### **Tax Newsletter**

4th Quarter 2018

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专业人士有责任向有关政府当局举报他们所知的客户非法行为。专业人士能否透过辞去其专业工作,便能逃避其需要举报非法行为的责任?而此类举报会否违反专业保密和隐私法?

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# China

#### The new Individual Income Tax Law ("IIT Law") of the People's Republic of China

Individual Income Tax Law of the People's Republic of China was amended at the seventh meeting of the fifth session of the 13th National People's Congress Standing Committee on August 31, 2018, and it will be effected on January 1, 2019.

中华人民共和国个人所得税法于2018年8月31日经第十三届全国人民代表大会常务委员会第五次会议第七次修正,自2019年1月1日起施行。

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# Egypt

#### Income tax law in Egypt in attracting investment and achieving target tax proceeds

The Income Tax Law No. 91 of 2005 was issued to address the issues of application of the previous laws to restore confidence between the taxpayer and the Tax Authority as follows:

- 1. Law No. 157 of 1981- amended by Law No. 187 of 1993, which shifted the tax thought from administrative linkage to self-linkage
- 2. cancellation of absolute tax exemptions and reduction of tax rate from 40% to 20% as an incentive to attract investment, which led to the increase of foreign investments from half a billion in 2005 to 8.6 billion pounds in 2009/2010. It has had a significant impact on increasing the state resources and expanding the taxpayers' base and containing the informal economy.
- 埃及政府公布2005年第91号"所得税法",修正以往有关法律在执行上出现的问题,以恢复纳税人与税务机关之间的信任,重点如下:
- 1. 1981年的第157号所得税法经1993年关于统一税收和家庭免税第187号法案修正,将税务概念由行政联系转至个人联系;
- 为吸引投资,取消绝对免税,并将税率由40%降至20%,使外来投资额由2015年的5亿英镑增加至2019/2010年的86亿英镑。对增加国际资源、扩大纳税人基础以及遏制非正规经济产生了重大影响。

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## Greece

#### **Unified Real Estate Ownership TAX (UREOT)**

More than 7 million notifications for the payment of Unified Real Estate Ownership Tax have been uploaded on August 2018, on the website of Greek Independent Authority for Tax Revenues taxisnet.gr and 6,331,155 property owners are called to pay a total of 3,093,464,173 euros. 2018年8月,希腊税收独立监察机构在 taxisnet.gr 网站上上传了 700 多万份关于缴纳"统一房地产所有权税"的通知,共6,331,155名 业主被通知合共需支付 3,093,464,173 欧元。

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# Malaysia

#### National Budget 2019

The 2019 National Budget with the theme "A Resurgent Malaysia, A Dynamic Economy, A Prosperous Society" was tabled on 2 November 2018 by our Minister of Finance, YB Lim Guan Eng. Further to the Budget 2019 announced on 2 November 2018, Finance Bill 2018 was passed in the House of Representatives with amendment in Committee to the Finance Bill on 10 December 2018. Some of the important amendments are summarised in this issue of PRISM.

马来西亚财政部部长林冠英阁下,于2018年11月2日提呈国会,主题为"重扬国威、活络经济、让民昌乐"的2019财政预算案。除了 2019年财案的公布,国会也在2018年12月10日通过2018年国家财政法令草案。这期的税务季刊特摘录最新政策重点供参阅。

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# Malta

#### **Attractiveness of Malta for Blockchain Industry**

Over the last eighteen months, digital currencies and their related systems have taken the world by storm, and each one seems to be investing and trading in with digital coins like Eth and BTC and many others. There's no doubt that this system is set to transform the world. from education to medical care, real estate to finance and voting. no one is left unturned with regard to the ground-breaking power of cryptocurrencies. Malta's geographical locations, proactive legislation and continuous Government support together with a state-of-the-art Financial Services economy has put Malta as one of the best European counties to allow business in this sector.

在过去的18个月,数码货币及其相关系统风靡全球,人人似乎都在用以太币和比特币等数码币进行投资和交易。毫无疑问,数码货币系统改变了世界。加密货币的突破性,为教育、医疗、房地产、金融和投票等系统,带来了颠覆性的影响。马耳他的地理位置、积极的立法和持续的政府支持,以及先进的金融服务经济体系,使马耳他成为欧洲最好开展加密货币交易的国家之一。

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# Pakistan

#### The Finance Supplementary (Amendment) Act, 2018

The newly elected Finance Minister, Mr. Asad Umer presented Finance Supplementary (Amendment) Act, 2018 which was passed by the Parliament making certain corrective measures in the Finance Act, 2018. The supplementary act seeks to take sustainable corrective measures regarding fiscal and current policies.

巴基斯坦新当选的财政部长 Asad Umer 提出的2018年《财政补充(修正)法案》对2018年《财政法案》作了一些修正,现已获得议会通过。补充法案旨在对财政和现行政策采取可持续的修正措施。

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# Australia

#### **Whistleblower Provisions for Professionals**

#### PREAMBLE

Is whistleblowing a new thing for professionals like us? The answer is No!

Laws already exist for whistleblowing provisions in many countries around the world including China(i) and Hong Kong(ii).

In the recent decades, "white collar" crimes that caused millions and billions of damages(iii), these wrong doings could have been avoided or the effects minimised had the relevant authorities been notified earlier for them to act sooner.

Certain countries have system in place to reward whistleblowers for raising infringement issues to the relevant authorities. The whistleblower's identify would be protected by heavy penalty for any unauthorised disclosure.

#### The onus is now placed on professionals to report to the relevant government authorities on what they know in respect to any clients' illegal wrongdoings.

Auditors always had the obligation to act independently and through the mandatory Auditing Standards and related Guidelines including the corporate laws to report on any violation of company policy, law and regulation.

Recently the obligations to report of known breaches of law and regulation have been extended to non-auditor professionals, these include professionals who supply other services such as tax advising and other services.

Australia has joined this worldwide trend and have enacted law and regulation to force all professionals to report to the relevant authorities should the uncovered breach of law and regulations have not been rectified by the client. Keeping silent is no longer an option once any breaches were discovered and not rectified.

This reporting regime is generally foreign to professionals who provide taxation and business services. It usually was a case of the professionals raising awareness of the breach with the client and then step back and allow the client to form his/her own course of action.

Now this silent approach is no longer permissible under the whistleblowing provisions.

Can the professional resign from his professional obligations to avoid his duty to report the discovered wrongdoings?

Once the breach is uncovered and not rectified by

the client, the obligation to report to the relevant authorities cannot be negated by resigning as the professional for that client.

# Would this reporting on our clients be in contravention to the professional confidentiality and the Privacy laws?

Another counter argument from the professionals would have been the contradiction of their obligations under the whistleblowing and the professional confidentiality this was the real dilemma for taxation and business advisors.

However, most countries including Australia have added an exemption in the Privacy and confidentiality legislation to allow the professionals to report the discovered and not rectified breaches to relevant authorities.

This is very sensitive for tax advisors, they have to understand the client's existing and prospective tax plans. Some of the arrangements to minimise taxation may conflict with the existing tax law and regulations.

It would be advisable for all tax and business advising professional firms to review their internal policies and procedures and implement suitable measures to deal with any possible conflicts between the firm and its clients.

#### Reference

- (i) Chinese Criminal Law particularly the 9th amendment in 2015, Chinese Anti-bribery legislation and Anti-corruption regime, i.e. FCPA and BA 2010 legislation, and Chinese Anti-unfair Competition Law 2018
- (ii) Hong Kong Prevention of Bribery Ordinance
- (iii Envon's scheme to hide losses and fabricate profits; Worlcom's accounting scandals; HealthSouth's improper accounting; Bernard Madoff's Ponzi Scheme to defraud investors; Wells Fargo's defrauding its customers; Instock's trading scandals with security frauds; Adelphia's embezzlement of money from investors; Tyco's embezzlement by its CEO.

# China 🎽

The new Individual Income Tax Law ("IIT Law") of the People's Republic of China

Individual Income Tax Law of the People's Republic of China was amended at the seventh meeting of the fifth session of the 13th National People's Congress Standing Committee on August 31, 2018, and it will be effected on January 1, 2019.

The main content of amendments are:

- 1. Calculating income tax in annual comprehensive income, more emphasis on Fairness and Justice
  - a) The income from wages, salaries, remuneration for services, contributions and royalties previously taxed shall be levied in a comprehensive manner.
  - b) Other incomes such as operating income, interest, dividends, and so on are still be levied separately.
- 2. Increase the exemption amount of Income Tax, working class benefit most;
  - a) The exemption amount of Income Tax of individual's comprehensive income shall be adjusted from 3,500 Yuan to 5,000 Yuan (60,000 yuan annual ) before the levy.
  - b) The changes of Income Tax's exemption amount in the past.
    - 1980 ¥800
    - 2005 ¥1600
    - 2007 ¥2000
    - 2011 ¥3500
    - 2018 ¥5000
- 3. Broaden the low tax interval, favor to middle-and low- income individuals.

Levels	New Individual Income Tax Law (Annual comprehensive income convert into monthly)	Old Individual Income Tax Law (monthly salary income)	Tax Rate (%)
1	Less than ¥3000	Less than 1500	3
2	More than ¥3000 but Less than ¥12000	More than ¥1500 but Less than ¥4500	10
3	More than ¥12000 but Less than ¥25000	More than ¥4500 but Less than ¥9000	20
4	More than ¥25000 but Less than ¥35000	More than ¥9000 but Less than ¥35000	25
5	More than ¥35000 but Less than ¥55000	More than ¥35000 but Less than ¥55000	30
6	More than ¥55000 but less than ¥80000	¥55000 but less than ¥80000	35
7	More than ¥80000	More than ¥8000	40

- 4. Additional special deduction would be added to solve future worries.
  - 1) Children's education;
  - 2) Continuing education;
  - 3) Medical treatment of major diseases;
  - 4) Interest on housing loan;
  - 5) Housing rent;
  - 6) Support the elder;
- 5. Adding the anti-avoidance clause, endow tax authorities with the power to regulate illegal tax avoidance activities.
  - Within a tax year, a taxpayer who has lived in China for 183 days is a taxpayer whose income from both inside and outside China is taxable;
  - In case of any of the following circumstances, the tax authorities shall have the right to make tax adjustments based on reasonable methods:
    - a) Business between individuals and their affiliates do not conform to the principle of independent transactions and reduce the amount of tax payable by individuals or their affiliates without justifiable reasons;
    - b) Enterprises which have been set up in countries (regions) where the actual tax burden is obviously low are under the control of individuals or enterprises jointly controlled by individuals and enterprises, have no reasonable business needs and shall not distribute or reduce the profits attributable to individuals.
    - c) Other circumstances do not have reasonable commercial purpose to obtain improper tax benefits.



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## Income tax law in Egypt in attracting investment and achieving target tax proceeds

The Income Tax Law No. 91 of 2005 was issued to address the issues of application of the previous laws to restore confidence between the taxpayer and the Tax Authority as follows:

- (i) Law No. 157 of 1981- amended by Law No. 187 of 1993, which shifted the tax thought from administrative linkage to self-linkage
- (ii) cancellation of absolute tax exemptions and reduction of tax rate from 40% to 20% as an

incentive to attract investment, which led to the increase of foreign investments from half a billion in 2005 to 8.6 billion pounds in 2009/2010. It has had a significant impact on increasing the state resources and expanding the taxpayers' base and containing the informal economy.

The law introduced some articles that were not reflected in the previous tax laws, including:

- Article 17: Determination of net profit on a basis based on the income statement in accordance with Egyptian accounting standards.
- Exemption from the revaluation of the taxpayer's assets in respect of the contribution to the capital of a joint stock company provided that these shares corresponding to the share in kind are nominal and are not disposed of within five years, thus encouraging SMEs to invest.
- Article 30: Determination of the transfer price by the free comparative price or the total cost plus the profit margin or the resale price method.
- Exemption of some productive projects related to the environment and the need of the community for a period of 10 years such as land reclamation and cultivation, animal production, deposit returns, savings accounts, investment certificates and savings.
- Article 53: Tax deferral shall be permitted if the legal form of the juridical person is changed, as the capital gains tax is now applicable unless assets and liabilities are recorded at their book value at the time the legal form is changed and that the assets are disposed of within 3 years following the change.
- Article 56: Amounts paid to non-residents in Egypt by Egyptian resident establishments and by nonresidents entities with permanent establishments in Egypt shall be taxable at a rate of 20% of gross amount. Accordingly, to avoid double taxation Egypt is consistently working on increasing its double tax treaties.
- Article 94: The tax has been reduced from 30% to 22.5% since 2014 and for 10 years as a step towards the stability of the tax community and to reassure and attract investors.
- Issuing Law No. 14 of 2018 with an initial payment of the tax due instead of the delay penalties, which is attached to Law No. 174 of 2017, to give reduction rates as incentives to the taxpayers according to the original repayment terms due, indicating the progress of financial and tax reforms towards the support and stability of the society. Business and investment and retreat from the idea of collection in the financial community.

The new investment law included many amendments, guarantees and incentives for all investment activities. The tax incentive in the old investment law was the five-year exemption for any area in the Republic and a ten year exemption in the new urban areas. The first of which includes the economic zones of the Suez Canal and the Golden Triangle (Safaga, Qusayr, Qena) and Upper Egypt's most needy areas. The exemption is 50% of the investment costs. The exemption shall be applied to the deduction from the net profit taxable, provided that this deduction is amortized within 7 years only and that the 50% exemption from the paid-up capital is not exceeded and the company was established within 3 years from the date of issuance of the law.

#### Reference

1. Egyptian Tax Law



#### **Unified Real Estate Ownership TAX (UREOT)**

On September 2011, the Greek Government announced a new property tax. This tax applies to all the property owners in Greece. Greek authorities wanted to create a unified real estate tax which will include all properties, owned by one property owner.

Initially this tax was defined solely on properties being electrified. The tax was included at the property's electricity bill. This practice change and the new Unified Real Estate Ownership TAX, called ENFIA amended by the Greek tax authorities, to all the properties, houses, plots, plats, properties with no electricity, agricultural land, etc. The Unified Real Estate Ownership TAX is imposed from 1st January 2014. All Greek real estate owners are obliged to pay this tax.

The values taken into consideration for the year 2018 are determined by a new decision of the Minister of Finance regarding objective tax values (Government Gazette B' 2192/12.06.2018). According to statistics published by the Independent Public Revenue Authority, the Unified Real Estate Ownership Tax 2018 notifications refer to 7,310,185 property owners, natural person and legal entities. From the 6,311,155 property owners, 6,279,207 natural persons will pay 2,642 billion euros, while 51,948 legal entities will pay 450,794 euros.

The relevant tax tables were amended as follows: (i) certain lower values price zone brackets were extended, resulting in more properties dropping to the lower basic tax brackets, and (ii) the tax free bracket for the additional tax based on the total value of property rights per person was increased from 200,000 euros to 250,000 euros. UREOT will be paid either in one lump sum or in five monthly installments with the last instalment payable in January of the following year. In particular, for the tax year 2018, the first installment was paid on 30 September 2018 and there are four more installments.

An Independent Department for the Valuation and Determination of Real Estate Values is created within the Ministry of Finance. The department falls directly under the jurisdiction of the General Secretary of Fiscal Affairs, whose aim will be the objective determination and the general evaluation of real estate values.

# Malaysia



#### National Budget 2019

The 2019 National Budget with the theme "A Resurgent Malaysia, A Dynamic Economy, A Prosperous Society" was tabled on 2 November 2018 by our Minister of Finance, YB Lim Guan Eng. Further to the Budget 2019 announced on 2 November 2018, Finance Bill 2018 was passed in the House of Representatives with amendment in Committee to the Finance Bill on 10 December 2018. Some of the important amendments are summarised below:

## Limitation on carry forward business losses & capital allowance

Currently, there is no time limit on carry forward of the business loss and various allowances. The Finance Bill 2018 and Amended Finance Bill 2018 proposed a 7-year time limit for utilisation of business losses and various allowances as follows:

ltem	Current law	Finance Bill 2018	Amended Finance Bill 2018
Unabsorbed business losses	Can be carried forward indefinitely	Maximum 7 years from the year in which the loss is incurred	No amendment
Unabsorbed capital allowance	Can be carried forward indefinitely	Maximum 7 years from the year in which the allowance is generated	Can be carried forward indefinitely
Unabsorbed investment allowance for service sector	Can be carried forward indefinitely	Maximum 7 years from expiry of the qualifying period	No amendment
Unabsorbed pioneer losses	Can be carried forward indefinitely	Maximum 7 years from expiry of the qualifying period	No amendment

ltem	Current law	Finance Bill 2018	Amended Finance Bill 2018
Unabsorbed pioneer losses	Can be carried forward indefinitely	Maximum 7 years from the end of the pioneer period	No amendment
Unabsorbed investment tax allowance	Can be carried forward indefinitely	Maximum 7 years from the end of the ITA period	Can be carried forward indefinitely

#### **Scope of Special Classes of income**

The scope of special classes of income is extended to include non-technical services and not limiting the scope of services to technical management or administration of an undertaking, venture, project or scheme.

Item	Current law	Finance Bill 2018	Amended Finance Bill 2018
Section 4A(ii) of Income Tax Act 1967	"amounts paid in consideration of technical advice, assistance or services rendered in connection with technical management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme"	"amounts paid in consideration of advice, assistance or services rendered in connection with any scientific, industrial or commercial undertaking, venture, project or scheme"	"amounts paid in consideration of advice, assistance or services rendered in connection with management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme"

#### Real Property Gains Tax (RPGT)

The rate of RPGT on gains from the disposal of real properties or shares in real property companies in the sixth and subsequent years of disposal are revised as follows:

Disposal		RPGT Rates	
	Company	Other than Company and other than non- citizen and non- permanent resident individual	Non-citizen and non- permanent resident individual
Within 3 years	30%	30%	30%

Disposal	RPGT Rates		
	Company	Other than Company and other than non- citizen and non- permanent resident individual	Non-citizen and non- permanent resident individual
In the 4th year	20%	20%	30%
In the 5th year	15%	15%	30%
In the 6th and subsequent years (current law)	5%	0%	5%
In the 6th and	10%	5%	10%
subsequent years (Finance Bill 2018)		Note 1 – Finance Bill 2018	
		Note 2- Amended Finance Bill	

Note 1 – Finance Bill 2018: The increased rate does not apply to the disposal of residential homes valued below RM200,000 by Malaysian citizens.

Note 2- Amended Finance Bill 2018: The acquisition price of real property acquired prior to 1 January 2000 shall be taken as its market value as at 1 January 2000.

#### Reference

1. Official Portal of The Parliament of Malaysia www. parlimen.gov.my



#### **Attractiveness of Malta for Blockchain Industry**

Over the last eighteen months, digital currencies and their related systems have taken the world by storm, and each one seems to be investing and trading in with digital coins like Eth and BTC and many others. There's no doubt that this system is set to transform the worldfrom education to medical care, real estate to finance and voting- no one is left unturned with regard to the ground-breaking power of cryptocurrencies. Today, Malta is becoming the hub of this new technology and here are the reasons why.

#### **Amazing Geography**

Malta, with regards to the scene or setting has it all. You can reach this place in just a matter of three hours or less from major airports in Europe. The country has a remarkable community of friendly expat, and locals can speak English, fantastic infrastructure, quality education as well as healthcare services. The climate is glorious, and it's rich in culture and coastline and beaches are truly inviting. Malta has the ideal location in the hub of the Mediterranean. It provides an exceptional lifestyle to that works and lives there.

## Support from the Governments and Flexibility of the Regulation

About digital businesses, this place has a very welcoming jurisdiction. Many years ago, Malta was the first county to legislate in support of iGaming business. Today, Malta is the most appreciated online gaming regulatory power all over the world, similar with digital currencies, ICOs, as well as blockchain system.

The government of Malta has outlined three laws, which when passed and approved, will pave it place as the only jurisdiction in the world to make a legal structure that protects operators and clients while making sure the continued progress of the sector. The growth has resulted in a massive influx of ICO's into the region with business giant Binance which announce that they have a plan of putting up a branch in Malta.

When the latest legislation is wholly implemented, Initial Coin Offerings will be vetted as well as regulated, brokers, investment managers, as well as eWallet companies will be managed, and clear standard will be recognized that will keep the operator and the consumer safe and sound.

#### A Very Welcoming Setting for Business

Those who wish to set up a business, remit revenue, employ staff as well as commence operation from Malta, the whole process is more straightforward compared to any other jurisdictions.

Malta provides great economic incentives, easy to build company structures, an array of double taxation treaties, as well as perks for businesses which choose to make this place their new home. The flexibility, as well as the support Malta offer, can take a headache and stress out of starting a business.

ICOs, blockchain technology, as well as digital currencies, aren't going anywhere sooner or later as time goes by, it's becoming more apparent and evident that if you wish to be in this business, Malta indeed the best place.



The Finance Supplementary (Amendment) Act, 2018

#### Income Tax:

With the introduction of Finance Act, 2018, flat rate of 15% were imposed on income of individual including individual having business and this issubstantially lower than the rate of tax on business income for companies which is 29%.

However to cover such a huge gap rate of tax for business individuals have been increased to 29% whereas salaried individuals rate of tax has been increased to 25%.

Rate of tax for individual has been substituted as under:

#### **Business Individual**

S. No	Taxable Income	Rate of Tax
(1)	(2)	(3)
1	Where the taxable income does not exceed Rs. 400,000	0%
2	Where the taxable income exceeds Rs. 400,000 but does not exceed Rs. 800,000	Rs. 1,000
3	Where the taxable income exceeds Rs. 800,000 but does not exceed Rs. 1,200,000	Rs. 2,000
4	Where the taxable income exceeds Rs. 1,200,000 but does not exceed Rs. 2,400,000	5% of the amount exceeding Rs. 1,200,000
5	Where the taxable income exceeds Rs. 2,400,000 but does not exceed Rs. 3,000,000	Rs. 60,000 + 15% of the amount exceeding Rs. 2,400,000
6	Where the taxable income exceeds Rs. 3,000,000 but does not exceed Rs. 4,000,000	Rs. 150,000 + 20% of the amount exceeding Rs. 3,000,000
7	Where the taxable income exceeds Rs. 4,000,000 but does not exceed Rs. 5,000,000	Rs. 350,000 + 25% of the amount exceeding Rs. 4,000,000
8	Where the taxable income exceeds Rs. 5,000,000	Rs. 600,000 + 29% of the amount exceeding Rs. 5,000,000

#### **Salaried Individual**

S. No	Taxable Income	Rate of Tax
(1)	(2)	(3)
1	Where the taxable income does not exceed Rs. 400,000	0%
2	Where the taxable income exceeds Rs. 400,000 but does not exceed Rs. 800,000	Rs. 1,000
3	Where the taxable income exceeds Rs. 800,000 but does not exceed Rs. 1,200,000	Rs. 2,000
4	Where the taxable income exceeds Rs. 1,200,000 but does not exceed Rs. 2,500,000	5% of the amount exceeding Rs. 1,200,000

S. No	Taxable Income	Rate of Tax
(1)	(2)	(3)
5	Where the taxable income exceeds Rs. 2,500,000 but does not exceed Rs. 4,000,000	Rs. 65,000 + 15% of the amount exceeding Rs. 2,500,000
6	Where the taxable income exceeds Rs. 4,000,000 but does not exceed Rs. 8,000,000	Rs. 290,000 + 20% of the amount exceeding Rs. 4,000,000
7	Where the taxable income exceeds Rs. 8,000,000	Rs. 1,090,000 + 25% of the amount exceeding Rs. 8,000,000

The rate of tax on banking transaction by non-filers has been increased from 0.4% to 0.6% under section 236P.

The supplementary finance act seeks to withdraw exemption granted to provincial governors and federal ministers for rent free accommodation and free conveyance.

#### **Sales Tax**

The act seeks to provide exemption under sixth schedule to various medical equipment and LED bulbs.

The act seek to reduce rate of tax on supply of LNG/ RLNG to 12% for supply to gas transmission and distribution companies.

Further the newly elected Government through **SRO 1265(i)/2018** has enhanced regulatory duties on various goods to cover the deficit in balance of trade of the Country.

Through the Supplementary Act, rate of Federal Excise Duty has been enhanced as well on cigarettes to discourage the smoking within the country.

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