

Amendment in Taxation by Finance Bill, 2083

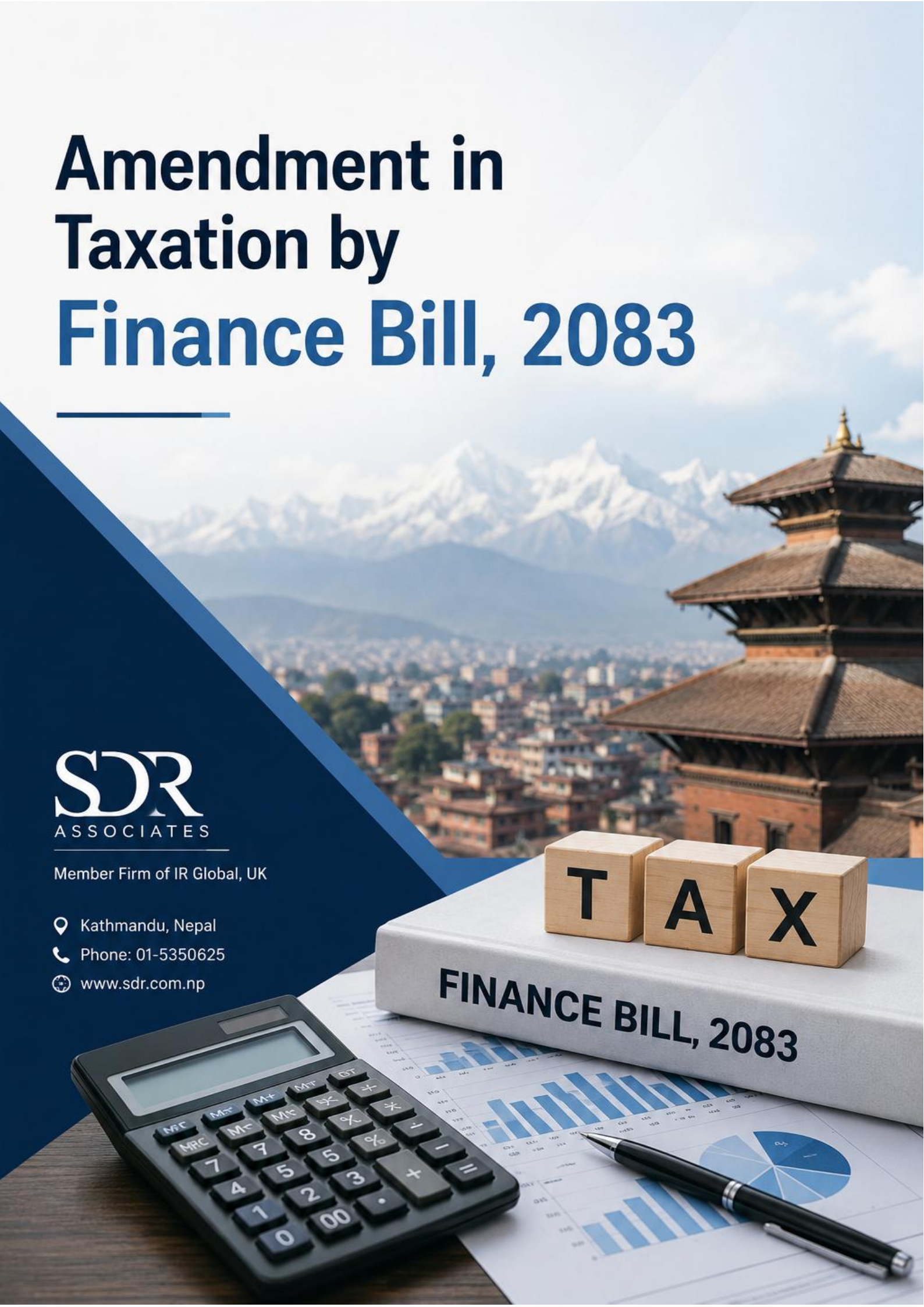
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Changes in Income Tax

Changes to TDS Rates

- Payments to resident individual insurance agents- 20% (Previously it was 15%)
- Award upto Rs. 5 Lakh for contribution on agriculture– No TDS
- Payment to consumer committees for work exceeding Rs. 50 Lakhs – TDS rate removed
- Ride Sharing Operators Payments to rider – 1% (Final)
- Revised Advance Tax Rates
 - ✦ Listed shares (≤ 365 days): 10% ~~7.5%~~
 - ✦ Listed shares (> 365 days): 7.5% , ~~5%~~
 - ✦ Land & building (≥ 5 years holding): 7.5%, ~~5%~~
 - ✦ Land & building(<5 years holding): 10%, ~~7.5%~~*(Note: Final if no return is filed.)*
 - ✦ Involuntary disposal of land due to government acquisition: 2.5%

Changes to Tax Rates

- Tax Slab for Resident Individuals (Revised Tax Slab Rate):
 - ✦ First Rs. 1,000,000: 1% or 0%
 - ✦ Next Rs. 500,000: 10%
 - ✦ Next Rs. 1,000,000: 20%
 - ✦ Next Rs. 1,500,000: 27%
 - ✦ Above Rs. 4,000,000: 29%
- ✓ Deduction for insurance premium paid on private buildings is increased from Rs. 5,000 to Rs. 10,000.
- ✓ Resident natural persons can deduct 25% of annual tuition fees paid for children's education or Rs. 25,000, whichever is lower.

Tax Exemptions and Deduction

- CSR expenses deductible = up to 1% of taxable income (in year of expense).
- Sweat equity received by employees in the IT sector need not be included in taxable income.
- Following income are exempt from income tax:
 - ✦ Gains from disposal of private land or buildings donated to federal, provincial, or local government by a natural person are exempt from tax.
 - ✦ Interest income from debt investments in Nepal earned by a not-for-profit financial institution wholly owned by a foreign government is exempt from tax.
 - ✦ Income earned for stated objectives by drinking water and sanitation consumer organizations registered under the Water Resource Act, 2049 is exempt from tax.

- ✦ No tax on the income of universities registered and operating in Nepal for their stated objectives.
- Interest earned on deposits with microfinance institutions, rural development banks, postal bank, and cooperatives is taxable only on the amount exceeding Rs. 25,000.
- Cinema halls established outside metropolitan and sub-metropolitan areas are eligible for a 10-year income tax exemption from the date of commencement of commercial operation.
- Deductible donations ceiling = Rs. 300,000 (Previously it was Rs.100,000)
- Cash payments $>$ Rs. 25,000 per transaction are disallowed as deductible expenses (previous limit: Rs. 50,000).
- Share and debenture issue costs are now deductible as revenue expenditure, as they are no longer treated as capital expenditure.
- NRB-licensed hire-purchase companies may claim deduction for loan-loss provisions up to 5% of outstanding loans, including written-off loans and non-banking assets.
- Section 57 will not apply in cases where:
 - ✦ Ownership transfers to a legal heir by operation of law on death;
 - ✦ Ownership of a resident entity changes due to changes in its resident holding company's shareholding.

Transfer Pricing

- **International Transaction definition** Includes any dealing in goods, services, finance, or intangible property with a non-resident that affects income, expenses, assets, or liabilities.
- **Safe Harbour Rule:** Taxpayers with turnover up to NPR 1 billion may adopt safe harbour pricing if conditions are met:
 - ✦ IT service exporters: minimum 15% operating margin on costs
 - ✦ USD intercompany loans: 200–400 bps over reference rate
 - ✦ Low value-added services: up to 5% cost-plus margin (as prescribed by IRD)Safe harbor applies for at least 5 income years unless there is a substantial change; IRD will issue implementation guidelines.
- **Advance Pricing Agreement (APA):** IRD may enter bilateral or multilateral APAs for international transactions between associated enterprises.

- ✚ Transfer pricing agreed under APA is treated as arm's length for up to 5 years
- ✚ Rollback allowed up to 4 preceding years
- ✚ Binding unless law or key terms materially change
- ✚ Void ab initio if obtained through fraud, misstatement, or misrepresentation

Fines and Penalty Changes

- Section 119Ka has been revised as taxpayers required to issue e-invoices are liable to a penalty of Rs. 500,000 for using software that deletes or alters data, and Rs. 100,000 for other non-compliance.

Other Amendments

- "Agricultural business" now covers crops, horticulture, livestock, aquaculture, and apiculture.
- IRD interpretations issued through public circulars are final. Similar provisions has been included in VAT Act, 2052.
- Invoices are formally recognized as mandatory tax records to be maintained by the taxpayer.
- IRD is empowered to define procedures for electronic invoicing and mandate e-invoices via other approved systems in addition to CBMS integration. Similar provisions have been included in VAT Act, 2052.
- IRD can access financial data electronically from any person or entity holding relevant records in Nepal. [Section 82A]
- Full audit assessment period reduced from 4 years to 3 years.
- Claim period for refund of income tax extended from 2 years to 5 years.
- An income earned by resident natural person whose sole income is derived from providing software or electronic services, consultancy services, or uploading audio-visual content on social networks outside Nepal is treated as final withholding.

Changes in VAT Act

- Resident ride-hailing platform operators must assess and collect VAT from service providers for passenger transport, cargo, and delivery transactions at each instance at the rate of 5% applicable from Shrawan 1, 2083. 5% VAT also applicable to final consumer of electricity
- Taxpayer who have timely filed VAT returns may amend returns within 7 days to correct errors as per IRD procedures.

- 10% VAT benefit on electronic payments changed from refund model to immediate discount at billing stage (effective discount ~1.3%).
- VAT deduction by government entities and its refund provision under contracts has been removed. [Section 25C removed]

Penalties & Offences

- Fine of Rs. 100,000 for other e-invoicing non-compliance other than editing/correcting invoices.
- Penalty for general non-compliance increased from Rs. 1,000 to Rs. 10,000.
- Rs. 50,000 fine for violation of IRD directives on internal movement of goods.

Schedule 1 – VAT Exemptions & Changes

✓ Added to VAT Exempt List (No VAT Applicable)

- ✚ Wood briquettes, Certain Ayurvedic/traditional medicines
- ✚ Medically prescribed spectacles/glasses except sunglasses
- ✚ Bandages, X-ray preparations, clinical kits, diagnostic reagents
- ✚ Digital financial service fees
- ✚ Insurance agent commission services
- ✚ Labour Charges for gold/silver jewellery making

✓ VAT Applicable now onward (Previously Exempt/Changed)

- ✚ Coconut
- ✚ Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers.
- ✚ Ride Sharing Platform
- ✚ End consumers using over 50 electricity units per month; inter-business electricity sales are exempt

Changes in Custom Duty Laws

- ✓ Person not satisfied with a decision made by a customs officer under the Act, they may seek appeal administrative review.
- ✓ Investigating officer must complete the investigation and file the case within 25 days from the date of arrest.
- ✓ Fee of NPR 3,000 when applying to the Director General for an advance ruling.
- ✓ A person wishing to cancel their export or import code number may submit an application to the department along with the renewal fee, previously if the renewal was not done it would cancelled automatically.
- ✓ If imported goods or their packaging do not clearly bear identifying details such as brand, company, model, item number, or any such description, and a declaration is made without disclosing the clearly identifiable details of such goods, the declarant shall be fined 25% (Previously 50%) of the applicable customs duty on such goods.
- ✓ If a vehicle owner knowingly provides their vehicle for smuggling or illegal import/export, or if a driver knowingly transports such goods without the owner's knowledge or consent, a fine may be up to NPR 10,000 for carts, horse carts, handcarts, rickshaws, and bicycles (on both owner and driver), and up to NPR 20,000 for scooters and motorcycles.
- ✓ **Passenger Allowance – Silver**
 - ✦ Silver -Up to 500 g Prevalent rate applicable
 - ✦ Silver ornaments
 - Up to 500 g – Duty free
 - Add. 500 g - Prevalent rate applicable
 - ✦ Excess: confiscated.

Excise Duty – Key Amendments

Excise Credit

- Discount is allowed to industry on selling of wine, beer and tobacco and nicotine products to VAT registered buyers.

Others

- Microbreweries required to pre-pay monthly excise based on installed capacity yield rate. [Section 4(1)(a)].

Major Amnesty Provisions

Income Tax Amnesty

- ✓ **Tax Compliance Regularization**
 - ✦ Persons without PAN may obtain waiver of interest and filing fees by obtaining PAN and filing returns for FY 2079/80–2082/83 within Poush 2083
No requirement to file returns or pay taxes for years prior to FY 2079/80.
 - ✦ PAN holders with no business activity may regularize or cancel PAN without filing prior years' returns only if income tax return of F.Y 2082/83 is filed within Poush 2083
 - ✦ PAN holders failing to file returns may obtain waiver of interest and fees by filing outstanding returns and paying tax plus 1% within Poush end 2083.
- ✓ **Tax Arrears Settlement**
 - ✦ Taxpayers with outstanding VAT, Income Tax, Excise Duty up to Jestha 15 2083 despite filing returns may obtain waiver of interest, penalties, surcharges, and late fees by paying the outstanding tax plus 1% within Poush 2083.
 - ✦ VAT, Income Tax, Excise Duty arising from previous assessments made by IRD or related offices may be settled by paying the assessed amount plus 1% within Poush end 2083, resulting in waiver of penalties, interest, fees, and late charges (except telecom sector).
- ✓ **Litigation Settlement**
 - ✦ Taxpayers with pending disputes related to VAT, Income Tax, Excise Duty wishes to withdraw case and pay tax within Poush end 2083 shall obtain waiver of interest, penalties, fees, surcharges, and late fees by paying tax plus 1%.
 - ✦ Also, applicable where tax-related case has been appealed by the Government (Department) to the Supreme Court, or where permission to retry the case has been obtained and in cases where permission to appeal to the Supreme Court has not been granted and the office has also not re-assessed the tax.
 - ✦ These provisions are not applicable to telecommunications service providers.
- ✓ **Special Taxpayer Relief**
 - ✦ Nepali citizens or residents working in the UN, international organizations, or diplomatic mission who are not entitled to diplomatic tax exemptions but failed to pay tax or file income returns for FY 2079/80 to 2082/83 can regularize their tax status

by taking PAN and paying the outstanding tax + 1% and filing income returns by end of Mangsir 2083 BS. The income returns and tax before such period need not be submitted.

- ✦ Universities, diplomatic missions, development partners, and non-residents investors are exempt from filing income tax returns up to FY 2082/83, except for advance tax obligations.
- ✦ Non-profit Organization whose Bidhan provides that the remaining property upon dissolution of the organization shall vest in the Government of Nepal, submits its income return for Fiscal Year 2082/83 within Poush end of year 2083, then the tax, interest and fees payable on the taxable income arising from donations, contributions and gifts received within and before that fiscal year shall be waived. If such an institution has only donations, charities, and gifts as its income, then it is not even required to submit an income return.
- ✦ Community schools and health institutions may obtain waiver of prior years' taxes, interest, and penalties upon filing FY 2082/83 returns.
- ✓ **Tax Exemptions & Deductions**
- ✦ Contributions to the National Reconstruction Fund are deductible for income tax purposes.
- ✓ **Corporate Compliance Relief**
- ✦ Companies failing to file returns, renew registrations, or pay taxes wishing to continue operations or deregister may obtain waiver of historical taxes, fees, charges, interest, and penalties by paying all taxes, fees and submitting returns within Ashwin 2083 as per laws of F.Y 2082/83.

VAT Amnesty

- ✓ **VAT Non-Compliance Regularization**
- ✦ VAT-registered persons who failed to collect and deposit VAT and who collected VAT but failed to file VAT return previously may obtain full waiver of interest, additional fees, and penalties by filing outstanding returns up to 2082 Chaitra and paying VAT due plus 1% within 2083 Poush end.

Excise Duty Amnesty

- ✓ **Excise Duty Regularization**
- ✦ Excise defaulters who pay their self-assessed dues plus one percent by Poush 2083 shall receive full waiver of all fines and late fees.

- ✓ **Excise License Renewal Relief**

- ✦ Lapsed excise license holders who renew by Ashoj 2083 by paying only the 2082/83 renewal fee shall have all other outstanding renewal fees and penalty waived.

- ✓ **Customs Duty Amnesty**

- ✓ **Post-Clearance Audit Settlement**

- ✦ Importers with unpaid post-clearance duties under Custom Acts up to Baisakh 2083 or pending court cases, who settle all outstanding customs, excise, and VAT dues by Poush 2083 shall receive a complete waiver of all fines and interest.

- ✓ **Shipping Container Fee Waiver**

- ✦ Domestic and foreign shipping companies may remove long-standing containers from customs premises without fees and demurrage charges upon submitting an application by end of Magsir 2083.

- ✓ **Bonded Warehouse & Passbook Facility Relief**

- ✦ Licensed and non-licensed industries that imported raw materials under bank guarantee or passbook facility can have their guarantees released or deposits refunded upon exporting finished products, receiving foreign currency, and submitting required documentation by end of Mangsir 2083.

Gen-Z Movement Relief Measures

- ✓ **Business Loss Relief**

- ✦ A concerned person may self-declare VAT within 30 days based on a valuation supported by a loss assessment affidavit for claiming the cost of uninsured inventory lost during protests as a deductible expense under Income Tax Act, 2058, and credit for VAT paid on damaged inventory.

- ✓ **Reconstruction Incentives**

- ✦ 50% exemption on Customs Duty and Excise Duty for importing machinery, equipment, furniture, and other items required to restore damaged businesses.

- ✓ **Casino Relief**

- ✦ Royalty and renewal fees are waived for periods during which casino operations were disrupted due to Gen-Z movement-related damage.

Sector-Specific Tax Exemptions

- ✓ **Hydropower Projects**

- ✦ Hydropower whose capacity and design has been changed can import required equipment against bank guarantee for applicable taxes on recommendation of the NEA.

✓ **Luxury Tax & VAT Relief**

- ✦ Luxury Duty on gold and ornaments and VAT on diamonds, gems, precious stones, and similar items outstanding before the 2082 Bhadra 2 date are waived.
- ✦ Full tax, interest, and penalty waiver to gold, silver, and craft manufacturers who failed to collect VAT up to Fiscal Year 2082/83.

Outstanding Tax under Previous Laws & Special Write-Off Measures

✓ **Historical Tax Write-Off**

- ✦ Outstanding dues of Excise Duty under Excise Act, 2015; Sales Tax, Hotel Tax, Entertainment Tax, and Contract Tax are waived.

✓ **Income Tax Arrear Write-Off**

- ✦ Income tax arrears assessed under the Income Tax Act, 2031 may be written off where the taxpayer neither obtained a PAN nor carried on income-generating activities.

✓ **Reliefs on Taxes imposed by Finance Act**

- ✦ Taxpayers with unpaid/underpaid taxes or pending court cases (withdraw cases) who pay the outstanding amount plus 1% by end of Mangsir 2083 shall receive full waiver of all penalties, interest, and fees.
- ✦ Casinos with unpaid royalties or lapsed licenses may renew upon paying a 15% penalty, while pending court cases shall be resolved by the court.

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