



**OVERSEAS INVESTORS
CHAMBER OF
COMMERCE AND
INDUSTRY**

**TAXATION
PROPOSALS
FOR 2022–2023
FISCAL BUDGET**



March 2022

TAX GOVERNANCE, COLLECTION AND EASE OF DOING BUSINESS

The tax environment and tax rates are key consideration for any prospective investors, including foreign investors and amongst the key influencers in attracting Foreign Direct Investment (FDI) into a country. Therefore, as in the past years, the OICCI members submit following taxation and tariff related recommendations for the 2022-23 Fiscal Budget:

1. Simplify the complex system of determining the corporate tax liability by:
 - a. Abolishing ACT (Alternative Corporate Tax);
 - b. Revamping the MTR (Minimum Tax Regime)
 - c. Doing away with undue recurring audit/ examinations/ reviews and recovery proceedings.
 - d. A number of Ease of Doing Business (EODB) and simplification of tax paying process issues can be addressed by the introduction of:
 - i. Simplifying the procedures and forms for filing the sales tax and income tax return.
 - ii. One form for reporting all the tax liability in the country, including for FBR, and provincial revenue authorities, with efficient inter-revenue authorities' coordination. Single Sales Tax return has not been fully implemented.
2. Tax policies should be predictable, transparent, and consistent. The policies should be implemented for long term to facilitate and protect longer term investment plans of local and foreign investors. No new taxes levied during the year except removing harsh anomalies – no supplementary budgetary measures.
3. The withholding tax regime continues to be a key irritant for most taxpayers, especially the manufacturing and services sector, and negatively impacts EODB.
4. Tax compliant sector provides FBR with information of registered/unregistered businesses, which FBR should use as a tool for broadening tax net. However, FBR unfairly penalizes these commercial organization by disallowing their legitimate expenses and input Sales tax through measures like those covered u/s 21(q) of Income Tax Ordinance, 23(1) and 8(1)(h) & (j) of Sales Tax Act.
5. Revenue Targets for field formations should be in line with the business growth trends. Unrealistic targets leads to harassment of compliant tax payers.
6. To encourage investment in manufacturing facilities, incentives provided previously through various “tax credits” under section 65, should be restored.

OICCI will continue to emphasize on value creation through transparent and strong enforcement measures designed to facilitate compliant taxpayers and punish tax evaders. Furthermore, the value addition of our members should not only be measured from tax collection basis but also on the basis of creating livelihoods, promoting sustainable business model and supporting a tax compliant echo system.

Highlights of OICCI Taxation Proposals

1. Review Minimum Tax Regime (MTR)/Abolishment of Alternative Corporate Tax (ACT) [section 113 and 113C]

- i. The general rate of Minimum Tax under section 113 of ITO 2001 should be reduced to 0.25%.
- ii. For businesses dealing in sectors with high turnover and low margins, (eg. Oil Marketing/ Refineries/ LNG Terminal Operators, large chemical companies, authorized dealers of local vehicle manufacturers, distributors, and traders, including large trading houses), this rate should be applicable on gross profits instead of turnover.
- iii. Alternative Corporate Tax under section 113C to be abolished in the presence of Minimum Tax under section 113.

(Details on page 07)

2. Relief from multiple taxation of Intercorporate Dividends (ICD) in Eligible Group Structures shall be reinstated [section 59B]

- i. To distinguish relief from multiple taxation from income tax exemption, it is proposed that a new subsection be inserted in section 59B as under:

“Distribution of dividends within companies eligible for group relief under this section shall not be deemed a taxable event.”

This is in line with established global practice of protecting intercorporate dividends from multiple taxation

(Details on page 09)

3. Disallowance of expenses in Income tax on sales to Sales tax un-registered persons [section 21(q)]

- i. Section 21(q) introduced by Finance Act 2020 should be omitted.
- ii. Furthermore, to promote documentation and incentivize tax compliant sectors, section 65A (omitted via Finance Act 2017), which gave tax credit of 3%, where 90% of sales were to sales tax registered persons, should be restored.
- iii. Already submitted data/ information in the form of Sales Tax returns, withholding statements submitted by tax compliant sectors shall be utilized for widening of tax base.

(Details on - page 09)

4. Simplification of Exemption Certificates Issuance [sections 150, 151, 159(1) & 154A]

- i. Requirement to obtain exemption certificates for entities having exempt income shall be dispensed with. For example, retirement funds, companies in tax holidays etc.
- ii. Companies that have discharged their full year tax liability in advance under section 148/ 153 shall also be issued exemption certificates under other provisions of Ordinance (for example Section 151, 233 etc.)
- iii. In respect of filer and compliant taxpayers 15 days limit for auto-issuance of exemption certificate as presently allowed, in case of Section 153 of the Ordinance, should be extended to other sections.

(Details on page 09)

5. Increase in Limit of Cost of Vehicle [section 22]

- i. The limit of cost of vehicle for the purpose of depreciation to be increased from 2.5 million to Rs. 5 million under section 22(13)(a) of the Income Tax Ordinance, 2001.

(Details on - page 10)

6. Revamping of Withholding Tax Regime (WHT)

- i. WHT regime should be revamped and reduced from existing over twenty-six to five rates only for filers.
- ii. Withholding tax should be applicable on inactive taxpayers only, or alternatively;
 - a. WHT rates applicable on services @ 8% is a minimum tax regardless of the actual taxable income of the service provider. This tax effectively becomes indirect tax and increases the cost of doing business for service providers, hence, tax on services should be made adjustable.
 - b. Withholding tax deduction u/s 153 (1)(a) which is currently considered as minimum tax for all the suppliers (except manufacturers and listed companies) should be made adjustable at least for corporates appearing in active taxpayers' list.
- iii. Through Finance Act 2021 u/s 165, requirement of filing reconciliation between annual withholding statement and audited accounts is introduced. It has resulted in additional compliance burden on active taxpayers and should be abolished.
- iv. Companies appearing in ATL and obtained exemption certificate by discharge of full year tax liability in advance should be dispensed with requirements to obtain separate withholding tax exemption certificates under 151, 234, 235, 236, 236G and 236H.
- v. Payments to non-residents cannot be processed without obtaining exemption certificate from Commissioner (within 30 days of request). To facilitate timely payments the period of 30 days under 152(5A) shall be curtailed to 15 days and in the absence of any confirmation within 15 days request shall be deemed to approved.
- vi. The following clarification to be inserted after clause 153(7)(iii), to provide tax neutrality for assets financed by Islamic banking of conventional vis- a vis conventional banks. *"For the removal of doubt, it is clarified that any goods delivered under an Islamic mode of financing by a bank or financial institution approved by the State Bank of Pakistan or the Securities Exchange Commission of Pakistan, shall not be considered as sale of goods for the purpose of this section."*

(Details on page 07)

7. Tax Audits & Appellate System [sections 122, 161 & 177]

- i. The previous limitation of conducting tax audits once in every three years should be restored.
- ii. Timeline to conclude audit after submission of requisite information by the taxpayer should be specifically provided in section 177.

(Details on page 14)

8. Admissibility of Input sales tax on Civil work, vehicles and other equipment & materials [section 8(1)(h) & (i)]

- i. Sub-Section (1)(h) and (i) of section 8 of STA 1990 should be amended to allow for adjustment of input tax on the above items used for furtherance of taxable activity.

(Details on page 11)

9. Restoration of proviso regarding incorrect provision of CNIC details by purchaser [section 23(1) third proviso]:

- i. The third proviso to section 23(1) removed through Finance Supplementary Act 2022 be restored.

(Details on - page 11)

10. Pending tax refunds be cleared in an orderly/prearranged manner. All subsequent tax refunds be cleared within 45 days.

- i. Inter-adjustment of Income/Sales tax refunds should be allowed as part of law.

(Details on page 14)

Industry Specific Proposals

A. Automobiles

11. Reduction in Federal Excise Duty (FED) on Locally Manufactured Vehicles.

Levy of FED on locally manufactured vehicles be reduced by amending Serial No. 55B and 55D of Table I of First Schedule of the Federal Excise Act, 2005, to restore sales revenue of vehicles of auto sector while also increasing government revenue.

The reduced FED rates proposed are as follows:

Vehicle Category	FED
0 to 1000cc	0%
1001cc to 1350cc	2.5%
1351cc to 2000cc	5%
2001cc and above	7.5%
Double cabin 4X4 pickup	7.5%

(Annexure I - Details on page 02)

B. Banking, Leasing, And Insurance

12. Higher Effective Tax of Banking Sector

- i. Corporate tax rates for the banking sector should be aligned with other sectors.
- ii. Super Tax relief, as granted to other industries, should be given to banking sector as well.

(Annexure I - Details on page 03)

C. Chemical/ Pesticides/ Fertilizers/ Paints/ Cement

13. Minimum Tax at Import Stage for Fertilizer manufacturers

Clause b of Section 148(7) of ITO 2001 as deleted by the Finance Act, 2017 should be restated, which read as follows: "148(7) b fertilizer by manufacturer of fertilizer" to allow adjustment of tax deducted at import stage for fertilizer imported by a fertilizer manufacturer so as not to make it a Final Tax.

(Annexure I - Details on page 06)

D. Engineering/ Electrical

14. **Exemption from sales tax on the supply of LED or SMD lights and bulbs meant for conservation of energy**
Sales tax at local supply/sales (Table II) of LED or SMD lights and bulbs meant for conservation of energy, HS codes 8539.5010, 8539.5020, 9405.1030 and 9405.4020 be exempted as it would protect local industry setup/investment, would give it advantage over imported finished goods and provide cheaper energy efficient LED light to consumers.

(Annexure I - Details on page 08)

E. Energy Sector

15. **Rationalization of tax Rate of E&P Companies**
The corporate tax rate for E&P Companies needs to be aligned with general corporate tax rate of 29%

(Annexure I - Details on page 09)

F. Fast Moving Consumer Goods

16. **Imported items in Third schedule of STA 1990.**
The words “in retail packing” to be mentioned with tea (serial no. 14) in order to clarify that sales tax at retail price is only applicable in case of imported finished tea in retail packing.

(Annexure I - Details on page 15)

G. Pharmaceutical

17. **Imposition of 17% GST on Pharma API Imports & Simplification of Sales tax refund process:**

Recommendations:

- i. Pharma API imports should also be ‘zero rated’, to avoid generation of huge Sales tax refunds
- ii. Sales Tax refund adjustment should also be allowed against Income Tax liability – Section 10 read with Rule 26 & 28.
- iii. The submission of Annexure H as part of the Sales Tax Return should be discontinued since these details are redundant and are utilized as a tool to delay refund processing – Rule 28. Tax Authorities should simplify the documentation requirement for verification of Input Sales Tax payment by limiting it to Goods Declaration, Invoice and Bank Statement as adequate supports.

(Annexure I - Details on page 16)

H. Telecommunication

18. **Rationalization of Withholding Tax on Telecom Services**

Rate of withholding tax on subscribers should be abolished completely as majority of the subscriber’s base falls below the taxable limit or the withholding tax reduction made through Finance Act, 2021 should be reinstated i.e. 8% effective Fiscal Year 2023

(Annexure I - Details on page 18)

I. Tobacco

19. **FED ACT, 2005 – First Schedule – Table No. 1 (Serial Number 9)**

Fiscal and tax administration measures to address the widening price differential between legitimate and illicit brands that is being exploited by local illicit cigarette manufacturers. More than 200 local illicit brands currently sell below the Minimum Price per pack (PKR 62.76) as set by Government of Pakistan.

(Annexure I - Details on page 21)



OVERSEAS INVESTORS CHAMBER OF COMMERCE AND INDUSTRY

COMPREHENSIVE TAXATION PROPOSALS FOR 2022–2023 FISCAL BUDGET



March 2022

OICCI Comprehensive Taxation Proposals

OICCI 2022-23 tax proposals are divided into the following sections.

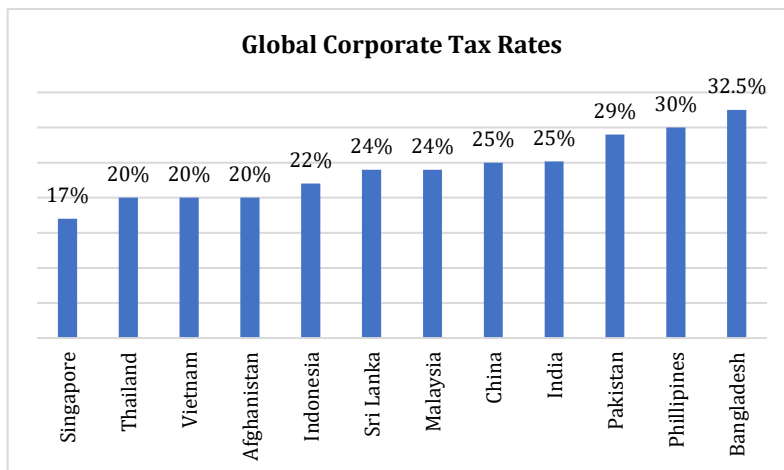
	Pages
A. Income Tax	07
B. Sales Tax	11
C. Custom Duty	13
D. Export Facilitation Scheme [EFS]	13
E. Facilitation of taxpayer/ Ease of Doing Business	14
F. Broadening of tax base for wider participation in revenue generation	17
G. Annexure I – Industry Specific Proposals	
A. Automobile	
B. Banking, Leasing & Insurance	
C. Chemicals/ Pesticides/ Fertilizers/ Paints/ Cement	
D. Engineering/ Electrical	
E. Energy	
F. Fast Moving Consumer Goods/ Dairy Products	
G. Pharmaceutical	
H. Telecommunication	
I. Tobacco	

A. INCOME TAX

1. Regionally Competitive “Effective” Tax Rates

The Corporate tax rate in Pakistan, at 29% is higher than most of the regional countries, as can be noted from the table here.

Companies are required to pay various taxes in addition of income tax i.e., WWF (2%), WPPF (5%), Stamp Duty, Infra structure Cess (1.2%) etc. which ultimately result in effective tax rate of around 35% to 45% which is far greater than effective tax rates of other countries in the region.



Recommendations

FBR should Continue the previously announced policy to annually reduce the tax rate from 29% to eventually to rate of 25%, including banking companies.

2. Review Minimum Tax Regime (MTR)/Abolishment of Alternative Corporate Tax (ACT) [section 113 and 113C]

Recommendations:

- i. The general rate of Minimum Tax under section 113 of ITO 2001 should be reduced to 0.25%.
- ii. For businesses dealing in sectors with high turnover and low margins, (eg. Oil Marketing/ Refineries/ LNG Terminal Operators, large chemical companies, authorized dealers of local vehicle manufacturers, distributors, and traders, including large trading houses), this rate should be applicable on gross profits instead of turnover.
- iii. All streams of income including income of commercial importers should be taxed under the normal tax regime. Special tax regimes should only be restricted to non-corporate or in-active taxpayers.
- iv. Alternative Corporate Tax under section 113C should be abolished in presence of Minimum Tax under section 113.

3. Revamping of Withholding Tax Regime – one of the key irritants for compliant taxpayer

In line with our recommendations, the withholding tax regime has been subject to changes, the rationalization of withholding tax on imports and discriminating withholding tax on the basis of status of the payee is a good step towards rationalization of regime. However, there is still large room for improvement. The impact of the withholding tax regime on "Ease of Doing Business" for the large taxpayers is still very significant.

Recommendations:

- i. WHT regime should be revamped and reduced from existing over twenty-six to five rates only for filers.
- ii. Withholding tax should be applicable on inactive taxpayers only, or alternatively;
 - a) Withholding tax rates applicable on services is 8% minimum tax regardless of the actual taxable income of the service provider. The nature of this tax effectively becomes indirect tax and increases the cost of doing business for service providers, hence, tax on services should be made adjustable.
 - b) Withholding tax deduction u/s 153 (1)(a) which is currently considered as minimum tax for all the suppliers (except manufacturers and listed companies) should be made adjustable at least for corporates appearing in active taxpayers' list.
- iii. Through Finance Act 2021 u/s 165, requirement of filing reconciliation between annual withholding statement and audited accounts is introduced. It has resulted in additional compliance burden on active taxpayers and should be abolished.
- iv. Companies appearing in ATL and obtained exemption certificate by discharge of full year tax liability in advance should be dispensed with requirements to obtain separate withholding tax exemption certificates under 151, 234, 235, 236, 236G and 236H.
- v. payments to non-residents cannot be processed without obtaining exemption certificate from Commissioner (within 30 days of request). To facilitate timely payments the period of 30 days under 152(5A) shall be curtailed to 15 days and in the absence of any confirmation within 15 days request shall be deemed to approved.
- vi. The following clarification to be inserted after clause 153(7)(iii), to provide tax neutrality for assets financed by Islamic banking of conventional vis- a vis conventional banks. *"For the removal of doubt, it is clarified that any goods delivered under an Islamic mode of financing by a bank or financial institution approved by the State Bank of Pakistan or the Securities Exchange Commission of Pakistan, shall not be considered as sale of goods for the purpose of this section."*

4. Exemption against Withholding of Income Tax [section 148]

Recommendations:

- i. Exemption against withholding tax u/s 148 of the Ordinance be restored as previously available through clause 72B of the part I of the Second Schedule. Moreover, the criteria for obtaining 148 exemptions should be based on discharge of advance tax liability as per section 147 of the Income Tax Ordinance, 2001.
- ii. Adjustability of advance Tax Under section 148(7) available to industrial undertaking shall also be extended to service sector. It is recommended to amend the section in following manner:
"The tax required to be collected under this section shall be minimum tax on the income of the importer arising from the imports subject to sub-section (1) and this sub-section shall not apply in the case of import of goods on which tax is required to be collected under this section for internal consumption in the business".

- iii. Section 48(1) of the Ordinance should allow automatic issuance of exemption certificate in line with Section 153.

5. Simplification of Exemption Certificates Issuance

Delays in processing of exemptions certificates by department and un-necessary requirements to obtain exemption certificates under various sections of Ordinance results in hardship and refundable build ups due to tax deduction at source.

Recommendations:

- i. Requirement to obtain exemption certificates for Companies having exempt income shall be dispensed with. For example, retirement funds, companies in tax holidays etc.
 - ii. Companies that have discharged their full year tax liability in advance under section 148 / 153 shall also be issued exemption certificates under other provisions of Ordinance (for example Section 151, 233 etc.)
 - iii. In respect of filer and compliant taxpayers 15 days limit for auto-issuance of exemption certificate as presently in case of Section 153 of the Ordinance, should be extended to other sections.
- ## 6. Relief from multiple taxation of Intercompany Dividends (ICD) in Eligible Group Structures shall be reinstated [section 59B]

The Group Company Laws which were enacted in 2007 were aimed at consolidating businesses for scale through the Holding Company Structure. In this regard the relief clause of 103C, Part I of Second Schedule be reintroduced to encourage formation of business groups.

Recommendations

To distinguish relief from multiple taxation from income tax exemption, it is proposed that a new subsection be inserted in section 59B as under:

“Distribution of dividends within companies eligible for group relief under this section shall not be deemed a taxable event.”

This is in line with established global practice of protecting intercompany dividends from multiple taxation

7. Disallowance of expenses in Income tax on sales to Sales tax un-registered persons [section 21(q)]

Through Finance Act 2020, a new clause inserted in Section 21 of the ordinance disallowed deductions of expenses in proportion to the sales made to sales tax un-registered persons.

The afore mentioned measure taken by the Government is onerous, penalizes tax compliant sector with no revenue benefit to Government.

Notwithstanding the above, in order to discourage/restrict the sale to un-registered person, restrictions have already been placed under the Sales Tax Act, 1990 and imposing similar restriction in the Income Tax Ordinance, 2001 will have detrimental impact on the business, especially when all requirements with regard to disclosure of particulars of unregistered person has been complied.

Recommendations

- i. Section 21(q) introduced by Finance Act 2020 should be omitted.

- ii. Furthermore, to promote documentation and incentivize tax compliant sectors, section 65A (omitted via Finance Act 2017), which gave tax credit of 3%, where 90% of sales were to sales tax registered persons, should be restored.
- iii. Already submitted data/ information in the form of Sales Tax returns, withholding statements submitted by tax compliant sectors shall be utilized for widening of tax base.

8. Increase in Limit of Cost of Vehicle [section 22]

Recommendations

The limit of cost of vehicle for the purpose of depreciation is increased from 2.5 million Rs. 5 million under section 22(13)(a) of the Income Tax Ordinance, 2001. The reduced limit of 2.5 million (last updated vide Finance Act 2012) restricts genuine claim of depreciation on vehicles by companies and businesses. The limit needs revision in line with the current average prices of the vehicles.

9. Withholding Tax on Prizes & Winnings [section 156 of ITO 2001]

Recommendations:

In order to avoid unnecessary litigation between the taxpayer and the authorities, the term “prize” should be defined in ITO 2001. Furthermore, currently applicable two withholding tax rates should be replaced with a single rate of 10% prescribed u/s 156.

10. Ambiguity relating to Taxation of buy-back of shares should be resolved through necessary amendments [between Rule 13P(f) of Income Tax Rules and Section 2(19) of Ordinance]

Currently there is an ambiguity with regards to taxability of buy back of shares in Ordinance. It is proposed that the said anomaly shall be resolved and buy back should be chargeable as Capital Gain Tax in line with regional countries.

Recommendations

It is recommended that following exclusion after clause (f) in sub-section (19) of section 2 be inserted:

“any payment made by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 88 of the Companies Act, 2017 (XIX of 2017)”.

Furthermore, an explanatory paragraph under Section 37A shall be inserted:

“any consideration in respect of buy back of shares under section 88 of the Companies Act, 2017 shall be deemed to be the capital gains under this section”

B. SALES TAX

11. Admissibility of Input sales tax on Civil work, vehicles and other equipment & materials [section 8(1)(h) & (i)]

Section 8 of the ST Act restrict the admissibility of input tax on certain items not meant for taxable supplies to be made by a registered person. In terms of Section 8(1)(h) & (i) of ST Act input tax is not admissible on building material, office equipment, furniture & fixtures, vehicles & their parts and ultimately becomes the part of cost and increase the cost of doing business for all documented sectors and encourages procurement from un-registered sector whereby 17% sales tax cost is mitigated with only 5% sales tax withholding. Further, all the expense are meant for the purpose of business as without such expenses, no business can run. The said provisions have also opened plathora of litigation and many cases are pending before the Court of Law.

Recommendations:

- i. Sub-Section (1)(h) and (i) of section 8 of STA 1990 should be amended to allow for adjustment of input tax on the above items used for furtherance of taxable activity.

12. Restoration of proviso regarding in incorrect provision of CNIC details by purchaser [section 23(1) third proviso]:

Recommendations:

The third proviso to section 23(1) removed through Finance Supplementary Act 2022 be restored.

13. Exemption from levy of Further Tax and Extra tax to certain persons [section 3(1A)] & [section 3(5)]

In terms of Section 3(1A) of the Sales Tax Act 1990 [ST Act], further tax at the rate 3% is applicable on taxable supplies made to a person who have not obtained registration number under the ST Act. However, SRO 648(I)/2013 provides exclusion against levy of further tax.

Further, in terms of 3(5) of the ST Act read with SRO 1222(I)/2021 dated 15 September 2021, extra tax is applicable on supplies of electric power and natural gas to commercial and industrial consumers who have not obtained sales tax registration number or are not on active tax payers list maintained by FBR.

Recommendations:

- i. It is submitted that extra tax exemption shall not be made applicable on supply of electricity to Federal and Provincial Government, Semi-Government and to service providers registered under the Provincial Authorities.
- ii. It is submitted that extra tax exemption shall be restored on supply of electricity to Federal and Provincial Government, Semi-Government as provided through SRO 693(I)/2019 29 June 2019.

14. Input tax adjustment paid through Reverse Charge Mode (RCM) [section 3 of the Sindh Sales Tax Act, 2011 (SSTA) on Services]

Service received from non-resident the service recipient is liable to discharge applicable sales tax under reverse charge mode. As per international practices, whenever a liability is discharge under RCM the recipient is entitled to claim input against such payment unconditionally.

Currently, sections 15 and 15A of the SSTA and section 7 of the Sales Tax Act, 1990 lay down procedures for claiming input tax with reference to registered suppliers only i.e. primarily the service recipients need to have tax invoices in their name bearing their registration number. There is no clarification as to how input tax may be claimed where a tax invoice is not available with the service recipient incase the SST has been discharged under RCM. Therefore, whenever a taxpayer claims input on such transactions, the department disallows the same citing lack of evidence.

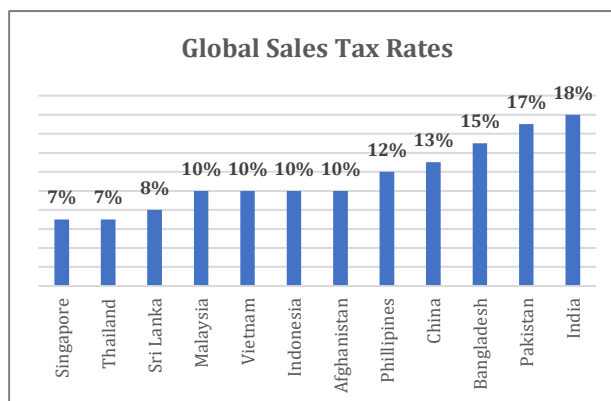
Recommendation

Necessary amendment is required in relevant laws to wave-off the requirement of tax invoice to claim the input tax where services have been received from non-residents and output tax has been discharged by the recipient under RCM.

15. Reduction in Sales Tax rates

The Sales tax rate in Pakistan, at 17%, is the highest in Asia, as can be noted from the table here. Our analysis shows an average of less than 12% in Asia, with a range of 6% to 17%.

Moreover, different rates of Sales Tax on goods and Services i.e. standard, reduced, specified etc. prevailing in the country lead to a number of issues for business organizations operating all over the country.



Recommendations:

Sales tax rates (federal and provincial), both on goods and services, should be harmonized throughout the country.

16. Adjustable Input Tax should be abolished for registered taxpayers [section 8B]

Recommendations:

Input adjustment to sales tax currently restricted to 90% for unlisted companies, should be allowed to 100% for registered taxpayers.

C. CUSTOM DUTY

17. Structural Reforms in Customs to bring Illicit Trade into tax ambit.

Recommendation

- i. Custom valuation should be done by using latest method of valuation including, online search and matching international and regional pricing and taking local legal brand owners on board.
- ii. Unauthorized imports of counterfeit products should be effectively checked through registration of brands with the custom authorities in coordination with the original brand owner/ registered in Pakistan.
- iii. The data of import should be public property (restrictively) to ensure transparency, which will also help in taking over of goods under section 25A of the Custom Act, 1969.
- iv. Control the Afghan Transit Trade:
 - a) Revise the ATTA based on current reality, to protect the revenue base of Pakistan without hurting the real spirit of such agreements. Engage key stakeholders from OICCI and business community in Pakistan in such re-negotiation.
 - b) Pending above, harmonize duty and tax rates to remove the incentive for evasion.
 - c) Fix quantitative limits for imports based on genuine Afghan needs and size of population.
 - d) Establish a basis of collecting duty/taxes at the point of entry into Pakistan for the account of the Afghanistan Government.
 - e) There should be a negative list of items which are not utilized in Afghanistan; yet are imported and make their way into Pakistan.
- v. Introduce stringent controls for illicit trade:
 - a) Introduce tighter penalties (e.g., criminal liability) for illicit trade across categories across the whole value chain – retailers, distributors, and manufacturers.
 - b) Introduce a special division/ task force to raid retailers and manufacturers to confiscate and destroy illicit stocks.

D. Export Facilitation Scheme [EFS]

18. Sales Tax zero rating on local supplies of raw materials, components, plant and machinery on supplies to exporters registered under the EFS 2021[clause 15 of 5th Schedule of Sales Tax Act],

Through Finance (supplementary) Bill 2021, zero rating of sales tax on local manufacturers to supply various Chemicals and other Raw materials to the exporters has been withdrawn, which was previously allowed, under EFS 2021. This will provide uneven level playing field and create non-competitive environment for the local producers/ manufacturers.

Recommendation

The sales tax zero rating on local supplies of raw materials should be reimposed to facilitate exports and import substitution.

E. FACILITATION OF TAXPAYERS & EASE OF DOING BUSINESS

To attract sizeable Foreign Direct Investment (FDI) into the country and make it easy for doing business in Pakistan both for local and foreign investors, it is proposed to:

19. Delay and procedural hassles in Processing of Outstanding Refunds

Recommendations:

- i. All pending tax refund be cleared in an orderly/ prearranged manner.
- ii. Inter-adjustment of Income/Sales tax refunds should be allowed as part of law.
- iii. verification of input sales tax on services hence verification process for refunds should start automatically as soon as an application for refund is filed by the taxpayer and tax refunds be cleared within 45 days.
- iv. With the introduction of MIS on IRIS, it has become easy to introduce an online self-verification of refund. Wherein taxpayer after applying for refund verification us 170 may be given an option to select CPRNs online against each section wherein tax deduction/ collection has been made and create a virtual verification file for easy processing by assessing officers. In case of any discrepancy, only missing CPRNs will be verified manually.

20. Tax Audits & Appellate System [sections 122, 161 & 177]

Each year companies are served with notices without any proper justification, requiring them to produce large volume of data and reconciliation. This is against the concept of Universal Self-Assessment Scheme whereby a tax return filed is generally considered to be correct in the eyes of FBR unless there is proper justification to prove otherwise. As a result, companies are incurring huge administrative costs for audit every year as well as litigation costs to pursue their matters before various appellate forums for an indefinite period of time.

Recommendations:

- i. The previous limitation of conducting tax audits once in every three years should be restored.
- ii. Rules to be implemented under Section 177(2) defining risk based, sample driven and cost-efficient audit criteria instead of calling 100% information for voluminous transactional data resulting in tedious exercises, wastage of man hours and no additional benefits to national exchequer.
- iii. Timeline to conclude audit after submission of requisite information by the taxpayer should be specifically provided in section 177.
- iv. FBR letter on withdrawal of earlier directives related to attachment of bank accounts dated October 11, 2021 should be withdrawn and it should be provided in the law that recovery proceedings shall not be initiated until tax assessments have passed at least one independent forum.
- v. To reduce the litigation disposal time and avoid unnecessary litigations
 - a) Proviso should be added to section 124 that in case Commissioner fails to issue appeal effect order within stipulated time period, taxpayers' position should be deemed in effect.

OICCI TAXATION PROPOSALS (2022 – 2023)

- b) tax appellate forums should be reduced, and professional Tax adjudicators should be appointed in the process with clear tasks of rapid disposal of pending tax cases.
- c) Stay granted by Appellate Tribunal Inland Revenue should not expire after 180 days but should remain valid until the disposal of appeal

21. Reduce the number of Tax Payments and filing frequencies.

The large number of payments and filing of various returns is a cause of great hardship to compliant taxpayers and perhaps one of the major reasons for tax evasion/non-registration as taxpayer. This is also a key factor in Pakistan's poor rating in the World Bank – Ease of Doing Business 'Paying Taxes' parameter. Frequency of payments and return filings should be reduced as per the recommendations below:

Name of authority	Name/Nature of Payment	Frequency of Payment	Total Annual Frequency	Recommendation	Remarks
FBR	Income Tax Return	Yearly	1	Yearly	No change
FBR	Income Tax - withholding payments	Weekly	52	No change	No change
FBR	Withholding tax statement	Quarterly	4	Half Yearly	It will reduce unwarranted operational burden on withholding agent.
FBR	Annual Withholding tax statement	Yearly	1	Deleted	Duplicate data reporting, as same data is already reported in quarterly statement.
FBR	Reconciliation between numbers reported in annual WHT statement with audited Financial Statement	Yearly	1	Deleted	A risk-based approach shall be adopted rather than requiring all taxpayers to engage in cumbersome activity.
FBR	Annual Employer Statement	Yearly	1	Deleted	Duplicate data reporting, as same data is already reported in quarterly statement.
FBR	Income Tax - Advance Tax	Quarterly / Monthly	4/12	No change	For ease of doing business, law shall be simple and same for all kind of taxpayers.
FBR	Sales Tax	Monthly	12	Monthly	No change
FBR/SRB/PRA	WWF	Yearly	1	Unified reporting for all labor law related federal/provincial returns. Further, payment shall be restricted to yearly only.	No Change
FBR/SRB/PRA	WPPF - Undistributed amount	Yearly	1		No Change
Government of Pakistan	EOBI	Monthly	12		No change

22. Coordination between Federal and Provincial Legislations:

Recommendations:

- i. Synchronization of Sales tax rates and policies need to be harmonized across all jurisdiction and sectors, both on goods and services, should be harmonized throughout the country.
- ii. Through Finance At, 2021 amendment was made in Sections 60A and 60B whereby entitlement of deductible allowance for WWF and WPPF was enhanced for payments made to Workers' Welfare and Participation Funds enacted by provinces. However, proviso was also added in both above Sections, which excluded the trans- provincial establishments from availing this relief. In order to provide tax neutrality to all establishments, the proviso from Sections 60A and 60B should be deleted.
- iii. Single Sales Tax return launched by FBR in December 2021 for filing of single return. The same is required to be implemented in true spirit as currently sales tax returns of each provinces is required to be filed separately as required by provincial authorities. The provincial taxes should be consolidated specially the labor levies e.g., EOBI/SESSI/WPPF/WWF as mentioned above.

23. Privacy of Tax Information [Rule 42 of the Income Tax Rules. 2002]

Relevant CPR number is available to every taxpayer, whose withholding tax is deducted by its withholding agent, in the form of withholding tax deduction certificate

There is no secrecy of data, as the whole CPR form is accessible, through CPR no. and every one present in a CPR can see the data of other taxpayers comprising of name, NTN, address, taxable amount and withholding tax deducted and deposited thereon.

Recommendations:

The above option of printing CPR should be restricted to withholding agents only instead of availability of this access to every person who know the CPR Number.

F. BROADENING OF TAX BASE FOR A WIDER PARTICIPATION IN REVENUE GENERATION

24. Documentation of the Economy

Recommendations:

- i. Tax authorities should use technology, data analytics including Artificial Intelligence tools and make better/effective utilization of NADRA database and other documented sources to ensure that all income earners are NTN holders and “Filers”, with submission of annual income tax/wealth returns and wealth reconciliation statements. FBR and SBP to devise a framework to ensure all customers of financial institutions whose account shows turnover in excess of PKR two million or more during the year, have filed a tax return and wealth statement. This could be done by the financial institutions simply notifying names/CNIC numbers of such customers to FBR without giving access to bank accounts.
- ii. Art exhibition halls, hospitals where doctors practice, hotels and other public places holding large receptions for fashion houses & designers, sale of branded/designer dresses, airlines, travel agencies, etc should provide names and addresses of the respective persons involved in these business activities to the FBR on a quarterly basis.
- iii. Once the FBR receives the above information, it should be pro-active and pursue potential taxpayers by sending them income tax return forms requiring them to file tax returns – rather than waiting for the tax returns to be filed.
- v. Eliminate culture of Amnesty Schemes as it discourages the honest taxpayers.
- vi. As Pakistan is a signatory to the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes, which became operational from September 2018, regular coordination should be done with relevant authorities of countries, considered as tax heavens for stashing away illegal wealth, for information sharing, and cases of proven tax evasion publicly shared.
- vii. Appropriate laws should be made to enable the government to seize local assets, in equivalent value, or levy appropriate taxes, if any person holds any kind of assets outside the country for which source of income could not be established.



OVERSEAS INVESTORS CHAMBER OF COMMERCE AND INDUSTRY

TAXATION PROPOSALS FOR 2022–2023 FISCAL BUDGET



Annexure I Industry Specific Proposals

March 2022

INDUSTRY SPECIFIC PROPOSALS

This section comprises of sector specific proposals identifying issues faced by different business sectors. These recommendations have important ramifications for OICCI members and need to be reviewed by the concerned authorities (FBR/Ministries of Finance/Commerce/Industries) for appropriate changes in law.

A. Automobile	02
B. Banking, Leasing & Insurance	03
C. Chemicals/ Pesticides/ Fertilizers/ Paints/ Cement	06
D. Engineering/ Electrical	08
F. Energy	09
E. Fast Moving Consumer Goods/ Dairy Products	15
G. Pharmaceutical	16
H. Telecommunication	18
I. Tobacco	21

OICCI Taxation Proposals 2022-2023

OICCI Industry Specific

A. AUTOMOBILES

1. Reduction in Federal Excise Duty (FED) on Locally Manufactured Vehicles.

Recommendations:

Levy of FED on locally manufactured vehicles be reduced by amending Serial No. 55B and 55D of Table I of First Schedule of the Federal Excise Act, 2005, to restore sales revenue of vehicles of auto sector while also increasing government revenue.

The reduced FED rates proposed are as follows:

Vehicle Category	FED
0 to 1000cc	0%
1001cc to 1350cc	2.5%
1351cc to 2000cc	5%
2001cc and above	7.5%
Double cabin 4X4 pickup	7.5%

2. Reduction in Minimum tax u/s 113 for Authorized Dealers of vehicle manufacturers and Exemption of Withholding tax u/s 231B on sale to dealers

The rationale is to promote wholesale-retail mechanism, as applicable internationally, which will improve volumes on account of stock availability and healthy competition. Further, contribution to the Government will also increase with increased volume. Income of dealers will be subject to normal taxation and will promote documentation, thereby increasing tax base.

Recommendations:

- Reduce Minimum tax u/s 113 of the Income Tax Ordinance, 2001, from 1.25% to 0.25% on turnover of authorized dealers of vehicle manufacturers, as being allowed to Motorcycle dealers, distributors of FMCG, Pharmaceutical, Fertilizers, etc.;
- Withholding income tax u/s 231B be exempted on sale of vehicles by manufacturers to their authorized dealers to effectively implement wholesale-retail mechanism.

3. Withholding Income Tax under section 231B

Recommendations:

Amendment be made in the categories of vehicles mentioned in Division VII of Part IV of First Schedule as follows.

Engine Capacity (Existing)	Engine Capacity (Proposed)	Tax
1001cc to 1300cc	1001cc to 1350cc	25,000
1301 cc to 1600cc	1351 cc to 1600cc	50,000

On passenger car with capacity of 1300cc category, different tax rates are applicable based on slight increase in engine capacity (e.g Toyota Corolla (1299cc) was replaced with Toyota Yaris (1329cc). While both vehicles are categorized under broad 1300 cc by market, Rs. 25,000 was collected on Toyota Corolla 1299cc, while Rs. 50,000 is collected on Toyota Yaris 1329cc. Slight increase in cc category is resulting in twice income tax being collected from customer and increasing the cost for customer.

B. BANKING, LEASING, AND INSURANCE

1. Higher Effective Tax of Banking Sector

Recommendations:

- i. Corporate tax rates for the banking sector should be aligned with other sectors.
- ii. Super Tax relief, as granted to other industries, should be given to banking sector as well.

2. Enhanced rate of tax on income from investment in Federal Government Securities (Rule 6C of Seventh Schedule):

Recommendations:

The banking sector is already burden with higher tax rates as compared to other service sectors. Incremental tax applied under Rule 6C(6A) of seventh schedule of ITO 2001 should be deleted, whereby enhanced rate is applied on banks total income from investment in Federal Government Securities in nexus to Advance to deposit ratio (ADR).

Alternatively, enhanced tax shall be reverted to the previous condition, i.e. incremental tax shall be applicable on Additional income from additional investment in government securities rather than total income.

3. Restoration of the Original Provision related to Bad Debts:

Recommendation:

The original provisions of the Seventh Schedule should be restored where provision for bad debts as per the Prudential Regulations of SBP and supported by an Auditors certificate was allowable as a tax deduction to the banks.

Alternatively, threshold for allowing provision for bad debts should be increased to 2% of gross advances to corporate customers without the categorization of loss, doubtful or substandard and delete the Explanation inserted through Finance Act, 2019 along with the Clauses 1(d), (e) and (f).

4. Overriding Provision in Seventh Schedule to ITO 2001:

Recommendation:

The rule 9 of the Seventh Schedule of ITO 2001 should be deleted as it is being misused and leading to unnecessary litigation.

5. Islamic modes of financing – Rule 3 of the Seventh Schedule – Treatment for Shariah compliant banking.

Recommendation:

Rule 3 (1) & (2) of Seventh Schedule of Income Tax Ordinance, 2001 should be replaced with the following text under Rule 3(1):

“The audited financial statements of Islamic Banks and Disclosure related to Islamic window operations of the conventional banks as contained in the audited financial

statements submitted to the State Bank of Pakistan shall form the basis for the calculation of income tax liability as provided in this Schedule."

6. Withholding Tax on All Modes of Islamic Financing

Recommendation:

To provide tax neutrality for assets financed by Islamic banks and Islamic windows of conventional vis- a vis conventional banks. Following clarification be inserted after clause 153(7)(iii):

"For the removal of doubt, it is clarified that any goods delivered under an Islamic modes of financing by a bank or financial institution approved by the State Bank of Pakistan or the Securities Exchange Commission of Pakistan, shall not be considered as sale of goods for the purpose of this section."

7. Workers Welfare Fund (WWF) Expense should be allowed to Trans-provincial Entities:

Recommendation:

Section 60A of the ITO, 2001 should be amended and WWF paid to the provinces by a trans-provincial establishment should be treated as allowable expense and consequent Proviso under this section should be deleted.

8. Workers Welfare Fund (WWF) - An additional levy that should not apply to Banks

Recommendation:

WWF should not be charged and collected from Banks. Since 2014, the banks have been obligated to provide an additional 2% of its profits as contribution to the Provincial Workers' Welfare Fund. This is despite the fact that banks do not fall under the definition of an Industrial Establishment. Neither the bank employees are "workers" in the true spirit of the Act.

i. Insurance

9. Single Basket Income (Fourth Schedule)

Recommendation:

- i) Withdrawal of Rule 6(B) of Fourth Schedule – The amendment made in the Rule 6B of Fourth Schedule through Finance Act, 2016 is proposed to be withdrawn and restated as follows:

Capital gains on disposal of shares of listed companies, vouchers of Pakistan Telecommunication corporation, modaraba certificate or instruments of redeemable capital and derivative products shall be taxed at the following rates:"

S No	Holding period of Security	TY 2022 & onwards
1	Less than twelve months	15%
2	More than twelve months but less than twenty-four months.	12.5%
3	More than twenty-four months but less than four years.	7.5%
4	More than four years.	Nil

OICCI Taxation Proposals 2022-2023

OICCI Industry Specific

- ii) Taxation of Dividend income of Insurance Companies to be also excluded from one basket income and to be taxed at separate applicable rate for dividends

10. Capital gain on disposal of securities

As institutional investors, insurance companies are very important participants in the financial market, especially in the capital market. But unfortunately there is no rules exist for computation of capital gain on disposal of Securities for insurance companies as Rule 13E for computation of capital gain on disposal of securities is for Companies that fall under section 37A

Recommendation:

Rules 13D for computation of Capital gain on disposal of securities under Section 37 A should also be applicable on Fourth Schedule of the Income tax ordinance, 2001.

11. Personal Lines / Micro insurance products of Insurance Companies should be exempted from Federal Excise Duty.

Recommendation:

The insurance related exemptions provided in Table II of the Third Schedule of the Federal Excise Duty Act 2005 should include the following:

3) Marine insurance for export, 4) Life insurance, 5) Health insurance, 6) Crop Insurance, 7) Livestock insurance, 8) Personal accident Insurance, 9) Travel Insurance, and 10) Home property/ Household Insurance.

12. Capital gains on sale of securities Section 37A

Through Finance supplementary (Second Amendment) Bill, 2019, a proviso was inserted in section 37A, which states that losses sustained during the tax year 2019 and onwards on the disposal of securities chargeable to tax under the above section if not fully set off during the year, would be allowed to carry forward to the next year and subsequent two tax years, to be offset against capital gain earned in those years chargeable to tax under Fourth schedule of the Ordinance."

As the amendments in the supplementary Bill will not be effective for Insurance Companies unless the said amendments will be made in the Fourth Schedule to the Income Tax Ordinance 2000,

Recommendation:

We propose that similar amendments should be made in the Fourth Schedule by inserting new Clause 6C.

C. CHEMICAL/ PESTICIDES/ FERTILIZERS/ PAINTS/ CEMENT

1. Minimum Tax

Recommendations:

Minimum tax rate should be reduced to 0.2% for listed chemical companies with large turnover with low profit margins.

2. Minimum Tax at Import Stage for Fertilizer manufacturers

Recommendation:

Clause b of Section 148(7) of ITO 2001 as deleted by the Finance Act, 2017 should be restated, which read as follows: *"148(7) b fertilizer by manufacturer of fertilizer"* to allow adjustment of tax deducted at import stage for fertilizer imported by a fertilizer manufacturer so as not to make it a Final Tax.

3. Exemption under Clause 42 of Part IV of Second Schedule to the Terminal Operators

Recommendation:

Exemption under Clause 42 read with section 153(3) of the ITO, 2001 be available to all terminals without discrimination. The said clause be re-worded as follows:

"(42) The provisions of sub-section 3 of section 153 shall not apply in respect of payments received by a resident person for providing services by way of operation of terminal(s) at a sea-port in Pakistan or of an infrastructure project covered by the Government's Investment Policy, 1997."

4. Anomaly between input and output sales tax for Fertilizer Manufacturers

For the fertilizer industry, the GST on supply of natural gas as feed stock is @ 5% and as fuel stock is 17%. However, the output GST rate on sales of finished goods i.e. urea is 2%. This mismatch between input and output GST results in excessive input tax refundable build-up.

Recommendation:

GST rate on supply of natural gas for fertilizer industry should be zero percent.

5. Sales Tax rate on raw material of Paints

Recommendation:

- i. Sales tax of 25% should be imposed on some basic raw materials like Titanium dioxide and other similar categories for commercial importers.
- ii. Enforcement measures to be made more effective in consultation with OICCI members, who are established taxpayers, to penalize tax evaders.

6. Higher Tax Rates on Fertilizer Micronutrients

Macro nutrients being imported under Chapter 31 of Pakistan Customs Tariff, enjoy reduced duties and taxes representing only 8% of the value imported whilst in case of micronutrients

OICCI Taxation Proposals 2022-2023

OICCI Industry Specific

being imported under Chapter 28, the import duties and taxes are quite high representing 29% of import value.

Recommendation

Make necessary amendments in the revenue regulation to reduce sales tax and import duties on import of micronutrients.

7. Dual taxation on dealers belonging to chemical sector under Section 236G and Section 233 of the Ordinance shall be removed.

Recommendation

Dealers of Chemical sectors be removed from the scope of Section 236G who are already paying tax on their commission income under Section 233 of the Ordinance and are also appearing in ATL.

8. Exemptions withdrawn on import and supply of seeds for sowing

Recommendation

Sales tax exemption for the seeds industry be reinstated by withdrawal of amendments made through the Finance Supplementary Act 2021

9. Concessions allowed to E&P Companies and their contractors under SRO 678(I)/2004 on custom duty on import of spares, chemicals and consumables

Recommendation

E&P Companies are exempt from payment of additional customs duty (ADC) on imports for their off-shore projects. FSRU is an offshore installation and therefore imports for FSRU should be allowed the same concession as the E and P companies are allowed in condition (vii).

OICCI Taxation Proposals 2022-2023

OICCI Industry Specific

D. ENGINEERING/ ELECTRICAL

13. Through Finance Act 2021, under 6th Schedule, Table II (local supply/sales stage), Serial no. 24: Exemption from sales tax on the supply of following had been withdrawn: LED or SMD lights and bulbs meant for conservation of energy, HS codes 8539.5010, 8539.5020, 9405.1030 and 9405.4020.

Recommendation

Sales tax at local supply/sales (Table II) of LED or SMD lights and bulbs meant for conservation of energy, HS codes 8539.5010, 8539.5020, 9405.1030 and 9405.4020 be exempted as it would protect local industry setup/investment, would give it advantage over imported finished goods and provide cheaper energy efficient LED light to consumers.

14. Through Finance Supplementary Act 2022, under 6th Schedule of Table III of Sales Tax Act, sales tax exemption on import of parts and components for manufacture of LED lights was removed.

Recommendation

Sales tax exemption on import of parts and components for manufacture of LED lights under Table III of Sixth Schedule of Sales Tax Act be restored as it would protect local industry setup/investment, would give it advantage over imported finished goods and provide cheaper energy efficient LED light to consumers.

15. The Finance Act 2020 declared only construction sector (person directly involved in the construction of buildings, roads, bridges and other such structures or the development of land) status as Industrial undertaking to enjoy benefit of imports of plant and machinery and other goods to be utilized in such activity as adjustable. This amendment does not include taxpayers involved in the execution of contracts and in providing of engineering services in the manufacturing, power producing and other industries and importing goods, raw material or plant & machinery.

Recommendation

It is recommended that taxpayers involved in execution of contracts and in providing of engineering services in manufacturing, power producing, and other industries are also included in the definition of "industrial undertakings". Various imports are used in contract execution by companies which are not covered under Part I and II of the Twelfth Schedule, thus are also subject to minimum tax @ 5.5%. Further, the tax deducted on the contract execution under clause (c) of sub-section 1 of section 153 at the rate of 6.5% is also minimum tax on the income in terms of the provisions of sub-section 3 of section 153. It is obvious that there cannot be a double taxation of the same income, but it can be unnecessarily interpreted that the imports used in contract execution is subject to minimum tax at (i) the import stage and (ii) also on the income arisen of such contract execution. Due to such provisions taxpayer will be suffering minimum tax twice on the same income (i.e. @ 5.5% at the time of import and 6.5% at the time of contract execution / income from such contract execution) and can lead to litigation.

E. ENERGY SECTOR

16. Minimum Tax u/s 113 @ 1.25% of Gross Turnover.

Scope extended to Permanent Establishment of Foreign Companies operating in Pakistan wef July 2020.

Recommendations:

Clarification to exclude Permanent Establishment of Foreign Companies who are assessed under Fifth Schedule of ITO, from the application of section 113 of ITO 2001; and restore original position as it stood before until June 30, 2020.

i. Oil Exploration and Production Companies

17. Rationalization of tax Rate of E&P Companies

(50% / 40% on E&P Companies vs 29% for other Companies): As per the Fifth Schedule of the Income Tax Ordinance 2001, the applicable tax rate for the E&P sector ranges from 40% and 50% - 55%, whereas the general corporate tax rate is 29%.

Recommendations:

The corporate tax rate for E&P Companies needs to be aligned with general corporate tax rate of 29%

18. Depletion Allowance – [Rule 3 of part 1 of the Fifth Schedule of ITO 2001]

As per Rule 3 of Part 1 of Fifth Schedule, depletion is calculated @ 15% of the gross receipts representing well-head value of production, but not exceeding 50% of taxable income.

E&P industry interprets above by calculating depletion at 15% of Gross Revenue before royalty deduction. Tax authorities calculate depletion at 15% of Gross Revenue after deduction of royalty.

Recommendation:

Definition of Wellhead Value in Rule 6 (8) be deleted and Rule 3 rephrased as "depletion allowance to be calculated @ 15% of gross receipts, before royalty deduction".

19. Tax Depreciation – Below Ground Installations (100% allowed previously)

Through the Tax Laws (Second Amendment) Ordinance, 2021, an amendment is introduced in the Third Schedule of the Income Tax Ordinance, 2001 whereby entry related to 100% tax depreciation in respect of "Below Ground Installations" has been omitted. E&P industry is capital intensive and high-risk industry, as such 100% tax depreciation was allowed in respect of Below Ground Installations (entry in third schedule specific to E&P companies since 1979 in line with International best practices).

Recommendation:

Changes introduced through the Tax Laws (Second Amendment) Ordinance, 2021 in the Third Schedule of the Income Tax Ordinance, 2001 should be reversed and previous position of allowing 100% tax depreciation in the year of incurrence should be restored.

OICCI Taxation Proposals 2022-2023

OICCI Industry Specific

20. Extension/ Renewal of Tax Credits & Clarification for E&P Companies for past years

10% Tax credit u/s 65B on Investments made by Industrial Undertakings in Plant & Machinery for extension, expansion, Balancing, modernization, replacement. This incentive was introduced through Finance Act 2010 and was available until June 30, 2019

Recommendation:

This incentive to be extended up to 2024. Clarification on definition of industrial undertaking to include E&P Companies assessed under Fifth Schedule of ITO 2001.

21. Restriction on deduction of Profit on Debts payable to associated undertakings-u/s 106A.

Introduced vide Finance Act 2020 - Capping of Interest Expense on 15% of EBITDA

Recommendation:

Clarification to exempt Permanent Establishment of Foreign Companies who are assessed under Fifth Schedule of ITO.

ii. Coal Mining and Exploration

22. Broadening scope of corporate tax exemption available to coal mining projects in Sindh

Exemptions from total income and minimum tax have been provided to coal mining projects in Sindh, supplying coal exclusively to power generation projects via clause 132B Part I Second Schedule and clause 11A (xviii) Part IV Second Schedule respectively. At present the inclusion of the word “exclusively” inhibits the extension of the afore mentioned exemptions to supply of coal by coal-mining projects in Sindh to non-power generation projects.

Recommendation

Following words should be deleted from clause 132B Part I First Schedule and clause 11A (xviii) Part IV Second Schedule:

“supplying coal exclusively to power generation projects”

23. Advance tax on extraction of minerals

Recommendation

Companies qualifying for exemption under clause 132B of Part I of the Second Schedule should be exempted from the scope of this section via adding the following proviso to section 236(1):

“Provided that the provisions of this section shall not apply to companies qualifying for exemption under clause 132B of Part-I of Second Schedule”.

24. Enhancing the scope of exemption from custom duty and additional custom duty on import of coal mining projects operating in Sindh

Recommendation

Following amendment be made in the Fifth Schedule to the Customs Act, 1969:

“Coal mining machinery, equipment, spares, including vehicles for site use, i.e. single or double cabin pickups, dump trucks and other related vehicles used for mining / ancillary activities, mining equipment including but not limited to dewatering equipment and its spares, power generation equipment and its spares and all other equipment and spares whether directly or indirectly related to the Thar coal mining

OICCI Taxation Proposals 2022-2023

OICCI Industry Specific

project and ancillary activities meant for mine construction phase or extraction phase and imported for Thar Coal Field”

25. Enhancing scope of sales tax exemption for import of machinery, equipment, vehicle and spares for coal mining projects operating in Sindh

Recommendation

Following amendment be made in entry 4 (Table-3) to 6th Schedule of the Sales Tax Act, 1990:

“Coal mining machinery, equipment, spares, including vehicles for site use, i.e. single or double cabin pick-ups and dump trucks and other related vehicles used for mining/ ancillary activities, mining equipment including but not limited to dewatering equipment and its spares, power generation equipment and its spares and all other equipment and spares whether directly or indirectly related to the Thar coal mining project and ancillary activities meant for mine construction phase and/ or extraction phase and imported for Thar Coal Field”.

iii. Independent Power Producers (IPPs)

26. Mismatch in GST rates between supply and sales resulting in excessive sales tax refundable build up

IPPs revenue mainly comprises of two components “Capacity Price Payment” (CPP) and “Energy Price Payment” (EPP). As per the current sales tax law output sales tax is only applicable on EPP as a result IPPs are not able to fully adjust the input sales tax charged leading to build up of sales tax refund.

Recommendation:

The IPP sector is already facing circular debt issues and in addition to that huge amount of Sales Tax Refunds are further worsening the working capital conditions of the industry. It is proposed that supply of fuel to IPPs (Coal/ Gas / HSD, etc.) should be exempted from Input Sales Tax.

27. Tax on dividend received from IPP’s/companies having zero tax liability – Division III of Part I

Since 1994 the dividend income paid by Independent Power Producers (IPP’s) was subject to tax @ 7.5% under the repealed Income Tax Ordinance, 1979 (ITO, 79). This was also the full and final tax in the hands of recipients and IPPs’ shareholders did not have to pay any additional tax when filing their tax returns, which have been revised as follows vide Finance Act 2019:

- i. In clause (a), the reduced tax rate of dividend of 7.5% for power generation industry (covering power purchaser, producer, and supplier of coal to power producer) has been restricted to power producers only where such dividend is pass through under CPPA, and
- ii. Higher rate of tax of 25% has been introduced under clause (c) of the said section for the Companies that have nil tax liability due to carry forward of losses, tax exemption or tax credits.

Hence, in case of power producers (having non-pass-through agreements with CPPA) and coal suppliers, that previously enjoyed reduced rate under clause (a), the tax rate has been drastically increased from 7.5% to 25% due to exclusion from revised clause (a) and applicability of the new clause (c) as these entities are currently in tax holiday.

OICCI Taxation Proposals 2022-2023

OICCI Industry Specific

Recommendation:

- i. Clause (a) of Division III of Part I of First Schedule as applicable before Finance Act 2019, should be reinstated, to include power producer companies (having non-pass-through agreements) and coal suppliers.
- ii. Similarly, amendment be made for the withholding tax rates specified in clause (a) of Division I of Part III of the First Schedule, by reinstating the position prior to Finance Act 2019.
- iii. The new clause (c) of Division III of Part I of First Schedule, inserted by Finance Act, 2019 be removed being against the fundamental principles of ITO, 2001.

28. Withdrawal of sales tax exemption on items meant for energy sector – [Serial 4, 5 & 6 Table-3, Sixth Schedule to the Sales Tax Act, 1990]

As a result of the passing of the Finance (Supplementary) Act, 2022 (“FSA”), the exemption provided to the power sector (“IPPs”) from payment of Sales Tax on the import of machinery and equipment provided under Table-3 of the Sixth Schedule to the Sales Tax Act, 1990 has now been withdrawn.

Under various power policies, the GOP has guaranteed the exemption of sales tax on the import of plant and machinery till the Commercial Operations Date of the IPPs.

Recommendation

Either the exemptions are restored or a proviso similar to the proviso inserted by the FSA in clause 132 Part I of the Second Schedule to the Income Tax Ordinance, 2001 be inserted.

(Provided further that the exemption under Serial 4, 5 & 6 Table 3 of the Sixth Schedule to the Sales Tax Act, 1990 shall be available to persons who entered into the agreement or letter of intent is issued by the Federal or Provincial Government for setting up an electric power generation project in Pakistan on or before the thirtieth day of June 2021 and who obtains a letter of support on or before the thirtieth day of June 2023

29. Exemptions and Reliefs to Water Projects:

Recommendation:

Proposed income tax exemptions to be included in:

- i. Part I & Part IV of the 2nd Schedule to the Income Tax Ordinance New Clause 126P Part I of the 2nd Schedule: “Profits and gains of a company from a water processing projects/ water supply projects/ Waste to water/ desalination projects based on sea water/ untreated water or similar source of water.”
- ii. New clause 146 Part I of the 2nd Schedule: “Dividend received from a project which is entitled for exemption under Clause 126P Part I of the 2nd Schedule.”
- iii. New Sub clause xxxv of clause 11A Part IV 2nd Schedule: “Projects qualifying for exemption under clause (126P) of Part I of the Second Schedule.”
- iv. New Sub clause 11F Part IV 2nd Schedule: “The provisions of section 150 shall not apply in respect of dividend paid a project which is entitled for exemption under Clause 126P Part I of the 2nd Schedule.”

GST exemptions for water projects to be included in Serial 154 of the Sixth Schedule to the Sales Tax Act, 1990:

OICCI Taxation Proposals 2022-2023

OICCI Industry Specific

- i. Machinery, equipment, and spares meant for initial installation, balancing, modernization, replacement, or expansion of a water processing projects/ water supply projects/ Waste to water/ desalination projects based on sea water/ untreated water or similar source of water.
- ii. Construction machinery, equipment, and specialized vehicles, excluding passenger vehicles, imported on temporary basis as required for the construction of project.
- iii. This concession shall also be available to primary contractors of the project.

iv. Oil Refineries and Marketing Companies

30. Review Minimum Tax Regime (MTR) under section 113

Recommendation:

- i. The rate of Minimum Tax under section 113 of ITO 2001 should be reduced by 0.25% each year from current rate of 0.75%.
- ii. This rate should be applicable on gross profits instead of turnover.

31. Zero Rating Sales Tax on Exports -Section 4(b) of Sales Tax Act, 1990:

Recommendations:

Clarity is required with respect to the definition of stores and provisions. Amendment suggested is as follows:

"Supplies of stores and provisions including fuel for consumption aboard a conveyance proceeding to a destination outside Pakistan as specified in section 24 of the Customs Act, 1969 (IV of 1969)".

32. Issuance of Debit/ Credit Note

Section 7 read with Section 9 of Sales tax Act, 1990 states.

"Where a registered person did not deduct input tax within the relevant periods, he may claim such tax in the return for any of the six-succeeding period."

In the E&P Sector, provisional invoicing mechanism is adopted till the issuance of notification of Gas prices & execution of Oil & Gas Sales Purchase agreements. Normally this process takes more than a year and requires issuance of debit/ credit note on finalization. This results in complication when tax authorities are requested to allow condonation from six months period, and they take years to grant the said approvals.

Recommendations:

Legislation be introduced in Sales tax Act specifically for E&P Sector allowing issue of Debit/ Credit notes after finalization of agreements with GOP. Also, issues of claiming input in six succeeding periods may be relaxed to six months from the date of notification by OGRA.

33. Disallowance of input tax on sales to unregistered customer-Sub section (4) of section 73 of the Sales Tax Act, 1990.

Recommendation

Exclude OMC's and Electric Power and Gas Distribution Companies from the ambit of Sub section (4) of section 73 of the Sales Tax Act, 1990 as per power of FBR to exclude persons or class of persons.



v. Liquefied Natural Gas (LNG)

34. Advance tax on import of LNG

Recommendations

Section 148 (Part II of First Schedule): A reduced rate of 1% as advance tax is collected by the Collector of Customs in case of designated buyer of LNG on behalf of Government of Pakistan to import LNG. The reduced rate should be allowed to all buyers of LNG.

vi. Power Sector

35. Compulsory registration in certain cases

Section 181AA of ITO 2001 bounds every electrical power and gas distribution companies not to issue connections to the commercial and industrial consumers unless they have obtained NTN from FBR, whereas section 114 bounds holder of commercial of industrial connection of electricity to file tax return only where of annual bill exceeds Rs. 500,000.

Recommendation:

Provisions of section 181AA should be amended in accordance with section 114.

36. Profits and gains derived by a taxpayer from an electric power generation project set up in Pakistan (Clause 132 of Part I of Second Schedule to the ITO 2001)

Subject to certain prescribed conditions, profits and gains derived by a taxpayer from an electric power generation project set up in Pakistan on or after July 1, 1988 are exempt from tax. The Government through Finance Supplementary Act 2022 dated January 15, 2022 has restricted this exemption to persons entering into agreement with the Federal or Provincial Government or to whom letter of intent is issued by Federal or Provincial Government for setting up an electric power generation project on or before 30th day of June, 2021 and who obtains the letter of support on or before 30th day of June 2023.

Recommendation:

The proviso through which income tax exemption has been restricted to the persons who have agreements with the Federal and Provincial Governments is discriminatory in nature and it should be removed.

37. Levy of Further and Extra tax on Supplies of Electric Power and Natural Gas to Unregistered persons or inactive taxpayers. [Section 3(1A) and 3(5) of STA, 1990]

Recommendation:

The relaxation/exclusion be extended to the Federal and Provincial Government, Semi-Government and to service providers who are registered with their respective provincial authorities for the purpose of sales tax on services.

F. FAST MOVING CONSUMER GOODS

37. Imported items in Third schedule of STA 1990.

Recommendation:

The words “in retail packing” to be mentioned with tea (serial no. 14) in order to clarify that sales tax at retail price is only applicable in case of imported finished tea in retail packing.

38. High withholding taxes on milk commission agents

Recommendation:

Exempt ‘milk’ from withholding tax whether it is purchased directly from the farmer or through commission agent.

39. Duty on essential Dairy & Juice raw material

Recommendations:

- i. Duties should be withdrawn, or its rate should be minimized on import of raw/packing material for dairy and Juice sector which are not produced locally in sufficient quantity.
- ii. Alternatively, duties can be minimized by introduction of quota system by placement of these items under Part III, Fifth schedule of the Customs Act, 1969. Quota can be restricted for registered manufacturers of dairy products only and can be allowed as a proportion of fresh milk purchases of those manufacturers.

40. First Schedule of FED 2005 & Third Schedule of STA 1990.

Recommendation:

- i. Serial no. 1 & 3 of Third Schedule of the Sales Tax Act, 1990 should be deleted
- ii. whereas Serial no. 4, 5 & 6 of First Schedule of Federal Excise Act, 2005 should be reduced from 13% to 10%, to provide level playing field to the Beverage Industry as given to other food industries.

41. No imposition of Health Levy / Surcharge on Sweetened Beverages

Recommendations:

The Federal Ministry of Health has been proposing health surcharge on sugary drinks. However, the Health Levy already exists in the form of FED. Hence no additional Health Levy should be considered. If a Health Levy is to be considered then FED can be abolished and a Health Levy in the form of a FED can be reimposed, in consultation with the aerated waters industry.

OICCI Taxation Proposals 2022-2023

OICCI Industry Specific

G. PHARMACEUTICAL

42. Imposition of 17% GST on Pharma API Imports & Simplification of Sales tax refund process:

The above Sales Tax amendment enforced through the Finance (Supplementary) Bill, 2022 in Jan 2022 will result in huge Sales Tax refunds which will impact Cashflows of Pharma players due to delays in refunds processing by the Govt. Authorities

Recommendations:

- i. Pharma API imports should also be 'zero rated', to avoid generation of huge Sales tax refunds
- ii. Sales Tax refund adjustment should also be allowed against Income Tax liability – Section 10 read with Rule 26 & 28.
- iii. The submission of Annexure H as part of the Sales Tax Return should be discontinued since these details are redundant and are utilized as a tool to delay refund processing – Rule 28. Tax Authorities should simplify the documentation requirement for verification of Input Sales Tax payment by limiting it to Goods Declaration, Invoice and Bank Statement as adequate supports.

43. Input Sales tax on opening stock of pharma products

Recommendations:

Pharma products have been zero rated since 16 January 2022. As per FBR release, refunds against input sales tax will be allowed on consumption basis. However, there are no rules promulgated till to date for claiming the input sales tax on opening stock of pharma goods.

44. Section 148 of ITO 2001 – Withdrawal of withholding income tax for import of drugs pertaining to Rare & Chronic diseases including Multiple Sclerosis, Oncology, Hematology, Eye Blindness, Diabetes, Hypertension and Heart Failure

Oncology medicines worth more than tens of millions are being given to deserving patients every year by selected pharmaceutical companies under Patient Assistance Programs (PAP). Advance income tax @ 5.5% is currently being charged on import of such medicines whereas no revenue is generated from such free of cost issuance.

Recommendations:

- i. Provide exemption from the operation of section 148 to the ITO 2001 on import of pharmaceutical medicines for above mentioned disease areas, through addition of a new clause in the Second Schedule to the ITO 2001.
- ii. Allow tax exemptions/ tax credits where companies are offering free benefits to the society through 'Patient Access programs'.

45. Section 236G & 236H of ITO 2001 – Collection of Advance Income Tax on sale of pharmaceutical products to distributors, dealers, wholesalers and retailers

It is not clear whether advance tax should be collected on gross sales value or sales value net of discount. A few clarifications issued by regional tax offices require collection of advance tax

OICCI Taxation Proposals 2022-2023

OICCI Industry Specific

on sale to doctors and hospital pharmacies. On the other hand, doctors claim exemption being final consumers and state-owned hospitals claim exemption under section 236O of ITO 2001.

Recommendations:

FBR should issue clarification in terms of taxable value and specific exemptions from operation of section 236G & 236H to the above extent.

46. Section 21(O) of ITO 2001 – Definitions to be clarified

The current law restricts the admissibility of sales promotion expenditure incurred by pharmaceutical companies up to 10% of their turnover. However, the tax authorities tend to treat the entire marketing expenditure as advertisement, sales promotion & publicity expenditure. Similarly, it is also not clear whether the turnover means “gross sales” or “net sales”.

Recommendations:

A new circular explaining the definition of advertisement, sales promotion & publicity as well as turnover should be issued.

47. Reduced Rate of Advance Tax on import of pharmaceutical products not manufactured in Pakistan – [Sec 148 | Entry 5 of Part I of First Schedule to the ITO 2001]

The facility of reduced rate of advance tax on import is conditional on obtaining certificate from DRAP which adds complexity to the process.

Recommendations:

One time list of registered drugs not manufactured in Pakistan should be obtained by FBR from DRAP directly and the requirement for companies to obtain certificate from DRAP be waived off by FBR.

48. Exemption of medical equipment imported and supplied

Recommendations:

The said exemption has been deleted vide Finance Supplementary Act 2022, should be re-inserted.

H. TELECOMMUNICATION

49. Rationalization of Withholding Tax on Telecom Services

Advance tax on telecom services was reduced via Finance Act, 2021 from 12.5% to 10% for FY 2021 and to 8% for future years. However, through Finance (supplementary) Act, 2021 the rate of withholding tax increased from 10% to 15%. Increased tax hampers the affordability of mobile service which is a critical service for entire population and more than 70% population of Pakistan lives below poverty line. Telecom service is also critical for economic growth of a country.

In addition to that Pakistan has the widest gender gap in mobile ownership (34%) and mobile internet use (43%) as compared to its regional peers. Sector-specific taxes increased cost of mobile services which lays a strong impact on the poorest consumers especially women, lessening their ability to become mobile broadband subscribers. Since more than 70% population lives below the poverty line and the percentage of return filers is also nominal so the implementation of withholding tax to entire subscriber's base is not logical. Further, the reduction in withholding tax will also promote the affordability of internet and data services to the low-income group people.

Recommendation:

Rate of withholding tax on subscribers should be abolished completely as majority of the subscriber's base falls below the taxable limit or the withholding tax reduction made through Finance Act, 2021 should be reinstated i.e. 8% effective Fiscal Year 2023

50. Harmonization of Federal/Provincial Sales Tax Laws

All four Provinces and Federal have introduced distinct sales/service tax laws in their respective jurisdictions, with some of the clauses in clear conflict with each other resulting in undue hardships coupled with harassment by the Federal and Provincial revenue collectors demanding tax on the same transactions tantamount to double taxation. This situation is highly undesirable and creates complexities for taxpayers leading to unnecessary litigations.

Furthermore, there should be a single sales tax rate across all jurisdictions to remove the anomalies and undue hardships being faced by telecom sector in terms of compliances in different jurisdictions, thus, to provide ease of doing business. Telecom services should not be discriminated by being subjected to higher rates of tax., Sales tax rates should be in line with other services.

Recommendation:

There should be single sales tax rate across all jurisdictions to remove the anomalies and undue hardships being faced by telecom sector in terms of compliances in different jurisdictions, thus, to provide ease of doing business. Further, in line with International and Regional practices a uniform service tax law may be drafted and agreed upon by the tax authorities of the Provinces and Federal, for implementation in their respective jurisdiction.

OICCI Taxation Proposals 2022-2023

OICCI Industry Specific

51. Advance tax on Auction/Renewal of licenses

This tax is liable to be collected on “Sale by Auction” of property. Grant of spectrum is not a sale of property. Firstly, spectrum is not a property, it does not have any physical form as it cannot be seen or is not capable of being in physical possession. Secondly spectrum is not “sold” only a right to use spectrum for a specified term is granted to telecom operators and licenses are granted for a specific term only. Therefore, spectrum is never sold to telecom operators, they are only granted licenses for a specified term. While the term “sale” means that the absolute ownership is transferred permanently to the buyer with a right to transfer ownership to another person which is not the case. Therefore, this tax should be abolished being irrational. Further, Telecom sector has already paid huge amount of advance taxes much beyond its tax liability. Secondly, no such advance tax is collected on grant of other licenses like oil exploration.

Recommendation:

This tax should be removed being irrational and burdensome on CMOs.

52. Exemption from withholding taxes to telecom sector

As large utility providers, Cellular Mobile Operators’ (CMO) are subject to deduction/collection of withholding of income tax on large number of transactions e.g. electricity bills of cell sites where are thousands in numbers, thus increased the cost and complexity of tax compliance and an additional administrative burden for the telecom sector and negatively impacts the overall business environment.

Furthermore, it is also not possible Tax Authorities to verify the claim of advance tax paid on electricity bills being a very laborious task. Similar exemptions have already been granted to banking sector to curtail the administrative cost.

Recommendation:

Exemption should be given to the telecom sector from deduction or collection of all types of withholding taxes, like banking and oil sector. There will be no loss of revenue to the exchequer as the tax collection mechanism will be simplified in terms of real time payment of advance tax Under Section 147 on quarterly basis. Furthermore, this measure will also make the tax claims and its verification mechanism more transparent with minimum operational hassles as maintaining the thousands of records especially for advance tax on utility bills and imports is itself a very cumbersome procedure.

53. Custom duty on import of batteries

Reduce the custom duty rates for batteries (8507.6000 & 8507.2000) from 11% and 20% to 5% and abolish Additional Custom duty (2% & 6%) and Regulatory duty (5%), as these batteries are used with solar and power systems and are core asset for telecom infrastructure services provider. Reduction in duties will further encourage alternate energy resources for Telecom sector e.g. Solar etc.

Recommendation:

Reduce the custom duty rates for batteries (8507.6000) to 5% and abolish Additional Custom duty and Regulatory duty, as these batteries are used with solar and power systems and are core asset for telecom infrastructure services provider.

OICCI Taxation Proposals 2022-2023

OICCI Industry Specific

Reduction in duties will further encourage alternate energy resources for Telecom sector e.g. Solar etc.

54. Withholding tax of foreign suppliers against import of telecom equipment

The Finance Act, 2018 inserted a new clause in sub-section (3) of section 101 of the ITO'2001, under which Pakistan source income from business derived by a non-resident person, would include income on account of import of goods, whether or not the title to the goods passes outside Pakistan, if the import is part of an overall arrangement for the supply of goods, installation, construction, assembly, commission, guarantees or supervisory activities and all or principal activities are undertaken or performed either by the associates of the person supplying the goods or its permanent establishment, whether or not the goods are imported in the name of the person, associate of the person or any other person. Keeping in view the amendment in section 101(3), corresponding amendments have also been made in sub-section (7) of section 152, whereby a taxpayer would invariably now be required to obtain an order of the Commissioner Inland Revenue u/s 152(5A) of the ITO'2001 for making payment on account of such transaction without deduction of tax or at lower rate.

Recommendation:

Since the title of goods passes outside Pakistan, hence deduction of withholding tax at much higher rate i.e. 20% will increase the cost of the equipment as the supplier will jack up the prices by including the withholding tax factor, resultantly, telecom operators will have to bear the extra cost which will halt the expansion of the telecom services, especially in far flung areas where the cost of doing business is already on much higher side.

55. Classification of telecom equipment under Part I of Twelfth Schedule of ITO, 2001

The telecom equipment constitutes depreciable assets under the ITO, 2001 which are used by the telecom operators for provision of telecom services which are taxed as an income from business under the national tax regime. Currently, the telecom equipment is not properly classified in Twelfth schedule which is a cause of discrimination between telecom sector and others.

Recommendation:

Telecom equipment should be classified under Part I of Twelfth Schedule of ITO, 2001 to equate the telecom sector with other industries as the telecom equipment is not imported for resale purposes.

OICCI Taxation Proposals 2022-2023

OICCI Industry Specific

I. TOBACCO

- In Pakistan, the tobacco industry can be divided into two parts. One is the legitimate industry that is compliant with the laws of the country and paying due taxes. The other is the illicit sector that comprises of counterfeit, smuggled and local illicit manufactured brands; all these evade taxes and are involved in multiple regulatory violations.
- According to multiple research agencies such as IPOR, IPSOS, Access Retail and others, the illicit sector currently stands at ~37% of the market and is growing. It is estimated that the annual loss in revenue to Government due to illicit cigarette trade stands at more than Rs. 70 billion (as per IPOR, IPSOS and Oxford Economics).
- The mainstay of these illegal manufacturers is to capitalize on cheap brands, selling well below the mandated minimum price of Rs. 62.76 which is inclusive of minimum tax per pack of Rs. 42.12 as set by Government of Pakistan. This leads to an unlevel playing field for legitimate companies to function on which comply with all the rules and regulations set.
- Furthermore, lax enforcement by LEAs serves as another major challenge to business sustainability of the legitimate industry. IREN, Customs and other LEAs must be empowered with the necessary tools to ensure this menace is controlled.
- Effective reforms to increase excise collection from the tobacco industry are given in the below recommendations:

56. FED ACT, 2005 – First Schedule – Table No. 1 (Serial Number 9)

Fiscal and tax administration measures to address the widening price differential between legitimate and illicit brands that is being exploited by local illicit cigarette manufacturers. More than 200 local illicit brands currently sell below the Minimum Price per pack (PKR 62.76) as set by Government of Pakistan.

57. FED ACT, 2005 – First Schedule – Table No. 1 (Serial Number 7)

Description	Current Levy	Recommendation	Rationale or Benefit
Unmanufactured Tobacco	Rs 10/Kg	Rs 500/Kg	Documentation Measure: Higher adjustable levy on un-manufactured tobacco will increase cost of business for tax evading brands. This does not impact the farmers rather the companies involved in tobacco procurement.

OICCI Taxation Proposals 2022-2023

OICCI Industry Specific

58. Enforcement of Brand Excise Licensing

Description	Current	Recommendation	Rationale or Benefit
Brand Licensing	Sales Tax General Order (STGO) (07/2021) Issued	STGO 07/2021 be enforced in letter and spirit	The objective of this licensing regime is to ensure that the 200+ brands being sold in the market illegally are registered with FBR and any brands not registered be confiscated.

59. Track & Trace Monitoring System Across the Industry

Description	Current	Recommendation	Rationale or Benefit
Fiscal Markings	Confiscation and Destruction of Products without Fiscal Marking	Implementing a tax stamp identifier on cigarette packets	<ul style="list-style-type: none"> Across the board implementation Effective enforcement at retail level Appropriate penalties for breach of the law

60. FED ACT, 2005 – Section 19 – Subsection 2(d)

Description	Current Penalty	Recommendation	Rationale or Benefit
Penalty for selling below MLP for Cigarettes	Rs 20,000	<ul style="list-style-type: none"> Rs 50,000 Extend jurisdiction of Police to take cognizance of this offence To be declared a nonbailable offence 	Increasing penalty for selling cigarettes below minimum legal retail price will avoid tax evasion and strengthen enforcement.

61. Administrative actions to curb manufacturing and selling of illicit cigarettes

Description	Current	Recommendation	Rationale or Benefit
Enforcement	<ul style="list-style-type: none"> Inland Revenue Enforcement Network (IREN) Sales Tax Statutory Regulatory Order (SRO) 96 (I)/2021 Issued 	<ul style="list-style-type: none"> Operationalize IREN for effective enforcement to curb illicit cigarette trade SRO 96 (I)/2021 be enforced in letter and spirit 	<ul style="list-style-type: none"> This will help in curtailing growth and selling of illicit cigarettes and simultaneously grow revenue for Government of Pakistan Non-tax paid cigarettes manufactured in AJK and sold in Pakistan are a major source of illicit cigarettes sales in Pakistan. To cease the inflow of tax evaded cigarettes into the tariff area, the check posts and mobile teams will serve as a deterrent and will be an additional enforcement tool for the FBR.