

TAXATION

(Weekly Tax Journal)

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Articles

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Rapacious rulers

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Published by Huzaima Bukhari, printed at Mairaj Din Printers, Fish Market, Circular Road, Lahore

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SRB-3-4/25/2016, dated December 28, 2016.

SRB-3-4/26/2016, dated December 28, 2016.

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Kind regards,

Huzaima Bukhari

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Demonitisation & black money

by
Huzaima Bukhari & Dr. Ikramul Haq

“The institutional structure of Pakistan’s economy is designed to generate rents for the elite at the expense of the middle classes and the poor. It is this structural characteristic of the economy and not just bribery that prevents sustained high economic growth and equity”—*Economics of corruption*, Dr. Akmal Hussain.

The curious paradox of Pakistan is that while legitimate money for worthwhile industrial investment, business growth and public benefits is scarce, there is colossal unaccounted cash supply circulating in the economy in search of further undercover gains. It is estimated that size of informal economy is three time that of formal one. What is more tragic is that this social evil inherent in our tax system gets doubly compounded as it necessitates greater and greater tax burden on those who are law-abiding. The most crucial problem faced by economic managers is that of devising astute and stringent measures to curb tax evasion so that we can distribute the burden of taxes fairly and justly between different persons in the same or similar walks of life. Honest taxpayers in Pakistan are increasingly becoming disillusioned by the fact that tax evaders pay nothing in connivance with their friends in the tax machinery and also get unprecedented and frequent amnesties and immunities from lawmakers.

Many Pakistani experts are pleading for *Notebandi* [vernacular term for ‘demonetisation’ in India] to counter black money. They have no idea about this misadventure in India. *The Guardian* made apt remarks on this Modi’s move: **“Demonitisation is not new in India, which last tried it in a smaller way in 1978. The result then was higher bank deposits and a bump in the tax take. Yet the scale and speed of Mr. Modi’s scheme has more in common with the failed experiments of dictatorships which led to runaway inflation, currency collapse and mass protests. While Mr. Modi campaigned to end corruption, it would have been better if the government had updated its antiquated tax system to realise such a task”**.

We, instead of mindless demonetisation, should introduce a fair tax system that effectively counters black money—see details in **12 trillion reasons for 1 flat tax and Towards Flat, Low-rate, Broad & Predictable Taxes**, published by **Prime Institute**. At the same time, we must restructure our institutions that are capable of dismantling the very basis of corruption rather than providing only punishment/plea bargain/voluntary payments after plundering takes place.

According to a study, **Documentation & demonetization**, “the quantum of undocumented economy is too high in Pakistan. The Rs. 5000

note was first issued in 2006 in Pakistan and that has not had any meaningful impact on the Currency in Circulation [CIC]. Its average was around 24 percent two years prior to the issue and it was 23 percent five years from the issuance of new note. The ratio remained at the same levels till June 2015”.

The study further claims: “Anecdotal evidence suggests that the Rs. 5000 notes availability from banking channels has been reduced; and Rs. 40,000 denomination prize bonds are in short supply. Prize bonds have long been used as safe haven for shady wealth. It is a bearer certificate where you can effectively earn a return of 5-6 percent, if you buy a whole series, without having an iota of asset registered in your name. The prize bonds stock increased by 73 percent to Rs. 682 billion in the PML-N regime. The lion’s share of increase is amongst big ticket bonds—bonds of Rs. 25k denomination went up from Rs. 40 billion to Rs. 102 billion and Rs. 40K bond jumped from Rs.118 billion to Rs.194 billion. Still these bonds are in short supply. Government surely has to rethink on the efficacy of the banking transaction tax. Dar has to have more clarity—whether it is meant for enhancing tax collection or to curb undocumented economy....Without having clarity on the very reason of jump in undocumented economy, demonetization might be a futile exercise. Pakistan economy is much more open than that of India; and USD is actively being used in big size transactions. One can demonetize Rs5000 note but cannot take effective Rs. 10,000 note (USD100 note) from the market”.

Countering corruption, rent-seeking, black money and tax evasion is a daunting task in every part of the world but in Pakistan till today no serious effort has been made by any government to eradicate these maladies by all-out reforms. On the contrary, our successive governments, civil and military alike, have been legitimizing tax evasion. Every year, billions are sent abroad and then a part of this untaxed money, hidden in tax havens, is legitimized using facility provided by the State—section 111(4) of the Income Tax Ordinance, 2001 saying no question can be asked for any money received through remittance! Out of total remittances of over US\$ 18 billion received in FY 2015-16, how much was on this account nobody knows. Additionally, many billions pour into informal economy through *hundi*, *hawala* etc—these inflows are Pakistan’s real financial lifeline.

Nobody talks about the beneficiaries of free and concessional plots—mighty men in *khaki* and *mufti*. Federal Board of Revenue [FBR] never nabs those who make tonnes of money by transferring plots allotted to them at nominal rates at extravagant prices and yet do not pay a single penny as tax [though this constitutes ‘adventure in the nature of trade’ and is chargeable to tax under the Income Tax Law]. Many powerful men in *khaki* and *mufti* are engaged in this profit-making venture, yet not a single case has been registered by FBR against them for tax evasion.

Pakistan is thus a classic case study of unchecked and unabated corruption, tax evasion and flight of capital. The Pakistan economy has been losing billions since 1992 when many money whitening schemes and Protection of Economic Reforms Act 1992 were introduced by Nawaz Sharif to legitimise untaxed and ill-gotten assets—it was done skillfully in the name of liberalisation of economy [see details in *Pakistan: Enigma of Taxation, Pakistan: From Hash to Heroin and its sequel Pakistan: From Drug-trap to Debt-trap*].

The Protection of Economic Reforms Act, 1992 gives free hand to tax cheats and money launderers—a law that has never been examined from this perspective. All public office holders who have taken advantage of this law [see details in 1998 PTD 34] should have been disqualified for **open admission** of cheating the State but they are ruling Pakistan. Not a single case has been prosecuted by National Accountability Bureau [NAB] till today for availing this law by any public officeholder.

Businessmen-cum-politicians have been “engineering” laws for self-aggrandisement and the poor and helpless of this Land of Pure, burdened with exorbitant indirect taxes, do not get even free health and education. Tax Directories for 2013, 2014 and 2015, published by FBR, show laughable quantum of incomes by majority of elected members vis-à-vis their ostensible standard of living, yet NAB has taken no action till today. They have assets inside and outside the country—mostly held *benami* but none of the Chairmen NAB has shown the courage to investigate the same even after Panama Leaks.

The ultimate cynicism that afflicts a society is acceptance of corruption as a way of life. Unfortunately, after 70 years of independence, this is precisely where we have reached. There is a general perception that NAB has been only victimising political opponents at the behest of masters of the day. Not only the military dictators but the majority of the elected members on various occasions passed immunity laws and approved amnesty schemes for protecting mafias controlling stock markets and real estate sector because they were/are their financiers and/or fund managers (many men in politics and holding government positions do *benami* business to legitimize tainted money).

Corruption, tax evasion, rent-seeking and black money are not isolated phenomena. These are symptoms of crony capitalism in a dominantly mendacious society. The real challenge is dismantling of structures giving rise and protection to these maladies. Pakistan, or any other country, cannot win the war against corruption and eliminate black money by demonetisation alone unless it destroys the very foundations of corruption and confiscates assets created by plunderers of the national wealth and tax evaders.

Rapacious rulers

by

Huzaima Bukhari & Dr. Ikramul Haq

The ruling classes of Pakistan—militro-judicial-civil complex, businessmen-turned-politicians and absentee land owners—are responsible for pushing the country into a terrible mess. Their lust for money, control of resources and spending of public funds for luxuries has trapped the country in a deadly debt. The country is sinking further and further into debt quagmire and being pushed towards fiscal disaster. Our rulers beg for foreign assistance and bail-outs, but ironically talk about self-reliance! Lawmakers make tall claims about prudence in spending but increase their salaries by 150%, when millions of their voters live below poverty line and majority of the country's children remain undernourished.

Increase of 150 percent in the salaries of lawmakers pinched the majority of Pakistanis as an act of rubbing salt into their wounds. One politician, President of newly-formed political party, Pasban-e-Pakistan, even went to the extent of calling it “white collar crime of the rulers”. This unprecedented increase undoubtedly confirms apathy of the ruling party and opposition to the plight of the poor when minimum wage for an unskilled labour is less than even Rs. 20,000.

The burden of increased salaries of lawmakers will be met by taxpayers. Even the poorest of the poor are paying sales tax that is 70% of total tax collection of Federal Board of Revenue (FBR). People are justified in asking why hundreds of billions of rupees, all from taxpayers' money, are spent on lawmakers when they are doing nothing for the welfare of the common people. Majority of Pakistanis now firmly believe that the ruling classes represent predatory elites who are busy in looting taxpayers' money and plundering national wealth through corruption in the name of democracy.

The Federal Cabinet on November 23, 2016 approved revision of basic pay of public office holders and lawmakers. The basic pay of Senate Chairman and National Assembly Speaker increased from Rs. 119,008 plus two ad-hoc reliefs of Rs. 31,750 and Rs. 11,901 to Rs. 205,000. The basic pay of Senate Deputy Chairman and Deputy Speaker of National Assembly, from Rs. 110,085 plus two ad-hoc reliefs of Rs. 29,360 and Rs. 11,009 to Rs. 185,000. The basic pay of members of Parliament increased from Rs. 44,630 plus two ad-hoc reliefs of Rs. 11,903 and Rs. 4,463 to Rs. 150,000. The basic pay of federal ministers revised upwards from Rs. 114,897 plus one ad-hoc relief of Rs. 11,490 to Rs. 200,000. The basic pay of ministers of state raised from Rs. 106,281 plus one ad-hoc relief of Rs. 10,626 to Rs. 180,000.

According to Minister of State for Information, the revision was “inevitable as it was very difficult for lawmakers “to meet home expenses

with monthly salary of only Rs. 44,000". According to her, FBR and Election Commission figures show that majority of the members of the Parliament "belong to the middle class". If this is the case, the increase was fully justified but the standard of living enjoyed by a majority of them speaks otherwise!!

On May 20, 2016, the National Assembly adopted a report of a standing committee of the House recommending about a three-fold raise in salaries and phenomenal increase in allowances of members of the National Assembly and the Senate. The House adopted a report of the National Assembly on Rules of Procedure and Privileges for an increase in salaries, allowances and perks of parliamentarians belonging to the two houses of parliament. Prior to increase, parliamentarians were getting around Rs. 72,000 per month, which was proposed to be enhanced to Rs. 200,000 per month.

It may be mentioned that the monthly salary does not include allowances which are allowed to members when the houses are in session, air tickets, vouchers and other perks. The daily allowance is now increased from Rs. 3,000 to Rs. 5,000, conveyance allowance per day from Rs. 2,000 to Rs. 3,000 and house allowance per day from Rs. 2,000 to Rs. 3,000. The House also recommended new monthly allowances that included office maintenance allowance of Rs. 100,000, constituency allowance of Rs. 70,000 and utility allowance of Rs. 50,000. The House also recommended that transport allowance amounting to Rs. 50,000 should be allowed per month. The National Assembly also wanted an increase in business class air tickets from 20 to 30, which might also be converted in favour of family members while a member provided with vouchers might be allowed to opt for encashment of vouchers with the same amount of Rs. 300,000. The members also wanted an increase in the telephone allowance from Rs. 10,000 to Rs. 20,000. They also wanted an improvement in medical facility and hospitals to be prescribed in capital cities and other major cities.

Interestingly, the report of the standing committee mentioned that the salary of parliamentarians should be above the maximum limit of the salaries drawn by the federal secretaries including special pay and allowances. The special report of the committee was placed before the National Assembly for adoption and further legislation accordingly. The matter of increase in salaries and privileges vis-à-vis comparison with bureaucracy by Parliament is interesting but shocking as well. They want to look more powerful than federal secretaries, which they otherwise legally are, but want to be in terms of salaries as well.

Our lawmakers keep on talking about reforming the tax system but shamelessly use FBR as a tool to get unprecedented tax breaks or ensure its ineffectiveness to amass enormous untaxed assets. Adding insult to injury, they enjoy life of luxury at taxpayers' expense. Due to meagre or non-taxation of luxury and commercial properties e.g. clubs and golf courses, unprecedented exemptions given to generals, judges and high-

ranking civil officials, the national kitty suffers huge losses. If these losses are recouped, our tax-to-GDP ratio can rise to 15%. The narrative that Pakistanis do not pay taxes, popular with analysts, TV anchors, academicians, policymakers and foreign donors, is a hoax. The reality is that the poor are the victims of oppressive taxes, whereas the ruling elites are thriving on labour of the down-trodden.

There is a need to expose the role of these extortionist elites in our socio-politico-economic decay. Unfortunately, the media, being one of the beneficiaries of the exploitative system, cunningly divert the attention of the masses towards trivial issues through popular but hollow talk shows. Our ruling elites have only one agenda: self-aggrandisement. The concentration of power and wealth in their hands, coupled with lust for control, has given rise to perpetual institutional confrontations, terrorism, social unrest and economic disparities—putting at risk the very survival of the State.

There is no taxation of unprecedented perquisites and perks enjoyed by ruling elites. The most heinous crime is grabbing of State property by them under the pretext of rewards and awards (free or at throwaway prices). These “gifts” and other tax-free benefits carry a huge cost to national exchequer, which remains to be quantified. Taxes ruthlessly collected from the masses are brazenly spent on their luxuries—palatial bungalows, fleets of cars, army of servants, foreign tours and what not. The only solution, as suggested by the ex-Chairman of Planning Commission, Nadeem Ul Haque, is to monetize all their benefits and perquisites.

The corrupt and inefficient government servants faithfully serve the political elite and in the process also make a “fortune”—all at the expense of the general public. Take the example of FBR where billions are lost annually due to incompetence and corruption. Since the rich and mighty do not pay due taxes, regressive taxes are thoughtlessly imposed that largely hurting the poor and middle class. On the one hand, Pakistan is a country with one of the lowest tax-to-GDP ratio, and on the other, the bulk of collection is wasted mercilessly on non-productive sectors. At provincial level, there is no will to collect agricultural income tax from the rich absentee landlords—share of this tax is less than 1% of GDP!

Tragically, the citizens whose income is much below taxable limits under the income tax law are criminally taxed through withholding tax regime. Funds, extorted from their hard earned money, are plundered and wasted by the ruling elites. The militro-judicial-civil complex, Prime Minister, president, governors, chief ministers, ministers, state ministers, advisers, MNAs and MPAs together squandered Rs. 400 billion in the fiscal year 2015-16 on perks, perquisites etc. Not only this, these predatory elites did not pay tax on free or concessionary benefits and/or plots allotted in utter violation of section 13(11) of the Income Tax Ordinance, 2001 [“the Ordinance”], which says:

“Where, in a tax year, property is transferred or services are provided by an employer to an employee, the amount chargeable to tax to the employee under the head “Salary” for that year shall include the fair market value of the property or services determined at the time the property is transferred or the services are provided, as reduced by any payment made by the employee for the property or services”.

Section 14(b) of the Ordinance defines “services” to include the provision of any facility” and the concept of “fair market” is defined in section 68 as under:

“68. Fair market value.— (1) For the purposes of this Ordinance, the fair market value of any property or rent, asset, service, benefit or perquisite at a particular time shall be the price which the property or rent, asset, service, benefit or perquisite would ordinarily fetch on sale or supply in the open market at that time.

(2) The fair market value of any property or rent, asset, service, benefit or perquisite shall be determined without regard to any restriction on transfer or to the fact that it is not otherwise convertible to cash.

(3) Where the price referred to in sub-section (1) is not ordinarily ascertainable, such price may be determined by the Commissioner”.

Section 39(1)(j) of the Ordinance is also attracted which declares the following as income chargeable to tax:

“The fair market value of any benefit, whether convertible to money or not, received in connection with the provision, use or exploitation of property”.

It is sad to note that the militro-judicial-civil complex blatantly violates tax provisions and does not pay tax due on getting State lands, free accommodations and other benefits—all covered in section 13(11) and 39(1)(j) of the Income Tax Ordinance, 2001. FBR is not at all interested to tax them—their top notches are also beneficiaries of these benefits and also serve their masters loyally.

Ruling elites are unwilling to pay taxes on their unprecedented and exorbitant perquisites and benefits, shifting burden of taxes on the weaker sections of society. This is the real dilemma of Pakistan. During the last regime of PPP, an ex-Member of FBR wrote a letter to then Finance Minister, Abdul Hafeez Shaikh, that massive tax evasion/loss of revenue had occurred due to non-taxation of government property given to high-ranking officials at concessional rates. He took no action and the same is the position of Senator Ishaq Dar—he has so far not given any thought to this letter, which is lying unattended for many years now.

The people ask when the time will come to take all tax cheats to task. They wonder why FBR is sparing tax-delinquent elected members, unscrupulous traders, mighty military and civil officers getting State lands without paying any tax. Recouping of lost revenue of billions of rupees from them will certainly convey a loud message to all that FBR means business and nobody is above law. As the mighty sections of society are not paying taxes due from them, the common people rightly argue against discharging their tax obligations, especially when the State has failed to protect their lives and properties, what to talk of providing basic facilities of education, health, housing and transportation.

APCAA concerned over KICT's non-professional attitude

All Pakistan Customs Agents Association (APCAA) has expressed its concern over non-professional attitude showed by the Karachi International Containers Terminal (KICT) in handling and grounding of the containers. The concern was expressed by Arshad Jamal, Senior Vice Chairman (APCAA) while chairing a meeting with KICT delegation at FPCCI the other day.

Arshad said that the KICT had failed to extend facilitation as trade was suffering huge financial losses due to non-professional attitude showed by the terminal; adding that at present, the delays in containers grounding for examination of goods were going severe day-by-day.

Arshad further stated that APCAA was working on shifting of auction container from terminal to off- dock terminals or CPF in order to avoid port congestion and added that if all four terminals agreed in this regard, huge space would be available for handling inward and outward cargos.

He also apprised the KICT delegation that the terminals were charging non-agreed charges from the traders approx \$100/- FCL, causing to escalate cost of doing business. He further said that terminals were not paying demurrages to KPT therefore, they were not only bound to accept delay & detention charges certificate issued by the customs but also expect the delay period of whole examination process.

Meanwhile, Zafarullah Jan head of KICT delegation said that this was the first time when this issue was discussed and showed his inability to explain the reason behind the said issue, adding that KICT would convene a meeting on this issue within a week, if the same was properly communicated by the APCAA. – *Courtesy Business Recorder*

'Red alert' issued against polyester company for 'tax fraud'

Directorate General of Intelligence and Investigation Inland Revenue (IR) has issued 'red alert' against a company engaged in manufacturing and marketing of polyester filament yarn and other polyester related products, for allegedly committing tax fraud.

Sources told that the registered office of the said company is located in Quetta. It has been alleged that the company has evaded tax amounting to Rs 67,437,669 by committing tax fraud. The analysis of data revealed that the company has been making

purchases and supplies from/to the blacklisted and suspended units. Keeping this in view, the agency has issued 'red alert' to the chief commissioner-IR, RTO, Quetta with the recommendation to conduct investigative audit of the company for recovery of the evaded amount of tax.

According to the information collected by I&I-IR, the registered person was involved in tax fraud. In order to investigate the matter, the registered person was summoned to ascertain the veracity of the input tax and output tax claimed by him. The inquiry revealed that the taxpayer has been making purchases as well as supplies from/to the blacklisted and suspended units. It has been found that he claimed output tax of Rs11,685,806 against fake/dubious invoices while the amount claimed against fraudulent input tax stands at Rs55,753,863. In view of this state of affairs, 'red alert' under para 3(b) of Policy Document of FBR dated 25.10.2011 has been issued to the chief commissioner-IR, Regional Tax Office (RTO), Quetta, with the recommendation to conduct investigative audit under section 38 of the Sales Tax Act, 1990 and recover the sales tax of Rs67,437,669 from the taxpayer, agency added.

Sources said that the red alerts are issued by the agency to caution the field formations about suspected cases of tax frauds etc. The Federal Board of Revenue's (FBR) intelligence arm is empowered to issue 'red alerts' during the Pre-Refund Analysis (PRA) of refund claims in cases where information was received about suspected claims to combat menace of bogus/dubious refund claims.

Under the policy of 'red alert,' the cases falling within the category of 'red alerts' would be subjected to computerised analysis using the refund software of the FBR to check the authenticity of the data electronically maintained by the department.

The purpose of the 'red alerts' is to check the claims internally by the department without stopping the routine procedure for processing of refund claims. The concept of 'red alerts' has made the tax officials vigilant to check cases where refund claims are under process but some information has been received which makes such claims doubtful.

In the past, the DG I&I IR had identified cases of 'red alerts' on the basis of high-risk areas identified on the basis of monthly sales tax analysis and federal excise returns being filed by the registered persons. The agency had picked high-risk areas which formed

basis for issuing 'red alerts' in case of filing of sales tax claims. The cases falling within the category of 'red alerts' would be subjected to computerised analysis using the refund software of the FBR to check the authenticity of the data electronically maintained by the department. – *Courtesy Business Recorder*

Ballot for selection of cases for audit to be held next week

The Federal Board of Revenue (FBR) has finalised the new Audit Policy 2016 and ballot for selection of cases for audit is expected to be carried out at the FBR House next week. Sources said that Finance Minister Muhammad Ishaq Dar is likely to attend the function of balloting for selection of cases for audit at the FBR House.

The FBR has finalised the new audit policy for the year 2016 and the ballot for selection of cases for audit will be done soon. In the past, the selection of cases for audit was done mostly through random ballot. The "Audit Policy" Tax Year-2016, has proposed a paradigm shift from the past. Its focus has been realigned from random to parametric selection and from general to risk-based approach. The approach will minimise chances of selection of complaint tax payers resulting in the increased confidence in the system.

This new trend in taxpayers' audit will not only promote compliance with the existing tax laws, but will also generate increased revenues through better declarations for better public spending by the government.

The right audit approach will help the FBR in broadening the tax base and in focusing on high risk areas.

This can be assured through equitable tax policies where a taxpayer knows that good citizens are appreciated. – *Courtesy Business Recorder*

Dar reviews steps towards increasing direct tax collection

Federal Minister for Finance Senator Mohammad Ishaq Dar chaired a meeting here at the Finance Division to review the measures taken by the Federal Board of Revenue on increasing the direct collection of taxes.

Chairman FBR, Nisar Mohammad Khan, briefed the minister on different models adopted by the countries around the world to increase the direct collection of taxes.

The Finance Minister was presented different models on mobilising revenue generation by the Chairman FBR and his team along with the necessary framework. The Finance Minister directed Chairman FBR to prepare a comprehensive plan that may be implemented through the next Finance Bill.

The Finance Minister also directed the FBR to take all the required measures that would facilitate the voluntary tax payers/filers; he also directed that there should be a clear distinction between filers and non-filers.

The FBR will present their firmed up proposals in the next meeting which will be held soon.

The meeting was attended by senior officials of the Finance Division and the Federal Board of Revenue. – *Courtesy Business Recorder*

New Audit Policy finalised by FBR

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This new trend in taxpayers' audit will not only promote compliance with the existing tax laws, but will also generate increased revenues through better declarations for better public spending by the government. The right audit approach will help the FBR in broadening the tax base and in focusing on high risk areas. This can be assured through equitable tax policies where a taxpayer knows that good citizens are appreciated. – *Courtesy Business Recorder*

APCAA concerned at delay in clearance of goods

All Pakistan Customs Agents Association (APCAA) has asked the Collectorate Appraisement (West) to play role in resolving containers' grounding issue at Karachi International Containers Terminal (KICT). In a letter sent to the collector Appraisement (West), the APCAA stated that they were researching on taxation system to resolve issues being faced by the trader on daily basis.

It said APCAA was continuously receiving complaints across the country for delay in clearance of goods, which was causing huge financial losses to the trade. The letter said APCAA had constituted a task cell to monitor the whole process of customs clearance system and added there was no proper co-ordination between the terminal and customs examination staff that led financial shocks to the trade.

Furthermore, it said KICT management during the meeting with APCAA had shown consentient to ground 400 FCL containers per day besides expanding examination area. However, the APCAA through letter requested the Collectorate appraisement (West) to come forward in resolving the issues related to containers grounding besides providing maximum facilitation to the terminal to ensure best services for the trade. The APCAA has also urged the collector appraisement (West) to convene a meeting with the customs agents in this regard. – *Courtesy Business Recorder*

Ill-planned SAPT operations led to container pile-up: KCAA

Karachi Customs Agents Association (KCAA) Tuesday claimed that the operations at South Asia Pakistan Terminal (SAPT) were started in a haphazard manner that led to the piling up of containers, causing severe problems to the trade. Wasiq Hussain Khan, General Secretary KCAA said it seemed that SAPT, which was said to be the biggest terminal of the country, had started its operation in an unsystematic manner as several vessels, which were supposed to be anchored at Karachi International Containers Terminal (KICT) were being entertained by the SAPT.

He said that two of the vessels where IGMs were filed in KICT and traders had also deposited duty and taxes were diverted to the SAPT that left no option but to annul goods declarations and no duty and taxes had so far been refunded. He said that the trade was facing delays in containers' grounding as examination area at SAPT was under construction, causing to pile up containers

backlog; adding that if more vessels were diverted to SAPT prior to completion of all construction work, terminal would be choked.

Moreover, he said that trade could neither monitor online status of its containers nor getting information about terminal charges as SAPT did not launch its official website so far. Keeping the said problems in view, he said that KCAA had demanded the concerned authorities not to allow SAPT to entertain more vessels until it would be able to provide better service to the trade. – *Courtesy Business Recorder*

Customs staff on high alert at Allama Iqbal Airport

Customs staff at the Allama Iqbal International Airport, Lahore is on high alert to thwart attempts of smuggling of foreign currency, drugs, gold and other contrabands. Special teams have been constituted to search suspected international flights and to monitor all the entry and exit points at the airport.

As part of this initiative, Collector of Customs Preventive Lahore, Zulfiqar Younas visited Lahore Airport along with the Regional Director Anti Narcotics Force (ANF) Punjab Brigadier Khalid Goraya on Tuesday and inspected arrangements. They discussed various proposals to improve upon information sharing, pooling of human and material resources for joint operations and to enhance overall effectiveness of their agencies.

The Regional Director, ANF instructed his field staff to extend all human and material co-operation to Pakistan Customs to make Lahore Airport free from menace of smuggling of goods, currency and drugs. This enhanced co-operation between the two main agencies is expected to boost the Government's war against the smugglers. It will help further to plug the loopholes and ensure fool proof system to counter smuggling. – *Courtesy Business Recorder*

LTUs, MCCs and RTOs: FBR legally bound to evaluate performance on the basis of KPIs

The Federal Board of Revenue (FBR) is legally bound to evaluate the performance of tax officials in Large Taxpayer Units (LTUs), Model Customs Collectorates (MCCs) and Regional Tax Offices (RTOs) on the basis of key performance indicators (KPIs) taking into account massive revenue shortfall during 2016-17. Sources told here on Tuesday that one of the major KPIs of tax officials in

the field formations is the achievement of the revenue collection targets on quarterly basis.

The same benchmark, ie, KPI has been set for customs and IR officials to assess their performance as far as revenue collection is concerned. Thus, the performance of the tax machinery covering customs officials and Inland Revenue officials would be made on the basis of KPIs, including achievement of targets or not. The FBR's KPIs clearly indicate that the achievement of target has been given 100 per cent marks/ranking among major performance indicators. For Customs officials as well as IR officials in LTUs, MCCs and RTOs, the achievement of the target is first major KPI for assessment of tax machinery's performance in the field formations. In the presence of revenue shortfall, the FBR will assess number of officials whose performance went down keeping in view the KPIs set by the Board.

Sources said that the FBR cannot give credit to the tax officials for collection of withholding tax while assessing their performance under the KPIs. The officials responsible for revenue shortfall would be marked and assessed on the basis of the KPIs set by the FBR.

This major initiative was taken by the then FBR Member (HRM) Khawaja Tanveer Ahmed, who is now working as Director General Intelligence and Investigation Inland Revenue (IR) FBR. After eight meetings of the Board-in-Council in the past, the performance evaluation criteria were set for the tax machinery based on the KPIs. Khawaja Tanveer Ahmed was primarily responsible for inhalation of the job description and KPIs of the entire tax machinery.

At that time, the exercise for Job Description (JDs) and KPIs was initiated by the HRM Wing with the objective to foster better accountability within FBR by providing an objective assessment tool. KPIs for Inland Revenue field offices and Customs Officers from BPS-17-21 of field formations were developed and linked Performance Evaluation Reports (PER) with KPIs. Accordingly, the exercise was started in May 2015. The JDs/KPIs of the customs officers will be a good tool to be used by Customs Wing to track the customs employees' performance against the stated job requirements and measurable outcomes tied to specific tasks for effective implementation of the JDs and KPIs.

At the same time, the FBR had already introduced the concept of computerised record-based evaluation of tax officials in public

sector organisation having KPIs for writing annual confidential reports (ACRs).

To carry out realistic assessment of tax officials, a new computerised system was put in place to record actual performance of the officer on monthly and quarterly basis. The tax officers cannot lie about their performance when their job description is compared with key performance indicators. Tax officers would themselves select top 5 most important jobs that they think are mostly consuming their time and which must be accounted for in their final performance evaluation.

Based on the computerised record, the ACRs would be written by the senior officials taking into account their actual performance in the field formations. It would be impossible to write very good ACR of a tax officer whose computerised record tells entirely a different story. In the presence of top five job descriptions of tax officials, the performance of tax officials would be monitored on monthly and quarterly basis. The KPIs of the officers would be matched with the contents of the ACRs before signing and countersigning by the tax officials.

Moreover, the computerised-based job description would be duly considered while writing ACRs of the tax officers. In case of any mismatch, senior official has to explain reason for writing good ACR when job description is showing poor performance.

For the first time such a system has been introduced in any public sector organisation. The beauty of the system is that no officer of the FBR can manage to write good ACR in cases where the computer record evaluation shows poor performance. The constant monitoring, evaluation and computerisation of records would help the senior officials update information about their junior officers in the field formations.

According to the FBR's instructions to all chief commissioners/chief collectors and all commissioners/collectors in the past, the effective performance management is based on objective job descriptions and KPIs. The HRM Wing is undertaking a gigantic task of developing the job description and KPIs for every position in FBR (HQ) and its field formations. – *Courtesy Business Recorder*

Tax evasion by IT equipment importer detected

Directorate General of Intelligence and Investigation Inland Revenue (IR), Islamabad, has detected tax evasion by an importer

of DHA, Lahore, who is engaged in business of IT equipment and spare parts, etc. It is learnt that Directorate has found discrepancies in declared sales and import value in the sales tax returns and income tax returns etc and took action under section 38 of the Sales Tax Act, 1990.

The information gathered by I&I-IR transpired that the said person was allegedly involved in tax evasion. The inquiry revealed that he is a sole owner of the company, while he has also established an association of person (AOP) to manage the suppression of supplies. The taxpayer got registration as an importer and is engaged in the business of IT equipment and spare parts, etc.

As a result of analysis of business transactions, discrepancies between the declared sales and import value in the sales tax returns as well as income tax returns and annual accounts have come to light. Moreover, the taxpayer has also established a business under the name and style. This concern has issued sales tax invoices to educational institutions valuing Rs 239,705,567 involving sales tax of Rs 40,749,946 while the unit has not been registered under the Sales Tax Act, 1990. By invoking action taken u/s 38 and 40 of the Sales Tax Act, 1990, business record of the taxpayer has been impounded, which is under scrutiny. Further investigation is under way, sources added. – *Courtesy Business Recorder*

Non-filers' category: pensioners, widows and students have to pay high rates of WHT: experts

The vulnerable groups including pensioners, widows, students, retired persons and all those falling below taxable limit have to pay high rates of withholding taxes being covered under the category of non-filers. Tax experts told here on Monday that at present there is no income tax on annual income earned up to Rs 400,000 for an individual.

As a result, any person earning income to the extent of Rs 400,000 is not liable to pay a single penny to the government. On the other hand, such persons are paying higher rates of taxes to the government due to faulty legislation enacted in the law for non-filers.

It is a major policy flaw to consider pensioners, widows, students and retired persons, falling below taxable limit, as non-filers for

the purpose of withholding taxes. The question arises why a person having no taxable income has been forced to pay higher advance income tax or file income tax return/statement?

The Federal Board of Revenue (FBR) has no system to distinguish between those falling below annual taxable limit of Rs 400,000 and non-filers above taxable threshold for the purpose of withholding tax. This resulted in imposition of higher rates of withholding taxes on persons having below annual taxable limit and carrying out banking transactions.

The issue is mainly related to the advance tax on banking transactions other than through cash under section 236P of the Income Tax Ordinance. The low income groups such as widows, pensioners, retirees and students, etc, fall below taxable threshold, therefore, are not liable to pay tax. Most of these groups remained non-filer during their life because of their particular circumstances, but withholding tax is deducted on their savings whenever they make withdrawals, which is unfair as they cannot claim credit for the deducted amount. Therefore, the section 236P should be exempted for these vulnerable groups and the threshold of transfer/transactions should be increased to Rs 100,000 as compared to current threshold of Rs 50,000.

They said that millions of persons are paying advance income tax but are not filing returns/statements as they have no taxable income. Citing an example, they said that hundreds and thousands of students pay income tax on the use of cellular phones out of funds already taxed by their parents. The government should first remove numerous withholding provisions and then get returns from all those who have taxable incomes. Such unjustified withholding tax provisions are creating hardship for millions of students, widows, minors, men and women having no taxable income.

Another tax expert said that vulnerable groups, including widows, pensioners, retirees, students... receive very low compensation/income that falls below taxable threshold; therefore, they are not liable to pay tax. However, withholding tax is deducted on their savings whenever they make withdrawals, which is unfair as they cannot claim credit for the deducted amount. – *Courtesy Business Recorder*

FBR suggests Shariah-compliant criteria for companies

The Federal Board of Revenue (FBR) has proposed Shariah-compliant criteria for companies whose shares are traded on a stock exchange to avail the reduced rate of tax under Income Tax Ordinance 2001. According to the SRO.1173(I)/2016 issued by the FBR, the Board has proposed amendments to the Income Tax Rules, 2002. To avail reduced rate of tax, the FBR has proposed Shariah-compliant criteria for a company whose shares are traded on a stock exchange.

Firstly, the business of the company should be Halal ie it shall not include processing or manufacturing of pork, liquor, non-Halal products, pornographic material or any other activity not permitted by Shariah. Secondly, there should be Riba-free (interest-free) financing on the balance sheet of the company; however, the company may be leveraged through Islamic modes of financing obtained from licensed Islamic financial institutions.

Thirdly, all the investments made by the company should be one hundred per cent Shariah compliant; therefore, it would not be permissible for the company to acquire non-Shariah compliant instruments/securities which yield interest or income that is not Halal.

Fourthly, the company would be obliged to maintain free float of the company at 30 percent of the outstanding shares.

Following is the text of the SRO issued here on Wednesday:

SRO 1173(1)/2016: The following draft of certain further amendments in the Income Tax Rules, 2002, which the Federal Board of Revenue proposes to make in exercise of the powers conferred by sub-section (1) of section 237 of the Income Tax Ordinance, 2001 (XLIX of 2001) is hereby published for the information of all persons likely to be affected thereby, as required by sub-section (3) of said section, and notice is hereby given that the draft shall be taken into consideration by the Federal Board of Revenue after seven days of its publication in the official gazette.

Any objection or suggestion, which may be received from any person, in respect of the said draft, before the expiry of the aforesaid period, shall be considered by the Federal Board of Revenue.

DRAFT AMENDMENTS In the aforesaid Rules, after Rule 231G, the following new rule shall be added, namely:

“231H. Reduced rate of tax for Shariah compliant companies in terms of Sub-Clause (a) of clause (18B) of Part-II of the Second Schedule to the Ordinance.

To avail reduced rate of tax in terms of sub-clause (a) of clause (18B) of Part-II of the Second Schedule to the Ordinance the Shariah compliant criteria for a company, whose shares are traded on a stock exchange, shall be as follows:

(i) The business of the company should be Halal ie it shall not include processing or manufacturing of pork, liquor, non-Halal products, pornographic material or any other activity not permitted by Shariah.

(ii) There should be Riba-free financing on the balance sheet of the company, however the company may be leveraged through Islamic modes of financing obtained from licensed Islamic financial institutions.

(iii) All the investments made by the company should be one hundred per cent Shariah compliant; therefore, it would not be permissible for the company to acquire non-Shariah compliant instruments/securities which yield interest or income that is not Halal.

(iv) The company would be obliged to maintain free float of the company at 30% of the outstanding shares.” – *Courtesy Business Recorder*

Nisar orders probe into collection of petroleum levy

Interior Minister Chaudhry Nisar Ali Khan Wednesday directed the Federal Investigation Agency (FIA) to investigate the embezzlement, worth billions of rupees, allegedly committed by oil marketing companies (OMCs) in collection of petroleum levy. An official of Ministry of Interior said the OMCs have collected billions of rupees from public under head of petroleum levy, but they did not deposit the amount in the national exchequer. The interior minister has directed director FIA Lahore to investigate the matter. – *Courtesy Business Recorder*

FBR starts budget preparation exercise

The Federal Board of Revenue (FBR) has started budget preparation exercise for 2017-18. According to the FBR's instructions issued to all chambers and federations here on

Wednesday, FBR has initiated formulation of proposals for Finance Bill/ Budget 2017-18. In order to benefit from collective wisdom of the general public and all the stake holders including Chambers of Commerce & Industry, bodies of trade and industry, provincial bodies and regulatory authorities, proposals are invited for the upcoming Budget 2017-18.

The input/suggestions on the specified format shall be highly appreciated as a genuine contribution towards improvement of tax policy. The FBR added that it is requested that these proposals may be provided by January 15, 2017. – *Courtesy Business Recorder*

'Imposition of anti-dumping duty on offset printing ink a threat to printing industry'

Pakistan Association of Printing and Graphic Arts Industry (PAPGA) condemns this action of NTC which will increase the cost of printing as well as increase the cost of publications. Printed material is already imported under HS Code 4901-9100 to 4901-9910, 4903-000, and 4902-9000 at almost zero-rating. With paper already taxed heavily imposition of anti-dumping on printing inks will be a further blow to the local printing industry already facing the menace of duty-free printed material.

Existing duties and taxes combined amount to almost 52%. The local industry should not seek any further protection with such a heavy existing duty and tax structure. Moreover, a few local manufacturers that are engaged in manufacturing do not have the capacity or the capability to 'cater to the printing industry.

Their quality is poor and substandard and is not capable to be used on high speed equipment. This action on the part of NTC of further patronising couple of ink manufacturing units at the expense of the whole printing industry is contrary to fundamental principle of industrial strategy. Moreover this action would discourage import genuine importers and increase chances of smuggling and misuse of the Afghan Transit. NTC should immediately rescind its decision. – *Courtesy Business Recorder*

IR offices to remain open, observe extended working hours on 30th, 31st

The Federal Board of Revenue (FBR) has announced that all Inland Revenue Offices will remain open and observe extended working hours on December 30 (Friday) until 08:00pm and December 31(Saturday) until 10:00pm.

According to the FBR's instructions issued to the field formation here on Wednesday, the chief commissioners are also requested to establish liaison with the State Bank of Pakistan (SBP) and authorised branches of the National Bank of Pakistan (NBP) to ensure transfer of tax collection by these branches before or on December 31, 2016 to the respective offices of the SBP on the same date so as to account for the same towards the collection for the month of December, 2016.

The FBR's instructions to the model customs collectorates said that all the model customs collectorates will remain open and observe extended working hours till 08:00pm on Friday (December 30) and till 10:00pm on Saturday (December 31) for collection of duties/taxes.

The chief collectors of customs are requested to establish liaison with the State Bank of Pakistan, National Bank of Pakistan and scheduled commercial banks in their jurisdiction to ensure transfer of tax collection by these branches before or on December 31, 2016 to the respective offices of the SBP on the same date and to account the same towards the collection for the month of December 2016, the FBR added. – *Courtesy Business Recorder*

Benami transactions: Senate body approves legislation

Senate Standing Committee on Finance has approved a proposed legislation aimed against holding property in Benami transactions with some minor amendments and award for whistle blowers. A meeting of Finance Committee attended by only three members and presided over by Senator Saleem Mandviwalla on Thursday withdrew majority of its amendments, including reservations to allow a freehand to the government to have full access to any premises, place, account documents or computer to enforce any provision of the proposed Act.

Secretary Finance Dr Waqar Masood and Chairman Federal Board of Revenue (FBR) Nisar Muhammad Khan argued that without having this power, the proposed legislation can not be implemented. The chairman FBR further contended that "this provision exists in all the laws, customs sales tax and income tax of the FBR." The chairman of the committee expressed his concern over misuse of the provision but the secretary finance and FBR chairman stated that sufficient provisions have been incorporated in the proposed law to prevent misuse of the law and maintain a check.

However, the government accepted committee's suggestions to include a provision for whistle blower with a reward to make the law more effective and limit 65 years age for appointment of serving or retired chairperson and members of the tribunal with one-time three-year term.

State Bank of Pakistan representatives have also expressed their reservations over the clause in the Benami law for entry and search of premises of a banking company and stated that "this would create panic and we are trying to protect banks' reputation by opposing this clause." The SBP officials said that they have no objection to the powers of seeking information from a banking company but they would have reservations on any action beyond that level.

The secretary finance and chairman FBR, however, stated the section specific to banking company in the proposed law was not different in any way from Income Tax and Customs Laws.

The committee chairman, however, suggested to the representatives of the SBP to consult their high-ups on the matter and inform the committee. The chairman FBR also suggested a parliamentary committee to oversee the implementation and stated that the government is seeking time because an entire structure would be required to develop, including appointments of officials as well as establishment of adjudicating tribunals for the Benami Law. – *Courtesy Business Recorder*

FBR won't pursue recovery of GST on tariff subsidy, ministry told

The Federal Board of Revenue (FBR) has assured the Ministry of Water and Power that the FBR would not pursue recovery of sales tax on tariff subsidy provided by the federal government to electricity consumers till the matter is decided by the appellate fora. Sources told here on Thursday that the assurance has been given by the FBR to the Ministry of Water and Power (ministry) during the last meeting on tax issues of power sector entities held at the FBR House.

The first issue was related to the payment of sales tax on subsidy provided by the federal government. On this issue, the Ministry of Water and Power contended that the tariff subsidy is actually provided to electricity consumers and is not part of the total sales tax and that the appellate tribunal inland revenue (ATIR),

Islamabad, accepted the appeal of Peshawar Electric Supply Company (PESCO) in this regard. The FBR suggested that DISCOs may pursue their cases in respective appellate fora on the strength of cited ATIR judgement. However, the FBR shall not force recovery till the matter is decided by such appellate fora.

The FBR has also decided to provide technical assistance to the power distribution companies (DISCOs) for complete filing of sales tax returns which is mandatory for these companies. On the issue of non-filing of Annexure-C by DISCOs, sources said that in spite of the previous assurances, most of the DISCOs are not filing complete annexure C of the sales tax returns which is mandatory for all the registered persons. It was decided that filing of the said annexure would be ensured and if DISCOs are facing any problem, the FBR will render technical assistance.

Sales Tax on cash Collection Basis: Ministry of Water and Power was of the view that the sales tax be charged on the basis of actual cash collection and not on the billed amount or accrual basis. The FBR contended that as per the statute, sales tax is charged on accrual basis which is prevalent for all the taxpayers and that any deviation may open a new Pandora's box. The ministry presented a copy of earlier note in which FBR had agreed to the proposal to exempt supplies for which payment is not received in 180 days. The FBR opined that proposal in the said note was complicated and not practical. Accordingly, it was agreed that the ministry may refer the matter to ECC for appropriate decision. Sales Tax not charged on supply to AJ&K: As per distribution companies, the President on 26.09.2002 decided that electricity generated and supplied to AJ&K will be exempted from levy of sales tax. –
Courtesy Business Recorder

Offshore assets: TRC member for introducing 'Income Declaration Scheme'

Pakistan can benefit by introducing an 'Income Declaration Scheme' for persons having offshore assets on the pattern of successful experience of India and Indonesia to bring concocter money into the documented economy. According to a communication of Ashfaq Tola, Member Tax Reform Commission (TRC) and Senior Partner Naveed Zafar Ashfaq Jaffery & Co, Chartered Accountants to Finance Minister Ishaq Dar here on Thursday, he referred to last meeting with the Finance Minister on a scheme for declaration of undeclared assets/income.

An 'Income Declaration Scheme' was launched in India on June 01, 2016. Under the scheme, those who had evaded taxes were given the opportunity to avoid punishment by paying tax, penalty and cess totalling 45 percent of the undisclosed income. Up to October 1, 2016, declarants (64,275) declared approximately \$97.5 billion. The scheme is expected to get approximately \$44.8 billion as tax revenue from scheme.

Indonesia also introduced a tax amnesty scheme recently. The amnesty helped collect \$7.45 billion during the first phase of the scheme which expired on September 30, 2016. Around 366,757 taxpayers signed up for the first phase of the scheme declaring approximately \$277 billion. Pakistan can also benefit by introducing a scheme on similar lines to bring concocter money into the documented economy. The scheme may be inspired by the Indonesian model as follows:

Declaration filing date (1 January, 2017 to 31 March, 2017); clearance levy rate of 5 per cent for onshore assets declared and offshore assets declared and repatriated (if repatriated by 30 June 2017) and 10 per cent rate for offshore assets declared but not repatriated.

Declaration filing date (1 April, 2017 to 30 June, 2017); clearance levy rate of 7 per cent for onshore assets declared and offshore assets declared and repatriated (if repatriated by 30 September 2017) and 14 per cent rate for offshore assets declared but not repatriated. Declaration filing date (1 July, 2017 to 30 September, 2017); clearance levy rate of 10 per cent for onshore assets declared and offshore assets declared and repatriated (if repatriated by 30 September 2017) and 20 per cent rate for offshore assets declared but not repatriated.

He said proposed scheme will inject a fresh blood in the documented economy not only in the year of its implementation (due to repatriation of assets) but also for coming years as the income generated each year on assets declared will be charged to tax and will add to the reserves (ever if repatriation is not opted). Modus operandi and legal requirements will be followed.

Furthermore in addition to the scheme, a cap should be introduced to remit moneys outside Pakistan as available in India, ie, amounts to be remitted outside India are restricted up to \$500,000 in a financial year. Moreover, 100 percent penalties may be imposed on transfer of moneys through informal channels, the member TRC added. – *Courtesy Business Recorder*

32 percent increase in IT returns

The Federal Board of Revenue (FBR) has received a total of 810,031 income tax returns for tax year 2016 as compared to 615,416 filed during tax year 2015, reflecting an increase of 32 percent. Sources told here on Thursday that the number of income tax returns would further increase after feeding data of 60,000 more manually filed returns. So far, 69,354 returns have been manually filed in tax year 2016 as compared to 104,918 for tax year 2015. Another 60,000 would be fed in the FBR's system, which would increase the number of return filers.

The data of return filing is encouraging because there is an increase of 32 per cent during the period under review. Breakup of data revealed that within the category of individuals, the FBR has received 764,887 returns for tax year 2016 as compared to 581,172 in tax year 2015. This category of individuals including salaried class has shown positive response in filing of annual income tax return/statement.

Under the category of Association of Persons (AOPs), a total of 37,760 returns have been filed for tax year 2016 against 29,156 returns for tax year 2015. So far, a total of 7,384 companies have filed returns for TY-2016 as compared to 5,088 during tax year 2015. – *Courtesy Business Recorder*

Ministry asked to remain consistent with existing practice of tariff determination

Economic Co-ordination Committee (ECC) of the Cabinet has directed the Ministry of Water and Power to make withholding tax on dividends as per actual payments and Rate on Return during Construction (RoEDC) as part of Policy Framework for private sector transmission line projects, 2015 in order to be consistent with the existing practice of tariff determination.

Ministry of Water and Power, in its summary informed the ECC on December 20, 2016 that the Government of Pakistan had announced the Policy Framework for Private Sector Transmission Line Projects, 2015 to attract private sector investment for augmentation of transmission network in the country to transmit electricity from upcoming power projects to the load centers.

Accordingly, National Transmission & Dispatch Company Limited (NTDCL) and State Grid Corporation of China (SGCC) entered into a Co-operation Agreement on April 20, 2015. As per the Co-

operation Agreement, the Matiari-Lahore HVDC Transmission Project will be implemented under Agreement on China-Pakistan Economic Corridor (CPEC) between China & Pakistan and the Transmission Policy 2015 along with the guidelines. Under the Co-operation Agreement, SGCC has nominated its subsidiary ie China Electric Power Equipment & Technology Co Ltd (CET) to develop the transmission line projects on a BOOT model.

Ministry of Water and Power further revealed that NEPRA determined the tariff for the project on August 18, 2016. However, CET had requested PPIB to file Motion for Leave for Review, as the tariff and cost allowed by the Authority were un-acceptable to CET. Subsequently, PPIB filed a review petition on September 2, 2016. NEPRA provided its decision on November 24, 2016 on a review petition on which CET had certain reservations and requested PPIB to seek/provide clarifications on the tariff determined by NEPRA. The following clarifications/requests of CET required policy directives to NEPRA as NEPRA has previously rejected PPIB's request in the tariff and review petitions: (i) NEPRA has neither allowed the withholding tax on dividends as a pass-through item nor grossed up (increased) the ROE to provide 17% net of tax IRR to CET. Disallowing withholding tax on dividends would be a policy deviation and discriminatory treatment for this project as other CPEC projects have been allowed withholding tax on dividends either as a pass-through for cost plus tariff-based projects such as Karot and Kohala Hydropower projects or the ROE has been grossed up for projects under upfront tariff both for imported and local coal based projects to provide desired IRR net of withholding tax. Therefore, consistent with its previous determinations for CPEC projects and as agreed under Co-operation Agreement (i) 17% IRR net of withholding tax on dividends should be allowed and (ii) CET has requested to allow Return on Equity during Construction (RoEDC) from actual construction start date in order to meet the tight timelines and upon the request of GoP CET plans to start construction before financial close. CET has proposed NEPRA may allow 27 months ROEDC from the actual start date of construction without any adjustment for actual draw downs at COD to mitigate risks inherent with a pre-financial closing equity injection, subject to submission of verifiable documentary evidence to NEPRA.

Ministry of Water and Power argued that as a matter of precedence, ECC on July 23, 2009 already approved the framework for the implementation of hydropower projects under 1995 Hydel

Policy which states that for hydropower projects, a 30-month period prior to construction start, may be allowed for Internal Rate of Return (IRR) calculation subject to provision of related audited accounts.

Ministry of Water and Power made following proposals for consideration of the ECC for issuance of policy guidelines to NEPRA: (i) NEPRA to allow withholding tax on dividends as pass-through item in the tariff as per actual payments or gross up the IRR as per precedent of other CPEC projects to provide 17% IRR on net of withholding tax basis; and (ii) NEPRA to allow ROEDC from actual construction start date to COD for the Project based on 27 month construction time without adjustment for actual draw downs at COD.

During the ensuing discussion, the Secretary, Water and Power Division informed the meeting that the exemption proposed by the Ministry in the summary had been granted by NEPRA in Guidelines For Determination of Tariff for Independent Power Producers, 2005, however, the same was being refused by NEPRA for the Matiari-Lahore HVDC transmission project. He stated that this decision of NEPRA was discriminatory and requested that the said proposal be made part of Policy Framework for Private Transmission Sector Transmission Line Projects, 2015 in order to be consistent with the existing practice of tariff determination.

After a brief discussion, the ECC allowed withholding tax on dividends as a pass-through item in the tariff as per actual payments or gross up the IRR to provide 17 per cent IRR on net withholding tax and ROEDC from actual construction start date to COD for the project subject to submission of verified documentary evidence to NEPRA on equity injected and actually utilised before the financial close of the project. The ECC also directed the Ministry of Water and Power to take above decisions a part of Policy Framework for Private Sector Transmission Line Projects 2015 in order to be consistent with the existing practice of tariff determination. – *Courtesy Business Recorder*

PTAA urges FBR to extend tax return deadline

Pakistan Tax Advisors Association (PTAA) has approached the Federal Board of Revenue (FBR) for extension in date for filing of income tax returns by the companies up to January 31, 2017. In a communication to the FBR here on Thursday, Chairman PTAA Javed Iqbal Qazi requested for extension in date for filing of

returns of total income in the case of companies to January 31, 2017 instead of December 31, 2016.

It is requested to extend the last date in respect of companies to January 31, 2017 as all the tax practitioners/advocates/chartered accounts engaged in the profession of taxation are busy in the preparation of Returns of Individuals/AOP's, who have failed to submit their returns by 15.12.2016 while the accounts in respect of companies are under finalisation/audit. We also understand the target in respect of Individuals/AOP's has not been achieved for Tax Year 2016 even today by FBR. All the professionals are very much pre-occupied for the submission of returns since 30.09.2016 without any reasonable rest/gap. Also provide them some relief to finalise / prepare the returns of their clients for companies in a smooth & peaceful atmosphere. "However, we have requested the PTAA members to direct their clients to deposit the tax liability in respect of limited companies by 31.12.2016," Javed Iqbal Qazi added. – *Courtesy Business Recorder*

Container with smuggled goods seized

The Regional Directorate, Intelligence and Investigation-FBR, Peshawar, with the help of local police has seized a container along with the trailer, carrying a number of smuggled goods. It is learnt that smuggled goods recovered from the container included 36,184 yards cloth, 990 pieces of CNC clutch plate for HTV, 17 outdoor units of LG air conditioners, 16 indoor units of LG air conditioners, 20 indoor units of Panasonic Split AC and 19 outdoor units of Panasonic Split AC.

All the abovementioned goods as well as the vehicle have been seized under the relevant provisions of the Customs Act, 1969. The value of the same has been assessed at Rs 31 million. An FIR has also been lodged and further investigation is in progress. In addition to the smuggled goods listed, a few small cartons containing firecrackers have also been recovered from the seized container. – *Courtesy Business Recorder*

FBR wing detects over Rs 62 million non-deposit WHT by PR

The Directorate General of Intelligence and Investigation Inland Revenue (IR) has detected non-deposit of withholding tax to the tune of Rs 62,954,774 by Pakistan Railways on the award of contracts to different firms/companies under agreements.

Source told here on Friday that the said state-owned entity had entered into agreement with various firms/companies since the year 2006 whereby contracts for operating passenger trains were awarded through open auction; however, due withholding tax u/s 236A, of the Income Tax Ordinance, 2001 has not been collected/deposited by the Pakistan Railways from the contractors. An inquiry/ investigation has been conducted in this regard and default u/s 161 of the Income Tax Ordinance has been ascertained to the tune of Rs 62,954,774 along with default surcharge u/s 205 at Rs 1,505,294.

The investigation proceedings in the case were initiated on the basis of information about non-deposit of advance tax by the said state entity. The investigation revealed that the taxpayer outsourced Hazara Express and Fareed Express for Rs 1,050 million and Rs 932 million per annum respectively through two different contracts awarded to a company of Lahore.

The notice under section 176 of the Income Tax Ordinance, 2001 was issued requisitioning the detail of tax payment u/s 236A of the Income Tax Ordinance 2001. But the attitude of the Railways Authorities has all along been evasive in provision of evidence of tax collected from the contractor. One authority has been shifting responsibility of tax collection to the other and each one was not inclined to hand in the information sought for. Finally, the matter was taken up with the awardee of the contracts who intimated that he has been regularly depositing advance tax u/s 236A, to the assistant cashier, Pakistan Railways, Lahore, along with payments on account of services outsourced by the taxpayer.

During the period 10.08.2016 to 02.12.2016, the aforesaid contractor made payment of advance tax u/s 236A in respect of Hazara Express and Fareed Express. This fact stands established that the taxpayer collected advance tax from the contractor but did not deposit the same into the government exchequer deliberately. As such income tax amounting to Rs 62,954,774 (including default surcharge up to 20.12.2016) is recoverable from Pakistan Railways, Lahore, for recovery of which investigation report has been sent to the Chief Commissioner-IR, Lahore. Further inquiry/investigation on the same lines is under way against 04 other parties and the outcome will be communicated to LTU, Lahore, for further necessary action in due course of time, directorate of intelligence added. – *Courtesy Business Recorder*

‘ST will continue to be charged on supply of power to AJK’

The Federal Board of Revenue (FBR) has categorically conveyed to the Ministry of Water and Power that the sales tax would continue to be charged on supply of electricity to Azad Jammu & Kashmir (AJ&K) unless explicit amendment is made in the tax law. It is learnt that the issue came to light during the last meeting of FBR and Ministry of Water and Power on taxation issues of power sector entities.

On the other hand, Ministry of Water and Power is expected to refer the matter to the Economic Co-ordination Committee (ECC) or Federal Cabinet for exemption from sales tax on supply of electricity to AJ&K.

According to power distribution companies, the President on September 26, 2002 decided that electricity generated and supplied to AJ&K will be exempted from levy of sales tax. The FBR contended that in the absence of any formal orders/notification/amendment in respect of the aforesaid decision, sales tax will continue to be charged as per law. The field formations of FBR made out cases against non-levy of sales tax on supply of electricity to AJ&K. The appellate tribunal Inland Revenue (ATIR) Islamabad accepted the appeal of power distribution companies (DISCOs) regarding non-levy of sales tax which was subsequently set aside by the Islamabad High Court. Unless amendment is made in the law, sale tax will be charged as per law. However, the ministry may refer the matter to ECC/Federal Cabinet for an appropriate decision on the basis of cited agreement.

Due to amendments in section 113 of the Income Tax Ordinance, 2001, minimum tax is now charged even in the gross loss cases. The ministry suggested for review of the amendments. The FBR contended that the amendment was made through legislation, hence only the Parliament can undo it. The FBR categorically communicated that law on this account will take its course, the sources added. The meeting also discussed adjustment of Input Tax relating to Transmission and Distribution Losses. On this issue the distribution companies are of the view that losses occur in normal course of business for many reasons and the same are also approved by NEPRA, therefore, input tax adjustment should not be disallowed for this reason. The FBR did not agree to this point of view. As there was disagreement on interpretation and scheme of taxation, it was decided that the DISCOs may pursue the matter with relevant appellate fora. – *Courtesy Business Recorder*

KTBA seeks extension in tax return deadline

Karachi Tax Bar Association (KTBA) on Friday requested the Federal Board of Revenue (FBR) to extend the date of e-filing of corporate and non-corporate tax returns and statements till January 31, 2017. In a letter, sent to Finance Minister Ishaq Dar, the KTBA said that the date of e-filing of non-corporate tax returns and statements for the tax year 2016 had already been expired on December 15 last and the date of corporate tax returns was going to expire on December 31.

It cited that Bar had time and again informed the FBR about the difficulties and problems being faced by the taxpayers in e-filing of the tax returns 2016. It further said that although the efforts of FBR and PRAL in making the IRIS system efficient and workable were laudable, the system was still slow and was not up to the mark and was creating difficulties especially during the last hours.

The letter further said that IRIS system, which was malfunctioning till the end of October, 2016. It said that from November 1, 2016, system was relatively improved and since then, the taxpayers and tax consultants were striving to complete the job of filing of taxes. However, they remain unable to do so, due to slow functioning and the huge backlog of tax returns of the regular filers. Keeping all this in view, the KTBA requested the finance minister to extend the date of e-filing of corporate and non-corporate tax returns and statements till January 31, 2017 in order to facilitate the genuine tax-filers. – *Courtesy Business Recorder*

LHC sets aside tax notice to Tareen

The Lahore High Court has set aside a tax recovery notice issued to sugar mill of PTI's leader Jahangir Tareen for being illegal. The management of JDW Sugar Mills had challenged Rs 420 million tax recovery notice for the year 2011 issued by Commissioner Inland Revenue FBR, Lahore. The petitioner's argued that the sugar mill was situated in Multan and the commissioner of Lahore region had no power to recover tax from a unit situated outside his jurisdiction. The counsel alleged that the FBR issued the impugned notice at the behest of PML-N govt to victimise the PTI leader. – *Courtesy Business Recorder*

S.R.O. 1173(I)/2016, Islamabad, the 27th December, 2016.– The following draft of certain further amendments in the Income Tax Rules, 2002, which the Federal Board of Revenue proposes to make in exercise of the powers conferred by sub-section (1) of section 237 of the Income Tax Ordinance, 2001 (XLIX of 2001), is hereby published for the information of all persons likely to be affected thereby, as required by sub-section (3) of said section, and notice is hereby given that the draft shall be taken into consideration by the Federal Board of Revenue after seven days of its publication in the official Gazette.

Any objection or suggestion, which may be received from any person, in respect of the said draft, before the expiry of the aforesaid period, shall be considered by the Federal Board of Revenue.

DRAFT AMENDMENTS

In the aforesaid Rules, after Rule 231G, the following new rule shall be added, namely:–

“231H. Reduced rate of tax for Shari’ah compliant companies in terms of Sub-Clause (a) of clause (18B) of Part-II of the Second Schedule to the Ordinance.

To avail reduced rate of tax in terms of sub-clause (a) of clause (18B) of Part-II of the Second Schedule to the Ordinance the Shari’ah compliant criteria for a company, whose shares are traded on a stock exchange, shall be as follows:–

- (i) The business of the company should be Halal i.e. it shall not include processing or manufacturing of pork, liquor, non-Halal products, pornographic material or any other activity not permitted by Shari’ah.
- (ii) There should be Riba free financing on the balance sheet of the company, however, the company may be leveraged through Islamic modes of financing obtained from licensed Islamic financial institutions.
- (iii) All the investments made by the company should be one hundred percent Shari’ah compliant, therefore, it would not be permissible for the company to acquire non-Shari’ah compliant instruments/securities which yield interest or income that is not Halal.
- (iv) The company would be obliged to maintain free float of the company at 30% of the outstanding shares.”.

SRB-3-4/25/2016, Karachi, the 28th December, 2016.– In exercise of the powers conferred by sub-section (2) of section 30 of the Sindh Sales Tax on Services Act, 2011 (Sindh Act No. XII of 2011), the Sindh Revenue Board is pleased to direct that the following further amendment shall be made in its Notification No. SRB-3-4/10/2011 dated 18th October, 2011, namely:–

In the aforesaid notification, in the Table, at the end, the following shall be added, namely:–

4.	<p>Individuals, covered within the meaning of clause (a) of sub-section (63) of section 2 of the Sindh Sales Tax on Services Act, 2011, as are not engaged in providing or rendering any taxable services other than the renting of immovable property services (tariff heading 9806.3000):</p> <p style="padding-left: 40px;">Provided that the amount of tax due is paid by such individual person (service provider) by the 15th day of the month following the month to which it relates with reference to the provisions of sub-section (2) of section 17 of the Act.</p>	”.
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SRB-3-4/26/2016, Karachi, the 28th December, 2016.– In exercise of the powers conferred by sub-section (2) of section 8 of the Sindh Sales Tax on Services Act, 2011 (Sindh Act No. XII of 2011), the Sindh Revenue Board, with the approval of the Government, is pleased to direct that the sales tax on the services provided or rendered by the recruiting agents as are classified under tariff heading 9805.6000 of the Second Schedule to the said Act, shall be charged, levied and collected at a lower rate of 8% during the tax periods of the financial year 2016-17, subject to the conditions that such a service provider:–

- (a) is registered with the Board in terms of section 24 of the Act and has shown the services of “Recruiting agents” of tariff heading 9805.6000 as his Principal Activity in his Registration Form SST-01:

Provided that where the service provider is also provides any other taxable services as described in the Second Schedule to the Act, he shall *inter-alia* indicate the economic activity of such services in the relevant column of Activity Code of other Business Activities, as provided in the Registration Form SST-01;

- (b) is a stand-alone service provider of the taxable service of “recruiting agents” of tariff heading 9805.6000.

Explanation: For the purposes of this notification, a “stand-alone service provider” means a person whose principal activity is the provision of services of “Recruiting agents” of tariff heading 9805.6000, and whose economic activity of the provision of the services of recruiting agency is also restricted to recruitment of individuals or group of individuals for overseas employment in countries outside Pakistan:

Provided that the services provided or rendered by such recruiting agents in relation to recruitment of individuals or group of individuals for employment in Pakistan shall continue to be levied to tax at the statutory rate of 13 *per cent*;

- (c) e-files his tax returns (Form SST-03) regularly, in the prescribed manner, showing the details of his services liable to statutory rates of tax and to reduced rates of tax, separately:

Provided that the tax returns for the tax periods July, 2016 to November, 2016, if not filed earlier, may be e-filed on or before the 16th January, 2017;

- (d) e-deposits his tax liability on the taxable services regularly in the prescribed manner:

Provided that the tax liability for the tax periods July, 2016 to November, 2016, if not paid earlier, may be e-deposited in Sindh Government’s head of account “B-02384” in the prescribed manner by the 12th January, 2017; and

- (e) complies with the provisions of the Sindh Sales Tax on Services Act, 2011, and the rules and notifications issued thereunder in relation to the taxable services received or procured by him and also in relation to the taxable services provided or rendered by him.

2. This notification shall not entitle any person, whether a service provider or a service recipient, to any refund or adjustment of tax.

3. This notification shall stand rescinded at 23:59 hours of the 30th day of June, 2017.

C.No.4(72)IT-Budget/2015-159602-RIslamabad, the 27th December, 2016Subject: **Income tax proposals for budget 2017-18.**

Federal Board of Revenue has initiated formulation of proposals for Finance Bill/Budget 2017-18. In order to benefit from collective wisdom of the general public and all the stake holders including Chambers of Commerce & Industry, bodies of trade and industry, provincial bodies and regulatory authorities, proposals are invited for the upcoming Budget 2017-18.

2. Your input/suggestions on the following format shall be highly appreciated as a genuine contribution towards improvement of tax policy:–

Section/Schedule of the Ordinance	Existing Law	Proposed Amendment	Rationale	Revenue Impact
(1)	(2)	(3)	(4)	(5)

3. It is requested that these proposals may be provided by **15.01.2017**. The proposals may also be e-mailed in MS Word/Excel format on the following e-mail addresses:–

- i. **secy.itb@fbr.gov.pk**
- ii. **sardar_syedpk@yahoo.com**
- iii. **mbhatti42@gmail.com**

(Reema Masud)
Secretary (IT-Budget)
