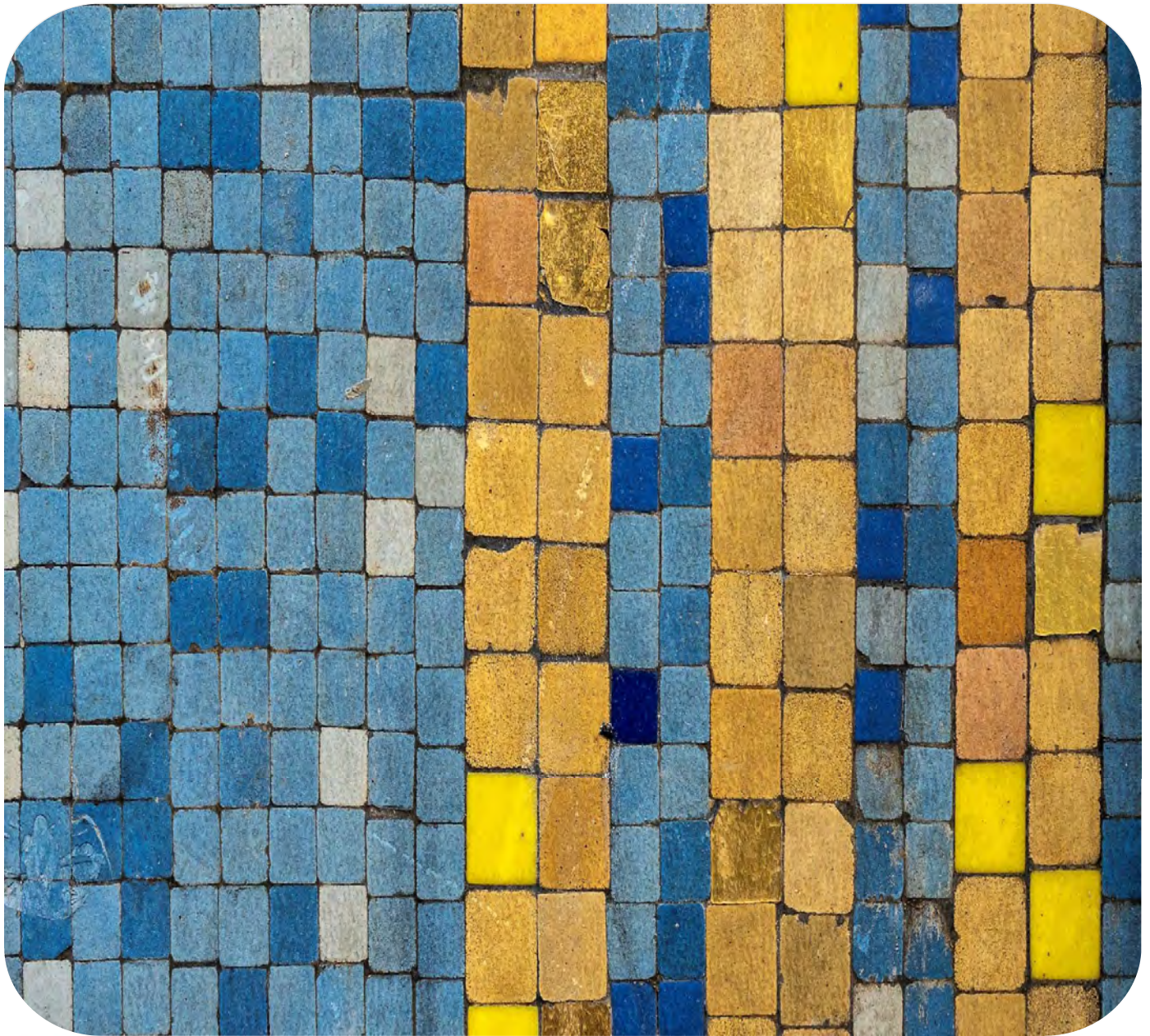


Finance Bill 2023

Highlights & Comments



FARUQ ALI & CO.

Chartered Accountants

Karachi: C-88, KDA Scheme No.1, Main Karsaz Road,
Opposite Maritime Museum, Karachi.
+92 21 34301966-9 www.fac.com.pk

Islamabad: Office No.15, 1st floor, Huzaifa Center,
I-8 Markaz, Islamabad
+92 51 8733581 www.fac.com.pk

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THE INCOME TAX ORDINANCE, 2001

The following amendments have been proposed in Income Tax Ordinance, 2001 through the Finance Bill, 2023:

REDUCTION IN TAX RATE ON INCOME OF BUILDERS

Clause 21 of Part III of Second Schedule

A new clause has been proposed to be added which provides for reduction in tax applicable to builders. Terms and applicability of the concession are:

- a) Available for tax year 2024 to tax year 2026,
- b) Builder must be registered with Directorate General of Designated Non- Financial Business and Professions
- c) Must be a new building construction project
- d) Tax payable on profits and gains derived from business chargeable to tax under the head “Income from Business” shall be reduced, not below zero, by ten percent or rupees five million whichever is lower for the tax year in which the builder furnishes along with return the completion certificate issued by the concerned regulatory authority;
- e) New building project means a project for the construction of building excluding a land development project, layout plan of which is approved by the authority concerned on or after the 1st day of July, 2023.

INCENTIVE TO STARTUP YOUTH ENTERPRISE

Clause 22 of Part III of Second Schedule

In order to provide incentive to youth upto the age of thirty years to establish their own startup business it is proposed to allow tax credit to such business. Conditions for availing this benefit are:

- a) Startup to be established on or after first day of July 2023.
- b) May be Sole Proprietorship, Association of Person or a Company.
- c) Sole proprietor of the Proprietorship concern & all members of an AOP or shareholders of Company shall be

below thirty years of age as of the first day of the commencement of relevant tax year.

- d) Reduction in tax can be availed for tax year 2024 to 2026.
- e) is not formed by the transfer or reconstitution or reconstruction or splitting up of an existing business;
- f) Tax payable by a youth enterprise on profit and gains derived from business shall be reduced not below zero in case:

Status	Reduction
Individual or an Association of Person	50% or Rs.2.000M whichever is lower
Company	50% or Rs.5.000M whichever is lower

PERMANENT ESTABLISHMENT

(Section 2(41))

Currently those establishments of non resident persons having fixed place of business through which business takes place are treated as Permanent Establishment. Now keeping in view the technological advances the bill proposes to delete the condition of fixed place of business from the definition of Permanent Establishment.

Further, any consultancy and other services being provided by a Permanent Establishment through an entity shall also be treated as business of that Permanent Establishment.

SMALL AND MEDIUM ENTERPRISES
Section 2(59A) & Fourteenth Schedule

The concept of small and medium enterprises (SME) was introduced through Finance Act, 2021, which was available to the manufactures only. Now, it has been proposed:

- i) to include persons who provide IT services and IT enabled services in the definition of SME, with a condition that shall be required to be registered with and duly certified by the Pakistan Software Export Board, in addition to registration on SME Registration Portal of SMEDA.
- ii) Enhance limit of annual turnover from presently Rs.250 million to Rs.800 million.

In addition to already existing two categories, a third category is proposed to be inserted with tax rate of 20%, accordingly rates of tax for SMEs are proposed as follows:

Category	Annual Turnover	Rates % of taxable income
1.	Up to Rs. 100 Million	7.5%
2.	Over Rs.100 Million up to Rs.250 Million	15%
3.	Over Rs.250 Million up to Rs. 800 Million	20%

Similarly, the SMEs opting for Final Tax Regime are proposed to be taxed as follows:

Category	Annual Turnover	Rates % of gross turnover
1.	Up to Rs. 100 Million	0.25%
2.	Over Rs.100 Million up to Rs.250 Million	0.5%
3.	Over Rs.250 Million up to Rs. 800 Million	0.75%

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 it has been proposed to revise rates of super tax 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%

It has also been proposed to include income under this section 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, is now proposed to 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 CREDIT FOR CONSTRUCTION OF HOUSE
Section 65I

A new tax credit has been proposed for individuals, if they construct a new residential house, whose construction completed during tax year 2024 to tax year 2026, provided the layout plan has been approved on or after July 01, 2023. Tax credit shall be lower of:

- a) 10% of the tax assessed; or
- b) Rs.1,000,000/-

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

A very significant amendment has been proposed according to which Federal Government has been empowered to impose additional tax on income that arise to any person due to any economic factor that resulted in unexpected income, profit or gains whether disclosed or not in the financial statement of that person. The said tax can be levied for five tax years preceding Tax Year 2023 and onwards.

Federal government through notification, may:

- a) Determine economic factor(s) such as international price fluctuations affecting any commodity prices, or any sector of economy or difference in income, profits or gains on account of foreign currency fluctuations.
- b) Provide the rate not exceeding fifty percent of such income, profits or gains.
- c) Provide scope and manner of tax payment; and
- d) Exempt any person or class of persons.

UNEXPLAINED INCOME OR ASSETS – Limit of Foreign Remittances enhanced.

Section 111(4)

A very significant amendment has been proposed to enhance limit of foreign remittances, which is presently at Rs. 5 million to rupee equivalent of US\$ 100,000/-, which will be excluded from scope of this section.

RECOVERY OF LIABILITY OUTSTANDING UNDER OTHER LAWS

Section 146D

According to this newly proposed 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 proposed to be 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 is proposed to be removed.

INTERNATIONAL CENTRE OF TAX EXCELLENCE

Section 230J

It has been proposed to establish an Institute to be known as “International Centre of Tax Excellence”, 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 bill proposes to reintroduce the advance tax @ 0.6% on cash withdrawal exceeding fifty thousand rupees in a day by the persons not appearing in active taxpayers' list.

ADVANCE TAX ON FOREIGN DOMESTIC WORKERS

Section 231C

It has been proposed that 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.

PURCHASE OR TRANSFER OF IMMOVABLE PROPERTY BY NON RESIDENTS

Section 236K

At present tax collected from non resident persons on purchase of property who hold POC or NICOP is final discharge of tax liability. Now, it has been proposed to exempt such non-residents from provisions of this section who acquire the property through Foreign Currency Value Account or Non Resident Pakistanis Rupee Value Account maintained with authorized banks in Pakistan, provided they submit the certificate as may be prescribed.

TAX ON BONUS SHARES ISSUED BY COMPANIES

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

It has been proposed to treat Bonus shares issued by a Company 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%. It has been proposed that 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:

- a) in case of listed company, day-end price on first day of book closure;
- b) 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.

EXEMPTION TO AGRO BASED SMALL & MEDIUM ENTERPRISES

Clause 154 Part I of Second Schedule

Tax exemption has been allowed on Profits and gains of a small and medium enterprise setup exclusively as agro based industry in a rural area duly notified for a period of five tax years commencing from tax year 2024 and up to tax year 2028.

Provided that such enterprise must setup on or after 1st day of July, 2023 and is not formed by the transfer or reconstitution or reconstruction or splitting up of an existing business.

ENHANCEMENT OF WITHHOLDING TAX RATES

Sections 152 & 153

The finance bill proposes to enhance the withholding tax rates by 1% in respect of certain payments prescribed in Sections 152 and 153 of the Ordinance as follows:

Particulars	Existing Rates	Proposed 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:		
o in case of company	8%	9%
o 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

The finance bill proposes to reduce the rate of minimum tax to 1% in case of listed companies from existing standard rate 1.25%.

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.

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, is proposed to be 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 amendments are proposed in Sales Tax Act, 1990;

DEFINITION

GOODS AND SUPPLY

Section 2(12) and Section 2(33)

It is proposed to remove production, transmission and distribution of electricity from the definition of goods and supply. These services are proposed to be added in provincial sales tax services laws.

TIER-1 RETAILER

Section 2(43A)

It is proposed to remove the shop measurement and jewelers from the definition of Tier-Retailer. After proposed 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.

FIFTH SCHEDULE

It is proposed to reduce the tax at 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.”.

It is proposed to amend serial 21 to make zero rated of Local supplies of commodities authorized under the Export Facilitation Scheme 2021;

In addition to Geometry boxes, it is proposed, 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 regarding exemption of Red Chillies, Ginner & Turmeric, previously retail packing bearing brand names and trademarks was excluded from the exemption, after proposed removal of words “retail packing bearing”, whether said goods in retail packing or not are excluded if under brand names and trademarks.

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

It is proposed to add the following goods in list of exemption, after approval of bill these goods will be the exempted from sales tax;

175.	Contraceptive and accessories thereof	3926.9020 and 4014.1000
176	Bovine semen	0511.1000
177	Saplings	Respective heading
178	Combined Harvester - Thresher	8433.5100
179	Dryer for agricultural products	8419.3400
180	No-till-direct seeder, planters, trans-planters and other planters	8432.3100 and 8432.3900
181	Import of goods as mentioned under S. No. 159 of Part III of Fifth Schedule to the Customs Act, 1969 (IV of 1969) chargeable to customs duty at the rate of zero percent, subject to the conditions, restrictions and limitations mentioned therein, by the software exporters registered with the Pakistan Software Export Board.	7471.3010, 8471.3020, 8471.3090, 8471.4110, 8471.6010, 8471.6020, 8471.6090, 8471.7040, 8471.9020, 8471.7020, 8471.5000 and 8517.6270.

Table-2

At serial number 32,34 to 39, 41 & 42 regarding exemption of 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, previously retail packing bearing brand names and trademarks was excluded from the exemption, after proposed removal of words “retail packing bearing”, whether said goods in retail packing or not are excluded if under brand names and trademarks.

Eighth Schedule

It is proposed to enhance the rate of tax from 12% to 15% on Supplies as made from retail outlets as are integrated with Board’s computerized system for real-time reporting of sales.

It is proposed applicable retrospectively from date of July 1, 2022 and on those raw materials, ingredients which are liable to customs duty not exceeding 11% ad valorem that are classified under chapter 30 of the 1st Schedule to the Customs Act, 1969 or under a notification issued under section 19, excluding followings items;

- 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.

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
61	Incandescent bulbs both locally manufactured and imported	8539.22 and 8539.901	Twenty percent ad valorem.

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 proposed 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 fifteen 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	Five percent subject to the conditions that no input tax adjustment or refund shall be admissible."
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