From: **Asif Siddiq Kasbati** <asif.s.kasbati@professional-excellence.com>
Date: Mon, Nov 2, 2026 at 6:33 PM
Subject: TLQC3804= Good News as to Super Tax u/s 4B & 4C: FCCP heard Review Petition today

Dear Learned Professionals

This refers to the email trail below as to the FCCP Super Tax u/s 4B & 4C which were almost declared intra vires the Constitution.

As per a reliable source, the FCCP heard the Review Petition today; however, the decision is pending. Your goodself may contact your Legal Counsel in this regard.

We will keep your posted to our Learned Subscriber

Best regards for Here & Hereafter
Asif S Kasbati (FCA, FCMA & LLB)
Managing Partner
Kasbati & Co (1400+ Tax, Levies, Companies, Economy, Inflation, HR, Banking, Finance, etc Quick Commentary Service Provider and High Level 440+ Tax & Levies Laws Consultants)
Head of Tax & Professional Excellence Services (Symbols of High Quality Practical Tax, Levies & Corporate Training for Beginners to High Levels' Professionals) **PTCL:** 92-21-34329108 **Mobile:** 0334 322 3161 **Website:** kasbati.co **Facebook:** https://www.facebook.com/taxexcellence/
Google Map link: Tax Excellence **YouTube Channel** Tax Excellence

==========
==========From: **Asif Siddiq Kasbati** <kasbati.commentaries@gmail.com>
Date: Wed, Apr 29, 2026 at 6:20 PM
Subject: TLQC3493= Super Tax u/s 4B & 4C: Detailed Order released today

I. BACKGROUND

(1) This refers to the related Important TLQCs **in trail, blue, italic and double Line** (a) 3431 of 1.2.26 about FCCP Short Order: Sections 4B/4C Super Tax almost intra vires Constitution details (b) 3429 of 29.1.26 about **PSX Fallen as KC predicted** & may fall more, as 4B & 4C FCCP order **(2)** also refer to other relevant TLQCs List is given in **Para III** for ready reference

II. Updated Commentary

1. Further to KQU 3887 of 29.4.26, **being an important matter,** we would inform you about Super tax u/s 4B & 4C heard for several days as covered in our TLQCs from time and finally FCCP released Detailed Order today in case of DG Khan Cement Company Limited, etc VS Federation of Pakistan, Secretary Revenue Islamabad, etc in - CA 1243/2020, etc (**Attachment 3493.1**)

2. The order consists of 293 pages. The long list of cases runs from pages 1 to 154, while the actual judgment starts on page 155 and ends on page 293.

3. The FCCP detailed order has been released today after over 90 days of the short order on 27.1.26 (TLQC 3429 & 3431 of 29.1.26 & 1.2.26 respectively in trail refers)

4. Our detailed comments will follow shortly, after evaluating the long judgement, which required over 90 days to release by FCCP.

III. List of Other relevant over 20 TLQCs about Sections 4B & 4C - most of these arose after FCCP short order of 27.1.26

(a) 3489 of 27.4.26 about Super Tax: Jurisdictional Defects, procdural lapses, etc; Remanded to OIR by ATIR
(b) 3488 of 25.4.26 about Super Tax: Deepening controversy - WHT adjustment, etc
(c) 3482 of 21.4.26 about Super Tax Section 4C: WHT Adjustment denied against Gross tax by IHC and KC Views & Recommendations
(d) 3487 of 24.4.26 about Super Tax: Constitutional concerns emerge from IHC's interpretation of Section 4C & Chapter X
(e) 3477 of 20.4.26 about Super Tax: No Default Surcharge recovery, without adhering to Section 137(2) - SHC
(f) 3476 of 18.4.26 about Super Tax: PBC Representation to FBR against Notice for Default Surcharge levy
(g) 3475 of 17.4.26 about Super Tax Default Surcharge recovery stayed - SHC unreported Main Interim order found
(h) 3471 of 15.4.26 about Super Tax: Default Surcharge recovery stayed by SHC as KC predicted - KC further Recommendations
(i) 3466 of 8.4.26 about Super Tax, etc: Department must decide Refund claims before Recovery - ATIR unreported order and KC views
(j) 3476 of 20.4.26 about Super Tax: PBC Representation to FBR against Notice for Default Surcharge levy
(k) 2822 of 3.7.24 about Section 7E Violation and Huge Revenue loss
(l) 3471 of 15.4.26 about Super Tax: Default Surcharge recovery stayed by SHC as KC predicted - KC further Recommendations
(m) 3456 of 26.3.26 about Super Tax: FBR targets Rs 100bn Delay Surcharge and KC Views & Recommendations
(n) 3470 of 15.4.26 about Super Tax: Calculation u/s 4C on Gross liability, without income tax paid
(o) 3456 of 26.3.26 about Super Tax: FBR targets Rs 100bn Delay Surcharge and KC Views & Recommendations
(p) 3452 of 17.3.26 about Section 4C: FTO directs FBR to adjust Refunds before Recovery u/s
(q) 3444 of 25.2.26 about Super Tax u/s 4C: Misapplication & Premature Recovery leading to Severe Hardship - LTBA letter
(r) 3443 of 24.2.26 about Super Tax u/s 4C: Irregularities in Enforcement - PTBA letter
(s) 3439 of 19.2.26 about Super Tax u/s 4B/4C: FCCP Super Shock and Urgent Practical Solutions required
(t) 3435 of 10.2.26 about Super tax u/s 4C: Adjust Demand from Refundable - Tribunal

(u) 3434 of 4.2.26 about Super tax u/s 4B/4C: Demand challenged on non-rectified ground; Recovery stayed by SHC
(v) Over 60 other commentaries on various aspects of Super Tax

IV. Further Details & Services

Should you require any clarification or explanations in respect of the above or otherwise, or require Income Tax, Federal & Provincial Sales Tax or Withholding Tax Statement, Advisory, Return Filing or Review services, please feel free to email Mr Amsal at amsal@kasbati.co with CC to info.kasbati@professional-excellence.com, asif.s.kasbati@professional-excellence.com.

Best regards for Here & Hereafter
Asif S Kasbati (FCA, FCMA & LLB)
==========
==========
*From: **Asif Siddiq Kasbati** <asif.s.kasbati@professional-excellence.com>*
Date: Sun, Feb 1, 2026 at 4:13 PM
Subject: TLQC3431= FCCP Short Order: Sections 4B/4C Super Tax almost intra vires Constitution details

CONTENTS

Para No	***Description***
I	***BACKGROUND*** *(Super Tax related matters TLQCs)*
II	***EXECUTIVE SUMMARY***
a	*General*
b	*Key Holdings on Section 4B (Super Tax from 2015*
c	*Key Holdings on Section 4C (from TY 2022)*
d	*Special Cases and Exceptions*
	E&P Companies
	Provident & Benevolent Funds
e	*Procedural Rulings and **Major Implications***
f	*All appeals/petitions disposed of accordingly*
III	***DETAILS WITH HEADINGS & EARLIER TLQCs REFERENCES***
a	*Reference & Issues*
b	*Background of the Cases*
c	*Additional Questions for Determination Regarding Super Tax u/s 4C of the ITO, 2001*
d	*Decision on Section 4B*
e	*Decision on Section 4C*
f	*Application of Section 4C to E&P Companies and Provident Funds*

g	*Challenges to the Amended Rates of Section 4C for Tax Year 2023 Onwards*
h	*Transfer & Consolidation of Sections 4B & 4C Cases*
i	*Transfer of Cases under Article 175F and Additional Questions for Adjudication*
IV	***FCCP HEARING DETAILS AND DECISION ON SECTIONS 4B & 4C - VERBATIM***
V	***LIST OF MORE TLQCs***
VI	***FURTHER DETAILS & SERVICES***

I. BACKGROUND (BG)

*1. This refers to the related Important TLQCs **in trail, blue, italic and double Line** (a) 2429 of 29.1.26 about PSX Fallen as KC predicted & may fall more, as 4B & 4C FCCP order (b) 3428 of 28.1.26 about IT S. 4B & 4C upheld by Federal Constitutional Court against Taxpayers Press Release DNVC based Comments (without Short Order) & **KC Views as to Major Implications***

2. We also refer to several Other TLQCs including (a) 2673 of 19.3.24 about 4C TY 2023 IHC order in Sindh, Punjab, etc Taxpayers' favour in case of Pakistan Oil Field, etc (b) 2422 of 21.7.23 about IHC Super Tax 4C order in Taxpayers Favour in case of Fauji Fertilizer, etc (c) More TLQCs List is given Para V

II. EXECUTIVE SUMMARY

***A. General:** (1) FCC decided multiple cases challenging the constitutional validity (vires) of **super tax u/s 4B** (introduced via Finance Act 2015 for tax year 2015 onwards) and **section 4C** introduced via Finance Act 2022 for High-earning persons from tax year 2022. (2) It also addressed 4B & 4C application to oil & gas Exploration & Production (E&P) companies under Petroleum Concession Agreements (PCAs). (3) Cases were transferred from High Courts and Supreme Court under Article 175F post the 27th Constitution Amendments.*

***B. Key Holdings on Section 4B (Super Tax from 2015) (1) Upheld as intra vires** the Constitution. (2) Applies at rates in **Division IIA, Part I, First Schedule** of ITO, 2001. (3) Income-based classification is reasonable, non-discriminatory under Article 25, and falls under Entry 47 of the Federal Legislative List. (4) High Court decisions upholding it are affirmed.*

***C. Key Holdings on Section 4C (from TY 2022) (1) Upheld as intra vires** and applies **retroactively to tax year 2022** onwards at rates in **Division IIB, Part I, First Schedule**. (2) Legislature can impose retrospective taxes on open transactions (returns for 2022 not yet filed). High Court rulings against retroactivity are set aside. (3) Applies to **all income sources**, including capital gains under Eighth Schedule; no reading down. **(4) Amended rates** (Finance Act 2023) apply to tax year 2023. **(5) Sector classification** (First Proviso to Division IIB at 10% for 2022) is reasonable under Article 25. (6) Applies to **banking companies** as enacted for 2023 onwards.*

D. Special Cases and Exceptions: (1) E&P Companies*: Applies via Fifth Schedule Rules 4AA/4AB only if it doesn't exceed PCA tax caps. Department must assess per PCA terms first.* ***(2) Provident & Benevolent Funds****: Exempt if holding valid certificates under Second/Ninth Schedules; must submit within 15 days.*

E. Procedural Rulings: *(1) Appeals by FBR/CIR are maintainable; Federation can be transposed as appellant. (2) Sets aside High Court directions reading down provisions or issuing FBR circulars.* ***For Major Implications, please refer to TLQC 3438 of 28.1.26 in trail***

F. All appeals/petitions disposed of accordingly. *Detailed reasons to follow via Detailed FCCP order. For Major Implication iiton*

G. For Mahore , g. g. mA

III. DETAILS WITH HEADINGS & EARLIER IMPORTANT TLQCs REFERENCES

A. Reference & Issues

1. Further to KQU 3767 of 29.1.26, ***being an important matter,*** *we would inform you about Super Tax Section 4B & 4C of DG Khan Cement Company Limited and another VS FOP Secretary Revenue Islamabad and others, etc - CA 1243/2020 – FCCP order 27.1.26 (****released on 28.1.26 on FCCP web Attachment 3431.1****) in ensuing paragraph,* ***with heading*** *and short wording ours as you are in the Intelligent reader, etc ours for quick reading.*

For detailed reasons to be recorded separately, and subject to such amplification and/or explanation therein as is considered appropriate, all the titled cases are decided in the following terms:

B. Background of the Cases

1. The matters before this Court involve, inter alia, vires of super tax imposed u/s 4B read with Division IIA, Part I, First Schedule, ITO, 2001 (section 4B). A tax for raising revenue for Internally Displaced Persons for tax year 2015 and onwards, inserted in the ITO vide Finance Act, 2015.

2. The hearing of the aforesaid matter was immediately followed by the cases involving, inter alia, vires of section 4C read with Division IIB, Part I, First Schedule (section 4C) of the ITO imposed on High Earning Persons, enacted through Finance Act 2022.

*3. Common to both of the aforesaid provisions, this judgment also decides the challenges raised against the application of the said provisions to income arising to oil exploration and petroleum companies (****E&P companies****), which income is assessed for tax under the relevant laws applicable as per their respective Petroleum Concession Agreements (hereinafter* ***PCAs****).*

C. Additional Questions for Determination Regarding Super Tax u/s 4C of the ITO, 2001

In respect of section 4C, the additional questions requiring adjudication are framed as follows:

(1) whether section 4C is intra vires the Constitution,

(2) whether section 4C applies retroactively on income arising in tax year 2022,

(3) whether the computation of "income" as defined in section 4C is constitutionally valid when it disallows brought forward losses, depreciation and amortization and includes heads of income liable to separate taxation,

(4) whether the classification in the First Proviso to Division IIB, Part I, First Schedule of the ITO (hereinafter "the First Proviso") of 15 sectors subjected to a higher rate of super tax u/s 4C (at the rate of 10%) for tax year 2022 if their "income" exceeded PKR 300 million is constitutionally impressible?,

(5) whether banking companies' are liable to pay super tax u/s 4C for tax year 2023 and onwards in light of the Proviso to section 4C and the Second Proviso to Division IIB, and in light of the Seventh Schedule of the Ordinance 2001,

(6) whether income from capital gains on securities assessed under the Eighth Schedule, ITO, 2001 is liable to be taxed u/s 4C.

D. Decision on Section 4B

1. In respect of section 4B, the Sindh, Lahore and Islamabad High Courts, through their decisions1, have upheld its vires, including finding that super tax under section 4B qualified as a "tax" and not a "fee" as contended by taxpayers. The cases of E&P companies were separated in the learned IHC.

2. The Single Bench of the learned Islamabad High Court decided the issue in favour of the Department, holding section 4B to be applicable to income arising from Fifth Schedule businesses notwithstanding the application of the Regulation of Mines & Minerals (Control & Production) Act, 19482. All appeals in respect of section 4B were filed in the Supreme Court under Article 185(3) of the Constitution by the taxpayers.

E. Decision on Section 4C

1. As concerns section 4C, the SHC declared the provision as intra vires but held section 4C inapplicable to tax year 2022 on the ground that super tax u/s 4B was charged at 0% for tax year 2022 and relying on this representation, another super tax u/s 4C was not chargeable for tax year 2022, hence declared section 4C applicable for tax year 2023 onwards.

2. The Division Bench of the LHC, in reversing the decision of the learned Single Judge, ultimately declared section 4C applicable for tax year 2023 onwards and not applicable to tax year 2022 on the ground that liability of income arising in tax year 2022 crystallised on the last day of the tax year, i.e. 30.6.22 and therefore could not be subjected to tax that was enacted through a Finance

Act that became effective on 1.7.22 as the language of section 4C, in the opinion of the Bench, was not express or clear enough to apply to tax year 2022.

*3. The Single Judge of the learned IHC decided petitions pertaining to both tax years 2022 (**Fauji Fertilizer Judgment dated 20.7.23 – TLQC 2422 of 21.7.23 refers**), and for the tax year 2023 (Pakistan Oilfields Judgment dated 15.3.24 TLQC2673 of 19.3.24 refer).*

4. In the former, the learned Single Judge declared section 4C to be inapplicable to tax year 2022 on the ground that the income arising therein was a past and closed transaction and read down section 4C to apply it in a limited scope. The judgments of the Islamabad High Court also set aside all impugned notices. All three High Courts held the First Proviso as discriminatory and ultra vires on the touchstone of Article 25.

F. Application of Section 4C to E&P Companies and Provident Funds

*1. The IHC SB of the vide the Fauji Fertilizer Judgment dated 20.7.23 (**TLQC 2422 of 21.7.23 refers**), also adjudicated on the application of section 4C on E&P companies. It held section 4C not to apply thereto to the extent its application offended Rule 4 of the Fifth Schedule.*

2. The Judgment also held that the provident funds before it held exemption certificates in their favour and were thus exempt from the levy of section 4C.

G. Challenges to the Amended Rates of Section 4C for Tax Year 2023 Onwards

1. It bears mention that for tax year 2023, taxpayers registered for tax in Sindh and Punjab filed their petitions challenging the amended rates (vide Finance Act 2023) in Division IIB at which section 4C was to be imposed for tax year 2023 onwards in the learned Islamabad High Court.

*2. The SB decided the fate of these petitions in identical terms as its earlier judgment for tax year 2022, i.e., Fauji Fertilizer Judgment dated 20.7.23 (**TLQC 2422 of 21.7.23 refer**).*

3. This Court has also observed that the transfer cases also included writ petitions filed in the years 2023, 2024 and 2025 pertaining to successive tax years through which taxpayers continued to assail the vires of section 4C.

H. Transfer & Consolidation of Sections 4B & 4C Cases

Given the complexity of issues arising as a result of disparate judgments and the huge volume of cases pending in various High Courts and the Supreme Court pertaining to section 4B and section 4C for multiple tax years, the Supreme Court, vide order dated 12.03.2025, passed a direction in exercise of jurisdiction vested under the erstwhile Article 186A of the Constitution, directing that all cases (including writ petitions and intra-court appeals) be sent to the Supreme Court and clubbed with the pending appeals in the Supreme Court, for final adjudication.

I. Transfer of Cases under Article 175F and Additional Questions for Adjudication

Hearings in the matter proceeded apace, however, with the passage of the Twenty-Seventh Amendment to the Constitution, all the above cases were transferred to this Court by virtue of Article 175F of the Constitution. In the proceedings before us, the additional questions framed for this Court's consideration included preliminary objections regarding the locus standi of the Commissioner Inland Revenue and Federal Board of Revenue to institute appeals against the judgments of the various Benches of the High Courts, and whether the appeals ought not to have been filed by the Federation of Pakistan.

IV. FCCP HEARING DETAILS AND DECISION ON SECTIONS 4B & 4C - VERBETIM

SHORT ORDER

For detailed reasons to be recorded separately, and subject to such amplification and/or explanation therein as is considered appropriate, all the titled cases are decided in the following terms:

1. The matters before this Court involve, inter alia, vires of super tax imposed under section 4B read with Division IIA, Part I, First Schedule, Income Tax Ordinance, 2001 (hereinafter "section 4B"). A tax for raising revenue for Internally Displaced Persons for tax year 2015 and onwards, inserted in the Income Tax Ordinance 2001 (hereinafter "the Ordinance 2001") vide Finance Act, 2015. The hearing of the aforesaid matter was immediately followed by the cases involving, inter alia, vires of section 4C read with Division IIB, Part I, First Schedule (hereinafter "section 4C") of the Income Tax Ordinance, 2001 imposed on High Earning Persons, enacted through Finance Act 2022. Common to both of the aforesaid provisions, this judgment also decides the challenges raised against the application of the said provisions to income arising to oil exploration and petroleum companies (hereinafter "E&P companies"), which income is assessed for tax under the relevant laws applicable as per their respective Petroleum Concession Agreements (hereinafter "PCAs").

2. In respect of section 4C, the additional questions requiring adjudication are framed as follows: (1) whether section 4C is intra vires the Constitution, (2) whether section 4C applies retroactively on income arising in tax year 2022, (3) whether the computation of "income" as defined in section 4C is constitutionally valid when it disallows brought forward losses, depreciation and amortization and includes heads of income liable to separate taxation, (4) whether the classification in the First Proviso to Division IIB, Part I, First Schedule of the Income Tax Ordinance 2001 (hereinafter "the First Proviso") of 15 sectors subjected to a higher rate of super tax under section 4C (at the rate of 10%) for tax year 2022 if their "income" exceeded PKR 300 million is constitutionally impressible?, (5) whether banking companies' are liable to pay super tax under section 4C for tax year 2023 and onwards in light of the Proviso to section 4C and the Second Proviso to Division IIB, and in light of the Seventh Schedule of the Ordinance 2001, (6) whether income from capital gains on securities assessed under the Eighth Schedule, Income Tax Ordinance, 2001 is liable to be taxed under section 4C.

3. In respect of section 4B, the Sindh, Lahore and Islamabad High Courts, through their decisions ***[KC placed footnotes in this area for ready reference: The Attock Oil Company Limited v. Federation of Pakistan & Others 2019 PTD 934(TLQC 1139 of 21.7.20); Pakistan***

Tobacco Company Limited v. Federation of Pakistan & others 2022 PTD 1730; D.G.Khan Cement Company Limited v. Federal Board of Revenue & others 2018 PTD 287with; D.G.Khan Cement Company Limited v. Federation of Pakistan & others 2020 PTD 1186; (TLQC 1139 of 21.7.20 – Attachment 1139.2) HBL Stock Fund & others v. Additional Commissioner Inland Revenue & others 2020 PTD1742 (TLQC 1139 of 21.7.20 – Attachment 1139.1)] *have upheld its vires, including finding that super tax u/s 4B qualified as a "tax" and not a "fee" as contended by taxpayers. The cases of E&P companies were separated in the learned IHC. The Single Bench of the learned Islamabad High Court decided the issue in favour of the Department, holding section 4B to be applicable to income arising from Fifth Schedule businesses notwithstanding the application of the Regulation of Mines & Minerals (Control & Production) Act, 1948* ***[Judgment reported as 2019 PTD 934 "Attock Oil Limited vs. Federation of Pakistan", against which ICA no. 17/2019 is filed in the Islamabad High Court (referred in one of the cases in TLQC1139 of 21.7.20)]*** *All appeals in respect of section 4B were filed in the Supreme Court under Article 185(3) of the Constitution by the taxpayers.*

4. As concerns section 4C, the Sindh High Court declared the provision as intra vires but held section 4C inapplicable to tax year 2022 on the ground that super tax under section 4B was charged at 0% for tax year 2022 and relying on this representation, another super tax under section 4C was not chargeable for tax year 2022, hence declared section 4C applicable for tax year 2023 onwards. The Division Bench of the Lahore High Court, in reversing the decision of the learned Single Judge, ultimately declared section 4C applicable for tax year 2023 onwards and not applicable to tax year 2022 on the ground that liability of income arising in tax year 2022 crystallised on the last day of the tax year, i.e. 30.06.2022 and therefore could not be subjected to tax that was enacted through a Finance Act that became effective on 01.07.2022 as the language of section 4C, in the opinion of the Bench, was not express or clear enough to apply to tax year 2022. The Single Judge of the learned Islamabad High Court decided petitions pertaining to both tax years 2022 (Fauji Fertilizer Judgment dated 20.07.2023), and for the tax year 2023 (Pakistan Oilfields Judgment dated 15.03.2024). In the former, the learned Single Judge declared section 4C to be inapplicable to tax year 2022 on the ground that the income arising therein was a past and closed transaction and read down section 4C to apply it in a limited scope. The judgments of the Islamabad High Court also set aside all impugned notices. All three High Courts held the First Proviso as discriminatory and ultra vires on the touchstone of Article 25 of the Constitution.

5. The Single Bench of the learned Islamabad High Court, vide the Fauji Fertilizer Judgment dated 20.07.2023, also adjudicated on the application of section 4C on E&P companies. It held section 4C not to apply thereto to the extent its application offended Rule 4 of the Fifth Schedule. The Judgment also held that the provident funds before it held exemption certificates in their favour and were thus exempt from the levy of section 4C.

6. It bears mention that for tax year 2023, taxpayers registered for tax in Sindh and Punjab filed their petitions challenging the amended rates (vide Finance Act 2023) in Division IIB at which section 4C was to be imposed for tax year 2023 onwards in the learned Islamabad High Court. The learned Single Judge decided the fate of these petitions in identical terms as its earlier judgment for tax year 2022, i.e., Fauji Fertilizer Judgment dated 20.07.2023. This Court has also observed that the transfer cases also included writ petitions filed in the years 2023, 2024 and 2025

pertaining to successive tax years through which taxpayers continued to assail the vires of section 4C.

7. Given the complexity of issues arising as a result of disparate judgments and the huge volume of cases pending in various High Courts and the Supreme Court pertaining to section 4B and section 4C for multiple tax years, the Supreme Court, vide order dated 12.03.2025, passed a direction in exercise of jurisdiction vested under the erstwhile Article 186A of the Constitution, directing that all cases (including writ petitions and intra-court appeals) be sent to the Supreme Court and clubbed with the pending appeals in the Supreme Court, for final adjudication.

8. Hearings in the matter proceeded apace, however, with the passage of the Twenty-Seventh Amendment to the Constitution, all the above cases were transferred to this Court by virtue of Article 175F of the Constitution. In the proceedings before us, the additional questions framed for this Court's consideration included preliminary objections regarding the locus standi of the Commissioner Inland Revenue and Federal Board of Revenue to institute appeals against the judgments of the various Benches of the High Courts, and whether the appeals ought not to have been filed by the Federation of Pakistan.

9. We have heard the parties and considered their submissions at length. Two members of this Bench also heard the matters extensively between March – December 2025 as members of the Bench of the Supreme Court. By this short order, the details of which will be further elucidated and recorded later, we decide the matters pertaining to both section 4B and section 4C, ITO, as follows:

i. Section 4B is upheld as intra vires the Constitution and will apply as enacted for tax year 2015 and onwards at the rates prescribed in Division IIA, Part I, First Schedule, ITO, 2001; the decisions of the learned High Courts in section 4B cases are declared to expound the correct position in law holding section 4B to be validly enacted as a "tax";

The provisions of section 4B are found neither discriminatory nor do they create any unreasonable or hostile classification among persons forming the same class upon whom the charge is imposed. The classification introduced thereunder is income-based, rests on an intelligible differentia, and bears a rational nexus with the object sought to be achieved. The provision does not suffer from any inherent lack of legislative competence, nor does it, on its face, transgress any fundamental right in a manner sufficient to warrant its invalidation. Any perceived inequities or hardships arising from the operation of section 4B fall primarily within the legislative domain and do not, by themselves, justify judicial interference in fiscal matters. The provision squarely falls within Entry 47 of the Fourth Schedule, Legislative List, Part I of the Constitution, namely, 'taxes on income'. The legislature, therefore, was fully competent to impose, abolish, remit, alter, or regulate such tax through a Finance Act, as part of a Money Bill under Article 73(2)(a) of the Constitution of the Islamic Republic of Pakistan, 1973 ('the Constitution'). Consequently, section 4B is declared to be intra vires the Constitution;

ii. The preliminary objection raised by the taxpayers regarding the maintainability of the appeals in section 4C cases for not having been filed by the Federation is hereby rejected. This Court has the inherent power to transpose a party, should it be necessary for just and proper adjudication

of a matter before it. Federation of Pakistan is a party in the appeals as a Respondent. Therefore, it can be transposed as an Appellant. It is so done. Record also reflects that of the pending cases, several appeals involving common questions of law including vires of the law, challenged show-cause notices, circulars and actions of the FBR/CIR, are filed by the Federation in addition to the CIR/FBR, therefore the appeals are held to be maintainable on this count too;

iii. Section 4C is held to be intra vires the Constitution and shall apply as enacted for tax year 2022 and onwards at the rates prescribed in Division IIB, Part I, First Schedule, ITO, 2001. It is established law that the legislature has the plenary power to enact laws with retrospective and prospective effect subject to such laws not effecting past and closed transactions. There is no provision in the Ordinance 2001 whereby the closing of accounts of a tax year qualifies as an event which precludes the imposition of a fresh charge where none existed before, particularly when returns of income for tax year 2022 were yet to be filed. The impugned Judgments of the Division Benches of the learned Sindh, Islamabad and Lahore High Courts to the extent they hold section 4C not to apply retroactively to tax year 2022 are set aside;

iv. For the same reasons as above, the rates in Division IIB, Part I, First Schedule, ITO amended through Finance Act 2023 shall apply for tax year 2023. The impugned Pakistan Oilfields Judgment dated 15.03.2024 of the Islamabad High Court to the extent it holds the rates in amended Division IIB not to apply retroactively to tax year 2023 is set aside;

v. It is held that the definition of "income" for purposes of section 4C in so far as it includes income from all sources is validly enacted. The impugned judgments dated 20.07.2023 and 15.03.2024 of the Islamabad High Court to the extent they read down section 4C are set aside;

vi. The direction issued by the learned Islamabad High Court, in the Pakistan Oilfields Judgment dated 15.03.2024, to the Federal Board of Revenue (FBR) to issue circular to implement the aforesaid judgment across Pakistan is beyond its jurisdiction and is set aside;

vii. Super tax is a tax on income independent of the tax levied u/s 4 of the ITO, 2001. Entry 47, of Part I of the Fourth Schedule of the Constitution, Parliament is competent to levy "taxes on income". Therefore, section 4C is a self-contained provision insofar as this levy is concerned and is thus, a standalone tax on income. As such, section 4C as applies to capital gains u/s 37A and Rules of the Eighth Schedule, ITO, 2001 is held to be applicable thereto, being within the ambit of section 4C(2)(i) and (iv), ITO 2001;

viii. Section 4B and section 4C, by virtue of Rules 4AA and 4AB of the Fifth Schedule, ITO 2001 will only apply to the income arising to E&P companies if it does not result in exceeding the aggregate rate of taxes provided in the aforesaid Schedule and their respective PCAs. In respect of section 4C, the concluding paragraph 5(4) of the impugned Pakistan Oilfields Judgment dated 15.03.2024 passed by the learned Islamabad High Court is modified to the extent that the departmental determination/assessment of each PCA shall be undertaken by placing the respective terms and conditions in juxtaposition with the Regulation of Mines & Minerals (Government Control) Act, 1948 and applicable taxing law governing their respective PCAs, be it the Income Tax Act 1922, ITO 1979 or ITO 2001. This finding will be deemed restricted to the application of section 4B and section 4C to such income as arises under Rule 1, Fifth Schedule to the ITO 2001

and corresponding pari materia provisions in the applicable tax laws in relation to individual PCAs. Section 4C will otherwise apply to other income of E&P companies from all other sources which fall under sub-sections (i), (ii) and (iii) of sub-section (2) of section 4C. In this respect, the respective Commissioner Inland Revenue shall first make the determination of the E&P companies' liability, keeping in view the foregoing, and issue a fresh notice affording them an opportunity of hearing before taking any measures for recovery.

Moreover, section 4C shall not apply to E&P companies to the extent that its application would result in taxation exceeding the threshold stipulated in Rule 4 of the Fifth Schedule to Ordinance. The legislative intent underlying Rule 4 is to provide a sector-specific framework recognizing the unique nature, risks, and investment requirements of the petroleum and exploration industry. Imposing a super tax beyond the prescribed threshold would effectively override this legislative safeguard, impose an excessive and disproportionate burden, and frustrate the purpose for which the special provisions were enacted. In the absence of a clear and express intention of the Legislature to abrogate or modify these sectoral thresholds, section 4C cannot be construed so as to operate in a manner inconsistent with Rule 4 of the Fifth Schedule;

ix. In the case of banking companies, it is held that section 4C shall apply as enacted vide Finance Act, 2022 to banking companies for Tax year 2023 and onwards and at rates applicable to tax year 2023 as amended by Finance Act 2023;

x. Without prejudice to the foregoing declaration, section 4C shall not apply to the income, particularly to the benevolent funds enjoying exemption from tax u/s 53, read with the Second Schedule to the Ordinance. Such funds constitute a distinct class expressly exempted by the Legislature in furtherance of recognized charitable and welfare objectives. Subjecting them to a super tax would defeat the very purpose of the statutory exemption and would be inconsistent with the legislative scheme of the Ordinance. In the absence of a clear and specific legislative intent to withdraw or curtail the said exemption, section 4C cannot be construed so as to override the exemption granted to benevolent funds.

In the case of provident and benevolent funds before this Court, considering the Commissioner's/FBR's statement made before this Court during the course of proceedings, such funds which hold valid exemption certificates under the Ninth Schedule read with the relevant entries in the Second Schedule are not liable to pay super tax u/s 4C. The said funds shall furnish their exemption certificates issued for the relevant tax years to the concerned Commissioners Inland Revenue within fifteen days of this order. Upon receipt, the concerned Commissioners Inland Revenue, within seven days, shall pass written orders absolving such funds of their liability to pay super tax u/s 4C; and

xi. The classification of sectors through inclusion in the First Proviso to Division IIB and taxable u/s 4C at the rate of 10% for the tax year 2022 is declared to be reasonable, the differentia being intelligible and is thus permissible under Article 25 of the Constitution. The judgments of the learned Sindh, Lahore and Islamabad High Courts to the extent they declare the contents of the First Proviso to be discriminatory, are therefore set aside.

All the appeals, petitions and transfer cases are disposed of accordingly.

V. LIST OF MORE TLQC

(a) 3364 of 28.11.25 about 4B & 4C Super Taxes pending cases to FCCP. Hearing on 1.12.25 cum Major effects
(b) 3363 of 28.11.25 about Constitution of the Islamic Republic of Pakistan
(c) 3315 of 24.10.25 about Super Tax u/s 4C: Senate proposed 4% while NA levied 10%
(d) 3312 of 21.10.25 about of 4B & 4C Super Tax is on Windfall & not Feasible to be taxed
(e) 3309 of Sunday 19.10.25 about 4B & 4C Super Tax Imposed without Policy Statement & not an FTR
(f) 3308 of 15.10.25 about 4B & 4C Super Taxes are not Retrospective and could be Discriminatory
(g) 3305 of 13.10.25 about 4B & 4C Super Tax cannot be Retrospective, as not Beneficial
(h) 3304 of 11.10.25 about 4B & 4C Super Tax is not Retrospective - Bangladesh Tax @21% while Pakistan Tax @93%
(i) 3301 of 10.10.25 about 4B & 4C Super Tax: Think Tank absence; Additional tax or not; & Industrialists leaving Pakistan as Higher Taxes
(j) 10+ Other TLQC about SCP Stay order Hearings
(k) 30+ TLQC about SHC, LHC, & IHC and related matters

IV. FURTHER DETAILS & SERVICES

Should you require any clarification or explanations in respect of the above or otherwise, or require Advance on 4B or 4C, Income Tax, Federal & Provincial Sales Tax or Withholding Tax Statement, Advisory, Return Filing or Review services, please feel free to email Mr Amsal at amsal@kasbati.co with CC to info.kasbati@professional-excellence.com, asif.s.kasbati@professional-excellence.com.

Best regards for Here & Hereafter
Asif S Kasbati (FCA, FCMA & LLB)

---

*From: **Asif Siddiq Kasbati** <asif.s.kasbati@professional-excellence.com>*
Date: Thu, Jan 29, 2026 at 5:21 PM
Subject: TLQC3429= PSX Fallen as KC predicted & may fall more, as 4B & 4C FCCP order

A. Background (BG)

*This refers to the related Important TLQC **in trail, blue, italic and double Line** 3428 of 28.1.26 IT S. 4B & 4C upheld by FCC against Taxpayers & KC Views as to Major Implications (including PSX expected negative effect*

B. Updated Commentary - Urgent & Important

1. Owing to matter in para C, your Entity, etc may have considered or now consider selling of shares in PSX and Investment in PSX related mutual funds, as due to above FCCP order, Stock

Market crashed as ***KSE 100 almost constantly fallen by 6,042 (3.21%) on 29.1.26 and may further crash in next few days too.***

2. KC had predicted on 28.1.26 via TLQC3428 of 28.29.26 at 3:55pm which was about the Income Tax Section 4B & 4C upheld by FCC against Taxpayers & KC Views as to Major Implications and its Executive Summary is reproduced in para II for ready reference

3. Guide Others to get KC Commentary on time to reap maximum benefits in this Competitive World

C. Kasbati & Co Views as to Major Implications (as per TLQC 3428 of 28.1.25 yesterday at 355pm, when market was on rising trend)

1. Based on matters in para III and our long experience, we understand that most of the Companies had paid 50%; while got stay from the Supreme Court for the rest (as covered in earlier commentaries) having stay jurisdiction. For the rest of the 50% or even earlier one, several companies have made provisions OR shown as Contingencies OR few may be not have even shown in Contingencies.

2. Due to several years involved, there will be a Major Cash Flow effect on all Companies (exposed to sections 4B & 4C) Super Tax and even certain high worth individuals.

3. Those who have shown the same in Contingencies (or have not shown the same) have to face huge expenses and may lead to huge losses.

4. Based on the 2 days Stock market increasing trend, it appears that either most companies have made provision OR ***Stock market will take its negative effect shortly.***

5. The order is not so far available till a few minutes before release of the order. We will share the same as soon as found.

6. Due to major issue, the may review petition into FCC and affected companies may contact their Advocates in this regard

D. Details

For details about the above FCCP, please refer to TLQC 3428 (in trail) and further details will be covered in the upcoming Commentary, ISA

E. Multiplication (point 1 as covered in TLQC3428 of yesterday as well)

1. Although all the Commentaries are to the extent of the Subscribed IDs only, however, your Goodself is allowed to share this QC to Impart Knowledge to the maximum Contacts.

2. This is now more Important to save your Contacts from expected Blood Bath in PSX, may Allah forbid.

Best regards for Here & Hereafter
Asif S Kasbati (FCA, FCMA & LLB)