

ORDINANCE NO. XXII OF 2021

AN

ORDINANCE

further to amend certain tax laws

WHEREAS, it is expedient further to amend certain tax laws for the purposes hereinafter appearing;

AND WHEREAS, the Senate and the National Assembly are not in session and the President of the Islamic Republic of Pakistan is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:—

1. **Short title and commencement.**—(1) This Ordinance shall be called the Tax Laws (Third Amendment) Ordinance, 2021.

(2) It shall come into force at once.

2. **Amendments of Customs Act, 1969 (IV of 1969).**—In the Customs Act, 1969 (IV of 1969), the following further amendments shall be made, namely:—

(1) in section 25D, in the proviso, for full stop at the end a colon shall be substituted and thereafter the following second proviso shall be added, namely:—

“Provided further that a person aggrieved of the value determined by the Director General Valuation may within thirty days of communication of such order, prefer an appeal to the Member Customs (Policy) who may pass an order annulling, modifying or confirming the order passed by the Director General.”;

(2) in section 80, in sub-section (3), for the words “if during the checking of goods declaration”, the expression “Notwithstanding anything contained in this Act, if during the checking of goods declaration or within three years of its clearance under sub-section (1) of section 83” shall be substituted;

(3) in section 81, in sub-section (1),—

(a) after the words “bank guarantee” wherever occurring, the expression “,corporate guarantee” shall be inserted;

(b) in the second proviso, for full stop at the end a colon shall be substituted and thereafter the following third proviso shall be added, namely:—

“Provided further that no provisional determination of value shall be allowed in those cases where a valuation ruling (VR) is in field, irrespective of the fact whether any review or revision against that VR is pending in terms of section 25D or relevant rules, as the case may be.”;

- (4) in section 194A, in sub-section (1), clause (e) shall be omitted; and
- (5) in section 196, in sub-section (1), after the expression "194B", the expression "or order of the Member Customs (Policy) under sections 25D and 212B" shall be inserted;

3. **Amendments of the Sales Tax Act, 1990.**—In the Sales Tax Act, 1990, the following further amendments shall be made, namely:—

- (1) in section 3,—
 - (a) in sub-section (7), for the full stop at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:—

“Provided that in case of the online market place facilitating the sale of third party goods, the liability to withhold tax on taxable supplies of such party at the rates specified in column (4) against S. No. 8 of the Eleventh Schedule to this Act, shall be on the operator of such market place.”; and

- (b) after sub-section (9AA), the following new sub-section shall be added, namely:—

“(10) Notwithstanding anything contained in this Act, the Board may, by notification in the official Gazette, require any person or class of persons to integrate their invoice issuing machines with the Board’s computerized system for real time reporting of sales in such mode and manner and from such date as may be prescribed.”;

- (2) after section 14, the following new section 14A shall be added, namely:—

“14A. **Discontinuance of gas and electricity connections.**— Notwithstanding anything contained in this Act or any other law for the time being in force, the Board shall have power through sales tax general order to direct the gas and electricity distribution companies for discontinuing the gas and electricity connections of any person who falls in the following categories, namely:—

- (a) any person, including tier-1 retailers, who fails to register for sales tax purpose; or

- (b) notified tier-1 retailers registered but not integrated with the Board's computerized system:

Provided that upon registration or integration, as the case may be, of the above said persons, the Board shall notify the restoration of their gas or electricity connection through sales tax general order.”;

- (3) in section 33, in the Table, in column (1),—

- (a) against S. No.25,

(i) in column (2), for the expression “sub-section (9A) of section 3 or section 40C, as the case may be”, the expression “section 40C” shall be substituted; and

(ii) in column (3), the expression “sub-section (9A) of section 3 and” shall be omitted; and

- (b) after S. No. 25 and entries relating thereto in columns (2) and (3), amended as aforesaid, the following new S. No. 25A and corresponding entries relating thereto shall be inserted, namely:—

25A. A person required to integrate his business as stipulated under sub-section (9A) of section 3, who fails to get himself registered under the Act, and if registered, fails to integrate in the manner as required under the law and rules made thereunder.	Such person shall be liable to pay— (i) Penalty of five hundred thousand rupees for first default; (ii) penalty of one million rupees for second default after fifteen days of order for first default; (iii) penalty of two million rupees for third default after fifteen days of order for second default; (iv) penalty of three million rupees for fourth default after fifteen days of order for third default: Provided that if such person fails to integrate his	Sub-section (9A) of section 3
---	---	-------------------------------

	<p>business within fifteen days of imposition of penalty for fourth default, his business premises shall be sealed till such time he integrates his business in the manner as stipulated under sub section (9A) of section 3:</p> <p>Provided further that if the retailer integrates his business with the Board's computerized system before imposition of penalty for second default, penalty for first default shall be waived by the Commissioner.</p>	
--	---	--

- (4) in the Fifth Schedule, in column (1), against S. No. 17, in column (2), the words "excluding that sold in retail packing under a brand name or a trademark" shall be omitted;
- (5) in the Sixth Schedule, in column (1) —
- (a) in Table-1,—
- (i) against Serial No. 15, in column (2), the expression "(except fruits imported from Afghanistan)" shall be omitted;
- (ii) against Serial No. 159, in column (2), for the expression "30th June, 2021", the expression "31st December, 2021" shall be substituted; and
- (iii) against Serial No. 160, in column (2), for the expression "30th June, 2021", the expression "31st December, 2021" shall be substituted;
- (b) in Table-3, in the Annexure, in column (1),—
- (i) after S. No. 2 and entries relating thereto in columns (2), (3) and (4), the following new S. No. 2A and entries

relating thereto in columns (2), (3) and (4) shall be inserted, namely:—

"2A.	The following raw materials imported by registered manufacturer of auto disabled syringes:		This concession is available to registered manufacturers of auto disabled syringes with quota determination by IOCO and subject to NOC from Ministry of National Health Services Regulation and Coordination."; and
	(1) Printing paper	4802.5510	
	(2) Polypropylene	3902.1000	
	(3) Propylene copolymers	3902.3000	
	(4) Plasticized	3904.2200	
	(5) Epoxide Resins	3907.3000	
	(6) Bioaxially Oriented Polypropylene (BOPP film, laminated)	3920.2040	

(ii) against S. No. 21, for the entry in column (4), the expression "import of POS machines including credit/debit cards terminals and retailer cash register." shall be substituted.

(6) in the Eighth Schedule, in Table-1 in column (1),—

- (a) S. No. 60 and entries relating thereto in columns (2), (3), (4) and (5) shall be omitted;
- (b) after serial 66 and entries relating thereto in columns (2), (3), (4) and (5), the following new S. No. 66A and corresponding entries relating thereto shall be inserted, namely:—

"66A	Supplies excluding those specified in S. No. 66, as made from retail outlets integrated with Board's Computerized System for real time reporting of sales	Respective headings	16%	If payment is made through digital mode.
66B.	Import of remeltable scrap	Respective headings	14%	If imported by steel melters."

; and

- (c) after S. No. 74 and entries relating thereto in columns (2), (3), (4) and (5), the following new S. No. and entries relating thereto in columns (2), (3), (4) and (5) shall be added, namely:—

75.	Import of electric vehicle in CBU conditions	8703.8090	5%	
76.	Business to business transactions specified by the Board through a notification in official Gazette subject to such conditions and restrictions as specified therein.	Respective headings	16.9%	If payment is made through digital mode.”.

4. **Amendments of the Income Tax Ordinance, 2001 (Ordinance XLIX of 2001).**—In the Income Tax Ordinance, 2001 (XLIX of 2001), the following further amendments shall be made, namely:—

(1) in section 21,—

- (a) in clause (I), after the word “any expenditure”, occurring for the first time, the expression “by a taxpayer not being a company” shall be inserted;
- (b) after clause (I), amended as aforesaid, the following new clause shall be inserted, namely:—

“(1a) any expenditure by a taxpayer being a company for a transaction, paid or payable under a single account head which, in aggregate, exceeds two hundred and fifty thousand rupees, made other than by digital means from business bank account of the taxpayer notified to the Commissioner under section 114A:

Provided that this clause shall not apply in the case of—

- (i) expenditures not exceeding twenty-five thousand rupees;
- (ii) expenditures on account of —
- (A) utility bills;
- (B) freight charges;

- (C) travel fare;
 - (D) postage; and
 - (E) payment of taxes, duties, fee, fines or any other statutory obligation; and
- (c) in clause (m), after the word "account" the expression "or through digital mode" shall be inserted;
- (2) in section 53, in sub-section (2), after the word "The" occurring for the first time the expression "Federal Government or the" shall be inserted;
- (3) in section 111, after sub-section (4), the following new explanation shall be added, namely:—

Explanation.—For removal of doubt, it is clarified that the remittance through money service bureaus (MCBs), exchange companies (ECs) and money transfer operators (MTOs) such as Western Union, Money Gram and Ria Finance or other like entities shall be deemed to constitute foreign exchange remitted from outside Pakistan through normal banking channels as delineated under this sub-section.”;

- (4) after section 114A, the following new section shall be inserted, namely:—

“114B. Powers to enforce filing of returns.—(1) Notwithstanding anything contained in any other law for the time being in force, the Board shall have the powers to issue income tax general order in respect of persons who are not appearing on ATL but are liable to file return under the provisions of this Ordinance.

- (2) The income tax general order issued under sub-section (1) may entail any or all of the following consequences for the persons mentioned therein, namely:—
- (a) disabling of mobile phones or mobile phone sims;
 - (b) discontinuance of electricity connection;
 - (c) and discontinuance of gas connection.
- (3) The Board or the Commissioner having jurisdiction over the person mentioned in the income tax general order may order

restoration of mobile phones, mobile phone sims and connections of electricity and gas, in cases where he is satisfied that —

- (a) the return has been filed; or
 - (b) person was not liable to file return under the provisions of this Ordinance.
- (4) No person shall be included in the general order under sub-section (1) unless following conditions have been met with, namely:—
- (a) notice under sub-section (4) of section 114 has been issued;
 - (b) date of compliance of the notice under sub-section (4) of section 114 has elapsed; and
 - (c) the person has not filed the return.
- (5) The action under this section shall not preclude any other action provided under the provisions of this Ordinance.”;
- (5) after section 175A, the following new section shall be inserted, namely:—

“175B. National Database and Registration Authority (NADRA).

- (1) The National Database and Registration Authority shall, on its own motion or upon application by the Board, share its records and any information available or held by it, with the Board, for broadening of the tax base or carrying out the purposes of this Ordinance.
- (2) The National Database and Registration Authority may—
 - (i) submit proposals and information to the Board with a view to broadening the tax base;
 - (ii) identify in relation to any person, whether a taxpayer or not —
 - (a) income, receipts, assets, properties, liabilities, expenditures, or transactions that have escaped assessment or are under-assessed or have been assessed at a low rate, or have been subjected to

excessive relief or refund or have been misdeclared or misclassified under a particular head of income or otherwise;

- (b) the value of anything mentioned in sub-clause (a) of clause (ii), if such value is at variance with the value notified by the Board or the district authorities, as the case may be, or if no such value has been notified the true or market value; and
 - (iii) enter into a memorandum of understanding with the Board for a secure exchange and utilization of a person's information.
- (3) The Board may use and utilize any information communicated to it by the National Database and Registration Authority and forward such information to an income tax authority having jurisdiction in relation to the subject matter regarding the information, who may utilize the information for the purposes of this Ordinance.
 - (4) The National Database and Registration Authority may compute indicative income and tax liability of anyone mentioned under sub-sections (1) or (2) by use of artificial intelligence, mathematical or statistical modeling or any other modern device or calculation method.
 - (5) The indicative income and tax liability computed by the National Database and Registration Authority under sub-section (4) shall be notified by the Board to the person in respect of whom such indicative income and tax liability has been determined, who shall have the option to pay the determined amount on such terms, conditions, installments, discounts, reprieves pertaining to penalty and default surcharge, and time limits that may be prescribed by the Board.
 - (6) In case the person against whom a liability has been determined under sub-section (4), does not pay such liability within the time prescribed under sub-section (5), the Board shall take action under this Ordinance, upon the basis of tax liability computed under sub-section (4).
 - (7) If the person against whom the liability has been determined under sub-section (4) pays such liability in terms of sub-section (5), such payment shall be construed to be an

amended assessment order under section 120 or sub-section (1) of section 122 or sub-section (4) of section 122 as the case may be.

- (8) For the purposes of sub-sections (4) and (5), the Board may prescribe the extent of installments, reprieves pertaining to penalty and default surcharge and time limits.”;
- (6) in section 182, in sub-section (1), in the Table, in column (1),
- (a) against S. No. 1, for the entry in column (3), the following shall be substituted, namely:—

“Such person shall pay a penalty equal to higher of —

- (a) 0.1 % of the tax payable in respect of that tax year for each day of default; or
- (b) rupees one thousand for each day of default:

Provided that minimum penalty shall be—

- (a) rupees ten thousand in case of individual having seventy-five percent or more income from salary; or
- (b) rupees fifty thousand in all other cases:

Provided further that maximum penalty shall not exceed two hundred percent of tax payable by the person in a tax year:

Provided also that the amount of penalty shall be reduced by 75%, 50% and 25% if the return is filed within one, two and three months respectively after the due date or extended due date of filing of return as prescribed under the law;

Explanation.—For the purposes of this entry, it is declared that the expression “tax payable” means tax chargeable on the taxable income on the basis of assessment made or treated to have been made under sections 120, 121, 122 or 122D.

- (b) S. No.14 and entries relating thereto in columns (1), (2), (3) and (4) shall be omitted and shall always be deemed to have been so omitted since the commencement of the Income Tax Ordinance, 2001 (XLIX of 2001).”;

- (7) section 198 shall be omitted and shall always be deemed to have been so omitted since the commencement of the Income Tax Ordinance, 2001 (XLIX of 2001);
- (8) in section 216, in sub-section (3), clause (kb) shall be omitted;
- (9) in section 235,—
- (a) after sub-section (1), the following new sub-section shall be added, namely:—

“(1A) In addition to tax collectable under sub-section (1), there shall be collected additional advance tax at the rates given in the Division-IV of Part-IV of the First Schedule from professionals not appearing on ATL and operating from residential premises having domestic electric connections from electricity distribution companies.

For the purposes of this sub-section professionals include accountants, lawyers, doctors, dentists, health professionals, engineers, architects, IT professionals, tutors, trainers and other persons engaged in provision of services.”;

- (b) in sub-section (4), in clause (c), after the word “company”, the expression “ or domestic consumer” shall be inserted;
- (10) In the First Schedule, in Part-IV, in Division-IV, after the omitted clause (2), the following new clause shall be inserted, namely:—

“(2A) The rate of additional advance tax under sub-section (1A) of section 235 shall be collected from the gross amount of the electricity bills at the rates given below:—

Sr. No.	Description	Rate of additional tax
(1)	(2)	(3)
1	Where the bill does not exceed 10,000 rupees	5%
2	Where the bill exceeds 10,000 rupees but does not exceed 20,000 rupees	10%
3	Where the bill exceeds 20,000 rupees but does not exceed 30,000	15%

Sr. No.	Description	Rate of additional tax
(1)	(2)	(3)
4	Where the bill exceeds 30,000 rupees but does not exceed 40,000	20%
5	Where the bill exceeds 40,000 rupees but does not exceed 50,000	25%
6	Where the bill exceeds 50,000 rupees but does not exceed 75,000	30%
7	Where the bill exceeds 75,000 rupees	35%”;

(11) in the Second Schedule,—

(A) in Part-I, in clause (66), in sub-clause (1), in the Table 1, in column (1),—

(i) S. Nos. (xix) to (xlxv) shall be re-numbered as S. Nos. (1) to (lv) respectively;

(ii) after S. No. (lv), re-numbered as aforesaid, and entries relating thereto in column (2), the following new entry shall be added, namely:—

“lvi	Pakistan Mortgage Refinance Company Limited.”;
------	--

(B) in Part II,—

(i) in clause (24C), after the word “cement” the expression “, steel” shall be inserted; and

(ii) in clause (24D), after the word “cement” the expression “, steel” shall be inserted; and

(C) in Part-IV, in clause (11A), after the sub-clause (xliv), following new sub-clause shall be added, namely: —

“(xlv)	Mobile phone manufacturers engaged in the local manufacturing of mobile phone devices.”;
--------	--

- (12) in the Seventh Schedule, in rule 6C, in sub-rule (6A), for the word "assets", wherever occurring, the word "gross advances" shall be substituted; and
- (13) in the Thirteenth Schedule, in the Table 1, in column (1), after S. No. 62 and entries relating thereto in column (2), the following S. No and entry relating thereto shall be added, namely: —

"63	All entities mentioned in Table – I of clause (66) of Part-I of the Second Schedule of the Ordinance."
-----	--

Statement of Objects and Reasons

The purpose of this bill is to lay the Tax Laws (Third Amendment) Ordinance, 2021 (XXII of 2021) in the National Assembly under subparagraph (i) of Paragraph (a) of clause (2) of Article 73 of the Constitution of the Islamic Republic of Pakistan, 1973.

2. The Tax Laws (Third Amendment) Ordinance, 2021 incorporates certain measures including broadening of tax base, promoting integration of Tier-I retailers with FBR's computerized system, promoting digital economy, providing relief to certain items etc. Through further amendments in tax laws namely Customs Act, 1969, Sales Tax Act, 1990 and Income Tax Ordinance, 2001.

3. In the Customs Act, 1969, the mechanisms regarding appeal against the order of Director General Valuation and reassessment of declaration of Goods is modified to ensure proper implementation of valuation rulings and to avoid unnecessary litigation. Moreover, the definition of security instrument is amended to include corporate guarantees.

4. In the Sales Tax Act, 1990, necessary amendments are made for broadening of tax base, encouraging integration with FBR's real time reporting system and tightening of penal provisions for non-compliant taxpayers. Moreover, provisions relating to promoting digital economy and correction of anomaly regarding allowing zero rating to milk are also included.

5. Similarly, in the Income Tax Ordinance, 2001, a new provision is inserted for providing access of FBR data to NADRA for the purposes of broadening of tax base and developing citizen portal for calculating indicative income and detecting tax evasion. Besides, some other measures relating to promotion of digital economy, broadening of tax base and streamlining procedures have been added.

6. The Ordinance seeks to amend the Customs Act, 1969 (IV of 1969), Sales Tax Act, 1990 and the Income Tax Ordinance, 2001.

Shaukat Fayaz Ahmed Tarin
Minister for Finance and Revenue