

KPMG Tax Connect

Quarter Ended 31 December 2020

Income Tax Ordinance, 2001 (Ordinance 2001)

Exemption earlier allowed to industrial undertakings at import stage on import of plant, machinery, fixtures, fittings and equipment now withdrawn

Earlier FBR vide SRO 947 (I) /2008 dated 05 September 2008 allowed industrial undertakings including the new industrial undertakings to claim exemption from tax under section 148 of the Ordinance 2001 on import of plant, machinery, fixtures, fittings and equipment.

FBR now vide SRO 1020 (I)/2020 dated 07 October 2020 has rescinded SRO 947 (I) /2008 dated 05 September 2008 withdrawing such exemption.

Notification of new jurisdiction order of the Chief CIR and CIR, Large Taxpayers' Office, Multan

FBR vide order No F. No. I(48)Jurisdiction/2014-177049-R dated 12 October 2020 has issued a new jurisdiction order in exercising the powers conferred under section 209 of the Ordinance 2001, section 30(1) and section 31 of the Sales Tax Act, 1990, section 29(1) of the Federal Excise Act, 2005 directing that

(i) The Chief Commissioner Inland Revenue, Large Taxpayers' Office, Multan shall exercise the powers and perform functions under the Ordinance 2001, the Sales Tax Act, 1990, and the Federal Excise Act, 2005 in respect of persons mentioned in Table-B and Table-C and

(ii) Assign to the Commissioners Inland Revenue as mentioned in column 2 of the Table A jurisdiction, powers and functions as specified in column 3 of the said Table A in respect of the persons and cases as mentioned in column 4 of the said Table A.

This order shall take effect from 15 October 2020.

Income Tax Rules, 2002 (Rules 2002)

Amendments in the Income Tax Rules, 2002

Finance Act, 2020 introduced concept of an agreed assessment by inserting the provision of section 122D in the Ordinance 2001, which provides a complete code of agreed assessment procedure. FBR vide SRO 1184(I)/2020 dated 06 November 2020 has now inserted new rule 231CA which provides a procedure to be followed for making an agreed assessment by the oversight committee. salient features of which are as under:

Procedures for assessment oversight committee

Rule 231CA(1) states that this rule is applicable to all cases of settlement filed under section 122D of the Ordinance 2001.

Rule 231CA(2) defines certain words as under:

"Applicant" means a person or a class of persons who has filed a case for settlement under section 122D of the Ordinance 2001,

"Committee" means a Committee constituted under sub section (5) of section 122D of the Ordinance 2001 and

"Settlement application" means an application made by a person to the Committee under section 122D(1) of the Ordinance 2001.

Rule 231CA (3) state that an applicant or his authorized representative shall submit a settlement application under section 122D electronically for agreed assessment to the Committee on IRS Web Portal.

Rule 231CA (4) state that the settlement application shall be preferred to the Committee after the date of service of the notice in terms of section 122(9) of the Ordinance 2001 and before finalization of the assessment.

Rule 231CA (5) state that the Commissioner shall not conclude the amendment proceedings under section 122 of the Ordinance 2001 during the pending of settlement application before the oversight committee.

Rule 231CA (6) state that the Committee shall provide hearing opportunity in writing to the applicant after examining the details and facts of the application

KPMG Tax Connect

Quarter Ended 31 December 2020

Rule 231CA (7) state that the Committee shall finalize the application within 30 days of receipt of application or within an extended period of 60 days for reasons to be recorded in writing by the Committee.

Time limit for notifying income tax return form

FBR vide SRO 1185(I)/2020 dated 06 November 2020 has inserted new rule 34A which provides for time limit for notifying income tax return form. Salient features of this Rule are stated hereunder;

Rule 34A(1) state that this rule is applicable for the purpose of setting time limit in respect of various steps involved in notifying income tax return forms for a tax year.

Rule 34A(2) state that the return form specified in this sub rule shall be notified for suggestions from all persons likely to be affected thereby on or before 01day of December of the financial year to which the return relates by observing the following timelines:-

(a) Inland Revenue Policy Wing (IRPW) shall identify the legal amendments to be incorporated in the return forms by 31August of the financial year to which the return relates.

(b) Finalization of preparation of Change Request Form (CRF) by IRPW and Information Technology Wing (ITW) in consultation with PRAL by 15 September of the financial year to which the return relates.

(c) Analysis and scrutiny of Change Request Form (CRF) shall be conducted by the Chief Income Tax Policy and Chief Business Domain Team and submitted to Member Inland Revenue Policy for approval by 16 September of the financial year to which the return relates.

(d) PRAL shall complete configuration and development of the approved CRF by 31 October of financial year to which the return relates; and

(e) User Acceptance Test (UAT) of the amended return forms on testing environment shall be finalized by the IRPW and ITW in consultation with PRAL by 15 November of financial year to which the return relates.

Rule 34A(3) state that the return form shall be available on the portal for suggestion till 07 January of financial year to which the return relates.

(4) The final return form shall be notified on or before 31 January of financial year to which the return relates by observing the following timelines;

(a) IRPW and ITW shall review the suggestion received from the stakeholders by 12 January of financial year to which the return relates;

(b) a new CRF by IRPW and ITW in consultation with PRAL shall be finalized and approved by Member IR by 15 January of financial year to which the return relates;

(c) The PRAL shall complete configuration and development of the approved CRF by 20 January of financial year to which the return relates;

(d) IRPW and ITW in consultation with PRAL shall finalize the UAT of the final return forms on testing environment by 25 January of the financial year to which the return relates and the same shall be submitted to Member IR Policy for approval;

(e) Final income tax return forms shall be available on IRIS by 31 January of the financial year to which the return relates;

(f) In case any further amendments are made in the financial year to which the return relates that have impact on the finally notified income tax returns forms referred to at clause (e), such amendments shall also be incorporated accordingly;

(g)The time so specified may be extended by the Board upon the request of Member IR Policy to such extent and subject to such conditions as it may deem proper.

Insertion of new PCT codes and entries thereto in Part II of the Twelfth Schedule

Finance Act, 2020 introduced Twelfth Schedule for levy and collection of tax on import of goods, whereby, the goods mentioned therein have been classified into three parts i.e. Part I, Part II and Part III. The rate of 1% and 2% has been prescribed for the goods falling in Part I and II of

KPMG Tax Connect

Quarter Ended 31 December 2020

the schedule respectively and a general rate of 5.5% has been provided for imports falling in Part III of the schedule. FBR vide SRO1240(1)/ 2020 dated 20 November 2020 has after PCT Code 32.02 inserted new PCT Codes and entries relating thereto in columns (1) and (2) in Part II of the Twelfth Schedule adding a number of goods listed in this SRO.

Extension of exemption from tax on import of medical and surgical goods

Exemption from the collection of income tax was granted to certain medical and surgical goods under Section 148 read with Clause 12B of Part IV of the Second Schedule to the Ordinance 2001 in the wake of COVID-19 which was valid till 30 September 2020. FBR vide SRO 1241(I)/2020 dated 20 November 2020 has extended the period of exemption till 30 June 2021.

Alternative Dispute Resolution

FBR earlier vide SRO 845 (I)/2020 dated 10 September 2020 made certain amendments in Rule 231C of the rules dealing with procedure of ADRC. FBR has now vide SRO 1249(I)/2020 dated 23 November 2020 substituted entire Rule 231C, salient features of which are as under:

Rule 231C(1) states that this rule is applicable to all cases of disputes brought or specified for resolution under section 134A.

Rule 231C(2) defines certain words as under:

“Applicant” means an aggrieved person or a class of persons in case identical issues are involved who has brought a dispute for resolution under section 134A of the Ordinance 2001,

“Committee” means a Committee constituted under section 134A(2) of the Ordinance 2001.

Rule 231C(3) states that any person or a class of persons interested for resolution of any dispute under section 134A of the Ordinance 2001 shall submit a written application for alternative dispute resolution to the Board in the form as set out in part 1 of the Schedule to this rule.

Rule 231C(4) states that the Board after examination of the contents of the application by a taxpayer and facts stated therein and on satisfaction that the application may be referred to a committee for the resolution of the hardship or dispute, shall appoint and notify a committee within 60 days from the receipt of application specified under sub rule (3) comprising the following members;

- (a) Chief Commissioner having jurisdiction over the case;
- (b) Two persons from the panel notified by the Board comprising of chartered accountants, cost and management accountants, advocates, having 10 years of experience in taxation and reputable businessmen.

Rule 231C(5) states that the Chief Commissioner having jurisdiction over the case will be the Chairperson of the Committee.

Rule 231C(6) states that the Board shall notify a panel comprising of chartered accountants, cost and management accountants, advocates, having 10 years of experience in taxation and reputable businessmen in accordance with eligibility criteria specified in part II of the Schedule to this rule.

Rule 231C(7) states that the committee shall decide the dispute through consensus within 120 days from the date of its constitution by the Board.

Rule 231C(8) states that the decision of the Committee under sub rule (7) shall be binding on the Commissioner, only if the applicant withdraws the appeal pending before any appellate authority or court and communicates the order of withdrawal to the Commissioner:

Provided that If the order of withdrawal is not communicated to the Commissioner within 60 days of the service of decision by Committee on the applicant, the decision of Committee shall not be binding on the Commissioner.

Rule 231C(9) states that the Chairperson shall be responsible for deciding the procedure to be followed by the committee, including the following;

- to decide the place of sitting of the committee,

KPMG Tax Connect

Quarter Ended 31 December 2020

- to specify date and time for conducting proceedings by the committee,
- to conduct the proceedings of the committee as he thinks appropriate,
- to issue notices by courier or registered post or electronic mail to the applicant,
- to requisition and produce relevant records or witnesses from the Commissioner or other concerned quarters,
- to ensure attendance of the applicant or his authorized representative on date of hearing, etc.
- to consolidate recommendation of the committee and submission of a conclusive report to the Board; and
- for any other matter covered under these rules.

Rule 231C(10) states that the Committee may conduct inquiry, seek expert opinion or direct any officer of the Inland Revenue to conduct an audit and make recommendations to the committee in respect of dispute or hardship.

Rule 231C(11) states that the Committee may determine the issue and may thereafter seek further information or data or expert opinion or make or cause to be made such inquiries or audit as it may deem fit to decide the matter specified in section 134A(1).

Rule 231C(12) states that If the committee fails to decide the application within 120 days under sub rule (7), the Board shall dissolve the committee by an order in writing and the matter shall be decided by the court of law or the appellate authority, where the dispute is pending.

Rule 231C(13) states that on receipt of the Committees' decision the applicant may make the payment of income tax and other taxes as decided by the Committee under sub rule (7) and all decisions and orders made or passed shall stand modified to the extent.

Rule 231C(14) states that a member of the Committee appointed under clause (b) of sub rule (4) shall on decision

of the application by the Committee of which he is a member, be paid a lump sum one time remuneration of RS.100,000/- for his services.

Rule 231C(15) states that the remuneration specified in sub rule (14) shall be paid by the Board from its budget allocation within fifteen days of the receipt of the decision of the committee under sub rule (13).

Draft rule for service of notice /documents through SMS

FBR vide SRO 1250(I)/2020 dated 23 November 2020 has shown it's intension to insert a new Sub Rule (2A) in Rule 74 of the Rules which states that where a person is using a mobile phone, document required to be served on that person by the Commissioner or the Chief Commissioner shall be considered as sufficiently served, if sent as SMS on the cellphone registered in the name of such person as per records of the Pakistan Telecommunication Authority or the relevant Telecommunication Service Provider.

Refund Rules

FBR vide SRO 1314 (I)/2020 dated 09 December 2020 has inserted a new chapter XVIB in the rules regarding refunds, salient features of which are as under;

Application of the rule

Rule 2101A states that this chapter is applicable to all refund orders issued under sub-section (4) of section 170 of the Ordinance.

Establishment of Centralized Income Tax Refund Office (CITRO) and posting of officers

Rule 2101B states that a Centralized Income Tax Refund Office (CITRO) shall be established under the FBR for centralized payments of refunds to the claimants and from such date as the Board may specify.

Sanction and Payment of refund

Rule 2101C(1) states that from such date notified by the FBR the Commissioners shall transmit the refund order under section 170(4) of the Ordinance 2001 through Iris to

KPMG Tax Connect

Quarter Ended 31 December 2020

the treasury officer in CITRO under his digital signature and retain a copy thereof for record.

Rule 2101C(2) states that the treasury officer in CITRO and the Co signatory designated by the FBR in this regard shall issue the cheque or promissory note to FBR refund Settlement Company Limited for the sanctioned amount mentioned in the refund order or online transfer.

Rule 2101C(3) states that CITRO shall also prepare a statement of payment advice for the concerned bank on daily basis for direct transfer of refund amounts to the taxpayers under intimation to the CITRO, the concerned Commissioner as well as the taxpayer.

Rule 2101C(4) states that the In-charge of CITRO shall reconcile the refund cheques and payment advices issued during the month with the bank scrolls received from the State Bank of Pakistan and record the outcome of such reconciliation in the system.

Rule 210C(5) states that where any cheque is returned back by the SBP due to any reason the treasure officer shall cancel such cheque if required and attach such cancelled cheque with the respective counterfoil of the cheque-book.

Rules for electronic filing of appeal before the Commissioner Appeals

FBR vide SRO 1315 (I)/2020 dated 09 December 2020 has substituted Rules 76 to 76O in Chapter - XII of the Rules 2002 prescribing the format and procedure for filing of electronic appeal before the Commissioner Appeals, salient features of which are as under:

Appeal to the Commissioner Inland Revenue (Appeals) on web Portal

Rule 76 states that an appeal under section 127 of the Ordinance 2001 shall be filed electronically through FRB web portal from 01 January 2021.

Date of filing of appeal

Rule 76A states that date of filing of appeal shall be the date on which it was filed electronically.

Documents to accompany appeal

Rule 76B(1) states that the appellant shall electronically attach the following documents along with appeal

- (a) The order appealed against;
- (b) Notice of demand
- (c) Proof of payment appeal fee
- (d) Any other supporting documents

Rule 76B(2) states that the appellant shall annex an electronic index showing the documents filed under this rule.

Intimation of filing of appeal to the respondent

Rule 76C states that the appeal shall also be electronically transmitted to the respondent.

Filing of Affidavit regarding contrary facts

Rule 76D states that where a fact, which cannot be borne out by or contrary to the record, is alleged, it shall be stated clearly and concisely by a duly sworn affidavit and shall have to be filed electronically with appeal and shall be presented in original before the Commissioner Appeals.

Defective appeal etc.

Rule 76E(1) states that where an appeal is not filed electronically in the manner specified in these rules, an electronic notice shall be issued within three days requiring the appellant or his authorized representative, if any, to bring the appeal in conformity with the rules, within the time limitation as specified in section 127(5) of the Ordinance 2001 subject to just exceptions under sub-section (6) of the aforesaid section and the appeal so received shall not be deemed to have been filed unless the provisions of these rules fully complied with.

Rule 76E(2) states that where the appellant or his authorized representative does not meet the requirement under sub rule (1), the matter shall be decided by the Commissioner (Appeals).

KPMG Tax Connect

Quarter Ended 31 December 2020

Power of attorney by authorized representative

Rule 76F states that an authorized representative shall attach his power of attorney with the appeal and shall also produce in original before the CIR Appeals.

Procedure for filing and disposal of stay application

Rule 76G(1) states that on receipt of stay application electronically the official authorized in this behalf shall fix the application for hearing in the following manner;

(a) For applications received before 01:00PM on a working day, hearing shall be fixed on the next working day; and

(b) For applications received after 01:00PM on a working day, shall be fixed on the day after the next working day.

Rule 76G(2) states that stay applications shall be disposed of by the Commissioner (Appeals) electronically within seven working days of fixation.

76H. Date and place of hearing of appeal and stay applications

Rule 76H(1) states that the Commissioner (Appeals) shall issue notices electronically to the appellant and the respondent, informing them the date and place of hearing of appeal or the stay application as the case may be.

Rule 76H(2) states that the Commissioner (Appeals) may where deemed necessary, require the respondent to submit the Para wise comments electronically in response to the appellants' electronic submissions, if any, on or before the date of hearing.

76I. Hearing of appeal or stay application

Rule 76I(1) states that on the day fixed for hearing or any other day to which the hearing is adjourned the appellant shall be heard and the Commissioner Appeals shall then hear the respondent against the appeal or stay application and in that case the appellant shall have a right to reply.

Rule 76I(2) states that the he Commissioner Appeals may from time to time adjourn the hearing of the appeal.

Notice to be issued electronically to both parties under section 129(2)

Rule 76J states that the CIR Appeals shall issue notices electronically to both parties for providing them a reasonable opportunity to represent their stance in case of increase in the amount of any assessment order or decrease in the amount of any refund.

Reports

Rule 76L(1) states that the CIR (Appeals) shall submit electronically a monthly performance report as prescribed on Iris web portal by the 5th of every month.

Rule 76L(2) states that the CIR (Appeals) shall submit stay applications disposal report on Iris web portal by the 5th and 20th day of every month.

76M. Uploading Manual Orders/letters Received

Rule 76M states that the CIR (Appeals) shall make it sure that orders /decisions received from the Tribunal or Higher Courts and all other documents which have been received manually from quarters other than the appellant are immediately uploaded in Iris in soft form with the relevant case on web portal.

Electronic Orders

Rule 76N states that the orders passed electronically on Iris web portal shall not require any seal or signatures of the Commissioner (Appeals). The date of order shall be the date as mentioned on the order generated by the system.

Explanation

Rule 76O(1) states that no case pending pertaining to tax year 2014 onward shall be field manually from 01 January 2021 and the cases already filed manually before the said date shall be proceeded as per SRO 279(I)/2018 dated 05 March 2018. All cases shall be disposed of as per law but not later than 30 June 2021. If any case is left out or remanded back by the Tribunal or Higher Courts from the cases processed earlier manually, the Commissioner (Appeals) shall process it electronically with effect from 01 July 2021.

KPMG Tax Connect

Quarter Ended 31 December 2020

Rule 76O(2) states that the cases pertaining to periods prior to the tax year 2014 would be processed as per SRO 279(I)/2018 dated 05 March 2018.

Simplified Return of Income for manufacturers having turnover less than Rs. 50 million and wealth statement for the manufacturers having turnover up to Rs. 50 million (Individuals and AOPs only)

FBR vide SRO 1316 (I)/2020 dated 09 December 2020 has added Part-II-S after Part-II-R in the Second in the Rules 2002 prescribing simplified return of income for manufacturers (individuals and AOPs) having turnover less than RS 50 Million (Form A) and wealth statement for the manufacturers having turnover up to RS.50 million (Form B) for tax year 2020.

Re-designation of Inland Revenue Field Formation

FBR Vide SRO 1318 (I)/2020 dated 10 December 2020 has made certain amendments in SRO 115(1)/2015 dated 09 February 2015.

Circulars

FBR vide Circular No. 06 dated 09 December 2020 has issued clarification regarding non deduction of tax on profit on debt of Bank account of non- resident recipients clarifying that to qualify for relief under Clause 79 of Part-I of Second Schedule to the Ordinance 2001, the account holder is required to be Pakistan citizens living abroad and profit on debt may be in no way attributable to local deposit in same account.

Clarification regarding tax rate under section 151 of the Income Tax Ordinance, 2001

FBR vide Circular No. 07 of 2020 dated 22 December 2020 stated that general rate of tax deduction on profit on debt under section 151 of the Ordinance, 2001 is 15% of the profit. However, proviso to the Division IA of the Part III of the First Schedule to the Ordinance, 2001 provides that tax rate shall be 10% in cases where the taxpayer furnishes a certificate to the payer of the profit on debt that during the tax year, total yield

or profit payable in his case shall remain at Rs. 500,000/- or less. On queries received regarding nature or format of the above referred certificate, it clarified that the required certificate is to be furnished by the recipient of the profit on debt to the payer of such profit to the effect that total profit on debt received/receivable during the tax year from all investments in his case shall not exceed Rs. 500,000/- and that the requisite certificate can be submitted on plain paper.

Extension in Date of Furnishing of Taxpayer's Profile under section 114A of the Income Tax Ordinance, 2001

FBR vide Circular No. 08 of 2020/IR-Operations dated 30 December 2020 stated that in exercise of the powers conferred under section 214A of the Ordinance, 2001, it is pleased to extend the last date of furnishing of Taxpayer' s Profile required to be submitted under section 114A up to 31March 2021.

KPMG Tax Connect

Quarter Ended 31 December 2020

Sales Tax Act, 1990 (ACT 1990)

Amendments in SRO 751(1)/2020 dated 20 August 2020

Federal Government vide SRO 1038(I)/2020 dated 12 October 2020 has made an amendment in its earlier SRO 751(1)/2020 dated 20 August 2020 by inserting the following

(a) After the expression "4th August 2020" the expression "and in case No .738/ Rule-19/2020, dated the 2nd October" shall be inserted.

(b) After the word "Pakistan" the words "and its' local supply thereof" shall be inserted.

Exemption of sales tax on import of medical and surgical goods

Federal Government in suppression of its earlier SRO 555(I)/2020 dated 19 June 2020 has vide SRO 1257(I)/2020 dated 25 November 2020 exempted sales tax on import and subsequent supply of certain medical and surgical goods. This notification is valid for the period from 01 October 2020 to 30 June 2021.

Exclusion of "registered persons engaged in manufacturing and supply of fertilizer" from the purview of section 73(4) of the Act 1990

FBR vide SRO 1337 (T)/2020 dated 16 December 2020 has excluded "registered persons engaged in manufacturing and supply of fertilizer" from the purview of section 73(4) of the Act 1990 subject to the following conditions

The registered persons shall provide following documents and details to the Board on or before the 15th day of January 2021;

(a) Complete list of the dealers or distributors of their products including details of business name, address and NTN;

(b) Complete list of buyers, other than dealers and distributors, including details of their names, residential addresses and CNICs;

(c) Copies of relevant dealership or distribution agreements, as the case may be;

(d) Details of all business bank accounts of the dealers, distributors or buyers along-with names and addresses of the relevant bank branches;

(e) Dealer or distributor wise figures of sales made by the registered persons during the period 01 July 2019 to 30 June 20 and 01 July 2020 till date; and

(f) Any other document specially required by the Board for compulsory registration of dealers, distributors or buyers.

Failure to comply with any of the foregoing conditions by due date shall disentitle the registered person for the waiver being granted under this Notification and all provisions of Act 1990 shall apply accordingly.

This Notification shall take effect from the 01 July 2020.

Sales Tax Rules, 2006 (Rules 2006)

Sales Tax (Imposition of Restrictions) on Wastages of Inputs Rules, 2020

FBR vide SRO 938(I)/2020 dated 01 October 2020 has inserted a new Chapter IV-A titled "Sales Tax (Imposition of Restrictions) on Wastages of Inputs Rules, 2020 in the Rules 2006, salient features of which are as under

Application

Rule 25A states that the provisions of this Chapter shall be applicable for the purpose of determination of restriction on wastage of material on which input tax has been claimed in respect of goods or class of goods.

Definitions

Rule 25B states that Unless there is anything repugnant or contrary to the context, the following words and

KPMG Tax Connect

Quarter Ended 31 December 2020

expressions shall have meanings assigned to them as under

“Inputs” mean inputs whether used as direct or indirect constituent of the corresponding outputs and include electricity, raw materials, processed, semi-finished or finished products countable either numerically, through measurement, or on weight basis or otherwise and useable in any industrial or similar process or processes for the manufacture or production of goods.

“Input-output ratios” mean ratios expressed in any manner or mode at which any particular quantity of input or class of inputs is used or allowed to be used for the manufacture or production of any given or intended quantity of corresponding output goods regardless whether or not the allowed quantity of such input or inputs actually or otherwise differ from the quantity claimed to have been used or to be used for the manufacture or production of any particular quantity of output goods provided that nothing will bar the Board to determine or fix such general standards of such ratios as it may deem fit either on the basis of averages or otherwise.

“IOCO” means Input Output Co-Efficient Organization established by the Board for Inland Revenue purposes and includes the officer in charge thereof.

“Subject Specialist” means a person either from the employees of IOCO, Board or any field formation of Board or from the academia or from any public sector department or organization or from professionals whose academically-qualified or experience-based specialized services are or can be used for the purposes of these rules; and

“Wastage” means part of any given quantity of any input or class of inputs, unfit or unable for use as such for the manufacture or production of the corresponding output goods provided that extent of wastages in any case or class of cases may be determined either through the calculation of input-output ratios or through any other method or manner deemed proper under these rules.

The words and expressions not defined hereinbefore but used in these rules shall have the same meanings as have

been assigned to them under the Act or Rules made thereunder.

Determination of wastages

Rule 25C states that the purpose of determination of wastages shall be to determine the restriction on inputs on account of wastages and to resolve disputes about the input tax adjustment suspected or believed to be above the actual entitlement by showing use or consumption of inputs higher or more than the inputs actually used in the manufacture or production of any goods, or to fix the extent of wastages of inputs beyond which input tax adjustment shall not be admissible.

Action for determination of wastages

Rule 25D states that action for determination of wastages may be initiated either by the Board at its own level or on a reference received from the Chief Commissioner of Inland Revenue or the Director General of Intelligence and Investigation (Inland Revenue) or on the recommendations of any Government agency or organization or industrial or business association.

Process for determination of wastages

Rule 25E(1) states that where Board has decided to determine wastages, it shall cause to conduct such preliminary study or analyses through any of its field formations to ascertain the kind and description including specifications of full range of the inputs, corresponding output or outputs, details of the manufacturing or production process or processes, type, description, specifications and range of the plant and machinery used in such process or processes, general or special standards of wastages, known input-output ratios and all matters allied or ancillary thereto. Once report of such preliminary study or analyses is available to the Board, it may refer the case or class of cases to the IOCO (Inland Revenue or Customs) for determination of extent of wastages of each input by ascertaining input-output ratios. The Board shall afterwards notify the extent of wastages beyond which no registered person or class of registered person shall be entitled to claim any input tax adjustment on such inputs.

Rule 25E(2) states that where any case or class of cases for determination of wastages is intended to be referred

KPMG Tax Connect

Quarter Ended 31 December 2020

to the Board by the Chief Commissioner or the Director General of Intelligence and Investigation-IR, the preliminary study or analyses shall be arranged to be conducted by such Chief Commissioner or as the case may be, such Director General and the outcome of such study or analyses shall be furnished to the Board as part of a reference. On receipt of such reference, the Board shall follow the course of action specified in sub-rule (1) except the step relating to the study or analyses.

Actions in the IOCO

Rule 25F(1) states that on receipt of reference from the Board, the IOCO shall chalk out a complete plan for the conduct of necessary analyses and complete the exercise of determining the input-output ratios and wastages covering, inter alia, following components within the timeframe given by the Board namely;

- (i) ascertainment of the exact description and specifications of the inputs and outputs;
- (ii) details of the manufacturing and production processes and the plant and machinery (including equipments) used in the manufacturing and production processes;
- (iii) collection of relevant literature required to be consulted before, during or for the assigned work;
- (iv) identification and availability and engagement of the subject specialists including their payable or likely to be payable financial compensation or remuneration;
- (v) identification of industrial units required to be visited to physically examine the manufacturing and production process or processes with a view to ascertain the input-output ratios or wastages;
- (vi) details of the office bearers (or their nominees) of the concerned industrial or business association likely to be consulted during or for the exercise;
- (vii) estimate of the financial and other resources required to be made available for the targeted assignment; and
- (viii) timelines for the completion of the assignment including the preparation of the report of findings.

Rule 25F(2) states that the plan prepared under sub-rule (1) shall form a permanent record of IOCO and may be called for by the Board at any stage after its preparation.

Restriction on extent of wastages and resultant input tax adjustment

Rule 25G states that where the extent of wastages has been fixed and notified by the Board under these rules, no registered person shall be entitled to take input tax adjustment in respect of wasted inputs over and above the extent so fixed and notified by the Board.

External expert opinion

Rule 25H states that the Board or IOCO may at any stage of the process of fixation and notification of wastages enlist scientific, technical or other opinion from any expert not in the employment of the Board or IOCO or not engaged as subject specialist under these rules in such manner as may be deemed proper provided that no such opinion shall be treated as conclusive or binding for the purposes of fixation of wastages under these rules.

Non-relevance of the status of supplies

Rule 25I states that unless otherwise directed by the Board, the wastages determined and fixed under these rules shall apply to the relevant output goods in respect of which wastages have been so determined and fixed regardless of the status of supplies of such goods as taxable supplies, zero-rated supplies, domestic supplies, exports or otherwise and where goods have been zero-rated, no refund shall be claimed or paid on wastages over and above the limit, scale, extent or level determined and fixed under these rules.

Fixation to be construed as restriction

Rule 25J states that the wastages over and above the quantum of wastages fixed under these rules shall be treated as having been restricted and not relevant for the purposes of assessment, declaration and payment of sales tax under the Act.

KPMG Tax Connect

Quarter Ended 31 December 2020

Review and revision of fixed wastages

Rule 25K states that the Board on its own or on a representation by any aggrieved person may review and revise the extent of wastages fixed under these rules provided that nothing shall restrict the Board from periodically reviewing, revising and re-fixing any such wastages in view new information received or gathered, research conducted or done in the relevant scientific field, technological and scientific developments made, changes or improvements in industrial processes or for any other reasons.

Amendments in Sales Tax Rules, 2006 (processing of refund claims)

FBR vide SRO 1172(I)/2020 dated 04 November 2020 has made the following amendments in the Rules 2006 which are as under;

After the third proviso in sub rule (1) of Rule 28 in Chapter V of the Rules 2006, a new proviso has been added which is reproduced as under;

“Provided also that if a claimant is registered as commercial exporter and exporting same state goods the period of 180 days shall be reckoned from date of filing of return or the date of issuance of BCA whichever is later”.

In Rule 39D in Chapter V-A of the Rules 2006 the existing first Proviso is substituted by a new Proviso which is reproduced as under:

“Provided that the claimant may submit his return without Annexure-H and the same may be filed separately at any time but not later than 120 days or as the case may be, but not be later than 180 days for commercial exporters, after the submission of the return without Annexure-H. The date of submission of Annexure-H shall be considered as the date of filing of refund claim”.

Tax on Locally Manufactured Tractors Rules, 2020

The Federal Government through its Ministry of National Food Security and Research has granted subsidy of Rs. 1.5 billion to three Specified Tractors Manufacturers (STM) i.e. M/s. Millat Tractors Limited, Al-Ghazi Tractors Limited and Orient Tractors (Private) Limited. FBR vide

SRO 1248(I)/2020 dated 23 November 2020 has introduced “Sales Tax Special Procedure for Adjustment of Subsidy Against sales tax on Locally Manufactured Tractors Rules, 2020”. These rules provide complete process of claim of the subsidy and its adjustment in the monthly sales tax returns, salient features of which are as under;

Short title and commencement

Rule 1(1) states that these rules are called as the Sales Tax Special Procedure for Adjustment of Subsidy Against Sales Tax on Locally Manufactured Tractors Rules, 2020.

Rule 1(2) states that these rules have come into force from 28 September 2020 and shall remain in force till 30 June 2021 or till the time the amount of subsidy of Rs.1.5 billion is exhausted, whichever, is earlier.

Adjustment of Subsidy against Sales Tax due

Rule 2 states that the subsidy granted, shall be allowed to be adjusted by the specified manufactures of tractors namely M/S Millat Tractors Limited, Al-Ghazi Tractors Limited and Orient Tractors (Private) Limited in the manner as provided under these rules.

Provided that the Ministry of National Food Security and Research shall apportion the amount of subsidy amongst the specified manufactures so that the same does not exceed the limit of 1.5 billion.

Processing of claims for adjustment

Rule 3(1) states that the IR-Operations Wing of FBR shall establish a Tractors Subsidy Cell for processing subsidy adjustment claims under these rules.

Rule 3(2) states that the specified manufactures of tractors shall submit data of supplies in the Annexure-C of the monthly Sales tax and Federal Excise return by 5th day of the month following the end of tax period.

Rule 3(3) states that the specified manufactures will sell the subsidized tractors only to farmers and growers after obtaining a valid proof of land holding such as Agriculture Pass Book and copy of record of rights of agricultural land duly verified from Provincial Land Revenue Authorities and

KPMG Tax Connect

Quarter Ended 31 December 2020

shall not charge and collect applicable amount of sales tax from such buyers.

Rule 3(4) states that the whole value of the tractor, applicable amount of the sales tax and amount of subsidy will be mentioned in sales tax invoice as specified in section 23 of the Act issued by SMT.

Rule 3(5) states that the SMT shall submit the details of the subsidized tractors supplied during the tax period on the format provided in Part-1 of Annex A to these rules, along with necessary reconciliation, copies of sales tax invoices and proof obtained under sub rule (3) to the Ministry of National Food Security and Research and to the Tractors Subsidy Cell in the FBR by 5th day of the month following the end of tax period to which these supplies relate.

Rule 3(6) states that the responsibility of ensuring shall be on the tractors manufacturers or dealers that the benefit of subsidy only reaches the growers. The manufacturers or dealers will submit their claims and undertaking that subsidized tractors were sold to farmers and growers. Ministry of National Food Security and Research or FBR or any other body authorize in this behalf may check the authenticity of the claims of manufactures or dealers through random selection process.

Rule 3(7) states that the Ministry of National Food Security and Research after examination of the adjustment claim shall forward its report to the tractors subsidy cell of the FBR within 7 working days of submission of the Part-1 of the Annexure-A by the specified manufactures, mentioning the amount of subsidy to which such manufacturers are entitled for the period.

Rule 3(8) states that after the receipt of report from Ministry of National Food Security and Research the Tractors Subsidy Cell will examine the report along with the adjustment claims an Annexure-C of monthly returns of the specified manufactures and will determine the amount to be adjusted against sales tax due and also the sales tax amount payable by the State Bank of Pakistan in accordance the Part-11 of Annexure-A and a copy of the same shall be shared with the Ministry of National Food Security and Research.

Rule 3(9) states that based on the aforesaid report, adjustment of the subsidy as recommended by the Tractors Subsidy Cell shall be claimed by the specified manufactures in the monthly Sales tax and Federal Excise return.

Rule 3(10) states that the Government agencies shall not be eligible for subsidy under these rules, however Agricultural Research Institutions may avail the same. STM will claim the subsidy in the sales tax return.

Procedure for E-Audit

FBR Vide SRO 1338 (I)/2020 dated 16 December 2020 has inserted a new chapter V1B under the head "Procedure for E-Audit" after chapter VIA in the Rules 2006, salient features of which are as follows;

Application

Rule 44AA states that the provisions of this chapter shall apply for the conduct of e-audit proceedings under section 25(2A) of the Act 1990.

Definitions

Rule 44AB(1) states that in this Chapter unless there is anything repugnant in subject or context.

"Adjudicating Officer" means an officer of Inland Revenue to whom a case is assigned for assessment on the basis of audit report referred to in Rule 44AC(e).

"Audit Officer" means an officer of Inland Revenue to whom a case is assigned for conducting e-audit under these rules.

"Competent Authority" means the Board in case of selection of audit under section 72B of the Act 1990 and Commissioner Inland Revenue having jurisdiction in case of selection under section 25 of the Act 1990.

"e-audit" means the audit proceedings of registered person conducted through electronic means including video links, or any other facility as may be specified by the Board from time to time; and

KPMG Tax Connect

Quarter Ended 31 December 2020

“IRIS” means a web based computer program for operation and management of Inland Revenue taxes and laws administered by the Board.

Rule 44AB(2) states that words or expressions used but not defined here shall have the same meanings as are assigned to them in the Act 1990.

Procedure for e-audit

Rule 44AC states that where a case has been selected under section 25 or section 72B of the Act 1990, as the case may be, and the competent authority issues directions to conduct e-audit, the following procedure shall be adopted namely;

(a) The concerned CIR shall serve a notice under section 25(1) of the Act 1990 to the registered person specifying the reasons for selection of his case for audit.

(b) The CIR having jurisdiction shall assign the case to an Audit Officer to conduct e-audit.

(c) A registered person shall produce the record as required to be maintained under section 22 of the Act 1990 through IRIS or an electronic data carrier as notified by the Board.

(d) A registered person shall not be required to appear either personally or through authorized representative in connection with any proceedings under e-audit before the Audit Officer.

Provided that a registered person may request for an opportunity of personal hearing through IRIS and such hearings shall be conducted, exclusively through video links from personal computer system or any of the nearest Tax Facilitation Centre situated at the premises of field formations.

(e) The Audit Officer after considering all the information, documents or evidence, if the Audit Officer finds no discrepancy and have no conclusive proof against registered person, he may close the audit in IRIS under intimation to the CIR having jurisdiction.

(f) After completion of audit, examination of record and obtaining registered person’s explanation on all the issues

raised, if the Audit Officer does not agree with the declared version, he shall prepare an audit report, containing audit observations and finding. The Audit Officer shall, forward the report to the CIR having jurisdiction and also send a copy of it to the registered person through IRIS.

(g) The CIR having jurisdiction shall assign the case to an Adjudicating Officer to make an order for assessment of tax under section 11 including imposition of penalty and default surcharge in accordance with sections 33 and 34 of the Act 1990.

(h) On the basis of the audit report referred to in sub-rule (e), the Adjudicating Officer shall issue a show cause notice through IRIS to the registered person; and

(i) The Adjudicating Officer may, if considered necessary, after obtaining the registered person’s explanation on all the issues raised in the audit report, pass an order under section 11 of the Act 1990.

Amendments in the Sales Tax Rules, 2006

FBR vide SRO1339 (I)/2020 16 December 2020 has made following amendments in the Rules 2006, which are as under

(1) In sub-rules (1) and (4) of rule 5A, in Chapter I of the Rules 2006, the “clause (h) of” has been omitted.

(2) In Chapter XIV-AA, in rule 150ZEE;

(a) In sub-rule (1), for the expression “said condition (xv)” the expression “supplies as referred to in column (1) at serial number 66 of Table-1 of the Eighth Schedule to the Act”, shall be substituted; and

(b) In sub-rule (3), for the expression “the said condition (xv)” the expression “column (1), at serial number 66 of Table-1 of the Eighth Schedule to the Act”, shall be substituted; and

(c) In sub-rule (4), for the expression “under the said condition (xv)” the expression “on supplies as referred to in column (1), at serial number 66 of Table-1 of the Eighth Schedule to the Act”, shall be substituted.

KPMG Tax Connect

Quarter Ended 31 December 2020

(3) After Chapter X1V-AA, the following new Chapter X1V-AB has been inserted titled "Cash Back To Customers", salient features of which are as under.

Application

Rule 150ZEH states that the provisions of this chapter shall apply to the customers of Tier-1 retailers who have integrated their retail outlets with the Board's computerized system for real-time reporting of sales.

Definitions

Rule 150ZEI states that in this chapter, unless there is anything repugnant in the subject or context;

"approved outlet" means a retail outlet duly integrated with the Board's computerized system in pursuance of the provisions of section 3(9) of Act 1990.

"eligible goods" means goods on which sales tax has been paid at the standard rate or at the reduced rate of 12% as per serial number 66 of Table-I of the Sixth Schedule to the Act 1990.

"electronically generated invoice" means an invoice generated by the approved outlet containing a printed Quick Response (QR) code on the invoice.

"mobile application" means "Tax Asaan" mobile phone application.

"Customer" means customer of Tier-I retailers holding an electronically generated invoice; and

"Wallet account" means an account generated online for Tier-1 retailer as well as for its customers.

Procedure for claim of cash back by the customers

Rule 150ZEJ(1) states that all customers of Tier-1 retailers are entitled to redeem 5% of the sales tax paid as cash back on eligible goods of the tax amount as inscribed on the invoice issued by the Tier-1 retailers.

Rule 150ZEJ(2) states that to redeem under sub-rule (1) the cash online, the customer shall log on to the mobile application.

Rule 150ZEJ(3) states that soon after log on under sub-rule (2), an independent FBR wallet account shall be created for each customer.

Rule 150ZEJ(4) states that approved outlet shall also create an independent FBR wallet account for each customer.

Rule 150ZEJ(5) states that an identical FBR wallet account shall be created for each point of sale by the approved outlet.

Rule 150ZEJ(6) states that the customer shall verify the electronically generated invoice through the mobile application.

Rule 150ZEJ(7) states that as soon as the electronically generated invoice is verified, the system shall automatically calculate the 5% amount of the tax paid on the invoice.

Rule 150ZEJ(8) states that the customer shall transfer the amount determined under sub-rule (7) into his FBR wallet account.

Rule 150ZEJ(9) states that the customer may redeem the earned amount within one month of his purchases accumulated in his FBR wallet account on any approved outlet who shall refund the amount accumulated in the wallet account of the customer after ensuring that the earned amount is transferred from the customer's wallet account to the approved outlets wallet account.

Rule 150ZEJ(10) states that the approved outlet shall adjust the amount so refunded to the customer which shall be automatically uploaded from the approved outlet's wallet account to the sales tax return of the approved outlet for the relevant tax period by auto adjusting the output tax.



KPMG Taseer Hadi & Co.
Chartered Accountants

21 January 2021

KPMG Tax Connect

Quarter Ended 31 December 2020

Circulars

Standard Procedure for Sanctioning of Missing Amounts of refunds claimed Stuck in FASTER System due to System Glitches

FBR vide Circular No. 03 of 2020-Operations dated 07 December 2020 has prescribed standard procedure for sanctioning of missing amounts of refunds claimed stuck in FASTER system due to system glitches and that the Chief Commissioners concerned would keep a complete log of the pending missing amount refund cases in their formations and ensure their disposal and processing in the shortest possible time as per law, and instructions.

Standard operating procedure for registration of new Manufacturers for concessionary Tariff Rates on supply of Electricity and Gas

FBR vide Circular No. 04 of 2020 dated 30 December 2020 has prescribed standard operating procedure for registration of new manufacturers for concessionary tariff rates on supply of electricity and gas and that the procedure for registration of new entrants in export oriented sectors shall become applicable with effect from 01 January 2021.

KPMG Tax Connect

Quarter Ended 31 December 2020

The Customs Act, 1969

Further amendment in SRO/572/2020 dated 30 June 2020

The Federal Government vide SRO/1042 /2020 dated 13 October 2020 has made further amendment in SRO 572(I)/2020 dated 30 June 2020 by replacing the old clause (iv) of paragraph 3 with a new clause (iv) of paragraph 3, which is reproduced as under;

(iv)	import of goods classifiable under PCT codes, 5001.0000,5002.0000 5003.0000, 5004.0000, 5005.0000, 5006.0000. 50.07, 51.01, 51.02, 51.03, 51.04, 5105.2900, 5105.3100, 5105.3900, 5105.4000, 51.06,
	51.07, 51.08, 51.09, 5110.0000, 51.11, 51.12, 5113.0000, 52.01, 52.03, 5303.1090, 5305.0020. 53.06, 53.07, 53.08. 53.09; 53.10, 5311.0000, 5401.2010, 5401.2090, 5402.1100, 5402.1900, 5402.3100, 5402.3200, 5402.3400, 5402.3900, 402.4490,5402.4800, 5402.4900, 5402.5100, 5402.5300, 5402.5900, 5402.6100,5402. 6300. 5402.6900. 5403.1000, 5403.3200, 5403.3300. 5403.3910.5403.3990, 5403.4100, 5403.4200, 5403.4900, 54.04, 5405.0000, 406.0000,5407. 4100, 5407.4200, 5407.4300. 5407.4400. 54.08,5501.3000, 5502.1000, 5502.9010, 5503.1100, 5503.1900, 5503.3000,5503.4000, 5503.9000, 5504.1000, 5504.9000, 5506.1000, 5506.3000, 5506.4000, 5506.9000, 5507.0000, 5508.2000, 5509.1100, 5509.1200, 5509.3100, 5509.3200, 5509.6100, 5509.6200, 5509.6900, 5509.9100, 5509.9200. 5509.9900, 55.10, 5511.3000, 5512.2110, 5512.2120, 5512.2900, 5512.9110, 5512.9120, 5512.9920. 5512.9990, 5515.2110,5515. 2180, 5515.2210, 5515.2290, 5515.2910, 5515.2990,

	5515.9110,5515. 9190. 5515.9910, 5515.9990 and 55.16
--	--

Further amendments in SRO 680(I)/2019 dated 28 June 2019

The Federal Government vide SRO 1043(I)/2020 dated 13 October 2020 has made the following amendments in SRO 680(I)/2019 dated 28 June 2019 by exercising the powers conferred by sub-section (3) of section 18 of the Act 1969, which are as under;

In column (1) of the table of the aforesaid Notification,

(a) against serial number 186, in column (3) after the figure "54.04" at the end, the bracket words and figures "(except PCT codes 5407.4100, 5407.4200, 5407.4300 and 5407.4400)" have been inserted.

(b) serial number 187 and the entries relating thereto in columns (2), (3) and (4) have been omitted.

(c) against serial number 188 in column (3) after the words "retail sale" at the end, the bracket words and figures "(except PCT codes 5509.1100 5509,1200,5509.3100,5509.3200,5509.6100,5509.6200,5 509,6900,5509.9100,5509.9200, 5509.9900)" have been inserted.

(d) serial number 189 and the entries relating thereto in columns (2), (3) and (4) have been omitted.

(e) against serial number 190 in column (3) after the words "retail sale" at the end, the bracket words and figures "(except PCT code 5511.3000)" have been inserted.

(f) the serial number 191 and the entries relating thereto in columns (2), (3) and (4) have been substituted by the following entries;

191	5512.1110	Unbleached	2.5
191 A	5512.1120	Bleached	2.5
191B	5512.1900	Other	2.5

KPMG Tax Connect

Quarter Ended 31 December 2020

(g) against serial number 194 in column (3) after the words "staple fibers" at the end, the bracket words and figures "(except PCT codes 5515.2110, 5515.2190, 5515.2210, 5515.2290, 5515.2910, 5515.2990, 5515.9110, 5515.9190, 5515.9910 and 5515.9990)" have been inserted.

(h) serial number 195 and the entries relating thereto in columns (2), (3) and (4) have been omitted.

Increase in duty Drawback rates – Poultry industry

FBR vide SRO 1217(I)/2020 dated 13 November 2020 has made an amendment in its earlier SRO 212(1)/ 2009 dated 05 March 2009 whereby the revision of the rates of Duty Draw Back on imported raw materials which are being used in production/manufacturing for poultry industry has been made, which are effective from 13 November 2020. The List of imported raw materials, goods produced, HS Codes and extent of repayment of customs duties is given in table in the notification.

Exemption of sales tax on import of medical and surgical goods

The Federal Government vide SRO 1251(I)/2020 dated 23 November 2020 has exempted customs duty, regulatory duty and additional customs duty on import of certain medical and surgical goods as mentioned in Table of this notification. This notification is valid for the period from 01 October 2020 to 30 June 2021.

Increase in duty Drawback rates - Footwear

FBR vide this SRO 1268(I)/2020 dated 26 November 2020 has made an amendment in SRO 210(1)/ 2009 dated 05 March 2009 whereby a new Schedule VI has been introduced in the place of old Schedule VI for the purpose of revision of the rates of Duty Draw Back of imported raw materials which are being used in production/manufacturing for Footwear industry which are effective from 26 November 2020. The List of imported raw materials, goods produced, HS Codes and extent of repayment of customs duties is given in the table in the said notification.

Amendment in SRO 102(I)/83 dated 12 February 1983

FBR vide SRO1301 (I)/2020 dated 02 December 2020 has made an amendment in SRO 102(I)/83 dated 12 February 1983 by inserting the words "except cement" after the word "admissible" in the Schedule, under the heading 'D' against serial No. 15, in column 3, in clause (b).

Customs Rules, 2001

Further amendments in the Customs Rules, 2001

FBR vide SRO 1036(I)/2020 dated 08 October 2020 has made the further amendments in Rules, 2001 which were previously published vide SRO 857(1)/2020 dated 08 September 2020. These are as under;

In Rule 380 the words "District and Sessions Judge and retired Judges of High Court" have been omitted; and

Rule 381 is being substituted as under;

A member of the Committee appointed under section 195C(2)(iii) of the Act shall be paid a lump sum one time remuneration of one hundred thousand rupees for his services"

Amendments in Chapter XIV under the head "Transshipment" of the Custom Rules, 2001

FBR vide SRO1039(I)/2020 09 dated October 2020 has made amendments in Chapter XIV of the Rules 2001 which were previously published vide SRO 797(I)/2020 dated 26 August 2020. These are as under;

In Rule 326 after clause (b), a new clause has been inserted, which is as under;

(ba) "bulk cargo" means cargo usually dropped or poured as solid or liquid, into a bulk carrier's hold and includes dry and liquid bulk cargo.

(d) in this clause the word "Central" has been deleted and in its place the word "Federal" has been inserted.

KPMG Tax Connect

Quarter Ended 31 December 2020

The old clause (j) in Rule 326 has been deleted and new clause (i) has been inserted, which is as under;

(j) "oversized or heavy or bulky goods" means any heavy or bulky object which because of its weight, size or nature cannot be carried in a closed vehicle or closed container.

The old clauses (q) and (r) in Rule 326 have been deleted and in its' places the new clauses have been inserted, which are as under;

(q) "transshipment permit" means the authorization granted by respective Directorate of Transit Trade (Transshipment Section) for transshipment of goods or allowed under Customs Computerized System; and

(r) "transshipment manifest" means manifest to be prepared by the carrier in the prescribed form for submission to respective Directorate of Transit Trade (Transshipment Section) and to the appropriate officer of Customs at the customs ports or stations of destination.

In Rule 327(3) the expression "The tracking device is not mandatory for the prime movers or tractors of articulated trailers or trailers" have been omitted.

After sub-rule (3), amended as aforesaid the following new sub rules (3A), 3(B) and (3C) have been inserted, which are as under;

(3A) All transport units and conveyances used by the transport operators for carrying transshipment goods shall be properly secured, riveted, locked and sealed. The transport units and conveyance used by the transport operators shall be so constructed and equipped as to provide for the Customs seals to be conveniently and effectively affixed thereon and containing no concealed space where any goods could be hidden. The transport units shall have a permanently installed or fixed tracking device capable of showing the location of the said vehicle or trailer at any given times as well as a track of its route and stoppage etc. The transport unit shall be free from all manufacturing defects so that no goods can be removed from or introduced into the sealed portion of the transport units capable of holding any goods should be readily accessible for Customs inspection. The transport units shall be individually registered with the vehicle registration authority.

(3B) Each vehicle shall be equipped with the tracking device from a tracking company duly approved by the Board.

(3C) The Customs staff shall verify the satisfactory working of the tracker and the identity of the containers and vehicles used by the transport operators for carrying transshipment goods.

After sub rule (6), a new sub rule (6A) has been inserted, which is as under;

(6A) The licensed bonded Carrier/Transport Operator shall be responsible that each container carrying transshipment goods shall distinctly display the words "GOODS UNDER TRANSSHIPMENT" written on detachable plates affixed on the front and rear sides of the container. While clamping the detachable plates on the rear side, it shall be ensured that the visibility / integrity of machine readable seals remain unaffected.

In Rule 328(1) for the words "reputable company" the expression "tracking company as licensed by the FBR" has been substituted.

The old sub rule (2) of rule 328 has been deleted and in its place a new sub rule (2) has been inserted, which is as under;

(2) Bonded carrier license shall be issued by the respective Director of Transit Trade in whose jurisdiction the business address of the applicant is located for a period of two years on the recommendation of committee comprising respective Director of Transit Trade, Collector, Model Customs Collectorate (Enforcement and Compliance) and Director, Intelligence and Investigation-Customs of the jurisdiction, after seeking approval of the Director General Transit Trade, on completion of formalities under the Customs Rules, 2001. The license may be revoked at any time by the licensing authority.

In Rule 329(6), for the words "concerned Collector of Customs" the words "respective Director of Transit Trade" and for the words "Collector of Customs" the word "Director" has been substituted.

KPMG Tax Connect

Quarter Ended 31 December 2020

In Rule 329(2) the expression “using the transport route, as may be prescribed by the Board, from time to time” has been omitted.

In sub rules (4), (5), (6) and (7) of Rule 329 for the expression “Assistant Collector (Imports Section)” the expression “Assistant Director (Transshipment Section)” has been substituted.

In the first proviso in sub rule (6) of Rule 329 for the expression “Collector Model Customs Collectorate of Appraisalment” the expression “Director Transit Trade” shall be substituted; and

In sub rule (8) of Rule 329 for the expression “Customs or Sales Tax Collectorate station” the expression “Mobile Enforcement Unit or Transit Directorate” has been substituted.

In clause (c) of sub rule (I) of Rule 329-A after the word “seal” the words “or tracker” have been inserted.

In sub rule (I) of Rule 330 for the word “Collector” the word “Director” occurring for two times has been substituted.

The old sub rule (2) of Rule 330 has been deleted and new sub rule (2) has been inserted which is as under:

(2) The application shall be filed in the Transshipment Section of the concerned Directorate of Transit Trade and

In sub-rule (5) of Rule 330 for the expression “Collector” the expression “Director” occurring for two times has been substituted.

The sub clause (iii) of clause (a) of Rule 331 has been deleted and new sub clause (iii) of clause (a) of Rule 331 has been inserted which is as under;

(iii) in case of exceptional cases, if any problem is faced for stuffing of any goods in container the carrier shall approach the concerned Assistant Director (Transshipment Section) who may allow transshipment of such goods in loose form subject to additional conditions, sealing and tracking requirements and safeguards, as he deems appropriate.

In sub clause (vii) of clause (b) of Rule 331 for the word “Collector” the word “Director” has been substituted.

In clause (d) of Rule 333, the word “and” at the end has been omitted; and

In clause (e) of Rule 333 for the full stop at the end the colon has been substituted and the word “and” has been inserted; thereafter the following new clause has been inserted namely;

(f) Strategic goods as defined under UN Resolution 1540 and notified by SECDIV.

In the title of Rule 334 after the word “person” the words “and Tracker by the FBR’s Licensed Tracking Company” are inserted;

The old sub rules (1) and (2) of Rule 334 have been deleted and the following new sub rules (1) and (2) have been inserted;

(1) All transport units and containers carrying transshipment goods shall be allowed clearance from the area of delivery after installation of machine readable seal by Customs Container Security Unit staff or authorized person and Tracking device installed by tracking company duly licensed by FBR, including over-dimension cargo, notified heavy cargo and goods to be transshipped by Pakistan Railways except in cases where sealing is not possible as determined by the Assistant or Deputy Director, Transit at the port of departure.

(2) The container and vehicle shall be tracked by Container Security Device (CSD) and Prime Mover Device (PMD) installed by tracking company duly licensed by FBR and scaled with machine readable unbreakable seals with progressive serial number by the CCSU or authorized person at the focal points (entry), on first come, first served basis.

In sub rule (7) for the words “other seals if applicable” the words “and tracking device mounted on container” have been substituted;

The present sub rule (8) has been deleted and the new sub rule (8) has inserted, which is as under;

KPMG Tax Connect

Quarter Ended 31 December 2020

(8) In case the CCSU or authorized person finds the seal broken or tampered with or malfunctioning of tracking device or finds the security of the cargo/container compromised in any way detrimental to the revenue or safety or anti-narcotics or anti-terrorism concerns, the matter shall be reported to the In charge CCSU as well as to the Director Transit having jurisdiction and Project Director, Central Control Room as per procedure prescribed by the Board as well as the concerned Assistant Collector of destination for necessary action. Such container shall be de stuffed/re stuffed only in the presence of authorized officer of Customs of the concerned customs station.

The present sub rule (9) has been deleted and new sub rule (9) has been inserted, which is as under;

(9) in case the vehicle, trailer, prime mover or railway wagon or train meets with an accident or breakdown that has caused or may cause the security and safety of the bonded goods to be compromised, the driver of the vehicle/representative of the carrier will immediately inform the nearest Transit Monitoring and Response Center (TMRC) or Director, Transit Trade and CCSU for necessary action as per the procedure prescribed by the Board.

(i) The carrier shall bear all expenses incurred on restuffing or repacking of bonded goods pilferaged or damaged.

(ii) the carrier shall approach the nearest Transit Monitoring and Response Center (TMRC) or Director, Transit Trade for witnessing the shifting of goods in another transport unit if necessitated. The carrier shall shift the transshipment goods or container in the other transport unit in the presence of the officer authorised by the said office. The officer Incharge shall issue a certificate to this effect to be produced by the carrier at the destination and cause the re-sealing of the container by CCSU or authorised person and mounting of the tracking device on the container.

In sub rule (2) of Rule 335 for the expression "Collector" the expression "Director" has been substituted.

In sub rule (3) of Rule 335 for the expression 'Collector' the expression "the concerned Director of Transit Trade" has been substituted.

In sub rule (4) for the expression "Collector of Customs" the expression "Director of Transit Trade" has been substituted.

In sub rule (2) of Rule 336 for the expression "Custom" the word "Transit" has been substituted.

In sub rules (3) and (4) for the word "import" the word "transshipment" has been substituted.

In sub rule (4) for the expression "Collector" the expression "Director" has been substituted.

The following new Rule 337 titled "Checking of conveyance en-route" in place of old rule has been introduced, which is as under;

An officer of Customs not below the rank of Inspector, may, on reasonable suspicion regarding substitution or attempt of substitution of goods, or interference with the container and cargo contained therein which may in any way be detrimental to the revenue, or safety anti-narcotics, anti-terrorism concerns by tampering seals / tracker devices or containers while the conveyance is en-route, shall inform Incharge CCSU and nearest TMRC about his suspicion and on receiving specific permission of Incharge TMRC or Director of Transit Trade in whose jurisdiction the goods are present are to be intercepted and check that the rivets, locks, seals, and labels of the transport unit and the container are intact. Report of such rechecking shall invariably be sent to CCSU by the concerned Collectorate/ Director by fax/e-mail/courier as well as telephonically within six hours of such interception.

For sub rule (1) of Rule 339 the following new sub rule (I) has been introduced, which is as under;

All goods for which transshipment permit has been issued will reach the customs port or stations of destination within the timeline as prescribed below from the date of issue of transshipment permit.

S.No.	Route	Time Limit (Days)
1	Karachi to Hyderabad	Two

KPMG Tax Connect

Quarter Ended 31 December 2020

2	Karachi to Quetta	Four
3	Karachi to Multan	Four
4	Karachi to Faisalabad	Five
5	Karachi to Lahore	Five
6	Karachi to Sambrial	Five
7	Karachi to Islamabad	Five
8	Karachi to Peshawar	Five
9	Gwadar to Hyderabad	Three
10	Gwadar to Quetta	Three
11	Gwadar to Multan	Four
12	Gwadar to Faisalabad	Five
13 -	Gwadar to Lahore	Five
14	Gwadar to Sambrial	Five
15	Gwadar to Islamabad	Five
16	Gwadar to Peshawar	Five
17	Taftan to Karachi	Five
18	Taftan to Hyderabad	Five
19	Taftan to Quetta	Two
20	Taftan to Multan	Four
21	Taftan to Faisalabad	Five
22	Taftan to Lahore	Five
23	Taftan to Sambrial	Five
24	Taftan to Islamabad	Five

25	Taftan to Peshawar	Five
26	Chaman to Karachi	Four
27	Karachi to Multan	Four
28	Chaman to Quetta	Two
29	Chaman to Multan	Four
30	Chaman to Faisalabad	Five
31	Chaman to Lahore	Five
32	Chaman to Sambrial	Five
33	Chaman to Islamabad	Five
34	Chaman to Peshawar	Five
35	Torkham to Karachi	Five
36	Torkham to Hyderabad	Five
37	Torkham to Quetta	Four
38	Torkham to Multan	Four
39	Torkham to Faisalabad	three
40	Torkham to Lahore	three
41	Torkham to Sambrial	three
42	Torkham to Islamabad	two
43	Torkham to Peshawar	two
44	Sost to Karachi	Nine
45	Sost to Hyderabad	Nine
46	Sost to Quetta	Eight
47	Sost to Multan	Seven

KPMG Tax Connect

Quarter Ended 31 December 2020

48	Sost to Faisalabad	Seven
49	Sost to Lahore	Seven
50	Sost to Sambrial	Seven
51	Sost to Islamabad	Five
52	Sost to Peshawar	six

In sub rules (2) and (3) for the expression "Collector" the expression "Director" has been substituted.

In Appendix-II for the expression "Collector of Customs (Appraisalment)" wherever occurring the expression "Director of Transit Trade" has been substituted.

In Appendix-II for the expression "Collector of Customs" wherever occurring the expression "Director of Transit Trade" has been substituted.

In Appendix-I11 for the expression "ASSISTANT COLLECTOR OF CUSTOMS" wherever occurring the expression "ASSISTANT-DIRECTOR OF TRANSIT TRADE" has been substituted; and

In Appendix-IV for the expression "COLLECTORATE OF APPRAISEMENT" the expression "DIRECTORATE OF TRANSIT TRADE" has been substituted; and

For the expression "COLLECTOR" the expression "DIRECTOR" shall be substituted.

Addition of new chapter XXXIV under the head "De minimis rules for imported goods"

FBR vide SRO 1109(I)/2020 dated 22 October 2020 has made following further amendments in the Rules 2001 by adding a new chapter XXXIV under the head "De minimis rules for imported goods" which were previously published vide SRO 886(I)/2020 dated 17 September 2020, salient features of which are as under;

Application

Rule 781 states that this chapter is applicable to the goods imported through postal service and air couriers only.

Definitions

Rule 782 states that in this chapter unless there is anything repugnant in the subject or the context, the following terms have been defined;

"de minimis value" means the value of goods up to five thousand rupees in terms of the provisions of section 19C of the Customs Act, 1969.

"postal goods" means goods cleared in terms of the provisions of Landing and Clearing of Parcels Rules as mentioned in Chapter XVI of the Customs Rules, 2001; and

"courier goods" means air cargo cleared by couriers in accordance with rules specified by the Board.

Rule 783 states that the value mentioned on label of the postal good or the courier receipt shall be considered as the declared value for the purpose of application of the provisions of section 19C of the Customs Act, 1969.

Rule 784 states that the postal or courier authorities shall take the official exchange rate of the previous day for conversion of invoice value into Pak Rupees.

Rule 785 states that the postal or courier authorities shall submit a separate list of the goods along with invoices and other documents, if any, wherein the declared value is up to five thousand rupees in accordance with Rule 366.

Rule 786 states that the Customs authorities shall scrutinize the list and shall have the right to examine or detain any goods to verify the declared value or compliance to the requirements of any other law applicable thereon.

Rule 787 states that the postal or courier authorities shall not file goods declaration or demand payment of duty and taxes for goods with value up to five thousand rupees.

KPMG Tax Connect

Quarter Ended 31 December 2020

Rule 788 states that the postal or courier authorities shall submit a consolidated monthly e-statement of all such clearances along with copies of invoice of the imported goods cleared under these rules to the concerned Customs authorities for reconciliation of the record on the following format, namely;

S. No.	Courier /Parcel No	Name of consignee	Tel/ Mobile No	Description of goods	Value as per invoice in Pak rupees	Country of origin of parcel
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Procedure at the Office en-route (Transit under Customs Computerized System)

FBR vide SRO 1186(I)/2020 dated 05 November 2020 has added a proviso after sub rule (1) of Rule 484-E of the Rules 2001, which is part of sub chapter VII (Transit under Customs Computerized System). As per this proviso the weight of transport unit will not be carried out at Torkham customs-station till the completion of Integrated Transit Trade Management System (ITTMS) terminal.

Customs (Advance Ruling) Rules, 2020 (Chapter XXXV)

FBR vide SRO 1213(I)/2020 dated 11 November 2020 has made amendments in the Rules 2001 by adding a new Chapter XXXV, previously published vide SRO 965(I)/2020 dated 05 October 2020.

Short title and commencement

Rule 789(1) states that these rules are the (Custom Ruling) Rules, 2020.

Rule 789(2) states that these rules come into force on the date of publication thereof in the official Gazette.

Definitions

Rule 790 states that in this chapter, unless there is anything repugnant in the subject or context, certain terms have been defined.

Issuance of advance ruling

Rule 791 states that advance ruling shall be issued in the following cases;

- classification of goods under first schedule to the Act 1969;
- determination of origin of the goods under the rules of origin notified for bilateral and multilateral agreements;
- application of notifications issued under Act 1969 or any other law relevant to the goods.

Procedure for submission of application

Rule 792 states that an applicant shall submit an application in the prescribed format along with all necessary information to the Secretary of the Committee for obtaining advance ruling.

Scrutiny of application

Rule 793 states that the Committee shall examine the application and the attached documents and inform the applicant within 15 days if any further details or documents are required.

Processing of application

Rule 794 states that the Committee after providing an opportunity of being heard to the applicant shall pass an order within 90 days from the receipt of application.

Validity of the order passed by the Committee

Rule 795 states that a ruling passed by the Committee shall be binding on applicant unless he prefers an appeal as per Rule 797 of the rules.

Provided that a ruling shall be binding on Customs department for one year unless there is a change in fact or circumstances on the basis of which the advance ruling was pronounced.

KPMG Tax Connect

Quarter Ended 31 December 2020

Conditions

Rule 796 states that the Committee will refuse to process the application in the following situations;

- (a) if it is incomplete, incorrect, false or misleading information;
- (b) if the law or facts or circumstances of the case changes;
- (c) if the issue is pending before any adjudicating authority, appellate tribunal, or any court of law; or
- (d) if the issue has already been decided earlier by any adjudicating authority, appellate tribunal, or any court of law;

Provided that before such rejection an opportunity of being heard shall be given to the appellant in person and reasons thereof shall be recorded in the order.

Appeal against the ruling passed by the Committee

Rule 797 states that the appellant may file appeal before the Member Customs Policy within 30 days of the ruling. The Member Customs Policy after examining record of the proceedings, appeal application and after giving an opportunity of hearing to the appellant, shall pass an appropriate order within 60 days from the date of filing of appeal or within such extended period not exceeding 30 days as the Member may for the reasons to be recorded in writing extend, confirm, modify or annul the decision of order appealed against:

Provided that during the appeal period of 30 days, the operation of the ruling shall remain suspended unless the applicant accepts the ruling.

Advanced ruling to be void in certain circumstances

Rule 798 states that where the advanced ruling committee finds on its own or on a representation made to it by the customs or otherwise that an advanced ruling pronounced by it under sub section (1) of section 212B of the Act 1969 has been obtained by the applicant by providing false, incomplete or misleading information, it may revoke, modify or invalidate the ruling with

retrospective effect and thereupon all the provisions of the Act 1969 shall apply to the applicant as if such advance ruling had never been made.

Amendments in Customs Rules - Transit under Customs Computerized System and Importation of Afghan Transit Goods

FBR vide SRO 1303(1) 2020 dated 02 December 2020 has made amendments in the shape of omitting, substituting and adding in the Rules 2001 dealing with Transit under Customs Computerized System (Chapter VII of the Customs Rules), which are as under;

Rule 475(5) has been omitted which stated that all packages destined to Afghanistan through transit trade shall mark "in transit to Afghanistan".

In Rule 484-E(1) the words "100% weighment and scanning subject to availability of requisite infrastructure have been substituted with the expression "the scanning at the office en-route shall be done on the basis of risk management".

In Rule 484-E(5) the word "and" in clause (c) has been deleted.

In Rule 484-E(5) the word "and" at the end in clause (d) has been substituted with the full stop and a new clause (e) has been added, which is as under;

(e) on arrival of AT cargo at Azakhel/ Chaman railway station, the Terminal Operators shall gate in the forward transit containers through WeBOC system. The customs staff shall then verify the seals of the containers, within the system. Later, the terminal operators shall handover the containers to second Bonded Carriers for safe transportation and exit.

In Rule 484-G(1)(c) a new clause (c) has been added in place of old, which is as under;

(c) Route-III (Transit via Ghulam Khan)

"Bannu Customs Check Post"

In 603(3) the word "All" has been substituted with the words Twenty percent (20%).

KPMG Tax Connect

Quarter Ended 31 December 2020

In Rule 604 sub rule 3 shall be omitted.

Amendments in the Tracking and Monitoring of Cargo Rules, 2012

As per Rule 7(2)(c) of Tracking and Monitoring of Cargo Rules, 2012 a company which is in a financial position may apply for the license, to undertake the project of minimum turnover of Rs.350 million or financial worth of Rs.200 million.

FBR vide SRO 1317(I)/2020 dated 07 December 2020 has made amendments in the said rule by reducing the limits from Rs. 350 million and Rs. 200 million to Rs. 175 million and Rs. 100 million respectively.

CUSTOMS RULINGS

As per various Rulings issued during the month of November 2020, the following minimum valuations have been prescribed for the below mentioned items:

Sr. No.	Valuation Ruling No	Date of Issue.	Description of Goods	Origin	Customs Value (C&F)
1	1481	02-November 2020	Networking equipment		Varied rates for four categories
2	1482	05 November 2020	Phenolic Resin, Polyurethane Resin, Melamine Resin; and Epoxide resin	China, Taiwan, Korea, Singapore, Malaysia, UAE, Turkey, Europe, South Africa	1.47 to 3.50 per kg
3	1483	06 November 2020	Children garments of low-end brands	China, Vietnam, Indonesia, Malaysia, Thailand, UAE, Bangladesh, Sri Lanka, Others	0.060 to 1.15 per pc

4	1484	06 November 2020	Garments of low-end brands	China, Vietnam, Indonesia, Malaysia, Thailand, UAE, Bangladesh, Sri Lanka, Others	0.25 to 22.40 per suit /pc.
5	1485	13 November 2020	Polyester/Acrylic pile fabric for blankets (225 GSM and above)	China, UAE, Korea, Europe	3.15 to 5.51 per kg
6	1486	13 November 2020	Fresh ginger, fresh garlic and dehydrated garlic flakes	China, Vietnam, Indonesia, Myanmar, Thailand	1.00 to 4.78 per kg.
7	1487	17 November 2020	Adhesive plaster, surgical tape and nonwoven dressing roll	China	3.35 to 5.11 per kg
8	1488	17 November 2020	Gas water heater (CKD/SKD condition) and its parts	China	Varied rates for three categories



KPMG Taseer Hadi & Co.
Chartered Accountants

21 January 2021

KPMG Tax Connect

Quarter Ended 31 December 2020

Contact us

Karachi Office

Sheikh Sultan Trust Building No.
2
Beaumont Road
Karachi – 75530
Telephone 92 (21) 3568 5847
Telefax 92 (21) 3568 5095
e-Mail karachi@kpmg.com

Lahore Office

351, Shadman–1
Main Jail Road
Lahore 54000
Phone +92 (42) 111 576
484
Fax +92 (42) 3742 9907
e-Mail lahore@kpmg.com

Islamabad Office

Sixth Floor, State Life Building
Blue Area
Islamabad
Telephone 92 (51) 282 3558
Telefax 92 (51) 282 2671
e-Mail islamabad@kpmg.com

www.kpmg.com.pk

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.