

# **FEDERAL EXCISE ACT 2005**

## **(Significant Amendments)**

### ***Dutiable Goods***

Definition of the term is inserted through clause (8b) in section (2) of the Act which is proposed to mean all excisable goods specified in the First Schedule except those which are exempt under section (16) of the Act.

### ***Dutiable supply***

Definition of the term is inserted through clause (8c) in section (2) which means a supply of dutiable goods made by a manufacturer other than a supply of goods which is exempt under section (16) of the Act.

### ***Dutiable services***

Definition of the term is inserted through clause (8d) which means all excisable services specified in the First Schedule except those which are exempt under section (16) of the Act.

### ***Non-fund banking services***

A new clause (16a) is proposed to be inserted in section (2) to define the term “*non-fund banking services*” which includes all non-interest based services provided or rendered by the banking companies or non-banking financial institutions against a consideration in the form of a fee.

### ***Sales tax mode***

A new clause (21a) is proposed to be inserted in section (2) to define the term “*sales tax mode*” to mean the manner of collection and payment under the Sales Tax Act, 1990, and rules made there under, of the duties of excise chargeable under this Act specified to be collected and paid as if such duties were tax chargeable under section 3 of the said Act and all the provisions of that Act and rules, notifications, orders and instructions made or issued there under shall, *mutatis mutandis*, apply.

### ***Supply***

A new clause (23a) is proposed to be inserted in section (2) to define the term “*supply*” to include sale, lease or other disposition of goods and shall include such transaction as the Federal Government may notify in the official Gazette from time to time.

### ***Liability to pay duty***

By the insertion of a new subsection (5) in section (3) to explain the liability of payment of duty, which shall be:

- (a) in case of goods produced or manufactured in Pakistan, of the person manufacturing or producing such goods;
- (b) in case of goods imported into Pakistan, of the person importing such goods;
- (c) in case of services provided or rendered in Pakistan, of the person providing or rendering such service; and
- (d) in case of goods produced or manufactured in non-tariff areas and brought to tariff areas for sale or consumption therein, of the person bringing or causing to bring such goods to tariff areas.

#### ***Deposit of duty due***

Mode of deposit of duty due is amended through a substitution of subsection (2) in section (4) which requires the dutiable supplies made or services rendered during a month to be deposited by the registered person in the designated branch of the bank at the time of filing of his return under sub-section (1). Previously the deposit had to be made in the designated branch of the bank on the prescribed challan on the last day of the month during which clearances of goods are made.

#### ***Short paid amounts recoverable without notice***

A new section (14a) is inserted to explain the recovery of short paid amounts which requires the recovery of short paid amounts along with the default surcharge, by stopping removal of any goods from his business premises and through attachment of his business bank accounts, from a registered person who pays the amount of duty less than the duty due as indicated in his return.

Provided that no penalty under this Act or rules made there under shall be imposed unless a show cause notice is given to such person. This proviso actually corresponds to a similar proviso of sales tax act (11A)

#### ***Time limit to decide the appeal***

The proposed amendment in section 33 seeks to fix the time limit for Collector (Appeals) to decide the appeal through the insertion of a new proviso which require that such order shall be passed not later than ninety days from the date of filing of appeal or within such extended period, not exceeding ninety days, as the Collector (Appeals) may, for reasons to be recorded in writing, extend”

### *Alternative dispute resolution*

The proposed insertion further elaborates the working procedures of ADR. The proposed amendment in section 38, entail the following substitution:

- (1) Notwithstanding any other provisions of this Act, or the rules made thereunder, any registered person aggrieved in connection with any dispute pertaining to,—
  - (a) the liability of excise duty against the registered person or, as the case may be, admissibility of refunds;
  - (b) the extent of waiver of default surcharge and penalty;
  - (c) the confiscation of goods;
  - (d) relaxation of any procedural or technical irregularities and condonation of any prescribed time limitation; and
  - (e) any other specific relief required to resolve the dispute, may apply to the Central Board of Revenue for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application and such dispute is under litigation in any Court of law or an Appellate authority, except in the cases where FIRs have been lodged under this Act or criminal proceedings initiated or where interpretation of question of law having larger revenue impact in the opinion of the Central Board of Revenue is involved, may apply to the Central Board of Revenue for the appointment of a Committee for the resolution of dispute in appeal and only such application may be entertained for dispute resolution under the provisions of this section.
- (2) The Board may, after examination of the application of a registered person, appoint a committee within thirty days of receipt of such application in the Board, consisting of an officer of Federal excise not below the rank of an Additional Collector and two persons from the notified panel consisting of retired Judges not below District and Sessions Judge, chartered or cost accountants, advocates, representatives of trade bodies or associations, or any other reputable taxpayers, for the resolution of dispute.
- (3) The Committee constituted under sub-section (2) shall examine the issue and may, if it deems necessary, conduct inquiry, seek expert opinion, direct any officer of Federal excise or any other person to conduct an audit and make recommendations within sixty days of its constitution, in respect of the resolution of the dispute as it may deem fit:

Provided that the period of sixty days stipulated for making the recommendations may be extended by the Board for another sixty days on specific request of the Committee.

- (4) The Board may, on the recommendation of the Committee, pass such order, as it may deem appropriate.
- (5) The registered person may make payment of duty and other taxes as determined by the Board in its order under sub-section (4), and such order of the Board shall be submitted before the forum, tribunal or the Court where the matter is *sub-judice*, for consideration and orders as deemed appropriate.

### ***Federal Board of Revenue***

Through the insertion of a new section (49) the term “Federal Board of Revenue” is defined. Any reference to the Central Board of Revenue, wherever occurring in the Federal Excise Act, 2005, and the Rules or notifications or other statutory instruments made thereunder, shall be construed as a reference to the Federal Board of Revenue from the date when the Federal Board of Revenue Act, 2007, comes into force.

### ***Abolition of excise duty on motor gasoline and jet fuel***

In order to rationalize the taxation on POL products, excise duty @ Rs. 88/- paisas per litre on motor gasoline and Rs. 6/- paisas per litre on jet fuel has been abolished. The products remain chargeable to sales tax

### ***Abolition of excise duty on petroleum bitumen***

To fulfill the increasing demand of bitumen in the country due to extensive roads construction, it is important to make the imported bitumen compatible with locally produced bitumen. Therefore, excise duty @ Rs. 2000/- PMT on bitumen has been abolished. Customs duty is also being revised downwards.

### ***Abolition of excise duty on exchange companies and health insurance***

To promote the flow of remittances through official channels, excise duty @ 5% on exchange companies has been abolished. Moreover, to provide level playing field to non-life insurance companies in the field of health insurance vis-à-vis life insurance companies, excise duty leviable @ 5% on health insurance has been abolished.

### ***Abolition of excise duty on cable TV operators***

To boost the media industry and to provide cheaper entertainment to the general public, excise duty @ Rs. 8/- per connection per month leviable on cable TV operators has been abolished.

***Extension of scope of excise duty on financial services***

The existing levy of excise duty @ 5% on non-fund banking services is being extended to include all non-fund services except cheque book issuance charges, Umra and Hajj service charges, cheque return charges and utility collection charges.

***Rationalization of excise duty on international air travel***

For the facilitation of passengers various levies on international air travel i.e. excise duty, foreign travel tax and Government airport tax are being clubbed together in the name of *Air Travel Tax. (ATT)*. The rate is same but exemption for passenger coming from abroad is being withdrawn.

***Increase in retail price of cigarettes to increase the incidence of tax***

Cigarettes are chargeable to excise duty on the basis of retail price. To complement the growth in cigarette industry and to enhance excise duty collection without disturbing the present three tier system for the purposes of levy, retail price of cigarettes is increased by 7%.