

Finance (Supplementary) Act, 2023



Introduction

The Federal Government has introduced Finance (Supplementary) Act, 2023 (Bill) to amend certain laws relating to taxes and duties.

The Act has amended the following fiscal laws:

- Sales Tax Act, 1990,
- Income Tax Ordinance, 2001,
- Federal Excise Act, 2005

The Act has received assent from the President on 23d February 2023 and has been published in the Gazette of Pakistan,

Extraordinary, Part-I, dated 23d February, 2023 as an Act No. X of 2023.

Our comments, explaining these amendments are contained in the following sections. If you need our assistance in understanding the specific implications of this Alert to your situation, please feel free to contact us.

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Sales Tax

- The Act enhances existing sales tax rate from 17% to 18% through amendment in section 3 of the Sales Tax Act, 1990 [the Act].
- The amendment through SRO 179 dated February 14, 2023 but published on website of FBR on February 15, 2023 is not applicable on goods subject to sales tax at retail price as specified in the Third Schedule to the Act.
- It has also empowered the Federal Government to declare that tax on goods specified in Third Schedule shall be collected at such higher rate on the retail price of goods as may be specified by notification in Official Gazette.
- Certain reduced rates of sales tax (as per Eighth Schedule) are also enhanced as follows:

Description	Existing Sales Tax Rate	Proposed Sales Tax Rate
47. Locally produced coal (27.01)	Rs.700 per metric tonne or 17% ad valorem, whichever is higher.	Rs 700 per metric tonne or 18% ad valorem, whichever is higher
56. Potassium Chlorate (KCLO3)	17% along with rupees 60 per kilogram.	18% along with Rs 60 per Kilogram.

- The existing Sales tax on import of cellular mobile phones in CBU condition (as per Ninth Schedule) is increased in case of certain expensive handsets as under:

Description of Cellular phone	Existing Sales Tax Rate	Existing Sales Tax Rate
E. Exceeding US\$ 200 but not exceeding US\$ 350.	17% ad valorem	18% ad valorem
F. Exceeding US\$ 350 but not exceeding US\$ 500.	17% ad valorem	18% ad valorem
G. Exceeding US\$ 500.	17% ad valorem	25% ad valorem

Income Tax

Capital Gain Tax

The Act makes amendment in section 37 of the Income Tax Ordinance, 2001 [the Ordinance] relevant to taxation of capital gains on sale of shares other than listed shares. According to amendment, the persons acquiring shares of private companies and public unlisted companies are required to withhold advance tax at the rate of 10% from gross consideration calculated by reference to Fair Market Value (FMV) of shares determined as prescribed under the Income Tax Rules. The tax so withheld is required to be deposited with Federal Government within fifteen days which shall be considered an adjustable advance tax for the seller. Default in complying

with new requirements shall attract provisions of the Ordinance relating to penalties and default surcharge.

The person disposing the shares is required to file prescribed information relating to the transaction with Commissioner Inland Revenue within 30 days of the transaction. Application for specific exemption from withholding tax can also be applied with Commissioner where applicable.

Capital Gain on disposal of securities are chargeable to tax at the fixed tax rates applicable under section 37A of the Ordinance. These tax rates vary based on the nature of security, holding period and date of acquisition. It excludes those transactions of securities which are disposed otherwise than through registered Stock Exchange or settled through National Clearing Company of Pakistan Limited. Accordingly, said transaction is now chargeable under the amended section 37 of the Ordinance.

Advance Tax on Functions and Gatherings

Advance tax on functions and gatherings was withdrawn vide Finance Act, 2020. The Act re-introduces advance tax through insertion of section 236CB which shall be collectible on total amount of bill from person arranging or holding a function in a marriage hall, marquee, hotel, restaurant, commercial lawn, club, a community place or any other place used for such purpose, subject to such conditions or limitations as may be prescribed. The advance tax also extends to food, service or any other facility is provided by any other person which is to be collected by person arranging or holding function or gathering. The rate of advance tax is 10% of gross amount.

Federal Excise Duty

Aerate Water

The Act increases the rate of FED applicable on Aerated water as follows:

Description	Existing FED Rate	New FED Rate
Aerated waters (2201.1020)	13% of retail price	20% of retail price
Aerated waters, containing added sugar or other sweetening matter or flavoured (2202.1010)	13% of retail price	20% of retail price
Aerated waters if manufactured wholly from juices or pulp of vegetables, food grains or fruits and which do not contain any other ingredient, indigenous or imported, other than sugar, colouring materials, preservatives or additives in quantities prescribed under the West Pakistan Pure Food Rules, 1965.	13% of retail price	20% of retail price

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Locally manufactured cigarette

Existing scope	New scope	Existing FED Rate	New FED Rate
9. Locally produced cigarettes if their on-pack printed retail price exceeds six thousand six hundred and sixty rupees per thousand cigarettes.	9. Locally produced cigarettes if their on-pack printed retail price exceeds <u>Nine thousand</u> per thousand cigarettes.	Rupees six thousand five hundred per thousand cigarettes.	Rupees <u>Sixteen thousand and five hundred</u> per thousand cigarettes.
Locally produced cigarettes if their on-pack printed retail price does not exceed six thousand six hundred and sixty per thousand cigarettes	Locally produced cigarettes if their on-pack printed retail price does not exceed <u>Nine thousand</u> per thousand cigarettes	Rupees two thousand and fifty per thousand cigarettes.	Rupees <u>Five thousand and fifty</u> per thousand cigarettes

The existing minimum retail price of 45% of the threshold is also increased to 60% of relevant threshold.

Cement

Description	Existing FED Rate	New FED Rate
Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cements, whether or not coloured or in the form of clinkers .	one rupee and fifty paisa [Rs.1.50] per kilogram	Two rupees [Rs.2] per kilogram

Sugary Fruit juices, syrups and squashes, waters

As a new duty measure, FED on Sugary Fruit juices, syrups and squashes, waters whether or not containing added sugar or artificial sweeteners excluding mineral and aerated waters at the rate of 10% of retail price is introduced through the Act.

Air Tickets

Services provided or rendered in respect of travel by air of passengers embarking on international journey from Pakistan are subject to FED at varied rates for Economy and for Club,

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business and first class. The existing rate of FED for Club, business and first class is PKR 50,000. The Act revises the FED rates for tickets issued after the date of commencement of Act.

Description	Existing FED Rate	New FED Rate
Services provided or rendered in respect of travel by air of passengers embarking on international journey from Pakistan in Club, business and first class.		
(a) IATA Traffic Conference Area 1 (North, Central, South America and Environs)	Rs. 50,000	Rs.250,000
(b) IATA Traffic Conference Area 2 (I) Middle East and Africa		Rs.75,000
(II) Europe		Rs.150,000
(c) IATA Traffic Conference Area 3 (Far East, Australia, New Zealand and Pacific Islands)		Rs.150,000

Disclaimer:

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