**PROPOSED CHANGES IN THE INCOME TAX ORDINANCE, 2001**

**THROUGH FINANCE BILL 2016-17**

* **Super Tax - Section 4B.**

Super tax from person having income equal to or exceeding Rs.500 Million, as per proposal through finance bill 2016, shall also be charged for the tax year 2016.

* **Tax On Builders – Section 7C.**
* Finance Bill 2016 has proposed insertion of new section to charge tax on profits and gain of person deriving income from business of construction and sale of residential/commercial buildings. Rates of tax have been given in Division VIIIA of Part-I of first Schedule. The per sqft rate for commercial and residential buildings is different for different cities.
* It has been proposed that this section shall apply to construction of buildings initiated and approved after 01.07.2016.
* **Tax on developers – Section 7D.**

Finance bill 2016 has proposed insertion of new section to charge tax on profits and gain of person deriving income from business of development and sale of residential/ commercial plots. Rates of tax have been given in Division VIII B of Part-I of First Schedule. Rates for commercial and residential plots are different for different cities. This section shall apply to projects initiated and approved after 01.07.2016.

* **General Provisions relating to Taxes – Section 8**

Finance Bill 2016 has proposed that tax imposed under section 7C and 7D shall be final tax and the tax payable shall not be reduced by any tax credit under this Ordinance.

* **Property Income – Section 15**

Finance Bill 2016 has proposed for insertion of new sub-sections (6) and (7). By virtue of sub-section (6) property income shall be taxed as separate block of income as given in Div VIA of Part-I of First Schedule. In the case of individuals and Association of persons no tax shall be charged on property income not exceeding two hundred thousand rupees.

* **Deductions in Computing Property Income – Section 15A**

It has been proposed by the Finance Bill 2016 that deduction such as 1/5th for repairs, expenditure upto 6% of property income etc shall be allowable to company only.

* **Deduction not allowed – Section 21(C)**

Originally, for non-deduction of withholding tax, addition u/s 21(c) was made in respect of payments made for salary, rent, brokerage/commission, profit on debts, services etc. Now by virtue of newly proposed clause (c), scope of disallowances has been extended to all sections of withholding/collection of taxes. However, by virtue of the provisions it has been proposed that disallowances in respect of purchase of raw-material and finished goods shall not exceed 20% of purchases and that recovery of tax u/s 161 or 162 shall be considered as tax paid.

* **Depreciation – Section 22**

Finance Bill 2016 has proposed for addition of explanation after sub-section (5) according to which where depreciable assets have been used during the period when income is exempt from tax, the depreciation admissible shall be treated to have been allowed. After expiration of exemption period, written down value shall be calculated after reducing the total depreciation including initial allowance

* **Group Relief – Section 59B**

Section 59B deals with the grump relief. Finance Bills 2016 has proposed insertion of new sub-section (1A) to calculate the loss surrendered by the subsidiary or holding company in favour of holding or subsidiary company as the case may be. It has been proposed that loss shall be calculated as per following formula:-

 (A/100) x B

 A – is the percentage share capital held by the holding company of its subsidiary company.

 B – is the assessed loss of subsidiary company.

* **Tax Credit for Investment in Health Insurance – Section 62B**

Finance Bill 2016 has proposed insertion of new section 62B to grant tax credit to resident persons deriving income from salary or business in respect of health insurance premium paid to insurance company registered by SECP under the Insurance Ordinance, 2000. Tax credit shall be calculated as per following formula:-

 (A/B) x C

 “A” is the amount of tax assessed for the year before allowance of tax credit.

 “B” is the person’s taxable income for the year.

 “C” is the lessor of:

1. Contribution or premium paid in the year.
2. Five percent of the person’s taxable income.
3. One hundred thousand rupees.
* **Contribution to Approved Pension Fund – Section 63**

Insertion of new proviso in component (c) of sub-section (2) of section 63 has been proposed to further enhance the limit of contribution to approved pension fund for the purpose of tax credit. It has been proposed that additional contribution of 2% per annum for each year of age exceeding forty years shall be allowed upto 30th June, 2019 subject to the condition that total contribution allowed to such person shall not exceed 30% of the taxable income of the preceding year.

* **Allowance for Profit on Debts – Section 64A**

As per sub-section (2) of section 64A, deductible allowance was fifty percent of taxable income or one million rupees whichever is less, Finance Bill 2016 has proposed to give allowance at fifty percent of taxable income or **Two** million rupees.

* **Allowance for Education Expenses – Section 64AB**

Finance Bill 2016 has proposed addition of new section 64AB to grant allowance in respect of tuition fee paid by an individual having taxable income less than one million rupees. This allowance shall not be taken into account for computation of deduction of tax by the employer.

* **Tax Credit for Persons Registered under Sales Tax Act, 1990 – Section 65A**

Tax credit to manufacturer registered under Sales Tax Act who is making 90% sales to sales tax registered persons has been increased from 2.5% to 3% of tax.

* **Tax Credit for Investment – Section 65B**

Tax credit for investment towards balancing, modernization and replacement of plant and machinery has been extended from year 2016 to 2019.

* **Tax Credit for Newly Established Industrial Undertakings –**

**Section 65D**

At present 100% tax credit is allowed if new industrial undertaking has been established through 100% new equity. Finance Bill 2016 has proposed to reduce the condition of equity to 70%. Bill has also proposed to calculate tax credit proportionately on equity raised through issuance of shares. Period of setting up the industry has been extended from 2016 to 2019. Formula for calculation of credit is (A/100) x B. “A” is the amount of tax assessed and “B” is the equity raised through issuance of shares.

* **Tax Credit for Industries Established before 1st July, 2011 –**

**Section 65E**

At present tax credit for expansion of plant & machinery already installed and for undertaking a new project is 100% if established through 100% new equity. Finance Bill 2016 has proposed to reduce the condition of equity to 70%. Bill has also proposed to calculate tax credit proportionately on equity raised through issuance of shares. Period of setting up the industry has been extended from 2016 to 2019. Formula for calculation of credit is (A/100) x B. “A” is the amount of tax assessed and “B” is the equity raised through issuance of shares.

* **Fair Market Value – Section 68**

As per proposed amendment, the value of any property, rent or asset, notified by the Provincial Authority for the stamp duty shall not be taken into consideration for determining the fair market value of property, rent or asset.

* **Transactions between Associates – Section 108**

Finance Bill 2016 has proposed the insertion of new sub-section (3) according to which specific documents and information is to be maintained in respect of transactions with the Associates. Such information is to be furnished within thirty days to the Commissioner if required during proceedings.

* **Minimum Tax – Section 113**

Minimum Tax u/s 113 had been charged from individuals and AOPs having turnover of fifty million rupees or above. Finance Bill 2016 has proposed to charge minimum tax from individuals and AOPs having turnover of 10 Million rupees or above from tax year 2017 and onwards.

 Finance Bill has also proposed to charge minimum tax from companies which had declared gross loss. At present minimum tax is not payable by companies having gross loss.

* **Return of Income– Section 114**

Finance Bill 2016 has proposed the insertion of new proviso according to which condition of approval of Commissioner in clause (ba) shall not be applicable if:-

i) order of approval in writing regarding revision is not made within 60 days when permission was sought; or

ii) taxable income is more than the declared income or less is less than the declared loss as determined u/s 120.

* **Provisional Assessment – Section 122C**

Finance Bill 2016 has proposed addition of new proviso in replacement of already existing first and second provisos. It has been proposed that Provisional Assessment in case of individuals and AOPs shall not attain finality, if within 45 days, income tax return, wealth statement alongwith reconciliation statement are filed and the accounts are presented for conducting audit of income tax affairs.

 In the case of company provisional assessment shall not attain finality, if within 45 days, return alongwith audited or final accounts is filed electronically and the company presents accounts and documents for conducting audit of its income tax affairs.

* **Advance Tax – Section 147**

At present advance tax is paid on the basis of tax on income or minimum tax on turnover. Finance Bill 2016 has proposed that Alternate Corporate Tax (section 113C) may also be made the basis for payment of advance tax.

* **Payment for Foreign Produced Commercials – Section 152A**

Finance Bill 2016 has proposed insertion of new section 152A to deduct tax @ 20% from the gross amount paid to the non-resident person for foreign produced commercial for advertisement on any TV channel or other media. Tax so deducted shall be the final tax on the income of non-resident person arising out of such payment.

* **Payment for Goods, Services and Contracts – Section 153**

Finance Bill 2016 has proposed insertion of new clause 9(e) in sub-section (3) of section 153 according to which tax deducted on payments made to electronic and print media for advertising services shall be the final tax.

* **Tax Deducted and Collected as Final Tax – Section 169**

Finance Bill 2016 has proposed addition of new sub-section (4) according to which when for final tax there are separate rates for filer and non-filer, the final tax shall be the tax rate for filer and excess tax, deducted or collected due to higher rate for non-filer, shall be adjustable.

* **Cash Withdrawal from Banks – Section 231A**

No tax is deducted on cash withdrawal where it does not exceed fifty thousand rupees in a day. Finance Bill has proposed addition of explanation which states that the said fifty thousand rupees shall be the aggregate withdrawal from all bank accounts in a single day.

* **Advance Tax on Private Motor Vehicles – Section 231B**

By virtue of insertion of proviso, it has been proposed that advance tax shall not be collected after five years from the date of first registration.

 Finance Bill 2016 also proposes for insertion of new sub-section (1A) which will make it mandatory for leasing company or scheduled bank to collect advance tax @ 3% of value of motor vehicle from non-filer at the time of leasing of motor vehicle.

* **Advance Tax at the time of Sale by Auction – Section 236A**

Finance Bill has proposed addition of new sub-section (3) by virtue of which tax collected, on lease of right to collect tolls, shall be the final tax.

* **Advance Tax on Sale of Immovable Property – Section 236C**

Finance Bill has proposed insertion of new sub-section (3) according to which advance tax shall not be collected on sale of property which has been held for a period exceeding five years.

* **Advance tax on Banking Transactions Otherwise than Through Cash**

No tax is deductible on banking transactions less than Rs.50,000/-. Finance Bill has proposed addition of explanation which states that said fifty thousand rupees shall be the aggregate withdrawals in a single day from all bank accounts.

* **Advance Tax on Insurance Premium – Section 236U**

Finance Bill has proposed insertion of new section by virtue of which every insurance company shall collect advance tax from non-filers at the time of collection of Insurance Premium (Life Insurance and General Insurance).

* **Advance Tax from Extraction of Minerals – Section 236V**

Finance Bill 2016 h as proposed insertion of new section 236V by virtue of which advance tax (adjustable) shall be collected by the Provincial authority @ 5% from non-filers on the value of minerals extracted, produced or desptached.

* **Advance Tax from Provincial Sales Tax Registered Persons – Section 236W**

Finance Bill has proposed new section 236W which makes it obligatory for every Provincial Revenue Authority to collect tax @ 3% of turnover from non-filers who are Provincial sales tax registered persons. The advance tax shall be collected alongwith sales tax returns filed with the Provincial Revenue Authority.

**FIRST SCHEDULE – TAX RATES**

 Finance Bill 2016 has proposed following major charges in First Schedule:-

* Separate tax rate for individuals and Association of persons enjoying income from property. No tax where gross rent does not exceed Rs.2,00,000/-.
* Depending upon holding period of securities, the tax rate for non-filers has been increased.
* Tax @ 10% shall be charged on gain from sale of immovable property where holding period is upto 5 years.
* Divisions VIIIA and VIIB have been inserted in which rates of tax for builders and developers respectively have been given.
* Tax on dividend for non-filer has been enhanced from 17.5% to 20%.
* In case of supplies of fast moving consumer goods tax shall be deducted @ 3% in case of supplier company and 3.5% if the supplier is other than company.
* Rate of deduction of tax, on payments to electronic and print media for advertising services in respect filers, has been increased from 1% to 1.5%.
* Tax @ 20% shall be deducted from non-filers in respect of amount paid as prize on prize bonds or cross word puzzle.
* In case of advertising agents, 10% of amount for filers and 15% for non-filers.
* In case of Insurance agents where commission received is less than 45 lac, 8% for filers and 16% for non-filers.
* Rate of collection of tax from sale and purchase of shares has increased from 0.01 to 0.02% of purchase/sale value.
* Rate of collection of advance tax on sale or transfer of immovable property has been enhanced from 0.5 to 1% for filers and from 1% to 2% for non-filers.
* Rate of collection of advance tax on purchase of immovable property has been increased from 1% to 2% for filers and from 2% to 4% for non-filers where value of property is more than 3 millions.
* Rate of collection of tax from non-filer on payment of general insurance premium shall be 4% of premium.
* Rate of collection of tax from non-filer on payment of life insurance premium exceeding 0.2 million per annum shall be 1% of premium.
* Rate of collection of advance tax from non-filers shall be 5% of value of minerals and 0% for filers.

**SECOND SCHEDULE**

**PART-I – EXEMPTIONS**

* Finance Bill 2016 has proposed insertion of new clauses (126A), (126AA), (126AB), 126AC), (126AD).

Exemption from tax available to China Overseas Ports Holding Company Ltd [COPH], from Gawadar Port operations for a period of 23 years (w.e.f February 6, 2007), is proposed to be extended to its following group companies:

(a) China Overseas Ports Holding Company Pakistan (Pvt) Ltd – COPHPL,

(b) Gawadar International Terminal Ltd,

(c) Gawadar Marine Services Ltd; and

(d) Gawadar Free Zone Company Ltd.

In addition, following further exemptions are proposed in the newly inserted clauses:-

i) Exemption from Minimum Tax under section 113 for a period of 23 years effective July 01, 2007 for all the above entities.

ii) Exemption from tax on income of contractors and sub-contractors of COPH and its above group entities from Gawadar Ports operations for a period of 20 years effective July 01, 2016.

iii) Exemption from tax on dividend income received by COPH as well as by COPHPL from above group entities. Tax withholding on such dividend income has also been exempted for period of 23 years.

iv) Exemption from tax on Profits and gains derived by a taxpayer from businesses setup in Gawadar Free Zone Area for a period of 23 years w.e.f July 1, 2016.

v) Exemption from tax on Profit on debt earned by a foreign lender or a local bank (owned more than 75% by the Government of Pakistan or State Bank of Pakistan) under a financing agreement with COPH.

* **Export of IT Services, Software) – (clause 133)**

Exemption period to income from export of computer software or IT services has been extended from year 2016 to 2019.

Exemption has been linked with the condition through insertion of proviso that 80% of export proceeds are brought into Pakistan in the form of foreign exchange remitted through normal banking channels.

**PART-II**  – **REDUCTION IN TAX RATES**

* **Contracts and Services Outside Pakistan – clause (3)**

Presently gross receipts from contracts and services executed outside Pakistan are taxed @ 1% provided receipts are brought into Pakistan in foreign exchange through normal banking channels. Now rate of tax has been increased which will be 50% of the rates applicable on contracts and services u/s 153, provided that receipts are brought into Pakistan in the form of foreign exchange through normal banking channels.

* **Income of Pakistan Cricket Board – clause (3B)**

Finance Bill 2016 has proposed insertion of new clause according to which Pakistan Cricket Board’s income derived from services outside Pakistan including media rights, gate money, sponsorship fee etc shall be taxed @ 4% of the gross receipts from services mentioned in clause (3B).

**PART-IV**  – **EXEMPTION FROM SPECIFIC PROVISIONS**

* **Minimum Tax u/s 113 – clause (11A) – sub-clause (xxv)**

Finance Bill 2016 has proposed insertion of new sub-clause (xxv) to clause (11A) by virtue of which minimum tax u/s 113 shall not be charged from China Overseas Ports Holding Company Ltd, China Overaseas Ports Holding Company Pakistan (Pvt) Ltd, Gawadar International Ltd, Gawadar Marine Services Ltd and Gawadar Free Zone Company Ltd. This exemption from minimum tax shall be for the period of 23 years w.e.f 06.02.2007.

* **Deduction of Tax on Dividends – clause (38AA)**

Finance Bill 2016 has proposed addition of new clause (38AA) by virtue of which provisions of section 150 (Dividends) shall not apply to companies mentioned in above sub-clause (xxv ) of clause 11A).

* **Minimum Tax on Large Trading Houses – clause (57)**

At present large trading houses have not to pay minimum tax for the first ten years. In this clause, proposal is for insertion of a new proviso by virtue of which minimum tax u/s 113 shall be 0.5% upto tax year 2019 and 1% thereafter.

* **Exemption Certificate u/s 148 – clause (72B)**

At present clause (72B) makes non-application of provisions of section 148 (tax on import) where industrial undertaking is issued with exemption certificate from Commissioner.

Finance Bill 2016 has proposed insertion of three provisos to the clause (72B) to impose following conditions linked with the issuance of exemption certificate:-

* Quantity of raw-material to be imported which sought to be exempted shall not exceed 110% of quantity imported and consumed during the previous year.
* Commissioner shall conduct audit during the financial year in which certificate is issued in respect of consumption, production and sales of the latest year, and the taxpayer shall be treated to have been selected for audit under section 214C.
* If taxpayer fails to present accounts, the Commissioner shall cancel the certificate and recover the tax not collected under section 148.
* **Investment in green field industrial undertaking – Clause (86).**

At present source of investment made in green field Industrial Undertaking is exempt from tax if investment is made between 01.01.2014 to 30.06.2017, Now the period of exemption to investment in green field Industrial Undertaking has been extended to 30.06.2019.

* **IT Services – Clause (94)**

Exemption available to development services has been extended to “IT Services” and “IT enabled services”. A new proviso has been inserted by virtue of which exemption is linked with the condition that taxpayers for tax year 2017, shall give undertaking that accounts shall be presented to the Commissioner by November 2016.