



# **Overseas Investors Chamber of Commerce and Industry**

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## **Taxation Proposals 2023–2024**



April 2023

## OICCI Comprehensive Taxation Proposals

OICCI 2023-24 tax proposals are divided into the following sections.

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## A. INCOME TAX

### 1. Abolishment of Super Tax

#### Recommendation

- i. Super Tax should be abolished.
- ii. Keeping in view the current difficult economic situation and increased inflation, we request to maintain status quo @29% and no further increase in effective tax rate which is already greater than regional competitive rates. It is pertinent to mention that in the Finance Act 2019, the government announced gradual reduction of CTR by 1% to 25%.

### 2. Minimum Turnover Tax

#### Recommendations:

- i. Considering current economic turmoil and inflationary pressure on prices and cost, minimum tax should be abolished, at least for listed companies.
- ii. General rate of Minimum Tax u/s 113 of ITO 2001 should be reduced from 1.25% to 0.25%.
- iii. Adjustment /carry forward of minimum tax credit shall be allowed for at least 5 years as was the case prior to amendment made vide Finance Act, 2022.

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

The rate of withholding/advance tax varies depending upon the nature of transaction, legal/tax status of the parties i.e., corporate or non-corporate, active or non-active taxpayer. Hence, it is the dire need that the simplicity be brought in withholding tax regime to make it more convenient and business friendly.

As per FBR's annual yearbook 2021-2022, a total of 49 withholding tax sections (tax collection ~ PKR 1.534) were applicable under the ITO, 2001<sup>1</sup>. However, the number of tax rates prescribed in the Ordinance is more than twice of this number because of different sub-classifications provided under multiple sections as well as discrimination in rates between active and non-active taxpayers. Out of 49 only 9 sections accounted for approx. 66.5% revenue collection to the tune of approx. PKR 1.02 trillion. This is tabulated below:

S.no	Section	No of Rates	Description	PKR in Billion	Proportion
1	148	18	Imports	281.6	18.4%
2	149	7	Salaries	196.3	12.8%
3	150	10	Dividends	83.3	5.4%
4	151	8	Profit on debt	155.0	10.1%
5	152	25	Payment to non-residents	35.3	2.3%
6	153	22	Supply of Goods and Services	341.0	22.2%
6	154/ 154A	3	Exports	65.0	4.2%
7	235	5	Electricity	71.4	4.7%
8	236	2	Telephone	67.9	4.4%
9	236K	2	Advance Tax on Purchase of immovable property	64.6	4.2%

<sup>1</sup> The yearbook includes 27 withholding sections that have been omitted through Finance Act 2022 and earlier. Further, two new sections 154A and 236CB were introduced through Finance Act 2021 and Finance Supplementary Act 2023 respectively, which were not part of yearbook.

S.no	Section	No of Rates	Description	PKR in Billion	Proportion
10	Various		27 sections omitted through FA2022 and earlier but part of yearbook 2021-22	7.0	0.5%
11	155, 156, 156A, 231B, 233, 234, 236A-H, 236Y	98 (10, 4, 2, 42, 6, 16, 18, 2)	Miscellaneous withholding sections	166.0	10.8%
		<b>200</b>	<b>Total</b>	<b>1,534.4</b>	<b>100%</b>

## Recommendations:

Based on the above analysis, we recommend:

- To simplify the withholding tax regime, the tax rate applicable on services should be made uniform @3% u/s 153 as already provided to 29 service sectors. As the tax for service providers is a minimum tax, the high rate of 8% further increases the cost of doing business.
- The categorization for withholding tax rate should be for active and non-active taxpayers only. This will reduce the number of existing withholding rates by half.
- As illustrated above there are 200 different tax rates for 24 WHT sections, FBR should simplify the overall structure of withholding taxes by harmonizing tax rates and there should be single rate under each section, where possible. For example, single rates should be imposed for section 156 (Prizes and Winnings) @15% and section 233 (Brokerage and Commission) @8% etc.
- The miscellaneous WHT sections mentioned above should be reduced to minimum. For instance, section 236C/236K (purchase and sale of immovable property) and 154/154A (exporters of goods and services) can be merged.
- An enabling provision should be introduced in section 159 of the Ordinance to empower the Commissioner to issue withholding tax exemption certificate from all advance tax provisions to corporate taxpayers who discharge their annual tax liability in advance. This will account as a major step towards promoting ease of doing business by FBR for the business community.

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

### Recommendations:

- Exemption against withholding tax u/s 148 of the Ordinance should be available on the basis of discharge of advance tax liability as per section 147 of the ITO, 2001, as also in the case of section 153.
- Adjustability of advance Tax u/s 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 goods on which tax is required to be collected under this section for internal consumption in the business”.*

## 5. Reduced rates as per holding period to be restored u/s 37A on securities acquired before June 30, 2022

Currently, securities with shorter holding period are taxed at the lower rate as compared to securities (acquired before June 30, 2022) with longer holding period.

## Recommendation

- Tax on capital gain on disposal of securities should be according to the holding period. Section 37A allows gradual decrease in applicable tax rates from 15% to 0% on securities acquired after July 1, 2022, with the holding period ranging from 1 year to 6 years.
- It is recommended that all securities should be taxed as per their holding period regardless of the date of acquisition, with a reduction in rates, where holding period is longer. Therefore, clause (i) and (ii) of the First Proviso of Table to Division VII of Part I of First Schedule to be deleted.

## 6. Revise limit of cost of vehicle for depreciation/ lease rental [section 22 and 28(1)(b)]

### Recommendations

- i. The limit of cost of vehicle for the purpose of depreciation/ lease rental to be increased from Rs. 7.5 m/2.5m, respectively, to Rs. 15m, u/s 22 and 28(1)(b) of the ITO, 2001.

## 7. Broadening of definition, the term “greenfield industrial undertakings” under section 2(27A) and ease of procedural requirement

### Recommendations:

- i. The existing definition of the term “greenfield industrial undertakings” in the ITO is very restrictive. Sub-clause (iv) of clause (a) of the definition in section 2(27A) principally talks about “Pioneer Industries”; this is altogether a separate concept than greenfield industries.
- ii. It is therefore suggested that the sub-clause (iv) of the said definition should be deleted, to facilitate in bringing new FDI in the country.
- iii. Moreover, it is also suggested that approval from Commissioner under section 2(27A)(b) should be given within 30 days from the date of application by the taxpayer.

## 8. Relief from multiple taxation of Intercompany Dividends (ICD) and surrender of losses in Eligible Group Structures [section 59B]

### Recommendations:

- i. To make the Holding company structures fully adaptable in true letter & spirit, as introduced in 2007, and in line with global practices, ICD should not be taxable. The following new sub-section should be inserted in section 59B:  
*“Distribution of dividends within companies eligible for group relief under this section shall not be deemed a taxable event.”*  
Moreover, the following clause should also be inserted in second schedule to exempt the ICD from withholding:  
*“Provisions of section 150 will not apply in respect of ICD within the group companies eligible to group relief u/s 59B.”*
- ii. The existing condition in section 59B(1A) restricts the surrender of losses by one group company to another group company in the percentage of shareholding. This requirement should be removed as the condition for holding company to maintain continuous ownership in subsidiary is already prescribed in section 59B(2) to qualify for group relief.

## 9. Tax on Salary Income – [section 149]

The salary tax structure is inconsistent with the basic principle of non-discrimination. For instance, the top marginal personal income tax rate (35%) exceeds the corporate income tax (29%) by a significant margin, which is against the IMF recommendations for good tax policy. Further, the unprecedented inflationary pressure and high interest rates have badly impacted net disposable income of individual salaried persons.

### Recommendation:

- i. The minimum taxable limit should be enhanced from 0.6 m to 1.2 m, to offset the impact of unprecedented inflationary pressure on individuals.
- ii. The highest slab rate for individuals shall be aligned with corporate tax rates i.e. 29%, and accordingly the rest of the slabs should also be rationalized.
- iii. Property purchase through a bank/house loan contributes towards documentation of economy, therefore tax credit for markup paid on house loan u/s 64 shall be allowed to compensate individuals against high interest rate on mortgage loans, as previously allowed till Finance Act 2022.
- iv. Tax credit u/s 62 for investment in mutual funds, health insurance shall be restored. This step will also promote fresh investment in stock market and mutual fund industry.

## 10. Initial Depreciation allowance (section 23)

### Recommendations

Initial Depreciation allowance be restored from 25% to 50% for plant and machinery and from 0% to 25% for building. To encourage investment in Pakistan, especially manufacturing sites.

## 11. Disallowance of expenses in Income tax on account of sales made to un-registered persons [section 21(q)]

### Recommendations

Section 21(q), the disallowance of expenditures up to 10% on account of sales made to unregistered persons should be abolished, as it penalizes tax compliant sector with no major revenue benefit to Government. Moreover, sales to un-registered person is already subject to 3% further tax in addition to similar restriction u/s 3(1A) Sales Tax Act, 1990.

## B. SALES TAX

### 12. Delay and procedural hassles in Processing of Outstanding Refunds

#### Recommendations:

- i. Tax refunds should be cleared within 45 days and be cleared in an orderly/prearranged manner.
- ii. Tax refunds paid by FBR should be published regularly for transparency.
- iii. An automated process should be installed for the timely submission/verification and further release of tax refunds.
- iv. Inter-adjustment of Income/Sales tax refunds against income tax/sales tax liability should be allowed as part of law.

### 13. Admissibility of Input sales tax on Civil work, vehicles, equipment & materials and reduced rate services [section 8(1)(h), (i) & (j)]

#### Recommendations:

- i. Section 8(1)(h)(i) of STA 1990 should be omitted to allow for adjustment of input tax on building material, office equipment, furniture & fixtures, vehicles & their parts which ultimately becomes the part of cost for all documented sectors and encourages procurement from un-registered sector whereby 18% sales tax cost is mitigated with only 5% sales tax withholding.
- ii. Section 8(1)(j) of the STA 1990 should be omitted to allow input tax on reduced rate (as applicable under provincial laws) used for the furtherance of business.

### 14. 90% limit for Adjustable Input Tax should be abolished for registered taxpayers [section 8B]

#### Recommendations:

The mandatory requirement to pay 10% of total output tax for a tax period, should be removed. The taxpayer should be allowed to adjust entire input tax, to provide ease in liquidity issues.

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

#### Recommendations:

- i. Further tax shall not be made applicable on supply of taxable goods to those who are “not required to be registered” under ST Act like service providers registered under the Provincial Statutes etc. Necessary amendments should be made in SRO 648(I)/2013, accordingly.
- ii. The condition for levy of further tax on inactive registered person list shall be removed from Section 3(1A) of the ST Act 1990, as it is practically not possible to verify the status of a registered person as active/inactive at the time of issuance of invoice.
- iii. Extra tax u/s 3(5) of the ST Act read with SRO 1222(I)/2021 dated 15 September 2021, shall not be made applicable on supply of electricity to Federal and Provincial Government, Semi-Government, service providers registered under the Provincial Authorities and on person not engaged in sale of goods.
- iv. The Commissioner Inland Revenue shall be empowered to exclude any person from the levy of further tax and extra tax, through issuance of exemption certificate.



## C. CUSTOM DUTY

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

#### Recommendation

- i. 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.
- ii. Introduce stringent controls for illicit trade:
  - a) Introduce tighter penalties (e.g., criminal liability) for illicit trade 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.
- iii. 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.
- iv. 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.
- v. 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.
  - f) Vehicle trackers and scanners to be installed from Pak border to Afghanistan border.
  - g) Afghan importers should also file the entry in the WeBOC system of Afghanistan, Pakistan authorities should have access to the same. The containers not cleared after 7 days of being released from Pakistan port, should be marked red (for the risk of being misused);
  - h) Cartons should be prominently labelled “Only for Afghan Export.”
  - i) No container should be allowed to enter Afghanistan where the retail price/sales tax is printed on wrappers.



## D. BROADENING OF TAX BASE AND INCREASE IN TAX REVENUE

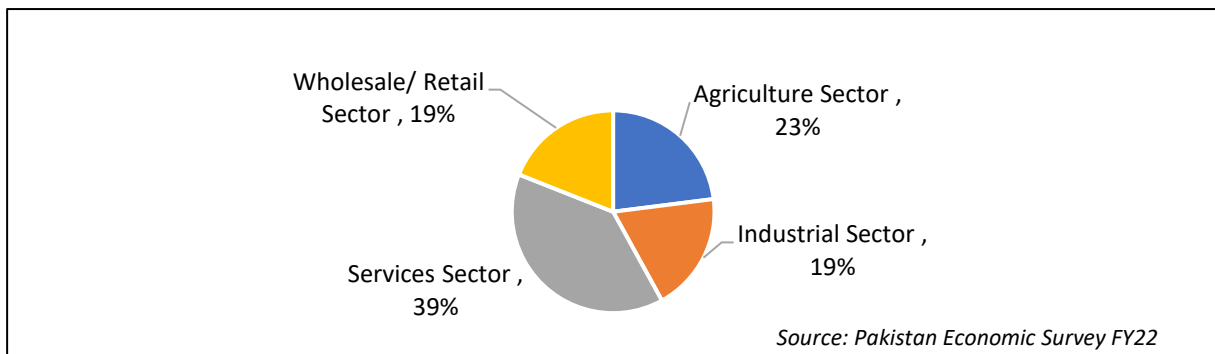
### 17. Effective Utilization of Available Data/Information

#### Recommendations:

- i. Tax authorities should use technology, data analytics including Artificial Intelligence tools and make better/effective utilization of 'NADRA' and 'FBR Malomooat Portal' database and other documented sources to ensure that all income earners should pay due taxes.
- ii. Various data/ transactions reported through withholding statements, data submitted by banks and utility companies, property registrar, excise, sales tax returns, etc should be used by FBR to broaden the tax base without giving burden to the existing compliant taxpayers.
- iii. Based on the information exchanged through OECD Global Forum on Transparency and Exchange of Information, an appropriate action should be taken to bring undisclosed income/ assets in the tax net.
- iv. Eliminate culture of Amnesty Schemes as it discourages the honest taxpayers.

### 18. Proportionate Contribution of All Sectors in Tax Net

All sectors should contribute to the national exchequer in proportion to their contribution to GDP, including agriculture, real estate and wholesale/retail trade. The below table shows the sectoral contributions in GDP:



#### Recommendation

- i. **Tax on Wholesale/Retail Trade.**
  - Re-introduce the CNIC requirement on all cash transactions above 50,000, to bring trade section under tax net.
  - A point of sale (POS) system to be made mandatory for Sales tax and integrate it with their traders Income tax returns.
- ii. **Tax on Real Estate**
  - A point of sale (POS) type integration to be made mandatory for all property transactions.
  - Furthermore, NTN to be made mandatory for property sale or purchase.
- iii. **Bring Service Providers in Tax Net**

Service sector contribution to national exchequer is also not aligned with its contribution to GDP, service providers like doctors, private hospitals, lawyers, painters, fashion designers, property dealers, interior designers, educational institutes including private teachers, coaching center, salons etc should be completely brought in tax net

and FBR should take the measures to ensure that they pay due taxes on their income. POS integration to be mandatory for them and awareness to be created among masses to receive POS invoice only at the time of payment.

iv. **Tax on Agriculture Income**

- Bring the agricultural income under the federal government through constitutional amendment.
- Exemption to agriculture income should be withdrawn and appropriate laws should be made in coordination with provincial governments to collect fair taxes from agriculture sector.

## 19. Digitization of economy/ Demonetization

To achieve the vision of Digitalization interventions from both public and private sectors would be required. The existing IT infrastructure is unable to support even penetration of the banking sector within rural locations, hence movement of payment systems on digital platforms across the country will not be possible. The trend for movement to digital payment modes is now very common across other economies, hence government may need to onboard international e-commerce companies and Fintech for making these interventions successful.

### Recommendation

- To document the economy, government should take measures to eliminate/ discourage the circulation of cash in economy.
- Government should promote the platform/infrastructure for digitization of payments through fintech, POS invoices, e-Invoices, mobile wallets etc. This will also help the government to bring retailers and service providers etc in tax net.
- Tax incentives and concessions should be provided to FinTechs and merchants in order to promote financial inclusion and move towards a cash-less economy.
- To encourage use of POS system cost of doing transaction should be rationalized.
- Lucrative schemes for retailers & consumers to be launched by banks, SBP and related stakeholders for promoting use of digital banking products like debit / credit cards, POS machines, mobile wallets etc., which will help to reduce the circulation of cash in the economy.
- Rs 5000 notes should be demonetized to discourage cash dealings.

## 20. Stringent Controls to Curb Illegal Trade

### Recommendation

Massive Excise duty evasion (Rs. 82 billion) in the Tobacco industry, duty-not-paid goods, along with under-invoicing adversely affects government tax revenue. Stringent controls should be in place to arrest this huge leakage of revenue.

## 21. Public Awareness for promotion of Tax Culture in the country

### Recommendation

- Tax culture should be promoted through various communication channels eg. IVR (Interactive Voice Response) scripts during phone calls, social/electronic/print media, radio channels, morning shows, campaigns/roadshows etc.
- Taxes/levies knowledge should also be included in the curriculum at Higher school education.

## 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:

### 22. Tax Audits & Appellate System

#### Recommendations:

- i. Audit criteria under section 177 should be risk based, sample driven and cost-efficient, instead of calling 100% information involving voluminous transactional data.
- ii. 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 appellate forum.
- iii. 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.
  - b) Stay granted by Appellate Tribunal Inland Revenue should not expire after 180 days but should remain valid until the disposal of appeal.

### 23. Coordination between Federal and Provincial Legislations

#### Recommendations:

- i. Sales tax rates and policies, both on goods and services should be harmonized across all jurisdictions and sectors throughout the country.
- ii. Single Sales Tax return should be launched for filing of single return.
- iii. Single Taxation platform shall be maintained under the name "Pakistan Revenue Authority", to provide single window solution to all businesses.

### 24. Secrecy of Taxpayers Information on Tax Payments CPR [Rule 42 of the Income Tax Rules. 2002]

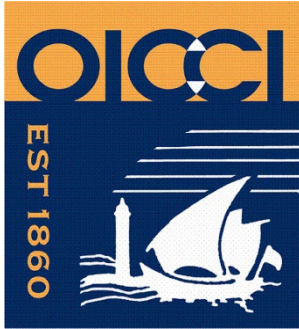
#### Recommendations:

The right of printing Computerized Printing Receipts (CPR) for tax payments should be restricted to withholding agents only, to maintain the confidentiality of taxpayers.

### 25. Reduce the number of Tax Return filing frequencies.

The large number of 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. Frequency of return filings should be reduced as per the recommendations below:

Name of authority	Name/Nature of Payment	Frequency of Reporting/ Payment	Total Annual Frequency	Recommendation	Remarks
FBR	Income Tax - withholding payments	Weekly	52	Monthly	It will reduce unwarranted operational burden on withholding agent
FBR	Withholding tax statement	Quarterly	4	Half Yearly	
FBR	Annual Withholding tax statement	Yearly	1	Deleted	Duplicate data reporting, as same data is already reported in quarterly statement.
FBR	Annual Employer Statement	Yearly	1	Deleted	Duplicate data reporting, as same data is already reported in quarterly statement.



**OVERSEAS INVESTORS  
CHAMBER OF COMMERCE  
AND INDUSTRY**

# **TAXATION PROPOSALS 2023-2024**

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**Industry Specific Proposals**

Annexure I



April 2023

### 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	01
B. Banking, Leasing & Insurance	02
C. Beverages	04
D. Chemicals/ Terminal/ Pesticides/ Fertilizers/ Paints/ Cement	05
E. Dairy Products	06
F. Energy	08
G. Engineering/ Electrical	13
H. Pharmaceutical	15
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J. Tobacco	19

# OICCI Taxation Proposals 2023-2024

## 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 in consultation with auto industry legitimate representative 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.

#### 2. Reduction of Sales tax on locally manufactured vehicles from 25% to 18%

The auto industry is already operating at 40~50% levels and subject to higher taxes and duties. The increase in sales tax will further deteriorate the demand and production situation. This may reduce the volumes below break-even levels, thereby putting the industry in losses and frequent shutdowns. Restoring the standard rate of sales tax for locally manufactured vehicles will help the auto sector to survive and operate at around 50% capacity levels.

##### Recommendations:

It is proposed that standard sales tax rate is restored on locally manufactured vehicle by deleting Table II of SRO 297(I)/2023

#### 3. 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 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, FMCG distributors, 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.

#### 4. 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	Tax	Engine Capacity	Tax
(Existing Rates)		(Proposed Rates)	
1001cc to 1300cc	Rs. 25,000	1001cc to 1600cc	Rs. 50,000
1301cc to 1600cc	Rs. 50,000		

As majority of the sedan category vehicles fall under 1001cc to 1600cc category, a uniform higher advance tax slab of Rs. 50,000 is charged from this category which will contribute to increase collection for the government. The tax is adjustable in nature; therefore no cost impact will arise for the customer.

## B. BANKING, LEASING, AND INSURANCE

### 5. Higher Effective Tax of Banking Sector

All Companies were subject to income tax at 35%, over the period from 2006 to 2012. From 2013, the corporate tax rate was gradually reduced for all companies, other than banks, by 1% each year. Hence, the tax rate for all companies is currently 29%. Unfortunately, no such reduction has been provided for the banking sector.

#### Recommendations:

- i. Corporate tax rates for the banking sector should be aligned with other sectors. Alternatively, the corporate tax rate of 35% shall be restored for banking Companies.
- ii. The effective tax rate for the banking sector is already greater than regional competitive rates. Super Tax is an additional burden and should be abolished.

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

#### Recommendations:

Incremental tax applied under Rule 6C of seventh schedule of ITO 2001 should be permanently deleted from law, whereby enhanced rate is applied on banks income from investment in Federal Government Securities.

### 7. 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.

Further, IFRS 9 is applicable on banks effective from 1<sup>st</sup> January 2023. It is proposed that loan losses recognized in Profit & loss account shall be allowed as admissible expense for tax working.

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

#### Recommendation:

Rule 3 (1) & (2) of Seventh Schedule of ITO, 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.”*

### 9. 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):



# OICCI Taxation Proposals 2023-2024

## OICCI Industry Specific

*“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.”*

### 10. Information and Recovery Notices issued to banks u/s 176 & 140 of ITO, 2001

The banks are facing following challenges related to information and recovery notices:

1. Single notice requires information tasks for multiple taxpayers.
2. No intimation is made to the customer regarding recovery notice under Rule 210C.
3. Notices are issued by officers other than Commissioner that result in non-compliance of Rule 201B.
4. Notice doesn't specifically mention that all requirements given in the law are already complied by the relevant officer and it create dispute between banks, regulator and customers.
5. Tax period is not mentioned in recovery notices that cause hardship for the bank to reconcile the period with the stay orders provided by the client.

#### Recommendation:

Following amendment shall be made in recovery rules:

- 1- Standard Information & Recovery notice shall be drafted in consultation with Pakistan Banking Association/ SBP and made part of Rules to avoid non-compliance/operational risk for the financial institution.
- 2- Customer shall be copied in all correspondence executed with Financial Institution. Appropriate Departmental Operation Instructions shall be issued to field officers.
- 3- Standard format of recovery notice shall be drafted by the FBR to ensure that all requirements of the law are adequately addressed in the letter.
- 4- Tax period shall be mentioned in the recovery notice to ensure that the information is aligned with the stay order provided by the client.

Alternatively, a centralized recovery unit shall be formed within FBR to ensure operational and regulatory efficiency in the process. A single central unit will result in better coordination between regulators and financial institution and may result in better revenue for the government.



## C. BEVERAGE SECTOR

### 11. Beverage Industry Should be Given Level Playing Field Like Other Food Industry

Aerated waters and fruit juices have been heavily taxed under the Sales Tax Act, 1990 on retail price basis. Under this tax regime, manufacturers are not allowed to deduct on invoice trade discounts and bulk discounts to its customers, which results in investment of huge cash flows in payment of taxes instead of increasing beverage market and production capacity.

#### Recommendation:

**Delete the following serials:**

- i) The serial no.1 and serial no.3 of third schedule of the Sales Tax Act, 1990 and
- ii) Serial No. 4, 5 & 6 of First Schedule of Federal Excise Act, 2005

### 12. Rationalize the high rate of FED on Soft Drinks [Serial No. 4, 5 & 6 of First Schedule of Federal Excise Act, 2005]

#### Recommendation:

**The increase in FED rate on Carbonated Soft Drinks from 13% to 20%, through Supplementary Finance Bill, 2023, should be rationalized with other sugar containing beverages.**

### 13. FED on Sugary fruit juices

Imposition of 10% FED will negatively impact the juice industry that has an annual revenue of approximately PKR 60 billion & investment of PKR 40 billion.

FED will affect business volumes, reducing sales tax collection for national exchequer and will encourage tax evading informal sector to gain foothold in the market. Further, Juice industry has a huge contribution in agri economy of Pakistan through sourcing of 100,000 tons of fruit from local farmers. FED will hamper procurement of fruits, negatively impacting the pulp market. FED will reverse the industry's growth & diminish livelihood of local farmers, creating direct & indirect unemployment for thousands of families.

#### Recommendation:

**Delete the words "sugary fruit juices" from the Sr. No 59 of Table 1 of First Schedule to the Federal Excise Act, 2005.**

**(Withdrawal of 10% FED on juices industry imposed in Finance Supplementary Act, 2023) Original clause is reproduced below:**

**"sugary fruit juices, syrups and squashes, waters whether or not containing added sugar or artificial sweeteners excluding minerals and aerates water".**



## D. CHEMICAL/ TERMINALS/ PESTICIDES/ FERTILIZERS/ PAINTS

### 14. 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.

### 15. Minimum Tax

#### Recommendations:

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

### 16. 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."*

### 17. Terminal operators be also included in the list of service providers under clause (2)(i) of Division III of Part III of Second Schedule

#### Recommendation

Terminal business is of the same model as other service providers, it is discriminatory to exclude terminal operators amongst the service sector category subject to reduced withholding @ 3% under section 153(1)(b).

### 18. 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 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.

### 19. Removal of Dual taxation on dealers of chemical sector [u/s 236G and 233]

#### 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.



## E. DAIRY SECTOR

### 20. Exempt "milk" from Withholding Tax

#### Recommendation:

Exempt 'milk' from withholding tax whether it is purchased directly from the farmer or through commission agent/resellers.

### 21. Provide Mechanism to issue Sales Tax Refunds for Dairy Industry

100% recoupment of input taxes paid on sale of milk and Fat filled milk is allowed since July & September 2021 respectively.

#### Recommendation:

A pre-defined mechanism such as FASTER be made applicable for dairy companies and refunds should be automatically processed within 15 days of filing monthly sales tax returns. Since majority of the taxable purchases made by dairy companies are from reputed corporate taxpayers therefore verification of input taxes paid will be swift.

### 22. Zero percent sales tax on Milk Powder

#### Recommendation:

Full Cream Milk Powder 'FCMP' (HS code 04.02), is a substitute of liquid milk, as it has longer shelf life. Hence, FCMP should also be taxed (at 0%) like liquid milk.

### 23. Restore reduce sales tax rates on Dairy Products

#### Recommendation:

Through Finance Supplementary Act, 2022, the following dairy products i.e. Flavored Milk (HS Code 0402.9900), Yogurt (HS Code 04.03) Cheese (HS Code 04.06), Butter (HS Code 04.05), Cream (HS Codes 04.01, 04.02) and Desi ghee (HS Code 0405.9000) sold in retail packing under a brand name, are currently taxable at standard Sales tax. Re-transpose these products to 8th schedule of the Sales Tax Act, 1990 to continue the reduce rate @10%.

### 24. Infant formula – [Serial no. 12(xvii) of the 5th Schedule of STA 1990]

Infant formula and baby food products (HS code 1901.1000), if produced locally, are taxable at zero percent, provided that consumer price does not exceed PKR 500 per 200 grams. The said threshold of locally-produced infant formula be linked with the annual inflation rate in Pakistan instead of consumer price of PKR 500.

#### Recommendation:

Draft Provision of STA, 1990, Fifth Schedule, Serial. No. Description (1) (2) is given below:

*The following goods and the raw materials, packing materials, sub-components, components, sub-assemblies and assemblies imported or purchased locally for the manufacture of the said goods, subject to the conditions, limitations and restrictions as prescribed by the Board:-*

*"xvii) Preparations suitable for infants, put up for retail sale not exceeding rupees five hundred per two hundred grams (adjusted by the Consumer Price Index-CPI*

*reported by the Pakistan Bureau of Statistics at the end of quarter/half year or full year of the financial year) (PCT Heading 1901.1000)"*

## 25. Reduce rate of WHT on import of raw materials

Collection of tax on major imported raw material related to dairy sector is applicable at the rate of 5.5%. Whereas various raw materials used in other industries are already subject to reduce rate of tax @ 2%.

### Recommendation:

**Raw materials imported for in-house consumption by dairy industry should be subject to collection revised of advance tax at import stage @ 2%. List of major imported raw materials is given below in table.**

HS Code	Description
0404.1010	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included.
0404.9000	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included.
1302.3900	Mucilages and thickeners, whether or not modified, derived from locust beans, locust bean seeds or guar seeds
1702.1110	Lactose
1805.0000	Cocoa powder, not containing added sugar or other sweetening matter.
1806.2010	Chocolate preparation
2106.1090	Protein concentrates and textured protein substances
2309.9000	Preparations of a kind used in dairy livestock feeding.

## 26. Duty on import of cheese

### Recommendation:

**In order to support and protect the dairy industry, as well as preserve the nation's valuable foreign exchange reserves, it has been proposed that the duty on all types of cheeses (falling in any HS codes 04.06, 19.01, 21.06) be increased to the maximum limit (155%) allowed under the Customs Act of 1969. The proposed increase in duty will include not only the Additional Customs Duty but also the Regulatory Duty. This increase in duty will serve as a safeguard against the influx of cheaper imported cheeses that undermine domestic cheese production. The proposed increase in duty will help to protect the domestic dairy manufacturers, who are facing intense competition from imported cheeses that are often sold at lower prices. This will promote the growth and sustainability of the domestic dairy industry, which in turn will positively impact the overall economy of the country.**

## F. ENERGY SECTOR

### 27. Review Minimum Turnover Tax [u/s 113, ITO 2001]

Energy companies (for eg OMCs, IPPs, electricity distributors and refineries etc) are high turnover and low margin sector, and is duly regulated. Further due to the recent Pak Rupee devaluation turnover of the industry has increased with minimal or no impact on profitability. Therefore, minimum tax substantially increases the effective tax rates over the sector.

#### Recommendation:

- i. **The rate of Minimum Turnover Tax u/s 113 of ITO 2001 should be reduced to 0.25%.**
- ii. **Alternatively, this rate should be applicable on “gross profits” instead of “turnover”.**
- iii. **Adjustment /carry forward of minimum tax credit shall be allowed for at least 5 years as was the case prior to amendment made vide Finance Act, 2022.**

#### i. Oil Exploration and Production Companies

### 28. 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".**

### 29. 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.**

### 30. 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



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### Recommendation:

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

### ii. Coal Mining and Exploration

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

Tax credit equal to 100% has been provided to coal mining projects in Sindh, supplying coal exclusively to power generation projects via section 65F(1)(a) of the ITO, 2001. At present the inclusion of the word “exclusively” (as highlighted above) discourages the extension of the aforementioned tax credit to supply of coal by coal-mining projects in Sindh to non-power generation projects.

### Recommendation

It is recommended that the following phrase should be deleted from section 65F(1)(a) of the ITO, 2001:

*“(a) persons engaged in coal mining projects in Sindh supplying coal exclusively to power generation projects”*

#### 32. 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”.*

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

#### 34. 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”.*

**35. 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&P companies are allowed in condition (vii).

**iii. Independent Power Producers (IPPs)**

**36. Tax on dividend by IPP's – Section 5, Section 150, Division III of Part I of the First Schedule & Division I Part III of the First Schedule**

Since 1994 dividend 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 in line with the power policies announced by the government. This 7.5% 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. Changes have been introduced vide Finance Act 2019 whereby a discrimination has been created between the IPPs as follows:

- i) Tax rate of 7.5% on dividend paid by power generation industry has been restricted to power producers who do have mechanism of reimbursement of dividend as a pass-through item by Central Power Purchasing Agency (CPPA-G) under an Implementation Agreement or Power Purchase Agreement or Energy Purchase Agreement
- ii) Higher rate of tax of 15% or those IPPs who do not meet the above criteria. 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 15% due to exclusion from revised clause (a).

**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 (d) of Division III of Part I of First Schedule be removed being against the fundamental principles of taxation.

**37. 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.

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### 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

### 38. Exemptions and Reliefs to Water Projects:

#### Recommendation:

Proposed income tax exemptions to be provided to water projects, similar to those available to IPPs and green projects:

- i. **Part I & Part IV of the 2<sup>nd</sup> Schedule to the Income Tax Ordinance New Clause 126P Part I of the 2<sup>nd</sup> 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 2<sup>nd</sup> Schedule:** "Dividend received from a project which is entitled for exemption under Clause 126P Part I of the 2<sup>nd</sup> Schedule."
- iii. **New Sub clause xxxv of clause 11A Part IV 2<sup>nd</sup> Schedule:** "Projects qualifying for exemption under clause (126P) of Part I of the Second Schedule."
- iv. **New Sub clause 11F Part IV 2<sup>nd</sup> 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 2<sup>nd</sup> Schedule."

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

- 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

### 39. Time limitation of carry forward of sales tax refund adjustment in light of Sales Tax on Petroleum Products – abolished through SRO 321(I)/2022 dated 1st March 2022:

OMC industry has huge amounts of unadjusted sales tax carry forward balance as per sales tax returns majorly due to input taxes on transport services / hospitality services etc. Industry is unable to adjust such carry forward amount due to "0%" sales tax on sales of petroleum

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products. Therefore it is important to reinstate this position by way of amendment of tax rate on petroleum products in line with powers given under Sales Tax Act, 1990. Moreover, it should also be considered that refund arising due to “0%” sales tax should be allowed to carry forward and be adjustable against the future tax liability for unlimited period.

### Recommendation:

**Sales Tax applicable on petroleum products shall be reinstated, currently applicable at “0%” since March 2022 or extension in time should be allowed for adjustment under Rule 34 of the Sales Tax Rules, 2006.**

## v. Liquefied Natural Gas (LNG)

### 40. 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

### 41. Compulsory registration in certain cases – [Section 181AA of ITO 2001]

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 and streamlined in accordance with section 114.**

### 42. 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)

The Government through Finance Supplementary Act 2022 dated January 15, 2022 and Finance Act, 2022 by insertion of 6th proviso in Clause 132, Part I, of Second Schedule had restricted the income tax exemption only to such Independent Power Producers [IPPs] who entered 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 6th 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 by allowing exemptions to the IPPs which were set up on or before 30th June 2021.**

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### G. ENGINEERING/ ELECTRICAL

#### 43. Restoration of Sales Tax exemption

Sales tax of the following items withdrawn, should be restored to promote energy conservation and protect the local industry.

#### Recommendation

Description	Reference	Withdrawn through
Local supply/sales of LED or SMD lights and bulbs [HS codes 8539.5010, 8539.5020, 9405.1030 and 9405.4020]	(Table II) under 6th Schedule, Serial no. 24	Finance Act 2021
Import of parts and components for manufacture of LED lights	under Table III of Sixth Schedule of Sales Tax Act	Finance Supplementary Act 2022

#### 44. Reduction in Duties:

In order to facilitate the local importer it is proposed to reduce the Custom duty for the following essential engineering items:

#### Recommendation

Description	Current CD	Recommendation	Rationale or Benefit
Transformers having a power handling capacity not exceeding 1kVA 8504.3100 Duty 16%	16%	3%	Transformers in this rating for more than 25kA short-circuit level and more than 1s time duration are not locally manufactured
Transformers having a power handling capacity not exceeding 500kVA Duty 20% 8504.3300	20%	3%	Dry type transformers in this rating which are not locally manufactured due to technological state of art
Motor parts 8503.0020 Duty 11 %	11%	3%	Duty of Motor itself (8501.5390) is 0% whereas duty on its parts (8503.0020) is 11% which is not justified
Steel Structure 7308.9090	20%	0	Steel Structures meeting specification of substation of 220 kV and above are not locally manufactured. However, this item exists in CGO 2/2017, but the manufacture is no longer available
Additional custom duty (ACD)	ACD increased from 2% to 4% and 6%	ACD should be maximum 02 % on all slabs	Additional custom duty has been increased on items which already have higher duty rate of 11 % 16 % or more
Under SRO 1571(I)/2022 dated August 22, 2022 amendment was made in an earlier SRO 966(I)/2022 dated June 30, 2022, through creation of new serial number	RD @45%	eliminate RD	HS code 9405.1190 covers products ceiling or wall LED light fittings (designed solely with light-emitting diode) light source which are energy saving and energy efficient Products

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"582" for all types of Luminaires and Light fittings under HS code 9405.1190			
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### 45. Input Output Coefficient Organization (IOCO) Exemption

EDB (Engineering Development Board) is in process of withdrawing the IOCO exemption on below components of localized goods: 1. Constant Current Power Supply and 2. Stuffed PCB, still June 2023, resulting in withdrawal of exemption of duties and taxes on import of said components.

#### Recommendation

**Revive the IOCO exemption till June 30, 2024, or further, till Pakistan can produce the quality stuffed PCB/breadboard with required technical compliance by ensuring the smooth transition from International to Local manufacturing.**



## H. PHARMACEUTICAL

### 46. Restoration of zero-rated regime for pharmaceutical DRAP registered products falls under schedule 8, serial 81 & 82.

Pharmaceutical products are subject to 1% sales tax without allowing input tax adjustment (final liability for entire supply chain). While the pharma industry is fully regulated, and price increase is rarely possible, this additional cost has adversely impacted the limited margins and commercial viability of the products.

#### Recommendations:

**Currently Pharma Industry is under non-adjustable reduced rate regime which should be brought back to zero-rated or exempt regime by restoring the position prior to Finance Act, 2022.**

### 47. Pending sales tax refunds under FASTER Pharma System

On 15th January 2022, the Federal Government, through Finance (Supplementary) Act, 2022 [Act, 2022], introduced zero-rated regime for pharma sector which was earlier exempt from sales tax. This entitled the pharma industry to claim refunds of input tax paid on purchases of taxable goods and services.

#### Recommendations:

**The refunds incurred under 'Faster Pharma' due to this change in regime are substantial and have heavily impacted working capital requirement of the industry therefore, refunds should be processed within 72 hours of the submission as described in rule 39L of Chapter V-B of sales tax rules, 2006.**

### 48. Entry no. 166 of the Sixth Schedule

#### Recommendations:

**In addition to charitable hospitals, the scope of exemption provided under Sixth schedule Serial no 166 should also be extended to Government Institutions, Departments and Hospitals.**

### 49. Abolished the Value added tax on import of finished pharma products [under Twelfth Schedule of the Sales Tax Act, 1990]

#### Recommendations:

**Currently value added tax @ 3% is levied on imports of finished product (Drug) through Twelfth Schedule of the Act on Pharmaceutical entities which should be abolished. This 3% tax becomes part of cost for an industry where prices are regulated and cannot be passed on as sales tax at output stage is final tax for entire supply chain. Moreover, 8th Schedule (as mentioned in point 1 above) specifies that 1% sales tax is final tax liability then with this 3% the total liability increase to 4%.**

### 50. Sales tax on excipients and packing materials

#### Recommendations:

**Excipients and packing materials are currently subject to sales tax at the rate of 18% as these are not covered under Serial No 82 of the Eighth Schedule. Since pharma industry is fully regulated as mentioned in point 1 above, this increases the cost of doing business for a regulated industry. Hence, these materials should be included under Serial No 82 of Eighth Schedule so that sales tax will be charged at the rate of 1%.**



## I. TELECOMMUNICATION

### 51. 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**

### 52. 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.**

### 53. 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



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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.**

#### 54. 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.**

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

#### 56. 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,

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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.**

### 57. 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.**

### 58. Minimum tax regime for telecommunication infrastructure (tower) services

Currently, under section 153(1)(b) of the ITO, 2001, telecommunication infrastructure (tower) services are subject to taxation at 3% and this withholding tax is minimum tax. Telecom infrastructure service industry is a relatively new industry in Pakistan, which is a highly capital-intensive business with high operational costs and hence the margins in this business are very low. Resultantly the withholding tax deducted ultimately becomes a final tax liability.

### Recommendation:

**It is recommended that the withholding tax under section 153(1)(b) for "telecom infrastructure (tower) services" should be made adjustable.**

## J. TOBACCO

### 59. Illicit Cigarette Trade & Excise Duty:

Description/ Current	Recommendation	Rationale or Benefit
Illicit cigarette trade in Pakistan causes an annual loss in excess of PKR 80 billion to the national exchequer. The primary cause of the increase in illicit cigarette trade is the excise-driven price gap between tax-paid and tax-evaded cigarettes.	It is proposed to not increase excise duty on cigarettes before sufficient measures are taken to control illicit cigarette trade.	This shall help provide a level playing field for the legitimate players and thus increase cigarette excise revenue.

### 60. Manufacturing & transportation of cigarettes from non-tariff to tariff areas:

Description/ Current	Recommendation	Rationale or Benefit
The manufacture of illicit cigarettes in non-tariff areas especially in the region of Azad Jammu and Kashmir continues to be the biggest pain point and a challenge to resolve. The constitutional ambiguities and inconsistency in legislation with regards to the constitutional status of AJ&K and the tax treatment on the movement of goods between territories are still unclear and as a result, a high magnitude of non-tax paid cigarettes are entering Pakistan.	To curtail supplies of taxable goods brought from tax-exempt areas into taxable areas, It is proposed to implement SRO 96(I) issued in 2021 at the earliest.	The illicit operators take full advantage of this legal loophole and we understand that a number of registered cigarette manufacturers in Pakistan have manufacturing facilities in AJ&K.

### 61. 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.

### 62. Import Policy Order:

Description/ Current	Recommendation	Rationale or Benefit
Amendments in 2020 that prohibited custom clearance of cigarettes that do not comply with local packaging and labelling requirements.	Compliance is to be ensured as the legislative angle is covered.	The market is flooded with several Genuine Non-domestic Brands (imported) without Graphical Health Warnings. Oxford Economics '22 states that 10% of illicit consumption is in the form of smuggled brands widely available at different price points

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## OICCI Industry Specific

### 63. Track & Trace (T&T) – Tobacco:

Description/ Current	Recommendation	Rationale or Benefit
T&T System is a landmark initiative supported by the IMF, aimed at achieving much-needed improvements in the collection of sales tax and digitization in major sectors of the economy, including tobacco. However, since its implementation in July 2022, credible outcomes/gains have yet to be seen as many local players are under a stay order against the system and it is mainly implemented by 2 multinational companies which were already contributing 98% of total tobacco taxation	Ensure that the T&T system is implemented across the board and is supported by continuous and sustainable enforcement	T&T system was introduced as a measure to control illicit cigarette trade – as such only 2 multinational companies have implemented the solution thereby increasing their cost of operations, whereas the companies which evade taxes have refused to implement T&T.

### 64. 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"> <li>Rs 50,000</li> <li>Extend jurisdiction of Police to take cognizance of this offence and make enforcement simpler to increase effectiveness of law</li> <li>To be declared a nonbailable offence</li> </ul>	Increasing penalty for selling cigarettes below minimum legal retail price will avoid tax evasion and strengthen enforcement.

### 65. Increase in Adjustable FED on Unmanufactured Tobacco

Description	Current Levy	Recommendation	Rationale or Benefit
Unmanufactured Tobacco	Rs 390/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.

### 66. Leaf Processing FED:

Description/ Current	Recommendation	Rationale or Benefit
The FED increased from PKR 10 per kg to PKR 390 per kg on raw tobacco processing is a good measure however it has not been implemented. (Presidential ordinance as of Aug '22)	It is proposed not to maintain the measure only further but also ensure its true implementation at the GLTs.	Ensuring all leaf purchases are documented.