TOLA ASSOCIATES
TAX & CORPORATE ADVISORS

TAX PAK

NEWSLETTER BY TOLA ASSOCIATES

AUGUST

2021

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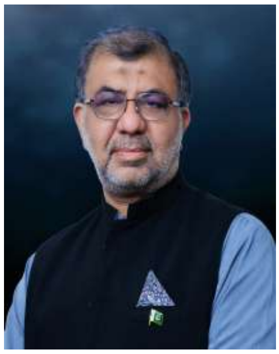

A very warm welcome to our readers to yet another edition of our newsletter "Tax Pak" for the month of August 2021. As our newsletter serves as medium of communication, we would like to wish health and prosperity amid the 4th wave or Delta variant of Corona Virus to our readers. By the blessing of Almighty Allah, we have compiled comprehensive yet cardinal sets of information to keep our readers abreast of the current situation of tax and corporate world.

Moving ahead, as per our custom, we would like to apprise our readers regarding the scheme of things which they should expect while transcending to our newsletter. First of all, we begin our newsletter with important updates from the Tax regulatory authorities including, but not limited to Federal Board of Revenue [FBR] and Sindh Revenue Board [SRB]. Secondly, the mid part of our newsletter consists of updates from the Securities and Exchange Commission of Pakistan [SECP] which can be of due importance to the entities from the corporate compliance point of view and, a judgment passed by an adjudicating authority on the subject of taxation. In this month, the judgment belongs to a verdict passed by Supreme Court of Pakistan on the matter of "Further Tax on Zero Rated Supplies".

In the end, we finalize our Newsletter, with our customary Topic of the month segment. In this month, the topic selected for discussion is "PAKISTAN SINGLE WINDOW OR PSW" which can be of immense importance to people involved in cross-border transactions.

All our readers are requested to visit our website www.tolaassociates.com, or download our mobile application from the links mentioned below, in order to access previously published editions of this monthly issue along with other publications, and to stay updated of future notifications.

1. https://goo.gl/QDM4ZM **(iOS)**
2. https://goo.gl/LFiWyx **(Android)**

Lastly, we request our readers to circulate this e-copy within their circle, as our primary aim is to benefit the masses. Feedback is always welcomed.

Ashfaq Tola - FCA
Editor in Chief

TAX NOTIFICATIONS/ CIRCULARS

1. EXEMPTION ON IMPORT OF 30 MILLION ADULT 3XPLY KNIT FACE MASKS

The FBR has issued SRO 1009(I)/2021 dated 9th August 2021, whereby clause 12BA is added in Part IV of Second Schedule of Income Tax Ordinance, 2001 which gives exemption from Income Tax u/s 148 on import of 30 million adult 3xply Kinit face masks received as humanitarian assistance from M/s HANES Brands Inc. North Carolina, USA for distribution within the population of Lahore Division, Government of the Punjab.

2. EXEMPTION ON COVID-19 RELATED MEDICAL EQUIPMENT

The FBR had earlier given exemption on COVID-19 related medical items/equipment by inserting clause 12B in Part IV of Second Schedule of Income Tax Ordinance, 2001 which available till 30th June 2021. Now through SRO 1008(I)/2021 dated 9th August 2021 this has been extended till 31st December 2021.

Similar exemption of sales tax on imports of these items is also extended upto 31st December 2021 vide SRO 1007(I)/2021 dated 9th August 2021.

3. INCOME TAX RETURN FORMS MANUAL FOR INDIVIDUAL AND AOPS FOR TAX YEAR 2021

The FBR has issued manual return forms for individual and AOPs for Tax Year 2021 through SRO 1073(I)/2021 dated 27th August 2021.

4. CLARIFICATION REGARDING PENSION, GRATUITY AND SUPERANNUATION FUNDS

The FBR has issued letter no. 1(47) Secy(ITC)/2021 dated 30th July 2021 to all Chief Commissioners to issue clarification regarding exemption of provident, gratuity and Superannuation funds in terms of newly promulgated Trust Acts by provinces and Islamabad Capital Territory. The provident funds, superannuation funds and gratuity funds were operated as trusts registered under the Trust Act 1882. However, it is now repealed through following acts:

- Sindh Trusts Act, 2020
- The Balochistan Trust Act, 2020
- The Punjab Trusts Act, 2020
- Khyber Pakhtunkhwa Trust Act, 2020
- Islamabad Capital Territory Trusts Act, 2020

All these Trusts Acts originally provided for creation of by natural persons only. This created confusion and ambiguity regarding the status of existing and creation of new trusts by legal persons. On realization of this legal vacuum coordinated efforts were made by provincial authorities SECP, FBR, FMU, SBP and other stakeholders. All the provinces and ICT agreed to amend trust acts to incorporate provisions regarding specialized trusts created by legal persons with the stipulation that specialized trust would be regulated by SECP and FBR. FBR agreed to act as a regulator of Trusts regarding Provident Funds, Superannuation Funds and Gratuity Funds.

So far, Sindh and KPK have amended their trusts acts to incorporate provisions regarding specialized trusts. However, remaining provinces and ICT have yet to amend their acts. Moreover, all provinces and ICT have boy yet promulgated rules/amended rules. The draft amended rules of Sindh have been issued and would require NOC from regulator for registration and creation. Currently, different officers of FBR are following different tax treatment to already recognized/approved Provident funds, Superannuation funds, and Gratuity funds. Moreover, different provinces and ICT are yet to amend laws and rules,

In the light of above background, to safeguard the interest of employees making contribution to these funds and to accord uniform treatment, it has been decided that FBR will issue NOC for registration/registration to all approved/recognized funds which have filed returns for tax year 2020 and direct them to provide registration on or before 31.12.2021. During the pendency of registration under amended/to be amended laws, all field formations are directed to treat approved/recognized funds as registered for taxation purposes till above date and process their cases accordingly. If any adverse inference has been drawn, it is requested to be rectified in the light of directions as per this letter.

5. FINANCE ACT, 2021 - AMENDMENT IN SECTION 122 OF THE INCOME TAX ORDINANCE, 2001

The Finance Act 2021 has made significant amendment in Section 122 of the Ordinance whereby a limitation of 120 days has been imposed with regard to the period of time during which amendment of assessment under section 122 of the Ordinance must be completed subsequent to issuance of a Show Cause notice. In case the proceedings cannot be completed within prescribed time period of

120 days, the Commissioner may extend the time limit for upto another 90 days for recorded reasons. The new provision would apply to the Show Cause notices issued after July 1, 2021. The FBR has issued letter no. C.No. 6(9)S(IR-Operations)/2021/Pt dated 16th August 2021 whereby all officers are directed to follow is follow this and Commissioners are required to ensure necessary guidance is provided to assessing officers in this regard.

6. INSTRUCTIONS REGARDING PROCESSING OF INCOME TAX REFUND FOR TAX YEAR 2020

The FBR has issued letter no. 4(10)Rev Bud/2020 dated 17th August 2021 whereby it is noted that there are still huge number of applications involving significant amount of refund are pending with field formations. As a result a number of refund claimants are lodging complaints at different foras for processing of their refund claims. This situation can be averted through regular processing of refund claims of taxpayers diligently as per law. It is directed that pending income tax refund claims for tax year 2020, upto Rs 50 million may be processed after completing all formalities by 15.09.2021.

7. EXEMPTION OF FOREIGN REMITTANCES

The FBR has issued Circular No. 5 of 2022 whereby it is noted that FBR has received representations indicating that Tax regulations, SBP regulations and the case law developed over time are in conflict with each other when it comes to taxation or non-taxation of foreign remittances resulting in initiation of avoidable tax proceedings, creation of unsustainable tax demand and additional burden for taxpayers. It is therefore FBR now issued comprehensive set of instructions for uniform implementation across the board and all circulars and instructions issued on the matter previously issued stand rescinded.

The FBR in this letter present historical context in which it discussed the laws applicable regarding foreign remittance including Income Tax Act, 1922, Economic Coordination Committee of the Cabinet(ECC) decision in 1972, The Protection of Economic Reforms Act, 1992. Until 2015, there was no upper limit to avail exemption u/s 111(4) of Income Tax Ordinance, 2001. A limit of Rs 10 Million was brought in 2018, which later on reduced to Rs 5 million vide FA 2019. However, this exemption is subject to fulfillment of four conditions:

a) The remitted amount is in foreign exchange

b) The amount is remitted into Pakistan through normal banking channels

c) The amount is encashed by a schedule bank, and

d) a certificate of encashment is issued by the bank concerned.

However, due to innovation in banking and money transfer mechanisms other entities such as Money Services Business(MSBs), Exchange Companies(ECs), and Money Transfer Operators(MTOs) perform almost identical to those of Schedule Banks. In some situations, IRS officers have refused concessions on foreign remittance remitted via ECs, that is, Money Gram, Western Union and Ria France etc relying on ATIR judgment reported as ITA.No.794/LB of 2021 dated October 10, 2013 in which it has held that above 4 conditions are mandatory to claim the benefit of foreign remittances.

The SBP however, while responding to Federal Tax Ombudsman memorandum vide letter no. EPD/8302/EPP16(37)-Misc-2019 dated 08.04.2019 have categorically taken the position that foreign exchange remitted into Pakistan via MSBs, ECs and MTOs such as Western Union, Money Gram, and Ria France etc, does constitute ”foreign exchange remitted through normal banking channels” for all legal purposes. However, FBR has challenged this SBP instance through Reference C.No. 1(1)TP/2017(A) dated March 31, 2021.

The SBP has replied ground wise as follows:

No.	Condition	SBP's Views/Comments
1	Amount should be in foreign exchange.	Home remittances amount is received from MSB/ECs in Pakistan in Foreign exchange.
2	Amount should be remitted from outside Pakistan through normal banking channel	Foreign exchange is received by Pakistani banks in their nostro accounts through the normal banking channel from overseas jurisdictions.
3	Amount should be encashed by a schedule bank	Foreign exchange is surrendered(encashed) in interbank market and home remittance is paid in PKRs

4	Certificate of encashment in respect of the amount should be produced by the concerned bank	An encashment certificate is issued by bank that has received foreign exchange from abroad on behalf of the beneficiaries in the matter.

The FBR has accepted the above instance of SBP being frontline regulator of all foreign exchange moving into or outside the country, and have directed its officers to take lenient interpretation to the conditions stipulated in Section 111(4) of the ITO, 2001 when claim is made in case of foreign remittance. Further all department appeals filed on interpretation of law be withdrawn immediately and no further appeal be filed if on all fours of this clarification.

8. FIXATION OF VALUE OF STEEL IN RESPECT OF LOCALLY PRODUCED GOODS

Section 2(46) of Sales Tax Act, 1990 prescribe rules relating to determination of value of supply for purpose of calculation of tax. It also gives power to FBR to fix the value of any imported goods or taxable supplies and for that purpose fix different values for different classes or description of same type of imported goods or supplies.

Now in exercise of above power, FBR has issued SRO 985(I)/2021 dated 4th August, 2021 whereby following values are prescribed for steel in respect of locally produced goods:

S.No.	Goods	Value
1	Steel bars and other long profiles	Rs 140,000 per metric ton
2	Steel billets	Rs. 125,000 per metric ton
3	Steel ingots/bala	Rs. 120, 000 per metric ton
4	Ship plates	Rs. 120,000 per metric ton
5	Other re-rollable iron and steel scrap	Rs. 118,000 per metric ton

In case the value of supply of the goods specified in this Notification is higher than the values fixed herein, the value of goods shall be the value at which the supply is made.

9. IMPOSITION OF WITHHOLDING TAX ON ONLINE MARKET PLACE UNDER ELEVENTH SCHEDULE TO THE SALES TAX ACT, 1990

Through Finance Act, 2021 online market place was included in Eleventh Schedule as a withholding agent and required to withhold tax @ 2% of gross value of supplies from persons other than active taxpayers from the date as notified by FBR. Now FBR through SRO 984(I)/2021 dated 4th August 2021 has directed that the above entry will be effective from 1st September 2021.

10. SALES TAX ON HYBRID ELECTRICAL VEHICLES

The had earlier issued SRO 587(I)/2017 dated 1st July 2017 whereby it prescribes following reduce rate for Hybrid Electrical Vehicles (HEVs) falling under PCT Heading 87.03 on local supplies as follows:

- Upto 1800 cc = 8.5%
- 1801 cc to 2500 cc = 12.75%

Now this SRO is withdrawn through SRO 983(I)/2021 dated 4th August 2021 whereby these are now chargeable at standard rate of 17%.

11. CHARGEABILITY OF SALES TAX ON SUGAR

Through Finance Act 2021, sugar except where it is supplied as an industrial raw material to pharmaceutical, beverage and confectionery industries was included in third schedule of Sales Tax Act, 1990 whereby the manufacturers will charge sales tax @17% on retail price. However, FBR through SRO 989(I)/2021 dated 5th August 2021 has suspended applicability of above till 30th November 2021, until then it will taxable under normal tax regime and manufacturers will charge sales tax on ex-factory price.

Meanwhile, the FBR has also fixed ex-mill value of domestically produced white crystalline sugar @72.22 per kg as per SRO 1027(I)/2021 dated 16th August 2021 for the purpose of determining value of supply in terms of Section 2(46) of Sales Tax Act, 1990.

12. STANDARDIZED FORMAT FOR INVOICES ON POS INTEGRATED WITH FBR

FBR has issued SRO 1006(I)/2021 dated 9th August 2021, whereby it has issued standardized format for invoices issued under sub-rules (5) and (6) of Rule 150ZEB of Sales Tax Rules 2006. The following information, at minimum, is required to be clearly printed on every invoice issued through all Point of Sale (POS) systems integrated with FBR, a sample invoice also given as annexure:

1. Business information:-
   a) Business name or brand name
   b) Complete address of the business location
   c) FBR's Sales Tax Registration Number (STRN) and National Tax Number (NTN)
   d) Name of the Tax Office/Formation, the business is registered at; and
   e) Unique PoS registration
2. Invoice details:
   a) Unique sequential invoice number
   b) Date and time of sale
   c) Mode of payment (cash, credit or debit card, cheque or gift vouchers); and
   d) Optional for business to business (B2B); Name of the buyer/customer/service recipient

(Name is recorded when the customer is liable for the tax or credit or invoice value is above Rs 100,000/-)

3. Transaction details
   a) Item-wise description of goods or service and (unit) price exclusive of tax;
   b) Tax rate for each item (item wise breakdown of tax rate. Apply 0% if an item is exempt)
   c) Item-wise quantity of goods
   d) Tax amount
   e) Total sale value
   f) Tax charged on the invoice
   g) Discounts, if any
   h) PoS service fee of Rs 1/- per invoice
   i) Total payable amount
   j) Total received amount
4. FBR details
   a) FBR fiscal invoice number (XXXXXX-DDMMYYHHMMSS-0001)
   b) Logo of FBR's PoS invoicing system
   c) Verifiable QR code, dimensions; 7X7MM; and
   d) Statement in legible font and size: "Verify this invoice through FBR Tax Assan Mobile App or SMS at 9966 and win exciting prizes in draw

In other letter dated 16th August 2021 titled: Operationalization of SRO 1006(I)/2021 of 9th August 2021, it is informed that the "Invoice No" at the top of the standardized invoice is the "Unique sequential invoice number" as per Sub Rule (5) of Rule 150 ZEB of the Sales Tax Rules 2006 and will portray the Tier-1 retailer's own sequential invoice number. The FBR Invoice number shall be the 18 digit FBR's fiscal invoice number as per Sub Rule (6) of Rule 150 ZEB of the Sales Tax Rules, 2006.

The POS Service Fee of Rs.1 per invoice shall be collected by the T-1Rs from the Customer and shall be deposited along with the monthly Sales Tax return which is being amended to include a row for "POS Service Fee". This row shall be auto populated by the system based on the invoices generated and recorded at the Board's computerized System. The POS Service Fee collected each month shall be deposited by the T-1 Retailer in a separate Head of Account

13. FBR INSTRUCTIONS REGARDING POS INTEGRATION

The FBR has issued letter no. F.No.07/POS/IR/2021 dated 20th August 2021, whereby it has directed its officer that the data of integratable Tier -1 Retailers as defined in Section 2(43A)(f) has been collected from POS machine sponsoring banks. The data so received from banks has been sorted Formation-wise to create list of (a) registered persons and (b) and persons liable to be registered for sales tax. At this point, the list of registered persons are being sent to respective formations to undertake due diligence and application of mind so that no undue cases get included in the upcoming STGO, which would eventually end up denying 60% of the input claimed by them next month. The required information by field formations be supplied by August 25, 2021.

14. PROCEDURE FOR PRIZE SCHEMED

As per 56C of Sales Tax Act, FBR is empowered to prescribe rules regarding prize schemes to encourage the general public to make purchases only from registered persons issuing tax invoices.

The FBR has now issued SRO 1005(I)/2021 dated 09th August 2021 whereby it has omitted Rules relating to

Cash Back to customer under chapter XIV-AB of Sales Tax Rules, 2006 and introduced chapter XIV-AC relating to Prize Schemes which apply to customers of tier-1 retailers who have integrated their retail outlets with FBR Computerized system for real time reporting of sales and mystery shopping in respect of verification of invoices from such retailers.

Procedure for prize schemes

The customers of integrated tier-1 retailer, whose names and CNICs are notified through random computerized draw shall be entitled to prizes in respect of their purchases from the integrated tier-1 retailers. The customers shall verify the electronically generated invoice of integrated retailers either through "tax asaan" application or by sending sms to number 9966.

The application shall notify the customer regarding the status of invoice either as "verified" or "unverified". In case of verified invoice, the customer shall furnish one time, the detail to the online system, such as: Name; CNIC; and Mobile number. Names and CNICs of the customers shall be included in the random computerized draw. In case of unverified invoice, the customer shall report the same through system. The Board shall conduct enquiry and take appropriate action under the relevant provisions of law. The computerized draw for the prizes shall be held in the first week of every month starting from the month of August, 2021 at the FBR Headquarters and the invoices of the immediately preceding month shall be entered in the draw.

Draw winners shall be required to perform biometric verification, at the nearest e-sahulat facility of NADRA and submit scanned copy on "tax assan" application. After successful biometric verification, winners shall be required to provide their IBAN through "tax asaan" application. The total prize money and the denomination of the prizes shall be decided on month to month basis by the FBR.

Procedure for mystery shopping

Mystery shopping shall be conducted by a person or the firm, duly authorized by the Board. The person or firm authorized by the FBR, shall carry out mystery shopping on random basis from tier-1 retailers. The person or firm authorized by the Board under sub-rule (1), shall verify the invoices from the online system of FBR and in case of fake or invalid invoice, report the matter to the Board for necessary action as per relevant provisions of the Act and the rules.

The informer may claim reward on the basis of the detection and recovery made in consequence of fake or invalid invoice in terms of provisions of section 72D of the Act.

15. INPUT TAX CREDIT AND SUPPLY MADE BY THE REGISTERED PERSON IN AJK & GB

As per Rule 161 of Sales Tax Rules, 2006 The input tax credit against invoices issued by persons registered under sales tax law of Azad Jammu and Kashmir shall be available to a buyer registered under the Act in Pakistan, if such AJK registered persons are enrolled with the Board’s Computerized System and are also on the active taxpayer list maintained by AJK sales tax authorities.

AJK registered persons at the time of their enrolment with the Board shall furnish an undertaking that they will provide their supply record and the return filed in AJK as and when required by the respective CTO, RTO or LTO, where the respective buyers are registered to ascertain correctness of their sales to Pakistani registered persons. From such date when the AJK authorities institute e-filing for their registered persons, the adjustment as aforesaid shall only be available against electronic data of supplies as provided to the Board by AJK authorities

Now through SRO 1064(I)/2021 dated 24th August 2021 the above rules are now applicable in respect of Gilgit Baltistan also.

16. INTEGRATION OF TIER-1 RETAILERS AND LICENSING THEREOF

The FBR has issued SRO 1063(I)/2021 dated 24th August 2021 whereby it has issued additional rules for licensing of vendors for Tier-1 retailers integration as chapter XIV-BB. As per Rules No person shall carry out integration of the retailers through software unless he has obtained a licence under these rules. No licensee under these rules shall maintain or operate system or provide any other service, which is not authorized under these rules. Every payment counter whether fixed or portable and generates invoices for receipt of payment either in cash or through debit or credit card shall be connected as per rule 150ZEB. Every licensee shall be bound to integrate the payment counter in the manner as prescribed under sub rule (4), (5),(16) and (17) of rule 150ZEB.

Functions of the licensing committee

The Project Director Retail Monitoring Cell shall be the convener of the licensing committee located at FBR House, Islamabad. The Board shall provide secretarial and other allied support for functioning of the licensing committee.

Application for grant of license

An application for installation, configuration and integration of point of sale (POS) machine shall be made in duplicate to the Board. It should accompany by following:

i. registration certificate issued by Pakistan Software Houses Association or Institute of Chartered Accountants of Pakistan;

ii. audited statement of accounts for the last three financial years;

iii. list of major clientele;

iv. incorporation certificate under the Companies Act;

v. National Tax Number (NTN) Certificate;

vi. the paid up capital for the latest financial year is at least Rs.100 million or above;

vii. registration with Sales Tax Department if required;

viii. Computerized National Identity Cards (CNICs) of directors of the incorporated company;

ix. undertaking that the company has never been blacklisted by any Government or Provincial department or organization and has not been involved in confirmed cases of fiscal fraud;

x. list of projects executed in the last three years;

xi. and any other documents required through instructions orders issued by the Board.

Procedure for grant of license

- On receipt of application for grant of licence in the Board, the licensing committee shall scrutinize the document provided and it shall evaluate the eligibility of the applicant within seven days of receipt of application.
- The licensing committee may also carry out visits, if necessary for physical inspection to ascertain the eligibility of the applicant for licensing under these rules.
- The licensing committee shall send its recommendations to the Member (IR — Operations) and the Director General Retail within ten days of date of submission of the application, specifying reasons for recommending or rejection of any application under these rules.
- In case, the companies meet the criteria under these rules, the licensing committee shall make recommendations for grant of licenses.
- The licensing committee shall grant the licence to the recommended companies with the prior approval of Member (IR — Operations) and Director General Retail.
- The licence granted under these rules shall be subject to provisions of the Act and shall be valid for five years from date of issuance.
- The application for renewal of licence shall be made to the Board three months before its expiry.

Technical support

The licensee shall be responsible for post deployment maintenance of Point of Sale as detailed below:

(a) setting up and maintenance of all information technology equipment connected to point of sales; and

(b) the licensee shall be authorized to, -

(i) upgrade of the system hardware and software;

(ii) all bug fixes; and

(iii) immediate response to trouble shooting of any post deployment problems for uninterrupted working of the system.

The licensee shall be responsible for safe and secure capture of real time transmission of sales data from the retails outlet to FBR database at all times.

The licensee shall charge the fee for configuration and integration of point of sales from the retailers. No fee shall be charged from any of the field formation of the Board.

Responsibilities of the Tier-I retailers

The Tier-I retailer shall —

(a) make all payment counters comprising of point of sale at each out let, available for installation of the systems;

(b) be responsible for smooth functioning of point of sales;

(c) report to the Board and the concerned Commissioner Inland Revenue within twenty four hours of any operational failure, damage disruptions or tampering of the system; or

(d) report any inoperative point of sale to the Commissioner Inland Revenue holding the jurisdiction.

Functions of Commissioner Inland Revenue

The Commissioner having jurisdiction, shall monitor proper and uninterrupted operation of the system through periodic visits by an officer of Inland Revenue authorized in this behalf. Where a Tier-I retailer does not account for sales without generating an invoice countering QR code or FBR invoice number, the Commissioner shall compute the taxes on such goods relating to unaccounted invoices, and recover the same under the relevant provisions of law. The Board shall establish Inland Revenue enforcement network which shall be responsible for combatting evasion and leakage of taxes payable on goods by way of co-ordinating with enforcement units of the concerned filed formations. The Commissioner, after receipt of report from enforcement network, shall recover the tax in accordance to the provisions of the Act.

17. CHANGE IN SALES TAX ON PETROLEUM PRODUCTS

The FBR has issued SRO 1072(I)/2021 dated 26th August 2021 whereby following rates are applicable w.e.f. 16 August 2021.

S.No.	Description	PCT Heading	Current Rate	Previous Rate
1	MS (Petrol)	2710.1210	10.54% ad valorem	10.77 % ad valorem
2	High Speed Diesel Oil	2710.1931	17.00% ad valorem	17.00% ad valorem
3	Kerosene	2710.1911	6.70% ad valorem	06.70% ad valorem
4	Light Diesel Oil	2710.1921	0.20% ad valorem	0.20% ad valorem

18. TAXATION OF FATA/PATA DOMICILED INDUSTRIES

FBR has issued Circular 03 of 2021 dated 10th August 2021 whereby it is noted that a number of significant amendments have been introduced via Finance Act, 2021in the Sales Tax Act, 1990 (hereinafter "STA, 1990") as applicable to various industries located in FATA/PATA regions. The most important change brought about by the Finance Act 2021, is vis-A-vis the new entry No. 74 added in 8thSchedule to the STA, 1990, to charge sales tax ® 16% on all "Goods supplied from tax-exempt areas of erstwhile FATA/PATA to the taxable areas.

Accordingly, a FATA/PATA-domiciled person having status of "Active Taxpayer" in terms of Section 2(1) of the STA, 1990 would continue to import raw materials for consumption at his own manufacturing site against deposit of post-dated cheques (PDC) in line with its determined installed production capacity. The Importation, Transportation, Exemption (from import-stage income tax), and Consumption of raw materials have been elaborately dealt with vide FBR's COO # 1 of 2021, Circular # 5 of 2021, Circular # 9 of 2021 and Circular No.13 of 2021, which continue to be applicable.

In order to facilitate the operationalization of benefits laid down in the law, the FATA/PATA-domiciled industrial units may acquire installed capacity determination certificate (ICDC) from the Khyber Pakhtunkhwa Department of Industries or the Ministry of Industries, Government of Pakistan. The Commissioner concerned shall accept the ICDC presented until he has reasons to believe that the actual capacity installed is less than the capacity determined and certified. It goes without saying that only the goods meant for value addition are to be imported and not finished products.

In order to undertake foolproof surveillance of exit points from nontaxable to taxable territories, Inland Revenue Enforcement Network (IREN) check posts under Section 40D of the STA, 1990 are being established and functionalized to ensure that due tax is paid at the rate of 16 percent on goods supplied into taxable territories. The Regional Tax Office, Peshawar shall also establish a tax office in Malakand Division for prompt release of consignments, processing of Consumption and Exemption Certificates and effective and timely implementation of law in letter and spirit

19. EXTENSION IN DATE OF FEDERAL SALES TAX/FEDERAL EXCISE RETURNS FOR JULY 2021

The issued letter no. C.No.9(11) ST-LPE/Misc/2016 dated 13th August 2021 whereby it has extended date of payment of sales tax upto 23rd August 2021 and date of submission of return upto 24th August 2021.

20. EXTENSION IN DATE OF KPK SALES TAX RETURNS FOR JULY 2021

KPRA has issued letter no. 706 dated 16th August 2021 whereby it has extended date of payment of sales tax upto 24rd August 2021 and date of submission of return upto 27th August 2021.

21. EXTENSION IN DATE OF PRA SALES TAX RETURNS FOR JULY 2021

PRA has issued letter no. 85 dated 14th August 2021 whereby it has extended date of payment of sales tax and date of submission of return upto 24th August 2021.

22. EXTENSION IN DATE OF SRB SALES TAX RETURNS FOR JULY 2021

SRB has issued circular no. 4 of 2021 dated 16th August 2021 whereby it has extended date of payment of sales tax upto 24th August 2021 and date of submission of return upto 27th August 2021.

23. SINDH SALES TAX- SERVICES PROVIDED OR RENDERED BY HOTELS, MOTELS, GUEST HOUSES, CLUBS, RESTAURANTS, MARRIAGE HALLS AND LAWNS], CATERERS ETC.

As per Sindh Sales Tax Rule 42(4), every person shall print, in his menu card or list of food items to be supplied, the price of each item or as the case may be, combination of food, inclusive of all duties and taxes, whether Provincial or Federal, including the Sales Tax. The recipient or consumer of food shall be invoiced or billed pay only the price shown in the menu card or price list.

Now SRB has issued notification SRB-3-4/29/2021 dated 26th August 2021 whereby in case of the persons, providing or rendering the services of a restaurant, whose Point of Sale (POS) system for invoicing is linked or is required to be linked with the system of the Board, the provisions of aforesaid above sub rule shall not apply w.e.f 1st October 2021.

24. SINDH SALES TAX- PROCEDURE FOR THE LEVY, COLLECTION AND PAYMENT OF TAX ON THE RENTING OF MACHINERY, EQUIPMENT, APPLIANCES, AND OTHER TANGIBLE GOODS.

As per Rule 42BBC(2), The rate of tax shall be 5% as prescribed against tariff heading 9806.6000 in the Table of notification No. SRB-3- 4/8/2013 dated the 1st July, 2013, subject to the conditions and restrictions prescribed therein. Now through notification SRB-3-4/27/2021 & SRB-3-4/28/2021 Dated 26thAugust, 2021 this rate has been increased to 13% w.e.f. 1st September 2021.

CORPORATE NOTIFICATIONS / CIRCULARS

1. AMENDMENTS TO THE REAL ESTATE INVESTMENT TRUST REGULATIONS 2015 (REIT REGULATIONS)

The SECP vide SRO 724 dated 7 June 2021 placed on the website on 11 August 2021 made amendments to the REIT Regulations, 2015 wherein major changes are brought in the afore-said regulations.

The changes can be accessed by clicking on the link given as below;

Amendment to the REIT Regulations, 2015

2. NOTIFICATION UNDER SECTION 66 OF THE COMPANIES ACT, 2017.

The SECP vide SRO 1011 dated 6 August 2021 placed on the website on 12 August 2021 has notified persons to whom instruments in the nature of redeemable capital may be issued by a company given that those persons fulfill the terms and conditions provided in section 66 “Issue of Securities and redeemable capital not based on Interest” of the Companies Act, 2017.

The complete list and its related explanation can be accessed from the link given below;

Notification under section 66 of the Companies Act, 2017.

3. DELEGATION OF POWERS OF INSURANCE ORDINANCE, 2000 – SUPERVISION DIVISION (OFFSITE DEPT)

The SECP vide SRO 506 dated 22 April 2021 placed on the website on 16 August 2021 made amendment(s) to the "Insurance Ordinance, 2000" delegating powers and functions under sections 60(1), 60(2) and 162(1) to the Supervision Division which was previously taken care by the Commission.

NO FURTHER TAX ON ZERO RATED SUPPLIES TO UNREGISTERED PERSONS – SUPREME COURT OF PAKISTAN

1. LEGAL PROVISIONS INVOLVED

Section 3(1A) provides mechanism whereby if taxable supplies are made to a person who has not obtained registration number, there shall be charged, levied and paid a further tax at the rate of 3 % of the value in addition to the general rate however, the Federal Govt may by notification in the official Gazette, specify the taxable supplies in respect of which the further tax shall not be charged, levied and paid.

Section 4 of the Act provided that notwithstanding anything contained in section 3, the goods specified in the various clauses thereof were to be charged to tax at the rate of zero percent. Clause (c) empowers the Federal Government to notify other goods also for purposes of section 4, and those goods would then be charged to tax at zero percent. In exercise of this power (and certain others as specified therein) the Federal Government issued SRO 1125(I)/2011 dated 31.12.2011. This notification was amended vide SRO 491(I)/2016 dated 30.06.2016. The amended SRO 1125 provided, in sub-entry (iii) of entry No. 1 of Table II thereof that taxable supplies made by persons doing business in five specified sectors to "registered or unregistered persons" would be taxed at zero percent.

2. FACTS OF CASE

In the instant case reported as FBR vs Acro Spinning & Weaving Mills Ltd, etc - Civil Petition 846-L/2017 the taxpayers charged sales tax in respect of supplies made to persons not registered under the Act at zero percent in terms of SRO 1125. This led to the issuance of show cause notices that were challenged by way of writ petitions filed in the Lahore High Court, which held that that the amended SRO 1125 applies not only to supplies made to registered persons (who would otherwise be covered by subsection (1) of section 3) but also those made to unregistered persons, who would be covered by both subsections (1) and (1A) of the said section, and hence the unregistered person will be charged further tax at zero percent. Feeling aggrieved the FBR filed reference in Supreme Court of Pakistan on following grounds.

3. GROUNDS OF FBR

3.1 No Notification issued

Learned counsel for the department submitted that the power to exclude the levy of further tax under section 3(1A) could only be exercised by FBR and there was no relevant notification in the field under that provision.

3.2 Section 4 not override Section 3(1A)

It was contended that the terms of section 4, allowing taxable supplies to be charged at zero percent, did not operate to relieve such taxable supplies from further tax. It was contended that the charging of tax at zero percent on supplies made to unregistered persons was therefore a violation of section 3(1A) for which show cause notices had been validly issued.

4. SCP OBSERVATIONS

The SCP observes that Section 4 starts with the words "Notwithstanding the provisions of Section 3…" and it is clear from this provision that zero rating of taxable supplies is an overriding provision on account of the non-obstante clause by which it starts. The provisions of section 3(1A) pertaining to further tax are subservient to the effect of zero rating. Consequently, zero rated goods are not liable to any of the provisions under section 3 of the Act. **Therefore, the decision of LHC was correct and is upheld.**

TOPIC OF THE MONTH
PAKISTAN SINGLE WINDOW

1. PREAMBLE

Before saying adios to our readers, we end our newsletter to one of the talk of the town in recent days as our topic of the month which happens to be "Pakistan Single Window".

Pakistan single window is a platform introduced by the Federal Board of Revenue or FBR with the help of its customs wing i.e. Pakistan customs, in order to facilitate Pakistan's International Trade and to streamline cross-border movement of goods.

2. WHAT IS "PAKISTAN SINGLE WINDOW"

Previously, Customs Single Window namely WEBOC was operating which is used to handle approximately 90 percent of Pakistan's external trade providing 24/7 paperless processing services.

Pakistan Single Window is a product of the long awaited response to one of government's important reform program for the purpose of implementing trade related National Single Window. The National Single window system implementation was a commitment to be fulfilled by 2022 under the World Trade Organization (WTO) Agreement.

Pakistan Single Window is a facility which enables people involved in trade and transport to gather systemized data and documents with a single-entry platform to fulfill all import, export and laws and regulations requirements related to transport of the same.

3. THE NEED FOR "PAKISTAN SINGLE WINDOW"

According to an interview to the Tribune the PSW Project Director Muhammad Imran Khan Mohmand explained,

"An import container in Pakistan bears a cost of $417 and takes 216 hours in the regulation process. In comparison, India incurs a cost of only $366 and takes 85 hours to clear the same container, while South Korea clears the container in only seven working hours and bears a cost of $342.

When the container is exported, it costs $406 and takes 113 hours in Pakistan. In comparison in India it takes $64 and 207 hours whereas in Korea it takes $196 and 14 hours.

At the end he concluded that,

"This cost is so high regionally and internationally that it hampers our trade with other countries".

Pakistan Single Window was the need of the hour as the country lacks effective regulatory controls pertaining to international trade.

Also, Licenses, permits and other documents issued for imports and exports takes a lot of time while being costly as well, which is being endured by the businessman.

The PSW will be capable of handling volume of various licenses, permits, certificates and other document which are very crucial to regulate trade which will enable the trade regulatory authorities with enhanced controls and efficient risk management pertaining to trade. The PSW will also play key role in improving the ease of doing business environment in Pakistan.

4. LAWS RELATED TO PAKISTAN SINGLE WINDOW

Pakistan Single Window is a company established under Companies Act, 2017 which will be administered by the FBR Customs Wing.

In order to govern the PSW, the government initially presented the Pakistan Single Window Bill in the Parliament on 8th June 2020.

After receiving assent from the parliament, the PSW Bill became Pakistan Single Window Act, 2021 on 9th April 2021, which was published in the official gazette on 14th April 2021.

The draft rules pertaining to Pakistan Single Window were rolled out as SRO 164 dated 4th February 2021 and were made part of the Customs Rules, 2001. The draft rules precisely proposed requirements and eligibility of subscribers who would enroll themselves in the Pakistan Single Window.

The FBR has issued SROs from 787 to 796 dated 18th June 2021 whereby it was announced that a facility to be known as the Pakistan Single Window be established to facilitate efficient imports, exports, international transit and matters ancillary thereto, across Pakistan's territory and notified international borders and the said Pakistan Single Window shall use any technological means available or made available in future, for such purposes from the date of coming into force of the Act, and specified that Pakistan Single Window Act, 2021 shall come into force on July 1, 2021.

5. PARTICULARS REQUIRED TO SUBSCRIBE FOR PSW.

There is certain pre-requisite information that are required to subscribe for PSW. The requirements are laid down for the people who wishes to subscribe to PSW as follows;

i. National Tax Number (NTN), Free Tax Number (FTN) or Sales Tax Registration Number (STRN), whichever applicable.

ii. Security and Exchange Commission of Pakistan (SECP)'s Registration Number or Computer-Generated Unique Identification Number (CUIN) in case of a company.

iii. CNIC number and biometric verification from the National Database and Registration Authority's e-Sahulat Centers.

iv. Email address of the subscriber as appearing in IRIS web portal.

v. Subscriber identification module (SIM) card number, also known as International Mobile Subscriber Identity (IMSI) number, registered in the name of the subscriber.

vi. Any other identity documents may be used in case of diplomats, companies registered in foreign jurisdictions etc.

6. STEPS TO SUBSCRIBE TO PSW

The procedure to subscribe to the PSW is entirely paperless and can be done by visiting the PSW website. The entire procedure is laid down as below;

i. To begin with, click on the "Subscribe" button on the PSW Home page. Read, understand and accept the Terms and Conditions given thereunder. After reading select check box and click on proceed button.

ii. Provide identification information i.e. NTN, CNIC, Mobile Phone Number and Email.

iii. Email associated with NTN is required to be active for verification through one time password (OTP) and forwarding Login Credentials.

iv. Mobile number registered with selected CNIC will be verified through Pakistan Mobile Number Portability Database (PMD) and required for two factor authentication.

v. Subscriber shall deposit non-refundable subscription fee, through system generated Payment Slip ID (PSID).

vi. Authentication and verification shall be performed on mobile phone number and Email through OTP (One Time Password).

vii. Biometric verification of subscriber is final step to complete subscription. Visit your nearest NADRA-e-Sahulat franchise for biometric verification.

viii. After successful biometric verification a link to create ID and password shall be sent on registered email. After creating the ID/Password, the subscribers would be able to use the platform of PSW.

7. HOW DOES PSW DIFFERENTIATE FROM OTHER SINGLE WINDOW PLATFORM(S) LIKE WEBOC?

To begin with, unlike WeBOC, PSW handles all the data electronically with no paperwork involved.

The main reason for PSW being paperless is that it is integrated with databases like NADRA, SECP and FBR through which it can extract all kinds of quantitative information for the purpose of validations and verifications.
Such integration makes PSW capable enough for electronic data exchange with internal and external stakeholders.

As compared to WeBOC, the PSW is further enhanced by a sturdy port community system covering the sea, air and land port communities, e-commerce, and electronic payment system offering single payment experience for all services.
Unlike WeBOC, the PSW platform has its own laws and regulations through which it will be managed separately.

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