

# Tax Review/Taxation

## Daily Alert Service

Huzaima & Ikram  
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Income Tax (Amendment) Act, 2016

S.R.O. 1127(I)/2016, dated November 30, 2016

Income Tax Circular No. 17 of 2016,  
dated November 30, 2016

Kind Regards,

**Huzaima Bukhari**  
Editor

### AA Consultants & Publishers

Suite # 14, 2nd Floor, Sadiq Plaza, Regal Chowk, Mall Road,  
Lahore, Pakistan

Phone. 042-36365582 & 042-36280015 Fax 042-35310721

Email: [sales@aacp.com.pk](mailto:sales@aacp.com.pk) website: <http://aacp.com.pk>

## No end to tax amnesties

by  
*Huzaima Bukhari & Dr. Ikramul Haq*

Pakistan is a unique country where the governments—military and civilian alike—have been frequently introducing amnesty schemes allowing whitening of dirty money. In other words, both the Legislature and Executive are keen in sponsoring and patronising criminal activities of not only tax evaders, but also in extending facilities to terrorists, drug barons, and such others to decriminalise their funds. In the presence of obnoxious laws protecting dirty money, the only hope is the Apex Court to take suo moto action under Article 184(3) of the Constitution. If it is not done, the criminals engaged in tax evasion, terrorist financing, corruption, money laundering will continue to play havoc with the State.

The question that baffles sane minds is that why do elected members of Parliament approve and/or pass such undesirable laws/schemes? For the last many decades, Pakistan is victim of terrorism, tax evasion, corruption, reverse capital flows and capital flights, all due to policies of appeasement by successive governments and laws that protect the perpetrators of these crimes.

On November 28, 2016, the Standing Committee on Finance and Revenue of the National Assembly approved yet another amnesty scheme facilitating dirty money in real estate sector, despite protest and walk-out by the Opposition. This amnesty is included in Income Tax (Amendment) Act, 2016, presented in the Parliament on November 30, 2016 as Money Bill. Possessors of dirty and untaxed money have been accommodated brazenly and shamelessly. This state-backed protection of dirty money is not only unprecedented but also the worst example of decadence!

**Besides the bona fide investment in real estate in Pakistan, this sector has been the most attractive shelter for dirty money as well as generating further unprecedented untaxed profits. The decision of extending yet another amnesty for owners of dirty money by amending section 111 of the Income Tax Ordinance, 2001 giving them facility to pay just 3% of difference of valuation as per FBR's rate and that of local authorities and no question would be asked about the source of money for purchasing property is simply despicable.**

Tax Reform Commission (TRC) Pakistan in its final report, submitted to the Government in February 2016, highlighted the fact of gross undervaluation in registered purchase deeds of immovable property and the resultant massive evasion of tax. It was recommended by the TRC that the government as a first step should fix the value of properties at 75% of market values and such values should be updated every year by FBR in coordination with provincial authorities. In a study, FBR

estimated Rs. 7 trillion of black money invested in real estate till June 30, 2016.

On October 18, 2016, the Chairman FBR, Nisar Muhammad Khan, informed the Senate Standing Committee on Finance that no amnesty scheme was under consideration for the real estate sector (**Real estate sector: No amnesty scheme under study: FBR**), *Business Recorder*, October 19, 2016). He asserted: **“We must know about the source of difference amount between DC rates and the FBR notified rates”**. The Chairman FBR revealed that Standing Committee on Finance of National Assembly wanted either one time exemption in respect of difference between the two rates or that a fix tax should be charged. He said the tax authorities were not in agreement to suggestion of National Assembly’s Standing Committee on Finance of giving **one time exemption or imposing a fix tax**. While assuring that no amnesty scheme was to be announced, he added that “the FBR has no powers to introduce tax amnesty scheme and if government ever decides to do so, she would route through the Parliament”. Chairman FBR claimed that some sectors have been very hard to bring into the tax net and real estate sector under valuation was one of them. The government, he said, introduced some measures to address the issue of under valuation and sector raised objection to them.

The tax authorities, he said had serious and detailed negotiation with the stakeholders and notified rates of 21 cities after reaching a consensus with the stakeholder of these cities. However, Chairman of the committee and some members, Senator Fateh Muhammad Hassani, Mohsin Aziz and others stated that they had forewarned the tax authorities before the measures were introduced about its repercussions. **“You did not listen to the committee and introduce a policy in the budget which did not work”**, Committee Chairman said and added, **“all the registries have been struck in the registrar office and no registry property documentation was taking place”**. He said power of attorney had become now a way of business in the real estate and asked the FBR “to let the committee know about any development on the issue”.

Senator Mohsin Aziz said the government had taken these measures to favour few peoples in real estate sector as was done in the 1992 through Economic Reforms Act. The Chairman of the Committee termed the 1992 Economic Reforms Act of 1992 as economic destruction Act primarily because it was used to transfer foreign exchange from the country to abroad through resident Pakistanis. Saleem Mandviwalla said that “1992 Act approved by Sartaj Aziz gave blanket approval to Pakistan residents to transfer as much as foreign exchange they want through foreign currency accounts. An official of State Bank of Pakistan said that Act was amended in 1999. The committee decided to defer the law proposed by the Chairman to amend the Economic Reform Act for taking a briefing from him.

Haroon Akhtar Khan, Special Assistant to the Prime Minister on Revenue, on November 17, 2016 made a public statement in Karachi that **“the Government is against any amnesty”** and **“after passage of the Finance Bill 2016 property would be brought into the tax net and price of property would be evaluated by third party under notification of State Bank of Pakistan and real estate will no longer be a safe haven for black money”**.

The amnesty for real estate sector, or for that matter anybody, is highly detestable as it discriminates against honest taxpayers. Property speculators and rich property mafia after this amnesty will rule the property market and exploit the common citizens. It is a lamentable situation where the entire State apparatus is subservient to those who blatantly manage to hide their incomes and wealth. It is an ugly joke with those who are paying their taxes honestly at much higher rates than those offered to tax evaders in amnesty. The ugliest face of untaxed money in Pakistan emerges in the corridors of power, political as well as administrative. Since rulers do not pay taxes and prefer to keep business empires abroad how can they be sincere in enforcing tax laws? Parliament also passes such obnoxious laws as most of the members have laughable tax declarations.

The first and foremost objection to any tax amnesty scheme is that it betrays the honest taxpayer and the nation as a whole. The message sent out by repeated tax amnesty schemes is that taxes are regularly paid by only the honest taxpayers, whereas the “wise” wait to avail benefits of such undesirable schemes.

The timeless amnesty for real estate would permanently destroy and distort the tax structure of Pakistan for years to come and would be a black spot on Pakistan’s repute in the international community which is going after black money and curbing its legitimization in any form with a heavy hand. The sector specific amnesty scheme would also run counter to the National Action Plan to curb terrorism as there is no denying the fact that some black/un-taxed money gets channelized for anti-state activities.

Since November 1990, when Muhammad Nawaz Sharif became Prime Minister of Pakistan for the first time, the culture of loot, plunder, corruption, tax evasion and money laundering has been legalized and promoted through an obnoxious law namely, Protection of Economic Reforms Act, 1992 giving a free hand to criminals that no question would be asked by tax officials and functionaries of Federal Investigative Agency (FIA) for acquiring and using dirty money. His three stints as Prime Minister and years as minister and chief minister in the Punjab can safely be labeled as “rule of a trader” whose heart is infested with the insatiable greed of amassing wealth, expanding a mediocre family-owned business into a flourishing empire at the expense of the national exchequer, other business houses and the public at large. This fact was also noted by a judge of High Court in a reported case, details of which are summarised below.

In *Messrs Pak Ocean and Others v Government of Pakistan through Secretary, Ministry of Finance, Central Secretariat, Islamabad and others* 2002 PTD 2850, the petitioners challenged the imposition of regulatory duty on re-meltable iron scrap, excluding bundled and shredded scrap and the reduction in the rate of duty on bundled and shredded scrap as unlawful, arbitrary, unreasonable and ultra vires Articles 4, 18, 24 and 25 of the Constitution. They contended that the said imposition of regulation duty through Statutory Regulatory Order (SRO) was aimed at making their imported scrap very expensive as compared to the imports by big businessmen in the form of bundled and shredded scrap. According to petitioners, the adverse SROs were issued “to solely benefit the owners of the furnaces who are large imported of shredded scrap”. In the judgement, there is a direct indictment against the House of Sharifs, contained in Para 50 that reads as under:

**Mr. Khalid Anwar has mainly placed reliance on the judgment in the case of *Ittefaq Foundry v. Federation of Pakistan* PLD 1990 Lahore 121. In the cited case it was contended that the petitioner was producer of billets and that there were other producers, producing ingots, the end-product whereof was same. In order to economically ruin the petitioner in the cited case, duty structure was changed in the year 1989 without reasonable justification and the change in the duty structure was against the rights guaranteed in Articles 4, 18 and 25 of the Constitution. The contention of the petitioner was accepted and the relief was allowed. However, with the change in fortunes, the persons were feeling the pinch of oppression in the case of *Ittefaq Foundry v. Federation of Pakistan*, became the rulers and thereafter, they very easily and conveniently managed to forge the treatment given to them and got the duty structure changed through notification assailed in these petitions, thereby deriving huge undue benefit at the cost of total destruction of the small importers and traders of the scrap in loose form.**

The above paragraph confirms beyond any doubt how traders as rulers play havoc with the national exchequer and mint billions through tax concessions secured vide SROs thus destroying their competitors. Yet in the presence of these undeniable facts and court ruling State agencies/institutions like FBR, FIA, ECP, NAB etc plead helplessness claiming “lack of evidence” to proceed against tax evaders and plunderers of national wealth.

In two articles, ‘**Trail of hidden wealth**’, *Business Recorder*, May 6, 2016 and ‘**Tough times for PM**’, *Business Recorder*, May 13, 2016, incontrovertible evidence was produced to show abuse of Protection of Economic Reforms Act, 1992 to legalise ill-gotten wealth, blatant

violations of tax laws by the family of the Prime Minister and wrong declarations made by him in papers submitted before the Elections Commission of Pakistan (ECP) in 2013 as well as false/misdeclarations in returns submitted to the Federal Board of Revenue (FBR). Astonishingly, the National Accountability Bureau (NAB) still claims that “no evidence” is available to initiate proceedings against the rulers of the day.

House of Sharif has a proven track record of destroying competitive business houses but appeasing traders that politically back them and pose no threat to their empire. They have been passing laws to protect tax evaders and were also beneficiaries of the same. Obviously, tax compliance does not suit the huge business empire of Nawaz/Shahbaz and family. It is not surprising that Nawaz Sharif, during his third term as Prime Minister has already announced four tax amnesty schemes and now another is in the offing. In 2013, 2015 and 2016, he approved tax amnesties for tax evaders, which failed to mop up untaxed money.

On the very first day of 2016, Premier Nawaz took pride in announcing a tax amnesty scheme and publically revealed that he had been asking his Finance Minister to come up with something “worthwhile” that could be “acceptable” to the traders who had not been filing tax returns!! Lamentably, as Prime Minister he openly vowed to protect the accumulation of untaxed (black) money. He never minces words for announcing criminal and unconstitutional schemes patronising tax evaders and encouraging plunder of national wealth. This supports the allegations of the Opposition that he and his own family are guilty of these crimes as well, so he wants amnesty and immunities for all.

Nawaz Sharif has reportedly always been keen to launch tax amnesty schemes knowing that his 2013 tax amnesty shockingly fetched a negligible amount of Rs. 88 million from about 3000 persons! Much-publicised and negotiated with consensus (sic) Voluntary Tax Amnesty for traders, the deadline for which was extended many times, could not lure them and only 3205 got registered against the agreed target of one million new filers!!

According to FBR’s own study, the contribution of traders in income tax is just 0.5% and in sales tax about 1%. Like powerful absentee landlords, the traders pay meagre income tax. However, they successfully keep revenue authorities at bay due to powerful political influence they wield. The history of income tax law is fraught with provisions that were amended and/or re-amended on account of the traders’ shutter-down threats or violent demonstrations, causing legislators to get cold feet and succumbing to their demands. The governments—civil and military alike—have been extending amnesty schemes to tax evaders to whiten their undeclared incomes and ill-gotten wealth—for example Ayub Khan’s Tax Amnesty Scheme of 1958, 1969 Tax Amnesty of Yahya Khan, Zulfikar Ali Bhutto’s Tax Amnesty, Self-Assessment Schemes of the 1970s, Special National Fund Bonds or Simplified Self-Assessment Scheme of the 1980s, Foreign Currency Accounts or Foreign Exchange

Bearer Certificates of the 1990s, Amnesty Scheme of 2008 by PPP government, three amnesty schemes of Nawaz-Dar since 2013, various other millennium immunity schemes and the perpetual scheme in the form of the infamous section 111(4) of the Income Tax Ordinance, 2001.

Non-compliance of tax obligation is a grim reality of Pakistan. The State has failed to fulfill its basic obligations—protection of life and property, health, education, housing and transport etc. Tax defiance and corruption in Pakistan are closely linked with rulers-cum-traders—who are unscrupulous and their greed is unbound. Plato aptly said in the *Republic* that ruin comes for a country when traders whose hearts are filled with greed become rulers. This is what we are witnessing in today's Pakistan.

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## United States

### US business urges trump to slash corporate tax rate

The businesses and associations that make up the RATE (Reforming America's Taxes Equitably) Coalition have written to President-elect Donald Trump urging him to focus on cutting the US corporate tax rate in 2017.

In its letter, the RATE Coalition, made up of 34 American companies and associations, which account for nearly one-third of all US private sector employees, noted that they "know full well the damage that the punitive [35 percent US corporate tax] rate is doing."

"Although headlines abound with news reports about US companies that don't pay their fair share," it added, "our member companies, in fact, pay an average tax rate of 32.5 percent. And we think that's not only unfair, but also counter-productive."

It said the US tax code is "chock full of loopholes and special preferences," but the RATE Coalition suggested that "closely examining those loopholes and special preferences with an eye toward closing them if necessary, along with cutting the rate, can help to create a better, fairer, more pro-growth tax code."

It pointed out that the President-elect has "an historic opportunity to enact real tax reform and thereby jump-start the economy." Urging him to follow through with his campaign proposal to cut the corporate tax rate down to 15 percent, it wrote that such a "simple plan of reform will grow the economy, keep American jobs in America, and also keep American companies headquartered here."

"A fairer, pro-growth tax code could also give corporations who have moved overseas an incentive to move back to the United States and start investing again in the American workforce," the letter concluded. – *Courtesy tax-news.com*

## Auckland

### Auckland proposes tourist hotel tax, amid federal debate

The mayor of Auckland, New Zealand's most populous city, has moved ahead of the federal Government in announcing plans for a levy on tourists.

Earlier the federal Government said it was investigating options for a tax on tourists to fund infrastructure improvements.

Speaking at a tourism industry summit in November, Prime Minister John Key disclosed that the Government is looking at potential options. According to Key, a new levy would fund improvements to infrastructure, to cope with surging visitors numbers. The Government has yet to make a decision on how tax would be increased. Other countries have either increased arrivals/departure taxes or increased goods and services tax on hotel accommodation and/or tourism services.

Auckland's Mayor, Phil Goff, has now proposed a charge on accommodation for tourists in Auckland. – *Courtesy tax-news.com*

## Scotland

### Scotland legislates to set devolved income tax policies

Scotland has tabled legislation that would give it responsibility over elements of individual income tax policy, under the negotiated agreement on tax devolution with the UK Government.

The legislation would give the Scottish Parliament the power to set the rates and thresholds for income tax, excluding the personal allowance, from 2017/18. However, Scotland has decided so far to keep individual income tax rates in line with those in the UK.

Scotland's Finance Secretary, Derek Mackay, said: "The new powers will allow us to design an approach to taxation which will suit Scotland's needs, balancing the need to invest with the recognition that many households are facing difficult economic challenges."

He said the nation's income tax plans for next year – due to be announced in the Budget on December 15 – would aim to "to protect lower income taxpayers and generate extra revenue for us to invest in public services." – *Courtesy tax-news.com*

## Switzerland

### Switzerland amends tax administrative assistance ordinance

The Swiss Federal Council has approved plans to revise the Tax Administrative Assistance Ordinance (TAAO), to provide for the spontaneous exchange of information.

The amended TAAO will enter into force on January 1, 2017. The first spontaneous exchanges of information will take place from

January 1, 2018, and will apply for tax periods starting from that date.

The ordinance outlines the procedures for and the information to be disclosed to foreign tax authorities, along with the deadlines for the spontaneous exchange of information. It also provides for the spontaneous exchange of information on advance tax rulings, defines which categories will be subject to its provisions, and establishes which countries will receive the information.

The Swiss Federal Council said these provisions are compatible with the OECD's base erosion and profit shifting (BEPS) project, and are based on the OECD/Council of Europe Convention on Mutual Administrative Assistance in Tax Matters and Switzerland's revised Tax Administrative Act. The spontaneous exchange of information will be limited to states that have signed the Convention. – *Courtesy tax-news.com*

## **South Korea**

### **Child exemptions cause South Korean tax imbalance**

A study in the journal of the Korea Academic Society of Taxation has noted that, although there are no additional taxes imposed on South Korean single individuals, they end up paying higher effective income tax rates than families with children.

A policy designed to raise the country's birth rate, significant tax exemptions are currently given to taxpayers with children. However, according to the study, this is resulting in single taxpayers without children paying around USD700 more in tax than parents with two children.

It is predicted that there will be pressure in the future to correct that imbalance, as more than 27 percent of all household already consist of only one adult, with that percentage expected to continue to rise in the future. – *Courtesy tax-news.com*

## **India**

### **India signs 4 new unilateral APAs**

India's Central Board of Direct Taxes (CBDT) has entered into a further four unilateral advance pricing agreements (APAs).

The APAs were signed on November 22-23, 2016, with Indian taxpayers operating in various sectors, including pharmaceuticals,

information technology, and construction. The international transactions covered in these agreements include software development services, information technology-enabled services, engineering design services, contract research and development services, and marketing support services. Some of the APAs include a rollback provision, allowing for retrospective application.

India began offering APAs in July 2012 and the first five APAs were signed in April 2014. Rollback provisions were added in 2014. CBDT has now entered into 115 APAs (108 unilateral APAs and seven bilateral APAs). The CBDT expects more APAs to be concluded and signed in the near future. – *Courtesy tax-news.com*

**National Assembly passes income tax, other bills**

The National Assembly passed "The Income Tax (Amendment) Bill, 2016" on Wednesday requiring advance tax to be payable at the rate of 3 percent on registering or attesting to the transfer of real estate to be collected from the purchaser. The Lower House of the Parliament also passed "The Public Private Partnership Authority Bill, 2016" to promote domestic and foreign private investment in infrastructure and "The Pakistan Commissions of Inquiry Bill, 2016" to enhance scope of inquiry commission.

According to clause 4 of the Income Tax (Amendment) Bill, 2016, after section 236V, the following new section would be inserted, namely: "236W. Tax on purchase or transfer of immovable property.- (1) Every person responsible for registering or attesting transfer of any immovable property shall at the time of registering or attesting the transfer shall collect from the purchaser or transferee advance tax at the rate of three per cent (3%) of the amount computed under clause (c) of sub-section (4) of section 111.

(2) Tax collected under sub-section (5) shall not be adjustable;" (5) in the First Schedule,- (a) in Part I, the following shall be substituted, namely: For immovable property allotted to persons mentioned in sub-section (4) of section 236C. (1) rate of tax will be 0% for Immovable property is held irrespective of the holding period.

For immovable property acquired on or after July 1, 2016, the rate of tax is 10 %, where holding period of immovable property is up to one year; the rate of tax is 7.5 % where holding period of immovable property is more than or equal to one year but less than two years. The rate of tax is 5% where holding period of immovable property is more than or equal to two years but less than three years; the rate of tax is 0 % where holding period of immovable property is more than three years.

For immovable property acquired before July 1, 2016, the rate of tax is 5 % where holding period of immovable property is up to three years. The rate of tax is 0 % where holding period of immovable property more than three years. Provided that the rate of tax to be paid under sub-section (1A) of section 37 shall be reduced by fifty per cent on the first sale of immovable property acquired or allotted to ex-servicemen and serving personnel of Armed Forces or ex-employees or serving personnel of federal and provincial governments, being original allottees of the immovable property, duly certified by the allotment authority."

Parliamentary Secretary for Finance Rana Muhammad Afzal Khan tabled “The Income Tax (Amendment) Bill, 2016” and The Public Private Partnership Authority Bill, 2016’ in the House for its passage; and Federal Minister for Law and Justice Zahid Hamid tabled “The Pakistan Commissions of Inquiry Bill, 2016” in the House for its passage. The House passed all three bills with a majority.

The members of Pakistan Peoples Party (PPP) strongly opposed the bills and staged a walkout from the House in protest. They accused the government of bulldozing the legislation. PPP lawmaker Shazia Marri claimed that there was a “lack of quorum” twice before walking out; however the House was found in order both times.

According to objectives of “The Public Private Partnership Authority Bill, 2016,” in order to achieve a high growth trajectory Pakistan needs quick investments in development of infrastructure to bridge the gap in this critical area. The government alone cannot provide finance due to its own limitations; therefore, promotion of private sector investment in this area is critical. The use of Public-Private Partnerships (PPPs) is likely to become widespread in Pakistan, with an expected surge in PPP financed projects in the near future.

The federal government has so far been modest utilising the PPP model in infrastructure investments, but the situation is likely to change in the near future as the present government embarks on an ambitious program of large-scale investment projects.

The Bill provides a regulatory framework to execute Public-Private Partnership in Pakistan so as to promote domestic and foreign private investment in infrastructure, set up transparent and efficient institutional arrangements for PPPs, and promote private sector participation in the economic development, among others through transparent and fair procurement process including (i) ensuring that projects are consistent with national and sectoral strategies (ii) ensuring value for money and budget affordability (iii) assessment of fiscal risks (iv) advise and facilitate the implementing agency to identify, develop, structure and procure the projects (v) prescribe and receive fee and charges (vi) ensure that Public Private Partnership Agreement is consistent with the provisions of this Bill and (vii) interact, collaborate and liaise with international agencies.

According to “The Pakistan Commissions of Inquiry Bill, 2016,” the existing law relating to the appointment of commissions of inquiry and empowering them for the purpose is the Pakistan Commission of Inquiry Act, 1956. The commission under the proposed law shall conduct the inquiry and perform its functions in accordance with the terms of reference given in the notification.

The commission shall have powers of summoning and enforcing the attendance of any person and examining him or her on oath and requiring the discovery and production of any documents. The commission shall have the powers to order police investigation and shall have the same powers as that of a high court to punish any person who abuses, interferes with or obstructs the process of commission any way or disobeys any order of the commission.

The commission can also initiate contempt of court proceedings if any person scandalises the Commission or otherwise does anything which tends to bring the commission or a member of the commission in relation to his office into hatred, ridicule or contempt. If the chairperson of the commission is a judge of the Supreme Court, the commission shall have the powers of the Supreme Court for the purpose of punishment for contempt.

The government by notification can also confer additional powers to the commission having powers of the criminal court, power to constitute an international team and seek international co-operation from foreign countries or agencies to get information, documents, evidence and record or issue letters.

Any proceeding before the commission shall deem to be a judicial proceeding within the meaning of sections 193 and 228 of PPC. The final report or an interim report shall be made public provided that the commission may recommend to the federal government that all or any part of the final report or any interim report may not be made public. – *Courtesy Business Recorder*

### **Customs acts to curb smuggling of currency**

Taking several steps to control smuggling of currency from Pakistan, customs authorities have launched a major crackdown at Benazir Bhutto International Airport Islamabad by deputing vigilance teams to monitor international flights destined to Dubai, China and Bangkok, besides special checking at VVIP Lounge.

Sources told here on Wednesday that Dr Arslan Subuctageen, Collector of Customs, Model Customs Collectorate (MCC)

Islamabad, has taken proactive measures to curb smuggling of currency and gold at the Islamabad airport. For the first time, the VVIP Lounge would be strictly checked and monitored by the special staff of the customs. Moreover, body search of members of other agencies would be carried out on random basis at the airport.

On receiving credible reports of attempts of currency/gold smuggling, Dr Arslan has immediately enforced measures at the said airport on Wednesday. The smuggling of mobile phones at the Islamabad airport has already been completely eliminated and new measures would intercept any attempt to smuggle currency or gold from Islamabad airport. Customs authorities have made special efforts to check smuggling of currency by implementing a foolproof plan here on Wednesday.

In this regard, a full-fledged plan has been enforced covering all aspects to control any possible attempt of currency or gold smuggling outside the country. According to the enforcement plan implemented at Benazir Bhutto International Airport Islamabad, it has been learnt through credible sources that attempts of currency smuggling shall be made in next few days through Benazir Bhutto International Airport. Collector of Customs Dr Arslan Subuctageen has issued new instructions to the customs officers at the said airport to be followed in true letter and spirit.

Firstly, all flights destined to Dubai, Abu Dhabi, China and Bangkok may invariably be rummaged by vigilance staff. Secondly, at Rawal Lounge International Departure Side, one inspector may remain there to oversee the scanners and carry out body search and personal baggage search. For this exercise help of lady searcher Magdline may be sought as and when required.

Thirdly, the Vigilance Wing may also make its presence felt at the waiting area of International Departure Hall, washrooms and cafeterias to detect any suspicious activities being carried out. Fourthly, body search of members of other agencies may be undertaken on random basis. Food trolleys and stocks of shops located in departure area may also be examined to create deterrence against any probable attempt. Fifthly, inspection of engineering and catering, services, entering through gammon gate, especially at the time of sensitive flights, may be undertaken as previously ordered.

Sixthly, random examination of luggage passing through ASF scanners located at exit points on departure side may also be undertaken. Seventh, vigilance wing will ensure continuous

announcement/display by CAA for creating awareness regarding prevalent rules related to taking in/out of currency, customs instructions added. Meanwhile, Federal Minister for Finance Senator Muhammad Ishaq Dar chaired a high-level meeting yesterday, participated by Secretary Interior, Secretary Finance, Deputy Governor of the State Bank of Pakistan, DG FIA, Chairman Federal Board of Revenue, Joint-Director Intelligence Bureau and other senior officers concerned and directed all the agencies to take strict measures immediately against criminal elements involved in the smuggling of gold and currency and take them to task as per the country's law.

The finance minister said that action will be taken against forex and bullion smuggling which is detrimental to the interest of Pakistan. He said that action will also be taken against those who are behind this illegal practice. He directed FIA, IB, Custom Intelligence and the State Bank of Pakistan to keep strict vigilance in this regard and all airports and other entry points should be kept under strict surveillance to curb this menace of currency and bullion smuggling.

He again dispelled the rumours about the demonization of Rs 5000 currency notes and withdrawal of Rs 40,000 prize bonds, freezing of lockers which are being spread by the vested interest to harm the economy of the country. He further said that as clarified earlier, there is no such proposal under consideration of the government. – *Courtesy Business Recorder*

### **Gold & cellphones worth Rs four million seized**

Model Customs Collectorate (MCC), preventive on Tuesday said it had recovered gold and cell phones worth Rs 4 million from a female passenger arrived from UAE. According to details, staff posted at international arrival spotted a female passenger namely Durdana and after examination of her belongings, they had recovered gold and cell phones worth Rs 4 million. The accused passenger has been taken into custody and case has been registered. Further investigations are in progress. – *Courtesy Business Recorder*

### **FBR extends date for filing returns till December 15**

The Federal Board of Revenue (FBR) has extended the date for filing of income tax returns and statements for the Tax Year 2016

till December 15, 2016. According to circular number 17 of 2016 issued by the FBR here on Wednesday, in exercise of the powers conferred under Section 214A of the Income Tax Ordinance, 2001, the Federal Board of Revenue has extended the date of filing of Returns/Statements for the Tax Year 2016: The date of filing of returns of total income /statement of final taxation which was due on August 31, 2016 (already extended up to November 30, 2016) is hereby further extended till December 15, 2016.

The date of filing of returns of total income /statement of final taxation which was due on September 30, 2016 (already extended up to November 15, 2016) for Individuals and Associations of Persons is hereby further extended till December 15, 2016. The date of filing of returns of total income /statement of final taxation of companies whose returns were due on 30th September, 2016 (already extended up to November 30, 2016) is hereby further extended till December 15, 2016, FBR added. – *Courtesy Business Recorder*

### **Pakistan faces quandary in trade with China**

Pakistan is reportedly in an “if and but” position for the second round of talks on Free Trade Agreement (FTA) with all weather friend China as both Federal Board of Revenue (FBR) and majority of local industry are not supporting enhancement of the trade pact, well informed sources told. Both countries’ trade teams are scheduled to meet on 6-7 December 2016 in Islamabad to review performance of existing FTA which is massively in favour of China.

According to sources, the government has not yet decided how to move forward as neither the FBR nor the local industry hit by influx of Chinese commodities is encouraging the negotiators. “What strategy Pakistan should adopt in talks with China next week will be finalised by the end of the current week in an inter-ministerial meeting to tailor future strategy,” said an official on condition of anonymity.

There is an impression in the government circles that if Pakistan does not move forward towards the second phase, it would be difficult for Pakistan to remain in Chinese market as China has already diluted most of the concessions given to Pakistan by executing FTAs with other countries.

“If we don’t expand FTA then we will be deprived of Chinese market, which is a big market for Pakistani products,” the sources

added. FBR's position, sources said, is entirely different from Commerce Ministry's and other stakeholders'. FBR maintains that revenue has massively been hit due to FTA which is being covered through imposition of Regulatory Duty (RD).

Trade figures quoted by the two sides differ greatly. As per Pakistan, current total volume of the trade was around \$10.1 billion, whereas Chinese side quoted \$12 billion. Both sides had agreed that a study may be conducted to find out the reasons for the discrepancy. Pakistan's exports to China have declined to \$2.1 billion from 2.34 billion. Pakistan was also facing a revenue loss of Rs 22 billion per annum due to an imbalance in the first phase of the FTA with China signed in 2006. Both countries are negotiating second phase of the FTA but no agreement has been reached so far as China is said to have backed out of its earlier commitment of concessions.

Both countries have already discussed the system testing issues relating to codes of Chinese characters and corresponding units of measurement between China and Pakistan. China agreed to try using CCSID 1208 at the application level suggested by Pakistan to solve the problem. China will provide a co-relationship list of units of measurement to Pakistan. Both sides have also agreed to establish the origin certificate verification and feedback sub-system in respect of information exchange under EODES as Pakistan had expressed concerns about the verification feedback timeframe. Both countries are in agreement that they will exchange units of measurement on the basis of HS Codes. –  
*Courtesy Business Recorder*

### **Garments maker held in tax fraud case**

The Federal Board of Revenue (FBR) has arrested one of the prominent garment manufacturers over the charge of committing tax fraud since 2012; it was learnt here. According to official sources, the action was taken by Intelligence, Investigation & Prosecution Cell, Zone - I of Regional Tax Office (RTO)-III on a tipoff, which revealed that proprietor of the said manufacturing unit and his other associates were involved in tax fraud through online and retail selling of garments without payment of due sales tax.

In order to prove the veracity of the information, the department has conducted the inquiry which disclosed that the accused person had got registered a sales tax unit and was also enrolled as  
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exporter with no declared manufacturing unit in the FBR database.

They said that accused person had four undeclared retail outlets in Karachi, Lahore, Islamabad and Faisalabad respectively and also running an online store actively and added that the accused garment company had filed 'Nil' monthly sales tax returns from July 2012 to January 2016 in e-portal and from February 2016 onwards, the accused person was a non-filer.

Moreover, they said that the analysis of the bank statements and information had assisted the investigation team to establish that the accused registered person was knowingly filing nil monthly sales tax returns in order to evade sales tax liability, which directly came under the ambit of tax fraud and added that the accused person, who was now on seven-day remand, along with other associates had provided a financial shock of Rs 6.11 million to the national kitty. Further investigation was underway. –  
*Courtesy Business Recorder*

## A

## Bill

*further to amend the Income Tax Ordinance, 2001*

WHEREAS it is expedient further to amend the Income Tax Ordinance, 2001 (XLIX of 2001), for the purpose hereinafter appearing:

It is enacted as follows:

**1. Short title and commencement.**— (1) This Act may be called the Income Tax (Amendment) Act, 2016.

(2) It shall come into force at once.

**2. Amendment of Ordinance XLIX of 2001.**— In the Income Tax Ordinance, 2001 (XLIX of 2001),—

(1) in section 68,—

- (a) in sub-section (4), for the expression “the fair market value of immovable property shall be determined on the basis of valuation made by a panel of approved valuers of the State Bank of Pakistan”, the expression “the Board may, from time to time, by notification in the official Gazette, determine the fair market value of immovable property of the area or areas as may be specified in the notification”, shall be substituted;

(b) after sub-section (4), amended as aforesaid, the following new sub-sections shall be added, namely:—

“(5) Where the fair market value of any immovable property of an area or areas has not been determined by the Board in the notification referred to in sub-section (4), the fair market value of such immovable property shall be deemed to be the value fixed by the District Officer (Revenue) or provincial or any other authority authorized in this behalf for the purposes of stamp duty.

(6) In respect of immovable property—

- (i) component A of the formula in sub-section (2) of section 37;
- (ii) “consideration received” as mentioned in Division X of Part IV of First Schedule;
- (iii) “value of Immovable property” as mentioned in Divisions\* XVIII of Part IV of the First Schedule;
- and

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\* Should have been “Division”.

(iv) valuation for the purposes of section 111, shall not be less than the fair market value as determined under sub-section (4) or (5).

*Explanation.*— (1) For the removal of doubt, it is clarified that the fair market value as determined under sub-section (4) or (5) shall be for carrying out the purposes of this Ordinance only.

(2) It is further clarified that for the purposes of clauses (i) to (iv) of this sub-section if the fair market value determined under sub-section (4) or (5) is different than the auction price the applicable price shall be the higher of the two.”;

- (2) in section 111., in sub-section (4), after clause (a), the following new clause (c), shall be inserted, namely:—

“(c) to an amount invested n acquiring immovable property and computed according to the following formula, namely:—

$$A - B$$

Where.—

**A** is the value of immovable property determined under section 68;

**B** is the value recorded by the authority registering or attesting the transfer:

Provided that this clause shall only apply if the value as computed under section 68 is greater than the value recorded by the authority registering or attesting the transfer;

*Explanation:* For the removal of doubt, it is clarified that: (1) Sub-section (1) shall continue to apply to the amount representing value recorded by the authority registering or attesting the transfer.

(2) Where a person has paid tax under section 236W, the person shall be entitled to incorporate in the books of accounts the amount computed under this clause in tangible form.”

- (3) in section 236C,—

- (a) in sub-section (3), for the words “five years” the words “three years” shall be substituted;
- (b) after sub-section (3), amended as aforesaid, the following new sub-section shall be added, namely:—

“(4) Sub-section (1) shall not apply to:–

- (a) a seller, if the seller is dependent of:
  - (i) a Shaheed belonging to Pakistan Armed Forces; or
  - (ii) a person who dies while in the service of the Pakistan Armed Forces or the Federal and Provincial Governments; and
- (b) to the first sale of immovable property which has been acquired or allotted as an original allottee, duly certified by the official allotment authority.”;

(4) After section 236V, the following new section shall be inserted, namely:–

**“236W. Tax on purchase or transfer of immovable property.**–(1) Every person responsible for registering or attesting transfer or any immovable property shall at the time of registering or attesting the transfer shall collect from the purchaser or transferee advance tax at the rate of three per cent of the amount computed under clause (c) of sub-section (4) of section 111.

(2) Tax collected under sub-section (5) shall not be adjustable.”;

(5) in the First Schedule,–

(a) in Part I, in Division VIII, for the Table, the following shall be substituted, namely:–

“S.No.	Period	Rate of tax
(1)	(2)	(3)
For immovable property allotted to persons mentioned in sub-section (4) of section 236C.		
1.	Immovable property is held irrespective of the holding period.	0%
For immovable property acquired on or after July 1, 2016, other than those mentioned against S. No. 1		
2.	Where holding period of immovable property is up to one year.	10%
3.	Where holding period of immovable property is more than or equal to one year but less than two years.	7.5%
4.	Where holding period of Immovable property is more than or equal to two years but less than three years.	5%
5.	Where holding period of immovable property is more than three years.	0%

For immovable property acquired before July 1, 2016 other than those mentioned against S.No. 1		
6.	Where holding period of immovable property is up to three years.	5%
7.	Where holding period of immovable property is more than three years:	0%

Provided that rate of tax to be paid under sub-section (1A) of section 37 shall be reduced by fifty per cent on the first sale of immovable property acquired or allotted to ex-servicemen and serving personnel of Armed Forces or ex-employees or serving personnel of Federal and Provincial Governments, being original allottees of the immovable property, duly certified by the allotment authority.”;

- (b) in Part IV, in Division XVIII, in the Table, in column (1), against both S.N. 1. and 2., in column (2) for the figure and word “3 million” the figure and word “4 million” shall be substituted;

**S.R.O. 1127(I)/2016, Islamabad, the 30<sup>th</sup> November, 2016.**– In exercise of the powers conferred by clause (b) of sub-section (2) and sub-section (6) of section 3 of the Sales Tax Act, 1990, the Federal Government is pleased to direct that the following further amendment shall be made in its Notification No. S.R.O. 57(I)/2016, dated the 29<sup>th</sup> January, 2015, namely:–

In the aforesaid Notification, for the existing Table, the following shall be substituted, namely:–

“TABLE

S. No.	Description	PCT heading	Rate
(1)	(2)	(3)	(4)
1.	Motor spirit excluding HOBC	2710.1210	14.5% <i>ad valorem</i>
2.	Kerosene	2710.1911	2% <i>ad valorem</i>
3.	High speed diesel oil	2710.1931	31% <i>ad valorem</i>
4.	Light diesel oil	2710.1921	2.5% <i>ad valorem</i> .”.

C.No.2(2)Tax. Base/2011-Part-I Islamabad, the 30<sup>th</sup> November, 2016

**INCOME TAX CIRCULAR NO. 17/2016**

Subject: **Extension in date of filing of Income Tax Returns/ Statements for tax year 2016.**

In exercise of the powers conferred under Section 214A of the Income Tax Ordinance, 2001, the Federal Board of Revenue is pleased to extend the date of filing of Returns/Statements for the Tax Year 2016 as under:–

1. The date of filing of returns of total income/statement of final taxation which was due on 31<sup>st</sup> August, 2016 (already extended upto 30<sup>th</sup> November, 2016) is hereby further extended till 15<sup>th</sup> December, 2016.
2. The date of filing of returns of total income/statement of final taxation which was due on 30<sup>th</sup> September, 2016 (already extended upto 30<sup>th</sup> November, 2016) for Individuals and Associations of Persons is hereby further extended till 15<sup>th</sup> December, 2016.
3. The date of filing of returns of total income/statements of final taxation of companies whose returns were due on 30<sup>th</sup> September, 2016 (already extended upto 30<sup>th</sup> November, 2016) is hereby further extended till 15<sup>th</sup> December, 2016.