BRIEF ON FINANCE SUPPLEMENTARY (SECOND AMENDMENT) BILL, 2019

INSTITUTE OF COST AND MANAGEMENT ACCOUNTANTS OF PAKISTAN

TECHNICAL SUPPORT AND PRACTICE DEVELOPMENT COMMITTEE

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PREFACE

This document provides a brief overview of significant amendments proposed through the Finance Supplementary (Second Amendment) Bill, 2019, which was presented before the National Assembly on January 23, 2019 by Mr. Asad Umar, the honourable Minister for Finance, Revenue and Economic Affairs.

These proposed amendments will be effective from the date of assent given by the President except for certain amendments in the Customs Act, 1969 which will be effective from March 31, 2019 and certain other amendments in the Income Tax Ordinance, 2001 which will be effective from July 1, 2019 as provided therein.

This document has been published for the benefit of members, students and other stakeholders of the institute. These are not the exhaustive provisions covering all the relevant amendments and we suggest to refer to the relevant provisions of the law for any specific guidance.

We are thankful to the secretariat and members, especially those of Technical Support and Practice Development Committee of the institute, who extended their help for preparation of this document.

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Regards,

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Chairman
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AMENDMENTS INTRODUCED IN THE INCOME TAX ORDINANCE, 2001

TAX ON UNDISTRIBUTED PROFITS

Currently, the undistributed reserves are being taxed at the rate of 5% of the whole profits, for the tax year 2017 and onwards, if distribution of profits, including by way of bonus shares, is less than 20% of after-tax profits.

The Bill now proposes to restrict this levy up to the tax year 2019, which means that tax shall be abolished from tax year 2020 and onwards.

INTER-CORPORATE DIVIDEND IN GROUP COMPANIES – Sec. 59B, 2ND Schedule Part III, Clause 17

The Finance Minister expressed the desire of the government to boost economy by promoting holding company and group structures. A significant measure to achieve this has been proposed in the Bill to reintroduce the concept of group relief, which was abolished in the tax year 2016. It proposes to introduce a new regime to exempt inter-corporate dividend in case of companies availing group relief subject to the following:

i. where there is a surrender of losses in that Tax Year, and
ii. to the extent of percentage holding of parent company in the subsidiary company.

This provision will be effective from July 1, 2019.

TAXATION OF BANKING COMPANIES

Reduced rate of tax for certain advances

Under the existing provisions, the income of banking companies is subject to uniform rate of tax at the rate of 35%. In order to encourage economic activities and generate employment, the Bill proposes that income from advances, as defined in State Bank of Pakistan's Prudential Regulations, will be subject to a reduced rate of 20% for tax years 2020 to 2023 to the following:

a) Micro, small and medium enterprises
b) Low cost housing finance
c) Farm credit

The above concessional rate is available on 'additional advances', which term has been defined as advances in addition to average amount of advances to the above sectors for tax year 2019.

Further, a new clause has been proposed in Seventh Schedule to exempt the above income from Super Tax for tax years 2020 to 2023. It is pertinent to note that the Super Tax was leviable till the year 2021.

Super Tax

The phase wise reduction in rate of Super Tax for Banking companies as was introduced through Finance Act, 2018 has been proposed to be reversed. This will result in increase in the super tax rate for the tax years 2018, 2020 and 2021. The existing and proposed rates of Super Tax for respective years are provided below:

Year	Existing Rate	Proposed Rate
2018	0	4
2019	4	4
2020	3	4
2021	2	4

The Bill further proposes to reduce the rate of super tax chargeable to non-banking companies for Tax Year 2020 to 0%, which is 1% under the existing provisions.

Carry forward of loss on disposal of securities is allowed - Section 37A

Under the existing provisions, the loss on disposal of securities cannot be carried forward to a subsequent tax year. The Bill now proposes to provide for the facility to carry forward of loss on disposal of securities up to three tax years immediately succeeding the tax year for which the loss was first computed. However, this loss shall only be adjustable against the income from disposal of securities chargeable to tax under section 37A. This amendment will be effective from July 1, 2019.

Exemption on income from renewal of PTA licenses - Section 49(4)

Presently, the income from sale of spectrum licenses by Pakistan Telecommunication Authority (PTA) is treated as exempt from income tax being the income of the Federal Government. The Bill proposes that, in addition to income from sale of spectrum licenses by PTA, income from renewal of the spectrum licenses by PTA shall also be treated as income of the Federal Government and will be exempt being so.

Special procedures for taxation of small traders and shopkeepers - Section 99B

A new section 99B is proposed to be inserted in the Income Tax Ordinance, 2001, which provides that the Federal Government may, by notification in the Official Gazette, prescribe special procedure for scope and payment of tax, filing of return and assessment of such small traders and shopkeepers, in such cities or territories, as may be specified. The details of these procedures are yet to be prescribed.

This provision is a step towards the broadening of tax base.

Provisional assessment for charge of tax on undeclared offshore assets – Section 123

The Bill proposes to introduce a new sub-section in section 123, which empowers the Commissioner to issue a provisional assessment order or provisional amended assessment order to a person for the last completed tax year by taking into account the undeclared offshore asset of the person.

Commercial importers brought under final tax regime - Section 148(8)(a)

Presently, tax required to be paid on import of goods, which are sold in the same condition, as they were imported, is treated as minimum tax. The Bill now proposes to bring these commercial imports under the ambit of final tax regime.

Filing of withholding tax statements - Section 165 and clause (81A), Part IV, Second Schedule

Presently, the withholding tax statements are required to be filed on monthly basis. On demand of the business community, now the Bill proposes to replace the requirement of filing of withholding tax statements from monthly basis to half yearly basis. Under the proposed regime, the withholding tax statements for the six months period ended December 31 will be required to be filed by January 31 of the next year and the, those for the six months period ended June 30 will be required to be filed by 31 July.

The Bill also proposes to empower the Commissioner to require a withholding tax agent to furnish a withholding tax statement for any period within a specified time period.

The Bill further proposes to immune the banking companies from filling of statements for taxes deducted or collected on profit on deposits and cash withdrawals. This amendment will make it difficult for the Board to serve notices to the non-filers on the basis of activities in their bank accounts.

Registration of vehicles by of non-filers – Sec. 227C, 231B read with Div VII, Part IV of 1st Schedule

The Bill proposes that the requirement of being a 'filer' for registration of the following locally manufactured vehicles will no more be applicable:

- Motor vehicles having engine capacity not exceeding 1300 CC;
- Motorcycle,
- Motorcycle rickshaw
- Rickshaw; and
- Agricultural tractor

Presently, the restriction otherwise placed on registration of a motor vehicle in the name of a non-filer is not applicable to a person holding a Pakistan origin card or a national identity card for overseas Pakistanis who produces a certificate from a scheduled bank of receipt of foreign exchange remitted from outside Pakistan through normal banking channels during a period of sixty days prior to the date of booking, registration or purchase of motor vehicle. The Bill proposes to extend this immunity to a non-resident Pakistani citizen holding international passport. However, the Bill proposes to enhance the tax rates applicable on purchase, registration of motor vehicles for non-filers as per the following schedule:

S. No.	Engine Capacity	Existing Rate (Rupees)	Proposed Rate (Rupees)
1.	Upto 850 CC	10,000	15,000
2.	851 CC to 1000 CC	25,000	37,500
3.	1001 CC to 1300 CC	40,000	60,000
4.	1301 CC to 1600 CC	100,000	150,000
5.	1601 CC to 1800 CC	150,000	225,000
6.	1801 CC to 2000 CC	200,000	300,000
7.	2001 CC to 2500 CC	300,000	450,000
8.	2501 CC to 3000 CC	400,000	600,000
9.	Above 3000 CC	500,000	675,000

Abolishment of Directorate General of Transfer Pricing – Section 230E

The Bill proposes to omit section 230E, which will result in abolishment of Directorate General of Transfer Pricing introduced vide Finance Act, 2017.

Advance tax on Stock Exchange Transactions – Section 233A

Presently, the Stock Exchanges registered in Pakistan are required to collect advance tax from their members on purchases and sales of shares on commission earned by them. The Bill proposes to abolish the collection of this advance tax effective February 01, 2019. This amendment is aimed at an attempt to boost stock exchange trading.

Rates of tax collectible on import of mobile phones – Section 148

The Bill seeks to introduce rates of tax collectible on import of mobiles phones ranging from Rs. 70 to Rs. 5,200 for the mobile phone sets having C&F value up to USD 30 & exceeding USD 500.

Tax on cash withdrawals – Section 231A & Division VI, Part IV, First Schedule

Presently, banks are required to collect tax at 0.3% from the filers, if cash withdrawals exceed Rs. 50,000 during a day. There was a long demand from taxpayers that this burden should not be applicable in case of filers. The Bill now seeks to abolish this tax collection on cash withdrawals for filers.

Tax on small functions and gatherings – Section 236D & Division XI, Part IV, First Schedule

The Bills proposes to reduce the rate of tax collectible on functions and gatherings from existing Rs. 20,000 to Rs. 5,000 in respect of function of marriage in a marriage hall, marquee or a community place having the total function area less than 500 square yards or, in case of a multi storied premises, with the largest total function area on one floor less than 500 square yards.

Second Schedule

Part I - Exemptions

The Bill proposes the following amendments in Part I of the Second Schedule:

Introduction of Exemption of income – Clause 66

- National Disaster Risk Management Fund; and
- Deposit Protection Corporation established under sub section (1) of sub section 3 of Deposit Protection Corporation Act, 2016.

Exemption of profit and gains derived by the newly established industrial undertakings – Clause 126I

The exemption already granted on the profits and gains derived by an industrial undertaking set up by the 31stday of December 2016, engaged in the manufacturing of the plant, machinery, equipment and items with dedicated use from generation of renewable energy from sources such as solar and wind, has been proposed to be extended to new industrial undertakings setup between March 1, 2019 and June 30, 2023 for a period of five (05) years beginning from the date of such industrial undertaking is set up. This amendment will be effective from 01 July 2019. This amendment is positive and is expected to promote investment in renewable energy projects.

Part III – Reduction in tax Liability

Clause 17

The Bill proposes to reduce the tax on dividend income in case of companies availing the benefit of Group Relief under section 59B. The reduction in tax on dividend will be proportionate to the percentage of ordinary shareholding of the recipient in the distributing company. This amendment was also demanded by the business groups and would benefit group companies. This change will also give rise to varied taxation of dividend income on case to case basis.

This clause is proposed to be effective from 01 July 2019.

Part IV – Exemption from specific provisions

Minimum taxation – Clause 11A

The bill proposes to provide exemption from application of minimum tax under section 113 to the following entities;

- National Disaster Risk Management Fund; and
- Deposit Protection Corporation established under sub section (1) of sub section 3 of Deposit Protection Corporation Act, 2016.

Exemption from withholding tax under section 151 and 153 – Clause 38D

Exemption from withholding of tax under section 151 on payment of profit on debt and section 153 on payments on account of goods, services and execution of contracts is proposed to be allowed to National Disaster Risk Management Fund.

Exemption for providing details under section 165(1)(a) by the Banking Companies Clause 81A.

The bill proposed to absolve banking companies from providing of details such as CNIC number, NTN and address in the case of withholding of tax on payments of interest under section 151 and cash withdrawals under section 231A for the purpose of withholding tax statements under section 165. This amendment is a sigh of relief for the taxpayers, who were being threatened by the large number of unnecessary inquiries and notices by FBR.

Exemption from application of section 236A – Clause 95A

The Bill proposes to exempt collection of advance tax at the time of sale through auction under section 236A in case of auction of franchise rights to participating teams in a national or international league organized by any board or other organization established by the Federal Government for the purposes of controlling, regulating or encouraging major games and sports recognized by the Federal Government. This clause shall be effective from July 1, 2019.

Exemption from applicability of section 231A – Clause 101A

The Bill proposes to exempt collection of advance tax on cash withdrawals from a bank account maintained in Pak Rupees in which the deposits are made solely through remittances in foreign currency.

Exemption from applicability of section 4B – Clause 111

The Bill proposes to exclude taxable income of banking company that is subjected to reduced rate of tax under newly inserted rules 7D, 7E and 7F to the Seventh Schedule for four (04) years (from Tax Year 2020 to Tax Year 2023) for payment of super tax under section 4B. This clause will be effective from July 1, 2019.

The Seventh Schedule

The Bill proposes to insert rules 7D, 7E and 7F in the Seventh Schedule to provide for reduced rate of taxation @ 20% (instead of 35%) on interest income of Banking Companies from additional advances to micro, small and medium enterprises; low cost housing finance and farm credits for four years (from Tax Year 2020 to Tax Year 2023) subject to fulfillment of certain conditions. This proposal will be effective from July 1, 2019.

SIGNIFICANT AMENDMENTS INTRODUCED IN SALES TAX ACT, 1990

Refund payment through promissory notes (*Section 67A and Tenth Schedule)*

The Government processes sales tax refunds to exporters electronically in order to maintain transparency. However, the other taxpayers are facing problems on account of outstanding refunds. In order to facilitate these taxpayers, section 67A and Tenth Schedule is proposed to be inserted. The salient features of proposed provisions are summarized below.

- Sales tax refunds may be paid through promissory notes to those taxpayers who opt to receive refund in such manner instead of cheques or electronic advice.
- Sales tax refund promissory notes shall be issued by an office, called as Note Office, to be established by the Board in lieu of sales tax refunds.
- Sales tax refund promissory notes shall be printed with security features by the Pakistan Security Printing Corporation in the manner as determined by the FBR.
- The sales tax refund promissory notes shall be issued in multiple of Rupees one hundred thousand.
- The maturity period of the sales tax refund promissory notes shall be three (3) years from the date of issuance and will carry simple profit rate of ten (10%) per annum.
- The sales tax refund promissory note shall be redeemable before maturity with profit at aforesaid rate only at the option of the FBR.
- The sales tax refund promissory shall be traded freely in the country's secondary markets and will be considered for determining statutory liquidity reserve of a banking company. Similarly, these promissory notes shall be accepted as collateral by the bank.
- There shall be no deduction of Zakat on such promissory notes.
- Sales tax refund promissory notes shall be transferable by endorsement with signature of the holder / constituted attorney / representative and delivery like a promissory note payable to order.
- No writing on a sales tax refund promissory note shall be valid for the purpose of negotiation if such writing purports to transfer only a part of the amount denominated by such note.
- The Note Office may decline to accept a sales tax refund promissory note endorsed in blank.

- The holder of sales tax refund promissory note shall present it to the Note Office at the time of maturity. Principal along with Profit will be paid to the holder through cross cheque.

- The procedures as laid down in respect of promissory notes in the Public Debt Rules 1946, should be followed where sales tax refund promissory note is lost, stolen, destroyed, mutilated or defaced either wholly or partly.

Exemptions proposed under Sixth Schedule

Table-1 (Import and Supplies)

Entry No.	Description of goods	PCT heading
117	Appliances and items required for ostomy procedures as specified in the Chapter 99 of the First Schedule to the Customs Act, 1969 subject to same conditions as specified therein	99.25
150	Plant and machinery excluding consumer durable goods and office equipment as imported by greenfield industries, intending to manufacture taxable goods during their construction and installation period subject to conditions noted below and issuance of exemption certificate by the Commissioner Inland Revenue having jurisdiction:- Conditions: (a) The importer is registered under the Act on or after the first day of July 2019; and (b) The industry is not established by splitting up or reconstruction or reconstitution of an undertaking already in existence or by transfer of machinery or plant from another industrial undertaking in Pakistan	Chapters 84 and 85

Exemptions proposed to be withdrawn under Sixth Schedule

Table-1 (Import and Supplies)

No.	Description of goods	PCT heading
118	Colostomy and urostomy bags	3926.9050

Exemption on Items related to Renewable Source of Energy under Sixth Schedule

Table-1, Entry 110 (Import and Supplies)

Certain items with dedicated use of renewable source of energy like solar and wind were exempt from applicability of Sales Tax subject to certification by the Alternative Energy Development Board (AEDB). The Bill proposes that the said exemption shall be available till 30 June 2023.

Table-3, Entry 7&14A (Plant, machinery and equipment)

Machinery, equipment and spares meant for initial installation, balancing, modernization, replacement (BMR) or expansion of projects for power generation through nuclear and renewable energy sources and certain items with dedicated use of renewable source of energy like solar, wind, micro-hydel, bio-energy, ocean, waste-to-energy, hydrogen cell and geothermal etc. are exempt from applicability of Sales Tax. The Bill proposes to extend the said exemption till June 30, 2023.

Revision of Rates under Ninth Schedule

Presently sales tax is being charged on Cellular mobile phones or satellite phones on the basis of screen size, camera, microprocessor and operating system, which is now proposed to be linked with the price as provided below:

Sr No	Description/ Specification of goods	Sales Tax on import or local supply	Sales Tax (chargeable at the time of registration of IMEI number by CMO's)	Sales Tax on supply (payable at the time of supply by CMO's
2	Cellular mobile phones or satellite phones to be charged on the basis of import value per set, or equivalent value in rupees in case of supply by the manufacturer, at the rate as indicated against each category:			
A	Not exceeding US$ 30	Rs. 150	Rs. 150	-
B	Exceeding US$ 30 but not exceeding US$ 100	Rs. 1,470	Rs. 1,470	-
C	Exceeding US$ 100 but not exceeding US$ 200	Rs. 1,870	Rs. 1,870	-
D	Exceeding US$ 200 but not exceeding US$ 350	Rs. 1,930	Rs. 1,930	-
E	Exceeding US$ 350 but not exceeding US$ 500	Rs. 6,000	Rs. 6,000	-
F	Exceeding US$ 500	Rs. 10,300	Rs. 10,300	-

SIGNIFICANT AMENDMENTS INTRODUCED IN FEDERAL EXCISE ACT, 2005

Appointment and delegation of powers of Federal Excise Officers - Section 29(2)

Section 29(2)(aa)(ii) empowers the Board to confer powers of authorities specified in Section 29(1) upon the Directorate General (Intelligence & Investigation) and its officers.

However, instead of referring to Section 29(1), reference was made to Section 30 erroneously. The Bill now seeks to amend this provision to correct this mistake.

FED rates enhanced on imported vehicles

Table-I of the First Schedule

S. No.	Description of goods	Existing FED Rate	Proposed FED Rate
55.	Imported motor cars, SUVs and other motor vehicles of cylinder capacity of 1800cc or above ***but not exceeding 3000cc***, principally designed for the transport of persons (other than those of headings 87.02), including station wagons and racing cars of cylinder capacity of 1800cc or above ***but not exceeding 3000cc***	20% ad.val.	25% ad.val.

The Bill, besides enhancing the FED rate from 20% to 25%, also proposes to insert the expression 'but not exceeding 3000cc', as highlighted above.

New slabs of FED rates for imported and locally assembled vehicles

Table-I of the First Schedule

S. No.	Description of goods (classified under PCT heading 87.03)	Proposed FED Rate
55A	Imported motor cars, SUVs and other motor vehicles of cylinder capacity of 3000cc or above, principally designed for the transport of persons (other than those of headings 87.02), including station wagons and racing cars of cylinder capacity of 3000cc or above	30% ad.val.
55B	Locally manufactured or assembled motor cars, SUVs and other motor vehicles of cylinder capacity of 1800cc or above, principally designed for the transport of persons (other than those of headings 87.02), including station wagons and racing cars of cylinder capacity of 1800cc or above	10% ad.val.

Previously, imported vehicles exceeding 1800cc were liable to 20% FED and no FED was applicable on locally manufactured vehicles. Now, imported vehicles of 1800cc to 3000cc will be liable to 25% FED and imported vehicles exceeding 3000cc will be liable to 30% FED. Now, the locally manufactured vehicles will be subject to 10% FED.

SIGNIFICANT AMENDMENTS INTRODUCED IN THE CUSTOMS ACT, 1969

1. Benefit of exemption from customs duty on import of all items for Ostomy use is proposed to be extended in addition to colostomy bags and appliances.
2. Existing 5% customs duty on import of newsprint is proposed to be exempted.
3. Customs duty on Plastic Moulding Compound is proposed to be reduced from 5% to 3%.
4. Customs duty on industrial inputs covered under (53 tariff lines) is proposed to be either removed or reduced and Additional Customs Duty on industrial inputs covered under 22 tariff lines is proposed to be removed. This measure will be implemented with effect from 31st March, 2019.
5. Regulatory Duty on industrial inputs covered under 30 tariff lines is proposed to be either removed or reduced.
6. Regulatory duty on smuggling prone items like Tyres, Padlocks, Groundnuts, Food / Chocolate preparations, Floor Coverings, Vacuum flasks falling under 24 tariff lines is proposed to be reduced.
7. Regulatory duty is proposed to be removed on input materials (approximately 200 tariff lines) imported under SRO 655(I)/2006 dated 05.06.2006 that are used for manufacturing of auto parts by local vendors.
8. Collection of duty and taxes on mobile phones is proposed to be rationalized through collection of all duty/taxes on uniform slabs based on C&F values at the fixed rates.
9. Regulatory duty leviable on export of lead, lead products, scrap of lead and copper scrap is proposed to be removed in respect of exports made under DTRE / Manufacturing Bond Schemes.
10. In order to facilitate exporters, especially SMEs, significant changes have been proposed in the Export-Oriented Schemes with a view to improve competitiveness of the export sector.