

Finance Bill, 2011

Indirect Taxes

(An overview of significant amendments proposed and their implications)

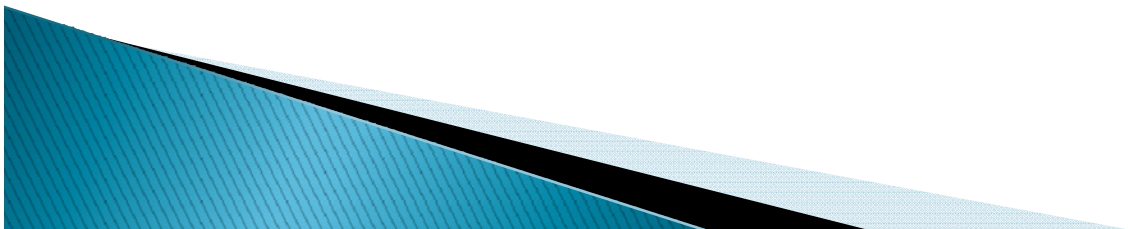
PRESENTATION BY:
Asim Zulfiqar Ali, FCA

A. F. Ferguson & Co. – a member Firm of  **pwc**

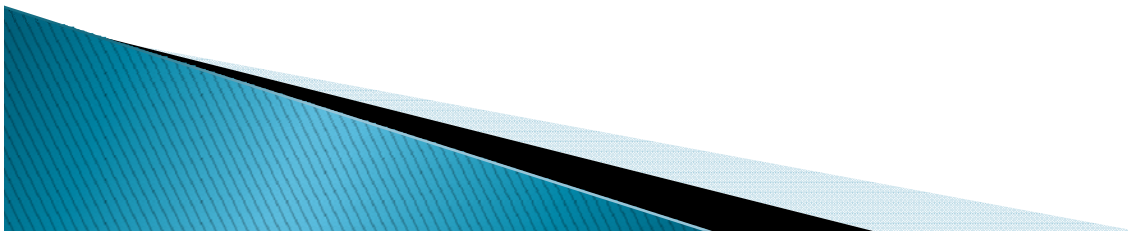


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Sales Tax Act, 1990



Sales Tax Act, 1990

RATE OF TAX REDUCED

[Section 3(1)]

General rate of sales tax is proposed to be reduced from 17% to 16% effective from July 1, 2011. This implies that the provisional increase of 1%, introduced through Finance Act, 2010 (pending the implementation of RGST), has been withdrawn;

No amendment has been proposed in respect of goods covered by notification SRO 644(I)/2007 dated June 27, 2007 whereby, in consequence of 1% increase through Finance Act, 2010, the higher rates of 18.5% and 21% were enhanced to 19.5% and 22% respectively;

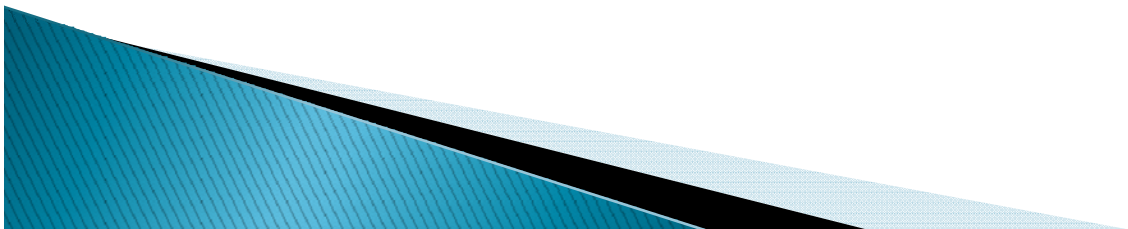
Sales Tax Act, 1990

ADJUSTABLE INPUT TAX ON FIXED ASSETS AND CAPITAL GOODS - [Section 8B]

The tax charged on acquisition of fixed assets has now been proposed to be made fully adjustable in the “month” of acquisition.

In consequence of proposed amendments following restrictions, earlier applicable on claim of input sales tax regarding acquisition of fixed assets, are proposed to be withdrawn:

- (a) adjustment in 12 equal monthly instalments; and
- (b) the adjustment of input tax in excess of ninety per cent of the output tax.



Sales Tax Act, 1990

DEREGISTRATION, BLACK LISTING AND SUSPENSION OF REGISTRATION

[Section 21(3)]

The Commissioner Inland Revenue, if satisfied that a registered person is found to have issued fake invoices or has otherwise committed tax fraud, may blacklist such person or suspend his registration in accordance with the prescribed procedure.

During the period of suspension of registration, the invoices issued by such person shall not be entertained for the purposes of sales tax refund or input tax credit, and once such person is blacklisted, the refund or input tax credit claimed against the invoices issued by him, **whether prior or after such blacklisting**, shall be rejected through a self speaking appealable order.

This aims at nullifying the effect of decisions recently issued by appellate courts whereby it has been held that in case of *bona fide* payments, input tax adjustment/ refund cannot be denied in respect of invoices pertaining to periods prior to suspension/ blacklisting.

Sales Tax Act, 1990

REVISED RETURNS

[Section 26(3) / Rule 14A of Sales Tax Rules, 2006]

A registered person may, subject to the approval of the Commissioner Inland Revenue, file a revised return within one hundred and twenty days of the filing of monthly return to correct any omission or wrong declaration made therein.

The facility of revision of return in the aforesaid manner is proposed to be extended to the 'special returns' required to be filed by certain manufacturers under section 27.

The facility to file a revised return by a registered person where tax was payable over and above the tax already paid along with the original return without seeking prior approval of the Commissioner Inland Revenue has been withdrawn.

Sales Tax Act, 1990

ALTERNATE DISPUTE RESOLUTION COMMITTEE ('ADRC')

[Section 47A(4A) and Rule 65(3) of Sales Tax Rules, 2006]

Currently, Chairman FBR (on an application by an aggrieved person) is empowered to pass an order to rectify an error in the order of FBR earlier given on the recommendations of ADRC.

Through the proposed amendment, such power would stand vested in a committee comprising of Chairman and a member of FBR to be nominated by Chairman in this behalf.

The period of submission of the report by ADRC to FBR has also been extended from sixty to ninety days.

Sales Tax Act, 1990

REFUND TO BE CLAIMED IN ONE YEAR

[Section 66]

Refund of tax overpaid through inadvertence or input tax adjustment not claimed within the relevant tax period, is allowed, within one year of the date of payment, subject to certain exceptions.

A new provision is proposed whereby provisions similar to section 3B have been made applicable to refunds under section 66. Accordingly, no refund shall be admissible if the incidence of tax has been passed directly or indirectly to the consumer.

Sales Tax Act, 1990

CONDONATION OF TIME LIMIT

[Section 74]

Where any time or period has been specified under the law within which any application is to be made or any act or thing is to be done, the FBR / Commissioner Inland Revenue (if so authorised) may permit such application to be made or such act or thing to be done within such time or period as it may consider appropriate.

An explanation is proposed to be added to clarify that the above powers of condonation of time limit applies to any act or thing to be done by a registered person and **sales tax authorities**.

The Explanation could be construed to extend time limitation even in the case of adjudication conducted by sales tax authorities.

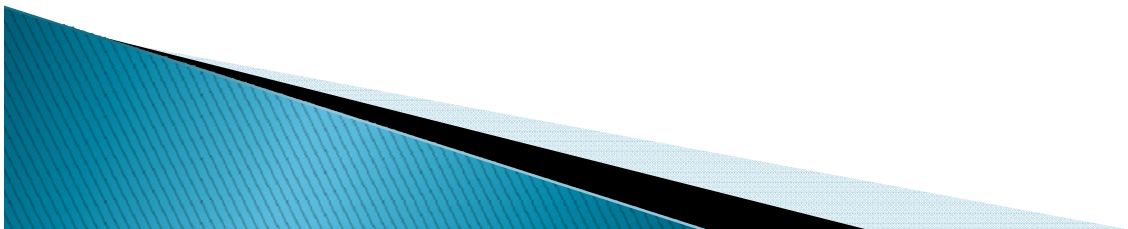
Sales Tax Act, 1990

SALES TAX SPECIAL PROCEDURE RULES, 2007

[Rules 58B]

The rate of minimum value addition sales tax payable by an importer at import stage has been enhanced from two per cent to three per cent of the value of imports with effect from June 4, 2011.

This effectively means that reduction of 1% in sales tax rate would not apply for commercial importers.



Sales Tax Act, 1990

EXEMPTIONS WITHDRAWN - Effective from June 4, 2011

SIXTH SCHEDULE

TABLE – I (Imports or supplies)

| Serial No. | Description | Heading Nos. of First Schedule to the Customs Act, 1969 |
|------------|--|---|
| 29A | Surgical tapes | 30.05 |
| 29B | Ultrasound gel | 3006.7000 |
| 30 | Diapers for adults (patients) | 4818.4010 |
| 34 | Bricks | 6901.0000 |
| 35 | Building blocks of cement including ready mix concrete blocks | 6810.1100 |
| 41 | Computer software | 8523.2990, 8523.4010, 8523.4090, 8523.5990, and 8523.8090 |
| 42 | Ambulances, firefighting vehicles, waste disposal trucks, brake down lorries, special purposes vehicles for the maintenance of streetlights and overhead cables. | 87.02, 87.03, 8704.2200, 8704.2300, 8705.3000 and 8705.9000 |
| 43 | Aircrafts | 8802.2000, 8802.3000 and 8802.4000 |

Sales Tax Act, 1990

SIXTH SCHEDULE

TABLE – I (Imports or supplies)

(...continued)

| Serial No. | Description | Heading Nos. of First Schedule to the Customs Act, 1969 |
|------------|--|---|
| 44 | Ships, of gross tonnage exceeding 15 LDTs, excluding those for recreational or pleasure purpose. | 8901.2000, 8901.3000 and 8901.9000 |
| 62 | Defence stores, whether manufactured locally or imported by the Federal Government against foreign exchange allocation for defence, including trucks, trailers and vehicles falling under PCT heading 87.04 of the First Schedule to the Customs Act, 1969 (IV of 1969), specially modified for mounting defence equipments, their parts and accessories for supply to Armed Forces. | Respective headings |
| 64 | Spare parts and equipment for aircraft and ships covered by serial number 43 and 44 above. | Respective headings |
| 65 | Equipment and Machinery for pilotage, salvage or towage for use in ports or airports. | Respective headings |
| 66 | Equipment and Machinery for air navigation. | Respective headings |
| 67 | Equipment and machinery used for services provided for handling of ships or aircrafts in a customs-port or customs-airport. | Respective headings |

Sales Tax Act, 1990

SIXTH SCHEDULE

TABLE – I (Imports or supplies)

(...continued)

| Serial No. | Description | Heading Nos. of First Schedule to the Customs Act, 1969 |
|------------|---|---|
| 68 | Such plant and machinery as is notified by the Federal Government in the official Gazette but if imported, these shall be entitled to exemption from sales tax on importation if these are not manufactured in . | Respective headings |
| 69 | Bulldozers and combined harvesters; and components (which include sub-components, components, sub-assemblies and assemblies but exclude consumables) imported in any kit form and direct materials or assembly or manufacture thereof, subject to the same conditions as are envisaged for the purpose of exemption under the Customs Act, 1969 (IV of 1969). | Respective headings |
| 70 | Import and supply of fully dedicated CNG Euro-2 buses whether in CBU or CKD condition. | 8702.9010 and 8702.9090 |

Sales Tax Act, 1990

EXEMPTIONS WITHDRAWN - Effective from June 4, 2011

SIXTH SCHEDULE, TABLE – II (Local Supplies only)

| Serial No. | Description | PCT Heading |
|------------|---|---------------------|
| 5 | Supply of other such agricultural implements as may be specified in a notification to be issued by the Federal Government in the official Gazette | Respective headings |

Sales Tax Act, 1990

EXEMPTIONS WITHDRAWN - Effective from June 4, 2011

- (1) Notification SRO 477(I)/2011 amended the SRO 575(I)/2006 dated June 5, 2006 as follows:

| Serial No. | Description | PCT Heading |
|------------|---|---------------------|
| 1. | Agricultural machinery (e.g. Land levelling machinery and equipment, Fertilizers and plant protection equipment, harvesting and threshing machinery, dairy, live stock and poultry machinery, Horticulture and floriculture, Fish and shrimp farming and seafood processing machinery and equipment). | Numerous |
| 5. | Following items imported by the local assemblers of vehicles and companies having CNG licences | |
| | (1) Compressors | 8414.8030 |
| | (2) Mass Flow CNG Dispensers | 8413.1100 |
| | (3) Storage cylinders | 7311.0000 |
| | (4) CNG vehicles cylinders | 7311.0000 |
| | (5) CNG vehicle conversion kits | 8409.9191 8409.9991 |
| | (5A) LPG dispensers imported by a company having LPG licence | 8413.1100 |

Sales Tax Act, 1990

Notification SRO 477(I)/2011

(...continued)

| Serial No. | Description | PCT Heading |
|------------|--|-----------------------------------|
| 22(i) | Off-highway dump trucks of 320 hp and above | 8704.1090 |
| 22(ii) | On-highway dump trucks of 320 HP and above imported with effect from January 17, 2007 | 8704.2299 8704.2390 |
| 22(iii) | Cement bulk semi-trailers, without prime movers | 8716.3190 |
| 28. | Certain goods imported by municipal authorities / local bodies / cantonment boards | Numerous |
| 28A. | Fire fighting vehicles and equipment imported by town and municipal authorities. | 8705.3000 and respective headings |
| 29. | Aircraft spares, parts, tyres, navigational equipment, accessories for maintenance and operations of aircrafts, chemicals, lubricants and paints, air tickets, aircraft carpet, aircraft fabric, skydrol (brake fluid), laminated sheet, aluminum alloy sheets, aluminum alloy extrusions, aircrafts seats, tools, test equipment, life jackets, spares of TGS vehicle, meals trolley, ball hand seal, standard units, exterior washing liquid, air head set electronics, air head set pneumatic and sealants. | Respective headings |
| 36. | Certain items imported by Civil Aviation Authority (CAA) for air traffic services and training | |

Sales Tax Act, 1990

EXEMPTIONS WITHDRAWN - Effective from June 4, 2011

(2) Through SRO 480(I)/2011 dated June 3, 2011 following Notifications have been rescinded

| Serial No. | Notification rescinded | Description |
|------------|--|--|
| 1 | S.R.O 1240(I)/2005 dated December 16, 2005 | Dump trucks for off-highway use, on-highway dump trucks of 320 HP and above (PCT heading 8704.2290 and 8704.2390) and transit concrete mixer |
| 2 | S.R.O 542(I)/2006 dated June 5, 2006 | a) Supply of locally manufactured agricultural machinery, equipment and implements. b) Import of agricultural machinery, equipment and implements |
| 3 | S.R.O 275(I)/2008 dated March 12, 2008. | Import and supply of CKD Kits of single cylinder agriculture diesel engines of 3 to 36 HP. |
| 4 | 1(3) STM/2004 (Pt-II) dated August 23 2009 | Local supplies of sugar (chargeable at the rate of eight percent). |

Sales Tax Act, 1990

EXEMPTIONS WITHDRAWN - Effective from June 4, 2011

- (3) Through Notification SRO 481(I)/2011 dated June 3, 2011 following amendments have been made in SRO 551(I)/2008 dated June 11, 2008

| Serial No. | Description | PCT Heading |
|------------|--|----------------------------|
| 2 | CNG kits, cylinders and valves for CNG kits | Respective headings |
| 12 | Commercial catalogues | 4911.1000 |
| 15 | Rock phosphate | 2510.1000 and 2510.2000 |
| 17 | Phosphoric Acid | 2809.2010 |
| 18 | Mineral oil 97 per cent (W/V) 110 per cent (W/V) | 2710.0000 |

Sales Tax Act, 1990

EXEMPTIONS ALLOWED - Effective from June 4, 2011

- (1) Through Notification SRO 481(I)/2011 dated June 3, 2011 following amendments have been made in SRO 551(I)/2008 dated June 11, 2008

| Serial No. | Description | PCT Heading |
|------------|---|--|
| 27 | White crystalline sugar (Made subject to Federal Excise Duty at same rate) | 1701.9910 (cane sugar) and 1701.9920 (beet sugar) |
| 28 | Reclaimed lead if supplied to recognized manufacturers of lead batteries. | Respective headings |

Sales Tax Act, 1990

EXEMPTIONS ALLOWED - Effective from June 4, 2011

- (2) Through Notification SRO 483(I)/2011 dated June 3, 2011 following amendments have been made in SRO 880(I)/2007 dated September 1, 2007

| Serial No. | Description (Diagnostic kits or equipment) | PCT Heading |
|------------|---|-------------|
| 50. | Calibrated | 3822.0000 |
| 59. | Eclia Kit | 3822.0000 |

Sales Tax Act, 1990

ZERO RATING WITHDRAWN - Effective from June 4, 2011

- (1) Through Notification SRO 485(I)/2011 dated June 3, 2011, SRO 1161(I)/2007 dated November 30, 2007 has been rescinded

| Description | Raw Material | PCT Heading |
|---|---|-----------------------------------|
| <i>Manufacturing of diapers HS Code 5601.1040</i> | Super Absorbent Polymers | 3906.9090 |
| | Poly Back Sheet | 3920.1000 and 3920.9900 |
| | Hot Melt Adhesive Non-Woven, whether or not impregnated, coated, covered or laminated of man-made filaments. | 3506.9190 5603.1100 and 5603.1200 |
| | Toilet or facial tissue stock, towel or napkin paper of a kind used for household or sanitary purpose (non-pours) | 4803.0000 |
| | Frontal Tape | 3919.9090 and 3920.9900 |
| | Pre-Laminated Tape | 3919.1090 and 3920.9900 |
| | Fluff Pulp | 4703.2100 |
| | Spandex Bare Yarn | 5402.4900 |

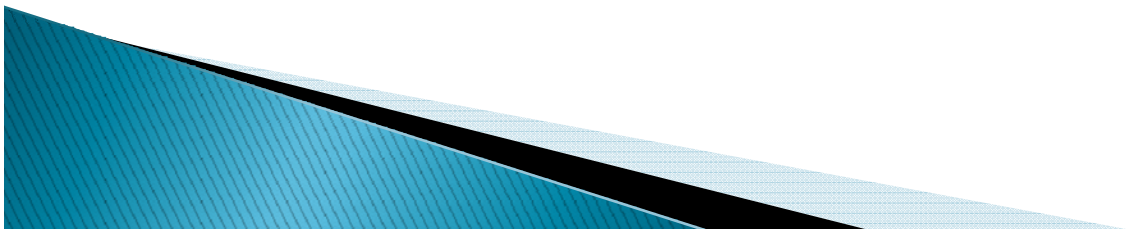
Sales Tax Act, 1990

ZERO RATING WITHDRAWN - Effective from June 4, 2011

- (2) Through Notification SRO 486(I)/2011 dated June 3, 2011 following amendments have been made in SRO 549(I)/2008 dated June 11, 2008

| Serial No | Raw Material | PCT Heading |
|------------|--|---|
| 4. (xxv) | Dedicated CNG buses and all other buses meant for transportation of forty or more passengers whether in CBU or CKD condition | 87.02 |
| 4. (xxvi) | Trucks and dumpers with g.v.w. exceeding 5 tonnes | 87.04 |
| 4. (xviii) | Trailers and semi-trailers for the transport of goods having specifications duly approved by the Engineering Development Board | 87.16 |
| 4. (xxix) | Road tractors for semi-trailers, prime movers and road tractors for trailers whether in CBU condition or in kit form | 8701.2010, 8701.2020, 8701.2030, 8701.2090, 8710.9030, 8701.9040, 8701.9050 and 8701.9060 |

Federal Excise Act, 2005



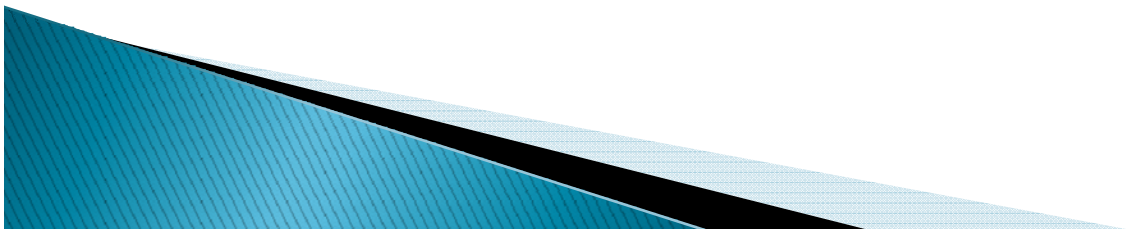
Federal Excise Act, 2005

DEFINITION OF MANUFACTURE

[Section 2(16b)]

The definition of the term 'Manufacture' is proposed to be amended to include preparation of un-manufactured tobacco by drying, cutting and thrashing of raw tobacco;

This proposal seems to make undocumented tobacco sector subject to Federal Excise Duty;



Federal Excise Act, 2005

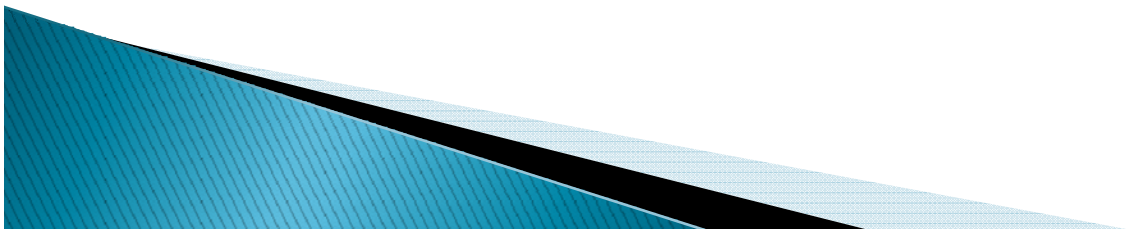
SPECIAL EXCISE DUTY WITHDRAWN

[Section 3A]

Through the Finance Act 2007, Special Excise Duty (SED) was levied on all goods imported or manufactured in Pakistan, except those specified in SRO 655(I)/2007 dated June 29, 2007 to be exempt.

The rate of SED originally introduced was 1 per cent which was increased to 2.5 per cent through the Federal Excise (Amendment) Ordinance, 2011.

SED is proposed to be withdrawn effective July 1, 2011. Consequently, SRO 655(I)/2007 is being rescinded through SRO 489(I)/2011 dated June 3, 2011, effective July 1, 2011.



Federal Excise Act, 2005

RECOVERY OF DUTY NOT OR SHORT LEVIED OR ERRONEOUSLY REFUNDED

[Section 14]

The time limitation for issuing show-cause notice for recovery of the duty short paid/ not paid and refunded erroneously is proposed to be increased from 3 to **5 years**.

Further, time limitation for passing an order, concluding adjudication, is proposed to be laid down at 120 days extendable for a further period of 60 days to be sanctioned by the Commissioner.

The proposed amendments are in line with the provisions of the Sales Tax Act, 1990 for making assessments, except that under the Sales Tax Act, 1990 in case where tax is evaded or short levied or paid by reason of any inadvertence, error or misconception, the time limit for making the assessment is 3 years, whereas in the proposed amendment there is no such distinction.

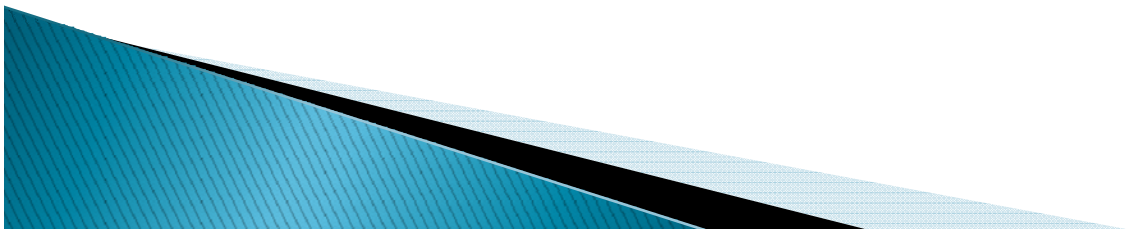
Federal Excise Act, 2005

POWER TO SEIZE AND CONFISCATE EXTENDED FOR BEVERAGES

[Sections 26 & 27]

At present, counterfeited cigarettes or those which have been manufactured unlawfully or on which duty has not been paid, can be seized or confiscated.

Such powers have been proposed to be extended to include beverages.



Federal Excise Act, 2005

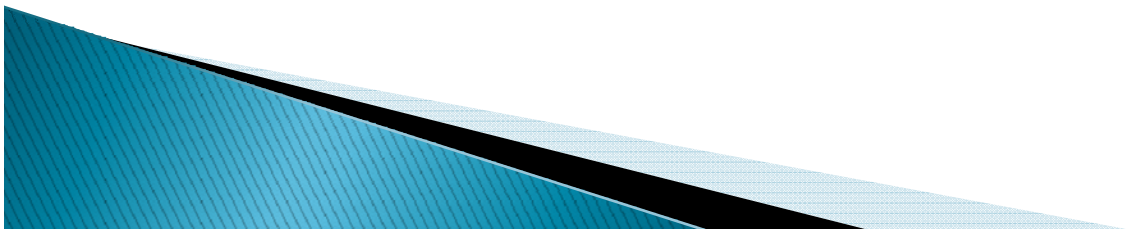
ALTERNATIVE DISPUTE RESOLUTION

[Section 38]

ADRC is required to make recommendations within the stipulated time, and the FBR is empowered to pass such order as it may deem appropriate on the recommendations of the committee.

A time limitation has now also been laid down at 45 days for FBR to pass an order on receipt of the recommendations ADRC. Previously, there was no such time limit to pass an order.

The amendment is in line with similar provisions contained in the Sales Tax Act, 1990.



Federal Excise Act, 2005

IMPOSITION OF DUTY ON SUGAR UNDER SALES TAX MODE

[First Schedule (S. No. 53) and Second Schedule]

As a result of withdrawal of sales tax on Sugar, duty is proposed to be imposed on import and local supply of white crystalline sugar (headings 1701.9910 and 1710.9920) at the rate of 8 per cent which is the same rate at which currently the sales tax is payable. Further, the product is proposed to be placed in Second Schedule which means entitlement to adjustment with sales tax.

One of the reasons for switch over could be to control the price of this product of basic utility by eliminating tax on subsequent value addition stages.

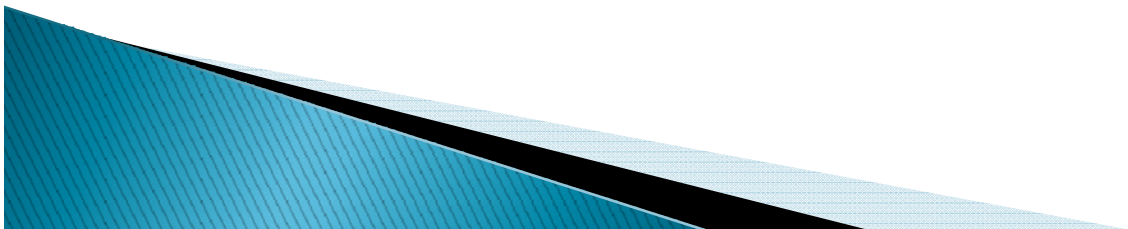
Federal Excise Act, 2005

DUTY ON FRANCHISE SERVICES

[SRO 488(I)/2011 dated June 3, 2011 read with Rule 43A of the Federal Excise Rules, 2005]

Through the Finance Act 2008, duty on franchise services was increased from 5 to 10 per cent, however, corresponding amendment was not made in Rule 43A of the Federal Excise Rules, 2005 which provides special procedures for collection of duty on franchise fee.

Through SRO 488(I)/2011, a corrective amendment has been made in Rule 43A, and the rate of duty is rectified at 10 per cent.



Federal Excise Act, 2005

DUTY ON SERVICES OF CABLE TV OPERATOR

[SRO 484(I)/2011 dated June 3, 2011]

Through the Finance Act, 2006, duty on services provided by Cable TV operators was levied, which was withdrawn through the Finance Act, 2007 effective from July 1, 2007. Through SRO 364(I)/2007 dated May 3, 2007, the Federal Government had provided a reduced rate of duty of Rs 8 per subscriber per month, which had become redundant, as a result of withdrawal of duty on cable TV operators.

Through SRO 484(I)/2011 dated June 3, 2011, the aforesaid SRO 364(I)/2007 has been withdrawn.

Federal Excise Act, 2005

REVISION IN RATE OF DUTY

[FIRST SCHEDULE]

- Rate of duty on aerated beverages have been reduced from 12% to 6% - effective July 1, 2011;
- Rate of duty on cement has been reduced from Rs 700 per Metric Tonne to Rs 500 per Metric Tonne – effective July 1, 2011;
- Rate of duty in respect of cigarettes and filter rods have been rationalized – effective July 1, 2011.
- Rate of duty in respect of un-manufactured tobacco has been increased from Rs 5/Kg to Rs 10/ Kg – effective June 4, 2011.

Federal Excise Act, 2005

WITHDRAWAL OF DUTY - Effective from July 1, 2011

(1) GOODS

| Serial No. | Description | Heading / sub-heading No | Present rate of duty |
|------------|---|------------------------------------|---|
| 17 | Solvent oil (non-composite) | 2710.1150 | Rs 13 per litre |
| 18 | Other | 2710.1190 | Rs 0.88 per litre |
| 21 | Other fuel oils | 2710.1949 | Rs 185 per metric ton |
| 26 | Mineral greases | 2710.1992 | Rs 25 per kilogram |
| 28 | Transformer oil | 2710.1997 | 10 per cent of the retail price or Rs 7.15 per litre, whichever is higher |
| 29 | Other mineral oils excluding sewing machine oil | 2710.1999 | 15 per cent ad val. |
| 30 | Waste oil | 2710.9100 and 2710.9900 | 10 per cent of the retail price or Rs 7.15 per litre, whichever is higher |
| 39 | Carbon black oil (carbon black feed stock) including residue carbon oil | 2707.9910, 2713.9010 and 2713.9020 | Rs 7.15 per litre |
| 40 | Methyl tertiary butyle ether (MBTE) | 2909.1910 | Rs 0.88 per litre |
| 46 | Greases | 3403.1910 | Rs 25 per kilogram |

Federal Excise Act, 2005

WITHDRAWAL OF DUTY - Effective from July 1, 2011

(1) Goods (...continued)

| Serial No. | Description | Heading / sub-heading No | Present rate of duty |
|------------|---|--------------------------|-----------------------------|
| 47 | Organic composite solvents and thinners, not elsewhere specified or included; prepared paint or varnish removers: | 3814.0000 | |
| | (i) Solvent oil (composite) | | Rs 30 per litre |
| | (ii) Other (excluding thinners) | | 10 per cent of retail price |
| 48 | Viscose staple fibre | Respective heading | 10 per cent ad val |
| 49 | Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 87.02), including station wagons and racing cars of cylinder capacity exceeding 850cc. | 87.03 | 5 per cent ad val |
| 51 | Air Conditioners | Respective headings | 10 per cent ad val |
| 52 | Deep Freezers | Respective headings | 10 per cent ad val |

Federal Excise Act, 2005

WITHDRAWAL OF DUTY - Effective from July 1, 2011

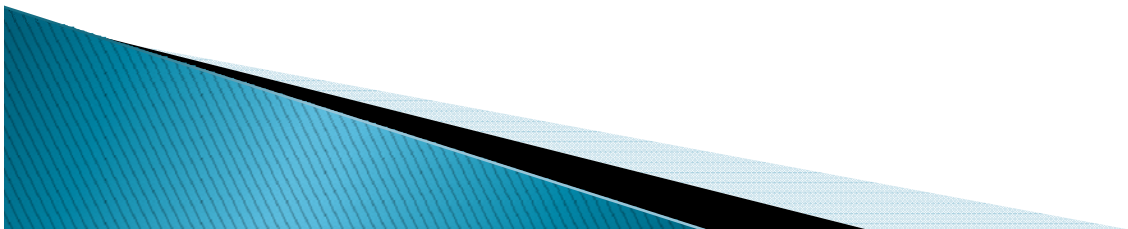
(2) SERVICES

| Serial No | Description | Heading / sub-heading No | Present rate of duty |
|-----------|---|--------------------------|---------------------------------------|
| 12 | Services provided by property developers or promoters for: | 9814.3000 | |
| | (a) Development of purchased or leased land for conversion into residential or commercial plots | | Rs 100 per square yard |
| | (a) Construction of residential or commercial units | | Rs 50 per square foot of covered area |

Conclusions

The Finance Bill aims at facilitating the industry/manufacturing sector inter-alia through following proposed amendments:

- Reduction in the rate of sales tax by 1%;
- Abolition of special excise duty currently applicable @ 2.5%;
- Reduction in the rate of excise duty on cement and beverages;
- Rationalization of duty structure on cigarettes;
- Removal of excise duty on air conditioners, deep freezers and certain industrial input materials like oils/ lubricants etc.;
- Removal of restriction on 'immediate' claim of input sales tax on acquisition of fixed assets and capital goods; and
- Tax Credit on equity funded investment (income tax perspective).



THANK YOU

Project Petal

