

PROPOSALS FOR THE FEDERAL BUDGET 2023-24

PROPOSALS FOR THE FEDERAL BUDGET 2023 – 24



The PBC Member Companies





The PBC Affiliates



The Pakistan Business Council (PBC) – A Brief Introduction

- Established in 2005 by 14 (now 98) of Pakistan's largest private sector business groups including multinationals.
- PBC is registered as a not for profit under the Company Law and registered with the SECP as such.
- PBC is neither a trade body nor an industry association. The PBC's advocacy aims to improve the general business climate in the country for the formal sector.
- PBC's Advocacy is evidence-based drawing on international / regional best practices coupled with what is achievable in Pakistan's unique environment.
- The PBC enjoys an excellent working relationship with the Ministries of Finance / Commerce / Environment / Industries / Planning / Food Security as well as the major regulators including the SECP / SBP / NTC / CCP, having worked closely with them through taskforces / committees / working groups and through submissions of formal position papers and presentations.
- The major current thrust of the PBC is the revival of manufacturing in Pakistan. Pakistan is deindustrializing at a rapid rate and Pakistanis as a nation are slowly turning into a "nation of traders", this is primarily due to faulty policies pursued by successive governments which favored imports over domestic manufacturing. The PBC firmly believes that for Pakistan to be on the road to becoming a middle-income country by 2030, a revival of its manufacturing sector is imperative. Pakistan can ill-afford to offshore jobs especially in industries which require large numbers of labor with low skill sets. To promote this **"Make-in-Pakistan"** agenda of the PBC, the PBC is working with various stakeholders in Pakistan to develop a common agenda for the economy.
- The PBC acts in Pakistan as the secretariat for the Pakistan India Joint Business Forum (**PIJBF**) & the Afghanistan Pakistan Joint Business Council (**APJBC**), both are bodies which comprise of prominent businessmen from Pakistan and the partner countries.

More information about the PBC, its members' and the nature of work being done by the PBC can be found on its website: www.pbc.org.pk

Economy & The Tax Regime

One of the founding objectives of the PBC has been the creation of an enabling environment for the promotion of investments and sustainable growth. Tax policy and tax administration are both crucial for creating an enabling environment for businesses in the formal sector to have a level playing field vis-à-vis the informal sector. The PBC's position on the current tax regime is briefly discussed below:

Fundamental reforms of the taxation regime are required

Pakistan's taxation regime needs fundamental reforms to lead to sustainable growth of both the country and tax revenues. These reforms are contingent on political will to pursue those outside the tax base and the FBR's capability and capacity to implement. These will take time to bear results. In the meantime, any knee-jerk revenue seeking actions undermine profitability of businesses in the formal sector and hence long-term tax revenues.

Principles-led tax regime

Taxes should be simple, predictable and supportive of business growth and the formalization of the economy. The aim should be for higher tax revenues to flow from the combination of improved profitability of existing taxpayers and from a broadening of the tax base.

Industry, which presently contributes taxes disproportionate to its share of GDP must be facilitated to create more jobs, boost value-added exports and promote sensible import substitution. The impact of taxes on manufacturing vs commercial importers should be reviewed, as should the impact on corporates vis-à-vis other forms of business.

- FBR and the formal sector should work in partnership to broaden the tax base.
- The earlier tax credit to encourage taxpayers to transact with the formal sector should be revived.
- The vast amount of information on non-taxpayers provided by withholding agents should be mined.
- Though the PBC disagrees with the principle of "non-filers", it appreciates the FBR's capacity issues and recommends higher advance taxes on utility bills, real estate transactions, luxury expenditures of "non-filers".
- Corporate entities, especially those listed, which operate to a higher standard of governance and accountability and their shareholders must not be penalized in comparison to unincorporated entities and their owners, otherwise the incentive to incorporate will be undermined.
- There should be a level playing field in the holding periods for capital gains tax on sale of company shares vs. real estate.

Targets before capability are not a solution

For some time now, FBR is given an unrealistic tax target, which in the absence of resources and capability, force it to extract more tax from existing taxpayers. With Pakistan in an IMF program, and likelihood of the current program being followed by another longer-term program, the temptation to levy substantially higher taxes on existing taxpayers needs to be resisted. Significant changes are required in the structure, resources, and technology of the Federal Board of Revenue before setting targets. Separate targets should be set for revenue from existing and new taxpayers. Targets for existing taxpayers should be in line with expected growth in the nominal GDP. The target for new taxpayers should be set in line with the evolving capability and capacity of the FBR. Tax refunds due should be excluded from revenue when assessing performance against either of these targets.

Reliance on Minimum, Advance and Withholding Taxes thwarts FBR's capability building

Minimum tax based on turnover is fundamentally flawed and acts as a barrier to entry of new players as it raises the initial investment required to cover tax payable in early loss years. FBR's reliance on minimum, advance and withholding taxes has grown sharply as this is an easier option than assessing taxable profits. This reliance should be phased out gradually. Levying minimum turnover tax on SEZ enterprises and others in their tax holiday periods defeats the purpose of the tax holiday.

Formalization of the Economy

The use of cash in the economy needs to be actively discouraged. Restrictions on use of cash above a certain limit would also assist. The transit treaty with Afghanistan has been misused through diversion of goods to Pakistan. The Afghan Transit Trade Agreement has expired, with the evolving situation in Afghanistan, Pakistan needs to look to renegotiate the treaty with clauses putting in quantitative and qualitative restrictions on what can transit, insist on letters of credit where possible, charge duty and GST on imports which would only be refunded to the Afghan government on exit, track and monitor containers, strengthen inspection of empty containers returning to Pakistan and make physical controls along the border stronger. The civil and military authorities need to be on the same page to do this. Electronic Data Interchange with key trading partners should be deployed to check under-invoicing of imports. The provinces have little incentive to check smuggling as customs duty and GST evaded are federal taxes and do not hurt their revenues directly. Provinces may be incentivized to facilitate raids on shops that deal in smuggled goods. Positive lessons from the success of cell phone registration with PTA and Urdu language labelling requirement for imported food items can be applied to other smuggling prone goods.

The PBC believes that the Finance Bill 2023 which is being presented in very trying times for Pakistan's economy needs to promote an environment which facilitates investments in the manufacturing and services sector leading to the creation of jobs, which increases retention of workers in the formal sector, which increases value-added exports and ultimately benefits the government in the form of greater revenues, increased documentation of the economy and a broader tax base. As we have learnt from the COVID-19 crisis, manufacturing jobs as opposed to those in the services sector, are primarily in the formal sector which provide a certain degree of job security.



PBC's Tax Proposals for the Federal Budget 2023 – 24

The PBC's recommendations for Budget 2023 – 24 have been prepared in the backdrop of Pakistan's economy facing a major crisis, import curbs which were put in place to manage the current account deficit have severely impacted the manufacturing sector. High interest rates and a deliberate "demand destruction" policy aimed at taming inflation which is at the highest level in the last 50 years, have led to closure of many manufacturing units and unemployment. As a result, large sections of the population are finding it hard to make ends meet.

Whilst the PBC appreciates that the country is facing possibly its worst crisis since independence, it also looks at the current economic environment as an opportunity to bring about the major structural changes that the economy needs. These include increasing the tax base, reducing government expenditures and ensuring that general subsidies being universally offered are targeted towards those who need them the most.

This year's tax proposals look to save jobs in the manufacturing & formal services sectors and to lay the groundwork for a sustained economic recovery driven not by imports but by exports and domestic manufacturing.

The PBC's proposals for the Federal Budget 2023 – 24 are divided into the following '5' sections:

- Documenting the Economy & Providing a Level Playing Field for Domestic Manufacturing
- Promoting Industrialization / Growth / Job Creation
- Consolidation of Businesses for Scale to Improve Competitiveness
- Reducing the Cost of Doing Business in Pakistan
- Helping Pakistan Meet its Commitments to the UN Sustainable Development Goals



**DOCUMENTING THE
ECONOMY &
PROVIDING A LEVEL
PLAYING FIELD FOR
DOMESTIC
MANUFACTURING**

Documenting the Economy & Providing a Level Playing Field for Domestic Manufacturing

Objective	Legislation / FBR Wing	Issue	Recommendation
01. Documenting the Economy & Providing a Level Playing Field for the Formal Sector	Customs Law	<p>Massive under-invoicing especially by Commercial Importers is destroying domestic industry</p> <p>Across the board massive under invoicing and dumping of imported products has been increasing. Information regarding values at which various custom check posts clear import consignments is not publicly available.</p> <p>This encourages unscrupulous importers to under-declare the value of consignments to evade government revenues.</p>	<p>Values at which import shipments are cleared through PRAL or CARE need to be publicly available.</p> <p>The Government of Pakistan must insist on Electronic Data Interchange (EDI), for both FTA and non-FTA imports from China & other major trading partners.</p> <p>In future the requirement of EDI should be made compulsory for imports from FTA / PTA & major trading partner countries.</p> <p>S. 25(A) and 25(D) of the Custom Act 1969 ("Act") to be amended to allow local manufacturers to participate in fixing the ITP. Mere representation from commercial importers as is the case currently, poses risk of biased decisions, which will hurt overall tax / duties collection as well as the local manufacturing industry.</p> <p>As the law stands now, the Sindh High Court in numerous judgements has declared that a local manufacturer has no standing for determination and/or enhancement of the custom value of any imported goods. The proposed amendment will allow for greater input from the local manufacturers.</p> <p>Further, valuation Ruling should be issued in consultation with Brand owners, i.e., those who have valid registration of the brands under relevant intellectual property laws.</p> <p>Additional measures are proposed in Annexure 1 attached to these proposals</p>

Objective	Legislation / FBR Wing	Issue	Recommendation
02. Documenting the Economy & Providing a Level Playing Field for the Formal Sector	Income Tax	<p>Low tax payer base – increased reliance on <u>existing taxpayers</u></p> <p>The number of taxpayers needs to be significantly increased – the narrow taxpayer base is leading to greater pressure on the existing taxpayers.</p>	<p>Mining of FBR's Database to identify new taxpayers & those not fully discharging their liabilities:</p> <p>The FBR has got access to financial data in various forms including the monthly statements submitted by withholding tax / collecting agents as per various sections. Information as per Statement under sections 165A, 165B, 175A and NADRA, FIA, Bureau of Immigration and Overseas Employment records are also available. This can be a start to bringing new taxpayers in the net. In addition, the FBR has also collected data about tax paid by non-filers on vehicles, immovable property & on gains made in the Stock Market.</p>
03. Documenting the Economy & Providing a Level Playing Field for the Formal Sector	Income Tax	<p>Difference in Withholding Tax Rate between Filers & Non-Filers is Nominal:</p> <p>Discrimination in tax treatment of Filers & Non-Filers though initially commendable has now become a revenue measure with no effort to use the data collected to increase documentation and broaden the tax base.</p>	<p>The withholding tax regime should be simplified by reducing the number of withholding provisions. The current withholding tax guide available on FBR website is a 19-page document as of 2022, which clearly shows the complexity of the regime from compliance and ease of doing business aspects.</p> <p>The withholding taxes applied on non-filers in the real estate and other informal sectors should be punitive in nature to ensure greater compliance.</p> <p>The rates of filers need to be reduced so that the burden of complaint taxpayers is reduced.</p> <p><i>Additional measures targeted at sectors with high rates of informality are proposed in Annexure 2 attached to these proposals</i></p>

Objective	Legislation / FBR Wing	Issue	Recommendation
<p>04. Documenting the Economy & Providing a Level Playing Field for the Formal Sector</p>	<p>Income Tax, Sales Tax & Customs</p>	<p>Misuse of Registration Under Category “Manufacturers” By <u>Commercial Importers</u></p> <p>Many “commercial importers” have been importing goods under the garb of fake registration as “manufacturer” to attract reduced rate of custom duties and income tax.</p>	<p><u>Some specific measures proposed are:</u></p> <p>a) A comparison of electricity & gas expense to HS code wise sales as well as import quantity ratio [to be computed from the income & sales tax returns] will help to identify commercial importers importing goods under the garb of registration as manufacturers. Unusual differences between various manufacturers of same category of goods should be investigated further as that could mean trading of imported goods instead of use for own manufacturing. This can be implemented even before the Finance Act through requisite amendments in the sales tax return form, powers for which are available with the FBR.</p> <p>b) Commercial importers should be asked to present a certificate from their auditors that at least 70% of imported items have been exported or sold to registered manufacturers. This will also help increase the overall tax base .</p> <p>c) Online CREST system must be amended in a way to trace sales along with value addition thereon of person to whom supplies were made by Commercial importer.</p>

Objective	Legislation / FBR Wing	Issue	Recommendation
05. Documenting the Economy & Providing a Level Playing Field for the Formal Sector	Sales Tax	<p>Preventing Misuse of POS By Importers Who Use Fake Registration Profile of Retailer</p> <p>In order to avail / misuse reduced rate of sales tax @ 12% on supplies of textiles [which is available on supply of finished textile articles through integrated POS system for retail outlets], some unscrupulous persons, after importing raw materials get tolling bills issued in their name from other manufacturers. Thereafter, such imported raw material is being sold as finished textile article through POS integrated with FBR system to avail reduced sales tax rate of 12%. FBR, via notification number 1(3)ST-LP%E/ Misc./2020/1182R dated January 4, 2022 has already clarified that bulk supply through POS is tantamount to be treated as wholesale and hence would be chargeable to standard rate of 18% sales tax.</p>	<p>To prevent this unscrupulous practice, the following should be made mandatory for entities whose imports are over 70% of their output and who have a POS facility:</p> <ul style="list-style-type: none"> a) Should declare the number of their retail shops and b) Provide the square ft. retail space, detailed address, and Google pin location of all the retail stores c) Report per shop per month sales volume and invoices along with the monthly sales tax return.
06. Documenting the Economy & Providing a Level Playing Field for the Formal Sector	Sales Tax	<p><u>The Issue of Flying Invoices</u></p> <p>At present, general rate of sales tax is 18%. Three (3) percent further tax is also applicable incase supplies are made to unregistered persons.</p>	<p>Further Tax @ 3% incentivizes issuance of flying invoices by unscrupulous persons. In order to discourage issuance of flying invoices and to encourage proper reporting of sales, rate of further tax should be reduced down to 1% or to a maximum 1.5%.</p>

Objective	Legislation / FBR Wing	Issue	Recommendation
07. Documenting the Economy & Providing a Level Playing Field for the Formal Sector	Income Tax	<p>99A Profits and gains accruing to a person on the sale of immoveable property or shares of Special Purpose Vehicle to any type of REIT scheme up to the 30th day of June, 2023.</p> <p>If clause 99A of the Second Schedule of ITO is not extended beyond 2023. It will discourage people to transact with REITs which will be detrimental to efforts to document the real estate sector.</p> <p>By extending the exemption under the said clause beyond 2023, Off-the books transactions will be minimized and will lead to growth of REIT sector, which in turn will boost the confidence of investors in a regulated real estate sector. Besides it will promote agricultural and industrial warehousing and outsourcing of cellular towers.</p>	<p>To renew the benefit available on the transfer of shares / property to a REIT scheme pursuant to Clause 99A of the Second Schedule of the Income Tax Ordinance (ITO) for another 03 years, i.e., till June 2026.</p> <p>This will lend support to efforts to document the real estate sector where currently large sums of untaxed money is parked.</p>




**PROMOTING
INDUSTRIALIZATION/
GROWTH / JOB
CREATION**

Promoting Industrialization / Growth / Job Creation

Objective	Legislation / FBR Wing	Issue	Recommendation
08. Promoting Industrialization / Growth / Job Creation	Income Tax	<p>Clause 126E, Entity setup in Special Economic Zones</p> <p>As income of SEZ entity (Zone Enterprise or operator) is exempt from income tax for a period of 10 years, there should not be any withholding of Income tax at source at any stage for Zone Enterprises and under any provisions of ITO till such time exemption is available to the Zone Enterprise.</p> <p>However, entities setup in SEZ are subject to income tax withholding under various Sections including 148, 153, 236K, etc.</p>	<p>Since income of a Zone enterprise is exempt from income tax under clause 126E, it is proposed that the rate of income withholding under all provisions of the Income Tax Ordinance 2001 be reduced down to 0% in line with the zero rating as allowed for certain items under clause 5AC of Part II to the 2nd Schedule to the Income Tax Ordinance, 2001.</p>
09. Promoting Industrialization / Growth / Job Creation	Customs	<p>Misuse of Afghan Transit Trade (ATT) & Rampant Smuggling</p> <p>Misuse of the Afghan Transit Trade (ATT) is a major issue for companies in the formal sector; whether in manufacturing or imports. In addition, smuggling from Iran is causing irreparable loss to industry and FBR revenues.</p>	<p>Goods moving under ATT from Pakistan to Afghanistan should be charged with duties and taxes under Pakistani laws and the same should be transferred to the Afghan Government. Secondly, the duties/taxes so paid should be deposited with State Bank in USD.</p> <p>A quantitative restriction should be applied on goods moving under ATT on the basis of consumption.</p> <p>Further the government of Pakistan should take up the issue of smuggling from Iran.</p>
10. Promoting Industrialization / Growth / Job Creation	Income Tax	<p>Minimum Tax under section 113</p> <p>Rate of minimum tax of 1.25% is extremely high and unrealistic.</p>	<p>In order to promote industrialization, Minimum tax should be abolished for all Listed companies as these companies are subject to stringent regulations and audit. For other companies, rate of minimum tax be reduced gradually by 0.25% on an annual basis so that by Tax Year 2027 the rate is 0.5%.</p>

Objective	Legislation / FBR Wing	Issue	Recommendation
11. Promoting Industrialization / Formalization of the Economy – Exports	Sales Tax	<p><u>Section 8B</u></p> <p>Section 8B restricts Input tax adjustment to the extent of 90% of the Output tax [i.e., ratio of Input / Output \leq 90%].</p> <p>As per SRO 1190 dated October 2, 2019, section 8B is not applicable to persons whose zero-rated supplies during a month is more than 50% of the total supplies.</p>	<p>Since exports do not contribute towards Output tax, therefore, the condition of 50% should be amended to 10% on monthly basis for all exports irrespective of any sector otherwise it would not be possible for registered person to absorb the amount of input tax paid for the purposes of manufacturing of items for local and export sales and consequently, the same would discourage export of goods.</p> <p>This amendment is necessary to encourage local manufacturers with excess production capacity to look for export opportunities for unutilized capacity. At present, due to restriction under section 8B, manufacturers are reluctant to venture into export markets.</p>

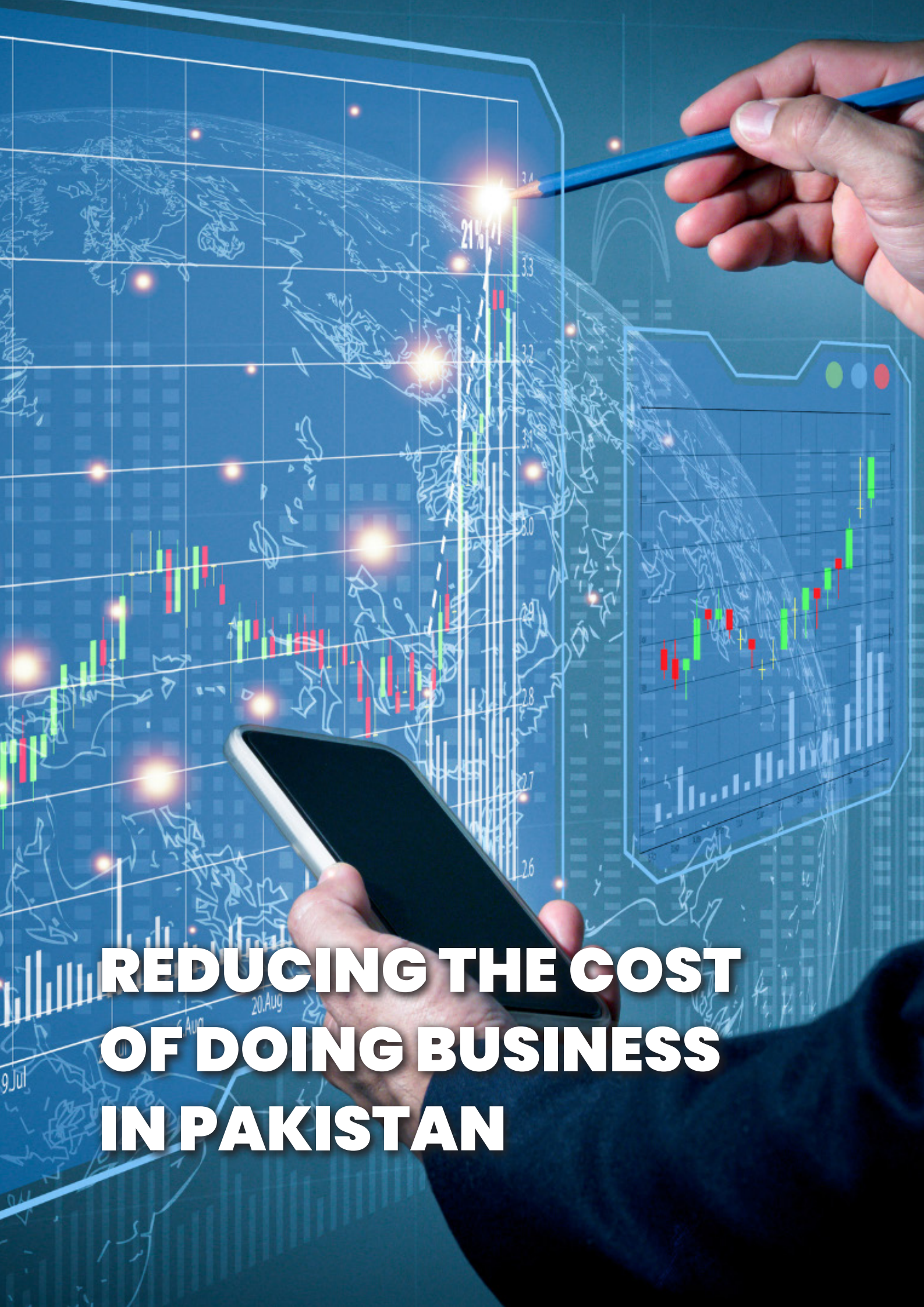
A close-up photograph of two business professionals shaking hands. The person on the left is wearing a dark blue pinstripe suit jacket over a white shirt. The person on the right is wearing a dark grey suit jacket over a light blue striped shirt. Their hands are clasped in a firm handshake. In the background, another person's hands are visible, clasped together. The scene is set in a bright, modern office environment with a wooden desk and some papers visible in the foreground.

**PROMOTING
COMPETITIVENESS
THROUGH
CONSOLIDATION OF
BUSINESSES FOR SCALE**

Promoting Competitiveness Through Consolidation of Businesses for Scale

Objective	Legislation / FBR Wing	Issue	Recommendation
12. Promoting Competitiveness Through Consolidation of Businesses for Scale	Income Tax	<p>Group taxation laws and inter-corporate dividend between group companies</p> <p>Group taxation laws were enacted in the Income Tax Ordinance, 2001 ("ITO") in 2007/2008 as part of fiscal incentives package for corporatization including surrender of losses and exemption from tax on inter-corporate dividends ("ICD").</p> <p>The relief from multiple tax on ICD was available through Clause 103A in Part I of Second Schedule of the ITO. Whereas the right to surrender losses is available under section 59B(1) of the ITO.</p> <p>Subsequently, via Finance Act 2016, the relief of ICD exemption was abruptly removed for companies eligible under section 59B of the ITO. The said relief was reinstated again in 2019 through introduction of Clause 103C in Part I of Second schedule of the ITO. And the same was again regretfully removed in 2021 under the <i>mistaken interpretation that it is an exemption.</i></p> <p>Similarly for surrender of losses, via Finance Act 2016, a restriction was introduced by insertion of Clause 1A in section 59B such that the surrender of losses was linked and restricted to the percentage shareholding by the holding company. This restriction is against the spirit of the law, as section 59B itself prescribes the holding company to maintain continuous ownership in subsidiary to the extent of minimum shareholding criteria (55% or more) for them to be able to be designated under group relief. This further solidifies the intent of legislature that once entities are designated as a group, then actual ownership is not pertinent.</p>	<p>In order to distinguish multiple taxation of ICD with an income tax exemption, it is proposed that a new subsection be inserted in section 59B as under:</p> <p><i>Distribution of dividends within companies eligible for group relief under this section shall not be deemed a taxable event.</i></p> <p>Clause 1A of section 59B should be deleted.</p>

Objective	Legislation / FBR Wing	Issue	Recommendation
13. Promoting Competitiveness Through Consolidation of Businesses for Scale		<p><u>Groups Income Tax returns</u></p> <p>Through the Finance Act 2015, exemption of intercorporate dividend from wholly owned subsidiaries (eligible under section 59AA) has been linked to the operational procedure of filing of Group Return under section 59AA.</p>	<p>Condition to file groups consolidated income tax return should be abolished as the same is a cumbersome exercise and does not even serve any purpose.</p> <p>Taxpayers find it difficult to prepare and file single consolidated return of multiple group companies when the IRIS portal does not even allow adjustment to Holding Company of income tax withholding suffered by subsidiary companies.</p> <p>Moreover, tax officers find it difficult to reconcile consolidated Group's income tax returns with individual subsidiary companies withholding tax statements and sales tax returns.</p>



REDUCING THE COST OF DOING BUSINESS IN PAKISTAN

Reducing the Cost of Doing Business in Pakistan

Objective	Legislation / FBR Wing	Issue	Recommendation
14. Reducing the Cost of Doing Business in Pakistan	Income Tax	<p><u>Super Tax – Section 4C</u></p> <p>Super Tax was imposed on the documented sector retrospectively through the Finance Act, 2022. This is a penalty on the well-organized documented sector that creates jobs and disposable incomes for millions and also generates substantial tax revenues for the country.</p> <p>Moreover, Under Section 4C, super tax is not progressive in nature and is applied on the entire profit once a threshold is crossed. This is contrary to the concept of marginal tax rates under the progressive basis of computing tax liabilities.</p>	<p>Timelines should be specified for the applicability of super tax. Mere levy of super tax without any specific timeline is simply an increase in the corporate tax rate from the current 29%.</p> <p>With the recent unprecedented depreciation of the Pak Rupee, import constraints, and an increase in interest costs, it has become difficult for businesses to absorb an additional levy of super tax for an indefinite period.</p> <p>Without prejudice to the above, Super Tax should be applied on progressive tax basis instead of application of a certain percentage (%) on the entire income.</p>
15. Reducing the Cost of Doing Business in Pakistan	Income Tax	<p><u>Tax of 25% on dividends from exempt entities introduced via Finance Act 2019 (Division III of Part I of First Schedule)</u></p> <p>Through Finance Act 2019, rates of dividend taxation have been increased from 15% to 25% on dividends paid by entities whose income is exempt under the Income Tax Ordinance. The higher rate of tax on dividend in such cases effectively withdraws the benefit of exemption or concession intended to be provided e.g., if Government intends to provide concession to SEZ entity than while providing corporate tax exemption at one end, higher tax incidence on its dividend reduces the benefit at other end. Exemptions are associated with some economic objective and higher dividend rate will discourage such economic objectives.</p>	<p>Clause (a) of Division III of Part I of First Schedule as applicable before Finance Act 2019, should be reinstated, to apply the rate of 15% on dividend received from exempt entities.</p> <p>Similarly, amendment be made for the withholding tax rates specified in clause (a) of Division I of Part III of the First Schedule, by reinstating the position prior to Finance Act 2019.</p>

Objective	Legislation / FBR Wing	Issue	Recommendation
16. Reducing the Cost of Doing Business in Pakistan	Income Tax	<p><u>Tax on Corporate Profits:</u></p> <p>All companies except banking companies & companies defined in section 2 shall be taxed at 29% on taxable income.</p>	<p>The rate of income tax on companies should be gradually reduced to 20% to align with the taxation rate of other countries in the region.</p> <p>Listed companies should be given the first benefit of the lower taxation rates as compared to other companies to further encourage transparency and documentation.</p>
17. Reducing the Cost of Doing Business in Pakistan	Income Tax	<p><u>Remove inconsistency in tax rates on sales by manufacturers to dealers and retailers</u></p> <p>The applicable rate of Advance tax u/s 236G and u/s 236H on sales by manufacturers to dealers and retailers is 0.1% and 0.5% respectively. It becomes challenging for the companies to determine if a customer will be classified as dealer or retailer.</p>	<p>The rate of advance tax u/s 236G and 236H should be made consistent at 0.1% on sales to dealers or retailers for ease of doing business.</p>
18. Reducing the Cost of Doing Business in Pakistan	Income Tax	<p><u>Minimum Tax 113 – Clause “c” Sub-Section 3</u></p> <p>Through Finance Act 2021 a proviso is added to the clause “c” of subsection 3 of section 113 reproduced as follows:</p> <p>“Provided that if tax is paid under sub-section (1) due to the fact that no tax is payable or paid for the year, the entire amount of tax paid under sub-section (1) shall be carried forward for adjustment in the manner stated aforesaid”</p> <p>The above proviso was added to clarify that minimum tax can also be carried forward and adjusted against future tax liability if there is no tax payable for the tax year.</p>	<p>Appropriate explanation should be added after the proviso of Clause “c” of subsection 3 of section 113 to enable the companies to re-claim turnover tax adjustments earlier disallowed by the Tax department because of lacuna in tax provisions which existed at that time.</p> <p>Currently, restriction on carry forward period from five to three years, is adversely impacting startups and entities planning to incur capex investments / expansions & who will be incurring losses in the initial years of operations and yet will bear the burden of minimum tax with chance of carry forward only for 3 years which is not a reasonable period.</p>

Objective	Legislation / FBR Wing	Issue	Recommendation
19. Reducing the Cost of Doing Business in Pakistan	Income Tax	<p>Section 148 (1) Advance Tax on Imports & Section 153 Advance tax on sale of goods and services</p> <p>Companies are required to pay advance quarterly income tax based on their projected incomes under Section 147.</p> <p>In addition, companies are also required to pay advance tax on imports @ 1% / 2% / 5.5% and on sale of their goods @ 4% and services @ 8%.</p> <p>This leads to the creation of refunds as companies are paying advance income tax based on projected income, advance income tax on imports and advance income tax on sales.</p> <p>There is a cumbersome procedure for seeking exemptions under Section 148 (advance tax on imports) which also does not take into account capacity expansions.</p>	<p>It is recommended that Manufacturers importing goods for their own consumption should be exempt from the deduction of Advance Income tax at import stage.</p> <p>Alternatively, the Commissioner should be empowered to issue WITHHOLDING EXEMPTION CERTIFICATE to the Manufacturers for Full One Year, the certificate should not be Items/qty bound and should be issued within 24 hours of Application.</p> <p>Further for Industries Established in SEZ's the exemption Certificate (U/s 148 and 153) should be issued immediately on submission of COMMENCEMENT OF BUSINESS CERTIFICATE (as required under Clause 126E, Part I, Second Schedule) without asking for other unnecessary documents and THE VALIDITY SHOULD BE FOR A MINIMUM OF FIVE YEARS.</p>
20. Reducing the Cost of Doing Business in Pakistan	Income Tax	<p>Section 156 – Prizes and Winnings</p> <p>Section 156 requires a Company to collect 20% tax on "prize offered by companies for promotion of sale"</p>	<p>Explanation needs to be added to this Section to clarify that it is applicable to prizes given to end consumers only since the income of the supply chain i.e., dealers, distributors is subject to withholding tax in the shape of withholding taxes imposed under separate withholding regimes.</p>

Objective	Legislation / FBR Wing	Issue	Recommendation
21. Reducing the Cost of Doing Business in Pakistan	Sales Tax	<p>Section 8B</p> <p>Under the Sales Tax Act, Section 8B, a company is not allowed to adjust input tax in excess of 90% of the output tax for that period.</p> <p>Considering the recent unprecedented increases in Gas / Electricity prices coupled with extraordinary depreciation of the Pak rupee, cost of manufacturing has increased exponentially.</p> <p>As a result, it has become almost impossible to absorb the amount of input tax. On top of this, application of section 8B further aggravates the situation by placing embargo on claim of total input tax and results in piling up of huge sales tax carry forward balance with huge increase on a month-on-month basis.</p> <p>Moreover, commercial importers paying 3% minimum Value Addition sales tax at import stage are totally exempt from the applicability of minimum tax owing to SRO 1190 dated 2.10.19</p>	<p>Aim of section 8B was to discourage fake claims of input tax, however, in current scenario, owing to integration of all Federal and provincial sales tax returns, claim of fake input tax is not practically possible.</p> <p>Moreover, if restriction under section 8B is removed, there won't be any revenue loss to the Government as the amount paid under section 8B is ultimately refundable after end of the financial year, however, registered persons have to go through a cumbersome exercise of filing a refund claim and thereafter pursuing the same with tax functionaries. This results in undue wastage of taxpayer's time and resources.</p>
22. Reducing the Cost of Doing Business in Pakistan	Income Tax / Sales Tax	<p>Income Tax Audit [under sections 177 & 214C] and Sales Tax Audit [U/S 25 (2) & Section 72B (1A)] –</p> <p>Income Tax and Sales Tax audits under Section 25(2) & Section 72B as per above referred sections can be carried out every year.</p>	<p>Income Tax and Sales Tax audits should be carried out once in 3 years as was introduced in both the laws through Finance Act 2018 and deleted by FA 2019.</p>

Objective	Legislation / FBR Wing	Issue	Recommendation
23. Reducing the Cost of Doing Business in Pakistan	Income Tax	<u>SRO 250 of 2019</u> Requires companies to pay for the electronic monitoring and tracking of their output.	SRO needs to be amended to ensure that manufacturers do not have to pay the cost of monitoring and that this will not lead to harassment. Alternately 100% tax credit be allowed for investment made for such electronic monitoring in line with section 64D of the Income Tax Ordinance, 2001 where tax credit is being allowed for POS machines.
24. Reducing the Cost of Doing Business in Pakistan	Income Tax	<u>Taxation of Services sector</u> Under the current income tax laws Services sector is subject to minimum tax @ 8% under section 153(1)(b) which has been reduced to 3% for certain services sectors. In addition to the above, Advance tax is also being collected under section 235 on electricity consumption which is leading to income tax refunds and liquidity problems for the industry. Furthermore, advance tax deduction on import of capital items, under section 148 (Part I and Part III of Twelfth Schedule), for use in business for the provision of services also becomes minimum tax since section 148(7) limits the adjustability of tax deduction at import to "industrial undertakings" only.	To address the anomalies in taxation of service sector companies, the following is being proposed. i. Corporate services sector and especially listed companies and their subsidiaries should be taxed under the normal tax regime instead of the minimum tax regime and rate of WHT under section 153(1)(b) for the aforesaid companies should be reduced to 3%, like AMC. ii. Enabling provision should be inserted in section 235 and section 159 for issuance of exemption certificates to services sector under minimum tax regime. iii. Advance tax deduction under section 148 (7) on import of capital items under Part I or Part III of 12th Schedule for services sector for their own use should be made adjustable. In this regards, section 148 shall be amended as follows: <u>The tax required to be collected under this section shall be minimum tax on the income of the importer arising from the imports subject to sub-section (1) and this sub-section shall not apply in the case of import of goods on which tax is required to be collected under this section for at the rate of 1% or 2% by an industrial undertaking for internal consumption in the business.</u>

Objective	Legislation / FBR Wing	Issue	Recommendation
25. Reducing the Cost of Doing Business in Pakistan	Income Tax	<p>Incidence of Capital Gains Tax on Sale of Shares in Public /Private/ Unlisted Companies</p> <p>Gain on disposal of land after a holding period of 6 years is exempt from the levy of income tax whereas on the other hand, gain on disposal of shares of a public / private / unlisted company is taxable irrespective of any holding period without appreciating the fact that value of the Company is increased via profits on which tax has already been paid.</p>	<p>In order to divert investment from non-revenue generating asset [land] to revenue / employment / export generating assets [industries], disposal of shares of public / private / unlisted company by sponsors / owners be allowed tax exemption on capital gain subject to the condition that the holding period should be more than 10 years (which is even more than the 6 years holding period for land). If this is not acceptable, rate of tax on disposal of shares of private company be taxed @ 15% as applicable to dividend as the breakup value of the Company would have been increased from retained profits, which could otherwise have been declared as dividend and taxed as such.</p>

Objective	Legislation / FBR Wing	Issue	Recommendation
26. Reducing the Cost of Doing Business in Pakistan	Sales Tax	<p>Scope of Tax, Section 3 Sales Tax</p> <p>GST rate is fixed at 18%.</p> <p>Presently, Section 3(1A) levies further tax on supply of goods whereby goods are sold to person(s) who have not obtained sales tax registration under the Sales Tax Act, 1990.</p> <p>Exceptions are provided vide SRO 648(1)/2013. However, the list is not comprehensive and needs to be amended.</p>	<p>A high standard tax rate of 18% has led to low registration of less than 200K while income tax filers are about 3 million. Moreover, Tier 1 retailers engaged in the business of finished fabric, and locally manufactured finished articles of textile, textile made-ups, leather and artificial leather are allowed reduced sales tax rate of 12%, if their sales transactions are integrated with the FBR system. Unfortunately, several income taxpayers are not willing to register owing to high rate and even retailers are not interested in implementing the POS integration as high rate of 12% is not attractive, in addition to other issues.</p> <p>The Standard rate and POS rate be gradually reduced by 1% per year to attract & to encourage the unregistered taxpayers to become registered and avail benefits of input adjustment. This will increase the documentation of the economy and create a level playing field for the registered taxpayers.</p> <p>It is proposed that Section 3(1A) should be rationalized and further tax should not be applicable if:</p> <ul style="list-style-type: none"> a) Buyer in not required to be registered under Sales Sax Act 1990; b) Buyer holds FTN; c) Buyer, being service provider, is registered under respective provincial authority.
27. Reducing the Cost of Doing Business in Pakistan	Income Tax / Sales Tax	<p>Section 10, 66, Rule 34 – Inter-tax refund/ adjustment procedure</p> <p>Cash flows are tied up with Inland Revenue in the form of refunds and, at the same time, the taxpayer is required to pay tax at the time of assessment of his income tax liability.</p>	<p>In order to facilitate the tax payer, it is recommended that any liability of Custom Duty, FED, Sales Tax or Income Tax payable by a taxpayer (whether current or arrears) may on the written request of the concerned taxpayer be adjusted against his refund of any of these taxes which has been sanctioned/approved by a competent authority.</p>

Objective	Legislation / FBR Wing	Issue	Recommendation
28. Reducing the Cost of Doing Business in Pakistan	Income Tax	<p>Export Facilitation Scheme (EFS)</p> <p>At present, local supply to persons registered under the DTRE scheme is taxed @ 1% by treating the same as exports as per section 154(3).</p> <p>Effective from July 1, 2023, Export Facilitation Scheme will override all other export promotion schemes like DTRE, Manufacturing Bond and Export Oriented Units, therefore, reference to Export Facilitation Scheme must be added to section 154(3) otherwise the section will become redundant owing to the fact that DTRE will no longer be effective from July 1, 2023 and will be overruled by EFS.</p>	<p>In line with the treatment accorded to exporters registered under DTRE, reference to Export Facilitation Scheme [EFS] needs be incorporated in section 154(3B) of the ITO, 2001 to treat local supply from indirect exporter to direct exporter as exports. Otherwise, this section will become redundant as DTRE will no longer be effective from July 1, 2023.</p> <p>Following amendments [in red] may be considered in section 154(3): Every direct exporter and an export house registered under the Duty and Tax Remission for Exports Rules, 2001 provided in Sub-Category 7 of Chapter XII of the Customs Rules, 2001 and an Exporter registered under Export Facilitation Scheme implemented vide SRO 957(I)/2021 shall, at the time of making payment for a firm contract to an indirect exporter shall deduct tax at the rate specified in Division IV of Part III of the First Schedule. [i.e., 1%]</p>
29. Reducing the Cost of Doing Business in Pakistan	Income Tax	<p>Rule 877 of EFS and Rule 298 of DTRE schemes</p> <p>Rule 877 of EFS and Rule 298 of DTRE schemes described the requirements for processing applications. However, timelines are not defined to decide / close the applications.</p>	<p>Application should be approved by collectorate within 7 days of application and information received, if there is any delay for reason recorded, provisional quota and approval should be awarded, in case of existing users. In case of new applications, applications should be approved within 30 (30 days for processing by IOCO are defined in the rule) days of the receipt of information and applications.</p>

A hand in a dark suit sleeve is shown from the wrist up, palm facing up, holding a glowing green target. The target has concentric circles and a bright yellow center. An arrow, also glowing green, is embedded in the bullseye. A bright beam of light shines down from the top of the frame onto the target. The background is a dark, blurred blue.

**HELPING PAKISTAN
MEET ITS SDG TARGETS**

Helping Pakistan Meet its SDG Targets

Objective	Legislation / FBR Wing	Issue	Recommendation
30. Helping Pakistan meet its commitment to the UN Sustainable Development Goals	Income Tax	Fiscal measures to help Pakistan meet its commitment to the UN Sustainable Development Goals.	Government of Pakistan needs to support the private sector to ensure that Pakistan meets its commitment to the UN Sustainable Development Goals.



ANNEXURES

Annexure 1

Additional Measures for Curbing Massive Under-Invoicing by Commercial Importers

Existing Situation	Proposed Change	Rationale for Change
<p>01. Massive under-invoicing especially by Commercial Importers is destroying domestic industry</p> <p>Across the board massive under invoicing and dumping of imported products has been increasing. Information regarding values at which various custom check posts clear import consignments is not publicly available. This encourages unscrupulous importers to under-declare the value of consignments to evade government revenues.</p> <p>There are massive leakages in the Afghan Transit Trade (ATT) and smuggled goods are being openly sold in all major shopping centers of the country. Customs however is not willing to act against smuggled products citing "lack of cooperation from local authorities"</p>	<p>a) Values at which import shipments are cleared through PRAL or CARE need to be publicly available.</p> <p>b) The Government of Pakistan must insist on Electronic Data Interchange (EDI), for both FTA and non-FTA imports from China. In future the requirement of EDI should be made compulsory for imports from FTA / PTA partner countries.</p> <p>c) Depending on industry, the Import Trade Price (ITP) be fixed e.g., on the basis of country of origin, weight, volume etc. after discussion with stakeholders including local manufacturers. ITP's may be fixed for most items prone to mis-declaration such as consumer goods and margins of commercial importers be monitored to assess the value of subsequent supply of imported goods. A certificate to this effect should be issued by auditors of commercial importers.</p> <p>d) S. 25(A) and 25(D) of the Custom Act 1969 ("Act") to be amended to allow local manufacturer to participate in fixing the ITP. Mere representation from commercial importers poses risk of biased decision, which will hurt overall tax / duties collection as well as the local manufacturing industry. The Sindh High Court in numerous judgements has decided that local manufacturer has no standing for determination and/or enhancement of the custom value of any goods. This amendment will provide the necessary legal cover.</p> <p>e) For items, prone to under invoicing and mis-declaration, FBR should designate one or two ports (including the dry ports) for clearing of import consignments. This will allow better monitoring of the import consignments where chances of mis-declaration are on a higher side. Additionally, the old Customs General Order 25 needs to be revived with a provision that local manufacturers be given the option to buy at a 15% premium, any consignment which appears undervalued.</p> <p>f) Taxes and duties deposited by local manufacturers and commercial importers should be published.</p> <p>g) In order to allow commercial importers to claim adjustment of taxes deducted at import stage, commercial importers should be asked to present certificate from auditors that at least 70% of imported items have been exported or sold to registered manufacturers. This will also help increase the overall tax base.</p> <p>h) Monthly sales declared by commercial importers should be matched with sales declared in annual income tax return as well as the credit entries in all business bank accounts. In case of any discrepancy, a reconciliation with justifiable reasons should be submitted by the commercial importers.</p>	<p>Transparency in collection of taxes will discourage mis-declaration, measures to discourage evasion of taxes and duties will help industry to fairly compete with unscrupulous imports and also Government stands to benefit from the increased indirect taxes revenues. It will also help in accountability of the customs staff and will reduce the incidence of Customs Duty & Sales Tax evasion and increase government revenues.</p> <p>The proposed change will help in boosting the manufacturing base of Pakistan.</p>

Annexure 2

Proposed Differential in Withholding Tax Rates Between Filers & Non-Filers to Promote Compliance

Existing Situation	Proposed Change	Rationale for Change
<p>01. Withholding Tax Rate difference between Filers & Non-Filers is Nominal:</p> <p>The concept of separate withholding tax rates for filers & non-filers was introduced as a measure for increasing documentation of the economy. Though large amounts are being collected from non-filers, no effort has been made to increase the tax base. The non-filers for the most part have built the cost of this government levy into pricing and passed it on to their customers.</p>	<p>In order to broaden the tax base and to achieve increase in overall tax collection without burdening existing tax payers, the policy to increase tax on non-filers / unregistered persons should be implemented specifically in the following cases:</p> <p>a) Advance income tax is collected on purchase and sales of immovable property under sections 236C @ 4% [ON PURCHASE] / 236K @ 7% [ON DISPOSAL] from non-filers. Rate of advance tax on purchase by Non-Filers under section 236C be also increased to 7% as it is for sale by non-filers.</p> <p>b) Law should be amended to ensure that this tax under 236C and 236K is also collected by Private Housing societies and Housing towns when they change the name of the owner in their records.</p> <p>c) As per section 7E the tax on deemed rental income on land and property has been imposed. But surprisingly the same will be collected from filers only through their income tax returns</p> <p>a. Law should be amended to make it clear that this 1% [or 2% till the time they remain Non-Filers] will also accrue on non-filers in urban and semi-urban areas, and to ensure that this accrued 1% tax [or 2% till the time they remain Non-Filers] on land is collected from Non-filers, by instructing the Land registering and transfer authorities to ensure its collection on transfer of the land just like NUF (non-utilization fee is collected by various authorities) or to seek collection by attachment if the value of such unpaid 1% tax under 7E on land held by non-filers increase beyond Rs. 10 million (ten million).</p> <p>d) Advance income tax is applicable on electricity bills for industrial connections @ 5% while for commercial connections it is 12%. Surprisingly the rate for filers and non-filer is the same</p> <p>As such the Rate should be increased to 20% for unregistered industrial / commercial entities (not having STRN) if monthly bill above is Rs one lac and the same should also be made applicable to Gas bills [in addition to Electricity bills] issued to non-Filers so that they are encouraged to become Filers.</p> <p>e) Advance tax @7.5% is collected from domestic connections in the name of Non-Filers where monthly bill is Rs.25,000 or more. Rate of advance tax be increased to 20% where monthly bill is in excess of Rs.100,000 and the connection is in the name of non-filer.</p> <p>f) Withholding/Advance income tax be @ 20% for non-filers be levied on Local and International Business class air tickets instead of current FED of higher of Rs. 50,000 or 20%, which is applicable for both filers and non-filers.</p>	<p>To promote greater compliance</p>

Existing Situation	Proposed Change	Rationale for Change
	<p>g) ANNUAL advance income tax of only Rs 20,000 is applicable [under section 234] for non-filers. Amount of tax should be increased to 250,000/per year for owners of vehicles of 2000cc and above who are non-filers.</p> <p>h) ON PURCHASE of cars, Advance income tax is levied on non-Filers [under section 231B] as tabulated below, which should be increased as suggested below:</p> <ol style="list-style-type: none"> 1800cc –2000cc – Existing tax of Rs. 600,000 be increased to 2,000,000; 2001cc–2500cc – Existing tax of Rs. 900,000 be increased to 2,500,000; 2501cc–3000cc – Existing tax of Rs. 1,200,000 be increased to 3,000,000; Above 3000cc – Existing tax of Rs. 1,500,000 be increased to 4,000,000; <p>i) Advance income tax of Rs. 1,200,000 on sale of vehicle [2001cc and above] by non-filers before registration [own money] should be increased to 2,400,000</p> <p>j) All exemptions (like exemption on agricultural income) under the Income Tax Law should only be made available to filers so that exempt income is also reported and wealth is reconciled.</p> <p>k) Bar non-tax filers from using Pakistan issued credit cards to buy goods/ services in foreign currency.</p> <p>l) Withholding tax be imposed on withdrawal above Rs. 50,000 in a single day from bank account of Non-Filer.</p> <p>MEASURES FOR INCREASING REVENUE FROM UNDERTAXED SECTORS</p> <p>1) Tax real estate – of the estimated PKR 500 Bn untaxed potential, a 10% realization would amount to PKR 50 Bn: As such the rate of income tax currently on the basis of per sq. ft. [under 11th Schedule to the Income Tax Ordinance, 2001] on builders & property developers should be increased 5 times.</p> <p>2) Similarly, societies developing and selling land parcels should be liable to pay 2% income tax on the FBR value of such land.</p> <p>3) Retail and marriage halls sector: Extra Sales tax [in addition to normal sales tax of 18%] on electric bill is 18% above bill value of Rs 50,000 is applicable to non-filers. The rate should be increased to 25% for bill above Rs one lac and 30% for bill above Rs 2 lac/month.</p> <p>4) Agriculture – parking/whitening of non-tax paid and corruption money. – check & enforce law. If tax not paid to provincial authorities, then federal must be allowed to collect. If paid to provincial authorities, federal tax return must be filed along with wealth reconciliation.</p> <p>5) Publicize the provincial sales tax & ICO payment of famous restaurants on net to make sure that they are declaring their full sales and paying appropriate income tax.</p>	



**8th Floor, Dawood Center,
M.T. Khan Road,
Karachi, Pakistan**

T - + 92 21 3563 0528 - 29

F - + 92 21 3563 0530

www.pbc.org.pk