

AGRICULTURAL INCOME TAX

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“Today, a mere 5% of large landholders in Pakistan are said to possess a massive 64% of the total farmland, while 65% of small farmers hold only 15% of the land (Nazeer 2015)”—Economy of Debt: Alternatives to Austerity and Neoliberalism in Pakistan¹

“Dr. Pasha, as the lead author of UNDP’s latest National Human Development Report (NHDR) on inequality, talked about the gross disparities present in the country. As an example, the agricultural and population census shows that 1 percent of farmers in Pakistan own 22 percent of all farm area”—On Equity and Happiness: UNDP at the Lahore Literary Festival²

“I think the landowners’ lobby is powerful in the assembly and they might not allow downward revision of non-taxable income. Instead of filing Agricultural Income Tax returns with the provincial governments, the same should be filed with the FBR that should solely assess/receive tax returns for agriculture and transfer it to the provinces as per their respective share like the gas development surcharge. Equity demands burden of taxation should be same for all.”—Dr. Kaiser Bengali³

The provincial assemblies, in terms of Article 142(c)⁴ read with Entry 47 of Part I of Federal Legislative List [FFL] contained in the Fourth Schedule to the Constitution of the Islamic Republic of Pakistan [“the Constitution”⁵], have the exclusive authority to impose taxes on agricultural income, except in areas that fall within the domain of the federal government, known as Islamabad Capital Territory (ICT)—see Article 1(b) of the Constitution⁶.

The National Assembly can impose income tax on all types of incomes except agricultural income as Entry 47, Part I of FLL reads: “Taxes on income other than agricultural income.” However, it may be highlighted that within the ICT, the National Assembly has the exclusive power to levy income tax on agricultural income as provided in Article 142(d) of the Constitution⁷ which says: “Majlis-e-Shoora (Parliament) shall have exclusive power to make laws with respect to all matters pertaining to such areas in the Federation as are not included in any Province”.

The definition of agricultural income, according to Article 260⁸ of the Constitution⁹, “means agricultural income as defined for the purpose of the law relating to income tax”. This is an exclusive definition meaning that no other meaning can be assigned to it, except for the purpose of the law relating to income tax, which at present is Income Tax Ordinance, 2001. Section 41 of it exhaustively defines what is agricultural income. Despite these clear provisions of the Constitution¹⁰ and principle of equity, none of the provincial governments are inclined to collect tax from the wealthy and absentee landlords on agricultural income at the rate applicable under the Income Tax Ordinance, 2001 on non-agricultural income.

¹<https://awamiworkersparty.org/economy-of-debt-position-paper/>

²<https://www.undp.org/pakistan/news/equity-and-happiness-undp-lahore-literary-festival>

³<https://www.dawn.com/news/1613905>

⁴<https://www.infopakistani.com/constitution-of-pakistan/article/142-Subjectmatter-of-Federal-and-Provincial-laws>

⁵http://na.gov.pk/uploads/documents/1566986522_519.pdf

⁶*Ibid.*

⁷*Ibid.*

⁸<https://www.infopakistani.com/constitution-of-pakistan/article/260-Definitions>

⁹http://na.gov.pk/uploads/documents/1566986522_519.pdf

¹⁰*Ibid.*

It is pertinent to note that the definition of agricultural income provided in Article 260¹¹ of the Constitution¹² cannot be altered even by the Parliament without the prior sanction of President of Pakistan as provided in Article 162 of the Constitution¹³:

“No Bill or amendment which imposes or varies a tax or duty the whole or part of the net proceeds whereof is assigned to any Province, or which varies the meaning of the expression "agricultural income" as defined for the purposes of the enactments relating to income-tax, or which affects the principles on which under any of the foregoing provisions of this Chapter, moneys are or may be distributable to Provinces, shall be introduced or moved in the National Assembly except with the previous sanction of the President”.

Income tax on agricultural income should not be levied/assessed/collected on per acre basis, but on net income basis, as required by the Constitution¹⁴. No province can disregard this command of the supreme law of the land. However, an unconstitutional practice has been ongoing since 1973, and all institutions, including the Supreme Court, remain a silent spectator on this vital matter that help the rich to amass more wealth at the expense of state treasury and the landless tillers.

The federal government's approach in taxing agricultural income is no different within the federal boundaries of Islamabad, even though many wealthy individuals own agricultural farms and absentee landlords in rural areas are quite affluent. These landlords hold significant influence in national politics, federal and provincial assemblies.

The Constitution¹⁵ empowers the National Assembly to levy income tax on agricultural income within the federal limits, but no legislation has been enacted for this purpose so far. This is because influential members of elites, who are favoured by the state with agricultural lands as reward/award and profit from renting it out, wielding considerable influence over elected governments and living opulent lifestyles at the expense of poor peasants.

Moreover, poor farmers are exploited by the state, as they are subjected to heavy sales tax on agricultural implements, electricity, fertilisers, pesticides, insecticides, and other inputs, along with petroleum levies on diesel and petrol. In addition to numerous other levies, they also face abuses from the police, patwar (land revenue officials), and landlords. Multiple inquiry reports confirm that sugar barons do not provide fair compensation to farmers for the sugarcane they produce.

According to an op-ed¹⁶ on February 6, 2020 by a former federal secretary: “This [agricultural] sector is almost one fifth of the economy (18.9%) and generates more than USD 60 billion or Rs. 9 trillion worth of gross income annually. . .”. The Tax Expenditure Report 2020¹⁷ of Federal Board of Revenue (FBR) claimed that in tax year 2018 exempt dividend paid by corporate sector from agricultural income was Rs. 43 billion¹⁸. The provincial collection of agricultural income tax in tax 2018 was Rs. 1598 million¹⁹.

On the basis of Agricultural Census 2010 by Pakistan Bureau of Statistics, the Report claims: “If statutory slab-wise tax rates are applied on average income per farm for the six categories of farm sizes, the estimated revenue forgone due to this exemption comes to Rs. 69.5 billion²⁰ annually”. It may be noted that farms smaller than 7.5 acres were excluded and Rs. 50,000 income per acre basis was assumed.

The four provinces, instead of levying agricultural income tax as per the Constitution²¹ and imposing progressive taxes like wealth tax and capital gains tax on the wealthy class, collectively received Rs. 4233 billion²² in fiscal year 2022-23 from the federal government under the 7th National Finance Commission (NFC²³) Award. On their own, they collected a meager amount of total revenues of Rs. 815 billion, with tax revenue of only Rs 649 billion. The collection under the head agricultural income tax in total tax collections was a mere 0.3 percent. The revised estimates for the current fiscal year are also shockingly low.

In the previous fiscal year, all provincial governments cumulatively collected Rs. 2.4 billion as agricultural income tax, though its national potential could be up to Rs. 800 billion, as per various research studies, if the agricultural income tax was imposed in accordance with the Constitution. Proper collection of this tax by the provinces could have significantly reduced the federation's overall fiscal deficit besides improving the pathetic tax-to-GDP ratio of just 9.2 percent²⁴.

¹¹<https://www.infopakistan.pk/constitution-of-pakistan/article/260-Definitions>

¹²http://na.gov.pk/uploads/documents/1566986522_519.pdf

¹³Ibid.

¹⁴Ibid.

¹⁵Ibid.

¹⁶<https://nation.com.pk/06-Feb-2020/issues-in-the-collection-of-agriculture-income-tax>

¹⁷<http://download1.fbr.gov.pk/Docs/2020622186353342TaxExpenditureReport2020.pdf>

¹⁸Ibid.

¹⁹Ibid.

²⁰Ibid.

²¹http://na.gov.pk/uploads/documents/1566986522_519.pdf

²²https://www.finance.gov.pk/fiscal/July_June_2022_23.pdf

²³<https://www.sbp.org.pk/reports/quarterly/fy10/first/specialsection2.pdf>

²⁴https://www.finance.gov.pk/fiscal/July_June_2022_23.pdf

The above-mentioned facts highlight that the real problem does not lie with the Eighteenth Constitutional Amendment²⁵ or the NFC Award²⁶, but with the failure to reform the revenue system, the dysfunctional state of the FBR and provincial tax agencies, tax concessions and exemptions for the wealthy tax evaders, and granting amnesty to those state thieves, who have mercilessly looted the wealth of the nation with impunity.

The questions arise: did the provinces request the federal government to announce amnesties or grant tax exemptions of over Rs. 1.5 trillion in 2022-23 alone under federal tax codes, or did they participate in the legislation? It is misleading to blame the provinces for low collection of federal taxes, not as per their real potential by the FBR for the main reason that exemptions/waivers/amnesties of over Rs. 6 trillion were given in the just the last five years.

Local experts are certainly capable of addressing these issues, and it is puzzling that the government has sought substantial loans from international organisations like the World Bank for revenue system reforms, in the billions of dollars. It begs the question of why local expertise is not being utilised effectively.

One historical example of the consequences of attempting to impose federal income tax on agricultural income is the overthrow of Zulfikar Ali Bhutto's government in 1977. His action to impose federal income tax on agricultural income through the Finance Act, 1977 angered a powerful class of feudal lords, land-owning generals, judges, and wealthy members of parliament. This law was suspended by General Zia-ul-Haq, who went on to please the landlords and privileged classes by having Bhutto judicially assassinated. This is a significant reason why landlords and religious leaders supported Zia-ul-Haq, and the consequences of this support continue to affect the nation today.

Despite many governments, both civilian and military, following Bhutto, none have attempted to abolish the colonial-era taxes imposed on small farmers – only increasing them over time. On the contrary, in violation of the Constitution they never bothered to tax the colossal agricultural incomes of absentee landlords. Even during Shaheed Benazir Bhutto's two-term government, there was no effort to tax the agricultural income of one percent feudal class having 22 percent of total land of Pakistan. This was the position shared by all political parties during the Eighteenth Constitutional Amendment, which they maintain to this day.

The situation persists in four provinces even today. In Sindh, for example, the government collects sales tax on services, regressive in nature, but hesitates to levy agricultural income tax on big landlords. The same pattern repeats in Punjab and Khyber Pakhtunkhwa, where the assemblies are dominated by large landlords. The failure to collect income tax on agricultural income as per the Constitution has led to significant revenue losses. Balochistan faces an even worse situation, with no income tax collected on agricultural income exceeding five million rupees during any financial year. It appears there is a lack of political inclination in all provinces to impose agricultural income tax as per the Constitution, a right they have held since independence – which has nothing to do with the Eighteenth Amendment.

Today, amid the most challenging financial circumstances, poor and destitute farmers are burdened with an 18% sales tax, which also extends to goods, inputs and implements used for agriculture, further pushing them into poverty. The imposition of high rates of indirect taxes has pushed many people in rural areas below the poverty line. It is concerning that these issues do not seem to be a priority for the federal and provincial governments, while rich landlords and absent landowners who rent out their plantations for substantial sums continue to avoid paying taxes on their agricultural income.

This situation is affecting agricultural production and GDP negatively, as evident in the need to import millions of cotton bales. It is crucial for both federal and provincial governments to address these issues and prioritise the welfare of the poor and vulnerable farmers. The federal government has never collected any agricultural income tax from the areas under its control from the rich and mighty owners of large farms and property tax on palatial houses/bungalows.

²⁵<https://www.pakistani.org/pakistan/constitution/amendments/18amendment.html>

²⁶<https://www.sbp.org.pk/reports/quarterly/fy10/first/specialsection2.pdf>

The federal budget never shows any figure of agricultural income tax in ICT because according to the Constitution, the National Assembly has the power to impose this tax – and it has never exercised this right. Past Prime Ministers and Finance Ministers have not mentioned its implementation to increase federal resources. The World Bank and International Monetary Fund (IMF) have not included this lapse in any of their reports or studies. According to the current Chairman FBR, the federal government lacks this right according to the Constitution, which is a regrettable oversight.

Furthermore, there is no mention of imposing a property tax of at least Rs. 2,000 per square meter on the luxurious palatial houses and farmhouses in and around Islamabad to improve facilities in Islamabad and its underdeveloped rural areas. The suggestion to generate revenue from the wealthy to address the costly debt was also ignored in the Finance Bill 2023. Only once has Parliament introduced a tax for the benefit of the poor in the form of Income Support Levy in 2013, repealing it the following year.

Both the federal government and provincial authorities appear unwilling to impose income tax on the agricultural income of large landlords due to their significant political influence. These landlords, who hold sway in politics and assemblies, are a formidable force that can potentially remove any government from power if they attempt to impose such taxes as mandated by the Constitution.

A potential solution to these issues could involve transferring the taxation of agricultural income to the federal government and restoring to the provinces the sales tax on goods that was taken from them after independence. This situation is a major contributor to many of Pakistan's economic problems, as it concentrates resources and powers in the hands of privileged classes who, in turn, support corrupt government officials because they safeguard their interests. If Pakistan aims to overcome these challenges, this entrenched partnership needs to be dismantled. To achieve this, empowering the people is crucial.

This can be achieved by shifting the focus of power away from politicians and placing it in the hands of the people at the local government level, as mandated by Article 140A of the Constitution. Decision-making should be in the hands of the people, not government officials. Public representatives and government officials should be held accountable to the public, and powerful individuals and/or organisations should not be allowed to cover up their wrongdoings or manipulate them for their own agenda and self-aggrandisement.

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