TAX THE RICH, SUBSIDISE THE POOR, IMF ASKS PAKISTAN

KARACHI: Pakistan must ensure that its high earners pay taxes and only the poor get the subsidies if it wants to function as a country, the International Monetary Fund's (IMF) managing director has said. "My heart goes to the people of Pakistan. They have been devastated by the floods that affected one-third of the population of the country," Kristalina Georgieva told German broadcaster *Deutsche Welle* on Friday on the sidelines of the Munich Security Conference. "What we are asking for are steps Pakistan needs to take to be able to function as a country and not to get into a dangerous place where its debt needs to be restructured," she said. "I want to stress that we are emphasising two things. Number one, tax revenues. Those who can, those that are making good money [in the] public or private sector need to contribute to the economy. Secondly, to have a fairer distribution of the pressures by moving subsidies only towards the people who really need it," she said. "It shouldn't be that the wealthy benefit from subsidies. It should be the poor [who] benefit from them," she said, adding that IMF was very clear that it wanted the poor people of Pakistan to be protected.

The IMF chief's statement came days after two sides could not reach a deal earlier this month and a visiting Fund delegation departed Islamabad after 10 days of talks but said negotiations would continue. Pakistan is in dire need of funds as it battles a wrenching economic crisis. Talks centre around reaching an agreement on a reforms agenda under the country's $6.5 billion bailout programme, which it entered in 2019. An agreement on the ninth review of the programme would release over $1.1bn. Meanwhile, foreign exchange reserves held by the State Bank of Pakistan have fallen to around $3bn, barely enough to cover three weeks of controlled imports. A resumption of the IMF programme would also unlock other avenues of funding for Pakistan.

The IMF has earlier said in a statement that both sides have agreed to stay engaged and "virtual discussions will continue in the coming days to finalise the implementation details" of the policies, including the tax measures, discussed in Islamabad.

The government is in a race against time to implement the tax measures and reach an agreement with the IMF. Finance Minister Ishaq Dar on Wednesday tabled the Finance (Supplementary) Bill, 2023, in both houses of the parliament, outlining tax measures to raise an additional Rs170bn in the next four and a half months to meet the last prior actions agreed upon with the IMF.

The IMF has given a deadline of March 1 to Pakistan for implementing all these measures. However, the bulk of tax measures worth Rs115bn was already implemented from Feb 14 through statutory regulatory orders.

Dawn 20-2-2023

BODY TASKED TO ACHIEVE BUDGETED GIDC TARGET

ISLAMABAD: The federal government has given the task to a committee headed by minister for Law and Justice for fast-tracking the recovery of budgeted Rs 30 billion of Gas Infrastructure Development Cess (GIDC) target for the current financial year, 2022-23, out of total Rs 427 billion, pending in 3,195 court cases.

The government recovered Rs 25 billion GIDC in the last financial year 2021-22 against budgeted Rs 130 billion. Since the establishment of the committee with the federal minister for law and justice as the convener, it has held only one meeting, sources said. Out of the total outstanding amount on account of GIDC, an amount of Rs 368 billion is sub judice, Rs 16 billion amount is outstanding against state-owned OGDCL, PPL due to circular debt, and the remaining amount is under recovery by the Sui Northern Gas Pipeline Limited (SNGPL), and the Sui Southern Gas Company Limited (SSGCL).

Other than establishment of the committee, four options are also under consideration of federal government as administrative level.

First option is in order to effectively litigate the cases for recovery of GIDC against chronic defaulters; a team of external legal counsels may be hired with fixed fee and performance fee linked with proportionate recovery of GIDC arrears.

Second option is out-of-court settlement with the consumers who are willing to net off their receivables against GIDC payables with balance recovery in installments.

Third option is the proposed settlement at (i) and (ii) may be made through an Act of Parliament i.e., amendment to the GIDC Act, 2015, as was the case for CNG sector settlement for the period January 2012 to May 2015.

Fourth is holding of forensic audit of the industrial consumers claiming to have not charged GIDC to their consumers or passed on in their product pricing and have not accounted the same in the audited accounts. The Supreme Court in its decision of August 2020 while dismissing all appeals into the GIDC had ordered recovery of all GIDC. As a relaxation to various sectors, the apex court had, however, ordered that all GIDC dues as of July 31, 2020, be recovered by the government in 24 instalments without a late payment surcharge. At the same time, the court also allowed a late payment surcharge for the delays in payment of any of the 24 instalments.

IMPOSITION OF 10PC WHT ON SALE OF SHARES: EXPERT IDENTIFIES 'SERIOUS' LEGAL FLAWS IN PROPOSED PROVISION OF BILL

ISLAMABAD: There are serious legal flaws in the proposed provision of the Finance (Supplementary) Bill, 2023 on imposition of 10 percent withholding tax at the time of sales of shares of the companies. Top Chartered Accountant and former chairman Federal Board of Revenue (FBR) Shabbar Zaidi told Business Recorder on Saturday that it is practically impossible for the acquirer to determine a fair market value at the time of transaction. This is a completely absurd law where a buyer is being required to substitute the consideration to a fair market value if it is not so. The consequences, which arise on account of withholding a sum less than required, are serious therefore this absurdity has to be removed. At present transactions for sale of shares of unlisted companies are not subject to withholding tax by the acquirer. An amendment has been proposed in Section 37 of the Ordinance which requires a withholding tax by the acquirer for an amount equal to 10% of the consideration, he said.

Shabbar Zaidi explained that the consideration for sale is deemed to be the fair market value as laid down in Section 101A of the Income Tax Ordinance. In the proposed bill subsection (4) has been referred which appears to be an error. The relevant provision is subsection (5) of Section 101A of the Ordinance.

The law as framed is not properly worded. It states (6) the person acquiring a capital asset, being a share of a company, shall deduct advance adjustable tax from the gross amount paid as consideration for the shares at the rate of ten percent of the fair market value of shares which shall be paid.

This provision is inherently improper for the reason that fair value has been defined as value of asset without liability whereas consideration will always be after taking into account the liabilities. Under the general law the WHT cannot be specifically more than the amount at which the ultimate seller is taxable. In this case, the situation arises on account of determination of fair value without taking into account the liabilities. Furthermore, it is practically impossible for the acquirer to determine a fair market value at the time of transaction.

Secondly, if the provisions of this section are read with Section 75, 76 and 77 of the Ordinance, which are common principles, there cannot be any mandatory substitution of consideration to the fair value of assets.

This provision has been introduced for capital assets being shares of unlisted companies. This provision is in addition to an already existing provision under Section 152(2) of the Ordinance which applies to cases where the payment is made to a non-resident for the sale of shares. It therefore means that this provision will only apply to cases where the seller is a person being a person resident in Pakistan.

There is a need to clarify the status of this provision in relation to Section 101A of the Ordinance where certain shares of companies outside Pakistan are deemed to be assets located in Pakistan under subsection (3) of Section 101A of the Ordinance. If this provision is treated to be applicable to such shares then the rate has effectively been reduced to 10% from existing 20 percent, Shabbar Zaidi added.

R 19-2-2023

FBR TO IMPOSE 25% SALES TAX ON IMPORTED LUXURY AND NON-ESSENTIAL ITEMS

KARACHI: The Federal Board of Revenue (FBR) FBR will issue a statutory regulatory order (SRO) to impose 25% sales tax on a wide range of imported luxury and non-essential items. This should generate additional revenue of Rs15 billion in the remaining period of 2022-23.

FBR officials informed that the list is ready and would be notified after approval of the mini-budget. The board will impose a 25% sales tax on the import of:

Home appliances, Cosmetics, Crockery, Pet food, Private weapons and ammunition, Shoes, Chandeliers and lighting (except energy savers), Headphones and loudspeakers, Doors and window frames, Traveling bags and suitcases, Sanitary ware, Carpets, Tissue paper, Furniture, Shampoos, automobiles (CBU), Luxury mattresses and sleeping bags, Bathroom ware/toiletries, Heaters/blowers, Sunglasses, Kitchenware, Cigarettes, Shaving goods, Luxury leather apparel, Musical instruments, Saloon items like hair dryers and decoration/ornamental articles, Confectionery, Jams and jelly, Fish and frozen fish, Sauces, Ketchup, etc, Fruits, dry fruits (except from Afghanistan), and preserved fruits, Cornflakes, Frozen meat, Juices, Pasta, Aerated water, Ice cream and Chocolates (in retail packing).

An official said Letters of Credit (LCs) opening and clearance of stuck up import containers due to scarcity of USD is still at halt. There is possibilities that these goods may start coming via Afghan transit trade.

CN 19-2-2023

FBR ORDERED TO RETURN RECOVERED PAY ORDER TO TAXPAYER

ISLAMABAD: Federal Tax Ombudsman (FTO) has directed the Federal Board of Revenue (FBR) to de-attach the bank account of the taxpayer and immediately return the illegally recovered pay order to the complainant.

According to the latest order of the FTO office, despite clear instructions of the Commissioner Appeal, the Regional Tax Office (RTO) Rawalpindi has committed maladministration by not following the order of the Commissioner Appeals.

The complainant is an individual who alleged that an ex-parte order was passed on October 27, 2021 by the RTO Rawalpindi pertaining to tax year 2019 whereby illegal demand of Rs 8,174,083 was recovered. An appeal was filed before the Commissioner Appeals and it granted stay order against the recovery of the disputed tax demand. On the same day (January 24, 2023) the taxpayer shared the order with the department and concerned bank manager. However, the department on the same day (January 24, 2023) arrived at the bank to get the pay order from the bank manager.

The recovery officer get the pay order despite stay order with commitment/assurance to the banker that the pay order shall not be deposited in the bank for clearance. Despite the commitment and valid stay order, the department presented the pay order in the bank. The taxpayer requested that the FTO should pass an appropriate order without further delay and direction be issued to the FBR to take action against the responsible officers.

The Commissioner Appeals-III issued clear instructions that during stay period no coercive measure shall be adopted by the department. It was also directed to the department to de-attach the bank account of the appellant immediately. Despite stay order and clear instructions of the appellate authority, the demand was hastily recovered from the complainant’s bank account. It is further noticed that the concerned office is still holding pay order.

FTO order added that making recovery through coercive measure disrespecting legal order the appellate authority on the part of the department is contrary to law and arbitrary, unjust and unreasonable which constitute maladministration. FTO has directed the FBR to issue instructions to the Commissioner IR to comply with the stay order issued by the Commissioner Appeals-III, FTO order added.

R 20-2-2023

TALIBAN SHUT TORKHAM BORDER FOR ‘BREACH OF COMMITMENTS’

PESHAWAR: The Afghan Taliban authorities on Sunday closed down one of the main trading and border crossing points with Pakistan, accusing Islamabad of reneging on its commitments.

The Afghan Taliban commissioner for Torkham said the border point had been closed down for travel and transit trade. “Pakistan has not abided by its commitments and so the gateway has been shut down on the directions of (our) leadership,” Taliban commissioner at Torkham Maulavi Mohammad Siddique tweeted. He advised the people of Afghanistan to avoid travelling to the border crossing in eastern Nangrahar province.

However, the Taliban official didn’t specify the commitment Islamabad allegedly breached. Some unconfirmed media reports suggested the Taliban were irked by an unannounced ban on travel of Afghan patients seeking treatment in Pakistan. There was no immediate official word from Foreign Office in Islamabad.

REVIVING THE INHERITANCE TAX

Forget politics. It’s inhuman to burden the crushed ordinary folks with additional levies when the government fails to deliver on its basic responsibility of delivering amenities and security. It’s about time to revisit the highly regressive tax framework and tap into piles of unearned wealth accumulated by the elite classes in Pakistan. Pressed by circumstance, the government did something that failed to grab headlines or capture public attention. An amendment in the Finance Act 2022 ruled to tax capital gains on the sale and purchase of property, including gifted and inherited estate.

Experts believe that, in effect, the government has revived inheritance tax through the said amendment. Some opposed the move declaring the capital gain tax on a gifted and inherited property a violation of the Constitution. Corporate Pakistan saw the step as yet another attempt to pile additional tax burden on people and companies already in the net. It repeated its appeal to broaden the tax net instead.

The fact is that for 29 years, Pakistan had an inheritance tax called Estate Duty Act 1950. A quick glance at the said Act revealed that assets under Rs100,000 were exempted at the time. However, the tax rate was determined by the legislature on an annual basis in the Finance Bills.

General Zia ul Haq abolished the Estate Duty Act 1950 soon after assuming power as he projected it to be in conflict with the Islamic Jurisprudence.

The information on how much revenue this tax actually mobilised was not readily available. The said levy was completely forgotten in the relevant circles and faded from the collective public memory. When approached, the current crop of tax lawyers and officials were caught unaware.

Tariq Chaudhry, Member of Appellate Tribunal Inland Revenue, Lahore, who held multiple important positions in the Federal Board of Revenue (FBR), was an exception. He shared the online link to the 1950 Act that he said was repealed in 1979 “without any debate or deliberations”. For further details, he pointed towards Pakistan Legal Decisions (PLD) federal statutes in lawyers’ libraries. M Abdul Aleem, Secretary General, Overseas Chamber of Commerce and Industry, recognised the utility of inheritance tax in developed countries but said that Pakistan, with roughly over 40 taxes, including provincial and local ones with dismal recovery record, is not yet ready for it.

“A less than 10 per cent tax-to-GDP ratio is insulting and reflective of our ability and capacity to collect taxes. Traders, the feudal class, realtors and other rent seekers are exploiting the situation. No more new taxes, please. Reduce the number of taxes and focus on a full collection without exceptions.” Saroop Ijaz, a prominent lawyer associated with the Human Right Watch, rooted for inheritance tax and dismissed grounds as flimsy for its opposition. “Zia ul Haq regime’s scrapping of the Estate Duty Act was part of a larger attempt to take an about-turn in the nation’s march towards progressive taxation. “Other examples include gift and capital gain tax. It was yet another example of the cynical use of religion to perpetuate an elite capture. Zia regime also blocked the decision made in 1977 by the Parliament to tax agricultural income and tax large and absentee landlords. His decision belie the spirit of Islam and enabled the worst form of elite-led crony capitalism.”

Ahmed Qadir, who teaches Economics at the Lahore University of Management Sciences, commented: “in his 2013 book ‘Capital in the Twenty-First Century’ Thomas Piketty, a French Economist, proposed a wealth tax to help reduce inequality and increase social mobility. He argued that inherited wealth should be taxed at a higher rate than earned wealth to create a more egalitarian society. He also proposed a global wealth tax to be paid by billionaires and redistributed to those in need.”

Musadaq Zukqarnain of Interloop, amongst a few model entrepreneurs, opined: “in societies where tax compliance is good, inheritance tax can add to state revenues. We must first bring the sectors currently out of the tax net into the net and move towards documentation of the economy. Inheritance tax will mainly hurt the existing taxpayers. Others will find ways to bypass it.”

An FBR officer shared his take: “entry number 46 pertaining to estate duties was dropped in the 4th Schedule by the 18th Constitutional Amendment during the PPP rule in 2010 as the tax on the value of immovable properties was a provincial subject, and an estate duty tax was in conflict with the Muhammadan inheritance law.” Dr Saad Shafqat, a reputed neurologist with a keen interest in socio-political issues, said: “we have a working age population of 100 million, out of which hardly half are gainfully employed, and barely 2m pay direct taxes. A reckoning was long overdue. Stringent International Monetary Fund terms are actually a huge favour as it has forced us to consider fundamental adjustments.”

In much of the developed world, inherited wealth beyond a notified threshold is taxed progressively, with the maximum tax at quite a high rate. In the case of Japan, the maximum rate of inheritance tax is cited to be as high as 75 per cent of the value, online background research revealed. India abolished the inheritance tax in 1985, and currently, except for Iran and Turkiye, none of the regional nations Bangladesh, Sri Lanka, Saudi Arabia, Malaysia, Qatar, etc, have this tax. The inheritance and gift tax rates vary between 5-65 per cent in Iran and one to 30pc in Turkiye.

Dawn 20-2-2023

KPRA HOLDS WORKSHOP TO PROMOTE ‘TAX CULTURE’

PESHAWAR: Khyber Pakhtunkhwa Revenue Authority (KPRA) organised a capacity building workshop for the officials of government departments and representatives of private entities of Kohat, Karak and Hangu to build the capacity of its withholding agents on Tuesday to promote tax culture and also increase tax compliance in the province.

Khyber Pakhtunkhwa Revenue Mobilization (KPRM) assisted the KPRA in conducting the workshop. The participants were including officials of District Administration Kohat, Karak and Hangu, Accounts Offices, Tehsil Municipal Administra-tions of the three Districts, and Education Department, Local Government Department, Colleges, Universities, OGDCL, FATA University, KUST, WSSK and Kohat Board. KPRA Additional Collector South Aftab Ahmad in his welcome remarks thanked the participants for attending the workshop. He shed light on the history of sales tax on services in the province, importance of taxes for the development of the country and Khyber Pakhtunkhwa. He assured complete support to the participants. “We need your assistance to ensure tax compliance. We have to work in collaboration to generate revenue for the government to be spent on public uplift schemes and my team will be available for your assistance,” he said. The additional collector KPRA awarded certificates to the participants of the training.

R 20-2-2023