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Dear Clients,

We are pleased to enclose herewith, our comments, effects and implications of the amendments brought in the Income Tax Ordinance, 2001 and introduction of Capital Value Tax through the Finance Act, 2022. These are now the final amendments as approved by the Parliament and the President of Pakistan.

These comments have been arranged in the sequence of sections of the Income Tax Ordinance, 2001 and covers comments on all amendments made.

Our comments on amendments made in Sales Tax Act, 1990, Sales Tax Rules, 2006, and Islamabad Capital Territory (Tax on Services) Ordinance, 2001 shall follow soon.

These comments have been prepared as a general guide for your benefit and to enable you to understand the implications of the changes made in the relevant laws. However, it is in your interest to seek professional advice before taking any action based on these comments.

We sincerely hope you will find these comments useful to identify which change will effect you and to what extent.

Thanking you, we remain,

Yours faithfully,

(Amir Alam Khan & Co.)  
Chartered Accountants

## **Brief / Comments on amendments made in Income Tax Ordinance, 2001 through Finance Act, 2022**

**All references to sections, sub-sections, clauses and schedules are to the Income Tax Ordinance, 2001, unless otherwise stated.**

**All changes through Finance Act, 2022 are applicable from tax year 2023 i.e. from July 01, 2022, unless stated otherwise.**

**1. Definition of “distributor” – Section 2(18A)**

There are various provisions in the Ordinance, which apply on a distributor. However, the term was not defined. In order to bring clarity, a definition of the term ‘distributor’ has been defined to mean a person appointed by a manufacturer, importer or any other person for a specified area to purchase goods from him for further supply.

**2. Definition of “fair market value” – Section 2(22A)**

The term “fair market value” is already defined in section 68. However, an amendment has been made in the definition section to define this term by linking to section 68, i.e., "fair market value" means value as provided in section 68”.

**3. Definition of “IT services” and “IT enabled services” – Section 2(30AD) and 2(30AE)**

The existing inclusive definition of “IT services” and “IT enabled services” has been amended to clarify that the existing definition is not restricted to the services listed therein and may cover other similar services as well.

**4. Definition of “tax invoice” – Section 2(66A)**

A new definition of “tax invoice” has been introduced to mean an invoice as prescribed under the Income Tax Rules, 2002.

**5. Super tax for rehabilitation of temporarily displaced persons – Section 4B and Division IIA of Part I of 1st Schedule**

The super tax on banking companies of 4% for rehabilitation of temporarily displaced persons stands abolished by amendments in Division IIA of Part I of 1<sup>st</sup> Schedule (provisions of section 4B have not been omitted) and merged in the rate of tax on taxable income which has been raised from 35% to 39%.

**6. Super tax on high earning persons – Section 4C and Division IIB of Part I of 1st Schedule, Rule 6DA of 4th Schedule, Rule 4AB of 5th Schedule and Rule 7CA of 7th Schedule**

An additional tax (Super Tax) has been imposed **retrospectively from tax year 2022** on all taxpayers (individual, association of persons and company) at the following standard rates:

<b>Annual income</b>	<b>Rate of super tax</b>
Does not exceed Rs. 150 million	0% of the Income
Exceeds Rs. 150 million but does not exceed Rs. 200 million	1% of the Income
Exceeds Rs. 200 million but does not exceed Rs. 250 million	2% of the Income
Exceeds Rs. 250 million but does not exceed Rs. 300 million	3% of the Income
Exceeds Rs. 300 million	4% of the Income

However, **for the tax year 2022** the rate of this super tax will be 10% of the income, where the annual income exceeds Rs. 300 million and the persons are engaged, partly or wholly, in the following businesses:

• Airlines;	• Automobiles;	• Beverages;
• Cement;	• Chemicals;	• Cigarette and tobacco;
• Iron and steel;	• LNG terminal;	• Oil marketing;
• Oil refining;	• Pharmaceuticals;	• Sugar;
• Textiles;	• Petroleum and gas exploration and production;	

Further, **for the tax year 2023** in case of banking companies, the rate of this super tax will also be 10% of income, where the annual income exceeds Rs. 300 million.

For the purposes of this additional tax the term “income” will comprise of the following:

- Taxable income before adjustment of brought forward un-absorbed depreciation and brought forward business losses (See Note 1);
- Profit on debt subject to final tax;
- Dividend subject to final tax;
- Brokerage and commission (see Note 2);
- Capital gains (see Note 3);
- Imputable income worked back on the basis of final tax (see Note 4); and
- Income computed, other than brought forward depreciation, brought forward amortization and brought forward business losses under 4<sup>th</sup>, 5<sup>th</sup> and 7<sup>th</sup> Schedules.

*Note 1: Interestingly, brought forward un-absorbed amortization has been overlooked for entities other than those covered under the 4<sup>th</sup> (insurance business), 5<sup>th</sup> (exploration and production of petroleum and mineral deposits) and 7<sup>th</sup> (banking business) Schedule.*

*In our opinion certain incomes like Transport Monetization for Government Servants, flying allowance\*, submarine allowance\*, allowances of pilots\*, termination benefits, arrears of salary, surplus funds of NPO, gain on disposal outside Pakistan of assets located in Pakistan, attributable income of controlled foreign company, etc. are chargeable to tax separately at fixed reduced rates but form part of taxable income for the purposes of this levy.*

*\* These are applicable for tax year 2022, since separate taxation of such allowances has been omitted for tax year 2023 and onwards.*

*Note 2: Income from brokerage and commission is already part of taxable income and has been inadvertently separately mentioned in the incomes to be included for this purpose.*

*Note 3: Capital gains will include gains chargeable to fixed tax or final tax arising on securities under section 37A, immovable property under section 37(1A), debt instruments and government securities of non-resident under section 152(1D) and 152(1DA).*

*In our opinion capital gains subject to zero percent tax shall also be included in the income for this purpose.*

*Note 4: Imputable income in respect of final tax referred to in section 169 are return on investment in sukuku of a non-resident – Section 152(1DB) read with 152(1E); Export of goods and foreign indenting commission – Section 154; Export of services – Section 154A; Prizes and winnings – Section 156 and Commission/discount on petroleum products – Section 156A;*

*Following incomes subject to separate charge as a final tax are not referred to in section 169 and therefore litigation may arise as to whether the imputable income of such incomes will be included for the purposes of levy of super tax on high earning persons:*

- *Return on investment in sukuku – Under section 5AA;*
- *Royalty, fee for technical services, fee for offshore digital services and fee for money transfer operations, card network services, payment gateway services and inter-bank financial telecommunication services of a non-resident – Section 6;*
- *Shipping and air transport services of non-resident – Section 7;*
- *Shipping business of resident – Section 7A;*

*Similarly following incomes subject to final tax are not referred to in section 169 and therefore litigation may arise as to whether the imputable income of such incomes will be included for the purposes of levy of super tax on high earning persons:*

- *Foreign produced commercials by non-resident – Section 152(1BA);*
- *Lease of right to collect toll – Section 236A;*

Corresponding provisions have also been made:

- For payment of this tax (super tax) along with the tax due at the time of furnishing of return of income; and
- Recovery of this tax (super tax), if not paid.

Taxpayers deriving income from insurance, exploration and production of petroleum and banking businesses, have been specifically included for this levy by way of insertion of Rules 6DA, 4AB and 7CA in the 4<sup>th</sup>, 5<sup>th</sup> and 7<sup>th</sup> Schedules respectively.

*In proviso to sub-section (1) of section 4C it has been specifically provided that "this section shall not apply to a banking company for tax year 2022". Contrary to this Rule 7CA of the 7<sup>th</sup> Schedule provides that "The provisions of section 4C shall apply to the taxpayers under this schedule and shall be taxed at the rates specified in Division IIB of Part I of the First Schedule from tax year 2022 onwards". In view of conflicting provisions, we understand that proviso to section 4(1)(c) will prevail, but this will be a point of litigation or removal of anomaly..*

**7. Tax on certain payments to non-residents – Section 6**

**(a) Fee for money transfer operations, card network services, payment gateway services, inter-bank financial telecommunication services – Section 6, 152(1DD), 153(1DD) and 152(1E) and Division IV of Part I of the 1<sup>st</sup> Schedule**

Payments to non-residents for:

- money transfer operations;
- card network services;
- payment gateway services;
- inter-bank financial telecommunication services;

have been specifically made chargeable to tax by way of deduction of tax at source at the rate of 10% as a final tax. For this purpose every banking company and exchange company licensed by the State Bank of Pakistan have been made responsible to deduct or collect tax at the time of making the payment or retaining the transaction fee, licensing fee, service charges, inter-bank financial telecommunication fee, commission or fee, by whatever name called, to card network company, payment gateway, global money transfer operators, international money transfer operators or such other persons engaged in international money transfers or cross-border remittances for facilitating outward remittances.

**(b) Offshore digital services – Section 6 and Division IV of Part I of the 1<sup>st</sup> Schedule**

The rate of tax on offshore digital services has been increased from 5% to 10%, which continue to remain a final tax.

**8. Tax on deemed income – Section 7E and Division VIIC of Part I of 1st Schedule**

A unique concept of imposing tax, **retrospectively from tax year 2022**, on immovable property, excluding immovable property generating income chargeable to tax, has been introduced.

*To hoodwink the litigation on the right of Federal Government to impose such tax on immovable property, the legislator has smartly used the term “capital assets” instead of immovable property, which as defined ultimately leads to the conclusion that this tax has been imposed on immovable property.*

The salient features of this tax are as under:

- Applies to a resident persons;
- On “capital assets” situated in Pakistan and held on the last day of the relevant tax year, excluding exempt “capital assets”;
- Five percent (5%) of the aggregate “fair market value” of such capital assets will be deemed to be chargeable income; and
- Tax at the rate of 20% of the deemed chargeable income i.e. 1% of the aggregate “fair market value” of such capital assets.

Following “capital assets” shall not be taken into consideration (being exempt) for determining the aggregate “fair market value” of such assets:

- (a) Any one capital asset owned by the resident person;
- (b) Self-owned business premises from where the business is carried out by the persons appearing on the active taxpayers' list at any time during the year;

- (c) Self-owned agriculture land where agriculture activity is carried out by person excluding farmhouse and land annexed thereto;
- (d) Capital asset allotted to -
  - (i) a Shaheed or dependents of a shaheed belonging to Pakistan Armed Forces;
  - (ii) a person or dependents of the person who dies while in the service of Pakistan armed forces or Federal or provincial government;
  - (iii) a war wounded person while in service of Pakistan armed forces or Federal or provincial government; or
  - (iv) an ex-serviceman and serving personal of armed forces or ex-employees or serving personnel of Federal and provincial governments, being original allottees of the capital asset duly certified by the allotment authority;
- (e) Any property from which income is chargeable to tax under the Ordinance and tax leviable is **paid** thereon;
- (f) Capital asset in the first tax year of acquisition where tax under section 236K has been paid;
- (g) Where the fair market value of the capital assets in aggregate excluding the capital assets mentioned in clauses (a), (b), (c), (d), (e) and (f) does not exceed Rupees twenty-five million;
- (h) Capital assets owned by a provincial government or a local government; or
- (i) Capital assets owned by a local authority, a development authority, builders and developers for land development and construction, subject to the condition that such persons are registered with Directorate General of Designated Non-Financial Businesses and Professions;

*Clause (g) above is subject to different interpretation where the aggregate "fair market value" of "capital assets" excluding capital assets mentioned at (a) to (f) is more than Rs. 25,000,000 then the deemed income is to be worked out:*

- (a) After deducting Rs. 25,000,000 from the aggregate "fair market value"; or*
- (b) On the entire aggregate "fair market value".*

*During a press conference Member Inland Revenue, Policy, FBR categorically endorsed the first view at (a) above.*

"Capital asset" for the purposes of this levy means property of any kind held by a person, whether or not connected with a business, but does not include -

- (i) any stock-in-trade, consumable stores or raw materials held for the purpose of business;
- (ii) any shares, stocks or securities;
- (iii) any property with respect to which the person is entitled to a depreciation deduction under section 22 or amortization deduction under section 24; or
- (iv) any movable asset not mentioned in clauses (i), (ii)

"Farmhouse" for the purposes of this levy means a house constructed on a total minimum area of 2000 square yards with a minimum covered area of 5000 square feet used as a single dwelling unit with or without an annex:

Provided that where there are more than one dwelling units in a compound and the average area of the compound is more than 2000 square yards for a dwelling unit, each one of such dwelling units shall be treated as a separate farmhouse.

The term “fair market value” is already defined in section 68 and without going into the details this simply means higher of the following:

- Rates of immovable property notified by the Board;
- Rates of immovable property notified by the District Administration for stamp duty purposes; or
- Actual purchase price.

*No provision has been made to compel non-filers to pay this tax. Hence it will be a burden on the existing taxpayers only.*

**9. Deductions not allowed – Section 21**

**(a) Contribution to approved gratuity, pension or superannuation fund – Section 21(ea)**

An amount in excess of fifty percent of contribution made by a person to an approved gratuity fund, an approved pension fund or an approved superannuation fund shall be an inadmissible deduction.

*There appears to be a drafting error. This clause starts with the words “an amount in excess of fifty percent of the contribution made by a person...”, which does not give the legislators intent.*

**(b) Payments for any expenditure not made through digital means – Section 21(l) and 21(la)**

Clause (l) provides for payment of expenditures through crossed banking transactions; otherwise such expenditure is an inadmissible deduction. This clause will become in-operative for a company from the date to be notified by the Board and instead clause (la) will be applicable.

Parallel to the said clause (l), a new clause (la) has been inserted whereby payment of expenditures by a company are required to be made through “digital means” from business bank account of the taxpayer notified to the Commissioner; otherwise such expenditure is an inadmissible deduction. This clause will be operative from the date to be notified by the Board and till such time clause (l) will continue to remain applicable on a company.

Payments for an expenditure referred to in the existing clause (l) and newly inserted clause (la) are for any expenditure for a transaction, paid or payable under a single account head which, in aggregate, exceeds Rs. 250,000, made other than by the prescribed mode of payment, excluding the following:

- (a) Expenditures not exceeding Rupees twenty- five thousand;
- (b) Expenditures on account of-
  - (i) Utility bills;
  - (ii) Freight charges;
  - (iii) Travel fare;
  - (iv) Postage; and
  - (v) Payment of taxes, duties, fee, fines or any other statutory obligation:

- (c) **Payments for salary not through digital means – Section 21(m)**  
Payment of salaries exceeding R. 25,000 per month is required to be made through crossed banking transactions; otherwise such expenditure is an inadmissible deduction. In addition now it is also permitted to make such payments through digital means.
- (d) **Payments for any expenditure for non-integration of business with FBR's systems – Section 21(r)**  
See Para 54(a) - Electronic record - Integration with FBR systems.

**10. Depreciation – Section 22**

- (a) **Restriction on admissible depreciation – Section 22(2) and 22(8)**  
Through Finance Act, 2020 certain amendments were made to restrict the admissible depreciation to 50% on additions made to property, plant and equipment (depreciable fixed assets) on or after July 01, 2020. It was also provided that in the year of disposal of such assets 50% of admissible depreciation will be allowed as depreciation deduction.

The above amendments have been withdrawn and the original position has been restored, whereby full year's admissible depreciation will be allowed as deduction in the year of additions to the depreciable assets and no depreciation will be allowed in the year of disposal of the depreciable assets.

- (b) **Restriction on value of passenger transport vehicle not plying for hire – Section 22(13)(a)**  
The value of the passenger transport vehicle, not plying for hire, for the purposes of depreciation deduction, has been increased to Rs. 7,500,000 from Rs. 2,500,000.

*Inadvertently, similar restriction imposed for deduction of lease rentals remains un-changed at Rs. 2,500,000.*

**11. Capital gains on disposal of capital assets held for more than one year – Section 37(3)**

Capital gains on disposal of capital assets, (other than immovable property and securities) held for more than one year, was chargeable to tax after allowing a reduction equal to 25% of the gain, which stands withdrawn. Now, 100% of the gain on disposal of such capital assets, irrespective of holding period, will be chargeable to tax.

**12. Capital gains on disposal of immovable property – Sections 37(1A), 37(2) and 37(3A)**

The taxation regime for capital gains arising on disposal of immovable property has been subject to frequent changes in last couple of years. The existing regime (prior to amendments made by Finance Act, 2022) was as under:

Quantification of chargeable gain on each disposal of immovable property:

<b>Holding period of the immovable property</b>	<b>Chargeable gain</b>
Does not exceed one year	100% of the gain
Exceeds one year but does not exceed two years	75% of the gain
Exceeds two years but does not exceed three years	50% of the gain
Exceeds three years but does not exceed four years	25% of the gain
Exceeds four years	0% of the gain



Applicable tax rates, as a separate block of income, on the aggregate chargeable gain (calculated as above) on disposal of all immovable property during a tax year:

Aggregate chargeable gain on disposal of the immovable property	Tax Rate
Does not exceed Rs. 5 million	03.50%
Exceeds Rs. 5 million but does not exceed Rs. 10 million	07.50%
Exceeds Rs. 10 million but does not exceed Rs. 15 million	10.00%
Exceeds Rs. 15 million	15.00%

Again this regime has been amended to:

- Restrict this regime on gain arising on disposal of immovable property **situated in Pakistan only**;
- Withdraw the reduction allowed in quantification of chargeable gain; and
- Withdraw the application of applicable rate on the aggregate chargeable gain during the year;

Under the amended regime:

- Gain on disposal of immovable property **situated outside Pakistan** shall be chargeable to tax under the head ‘capital gains’ as part of global total income and taxable income, subject to provisions of avoidance of double tax treaties, if any.
- Immovable property located in Pakistan has been divided in three categories namely, (i) open plots, (ii) constructed property and (iii) flats;
- Separate application of applicable tax rate on the capital gains on each category and each immovable property located in Pakistan depending on holding period of each.
- The revised rates of tax on capital gains arising from disposal of an immovable property are as under:

Holding period of the immovable property	Rate of Tax on the entire gain		
	Open Plots	Constructed Property	Flats
Does not exceed one year	15.00%	15.00%	15.00%
Exceeds one year but does not exceed two years	12.50%	10.00%	07.50%
Exceeds two years but does not exceed three years	10.00%	07.50%	00.00%
Exceeds three years but does not exceed four years	07.50%	05.00%	-
Exceeds four years but does not exceed five years	05.00%	00.00%	-
Exceeds five years but does not exceed six years	02.50%	-	-
Exceeds six years	00.00%	-	-

### 13. Value of capital assets for the purposes of capital gains on disposal – Section 37(4A)

In case a capital asset becomes the property of the person, under the following situations:

- (a) Under a gift from a relative as defined in sub section 85(5), bequest or will;
- (b) By succession, inheritance or devolution;
- (c) Distribution of assets on dissolution of an association of persons; or
- (d) Distribution of assets on liquidation of a company

the cost of such capital asset for the purposes of determining the capital gain thereon at the time of disposal was deemed to be the ‘fair market value’ on the date of its transfer or acquisition by the person.

This beneficial treatment though for a specific purpose (determination of gain on disposal) was in conflict to the non-recognition rules contained in section 79. Accordingly stands withdrawn.

As a result the capital asset becoming the property of the person under the foregoing situations will be treated as:

- acquiring an asset of the same character as the person from whom acquired; and
- acquiring the asset for a cost equal to the cost of the asset, at the time of acquiring, in the hands of the person from whom acquired.

*This major change will be an issue of litigation in respect of value (cost) of such assets acquired before June 30, 2022, when the law provided for 'fair market value' at the time of acquiring.*

#### **14. Capital gain on sale of 'securities' – Section 37A and Division VII of Part I of 1st Schedule**

The rates of tax on capital gains arising from disposal of 'securities' have been modified, subject certain conditions, as under:

S. No.	Holding Period	Rate of Tax for Tax year 2023 and Onwards
1.	Does not exceed one year	15%
2.	Exceeds one year but does not exceed two years	12.5%
3.	Exceeds two years but does not exceed three years	10%
4.	Exceeds three years but does not exceed four years	7.5%
5.	Exceeds four years but does not exceed five years	5.0%
6.	Exceeds five years but does not exceed six years	2.5%
7.	Exceeds six years	0.00%
8.	Future commodity contracts entered into by members of Pakistan Mercantile Exchange	05.00%

The conditions are as under:

- (a) Except the rate at S. No. 8 above:
  - (i) the reduced rates of tax on capital gain arising on disposal will apply where the securities are acquired on or after July 01, 2022; and
  - (ii) the rate of 12.5% tax will be charged on capital gain arising on disposal where the securities are acquired on or before June 30, 2022 irrespective of holding period of such securities;
- (b) The rate for companies in respect of debt securities shall be as specified in Division II of Part I of 1<sup>st</sup> Schedule (standard corporate rates);
- (c) A mutual fund or a collective investment scheme or a REIT scheme shall deduct capital gains tax on redemption of securities as under:

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

- (d) In case of a stock fund if dividend receipts of the fund are less than capital gains, the rate of tax deduction shall be 12.5%; and
- (e) No capital gains tax shall be deducted, if the holding period of the security comprising of a mutual fund or collective investment scheme or a REIT scheme is more than six years.

**15. Exemption under international agreements – Section 44**

Any income of a person (**not being a citizen of Pakistan**) engaged as a contractor, consultant or expert on a project in Pakistan financed out of grants funds by a foreign government or public international organization, to the extent provided for in respective bilateral or multilateral **technical assistance** agreement is exempt subject to certain conditions and restrictions. The scope this exemption has been enlarged by removing the following conditions of its application to:

- A person **not being a citizen of Pakistan**; and
- **Technical assistance** agreements.

Now, a citizen of Pakistan and bilateral or multilateral agreement can benefit from this exemption subject to other applicable conditions and restrictions.

In addition the Federal Government has been empowered to exempt income of any person through a notification in the official Gazette in respect of an official development assistance financed loans and grants-in-aid, subject to such conditions and limitations as it may specify.

**16. Exemptions and tax concessions in the 2nd Schedule – Section 53(2)**

Federal Government in addition to the Board with the approval of Federal Minister-in-charge has been empowered to grant exemptions and tax concessions by way of amendment in the 2<sup>nd</sup> Schedule subject to certain specified conditions and restrictions.

**17. Deductible allowance for profit on debt, withdrawal off – Sections 60C**

An individual was entitled to straight deduction of profit on debt paid on a loan utilized for the construction of a new house or the acquisition of a house, subject to certain conditions and restrictions. The deduction of this allowance stands withdrawn.

**18. Tax credits for investment etc., withdrawal of – Sections 62 and 62A**

A resident person, other than a company, was entitled to tax credit, subject to applicable conditions and restrictions, for:

- Investment in shares offered by listed public company or Privatization Commission of Pakistan;
- Investment in sukuks offered by listed public company;
- Investment in unit of exchange traded fund;
- Payment of life insurance premium; and
- Payment of health insurance premium.

This tax credit stands withdrawn.

**19. Tax credit for export of software etc., withdrawal of – Sections 65F**

Income from export of computer software, IT services or IT enabled services was originally exempt under clause (133) of the 2<sup>nd</sup> Schedule upto June 30, 2025. Through Finance Act, 2021 this exemption was withdrawn and lieu thereof following two options were given:

- 100% tax credit against any tax payable under the Ordinance on such income, subject to certain conditions and restrictions; or

- Final tax at the rate of 1% (reduced to 0.25% by Finance Act, 2022) on foreign exchange realization against such services, subject to certain conditions and restrictions.

The first option stands withdrawn. Also see our comments in Para 35(a) - Export of services.

## **20. Resident Individual – Sections 82**

An individual is resident for Pakistan taxation purposes, if

- (a) is present in Pakistan for a period of, or periods amounting in aggregate to 183 days or more; or
- (b) is an employee or official of the Federal or Provincial Government posted abroad in the tax year.

The above definition of resident for individuals has been enlarged to now also include:

- a citizen of Pakistan who is not present in any other country for more than 182 days during the tax year; or
- a citizen of Pakistan who is not a resident taxpayer of any other country.

*The impact of enlargement of scope of resident individual is that such individual will be chargeable to tax in Pakistan on his total world income.*

## **21. Share from exempt income of an association of person (AOP) – Section 92**

The Supreme Court of Pakistan in a case reported as 119 TAX 19 held that the share of a member of an AOP out of exempt income of the AOP did not enjoy exemption as the AOP had not paid any tax on such income, which is pre-condition for claiming exemption in the hands the member of the AOP.

Although, the decision of the Supreme Court of Pakistan is in accordance with the provisions of section 92, however, this was a hardship for the taxpayer, being not in the spirit of the said section.

Accordingly, an explanation has been inserted to give **retrospective effect** that such share income in the hands of the member of AOP would also be exempt.

## **22. Special provisions relating to payment of tax through electricity connections - Simplified tax regime for retailers (other than Tier-I retailers) and specified service providers – Section 99A and 235A(1A) and clause (2A) of Division IV, Part IV of the 1st Schedule**

Provisions of section 99A - Special provisions relating to traders, were introduced through Income Tax (Third Amendment) Act, 2016, which being now redundant have been substituted with a new scheme of simplified tax for retailers (other than Tier-I retailers) and specified service providers.

*Section 99A has been substituted with a new scheme but the corresponding 9<sup>th</sup> Schedule relevant to pre-substituted section 99A has not been omitted.*

Under this new scheme the retailers (other than Tier-I retailers) and specified service providers will discharge their income tax liability on the income from business carried out from the premises where the electricity connection is installed by payment of final tax through their electricity bills as under:

Gross amount of monthly bill	Income Tax
Does not exceed Rs. 30,000	Rs. 3,000
Exceeds Rs. 30,000 but does not exceed Rs. 50,000	Rs. 5,000
Exceeds Rs. 50,000 but does not exceed Rs. 100,000	Rs. 10,000
Retailers and service providers as notified by the Board through general order – <b>Not yet notified</b>	Upto Rs. 200,000

It is also provided that if the retailer (other than Tier-I retailer) is paying sales tax through its electricity bills under section 3(9) of the Sales Tax Act, 1990, then the aforementioned income tax shall be not payable and the sales tax paid will constitute the discharge of **both income tax and sales tax** liability.

Corresponding insertion of section 235(1A) and Division IV of Part IV of 1<sup>st</sup> Schedule for collection of this tax along with electricity bills has also been made.

Section 3(9) of the Sales Tax Act, 1990 has also been amended and the new rates of sales tax payable by the retailer (other than Tier-I retailer) and specified service providers are as under:

Gross amount of monthly bill	Sales Tax u/s 3(9)
Does not exceed Rs. 30,000	Rs. 3,000
Exceeds Rs. 30,000 but does not exceed Rs. 50,000	Rs. 5,000
Exceeds Rs. 50,000 but does not exceed Rs. 100,000	Rs. 10,000
Any persons or class of person as notified by the Board through general order – <b>Not yet notified</b>	Upto Rs. 200,000

In other words a retailer (other than Tier-I retailer) will either pay sales tax or income tax, as above, in discharge of its obligations under both Income Tax Ordinance, 2001 and Sales Tax Act, 1990.

For the purposes of this new scheme, Board with the approval of the Minister in-charge is empowered to issue an income tax general order to:

- (a) Provide for the scope, time, payment, recovery, penalty, default surcharge, adjustment or refund of tax payable under this section in such manner and with such conditions as may be specified;
- (b) Provide record keeping, filing of return, statement and assessment in such manner and with such conditions as may be specified;
- (c) Provide mechanism of collection, deduction and payment of tax in respect of any person; or
- (d) Include or exempt any person or classes of persons, any income or classes of income from the application of this section, in such manner and with such conditions as may be specified.

*This appears to be a half-hearted attempt with many deficiencies and all depends upon the general order to be issued by the Board to bring clarity.*

**Persons having commercial electricity connections:**

- ***Who do not qualify under this scheme should immediately apply for exemption from the levy of income tax under section 99A read with section 235 of the Income Tax Ordinance, 2001; and***
- ***Who are not a retailer or not a Tier-I retailer should immediately apply for exemption from the levy of sales tax under section 3(9) of the Sales Tax Act, 1990.***

**23. Tax credit for charitable organizations – Section 100C**

Tax credit equal to 100% of any tax payable under the Ordinance is granted to specified charitable organizations subject to various conditions and restrictions. One of the conditions is that the specified charitable organization should be approved by the Commissioner as a “Non-Profit Organization” under section 2(36).

However, the aforesaid condition of approval was deferred till June 30, 2022 for charitable organizations listed in Table-II of clause (66) of the 2<sup>nd</sup> Schedule. This deferment of the approval has been further extended till June 30, 2023.

**24. Special provisions relating to persons not appearing in active taxpayers’ list – Section 100BA and 10th Schedule**

Special provisions have been made to encourage of becoming a compliant and active taxpayer mainly by way of higher rates of collection and deduction of tax under certain specified provisions of the Ordinance for those who are non-compliant and not appearing on active taxpayers’ list. In these special provisions following further changes have been made:

**(a) Powers to enforce filing of returns – Section 114A**

This has been discussed in detail in Para 28.

**(b) Further increase in rates of tax collection – Rule 1 of 10th Schedule**

**(ii) On purchase from a manufacturer; registration (other than purchase from manufacture); or transfer of registration or ownership; of motor vehicle under section 231B**

Rate of tax collection increased to 200% from 100% of the standard rates.

**(iii) On purchase or transfer of immovable property under section 236K**

Rate of tax collection increased to 250% from 100% of the standard rates.

**(a) Addition to specified provisions for 100% increased rate – Rule 10 of 10th Schedule**

Export of services subject to deduction of tax under section 154A will now also attract 100% increased rate of deduction from persons not appearing on active taxpayers’ list.

On the other hand certain situations do arise which need relaxation from such special provisions, which are taken care by way granting exemption:

**(b) Non-resident individuals holding Pakistan Origin Card (POC) or National ID Card for Overseas Pakistanis (NICOP) – Clause (111AC) of Part IV of 2nd Schedule**

Such individuals have been exempted from higher rate of collection of tax prescribed under the 10<sup>th</sup> Schedule on sale, purchase or transfer of immovable property under section 236C and 236K. However, they will continue to discharge their tax liability under the said sections at the standard rates.

**25. Re-characterization of income and deductions – Section 109**

Through Finance Act, 2018, a new clause (g) was added to the definition of permanent establishment in section 2(41) to include the concept of ‘cohesive business operation’, which was basically applicable where the activities of a non-resident under certain contracts were split into offshore and onshore portions carried out by different legal entities of the same group resulting in no taxation on offshore portion of the contract.

The Commissioner has been empowered to apply this concept of “cohesive business operation”, **retrospectively from tax year 2018**, for the purposes of re-characterization of income and deductions in cases of tax avoidance.

**26. Un-explained income or assets – Section 111**

**(a) Foreign remittances – Section 111(4)**

The issue of whether foreign remittances through money service bureaus, exchange companies or money transfer operators qualifies for exemption from probing the source such remittances under the provisions of section 111(1) read with 111(4) was under litigation and multiple views. Lately, FBR in consultation with State Bank of Pakistan issued a detailed circular confirming that such remittances are covered under section 111(4).

In order to legitimize the circular issued by FBR, an explanation has been inserted, **to give retrospective effect**, that such remittances shall be deemed to constitute foreign exchange remitted from outside Pakistan through normal banking channels.

**(b) Credit of income from sources subject to final tax – Section 111(4A)**

Unlike the provisions of the repealed Income Tax Ordinance, 1979, the Income Tax Ordinance, 2001 was silent as to the amount of credit of income from sources subject to final tax that could be taken while explaining the nature and source of credit in the books of account, investment made, ownership of a valuable article or incurring of an expenditure, etc..

A new sub-section has been inserted, whereby the credit of income from sources subject to final tax in the foregoing situations will be restricted to:

- (a) A maximum of imputable income worked back from the final tax chargeable; or
- (b) Reasonably attributable to the business activities subject to final tax and the taxpayer furnishes financial statements and accounts duly audited by a chartered accountant.

*We understand that in non-corporate cases, generally Para (a) will be applicable.*

**27. Minimum Tax on Turnover – Section 113**

**(a) Exclusion of super tax payable or paid by high earning persons – Section 113(1)**

For the purposes of comparison of minimum tax on turnover with tax otherwise payable it has been expressly provided that tax payable or paid will not include super tax payable or paid by high earning persons under section 4C. This is similar to the non-inclusion of super tax for rehabilitation of temporarily displaced person under section 4B.

**(b) Carry forward of minimum tax – Section 113(2)(c)**

Minimum tax based on turnover paid in excess of the tax otherwise payable is allowed to be carried forward and adjusted against the gross tax payable on taxable income of the following year(s). This carry forward was allowed in the following five tax years which has been now restricted to three years.

*Clarification by the Board will be required as to whether the reduced period of carry forward will apply from tax year 2023 or this will effect the un-expired previous carry forwards available.*

**(c) Modification in the rates of minimum tax – Division IX of Part I of 1st Schedule**

The rates of minimum tax based on turnover remain un-changed, except the following:

**(i) Oil marketing companies – Division IX of Part I of 1<sup>st</sup> Schedule**

Reduced to 0.50% from 0.75%;

**(ii) Distributors, dealers, sub-dealers, wholesalers and retailers of steel – Clause (24D) of Part II of 2<sup>nd</sup> Schedule**

Reduced to 0.25% from standard rate of 1.25%, subject to the condition of being appearing on Active Taxpayers' Lists issued under the Sales Tax Act, 1990 and Income Tax Ordinance, 2001. This reduction is addition to sale by such persons of fast moving consumer goods, fertilizer, locally manufactured mobile phones, electronics excluding imported mobile phones, sugar, cement and edible oil.

**(d) Grant of exemption from minimum tax – Clause (11A)(xiv) of Part IV 2nd Schedule**

Granted to Mobile phone manufacturers engaged in the local manufacturing of mobile phone devices.

**(e) Withdrawal of exemption from minimum tax – Clause (11A)(xiii) of Part IV 2nd Schedule**

Exemption withdrawn from a Modaraba registered under the Modaraba (Floatation and Control) Ordinance, 1980.

*This clause already stands omitted by Finance Act, 2021. Thus either the reference in the Finance Act, 2022 is incorrect or by mistake this is again proposed to be omitted.*

**28. Powers to enforce filing of returns – Section 114A**

Enforcement by tax officials as a whole is a subject of great concern. Instead of over coming or ensuring enforcement through administrative measures, frivolous powers are obtained by tax administration to ensure enforcement by indirect means.

**Notwithstanding anything contained in any other law for the time being in force,** the Board has been empowered to order:

- Disabling of mobile phones or mobile phone SIMS;
- Discontinuance of electricity connection; or
- Discontinuance of gas connection.

through a general order in respect of persons who are not appearing on active taxpayers' list but are liable to file return under the provisions of the Ordinance, subject to the following conditions:

- Notice for furnishing of return of income under 114(4) has been issued;
- Date of compliance of the said notice has elapsed; and
- The person has not filed the return.



The Board or the Commissioner having jurisdiction over such person may order restoration of mobile phones, mobile phone SIMS and connections of electricity and gas, in cases where he is satisfied that-

- The return has been filed; or
- The person was not liable to file return under the provisions of the Ordinance.

It is also provided that the foregoing action is without prejudice to any other action provided in the Ordinance for non-furnishing of the return.

**29. Best judgment assessment, limitation – Section 121(3)**

Currently the limitation for making a best judgment assessment is within five years after the end of the tax year to which it relates, which has been extended to six years.

**30. Amendment of assessment, limitation – Section 122(9)**

In addition to the over all limitation for passing an amended assessment order, through Finance Act, 2021 additional limitation of 120 days, extendable to a maximum of further 90 days for the reasons to be recorded in writing by the Commissioner, for making an amended assessment from the date of issuance of show cause notice under section 122(9) was provided. The period of 120 days has been increased to 180 days. However, further extendable period remains un-changed.

*In our opinion the extended limitation will apply to notices issued on or after July 01, 2022.*

**31. Alternative Dispute Resolution – Section 134A**

In order to persuade taxpayers to resolve their tax disputes through the Alternative Dispute Resolution (ADR) mechanism, the ADR mechanism has been under regular focus of the legislators and time and again amendments have been made to revamp and make it effective. Finance Act, 2022 is no exception and the entire mechanism of ADR has been again substituted and revamped.

The salient features of the substituted and revamped ADR mechanism is as under:

**(a) Nature of disputes that can be referred for ADR:**

- (i) The liability of tax of one hundred million and above against the aggrieved person or admissibility of refund, as the case may be;
- (ii) The extent of waiver of default surcharge and penalty; or
- (iii) Any other specific relief required to resolve the dispute.

which is under litigation in any court of law or an Appellate Authority, except where criminal proceedings have been initiated

**(b) Procedure for ADR:**

- (i) Application by the taxpayer for appointment of a committee for resolution of the hardship or dispute accompanied with:
  - Complete details and nature of hardship or dispute;
  - Initial proposition for resolution of the dispute, including an offer of tax payment, from which, the applicant would not be entitled to retract; and
- (ii) Appointment of a committee by the Board within 45 days of receipt of application;
- (iii) The taxpayer or the Commissioner, or both, as the case may be, to withdraw the appeal pending before any court of law or an Appellate Authority, after constitution of the committee by the Board.

**(c) Composition of the committee (ADRC):**

- (i) Chief Commissioner Inland Revenue having jurisdiction over the case;
- (ii) Person to be nominated by the taxpayer from a panel notified by the Board comprising of (a) chartered accountants, cost and management accountants and advocates having a minimum of ten years' experience in the field of taxation; (b) officers of the Inland Revenue Service who have retired in BS 21 or above; or (c) reputable businessmen as nominated by Chambers of Commerce and Industry;  
Provided that the taxpayer shall not nominate a Chartered Accountant or an advocate if the said Chartered Accountant or the advocate is or has been an auditor or an authorized representative of the taxpayer; and
- (iii) Person to be nominated through consensus by the members appointed under (i) and (ii) above, from the panel as notified by the Board in (ii) above;  
Provided that where the member under this clause cannot be appointed through consensus, the Board may nominate a member proposed by the taxpayer eligible to be nominated as per clause (ii).

**(d) Proceedings of the committee (ADRC):**

- (i) Can not commence the proceedings unless the order of withdrawal by the court of law or the Appellate Authority is communicated to the Board:  
Provided that if the order of withdrawal is not communicated within 75 days of the appointment of the ADRC, the said ADRC shall be dissolved and the ADR stands abated.
- (ii) Examination of the issue and may, if it deems necessary, conduct inquiry, seek expert opinion, direct any officer of the Inland Revenue or any other person to conduct an audit;
- (iii) Decide the dispute by majority, within 120 days of its appointment excluding, the period, if any, for communicating the order of withdrawal by the court of law or the Appellate Authority;
- (iv) The decision of the ADRC shall be binding on the Commissioner and the taxpayer;

**(e) Failure of the committee (ADRC) to decide:**

- (i) If the Committee fails to decide within the period of 120 days, the Board shall dissolve the committee by an order in writing and the matter shall be decided by the court of law or the Appellate Authority which issued the order of withdrawal and the appeal shall be treated to be pending before such court of law or the Appellate Authority as if the appeal had never been withdrawn;
- (ii) The Board shall communicate the order of dissolution to the court of law or the Appellate Authority and the Commissioner;
- (iii) The taxpayer, on receipt of the order of dissolution, shall also communicate it to the court of law or the Appellate Authority, which shall decide the appeal within six months of the communication of said order.

**(f) Other matters:**

- (i) The decision by the ADRC can not be cited or taken as a precedent in any other case or in the same case for a different tax year;
- (ii) The recovery of tax payable in respect of dispute referred to ADRC will be deemed to have been stayed on withdrawal of appeal up to the date of decision by the ADRC or the dissolution of the ADRC whichever is earlier;

- (iii) The taxpayer may make the payment of income tax and other taxes as decided by the ADRC and all decisions, orders and judgments made or passed shall stand modified to that extent;

### 32. Imports – Section 148

**(a) Exclusion of imports of goods by an industrial undertaking from minimum tax regime – Section 148(7)**

Import of goods by an industrial undertaking for its own use falling in Table III of the 12<sup>th</sup> Schedule and subject to collection of tax at the rate of 5.50% has been excluded from the minimum tax regime.

*A positive amendment to overcome the hassle of, re-classification of the goods from Table III to Table II of 12<sup>th</sup> Schedule, by an industrial undertaking.*

**(b) Specified goods imported brought under minimum tax – Section 148(7A)**

Following specified goods imported have been brought under minimum tax regime:

- (i) Edible oil;
- (ii) Packaging material;
- (iii) Paper and paper board; or
- (iv) Plastics.

*The import of above goods by a commercial importer is already under minimum tax regime. This implies that such goods imported by industrial undertaking for its own use have been brought under minimum tax regime.*

In addition Board has been empowered with the approval of Minister in-charge, to add any entry thereto or omit any entry therefrom or amend any entry therein by a notification in the official Gazette.

*It is surprising, that power of amendment of the main law has been delegated to the Board by the legislator. Generally, such powers are delegated only in respect of entries in the 2<sup>nd</sup> Schedule under section 53.*

**(c) Rates of advance tax on import of goods – Part II of 1st Schedule**

The rates of advance tax collected on import of goods remains un-changed, except the following:

- Increase in the rate for commercial importers to 3.50% from 2.00% in respect of goods falling in Table-II of the 13<sup>th</sup> Schedule; and
- Increase/decrease in the rates on following categories of mobile phones:

C & F value of mobile phone (in UD Dollars)	Rate of Tax – Pre Finance Act, 2022				Rate of Tax – Post Finance Act, 2022			
	In Condition Heading 8517.1219	CBU PCT	In condition Heading 8517.1211	CKD/SKD PCT	In Condition Heading 8517.1219	CBU PCT	In condition Heading 8517.1211	CKD/SKD PCT
Exceeding 350 and upto 500		Rs. 3,000		Rs. 5,000		Rs. 5,000		Rs. 3,000
Exceeding 500		Rs. 5,200		Rs. 11,500		Rs. 11,500		Rs. 5,200

**(d) Re-classification of goods – Table I and Table II of 12th Schedule**

Re-classification of goods in Table I and Table II of the 12<sup>th</sup> Schedule has been made by omitting, adding or inter table transposition. Complete details can be obtained on request.

**33. Payment for goods, services and execution of contracts, reduction and in rates of tax deduction or grant of exemption or withdrawal of exemption – Section 153**

**(a) REIT management services and services rendered by National Clearing Company of Pakistan Limited – Division III of Part III of 1st Schedule**

The rates of deduction of tax from payments for sale of goods, rendering or providing services and execution of the contracts remains un-changed, except for REIT management services and services rendered by National Clearing Company of Pakistan Limited, which have been included in specified services subject to tax deduction as well as minimum tax of 3% instead of earlier standard rate of 8%.

**(b) Distributors, dealers, sub-dealers, wholesalers and retailers of steel – Clause (24C) of Part II of 2nd Schedule**

The rate of deduction of tax from sale of steel by its distributors, dealers, sub-dealers, wholesalers and retailers under section 153(1)(a) reduced to 0.25% from the applicable standard rates of 4.00% and 4.50%, subject to the condition of being appearing on Active Taxpayers' Lists issued under the Sales Tax Act, 1990 and Income Tax Ordinance, 2001. This reduction is addition to sale by such persons of fast moving consumer goods, fertilizer, electronics excluding mobile phones, sugar, cement and edible oil.

**(c) Sale of gold and silver and articles thereof – Clause (31) of Part II of 2nd Schedule**

The rate of tax on payment for sale of gold and silver and articles thereof under section 153(1)(a) reduced to 1% and the tax so deducted shall be adjustable.

**(d) Exhibitor or a distributor of a feature film – Clause (43H) of Part IV of 2nd Schedule**

Grant of exemption from deduction of tax under section 153(1)(b) to an exhibitor or a distributor of a feature film, as a payer, on payment made to a distributor, producer or importer of a feature film.

**34. Exports – Foreign indenting commission – Section 154(2) and Clause (2) of Division IV of Part III of 1st Schedule**

Through Finance Act, 2021 by insertion of section 154A, realization of foreign exchange proceeds in respect of export of specified services was brought under concessionary tax regime at the rate of 1.00% of such realizations.

On the other hand under section 154(2), realization of foreign exchange proceeds in respect of commission due to an indenting commission agent also continued to remain on the statute, whereby such commission was subject to deduction of tax by every authorized dealer in foreign exchange at the rate of 5.00% of the proceeds and such tax deducted was a final tax.

Commission due to an indenting commission agent is also an export of services covered under section 154A inserted by Finance Act, 2021. In order to remove this disparity the specific provisions relating to commission due to an indenting commission agent have been omitted and corresponding change has also been made in section 154A to specifically recognize commission due to an indenting commission agent as export of services.

Consequential amendment has also been made in Division IV of Part III of 1<sup>st</sup> Schedule to remove the prescribed rate of tax deduction on commission due to an indenting commission agent under omitted section 154(2).

Also see our comments under Para 35(c) - Export of services.

### **35. Export of services – Section 154A**

Exports of specified services are chargeable to final tax at the rate of 1.00%.

#### **(a) Computer software etc. – Section 154A(1)(a)**

Export of computer software, IT services and IT enabled services is covered in this section un-conditionally (apart from general conditions and restrictions). Now in order to qualify under this section a specific condition that the exporter is registered with and duly certified by the Pakistan Software Export Board (PSEB) has been imposed.

#### **(b) Rate of tax deduction and final tax on export of computer software etc – Division IVA of Pat III of 1st Schedule**

A further reduced rate of 0.25% has been fixed on export of computer software, IT services and IT enabled services for the purposes of deduction from realization of export proceeds as well as final tax.

#### **(c) Commission due to an indenting commission agent – Section 154A(1)(da)**

Foreign commission due to an indenting commission agent has been re-cognized as export of services. See comments in Para \_\_ - Exports – Foreign indenting commission.

#### **(d) General conditions and restrictions – Section 154A(2)(b)**

In order to qualify for concessionary tax regime for export of specified services one of conditions was that “withholding tax statements for the relevant year have been filed”. This condition did not take care of cases where the withholding tax statements are not required to be filed, which has been appropriately amended.

The applicable conditions and restrictions now are:

- Return has been filed;
- Withholding tax statements for the relevant tax year have been filed if required under the Ordinance;
- Sales tax returns under Federal or Provincial laws have been filed, if required under the law; and
- No credit for foreign taxes paid shall be allowed.

**36. Synchronized Withholding Administration and Payment System (SWAPS) – Section 2(62B), 164A and S. No. 31 of Table to section 182(1)**

Provisions have been made for introduction of an automated system for collection, deduction and deposit of tax collected or deducted under various provisions of the Ordinance to be known as Synchronized Withholding Administration and Payment System (SWAPS).

For this purpose SWAPS agent has been defined to mean any person or class of persons notified by Board to collect or deduct withholding taxes through Synchronized Withholding Administration and Payment System.

Notified SWAPS agent is required to:

- Integrate with SWAPS and to act as SWAPS agent within the time and in the manner as will be prescribed by FBR;\
- Remit withholding tax to the respective Commissioner through digital mode and in this regard, a SWAPS payment receipt (SPR) will replace Computerized Payment Receipts (CPR).

All the provisions of the Ordinance applicable to a person required to collect or deduct tax shall *mutatis mutandis* apply to a SWAPS agent.

Failure to integrate or perform roles and functions as SWAPS Agent after being duly notified by the Board as SWAP agent will attract following **penalties**:

Rs. 50,000 for first default of seven days;

Rs. 100,000 for second default of next seven days;

Rs. 50,000 for each week after the second consecutive week of default.

Provided that no penalty will be imposed for the period for which extension from integration is granted by the Commissioner subject to the condition that, if the SWAPS Agent fails to integrate within such extended time, penalties will be imposed as if no extension was granted.

**37. Records – Limitation for maintenance – Section 174**

A taxpayer is required to maintain the prescribed accounts, documents and records for a period of six years after the end of the tax year to which it relates (e.g., records relating to tax year 2023 are to be maintained till June 30, 2029), if not otherwise required for any pending proceedings.

Contrary to the above tax authorities are empowered under section 111 to probe into the source of unexplained foreign assets and foreign source income irrespective of any limitation period. In a recent judgment, the Appellate Tribunal held that the provisions of section 111 cannot be applied without any regard to the limitation period particularly when section 174 only requires a taxpayer to maintain his record for a period of six years.

In order to nullify the effect of above interpretation of the Appellate Tribunal, it has been expressly provided that the limitation for maintenance of prescribed accounts, documents and records of six years shall not apply to prescribed accounts, documents and records relating to investment, money, valuable article or expenditure situated or incurred outside Pakistan or concealed foreign source income.

**38. Sharing of records and information by National Database and Registration Authority (NADRA) – Section 175B**

NADRA has been allowed, either on its own motion or upon application by the Board, to share its records and any information available or held by it, with the Board, for broadening of the tax base or carrying out the purposes of the Ordinance. In addition NADRA has been allowed to:

- (i) Submit proposals and information to the Board for broadening the tax base;
- (ii) Identify in relation to any person, whether a taxpayer or not:
  - (a) income, receipts, assets, properties, liabilities, expenditures, or transactions that have escaped assessment or are under-assessed or have been assessed at a low rate, or have been subjected to excessive relief or refund or have been misdeclared or misclassified under a particular head of income or otherwise; and
  - (b) the value of assets, properties, if such value is at variance with the value notified by the Board or the district authorities, as the case may be, or if no such value has been notified the true or market value;
- (iii) Compute indicative income and tax liability in relation to a person, whether a taxpayer or not, by use of artificial intelligence, mathematical or statistical modeling or any other modern device or calculation method; and
- (iv) Enter into a memorandum of understanding with the Board for a secure exchange and utilization of a person's information;

Simultaneously, the Board has been empowered to:

- (a) Utilize any information communicated to it by NADRA and forward such information to an income tax authority having jurisdiction in relation to the subject matter regarding the information, who may utilize the information for the purposes of the Ordinance;
- (b) Notify to the person in respect of whom such indicative income and tax liability has been determined by NADRA

The person who has been notified by the Board of indicative tax liability determined by NADRA:

- (a) Shall have the option to pay the determined amount on such terms, conditions, installments, discounts, reprieves pertaining to penalty and default surcharge, and time limits that may be prescribed by the Board;
- (b) In case such person does not pay such liability within the time prescribed, the Board shall take action under the Ordinance, on the basis of indicative tax liability determined by NADRA;
- (c) In case such person pays such liability, such payment shall be construed to be an amended assessment order under section 120 or sub-section (1) of section 122 or sub-section (4) of section 122, as the case may be.

**39. Audit selection – Section 177 and 214C and clause (105A) of Part IV of 2nd Schedule**

A positive amendment has been made whereby by person once audited (*either by way of selection by the Commissioner under section 177 or by the Board under section 214C*) can not be selected for audit of its tax affairs in the following four years by:

- The Board under section 214C; or
- The Commissioner under section 177 without prior approval of the Board.

**40. Record of beneficial owners – Section 2(7A), 181E and S. No. 30 of Table to section 182(1)**

Every company and association of persons is now required to electronically furnish particulars of its beneficial owners or any changes thereof or changes in the particulars thereof in such form and manner as may be prescribed.

For this purpose “beneficial owner” means a natural person who -

- (a) Ultimately owns or controls a Company or association of persons, whether directly or indirectly, through at least 25% shares or voting rights; or
- (b) Exercise ultimate effective control, through direct or indirect means, over the company or association of persons including control over the finances or decisions or other affairs of the company or association of persons.

Non furnishing of particulars of beneficial owners or any changes thereof or changes in the particulars thereof attracts a **penalty** Rs. 1,000,000 for each default.

**41. Offences and penalties – Section 182**

**(a) Penalty for failure to furnish a return of income by due date – S. No. 1**

This has been substituted as under:

Pre Finance Act, 2022	Post Finance Act, 2022
<p>Such person shall pay a penalty equal to 0.1% of the tax payable in respect of that tax year for each day of default subject to a maximum penalty of 50% of the tax payable</p> <p>Provided that if the penalty worked out as aforesaid is less than forty thousand rupees or no tax is payable for that tax year such person shall pay a penalty of forty thousand rupees:</p> <p>Provided that if seventy-five percent of the income is from salary and the amount of income under salary is less than five million Rupees, the minimum amount of penalty shall be five thousand Rupees:</p> <p>Provided further that if taxable income is up-to eight hundred thousand Rupees, the minimum amount of penalty shall be five thousand Rupees:</p> <p>Provided also that the amount of penalty shall be reduced by 75%, 50% and 25% if the return is filed within one, two and three months respectively after the due date or extended due date of filing of return as prescribed under the law.</p> <p>Explanation.— For the purposes of this entry, it is declared that the expression “tax payable” means tax chargeable on the taxable income on the basis of assessment made or treated to have been made under section 120, 121, 122 or 122C.</p>	<p>Such person shall pay a penalty equal to higher of –</p> <ul style="list-style-type: none"> <li>(a) 0.1% of the tax payable in respect of that tax year for each day of default; or</li> <li>(b) rupees one thousand for each day of default:</li> </ul> <p>Provided that minimum penalty shall be –</p> <ul style="list-style-type: none"> <li>(i) rupees ten thousand in case of individual having seventy-five percent or more income from salary; or</li> <li>(ii) rupees fifty thousand in all other cases:</li> </ul> <p>Provided further that maximum penalty shall not exceed two hundred percent of tax payable by the person in a tax year:</p> <p>Provided also that the amount of penalty shall be reduced by 75%, 50% and 25% if the return is filed within one, two and three months respectively after the due date or extended due date of filing of return as prescribed under the law;</p> <p>Explanation.- For the purposes of this entry, it is declared that the expression "tax payable" means tax chargeable on the taxable income on the basis of assessment made or treated to have been made under section 120,121, 122 or122D.</p>

**(b) Other amendments in penalty provisions – S. No. 30 to 34**

These are discussed and explained under respective related headings.



**42. Uniform – Section 209A**

The Board has been empowered to prescribe rules for wearing of uniform by officers and staff of Inland Revenue Service of Pakistan.

**43. Condonation of time – Section 214A**

The Board is empowered to condone or extend the time or period specified under any of the provisions of the Ordinance or rules made there-under within which any application is to be made or any act or thing is to be done.

The High Court and Appellate Tribunal interpreted that such powers cannot be exercised by FBR once the limitation period has already elapsed. In order to nullify the effect of such interpretation, amendment has been made whereby this power can be exercised at any time before or after the expiry of such time or period.

**44. Disclosure of information by a public servant – Section 216**

**(a) Restriction on disclosure – Section 216(2)**

The substituted provision with changes highlighted reads as under:

“Notwithstanding anything contained in the Qanun-e-Shahadat, 1984 (P.O. No. 10 of 1984), the National Accountability Ordinance, 1999 (XVIII of 1999), the Federal Investigation Agency Act, 1974 (VIII of 1975) and the Right of Access to Information Act, 2017 (XXXIV of 2017), or any other law for the time being in force, no court or any other authority shall ~~be~~, save as provided in ~~this the~~ Ordinance, ~~entitled to~~ require any public servant to produce before it any return, accounts, or documents contained in, or forming a part of the records relating to any proceedings under the Ordinance, or declarations made under the Voluntary Declaration of Domestic Assets Act, 2018, the Foreign Assets (Declaration and Repatriation} Act, 2018 or the Assets Declaration Act, 2019 or any records of the Income Tax Department generally, or any part thereof, or to give evidence before it in respect thereof.”

**(b) Permitted disclosures – Section 216(3)(kb)**

Disclosure of information to NADRA, for the purposes of broadening of tax base, has been omitted from the list of permitted disclosures.

**45. Proceedings against authority and persons – Section 216A**

Through Finance Act, 2019, the Board was authorized to prescribe rules for initiating criminal proceedings against any Income Tax Authority and officers of Directorate Generals including any person subordinate to them, which stands withdrawn.

**46. Advance tax on motor vehicles (Purchase, registration and transfer of motor vehicle)– Section 231B**

**(a) Transfer of registration or ownership – Section 231B(2)**

In case of transfer of registration or ownership this advance tax collection was restricted to ‘private motor vehicles’. By omission of the word “private” now all motor vehicles will attract collection of advance tax on transfer of registration or ownership.

**(b) Definition of term “motor vehicle” – Section 231B(7)**

The existing definition of the term “motor vehicle” for the purposes collection of advance tax has been substituted with following changes:

- ‘pickup trucks for private use’ has been replaced with ‘pickup’ and ‘truck’ and the words ‘private use’ have been omitted;
- ‘any other automobile used for private purpose’ has been replaced with ‘any other automobile’ and the words ‘used for private purposes’ have been omitted; and
- ‘a motor vehicle used for public transportation, carriage of goods and agriculture machinery’ has been added to the list of exclusions from definition of ‘motor vehicle’.

**(c) Rates of tax collection – Division VII of Pat IV of 1st Schedule**

- (ii) **On Purchase from a manufacturer or registration (other than purchase from manufacture) of motor vehicle**, the rates of tax collection have been revised upwards as under:

Engine Capacity	Pre Finance Act, 2022	Post Finance Act, 2022
Upto 850 cc	Rs. 7,500	Rs. 10,000
851cc to 1000cc	Rs. 15,000	Rs. 20,000
1001cc to 1300cc	Rs. 25,000	Rs. 25,000
1301cc to 1600cc	Rs. 50,000	Rs. 50,000
1601cc to 1800cc	Rs. 75,000	Rs. 150,000
1801cc to 2000cc	Rs. 100,000	Rs. 200,000
2001cc to 2500cc	Rs. 150,000	Rs. 300,000
2501cc to 3000cc	Rs. 200,000	Rs. 400,000
Above 3000cc	Rs. 250,000	Rs. 500,000

In cases of a motor vehicle where engine capacity is not applicable and the value of vehicle is Rs. 5,000,000 or more, the rate of tax will be 3% of the import value as increased by customs duty, sales tax and federal excise duty in case of imported vehicles or invoice value in case of locally manufactured or assembled vehicles.

*There appears to be drafting error in the proviso, which does not cater for motor vehicles where engine capacity is not applicable and value of such vehicle is less than Rs. 5,000,000.*

- (iii) **On transfer of registration or ownership of motor vehicle**, the rates of tax collection have remained un-changes, except that in cases of a motor vehicle where engine capacity is not applicable and the value of vehicle is Rs. 5,000,000, the rate of tax collectible shall be Rs 25,000.

*There appears to be drafting error in the proviso, which does not cover motor vehicles where engine capacity is not applicable and value of such vehicle is less than Rs. 5,000,000.*

**47. Advance tax on motor vehicles along with motor vehicle tax – Section 234 and Division III of Part IV of 1st Schedule**

- (a) Passenger transport vehicles plying for hire – Clause (2) of Division III of Part IV of 1st Schedule**

The rates of advance tax collectable along with motor vehicle tax in respect of passenger transport vehicles plying for hire have been revised upward, with distinction between air-condition and non-air-condition vehicles as under:

Capacity	Pre Finance Act, 2022	Post Finance Act, 2022	
	Per seat per annum	Per seat per annum Non-Air-Conditioned	Per seat per annum Air-Conditioned
4 or more persons but less than 10 persons	Rs. 50	Rs. 500	Rs. 1,000
10 or more persons but less than 20 persons	Rs. 100	Rs. 1,500	Rs. 2,000
20 persons or more	Rs. 300	Rs. 2,500	Rs. 4,000

**(b) Other vehicles – Clause (3) of Division III of Part IV of 1st Schedule**

Under clause (3) of Division III of Part IV of 1<sup>st</sup> Schedule advance tax collectable along with motor vehicle tax was restricted to ‘private motor vehicles’ which was contrary to the governing section 234. This lacuna has been removed.

**48. Advance tax on sale or transfer of property – Section 236C**

**(a) Withdrawal of exemption from collection of advance tax – Section 236C(3)**

Sale or transfer of immovable property held for more than 4 years was exempt from collection of advance tax, since the capital gain on disposal of such property was also exempt. Taxation of capital gains on disposal of immovable property has undergone a major change (explained hereinabove) and the capital gain on disposal thereof in following situations is exempt or chargeable at 0.00% tax:

Open plots	-	held for more than 6 years
Constructed property	-	held for more than 4 years
Flats	-	held for more than 2 years

Contrary to the above exemption of capital gains, the exemption from collection of advance tax has been withdrawn. Resultantly, exempt capital gains on disposal of immovable property will also attract collection of advance tax.

**(b) Rate of collection of advance tax – Division X of Part VI of 1st Schedule**

The rate of collection of advance tax on sale of an immovable property has been increased to 2% from 1% for persons appearing on active taxpayers’ list.

**49. Advance tax on TV plays and advertisements – Section 236CA and Division XA of Part IV of 1st Schedule**

Through Finance (Supplementary) Act, 2022 foreign TV drama serial or play dubbed in Urdu or any other foreign language and any commercial for advertisement starring a foreign actor were brought under the collection of advance tax by any licensing authority certifying for screening and viewing on any landing rights channel. Such advance tax collection was a minimum tax on the income arising from such drama, play, commercial or advertisement. The rates of advance tax collection have been revised as under:

Engine Capacity	Pre Finance Act, 2022	Post Finance Act, 2022
Foreign-produced TV drama, serial or play	Rs. 1,000,000 per episode	Rs. 1,000,000 per episode
Foreign-produced TV play (single episode)	Rs. 3,000,000	Rs. 3,000,000
Advertisement starring foreign actor	Rs. 500,000 per second	Rs. 100,000 per second

**50. Collection of advance tax by educational institutions – Section 236I and Division XVI of Part IV of 1st Schedule**

Collection of adjustable advance tax at the rate of 5.00% of the amount of fee from persons not appearing on the active taxpayers’ list by educational institutions has been abolished.

**51. Collection of advance on purchase of immovable property – Section 236K and Division XVIII of Part IV of 1st Schedule**

The rate of collection of advance tax on purchase of an immovable property has been increased to 2% from 1% for persons appearing on active taxpayers’ list. For non-active taxpayers the rate of collection stands increased to 7% from 2%.

**52. Payment to residents for use of machinery and equipment – Section 236Q and Division XXIII of Part IV of 1st Schedule**

Deduction of tax at the rate of 10.00% from payments received by residents for use or right to use industrial, commercial and scientific equipment; and rent of machinery stands withdrawn. As a consequence, such income also stands excluded from minimum tax regime.

**53. Advance tax (adjustable) on persons remitting amounts abroad through credit or debit or prepaid cards – Section 236Y and Division XXVII of Part IV of 1st Schedule**

This collection of advance tax was introduced through Finance Act, 2018 and latter on withdrawn by Finance Act, 2021, which has been re-introduced.

Every banking company has been made responsible for collection of this advance tax, at the time of transfer of any sum remitted outside Pakistan, on behalf of any person who has completed a credit card or debit card or prepaid card transaction with a person outside Pakistan at the rate of 1% of gross amount remitted abroad.

**54. Electronic records – Integration with FBR systems – Section 237A**

Through SRO 779(I)/2020, certain businesses are required to install prescribed fiscal electronic device and software for integration with FBR’s system. These businesses located at Karachi, Lahore, Islamabad, Rawalpindi, Faisalabad and Multan are:

S.No	Description	PCT Heading, if applicable	Exclusion, if any
1.	Restaurants	9801.2000 9801.7000	Where- <ul style="list-style-type: none"> <li>the restaurant is operating otherwise than as part of a food court; and</li> <li>the facility of air- conditioning is not installed or available in the premises.</li> </ul>
2.	Hotels, motels, guest houses, marriage halls, Marquees, clubs including race clubs.	9801.1000 9801.3000 9801.4000 9801.5000 9801.6000 9801.7000	Where- <ul style="list-style-type: none"> <li>The covered area is less than 4500 sq. feet</li> <li>the facility of air- conditioning is not installed or available in the premises.</li> </ul>
3.	Inter-city travel by road.	9803.9000	Where- <ul style="list-style-type: none"> <li>The taxpayer is only providing non air conditioned travel service; or</li> <li>Travel service maintaining a fleet of less than ten vehicles.</li> </ul>
4.	Courier services and cargo services	9808.0000 98.04	Where- <ul style="list-style-type: none"> <li>the taxpayer is not a company; and</li> <li>the taxpayer is offering only domestic courier or caroo service.</li> </ul>
5.	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,	9810.0000 9821.4000 and 9821.5000	Where- <ul style="list-style-type: none"> <li>The covered area is less than 1000 sq. feet; or</li> <li>the facility of air- conditioning is not installed or available in the premises.</li> </ul>
6.	Medical practitioners and consultants	9815.1000	Where- <ul style="list-style-type: none"> <li>the consultation is being provided at a place other than a hospital or Poly Clinic; and</li> </ul>

			<ul style="list-style-type: none"> <li>the consultation fee is less than Rs. 1500/-.</li> </ul>
7.	Pathological laboratories, medical diagnostic laboratories including X-Rays, CT Scan, M.R. Imaging etc.	98.16 98.17	Where- <ul style="list-style-type: none"> <li>the taxpayer is not a company; and</li> <li>the taxpayer is not maintaining more than one branch whether under its own name or through an associate.</li> </ul>
8.	Hospitals or medical care centres providing medical consultation, hospitalization or other ancillary Services	Respective headings	
9.	Health clubs, gyms, physical fitness centres, and body or sauna massage centres	98.21	Where- <ul style="list-style-type: none"> <li>The covered area is less than 1000 sq. feet; or</li> <li>the facility of air conditioning is not installed or available in the premises.</li> </ul>
10.	Photographers		Photographers charging less than Rs. 100,000 per event
11.	Accountants		Accountants who are not operating as part of a firm or a company
12.	Retailers including manufacturer cum-retailer, wholesaler-cum retailer, importer-cum-retailer or such other person who combines the activity of retail sale with another business activity.	Respective headings	A retailer who does not fall in any on the following categories, namely:- <ul style="list-style-type: none"> <li>a retailer operating as a unit of national or international chain of stores;</li> <li>a retailer operating in an air-conditioned shopping mall, plaza or center, excluding kiosks;</li> <li>a retailer whose cumulative electricity bill during the immediately preceding twelve consecutive months exceeds rupees twelve hundred thousand;</li> <li>a wholesaler-cum-retailer, engaged in bulk import and supply of consumer goods on wholesale basis to retailers as well as on retail basis to the general body of consumers; or</li> <li>a retailer whose shop measures one thousand square feet in area or more.</li> </ul>

In order to enforce the integration, followings measures have been taken:

**(a) Payments for any expenditure for non-integration of business with FBR's systems – Section 21(r)**

A new provision has been added for disallowance of expenditure attributable to sales claimed by such persons, who fail to integrate their business with FBR's systems. However, the disallowance shall not exceed 8% of the allowable deduction.

**(b) Penalties for non-integration of business with FBR's systems, etc.– Section 182(1) - Table**

S. No.	Offence	Penalties
32.	Any person who is integrated for monitoring, tracking, reporting or recording of sales, services and similar business transactions with the Board or its computerized system, conducts transactions in a manner so as to avoid monitoring, tracking, reporting or recording of such transactions, or issues an invoice which does not carry the prescribed invoice number or QR code or bears duplicate invoice number or counterfeit QR code, or defaces the prescribed invoice number or QR code or any person who abets commissioning of such offence	Such person shall pay a penalty of Rs. 500,000 or 200% of the amount of tax involved, whichever is higher

33.	Any person, who is required to integrate his business for monitoring, tracking, reporting or recording of sales, services and similar business transactions with the Board or its computerized system, fails to get himself registered under the Ordinance, and if registered, fails to integrate in the manner as required under law.	Such person shall be liable to pay a penalty up to one million rupees, and if continues to commit the same offence after a period of two months after imposition of penalty as aforesaid, his business premises shall be sealed till such time he integrates his business in the manner as stipulated under sub- section (3) of section 237A, as the case may be.
34.	A person required to integrate his business as stipulated under sub-section (3) of section 237A who fails to get himself registered under the Ordinance, and if registered, fails to integrate in the manner as required under the law and rules made thereunder.	<p>Such person shall be liable to pay</p> <ul style="list-style-type: none"> <li>i) penalty of five hundred thousand rupees for first default;</li> <li>ii) penalty of one million rupees for second default after fifteen days of order for first default;</li> <li>iii) penalty of two million rupees for third default after fifteen days of order for second default;</li> <li>iv) penalty of three million rupees for fourth default after fifteen days of order for third default:</li> </ul> <p>Provided that if such person fails to integrate his business within fifteen days of imposition of penalty for fourth default, his business premises shall be sealed till such time he integrates his business in the manner as stipulated under sub- section (3) of section 237A:</p> <p>Provided further that if the person integrates his business with the Board's computerized system before imposition of penalty for second default, penalty for first default shall be waived by the Commissioner.</p>

**(c) Prosecution for noncompliance with statutory obligations – Section 191**

Non-compliance of certain statutory obligations is treated as offence punishable on conviction with a fine or imprisonment for a term not exceeding one year, or both.

Following statutory obligations have been added to the offence punishable as stated above:

- Failure to integrate his business with Board's computerized system; and
- Failure to generate tax invoice verifiable by the Board's system;";

**(d) Restriction on sale or rendering of services – Section 237A(3)**

No sale can be made or service rendered, as the case may be, by an integrated enterprise, without generating fiscal invoices as prescribed.

*In case of certain services the charge out amount is time bound and invoice is raised after completion of services, which factor has not been take care off.*

**(e) Prize scheme to promote tax culture – Section 237B(1)**

Prize scheme similar to shopping from Point of Sale (POS) integrated outlets under the Sales Tax Act, 1990, is proposed under the Income Tax Ordinance, 2001 and for this purpose Board has been authorized to prescribe prize schemes to encourage the general public to make purchases, or avail services only from integrated enterprises issuing tax invoices.

**(f) Mystery shopping – Section 237B(2)**

Mystery shopping scheme similar to shopping from Point of Sale (POS) integrated outlets under the Sales Tax Act, 1990, is proposed under the Income Tax Ordinance, 2001 and for this purpose Board has been authorized to prescribe procedure for mystery shopping in respect of invoices issued by integrated enterprises randomly and in case of any discrepancy, all the relevant provisions of the Ordinance shall apply accordingly.

**55. Tax rates for Non-salaried Individuals and association of persons – Clause (1) of Division I of Part I of 1st Schedule**

Taxable Income Range	Pre Finance Act, 2022 (applicable to tax year 2022)
> Rs. 0 and <=Rs. 400,000	00.0%
> Rs. 400,000 and <= Rs. 600,000	05.0% of amount exceeding Rs. 400,000
> Rs. 600,000 and <= Rs. 1,200,000	Rs. 10,000 + 10.0% of amount exceeding Rs. 600,000
> Rs. 1,200,000 and <= Rs. 2,400,000	Rs. 70,000 + 15.0% of amount exceeding Rs. 1,200,000
> Rs. 2,400,000 and <= Rs. 3,000,000	Rs. 250,000 + 20.0% of amount exceeding Rs. 2,400,000
> Rs. 3,000,000 and <= Rs. 4,000,000	Rs. 370,000 + 25.0% of amount exceeding Rs. 3,000,000
> Rs. 4,000,000 and <= Rs. 6,000,000	Rs. 620,000 + 30.0% of amount exceeding Rs. 4,000,000
> Rs. 6,000,000	Rs. 1,220,000 + 35.0% of amount exceeding Rs. 6,000,000

Taxable Income Range	Post Finance Act, 2022 (applicable to tax year 2023)
> Rs. 0 and <=Rs. 600,000	00.0%
> Rs. 600,000 and <= Rs. 800,000	05.0% of amount exceeding Rs. 600,000
> Rs. 800,000 and <= Rs. 1,200,000	Rs. 10,000 + 12.5% of amount exceeding Rs. 800,000
> Rs. 1,200,000 and <= Rs. 2,400,000	Rs. 60,000 + 17.5% of amount exceeding Rs. 1,200,000
> Rs. 2,400,000 and <= Rs. 3,000,000	Rs. 270,000 + 22.5% of amount exceeding Rs. 2,400,000
> Rs. 3,000,000 and <= Rs. 4,000,000	Rs. 405,000 + 27.5% of amount exceeding Rs. 3,000,000
> Rs. 4,000,000 and <= Rs. 6,000,000	Rs. 680,000 + 32.5% of amount exceeding Rs. 4,000,000
> Rs. 6,000,000	Rs. 1,330,000 + 35.0% of amount exceeding Rs. 6,000,000

Comparison of impact of incidence of tax on non-salaried individuals and association persons, as result of increase in tax rates is as under:

Annun / Taxable Income	Pre Finance Act, 2022 Tax Incidence	Post Finance Act, 2022 Tax Incidence	Increase / (Decrease) in Tax	%Age Increase / (Decrease)
420,000	1,000	-	(1,000)	-100%
600,000	10,000	(0)	(10,000)	-100%
720,000	22,000	6,000	(16,000)	-73%
780,000	28,000	9,000	(19,000)	-68%
900,000	40,000	22,500	(17,500)	-44%
1,200,000	70,000	60,000	(10,000)	-14%
1,500,000	115,000	112,500	(2,500)	-2%
1,800,000	160,000	165,000	5,000	3%
2,400,000	250,000	270,000	20,000	8%
3,000,000	370,000	405,000	35,000	10%
3,600,000	520,000	570,000	50,000	10%
4,200,000	680,000	745,000	65,000	10%
4,800,000	860,000	940,000	80,000	9%
5,400,000	1,040,000	1,135,000	95,000	9%
6,000,000	1,220,000	1,330,000	110,000	9%
7,200,000	1,640,000	1,750,000	110,000	7%

**56. Tax rates for Salaried Individuals – Clause (2) of Division I of Part I of 1st Schedule**

Taxable Income Range	Pre Finance Act, 2022 (applicable to tax year 2022)
> Rs. 0 and ≤Rs. 600,000	00.0%
> Rs. 600,000 and ≤Rs. 1,200,000	05.0% of amount exceeding Rs. 600,000
> Rs. 1,200,000 and ≤Rs. 1,800,000	Rs. 30,000 + 10.0% of amount exceeding Rs. 1,200,000
> Rs. 1,800,000 and ≤Rs. 2,500,000	Rs. 90,000 + 15.0% of amount exceeding Rs. 1,800,000
> Rs. 2,500,000 and ≤Rs. 3,500,000	Rs. 195,000 + 17.5% of amount exceeding Rs. 2,500,000
> Rs. 3,500,000 and ≤Rs. 5,000,000	Rs. 370,000 + 20.0% of amount exceeding Rs. 3,500,000
> Rs. 5,000,000 and ≤Rs. 8,000,000	Rs. 670,000 + 22.5% of amount exceeding Rs. 5,000,000
> Rs. 8,000,000 and ≤Rs. 12,000,000	Rs. 1,345,000 + 25.0% of amount exceeding Rs. 8,000,000
> Rs. 12,000,000 and ≤Rs. 30,000,000	Rs. 2,345,000 + 27.5% of amount exceeding Rs. 12,000,000
> Rs. 30,000,000 and ≤Rs. 50,000,000	Rs. 7,295,000 + 30.5% of amount exceeding Rs. 30,000,000
> Rs. 50,000,000 and ≤Rs. 75,000,000	Rs. 13,295,000 + 32.5% of amount exceeding Rs. 30,000,000
> Rs. 75,000,000	Rs. 21,420,000 + 35.0% of amount exceeding Rs. 75,000,000

Taxable Income Range	Post Finance Act, 2022 (applicable to tax year 2023)
> Rs. 0 and ≤Rs. 600,000	00.0%
> Rs. 600,000 and ≤Rs. 1,200,000	02.5% of amount exceeding Rs. 600,000
> Rs. 1,200,000 and ≤Rs. 2,400,000	Rs. 15,000 + 12.5% of amount exceeding Rs. 1,200,000
> Rs. 2,400,000 and ≤Rs. 3,600,000	Rs. 165,000 + 20.0% of amount exceeding Rs. 2,400,000
> Rs. 3,600,000 and ≤Rs. 6,000,000	Rs. 405,000 + 25.0% of amount exceeding Rs. 3,600,000
> Rs. 6,000,000 and ≤Rs. 12,000,000	Rs. 1,005,000 + 32.5% of amount exceeding Rs. 6,000,000
> Rs. 12,000,000	Rs. 2,995,000 + 35.0% of amount exceeding Rs. 12,000,000

Comparison of impact of incidence of tax on salaried individuals, as result of increase in tax rates is as under:

Salary Per Annum / Taxable Income	Pre Finance Act, 2022 Tax Incidence	Post Finance Act, 2022 Tax Incidence	Increase / (Decrease) in Tax	%Age Increase / (Decrease)
600,000	-	0	0	
720,000	6,000	3,000	(3,000)	-50%
1,200,000	30,000	15,000	(15,000)	-50%
1,800,000	90,000	90,000	(0)	0%
2,400,000	180,000	165,000	(15,000)	-8%
2,500,000	195,000	185,000	-10,000	-5%
3,500,000	370,000	385,000	15,000	4%
3,600,000	390,000	405,000	15,000	4%
5,000,000	670,000	755,000	85,000	13%
6,000,000	895,000	1,005,000	110,000	12%
8,000,000	1,345,000	1,655,000	310,000	23%
12,000,000	2,345,000	2,955,000	610,000	26%
19,200,000	4,325,000	5,475,000	1,150,000	27%
30,000,000	7,295,000	9,255,000	1,960,000	27%
50,000,000	13,295,000	16,255,000	2,960,000	22%
75,000,000	21,420,000	25,005,000	3,585,000	17%

*The above impact will be further increased, on case to case basis, in view of withdrawal of tax credit on investments, life insurance, health insurance, etc.*

**57. Tax rates for corporate entities –Division II of Part I of 1st Schedule**

Small company	20% - No change
Banking company	39% - Increased from 35% (Super tax for RTDP @ 4% abolished)
Other Company	29% - No change

**58. Withdrawal of exemption of income – Part I 2nd Schedule**

**(a) Clause (5)**

Allowances or perquisites paid or allowed as such outside Pakistan by the Government to a citizen of Pakistan for rendering services outside Pakistan.



**(b) Clause (23B)**

Amounts received as monthly installment from an income payment plan invested out of the accumulated balance of an individual pension accounts with a pension fund manager or an approved annuity plan or another individual pension account of eligible person or the survivors pension account maintained with any other pension fund manager as specified in the Voluntary Pension System Rules 2005.

**59. Grant of exemption of income – Part I 2nd Schedule**

**(a) Clause (66), Table-I**

To the following charitable institutions, un-conditional:

- Pakistan Mortgage Refinance Company Limited;
- The Pakistan Global Sukuk Programme Company Limited;
- Karandaaz Pakistan from tax year 2015 onwards
- Pakistan Sweet Homes Angels and Fairies Place.
- Public Private Partnership Authority for tax year 2022 and subsequent four tax years;
- Dawat-e-Islami Trust;
- Hamdard Laboratories (Waqf) Pakistan;

**(b) Clause (66), Table-II**

To the following charitable institutions, conditional (subject to section 100C):

- Hamdard Laboratories (Waqf) Pakistan;
- Burhani Qarzan Hasnan Trust;
- Saifee Hospital Karachi;
- Saifiyah Girls Taalim Trust";

**(c) Clause (150)**

Income derived by Siyahkalem Engineering Construction Industry and Trade Company Limited from contract dated 23rd day of May 2017 with Earthquake Reconstruction and Rehabilitation Authority, financed by the Saudi Fund for Development with effect from tax year 2017.

**(d) Clause (151)**

Any income derived by a person from cinema operations for five years from the commencement of cinema operations.

**(e) Clause (152)**

Profits and gains derived between the first day of July, 2022 and the thirtieth day of June, 2025 both days inclusive, by a venture capital company and venture capital fund registered under relevant Venture Capital Companies and Funds Management Rules issued by Securities and Exchange Commission of Pakistan.

**(f) Clause (153)**

Profits and gains from the production of feature film derived between the first day of July, 2022 and the thirtieth day of June, 2027 both days inclusive by a resident producer or a resident production house.

**60. Modification of exemption of income – Part I 2nd Schedule**

**(a) Clause (66), Table-II**

Conditional exemption converted to un-conditional exemption:

- Pakistan Sweet Homes Angels and Fairies Place.
- Pakistan Mortgage Refinance Company Limited;
- Dawat-e-Islami Trust;

**(b) Clause (99)**

Income of a Collective Investment Scheme or a REIT Scheme is exempt subject to the condition that at least 90% of its accounting income of the respective year, as reduced by realized or un-realized capital gains, is distribution among its Unit or certificate or share holders. This condition has been modified to also setoff accumulated losses as well in addition to realized or un-realized capital gains.

**61. Grant of reduction in tax rates – Part II 2nd Schedule**

These have been discussed and explained under respective appropriate headings

**62. Modification of reduction tax liability – Part III 2nd Schedule**

**(a) Clause (6)**

The maximum tax payable in respect of profit on debt from Bahbood savings Certificates, Pensioners Benefit Account and Shuhada Family Welfare Account chargeable as normal income from 'other sources' further reduced to 5% from 10%.

**63. Withdrawal of reduction tax liability – Part III 2nd Schedule**

**(a) Clause (1)**

Flying allowance and submarine allowance to certain specified persons taxed at reduced rate of 2.5%.

**(b) Clause (1AA)**

Allowances in excess of basis salary of pilots of any Pakistani airlines taxed at the rate of 7.5%.

**(c) Clause (20)**

Profit on debt from investment in Federal Government securities derived by a person, other than a banking company, at the rate of 15% as final tax.

**64. Grant of exemption from specific provisions – Part IV 2nd Schedule**

**(a) Clause (12BA)**

Exemption from collection of advance tax under section 148 on import of thirty million adult 3xPly Knit face masks received as humanitarian assistance from M/s HANES Brands Inc. North Carolina, USA for distribution within the population of Lahore Division, Government of the Punjab.

**(b) Clause (12O)**

Exemption from collection of advance tax under section 148 on import of drones, through Sea Route, donated by Ministry of Agriculture and Rural Affairs (MARA), Government of China to Pakistan,.

- (c) **Clause (12P)**  
Exemption from collection of advance tax under section 148 on import of machinery and equipment as listed in S. No 32 of Part-I of Fifth Schedule to the Customs Act, 1969 subject to the same conditions and limitations as specified therein.
- (d) **Clause (95)**  
The Pakistan Global Sukuk Programme Company Limited, as payer, granted exemption from the provisions of section 147, 151, 152, 236A and 236K, in addition to the similar exemption already available to Second Pakistan International Sukuk Company Limited and the Third Pakistan International Sukuk Company Limited.
- (e) **Clause (96)**  
The Pakistan Global Sukuk Programme Company Limited, as recipient, granted exemption from the provisions of section 151, 153, 155 and 236C, in addition to the similar exemption already available to Second Pakistan International Sukuk Company Limited and the Third Pakistan International Sukuk Company Limited.
- (f) **Clause (97A)**  
National Highway Authority granted exemption from application of sections 37, 236C and 236K in respect of transfer of immovable property to the Pakistan Global Sukuk Programme Company Limited and in respect of transfer of immoveable property to National Highway Authority from the Second Pakistan International Sukuk Company Limited or the Pakistan Global Sukuk Programme Company Limited.
- (g) **Clause (120)**  
Income pf charitable institutions or similar entities listed in Table I of clause (66) of Part I of 2<sup>nd</sup> Schedule are un-conditionally exempt from levy of tax under the Ordinance. A major concern of such entities was that they were subject to collection or deduction of tax under various provisions of the Ordinance resulting into un-necessary claim of refund or hassle of obtaining exemption certificates.

Realizing, this genuine problem, such entities have been granted exemption from collection and deduction of tax under all provisions of the Ordinance as recipients. However, such entities will continue to act as withholding agents as payer.

The provisions of Divisions II and III of Part V of Chapter X and Chapter XII of the Ordinance for deduction or collection of withholding tax shall not apply to the persons mentioned in Table 1 of clause (66) of Part I of the 2<sup>nd</sup> schedule as recipients of payment:

*In the grant of exemption provision, on the one hand reference has been made to all the provisions of the ordinance relating to collection and deduction of tax but on the other hand has been restricted the same 'as recipients'. Generally, in case of such entities the tax is collected in situations where they are not recipients, like imports, purchase of motor vehicles, with motor vehicles tax, electricity bills, telephone bills, sale and purchase of immovable property, etc.. Thus the exemption granted practically becomes ineffective.*

**65. Withdrawal of exemption from specific provisions – Part IV 2nd Schedule**

These have discussed and explained under the respective headings.

**66. Banking business – Part IV 2nd Schedule**

Separate and enhanced rates are provided for taxable income arising from additional income earned from additional investment in Federal Government securities. These rates have been further enhanced, **retrospectively from tax year 2022**, as under:

Ratio of gross advances to deposits	Rates of tax	
	Pre Finance Act, 2022	Post Finance Act, 2022
Upto 40%	40.00%	55.00%
Between 40% and 50%	37.50%	49.00%
Exceeds 50%	35.00% (Corporate rate)	35.00% (Corporate rate) for 2022
		39.00% (Corporate rate) for 2023

It has also been clarified that the above tax rates will be applicable to total income attributable to total investment in Federal Government securities

**67. Editorial amendments**

Section 4(4)	Substitution of expression “sections 5, 6 and 7” with “under this chapter”.
Section 4(5)	Substitution of expression “sections 5, 6 and 7” with “under this chapter”.
Section 6(2)	Substitution of expression "amount of the royalty fee for offshore digital services or fee for technical services" with "amounts of receipts mentioned in sub-section (1)”.
Section 6(3)(b)	Omission of expression "fee for offshore digital services or fee for technical services".
Section 6(4)	Substitution of expression ", fee for offshore digital services or fee for technical services" with “or fee”.
Section 8(1)	Substitution of expression "5, 5AA, 6, 7, 7A and 7B" with “5, 5A, 5AA, 6, 7, 7A, 7B and 7E”.
Section 8(1)(d)	Substitution of expression "7A and 7B " with “7A, 7B, and 7E”.
Section 23(5)	Immovable property or structural improvement to the immovable property has been added to the list of assets not entitled to initial allowance. Earlier this was also not admissible, as no rate of initial allowance thereon was specified.
Section 111(5)	Substitution of the explanation with slightly modified drafting.
Section 149(1)	Redundant reference to section 64 omitted.
Section 164(1)	Substitution of the expression "challan of payment" with “Computerized Payment Receipt (CPR)”.
Section 176(1)(c)	Redundant comma (,) omitted
Section 218(2)(b)	Redundant word “or” omitted
Section 229	Substitution of the expression “Directorate General of Training and Research” with “Inland Revenue Service Academy”
Clause (103D) of *	Substitution of the reference to “the Special Technology Zones Authority Ordinance, 2020” with “the Special Technology Zones Authority Act, 2021 (XVII of 2021)”

Clause (126EA) of *	Substitution of the reference to “the Special Technology Zones Authority Ordinance, 2020” with “the Special Technology Zones Authority Act, 2021 (XVII of 2021)”
Clause (60DA) of **	Substitution of the reference to “the Special Technology Zones Authority Ordinance, 2020” with “the Special Technology Zones Authority Act, 2021 (XVII of 2021)”
Clause (86) **	Redundant provisions granting exemption from applicability of provisions of section 111 in respect of investment in Greenfield industrial undertaking omitted.
Rule 10 of 10 <sup>th</sup> Sch	Redundant sub-rule (e) referring to earlier omitted section 156B omitted

\* Part I of 2<sup>nd</sup> Schedule

\*\* Part IV of 2<sup>nd</sup> Schedule

## **68. Consequential amendments**

Section 149(1)	Consequent upon withdrawal of tax credit on investments etc. the redundant reference to section 62 omitted.
Section 154A(1)(a)	Consequent upon withdrawal of tax credit under section 65F from export of computer software, etc., the redundant expression “in case tax credit under section 65F is not available” omitted.
Section 154A(4)	Consequent upon insertion of a general provision as to credit of income from sources subject to final tax [111(4A)], this subsection has been omitted.
Section 164(2)	Consequent upon introduction of SWAPS agent and SWAPS Payment Receipt (SPR) a proviso has been added as to evidence of tax collected or deducted in the shape SWAPS Payment Receipt (SPR) will also be acceptable.
Rule 10(p) of 10 <sup>th</sup> Sch	Consequent upon withdrawal of collection of advance tax by educational institutions under section 236I redundant sub-rule (p) omitted.
Rule 10(p) of 10 <sup>th</sup> Sch	Consequent upon withdrawal of deduction of advance tax from use of machinery and equipment under section 236Q redundant sub-rule (t) omitted.

## **Brief / Comments on Capital Value Tax introduced through Finance Act, 2022**

**All references to sections, sub-sections, clauses and schedules are to the Capital Value Tax, 2022 unless otherwise stated.**

**1. History of Capital Value Tax**

Capital value Tax (CVT) is not an alien in our tax system. This was introduced in 1989 and remained on the statute book, with amendments from time to time, as to its scope and applicability. Finally this was abolished 2020.

**2. Introduction of Capital Value Tax (CVT)**

The Federal Government of Pakistan, in these days of financial crunch, is forced to find ways and means to collect taxes and for this purpose certain levies have been made through Income Tax Ordinance, 2001 and in addition by re-introduction the concept of Capital Value Tax with altogether different scope. The main thrust of the CVT is on Motor Vehicles held in Pakistan and Foreign Assets of 'resident' individuals.

**3. Details of CVT levied:**

See attached chart.

**4. Exemptions from levy of CVT:**

Federal Government is empowered to exempt any asset or class of assets subject to such conditions as may be specified.

**5. Failure to pay, collect or deposit of amount collected:**

Provisions have been made for recovery, etc., of CVT, if not paid or collected, or collected and deposited, as under:

- (a) Where a person fails to pay CVT, or to collect CVT, or fails to pay to the credit of the Federal Government after having collected the CVT, the person shall be personally liable to pay-
  - (i) the amount of tax; and
  - (ii) the default surcharge at a rate equal to 12% per annum on the CVT unpaid computed for the period commencing on the date on which the tax was due and ending on the date on which it was paid.
- (b) For this purpose, the officer of Inland Revenue has been empowered to pass an order after giving the person an opportunity of being heard and proceed to recover the CVT. For this purpose the provisions of the Income Tax Ordinance, 2001 and the Income Tax Rules, 2002, in so far relevant, shall apply to the collection, payment, recovery or refund of CVT.
- (c) The Commissioner has been empowered to revise any order made by an officer of Inland Revenue, on an application by the aggrieved person.
- (d) An aggrieved person has also been given a right of appeal against the order of the Commissioner or Inland Revenue Officer before the Commissioner (Appeals) as provided in section 127 of the Income Tax Ordinance, 2001 and all the provisions of Part III of Chapter X thereof shall apply accordingly.

**6. Application of provisions of Income Tax Ordinance, 2001:**

The terms "Commissioner", "Commissioner (Appeals)", "officer of Inland Revenue", "person", "resident individual" and "tax year" shall have the same meaning as defined under the respective provisions of the Income Tax Ordinance, 2001.

**7. Powers to prescribe:**

The Federal Board of Revenue has been empowered to prescribe the manner and procedure relating to the collection, recovery, refund or any other matter relating to the capital value tax, by a notification in the official Gazette.

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<b>Assets wise details of CVT levied through Finance Act, 2022</b>			
<b>Description</b>	<b>Motor Vehicle</b>	<b>Foreign Assets</b>	<b>Other Assets</b>
<b>Effective from</b>	July 01, 2022	Tax Year 2022	As specified by the Federal Government through a notification in official Gazette
<b>Chargeability</b>	On Motor vehicle held in Pakistan where – <ul style="list-style-type: none"> <li>• The engine capacity exceeds 1300cc; or</li> <li>• In case of electric vehicles, the battery power capacity exceeds 50kwh.</li> </ul>	<b>‘Foreign assets’</b> where the value of such assets on the last day of the tax year in aggregate exceeds Rupees one hundred million.	Assets or class of assets as specified by the Federal Government through a notification in the official Gazette
<b>On whom</b>	Every person (individual, association of persons and company) irrespective of the residential status, whether ‘resident’ or ‘non-resident’.	Every ‘resident’ individual	As specified by the Federal Government through a notification in official Gazette
<b>Basis of Valuation</b>	<ul style="list-style-type: none"> <li>• <b>Vehicle imported in Pakistan:</b> Import value assessed by the Customs authorities as increased by all duties and taxes leviable at import stage.</li> <li>• <b>Vehicle manufactured or assembled locally in Pakistan:</b> Ex-factory price inclusive of all duties and taxes.</li> <li>• <b>Vehicle auctioned:</b> Auction price inclusive of all duties and taxes.</li> <li>• <b>Reduction in value:</b> The value of the motor vehicle will be reduced by 10% for each year from the end of financial year in which the motor vehicle is acquired and the value shall be</li> </ul>	<ul style="list-style-type: none"> <li>• Total cost on the last day of the tax year, in relevant foreign currency converted into Rupees as per exchange rates notified by State Bank of Pakistan for the said day; or</li> <li>• Where the cost cannot be determined with reasonable accuracy, the fair market value of the asset on the last day of the tax year, in relevant foreign currency converted into Rupees as per exchange rates notified by State Bank of Pakistan for the said day.</li> </ul>	As specified by the Federal Government through a notification in official Gazette



	treated as zero after five years from the end of financial year in which the motor vehicle is imported, sold by local manufactured or auctioned.		
<b>Rate of CVT</b>	1% of the value	1% of the value	As specified by the Federal Government through a notification in official Gazette but not exceeding 5% of the value
<b>Mode and manner of collection or payment of CVT:</b>	<ul style="list-style-type: none"> <li>• <b>Imported motor vehicle (at the time of import)</b> Collection by Collector of Customs at the time of import of motor vehicle and the provisions of the Customs Act, 1969, in so far as relevant, shall apply to the collection and payment of CVT.</li> <li>• <b>Locally manufactured/ assembled motor vehicle (at the time of purchase)</b> Collection by local manufacturer or assembler at the time of sale or where the payment is made in installments at the time of payment of first installment.</li> <li>• <b>Sale by public auction or auction by a tender of motor vehicle (at the time of purchase)</b> Collection by the person making sale by public auction or auction by a tender at the time of auction or where the payment is made in installments at the time of payment of first installment.</li> <li>• <b>At the time registration or transfer of registration</b> Collection by every motor vehicle registering authority of Excise and</li> </ul>	By the person holding the assets at the time the income return for the tax year is due in manner prescribed.	As specified by the Federal Government through a notification in official Gazette

	<p>Taxation Department at the time of registration of a motor vehicle or transfer of registration. However, tax under this clause shall not be collected from the person from whom tax has been collected in respect of same vehicle at the time of import, purchase from local manufacturer or assembler, or auction.</p>		
<b>Remarks</b>	<p>No provisions have been made for levy, collection and payment of CVT on vehicles acquired and held on or before June 30, 2022.</p> <p>Thus, CVT on vehicles is not an annual charge and is a one time levy on acquiring motor vehicle on or after July 01, 2022 and motor vehicles acquired on or before June 30, 2022, remains outside the ambit of CVT.</p> <p>The provisions regarding reduction in value are therefore redundant.</p> <p>This defeats the objective of this levy given in the Budget Speech to impose tax on persons maintaining high value motor vehicles.</p>	<p>This is an annual levy <b>retrospectively from tax year 2022.</b></p>	<p>Notification not yet issued.</p>

The term “foreign assets” means any movable or immovable assets held outside Pakistan, whether directly or indirectly, and includes but not limited to real estate, mortgaged assets, stock and shares, bank accounts, bullion, cash, jewels, jewelry, paintings, accounts and loan receivables, assets held in dependent’s name, beneficial ownership or beneficial interests or contribution in offshore entities or trusts.