Comments on changes in Fiscal Laws

Grant Thornton Anjum Rahman
Chartered Accountants

Member Firm of Grant Thornton
An instinct for growth™

The Finance Bill 2017

This Memorandum summarizes an overview of economy for the year 2016-2017 and the important changes proposed through the Finance Bill 2017. It contains comments on the budget and the Finance Bill 2017, including highlights, of the changes brought through the Income Tax Ordinance, 2001, the Sales Tax Act, 1990, the Federal Excise Act, 2005 and the Customs Act, 1969.The amendments proposed in the Income Tax Ordinance, 2001 and other laws are intended to be effective from July 01, 2017 i.e. tax year 2017 unless otherwise indicated to be effective from the day following the day of ascent to the Act by the President.

This Memorandum is intended to provide general guidance to the readers on the important changes proposed through the Bill and should not be considered as a substitute for specific advice relating to a particular enactment. For considering the precise effect of a proposed change, reference should be made to the appropriate wordings in the relevant statutes and the notifications issued where relevant.

Grant Thornton Anjum Rahman
Chartered Accountants

May 27, 2017

TABLE OF CONTENTS

Budget at a Glance

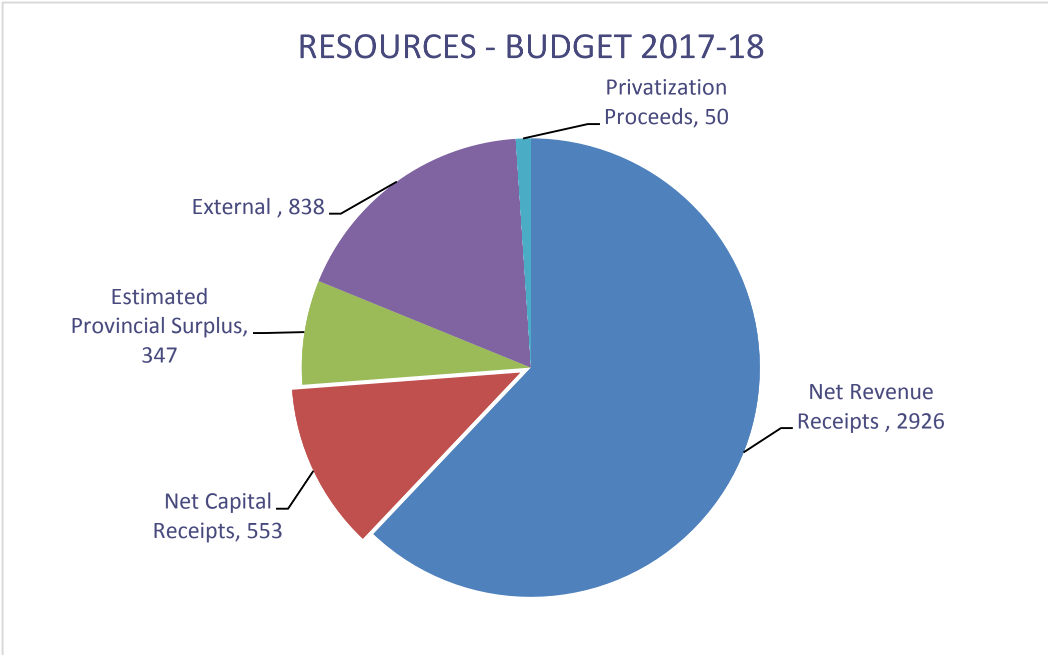
Numbers at a Glance

Rupees in billion

	2017-18	%	2016-17	%
Sources (A+B+C)	**4,714**	**100**	**4,442**	**100**
A - Internal	**3,826**	**81.16**	**3,572**	**80.41**
Net Revenue Receipts	2,926	62.07	2,780	62.58
Net Capital Receipts	553	11.73	454	10.22
Estimated Provincial Surplus	347	7.36	339	7.63
B - External	**838**	**17.78**	**820**	**18.46**
C - Privatization Proceeds	**50**	**1.06**	**50**	**1.13**
Expenditures (A+B)	**5,104**	**100**	**4,895**	**100**
A - Revenue Expenditure	**3,764**	**73.75**	**3,844**	**78.53**
B - Development Expenditure	**1,340**	**26.25**	**1,051**	**21.47**
Federal PSDP	1,001	19.61	800	16.34
Other Development Expenditure	152	2.98	157	3.21
Dev Loans & Grants to Provinces	187	3.66	94	1.92
Bank Borrowings	**390**	**7.64**	**453**	**9.25**

Budget at a Glance

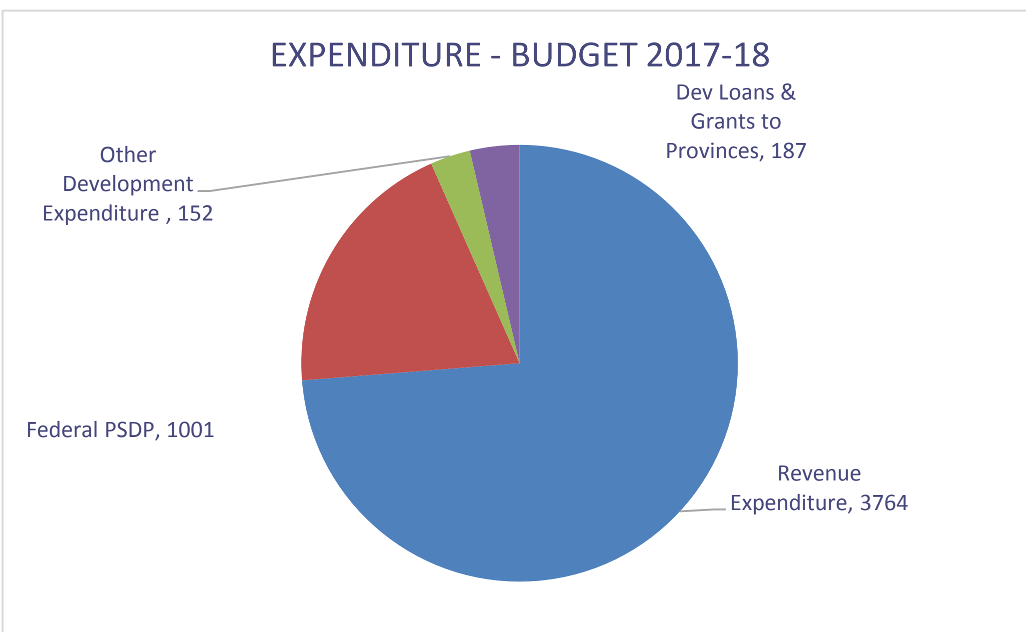
Pictorial View



Source: Federal Budget 2017-18, Ministry of Finance.

Overview of the Economy

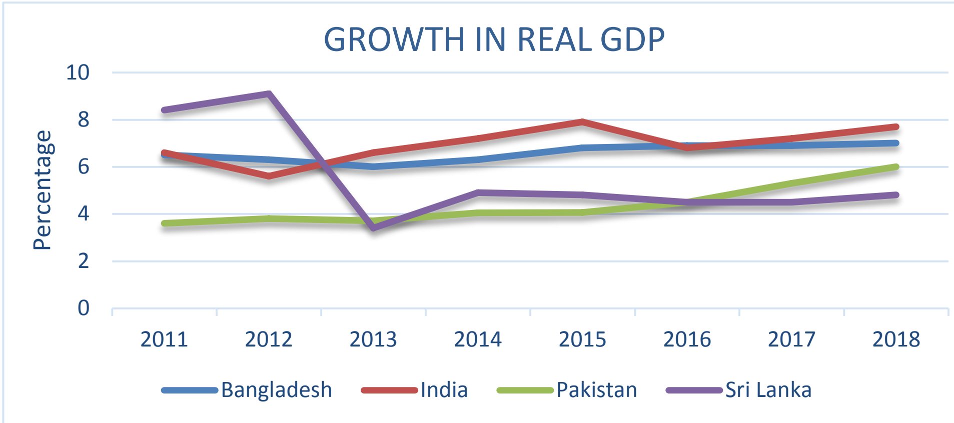
GDP Growth



Source: Federal Budget 2017-18, Ministry of Finance.

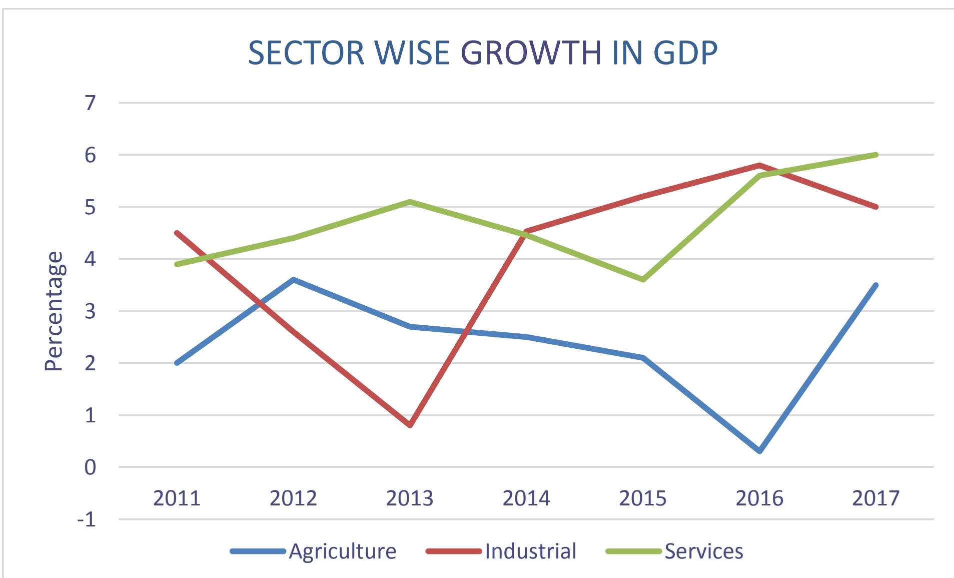
OVERVIEW OF THE ECONOMY 2016-2017

In 2016-17 economy of Pakistan recorded its highest growth rate in last decade i.e. 5.3%, as compared to 4.5% in last year. Although the target of 5.7% was missed in current year, an aggressive target of 6% has been fixed for 2017-18. The achievement was majorly attributed to agriculture sector, which had a good comeback of 3.5% as compared to 0.27% last year, and service sector which exceeded its target of 5.7% and counted 5.98%.



Source: Economic Survey, 2016-17

Government claims that increase in GDP growth rate from 3.7% in 2013 to 5.3% 2017 is attributable to its growth oriented efforts of last four years including, accommodative monetary policy, increase in development spending, growth in private sector credit, inspired activities in the power sector, friendly and pro-growth policies including relief measures particularly for the agriculture sector and resultant improvements in the Ease of Doing Business indicators.



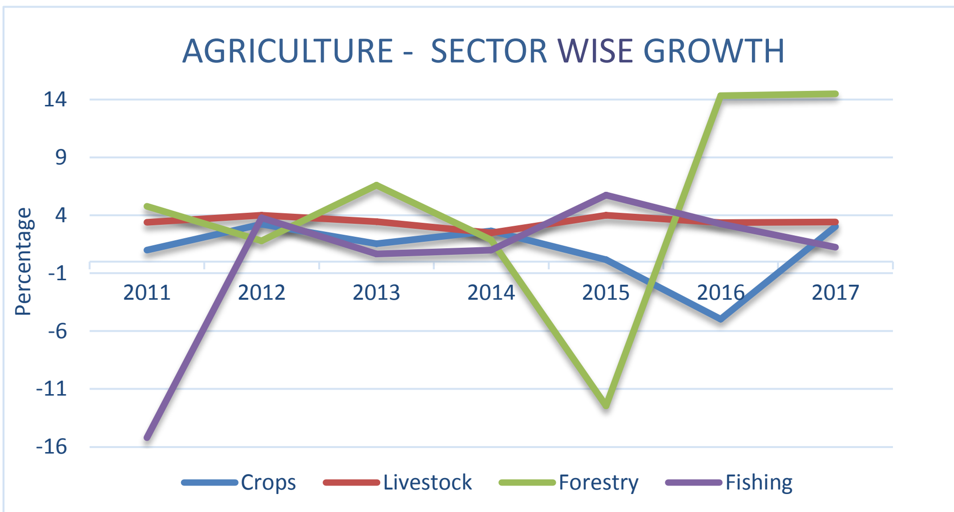
Source: Economic Survey, 2016-17

OVERVIEW OF THE ECONOMY 2016-2017

Agricultural sector

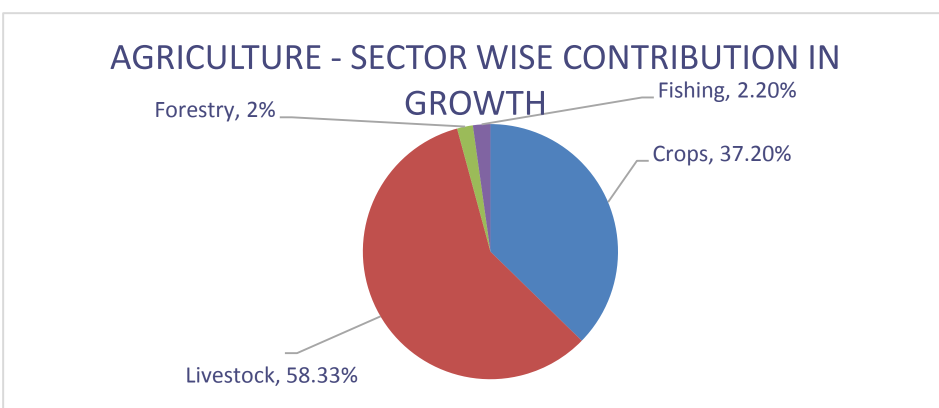
The agriculture had a 3.46% upright growth as a whole against the target of 3.5 % slightly falling short of the target yet appreciable comeback against previous year which was disappointing 0.27%. Main factors which helped in boosting up this sector were compassionate policies of government including swift disbursement of agricultural credit and subsidized fertilizers. Mother nature was also helpful as no abnormal rains accrued, which caused floods and destruction of crops last year.

Ferestory is performing good from last two years (14.31% 2016 and 14.49% 2017), although it had nothing to do with the easy credits or cheap fertilizers. A further improvement in production of cotton is expected in upcoming years, which apparently remain lower than potential/ target fixed for the years due to continued effects of last year negative growth of 22.12%. Sugarcane was among the high achievers with a production of 73.6 million tons, exceeding the target of 65.5 million tons. Wheat and rice remained at par by witnessing growth up to their respective targets.



Source: Economic Survey, 201

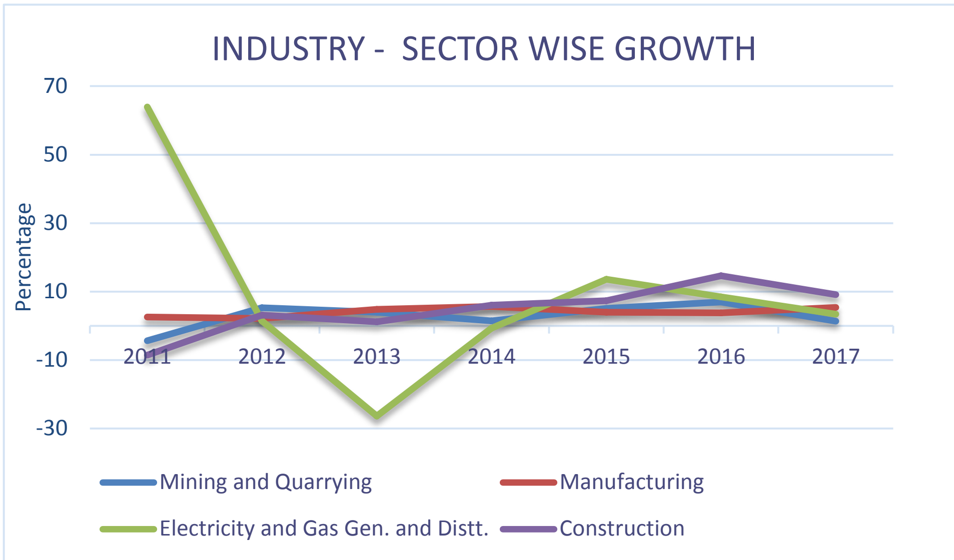
A well coherent and carefully aligned policy framework is required to achieve desired pattern of output in agriculture sector. Cotton could not contribute up to expectations due to shifting of farmers to other cash crops i.e. sugarcane, maize and rice. Ban on early sowing of cotton in Punjab along with water mismanagement were the factors contributing to the change. Areas requiring special focus are improvement in crop insurance, use of advance farming techniques and local reach and development



Source: Economic Survey, 2016-17

Industrial sector

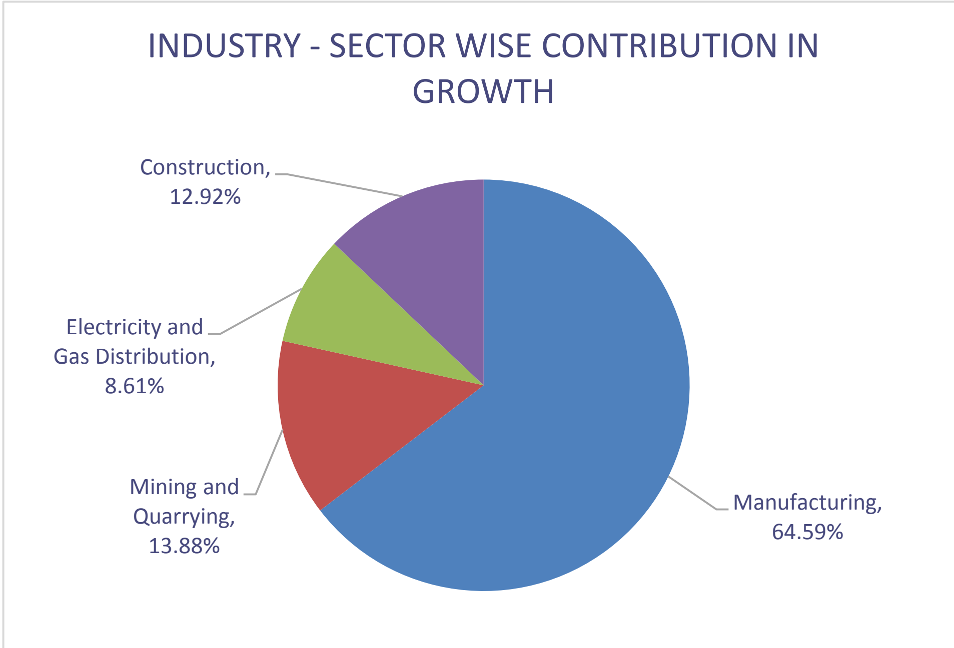
The industrial sector declined this year in comparison to last year and attained growth of 5.02% against 5.8% growth of last year. Industrial sector could not perform well along with all its constituents. Construction sector considered to be a potential component did not add much and achieved a growth of 9.05% as compared to 14.60% growth of last year. Electricity and gas generation sector seemed to be ignored as the growth recorded in this sector was 3.4% as correlated to 8.43% last year.



Source: Economic Survey, 2016-17

Pakistan, like most of its neighboring economies is going through urbanization and despite an overall economic performance, our industry is not growing at the desired pace to decrease unemployment. Our investments and savings are also not growing in terms of total size of GDP and exports are also on continuous declining trend due to lack of focus on value addition sectors. The relaxations being offered to the Chinese investors on CPEC are putting our local/ indigenous industrialists in a difficult position of competition with economic giants having numerous inheriting advantages, the most alarming of which is abundantly available cheap chinese labour. Both our local industrialists as well as industrial workmen are under a serious threat being not on a level playing field with chinese competitors, at all.

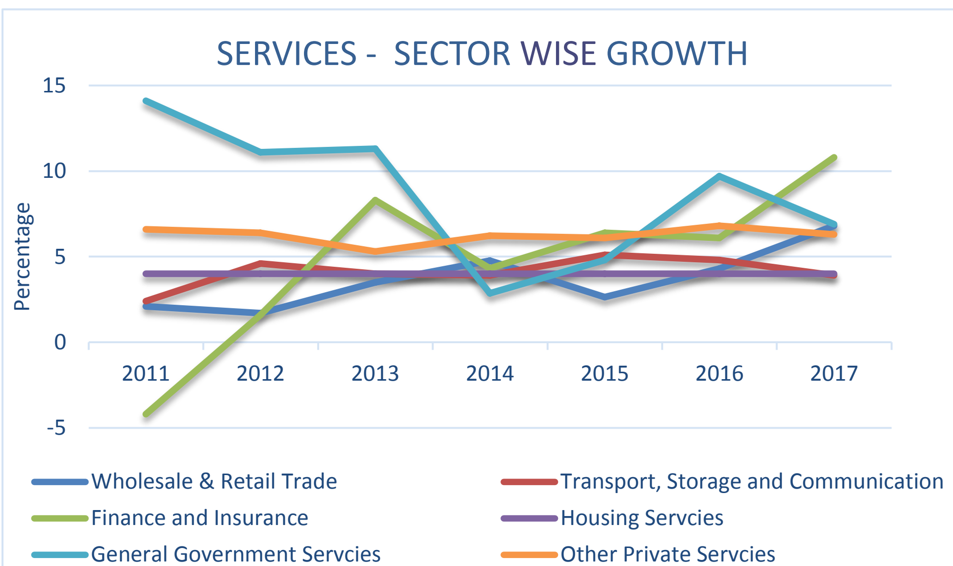
The size of investment being deployed in electricity generation and its transmission to the urban areas is an admirable effort of the present government. Equivalent administrative reforms i.e. reworking of subsidies, avoidance of line losses, revenue assurance are also required to put the genie of circular debt back in the bottle.



Source: Economic Survey, 2016-17

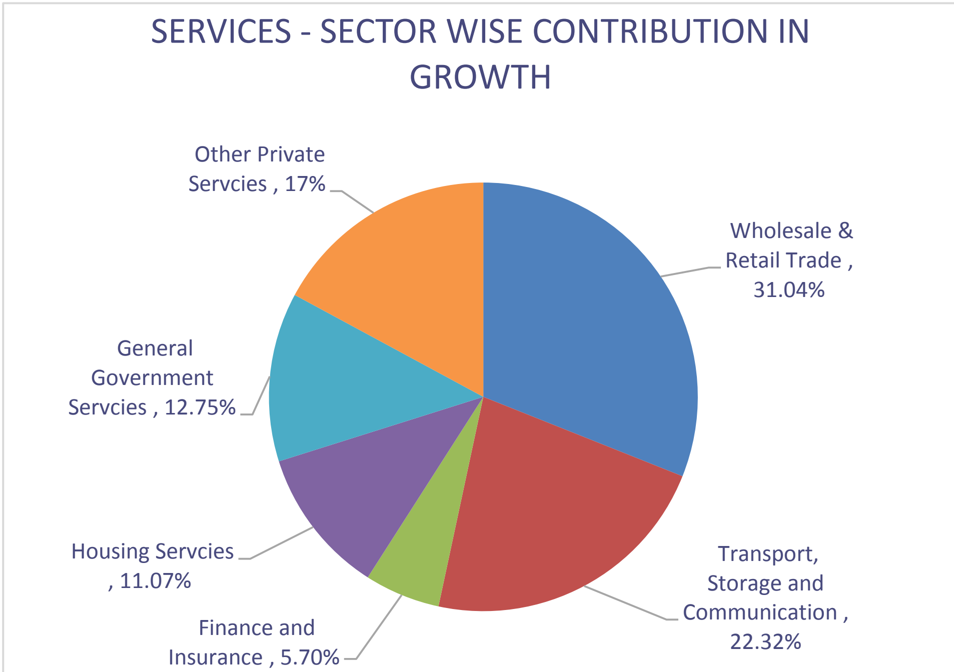
Service sector

The services sector exceeded expectations by achieving a growth rate of 5.98% in current year against a target of 5.7% and outperformed the commodity sector as per consisted pattern of last many years. Financial services sector with heavy government borrowing and an increase in the money supply was a major contributor in such growth.



Source: Economic Survey, 2016-17

Software and IT based services need special attention of the government. Technical and infrastructural support to this industry can enable it to compete globally in handling big service orders. Services in general, especially the IT related services entail investment in education for which no specific plans have been transpired yet. Insurance is another sector having huge growth potential, but currently contributing even less than one percent of GDP.



Source: Economic Survey, 2016-17

The economy continued its growth at an accelerating pace in 2016-17 and reached its highest point of 5.28% in last decade. The numbers depict an across the board uplift from previous year. Besides all the information and data made available a few points are critical:

- Foreign exchange reserves remained highest in history but on the other hand, public debt has also been doubled in last four-year tenure.
- Per-capital income has increased 6.4%, final results of population census may have some impact on this. Latest unemployment figures were also not available from any official source.
- GDP growth remained 5.3% i.e. highest in last decade but trade deficit has also been widened by 33.1%
- CPEC, among other things is expected to boost employment opportunities, but there is no policy in place about restraining the surge of chinese labour which is far cheaper and abundant than ours.
- Abnormal gap between savings and investment is indicative of a short-lived / weak investments plan.

The tax collection target appears to have been ambitiously fixed by focusing on better tax collection, without any fruitful efforts to increase base. It has repeatedly been mentioned that tax is primarily the after result of economic achievements and therefore the focus apparently should be on higher tax collection from higher economic activity rather than better tax collection. When target is the driver application, compliance with law are naturally relegated to back benches and target collections become primary with whatever means available including freezing of bank accounts regardless of the effects that such measures have on investments and investor confidence. Thus the tax administration becomes a negative contributory to attracting FDI resulting in further reduction of economic activity and the cycle continues.

INCOME TAX ORDINANCE, 2001

- The levy of Super tax is proposed to be extended for another tax year.

- Tax at the rate of ten percent is proposed to be levied on undistributed after tax profits of a public company other than banks and modabara if forty percent profits are not distributed in cash or bonus shares within six months of the close of financial year.

- Tax on builders and developers is proposed to be brought under normal tax regime.

- The bill proposes to enhance the allowable limit of expenditure incurred by pharmaceutical manufacturer on sale promotion, advertisement and publicity from five percent to ten percent.

- Tax credit from investments in health insurance is proposed to enhance to Rs. 150,000 from Rs. 100,000

- The period of tax credit extended by two years in respect of enlistment of companies in Stock Exchange.

- The concept of provisional assessment is proposed to be withdrawn from the statute book.

- The minimum threshold limit of assessed income for individual taxpayers for the purpose advance tax is proposed to be enhanced from Rs. 500,000 to Rs. 1,000,000.

- Import of fertilizer by manufacturer of fertilizer is proposed to fall under Final Tax Regime.

- It is proposed that the non-resident person engaged in construction, assembly or installation project in Pakistan and certain others contracts to file option to fall under final tax regime. Accordingly such taxpayers are now also entitled for low or reduced rate certificates.

- It is proposed to withhold tax at source on license fee to be collected on fee or service charges collected by the recipient at the time of it's remittance to the entity for whom such collection was made.

- The proposed change now authorizes the withholding tax agent to revise the withholding tax statement within sixty days of filing upon discovering any omission or wrong statement therein.

- Penalties are proposed for non-disclosure of transactions with associates.

- It is proposed that advance ruling can now be sought by permanent establishment of a non-resident in Pakistan which previously was not allowed.

- Special Directorates are proposed to be set-up for broadening of tax base as well as audit of transfer pricing.

- Sales tax and all incidental charges are proposed to be part of electricity bills for the purposes of withholding taxes.

- The scope is proposed to be enlarged for registration of immovable properties to include various societies which register or record transfer of property.

SALES TAX AND FEDERAL EXCISE

- Reduction of sales tax on fertilizers is proposed to replace subsidy with specified rates instead of ad valorem rates.
- Sales tax on import of seven types of poultry machinery is proposed to be reduced to seven percent.
- Exemption from sales tax granted on combined harvesters upto five years old
- Exemption from sales tax granted on agriculture diesel engine having capacity from 3 to 36 HP
- Exemption from sales tax granted on imported seeds of sunflower and canola hybrid seeds for sowing as compared to existing sales tax @ 5% under the Eighth Schedule.
- Exemption from sales tax extended to multimedia projectors for educational institutions.
- Exemption from sales tax on gifts and donations received from foreign governments and organizations to the Federal and the Provincial Governments and public sector organizations.
- Exemption from extra tax given on lubricating oil through amendment in the Rules.
- Exemption from sales tax extended on premixes to fight growth stunting.
- Exemption to vehicles granted for construction and development of Gwadar Port and Gwadar Free Zone in line with exemption under the Customs Act, 1969.
- Exemption from sales tax extended to items for renewable sources of energy and items for conservation of energy.
- Exemption given to parts and components for manufacturing LED lights.
- Withholding provisions withdrawn altogether in respect of sales tax
- Reduction announced in the Federal Excise Duty on Telecommunication Services from 18.5% to 17%
- Increase in the Federal Excise Duty on cement from Rs. 1 per kg to Rs. 1.25 per kg.
- Enhancement of rates of the Federal Excise Duty proposed on cigarettes and introduction of three tier duty structure
- Rationalization proposed on rate of sales tax for steel sector.
- Enhancement proposed in payment of sales tax on retail sales of five export oriented sectors from 5% to 6%
- ‘Further tax’ imposed on zero-rated goods on supply to un-registered person.
- District Taxation Officer, Deputy/Assistant Director Audit are proposed to be included in the list of Inland Revenue authorities

- Chief Commissioners Inland Revenue are proposed to be authorized for assigning jurisdiction of sales tax instead of direct assignment by FBR to the Commissioner Inland Revenue

- Legal protection is proposed in respect of service of notice electronically

- Fixation of minimum sales tax @ Rs. 425 per metric ton on supply of locally produced coal.

- Penalties are proposed to be imposed on persons manufacturing, possessing, transporting, distributing, storing, selling non-duty paid/ counterfeit cigarettes.

- Clarificatory amendment announced for application of sales tax on imports destined for non-tariff areas.

Amendment in Sales Tax Special Procedures Rules, 2007

- Reduction in sales tax proposed on import and supply of hybrid electric vehicles but restricting the concession of reduced rate up to 2500 cc vehicles

- Regularization of retailers' proposed regime where Tier-1 retailers will pay sales tax through Sales Tax Act, 1990 instead of notification.

Amendment through notifications

- Automatic stay granted against recovery. of Sales Tax and Federal Excise Duty till decision by the Commissioner Inland Revenue (Appeals) subject to payment of 25% of the demand.

- Rationalization of sales tax on mobile phones by merging rates of Rs. 300, Rs. 1,000 into Rs. 650 per set.

- Sales tax @ 6% on commercial imports proposed for fabrics instead of zero rating

Services under Islamabad Capital Territory (Tax on Services) Ordinance, 2001.

- It is proposed that services which are subject to sales tax on the basis of turnover without input tax adjustment under Provincial Sales Tax Laws are to be taxed in the similar manner.

- Exemption from sales tax proposed on export of IT services.

FINANCE BILL 2017 Highlights

CUSTOMS

RELIEF MEASURES PROPOSED

- Reduction of duty from 11% to 3% and removal of 5% Regulatory Duty on grandparent and parent stock of chicken
- Reduction of duty on import of hatching eggs from 11% to 3%
- Reduction of Regulatory Duty (RD) on aluminum waste or scrap from 10% to 5%
- Reduction of Custom Duty (CD) on fabric (non-woven) for pharmaceutical industry from 16% to 5%
- Exemption of 3% CD on raw skins & hides
- Exemption of 16% Custom Duty on stamping foils
- Reduction of CD on sheets for veneering from 16% to 11%
- Reduction of CD on pre-fabricated modular clean rooms panels from 20% to 3%
- Exemption of 3% CD on import of ostriches

MEASURES PROPOSED TO PROTECT LOCAL INDUSTRY

- 5% RD levied on import of synthetic filament yarn (of polyesters)
- Increase of CD on aluminum beverage cans from 11% to 20%
- CD reduced on uncoated polyester film and aluminum wire from 20% to 11% for manufacturers of metalized yarn
- CD reduced from 20% to 16% and from 16% to 11%, on various raw materials for manufacturers of Baby Diapers

TARIFF RATIONALIZATION PROPOSED

- CD rate on Bituminous coal and other coal equalized @ 5% except, for the Power Projects in IPPs Mode, CD on import of both types of coal reduced to 3%
- Separate PCT code created for compressors of vehicle @ 35% CD
- Separate PCT code created for classification of electric cigarettes at 20% CD
- RD @ 10% levied on animal protein meals

REVENUE MEASURES PROPOSED

- RD levied/increased on 565 non-essential items ranging from 5% to 15%
- CD @ Rs. 250 per set converted into RD @ Rs. 250 per set on mobile phones
- CD @ 11% and 16% exempted and uniform rate of 9% levied on the telecom equipment instead of RD.
- RD on betel nuts increased from 10% to 25%
- RD @ Rs.200/kg levied on betel leaves
- Concession in duty/taxes on Hybrid Electric Vehicles above 2500 cc withdrawn

MISCELLANEOUS

- Adoption of HS VERSION 2017 of the World Customs Organisation to honor commitment; being signatory to the HS Convention
- Exemption from CD on import of combined harvesters- threshers up to 5 years old
- 10% and 20% RD levied on five to ten years and more than ten years old combined harvesters-threshers respectively
- Additional duty levied on cylinder head for motorcycles
- Extension of concession on 11 more components of trailers
- Concessionary rate of 11% available on Set top boxes, TV broadcast transmitter and Reception apparatus etc. extended till 30.6.2018.
- Surcharge exempted in excess of 0.25% for cargo in-bonded at Karachi for upcountry Bonds
- Expansion of scope of exemption on import/donation by allowing imports and donation of the Federal, the Provincial, AJ&K, Gilgit-Baltistan Governments, NDMA, PDMA and Govt. emergency/ rescue services
- Import of solar panels and related components were exempted from the condition of ‘local manufacturing’ till 30th June 2017 is extended till June 30, 2018.

Summary of changes in the
INCOME TAX ORDINANCE, 2001

Section

2 **Definitions**

(22A) **Fast moving consumer goods**

The bill proposes to exclude durable goods from the definition of fast moving consumer goods thus withdrawing the benefit of application of reduced rate of withholding tax under section 153 and minimum tax rate prescribed in Division IX of Part I First Schedule to such goods by the Finance Act, 2016.

(62A)& Clause (144) 2nd Schedule – Part I sub clause (28), Clause (11A) Part IV & Clause (43F) Part IV **Startup**

The bill proposes to define any business set-up by an resident individual, AOP or a company incorporated or registered in Pakistan on or after July 01, 2012 having a turnover of less than Rs. 100 million in each of the last five tax years and is duly registered by the Pakistan Software Export Board.

To promote information technology business and entrepreneurship, the bill proposes to grant exemption from application of provisions of section 113 (minimum tax), withholding tax provisions under section 153 and taxability of profits in the year of certification by the Pakistan Software Export Board and two succeeding tax years.

4B **Super Tax for rehabilitation of temporary displaced persons**

This provision was introduced by the Finance Act, 2015 and was extended to the tax year 2016 by the Finance Act, 2016. The bill proposes to extend the application to the tax year 2017.

Suit has been filed before the Honorable High Court of Sindh challenging the original insertion contending that after the 18th amendment Social Welfare contribution is within the provincial domain rather than the Federation. The Honorable High Court has restrained the department from taking any coercive action. The current extension may also be challenged on the grounds of retrospective application of the provision especially in cases where the income year ended on December 31, 2016.

5A **Tax on undistributed profits**

The bill proposes to substitute the existing provision so as to tax at the rate of ten percent of the after tax profits of a public company other a scheduled bank or a modaraba if it does not distribute at least forty percent of its after tax profits within six months of the end of the tax year in cash or through issuance of bonus shares. This section shall not apply to an electric power generation company qualifying for exemption under Clause (132) of Part I of the Second Schedule and a company in which not less than fifty percent shares are held by the Government.

Summary of changes in the
INCOME TAX ORDINANCE, 2001

7C(4), 7D(4)& 8 **Tax on builders and Tax on developers**

The existing provisions were applicable to businesses or projects initiated and approved after the first day of July 2016. The bill proposes to substitute the sub-sections so as to restrict the application of the provisions to builders and developers for projects initiated and approved during the tax year 2017 having paid the applicable tax liability under Rule 13S of the Income Tax Rules, 2002 or granted installments by the Chief Commissioner under Rule 13U or 13ZB respectively of the Income Tax Rules, 2002.

Existing provision of taxation of builders and developers in terms of section 8 brought them into the ambit of final tax regime. The bill proposes to withdraw the entitlement by omission of reference of sections 7C and 7D in section 8. However, division VIIIA and VIIIB of Part I of the First Schedule have not been amended. Consequentially the amendment in section 8 does not affect the tax liability of the builders and developers. It appears this matter has escaped attention. Thus the matter needs further clarification.

13(7) **Value of perquisites**

Tax free loan exceeding rupees five hundred thousand provided to an employee is treated as a perquisite and taxed in the hands of the employee. The bill proposes to enhance the limit to one million rupees.

21(o) **Deductions not allowed**

Currently any expenditure incurred by pharmaceutical manufacturers on sale promotion, advertisement and publicity was restricted to five percent of the turnover. The bill proposes to enhance the limit to ten percent of turnover.

22(15) **Depreciation**

The bill proposes to entitle a taxpayer to claim depreciation on an asset co-owned with Islamic financial institution licensed by the State Bank of Pakistan or the Securities and Exchange Commission of Pakistan pursuant to an arrangement of Mushrika financing or diminishing Musharika financing.

53(2), 4 & 24 **Exemptions and tax concessions in the Second Schedule**

The existing provision entitles the Federal Government to amend the Second Schedule by adding any clause or condition, omitting any clause or condition or making any change in any clause or condition as the Government deems fit.

The insertion in sub-section (2) proposes to authorize the Board with the approval of the Minister In charge of the Federal Government pursuant to the approval of the Economic Coordination Committee of Cabinet to amend the Second Schedule. The bill further by way of insertion of proviso proposes to validate all notifications issued prior to first day of July, 2016 and not rescinded and those issued on first day of July, 2016 to continue to be enforced till thirtieth day of June, 2018.

The above is in clear negation of Honorable Supreme Court of Pakistan recent judgment reported as **2016 PTD 2269**. Which states:

> *84. we may now summarize our conclusions:-*
>
> *(i) The Rules of Business, 1973 are binding on the Government and a failure to follow them would lead to an order lacking any legal validity.*
>
> *(ii) The Federal Government is the collective entity described as the Cabinet constituting the Prime Minister and Federal Ministers.*
>
> *(iii) Neither a Secretary, nor a Minister and nor the Prime Minister are the Federal Government and the exercise, or purported exercise, of a statutory power exercisable by the Federal Government by any of them, especially, in relation to fiscal matters, is constitutionally invalid and a nullity in the eyes of the law. Similarly budgetary expenditure, or discretionary governmental expenditure can only be authorized by the Federal Government i.e. the Cabinet, and not the Prime Minister on his own.*
>
> *(iv) Any Act, or statutory instrument (e.g the Telecommunication (Re-Organization) Act, 1996) purporting to describe any entity or organization other then the Cabinet as the Federal Government is ultra vires and a nullity.*
>
> *(v) The ordinance making power can only be exercised after a prior consideration by the Cabinet. An ordinance issued without the prior approval of the Cabinet is not valid. Similarly, no bill can be moved in Parliament on behalf of the Federal Government without having been approved in advance by the Cabinet. The Cabinet has to be given a reasonable opportunity to consider, deliberate on and take decisions in relation to all proposed legislation, including the Finance Bill or Ordinance or Act. Actions by the Prime Minister on his own, in this regards, are not valid and are declared ultra vires.*
>
> *(vi) Rule 16(2) which apparently enable the Prime Minister to by pass the Cabinet is ultra vires and is so declared.*
>
> *(vii) Fiscal notifications enhancing the levy of tax issued by the Secretary, Revenue Division, or the Minister, are ultra vires. (it is clarified, is allowed in relation to beneficial notifications and that principle still applies).*
>
> *(viii) in consequence of the above findings the impugned notifications are declared ultra vires and are struck down.*

Considering the ratio of aforementioned judgement of the Supreme Court the proposed changes, if challenged, may not be viewed favorably by the Apex Court.

60D Deductible allowance for education expenses

The bill proposes to enhance the limit from one million rupees to one and half million rupees.

62A Tax credit for investment in health insurance

The existing provision allows tax credit for investment in health insurance calculated in accordance with the formula restricting the investment to lesser of the premium paid in a year or five percent of the person's taxable income for the year or one hundred thousand rupees. The bill proposes to increase the limit to one hundred and fifty thousand rupees.

65A Tax credit to a person registered under the Sales Tax Act, 1990

To encourage documentation and registration under the Sales Tax Act, 1990, the existing provision was introduced by the Finance Act, 2009 granting tax credit to manufacturers registered under the Sales Tax Act, 1990 if ninety percent of their sales are to persons registered under the Sales Tax Act, 1990.

The intent and purpose of this section apparently failed to achieve the desired objective. The bill proposes to omit the provision.

65C Tax credit for enlistment

To encourage enlistment of companies in the Stock Exchange, tax credit equal to twenty percent of the tax payable was allowed in the year of enlistment and the following tax year. The bill proposes to extend the period for additional two years during which tax credit would be allowed at the rate of ten percent for each year.

94(3) Principles of taxation of companies

The bill proposes to omit sub-section (3) which was superfulvous since taxation of dividend irrespective of the fact whether received from a resident or non-resident company by a resident is taxed in terms of section 5 of the Ordinance.

100(2) Special provisions relating to the production of oil and natural gas, and exploration and extraction of other mineral deposits

The bill proposes to insert proviso to bring the income of sui gas field within the ambit of Rules in Part I of the Fifth Schedule.

100C(1) & (1A) Tax credit for certain persons

The bill proposes to restrict the administrative and management expenditure upto fifteen percent of the total receipts to avail the benefit of entitlement to tax credit equal to one hundred percent of the tax payable.

The bill by way of insertion of non-obstante clause proposes to tax surplus funds of non-profit organization at the rate of ten percent.

This amendment should be deferred for couple of years as mostly donations and charity is received in the month of Ramzan. It is practically not possible to disburse substantial amounts within few weeks as in the forthcoming years Ramzan would fall in last two months of fiscal year.

Summary of changes in the
INCOME TAX ORDINANCE, 2001

113(1) & Division IX of Part I, 1st Schedule — **Minimum tax on the income of certain persons**

The bill proposes to enhance the standard minimum tax rate of 1 percent to 1.25 percent.

115(3) — **Persons not required to furnish a return of income**

To facilitate the persons not required to file the return of income, the bill proposes to include owners of immovable property with a land area of five hundred square yards or more, flat covered area of two thousand square feet or more or motor vehicle having engine capacity above 1000cc

116(3) — **Wealth statement**

The bill proposes to restrict the right to revise a wealth statement along with revised wealth reconciliation statement to receipt of a notice under sub-section (9) of section 122 as against the existing entitlement of revision before an assessment was made in terms of sub-section (1) or (4) of section 122.

119(4) — **Extension of time for furnishing returns and other documents**

The bill proposes to authorize the Chief Commissioner to grant extension or further extension for a period not exceeding fifteen days unless there are exceptional circumstances justifying a longer extension of time if the Commissioner has not granted extension for furnishing return under sub-section(3) or sub-section(4)

121(1) — **Best judgment assessment**

The bill proposes to extend the scope to persons failing to furnish a return of income in response to a notice under sub-section (3) or sub-section (4) of section 114.

122C — **Provisional assessment**

The provision became redundant after the enhancement of the scope of best judgment assessment under section 121. References of section 122C in sections 114,116, 137 and 122 consequentially are proposed to be omitted. The proposed amendment is a positive step which will relieve the tax payers who for any reasons could not file a return of income within 45 days of service of provisional assessment order as such orders are not applicable under section 127.

146(1) — **Recovery of tax from person assessed in Gilgit–Baltistan**

The bill proposes to enlarge the scope of this section to include in it's ambit the tax jurisdiction of Gilgit-Baltistan. This amendment is pursuant to Gilgit-Baltistan Council Income Tax (Adaptation) Act, 2012 whereby area of Gilgit-Baltistan has become separate tax jurisdiction. Therefore, resident taxpayers operating in Gilgit-Baltistan are required to file separate tax returns in that area on similar pattern of Azad Jammu and Kashmir. Such taxpayers will be entitled to claim credit of taxes paid on the income in Gilgit-Baltistan in their Pakistan tax returns.

147(2) & (4B) **Advance tax paid by individual taxpayer**

The proposed amendment seeks to enhance threshold for payment of advance tax in respect of individual taxpayers from Rs. 500,000 to Rs. 1,000,000 for payment of advance tax liability in four equal installments. From the tax year 2018, if latest assessed taxable income is below Rs. 1,000,000 then such individual taxpayers would not be required to make advance tax payments in four equal installments rather will make payment of their final tax liability due with the return at the time of filing annual tax returns. This is a relief measure for small taxpayers.

148(7)(b) **Imports of fertilizer by manufacturer of fertilizer**

The bill proposes to bring import of fertilizer by the manufacturer of fertilizer into the ambit of final tax regime. Presently fertilizer imported by the manufacturer of fertilizer falls under net income basis of taxation by virtue of the contents of 148(7)(b) of the Ordinance. The proposed amendment will trigger tax litigation due to the reason the tax machinery will make an attempt to prorate selling and administration expenses between net income regime and final tax regime on the basis of mechanical formula of turnover basis contained in Rule 13(3). This concept of proration of expenditure does not always result in fair proration of common expenditure between normal tax regime and final tax regime.

152(1B), (4A)& Clause 41 of Part IV of the Second Schedule **Payments to non-residents**

The bill proposes to insert a proviso whereby it will be mandatory for the non-resident taxpayer to file an option to opt for final tax regime in respect of income arising from followings:

(a) a contract or sub-contract under a construction, assembly or installation project in Pakistan, including a contract for the supply of supervisory activities in relation to such project; or

(b) any other contract for construction or services rendered relating thereto; or

(c) a contract for advertisement services rendered by T.V. Satellite Channels, shall deduct tax from the gross amount payable under the contract at the rate specified in Division II of Part III of the First Schedule.

Presently all non-resident taxpayers earning income referred to above fall under final tax regime without any exception.

It is not clear from the proposed change that the non-resident taxpayers will have to file the option once and for all or for each subsequent tax year separately which clarity existed in the Clause (41) of Part IV to the Second Schedule as it stood prior to proposed omission.

Consequential amendment has also been proposed in sub-section (4A) empowering the Commissioner to either issue reduced rate or nil rate certificate where the non-resident taxpayer has not exercised the option to be taxed under the final tax regime.

Summary of changes in the
INCOME TAX ORDINANCE, 2001

153(1)(b) Payment for services

The proposed amendment seeks to insert proviso in sub-section (1) whereby it is being made obligatory on the part of person who collects any payment on behalf of another service provider or service charged by whatever name called and retains their service charge or fee by Before remitting the payment to the service provider on whose behalf the collection was made such a person shall pay the service charges after collecting the tax under clause (b).

The proposed change attempts to nullify the ratio of judgment of the Supreme Court of Pakistan recently announced in Civil Petitions No.3551 to 3555 of 2015 in the case of M/s. Pakistan Television Corporation Vs. Commissioner Inland Revenue wherein it is held that:

> "The use of only the word 'deduct' in section 153(1)(b) supra is to our mind intentional. If the legislature had the intention to cover any other situation, it could have conveniently used the word 'collect' in the said section (or introduced a legal fiction), as it has done in many other provisions of the Ordinance. This reasoning is augmented by the fact that the legislature has, by virtue of the Finance Act, 2016 (XXIX of 2016) substituted section 21(c) supra which now contains the phrase 'deduct or collect'. Therefore as section 153(1)(b) supra only requires prescribed persons to deduct and not collect tax from the payment being made to a resident person for the rendering of or providing of services at the time of making the payment. PTV could not have possibly deducted such tax as it did not make any actual payments to WAPDA".

The proposed proviso also appears to be misplaced as the intended amendment should have been inserted by way of insertion of a sub-section rather than a proviso.

165(2A) Revision of withholding tax statement

A sub-section is proposed to be added authorizing the taxpayer to revise the withholding tax statement within a period of sixty days of filing of such statement upon discovery of any omission or wrong statement therein. This is a good change as it will allow correction of bona-fide mistakes or omissions on the part of the person filing such statements.

165B Furnishing of information by financial institution including banks

The proposed amendment seeks to enlarge the scope of the section to include in addition to non-resident person any "other reportable person". The term "reportable person" is defined in Chapter XIIA of the Income Tax Rules, 2002:

Reportable Person means a Person other than:

i) A corporation the stock of which is regularly traded on one or more established securities markets;

ii) Any corporation that is a Related Entity of a corporation described in sub-clause (i);

iii) A Governmental Entity;

iv) An International Organization

v) A Central Bank; or

vi) A Financial Institution

The financial institutions which have the responsibility to provide the information under this section have been defined in Chapter XIIA of the Income Tax Rules, 2002 as follows:

> **“Financial Institution** for the purposes of this Chapter, the term means a Custodial Institution, a Depository Institution, an Investment Entity or a Specified Insurance Company”.

176 (c) **Notice to obtain information or evidence**

A firm of Cost and Management Accountants as defined in the Cost and Management Accountant Act, 1966 are also eligible to conduct the audit of the taxpayer affairs under section 177 of the Ordinance, if appointed by the Commissioner. The proposed change with the prior approval of the Commissioner will entitle them to exercise the powers vested with the Commissioner.

182 (17) & (18) **Offences and penalties**

The proposed amend seeks to enlarge the scope of penalty provisions by including section 108 in serial No. 7 and 9 of the schedule whereby taxpayer who has entered into transactions with the associates and has failed to maintain the records as prescribed in section 108(3) or fails to furnish information pursuant to notice issued by the tax authorities under section 176.

The proposed amendment also seeks to insert two more offences in the list as follows:

S. No.	Offences	Penalties	Sections
17.	Any reporting financial institution or reporting entity who fails to furnish information or country-by-country report to the Board as required under section 107, 108 or 165B within the due date.	Such reporting financial institution or reporting entity shall pay a penalty of two thousand rupees for each day of default subject to a minimum penalty of twenty five thousand rupees.	107, 108 and 165B
18.	Any person who fails to keep and maintain document and information required under section 108 or Income Tax Rules, 2002	1% of the value of transactions, the record of which is required to be maintained under section 108 and Income Tax Rules, 2002	108.

191 **Prosecution for non-compliance with certain statutory obligations**

The proposed amendment seeks to enlarge the scope to cover the non-compliance of the notice by the Commissioner in respect of filing of return of income within a stipulated time and also on non-payment of default surcharge as a result of which the provision of prosecution will be attracted.

205(1B) **Default surcharge on advance tax for special tax year**

A new proviso is proposed to be inserted which stipulates that the calculation of default surcharge for failure to pay advance tax in case of a person having a special tax year shall be calculated on and from the first day of the fourth quarter of the special tax year till the date on which the assessment is made or the last day of the special tax year whichever is earlier.

206A **Advance ruling**

The proposed amendment seeks to omit the proviso which stipulates that the advance ruling shall not apply to non-resident taxpayer having permanent establishment (PE) in Pakistan. Now PE of the non-resident person in Pakistan can also avail the benefit of advance ruling after fulfilling the prescribed conditions. This is the positive change and will help in limiting tax litigation with the non-residents. Normally non-resident taxpayer for smooth operations of their businesses prefer to seek advance rulings rather than entering into tax litigation at a later stage.

207(1)(3A)(4) & (4A), 208 **Income Tax Authorities**

The proposed amendment seeks to introduce two more designations ‘District Taxation Officer’ and ‘Assistant Director Audit’ into the hierarchy of the taxation officers for the purposes of the Ordinance and the Rules.

216(3)(KA) **Disclosure of information by a public servants**

A new clause is proposed to be inserted whereby protection is being extended to tax authorities for disclosure to Employees Old Age Benefit Institution in respect of information regarding salaries statement furnished under section 165 of the Ordinance.

230D **Director General of Broadening of Tax Base**

A new sub-section is proposed to be inserted whereby a separate and designated Directorate is being created for the purposes of broadening of tax base. The Director General and as many Directors, Additional Director, Deputy Director, Assistant Director and such other officer as the Board may notify and appoint together-with their functions, powers and jurisdiction.

This was the need of the time as it is imperative to enlarge the taxpayers net and increase tax – GDP ratio which is presently extremely low considering the work force in the country. Focused approach is required to increase number of tax payers in the country which eventually will reduce burden of taxes on existing taxpayers. It will also enable all the citizens to share tax burden rather than those who are already in the tax net.

230E **Directorate General of Transfer Pricing**

A new sub-section is proposed to be inserted in the statute book to create a separate and designated Directorate for the purposes of audit of transfer pricing in respect of transactions between associates that they are at arm’s length. It is clarified in the proposed change that the Directorate is independent of audit proceedings under section 177, 214C or 214D.

This Directorate shall comprise Director General, Directors, Additional Director, Deputy Director, Assistant Director and such other officer as the Board may approve and assign their functions, jurisdiction and powers as well as the criteria for the selection for audit of transfer pricing.

This is a good amendment provided that the powers are objectively and judicially used by the officers based on well founded unbiased research. In the past years the taxation officers by invoking their powers had made additions under the head transfer pricing but most of such orders did not sustain the test of appeals. Such actions did cause hardships to the taxpayers and resulted in un-called for prolonged litigation.

231B(1A) Advance tax on private vehicles

The proposed amendment seeks to substitute this section to levy three percent advance tax on the value of the motor vehicle leased to a non-filer by the leasing company, or a scheduled bank or a non-banking financial institutions or an investment bank or a Modaraba or a development finance institution under conventional mode or under Shariah based financing.

Thus it will be a dis-incentive for non-filer not to become filer otherwise he would bear an extra cost for not filing the tax return.

233A Collections of taxes by a Stock Exchange registered in Pakistan

The proposed change seeks to substitute sub-section (2) whereby tax collected at source would be final tax on such transaction which presently is an adjustable tax. Tax under this section is required to be collected on:

a) from member of Stock Exchange on purchase of shares in lieu of tax on the commission earned by such members; and

b) from the members of Stock Exchange on sale of shares in lieu of tax on the commission earned by such members.

234A CNG Stations

The proposed amendment by insertion of an explanation seeks to propose that withholding tax provision will be applied on the amount inclusive of “sales tax and all incidental charges”.

The proposed change by way of explanation is seeking to enhance the tax liability. However, the tax machinery will apply the insertions assuming retrospective application which will give rise to tax litigation unnecessarily. It is already held by Supreme Court that an explanation cannot levy additional burden of tax on the subjects as reported in case **PLD 2001 SC 340** Messrs Anoud Power Generation Limited and others Vs. Federation of Pakistan and others.

The proposed amendment also seeks to omit sub-section (4) from the statute book to enable the CNG station taxpayers to claim any adjustment of withholding tax collected or deducted under any other head during the tax year. This adjustment of tax is not permitted by the existing provisions.

235 (2), 235(4) & 235A **Electricity consumption including domestic consumers**

The proposed amendments seek to clarify by way of insertion of an explanation that for the purposes of application of withholding tax on electricity bills including those of domestic consumers, shall include ”sales tax and all incidental charges”.

The proposed amendments are harsh more particularly in case of domestic consumers as it would enhance proportionately the amount of income tax included in the electricity bill with the amount “sales tax and incidental charges”.

Also amendment is proposed in sub-section (4) whereby the tax collected on billings rupees thirty thousand per month is treated as minimum tax on income of such person. This threshold is being proposed to be changed to tax collected on billing of rupees three hundred sixty thousand per annum as a minimum tax. The tax collected under this withholding tax section is in substance an advance tax but it is being unjustifiably treated as a charging section by treating the same as a non-refundable minimum tax.

236C, 236K & 236W **Advance tax on sale or transfer of immovable property**

The proposed amendment seeks to insert an explanation to enlarge the scope of authorities registering, recording or attesting the transfer of any immoveable property. With the proposed change any person responsible for registering or attesting or recording transfer of any immovable property will also have the responsibility to collect advance tax at the time of transfer by a local authority, housing authority, housing society, co-operative society and registrar of property.

Sub-section (2) is also proposed to be amended whereby proviso is being inserted which stipulates that the tax collected on immovable property acquired and disposed of within the same tax year shall be minimum tax.

236G & 236H **Advance tax on sale of Distributors, Dealers, Wholesalers and Retailers**

The proposed amendment seeks to include “batteries” into the scope of the products on which advance tax to be collected at the applicable rate provided in the law. It covers sale by manufacturer or commercial importer to distributors, dealers, wholesaler and retailers.

236X **Advance tax on Tobacco**

The bill proposes to insert new section whereby Pakistan Tobacco Board is to collect advance tax at the rate of five percent of the purchase value of tobacco from every person including manufacturer of cigarettes. This tax is to be collected at the time collecting Cess on tobacco. This is an adjustable tax against the final tax liability of the taxpayer.

241 **Validation**

The new section is proposed to be inserted whereby in exercise of the power conferred by the Federal Government all notification and orders issued and notified before 1st day of July 2017 shall be deemed to have validly issued or notified notwithstanding anything contained in any judgment of the High Court and the Supreme Court. This is negation of judgment of Supreme Court as more fully discussed while giving our comments on changes brought in section 53 above.

Summary of changes in the
INCOME TAX ORDINANCE, 2001

First Schedule

Part-I, Division-III

Dividend income

The bill proposes to increase the rate of tax from 12.5% to 15% on dividend received from other than power sector companies and mutual funds and also seeks to rationalize and enhance the rate of tax from 10% to 12.5% on dividend received from mutual funds. Now the rates of tax to be proposed on dividend income are as follows:

		Status of taxpayer		
		Individual	**Company**	**AOP**
a)	Dividend received by person from the following companies; • Supplying coal exclusively to power generation projects • Purchasers of a power project privatized by WAPDA • Set-up for power generation	7.5%	7.5%	7.5%
b)	Dividend received by person from Collective Investment Scheme, Real Estate Investment Trust (REIT) Scheme or Mutual Fund	12.5%	25%	12.5%
c)	All other dividend	15%	15%	15%

Part-I, Division-IIIA

Profit on debt

The bill proposes to substitute table of tax rate for profit on debt as follows :

S. No.	Profit on debt	Proposed rate of tax
1.	Where profit on debt does not exceed Rs.5,000,000	10%
2.	Where profit on debt exceeds Rs.5,000,000 but does not exceed Rs.25,000,000	12.5%
3.	Where profit on debt exceeds Rs.25,000,000	15%

37A& Part-I, Division-VII

Capital gain on sale of securities

The bill proposes to simplify the stock market transactions; a flat / single rate of tax at 15% for filers and 20% for non-filers is being introduced irrespective of the holding period of securities.

Holding Period of Security	Existing tax rate tax year 2017		Proposed tax rate tax year 2018	
	Filer	**Non-filer**	**Filer**	**Non-filer**
Less than twelve months.	15%	18%	15%	20%
Twelve months or more but less than twenty-four months.	12.5%	16%		
Twenty-four months or more but less than four years	7.5%	11%		
Four years or more	0%	0%	0%	0%
Future commodity contracts entered into by the members of Pakistan Mercantile Exchange	5%	5%	5%	5%

150, Part-III, Division-I

Tax on dividend

The bill proposes to increase the rate of tax for filers. Moreover, the bill also seeks to enhance existing tax rates required to be deducted by a collective investment scheme or a mutual fund (being derived by filer) according to the following rates:

Person	Stock Fund	Money market fund, income fund or REIT scheme or any other fund	
		Filer	Non-filer
Individual	to 12.5% from 10%	to 12.5% from 10%	15%(no change)
Company	to 12.5% from 10%	25% (no change)	25%(no change)
AOP	to 12.5% from 10%	to 12.5% from 10%	15%(no change)

152(1A) &(2A) and Part-III, Division-II

Payment to non-residents

The bill proposes to enhance the rate of tax for non-filers only as follows:

	Sale of goods		Providing of services (other than transport)		Execution of contract	
Category	Existing	Proposed	Existing	Proposed	Existing	Proposed
Company	6% of the gross amount payable	7% of the gross amount payable	12% of the gross amount payable	14% of the gross amount payable	12% of the gross amount payable	13% of the gross amount payable
Any other case	6.5% of the gross amount payable	7.75% of the gross amount payable	15% of the gross amount payable	17.5% of the gross amount payable	12% of the gross amount payable	13% of the gross amount payable

153& Part-III Division-III

Payment for goods or services

The bill proposes to reduce the withholding tax for distributors of fast moving consumer goods being tax filers

(i) in case of a company, to 2% from 3% of the gross amount payable; and
(ii) in any other case, to 2.5% from 3.5% of the gross amount payable

The bill proposes to enhance withholding tax rate for non-filer

	Sale of goods		Providing of services		Execution of contract	
Category	Existing	Proposed	Existing	Proposed	Existing	Proposed
Company	6% of the gross amount payable	7% of the gross amount payable	12% of the gross amount payable	14.5% of the gross amount payable	10% of the gross amount payable	12% of the gross amount payable
Any other case	6.5% of the gross amount payable	7.75% of the gross amount payable	15% of the gross amount payable	17.5% of the gross amount payable	10% of the gross amount payable	12.5% of the gross amount payable

Summary of changes in the
INCOME TAX ORDINANCE, 2001

155 & Part-III, Division-V **Income from property**

The bill proposes to enhance the withholding tax rate from 15% to 17.5% on payment of rent to the company being non-filer. Currently a flat rate of 15% is applicable irrespective of the fact whether the company is filer or a non-filer.

156 Part-III, Division-VI **Prize and winnings**

The bill seeks to enhance the rate of tax for non-filers from 20% to 25% on payment of prize on a prize bond, or winning from a raffle, lottery, prize on winning of quiz, prize offered by companies for promotion of sale, cross-word puzzle.

156A Part-III, Division-VIA **Petroleum Products**

The bill seeks to enhance the rate of tax for non-filers from 15% to 17.5% on the amount of commission or discount allowed to the petrol pump operator.

234A Part-III, Division-VIB **CNG stations**

The bill proposes to enhance the advance tax rate from 4% to 6% on gas bill of a CNG stations being non-filer.

236& Part-IV, Division-V **Telephone users**

The bill proposes to reduce the rate of collection of advance tax to 12.5% as against the existing rate of 14% on the amount of bill from the subscribers of internet services and mobile telephone and prepaid internet or telephone card.

231B& Part-IV, Division-VII **Advance tax on private motor vehicles**

The bill proposes to reduce the rate of collection of advance tax in respect of filers only in first three slabs at the time of registration of a motor vehicle or jeep as well as at the time of sale of a motor vehicle or jeep at the following rates:

	At the time of registration or sale (sub section (1) and (3))	
Engine capacity	**Proposed (Rs.)**	**Existing (Rs.)**
Up to 850 cc	7,500	10,000
851 cc to 1000 cc	15,000	20,000
1001 cc to 1300 cc	25,000	30,000

Summary of changes in the
INCOME TAX ORDINANCE, 2001

236A & Part-IV, Division-VIII **Advance tax at the time of sale by auction**

The bill proposes to enhance rate of collection of advance tax from 10% to 15% on gross sale price of any property or goods sold by auction to a non-filer.

236H & Part-IV, Division-XV **Advance tax on sale of retailers**

The bill proposes to replace the existing advance tax rate with the followings:

<table>
<tr><th>Category of sale</th><th colspan="2">Rate of tax</th></tr>
<tr><th></th><th>Filer (Rs.)</th><th>Non-filer (Rs.)</th></tr>
<tr><td>(1)</td><td>(2)</td><td>(3)</td></tr>
<tr><td>Electronics</td><td>1%</td><td rowspan="2">1%</td></tr>
<tr><td>Others</td><td>0.5%</td></tr>
</table>

236U& Part-IV, Division-XXV **Advance tax on insurance premium**

The bill proposes to increase the threshold limit from 0.2 million to 0.3 million for charging advance tax from non-filers on life insurance premium.

SECOND SCHEDULE

Part I- Exemption from total income **Income of certain charitable and other institutions**

Clause *(66)* **The bill proposes to extent tax exemption to the followings:**

(xxxvi) Asian Infrastructure Investment Bank and persons as provided in Article 51 of Chapter IX of the Articles of Agreement signed and ratified by Pakistan and entered into force on December 25, 2015.

(xxxvii) Gulab Devi Chest Hospital.

(xxxviii) Pakistan Poverty Alleviation Fund.

(xxxix) National Academy of Performing Arts.

The bill proposes to insert following new clauses in the Second Schedule;

(140A) **Japan International Cooperation Agency (JICA)**

Any profit on debt received by Japan International Cooperation Agency (JICA), from Islamabad- Burhan Transmission Reinforcement Project (Phase-I) undertaken in pursuance to the loan agreement for Islamabad-Burhan Transmission Reinforcement

Project (Phase-I).";

(143) **Income of Political Parties**

Any income derived by a political party registered under the Political Parties Order, 2002 with the Election Commission of Pakistan.";

(144) **Profit and gains derived by a start–up**

Profit and gains derived by a start–up as defined in Clause (62A) of section 2 for the tax year in which the start up is certified by the Pakistan Software Export Board and the following two tax years.;

Part-IV Exemption from specific provisions Clause

The following Clause is proposed to be omitted from the Second Schedule.

(56A) **Exemption from Final Tax**

The proposed amendment seeks to omit this Clause as it has become redundant as a consequence of omission of section 236 E of the Ordinance.

The following Clauses are proposed to be inserted or extended in the Second Schedule

(56)(ia) **Exemption from Section 148 to Petroleum Products**

The bill proposes to include in sub-clause (ia) name of M/s. Z&M Oils (Pvt.) Ltd, Exceed Petroleum (Pvt.) Ltd, Petrowell (Pvt.) Ltd, Quality-1 Petroleum (Pvt.) Ltd, Horizon Oil Company (Pvt.) Ltd, Outreach (Pvt.) Ltd, Kepler Petroleum (Pvt.) Ltd" to provide the exemptions to these entities as well from section 148 on import of petroleum products.

(72A) **Taxation of Hajj group operators**

The existing clause provides that the Hajj operators pay Rs.5,000/- per Haji in respect of Hajj operation up to tax year 2016. The bill proposes to extend this facility to Hajj operator for the tax year 2017.

(72B) **Non applicability of withholding of tax on import by Industrial Undertaking**

The existing clause provide that quantity of raw materials to be imported which is sought to be exempt from tax under section 148 shall not exceed 110 per cent of the quantity of raw materials imported and consumed during the previous tax year. The bill proposes to increase this limit from 110 per cent to 125 per cent.

(94) **Exempt from application of Section 153 (1)(b) on Specified Services**

The above clause was inserted by virtue of Income Tax (Second Amendment) Act, 2016 which provided the facility of reduced rate of two percent to a company being a filer and engaged in providing or rendering services on account of freight forwarding, air cargo, courier, manpower outsourcing, hotel, security guard, software, IT and IT enabled services as defined in clause (133) of Part 1 of this Schedule, tracking, advertising (other than print or electronic media), share registrar, engineering and car rentals. The bill proposes to include in the ambit of the clause services rendered by Pakistan Stock Exchange Limited.

This exemption was expiring in the tax year 2017. The bill proposes to extend the period for one more year by substituting tax year 2017 with tax year 2018.

(101) **Exemption from withholding on Cash withdrawal from a bank**

The bill proposes to insert this clause to provide tax exemption from the provisions of section 231A in respect of cash withdrawal made from a "Branchless Banking (BB) Agent Account" utilized to render branchless banking services to customers.

(102) **Exemption from advance tax on private motor vehicles section 231B**

The bill seeks to exempt light commercial vehicles leased under the Prime Minister Youth Business Loan scheme from collection of advance tax prescribed in section 231(B), sub-section (1A).

SEVENTH SCHEDULE Clause

Sub-rules (g), of Rule 1 **Notional gain or notional loss**

The bill proposes to insert an explanation to sub-rule (g) of Rule 1 to clarify that the notional loss shall not be construed as to allow a notional loss or charge to tax any notional gain on any investment under the any regulation or instruction unless all the event that determined gain or loss have occurred and the gain or loss can be determined with reasonable accuracy. The proposed amendment is in the context of IAS 39 and IAS 40. The State Bank of Pakistan has still not notified those two IASs, on banking companies, hence are still deferred.

EIGHTH SCHEDULE

Sub-rules (6), of rule 1 **Period for furnishing the statement by NCCPL increase**

The bill seeks to increase the period allowed to NCCPL for furnishing the statement of Capital Gain and tax computed thereon in the quarter from thirty days to forty five days of the end of each quarter.

Rules 4 **Payment of tax collected by NCCPL to the Board**

The bill seeks to increase the period for payment of tax by NCCPL from 31st July to 15th August next following the financial year in which the amount was collected.

Summary of changes in the SALES TAX ACT, 1990

Sales Tax Act, 1990

Summary of significant changes

Section 2(43A) & Section 3(9)(A) **Tier-1 Retailers**

The bill seeks to provide specific definition for Tier-1 retailers by specifying following identifications:

- Retailers operating as a unit of a national or international chain of stores;
- Retailers operating in an air-conditioned shopping mall, plaza etc;
- Retailers whose cumulative electricity bill during the immediately preceding twelve months exceeds rupees six hundred thousand;
- Wholesaler-cum-Retailer engaged in bulk import and supply of consumer goods on wholesale basis to retailers and on retail basis to the general body of consumers

The bill also proposes taxability of Tier-1 retailers in following manner:

- These retailers shall pay sales tax at 17%;
- Comply with all the applicable provisions of the Act and related rules thereunder including filing of monthly sales tax returns and input tax adjustment;

However, the bill proposes to give an option to Tier-1 retailers to pay sales tax on turnover regime at the rate of two percent of their total turnover including exempt sales. In this respect, the option needs to be filed before the concerned Chief Commissioner by 15th July, 2017 which will remain in force for the whole financial year.

The Tier-1 retailers making supply of finished goods to the five sectors covered through Notification No. S.R.O 1125(1)/2011 shall continue to pay sales tax under relevant notification.

3(1)(b) **Scope of Tax**

The bill seeks to insert clarification that the sales tax is chargeable and payable on the goods imported into Pakistan irrespective of their final destination in various territories of Pakistan. The proposal is made to remove anomaly as to applicability of sales tax at import stage where final destination is non-tariff areas.

3(1A) The bill seeks to impose further tax of two percent on the zero rated goods when supplied to the un-registered persons. Presently, zero rated goods were not subject to further tax on supply to unregistered person. The proposal attempts to force unregistered traders of the Fifth Schedule items to get themselves registered. Consequential amendments are also suggested in section 4 of the Sales Tax Act, 1990.

Summary of changes in the
SALES TAX ACT, 1990

13(7) **Exemption**

The bill proposes to legitimize amendments introduced from July 1, 2016 till June 30, 2018 if not earlier rescinded and that such notifications shall remain in force till June 30, 2018, if not earlier rescinded. The proposed amendment is in link with amendment proposed in section 53 of the Income Tax Ordinance, 2001. The legality of the proposed change has abundantly been commented upon in section 53 of the Income Tax Ordinance, 2001 which are equally relevant for the purpose of proposed similar changes in the Sales Tax Act, 1990.

30 1(ea) and (fa) & 3 **Appointment of Authorities**

The bill proposes to insert new authorities as District Taxation Officer and Assistant Director Audit. Consequential amendments are also suggested in other sub-sections

30 (2A) and (2B) The bill suggests change in hierarchy and authority for allocation of jurisdiction whereby the Board will only assign jurisdiction to the Chief Commissioners who will further assign jurisdiction to the Commissioners in respect of person or class of person or areas.

Presently, the Board is delegating/ directing work directly to both the Chief Commissioners and the Commissioners

33 Table-Serial No 23 **Offences and Penalties**

The bill proposes penalty and offence for the person who manufactures, possesses, transports, distributes, stores or sells cigarette packs without or with counterfeited tax stamps, stickers, labels etc. The penalties proposed are:

- Confiscation and destruction of stock;
- Twenty five thousand rupees or 100% of the tax involved whichever is higher;
- Imprisonment for a term extendable to five years or with additional fine equating loss of tax involved or both;
- Permanent seizure of vehicle used for transportation of these stock;
- In case of repeat sales of these stocks, the premises used for such sales for the period not exceeding 15 days.

48(1)(f) **Recovery of Arrears of Tax**

The bill proposes the insertion of new proviso to restrain the Commissioner to initiate recovery proceedings where appeal against an order is pending before Commissioner Appeals under section 45B subject to payment of 25% of the amount of tax due.

Through this proposed change, the Federal Government appears to encourage the tax payer to minimize the exposure for filing the Constitutional Petition and obtaining stay against the recovery.

Summary of changes in the
SALES TAX ACT, 1990

56(1)(d) & 2(d) **Service of Orders, Decisions**

The bill proposes to provide legal coverage for service of notice electronically through email or to the e-folder maintained for the purpose of e-filing of statutory returns.

74A **Validate**

The bill also seeks to nullify the effect of decisions of superior courts in respect of notifications issued by the Federal Government prior to the Finance Act, 2017 by holding them validly issued and notified.

However, it needs to be appreciated that for each notification so challenged; it is to be specifically seen that the ground of illegality is not only capable to be removed by the legislature but also in fact removed to validate notifications

Various **Power to Board with the Approval of the Minister Incharge**

The bill proposes to shift powers of the Federal Government under various sections of the Sales Tax Act, 1990 to the Board with the approval of the Minister Incharge; such as:

Sections	Functions
3 (2)(b), (3A),(5)	To charge, collect and pay sales tax in the specified manner at the higher or lower rate of sales tax; To levy sales tax liability on the recipient of goods; To levy and collect tax at the extra rate or amount.
4 clause C	To specify other goods for zero rating.
7 (3) (4)	To allow a registered person to deduct input tax paid or such amount of input tax from the output tax determined under the Act.
7A (1) (2)	To levy and collect sales tax on the difference between the value of supply for which the goods are acquired and the value on which it is further supplied. To specify the minimum value addition required to be declared by specific class of persons.

Summary of changes in the SALES TAX ACT, 1990

8 (1)(b)	To specify such other non-input tax creditable goods or services.
13(2)(a) **13(6)**	To exempt any taxable supplies or import or supply of goods from whole or partial tax chargeable in specified circumstances pursuant to the approval of the Economic Coordination Committee of Cabinet. Exclusive Power of the Board without the requirement for Minister's approval to place before the National Assembly all notifications issued under this section .
60	To authorize the import of goods or a class of goods without full or partial payment of tax to the specified persons
65	To exempt the tax not levied or short levied due to inadvertently or due to general practice.
71	To prescribe special procedures for various purposes of the Act.

Changes proposed in Schedules

Third Schedule - Sales Tax on Retail Price

S. No. 32 Fertilizers

The bill proposes to move various types of fertilizers from the Third Schedule to Eighth Schedule of the Sales Tax Act, 1990 which are not manufactured from imported LNG. The proposed amendment will reduce the amount of sales tax worked on ad valorem basis @ 17%

Sixth Schedule

Table 1 - Imports and supplies

The bill proposes following significant amendments to this Table

S.No	Existence Tariff Headings	Proposed Tariff Headings	Remarks
38	7108.2000	7108.1390	Earlier entry was redundant. The proposed entry suggests exemption for semi manufactured Gold of less than 5kg
81	1207.2000	1207.1000	Earlier entry was redundant. Further, new tariff heading proposes exemption of sales tax on oil seeds of Palm nuts and kernels.

Summary of changes in the SALES TAX ACT, 1990

Sixth Schedule

Table 1 - Imports and supplies

S No. 97	The bill proposes to exempt markers and porous tipped pens from levy of sales tax. Earlier only pens and ball pens were exempted.
S No. 100A	The bill proposes to clarify that plant, machinery, equipment, appliances and accessories are covered in the ambit of ‘materials and equipment for construction of Gwadar Port
S No. 100C	The bill proposes to exempt the vehicles imported by the China Overseas Ports Holding Company Limited and its operating companies for twenty three years for construction, development and operation of Gwadar Port and it’s free zone subject to limitation, conditions prescribed from time to time under PCT 9917.
S No. 130	The bill seeks to restrict the scope of exemption of sales tax from premixes for growth stunting to Sodium Iron (Na Fe EDTA), and other premixes of vitamins, minerals and micro-nutrients (food grade) and subject to conditions imposed for importation under the Custom Act, 1969
S No. 133	The bill proposes to withdraw exemption on certain ingredients for pesticides, cadusafos technical material and Tiethanolamine and its salts.
S.No. 134	Gift or donation from a foreign government or organization to the Federal or the Provincial Governments or any public sector organization subject to recommendations of the Cabinet Division and concurrence by the Federal Board of Revenue. It is suggested to include sales tax exemption on the goods imported or supplied to non-profit organization in addition to any specific exemption already provided through Clause 52 etc. of the Sixth Schedule to minimize the exposure of non-claimable input taxes on the imports or purchases of the goods which are currently paid by them mainly from the donation receipts.
S. No. 135	Sunflower and canola hybrid seeds meant for sowing
S No. 136	Combined harvesters upto five years old
S No. 137	Single cylinder agriculture diesel engines (compression-ignition internal combustion piston engines) of 3 to 36 HP, and CKD kits thereof

Summary of changes in the
SALES TAX ACT, 1990

Sixth Schedule

Table 3- Conditional exemption to plant and machinery

Serial No. 14 The bill proposes to substitute the serial no. 14 and 15 with serial no. 14, 14A, 15 and 15A.

The bill proposes to substitute earlier serial no. 14, which provided exemption to Solar Home Systems with the following tariff headings.

Serial no. 14	**Solar Power Systems**	**8501.3210**
(1)	Off–grid/On-grid solar power system (with or without provision for USB/charging port) comprising: (i) PV Module. (ii) Charge controller. (iii) Batteries for specific utilization with the system (not exceeding 50 Ah in case of portable system). (iv) Essential connecting wires (with or without switches). (v) Inverters. (vi) Bulb holder	8541.4000 9032.8990 8507.2090 8507.3000 8507.6000 8544.4990 8504.4090
(2)	Water purification plants operating on solar energy.	8536.6100 8421.2100

Serial No. 14A The bill also proposes to exempt from sales tax parts for:

- Solar Parabolic Power Plants,
- Solar Dish Stirling Engine,
- Solar Air Conditioning Plant,
- Solar Desalination System,
- Solar Water Heaters,
- PV Modules if imported separately.

The bill also proposes to introduce new tariff for exemption of sales tax for Wind turbines and parts there to. However, exemption is not provided to Wind Turbines for less than 200KW.

Serial No. 14A	Description	Tariff Heading
12	**Wind Turbines**	
(a)	Wind Turbines for grid connected solution above 200 KW (complete system).	8412.8090
(b)	Wind Turbines upto 200 KW for off-grid solutions comprising: (i). Turbine with Generator/ Alternator. (ii). Nacelle with rotor with or without tail. (iii). Blades. (iv). Pole/ Tower. (v). Inverter for use with Wind Turbine. (vi). Deep Cycle Cell/ Battery (for use with wind turbine)	8412.8090 Respective headings 8507.2090

Serial No. 15 **Exemption for items for promotion of renewable energy technologies or for conservation of energy**

The bill proposes to exempt following new items from application of sales tax if imported for promotion of renewable energy technologies or for conservation of energy.

Serial no. 15	**Description**	**Tariff heading**
(i)	SMD/LED/LVD lights with or without ballast, fittings and fixtures	8539.3290
(ii)	SMD/LED/LVD street lights with or without ballast, fittings and fixtures	8539.3290
(iii)	Tubular day lighting device	9405.5010
(vii)	LVD induction lamps	8539.3290
(viii)	LED bulb/tube lights	8543.7090
(x)	Light emitting diodes (light emitting in different colors).	8541.5000
(xi)	Water pumps operating on solar energy along with solar pump controllers	8541.5000
(xii)	Energy saver lamps of varying voltages	8541.5000
(xiii)	Energy Saving Tube Lights.	8413.7010
(xiv)	Sun Tracking Control System	8413.7090 8504.4090
(xv)	Invertors	8539.3110 8539.3210 8539.3120 8539.3220
(xvi)	Charge controller/ current controller	8543. 7090

Summary of changes in the SALES TAX ACT, 1990

Serial No. 15A Exemption of sales tax for parts and components for manufacturing LED lights

The bill proposes to introduce new tariff headings for exemption from chargeability of sales tax on the import of parts and components for manufacturing LED lights subject to following conditions:

Description	Tariff Headings	Condition
Parts and components for manufacturing LED lights: • Aluminum housing/ shell for LED (LED light fixture) • Metal clad printed circuit boards (MCPCB) for LED • Constant current power supply for of LED lights (1-300W) • Lenses for LED lights	 9405.1090 8543.0000 8504.4090 9001.9000	If imported by LED light manufacturers registered under the Sales Tax Act, 1990 subject to annual quota determination by the Input Output Coefficient Organization (IOCO)

Eighth Schedule

Table 1- Reduced Rate subject to conditions prescribed

The bill proposes to omit the various redundant tariff headings along with change of tariff headings due to change in Tariff headings in the First Schedule to the Custom Act. Further, following significant amendments are also proposed:

Serial No. 34 **Extension of exemption**

The bill proposes to extend the exemption available on set top boxes; TV broadcast transmitter and satellite dish receivers till 2018.

The bill also proposes to include the following goods in this schedule for conditional exemption:

S. No.	Description	Tariff Heading	Rate of Sales Tax	Condition
35	DAP	Respective heading	Rs. 100 per 50 kg bag	Nil
36	NP (22-20)	Respective heading	Rs. 168 per 50 kg bag	If manufactured from gas other than imported LNG
37	NP (18-18)	Respective heading	Rs. 165 per 50 kg bag	- Do -

38	NPK-I	Respective heading	Rs. 251 per 50 kg bag	- Do -
39	NPK-II	Respective heading	Rs. 222 per 50 kg bag	- Do -
40	NPK-III	Respective heading	Rs. 341 per 50 kg bag	- Do -
41	SSP	Respective heading	Rs. 31 per 50 kg bag	- Do -
42	CAN	Respective heading	Rs. 98 per 50 kg bag	- Do -
43	Natural gas	Respective heading	10%	- Do -
44	Phosphoric acid	2809.201	5%	If imported by fertilizer company for manufacturing of DAP

45	Following machinery for poultry sector			Import and supply
	(i)Machinery for preparing feeding stuff	8436.1000	7%	
	(ii) Poultry incubators and brooders	8436.2100 and 8436.2900	7%	
	(iii) Insulated sandwich panels	9406.0090	7%	
	(iv) Poultry sheds	9406.0020	7%	
	(v) Evaporat-ive air cooling system	8749.6000	7%	
	(vi) Evaporative cooling pad	8479.9010	7%	
46	Multimedia projectors	8528.6210	10%	If imported by educational institution
47	Locally produced coal	27.01	Rs. 425 per metric tonne or 17% ad valorem, whichever is higher	Nil

Summary of changes in the SALES TAX ACT, 1990

Ninth Schedule

The bill proposes to rationalize the sales tax rates on the import or local supply of mobile phones and at the time of registration of IMEI numbers by CMOs as follows:

Particulars	Change in Rate
A. Low Priced Cellular Mobile Phones or Satellite Phones	From Rs.300 to Rs. 650
Medium Priced Cellular Mobile Phones or Satellite Phones	From.1000 to Rs. 650

Summary of changes in the
FEDERAL EXCISE TAX ACT, 2005

Summary of significant changes

Section 3 & 16 **Powers of Federal Government transferred to Board**

The bill proposes to substitute the powers of the Federal Government under various sections of the Federal Excise Act, 2005 to the Board to be exercised on approval of the Minister Incharge. Such proposal for transfer of powers is specified in section 3 and 16:

- to levy and collect FED on such goods as specified through notification and are brought from non-tariff areas to tariff areas.
- to levy excise duty at such higher or lower rate or rates
- issue of notification for exemption of goods or class of goods, subject to .existence of conditions already specified therein; and
- placing of all notifications issued in a financial year before the National Assembly

Section 16(6) **Protection to issued notifications**

The bill also proposes to:

- extend the life of already lapsed notifications issued prior to July 1, 2016 to remain effective till June 30, 2018, hence to this effect the bill suggests retrospective protection to lapsed notification; and
- prescribes greater period for life for notifications issued after July, 1, 2016 to have effective life of two years instead of one year.

Under the present law any notifications if not rescinded earlier; stands rescinded on expiry of the financial year in which it was issued and therefore certain notifications issued upto June 30, 2016 were already lapsed and certain were due to be lapsed on June 30, 2017

Further, in order to provide protection to existing notifications before being repealed by efflux of prescribed time; it is also suggested in the bill that the clause 5(3) of the bill dealing the subject will be effective from very next day of accent of the President of Pakistan.

The legal controversies will arise on giving re-birth to the notifications retrospectively after lapse of one year, because certain transactions are already passed and closed at this stage.

Section 19 The bill proposes separate provisions for offence and its penalty in relation to activities related to Cigarettes in following manner:

- manufacture or production manner contrary to the FED Act, 2005 or the rules made thereunder or ;
- manufacture or production of counterfeited cigarettes without tax stamps, stickers, labels etc; or

- the manufacture or production of cigarettes packs without affixing or affixing counterfeited cigarettes or tax stamps, stickers, labels etc.;

The bill proposes that the machinery, equipment, instruments etc. used in such manufacture or production to be confiscated and destroyed as approved by the Commissioner and no person shall be entitled to any claim or compensation in respect of such machinery or equipment.

Section 29 (1)(ea) and (fa) **Appointment of Federal Excise Officers and Delegation of Powers**

The bill proposes to introduce new authorities as District Taxation officer and Assistant Director Audit

Section 29 (1AA) and (1AB)

The bill proposes change in hierarchy and authority for allocation of jurisdiction whereby the Board will only assign jurisdiction to the Chief Commissioners who will further assign jurisdiction to the Commissioners in respect of person or class of person or areas.

Presently, the Board is delegating / directing work directly to both the Chief Commissioners and the Commissioners

Section 37 **Deposit, Pending appeal, of duty demanded or penalty**

The bill proposes insertion of new proviso to restrain the Commissioner from recovery proceedings where appeal against the Order is pending before the Commissioner Appeals under section 33 of the Federal Excise Act, 2005; subject to payment of 25% of the demand. Similar provisions already exists in Income Tax law.

The existing proviso to section 37 which provides for automatic stay on payment of 15% of tax demand is not proposed to be removed and same time new proviso is suggesting payment of 25% of demand for stay; hence the anomaly will arise as to applicability of two provisos.

Section 43(A) **Validation**

The bill also seeks to nullify the effect of decisions of superior courts in respect of notifications issued by the Federal Government prior to the Finance Act, 2017 by holding them validly issued and notified.

However, it needs to be appreciated that for each notification so challenged; it is to be seen that whether the ground of holding notification illegal can be removed by National Assembly through Money Bill to legalise/validate the notifications and also such grounds of illegality are specifically removed.

Pertinent to mention that if these suggestions in bill are made to overcome the effect of decision of august court, popularly known as ‘Mustafa Impex’; where the decision was given considering the provisions and definition given in the Constitution of Pakistan and Rules of Business, 1973 of Federal Government; the purpose may not be achieved through mere validating amendment in revenue laws

Further to address the difficulty in future on this count; the bill is also proposing in all revenue laws to transfer powers of the Federal Government to the Board to be exercised on approval of the Minister Incharge.

Section 47(1)(d) and 2(d) **Service of notices and other documents**

The bill seeks to provide legal coverage for service of notice electronically through email or to the e-folder maintained for the purpose of e-filing of statutory returns.

First Schedule

The bill proposes to substitute serial number 9a, 9b,10a, and 10b related to duty on locally produced cigarettes by proposing different excise rates for the period:

S. No.	Existing Provision	Proposed Provision	Remarks
9	For the period from 01-07-2016 to 30-11-2016,Rupees 3,436 per 1,000 cigarettes if their on-pack printed retail price exceeds 4,000 rupees per 1,000 cigarettes And For the period from 01-12-2016 onwards, Rupees 3,705 per thousand cigarettes if their on-pack printed retail price exceeds 4,400 rupees per 1,000 cigarettes	Rupees 3,740 per 1,000 cigarettes if their on-pack printed retail price exceeds 4,500 rupees per thousand cigarettes.	Serial no. 9a and 9b substituted by serial no. 9
10	For the period from 01-07-2016 to 30-11-2016, Rupees 1,534 per 1,000 cigarettes if their on-pack printed retail price does not exceeds Rupees 4,000 per 1,000 cigarettes	Rupees 1,670 per 1,000 cigarette if their on-pack printed retail price exceeds 2,925 rupees per 1,000 cigarettes but does not exceed 4,500 rupees per thousand cigarettes.	Serial no. 10a and 10b substituted by serial no. 10 and 10A

	and For the period from 01-12-2016 onwards, Rupees 1,649 per 1,000 cigarettes if their on-pack printed retail price does not exceeds Rupees 4,400 per 1,000 cigarettes.	Rupees 800 per 1,000 cigarette if their on-pack printed retail price does not exceeds 2,925 rupees per thousand cigarettes.	

Table 2 Serial No. 6 The bill seeks to reduce rates on telecommunication services (only for FED applicable areas) from 18.5% to 17%.

Third Schedule

Table1- Serial No. 19 The bill seeks to clarify scope of exemption provided on the imports of materials and equipment to include plants, machinery, equipment, appliances and accessories for the construction of Gwadar port and development of free zones for Gwadar port imported by China Overseas Ports Holding Company Limited (COPHCL) and its operating companies.

Table1- Serial No. 20A The bill aims to provide exemption to vehicle imported by the China Overseas Ports Holding Company Limited (COPHCL) and its operating companies for construction, development and operations of Gwadar Port and Free Zone Area for a period of twenty-three years subject to conditions specified under PCT heading 9917(3).

Summary of changes in the CUSTOMS ACT, 1969

SUMMARY OF SIGNIFICANT AMENDMENTS

2(1a) Goods declaration

The bill proposes to cover 'bill of costal goods' under section 147 into the ambit of 'goods declaration'

2(z) Controlled Delivery

The bill seeks to introduce concept of controlled delivery to empower supervision and other operational activities for identification of person involved in commission of an office under the Customs Act.

3AAA Directorate General of China Pakistan Economic Corridor (CPEC)

The bill proposes establishment of a separate and new Directorate for the purpose of CPEC which shall comprise Director General, Directors, Additional Directors and other officers as appointed by the Board through notification in official Gazette.

7 Assistance to the officers of customs

The bill also proposes obliging officers of National Highways and Pakistan Motorway Police to assist Officers of Customs in discharging their duties.

19 General power to exempt from customs duties

The bill proposes that instead of the Federal Government; the Board with the approval of Minister-in-charge be empowered to issue notification for exemption subject to the conditions specified in section

The bill also proposes to provide extended life to notifications in following manner:

- Notifications issued prior to July 1, 2016 to remain effective till June 30, 2018; hence to this extent the suggestion has retrospective effect by giving re-birth to notification lapsed a year ago.

- Notifications issued after July, 1, 2016 are suggested to have effective life of two years instead of one year.

Under the present law any notifications if not rescinded earlier; stands rescinded on expiry of the financial year in which it was issued

Further, in order to provide protection to notifications before being repealed by efflux of prescribed time; it is also suggested in the bill that the Clause 2(6) of the bill dealing the subject will be effective from very next day of accent of the President of Pakistan.

25A Power to determine the custom value

The bill proposes that where the value declared under section 79, 131 or on invoice with the consignment is higher than the value determined by the Collector of Customs or the Director of Custom Valuation; the higher value will be relevant.

Summary of changes in the CUSTOMS ACT, 1969

26(1A) Obligation to produce documents and provide information

The bill proposes to empower the Board or its officer to seek information for the purposes of End Use Verification of goods also.

33 Refund to be claimed within one year

The bill proposes to impose condition of non-passing of burden of duty on end consumer for the sake of refund of custom duty to importer even resulted from appellate orders or on account of final adjustment of provisional payment.

Presently, this condition only exists for duty over paid on account of inadvertence, error or misconstruction.

155F Cancellation of registration of use of Customs Computerized System

The bill proposes to provide opportunity of appeal to be field before the Chief Collector of Customs by a registered user of the Customs Computerized system on suspension or cancellation registration.

156 Punishment for offence

The bill seeks to insert a new clause to provide penalty for non-compliance delay and detention certificate issued by the Custom Officer. Further, it is also suggested to empower the Board to regulate imposition of penalty including its time and manner through notification in the official Gazette.

193 Appeals to Collector (Appeals)

The bill proposes to specifically provide that the revision order passed u/s 195 to be appealable before the Collector (Appeals). However, the amendment proposed in section 193 it appears that order passed by an officer below the rank of the Additional Collector will be appealed before this forum

194A Appeals to the Appellate Tribunal

The bill also provides that revisionary order passed u/s 195 by the Board or an Officer upto rank of Additional Commissioner to be appealed directly before the Tribunal

195 Powers of the Board or the Collector to pass certain order

The bill proposes;

- to empower the Collector of Customs (adjudication) to also exercise revisional power

- to empower the Board, the Collector of customs and the Collector (adjudication) to either pass order himself or delegate it to another Officer of equal or higher rank who may have passed the earlier order.

Summary of changes in the
CUSTOMS ACT, 1969

219A Power to enter into mutual legal assistance agreements on customs matters

The bill proposes to empower the Board to enter into MOU for mutual assistance in customs matter including:

- coordinated border management
- information and data sharing
- bilateral and multilateral special operations
- capacity building
- other matters.

Similarly, the Board is also empowered to seek similar assistance from foreign bodies on behalf of the Federal Government.

221-A Validation

The bill also seeks to nullify the effect of decisions of superior courts in respect of notifications issued by Federal Government prior to Finance Act, 2017 by holding them validly issued and notified.

However, it needs to be appreciated that for each notification so challenged; it is to be specifically seen that the ground of illegality is not only capable to be removed by the legislature but also in fact removed to validate notifications

Karachi
Tax and Business Assurance Services
1st & 3rd Floor, Modern Motors House,
Beaumont Road, Karachi-75530
Tel: +92 21 35672951-55
Fax: +92 21 35688834

Islamabad
302 B, 3rd Floor
Evacuee Trust Complex,
Sir Aga Khan Road F-5/1, Islamabad
Tel: +92 51 2274665, 2271906,
Fax: +92 51 2273874

Lahore
1-Inter Floor, Eden Centre,
43-Jail Road, Lahore
Tel: +92 42 37423621-3, 3755672-3
Fax: +92 42 37425485

Grant Thornton
An instinct for growth™

www.gtpak.com