Annex-1

The proposed Income Tax Act, 2022 should incorporate provisions in the light of the following global best practices:-

1. The income tax is, as its name implies, a tax on persons, not on transactions or products;

2. The three key elements in the Income Tax Law:
i. The inclusion of amounts in gross income: *Employment, Business, and Property income (e.g., dividends, interest, rent, and royalties).*

ii. the identification of amounts that are exempt income: *The amounts defined as "exempt in· come" are excluded from the definition of gross income and thus from the calculation of taxable income.*

iii. The allowance of amounts as deductions:

- *An amount or an entity may be exempt for social compassion reasons. Amounts that may be exempt on this basis are welfare payments, scholarships, and compensation payments.*
- *Entities that may be exempt on this basis are religious, charitable, or education institutions of a public character.*
- *An amount may be exempt for structural reasons. This is primarily to prevent double taxation under the income tax or other tax legislation. For example, some amounts (e.g., salary, interest, dividend etc) may be subject to withholding of tax at source as a final tax on the income.*
- *Another example is gifts, which may be subject to gift duties or capital transfer taxes.*
- *An amount may be exempt as an incentive to encourage a socio-economic activity. For example, the income of a retirement fund may be exempt from tax to encourage retirement savings.*

3. The term taxable income or chargeable income is used to refer to the amount against which the rates of tax are applied for the relevant tax period.

- The taxable income of a person for a tax period is commonly defined as the gross income of the person for the period less the total deductions allowed to the person for the period.
- An amount derived is ordinary income if it has its source in an earning activity. The earning activities identified by the courts are the deployment of undertakings, the investment of capital, or the application of labor and capital combined (i.e., the carrying on of a business).
- The courts have recognized that an amount derived that exhibits some of the essential characteristics of employment, business, or property income (such as periodicity and anticipation of receipt) may be ordinary income.

4. The gross income of a person for a tax period is the total of amounts derived by the person during the period that are subject to tax. The gross income of a person, therefore, will not include amounts that are exempt from tax.

5. All income tax impose tax on a net amount because this amount properly reflects a person's increase in economic capacity for the tax period. There are exceptions to this general rule, the most important being withholding taxes that are imposed on gross receipts such as Interest income. Withholding tax is effectively a proxy for tax on a net basis.

6. Withholding tax on income imposed at source, i.e. a third party is charged with the task of deducting the tax from certain kinds of payments and remitting that amount to the government. Withholding taxes are found in practically all tax systems and are widely used in respect of dividends, interest, royalties and similar tax payments;

- Income tax in Japan and many other countries adopt the withholding tax system for specific incomes along with the self-assessment system. Under the withholding tax system, the payers of salaries and wages, retirement allowance, interest, dividends, and fees etc. withhold the certain amounts of income tax etc. at the time of payment and pay them to the national treasury.
- To prevent double taxation under the income tax some amounts (e.g., interest) may be subject to withholding of tax at source as a final tax on the income. It is necessary to exempt such amounts from inclusion in gross income so as to avoid double counting.
- Almost all countries collect the income tax payable on employment income (PAYE) on a current basis by withholding at source by the employer and if the employer has withheld tax but has failed to remit it to the tax authorities, it is appropriate to relieve the employee of any further tax liability (because the employee has already effectively borne the tax;
- To be effective, PAYE collection and remittance obligations should be imposed on as broad a range of employers as possible;
- One of the main difficulties in making PAYE a final tax is the treatment of deductions. The tax is withheld from gross employment income, while in theory income tax is imposed on net gains, after recognizing deductible expenses incurred by an employee to derive the gross employment income. If employee withholding is to be a final tax liability on employment income, a concessional rate must be used for recognition of actual expenses;

7. The charging provision involves applying the relevant tax rates to the taxable income of the taxpayer and then subtracting any tax offsets that may be available to the taxpayer. It must be clear that charging provisions apply to taxable income and not to gross income.

8. Tax offsets are reductions in the amount of tax otherwise payable. Tax offsets are reductions in the amount of tax otherwise payable. Tax offsets are allowed:

(1) in recognition of tax already paid by the taxpayer (e.g., under a current payment system) or by another person on behalf of the taxpayer (e.g., by an employer through a PAYE withholding, another person paying income subject to withholding, or a trustee deriving income on behalf of a beneficiary);

(2) in an imputation system in recognition of tax previously paid by a company on dividends (or deemed dividends) distributed to the taxpayer; and

(3) for concessional purposes to support certain activities or responsibilities of the taxpayer, such as medical expenses, childcare, charitable or CSR contributions, support for dependents, retirement savings, or to provide general relief to taxpayers with low earned income;

9. Deductions: The usual structure for allowing amounts as a deduction is to provide a general rule followed by supplementary definition and allowance provisions. The general rule commonly allows a deduction for expenses to the extent to which they are incurred in deriving amounts included in gross income.

- The total deductions of a person for a tax period are the total of expenses incurred by the person during the period in deriving amounts subject to tax plus any capital allowances (such as depreciation and amortization provisions) and other amounts allowed as a deduction as a tax incentive (such as CSR expenditure, charitable donations, retirement fund contributions etc).
- Expenses are treated as incurred in the tax period in which the taxpayer actually pays them. Special rules may apply in particular cases (e.g., for long-term contracts or prepayments).

10. A taxpayer shall be given notice of an assessment of tax liability containing the following information:

a. the family name, first name and patronymic (or the name) of the taxpayer;
b. the taxpayer identification number;
c. the date of the notice;
d. the matter to which the notice relates and the tax year (tax period) or years (periods) to which the notice relates;
e. the amount of assessed tax, interest, and penalties;
f. a demand for payment of the tax and deadline for payment;
g. the place and manner of payment of the tax;
h. a statement of the grounds upon which the assessment has been made; and
i. appeal procedures.

11. Refund of excess tax paid:-

1. If the amount of tax paid exceeds the amount of tax assessed, the tax authorities:
a. shall apply the excess against the taxpayer's liability for other taxes;
b. shall with the agreement of the taxpayer, apply the balance as described in subpoint "a" of this point against the taxpayer's liabilities with respect to future payments;
c. unless otherwise provided in this Act, jointly with the financial authorities shall refund the balance to the taxpayer within 45 days of written application by the taxpayer.
2. If the excess tax paid by the taxpayer is applied against the taxpayer's liability for other taxes, the tax authorities must notify the taxpayer.

12 TAX Exemptions:-

1. The following types of income of physical persons are not subject to income tax:
a. official employment income of a diplomatic or consular employee who is not a citizen;
b employment income of a person who is not a resident or a citizen of the and who is present on the territory for less than 90 days in the tax year, if this income is paid by an employer or in the

name of an employer who is not a resident of the Republic and is not paid by a permanent establishment of a nonresident;
c. the value of property received in the form of a gift or inheritance, with the exception of income from such property as well as property received as wages;
d. state pensions, state stipends, and state allowances, including maternity benefits and allowances and those related to loss of work capability as a result of injury and other health problems, and to loss of a breadwinner;
e. alimony;
f. one-time payments and material assistance provided from the budget, as well as humanitarian assistance, including in the event of natural disasters;
g. gains on the supply of immovable property by a physical person that has been the main place of residence of the taxpayer for at least three years;
h. gains on the supply of tangible movable property by a physical person, except for property that is or has been used by the taxpayer in entrepreneurial activity;
i. amounts of state prizes and rewards ;
j. insurance payments received as a result of death of the insured person;
k. income from sale of household agricultural produce without industrial processing.

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