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## Income Tax Ordinance, 2001 (Ordinance 2001)

### Importers allowed to import wheat without collection of income tax at import stage

FBR vide SRO 642(1)2020 dated 28 July 2020 has added a new clause (12F) in Part IV of Second Schedule to the Ordinance 2001 allowing exemption from collection of income tax under section 148 of the Ordinance on import of 1.5 million tons of wheat having PCT Heading 1001.1900 and 1001.9900 in pursuance of Cabinet Decision in case No 399/23/2020 dated 16 June 2020.

### Trading Corporation of Pakistan (TCP) allowed to import white sugar without collection of income tax at import stage

FBR vide SRO 750(I)/2020 dated 12 August 2020 has inserted clause 12G in Part IV of Second Schedule to the Ordinance 2001 allowing TCP to import up to 30,000 metric tons of white sugar having PCT heading 1701.9910 and 1701.9920 without deduction of tax under section 148.

### Importers allowed to import white sugar with reduced tax rate

FBR vide SRO 771(I)/2020 dated 26 August 2020 has inserted clause 9AA in Part 11 of Second Schedule to the Ordinance 2001 allowing importers to import white sugar under HS codes 1701.9910, 1701.9920 from 25 day of August 2020 to 15 day of November 2020 (both days inclusive) at reduced rate of 0.25% and the quantity, quality, mode and manner shall be prescribed by the Ministry of Commerce during the said period.

### Exemption from taxes on import of Oxygen Gas, Oxygen Cylinders and Cryogenic tanks

FBR vide SRO 772(I)/2020 dated 24 August has inserted clause 12H in Part IV of Second Schedule to the Ordinance 2001 allowing import without deduction of tax in terms of section 148 of the Ordinance of the following items.

Sr No	Description	PCT Code
1.	Oxygen Gas	2804.4000),
2.	Oxygen Cylinders	7311.0090)
3.	Cryogenic	7311. 0030)

This exemption shall be available for a period of 3 months starting from 23 June 2020 and this concession will also apply to LCs opened or GDs filed on or after 23 June 2020.

### Import by National Disaster Management Authority (NDMA) of 83 X Micron sprayers for Anti-Locust Operation made exempt

FBR Vide SRO 922(1) 2020 dated 29 September 2020 has inserted a new clause (122) in Part IV of Second Schedule to the Ordinance 2001 providing that the provision of section 148 of the Ordinance shall not apply to the import of 83 X Micron sprayers for Anti-Locust Operation (Respective heading) made by NDMA.

## Income Tax Rules, 2002 (Rules 2002)

### Amendments in the Income Tax Rules, 2002

FBR vide SRO 715(I)/2020 dated 12 August 2020 has inserted Part IA in Chapter IX of Rules, 2002, salient features of Part IA are as under;

#### Applicability of Rules

As per Rule 40A, the provisions of this Part shall apply for the following purposes;

- Addition, omission, or amendment of entries in the twelfth Schedule; and
- Application of reduced rate on goods imported by persons as raw material for its, own use falling under part III of said Schedule.

#### Formation of Committee

As per Rule 40B;

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- that there shall be a committee on imported goods comprising the following members.

Committee members	Roll in Committee
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a. Member	Inland Revenue Policy	Chairperson
b. Member	Inland Revenue Operations	Member
c. Member	Taxpayer Audit	Member

- The chief Income Tax Policy shall act as Secretary of the Committee.
- The Committee is empowered to add, omit or amend any entry in the Twelfth Schedule.
- The Chairperson of the Committee suo moto or on application of an Importer of such goods may place a matter pertaining to addition, omission or amendment before the committee, which shall decide the matter within sixty (60) days.

## Reclassification of Imported Goods in Twelfth Schedule

As per Rule 40C, the decision of the committee after taking into consideration all relevant facts shall be by majority for adding, omitting or amending any entry in the Twelfth Schedule. Further, such decision shall be notified in the Official Gazette by the Board.

## Import under an Exemption Certificate

As per Rule 40D, a taxpayer eligible for filling application under sub-section 1 of section 159 of the Ordinance 2001 may submit an application for an exemption certificate through Iris along with supporting documents and data in electronic form. Till such time Iris is enabled, a taxpayer can also submit an application along with the supporting documents and data manually to the Commissioner.

The commissioner on receipt of a complete application along with the documents prescribed may verify whether;

- Such goods are relevant to the activity of taxpayer whose income is exempt from Tax under the Ordinance or is subject to tax 100 % tax credit under section 100C of the Ordinance 2001; and
- Similar goods previously imported have not been supplied to its associate or any other person in non-arm's length transaction.

The commissioner may within 15 days of an application submitted by the taxpayer through an order in writing;

- Approve such quantity of goods as it may deem fit to be imported without collection of tax under section 148.
- Reject the application of the taxpayer.

## Import under a Reduced Rate Certificate

As per Rule 40E, a taxpayer desirous of importing goods classified under Part III of the Twelfth Schedule to the Ordinance 2001 as raw material for its own use may submit an application for a reduced rate certificate through Iris along with the following documents and data in electronic form; namely

- The site plan of the manufacturing unit indicating the location of the premises and the details of the total area, covered area, manufacturing area, separate storage areas for manufactured goods which factory rejects and for wastages.
- Complete details of machinery installed.
- Installed production capacity per day and the average production per day for the last two tax years.
- A complete manufacturing process flow, clearly indicating the following; namely
  - the stage at which local and imported raw materials shall be consumed; and
  - the stage at which finished goods shall be manufactured.
- Inventory statement, consumption statement, input-output ratio of locally produced and imported goods for the last assessed tax year and the period starting on the first day after the last assessed tax year and

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ending on the day on which an application is made;  
and

- An estimate of advance tax under section 147(4A) of the Ordinance 2001, if not already furnished.

Till such time Iris is enabled, a taxpayer can also submit an application along with the supporting documents and data manually to the Commissioner.

It is further provided that a taxpayer shall not be required to furnish documents and data under first two bullets where the taxpayer has been granted a reduced rate certificate under this rule in the previous tax year and the taxpayer submit a declaration to the effect that there is no change in particulars specified under first two bullets.

On receipt of a complete application along with the documents, the commissioner may, after such verification as he may consider necessary may calculate the quantity of raw material allowable to be imported during the tax year at reduced rate which shall be computed in accordance with the following formula namely;

$$[(125\% \times A) - B] \times [1+C]$$

Where –

A = is lesser of previous year's import or consumption of the raw material;

B = is the raw material available with the taxpayer at the time of application; and

C = is the percentage change in turnover estimated under section 147 compared to last assessed tax year.

The commissioner may within 15 days of an application submitted by the taxpayer through an order in writing;

- Approve such quantity of goods as it may deem fit to be imported by the persons as if such goods were classified under Part II of Twelfth Schedule; or
- Reject the application of the taxpayer.

All the orders shall be reviewed quarterly by the Review Committee.

## Monitoring by the Commissioner

As per Rule 40F, the commissioner or an officer authorized by the Commissioner shall have free access to premises, registered office or any other place where any stocks, business records or documents required under these rules are kept or maintained or whose business activities are covered under these rules and such Officer may, at any time, inspect the goods, stocks, records, data, documents, correspondence, accounts and statements or any other record to verify the following; namely

- The production capacity and stocks consumption as stated by the taxpayer, manufacturing capacity; and
- The raw material being imported is in line with the manufacturing activity or capacity and it is being used as raw material for own use only.

The Commissioner may conduct audit of consumption, production and sales of the latest Tax Year for which return of income has been filed at any time during the year in order to verify that the quantum of annual production is in accordance with the consumption of raw materials and the input-output co-efficient (IOCO).

## Rate of advance tax on import of raw material by manufacturers covered under rescinded SRO 1125(I)/2011

The rate of advance tax on import of goods u/s 148 of the Ordinance 2001 was changed to 1%, 2% and 5.5% of goods classified under Part I, II and III of the Twelfth Schedule through Finance Act 2020.

FBR through circular 2 of 2020 dated 18 August 2020 has clarified that the rate of advance tax u/s 148 of the Ordinance in case of raw material imported by manufacturers covered under the rescinded SRO 1125(I)/2011 as it stood on 28 June 2019 on import of items covered under the aforementioned SRO shall be 1% irrespective of whether such goods are classified in Part II or Part III.

## Audit Policy 2019

FBR has issued audit policy 2019 for selecting the cases for audit for the tax year 2018.

The salient features of the policy are as under:

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## Scope:

- This policy shall be effective for Tax Year 2018 and corresponding Tax periods for Sales Tax and FED.
- It is applicable to persons or classes of persons falling under the Ordinance 2001, Sales Tax Act 1990 and Federal Excise Act, 2005.
- Besides Tax Year and Tax periods mentioned above the CIRs and director I&I (IR) may also select cases of persons for audit for tax year (s) and corresponding Tax periods, provided that the statutory limitations so permits.

## Methodology

FBR by applying the Risk Based Parameters through computer ballot would select cases;

- 0.76% of income tax out of the total filers after exclusion in Income Tax for the Tax Year 2018.
- 1.67% of sales tax and 5.65% of FED out of the total filers after exclusions for Tax period corresponding to accounting period adopted for the purpose of returns of Income Tax for TY 2018.

FBR has, however, limited the audit cases to 10% of total Audits as selected without the risk- based system, which is subject to clearance by Member (Taxpayers Audit).

## Exclusions

### Income Tax

- All cases already selected for audit u/s 177 and in consequence of action u/s 175 of the Ordinance 2001 for Tax Year 2018 by the CIRs and director I&I (IR).
- All cases where income chargeable to tax under the head salary and or pension exceeds 50% of taxable income except cases having business income or Directors of a company.
- All cases where entire income is FTR.
- All cases where declaration has been made under the Voluntary Declaration of Domestic Assets Act, 2018.

- All cases where declaration has been made under the Asset Declaration Ordinance 2019.

## Sales Tax

- All cases already selected for audit under section 25 and 38 of the Sales Tax Act, 1990 by the CIRs and director I&I (IR) for tax periods corresponding to the accounting period adopted for purpose of returns under Ordinance 2001 for the tax year 2018, provided that where only a part of the said accounting period had been audited already, the relevant authority may select the remaining period for audit.
- Federal, Provincial and Local Government Departments.
- All cases where declaration is made under the Voluntary Declaration of Domestic Assets Act, 2018.
- All cases where declaration has been made under the Asset Declaration Ordinance, 2019.

## Federal Excise Duty

- All cases already selected for audit under section 45 and 46 of the FED Act, 2005 by the CIRs and director I&I (IR) for tax periods corresponding to the accounting period adopted for purpose of returns under Ordinance 2001 for the tax year 2018 provided that where only a part of the said accounting period had been audited already, the relevant authority may select the remaining period for audit.
- All cases where declaration is made under the Voluntary Declaration of Domestic Assets Act, 2018.
- All cases where declaration has been made under the Asset Declaration Ordinance 2019.
- Federal, Provincial and Local Government Departments.

## Risk Parameters

### Income Tax

The risk parameters would not be disclosed u/s 214C (1A) of the Ordinance 2001. However, the risk

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parameters applied to Taxpayer selected for audit can be communicated on demand.

## Sales Tax

The risk parameters would not be disclosed u/s 72B (1A) Tax of Sales Act, 1990.

## Federal Excise Duty

The risk parameters would not be disclosed u/s 42B (1B) of Federal Excise Duty 2005.

## Banking Companies Reporting Requirement Rules 2010

FBR Vide SRO 773 (I)/ 2020 dated 24 August 2020 has substituting Chapter VIII A of the Rules 2002, salient features of which are as follows;

As per Rule 39A, chapter VIII A will apply to the banking companies reporting requirements for the purpose of section 165A of the Ordinance 2001.

Rule 39A(I) contains the definitions of the following words/Terms;

- (a) "account holders deposits statement means" account holders deposits statement as specified in Form A.
- (b) "banking company officer" means a senior officer nominated by the banking company at the head office to make coordination with the Board for providing any information and documents required by the Board.
- (c) "credit card payments statement" means credit card payments statement as specified in Form B.
- (d) "cash withdrawal statement" means cash withdrawal statement as specified in Form C.
- (e) "Information" includes account holders' deposits statement, credit card payments statement, cash withdrawal statement, profit on debt statement, and details of any information or data as required by the Board from the banking company in terms of section 165(2) of the Ordinance 2001.

(f) "reporting banking company" means a banking company required under section 165A of the Ordinance to provide the Board all the information and documents electronically or otherwise, mentioned in the said section.

(g) "profit" on debt statement" means profit on debt statement as specified in Form D.

## Furnishing of Information

As per Rule 39B(1), the reporting banking company shall provide to the Board the information required to be furnished under Section 165A in the manner specified in;

- "account holders deposits statement" as specified in Form A.
- "credit card payments statement" as specified in Form B.
- "cash withdrawal statement" as specified in Form C.
- "profit on debt statement" as specified in Form D.

As per Rule 39B(2), the reporting banking company shall provide the information other than that provided above as requisitioned by the Board.

## Authorized Person

As per Rule 39C(1), every bank shall nominate a banking company officer for provision of data to the Board. The said officer shall be nominated within 30 days of coming into force of these rules.

As per Rule 39C(2), the president or principal officer will be considered as the banking company officer, in case, said officer is not nominated within 30 days of coming into force of these rules.

As per Rule 39C(3), banking company officer shall be providing the required information to the Board.

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## Time of furnishing information

As per Rule 39D(1), every banking officer shall submit to the Board monthly account holder deposit statement, credit card payment statement and cash withdrawal statement for immediately preceding calendar month within 15 days of the end of preceding calendar month.

As per Rule 39D(2), every banking officer shall submit to the Board annual profit on debt statement within 03 months of the end of preceding calendar year.

As per Rule 39D(3), every banking officer shall submit to the Board any information and documents in addition to those mentioned above within the time allowed by the Board.

## Re-designation of Inland Revenue Field Formations

FBR by exercising its powers conferred u/s 49(I)(r) of the Federal Board of Revenue Act 2007 vide Jurisdiction order dated 21 August 2020 has re-designated the nomenclature of the field formations.

## Constitution of Panels of persons of ADRC committees

FBR vide SRO 810 (I)/2020 dated 04 September 2020 has notified the panel of persons of ADRC committees constituted for the purpose of resolving the issues of Taxpayers relating to Income Tax, Sales Tax and Federal Excise Duty for the cities mentioned in the said SRO.

## Introduction of electronic return for salaried persons.

FBR vide SRO 822 (I)/2020 dated 08 September 2020 has added a new Part II-Q in the Second Schedule of Rules 2002, whereby, an Electronic Return has been introduced for the Tax year 2020 for Salaried Persons.

## Constitution of Panels of persons of ADRC committees

FBR vide SRO 810 (I)/2020 dated 04 September 2020 has notified the panel of persons of ADRC committees constituted for the purpose of resolving the issues of

Taxpayers relating to Income Tax, Sales Tax and Federal Excise Duty for the cities mentioned in the said SRO.

## Introduction of electronic return for salaried persons

FBR vide SRO 822 (I)/2020 dated 08 September 2020 has added a new Part II-Q in the Second Schedule to the Rules 2002, whereby, an Electronic Return has been introduced for the Tax year 2020 for Salaried Persons.

## Alternative Dispute Resolution Rules (ADRC) amended

FBR vide SRO 845(I)/2020 dated 10 September 2020 has made the following amendments in Rule 231C of the Rules 2006.

As per Rule 231C(5) the CCIR having jurisdiction over the case shall be the Chairperson of the Committee.

As per Rule 231C(6) the Committee shall decide the dispute through consensus within one hundred and twenty (120) days from the date of its appointment by the Board.

As per Rule 231C(12A) the decision of the Committee shall be binding on the CIR where the applicant has withdrawn the appeal pending before any appellate authority or the court of law if the order of withdrawal has been communicated to the Commissioner.

As per proviso of Rule 231C(12A) the decision of the Committee shall not be binding on the Commissioner, if the order of withdrawal is not communicated to the Commissioner within sixty (60) days of the service of decision of the Committee upon the applicant.

## Simplified return of income introduced for retailers having turnover less than Rs.10 Million

FBR vide SRO 885 (I)/2020 dated 17 September 2020 has added a new Part II-R in the Second Schedule to the Rules 2002, whereby, a Form A of simplified return of income has been introduced for the tax year 2020 for retailers having Turnover less than Rs.10 Million.

## New Chapter XVIIA regarding Greenfield industrial undertaking inserted in the Income Tax Rules, 2002

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FBR vide SRO 887 (I)/2020 dated 18 September 2020 has added a new Chapter XVIIA in the Rules 2002, salient features of which are as follows;

### **Electronically applying for the approval of a Greenfield industrial undertaking**

As per Rule 220C(1), the Greenfield Industrial Undertaking as defined in clause (27A) of section 2 of the Ordinance 2001 set up in Pakistan shall make an application electronically in the form as prescribed in this sub rule, to the Commissioner for the purpose of getting approval under sub clause (b) of clause 27(A) of section 2 of the Ordinance 2001.

### **Proceeding of applications by the Commissioner**

As per Rule 220D(1), the CIR may make such inquiries or call for such further information or documents as deemed necessary after receipt of application filed under rule 220C.

As per Rule 220D(1), the CIR after scrutiny of the application and the documents shall forward the application to Engineering Development Board (EDB) for seeking certification to the effect that process or technology used by the Industrial Undertaking has not earlier been used in Pakistan.

As per Rule 220D(3), the EDB on receipt of application forwarded by CIR, shall process the same within the time stipulated by him and communicate its expert opinion / findings with regard to the query raised by the CIR.

### **Decision on application**

As per Rule 220E(1), on receipt of an application under rule 220C, the CIR, after completion of formalities may approve the organization for the purpose of clause (27A) of section 2 of the Ordinance.

As per Rule 220E(2), an approval granted under sub-rule (1) shall be notified in the official Gazette and shall be subject to such conditions as the CIR may specify in the approval.

### **Refusal to grant approval**

As per Rule 220F(1), the CIR may refuse to approve the Industrial Undertaking if the CIR is satisfied that the

Industrial Undertaking does not fulfill the conditions of Greenfield Industrial Undertaking.

As per Rule 220F(2), the CIR shall notify the decision to refuse the approval to the applicant in writing.

As per Rule 220F(3), the notice referred to in sub-rule (2) shall include a statement of reasons for the refusal.

### **Limitation for finalization of applications**

As per Rule 220G, the application shall be finalized by the CIR within fifteen (15) days of its receipt.

### **Appeal against decision of CIR**

As per Rule 220H, any taxpayer dissatisfied with the decision of CIR under rule 220F may prefer an appeal under section 131 of the Ordinance 2001 within sixty (60) days of the receipt of the order to the ATIR.

### **Exemption / lower rate certificate by a non-resident person (NRP) or PE of a non-resident person**

FBR vide SRO 923(I)/2020 dated 29 September 2020 has inserted a new Part IAA rules 2002 for issuance of exemption / reduced rate certificate to NRP or its PE, salient features of which are as follows;

As per Rule 40FA(1), NRP or its PE shall file online application for a certificate under sub section (1) of section 159 in the form specified in Part VII(B) of the first Schedule to the Rules 2002 along with requisite information documents.

As per Rule 40FA(2), a payer shall file an application online for a certificate under sub section (4B) of section 152 and sub section (5) of section 152 in the form specified in Part VII(C) of the first Schedule to the Rules 2002 along with requisite information documents.

As per Rule 40FA(3), the CIR shall issue the certificate after satisfying that NRP or its PE;

- (i) has furnished return or returns of income when became due, if any, on or before the date on which the application or notice is made and

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- (ii) is not in default of any taxes including penalties, default surcharge, advance tax under section 147 or tax payable under section 137 unless the same is stayed by the CIR, the Appellate authorities, High Court, Supreme Court or any other statutory body under the Ordinance 2001.

As per Rule 40FA(4), NRP or PE of a NRP shall file an affidavit to the effect that neither its withholding agent (payer) has filed application or notice for exemption or reduced rate certificate nor payer's application or notice has been rejected. In case of misrepresentation, issued exemption or reduced rate certificate shall be cancelled forthwith.

As per Rule 40FA(5), a resident person or PE of a NRP shall file an affidavit that neither the payee (NRP and PE of a NRP) has filed application or notice for exemption or reduced rate certificate nor has it been rejected. In case of misrepresentation, issued exemption or reduced rate certificate shall be cancelled forthwith.

As per Rule 40FA(6), the applicant shall provide the details of all the contracts made for sale of goods, rendering of services or for execution of contracts in Pakistan.

As per Rule 40FA(7), the CIR may call for information, documents, record in respect of matters arising during the proceedings under section 152(4B), 152(5) or 159(1) of the Ordinance 2001 or cause further enquiry including but not limited to cohesive business operation.

As per Rule 40FA(3), the CIR may call for any information, documents, record from any person in connection with the application in order to determine that the amount is chargeable to tax being Pakistan source income under the Ordinance 2001.

As per Rule 40FA(9), the CIR shall after providing an opportunity of being heard, pass an order within thirty (30) days of receipt of application. However, any period adjourned at the request of the applicant or is postponed due to any proceedings, stay order, alternative dispute resolution proceedings or for any other reason shall be excluded in the computation of the aforementioned period.

As per Rule 40FA(10), the CIR shall afford an opportunity of being heard to the applicant and in case of default on the date of hearing he may proceed *ex parte* to decide the application on the basis of the available record.

As per Rule 40FA(11), the certificate shall be valid for the period as allowed by the CIR unless withdrawn by the CIR earlier.

As per Rule 40FA(12), the CIR shall keep and maintain all record of the application / notice along with the necessary enclosures and annexure and the orders passed.

As per Rule 40Fb, new Parts VII (B) and VII(C) has been added in the First Schedule for the prescribed applications.

## Circulars

### Explanation of Important Amendments made in the Income Tax Ordinance 2001 through Finance Act 2020

FBR vide Circular No 3 dated 03 September 2020 has explained important amendments made by Finance Act 2020 in the Ordinance 2001.

### Extension in date of filing of Income Tax Return/Statements for Tax year 2020

FBR vide Circular No 4 dated 30 September 2020 has extended the date for the filing of Income Tax Returns / Statements by the Individuals, Associations of Persons and Companies which were due on 30 September 2020 to 08 December 2020.

### Procedure for issuance of exemption or reduced rate certificates u/s 152 and 159 of the Ordinance 2001 through new online system

FBR vide Circular No 5 of 2020 dated 30 September 2020 has issued guidelines for issuance of exemption or reduced rate certificates u/s 152 and 159 of the Ordinance 2001 through new online system, salient features of which are as follows;

#### Administrative guidelines

The person intending to make a particular payment or receiving a particular payment would lodge a notice / application through a prescribed electronic form giving the following;

- (i) Total amount involved/ Nature (Category) of income;
- (ii) Full particulars of the Payer;
- (iii) Full particulars of the Payee;



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- (iv) Full particulars of the remitting bank;
- (v) Full particulars of the Transaction i.e. performance of the economic cause giving rise to the intended Payment;
- (vi) Full particulars of the recipient bank; and
- (vii) Basis/arguments for claiming exemption or reduced rate certificate.

### Exemptions / reduced rate certificate

The CIR would make a decision on the application after making necessary enquiries by the officers holding jurisdiction over the case.

The CIR shall make his decision within 30 days of the application.

The CIR shall specify the relevant period of validity in the exemption / reduced rate certificate regarding transaction and intended remittance.

The payer (remitter) / payee (remittee) will present a copy of the exemption / reduced rate certificate to officer of the designated bank who would enter the exemption / reduced rate certificate number to verify its validity and veracity.

FBR would monitor the process throughout as regards an application lodged, incremental progress achieved by the CIR toward its disposal, due diligence and analysis conducted and arguments / grounds recorded by the CIR in the order towards accepting or rejecting the application.

PRAL would keep storing all data of applications made, exemptions allowed, moneys remitted, on person-wise, head-wise, and country-wise basis to be retrieved, analyzed and transmitted internationally by the Board.

FBR would intervene only where it is compellingly felt that a decision has not been made within the time specified or it has not been made in accordance with the applicable law.

### Technical Guidelines

An all-embracing online link shall be available to all CIRs through WAN and Iris. DBAs appointed in LTOs and RTOs would assist the CIRs in this effort. After login, the sequence of options will be as follows;

Direct Taxes – Exemptions / Reduced Rate Certificate on payment to NRP by a resident person or PE of NRP.

Exemptions / Reduced Rate Certificate on receipt of payment by NRP or PE of NRP.

All requests to LTOs / RTOs filed, under-process, rejected, partially approved, approved, will appear in the Grid by default.

CIRs will have all possible options to shortlist relevant records.

After clicking on the view link against the row that is required to be processed, the complete application filed giving all possible information in prescribed format in read-only mode will be displayed.

An additional box to process the application in edit mode will be displayed.

CIRs will have the option to accept or reject the request in the light of particulars given by the applicant with an additional input box being available to record the detailed reasons of the approval or rejection decision thereof.

Pin-code will be used as digital signature in addition to login ID and password. Valid Pin-code is mandatory to submit the decision taken by the competent authority.

Applicant will have the option to print the final decision (exemption / reduced rate certificate) for onward presentation before the bank authorities. Exemption / reduced rate certificate will have all necessary particular of both the payer and the payee / recipient as provided at the time of submission of online notice / application, a unique serial number and bar-code printed thereon to minimize the chances of its misuse.

The new online system comes into force w.e.f. 01 October 2020. No notice / application u/s 152(4A), 152(4B), 152(5) and 159 lodged otherwise shall be accepted, processed or any exemption / reduced rate certificate issued w.e.f. 01 October 2020.

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## Sales Tax Act, 1990 (ACT 1990)

### Exemption from sales tax on import of Oxygen Gas, Oxygen gas Cylinders and Cryogenic tanks

FBR vide SRO 649(I)/2020 dated 03 August 2020 has allowed exemption from the sales tax on imports of the following items for medical purposes;

Sr No	Description	PCT Code
1.	Oxygen Gas	2804.4000
2.	Oxygen Cylinders	7311.0090
3.	Cryogenic	7311.0030

This exemption shall be available for a period of 3 months starting from 23 June 2020 and this exemption will also apply to LCs opened or GDs filed on or after 23 June 2020.

### Exemption from Sales Tax on import of refined white sugar by Trading Corporation of Pakistan (TCP)

FBR vide SRO 751(I)/2020 dated 20 August 2020 has allowed the exemption from sales tax on imports made by TCP up to 300,000 metric tons of white sugar having PCT heading 1701.9910, 1701.9920, specification "B" as per PSQCA standards.

### Importers allowed to import white sugar with reduced rate of Sales tax

FBR vide SRO 770(I)/2020 dated 24 August 2020 read with corrigendum dated 26 August 2020 has reduced the sales tax to 1% for importers importing white sugar having PCT heading 1701.9910, 1701.9920.

The foregoing exemption shall be available from 25 August 2020 to 15 November 2020 (both days inclusive) and Ministry of Commerce and Textile shall determine the quantity, quality, mode and manner.

The foregoing imports shall also be exempt from minimum value addition tax as specified in the Twelfth Schedule to the Sales Tax 1990.

## Sales Tax Rules, 2006 (Rules 2006)

### Amendment in Sales Tax Rules, 2006

FBR vide SRO 776(I)/2020 dated 25 August 2020 has made amendments in Rules, 2006. Salient features of amendments are as follows;

As per Rule 5, in form of registration (STR-1), the registered person shall also provide the details of business brand names/trademarks.

As per Rule 14(1), in form STR-7, existing annexure - J has been substituted. Furthermore, a new entry "**Concentrate**" has been included in the said table vide foregoing SRO.

In Rule 18, a new proviso has been added which states that a return which is incomplete due to omission of information, relevant data in applicable column of return or any annexure shall be considered as invalid.

### Greenfield Industrial Undertaking Approval and Exemption Rules

FBR vide SRO 777(I)/2020 dated 25 August 2020 has inserted a new Chapter XVII-A in Rules 2006 dealing with approval and exemption related to Greenfield Industrial Undertaking. The salient features of these rules are as follows;

#### Applicability

As per Rule 158A, the provision of this chapter is applicable to Industrial Undertaking applying for approval for "Greenfield Industry" and exemption from levy of Sales Tax for the purpose of clause 12(A) of section 2 and serial No 150 of Table I of the Sixth Schedule to the Act 1990.

#### Filing of application for approval Greenfield Industry

As per Rule 158B, a registered person in order to avail foregoing approval and exemption shall submit an application electronically to the CIR having Jurisdiction for approval of its Industrial Undertaking as Greenfield

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Industry in the form prescribed in Annexure- I along with documents prescribed in Annexure-II of this Chapter.

The registered person shall also submit a hard copy of the prescribed application along with the documents to CIR having jurisdiction.

### **Processing of application by CIR**

As per Rule 158C(1), on receipt of application under rule 158B the CIR may make such inquiries or call for such further documents as deemed necessary.

As per Rule 158C(2), the CIR after scrutiny of application and documents annexed thereto shall forward the application to Engineering Development Board (EDB) for seeking its expert opinion as to whether the process or technology being employed by the said industrial undertaking is or is not already under use in Pakistan.

As per Rule 158C(3), EDB upon receipt of application forwarded by CIR shall process the same within the time stipulated by him and communicate to the CIR its expert opinion / findings with regard to the query raised by the CIR.

### **Approval of application**

As per Rule 158D(1), the CIR after completion of all formalities may through an order in writing approve the Industrial Undertaking for the purpose of sub clause 12(A) of section 2 of the Act 1990.

As per Rule 158D(2), the CIR may after recording the reasons in writing, refuse to grant approval for the purpose of sub clause 12(A) of section 2 of the Act 1990.

### **Finalization of Application**

As per Rule 158E, the CIR shall finalize the applications filed under rule 158B within 15 days of its receipt.

### **Appeal against decision of CIR**

As per Rule 158F, any registered person dissatisfied with the decision of the CIR may prefer an appeal to the Appellate Tribunal Inland Revenue (ATIR) under section 46 of the Act 1990 within sixty (60) days of the receipt of the order.

### **Procedure for generation and transmission of exemption certificate in WeBOC**

As per Rule 158G(1), in case of grant of approval as "Greenfield Industry" the exemption certificate shall be generated automatically by the Iris on the basis of approval as "Greenfield Industry" granted by the CIR.

As per Rule 158G(2), the exemption certificate shall be automatically transmitted from Iris to Weboc system as per existing procedure.

### **Procedure for availing sales tax exemption on import of Plant and Machinery**

As per Rule 158H(1), the registered person shall upload a copy of approval order as "Greenfield Industry" already issued by the CIR in Weboc at the time of preparation of goods declaration for the imported plant and machinery.

As per Rule 158H(2), the registered person shall in the goods declaration claim exemption from sales tax on the imported plant and machinery as per serial No 150 of Table-I of Sixth Schedule to the Act 1990.

### **Procedure for collection and payment of extra tax on supplies of electric power and natural gas consumed by unregistered persons other than active taxpayers**

FBR vide SRO 777(I)/2020 dated 25 August 2020 has inserted a new Chapter XVII-B in Rules 2006 dealing with procedure for collection and payment of extra tax on supplies of electric power and natural gas consumed by unregistered persons other than active taxpayers. The salient features of these rules are as follows;

#### **Applicability**

As per Rule 158I, the provision of this chapter shall apply to the supplies of electric power and natural gas consumed by persons having industrial or commercial connections.

#### **Mode and manner of collection**

As per Rule 158J(1), every person supplying electric power or natural gas shall charge and collect extra tax at the rate notified by the Federal Government from every

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consumer having an Industrial or commercial connection where the bill for a month is in excess of rupees fifteen thousand (Rs.15,000) and the consumer's name does not appear on the Active Taxpayers' List.

As per Rule 158J(2), the amount of extra tax shall be shown separately in the bill or invoice for electric power or natural gas issued by the supplier.

As per Rule 158J(3), the supplier shall collect and pay the amount of extra tax in the manner given in section 6 of the Act 1990.

## Conditions and limitations

As per Rule 158K(1), the amount of extra tax shall not be adjustable by the supplier or consumer in their returns and shall be paid in full by the supplier into the Treasury.

As per Rule 158K(2), the supplier of electric power and natural gas require the consumer to communicate the sales tax registration number and verify it from the website of the Board to confirm whether the person is actually registered and is on the Active Taxpayers List maintained by the Board.

As per Rule 158K(3), the supplier shall also confirm name, address and other particulars appearing in the registration profile are the same as those in the record of supplier.

As per Rule 158K(4), a person having multiple places of business shall ensure that all such places of business are properly declared and entered in his registration file.

As per Rule 158K(5), where it is verified that the person exists on the active Taxpayer list, the supplier shall incorporate the sales tax registration number in its billing system and ensure that it is printed on all subsequent bills. Thereafter, the supplier shall stop charging and collecting the extra tax from such person.

As per Rule 158K(6), the supplier shall start charging and collecting extra tax again from the consumer from the month in which he is deregistered or he ceases to exist on the Active Taxpayer List being maintained by the Board.

## Amendment in Sales Tax Rules, 2006 relating to Alternative Dispute Resolution

FBR vide SRO 793(I)/2020 dated 27 August 2020 has made following amendments in rules relating to Alternative Dispute Resolution.

Rule 65 prescribes procedures for applying for resolution of dispute under section 47A of the Act 1990. The form of application SRT- 27 under sub rule (1) of rule 65 of the Rules 2006 is now a prescribed application for applying for resolution of dispute.

As per Rule 65(3), the CIR having jurisdiction over the case shall now be the Chairman of the Committee as formed under rule 65(2) of Rules 2006 for Alternative Dispute Resolution Instead of a retired District and Sessions Judge.

As per Rule 68(1), the Committee shall decide the dispute within one hundred and twenty (120) days from the date of its appointment by the Board through consensus. The Committee shall communicate its decision to the Board, the CIR having jurisdiction and the applicant.

As per Rule 68(2), the aggrieved person or class of persons have withdrawn the appeal pending before any appellate authority or the court of law and have communicated the order of withdrawal to the CIR. Provided that if the order of withdrawal is not communicated to the CIR within sixty (60) days of the service of the decision of the Committee upon the aggrieved person, the decision of the Committee shall not be binding on the CIR.

## Standard procedures for overruling of the STARR objections on sales tax refunds claims

FBR vide circular C.No.4(1)ST-LP&E/Misc./2019 dated 4 August 2020 has removed problems created through various notifications and instructions for issuance of sales tax refunds which the taxpayers are facing difficulties in claiming sales tax refunds at the time of overruling of objections raised by the STARR system and issued new standard operating procedures in respect of sales tax refunds.

Where refund claims are deferred in FASTER or ERS, the registered person can now apply to Board through concerned CCIR for reprocessing of claims.

## Definition / Composition of Licensing Committee

FBR vide SRO 831(I)/2020 dated 09 September 2020 has inserted a new clause (d) in rule 150ZG of sub chapter I of Chapter XIV-B of the Rules 2006 by deleting old clause (d) of rule 150ZG of sub chapter I of Chapter XIV-B of Rules 2006 which provides that a "Licensing Committee" means a committee which will comprise at least 3 officers of Inland Revenue Services not below the rank of

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Chief Commissioner assisted by technical or IT experts and any other Officer or authority designated by the FBR.

## Real-time electronic access for audit and survey

FBR vide SRO 888(I)/2020 dated 21 September 2020 has inserted a new Chapter VIAB in the Rules 2006, salient features of which are as follows;

### Applicability

As per Rule 44B, the provisions of this chapter shall be applicable to real time access to the premises, stocks, accounts and records of a registered person or survey of person liable to be registered.

As per Rule 44C, the following words have been defined;

“authorized officer” means an officer of Inland Revenue duly authorized under sub section (I) of section 38 of the Act 1990.

“real Time electronic access includes real time electronic exchange of data and access through video link.

“standard audit files for tax” (SAF-T) means electronic exchange of reliable accounting data in XML (extensible Markup Language) format as approved by the Board, available on its website with complete technical instructions.

“Video link” means connection enabling communication audio—visually from a remote location.

### Grant of real time electronic access to stocks, accounts, and records by the registered persons to authorized officer

As per Rule 44D(1), the registered person shall provide continuous and full real time electronic access to premises, stocks, records, accounts, and data whether maintained electronically or otherwise as and when required by an authorized officer in terms of section 38 of the Act 1990. The authorized officer shall have real time electronic access to;

- the operation of any computer system which stores, generates or receives data related to taxable activity.
- supporting documents including file structures, etc., operational and technical manuals, audit trail, controls, safe keeping and information on how the accounting system of the registered person is organized; and

- any premises or place specified in section 38(1) of the Act 1990.

As per Rule 44D(2), an officer of Inland Revenue duly authorized by the Board or CIR having jurisdiction in this behalf shall have full and real time electronic access to premises, stocks, record, accounts, and data for the purpose of survey of person or class of persons liable to be registered.

### Standard Audit File for Tax (SAF-T)

As per Rule 44E(1), the registered person shall as and when required, provide data on SAF-T files on XML format as approved by the Board.

As per Rule 44E(2), the SAF-T files shall be transferred through a website or electronic data carriers as notified by the Board.

As per Rule 44E(3), the basic structure of SAF-T shall include the following; namely

- Account books, including journal and ledgers;
- Bank details and bank statement;
- Inventory record;
- Record of sales and goods;
- Record of purchases including exempt purchases against which no input claimed; and
- Detailed record of invoices, including sale invoices, purchase invoices, invoices for advance sale and debit/credit notes.

As per Rule 44E(4), a registered person shall ensure the authenticity and integrity of the data and use all electronic or procedural means to prevent loss and corruption of data during transmission or storage.

As per Rule 44E(5), a registered person shall maintain a back-up data to overcome any possible system failure or loss or corruption of data.

### Access through video link

As per Rule 44F, the registered person shall provide as and when required the full and continuous access through video link to the business or manufacturing premises or any other place where any stocks, business records or

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documents required under the Act 1990 are kept or maintained.

### Responsibility of the registered person

As per Rule 44G, the registered person shall at his own expense, implement changes, if required, in his computerized system and shall install such equipment and systems to enable the authorized officer to have continuous real time electronic access in terms of the provisions of this chapter read with section 38 of the Act 1990.

### Failure to provide real-time electronic access

As per Rule 44H, in case a registered person fails to comply with the provisions of this chapter he shall be liable to penal action as provided in the Act 1990.

### Video analytics rules for electronic monitoring of production of specified goods

FBR vide SRO 889(I)2020 dated 21 September 2020 has added a new chapter XIV-BA in Rules 2006, salient features of which are as follows;

#### Applicability

As per Rule 150 ZQR, the provisions of this chapter shall apply to video surveillance for electronic monitoring of production on real time basis of;

- (a) the goods specified in Third Schedule of the Act 1990; or
- (b) any other goods notified by the Board through a specific order.

provided that the monitoring through video surveillance and video analytics of any or all of the goods specified above shall be from the date notified by the FBR.

#### Definitions

As per Rule 150 ZQS, words like "authorized vender", "approval committee", "applicant", "video analytics" "intelligent video surveillance (IVS)" and "central control room (CCR)" have been defined.

### Goods to be monitored electronically through video cameras

As per Rule 150 ZQT(1), the production of goods specified in clauses of (a) and (b) of rule 150 ZQR, manufactured in Pakistan shall be monitored through intelligent video surveillance and video analytics by installation of

equipments including video cameras, sensors, etc., at production lines as are approved by the Board for;

- real time collection of data that shows production through object detection and object counting;
- transmission of data to central control room at FBR on real time basis, storage and archiving of data;
- detection of unexpected stops;
- quantitative analyses of productions; and
- data analytics for required legal actions.

As per Rule 150 ZQT(1), the person engaged in manufacturing of specified goods shall not remove the production from its business premises unless it has undergone the process of intelligent video surveillance.

### Approved vendors

As per Rule 150 ZQU(1), the manufacturers shall buy video monitoring equipments only from the vendors approved by the Board.

As per Rule 150 ZQU(2), the manufacture of the specified goods shall not buy video monitoring equipment which is not authorized or approved by the Board.

### Functioning of approval committee

As per Rule 150 ZQV(1), the approval committee shall function as per the provisions of these rules.

As per Rule 150 ZQV(2), the convener of the approval committee shall be a Project Director and its headquarters shall be at FBR House Islamabad. The Board shall provide secretarial and other allied support required for functioning of the approval committee.

As per Rule 150 ZQV(3), the approval committee shall make the procedures for its functioning which shall be in accordance with these rules.

### Application for approval

As per Rule 150 ZQW(1), an application shall be made in duplicate to the Board in order to get approval as authorizes vendor for video monitoring of production of the specified goods mentioned in these rules.

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As per Rule 150 ZQW(2), an application under sub rule (1) shall be accompanied by all supportive and relevant documents as mentioned in this sub rule.

### Criteria for grant of an authorization

As per Rule 150 ZQX(1), the vendor shall be responsible to provide equipment with high security and efficiency for electronic monitoring of production and video analytics on real time basis.

As per Rule 150 ZQX(2), the equipment offered by the vendor must have the features as mentioned in clause (a) to (h) of this rule.

### Functions and responsibilities of IT team of FBR

As per Rule 150 ZQY(1), IT team shall develop a software to run and operate the system as per the requirements of the Board. The equipment provided by the vendor after integration with FBR software shall be able to perform the functions as mentioned in this sub rule.

As per Rule 150 ZQX(2), IT team shall submit a complete list of operations, software and maintenance required to operate the equipment.

### Procedure for grant of an authorization

As per Rule 150 ZQZ(1), on receipt of an application for grant of an authorization in the Board, the approval committee shall evaluate it.

As per Rule 150 ZQZ(2), the approval committee may also fix a date for a hearing to be attended by the vendor for the purpose of evaluation of the application submitted under sub rule (1).

As per Rule 150 ZQZ(3), the approval committee may also carry out visits and physical inspections to ascertain eligibility of the vendor for authorization under these rules.

As per Rule 150 ZQZ(4), the vendor shall be required to give practical demonstration of the technological solution offered for approval.

As per rule 150 ZQZ(5), the approval committee within thirty (30) days from the date of submission of the application shall send its recommendations to the Board. In case of recommendation for rejection of any application, the details of causes in writing is required.

As per Rule 150 ZQZ(6), in case a company meets the technical and financial criteria given in these rules, the licensing committee shall recommend to the Board for grant of authorization to such vendor.

As per Rule 150 ZQZ(7), the Board may grant authorization to the recommended vendor.

As per Rule 150 ZQZ(8), the qualified company shall be required to deposit bank guarantee for five percent (5%) of the value of the project cost or rupees five (5) million, whichever is lower, to the approval committee as financial security, at the time of issuance of the authorization. The bank guarantee shall be valid for whole duration of the authorization and shall be encashable in case of violation of these rules leading to loss of government revenue, in the manner as prescribed by the Board after providing an opportunity of being heard.

### Responsibilities of the Vendor

As per Rule 150 ZQZA(1), authorization of vendor shall be granted for a period of three (3) years, subject to these rules.

As per Rule 150 ZQZA(2), the authorization granted under these rules shall be subject to the provisions of the Act 1990.

As per Rule 150 ZQZA(3), the authorization granted under these rules shall be non-transferable and shall not be allowed to be used by any subcontractor.

As per Rule 150 ZQZA(4), the vendor shall specify the expected delivery and installation of equipment at factory premises, which shall not exceed sixty (60) days from the date of order.

As per Rule 150 ZQZA(5), the vendor shall also assist PRAL to install its software on the equipment and run the system during trial period of authorization.

As per Rule 150 ZQZA(6), an application for renewal of authorization shall be made to the Board by the vendor within three (3) months before its expiry.

As per rule 150 ZQZA(7), Board shall evaluate the application and may recommend renewal of authorization for three (3) years.

As per Rule 150 ZQZA(8), the vendor shall be required to comply with all the provisions of these rules for the renewed period.

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## Requirements to be met at the factory premises

As per Rule 150 ZQZB(1), IT team of FBR shall ensure that each factory premises shall be connected to the system with adequate IT infrastructure required for real time electronic monitoring of production and generation of periodic reports.

As per Rule 150 ZQZB(2), the vendor shall arrange testing of monitoring equipments at each production site.

## Technical and training support

As per Rule 150 ZQZC(1), IT team of FBR shall provide the technical support as mentioned in clauses (a) and (b)(i)(ii) and (iii) of this rule.

As per Rule 150 ZQZC(2), the vendor shall undertake to upgrade the installed IT structure, related software and communication equipment as per the new technological requirement as and when required.

As per Rule 150 ZQZC(3), IT team of the FBR shall carry out the quarterly appraisal reviews of functioning and efficacy of the equipment.

## Fee and charges

As per Rule 150 ZQZD(1), the vendor shall charge to the manufacturer for purchase of equipment, the video camera and allied equipments.

As per Rule 150 ZQZD(2), no fee whatsoever shall be charged from the Board or from any of the field formations.

As per rule 150 ZQZD(3), the price of the equipment shall be decided between the approved vendors and the manufacturer.

## Functions and responsibilities of the manufacturer of specified goods

As per Rule 150 ZQZE, the manufacturer of specified goods shall;

- make all production facilities available for installation of the system and allow access to the vendor and FBR for routine operations, inspection, and maintenance of surveillance system;
- not supply any goods without routing them through the intelligent video analytics;

- be responsible to pay fees as agreed with vendor of the system;
- be responsible for smooth functioning, protection, and security of the intelligent video analytics;
- report to FBR and concerned CIR within twenty- four (24) hours of any operational failure, damage, disruption, or tampering of the intelligent video analytics;
- allow unhindered access to FBR and any officer authorized in this behalf;
- give notice to FBR at least thirty (30) days in advance from the date of start of production of new brands of goods, expansion, modification, or any other changes in the production line;
- make available the damaged equipment, camera, etc. for inspection by the officer authorized by CIR;
- report any inoperative production lines within twenty-four (24) hours of occurrence to the CIR and authorized officer by the CIR shall immediately proceed to secure such lines using security seal and register the action in the intelligent video analytics. The production lines sealed as aforesaid shall not be de-sealed to assume operation except with the permission of CIR.

## Liabilities of the vendor

As per Rule 150 ZQZF(1), without prejudice to the action that can be taken under these rules, the vendor shall be liable to punitive action under the Act 1990 and rules made thereunder, in cases of its willful collusion with manufacturer for violation or contravention of any of such provision.

As per Rule 150 ZQZF(2), the vendor shall also be liable to deposit duty and taxes along with surcharges and penalties under the Act 1990 where it is established through proceedings under the Act 1990 after providing an opportunity of being heard, that the vendor has colluded with manufacturer resulting in evasion of duty and taxes.

## Audit

As per Rule 150 ZQZG, FBR shall conduct audit of the system every year. The report shall be used for system related improvements and corrective and remedial actions, where warranted.



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## **Import by National Disaster Management Authority (NDMA) of 83 X Micron sprayers for Anti-Locust Operation made exempt**

FBR Vide SRO 929(1)2020 dated 29 September 2020 has exempted whole of the sales tax on import of 83 X Micron sprayers for Anti-Locust Operation (Respective heading) made by NDMA.

## **Method for determining the value of supply of used vehicle**

Through FA 2020, the definition of value of supply for used vehicle was inserted in Section 2(46) of Act 1990, whereby, in case of registered person who is engaged in purchasing used vehicles from general public on which sales tax had already been paid at the time of import or manufacturing and which are, later on, sold in the open market after making certain value addition, value of supply will be the difference between sale and purchase price of the said vehicle on the basis of the valuation method prescribed by the FBR.

FBR vide SRO 931(1)/2020 dated 30 September 2020 has now prescribed valuation method by inserting rule 164A in Rules 2006. The value of supply shall be difference between sale value (consideration in money including all charges and fees but excluding the amount of sales tax charged, received by the registered person from the buyer of the used vehicle) and purchase value (consideration in money including all charges and fees paid by the registered person to the seller of the used vehicle) with no input tax adjustment allowed. The whole of sales and purchase amount is required to be received through banking channel under Section 73. Moreover, in case purchase value is higher than sale value, the value of supply shall be considered as zero.

## **Explanation of important amendments in Sales Tax Act, 1990**

FBR vide letter no C.No.2/10-STB/2020(Pt-I)/132927-R dated 06 August 2020 has explained in detail amendments made in Act 1990 and FED Act 2005.

## **Circular**

FBR vide circular no 02 of 2020 dated 21 September 2020 has issued standard operating procedure (SOP) for disposal of cases for condonation of time limit under section 74 of the Act 1990.

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## The Customs Act, 1969

### Exemption from collection of custom duty on import of Oxygen Gas, Oxygen Cylinders and Cryogenic tanks

FBR vide SRO 593(I)/2020 dated 01 July 2020 has allowed exemption from customs duty to importers on imports of the following items;

Sr No	Description	PCT Code
1.	Oxygen Gas	2804.4000
2.	Oxygen Cylinders	7311.0090
3.	Cryogenic tanks (for Oxygen Gas)	7311. 0030

This exemption shall apply to LCs opened or GDs filed on or after 23 June 2020. This exemption is available for a period of 3 months starting from 23 June 2020.

### Re-organization of Directorate General of Transit Trade and its functions, jurisdictions and powers

FBR vide SRO 609(1)/ 2020 dated 07 July 2020 has reorganized the Directorate General of Transit Trade (DGTT), salient features of which are as follows;

#### Structure and layout

DGTT shall be based at Custom House, Karachi assisted by DGTT (HQ), Karachi and shall report to the Member (Customs), F B R.

DGTT shall have its regional offices at Karachi, Gwadar, Quetta, Peshawar, Gilgit-Baltistan and Lahore.

All Directorates of DGTT shall be headed by a Director and assisted by Additional Directors, Deputy Directors, Assistant Directors, Superintendents, Principal Appraisers and Officers with any other designation and officials of Customs.

#### Functions and jurisdiction

DGTT is responsible for;

- enforcement of all the international agreements, treaties, conventions, domestic laws, rules and procedures relating to transit trade with reference to cross border movement of bonded cargo and domestic laws, rules and procedures relating to transshipment with reference to inland movement of bonded cargo;
- enforcement of all laws, rules and procedures relating to international transshipment through the respective Directorates and Collectorates;
- supervising the functioning of Directorates, furnish policy input to the Board on matters relating to transit trade and transshipments and maintain liaison with all stakeholders.

Areas and functions have also been specified for officers.

#### Jurisdiction

The respective Collectorates of custom as per their notified area of responsibility shall exercise the jurisdiction for all custom matters relating to transit, transshipment and allied functions in respect of the province of the Punjab till the Directorate of Transit Trade in these territorial jurisdictions are established.

#### Powers and duties

The concerned officers and the officials of the Directorate General of Transit Trade shall exercise the respective powers of the appropriate officer conferred under the Act and rules made thereunder for discharge of the functions and duties specified in this notification.

### Extension of warehousing period of already in-bonded goods and remittance of penal surcharge

FBR vide SRO 616(I)/2020 dated 13 July 2020 has extended the existing warehousing period of already in-bonded goods for a further period up to 31 July 2020.

Remittance of penal surcharge has been allowed in the case of goods which are cleared from the warehouse within the period starting from 13 July 2020 and ending on 31 July 2020.

The foregoing notification is not applicable for the goods which have since been abandoned or auctioned under the rules.

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## Removal of Regulatory duty on Import of wheat

FBR vide SRO 633(I)/2020 dated 21 July 2020 has reduced the regulatory duty from 60 % to zero %.

## Amendment in Duty Drawback (claim payment) Rules

FBR vide SRO 714(I)/2020 dated 11 August 2020 has made the following amendments in the Customs Rules 2001.

### Processing and sanctioning of duty drawback claims

Rule 221 has been substituted to provide that the claims of duty drawback shall be sanctioned by the Customs if the same are complete in all respect and on first in first out (FIFO) basis.

### Comprehensive Audit

Rule 221A has been added to provide that comprehensive audit of duty drawback payments shall be carried out by the Directorate General of Post Clearance Audit (PCA) of the FBR.

### Recovery of duty drawback

Rule 221B has been added to provide that any recovery detected by the PCA shall be deducted from the next duty drawback claim of the exporter besides initiating recovery proceedings under the recovery rules.

### Time frame for payment of duty drawback

Rule 222 has been substituted to provide that the duty drawback payment of such claims that are complete in all respects shall be made on FIFO basis taking into account the date of filing of claim. Further, Rule 223 has been omitted.

### Monthly reporting

Rule 224 has been substituted to provide that it is mandatory for the Collectorate to send a consolidated discrepancy report to the State Bank of Pakistan (SBP) on

monthly basis. Further, SBP shall also send a scroll of all the duty drawback payments made to the exporters.

In Rule 298(2) for the word 'twenty four' (24) the word 'twelve' (12) shall be substituted.

In Rule 308 a new clause (sa) has been inserted to provide that "**Specific rate notification**" means a notification for a product or a situation not covered under the standard notification as prescribed under Rule 311.

### Calculation of drawback rates

Rule 308A(1) has been added to provide that for calculating amount of customs duties paid at the time of import, past six months import data may be used taking the average quantity or value of each class or description of the materials, including packing materials from which a particular class or description of goods is ordinarily produced or manufactured. Average exchange rates of the same period shall be taken into consideration.

Rule 308A(2) has been added to provide that the average amount of customs duties paid on imported materials used in the manufacture of components, intermediate or semi-finished products which are exported as such or further used in manufacture of goods shall be taken into account for the purpose of calculation of the duty drawback.

Rule 308A(3) has been added to provide that the average amount of customs duties paid at the effective rate on the imported input materials shall be calculated for the last six months import data.

Rule 308A(4) has been added to provide that the average Free on Board (FOB) value of each class or description of the goods exported for the last six months may be taken into consideration for the class or description of goods for which export drawback rates are being determined.

Rule 308A(5) has been added to provide that any other factor which may be added by the FBR.

In Rule 310(3) the following words have been inserted;

On requisition by the relevant association, Director General may furnish trade statistics pertaining to each class or description of imported or exported goods for the

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past six months on the basis of which export drawback rates needs to be determined.

In Rule 310(7) the following proviso has been added;

Provided that Directorate General may like to determine drawback rates at 6-digit or 4-digit level of PCT's to make the duty drawback scheme more inclusive and for this purpose may ignore variance up to 10 percent in rates so determined.

### **The Director General Input Output Coefficient Organization (IOCO)**

Rule 312(2) has been substituted to provide that GD IOCO shall preferably review all the rates notified under this sub-chapter after announcement of annual fiscal budget to incorporate the impact of upward or downward revision of customs duties or imposition of new duties. This exercise shall preferably be completed by the 31 August and the Board shall ensure notification of revised rates by the 30 September, if there are no valid reasons for delay. It shall be the responsibility of all associations and individuals, as the case may be, for whom duty repayment or drawback notifications have been issued to supply, by the 31 day of July every year to the Director, details of any change in the input output worksheets on which the current rates are calculated, in particular, changes in material used, their quantities values.

A proviso in rule 313(1) has been added to provide that Director General may initiate exercise for determination of duty drawback rates on its own motion where it is found that;

- duty drawback rates have not been determined; and
- where already determined rates have changed due to amendments in tariffs.

### **Processing and sanction of duty draw back**

Rule 456 has been substituted to provide that duty drawback as may be admissible shall be part of the process of assessment of cargo for export and the amount so admissible to the exporter shall be computed and processed by Customs Computerized System on sale proceeds amount repatriated into the country and Form E settlement from the commercial bank.

### **Payment of duty drawback**

Rule 457(1) has been substituted to provide that while filing an export GD when a PCT code is entered in Customs Computerized System, the system displays the relevant SROs and DDB rates according to goods description and nature of exports. The exporter may select and claim the most relevant description and rate of duty drawback admissible thereof.

Rule 457(2) has been substituted to provide that on repatriation of sales proceeds into the country and settlement of Form-E, the Commercial Banks shall update information to this effect in Customs Computerized System.

Rule 457(3) has been substituted to provide that Customs Computerized System shall calculate the amount of DDB according to the selection of SOR and DDB rate by the exporter on sale proceeds amount repatriated into the Country reported by the Bank.

Rule 457(4) has been substituted to provide that Customs Computerized System shall generate duty drawback order (DDO) in the system subject to risk Management system (RMS) and shall electronically send it to SBP initially in batches and subsequently in real time gross settlement system (RTGS). The information shall be in MT103 format. If certain goods declarations, where duty drawbacks have been claimed, are identified by RMS for compliance check, the Collector or an officer so designated by him, determine the eligibility of duty drawback or otherwise and update the Customs Computerized System accordingly.

Rule 457(5) has been substituted to provide that SBP shall credit the payment in the account of exporters through commercial banks on FIFO basis.

Rule 457(6) has been substituted to provide that once payment is transferred to the account of exporters, SBP shall update this information in Customs Computerized System.

Rule 457(7) has been substituted to provide that after payment of DDB, system shall randomly select 10% of case and mark to post release verification (PRV) Section of the respective Collectorate.

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Rule 457(8) has been substituted to provide that a consolidated discrepancy report shall be sent by the Collectorate to SBP electronically on monthly basis.

Rule 457(9) has been substituted to provide that comprehensive audit of duty drawback payments made to the exporters shall be carried out by post clearance audit (PCA).

Rule 457(10) has been substituted to provide that any recovery detected by the PRV or PCA shall be reflected against NTN of exporter and shall be taken into account by Customs Computerized System while generating next DDO and update profile in the RMS.

Rule 457(11) has been substituted to provide that any under payment detected by the PRV or PCA shall also be taken into account by Customs Computerized System and paid to the exporter while generating next DDO.

### **Repayment of duty drawbacks to authorized economic operators**

Rule 458 has been substituted to provide that in case of authorized economic operators, after repatriation of sales proceeds into the country and settlement of Form-E, the amount of DDB, as may be admissible, shall be sanctioned by Customs Computerized System on priority basis.

### **Re-assessment of duty drawback**

Rule 459 has been substituted to provide that after payment of DDB the computerized system shall randomly select 10% of cases and mark to PRV section of the respective Collectorate. The Customs may reassess the export declaration any time during five (5) years of clearance of goods for export and if on account of reassessment it is found that duty drawback has been paid in excess, the differential amount shall be recovered from the exporter with fine etc. If it is found during the audit that lower amount of duty drawback has been paid, the differential amount shall be paid to the exporter.

### **Post drawback audit**

Rule 460 has been substituted to provide that comprehensive audit of the drawback payments transferred directly by SBP to the traders shall be carried out by PCA.

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