



Budget Briefing 2013

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BUDGET
2013-14

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BUDGET BRIEFING 2013

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This Memorandum has been prepared as a general guide for the benefit of our clients and is available to other interested persons upon request. This should not be published in any manner without the Firm's consent. This is not an exhaustive treatise as it sets out interpretation of only the significant amendments proposed by the Finance Bill, 2013 (the Bill) in the Income Tax Ordinance, 2001 (the Ordinance), the Sales Tax Act, 1990 (the ST Act), the Customs Act, 1969 (the Customs Act), the Federal Excise Act, 2005 (the FE Act) and Income Support Levy Act, 2013 (The ISL Act) in a concise form sufficient enough to amplify the important aspects of the changes proposed to be made. The Repealed Ordinance means the Income Tax Ordinance, 1979 since repealed. The Board means the Federal Board of Revenue, Government of Pakistan.

Changes of consequential, administrative, procedural or editorial in nature have either been excluded from these comments or otherwise dealt with briefly.

The amendments proposed by the Bill after having been enacted as the Finance Act, 2013, shall, with or without modification, become effective from the tax year 2014, unless otherwise indicated.

It is suggested that the text of the Bill and the relevant laws and notifications, where applicable, be referred to in considering the interpretation of any provision. Since these are only general comments, no decision on any issue be taken without further consideration and specific professional advice should be sought before any action is taken.

<i>Contents</i>	<i>Page</i>
Highlights	i - ii
Income Tax	1 - 24
Sales Tax	25 - 33
Customs	35 - 39
Federal Excise	41 - 46
Income Support Levy	47

KARACHI: 13 June 2013

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Income Tax

- Dividend received by a company is proposed to be taxed under the Final Tax Regime.
- Losses will no longer be available for setting off against salary.
- Companies desiring to avail group taxation and/or group relief will be required to comply with Group Companies Registration Regulations, 2008 issued by the SECP.
- Non-profit organizations, corporate society, finance society or other society brought within the ambit of the term "company".
- Where a taxpayer fails to correlate his/her investment or expenditure etc. via properly taxed agricultural income under the relevant Provincial agricultural tax laws, such unexplained income/expenditure etc. will be liable to be taxed under the Ordinance.
- Rate of minimum tax on turnover enhanced from 0.5% to 1%.
- Adjustment of tax withheld from employee under other heads and tax admissible credits during the tax year will no longer be available against the tax to be withheld by the employer from salary.
- For the purposes of Section 152, the term "prescribed person" has been defined.
- A minimum tax on builders and developers has been prescribed.
- Trade body members and professionals required to file return of income irrespective of amount of income earned.
- Approval of Commissioner Inland Revenue required for revising the return of income.
- Every salaried taxpayer required to file return.
- Every individual taxpayer, member of an AOP and individual falling under FTR required to file a wealth statement along with a wealth reconciliation for the year.
- Power of the Board to introduce Amnesty schemes withdrawn.
- Time limit for finality of provisional assessment order reduced from 60 days to 45 days.
- Scope of prescribed persons for withholding tax from property income broadened.
- Provisions of section 165 to override all conflicting Banking provisions contained in any other law in respect of disclosure of information
- Banks no more immune from providing customers information to tax authorities.
- Refund to be treated due from the date of the refund order and not from the date of the deemed assessment order.
- Business connection for the purpose of section 172 explained.
- Commissioner's authority to conduct tax audit independent of the Board's power for selecting cases for tax audit
- Penalties enhanced but made more clear
- Scope of collecting advance tax by NCCPL has been broadened.
- Rates of withholding tax on motor vehicles enhanced and such tax made adjustable.
- Advance tax on functions and gatherings has been envisaged to be collected from a person arranging or holding a function in a marriage hall, marquee, hotel, restaurant, commercial lawn, club, a community place or any other place used for such purpose.
- Advance tax on foreign-produced film, a TV drama serial or a play, for screening and viewing, shall be collected by a person responsible for censoring or certifying such foreign film, serial and drama.
- Advance tax on cable operators and electronic media shall be collected by Pakistan Electronic Media Regulatory Authority, at the time of issuance of license for distribution services or renewal of the license.
- Every manufacturer or commercial importer dealing in specified goods shall collect advance tax at the time of sale to distributors, dealers or wholesalers.
- Every manufacturer, distributor, dealer, wholesaler or commercial importer dealing in specified goods shall collect advance tax at the time of sale to retailer.
- Educational institutions shall collect advance tax either from the parents or guardian making payment of the fee to the educational institution. The tax will be collected in the manner the fee is charged. The tax shall not be collected from a person where the annual fee does not exceed Rs.200,000/-.
- Every market committee will collect advance tax from dealers, commission agents or arhatis at the time of issuance or renewal of license.
- The maximum tax rate on salaried and non-salaried tax payers raised from the existing 20% to 30% and from the existing 25% to 35% respectively.
- Effective from tax year 2014, corporate tax rate reduced to 34%.

- Reduction in rate of tax from 35% to 25% in the case of dividend received by a banking company from Money Market Fund and Income Fund.
 - Rate of tax applicable to income from properties enhanced.
 - Advance tax payable at the time of registration of vehicles enhanced.
 - Advance tax at the time of sale by auction or auction by a tender increased to 10% from the existing 5%.
 - Advance tax at the rate of 10% levied on the total amount of bills in respect of functions and gatherings.
 - Foreign produced films, TV plays and serials are subject to advance tax at prescribed rates.
 - Cable Operators and distribution services are subject to advance tax at prescribed rates according to their license category and type of channel respectively.
 - Collection of tax at imports increased from the existing 5% to 5.5% in the case of imports by all taxpayers other than companies and industrial undertaking.
 - General rate of collection of tax from sales of goods raised to 4% from the existing 3.5% in the case of all taxpayers other than companies.
 - Collection of tax from rendering of "services" raised to 7% from the existing 6% for all taxpayers other than companies.
 - Exemption available to free/concessional passage provided by transporters including airlines and other like concessions i.e. subsidized food, subsidized education, subsidized medical treatment provided to employee by virtue of their employment withdrawn.
 - Exemption to any income of any university or other educational institutions established solely for educational purposes and not for profit withdrawn.
 - Tax payable at the time of import of hybrid cars reduced.
 - Taxation at reduced rate of 2.5% on flying allowance and submarine allowance withdrawn.
 - 75 percent reduction in the tax payable by a full time teacher or a researcher withdrawn.
 - Reduction in rate of initial tax depreciation allowance applicable to plot and housing from 50% to 25%.
- Sales Tax**
- Increase in the general rate of sales tax to 17%.
 - Further tax reintroduced at the rate of 2%.
 - Fixed tax reintroduced.
- Officers of Inland Revenue authorized to access records, documents, etc.
 - Monitoring or tracking of production, sales, stocks, etc. by electronic or other means.
 - Increase in the Third Schedule Goods.
 - Amendments to the Sixth Schedule.
 - Sales tax withholding on purchase of taxable goods from unregistered persons.
 - Various sales tax SROs amended or rescinded.
 - Extra tax at the rate of 5% on certain electric and gas consumers.
- Customs**
- Submission of pay orders instead of post dated cheques in case of provisional assessments.
 - Fixation of power of adjudication in case of exports.
 - Director of Customs valuation authorized to file reference to High Court.
 - Certain amendments in First Schedule.
 - New set of in-house facilities for manufacturers availing benefit under SRO 656(I)/2006.
 - Certain conditions of availing benefits under SRO 575(I)/2006 have now been changed.
 - Reduced custom duty granted on import of hybrid electrical vehicles.
- Federal Excise**
- Further duty at the rate of 2%.
 - Rates of duty enhanced on aerated waters, etc.
 - Rate of duty on cigarettes modified.
 - FED levied on asset management companies.
 - Officers of Inland Revenue authorized to access records, documents, etc.
 - Inclusion of certain goods in Table I of the First Schedule.
 - Various FED SROs amended or rescinded.
- Income Support Levy**
- The income support levy shall be charged for every tax year commencing on and from the tax year 2013 in respect of value of net moveable assets held by an individual on the last date of the tax year at the rate of 0.5% of the net moveable wealth exceeding Rupees one million. An individual who is liable to pay the Levy shall pay it alongwith the wealth statement.

INCOME TAX

	<i>Section</i>	<i>Page</i>
1. Dividend received by a company again brought to a final tax	<i>8 & 169 (3)</i>	5
2. Losses cannot be set-off against salary	<i>56</i>	5
3. SECP requirements endorsed for the purpose of Group Taxation and Group Relief	<i>59AA & 59B</i>	5
4. Definition of "Company" broadened	<i>80</i>	5
5. Agricultural income tax under the Provincial Laws recognized	<i>111</i>	5
6. Rate of minimum tax enhanced	<i>113</i>	5
7. Deduction of tax from salary	<i>149</i>	6
8. Payments to permanent establishment of a non-resident	<i>152 & 153</i>	6
9. Minimum tax on builders	<i>113A</i>	6
10. Minimum tax on developers	<i>113B</i>	7
11. Requirement to file return of income	<i>114</i>	7
12. Revision of Return	<i>114(6)</i>	7
13. Persons not required to furnish a return	<i>115, 118(2A), (3), (6) and 119</i>	8
14. Wealth statement	<i>116</i>	8
15. Investment Tax on income	<i>120A</i>	8
16. Provisional assessment	<i>122C</i>	9
17. Appointment of the Appellate Tribunal	<i>130</i>	9
18. Tax withholding from property income	<i>155</i>	9
19. Certificate of collection or deduction of tax	<i>164</i>	10
20. Filing of statements in respect of taxes withheld/ collected at source	<i>165</i>	10
21. Furnishing of information by banks	<i>165A</i>	11
22. Additional payment for delayed refund	<i>171</i>	11
23. Representatives	<i>172</i>	12
24. Audit	<i>177 & 214C</i>	12
25. Displaying of national tax number	<i>181 & 181C</i>	12
26. Offences and penalties	<i>182</i>	13
27. Collection of tax by NCCPL	<i>233AA</i>	13
28. Tax on motor vehicles	<i>234</i>	14
29. Reward to Inland Revenue Officers	<i>227A</i>	14
30. Directorate General of law and Research & Development	<i>230B & 230C</i>	14
31. Advance tax on functions and gatherings	<i>236D</i>	14
32. Advance tax on foreign-produced films, TV plays and serials	<i>236E</i>	14
33. Advance tax on cable operators and other electronic media	<i>236F</i>	14

		<i>Section</i>	<i>Page</i>
34.	Advance tax on sales to distributors, dealers and wholesalers	<i>236G & 153A</i>	15
35.	Advance tax on sales to retailers	<i>236H</i>	15
36.	Collection of advance tax by educational institutions	<i>236I</i>	15
37.	Advance tax on dealers, commission agents and arhatis etc.	<i>236J</i>	15

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THE FIRST SCHEDULE

	<i>Clause</i>	<i>Page</i>
38. Rates of tax for individuals and Association of Persons		16
39. Association of Persons		16
40. Marginal relief		16
41. Tax year		16
42. Salaried taxpayer		16
43. Reduction in tax liability		16
44. Impact of change in tax rate for tax year 2014		17
As applicable to salaried individual		
As applicable to assesses other than a salaried individual		
45. Rate of tax on retailers		17
46. Rates of tax for companies		17
47. Rate of tax on dividend income		17
48. Rates of tax on capital gains on securities		17
49. Rate of tax on capital gain on immoveable property		17
50. Income from property		18
51. Advance income tax on private motor vehicles		18
52. Advance tax on registration of private motor vehicles		18
53. Motor vehicle tax when collected in lump sum		18
54. Advance tax on goods transport vehicles		18
55. Advance tax on passenger transport vehicles		19
56. Advance tax on electricity consumption		19
57. Advance tax on purchase of air tickets		19
58. Advance tax at the time of sale by auction or auction by a tender		19
59. Advance tax on functions and gatherings		19
60. Advance tax on foreign-produced films and TV plays		19
61. Advance tax on cable operations and other electronic media		19
62. Advance tax on sale to distributors, dealers or wholesalers		20
63. Advance tax on sale to retailers		20
64. Collection of advance tax by educational institutions		20
65. Advance tax on dealers, commission agents and arhatis, etc.		20
66. Withholding tax rates		20
67. Rates of tax for non-resident taxpayers		21

THE SECOND SCHEDULE
PART-I

		Clause	Page
68.	Perquisites to employee	(53A)	23
69.	Income of universities or other educational institutions	(92)	23
70.	Income of ICC Champions Trophy, 2008	(98A)	23
71.	Exemption to dividend in specie	(103B)	23
72.	Income of zone enterprise in special economic zone	(126E)	23

PART-II

73.	Import of hybrid cars	(28)	23
-----	-----------------------	------	----

PART-III

74.	Flying allowance and submarine allowance	(1) & (2)	23
75.	Minimum tax	(7)	24

PART-IV

76.	Foreign produced films, TV plays and serials	(56A)	24
77.	Withholding tax on profit on debt	(59) (IV)	24
78.	Hajj group operators	(72A)	24
79.	Concession of exemption from payment of tax under Section 148	(72B)	24

THE THIRD SCHEDULE

80.	First year allowance	Part-II, Para (1)	24
-----	----------------------	-------------------	----

THE SEVENTH SCHEDULE

81.	Dividend received from asset management company		24
-----	---	--	----

1. Dividend received by a company again brought to a final tax
Sections 8 and 169, sub-section (3)

It would be recalled that before the amendments introduced by the Finance Act, 2007, dividend received by a company had been subject to the final tax regime with the result that the tax deducted at source by a paying company constituted as a full and final discharge of the tax liability of the recipient company. The Finance Act, 2007 inserted a proviso to Section 8 whereby the provisions of this Section were made inapplicable in respect of dividend received by a company. Consequently, the tax deducted at source on dividend was not treated as a full and final discharge of tax liability of the recipient company, though the tax rate on such dividend remained the same as the tax deducted at source. Now the Bill seeks to withdraw the said proviso with the effect that the dividend received by a company is proposed to be brought within the ambit of final tax regime. Correspondingly, an amendment has also been sought in sub-section (3) of Section 169 whereby the recipient company now shall be required to file a statement in lieu of return of income if the entire income of such recipient company consists of dividend.

2. Losses cannot be set-off against salary
Section 56

Under the scheme of Section 56, losses other than speculation business losses and capital losses are available to be set-off against any other head of income including salary for the year. The Bill seeks to amend sub-section (1) of Section 56 of the Ordinance whereby losses will no longer be available for setting-off against salary.

3. SECP requirements endorsed for the purpose of Group Taxation and Group Relief
Sections 59AA and Section 59B

The Bill proposes to recognize the Group Companies Registrations Regulations, 2008 issued by the SECP and seeks to require companies which desire to avail group taxation and/or group relief to comply therewith.

4. Definition of "Company" broadened
Section 80

Sub-section (2) of Section 80 of the Ordinance defines the term "company". The Bill proposes to substitute Clause (V) of the said sub-section. The proposed substituted Clause (V) brings a corporate society, a finance society or any other society without referring

to laws under which these entities have been established within the ambit of "company". The Bill also seeks to introduce Clause (Va) and (Vb) whereby

- a non-profit organization; and
- a trust, an entity or a body of persons established or constituted by or under any law for the time being in force;

shall be brought within the definition of the term "company".

5. Agricultural income tax under the Provincial Laws recognized
Section 111

Under the Constitution of Pakistan, tax on agricultural income has always been Provincial prerogative, therefore, by one way or the other, it remains exempt under the Ordinance. Taxpayers under the existing scheme of taxation disclose and/or utilize their agricultural income without corroborating it with Provincial agricultural tax paid thereon. For the first time in the history of tax legislation, the Bill introduces a very significant and positive step towards curbing untaxed and unchecked utilization of agricultural income for the purpose of explaining the source of investment made, money or valuable article owned or expenditure incurred by the taxpayer. In this respect the Bill seeks to insert the following proviso to sub-section (1) of Section 111 of the Ordinance.

"Provided that where a taxpayer explains the nature and source of the amount credited or the investment made, money or valuable article owned or funds from which the expenditure was made, by way of agricultural income, such explanation shall be accepted to the extent of agricultural income worked back on the basis of agricultural income tax paid under the relevant provincial law."

Consequently, if the taxpayer fails to correlate his/her investment or expenditure etc. via properly taxed agricultural income under the relevant Provincial agricultural tax laws, such unexplained income/expenditure etc. will be liable to be taxed under the Ordinance.

6. Rate of minimum tax enhanced
Section 113

In our view, the Government has failed to identify as to what should be the minimum tax that a taxpayer should pay in case it incurs a loss for the year. Even though it has now been over two decades since the provisions of minimum tax were first introduced in the income tax law, the rate has consistently changed

over the years from 0.5% to 1% and vice versa. The Bill again proposes to increase the currently applicable minimum tax rate from 0.5% to 1%.

The existing Clause (c) of sub-section (2) of Section 113 of the Ordinance provides a mechanism whereby the excess of minimum tax over the actual tax payable shall be carried forward for adjustment in the subsequent tax year(s). However, Clause (c) has not made reference to the actual tax payable by an individual or an association of persons liable to pay minimum tax under Section 113 of the Ordinance. The Bill now seeks to remove the above anomaly and introduces reference to "clause (1) of Division I, or" which prescribes tax rates for individuals and association of persons. The proposed amendment entitles individuals and association of persons to carry forward the excess amount of minimum tax to subsequent tax year(s) in terms of Clause (c) of sub-section (2) of Section 113 of the Ordinance.

7. Deduction of tax from salary
Section 149

Under the existing provisions of section 149, every employer is obliged to deduct tax from payment of taxable salary to employees. The Bill now seeks to expand the obligatory role of the employer and proposes to substitute the word "employer" with the word "person responsible for" making payment of taxable salary. It appears that the legislature desires to ensure deduction of tax from salary whether it will be paid by the employer or any other person responsible for payment of such salary.

It needs to be recalled that the Finance Act, 2007 amended the provisions of section 149 to the effect that it allows adjustment of tax withheld from the employee under other sections and tax credits admissible under section 61, 62, 63 and 64 during the tax year.

The Bill now seeks to revert to the original position and suggests to withdraw the above concessions available to the employee under the existing provisions. We are unable to understand the rationale behind the above proposition which is unnecessarily harsh on employees and does not result in any additional revenue to the Government.

8. Payments to permanent establishment
of a non resident
Sections 152 and 153

It would be recalled that the Finance Act, 2012 has relocated provisions pertaining to deduction of tax at source from payment to a permanent establishment in

Pakistan of a non resident person on account of sale of goods, rendering of services and execution of a contracts from Section 153 to Section 152 of the Ordinance. The migrated provisions in Section 152 refer to "prescribed person" however, Section 152 does not contain the definition of the words "prescribed person". The Bill now proposes to make reference to sub-section (7) of Section 153 in Section 152 of the Ordinance where the term "prescribed person" has been defined.

The Bill also proposes to insert sub-clause (j) in sub-section (7) of Section 153 of the Ordinance whereby "a person registered under the Sales Tax Act, 1990" will now be included in the term "prescribed person".

9. Minimum tax on builders
Section 113A

As one of the measures to increase the tax revenue, the Bill seeks to substitute this section with the entirely new one. The new section provides a minimum tax on builders. The salient features of the new section are as follows:

- a person who derives income from the business of construction and sale of residential, commercial or other buildings, shall pay minimum tax at the rate of rupees twenty five per square foot as per the construction or site plan approved by the relevant regulatory authority.
- the minimum tax to be paid under this section shall be computed on the basis of total number of square feet sold or booked for sale during the year.
- the tax paid under this section shall be minimum tax on the income of the builder from the sale of such residential, commercial or other building.

It may be recalled that the existing Section 113A deals with taxation of individuals or association of persons engaged in the business of retailing goods having turnover not exceeding Rs.5 million in a tax year. Such retailers are entitled to exercise the option whereby instead of being subject to income based taxation, they may opt to pay fixed tax at the specified rate on their gross turnover. By virtue of substituting Section 113A as above, the above retailers will now be subject to tax on the basis of income based taxation.

10. Minimum tax on developers
Section 113B

Likewise the Bill also envisages a minimum tax on land developers by substituting Section 113B in the Ordinance. The salient features of the substituted section are as follows:

- a person who derives income from the business of development and sale of residential, commercial or other plots, shall pay minimum tax at the rate of rupees fifty per square yard as per the lay out or site plan approved by the relevant regulatory authority.
- the tax computed as above shall be paid on the basis of total number of square yards sold or booked for sale during the year.
- the tax paid under this section shall be minimum tax on the income of the developer from the sale of such residential, commercial or other plots sold or booked.

It may be appreciated that the existing Section 113B deals with taxation of individuals or association of persons engaged in the business of retailing goods having turnover exceeding Rs.5 million in a tax year and subject to special procedure for payment of sales tax under Chapter II of the Sales Tax Special Procedure Rules, 2007. Such retailers are required to pay fixed tax at the specified rates. By virtue of substituting Section 113B as above, the above retailers will now be subject to tax on the basis of income based taxation.

11. Requirement to file return of income
Section 114

Over the past years, several measures have been introduced in the law to broaden the tax net in order to achieve higher tax revenue and to ease the burden on existing taxpayers. The current shortfall in tax collection has largely been attributed to the very narrow tax base that is available at present to the FBR. With this view, certain amendments are proposed in this section that lays down the criteria as to who is required to file a return of income.

- a) At present, a holder of commercial or industrial electricity connection whose annual electricity bill exceeds Rs.1 million is required to file a return. This threshold of Rs 1 million is now proposed to be reduced to Rs 500,000

- b) Persons who are registered with the following are also now required to file a return of income irrespective of their income threshold:

- (i) any Chamber of Commerce and Industry
- (ii) any Trade or Business Association
- (iii) any Market Committee
- (iv) any Professional Body including –
 - Pakistan Engineering Council
 - Pakistan Medical and Dental Council
 - Pakistan Bar Council
 - Any Provincial Bar Council
 - Institute of Chartered Accountants of Pakistan
 - Institute of Cost and Management Accountants of Pakistan

This in our view is a positive step to bring more persons within the tax net, however, what is now required is effective follow up and enforcement by the FBR to ensure that real action is taken to bring the registered persons of these bodies in the tax net and not leave these amendments merely in the books of law.

A corrective amendment has also been proposed to remove an anomaly that exists in the law. A taxpayer having business income between Rs.300,000 and Rs.350,000 was required to file a return whereas a person having income above Rs.350,000 upto Rs.400,000 was not required to file a return of income although the minimum threshold of taxable income was increased to Rs.400,000 from Rs.350,000 through the Finance Act, 2012. The amendment now seeks to require all such persons having business income above Rs.300,000 to file a return.

Presently, any person who in the Commissioner's opinion is required to file a return of income for a tax year but has not filed such return is permitted to file the return within 30 days or such longer period as may be permitted by the Commissioner. The Bill now seeks to empower the Commissioner to seek a return of income within 30 days or such longer or shorter period as he deems fit.

12. Revision of Return
Section 114, sub-section 6

A taxpayer is entitled to revise his return of income provided the following conditions are satisfied:

- a) the return is accompanied by revised accounts or revised audited account as the case may be;
- b) the reasons for revision of return, in writing, duly signed by the taxpayer are filed with the return;
- c) the taxable income declared is not less than and loss declared is not more than income or loss, as the case may be, determined by amended assessment, appeal effect or rectification order.

The Bill seeks to introduce yet another harsh condition for revising the return according to which Commissioner's approval in writing will now also be required. In our view this is a regressive amendment as we fear that if this proposal is approved then revision of return under income tax law will require the taxpayer to face the same hardships that they are currently facing in revising a sales tax return. It has been time and again pointed out to the Board that even in cases where the taxpayer wants to rectify a sales tax return and pay further tax he has to run from pillar to post to get a written permission from the Commissioner. In the presence of condition (c) already in place that safeguards a revision after an amended assessment has taken place, we do not see any reason why the Board wishes to restrict the taxpayers' right to amend an assessment that is deemed assessed under law.

13. Persons not required to furnish a return
Section 115, Section 118, sub-sections (2A), (3), (6) and Section 119

Presently, a salaried taxpayer whose annual salary income is less than Rs.500,000 and he has no other source of income is not required to furnish a return of income, if his employer has filed the annual statement of deduction of income tax from salary as required under section 165 of the Ordinance.

The Bill seeks to withdraw this facility and make it mandatory for all salaried taxpayers to file a return of income. In cases where the salary income for a tax year is Rs.500,000 or more the requirement to file the return electronically in the prescribed form alongwith wealth statement under section 116 would still continue.

Consequential changes have also been introduced in Sections 118 and 119 which provides the method of furnishing returns and other documents.

14. Wealth statement
Section 116

Presently, a resident individual taxpayer whose last declared or assessed income or the current year's declared income is Rs.1 million or more is required to file a wealth statement and wealth reconciliation statement for that year alongwith his return of income. Further, every member of an Association of Persons (AOP) whose share from the income of the AOP before tax, is Rs.1 million or more is required to furnish wealth statement or wealth reconciliation statement alongwith his return of income. Similarly, a person (other than a company) falling under the Final Tax Regime (FTR) who has paid tax amounting to Rs.35,000 or more for a tax year is also required to file a wealth statement alongwith wealth reconciliation.

The Bill seeks to amend this section to remove the thresholds of Rs.1 million for individual taxpayers and members of an AOP and the minimum requirement of payment of tax amounting to Rs.35,000 for a person falling under FTR. Accordingly, it is now proposed that every individual taxpayer, every individual member of an AOP and every individual falling under FTR filing a return of income/statement would be required to file a wealth statement alongwith a wealth reconciliation for the year irrespective of his declared or last assessed income.

Presently, if a person discovers any omission or wrong statement in his wealth statement, he is permitted to revise his wealth statement at any time before an amended assessment is made. The Bill now seeks to require the person revising the wealth statement to also file a revised wealth reconciliation alongwith reasons for revising the wealth statement.

15. Investment Tax on income
Section 120A

Through the Finance Act, 2008, the Board was empowered to make a scheme of whitening undisclosed income which was conveniently referred to as "Investment Tax on income".

Time and again, on each occasion, whenever any amnesty scheme was launched and implemented, honest taxpayers and organized sectors of business who demonstrated a responsible tax behavior had reasons to express their resentment by asserting that each such scheme puts a premium on dishonesty and honest tax payers were left clamoring for having been meted out an unfair treatment to their great detriment. Only a naive citizen would tend to believe

that the above referred scheme would be the last and final in the annals of tax history of Pakistan.

Such schemes provide complete amnesty for all defaulted liabilities on payment of a very nominal sum. In the case of indirect taxes, there are almost regular amnesty schemes for delinquents. This places the taxpayer community in an embarrassing position.

Existence of Section 120A on the statute book, granting a perpetual power to the Board to make such schemes, is a best remedy available and temptation for delinquent taxpayers and discouragement for compliant taxpayers.

Almost all forums supporting taxation and widening of tax net in the country have been unanimously demanding removal of Section 120A and it seems the voice of honest taxpayers has finally been heard in the corridors of power. It is accordingly, being proposed in the Bill that Section 120A should be omitted.

16. Provisional assessment *Section 122C*

Where a person in spite of being asked by the Commissioner to file a return of income for a tax year fails to file the return, the Commissioner is empowered to frame a best judgment assessment – namely provisional assessment based on the information/ material available to him. Such provisional assessment is deemed to be the final assessment after expiry of 60 days from the date of service of provisional assessment order on the taxpayer.

However, if before expiry of 60 days, the person furnishes the return of income along with the required documents, the return so furnished shall be treated the person's assessment order under the Ordinance. The Bill seeks to reduce the time limit of 60 days to 45 days.

17. Appointment of the Appellate Tribunal *Section 130*

The Appellate Tribunal is said to be the final fact finding authority under the tax appellate system of the country. Any decision given by the Appellate Tribunal deciding a matter of fact is not challengeable before the High Courts as well as before the Supreme Court of Pakistan. Since inception, the composition of a division bench of the Appellate Tribunal consists of a Judicial member and an Accountant member. The idea of having a Judicial as well as an Accountant member in a division bench appeared to be that a tax case involves both legal interpretation and application of

the provisions of the tax law vis-à-vis examination of the accounting treatment of the disputed transaction.

Before the Finance Act, 2007, a person could be appointed as an accountant member of the Appellate Tribunal if he was an officer of the Income Tax Group of the rank of a Regional Commissioner (BPS 21). A senior (BPS 21) officer of tax service is capable of judging an accounting transaction on the basis of his rich experience of administering the tax laws as well as his understanding of accounting which gave him an edge to decide the fate of the disputed transaction. The Finance Act, 2007 expanded this criteria to qualify a Commissioner or a Commissioner (Appeals), having at least 5 years experience as a Commissioner, to become an accountant member of the Appellate Tribunal. Then the Finance Act, 2010 curtailed the qualifying service period of a Commissioner from 5 years to 3 years. These changes have resulted in affecting the performance of the Appellate Tribunal with the result that the landmark judgments that were rendered by the Appellate Tribunal on various tax issues are seldom seen.

On the other hand, presently the criteria of a person of becoming a Judicial member of the Appellate Tribunal is that the person:

- a) has exercised the powers of a District Judge and is qualified to be a Judge of a High Court; or
- b) is or has been an advocate of a High Court and is qualified to be a Judge of the High Court.

It is seen that only such person can become a Judicial member who is qualified to be a Judge of a High Court. The Bill however, seeks to disturb the aforesaid criteria of appointment of a Judicial member to also include a person who is an officer of Inland Revenue Service and a law graduate, having at least 15 years of service in BS-17 and above.

In our view this will not be welcomed by the legal fraternity as well as by the tax professionals at large. This will also affect the composition of the division benches for, a person capable of becoming of a Judge of a High Court cannot be equated with an Inland Revenue Service officer be him a law graduate and having at least 15 years service in BS-17 and above.

18. Tax withholding from property income *Section 155*

The following persons are regarded as "prescribed persons for the purpose of withholding tax from property income"

- i) the Federal Government;
- ii) a provincial Government;
- iii) a Local Government;
- iv) a company;
- v) a non profit organization;
- vi) a diplomatic mission of a foreign state; or
- vii) any other person notified by the Board for the purpose of this section.

With a view to expand the net of tax paying landlords, it is proposed that the following persons would also be required to withhold tax from payment of rent –

- i) charitable institutions;
- ii) a private educational institution;
- iii) a boutique
- iv) a beauty parlor
- v) a hospital
- vi) a clinic or a maternity home
- vii) individuals or AOPs paying gross rent of Rs.1.5 million and above in a year

The list of proposed prescribed persons looks quite ambitious as it would be quite an uphill task to ensure compliance of the required law as in some of the instances it is doubtful whether the designated prescribed persons would themselves be registered taxpayers particularly individuals.

19. Certificate of collection or deduction of tax *Section 164*

Through Finance Act, 2009 for claiming taxes deducted at source, the taxpayer apart from filing a certificate of collection or deduction of tax issued by the withholding agent was also required to submit copies of challans of tax payments as evidence of such collection or deduction of tax. However, this section contains an anomaly whereby it states that the certificate issued by the withholding agent will be sufficient evidence for claiming the taxes deducted/collected at source.

The Bill now seeks to redress this anomaly and proposes to withdraw that part of the law which declares the certificate issued by the withholding or collection agent as sufficient evidence for claiming the tax.

20. Filing of statements in respect of taxes withheld/collected at source *Section 165*

Presently, every person collecting or deducting tax under the Ordinance is required to file monthly statements in respect of taxes withheld from payments other than salary and monthly and annual statement in respect of taxes withheld from salary payments.

Largely the corporate sector has complied with this requirement over the years. However, the banking sector has been at loggerheads with the Board over the matter of submitting information in respect of taxes withheld/collected on account of payment of profit on debt and collection of taxes from banking transactions on a party-wise basis. It has been the contention of the banking sector that disclosing of names and particulars of its customers in the prescribed format would be a breach of the secrecy of transactions that they are required to maintain in respect of bonafide banking transactions and in particular transactions in foreign currency accounts both under the Banking Companies Ordinance, 1962 and the Protection of Economic Reforms Act, 1992. Over the years the banking sector and the Board have had several discussions on the matter however, no significant progress has been achieved so far. Some of the banks have sought legal advice on the matter and they have been advised that unless necessary amendments are made in the laws that require secrecy of banking transactions, they should not divulge customer information.

In order to address this issue the Bill now seeks to add an explanation in this section which clarifies that the provisions of this section overrides all conflicting provisions contained in the Protection of Economic Reforms Act, 1992 (XII of 1992), the Banking Companies Ordinance, 1962 (LVII of 1962), the Foreign Exchange Regulation Act, 1947 (VII of 1947) and the regulations made under the State Bank of Pakistan Act, 1956 (XXXIII of 1956) in so far as disclosure of information under this section is concerned.

This appears to be a positive step in resolving this long standing dispute and we believe that such an important proposal involving powers to override significant banking laws must have undergone the process of legal vetting to ensure enforceability of the proposed amendment.

21. Furnishing of information by banks
Section 165A

The newly elected federal government is faced with a huge task to increase the tax to GDP ratio, which is miserably low at around 9% for the last several years. It has been time and again pointed out to the Board that a paradigm shift is required in its approach towards better collection of taxes. Broadening of tax base has been the subject matter of discussions for several years over the past in this context. The banking sector has been pointed out as one of the key sources of information about non-tax filers and short tax filers. However, lack of legal cover to obtain such information is an impediment for the Board in getting information from this crucial source.

The Bill now seeks to introduce a new Section 165A to provide a framework to banks for furnishing information about the banking transaction to the tax authorities. This section seeks to override the Protection of Economic Reforms Act, 1992 (XII of 1992), the Banking Companies Ordinance, 1962 (LVII of 1962), the Foreign Exchange Regulation Act, 1947 (VII of 1947) and the regulations made under the State Bank of Pakistan Act, 1956 (XXXIII of 1956) and requires every banks to make arrangements to provide to the Board the following information in the prescribed form and manner:

- a) online access to its central database containing details of its account holders and all transactions made in their accounts.
- b) a list containing particulars of deposits aggregating Rs.1 million or more made during the preceding calendar month.
- c) a list of payments made by any person against bills raised in respect of a credit card issued to that person, aggregating to Rs.100,000/- or more during the preceding calendar month.
- d) a consolidated list of loans written off exceeding Rs.1 million during a calendar year, a copy of each Currency Transactions Report and Suspicious Transactions Report generated and submitted by it to the Financial Monitoring Unit under the Anti-Money Laundering Act, 2010 (VII of 2010).

Apart from the above, the bank is also required to nominate a senior person at its head office to coordinate with the Board for provision of any other information/ documents that may be required by the Board. The time and manner in which the information

will be sought would be prescribed in due course in the Income Tax Rules, 2002.

It has further been provided that the banks and their officers shall not be liable to any civil, criminal or disciplinary proceedings against them in connection with furnishing the aforesaid information. It has also been provided that subject to Section 216 of the Ordinance, the information received by the Board shall be used for tax purposes only and shall be kept confidential.

The list of information that is being sought from the banking companies appears to be quite cumbersome and would require input from the banks on a frequent basis which would require lot of efforts and resources to be employed for this purpose. It must be appreciated that not all the banks operating in Pakistan are performing and generating profits and therefore in certain cases employment of resources for accomplishing this task would mean a heavy cost for such banks. Similarly, for large banks having operations all over the country, collection of information and providing the same to the tax authorities would be a cumbersome job.

At the same time, the Board also needs to be equipped with proper tools of trade and competent resources that is able to generate the desired information from the data that comes through and collates it in a manner that gives the desired results for which the banking sector is being engaged. The Board needs to quickly examine its past performance vis-à-vis the results that have been generated from the existing tax filings done by the corporate sector and to what extent such information has been utilized so far to broaden the tax base.

22. Additional payment for delayed refund
Section 171

Under the existing provisions, a taxpayer is entitled to compensation on a refund due to him, if the refund is not paid within three months of the date on which the refund becomes due. The existing provisions also state the time frame as to when a refund shall be treated as having become due. However, in recent judgments by the learned Appellate Tribunal Inland Revenue it has been held that for the purpose of this section, refund shall be treated due on the date the deemed assessment is treated to have been made in terms of Section 120 of the Ordinance where a refund has been claimed in the return of income filed by the taxpayer.

It appears that in order to negate the aforesaid judgments, the Bill seeks to provide an explanation to

clarify that in such situations the refund shall be treated to have become due from the date the refund order is made upon an application filed by the taxpayer under Section 170 of the Ordinance and not from the date the deemed assessment is treated to have been made in terms of Section 120 of the Ordinance.

23. Representatives
Section 172

The provisions of Section 172 seek to treat a person as a representative of another person for the purpose of levying tax on the latter. Sub-section (3) thereof states the person who could be treated as a representative of a non-resident person in Pakistan. One of the qualifying criteria for being held as a representative of a non-resident person is that there is any business connection of that person with the non-resident person. Business connection is a very wide connotation and depending on the peculiar circumstances of each case there may be conflicting views whether a person can be held as a representative merely on the basis of a business connection.

The Bill seeks to insert an explanation whereby it has been emphasized that a business connection includes transfer of an asset or business in Pakistan by a non-resident.

24. Audit
Sections 177 and 214C

The Ordinance introduced the concept of Universal Self Assessment backed by strong audit. Before the Introduction of Finance Act, 2010 the Commissioner Inland Revenue (CIR) was clearly empowered to select cases on the basis of the criteria laid down in Sub-section (4) of Section 177 of the Ordinance.

Through the Finance Act, 2010, Section 214C was introduced whereby the Board was empowered to select cases for audit through computer ballot on either random or parametric basis as deemed appropriate. The cases so selected were to be conducted as per procedure given in Section 177 of the Ordinance.

Simultaneously, through the Finance Act, 2010 amendment was introduced in Section 177 whereby the specific powers of selection of cases assigned to the CIR were taken away and the CIR is now confined to conduct of audit as stipulated in Section 214C of the Ordinance.

Hence a meaningful synchronizing of selection and conduct of audit was achieved through the aforesaid amendments in Section 177 and introduction of Section 214C.

However, the Field Commissioners continue to issue notices for selection of cases inspite of very clear amendments in law that confine the CIR inland Revenue to conduct audit, which has resulted in lot of litigations in the High Courts. This has led to a stagnation in the process of audit on one pretext or the other.

The Bill seeks to insert similar explanations in Sections 177 and 214C to state that the powers of CIR under the sections are independent of the powers of the Board under Section 214C of the Ordinance. It further states that Section 214C does not restrict the powers of the CIR to call for the record or documents including books of account of a taxpayer for audit and to conduct audit under this section.

The explanations sought to be inserted in Sections 177 and 214C, in very unambiguous terms reiterate that the CIR is fully empowered to conduct audit under the section and to call for the record or documents including books of account of a taxpayer for audit. These explanations now lay to rest the controversy that selection can be done by the CIR under Section 177 and clearly states that the CIR is authorized to call for records and Books of Account of a taxpayer to conduct audit under this Section of those of cases that are selected by the Board under Section 214C and delegated to the CIR for conduct of audit in terms of Section 214C(2) of the Ordinance.

The Bill further seeks to authorize the Board to keep the parameters for selection of cases for audit confidential.

25. Displaying of national tax number
Section 181 and 181C

Presently Section 181 obliges every taxpayer to apply for its registration with the Board in the prescribed manner. This section was introduced via the Finance Act, 2008 substituting the requirement for taxpayers to apply for National Tax Number Certificate. Further a provision was inserted in Section 181 through the Finance Act, 2007 empowering the Board to allow individual's use of National Identity Card issued by National Database and Registration Authority in place of National Tax Number which was earlier withdrawn through the Finance Act, 2006. On the other hand, Rule 83 of the Income Tax Rules, 2002 still requires the taxpayers to display the National Tax Number

Certificate at a conspicuous place at its place of business.

The Bill now seeks to reintroduce a proviso in Section 181 empowering the Board to allow individual taxpayers the use of National Identity Card issued by National Database and Registration Authority in place of National Tax Number. A new Section 181C is also being proposed which requires the taxpayers, inline with Rule 83 as aforesaid, to display the National Tax Number at a conspicuous place at its place of business.

26. Offences and penalties Section 182

These provisions have undergone a number of changes as a result of which different penalties for defaults committed by the taxpayers under the Ordinance have been consolidated in a single section. Consequently a table was inserted via the Finance Act, 2010 wherein inter-alia, penalty for failure to furnish a return of income, statement of final tax under Section 115, wealth statement or wealth reconciliation or statement of withholding tax under Section 165 of the Ordinance has been prescribed equal to 0.1% of the tax payable for each day of default subject to a minimum penalty of Rs.5,000/- and maximum penalty of 25% of the tax payable for the relevant year. The Finance Act, 2011 then added an explanation clarifying that the term "tax payable" means tax chargeable on the taxable income as assessed in terms of Section 120, 121, 122 or 122C of the Ordinance.

This led to a number of issues i.e. even for default for filing the statement of final tax or wealth statement or wealth reconciliation or statement of withholding tax, penalty is calculated with reference to the tax payable for the year as dealt with in the aforesaid explanation which resulted in unreasonably high amount of penalties.

The Bill seeks to amend the aforesaid provisions and proposes the following:

- penalty for default for filing the return of income has been proposed to be equal to 0.1% of the tax payable for each day of default subject to a maximum penalty of 50% of the tax payable for the year. If, however, the aforesaid penalty is less than Rs.20,000/- or where no tax is payable for the year the penalty shall not exceed Rs.20,000/-
- penalty for default for filing a final tax statement, a withholding tax statement or failure by a bank to furnish information as required by the newly proposed section 165A of the Ordinance would be

Rs.2,500/- for each day of default subject to a minimum penalty of Rs.50,000/-.

- penalty for failure to furnish wealth statement or wealth reconciliation is proposed to be Rs.100/- for each day of default.
- penalty for failure to display National Tax Number Certificate at conspicuous place of business is proposed to be Rs.5,000/-.

Apart from the above enhancements, the following penalties have also been proposed:

Nature of default	Penalty	
	Existing	Proposed
(a) failure to produce the records or documents on receipt of first notice for tax audit	Rs.5000	Rs.25,000
(b) failure to produce the records or documents on receipt of second notice for tax audit	Rs.10,000	Rs.50,000
(c) failure to produce the records or documents on receipt of third notice for tax audit	Rs.50,000	Rs.100,000
(d) failure to furnish the information required or to comply with any other terms of the notice under section 176 of the Ordinance	Rs.5,000 for first default and Rs.10,000 for each subsequent default	Rs.25,000 for first default and Rs.50,000 for each subsequent default
(e) Failure to display NTN Certificate at a conspicuous place at its place of business	NA	Rs.5,000

27. Collection of tax by NCCPL Section 233AA

Presently NCCPL is required to collect advance tax from members of the Stock Exchanges registered in Pakistan in respect of margin financing in share business at the rates prescribed in the First Schedule to the Ordinance.

The bill now seeks to broaden the obligation of NCCPL by including the following persons from whom tax is to be collected at 10% of profit or mark-up or interest earned:

- a) margin financiers providing any margin financing;
- b) trading financiers conducting margin trading; and
- c) lenders providing securities lending under Securities (Leveraged Markets and Pledging) Rules, 2011 in share business.

28. Tax on motor vehicles
Section 234

Presently tax is collected along with motor vehicle tax by Provincial Motor Vehicle Registration Authorities at different rates depending on the category of vehicle. The tax so collected is regarded as final tax on the Income of the person from plying or hiring of such vehicle.

The Bill seeks to enhance the rate of the tax collection but it will now be an advance tax and thus adjustable against the ultimate tax liability of the tax payer.

29. Reward to Inland Revenue Officers
Section 227A

The Bill proposes to introduce a new scheme empowering the Board to provide for cash rewards to Inland Revenue Officers and Officials, in detecting cases involving concealment or evasion of income-tax and other taxes, for their meritorious conduct in such cases. The cash reward is also proposed to be provided to the informer giving credible information leading to detection of evasion or concealment. The reward is to be given only after realization of part or whole of the taxes involved in such cases.

30. Directorate General of Law and Research & Development
Section 230B, 230C

The Bill seeks to introduce two more directorate generals Directorate General of Law and Directorate General of Research & Development. The Board shall notify the functions, jurisdiction and powers of these directorates.

31. Advance tax on functions and gatherings
Section 236D

In an attempt to broaden the tax net, a new Section 236D is proposed to be introduced by the Bill whereby every prescribed person shall be obliged to collect advance tax at the rate of 10% of the total amount of the Bill from a person arranging or holding a function in a marriage hall, marquee, hotel, restaurant, commercial lawn, club, a community place or any other place used for such purpose. In the event where the food, service or any other facility is provided by any other person, the prescribed person shall be required to collect advance tax at the rate of 10% on the payment for such food, service or facility from the person arranging or holding the function. The advance tax so collected shall be adjustable against the ultimate tax liability of the person arranging or holding the function.

The term "function" has been defined to include any wedding related event, a seminar, a workshop, a session, an exhibition, a concert, a show, a party or any other gathering held for such purpose and likewise the term "prescribed person" includes the owner, a lease-holder, an operator or a manager of a marriage hall, marquee, hotel, restaurant, commercial lawn, club, a community place or any other place used for such purpose.

32. Advance tax on foreign-produced films, TV plays and serials
Section 236E

Similarly, in order to broaden the tax net and increase the revenue, the Bill introduces a new section whereby any person responsible for censoring or certifying a foreign-produced film, a TV drama serial or a play, for screening and viewing, shall be obliged, at the time of censoring or certifying, to collect advance tax at the rates prescribed in the First Schedule. The tax so collected shall be adjustable against the ultimate tax liability of the taxpayer from whom the tax is collected.

33. Advance tax on cable operators and other electronic media
Section 236F

A new Section 236F has been introduced by the Bill which proposes collection of advance tax by Pakistan Electronic Media Regulatory Authority, at the time of issuance of license for distribution services or renewal of the license to a licensee, at the rates prescribed in the First Schedule. The tax so collected shall be adjustable against the ultimate tax liability of the taxpayer from whom the tax is collected.

It has been suggested that the terms "cable television operator", "DTH", "Distribution Service", "electronic media", "IPTV", "loop holder", "MMDS", "mobile TV", shall have the same meanings as defined in the Pakistan Electronic Media Regulatory Authority Ordinance, 2002 (XIII of 2002) and Pakistan Electronic Media Regulatory Authority Rules, 2009.

34. Advance tax on sales to distributors, dealers and wholesalers
Section 236G and Section 153A

It needs to be recalled that the Finance Act, 2012 had introduced Section 153A in the Ordinance whereby every manufacturer, at the time of sale to distributor, dealers and wholesalers was required to collect tax at the prescribed rate from the aforesaid persons to whom such sales have been made. Subsequently, by virtue of SRO.1487(I)/2012 dated 24 December 2012, Clause (80) has been introduced in Part-IV of the Second Schedule to the Ordinance which deferred the application of Section 153A till 30 June 2013. The Bill now seeks to withdraw Section 153A of the Ordinance. Simultaneously, the Bill proposes to introduce Section 236G whereby every manufacturer or commercial importer of electronics, sugar, cement, iron and steel products, fertilizer, motorcycles, pesticides, cigarettes, glass, textile, beverages, paint or foam sector, at the time of sale to distributors, dealers and wholesalers, shall collect advance tax at 0.1% of the gross amount of sales. The tax so collected shall be adjustable against the ultimate tax liability of the distributors, dealers or wholesalers for the tax year.

It needs to be appreciated that under the proposed deleted Section 153A all manufacturers without any discrimination were obliged to collect tax whereas under the proposed Section 236G manufacturers in the specified sectors have been suggested to be required to collect the advance tax. Another distinction between Section 153A and the new Section 236G is that the new Section obliges commercial importers also of the specified goods to collect tax from their distributors, dealers and wholesalers.

35. Advance tax on sales to retailers
Section 236H

The Bill has also proposed to require every manufacturer, distributor, dealer, wholesaler or commercial importer of electronics, sugar, cement, iron and steel products, fertilizer, motorcycles, pesticides, cigarettes, glass, textile, beverages, paint or foam sector, at the time of sale to retailers, to collect advance tax at 0.5% of the gross amount of sales. The tax so collected shall be adjustable in

computing the tax due by the retailer on the taxable income for the tax year in which the tax was collected.

36. Collection of advance tax by educational institutions
Section 236I

A new Section 236I is proposed to be inserted by the Bill under which advance tax is proposed to be collected by an educational institution at 5% of the amount of fee. The tax would be collected by the educational institutions in the manner the fee is charged. The advance tax under this section is proposed not to be collected from a person where the annual fee does not exceed two hundred thousand rupees. The tax so collected is proposed to be treated as an advance tax adjustable against the tax liability of either of the parents or guardian making payment of the fee.

37. Advance tax on dealers, commission agents and arhatis etc.
Section 236J

A new collection of advance tax section is proposed to be introduced whereby every market committee shall be obliged to collect advance tax from dealers, commission agents or arhatis, etc. at the rates specified in the First Schedule at the time of issuance or renewal of licences. The tax so collected is proposed to be an advance tax available for adjustment. The section proposes to define "market committee" to include any committee or body formed under any provincial or local law made for the purposes of establishing, regulating or organizing agricultural, livestock and other commodity markets.

THE FIRST SCHEDULE

38. Rates of tax for individuals and Association of Persons

The number of slabs in the case of salaried taxpayers have been raised from the existing 6 to 12 and in the case of non-salaried taxpayer from the existing 5 to 7. In addition, the maximum rate applicable to salaried taxpayer has been raised from the existing 20% to 30% while in the case of non-salaried taxpayer from the existing 25% to 35%. Accordingly, the rates of tax chargeable for the tax year 2014 (corresponding to the income year ending at any time between 01 July 2013 to 30 June 2014) have been proposed as under:

Salaried taxpayers

Salaried taxpayers	Rate
Upto Rs.400,000	Nil
Rs.400,001 - 500,000	5% of excess over Rs.400,000
Rs.500,001 - 800,000	Rs.5,000 + 7.5% of excess over Rs.500,000
Rs.800,001 - 1,300,000	Rs.27,500 + 10% of excess over Rs.800,000
Rs.1,300,001 - 1,800,000	Rs.77,500 + 12.5% of excess over Rs.1,300,000
Rs.1,800,001 - 2,200,000	Rs.140,000 + 15% of excess over Rs.1,800,000
Rs.2,200,001 - 2,600,000	Rs.200,000 + 17.5% of excess over Rs.2,200,000
Rs.2,600,001 - 3,000,000	Rs.270,000 + 20% of excess over Rs.2,600,000
Rs.3,000,001 - 3,500,000	Rs.350,000 + 22.5% of excess over Rs.3,000,000
Rs.3,500,001 - 4,000,000	Rs.462,500 + 25% of excess over Rs.3,500,000
Rs.4,000,001 - 7,000,000	Rs.587,500 + 27.5% of excess over Rs.4,000,000
Over Rs.7,000,000	Rs.1,412,500 + 30% of excess over Rs.7,000,000

Non-salaried taxpayers

Non Salaried taxpayers	Rate
Upto Rs.400,000	Nil
Rs.400,001 - 750,000	10% of excess over Rs.400,000
Rs.750,001- 1,500,000	Rs.35,000 + 15% of excess over Rs.750,000
Rs.1,500,001 - 2,500,000	Rs.147,500 + 20% of excess over Rs.1,500,000
Rs.2,500,001 - 4,000,000	Rs.347,500 + 25% of excess over Rs.2,500,000
Rs.4,000,001 - 6,000,000	Rs.722,500 + 30% of excess over Rs.4,000,000
Over Rs.6,000,000	Rs.1,322,500 + 35% of excess over Rs.6,000,000

39. Association of Persons

Associations of persons for the tax year 2014 continues to be taxed as per the rate card of the non-salaried taxpayer.

40. Marginal relief

With the introductions of progressive slab rates of tax for tax year 2013, the marginal relief provision had become redundant and is now being deleted.

41. Tax year

"Tax Year" means a period of twelve months ending on 30 June and corresponds to the period to which the income of the taxpayer relates.

42. Salaried taxpayer

"Salaried taxpayer" is a person having salary income in excess of 50% of his/her taxable income.

43. Reduction in tax liability

A senior citizen of Pakistan, being a taxpayer, aged sixty years or more on the first day of the relevant tax year, is allowed a rebate of 50% of the tax payable if his/her taxable income in that tax year is Rs.1,000,000/- or less. The said rebate continues and the rule, that in determining the threshold as above, income under final tax regime shall be excluded, also remains unchanged.

44. Impact of change in tax rate for tax year 2014

As applicable to salaried individual

Salary per month	Salary per annum / Taxable Income	TAX INCIDENCE		Increase / (Decrease) in Tax Incidence	
		Before Amendment	After Amendment	Increase / (Decrease) in Tax Incidence	
				Rupees	%age
35,000	420,000	1,000	1,000	0	0.00
40,000	480,000	4,000	4,000	0	0.00
50,000	600,000	10,000	12,500	2,500	25.00
60,000	720,000	16,000	21,500	5,500	34.38
70,000	840,000	26,500	31,500	5,000	18.87
80,000	960,000	38,500	43,500	5,000	12.99
90,000	1,080,000	50,500	55,500	5,000	9.90
100,000	1,200,000	62,500	67,500	5,000	8.00
125,000	1,500,000	92,500	102,500	10,000	10.81
150,000	1,800,000	140,000	140,000	0	0.00
175,000	2,100,000	192,500	185,000	(7,500)	(3.90)
200,000	2,400,000	245,000	235,000	(10,000)	(4.08)
225,000	2,700,000	460,000	290,000	(170,000)	(36.96)
250,000	3,000,000	520,000	350,000	(170,000)	(32.69)
275,000	3,300,000	580,000	417,500	(162,500)	(28.02)
300,000	3,600,000	640,000	487,500	(152,500)	(23.83)
400,000	4,800,000	880,000	807,500	(72,500)	(8.24)
500,000	6,000,000	1,120,000	1,137,500	17,500	1.56
750,000	9,000,000	1,720,000	2,012,500	292,500	17.01
1,000,000	12,000,000	2,320,000	2,912,500	592,500	25.54
1,200,000	14,400,000	2,800,000	3,632,500	832,500	29.73

As applicable to assesses other than a salaried individual

Taxable Income per annum	TAX INCIDENCE		Increase / (Decrease) in Tax Incidence	
	Before Amendment	After Amendment	Increase / (Decrease) in Tax Incidence	
			Rupees	%age
450,000	5,000	5,000	0	0.00
500,000	10,000	10,000	0	0.00
600,000	20,000	20,000	0	0.00
700,000	30,000	30,000	0	0.00
800,000	42,500	42,500	0	0.00
1,000,000	72,500	72,500	0	0.00
1,250,000	110,000	110,000	0	0.00
1,500,000	147,500	147,500	0	0.00
2,000,000	247,500	247,500	0	0.00
2,500,000	347,500	347,500	0	0.00
3,000,000	472,500	472,500	0	0.00
3,500,000	597,500	597,500	0	0.00
5,000,000	972,500	1,022,500	50,000	5.14
6,000,000	1,222,500	1,322,500	100,000	8.18
8,000,000	1,722,500	2,022,500	300,000	17.42
10,000,000	2,222,500	2,722,500	500,000	22.50

45. Rate of tax on retailers

The rate of tax applicable for the tax year 2014 on a retailer which is presently 1% of the turnover, in case his declared turnover is Rs.5 million or less is proposed to be done away with effect from the tax year 2014.

46. Rates of tax for companies

- For public and private companies, the rate of tax has been proposed to be reduced to 34% from the existing 35% for the tax year 2014.
- A co-operative and finance society is taxed at the income tax rate applicable to a company.
- The rate of tax for banking companies remains at 35% for the tax year 2014.
- The rate of tax for a "small company" remains at 25% for the tax year 2014.

47. Rate of tax on dividend income

The rate of tax on dividend received by all taxpayers continues at 10% and the rate of tax on the dividend received by a banking company from Money Market Fund and Income Fund has been reduced from the existing 35% to 25%.

48. Rates of tax on capital gains on securities

The rates of tax on capital gains arising on sale of securities as referred to in Section 37A continues unchanged and are as under:

Tax year	Holding period of a security	
	Less than six months (%)	More than six months but less than 12 months (%)
2011	10	7.5
2012	10	8
2013	10	8
2014	10	8
2015	17.5	9.5
2016	*	10

If the holding period of a security is twelve months or more, the rate applicable shall be 0%.

* Normal tax rate shall apply.

49. Rate of tax on capital gain on immovable property

The rate of tax on capital gain on immovable property continues unchanged and are as under:

Holding period of immoveable property	Rate %
Upto 1 year	10
More than one year but not more than two years	5

50. Income from property

The rates of tax to be paid in respect of income from property for the tax year 2014 (corresponding to the income year ending at any time between 01 July 2013 to 30 June 2014) have been proposed to be enhanced as under:

i) Individuals and Association of Persons

Gross amount of rent	Rate of tax
Upto Rs.150,000	Nil
Rs.150,001 – Rs.400,000	5% of excess over Rs.150,000
Rs.400,001 – Rs.1,000,000	Rs.12,500 + 7.5% of excess over Rs.400,000
Rs.1,000,001 – Rs.2,000,000	Rs.57,500 + 10% of excess over Rs.1,000,000
Rs.2,000,001 – Rs.3,000,000	Rs.157,500 + 12.5% of excess over Rs.2,000,000
Rs.3,000,001 – Rs.4,000,000	Rs.282,500 + 15% of excess over Rs.3,000,000
Over Rs.4,000,000	Rs.432,500 + 17.5% of excess over Rs.4,000,000

ii) Company

Gross amount of rent	Rate of tax
Upto Rs.400,000	5%
Rs.400,001 – Rs.1,000,000	Rs.20,000 + 7.5% of excess over Rs.400,000
Rs.1,000,001 – Rs.2,000,000	Rs.65,000 + 10% of excess over Rs.1,000,000
Rs.2,000,001 – Rs.3,000,000	Rs.165,000 + 12.5% of excess over Rs.2,000,000
Rs.3,000,001 – Rs.4,000,000	Rs.290,000 + 15% of excess over Rs.3,000,000
Over Rs.4,000,001	Rs.440,000 + 17.5% of excess over Rs.4,000,000

51. Advance income tax on private motor vehicles

Advance income tax payable at the time of paying annual motor vehicle tax, in the case of private motor vehicles, continues as under:

Engine capacity	Amount of tax
Upto 1000 cc	Rs.750
1001 cc – 1199 cc	Rs.1,250
1200 cc – 1299 cc	Rs.1,750
1300 cc – 1599 cc	Rs.3,000
1600 cc – 1999 cc	Rs.4,000
Over 1999 cc	Rs.8,000

52. Advance tax on registration of private motor vehicles

The collection of advance tax by manufacturers or authorized dealers of motor vehicles has been enhanced and the applicable rates are as follows for tax year 2014:

Engine capacity	Amount of tax
Upto 850 cc	Rs. 10,000
851 cc – 1000 cc	Rs.20,000
1001 cc – 1300 cc	Rs.30,000
1301 cc – 1600 cc	Rs.50,000
1601 cc – 1800 cc	Rs.75,000
1801 cc – 2000 cc	Rs.100,000
Over 2000 cc	Rs.150,000

53. Motor vehicle tax when collected in lump sum

Engine capacity	Amount of tax
Upto 1000 cc	Rs. 7,500
1001 cc – 1199 cc	Rs.12,500
1200 cc – 1299 cc	Rs.17,500
1300 cc – 1599 cc	Rs.30,000
1600 cc – 1999 cc	Rs.40,000
2000 cc and above	Rs.80,000

54. Advance tax on goods transport vehicles

The slab rate card of collection of advance tax at five rupee per kilo gram of the laden weight continues for tax year 2014.

For goods transport vehicle with laden weight of 8,120 kilo gram or more, advance tax after a period of 10 years from the date of first registration in Pakistan would continue to be collected at Rs. 1,200/- per annum.

55. Advance tax on passenger transport vehicles

The collection of advance tax from passenger transport vehicles plying for hire continues as under:

Seating capacity	Amount of tax (per seat per annum)
Four or more persons but less than ten persons	Rs.25
Ten or more persons but less than twenty persons	Rs.60
Twenty persons or more	Rs.500

56. Advance tax on electricity consumption

The rate of collection of advance tax on electricity consumption continues at 5% for industrial consumers and at 10% for commercial consumers on electricity bill exceeding Rs.20,000/-.

57. Advance tax on purchase of air tickets

The rate of collection of tax at the rate of 5% of the gross amount of domestic air ticket continues to be leviable.

58. Advance tax at the time of sale by auction or auction by a tender

The rate of collection of tax by a person making sale by public auction of any property or goods to which Section 236A applies have been proposed to be increased from the existing 5% to 10% of the gross sale price of such property or goods from tax year 2014.

59. Advance tax on functions and gatherings

The Bill proposes collection of advance tax from the total amount of bill in respect of functions and gatherings to which Section 236D applies at 10%.

60. Advance tax on foreign-produced films and TV plays

The Bill proposes collection of advance tax on foreign produced films, TV plays and serials to which Section 236E applies as follows:

Foreign-produced film	Rs.1,000,000/-
Foreign-produced TV drama serial	Rs.100,000/- per episode
Foreign-produced TV play (single episode)	Rs.100,000/-

61. Advance tax on cable operations and other electronic media

The Bill proposes collection of advance tax in the case of Cable Television Operator to which Section 236F applies as under:

License Category as provided in PEMRA Rules 2009	Tax on License Fee	Tax on Renewal
H	Rs.7,500	Rs.10,000
H-I	Rs.10,000	Rs.15,000
H-II	Rs.25,000	Rs.30,000
R	Rs.5,000	Rs.30,000
B	Rs.5,000	Rs.40,000
B-1	Rs.30,000	Rs.50,000
B-2	Rs.40,000	Rs.60,000
B-3	Rs.50,000	Rs.75,000
B-4	Rs.75,000	Rs.100,000
B-5	Rs.87,500	Rs.150,000
B-6	Rs.175,000	Rs.200,000
B-7	Rs.262,500	Rs.300,000
B-8	Rs.437,500	Rs.500,000
B-9	Rs.700,000	Rs.800,000
B-10	Rs.875,500	Rs.900,000

The Bill proposes collection of advance tax in the case of other Distribution Services to which Section 236F applies as follows:

Type of Channel as provided in PEMRA Rules 2009	Tax on Issuance of license	Tax on Renewal
IPTV	Rs.100,000	Rs.1,000,000
FM Radio	Rs.100,000	Rs.100,000
MMDS	Rs.200,000	Rs.100,000
Mobile TV	Rs.100,000	Rs.50,000
Satellite TV station		
News or current affairs	Rs.1,000,000	Rs.2,000,000
Sports	Rs.1,000,000	Rs.1,000,000
Regional Language	Rs.700,000	Rs.700,000
Health or Agro	Rs.300,000	Rs.300,000
Education	Rs.300,000	Rs.300,000
Entertainment	Rs.1,000,000	Rs.1,000,000
Specialized subject station	Rs.500,000	Rs.200,000
Landing Rights per channel		
News/Current affairs	Rs.1,000,000	Rs.5,000,000
Sports	Rs.500,000	Rs.2,500,000
Educational	Rs.200,000	Rs.1,000,000
Entertainment	Rs.200,000	Rs.2,000,000
Children	Rs.350,000	Rs.1,500,000

62. Advance tax on sale to distributors, dealers or wholesalers

The Bill proposes rate of collection of advance tax on sale to distributors, dealers or wholesalers to which Section 236G applies at 0.1% of the gross amount of sales.

63. Advance tax on sale to retailers

The Bill proposes collection of advance tax on sale to retailers to which Section 236H applies at the rate of 0.5% of the gross amount of sales.

64. Collection of advance tax by educational institutions

The Bill proposes collection of tax by educational institutions to which Section 236I applies at the rate of 5% of the amount of fee.

65. Advance tax on dealers, commission agents and arhatis, etc.

The Bill proposes collection of advance tax on dealers, commission agents and arhatis to which Section 236J applies as under:

Group	Amount of tax (per annum)
Group or Class A:	Rs.10,000
Group or Class B:	Rs.7,500
Group or Class C:	Rs.5,000
Any other category:	Rs.5,000

66. Withholding tax rates

Type of payment	Rate %		Whether under final tax regime
	Existing	Proposed	
Collection of tax at imports			
Value of goods inclusive of customs duty and sales tax			
(a) Industrial undertaking	5	No change	Yes, subject to certain exclusions
(b) Companies	5	No change	
(c) Other than (a) and (b) above	5	5.5	
Profit on debt			
a) Yield on a National Savings Deposit Certificate including a Defence Savings Certificate under the National Savings Scheme	10	No change	Yes*
b) Profit on a debt, being an account or deposit maintained with a banking company or a financial institution	10	No change	Yes*
c) Profit on any bond, certificate, debenture, security or instrument of any kind (excluding loan agreement between a borrower and a banking company or a development finance institution) issued by a banking company, a financial institution, company as defined in the Companies Ordinance, 1984 and a body corporate formed by or under any law for the time being in force, to any person other than a financial institution	10	No change	Yes*
d) Profit on any security issued by the Federal Government, a Provincial Government or a local authority to any person other than a financial institution	10	No change	Yes*

*Other than a company

Type of payment	Rate %		Whether under final tax regime
	Existing	Proposed	
Goods and services			
a) Sale of rice, cotton seed or edible oils	1.5	No change	Yes*
b) Sale of cigarettes and pharmaceutical products by distributors of such goods	1	No change	Yes*
c) Sale of any other goods			
- Companies	3.5	No change	Yes*
- Other taxpayers	3.5	4	Yes
d) For passenger transport services			
- Companies	2	No change	No
- Other taxpayers	2	No change	Minimum
e) For other services			
- Companies	6	No change	No
- Other taxpayers	6	7%	Minimum
f) Execution of a contract			
- Companies	6	No change	Yes**
- Other taxpayers	6	6.5%	Yes
g) For news print media services	0	No change	No
CNG Station - Refer to Section 234A	4	No change	Yes
Exports			
Export proceeds			
Proceeds from sale of goods to an exporter under an inland back-to-back letter of credit or any other arrangement	1 of export proceeds	No change	Yes
Export of goods by an industrial undertaking located in an Export Processing Zone			Yes
Collection by collector of customs at the time of clearing of goods exported	1	No change	Yes
Indenting commission	5	No change	Yes

* Except for a company engaged in manufacturing and a public company listed on a registered stock exchange(s) in Pakistan engaged in supply of such goods.

**Except for a public company listed on a registered stock exchange(s) in Pakistan.

Type of payment	Rate %		Whether under final tax regime
	Existing	Proposed	
Income from property Annual rent of immovable property including rent of furniture and fixtures and amounts for services relating to such property	At varying slab rates of 5 to 10 for individual, AOPs and company	At varying slab rates of 5 to 17.5 for individual, AOPs and Company	Yes
Prizes and winnings			
a) Amount of prize bond or cross-word puzzle	10	15	Yes
b) Amount of raffle/ lottery winning or prize on winning a quiz, prize offered by companies for promotion of sales	20	No change	Yes
Telephone users	10 of amount exceeding Rs.1,000	No change	No
Telephone subscriber (other than mobile telephone) Amount of bill of mobile telephone, sale price of prepaid telephone card or sale of units through any electric medium (for CD) or whatever form	10	No change	No
Banking Transactions On cash withdrawal of the amount exceeding Rs.50,000	0.2 of the amount withdrawn	0.3 of the amount withdrawn	No
Commission or discount allowed on sale of petroleum products by a petrol pump operator			
Amount of commission or discount	10	No change	Yes
Commission income of advertising agents			
Amount of payment	5	No change	Yes
Commission income of others			
Amount of payment	10	No change	Yes
Collection of tax by a stock exchange			
Purchase of shares	0.01 of purchase value	No change	No
Sale of shares	0.01 of sale value	No change	No
Trading of shares	0.01 of traded value	No change	No
Financing of COT	10 of the COT charge	Omitted	No
Collection of tax by NCCPL			
Profit or markup or interest earned by the member margin financier or securities lender		10 of the amount	No

67. Rates of tax for non-resident taxpayers

The applicable withholding tax for tax year 2014 on certain payments to non-residents is as under:

Type of payment	Rate (%)	
	Existing	Proposed
Dividends from:		
- a company engaged in power generation project	7.5	No change
- others	10	No change
Branch profit remittance tax (other than branch offices of E&P companies)	10	No change
Technical services fee	15	No change
Insurance premium / re-insurance premium	5	No change
Advertisement services to a media person relaying from outside Pakistan	10	No change
Royalty	15	No change
Shipping income	8	No change
Air transport income	3	No change
Profit on debt	20	No change
Profit on debt where non-resident does not have a PE in Pakistan	10	*
Others (excluding those specifically mentioned herein)	20	No change
Execution of a contract		
- contract or sub-contract under a construction, assembly or installation project in Pakistan, including a contract for the supply of supervisory activities in relation to such project	6	No change
- contract for construction or services rendered relating thereto	6	No change
- a contract for advertisement services rendered by TV satellite channels	6	No change

Rupee Convertible Bank Account maintained with a bank in Pakistan by a non-resident having no PE in Pakistan shall be final tax.

A non-resident contractor earning income from "execution of contract" can opt to be taxed under the final tax regime, which means that the taxes withheld would be construed as its full and final settlement of tax liability. The option must be exercised within three months of the commencement of the tax year and shall remain irrevocable for three years. In case the option has not been exercised by the non-resident person, the taxable income shall be assessed on the basis of his net business profits and the taxes withheld would be treated as advance tax adjustable against his eventual tax liability.

The taxes withheld in all of the above cases except "Others" and profit on debt would generally constitute full and final settlement of the non-resident's tax liability in Pakistan in respect of such income.

* Tax deducted at 10 percent from profit on debt from debt instruments, government securities including treasury bills and Pakistan Investment Bonds where the investments are exclusively made through a special

THE SECOND SCHEDULE

PART-I

68. Perquisites to employee
Clause (53A)

The Bill proposes to withdraw exemptions available to the following perquisites received by an employee by virtue of his employment:

- (i) Free or concessional passage provided by transporters including airlines to its employees including the members of their household and dependents;
- (ii) Free or subsidized food provided by hotels and restaurants to its employees during duty hours;
- (iii) Free or subsidized education provided by an educational institution to the children of its employees;
- (iv) Free or subsidized medical treatment provided by a hospital or a clinic to its employees;
- (v) Any other perquisites or benefit for which the employer does not have to bear any marginal cost as notified by the Board.

69. Income of Universities or other educational institutions
Clause (92)

By virtue of Clause 92, exemption from tax is available to any income of any University or other educational institutions established solely for education purposes and not for purposes of profits. The Bill proposes to withdraw this exemption from tax year 2014.

70. Income of ICC Champions Trophy, 2008
Clause (98A)

The Bill seeks to withdraw the exemption to income of all stakeholders from ICC Champions Trophy, 2008 hosted in Pakistan.

71. Exemption to dividend in specie
Clause (103B)

Presently any dividend in specie derived in the form of shares in a company is exempt from tax till such time such shares are disposed off by the recipient. The Bill seeks to withdraw the clause granting such concession.

72. Income of zone enterprise in Special Economic Zone
Clause (126E)

The Bills proposes to grant exemption to income derived by a zone enterprise for a period of 10 years reckoned from the date the developer certifies that the zone enterprise has commenced commercial operations and for a period of 10 years to a developer of zone starting from the date of signing of development agreement in the Special Economic Zone.

PART-II

73. Import of hybrid cars
Clause (28)

A new Clause is proposed to be inserted by virtue of which the rate of tax payable under Section 148 of the Ordinance on import of hybrid cars will be reduced as under:

Engine capacity	Rate of reduction (%)
Up to 1200 cc	100
1201 to 1800 cc	50
1801 to 2500 cc	25

PART-III

74. Flying allowance and submarine allowance
Clause (1)

Presently flying allowance to pilots, flight engineers and navigators of Pakistan Armed Forces, Pakistani Airlines or Civil Aviation Authority as well as submarine allowance by the officers of the Pakistan Navy is taxed at the rate of 2.5% of such allowance as a separate block of income. The Bills seeks to withdraw this special treatment.

Clause (2)

The provision to reduce the income tax liability by an amount equal to 75% of the tax payable of a full time teacher or a researcher employed in a non-profit educational or research institution duly recognized by a Board of Education or a University or the Higher Education Commission and to a teacher and researcher of Government training and research institution is proposed to be withdrawn with effect from the tax year 2014.

75. Minimum tax
Clause (7)

By virtue of the above Clause, the minimum tax on turnover under Section 113 of the Ordinance in the case of a company engaged in the business of distribution of cigarettes manufactured in Pakistan is reduced by 80%. This concession has been extended to all tax payers.

PART-IV

76. Foreign produced films, TV plays and serials
Clause (56A)

The Bill proposes that sub-section 7 of Section 148 and Clause (a) of sub-section 1 of Section 169 shall not apply to a person who imports foreign produced films, TV plays and serials and he is the one who is liable to withholding tax under Section 236E of the Ordinance.

77. Withholding tax on profit on debt
Clause (59) sub-clause (IV)

Presently no tax is deducted from income or profit paid to any resident individual on Defence Savings Certificates, Special Savings Certificates, Savings Accounts or Post Office Savings Accounts, or Term Finance Certificate (TFCs), where such deposit, does not exceed one hundred and fifty thousand rupees. The Bill proposes to withdraw this concession.

78. Hajj group operators
Clause (72A)

The Bill proposes to insert the above Clause as a consequence of which the provision of Clause (1) of Section 21, Section 113 and Section 152 shall not apply in the case of a Hajj group operator in respect of Hajj operations. The concession is conditioned upon the fact that tax has been paid at the rate of Rs.3,500/- per Haji for the tax year 2013 and Rs.5,000/- per Haji for the tax year 2014 in respect of income from Hajj operation.

79. Concession of exemption from payment of tax under Section 148
Clause (72B)

The Bill proposes to insert a new Clause by virtue of which an industrial undertaking shall not be liable to payment of tax under Section 148 of the Ordinance if the determined tax liability for any of the two preceding years, whichever is higher has been paid

and a certificate to that effect has been issued by the concerned Commissioner.

THE THIRD SCHEDULE

80. First year allowance
Part-II, Para (1)

The Bill proposes to reduce the rate of initial allowance applicable on plant and machinery from the present 50% to 25%.

THE SEVENTH SCHEDULE

81. Dividend received from asset management company

The Bill proposes to reduce the rate of tax on dividend received by a bank from Money Market Fund and Income Fund from the present 35% to 25% for the tax year 2014 and onward.

SALES TAX

		<i>Section</i>	<i>Page</i>
1.	Definitions	2	27
2.	Sales Tax Rates - Increase in General Rate	3	27
3.	Further Tax	3(1A)	27
4.	Fixed Tax	3(1B)	28
5.	Tax Credit Not Allowed	8	28
6.	Deregistration, Black Listing and Suspension of Registration	21	28
7.	Records	22	28
8.	Access to Record, Documents, etc.	25	28
9.	Posting of Inland Revenue Officer	40B	28
10.	Monitoring or tracking by electronic or other means	40C	28
11.	Appeals	45B	29
12.	Rectification of Mistake	57	29
13.	Reward to Inland Revenue Officers and Officials	72C	29
14.	Certain Transaction not Admissible	73	29
15.	Third Schedule		29
16.	Sixth Schedule		30
17.	Amendments through SROs		30

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1. Definitions Section 2

Following amendments have been proposed in the definitions contained in section 2 of the Sales Tax Act, 1990.

Sub-section 5AC - CREST

A new sub-section 5AC is proposed to be inserted to take cognizance of the "Computerized Risk-based Evaluation of Sales Tax (CREST)" which is already in operation. This is a computerized program for analyzing and cross matching of sales tax returns.

Sub-section 22A - Provincial Sales Tax

Sub-section 22A makes reference to the Sales Tax Ordinances of 2000 and 2001 relating to services, some of which have been repealed.

It is proposed to make a corrective amendment in sub-section 22A containing the definition of provincial sales tax to mean tax levied under provincial laws or laws relating to Islamabad Capital Territory which are declared by the Federal Government through notification in the official gazette to be provincial sales tax for the purposes of input tax.

We note that no such notification has been issued so far by the Federal Government and unless such notification is issued, input tax on services levied by the provinces and Islamabad Capital Territory could be restricted.

Sub-section 33A - Supply Chain

A definition of supply chain is proposed to be inserted to mean the series of transaction between the buyer and seller from the stage of first purchase or import to the stage of final supply.

Sub-section 44 - Time of Supply

Time of supply means the time at which the goods are delivered or made available to the recipient of supply. It is now proposed to reintroduce the concept of advance payment to be within the ambit of time of supply. This would mean the time of supply would be the earlier of actual supply or time when payment is received. It should be noted that advance payment as a time of supply was removed on taxpayers demand through the Finance Act, 2007 as it created unnecessary complications.

It is further proposed that in case of any part payment, the supply is to be accounted for in the tax

period when such part payment is received. However, in case of part payment for an exempt supply whose exemption is subsequently withdrawn, then such supply would be accounted for in the tax period in which the exemption is withdrawn. It can be seen that in both scenarios, part payment favors the revenue.

2. Sales Tax Rates - Increase in General Rate Section 3

The sales tax rate is proposed to be enhanced to 17% from 16% with effect from 13 June 2013.

3. Further Tax Section 1A of Section 3

It is proposed to introduce sub-section 1A in section 3 to charge a further tax @ 2% of the value in addition to the normal rate in case of taxable supplies made to a person who has not obtained sales tax registration number. This further tax would, however, not be chargeable on such taxable supplies as are notified by the Federal Government in the official gazette. Further tax is leviable with effect from 13 June 2013.

So far no Notification has been issued by the Federal Government and in its absence it is not clear as to the meaning of "person who has not obtained sales tax registration number" i.e. whether or not it would encompass any person like the final consumer or persons who are engaged in a business.

We would like to point out that the concept of further tax was introduced earlier through the Finance Act, 1998 but was subsequently withdrawn through the Finance Act, 2004.

Earlier through S.R.O. 450(I)/2013 dated 27 May 2013, an amendment was made in S.R.O. 490(I)/2004 12 dated June 2004 whereby the claim of input tax has been restricted on the following items that are not held as stock in trade:

- building materials including cement, bricks, paints, varnishes, distempers etc. ;
- office equipment and machines (excluding electronic fiscal cash registers), furniture, structure, fixture and furnishings excluding those directly used in taxable activity;
- electrical and gas appliances, pipes, fittings excluding those directly used in the taxable activity;
- wires, cables, ordinary electrical fittings and sanitary fittings, excluding those directly used in taxable activity; and
- crockery, cutlery, utensils etc, excluding those directly used in taxable activity.

4. Fixed Tax
Section 1B of Section 3

It is proposed to introduce a new Section 1B in Section 3 empowering the Board by a Notification in the official gazette to impose sales tax on a fixed basis in lieu of levying and collecting sales tax on taxable supplies. Such fixed tax can be on the basis of production, capacity of the plant, machinery, undertaking, establishment or installation, producing or manufacturing such goods.

5. Tax Credit Not Allowed
Section 8

Section 8 restricts the claim of input tax. By way of insertion of clause "caa", it is proposed to restrict the claim of input tax on purchases in respect of which discrepancy is indicated by CREST or which is not verifiable in the supply chain.

6. Deregistration, Black Listing and Suspension of Registration
Section 21

The claim of input tax or sales tax refund was restricted in the case of invoices issued during the period of suspension of registration. Moreover, once a person is black listed, tax credit against invoices issued whether prior or after such black listing would be rejected unless the registered buyer had fulfilled his responsibilities under Section 73 i.e. made payments through a banking channel within 180 days of the issuance of the invoice. It is now proposed to remove the exception on account of fulfillment of provisions of Section 73. In other words even if the provision of Section 73 have been complied with by the buyer, the input tax credit would still not be admissible in case of supplies received from a black listed person.

It is further proposed to insert sub-section 4 allowing the tax authorities to block the refunds or input tax adjustments where they have a reason to believe that a registered person is engaged in issuing fake or flying invoices, claiming fraudulent input tax or refunds or who does not physically exist or conduct actual business or is committing any other fraudulent activity.

7. Records
Section 22

This section prescribes the records that are required to be maintained by a registered person. A new requirement is proposed to be inserted requiring the registered person to maintain records relating to gate passes, inward or outward and transport receipts.

8. Access to Record, Documents, etc.
Section 25

An explanation is proposed to be added in Section 25 which reads as follows:

"Explanation.- For the purpose of Sections 25, 38, 38A, 38B and 45A and for removal of doubt, it is declared that the powers of the Board, Commissioner or officer of Inland Revenue under these sections are independent of the powers of the Board under Section 72B and nothing contained in Section 72B restricts the powers of the Board, Commissioner or officer of Inland Revenue to have access to premises, stocks, accounts, records, etc. under these Sections or to conduct audit under these Sections."

Section 72B covers selection for audit through a computer ballot by the Board. Numerous enquiries under Section 25 made by the tax officials have been challenged on the grounds that they have not been selected for audit under section 72B. The explanation proposed to be added is to nullify such a stand by clarifying that the following powers are independent of the provisions of audit under Section 72B -

- Section 25 - Access to records, documents, etc.
- Section 38 - Authorized officers to have access to premises, stocks, accounts and records.
- Section 38A - Power to call for information.
- Section 38B - Obligation to produce documents and provide information.
- Section 45A - Powers of the Board and Commissioner to call for records.

9. Posting of Inland Revenue Officer
Section 40B

The Board has the power to post any officer of the Inland Revenue to the premises of the registered person or class of persons for the purposes of monitoring production, sale of taxable goods and the stock position. It is proposed to also empower the Chief Commissioner to make such a posting.

10. Monitoring or tracking by electronic or other means
Section 40C

It is proposed to insert a new section 40C whereby the Board may, by notification in the official Gazette, specify any registered person or class of registered persons or any goods or class of goods in respect of which monitoring or tracking of production, sales,

clearances, stocks or any other related activity may be implemented through electronic or other means as may be prescribed. In such cases, no taxable goods shall be removed or sold by the manufacturer or any other person without affixing tax stamp, banderole, stickers, labels, etc. in any such form, style and manner as may be prescribed by the Board.

So far the Board has not issued any notification in this regard.

11. Appeals
Section 45B

It is proposed to insert sub-section 1A to Section 45B to empower the Commissioner Appeals to give an opportunity to the taxpayer to be heard and grant stay against recovery of tax levied for a period of 30 days in aggregate if such recovery is going to cause undue hardship to the taxpayer.

12. Rectification of Mistake
Section 57

It is proposed to replace the existing section 57 dealing with correction of clerical errors, etc. with proposed new Section titled "*Rectification of Mistake*". Under this section the Commissioner, the Commissioner (Appeals) or the Appellate Tribunal may, by an order in writing, amend any order passed by them to rectify any mistake apparent from the record on their own motion or any mistake brought to their notice by the taxpayer or otherwise the Commissioner. Any such rectification adversely affecting the taxpayer shall not be made unless the taxpayer has been given a reasonable opportunity of being heard.

Rectification of any mistake apparent from the record is to be made by the Commissioner or Commissioner (Appeals) before the expiration of the financial year next following the date on which the mistake is brought to their notice. In the absence of passing such an order the mistake will be deemed to have been rectified.

The period within which rectification can be made is five years from the date of the order sought to be rectified.

This is very positive amendment from a taxpayers point of view.

13. Reward to Inland Revenue Officers and Officials
Section 72C

It is proposed to introduce a new section whereby a cash reward can be sanctioned to the officers and officials of Inland Revenue for their meritorious conduct in cases involving concealment or evasion of sales tax and other taxes. Such reward also extends to the informer providing credible information leading to such detection. The reward will be due only after realization of part or whole of the taxes involved in such cases. The Board is to prescribe the procedure in this regard.

14. Certain Transactions not Admissible
Section 73

Section 73 requires that a payment for the supply of goods may be made from the business bank account of the buyer to the business bank account of the supplier. The term "business bank account" means the accounts that have been declared to the Commissioner in whose jurisdiction the person is registered. It is now proposed that the business bank account is confined to such accounts that have been declared through Form STR 1 or change of particulars in registration database. This implies that an undeclared bank account of a registered person would not be considered a business bank account for the purposes of section 73 of the Sales Tax Act, 1990.

15. Third Schedule

The Third Schedule lists goods that are taxable on the basis of manufacturer's retail price. It is proposed to considerably expand the items covered under the Third Schedule by adding the following fifteen items thereto:

Sr. No.	Description	Heading Nos. of the First Schedule to the Customs Act, 1969 (IV of 1969)
22	Finished or made-up articles of textile and leather, including garments, footwear, and bed ware, sold in retail packing	Respective headings
23	Household electrical goods, including air conditioners, refrigerators, deep freezers, televisions, recorders and players, electric bulbs, tube-lights, fans, electric irons, washing machines and telephone sets	Respective headings
24	Household gas appliances, including cooking range, ovens, geysers and gas heaters	Respective headings
25	Foam or spring mattresses, and other foam products for household use	Respective headings

Sr. No.	Description	Heading Nos. of the First Schedule to the Customs Act, 1969 (IV of 1969)
26	Auto parts and accessories sold in retail packing	Respective headings
27	Lubricating oils, brake fluid, transmission fluid, and other vehicular fluids and maintenance products in retail packing	Respective headings
28	Tyres and tubes	Respective headings
29	Storage batteries	Respective headings
30	Arms and ammunition	Respective headings
31	Paints, distempers, enamels, pigments, colours, varnishes, gums, resins, dyes, glazes, thinners, blacks, cellulose lacquers and polishes sold in retail packing	Respective headings
32	Fertilizers	Respective headings
33	Cement sold in retail packing	Respective headings
34	Tiles sold in retail packing	Respective headings
35	Biscuits, confectionary, chocolates, toffees and candies	Respective headings
36	Other goods and products sold in retail packing	Respective headings

Appropriate amendments have also been made in SRO 1125(I)/2011 dated 31 December 2011 to exclude finished articles and made-ups in textile and leather goods which were subjected to lower rates of sales tax. Now finished articles of textile and leather including garments, footwear, headings and bed ware sold in retail packing would be subject to sales tax at the full rate on the basis of manufacturers retail price.

We note that item No. 36 "Other goods and products sold in retail packing" is very open ended and creates a possibility of the tax authorities to impose sales tax on any other products sold in retail packing.

The above changes are effective from 13 June 2013.

16. Sixth Schedule

The Sixth Schedule deals with exemption of goods from levy of sales tax. The following exemptions have been withdrawn with effect from 13 June 2013:

Table 1 (on import and local supply)

Sr. No.	Description	Heading Nos. of the First Schedule to the Customs Act, 1969 (IV of 1969)
25	Milk preparations obtained by replacing one or more of the constituents of milk by another substance, whether or not packed for retail sale.	1901.1000, 1901.9020 and 1901.9090

Table 2 (on local supply only)

Sr. No.	Description	Heading Nos. of the First Schedule to the Customs Act, 1969 (IV of 1969)
12	Supplies against international tender	Respective headings

Pursuant to the withdrawal of exemption, Chapter VIIA of the Sales Tax Rules, 2006 prescribing procedure and conditions for "Supplies Against International Tender" has been deleted through SRO 506(I)/2013. Oddly the effective date of deletion of Chapter VIIA is 1 July 2013 whereas the exemption has been withdrawn with effect from 13 June 2013.

17. Amendments through SROs

Numerous changes in law have been made through issuance of SROs. These are summarized herein below:

Rescinding Notifications SRO 500(I)/2013

Following notifications have been rescinded effective from 12 June 2013:

Rescinded SROs	Description
646(I)/2005 dated 30 June 2005	Zero-rating on supplies of Hydrogen, Nitrogen and Helium made to M/S Pakistan PTA Limited by the manufacturer M/S BOC Pakistan Limited.
172(I)/2006 dated 24 February 2006	Exemption from whole of sales tax on various goods imported by a member of Pakistan Film Producers Association for the exclusive use in the production and / or display of film.

Rescinded SROs	Description
863(I)/2007 dated 24 August 2007	<p>Zero-rating on raw materials, sub-components and assemblies imported or purchased locally for the manufacture of the following goods;</p> <ul style="list-style-type: none"> ➤ Colors in sets; ➤ Writing, drawing and marking inks; ➤ Erasers; ➤ Exercise books; ➤ Pencils sharpener; ➤ Geometry box; ➤ Pens, ball pens, markers and porous tipped pens; ➤ Pencils including color pencils; ➤ Milk including flavored milk; ➤ Yogurt; ➤ Cheese; ➤ Butter; ➤ Cream; ➤ Desi ghee; ➤ Whey; ➤ Milk and cream, concentrated and added sugar or other sweetening matter; ➤ Preparations for infant use put up for retail sale; and ➤ Fat filled milk.
160(I)/2010 dated 10 March 2010	Amnesty from default surcharge and penalty granted to registered persons located within certain specified districts of Khyber Pakhtunkhwa for any payments of sales tax or federal excise duty made by or before 30 June 2010.
164(I)/2010 dated 10 March 2010	Exemption from whole of sales tax on supply of electricity by PESCO or any other duly registered electric company to registered and unregistered manufacturing units located within certain specified districts of Khyber Pakhtunkhwa.
117(I)/2011 dated 10 February 2011	50% of the sales tax rate charged on goods produced or manufactured in such areas where the Sales Tax Act, 1990 is not applicable, if supplied to a person in any area where the Sales Tax Act, 1990 is applicable.
180(I)/2011 dated 05 March 2011	50% of the sales tax rate charged on goods other than cement, sugar, beverages and cigarettes by registered located in certain specified districts of Khyber Pakhtunkhwa.

Amending Notifications

SRO 501(I)/2013 & SRO 502(I)/2013

SRO 502(I)/2013 has withdrawn the zero rating on various goods granted through SRO 549(I)/2008. Such goods (with one exception) have now been exempted through SRO 501(I)/2013. The goods that are now exempted instead of being zero rated are as follows:

Sr. No.	Description
1	Uncooked poultry meat (PCT Heading 02.07).
2	Milk and cream (PCT headings 04.01 and 04.02).
3	Flavored Milk (PCT Headings 0402.9900 and 22.02).
4	Yogurt (PCT Heading 0403.1000).
5	Whey (PCT Heading 04.04).
6	Butter (PCT Heading 0405.1000).
7	Desi ghee (PCT Heading 0405.9000).
8	Cheese (PCT Heading 0406.1010).
9	Processed cheese not grated or powdered (PCT Heading 0406.3000).
10	Cotton seed (PCT heading 1207.2000).
11	Frozen, prepared or preserved sausages and similar products of poultry meat or meat offal (PCT Heading 1601.0000).
12	Meat and similar products of prepared frozen or preserved meat or meat offal of all types including poultry meat and fish (PCT Headings 1602.3200, 1602.3900, 1602.5000, 1604.1100, 1604.1200, 1604.1300, 1604.1400, 1604.1500, 1604.1600, 1604.1900, 1604.2010, 1604.2020, 1604.2090, 1604.3000).
13	Preparations for infant use, put up for retail sale (PCT Heading 1901.1000).
14	Fat filled milk (PCT Heading 1901.9090).
15	Soyabean meal (PCT Heading 2304.0000).
16	Oil cake and other solid residues, whether or not ground or in the form of pellets (PCT heading 2306.1000)
17	Colours in sets (Poster colours) (PCT Heading 3213.1000).
18	Writing, drawing and marking inks (PCT Headings 3215.9010 and 3215.9090).
19	Erasers (PCT Headings 4016.9210 and 4016.9290).

Sr. No.	Description
20	Exercise books (PCT Heading 4820.2000).
21	Directly reduced iron (PCT heading 72.03).
22	Pencil sharpeners (PCT Heading 8214.1000).
23	Energy saver lamps (PCT heading 8539.3910).
24	Sewing machines of the household type (PCT Headings 8452.1010 and 8452.1090).
	Purpose built taxis, whether in CBU or CKD condition (PCT Headings 8703.3226 and 8703.3227) which are built on girder chassis and having following features, namely:- (a) Attack resistance central division along with payment tray; (b) Wheelchair compartment with folding ramp; and (c) Taximeter and two-way radio system.
25	Bicycles (PCT Heading 87.12).
26	Wheelchairs (PCT headings 8713.1000 and 8713.9000).
27	Vessels for breaking up (PCT heading 89.08)
28	Other drawing, marking out or mathematical calculating instruments (geometry box) (PCT Heading 9017.2000).
29	Pens and ball pens (PCT Heading 96.08).
30	Pencils including colour pencils (PCT Heading 96.09).
31	Compost (non-chemical fertilizer) produced and supplied locally
32	Construction materials to Gawadar Export Processing Zone's investors and to Export Processing Zone Gawadar for development of Zone's infrastructure.

The one exception is that although the zero-rating on cotton seed oil (if supplied to registered manufacturers of vegetable ghee and cooking oil) has also been withdrawn, however, the same has not been exempted from sales tax. Consequently, all supplies of cotton seed oil would now attract sales tax at the standard rate.

The implication of the change from zero rate to exempt status is that input tax would no longer be admissible to suppliers of exempt goods.

The changes are effective from 13 June 2013.

SRO 503(I)/2013

Amendments have been made in SRO 993(I)/2006 dated 21 September 2006 whereby in the table, against serial no. 1 in column 1, clause (iv) in column 3 is being omitted.

However, it appears that there is a mistake in the amending Notification, as in the table, against serial no. 1 of column 1, there is no clause (iv) in column 3.

SRO 504(I)/2013

Amendments have been made in SRO 1125(I)/2011 dated 31 December 2011, whereby in the table serial nos. 1, 2, 3, 6, 7 and 56 would be amended whilst serial no. 68 would be omitted. This Notification is effective from 12 June 2013.

Prior to this amendment, the respective headings read as follows:

S.No.	Description of goods	PCT Heading No.
1	Leather and articles thereof including artificial leather footwear	41.01 to 41.15, 64.03, 64.04, 6405.1000, 6405.2000, and other respective headings.
2	Textile and articles thereof excluding monofilament of more than 67 decitex, sun shading, nylon fishing net, other fishing net, rope of polyethylene and rope of nylon, tyre cord fabric	Chapter 50 to Chapter 63 and other respective headings excluding 5407.2000, 5608.1100, 5608.1900, 5608.9000
3	Carpets	57.01 to 57.05
6	Sports goods	9504.2000, 9506 and other respective headings
7	Surgical goods	Respective headings
56	Other colouring matter and other preparations	3206.4900
68	Shoe adhesives	3506.9110

Now, after the above Notification the aforementioned headings have been amended as follows:

S.No.	Description of goods	PCT Heading No.
1	Leather and articles thereof, excluding finished articles of leather and artificial leather	Chapter 41 and heading 64.06
2	Textile and articles thereof, excluding a) finished articles of textiles and textile made-ups; b) mono-filament of more than 67 decitex; c) sun shading; d) fishing net of nylon or other material; e) rope of polyethylene or nylon; and f) tyre cord fabric	Chapter 50, 51, 52, 53, 54 (excluding 5407.2000). 55. 56 (excluding 56.08 and 56.09), 57 (excluding made ups). 58. 59 (excluding 59.05, 59.10) and 60
3	Carpets, excluding those in finished condition	Chapter 57 (excluding made ups)
6	Sports goods, excluding those in finished condition	Respective headings excluding finished goods
7	Surgical goods, excluding those in finished condition	Respective headings excluding finished goods
56	Other colouring matter and other preparations excluding master batches	3206.4900
68	[Omitted]	

It is important to note that the aforementioned goods (i.e. leather goods, textiles, carpets, sports goods and surgical goods), if in finished condition, can no longer benefit from the lower rates of sales tax as envisaged under SRO 1125(I)/2011 dated 31 December 2011.

Sales Tax Special Procedure (Withholding) Rules, 2007 SRO 505(I)/2013

Clause 3 of the Sales Tax Special Procedure (Withholding) Rules, 2007 required persons having a Free Tax Number (FTN) who were either Federal or Provincial government departments, autonomous bodies or public sector organizations to withhold tax at the full rate of tax on payments against supplies of taxable goods made by unregistered persons.

The requirement to withhold tax at the full rate in case of payments against supplies of taxable goods from unregistered persons has been extended to all withholding agents. Hence, companies as well as exporters would also be required to withhold tax at the

full rate when acquiring taxable goods from unregistered persons with effect from 12 June 2013.

Rule 5 of the Sales Tax Rules, 2006 SRO 506(I)/2013

Rule 5 of the Sales Tax Rules, 2006 outlines the specific criteria for the jurisdiction of a particular registration. Effective from 01 July 2013, the criteria for specifying the Collectorate in whose jurisdiction the registration is sought would be as under:

- (a) in case of a corporate or non-corporate person, having a single manufacturing unit or business premises, the Regional Tax Office or Large Taxpayers Unit, as the case may be, in whose jurisdiction the manufacturing unit or business premises is actually located; or
- (b) in case of a corporate or non-corporate person, having multiple manufacturing units or business premises, the Board may decide the place of registration of such persons.

Provided that existing registrations which fall in category of clause (a) shall stand transferred and in case of those falling in category of clause (b) the Board may decide the place of registration of such person.

Corporate entities were entitled to register in the jurisdiction where its registered office is located. It seems that their jurisdiction will change if the registered office and manufacturing units or business premises are at different locations.

Extra Tax SRO 509(I)/2013 & 510(I)/2013

Effective from 12 June 2013, extra tax is to be levied at the rate of 5% on supplies of electric power and natural gas to unregistered or inactive persons having industrial or commercial connections and whose bill in any month exceeds Rupees 15,000.

Chapter IVA has been added in the Sales Tax Special Procedure Rules, 2007 to enforce the collection and payment of extra tax on supplies of electric power and natural gas.

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CUSTOMS

		<i>Section</i>	<i>Page</i>
1.	Goods declaration	2	37
2.	Directorate General of Input Output Co-efficient Organization	3DDD	37
3.	Provision of security and accommodation at Customs-Ports	14A	37
4.	Untrue statements, error etc.	32(4)	37
5.	Provisional determination of liability	81	37
6.	Clearance for home consumption	83(2)	37
7.	Power of adjudication	179(1)	37
8.	Reference to High Court	196(1)	37
9.	Reward to Customs Officers and Officials	202B	37
10.	First Schedule		38
11.	Customs Notifications		38

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1. Goods declaration
Section 2

In order to legalize the transshipment rules issued for customs software called WeBOC the Bill seeks to expand the definition of the expression "goods declaration" whereby now transshipment of goods without payment of duties captured under Section 121 of the Customs Act would now be brought into the scope of goods declaration.

2. Directorate General of Input Output Co-efficient Organization
Section 3DDD

In order to provide legal cover to the Directorate General of Input Output Co-Efficient Organization (IOCO), a new section is proposed to be introduced by the Bill whereby IOCO shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.

3. Provision of security and accommodation at Customs-Ports
Section 14A

It would be recalled that Section 14A was introduced by the Finance Ordinance, 1984 in order to ensure provision of cost free office accommodation and other matters to the Customs Department at Ports, Air Port and Dry Ports (Inland customs stations) etc. by the authorities owing or managing these ports and stations.

In line with the expansion of business operations and the need for security, Section 14A has been replaced whereby now not only port owners, managers, or agencies are required to provide accommodation to the Customs Staff for residential purposes, offices, examination of goods, detention and storage of goods and for other departmental requirements to be determined by the Collector of Customs but would also ensure security of the Customs Authorities. At the same time, the Bill also seeks to propose requirements on the custodian of goods and terminal handlers to entertain the delay and detention certificates issued by Customs for waiver of demurrage charges.

4. Untrue statements, error, etc
Section 32 Sub-section (4)

Sub section(4) of Section 32 requires the appropriate officers to determine any amount payable by the person on account of short or non-payment or erroneous refund of duty or charge after considering due representation, if any, by the person. The Bill now

proposes to provide such representation also in cases where non/short/erroneous refund of duty is discovered as a result of audit or examination of an importer's account.

5. Provisional determination of liability
Section 81

In relation to provisional assessment, the Bill now seeks to withdraw the settlement of such assessment via post-dated cheque by replacing the said words with pay orders wherever appearing in the said section. The reason for such a proposed amendment, it appears, is to ensure collection of revenue by the regulatory authorities by avoiding defaults that may occur on account of post-dated cheques. This would create unnecessary monetary hardships for the importers.

6. Clearance for home consumption
Section 83 Sub-section (2)

In order to rationalize the deletion of Section 80A vide Finance Act, 2005, the Bill proposes to omit the reference of the said section in Sub-section (2) of Section 83 in relation to clearance of goods for home consumption.

7. Power of adjudication
Section 179 Sub-section (1)

The Bill proposes to fix powers of adjudication in case of export of goods. Such powers are to be exercised by the respective officers as provided in Section 179 for adjudication jurisdiction purpose on the basis of FOB value of goods exported and twice their respective monetary adjudication limit.

8. Reference to High Court
Section 196 Sub-section (1)

Section 196 presently authorizes a Collector or Director of Intelligence and Investigation to file a reference application to High Court being aggrieved the order passed by the Appellate Customs Tribunal. It is now proposed that a Director of Customs valuation will be authorized to file customs reference application under this Section before the Honorable High court.

9. Reward to Customs Officers and Officials
Section 202B

The Bill proposes to amend Section 202B to synchronize the nomenclature Customs Service of Pakistan instead of Pakistan Customs Service being in line with nomenclature as used for Police Service of Pakistan and Foreign Service of Pakistan.

10. First Schedule

The bill seeks to make certain changes in the First Schedule to rationalize the tariff descriptions and amend the rates of custom duty on various goods including polymers of styrene in primary forms, fibre board of wood, milk chillers, refrigerators, water dispensers, water purifying filters, cellular mobile phones, fixed wireless terminals, satellite phones, energy saving bulbs lamp and tubes, motor vehicles, electrical bikes, various medical diagnostic machines etc.

11. Customs Notifications

Certain amendments have been made in the existing notifications issued in the previous years and amended from time to time, a summary of which is as under:

SRO 495(I)/2013

This SRO has amended the SRO 655(I)/2006 dated 22 June 2006 and is effective from 13 June 2013.

It may be recalled that SRO 655 (I)/2006 provided exemption to raw materials, sub-components, components and sub-assemblies, as are not manufactured locally, imported for the manufacture of components and assemblies of automotive vehicles as specified therein.

SRO 495(i)/2013 has amended SRO 655(i)/2006 by introducing "Form-C" as part of the said SRO which requires furnishing of particulars of import by the Chief Executive Officer of the concerned entity importing the goods.

SRO 496(I)/2013

This SRO has amended the SRO 656(I)/2006 dated 22 June 2006 and is effective from 13 June 2013.

SRO 656(I)/2006 provides exemption from custom duty components, sub-components imported in any kit form and direct materials for assembly or manufacturing of vehicles by a manufacturer who has suitable in house facility for manufacturing.

Through this amending notification such facility available to importers having no own manufacturing facility but having a firm contract with a manufacturer who has suitable in house facilities under firm contract shall not be available to importers of auto rickshaw and 3 wheeler cargo loader and of vehicles of tariff heading 87.11.

The most significant amendment brought about by the new notification is the introduction of new set of minimum standards of in-house facilities for various categories of manufacturers/assemblers, including manufacturers, assemblers of cars and light commercial vehicles, heavy mechanical vehicles, tractors, motor cycles and motor cycle rickshaws.

Another amendment brought about in the said SRO is that previously the customs authorities were permitted to release the consignments of components of assemblers / manufacturers in case of pending verifications by Engineering Development Board (EDB) on the basis of Corporate Guarantee. The said facility is now withdrawn.

SRO 497(I)/2013

This SRO has amended the SRO 567(I)/2006 dated 05 June 2006 and is effective from 13 June 2013.

SRO 567(i)/2006 provided Nil or concessional rate of Customs Duty in relation to the imported goods specified in the said SRO, falling under the HS Codes specified therein, subject to compliance with specified conditions. The following entries in the said SRO have however been withdrawn by virtue of SRO 497(i)/2013:

- Preparations put up in retail packing for agricultural
- Uncoated Kraft paper and paper board in rolls or sheets
- Virgin craft liner
- Virgin white top craft
- Semi - chemical fluting paper
- Flat rolled products of stainless steel of width of 600 mm or more.
- Silicon electrical steel sheet
- LCD Panels in CBU form
- Plasma display panels in CBU form

Further, the exemption/concession available in respect of import of pharmaceutical raw materials, chemicals, finished products and packing materials imported by pharmaceutical sector as contained in table 3 of SRO 567(i)/2006 have now been made conditional on fulfillment of the requirements determined by the Drug Regulatory Authority of Pakistan.

SRO 498(I)/2013

This SRO has amended the SRO 575(I)/2006 dated 05 June 2006 and is effective from 13 June 2013.

SRO 575(i)/2006 provided Nil/concessional rate of customs duty in respect of import of certain categories of plant and machinery of various specified sectors on fulfillment of conditions. The new SRO amended certain conditions that must also be fulfilled by the importers of specified goods at the time of import of such goods to get benefits of concessional rates prescribed under SRO 575(i)/2006.

Further the new SRO also seeks to grant exemption on import of the following items:

- Solar submersible pumps
- Energy saving tube lights
- Any other item in relation to Geo Thermal energy equipments as approved by the Alternative Energy Development Board and concurred by the Board.

SRO 499(l)/2013

This SRO has amended SRO 607(l)/2012 dated 02 June 2012 and is effective from 13 June 2013.

The new SRO has exempted customs duty up to the range of 25% to 100% depending on the engine capacity on the import of hybrid electric vehicles falling under PCT code 87.03.

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FEDERAL EXCISE

		<i>Section</i>	<i>Page</i>
1.	Duties specified in the First Schedule to be levied	3(3A)	43
2.	Records	17(1)(da)	43
3.	Appeals to Commissioner (Appeals)	33(1A)	43
4.	Powers of Board or Commissioner to pass certain order	35	43
5.	Reward to Inland Revenue Officers and Officials	42C	43
6.	Posting of Inland Revenue Officer	45	43
7.	Monitoring or tracking by electronic or other means	45A	43
8.	Services provided by banking companies, etc.	<i>First Schedule, Table II</i>	44
9.	Inclusion in listing of excisable goods	<i>First Schedule, Table I</i>	44
10.	Rate of duty enhanced	<i>First Schedule, Table I</i>	44
11.	Rate of duty on cigarettes modified	<i>First Schedule, Table I</i>	44
12.	Exemption	<i>Third Schedule</i>	45
13.	Federal Excise Notifications		45
14.	Excise duty on services		46

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1. Duties specified in the First Schedule to be levied
Section 3, sub-section (3A)

Section 3 of the Federal Excise Act, 2005 (the FE Act) provides the scope for levy of excise duty on goods and services. The Bill proposes to introduce a new sub-section (3A) which prescribes a further duty @2% of the value in addition to the rates specified in Sub-sections (1), (3), (4) and (5) of Section 3 to the FE Act, for excisable goods and services, as notified in the official gazette by the Federal Government, that are supplied to a person who has not obtained registration number. So far no notification has been issued by the Federal Government and in its absence it is not clear as to the meaning of "person who has not obtained registration number" i.e. whether or not it encompasses any person like the final consumer or persons who are engaged in a business.

2. Records
Section 17 sub-section (1), Clause (da)

This section prescribes the records that are required to be maintained by a registered person. A new requirement is proposed to be inserted requiring the registered person also to maintain records relating to gate passes, inward or outward and transport receipts.

3. Appeals to Commissioner (Appeals)
Section 33, sub-section (1A)

It is proposed to insert sub-section (1A) to section 33 of the FE Act to empower the Commissioner (Appeals) to give an opportunity to the taxpayer to be heard and grant stay against recovery of tax levied for a period of 30 days in aggregate if such recovery is going to cause undue hardship to the taxpayer.

4. Powers of Board or Commissioner to pass certain orders
Section 35

An explanation is proposed to be added in section 35 which reads as follows:

"Explanation- For the purpose of sections 35, 45 and 46 and for removal of doubt, it is declared that the powers of the Board, Commissioner or Officer of Inland Revenue under these sections are independent of the powers of the Board under section 42B and nothing contained in section 42B restricts the powers of the Board, Commissioner or Officer of Inland Revenue to have access to premises, stocks, accounts, records, etc. under these sections or to conduct audit under these sections."

Section 42B covers selection for audit through a computer ballot by the Board. Numerous enquiries

under section 35 made by the tax officials have been challenged on the grounds that they have not been selected for audit under section 42B. The explanation proposed to be added is to nullify such a stand by clarifying that the following powers are independent of the provisions of audit under section 42B -

- Section 35 - Powers of Board or Commissioner to pass certain orders
- Section 45 - Access to records and posting of excise staff, etc.
- Section 46 - Departmental audit

5. Reward to Inland Revenue Officers and Officials
Section 42C

It is proposed to introduce a new section whereby a cash reward can be sanctioned to the officers and officials of Inland Revenue for their meritorious conduct in cases involving concealment or evasion of excise duty and other taxes. Such reward also extends to the informer providing credible information leading to such detection. The reward will be due only after realization of part or whole of the taxes involved in such cases. The Board is to prescribe the procedure in this regard.

6. Posting of Inland Revenue Officer
Section 45

The Board has the power to post any officer of the Inland Revenue to the premises of the registered person or class of persons for the purposes of monitoring production, removal or sale of goods and the stock position or the maintenance of records. It is proposed to also empower the Chief Commissioner to make such a posting.

7. Monitoring or tracking by electronic or other means
Section 45A

It is proposed to insert a new section 45A whereby the Board may, by notification in the official Gazette, specify any registered person or class of registered persons or any goods or class of goods in respect of which monitoring or tracking of production, sales, clearances, stocks or any other related activity may be implemented through electronic or other means as may be prescribed. In such cases, no excisable goods shall be removed or sold by the manufacturer or any other person without affixing tax stamp, banderole, stickers, labels, etc. in any such form, style and manner as may be prescribed by the Board.

So far the Board has not issued any notification in this regard.

8. Services provided by banking companies, etc.
First Schedule, Table II

Currently services provided by banking companies or non banking financial companies are included in excisable services as listed in serial No.8 of Table II of the First Schedule to the FE Act.

The Bill seeks to substitute serial No.8, whereby in addition to services provided by banking companies or non-banking financial companies, services provided by the following companies and persons are proposed to be brought under the purview of excisable services.

- Insurance companies
- Cooperative financing societies
- Modarabas
- Musharikas
- Leasing companies
- Foreign exchange dealers
- Asset management companies
- Other person dealing in any such services

Insurance services currently listed under serial No. 7 are proposed to be deleted in view of their inclusion in serial No.8.

It is to be noted that services provided by asset management companies were given exemption from charge of duty through the Finance Act, 2012 with retrospective effect from 01 July 2007. Due to insertion of services provided by asset management companies in excisable services, the Bill concurrently proposes to withdraw its exemption provided through the Finance Act, 2012.

9. Inclusion in listing of excisable goods *First Schedule, Table I*

The following goods are proposed to be brought under the purview of excisable goods by including the same in Table I of the First Schedule to the FE Act.

S. No.	Nature of Goods	Rate of Duty
1	Oil seeds (Entry No.54)	Forty paisa per kilogram
2	Motor cars, SUVs and other motor vehicles of cylinder capacity of 1800 cc or above, principally designed for the transport of persons (other than those of headings 87.02), including station wagons and racing cars of cylinder capacity of 1800 cc or above (Entry No.55)	10% ad.val.

10. Rate of duty enhanced *First Schedule, Table I*

The rate of duty in respect of the following goods is proposed to be enhanced:

Relevant entry in Table	Description of Goods	Existing Rate of Duty	Proposed Rate of Duty
4	Aerated waters	6% of retail price	9% of retail price
5	Aerated waters, containing added sugar or other sweetening matter of flavored	6% of retail price	9% of retail price
6	Aerated waters if manufactured wholly from juices or pulp of vegetables, food grains or fruits	6% of retail price	9% of retail price

11. Rate of duty on cigarettes modified *First Schedule, Table I*

The rates of duty on cigarettes have been proposed to be changed by substituting serial No.9 and 10 of Table I of First Schedule to the FE Act and by omitting serial No.11 of the said Table along-with the description of goods. Proposed entries are as follows:

Relevant entry in Table	Existing Provision		Proposed Provision	
	Description	Rate of duty	Description	Rate of duty
9	Locally produced cigarettes if their retail price exceeds twenty two rupees and eighty six paises per ten cigarettes	65% of the retail price	Locally produced cigarettes if their on-pack printed retail price exceeds rupees two thousand two hundred and eighty six per thousand cigarettes	Rupees two thousand three hundred and twenty five per thousand cigarette -tes

Relevant entry in Table	Existing Provision		Proposed Provision	
	Description	Rate of duty	Description	Rate of duty
10	Locally produced cigarettes if their retail price exceeds thirteen rupees and thirty six paisas per ten cigarettes but does not exceed twenty two rupees and eighty six paisas per ten cigarettes	Seven rupees and two paise per ten cigarettes plus 70% per incremental rupee or part thereof	Locally produced cigarettes if their on-pack printed retail price does not exceed rupees two thousand two hundred and eighty six per thousand cigarettes	Rupees eight hundred and eighty per thousand cigarette -tes
11	Locally produced cigarettes if their retail price does not exceed thirteen rupees and thirty six paisas per ten cigarettes	Seven rupees and two paise per ten cigarettes	Entry deleted	

12. Exemption Third Schedule

The Bill seeks to omit serial No.5, 7 and 8 of Table I of the Third Schedule to the FE Act, resulting in withdrawal of the conditional exemption provided to the following goods:

S. No.	Description of goods
5	Hydraulic cement imported or purchased locally by petroleum or energy sector companies or projects subject to the same conditions and procedures as are applicable for the purposes of exemption of customs duty.
7	Lubricating oil if supplied to Pakistan Navy for consumption in its vessels.
8	Transformer oil if used in the manufacture of transformers supplied against international tenders to a project financed out of funds provided by the international loan or aid giving agencies.

13. Federal Excise Notifications

In exercise of the powers conferred by the FE Act, the Federal Government has issued certain notifications which are enumerated below:

SRO reference and date	Description
SRO 500(I)/2013 12 June 2013	<p>This notification rescinds the following notifications:</p> <p><u>SRO 161(I)/2010 dated 10 March 2010</u></p> <p>Amnesty from default surcharge and penalty granted to registered persons located within certain specified districts of Khyber Pakhtunkhwa for any payments of federal excise duty made by or before 30 June 2010.</p> <p><u>SRO 162(I)/2010 dated 10 March 2010</u></p> <p>Exemption from federal excise duty rate on goods produced or services rendered in certain specified areas of Khyber Pakhtunkhwa on and from 01 January 2010 to 30 June 2010.</p> <p><u>SRO 163(I)/2010 dated 10 March 2010</u></p> <p>SRO 163(I)/2010 provided exemption of duty on goods produced (other than cement, sugar, beverages and cigarette sector) or services rendered in certain specified areas of Khyber Pakhtunkhwa.</p> <p><u>SRO 200(I)/2011 dated 14 March 2011</u></p> <p>SRO 200(I)/2011 provided exemption of duty on goods produced or manufactured (other than cement, sugar, beverages and cigarette sector) in the non tariff areas of Pakistan and brought to the tariff areas.</p> <p><u>SRO 201(I)/2011 dated 14 March 2011</u></p> <p>Exemption from federal excise duty on certain specified goods brought from non-tariff areas included in the Prime Minister's fiscal relief to rehabilitate the economic life Khyber Pakhtunkhwa.</p>
SRO 507(I)/2013 12 June 2013	<p>Through this SRO the Federal Government has levied fixed amount of duty at the rate of one rupee per kilogram of locally produced oil purchased by a manufacturer of vegetable ghee and cooking oil. The said duty is</p>

SRO reference and date	Description
	required to be paid along-with the monthly return for the period in which the locally produced oil is purchased. The said SRO further states that the duty payable at the above rate on stocks of locally produced oil purchased before 12 June 2013 and lying in the premises of vegetable ghee and cooking oil producers is required to be paid along-with return for the month of June 2013.
SRO 508(I)/2013 12 June 2013	Through this SRO the Federal Government has fixed the amount of duty of forty paisa per kilogram on oil seeds, at import stage, in lieu of duty payable at production or manufacturing stage of vegetable ghee or cooking oil.

14. Excise duty on services

In pursuance of the 18th Amendment to the constitution of Pakistan, it has now been settled that revenue pertaining to services falls within the Provincial domain and in this respect, the Sindh Revenue Board and the Punjab Revenue Authority have already been established which administers and collects sales tax on services in the provinces of Sindh and Punjab respectively.

Although it was anticipated that the Federal government would withdraw excise duty from excisable/taxable services at the Federal level since the sales tax on services is a provincial levy, however, it has not yet withdrawn such excise duty even after two years since the amendment was made in the constitution of Pakistan. Given the circumstances, the anomaly that a respective service remains exposed to both provincial sales tax as well as federal excise duty at the same time remains unresolved.

It should also be noted that the Officers of Inland Revenue inspite of the 18th Amendment, have created demands for FED on the services of certain sectors like banks, leasing companies, etc. which are subject to provincial sales tax and no more liable to be charged and collected under the FE Act. The action of the Officers of Inland Revenue has been contested by such service providers before various appellate authorities.

The Bill seeks to introduce a new Act by the name of "Income Support Levy Act, 2013" (the proposed ISL Act, 2013) with the object of providing financial assistance and other social protection and safety net measures to economically distressed persons and families.

The proposed ISL Act, 2013 provides that there shall be charged for every tax year, commencing from the tax year 2013, a Levy, in respect of value of net moveable assets held by an individual on the last date of the tax year at the prescribed rate. The rate of Levy is proposed to be 0.5% of the "net moveable wealth" exceeding Rupees one million. An individual who is liable to pay the Levy shall pay it alongwith the wealth statement as prescribed.

In the charging section, reference is made to "net moveable assets" whereas in other sections of the proposed ISL Act, 2013 including the definitions section the term "net moveable wealth" has been mentioned. This anomaly should be removed.

The proposed ISL Act, 2013 provides that without prejudice to any liability under any other law for the time being in force, where a person fails to pay the levy or the levy so paid is less than the amount payable, he shall be liable to pay default surcharge at the rate of 16% per annum on the amount not paid or the amount by which the Levy paid falls short of the amount payable.

The proposed ISL Act, 2013 states that the provisions of the Ordinance shall, so far as may be practicable, apply to an appeal against, or revision or rectification of, an order under the proposed ISL Act, 2013 as they apply to an appeal, revision or rectification under the Ordinance.

The expression "net moveable wealth" has been defined to mean:

"the amount by which the aggregate value of the moveable assets belonging to a person as declared in the wealth statement for the relevant tax year, is in excess of the aggregate value of all the liabilities owed by that person on the last date of the tax year.

Explanation - For the purpose of this clause:

- (i) where liability claimed relates wholly and exclusively to an immovable asset, it shall not be claimed and allowed while computing the net moveable wealth. However, where the liability claimed relates wholly and exclusively to a moveable asset, it shall be claimed and

allowed as a straight deduction while computing net moveable wealth; and

- (ii) where the gross wealth of a person, declared in the wealth statement includes both moveable and immovable assets and the nature of assets to which the liability relates is not determinable, the liability to be allowed while determining the net moveable wealth shall be calculated by the following formula:

$$(A / B) \times C$$

Where:

- A is the gross value of moveable assets;
- B is the gross value of both moveable and immovable assets; and
- C is the gross value of debts owed."

To refresh the memory, it would be recalled that the Wealth Tax Act, 1963 levied a tax on the net moveable and immovable assets held by a taxpayer on the last date of a tax year. However, the application of wealth tax was suspended with effect from 01 July 2001 corresponding to the then assessment year 2001-2002 by inserting a proviso to the charging sections of the said Act. The Act was subsequently repealed by the Finance Act, 2003. It was understood that wealth tax would have not been desirable from the standpoint of justice, therefore, its application was suspended. Now in the guise of the proposed ISL Act, 2013, the same has been attempted to be revived. None of the justifications as stated in the preamble of the proposed ISL Act, 2013, even though couched in the most attractive form, make the levy justifiable.

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