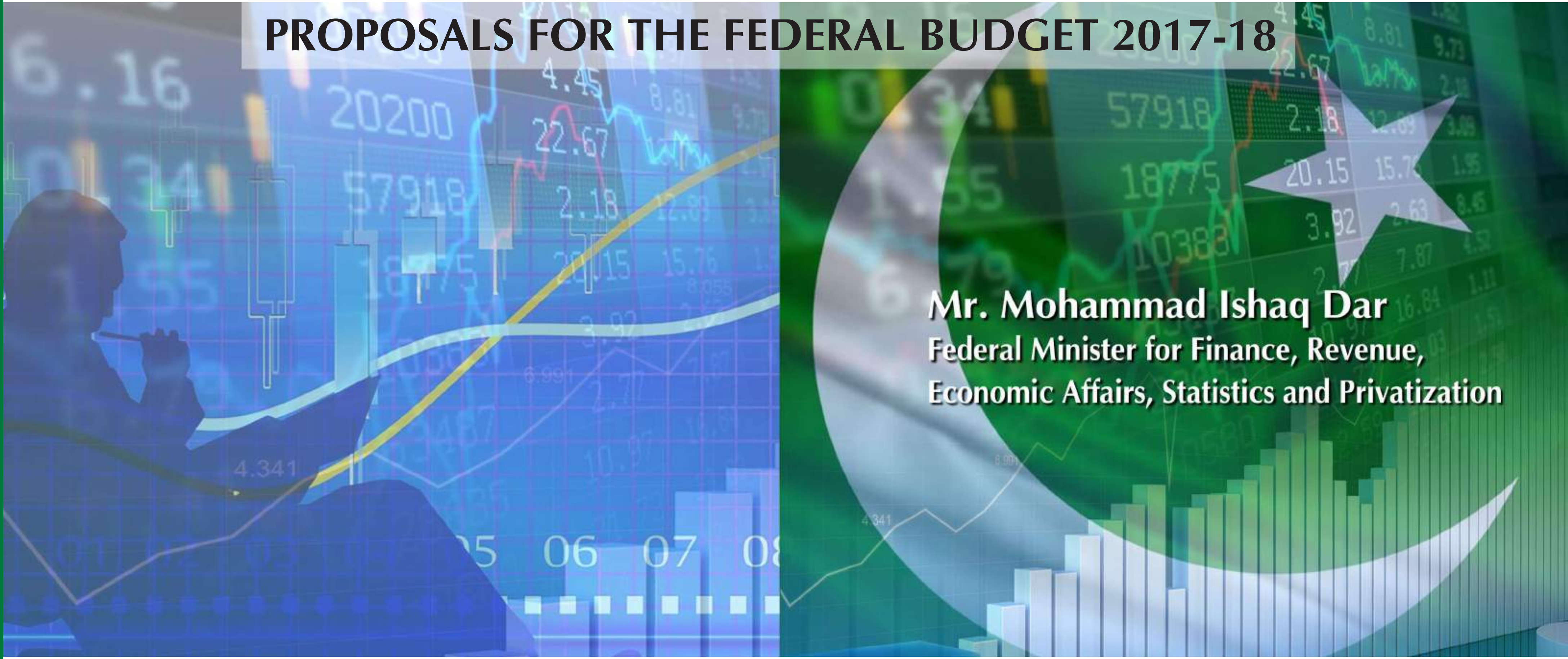
THE PAKISTAN BUSINESS COUNCIL'S

PROPOSALS FOR THE FEDERAL BUDGET 2017-18



Mr. Mohammad Ishaq Dar
Federal Minister for Finance, Revenue, Economic Affairs, Statistics and Privatization

The Pakistan Business Council
FOSTERING ECONOMIC GROWTH
(A Company set up under Section 42 of the Companies Ordinance 1984)

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MINISTRY OF FINANCE
GOVERNMENT OF PAKISTAN

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Submitted to

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The Pakistan Business Council (PBC) – A Brief Introduction

- Established in 2005 by 14 (now 60) of Pakistan's largest private sector business groups including multinationals.
- PBC members contribute every 9th Rupee to Pakistan's GDP, 5th Rupee to tax collection & every 5th $ of Pakistan's exports
- PBC is registered as a not for profit under Section 42 of the Company Law 1984.
- 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 / registered businesses.
- PBC's Advocacy is evidence based drawing on international / regional best practices coupled with what are achievable in Pakistan's unique environment.
- The PBC enjoys excellent working relationship with the Ministries of Finance / Commerce / Environment / Industries / Planning 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.
- In order to stimulated debate on the major socio-economic issues being faced by Pakistan, the PBC sponsors the Pakistan Economic Forum **(PEF)** every alternate year. The PEF comprises panels of experts' who debate and make recommendations for addressing the major issues being faced by Pakistan. The PEF panels are independent of the PBC and comprise of what can be called "Pakistan's intellectual elite". The 4th Edition of the PEF is expected to be held in the last quarter of 2017
- The PBC is also working with the various stakeholders in Pakistan to develop a common agenda on the economy.
- The PBC also 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 & whose names have been notified by Ministry of Commerce. Both bodies promote business to business contact with the aim to improve trade and business relations between Pakistan and the partner countries.
- The PBC has a joint working committee with the FBR to address the major issues relating to taxation being faced by businesses.

More information about the PBC, its members' and the nature of work being done by the PBC can be found on our website: www.pbc.org.pk & on our Facebook Page: https://www.facebook.com/PakistanBusinessCouncil

PBC Tax Proposals 2017 - 18

PBC views Tax policy as a primary tool for the promotion of industrialization / economic growth and for a more equitable distribution of the tax burden. The PBC strongly advocates that taxation needs to be based on the principle of *"all income irrespective of source should be taxed & all taxpayers must file annual tax returns"*

The PBC and its members firmly believe that the fiscal space that the government is looking for to implement its ambitious socio-economic agenda will not, and cannot be provided by continuing to increase taxation on the already taxed sectors of the economy. The taxation base needs to be widened through better documentation by bringing the under taxed, and the currently exempt sectors in the tax net.

The current tax policies are leading to a reduction in investable surpluses for the corporate sector. The short-term revenue enhancement measures are a disincentive to not only re-investments by existing units, but is also acting as a deterrent to fresh investments in industry and the formal sector. The PBC firmly believes that *tax policy and tax administration need to be separated.* The current arrangement is leading to frequent changes in the tax laws as the government struggles with collection targets. The introduction of measures like Super Tax initially for one year & then its continuation, the undoing of the laws on Group Taxation & Group Relief, the tax on undistributed Reserves, Alternate Corporate Tax **(ACT),** the refusal to allow carry forward losses under the Minimum Tax Regime, the refusal to clear refunds may have in the short-term helped shore up the FBR's collections. These however in the long-run will only lead to a reduction in the FBR's collections as corporates review their investment plans. In addition, the arbitrary & non-transparent implementation of tax laws by FBR functionaries in their zeal to achieve unrealistic revenue targets is severely impacting the viability of the formal sector. While the PBC appreciates some of the measures taken by the Finance Minister such as bringing in the concept of filers vs. non-filers a lot more needs to be done to expand the tax base. The existing taxpayers are being subjected to what can only be defined as ***"tax discrimination".*** Pakistan's formal taxpaying sector needs to be supported to allow it to gain scale and hence to become competitive. Tax policy therefore needs to encourage the development of scale as opposed to viewing big business in a negative framework. In the absence of a large base of taxpayers, the formal and documented sector will in the foreseeable future continue to be the FBR's main source of revenue, it is therefore important that this sector be allowed to grow and tax policy and tax administration encourage this growth.

PBC Tax Proposals 2017 - 18

The PBC's overarching recommendation for Budget 2017 – 18 is a **"Priority Pakistan"** approach to strengthen the domestic industry. Within this framework, our conceptual recommendations for the forthcoming budget aim at:

- Documenting the economy and providing a level playing field for domestic manufacturing
- Measures for promoting industrialization, growth & job creation
- Reducing the cost of doing business in Pakistan
- Redressing inequity in the tax regime
- Consolidation of businesses for scale
- Help Pakistan meet its commitment to the UN Sustainable Development Goals

A short summary of the PBC's proposals is included as a section in this document.

PBC Member Companies				
Abbott A Promise for Life	AkzoNobel	AlliedBank	Artistic Milliners	Atlas
Bank Alfalah Limited	CHERAT CEMENT	Coca-Cola	Colgate Palmolive	Dawood Hercules
DESCON	efu	The Legend Leads English Biscuits Manufacturers	engro corp	faysalbank
FEROZSONS LABORATORIES LIMITED	GATRON	Getz pharma	gsk GlaxoSmithKline	gsk GlaxoSmithKline Consumer Healthcare
GulAhmed TEXTILE MILLS LIMITED, KARACHI	HBL	HASCOL	HUBCO	ICI PAKISTAN
interloop	IIL International Industries Ltd.	INDUS GROUP	TOYOTA DAIHATSU INDUS MOTOR COMPANY LIMITED	JDW JDW Sugar Mills
KE Energy That Moves Life	LOTTE	LUCKY CEMENT	MEGA MEGA CONGLOMERATE	MTL Millat Tractors

PBC Member Companies

National Foods Since 1970	Nestlé	Nishat Mills Ltd	Martin Dow	Packages Limited
Pakarab Fertilizers Limited	ptcl	Pakistan Tobacco Company	Philip Morris International	Reckitt Benckiser
Saif Group	Sapphire	SICPA	SIEMENS	Soneri Bank
Soorty World Of Denim	Hutchison Ports Pakistan South Asia Pakistan Terminals	Standard Chartered	Tapal	TCS We Move You
Tetra Pak	TPL Holdings	Tufail Chemical Industries Ltd.	UBL	Unilever

<u>SUMMARY OF PBC's TAX PROPOSALS FOR THE FEDERAL BUDGET 2017 - 18</u>

Summary of PBC's Tax Proposals for the Federal Budget 2017 – 18

S. No.	Objective	FBR Wing	Issue	Legislation	Recommendation
1	**Documenting the economy & providing a level playing field for domestic manufacturing**	Income Tax	Massive under-invoicing and dumping of imported products which is killing domestic manufacturing	Income Tax & Customs	The Full & Final Tax Regime for Commercial Importers be withdrawn and withholding tax deducted at import stage be treated as advance tax. Import values be fixed in consultation with industry
		Income Tax	Increasing the tax base to reduce burden on existing taxpayers	Income Tax Laws	A large pool of financial data is available with the FBR. From the formal sector the FBR portal is constantly updated with Income tax & sales tax withholding data. The FBR needs to tap into this and other data to increase the tax payer base
		Income Tax	Tax credit for buying from registered persons	Addition to Section 65A	New Section be added to allow manufacturers who buy at least 90% of input from registered suppliers a 3.0 % tax credit

S. No.	Objective	FBR Wing	Issue	Legislation	Recommendation
2	**Measures for promoting industrialization / growth / job creation**	Income Tax	Tax Credit investments	Section 65E	Extend credit to investments made in factory building and manufacturing related infrastructure
		Income Tax	Tax Credit on investments	Section 65B, 65D & 65E	Extend period for investments from June 30, 2016 to June 30, 2020.
		Income Tax	Tax Credit on investments	Section 65E(1)	Inclusion of the term "extension, balancing, modernization and replacement of plant"
		Income Tax	Initial Depreciation Allowance	Section 23	Initial depreciation allowance be restored to 50% for plant and machinery and 25% on building
		Income Tax	Issuance of Exemption Certificate for raw material imports for new units / capacity expansion / change in process / formula / ingredients	Section 148	Clause 72B of Part IV of the Second Schedule do not allow for exemption of advance income tax for raw material imports for new projects / capacity expansions / formula and process changes, Clause needs to be amended

S. No.	Objective	FBR Wing	Issue	Legislation	Recommendation
3	**Reducing the cost of doing business in Pakistan**	Income Tax	Issuance of Exemption Certificate for raw material imports by manufacturing concerns	Section 148 imports	Rules introduced in 2013 need to be revisited as current rules are cumbersome and increasing cost of doing business
		Income Tax	Prize offered by companies for promotion of sales	Section 156	Explanation needs to be added to this Section to clarify that product / cash given as part of sales promotion efforts to increase / achieve targets will be taxed at the withholding tax rate applicable to channel partners and this provision is applicable to prizes given to end consumers only
		Income Tax	Withholding Income Tax on supplies by distributors of FMCG products	Section 153 (1) (a)	Rate for withholding tax on FMCG distributors should be reduced to 0.2% in line with Section 113 of the Income Tax Ordinance 2001.

S. No.	Objective	FBR Wing	Issue	Legislation	Recommendation
3	**Reducing the cost of doing business in Pakistan**	Income Tax	Withholding Tax under Section 235 should only be used to widen the tax base. Currently it is creating financing issues for businesses	Section 235	Should be used as a measure for increasing the tax base
		Sales Tax	Input Sales Tax is adjustable at 90% of Output Sales Tax	Section 8B	Current situation is leading to buildup of refunds. Input Sales Tax to the extent of 95% of Output Sales Tax be adjustable
		Sales Tax	Withholding Sales Tax	Sales Tax Special Procedure (Withholding) Rules 2007	In order to reduce cost of doing business of Registered person and to promote Registration, STWH rules may be rescinded or amended to make these applicable to payment to unregistered person only. This has also become redundant after implementation of STRIVe

S. No.	Objective	FBR Wing	Issue	Legislation	Recommendation
3	**Reducing the cost of doing business in Pakistan**	Sales Tax	Sales Tax on earlier of receipt of payment or delivery of goods	Section 2 (44)	Sales tax should be collected at the time of actual delivery of goods and not at the time of advance payment received from customers
		Sales Tax	Sectors exempt from Sales Tax on their output are not allowed adjustment of their input sales tax	Sales Tax	Sectors whose output is exempt from sales tax should be allowed zero rating to allow them to claim input sales tax to allow them to become competitive
4	**Redressing inequity in the Tax Regime**	Income Tax	Super Tax	Section 4B, Super Tax should not be extended for another year	Increasing the cost of doing business in Pakistan
		Income Tax	Currently corporates are subject to one of three income tax regimes – Alternate Corporate Tax (ACT), Minimum Turnover Tax or Normal Tax Regime	Section 113	Proposed that ACT should be an Alternate to the Corporate Tax (including Minimum Tax) instead of an additional form of Minimum Tax

S. No.	Objective	FBR Wing	Issue	Legislation	Recommendation
4	**Redressing inequity in the Tax Regime**	Income Tax	Imposition of 10% tax on undistributed profits	Section 5(A)	Delete. Taxing undistributed profits is in affect taxing enterprising / well run companies with options for organic growth and increased future shareholder value. Alternately the issuance of Bonus Shares should be considered as part of Dividend payout
		Income Tax	Imposition of Super Tax	Section 4B of the Income Tax Ordinance	Super Tax is discriminatory and should not be extended into 2017
		Sales Tax	Disallowing of input Sales Tax for building material other material / office equipment / furniture / vehicles and services used for business purposes	Clause 1 (h) & (i) of Section 8, and Clauses (a), (e), (f), (g) and (h) of SRO 490(I)/2004	Will make the documented sector more competitive
		Sales Tax	Input Sales Tax is not allowed where tax is unpaid by supplier	Section 8(1)(ca)	This provision be deleted as it has been declared unconstitutional by the LHC

S. No.	Objective	FBR Wing	Issue	Legislation	Recommendation
					Also with implementation of STRIVe this has become redundant
4	**Redressing inequity in the Tax Regime**	Sales Tax	2% extra tax is not allowed to be claimed as input by manufacturing entities	SRO895(I)/2013 & SRO896(I)/2013	Purchases made by registered manufacturers of the specified goods should not be subject to the extra tax or else set off should be allowed
		Sales Tax	Absence of "doctrine of revenue neutrality". It is a settled principle of law that if any liability for short paid tax is subsequently discharged, than the same cannot be recovered from the taxpayer again.	Sub-Section 4B be inserted in section 11 of the Sales Tax Act 1990 to rectify this situation	Proposed insertion in Section 11 of the Sales Tax Act 1990: "*Where at the time of recovery of sales tax under sub-sections (1), (2), (3) or (4), it is established that the sales tax that was required to be paid has meanwhile been paid by that person or recovered from the supply chain, no recovery shall be made from the person who had initially failed to pay the sales tax or had paid short amount of sales tax.*"

S. No.	Objective	FBR Wing	Issue	Legislation	Recommendation
5	**Consolidation of businesses for scale**	Income Tax	Withdrawal of exemption on withholding tax on intercorporate dividends	Exemption on intercorporate dividends for companies in Group should be restored	Will promote consolidation & scale
		Income Tax	Holding Company Law – Group Relief	Section 59B(2)(a)	Removal of ambiguity surrounding continued ownership of business
		Income Tax	Holding Company Law – Group Relief	Section 59B(2)(b)	An explanation clarifying the distinction between manufacturing & Trading concerns
		Income Tax	Holding Company Law –Group Relief	Section 59B	Amendments being granted retrospective effect.
6	**Helping Pakistan meet its commitment to the UN Sustainable Development Goals**	Income Tax	Fiscal Measures for helping Pakistan meet its commitment to the UN Sustainable Development Goals	Various	Government of Pakistan needs to support the private sector to ensure that Pakistan meets its commitment to the UN Sustainable Development Goals

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

1. Documenting the Economy & Providing a Level Playing Field for Domestic Manufacturing			
S. No.	**Existing Situation**	**Proposed Change**	**Rationale for Change**
1.	**Massive under-invoicing especially by Commercial Importers is destroying the domestic industry** 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. Moreover, the information regarding the Sales Tax and FED deposited by various units is not publicly available. This leads to massive evasion of Sales Tax and Income Tax.	a) Values at which import shipments are cleared through PRAL or CARE need to be publicly available. b) Depending on industry, the import values be fixed e.g. on the basis country of origin, weight, volume etc. after discussion with the stakeholders. ITP's may be fixed for most of the 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. c) 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. d) Additionally, the old Customs General Order 25 needs to be revived with a provision that local manufacturers be given the option	Transparency in collection of taxes will discourage mis-declaration, evasion of taxes and duties help industry to fairly compete with unscrupulous imports and also the Government to benefit from the increased indirect taxes revenues. It will also help in accountability of the customs staff and will reduce the incidence of Sales Tax & FED evasion and increase government revenues. The proposed change will help in boosting the manufacturing base of Pakistan.

1. Documenting the Economy & Providing a Level Playing Field for Domestic Manufacturing			
S. No.	**Existing Situation**	**Proposed Change**	**Rationale for Change**
		to buy at a 15% premium, any consignment which appears undervalued. e) Taxes and duties deposited by local manufacturers and commercial importers should be published. f) The rate of tax collected from commercial importers be increased by at least by 2%. Presently, tax collected from commercial importers is treated as Final Tax. In order to avoid burdening of genuine commercial importers, we would recommend that the income tax collected at import stage be made adjustable. 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 in increasing the overall tax base. h) Monthly sales declared by commercial importers should be matched with sales declared in	

1. Documenting the Economy & Providing a Level Playing Field for Domestic Manufacturing			
S. No.	**Existing Situation**	**Proposed Change**	**Rationale for Change**
		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 i) Online CREST system must be amended in a way to trace sales alongwith value addition thereon of person to whom supplies were made by Commercial importers	
2.	**<u>Low tax payer base – increased reliance on existing taxpayers</u>**	**Mining of FBR's Database to identify new taxpayers & those not fully <u>discharging their liabilities:</u>** The FBR has got access to financial data in various forms including the monthly statements submitted by withholding tax agents of various withholding deductions made by them. This can be a start to bringing new and existing taxpayers who are under-reporting their income. In addition the FBR has also collected data about tax paid by non-filers on property & on gains made in the Stock Market	An increase in the tax base will reduce the FBR's ever increasing reliance on existing taxpayers
3.	**<u>Section 65A& 65AA</u>**	**It is recommended that the following new section be inserted in the <u>Income Tax Ordinance 2001:</u>**	This will encourage greater documentation as companies will have an incentive to purchase from registered persons.

1. Documenting the Economy & Providing a Level Playing Field for Domestic Manufacturing			
S. No.	**Existing Situation**	**Proposed Change**	**Rationale for Change**
	Presently as per Section 65A every manufacturer, registered under the Sales Tax Act 1990, is entitled to a tax credit of 3.0 % of tax payable from a tax year, if 90% of his sales are to a person who is registered under the aforesaid Act. A similar facility is not available on purchases from registered persons	**Section 65AA**: Every manufacturer registered under the Sales Tax Act 1990 is entitled to a tax credit of 3.0 % of tax payable from a tax year if 90% of his purchases are from a person who is registered under the aforesaid Act during the said tax year	

2.0 Measures for Promoting Industrialization, Growth & Job Creation

2. Measures for promoting industrialization, growth & job creation			
S. No.	**Existing Situation**	**Proposed Change**	**Rationale for Change**
1.	**<u>Tax Credit Under 65E:-</u>** Tax Credit under Section 65E is restricted to investment in plant and machinery	**<u>Tax Credit Under 65E:-</u>** Tax credit under section 65E should also extend to investment in factory building and manufacturing related infrastructure.	Expansion of plant or undertaking a new project involves investment in factory building and manufacturing related infrastructure and as such these types of investments should also be made eligible for tax relief.
2.	**<u>Tax Credit under Section 65B (4), 65D & 65E:</u>** (4) "The provisions of this section shall apply mutatis mutandis to a company setup in Pakistan before the first day of July 2011, which makes investment through hundred percent new equity during first day of July 2011 and 30th day of June, 2016 …."	(4) "The provisions of this section shall apply mutatis mutandis to a company setup in Pakistan before the first day of July 2011, which makes investment through hundred percent new equity during first day of July 2011 and 30th day of June, ~~2016~~ ***<u>2020</u>***…."	To allow companies to take advantage of the better investment climate i.e. law and order / availability of energy / low inflation
3.	**Tax Credit Under 65E(1):** inter alia for the purposes of- (i) *expansion of the plant and machinery already installed therein; or*	**65E(1)** for the purposes of**-** (i) ***<u>extension,</u>***expansion ***<u>, balancing, modernization and replacement of the plant</u>*** and machinery already installed therein; or	This amendment will further promote industrialization and new investment in the country
4.	**Initial Depreciation Allowance on <u>Plant & Machinery under Section 23:</u>**	It is proposed that the Initial Depreciation Allowance rate be restored to 50% for Plant as was the case prior to the Finance Act 2013.	This will gear up investments in the industrial sector resulting in job creation and increased tax revenues for the

2. Measures for promoting industrialization, growth & job creation			
S. No.	**Existing Situation**	**Proposed Change**	**Rationale for Change**
	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. Further the rate of initial deprecation allowance on building has been reduced from 25% to 15% vide Finance Act 2014	The Initial Depreciation Allowance for Building be restored to 25% as was the case prior to the Finance Act 2014	Governments once the unit starts earning profits.
5.	**<u>Section 148 – Exemption Certificate</u>** Clause 72B of Part IV of the second schedule does not cater for the issuance of exemption certificates for the import of raw materials by manufacturers who have setup a new facility, have gone into expansion of existing facilities, who have either launched a new product or changed the formulation of an existing product etc. This is leading to a tying up of working capital.	Clause be amended to allow for new plants, capacity increases, change in formulations etc.	Improve cash flows

3.0 Reducing the Cost of Doing Business in Pakistan

3. Reducing the Cost of Doing Business in Pakistan			
S. No.	**Existing Situation**	**Proposed Change**	**Rationale for Change**
1.	**<u>Section 113: Minimum Tax</u>** Through Finance Act 2013 the rate of minimum turnover tax under section 113 of the Income Tax Ordinance, 2001 has been increased to 1% from 0.5%. Further through the Finance Act 2015 the Corporates in the Service Sector have been subjected to a Minimum Tax of 8% on their turnover and this is not adjustable against their final liability. Previously all Corporates where subject to a Minimum Tax of 1.0% which was adjustable in their final tax liability	It is recommended that the Minimum Turnover Tax revert to 0.5% and in the interest of tax equity, corporates in the Service Sector be subject to the same rules as applicable to other corporates	This will help companies better manage liquidity and also allow investments in the services sector
2.	**<u>Reduction in the rate of Advance Tax on Imports under Section 148 – Manufacturers importing raw materials:</u>** Previously as per Clause (9A) of Part II of the Second Schedule of Income Tax Ordinance, manufacturers importing raw material for their own use were subject to collection of tax at source at the rate 3%. In Financial year 2013 this was increased	The rate of Advance Tax on imports under Section 148 – Manufacturers importing raw materials needs to be reduced to 1%	Manufacturers, whose raw materials are imported goods, are facing cash flow problems due to abnormal delays in getting their refunds, if any. The problem gets worse for companies who have huge brought forward losses, tax credits and are required to pay only Minimum Turnover Tax.

3. Reducing the Cost of Doing Business in Pakistan			
S. No.	**Existing Situation**	**Proposed Change**	**Rationale for Change**
	to 5% and subsequently to 5.5% through the Finance Act 2015. This increase in the rate has resulted in significant cash flow problems for manufacturers and is resulting in the generation of income tax refunds.		
3.	**<u>Section 148 – Exemption Certificate</u>** The positive measure of issuance of exemption certificate on imports by commissioners was introduced in Finance Act 2013.	**<u>Clause 72 B of Part IV of the Second Schedule:</u>** This does not allow for exemption of advance income tax for raw material imports for new projects / capacity expansions / formula and process changes, hence Clause needs to be amended.	To reduce the cost of doing business in Pakistan
4.	**<u>Section 156 – Prizes and winnings:</u>** Section 156 of the ITO 2001 requires a Company to deduct 20% tax on "prize offered by companies for promotion of sale"	**<u>156. Prize and winnings</u>**-(1) Every person paying prize of prize bonds, or winning from a raffle, lottery, prize on winning a quiz, prize offered by companies for promotion of sale ***<u>to end consumers</u>***, or cross-word puzzle shall deduct tax……………………….	The clear intention of this section is to capture tax through withholding at source from persons who are recipients of these prizes or winnings; the intention is not to tax any person who belongs to the supply chain of the companies who offer prize for promotion of sales. The income of the supply chain i.e. dealers, distributors is subjected to withholding tax in the shape of withholding taxes imposed under separate withholding regimes. It is therefore suggested that to clear any ambiguity in law regarding application of

3. Reducing the Cost of Doing Business in Pakistan			
S. No.	**Existing Situation**	**Proposed Change**	**Rationale for Change**
			this section, it may be amended to add the term "end Consumers" to oust any person in the supply chain from the ambit of this section.
5.	**<u>Section 153 (1) (a)</u>** Tax on supplies by distributors of FMCG products	**<u>Section 153 (1)(a)</u>** Be amended so that the tax deducted under this section be same as the Minimum Tax of the FMCG distributors i.e. 0.20%	The distribution of fast moving consumer goods is a high turnover and low margin business. This fact has also been acknowledged by the Federal Board of Revenue by prescribing minimum taxation rate for the distributors of FMCG Companies at 0.2% of their turnover. These distributors on average earn margin from 2.5% to 5% on the company list price. As such after incurring operational expenses the distributors only make nominal income. This is a clear case of hardship, which in some cases results in closure of business. Due to amendments in the definition of withholding agents the tax withheld on the receipts of the distributors has increased significantly, meaning thereby that the 4.5% tax withheld on the sales receipt by distributors is over and above the total income earned.

3. Reducing the Cost of Doing Business in Pakistan			
S. No.	**Existing Situation**	**Proposed Change**	**Rationale for Change**
6.	**<u>Advance Tax on Electricity Consumption – Section 235</u>** Every person, preparing Electricity Consumption bill, is required to collect advance tax on varying rates based on the amount of electricity bills.	**<u>Section 235</u>** We are of the view that tax under section 235, on electricity consumption bill, should only be used as a tool to broaden the tax base and the same should only be made applicable on undocumented sector. Rates of advance tax should be increased for non-filers; however, registered manufacturers should be excluded from the ambit of collection under section 235. ***ALTERNATIVELY*** As an incentive to promote investment in power sector, electricity consumption bills issued by captive power plants, to its holding company, falling in the corporate regime, should be excluded from the purview of tax collection under section 235. This would also be inline with the benefits available under Group Taxation and Group Relief as per sections 59AA and 59B	Tax collection, under this section, is causing, undue financing issues to genuine taxpayers already registered with the tax department.
7.	**<u>Section 8B</u>** (1) Not withstanding anything contained in this Act, in relation to a tax period, a registered person shall not be allowed to	**<u>Section 8B</u>** (1) Not withstanding anything contained in this Act, in relation to a tax period, a registered person shall not be allowed to adjust input tax in excess of ~~ninety~~ *<u>ninety</u>*	Will allow better management of cash flows

3. Reducing the Cost of Doing Business in Pakistan			
S. No.	**Existing Situation**	**Proposed Change**	**Rationale for Change**
	adjust input tax in excess of ninety per cent of the output tax for that period:	*five* per cent of the output tax for that period:	
8.	**Sales Tax Special Procedure (Withholding) Rules 2007** The above Rules are applicable when a registered person makes payment to **Registered** as well as Unregistered taxpayers.	**Sales Tax Special Procedure (Withholding) Rules 2007** It is recommended that STWH rules may be rescinded or amended to the make these applicable to payments to unregistered person only. Without prejudice to the above, there should be token WHT rate of 1% for payment to registered person as well (like for payment to unregistered person). STWH should be on payment basis instead of accrual basis.	a) These Rules are not applicable for unregistered person (as a payer) and applicable to registered person. Hence discouraging Registration. b) Core reason behind its introduction was to gather data of potential tax payers and minimize undocumented economy. The purpose of these sections was not to generate more revenue. c) Withholding tax from unregistered persons is being shown in bulk in the return so the idea of broadening the tax base has not been served. d) Higher WHT rate for registered person (viz a viz unregistered person) is leading to increase in cost of doing business for the formal sector. e) WHT basis should at the time of payment, like income tax, which is the correct basis.

3. Reducing the Cost of Doing Business in Pakistan			
S. No.	**Existing Situation**	**Proposed Change**	**Rationale for Change**
9.	**Section 2 (44)** (a) A supply of goods, other than under hire purchase agreement means the time at which goods are delivered or made available to the recipient of the supply (or the time any payment is received by the supplier in respect of that supply whichever is later)	**Section 2 (44)** (a) A supply of goods, other than under hire purchase agreement means the time at which goods are delivered or made available to the recipient of the supply~~.~~ ~~(or the time any payment is received by the supplier in respect of that supply whichever is later)~~	Sales Tax should be collected at the time of actual delivery of goods and not at the time of advance payment received from customers
10.	**Adjustment of input Sales Tax for Exempt Sectors** Currently an industry whose output is exempt from sales tax is not allowed to adjust its input sales tax.	An industry whose output is exempt from sales tax should be allowed zero rating for its inputs	Since input cannot be passed on it is added to the costs.

4.0 Redressing Inequity in the Tax Regime

4. Redressing inequity in the tax regime			
S. No.	**Existing Situation**	**Proposed Change**	**Rationale for Change**
1.	**<u>Super Tax</u>** Levy of super tax introduced vide Finance Act 2015 for tax year 2015, has been extended for tax year 2016 vide Finance Act, 2016 under section 4B of the Income Tax Ordinance at the rate of 4% and 3% for banks and others respectively, subject to Rs 500 million income threshold.	Levy of super tax should not be extended for another tax year i.e. tax year 2017.	Imposition of special purpose tax is not only unconstitutional but against the spirit of reduction of corporate income tax rate policy of the government. Furthermore, such levy is increasing cost of doing business in Pakistan, resulting in capital flight
2.	**Alternate Corporate Tax (ACT) (Section 113C)** was introduced through the Finance Act 2014 at the rate of 17% on the accounting income (with certain exclusions) of a company. Tax under ACT is ascertained solely on the basis of accounting profit if the same is higher than normal corporate tax. As the law stands today, a corporate can be subject to either one of three laws i.e. Corporate Tax at 32% of taxable income, Minimum Tax of 1% of turnover under Section 113 or an Alternative Corporate Tax at 17% of accounting profit.	ACT should be an Alternative Tax vis-à-vis Corporate Tax (including Minimum Tax) instead of an additional form of minimum tax. Without prejudice to the above, adjustment of unabsorbed tax depreciation and prior years' tax losses be against accounting profits like those specified in section 113(8) and the adjustment of prior years' tax credits under sections 65B & 65E and current year tax credits under section 65B to those companies which imported its significant plant and machineries prior to July 1, 2014.	Business / investment decisions were made on the assumption that tax incidence will be based on taxable income or minimum tax on turnover. Taxpayers made investment decisions resulting in adjustable tax depreciation against subsequent years' tax liability as per prevalent law. In addition the current regime will discourage / penalize investment in the manufacturing sector

4. Redressing inequity in the tax regime			
S. No.	**Existing Situation**	**Proposed Change**	**Rationale for Change**
3.	**Section 5(A) Tax on Undistributed <u>reserves:</u>** The Finance Act 2015 inserted this Section under which a tax at 10% has been imposed on every public company other than a scheduled bank or a modarba that derives profits for a tax year but does not distribute cash dividends within six months of the end of the said tax year or distributes dividends to such an extent that its reserves, after such distribution, are in excess of hundred percent of its paid up capital	**Section 5(a) Tax on Undistributed <u>reserves:</u>** This Section needs to be repealed as it is penalizing companies whose shareholders would like management to invest in newer projects for long term gains. Otherwise either bonus shares should be included in payment of dividend or companies under going large expansions and issuing rights shares should be given exemption from the applicability of this section.	This Section penalizes companies whose management has identified projects which will allow for the expansion of the company and lead to long term gains for the shareholders.
4.	**<u>Input sales tax to be allowed to Sales Registered Persons on Building & other Material, Office Equipment, Office Furniture, Vehicles and other goods & services used for business purposes.</u>** Input sales tax on above items are restricted virtue of clauses 1 (h) & (i) of section 8 introduced through Finance Act 2014 and earlier through SRO 490(I)/2004. In order to promote purchases from documented sector and encourage sales	• Clause 1 (h) & (i) of section 8 should be deleted. • Further, in Clauses (a), (e), (f), (g) and (h) to SRO 490(I)/2004 should be deleted.	The documented sector will get some relief and benefit over undocumented sector. Further, undocumented sector will be encouraged to get their business registered under sales tax and avail the benefit for these items. This is demonstrable when concept of "Filer" and "Non-Filer" was introduced in Finance Act, 2014.

4. Redressing inequity in the tax regime			
S. No.	**Existing Situation**	**Proposed Change**	**Rationale for Change**
	tax registration, the same should be allowed. Adequate protection is already there in the law to avoid misuse of input sales tax on above items not related to taxable supplies vide disallowance under clause (f) and (g) of section 8, thereby, only allowing input sales tax for registered taxpayers using vehicles for their taxable activity.		
5.	**<u>Section 8(1)(ca)</u>** **<u>Input sales tax not allowed where tax unpaid by supplier.–</u>** A taxpayer is not entitled to claim input tax paid on the goods (or services) in respect of which sales tax has not been deposited in the Government treasury by the respective suppliers.	This provision need to be omitted especially after the implantation of the STRIVe system.	The matter was challenged in the Honorable Lahore High Court (LHC), in a petition W.P.No.3515/2012 filed by D.G Khan Cement Company Limited. LHC permitted relief and declared the provision as unconstitutional. With the implementation of the STRIVe system this is redundant.
6.	**<u>Impact on Manufacturing Industry in light of SRO 895(I)/2013 & SRO 896(I)/2013 both dated 04 October 2013.</u>**	We propose that the expression "sold in retail" appearing at serial number 9 of SRO 896/13 may also be inserted to the preamble of the rule 58S to read as under: (proposed insertion in italics).	It puts the formal sector at a disadvantage as they are not able to adjust the extra 2% paid as input.

4. Redressing inequity in the tax regime			
S. No.	**Existing Situation**	**Proposed Change**	**Rationale for Change**
	Several items have been removed from the Third Schedule vide SRO 895(I)/2013 and these items have now been included in the **"Special Procedure for Payment of Extra Sales tax on Specified Goods"** vide SRO 896(I)/2013. Included therein are items which are consumed by Manufacturing Sector as Raw-Material which are now subject to Extra Tax @ 2% in addition to the normal 17% sales tax.. Further as per section 8(1)(c) of the Sales Tax Act, 1990,the claim of this extra tax of 2% by way of input tax is prohibited.	**Option 1:** "58S. Application. - The provisions of this Chapter shall apply to supplies of goods ***"sold in retail"*** specified in the following table…………..." **OR** **Option 2**: Insert an additional sub-rule under Rule 58T as below in the "Special Procedure for Payment of Extra Sales tax on Specified Goods" similar to exclusion accorded to wholesale-cum-retail outlets operating under Sub-Rule 58R of Chapter XII of the Sales Tax Special Procedure Rules, 2007. ***"The purchases made by registered manufacturers, who acquire the specified goods to manufacture or produce taxable goods, shall not be subject to extra tax under this Chapter"***	
7.	**Discharge of Liability at subsequent stage – Doctrine of Revenue Neutrality**	**Sub-section 4B be inserted in section 11 of the Sales Tax Act, 1990 as follows:**	The sales tax law requires the payer to withhold certain amount of sales tax from the recipient and this amount is directly required to be deposited by the payer to

4. Redressing inequity in the tax regime			
S. No.	**Existing Situation**	**Proposed Change**	**Rationale for Change**
	Based on the Doctrine of Revenue Neutrality and plethora of judgments of superior Courts, it is now a settled principle of law that if any liability for short paid tax is subsequently discharged, than the same cannot be recovered from the taxpayer again. However, unfortunately, such provision is not part of the Sales Tax Act, 1990.	"*Where at the time of recovery of sales tax under sub-sections (1), (2), (3) or (4), it is established that the sales tax that was required to be paid has meanwhile been paid by that person or recovered from the supply chain, no recovery shall be made from the person who had initially failed to pay the sales tax or had paid short amount sales tax.*"	the credit of the recipient. In instances where there is a default in withholding tax, the provisions of law authorize the tax authorities to recover the amount of sales tax not withheld. However, it is possible that the recipient may have deposited the entire sales tax himself at the time of filing his sales tax return for that tax period, therefore it is being suggested that the recovery of tax should be restricted to such cases only where the sales tax in question is clearly unpaid by both parties. It is a settled principle that contravention, if any, of statutory provisions should be visited and examined with consequences. An exception is advocated in taxation matters when the contravention has no revenue implications, then the taxpayer must not be asked for recovery of the amount already paid to the Government treasury. This principle has emerged in the course of judicial pronouncements over a period of time.

5.0 Consolidation of Businesses for Scale

5.0 Consolidation of businesses for scale & increased competitiveness			
PROPOSED Amendments / Clarifications / Explanations in INCOME TAX ORDINANCE 2001			
S. No.	**Existing Situation**	**Proposed Change**	**Rationale for Change**
1.	**Changes in Group Taxation Laws (59AA & 59B)** Through Finance Act 2016, following amendments in Group Taxation laws were made, which effectively diluted the adequately introduced concept of group taxation earlier inserted through Finance Act 2007 as a result of a detailed study carried out by a Task Force comprising of FBR, SECP, ICAP and PBC: • **Inter Corporate Dividends in Group:** The exemption for inter corporate dividends in a group structure prescribed under clause 103A of Part I of the Second Schedule for group companies designated under section 59B was effectively withdrawn. The purpose of this exemption was to avoid double taxation within a holding company structure. Consequently, exemption from tax withholding on intra-group dividend and interest payments were also withdrawn.	It is proposed that the amendments made through Finance Act 2016 in section 59B(1A) and Clause 103A of Part I and Clause 11A and 38AA of Part IV of the Second Schedule should be revoked.	The 'Group Taxation' concept was introduced after detailed study and deliberations by a Task Force comprising of FBR, SECP, ICAP and PBC. It was an important initiative for Pakistan's taxation system and economy, aimed at streamlining the group ownership structures and centralizing the complicated cross-company ownership to make the corporate sector internationally competitive. It has helped in promoting documentation, fostering corporatization and allowed the corporate entities to grow into conglomerates. The amendments made through Finance Act 2016 were not in line with the concept of group taxation under the internationally acceptable norms. The group taxation reform involved significant thought and research, much debate and years to bring it in its current form. Hence, any changes to it should have been made through a consultative process. In the interest of growth,

	• **Restriction on Right to Surrender losses in Groups:** Prior to the Finance Act, 2016, the right of surrender of losses was not related to the percentage holding of shares by that entity in the group if such entity was part of the group on the basis of holding as prescribed in the law. A restriction was introduced through amendment in section 59B(1A) in respect of the right to surrender losses within a group. After the amendment, the surrender of losses is now related and restricted to the percentage holding of the group in the entity surrendering the losses.		corporatization and documentation, PBC is of the strong view that the Finance Act 2016 amendments should be revoked.
2.	**<u>Section 59B(2)(a):</u>** "there is continued ownership for five years, of share capital of the subsidiary company to the extent of fifty-five percent in the case of a listed company, seventy-five percent or more, in the case of other companies"	**<u>Section 59B(2)(a) to read:</u>** "there is ***<u>from the date of surrender of loss,</u>*** continued ownership for five years of share capital of the subsidiary company to the extent of fifty-five percent in the case of a listed company, or seventy-five percent or more, in the case of other companies"	Due to ambiguity, *"continued ownership for five years, of share capital of the subsidiary company"* is being read to mean as five years prior ownership i.e. prior to surrender of the loss. The underlying concept behind group relief is to nurture and turn around subsidiaries which have long term viability. The five year post surrender holding clause was also put into place to prevent "loss shopping"
3.	**<u>Section 59B(2)(b):</u>** "A company within the group engaged in the business of trading shall not be entitled to avail group relief"	**<u>Section 59B(2)(b) to read:</u>** "A company (not being a company operating trading houses as defined under clause 57 of Part IV of the 2nd Schedule of the Ordinance) engaged in the business	The clause "engaged in the business of trading" is being misconstrued to read as being applicable in every situation where there is some trading activity. It will be appreciated that manufacturing concerns augment their product offerings by

		of trading shall not be entitled to surrender the loss" ***<u>Explanation:</u>*** ***for the purpose of this paragraph, a company would not be considered to be engaged in the business of trading unless more than 30 percent of declared turnover is from business of trading. Provided that losses on speculation business as defined under Section 19(2) the Ordinance will not be available for surrender.***	importing / selling products that they don't manufacture themselves. The manner in which this provision of the law is being interpreted; a Company which primarily engages in manufacturing and has some trading interests albeit small; is unable to offset the losses of another company within the group. The proposed explanation of allowing trading activity up to the extent of 30 percent of the turnover allows better clarity of the law. As a Trading House entails a significant investment and creates real jobs in the economy, it is proposed to make it eligible to surrender its losses.
4.	**<u>Section 59B</u>**	**<u>To be inserted after Section 59B:</u>** ***<u>Explanation:</u>*** ***<u>The amendment in this Section by the Finance Act 2017 shall be deemed always to have been enacted and shall have effect accordingly.</u>***	In order to make the amendments applicable for pending cases.

6.0 Helping Pakistan meet its Commitment to the UN Sustainable Development Goals

6.0 Helping Pakistan meet its commitment to the UN Sustainable Development Goals			
SDG GOAL	**Fiscal Incentive**	**Rationale**	**Barriers**
Goal 3: Ensure healthy lives and promote wellbeing for all at all ages	• **Up to 100% Offset against Workers Welfare Fund** charge for the investment made in a year with respect to establishing or operating hospitals and clinics or managing existing social security welfare institutions within 100 km radius of workplace or business	To work towards Target 3.8 - 'Achieve universal health coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all'.	Insufficient and poorly managed healthcare facilities for the work force.
Goal 5: Achieve gender equality and empower all women and girls	• **25% Tax Rebate** in effective rate of tax on salary income for full time working women with children	To demonstrate a commitment to increase the female to male ratio and work towards Target 5.5 - 'Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life.'	Additional burden of cost of child care for mothers when entering full time employment impacting net household income.

6.0 Helping Pakistan meet its commitment to the UN Sustainable Development Goals			
SDG GOAL	**Fiscal Incentive**	**Rationale**	**Barriers**
Goal 6: Ensure availability and sustainable management of water and sanitation for all	• **Up to 100% Offset against Workers Welfare Fund** charge for the investment made in a year with respect to establishing, operating or contributing to purification plants for drinking water within 100 km radius of workplace or business.	To work towards Target 6.1 - 'By 2030, achieve universal and equitable access to safe and affordable drinking water for all.'	Access to citizens to safe, clean drinking water within 1 km of his home.
Goal 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all	• **Up to 100% Offset against Workers Welfare Fund** charge for the investment made in a year with respect to establishing, operating or contributing to approved vocational training institutes	To work towards Target 8.3 - 'Promote development-oriented policies that support productive activities, decent job creation, entrepreneurship, creativity and innovation, and encourage the formalization and growth of micro-, small- and medium-sized enterprises, including through access to financial services'.	Creation of work opportunities to keep pace with the growing need of youth to be placed into gainful employment.

6.0 Helping Pakistan meet its commitment to the UN Sustainable Development Goals

SDG GOAL	Fiscal Incentive	Rationale	Barriers
Goal 8: Continued	• **First year Depreciation Allowance** for investment in making upgrades to the provision of facilities (including lifts, ramps) for the specially challenged in the workplace or business. • **0.5% Lower Tax Rate** for providing livelihoods to specially challenged persons equal to 5% of the work force.	To demonstrate a commitment to creating livelihoods for all and work towards Target 8.5 - 'By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value.'	No or limited facilities that allow access in the work place or business for the specially challenged thereby deterring the disabled from working.
	• **1% lower tax rate** for existing companies that create 50 or more new jobs on their own payroll in a year		Pakistan needs to find employment for 2 Million youth each year.
SDG 9: **Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation**	• **First year Depreciation Allowance** for investment in and making upgrades in renewable energy to power factories, warehouses and offices • **First year Depreciation Allowance** for investment in and making upgrades of effluent treatment plants	To work towards Target 9.4 - 'By 2030, upgrade infrastructure and retrofit industries to make them sustainable, with increased resource-use efficiency and greater adoption of clean and environmentally sound technologies and industrial processes, with all countries taking action in accordance with their respective capabilities.'	Inefficient and non-environment friendly management of waste, water and energy impacting the environmental footprint.

6.0 Helping Pakistan meet its commitment to the UN Sustainable Development Goals			
SDG GOAL	**Fiscal Incentive**	**Rationale**	**Barriers**
SDG 12: Ensure sustainable consumption and production patterns	• **0.5% Lower Tax Rate** for overall reduction in waste and achieving and maintaining zero landfill • **15 - year Tax Holiday** for investing in a standalone waste management business	To demonstrate a commitment to reducing the amount of waste and work towards Target 12.5 - 'By 2030, substantially reduce waste generation through prevention, reduction, recycling and reuse'.	Adoption of closed-loop cycle methodology in production for enabling control over waste.
	• **0.5 % Lower Tax Rate** for achieving and maintaining a reduction in the material footprint of the supply chain that is documented	To work towards achieving an overall reduction in the material footprint of the organization and work towards Target 12.2 - 'By 2030, achieve the sustainable management and efficient use of natural resources'.	No or poor documentation of the lifecycle of a product limiting the calculation of the material footprint including the environmental footprint and little or no support to the supply chain towards facilitating the overall reduction in the material footprint.