



Tax Memorandum 2016

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PREFACE

This tax memorandum summarizes crucial changes proposed in the Finance Bill 2016 in Income Tax, Sales Tax, Federal Excise Duty and Customs Duty Laws.

All changes through the Finance Bill 2016 are effective from 01 July 2016 except where specifically indicated.

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

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

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MAJOR CHANGES IN INCOME TAX LAWS

- Super Tax has to be paid for Tax Year 2016 as well.
- Companies with even 'Gross Loss' will have to pay for Minimum Income Tax of 1% of their turnover.
- Group relief given to holding company on prorata basis to its shareholding.
- Tax credit of 3% of the Tax payable will be allowed to manufacturers who make 90% of their sales to registered persons.
- 10% tax credit for Companies for investment in Plant & Machinery to continue till June 2019.
- Employment Tax Credit @ 2% for every 50 employees to be allowed to company setting up new manufacturing units up to June 30, 2019.
- The slab of taxable property income has been increased from 150,000/- to 200,000/-
- Pharmaceutical Companies to be allowed Sales promotion, advertisement and publicity expense up to 5% of turnover.
- Tax Rebate on Purchase of Health Insurance Policy introduced.
- House Loan interest Allowance can be claimed up the interest or profit payment of 2,000,000/-
- Last date for 2% additional Pension in VPS has been extended to June 2019.
- Tax Rebate on Education expenses of children has been introduced.
- The exemption limit of Provident Fund exemption has been increased from 100,000/- to 150,000/-

MAJOR CHANGES IN SALES TAX LAWS

- Disallowance of Provincial Taxes (including Islamabad Capital Territory)
- Threshold for cottage industry increased to Rs 10 million
- New dates for filing of Annexure of the sales tax returns to align with new system
- Input tax claim can only be claimed when supplier has declared and paid the related sales tax
- New Sub Section 4A in Section 11 is to be inserted to empower tax officer for determining default of withholding sales tax
- Mineral water is to be listed in Third Schedule
- Issuance of zero rated invoice on sale or transfer of business and amendments in Section 49 to remove confusion
- Abolition of zero rating on stationary items and milk
- Exemption from sales tax on pesticides
- Exemption for businesses established in Gawadar and supplies thereof for 23 years.
- Sales tax @ 8% on white crystalline sugar and withdrawal of duty from Federal Excise Act, 2005
- Sales tax on specified mobile phones increased
- No tax, No refund for five export oriented sectors and the purchase of energy, gas, furnace oil and coal will be zero rate. The retail sales of finished goods would be @ 5%
- Turnover tax @ 2% for specified retailer falling in Tier-I
- Fixed sales tax on Marble Industry @ 1.25 per KWH on electricity consumption
- Application of certain provision of the Sales Tax Act, 1990 on Islamabad Capital Territory (Tax on Services) Ordinance, 2001

MAJOR CHANGES IN FEDERAL EXCISE DUTY LAWS

- Withdrawal of duty on certain services which are subject to sales tax under Provincial laws
- Duty on cement changed from 5% of retail price to Rs. 1 per kilo gram of cement
- Duty on cigarettes enhanced
- Rate of duty on aerated waters enhanced from 10% to 11.5% of retail price

INCOME TAX ORDINANCE, 2001**CHANGES IN PROVISIONS OF PERSONAL TAXATION****Tax Rebate on Purchase of Health Insurance Policy**
(Section 62A)

A new tax rebate has been proposed on the purchase of health insurance policy. This rebate is in addition to the tax rebate already allowed in case of life insurance policies. The tax Credit/Rebate shall be allowed if the person has paid health insurance premium or contribution to any health insurance company registered by the Securities and Exchange Commission of Pakistan under the insurance Ordinance, 2000.

It has, however, not been mentioned that whether the rebate will be allowed strictly on health insurance policy purchased for the person himself or will be permissible for his family and dependents as well.

The mechanism for calculation of tax rebate has been based on the average rate of tax applicable on the person with upper limit on the amount of eligible health insurance premium at the lower of following:

- i- Actual Premium Payment
- ii- 5% of Amount Taxable Income
- iii- 100,000/-

The health insurance rebate is strictly allowed only in case of salary income and business income or both but will not be available against Minimum Taxation or Final taxation.

2% Additional Voluntary Pension Scheme (VPS)
(Section 63(2)(C)(II))

The Finance bill proposes to insert a proviso whereby the last date of June 2016 for additional contribution of two percent (2%) per annum for every year after forty (40) year of age has been extended to June 2019. This is certainly a welcome proposal as it was very much necessitated for all salaried individuals who do not find much avenue to save taxes or to secure their retirement benefits plan. However, the maximum limit of eligible contribution to the VPS has been cut down from 50% of the taxable income of the person to 30%.

Needless to mention that the additional 2% contribution in the VPS can be availed to be contributed into the fund every year for every extra year over the 40 years.

The provision regarding the mechanism of calculating the rebate on the basis of average rate of tax and withholding of income tax in case of early encashment remains the same.

More Allowance for Interest on House Loan
(Section 64A)

A new Section was introduced in the last Budget whereby the tax credit on house loan against the tax liability was replaced with the allowance for interest on house loan directly against the taxable income of the taxpayer. This factually resulted in bigger tax savings to individuals.

The allowance was allowed at the lower of 50% of the taxable income or Rupees 1 Million. This monetary limit of 1 Million has now been proposed to be increased to 2 Million in the Budget.

The allowance is available on the interest payment or on the payment of share in house value, on the loan taken either for, (a) Construction of new home, (b) Purchase of a house from the following;

- Commercial Bank
- NBFIs Regulated by SECP
- Government Authority
- Statutory Body; employees
- Listed Company; employees

A comparative computation is tabulated as under;

| Description | | Allowable TY 2016 | Allowance TY 2017 | Saving |
|----------------------------------|-----------|----------------------|----------------------|------------------|
| Taxable Salary | | 7,000,000 | 7,000,000 | |
| Less; Deductible Allowance | | 1,000,000 | 2,000,000 | |
| Net Taxable Income | | 6,000,000 | 5,000,000 | |
| Income tax on above | | 1,147,000 | 872,000 | 275,000/- |
| Interest paid | 2,200,000 | | | |
| 50% of taxable income | 3,500,000 | | | |
| Limit u/s 64A whichever is lower | 2,000,000 | | | |

Lastly, we understand that the above Section 64A should be included in the Part IX of Chapter III [**Deductible Allowance**] and not in the Chapter of Tax credits and therefore, essentially is misplaced.

Education Allowance for Children
(Section 64AB)

The Finance bill has proposed a new allowance on education expenses of children incurred by the taxpayer. It has been proposed that the tuition fee will be considered as the education expense and will alone be eligible for deduction from the taxable income. It has further been provided that allowance will be available to either of the parent but not to both of them.

This is certainly a much needed and much awaited allowance especially for salaried individuals who do not generally get any respite from tax burden. However, there are certain amendments which should be taken into account because the way the education allowance has been proposed to be given

does not seem to transfer the benefit to the individual as it has been disallowed to income class earning more than 1 Million income.

Secondly, the constriction of school fee to merely tuition fee is likely to be resented as it would be more advisable change had it been allowed to all and sundry payments made to school and colleges.

Thirdly, the mechanism for giving the allowance needs clarity as it has been proposed at the lower of as follows;

- a) Five percent (5%) of the total tuition fees paid by the person
- b) Twenty five percent (25% of the person's taxable income for the year
- c) An amount computed by multiplying the sixty thousand with number of children of the individual

Once can see that 25% of 1 Million may be 250,000/- but 5% of 250,000/- factually becomes meaningless.

Lastly, it has been proposed that the employer (company) cannot give adjustment under section 149 of the ordinance. Therefore, as overall the whole exercise looks like a halfhearted and a feeble attempt to actually provide for any tax saving.

Exemption of Provident Fund marginally increased (6th Schedule)

The Finance Act, 2008 reduced the exemption limit of Provident Fund to a maximum of 100,000/- Per annum

The amendment did not the affect the taxability or exemption of provident funds of employees with monthly Basic salary of less than 100,000/- but it certainly hit hard on high Salaried Individuals with monthly Basic of more than the above as it literally took away all the well planned tax free Retirement benefits. The rationale behind the above proposed change has never been explained by the authorities.

It would very much be pertinent to mention here that there was no such change suggested in the Gratuity Fund or in the Pension Fund, however. As a result there emerged a great disparity between the three Retirement benefits in terms of their eligibility for the desired exemption from tax.

The current marginal increase in the exemption limit from 100,000/- from 150,000/- is too late and too little for the class of taxpayers which has no other tangible avenue of tax saving or tax planning.

It is therefore, suggested that since Provident Fund is a retirement benefit and therefore, should be treated as retirement benefit and should accordingly, be provided the complete exemption as it was there in the Ordinance before 2008.

CHANGES IN TAXATION OF CAPITAL GAIN ON SHARES*(First Schedule; Division VII)*

The Budgetary steps of FBR towards the Capital Markets and Capital investors shows that it has finally been decided to withdraw the bookish exemption (48 months holding period) given to the Capital Gain on Shares, if the current amendments are to become the part of the Finance Act 2016-17. If we recall that after introducing the CGT in the Tax Year 2011, the FBR has constantly been pushing the tax rate higher every year on one hand and increasing the minimum holding period requirement for getting exemption on the other.

No Exemption of Capital gain on Shares*(Section 37A)*

This year, the tax rate of capital gain though proposed to remain the same, the exemption as available in case of 48 months of holding of shares however, appears to have been withdrawn.

The categories of holding period has been designed in the different mode as compared to the earlier years. The period as defined in 1st & 2nd tiers for less than 12 & 24 months respectively are proposed to remain the same, while, the 3rd tier of holding period from more than 24 month but less than 48 months is proposed to be changed with the certain condition on the date of purchase of shares. If the shares are sold during the TY 2017 which were purchased after 01, July 2012, it will be taxed @ 7.5%. Meaning thereby, the threshold of 48 months as given for exemption of capital gain has now been proposed to be withdrawn. The same mechanism / proposed amendment can be well understood with the following illustration;

| | |
|-----------------------------|---------------|
| If Shares were purchased on | July 01, 2012 |
| If Shares are sold on | June 30, 2017 |
| Holding period of Shares is | 60 Months |
| Exemption | NIL |
| Taxation | 7.5% of gain |

Similarly, the 4th & final tier of holding period is also proposed to be conditioned that it will only be available if the shares were purchased before 01, July 2012. The concept of number of months to hold securities for getting exemption from tax on capital gain has finally been withdrawn.

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

| | |
|--|---------|
| Short term gain (sale within 12 months) | Taxable |
| Long term gain (sale within 12 to 24 months) | Taxable |
| Long term gain (sale after 24 months) | Taxable |
| Long term gain (sale security before acquired July 01, 2012) | Exempt |

Concept of NON-FILER brought in CGT

The Federal Board of Revenue has gradually been introducing the mechanism of Filer & Non Filer in the other remaining provision of withholding Sections. The purpose of this exercise is not only to detect some non-compliant and non-filer or increasing in revenue measure but are actually aimed towards documentation.

The concept of discrimination between Filer and Non Filer of Taxpayer has now finally been introduced in the taxation of Capital Gain as well. The higher rate of taxation on capital gain is introduced for NON-Filers in each slab / category in line with the other provision of Income Tax laws.

It must be appreciated that the FBR has now proposed to amend Section 169 of the Ordinance for the adjustment and refund of excess tax deduction suffered on account of non-filers which they can get back once they file the returns.

A comparison of CGT rates between Tax Year 2016 and Tax Year 2017 in line with Filer & Non-Filer is being tabulated hereunder;

| Holding Period of Securities | | | | | | | |
|------------------------------|------------------------------|-----------|--------------------------------------|-----------|--|-----------|-----------------------|
| Tax Year | Less than twelve (12) months | | Between twelve to twenty four months | | Twenty four months or more but acquiring | | |
| | | | | | on or after 1st July, 2012 | | before 1st July, 2012 |
| | Filer | Non-Filer | Filer | Non-Filer | Filer | Non-Filer | |
| 2016 | 15% | | 12.5% | | 7.5% | | Exempt |
| 2017 | 15% | 18% | 12.5% | 16% | 7.5% | 11% | Exempt |

Lastly, this year, the Super Tax is again proposed to be applicable for the Tax Year 2017 as well. This Super Tax will be paid @ 3% OR 4% by all those taxpayers whose income from Capital Gain will be equal to or more than 500 Million Rupees in the same manner of TY 2015. It remains important to highlight here that the exempt income of capital gain (More than 48 months) will also be taken for the calculation of SUPER TAX and discharge the liability as indicated in preceding Tax Year.

Increase in Tax collection rate by Stock Exchange (233A)

Through the Finance Bill 2016-17, the Federal Board of Revenue has proposed to amend the tax collection by a stock exchange registered in Pakistan at the time of purchase and sales of securities. A comparison between rates for previous Tax Year 2016 and the Tax Year 2017 is tabulated hereunder;

| Tax Year | Tax collection on Shares by Stock Exchange | |
|----------|--|------------|
| | Purchase Value | Sale Value |
| 2016 | 0.01% | 0.01% |
| 2017 | 0.02% | 0.02% |

CHANGES IN TAXATION OF CAPITAL GAIN ON PROPERTIES**Capital Gains Tax Exemption on Property***Section 37 (1A)*

The concept to bring the income of property gain in the tax net was introduced in the Finance Act, 2012. This has been made possible after the 18th amendment was made in the Constitution of Pakistan, 1973, otherwise the Federal Government did not have the power to tax gain on immovable property. However, chargeability of capital gain on immovable property has always been controversial issue in view of verdicts of the Apex court of the country.

Primarily, the holding period for exemption of capital gain tax on property was introduced for two (02) years, which is now proposed through this Finance Bill 2016-17 to enhance up to five (5) years.

Moreover, a flat rate of 10% on gain of immovable property is also being proposed to amend instead of two different tiers of slab. The comparison between proposed and existing slab is being narrated hereunder;

COMPARISON BETWEEN TY 2016 & 2017

| S. No. | Holding Period of Property | FY 2016 | FY 2017 |
|--------|--|---------|---------|
| 1 | Where holding period of immovable property is up to one year | 10% | 10% |
| 2 | Where holding period of immovable property is more than one year but less than two year | 5% | 10% |
| 3 | Where holding period of immovable property is more than two year but less than five year | 0% | 10% |
| 4 | Where holding period of immovable property is more than five year | 0% | 0% |

The enhancement for holding period of property for tax exemption from two years to five years is highly disturbing for the property holders and property dealers as well.

Tax on sales of property increased*(Section 236C)*

The advance tax on sales of immovable property was introduced in the Finance Act, 2012, whereby any registering authority was responsible to collect advance tax @ 0.5% & 1% from Filer & Non-Filer respectively at the time of sale / transfer of immovable property if the sale is being made within the period of two years of purchase. This advance tax is collected from the seller of the property.

Through the Finance Bill 2016-17, it has not only been proposed to double the rate of advance tax but to increase the holding period of two (02) years to five (05) years as well. This implies that the advance tax shall not be collected from the seller of the property in the case only if it is sold after the period of 5 years from purchase.

The proposed rate of advance tax under this Section are as follows;

| Tax Year | Tax on sale / transfer of immoveable property | |
|----------|---|-----------|
| | Filer | Non-Filer |
| 2016 | 0.5% | 1% |
| 2017 | 1% | 2% |

Tax on Purchase of property increased

(Section 236k)

Through the Finance Act, 2014, the Federal Board of Revenue introduced the advance tax collection from the purchaser on all kind of Immoveable Properties, if the value of the property is more than three million. The income tax from the purchaser is collected @ 1% (Filers) and 2% (Non-Filer) by the registering or attesting authority at the time of transfer of property. This income tax is considered advance tax and is claimed in the Annual Tax Return.

Through this Finance Bill, the FBR now seeks to double the tax rate from the purchaser of Property worth more than three million. The threshold of three million remains the same.

The proposed rates for collection of advance tax under this Section are as follows;

| S. No. | Description | TY 2016 | | TY 2017 | |
|--------|---|---------|-----------|---------|-----------|
| | | Filer | Non-Filer | Filer | Non-Filer |
| 1 | Where value of Property is not more than 3 million. | 0% | | 0% | |
| 2 | Where the value of Property is more than 3million | 1% | 2% | 2% | 4% |

FAIR MARKET VALUE

Stamp Collector's rate is no more Benchmark;

(Section 68)

Section 68 of the Ordinance contains the provision for the determination of market value of any property, rent, assets, services and perquisite. It has been proposed under the Budget that in case of Immoveable Property, the value fixed or notified by any provisional authority or local body with the help of stamp duty collector's rate shall not be considered / accounted for as a benchmark for the determination of fair market value under this Ordinance.

CHANGES IN TAXATION OF COMPANIES**QUARTERLY ADVANCE TAX;***(Section 147)*

After the introduction of Alternate Corporate Tax (ACT) under Section 113C of the Ordinance companies are required to discharge tax liability at the higher of corporate tax or alternate corporate tax. However relevant amendment was not made in the provisions for quarterly advance tax payments. Resultantly the companies are paying ACT, wherever applicable, at the time of filing of the return. The bill now proposes to also consider ACT while discharging quarterly advance tax liabilities.

Companies are required to pay quarterly advance tax by applying tax to turnover ratio as per formula given in sub-Section 4 of Section 147 of the Ordinance. An explanation has now been proposed wherein it is clarified that tax assessed in latest year includes minimum tax and ACT under Sections 113 and 113C of the Ordinance. Corresponding amendments have also been proposed in other subsections so as to include ACT while discharging advance tax liabilities.

MINIMUM TAX;*(Section 113)*

Companies declaring 'Gross Loss' in a year are currently exempt from minimum tax. This relaxation is proposed to be withdrawn in line with the individuals and Associations of persons (AOPs).

Individuals and AOPs are currently liable to pay minimum tax only where the annual turnover reaches to Rupees 50 million. This ceiling is proposed to be brought down ward to Rupees 10 million, only. Therefore, individuals and AOPs are proposed to be liable for minimum tax where turnover reaches Rs. 10 million or above for Tax Year 2017 or any subsequent year.

It is further proposed to exclude the payment of super tax under Section 4B of the Ordinance while calculating minimum tax.

TAX CREDITS; SALES TO REGISTERED PERSON;*(Section 65A)*

The Finance Bill proposes to enhance the tax credit to 3% from existing 2.5% of tax payable to the manufacturers who make 90% of their sales to the person registered under the Sales Tax Act, 1990. This is a welcoming and encouraging amendment towards the documentation of the Economy.

TAX CREDIT; EMPLOYMENT BY MANUFACTURERS;*(Section 64B)*

Companies setting up new manufacturing units between July 1st 2015 and June 30th 2018 are currently entitled for the tax credit @ 1% for every fifty (50) employees registered with relevant institutions of the concerned provincial governments subject to the maximum of tax credit of 10% of the tax payable. The bill now proposes to enhance the tax credit up to 2% for every fifty (50) employees subject to the maximum of total 10% tax credit. The period for setting up of manufacturing unit is also proposed to be extended up to June 30 2019.

The tax legislator perhaps missed to substitute year 2019 from year 2018 in clause (a) of sub section 3 resulting in difference of periods for tax credit within the given Section.

TAX CREDIT; INVESTMENT IN PLANT & MACHINERY;
(Section 65B)

Companies making investment for purchase of Plant & Machinery (P&M) are currently given tax credit up to 10% of the investment, including on account of minimum and final taxes. One of the major condition is that the P&M is purchased and installed between July 1st 2010 and June 30th 2016. The bill now proposes to extend the period of investment up to June 30 2019.

It is noted with apprehension that under the very same section tax credit @ 20% is available in case of investment is made through fresh issue of shares which is expiring by June 30th 2016. The same, however, is not extended any further.

What need to be mentioned here that due to purchase of plant & machinery in a year, the profits already get reduced due to initial and normal depreciations, therefore, the 10% tax credit of the amount of tax payable which already gets on the lower side does not seem very attractive.

Lastly, there appears to be no particular reason as to why this credit should also not be available to Individual businesses and Association of persons which are duly enrolled and registered income tax and sales tax.

TAX CREDIT; ENLISTMENT;
(Section 65C)

Tax credit @ 20% of the tax payable is allowed to any company for getting it listed in any stock exchange in Pakistan in the year of listing. Now, the Finance Bill-2016 has proposed to offer the aforesaid credit for the subsequent year as well. This aims to promote and encourage listing of Companies.

However, what needs attention here and should be addressed that the Shareholders of the Private Company which is getting enlisted do not get exempted from the Capital gain on conversion into a listed Company in their individual capacities.

Therefore, in order to make the amendment more meaningful, equal exemption should also be provided for in the hands of the Shareholders as well.

TAX CREDIT; EQUITY INVESTMENT IN INDUSTRIAL UNDERTAKING;
(Section 65D)

100% Tax credit under this Section is allowed vide Finance Act, 2011 against tax payable including minimum and final taxes for newly established Industry undertakings by the Companies for the period of five years subject to condition that the company invests with issuance of 100% shares for cash consideration.

The Bill now proposes to introduce a formula for computing tax credit under this Section instead of existing 100% tax credit. Similarly the requirement for 100% equity investment is relaxed to 70%

equity investment for cash consideration. There appears to be a certain part missing in the formula as the formula currently been proposed, results in abnormally high tax credit.

It has, further, been proposed to extend the time period of exemption whereby tax credit can be claimed by the companies incorporated till 30th June of 2019 which is currently expiring by 30th June of 2016.

The Finance Bill has, additional proposed condition that if the company claiming the tax credit discontinues its business within five (05) years of availing credit, the tax credit will be deemed to have, wrongly, been allowed.

TAX CREDIT; EXPANSION IN PLANT & MACHINERY by ALREADY ESTABLISHED INDUSTRIAL UNDERTAKINGS;
(Section 65E)

Previously, the Finance Act provides tax credit to a company equal to hundred percent (100%) of tax payable for a period of five years if such investment is made for purchase and installation of plant and machinery for the purpose of expansion of existing undertaking or undertaking a new project including corporate dairy farming with 100% equity raised through issuance of new shares for cash consideration.

It has, now, been proposed by the Finance Bill to restrict the limit of 100% equity to 70%, resulting, tax credit will be allowed in proportion of the equity raised through issuance of shares against cash. Further, the Bill has proposed to extend the period for such investment to 30 June 2019 instead of 30th June of 2016.

The Finance Bill has, additionally proposed a condition that if the company claiming the tax credit discontinues its business within five years of availing credit, the tax credit will be deemed to have, wrongly, been allowed.

Minimum tax on Service Companies;
(Clause 94 of Part I)

In the past, the law was amended by Parliament through Finance Act 2009 whereby the service providing companies were made chargeable to 6% Minimum Tax under Section 153(1)(b). However, in a surprising move, Federal machinery issued a Circular 6, granting that service providing companies were exempt for charge of minimum tax. The FTO took notice of this unlawful act of FBR functionaries (2012 PTD 554) and recommended action against the FBR officers who were responsible for issuing unlawful Circular.

The FBR withdrew Circular No. 6 on 26.04.2011. In another intriguing move, the FBR inserted Clause 79 declaring service providing companies as exempt from Minimum Tax through SRO 1003. Although FBR had withdrawn the Circular 6, yet Review Petition 2013 PTD 2159" was filed before the FTO which was rejected and the FTO held, on the strength of judgment of Supreme Court in an identical case, that insertion of Clause 79 was against the provisions of law and, therefore, malafide and unlawful.

In order to give legal support to corporate service providers, Clause 94 of Part I, was introduced by the Income Tax (Second Amendment) which provides exemption from applicability of Minimum tax on

specified corporate service sectors from 1st July-2015 till 30 June 2016. However, specified service sectors will be subjected to 2% Minimum tax if they file irrevocable undertaking to the Commissioner-IR for submission of its accounts for income tax affairs for Tax Year 2016 or 2017, as the case may be. Upon filing such undertaking, the Commissioner-IR was empowered to issue exemption certificate from withholding tax under section 153 by collecting 2% tax on entire turnover from all sources.

It has now been proposed by the Finance Bill to get it exempt from minimum taxation by extending the scheme of reduced rate of 2% up to 30th June of 2017. However, a company is mandatory to submit the undertaking by November 2016.

It has, further, been proposed that IT services and IT enabled services as defined in clause (133) will also enjoy the exemption as available to service sector for getting benefit of Clause 94 of Part I of the Second Schedule.

TRANSACTION BETWEEN ASSOCIATES;
(Section 108)

The Commissioner is empowered to distribute, apportion or allocate income, deductions or tax credits between the persons who are associates to reflect the income that the persons would have realized in an arm's length transaction.

It has, therefore, been proposed by the Bill that every taxpayer entering into transaction with its associates shall maintain and keep the precise information and records in specified formats. It is expected that FBR will prescribe the extent of and manner in which the documents will be maintained and the information to be furnished to the Commissioner-IR, so required.

CHANGES IN TAXATION OF PROPERTY INCOME

Income from Property under a separate block of Income for Individuals & AOPs

[Sections 15 & 155]

The Finance Act 2017 has proposed changes in taxation of Property Income in the hands of Individuals and Association of Persons (AOPs). The taxation in case of companies has been proposed to remain the same. It has been proposed that the rental income for Individuals and AOPs would be treated as a separate block of income and will not be clubbed with any other source of income. This implies that there won't be allowed any expense or expenditure against the rental income and neither any adjustment or tax credit or tax allowance would be acceptable and that the whole of the rental income will be taxed at the gross amount.

In addition to the change in the scheme of taxation for Property Income, a new slab of rates has also been suggested in the Budget whereby the tax incidence has been proposed to be increased.

| Section | Head | Company | INDIVIDUALS / AOP | | | |
|------------------|------------------------|---|----------------------|------------------------|---|--|
| | | | Gross Amount | | Tax Rates | |
| | | | Existing | Proposed | Existing | Proposed |
| Section 15 & 155 | 'INCOME FROM PROPERTY' | 15% on Gross Rental Payment [Remains the same] | Up to 150,000 | Up to 200,000 | Nil | Nil |
| | | | Nil | 200,000 to 600,000 | Nil | 5% on exceeding of 200,000 |
| | | | 150,000 to 1,000,000 | 600,000 to 1,000,000 | 10% on exceeding of 150,000 | 20,000 plus 10% on exceeding of 600,000 |
| | | | Nil | 1,000,000 to 2,000,000 | Nil | 60,000 plus 15% on exceeding of 1,000,000 |
| | | | Above 1,000,000 | Above 2,000,000 | 85,000 plus 15% on exceeding of 1,000,000 | 210,000 plus 20% on exceeding of 2,000,000 |

As can be seen that there have been given five(5) tax slabs instead of three(3) tax slabs of last year, the comparative tax advantage has also been taken away as would be demonstrated in the following table:-

| INCOME FROM PROPERTY (S. 15) | | | | |
|--|---------------|------------------------|------------------------|--------------------------|
| Comparison Between Existing & Proposed | | | | |
| Slab | Rental Income | Tax Year 2016 (NTR) | Tax Year 2017 (FTR) | Increase / (Decrease) |
| 1 | 200,000 | - | - | - |
| 2 | 600,000 | 5,600 | 20,000 | 14,400 |
| 3 | 1,000,000 | 37,500 | 60,000 | 22,500 |
| 4 | 2,000,000 | 164,500 | 210,000 | 45,500 |
| 5 | 2,500,000 | 244,500 | 310,000 | 65,500 |

Lastly, as mentioned above the taxation of Property Income for companies has been proposed to be remain the same, a corresponding amendment has duly been suggested whereby the company will continue getting the expense against its rental income.

CHANGES IN INCOME TAX EXEMPTIONS**WITHHOLDING EXEMPTION TO MANUFACTURERS ON IMPORTS***(Section 148)*

Industrial undertakings, majorly manufacturers, have been allowed to obtain exemption from withholding tax at import of raw materials after meeting certain criteria. Advance tax payment is to be made for whole of the year based on the higher of the tax liabilities of either of the last preceding two (02) years. Through SRO 717 dated 07th August 2014 the concerned Commissioner IR was required to inspect the manufacturing facility so as to verify production and stock consumption for issuance of import exemption certificate.

The Commissioner IR is now been proposed to conduct the audit of the taxpayer pursuing import withholding exemption with respect to the consumption, production and sales as shown in the latest income tax return. In this respect, the taxpayer will be treated as selected for audit by the FBR for that year.

This has apparently been proposed in view of the large number of complain from the side of Commercial Importers that they get into price disadvantage over the manufacturer, in the event the manufacturer choose to sell the raw material without processing.

It will be interesting to note that as to whether the taxpayer, if once, treated as selected for audit by the board under Section 214C of the Ordinance, will it be selected again for audit whether through computer balloting or manual selection by the Commissioner themselves as the relevant legislation in this respect appears missing.

EXEMPTION TO LARGE TRADING HOUSES*(Clause 57 of Part IV)*

Companies operating large trading houses have been enjoying exemption from 1% minimum tax and withholding tax on their sale of goods. Exemption from minimum tax was earlier limited to first ten (10) years of business commencement which is now proposed to be levied gradually. Reduced minimum tax rate of @ 0.5% is now proposed to be enacted till Tax Year 2019. Thereafter the minimum tax rate will be enhanced to standard rate of 1% as applicable currently.

EXEMPTION TO EXPORTERS OF COMPUTER SOFTWARE / IT SERVICES*(Clause 133 of Part I)*

The above exemption which is expiring on June 30, 2016 is proposed to be enhanced till June 30, 2019. This extension in exemption is proposed on the condition that up to 80% of the export proceeds is to be brought in Pakistan in foreign exchange remitted from outside Pakistan through normal banking channels and only up to 20% can be retained outside for meeting expenditures.

REDUCED TAX RATES FOR SERVICES / CONSTRUCTION CONTRACTS OUTSIDE PAKISTAN
(Clause 3 of Part II)

Services rendered outside Pakistan is currently subject to tax at reduced rate of 1% of the gross receipts subject to the condition that the receipts are brought into Pakistan in foreign exchange through normal banking channel. Same goes to construction contracts executed outside Pakistan.

It is now proposed to charge 50% of the tax rate as applicable to domestic service providers / construction contractors. Accordingly, if enacted the following tax rates will become applicable instead:

| Nature of Payment | Companies | | IND./AOP | |
|----------------------------------|-----------|-----------|----------|-----------|
| | Filer | Non Filer | Filer | Non Filer |
| A) Services | 4% | 6% | 5% | 7.5% |
| Transport Services | 1% | | | |
| Print Media for Advertising | 0.5% | 6% | 0.5% | 7.5% |
| B) Construction Contracts | 3.5% | 5% | 3.75% | 5% |

EXEMPTIONS FOR GAWADAR PORT OPERATIONS
(Clause 126 to Clause 126AD of Part I)

Income from Gawadar Port Operations as derived by China Overseas Ports holding company Limited (COPHCL) is exempt from tax for a period of twenty three (23) years since 6th February 2007. This exemption is proposed to be extended to the income of other group companies of COPHCL from Gawadar Port Operations as well. Minimum tax is also proposed to be exempt for COPHCL and its other group companies for similar 23 years. Dividend income of COPHCL and its Pakistan (subsidiary) company is also proposed to be exempt.

Besides the above, the Income of any taxpayer which sets up the business in the Gawadar Free Zone Area is also proposed to be exempt for 23 years starting from July 1st 2016. Income of Contractors and subcontractors of COPHCL and its other group companies from Gawadar port operations is also proposed to be tax exempted for 23 years from July 1st 2016 onward.

WITHHOLDING TAX CHART
TAX YEAR 2017

| S# | Sections | Nature of Payments | Tax Rates | | | | | | |
|----|------------|---|--|-----------|---------------------------------|------------------------|--|-----------|------|
| | | | Industrial undertaking (Manufacturers) | | Companies (Manufacturer or not) | | Individuals and AOPs (Non-Manufacturers) | | |
| | | | Filer | Non Filer | Filer | Non Filer | Filer | Non Filer | |
| 1 | 148 | 'Imports' (Remains Same) | 5.5% | 8% | 5.5% | 8% | 6% | 9% | |
| 2 | 149 | 'SALARY' | As per Slabs | | | | | | |
| 3 | 150 | 'DIVIDEND' | Companies/IND./AOP | | | | | | |
| | | | Filer | | | Non Filer | | | |
| | | | 12.5% | | | Existing | | Proposed | |
| | | | 17.5% | | | 20% | | | |
| 4 | 151 | 'INTEREST' | Filer | | | Non Filer | | | |
| | | | 10% | | | 17.5% (If > 500,000/-) | | | |
| 5 | 152(2A) | 'NON-RESIDENT WITH PE' | Companies | | | IND./AOP | | | |
| | | Supply Of Goods | Filer | Non Filer | Filer | Non Filer | | | |
| | | Services | 4% | | 6% | | 4.5% | | 6.5% |
| | | Contract | 8% | | 12% | | 10% | | 15% |
| | | Sportsman | 7% | | 10% | | 7.5% | | 10% |
| | | | 10% | | | | | | |
| 6 | 152A | Foreign Produced Commercial | "20%[FTR]" | | | | | | |
| 7 | 153(1)(a) | 'SUPPLY OF GOODS , SERVICES & CONTRACTS' | Companies | | | IND./AOP | | | |
| | | All Goods | Filer | Non File | Filer | Non Filer | | | |
| | | In case of Sale of rice, cotton, seed, edible oil | 4% | | | 6% | | 4.5% | |
| | 153(1)(ab) | Distributors of fast moving consumer goods | 1.5% | | | 1.5% | | | |
| | | | 3% | | | 3.5% | | | |
| 8 | 153(1)(b) | 'Services' | 8% | | 12% | | 10% | | 15% |
| | | Transport Services | 2% | | | | | | |
| | | Electronic and Print Media for Advertising | Existing | Proposed | 12% | | Existing | Proposed | 15% |
| | | | 1% | | 1.5% | | 1% | | 1.5% |
| 9 | 153(1)(c) | 'Contracts' | 7% | | 10% | | 7.5% | | 10% |
| | | Sportsman | 10% | | | | | | |

| | | | | | | | | | |
|---|--------------------------|---|---|----------------------|----------------------|-----------------------------|-----------------------------------|-----------|--|
| 10 | 153(2) | Stitching, Dying, Printing, Embroidery etc. | 1% | | | | | | |
| 11 | 15/155 | 'INCOME FROM PROPERTY' | 15% on Gross Rental Payment [Remains Same] | IND./AOP | | | | | |
| | | | | Company | | Gross Amount | | Tax Rates | |
| | | | | Existing | Proposed | Existing | Proposed | | |
| | | | | Upto 150,000 | Upto 200,000 | Nil | Nil | | |
| | | | | Nil | 200,000 to 600,000 | Nil | 5% on exceeding of 200,000 | | |
| | | | | 150,000 to 1,000,000 | 600,000 to 1,000,000 | 10% on exceeding of 150,000 | 20k + 10% on exceeding of 600,000 | | |
| Nil | 1,000,000 to 2,000,000 | Nil | 60k + 15% on exceeding of 1,000,000 | | | | | | |
| Above 1,000,000 | Above 2,000,000 | 85k + 15% on exceeding of 1,000,000 | 210,000 + 20% on exceeding of 2,000,000 | | | | | | |
| 12 | 156 | 'PRIZE AND WINNINGS' | Companies/ IND./AOP | | | | | | |
| | | Prize Bonds | Existing | Proposed | | | | | |
| | | | 15% | Filer | Non Filer | | | | |
| | | | | 15% | 20% | | | | |
| Other prizes, Winning, lottery, Raffles | 20% | | | | | | | | |
| 13 | 156A | PETROLEUM PRODUCTS | Companies/ IND./AOP | | | | | | |
| | | | Filer | Non Filer | | | | | |
| | | | 12% | 15% | | | | | |
| 14 | 231A | Advance tax on Cash Withdrawal | Filer | Non Filer | | | | | |
| | | | 0.3% | 0.6% | | | | | |
| 15 | 231AA | Advance tax on transactions in bank | Filer | Non-Filer | | | | | |
| | | | 0.3% | 0.6% | | | | | |
| 16 | 233 | 'BROKERAGE AND COMMISSION' | Companies/ IND./AOP | | | | | | |
| | | All Commissions | Filer | Non Filer | | | | | |
| | | | 12% | 15% | | | | | |
| | | Advertising Agents Commission | 10% | 15% | | | | | |
| Life Insurance Agent | 8% (If < 0.5 million) | 16% (If < 0.5 million) | | | | | | | |

| 17 | 233A | Collection of Tax by a Stock Exchange Registered in Pakistan | Description | | Rate | |
|----|---------------|--|---|-------------------------|-----------|--|
| | | | Purchase of Shares as per clause (a) of sub-section (1) of section 233A | 0.02% of Purchase Value | | |
| | | | Sale of Shares as per clause (b) of sub-section (1) of section 233A | 0.02% of Sale Value | | |
| 18 | 233AA | 'COLLECTION OF TAX NCCPL' | 10% | | | |
| 19 | 231B(1) & (3) | Advance Tax on Purchase, Registration and Transfer of Motor Vehicle | Engine Capacity | Filer | Non Filer | |
| | | | No Change | | | |
| 20 | 231B(2) | Advance Tax on Purchase of Private Motor Vehicle {Tax rate shall be reduced by 10% each year from the date of 1 st registration) | Up to 850cc | - | 5,000 | |
| | | | 851cc to 1000cc | 5,000 | 15,000 | |
| | | | 1001 to 1300cc | 7,500 | 25,000 | |
| | | | 1301cc to 1600cc | 12,500 | 65,00 | |
| | | | 1601cc to 1800cc | 18,750 | 100,000 | |
| | | | 1801cc to 2000cc | 25,000 | 135,000 | |
| | | | 2000cc to 2500cc | 37,500 | 200,000 | |
| | | | 2500cc to 3000cc | 50,000 | 270,000 | |
| | | | Above 3000cc | 62,500 | 300,000 | |
| 21 | 234 | Advance tax on Private Motor Vehicle | Engine Capacity | Filer | Non Filer | |
| | | | Up to 1000cc | 800 | 1,200 | |
| | | | 1001cc to 1199cc | 1,500 | 4,000 | |
| | | | 1200 to 1299cc | 1,750 | 5,000 | |
| | | | 1300cc to 1499cc | 2,500 | 7,500 | |
| | | | 1500cc to 1599cc | 3,750 | 12,000 | |
| | | | 1600cc to 1999cc | 4,500 | 15,000 | |
| | | | 2000cc & above | 10,000 | 30,000 | |
| 22 | 235 | Tax on Electricity Consumption[Commercial Consumer] | Existing | Proposed | | |
| | | | 10% | 12% | | |

| | | | Existing | | Proposed | |
|----|------|---|---------------------------|-----------|--------------|-----------|
| | | | Exceeding amount of 75k/- | 7.5% | No Change | |
| 23 | 235A | Advance Tax on domestic Electricity Consumption | Not < 100,000 | 0% | Not < 75,000 | 0% |
| 24 | 236 | Advance tax on Telephone, prepaid cards and Internet Bills | 14% | | | |
| 25 | 236A | Advance tax on Auction | 10% | | | |
| 26 | 236B | Advance tax on Purchase of domestic Air Tickets (Except Baluchistan Coastal Belt, Azad Jammu Kashmir, FATA Gilgit, Baltistan and Chitral) | 5% | | | |
| 27 | 236C | Advance tax on Transfer of Immovable Property | Existing | | Proposed | |
| | | | Filer | Non Filer | Filer | Non Filer |
| | | | 0.5% | 1% | 1% | 2% |
| 28 | 236D | Advance tax on Functions and Gathering | 5% | | | |
| 29 | 236E | Advance tax on foreign-produced film and TV | No change | | | |
| 30 | 236F | Advance tax on Cable Operators | No change | | | |
| 31 | 236G | Advance Tax on Distributors, Dealers Wholesalers | Filer | | Non Filer | |
| | | Fertilizers | 0.7% | | 1.4% | |
| | | Other than Fertilizers | 0.1% | | 0.2% | |
| 32 | 236H | Advance tax on Sales to retailers (Wholesalers introduced to this section) | 0.5% | | | |
| 33 | 236I | Advance tax on Educational Institution [Except Non-residents] | 5% | | | |
| 34 | 236J | Advance tax on commission agents and arhatis | No change | | | |

| 35 | 236K | Advance on Purchase of Property | Existing | | Proposed | |
|----|------|--|---|-------|---|-----------|
| | | | Upto 3 million | Filer | Non Filer | Filer |
| | | | | 0 | | No Change |
| | | | < 3 million | 1% | 2% | 2% 4% |
| 36 | 236L | Advance Tax on International Air Ticket | Companies/ IND./AOP | | | |
| | | First/Executive Class | 16,000/- Per Person | | | |
| | | Others Excluding Economy | 12,000/- Per Person | | | |
| | | Economy | 0 | | | |
| 37 | 236O | Advance tax under this chapter shall not be collected | <ul style="list-style-type: none"> - FG , PG - Foreign Diplomats, Diplomatic Mission - Exemption Certificate | | | |
| 38 | 236P | Advance tax on transaction in Bank [New section added] | Filer | | Non Filer | |
| | | | No WHT | | 0.6% (if > 50k) | |
| 39 | 236Q | Payment to Resident Person for right to use of Machinery and Equipment | 10% (FTR) | | | |
| 40 | 236R | Advance Tax on education related expenses remitted abroad | 5% | | | |
| 41 | 236S | Dividend in specie | Filer | | Non Filer | |
| | | | 12.5% | | 17.5% | |
| 42 | 236T | Advance Tax by Pakistan Mercantile Exchange Limited | Existing | | Proposed | |
| | | | Sale & purchase of future commodity Contracts | | Sale and Purchase of future Commodity Contracts | |
| | | | 0.05% | | Deleted | |
| 43 | 236U | Advance Tax on Insurance Premium | Types of Premium | | Rate | |
| | | | General Insurance Premium | | 4% | |
| | | | Life Insurance Premium if exceeding of Rs. 0.2 Million per annum | | 1% | |
| | | | Others | | 0% | |
| 44 | 236V | Advance Tax on Extraction of Minerals | Filer | | Non Filer | |
| | | | 0% | | 5% | |
| 45 | 236W | Advance Tax from Provincial Sales Tax Registered Person | Filer | | Non Filer | |
| | | | 0% | | 3% of the Turnover | |

OTHER KEY CHANGES

Super Tax on Current Year Profit

(Section 4B)

It may be recalled that the levy of Super Tax was introduced in the last year of Tax Year 2015 and was stated to be meant strictly for that Tax Year alone. However, owing to the same circumstances factors prompted by higher revenue collection, the FBR has managed to reintroduce the same for this year as well. Companies are proposed to pay super tax for the Tax Year 2016 as well while filing the return of income for Tax Year 2016. This implies that despite the lowering corporate tax rate by 1% this year to 31%, this levy of 3% has virtually snatched away the so called lower taxation.

It is pertinent to recap that super tax is payable @ 4% by banking companies without any income ceiling and @ 3% by non-banking companies with income more than Rupees 500 million. The other details of the mechanism of this levy have also remained the same. Income shall be the sum of the following:

- Profit on debts
- Dividend Income
- Capital Gains
- Brokerage & Commission Income
- Taxable income excluding above
- Imputable income
- Income under 4th, 5th, 7th and 8th Schedule

As if the re-introduction of the Super tax was not enough to rip off the yearend profit, the Bill further seeks to deprive the Company of its legal entitlement of claim of its depreciation and business losses when it comes to pay the Super Tax. In the notes on clauses of Finance bill 2016 it was given that this amendment is proposed to exclude the brought forward business losses and (unabsorbed) depreciation losses (of earlier years). Thereby it is understandable that depreciation allowance for the year along with the business loss for the year still will be considered and deducted while calculating income from all head of income for the purposes of computing super tax. The legislation needs to be redrafted in line with the noted on the clauses.

Proration of Expenses and Allowances as well

(Section 67)

Common expenditures are to be apportioned among various heads of income including income subject to tax under Normal tax regime, Final Tax Regime, Fixed tax regimes etc. The apportionment is to be made on any reasonable basis taking into account of relative size and nature of the activities to which the amount relates.

Bill now proposes to apportion 'deductions and allowances' as well besides apportionment of expenditures. Accordingly, the following major deductions and allowances will also have to be apportioned into various regimes of income instead of being deducted directly against the normal income ONLY:

- Deductions
 - ✓ Depreciation deductions including initial depreciation
 - ✓ Amortization deductions
 - ✓ Bad debts deductions
- Deductible allowances
 - ✓ Allowance of Zakat
 - ✓ Allowance for WWF
 - ✓ Allowance for WPPF, etc.

Once approved all common deductions and allowances besides expenditures will also be allocable against various streams of income.

Foreign Trust is also a Trust under the Ordinance (Section 80)

Earlier the Finance Act 2013 had extended the Scope of Company covering all types of trusts established or constituted. The legislator now proposes to pull in the Foreign Trust under the definition of trusts falling under the tax status of a 'company'. The amendment seems to be introduced in consonance with the efforts of the government to bring in International NGOs (INGOs) in the tax net.

Avoidance of double taxation (Section 107)

Finance Act 2015 has already given vast powers to Federal Government to enter into an agreement, bilateral or multilateral with foreign governments or tax jurisdictions for avoidance of tax, fiscal evasion and exchange of information with respect to the taxes on income imposed under the Ordinance and under corresponding laws in other countries. It is pertinent to mention that the provisions of the above said agreements have overriding effect on tax provisions under the Ordinance.

Now the editorial / technical correction is proposed wherein the agreements may not be limited to foreign governments or tax jurisdictions of other countries only.

This section perhaps appears to ensure the compliance of the FATCA (Foreign Account Tax Compliance Act) legislation of USA tax laws.

Minimum tax to be paid anyways (Section 113)

A major change has been proposed in charging minimum tax on the turnover of the Companies that have even been incurring gross loss at the operational level, will now not be able to avoid payment of 1% minimum tax.

The Companies have again been deprived from their genuine tax exemption from minimum tax and now will required to pay for it despite of their loss status.

The Finance Bill also proposes some major changes in the applicability and chargeability of Minimum Tax in case of Individual and of Association of Person by reducing the minimum threshold of Annual turnover from rupees 50 Million to 10 Million from Tax Year 2017 and onwards.

The proposed amendment if it becomes a part of Finance Act 2016 shall pressurize the local taxpayer to resist any business expansion or activity in Pakistan in view of Minimum Taxation and may become a concern for a foreign investor as well.

Automatic revision of tax return in 60 days

(Section 114)

The provision to revise a return of Income for a tax year duly accompanied with the approval of Commissioner Inland Revenue was inserted by Finance Act, 2010. However the proposed amendment maintains to bind the Commissioner to approve or reject the revision application within 60 days failing which it would be deemed to have been approved.

It has also been proposed that where the revision application results in higher income or lowering of losses, the application will automatically be accepted without Commissioner Approval.

The above amendment seems to perhaps, lower the practical burden and the administrative hassle of the applicant however, the due changes will also have to be made in the IRIS Software as well without which the aforesaid proposal will remain merely a part of statute without any practical significance.

Deductions not allowed

(Section 21)

As the section title exhibits that the legislature imposes a binding (condition) to claim an expense while computing the taxable income under the Ordinance (the Ordinance, 2001) i.e. if the taxpayer fails to withhold tax from the prescribed list as enumerated under Section 21(c) of the Ordinance the related expenses or expenditure would not be taken as a genuine tax expense.

The Bill now proposes to extend the scope of inadmissibility to almost all the major withholding provisions under the Ordinance. Notably the following shall fall prey to the proposed amendment;

- Purchase of Good; Raw material or Finished Goods
- Payment under Contract
- Prizes and Incentives
- Phone Bill and etc.

The proposed amendment may be viewed as a strict measure toward ensuring compliance by the tax payer failing to which it has been threatened to pay heavily for the non-deduction. At the same time the administrative hassle and the pains endured by the taxpayer for the withholding function has not been considered to be remunerated or rewarded equitably. It is simply unfortunate that we have the concept of penalizing for offence but there is no concept for rewarding the compliant.

It has further been provided that disallowance of the “purchases expense” shall be made in the case of non-withholding but will be limited to 20% of purchases. It is apprehended that the filed officers will rather tend to adopt the 20% as a bench mark for disallowance unless properly guided through any circular.

It has also been proposed that in case of the order of Monitoring of Withholding taxes is passed and the recovery of short deduction is made from the taxpayer, the disallowance cannot be made thereafter.

Lastly the allowability of Sales Promotion, Advertisement and Publicity expense of Pharma Companies has been proposed to be restricted up to the maximum of 5% of the Annual turnover.

Tax Depreciation in Exemption Period

(Section 22)

The Bill proposes an explanatory note with respect to claim and admissibility of Depreciation where income of a person is exempted from tax. It has been provided that in case of Plant, Machinery, building and furniture, normal tax depreciation and initial tax depreciation both shall be deemed to have been allowed in respect of the tax year and after the expiration of tax exempted period the Written Down Value will be worked out after taking into effect of the depreciation deemed to have been allowed.

Excess Tax deducted as Non-Filer under FTR

(Section 169)

The Bill proposes that any excess tax deducted on account of Non-filer shall be adjustable and refundable to the taxpayer once he files the tax return under the Ordinance.

Advertisement Income of Electronic & Print Media

(Section 153)

It has been proposed that income tax withholding from gross payment to Electronic and Print Media on account of Advertisement should be increased from 1% to 1.5% and the same is also proposed to be covered under the Final Tax Regime.

The rate of deduction of tax in case of Non-Filer have been proposed to remain at the rate of 12% and 15% or companies and non-companies, respectively.

SALES TAX ACT 1990

COTTAGE INDUSTRY

Section 2(5AB)

The Finance Bill proposes enhancement in monetary exemption threshold for cottage industry with respect to turnover from Rs. 10 million from Rs. 05 million.

This change appears to be a positive relief but incomplete because threshold for utility bills has not been enhanced. This would have been effective, if both limits were enhanced in equal proportion.

DUE DATE FOR FILING OF RETURN & ANNEXURES

Section 2(9)

This Section deals with “**due date**” of furnishing of return under Section 26 and 26AA of Sales Tax Act 1990 (ST Act). Amendment is proposed to exclude Section 26AA from the definition of due date as it had become redundant after omission of retail tax return required to be filed under Section 26AA of the ST Act.

A modification is also proposed in line with the new model of e-filing of sales tax return. According to such proposition, different due dates would be specified for furnishing of different parts or annexure of the return. This will pose serious challenge to the return filer to make compliance of law in an appropriate and timely manner. The new model of e-filing of sales tax return is likely to be in field on 01 July 2016.

INPUT TAX ON SERVICES

Section 2(14)

Section 2(14) deals with the definition of ‘Input Tax’ which includes provincial sales tax on services levied under all four provincial legislations and Islamabad Capital Territory (ICT).

Through the Bill, it is proposed to omit the term ‘provincial sales tax’ from the definition of input tax which would restrict the input tax adjustment of sales tax levied under all four provincial legislations and ICT. Surprisingly, the Bill also proposes to disallow input tax adjustment of ‘ICT sales tax on service’ which is being collected by FBR itself. We feel the proposed amendment would enhance rift between the provincial and federal tax authorities which will again open doors of litigation before the Superior Courts.

The input adjustment of ‘sales tax on services’ by ‘FBR registered persons’ have remained a matter of dispute since the establishment of Provincial tax authorities. Through the Finance Act 2013, the Federal Government, in a move to disallow the input tax adjustment of ‘provincial sales tax on services’, had changed the definition of the term ‘provincial sales tax’.

Being aggrieved with this provision, series of petition were filed in High Courts. The Lahore High Court, in its judgment dated 20 March 2014, overturned the amendment and allowed the input tax adjustment on services.

Later on, Memorandum of Understandings (MOUs) were signed by FBR with Sindh Revenue Board (SRB) and Punjab Revenue Authority (PRA) on cross-adjustment of sales tax on goods and services. Such MOUs laid down mechanism for regular reconciliation of input tax by the parties on each other behalf. FBR issued notification SRO 212 dated 26 March 2014 and allowed input tax adjustment of sales tax on services. The above adjustment was allowed with retrospect effect from 1st July 2013.

The financial press suggest that despite the above MOUs, the reconciliation of inter-provincial / federal input tax adjustment did not taken place effectively. Therefore, the proposed amendment appears to be an outcome of such conflicts.

TIME AND MANNER OF PAYMENT

Section 6(2)

The Bill proposes an amendment in Section 6(2) in line with new model of e-filing of sales tax return which will be effective from 01 July 2016. The new model may require the following submissions on respective dates:

| Submissions | Due date (following month of tax period) |
|--------------------------|---|
| Sales Annexure (Annex-C) | 10 th |
| Provisional Return | 15 th |
| Final Return | 18 th |

ENTITLEMENT OF INPUT TAX ADJUSTMENT

Section 7 & 8

In line with the proposed new model of sales tax return filing, a proviso has been inserted in Section 7(2)(i) of ST Act. Now the registered person will only be entitled to deduct input tax on purchase of goods against sales tax invoice, if the supplier has already declared such invoice in his return or has already paid amount of tax, as indicated therein.

We understand this is another attempt for cross matching tax returns of buyer and suppliers. In the past, an identical measure was adopted by the law makers in the shape of Section 8(1)(ca) of ST Act, which was quashed by Lahore High Court on the grounds that buyer cannot be made subject to penal action on the wrong doings of his supplier. Apparently to counter such verdict of Lahore High Court, this new provision of law has been inserted in the law with a slightly new wordings but on identical footings as that of Section 8(1)(ca).

We understand the following practical problems could emanate if the proposed amendment is put in operation:

- The buyer must ensure declaration of invoice issued by its suppliers before due date i.e. 10th. Such an assurance is the key of the new model.
- If the supplier himself opts for delayed filing of his tax returns by paying nominal penalties for late payment of sales tax and e-filing of return. In this way, the buyer will not be able to claim associated input tax in relevant tax period.

- The law does not specify the mechanism how input tax would become admissible in case where the supplier either inadvertently fail to declare sales tax invoice in his return or not pay due sales tax within the specified date.
- New e-filing system will also not help tax authority to identify those fraudulent suppliers who recover sales tax from buyer but do not deposit into Government Treasury. In such case, the buyer will also not be able to report such transaction which will go unnoticed / undetected.

It is, therefore, proposed that necessary changes may be made in the mechanism to help the genuine buyer.

RECOVERY OF SALES TAX WITHHOLDING

Section 11(4A)

The Finance Bill has proposed to insert new sub-section for empowering Officer of Inland Revenue to issue notice and determine amount in default, in case where the withholding agents fail to withhold sales tax from payment to suppliers or deposit such withheld amount of sales tax as required under Sales Tax Special Procedure (Withholding) Rules, 2007.

We understand the expression 'amount in default' suggests that the assessing officer may only recover amount of sales tax not deposited by the respective supplier.

Presently, there is no provision in the law which allows tax authorities to recover sales tax withholding from withholding agents. We understand that this amendment is proposed in consequences of judgment of Appellant Tribunal Inland Revenue reported as 112 TAX 139 (2015), Peshawar Bench whereby it was held that Section 11(2) is not applicable in case of non-deduction or short deduction of sales tax.

We understand this insertion is substantive in nature and has prospective effect. Hence, all orders issued and adjudication proceeding initiated under Section 11(2) would need to be vacated.

On a different but pertinent note, we understand that the objective of introducing withholding tax rules was cross matching of declaration of buyers and suppliers to safeguard the revenue collection. Such withholding was introduced during the time when manual tax returns were filed by businesses. Since new automated e-filing is being introduced, therefore, we are of the view that withholding tax rules should be withdrawn to the extent of transactions made between registered persons. However, transaction with unregistered persons, autonomous bodies and government / semi government departments may continue to be subject to STWH Rules.

EXEMPTION

Section 13

Section 13 deals in exemption of sales tax on goods which is granted by way of Sixth Schedule to ST Act or through notification issued by Federal Government upon approval of Economic Coordination Committee of Cabinet [ECC] under specific circumstances. Through proposed insertion in Section 13, exemption of sales tax can be granted on the recommendations of International or Foreign Government owned- financial institutions.

RETURN*Section 26*

The Finance Bill has proposed to delete sub-section 2 from Section 26 of ST Act for the reason that requirement for filing separate sales tax is not more applicable, since selection of multiple tax rate facility is now available in e>Returns.

DIRECTORATE OF GENERAL OF INPUT OUTPUT CO-EFFICIENT ORGANIZATION*Section 30DDD*

IOCO Directorate deals in determination of input-output and wastage ratio of locally manufactured goods under Customs Act 1969. The Finance Bill has proposed insertion of identical provision in ST Act.

OFFENCES & PENALTIES*Section 33(19)*

Currently, Clause 19 of Section 33 deals in imposition of penalty in case of contravention to any provision of ST Act. Through Finance Bill, amendment has been made in said clause and officer of FBR is further empowered to impose penalty for violation of any rules.

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

Buy and sale of business either wholly or partially between registered parties is zero rated, provided the business continues as such by the new buyer.

The language couched in Section 49(2) was ambiguous. To address the anomaly, the FBR had issued a ruling dated 15 January 2002 and clarified application of zero rating in case of sale of business between registered persons.

The above ruling has now made part of law to remove confusions. A new condition regarding issuance of zero rated invoice by the seller has also been added.

DISCLOSURE OF INFORMATION BY PUBLIC SERVANT*Section 56(B)*

A new Sub-Section 2 has been inserted whereby confidential information by the public servant can only be provided under the parameters of Section 216 of the Income Tax Ordinance. The sharing of confidential information under Section 56B will have an overriding effect to the Freedom of Information Ordinance, 2001.

The confidential information is defined to be the information obtained under the ST Act or through any bilateral or multilateral agreements with Government of foreign countries.

THIRD SCHEDULE

Section 3(2)(a)

Mineral and bottled water is proposed to be included in the Third Schedule. Presently, water sold under brand and trademarks is subject to sales tax @17% on value of supply.

We understand enhancement of incidence of tax on water will increase inflation.

FIFTH SCHEDULE

Section 4

The Fifth Schedule contains the list of zero rated goods. The Finance Bill has proposed to abolish zero rating on following goods:

| Description of goods | PCT Headings |
|---|-------------------------|
| Colors in sets | 3213.1000 |
| Writing, drawing and marking inks | 3215.9010 and 3215.9090 |
| Erasers | 4016.9210 and 4016.9290 |
| Exercise books | 4820.2000 |
| Pencils sharpeners | 8214.1000 |
| Geometry boxes | 9017.2000 |
| Pens, ball pens, markers and porous tipped pend | 96.08 |
| Pencils including color pencils | 96.09 |
| Milk | 04.01 |
| Fat filled milk | 1901.9090 |

SIXTH SCHEDULE

Section 13

Table-I (Import & Supply)

- a. In line with recent drive of curtailing SRO culture, the Bill proposes to transform exemption notification SRO 115(I)/2008 dated 6th February 2008 in Serial No. 100A of Sixth Schedule.

Through the aforesaid notification, conditional exemption is allowed on import or supply of materials and equipments for construction and operation of Gawadar Port and development of Free Zone for Gawadar Port and Ship Bunker Oils bought and sold to the ships calling on/visiting Gawadar Port.

The notification allowed such conditional exemption to operating companies having concession agreement with the Gawadar Port Authority. The Bill proposes to notify the name of China Overseas Ports Holding Company Limited (COPHCL) and its operating companies namely (i) China Overseas Ports Holding Company Pakistan (Private) Limited (ii) Gawadar International Terminal Limited, (iii) Gawadar Marin Services Limited and (iv) Gawadar Free Zone Company Limited for the purpose of this exemption and also extended exemption to their contractors and subcontractors as well which hold the Concession Agreement.

- b. The Bill proposes sales tax exemption on following categories / items:

| Exemption | Details |
|---|--|
| Table I | |
| Supplies by the businesses to be established in the Gawadar Free Zone | Supplies made by the businesses to be established in the Gawadar Free Zone is proposed to be exempt from sales tax for a period of twenty-three years within the Gawadar Free Zone, subject to the condition that the supplies made outside the Gawadar Free Zone and into the territory of Pakistan shall be charged to sales tax at applicable rates. |
| Premises for growth stunting | This exemption is subjected to conditions imposed for importation under the Customs Act, 1969. |
| Exemption on Laptops computers and notebooks | Laptop computers, notebooks whether or not incorporating multimedia kit [PCT Code 8471.3010], Personal computers [PCT Code 8471.3020] |
| Exemption from sales tax on import or supply of pesticides & their active ingredients | Exemption of sales tax on import or supply of pesticides & their active ingredients has been proposed. In the last past few years, pesticides [in finished form] and their active ingredients have passed through various phases with respect to levy or exemption of sales tax. Exemption of sales tax on pesticides [in finished form] and their active ingredients was available in Year 2011. Later on, pesticides and their active ingredients were brought under tax at standard rate of sales tax. However, rate of sales tax on these items was reduced from standard rate to 7% through Finance Act 2015 with no right of adjustment except sales tax paid on pesticides and their active ingredients. |
| Table II | |
| Dump Trucks | Exemption on Dump Trucks has been proposed. |

EIGHT SCHEDULE

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

Taxation of Sugar

Transposition from Federal Excise Act, 2005 to Sales Tax Act, 1990

The Finance Bill proposes to transpose White Crystalline Sugar from excise duty to sales tax. Through the Finance Bill exemption available in Serial No. 111 of Table-I of the Sixth Schedule is to be withdrawn with corresponding inclusion in Serial No. 32 of the Eight Schedule @ 8%. Further tax at 2% would also be applicable on supply to unregistered person.

Prior to Finance Act 2011, white crystalline sugar was subject to sales tax at 8%.

This appears to be a step taken by the Government to identify the subsequent supply chain (i.e. sales made by the distributors, wholesalers and retailer) and to cover the revenue leakage. In the excise regime, post manufacture supply chain remained out of the purview of Federal Excise Act, 2005.

In our opinion, the benefit of reduced rate of duty @ 0.5% on local supply of sugar against the export quota as granted through S.R.O 77(I)/2013 dated 07 February 2013 will cease to exist after the above amendments.

Reduced rate of sales tax on Urea

The Finance Bill proposes inclusion of Urea (PCT Code 3102.1000) in the Eight Schedule at 5%. Previously, Urea was classified in the Third Schedule. This is a step for promotion of the agriculture industry and Federal Government’s initiative to offer maximum benefits to this sector. However, this step is not in harmony with that on pesticides on which the entire sales tax is proposed to be withdrawn.

NINTH SCHEDULE

The Bill proposed to increase the fixed amount of sales tax on following categories of mobile phones:

| | Old Rate | New Rate |
|---|-----------------|-----------------|
| <p>Medium Priced Cellular Mobile Phones or Satellite Phones</p> <ul style="list-style-type: none"> ▪ One or two cameras between 2.1 to 10 mega-pixels ▪ Screen size between 2.6 inches and 4.2 inches ▪ Micro-processor: less than 2 GHZ | Rs. 500 | Rs. 1,000 |
| <p>Smart Cellular Mobile Phones or Satellite Phones</p> <ul style="list-style-type: none"> ▪ One or two cameras: 10 mega-pixels and above ▪ Touch Screen: size 4.2 inches and above ▪ 4GB or higher Basic Memory ▪ Operating system of the type IOS, Android V2.3, Android Gingerbread or higher, Windows 8 or Blackberry RIM ▪ Micro-processor: 2GHZ or higher, dual core or quad core | Rs. 1,000 | Rs. 1,500 |

Option for Retailers*Notification to be issued*

Salient Features Documents issued by FBR suggests that an option has been granted to Tier-1 retailers for payment of 2% turnover tax without input tax adjustment.

Presently, such retailers are required to pay sales tax at standard rate i.e. 17% with input tax adjustment. Such an option appears as a relief for those retailers whose effective rate of sales tax after input tax adjustment is more than 2%. However, it appears that retailers dealing in textiles and leather will continue to pay sales tax as prescribed under SRO 1125.

Before Finance Act 2014, registered retailers including jewelers, who supply goods to final consumers from their outlets, were required to sales tax on their quarterly turnover. In Year 2014, a 2 Tier mechanism was announced whereby Tier-1 retailer were asked to register themselves and pay 17% sales tax. However, it looks that such regime did not succeed. Resultantly, turnover tax has been revived.

Zero rating of Five Export Oriented Sectors*SRO 1125(I)/2011 (to be amended)*

Through Federal Budget 2016-2017, the Federal Government has proposed to reinstate the zero rated regime for five export oriented sectors i.e. textile, leather, sports goods, surgical goods and carpet. Presently, five export-oriented sectors are subject to multiple tax rates i.e., 19%, 17%, 5%, 4% and 3% under SRO 1125(I)/2011 dated 31 December 2011. After the proposed amendment, zero rated facility will be available on purchase of raw material, intermediate goods and purchase of energy i.e. electricity, gas, furnace oil and coal by five sectors.

5% sales tax would continue to be applicable on retail sale of locally manufactured finished goods of five sectors.

2nd Hand & Worn Clothing*Notification to be issued*

The Federal Government has proposed to exempt supply of second hand and worn clothing from levy of further tax. Since supply of taxable goods to unregistered end consumer is not subject to further tax in terms of SRO 648(I)/2013 dated 09 July 2013, we understand such an exemption would be available to unregistered traders engaged in purchase of second hand and worm clothing.

Steel Sector*Notification to be issued*

Sales tax on steel sector is proposed to be revised upwards.

Sales tax on steel sector, including ship-breaking sector, is collected on fixed rate and *ad voleram* basis. Sales tax from steel melters and re-rollers is collected on the basis of electricity consumption whereas ship-breakers are paying sales tax on the basis of LDT of ships imported for breaking.

Marble Cutting and Polishing*Notification to be issued*

Federal Government proposes to levy fixed sales tax @ Rs.1.25 per KWH on electricity consumed in addition to sales tax @ 17% and extra tax @ 5% on purchase of electricity.

ISLAMABAD CAPITAL TERRITORY (TAX ON SERVICES) ORDINANCE, 2001*Sub-section 2A & 2B*

For past few years, question regarding application of various provisions of ST Act on Islamabad Sales Tax has been a matter of debate.

Necessary amendments have been proposed in said Ordinance which envisage that following powers from ST Act will also be exercised to services rendered or provided under this Ordinance:

- Sales tax at higher or lower rate
- Sales tax withholding
- Zero rating of sales tax
- Tax Exemption

The Bill also proposes to exempt regulatory and licensing services rendered or provided by an organization, established under a Federal statute from the ambit of the Ordinance. Accordingly, such services of ICAP, ICMAP, etc. will not be subject to service tax in Islamabad.

FEDERAL EXCISE ACT, 2005**Due Date***Section 2(8a)*

An amendment has been proposed in the definition of “due date” to harmonize due date of sales tax and federal excise return. FBR is planning to introduce a new mechanism of e-filing of sales tax cum-federal excise return effective from 01 July 2016. Under such mechanism, taxpayer shall be liable to e-file its monthly sales tax return or annexure thereof on the following dates:

| Submissions | Due date (following month of tax period) |
|--------------------------|---|
| Sales Annexure (Annex-C) | 10 th |
| Provisional Return | 15 th |
| Final Return | 18 th |

Filing of Return & Payment of Duty etc.*Section 4(2) & (3)*

The Bill proposes an amendment in the Section 4(2) of the Federal Excise Act, 2005 [FED Act]. Such an amendment provides legal backing to the new monthly sales tax cum-federal excise return filing system being implemented by the FBR with effect from 1st July 2016.

Further, sub-section 3 of Section 4 of the FED Act has also been proposed to be omitted since such provision has become redundant in current mechanism of return filing.

Adjustment of Duties & Taxes*Section 6(2A)*

The Finance Bill has proposed a new subsection (2A) in Section 6 of the FED Act. Now, the registered person will only be entitled to deduct input tax on purchase of goods against sales tax invoice if the supplier has already declared such an invoice in his return by 10th of following month or has already paid amount of tax due by 15th of the following month, as indicated in its return.

This amendment has been made in line with proposed new model of sales tax return filing which is planned to be implemented in July 2016.

Exemptions*Section 16(2)*

The Bill seeks an amendment in Section 16(2) of the FED Act whereby criteria for powers of exemptions or reduction / concession of excise duties has been enhanced. Now amendments, exemptions / concessions on excisable goods may be allowed in the matter relating to international financial institutions or foreign government-owned financial institutions.

Offence, Penalties, Fines & Allied Matters
Section 19(13)

An amendment has been proposed to insert a new sub-section 13 in Section 19 of the FED Act. This appears to be clarificatory in nature whereby penalties may be imposed by the tax authorities in such cases where penalty against an offence has not been prescribed.

Disclosure of Information by a Public Servant
Section 47B

A new Sub-Section 2 has been inserted whereby confidential information by the public servant can only be provided under the parameters of Section 216 of the Income Tax Ordinance. The sharing of confidential information under Section 56B will have an overriding effect to the Freedom of Information Ordinance 2001.

The confidential information is defined to be the information obtained under the ST Act or through any bilateral or multilateral agreements with Government of foreign countries.

FIRST SCHEDULE – EXCISABLE GOODS AND SERVICES

Aerated Waters
Serial No(s) 4, 5, and 6 of Table I

The rate of FED has been enhanced from 10.5% to 11.5% of retail price with effect from July 1, 2016.

Locally Produced Cigarettes
Serial No(s) 9 and 10 of Table I

Likewise, Federal Excise Duty on the locally produced cigarettes is proposed to be enhanced with effect from July 1, 2016 in the following scenario:

| Serial No | Duration | PCT Code | Proposed Rate (Rupees) |
|-----------|---|----------|-------------------------------|
| 9a | For the period from 01-07-2016 to 30-11-2016, locally produced cigarettes if their on-pack printed retail price exceeds four thousand rupees per thousand cigarettes | 24.02 | 3,436 per thousand cigarettes |
| 9b | For the period from 01-12-2016 onwards, locally produced cigarettes if their on-pack printed retail price exceeds four thousand four hundred rupees per thousand cigarettes | 24.02 | 3,705 per thousand cigarettes |
| 10a | For the period from 01-07-2016 to 30-11-2016, locally produced cigarettes if their on-pack printed retail price does not exceed four thousand rupees per thousand cigarettes | 24.02 | 1,534 per thousand cigarettes |
| | For the period from 01-12-2016 onwards, locally produced cigarettes if their on-pack printed retail price does not exceed four thousand four hundred rupees per thousand cigarettes | 24.02 | 1,649 per thousand cigarettes |

Cement**Serial No 13 of Table I**

The Bill proposes to change the criteria for collection of FED on cements, classified under Tariff Heading 25.23. Currently FED on cement is chargeable @ 5% of the retail price. It is proposed to change the current regime of FED with fixed rate basis i.e., Rs.1 / Kg.

We understand it is a revenue measure which will increase the prices. Retail cement bags are sold normally in 50 Kg packs. Under proposed regime, FED will be collected Rs.50 per bag (1/Kg). However, as per current regime, retail pack of 50 Kg of cement is supplied @ Rs.560, while 5% of Rs.560 comes to Rs.28. In this way, FED @ Rs.22 per bag (50kg) would be collected by FBR.

Exemption of Excisable Services**Table II of First Schedule**

The Bill seeks to exempt dutiable services appearing at serial numbers 1, 2, 2A, 5, 8, 11 and 13 of Table II of 1st Schedule to the FED Act on which provincial sales tax is already levied or collected by the respective provincial tax authorities like SRB, PRA, KPK and BRA.

We understand it is a beneficial amendment and was being awaited since long time. After 18th amendment made in the Constitution of Pakistan, provincial authorities were empowered to collect sales tax on services. A MOU was signed between Federal and Provincial authorities whereby it was decided that FED would not be charged or collected on such services on which provincial sales tax was levied by the respective Provinces. Unfortunately, the desired amendment could not be brought into the FED Act. Consequently, notices were being issued to the taxpayers by the federal tax authorities in respect of non-payment of FED with the taxpayers filing legal suits / petitions before superior courts.

The services which have been exempted from FED are as under:

| Serial No | Description of Services | Tariff Heading |
|-----------|---|----------------------------|
| 1 | Advertisement on closed circuit T.V. | 9802.3000 |
| 2 | Advertisements on cable T.V. network | 9820.5000 |
| 2A | Advertisements in newspapers and periodicals (excluding classified advertisements), and on hoarding boards, pole signs and sign boards | 9802.4000 and 9802.9000 |
| 5 | Shipping Agent | 9805.1000 |
| 8 | Services provided or rendered by banking companies, insurance companies, cooperative financing societies, modarabas, musharikas, leasing companies, foreign exchange dealers, non-banking financial institutions, Assets Management companies and other persons dealing in any such services. | 98.13 |
| 11 | Franchise Services | 9823.0000 |
| 13 | Services provided or rendering by stockbrokers | 9819.1000 |

Interestingly, only few days back, the Sindh High Court (SHC) has held FED inapplicable on services rendered in Sindh in which sales tax is collected on such services. In terms of SHC judgment, FED on such services will be treated exempt from the date Sindh Sales Tax Laws came into force, i.e., 01 July 2011.

THIRD SCHEDULE

Conditional Exemptions on Excisable Goods

New Serial No 18 & 19 of Table I

The Finance Bill has proposed to exclude White Cement Tariff Heading 25.23 from FED exemption appearing at serial No 18 of Table-I of Second Schedule to the Federal Excise Act, 2005 [FED Act]. After omitting serial No. 18 a new following serial No. 19 proposed to be amended in second Schedule to the FE Act:

| Serial No. | Description | Tariff Heading |
|------------|---|--------------------|
| 19 | Materials and equipment for construction and operation of Gawadar Port and development of Free Zone for Gawadar Port as imported by or supplied to China Overseas Ports Holding Company Limited (COPHCL) and its operating companies namely (i) China Overseas Ports Holding Company Pakistan (Private) Limited, (ii) Gawadar International Terminals Limited, (iii) Gawadar Marine Services Limited and (iv) Gawadar Free Zone Company Limited, their contractors and sub-contractors; and Ship Bunker Oils bought and sold to the ships calling on/visiting Gawadar Port, having Concession Agreement with the Gawadar Port Authority, for a period of forty years, subject to the conditions and procedure as specified under S.No.100A of Table-1 of Sixth Schedule to the Sales Tax Act, 1990. | Respective Heading |
| 20 | Supplies made by the businesses to be established in the Gawadar Free Zone for a period of twenty-three years within the Gawadar Free Zone, subject to the condition that the sales and supplies outside the Gawadar Free Zone and into the territory of Pakistan shall be subjected to Federal Excise Duty. | Respective Heading |

CUSTOMS ACT 1969

GENERAL POWERS TO EXEMPT THE CUSTOMS DUTIES

Section 19(1)

ECC of the Cabinet has been empowered to exempt the customs duties as follows:

| Section | Existing | Proposed |
|---------|--|--|
| 19(1) | The Federal Government pursuant to the approval of the Economic Coordination Committee of Cabinet, whenever circumstances exist to take immediate action for the purposes of national security, natural disaster, national food security in the emergency situations, protection of national economic interests in situations arising out of abnormal fluctuation in international commodity prices, removal of anomalies in duties, development of back ward areas and implementation of bilateral and multilateral agreements, subject to such conditions, limitations or restrictions, if any, as it thinks fit to impose, may, by notification in the official Gazette, exempt any goods imported into, or exported from, Pakistan or into or from any specified port or station or area therein, from the whole or any part of the customs-duties chargeable thereon and may remit fine, penalty, charge or any other amount recoverable under this Act | The Federal Government pursuant to the approval of the Economic Coordination Committee of Cabinet, whenever circumstances exist to take immediate action for the purposes of national security, natural disaster, national food security in the emergency situations, protection of national economic interests in situations arising out of abnormal fluctuation in international commodity prices, removal of anomalies in duties, development of back ward areas, implementation of bilateral and multilateral agreements, and any International Financial Institute or foreign government owned Financial Institute operating under a memorandum of understanding, an agreement or any other arrangement with the Government of Pakistan, subject to such conditions, limitations or restrictions, if any, as it thinks fit to impose, may, by notification in the official Gazette, exempt any goods imported into, or exported from, Pakistan or into or from any specified port or station or area therein, from the whole or any part of the customs-duties chargeable thereon and may remit fine, penalty, charge or any other amount recoverable under this Act. |

**FIRST SCHEDULE TO THE CUSTOMS ACT, 1969
CUSTOMS DUTY**

The Bill proposes the amendments in First Schedule whereby changes in rates of customs duties have been sought for the following:

Reduction / Concession in Customs Duty

| S. No | Description of Goods / Sectors | Rate | |
|-------|---|------------|------------|
| | | Existing % | Proposed % |
| 1 | Tariff slabs reduced from existing 5 to 4 by merging 2% slab and 5% slab in new 3% slab | 5 | 3 |
| 2 | Concessions of CD for Dairy, Livestock & Poultry Sectors | 5 | 3 |
| 3 | Concessions of CD for Fish Farming, fish feed pellet (floating type) machines | 5 | 2 |
| 4 | fish / shrimp feed | 10 & 20 | 0 |
| 5 | Concessions of CD on local manufacturing of LED Lights | 20 | 5 |
| 6 | Reduction in CD on raw material of PVC Resin | 5 | 3 |
| 7 | Reduction in CD on White Spirits | 10 | 3 |
| 8 | Reduction in CD on Stamping Foil | 20 | 16 |
| 9 | Reduction of CD on Fatty Alcohol Ethoxylate | 15 | 5 |
| 10 | Reduction in CD on CFC Free Gases | 15 | 11 |
| 11 | Reduction in CD rate for Aluminum Sheet in Coil | 20 | 11 |
| 12 | Reduction in CD on Thermostats of Deepfreezers | 20 | 3 |
| 13 | Removal of RD from Bead Wire for tyres Manufacturers | RD 10 | 0 |
| 14 | Removal of RD from Carbon Steel Strips used by Razor blade manufacturers | RD 17.5 | 0 |

Exemption in Customs Duty

| S. No | Description of goods / Sectors | Rate | |
|-------|--|-----------|-----------|
| | | Existing% | Proposed% |
| 1 | Exemption from CD on import of Premixes to prevent growth stunting | 5-20 | 0 |
| 2 | Exemption from CD on Water Quality Testing Kits | 20 | 0 |
| 3 | Exemption from CD on Linear Akyl Benzene | 2 | 0 |

Increase in Customs Duty / RD

| S. No | Description of goods / Sectors | Rate | |
|-------|--|-----------------|-----------------|
| | | Existing% | Proposed% |
| 1 | 10% and 15% slabs substitute with 11% and 16% slabs respectively | 10 & 15 | 11 & 16 |
| 2 | Rationalization of CD on Betel nuts and Betel Leaves | 10 Rs.300/kg | 20 Rs.600/kg |
| 3 | Rationalization of CD on Almonds | 10 | 20 |
| 4 | Rationalization of CD Frozen fish | 10 | 20 |
| 5 | Increase of CD on Medium Density Fiber board | 15 | 20 |
| 6 | Increase of CD on Cement Clinker | 2 | 11 |
| 7 | Increase in CD on Semi Printed/Printed Security Paper | 5 | 16 |
| 8 | Increase in CD on Live Chicken stock and Eggs of chicken | 5 | 11 |
| 9 | Increase in CD on Birds eggs(not in shell) | 5 | 16 |
| 10 | Levy of RD on Powdered Milk | 20 | 20+25RD |
| 11 | Levy of RD on Whey Powder | 20 | 20+25RD |

Further Developments

- Expansion in scope of exemption on Renewable Energy Technologies.
- Expansion in scope of exemption for Charitable non-profit making Institutions Operating Hospitals
- Relief on Cool Chain Machinery.
- Extension in relief on import of Solar Panels till June, 2017.
- Exemption from CD and taxes on disposal of old & used ambulances imported by Edhi Foundation
- Implementation of Automotive Development Policy (ADP) 2016-2021

Principal Office

C-253, P.E.C.H.S., Block 6
Off Shahrah-e-Faisal
Karachi. Pakistan

P + 92 21 3 4374811-15

F + 92 21 34544766

info@shekhamufti.com

Branch Office

Office No. 4, 3rd Floor Rehman Plaza
Queens Road, Off The Mall
Lahore. Pakistan

P + 92 42 3 6298231-3

F + 92 42 3 6298234

info.lhr@shekhamufti.com

www.shekhamufti.com