Daily Tax News (DTN)

Huzaima & Ikram
November 29, 2012

Daily Tax News (DTN) is a special email service from Monday to Friday, part of your subscription, aims at keeping you informed about changes taking place in tax laws in real time. It also contains in-depth articles, analyses and changes taking place all over the world. On Saturday evening we send Weekly Tax Journal (WTJ).

For more information about huzaimaikram.com publications and activities, please visit our website.

"This alert email service will be discontinued by 31 December 2012 as we are posting the same material on our website www.huzaimaikram.com on daily, weekly and monthly basis. Please regularly visit our website and send us your invaluable comments and feedback".

This issue contains:

Kind regards

Editorial Team

Lahore
Office No. 14, Second Floor,
Sadiq Plaza, 69-The Mall,
Lahore 54000 Pakistan
Ph. (+9242) 36280015 & 36365582

Lahore
Mr. Shabbir Ali
0322-4291828
Mr. Shahbaz Ahmad
0300-4521453

Karachi
Ms. Sadaf Bukhari
0301-8458701
Mr. Saleem Zahid
0300-4217408

Other cities
Mr. Aftab Sajid
0305-5199004

Taxing tax strategy?

Editorial, Courtesy Business Recorder
Dated November 28, 2012

Although tax mobilisation performance of the FBR has generally been poor, it is never short of innovative ideas to raise the amount of revenues to the desired levels. According to a news item in the *Business Recorder* on 25th November, 2012, the FBR has now finalised a Three-Year Strategic Plan which will focus on expenditure-based assessment of the potential taxpayers.

Under the plan, it will electronically document life pattern expenditures of the individuals for assessment of income tax and monitoring of expenditures will be done with the help of electronic database and information available with the tax department. Taking into account the expenditures made by any individual, the FBR would be in a position to serve "electronic notices" to undocumented persons. Once the base widens, tax rates would be brought down.

The FBR is confident that its ongoing efforts will expand the number of taxpayers by another 4 million. The plan also talks about major steps on the sales tax side. The sales tax base would be enlarged with the help of electronic data available with the tax department and bogus sales tax refunds and input tax adjustments could be checked with the help of risk-based system. The inadmissible input tax adjustments would be controlled through effective checking of sales tax invoices and purchases made within the supply chain of VAT.

Again, the checking of fake and flying invoices would be done with the help of electronic verification system to plug in the loopholes within the VAT regime. With these stringent measures in place, the standard rate of sales tax would be reduced from 16 percent to 10 percent and that of corporate income tax from 35 percent to 30 percent. The plan would also pay special attention to the border controls by the customs department. Border controls would be made more effective by setting up new checkposts at all important stations and employing a new force of efficient customs staff. The plan is reported to have been shared with the Ministry of Finance and would be discussed with the IMF. For the current year, the FBR is optimistic about amassing the targeted tax revenue of Rs 2,381 billion and raising the tax-to-GDP ratio to 10 percent as against 9.1 percent in 2011-12. It expects to collect Rs 150 billion by improving effective sales tax rate, Rs 120 billion through registration and investment schemes and Rs 50 billion through a recovery drive against non-duty paid smuggled cars during FY13.

On the face of it, there seems to be nothing wrong with the Strategic Plan devised by the FBR. Tax revenues in Pakistan have continued to be at a dismally low level of below 10 percent of GDP during the past several years and need to be raised substantially by adopting a different approach in order to meet mounting expenditures of the government and improve the image of the FBR. The present performance of the FBR could be gauged from the fact that only 0.9 percent of the population in Pakistan is persuaded or forced to pay taxes as against 4.7 percent in India, 16.5 percent in Argentina, 58 percent in France and 80 percent in Canada. Another bad news is the revelation by the media that even this highly poor percentage of 0.9 percent was an overestimate due to overlapping of taxpayers - a discrepancy that has emerged from the data of Nadra when compared with the figures compiled and maintained by Pakistan Revenue Automation (PRAL), a subsidiary of the FBR. Embarrassing is also the fact that efficiency of tax officials in Pakistan is quite dismal. For instance, the number of active taxpayers per tax administrator in Pakistan is 64 as against 537 in India, 232 in Sri Lanka, 1990 in the US and 3182 in Switzerland. This is despite the fact that the government has increased the salaries of tax officials in Pakistan quite substantially and provided other incentives to improve efficacy of the tax department.

Whether the proposed Strategic Plan is going to alter the situation and improve the ratios to the desired levels is of course a matter of conjecture but the experience suggests otherwise. In the past, FBR had devised many such plans, sometimes with the assistance of multilateral financial institutions, but the results have been generally disappointing. Besides, the new Strategic Plan seems only to be a rehash or retooling of the existing systems at the disposal of the FBR for which no such Plan was required. For instance, nobody is stopping the FBR from using life pattern/consumption expenditures as a secondary evidence for the purpose of assessment of income tax.

In fact, in Pakistan like most other countries, income of an individual is the primary source for tax determination and he could always be asked to explain his pattern of expenditures for double checking or for the sake of consistency between the two. The present practice, if used skilfully, is, therefore, definitely a better approach for a variety of reasons including transparency and convenience. Similarly, a lot of emphasis has been placed on the use of electronic means in the new plan without realising that FBR could make use of such devices in a more professional manner without making any fuss or noises about this. These are routine improvements which, in our view, need to be carried out as a matter of course with the passage of time.

Realistically speaking, the FBR, instead of depending on such plans, must concentrate most of its attention on improving efficiency and checking rampant corruption in its cadres without losing more time to deepen and widen the tax net. If it fails to do that, even the expected amount from various measures during FY13 would not be realised and the tax target of up to 10 percent of GDP would not be possible to achieve. Also, it is essential to do away with all sorts of tax exemptions and treat all kinds of incomes uniformly for tax purposes to eliminate various loopholes in the tax regime. If the political leadership of the country fails to guarantee such a level playing field, raising the tax-to-GDP ratio to a respectable level would continue to be an elusive goal. Besides, the economy of the country has to be revived and the writ of state has to be firmly established in all parts of the country to enable the FBR to bring more people into the tax net and deal properly with tax evaders. All these actions need a very close co-ordination between the government and the FBR (read: compiling correct data and using it) and unity of purpose among all the stakeholders. In the absence of a firm resolve and enabling measures on ground, strategic plans devised from time to time by the FBR would just be like gimmicks, spelling out attractive scenarios without much hope of successful outcomes.

New tax on CNG planned

The government is considering to impose a new tax on compressed natural gas to reduce the price difference between CNG and petrol in order to phase out the use of the gas in private transport.

"The government has planned to phase out CNG stations gradually as they are causing heavy loss to the national economy by wasting this valuable commodity (natural gas), instead of its use for industrialisation and investment and domestic use," Prime Minister's Adviser on Petroleum Dr Asim Hussain told the National Assembly's Standing Committee on Petroleum on Wednesday.

The country does not have sufficient or surplus gas reserves to allow it to be burnt in private and luxury vehicles.

He said the government wanted to set equitable prices for all fuels and allow only a reasonable profit to owners of CNG stations.

He said the CNG should only be used by public transport and private vehicles should be discouraged from burning the cheaper fuel.

To achieve this goal, he indicated imposition of a new tax but did not give details.

The committee headed by Muhammad Tariq Khattak asked the petroleum ministry to come up with a solution by Dec 5 and play the role of a mediator between the CNG station owners and the Oil and Gas Regulatory Authority (Ogra) in fixing a reasonable price to mitigate people's difficulties.

It expressed concern over closure of CNG stations and the disagreement over the pricing mechanism.

Dr Asim said Ogra had failed to play the role of a regulator. The government increased the wellhead gas price to $6 which boosted exploration work and 40 rigs were operating in the country. He said 30,000 barrels of oil from Khyber Pakhtunkhwa would start flowing into the national system by March next year.

He said the department of explosives that granted no-objection certificate to CNG and petrol stations was under the industries ministry where officials received bribes to issue laboratory certificates. The petroleum ministry, he said, had initiated a legislation to bring the department under its control.

The parliamentarians expressed concern over recent explosions in CNG-fitted vehicles and wondered what role the department of explosives and the Hydrocarbon Development Institute played in allowing substandard cylinders.

The members said that while Ogra and the station owners were taking extreme positions, the consumers were forced to spend a major part of their day in long queues to get CNG.

Some members called for a national debate to determine if there was sufficient gas available for vehicles or it should be used only for value-added sectors so that a clear roadmap could be followed and confusion and people's difficulties removed.

MNA Rana Afzaal Hussain said the CNG Association had become a cartel and minted millions of rupees at the cost of people. He wondered why 100 per cent profit was promised in the agreement the government had reached with the CNG sector in 2008. – *Courtesy Dawn News*

President promulgates Sales Tax (Amendment) Ordinance 2011

The President has promulgated the Sales Tax (Amendment) Ordinance 2011 to further amend the Sales Tax Act 1990. Following is the text of the Ordinance.Whereas it is expedient further to amend the Sales Tax, Act, 1990, for the purposes hereinafter appearing;AND WHEREAS the Senate and the National Assembly are not in session and the President is satisfied that circumstance exists which render it necessary to take immediate action;NOW, THEREFORE, In exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance:–

1. Short title and commencement- This Ordinance may be called the Sales Tax (Amendment) Ordinance, 2011.

(2) It shall come into force at once.

2. Amendment in the Sixth Schedule, the Sales Tax Act, 1990:–

In the Sales Tax Act 1990, in the Sixth Schedule in column 1, against Serial No. 69, in column (2), for the words and comma "Tractors, bulldozers" the word "Bulldozers" shall be substituted. – *Courtesy Times of Pakistan*

FPCCI, APAT laud FBR plan to cut tax rate

The Federation of Chambers of Commerce and Industry and All Pakistan Anjuman-e-Tajiran (APAT) appreciating the FBR's three-year plan of significant reduction in sales tax rate from 16 to 10 per cent; corporate income tax 35 to 30 per cent and tax rate for AOPs and individuals to a lower level, said that it is a right step in right direction to enhance tax net.

According to a press release, FPCCI Regional Chairman Sheikh Abdul Waheed also suggested the government to reduce non-productive and unnecessary expenditures to build the confidence level of tax payers. He said that department's aim of widening tax base with an addition of another 4 million people in tax net will also provide a major relief to the existing taxpayers.

In a letter to Chairman Ali Arshad Hakeem, APAT central general secretary Naeem Mir claimed that Pakistani businessmen have been on the top in paying taxes in Asia but the unequal system of taxation has always encouraged the tax evaders instead of escalating revenue.

He said that APAT has issued directives to its all members in all districts across the country to display their National Tax Numbers prominently at their outlets, so that the traders who have no NTNs could get encouragement for their registration in tax department.

This is unfortunate that citizens living below poverty line are being forced to pay sales tax on kitchen items, he said and added that government should reduce indirect tax ratio to 30 per cent and direct tax ratio should be enhanced to 70 per cent with a view to control inflation. He also called for elimination of Petroleum Development Levi and gas surcharges to keep inflation in control. He asked the government to stop charging fuel adjustment surcharge and implement the orders of the Islamabad High Court in true spirit.

He said that at least 3 million traders will get NTN number for their registration at Chambers of Small Traders, providing a significant benefit to national exchequer. So, the FBR should also join hands with the business community for early establishment of Chambers of Small Traders across Pakistan, as the present chambers of commerce and industry do little to enhance tax collection.

Business community leaders and trade bodies' representatives said that tax-to-GDP ratio can be improved to 10 per cent if agri tax is brought into tax net. Criticising, the bogus refund claims, he suggested to trial the dishonest tax officials in special courts.

Flaying the Customs' present system of V-box, they observed that it is delaying the clearance of shipments up to 40 days and importers have to pay huge money in the shape of demurrage due to this delay. The FBR should conduct capacity building of Customs staff and install such a system which could clear consignment within a week. – *Courtesy The Nation*

Amnesty schemes may be applicable for 75 days: bill likely to be tabled next week

The Finance (Amendment) Bill 2012 is expected to be tabled in the upcoming session of National Assembly to be held from next week to implement the Tax Registration Enforcement Initiative, 2012 (TREI 2012) and Investment Tax Scheme, 2012 for a period of 75 days starting December 15, 2012.

Sources told here on Wednesday that the schemes are likely to be applicable for a period of 75 days. If the schemes star from December 15, 2012, the same would continue till February 28, 2013. Tax Registration Enforcement Initiative, 2012, has been devised to attempt, through a simple scheme to be administered through Banks along with Nadra under proposed section 120B of Income Tax Ordinance 2001, to register and bring into tax net non-filers of tax returns. A fixed tax is proposed and provides cover to undeclared income/assets up to Rs 5 million.

Investment Tax Scheme, 2012 is being proposed to be enacted under authority given in section 120A of Income Tax Ordinance 2001, which will attempt, through a simple scheme, to provide a mechanism and cover to registered filers in addition to non-filers of income tax returns to declare undeclared income assets/expenditure up to the value of Rs 5 million by payment of token tax and additional assets/income by payment of Investments tax as per proposed slab. The scheme will be administered through establishing special counters with the help of banks along with Nadra.

As a policy decision, FBR is providing this last concessionary voluntary tax compliance opportunity and is reposing a lot of trust in the persons who are regularly filing their returns of income and also providing opportunity to un-registered non-filers, registered non-filers to regularise and come clean in their income tax affairs by making a true and correct declaration of their un-declared income and assets and expenditures, sources said.

Under the TREI 2012, any tax deducted under the tax withholding regime under Income tax Ordinance 2001 shall not be adjustable against tax liability payable. The individuals or AOPs paying registration tax shall not be asked to explain the source of undisclosed income/assets/expenditure with a declared value up to Rs 5 million. Provided that they will have to file a declaration of undisclosed income/assets/expenditure at the time of payment of Registration Tax.

An Individuals, or AOP who desires to declare undisclosed income/assets/expenditure with a declared value exceeding Rs 5 million, shall pay Investment Tax at the rates prescribed in Investment Tax Scheme, 2012 and file separate declaration under Investment Tax Scheme, 2012. In case a person desires not to avail the concession option, he may file a normal return of income as per provisions of Income Tax Ordinance 2001, they added. – *Courtesy Business Recorder*

Number of Additional Commissioners halved: revised structure of RTOs hampers taxpayers" audit

The revised organisational structure of the Regional Tax Offices (RTOs) issued by Federal Board of Revenue has reduced number of Additional Commissioners (Audit) from 8 to 4, causing serious problems for the RTOs to smoothly conduct audit of taxpayers.

Sources told here on Wednesday that the organisational structure of the RTOs was revised by the FBR in 2011. Following implementation of the new structure of the reformed units, the Board had empowered the Chief Commissioners to depute as many Additional Commissioners as required in each Zone of the RTO.

The powers and jurisdiction of the Zones of RTOs have been assigned by the FBR. Later, the FBR has allowed the Chief Commissioners to adjust the number of Additional Commissioners. However, organisational structure has not been changed and the same model is still applicable in the field formations. For example, there are six zones in each RTO of Lahore and the number of Additional Commissioners (Audit) has been increased as compared to the revised model of organisational structure. Prior to revised structure, each RTO comprises four zones. In each Zone of the RTO, there were four Additional Commissioners including two Additional Commissioners (Audit) and two Additional Commissioners (Enforcement). Thus, the total number of Additional Commissioners (Audit) was eight in each RTO.

Under the revised organisational structure, in each RTO there are four Zones. In each Zone, there are now four Additional Commissioners including two Additional Commissioners (Enforcement) and one Additional Commissioner (Audit) and one Additional Commissioner (Legal). Therefore, the number of Additional Commissioners (Audit) now comes to four in each RTO.

Sources said that the small RTOs might not have problems in conducting audit with the help of few Additional Commissioners as per revised organisational structure. However, the big RTOs in Karachi require ample workforce to conduct audit of the selected persons. In the presence of few Additional Commissioners (Audit), it is very difficult to smoothly conduct audit of each and every selected taxpayer with limited workforce.

The Large Taxpayer Units (LTUs) have managed to obtain two Additional Commissioners (Audit) in each Zone. However, the fixation of number of Additional Commissioners (Audit) by the Board has created problems in the field formations. Thus, the revised model needs to be amended in view of Chief Commissioners" discretion to adjust the number of Additional Commissioners as per their desire. – *Courtesy Business Recorder*

FBR's amended SRO on input tax adjustment awaited: around 50,000 wholesalers reluctant to file ST, FED returns

Around 50,000 wholesalers are reluctant to file their sales tax and federal excise returns on the assumption that the Federal Board of Revenue would allow 97 percent input tax adjustment, instead of the existing 90 percent. Sources told on Wednesday that the wholesalers were included in categories of taxpayers, who are not allowed to adjust input tax in excess of 90 percent of their output tax.

An amendment was proposed to the SRO564 (I)/2012 to allow 97 percent input tax adjustment to wholesalers. Resultantly, most of the wholesalers are not filing their returns and waiting for issuance of the amended SRO. The SRO564(I)/2012 included 'wholesalers' in categories of taxpayers, who are not allowed to adjust input tax in excess of 90 percent of their output tax. This restriction has been imposed on the 'wholesalers' through issuance of the said SRO. Under SRO 564(I)/2012, amendment has been made in SRO 647(I)/2007 dated June 27, 2007 to exclude 'wholesalers' from the said SRO.

When the SRO564(I)/2012 was issued, most of the wholesalers had stopped filing sales tax returns and requested the FBR to change their category/tax status on issuance of SRO 564(I)/2012, which has disallowed input tax in excess of 90 percent of their output tax. Later, the FBR proposed amendment in the SRO564 (I)/2012 to allow 97 percent input tax adjustment to wholesalers. The wholesalers are desperately awaiting the issuance of the relevant notification by the Board.

Sources said that wholesalers had high turnover, but their actual profit margin was very low. Previously, 100 percent adjustment of input tax was allowed. Now, wholesalers are allowed to adjust only 90 percent of the input tax and provisions of Section 8B of the Sales Tax Act of 1990 would also be applied on them. Under Section 8B of the Act, a registered person shall not be allowed to adjust input tax in excess of 90 percent of the output tax for that tax period. – *Courtesy Business Recorder*

FBR's three-year strategic plan hailed

The Federation of Pakistan Chambers of Commerce and Industry (FPCCI) has appreciated the Federal Board of Revenue (FBR) for proposing its three-year strategic plan to reduce the sales tax from 16 to 10 per cent; corporate tax 35 to 30 per cent and reduction in tax rate for association of persons and individuals.

FPCCI Regional Chairman Sheikh Abdul Waheed Sandal and Vice President Azhar Majeed Shaikh in their joint statement on Wednesday said that the rationalisation is very important factor in the society, which would not only be helpful to bring new people in the tax net but also improve the confidence of people, if it is implemented.

They said that under the three-year strategic plan, the FBR would be able to convince the people to pay the taxes to strengthen the national economy. It is a major step on the sale tax side, they added. According to this plan the FBR would be able to check the sales. – *Courtesy Business Recorder*

APAT asks members to display NTNs at outlets

All Pakistan Anjuman-e-Tajiran (APAT) has issued directives to all its members in all districts across the country to display their National Tax Numbers prominently at their outlets, so that traders who have no NTNs are encouraged to register with the tax department.

According to the press statement issued by APAT in a letter to Chairman Ali Arshad Hakeem, the APAT central general secretary Naeem Mir, appreciating the FBR's three-year plan of a significant reduction in sales tax rate from 16 to 10 per cent, corporate income tax 35 to 30 per cent and the tax rate for AOPs and individuals to a lower level, said that it was the right step in the right direction to enhance the tax net.

He said that the department's aim of widening the tax base with an addition of another 4 million people in the tax net would also provide major relief to the existing taxpayers. Naeem Mir claimed that Pakistani businessmen have been on top in Asia in paying taxes but the unequal system of taxation encouraged tax evaders instead of increasing revenue.

It was unfortunate that citizens living below the poverty line were being forced to pay sales tax on kitchen items, he said and added that the government should reduce the indirect tax ratio to 30 per cent and the direct tax ratio should be enhanced to 70 per cent to control inflation. He also called for the elimination of the Petroleum Development Levy and gas surcharges to keep inflation in control. He asked the government to stop charging fuel adjustment surcharge and implement the orders of the Islamabad High Court in spirit.

He said that at least 3 million traders would get NTN numbers for registering with the Chambers of Small Traders, significantly benefiting the national exchequer. The FBR should join hands with the business community for the early establishment of the Chambers of Small Traders across Pakistan, as the present Chamber of Commerce and Industry does little to enhance tax collection.

He said that the tax-to-GDP ratio could be improved to 10 per cent if the agri tax is brought into the tax net. Criticising the bogus refund claims, he suggested that dishonest tax officials be brought to trial in special courts. Flaying the customs' present system of V-box, he observed that it was delaying the clearance of shipments by up to 40 days and importers had to pay huge money in the shape of demurrage due to this delay. The FBR should conduct capacity building of the Customs staff and install such a system which could clear the consignment within a week. "If the e-system fails to clear the consignment in seven days, no demurrage should be charged by the importers," he suggested. – *Courtesy Business Recorder*