on import of certain machinery and equipment, if imported by textile industrial units registered with Ministry of Textile Industry. The said SRO has been rescinded owing to shifting of relevant exemption clauses to Part IV of the Fifth Schedule to the Customs Act, 1969. There is however no change in exemptions provided to textile industrial units.

***SRO 1178(I)/2015 DATED NOVEMBER 30, 2015 (SRO 1178)
AMENDED VIDE SRO 476(I) / 2016 DATED JUNE 24, 2016 (SRO 476)
(SRO 476 EFFECTIVE FROM JUNE 25, 2016)***

Additional customs duty was levied at the rate of @1% under SRO 1178 on certain products.

Through SRO 476, certain amendments have been made in SRO 1178 which are summarized as under:

Exemption from additional customs duty extended:

	Serial no.	Item / Industry
1.	2309.9090	Shrimp feed
2.	2309.9090	Poultry feed preparation (coccidiostats)

Exemption from additional customs duty withdrawn:

	Serial no.	Item / Industry
1.	2304.0000	Soyabean meal

***SRO 482(I)/2009 DATED JUNE 13, 2009 (SRO 482)
AMENDED VIDE SRO 485(I)/2016 DATED JUNE 29, 2016 (SRO 485)
(SRO 485 EFFECTIVE FROM JUNE 29, 2016)***

SRO 482 levy regulatory duty on import of certain goods which inter alia include vehicles (PCT Code 87.03) @ 50% ad valorem.

Through SRO 485, value for the purpose of levying regulatory duty on import of such vehicles having bullet proofing and other security features is prescribed to be taken as the value determined for the purpose of duty assessment under SRO 1121(I)/2007 dated November 17, 2007. The said value is currently assessed under normal ITP (meant for same make or model of vehicles without security features) supplied by original manufacturer or authorized agent with 10% addition to ITP for assessment of duty.

It is stated that change in valuation would not entitle any person to claim refund of duty already paid.

***SRO 655(I)/2006 DATED JUNE 22, 2006 (SRO 655)
AMENDED VIDE SRO 482(I)/2016 DATED JUNE 29, 2016 (SRO 482)
(SRO 482 EFFECTIVE FROM JULY 01, 2016)***

SRO 655 provides concessionary rates / exemptions on import of raw materials, sub-components, components and sub-assemblies, which are imported for the manufacture of components and assemblies certain vehicles.

- (i) Through SRO 482, amendments have been made in SRO 655, whereby certain concessions have been withdrawn as well as certain new concessions have been provided for, which have been summarized as under:

S. No.	Item / Industry	Raw Material		Sub-component		Component		Sub-assemblies	
		New	Old	New	Old	New	Old	New	Old
1.	For Agricultural tractors of PCT 8701	1%	0%	1%	0%	1%	0%	1%	0%
2.	Road tractors for Semi-trailers (Prime Movers) of 280 HP and above of PCT Heading 8701	1%	0%	1%	0%	1%	0%	1%	0%
3.	Road Tractors for semi-trailers(Prime Movers) less than 280 HP of PCT heading 8701	1%	0%	1%	0%	1%	0%	1%	0%
4.	For fully CNG-dedicated vehicles of PCT heading 87.02	1%	0%	10%	0%	10%	0%	15%	0%
5	For vehicles falling under PCT heading 87.02(Non-CNG) & 87.04	1%	0%	10%	5%	10%	10%	15%	15%
6.	For vehicle of PCT 87.03 (except 4-Stroke auto rickshaw PCT heading 8703.2115)	1%	0%	10%	5%	10%	10%	20%	20%
7.	4-Stroke auto rickshaw PCT heading 8703.2115	1%	0%	10%	5%	10%	10%	20%	20%
8.	Vehicles of PCT heading 87.11(except motorcycle rickshaw of PCT heading 8711.3020)	1%	0%	10%	5%	10%	10%	20%	20%
9.	Motorcycle rickshaw of PCT heading 8711.3020	1%	0%	10%	5%	10%	10%	20%	20%
10	For bicycles falling under PCT heading 87.12	1%	0%	5%	5%	10%	10%	10%	10%
11	Other vehicles	1%	0%	10%	5%	10%	10%	15%	15%
12	Vehicles of g.v.w. not exceeding 5 tons of PCT heading 87.04 (except 3-Wheeler cargo loader of PCT heading8704.3150)	1%	0%	10%	5%	10%	10%	15%	15%
13	3- Wheeler cargo loader of PCT heading 8704.3150	1%	0%	10%	5%	10%	10%	20%	15%
14	Vehicles of g.v.w. exceeding 5 tons of PCT heading 87.04	1%	0%	10%	5%	10%	10%	15%	15%

- (ii) An additional clause has been inserted whereby in case of violation of any of the prescribed conditions, Engineering Development Board has been authorized to either suspend or hold revalidation of Input Output Ratio Certificate, pending removal of objections.

***SRO 656(I)/2006 DATED JUNE 22, 2006 (SRO 655)
AMENDED VIDE SRO 483(I)/2016 DATED JUNE 29, 2016 (SRO 483)
(SRO 483 EFFECTIVE FROM JULY 01, 2016)***

SRO 656 provides exemption/ concessionary rates of customs duty on import of components in any kit form for assembly or manufacture of vehicles falling under Chapter 87 of the First Schedule to the Customs Act 1969.

Through SRO 483, necessary amendments have been made to give effect to the Auto Development policy 2016-21 announced by Ministry of Industries vide Notification No. 2(9)/2013-LED-II dated the 2nd June, 2016, inter alia introducing customs duty exemptions for investors, being importer-cum-assembler or manufacturer, under 'Category-A Greenfield Investment' and 'Category-B Brownfield Investment.

***SRO 693(I)/2006 DATED JULY 1, 2006 (SRO 693)
AMENDED VIDE SRO 484(I)/2016 DATED JUNE 29, 2016 (SRO 484)
(SRO 484 EFFECTIVE FROM JULY 01, 2016)***

SRO 693 levy additional customs-duty on import of vehicles at varying rates

Through SRO 484, following amendments have been made in SRO 693:

- (a) Sub-components and components imported in any kit form by an assembler or manufacturer, have been exempted for additional customs duty for a person declared to be an investor under Category-A "Greenfield Investment" for a period of five years, and under Category-B "Brownfield Investment" for a period of three years. The concession has been given to give effect to Auto Development Policy 2016-21
- (b) Additional customs duty on import of following item have been amended as follows :

S. No.	Description of Vehicle	New rates of additional customs duty	Old rates of additional customs duty
1	Road tractors for semi trailer Prime Movers	31% ad val	26 to 35%
2	Vehicles of PCT heading 87.03 (excluding 4-Stoke auto rickshaw of PCT heading 8703.2115)	16% ad val	18.5%
3	Vehicles falling under PCT 87.11	31% ad val	33.5%

CHAPTER 7 – SINDH FINANCE ACT, 2016 & SINDH WPPF

SINDH SALES TAX ON SERVICES

REVISION IN RATE OF SALES TAX

[Second Schedule]

The existing general rate of sales tax on services has been reduced from 14% to 13%.

The rate of sales tax on telecommunication services which was previously chargeable to tax at 18% has been increased to 19%. Moreover, it was mentioned in the budget documents that the reduced rate applicable on various services has also been increased from 6% to 8%. However, the related notification is not yet issued / available.

ADDITIONS TO THE LIST OF TAXABLE SERVICES

[Second Schedule]

Following services are taxable effective July 1, 2016:

1. Chartered Flights within Sindh or originating from any airfield in Sindh.
2. Other Consultants including human resource and personnel development consultants in addition to existing category of tax consultants.
3. Public Relations services.
4. Cosmetic and plastic surgery services including hair transplant and similar services.
5. Visa Processing including immigration advisory services.
6. Debt Collection and other debt recovery services.
7. Supply Chain Management or distribution (including delivery) services.

The amendment relating to levy of sales tax on 'Chartered Flight Services' needs to be examined in relation to Constitutional right of Provinces to levy taxes on inland and air travel.

Distribution of goods and supply chain management represent activity which is covered under the Federal Sales Tax Act. The charge of tax on such activity by the Provinces will require legal sanction which is apparently not available under the Constitution. It appears that the levy is restricted to delivery services (of goods) in relation to supply chain management and distribution activity.

For the purpose of taxing above-referred new services, the following definitions have been incorporated, however, no definition has been introduced for 'distribution and supply chain management services':

(29) “cosmetic and plastic surgery” includes the services provided or rendered by any person, in relation to aesthetic or cosmetic surgery or plastic surgery like abdominoplasty (tummy tuck), blepharoplasty (eyelid surgery), mammoplasty, buttock augmentation and lift, rhinoplasty (reshaping of nose), otoplasty (ear surgery), rhytidectomy (face lift), liposuction (removal of fat from the body), brow lift, cheek augmentation, facial implants, lip augmentation, forehead lift, cosmetic dental surgery, orthodontics, aesthetic dentistry, laser skin surfacing, hair grafting, hair transplant and such other similar surgery.

(31A) “debt collection services and other debt recovery services” means the services provided by a person to a banking company or a financial institution including non-banking financial company or any other body corporate or a firm or a person, in relation to recovery of any sums due to such banking company or a financial institution including non-banking financial company or any other body corporate or a firm or a person, in any manner.

(69A) “public relations services” includes strategic counselling based on industry, media and perception research, corporate image management, media relations, media training, press release, press conference, financial public relations, brand support, brand launch, retail support and promotion, events and communications and crisis communications.

TIME PERIOD FOR REFUND

[Section 15]

Refund arising as a result of a claim of adjustments or deductions is now required to be claimed on yearly basis in the month following the end of financial year. Previously, no time period was prescribed for such claim.

INPUT TAX CREDIT NOT ALLOWED

[Section 15A]

A new section 15A regarding inadmissibility of input tax has been introduced. Previously, such procedure was prescribed in Rule 22A of the Sindh Sales Tax on Services Rules, 2011. The list now provided in section 15A as compared to Rule 22A, as highlighted in italics, is reproduced below:

- A registered person shall not be entitled to claim, reclaim, adjust or deduct input tax in relation to –
 - (a) the goods or services used or to be used for any purpose other than for the taxable services provided or rendered or to be provided or rendered by him;
 - (b) the goods in respect of which sales tax has not been deposited in the federal government treasury by the respective suppliers of goods;
 - (c) the services in respect of which the Provincial sales tax has not been deposited in the treasury of the respective Provincial Government, and the services in respect of which the Islamabad Capital Territory sales tax has not been deposited in the treasury of the Federal Government;
 - (d) further tax, extra tax or value addition tax levied under the Sales Tax Act, 1990 and the rules or notification issued thereunder;
 - (e) fake, false, forged, flying or fraudulent invoices or the invoices issued by persons black-listed or suspended by Board or FBR or any other Provincial Sales Tax Authority;
 - (f) capital goods and fixed assets not exclusively used in providing or rendering of taxable services;
 - (g) the following goods or services, excluding the ones directly used and consumed in the economic activity of a registered person in provision of the services paying sales tax at a rate not less than 13 percent ad valorem;

- (i) vehicles classified under Chapter 87 of the First Schedule to the Customs Act, 1969 and parts (including batteries and tyres and tubes) of such vehicles;
 - (ii) calendars, diaries, gifts, souvenirs and giveaways;
 - (iii) garments, uniforms, fabrics, footwear, handwear, headwear for the employees.
 - (iv) food, beverages and consumption on entertainments, meetings or seminars or for the consumption of the registered person or his Directors, shareholders, partners, employees or guests.
 - (v) electricity, gas and telecommunication services supplied at the residence of the employees or in the residential colonies of the employees;
 - (vi) building materials including cement, bricks, mild steel products, paints, varnishes, distemper, glass products.
 - (vii) office equipment and machines (excluding electronic fiscal cash register), furniture, fixtures or furnishings;
 - (viii) electrical and gas appliances, pipes and fitting.
 - (ix) wires, cables, sanitary fitting, ordinary electric fittings, electric fans and electric bulbs and tubes; and
 - (x) crockery, cutlery, utensils, kitchen appliances and equipment.
- (h) Utility bills not in the name of the registered person unless evidence of consumption of such utilities is provided to the satisfaction of the officer of the SRB not below the rank of an Assistant Commissioner.
- (i) goods or services procured or received by a registered person during a period exceeding six months prior to date of commencement of the provision of taxable services by him;
- (j) goods or services used or consumed in a service liable to sales tax at ad valorem rate lesser than thirteen per cent or at specific rate at fixed rate or at such other rates not based on value.
- (k) the amount of sales tax paid on the telecommunication services in excess of nineteen per cent ad valorem and the amount of sales tax paid on other taxable goods or services in excess of thirteen per cent ad valorem; and
- (l) such goods or services as are notified by the Board to be in-admissible for input tax claim or reclaim or credit or adjustment or deduction.

If a registered person deals with taxable and non-taxable or exempt services, he shall be entitled to claim or reclaim, for input tax credit or adjustment or deduction, only such proportion of input tax as is attributable to taxable or non-exempt services in such manner as may be prescribed by the Board.

JOINT AND SEVERAL LIABILITY WHERE TAX IS UNPAID

[Section 18]

The liability for charge and recovery which was earlier limited to services received by a registered person has now been extended to all persons including unregistered persons receiving such services.

It transpires that the objective of this amendment is to remove the immunity which was deemed to be applicable for the reason that a person receiving the taxable service was unregistered at the time of incidence of tax.

SALE OF TAXABLE ACTIVITY AS A GOING CONCERN*[Section 19]*

In the case of transfer of taxable activity as a going concern, the tax incidence lies on the transferee whenever the services are rendered.

A proviso has been added whereby in the case of any tax unpaid at the time of transfer, the same shall have the first charge on the assets of the business and the person buying and selling the business shall be jointly and severally liable for such tax.

REVISION OF PERIOD OF LIMITATION FOR CERTAIN ACTIONS UNDER SALES TAX ACT*[Section 23, 27 and 47]*

The limitation of time period for undertaking the following actions under the Sindh Sales Tax on Services Act, 2011 has been revised as under:

S. No.	Description	Increase in period
(i)	Time limit for passing order under section 23(1) and (2)	From 5 years to 8 years
(ii)	Retention and production of records and documents	From 5 years to 10 years
(iii)	Recovery of tax not levied or short levied under section 47	From 5 years to 8 years

RECOVERY OF TAX SHORT / NOT WITHHELD*[Section 47 (1B)]*

Recovery procedure of tax short or not withheld by a withholding agent has also been made part of the law. Now, recovery for tax not withheld or short withheld can be made from the withholding agent.

SEPARATE RETURN IN CASE OF CHANGE IN RATE*[Section 30 (5)]*

The requirement to file separate return in case of change in rate of tax during a tax period has been withdrawn.

EXEMPTION THRESHOLD FOR CERTAIN SERVICES ENHANCED*[Notification No. SRB-3-4/7/2013 dated June 18, 2013]*

It has been announced that a minimum annual threshold for the levy of sales tax on certain services as prescribed under Notification No. SRB-3-4/7/2013 dated June 18, 2013 will be enhanced from Rs. 3.6 million to Rs 4 million per annum.

The services included are Restaurants and Caterers, Beauty Parlors / clinics and slimming clinics, auto workshops, workshops for electric or electronic equipment and automobile washing, laundries and drycleaners.

EXEMPTION FOR INTERNET AND BROADBAND SERVICES

The exemption threshold provided under the Notification No. SRB-3-4/7/2013 dated June 18, 2013 for the internet and broadband services previous has been enhanced as under:

Previous	Revised
2 mbps speed and Rs 1,500 per month per user	4 mbps speed and Rs 2,500 per month per user

STAMP DUTY

Through the Sindh Finance Act, 2016 the rates of stamp duty on certain documents including Bill of Entry, Bill of Exchange and Power of Attorney have been increased.

SINDH URBAN IMMOVABLE PROPERTY TAX ACT, 1958

The Sindh Urban Immovable Property Tax Act, 1958 ('1958 Act') imposes tax on the immovable properties in an urban area. The Sindh Finance Act, 2016 has amended the 1958 Act with the following provisions:

- 1) A rebate equal to 5% percent of the amount of annual tax for a financial year be allowed on the annual rental value of buildings and lands. The rebate is to be allowed subject to the condition that the amount of annual tax is paid in lump sum on or before the 30th day of September of the respective Financial Year.
- 2) Imposition of surcharge @ 10% in the event of default in payment of tax imposed under the 1958 Act.

INFRASTRUCTURE CESS

A schedule has been prescribed for the levy of Infrastructure cess. Under the revised Schedule, the levy of such tax will be based on the weight of imported goods starting from 1,250 KG to those exceeding 16,000 KG as per the following chart:

Net Weight of Goods	Rate of Cess along with distance
Upto 1,250 kilograms	1.10% of total value of goods as assessed by the Custom Authorities.
Exceeding 1,250 kilograms but not exceeding 4,060 kilograms.	1.11% of total value of goods as assessed by the Custom Authorities plus one paisa per kilometer.
Exceeding 2,030 kilograms but not exceeding 4,060 kilograms.	1.12% of total value of goods as assessed by the Custom Authorities plus one paisa per kilometer.
Exceeding 4,060 kilograms but not exceeding 8,120 kilograms.	1.13% of total value of goods as assessed by the Custom Authorities plus one paisa per kilometer.
Exceeding 8,120 kilograms but not exceeding 16,000 kilograms.	1.14% of total value of goods as assessed by the Custom Authorities plus one paisa per kilometer.
Exceeding 16,000 kilograms	1.15% of total value of goods as assessed by the Custom Authorities plus one paisa per kilometer.

This cess was previously charged on a composite basis having relation with the value assessed by the Customs authorities and a cess based on the weight of the goods.

Now, the rate in relation to the value of goods has been revised upward and a charge on the basis of weight being 1 paisa per Kilometer has been related to the distance covered within the province.

SINDH COMPANIES PROFITS WORKERS' PARTICIPATION ACT, 2015

The Government of Sindh, in exercise of powers conferred under the Constitution, has enacted the Sindh Companies Profits (Workers' Participation) Act, 2015, (the 2015 Act) which is deemed to be effective from 2011. The practical application of retrospective legislation needs to be examined in relation to the Companies which have already discharged the liability under Federal Law for a period from July 1, 2011 to the date of enactment of this 2015 Act.

Earlier, Sindh WWF Law has already been enacted under the similar Constitutional Powers.

Now, both WPPF and WWF have been enacted under the Provincial legislations of Sindh which effectively means that for workers and establishment situated in Sindh, the Federal law will not be applicable and the levy shall be required to be paid under the Scheme prescribed under the Sindh Acts. However, corresponding amendments are required to be made in the Income Tax Ordinance, 2001 to expressly provide for the admissibility of contributions under the Provincial WWF and WPPF laws as well as to exempt the receipts of workers under the Provincial WPPF Scheme.

Under the Federal WPPF regime, 5% of profits is allocable to workers. There is a mechanism for distribution to the workers and the excess over the mechanism is deemed to be a payment to WWF.

The rate of profit allocation to workers under the Sindh Act is also 5% in line with the Federal legislation. As per the WPPF Act, the excess over the profit allocable to workers under the Scheme shall have to be transferred to Federal WWF. This matter needs to be examined as there is now a Provincial WWF in place.

The levy is, in principle, based on the entities being a company formed under the Federal legislation namely viz. the Companies Ordinance, 1984. It is considered that a mechanism / procedure would have to be prescribed for allocation / attribution of profits or workers to which this Provincial levy will be applicable in case the operations and organisation of the company is not limited to the Province of Sindh.

The general scheme of the 2015 Act is similar to the Companies Profits (Workers' Participation) Act, 1968, (**the 1968 Act**) however, there are very few important deviations as under:

- (i) Eligibility:** Companies employing 50 persons were required to establish a Workers Participation in Profits Fund (WPPF) under the 1968 Act of Federation. This limit prescribed under the 2015 Act of Sindh is 100 persons.
- (ii) Workers:** The definition of "Worker" has been extended to include workers employed by the contractor. "Worker" in relation to a company is defined to mean an employee of the company, including employed by or through the contractor, who falls within the definition of the worker as defined in Clause (xxx) of section 2 of the Industrial Relations Ordinance, 2002, and has been working for or in the company for a period of not less than six months.
- (iii) Disbursement of Benefits:** The wage categories for the disbursement of benefits to the workers have been amended as follows:
 - (a)** Workers drawing average minimum monthly wages as fixed by the Government from time to time.
 - (b)** Workers drawing average minimum monthly wages as fixed by the Government from time to time but not exceeding Rs. 20,000.
 - (c)** Workers drawing average minimum monthly wages exceeding Rs. 20,000.

Previously, the categories for disbursement of benefits were as follows:

- (a) Workers drawing average monthly wages not exceeding Rs. 5,000
- (b) Workers drawing average monthly wages exceeding Rs. 5,000 but not exceeding Rs. 7,500
- (c) Workers drawing average monthly wages exceeding Rs. 7,500 but not exceeding Rs. 10,000

(d) **Maximum Share:**

Furthermore, the maximum share a worker can receive is to be four times of the minimum wages for unskilled worker as given in the Schedule of Minimum Wages for Unskilled Workers Ordinance, 1969.

(e) **Applicability of Law:**

The Scheme applies to all companies which are engaged in Industrial undertakings as defined in the Schedule to the Act which is primarily in line with those covered by 1968 Act.

CHAPTER 8 - PUNJAB FINANCE ACT, 2016

PUNJAB SALES TAX ON SERVICES

RECOVERY OF WITHHOLDING SALES TAX

[Section 14 (3)]

The mechanism for recovery of non / short withholding of tax or failure to deposit such withheld tax earlier notified under Rules has been made part of the main statute.

ADJUSTMENT OF INPUT SALES TAX

[Section 16]

In line with amendments made in ST Act last year, provisions with respect to admissibility of input sales tax, earlier prescribed in Rules, have been consolidated in main statute. The negative list has been made similar to that contained in ST Act and in this respect in line with Federal Finance Act, 2016, following amendments have also been made:

1. Such federal or provincial sales tax where the underlying federal/ provincial legislation does not allow for adjustment of Punjab sales tax;
2. Goods and services not declared by the suppliers in its returns, from a date to be notified by the Authority;
3. Any fixed tax paid under the respective federal or provincial sales tax laws; and
4. Input sales tax involving a transaction in excess of Rs 50,000 where transaction has not been made through identifiable banking channels – in line with section 73 of the ST Act.

Cross adjustment of sales tax between Federation and provinces is required to be reinstated as any limitation thereon is against the spirit of VAT mode of taxation and will consequence into inflationary trend in the economy.

SALES TAX WITHHOLDING RETURN

[Section 35]

With respect to withholding of sales tax by withholding agents, a new sub-section has been introduced [in the relevant provisions of Punjab Act governing the filing of returns] whereby the statement filed by such withholding agents [under the provisions of Punjab Sales Tax on Services (Withholding Rules), 2015] has also been treated as a sales tax return.

However, it has been clarified that such statement would not be a substitute for the sales tax return required to be filed by a taxpayer in the capacity of a service provider.

ENHANCEMENT IN RATE OF PENALTY*[Section 48]*

The amount of penalty leviable for non-filing of sales tax return by the due date has been enhanced as under:

Previously applicable	Revised
Rs. 5,000, provided if return is not filed within 15 days, Rs. 100 for each day of default.	Rs. 10,000, provided if return is not filed within 15 days, Rs. 200 for each day of default.

TAX ON CERTAIN SERVICES*[Second Schedule]*

Following services have been taxed effective July 1, 2016 that were previously not chargeable to sales tax:

1. Services provided by cosmetic and plastic surgeons and hair transplant services (excluding services provided to acid or burn victims);
2. Services provided by warehouses or depots for storage including cold storages;
3. Services provided by packers including handling and packaging services;
4. Construction services rendered to government and cantonment boards; and
5. Collection and processing of domestic waste and street cleaning services.

SCOPE OF CERTAIN TAXABLE SERVICES ENHANCED/ CLARIFIED*[Second Schedule]*

The scope of taxability relating to the following taxable services has been enhanced/ clarified as follows:

1. Club related services (including race clubs) now also include membership services, facilities and advantages provided to members against any charge /subscription;
2. All types of advertisements including those:
 - through video programs, motion pictures and music albums;
 - on moving vehicles, cell phones, ATMs & bill-boards;
 - at public places, buildings & conveyances; and
 - through provision of space or time, brand activation, aerial advertising or offering of product exclusively in any manner.
3. Following construction related services:
 - Building construction (including water & gas supply and sanitary works);
 - roads & bridges;
 - electrical and mechanical works;
 - horticulture; and
 - multi-disciplinary works (including 'turnkey contracts').
4. Business support services now also include business auxiliary services;
5. Services in relation to various mediums of transportation now also include those through transmission lines.

STAMP DUTY ACT, 1899

The stamp duty on transfer of immovable property through 'power of attorney' (against 'consideration') has been levied @ 3% in terms of rates notified by District Collector in valuation table relating to immovable property. Previously, duty was leviable @ 3% of 'consideration'.

Similarly, transfer of immovable property through 'power of attorney' without 'consideration', that is presently subject to duty at a flat rate of Rs 1,200, has been restricted to the extent of instruments executed between immediate relatives. Other such instruments are now subjected to duty @ 2% of value of property in terms of valuation table notified by District Collector.

Simultaneously, capital value tax on transfer through 'power of attorney' (leviable at Rs 100 per square foot) has been withdrawn.

Further, transfer of 'right/ interest in immovable property' ('plot files') is now subject to duty at 3% of value of property in terms of valuation table notified by District Collector. Previously, duty was leviable @ 3% of value of property.

The Act also clarifies the ambiguity regarding persons responsible for payment of stamp duties on contracts, beneficiaries of court orders, gifts and interests in immovable property.

PUNJAB URBAN IMMOVABLE PROPERTY TAX ACT, 1958

To increase tax base of the property tax and to check speculative trade of real estate, vacant plots for residential, commercial or industrial use are now also subjected to 'property tax'. However, for such purposes, plots held by first time allottees/ possessors upto a period of less than two years stand excluded.

An explanation has also been inserted to clarify the exemption of building and lands used exclusively for educational & charitable purposes.

THE PUNJAB ENTERTAINMENTS DUTY ACT, 1958

Entertainment duty has been withdrawn on entertainment provided by 'well of death', 'swings' and 'magic shows'.

PUNJAB MOTOR VEHICLES TAXATION ACT, 1958

Vehicle tax on motor cab rickshaws is to be paid in lump sum at Rs 3,000. Previously, such tax was payable @ Rs 400 per annum.

Similarly, for motor vehicles having an engine capacity exceeding 1,000cc but less than 1,300cc, tax is to be paid in lump sum being equivalent to annual charge (of Rs 1,800) for three years.

For facilitation of owners of motor vehicles, the periodic lump payment of motor vehicle tax is to be made at any time of the year.

10% rebate in the amount of tax, if paid before end of July every year, is now available if the payment is made by the end of the month of August.

VEHICLE REGISTRATION FEE (PUNJAB FINANCE ACT, 1973)

Rate of registration fee for vehicles with engine capacity of 1,500cc upto 2,000cc has been enhanced from 2% to 3%.

PUNJAB INFRASTRUCTURE DEVELOPMENT CESS

It has now been prescribed that the definition of 'value' under the Punjab Infrastructure Development Cess Act, 2015 for imported/ exported goods is to be the same as determinable under the provisions of Customs Act, 1969.

TAX ON IMPORTED MOTOR CARS

A one-time tax on imported motor cars which have an engine capacity exceeding 1,300cc and are registered after June 30, 2016 (excluding those owned by Federal/ Provincial governments) has been levied at following rates:

Engine Capacity	Tax
exceeding 1,300cc but not exceeding 1,500cc	Rs. 70,000
exceeding 1,500cc but not exceeding 2,000cc	Rs. 150,000
exceeding 2,000cc but not exceeding 2,500cc	Rs. 200,000
exceeding 2,500cc	Rs. 300,000

CHAPTER 9 – KHYBER PAKHTUNKHWA FINANCE ACT, 2016

KPK SALES TAX ON SERVICES

ADDITIONS TO THE LIST OF SERVICES

[First Schedule]

Following services have been included in the First Schedule (i.e., the list of 'services' which can be taxed) but are not yet included in the Second Schedule (i.e., list of 'taxable services'):

1. Facilities for travel by road;
2. Cargo services by road;
3. Visa processing services including advisory or consultancy services for foreign education or for migration; and
4. Valuation services including competency and eligibility testing services.

POWERS OF OFFICERS

[Section 56A]

Powers of officers of the KPK Revenue Authority (Authority) have been streamlined by:

- Empowering an officer to exercise powers and discharge duties of officers subordinate to him;
- Empowering the Authority to limit, restrict or impose conditions on exercise of powers by officers; and
- Empowering the Authority to notify certain officers to exercise powers or functions of senior officers.

APPELLATE AUTHORITIES

[Section 84]

Authority is empowered to extend powers of Collector (Appeals) to Additional Collector till the appointment of regular Collector (Appeals). However, appeals of cases adjudicated by such officers would not be fixed before these officers.

Taxpayer or the officer not below the rank of additional collector were allowed to appeal before the Tribunal only against the order of Collector (Appeals). Both the parties now can file appeals before the Tribunal against any order of Collector (Appeals), Collector or the Authority.

REGULATIONS

Authority has been empowered to make regulations except where specific approval is required from the Council.

STAMP DUTY

Through the KPK Finance Act, 2016, the rates of stamp duty on certain documents including arms licenses of prohibited bores have been increased.

WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX ACT, 1958

The West Pakistan Immovable Property Tax Act, 1958 as adopted by KPK imposes tax on the immovable properties in an urban area. Through the KPK Finance Act, 2016, another category 'C' has been included with locality factor five for the purpose of computing property tax.

MOTOR VEHICLE ROAD TAX

For levy of motor vehicle tax, Schedule II of West Pakistan Motor Vehicles Taxation Act, 1958 has been substituted with enhanced rates.

ELECTRICITY DUTY

Electricity duty on variable charges or the supply charges of electricity consumed by the following has been reduced as under:

- Domestic from 8% to 1.5%
- Commercial from 5% to 1.5%
- Industrial from 5% to 1%

Duty for electricity consumed by tube wells for irrigation and agriculture machinery has been fixed at 1%. The rate is prescribed to be 1.5% for premises where the supply of energy by a licensee is un-metered.

PROFESSIONAL TAX

Through the KPK Finance Act, 2016, professional tax has been levied on Association of Persons and sole proprietors at varying rates up to Rs. 100,000.