**Determining fair income-tax base**

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According to the latest [data](https://www.pta.gov.pk/en/telecom-indicators) available on the website of Pakistan Telecommunication Authority (PTA), the total number of cellular subscribers as on January 31, 2021 were [180 million](https://www.pta.gov.pk/en/telecom-indicators) (84% teledensity), out of which [95 million](https://www.pta.gov.pk/en/telecom-indicators) were 3G/4G subscribers (44.5% penetration), [2 million](https://www.pta.gov.pk/en/telecom-indicators) basic telephony users (1.3 teledensity) and [98 million](https://www.pta.gov.pk/en/telecom-indicators) broadband subscribers (45.6% penetration). ‘SIM’ (Subscriber Identity Module), a smart card used in digital phones by a subscriber to avail GSM (Global System for Mobile communications) is issued only after biometric verification and data contained in Computerised National Identity Card (CNIC).

The Supreme Court of Pakistan in 2015, [allowed](https://www.dawn.com/news/1217784) PTA to permit cellular companies to issue three data-only SIMs, used specifically for internet browsing, in addition to the five SIM-limit already in place for voice callers, per individual. Before, this decision, under PTA’s rules, people were allowed only to have up to five SIMs per one CNIC. The Supreme Court further directed PTA “to review this order in three months and, in case the authority needed to increase the number of data-only SIMs allowed to an individual”, it could do so on its own without seeking further intervention from it.

Many individuals have more than one SIM. The actual number of mobile users per CNIC is about 100 million. Many business entities get SIMs issued in the names of employees and pay their bills. In terms of section 236 of the Income Tax Ordinance, 2001 [“the Ordinance”], all of them have to pay advance and adjustable 12.5 % income tax, irrespective of whether they are earning taxable income or not with exceptions provided in section 236(4) of the Ordinance, which reads:”Advance tax under this section shall not be collected from Government, a foreign diplomat, a diplomatic mission in Pakistan, or a person who produces a certificate from the Commissioner that his income during the tax year is exempt from tax”.

In Pakistan, the ultra-rich are avoiding tax obligations whereas millions having no income or incomes below taxable limit are forced to pay advance tax in flagrant violation of Article 4(c) of the Constitution

It is intriguing that many government servants are entitled to have official phone connections at home enjoying exemption from paying advance tax. Their official phones must be closely monitored to ascertain whom they call for official and non-official purposes, as bills are paid from taxpayers’ money and Federal Board of Revenue (FBR) gets no advance tax!

Out of 100 million mobile users paying advance adjustable tax of 12.5%, the number of “active” income tax return filers, including government employees, as per [Active Taxpayers List](https://www.fbr.gov.pk/download-atl/132041) (ATL) on FBR’s website [data updated every Monday], was **2,506,739** as on the latest date (April 5, 2021).

According to a source, the total number of income tax filers for tax year 2020 till April 8, 2021 was 2,81,6694 paying Rs. 50.5 billion as per details below:

\* Individuals: 2,648,709: tax= Rs. 25 billion

\* Association of Persons (AOP): 72,048: tax=Rs. 4 billion

\* Companies: 54,140: tax=Rs. 21.3 billion

\* 41,743 filed returns manually and paid Rs. 15 million

Note: Many filed returns late but did not pay default surcharge to be eligible to appear in [ATL](https://www.fbr.gov.pk/download-atl/132041).

Dr. Waqar Masood, Special Assistant to the Prime Minister (Minister of State) on Revenue, in an [interview](https://www.dawn.com/news/1587222) revealed that out of total returns received at least 1.5 million declared zero or below taxable income! It clearly shows that there is a huge tax gap between potential taxpayers and filers that needs to be bridged.

In the latest [Year Book 2019-20](https://download1.fbr.gov.pk/Docs/2020929129450205FBRREVENUEDIVISIONYEARBOOK2019-20.pdf) issued by FBR, income tax collected at source under section 236 of the Ordinance was Rs. 54.6 billion. If we calculate from this number, the revenues on which four cellular companies collected tax for FBR, it comes to **Rs. 436.8 billion**. On the website of PTA, the total revenue for fiscal year 2019-20 of telecom sector is shown at [Rs. 537 billion](https://www.pta.gov.pk/en/telecom-indicators/5), out of which cellular [Rs. 424,290 million](https://www.pta.gov.pk/en/telecom-indicators/5), basic telephony [fixed local pool (FLL) and wireless local loop (WLL)] [Rs. 78,193 million](https://www.pta.gov.pk/en/telecom-indicators/5) and long-distance and international (LDI) calls [Rs. 34,697 million](https://www.pta.gov.pk/en/telecom-indicators/5). The difference may be due to exemption certificates obtained from the Commissioner of Inland Revenue (CIR) and categories exempted under section 236(4) of the Ordinance.

Out of 100 million paying advance income tax under just one head of withholding tax, at least 80 million, are not chargeable to tax. It is against the Constitution of Islamic Republic of Pakistan [“the Constitution”] to take advance income tax from them. The legislature, above party lines, should realise that this group of taxpayers include the poorest of the poor, who are even entitled to cash-handouts from *Ehsaas*. Just for the sake of collection of Rs. 55 billion, a great injustice is being done to the people of this country. FBR should chase only those who have taxable income but are not filing tax returns. Advance income taxation with mobile expenditure is the worst one can think of in any tax policy.

Those not filing returns having income chargeable to tax can be traced from the data available with the four cellular companies alone. Their share in market, according to PTA is: [PMCL (Jazz): 37.96%](https://www.pta.gov.pk/en/telecom-indicators/7), [Telenor 26.98%](https://www.pta.gov.pk/en/telecom-indicators/7), [CMPAK (Zong): 22.06%](https://www.pta.gov.pk/en/telecom-indicators/7) and [PTML (Ufone): 13%](https://www.pta.gov.pk/en/telecom-indicators/7). Using powers under section 176 of the Ordinance, Commissioners, Inland Revenue Service (IRS), can seek information from cellular companies about those paying amount exceeding Rs. 36,000 per annum to determine how many in this category are not filing returns and what is their source of meeting this and other expenses including resident individuals owning expensive handsets and travel abroad while using roaming but are non-filers.

It is totally unjustified to ask four telecommunication companies to collect advance income tax from 100 million individuals and deposit the same in the government treasury. It is a classic case of bad tax policy and legislation by the National Assembly and to the extent of sending recommendations on the part of Senate under Proviso to Article 73(1) of the Constitution in the case of Money Bill. It is allowing IRS authorities to abdicate their duties by getting hooked on “easy collection” like “easy money”.

In Pakistan, the ultra-rich are avoiding tax obligations whereas millions having no income or incomes below taxable limit are forced to pay advance tax in flagrant violation of Article 4(c) of the Constitution. FBR cannot force them to engage a tax adviser to file return and wealth statement, pay fee to get a paltry amount of refund? FBR is only taking data on the basis of returns filed. It is their duty to issue notices to those having taxable income, paying tax at source, yet not filing returns.

It is time that Prime Minister, Imran Khan, take personal interest and order FBR to pay refunds of 12.5% collected from 80 million whose income is not chargeable to tax. Simultaneously, FBR will get tax base of 20 million income tax payers. Refund to 80 million adult voters will bring great political dividends for PTI in helping those suffering due to economic miseries duringCovid-19 endemic. This is their money and should be returned to them not as charity but as a matter of right-a beginning to establish rule of law (fair income tax base).

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