GOVERNMENT OF PAKISTAN
REVENUE DIVISION
FEDERAL BOARD OF REVENUE
*****

C.No.4(69)IT-Budget/2018-109192-R Islamabad, the 12th September, 2018

Circular No. 03 of 2018
(Income Tax)

SUBJECT:- FINANCE ACT, 2018 - EXPLANATION OF IMPORTANT AMENDMENTS MADE IN THE INCOME TAX ORDINANCE, 2001.

Finance Act, 2018 has brought about certain amendments in the Income Tax Ordinance, 2001. Some significant amendments are explained hereunder:-

1. Reduction in tax rates for individuals [Paragraph (1), Division I, Part I of the First Schedule]

Prior to the Finance Act, 2018 the minimum threshold for taxable income was Rs.400,000/- for individuals and tax rates for non-salaried and salaried individuals were separately provided in paragraph(s) (1) and (1A) respectively in Division I, Part-I of the First Schedule. Through the Finance Act, 2018, tax rates of both salaried as well as non-salaried individuals have been clubbed and revised by providing rates for individuals (salaried as well as non-salaried) in paragraph (1) of Division I as under:-

S.No	Taxable Income	Rate of tax
1.	Where the taxable income does not exceed Rs.400,000/-	0%
2.	Where the taxable income exceeds Rs.400,000/- but does not exceed Rs.800,000/-	Rs.1,000/-
3.	Where the taxable income exceeds Rs.800,000/- but does not exceed Rs.1,200,000/-	Rs.2,000/-
4.	Where the taxable income exceeds Rs.1,200,000/- but does not exceed Rs.2,400,000/-	5% of the amount exceeding Rs.1,200,000/-
5.	Where the taxable income exceeds Rs.2,400,000/- but does not exceed Rs.4,800,000/-	Rs.60,000/- + 10% of the amount exceeding Rs.2,400,000/-
6.	Where the taxable income exceeds Rs.4,800,000/-	Rs.300,000/- + 15% of the amount exceeding Rs.4,800,000/-

After this table a proviso has been added which states that where the taxable income exceeds Rs.800,000/- but the tax payable is less than Rs. 2000/-, a minimum tax of Rs.2000/- would be payable. Hence, Rs.2000/- would be payable on income from Rs.800,000/- to Rs.1,240,000/-. The proviso has been added, because the tax at the rate of 5% on income exceeding Rs.1,200,000/- up to Rs.1,240,000/- would have been less than Rs.2000/-.

2. Reduction in rates of tax for Association of Persons [Paragraph (2), Division I, Part I of the First Schedule]

Prior to the Finance Act, 2018 the tax rates applicable to Association of Persons (AOP's) and non-salaried individuals were clubbed together and comprised seven progressive tax slabs as provided in paragraph (1), Division I, Part I of the First Schedule. Through the Finance Act, 2018, separate tax rates have been provided for AOP's in paragraph (2), Division I, Part I of the First Schedule which are as under:-

S.No	Taxable Income	Rate of tax
1.	Where the taxable income does not exceed Rs.400,000/-	0%
2.	Where the taxable income exceeds Rs.400,000/- but does not exceed Rs.1,200,000/-	5% of the amount exceeding Rs.400,000/-
3.	Where the taxable income exceeds Rs.1,200,000/- but does not exceed Rs.2,400,000/-	Rs.40,000/- + 10% of the amount exceeding Rs.1,200,000/-
4.	Where the taxable income exceeds Rs.2,400,000/- but does not exceed Rs.3,600,000/-	Rs.160,000/- +15% of the amount exceeding Rs.2,400,000/-
5.	Where the taxable income exceeds Rs.3,600,000/- but does not exceed Rs.4,800,000/-	Rs.340,000/- +20% of the amount exceeding Rs.3,600,000/-
6.	Where the taxable income exceeds Rs.4,800,000/- but does not exceed Rs.6,000,000/-	Rs.580,000/- +25% of the amount exceeding Rs.4,800,000/-
7.	Where the taxable income exceeds Rs.6,000,000/-	Rs.880,000/- + 30% of the amount exceeding Rs.6,000,000/-

3. Further reduction in tax rate applicable to companies [Paragraph (i), Division II, Part I of the First Schedule]

Rate of tax for companies other than banking companies are given in Division II, Part I of the First Schedule. Tax rate for such companies was 35% for the tax year 2013 and the same was reduced by 1% each year reducing to 30% for the tax year 2018 and

onwards. Through the Finance Act, 2018, the rate of tax for companies other than banking companies has been further reduced by 1% each year (for five years) in the following manner:-

Tax Year	Rate of Tax
2019	29%
2020	28%
2021	27%
2022	26%
2023 and onwards	25%

4. Further reduction in tax rate applicable to "small companies" [Paragraph (iii), Division II, Part I of the First Schedule]

A "small company" is defined in sub-section (59A) of section 2 of the Ordinance. A tax rate of 25% was applicable to a small company prior to the Finance Act, 2018. Through the Finance Act, 2018, the rate of tax for a small company has also been reduced by 1% each year (for five years) in the following manner:-

Tax Year	Rate of Tax
2019	24%
2020	23%
2021	22%
2022	21%
2023 and onwards	20%

5. Successive reduction and elimination of Super Tax [Division IIA, Part I of the First Schedule]

Super Tax was levied through the Finance Act, 2015 @ 4% on the income of banking companies and @ 3% on the income of persons other than banking companies. Rate of 3% was only applicable if the income was above Rs. 500 million in a year. Through the Finance Act, 2018, Super Tax has been omitted in a phased manner, as depicted hereunder:-

	Tax Year 2018	**Tax Year 2019**	**Tax Year 2020**	**Tax Year 2021**
Banking Company	**0%**	**4%**	**3%**	**2%**
Person other than a banking company having income of Rs.500 Million or more	**3%**	**2%**	**1%**	**0%**

6. Reduction in tax rate on undistributed profit [Section 5A]

Through Finance Act 2017, section 5A was amended and a tax @ 7.5% was imposed on public companies if the said companies failed to distribute 40% of their after tax profits. Through the Finance Act, 2018 the said rate of 7.5% has been reduced to 5% and limit of 40% has been reduced to 20%. However, such distribution has to be made only through cash as the words "bonus shares" have also been omitted.

7. Non-recognition of capital gain in the case of a gift to be restricted to relatives [Sections 37(4A) & 79(1) (c)]

Prior to the Finance Act, 2018, as per clause (c) of sub-section (1) of section 79, no gain or loss was taken to arise on disposal by reason of gift of an asset. Further, as per clause (a) of sub-section (4A) of section 37, where the capital asset became a property of a person under a gift, the fair market value of the asset, on the date of its transfer or acquisition by the person was treated as the cost of the asset. Hence, capital gain on sale of asset could be avoided by using conduit of gift in otherwise market based sale/purchase transactions between unrelated parties. In order to plug this loophole having potential of being used as conduit of tax evasion, amendment has been made in clause (c) of sub-section (1) of section (79) as well as in clause (a) of sub-section (4A) of section 37 whereby non-recognition of capital gain is restricted to gain arising on disposal of an asset as a result of gift to a relative only as defined in sub-section (5) of section 85, which, in relation to an individual encompasses:

(i) an ancestor, a descendent of any of the grandparents or an adopted child of such individual or his/her spouse.

(ii) the spouse of the individual or the spouse of any person delineated in clause (i) above.

However, capital gain or loss shall be recognized and subsequently arise in case of disposal of an asset by way of gift to a person who is not a relative as defined in sub-section (5) of section 85 of the Ordinance.

8. Set off of loss attributable to deductions u/s 22, 23, 23A, 23B & 24 [Sections 57 & 59A]

Prior to the Finance Act, 2018, sub-section (4) of section 57 and sub-section (5) of section 59A provided that where business loss included deductions allowed under sections 22, 23, 23A, 23B and 24 that had not been set off against income, the amount not set off shall be added to the deductions allowed under those sections in the following tax year, and so on until completely set off. Through the Finance Act, 2018, sub-section (4) of section 57 and sub-section (5) of section 59A have been substituted and now the loss attributable to deductions allowed under sections 22, 23, 23A, 23B and 24 that has not been set off against income shall be set off against 50 percent of

the person's balance income from business after setting off the business loss under sub-section (1) of section 57. However, the condition of set off against 50% shall not apply if the taxable income for the year is less than Rs.10 million. This is illustrated through the following examples:-

Example 1	**(in Rs.)**
Tax Year 1	
Sales	50,000,000
Business deductions excluding depreciation/amortization	30,000,000
Deductions u/s 22, 23, 23A, 23B & 24	40,000,000
Loss for the year	(20,000,000)
Tax Year 2	
Sales	70,000,000
Total admissible deductions for the tax year 2	40,000,000
Business income for the year	30,000,000
Brought forward loss	(20,000,000)
Loss set off against 50% of business income	15,000,000
Taxable income after setting off losses	15,000,000
Balance loss to be carried forward to Tax Year 3	(5,000,000)

Example 2	
Tax Year 1	
Sales	50,000,000
Business deductions excluding depreciation/amortization	30,000,000
Deductions u/s 22, 23, 23A, 23B & 24	40,000,000
Loss for the year	(20,000,000)
Tax Year 2	
Sales	45,000,000
Total admissible deductions for the tax year 2	40,000,000
Business income for the year	5,000,000
Loss for Tax Year 1 shall be set off against 100% of business income as taxable income for the year is less than Rs.10 million.	
Taxable income after setting off losses	(15,000,000)
Balance loss to be carried forward to Tax Year 3	(15,000,000)

Example 3	
Tax Year 1	
Sales	50,000,000
Business deductions excluding depreciation/amortization	80,000,000
Deductions u/s 22, 23, 23A, 23B & 24	0
Business loss for tax year 1	(30,000,000)
Tax Year 2	
Sales	70,000,000
Business deductions excluding depreciation/amortization	20,000,000
Deductions u/s 22, 23, 23A, 23B & 24	80,000,000
Loss for the year	(30,000,000)

Tax Year 3

Sales	90,000,000
Total admissible deductions	40,000,000
Business income for the year	50,000,000
Setting off business loss for tax year 1	(30,000,000)
Income from business	20,000,000
50% of income from business	10,000,000
Loss for year 2 set off	10,000,000
Taxable income after setting off loss	10,000,000

Balance loss attributable to deductions u/s 22, 23, 23A, 23B & 24 to be carried forward to tax year 4 is (Rs. 20,000,000/-).

Normal income tax shall be paid on 50% of income from business after setting off business loss i.e. normal income tax shall be paid on Rs. 10,000,000/-.

9. Amendments related to advance tax u/s 147 [Sections 137 & 147]

Advance tax is due on the dates specified in sub-sections (5), (5A) and (5B) of section 147. In case of non-payment, sub-section (7) states that the provisions of the Ordinance shall apply to any advance tax due under section 147 as if the amount due were tax due under an assessment order. In this regard, advance tax was due on the dates specified for in sub-sections (5), (5A) or (5B). However, sub-section (2) of section 137 provided that where any tax was payable under an assessment order, a notice in the prescribed form shall be served upon the taxpayer specifying the amount payable and thereupon the sum so specified was to be paid within thirty days from the date of service of the notice. In order to ensure that advance tax is tax due on the dates mentioned in section 147, a proviso has been added in sub-section (2) of section 137 providing that the due date for payment of tax payable under sub-section (7) of section 147 shall be the date specified in sub-sections (5) or (5A) or the first proviso to sub-section (5B) of section 147.

Secondly, in the case of companies and association of persons, advance tax due for a quarter is computed as per formula given in sub-section (4) of section 147. In cases where taxpayers fail to provide turnover for the quarter or turnover for the quarter is not known on the due date for payment of advance tax, it was not possible to compute advance tax liability under sub-section (4) on the due date for payment of advance tax. Through the Finance Act, 2018, a proviso has been added in component 'A' of sub-section (4) of section 147 providing that where a taxpayer fails to provide turnover for the quarter or the turnover for the quarter is not known, the turnover for the quarter shall be taken to be one-fourth of 110 percent of the turnover for the latest tax year for which a return has been filed.

Thirdly, as per sub-section (6) of section 147, taxpayers can file lower estimate of advance tax at any time before the last installment is due. However, prior to the Finance Act, 2018, there was neither requirement of giving reason for lower estimate nor any

details or documentary evidence was required. Through the Finance Act, 2018, two provisos have been added in sub-section (6) providing that an estimate of the amount of tax payable shall contain turnover for the completed quarters for the relevant tax year, estimated turnover of the remaining quarters along with reasons for any decline in estimated turnover, documentary evidence of estimated expenses or deductions which may result in lower payment of advance tax and the computation of the estimated taxable income of the relevant tax year. The Commissioner has been empowered to reject the estimate after providing an opportunity of being heard to the taxpayer if the Commissioner is not satisfied with documentary evidence provided or where an estimate of tax payable is not accompanied by details mentioned above.

10. Abolition of Presumptive Tax Regime (PTR) for commercial importers [Section 148(7)]

Prior to the Finance Act, 2018 under sub-section (7) of section 148, advance tax on imports was final tax for such importers where the imported goods were sold in the same condition in which these were imported. Through the Finance Act, 2018, tax required to be collected from commercial importers where goods are sold in the same condition as these were when imported, has been made minimum tax. However, the minimum tax shall be 5% of the import value as increased by customs duty, sales tax and federal excise duty. This is illustrated through the following examples:-

Example 1

ABC Limited
Tax Year 2019

Taxable Income	Rs.10,000,000
Normal tax @ 29%	Rs.2,900,000
Import value including customs duty, sales tax and federal excise duty	Rs.100,000,000
Tax deducted u/s 148 @ 5.5%	Rs.5,500,000
Minimum tax @ 5%	Rs.5,000,000

As minimum tax @ 5% is higher than normal tax @ 29%, minimum tax @ 5% shall be payable.

Example 2

Mr. XYZ
Tax Year 2019

Taxable Income	Rs.5,000,000
Normal tax @ Rs.300,000 + 15% of amount exceeding Rs.4.8 million	Rs.330,000
Import value including customs duty, sales tax and federal excise duty	Rs.10,000,000
Tax deducted u/s 148 @ 6%	Rs.600,000
Minimum tax @ 5%	Rs.500,000

As minimum tax @ 5% is higher than normal tax, minimum tax @ 5% shall be payable.

Example 3

Mr. ABC
Tax Year 2019

Taxable Income	Rs.4,800,000
Normal tax @ Rs.60,000+ 10% of amount exceeding Rs.2.4 Million	Rs.300,000
Import value including customs duty, sales tax and federal excise duty	Rs.4,000,000
Tax deducted u/s 148 @ 6%	Rs.240,000
Minimum tax @ 5%	Rs.200,000

As minimum tax @ 5% is lower than normal tax, normal tax of Rs.300,000 shall be payable.

11. Tax on sale of certain petroleum products [Section 236HA]

As per section 156A, every person selling petroleum products to a petrol pump operator is required to deduct tax from the commission or discount allowed to the operator at the rate of 12% of the amount of payment for filers and 17.5% for non-filers. Through the Finance Act, 2018, a new section 236HA has been inserted which states that every person selling petroleum products to a petrol pump operator or distributor, where such operator or distributor is not allowed a commission or discount, shall collect tax on ex-depot sale price of such products @ 0.5% for filers and 1% for non-filers. Hence, where the petrol pump operator is allowed a commission or discount, only tax under section 156A shall be collected and tax under section 236HA shall not be collected. In case the petrol pump operator or distributor is not allowed commission or discount, tax under section 156A shall not be collected but tax under section 236HA shall be collected. Tax deducted under the newly inserted section is a final tax.

12. Advance tax on persons remitting amounts abroad through Credit Cards, Debit Cards or Prepaid Cards [Section 236Y]

Credit, debit and prepaid cards are being used as a mode to pay for foreign travel, lodging, shopping etc and for online shopping from merchants outside Pakistan. Through the Finance Act, 2018, a new section 236Y has been inserted in the Income Tax Ordinance, 2001 which requires every banking company to collect advance tax at the time of transfer of any sum remitted outside Pakistan on behalf of a person who has completed a debit card or credit card or prepaid card transaction with a person outside Pakistan. The advance tax collected under this section shall be adjustable. The rate of tax to be deducted shall be 1% of the gross amount remitted abroad from filers and 3% from non-filers. The following transactions are included in this section:-

i. Use of credit card, debit card or prepaid card in Pakistan where the transaction is with a person outside Pakistan and results in transfer of sum remitted outside Pakistan;

ii. Use of credit card, debit card or prepaid card outside Pakistan where the transaction is with a person outside Pakistan and results in transfer of sum remitted outside Pakistan;

iii. Use of ATM card outside Pakistan which results in transfer of any sum remitted outside Pakistan

All plastic cards which are categorized as debit, credit or prepaid cards are covered in this section. As ATM cards are mostly debit cards or in some cases can also be credit or prepaid cards, transactions of cash withdrawal using ATM cards outside Pakistan are also covered in this section if such transactions result in transfer of any sum remitted outside Pakistan.

13. Ban on transfer of immovable property or a new motor vehicle to a non-filer [Section 227C]

In order to reinforce efforts being made for broadening of the Tax Base and to bring about an increase in the number of return filers a new section 227C has been inserted through the Finance Act, 2018 whereby applications for booking, registration or purchase of a new locally manufactured motor vehicle or for the first registration of an imported vehicle shall not be accepted or processed by any vehicle registering authority or a manufacturer of a motor vehicle unless the person is a filer as defined in section 2(23A) of the Ordinance. It would also be pertinent to mention that all motor vehicles regardless of their engine capacity would fall within the purview of this newly inserted section 227C of the Ordinance. Moreover, it would also be pertinent to mention that the term motor vehicle would include within its ambit all types of automobiles including cars, jeeps, vans, trucks etc irrespective of whether it is for private or commercial use. However, section 227C does not extend to motorcycles, rickshaws and motorcycle-rickshaws i.e. condition of being a filer shall not extend to persons purchasing locally manufactured motorcycles, rickshaws and motorcycle-rickshaws

Furthermore, consequent to the introduction of Section 227C of the Ordinance, through the Finance Act, 2018 any authority responsible for registering, recording or attesting transfer of any immovable property exceeding five million rupees shall not accept or process any application or request by a person for registering, recording or attesting transfer of any immovable property exceeding Rs. 5 Million unless such person is a filer as defined in section 2(23A) of the Ordinance. It would be pertinent to mention that such immovable property includes within its ambit agricultural, commercial, residential plots/land, houses, buildings, apartments, malls, flats etc. Moreover the authorities responsible for registering, recording or attesting transfer of immovable property include housing authorities, housing societies, co-operative societies, registrar of properties etc.

14. Directorate General of Immovable Property [Section 230F]

A major initiative to correct the valuation of real estate for the purpose of taxation has been taken through the Finance Act 2018, whereby Government has introduced a new section 230F to the Income Tax Ordinance 2001. Sub-section (1) of Section 230F of the Ordinance provides for the establishment of a new Directorate General of Immovable property (DG-IP). This new office will be endowed with the necessary capacity and legal jurisdiction to establish and implement a framework for taxation of immovable property. Sub-section (3) empowers the Directorate General to undertake proceedings for acquisition of property for reasons and purposes enumerated in sub-section (4). As per this sub-section, the proceedings under sub-section (3) shall be initiated, where the Director General, on the basis of valuation made by it, has reason to believe that any immovable property of a fair market value has been transferred by a

person (transferor), to another person (transferee), for a consideration which is less than the fair market value of the immovable property and that the consideration for such transfer as agreed to between the transferor and transferee has been understated in the instrument of transfer for the purposes of:

(a) the avoidance or reduction of withholding tax obligations under this Ordinance;

(b) concealment of unexplained amount referred to in sub-section (1) of section 111 representing investment in immovable property; or

(c) avoidance or reduction of capital gains tax under section 37.

The valuation mechanism (appointment of valuator and its working), is to be prescribed. Sub-section (8) restricts the period for initiation of proceedings within six months of the transfer of immovable property. The manner of proceedings, opportunity of being heard for transferor and transferee and making of the final order for acquisition of property are the subjects covered under sub-sections (9) to (11). The appellate procedures against the orders of the DG-IP are specified in sub-sections (12) to (18).

If the order of DG-IP, made under sub-section (11), survives the test of appellate forums, the immovable property and all rights including ownership rights therein shall be vested in the Federal Government with same rights and enjoyments as would have persisted under the previous ownership in terms of sub-section (19) of the newly inserted section 230F of the Ordinance. Sub-section (20) provides for payment to the owner of 'consideration for acquisition', which is defined in sub-section (21) as twice the price at which the transferor and transferee have executed the transfer of property which is the subject of proceedings.

The aim of the Federal Government is to make correct assessment of fair value of the property for the purpose of raising tax demands. However, as per sub-section (22), the new provisions including the appointment of Directorate General will come into force on the date as notified by the Federal Government. Considerable preparatory work has to be done before this notification can be issued. This includes necessary notifications regarding funds, valuation mechanism, appointment of appellate authorities and consultations with the provinces for requesting them to withdraw their valuation tables and reducing their tax rates on property transaction. Accordingly, sub-section (22) provides that the provisions of section 230F shall remain inapplicable unless a notification by the Federal Government is issued. After the issuance of the notification, provisions of the existing sections 111, 236C and 236W shall not apply whereas rates under section 236K shall be reduced to 1%. However, till the date of issuance of the said notification, tax required to be collected under section 236C, 236K and 236W shall continue to be collected. Moreover, provisions of Section 111 shall also continue to be applicable.

15. Time limitation for Best Judgement assessments under section 121 of the Ordinance to be extended [Section 121(3)]

In terms of proviso to sub-section (5) of section 114 of the Ordinance, notice for furnishing of a return of income under section 114(4) of the Income Tax Ordinance, 2001 can be issued for one or more of the last ten completed tax years to a person who has not filed return of income for any of the last five tax years. However, prior to the Finance Act, 2018, in case of failure to file return in response to notice issued in such a case, best judgment assessment could only be issued within five years of the end of tax year to which it related. In this way, though notice for filing of return could be issued for the last ten completed years, in case of non-filing of returns, best judgment assessment could only be made for the last five completed tax years due to the time limitation stipulated in sub-section (3) of section 121 of the Ordinance. In order to remove this anomaly, a proviso has been added in sub-section (3) of section 121 whereby a best judgement assessment can be made within two years from the end of the tax year in instances where notice calling for furnishing of return of income is issued in respect of one or more of the last ten completed tax years in terms of proviso to sub-section (5) of section 114 of the Ordinance.

16. Revamping of Alternative Dispute Resolution mechanism [Section 134A]

The concept of Alternative Dispute Resolution was introduced through the Finance Act, 2004 by inserting a new section 134A in the Income Tax Ordinance, 2001. The objective was to provide an alternate channel for expeditious settlement of disputes between FBR and taxpayers and to reduce the pendency of cases at various appellate forums. However, the existing mechanism for resolution of disputes through Alternative Dispute Resolution Committee (ADRC) had not been entirely successful in mitigating the hardship of taxpayers and therefore section 134A has been substituted with major changes which are mentioned hereunder:-

Prior to the Finance Act, 2018 any aggrieved person could apply to the Board for the appointment of a committee for the resolution of any hardship or dispute in connection with any matter pending before an Appellate Authority. However, cases where prosecution proceedings had been initiated or where interpretation of question of law having effect on identical cases was involved were ousted from the purview of Alternative Dispute Resolution (ADR).However, by virtue of amendment made through the Finance Act, 2018 any dispute pertaining to:

(i) liability of tax against the aggrieved person or admissibility of refunds; or
(ii) extent of waiver of default surcharge and penalty; or
(iii) any other specific relief required to resolve the dispute

shall fall within the purview of section 134A of the Ordinance relating to Alternative Dispute Resolution.

An aggrieved person may apply to the Federal Board of Revenue for the appointment of a Committee to resolve any hardship or dispute which is under litigation in any court of Law or an Appellate Authority. However, instances where criminal proceedings have been initiated or where interpretation of question of law having effect on other cases is involved have been ousted from the purview of the section 134A substituted through the Finance Act, 2018.

Prior to the Finance Act, 2018, the ADR Committee was to be appointed by the Board within 60 days of the receipt of application by an aggrieved person. Such committee comprised of an officer of Inland Revenue not below the rank of Commissioner and two persons from a panel comprising Chartered or Cost Accountants, Advocates, Income Tax Practitioners or reputable taxpayers for the resolution of the hardship or dispute. By virtue of amendment made through the Finance Act 2018, the composition of the ADRC has been changed. The first member shall be an officer of Inland Revenue, not below the rank of Commissioner. The second member shall be a person to be nominated by the taxpayer from a panel notified by the Board comprising senior chartered accountants and senior advocates having experience in the field of taxation and reputable businessmen as nominated by Chambers of Commerce and Industry. However, the taxpayer is not allowed to nominate a Chartered Accountant or an Advocate who is or has been an auditor or authorized representative of the taxpayer. The third member shall be a retired judge not below the rank of District and Sessions Judge and shall be nominated through consensus by the first two members.

Prior to the Finance Act, 2018, the proceedings of ADRC were conducted while the appeal of the taxpayer remained pending before the appellate authority. After the passage of order by the Board in the light of recommendations of ADRC, the said recommendations were to be submitted before the authority, tribunal or court where the matter was subjudice for consideration and orders as deemed appropriate. Through the Finance Act, 2018, the aggrieved person or the Commissioner or both as the case may be are required to withdraw the appeal pending before any appellate authority or Court of Law after constitution of ADRC by the Board. The ADRC shall not commence proceedings unless the order of withdrawal has been communicated to the Board, and in case the decision is not communicated within 75 days of appointment of ADRC, the said committee shall stand dissolved and the provisions of section 134A shall not apply. The Alternative Dispute Resolution Committee is mandated with examining the issue at hand and may conduct inquiry, seek expert opinion and direct any officer of the Inland Revenue or any other person to conduct an audit if deemed necessary. Such committee shall be required to decide the dispute by majority within 120 days of commencement of proceedings, however, in computing the aforesaid period of 120 days the period for communicating the order of withdrawal by the court of law or the Appellate Authority shall be excluded.

In case of failure to decide within 120 days, the Board shall dissolve the committee by an order in writing and the matter shall be decided by the Court of Law or

the appellate authority which had issued the order of withdrawal. In such a case, the appeal shall be treated as pending before the Court of Law or the appellate authority as if it had never been withdrawn. In such a situation, the Board shall communicate the order of dissolution to the court of law or the appellate authority and the Commissioner. Moreover, upon receipt of the order of dissolution the aggrieved person shall communicate the same to the court of law or the Appellate Authority, which shall decide the case within six months of communication of said order.

Prior to the Finance Act, 2018, the recovery of tax was not automatically stayed during the pendency of dispute before the ADRC. In order to facilitate taxpayers and alleviate hardship, the recovery of tax in connection with any dispute for which committee has been constituted shall be deemed to have been stayed from the date of order of withdrawal of appeal by the court of law or the appellate authority up to the date of decision by the committee.

Prior to the Finance Act, 2018, recommendations of the Alternate Dispute Resolution committee constituted by the Federal Board of Revenue in pursuance of application filed by an aggrieved person in connection with any matter pending before an Appellate Authority was not binding upon the Board and the Board had the mandate of passing an order as it deemed appropriate within ninety days of the receipt of the recommendations of the Alternative Dispute Resolution Committee. Moreover, an applicant being dissatisfied with the order passed by FBR also had the option of continuing to pursue the matter at hand before the relevant appellate authority. Through the Finance Act, 2018, the decision of the Alternative Dispute Resolution Committee has been made binding upon both the Commissioner and the aggrieved person/taxpayer. Upon decision of the dispute by the Alternative Dispute Resolution Committee the aggrieved person/applicant shall be obliged to make payment of income tax and other taxes as decided by the committee and all decisions, orders and judgements shall stand modified to that extent.

The Board has also been accorded the mandate to prescribe the amount to be paid as remuneration to the members of the Alternative Dispute Resolution Committee for their services except an officer of Inland Revenue (not below the rank of a Commissioner) who is appointed as a member of the committee.

17. Disclosure of information to National Database Registration Authority (NADRA) [Section 216(3)]

As per sub-section (1) of section 216 of the Income Tax Ordinance, 2001 public servants are barred from disclosing information contained in tax returns/statements/ accounts as well as documents furnished, evidences given and affidavits or depositions made during the course of proceedings under the Ordinance (except proceedings relating to offences and prosecutions). In addition, any record related to assessment or recovery proceedings under the Ordinance is also to be kept confidential. However,

certain exceptions have been provided in sub-section (3) of section 216 of the Income Tax Ordinance, 2001 where information can be disclosed to specified persons and organizations. Through the Finance Act, 2018, the National Database and Registration Authority (NADRA) has been included in the list of organizations that do not fall within the ambit of the confidentiality clause in terms of sub-section (1) of section 216 of the Income Tax Ordinance, 2001. This amendment would assist the Federal Board of Revenue for purposes of broadening of the tax base.

18. Enhancement in limit of tax credit under section 62 of the Ordinance for investment in shares, sukuks and insurance.

A resident individual or an AOP being original allottee of shares or sukuks is entitled to tax credit under section 62 of the Income Tax Ordinance, 2001 upon acquiring new shares offered by a public company listed on a stock exchange in Pakistan or acquiring sukuks offered by a public company listed and traded on a stock exchange in Pakistan. Moreover, a resident individual or an AOP deriving income from salary or business can also avail such tax credit upon payment of life insurance premium to a life insurance company registered by SECP under the Insurance Ordinance, 2000.

The amount of tax credit allowable under section 62 of the Income Tax Ordinance, 2001 is computed according to the formula depicted hereunder;-

(A/B) x C

Where:-

A: amount of tax assessed to the resident individual or AOP for the relevant tax year prior to the allowance of any tax credit under Part X of Chapter III;

B: taxable income of the resident individual or AOP for the relevant tax year;

C: the lesser of —

(a) the total cost of acquiring the shares/sukuks or aggregate amount of life insurance premium paid by a resident individual/AOP in the relevant tax year;

(b) 20% of the taxable income of the resident individual /AOP for the relevant tax year; or

(c) Rs. 1.5 Million

In order to incentivize investment in shares/sukuks and payment of life insurance premium the limit of Rs.1.5 Million in component "C" of the formula for computation of tax credit under section 62 of the Ordinance has been enhanced to Rs. 2 Million through the Finance Act, 2018.

19. Extension of various tax credits upto 30th June, 2021 [Sections 65B, 65D & 65E]

Prior to the Finance Act, 2018, tax credits under sections 65B, 65D and 65E were available up to 30-06-2019. Through the Finance Act, 2018, the cut-off date has been extended from 30.06.2019 to 30.06.2021.

20. Audit under section 177 and 214C of the Ordinance to be conducted once in three years [Clause (105), Part IV of the Second Schedule]

The Federal Board of Revenue is empowered to select persons for audit of their Income Tax affairs through random or parametric computer ballot under section 214C of the Income Tax Ordinance, 2001. Commissioners also have the mandate to select taxpayers for audit of their Income Tax Affairs under section 177 of the Income Tax Ordinance, 2001 after recording reasons in writing for the same. Moreover, the powers of a Commissioner to select taxpayers for audit of their Income Tax Affairs under section 177 of the Ordinance are independent of the powers exercised by the Federal Board of Revenue with respect to selection of taxpayers for audit of their Income Tax affairs through random or parametric computer ballot under section 214C of the Income Tax Ordinance, 2001.

Prior to the Finance Act, 2018 a person could be selected for audit of its Income Tax affairs repetitively under section 177 and 214C of the Income Tax Ordinance, 2001 i.e. the audit of the Income Tax Affairs of a person under section 177 or section 214C of the Ordinance could be conducted in successive Tax Years. However, in order to facilitate taxpayers who may be subjected to audit repetitively and to mitigate the ensuing hardship of such taxpayers, amendment has been through the Finance Act, 2018 whereby the powers of the Board and the Commissioner to select a person for audit of its income tax affairs repetitively i.e. for successive Tax Years has been curtailed. Therefore, consequent to the passage of the Finance Act, 2018 selection of a person for audit of its Income Tax Affairs cannot be made if a person has been selected for audit in any of the preceding three Tax Years. However, the Commissioner can still select a person for audit under section 177 even if the person was selected for audit in any of the preceding three tax years but in such a situation the selection by the Commissioner is subject to prior approval of the Board. Therefore, a person may be subjected to audit of its Income Tax Affairs more than once in three Tax Years under section 177 of the Income Tax Ordinance, 2001 if the Commissioner has the approval of the Federal Board of Revenue in this respect.

21. Taxpayers filing returns in Azad Jammu and Kashmir (AJK) and Gilgit-Baltistan (GB) to be treated as filers under the Income Tax Ordinance, 2001. [Section 2(23A)]

The Federal Board of Revenue has espoused the policy of increasing the cost of doing business for non-filers by prescribing higher rates of withholding tax for non-filers

viz-a-viz filers under various withholding tax provisions. Persons filing their Income Tax returns in Azad Jammu and Kashmir and Gilgit–Baltistan were being subjected to higher rates of withholding tax applicable to non-filers on various transactions such as cash withdrawal from banks, banking transactions, registration of motor vehicles, collection of motor vehicle tax etc in the territory of Pakistan because they did not fall within the ambit of definition of the term "filer" in terms of sub-section (23A) of section 2 of the Income Tax Ordinance, 2001 as their name(s) did not appear in the active taxpayers list issued by the Federal Board of Revenue periodically.

In order to facilitate persons filing their tax returns in AJ&K and Gilgit-Baltistan amendment in the definition of a "filer" under section 2(23A) of the Income Tax Ordinance, 2001 has been made through the Finance Act, 2018 whereby persons appearing on the Active Taxpayers List being maintained by Azad Jammu and Kashmir Council Board of Revenue and the Gilgit–Baltistan Council Board of Revenue, shall also be treated as filers under the Income Tax Ordinance,2001 therefore, such persons shall not be subjected to higher withholding taxes applicable to non-filers. However, it would be pertinent to mention that persons conducting business/earning Pakistan-source income in the territory of Pakistan are obliged to file their income tax returns in Pakistan.

22. Amount paid as scholarship not to be subject to collection of advance tax by educational institutions [Section 236I]

In terms of section 236I of the Ordinance, a person preparing a fee voucher or challan was obliged to collect/charge advance tax @ 5% from a person on the amount of fee paid to an educational institution such as schools, colleges, universities, tuition centers etc. However, such advance tax under section 236I of the Ordinance was not to be collected in instances where annual fee was upto Rs.200,000/- and in the case of a person who is a non-resident, subject to the furnishing of various documentation as enunciated in sub-section (6) of section 236I of the Ordinance.

In order to alleviate the hardship of persons whose educational fees are being paid through a scholarship, appropriate amendment has been made in sub-section (3) of section 236I of the Ordinance through the Finance Act, 2018 wherein it has been stipulated that advance tax under section 236I of the Ordinance shall not be collected on an amount which is paid by way of scholarship.

23. Rationalizing rate(s) of tax on the import of coal [Part II of the First Schedule]

Prior to the Finance Act, 2018 tax on import of coal under section 148 of the Income Tax Ordinance,2001 was collected @ 5.5% from companies and industrial undertakings and @ 6% from other persons (in the case of filers) and tax was collected @ 8% from companies and industrial undertakings and 9% from other persons (in the

case of non-filers). Through the Finance Act, 2018, the rate of tax under section 148 on import of coal has been reduced to 4% for filers and 6% for non-filers.

24. Ambit of concessional rate of tax on import of LNG to be extended [Part II of the First Schedule]

Prior to the Finance Act, 2018 only buyers of Liquefied Natural Gas (LNG) designated on behalf of the government of Pakistan were entitled to reduced rate of collection of tax at the import stage under section 148 of the Ordinance @ 1% for filers and 1.5% for non-filers. However, in order to provide a level playing field for all importers of LNG and to ensure non-discriminatory treatment necessary amendment has been made through the Finance Act, 2018 whereby from 1st July, 2018 onwards tax at the import stage under section 148 of the Ordinance shall be collected @ 1% from filers and @ 1.5% from non-filers from all importers of LNG whether nor not designated by the government.

25. Reduced rate of advance tax on Banking Transactions by non-filers [Division XXI of Part IV of the First Schedule]

Prior to the Finance Act, 2018 every banking company, in terms of section 236P of the Income Tax Ordinance, 2001 was obliged to collect advance adjustable tax @ 0.6% from non-filers upon sale of instruments such as demand draft, pay order, special deposit receipt, cash deposit receipt, short term deposit receipt, call deposit receipt, rupee traveller's cheques etc in excess of Rs.50,000/- per day. Similarly, collection of such adjustable advance tax @ 0.6% from non-filers by banks was also mandated upon transfer of funds through cheque/clearing, inter/intra-bank transfers through cheques, online/telegraphic/mail transfers, direct debits, payments through internet, mobile phones and transfer of funds through various modes as delineated under section 236P of the Ordinance in case such transfers exceeded Rs.50,000/- per day (in aggregate) from all bank accounts.

The rate of tax under section 236P of the Ordinance was temporarily reduced to 0.4% and was extended periodically pursuant to the recommendation of the Economic Coordination Committee of the Cabinet. Through the Finance Act, 2018 the rate of tax applicable under section 236P of the Ordinance has been reduced from 0.6% to 0.4%, therefore, extension of reduced rate of 0.4% under section 236P is no longer required.

26. Tax collected from members of Stock Exchange to constitute adjustable tax [Section 233A]

As per section 233A of the Income Tax Ordinance, 2001 a stock exchange registered in Pakistan is obliged to collect tax @ 0.02% from its members upon the purchase and sale of shares in lieu of tax on commission earned by such members. Prior to the Finance Act, 2018 the tax collected under section 233A of the Ordinance constituted final tax. Pursuant to the Finance Act, 2018 the tax collected by a registered

stock exchange in Pakistan under section 233A of the Ordinance from its members on the purchase and sale of shares in lieu of tax on commission earned by such members shall be adjustable in nature.

27. Reduction of minimum threshold of payment of tax to prevent recovery through attachment under section 140 of the Income Tax Ordinance, 2001.

Section 140 of the Ordinance enables a Commissioner to recover outstanding tax due by a taxpayer from persons holding money on behalf of the taxpayer. A proviso to sub-section (1) of section 140 of the Income Tax Ordinance, 2001 was introduced through the Finance Act, 2016 whereby Commissioner was restrained to issue notice for recovery of tax due during the pendency of First appeal under section 127 of the Ordinance provided that payment of 25% of the disputed tax demand has been made by the taxpayer. In order to alleviate the difficulties faced by taxpayers in payment of outstanding demand during pendency of First appeal the minimum threshold of payment of tax has been reduced from payment of 25% of the outstanding demand to payment of 10% of the outstanding demand. Therefore, if a taxpayer makes payment of 10% of the outstanding demand pending adjudication before the Commissioner (Appeals), recovery under section 140 of the Income Tax Ordinance, 2001 shall not be made.

28. Reduction In penalty for late filers of withholding tax statements [Section 182 read with section 115, 165, 165A &165B]

Prior to the Finance Act, 2018 a withholding agent failing to furnish a statement as required under section 115,165,165A or 165B of the Income Tax Ordinance, 2001 within the due date was liable to pay penalty of Rs. 2,500/- for each day of default subject to a minimum penalty of Rs.10,000/- under section 182 of the Income Tax Ordinance, 2001.

In order to alleviate the hardship of withholding agents who make payment of the tax collected/withheld into the treasury within the due date but are unable to file the statements as required under sections 115,165,165A or 165B of the Ordinance within the due date(s) on account of any reason, such persons, consequent to the passage of the Finance Act, 2018 shall be obliged to pay a total penalty of Rs.5000/- under section 182 of the Income Tax Ordinance, 2001 as against minimum penalty of Rs.10,000/- or penalty of Rs.2,500/- daily as was the case prior to the passage of the Finance Act, 2018. However, such reduced penalty shall only be applicable in cases which fulfill the twin conditions of the tax collected /withheld having been deposited into the exchequer within the due date as mentioned earlier and where the statement(s) under sections 115,165,165A or 165B are filed by the withholding agent within 90 days from the due date for filing such statements. In case these two conditions are not fulfilled, the taxpayer shall be liable to pay a minimum penalty of Rs.10,000/- or penalty of Rs. 2,500/- daily as was the case prior to the Finance Act, 2018.

29. Extension in the period of reduced rate of minimum tax for Large Trading Houses [clause (57), Part-IV of the Second Schedule]

Companies operating trading houses which simultaneously fulfill the conditions of having paid up capital exceeding Rs. 250 Million, owning fixed assets exceeding Rs. 300 million at the close of the Tax Year, maintaining computerized records of imports and sale of goods, having a system of issuance of 100% cash receipts on sales, presenting their accounts for audit every year and being registered under the Sales Tax Act,1990 are entitled to avail a reduced rate of minimum tax @ 0.5% of turnover under section 113 of the Income Tax Ordinance, 2001 up to Tax Year 2019 and 1% thereafter as against the prevalent rate of minimum tax @ 1.25% introduced through Finance Act, 2017. This facility of reduced rate of minimum tax @ 0.5% for large trading houses under clause (57) of Part-IV of the Second Schedule was available up to the Tax Year 2019 prior to the Finance Act, 2018. In order to promote and encourage the growth of such enterprises the facility of reduced rate of minimum tax @ 0.5% in the case of large trading houses has been extended up to 30th June, 2021 through the Finance Act, 2018.

30. Obligation to act as withholding agent under section 153 of the Ordinance to be deferred to the succeeding year [Section 153(7)(i)(i)]

Prior to the Finance Act, 2018 individuals and association of persons having turnover of Rs. 50 Million or above in any given Tax Year were liable to act as withholding agents and deduct tax at the rates specified in Division III of Part III of the First Schedule from the gross amount of payments being made for the sale of goods, for the rendering or providing of services or upon the execution of a contract under section 153 of the Income Tax Ordinance, 2001.

Such individuals and AOPs faced difficulty and hardship in discharging their legal obligations as withholding tax agents under section 153 of the Income Tax Ordinance, 2001 immediately upon crossing the threshold of turnover of Rs. 50 Million during the currency of a particular Tax Year. In order to provide such individuals and Association of Persons (AOP's) with a window to organize and prepare thereby enabling them to effectively discharge their responsibility as a withholding agent amendment has been made in section 153 of the Income Tax Ordinance, 2001 whereby individuals and AOP's crossing the threshold of Rs. 50 Million during the currency of a tax year, shall, pursuant to the passage of the Finance Act, 2018 be required to act as a withholding tax agent permanently from the tax year following the tax year in which the aggregate turnover is Rs.50 million or above.

31. Increase in minimum threshold of tax deduction on payments made under section 153 of the Income Tax Ordinance, 2001 [Section 153(1)]

Prior to the passage of the Finance Act, 2018 the withholding tax agents i.e. prescribed persons specified in clause (i) of sub-section (7) of section 153 of the Income Tax Ordinance, 2001 were obliged to deduct tax at the rates specified in Division III of

Part III of the First Schedule to the Ordinance from payments made in respect of provision/rendering of services aggregating Rs.10,000/- in a given tax year and from payments made on account of supply of goods aggregating Rs.25,000/- in a given tax year in terms of Circular No. 26 of 1991 (Income Tax) dated 24th August, 1991.

In order to facilitate withholding tax agents the minimum thresholds for deduction of tax under section 153 of the Income Tax Ordinance, 2001 previously given in Circular No. 26 of 1991 (Income Tax) dated 24th August, 1991 have now been enhanced to an aggregate amount of Rs.75,000/- during a financial year in the case of payments being made for supplies of goods by the withholding agent and to an aggregate amount of Rs. 30,000/- during a financial year in the case of payments being made by the withholding agent for the provision/rendering of services.

32. Scope of persons obliged to act as withholding tax agents under section 153 of the Income Tax Ordinance, 2001 extended to builders and developers [Section 153(7)(i)]

Prior to the passage of the Finance Act, 2018 builders i.e. persons deriving income from the business of construction and sale of residential, commercial or other buildings and developers i.e. persons deriving income from the business of development and sale of residential, commercial or other plots were not obliged to act as withholding tax agents under section 153 of the Income Tax Ordinance, 2001 if their turnover during any given tax year was less than Rs. 50 million.

The scope of persons obliged to act as withholding tax agents under section 153 of the Income Tax Ordinance, 2001 has now been enlarged through the Finance Act, 2018 and all builders and developers regardless of whether or not their turnover during a tax year exceeds Rs. 50 Million shall now be obliged to act as withholding tax agents under section 153 of the Income Tax Ordinance, 2001.

33. Late filers of tax returns not to be subjected to automatic selection for audit under section 214D of the Ordinance [Section 214D, Section 182A of the Ordinance]

Prior to the passage of the Finance Act, 2018 a person was automatically selected for audit under section 214D if the person failed to file return of income within the time period delineated under section 118 of the Income Tax Ordinance, 2001 or within the time period extended by the Board or the concerned Commissioner under sections 214A and 119 of the Income Tax Ordinance, 2001 respectively. Taxpayers were also subjected to automatic selection for audit if tax required to be paid along with return of income under section 137 of the Ordinance was not paid. Moreover, audit of the Income Tax Affairs of the person under section 214D of the Ordinance was required to be conducted as per procedure laid down under section 177 of the Income Tax Ordinance, 2001.

However, taxpayers were not subjected to automatic selection and were ousted from the ambit of section 214D of the Ordinance if they:-

(i) filed their income tax returns suo-moto within:-

- ninety days of the time period delineated under section 118 of the Income Tax Ordinance, 2001;
- or within the time period extended by the Board or the concerned Commissioner under sections 214A and 119 of the Income Tax Ordinance, 2001 respectively

(ii) and paid :-

- 25% higher tax as compared to the previous tax year on the basis of their taxable income; or
- the higher of 2% of turnover or normal tax liability alongwith return in cases where return for the preceding year was not filed or income below taxable limit was declared.

The concept of automatic selection for audit under section 214D of the Ordinance posed hardship for new taxpayers, desirous of coming within the fold of the tax net who file their income tax returns after the due date and mostly upon issuance of notice under section 114. In order to provide relief to new taxpayers coming within the fold of the tax net and supplement efforts geared towards broadening of the tax base, section 214D of the Ordinance has been omitted. Now the late-filers shall not be subjected to automatic selection for audit under section 214D of the Ordinance. However, in order to create a deterrence against late filing of returns a new section 182A has been inserted through the Finance Act, 2018 whereby a person who fails to file return of income under section 114 of the Ordinance within the due date as delineated under section 118 of the Income Tax Ordinance, 2001 or within the date extended by the Board or the concerned Commissioner under sections 214A and 119 of the Ordinance respectively shall not be included in the active taxpayers list for the year for which return was not filed within the due date.

Therefore, a person who is unable to file return within the date stipulated under section 118 of the Ordinance or within the date extended by the Board or the concerned Commissioner under sections 214A and 119 of the Ordinance shall no longer be entitled to appear on the active taxpayers list for the year for which return of income is not filed within the due date i.e. a late filer shall no longer be treated as a "filer" in terms of section 2(23A) of the Ordinance as the name of such taxpayer shall no longer appear on the active taxpayers list issued by the Board. However, an explanation has also been inserted in section 182A of the Ordinance whereby it has been clarified that Section 182A of the Ordinance shall have prospective effect and shall only be applicable for the returns due for the Tax Year 2018 and onwards for which the first Active Taxpayers List is to be issued on 1st March, 2019 under the Income Tax Rules, 2002. Therefore,

taxpayers should ensure that their income tax returns for the Tax Years 2018 and onwards are filed within the due date under section 118 of the Ordinance or the date extended under sections 214A and 119 of the Ordinance in order to avoid higher rates of withholding taxes across a multitude of transactions applicable to non-filers viz-a-viz filers.

Furthermore in terms of the newly inserted section 182A of the Ordinance, a person who fails to file return of income within the date specified under section 118 of the Ordinance or within the date extended under sections 214A and 119 of the Ordinance shall, in addition to exclusion from ATL for the relevant tax year as explained above shall not be entitled to carry forward any loss under Part VIII of Chapter III of the Ordinance to the tax year for which return of income is filed late. The losses which cannot be carried forward to the tax year for which return of income is filed late, can however be carried forward to next year following the tax year in which return is filed late if the return for that year is filed within the due date. However, the condition specified in sub-section (2) of section 57 shall apply that no loss shall be carried forward to more than six tax years immediately succeeding the tax year for which the loss was first computed.

34. Furnishing of information by banks under section 165A of the Income Tax Ordinance, 2001

Section 165A which was inserted in the Income Tax Ordinance, 2001 through the Finance Act, 2013 required banking companies to provide specified information to the Board notwithstanding anything contained in any law for the time being in force. One of the requirements for banking companies was to provide to the Board online access to their central database containing details of account holders. By virtue of amendment in section 165A of the Ordinance through the Finance Act, 2018 banking companies are no longer obliged to fulfill this requirement. However, banking companies are required to provide to the Board in the prescribed form and manner, particulars of cash withdrawals exceeding Rs. 50,000/- in a day and tax deductions thereupon from filers and non-filers where cash withdrawals aggregate to one million rupees or more during each preceding calendar month.

Prior to the Finance Act, 2018, banking companies were required to provide to the Board a list containing particulars of deposits aggregating Rs. 1 million or more during the preceding calendar month. By virtue of amendments made in section 165A of the Income Tax Ordinance, 2001 through the Finance Act, 2018 banks are now required to furnish particulars of deposits aggregating Rs. 10 million or more during the preceding calendar month. Before the Finance Act, 2018 banks were required to provide a list of payments made by any person against bills raised in respect of credit card issued to such person, aggregating to Rs. 100,000/- or more during the preceding calendar month. Consequent to the Finance Act, 2018 banks are required to provide list

of persons where payments against bills raised in respect of credit card(s) issued to such person(s) in the preceding calendar month aggregate to Rs. 200,000/- or more.

35. Withdrawal of exemption to income of a modaraba engaged in the manufacturing business [Section 100C (2)(e)]

Certain non-profit organizations, trusts and welfare institutions as specified in sub-section (2) of section 100C of the Income Tax Ordinance,2001 are entitled to a tax credit equivalent to 100% of the tax payable (including minimum and final taxes) upon fulfillment of certain conditions delineated in sub-section (1) of section 100C of the Ordinance including filing of income tax return, filing of withholding tax statements, fulfillments of obligations as a withholding agent, ensuring that administrative and management expenses does not exceed 15% of the total receipts etc.

Prior to the passage of the Finance Act, 2018 profit on debt from scheduled banks constituted one of the incomes entitled to 100% tax credit under section 100C of the Income Tax Ordinance, 2001. In order to promote and encourage microfinance banks, appropriate amendment has been made in clause (e) of sub-section (2) of section 100C of the Ordinance whereby income representing profit on debt from microfinance banks shall also be entitled to 100% tax credit under section 100C of the Ordinance upon fulfillment of the conditionalities deleniated in sub-section (1) of section 100C of the Ordinance.

36. Collection of advance tax on purchase of property to be made alongwith each installment in instances where payments for purchase of property is made piecemeal [Section 236K]

Prior to the Finance Act, 2018 advance tax on purchase of immovable property under section 236K of the Income Tax Ordinance, 2001 was collected at the time of registering, recording or attesting transfer of any immovable property. In instances where payments for purchase of property are being made in installments the purchaser has to bear the entire burden of collection of such advance tax at the time of transfer of the immovable property. In order to provide relief to purchasers of immovable property making payments in installments, advance tax under section 236K of the Ordinance on the purchase of immovable property shall, pursuant to the Finance Act, 2018 be collected at the time of collecting installments @ 2% for filers and 4% for non-filers (where the value of immovable property exceeds Rs.4 Million) along with each installment where the transfer is to be effected after making payment of all installments of immovable property.

37. Extension of minimum tax regime to services rendered by permanent establishments of non-resident persons [Section 152(2B)]

Prior to the Finance Act, 2018 the tax deducted under clause (b) of subsection (2A) of section 152 of the Ordinance from payments made to permanent establishments of non-resident persons for provision/rendering of services was adjustable against their tax liability whereas the tax deducted/deductible under clause (b) of sub-section (1) of section 153 of the Ordinance from payments made on account of provision or rendering of services to resident persons constituted minimum tax in terms of clause (b) of sub-section (3) of section 153 of the Income Tax Ordinance, 2001. However, reduced rate of minimum tax @ 2% of the gross amount of turnover from all sources is available to various specified sectors rendering services as delineated in clause (94) of Part-IV of the Second Schedule to the Ordinance. Therefore prior to the Finance Act, 2018 resident persons providing or rendering services were in a disadvantageous position viz-a-viz permanent establishments of non-resident persons involved in the rendering/ provision of services.

In order to create a level playing field for resident persons rendering services viz-a-viz non-resident persons rendering services a new sub-section (2B) has been inserted in section 152 of the Income Tax Ordinance, 2001 through the Finance Act, 2018 whereby the tax deducted under clause (b) of sub-section (2A) of section 152 of the Ordinance in respect of payments made to permanent establishments of non-residents for provision of services has been made minimum tax.

Moreover, as stipulated in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (3) of section 153 of the Ordinance, a company (being a permanent establishment of a non-resident person and a filer) rendering services in the sectors specified in clause (94) of Part-IV of the Second Schedule to the Ordinance shall be entitled to carry forward excess amount of minimum tax paid @ 2% of the gross amount of turnover from all sources viz-a-viz the normal tax liability of such company for a maximum of five tax years immediately succeeding the year in which the excess was first paid.

Additionally, in a manner akin to a resident company which is entitled to issuance of an exemption certificate by the Commissioner under sub-section (4A) of section 153 of the Ordinance upon fulfillment of certain conditions, a company being a permanent establishment of a non-resident person and falling within the ambit of clause (94) of Part-I of the Second Schedule to the Ordinance may also, pursuant to the Finance Act, 2018 be issued an exemption certificate by the concerned Commissioner for a period of at least three months subject to making advance payment of tax @ 2% of the total turnover of the corresponding period of the immediately preceding tax year.

38. Stay of recovery by Appellate Tribunal Inland Revenue [Section 131(5)]

The Appellate Tribunal, in terms of sub-section (5) of section 131 of the Income Tax Ordinance, 2001 may, in cases of undue hardship and pursuant to provision of opportunity of being heard to the Commissioner grant stay against recovery of tax which has been upheld at the level of the Commissioner (Appeals) for a period not exceeding 180 days in aggregate.

Through the Finance Act, 2018 a new proviso has been inserted in sub-section (5) of section 131 of the Income Tax Ordinance, 2001 wherein the Commissioner has been empowered and accorded the mandate to recover the tax demand stayed by the Tribunal pursuant to the lapse of stay accorded by the Appellate Tribunal Inland Revenue for a period aggregating 180 days. In other words the stay accorded by the Tribunal shall automatically cease to have effect upon the expiration of 180 days following the date on which the stay order was made and the Commissioner shall have to right to effect recovery of tax [upheld at the level of the Commissioner (Appeals)] in respect of a taxpayer whose appeal is still pending adjudication before the appellate Tribunal.

39. Measures for incentivizing investment in REIT and Collective Investment Schemes [Division III of Part I and Division I of Part III of the First Schedule]

(I) Prior to the Finance Act, 2018 the dividend received by a company from a collective investment scheme, a REIT scheme or a mutual fund (except a stock fund) was subjected to tax @ 25% for the tax year 2015 onwards under section 5 of the Income Tax Ordinance, 2001. In order to incentivize investment by companies in collective investment schemes, REIT schemes and mutual funds, an amendment has been made in the second proviso to Division III of Part I of the First Schedule to the Income Tax Ordinance, 2001 whereby the rate of tax has been reduced from 25% to 15% in respect of dividend received by a company from a collective investment scheme, REIT scheme or a mutual fund (other than a stock fund) .

Similarly, in consonance with the reduction in the rate of tax on dividend received by a company from a collective investment scheme, a REIT scheme or a mutual fund under section 5 of the Income Tax Ordinance, 2001 the tax required to be deducted under section 150 of the Income Tax Ordinance, 2001 by a collective investment scheme, REIT scheme or mutual fund upon payment of dividend to a company has also been reduced from 25% to 15% (in case such company is a filer) by making amendment in Division I of Part III to the First Schedule to the Income Tax, 2001. However the rate of tax under section 150 of the Ordinance required to be deducted upon payment of dividend by a collective investment scheme, REIT scheme or mutual fund to a company, being a non-filer, has not witnessed any change and has remained static at 25%.

(II) Prior to the Finance Act, 2018 any person receiving dividend from a Developmental REIT Scheme set up by 30th June, 2018 (for the purpose of development and construction of residential buildings) could avail a 50% reduction in tax for a period of three years with effect from 30th June, 2018 in terms of the third proviso to Division III of Part I of First Schedule to the Income Tax Ordinance, 2001. In order to promote and encourage investment in Developmental REIT Schemes appropriate amendments have been introduced in the third proviso to Division III of Part-I of the First Schedule to the Ordinance through the Finance Act, 2018 whereby persons receiving dividend from a Developmental REIT Scheme shall be entitled to a 50% tax reduction if such Developmental REIT scheme (with the object of development and construction of residential buildings) is set up by 30th June, 2020. In addition, 50% tax reduction on dividend received from such Developmental REIT Schemes would be available for three years from the date of setting up of such Developmental REIT Scheme.

Corresponding amendments have also been made in the third proviso to Division I of Part-III of the First Schedule to the Ordinance in respect of the tax required to be deducted under section 150 of the Income Tax Ordinance, 2001 on the dividend paid by a Developmental REIT Scheme (with the object of development and construction of residential buildings).

(III) Prior to the Finance Act, 2018 the rate of advance tax to be deducted under section 150 of the Ordinance on payment of dividend by a rental REIT scheme to an individual as well as an AOP was 12.5% in the case of a filer and 15% in the case of a non-filer. In order to incentivize investment by individuals in rental REIT schemes, a fifth proviso has been added in Division I of Part III of the First Schedule to the Income Tax Ordinance, 2001 through the Finance Act, 2018 whereby advance tax to be deducted under section 150 of the Ordinance upon payment of dividend to an individual by a rental REIT Scheme has been reduced to 7.5% irrespective whether the individual is a filer or a non-filer.

40. Rates of Tax on Capital Gains emanating from the disposal of securities for the Tax Year 2019. [Division VII of Part-I of the First Schedule]

The rates of tax on Capital Gains emanating from the disposal of securities under section 37A are provided in Division VII of Part I of the First Schedule. Through the Finance Act, 2018, the rates of tax applicable for the tax year 2018 have been extended for the tax year 2019.

41. Increase in withholding tax rates for non-filers

FBR has consistently espoused the policy of creating a distinction between compliant and non-compliant taxpayers. An endeavor has been made to increase the

cost of doing business for non-filers by prescribing higher rates of withholding tax for non-compliant taxpayers who choose to remain out of the tax net. Continuing with the same policy the Finance Act, 2018 envisages a further increase in the withholding tax rates for non-filers in the following instances:-

(i) Withholding tax on sale of goods under section 153(1)(a) of the Income Tax Ordinance, 2001. [Sub-paragraph (b), paragraph (1), Division III of Part III of the First Schedule]

The withholding tax rates on sale of goods to a non-filer under section 153(1)(a) of the Ordinance have been increased from the existing 7% to 8% in the case of a company, and from the existing 7.75% to 9% in non-corporate cases through the Finance Act, 2018 as under:-

Person	Rates of tax for filers prior to the Finance Act, 2018	Rates of tax for non-filers prior to the Finance Act, 2018	Rates of tax as per the Finance Act, 2018 for non-filers
Company	4%	7%	8%
Non-company	4.5%	7.75%	9%

(ii) Withholding tax in respect of payments made for execution of contracts under section 153(1)(c) of the Income Tax Ordinance, 2001. [Sub-paragraphs (ii) and (iii), paragraph (3), Division III of Part III of the First Schedule].

The withholding tax rates applicable to a non-filer under section 153(1)(c) of the Ordinance upon the execution of a contract have been increased from the existing 12% to 14% in the case of a company, and from the existing 12.5% to 15% in non-corporate cases through the Finance Act, 2018 as under:-

Person	Rates of tax for filers prior to the Finance Act, 2018	Rates of tax for non-filers prior to the Finance Act, 2018	Rates of tax as per the Finance Act, 2018 for non-filers
Company	7%	12%	14%
Non-company	7.5%	12.5%	15%

42. Advance Tax on functions and gatherings under section 236D of the Income Tax Ordinance, 2001. [Division XI of Part IV of First Schedule]

As per section 236D of the Income Tax Ordinance, 2001 owners, lease holders, managers or operators of marriage halls, marquees, hotels, restaurants, commercial lawns, clubs, community places or any other place used for such businesses are mandated to collect 5% tax on the total amount of the bill from a person arranging or holding a function in a marriage hall, marquee, hotel, restaurant, commercial lawn, club, a community place etc. Such function(s) may include a wedding related event, seminar, workshop, session, exhibition, concert, show, party or any other such gathering.

The persons specified in the foregoing paragraph are also obliged to collect 5% advance tax from a person arranging or holding functions as delineated in the aforementioned paragraph in instances where food, service or any other facility is provided by any other person. The tax collected under section 236D of the Ordinance is adjustable in nature.

Prior to Finance Act, 2018 the advance tax to be collected on marriage functions under section 236D of the Ordinance was 5%. An amendment has been introduced in Division XI of Part IV of the First Schedule through the Finance Act, 2018 whereby the advance tax collected on marriage functions under section 236D of the Ordinance shall be the higher of 5% of the total amount of the bill or Rs.20,000/- per marriage function in cities which are provincial or divisional headquarters comprising Islamabad, Lahore, Multan, Faisalabad, Rawalpindi, Gujranwala, Bahawalpur, Sargodha, Sahiwal, Sheikhupura, Dera Ghazi Khan, Karachi, Hyderabad, Sukkur, Thatta, Larkana, Mirpur Khas, Nawabshah, Peshawar, Mardan, Abbottabad, Kohat, Dera Ismail Khan, Quetta, Sibi, Loralai, Khuzdar, Dera Murad Jamali and Turbat. For the remaining cities in Pakistan the rate of tax to be collected on marriage functions under section 236D of the Income Tax Ordinance, 2001 shall be the higher of 5% of the total amount of bill of the marriage function or Rs.10,000/-per marriage function.

The aforementioned amendment in Division XI of Part IV of the First Schedule through Finance Act, 2018 has rationalized withholding tax rates on the basis of cities and in no way increases the liability or the obligation of the persons arranging or holding marriage functions as the tax collected is an advance tax and is adjustable against a person's normal tax liability at the end of the tax year.

43. Provisions relating to International Taxation

Various amendments have been introduced through the Finance Act, 2018 regarding international taxation. These include:

(i) Taxation of digital economy
(ii) Taxation of offshore indirect transfers
(iii) Controlled Foreign Company (CFC) Rules
(iv) Strengthening anti-abuse rules
(v) Taking cognizance of unexplained foreign source income/assets in the tax year prior to the year of discovery.
(vi) Reporting requirements for offshore income and assets
(vii) Rules to restrict artificial avoidance of status of Permanent Establishment

A separate circular explaining the above provisions is being issued.

(Reema Masud)
Secretary (Income Tax Budget)