PSBA FEDERAL BUDGET PROPOSALS

FY 2021-22

PAKISTAN
STOCK BROKERS
ASSOCIATION

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INTRODUCTION

Pakistan Stock Brokers Association (PSBA) is a representative body of Trading Right Entitlement Certificate Holders/Stock Brokers of Pakistan Stock Exchange Ltd (PSX)., formed with objectives to serve as an effective platform for the members of the Association, where collective and coordinated efforts are made to resolve the industry wide issues and to promote and represent the stock brokerage industry. To protect the interest of its member companies and to provide an effective forum where the common issues may be raised and resolved. Facilitation to succeed through an effective and appropriate counseling and to create conducive working environment, based on trust and reliability, is the core principle.

Representation of the Stock Broking industry on policy and issues with the Federal Govt. Provincial Govt., Local Govt. and Regulatory Agencies, to achieve a supportive regulatory environment, are the core objectives of the Association.

The document contains tax recommendations as well as sector-wise proposals for consideration of the government and to help them prepare a Capital Market, Business and Investor friendly budget. The intention is to request to provide incentives for Capital Formation and to remove disincentives, which is more essential for Pakistan Corporate, in order to compete effectively in the world. Capital Market plays a vital role in an economy. There can be no economically successful Pakistan without a vibrant Capital Market. These proposals are also focused on some impediments in growth of market, and anomalies hurting the depth of the Stock Market.

Core principles of the proposals are to promote the investment culture, to encourage the investors, and to incentivize the direct investors in the Capital Market.

1. **DEFINITION OF THE TERM SECURITY - SECTION 37A OF INCOME TAX (IT) ORDINANCE, 2001**

The newly added section **37A (3B)** has not resolved the issue, as to how the holding period of a security is to be determined. The below explanation not only attends to that issue but also to the issue of the term "security".

In view of nature of amendment in the form of "explanation" the question of its retrospective application also does not arise.

Once the below explanation is added, the newly added section **(3B)** may be deleted being redundant.

PROPOSAL

(I) **To save the Pakistan's Capital Market, an explanation (proposed below) may be got added to section 37A (3) of the IT Ordinance, 2001 so that the damage may be controlled. And, the newly added section (3B) may be deleted being redundant.**

EXPLANATION

"For removal of doubt, it is clarified that for the purposes of this section, share of a company, disposed of in a tax year for which the company has the status of a public company, "becomes a security" with effect from the date of acquisition, irrespective of the status of said company at the time of the acquisition of the said share."

2. **APPORTIONMENT OF DEDUCTIONS - SECTION 67 OF IT ORDINANCE, 2001**

As no effort is involved in earning passive incomes no expenditures, deductions and allowances may be attributed to such income. It is therefore proposed that the following proviso need to be added at the end of section **67(1)**.

PROPOSAL

PROVISOS

(i) **Provided that this section shall not apply to passive incomes such as dividend, profit on debt.**

3. CAPITAL GAIN TAX – SECTION 37A OF IT ORDINANCE, 2001

The present rate at 15% for filers and 30% for non-filers is exorbitant and amounts to discouraging investment in Capital Market.

To encourage investment in stocks for longer periods, there should be no tax where holding period is equal to or exceeds 3 years.

PROPOSAL

(I) **It is proposed to align the rates of Capital Gain Tax on disposal of securities in stock market with rates applicable to the mutual fund industry**

(II) **It is proposed to bring down the current rate of 15% on disposal of securities in Deliverable Futures Contract (DFC) market of Pakistan Stock Exchange (PSX) in line with 5% in Pakistan Mercantile Exchange (PMEX) as this futures market is the same as the DFC market of PSX.**

(III) **It is proposed to incentivize the investors by spreading CGT on other markets except DFC as per following slabs:**

Where holding period is less than a year	10%
Where holding period is less than two(2) years but more than or equal to one(1) year	7.5%
Where holding period is less than three(3) years but more than or equal to two(2) years	5%
Where holding period is equal to three(3) years or more	0%

4. CAPITAL GAIN TAX – NON-RESIDENT PAKISTANIS

It is cumbersome for non-resident Pakistanis to file returns in the absence of any other source of income. As such for investment in stocks they may be treated at par with the filers.

This would encourage remittance of foreign exchange to Pakistan and investment in Capital Market and thus more revenue. It will also enable non-resident Pakistanis to avail the Roshan Digital (RD) Account regime when they are treated at par with the filers.

PROPOSAL

(I) **Capital Gain Tax u/s 37A applicable to filers may be made applicable to Non-Resident Pakistanis. Suitable amendment in IT Ordinance, 2001, to give effect to this proposal, may please be made.**

5. CARRY FORWARD OF LOSSES – SECTION 37A READ WITH SECTION 58 & 59 OF IT ORDINANCE, 2001

If the carry forwarded of losses is allowed for 6 years as in other businesses, it would encourage investment in Capital Market which in turn would expedite the process of industrialization.

The amendment would not only increase FBR's revenue but would also expedite the process of industrialization. "**More business activity, more revenue for FBR**"

PROPOSAL

(I) **Carry forward of losses, as in other businesses may please be allowed for 6 years rather than for 3 years as given in Sec 37A (5th proviso).**

6. TAX REFUNDS – SECTION 170 OF IT ORDINANCE, 2001

Advance taxes/Withholding taxes are in the nature of "**amanat/trust**"from tax payer to FBR. Non-refund of payments, received by FBR in excess of tax liability for a year is a breach of trust. For last 10 years FBR is withholding refunds without any moral/legal basis. Capital of persons in business is stuck with FBR. To make its system fair/just refunds refund may please be paid as soon as an assessment is complete.

It would improve the image of FBR, as a fair & just organization in the eye of people. It would have a magical effect on compliance of tax laws by tax payers.

PROPOSAL

Amount determined as refundable for a Tax Year shall be paid to the tax payer as soon as its /his assessment is complete.

7. TAX ON DIVIDENDS - SECTION 5 OF IT ORDINANCE, 2001

This will incentivize small investors and encourage investment in the Stock Market.

PROPOSAL

(I) **The tax rate is 25% in case of a person receiving dividend from a company where no tax payable by such company due to exemption of income or carry forward of business losses or claim of tax credit, thus 50% for non-filers which is more than normal tax regime of 29%. It is therefore proposed that the tax rate being exorbitant for such a category may be reduced.**

(II) **In order to incentivize small investors, the following proviso may please be added**

PROVISO

(i) **Provided that there should be no withholding tax for individuals on dividends up to Rs. 600,000/- per annum**

8. OFFENCES AND PENALTIES - SECTION 182 OF IT ORDINANCE, 2001

Previously minimum penalty for the default used to be Rs. 25,000/-. In Finance Act, 2019 minimum penalty has been enhanced to Rs. 40,000/-. Most compliant tax payers become victim of minimum penalty. The law is favorable to habitual and big defaulters. It has become a tool of blackmailing in the hands of field staff.

Doing away with the minimum penalty shall save the compliant tax payers from harsh/un-fair treatment at the hands of IRS.

PROPOSAL

(I) **It may be amended as under:**
Such person shall pay a penalty at the rate of 10% of the amount of tax not collected or deducted or fails to pay the tax collected or deducted as required u/s 160.

9. REDUCTION OF WITHHOLDING TAX ON INCOME FROM MARGIN FINANCING (MF) TRANSACTIONS

The cost involved in Margin Financing includes financial cost payable to financial institution, trading, clearing and depository charges and other administrative cost which render that the amount deducted as advance tax could not be fully adjusted against the tax liability of most brokers leading towards claims for tax refunds that are not time bound.

Presently, the rate of tax on gross income of the Financier is 10% without deduction of any expenditure to earn such income.

The proposed reduction in the rate of tax on MF transactions will help developing the market and will certainly increase tax collection by FBR because ten years back, the size of similar market for margin transactions was several times higher.

PROPOSAL

(I) **It is proposed to reduce the rate of withholding tax on the gross income earned on MF transactions from 10% to 2.5%; or**

(II) **To charge 10% on the net income earned on such financing.**

10. TAX ON BROKERAGE AND COMMISSION - SECTION 233 OF IT ORDINANCE, 2001

PROPOSAL

(I) **In order to reduce cost of doing business, it is proposed that the tax u/s 233 may please be reduced to 3% as in the case of rendering of or providing of services by Pakistan Stock Exchange and Pakistan Mercantile Exchange.**

11. DOUBLE/TRIPLE TAXATION

Dividend is paid-out of tax-paid income of the company, tax on dividend amounts to double taxation of the same income. Present tax rate on dividend are confiscatory in nature and has discouraged investment in stocks which in turn is disastrous to promote corporate culture.

Government should introduce a mechanism to remove double/triple taxation of company's profits;

(i) Once in the hands of the company; and
(ii) Second in the hands of shareholders as dividends on same income as a tax on dividend.

In some cases this comes as triple taxation:

(i) Once in the hands of the company;
(ii) Second in the hands of sister concerned as dividends on same income as a tax on dividend; and
(iii) Third time in the hands of shareholders as dividends on same income as a tax on dividend.

PROPOSAL

(I) **Tax on Dividend may please be abolished.**

PROPOSALS IN THE FORMAT AS REQUIRED UNDER NOTICE C.NO. 4(72) IT-BUDGET/2015-6255-R DATED JANUARY 13, 2021

S.No.	Section/ Clause/ Rule	Proposed Amendment	Rationale	Impact
1	37A	An explanation is required to be added with Section 37A(3) **Explanation** For removal of doubt, it is clarified that for the purposes of this section, share of a company, disposed of in a tax year for which the company has the status of a public company, "becomes a security" with effect from the date of acquisition, irrespective of the status of said company at the time of the acquisition of the said share.	The newly added section **37A (3B)** has not resolved the issue, as to how the holding period of a security is to be determined. The below explanation not only attends to that issue but also to the issue of the term "security". In view of nature of amendment in the form of "explanation" the question of its retrospective application also does not arise.	The amendment would increase collection of FBR through automated system of NCCPL. Shares of a listed company shall start getting one treatment under the tax law.
2	67	It is proposed that the following provisos need to be added at the end of section 67(1). Provided that this section shall not apply to passive incomes such as dividend, profit on debt.	As no effort is involved in earning passive incomes no expenditures, deductions and allowances may be attributed to such income.	The change would save tax payers from harassment and would create goodwill for FBR in the hearts of people.

3	37A	It is proposed to align the rates of Capital Gain Tax on disposal of securities in stock market with rates applicable to the mutual fund industry It is proposed to bring down the current rate of 15% on disposal of securities in Deliverable Futures Contract (DFC) market of Pakistan Stock Exchange (PSX) in line with 5% in Pakistan Mercantile Exchange (PMEX) as this futures market is the same as the DFC market of PSX. It is proposed to incentivize the investors by spreading CGT on other markets except DFC as per following slabs: Where holding period is less than a year — 10% Where holding period is less than two(2) years but more than or equal to one(1) year — 7.5% Where holding period is less than three(3) years but more than or equal to two(2) years — 5% Where holding period is equal to three(3) years or more — 0%	The present rate at 15% for filers and 30% for non-filers is exorbitant and amounts to discouraging investment in Capital Market. To encourage investment in stocks for longer periods, there should be no tax where holding period is equal to or exceeds 3 years.	The amendment would not only increase FBR's revenue but would also expedite the process of industrialization.
4	37A	Capital Gain Tax u/s 37A applicable to filers may be made applicable to Non-Resident Pakistanis. Suitable amendment in IT Ordinance, 2001, to give effect to this proposal, may please be made	It is cumbersome for non-resident Pakistanis to file returns in the absence of any other source of income. As such for investment in stocks they may be treated at par with the filers.	This would encourage remittance of foreign exchange to Pakistan and investment in Capital Market and thus more revenue. It will also enable non-resident Pakistanis to avail the Roshan Digital Account regime when they are treated at par with the filers.
5	37A read with 58&59	Carry forward of losses, as in other businesses may please be allowed for 6 years rather than for 3 years as given in Sec 37A (5^{th} proviso)	If the carry forwarded of losses is allowed for 6 years as in other businesses, it would encourage investment in Capital Market which in turn would expedite the process of industrialization.	The amendment would not only increase FBR's revenue but would also expedite the process of industrialization. "**<u>More business activity, more revenue for FBR</u>**"

6	170	Amount determined as refundable for a Tax Year shall be paid to the tax payer as soon as its/his assessment is complete.	Advance taxes/Withholding taxes are in the nature of "**amanat/trust**"from tax payer to FBR. Non-refund of payments, received by FBR in excess of tax liability for a year is a breach of trust. For last 10 years FBR is withholding refunds without any moral/legal basis. Capital of persons in business is stuck with FBR. To make its system fair/just refunds may please be paid as soon as an assessment is complete.	It would improve the image of FBR, as a fair & just organization in the eye of people. It would have a magical effect on compliance of tax laws by the tax payers.
7	5	The tax rate is 25% in case of a person receiving dividend from a company where no tax payable by such company due to exemption of income or carry forward of business losses or claim of tax credit, thus 50% for non-filers which is more than normal tax regime of 29%. It is therefore proposed that the tax rate being exorbitant for such a category may be reduced. In order to incentivize small investors, the following proviso may please be added ***PROVISO*** Provided that there should be no withholding tax on dividends up to Rs. 600,000/- per annum.	This will incentivize small investors and encourage investment in the Stock Market.	Reduce in tax rate would generate more investment in stocks and thus more revenue for the Federal Government.

S. No.	Section/ Clause/ Rule	Proposed Amendment	Rationale	Impact
8	182	It may be amended as under: Such person shall pay a penalty at the rate of 10% of the amount of tax not collected or deducted or fails to pay the tax collected or deducted as required u/s 160	Previously minimum penalty for the default used to be Rs. 25,000/-. In Finance Act, 2019 minimum penalty has been enhanced to Rs. 40,000/-. Most compliant tax payers become victim of minimum penalty. The law is favorable to habitual and big defaulters. It has become a tool of blackmailing in the hands of field staff.	Doing away with the minimum penalty shall save the compliant tax payers from harsh/un-fair treatment at the hands of IRS.
9	W/H Tax on MF Transa-ctions	It is proposed to reduce the rate of withholding tax on the gross income earned on MF transactions from 10% to 2.5%; or To charge 10% on the net income earned on such financing.	The cost involved in Margin Financing includes financial cost payable to financial institution, trading, clearing and depository charges and other administrative cost which render that the amount deducted as advance tax could not be fully adjusted against the tax liability of most brokers leading towards claims for tax refunds that are not time bound. Presently, the rate of tax on gross income of the Financier is 10% without deduction of any expenditure to earn such income.	The proposed reduction in the rate of tax on MF transactions will help developing the market and will certainly increase tax collection by FBR because ten years back, the size of similar market for margin transactions was several times higher.
10	233	In order to reduce cost of doing business, it is proposed that the tax u/s 233 may please be reduced to 3% as in the case of rendering of or providing of services by Pakistan Stock Exchange and Pakistan Mercantile Exchange.	-	-

11	DOUBLE TAXATION	Tax on Dividend may please be abolished.	Dividend is paid-out of tax-paid income of the company, tax on dividend amounts to double taxation of the same income. Present tax rate on dividend are confiscatory in nature and has discouraged investment in stocks which in turn is disastrous to promote corporate culture. Government should introduce a mechanism to remove double/triple taxation of company's profits; (iii) Once in the hands of the company; and (iv) Second in the hands of shareholders as dividends on same income as a tax on dividend. In some cases this comes as triple taxation: (iv) Once in the hands of the company; (v) Second in the hands of sister concerned as dividends on same income as a tax on dividend; and (vi) Third time in the hands of shareholders as dividends on same income as a tax on dividend.	-