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A Brief on Tax Laws (Amendments) Ordinance 2025 (Amendments Ordinance 2025)

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Preamble

As financial year 2025 is nearing its end, Government is beefing up its efforts to complete the fiscal revenue collection target set for the year.

The Governmental statistics depict that a large amount of tax is stuck in litigations. To address this, major amendments were made in the Income Tax Ordinance, 2001 [ITO 2001] through Finance Act, 2024 in the appellate/ litigation framework in an attempt to expedite disposal of pending tax cases.

There are a large number of tax cases that are being heard at the Higher courts. This inter-alia includes constitutional challenges on super tax, both under section 4B and 4C of ITO 2001. The Amendments Ordinance 2025 has now amended the recovery provisions under the ITO 2001 so that if the Department's position in these cases is upheld, the recovery of underlying tax can be made immediately and smoothly.

The Amendments Ordinance 2025 has also brought in changes in the Federal Excise Act, 2005 [FE Act 2005], to introduce stringent measures against counterfeit production which has always acted as a major stimulus of under declaration.

This brief narrates the changes brought through the Amendments Ordinance 2025.

Income Tax Ordinance 2001 [2001 Ordinance]

Recovery procedures

Sections 138 and 140 of the ITO 2001 prescribe the manner of recovery of tax levied under the Ordinance.

The Amendments Ordinance 2025 has introduced non-obstante provisions in section 138 and section 140 respectively whereby the tax payable under any provision of ITO 2001 or any assessment order **shall**

become immediately payable or within the time specified in the notice issued by the income tax authority, irrespective of the time provided under any other provision of the ITO 2001 or any decision or judgment, in case the issue giving rise to the tax payable is decided by a High Court or the Supreme Court of Pakistan.

This is a move to beef up tax collection in cases where the higher courts have decided against the taxpayers. Tax authorities may attempt to invoke this even in the cases appeal filed against the order and a stay is in field or not.



However, we would like to highlight that when such provisions are introduced with respect to recovery measures or to curtail powers of the court in respect of stay of demand, they usually have to undergo the litmus test for conformity to article 199 of the Constitution. Therefore, we believe that this newly introduced provision may also have to go through such litmus test in the court of law.

Posting of Officers of Inland Revenue

The Amendments Ordinance 2025 has introduced a new section 175C to the ITO 2001.

This new law has empowered the Federal Board of Revenue (FBR) or the Chief Commissioner, subject to such conditions and restrictions as deemed fit to be imposed, to post an Officer of Inland Revenue or such other officials with any designation working under the control of the FBR or the Chief Commissioner, to the premises of any person or class of such persons, to monitor production, supply of goods or rendering of or providing of services and the stock of goods not sold at any time.

Federal Excise Act 2005

Power to seize products

Section 26 of the Excise Act 2005 provides that counterfeited cigarettes or beverages produced unlawfully or other dutiable goods on which duty has not been paid in the manner required under the Excise Act 2005 shall be liable to seizure.

Through the Amendments Ordinance 2025, it has been added in section 26 that the dutiable goods without affixing or affixing counterfeited tax stamps, banderoles, stickers, labels or barcodes, as required under section 45A of the Excise Act for monitoring or tracking by electronic or other means also be made liable to seizure.

Confiscation of products

Section 27 of the Excise Act 2005 provides that cigarettes or beverages seized under section 26 of the Excise Act shall be liable for confiscation and shall be destroyed.

Through the Amendments Ordinance 2025, it has been added in section 27 that:

- a. The dutiable goods without affixing or affixing counterfeited tax stamps, banderoles, stickers, labels or barcodes, as required under section 45A of the Excise Act for monitoring or tracking by electronic or other means shall also be made liable to such confiscation and destruction.
- b. In case of goods subject to monitoring under section 45A of the Excise Act and counterfeited goods, may authorize any officer or employee of the Federal or Provincial Government to exercise the powers and perform the functions of Officer of Inland Revenue under section 26 and section 27 of the Excise Act by notification in the official Gazette subject to such conditions, if any, that it may deem fit to impose.

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