

No. Misc./2012/1

July 02, 2012

Dear Clients,

We are pleased to enclose herewith, our comments, effects and implications of the amendments made in the Income Tax Ordinance, 2001 by the Finance Act, 2012. Unlike the comments on the Finance Bill, which undergoes many changes by the time it is passed by the parliament, we have prepared these comments on the Finance Act. These are now the final amendments in the Income Tax Ordinance, 2001.

These comments have been prepared as a general guide for your benefit and to enable you to understand the implications of the changes made in the Income Tax Ordinance, 2001. However, it is in your interest to seek professional advice before taking any action based on these comments.

We sincerely hope you will find these comments useful to identify which change will effect you and to what extent.

Thanking you, we remain,

Yours faithfully,

(Amir Alam Khan & Co.)  
Chartered Accountants

**COMMENTS, EFFECTS AND IMPLICATIONS OF THE AMENDMENTS MADE IN THE  
INCOME TAX ORDINANCE, 2001 BY THE FINANCE ACT, 2012**

**1. General**

All amendments made in the Income Tax Ordinance, 2001 through Finance Act, 2012 are effective from July 01, 2012 or applicable from the Tax Year 2013, as the case may be, unless otherwise stated against the respective amendment. Amendments of technical, editorial and consolidation of the scattered provisions having no material effect have not been included in these comments.

All references of clauses, sub-sections, sections, schedules etc. in these comments are of Income Tax Ordinance, 2001.

**2. Definition of “NCCPL” – Section 2(35AA)**

A new definition of “NCCPL” for the purposes of regulating the entire regime of taxation of capital gains on listed “Securities” and the related amnesty has been inserted. The new definition reads as under:

(35AA) “NCCPL” means 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 term “Securities” used in this definition means share of a public company, vouchers of Pakistan Telecommunication Corporation, Modaraba Certificate, an instrument of redeemable capital and derivative products.

**3. Loan to employees – Sections 13(7) and 13(14)**

Loan given to an employee bearing rate of interest below the “bench mark rate” or free of interest is treated as a perquisite in the hands of employee to the extent of the difference in interest calculated at the “bench mark rate” and interest charged by the employer.

Effective July 01, 2012, where the amount of loan does not exceeds Rs. 500,000 the difference shall not be treated as a perquisite.

“Bench mark rate” effective July 01, 2012 has also been reduced to 10% from 15%.

**4. Depreciation on passenger transport vehicle not plying for hire – Section 22(13)(a)**

The maximum cost of “passenger transport vehicle not plying for hire” for the purposes of depreciation has been enhanced to Rs. 2,500,000 from Rs. 1,500,000.

**5. Capital gain arising on disposal of immovable property - Sections 37(1A) and 37(5)(c) and Division VIII of Part I of 1<sup>st</sup> Schedule**

Capital gain arising on disposal of immovable property irrespective of the holding period was excluded from the ambit of “capital assets” and accordingly such gain was not chargeable to tax under the Income Tax Ordinance, 2001.

Effective tax year 2013, capital gain arising on disposal of immovable property held for a period of two years shall be chargeable to tax as a separate block of income as under:

Where holding period of Immovable property is:

Up to one year	10%
More than one year but not more than two years	05%

**Observations:**

*By excluding immovable property from the list of assets which were specifically excluded from the definition of “capital assets” (i.e. now capital assets includes immovable property), the gain arising on disposal of immovable property irrespective of the holding period falls in the ambit of capital gains chargeable to tax under sub-section (1) of section 37.*

*On the other hand the new sub-section (1A) inserted through Finance Act, 2012 specifically deals with the taxation of the capital gains arising on disposal of immovable property held for period up to two years and does not cater for capital gains arising on disposal of immovable property held for more than two years.*

*Thus capital gains arising on disposal of immovable property held for more than two years shall be chargeable to tax under sub-section (1) like any other capital assets.*

*However, the intention of the legislature does not appear to tax capital gains arising on sale of immovable property held for more than two years but due to poor drafting of the amendments such gains falls in the mischief of capital gains covered under section 37(1).*

*Further, structural improvement (building) held for the purposes of business and qualifying for depreciation deduction continues to be not a capital asset. Resultantly, gain arising on disposal of such structural improvement to the extent of depreciation deduction allowed continues remain chargeable as “business income” and the gain in excess of the depreciation deduction continues to remain out-side the ambit of capital gains.*

- 6. Taxation of additional payment for delayed refunds – Section 39(1)(cc)**  
Additional payment (compensation, interest, etc.) received on account of delayed refund of any amounts due under any tax law has been specifically included in the list of income chargeable to tax under the head “income from other sources”. This will include additional payment received on account of delayed refund of Income Tax, Sales Tax and Federal Excise Duty as well.

This amendment will bring at rest the litigation as to the taxability of such income.

- 7. Tax credit for investment in shares and life insurance premium – Section 62**  
The monetary threshold for claiming tax credit (rebate in tax) on account of investment in shares and life insurance premium (subject to applicable conditions) effective tax year 2013 shall be as under:

Lower of:

- Amount of investment;
- 20% (increased from 15%) of taxable income; or
- Rs. 1,000,000 (increased from Rs. 500,000)

The retention period of investment in shares for claiming tax credit effective tax year 2013 shall be 24 months instead of existing period of 36 months.

#### **8. Tax credit for investment – Section 65B**

The scope of the existing tax credit equal to 10% of the amount invested in the acquisition of plant and machinery for balancing, modernization and replacement has been extended to investment in the acquisition of plant and machinery for the purposes of extension and expansion as well.

Further, the amount of this tax credit can also be set off against the minimum tax and final tax payable, if any, as well.

In addition a new tax credit equal to 20% of the amount invested through 100% new equity in the acquisition of plant and machinery for purposes of balancing, modernization and replacement (BMR) against the income tax payable, including minimum tax and final tax has also been introduced, subject to the following conditions:

- The balancing, modernization and replacement is carried on:
  - In an industrial undertaking set up in Pakistan on or before June 30, 2011 and owned by a company;
  - In an already installed plant and machinery;
  - Between July 01, 2011 to June 30, 2016;
- The tax credit is admissible in the tax year in which such plant and machinery is installed; and
- The un-adjusted amount of such tax credit can be carried forward and adjusted against the tax payable, including minimum tax and final tax in the following two tax years.

For the purposes of this new tax credit 'new equity' means equity raised through fresh issue of shares against cash by the company and shall not include loans obtained from shareholders or directors. However, 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 the tax credit.

Further, the term "setup of industrial undertaking", which is the effective date for claiming the tax credit has been clarified to be "the date on which the industrial undertaking is ready to go into production, whether trial production or commercial production"

#### **Observations**

*The new tax credit envisaged by the amendments made is duplication of almost similar tax credit already available under section 65E*

**9. Tax credit for equity investment in newly established industrial undertaking – Section 65D**

Tax credit for equity investment in newly established industrial undertaking equal to 100% of the income tax payable on income arising from such industrial undertaking has been extended to corporate dairy farming as well.

Further, the amount of this tax credit can also be set off against the minimum tax and final tax payable, if any, as well.

One of the conditions to avail this tax credit was that the industrial undertaking is set up with 100% equity owned by the company. This was an ambiguous condition and through an amendment, now this condition entails that the industrial undertaking is set up with 100% equity raised through issuance of new shares for cash consideration. However, 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 the tax credit.

Another ambiguity in the existing provisions is that on one hand it provides that this tax credit is available for five years but on the other hand it was inadvertently provided that this tax credit shall be allowed in the tax year in which the plant and machinery is purchased and installed. This ambiguity has also been removed and this tax credit is available for five years beginning from the date of setting up or commencement of commercial production, whichever is later.

Further, the term “setup of industrial undertaking”, which is the effective date for claiming the tax credit has been clarified to be “the date on which the industrial undertaking is ready to go into production, whether trial production or commercial production

**10. Tax credit for equity investment in purchase and installation of plant and machinery for the purposes of balancing, modernization, replacement or expansion in an industrial undertaking established before July 01, 2011 – section 65E**

Tax credit for equity investment in purchase and installation of plant and machinery for the purposes of balancing, modernization, replacement or expansion in an industrial undertaking established before July 01, 2011 has been extended to (i) expansion of the plant and machinery already installed therein and (ii) undertaking a new project, as well.

One of the conditions to avail this tax credit was that the industrial undertaking is set up with 100% equity investment by the company. This was an ambiguous condition and through an amendment, now this condition entails that the industrial undertaking is set up with 100% “new equity” raised through issuance of new shares.

Further,:

- The amount of this tax credit can now also be set off against the minimum tax and final tax payable, if any, as well;

- The term “setup of industrial undertaking”, which is the effective date for claiming the tax credit has been clarified to be “the date on which the industrial undertaking is ready to go into production, whether trial production or commercial production;
- The term ‘new equity’ has been clarified and means equity raised through fresh issue of shares against cash by the company and shall not include loans obtained from shareholders or directors. However, 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 the tax credit; and
- The working out of the amount of tax credit has been clarified as under:
  - Where separate accounts are maintained of an expansion project or a new project the amount tax credit will be equal to one hundred percent of the tax payable, including minimum tax and final tax attributable to such expansion project or new project; and
  - In all other cases, the amount of the credit will be such proportion of the tax payable, including minimum tax and final taxes payable under any of the provisions of this Ordinance, as is the proportion between the new equity and the total equity including new equity.

#### **11. Cost of acquiring an asset – Section 76(11)**

The determination of “cost” of acquiring an asset for the purposes of depreciation, capital gains, etc. is mainly covered in section 76 (except for certain specific situations dealt otherwise).

In addition, now the Federal Board of Revenue has been empowered to prescribe rules for determination of “cost” for any asset.

However, no such rules have yet been notified.

#### **12. Consideration received on disposal of an asset – Section 77(6)**

The determination of “consideration” received on disposal of an asset for the purposes of depreciation, capital gains, etc. is mainly covered in section 77 (except for certain specific situations dealt otherwise).

In addition, now the Federal Board of Revenue has been empowered to prescribe rules for determination of “consideration” received on disposal of any asset.

However, no such rules have yet been notified.

#### **13. Special provision relating to capital gain tax – Section 100B and 8<sup>th</sup> Schedule**

Capital gain arising from disposal of “securities” is already chargeable to tax under section 37A. Principally, there has been no change except that the rates of tax have been slightly modified and introduction of a withholding tax on listed “securities”. For this purpose National Clearing Company of Pakistan Limited has been entrusted with the responsibility to compute, determine, collect and deposit the tax in accordance with the provisions laid down in 8<sup>th</sup> Schedule.

However, the provisions of withholding tax by way of deduction of tax at source by National Clearing Company of Pakistan shall not apply to:

- A mutual fund;
- A banking company, a non-banking finance company, and an insurance company subject to tax under the Fourth Schedule;
- A modaraba;
- A “foreign institutional investor” being a person registered with NCCPL as a foreign institutional investor; and
- Any other person or class of persons notified by the Board.

Further, the capital gains arising from the disposal of listed securities in respect of which tax has been collected by the NCCPL, shall not be included for the purpose of payment of advance tax capital gains on securities as required by section 147(5B).

“Securities” means share of a public company, vouchers of Pakistan Telecommunication Corporation, Modaraba Certificate, an instrument of redeemable capital and derivative products.

The 8<sup>th</sup> Schedule regulates the above provisions, whereby National Clearing Company of Pakistan Limited has been entrusted with the responsibility to compute, determine, collect and deposit the tax in respect of listed “securities”.

In addition the 8<sup>th</sup> Schedule provides for a **“TAX AMNESTY” (i.e., Enquiries as to the source of investments shall not be made)** for existing investments in the listed “securities” as on March 31, 2012 as well as a **PERPETUAL AMNESTY (i.e., Enquiries as to the source of investments shall not be made)** for future investments in the listed “securities” between April 01, 2012 and June 30, 2014 subject to certain restrictions and conditions.

The applicable restrictions and conditions for availing this tax amnesty are as under:

**Existing investments** (Investments made in listed “securities” before April 01, 2012 (i.e. up to March 31, 2012):

- Furnishing of a return of income for the tax year 2012 by the due date;
- Furnishing of a statement of investments held along with the return of income for the tax year 2012;
- Furnishing of the Wealth Statement along with the return of income for the tax year 2012; and
- The amount remains invested for a minimum period of 45 days.

**Future investments** (Investments made in listed “securities” between April 01, 2012 and June 30, 2014):

- Furnishing of a return of income for the relevant tax year by the due date;
- Furnishing of a statement of investments held along with the return of income for the relevant tax year;
- Furnishing of the Wealth Statement along with the return of income for the relevant tax year;

- The amount remains invested for a minimum period of 120 days; and
- Tax on capital gains arising from sale of such securities is discharged by way of collection of tax at source by NCCPL.

### **Observations**

*The Schedules are subservient and derive power from the main statute. The 8<sup>th</sup> Schedule derives force from section 100B and surprisingly, the said section does not provide for any amnesty for the Investments in listed securities. In our opinion the amnesty scheme is very poorly drafted and likely to be challenged before the High Courts and Supreme Court of Pakistan.*

#### **14. Geographical source of income – Section 101(6)**

Through an amendment made by Finance Act, 2008, remittance of after tax profits by a branch of a foreign company operating in Pakistan was brought in the ambit of “dividend” and subject to tax at the rate of 10% of such profits.

Now the lacuna in the scope of “Pakistan Source Income” for creating a charge on remittance of after tax profits by a branch of a foreign non-resident company operating in Pakistan has been removed.

#### **15. Minimum tax – Section 113**

A resident company and an individual or association of person having turnover of Rs. 50,000,000 or more is liable to minimum tax based on turnover, if the tax payable on taxable income is less than such minimum tax.

The standard rate of minimum tax in such cases has been reduced to 0.50% from 1.00%.

As a consequence the reduced rate of minimum tax in following cases also stands reduced as under:

<b>Nature</b>	<b>Reference</b>	<b>Reduced Rate</b>
Company engaged in the business of distribution of cigarettes manufactured in Pakistan	Clause (7) of Part III of 2 <sup>nd</sup> Schedule	0.10% from 0.20%
Distributors of pharmaceutical products, fertilizers and consumers goods including fast moving consumers goods	Clause (8) of Part III of 2 <sup>nd</sup> Schedule	0.10% from 0.20%
Oil marketing companies, oil refineries, Sui Southern Gas Company Limited and Sui Northern Gas Pipelines Limited provided the turnover exceeds Rs. One billion	Clause (9) of Part III of 2 <sup>nd</sup> Schedule	0.25% from 0.50%
Flour mills	Clause (10) of Part III of 2 <sup>nd</sup> Schedule	0.10% from 0.20%
Pakistan International Airline Corporation	Clause (12) of Part III of 2 <sup>nd</sup> Schedule	0.25% from 0.50%
Petroleum agents and distributors who are registered under Sales Tax Act 1990 and rice mills and dealers	Clause (13) of Part III of 2 <sup>nd</sup> Schedule	0.10% from 0.20%
Poultry industry including poultry breeding, broiler production, egg production and poultry feed production	Clause (14) of Part III of 2 <sup>nd</sup> Schedule	0.25% from 0.50%
Motorcycles dealers registered under Sales tax Act 1990	Clause (15) of Part III of 2 <sup>nd</sup> Schedule	0.125% from 0.25%



For the purposes of comparison of tax payable on taxable income vis-à-vis minimum tax, the ambiguity whether tax payable on taxable income includes tax payable under the final tax regime or not has been removed. Now it has been specifically provided that tax payable on taxable income does not include tax payable under the final tax regime.

Since the ambiguity has been removed by way of an explanation, this will have a retrospective effect since inception.

**16. Revised return of income – Section 114(6)**

A taxpayer is entitled to revise its return of income to correct any omission or wrong statement, subject to furnishing of revised accounts and reasons for revision along with such revised return of income.

Now a further condition has been imposed that the income or loss declared in the revised return of income should not be less or more than the income or loss, as the case may be, already assessed, other than the income or loss self assessed under section 120.

In addition, if any of the aforesaid conditions are not fulfilled the revised return of income furnished shall be an invalid return as if it has not been furnished.

**17. Incomplete return of income – Section 120(6)**

An incomplete return (a return not on the prescribed form or not accompanied by required annexes, statements, documents or not fully stating all the relevant particulars or information etc. or un-signed or without evidence of payment of tax due or not accompanied with wealth statement and re-conciliation thereof) is an invalid return as if it has not been furnished, if the Commissioner notifies the taxpayer of such deficiencies and the deficiencies are not removed.

The time limit to notify the taxpayer of the deficiencies by the Commissioner has been increased to 180 days from the end of the financial year in which the return was furnished. Earlier, this time limitation was only up to the end of the financial year in which the return was furnished.

**18. Best judgment assessment – Section 121**

The Commissioner is empowered to make a “Best Judgment Assessment” where a taxpayer is non compliant (i.e., non-furnishing of statement of final tax called for by the Commissioner, non-production of accounts, documents, records etc. when called for by the Commissioner, etc.) on the basis of available information or material. The situations in which such an assessment can be made (subject to few exceptions) arise after filing of the return of income or revised return of income which is by default treated as an assessment (self assessment under section 120) or an amended assessment (under section 122) respectively .

A legal lacuna was under litigation that in view of an assessment or amended assessment already treated to be made under section 120 or 122, the making of a further “Best Judgment Assessment” resulted into existence of two assessments.

This lacuna has now been removed and wherever a “Best Judgment Assessment” is made by the Commissioner, the assessment or amended assessment earlier

treated to have been made under section 120 or 122 will automatically stand cancelled and shall be of no legal effect.

**Observations**

*This amendment indirectly strengthens the view of the taxpayers that prior to this amendment, where a return of income or a revised return of income is already furnished, a best judgment assessment can not be made.*

**19. Scope of amended assessment – Section 122(1)**

An amendment of an assessment (self assessment under section 120) or a best judgment assessment (under section 121) could be done by the Commissioner (subject to certain restrictions and conditions).

The power of making an amended assessment has been now extended and a “Provisional Assessment” made under section 122C (for non-furnishing of return of income called for by the Commissioner) can also be amended.

**20. Amendment of an assessment order which erroneous in so far it is prejudicial to the interest of revenue – Section 122(5A)**

The Commissioner is empowered to amend, or further amend, an assessment order, if he considers that the assessment order is erroneous in so far it is prejudicial to the interest of revenue.

Under the existing provisions this power could be exercised where apparently the assessment already made is considered by the Commissioner to be erroneous in so far it is prejudicial to the interest of revenue.

Now, the Commissioner has been empowered to make or cause to be made, such enquiries as he deems necessary to come to the conclusion that the assessment already made is erroneous in so far it is prejudicial to the interest of revenue.

**Observations**

*This empowerment may result into fishy enquiries and harassment of the taxpayers.*

**21. Appeal against provisional assessment on being converted to final assessment – Section 127(1)**

The Commissioner is empowered to make a “Provisional Assessment” (under section 122C), where a taxpayer does not comply with a notice from the Commissioner calling for the return of income. Such assessment on expiry of 60 days from the date of service stands automatically converted into a final assessment, unless the taxpayer within the said period of 60 days furnishes a complete return of income (along with all applicable annexure, statements, documents, wealth statement, accounts, etc.).

The taxpayer was bared from making an appeal against such provisional assessment, however, after the expiry of 60 days and conversion of provisional assessment into a final order, such final order could be contested in an appeal.

Now, it is expressly provided that both provisional as well as final order can not be contested in appeal.

**22. Stay against recovery of tax by Commissioner (Appeals) – Section 128(1A)**

The inherent power of Commissioner (Appeals) to grant stay against recovery of tax in hardship cases (where an appeal is pending before him/her) has been now given a legal cover and regulated.

The salient features of the power of the Commissioner (Appeals) to grant stay against recovery of tax are as under:

- The Commissioner (Appeals) should be of the opinion that the recovery of tax levied shall cause undue hardship to the taxpayer;
- Opportunity of being heard to the Commissioner against whose order the appeal is pending before granting the stay; and
- The aggregate period of stay should not exceed 30 days.

**23. Withdrawal of time limit within which Commissioner (Appeals) was required to decide an appeal – Sub-section (5), (6) and (7) of Section 129**

The Commissioner (Appeals) was required to decide an appeal preferred before him/her within 4 months, else the relief sought by the taxpayer was treated to be granted (subject to certain restrictions and conditions).

This obligation of the Commissioner (Appeals) and automatic grant of relief sought has been now withdrawn. Resultantly, the Commissioner (Appeals) has un-limited time to dispose of an appeal preferred before him/her.

**24. Appointment of members of Appellate Tribunal – Section 130(4)(b)**

Commissioner or Commissioner (Appeals) could be appointed as Accountant Members of the Appellate Tribunal subject to meeting a minimum experience period of working as Commissioner or Commissioner (Appeals).

The threshold of minimum experience period has been reduced to 3 years from 5 years.

**25. Appointment of Chairperson of Appellate Tribunal – Section 130(5)**

Appellate Tribunal comprises of two types of members namely, Judicial Members and Accountant Members. Chairperson of the Appellate Tribunal is appointed from amongst the Judicial Members (except in special circumstances).

Now, the restriction of Chairperson of the Appellate Tribunal to be from amongst the Judicial Members has been dispensed with and both Judicial and Accountant Members will qualify for appointment as Chairperson of the Appellate Tribunal.

**26. Stay against recovery of tax by Appellate Tribunal – Section 131(5)**

The powers of the Appellate Tribunal to grant stay against recovery of tax have been altogether substituted.

The revised salient features of the power of the Appellate Tribunal to grant stay against recovery of tax are as under:

- The Appellate Tribunal should be of the opinion that the recovery of tax levied and upheld by Commissioner (Appeals) shall cause undue hardship to the taxpayer;
- Opportunity of being heard to the Commissioner against whose order the appeal is pending before granting the stay; and
- The aggregate period of stay should not exceed 180 days.

**27. Payment of tax against provisional assessment – Section 137(2)**

Tax levied as a result of a “Provisional Assessment” (under section 122C where a taxpayer does not comply with a notice from the Commissioner calling for the return of income) is due for payment immediately on the expiry of 60 days from the date of service of the provisional assessment, if such order stands converted to a final order.

Now at the option of the taxpayer, the tax levied as a result of provisional assessment can also be paid before the expiry of the said period of 60 days.

**28. Treatment of transaction subject to collection or deduction of tax at source as a final tax but tax not collected or deducted by the withholding agent – Sections 148, 151, 152, 153, 154, 156, 156A, 169 and 233**

Under various provisions of the Income Tax Ordinance, 2001 tax collected or deducted at source is the full and final discharge of the tax liability in respect of specified transactions.

A lacuna in the law existed whether transaction, which are subject to collection or deduction of tax source as a final tax but the withholding agent had not discharged its obligation of collecting or deducting tax at source, will fall in the final tax regime or not.

Now, this lacuna has been removed. All transactions which attract collection or deduction of tax at source as a final tax, irrespective of the fact whether the withholding agent has collected/deducted tax at source or not, will fall in final tax regime.

The tax not collected or deducted by the withholding agent shall be payable by the person from whom such collection or deduction was to be made under section 162.

**29. Insurance and re-insurance premiums paid to a non-resident – Section 152(2AA)**

Insurance and re-insurance premium paid to a non-resident attracts deduction of tax source as a final tax at the rate of 5% of the gross amount paid. As a result such premium even if taxable in the hands of permanent establishment in Pakistan of the non-resident attracted final tax at the rate of 5% of the gross amount of premium.

Now, insurance and re-insurance premium which are taxable in the hands of permanent establishment in Pakistan of the non-resident shall not be subject to deduction of tax source with prior written approval of the Commissioner.

### 30. Withholding tax on distributors, dealers and wholesalers of a manufacturer – Section 153A and Part IIA of 1<sup>st</sup> Schedule

The scope of withholding tax has been further enlarged. Now, every “manufacturer”, irrespective of size, nature, turnover and status (i.e., individual, association of persons or company) has been prescribed as a withholding agent. The obligations of the “manufacturer” to collect tax are as under:

Collection of tax from:	Distributors, dealers and wholesalers of the manufacturer
Rate	0.50%
On	Gross amount of sales to its distributors, dealers and wholesalers
When	At the time of sale

In addition, the “manufacturer” has to comply with all the obligations imposed on a withholding agent including timely deposit of tax so collected and filing monthly withholding tax statements.

The manufacturer has to collect the tax at the “time of sale”, irrespective of the fact that the consideration for the sale has been realized or not.

The tax collected under this section is adjustable tax against the actual tax liability of such distributors, dealer and wholesaler.

#### **Observations**

*The terms “time of sale” “manufacturer”, “distributor”, “dealers” and “wholesalers” have not been defined in the Income Tax Ordinance, 2001.*

*The dictionary meanings of these terms (extracts from Black’s Law Dictionary) are as under:*

**Manufacturer** - One who by labor, art or skill transforms raw materials into some kind of a finished product or an article of trade.

**Manufacture** - The process or operation of making goods or any material produced by hand, by machinery or by any other agency; anything made from raw materials by the hand, by machinery or by art. The production articles for use from raw or prepared materials by giving such materials new forms, qualities, properties or combinations, whether by hand labor or machine.

**Distributor** - Any individual, partnership, corporation, association or other legal relationship which stands between the manufacturer and the retail seller in purchases, consignments, or contracts for sale of consumer goods. A wholesaler, jobber or other merchant middleman authorize by a manufacturer or supplier to sell chiefly to retailers and commercial users.

**Wholesaler** - One who buys in comparatively large quantities and then resells usually in smaller quantities but never to the ultimate consumer. He sells either to a “jobber” a sort of middleman or to a “retailer” who in turns sells to the consumer.

*Apart from dictionary meanings, the closest definitions of these terms are also available in the Sales Tax Act, 1990 which are as under:*

**“Time of sale” / “time of supply” in relation to,—**

- (a) a supply of goods, other than under hire purchase agreement, means the time at which the goods are delivered or made available to the recipient of the supply;
- (b) a supply of goods under a hire purchase agreement, means the time at which the agreement is entered into; and
- (c) services, means the time at which the services are rendered or provided.

**“Manufacturer” or “producer”** means a person who engages, whether exclusively or not, in the production or **manufacture** of goods whether or not the raw material of which the goods are produced or manufactured are owned by him; and shall include—

- (a) a person who by any process or operation assembles, mixes, cuts, dilutes, bottles, packages, repackages or prepares goods by any other manner;
- (b) an assignee or trustee in bankruptcy, liquidator, executor, or curator or any manufacturer or producer and any person who disposes of his assets in any fiduciary capacity; and
- (c) any person, firm or company which owns, holds, claims or uses any patent, proprietary, or other right to goods being manufactured, whether in his or its name, or on his or its behalf, as the case may be, whether or not such person, firm or company sells, distributes, consigns or otherwise disposes of the goods.

**“Manufacture” or “produce”** includes -

- (a) any process in which an article singly or in combination with other articles, materials, components, is either converted into another distinct article or product or is so changed, transformed or reshaped that it becomes capable of being put to use differently or distinctly and includes any process incidental or ancillary to the completion of a manufactured product;
- (b) process of printing, publishing, lithography and engraving; and
- (c) process and operations of assembling, mixing, cutting, diluting, bottling, packaging, repacking or preparation of goods in any other manner;

**“Distributor”** means a person appointed by a manufacturer, importer or any other person for a specified area to purchase goods from him for further supply and includes a person who in addition to being a distributor is also engaged in supply of goods as a wholesaler or a retailer;

**“Wholesaler”** includes a dealer and means any person who carries on, whether regularly or otherwise, the business of buying and selling goods by wholesale or of supplying or distributing goods, directly or indirectly, by wholesale for cash or deferred payment or for commission or other valuable consideration or stores such goods belonging to others as an agent for the purpose of sale; and includes a person supplying taxable goods to a person who deducts income tax at source under the Income Tax Ordinance, 2001 (XLIX of 2001).

Under the Sale of Goods Act, 1930 a number of complex situations are also envisaged where in the determination of “time of sale” would vary from case to case.

**31. Additional payment for delayed refunds – Section 171**

The rate of additional payment (compensation/interest) for delayed refunds of Income tax has been fixed at 15% per annum instead of “KIBOR”

**32. Taxpayer Card – Section 181B**

The Federal Board of Revenue has been empowered to make a scheme for introduction of an individual taxpayer honor card.

No such scheme has been notified.

**33. Payment of amount of penalty – Section 182(2)**

Penalty for various defaults under the Income Tax Ordinance, 2001 is payable once an order has been passed to this effect by the Commissioner, Commissioner (Appeals) or Appellate Tribunal.

Now at the option of the taxpayer, where the default is admitted, the penalty can also be paid before the issuance of order imposing the penalty.

**34. Default surcharge (interest for delayed payment of tax due) – Section 205**

The rate of default surcharge (interest for delayed payment of tax due) has been fixed at 18% per annum instead of KIBOR plus 3% per quarter.

In addition, waiver of default surcharge (interest for delayed payment of tax due) has been granted, where a taxpayer accepts the decision of the Commissioner (Appeals) and does not prefer a further appeal before Appellate Tribunal and pays the tax due on or before the due date specified in the notice of demand issued along with the order giving the appeal effects.

The waiver of default surcharge is for the period commencing from the date when the tax was originally due (due date of payment in consequence of the order appealed against) to the date of payment.

The above waiver of default surcharge applies to:

- Tax due as a result of an assessment (best judgment, amended, further amended);
- Tax due from a non-resident ship owner or air craft owner or charterer thereof;
- Tax due from persons from whom tax was not collected or deducted;
- Tax due from person who failed to collect or deduct tax; and
- Tax due as a result of imposition of penalty.

**35. Condoning of time limit by the Board – Section 214A**

The Federal Board of Revenue is empowered to condone the time or period specified under any of the provisions of the Ordinance or rules made there-under within which any application is to be made or any act or thing is to be done, in any case or class of cases and permit such application to be made or such act or thing to be done within such time or period as it may consider appropriate.

The existing provision was implied that this power can not be used detrimental to a taxpayer. However, now it has been specifically provided that this power to

condone the time or period of an act or thing to be done by any of the Income Tax Authorities can also condoned.

### **Observations**

*This amendment is highly pre-judicial to the interest of taxpayers and indirectly gives a blanket power to the Federal Board of Revenue to override the statutory time limit or period of any act or thing to be done by the Income Tax Authorities.*

#### **36. Directorate General (Intelligence and Investigation), Inland Revenue – Section 230**

By insertion of section 230, the Directorate General (Intelligence and Investigation), Inland Revenue has been created.

The Federal Board of Revenue has been empowered to notify the functions, jurisdiction and powers of this Directorate General.

#### **37. Withholding tax on cash withdrawals – Section 231A**

The threshold of cash withdrawals from an account or deposit etc., maintained with Banking Company for the purposes of deduction of tax source has been raised to Rs. 50,000 from Rs. 25,000 in a day.

#### **38. Collection of tax in respect of financing of carry over trade by the members of the Stock Exchanges – Sections 233 and 233A**

The collection of tax at source by the Stock Exchanges in Pakistan from the trading of shares (sale and purchase) has been dispensed with.

Further, the responsibility of collection of tax in respect of financing of carry over trade by the members of the Stock Exchanges in Pakistan has been shifted from the Stock Exchanges in Pakistan to National Clearing Company of Pakistan Limited (NCCPL).

#### **39. Withholding tax on sale or transfer of immovable property – Section 236B and Division X of Part IV of 1<sup>st</sup> Schedule**

By insertion of section 236B, the scope of withholding tax has been further enlarged. Now, any person responsible for registering or attesting transfer of “any immovable property”, irrespective of size, nature, etc., has been prescribed as a withholding agent. The obligations of the person responsible for registering or attesting transfer of any immovable property to collect tax are as under:

Collection of tax from:	The seller or transferor of any immovable property
Rate	0.50%
On	Gross amount of the consideration received
When	At the time of registering or attesting the transfer of any immovable property.

In addition, the person responsible for registering or attesting transfer of any immovable property has to comply with all the obligations imposed on a withholding agent including timely deposit of tax so collected and filing monthly withholding tax statements.

The Federal Government, Provincial Governments and Local Governments are exempt from collection of tax at source under this section.



The tax collected under this section is adjustable tax against the actual tax liability of such seller or transferor of any immovable property.

**Observations**

*“Any immovable property” will include rural, urban, residential, commercial, industrial and agricultural immovable property.*

**40. Rate of tax on an association of persons – Division I and IIB of Part I of 1st Schedule**

Originally, an association of persons was subject to tax on slab rates (incremental and latter on a flat rate depending upon the quantum) of taxable income as applicable to a non-salaried individual. Effective tax year 2011, this was changed to a flat rate of tax of 25% irrespective of quantum of income.

Effective tax year 2013, the original concept has been re-introduced and an association of persons shall be liable to tax on incremental slab rates as applicable to a non-salaried individual.

See “Tax rates for non-salaried individuals and association of persons” (Para 41) for the rates applicable to an associations of person.

**Observations**

*This is a positive change and the tax impact on the taxable income of an association of persons will substantially reduced, particularly where the taxable income does not exceed Rs. 2,500,000.*

**41. Tax rates for non-salaried individuals and association of persons – Division I of Part I of 1st Schedule**

The rate of tax on “non-salaried individuals” and association of persons (as discussed above) has been substantially reduced.

Previously, a flat rate was applicable depending upon the quantum of taxable income. Effective tax year 2013, the original concept of incremental tax rate slab has been reduced and the “Zero” tax rate threshold has also been raised to Rs. 400,000 from Rs. 350,000.

The new tax rates, effective tax year 2013 for “non-salaried individuals” and association of persons are as under:

<b>Taxable income between</b>	<b>Rate of tax</b>
Rs. 0 and Rs. 400,000	0%
Rs. 400,001 and Rs. 750,000	10% of the amount exceeding Rs. 400,000
Rs. 750,001 and Rs. 1,500,000	Rs. 35,000 plus 15% of the amount exceeding Rs. 750,000
Rs. 1,500,001 and Rs. 2,500,000	Rs. 147,500 plus 20% of the amount exceeding Rs. 1,500,000
Exceeds Rs. 2,500,000	Rs. 347,500 plus 25% of the amount exceeding Rs. 2,500,000

“Non-salaried individual” means an individual whose income from salary is less than or equal to 50% of its taxable income.

This is also a positive change and caters for many issues associated with previous tax rates.

The effect of this change can be explained with the help of following table:

S. No	Taxable Income (per annum)	Existing tax liability		Tax liability after Finance Act 2012	Benefit		Benefit in percentage terms	
		Individual	AOP		Individual	AOP	Individual	AOP
	-----Rupees-----							
1	350,000	-	87,500	-	-	87,500	-	100%
2	400,000	30,000	100,000	-	30,000	100,000	100%	100%
3	600,000	60,000	150,000	20,000	40,000	130,000	67%	87%
4	800,000	120,000	200,000	42,500	77,500	157,500	65%	79%
5	1,000,000	150,000	250,000	72,500	77,500	177,500	52%	71%
6	1,200,000	240,000	300,000	102,500	137,500	197,500	57%	66%
7	1,400,000	280,000	350,000	132,500	147,500	217,500	53%	62%
8	1,600,000	400,000	400,000	167,500	232,500	232,500	58%	58%
9	1,800,000	450,000	450,000	207,500	242,500	242,500	54%	54%
10	2,000,000	500,000	500,000	247,500	252,500	252,500	51%	51%
11	2,200,000	550,000	550,000	287,500	262,500	262,500	48%	48%
12	2,400,000	600,000	600,000	327,500	272,500	272,500	45%	45%
13	2,600,000	650,000	650,000	372,500	277,500	277,500	43%	43%

#### 42. Tax rates for salaried individuals – Division IA of Part I of 1st Schedule

The rate of tax on “salaried individuals” has also been substantially reduced.

Previously, a flat rate was applicable depending upon the quantum of taxable income subject to marginal relief (where the income marginally exceeded from the previous flat rate). Effective tax year 2013, the original concept of incremental tax rate slab has been reduced.

Further,:

- The “Zero” tax rate threshold has been raised to Rs. 400,000 from Rs. 350,000;
- The maximum rate has also been brought down to 17.50% from 20.00%; and
- Number of slab rates has been curtailed to 5 from 17.

The new tax rates, effective tax year 2013 for “salaried individuals” are as under:

Taxable income between	Rate of tax
Rs. 0 and Rs. 400,000	0%
Rs. 400,001 and Rs. 750,000	5% of the amount exceeding Rs. 400,000
Rs. 750,001 and Rs. 1,500,000	Rs. 17,500 plus 10% of the amount exceeding Rs. 750,000
Rs. 1,500,001 and Rs. 2,000,000	Rs. 95,000* plus 15% of the amount exceeding Rs. 1,500,000
Rs. 2,000,001 and Rs. 2,500,000	Rs. 175,000* plus 17.50% of the amount exceeding Rs. 2,000,000
Exceeds Rs. 2,500,000	Rs. 420,000* plus 20.00% of the amount exceeding Rs. 2,500,000

\* The above figures are in accordance with the Finance Act, 2012. We understand that the figures marked asterisk (\*) are not correct and should have been Rs. 92,500, Rs. 167,500 and Rs. 255,000 respectively.

“Salaried individual” means an individual whose income from salary is more than 50% of its taxable income.

This is also a positive change and caters for many issues associated with previous tax rates.

The effect of this change can be explained with the help of following table:

S. No	Taxable Income (per annum)	Existing Tax liability	Tax liability after Finance Act 2012 As per rates given in Finance Act	Tax liability after Finance Act 2012 as per our Understanding (*)	Benefit		Benefit in percentage terms	
					As per rate given in Finance Act, 2012	As per rates worked out by us (*)	As per rate given in Finance Act, 2012	As per rates Worked out by us (*)
					-----Rupees-----			
1	400,000	6,000	-	-	6,000	6,000	100%	100%
2	600,000	27,000	10,000	10,000	17,000	17,000	63%	63%
3	800,000	60,000	22,500	22,500	37,500	37,500	63%	63%
4	1,000,000	90,000	42,500	42,500	47,500	47,500	53%	53%
5	1,200,000	120,000	62,500	62,500	57,500	57,500	48%	48%
6	1,400,000	154,000	82,500	82,500	71,500	71,500	46%	46%
7	1,600,000	200,000	110,000	107,500	90,000	92,500	45%	46%
8	1,800,000	252,000	140,000	137,500	112,000	114,500	44%	45%
9	2,000,000	300,000	170,000	167,500	130,000	132,500	43%	44%
10	2,200,000	330,000	210,000	202,500	120,000	127,500	36%	39%
11	2,400,000	384,000	245,000	237,500	139,000	146,500	36%	38%
12	2,600,000	416,000	440,000	275,000	(24,000)	141,000	-6%	34%
13	2,800,000	448,000	480,000	315,000	(32,000)	133,000	-7%	30%
14	3,000,000	525,000	520,000	355,000	5,000	170,000	1%	32%
15	3,200,000	560,000	560,000	395,000	-	165,000	0%	29%
16	3,400,000	595,000	600,000	435,000	(5,000)	160,000	-1%	27%
17	3,600,000	666,000	640,000	475,000	26,000	191,000	4%	29%
18	3,800,000	703,000	680,000	515,000	23,000	188,000	3%	27%
19	4,000,000	740,000	720,000	555,000	20,000	185,000	3%	25%
20	4,200,000	777,000	760,000	595,000	17,000	182,000	2%	23%
21	4,400,000	814,000	800,000	635,000	14,000	179,000	2%	22%
22	4,600,000	920,000	840,000	675,000	80,000	245,000	9%	27%

**Observations**

*There appears to be a technical oversight, whereby the concept of “Marginal Relief” continues to remain on the statute. In fact, after introduction of incremental slab rates this is no more applicable.*

**43. Rate of tax on capital gains arising from disposal of ‘securities’ – Division VII of Part I of 1st Schedule and Rule (6B) of 4<sup>th</sup> Schedule**

The revised rates of tax on capital gains arising from disposal of “securities” (as a separate block of income) in case of a taxpayer, other than an Insurance Company and Banking Company, are as under:

Tax year	Where the holding period of the security is		
	Less than 6 months	More than 6 months but less than 12 months	12 months or more
2012	10.00% no change	08.00% no change	0.00% no change
2013	10.00% from 12.50%	08.00% form 08.50%	0.00% no change
2014	10.00% from 15%	08.00% from 09.00%	0.00% no change
2015	17.50% no change	09.50% no change	0.00% no change
2016	Not given	10.00% no change	0.00% no change

By virtue of an amendment made this year the period of exact six months is not covered in the given rates.

The revised rates of tax on capital gains arising from disposal of “securities” (as a separate block of income) in case of Insurance Company are as under:

Tax year	Where the holding period of the security is		
	Less than 6 months	More than 6 months but less than 12 months	12 months or more
2012	10.00% from 12.50%	08.00% from 0.850%	0.00% no change
2013	12.50% from 15.00%	08.50% form 09.00%	0.00% no change
2014	15.00% from 17.50%	09.00% from 09.50%	0.00% no change
2015	17.50% no change	09.00% from 10.00%	0.00% no change

As pointed out in our earlier comments the period of exact six months is not covered in the given rates.

**44. Rate of withholding tax on goods transport vehicles plying for hire – Division III of Part IV of 1<sup>st</sup> Schedule**

The rate of tax to be collected from goods transport vehicle has been raised to Rs. 5 form Rs. 1 per kilogram of the laden weight of such vehicle.

It may be mentioned that this is the final tax in respect of income from plying of goods transport vehicles.

**45. Rate of withholding tax on passenger transport vehicles plying for hire – Division III of Part IV of 1<sup>st</sup> Schedule**

The rate of tax to be collected from passenger transport vehicle plying for hire and having seating capacity of 20 persons or more has been raised to Rs. 500 form Rs. 100 per seat of such vehicle.

It may be mentioned that this tax collection is adjustable against the actual tax liability of the owner of passenger transport vehicle and is not final tax.

The rates for passenger transport vehicle plying for hire with seating capacity of less than 20 persons continues to remain un-changed as under:

<b>Seating capacity</b>	<b>Rate of tax</b>
Between 4 and 9	Rs. 25 per seat
Between 10 and 19	Rs. 60 per seat

**46. Rate of withholding tax on new locally manufactures motor vehicles – Division VII of Part IV of 1<sup>st</sup> Schedule**

The amount of tax to be collected at the time of registration of a new locally manufactured motor vehicle shall be as under:

Engine capacity	Amount of tax		Remarks
	Existing	Revised	
Upto 850cc	Rs. 7,500	Rs. 7,500	No change
0851cc to 1000 cc	Rs. 10,500	Rs. 10,500	No change
1301cc to 1600 cc	Rs. 16,875	Rs. 16,875	No change
1601cc to 1800 cc	Rs. 22,500	Rs. 22,500	No change
1801 cc to 2000 cc	Rs. 16,875	Rs. 25,000	*
Above 2000 cc	Rs. 50,000	Rs. 50,000	No change

\* There was an inadvertent mistake in the amount of tax to be collected in respect of motor vehicle with engine capacity of 1801CC to 2000CC which has now been rectified.

**47. Exemptions from total income – Part I of 2<sup>nd</sup> Schedule**

**Clause 23(B)**

Monthly installments received from an income payment plan have been exempted from imposition of tax, subject to the condition that investment in the pension fund (in respect of which monthly installments are received):

- Is made for a minimum period of ten years; and
- Is made out of accumulated balance maintained with either of the following:
  - Individual pension accounts with a pension fund manager; or
  - An approved annuity plan or another individual pension account of eligible person; or
  - The survivors' pension account maintained with any other pension fund manager as specified in the Voluntary Pension System Rules, 2005.

**Clause 23(C)**

Withdrawal of accumulated balance from an approved pension fund that represents the transfer of such balance from an approved provident fund to the said approved pension fund has been exempted from imposition of tax.

**Clause (61)**

“The Citizen Foundation” has been added to the list of institutions qualifying for straight deduction of donations made, from the total income.

**Clause (66)**

“The Citizen Foundation” has been added to the list of institutions whose any income is exempt from levy of tax.

**Clause (101)**

The exemption period of profit and gains derived by a Venture Capital Company, Registered Venture Capital Fund and Private Equity and Venture Capital Fund has been extended upto June 30, 2024 from June 30, 2014.

**48. Reduction in tax rates – Part II of 2<sup>nd</sup> Schedule**

**Clause (9A)**

Import of raw materials by an industrial undertaking for its own use is subject to reduced rate of collection of tax at import stage of 3%. In order to avoid the misuse of this concessionary rate of withholding tax, the concession has been linked with production of an appropriate certificate issued by the Commissioner to this effect.

**49. Exemption from specific provisions – Part IV of 2<sup>nd</sup> Schedule**

**Clause (11B)**

Inter-corporate dividend within the group companies entitled to group taxation or group relief under section 59AA and 59B has been exempted from deduction of tax at source under section 150.

It may be mentioned that such dividend was already exempt from levy of tax and the un-necessary burden of withholding tax has been dispensed with.

**Clause (11C)**

Inter-corporate profit on debt within the group companies entitled to group taxation or group relief under section 59AA and 59B has been exempted from deduction of tax at source under section 151.

**Clause (16A)**

The news print media services was exempt from deduction of tax source under section 153(1)(b) in respect of their advertising services.

Now this facility has been extend to all electronic and print media services in respect of their advertising services.

**Clauses (41A), (41AA), (41AAA)**

Presumptive tax or final tax regime is a distortion to the overall taxation system. Over the years the scope of presumptive tax or final tax regime was constantly enlarged.

This is for the first time that policy makers have realized this fact and steps have been taken to revert back to normal tax regime and to tax the actual income.

To start with the taxpayers have been given option to opt out of presumptive or final tax regime in respect of the following transactions subject to certain restrictions and conditions stated against each:

- Import of goods which fall under the final taxation regime subject to the condition that the minimum tax liability under the normal tax regime shall not be less than 60% of the tax already collected at import stage;
- Export of goods (currently all export of goods fall in final tax regime) subject to the condition that the minimum tax liability under the normal tax regime shall not be less than 50% of the tax already deducted from the export realizations;
- Commission due to an indenting agent (currently all such commission fall in final tax regime) subject to the condition that the minimum tax liability under the normal tax regime shall not be less than 50% of the tax already deducted from the commission realizations;
- Sale of goods to an exporter under an inland back-to-back letter of credit or any other arrangement prescribed by the Board (currently all such sale of goods fall in final tax regime) subject to the condition that the minimum tax liability under the normal tax regime shall not be less than 50% of the tax already deducted from the proceeds of goods sold;
- Export of goods by an industrial undertaking located in the areas declared by the Federal Government as Export Processing Zones (currently all such export of goods fall in final tax regime) subject to the condition that the minimum tax liability under the normal tax regime shall not be less than 50% of the tax already collected at the time of export of goods;
- Payments received against a firm contract by an indirect exporter from direct exporter or an export house (as defined in the Duty and Tax Remission for Export Rules, 2001 in Custom Rules, 2001) (currently all payments fall in final tax regime) subject to the condition that the minimum tax liability under the normal tax regime shall not be less than 50% of the tax already deducted from such payments;
- Export of goods on which tax is collected by the Collector of Customs (currently all such export of goods fall in final tax regime) subject to the condition that the minimum tax liability under the normal tax regime shall not be less than 50% of the tax already collected at the time of export of goods; and
- Sale of goods which fall under final taxation regime subject to the condition that the minimum tax liability under the normal tax regime shall not be less than 70% of the tax already deducted from the payments received against sale of such goods.

The insertion of clause (41AAA) in Part IV of the 2<sup>nd</sup> Schedule in respect of sale of goods is not appropriately drafted and needs to be taken care off.

**Import of goods which fall under the final tax regime** is all import of goods except the following:

- Raw material, including edible oil and packing material, imported by an industrial undertaking for its own use;
- Plant, machinery, equipment and parts imported by an industrial undertaking for its own use;

- Fertilizer imported by manufacturer of fertilizer;
- Motor vehicles in CBU (completely build up unit) condition imported by manufacturer of motor vehicles; and
- Any goods imported by large import houses

**Sale of goods which fall under final taxation regime** are all goods sold to a resident person who is a prescribed person to deducted tax at source at the time of making payment against purchase of goods except the following:

- Sale of any goods by a public company listed on a stock exchange;
- Sale of manufactured goods by a company being manufacturer of such goods, other than ginned cotton; and
- Sale of iron and steel products by the manufacturer thereof.

**50. Rate on initial depreciation – Part II of 3<sup>rd</sup> Schedule**

Rate of initial depreciation on building stands reduced to 25% from 50% of the cost.

**51. Rate of tax on dividend received by a Banking Company from Money Market Funds and Income Funds – Rule (6) of 7<sup>th</sup> Schedule**

In case of Banking Companies the rate of tax on dividend received from Money Market Funds and Income Funds has been specified as under:

For the tax year

2013	25% of such income
2014 and onwards	35% of such income

This amendment also brings at rest the litigation whereby the tax authorities were of the opinion that such income attracts tax at the standard rate of 35% against the taxpayers claim that such income attracts tax at the rate of 10%.