

## Comments on Finance Act, 2018

The following clauses of Finance Bill 2018 have been amended through Finance Act, 2018.

### Sales Tax Act, 1990

- A new clause has been inserted in Alternate Dispute Resolution (ADR) providing automatic stay from recovery of demand during the pendency of matter before committee formed by board under ADR.
- Supply of Match Boxes has been included in Table II of Sixth Schedule to the Sales Tax Act, 1990 as exempt supply.
- Sales Tax on supply of fertilizer subject to reduced rate @ 2% sales tax.

### Income Tax Ordinance, 2001

- In case of Commercial importer minimum tax has been fixed @ 5%.
- Rate of Super Tax has been revised as under;

S.NO	PERSON	RATE OF SUPER TAX			
		Tax Year 2018	Tax Year 2019	Tax Year 2020	Tax Year 2021
1	Banking Company	0%	4%	3%	2%
2	Person other than a banking company having income equal to or exceeding Rs. 500 Million	3%	2%	1%	0%

- Non-filers have been restricted to purchase any immovable property having value above Rs. 5 million
- A new clause has been inserted in Alternate Dispute Resolution (ADR) providing automatic stay from recovery of demand during the pendency of matter before committee formed by board under ADR.
- Minimum tax liability in case of individual having taxable income exceeding eight hundred rupees has been fixed at Rs. 2,000
- Income Tax rate in case of small companies has been fixed as under;

Tax Year	Rate of Tax
2019	24%
2020	23%
2021	22%
2022	21%
2023 and onwards	20%

- Dividend received by the company from collective Investment Scheme (REIT) or mutual fund other than a stock fund shall be taxed at the rate of 15% (Previously 25%).
- In case of dividend received by individual from Rental REIT Scheme shall be taxed at the rate of 7.5%
- Amendment in sub-section 8 of Section 101A Gain on disposal of assets out side Pakistan has been made to reduce rate of tax to ten percent from fifteen percent whereas sub-section (10) has been amended as under to exclude scope of sub-section (8):
  - (10) The tax to be collected under sub-section (9) shall be the higher of –
    - a) 20% of A, where A= Fair market value less cost of acquisition of the asset, or
    - b) 10% of the fair market value of the asset.
- The following new self-explanatory sub-section has been inserted in newly inserted section 109A Controlled Foreign Company:
  - (11) Where tax has been paid by the resident person on the income attributable to controlled foreign company and in a subsequent tax year the resident person receives dividend distributed by the controlled foreign company, after deduction of tax on dividend, the resident person shall be allowed a tax credit equal to the lesser of, -
- Explanation in Section 182A has been inserted with regard to late filing of return of income clarifying that the same shall become applicable from active taxpayer list for tax year 2018 to be updated on 1<sup>st</sup> day of March, 2019.
- Withholding Tax u/s 236I of the Income Tax Ordinance, 2001 with regard to collection of advance tax education Institution shall not be collected where the fee is paid by way of scholarship.
- Exemption from tax on income derived by export of computer software or IT services or IT enabled services has been extended to tax year 2025.
- The amount of tax payable by resident company deriving income from film-making shall be reduced by 70% on income from film-making.
- The following new self-explanatory clause in Part III of Second Schedule to the Income Tax Ordinance, 2001 has been inserted providing tax reduction in tax payable on profits and gains derived from low cost housing project:

*The tax payable on profits and gains derived by a person from low cost housing projects shall be reduced by fifty percent. The reduction in tax liability under this clause shall apply to such project which is -*

*(a) owned and managed by a company formed for operating the said project and registered under the Companies Act, 2017 (XIX of 2017) and having its registered office in Pakistan; and*

*(b) not formed by the splitting up, or the reconstruction or reconstitution, of a business already in existence or by transfer to a new business of any machinery or plant used in a business which was being carried on in Pakistan at any time before the commencement of the new business;*

*(c) a low cost housing project under which the maximum sale price of a single housing unit is two and a half million rupees."*

- The Banking company shall be required to pay advance tax u/s 147 of the Income Tax Ordinance, 2001 payable in 12 installments payable by 15<sup>th</sup> of every month in accordance with provision of section 147 of the Income Tax Ordinance, 2001.

**FOREIGN ASSETS (DECLARATION AND REPATRIATION) ACT, 2018.**

➤ The definition of “court of law” has been included in the Act as under:

(b) "court of law" means an Appellate Tribunal, a High Court or Supreme Court of Pakistan;

➤ The definition of “holder of public officer” has been amended to limit time period to preceding ten years as against 1<sup>st</sup> day of January 2000, further proviso has been included as well as under:

(h) "holder of public office" means a person who is or has been, during the preceding ten years,-

*Provided that a member of the Board, not actively engaged in the business and day-today affairs of the said corporations, banks, financial institutions, firms, concerns, undertakings or any other institution or organization shall not be treated as holder of public office under this sub- clause;*

**Foreign Assets declared shall be chargeable to tax in the following manners;**

S.No.	Foreign assets	Value	Rate (as a percentage of the value of foreign assets)
1.	Liquid assets not repatriated	At cost	5%
2.	Immovable assets outside Pakistan	At cost	3%
3.	Liquid assets repatriated and invested in Government securities upto 5 years in US dollars denominated bonds with six-monthly profit payment in equivalent Rupees (rate of return 3%) and payable on maturity in equivalent Rupees	At cost	2%
4.	Liquid assets repatriated	At cost	

**Voluntary Declaration of Domestic Assets Act, 2018.**

➤ The definition of “court of law” has been included in the Act as under:

(b) "court of law" means an Appellate Tribunal, a High Court or Supreme Court of Pakistan;

➤ The definition of “holder of public officer” has been amended to limit time period to preceding ten years as against 1<sup>st</sup> day of January 2000, further proviso has been included as well as under:

**(h) "holder of public office" means a person who is or has been, during the preceding ten years,-**

***Provided that a member of the Board, not actively engaged in the business and day- today affairs of the said corporations, banks, financial institutions, firms, concerns, undertakings or any other institution or organization shall not be treated as holder of public office under this sub- clause;***

➤ Definition of undisclosed assets in relation to immovable property has been included for clarity

(e) "undisclosed asset" in relation to an immovable property includes an immovable property the value of which has been under - reported or understated;

***Domestic Assets declared shall be chargeable to tax in the following manners;***

S. No.	Assets	Value	Rate (as a %age of the value of the asset)
1.	Foreign currency held in a foreign currency account in Pakistan as on the 31 <sup>st</sup> March, 2018 and encashed in equivalent Rupees. Foreign currency held in a foreign currency account in Pakistan as on the 31 <sup>st</sup> March, 2018 which is invested in Government securities upto 5 years in US dollars denominated bonds with six-monthly profit payment in equivalent Rupees (rate of return 3%) and payable on maturity in equivalent Rupees.	As declared	2%
2.	Other assets.	Actual Cost of acquisition.	5%

**Protection of Economic Reforms Act, 1992 (XII of 1992). –**

SECTION	PRESENT POSITION	AMENDED POSITION
3	<p><b>3. Act to over-ride other laws.</b> The provisions of this Act shall have effect notwithstanding anything contained in the Foreign Exchange Regulation Act, 1947 (VII of 1947, the Customs Act, 1969 (IV of 1969, the Income Tax Ordinance, 1979 (XXXI of 1979, or any other law for the time being in force.</p>	<p><i>The section 3 of the Act has been amended as under withdrawing overriding effect over various provision of law::</i></p> <p><b>"3. Act to override other laws.-</b> This Act shall have effect notwithstanding anything contained in the Foreign Currency Accounts (Protection) Ordinance, 2001 (L of 2001).</p>
4 (1)	<p><b>Freedom to bring, hold, sell and take out foreign currency.</b> (1) All citizens of Pakistan resident in Pakistan or outside Pakistan and all other persons shall be entitled and free to bring, hold, sell, transfer and take out foreign exchange within or out of Pakistan in any form and shall not be required to make a foreign currency declaration at any stage nor shall any one be questioned in regard to the same.</p>	<p><i>The sub-section (1) of section 4 of the Act has amended as under:</i></p> <p>(1) All citizens of Pakistan resident in Pakistan or outside Pakistan and all other persons shall be entitled and free to bring, hold, sell, transfer and take out foreign exchange within or out of Pakistan in any form.</p>

4(2)	<p>Nothing in sub-section (1) shall apply to</p> <p>(a) any foreign exchange borrowed under any general permission given by the State Bank of Pakistan under sub-section (1) of section 4 of the Foreign Exchange Regulations Act, 1947 (VII of 1947)</p> <p>(b) any payment from abroad for good exported from Pakistan;</p> <p>(c) proceeds of securities issued or sold to non-residents;</p> <p>(d) any payment received from abroad for services rendered in, or from, Pakistan;</p> <p>(e) earnings or profits of the overseas offices or branches of Pakistani firm and companies including banks; and</p> <p>(f) any foreign exchange purchased from an authorized dealer in Pakistan for any purpose.</p>	<p><i>The sub-section (2) of section 4 of the Act has amended as under:</i></p> <p>Nothing in sub-section (1) shall apply to</p> <p>(a) any foreign exchange borrowed under any general permission given by the State Bank of Pakistan under sub-section (1) of section 4 of the Foreign Exchange Regulations Act, 1947 (VII of 1947)</p> <p>(b) any payment from abroad for good exported from Pakistan;</p> <p>(c) proceeds of securities issued or sold to non-residents;</p> <p>(d) any payment received from abroad for services rendered in, or from, Pakistan;</p> <p>(e) earnings or profits of the overseas offices or branches of Pakistani firm and companies including banks; and</p> <p>(f) any foreign exchange purchased from an authorized dealer, <b>money changer or exchange company</b> in Pakistan for any purpose.</p> <p><b>(g) cross border or inland movement of foreign currencies in cash exceeding US\$ 10,000 or equivalent subject to such annual ceiling as may be prescribed by the State Bank of Pakistan.</b></p>
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5(4) & (5)	<p><b>5. Immunities to foreign currency accounts.</b></p> <p>(3). The banks shall maintain complete secrecy in respect of transactions in the foreign currency accounts.</p> <p>(4). The State Bank of Pakistan or other banks shall not impose any restrictions on deposits in and withdrawals from the foreign currency accounts and restrictions if any shall stand withdrawn forthwith.</p>	<p><i>The section 5 of the Act has been amended whereby only filers shall be able to operate foreign currency accounts and secrecy disclosure has been omitted.</i></p> <p>(3). The banks shall maintain complete secrecy in respect of transactions in the foreign currency accounts <b>except as otherwise required under the Foreign Exchange Regulation Act, 1947 (VII of 1947) or the Income Tax Ordinance, 2001 (XLIX of 2001).</b></p> <p>(4). The State Bank of Pakistan or other banks shall not impose any restrictions on deposits in and withdrawals from the foreign currency accounts and restrictions if any shall stand withdrawn forthwith;</p> <p><b>"Provided that no cash shall be deposited in an account of a citizen of Pakistan, resident in Pakistan, unless the account holder is a filer as defined in the Income Tax Ordinance, 2001 (XLIX of 2001):</b></p> <p><b>Provided further that the Federal Government may make rules governing deposits in and withdrawals from the foreign currency accounts."</b></p>
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