



American Business Council
Pakistan



THE AMERICAN BUSINESS COUNCIL OF PAKISTAN (ABC) SUGGESTIONS FOR THE FEDERAL BUDGET 2015/16

EXECUTIVE SUMMARY

Attached are the proposals for the upcoming Federal Budget 2015/2016 which comprise of 8 taxation related proposals and 11 procedural improvement/modification proposals. All these proposals will positively impact the ability for US companies to operate efficiently in Pakistan. The procedural suggestions are designed to help streamline and improve tax collection and appeal processes.

The ABC vision remains to have a robust, understandable and transparent taxation environment which includes:

- **EVERY EARNING MEMBER OF SOCIETY SHOULD BE PAYING TAXES:**
 - ✓ We have one of the lowest "Tax to GDP" ratios in the world, at approximately 10%.
 - ✓ Major sectors of the economy are not appropriately taxed, such as agriculture, real estate & the stock market. This level of revenue collection restricts the State's ability to provide infrastructure and services.
 - ✓ Industry, which makes up 20% of the GDP, is disproportionately taxed.
 - ✓ Currently less than 2% of the population pays personal taxes.
 - ✓ Increasing the taxation rate for professionals without widening the tax net, is leading to a 'brain drain' from Pakistan.

- **HAVE A SIMPLE TAXATION STRUCTURE:**
 - ✓ Taxes should be easy to levy and easy to file for tax payers.
 - ✓ The focus should be on 3 sources of taxation, i.e.
 1. General Sale Tax (GST);
 2. Customs Duty;
 3. Corporate and Personal Income Tax.

- **SHOULD BE COMPETITIVE VIS-À-VIS OTHER COUNTRIES:**
 - ✓ Make Pakistan attractive for foreign investment by making its taxation competitive.
 - ✓ This in turn will help reverse the unfortunate brain drain taking place.

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cc: ABC Executive Committee

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TAXATION PROPOSALS FOR FEDERAL BUDGET 2015-16

1. HIGH CORPORATE TAXES

1 A) Expansion of the Tax Net

Issue

Future prosperity of our nation depends on the ability of the government to expand the tax net. In order to adequately invest in infrastructure improvement and energy reliability, the government must increase the Tax/GDP ratio beyond the 10% where it sits currently. Government must clearly identify sectors of the economy which are not fairly taxed and tax them in line with other sectors, else the manufacturing sector which is disproportionately taxed (accounts for 20% of GDP but takes 66% of tax burden) will cease to remain attractive and survive.

There are two key pools of tax payers that need to be tapped, namely:

- a) Sectors that are not taxed proportionally like Agriculture, Retail and Wholesale, Real Estate and Stock Market.
- b) Have a strong and effective drive to identify tax evaders.

Proposal

All sectors including Agriculture and Retail & Wholesale need to be brought under the tax net and proportionally taxed.

- a) All individuals and commercial businesses should be taxed irrespective of their exemption status.
- b) Tax evaders need to be identified and taxed. Some ideas on identifying evaders are:
 - a. Better coordination between SECP and FBR: This will result in detecting companies which are although registered with SECP but are not registered with FBR and thus are not under the tax net.
 - b. International Travel, Utility and Communication Bills: Individuals and companies making payments for their utility bills (electricity, gas, water), communication bills (cell phones, PTCL) and for international travel (business or pleasure) need to be checked whether they are in the tax net. If spending is above a certain level then these entities made to pay taxes.

Benefit

More funds available to the government will enhance their ability improve infrastructure, attract investment and create a conducive environment for businesses to function and prosper. The businesses in turn would create jobs and give back to the government the much needed tax revenue. Together this process will result in much needed incremental GDP growth and improvement in standard of living of tax payers.

1 B) Reduction in Corporate Income Tax

Issue

With global shift towards indirect taxes, average corporate tax rates are coming down, e.g. among 116 countries tax rate has fallen from a high of 27.5% in 2006 to 23.6% in 2014.



Source: KPMG

Average corporate tax rates among Asian countries has also fallen from 28.99% in 2006 to 21.9% in 2014 and in Pakistan even while the Corporate Tax Rate has been reduced to 33% and is likely to be further reduced to 30% by FY2018-19, the effective tax rate will remain higher than the region after including other taxes such as WPPF and WWF.

Looking ahead, if we want to remain competitive in attracting foreign investment, we will have to be competitive on corporate taxes among our region and neighbors. This is all the more important and urgent with the current global reduction in economic activity. Also the limited supply of capital investment will go to those countries which have most attractive overall package of which corporate tax rate is a key factor.

Proposal

The government's In order to remain internationally competitive, Pakistan needs to reduce its corporate tax rate to a maximum of 30% with immediate effect in order to keep with regional standards.

Benefit

Lower corporate tax will promote investment in Pakistan, make private sector more vibrant and will enable Pakistan to be internationally competitive.

1 C) Rationalize Minimum Turnover Tax for all Companies

Issue

The Board has vide its SRO 1086 (1) / 2010 dated November 30th, 2010 given relaxation in minimum tax to distributors of pharmaceutical products, fertilizers, consumer goods including fast moving consumer goods where after the minimum tax has been reduced by 80% from the 1.0% to 0.2%.

In cases of Oil marketing companies, Oil refineries, Sui Southern Gas Company Limited and Sui Northern Gas Pipelines Limited the rate of minimum tax shall be reduced to 0.5% in cases their annual turnover exceeds Rupees 1.0 billion.

We strongly feel that the minimum tax is unfair to companies that are in a start-up phase and have made initial capital investments / marketing investments and are making resultant losses in their first years of trial production or trial operations.

Pursuant to a decision of Sindh High Court, an anomaly has been created that minimum tax paid in case of loss (including brought forward losses) cannot be carried forward for adjustment against future years' tax liabilities.

Furthermore the tax officer is trying to levy minimum tax on non-resident Banks @ 1% on turnover with various show cause notices having been issued by tax authorities. Minimum tax is only applicable to resident companies/ banks. These notices are hindering non-resident companies in the ease of doing business in Pakistan. Section 113 specifically mentions that minimum tax is only applicable to resident companies. A specific mention in Seventh Schedule (related to banks) of applicability of Section 113 to resident banks will be helpful.

Proposal

It is recommended that to create a level playing field to the new entrants in the market the minimum tax should be reduced to 0.2% in the first 3 Tax Years of the company. For existing companies who have made investments exceeding US\$ 0.5 Million, the same should be applicable for the year of additional investment to encourage investment in existing facilities. On net we recommend this facility should be valid for 10 years after the investment is made.

It is recommended that appropriate amendments are made to section 113 so that the taxpayers, paying minimum tax, are not debarred from adjustment of such tax from future years.

Benefit

1. Companies willing to enter Pakistan, as well as those already functioning in the country, which are planning on investing in capital or marketing, will be encouraged to make further investments.
2. A rationalized levy of minimum tax and will not act as a show stopper for companies in difficult financial situations.

1 D) Simplification of Advance Tax for Manufacturers

Issue

Section 147 requires companies to pay advance tax to the extent of 90% of the tax chargeable for the relevant tax year, often resulting in accumulation of refunds at year end. Companies are also required to pay advance taxes under 153 and 148.

Proposal

1. Rate of advance tax be reduced to one fourth of the tax liability estimated for the latest tax year or at least the benchmark of 90% should be reduced to 80%, as it has been historically.
2. Exemption from withholding taxes u/s 153 and u/s 148 should be incorporated in law without making exemption certificate as a mandatory condition.

Benefit

Help simplify and streamline tax process for good corporate citizens and will ease cash position of the company

Further, it will eliminate the imposition of additional tax due to estimation variance. As due to uncertainty of economic and political condition of Pakistan it is very difficult to estimate the taxable income with 90 % accuracy especially in a case very a company's business income is very volatile like income from investment in listed securities.

1 E) Reduction of Rate of Tax on Imports

Issue:

Income Tax was payable at the reduced rate of 3% on import of raw material under clause 9A of Part II of Second Schedule. The said clause was omitted vide SRO dated Feb 14, 2013 resulting in payment of income tax at 5.5% at import stage. This has resulted in cash flow problems to manufacturing concerns as the excess tax payment are accumulated in refunds at year end, recovery of which is an exhaustive exercise.

Proposal:

It is recommended that Clause 9A should be restored.

Benefit:

This will remove cash flow problems being faced by companies and eliminate the accumulation of tax refunds.

1 F) Inter Corporate Dividend Exempt from Withholding Tax

Issue

The company after paying 33% tax on profits plus 5% WPPF and 2% WWF distributes dividend to their shareholders which includes corporate entities. Additional tax @ 10% is deducted from this dividend when transferred to its parent company.

Proposal

Tax on dividend to the corporate entities should be exempt from this withholding tax.

Benefit

Additional tax on Corporate Shareholders will be eliminated and will attract more investments in the country.

1G) Restoration of Initial Depreciation Allowance on Plant and Machinery under Section 23 to 50%

Issue

Through the Finance Act 2014, the rate of initial depreciation allowance on plant and machinery as prescribed under the Third Schedule to Income Tax Ordinance 2001 has been reduced to 25% from 50%, effective tax year 2014.

Proposal

It is proposed that the Initial Depreciation Allowance rate be restored to 50% as was the case prior to the Finance Act 2013

Benefits

This will gear up investments in the industrial sector resulting in job creation and increased tax revenues for the Governments once the unit starts earning profits.

1H) Removal of Time Limit for Tax Credit for Investment u/s 65

Issue

Currently, 10% tax credit is available on amount invested through purchase of plant and machinery for the purposes of extension/expansion/balancing/modernization and replacement by the tax payers. As stated in law, credit of such benefit is available during 1st July 2010 till 30th June 2015. Furthermore one of the criteria to qualify for tax credit u/s 65 D & E is to start commercial production before June 30, 2016.

Proposal

To promote the Foreign Direct Investment in country extension of such tax credit should remain in place. Furthermore it is highly recommended that credit of such investment remain in place without any bindings of time.

Benefits

The companies which are currently evaluating different investment options in Pakistan could count on these incentives that are critical for making the investment feasible.

1) Reduction in Duties on Capital Equipment

Issue

The import duty on machinery and equipment imported into the country for setting up industry has been increased to 10% from 5%. This import duty is unnecessarily burdening companies looking to make large scale investment in the country by front loading investment. Globally, various countries are offering attractive incentives to industries to encourage FDI. Some examples are:

1. South Africa has 0% import duty slab on plant machinery and equipment.
2. Nigeria is offering a scheme to investors for duties and VAT exemptions on capital equipment.

Proposal

It is recommended that the import duty should be minimized for and machinery imported in the country for setting up plants, for which local equivalents are not available. This policy measure will be a positive step in attracting much needed Foreign Direct Investment into the country, especially in the manufacturing sector.

Benefits

This step will reduce the cost of production and make Pakistani produced goods competitive in domestic and export markets. Moreover, this will not hurt the local industry as duty rates will only be reduced on machinery and equipment not produced locally. The proposed change offers a better investment climate in the country which would ultimately lead to increased investment in country's infrastructure and human resource.

2. ELIMINATION OF FINAL TAX REGIME (FTR)

Issue

The Government has done a good job of offering both the options of Final Tax Regime (FTR) and Normal Tax Regime (NTR) to all corporate. We encourage the Government to keeping moving in this direction and eliminate FTR in the next 3 to 5 years.

Proposal

It is proposed that Final Tax Regime (FTR) should be eliminated. This can be done in phases with the objective fully document the existing economy, as well as to encourage foreign companies to enter into Pakistan's Market.

- a) Initially FBR should allow adjustment of first three years of tax losses against their Full and final tax liability as assessed under FTR.
- b) Gradually incentivize companies, as it is currently doing, to move to a Normal Tax Regime (NTR). One suggestion is to make NTR rates more attractive verses FTR and modify the law accordingly.
- c) Manufacturers cum importers assessed under NTR, meeting certain preset criteria, should be given option to merge their manufacturing and trading profits for the purpose of their final tax calculations. Preset criteria will limit possible abuse & only those companies should be allowed to opt who meet minimum criteria on investment in fixed assets, or company turnover.
- d) WWF should be based on taxable income as applicable earlier and not on the basis of higher of accounting or taxable income as per present law. Further WWF should not be payable on income covered under FTR.
- e) The cost of doing business has become higher and consequently the said levy puts additional burden on companies.

Benefits

Encourage foreign companies to test market new product on import basis and then set-up manufacturing once market potential confirmed. In addition, simplicity of tax regime will make taxation much more transparent and in line with global standards for investors. This initiative will assist FBR in winning the confidence of tax payers who are good corporate citizens' thus making way for further investments and thus potential tax increases.

2 A) Final Tax Regime for Manufacturer-cum-Suppliers

Issue

Manufacturer-cum suppliers are taxed under normal tax regime @ 33% whereas importer cum suppliers are taxed under final tax regime. Conversion of FTR on manufacturer-cum supplier will help the Government to generate tax revenue from corporate sector.

Proposal

The omitted clause 40 Part IV of second schedule of Income Tax Ordinance 2001 should be activated.

Benefits

- All the manufacturers-cum supplier will avail final tax regime by paying WHT @ 3.5% to 4% as turnover tax. It will enhance the tax revenue as well as number of tax payers.
- Due to higher turnover of listed companies and unlisted public companies, the effective tax rate on profit before tax will remain 33% or above.
- Foreign and local investors will have tremendous incentive to form companies or invest in existing companies due to higher and varied rate of taxes.

- Certainty on effective tax rate on turnover.

3. EXPANSION OF GENERAL SALES TAX (GST)

Issue

In many developing countries, such as Pakistan, India, Mexico, etc., GST is a key revenue source as high unemployment and low per capita income render other income sources inadequate. Instead of introducing or using other tax sources thus creating more bureaucracy and complexity of collection, it is ideal to expand GST to apply across all sectors of the economy. Unlike other collection sources, GST offers a steady stream of income and is collected evenly over the entire fiscal year.

An effective indirect tax system needs to evolve if Pakistan has to keep up with the pace of commercial and technological change. Instead of increasing the Sales Tax rate, the tax net needs to be broadened. Sales Tax Rate applicable in Pakistan is already at higher side as given below in the table:

Country	GST Rates	Pakistan Higher by
Pakistan	17.0%	-
India	14.0%	3.0%
Indonesia	10.0%	7.0%
Hong Kong	0.0%	17.0%
Singapore	7.0%	10.0%

Proposal

To expand the tax net, attracting entities register for GST is critical. Some ideas for creating incentives and dispelling fear for potential entities to enter the GST net are:

Expansion and Communication:

1. The GST rate should be reduced to be comparable levels vs. other Asian markets which will encourage registration. A general economic model is that if GST exceeds 10%, people start engaging in widespread tax evading activity.
2. The GST process should be simplified to enable medium and small sized trader's to understand the 'concept' easily. The documentation requirements should be reduced to avoid unnecessary work.
3. Special team using 3rd party qualified companies should be brought on-board and who will work with businesses to help them understand and file for GST. This is in line with FBR work towards enhancing cooperation and helping in expanding the GST net.
4. The Government should run media and awareness programs to publicize these incentives and to explain the easy user friendly filing and collection system.

Incentives to Attract Registration:

1. No sales tax audits be carried out for newly registered small traders during the first 5 years of an entity's registration. Only exception will be if the entity claims any refunds, in that case for verifications.
2. Small traders, having limited turnover, may be allowed to file a sales tax return once every 6 months. This will make the compliance easy for small traders.
3. The same newly registered small traders be offered lower income tax rates for first three years in case they opt for sales tax registration.

Benefit

- a. This will discourage evasion and encourage participation with a win-win situation for registered entities.
- b. Expansion of tax net is the only viable solution to a prosperous Pakistan.
- c. Newly registered entities will pay some tax as compared to their 'ZERO CONTRIBUTION' today.

3 A i) Suspension without notification

Issue

At present, any taxpayer may be suspended on mere suspicion of tax fraud, etc. This results in immediate blockage of refunds accruing to corresponding buyers.

Proposal

To curtail the abuse of such provision, it is proposed that before declaring any person as blacklisted / suspended, the charge for issuing fake invoice or committing tax fraud should also be established in the Order-in-Original.

Further, input tax credit on account of purchases by a genuine buyer (from a subsequently declared blacklisted person) should be allowable to the extent of purchase until date of suspension.

Benefit

To avoid delays in claiming genuinely available tax credit

3 A ii) Blacklisted Suppliers

Issue

Sale tax department is issuing notices under rule 12(5) of the Sales Tax Rules, 2006 contending the adjustment of input tax paid by the registered persons on the invoices issued by the suppliers which were blacklisted subsequent to the supply date. Such notices are being issued without

considering the fact that the Company has suffered and paid input tax on bona fide transactions and there is no collusive arrangement with (unrelated) suppliers of goods, which is evident from the fact that the corresponding supplier has been blacklisted subsequent to the transaction with the buyer. This black listing also results in disallowance of input tax by FBR portal, if this vendor is black listed at the time of the return submission.

Proposal

FBR needs to issue guidance on this issue to collecting units so that tax payers are not unnecessary bothered. This is especially important as most of the vendors in these cases are on active tax payers list when purchases were made from them.

Benefit

Collecting taxes is a state responsibility and hence it should not be the tax payers who should be made responsible for an action done by another tax payer.

3 A iii) Adjustment of Sales Tax on Pharmaceutical Inputs against Corporate Income Tax

Issue

Sales Tax paid on pharmaceutical inputs is added to the product cost since the final product is exempt from Sales Tax.

Proposal

Keeping in view of freezing of selling prices of pharmaceuticals products since 2001 it is imperative that Pharmaceuticals supplies should be at Zero rate. If pharmaceuticals supplies are zero rated, company will be able to benefit from input sales tax. Sales Tax on Utilities i.e. electric, gas heating oil etc. and certain raw materials consumed in production of pharmaceuticals should also be waived.

Benefit

Cost of pharmaceuticals products will become viable for pharmaceuticals manufacturers. Furthermore it will incentivize and uplift confidence on taxation system to those companies paying corporate income and with proper disclosure.

3 A iv) 2% Rate of Sales Tax on Maize Corn Starches

Issue

Presently sales tax is charged @ 2% on Maize Corn Starch for textile sector and 17% for all other sectors under SRO No. 1125 dated 31-12-2011 amended by SRO 154 dated 28.02.2013.

Required Change

Sales tax on Maize Corn Starch should be allowed @ 2% on sales to all sectors as previously under SRO No. 1125 dated 31.12.2011.

Benefits

Maize Corn Starch is consumed as raw material by different industries like textile, paper, corrugation & confectionery where output sales tax is charged. In this way we can avoid non-genuine claim of input sales tax adjustment and trading of sales tax invoices.

4. PERSONAL INCOME TAX

4 A) Tax Relief for Salaried Class

Issue

In the FY13/14 budget the tax rate for salaried individuals were increased to maximum at 30%. To note that payroll tax is not the only income tax being paid by salaried class. They also pay income tax in form of withholding taxes on utilities, phone bills etc.

Proposal

It is recommended that salaried class individuals should be given exemption up to Rs. 500,000 and the rate of tax be lowered at maximum of 20%.

Benefit

Relief to the salaried class may be given specially in the current tough economic times.

4 B) Link "Tax Payer Card" to Incentives

Issue

Individual Tax payers in Pakistan are not incentivized hence many stay out of the tax net. General impression is that getting into the Tax Net entails complexities and additional tax burden. The ABC had proposed a "Tax payer card" which has since been announced and implemented but no benefits or incentives have been clearly linked to the card.

Proposal

Link "Tax Payer Card" for individual tax payers with clear benefits (*some suggestions' below*):

1. Quick processing of application and 50% discount on government fees like passport fee, NIC fee, driving license fee; waiver from police enquiry etc.
2. Preferential treatment at all government offices, airport and railway stations
3. Waiver on loan processing fee and any other one-time charges taken by nationalized banks for

Loan/finance processing.

4. Reduced markup rates for these tax payers on loan taken from Nationalized Banks.
5. Waiver from CVT which is being paid by individuals on purchase of various items such as Property, Vehicles, International Air tickets etc.
6. Preference and discount on motor vehicle registration fee and annual vehicle tax
7. Waiver of references for opening of new bank accounts, and obtaining credit cards etc.
8. Preference/priority in obtaining new connections for utilities like electricity, telephone, gas and water.

Minimum criteria for people who get the "Tax Payers Card" benefits should be those tax payers who have filed and completed tax returns for last 3 fiscal years with some minimum tax payment threshold of say Rs. 500,000 in a year. A proper mechanism may be established to monitor these tax payers on an annual basis to facilitate the process.

Benefit

The benefits will motivate the tax payer to pay proper tax and get valued returns thereon and will also induce tax evaders to pay their due share of taxes.

4 C) Elimination of Cap on exemption of Interest on House Loans

Issue

In today high inflationary times, house building has become a huge burden on citizens of Pakistan. Based on current law, tax rebate on interest paid on Housing Finance loan is available to tax payer subject to the lower of :

- i) Actual amount paid, or
- ii) Rs. 750,000/-, or
- iii) Amount not exceeding 40% of taxable income

With the high cost of building materials and increased financing this is not much of an incentive any more.

Proposal

No cap should be placed on tax rebate on interest paid on Housing Finance loan to an existing tax payer

Benefit

Encourage tax payer as the perceived benefit to existing tax payer is significant. It will significantly help lowering the burden of building a house for tax payers.

4 D) Tax on Employers' Contribution to Recognized Provident Fund

Issue

Through the Finance Act 2008 an amendment was made in the Income Tax Ordinance 2001 whereby any amount in excess of 1/10th of salary or Rs. 100,000 whichever is lower is to be included in the taxable income of the salaried person.

Taxation on salary income is levied by section 12 on receipt basis only, whereas contribution to provident fund is credited to the fund account and received by the employee on cessation of employment. Further, employer contribution can also be withheld by the employer if employee is charged with misconduct. Therefore, it is only at the time of retirement or resignation that receipt of provident fund contribution can be assessed with certainty.

Proposal

Due to above anomalies and complexities, tax on Provident fund contribution is unwarranted and should be withdrawn.

Benefit

This will result in reducing the already heavy tax burden on salaried class. Further PF contribution being a retirement benefit, should not be brought into tax net.

4 E) Withholding tax on Banking Transactions

Issue

There are a large number of salaried individuals paying taxes on their salaries, and again paying withholding tax on their banking transactions. Banking transactions; including demand drafts, pay orders, telegraphic transfers, and transactions exceeding the threshold of Rs. 50,000 in a single day chargeable to withholding tax at the rate of 0.2%

Proposal

Government should use the withholding tax provisions to bring people in tax net rather making it a source of earning. This information be used for assess the person income and its eventual tax liability therefore we propose to bring the rate to minimum say 0.1%. Keeping the other modalities same.

Benefit

Reduce unnecessary tax burden on tax payer and bring the non-tax payer in tax net.

4 F) Withholding Tax on Prizes and Winnings u/s 156

Issue

Section 156 of the Ordinance, 2001 requires deduction of withholding tax @ 20% on Prizes and Winnings. The word 'Prize' has not been defined in the law and therefore, is being interpreted very liberally by the tax authorities. Moreover, the situation is aggravated, with due respect, on account of certain adverse decisions of superior courts. Furthermore, rate of 20% is too high resulting in increase of business cost to an unacceptable level. Moreover, gathering of required particulars i.e. name and CNIC Number of winners for withholding tax payment and reporting is resisted by the Customers.

Proposal

The term prize should be defined in Income Tax Ordinance, 2001 and only be restricted to its general connotation i.e. where element of chance is predominant. Withholding tax rate be reduced to 10%.

Benefit

To avoid un-acceptable increase of cost of doing business and reduce the administrative complexity involve in managing the voluminous Customers' record and reconciliation.

4 G) Introducing Rebates for Salaried and other Individuals

4 G i) Tax Credit on Education Expenses

Issue

Over the years education has become very expensive and is one of the major expenses for individuals and tax payers be provided tax relief on amount spent on children education.

Proposal

We recommend that tax credit should be allowed for amount spent on children/dependent education to all salaried taxpayers at the average rate of tax. Tax credit was also available earlier in the tax ordinance 1979.

Benefit

Reduce the tax burden on the salaried class and individual, and will also help to bring any undocumented part education sector into tax net.

4 G ii) Tax Rebate on Medical Expenses

Issue

Under the Income Tax Ordinance 1979, tax rebate was available in respect medical expenses incurred by individual tax payer and his dependents. This facility was withdrawn after the promulgation of Income Tax Ordinance 2001.

Proposal

Tax credit on submission of evidences of expenses incurred on medical be allowed to individuals.

Benefit

Such practice will provide incentives for the users of these services to obtain evidence of payment which will encourage documentation and assist in bringing untaxed service sector into tax net.

4 G iii) Increased Range of Tax Slabs (Salaries)

Issue

With ever-rising inflation, the cost of living has significantly increased, making it difficult for common people to make both ends meet. The constant double-digit inflation poses great need to revise the tax slabs for individual income. Reducing income tax rate can surely provide immediate relief to the common man.

Likewise providing tax credit against personal taxation on submission of evidences of expenses incurred on:

- medical
- education of children,

can help provide relief, in addition to encouragement of documentation and assistance in bringing untaxed service sectors into tax net.

Proposal

The basic exemption limit should be enhanced to Rs. 500,000. Likewise there is an urgent need to redefine the overall tax slabs (salaried / non-salaried individuals) as follows:

Where the taxable income exceeds Rs.500,000 but does not exceed Rs.600,000	0.75%
Where the taxable income exceeds Rs.600,000 but does not exceed Rs. 700,000	1.5%
Where the taxable income exceeds Rs.700,000 but does not exceed Rs. 800,000	2.5%
Where the taxable income exceeds Rs.800,000 but does not exceed Rs. 900,000	3.5%

Where the taxable income exceeds Rs.900,000 but does not exceed Rs. 1000,000	4.5%
Where the taxable income exceeds Rs.1000,000 but does not exceed Rs. 1200,000	6%
Where the taxable income exceeds Rs.1200,000 but does not exceed Rs. 1400,000	7%
Where the taxable income exceeds Rs.1500,000 but does not exceed Rs. 1700,000	8%
Where the taxable income exceeds Rs.1800,000 but does not exceed Rs. 2000,000	9%
Where the taxable income exceeds Rs.2000,000 but does not exceed Rs. 2500,000	10%
Where the taxable income exceeds Rs.2500,000 but does not exceed Rs. 3000,000	11%
Where the taxable income exceeds Rs.3000,000 but does not exceed Rs. 3500,000	12%
Where the taxable income exceeds Rs.3500,000 but does not exceed Rs. 4000,000	13%
Where the taxable income exceeds Rs.4000,000 but does not exceed Rs. 4500,000	14%
Where the taxable income exceeds Rs.4500,000 but does not exceed Rs. 5000,000	15%
Where the taxable income exceeds Rs.5000,000 but does not exceed Rs. 6000,000	16%
Where the taxable income exceeds Rs.6000,000 but does not exceed Rs. 7500,000	17%
Where the taxable income exceeds Rs.7500,000 but does not exceed Rs. 10,000,000	18%
Where the taxable income exceeds Rs.10,000,000 but does not exceed Rs. 15,000,000	19%
Where the taxable income exceeds Rs.15,000,000	20%

The marginal reliefs should be accordingly adjusted.

Also, tax credit for personal expenditure on medical and education of children should be introduced with the condition of submission of evidence of payment with full particulars of payee.

Benefits

- Providing relief to existing taxpayers against the ever-rising inflation.
- Restricting tax evasion.
- The introduction of tax credit will provide incentive for the user of such services in obtaining evidences for payments. That in turn will induce the recipient to be within the documented sector.

5). BANKING SECTOR

5 A) Disallowance of Unrealized Loss on Foreign Exchange Contracts, Foreign Currency Options and Interest Rate Derivative Contracts

Issue

The tax authorities have issued notices to Citibank N.A. – Pakistan Branch and to other banks as well where they have alleged that the loss incurred by banks arising from unrealized loss on foreign exchange contracts, foreign currency options and interest rate derivative contracts is taxable. At the same time, the tax authorities are conveniently ignoring those cases where such transactions translate into a gain for the banks, thereby creating an inconsistent treatment being adopted on such transactions. This has created serious cash flow impact for Banks who have been forced to pay exorbitant amounts to the tax authorities in respect of demands raised. We disagree with the views of the tax authorities, and are of the view that the Bank is recognizing gain/(losses) on account of derivative contracts in accordance with SBP regulations and has been consistently doing so in the past since the inception of derivative business in Pakistan. This has been endorsed by SBP in their letter dated May 29, 2012. Furthermore, the Seventh Schedule of the Income Tax Ordinance, 2001 which governs the taxability of banking companies in Pakistan, clearly states that the profits & gains of a banking company would primarily be pre-tax net profits from all sources as computed in the audited annual accounts which are submitted to SBP. The tax authorities are thus required to accept the pre-tax profit figure appearing in the audited accounts without making any changes to it (save under specific scenarios mentioned there-in). Rule 1(g) of the Seventh Schedule goes on to state that any adjustment made in audited accounts on application of IAS 39 is to be excluded in determining taxable income. The tax authorities are of the view that the banks are following IAS 39 whilst in reality this has been suspended by SBP and all such transactions are being done by banks under specific SBP Circular issued. This has also been highlighted in our Statement of Compliance which forms part of the audited financial statements issued.

Proposal

We recommend that such type of notices and orders without merit may not be issued which is not in spirit of law. Also a line should be inserted in the Seventh Schedule to the Income Tax Ordinance, 2001 which clearly states that derivative transactions appearing in the financial statements are not taxable under the Ordinance

Benefit

In the event such notices continue to be received by tax payers, it will have the effect of curtailing derivative business in Pakistan. Further, businesses has to bear huge amount of funding cost on making upfront payment to demands raised by tax authorities in this respect.

5 B) Section 165 & insertion of Section 165 A of the Income Tax Ordinance, 2001

Issue

Section 165 of the Income Tax Ordinance 2001 pertains to submission of withholding tax statements to the Federal Board of Revenue (FBR). As per this section, banks are also required to disclose certain customer wise statements. In the past, many banks were submitting such statements without giving party-wise details of customers due to confidentiality clauses stated in

other laws like the Protection of Economic Reforms Act, The Banking Companies Ordinance, The Foreign Exchange Regulation Act. The 2013 Finance Act overrode all the above-mentioned provisions thereby making it very difficult for Banks to submit the said statements without giving party-wise information.

The Finance Act 2013 has also introduced a new section (section 165 –A of the Income Tax Ordinance, 2001) which provides a framework to Banks for furnishing information about the banking transactions to the FBR. The type of information sought by FBR is on-line access to Bank's central data base containing details of account holders and of the transactions made in their accounts. It also seeks to receive information of deposits in excess of Rs 1 million, and to provide list of payments made by any person against bills raised in respect of credit card issued aggregating Rs 100,000 or more and to also provide a copy of Currency Transaction Report and Suspicious Transaction Report submitted to Financial Monitoring Unit under the Anti Money Laundering Act. Furthermore, under this section Bank's were required to nominate a senior officer at Head Office to co-ordinate with FBR for providing of any additional information and documents as may be required by them. Again this section seeks to override all other existing laws and pronouncements as highlighted above.

Proposal

For Section 165 we propose that SBP as the main regulator assists the Bank's in reaching a conclusion to this controversial issue. A discussion should be held by all stakeholders whereby a unanimous decision is reached which ensures that no adverse repercussions as highlighted above occur for Banks in future.

For Section 165 A, we propose that this section be suspended immediately as providing of the said information would be in breach of other existing laws and also the fact that should this confidential information be received in hands of wrong individuals it could cause hardship for Bank's customers which would be unacceptable.

Benefits

By providing the confidential information to FBR under Section 165 & Section 165-A would result in customer's confidence being dented which could have a severe impact on cash being remitted abroad.

5 C) Disallowance of Bad Debts

Issue

Historically, the tax authorities have been disallowing bad debts claimed in return of income. This has resulted in huge amounts being accumulated over the years. It also seriously affects the liquidity position of banks as huge amounts are paid which then get stuck up for a number of years till the appeal is heard.

Under the Seventh Schedule to the Income Tax Ordinance, 2001, provisions for advances and off balance sheet items are allowed up-to a maximum of 1% of total advances for corporate loans whereas the threshold is 5% for consumer and SME loans. The figure of 1% is too low as it takes a number of years till the Bank is able to recoup the balance in excess of 1% which gets carried forward.

Proposal

We recommend that the appeal procedure be made simple and its tenure shortened to 2 years after which a final decision is reached. We also recommend that the threshold of 1% be increased to 2% in the next budget.

Benefit

This will allow the banks to recoup the corporate loans quicker. It would also impact viability and effectiveness of banks to operate in Pakistan and also help reduce the effective tax rate. The Banks will be on a level playing field with other companies which should be the case.

5 D) Bank's return as per the Seventh Schedule to be accepted to avoid unnecessary litigation

Issue

Seventh Schedule was introduced from 2008 in Income Tax Ordinance to provide rules for computation of the profits and gains of a banking company and tax payable thereon. However, in actual, when a return is filed as per seventh schedule, the commissioner disallows various items (though allowed under seventh schedule) at the time of finalization of initial assessment. Resultantly, tax payer goes in appeals and it takes more than 10 years to have the decision in favor of the tax payer

Proposal

Bank's return as per the seventh schedule to be accepted to avoid unnecessary litigation and opportunity cost of funds paid on account of extra advance tax.

Benefit

This will streamline the current working environment for banks and encourage more investment in Pakistan.

5 E) New advance tax regime for banks.

Issue

The FBR in June 2012 has issued a SRO 561(I)/2012 whereby the right of the banks to file estimate of lower tax liability for the purpose of payment of advance tax under section 147(6) has been withdrawn.

Proposal

SRO 561(I)/2012 should be withdrawn. The original provision of Advance Income Tax should be restored for banks through which banks can file lower estimates, if required.

Benefit

Amendments made through the aforesaid notification have deprived the banks from their right of filing estimate of lower tax liability which is available to all other categories of the taxpayer. There is no rational basis for this different treatment. By withdrawing this SRO, banking companies will be given a level playing field.

6. PHARMACEUTICAL SECTOR

Pakistan has a vibrant and forward looking Pharmaceutical industry contributing around 1% of GDP. It also promotes knowledge based economy and is a source of bringing latest technology into the country through a large number of leading MNC's that operate here. Yet, it remains one of the most strictly regulated businesses in Pakistan, subject to stringent controls on the entire operating cycle ranging from purchase of raw material to manufacturing, from registration of products to their marketing and pricing. For efficient operation of businesses subject to so many controls, it is essential that the regulatory provisions be just and equitable and the regulatory machinery should work efficiently without any disruption.

However, pharmaceutical industry continues to face a host of problems which result in increased cost of business ultimately rendering the operations unviable. That is the reason forcing quite a few MNC's in pharmaceutical sector to exit Pakistan lately. Some of the issues, which can be managed with equitable and practical government policies, are:

- GST paid by pharmaceutical sector on its inputs cannot be claimed on output due to price control, significantly and discriminatingly increasing the costs
- Lately there is virtually a complete stalemate at the MOH, the main regulatory body controlling pharmaceutical business, due to devolution of certain function to the provinces. This is hurting the industry a lot. Basic tasks like registration of new products / variants and their pricing etc. has slowed down considerably which has started to impact the continuing of operations and upsetting the investment/expansion plans.

6 A) Pharmaceutical Inputs

Issue

Sales Tax being paid on packaging materials, utilities and other supplies used in manufacturing pharmaceutical products is adding to the product cost. Since the final product is exempt from Sales Tax, the tax paid can neither be passed on to the consumer nor can be claimed as input tax. This is also against the philosophy of sales tax which is supposed to be borne by the consumer.

Proposal

Pharmaceutical products, their raw materials and packaging materials should be removed from the list of exempt items and be zero-rated for Sales Tax purposes.

Benefit

Reduce the cost of doing business for pharmaceutical and hence reduce medicine inflation.

6 B) Rate of Tax on Import of Life Saving medicines

Issue

Currently diabetes medicines are subject to a customs duty of 10%, income tax of 5% and excise duty ranging from 0.80% to 0.82% at the import stage. Keeping in view the insignificant price revision from Ministry of Health and a significant depreciation of Pak rupees from PKR 61/ 1US\$ in 2007 to PKR 106/ 1US\$ in 2013 in the last six years it is time to reduce the rate of custom duty and Income tax on such medicines.

Proposal:

The rate of custom duty and income tax on such medicines should be zero rated or to be charged at a reduced rate.

Benefits:

Zero rated duties and tax on diabetes medicines will promote investment in Pakistan, make private sector more vibrant and will enable Pakistan to be internationally competitive.

6 C Import Duty On Pharmaceutical Raw Materials

Issue

Through the Finance Act 2008, custom duty on pharmaceutical raw materials was reduced to 5 percent. However, there are still many items that are not included in the list of duty reduction.

Proposal:

All pharmaceutical raw materials should be added to Table III of SRO 567 of 2006.

Benefit:

The benefit of the proposal is that it will incentivize and uplift confidence on taxation system

6 D. High rates of custom duties on import of medical nutritional products covered under HS 2106.9090

Issue:

Essential nutritional supplements; Ensure and Glucerna, that help in improving health and well-being of consumers fall under HS 2106.9090 (Food preparations not elsewhere specified or included – Other) and are charged with 30% custom duty on import thereof. Both the formulations have a scientific rationale and they are mostly used as nutritional supplements by old, debilitated and convalescent populations (Ensure) or diabetic populations (Glucerna). Ensure is an oral supplement that provide complete and balanced nutrition and Glucerna can be used as a supplement or a total diet replacement in diabetic patients. Both are essential medical nutritional

products and there are no competitor / equivalent products available for both either locally manufactured or imported.

Proposal:

The existing higher rates of duties ultimately burden consumers, despite being key medical nutritional supplements therefore rate of duties should be reduced on them.

Benefit:

The benefit of the proposal is that it will incentivize and uplift confidence on taxation system

6 E. High taxes and duties on import of Ibuprofen BP and Paracetamol

Issue:

Quality of locally manufactured material is not consistently compliant with BP specs. For such an important and essential drug, alternate option of import should be allowed and tariff should be reduced accordingly. The Pharmaceutical Industry has over time been penalized by an overly onerous tariff regime for certain key raw materials. In spite of a standard tariff of 5% and 10% on all Pharma raw materials, there are some anomalies that need urgent redressal, such as tariff of 20% and 25% on Ibuprofen and Paracetamol respectively, in addition to sales tax of 17%.

Proposal:

Elimination / reduction in duties and taxes on imports thereof.

Existing tariff penalizes local manufacturers. Higher custom duty and additional Sales tax increase cost of product whilst the Pharma companies are notable to adjust their selling prices.

Benefit:

Ensure continuity in supply of pharmaceutical products without endangering lives of masses.

6 F. High taxes and duties on import of Amber Glass Bottle Type - III

Issue:

Practically there is only one manufacturer of such products in Pakistan. With increased demand of glass bottles, vendor is unable to meet the industry requirement and all pharmaceutical companies are facing shortage of glass bottles and increase in prices. Due to abnormally high rates of duties (25%) and taxes, currently import is not viable.

Proposal:

Elimination / reduction in sales tax and duties on imports thereof.

Benefit:

Exemption of import duties will ensure continuity of pharmaceutical business, as relying on one supplier with major energy issues in the country is a major continuity risk for the industry.

7. CREATING VIBRANCY IN THE IT SECTOR

7 A) Incentivize IT Export of Services

Issue

Having the 6th largest population in the world as well as one of the largest middle classes, we should be able to become a disproportional exporter of services in Information Technology (IT) which include back-office outsourcing, software/application design, offshore accounting services, medical transcription services etc. Today India has IT exports in excess of \$60 billion versus a little over \$1 billion in Pakistan. This area desperately needs investment by the government in improving infrastructure, tax incentives, and easy accessibility to low-cost high-quality connectivity.

Proposal

1. Provide an attractive tax environment which draws investor's attention from around the world. Great examples exist in Philippines which is the world's leader in IT services. There by registering with the Board of Investments or PEZA (*Philippine Economic Zone Authority*) foreign companies can get great incentives which include 4 to 8 year tax holidays, exemption from taxes & duties on imported spare parts, exemption from wharf-age dues and export tax, duty, impost & fees, tax credits, etc.
2. We need an attractive infrastructure and legal environment to attract investment. These should include providing strong incentives such as IT villages with low-cost high-quality connectivity and legislature to encourage risk taking.

Benefit

Taxing a business that barely exists does not add much to the government exchequer. By giving attractive incentives the industry will grow disproportional and once nearing maturity tax can be levied.

1. In 2011 total Pakistan exports were barely \$30 billion, practically half of Indian IT export only. A huge opportunity exists to drive the export sector in services which currently is in desperate need of government support and assistance.
2. Will provide huge employment opportunity. In 2010 alone Indian IT industry created jobs for over 150,000 people.

7 B) Preferential Tax Regime for IT Sector

Issue

The IT industry in Pakistan is in the nascent stages. It enjoyed official patronage till 2006 upto which point it was exempted from GST. Lifting of this exemption has adversely affected the PC market.

An industry that was projected with a 5-year 2007-2012 CAGR of 20% as per IDC has, since the lifting of GST exemption, experienced low single digit growth. The World Bank attributes IT as single most important contributor to GDP growth and Government of Pakistan needs to nurture it just as it did prior to 2006.

Lifting of GST exemption has resulted in:

- PC penetration ratio of less than 5%; lowest in South Asia.
- Hand-carried/smuggled goods inundating the market.
- Diminished affordability resulting in an epidemic of IT scrap being imported in violation of international treaties like the 1992 UN Basel Convention.
- Pressure on customers IT spending; compromise on scale & quality of infrastructure upgrade; lower productivity.

Proposal

It is recommended that:

1. GST is waived on IT imports for next 5-years so that IT industry is able to anchor, get firm foot-hold and blossom.
2. Banning import of IT scrap, used PC's & Servers into the country.

Benefit

Suggested proposals will spur industrial growth, increase PC & broad-band penetration, benefit customers (especially Education) and country can retain its competitive edge as an attractive destination for foreign investment due to skilled IT-savvy workforce.

7 C) VALUE ADDITION TAX FOR IMPORTERS

Issue

Currently, a VAT @ 3% is applied at import stage for non-manufacturing concerns, which is against the spirit of Sales Tax.

Proposal

It is proposed that this tax should be eliminated for trading concerns, and in case if imported for self utilization, then should be exempted from this levy.

Benefit

This would help reduce an unnecessary tax burden on the trading business.

8. FAST MOVING CONSUMER GOODS SECTOR

8A. Elimination of FED on Soft Drinks

Issue:

Earlier, in the year 2011-2012 budget speech, Finance Minister announced the strategy for gradually reduction in the number of items from the list of Federal Excise Duty especially the food & beverage sector should be continued to attract new FDI investments in Pakistan. In the first step, FED on soft drinks was reduced from 12% to 6% in the Federal Budget 2011-2012 but no further reduction is made in budget 2012-2013 to continue this elimination process. In budget for 2013-14, the FED rate was increase to 9% instead of downward reduction as agreed with industry.

Proposal:

It is strongly recommended that now Carbonated Soft Drinks (CSD) are no more luxurious product for its consumer, therefore Industry of CSD should be excluded from FED. Reference to budget speech 2011-12, rate of FED in Serial No. 4, 5 & 6 of First Schedule of Federal Excise Act, 2005 should be reduced from 9% to 3%.

8B. FED on Concentrate In Sales Tax Mode

Issue

The beverage industry is major consumer of 'Sugar' and Concentrate. The Federal Excise Duty (FED) on 'Sugar' is levied @8% in sales tax mode under the provisions of section 7 of the Federal Excise Act, 2005. Whereas, FED on 'Concentrate' has been levied @50% under section 3 of the Federal Excise Act, 1990. The FED levy on Concentrate is harsh due to high rate i.e. 50%. Because of this, the beverage industry is not able to adjust 100% FED on this raw material. Further, FBR has restricted the input tax adjustment on concentrate maximum up to out-put liability of FED.

Proposal:

This FED @50% on "Concentrate" should be levied in same manners on "Sugar" under section 7 of the Federal Excise Act, 2005 i.e. sales tax mode.

PROCEDURAL PROPOSALS

1. GENERAL SALES TAX RELATED

1 A) Section 8B of the Sales Tax Act 1990 should be abolished / amended

Issue

Section 8B of the Sales Tax Act, 1990 restricts the adjustment of input sales tax to the extent of 90% of the output during a tax period while filing sales tax cum federal excise return. However, certain categories of registered persons are excluded from the purview of Section 8B of the Act by virtue of SRO 647(I)/2007. As a result of compliance of Section 8B of the Act, the registered person is obliged to maintain excessive records. Further, the registered person has also to face cash flow problems. Since this scheme is not applicable for all categories of registered persons, therefore the business community is conceiving this scheme based on discrimination.

Proposal

Since Section 8B is distortion of VAT laws, therefore it is suggested that this section should be abolished to allow full input sales tax adjustment in the same month.

Benefit

1. Restore cash flow flexibility to the tax payers.
2. Avoid undue hustle to get the refund claim approved from the department.
3. Reduce complexity of record keeping by both tax payer and government.

1 B) Section 48 of the Sales Tax Act, 1990 should not be exercised

Issue

Section 48 gives overwhelming powers to tax officials but fails to include clauses that restrain the authorities from committing excesses. For pending matters, even involving minor liability, undue pressure is imposed on tax payers by exercising Section 48.

Proposal

All cases should be decided as per the strict interpretation of law. Section 48 should not be exercised unless the case under litigation has undergone two appellate proceedings. In this regard, the honorable High Court in a recent judgment has held that the recovery action against the registered person cannot be taken unless the case has been heard by a forum outside the jurisdiction of Federal Board of Revenue. Based on this position, it is suggested that Section 48 of

the Act may be amended in a manner that recovery proceedings are initiated by the department after issuance of 2nd appellate order.

We may wish to refer to "**Law of the People's Republic of China on Tax Administration (Promulgated on NPC Chairman Order [2001] No. 60 on April 28, 2001)**" as best practice guideline. Although the measures for collection (e.g. written notification followed by detention, seal off or sale of goods to recover tax over dues) are similar to our law to certain extent but Article 43 advises caution on part of tax authorities and sets out penalty for irresponsible action by tax officials.

Chapter III Tax Collection: Article 43

In the event that the tax authorities abuse the power of taking measures for preserving tax revenue or compulsory measures for law enforcement or take measures for preserving tax revenue or compulsory measures for law enforcement inappropriately, thus hurting the legitimate rights of the taxpayer, withholding agent or tax payment guarantor, the tax authorities shall be responsible for compensation in accordance with the law.

Benefit

1. Reduce the widening of gap between Government and taxpayers, thereby, enhance confidence.
2. Avoid loss of revenue to the tax payer and Government exchequer.
3. Enhance image of the country in local and foreign investor's circles.

1C) Sales Tax Withholding Agents & Withholding Rules 2007

Issue

In addition to withholding of income tax, withholding of 1/5th percent of sales tax and 1% from registered persons is an extra burden on withholding agents. Withholding agents are required to deposit the amount into the government treasury and also to issue withholding tax certificates to supplier from time to time and also to maintain track record of all the transactions, which is a very time consuming and lengthy exercise.

Proposal

Sales tax withholding should be removed.

Benefit

This will help to reduce the burden of taxpayers.

2. AMENDMENT OF ASSESSMENT – SECTION 122

Issue

Under section 122 of the Income Tax Ordinance, 2001, a return of income once filed is deemed to be the final assessment order. However, the Commissioner is authorized to revise an assessment order within a period of five years. The period of five years allowed to the Commissioner is extremely long and impractical, and in effect could cause a lot of problems for the assesses.

Proposal

We recommend that the time period allowed to the Commissioner to amend an assessment order be reduced from a period of five years to two year. We further recommend that a time frame of 60 days should be fixed for the Commissioner to complete this audit from the date it is started.

Benefit

The proposed amendment will ensure that tax inspections are not kept pending and commissioners issue NOC's in a reasonable time period whereby easing recordkeeping and processing burden on companies.

3. APPEAL PROCESS – SECTION 124/127/129/131/132

Issue

The entire appeal process is longwinded and tedious, having the following drawbacks:

1. Under ITO-2001, there is a provision in law (132-2A) which requires the Income Tax Appellate Tribunal (ITAT) to dispose all appeals within six months of filing. However, practically this provision is never invoked and Tribunals take long time in deciding cases.

2. Where CIT (A) or ITAT provided direct relief to the assessed, the Commissioner under section 124 (4) is required to issue the appeal effect order within two months. In practice, this is rarely done as it would lead to refunds being assessed, which would disrupt the tax officer's revenue targets.

3. As per sub section 2 of section 127 no appeal shall be made by a tax payer against the assessment order unless the taxpayer has paid the amount of tax for which tax payer is contesting. This regulation was introduced in Finance Act, 2004, which substituted the condition of partial payment at 25% of the due amount. Current regulation so far has been used as a tool to meet the tax collection targets as most assessments are being decided, against the tax payers, in the month of June i-e last month of fiscal year. Since the entire appeal process itself is longwinded and tedious and normally takes years to culminate till then tax payer's funds are blocked.

Proposal

We recommend that the entire appeal process from the time the assessee files its return to the time when an assessment is deemed to be complete, should not exceed two years. The following steps should be taken to ensure the above.

1. A time frame should be introduced, whereby ITAT is required to give its decision within 3 months of filing of an appeal, as is currently the case with CIT (appeals) and it should be strictly followed. In case no notice of hearing is issued by the ITAT, the relief sought by the appellant in the appeal shall be deemed to have been granted
2. We recommend that the two months period stipulated in law should be strictly adhered to. In the event the time frame of two months is breached, it should be stated in law that the assesses may assume that relief is deemed to have been given, i.e. the appeal effect order stands issued in favor of the assesses, and where payment has been made a refund stands determined.
3. It is proposed that instead of depositing full amount of tax, partial payment at 25% of the additional amount of tax assessed should be levied so that assessments are carried out on merit basis rather to meet the collection targets.

Benefit

It will save significant resources of corporate taxpayer as well as re-build confidence in investing and growing their business in Pakistan.

4. PCT 9809.0000 of Second Schedule of the Sindh Sales Tax on Services Act, 2011

Issue

Services rendered by persons engaged in contractual execution of work or furnishing supplies are subject to Sales Tax at the rate of 15%.

Proposal

Since specific details regarding contractual execution of work have not been given in the Second Schedule, there is an ambiguity to identify services which may fall under this category. Specific services should be listed in the Second Schedule.

Benefit

For the sake of clarity, it is requested to specify services covered under the head of 'Contractual execution of work'.

5. Section 18 of the Sindh Sales Tax on Services Act, 2011

Issue

It makes the service recipient jointly responsible for any amount of un-paid tax by the service provider for no fault of his own

Proposal

Only service provider should be penalized in case of default in payment of output sales tax. Therefore, we suggest deleting entire section 18. A new section may be introduced to penalize only supplier in case non-payment of output sales tax.

Benefit

This will remove the undue pressure on legitimate taxpayers, as it is not the responsibility, neither the jurisdiction of the service recipient to ensure that the supplier has deposited output tax.

6. Sales tax on technical/royalty fee

Issue

SRB levies sales tax on franchise under the origin principle while PRA levies PST on the same under the reverse charge concept. Furthermore, in cases where the production and distribution of goods is carried out within the jurisdiction of Province of Sindh but sold or consumed in Punjab, PRA requires payment of PST on the portion of franchise relating to the goods sold or consumed in Punjab. This has resulted in double taxation and enormous confusion amongst taxpayers.

Proposal

Clarity in law is required to avoid double taxation and dispute between taxpayers and tax regulators i.e. FBR, SRB and PRA via a.viz chargeability of sales tax under Sindh Sales Tax on Services Act, 2011, Punjab Sales Tax on Services Act, 2012 and Federal Excise Act, 2005

Benefit

Appropriate clarification would result in avoidance of disputes amongst different authorities.

7. Definition of Franchise to include Technical and Management Consultancy services

Issue

Franchise as defined under Sind Sales Tax requires that royalty, technical fee or management fee shall be subject to SST whether or not a logo, trademark, brand name etc is involved. Furthermore it is noticed that separate PCT is also assigned to technical and management consultancy.

It has been noticed that SRB is also levying SST on technical and management services on the grounds that the words 'technical' or 'management' appear in the definition of franchise; and that existence of logo, trade mark or representational rights etc is not a pre-condition. The department is also not paying regard to the payment of underlying royalty even in cases where the SBP has not approved the agreement or the remittances

Proposal

The said definition should be appropriately amended.

Benefit

To avoid confusion or erroneous interpretation of the department

8. Provincial Sales Tax on 'toll manufacturing'**Issue**

Punjab and Sindh provincial governments are treating toll manufacturing activity as a 'service' and have levied sales tax at the rate of 16 per cent effective July 1, 2013. Notwithstanding to the fact that toll manufacturing is not a 'service' and therefore outside the constitutional scope of Provinces to charge PST, such a levy has directly increased cost of pharma business (pharma output being exempt from FST). To elaborate, toll manufacturing activity, since inception of sales tax regime, has always been treated as 'a manufacturing activity'. Since pharma supplies are exempt from sales tax under the FST Act, no Federal Sales Tax [FST] was leviable under the FST Act. The position is further aggravated owing to the fact that prices of pharmaceutical products are regulated by Ministry of Health; therefore effect of such levy has to be borne by pharmaceutical company itself.

Proposal

It is recommended to kindly resolve the issue in consultation with the relevant Provincial Governments so that unnecessary hardship / increase in cost is do away with particularly for the pharmaceutical industry.

Benefit

Cost of doing business would decrease due to resolution of this issue.

8A. FED on royalty**Issue**

FED on Franchise was payable u/s 3 read with Serial # 11-Table 2- Table 1 of FED Act, 2005. Legality of payment of FED on Franchise is prescribed in Rule 43(A) of FED Rules, 2005. Definition of Franchise is prescribed u/s 2 (12A) of FED Act, 2005. After promulgation of Provincial Sales Tax Laws (consequent to 18th amendment to Constitution of Pakistan), Federal Government was supposed to forego its right of collecting FED on Services which has not been done so far; therefore, raising the issue of duplicate levy.

Proposal:

The said definition should be appropriately amended.

Benefit:

To avoid confusion or erroneous interpretation of the department.

9. IDEAS FOR STREAMLINING TAX COLLECTION

9 A) Streamline Collection of General Sales Tax

Issue

Multinational and many local public banks provide electronic payment facilities to their clients for their payment processes. These banks receive electronic instructions from clients and transfer the money. Presently the National Bank of Pakistan (NBP) is providing these facilities to collect tax only to customers who have bank accounts in online branches of NBP. Companies, who have availed electronic banking facilities through banks other than NBP, are not in a position to pay taxes via their normal payment systems and they have to maintain a manual payment system only for one or two monthly tax payments.

Proposal

FBR should convince NBP to provide electronic banking facilities to taxpayers for tax payments without requiring to maintain bank accounts with NBP. Or alternatively, commercial banks be allowed to collect tax from their customers (i.e. tax payers) at their counters as agents of NBP. The proceeds could be transferred to NBP on a mechanism similar to nostro & vostro accounts between banks. This way NBP will receive the funds on almost real time basis and on the front end it should resolve problems faced by tax payers.

Benefit

It will simplify the process without requiring NBP to invest in e-banking and to avail benefit from synergies of others banks who have e-banking facilities. This proposal will expedite the tax collection process and make life easier for companies.

9 B) Adjustment of Input Sales Tax

Issue:

Clause 8 (1) (ca) of the Sales Tax Act 1990 states that input tax may not be claimed by a registered person on the goods in respect of which sales tax has not been deposited in the Government treasury by the respective supplier. This is a highly unreasonable addition to the Act as it is not possible for a buyer to ensure the deposit of the sales tax into Government Treasury by the seller, as the buyer has no enforcement power.

If this mechanism is kept in place, it is probable that Tax payers will resort to avoid the issue of sales tax invoices, to stay away from the hassle and complexities, which will jeopardize the efforts of the Government and the Tax Department to document the economy and increase its tax base / collection.

Proposal:

In order to promote the documentation of the economy and create culture of tax payment, it is necessary that the buyer should be given confidence that they would not be harassed by the tax

authorities and would be allowed to get timely tax refunds. Accordingly, it is suggested that Section 8 (ca) should be deleted from the Act.

Benefit:

This will remove the undue pressure on legitimate taxpayers, as it is not the responsibility, neither the jurisdiction of the purchaser to ensure that the supplier has deposited output tax.

9 C) Streamline Collection of Withholding Taxes

Issue

In May 2009, the Federal Board of Revenue issued new tougher guidelines, whereby it was stipulated that tax so deducted by a payer must be deposited into the Government Treasury within 7 days from the end of each week ending on every Sunday. This effectively means that a weekly deposit is now required to be made by the payer instead of the fortnightly payment under the previous rule.

Proposal

Timing for deposit of withholding tax should be increased from seven days within end of particular week to seven days within end of a month.

Benefit

This will result in time saving for the companies. Withholding taxes will be deposited into the Government Treasury on a monthly basis without any loss of revenue to the Government.

9 D) Payments to Non Resident Persons under Section 152 of the Income Tax Ordinance, 2001

Issue

Currently, law requires payers to seek written permission from the tax authorities at the time of making technology and training related payments to a non-resident person outside Pakistan without any deduction of tax. In recent times, it has glaringly been highlighted that the tax authorities are extremely reluctant to issue nil withholding tax certificates that would facilitate such payments to non-residents without any tax deduction. Law stipulates that after an application is made by the tax payer for a nil withholding tax certificate, the tax authorities must respond to it within 30 days of receiving the application. In reality, months go by without any response being received and this result in delayed payments to service providers situated outside Pakistan.

Proposal

It is recommended that the tax authorities examine each application received for a nil withholding tax certificate, and give its decision based on the merits of the case within the time frame of 30 days as stipulated in law. In case no response is received from the tax authorities within 30 days, it will be deemed as accepted by tax authorities for nil withholding tax. There is absolutely no justification in not responding within the 30 day time frame allowed as this causes unnecessary

hardship to tax payers who have to meet the expectation of non-resident service providers to make this payment within a reasonable time frame.

Benefit

Service providers outside Pakistan may stop the existing contract or may not be keen to renew the same as payments are not received on a timely basis which in turn would harm the economy of the country.

9 E) Payment To Non-Resident Under Double Tax Treaty

Issue

Exemption certificate under section 152(5) is required even where the payment to non –resident is exempt under the applicable Double tax treaty.

Proposal

Remittances exempt under Double Tax treaties should be allowed without exemption certificate.

Benefit

There will be no unnecessary delays in making payments to non-residents.

9 F) Unwarranted notices received u/s 176 of the Income Tax Ordinance 2001

Issue

From time to time the tax authorities issues notices to Banks requiring them to submit voluminous information and documentation. The aim of such notices is simply to harass the tax payer and get him to make some sort of unscheduled demand so that the revenue targets are met. During the tax year 2013, the Banks received audit observation notices requiring information to be provided in respect of Federal Excise Duty. This is in spite of the fact that under law such notices may only be issued to banks whose name has been initiated through computer balloting. The tax authorities were in breach of the law when they issued notices to banks whose name was not picked up in balloting. Similarly, the tax authorities have also be known to issue income tax / withholding tax related notices for prior years periods seeking voluminous information and reconciliation even though such periods are time barred in law. This causes a great drain on bank's cash flow as legal advisors are required to be hired to file writ petition in High Court to defend the case.

Proposal

We recommend that such notice without any base may not be issued as this only serves at harassing the existing tax payer who is already contributing to the Government Treasury.

Benefit

Engaging legal counsel is expensive and the bank would rather spend the money on improving its system and processes.

9 G) Tax Challan Verification

Issue

Vide section 176, tax authorities are empowered to call for any information / documents as and when required. This also includes verification of tax deducted at source, tax deduction challan and tax certificates issued to different vendors

Despite implementation of electronic / automatic filing of monthly and annual statements of tax deduction and maintenance of database at PRAL, notices under section 176 are still issued to the taxpayers for verification of data already available at the PRAL. This results in duplication and unnecessary hassle for the taxpayers.

Proposal

It is recommended that FBR should use the data collected and compiled at PRAL for verification of tax payments by tax payers. There should be a time limit defined of 5 years after which no such request should be made to the tax payer.

Benefit

Minimized paperwork and lower number of notices issued is likely to facilitate taxpayers.

10. CORPORATE TAX RELATED

10 A) Long Outstanding Refund

Issue

Income tax refunds for the tax years from 2001 to 2003 arisen due to deduction of tax u/s 50 (4) of the repealed ordinance 1979 on account of supplies of goods which were subject to double taxation at the import stage and withholding tax at the sale stage have been a serious problem for the tax payers. However, FBR authorities realized this practical problem of double taxation and issued a specific SRO whereby it was directed to concerned authorities to refund the amount collected / deducted on account of sale of goods. Some partial refunds have been released after fulfilling the specified criteria. However, the balance refunds are still pending with FBR.

Proposal

These long outstanding refunds should be disbursed at the earliest. For refunds pending longer than 2 years, the Government should issue bonds to the tax payer.

Benefit

This will help build investor confidence and provide much needed cash for investing in business activities.

10 B) Simplification of tax structure

Issue

In the current tax structure in Pakistan, assessments remain open for more than 10 years on account of appeals / disallowances by commissioners. Advance tax is to be paid before going in appeals.

Proposal

Tax assessments should be closed within 2 years of filing. All appeals etc need to be expedited and settled. For items in dispute, payment should be made by the tax payer only after the closure of the case at appellate forums.

Benefit

This will result in an ease in doing business in Pakistan and attract more investment

11. PAYMENT OF STAMP DUTY ON PURCHASE ORDERS UNDER STAMP ACT, 1899

Issue

Under Entry 15(b) of the Schedule to the Sindh Stamp Act imposes stamp duty of 0.2% on Purchase Order etc. of the Stamp Act, 1899 [applicable to the province of Sindh].

Proposal

GoP has imposed Stamp Duty @ 0.2% on Purchase Orders, as a tax on instruments. The progressive nature of the tax is increasing the cost of doing business [More Purchases and More Tax] and further raises the issue of double taxation [As Sales/Revenues are taxed under Income Tax Ordinance, 2001; double taxed on Purchases @ 0.2%].

Benefit

It is suggested to eliminate Stamp Duty @ 0.2% on purchase orders or to fix a nominal amount on each purchase orders or relevant instrument. This will reduce the cost of doing business in Pakistan, that will help maintaining current Business base and also to attract further foreign / local investors in Pakistan.