

# SENATE OF PAKISTAN

REPORT NO.26 OF 2020



*House of the Federation*

**REPORT OF THE STANDING COMMITTEE ON FINANCE,  
REVENUE AND ECONOMIC AFFAIRS**

**ON**

**THE TAX LAWS (AMENDMENT) BILL, 2019,**

**PRESENTED BY:**

**SENATOR FAROOQ HAMID NAEK**

## SENATE SECRETARIAT

### **REPORT OF THE STANDING COMMITTEE ON FINANCE, REVENUE, AND ECONOMIC AFFAIRS ON THE TAX LAWS (AMENDMENT) BILL, 2019**

I, Senator Farooq Hamid Naek, Chairman, Standing Committee on Finance, Revenue and Economic Affairs, have the honour to present, on behalf of the Committee, this report on a Bill further to amend certain tax laws, [The Tax Laws (Amendment) Bill, 2019], laid on the table of the House on 4<sup>th</sup> March, 2020, under Article 73 of the Constitution for making recommendations, if any, thereon to the National Assembly and referred to the Standing Committee for consideration and report.

2. The composition of the Standing Committee is given as under: -

(1)	Senator Farooq Hamid Naek	Chairman
(2)	Senator Syed Shibili Faraz	Member
(3)	Senator Ayesha Raza Farooq	Member
(4)	Senator Mushahid Ullah Khan	Member
(5)	Senator Musadik Masood Malik	Member
(6)	Senator Dilawar Khan	Member
(7)	Senator Muhammad Akram	Member
(8)	Senator Muhammad Talha Mahmood	Member
(9)	Senator Imam-ud-Din Shouqeen	Member
(10)	Senator Mohsin Aziz	Member
(11)	Senator Mian Muhammad Ateeq Shaikh	Member
(12)	Senator Anwar ul Haq Kakar	Member
(13)	Senator Sherry Rehman	Member
(14)	Advisor the Prime Minister for Finance and Revenue	Ex-Officio Member



3. The Committee considered the said Bill in its meeting held on 10<sup>th</sup> March, 2020, at Parliament House, Islamabad. The meeting of the Committee was attended by the following Senators:-

(1)	Senator Farooq Hamid Naek	Chairman
(2)	Senator Mohsin Aziz	Member
(3)	Senator Mian Muhammad Ateeq Shaikh	Member
(4)	Senator Anwar ul Haq Kakar	Member
(5)	Senator Dilawar Khan	Member
(6)	Senator Mushahid Ullah Khan	Member
(7)	Senator Imam-ud-Din Shouqeen	Member
(8)	Senator Muhammad Akram	Member

4. At the outset, the Chairman Committee inquired whether the said Bill deemed to be money Bill as provided in Article 73 (2) of the Constitution of Pakistan, 1973 or otherwise. The Member (Customs), FBR responded that the said Bill contains the remission of taxes, therefore, it is a Money Bill as provided in Article 73 (2) (a) of the Constitution of Pakistan, 1973 which deals with the imposition, abolition, remission, alteration or regulation of any tax. He further informed that the Customs Act already has given concession to the equipments, materials, plant machinery imported by the concession holder, its operating companies and contractors and sub-contractors for forty years, however, now through this Bill the words Gawadar International Terminal and Gawadar Marines Services Limited, their contractors and sub-contractors are inserted. He further explained that these amendments have been moved after discussion and deliberation with Maritime Ministry and in compliance of concession agreement with Chinese Government.

5. The Chairman Committee briefed the participants of the meeting regarding definition of the word remission given in the Black's Law Dictionary. He read out the meaning of word **remission** "A cancellation or extinguishment of all or part of a



*financial obligation*". He further was of the view that the amendments containing in the said Bill are not remission but these amendments are exemption of tax for forty years, whereby he read out the meaning of word **exemption** as given in the Black's Law Dictionary which means "*Freedom from a duty, liability or other requirement*", therefore, it transpired to the Committee that the said Bill does not fall within the purview of Money Bill as it deals with the exemptions of taxes instead of remission of taxes, as provided in Article 73 (2) (a) of the Constitution of Pakistan 1973. All the Members of the Committee agreed with the explanation given by the Chairman Committee.

6. While seeking views of the M/o Law about the definition of remission and exemption, the Committee expressed its displeasure for not attending the meeting by Secretary Law or any other senior officer not below the rank of an Additional Secretary. In response, Mr. Abid Ali, Deputy Draftsman, M/o Law said that Secretary Law could not attend the meeting due to his personal hearing before the High Court of Sindh. Regarding views on remission and exemption, he said that he is not prepared in this regard and can not explain the said definitions.

7. Senators Mohsin Aziz and Mian Muhammad Ateeq Shaikh were of the view that the exemption of tax should be project bound, material bound and contractor bound, however, exemption should be given for plants, equipments and machinery for the development of Gawadar Port. The exemptions should not be given for construction material which are produced locally and also as if these materials are imported duty free their leakage to the Pakistan market from these free zones cannot be ruled out. Senator Dilwar Khan was of view that the proposed exemptions in the said Bill could be misused as being misused in the result of SRO.No.517 issued for the exemption of taxes in Gadoon Amazai.



8. After due deliberation, the Committee decided that the exemption is not a remission, therefore, the said Bill does not fall within the purview of Money Bill and **Committee unanimously recommends that the Tax Laws (Amendment) Bill 2019, does not fall within the purview of Article 73 (2) of the Constitution, therefore, the said Bill may be withdrawn by Government and the same be brought under Article 70 of the Constitution of Pakistan 1973.**

9. The Bill as laid in the Senate is annexed



**(HYDER ALI)**  
JS/Secretary (Committee)



**(SENATOR FAROOQ HAMID NAEK)**  
Chairman (Committee)

Islamabad, the  
10<sup>th</sup> March, 2020

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Part-I, dated the 8<sup>th</sup> October, 2019]

ORDINANCE NO. XIII OF 2019

AN

ORDINANCE

*further to amend certain tax laws*

WHEREAS it is expedient further to amend tax  
laws for the purposes hereinafter appearing;

AND WHEREAS, the Senate and the National Assembly are not in session and the President of the Islamic Republic of Pakistan is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:—

1. **Short title and commencement.**—(1) This Ordinance may be called the Tax Laws (Amendment) Ordinance, 2019.

(2) It shall come into force at once.

2. **Amendment of the Customs Act, 1969 (Act IV of 1969).**—In the Customs Act, 1969 (IV of 1969), in the First Schedule, in Chapter 99, in sub-chapter-V, in column (1), against PCT Code 9917,—

(i) in column (2), in paragraph (3), the following amendment shall be made, namely:—

(a) in sub-paragraph (i), for the word “and”, occurring for third time, the expression “, including Gwadar International Terminals Limited and Gwadar Marine Services Limited and their” shall be substituted;

(b) in sub-paragraph (ii), for the words, “the ships used in the port and its terminals”, the words “all visiting ships including foreign and local and fishing vessels at Gwadar Port”, shall be substituted; and

(c) for sub-paragraph (iv), the following shall be substituted, namely:—

(iv) Imports by the following businesses to be established in the Gwadar Free Zone Area for a period of 23 years with effect from 1st July, 2016, packaging, distribution, stuffing and de-stuffing, CFS, container yard, warehousing including cool and cold rooms, trans-shipment, labeling, light end assembly and re-assembly, imports and exports/value added exports, value adding of imports, other similar or related businesses activities and such commercial activities as are required to support the free zone.”

3. **Amendments of the Sales Tax Act, 1990.**—In the Sales Tax Act, 1990, the following further amendments shall be made, namely:—

- (1) In the Fifth Schedule, in the Table, in column (1) after Serial Number 12 and the entries relating thereto in column (2), the following new Serial Numbers and entries relating thereto shall be added, namely:—

"13.	Supplies of raw materials, components and goods for further manufacture of goods in the Gwadar Free Zone and export thereof, provided that in case of supply to tariff area of Pakistan, tax shall be charged on the value assessed on the Goods Declaration for import
14	<p>Supplies of locally manufactured plant and machinery of the following specifications, to manufacturers in the Gwadar Free Zone, subject to the conditions, restrictions and procedure given below, namely:—</p> <ul style="list-style-type: none"><li>(i) Plant and machinery, operated by power of any description, as is used for the manufacture or production of goods by that manufacturer;</li><li>(ii) Apparatus, appliances and equipment specifically meant or adapted for use in conjunction with the machinery specified in clause (i);</li><li>(iii) Mechanical and electrical control and transmission gear, meant or adapted for use in conjunction with machinery specified in clause (i); and</li><li>(iv) Parts of machinery as specified in clauses (i), (ii) and (iii), identifiable for use in or with such machinery.</li></ul> <p><u>Conditions, restrictions and procedures:-</u></p>
	<ul style="list-style-type: none"><li>(a) the supplier of the machinery is registered under the Act;</li><li>(b) proper bill of export is filed showing registration number;</li><li>(c) the purchaser of the machinery is an established manufacturer located in the Gwadar Free Zone and holds a certificate from the Gwadar Port Authority to that effect;</li></ul>



<p>(d) the purchaser submits an indemnity bond in proper form to the satisfaction of the concerned Commissioner Inland Revenue that the machinery shall, without prior permission from the said Commissioner, not be sold, transferred or otherwise moved out of the Gwadar Free Zone before a period of five years from the date of entry into the Zone;</p> <p>(e) if the machinery is brought to tariff area of Pakistan outside Gwadar Free Zone, sales tax shall be charged on the value assessed on the Goods Declaration for import; and</p> <p>(f) breach of any of the conditions specified herein shall attract legal action under the relevant provisions of the Act, besides recovery of the amount of sales tax along-with default surcharge and penalties involved.”;</p>
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(2) In the Sixth Schedule,—

(a) in Table-1, in column (1),—

(i) against Serial Number 100A, in column (2),—

(A) after the words “Gwadar Port”, occurring for the third time, the expression, “by the aforesaid operating companies” shall be inserted; and

(B) under “Conditions and procedure for imports”, in condition (iii),—

(1) after the word “imported”, the expression “and also those already imported under Notification No.115(I)/2008, dated 6th February, 2008,” shall be inserted; and

(11) for the words “time of import”, the words “applicable rate on residual value” shall be substituted; and

(ii) after Serial Number 100C and entries relating thereto in columns (2) and (3), the following new Serial Number and entries relating thereto shall be added, namely:—

"100D	Machinery, equipment, materials and goods imported either for exclusive use within the limits of Gwadar Free Zone, or for making exports therefrom, subject to the conditions that such machinery, equipment, materials and goods, are imported by investors of Gwadar Free Zone, and all the procedures, limitations and restrictions as are applicable on such goods under the Customs Act, 1969 (Act IV of 1969) and rules made thereunder shall, <i>mutatis mutandis</i> , apply. Provided also that if any of such goods is taken out of the Zone for purpose other than the export, the tax on the same shall be paid by the importer.	Respective headings."
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4. **Amendment of Income Tax Ordinance, 2001 (XLIX of 2001).**—  
In the Income Tax Ordinance, 2001 (XLIX of 2001), in the Second Schedule, in Part I,—

- (a) in clause (126A), after the words "Gwadar Port", the words "and Gwadar Free Zone" shall be inserted;
- (b) in clause (126AB), in paragraph (b), after the expression "China Overseas Ports Holding Company Limited,", the expression "China Overseas Port Holding Company Pakistan (Private) Limited, Gwadar International Terminals Limited, Gwadar Marine Services

Limited and Gwadar Free Zone Company Limited" shall be inserted; and

- (c) in clause (126AC), after the words "Gwadar Port" the words "and Gwadar Free Zone" shall be inserted.

### STATEMENT OF OBJECTS AND REASONS

The purpose of this bill is to lay the Tax Laws (Amendment) Ordinance, 2019 (XIII of 2019) in the national assembly under subparagraph (i) of paragraph (a) of clause (2) of Article 73 of the Constitution of the Islamic Republic of Pakistan, 1973.

2. The amendments are being introduced with immediate effect through promulgation of Ordinance which seeks amendments in certain tax laws to remove impediments in the implementation of the Concession Agreement in respect of Gwadar Port and Gwadar Free Zone.

**Dr. Abdul Hafeez Shaikh  
Adviser to the Prime Minister  
on Finance and Revenue**