

# Amendments made in Income Tax Ordinance, 2001 through Finance Supplementary (Second Amendment) Act, 2019

By Research and Publications Department, ICMA Pakistan

## Preamble

The Finance Supplementary (Second Amendment) Act, 2019 which was presented by the Federal Finance Minister on January 23, 2019 in the Parliament proposed a number of significant changes and amendments in the Income Tax Ordinance, 2001. The Act was debated in the Senate of Pakistan which made some recommendations in the proposed Bill. On March 04, 2019, these recommendations were introduced for discussion in the Parliament by the Government so as to take nod of the Lower House to make them part of the Act. Finally, the Act was passed by the Parliament on March 06, 2019. In his concluding speech, the Federal Finance Minister Mr. Asad Umar, said that this was a reform act, not aimed at generating revenue; rather it was intended to bring improvement in economic situation; ensure friendly environment for investors and create more opportunities for industries.

The Research and Publications Department has prepared this brief paper on the amendments made in the ITO 2001 through the Finance Supplementary (Second Amendment) Act, 2019 which has been passed by the Parliament on March 06, 2019. Almost 30 amendments have been proposed in the Finance Supplementary (SA) Act, 2019 i.e. 11 amendments in different Sections of ITO, 2001; 6 amendments in First Schedule; 12 amendments in Second Schedule and 1 amendment in Seventh Schedule to ITO 2001. A brief summary of these amendments is provided below:

## Amendments made in Income Tax Ordinance, 2001

Clause (4) of the Finance Supplementary (Second Amendment) Act, 2019 has made further amendments in the Income Tax Ordinance, 2001 which shall come into force at once, except clauses 13 (A)(b) and 13(B)(f) which shall come into effect from the first day of July 2019. A brief description of these amendments along with relevant clause of FS(SA) Act 2019 are provided below:

- 1) Section 4B - Super tax for rehabilitation of temporarily displaced persons**  
[Amended thru Clause 4(1) of Finance Act]  
Through the Finance Act 2015, a new Section 4B was inserted in ITO, 2001 thereby imposing a super tax for rehabilitation of temporarily displaced persons for tax years 2015 to 2020. Through the FS(SA) Act 2019, the applicability of super tax has been extended beyond 2020 by inserting the word 'onwards' [instead of 2020] in Section 4B.
- 2) Section 5(A) - Tax on undistributed Profits**  
[Amended thru Clause 4(2) of Finance Act]  
Tax on undistributed profits has been abolished after tax year 2019.
- 3) Section 37(A) - Capital gain on disposal of securities**  
[Amended thru Clause 4(3) of Finance Act]  
Carry forward of capital losses has been allowed for tax year 2019 and onwards for three years.
- 4) Section 49-Federal Government, Provincial Government and Local Government income**  
[Amended thru Clause 4(4) of Finance Act]  
The exemption is extended on income of Federal Government from sale of spectrum and licenses to renewal of licenses.
- 5) Section 99B - Special procedure for small traders and shopkeepers [New Section inserted]**  
[Amended thru Clause 4(5) of Finance Act]  
Federal Government has been empowered to prescribe special procedure for scope and payment of tax, filing of return and assessment for small traders and shopkeepers
- 6) Section 123 - Provisional assessment in certain cases [New sub-section 1A inserted]**  
[Amended thru Clause 4(6) of Finance Act]  
IT Commissioner has been authorized to issue provisional assessment order or provisional amended assessment order to a person for the last completed tax year, taking into account the offshore asset discovered by him or any department or agency of Federal Government or a Provincial Government.
- 7) Section 148-Imports [sub-section 8(a) has been omitted]**  
[Amended thru Clause 4(7) of Finance Act]  
The tax collected on certain commercial imports under the Section 148 will now be treated as 'Final Tax'
- 8) Section 165 - Withholding Statements [sub-section (1) amended; sub-sections (2) & (2A) substituted]**  
[Amended thru Clause 4(8) of Finance Act]  
The requirement for filing of withholding statement has been made 'bi-annual' instead of 'monthly'. The statements shall have to be submitted by prescribed persons on or before 31st July in respect of half year ending on 30th June; and on or before 31st January in respect of half year ending on 31st December. Further, the Income Tax Commissioner has been empowered to call for withholding statement for any period as notified.
- 9) Section 227C - Restriction on purchase of certain assets**  
[Amended thru Clause 4(9) of Finance Act]  
Through the Finance Act, 2018, the government had inserted a new Section 227C whereby restrictions were imposed on non-filers on booking, registration or purchase of a new locally manufactured motor vehicle or for first registration of an imported vehicle; as well as on registering, recording or attesting transfer of any immovable property, exceeding five million rupees.  
In the Finance Supplement (SA) Act, 2019, it was proposed to substitute clause (i) of Section 227 thereby providing exemption on 'locally manufactured motor vehicle having engine capacity not exceeding 1300 CC; locally manufactured motorcycle, motorcycle-rickshaw and rickshaw; locally manufactured agricultural tractor'. However, through Finance Supplementary (SA) Act, 2019,

exemption has been granted to 'locally manufactured motor vehicle' without specifying any details as given in Act.

#### 10) Section 230E - Directorate-General of International Tax Operations [Amendment]

[Amended thru Clause 4(10) of Finance Act]

Through the Finance Supplementary (SA) Act 2019, the Government had proposed to omit Section 230E from the ITO, 2001 thereby abolishing the office of Director General of Transfer Pricing. However, through the Finance Supplementary (SA) Act, 2019 passed by the parliament the government has amended Section 230 E thereby establishing a specialized tax department with the name and title of 'Directorate General of International Operations' which has been tasked to exclusively deal with the cases of undisclosed offshore assets and income of Pakistanis held abroad.

The Directorate shall be imposing and recovering taxes from them and interact directly with foreign tax jurisdictions for exchange of information. The Directorate shall have a Director General and as many directors, additional directors, deputy directors, assistant directors and officers as FBR may appoint by notification. The Directorate has also been empowered to conduct transfer pricing audit in cases selected for such an audit by the Director General.

#### 11) Section 233A - Collection of tax by a stock exchange registered in Pakistan

[Amended thru Clause 4(11) of Finance Act]

The advance income tax on members of stock exchanges has been abolished from 1st March 2019.

### FIRST SCHEDULE

#### 12) First Schedule, Part I, Division IIA Rate of Super Tax

[Amended thru Clause 4(12) (A) of Finance Act]

Super tax on non-banking persons has been abolished after tax year 2019 whereas super tax on banking companies will continue with fixed rate of 4 percent upto the year 2021.

Particular	Rates of Super Tax							
	Banking Companies				Non-Banking Companies			
	2018	2019	2020	2021	2018	2019	2020	2021
Existing rate	0%	4%	3%	2%	3%	2%	1%	0%
Proposed rate	4%	4%	4%	4%	3%	2%	0%	0%

#### 13) First Schedule, Part II, Proviso Clause (b) Rates of Advance Tax

[Amended thru Clause 4(12) (B) of Finance Act]

Advance income tax rates have been specified on the C&F value of imported mobile phones. On C&F value exceeding US\$ 500, the advance tax would be Rs. 5,200/-

Sr.	C & F Value of Mobile Phone (USD)	Tax (Rs.)
1	Up to 30	70
2	Exceeding 30 and up to 100	730
3	Exceeding 100 and up to 200	930
4	Exceeding 200 and up to 350	970
5	Exceeding 350 and up to 500	3,000
6	Exceeding 500	5,200

#### 14) First Schedule, Part IV, Division VI Cash withdrawal from a bank

[Amended thru Clause 4(12)(C)(a) of Finance Act]

Advance income tax @ 0.3% on cash withdrawal exceeding Rs. 50,000 by tax filers has been abolished. Advance tax @ 0.6% on cash withdrawal by Non-Filers shall remain applicable.

#### 15) First Schedule, Part IV, Division VIA Advance tax on Transactions in Bank

[Amended thru Clause 4(12)(C)(b) of Finance Act]

Advance income tax @ 0.3% on purchase of banking instruments by tax filers has been abolished. Advance tax @ 0.6% on purchase of banking instruments by Non-Filers shall remain applicable.

#### 16) First Schedule, Part IV, Division VII, Clause 1 - Advance Tax on Purchase, Registration and Transfer of Motor Vehicles [Amended thru Clause 4(12)(C)(c) of Finance Act]

Advance tax on purchase, registration or booking of motor vehicles by Non-Filers is proposed to be increased as under:

#### Advance Tax on purchase of Motor Car and Jeep by Non-Filers

Sr.	Engine capacity	Previous rates	Proposed rates
1.	upto 850cc	Rs. 10,000	Rs. 15,000
2.	851cc to 1000cc	Rs. 25,000	Rs. 37,500
3.	1001cc to 1300cc	Rs. 40,000	Rs. 60,000
4.	1301cc to 1600cc	Rs. 100,000	Rs. 150,000
5.	1601cc to 1800cc	Rs. 150,000	Rs. 225,000
6.	1801cc to 2000cc	Rs. 200,000	Rs. 300,000
7.	2001cc to 2500cc	Rs. 300,000	Rs. 450,000
8.	2501cc to 3000cc	Rs. 400,000	Rs. 600,000
9.	Above 3000cc	Rs. 450,000	Rs. 675,000

#### 17) First Schedule, Part IV, Division XI Advance tax on functions and gatherings [New proviso added after Table]

[Amended thru Clause 4(12)(C)(d) of Finance Act]

Advance Tax on functions of marriage in a hall, marquee or a community place with total area of less than 500 square yards or, in case of a multi storied premises, with largest total function area on one floor less than 500 square yards, has been reduced to 5% of the act ad valorem or Rs. 5,000 per function [previously Rs. 20,000] whichever is higher.

### SECOND SCHEDULE

#### 18) Second Schedule, Part I, Clause 66 Exemption from Tax on Income derived by institutions

[Amended thru Clause 4(13)(A)(a) of Finance Act]

Exemption from tax on income has been granted through this Finance Supplementary (SA) Act, 2019 to the following three other institutions:

- National Disaster Risk Management Fund
- Deposit Protection Corporation and
- Surmaya-e-Pakistan Limited

#### 19) Second Schedule, Part I, Clause 103C added - Exemption from Tax on Income derived by a Company

[Amended thru Clause 4(13)(A)(b) of Finance Act]

Exemption from tax has been granted on dividend income derived by a company, provided the recipient of dividend for the tax year has availed group relief under section 59B, computed according to the formula  $A \times B/C$ ; where A is the

amount of dividend; B is the shareholding of the company receiving the dividend in the company distributing the dividend; and C is the total ordinary share capital of the company distributing the dividend.

**20) Second Schedule, Part I, Clause 126 I Profits and gains derived by a taxpayer from an industrial undertaking**  
[Amended thru Clause 4(13)(A)(c) of Finance Act]

The tax exemption on profit and gains has been enhanced and extended to manufacturers of plant, machinery and equipment for dedicated use in renewable generation set up between 1st March, 2019 and 30th June, 2023 for five years.

**21) Second Schedule, Part I, Clause 126N added - Profits and gains of a company from a green field industrial undertaking**  
[Amended thru Clause 4(13)(A)(d) of Finance Act]

Tax exemption has been provided on profits and gains of a company from a green field industrial undertaking for a period of five years incorporated on or after the first day of July, 2019 provided that the green field industrial undertaking is not formed by the splitting up or reconstitution of an undertaking already in existence or by transfer of machinery or plant from an undertaking established in Pakistan before the commencement of the new business.

**22) Second Schedule, Part IV, Clause 11 A - Exemption from Specific Provisions [addition of four sub-clauses after clause xxx]**  
[Amended thru Clause 4(13)(B)(a) of Finance Act]

Exemption has been granted from minimum tax u/s 113 of Income Tax Ordinance, 2001 to four institutions namely:

- (a) National Disaster Risk Management Fund
- (b) Deposit Protection Corporation
- (c) Surmaya-e-Pakistan Limited and
- (d) Green field Industrial Undertaking;

**23) Second Schedule, Part IV - Exemption from Specific Provisions [addition of new Clauses 36B, 36C, 36D & 36E]**  
[Amended thru Clause 4(13)(B)(b) of Finance Act]

Exemption has been granted from Section 150 and Section 151 of Income Tax Ordinance on the following:

- (a) Exemption from Section 151 on Profit on debt paid on promissory notes and sales tax refund bonds issued under the provisions of the Sales Tax Act, 1990 [New Clause 36B]
- (b) Exemption from Section 151 on profit on debt paid on Pakistan Banao Certificate [New Clause 36C]
- (c) Exemption from Section 150 and 151 on Sarmaya-e-Pakistan Limited [New Clause 36D]
- (d) Exemption from Section 151 on profit on debt paid on bonds issued under the Federal Government Duty Drawback Bonds Rules, 2019 [New Clause 36E]

**24) Second Schedule, Part IV-Exemption from Specific Provisions [addition of a new Clause 60D after Clause 60C]**  
[Amended thru Clause 4(13)(B)(c) of Finance Act]

Exemption has been granted from Section 148 on the import of firefighting equipment by industrial undertakings, set up in the special economic zones established by the Federal Government.

**25) Second Schedule, Part IV - Exemption from Specific Provisions [addition of a new Clause (38D) after Clause (38C)]**

[Amended thru Clause 4(13)(B)(d) of Finance Act]

Exemption has been granted to National Disaster Risk Management Fund from tax deductions under Section 151 and Section 153

**26) Second Schedule, Part IV - Exemption from Specific Provisions [addition of a new Clause (81A) after Clause (81)]**

[Amended thru Clause 4(13)(B)(e) of Finance Act]

Exemption has been granted to banking companies from filing withholding statements for furnishing information of taxes collected and deducted under Section 231A and Section 151.

**27) Second Schedule, Part IV - Exemption from Specific Provisions [addition of a new Clause (95A) after Clause (95)]**

[Amended thru Clause 4(13)(B)(f) of Finance Act]

Exemption has been granted on auction of franchise rights to teams participating in national or international sports league organized by any board or other organization established by the Government in Pakistan for the purposes of controlling, regulating or encouraging major games and sports recognized by Government. It will be effective from July 01, 2019.

**28) Second Schedule, Part IV - Exemption from Specific Provisions [addition of a new Clause (101A) after Clause (101)]**

[Amended thru Clause 4(13)(B)(g) of Finance Act]

Exemption from payment of withholding tax has been granted on Pak Rupee accounts subject to condition that the deposits in said accounts are made solely from foreign remittances by Pakistani expatriates.

**29) Second Schedule, Part IV - Exemption from Specific Provisions [addition of a new Clause (111) after Clause (110)]**

[Amended thru Clause 4(13)(B)(h) of Finance Act]

The taxable income of banking company has been exempted from additional financing in specific sectors from super tax. Accordingly, the provisions of Section 4B shall not apply on taxable income of banking company subject to reduced rate of tax at 20 percent under rules 7D, 7E and 7F of the Seventh Schedule for tax years 2020 to 2023.

## SEVENTH SCHEDULE

**30) Seventh Schedule, Rule 7C [addition of new Rules 7D, 7E & 7F after Rule 7C]**

[Amended thru Clause 4(13) of Finance Act]

The Seventh Schedule to ITO 2001 has been amended through insertion of following new Rules to provide for reduced rate of tax on income of banks arising from additional financing to Micro, Small & Medium Enterprises, Low-cost Housing, and Farm Credit:

**(7D)** - Reduced rate of tax for additional advances to micro, small and medium enterprises

**(7E)** - Reduced rate of tax for additional advances to low cost housing finance

**(7F)** - Reduced rate of tax for additional advances as Farm Credit

*Note: wherever the word 'Finance Act' has been used, it means the Finance Supplementary (Second Amendment) Act, 2019.*