

Post Budget Seminar 2022

**Amendments Proposed Through
The Finance Bill 2022**

Indirect Taxes

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Overview

- ▶ We cover amendments introduced through the Finance Act 2022 in following laws –
 - ▶ The Sales tax Act 1990 (the ST Act)
 - ▶ The Federal Excise Act 2005 (the FE Act)
 - ▶ The Islamabad Capital Territory (Tax on Services) Ordinance 2001 (the ICT Ordinance)

Production, Transmission and Distribution of Electricity Sections 2(12) “goods” and 2(33) “supply”

- ▶ The expression ‘**production, transmission and distribution of electricity**’ is added in the definitions of “**Goods**” and “**Supply**”.
- ▶ “**goods**” include production, transmission and distribution of electricity, **every kind of movable property** other than actionable claims, money, stocks, shares and securities;
- ▶ “**supply**” means **a sale** or other transfer of the right to dispose of goods as owner, including such sale or transfer under a hire purchase agreement, and also includes –
 - d) in case of manufacture of goods belonging to another person, **the transfer or delivery of such goods** to the owner or to a person nominated by him
 - e) production, transmission and distribution of electricity
- ▶ **Target to taxing “transmission and distribution of electricity” without sale of electricity ?**
- ▶ **Can definition clause of an Act override the constitutional arrangement ?**

Supplies / Services of Restaurants and Caterers S. No 53 Table 1 Sith Schedule / S. No 1 Table I the ICT Ordinance

- ▶ Supply of “**prepared food or foodstuff by restaurants and caterers**” is proposed to be exempt from sales tax on goods. S. No 53 Table -1 6th Schedule.
 - ▶ Taxed through the Finance Act 2018
 - ▶ Services of restaurants and caterers have also been also covered under the provincial sales tax laws.
- ▶ “**Services of restaurant and caterers including supply of foods**” are also included in S. No 1 of Table -1 to the ICT Ordinance to tax being “**services**”.
- ▶ **The CM of Sindh announced in Budget Speech, Sindh sales tax on “Services of Toll Manufacturing” will be withdrawn.**
- ▶ **Apparently the suggested amendments would now rest the dispute between the Federal and Provincial tax authorities on above issues.**

Further Tax Section 3(1A)

- ▶ **Further tax at the rate of 3%** is chargeable on taxable supplies made to a person **who has not obtained a sales tax registration number**.
- ▶ The Bill seeks to broaden the scope of further tax on **supplies made to registered persons who are not an active taxpayers**.
- ▶ The **FBR officials are already making cases** for recovery of non charging of “further tax” on supplies to registered persons who are non active.
- ▶ **Undue hurdles for suppliers**, who would now be required **to check each invoice at the time of its issuance**, whether the registered customer is active or not.
- ▶ Active taxpayer status varies on the FBR Portal on a real time basis, i.e Date of Invoice or supply, and date of declaration in Sales Tax return.
- ▶ It is recommended that FBR considers the removal of this hardship for the benefit of taxpayers.

Requirement of NIC or NTN on Invoice and Tax Credit not Allowed Section 23(1)(b) and Section 8(1)(m)

- ▶ Mandatory requirement of mentioning of **NIC number or the NTN of the recipient in case of supplies made to unregistered persons** was introduced in Section 23(1)(b) of the ST Act through the Finance Act 2019.
- ▶ Corresponding Section 8(1)(m) also introduced alongside for disallowing input tax on a pro-rata basis, where the sales invoices on supplies to unregistered persons do not mention the NIC number or NTN.
- ▶ **The Bill now proposes to omit both the provisions as provided under Section 23(1)(b) and Section 8(1)(m) of the ST Act.**
- ▶ **These provisions were introduced for documentation of the economy and to target unregistered business segments to register under the ST Act.**
- ▶ **Undue burden on Registered or Documented business.**

Adjustable Input Tax Section 8B(1)

- ▶ Section 8B(1) restricts the adjustment of input tax to the extent of 90% of the output tax in relation to a tax period.
- ▶
- ▶ Through the Finance Act, 2021, **an exception** to the above restriction was introduced **for “public limited companies listed on the Pakistan Stock Exchange”**.
- ▶ **Now Bill now seeks to withdraw such exception.**
- ▶ As a result public limited companies listed on the Pakistan Stock Exchange will also not be able to adjust their input tax, in excess of 90% of their output tax, for a tax period.

Retailers Section 3(9)

- ▶ Sales tax is charged from retailers (other than Tier-1 retailers) through monthly electricity bills at ratio of value of supply of electricity.
- ▶ The Bill now seeks to substitute the rates of sales tax with fixed slabs of amount of tax, as following-

Monthly Electricity Bill	Existing Rates	Proposed Fixed Amount
Upto PKR 20,000	5%	PKR 3,000 per month
Upto PKR 30,000	7.5%	PKR 3,000 per month
Upto PKR 50,000	7.5%	PKR 5,000 per month
Exceeds PKR 50,000	7.5%	PKR 10,000 per month
FBR Prescribed Persons		PKR 50,000 per month

- ▶ This fixed amount includes Income tax liability also.
- ▶ **A retailer whose cumulative electricity bill during the immediately preceding twelve consecutive months does not exceed PKR 1,200,000 is not covered under Tier-1 Retailer.**

Fee and Service Charges Section 2(29A)(b) and Section 76

- ▶ Section 2(29A) defines the term **Sales Tax**, which includes any amount of tax, additional tax, default surcharge, a fine, penalty or fee, or any other sum payable under the provisions of the ST Act.
- ▶ The Bill now seeks to **exclude fees and service charges levied under Section 76 from the scope of sales tax**.
- ▶ This step appears to be aimed at providing legal protection to the fee of PKR 1, recently levied by the FBR under Section 76 of the ST Act on issuance of PoS invoices. **Similar Amendment is also proposed in the FE Act.**
- ▶ **Time and Manner of Payment - Section 6(5)**
- ▶ The Bill seeks to insert a new Sub-section 6(5) to the ST Act, whereby the Federal Government, through a notification, may allow the payment of Sales Tax on an installments basis by the Federal or Provincial Governments, or any public sector organization on the import or supply of any goods or class of goods.

Discontinuance of Gas and Electricity Connections Online Integration and Online Market Place Section 14AB, 3(7) and 3(11)

- ▶ **Through the Tax Laws (Third Amendment) Ordinance, 2021 dated 15 September 2021, following provisions were introduced in the ST Act-**
 - ▶ Section 14A was inserted to empowering the FBR to **discontinue the supply of gas and electricity to the following persons**, while notifying the gas and electricity distribution companies
 - ▶ Any person including **Tier-1 retailers Fails to register for Sales Tax purposes**
 - ▶ **Registered Tier-1 retailers Not integrated with the FBR's Computerized System**
 - ▶ Sub-section 3(10) was inserted to provide a **general power to the FBR to require any person or class of persons, to integrate their invoice issuing machines with the FBR's Computerized System for real-time reporting of sales.** And
 - ▶ A proviso was inserted in Sub-section 3(7), to clarify that in case of **sale of third-party goods through an online marketplace, the liability to withhold sales tax on goods shall be on the operator of such marketplace**, at the rate provided under the Eleventh Schedule to the ST Act.
- ▶ **The Bill now seeks to make it part of the law by an Act of the Parliament.**

Jewelers -Tier-1 Retailer

Section 2(43A), S. No. 78 and 79 Table 1 of the Eighth Schedule

- ▶ Section 2(43A) defines the term **Tier-1 Retailer**.
- ▶ The Bill now seeks to broaden the scope of Tier-1 retailer by including persons engaged in the supply of articles of jewelry, or parts thereof, of precious metal, or of metal clad with precious metal.
- ▶ Local supply of the above jewelry articles is proposed to be taxed at 3% without adjustment of input tax. However, import of the aforesaid articles is proposed to be taxed at 4% at import stage while its onward supply would be exempt.
- ▶ **Offences and Penalties Sr No.24 of the Table in Section 33**
- ▶ Serial No.24 of Section 33 stipulates the penalty on integrated persons, who avoid monitoring, tracking and reporting or recording of transactions, or issue an invoice which does not carry the prescribed invoice number or bar code or which bears a duplicate invoice number or counterfeit bar code.
- ▶ **The Bill seeks to include the requirement of a QR code when issuing an invoice.** In addition defacing the prescribed invoice number or barcode or QR code, will be considered an offence.

Exemptions Restored Sixth Schedule

- ▶ Through the Supplementary Act, exemption from levy of sales tax on import and local supply of following items were withdrawn. Now, the Bill seeks to restore the exemption with certain modifications by inserting following entries in Table 1, Sixth Schedule to the ST Act:
 - ▶ Goods imported by various agencies of the United Nations, diplomats, diplomatic missions, privileged persons and privileged organizations.
 - ▶ Photovoltaic cells whether or not assembled in modules or made up into Panels (Solar Penal)
 - ▶ Goods imported by or donated to hospitals run by the non-profit making Institutions
 - ▶ Goods excluding electricity and natural gas supplied to hospitals run by the charitable hospitals of fifty beds or more.
 - ▶ Goods temporarily imported into Pakistan, meant for subsequent exportation
 - ▶ Seeds for sowing
 - ▶ Machinery, equipment and spares meant for initial installation, balancing, modernization, replacement or expansion of projects for power generation through hydel, oil, gas, coal, nuclear and renewable energy sources

Exemptions Sixth Schedule

- ▶ **Imports by Export Processing Zone - Serial No.170**
- ▶ The Bill proposes to exempt machinery, equipment and materials imported either for exclusive use within the limits of Export Processing Zone or for making exports therefrom and goods imported for warehousing purpose in Export Processing Zone.
- ▶ **Supply of Tractor – Serial No.168**
- ▶ Supply of agricultural tractor is subject to sales tax at reduced rate of 5% under Serial No.25 of Eighth Schedule to the ST Act.
- ▶ The Bill now seeks to **exempt the import or local supply of tractors** from levy of sales tax. **CKD continued to be taxed at 17%?**

Reduce Rates - Eighth Schedule

Value addition tax at import - Twelfth Schedule

- ▶ **Local supply of reclaimed lead** to registered manufacturers of lead and lead batterie proposed to be taxed at 1% of value of supply, without adjustment of input tax.
- ▶ Rate for **locally produced coal** at PKR 425 per metric tone or 17% ad valorem, whichever is higher is withdrawn, now taxable at standard rate of tax.
- ▶ **Import of electric vehicle in CBU** conditions is subject to reduce rate at 12.5%, now such reduce rate is proposed to be withdrawn, now taxable at standard rate of tax.
- ▶ Exemption from levy of minimum value addition tax at 3% on import of raw materials and intermediary goods imported by a manufacturer for in-house consumption is proposed to be withdrawn **on import of compressor scrap (tariff heading 7204.4940), motor scrap (tariff heading 7204.4990) and copper cable cutting scrap (tariff heading 7404.0090).**

Change in Rate of Sales Tax on Services ICT (Tax on Services) Ordinance Schedule Table -I and Table -II

- ▶ **Reduction in the Rate of Sales Tax**
- ▶ The Bill seeks to **reduce the rate of sales tax to 15% on the services listed in Table 1** of the Schedule that are currently subject to sales tax at the rate of 16%.
- ▶ **Withdrawal of reduced Rate for IT services and IT-enabled services**
- ▶ The Services provided by **software or IT-based system development consultants** were subject to sales tax at the rate of 16% under the Schedule to the ICT Ordinance. Table –II of the Ordinance provide reduce rate of sales tax on “IT services and IT-enabled services” at 5%.
- ▶ The Bill now seeks to withdraw IT services and IT-enabled services from Table 2. After the proposed amendments, the rate of sales tax on services provided by software or IT-based system development consultants will be 15%. **IT-enabled services are no more taxable ?**

Change in Rate of FED Federal Excise Act 2005 First Schedule Table -1

- ▶ The Bill proposes amendments in Table I (goods - Tobacco) of the First Schedule to the FE Act:

S.No.	Description	Existing		Proposed	
		Tariff Heading	Duty	Tariff Heading	Duty
8a	E-liquids by whatsoever name called, for electric cigarette kits.	Respective heading	PKR 10 per ml	Respective heading	PKR 10,000 per kg
9	Locally produced cigarettes if their on-pack printed retail price exceeds PKR 5,960 per 1000 cigarettes.	24.02	PKR 5,200 per 1,000 cigarettes	24.02	PKR 5,600 per 1,000 cigarettes
10	Locally produced cigarettes if their on-pack printed retail price does not exceed PKR 5,960 per 1,000 cigarettes.	24.02	PKR 1,650 per 1,000 cigarettes	24.02	PKR 1,850 per 1,000 cigarettes
56	Filter rod for cigarettes.	5502.909	PKR 1 per filter rod	Respective headings	PKR 1,500 per kg

Change in Rate of FED on Services

Federal Excise Act 2005

First Schedule Table -II

- ▶ The Bill proposes amendments in Table 2 (Services) of the First Schedule to the FE Act:

S.No.	Description	Existing	Proposed
		Duty	Duty
3	Facilities for travel		
	(b) Services provided or rendered in respect of travel by air of passengers embarking on international journey from Pakistan,-		
	(i) Economy and economy plus	PKR 5,000	PKR 5,000
	(ii) Club, business and first class	PKR 10,000	PKR 50,000
6	Telecommunication services, excluding such services in the area of a Province where such Province has imposed Provincial sales tax and has started collecting the same through its own Board or Authority, as the case may be.	16% of charges	19.5% of charges

Thank You

