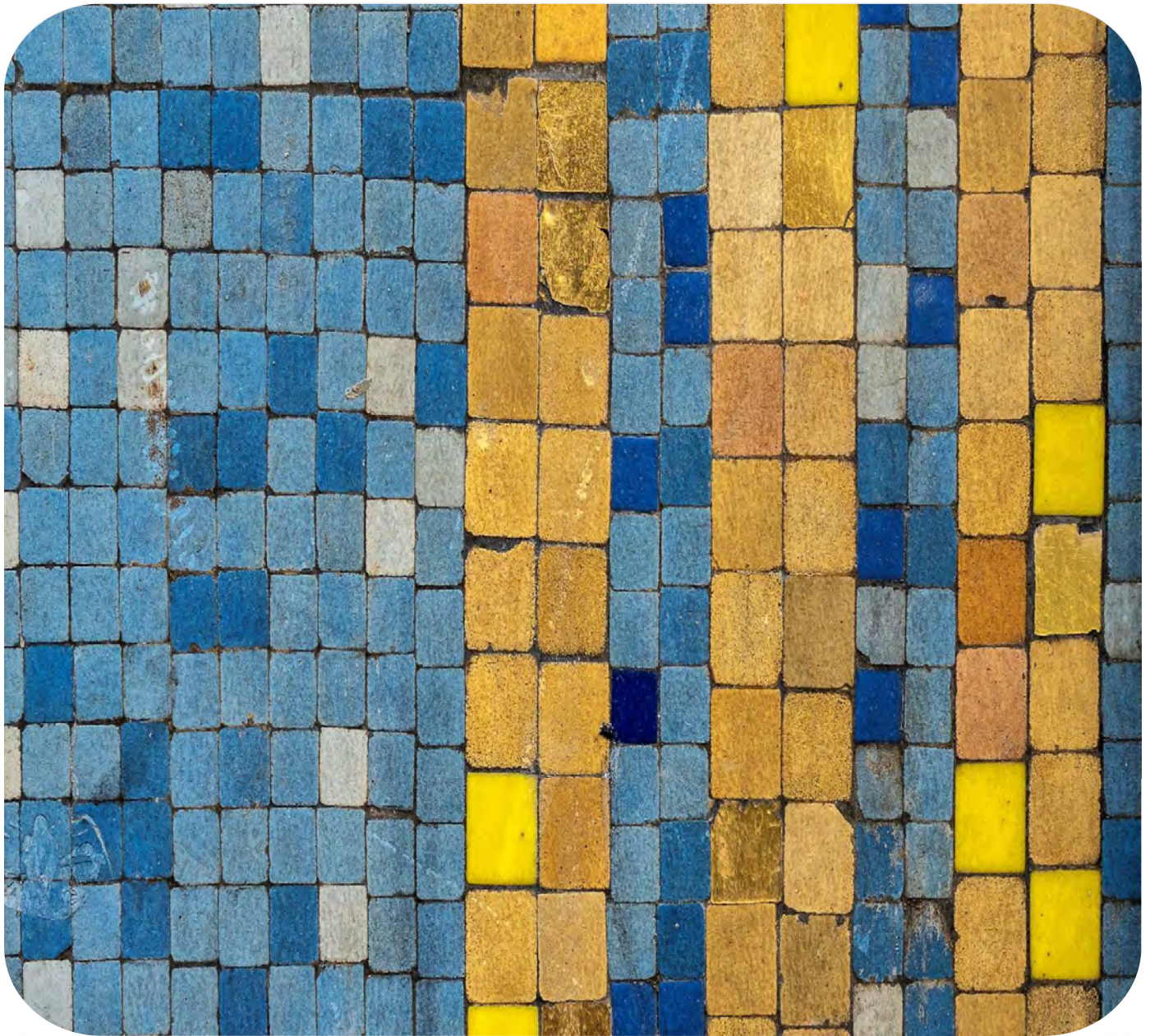


Finance Act 2023

Highlights & Comments



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THE INCOME TAX ORDINANCE, 2001

PROPOSED AMENDMENTS NOT APPROVED

Following amendments were proposed through Finance Bill, 2023, however, these have not been approved in the enacted Finance Act, 2023:

- a) Reduction in tax rates on income of builders was proposed through clause 21 of Part III of Second Schedule.
- b) Incentive proposed to youth for on their own startup of new business by allowing tax credit has not been approved.
- c) Definition of Small and Medium Enterprises (SME) was proposed to be widened by adding persons who provide IT services and IT enabled services in the definition of SME, and limit of annual turnover was also proposed to be enhanced from Rs.250 M to Rs. 800 M.
- d) Tax credit for individuals was proposed upon construction of a new residential house.
- e) A very significant amendment was proposed in Section 111 to enhance limit of foreign remittances to rupee equivalent of US\$ 100,000/-, which were proposed to be excluded from scope of this section. Now the immunity from probe will remain available to the foreign remittances up to Rs.5 millions only in a tax year.
- f) The exemption was proposed that advance tax under section 236K i.e. on purchase of immovable property will not be collected from non residents. Now, the tax will still be collected under section 236K from non residents and will remain final discharge of tax liability.
- g) Exemption to agro based SME setup in rural areas.
- h) It was proposed to reduce turnover tax U/s 113 @ 1% from 1.25% for listed companies.

The following amendments have been brought into Income Tax Ordinance, 2001 through the Finance Act, 2023:

PERMANENT ESTABLISHMENT

(Section 2(41))

Previously those establishments of non resident persons having fixed place of business through which business takes place were treated as Permanent Establishment. Now keeping in view the technological advances, condition of fixed place of business from the definition of Permanent Establishment has been deleted.

Further, following shall also be treated as Permanent Establishment of a person:

- a) Virtual business presence in Pakistan including any business where transactions are conducted through internet or other electronic medium with without physical presence; and
- b) Any consultancy and other services being provided by a Permanent Establishment through an entity.

SUPER TAX ON HIGH EARNING PERSONS

Section 4C & Division IIB of Part I of the First Schedule & Rule 4A Eighth Schedule

The super tax was imposed last year, now rates of super tax have been revised as follows:

Income U/s 4C	Rates of Tax	
	TY 2022	TY 2023 & Onwards
Up to Rs.150M	0%	0%
Above 150M - up to 200M	1%	1%
Above 200M - up to 250M	2%	2%
Above 250M - up to 300M	3%	3%
Above 300M – up to 350M	4%	4%
Above 350M – up to 400M		6%
Above 400M – up to 500M		8%
Above 500M		10%

Income under this section shall be taken into account for the purpose of Advance Tax U/s 147. Further the banking sector, which was subjected to super tax of 10% in case of income exceeds Rs.300 M, will now be taxed as per above slab.

Furthermore, NCCPL has also been authorized to collect tax under section 4C at the rates specified in Division IIB of Part I, of First Schedule on the amount of Capital Gain computed under eight schedule.

TAX ON DEEMED INCOME

Section 7E

Concept of tax on deemed income was introduced through Finance Act, 2022, wherein capital assets owned by resident persons are subject to tax @ 5% if the fair market value of such capital assets exceeds Rs.25 million in aggregate. However, there are certain capital assets which are exempted from this tax.

Now, following capital assets will not be exempted in case of person not appearing in active taxpayers' list, other than persons covered in rule 2 of tenth schedule:

- a) one capital asset owned by the resident person;
- b) any property from which income is chargeable to tax under the Ordinance and tax leviable is paid thereon;
- c) capital asset in the first tax year of acquisition where tax under section 236K has been paid; and
- d) where the fair market value of the capital assets in aggregate excluding the exempted capital assets does not exceed Rupees twenty-five million.

TRANSFER OF IMMOVABLE PROPERTY

Section 236C

A very significant amendment has been made in this section, according to which in case sale of immovable property, the registration, recording or attestation of transfer will not take place, unless the seller or transferor has discharged its tax liability under section 7E i.e. Tax on Deemed income on Capital assets and evidence of the same has been submitted in prescribed mode, form and manner.

Rates of tax under Section 236C and 236K enhanced

Tax rates on sale (236C) and purchase (236K) have been enhanced as follows:

	For Filers	Non Filers
236C	3%	6%
236K	3%	10.50%

DEDUCTIONS NOT ALLOWED – LIMIT OF CASH SALARY

ENHANCED

Section 21(m)

Limit of payment of salary through cash has been enhanced from Rs.25,000/- to Rs.32,000/-. Now, in order to claim salary expense as admissible deduction, monthly salary exceeding Rs.32,000 is required to be paid through banking channels.

CAPITAL GAIN ON DISPOSAL OF SECURITIES

Section 37A

Through Finance (Supplementary) Act, 2023, an amendment was made in this section by virtue of which the gain arising on disposal of shares of listed companies made otherwise through stock exchange and which are not settled through NCCPL, were excluded from reduced rates of taxes under this section. Now, gain on disposal of shares through initial public offering during listing process will not be subject to tax under this section as well unless details of such disposal has been submitted to NCCPL for computation of capital gains and tax thereon. Disposal of aforesaid shares is now subject to tax as capital gain on other assets under section 37 of the Ordinance.

DEFINITION OF TERM ASSOCIATES WIDENED

Section 85

Definition of term Associates has been widened by including the following persons to be treated as Associate:

- one person sufficiently influences, either alone or together with an associate or associates, the other person;

Explanation. - For the purpose of this section, two persons shall be treated as sufficiently influencing each other, where one or both persons, directly or indirectly, are economically and financially dependent on each other and, decisions are made in accordance with the directions, instructions or wishes of each other for common economic goal; or

- one person enters into a transaction, directly or indirectly, with the other who is a resident of jurisdiction with zero taxation regime as may be prescribed.

ADDITIONAL TAX ON CERTAIN INCOME, PROFIT AND GAINS

Section 99D

This section was proposed to be inserted through Finance Bill 2023. The section proposed to be inserted was not clear and left much ambiguity regarding its applicability. Further the provisions of proposed section were bit harsh.

Now, in the Finance Act 2023 this section has been reworded and following changes have been made to clarify applicability of this section:

- a) Action under this section can now be taken for three years preceding tax year 2023 and onwards;
- b) Shall be invoked in case of Companies only;
- c) Tax will be levied on Income, Profit or gains arises due to any economic factor or factors resulted in windfall Income, Profit, or gains.
- d) Rate of tax on such income shall not exceed 50% of such income.
- e) The Federal Government shall by notification in official Gazette:
 - i) Specify Sectors for which this section applies.
 - ii) determine windfall income, profits or gains and economic factor or factors including but not limited to international price fluctuation having bearing on any commodity price in Pakistan or any sector of the economy or difference in income, profit or gains on account of foreign currency fluctuation;
 - iii) provide for the scope, time and payment of tax payable under this section in such manner and with such conditions as may be specified in the notification; and
 - iv) exempt any person or classes of persons, any income or classes of income from the application of this section, subject to any conditions as may be specified in the notification.

The notification issued under this section shall be placed before the National Assembly within ninety days of the issuance of such notification or by the 30th day of June of the financial year, whichever is earlier.

RECOVERY OF LIABILITY OUTSTANDING UNDER OTHER LAWS

Section 146D

According to this newly inserted section, If any outstanding liability under any other statute or law is treated as income tax arrears in that law, required to be collected by or referred to Commissioner, the Commissioner shall recover the said liability from defaulter and deposit in the designated account specified in that law.

PAYMENT TO NON RESIDENT WITHOUT DEDUCTION OF TAX

Section 152(5A)

Currently the Commissioner, on an application by the person intending to make payment to non resident without deduction of tax, is bound to pass an order accepting or rejecting the application within thirty days from date of receipt of application.

Now a proviso has been added in subsection 5A, thereby exemption certificate shall deemed to have been issued automatically by Commissioner upon expiry of thirty days (excluding period of adjournment sought by applicant).

However, Commissioner has been empowered to cancel or modify the said certificate for reasons to be recorded in writing and providing opportunity of being heard to the applicant.

EXPORT OF SERVICES

Section 154A

Condition to file Federal Sales Tax return by exporter of computer software or IT services or IT enabled services has been removed.

INTERNATIONAL CENTRE OF TAX EXCELLENCE

Section 230J

An Institute to be known as "International Centre of Tax Excellence" will be established, which will have following functions:

- a) to help contribute to the development of tax policy,
- b) prepare model national tax policy,
- c) deliver interdisciplinary research in tax administration and policy,
- d) international tax cooperation,
- e) revenue forecasting,
- f) conduct international seminars, workshops and conferences on the current issues faced by tax authorities in the field of international taxation,
- g) capacity building of Inland Revenue Officers,
- h) tax analysis,
- i) improve the design and delivery of tax administration for maximizing revenue within existing provisions to close the tax gap or any other function as directed by the Board or the Federal Government.

ADVANCE TAX ON CASH WITHDRAWAL REINTRODUCED FOR NON FILERS

Section 231AB

The advance tax @ 0.6% on cash withdrawal exceeding fifty thousand rupees in a day by the persons not appearing in active taxpayers' list, has now been reintroduced.

INDIVIDUALS AND ASSOCIATION OF PERSONS – ENHANCEMENT OF TAX RATES

First Schedule – Division I

The slab rates of tax applicable on non salaried individuals and association of persons have been enhanced as follows:

Tax on Individuals and Association of Persons

Slabs	Amount	% of amount exceeding previous slab	
Up to Rs.600,000	Nil		
Rs.600,001 to Rs.800,000	Nil	+	7.50%
Rs.800,001 to Rs.1,200,000	Rs.15,000	+	15.00%
Rs.1,200,001 to Rs.2,400,000	Rs.75,000	+	20.00%
Rs.2,400,001 to Rs.3,000,000	Rs.315,000	+	25.00%
Rs.3,000,001 to Rs.4,000,000	Rs.465,000	+	30.00%
Above Rs.4,000,000	Rs.765,000	+	35.00%

Impact of above increased tax rates on income of individuals and association of persons is given below:

Annual Income	Annual Tax		Incremental Tax
	TY 2023	TY 2024	
800,000	10,000	15,000	5,000
1,200,000	60,000	75,000	15,000
2,400,000	270,000	315,000	45,000
3,000,000	405,000	465,000	60,000
4,000,000	680,000	765,000	85,000
6,000,000	1,330,000	1,465,000	135,000

SALARIED INDIVIDUALS– ENHANCEMENT OF TAX RATES

First Schedule – Division I

The slab rates of tax applicable on salaried individuals have been enhanced as follows:

Tax on Salaried Individuals

Slabs	Amount	% of amount exceeding previous slab	
Up to Rs.600,000	Nil		
Rs.600,001 to Rs.1,200,000	Nil	+	2.50%
Rs.1,200,001 to Rs.2,400,000	Rs.15,000	+	12.50%
Rs.2,400,001 to Rs.3,600,000	Rs.165,000	+	22.50%
Rs.3,600,001 to Rs.6,000,000	Rs.435,000	+	27.50%
Above Rs.6,000,000	Rs.1,095,000	+	35.00%

Impact of above increased tax rates on income of Salaried individuals is given below:

Annual Salary	Annual Tax		Incremental Tax
	TY 2023	TY 2024	
800,000	5,000	5,000	0
1,200,000	15,000	15,000	0
2,400,000	165,000	165,000	0
3,000,000	285,000	300,000	15,000
4,000,000	505,000	545,000	40,000
6,000,000	1,005,000	1,095,000	90,000
10,000,000	2,305,000	2,495,000	190,000
15,000,000	4,005,000	4,245,000	240,000

ADVANCE TAX ON MOTOR VEHICLES

Section 231B

Rates of advance tax at the time of registration or sale of motor vehicle has been enhanced as follows:

S. No.	Engine capacity	Previous Tax	Revised Tax
1.	Upto 850 cc	Rs.10,000	Rs.10,000
2.	851cc to 1000cc	Rs.20,000	Rs.20,000
3.	1001cc to 1300cc	Rs.25,000	Rs.25,000
4.	1301cc to 1600cc	Rs.50,000	Rs.50,000
5.	1601cc to 1800cc	Rs.150,000	Rs.150,000
6.	1801cc to 2000cc	Rs.200,000	Rs.200,000
			Rate of Tax
7.	2001cc to 2500cc	Rs.300,000	6% of the value
8.	2501cc to 3000cc	Rs.400,000	8% of the value
9.	Above 3000cc	Rs.500,000	10% of the value

Value of vehicles shall be determined as follows:

- for vehicles imported in Pakistan, the import value assessed by the Customs authorities as increased by customs duty, federal excise duty and sales tax payable at import stage;
- for vehicles manufactured or assembled locally in Pakistan, the invoice value inclusive of all duties and taxes; or
- vehicles auctioned, the auction value inclusive of all duties and taxes:

Where engine capacity is not applicable and the value of vehicle is Rupees five million or more, the rate of tax collectible shall be 3% of the import value as increased by customs duty, sales tax and federal excise duty in case of imported vehicles or invoice value in case of locally manufactured or assembled vehicles.

ADVANCE TAX ON FOREIGN DOMESTIC WORKERS

Section 231C

Any authority issuing or renewing visa to any foreign national being domestic work shall collect advance tax of Rs.200,000/- from agency / sponsor / person employing the services of such foreign national. The tax collected under this section shall be adjustable against the income of agency / sponsor / person employing such foreign national.

TAX ON BONUS SHARES ISSUED BY COMPANIES

Section 2(29),236Z &39(1)(lb)

Bonus shares issued by a Company will be treated as income in the hands of its shareholders. The term Bonus share has been added to the definition of income under the Ordinance.

These bonus share issued by the Company shall be subjected to withholding tax @10%. Now, every company issuing bonus shares shall withhold 10% of the bonus shares to be issued to shareholders.

The said withheld bonus shares, shall only be issued to the shareholder upon collection of tax equal to 10% of total bonus issue, the value of which will be determined:

- in case of listed company, day-end price on first day of book closure;
- in case of other companies, value as prescribed.

Tax so collected shall be deposited by the Company within fifteen days of book closure, whether or not same has been collected from shareholders. Company has been empowered to collect the tax or dispose off bonus shares to the extent of tax paid under this section.

The said income to be assessed as Income from Other Sources. Tax collected under this section shall be final tax on the income of shareholders arising from issuance of bonus shares.

ENHANCEMENT OF WITHHOLDING TAX RATES

Sections 152 & 153

The withholding tax rates have been enhanced by 1% in respect of certain payments prescribed in Sections 152 and 153 of the Ordinance as follows:

Particulars	Previous Rates	Revised Rates
Sale of goods:		
• in case of Company	4%	5%
• all other cases	4.50%	5.50%
Services:		
• subject to reduced WH rates	3%	4%
• subject to normal WH rates:		
○ in case of company	8%	9%
○ all other cases	10%	11%
Execution of Contact		
• in case of Resident Company	6.50%	7.50%
• all other cases	7%	8%

MINIMUM TAX

Sections 113

Excess of minimum tax paid over the normal tax, can be carried forward for adjustment against tax payable for next three year. An explanation has been added to clarify that the said adjustment can only be made against normal tax payable under the Division I or Division II of the first schedule.

ADVANCE TAX BY BUILDERS AND DEVELOPERS

Sections 147(5C)

A new sub section 5C has been introduced thereby, every person deriving income from business of:

- i) construction and disposal of residential, commercial or other buildings; or
- ii) development and sale of residential, commercial or other plots for itself or otherwise shall be liable to pay adjustable advance tax on Project-by-Project basis, as may be prescribed, for the tax year as per the following rates in four equal installments:

Category	Rate Per	Size	Locations		
			A	B	C
147(5C)(i)					
• Commercial Buildings	Sq. Ft.	Any size	Rs.250	Rs. 230	Rs. 210
• Residential Buildings	Sq. Ft.	upto 3000	Rs.80	Rs. 65	Rs. 50
	Sq. Ft.	3000 & above	Rs. 125	Rs. 110	Rs. 100
147(5C)(ii)					
• Other Cases	Sq. Yds	Any size	Rs. 150	Rs. 130	Rs. 100
• For Development of Industrial Area	Sq. Yds	Any size	Rs. 20	Rs. 20	Rs. 10

Location Category	Cities
A	Karachi, Lahore and Islamabad
B	Hyderabad, Sukkur, Multan, Faisalabad, Rawalpindi, Gujranwala, Sahiwal, Sialkot, Bahawalpur, Peshawar, Mardan, Abbottabad, Quetta
C	Unspecified Urban Areas

COMMERCIAL IMPORTERS - ENHANCEMENT OF RATE OF TAX

Sections 148

The rate of tax, in case of commercial importers importing goods classified in Part III of the Twelfth Schedule, has been enhanced from 5.5% to 6% of the import value as increased by customs duty sales tax and federal excise duty.

THE SALES TAX ACT, 1990

Following are amendments in Sales Tax Act, 1990;

DEFINITION

GOODS AND SUPPLY

Section 2(12) and Section 2(33)

Production, transmission and distribution of electricity has been removed from the definition of goods and supply. These services are amended to add in provincial sales tax services laws.

TIER-1 RETAILER

Section 2(43A)

Shop measurement and jewelers have been removed from the definition of Tier-Retailer. After amendment, shops measuring more than one thousand square feet and jewelers are out of purview of Tier-1 Retailer, hence, nor required to integrate their sales outlets under the Point of Sales provisions specifically based on these conditions.

Scope of Tax

Section 3(1A) Further Tax

Rate of further tax under this section has been raised from 3% to 4%, After amendment, the supplier must charge 4% of the value of supply, if goods supplied to non-active persons.

FIFTH SCHEDULE

Tax rate has been reduced to zero percent of Imports or supplies made by, for or to a qualified investment as specified at Serial No.1 of the First Schedule to the Foreign Investment (Promotion and Protection) Act, 2022 for the period as specified in the Second Schedule to the said Act.”.

Serial 21 has been amended to make zero rated of Local supplies of commodities authorized under the Export Facilitation Scheme 2021;

In addition to Geometry boxes, it is amended to include other drawing, marking out or mathematical calculating inducements include in the list of zero rated supplies at serial number (xxv) of 12 of Fifth Schedule.

SIXTH SCHEDULE

Table-1

At serial number 16,17 &18 Red Chilies, Ginger & Turmeric were exempted from sales tax, unless these were not supplied in retail packing under a brand name / trademark. After removal of words “retail packing”, these goods are now taxable if sold under brand name / trademark, either in retail packing or not.

At serial number 151 & 152, Exemption of import and supplies of plant, machinery equipment for installation and supplies of electricity in tribal area has been further extended from 30th June 2023 to 30th June 2024.

At serial number 168, exemption of Fertilizer DAP has been withdrawn, now it is taxable under Eighth schedule at the rate of 5%.

Table-2

At serial number 32,34 to 39, 41 & 42 Yogurt, Butter, Desi, Cheese, Processed Cheese not treated or powdered, Products of meat or meat offal, Meat of bovine animals, sheep, goat and uncooked poultry meat, and Fish and crustaceans were exempted from sales tax, unless these were not supplied in retail packing under a brand name / trademark. After removal of words “retail packing”, these goods are now taxable if sold under brand name / trademark, either in retail packing or not.

AT serial number 27, Wheat Bran is already exempted, after amendment this exemption brought back since 01-07-2018.

Eighth Schedule

Textile and leather

Rate of tax has been enhanced from 12% to 15% on Supplies made from retail outlets which are integrated with Board's computerized system for real-time reporting of sales (POS) in case of following goods, subject to the condition that they have maintained 4% value addition during the last six months:

- finished fabric;
- locally manufactured finished articles of textile and textile made-ups;
- leather and artificial leather.

Pharmaceutical

Reduced rate of 1% was applicable on manufacture or import of substances registered under Drugs Act, 1976, subject to certain conditions.

Serial no. 81 has been substituted, now the said reduced rate has been restricted only to those goods which are classified under chapter 30 of First Schedule to the Customs Act, 1969 excluding the following:

- a) filled infusion solution bags imported with or without infusion given sets;
- b) scrubs, detergents and washing preparations;
- c) soft soap or no soap;
- d) adhesive plaster;
- e) surgical tapes;
- f) liquid paraffin;
- g) disinfectants, and
- h) cosmetics and toilet preparations.

The above amendment has been made effective retrospectively from July 01, 2022.

Serial no. 82 has also been substituted thereby the reduced rate of 1% shall be applicable on raw material for the basic manufacture of pharmaceutical active ingredients as well as products, subject to the condition that such raw material are liable to custom duty not exceeding 11%.

FEDERAL EXCISE ACT 2005

FANS & BULBS MANUFACTURED LOCALLY & IMPORTED WILL BE LIABLE TO EXCISE DUTY

60	Energy inefficient fans both locally manufactured and imported which do not comply with MEPS, notified by PSQCA	Respective heading	Rupees two thousand per fan with effect from 01-01-2024
61	Incandescent bulbs both locally manufactured and imported	8539.22 and 8539.901	Twenty percent ad Valorem with effect from 01-01-2024
62	Fertilizers	Respective heading	Five percent ad voleram

ROYALTY & TECHNICAL FEES LIABLE TO EXCISE DUTY

Franchise services, royalty and fee for technical services	Respective heading	Ten percent of the charges.
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DIRECTORATE GENERAL OF DIGITAL INITIATIVE

A new Directorate General of Digital Initiatives has been established which shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors and Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.

ADDITION TO THIRD SCHEDULE

Following addition amendment made in Table I & Table II of Third Schedule:

Table I-Third Schedule

26	Imports or supplies made by, for or to a qualified investment as specified at Serial No.1 of the First Schedule to the Foreign Investment (Promotion and Protection) Act, 2022 for the period as specified in the Second Schedule to the said Act.	Respective heading
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Table II-Third Schedule

15	Services provided or rendered by, for or to a qualified investment as specified at Serial No.1 of the First Schedule to the Foreign Investment (Promotion and Protection) Act, 2022 for the period as specified in the Second Schedule to the said Act.”.	Respective heading.”.
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ISLAMABAD CAPITAL TERRITORY (TAX ON SERVICES) ORDINANCE 2001

Following amendments are proposed in the Islamabad Capital Territory (Tax on Services) Ordinance, 2001.

TAX ON FREELANCE EXPORTER OF IT & IT ENABLED SERVICES

Section 3

Freelance exporter exclusively dealing in export of IT and IT enabled services shall be taxable. As per definition freelance exporter is a person who works on per job and on self-employed basis without being attached to or under employment of any other person, having the liberty to work on various tasks simultaneously.

AMENDMENT IN THE SCHEDULE TABLE

As a step towards documentation an amendment has been proposed according to which rate of sales tax on payments to restaurants etc. has been reduced if the payments is made through debit, credit card or mobile app.

Amendment propose in Schedule Table I are as under:

i	Services provided or rendered by hotels, motels, guest houses, farmhouses, marriage halls, lawn, clubs and cateres	98.01	Fifteen percent
ii	Services provided by restaurants including cafes, food (including ice cream) parlors, coffee shop, deras, food huts, eateries, resorts and similar cooked, prepared or ready-to-eat food service outlets etc.		(a) Five percent where payment against services is received through debit or credit cards, mobile wallets or QR scanning subject to the condition that no input tax adjustment or refund shall be admissible; and (b) Fifteen percent where payment received in cash.

Rate of Tax on Service provided by Software or IT based system development consultant reduced to fifteen percent from sixteen percent.

60	Electric Power Transmission Services --		15%
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Table II

11	IT services and IT-enabled services Explanation:- For the purpose of this entry (a) "IT services" include but not limited to software development, software maintenance, system integration, web design, web development, web hosting and network design; and (b) "IT enabled services" including but not limited to inbound or outbound call centres, medical transcription, remote monitoring, graphics design, accounting services, human resources services, telemedicine centres, data entry operation cloud computing services, data storage services, locally television programmes & insurance claim processing	Respective headings	Fifteen percent
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