



FINANCE (SUPPLEMENTARY) BILL 2023

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BDO Commentary on the Finance (Supplementary) Bill, 2023

The Federal government has introduced direct and indirect taxation measures for complying with the conditions of the IMF program through issuance of two SROs on February 14, 2023 and thereafter presenting Finance (Supplementary) Bill, 2023 [**The Bill**] in both the Houses on February 15 2023.

Highlight of the taxation measures introduced are as under:

1. Adjustable advance tax on purchase of private limited company or public unlisted company shares at the rate of 10% of the fair market value of such shares
2. Collection of advance tax on functions and gathering
3. Increase in general sales tax rate from 17% to 18%
4. Increase in locally produced coal and imported mobile phones of specific categories
5. Increase in FED on certain goods which includes cigarettes, aerated water, cement and sugary drinks

The above measures proposed through the Bill shall come into force on the next day of enactment as an Act when assented by the President of Islamic Republic of Pakistan.

INCOME TAX

SECTION (CLAUSE)	INCOME TAX ORDINANCE 2001
Section 37- Capital gain	The Bill has proposed new sub-section (6) to (10) after sub-section (5) of section 37 of the Ordinance
	<p>The implication of the newly introduced sub-sections are as under</p> <ol style="list-style-type: none"> 1. Every person acquiring shares of a private limited company shall deduct advance tax at the rate of 10% of the FMV of the shares and deposit the said tax within 15 days of the payment. 2. For the purpose of fair market value of the shares, the Bill proposes valuation of shares as the value derived from the assets, if on the last day of the tax year preceding the date of transfer of share the values of such assets exceeds Rs 100 million and represents at least 50 percent of the value of all the assets owned without reduction of liabilities. 3. The person disposing off the shares can apply to the Commissioner for approval of no tax deduction or deduction of tax at reduced rate. 4. The person disposing off the said shares would also be required to submit the Commissioner information within 30 days of the transaction as may be prescribed through the Rules.
Section 37A- Capital gain on disposal of securities	<p>The Bill has proposed to introduce a new proviso in sub-section (1) of section 37A.</p> <p>The current taxation of capital gain on disposal of securities is governed based on the reduced tax rates ranging from 15% to 5% based on the holding period of the securities or the category of the person holding the securities i.e. in the case of mutual funds.</p> <p>Now the Bill proposes to exclude the above reduced rate taxation of those securities which are not disposed through registered / settled through stock exchange and NCCPL. The proposed proviso would result in the taxation of capital gain on disposal of mutual funds units, unlisted sukuks and other investment instruments not listed on PSX and settled through NCCPL being taxed at the normal slab rates in the case of individuals which can go up to 35% and 29% in the case of companies.</p>
Section 236CB- Advance tax on functions and gatherings	<p>The Bill proposes to re-introduce provision which provides for collection of adjustable advance tax at the rate of 10% of total amount of bill, including bill for food, services or any other facility whether arranged by the withholding agent or not.</p> <p>The owner, lease-holder, operator / manager of marriage hall, marquee, hotel, restaurant, commercial lawn, club, community place etc. are proposed as withholding agent for the purpose of this provision.</p> <p>The tax collection will be made from the person arranging the functions and gatherings related to wedding, seminar, workshop, session, exhibition, concert, show, party or any other gathering for such purpose.</p>

SALES TAX

SECTION (CLAUSE)	SALES TAX ACT, 1990				
Section 3	Scope of tax				
	<p>The Bill has proposed to enhance the rate of sales tax of taxable supplies from 17% to 18%.</p> <p>The standard rate of sales tax has also been increased from 17% to 18% through SRO 179(I)/2023 dated February 14, 2023. The amendment through SRO 179 is not applicable on goods subject to sales tax at retail price as specified in the Third Schedule to the Sales Tax Act, 1990.</p> <p>The SRO dated February 14, 2023 keeping in view the principles laid down by the Hon'ble Supreme Court of Pakistan in its judgement reported as 2022 PTD 232, the applicability of SRO from February 14, 2023 can legally be questioned.</p> <p>Furthermore, the legitimacy of increase of rate through SRO can also be questioned in view of various judgments which have ruled that power to levy tax remains with the Parliament.</p> <p>Therefore, to cover the legitimacy of this increase in sales tax the same is also proposed through the Bill.</p>				
Eighth Schedule	Goods Taxable at reduce rate				
	<p>The Bill has proposed to increase the sales tax rate from 17% to 18% for goods appearing at serial number 47 and 56 as below table:</p>				
	Serial No.	Description	Existing	Proposed	
	47	Locally produced coal	Rs 700 per metric tonne or 17% ad valorem, whichever is higher	Rs 700 per metric tonne or 18% ad valorem, whichever is higher	
	56	Potassium Chlorate (KClO ₃)	17% along with Rs 60 per KG	18% along with Rs 60 per KG	
Ninth Schedule	<p>The Bill has proposed to increase the sales tax rate on import of cellular mobile phones in CBU in Table-II from 17% to 25% at category E, F and G as below table:</p>				
	Serial No.	Category	Description	Existing	Proposed
	1	E	Exceeding US\$ 200 but not exceeding US\$ 350	17% ad valorem	18% ad valorem
		F	Exceeding US\$ 350 but not exceeding US\$ 500	17% ad valorem	18% ad valorem
		G	Exceeding US\$ 500	17% ad valorem	25% ad valorem

FEDERAL EXCISE ACT, 2005

FED rates of following items have been proposed to be increased as under:

Sr. No.	Description	CODE	Previous rates	New rates
1	Aerated waters	2201.1020	13% of retail price	20% of retail price
2	Aerated waters, containing added sugar or other sweetening matter or flavored	2201.1010	13% of retail price	20% of retail price
3	Aerated waters manufactured wholly from juices or pulp of indigenous vegetables, food grains or fruits and which do not contain any other ingredient, indigenous or imported, other than sugar, coloring materials, preservatives or additives in quantities prescribed under the West Pakistan Pure Food Rules, 1965	Respective headings	13% of retail price	20% of retail price
4	Locally produced cigarettes if their on-pack printed retail price exceeds Rs 6,660 (Changed to Rs 9,000) per thousand cigarettes	24.02	Rs 6,500 per thousand cigarettes	Rs 16,500 per thousand cigarettes
5	Locally produced cigarettes if their on-pack printed retail price does not exceed Rs 6,660 (Changed to Rs 9,000) per thousand cigarettes	24.02	Rs 2,050 per thousand cigarettes	Rs 5,050 per thousand cigarettes
6	Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cements, whether or not colored or in the form of clinkers.	25.23	Rs 1.50/kg	Rs 2.00/kg
7	Sugary fruit juices, syrups, squashes, waters whether containing added sugar/artificial sweeteners excluding mineral and aerated waters	98.03	-	10% of retail price

Fed on air travel:

Sr. No.	Description	Existing	Vide the Finance (Supplementary) Bill
	Travel by air of a passenger for international journey from Pakistan availing the club, business and first class. (applicable from the date of commencement of the Finance (Supplementary) Bill	Rs 50,000/-	Higher of 20% of the gross amount of ticket or Rs 50,000/- per ticket on air tickets issued after the Bill is approved

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