

FEDERAL BUDGET 2025

SINGNIFICANT AMENDMENTS @ INDIRECT TAX LAWS

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Amendments @ Indirect Tax Laws

Outline

Overview of the Tax Measures

- E-Commerce
- Cargo Tracking, E-Bilty
- Tax Fraud
- Artificial Revenue Measures
- Restrictions on Unregistered Persons
- Changes in Section 73
- Condonation of Time Limits
- FED

Common Man's Perceptive on Budget

Amendments @ Indirect Tax Laws

Overview

Like always it's a number game; qualitative outlook badly missing

Growth measures; incentives for exports and high end earners for GOP lacking. Billions stuck up in refunds, GOP banking on remittances

Ownership of Tax Measures vs. Excessive Delegations & Dependence

Legislation Fiasco

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Overview

Too aggressive and harsh approach for enforcement of tax laws; all focus is on tightening the neck

@ Automation Drive - capacity, enabling environment and onboarding of stakeholders is missing

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E-Commerce Taxation

Digitally delivered goods exposed to 2% sales tax gross value of supplies, to be deducted by payment intermediary and courier without adjustment of input tax in the hands of supplier.

Both local and non resident seller to obtain registration.

Online marketplace / courier refrained from supplying digitally ordered goods if the supplier is not registered.

Online market place, payment intermediary and courier are required to furnish prescribed monthly statement.

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E-Commerce Taxation

Another shortcut, compromise and bottleneck in broadening the taxbase. Previous examples are further tax, retail tax, extra tax, etc.

Abrupt roll out; rules not issued. Industry alongwith Pakistan Banks Association (PBA) raised red flags

Buying from undocumented sectors and selling against 2% becomes most viable business model.

Let's have 18% regime for the supplier; remittances not to be processed unless supplier's active ST status exists.

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E-Commerce Taxation (Issues)

Vires of tax on 'digitally delivered goods' ?

Grocery, Vegetables, Fruits, Meat, 3rd Schedule Goods exposed to 2% ?

Double Jeopardy for Medicines. Pay 1% more

Parallel book keeping, invoicing

Post sales return, cancellation, refunds ?

Bank / Courier to handle customer, cross border, classificational disputes ?

No rules for apportionment of common inputs

How will the courier determine what's inside the packet?

If consignment is partially taxable and partially exempt, how come fintech determine deduction ?

Registration criteria unknown for non-resident. Threshold ?

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@ Automation: Cargo Tracking System and E-Bilty

'Cargo Tracking System' introduced to enable real-time electronic monitoring and tracking for transportation of goods; 'e-bilty', a digital document generated from Cargo Tracking System and linked with electronically integrated tax invoice to validate the transshipment of goods. It's an identical measure to E-Way System in India.

Challenges: 12-18 hours load shedding in rural areas, uncertain internet streaming, anti-tax business environment, lack of dissemination of information to SMEs, low literacy rate. Capacity of Licensed Integrators is also a big factor.

Academically all substantial and positive steps. However, a wiser approach would be to roll out all measures on a piece meal basis starting from high valued sectorial tickets.

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Tax Fraud

Broadening & Rationalization

Intentional act aimed at underpaying tax liability or overstating the entitlement of tax credits / refunds removed from the ambit.

Non-payment of withholding taxes beyond 3 months from due date is tax fraud

Making fictitious compliance of Section 73 or providing benefit by routing of payment to registered person will entail practical issues

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Tax Fraud

Onus to prove innocence is difficult when sum are identical.

Before taking any action, FBR should clarify the onus upon supply chain components and their obligations for KYC.

Rules should be framed for 'Abettor'. Tax Advisors performing return review and filing work under the instructions of clients should be given protection from being classified as 'abettor'. Professional Bodies like ICAP, ICMAP, KTBA should vehemently oppose this move.

ARTIFICIAL REVENUE MEASURES

Retail Price

For imported 3rd Schedule Items, minimum retail price is 130% of the customs assessed value.

FBR also empowered to fix the retail price of locally manufactured goods

Measures copied from STGO 103/2019 and 104/2019; Originally meant to mitigate hardship importers who couldn't determine retail prices of imported goods

Benchmarking of such measure across all imports is unfair and could initiate litigation.

In case of stock pile up, refunds will keep on accruing

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ARTIFICIAL REVENUE MEASURES

Adjustable Input Tax

Automated Risk Management System (ARMS) to be used to defer input tax or fix any other higher or lower limit, if the input tax exceeds 90% of the output tax

The taxpayers aggravated by such action are also allowed to contest this by filing an application with the Commissioner who will decide the case within 30 days.

ARMS Twisting for short term revenue gains

FBR must disclose parameters of ARMS to enable the taxpayer contest before the CIR. Rules to be framed

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Restrictions upon Unregistered Persons

Sections 14AC, 14AD, 14AE

Commissioner empowered to direct banks, financial institutions, or property registration authorities to restrain un-registered persons from operating bank account or transferring property

Unique Law; unprecedented in any developing economy, constitution

Database from banks, property registration authorities, CAA, clubs, WHT, DISCOs, ST returns exists. What benefit exerted so far ?

In place of overriding provisions, the obvious framework would have been to resort to proceed for compulsory registration under Section 12(2A), pass order and in case of success at appellate fora, go for such restrictions to be specified at Section 48

Parallel measures speaks volumes of ineffective enforcement and litigation structure within the law which now disowned by FBR

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Certain Transactions Not Admissible

Section 74(3) was introduced in Year 2020 thereby restricting registered persons from supplying taxable goods to unregistered persons beyond Rs.100 million annually and Rs. 10 million monthly, with excess supplies resulting in proportionate disallowance of input tax credit.

Lahore High Court decided the issue in favor of FBR

Despite such success, the Bill now proposes to drop the prescribed monetary limits which may now be prescribed by FBR after FM's nod.

The proposed omission is an encouraging step as the requirement was unfair when subject transactions had already attracted a higher incidence of further tax @ 4%.

Even otherwise, the provision was being 'managed'

It would be wiser and fair to omit the entire Sub Section 4 of Section 73

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Condonation of Time Limit

Condonation of time limits by FBR / Commissioner capped to maximum 2 years

In exceptional cases involving significant loss to the exchequer due to acts or omissions by the taxpayer or tax officials, a committee notified by FBR may allow further condonation after hearing the taxpayer.

Such capping is in contradiction with prevailing notifications which already allow the Commissioner to condone the time limit for a period of 3 years. It appears such SROs will be withdrawn w.e.f. 01 July 2025.

FBR's apparent intention to condone the delay for indefinite period; Challenges in Record Keeping, Audit, etc.

Superior Courts have already disregarded condonations of time barred cases by FBR

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Federal Excise Duty FED on immovable property has been withdrawn. It's a right step; even otherwise it was an obstacle in business and didn't earn any substantial revenue for FBR.

FED was imposed on supply of white crystalline sugar to manufacturing, processing or packaging entity. However, it was unclear who was liable to make payment of FED on such supplies in the treasury. Litigation underway.

The Bill has now acknowledged the anomaly; however, still the person specific responsibility hasn't been fixed.

FED involved in transactions executed since last year may not be tapped by FBR

Common Man's Perspective on Budget

نہ میں بدلا، نہ وہ بدلا، نہ دل کی آرزو بدلی
میں کیسے اعتبارِ انقلابِ آسماں کر لوں