

Budget 2012-13

Highlights & Comments

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Foreword



This memorandum contains an economic review, highlights of fiscal proposals and explanatory description of the significant changes in the Income Tax, Capital Value Tax, Sales Tax, Federal Excise and Customs Duty laws proposed through Finance Bill, 2012 or through notifications under relevant statutes. Certain other relevant information on the changes in the Code of Corporate Governance applicable to listed companies, have also been included. www.imranghazi.com

Amendments proposed in the Finance Bill, 2012 will take effect from July 01, 2012, unless otherwise stated, once it is approved by the parliament.

The memorandum is aimed at providing general guidance with the objective of keeping our clients and staff abreast of the changes in the aforementioned laws. The users are therefore advised to seek professional advice before exercising and applying any legal provision and acting thereupon. The Firm accepts no responsibility for any action taken (or not taken) as a result of the information contained in this document.

The memorandum can also be accessed on our website www.deloitte.com/pk

Karachi
June 2, 2012

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Budget at a Glance

Sources of Funds	Rupees in billion 2012-13		Rupees in billion 2011-12 Revised	
		%		%
*Net Revenue Receipts	1,775	55.4	1,328	42.7
Net Capital Receipts	478	14.9	526	16.9
External Receipts	387	12.1	226	7.3
Estimated Provincial Surplus	79	2.5	91	2.9
Bank Borrowing	484	15.1	939	30.2
Total Sources of Funds	3,203	100	3,110	100

Application of Funds

General Public Services (including Debt Servicing)	1,858	58.0	1,610	51.8
Development Expenditure	591	18.5	478	15.4
Defence Affairs and Services	545	17.0	510	16.4
Subsidies	209	6.5	512	16.5
Total Application of Funds	3,203	100	3,110	100

*Net Revenue Receipts

Direct and Indirect Taxes	2,504	141.1	2,025	152.5
Non-Tax Revenue	730	41.1	512	38.6
Gross Revenue Receipts	3,234	182.2	2,537	191.0
Less: Provincial Share in Taxes	1,459	82.2	1,209	91.0
	1,775	100	1,328	100

Economic Review and Budget 2012-13

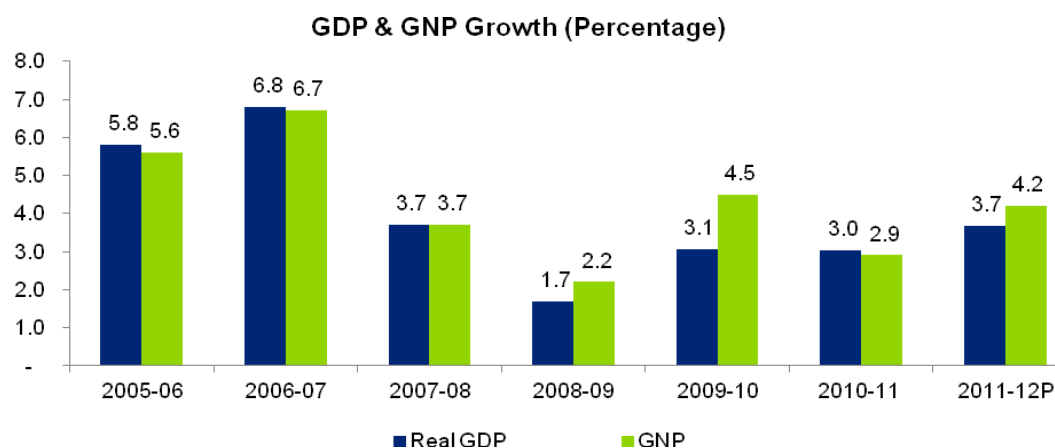
Fifth budget of the current coalition government lead by PPP for FY 2012-13, with aggregate outlay of Rs. 2.96 trillion is largely a continuation of current fiscal and economic policies. Being an election year, despite extremely tight fiscal position, 20 percent increase in government employees' salaries, Federal Public Sector Development Program and a hefty increase of 40 percent in Benazir Income Support Program (BISP) are proposed. To meet these ambitious plans, tax revenues are projected to increase by over 20 percent to Rs. 2.5 trillion, while gross federal receipts are envisaged at Rs. 3.23 trillion.

In the absence of any serious effort to broaden the tax net through a broad based VAT / RGST regime, the revenue targets appear to be highly optimistic. On expenditure side, there is no provision to clear the circular debt of over Rs. 350 billion and budget estimates for subsidies to power sector and other public sector entities appear to be much lower than required. Budget proposals are also devoid of any significant steps to resolve energy crisis that has obstructed economic growth.

Economic Review of FY 2012

The economy continues to be affected by natural disasters and structural weaknesses, including energy crisis, a precipitous decline in investment, persistently high inflation, decrease in coalition support funds and security issues. Budget deficit remained high, driven by substantial subsidies and losses of state-owned enterprises, and low tax revenues. The slow growth in recent years was exacerbated by widespread floods in FY2011 and FY2012. Unless progress can be made in addressing some fundamental structural weaknesses to revive investment and savings, and restore external financing for badly needed investment, the growth outlook will stay modest.

Although the economy of Pakistan reflected some recovery in FY2012 as GDP growth rate increased from 3 percent in FY2011 to 3.7 percent in FY 2012, there are considerable challenges posed by deep rooted imbalances. While the domestic economy remained sluggish, the external contribution to the economy has shown some positive signs as the difference between GNP and GDP growth rates have slightly improved to 0.5 percent in FY12 as compared to negative 0.1 percent in FY11.



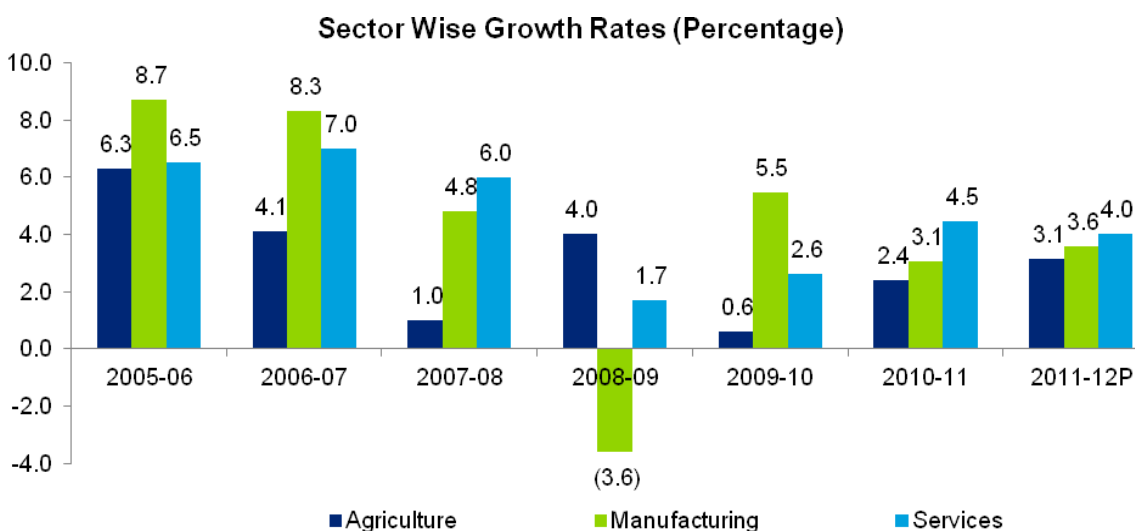
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The average growth rate of population was 2.03 percent (highest in the region) in 2012 whereas the average rate for GDP is 3.7 percent in the same period which is insufficient to support high population growth rate.

The growth in the agriculture sector is estimated at 3.13 percent on the back of 4.04 percent growth in the livestock sector (highest contribution in the agricultural sector) and 3 percent growth in major crops, which account for 6.71 percent of GDP.

The industrial sector grew by 3.6 percent compared to 3.1 percent in the previous year, showing some improvement during FY12. In particular, mining and construction sector reflected a healthy growth of 4.38 percent and 6.46 percent, respectively, in comparison to negative growth of 1.28 percent and 7.1 percent in the last year. Large Scale Manufacturing, which comprises of 11.9 percent of the GDP, clocked a subtle 1.78 percent growth in FY12, whereas small scale manufacturing once again shows the largest growth rate of 7.51 percent in FY12. Three regular features persistently affecting the performance of manufacturing sector are energy crisis, rising input cost and sluggish demand.

The services sector grew by 4.02 percent in FY12 in comparison with 4.45 percent in FY11. Within services sector, wholesale and retail trade sector grew at 3.58 percent as compared to 3.53 percent last year. Finance and insurance sector recorded healthy growth of 6.53 percent in FY12 as against contraction of 12.16 and 1.41 percent in FY10 and FY11, respectively.



Energy Crisis

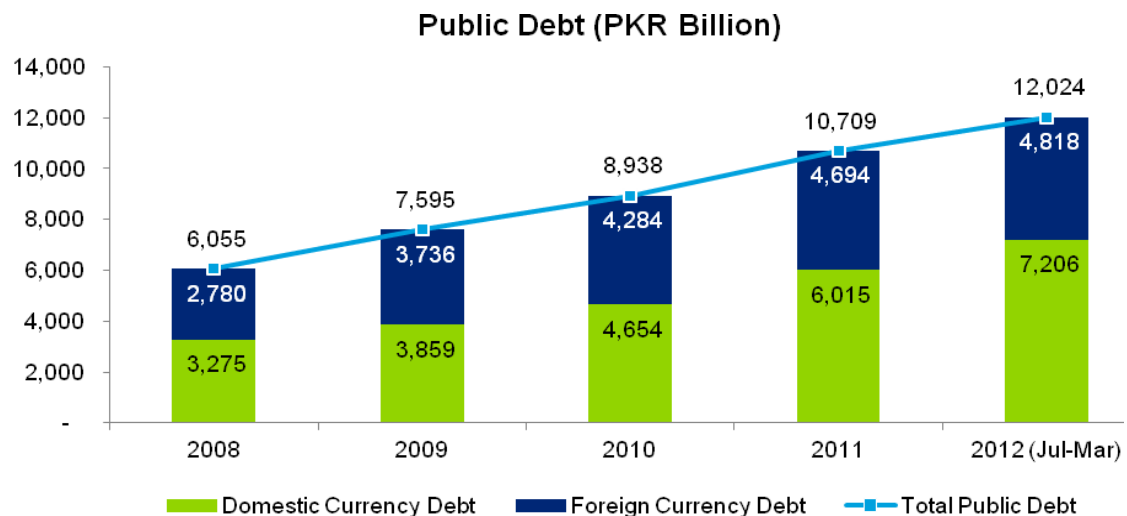
Power is the main constraint for economic growth, as load-shedding has intensified and become less predictable. As per the report issued by the ADB, losses arising from power and gas shortages held down GDP growth between 3 to 4 percentage points in FY2012. The key factors that have caused this crisis include inefficient energy mix, with heavy reliance on highly expensive imported furnace oil, huge gap between cost and recovery of power, line losses, inefficient generation plants and unresolved circular debt.

Cost recovery has not yet been achieved despite substantial increases in tariffs over the past 2 years, and measures to bring down costs have not been effective. Pricing of gas has remained extremely low resulting in excessive misuse of this precious resource that is fast depleting. The only way to alleviate this problem is to develop policies and plans that can attract large scale investment in the sector so as to gradually change the energy mix, enhance the use of hydro and indigenous coal as fuel for power generation rather than highly expensive imported furnace oil, and enhance the efficiency of generation, transmission and distribution systems through investment in latest technology together with drastic changes in the ways of governance in public sector.

Mounting Debt

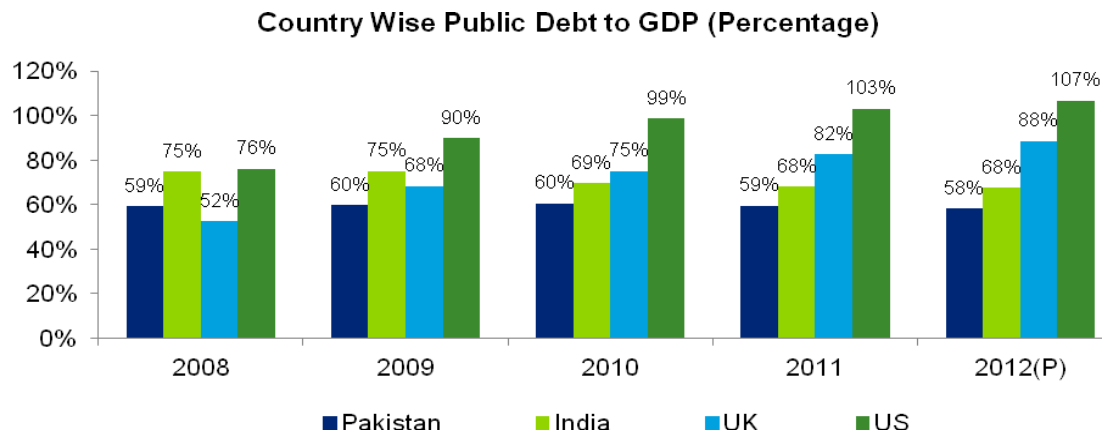
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Pakistan's total public debt has increased substantially in the past few years. The Governmental debt has almost doubled from FY08 to the third quarter of FY12. An analysis of the total debt in the last five years is as follows:



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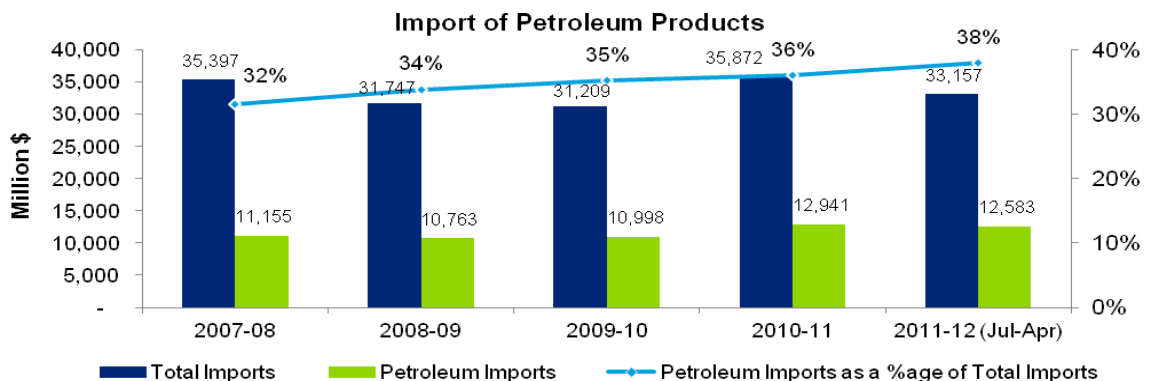
However, public debt to GDP ratio of Pakistan is still lower in comparison to several other economies. In fact, debt to GDP ratio has slightly improved from 60 percent in financial year 2009 to 58 percent in 2012. A chart comprising Debt to GDP ratio of Pakistan with other countries is given below:



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External Account

Overall exports remained almost stagnant at \$ 24.4 billion during the first ten months of the current fiscal year against an increase of 28.9 percent in the last year. Compared to this, imports during the first ten months of the current fiscal year increased by 14.9 percent compared to the same corresponding period, reaching \$ 33.16 billion. The overall import bill is higher by \$ 4.2 billion, reflecting the impact of higher global crude oil and other commodity prices. Moreover, during July-April 2011-12, the petroleum group import bill increased by \$ 3.8 billion over the same period last year. Nearly 76.4 percent of this increase in the import bill is contributed by the price impact and 23.6 percent by the quantum impact. Below chart shows percentage of oil imports in comparison to total imports of Pakistan.

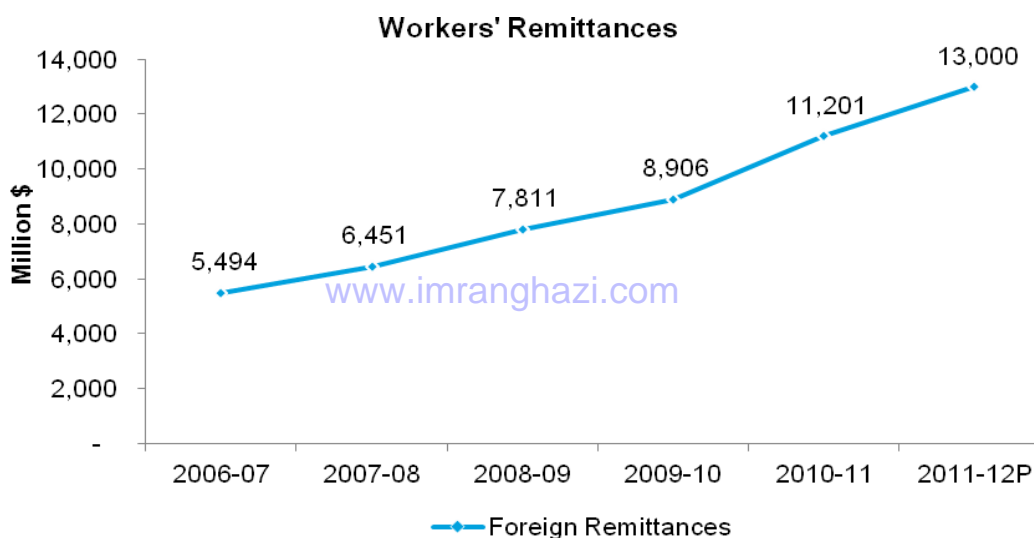


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Owing to the surge in imports, trade deficit of the country increased significantly to \$ 12.7 billion during the first ten months compared to \$ 8.5 billion in the corresponding period. This large trade deficit could only be sustained, thanks to hefty increase in workers' remittances.

Workers' Remittances

Perhaps the most positive aspect of the economy is a healthy increase in workers' remittances during the year, which are estimated at \$ 10.9 billion 10MFY12, reflecting nearly 20 percent increase compared to the corresponding period. It is further estimated that worker's remittances will reached at level of \$ 13 billion by the end of FY12.

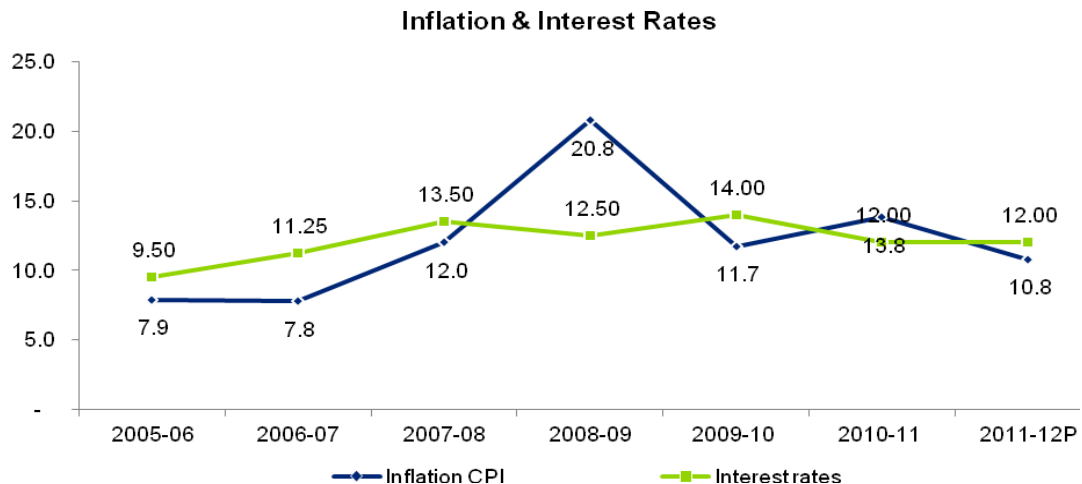


Inflation

Inflation along with workers' remittances are key financial indicators which showed improvement during the year. Inflation reduced during the year from 13.8 percent in FY11 to 10.8 percent. As a general principle, the central banks use monetary policy, and adjust interest rates to contain inflation. Below chart, which depicts trend of rates of inflation and discount rate fixed by State Bank, reflects that from the year 2009 to 2011 inflation rates remained in line with interest rates. The reason for this unusual behavior is cost push inflation which is a product of high cost of funding and depreciation of rupee.

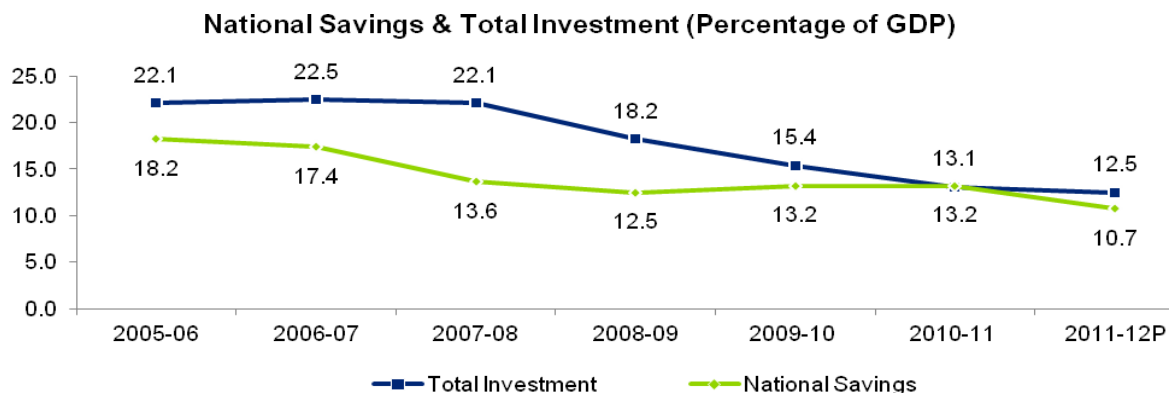
A stringent monetary policy is probably not the best solution in this scenario, especially when the rates of investment and economic growth have slowed down considerably. There is a need to further reduce the interest rates to encourage overall investment, especially in manufacturing and agriculture sectors.

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National Savings and Total Investment

During the year, the rates of investment and savings decreased by 0.6 percent and 2.5 percent respectively, highlighting structural weaknesses in the economy. Due to large fiscal deficit, there was negative contribution of public sector that considerably reduced the domestic savings. Large current account deficit further undermines the rate of national saving. Low rate of savings, high inflation and considerably reduced FDI during the year, resulted in steep decline in total investment. Below chart reflects extremely worrisome trend of continuing decline in rates of investment and savings, which must be reversed, if the economic growth is to be revived.

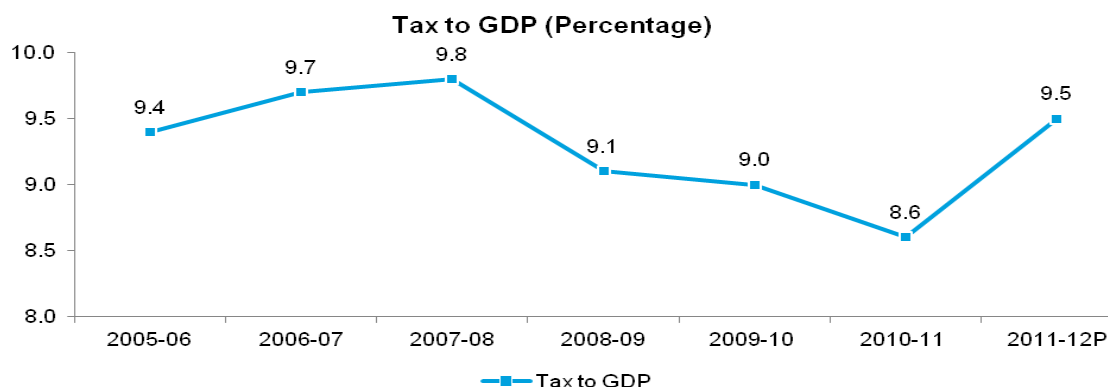


Tax to GDP Ratio

The tax to GDP ratio shows some improvement as it moved to 9.5 percent in FY12 from 8.6 percent in FY11. While, it is still considered very low in comparison with other comparable economies, it is nevertheless a welcome change. Also, the above estimate is based on very high estimate of FBR revenue collection of Rs. 1.95 trillion, which is likely to fall short by a significant

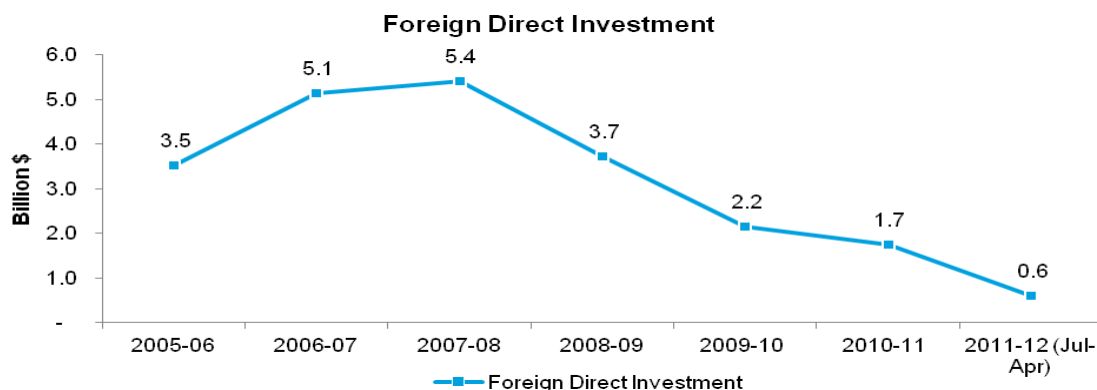
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margin. Moreover, the FBR revenue estimate also does not take into consideration, large amount of stuck up refunds estimated at Rs. 75 to Rs. 100 billion.



Foreign Direct Investment

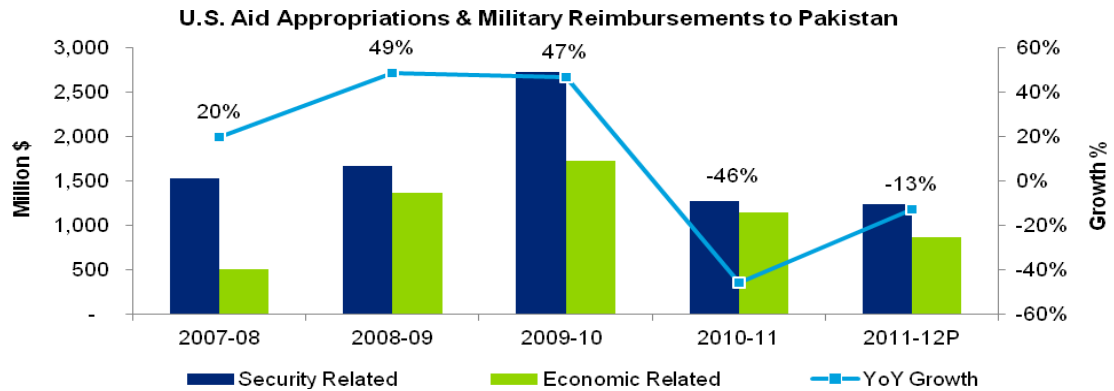
There was steep decline in Foreign Direct Investment during the year, which tumbled from \$ 1.7 billion during FY 11 to only \$ 0.6 billion in the current year owing to a multitude of factors including security situation, high costs of borrowing, energy crisis leading to power outages, red-tape etc. As per report published by the International Finance Corporation, Pakistan's ranking in ease of doing business has reduced from 96th in 2011 to 105th in 2012.



Impact of US Military Assistance

The US will remain an important source of military and civil aid to Pakistan. However, the bilateral relationship, which has been volatile in recent years, deteriorated throughout 2011, and the death of 26 Pakistani soldiers in a NATO air strike in November 2011 has led to a re-evaluation of the relationship by both sides. In the forecast period, ties will be more overtly transactional, as the idea of a broad strategic partnership has been severely undermined. This can be seen from the year on year decline of security and economic aid as shown in the graph.

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Budget and Economic Outlook for FY 2012-13

The environment in which current budget has been presented is extremely difficult and complex. On domestic front, political instability, deepening energy crisis, continuing challenges in security, large fiscal deficit and the financial position of federal government substantially diluted with transfer of larger chunk of resources to the provinces under 7th NFC award, and serious environmental conditions that cause recurring natural disasters, are daunting challenges. On the external front, severely strained relations with US, our biggest source of external assistance, continuing recession in the global economy and continuing uncertainty about relations with India and Afghanistan further complicate an already messy economy. On top of all this, this budget is being presented in an election year when the coffers are virtually empty and political temperature is rising.

In this environment, it is hardly surprising if the Finance Minister has tried to include some unrealistic albeit popular proposals such as significant increase in salaries of government employees', enhancement in Public Sector Development Program by 20 percent, 40 percent increase in BISP, the government's flagship program and enhancing basic tax exemption to Rs. 400,000. To balance the books, extremely unrealistic revenue targets have been incorporated, with FBR revenue pitched at Rs. 2.30 trillion, up 20 percent from already unachievable target of Rs. 1.95 trillion while the subsidies to power sector are set at impractically lower levels.

In the above background, the following targets have been fixed that look hard to accomplish:

- GDP is expected to grow at 4.3 percent
- Budget deficit is estimated at Rs. 1.1 trillion or 4.7 percent of GDP
- Inflation is targeted at 9.5 percent
- Overall PSDP is pitched at Rs. 873 billion, which includes Federal Development Program of Rs. 360 billion
- Within PSDP, allocation for BISP is expected at Rs. 70 billion
- Subsidies to power sector and public sector entities are fixed at Rs. 209 billion

Key risks and challenges for achieving sustained growth

While Pakistan did achieve some macroeconomic stability after the balance of payments crisis in 2008 with the help of IMF Standby Agreement and other external flows (including coalition support funds), mainly from US, subsequent to withdrawal from IMF program, and in the backdrop of extremely strained relations with the US, economy remains extremely vulnerable. We have seen severe pressure on rupee in recent weeks. As the pressure on foreign exchange reserves mounts with huge debt service requirement in the coming months coupled with deteriorating trade balance, high fiscal deficit and instability of Pak Rupee may be the most serious risk in the months ahead. A critical factor that has stalled economic growth is the energy crisis, and there appears to be no credible plan to address this crisis with utmost seriousness and urgency that it requires. While the economy is already moving at its slowest pace, historically an election year, owing to heightened political uncertainty, has tended to be the worst. Clearly, while the challenges in terms of energy, law and order and an extremely hostile external environment are humongous, apparently no tangible solutions have been offered to rescue the country from its dire situation.

While Pakistan has huge economic resources, including but not limited to large deposits of coal and hydro-power resources to meet our energy shortages, huge natural resources such as copper and gold deposits in Balochistan, and it has strategic geographic location between two fastest growing economies (China and India) and wealthiest economies in the middle east, it appears that owing to continuing tendency of short-term thinking based on political expediency, lack of foresight coupled with muddled governance, our ability to utilize such large resources and take advantage of our geography remains limited. The budget also lacks any serious steps to enhance revenue to address the issues of resource shortages and escalating fiscal deficits, tackle perennial problem of circular debt and any tangible steps to reduce ongoing losses of public sector enterprises. Consequently, despite some positive measures, on the whole, the proposed steps in the budget do not contain any major initiatives that have the potential to revive economic growth, contain inflation and address most of its deep rooted economic problems.

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Highlights of Important Fiscal Proposals

Income Tax

- Existing threshold of exemption in respect of a salaried individual is enhanced from Rs.350,000 to Rs.400,000 and the existing 17 slabs of tax rates have been reduced to 5. This will help in reducing the tax burden on salaried individuals.
- Loan to employees by an employer on concessional rate for an amount not exceeding Rs.500,000 shall not be treated as taxable benefit in the hands of employees.
- Benchmark rate for the taxation of concessional loans received by an employee from an employer to be fixed at 10%.
- Tax credit for investment in shares and for insurance premium is now allowable at 20% of the taxable income instead of 15%, with maximum upper limit for investment enhanced from Rs.500,000 to Rs.1,000,000. Holding period of shares is now 24 months as compared to current 36 months for the claim of tax credit.
- Additional payment on delayed refund under any tax law, received from tax authorities is to be treated as an income of the taxpayer taxable under the head "Income from Other Sources".
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Tax credit to be allowed for companies set up before July 01, 2011, that makes investments during July 01, 2011 and June 30, 2016, equal to 20% of the amount so invested against the tax payable. Tax credit is allowed to be carried forward and deducted against the tax payable of subsequent five tax years.
- Tax credit equivalent to 100% of the tax payable is extended to industrial undertakings engaged in corporate dairy farming, making 100% equity investment raised through issuance of new shares for cash consideration.
- Capital gain tax on immovable property, has been imposed on gain arising on disposal of immovable property held for not more than one year at the rate of 10% and in respect of property held for not more than 2 years at 5%.
- Eighth Schedule is introduced which provides for the mode and mechanism for collection of capital gains tax by NCCPL in respect of gain arising on disposal of securities as envisaged in section 37A.
- Tax rates in respect of capital gain on disposal of listed securities that are subject to tax under section 37A have been frozen till tax year 2014 at 10% for securities held for less than 6 months and at 8% for securities held for more than 6 months but less than 12 months.
- Time period for the issuance of notice under section 120 by the Commissioner, informing the discrepancies in the return, is increased by 180 days.

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- The Commissioner is now empowered to conduct enquiries before amending the assessment under section 122(5A).
- Commissioner (Appeals) and Appellate Tribunal Inland Revenue to grant stay from recovery of tax to the taxpayer after giving an opportunity of being heard to the Commissioner against whom appeal was made.
- Requirement for the Commissioner (Appeals) to pass the appellate order within 4 months of filing of appeal is now deleted.
- Concept of collection of tax by the manufacturer at the time of sale to distributor, dealer and wholesaler has been introduced. Manufacturer is required to collect tax at the rate of 1% of the gross amount of sale which shall be adjustable from the annual tax liability of such distributor, dealer or wholesaler.
- Rate of compensation on delayed refunds is fixed at 15%; earlier it was linked with KIBOR.
- Concept of Tax Payer Honour Card has been introduced for individual tax payers who fulfill the eligibility criteria.
- Rate of default surcharge on delayed payment of tax is fixed at 18%; earlier it was KIBOR + 3%.
- FBR is now empowered to give condonation of time limit even to taxation officers.
- Limit of daily cash withdrawals from bank account without tax deduction is enhanced from Rs.25,000 to Rs.50,000.
- Now stock exchanges are not required to collect advance tax at 0.01% and 10% from its members on trading of shares by the member, and on financing of carryover trades in share business, respectively.
- NCCPL is now entrusted to collect advance tax from the members of Stock Exchange in Pakistan, in respect of margin financing in share business of Pakistan.
- One time option is provided to Exploration & Petroleum Companies to pay tax at the rate of 40% of the profits and gains, net of royalty, derived by petroleum exploration and production undertaking subject to the condition that those companies withdraw all pending appeals, references and petitions before appellate forum and pay whole of the outstanding liability upto tax year 2011, by June 30, 2012.
- Initial depreciation on allowance on purchase of building is reduced to 25% from 50%.
- No tax withholding to be made while making payments on account of intragroup dividend or intragroup profit on debt in respect of group companies that opt for group taxation under section 59AA and for group relief under section 59B.

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- A commercial importer can opt for normal tax regime where his minimum tax liability under normal tax regime is not less than 60% of tax already collected under sub-section (7) of section 148.
- An exporter can opt for normal tax regime where his minimum tax liability under normal tax regime is not less than 50% of tax already deducted under sub-section (4) of section 154.
- A supplier of goods can opt for normal tax regime where his minimum tax liability under normal tax regime is not less than 70% of tax already deducted under clause (a) of sub-section (1) of section 153.

Capital Value Tax

- Capital Value Tax reintroduced on purchase of shares of listed companies at the rate of 0.01% of the purchase value.
- Capital Value Tax levied on residential and commercial immovable properties situated in urban areas falling within limits of Islamabad Capital Territory.

Sales Tax and Federal Excise Duty

- Supplies against International Tenders shifted from the list of zero rated goods to exempt goods. This will result in reduction in refund claims to the revenue department
- The period for issuance of show cause notice for recovery of tax whether such recovery arises by reason of deliberate or inadvertent act is harmonized to 5 years.
- The power of the Commissioner to extend the time period by 60 days increased to 90 days where the order is not passed within 120 days of issuance of show cause notice.
- Rate of Sales Tax of 22% and 19.5% applicable on certain goods specified in SRO 644(I)/2007 reduced to general rate of 16%.
- Supply of locally produced crude vegetable oil obtained from locally produced cotton seeds removed from exempted goods.
- Sales Tax by Steel melters, Re-rollers and Ship breakers revamped and increased. Rate of sales tax increased from Rs. 6/Kwh to Rs. 8/Kwh on steel sector and from Rs.4,848 per metric ton to Rs.6,700 per metric ton on ship breakers.
- FED on cigarettes restructured and enhanced. Restriction imposed on minimum price of the cigarettes manufactured/ imported.
- FED on cement reduced from Rs. 500 per MT to Rs. 400 per MT.

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- Rates of FED on air travel enhanced and streamlined.
- FED withdrawn on lubricants and base lube oils, perfumes and toilet waters, beauty and makeup preparations, cosmetic or toilet preparations, room deodorizers and filter rods for cigarettes.
- Live stock insurance exempted from application of FED.
- Services provided by Asset Management Companies have been exempted retrospectively.
- Exemption of FED withdrawn on import and supply of solvent oils for manufacturing of shoe adhesive.
- The import and supply of polyethylene and polypropylene for manufacture of mono filament yarn and net cloth is moved from zero rating to exemption.
- Importers not claiming any refund of excess input tax were not subjected to audit except with the permission of FBR. This facility has now been removed.
- Waste paper, remeltable scrap, sprinkler equipment, drip equipment, and spray pumps and nozzles excluded from zero rated goods and included under exempt supplies.

Customs

- Scope of the term smuggling widened to include en route pilferage of transit goods.

Establishment of following Directorates:

- Directorate General of Transit Trade – for exclusive clearances and monitoring of the transit cargo.
- Directorate General of reform and Automation – for effective management of Pakistan Custom’s reforms and automation processes.
- Directorate General of Risk Management – for effective regulation of the self-clearance system of Pakistan Customs.
- Directorate General of Intellectual Property Rights Enforcement – for effective enforcement of intellectual property rights at the borders and ports of the country.

Customs duty has been reduced on:

- Raw materials and components for printing and stationary;
- Scrap of rubber/shredded tyres if imported by cement manufacturers for use as fuel in cement industry;

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- Hybrid Electric Vehicles (HEVs) and their batteries;
- Input goods and raw materials of pharmaceutical industry; and
- Self copy papers and self-adhesive papers

Others

- Pakistan Customs Tariff classification structure aligned with the HS-2012 version of the nomenclature for commodity classification issued by World Customs Organization (WCO).
- Maintenance of records concerning transit trade required by Customs licensed transport operators and tracking companies.
- Punishment of whipping removed for the offence of smuggling of goods; possession or acquiring of smuggled goods; and for the offence of armed intimidation of persons engaged in the discharge of duty under the Customs Act;

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Significant amendments proposed in

Income Tax Ordinance, 2001

1. Definition

Section 2

Clause (35AA) NCCPL

The Bill proposes to define NCCPL to mean National Clearing Company of Pakistan Limited, which is a company incorporated under the Companies Ordinance, 1984 (XLVII of 1984) and licensed as Clearing House by the Securities and Exchange Commission of Pakistan. The reference of NCCPL in the law is taken since it has been given special task with respect to collection of capital gain tax on sale of listed securities.

2. Taxable income

Section 9

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This section defines the term “Taxable income” of a person to be the total income of the person for the year reduced by the total of any deductible allowances of the person for the year. The Bill proposes an amendment by virtue of which the term “total income” shall have the meaning as defined in section 10 of the Ordinance. This proposed amendment is of clarificatory nature.

3. Total income to include exempt income

Section 10

An amendment is proposed in the definition of the term “total income” in order to streamline the same with the overall construction of the tax code by virtue of which the term “total income” of a person is defined as the sum of the:

- (a) Person’s income under all heads of income for the year; and
- (b) Person’s income exempt from tax under any of the provisions of this Ordinance.

The proposed amendment is likely to harmonize the definition of “total income” with the definition of the term “income” as defined in sub-section (29) of section 2 of the Ordinance.

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4. Interest free loans to employees

Section 13(7) & (14)

The existing provision provides that where a loan is made by an employer to an employee either without profit chargeable thereon or on a concessional rate which is less than the benchmark rate, the amount chargeable to tax to the employee under the head Salary shall include an amount equal to the difference between the amount of profit on loan paid by the employee in that tax year and the amount of profit on loan computed at the benchmark rate. Where no profit on loan is payable by the employee than the profit on loan computed at the benchmark rate shall be included in the taxable income of the employee.

The proposed amendment seeks to provide for the threshold of loan of Rs.500,000. By virtue of this proposal, any loan given to an employee by an employer on concessional rate that does not exceed Rs.500,000 shall not be treated as a benefit in the hands of an employee for the purpose of this sub-section. Apparently, this relief is likely to be available in respect of existing loans taken by the employees.

The Bill also seeks to amend the definition of "benchmark rate" as currently defined in sub-section (14) by virtue of which the bench mark rate shall not exceed 10%.

These amendments are likely to reduce the tax burden of the employees especially those who are employed by financial institutions.

5. Capital gains on immovable property

Section 37

This section stipulates that any gain arising on disposal of a capital asset shall be chargeable to tax as capital gain. The existing section also defines the term capital asset which along with few other assets specifically excludes immovable property from the definition of capital asset.

The Bill seeks to tax the gain arising on disposal of immovable property, held for a period upto two years, under the head capital gains in the following manner:

- At 10% where holding period of the immovable property is upto one year.
- At 5% where holding period of the immovable property is more than one year but not more than two years.
- Any property that was held for more than two years shall not be liable to tax at the time of its disposal.

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It is important to note that this is the first time in the taxation history of Pakistan that the Federal Government proposes to tax capital gains arising on the disposal of immovable property. This has been made possible due to the 18th amendment in the Constitution of Pakistan. Before the 18th amendment, entry in the Federal legislative list was as under:

“Tax on the capital value of the assets not including taxes on capital gains on immovable property”

Through the 18th amendment in the Constitution, the words “on capital gains” have been removed. It appears that the interpretation of the legislature is that now after the 18th amendment the Capital Value Tax on immovable property has become a provincial subject while tax on capital gains on immovable property can now be levied by the Parliament. Accordingly, the legislature seeks to bring immovable property in tax net in the manner discussed above.

The fraternity of tax advisors and professionals has been suggesting since long to tax the gains arising on trading in immovable property and this amendment is in the right direction. However, its implementation would be a big challenge for FBR especially when the immovable property transactions are not done on actual values. It is therefore imperative that the legislature must devise some valuation methodology for the immovable property to reduce the litigations. This would also act as a check on the discretionary powers of the tax officers.

6. Capital gains on sale of securities

Section 37A

This section, introduced through Finance Act, 2010, provides for the taxation of Capital gains arising on the sale of securities listed on a stock exchange in Pakistan. The proposed amendment seeks to provide the formula for calculating the gain arising on a disposal of a security as under:

A-B

- A is the consideration received by the person on disposal of the security; and
- B is the cost of acquisition of the security.

It may be noted that the Rule 13L (b) of the Income Tax Rules, 2002 already provides the above formula.

7. Income from other sources - Compensation on delayed refunds

Section 39

This section provides that Income of every kind received by a person in a tax year, if it is not included in any other head (other than income exempt from tax) shall be chargeable to tax in that year under the head “Income from Other Sources”. The Bill seeks to insert a clause in sub-section

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1 by virtue of which additional payment on delayed refund under any tax law, is proposed to be treated as an income of the taxpayer to be taxed under the head “Income from Other Sources”.

The matter of taxability in respect of compensation on delayed refund has remained a matter of debate and in the past, in the absence of any similar provision in the law, the courts have held that such amount is not to be treated as income of the taxpayer. It is however important to note that Ordinance does not allow default surcharge paid by a taxpayer as a deductible expense and the principle of the natural justice requires that the default surcharge paid by the taxpayer on delayed payment of tax should be allowed as a deductible expense while computing taxable income.

8. Exemptions and tax concessions in the Second Schedule

Section 53(1A)

Consequent to the proposed revision of the definition of the term “total income” in section 10, the sub section (1A) had become redundant. Accordingly, the Bill proposes to delete sub section (1A) which provides that where any income which is exempt from tax under any provision of the Second Schedule, such income shall be included in the total income, however the tax shall not be payable in respect of such income.

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9. Tax credit for investment in shares and insurance

Section 62

Currently an individual or an association of persons (AOP) is allowed a tax credit in respect of investment in new shares of a company and in respect of any life insurance premium paid on a policy to a life insurance company. This provision was introduced to encourage investment in shares and to support the insurance sector.

An individual or an AOP, who purchases the shares of public listed company as an original allottee or acquire the shares through privatization commission, is allowed a tax credit which is calculated by applying the average rate of tax to the lower of:

- (a) the total cost of acquiring the shares;
- (b) 15% of taxable income; or
- (c) Rs.500,000.

The Bill seeks to enhance the limit of 15% of the taxable income to 20% and the limit of Rs.500,000 is proposed to be increased to Rs.1,000,000.

The existing provision provides that the investor must hold the shares for not less than 36 months of the date of their acquisition in order to claim the tax credit, otherwise the amount of tax payable for the tax year in which the shares were disposed off shall be increased by the amount of credit

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allowed. Now, the Bill proposes to reduce the holding period of the shares to 24 months of the date of acquisition in order to claim and maintain the eligibility of tax credit in the manner provided under the section.

Similarly, the tax credit in respect of life insurance premium is proposed to be calculated by applying the average rate of tax to the lower of:

- (a) the total contribution or premium paid;
- (b) 20% of taxable income; or
- (c) Rs. 1,000,000.

10. Tax credit for investment

Section 65B

This section provides for the allowability of tax credit equal to 10% of the tax payable where a taxpayer being a company invests any amount in the purchase of a plant and machinery for installation, for the purposes of balancing, modernization and replacement in an industrial undertaking set up in Pakistan and owned by it. Tax credit shall be allowed for the tax year in which the said plant and machinery is installed against the tax payable by the company.

Moreover, the tax credit is allowed only if the plant and machinery is purchased and installed at any time between July 1, 2010, and June 30, 2015.

The Bill seeks to extend this incentive to a Company set-up in Pakistan before the first day of July, 2011, which makes investment during July 1, 2011 and June 30, 2016, for the purposes of balancing, modernization and replacement of the plant and machinery already installed in an industrial undertaking owned by the company.

The Bill proposes to allow a tax credit for such companies, equal to 20% of the amount so invested against the tax payable, including on account of minimum tax and final taxes payable under any of the provisions of the Ordinance.

The Bill further provides that the Company, set-up in Pakistan before July 1, 2011, that makes investments during July 1, 2011 and June 30, 2016, in the manner discussed above, is allowed to carry forward the amount of credit and deduct from the tax payable in respect of the following five tax years.

The Bill also proposes to define the term tax payable to include minimum tax and final tax payable under any of the provisions of the Ordinance. This particular amendment is likely to provide relief to the companies who were either paying minimum tax or were liable to tax under final tax regime.

11. Tax credit for newly established industrial undertaking

Section 65D

This section, introduced through Finance Act, 2011 as part of measures to revitalize the industrial activity in the country, provides for allowability of a tax credit equal to 100% of the tax payable for a period of 5 years where a Company establishes a new industrial undertaking for manufacturing in Pakistan with 100% equity owned by the company.

The Bill also proposes to extend this benefit of availing 100% tax credit to an industrial undertaking engaged in corporate dairy farming. The proposed amendments is likely to encourage investment in dairy farming as there is a huge potential in this sector and already a good number of corporate entities have made significant investments in this sector.

The Bill also proposes to define the term tax payable to include minimum tax and final tax payable under any of the provisions of the Ordinance.

The Bill seeks to provide that 100% equity for the industrial undertaking should be raised through issuance of new shares for cash consideration. However, a proviso is also proposed to be inserted which provides that short term loans and finances obtained from banking companies or non- banking financial institutions for the purpose of meeting the working capital requirements shall not disqualify the company from claiming the tax credit under this section.

Sub-section (3) is also proposed to be deleted which restricts the allowability of tax credit in respect of the tax year in which plant & machinery is purchased and installed. Simultaneously, a new sub-section (5) is proposed to be inserted which provides that for the purposes of this section and sections 65B and 65E an industrial undertaking shall be treated to have been setup on the date on which the industrial undertaking is ready to go into production, whether trial production or commercial production. By virtue of this amendment, the allowability of tax credit to an industrial undertaking has been pegged with the condition to either start trial production or commercial production.

12. Tax credit for industrial undertakings established before the first day of July, 2011

Section 65E

The Bill seeks to substitute the existing section. The substituted section provides for the allowability of tax credit against the tax payable:

- equal to 100% of the tax payable, including minimum tax and final tax payable under any of the provisions of the Ordinance, attributable to such expansion project or new project, where a taxpayer maintains separate accounts of an expansion project or a new project, as the case may be.
- In all other cases, the credit under this section shall be such proportion of the tax payable, including minimum tax and final tax payable under any of the provisions of this Ordinance, as is the proportion between the new equity and the total equity including new equity.

The tax credit is proposed to be allowed to a taxpayer company, for a period of five years beginning from the date of setting up or commencement of commercial production from the new plant or expansion project, whichever is later, on meeting of the following criteria:

- setup in Pakistan before July 1, 2011;
- invests any amount, with 100% new equity raised through issuance of new shares;
- in the purchase and installation of plant and machinery for an industrial undertaking, including corporate dairy farming, for the purposes of-
 - expansion of the plant and machinery already installed therein; or
 - undertaking a new project,

The substituted section further provides that the tax credit shall only be allowed if the plant and machinery is installed any time between July 1, 2011 and June 30, 2016.

The newly inserted sub-section (7) defines the term “new equity” to mean equity raised through fresh issue of shares against cash by the Company and shall not include loans obtained from shareholder or directors. However a proviso to sub-section (7) is also proposed to be inserted which provides that short term loans and finances obtained from banking companies or non-banking financial institutions for the purposes of meeting working capital requirements shall not disqualify the taxpayer from claiming tax credit under this section.

13. Cost & consideration received

Section 76 & 77

Bill seeks to empower FBR for determination of cost and consideration received of any asset. Although comments can only be given when FBR provides some mechanism for the determination of cost and consideration received in respect of a class of asset; but apparently, this particular amendment has been proposed as a consequence of bringing the immovable property in the tax net through amendments proposed in section 37 of the Ordinance.

14. Special provision relating to capital gain tax

Section 100B

Effective July 1, 2010, capital gains tax (CGT) regime entered into force. The CGT applies to gains realized by investors from dispositions of listed securities occurring on or after June 30, 2010. Gains derived from Pakistani listed securities purchased by investors prior to July 1, 2010 are also subject to the new CGT regime and the applicable tax rate is determined based on the investor's holding period.

On April 24, 2012, the Finance (Amendment) Ordinance, 2012 was promulgated providing for certain amendments in the provisions of the Income Tax Ordinance, 2001 that largely relates to the taxation of CGT on disposal of "securities" as envisaged under section 37A of the Ordinance.

Key changes introduced and their implications are briefly discussed below:

Insertion of the Eight Schedule – By virtue Insertion of section 100B of the Ordinance, certain persons or classes of persons are now liable to capital gains tax in the manner and mode provided under the newly inserted Eighth Schedule to the Ordinance.

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Investors not affected by the new regime - Introduction of section 100B – Newly inserted section 100B provides the list of following persons or the class of persons that are not affected by the new regime:

- (a) a mutual fund;
- (b) a banking company, a non-banking finance company, and an insurance company;
- (c) a modaraba;
- (d) a "foreign institutional investor" being a person registered with NCCPL as a foreign institutional investor; and
- (e) any other person or class of persons notified by the Board.

Exempt capital gains - The capital gain arising on or after the first day of July 2010, from disposal of securities held for more than a year has been described as chargeable at 0%.

Tax collecting agent - NCCPL, licensed as "Clearing House" by the Securities and Exchange Commission of Pakistan, has been made responsible for collecting and depositing the tax, on behalf of the tax payers, in respect of capital gains on listed securities that are subject to tax under section 37A.

Annual certificate as evidence of income - NCCPL to issue an annual certificate to the tax payer in respect of capital gains subject to tax which shall be filed by such tax payer along with his return of income.

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Freeze in tax rates - In order to simplify the application of rates, the annual tax rates have been frozen till tax year 2014. Old and revised rates are as under:

Period	Tax Year	Old rate of Tax (%)	New rate of Tax (%)
Where holding period of a security is less than six months.	2011	10	10
	2012	10	10
	2013	12.5	10
	2014	15	10
	2015	17.5	17.5
Where holding period of a security is more than six months but less than twelve months.	2011	7.5	7.5
	2012	8	8
	2013	8.5	8
	2014	9	8
	2015	9.5	9.5
	2016	10	10

Amnesty Scheme - An amnesty scheme has been introduced under the Eighth Schedule by virtue of which no enquiry as to the nature and source of the amount invested shall be made for any investment made:

- prior to the introduction of the Eighth Schedule where a person has made investment in the listed securities, provided that:
 - a statement of investments is filed with the Commissioner alongwith the return of income and wealth statement for the year 2012.
 - the amount remains invested for a period of 45 days upto June 30, 2012; and
- during the period from April 24, 2012 till June 30, 2014, where a person has made investment in the shares of a public company traded at a registered stock exchange in Pakistan, provided that:
 - the amount remains invested for a period of 120 days upto June 30, 2012;
 - tax on capital gains, if any, has duly been discharged;
 - a statement of investments is field with the Commissioner alongwith the return of income and wealth statement.

Exemption from quarterly advance tax - Investors falling under the ambit of the Eighth Schedule shall be exempted from the payment of quarterly advance tax and filing of quarterly statements.

Irrevocable option - A person who does not intend to opt for the determination and payment of tax as laid down in the Eighth Schedule shall be required to file an irrevocable option to NCCPL after obtaining prior approval from the Commissioner in the manner prescribed.

By virtue of the insertion of Eighth Schedule to the Ordinance effectively there would be following two regimes as far as the payment mechanism of capital gain tax is concerned:

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1. under the existing regime investors who have been excluded for the application of Eighth Schedule shall be required to pay advance tax on quarterly basis in respect of capital gains arising on disposal of securities during the year.
2. Under the newly introduced regime certain categories of tax payers would be subject to tax collection by NCCPL.

It is important to note that an individual investor is not allowed to pay quarterly advance tax as envisaged under sub-section (5B) of section 147 of the Ordinance. Considering the option available under the Eighth Schedule to opt out of its applicability, there is possibility that most of the individual investors may opt out of newly introduced regime.

Impact on Foreign Institutional Investors

There has been no change in the mode and manner as far as taxation of the foreign institutional investors is concerned. Only tax rates have been revised that have been listed above. Foreign institutional investors are still required to pay quarterly advance tax and any balance tax is to be paid along with return of income. Similarly, they are still required to file quarterly advance tax statements.

15. Remittance of profits by a branch – Pakistan source income

Section 101

This section discusses the criteria for the treatment of different streams of income as Pakistan source income in the hands of a resident person and the non- resident person. The existing sub-section (6) provides that a dividend shall be Pakistan source income if it is paid by a resident company.

Section 2(19) while defining the term dividend provides that remittance of after tax profit of a branch of a foreign company operating in Pakistan shall be treated as dividend income of such foreign company. As existing provision of sub-section (6) of section 101 does not treat such remittance of profit by branch as Pakistan source dividend income of the non-resident entity therefore, some non-resident entities had taken a view that such remittance of profit is not taxable in their hands. The proposed amendment seeks to consider such remittance of profit by a branch of non-resident entity as dividend.

16. Minimum tax on the income of certain persons

Section 113

The existing section excludes any amount taken as deemed income and is assessed as final discharge of the tax liability from the definition of turnover. However, there was no exclusion of tax already paid or payable in respect of deemed income which is assessed as final discharge of the tax liability. Due to this ambiguity disputes had arisen between the taxpayers and tax officers in respect of calculation of minimum tax.

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Bill proposes to insert an explanation after sub-section (1) which provides that the expression "tax payable or paid" does not include tax already paid or payable in respect of deemed income which is assessed as final discharge of the tax liability under section 169 or under any other provision of this Ordinance.

17. Revision of return

Section 114

Current provision of section 114(6) provides that the taxpayer may file a revised return if it discovers any omission or wrong statement therein. The said revision of return may have led to decrease in taxable income or increase in taxable loss, determined under order passed under any of the sections 121, 122, 122A, 122C, 129, 132, 133 or 221 of the Ordinance.

Now the Bill seeks to insert a new clause which restricts revision of return of income if it leads to reduction in taxable income or increase in taxable loss for the taxpayer. This particular amendment would create hardships for the tax payer where there are genuine reasons for the revision of return of income.

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18. Time limit for issuance of notice calling out particulars from taxpayer in line with deficiencies in return filed by the taxpayer.

Section 120

Section 120(3) provides that the Commissioner may issue notice to the taxpayer informing him of the deficiencies in the return filed and directing taxpayer to provide information, particulars, statement or documents, if the return of income furnished is not complete. As per the current provision of section 120(6), such notice cannot be issued after the end of financial year in which the return is furnished.

Now the Bill seeks to amend section 120(6) by virtue of which Commissioner is empowered to issue the aforesaid notice before the expiry of 180 days from the end of financial year in which return was filed. Consequently, the time period for issuance of notice is proposed to be increased by 180 days.

19. Best judgment assessment

Section 121

The existing provision empowers the Commissioner to make best judgment assessment of the taxable income or income of the person and the tax due thereon. The existing section lacks any provision which may provide that the best judgment assessment shall prevail over the return of income or revised return of income filed by the tax payer.

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Now the Bill seeks to amend section 121 by virtue of which if an assessment order under section 121 is passed by the Commissioner subsequent to furnishing or revision of return of income then such return or revised return shall have no legal effect.

20. Amendment of Assessment Orders passed under repealed 1979 Ordinance

Section 122

Through Finance Ordinance, 2002, an amendment was made in section 122(1) allowing Commissioner to amend orders passed under section 59, 59A, 62, 63 or 65 of the repealed Income Tax Ordinance, 1979. It was primarily included to ensure that the orders passed under repealed Ordinance could be amended since, most of the assessment proceedings at the time of passing of Finance Ordinance, 2002 related to orders passed under the repealed Ordinance. However, since amendment of orders passed under repealed Ordinance, are now time barred under section 122(4), this amendment is no longer relevant.

Now legislature proposes to delete the aforesaid amendment, as a consequence of which, orders passed under the repealed Ordinance cannot be amended under section 122.

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21. Amendment of provisional assessment Order

Section 122

Through Finance Act, 2010, section 122C was inserted in the Ordinance to empower Commissioner to pass a provisional assessment order if a person fails to furnish return of income, in response to a notice under section 114(3) or 114(4). However, as per section 122C(2), the order passed under section 122C was treated as final assessment after passage of sixty days from the date of service of notice. Furthermore, there was no provision in the law to empower the Commissioner to amend the provisional assessment order passed under section 122C.

Now legislature proposes to amend section 122(1) of the Ordinance by empowering Commissioner to amend provisional assessment order passed under section 122C.

22. Power to make enquiries

Section 122 (5A)

Section 122(5A) provides for the amendment of assessment if Commissioner considers that the assessment order is erroneous in so far it is prejudicial to the interest of revenue. Under the existing provisions and as held by the Courts, the Commissioner cannot conduct any enquiries under 122(5A), and could only amend an assessment under 122(5A) if it was certain that the assessment order is erroneous.

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Now the Bill seeks to amend section 122(5A), empowering Commissioner to conduct enquiries before amending the assessment under the subject section. It may be noted that even in the absence of this amendment, the Commissioner is used to making enquiries in the notices issued under section 122(5A) and issue the orders accordingly. The proposed amendment would further enhance the powers of Commissioner in amending assessment under section 122(5A). The taxpayers have filed appeals to various appellate forums contesting the passage of order on the basis of enquiries made under section 122(5A).

Once again excessive powers have been given to the taxation officers. This amendment is likely to be used as a tool to amend completed assessments, creating more hardship for the taxpayer causing increased litigation. These amendments are likely to destroy the sanctity of Universal Self-Assessment Scheme which was brought almost a decade back. It is no secret that section 122(5A) is the most potent weapon in the armory of tax authorities and there appears to be no doubt that taxpayers are likely to suffer more.

23. Finality of provisional assessment order

Section 122C

As per section 122C(2) of the Ordinance, the order passed under section 122C is treated as final assessment after passage of sixty days from the date of service of notice, if the taxpayer did not file return of income alongwith wealth statement, wealth reconciliation statement and other documents required under section 116(2A) within the said period of sixty days.

Now the Bill seeks to amend section 122C(2) of the Ordinance, requiring only individuals and association of persons to furnish returns alongwith wealth statement and wealth reconciliation statements to ensure the provisional assessment is not treated as final assessment.

Moreover, the Bill seeks to introduce proviso in section 122C clarifying that where a company electronically files the return of income alongwith audited accounts or final accounts, as the case may be, for the relevant tax year within the said period of sixty days, then the provisional assessment shall not be treated as final assessment.

The aforesaid proposed amendment is likely to provide relief to the corporate tax payers by allowing them opportunity to submit the required document in order to prevent provisional assessment order being treated as final assessment.

24. Stay of demand by Commissioner (Appeals)

Section 128

Taxpayer appealing against an order of Commissioner used to file application for stay of demand to the Commissioner (Appeals). Under the existing law there is no provision requiring the Commissioner (Appeals) to give any opportunity of being heard to the assessing Commissioner.

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Moreover, there was no bar on the Commissioner (Appeals) to grant stay against demand for any period which he deems fit.

Now, the Bill seeks to insert sub-section (1A) in the section 128 wherein, it is proposed that taxpayer may be granted stay from recovery of tax, after giving an opportunity of being heard to the Commissioner against whom appeal was made, if the Commissioner (Appeals) is of the opinion that the recovery of tax will cause undue hardship to the taxpayer. Moreover, through this proposed amendment, the Commissioner (Appeals) is only authorized to grant stay of recovery upto 30 days.

The above proposed amendment would lead to further difficulty in obtaining stay from recovery of demand from the Commissioner (Appeals) as, the opportunity of being heard given to the assessing Commissioner would cause further delay in the processing of stay applications. Furthermore, the stay of demand could be granted for only 30 days, which would cause further hardship for the taxpayer leading to cash flow problems.

Considering the recent trend of the tax officers with respect to creation of tax demands to meet the budgetary targets, this particular amendment is likely to hit hard on the taxpayers.

25. Time limit for disposal of appeal by Commissioner (Appeals)

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Section 129

Under the existing provisions, where the Commissioner (Appeals) has not made an order on an appeal before the expiration of four months from the end of the month in which the appeal was lodged, the relief sought by appellant in the appeal was automatically treated as having been made, subject to sub-sections (6) and (7) of the section 129. This section was beneficial to the interests of taxpayer as it ensured speedy disposal of appeal by the Commissioner (Appeals).

Now, the Bill proposes to delete sub-section (5), (6) and (7) of section 129. Consequent to the proposed deletion of these sections, now there would be no pressure on Commissioner (Appeals) to pass appellate order. These measures are likely to create mistrust between the taxpayer and tax authorities.

26. Constitution of Appellate Tribunal

Section 130

Currently, in order to become an accountant member of the Appellate Tribunal, a Commissioner Inland Revenue or Commissioner Inland Revenue (Appeals) is required to have at least 5 years of experience as Commissioner or Collector. Moreover, The Federal Government was required to appoint a judicial member as the Chairman of the Tribunal and except in special circumstances an accountant member was appointed as accountant member.

The Bill proposes following amendments in the provisions governing appointment of Appellate

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Tribunal:

- The qualification period for Commissioner Inland Revenue and Commissioner Inland Revenue (Appeals) to become accountant member of Tribunal has now proposed to be reduced to 3 years;
- The requirement to appoint judicial member as Chairman of Tribunal is proposed to be deleted.

The aforesaid amendment will lead to appointment of accountant members in the Appellate Tribunal. As it is evident from prior experience, the accountant members being previously involved in collection of revenue as employees of FBR, are prone to giving most of their decisions in favor of tax authorities. Thus the proposed amendment will make it more difficult for taxpayer to seek recourse from Tribunal against any grievance arising out of orders passed by the Commissioner.

27. Stay order by the Appellate Tribunal

Section 131

Currently, the Appellate Tribunal Inland Revenue is empowered to issue stay orders, granting stay from recovery of tax demand on the orders against which taxpayer has filed appeal under section 131. The Tribunal is not invariably required to give opportunity of being heard to the Commissioner before granting stay from recovery of tax demand. The Tribunal was allowed to grant stay from recovery of tax demand upto a maximum period of 180 days.

The Bill proposes to restrict the authority of Tribunal in passing stay order only after it has given an opportunity of being heard to the Commissioner. Moreover, the Bill proposes an amendment in this section wherein stay granted by High Court from recovery of tax would be excluded while computing aforesaid maximum period of 180 days' stay of demand granted by the Tribunal. This would further reduce the time period for which stay could be granted by the Tribunal.

Further, as the proposed amendment requires the Tribunal to give an opportunity of being heard to the Commissioner before passing the stay order, it would create more hurdles for taxpayer in obtaining stay orders from Tribunal.

Considering the history and the type of tax demands created by the tax authorities, squeezing the opportunities available with the taxpayers to seek relief from appellate authorities, would further cripple the taxpayers.

28. Settlement of tax demand against provisional assessment

Section 137

Through Finance Act, 2010, consequent to insertion of section 122C pertaining to provisional assessment, a proviso was inserted in section 137(2), whereby taxpayer was liable to pay tax demand arising out of provisional assessment order under section 122C, within a period of 60 days from the date of service of notice. However, there was no provision in the Ordinance which allows for voluntary settlement of tax demand arising out of an order under section 122C, before passage of 60 days from service of notice.

Now legislature proposes to insert a proviso in section 137(2), allowing taxpayer to pay the tax payable arising from an order passed under section 122C, before passage of 60 days from the date of service of notice.

29. Imports

Section 148

By virtue of the proposed amendments in sub-section (7) the Bill seeks to provide that in the case of importer, income from imports shall be treated as under final tax regime in the case where tax was required to be collected but was not collected.

This amendment is of clarificatory nature thereby covering all eligible imports under the final tax regime in respect of tax collected at customs stage

30. Profit on debt

Section 151

Proposed amendment seeks to substitute the word “deducted” with the word “deductible” by virtue of which even the amount of tax that was deductible but was not deducted shall be treated as a final tax on the profit on debt arising to an individual or an association of persons

31. Payments to non-resident

Section 152

In order to consolidate the provision relating to tax withholding on payments to non-residents the Bills seeks to make some amendment in section 152 and 153. The existing section 153A, which provides for tax withholding by every person making a payment for advertisement services to a non-resident media person relaying from outside Pakistan, is proposed to be deleted and moved to section 152 and renumbered as (1AAA).

Another amendment is proposed in sub-section (2) by virtue of which payments to non-residents as envisaged under said sub sections (1AAA) or (2A) shall not be subjected to tax withholding at the rate of 20%.

A new sub-section (2A) is proposed to be inserted which provides that the provision of sub-section (1AA), requiring a person to withhold tax while making a payment of insurance premium or re-insurance premium to a non-resident person, shall not apply to an amount that is taxable to a permanent establishment in Pakistan of a non-resident person, subject to the written approval of the Commissioner.

Amendments are also proposed to substitute the word “deducted” with the word “deductible” by virtue of which even the amount of tax that was deductible but was not deducted shall be treated as a final tax on the payments made to a non-resident person on account of execution of contracts as envisaged in sub-section (1A) and on payments to a non-resident person for insurance premium or re-insurance premium as envisaged in section (1AA).

32. Payments of goods, services and contracts

Section 153

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The Bill seeks to delete the words “permanent establishment in Pakistan of a non-resident person” from section 153 apparently to consolidate under section 152 all the relevant provisions relating to tax withholding on payments to non-resident persons.

However, there appears to be some mistakes in the drafting and printing of the Finance Bill as the relevant sub-sections relating to tax withholding on payments to permanent establishment in Pakistan of a non- resident person are missing from the Bill.

This understanding is also confirmed while reviewing the amendments as proposed in First Schedule to the Ordinance.

The First Schedule to the Ordinance provides references to clauses (a), (b) and (c) of section (2A) but there is no such provisions under the proposed sub-section (2A) inserted in the Bill.

Amendments are also proposed to substitute the word “deducted” with the word “deductible” by virtue of which even the amount of tax that was deductible but was not deducted shall be treated as a final tax on the payments made on account of sale of goods and execution of contracts

33. Payment to Traders and Distributors

Section 153A

Bill proposes to insert new section 153A, introducing collection of tax by the manufacturer at the time of sale to distributor, dealer and wholesaler at the rate of 1% of the gross amount of sale which shall

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be adjustable from the tax liability on annual taxable income for the tax year.

This amendment is proposed with the intention to ensure registration of the distributors, dealers and wholesalers and to bring them in tax net. However keeping in view the nominal rate of tax collection it is unlikely that the amendment will meet its objective.

34. Tax collected or deducted as a final tax

Section 169

Consequential to the insertion of section 152 (1AAA) and omission of section 153A, reference of the sections and sub-sections are proposed to be changed.

Bill further proposes that where taxes deductible as final tax have not been deducted or short deducted the same can be recovered and shall be treated as final tax.

This measure is taken to bring harmony since now options are available for normal taxation where final taxation regime is applicable.

35. Additional payment for delayed refunds

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Section 171

The Bill seeks to provide a fixed rate of 15% in respect of compensation for delayed refunds. Under the existing provision, the rate of compensation is equivalent to KIBOR.

36. Notice to obtain information or evidence

Section 176

Bill proposes to remove the words "selected for audit" from sub-section 1(c).

Apparently the reference of "selected for audit" is proposed to be deleted due to the fact that under section 214C only Board has powers to select a case for audit. As a number of taxpayer are already in courts to challenge the notices issued for audit under section 177, without their selection by FBR, therefore, apparently the legislature has suggested the deletion of "selected for audit" to avoid any litigation while conducting search of the premises of the taxpayer.

37. Tax Payer Card

Section 181B

Bill proposes to introduce the concept of Tax Payer Honour Card for individual tax payers through insertion of section 181B. This card shall be a part of the Scheme of the Board to provide benefits to

the individual tax payers however an individual shall only be entitled to Honour Card after fulfilling the minimum eligibility criteria to be provided in the Scheme.

Though the amendment will work as an acknowledgement to efficient discharge of responsibility by individuals especially salaried tax payers to income tax however the significance of such benefits/rewards to the tax payers can only be analyzed once the scheme is enforced.

38. Offences and penalties

Section 182

The Bill proposes to insert a proviso to sub-section (2) of this section whereby the taxpayer can voluntarily pay the penalty due under this section where the tax payer admits his default.

Prior to this amendment, no penalty could be payable under this section unless the Commissioner, Commissioner (Appeals) or Appellate Tribunal has served the tax payer a notice in this regard.

39. Default Surcharge

Section 205

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This section discusses the application and payment of default surcharge.

The Bill proposes to waive the liability of tax payer to pay default surcharge where the tax payer opts to pay the tax due on the basis of order passed by the Commissioner (Appeals) within the due date of the order and does not file appeal with the Appellate Tribunal.

This amendment will act as an incentive to the tax payer to discharge the tax liability without requiring any further payment on account of default surcharge while refraining from further procedural hassle and litigations.

Further, the Bill proposes to fix the rate of default surcharge at 18%. Under the existing provision the rate of default surcharge is provided at KIBOR + 3%.

40. Income Tax Authorities

Section 207

Current provision of section 207(3) provides that the Chief Commissioner Inland Revenue and Commissioner Inland Revenue (Appeals) are subordinate to the Board and Commissioner Inland Revenue is subordinate to Chief Commissioner Inland Revenue. However, the Ordinance do not specify whether Additional Commissioner Inland Revenue, Deputy Commissioner Inland Revenue, Assistant Commissioner Inland Revenue, Inland Revenue Officer, Inland Revenue Audit Officer, Superintendent Inland Revenue, Inspector Inland Revenue and Auditor Inland Revenue are subordinate to Board and Chief Commissioner Inland Revenue.

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Now the Bill seeks to amend section 207(3) wherein, it has clarified that all the aforesaid tax officers are subordinate to Board and Chief Commissioners. Any order / notification / circular issued by Board and / or Chief Commissioner Inland Revenue shall be binding on them.

41. Power or function exercised by the tax authorities

Section 211

The legislature intends to insert subsection (3) in section 211, thereby authorizing the Board or an authority appointed under the Ordinance (with the approval of the Board) to exercise all powers conferred upon any authority subordinate to it.

42. Condonation of time limit for tax authorities

Section 214A

Through Finance Act, 2009, section 214A was inserted wherein the Board was empowered to condone time limit, where any time or period has been specified under any of the provisions of the Ordinance or rules made thereunder within which any application is made or any act or thing is to be done. At the time of promulgation of Finance Act, 2009, it was interpreted that the Board can grant condonation in time limit, only to taxpayer, not to a taxation officer.

However, the Bill proposes to insert a proviso in section 214A which says that the expression “any act or thing is to be done” includes any act or thing is to be done by the taxpayer or the tax authorities. The aforesaid proposed amendment would be against to the interests of taxpayer as the Board will be empowered to give condonation of time limit to taxation officers. The taxation officers will use this provision to obtain condonation of time limit for issuing notices and / or orders which have been time barred.

43. Cash withdrawal from bank

Section 231A

Through Finance Act, 2005, section 231A was introduced which required every banking company to withhold tax at the rate of 0.2% from every cash withdrawal, if the sum total of the payments for cash withdrawal exceeds Rs. 25,000 in a day.

The Legislature has now proposed to enhance the limit of daily cash withdrawals without tax deduction from Rs.25,000 to Rs.50,000.

44. Collection of tax by stock exchange

Section 233A

Through Finance Act, 2005, section 231A was introduced which, amongst other requirements, requires stock exchange registered in Pakistan to collect advance tax from its members in respect of;

- Trading of shares by the member; and
- Financing of carryover trades in share business

The Bill proposes to remove the requirement of collection of tax on the aforesaid transactions, as a consequential impact of imposition of capital value tax on the purchase of shares of listed company and collection of tax by NCCPL under the proposed section 233A.

45. Collection of tax by NCCPL

Section 233AA

Bill proposes to insert section 233AA, which requires NCCPL to collect advance tax from the members of Stock Exchange in Pakistan, in respect of margin financing in share business of Pakistan.

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The First Schedule

Rates of Tax

Part I

Division I (Clause I) & (Clause 1A) Division IB

The Bill proposes to revise the rates of taxation for salaried individuals, non-salaried individuals and association of persons (AOP). Through this amendment the normal progressive slab rates are proposed to be revamped for AOPs as against the flat tax rate of 25% which was prescribed through Finance Act, 2010 in Part I, Division IB of the First Schedule.

Further, the Bill seeks to enhance the existing threshold of exemption from Rs. 350,000 to Rs.400,000 and also reducing the existing slabs from 6 to 5 (Clause 1) and from 17 to 5 (Clause 1A) which will reduce the effective tax rates and thereby resulting in reduction of tax burden on aforementioned classes of taxpayers.

- I. Revised tax rates for individuals drawing income other than salary and for AOPs are proposed to be as follows: www.imranghazi.com

S. No.	Income Slabs	Rate of Tax
1.	Where taxable income does not exceed Rs.400,000	0
2.	Where taxable income exceeds Rs. 400,000 but does not exceed Rs. 750,000	10% of the amount exceeding Rs. 400,000
3.	Where taxable income exceeds Rs. 750,000 but does not exceed Rs. 1,500,000	Rs. 35,000 plus 15% of the amount exceeding Rs.750,000
4.	Where taxable income exceeds Rs. 1,500,000 but does not exceed Rs. 2,500,000	Rs. 147,500 plus 20% of the amount exceeding Rs.1,500,000
5.	Where taxable income exceeds Rs. 2,500,000	Rs. 347,500 plus 25% of the amount exceeding Rs.2,500,000

II. The rates of tax for salaried individuals are proposed to be substituted as follows:

S. No.	Income Slabs	Rate of Tax
1.	Where taxable income does not exceed Rs.400,000	0
2.	Where taxable income exceeds Rs. 400,000 but does not exceed Rs. 750,000	5% of the amount exceeding Rs.400,000
3.	Where taxable income exceeds Rs. 750,000 but does not exceed Rs. 1,500,000	Rs. 17,500 plus 10% of the amount exceeding Rs.750,000
4.	Where taxable income exceeds Rs. 1,500,000 but does not exceed Rs. 2,500,000	Rs. 92,500 plus 15% of the amount exceeding Rs.1,500,000
5.	Where taxable income exceeds Rs. 2,500,000	Rs. 242,500 plus 20% of the amount exceeding Rs.2,500,000

In consequence of the aforesaid proposed amendment in Clause 1A, the marginal tax relief provisions shall become redundant; however, the Bill has not proposed to omit the said provisions.

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Comparison of tax rates

I. Salaried Individuals

Taxable Income	Tax Liability		Tax Savings
	As Per Current Tax Rates	As Per Proposed Tax Rates	
-----Rupees-----			
300,000	-	-	-
375,000	5,000	-	5,000
425,000	10,625	1,250	9,375
500,000	17,500	5,000	12,500
600,000	27,000	10,000	17,000
700,000	42,000	15,000	27,000
850,000	63,750	27,500	36,250
1,000,000	90,000	42,500	47,500
1,100,000	110,000	52,500	57,500
1,300,000	143,000	72,500	70,500
1,500,000	179,500	92,500	87,000

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Taxable Income	Tax Liability		Tax Savings
	As Per Current Tax Rates	As Per Proposed Tax Rates	
-----Rupees-----			
1,800,000	252,000	137,500	114,500
2,000,000	293,000	167,500	125,500
2,500,000	400,000	242,500	157,500
3,300,000	577,500	402,500	175,000
4,200,000	777,000	582,500	194,500
4,600,000	871,750	662,500	209,250

II. Non- Salaried Individuals

Taxable Income	Tax Liability		Tax Savings
	As Per Current Tax Rates	As Per Proposed Tax Rates	
-----Rupees-----			
300,000	www.imranghazi.com	-	-
425,000	31,875	2,500	29,375
600,000	60,000	20,000	40,000
900,000	135,000	57,500	77,500
1,300,000	260,000	117,500	142,500
1,600,000	400,000	167,500	232,500

III. Association of Persons

Taxable Income	Tax Liability		Tax Savings
	As Per Current Tax Rates	As Per Proposed Tax Rates	
-----Rupees-----			
300,000	75,000	-	75,000
425,000	106,250	2,500	103,750
600,000	150,000	20,000	130,000
900,000	225,000	57,500	167,500
1,300,000	325,000	117,500	207,500
1,600,000	400,000	167,500	232,500

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Part I

Division IA (Rate of tax on certain retailers)

The Bill seeks to reduce the rate of final tax from 1% to 0.5% on the turnover of retailers being an individual or association of persons having turnover up to Rs.5,000,000 for any tax year. The proposed reduction in tax rate is aimed to provide relief to small businesses and low income earners.

Part I

Division VII (Capital gains on disposal of securities)

The Bill seeks to make amendments in tax rates on Capital Gains on disposal of securities. Through the proposed amendment the rates of CGT have been proposed to be frozen up till 2014. The rate of tax is proposed to be 10% on securities held for less than six months and 8% on securities held for more than six months but less than twelve months. Revised table is as under:

S. No.	Period	Tax Year	Rate of Tax (%)
1.	Where holding period of a security is less than six months.	2011	10
		2012	10
		2013	10
		2014	10
		2015	17.5
2.	Where holding period of a security is six months or more but less than twelve months.	2011	7.5
		2012	8
		2013	8
		2014	8
		2015	9.5
		2016	10
3.	Where holding period of a security is twelve months or more.	-	0%

Part I

Division VIII (Capital gains on disposal of immovable property)

The Bill seeks to prescribe rates of Capital Gain Tax on the sale of immovable property if it is disposed off within two years of its acquisition. This will discourage investors who are either speculating or holding real estate for trading purposes. The proposed tax rates are as under:

S. No.	Period	Rate of Tax (%)
1.	Where holding period of immovable property is up to one year	10
2.	Where holding period of immovable property is more than one year but not more than two years	5

Part IIA (Collection of tax from distributors, dealers & wholesalers)

The bill seeks to insert a new Part in the First Schedule to the Ordinance which prescribe the rate of tax of 1% of the value of sales to be collected by the manufacturers at the time of sales to distributors, dealers and wholesaler.

Part III

Division II (Payments to non-residents) Division IIIA

The bill seeks to prescribe the rate of tax at 10% of gross amount paid to be deducted from payments to non-resident media persons. This rate of tax was previously provided in Division IIIA of Part III of the First Schedule which is proposed to be omitted and consolidated under Division II of Part III of the First Schedule.

Further, the bill proposes to prescribe the rates of tax to be deducted from payments to non-residents as provided in clause (a), (b) & (c) of sub-section (2A) of section 152. However, the proposed sub-section (2A) of section 152 does not identify/refer the nature of payments instead it provides the conditions for non-applicability of provisions of sub-section (1AA) of section 152 of the Ordinance. The proposed tax rates as provided in the Bill are reproduced as under:

S. No.	Clause	Description	Rate of Tax
1	(a)	Payment referred to in clause (a) of sub-section (2A) of section 152.	3.5% of the gross amount payable
2	(b)	Payment referred to in clause (b) of sub-section (2A) of section 152.	
	(b) (i)	In case of transport services.	2% of the gross amount payable
	(b) (ii)	In any other case.	6% of the gross amount payable
3	(c)	Payment referred to in clause (c) of sub-section (2A) of section 152.	6% of the gross amount payable

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Part IV
Division III (Tax on motor vehicles)

The bill seeks to enhance the rate of tax to be collected under section 234 of the Ordinance in case of goods transport and passenger transport vehicles. The existing and proposed rates for each category are as under: -

S. No.	Clause	Category of Vehicle	Rate of Tax	
			Existing	Proposed
1.	(1)	Goods transport vehicle	Rs.1 per KG of the laden weight	Rs.5 per KG of the laden weight
2.	2 (c)	Passenger transport vehicle with registered seating capacity 20 persons or more	Rs. 100 per seat per annum	Rs. 500 per seat per annum

Part IV
Division VII (Purchase of motor cars and jeeps)

The Bill seeks to enhance the amount of final tax to be collected by Excise and Taxation Department at the time of registration of a new locally manufactured motor vehicle having engine capacity from 1301cc to 1600cc. The existing and proposed rates for each category are as under: -

Engine Capacity	Amount of final tax	
	Existing	Proposed
1301cc to 1600cc	Rs. 16,875	Rs. 25,000

The Second Schedule

Exemptions and Tax Concessions

Part I

Exemption from Total Income

In order to provide relief to pensioners, the following two new clauses are proposed to be inserted after Clause (23A):

Clause (23B) (Monthly installment from income payment plan)

The amount received as monthly installment from an income payment plan is proposed to be exempt from tax provided that it is invested out of the accumulated balance of an individual pension account for a period of ten years in the following: -

- a. Pension fund manager; or
- b. An approved annuity plan; or
- c. Another individual pension accounts as specified in the Voluntary Pension System Rules, 2005

The Commissioner is authorized to re-compute the tax payable by the taxpayer, if on the basis of documents or otherwise discovers that the conditions provided in this clause were not fulfilled when exemption was originally allowed.

Clause (23C) (Withdrawal from accumulated balance from approved pension fund)

The amount of any withdrawal from accumulated balance from approved pension fund representing transfer of balance from an approved provident fund to the said approved pension fund under the Voluntary Pension System Rules, 2005 is proposed to be exempt from tax.

Clause (61) & (66) (Exemption to The Citizen Foundation)

In order to provide incentive for the education development in Pakistan, the Bill proposes to grant exemption to any amount paid as donation to “The Citizens Foundation” – a non-profit organization.

Further, the Bill also proposes to grant tax exemption in respect of any income derived by “The Citizens Foundation”.

Clause (101) (Profits & gains derived by a Venture Capital Company)

The Bill seeks to enhance the period of exemption from June 30, 2014 to June 30, 2024 (i.e. ten years) in respect of profits and gains derived by a venture Capital Company and Venture Capital

Fund registered under Venture Capital Companies and Funds Management Rules, 2000 and a Private Equity and Venture Capital Fund.

Part II Reduction in tax rates

Clause (9A) (Reduced rate of tax on import value of raw material)

This clause provides for the collection of tax at the reduced rate of 3% on the import value of raw materials imported by an industrial undertaking.

The Bill seeks to make the approval through exemption certification by the Commissioner as mandatory in respect of collection of tax at the rate of 3% on import of raw material by an industrial undertaking for its own use.

Part IV Exemption from specific provisions

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Clause (11B) & (11C) (Inter-corporate dividend and profit on debt)

In order to provide tax relief to group companies, the Bill seeks to make withholding tax provisions of section 150 (Dividends) and 151 (Profit on Debt) inapplicable in respect of inter-corporate dividend and inter-corporate profit on debt.

Clause (103A) of Part I of the Second Schedule already provides for exemption in respect of any income arising from inter corporate dividend within the group companies entitled to group taxation under section 59AA or group relief under section 59B.

Clause (16A) (News print media services)

The Bill seeks to make editorial correction by substituting the words “news print media services” with the words “persons making the payment to electronic and print media”. Through this amendment, the payments in respect of advertising services to electronic media have now been proposed to be excluded from the purview of section 153 (1) (b) of the Ordinance.

Clause (41A), (41AA) & (41AAA) (Option for normal tax regime)

In order to provide incentive to importers, exporters and suppliers for opting out of Final Taxation Regime and for facilitating to switch to Normal Tax Regime, the bill seeks to offer the following incentives: -

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S. No.	Class of Taxpayer	Applicable section	Proposed Clause	Proposed Conditions for non-applicability of PTR provisions
1.	Importer	148	(41A)	Minimum tax liability under normal tax regime shall not be less than 60% of tax already collected under sub-section (7) of section 148.
2.	Exporter	154	(41AA)	Minimum tax liability under normal tax regime shall not be less than 50% of tax already deducted under sub-section (4) of section 154.
3.	Supplier	153 (1) (a)	(41AAA)	Minimum tax liability under normal tax regime shall not be less than 70% of tax already deducted under clause (a) of sub-section (1) of section 153.

Clause (76)

The Bill through the omission of this clause seeks to withdraw the tax exemption on electricity consumption available to industrial undertaking which is manufacturer-cum-exporter and situated in Karachi Export Processing Zone.

The Third Schedule

Depreciation - Initial Allowance - Expenditure

Part II

Initial Allowance and First Year Allowance

Clause (1)

The Bill proposes to reduce the initial allowance on acquisition of new buildings from existing 50% to proposed 25%.

The Fourth Schedule

Rules for the Computation of Profits of Insurance Business

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Clause (6B)

The Bill seeks to reduce the rates tax on capital gain derived by insurance companies from disposal of shares of listed companies, vouchers of Pakistan Telecommunication Corporation, modaraba certificate or instruments of redeemable capital and derivative products. The table below provides the proposed reduced rates of CGT when aforementioned securities are disposed off:

S. No.	Tax Year	Where holding period of a security is less than six months		Where holding period of a security is more than six months but less than twelve months	
		Existing Tax Rates (%)	Proposed Tax Rates (%)	Existing Tax Rates (%)	Proposed Tax Rates (%)
1.	2011	10.0	10.0	8.0	8.0
2.	2012	12.5	10.0	8.5	8.0
3.	2013	15.0	12.5	9.0	8.5
4.	2014	17.5	15.0	9.5	9.0
5.	2015	17.5	17.5	10.0	9.0

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The Fifth Schedule

Part I

Rules for the computation of profits and gains from the Exploration and Production of Petroleum.

The following amendment is proposed in Part I of the Fifth Schedule:

Sub-rule (4A)

The proposed insertion of sub-rule (4A) of rule 4 of part I of the Fifth Schedule to the Ordinance seeks to provide one time option to E&P Companies to pay tax at the rate of 40% of the profit and gains, net of royalty, derived by petroleum exploration and production undertaking. This reduction in rate shall be available only to those companies who withdraw all pending appeals, references and petitions before appellate fora and subject to payment of whole of the outstanding liability upto tax year 2011, by June 30, 2012.

A number of E&P Companies operating in Pakistan are jointly in-litigation on following issues:

- Calculation of depletion allowance - Tax authorities are of the view that the 15% depletion allowance claimed by E&P companies should be calculated after the deduction of royalty amount from well head value receipt.
- Application income tax rate - Tax authorities are of the view that E&P companies should be taxed at the rate of 55%.
- Deductibility of decommissioning costs – Tax authorities are of the view that decommissioning costs incurred prior to tax year 2010 are not allowable as a deduction

The latest judgments in respect of each of the above issues are in favour of tax authorities. Considering the huge quantum of revenue involved and the fact that latest decisions are in favour of tax authorities; this proposal is being introduced as a measure to generate quick revenue in order to meet budgetary targets.

The Seventh Schedule

The Bill seeks to increase the tax rate on dividends accruing to banks on investments in Money Market Fund and Income Fund from existing 10% to 25% for the tax year 2013 and 35% for the tax year 2014 and onward.

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The Eighth Schedule

Rules for the computation of capital gains on listed securities

The Finance (Amendment) Ordinance, 2012 was promulgated by the President of Pakistan on April 24, 2012 in accordance with the Article 89 of the Constitution of Islamic Republic of Pakistan. The life of this Ordinance was 120 days unless it is rejected by the elected members of the Parliament before the date of expiry. The Bill sought approval from the Parliament in order to make the provisions of the aforesaid Ordinance, a permanent part of the Income Tax Ordinance, 2001. Justification of the proposed Schedule is on the following grounds:

- 1- That revised capital gains tax would definitely improve the documentation of the economy and collection from the investments made in the stock exchanges.
- 2- Stock exchange would attract new investment which would further increase revenue collection.

The objectives of this proposed Schedule is to enhance/improve the stock exchange markets in Pakistan and ultimate goal is to increase revenue collection. However, this Schedule may not help in achieving the fundamental objective of stock market that is to promote initial public offers (IPOs). There is a dire need that government should have given incentives to new industries which will boost the industrial and business growth in real terms and ultimately improve the level of employment in Pakistan. A healthy stock market is only possible when there is positive growth in the industrial sectors through IPO.

The main characteristics of this proposed Schedule is as under:

- By virtue Insertion of section 100B of the Ordinance, certain persons or classes of persons are now liable to capital gains tax in the manner and mode provided under the newly inserted Eighth Schedule to the Ordinance.
- Newly inserted section 100B provides the list of following persons or the class of persons that are not affected by the new regime:
 - (f) a mutual fund;
 - (g) a banking company, a non-banking finance company, and an insurance company;
 - (h) a modaraba;
 - (i) a “foreign institutional investor” being a person registered with NCCPL as a foreign institutional investor; and
 - (j) any other person or class of persons notified by the Board.
- The National Clearing Company of Pakistan (NCCPL) is declared as a tax collecting agent for carrying out collection of capital gain tax on disposal of listed securities on behalf of the taxpayers.

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- The NCCPL shall issue an annual certificate to the taxpayer on the prescribed form in respect of capital gain subject to tax under this Schedule for a financial year.
- Every taxpayer shall file the certificate along with the return of income and such certificate shall be conclusive evidence in respect of the income under this Schedule.
- In respect of tax year 2012 for the period commencing from April 24, 2012 till June 30, 2012, the certificate issued by NCCPL shall be the basis of capital gains and tax thereon for that period.
- The amount collected by NCCPL shall be deposited in a separate bank account with National Bank of Pakistan and the said amount shall be paid to the Board alongwith interest accrued thereon, on yearly basis, by July 31 next following the financial year in which the amount was collected.
- NCCPL to furnish to the Board within 30 days of the end of each quarter, statement of capital gain and tax exempted therein in that quarter.
- Investors falling under the ambit of the Eighth Schedule shall be exempt from the payment of quarterly advance tax and filing of quarterly statements.
- A person who does not intend to opt for the determination and payment of tax as laid down in the Eighth Schedule shall be required to file an irrevocable option to NCCPL after obtaining prior approval from the Commissioner in the manner prescribed.
- Enquires as to the nature and sources of amount invested shall not be made, provided that amount remains invested in the share of a public company for a period of 120 days and tax on capital gains, if any, has duly been discharged in the manner laid down under this Schedule.
- No enquiries as to the nature and source of amount invested shall be made for any investment made in the listed securities prior to the introduction of Eighth Schedule subject to the condition that the amounts remain invested for a period of 45 days upto June 30, 2012 in the manner as may be prescribed.

Capital Value Tax

1. Imposition of Capital Value Tax on shares of a public company at the rate of 0.01%

Capital Value Tax (CVT) was introduced vide section 7 of the Finance Act, 1989. Through Finance Act, 2004 the scope of CVT was widened so as to include, purchase of following securities:

- Modaraba certificates or any instrument of redeemable capital
- Shares of listed companies

For this purpose clause (E) was introduced in sub-section (2) of section 7 of the Finance Act, 1989 whereby the rate of CVT was levied on purchase of securities at the rate of 0.02% of the purchase value.

Later Finance Act, 2009 removed the shares of listed securities from the scope of CVT. However, the CVT on purchase of modaraba certificates and instruments of redeemable capital of a public company listed on a registered stock exchange remained intact.

On April 24, 2012 Finance (Amendment) Ordinance, 2012 was introduced with immediate enforcement whereby clause (F) was introduced in sub-section (2) of section 7 of the Finance Act, 1989. This amendment reintroduced the CVT at the rate of 0.01% of the purchase value on the purchase of shares of a company listed on a registered stock exchange in Pakistan.

Simultaneously the Finance (Amendment) Ordinance, 2012 removed clause (c) of sub-section (1) of section 233(A) by virtue of which the income tax to be collected by the Stock Exchange at the rate of 0.01% of the traded value of shares payable by Members of stock exchange in respect of trading of shares is no longer applicable.

Since the life of Finance (Amendment) Ordinance, 2012 is 120 days unless it is rejected by the elected members of the Parliament before the date of expiry, the amendments are now proposed in the Bill seeking approval from the Parliament in order to make the provisions of the aforesaid Ordinance, a permanent part of the CVT law.

Consequent to the above amendment the cost of investing in the shares will increase as the newly introduced CVT is not adjustable against any other tax liability, whereas the 0.01% income tax as applicable prior to April 24, 2012 was treated as advance tax and was adjustable against the final income tax liability of the investor.

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2. Imposition of Capital Value Tax on immovable property situated in urban area

It is proposed to impose capital value tax on immovable properties in urban area falling within the limits of Islamabad Capital Territory at the following rates:

(A) (a) Residential immovable property, (other than flats), situated in urban area, measuring at least 500 square yards or one kanal (whichever is less) and more—

Where the value of immovable property - is recorded - is not recorded	- 2% of the recorded value - Rs. 100 per square yard of the landed area	Whichever is Higher
Where the value of immovable property is a constructed property	Rs.10 per square feet of the constructed area in addition to the value worked out above	

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(b) Residential flats of any size situated in urban area—

Where the value of immovable property is recorded	2% of the recorded value	Whichever is higher
Where the value of the immovable property is not recorded	One hundred rupees per square feet of the covered areas of the immovable property	

c) Commercial immovable property of any size situated in urban area:

Where the value of immovable property - is recorded - is not recorded	- 2% of the recorded value of the landed area - One hundred rupees per square feet of the landed area	Whichever is higher
Where the immovable property is a constructed property	Ten rupees per square feet of the constructed area in addition to the value worked out above	

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Sales Tax Act, 1990

Assessment of tax and recovery of tax not levied or short levied or erroneously refunded

Section 11 & 36

Bill proposes to delete section 36 and substitute section 11 with the objective of merging the provisions of sections 11 and 36 and broadening the concept of tax assessment to those cases where tax has not been levied or short levied or erroneously refunded either fraudulently or inadvertently.

In the substituted section 11, the following new changes are proposed to be made:

- Presently, by virtue of section 36(2), the show cause notice for recovery of tax may be issued within 3 years where such recovery of tax arises by reason of inadvertence, error or misconstruction. However, in case of collusion or deliberate act, the show cause notice may be issued within five years. Substituted section proposes to harmonize the period of 5 years for issuance of show cause notice in both cases.
- Presently, Commissioner has powers to extend the time period by 60 days if the order is not passed within 120 days of issuance of show cause notice. Bill seeks to extend the powers of Commissioner to increase the above time limit up to 90 days.
- Existing sections 11 & 36 provide for adjournment of the proceedings up to 30 days on the request of the petitioner and such time is excluded for computation of limitation period of passing the order. Bill proposes to extend the maximum time period of adjournment of proceedings on petitioner's request from 30 days to 60 days and such time period will not be taken into account for computation of limitation period of passing the order under substituted section 11.

Fifth Schedule-Zero rated goods

This Schedule deals with the supplies of goods chargeable to tax at zero percent. 'Supplies against international tenders' are proposed to be deleted from this Schedule and it is included in Sixth Schedule under the list of exempted goods. Hence, zero rating on said supplies is proposed to be replaced with the exemption.

Above amendments in the Fifth Schedule shall be effective from June 2, 2012.

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Sixth Schedule-Exempted goods

Table-I (Imports or supplies)

As a result of substitution of Customs Tariff (First Schedule to the Customs Act, 1969), certain PCT headings given in Sixth Schedule against exempted goods are proposed to be changed to make them in line with new Tariff as per the said First Schedule.

Table-II (Local supplies only) **Serial No.**

- 2 Exemption is proposed to be withdrawn on supply of locally produced crude vegetable oil obtained from locally produced cotton seeds.

- 12 Supplies against international tender are proposed to be included in the list of exempted goods. Presently it is zero rated under Fifth Schedule. Hence, zero rating on said supplies is proposed to be replaced with the exemption. As a result of shifting these supplies from zero rating regime to exemption, the supplier would not be able to claim the input tax paid on supplies against international tenders as refund.

Above amendments in the Sixth Schedule shall be effective from June 2, 2012.

Sales Tax Notifications

SRO 589(I)/2012

Through this SRO, Federal Government has made following amendments in Sales Tax Rules, 2006

- 1) Under sales tax registration rules, the corporate person has an option to apply for transfer of registration to the Collectorate having jurisdiction where the place of business is located. A new proviso has been added in Rule 5(1), whereby FBR has also been empowered to transfer the registration of any registered person or any business of a registered person to an area of jurisdiction where the place of business or registered office or manufacturing unit is located.
- 2) In Rule 7, a new sub-rule 4 has been added to provide the procedure of change in nature of business (e.g. from individual to AOP or corporate person) as under:
 - a. The change shall be made by LRO on receipt of verification of documents from RTO in cases of :
 - i. transfer of individual business from any person to his spouses or children, and
 - ii. change in nature of business from individual to AOP.
 - b. In case of change of nature of business from AOP to corporate entity, the change shall only be allowed by LRO on receipt of verification from RTO or LTU and if the same persons who are members of AOP are nominated as directors in the corporate entity.
 - c. A new Sales Tax Registration Number shall be issued to the entity in case of transfer of business or change in nature on any other account.
- 3) Previously Rule 12 provides the procedures for blacklisting and suspension of registration. This Rule has been substituted and now the procedure as prescribed by the Board shall be followed for suspension or blacklisting of registered person.
- 4) Rule 46 deals with the procedure for allowing zero rating on supplies against international tenders for Afghan refugees. Consequent to replacing zero rating on supplies against internal tenders with the exemption, such rule has been amended to delete the reference of zero rating provisions of law.
- 5) As per SRO 167(I)/2012 dated February 22, 2012, procedures and conditions for making zero rated supplies against international tenders awarded by the Federal Government,

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Local Government, etc. was included in Sales Tax Rules, 2006 through inserting Rules 50(A), 50(B) and Rule 50(C). Consequent to allowing exemption on such supplies in place of zero rating, said rules have been modified and it has also been added therein that this exemption shall only be available to the goods which actually become part of the project to be completed or goods to be supplied against international tender and shall not be available to consumables, POL used in vehicles, office furniture etc.

- 6) By virtue of amendment in Rule 58, the Taxpayers' Authorized Representatives Rules will also apply for the purpose of representation before the Board. Authorized Representative should meet the qualification criteria laid down in said rules and he should possess the Letter of Authorization issued by the taxpayer to him to represent such taxpayer before the Board.
- 7) Rule 62 provides that on receipt of a complaint against any authorized representative for misconduct from the Appellate Tribunal or an adjudicating authority, the Board may disqualify him from representing the taxpayer. Now the Board may also take such against authorized representative on receipt of complaint from any officer of the Board.

SRO 590(I)/2012

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Under S.R.O. 1020(I)/2006, minimum value addition is fixed for Commercial importers, Assemblers, Wholesalers and distributors and Retailers for the purpose of payment of sales tax on supply of computer hardware and parts. Through SRO 590(I)/2012, Commercial importers are excluded from minimum value addition for the purpose of payment of sales tax on supply of computer hardware and parts. As a result of such amendment, commercial importer would now be liable to pay sales tax on value addition basis under "Chapter X-Special Procedure for Payment of Sales Tax By Importer".

SRO 591(I)/2012

Under SRO 811(1)/2009 and SRO 645(1)/2011, the import and supply of polyethylene and polypropylene falling under Pakistan Custom Tariff (PCT) heading No. 3901.1000, 3901.2000 and 3902.1000 for manufacture of mono filament yarn and net cloth is sales tax zero rated subject to the given conditions. Now through SRO 591(1)/2012, such zero rating has been replaced with sales tax exemption.

SRO 592(I)/2012

SRO has made following changes in Sales Tax Special Procedure Rules, 2007:

- 1) As per Rule 58E of Special procedure for payment of sales tax by importers, the importers who do not claim any refund of excess input tax shall not be subjected to audit except with the permission of FBR. Through this SRO, this sub-rule has been omitted as a result importers may be subjected to audit without permission of board.

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2) Through this SRO, the Special Procedures for Payment of Sales Tax by Steel Melters, Re-rollers and Ship breakers have also been revamped and the sales tax rates have also been increased as under:

- a. Rate of sales tax on steel-melter, steel re-roller and composite unit of steel melting and re-rolling has been increased from Rs.6 per Kwh to Rs.8 per Kwh
- b. Rate of sales tax on ship breakers have been increased from Rs.4,848 per metric ton to Rs.6,700 per metric ton of re-rollable scrap supplied.
- c. Sales tax payable formula for following persons has been amended to increase the sales tax as given below:

Person	Sales tax payable (Previous)	Sales tax payable (Current)
1) Steel melters and re-rollers operating on self-generation basis	HM ³ x Rs.1,392 – (Sales tax paid on gas bill)	HM ³ x Rs.1,900 – (Sales tax paid on gas bill)
2) Re-rolling mills operating on self-generated electricity	Mill size in inches x Rs.38,964	Mill size in inches x Rs.51,822

- d. Values of steel products for the purpose of sales tax have been increased as given below:

Description	Value (Previous)	Value (Current)
Billets supplied by Pakistan Steel Mills, Heavy Mechanical Complex and Peoples Steel Mills	Rs.40,800 PMT	Rs.54,265 PMT
Imported billets	US\$ 440 PMT	US\$ 585 PMT
Re-rollable scrap supplied by ship breakers	Rs.30,300 PMT	Rs.42,188 PMT

SRO 593(I)/2012

SRO 1125(I)/2011 was issued for five major zero rated sectors. In textile sector goods, monofilament was excluded from applicability of this SRO. Through SRO 593(I)/2012, now only monofilament of more than 67 decitex is excluded from levy of zero-rate or 5% lower rate (as the case may be).

SRO 594(I)/2012

Through SRO 594(I)/2012, the Federal Government has withdrawn the following notifications with effect from June 2, 2012:

- 1- SRO 644(I)/2007 providing higher rate of 22% and 19.5% on the goods mentioned in said SRO. Now sales tax will be charged on such goods at uniform rate of 16%
- 2- SRO 555(I)/1996 through which the Federal Government authorized the officers of sales tax to adjudicate the cases involving assessment of sales tax, charging of additional tax, imposition of penalty and recovery of amount erroneously refunded. After formation of Inland Revenue Services, such SRO had been redundant.
- 3- SRO 103(I)/2005 through which the Federal Government had fixed the value of Potassic Fertilizers both Sulphate of Potash (SOP) and Muriate of Potash (MOP) at Rs.4610/- per metric ton, for the purposes of assessment of sales tax chargeable at import stage as well as against the local supply of these fertilizers.
- 4- SRO 15(I)/2006 through which the Federal Government had fixed the value of taxable supply of locally produced nitrogenous fertilizers and calcium ammonium nitrate.

SRO 595(I)/2012 www.imranghazi.com

SRO 551(I)/2008 lists down the goods exempt from sales tax subject to the specified conditions and restrictions. SRO 595(I)/2012 has included further goods viz. waste paper, remeltable scrap, sprinkler equipment, drip equipment, and spray pumps and nozzles under exempt supplies.

SRO 596(I)/2012

Under SRO 308(I)/2008 sales tax paid by registered persons on steel products under Chapter XI of the Sales Tax Special Procedures Rules, 2007 exported out of Pakistan is allowed repayment/drawback at the rates mentioned in that SRO. Through SRO 596(I)/2012, the sales tax repayment rate has been increased as follows:

Description	Repayment-cum-drawback rate (Previous)	Repayment-cum-drawback rate (Current)
Ingots or billets other than imported or of Pakistan Steel Mills or of Peoples Steel Mills	Rs.4,100 per metric ton	Rs.7,349 per metric ton
Mild steel re-rolled products manufactured from ingots and billets other than imported or of Pakistan Steel Mills or of Peoples Steel Mills	Rs.4,717 per metric ton	Rs.8,387 per metric ton
Mild steel re-rolled products manufactured from imported billets or billets of Pakistan Steel Mills or Peoples Steel Mills	Rs.5,460 per metric ton	Rs.9,651 per metric ton

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Above repayment/drawbacks will be applied on exports made against invoices issued from June 02, 2012.

SRO 597(I)/2012

SRO 345(1)/2010 prescribes the minimum fix values of Rs.55,000 per metric ton and Rs.50,000 per metric ton for locally produced billets and ingots respectively for determination of sales tax. Through SRO 597(I)/2012, the minimum values have increased to Rs.65,000 per metric ton and Rs.60,000 per metric ton for billets and ingots respectively.

SRO 602(I)/2012

SRO 549(1)/2008 include goods chargeable to tax at the rate of zero per cent subject to the conditions given in that SRO. Through SRO 602(I)/2012, remeltable scrap, sprinkler equipment, drip equipment, and spray pumps and nozzles have been excluded from goods chargeable to tax at the rate of zero per cent and have been included in exempt goods as per SRO 595(I)/2012. Further cotton seed oil has been included in goods chargeable to tax at the rate of zero per cent if supplied to registered manufacturers of vegetable ghee and cooking oil.

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SRO 604(I)/2012

Under SRO 313(I)/2006 amended by SRO 396(I)/2010, the Federal Government had levied sales tax at the rate of seven per cent of the value on import of soyabean seed by solvent extraction industries subject to the condition that no refund of input tax shall be admissible. Through SRO 604(I)/2012, the sales tax rate has been reduced to six percent.

SRO 605(I)/2012

Under SRO 69(I)/2006, sales tax at the rate of fifteen per cent is leviable on import of rapeseed, sun flower seed and canola seed by solvent extraction industries. Through SRO 605(I)/2012, the sales tax rate has been reduced to fourteen percent.

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Federal Excise Act, 2005

Table I (Excise Goods)

Serial No.

9, 10 & 11

FED on cigarettes has been restructured and has been enhanced in the Budget. Proposed structure of duty on cigarettes is as under:

9.	Locally produced cigarettes if their retail price exceeds twenty two rupees and eighty six paisas per ten cigarettes.	Sixty five per cent of the retail price
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 paisa per ten cigarettes plus seventy per cent per incremental rupee or part thereof.
11.	Locally produced cigarettes if their retail price does not exceed thirteen rupees and thirty six paisas per ten cigarettes.	Seven rupees and two paisa per ten cigarettes;

Following restrictions are also proposed to be placed on the cigarettes manufacturer/importer by making amendments in the Interpretation clause of Table-1:

Restrictions – For the purpose of levy, collection and payment of duty at the rates specified against serial numbers 9, 10 and 11, no cigarette manufacturer shall reduce price from the level adopted on the day of announcement of the latest Budget.

Variants at different price points – No manufacturer or importer of cigarette can introduce or sell a new cigarette brand variant of the same existing brand family at a price lower than the lowest actual price of the existing variant of the same brand family. For the purposes of this restriction, current minimum price variant of existing brand means the lowest price of a brand variant on the day of announcement of Budget 2012-13.

Minimum Price of New Brands – Any new brand introduced in the market shall not be priced and sold lower than 5% below the price of the Most Popular Price Category (MPPC). MPPC is the price point at which the highest number of excise tax paid cigarettes are sold in the previous fiscal year.

Above changes in duty structure of cigarettes will be effective from June 2, 2012.

13 FED on cement

FED on Cement is proposed to be reduced from Rs.500 per MT to Rs.400 per MT

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Items on which FED is withdrawn

- 22 Lubricating oil in packs not exceeding 10 liters,
- 23 Lubricating oil in packs exceeding 10 liters
- 24 Lubricating oil in bulk (vessels, bouzers, lorries etc.)
- 25 Lubricating oil manufactured from reclaimed oils or sludge or sediment, subject to the condition if sold in retail packing or under brand names the words manufactured from reclaimed oil or sludge or sediment should be clearly printed on the pack]
- 27 Base lube oil
42. Perfume and toilet waters
43. Beauty or make-up preparations and preparations for the care of the skin (other than medicaments), including sunscreen or sun tan preparations; manicure or pedicure preparations.
44. Preparations for use on the hair excluding herbal hair oil and kali mehndi
45. Pre-shave, shaving or after-shave preparations, personal deodorants, bath preparations, depilatories and other perfumery, cosmetic or toilet preparations, not elsewhere specified or included; prepared room deodorisers, whether or not perfumed or having disinfectant properties (excluding agarbatti and other odoriferous preparations which operate by burning).
50. Filter rods for cigarettes

FED on above items will be withdrawn with effect from June 2, 2012.

Table-II (Excisable Services) www.imranghazi.com

Serial No.

3. Rates of FED on air travel are proposed to be revised as under:

(a) Domestic air travel within territorial jurisdiction of Pakistan	16% of the charges plus Rs.60 per ticket
(b) International air travel of the passengers embarking on international journey from Pakistan,—	
(i) Economy and economy plus.	Three thousand eight hundred and forty rupees
(ii) Club, business and first class.	Six thousand eight hundred and forty rupees

Third Schedule (Conditional exemptions)

Exemption from FED is proposed to be extended on the following items:

Serial No.

7. Live stock insurance
8. Service provided by Asset Management Companies with effect from July 1, 2007
Applicability of FED on Asset Management Companies has been the matter of debate and the Tax Department has passed orders levying FED on services of such companies. The matter is now pending before appellate forums. Finance Bill proposes to exempt said FED retrospectively as a result of which Department's orders would be vacated and appeals would become infructuous.

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Notifications

SRO 598(I)/2012

SRO 649(I)/2005 provides list of items which are chargeable to FED, when they are brought from non-tariff areas to tariff areas. Consequent to proposed deletion of following items from list of excisable goods (Table-I First Schedule) they have also been removed from above SRO:

1. Perfume and toilet waters.
2. Beauty or make-up preparations and preparations for the care of the skin (other than medicaments), including sunscreen or sun tan preparations: manicure or pedicure preparations.
3. Preparations for use on the hair excluding herbal hair oil and kali mehndi.
4. Pre-shave, shaving or after-shave preparations, personal deodorants, bath preparations, depilatories and other perfumery, cosmetic or toilet preparations, not elsewhere specified or included; prepared room deodorizers, whether or not perfumed or having disinfectant properties.

The notification will be effective from June 2, 2012

SRO 599(I)/2012

The above notification appears to be of a corrective nature deleting the Viscose Staple Fibre from FED exempted SRO 474(I)/2009. Said item has already been deleted from list of taxable goods given in Table-I (First Schedule), hence, its presence in SRO 474(I)/2009 was superfluous.

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SRO 600(I)/2012

This notification has amended the Rule 41A of Federal Excise Rules, 2005 pertaining to services provided by aircraft operators. By virtue of the amendment, where an airline uplifts passenger from Pakistan for another airline, in such case liability to charge, collect and pay FED shall be of uplifting airline.

This notification will be effective from July 1, 2012

SRO 603(I)/2012

Through this notification, effective from June 2, 2012 the Federal Government has rescinded its various SROs as stated hereunder:

- SRO 47(I)/2012 & SRO 777(I)/2006: These SROs provide the rates of excise duty chargeable on the tickets issued for the services of travel by air on international journey. As the Bill proposes to restructure and revise the rates for air travel in Table-II First Schedule, consequently these SROs have been withdrawn.
- SRO 807(I)/2005 & SRO 671(I)/2006: These SROs provides the minimum price of lubricating oils for determination of FED and provides rebates on lubricating oils used in manufacturing of goods exported out of Pakistan. Since Bill proposes to withdraw FED on lubricants, therefore, these SROs have no effect and have accordingly been withdrawn.
- SRO 949(I)/2006: This provides the exemption of FED on import and supply of solvent oil for manufacturing of shoe adhesive. Said exemption has been withdrawn.
- SRO 1229(I)/2007: This SRO provides the exemption of Special Excise Duty on the tractor parts supplied to manufacturers of agricultural tractors. Since, SED has already been withdrawn last year, therefore, said SRO was redundant and it has been rescinded accordingly.

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Custom Act, 1969

1- Definition of Smuggle Section 2 (s)

This section defines the term Smuggle. The scope of smuggling is now proposed to make more comprehensive by including en route pilferage of transit goods.

2- Directorate General of Transit Trade Section 3AA

Through this section the Bill proposes to establish the Directorate General of Transit Trade for exclusive clearances and monitoring of the transit cargo.

3- Directorate General of Reform and Automation Section 3BB

The Bill proposes to establish the Directorate General of Reform and Automation for effective management of Pakistan Customs' reforms and automation processes.

4- Directorate General of Risk Management Section 3BBB

The Bill proposes to establish the Directorate General of Risk Management in order to effectively regulate the self-clearance system of Pakistan Customs.

5- Directorate General of Intellectual Property Rights Enforcement Section 3CC

It is proposed to establish the Directorate General of Intellectual Property Rights Enforcement for effective enforcement of intellectual property rights at the borders and ports of the country.

6- Pakistan Customs Tariff Section 18E

It is proposed to empower the Board for making changes in the Pakistan Customs Tariff, specified in the First Schedule to Custom Act for the purposes of statistical clarity.

7- Provisional determination of liability Section 81

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The aforesaid law provides the basis of provisional determination of duty, taxes and other charges on goods where an officer is unable to check the correctness of the goods. It is proposed to amend sub section (1) by inserting the words “or pay order” in the second proviso to bring it in line with the first proviso.

8- Punishment for offences Section 156

This section describes the punishments for the offences. The Bill proposes:

- a) to remove the punishment of whipping for the offence of smuggling of goods;
- b) to remove the references of the omitted sections against offence of concealment of the goods;
- c) to enhance the punishment, in case of contravention of any rule or condition of transit of goods through or to any foreign territory, by making persons including custodian and inland carrier liable for imprisonment for a term not exceeding five years in addition to penalty up to twice the value of goods and confiscation of goods;
- d) to remove the punishment of whipping for the offence of possession or acquiring of smuggled goods; www.imranghazi.com
- e) to remove the punishment of whipping for the offence of armed intimidation of persons engaged in the discharge of duty under the Customs Act;
- f) to declare attempts to make un authorized access/use of the Customs Computerized System an offence and make such person liable for penalty not exceeding two hundred thousand rupees and imprisonment not exceeding three years;
- g) to declare attempts to interfere with the Customs Computerized System an offence and make such person liable for penalty not exceeding two hundred thousand rupees and imprisonment not exceeding two years;
- h) to declare attempts to make unauthorized use of unique user identifier an offence and make such person liable for penalty not exceeding one hundred thousand rupees;

9- Power of adjudication Section 179

This section describes the jurisdiction and powers of Officers of Customs in case of confiscation of goods or imposition of penalty. Proposed amendment seeks to prescribe the jurisdiction and powers based on threshold to Collector, Superintendent and Principal Appraiser in addition to existing Additional Collector, Deputy Collector and Assistant Collector for efficient disposal of cases.

Moreover it is proposed to allow for transfer of adjudication cases to other officers in addition to Collector of Customs by the Board through a proper order.

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10-Appeals to Collector (Appeals)

Section 193

This section is proposed to be amended to allow any person including an officer of Customs to appeal to the Collector (Appeals) against the order of officers below the rank of Additional Collector including the appeal against rejection of refund claims.

11-Appeals to the Appellate Tribunal

Section 194-A

This section allows appeal to the Appellate Tribunal against various orders, which is proposed to be expanded to also allow the appeal against order passed by an officer not below the rank of Additional Collector.

12-Procedure for sale of goods and application of sale

Section 201

This section allows sale of goods under any provision of Custom Act through various means which are proposed to be extended to sale through electronic means also.

13-Rewards to Customs Officers and Officials

Section 202B

In order to encourage the meritorious conduct of customs officers and officials; the Bill proposes to sanction rewards to them in cases of evasion of custom duties and other taxes and confiscation of goods once after realization of part or whole of the duty and taxes involved in such cases.

14-Maintenance of record

Section 211

This section describes the requirements of maintaining records by various personnel carrying out business under this act. It is proposed to bring the Customs licensed transport operators and tracking companies and the records concerning transit trade under the ambit of this section.

15-Extension of time limit

Section 224

In the said section, the powers to extend the time limit are proposed to be extended to enable to condone the delay and to extend the time limit laid down in the Act or the rules made thereunder.

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Notifications

1- Reduction in Concessionary Duty

SRO 573(I)/2012 has amended the SRO 565(I)/2006 which provides the concessionary duty rates on import of raw materials/components used in the manufacturing of specified products

Through the new SRO, the Federal Government has reduced the custom duties on raw materials and components for printing and stationery sector. The Customs duty on raw materials has been reduced to 0% while on components and parts it has been reduced to 5%.

Further, certain components and subcomponents of Car Air-Conditioners, raw material, components and subcomponent of Microwave Oven, Car Cassette/Compact Disc Player, Hi Fi System and Radio Cassette Player have been excluded from concessionary duty

2- Relieve in Custom Duties on Pharmaceutical materials / rubber & shredded tyres and printing industry imports

SRO 574(I)/2012 has amended the SRO 567(I)/2006. Through this SRO, Customs duty on 88 pharmaceutical raw materials and other input goods has been reduced from 10% to 5%.

Customs duty on scrap of rubber / shredded tyres has been reduced from 20% to 10% if imported by cement manufacturers to encourage its use as a substitute fuel for the cement industry.

Further, certain relief in respect of Custom duties has been provided for certain products imported by printing industry.

3- Amendment in Custom Rules

SRO 601(I)/2012 includes following amendments in Custom Rules, 2001:

- 1) As per Rule 297, the scope of DTRE facility shall be available to the persons who make value-addition in the manufacture and export of goods in accordance with the prevalent value-addition of the relevant industry. The SRO has mentioned the minimum value addition of 15% for availability of scope of DTRE facility for such person.
- 2) As per Rule 305, the input goods acquired shall be utilized in the manufacture and export of output goods within twenty-four months from the date of approval of DTRE application. The SRO has amended this period from twenty-four months to twelve months.

Code of Corporate Governance

Comparison of Code of Corporate Governance 2002 and 2012

S. No.	Issue	Code 2002	Code 2012
1.	Independent Director	Encouraged a minimum of one independent director on the board of a listed company.	One independent director is mandatory while preference is for 1/3rd of the total members of the board to be independent directors.
2.	Criteria for assessment of independence	Very scanty criteria provided.	Criteria has been substantially expanded.
3.	Executive Directors	Number of Executive Directors not to be more than 75% of elected directors including CEO.	Maximum number of Executive Directors cannot be more than 1/3rd of elected directors including CEO.
4.	Number of directorships	A director can be on the board of not more than 10 listed companies at any one time.	A director can be on the board of 7 listed companies at the most at any one time. However, the limit does not include directorship in listed subsidiaries of a listed holding company.
5.	Board evaluation	-	Within two years of the implementation of the Code 2012, the Board has to put in place a mechanism for undertaking annual evaluation of the performance of the Board.
6.	Office of Chairman and CEO	The Chairman of a listed company shall preferably be elected from among the non-executive directors of the listed company.	The Chairman and CEO shall not be the same person, unless specifically provided in any other law. The Chairman shall be elected from amongst the non-executive directors of the listed company.

S. No.	Issue	Code 2002	Code 2012
7.	Training of the Board of Directors	It is mandatory for directors of listed companies to attain certification. Initially, the PICG was to provide the training but later it was opened to other institutions, provided they meet the criteria specified by the SECP.	It will be mandatory for directors of listed companies to attain certification under any director training program (DTP) offered by any institution (local or foreign), which meets the criteria specified by the SECP. The criteria are available at the websites of the stock exchanges and the SECP.
8.	Appointment and removal and qualification criteria for Chief Financial Officer (CFO) and Company Secretary (CS)	Appointment, remuneration and terms and conditions of employment of CFO and CS determined by CEO and approved by Board. The same mechanism followed for removal.	The appointment, remuneration and terms and conditions of employment of the CFO, CS and the Head of Internal Audit (IA) of listed companies shall be determined by the Board. The removal of CSD CFO will be approved Board.
9.	The Head of Internal Audit (IA)	-	Qualification has been introduced for Head of IA. The removal of Head of IA is with the approval of the Board only upon recommendation of the Chairman of the Audit Committee.
10.	Remuneration of Directors	-	A formal and transparent procedure to be followed and disclosure of aggregate remuneration in the annual report.
11.	Board Committees	<p><u>Audit Committee:</u> The Chairman of the audit committee shall preferably be a non-executive director.</p> <p><u>Reporting Procedure:</u> The Audit Committee of a listed company shall appoint a secretary of the Committee.</p>	<p><u>Audit Committee:</u> The Chairman of the audit committee shall be an independent director, who shall not be the chairman of the board. Audit Committee shall comprise of non-executive directors.</p> <p>The secretary of Audit Committee shall either be the Company Secretary or Head of Internal Audit. However, the</p>

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S. No.	Issue	Code 2002	Code 2012
			<p>CFO shall not be appointed as the secretary to the Audit Committee.</p> <p>Human Resources and Remuneration Committee have been introduced.</p>
12.	Internal Audit	There shall be an internal audit function in every listed company. The head of internal audit shall have access to the chair of the Audit Committee.	The internal audit function may be outsourced by a listed company to a professional services firm or be performed by the internal audit staff of the holding company. In the event of outsourcing the internal audit function, the company shall appoint or designate a fulltime employee other than the CFO, as Head of Internal Audit, to act as coordinator between the firm providing internal audit services and the board.

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Source: <http://www.secp.gov.pk/corporatelaws/pdf/Code-CorporateGovernance-2012.pdf>

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Implementation deadlines of Code of Corporate Governance 2012

Clause Reference	Brief Description	Effective Date
i (b)	One independent director	At the time of next election of directors
i (d)	Number of executive directors	At the time of next election of directors
ii	Maximum number of directorships to be held by a director	At the time of next election of directors
iii	Filling up a casual vacancy	Immediate
iv & v except v(e)	Responsibilities, powers and functions of board of directors	Immediate
v (e)	Annual evaluation of the board's own performance	April, 2014
vi	Separation of CEO and Chairman and election of Chairman from non-executive directors	At the time of next election of directors
vii & viii	Meetings of the board	Immediate
ix	Significant issues to be placed for decision of Board of Directors	Immediate
x	Related party transactions	Immediate
xi	Directors' Training Program	Minimum one director to obtain certification each year from June 30, 2012. All directors to be compliant by June 30, 2016
xii	Appointment and removal of Chief Financial Officer, Company Secretary and Head of Internal Audit	Immediate
xiii & xiv	Qualifications of CFO and Head of Internal Audit	Immediate Report compliance in Annual Report for accounting period ending on or after June, 2012
xv	Requirement to attend board meetings	Immediate

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Clause Reference	Brief Description	Effective Date
xvi	Directors' Report	Annual Report for accounting period ending on or after June, 2012
xvii	Directors' remuneration	Immediate
xviii, xix & xx	Frequency of financial reporting	For accounting period ending on or after June 30, 2012
xxi & xxii	Responsibility for financial reporting and corporate compliance	For accounting period ending on or after June 30, 2012
xxiii	Disclosure of interest by a director holding company's shares	Immediate
xxiv	Composition of Audit Committee	At the time of next election of directors
xxv	Composition of Human Resource and Remuneration Committee	Immediate
xxvi	Disclosure of names of Members of Committees	Annual Report for accounting period ending on or after June 30, 2012
xxvii, xxviii, xxix, xxx	Frequency of meetings, attendance, terms of reference and reporting procedures of Audit Committee	Immediate
xxxi & xxxii	Internal audit	Immediate
xxxiii, xxxiv, xxxv, xxxvi, xxxvii & xxxviii	Appointment of External Auditors	When next appointment is due
xxxix	Management Letter by External Auditor	For accounting period ending on or after June 30, 2012
xl & xli	Compliance with Code of Corporate Governance	Annual report for accounting period ending on or after June, 2012

Source: <http://www.secp.gov.pk/corporatelaws/pdf/Code-CorporateGovernance-2012-Implementation.pdf>

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