



BUDGET INSIGHT 2021

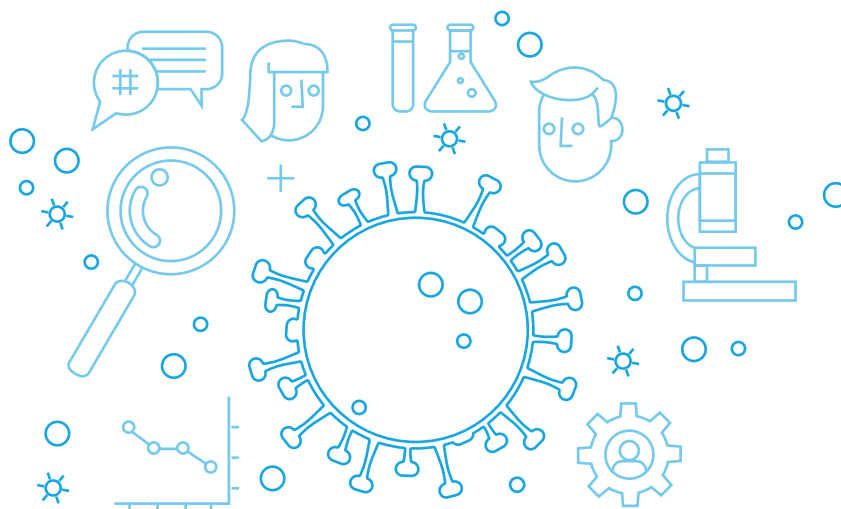
LIVING WITH COVID-19

THE NEW ECONOMIC REALITY

THE POWER OF BEING UNDERSTOOD
AUDIT | TAX | CONSULTING



FOREWORD



As per our previous practice the RSM Pakistan tax team has prepared this commentary for our clients and staff for information purposes only and is also available for download at our website www.rsm.global/pakistan or www.rsm-pakistan.pk. The notes contained herein are based on the Finance Bill, 2020 which upon enactment with or without modification shall be issued as Finance Act, 2020.

The publication is based on an economic review, key areas of the budget, description of the noteworthy amendments in the Income Tax, Sales Tax, Federal Excise and Customs laws proposed through the Finance Bill, 2020.

The publication is not intended to provide specific business or investment advice. No responsibility for any error or omissions nor any loss accrued to any individual or entity acting or refraining from acting as a result of any material in this publication can be accepted by RSM Avasi Hyder Liaquat Nauman Chartered Accountants. A specific independent advice must be obtained from the experts before making any business or investment decisions.

ABOUT RSM PAKISTAN

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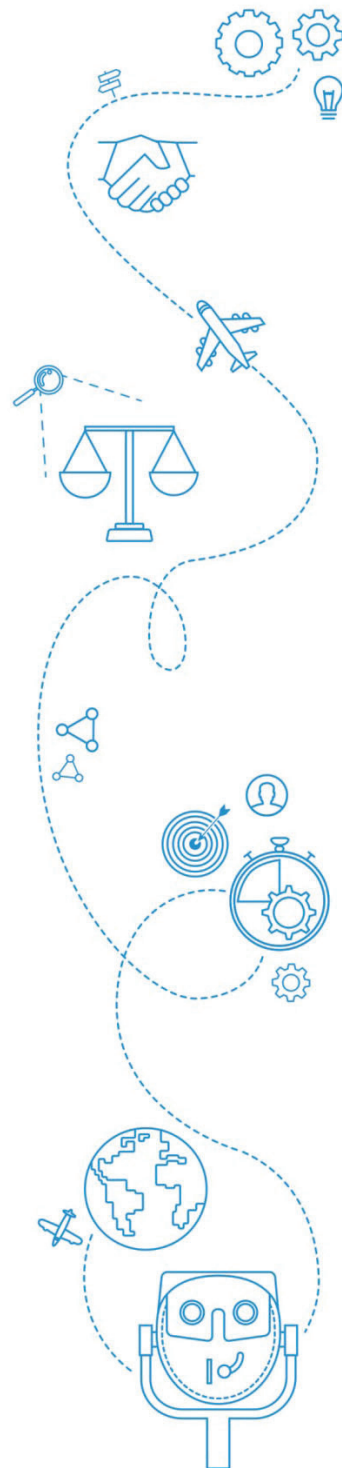
Fast facts:

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- We represent RSM International in Pakistan and Afghanistan who have network firms in 120 countries. We have branches in 5 major cities of Pakistan and 1 in Kabul Afghanistan
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The publication – The tax, labour and corporate laws in Pakistan are reviewed annually at both the Federal and Provincial levels. The Government based on its policies and objectives issues the budget for the next fiscal year. The tax service team of RSM Pakistan under the supervision of Head of tax services Mr. Naveed Abbas prepares and publishes its commentary on the amendments proposed by the federal government in the tax, corporate and labour laws of Pakistan. This publication therefore, is based on our interpretation of the amendments proposed through the Finance Bill 2020. It is therefore, recommended that before taking any decision or taking any action that may affect the economic decision making of the user, a relevant expert in the field may be consulted.

OUR VISION, PURPOSE & VALUES



VISION To be the adviser of choice to middle market leaders globally.

PURPOSE To deliver **The Power of Being Understood** to our clients, colleagues and communities

DISTINGUISHING BELIEFS A set of principles through which we can realise our vision and empower all our clients to make confident decision. We are passionate about:

COLLABORATION Building Strong, collaborative and lasting relationships with all our stakeholders, being accessible, responsive and adaptive.

UNDERSTANDING Gaining a deep understanding of clients needs, strategy and aspiration and striving to be an essential part of their business environment.

IDEAS AND INSIGHT Ensuring every client benefits from tailored thinking and the insight of our more senior experts both locally and globally.

VALUES As a network, we underpin our brand with the following **VALUES** that are integral to the way we act with each other and with clients:

RESPECT — TREAT OTHERS AS WE WOULD LIKE TO BE TREATED

We display respect in each interaction with:

- clients
- employees
- partners

INTEGRITY — DO THE RIGHT THING

We stay true to our beliefs:

- in decisions
- in negotiations
- in communications

TEAMWORK — WORK TOGETHER EFFECTIVELY

We cultivate genuine collaboration:

- in work groups
- across member firms
- across functions
- amongst leaders

EXCELLENCE — BE THE BEST IN EVERYTHING WE DO

We achieve distinction through:

- our standards
- our operations
- the work we deliver

STEWARDSHIP - BETTER OUR NETWORK, MEMBERS AND OUR PEOPLE

We make RSM a better place by:

- developing our people
- building our brand
- supporting our communities

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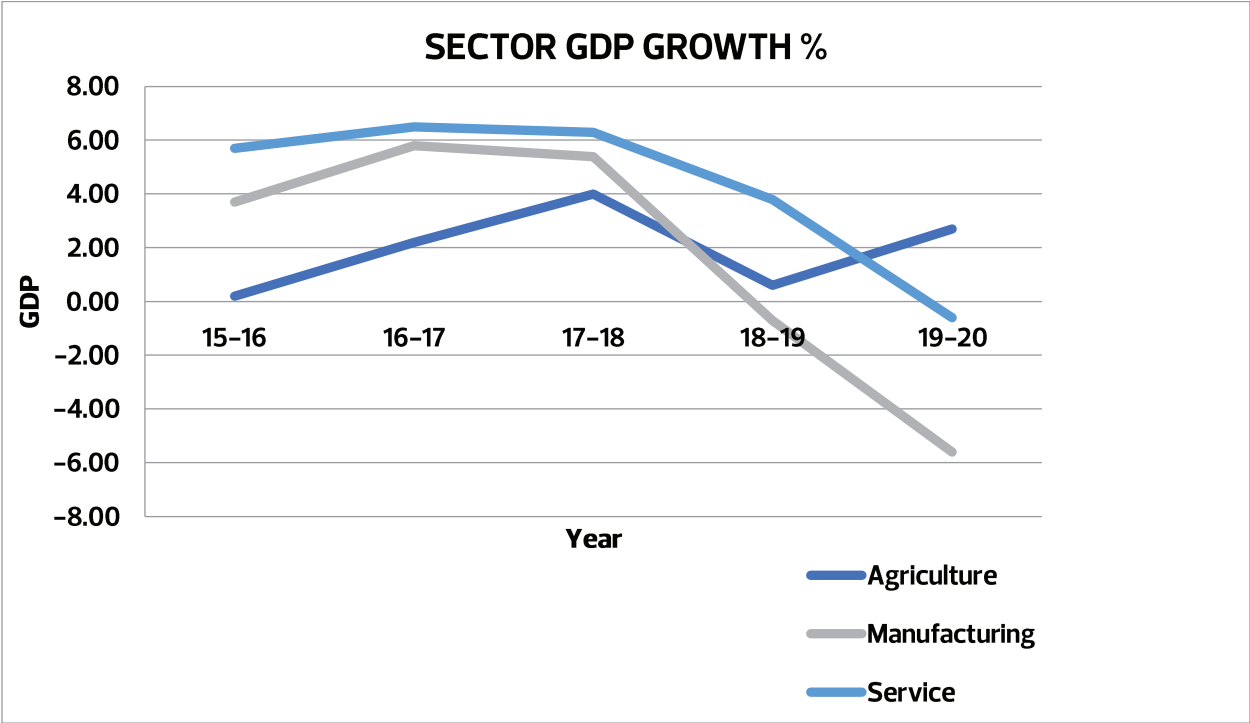
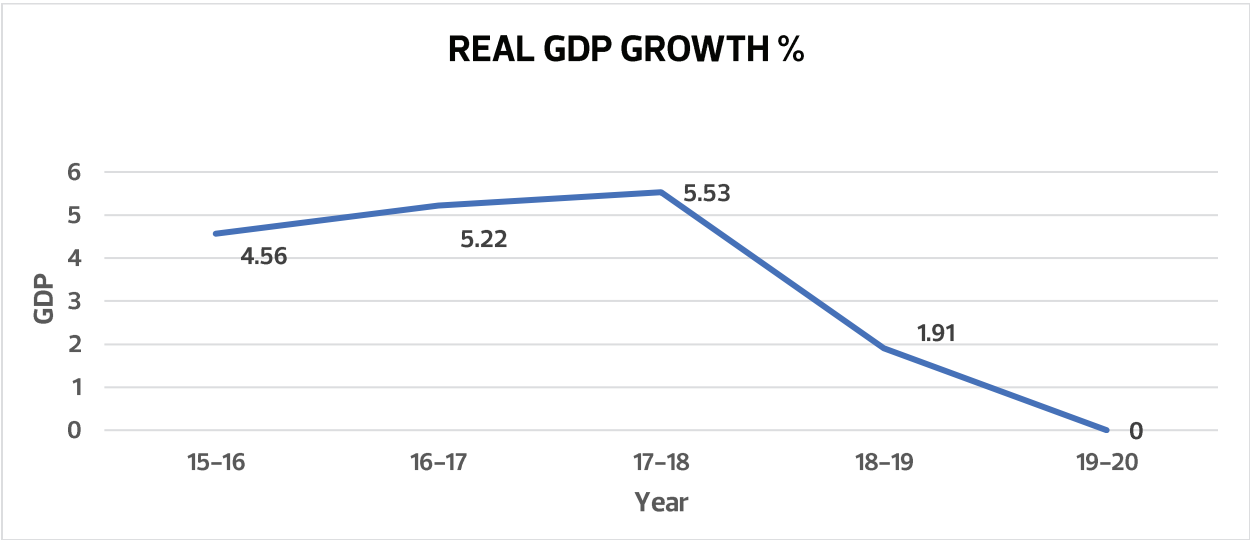
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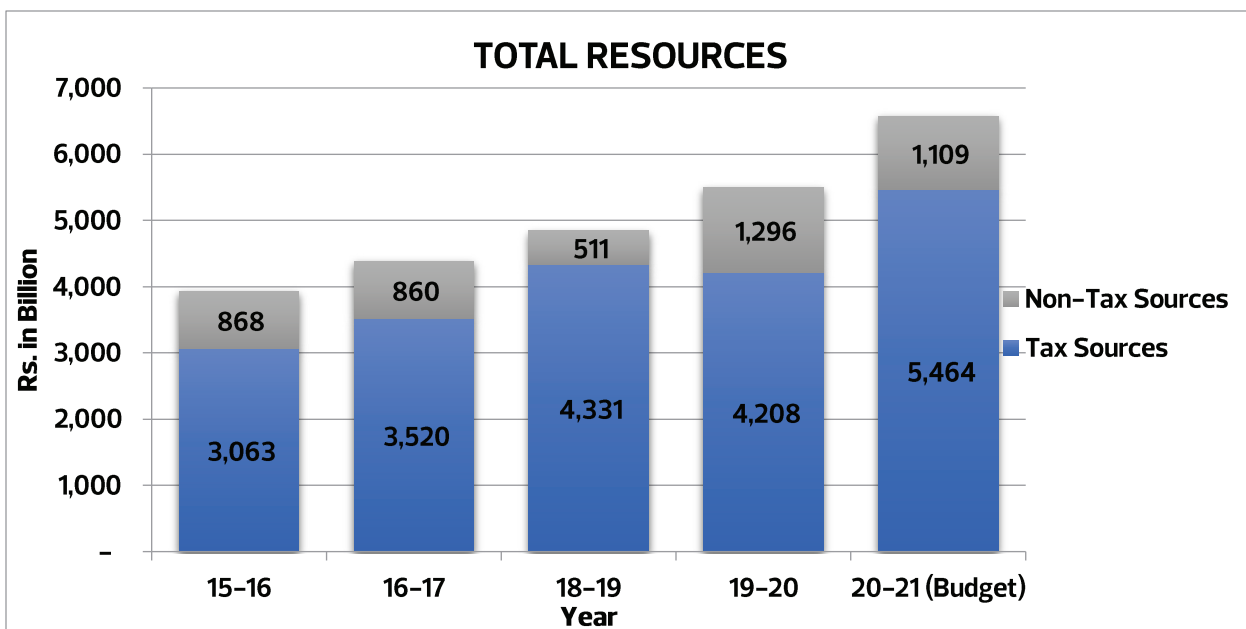
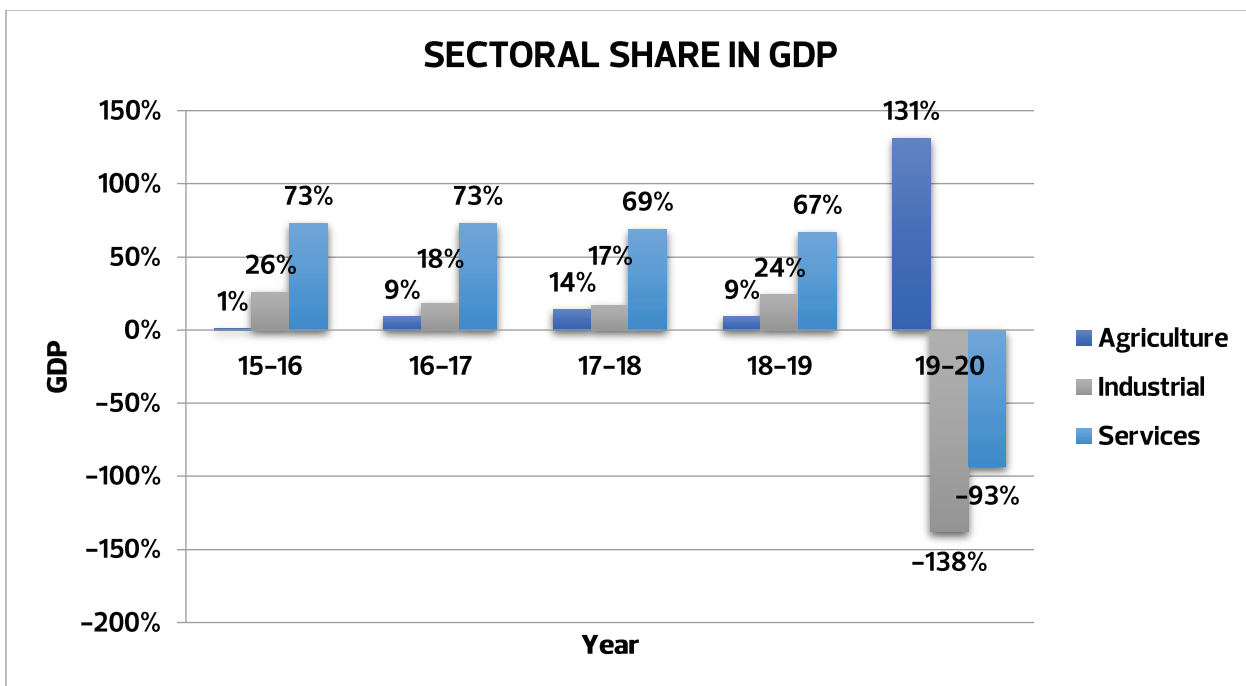
BUDGET 2020–2021 – AT GLANCE

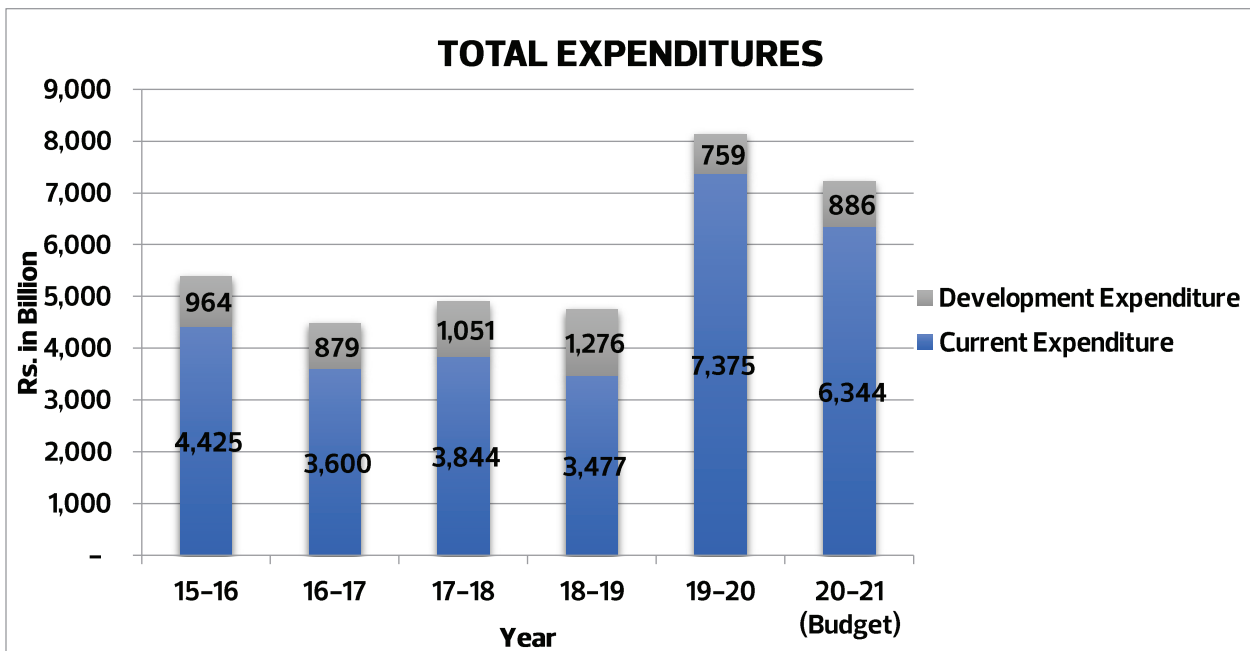
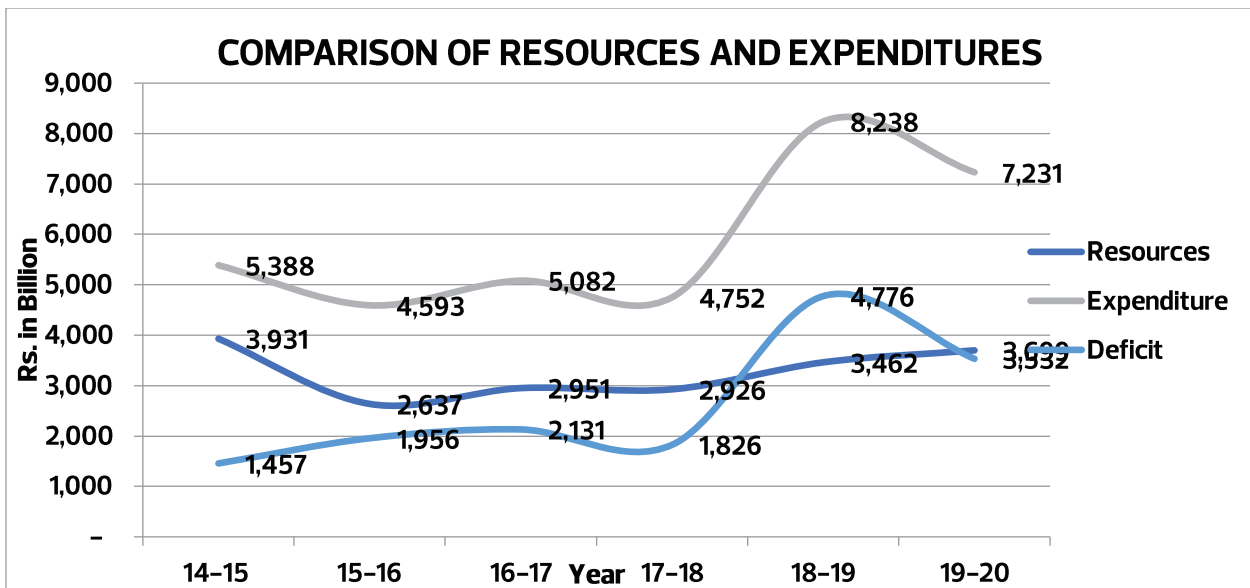
	2019–20		2019–20		2020–21	
	Budgeted	%	Revised	%	Budgeted	%
	Estimate		Estimate		Estimate	
	Rupees in billion					
Revenue Receipt						
Resource Revenue						
Tax Revenue	5,822	86	4,208	76	5,464	83
Non Tax Revenue	894	14	1,296	24	1,109	17
	6,716	100	5,504	100	6,573	100
Less: Provincial Share	3,254	48	2,402	44	2,874	44
Net Revenue	3,462	52	3,102	56	3,699	56
Total Expenditure	8,238		8,135		7,231	
Deficit	4,776		5,033		3,532	
Capital Receipts	832	17	967	19	1,463	41
External Receipts	3,032	64	2,273	45	810	33
Debt from banking sector	339	7	1,724	35	917	26
Privatization Proceeds	150	3	150	33	100	3
Others	423	9	–81	–2	242	7
Total Deficit	4,776	100	5,033	100	3,532	100

ECONOMY AT A GLANCE

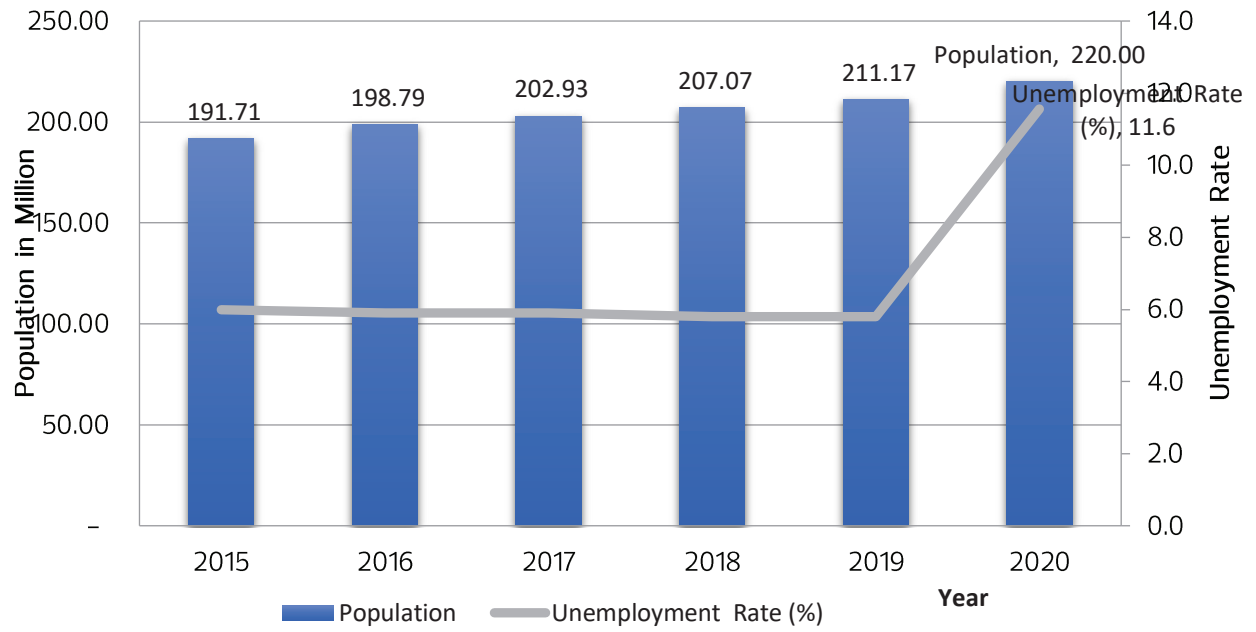
Economic analysis – graphical overview







SOCIAL INDICATOR



COMPARISON OF MACROECONOMIC INDICATORS OF TWO YEARS

S. No.	Indicator	2019 – 2020	2018 – 2019	Remarks
1.	Gross Domestic Product (GDP)	-2.3%	3.3%	Unfavorable
2.	Agriculture Sector Growth	2.7%	0.6%	Favorable
3.	Industrial Sector Growth	-5.6%	-0.7%	Unfavorable
4.	Service Sector Growth	-0.6%	3.8%	Unfavorable
5.	Inflation rate (Core)	7.8%	7.2%	Unfavorable
6.	Literacy rate	60%**	62.3%**	Unfavorable
7.	Per capita income	US\$ 1,355	US\$ 1,455.1	Unfavorable
8.	Fiscal deficit	9.5% of GDP*	5% of GDP	Unfavorable
9.	Foreign exchange reserves	US\$ 16.92 Billion*	US\$ 14.881 Billion*	Favorable
10.	International credit rating (Moody)	B3	B3	Stable
11.	Foreign Direct Investment (FDI)	US\$2.1 Billion*	US\$0.9 Billion*	Favorable
12.	Unemployment rate	11.56%	6.7%	Unfavorable

*till June & May 2020

**As per last available record

OVERVIEW OF THE ECONOMY

The world economic condition during the fiscal year 2020 has taken a nose dive as the pandemic ground the world economies to a halt in the second half of the financial year. As far as Pakistan is concerned, the economy has been hit hard by the outbreak as the growth rate for FY 2020 tumbled down to an estimate of -0.38% as compared to the challenging target of achieving 3.3% initially set for the current fiscal year.

The Government had its focus to move towards a stable economy and thus made efforts through extensive structural reforms and policy measures to control volatile economic factors such as inflation, economic slow-downs, tax evasions, and decrease in employment opportunities, smuggling, and undue profiteering and to decrease the gap of current account deficit and budget deficit. This stabilization process got rolled up with the commencement of a 39 month Extended Fund Facility (EFF) program with IMF. The impact of such efforts could widely be seen on the economy as Fiscal Deficit during July–March FY 2020 reduced by 4% of GDP and current account deficit has made a huge drop of 71% during July–March FY 2020 as compared to the same period last fiscal year. Similarly, with the launch of National Agriculture Emergency Program, Kamyab Jawan Program (low cost loans to youth for business), Naya Pakistan Housing Program and Ten Billion Tree Tsunami, it created expectation of increase in employment opportunities of 1.5 to 2 million by December 2020.

However, keeping in view the current scenario of the global pandemic spreading its roots all across the country, the government had to shift its focus on curtailing the wrecking effects on the economy developed by the confined socio-economic environment and to save the victories earned during the current fiscal year as far as possible. In this regard, the government has sanctioned a stimulus package of Rs. 1.24 trillion to survive through the demand supply shocks, inflation, lay-offs, cut-off in wages, halted exports and unfavorable change in other economic variables resulting to a contraction in the economy caused by the outbreak.

Emerging of a pandemic

Coronavirus disease (Covid-19) was first identified in China as an outbreak in December 2019 and reported to World Health Organization (WHO). On January 30, 2020, the outbreak was declared a global health emergency and on March 11, 2020, the Covid-19 was declared as a global pandemic by WHO. As the pandemic spread to more than 200 countries of the world, different administrative measures were put in place to slow down the transmission rate and to break the transmission chain as far as possible. Common administrative measures mostly adopted by the affected countries includes closure of borders for any trade and tourism, strict lockdowns, partial or smart lockdowns, curfews, adoption of SOPs advised by medical experts and other measures to restrict movement of citizens. Such measures have not only restricted movements of people among the society only but has also placed limits on the momentum of the economy.

Effect on the global economy

The extracts of the staggering effect of the outbreak around the world are lined up as:

- The global growth rate projection shows contraction by -3%.
- Asian Development Bank shared the expectation of a loss to global economy between \$5.8 trillion and \$8.8 trillion which is around 6.4% to 9.7% of global GDP.
- Oil prices have taken a huge blow by the on-going situation being reported at a 21-year low as demand for oil has crashed massively due to the lockdown measures. The price of Brent crude (benchmark for Europe and rest of the world) falls below \$20 which is lowest in 18 years whereas in US, the price per barrel of West Texas Intermediate (WTI) dives into negative for the first time in the history.
- Stock markets have taken the blown as well where the FTSE, DOW Jones Industrial average and the Nikkei have seen huge falls since the outbreak.
- More than 30 million people in the US have filed for unemployment benefits.
- Industrial production in China fell down creating a shortage of supply of raw material, semi-finished and finished goods to countries around the world.
- One of the major industries which has been highly affected by the outbreak is the aviation industry as more than 100 countries have put travel restrictions.
- The UN Commission of Africa fears to conclude that with GDP contraction of -2.6% which is the worst case scenario, could make 19 million people to lose their livelihoods and bring additional 29 million people into verge of poverty in case of weak social protection programs.
- Due to the on-going/current situation, countries nearly in all regions are expected to suffer a major decline in trade volumes during these testing times.

Global economic impact and response

Following are the statistics of the different advanced and emerging economies affected by the outbreak and the corresponding response given by them in order to support different sectors of their economy and sections of their society

Country	2018	2019	2020	2018	2019	2020	Stimulus Package in US \$
	Real GDP in (%)			Unemployment Rate (%)			
China	6.6	6.1	1.2	3.8	3.6	4.3	173 billion
U.S.A	2.9	2.3	-5.9	4.1	3.7	19.7	2.2 trillion
United Kingdom	1.3	1.4	-6.5	3.95	3.81	3.9	441.315 billion
Italy	0.8	0.3	-9.1	10.21	9.22	9.1	850.65 billion

	2018	2019	2020	2018	2019	2020	
Country	Real GDP in (%)			Unemployment Rate (%)			Stimulus Package in US \$
Russia	2.5	1.3	-5.5	4.74	4.55	30	42.1billion
Australia	2.7	1.8	-6.7	5.4	5.3	6.2	177.933 billion
New Zealand	3.2	2.2	-7.2	4.3	3.9	4.2	7.803 billion
Turkey	2.8	0.9	-5	10.9	11.9	12.6	28.7 billion
Japan	0.3	0.7	-5.2	2.45	2.41	2.6	573.3 billion
Malaysia	4.7	4.3	-1.7	3.36	3.4	3.9	58 billion
India	6.12	4.23	1.87	5.33	2.55	23.5	260 billion
Pakistan	5.8	3.29	-0.38	5.8	6.7	4.5	7.56 billion

PAKISTAN ECONOMY IN THE SHOWCASE

Indicators shown by the Pakistan economy before the outbreak

The Pakistani economy before the outbreak showed signs of stability as the fiscal deficit was reduced by 4% and the current account deficit was managed to reduce by 71%. IMF's 39 month Extended Fund Facility (EFF) has also contributed to the reduction.

The comprehensive reforms in the tax structure made by the present government seems to pay off as total revenues took a sharp increase by 30% during July–March, FY 2020 against an increase of 0.04% in the comparable period of FY 2019. The tax collections by FBR has increased by 10.8% which is Rs. 3,300.6 billion during July–Apr FY 2020 as compared to Rs. 2,980 billion during the same period last year. A heavy growth is also seen in the non-tax revenue on account of SBP profit and receipt of telecom licenses renewal fees as it is recorded at Rs. 1,095.6 billion during July–March, FY 2020 as compared to Rs. Rs. 421.6 billion during the same period last fiscal year.

Total expenditures has also increased by 15.8% during July–March, FY 2020 against the same period last year. The current expenditure has shown a rise of 16.9% during the three quarters of FY 2020 where major spending has been recorded on higher mark-up payments, grants for social spending and on social protection. Moreover, the overall PSDP expenditures has also grown by 24.9% during July–March, FY 2020 over the last year.

The volume of foreign direct investment (FDI) has sky-rocketed with an increase of 137.3% reaching to \$2.1 billion during July–March, FY 2020 as compared to \$0.9 billion last year.

Broad money has also risen up by Rs. 1,481.3 billion during 1 July–24 April, FY 2020 demonstrating a vivid expansion in the net Foreign Assets (NFA) of the banking system which has marked to Rs. 893.7 billion. During the same period of 1 July–24 April, FY 2020 credit to private sector was maintained at Rs. 304.7 billion as compared to Rs. 581 billion during the same period last year.

The condition laid under IMF's Extended Fund Facility (EFF) restricted the government to borrow from SBP in order to finance its deficits and thus most of the borrowings were made from the scheduled banks. For the purpose of budgetary support, a borrowing of Rs. 1,023.91 billion was made during 1 July–24 April, FY 2020 against last year during the same period of Rs. 990.87 billion.

The inflation rate reached to a peak of 14.6% in January 2020, the reasons of such a spike are presented as the government made efforts to subsidize the macroeconomic imbalances through adjustments in the gas and electricity prices, market-based exchange rate adjustments etc. and increase in commodity prices in the international market. However, the inflation rate reduced to 11.2% for the fiscal year July–April 2020.

In the second quarter of the FY 2020, PSX gained 36% in dollar terms or around 10,500 points, Pakistan Benchmark Index was classified by Bloomberg as number one in that period. Whereas the first ten month performance of the stock exchange was noted stable with a growth of 0.61%. Moreover, the PSX was recorded to reach at its peak of 43,218 points on January 13, 2020 during the current fiscal year.

Exports during July–April FY 2020, a drop of 2.4% has been spotted as exports stood at \$19.7 billion as compared to \$ 20.1 billion during July–March FY 2019. The total imports have also declined by 16.9% and reached to \$ 36.1 billion during July–April FY 2020 as compared to \$ 40.3 billion last year during the same period. A growth of 5.5% in the remittances during July–April FY 2020 is reported at \$18.8 billion as compared to \$17.8 during the same period last year.

Job creation is expected to increase by 1.5 to 2 million through National Agriculture Emergency Program, Kamyab Jawan Program (low cost loans to youth for business), Naya Pakistan Housing Program and Ten Billion Tree Tsunami.

The total liquid foreign exchange reserves also increased by \$2.6 billion reaching to \$17.1 billion by March 2020. Such an increase in the foreign exchange reserves has appreciated the value of Pak rupee against US dollar during July–February, FY 2020 by 3.6%.

Emergence of the outbreak in Pakistan – initial impact and response

The first case of the Covid-19 was reported in Pakistan on 26 February 2020 which led to various stringent administrative measures to control the transmission rate initially. Such a situation has also put Pakistani economy into immense pressure and its initial impact can be seen in the huge drop of growth rate to –0.38% as compared to a target considered challenging of 3.3%. Pakistani economy has not seen such a recession since 1952. The main sectors of the economy carrying the burden are:

- FBR lost tax revenue collection by 13.4% during March and April 2020 as compared to the same period last fiscal year.
- Private consumption dropped to 78.5% in FY 2020 as compared to 82.9% in the year 2019.
- A decrease of 2.64% has seen in the industrial sector where as large scale manufacturing sector experiences a decline of 7.78%.
- The mining and quarrying sector records a decrease of 8.82% during FY 2020 as compared to 3.19% last year.
- Wholesale and retail trade sector suffers a loss as it reports a decline of 3.42% whereas transport, storage and communication sector bears a loss of 7.13%.
- Unemployment is expected to shoot up costing about 1.4 million jobs in case of a smart or limited lockdown, 12.3 million in case of moderate restrictions on the movement of citizens and about 18.53 million people will become unemployed if a complete shutdown is placed in the country.

Response to covid-19 by the government

In order to bear this crisis, the government has initially responded with a relief package of Rs. 1.24 trillion along with other policy measures which will support different sectors of the economy and society such as construction sector, businesses, traders, service sector, individuals, daily wagers etc.

The highlights of the relief package announced and policy measures taken are:

- SBP has brought policy rate to 8% which was 13.25% at the beginning of the current fiscal year.
- Schemes of concessional loans to support demand and supply conditions for the businesses and to support business in payment of wages to prevent lay-offs are introduced. Such schemes include Temporary Economic Refinance Facility, Refinance Facility for Combating Covid-19 and Refinance Scheme for Payment of Wages and Salaries to the Workers and Employees of Business Concerns.
- IMF has also relaxed the time-frame by giving Pakistan a one-year relief and releasing \$1.386 billion under Rapid Financing Instrument to cope with the outbreak. Moreover, aid packages from Asian Development Bank and World Bank and the relaxation through the debt relief program by G-20 will also enable the economy to recover.
- Statutory regulatory orders (SROs) are issued by SECP to ensure the effectiveness of Business Continuity Plans (BCPs).
- The status of the construction sector has been raised to of an industry and a fixed tax on the basis of per square yard and per foot will be imposed of which 90% will be reimbursed if the construction is associated with Naya Pakistan Housing Scheme.
- No Capital Gains tax will be imposed on the selling of a property during 2020.
- Rs. 200 billion have been allocated to support payment of wages to businesses facing problems in the disbursement of salaries and wages.
- Export and industries will be given tax refunds amounting to Rs. 100 million along with delayed deferred payments of interest.
- Small and medium industries will also get a relief of Rs. 100 million along with a relaxation of deferred interest payments. Concessional loans will also be available for their support at low interest rate.
- A sum of Rs. 144 billion has been approved under Ehsas Emergency Cash program to disburse Rs. 12,000 per family to provide financial assistance to low income families.
- A sum of Rs. 150 billion has been approved to disburse Rs.3000 monthly up to a period of four months to low income families.
- The government has set aside Rs. 50 billion for utility stores to ensure the availability of goods.

- The impact of crash in oil prices will also be seen in Pakistan as the government plans to decrease the oil prices to bring a relief to the end consumer.
- Electricity consumers under 300 units which makes 75% of the population will be able to defer their bill payments over the next 3 months. Similar relief has been provided to gas consumers to defer their gas bills over the next 3 months for bills up to Rs. 2,000 per month.
- To prevent healthcare facilities being exhausted during the outbreak, an allocation of Rs. 50 billion has been made for the purchase of medical equipment including necessary items for the facilitation of medical workers and also various incentives have been sanctioned for medical workers.
- Taxes on food items will be either be eliminated or reduced to reduce the cost.
- Inflation has turned down from 11.2% to 8.5% due to the outbreak.

Economic boulders to be faced by the country

The economy of Pakistan which was already struggling to move towards stability will find a boulder of economic damages and difficulties to recover from caused by the Covid-19.

- The factor of negligible increase in exports, huge burdens of loans and the expansion of budget deficit, unstable foreign exchange reserves eventually fluctuating the currency value, loads of circular debts and continuous rise in inflation rates has always created a bump in the ambition to move towards a stable economy.
- The main requisite would be to find a suitable mix which would enable the economy to bounce back from the negative growth rate to the positive one.
- The expected unemployment spike from 1.4 million to 18.53 million to be caused by the outbreak will be hard to turn around.
- The prevention of vulnerable groups of the society from suffering a colossal damage to their financial situation where they will find themselves hard to survive till the recovery of the economic conditions from the outbreak.
- It will be difficult for the government to control the demand and supply gaps for the essential items during the period the country goes through the outbreak.
- An active muscle power will also be required to make through the crisis without exhausting the healthcare system hence making it a pre-requisite for the government to balance supply and demand of the medical equipment and facilities to be able to save the current outbreak to elongate.
- One of the pivotal constituent will be to encourage private consumption. For this purpose a seamless balance of inflation and purchasing power will be required without any significant compromise to the tax revenue collection.
- It will also be a huge endeavor to maintain currency value, balance of trade and payments, and foreign

exchange reserves at their stable levels to prevent from adverse effects resulting from depreciation in currency and a significant drop in foreign exchange reserves.

Facing the future

The global projection of growth rate depicts a contraction by –3% due to the global pandemic. However, it is expected that the growth will bounce back to 5.8% in 2021. Keeping the hopes high corresponding to expectations of global economic recovery, the government needs to be alert in order to take concrete and timely measures to respond to the swift developments changing the current dynamics. The following will contribute to the recovery framework:

- The current outbreak has forced the economies to shift to digital platforms as far as possible for circulation of necessary economic activities. Pakistani economy has a healthy and growing IT infrastructure at present which represents a compound annual growth of 19.5% which is the highest rate compared to all other industries and also the highest in the region. Moreover, IT related exports had contributed \$ 4.1 billion to the economy in the fiscal year of 2019. The efforts should be made to stimulate the IT infrastructure and the availability of adequate IT resources and platforms to route businesses from their practiced methods to the digital avenues.
- Support to the small sized business and self-employed will avert further increase in downsizing.
- Special efforts will be needed to control the inflation rate to prevent the purchasing power of lower income brackets from being stretched out.

In a nutshell, the path to recovery requires a timely, effective and precisely planned measures to be taken with the ever-changing conditions influencing socio-economic environment eventually setting up new dynamics to cope and live-in.

KEY HIGHLIGHTS OF AMENDMENTS

Income tax

1. Deletion of Withholding Taxes to augment efforts towards simplification of the withholding tax regime, the following withholding tax provisions are being deleted:

- 236R Collection of advance tax on education related expenses remitted abroad
- 235B Tax on steel melters and composite units
- 156B Withdrawal of balance under pension fund
- 148A Tax on local purchase of cooking oil or vegetable ghee by certain persons
- 236D Advance tax on functions and gatherings
- 236F Advance tax on cable operators and other electronic media
- 236J Advance tax on dealers, commission agents and arhatis etc.
- 236U Advance tax on insurance premium
- 236X Advance tax on tobacco

This measure would reduce the cost of the compliance of taxpayers, enhance the control of FBR over the withholding tax regime and would be pivotal in promoting ease of doing business.

2. Enhancement of Threshold for Becoming Prescribed Person for Withholding of Tax on Supplies, Services and Contracts from fifty to hundred million rupees and a similar threshold of hundred million rupees is being prescribed for a sales tax registered person to become a withholding agent.
3. Reduction in Holding Period and Tax Rates for Capital Gain on Immoveable Property to incentivize and propel economic activity in the real estate sector, the bifurcation of plots and constructed property for determining holding period of capital gains is being done away with i.e. the holding period for taxation of capital gains on disposal of immovable property is being restricted to 4 years. In addition, rates are also being reduced on capital gains emanating from disposal of immovable property.
4. Increase in Threshold of Section 21(l) per transaction delineated under section 21(l) is being increased from Rs. 10,000/- to Rs. 25,000/-. Similarly, the threshold of payments under a single from Rs.50,000/- to Rs.250,000/-. Increase in Threshold of Section 21(m) from Rs. 15,000/- per month to Rs. 25,000/- per month.
5. Enabling Adjustability of Property Expenses for All Individuals/AOPs
6. Exempting Withholding Tax on Cash Withdrawal to the extent of Foreign Remittances
7. Promoting Investment in Government Debt Instruments through a foreign bank account, a non-resident rupee account repatriable or a foreign currency account.
8. Issuance of Centralized Income Tax Refunds
9. Hajj Operators to be Exempted from Withholding Tax on Payments to Nonresidents

10. Explanation for excluding Vehicles Up to 200cc from the Ambit of Advance Tax
11. Advance Tax on Auction of Immovable Property to be Collected in Installments
12. Prompt Issuance of Exemption Certificates to Public Listed Companies within 15 days
13. Collection of Advance Tax by Educational Institutions not to Apply to Persons on the ATL
14. Rationalizing Tax on Imports by shifting from person-specific rates to goods specific rates cascaded according to the type of goods, with tax @1% for capital goods, 2% for raw materials and 5.5% for finished goods irrespective of status of the importer. However, the prevailing concessional rates on certain items such as remeltable scrap of iron and steel, potassic and urea fertilizers, LNG, Gold, Cotton, goods that were importable by manufacturers under the rescinded SRO 1125(I)/2011 dated 31.12.2011, mobile phones etc. are being maintained.
15. Agreed Assessment through arbitration by Assessment Oversight Committee.
16. Strengthening Alternate Dispute Resolution Mechanism
17. Taxation Of Resident Shipping Companies as per latest marine policy.
18. Taxpayer's Profile Automated Adjusted Assessment to rectify computational errors and wrongly claimed credits
19. Real-Time Access to Databases of Certain Organizations
20. Audit on the Basis of Benchmark Ratios
21. Enabling E-Audit
22. Strengthening Compliance Regime of Non-Profit / Welfare Organizations
23. Electricity Expense to be Treated as an Inadmissible Business Deduction subject to non-disclosure of name of actual user from 01.01.2021
24. Disallowance of Business Expenditure Proportionate to Sales Made to Sales Tax Unregistered Persons
25. Rationalizing Depreciation Deduction based on the Half Year Rule
26. Limiting Interest Deductibility to Foreign Affiliates
27. Rationalization of Cost of Transport Vehicle for Claiming Deduction on Account of Lease Rentals
28. Filing of Withholding Statements under section 165 on Quarterly Basis
29. Incentivizing and Promoting the Construction Industry
30. Tax Exemptions and Concessions for the Gwadar Port and the Gwadar Free Zone
31. Incorporation of Relief measures provided through SROs during the COVID pandemic

Sales tax

1. The definition of Active Taxpayers has been amended to include those persons who are blocked by the system for processing of refunds. Further, the condition for submission of quarterly Withholding statements has been introduced instead of Monthly withholding statement, which was superfluous in any way.
2. Definition of Output tax has been changed to include Output tax on Islamabad Capital Territory (Tax on Services) services the instead of Provincial tax services.
3. Value for charging sales tax on supply of used vehicles has been defined to be the difference of value of vehicle on which tax has been paid at the time of import or manufacture and actual value of sale of such vehicle.
4. Amendment has been made in section 3 to include recipient of services as withholding agent.
5. The Board is being empowered to make rules for restriction of Wastage of material to be used for claiming input tax on such material.

6. Inland Revenue Authorities are now being empowered to pass orders on the Question of Law already decided by High Court or Appellate Tribunal.
7. The threshold of obtaining CNIC or NTN of Customer by the retailer has been increased from Rs.50,000 to Rs.100,000/-.
8. The legislature seeks to authorize the Commissioner to conduct audit proceedings electronically through video link or any other facility as may be prescribed by the Board.
9. Tax returns are to be "Complete" in addition to True and correct.
10. Time limit for integration of sales and production with records of Board has been decreased from 6 to two months of implementation of the penalty in this regards.
11. Similarly, new clause has been added to impose penalty of Rs. 25,000 and Rs, 50,000 in case of non-sharing of information with the Board by different institutions.
12. Officers are now being proposed to be authorize to access data on real time basis.
13. Appeal fee is being proposed to enhance from Rs. 1000/- to Rs. 5,000 in case of filing appeal by Company. Further, the Commissioner (Appeals) is now being proposed to prohibit to accept the documentary evidence which have not been presented to the officer of Inland Revenue.
14. The relevant section containing detailed procedure for Alternate Dispute Resolution has been redrafted to include some addition features to provide for better mechanism of ADRC.
15. The section related to input tax admissibility has been made more effective to include all persons instead of Manufacturer and Producer who are restricted to provide supplies to unregistered person to the tune of Rs.100 Million in a year and 10 Million in a month.
16. Supply of raw materials and locally manufactured machinery at Gwadar Free Zone for further manufacturing is being proposed to be included in the Zero rated goods.
17. List of goods exempt from tax are being enhanced with different goods and OSD lights.

Federal excise duty

1. Empowering FBR to impose restrictions on wastage of materials used directly in the manufacture or production of certain goods or class of goods.
2. Empowering the Commissioner and officer to modify order or decision pending adjudication in the light of question of law decided by the High Court or Appellate Tribunal.
3. The scope of seizure and confiscation of non-duty paid goods is proposed to be extended to all products subject to FED besides cigarettes and beverages.
4. Amendment proposed to restrict the Commissioner (Appeals) from accepting any evidence which was not presented before the assessing officer.
5. Alternate Dispute Resolution process to be strengthened by proposing changes in the composition of the committee and taxpayer proposed to withdraw his case from any court of law or any appellate authority after decision of the committee. Also the decision not to be binding on the taxpayer until he is satisfied and communicates it to the Commissioner.
6. The restriction on conducting audit once in every three years has been proposed to be removed.
7. It is proposed to provide real-time access to information and databases to the FBR from various authorities such as NADRA, FIA, provincial excise and taxation departments and utility companies in order to broaden the tax base.
8. It is proposed to:
 - a. Levy duty on caffeinated energy drinks at 25% of the retail price.
 - b. Increase duty on cigars, cheroots, cigarillos and cigarettes of tobacco and tobacco substitutes

from 65% to 100% of retail price.

- c. Levy duty on e-liquids of electric cigarettes kits at Rs. 10/ml.
- d. Reduce duty on cement from Rs. 2/kg to Rs. 1.75/kg.
- e. Levy duty on double cabin (4x4) pick-up vehicles at 7.5% ad valorem for locally manufactured and at 25% ad valorem for imported.
- f. Increase duty on filter rod for cigarettes from Rs. 0.75 to Rs. 1 per filter rod.

Customs

1. Procedure to obtain advance ruling has been prescribed along with revision in the definition of advance ruling.
2. Border Military Police (BMP) directed to assist custom authorities.
3. It is proposed the detention period of confiscated goods for 15 (fifteen) days.
4. The bill seeks to empower Federal government to issue exemption from duties.
5. It is proposed to enhance monetary limit of duty free goods.
6. It is proposed to extend the power National Tariff Commission to clarify repayments of duties and taxes.
7. The bill seeks to amend definition of mutilation and scrapping by excluding new imported goods.
8. Under invoicing proposed to be a criminal offence.
9. Bill proposes false declaration a criminal offence.
10. The penalties related to smuggling are proposed to be more rationalized along with the change in the definition of smuggling to broaden its scope.
11. The punishment has been described of smuggling of various goods.
12. Penalties has been described for prohibited goods.
13. It described the procedure of forfeiture of certain specific properties.
14. It is proposed to decide cases related to smuggling by the ATIR within a period of thirty days.
15. The bill seeks to authorize Board to nominate member of ADR committee.
16. It describe the procedure of stay by ADR.
17. The bill seeks to introduce a new proviso for imposing restriction on importer to receive the proceeds.
18. Exemption of custom duties on imports for setting up new industries in erstwhile FATA area is proposed to be extended up to year 2023.
19. Concessions available to special economic zones are proposed to be enhanced.
20. Tariff protection is proposed for domestic industry by increasing / levy of regulatory duty on import of items which are locally manufactured.
21. Custom duty of 90 tariff lines are proposed to be reduced from 11% to 3% and 0% for the purpose of tariff rationalization under National Tariff Policy, 2019.
22. To boost export and to secure domestic manufacturing sector, duties on more than 40 tariff lines are proposed to be exempted or reduced.
23. Reduction in regulatory duty on several items is proposed to discourage the smuggling of goods and to decrease the cost of doing business in several sectors.
24. Additional custom duty is proposed to be reduced on those tariff lines on which custom duty is applicable at 0% including on palm stearin for incentivizing soap manufacturing industry.

Others

1. The luxury tax have been proposed to be levied on the residential houses of 1kanal or more and Farm Houses of 4 Kanal or more situated in the Islamabad Capital Territory.

PROPOSED AMENDMENTS IN INCOME TAX ORDINANCE 2001

Income tax ordinance 2001

Section 2 Clause 29(C)–Industrial undertaking – Insertion

That as per section 148, tax on import of plant and machinery by an industrial undertaking for its own use is an adjustable tax. However, the definition of an industrial undertaking does not cover the construction industry. Through proposed amendment, the scope of definition of industrial undertaking is intended to further expand and following new clause inserted after sub clause (a)

Quote “From the 1st day of May, 2020, a person directly involved in the construction of buildings, roads, bridges and other such structures or the development of land, to the extent and for the purpose of import of plant and machinery to be utilized in such activity, subject to such conditions as may be notified by the Board” Unquote

After the said amendment, the person involved in construction activity can adjust the tax deducted at time of import against his future taxable income at the time of filing of tax return. Further, if the person is exempt from tax or has already been taxed, he / she can apply for exemption certificate for income tax exemption on import of machinery.

Section 2 Clause 30(A)–Integrated Enterprise – Insertion

“Integrated enterprise” means a person integrated with the Board through approved fiscal electronic device and software, and who fulfills obligations and requirements for integration as may be prescribed

Section 2 Clause 30(AC)–IRIS – Insertion

After clause 30(AB) a new clause inserted which define the word IRIS. “IRIS” means a web-based computer program for operation and management of Inland Revenue taxes administered by the Board.

Section 2 Clause 31(A)–Local Government – Amendment

An amendment is proposed in clause 31(A) of section 2 to update the local government definition as per the definition provided in the respective provinces local government laws

“Local Government” shall have the same meaning for respective provisions and Islamabad Capital Territory as contained in the Baluchistan Local Government Act, 2010 (V of 2010), the Khyber Pakhtunkhwa Local Government Act, 2013 (XXVIII of 2013), the Sindh Local Government Act, 2013 (XLII of 2013), the Islamabad Capital Territory Local Government Act, 2015 (X of 2015) and the Punjab Local Government Act, 2019 (XIII of 2019)

Section 2 Clause 36–Non-profit organization – Substituted

It is proposed to substitute the word “for development” as the said word didn’t constitute any welfare or charitable activity, by proposed amendment now the word welfare purpose for general public clarifies the definition. The rational is to specify the object of non-profit for the welfare of general public.

Section 6(2)–Tax on certain payments to non-residents – Insertion

The proposed amendment is editorial change which specifies that the offshore digital services provided by non-resident person is subject to 5% tax as per sub section (1) of section (6). However, for further clarity the word offshore digital services also inserted in sub section 2 of section 6, but this would not affect any taxability. Income of non-resident person from offshore digital services is still subject to 5% income tax.

Section 7(A)–Tax on shipping of resident person – Amendment

All Pakistan resident ship owning companies are proposed to be taxed equivalent to seventy-five US cents of gross registered tonnage per annum subject to certain conditions. Further the timeline for the applicability of this provision is extended up to 30th Jun 2023. The following is proposed

Quote

“A Pakistan resident ship owning company registered with the Securities and Exchange Commission of Pakistan after the 15th day of November, 2019 and having its own sea worthy vessel registered under Pakistan Flag shall pay tonnage tax of an amount equivalent to seventy five US Cents per ton of gross registered tonnage per annum.”

Unquote

Previously such companies were also taxed under general rate of US \$ 1 per gross tonnage per annum, this is a kind of relief provided to Pakistani residential companies by the fixed tax regime.

Section 15(A)–Deductions in computing income chargeable under the head “Income from property” – Amendment

That as per section 15A deductions are allowed to company to arrive at income taxable under the head income from property. There are certain expenditures that are allowed, are specifically defined in section 15A. As per existing provision the total deduction of 6% of the rental was allowed as the collection charges and other administrative expenses. The proposed amendment seeks to reduce the said deductible expense to 2% of the rental.

Another amendment proposed in section 15A is to provide an option to individuals and AOP to get out of separate block of income. Presently the individuals and AOP are not allowed to deduct expenditures from income from property except whose income from property exceeds 4 million. Now the limit has been removed, and any person can claim expenditures against income from property subject to pay tax under the business tax rates.

Section 21(A)–Deductions not allowed – Amendment

That as per section (21) clause (1) any expenditure under a single account head exceeds fifty thousand is not allowed as business expense and further as per second proviso any expenditure exceeding rupees ten thousand in cash is also not allowed as business expense.

Now it is proposed to increase the limit of business expenditures which can be made in cash from rupees fifty thousand to rupees two hundred and fifty thousand under a single account head and rupees ten thousand to rupees twenty five thousand under a single business transaction.

Further, presently it is not allowed to pay salary exceeding rupees fifteen thousand in cash now the limit has been increased and it is proposed that the person can pay salary in cash up to rupees twenty five thousand per month.

New clauses proposed under section 21

Quote

“(p) Any expenditure on account of utility bill in excess of such limits and in violation of such conditions as may be prescribed; and

(q) Any expenditure attributable to sales made to persons required to be registered but not registered under the Sales Tax Act, 1990 by an industrial undertaking computed according to the following formula, namely.

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

Where:

A is the total amount of deductions claimed under this Part;

B is the turnover for the tax year; and

C is the total amount of sales exclusive of sales tax and federal excise duty to persons required to be registered but not registered under the Sales Tax Act, 1990 where sales equals or exceed rupees one hundred million per person:

Provided that disallowance of expenditure under this clause shall not exceed twenty percent of total deductions claimed under this Part:

Provided further that the Board may, by notification in the official Gazette, exempt persons or classes of persons from this clause on the basis of hardship.”

Unquote.

The proposed amendments are intended to make it easier to do business and to encourage businesses to deal with sales tax registrants. Now the cash payment limit has been increased. This will help companies to pay for small contracts in cash.

Section 22– Depreciation– Amendment

Currently the full year depreciation is allowed in the year of purchase of a depreciable asset used in the person's business for the first time in a tax year and no depreciation is allowed in the year of disposal.

It is proposed that 50% depreciation shall be in the year of purchase and 50% depreciation shall be allowed in the year of sale on the depreciable assets.

The rational is to align the depreciation policy with world best practices.

Section 28(b)–Profit on debt, financial costs and lease payments – Substitution

Section 28(b) allows the business to deduct lease rentals, paid for the business assets from taxable income. There is no limit on cost of asset for determining the amount of allowable lease rentals.

Now it is proposed that for determining the deduction on account of lease rentals the cost of a passenger transport vehicle not plying for hire to the extent of principal amount shall not exceed two and a half million rupees.

The rational is to discourage the business to purchase the luxury vehicles for personal use. This would indeed ensure that car is for business need.

Section 37(3A) Substitution & 3(B) omitted–Capital gains

Gain on sale of immovable property is subject to tax with reference to holding period of property. Gain on sale of plots is exempt if holding period was more than 8 years and gain on sale of constructed property is exempt if held for more than four years. In first year full gain was taxable while in the middle period $\frac{3}{4}$ th gain was taxable. The proposed amendment introduced following formula for calculation of taxable capital gain on immovable property of all types:

S. No.	Holding period	Gain
1	Where the holding period of an immoveable property does not exceed one year	A
2	Where the holding period of an immoveable property exceeds one year but does not exceed two years	$A \times \frac{3}{4}$
3	Where the holding period of an immoveable property exceeds two years but does not exceed three years	$A \times \frac{1}{2}$
4	Where the holding period of an immoveable property exceeds three years but does not exceed four years	$A \times \frac{1}{4}$
5	Where the holding period of an immoveable property exceeds four years ¹	0"

A is the amount of gain determined

Section 61(2)–Charitable donations – Substitution

The tax credit for donations is allowed up to a maximum of 30% of the taxable income in the case of an individuals and associations and up to 20% in the case of companies.

It is proposed to reduce the limit of tax credit in case the donation is given to an associate of donor. The proposed ceiling is 15% of taxable income in case of individual and AOP and 10% in case of company. The rational is to make the donation process fair and encourage donors to donate to those who are more deserving.

Section 65(C) – Tax credit for enlistment – Amendment

Tax credit equal to 20% of tax payable allowed, to companies who opts for enlistment in any registered stock exchange in Pakistan.

It is proposed that companies enlisted on Pakistan Stock Exchange before 30th June 2022 shall be allowed to avail the benefit of tax credit.

Section 97(A)–Disposal of asset under a scheme of arrangement and reconstruction – Substitution

The proposed amendment is an editorial change to replace the word Companies Ordinance 1984 with the word Companies Act 2017, as the Companies Ordinance 1984 has been repealed.

Section 100BA (1)–Special provisions relating to persons not appearing in active taxpayer list – Insertion

The existing provision states that the collection or deduction of advance income tax, computation of income and tax payable thereon shall be determined in accordance with the rules in the Tenth Schedule.

It is proposed to insert word person not appearing in active taxpayer list to specify the person for whom the 10th schedule provides rules,

Section 100C (1)–Tax credit for certain persons – Amendment

The existing provision states that the Non-profit organizations, trusts or welfare institutions, shall be allowed a tax credit equal to one hundred per cent of the tax payable, including minimum tax and final taxes payable.

Through finance bill it is proposed that a non-profit organization, a trust or welfare organization is required to file a statement of voluntary contributions and donations received in the immediately preceding tax year which has to be filed in the prescribed form and manner.

In addition in subsection 1A the word non-profit organization has been proposed to be replaced with the Non-profit organization, trust or welfare organization which result in taxing of surplus fund of all such organization at the rate of 10%.

Further it has been proposed that for calculation of restricted funds the funds received from associated person would not be made part of the restricted funds and would therefore, be taken as part of funds for calculation of surplus funds.

100D–Special provisions relating to builders and developers – New Insertion

This section has already been notified by the federal government as part of the relief package for construction industry after corona Pandemic. The relief package proposed the fixed tax scheme for the builders and developers, and is now being introduced through the insertion of following section as Section 100D:

(1) For tax year 2020 and onwards, the tax payable by a builder or a developer, as defined in sub-section (9), who opts to pay tax under this section shall be computed and paid in accordance with the rules in the Eleventh Schedule on a project by project basis on the income, profits and gains derived from the sale of buildings or sale of plots, as the case may be, from—

- (a) A new project to be completed by the 30th day of September, 2022; or
- (b) An incomplete existing project to be completed by the 30th day of September, 2022:

Provided that any income, profits and gains of a builder or developer of an incomplete existing project earned up to tax year 2019 shall be subject to the provisions of this Ordinance as were in force prior to the commencement of the Tax Laws (Amendment) Ordinance, 2020 (Ordinance I of 2020): Provided further that any income of a builder or developer other than income, profits and gains subject to this section shall be subject to tax as per the provisions of this Ordinance.

(2) Where sub-section (1) applies, —

- (a) The income shall not be chargeable to tax under any head of income in computing the taxable income of the person;
- (b) No deduction shall be allowed under this Ordinance for any expenditure incurred in deriving the income;
- (c) The amount of the income shall not be reduced by —
 - (i) Any deductible allowance under Part IX of Chapter III; or
 - (ii) The set off of any loss;
- (d) no tax credit shall be allowed against the tax payable under sub-section (1) except credit for tax under section 236K collected from the builder or developer after the commencement of the Tax Laws (Amendment) Ordinance, 2020 (I of 2020) on purchase of immovable property utilized in a project;
- (e) There shall be no refund of any tax collected or deducted under this Ordinance;
- (f) If the tax payable has not been paid or short paid, the said amount of tax may be recovered and all the provisions of this Ordinance shall apply accordingly; and
- (g) Sections 113 and 113C shall not apply on the turnover, income, profits and gains of a builder or developer from a project.

(3) The provisions of section 111 shall not apply to capital investment made in a new project under clause (a) of sub-section (1) in the form of money or land, subject to the following conditions, namely:—

- (a) If the investment is made by a builder or developer being an individual —
 - (i) in the form of money, such builder or developer shall open a new bank account and deposit such amount in it on or before the 31st day of December, 2020; or
 - (ii) In the form of land, such builder or developer shall have the ownership title of the land at the time of commencement of the Tax Laws (Amendment) Ordinance, 2020 (I of 2020);
- (b) If the investment is made by a person in a project through a company or an association of persons,—
 - (i) such company or association of person shall be a single object (builder or developer) company or association of persons registered under the Companies Act, 2017 (XIX of 2017) or the Partnership Act, 1932 (IX of 1932), as the case may be, after the date of commencement of the Tax Laws (Amendment) Ordinance, 2020 (I of 2020) and on or before the 31st day of December, 2020; and

(ii) The person shall be a member or shareholder of such association of persons or company, as the case may be; and

If the capital investment is made,—

(i) in the form of money, such amount shall be invested through a crossed banking instrument deposited in the bank account of such association of persons or company, as the case may be, on or before the 31st day of December, 2020; or

(ii) in the form of land, such land shall be transferred to such association of persons or company, as the case may be, on or before the 31st day of December, 2020: Provided that the person shall have the ownership title of the land at the time of commencement of the Tax Laws (Amendment) Ordinance, 2020 (I of 2020);

(c) A person making an investment under clause (a) or (b) shall submit a prescribed form on IRIS web portal;

(d) The money or land invested under clause (a) or (b) shall be wholly utilized in a project; and

(e) Completion of the project shall be certified in the following manner, namely:—

(i) In case of a builder, the map approving authority or NESPAK shall certify that grey structure as per the approved map has been completed by the builder on or before the 30th day of September, 2022; and

(ii) In case of a developer,—

(A) The map approving authority or NESPAK shall certify that landscaping has been completed on or before the 30th day of September, 2022;

(B) a firm of chartered accountants having an ICAP QCR rating of 'satisfactory', notified by the Board for this purpose, shall certify that at least 50% of the plots have been booked for sale and at least 40% of the sale proceeds have been received by the 30th day of September, 2022; and

(C) At least 50% of the roads have been laid up to sub-grade level as certified by the approving authority or NESPAK.

(4) The provisions of section 111 shall also not apply to.—

(a) the first purchaser of a building or a unit of the building purchased from the builder in respect of purchase price of the building or unit of the building subject to the following conditions, namely:—

(i) full payment is made through a crossed banking instrument to the builder during a period starting from the date of registration of the project with the Board under this section and ending on the 30th day of September, 2022, in case the purchase is from a new project; and

- (ii) full or balance amount of payment is made through a crossed banking instrument to the builder during a period starting from the date of registration of the project with the Board under this section and ending on the 30th day of September, 2022, in case the purchase is from an existing incomplete project; and
 - (b) the purchaser of a plot who intends to construct a building thereon, if –
 - (i) The purchase is made on or before the 31st day of December, 2020;
 - (ii) The full payment is made on or before the 31st day of December, 2020 through a crossed banking instrument;
 - (iii) Construction on such plot is commenced on or before the 31st day of December, 2020;
 - (iv) Such construction is completed on or before the 30th day of September, 2022; and
 - (v) The person registers himself with the Board on the online IRIS web portal.
 - (5) Where sub-section (3) or (4) apply, the value or price of land or building, as the case may be, shall be the higher of clause (a) or (b) below:–
 - (a) 130% of the fair market value as determined by the Board under sub-section (4) of section 68; or
 - (b) At the option of the person making investment, the lower of the values as determined by at least two independent valuers from the list of valuers approved by the State Bank of Pakistan.
 - (6) Sub-sections (3) and (4) shall not apply to –
 - (a) holder of any public office as defined in the Voluntary Declaration of Domestic Assets Act, 2018 or his benamidar as defined in the Benami Transactions (Prohibition) Act, 2017 (V of 2017) or his spouse or dependents;
 - (b) A public listed company, a real estate investment trust or a company whose income is exempt under any provision of this Ordinance; or
 - (c) Any proceeds derived from the commission of a criminal offence including the crimes of money laundering, extortion or terror financing but excluding the offences under this Ordinance.
 - (7) Dividend income paid to a person by a builder or developer being a company out of the profits and gains derived from a project shall be exempt from tax.
 - (8) Notwithstanding anything contained in this section or the Eleventh Schedule, where a return or declaration has been made through misrepresentation or suppression of facts, such return or declaration shall be void and all the provisions of this Ordinance shall apply:
- Provided that no action under this sub-section shall be taken if such misrepresentation has been made on account of a bona fide mistake:
- Provided further that no action under this sub-section shall be taken without providing an opportunity of being heard and without prior approval of the Board."
- (9) In this section,–

- (a) "Builder" means a person who is registered as a builder with the Board and is engaged in the construction and disposal of residential or commercial buildings;
- (b) "Capital investment" means investment as equity resources and does not include borrowed funds;
- (c) "Developer" means a person who is registered as a developer with the Board and is engaged in the development of land in the form of plots of any kind either for itself or otherwise;
- (d) "Existing project" means a construction or development project, which –
- (i) Has commenced before the date of commencement of the Tax Laws (Amendment) Ordinance, 2020;
 - (ii) is incomplete;
 - (iii) Is completed on or before the 30th day of September, 2022; and
 - (iv) a declaration is provided in the registration form under Eleventh Schedule to the effect of percentage of the project completed up to the last day of the accounting period pertaining to tax year 2019;
- (e) "First purchaser" means a person who purchases a building or a unit, as the case may be, directly from the builder and does not include a subsequent or a substituted purchaser;
- (f) "New project" means a construction or development project, which –
- (i) is commenced during the period starting from the date of commencement of the Tax Laws (Amendment) Ordinance, 2020 and ending on the 31st day of December, 2020; and
 - (ii) Is completed on or before the 30th day of September, 2022;
- (g) "project" means a project for construction of a building with the object of disposal, or a project for development of land into plots with the object of disposal or otherwise;
- (h) "Registered with the Board" means registered after submission of form on project-by-project basis on the online IRIS web portal;
- (10) The provisions of the Ordinance not specifically dealt with in this section or the rules made thereunder shall apply mutatis mutandis to builders and developers in so far as they are not inconsistent with this section or the rules made thereunder.”;

Section 106A–Restriction on deduction of profit on debt payable to associated enterprise – New Insertion

A new section is proposed to be introduced to restrict the deduction on payment of foreign debt in calculation of taxable income. Following is proposed section:

“(1) Subject to sections 108 and 109, a part of deduction for foreign profit on debt claimed by a foreign-controlled resident company (other than an insurance company, or a banking company) during a tax year, shall be disallowed according to the following formula, namely:—

$$[B] - [(A + B) \times 0.15] \text{ where—}$$

A is the taxable income before depreciation and amortization; and

B is the foreign profit on debt claimed as deduction

(2) This section shall not apply to a foreign-controlled resident company if the total foreign profit on debt claimed as deduction is less than ten million rupees for a tax year.

(3) Where in computing the taxable income for a tax year, full effect cannot be given to a deduction for foreign profit on debt, the excessive amount shall be added to the amount of foreign profit on debt for the following tax year and shall be treated to be part of that deduction, or if there is no such deduction for that tax year, be treated to be the deduction for that tax year and so on for three tax years.

(4) Notwithstanding the provisions of section 106, where deduction of foreign profit on debt is disallowed under this section and also under section 106, the disallowed amount under this section and section 106.

(5) This section shall apply in respect of foreign profit on debt accrued with effect from the first day of July, 2020, even if debts were contracted before the first day of July, 2020. (6) In this section—

(a) "foreign-controlled resident company" means a resident company in which fifty per cent or more of the underlying ownership of the company is held by a nonresident person either alone or together with an associate or associates; and

(b) "Foreign profit on debt" means interest paid or payable to a non-resident person or an associate of the foreign controlled resident company and includes—

- (i) Interest on all forms of debt;
- (ii) Payments made which are economically equivalent to interest.
- (iii) Expenses incurred in connection with the raising of finance.
- (iv) Payments under profit participating loans.
- (v) Imputed interest on instruments such as convertible bonds and zero coupon bonds.
- (vi) Amounts under alternative financing arrangements such as Islamic finance.
- (vii) The finance cost element of finance lease payments.
- (viii) Capitalized interest included in the balance sheet value of related asset, or the amortization of capitalized interest.
- (ix) Amounts measured by reference to a funding return under transfer pricing rules;
- (x) Where applicable, notional interest amounts under derivative instruments or hedging arrangements related to an entity's borrowings.
- (xi) Certain foreign exchange gains and losses on borrowings and instruments connected with the raising of finance;
- (xii) Guarantee fees with respect to financing arrangements; and
- (xiii) Arrangement fee and similar cost related to the borrowing funds.

Section 107(1)–Agreement for avoidance of double taxation and prevention of fiscal evasion – Insertion.

The proposed amendment is an editorial change to emphasis the spontaneous exchange of information.

Section 111(1)–Unexplained income or assets – Amendment

Section 111 empowers the commissioner to add the unexplained assets in the taxable income of taxpayer under the head income from other source and charge tax accordingly. Through proposed amendment scope of section 111 is further extended and proposed to allow the commissioner to add explained

transaction which in the opinion of commissioner is unsatisfactory in the income of person in the following ways.

(a) the amount credited, value of the investment, money, value of the article, or amount of expenditure shall be included in the person's income chargeable to tax under the head "Income from Other Sources" to the extent it is not adequately explained; and

(b) the suppressed amount of production, sales or any amount chargeable to tax or of any item of receipt liable to tax shall be included in the person's income chargeable to tax under the head "Income from Business" to the extent it is not adequately explained" shall be substituted;

Section 113–Minimum tax on income of certain persons – Amendment

Minimum tax is applicable on resident companies or individuals and AOP having turnover of 10 million rupees. Minimum tax is not applicable on non-resident companies.

It is proposed to charge minimum tax on the permanent establishment of non-resident companies

The rational is to reduce the tax gap between resident and non-resident companies. Now the non-resident companies having permanent establishment are also required to pay minimum tax.

Section 114–Return of income – Amendment

Currently, a person whose income falls under the final tax regime is required to file statement of final taxation.

Now it is proposed that every person including those whose income for the year is subject to final taxation under any provision of this Ordinance is required to file annual return under section 114.

Further it is proposed that commissioner shall grant approval in case of bona fide omission or wrong statement of annual return.

After the said proposal, the concept of filing statement of final taxation is eliminated and now the person earning income under final tax regime is also required to file normal tax return.

Section 114A–Taxpayer's profile – Insertion

A new section is introduced under which persons shall furnish a complete profile, on IRIS. As proposed every taxpayer is required to file registration form on IRIS in following manner:

- a) Every person applying for registration under section 181.
- b) Every person deriving income chargeable to tax under the head, "income from business.
- c) Every person whose income is subject to final taxation.
- d) Any non-profit organization as defined in clause (36) of section.
- e) Any trust or welfare institution; or
- f) Any other person prescribed by the Board.

(2) A taxpayer's profile:

- a) Shall be in the prescribed form and shall be accompanied by such annexures, statements or documents as may be prescribed.
 - b) Shall fully state, in the specified form and manner, the relevant particulars of:
 - i. Bank accounts.
 - ii. Utility connections.
 - iii. Business premises including all manufacturing, storage or retail outlets operated or leased by the taxpayer.
 - iv. Types of businesses; and
 - v. Such other information as may be prescribed.
 - c) Shall be signed by the person being an individual, or the person's representative where section 172 applies; and
 - d) Shall be filed electronically on the web as prescribed by the Board.
- (3) A taxpayer's profile shall be furnished.

- a) on or before the 31st day of December, 2020 in case of a person registered under section 181 before the 30th day of September, 2020; and
- b) Within ninety days of registration in case of a person not registered under section 181 before the 30th day of September, 2020.

(4) A taxpayer's profile shall be updated within ninety days of change in any of the relevant particulars of information as mentioned in clause (b) of subsection (2).

The purpose of this exercise is to get the true information of taxpayer for future correspondence. This will help the authority to trace the taxpayer.

Section 115– Persons not required to furnish a return of income— Amendment

Sub section 4 state that any person whose income is subject to final taxation under section 5, 6, 7, 148, 151 and, 52, sub-section (3) of section 153, sections 154, 156 and 156A, sub-section (3) of section 233 or sub-section (3) of section 234A shall furnish to the Commissioner a statement of final taxation.

It is proposed to omit the sub section 4 as all the persons are now required to file tax return under section 114. Sub section 4(A) allow the revision of statement of final taxation in case of wrong submission. It is proposed to omit the sub section 4(A)

Sub section 5 and 6 state that commissioner may notice and require a statement of final taxation if in his opinion a person is required to file statement of final taxation in respect of last 5 tax years. It is proposed to omit the sub section (5) and (6)

Section 116– Wealth statement — Amendment

As per section sub section 3 a person, who has furnished a wealth statement, discovers any omission or wrong statement therein, he may, without prejudice to any liability incurred by him under any provision of this Ordinance, furnish a revised wealth statement at any time before the receipt of notice under sub-section (9) of section 122, for the tax year to which it relates.

It is proposed that filing of revised Wealth Statement shall only be allowed if approval of commissioner is granted. Further it is clarified that wealth statement cannot be revised after the expiry of 5 years of due date of filing of return.

Section 118–Methods of furnishing return and other documents – Amendment

In section 118 all the rules for filing of statement of final taxation under section 115 are proposed to be deleted.

Section 119–Extension of time for furnishing returns and other documents – Amendment

It is proposed to delete clause (c), where a statement of final taxation is mentioned

Section 120–Assessments – Amendment

That when a taxpayer furnish a complete return of income, the Commissioner shall be taken to have made an assessment of taxable income for that tax year, and the tax due thereon, equal to those respective amounts specified in the return. The original return filed is deemed assessed with respect to amounts and a system generated assessment order is issued to the taxpayer.

Through amendments in Finance Act 2020, it is proposed that the return shall not be taken as deemed assessed and it shall be processed through automated system to arrive to correct figure. In this connection a new sub section 2(A) is proposed to be inserted as:

(2A) A return of income furnished under sub-section (2) of section 114 shall be processed through automated system to arrive at correct amounts of total income, taxable income and tax payable by adjusting for.

- (i) Any arithmetical error in the return.
- (ii) Any incorrect claim, if such incorrect claim is apparent from any information in the return.
- (iii) Disallowance of any loss, deductible allowance or tax credit under Parts VIII, IX and X respectively of Chapter III; and
- (iv) Disallowance of carry forward of any loss under clause (b) of sub-section (1) of section 182A

Provided that no such adjustments shall be made unless a system generated notice is given to the taxpayer specifying the adjustments intended to be made:

Provided further that the response received from the taxpayer, if any, shall be considered before making any adjustment, and in a case where no response is received within thirty days of the issue of such notice, adjustments shall be made.

Provided also that where no such adjustments have been made within six month of filing of return, the amounts specified in the return as declared by the taxpayer shall be deemed to have been taken as adjusted amounts on the day the return was filed and the taxpayer shall be intimated automatically through IRIS.";

Definition of arithmetical error.

- (a) "Arithmetical error" includes any wrong or incorrect calculation of tax payable including any minimum or final tax payable.
- (b) "An incorrect claim apparent from any information in the return" shall mean a claim, on the basis of an entry, in the return, – of an item, which is inconsistent with another entry of the same or some other item in such return:
 - (ii) Regarding any tax payment which is not verified from the collection system; or
 - (iii) In respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction.

Section 122 Amendment of assessments – Amendment

It is proposed that for the expression "definite information acquired from an audit or otherwise," the expression "audit or based on definite information" shall be substituted. The implications is that the definite information not necessarily from the audit but through authentic source.

Section 122D–Agreed assessment in certain cases – Insertion

A new section 122D is proposed to be inserted which provide mechanism to taxpayer to settle his case during the assessment proceedings. The proposed mechanism of settlement is provided as:

Where a taxpayer, in response to a notice under sub-section (9) of section 122, intends to settle his case, he may file offer of settlement in the prescribed form before the assessment oversight committee, hereinafter referred to as the Committee, in addition to filing reply to the Commissioner.

(2) The Committee after examining the aforesaid offer may call for the record of the case and after affording opportunity of being heard to the taxpayer, may decide to accept or modify the offer of the taxpayer through consensus and communicate its decision to the taxpayer.

(3) Where the taxpayer is satisfied with the decision of the Committee.

- (a) The taxpayer shall deposit the amount of tax payable including any amount of penalty and default surcharge as per decision of the Committee.
- (b) The Commissioner shall amend assessment in accordance with the decision of the Committee after tax payable including any amount of penalty and default surcharge as per decision of the Committee has been paid.
- (c) The taxpayer shall waive the right to prefer appeal against such amended assessment; and
- (d) No further proceedings shall be undertaken under this Ordinance in respect of issues decided by the Committee unless the tax as per clause (c) has not been deposited by the taxpayer.

(4) Where the Committee has not been able to arrive at a consensus or where the taxpayer is not satisfied with the decision of the Committee, the case shall be referred back to the Commissioner for decision on the basis of reply of the taxpayer in response to notice under sub-section (9) of section 122 notwithstanding proceedings or decision, if any, of the Committee.

(5) The Committee shall comprise the following income tax authorities having jurisdiction over the taxpayer, namely:

- (a) The Chief Commissioner Inland Revenue.
- (b) The Commissioner Inland Revenue; and
- (c) The Additional Commissioner Inland Revenue.

(6) This section shall not apply in cases involving concealment of income or where interpretation of question of law is involved having effect on other cases.

(7) The Board may make rules regulating the procedure of the Committee and for any matter connected with, or incidental to the proceedings of the Committee.

Introducing this section is to reduce the burden on rational appellate forums and allow taxpayers to settle the case in the first instance. However, this is like a bargaining chip and it is not a good idea to encourage tax evaders to settle their affairs by paying money by consensus.

Section 127–Appeal to the commissioner (Appeals) – Amendment

Section 127 allows the aggrieved person to file an appeal to commissioner appeal against the order of Commissioner or officer.

It is proposed to allow the aggrieved person to file an appeal against system generated order issued under section newly introduced section 2(A) of section 120. Further the appeal fees have been increased as:

In case of assessment order.	Existing Fee Rs.	Proposed Fee Rs.
Company	1,000	5,000
Other than company	1,000	2,500

In any other case	Existing Fee Rs.	Existing Fee Rs.
Company	Rs. 1,000	Rs. 5,000
Other than company	Rs. 200	Rs. 1,000

Section 129–Decision in appeal – Amendment

The section states that the Commissioner (Appeals) shall pass an order for the decision of appeal not later than one hundred and twenty days from the date of filling of appeal or within an extended period of sixty days.

The proposed amendment in the section 129(4) directs the Commissioner (Appeals) to also specify the amount of tax upheld or confirmed in the order after deciding an appeal, the said order will be served to the appellant and the Commissioner.

Section 131–Appeal to the Appellate Tribunal – Amendment

Section 131 allows the aggrieved person to file an appeal before Tribunal against the order of Commissioner Appeal.

The proposed amendment under this section states that the appeals in the Appellate Tribunal will only be entertained when the taxpayer pay ten percent tax of amount upheld/confirmed by Commissioner Appeal and proof of payment of tax upheld or confirmed by the Commissioner (Appeals) is accompanied along with the other documents required to be submitted for appeal and verified in prescribed manner. After clause (d) of the section 131(2), a new clause is proposed to be inserted which is as follows; Quote" (e) accompanied by proof of payment of ten percent of the amount of tax upheld by the Commissioner (Appeals)." Unquote

In addition to the above amendment and insertions in the section the prescribed fee for the appeal in Appellate tribunal is also proposed to be increased to rupees five thousand in case of company and rupees two thousand and five hundred in cases other than company. The existing fee is rupees two thousand in all cases.

Section 134A–Alternate dispute resolution – Substitution

Section 134 provide mechanism to settle taxpayer disputes through alternate dispute resolution committees formed specifically to resolve the issues.

Through proposed finance bill 2020 the new rules for Alternate dispute resolution are framed as follows:

An aggrieved person in connection with any dispute pending before a court of law or an appellate authority pertaining to:

- (a) The liability of tax against the aggrieved person, or admissibility of refunds, as the case may be;
 - (b) The extent of waiver of default surcharge and penalty.
 - (c) any other specific relief required to resolve the dispute, may apply to the Board for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application, which is under litigation in any court of law or an appellate authority, except where criminal proceedings have been initiated or where interpretation of question of law having effect on identical cases is involved having effect on other cases.
- (2) The Board may, after examination of the application of an aggrieved person, appoint a committee, within sixty days of receipt of such application in the Board, comprising.
- (i) Chief Commissioner Inland Revenue having jurisdiction over the case.
 - (ii) two persons from a panel notified by the Board comprising of chartered accountants, cost and management accountants, advocates, having minimum of ten years' experience in the field of taxation and reputable businessmen.
- (3) The Board shall communicate the order of appointment of committee to the court of law or the appellate authority where the dispute is pending and the Commissioner.

(4) The Committee appointed under sub-section (2) shall examine the issue and may, if it deemed necessary, conduct inquiry, seek expert opinion, direct any officer of the Inland Revenue or any other person to conduct an audit and shall decide the dispute through consensus, within one hundred and twenty days of its appointment.

(5) The Committee may, in case of hardship, stay recovery of tax payable in respect of dispute pending before it for a period not exceeding one hundred and twenty days in aggregate or till the decision of the committee or its dissolution, whichever is earlier.

(6) The decision of the committee under sub-section (4) shall be binding on the Commissioner when the aggrieved person, being satisfied with the decision, has withdrawn the appeal pending before the court of law or any appellate authority and has communicated the order of withdrawal to the Commissioner: Provided that if the order of withdrawal is not communicated to the Commissioner within sixty days of the service of decision of the committee upon the aggrieved person, the decision of the committee shall not be binding on the Commissioner.

(7) If the Committee fails to decide within the period of one hundred and twenty days under sub-section (4), 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 where the dispute is pending.

(8) The Board shall communicate the order of dissolution to the court of law or the appellate authority and the Commissioner.

(9) The aggrieved person, on receipt of the order of dissolution, shall communicate it to the court of law or the appellate authority, where the dispute is pending.

(10) The aggrieved person may make the payment of income tax and other taxes as decided by the committee under sub-section (4) and all decisions and orders made or passed shall stand modified to that extent.

(11) The Board may prescribe the amount to be paid as remuneration for the services of the members of the committee, other than the member appointed under clause (i) of sub-section (2).

(12) The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this section."

The amendments proposed to ease the process of resolution through ADR and to reduce burden on appellate forums.

Section 138(2)–Recovery of tax out of property and through arrest of taxpayer – Amendment

To recover the amount of income tax from the taxpayer the Commissioner may issue a notice and direct the taxpayer to pay the said amount within the period specified in the notice. In case the amount of tax is not paid within the specified period, the Commissioner may recover the amount through the modes specified in the section 138(2).

The proposed amendment in the section 138(2) expands the modes for recovery of income tax through insertion of a new clause (d) under section 138(2) and now the Commissioner can deduct the said amount of income tax from any money owing to person and which may be at the disposal of any officer of Income Tax, Customs or Central Excise Department. The Commissioner can also recover the amount through prohibiting the clearance of imported goods, manufactured goods and from bank accounts. Further the Commissioner can also seal the business premises of the taxpayer till full amount is recovered.

The purpose of insertion of the clause (d) in section 138(2) is to empower the commissioner and to provide him the new modes to recover Income tax. This would eventually create fear in taxpayer.

Section 147–Advance tax paid by the taxpayer – Amendment

This section states that the every company, AOP and the individual having latest assessed taxable income more than one million rupees shall by an advance tax quarterly computed through the formula mentioned in section 147(4) for the company and the AOP and through the formula mentioned in section 147(4B) for the individual having latest assessed taxable income more than one million rupees.

The proposed new proviso in section 147(4) states that the Board may further prescribe the filing and calculation of turnover for the quarter through an automated system.

The insertion of new proviso will help in estimating and computing the turnover for the quarter based on which the advance tax shall be paid for the quarter. This will fair and ease the process of advance tax and also increase government revenue.

Section 148–Imports – Amendment

This section states that the advance tax should be collected from every importer of goods. However, goods were not individually listed as on which goods the tax shall be collected.

Twelfth schedule is proposed to be inserted in which the goods are classified in parts I to III, advance tax under this section shall be collected on the goods mentioned and classified in Part I to III of newly inserted twelfth schedule. Further, the Board may at any time through official gazette add, omit or amend any entry of twelfth schedule.

As per section 148(7) tax collected under this section was adjustable on the imports of raw material, plant, machinery, equipment, parts by an industrial undertaking for its own use, motor vehicles in CBU condition by manufacturer and for large import house.

However, the Finance bill 2020 proposed that the tax collected under this section shall be adjustable only for goods on which tax is required to be collected under this section at the rate of 1% or 2% by an industrial undertaking for its own use. In all other cases the tax collected under section 148 shall be minimum.

Further the meaning of term value of goods is substituted in sub section 9 of section 147, the substituted clarification of the term value of goods is as follows.

Quote "Value of goods means:

(a) in case of goods chargeable to tax at retail price under the Third Schedule of the Sales Tax Act, 1990, the retail price of such goods increased by sales tax payable in respect of the import and taxable supply of the goods; and

(b) in case of all other goods; the value of the goods as determined under the Custom Act, 1969 (IV of 1969), as if the goods were subject to ad valorem duty increased by the custom-duty, federal excise duty and sales tax, if any, payable in respect of the import of the goods."

Unquote

The grounds of amendments in section 148 is to rationalize tax at import stage on goods used for different purposes.

Section 148A–Tax on local purchase of cooking oil or vegetable ghee by certain persons – Omission

The manufacturers of cooking oil and vegetable ghee are subject to pay the final tax on purchase of locally produced edible oil. However, through the Finance bill 2020 this section is proposed to be omitted.

Section 152–Payments to non-residents – Amendment

Every person making a payment for advertisement services to a non-resident media person shall deduct tax from the gross amount paid at the rate of 10%.

The proposed Finance bill 2020 state that the new sub section 1BBB shall be inserted through which the tax deductible under this section on payment of advertisement services to a non- resident media person shall be minimum tax on the income of non-resident person. However, the rate is proposed to be remained same i.e. 10%.

Further it is proposed to reduce tax from thirty to twenty percent on payment that constitute part of overall arrangement as mentioned in clause 41(g) of section 2 on the order of Commissioner under subsection 4B.

Section 153–Payments for goods, services and contracts – Amendment

As per section 153 withholding is applicable on payment for goods and services. Presently toll manufacturing were not considered as sale.

However, Through the Finance bill 2020, it is proposed that the toll manufacturing should also be included in the ambit of this section and withholding also applicable on payments under toll manufacturing. The prescribed person making payment to the toll manufacturer for the goods shall deduct tax at the rate of 4% in case of company and 4.5% in any other case.

Further the amendments are proposed in sub section 3 of this section for clarity, which proposes that the tax deducted under this section shall be minimum tax and proposed to omit the clause (b), (d) and (e), due to duplication.

Further in sub section 4 of this section the new provisions are proposed to be inserted through which the Commissioner will issue a certificate of payment without deduction of tax within fifteen days of filling of application to a public listed company registered on stock exchange or Pakistan in case the tax liability is discharges against the sale of goods and including toll manufacturing. The new provisions which are proposed to be inserted are as follows;

Quote

"Provided that the Commissioner shall issue certificate for payment under clause (a) of sub-section (1) without deduction of tax within fifteen days of filing of application to a public company listed on a registered stock exchange in Pakistan if advance tax liability has been discharged:

Provided further that the Commissioner shall be deemed to have issued the exemption certificate upon the expiry of fifteen days to the aforesaid public listed company and the certificate shall be automatically processed and issued by IRIS:

Provided also that the Commissioner may modify or cancel the certificate issued automatically by IRIS on the basis of reasons to be recorded in writing after providing an opportunity of being heard."

Unquote

Further the term of prescribed persons is proposed to be amended through which the limit of the turnover is increased. The limit for turnover for every person to be a prescribed person is increased from fifty million rupees to one hundred million rupees. Limit of turnover for individuals and AOP's to become withholding agent is proposed to increase from 50 million to 100 million. Limit of 100 million turnover also set for sales tax registered person to become withholding agent.

Section 156B– Withdrawal of balance under Pension Fund – Omission

A pension fund manager making payment from individual pension accounts, maintained under any approved Pension Fund, shall deduct tax any amount withdrawn before the retirement age

It is proposed to delete section 156B

Through omission government proposed to provide relied to pensioner.

Section 159– Exemption or lower rate Certificate – Amendment

The proposed amendment specifies that application for the exemption certificate by the taxpayer shall be in prescribed form.

Section 165(1) – Statement – Amendment

Currently the section requires every prescribed person to file the withholding statement on bi-annual basis.

The proposed amendment intends to increase the frequency of withholding statement filing to quarterly basis.

Section 165(1A) – Statement – New Insertion

The proposed amendment seeks to enhance the scope of persons, prescribed as withholding agent, to include the person engaged in economic transaction, who will be required to furnish the quarterly statement on prescribed form.

Section 165A (1) (d) – Furnishing of information by banks – Amendment

Currently the section requires the banks to furnish detail of persons receiving profit on debt exceeding five hundred thousand rupees in a financial year.

The proposed amendment seeks to omit the condition of five hundred thousand rupees, after which the banks would be required to furnish detail of every person receiving profit on debt, irrespective of the amount.

Section 168(3) – Credit for tax collected or deducted – Amendment

The proposed amendment seeks to insert the missing sections, 152(1E) and 152A (2), pertaining to final taxation.

Section 169(1) (a) – Tax collected or deducted as a final tax – Deletion

The proposed deletion intends to revoke the option of final tax available to certain importers, local purchaser of cooking oil or vegetable ghee and CNG stations.

Section 169(1) (b) – Tax collected or deducted as a final tax – Deletion

The proposed deletion seeks to remove the sections to whom the benefit of final tax regime is not available anymore.

Section 169(3) – Tax collected or deducted as a final tax – Amendment

Currently the Income Tax Ordinance does not require the person whose complete income falls under final tax regime to file income tax return under section 114, rather he is liable to file a statement under section 115.

The proposed amendment seeks to withdraw the option of filing the statement under section 115, rather every person, including the person whose income falls under final tax regime, would be required to file income tax return under section 114.

Section 170(6) – Refunds – New Insertion

The proposed new insertion intends to automate the system of income tax refunds, in order to facilitate and expedite the processing of refunds for the taxpayers.

Section 175(1) (a) – Power to enter and search premises – Amendment

The proposed amendment seeks to empower the Commissioner to obtain the real-time electronic access to the information of taxpayer.

Section 175(9) – Power to enter and search premises – New Insertion

The proposed new insertion seeks to empower the Board to make rules for obtaining real-time electronic access to the information of taxpayer, as intended to be provided through amendment in section 175(1)(a).

Section 175A – Real-time access to information and databases – New Insertion

The proposed new insertion seeks to empower the Board to prescribe procedures for obtaining real-time access to information from agencies including NADRA, FIA, Provincial excise and taxation departments and utility companies etc.

Section 177(2A) – Audit – New Insertion

The proposed new insertion intends to facilitate taxpayer, especially during the current pandemic situation, to attend the hearing through video link or any other facility as prescribed by the Board.

Section 177(2AA) – Audit – New Insertion

The proposed new insertion intends to empower the Commissioner to make assessment, in respect of taxpayers where either partial or no information is provided by the taxpayer, on the basis of sectorial benchmark ratios, including financial ratios, production ratios, gross profit ratios, net profit ratios, recovery ratios, wastage ratios etc., as notified by the Board.

Section 182 – Offences and Penalties – Amendment

The proposed amendment seeks to remove the penalties for late/non-filing of statement under section 115 at serial number 1A, 1AA and 10, as section 115 has been removed.

Section 182 – Offences and Penalties – New Insertion

The proposed new insertion of serial number 4A intends to prescribe penalty for the person who is required to furnish or update a taxpayer's profile but fails to do so.

Section 182 – Offences and Penalties – New Insertion

The proposed new insertion of serial number 4B intends to penalize any person who is barred from issuing a commercial or industrial meter to an unregistered person, but still process his application for the new connection of gas and/or electricity.

Section 182A (2) – Return not filed within due date – New Insertion

The proposed new insertion intends to enhance the scope of this section by excluding the taxpayer from active taxpayer list, if he fails to update his profile within the due date, and imposition of surcharge in order to become an active taxpayer again.

Section 205(7) – Default surcharge – New Insertion

The new subsection seeks to enhance the power of the Commissioner to make assessment of default surcharge in respect of the tax not paid by the taxpayer.

Section 209(2) – Jurisdiction of income tax authorities – Amendment

The proposed amendment seeks to empower the Officer of Inland Revenue through automated case selection system. Further, it proposes to explain the expression 'automated case selection system'.

Section 210(1A) – Delegation – Amendment

The proposed amendment seeks to restrict the delegation of the powers for assessment under section 161 to an Officer of Inland Revenue not below the rank of Additional Commissioner of Inland Revenue, which is currently applicable in respect of 122(5A) only.

Section 231B (7) – Advance tax on private motor vehicles – Amendment

The proposed amendment seeks to provide for the explanation/definition of motor vehicle for the purpose of this section by excluding rickshaw, motorcycle rickshaw and other motor vehicles having engine capacity up to 200 cc from the definition.

Section 235(1) – Electricity Consumption – Amendment

The proposed amendment seeks to make a technical correction by mentioning the Division in which the rates of tax on electricity consumption has been provided, which was previously not stated erroneously.

Section 235(3) – Electricity Consumption – Amendment

The proposed amendment seeks to enhance the scope of exemption, under section 235, for the taxpayer who has discharged his advance tax liability for the tax year, for which the exemption is sought.

Section 235B – Tax on steel melters and composite units – Deletion

Currently the tax on steel melters was imposed on the basis of electricity consumption through the bills generated thereto.

However, the proposed amendment intends to revoke the tax so collected.

Section 236A (1) – Advance tax at the time of sale by auction – Amendment

The proposed amendment seeks to add an explanation in order to include renewal of license in the definition of auction and collecting advance tax on the same under this section thereto. Further, it provides for collection of advance tax in instalments if the payment of license is received in instalments.

Section 236C (3) – Advance tax on sale or transfer of immovable property – Amendment

Currently the section imposes withholding tax on the sale of immovable property for a period of five years.

The proposed amendment seeks to reduce the holding period for imposition of tax on disposal of immovable property to 4 years.

Section 236D – Advance tax on functions and gatherings – Deletion

The proposed deletion intends to remove the section in order to reduce the burden of advance tax as was collected on the functions and gatherings by the marriage hall, marquee, hotel, restaurant etc.

Section 236F – Advance tax on cable operators and other electronic media – Deletion

Currently, the advance tax was chargeable by the Pakistan Electronic Media Regulatory Authority on issuance of license to cable operators and other electronic media.

The proposed amendment seeks to revoke the collection of said advance tax through omission of the section.

Section 236I – Collection of advance tax by educational institutions – Amendment

Currently, the advance tax is collectible from the taxpayers on the fee paid to the educational institutions.

The proposed amendment seeks to restrict the collection of advance tax only on the persons not appearing in active payers list.

Section 236J – Advance tax on dealers, commission agents and arhatis – Deletion

Currently, the advance tax is collectible from dealers, commission agents and arhatis by every market committee.

The proposed amendment seeks to revoke the collection of said advance tax through omission of the section.

Section 236Q (3) – Payment to residents for use of machinery and equipment – Amendment

Currently, the tax collected under this section is treated as final tax.

The proposed amendment seeks to revoke the final tax regime available under this section by treating the same as minimum tax.

Section 236R – Collection of advance tax on education related expenses remitted abroad – Deletion

Currently, the advance tax is collectible on education related expenses remitted abroad by the financial institutions.

The proposed amendment seeks to revoke the collection of said advance tax through omission of the section.

Section 236U – Advance tax on insurance premium – Deletion

Currently, the advance tax is collectible on insurance premium by the insurance companies from the persons not appearing in the active taxpayers list.

The proposed amendment seeks to revoke the collection of said advance tax through omission of the section.

Section 236X – Advance tax on tobacco – Deletion

Currently, the advance tax is collectible on purchase of tobacco by Pakistan Tobacco Board or its contractors from its purchasers, including manufacturers of cigarettes.

The proposed amendment seeks to revoke the collection of said advance tax through omission of the section.

Amendments in first schedule part I

Rate of tax on securities – Division VII – Amendment

Currently the capital gain tax on securities was applicable until Tax Year 2020.

The proposed amendment seeks to extend the capital gain taxation for the Tax Years 2020 onwards.

Capital gain on immovable properties – Division VIII – Amendment

Proposed rate of taxes on capital gain on immovable properties is as follows:

Sr. #.	Amount of Gain	Rate of tax (Existing)	Rate of tax (Proposed)
1.	Where the gain does not exceed Rs. 5 million	5%	2.5%
2.	Where the gain exceeds Rs. 5 million but does not exceed Rs. 10 million	10%	5%
3.	Where the gain exceeds Rs. 10 million but does not exceed Rs. 15 million	15%	7.5%
4.	Where the gain exceeds Rs. 15 million	20%	10%

Amendments in part ii

Rates of advance tax – Amendment

Currently the Income Tax Ordinance imposes advance tax on the basis of type of person as follows:

Sr. #	Persons	Rate
1	(i) Industrial undertaking importing remelttable steel (PCT Heading 72.04) and directly reduced iron for its own use; (ii) Persons importing potassic fertilizers in pursuance of Economic Coordination Committee of the cabinet's decision No.ECC-155/12/2004 dated the 9 th December, 2004; (iii) Persons importing urea; (iv) Manufacturers covered under Notification No. S.R.O. 1125(I)/2011 dated the 31 st December, 2011 and importing items covered under S.R.O. 1125(I)/2011 dated the 31 st December, 2011; (v) Persons importing Gold; (vi) Persons importing Cotton; and (vii) Persons importing LNG	1% of the import value as increased by customs-duty, sales tax and federal excise duty
2	Persons importing pulses	2% of the import value as increased by customs-duty, sales tax and federal excise duty

Sr. #	Persons	Rate
3	Commercial importers covered under Notification No. S.R.O. 1125(I)/2011 dated the 31st December, 2011 and importing items covered under S.R.O. 1125(I)/2011 dated the 31 st December, 2011.	3% of the import value as increased by customs-duty, sales tax and federal excise duty
4	Persons importing coal	4%
5	Persons importing finished pharmaceutical products that are not manufactured otherwise in Pakistan, as certified by the Drug Regulatory Authority of Pakistan.	4%
6	Ship breakers on import of ships	4.5%
7	Industrial undertakings not covered under S. Nos. 1 to 6	5.5%
8	Companies not covered under S. Nos. 1 to 7	5.5%
9	Persons not covered under S. Nos. 1 to 8	6%

Provided that the rate specified

- (a) in the case of industrial undertaking, importing plastic raw material falling under PCT Heading 39.01 to 39.12 for its own use shall be 1.75% of the import value as increased by customs duty, sales tax and Federal excise duty; and;
- (b) in the case of a commercial importer, importing plastic raw material falling under PCT Heading 39.01 to 39.12 shall be 4.5% of the import value as increased by customs duty, sales tax and Federal excise duty

Provided further that the rate of tax on value of import of mobile phone by any person shall be as set out in the following table, namely:

Sr. #	Persons	Rate
1	Up to 30	70
2	Exceeding 30 and up to 100	100
3	Exceeding 100 and up to 200	930
4	Exceeding 200 and up to 350	970
5	Exceeding 350 and up to 500	3,000
6	Exceeding 500	5,200

The proposed change intends to charge advance tax on the basis of type of good rather than type of person. The proposed rates as provided through the Finance Bill 2021 are as follows:

Sr. #	Persons	Rate
1.	Persons importing goods classified in Part I of the Twelfth Schedule	1% of the import value as increased by customs-duty, sales tax and federal excise duty
2.	Persons importing goods classified in Part II of the Twelfth Schedule	2% of the import value as increased by customs-duty, sales tax and federal excise duty
3.	Persons importing goods classified in Part III of the Twelfth Schedule	5.5% of the import value as increased by customs-duty, sales tax and federal excise duty"

Provided that the rate specified:

- In case of manufacturers covered under rescinded Notification No. S.R.O. 1125(I)/2011 dated the 31st December, 2011 as it stood on the 28th June, 2019 on import of items covered under the aforementioned S.R.O. shall be 1%;
- in case of persons importing finished pharmaceutical products that are not manufactured otherwise in Pakistan, as certified by the Drug Regulatory Authority of Pakistan shall be 4%

Provided further that the rate of tax on value of import of mobile phone by any person shall be as set out in the following table, namely:

Sr. #	C & F Value of mobile phone (in US Dollar)	Tax (in Rs.)	
		In CBU condition PCT Heading 8517.1219	In CKD/SKD condition under PCT Heading 8517.1211
1	Up to 30 except smart phones	70	0
2	Exceeding 30 and up to 100 and smart phones up to 100	100	0
3	Exceeding 100 and up to 200	930	0
4	Exceeding 200 and up to 350	970	0
5	Exceeding 350 and up to 500	3,000	5,000
6	Exceeding 500	5,200	11,500

Amendments in part iii

Advance tax on dividend – Division I Clause (ba) – New Insertion

The proposed insertion seeks to harmonize the charging section with the withholding section by introducing 25% withholding rate on the companies paying dividend, those who have not paid any tax during the year.

Profit on Debt – Division I – Amendment

The proposed technical amendment seeks to make it mandatory for the taxpayer to file a certificate in case of earning profit on debt below five hundred thousand in a year in order to harmonize the withholding tax rate with the charging rate as applicable under section 7B.

Return on investments in sukuk – Division IB – Clause (a) – Amendment

The proposed amendment intends to increase the rate of withholding tax, deductible on return on investment in sukuk receivable by a company, from 15% to 25%, to align the rate with the charging section.

Payments to non-residents – Division II – Clause (5) (i) – Amendment

Currently the withholding tax rate on transport services is 2% for permanent establishment under section 152(2A).

The proposed amendment not only intends to increase the rate to 3% but also to include other services on which withholding tax would be reduced to 3% from 8% to provide equal benefit for permanent establishment as available to companies under section 153.

Payments for goods and services – Division III – Clause (1) (b) – Amendment

The proposed amendment seeks to include toll manufacturer under supply of goods, through which the taxpayer would benefit by not getting taxed as services as the withholding tax rate for goods is lower than that of services.

Payments for goods and services – Division III – Clause (2) (i) – Amendment

The proposed amendment seeks to exclude engineering service for deduction at a reduced rate of 3 %.

Amendments in part IV

Advance tax at the time of sale by auction – Division VIII – Amendment

Through the proposed proviso, intended to be inserted, the rate on sale of immovable property through auction is to be reduced to 5%, which is currently 10%.

Advance tax on functions and gatherings – Division XI – Deletion

The proposed amendment seeks to omit the said division as the proposed amendment seeks to omit the charging section 236D as well.

Advance tax on cable operators and other electronic media – Division XIII – Deletion

The proposed amendment seeks to omit the said division as the proposed amendment seeks to omit the charging section 236F as well.

Advance tax on dealers, commission agents and arhatis etc. – Division XVII – Deletion

The proposed amendment seeks to omit the said division as the proposed amendment seeks to omit the charging section 236J as well.

Collection of advance tax on education related expenses remitted abroad – Division XXIV – Deletion

The proposed amendment seeks to omit the said division as the proposed amendment seeks to omit the charging section 236R as well.

Advance tax on insurance premium – Division XXV – Deletion

The proposed amendment seeks to omit the said division as the proposed amendment seeks to omit the charging section 236U as well.

Advance tax on extraction of minerals – Division XXVI – Amendment

The proposed amendment seeks to enhance the scope of withholding tax to the persons appearing in active tax payers list which is applicable to persons not appearing in active tax payers list currently.

Amendments in second schedule part i**Voluntary Pension System – Clause (23A) – New Insertion**

The proposed new inserted proviso intends to impose tax on withdrawal of more than 50% of pension before the retirement age to be taxed at the rate applicable on salary under section 12.

Donations to certain institutions and funds – Clause (61) – Amendment

The proposed amendment seeks to add new institutions, the benefit on donation to whom is available to the taxpayer. Further, the proposed proviso intends to restrict the benefit to 15% in case of individual and/or association of persons and 10% in case of companies.

Income of certain charitable and other institutions – Clause (66) – Amendment

The proposed amendment seeks to distribute the NPOs/NGOs into two tables whereby straight exemptions would be eligible to the institutions, boards, societies, foundations, trust and fund in table 1. Whereas in case of NPOs/NPOs appearing in table 2, exemptions would be available on fulfilment of requirements under section 100C.

Sale of immovable property to Real Estate Investment Trust – Clause (99A) – Amendment

The proposed amendment seeks to extend the exemption available on sale of immovable property to Developmental REIT scheme, from tax year 2020 to tax year 2021.

Capital gain by a resident individual from sale of constructed residential property— Clause (114AA) – New Insertion

The proposed new insertion seeks to provide exemption under the head capital gain, as will arise to a resident individual from the sale of constructed residential property, where the said resident individual would be residing in. Further, the said exemption would be available for one property only.

Income re: Gwadar services etc. Clause (126A) – Amendment

The proposed amendment seeks to extend the exemption on services rendered in Gwadar to Gwadar Free Zone with effect from first day of June 2020.

Profit on debt derived by foreign lender Clause (126AB) – Amendment

The proposed amendment seeks to extend the exemption on profit on debt as earned by. China Overseas Port Holding Company Pakistan (Private) Limited, Gwadar International Terminals Limited, Gwadar Marine Services Limited and Gwadar Free Zone Company Limited, with effect from first day of June 2020.

Profit on debt derived by foreign lenders Clause (126AC) – Amendment

The proposed amendment seeks to enhance the benefit as available to the companies stated in the clause operating in Gwadar port, to include Gwadar free zone as well, with effect from first day of June 2020.

Profits and gains derived by corporate zone developers Clause (126E) – Amendment

The proposed amendment seeks to extend the exemption benefit to the co-developers of the developers as are operating in Special Economic Zone, as currently the benefit is available to the developers themselves only. However, the said benefit would only be available to the co-developer on submission of a certificate by the developer that no benefit under this clause has been claimed and relinquishes his right in favor of co-developer.

Income on Federal Government Employees Housing Authority Clause (147) – New Insertion

The proposed insertion seeks to provide exemption on income derived by the Federal Government Employees Housing Authority for five years commencing from tax year 2020.

Amendments in part ii

Profit on debt by a non-resident individual Clause (5AA) – New Insertion

The proposed insertion seeks to tax the profit on debt earned by a non-resident individual at a rate of ten percent as final tax.

Rate of tax on supplies to utility stores of Pakistan – Clause (24CA) – New Insertion

The proposed insertion seeks to introduce withholding tax under section 153 at the rate of 1.5% on supplies of grocery items to Utility Stores Corporation of Pakistan, provided that the said grocery items are not sold under a brand name and there is no lesser withholding tax rate applicable under the Income Tax Ordinance. The said exemption would be available from seventh day of April 2020 till thirtieth day of September 2020.

Amendments in part iii

Income, profit and gains of projects approved by Naya Pakistan Housing and Development Authority or under the Ehsaas Programme – Clause (9B) – New Insertion

The proposed new insertion intends to exempt 90% of the income earned from the low-cost housing projects as are approved by Naya Pakistan Housing and Development Authority or Ehsaas Programme

Amendments in part IV

Steel melters, Steel re-rollers etc. – Clause (9A) – Deletion

The proposed omission seeks to revoke the exemption as was available to steel melters or steel re-rollers from withholding tax under section 153(1)(a). The said amendment is in line with the proposed exemption from withholding on electricity consumption, to bring in the income of steel melters or steel re-rollers under normal tax regime.

NIT or Collective Investment – Clause (11A) – Amendment

The proposed amendment seeks to exempt Modaraba, qualifying under clause 100 of Part I of Second Schedule, Prime Minister COVID-19 Relief Fund – 2020 and Federal Government Employees Housing Authority from the provisions of minimum tax under section 113. The said exemption is for five years in respect of Federal Government Employees Housing Authority, commencing from tax year 2020.

Exemption from withholding on import of certain goods under section 148 – Clause (12B) – New insertion

The proposed insertion intends to exempt certain goods from attraction of withholding tax on import stage under section 148 for a period commencing from twentieth day of March 2020 until thirtieth day of September 2020. The table of exemption through said clause in connection with equipment/items required for COVID-19 pandemic is as follows:

Sr. #	Description
1	Real-time PCR system (standard 96-well plate and 0.2ml tubes format, 5 channel)
2	Biosafety Cabinet
3	Auto Clave 50 Liter Capacity
4	Multi-channel pipette (0.5–10 µl)
5	Single channel pipette a) 2 µl; b) 10 µl; c) 200 µl; and d) 1000 µl
6	Multi-channel pipette 20–200 ml
7	Vacuum fold

Sr. #	Description
8	Micro Centrifuge (Non-refrigerated, Rotor capacity: 12 x 1.5 / 2.0 ml vessels, 2 x PCR strip, Max. speed: 12,100 x g (13,400 rpm))
9	PCR Cabinet (HEPA filter system, UV and white light)
10	Real-time PCR kit for the detection of Coronavirus (SARS-CoV-2)
11	Viral RNA Extraction Kit and machine (Automatic Extractors)
12	VTM (Viral Transport Medium)
13	Dr Oligo Synthesizer
14	Refrigerator/freezer (-20 °C)
15	Vortex Machine
16	Refrigerated Centrifuge Machine (Rotor capacity 1.5ml x 24, max. speed 14000 rpm)
17	UPS (6 KVA)
18	Tyvek Suits
19	N-95
20	Biohazard Bags (18 Liters)
21	PAPR (Powdered Air Purifying respirators)
22	Multimode ventilator with air compressor
23	Vital sign monitor with 2IBP and ETco2 two Temp
24	ICU motorized patient bed with side cabinet and over bed table
25	Syringe infusion pump
26	Infusion pump
27	Electric suction machine
28	Defibrillator
29	X-Ray Mobile Machine
30	Simple Nebulizer
31	Ultrasound machine
32	Noninvasive BIPAP
33	ECG Machine
34	Pulse Oximeters
35	Ripple mattress
36	Blood gas analyzer
37	AMBU Bag
38	Nitrile Gloves
39	Latex Gloves
40	Goggles

Sr. #	Description
41	Face Shields
42	Gum Boots
43	Mackintosh bed sheets
44	Surgical Masks
45	Air Ways
46	Diaflow
47	Disposable Nebulizer Mask Kit
48	ECG Electrodes
49	ETT Tube (Endotracheal Tubes) All sizes
50	Humidifier Disposable Flexible
51	IV Cannula all sizes
52	IV Chambers
53	Oxygen Recovery Kit
54	Padded Sheets
55	Stomach Tube
56	Stylet for Endotracheal Tube
57	Suction Tube control valve
58	Tracheostomy Tube 7, 7.5, 8
59	Ventilator Circuit
60	Ventury Masks
61	Disposable shoes cover (water proof)

Exemption of advance tax on import of pulses – Clause (12C) – New Insertion

The proposed new insertion seeks to exempt the person from imposition of advance tax under section 148 on import of pulses from a period from April 7, 2020 to September 30, 2020

Exemption from withholding under section 153 to certain persons – Clause (46AA) – New Insertion

The proposed new insertion seeks to exempt certain persons from withholding tax under section 153 on payment for goods and services. The said section intends to bring the exemption available under SRO 586 of 1991 under the second schedule.

Withholding tax on various imports – Clause (56) – Amendment

The proposed amendment seeks to enhance the scope of the exemption by including certain further persons to be exempt from attraction of withholding tax under section 148 at import stage such as Federal, Provincial and Local government, companies owned by Foreign government and person importing plant and machinery for execution of contract with the Federal, Provincial and Local government etc.

Clause (56C), (56D), (56E) and (56G) – Deletion

The proposed omission seeks to bring in-line the proposed amendment, withdrawing the option of filing statement under section 115 by the persons whose complete source of income falls under final tax regime. Therefore, the person who previously had option to file normal tax return is not required as statement under section 115 has been proposed to be omitted.

Exemption to Dawat-ul-Hidiya – Clause (63) – Deletion

The proposed omission seeks to withdraw the deemed approval under section 2(36) of NGO as is currently available to Dawat-ul-Hidiya and Lahore University of Management Sciences. Hence, the said institutions would be required to obtain approval from Commissioner under section 2(36), every three years like all the NGOs

Exemption of withholding to Hajj Operators under section 152 – Clause (72AA) – New Insertion

The proposed insertion intends to exempt the non-resident hajj operators from the provisions of withholding tax under section 152.

Exemption from tax under section 148 for industrial undertakings – Clause (72B) – Deletion

The proposed omission seeks to withdraw the exemption under section 148 for import of raw material to be made by an Industrial Undertaking whose tax liability was already paid.

Exemption from advance tax on foreign remittance – Clause (101AA) – New Insertion

The proposed insertion seeks to exempt the transactions, from the attraction of the provisions of withholding tax i.e. 231A (Cash Withdrawal), 231AA (Advance Tax on Banking Instruments), 236P (Banking Transaction) undertaken by the recipient of the foreign remittances into his Pak Rupee account. The said exemption would be available on the transactions to the extent of foreign remittance received in the account.

Exemption from advance tax on Ehsaas Emergency Cash Transfer Programme – Clause (102A) – New Insertion

The proposed insertion seeks to exempt the branchless banking agent from attraction of withholding tax on brokerage and commission under section 233 of Banking Companies Ordinance, for the period from April 16, 2020 to September 30, 2020.

Exemption from applicability of tenth schedule on payment of dividend to non-resident persons – Clause (111A) – New Insertion

The proposed insertion seeks to exclude non-resident persons from applicability of provisions of tenth schedule, i.e. increase of tax liability by 100% in case of person not appearing in active taxpayer's list, to the extent of payment of dividend paid to the non-resident person.

Exemption from provision of 236P to non-resident person – Clause (112A) – New Insertion

The proposed insertion seeks to exempt non-resident person from attraction of withholding tax on banking transaction under section 236P on a non-resident repatriable account.

Exemption from certain statutory filings – Clause (114) – Amendment

The proposed amendment seeks to replace the word 115(4) with 114(1) (ae) to bring in-line the amendment brought in respect of statement to be filed under section 115.

Exemption from certain statutory filings to non-resident individual – Clause (114A) – New Insertion

The proposed insertion seeks to exempt non-resident individual to register under section 181 and file return under 114, merely for the reason that profit on debt is being earned in Pakistan.

Exemption from withholding for the Prime Minister's COVID-19 Pandemic Relief Fund 2020 – Clause (116) – New Insertion

The proposed amendment seeks to exempt Prime Minister's COVID-19 Pandemic Relief Fund 2020 from the provisions of section 151(Profit on Debt), 231A (Cash Withdrawal), 231AA (Advance Tax on Banking Instruments), and 236P (Banking Transaction).

Exemption from withholding for the person making payment into Prime Minister's COVID-19 Pandemic Relief Fund – Clause (117) – New Insertion

The proposed amendment intends to exempt the person making the payment into the Prime Minister's COVID-19 Pandemic Relief Fund 2020 from attraction of withholding tax under section 236P (Banking Transaction).

Seventh Schedule:**Rule (7C) – Amendment**

The proposed amendment seek to extend the applicability of Section 4B (Super Tax on rehabilitation of temporarily displaced persons) on the banking company for one more year up to tax year 2021.

Tenth Schedule:**Rule 2 & Rule 3 – amendments:**

The proposed amendment seeks editorial changes as a result of withdrawal of requirements of filing of statement u/s 115(4) for those earning presumptive tax income.

Rule 10(b) – amendments:

The proposed amendment seeks to make editorial change that this schedule will not apply to the payments to non-residents for whom the requirement of being on the active taxpayer list are not applicable.

Rule 10(bb) – New Insertion

The proposed insertion seeks to withdraw applicability of the provisions on the payments to nonresidents tax deducted under sub-section (2) of section 152 i.e. 20% on residual payment to the extent of clause (5AA) of Part II."

The sub-rules (k), (n), (o), (q), (u), (v), (w) and (x) have been proposed to be omitted which related to omitted sections of transitional advance taxes.

Eleventh schedule – see section 100d – new insertion

Rules for computation of profits and gains of builders and developers and tax payable thereon

Developers and builders were being assessed under normal tax regime in tax year 2019. Fixed tax scheme for builder and developers was introduced on April 17, 2020 by Govt of Pakistan after the Pandemic outbreak of Covid19. Section 100D and this Schedule were introduced. The proposed insertion now seeks to approve the amendment made through notification from National Assembly.

The proposed schedule is reproduced for the ready reference:

Eligibility

These rules shall apply to projects undertaken by builders and developers under section 100D.

Scope and payment of tax

(1) Income computed and tax payable thereon shall be on Project-by-Project basis which shall be computed and paid at the rates provided in rule 10.

(2) (a) the above-referred rates shall be applicable for computing tax liability for the project on annual basis. The annual tax liability shall be worked out as under:

Tax liability as per the rates in rule 10 / estimated project life in years

(b) The estimated project life for tax purposes shall not exceed two and a half years:

Provided that in case of existing incomplete projects, the estimated project life shall be treated as three years from tax year 2020 through tax year 2022, and the tax payable shall be reduced by the percentage of completion up to the last day of the accounting period pertaining to tax year 2019 as declared in registration form:

Provided further that tax liability of tax year 2020 shall be paid along with return.

(c) Year shall include fraction of a year; and 128

(d) The tax liability so calculated and paid shall be final tax.

Registration and filing of return

(1) A builder or developer shall electronically register a project on IRIS through FBR website on or before the 31st day of December, 2020 through submission of

(a) Registration form as may be prescribed which shall include, inter alia, details of a member or shareholder of a builder or developer, as the case may be:

Provided that a developer who is also a builder in case of a project shall submit two separate forms for registration as a developer and as a builder; and

(b) An irrevocable option to be assessed under this Schedule in respect of each project.

(2) A builder or developer availing this scheme shall electronically file a return of income and wealth statement as may be prescribed accompanied with evidence of payment of due tax which shall be taken for all purposes of this Ordinance to be an assessment order issued to the taxpayer by the Commissioner to the extent of income computed under these rules.

Certification

Every builder or developer shall be required to obtain and provide to the Board in the prescribed manner a certificate from approving authority or map approving authority or NESPAK, as the case may be, to the following effect, namely:

- (a) 'Total land area' in square yards;
- (b) 'Covered area' in square feet; 129
- (c) 'Saleable area' in square feet; and
- (d) type (commercial, residential or industrial) of saleable area or the total land area, as the case may be.

Advance tax

A builder or developer falling under this scheme shall pay advance tax equal to one-fourth of the tax liability for the year as determined in accordance with sub-rule (1) of rule 2 in four equal installments in the manner laid down in section 147.

Incorporation of profits and gains for computation of income

A builder or developer opting for taxation under section 100D shall not be allowed to incorporate profits and gains accruing from such projects in excess of ten times of the tax paid under rule 2:

Provided that such builder or developer shall not be allowed to incorporate profits and gains accruing from a low cost housing project as defined in clause (f) of rule 9 in excess of ten times of the tax liability under rule 2.

Exemption from withholding of tax under sections 150 and 153

(1) The provisions of section 153 shall not apply to builders and developers on:

- (a) The purchase of building material except steel and cement;
- (b) Services of plumbing, electrification, shuttering and other similar services other than those provided by companies.

(2) The provisions of section 150 shall not apply to payment of dividend exempt under sub-section (7) of section 100D.

Restriction on change in pattern of ownership of a builder or developer before completion of a project

Where exemption from the provisions of section 111 has been claimed under sub-section (3) of section 100D, the following restrictions shall apply, namely:

- (a) a shareholder or a partner of a builder or developer shall not be allowed a change in ownership of an incomplete project except where at least fifty percent of the total project cost, as certified by a firm of chartered accountants having an ICAP QCR rating of 'satisfactory', notified by the Board for this purpose, has been incurred up to the date of change of ownership;
- (b) The succession to legal heirs in case of deceased shareholder or a partner shall be allowed;
- (c) The additional partners or shareholders in a builder or developer after the 31st day of December, 2020 may join but additional partners or shareholders shall not be eligible for exemption provided under sub-section (3) of section 100D.

Definitions

(1) In these rules, unless there is anything repugnant in the subject or context,

- (a) "area" means (i) in case of a builder, – (a) in case of a commercial or a residential building excluding a house, the saleable area of the building; and (b) in case of a house, the covered area of house; (ii) in case of a developer, the total land area of the project;
- (b) "Building" means a residential or commercial building or unit thereof;
- (c) "Commercial building" includes any building or part thereof which is to be used for commercial purposes in accordance with the relevant laws;
- (d) "Commencement of project" means, – (i) in case of a construction project, when layout plan is approved by the concerned authority; and (ii) in case of a development project, when the development plan is approved by the concerned authority;

Provided that where the builder or developer has taken all actions and done all things which are required and necessary to procure any approvals but any such approval is delayed beyond a period of 30 days from date of relevant application and the cutoff date of 31st day of December, 2020 is not adhered to by the builder or developer, the Board may provisionally accept commencement of such project on a case to case basis;

- (e) "Completion of project" means. – (i) in the case of a builder, the date on which the grey structure is completed;

Provided that such grey structure shall only be considered as completed when the roof of the top floor has been laid as per the approved plan; (ii) in the case of a developer, the date on which –

- (A) At least 50% of the total plots have been booked in name of buyers;
- (B) At least 40% of the sale proceeds have been received;
- (C) Landscaping has been completed; and
- (D) At least 50% of the roads have been laid up to sub-grade level as certified by the approving authority or NESPAK;
- (f) 'Low cost housing' means a housing scheme as developed or approved by NAPHDA or under the 'Ehsaas Programme';
- (g) "NAPHDA" means Naya Pakistan Housing and Development Authority;
- (h) "NESPAK" means National Engineering Services Pakistan (Private) Limited;

- (i) "Residential building" means a building which is not a commercial building but does not include buildings used for industrial purposes;
- (j) "Saleable area" in case of buildings, means saleable area as determined by the approving authority or map approving authority or NESPAK under the relevant laws;
- (k) "Unit" means a self-contained or independent building or part thereof including houses, apartments, shops, offices, etc.
- (2) All other expressions used but not defined in these rules shall have the same meaning as assigned to them under this Ordinance.

Rate and computation of tax liability

- (1) The rate of tax under section 100D shall be computed in accordance with the Table below, namely:-

Rate in respect of			
(1)	(2)	(3)	(4)
Area in	Karachi, Lahore and Islamabad	Hyderabad, Sukkur, Multan, Faisalabad, Rawalpindi, Gujranwala, Sahiwal, Peshawar, Mardan, Abbottabad, Quetta	Urban Areas not specified in columns (2) and (3)
Tax on Builders			
For Commercial Buildings			
Sq. Ft.	–	–	–
Any size	Rs.250 per Sq. ft.	Rs.230 per Sq. ft.	Rs.210 per Sq. ft.
For Residential Buildings			
Sq. Ft.	–	–	–
Upton 3000	Rs.80 per Sq. Ft	Rs.65 per Sq. ft.	Rs.50 per Sq. ft.
3000 and Above	Rs.125 per Sq. ft.	Rs.110 per Sq. ft.	Rs.100 per Sq. ft.
Tax on Developers (Entire Project)			
Sq. yd.	–	–	–
Any size	Rs.150 per Sq. yd.	Rs.130 per Sq. yd.	Rs.100 per Sq. yd.
For Development of Industrial Area			
Sq. yd.	–	–	–
Any size	Rs.20 per Sq. yd.	Rs.20 per Sq. yd.	Rs.10 per Sq. yd.

(2) In case of mixed use buildings having both commercial and residential areas, respective rates mentioned above shall apply.

(3) In case of development of plots and constructing buildings on the same plots as one project, both rates shall apply: Provided that in the case of 'low cost housing' and all projects developed by NAPHDA, the higher rates shall apply.

The twelfth schedule

The twelfth schedule has been added containing list of items along with the PCT Heading codes of customs tariff list in 3 parts. The items listed in part-I are subject to tax @ 1% of the value and items mentioned in part-II are subject to tax @ 2% contains list of various items as per PCT Headings while part-III is the residual part mentioning items not covered in part-I & II on which tax @ 5.5% was applicable.

PROPOSED AMENDMENTS IN SALES TAX ACT, 1990

Clause 1 of Section 2 – Removal of superfluous wording and alignment of definition of Active Taxpayer with relevant provision in tax laws

This definition prescribes different categories of persons in the Sales Tax Act, 1990 (the Act), who are not to be treated as Active Taxpayers. One of the categories include the persons who are already Deregistered/blacklisted/ or whose registration is suspended under Section 21 of the Act. The removal of words “or is blocked” from the definition of Active Taxpayer is being proposed to align the definition with Section 21 “Deregistration, blacklisting and suspension of registration”. As the name of the Section suggest there is no power in the section to block the registration of the taxpayer hence it is being proposed to remove it from the definition of “Active Taxpayer” also so as to make it aligned with referred section in the Act.

Further, another amendment is being proposed to align the category of Active Taxpayer with filing of Withholding Statements under the Income Tax Ordinance. Presently, the wording of this Clause suggests the condition as the person who has not filed Monthly withholding statements for two consecutive months. However, the Income Tax Ordinance has already been amended as now it does not require to file monthly Withholding statements rather now it requires to file Quarterly statements. So, to keep it aligned with the present income tax law the amendment seeks to change the wording from “two consecutive months” to “Quarterly” withholding statements. This amendment now seeks to exclude the person from list of Active Taxpayer who has not filed his Quarterly withholding statement. In this way the persons whose refunds or input tax adjustment is blocked will remain in the list of Active Taxpayer Units and other Active Taxpayer will be able to claim input tax adjustment and refund on his invoices.

Clause 20 of Section 2 – Substitution of Clause to confine the definition of Output Tax of Service sector to only those service provider who are registered in Islamabad Capital Territory

This amendment seeks to replace the Clause in order to restrict the definition of Out Put Tax of Service Providers who are registered under Islamabad Capital Territory (Tax on Services) Ordinance, 2001. Currently the definition suggests to include Out Put tax of all the persons registered under any Provincial sales Tax.

Clause 46 of Section 2 – Enlarging the definition of Value of Supply to include used vehicle dealers

The legislature seeks to amend the definition in order to include the registered persons who are dealing in sale and purchase of used vehicles from General Public. The amendment seeks to charge sales tax on the difference of Value of Supply at the time of sale of Vehicle and at the time of manufacture or import of the vehicle. In this way, the registered persons who are selling vehicles at a higher value from the value at

which sales tax had been paid at the time of import/manufacture now will have to pay tax at the difference of value addition being made by them.

Section 3 – Scope of Tax

Two amendments are being sought in the section to streamline the withholding tax in main scope of tax.

Section 7 – Determination of Tax Liability

A new sub-section is being proposed to be included in this section in order to empower the Board to impose restrictions on the wastage of material on which input tax has been claimed. In this way, the usage of material on which input tax is allowable to the registered person can be restricted by the Board.

Section 11 C– Power of authorities to modify orders

A new Section is being proposed to be included in the Act to give power to authorities of Sales tax in the following manner:

- a) if an order has been passed, on a question of law, in case of registered person by a High Court or Appellate Tribunal
- b) the Commissioner or officer of Inland Revenue may have filed appeal against the order
- c) the Commissioner and officer of inland Revenue may follow the orders of the decision in case of the registered person so far as it apply to the said question of law
- d) In case, the decision of High Court or the Appellate Tribunal is reversed or modified the commissioner or Officer of Inland Revenue may pass an order within One year of receipt of such decision

Section 23 – Tax Invoices

The legislature seeks to provide a relief measure by this amendment in the Act. It proposes to increase the sales threshold from 50,000 to Rs. 100,000 including tax to its customers without obtaining CNIC. Now therefore, the retailers are being allowed to sell goods to their non-registered customers without obtaining the NTN or CNIC up to Rs.100, 000/-. This amendment when made in law had attracted a lot of bad reviews from general public and retailers alike.

Section 25 – Access to records, documents

The legislature seeks to authorize the Commissioner to conduct audit proceedings electronically through video link or any other facility as may be prescribed by the Board. This proposed amendment is in the wake of circumstances created due to pandemic of Covid 19. By enacting this amendment the revenue authorities may seek information digitally without the physical presence of the tax payer / tax payer representative.

Section 26 – Returns

The legislature seeks to insert a word "Complete" in the section to ensure that a taxpayer submits tax return which is True, Correct and complete in all respect.

Section 33 – Offences and penalties

Some changes are being proposed to make in this section so as to impose the changes made elsewhere in the law can be implemented with more stringent implementation of those regulations. The time limit to

integrate sales and production records with the Board has now been proposed to reduce from six to two months after the application of penalty.

Similarly, it is being proposed "to place an embargo on sales" of such person till the time he integrates his business as per requirements of the law as mentioned at sub-section (9A) or Section 40C.

Further, a new clause is being proposed to be added in this section so as to penalize the person who is not sharing the information as required to be shared as mentioned in Section 56AB of the Act. Section 56AB is a new Section being introduced in the law to allow the Board to have real time access to the information and databases being maintained by different institutions i.e. NADRA, Suigas and Electricity distribution companies etc. The penalty of Rs.25000 is being proposed to be impose on the first default and of Rs.50,000 on second default.

Section 38 – Authorized officers to have access to premises, stocks, accounts and records

Two changes are being proposed to be made in this section to enable the access of the officers to include "real time electronic access" to the data and records of the tax payer. Further, the same Board is being proposed to make rules relating to real time access for audit of such persons. These changes are required as now most of the tax payers have stored their data on cloud based systems and hence such data is not available at the tax payer premises.

Section 45B – Appeals

Changes are being proposed to be made in the filing fee of appeals to the Commissioner. Currently, the fee for filing an appeal against any order before the Commissioner of Appeals is Rs.1,000/-. The changes are being proposed in the following manner:

- i) If the appeal is against an order of an assessment the fee would be Rs. 5,000 if appeal is being filed by a Company and Rs. 2,500 in any other case.
- ii) If appeal is filed in any other case the fee would be Rs. 5,000 if appeal is being filed by a Company and Rs. 1,000 in any other case.

Further, now the Commissioners (Appeals) is being prohibited to admit any documentary evidence at the appeal stage which has not been produced by the tax payer before the Officer of Inland Revenue.

Section 47A – Alternate dispute resolution

The current procedure of appointment of alternate dispute resolution (ADR) committee and other procedures are being proposed to be amended to make ADR more tax payer friendly. Instead of making changes in the section and whole new section is being put in place. The new procedure for the ADR is being proposed with following main features:

- i) The taxpayer having liability of tax or admissibility of refunds, or seeking waiver of default surcharge or for any other relief will apply to the Board for appointment of ADRC.
- ii) The Board may appoint the committee within 60 days of receipt of such application
- iii) The ADRC so appointed will decide the dispute within 120 days.
- iv) The commissioner has the power to grant stay recovery of tax during the proceedings of the committee.

- v) The decision of the ADRC will be binding on the commissioner if the order is so communicated by the tax payer to the commissioner.
- vi) If the ADRC could not decide the dispute within one hundred and twenty days the Board may dissolve the committee.

The finance minister has emphasized this new clause on ADRC during his speech at the National Assembly as a relief measure. Let's see how it makes more efficient than in the past.

Section 56AB – A new section – Real time access to information and databases

A new Section is being proposed to be included in the Act so as to authorize the Board to collect information about the citizens. The following have been specifically included in the Act:

- i. Information available with NADRA about NICs, Pakistan Origin Card and any other particulars about the citizens
- ii. FIA and Bureau of Emigration and Overseas Employment with respect to details of international entry and exit
- iii. ICT and Provincial Local land record authorities with respect to records of right, records of mutations and acquisition rights
- iv. ICT and Provincial Excise and Taxation department with respect to information regarding registration of vehicles

All Electricity and gas transmission and distribution companies with respect to particulars of consumers, units consumed and bill charged

Any other institution, agency or organization notified by the Board in this regard

All the information so obtained is to be used by the Board for tax purposes and is proposed to remain confidential.

Section 73 – Certain transactions not admissible

An amendment is proposed to replace the word “manufacturer and producer” with “person” in sub-section (4) of the Section, so as to include all the persons in the ambit of this clause and not only manufacturer and producer. This sub-section deals with the supply by registered persons to unregistered persons. It restricts the supply to unregistered persons to the tune of 100 million in one year and not more than 10 Million in one month. Currently the ambit of this subsection was for the Manufacturers and Producers only but now it proposes to include all the persons.

Zero rated goods – Fifth Schedule – Addition in the Schedule

Following goods are being proposed to be included in the list of goods which are charged to the sales tax at the rate of Zero present.

- a) Supply of raw materials, components and goods for further manufacture in the Gwadar Free Zone
- b) Supply of locally manufactured plant and machinery to the manufacturers in the Gwadar Free Zone with certain conditions.

Exempt goods – Sixth Schedule – Addition in the Schedule

Following goods are being proposed to be included in the list of exempt goods and on which no sales tax can be charged:

- i) Goods imported wither for exclusive use within the limits of Gwadar Free Zone or for making exports therefrom with certain conditions
- ii) Dietic food intended for consumption by children suffering from inherent metabolic disorder subject to certain conditions
- iii) Parts and components for manufacturing LED lights
- iv) Housing shell, shell cover and cap for all kinds of LED lights
- v) Bare and stiffed metal clad printed circuit boards for LED
- vi) Constant current power supply for LED lights and bulbs
- vii) Lenses for LED lights and bulbs

PROPOSED AMENDMENTS IN FEDERAL EXCISE ACT, 2005

Section 6

Sub-section 2ab – new insertion

Section 6 governs the adjustment of duties paid on goods/materials used directly in the manufacture or production of dutiable goods.

The Finance Bill seeks to insert a new sub-section 2AB under section 6 empowering the FBR to impose restrictions on wastage of material used directly in the manufacture or production of certain goods or class of goods.

By virtue of this new insertion, the government seeks to limit the wastage of material that will be used in the production of certain goods that will be specified by FBR. From now onwards, on those specified goods, the manufacturers will not be able to claim full amount of duty paid by them at the time of purchase of the material which may enable them to achieve efficiency in the production process in order to restrict the wastage within the prescribed limits.

Section 14C – new insertion

Through this proposed section, if, on or after 1st July 2005, in the case of a taxpayer a question of law has been decided by the High Court or the Appellate Tribunal and a similar question of law arises in any other pending assessment of that taxpayer, the Commissioner or the officer may follow the decision of the High Court or Appellate Tribunal in that case. This is irrespective of the fact that the Commissioner or the officer has preferred an appeal against the decision of the High Court or filed an application for reference against the order of the Appellate Tribunal. It also allows the Commissioner or the officer to modify that aforesaid assessment or order in case the decision of the High Court or Appellate Tribunal is reversed or modified within one year of the receipt of modified/reversed decision without regard to the expiry of period of limitation prescribed for making any assessment or order.

By virtue of this insertion the Commissioner or the officer will be able to apply the decision of the High Court or Appellate Tribunal, as the case may be, in cases where any question of law arises which has already been decided in any previous case of a taxpayer. They will also be able to amend the said order or assessment afterwards if the decision of the higher forum changes even if the period for amendment of assessment or order has expired.

Section 26 and 27 – amendment

Section 26 and 27 relates to seizure and confiscation of goods by FBR. Earlier only cigarettes, unmanufactured tobacco and beverages were liable to seizure and confiscation.

Necessary amendments have been proposed in the above sections through which the scope of seizure and confiscation of non-duty paid goods will extend to all products subject to FED.

Section 33 – new insertion

This section governs the appeals filed by the taxpayer to the Commissioner (Appeals) against the decision or order of the officer up to the rank of Additional Commissioner.

New sub-sections (1B) and (1C) are proposed to be inserted prescribing the documents to be accompanied with the appeal and the prescribed fee for filing the appeals, respectively. Another sub-section (4) is proposed to be inserted to bar the Commissioner (Appeals) from accepting any evidence not presented before the assessing officer except to the satisfaction of the Commissioner (Appeals) that the appellant was prevented from producing such evidence earlier to the officer.

By virtue of this proposed amendment the Commissioner (Appeals) will be restricted from modifying / annulling / setting aside any order or decision of the officer based on the production of any evidence by the appellant to the Commissioner (Appeals) which the appellant did not produce to the officer during assessment after provision of reasonable opportunity of being heard.

Section 34

Sub-section 3 – new insertion

Section 34 governs the appeals filed by the taxpayer or officer to the Appellate Tribunal against any order of the Commissioner (Appeals) or FBR or Commissioner under section 35.

Through this proposed sub-section (3) the Appellate Tribunal will be allowed to follow the procedure mentioned under sections 131 and 132 of the Income Tax Ordinance, 2001 and the rules prescribed thereunder for admission, hearing and disposal of appeals.

Section 38 – substitution

This section prescribes the procedure to be followed in relation to alternative dispute resolution. This section has been proposed to be substituted altogether. The proposed changes include:

- change in the composition of the Committee;
- taxpayer is allowed to withdraw his case from any court of law or appellate authority after decision of the Committee as opposed to previous process where it was necessary to withdraw the case after constitution of the Committee;
- the Committee may stay the recovery in respect of the dispute pending before it for up to 120 days as opposed to previous process where the recovery was deemed to have been stayed till the decision by the Committee; and
- the decision of the Committee will be binding on the Commissioner and not the taxpayer, it will be binding on the taxpayer once he, being satisfied with the decision, has withdrawn his case from the court of law or appellate authority and communicated the same to the Commissioner within 60 days.

By virtue of above proposed amendment the government has tried to strengthen the process of alternative dispute resolution and make it more taxpayer friendly.

Section 46

Sub-section 10 – omission

Section 46 relates to the conduct of audit of the records and documents of the taxpayer registered under FED Act. Sub-section 10 was inserted through Finance Act, 2018 and it restricts the audit of a registered person to only once in every three years.

The Finance Bill seeks to remove the restriction imposed through sub-section 10 which will be unfavorable for the taxpayer.

Section 47

Sub-section 1(d) and 2(d) – substitution

Section 47 relates to service of notices and other documents to the taxpayers both resident and non-resident. Clause (d) of both the sub-sections (1) and (2) relates to electronic service of notice to the companies only and were inserted through Finance Act, 2017.

The Finance Bill proposes to include all registered persons in the ambit of electronic service of notice and such e-service of notices and other documents shall be treated to have been properly served on the registered persons either resident or non-resident.

Section 47(AB) – new insertion

Through this proposed section 47AB the Finance Bill seeks to provide real-time access to information and databases to the FBR from various authorities such as NADRA, FIA, provincial excise and taxation departments and utility companies.

By virtue of this insertion FBR will have access to extensive information and will help in broadening of tax base.

Federal excise act schedules

Summary of first schedule – table-1: excisable goods

Following are the proposed changes in the duties of excisable goods:

1. To levy duty on caffeinated energy drinks at 25% of the retail price.
2. To increase duty on cigars, cheroots, cigarillos and cigarettes of tobacco and tobacco substitutes from 65% to 100% of retail price.
3. To levy duty on e-liquids of electric cigarettes kits at Rs. 10/ml.
4. To reduce duty on cement from Rs. 2/kg to Rs. 1.75/kg.
5. To levy duty on double cabin (4x4) pick-up vehicles at 7.5% ad valorem for locally manufactured and at 25% ad valorem for imported.
6. To increase duty on filter rod for cigarettes from Rs. 0.75 to Rs. 1 per filter rod.

PROPOSED AMENDMENTS IN CUSTOMS ACT, 1969

Section 2(AI) – Amendment

The existing definition of Advance Ruling only provide authority to give ruling about determination of classification of goods intended to be imported or exported, the bill seeks to redefine “Advance Ruling” in line with the definition given in the WTO Trade Facilitation Agreement (TFA) and to enhance the scope of ruling. The definition is proposed to be as under;

“Advance Ruling means a written decision by the Board or any officer or a committee authorized by Board, on the request of an applicant for determination of classification, origin or applicability of a particular relief or exemption on goods prior to their importation or exportation, valid for a specified period of time”.

By proposed amendment in definition of “Advance Ruling” the implied provision that the ruling will be issued upon the request from the applicant has now been specified and its scope have been widened to include ruling about the origin of goods and applicability of relief or exemption on the goods intended to be imported or exported.

Section 2(s) – Amendment

The bill seeks to broaden the scope of activities to be included in the definition of smuggling by adding allied activities like carrying, transportation, storage, concealing and safe-keeping activities to the definition of the smuggled goods. Accordingly, the broadened scope will be as under;

“Smuggle” means to bring into or take out of Pakistan, in breach of any prohibition or restriction for the time being in force or in any way being concerned in carrying, transporting, removing, depositing, harboring, keeping, concealing or evading payment of customs duties or taxes leviable thereon”.

The existing definition was generic in terms of evading custom duties whereas now it will include allied acts of assistance like removing, depositing and other acts of assistance in the definition of smuggling resulting in such acts also become punishable/penalized as smuggling.

Section 7 – Amendment

The bill propose to broaden the power of officers of customs by directing Border Military Police (BMP) to assist custom authorities.

As per existing law, all officers of Federal and Provincial governments were required to assist the custom authorities in the discharge of their functions under this Act.

According to proposed amendment the Custom authorities in discharge of their functions under this Act may/shall ask for any information, document or assistance from Border Military Police (BMP).

Through proposed amendment the Border Military Police (BMP) shall be under the legal obligation to assist the custom authorities

Section 17 – Amendment

The bill seeks to add a proviso to the section thereby providing the time frame for detention of goods for efficient disposal of cases within 15 (fifteen) days and to avoid un-necessary hardship in genuine cases. The current section did not provide time limit for detention of confiscated goods.

The proposed proviso provides that in case of violation of prohibitions under section 15 & 16 of the Act, the Custom authorities have the authority to detain the confiscated goods up to 15 days, which period can be further extended by 15 days by the Collector of customs or director general.

The proposed amendment would result in expeditious disposal of cases and would eliminate un-necessary hardship in genuine cases. The maximum detention period for the confiscated goods would be 30 days with the approval of the senior authorities.

Section 19 – Amendment

The bill seeks to extend the applicability of notifications issued by the Federal Government to exempt custom duty due to specified conditional circumstances after the commencement of Finance Act 2015, by one year till 2021. Under the existing law such notifications were applicable till 2020.

Section 19(C) – Amendment

The bill seeks to enhance the monetary limit of the minimal amount of duty from Rs. 100/- to Rs. 5,000/-, providing that if the total duty does not exceed such minimal duty, the duty may not be demanded, subject to the conditions prescribed by the Board.

The proposed amendment is to avoid administrative cost on non-material recoveries.

Section 21(c) – Amendment

The existing provision allow whole or partial repayment of customs duty only in case of goods imported for purposes provided in said Clause, through proposed amendment of replacement of custom duty with duties levied under section 18 and 18A of the Act, the bill seeks to empower the Board to allow repayment of additional custom duty, regulatory duty and special custom duty paid at the time of import of such goods.

Section 27A– Amendment

The existing provision states that at the request of owner the goods including the goods imported in new condition can be categorized as the mutilated or scrapped goods subject to conditions provided there. The proposed amendment seeks to add a proviso to exclude goods imported in new conditions to be categorized as mutilated or scrapped and propose that they be subjected to duties and taxes applicable on new goods.

This proposed amendment would reduce the tax avoidance on import of new goods by declaring them as scrap or mutilated.

Section 32A – Amendment

The bill seeks to add a new clause (ca) after clause (c) thereby making over or under invoicing or attempt to make over or under invoicing a fiscal fraud for which penalties are provided in section 156(1)14A of the Act.

The insertion of this new subsection shall discourage persons from under-invoicing. The bill also proposes further amendments to this section through sub-section (2) by expanding the authority of custom officers to issue show cause notices in those cases, where revenue is not involved, however, offence have been made by violating any provision of this section.

The proposed amendment not only make the under or over invoicing an offence but also attempt to make any tax fraud to be cognizable by the authorities for the penal action through issuance of show cause notice irrespective of the fact that duty has been avoided or not.

Section 80 – Amendment

The bill seeks to provide fair justice to importers by allowing them opportunity of being heard by notice in writing in case of reassessment of goods after their release.

As per existing provisions, a custom officer have discretionary power to make reassessment even without informing importers as a result of proposed amendment the custom office shall be under the legal obligation to provide an opportunity of being heard to importer before making reassessment of goods.

Section 139 – Amendment

The bill seeks to substitute sub-section (2) to clarify that the false declaration or failure of declaration will be an offence under the Act. Prior to proposed substitution, the offence would have been only upon the seizure or recovery of any item notified in the section 2.

The bill further seeks to insert new sub-section (3) providing that the attempt by any person of bringing into or taking out of Pakistan the Currency, Gold, Precious Metals or Stones, in any form, through concealment in baggage or by circumventing custom controls at custom stations shall make him guilty of offence of smuggling under the Act.

Section 156 – Substitution

The bill seeks to substitute clauses 8(i) and 8(iii) of sub-section (1) thereby enhancing the penalties and punishments for the smuggling based on the value of goods and currencies. A comparison of the existing and proposed penalties is given below:

Ref	Offense	Existing Penalty	Proposed	
8(i)	where any goods be smuggled into or out of Pakistan,–	Such goods shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding ten times the value of the goods; and upon conviction by a 4 [Special Judge] he shall further be liable to imprisonment for a term not exceeding 5 [fourteen years] and to fine not exceeding ten times the value of such goods Provided that, in the case of such goods 8 [*****] as may be notified by the Federal Government in the official Gazette, the sentence of imprisonment shall not be less than five years 72[...], and the whole or any part of his property Shall also be liable to confiscation in accordance with the provisions of the Prevention of Smuggling Act, 1977.]	Such goods shall be liable to confiscation and any person concerned in the offence shall be liable to–	
			Value–PKR	Penalty & Imprisonment
			a) From 150,001 to 3,000,000	value of the goods; and upon conviction by a Special Judge imprisonment up to 2 years
			(b) From 3,000,001 to 5,000,000	– Up to 2 times the value of the goods; and – upon conviction by a Special Judge imprisonment from 2 to 3 years
			c) From 5,000,001 to 7,500,000	– Up to 3 times the value of the goods; and – upon conviction by a Special Judge imprisonment from 2– 1/2 to 5 years
			(e) Above 10,000,000;	– Up to five times the value of the goods; and – upon conviction by a Special Judge a. imprisonment from 5 to 14 years b. the whole or any part of his moveable and immoveable assets and property shall also be liable to forfeiture in accordance with section 187 of the Customs Act, 1969:

Ref	Offense	Existing Penalty	Proposed
			<p>– Provided further that, in the case of such goods as may be notified by the Federal Government in the official Gazette, the sentence of imprisonment shall not be less than five years and the whole or any part of his property shall also be liable to forfeiture.</p>

For clause 8(iii);

Ref	Offense	Existing	Proposed
8(iii)	If the smuggled or prohibited goods comprise currency, gold, silver, platinum or precious stones (existing – currency of all types) in any form above the limit of US \$ 10,000–	such currency shall be liable to confiscation and any person concerned in the offence shall be liable to;	such currency or goods shall be liable to confiscation and any person concerned in the offence shall be liable to–
	<p>(a) US dollars 10,000/- or equivalent in value</p> <p>(b) US dollars 10,001/- to 20,000/- or equivalent in value</p> <p>(c) US dollars 20,001/- to 50,000/- or equivalent in value</p>	<ul style="list-style-type: none"> - confiscation and - penalty up to value of the excess amount of the currency; - Confiscation and - penalty up to two times the value of amount - confiscation and - penalty up to 3 times the value of the currency; and - upon conviction by a Special Judge imprisonment up to 2 years; 	<ul style="list-style-type: none"> - penalty up to value of the goods; - and upon conviction by a Special Judge imprisonment up to 2 years - penalty up to two times the value of the goods; and - upon conviction by a Special Judge imprisonment from 2 to 3 years; - penalty up to 3 times the value of the goods; and - upon conviction by a Special Judge imprisonment from 2-1/2 to 5 years - penalty up to 4 times the value of the goods; and

Ref	Offense	Existing	Proposed
	(d) US dollars 50,001/- to 100,000/- or equivalent in value	<ul style="list-style-type: none"> - confiscation and - penalty up to 4 times the value of the currency; and - upon conviction by a Special Judge imprisonment up to 7 years; 	<ul style="list-style-type: none"> - upon conviction by a Special Judge imprisonment from 3 to 10 years - penalty up to 5 times the value of the goods; and - upon conviction by a Special Judge imprisonment from 5 to 14 years; and - Forfeiture of the whole or any part of his moveable and immoveable assets and property as per section 187 of the Customs Act, 1969.
	(e) US dollars 100,001/- to 200,000/- or equivalent in value	<ul style="list-style-type: none"> - confiscation and - penalty up to 5 times the value of the currency; and - upon conviction by a Special Judge imprisonment up to 10 years; 	<ul style="list-style-type: none"> - penalty up to 5 times the value of the goods; and - upon conviction by a Special Judge imprisonment from 5 to 14 years; and - Forfeiture of the whole or any part of his moveable and immoveable assets and property as per section 187 of the Customs Act, 1969.
	(f) exceeds US dollars 200,000/- or equivalent in value	<ul style="list-style-type: none"> - confiscation and - penalty up to 10 times the value of the currency; and - upon conviction by a Special Judge imprisonment from 5 to 14 years; 	

Section 156 – Omission

The bill seeks to omit clause 8(iv) which became unnecessary by virtue of amendments made in clause 8(iii).

Section 179 – Amendment

The bill seeks to improve the efficiency of the adjudication of cases pertaining to smuggling by decreasing the time limit of decision to thirty (30) days to make it consistent with (Prevention of Smuggling) Ordinance, 2020.

As per existing provisions, the time limit to decide such cases was ninety (90) days. This move shall encourage speedy justice to the public at large.

Section 187 – Amendment

The bill seeks to empower the custom authorities to proceed against the person who committed an offense under the Act by acquiring the proof of acquisition of properties held by such person or relative of such person. It also specify the procedure of forfeiture of such properties.

Currently, this sections simply explain that the burden of proving that he was in possession of anything with lawful authority.

Section 194B – New Insertion

The bill seeks to improve the efficiency of the adjudication of cases at appellate tribunal pertaining to smuggling by decreasing the time limit of decision to thirty (30) days.

Currently, the time limit to decide such cases was sixty (60) days. This move shall encourage speedy justice to the public at large.

Section 195C (2) – Substitution

The bill seeks to substitute clause (c) of sub-section (2) authorizing the Board to nominate/ appoint any person/member of ADR Committee.

Presently, only a retired judge not below the rank of District and Session Judge is entitled for the nomination/appointment as member of ADR Committee.

Due to this amendment an opportunity shall be available for any competent person to become a member of ADR committee.

Section 195C (3) – Substitution

The bill proposes to substitute sub section (3) with the new sub-section describing the communication needed to be done by the Board after appointment of the committee.

Presently, Board was not under the legal obligation to give intimation to any judicial forum to this effect.

This will result in transparency for the nomination/appointment of a person/member of ADR Committee.

Section 195C (6) & (7) – Amendments

The bill seeks to amend sub-section (6) by providing fair justice to appellant by granting stay against payment of or recovery of duties under dispute from formation of the Alternate Dispute Committee till the decision or dissolution of it.

Presently the stay was granted only after the withdrawal of appeal till the decision of the ADR Committee. This move shall encourage speedy justice to the public at large.

The bill seeks to further amend sub-section (7) by binding the decision of Alternate Dispute resolution Committee on the Collector if the aggrieved person is satisfied with the decision and have withdrawn the appeal from court of law and same decision has been communicated to the Collector within sixty days.

Presently no such condition is given. This move shall encourage speedy justice to the public at large.

Section 195C – Omissions

The bill seeks to omit sub-section (4) and sub-section (5) as both have been rendered unnecessary by virtue of amendments in clause (c) of sub-section 2 and sub-section (3)

Presently, sub-section (4) provides that;

“The committee shall not commence the proceedings under sub-section (5) unless the order of withdrawal by the appellate authority is communicated to the Board”.

Sub-section (5) provides that;

“the committee constituted under sub-section (2) shall examine the issue and may, if deem necessary, conduct inquiry, seek expert opinion, direct any officer of customs or any other person to conduct an audit and shall decide the dispute by majority, within ninety days of its constitution in respect of the resolution of dispute as it deems fit: ”.

This amendment shall encourage speedy justice to the public at large.

Section 201 – Amendment

The bill seeks to introduce a new proviso at the end of sub-section (3) for imposing restriction on importer to receive the proceeds of sale of goods only up to the value declared.

This insertion will ensure that no importer exploit this facility.

Section 212A – Amendment

The bill seeks to grant benefits to the authorized economic operators as the Board may deem fit. This is done by adding the sub-section (3) after sub-section (2) which are reproduced hereunder;

“(a) laying down any procedure or mode for collection of customs duties, fee, surcharge, penalty or any other levy under this Act or any other law;

(b) Deferring collection of customs duties, fee, surcharge, penalty or any other levy either in whole or in part;

(c) Condoning or substituting whole or part of the bank guarantee or pay order of a scheduled bank required under this Act with any other financial instrument as deemed appropriate.”

Section 212B – New Insertion

The bill seeks to insert new section for the purpose of explaining procedure of adapting Advance Ruling. The matters to be sought in advance ruling are given hereunder;

- (i) Classification of goods under First Schedule to this Act;
- (ii) Determination of origin of the goods under the rules of origin notified for bilateral and multilateral agreements;
- (iii) Applicability of notifications issued in respect of duties under this Act or any tax or duty chargeable under any other law for the time being in force in the same manner as duty of customs leviable under this Act; or
- (iv) Any other matter as the Board may specify by notification in the official Gazette.

The ruling sought in above mention way will be binding on the applicant as well as custom Collect orate.

First Schedule

Chapter 99– sub–chapter V– PCT Code 9917

- (i) The proposed amendment seeks to provide exemptions to Gwadar International Terminals Limited and Gwadar Marine Services Limited on import of equipment and material for 40 years as applicable to other concession holders.
- (ii) The exemption on the import of ship bunker oil to concession holder is currently available only for ships used in the ports and terminal, the said exemption is now extended to the visiting vessels as well.
- (iii) The Sub para iv has been substituted to extend the scope of exemption as follows:
“(iv) Imports by the following businesses to be established in the Gwadar Free Zone Area for a period of 23 years with effect from 1st July, 2016, packaging, distribution, stuffing and de–stuffing, CFS, container yard, warehousing including cool and cold rooms, transshipment, labelling, light end assembly and re– assembly, imports and exports/ value added exports, value adding of imports, other similar or related businesses activities and such commercial activities as are required to support the free zone. “

Fifth Schedule– Amendments

The bill seeks to add IT sector, Storage, communication and Infrastructure development of SEZs by zone Developers to the Capital goods meaning by insertion in sub–para (b) of the preamble.

The bill seeks to amend Fifth schedule for the purpose of rationalizing custom duties on various goods, salient features of tariff change are given hereunder;

- Various materials need for manufacturing of LED lights are proposed to be exempted from custom duties.
- Exemptions are granted upon import of plant and machinery for establishing of industries in erstwhile FATA areas.
- Exemption has been proposed for the machinery and equipment import for the purpose of setting up of submarine cable landing stations.
- Coil of aluminum alloys and aluminum lids for manufacturing of beverage cans have been

exempted from custom duties.

- Exemption period of ships and other floating crafts has been increased from 2020 to 2030.
- Custom duty has been levied on craft papers at the rate of 15%.
- Custom duty at the rate of 5% have been levied on organic composite solvents not specified before, prepared paint and varnish removers.
- Custom duty has also been levied on semi-finished products of iron or non-alloy steel at the rate of 5%.
- Custom duty has been abolished on Plasticized used in manufacturing of disposable syringes and saline infusion sets.
- Custom duty has also been abolished on various food items including skimmed milk powder, chickpeas, soybean oil, palmolein, emulsifiers and antioxidants.
- Aircraft engines for use in aircrafts and trainer aircrafts have been exempted from custom duties.

AMENDMENTS IN OTHER LAWS

Amendments of the Petroleum Products Surcharge Ordinance, 1961 (XXX of 1961).

The proposed amendment in Section 3A of the said Ordinance proposes that the procedure for collection of Petroleum levy on imported petroleum products and locally produced products the levy shall be collected in same manner as the sales tax collected under sales tax Act 1990 as an alternate to customs Act 1969 for imported products and FED Act 2005 for locally produced products.

Amendment in the Finance Act, 1989.

The Section 7 of the Finance Act 1989 related to the levy of Capital Value Tax. Through the proposed amendment the said levy of CVT have been abolished w.e.f April 17, 2020.

Amendment of section 51, Act XIV of 2015.

In the Anti-Dumping Duties Act, 2015 (XIV of 2015), in section 51, in sub-section (1), in clause (c), for semi-colon at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:- "Provided that where a competent court of law has stayed preliminary or final determination of anti-dumping duty, goods shall be provisionally released against security in shape of bank guarantee or pay order of a scheduled bank along with indemnity bond equal to the amount of anti-dumping duty imposed on subject goods. In case preliminary or final determination is upheld by the court, duty shall be paid by the importer and security with the customs department shall be released otherwise the same shall be en-cashed to settle the duty liability. If the preliminary or final determination is set aside by the court, security shall be released, if not required for recovery of any outstanding previous liability.

Tax on luxury houses in Islamabad Capital Territory–

- (1) There shall be levied a luxury tax at the rates specified in column (3) of Table 1 below, on residential houses of different categories located within the limits of Islamabad Capital Territory as specified in column (2) of the said Table, namely:–

Table 1

S.No.	Category of Residential Houses	Rate of Tax in PKR
1.	2 Kanal to 4 Kanal with covered area of more than 6000 Sq. Ft.	100,000 per Kanal
2.	5 Kanal or above with covered area of more than 8000 Sq. Ft.	200,000 per Kanal

- (2) There shall be levied a luxury tax at the rates specified in column (3) of Table 2 below, on farm houses of different categories located within the limits of Islamabad Capital Territory as specified in column (2) of the said Table, namely

Table 2

S. No.	Category of Farm Houses	Rate of Tax in PKR
1	Four Kanal Area under farming	
	i. Farm house with covered area between 5000 and 7000 Sq. Ft.	25 per sq. ft. of covered area per annum.
	ii. Farm house with covered area between 7001 and 10000 Sq. Ft.	40 per sq. ft. of covered area per annum.
	iii. Farm house with covered area of more than 10000 Sq. Ft.	50 per sq. ft. of covered area per annum.
2.	More than 4 Kanal Area under Farming	
	i. Farm house with covered area between 5000 and 7000 Sq. Ft.	60 per sq. ft. of covered area per annum.
	ii. Farm house with covered area between 7001 and 10000 Sq. Ft.	70 per sq. ft. of covered area per annum.
	iii. Farm house with covered area of more than 10000 Sq. Ft.	80 per sq. ft. of covered area per annum.

- (3) The taxes mentioned in sub-section (1) and sub-section (2) shall not be applicable on the self-occupied houses of widows.
- (4) Ministry of Interior shall be responsible for collection of tax through its attached departments and deposit in the Federal Consolidated Fund.

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