GOVERNMENT OF PAKISTAN
REVENUE DIVISION
FEDERAL BOARD OF REVENUE
***

Islamabad, the 20th July, 2012.

NOTIFICATION
(Income Tax)

S.R.O. 902(I)/2012.- The following draft of certain further amendments in the Income Tax Rules, 2002, which the Federal Board of Revenue proposes to make in exercise of the powers conferred by sub-section (1) of section 237 of the Income Tax Ordinance, 2001 (XLIX of 2001), is hereby published for information of all persons likely to be affected thereby and, as required by sub-section (3) of the said section, notice is hereby given that the draft will be taken into consideration after fifteen days of its publication in the official Gazette. Any objection or suggestion, in respect of the said draft which may be received from any person, before the expiry of the aforesaid period, shall be considered by the Federal Board of Revenue:-

DRAFT AMENDMENTS

In the aforesaid Rules, in Chapter-II, in Part-III, after rule 13M, the following new rules shall be inserted, namely:-

"13N. Special procedures for computation of capital gains and collection of tax under the Eighth Schedule and other related matters.- (1) NCCPL shall, in accordance with this rule, collect tax on capital gains as provided in Eighth Schedule to the Ordinance, hereinafter in this Part called as the said Eight Schedule.

(2) The provisions of the said Eighth Schedule and these rules shall apply to capital gains derived from listed securities on or after the 24th April, 2012, except in the case of instrument of redeemable capital where such provisions shall be applicable on capital gain derived from the 1st July, 2012.

(3) In computing capital gains, NCCPL shall take into account transactions and their values as reported to or provided to or extracted from the systems or procedures in place with NCPPL, stock exchanges and the Central Depository Company of Pakistan Limited.

(4) The gain arising on the disposal of a security by a person shall be computed in accordance with the following formula, namely:-

$$A - B$$

Where –

A is the consideration received by the person on disposal of the security; and

B is the cost of acquisition of the security.

(5) Capital gain or loss arising on the disposal of listed securities shall be computed on the basis of First, In First Out (FIFO) inventory accounting method:

Provided that while applying FIFO method, market based transactions shall be taken into account first:

Provided further that the FIFO method shall not apply in respect of sale of shares purchased on the same trading day or in same futures or derivative contract and capital gain or loss shall be computed by applying average method.

(6) Capital loss arising on disposal of listed securities as determined by NCCPL in any financial year shall be set off against capital gain arising from the disposal of securities during that financial year to determine the taxable capital gain arising from the disposal of listed securities.

(7) Capital loss arising on disposal of listed securities in any financial year shall not be carried to a subsequent financial year.

(8) NCCPL shall deduct or add 0.5 per cent for client's trade and 0.25 per cent for broker's proprietary trade of the consideration received on disposal or cost of acquisition of securities respectively, in lieu of brokerage, commission, transaction fee, levy, Laga or any other similar incidental expenses incurred by the person while disposing or acquiring a security, subject to the condition that such deduction shall only be allowed in respect of market based transactions.

(9) NCCPL shall also deduct financing cost from the consideration received if financing is availed through NCCPL's leveraged market products.

(10) NCCPL shall collect an amount as computed in the manner laid down in the said Eighth Schedule and these rules on monthly basis in respect of transactions settled in a month, after adjustment of losses and repayment of amount collected in previous month or months of same financial year, to ensure that at the end of any given month NCCPL possesses an amount equal to the estimated amount of tax liability on capital gains.

(11) Amount computed in the manner laid down in the said Eighth Schedule and these rules shall be collected by NCCPL from or through the clearing member on net capital gains derived by person, taxable under the said Eighth Schedule.

(12) Any person, if not satisfied with the computation of capital gain or tax thereon or both made by NCCPL for the purpose of the said Eighth Schedule, such person may re-compute the capital gain and lodge claim of refund, if any, with the Commissioner after filing of return of income and the Commissioner shall refund the amount of tax in accordance with provisions of Part VI of Chapter X of the Ordinance.

(13) For the purpose of the said Eighth Schedule and this rule, the provisions of rules 13F, 13H and 13I shall not apply.

(14) The provisions of rule 13J shall not apply to the person whose tax liability on capital gains is discharged under the said Eighth Schedule, however the brokerage account of the investor shall not be closed until and unless such person obtains a clearance certificate from NCCPL.

(15) NCCPL shall issue certificate as provided in clause (4) of rule 1 of the said Eighth Schedule, as set out in Part I of rule 13O, showing computation of capital gains and tax thereon, if any, to each person subject to tax under the said Eighth Schedule within thirty days from the end of the financial year.

(16) NCCPL shall furnish electronically to the Board, a quarterly statement of amount collected, within thirty days from the end of each quarter as set out in Part II of rule 13O.

(17) The person who has opted out of the scheme of taxation provided in the said Eighth Schedule shall file an undertaking to NCCPL in the form prescribed in Part III of rule 13O.

(18) Statements referred in rule 2 of the said Eighth Schedule shall be furnished on the format prescribed in Part IV of rule 13O.

(19) The period of forty five days or one hundred twenty days, as the case may be, as referred in rule 2 of the said Eighth Schedule, shall be the period or periods in aggregate to, forty five days or one hundred twenty days, as the case may be, during the period as provided in rule 2(1)(b) and 2(2)(b) of the said Eight Schedule.

(20) For the purpose of rule 2 of the said Eighth Schedule, the investment shall be the time weighted average of the invested amount arranged in descending order for forty five days or one hundred twenty days, as the case may be. The amount of investment at any particular day shall be netted off with the market value of net open sale position in futures and derivative contract of the same security to the extent of the amount of investment representing such security, before calculating aforementioned time weighted average.

(21) For the purpose of clarity to compute, determine, collect and deposit the tax on capital gains by NCCPL, certain transactions and their tax treatments as

well as the amount and period of investment referred in rule 2 of the said Eighth Schedule as clarified in rule 13P.

Provided that NCCPL may implement the understanding as communicated in the request till a clarification is issued by the Board and shall make the adjustments, if any, after the said clarification.

(22) **Definitions.-** For the purpose of these rules,-

(a) "**clearing member**" shall have meaning as defined in NCCPL Regulations, 2003'

(b) **"leveraged market"** shall have the meaning as defined in the Securities (Leveraged Markets and Pledging) Rules, 2011;

(c) "**market based transaction"** means transaction executed at any registered stock exchange in Pakistan or NCCPL's platform; and

(d) "**UIN"** means Unique Identification Number as defined in NCCPL Regulations, 2003.

(23) Notwithstanding anything contained in these rules, for the purpose of computation of capital gains and collection of tax thereon, the date of acquisition and disposal, the consideration received and cost of acquisition shall be determined in the following manner, namely:-

(a) for the purpose of computation of capital gains, securities held on the 23rd April, 2011 shall be deemed as having held for a period of more than one year and the cost of such securities shall be deemed to be the market price (day-end price) of the securities, as on the 23rd April 2011;

(b) where physical securities have been deposited in an account maintained with Central Depository Company of Pakistan Limited between the 24th April, 2011 and the 23rd April, 2012 (both days inclusive), the date of acquisition of such securities shall be deemed as the 23rd April, 2011 and the cost of securities shall be deemed as market price (day-end price) as on the 23rd April, 2011;

(c) where securities have been acquired or disposed between the 24th April, 2011 and the 23rd April, 2012 (both days inclusive), the cost of acquisition and consideration received for disposal shall be determined in the following manner, namely:-

(i) in case of market-based transactions, the transaction price of the securities;

Pak Law Publication
Office # 05, Ground Floor, Arshad Mansion, Near Chowk A.G Office,
Nabha Road Lahore.Ph. 042-37350473 Cell # 0300-8848226

(ii) in case of transactions other than market-based transactions deal price provided by the stock exchange; and

(iii) in all other cases, the market price (day-end price).

(d) where physical securities are deposited on or after the 24th April, 2012 in an account maintained with Central Depository Company of Pakistan Limited, the actual date of acquisition and market price (day-end price) prevailing on such date shall be taken into account for computation of capital gains tax; and

(e) in all other cases, where actual or deal price is not known to NCCPL, the market price (day-end price) shall be taken into account for computation of capital gains tax.

13O. **Statements and forms**.- Statements and forms as mentioned in sub-rules (15), (16), (17) and (18) of rule 13N, shall be filled in the following format, namely:-

Part-I

Format of annual certificate of capital gains to be issued by NCCPL to taxpayer under rule 1(4) of the Eighth Schedule to the Ordinance
[See rule 13N(15)]

Original/Duplicate Date of issue___________

Sr.No

1.	Name of taxpayer	______________________________
2.	UIN	______________________________
3.	CNIC/NTN	______________________________
4.	Period	July 1, 20 ___ to June 30, 20___
5.	Clearing members Name	(a) ______________________________
		(b) ______________________________
		(c) ______________________________
6.	Amount of capital gains for holding period of:	
	(i) Less than 6 months	Rupees ____________________
	(ii) 6 to 12 months	Rupees ____________________
	(iii) more than 12 months	Rupees ____________________
7.	Amount of tax liability on capital gains.	Rupees ____________________
7.	Amount of tax liability on capital gains collected and deposited by NCCPL	Rupees ____________________

This is to further certify that the tax collected has been deposited in the Federal Government Account.

Name of authorized person ______________________________

Signature ____________________

Part-II

Format of quarterly Statement to be filed by NCCPL to the Board under rule 1(5) of the Eighth Schedule to the Ordinance [See rule 13N(16)]

NTN No.____________________________ Address________________________________

Telephone __________________________ Fax ________ Email ____________________

S.No.	*Name*	*UIN*	*Net amount of capital gains as at quarter ended_____________*			*Provisional amount of capital gains tax liability as at quarter ended _____*
			Holding period of less than 6 months	Holding period of 6 to 12 months	Holding period of more than 12 months	

I, ____________________ holder of CNIC No. ___________________ in my capacity as Principal Officer / Representative of NCCPL do hereby solemnly declare that to the best of my knowledge and belief the information given in this statement is correct and complete an in accordance with the applicable provisions of the Income Tax Ordinance, 2001 and Income Tax Rules, 2002.

Date _____________ (dd/mm/yyyy)

Signature ________________________

Pak Law Publication
Office # 05, Ground Floor, Arshad Mansion, Near Chowk A.G Office, Nabha Road Lahore.Ph. 042-37350473 Cell # 0300-8848226

Part III

Format of irrevocable option to be filed by the taxpayer under rule 5 of the Eighth Schedule to the Ordinance, who opts out of the mechanism for determination and payment of tax liability on capital gains laid down in the Eighth Schedule to the Ordinance
[See rule 13N(17)]

To, (NCCPL)

In terms of rule 5 of the Eighth Schedule to the Ordinance, I / we (name of person), hereby undertake to opt out of the mechanism for determining and payment of tax liability laid down in the said Eighth Schedule.

My other particulars are as under:

UIN ________________________________

NTN / CNIC ________________________________

Business address ________________________________

Residence address ________________________________

Telephone No. ________________________________

E-mail address________________________________

I do hereby solemnly declare that information stated above is complete and correct to the best of my knowledge and belief.

____
Signature of the authorized person

Dated: _______________

Pak Law Publication
Office # 05, Ground Floor, Arshad Mansion, Near Chowk A.G Office, Nabha Road Lahore.Ph. 042-37350473 Cell # 0300-8848226

Part-IV

Statement of investment(s) to be filed by taxpayer with the Commissioner under rule 2(1) of the Eighth Schedule to the Ordinance [See rule 13N(18)]

To,

The Commissioner, Inland Revenue.

I hereby declare my investments in listed securities as of _____ 2012, in terms of rule 2(1) of the Eighth Schedule to the Ordinance, as under:-

S.No.	Name of Security	Rupees

My other particulars are as under:

Name ______________________________

NTN / CNIC ______________________________

Business address ______________________________

Residence address ______________________________

Telephone No. ______________________________

E-mail address______________________________

I do hereby solemnly declare that information stated above is complete and correct to the best of my knowledge and belief.

Signature of the authorized person ________________________

Dated ________________________

Pak Law Publication
Office # 05, Ground Floor, Arshad Mansion, Near Chowk A.G Office,
Nabha Road Lahore.Ph. 042-37350473 Cell # 0300-8848226

13P. Clarification and explanation as mentioned in sub-rule (21) of rule 13O regarding computation of capital gains and tax payable thereon under the Eighth Schedule to the Ordinance, and the amount and period of investment referred to in rule 2 of the said Eighth Schedule are as under:-

1.1.1 **Details of the transaction**

An investor, holding securities, sells such securities in a stock exchange. The transaction is settled by transferring the securities sold from his account maintained in Central Depository System to the investor(s) buying the securities with credit of sale proceeds to the account of investor disposing of the securities.

1.1.2 Tax treatment

Disposal of security is to be taken as taxable event, at settlement date. Capital gain will be computed by applying FIFO method. If the securities holding period is more than one year, then no CGT shall be collected, otherwise, as per holding period, CGT shall be collected as per the holding period.

1.1.3 Example

A, being a client of a broker, has 2,000 shares of company ABC in his account. He acquired 1,000 shares on the 1st January, 2011 at Rs. 15 per share, 500 on the 1st July 2011 at Rs. 16 per share and 500 on the 1st January, 2012 at Rs. 14 per share. He disposed off 500 shares on the 1st February, 2012 at Rs. 13 per share, 500 shares on the 7th February, 2012 at Rs. 14 per share, 500 shares on the 21st February, 2012 at Rs. 15 per share and 500 shares on the 28th February, 2012 at Rs.22 per share.

The cost of acquisition is deemed to include 0.50% of the acquisition cost as incidental expenses incurred.

NCCPL shall collect CGT as per following example:

Purchases / Acquisitions				Disposal				
Date	No. of shares	Price	Cost*	1st Feb, 2012	7th Feb, 2012	21st Feb, 2012	28th Feb, 2012	Total
1-Jan-11	1,000	15	15,000	500	500			1,000
1-Jul-11	500	16	8,000			500		500
1-Jan-12	500	14	7,000				500	500
	2,000		30,000	500	500	500	500	2,000
Selling price per share				13	14	15	22	
Sale proceed				6,500	7,000	7,500	11,000	32,000
Less:								
Cost				7,500	7,500	8,000	7,000	30,000
				(1,000)	(500)	(500)	4,000	2,000
Less: 0.50% of sale proceeds as expense				32.50	35	37.50	55	160
				(1,032.50)	(535)	(537.50)	3,945	1,840
Adjustment of eligible losses						537.50	(537.50)	
Loss not eligible for set-off				1,032.50	535			
				-	-	-	3,407.50	
Holding period				396	402	235	58	
Tax rate applicable				0%	0%	8%	10%	
Tax to be collected				**-**	**-**	**-**	**340.75**	
				-	-	-	3,066.75	

**Cost has been deemed to include 0.50% of cost of acquisition for ancillary expenses, hence not separately mentioned*

1.1 Squaring up transactions in ready, futures and derivatives

1.2.1 Details of the transaction

An investor holding shares disposes of such shares, but on the same day or in same futures or derivative contract he buys same quantity of shares. The system does not change the inventory balances of the person in his account. The net difference of sale and purchase is either paid being profit or recovered being loss from the investor.

1.2.2 Tax treatment

Since there is no movement in the account, the net difference is payable to the investor, the same shall be taken as capital gain for holding period less than 6 months and the net difference will be subject to tax collection at 10%. If the net difference is recoverable, then the same shall be treated as loss and no tax shall be collected.

1.2.3 Example

In the example given in 1.1.3, in addition to the above, if A on the 28th February 2012 sold 500 shares, at Rs. 23, purchased 500 shares at Rs. 21 and then sold 500 shares at Rs. 22.

In this case, the average selling price of the two sales would be Rs. 22.5 per share which will be taken as the basis for computing capital gains. Consequently, gain of Rs. 750 (500 x (22.5-21)) shall be taken as taxable at 10%. Whereas, on remaining 500 shares sold the taxable gain, if any, will be computed by taking sale consideration at Rs. 22.5 per share by apply FIFO method on inventory held by A in his account.

1.3 Transfer owing to privatization

1.3.1 Details of the transaction

Owing to privatization, the shares of Government owned entities may be offered to public through stock exchanges. In such case, the Government shareholding is placed in the account of Privatization Commission and, after subscription, the shares are transferred from Privatization Commission's account to the accounts of the buyers.

1.3.2 Tax treatment

Transfer of shares by the Federal or Provincial Government in an entity will not be subject to capital gains tax due to exemption contained in section 49 of the Ordinance.

Acquisition of shares shall not be subject to any tax. The cost of acquisition of the shares shall be the price paid by the buyers to acquire the shares and such cost base shall be taken into account for computation of capital gain on any subsequent disposal of shares by the buyers.

1.4 Negotiated deal transactions

1.4.1 Details of the transaction

Certain investors holding shares may sell through negotiated deal at a price agreed with the buyer e.g. a strategic sale and purchase of shares to acquire or dispose of controlling shares. Such transactions are reported as negotiated deal transactions at the relevant stock exchange through a stock broker in the manner prescribed by such stock exchange.

1.4.2 Tax treatment

The price reported as selling price or the market price, whichever is higher,shall be taken into account to compute capital gain on the basis of holding period of such securities.

1.4.3 Example

A holding 51% shares in company ABC (51,000 shares acquired at Rs. 10). He negotiated a price of Rs. 30 per share with a foreign investor who intends to hold company ABC. The transaction is reported to the stock exchange through the broker. In case the market price of such shares on that date of transaction is Rs. 25, the capital gain shall be computed at the price of Rs.30 being higher of reported selling price and market price. Gain will be computed at Rs. 20 per share (Rs. 30 less Rs. 10) .

In case the market price of such shares on that date of transaction is Rs. 35, the capital gain shall be computed at the price of Rs.35 being higher of reported selling price and market price. In this case gain will be computed at Rs. 25 per share (Rs.35 less Rs.10)

1.5 Transfer owing to acquisition

1.5.1 Details of the transaction

Certain transactions in listed securities, fulfilling the rules and regulations, are entered into to acquire voting shares and takeovers under the Listed Companies (Substantial Acquisition of Voting Shares and Takeovers) Ordinance, 2002. Such transaction may be entered into at negotiated price or may be executed through the pricing mechanism of stock exchange.

1.5.2 Tax treatment

The actual selling price, negotiated or quoted, whichever is higher, in accordance with the provisions of relevant laws, as reduced by the cost of securities on FIFO basis, shall be taken as capital gain or loss and considering the example given in 1.1.3, any taxable gain shall attract collection of tax at applicable rate.

1.6 Buy-back of shares

1.6.1 Details of the transaction

Pursuant to section 95A of the Companies Ordinance, 1984, a company may buy back its shares from its shareholders. If an investor holding shares exercise option then shares held by him are transferred to the company.

1.6.2 Tax treatment

The transfer of shares under buy-back arrangement will be taken as disposal and the price paid by the company to acquire the shares shall be taken as sale price to compute capital gain and collect tax thereon, if such gain is taxable.

1.7 Transfer from one account of investor to his another account

1.7.1 Details of the transaction

An investor holding shares in his one account transfers shares to another. In case where shares are transferred from singly owned account to another singly owned account that may be maintained with different participant or from a joint account to another joint account with same combination of joint holders this will be treated as portfolio transfer as no change has occurred in overall portfolio of the investor. However, in case of transfer of shares from a singly owned or joint account to an account where ownership structure is different, such transfers shall be treated as disposal.

1.7.2 Tax treatment

In case of portfolio transfer where ownership of shares does not change, no capital gain tax shall be computed. Whereas in all other cases, such transfer shall be treated as disposal and shall be taxed accordingly.

1.8 Securities lending and borrowing (SLB)

1.8.1 Details of the transaction

An investor borrows securities from a person holding such security for a specified period under an outright purchase and re-sale contract. Investor sells the borrowed security in the market and on or before contract completion date repurchases it to return to the lender. The borrowing investor while returning the security to the lender pays financial charges for the period of use of security.

1.8.2 Tax treatment

In accordance with rule 13L(1)(b), the net difference in the hands of the borrower resulting in completing the whole transaction, including the financial charges incurred on borrowing the securities, is to be treated as capital gain / loss, as the case may. The income of the lender, being mark-up income, shall not be subject to capital gain tax.

1.8.3 Example

A borrowed 1,000 shares from B for short term. The agreed value of the borrowed shares is Rs. 100 per share on which mark-up for the specified period is to be paid by the borrower at the time of returning the borrowed securities. A sold such borrowed securities at Rs. 101 per share and subsequently on the date agreed to return the shares to the lender, re-purchased 1000 shares at Rs. 90. At the time of settlement, the borrower also paid a sum of Rs. 2 per share as mark up on borrowed security to the lender.

	No of shares	Price	Amount
Net gain / loss of the borrower			
Sale of borrowed shares	1,000	101	101,000
Repurchase of shares and returned to the lender	(1,000)	90	(90,000)
O.50% of sale proceeds as incidental expenses on sale			(505)
0.50% of repurchase price being incident expenses on acquisition			(450)
Financial cost paid to the lender		2	(2,000)
Net gain / (loss)	-		8,045
Tax to be collected @ 10% on net gain			**804.50**
Financial income of the lender			2,000
No CGT to be collected			**0**

For the lender, on return of the borrowed shares by the borrower, the cost and date of acquisition shall remain the same as was before lending the shares to the borrower.

1.9 Transfer / transmission upon death

1.9.1 Details of the transaction

Upon death of an individual, the securities held are transferred to the executor or beneficiary.

1.9.2 Tax treatment

In accordance with section 79 of the Ordinance, no gain or loss is recognized on transmission of an asset to an executor or the beneficiary on the death of a person. Accordingly, no capital gain tax is required to be computed and collected at the time of such transfer. The date of acquisition and cost of the shares in the hands of executor or beneficiary will be the same as was in the hands of deceased person.

1.10 Transfer for / against GDRs

1.10.1 Details of the transaction

A person holding shares of a company, for which GDR is issued, may deposit the shares with the Depository for issuance of shares. Conversely, the GDR issued may either be redeemed at specified time or cancelled before time in which case the Depository issues shares to the GDR holder.

1.10.2 Tax treatment

When the person deposits shares into the Depository and get issued GDRs, the shares will be taken as disposed of and consequently, capital gain will be required to be computed. Since the value of GDRs issued will not be available to NCCPL, therefore, the market price (day-end price) of the date of transfer shall be taken as consideration received by the person for the purpose of computation and collection of capital gain tax.

Similarly, when GDRs are converted into shares, the deposit of shares in the person's account shall not be a taxable event, being an acquisition of shares. However, as the value for which GDRs converted into shares will not be available with NCCPL, therefore, the cost of acquisition for such shares shall be taken the market price (day-end price) of the date on which the shares are deposited.

1.11 Gift (to family members or to members other than family members)

1.11.1 Details of the transaction

Securities may be transferred from an investor's account to another account belonging to his family or another member not belonging to family by reason of a gift, by use of reason code established under Central Depository System.

1.11.2 Tax treatment

In accordance with section 79 of the Ordinance, no gain or loss is recognized on disposal of an asset by reason of a gift of the asset. Accordingly, such transfer will not attract capital gain tax. The date of acquisition and cost of the securities shall remain same in the hands of transferee as were in the hands of transferor.

1.12 Reversal of erroneous transfers

1.12.1 Details of the transaction

Sometime, securities may be transferred from one investor's account erroneously, which are then returned from the participants account to whom such erroneous delivery is made.

1.12.2 Tax treatment

If at the time of transaction such an error is not identified, NCCPL will compute and collect tax on transfer of shares at first stage, if applicable. However, since subsequent reversal of erroneous transfers is not due to disposal therefore such rectification of mistake to correct the inventory in participants' accounts will not be considered as taxable event.

1.12.3 Example

A sold 500 shares which were bought by B. Erroneously, 5,000 shares were transferred from A's account to C's account. On detection of error, C' returns 5,000 shares to A and then A transfers 500 shares to B.

At the time of first transfer of 5,000 shares the system will record the transaction and compute capital gain tax, if applicable. Subsequent reversals, will be made through erroneous transfer reason code, and being there no actual disposal involved, no gain or loss shall be computed in the case of transfer of shares from C to A and then A to B.

The respective persons, if need arises, may seek adjustments for actual results in their return of income, including refund for excess collection of tax due to erroneous transfer by the investor.

1.13 Global custodian related market based transaction

1.13.1 Details of the transaction

Foreign institutional investors not only deal in shares for their own account but also on behalf of other investors through global custodians.

1.13.2 Tax treatment

Provisions of Eighth Schedule to the Ordinance shall not apply on the transactions of foreign institutional investor.

1.14 Failure in delivery or payment

1.14.1 Details of the transaction

Where a person has sold the securities but unable to settle the transaction by delivery, as per stock market mechanism, the securities are bought from another investor and delivered to the buyer(s). The person in default is charged with certain penalties / charges for his failure to complete the transaction.

Similarly, a buyer may default in making payment for securities purchased. The securities so purchased by him are retrieved and sold to settle his liability towards the seller.

1.14.2 Tax treatment

Where the seller fails to deliver securities, and the transaction is settled by purchase of securities from another investor to settle the transaction, the person in default shall not be treated as seller of the securities in accordance with criteria of section 75 of the Ordinance. Rather, the person from whom the securities were purchased to settle the transaction is to be taken as person disposing the securities and accordingly he will be subject to capital gain tax, if applicable.

Where a buyer defaults in taking the delivery of security by not making payment due, the securities sold on his behalf will be taken as disposal by him and if any gain arises in the hands of buyer in default such gain will be subject to capital gain tax, if applicable.

1.15 Failed / un-affirmed transaction

1.15.1 Details of the transaction

Clearing Member (CM) of one stock exchange (Originating CM) deals with a CM of another stock exchange (Transacting CM) for sale or purchase of shares. When, the Originating CM does not confirm the transaction to the NCCPL, NCCPL completes the transaction by executing sale or purchase through Transacting CM. To complete the transaction, shares are delivered to/from the account of Transacting CM.

1.15.2 Tax treatment

Since such transactions are settled by the Transacting CM, NCCPL shall compute capital gain in respect of such transaction from such Transacting CM.

1.16 Pledge call

1.16.1 Details of the transaction

When a borrower defaults in payment to the lender, and shares were pledged as collateral, the borrower is entitled to transfer such shares from the person in default to his own account.

1.16.2 Tax treatment

When the shares are transferred from the account of person in default to the lender's account, such transfer will be treated as disposal for tax purposes. The system price (day-end price) will be taken as deemed consideration for the purpose of computation of capital and tax thereon. Since no proceeds will be due to the person in default, thus, NCCPL may not be able to collect tax from such person. However, NCCPL shall report such capital gain and the amount tax, if any, in the statements.

1.17 Disposal of bonus shares

1.17.1 Details of the transaction

A company issues bonus shares to its shareholders, which are subsequently sold by the shareholder in the market.

1.17.2 Tax treatment

At the time of credit of bonus shares in the shareholders account, in accordance with CBR's Letter C.No. 1(13)IT-1/72, dated the 18th May, 1972, the cost of such shares would be computed by spreading the cost of old shares over the old shares plus the bonus shares taken together. This cost of a share would be the same for the old shares and the new shares. Subsequently, when such bonus shares are disposed of, such cost will be taken for computation of capital gain and tax thereon. Similarly, the cost of old shares would be taken the same as for bonus shares, and when the old shares are disposed of, such cost will be taken for computation of capital gain and tax thereon, even if these are sold prior to the crediting of bonus shares in the shareholder's account, but after the date of entitlement of bonus shares.

1.17.3 Example

A, being a client of a broker, has 4 shares of company A in his account. He acquired these shares on the 1st January, 2012 at Rs. 20 per share. On the same day i.e. 01-01-2012, the company declared bonus shares @ 25%, and date of entitlement of the shares was declared as 1-04-2012 and the shares were to be credited in the account of A on 15-5-2012. The market value of these shares on 31-03-2012 is Rs. 25 per share. He disposed of 2 shares on the 15th April, 2012 at Rs. 20 per share and the remaining 3 shares (including bonus share) @ Rs.20 on the 18th May 2012.

The cost of acquisition is deemed to include 0.50% of the acquisition cost as incidental expenses incurred and sale proceeds are deemed to include 0.5% of the consideration as incidental expenses.

NCCPL shall collect CGT as per following example:

Purchases / Acquisitions				Disposal		
Date	No. of shares	Price	Cost*	15-Apr-2012	18 May 2012	Total
1-Jan-12	4	20	80	2		2
1-Jan-12	Bonus shares issued @ 25% (Date of entitlement 1-04-12) (Date of credit 15-5-2012)				3	3
1-Apr-12	4	16	64			
15-May-12	1	16	16			
				2	3	5
Selling price per share				20	20	
Sale proceed				40	60	100
Less: Cost				32	48	80
				8	12	20

Cost as per CBR's Letter C.No. 1(13)IT-1/72 dated the 18th May, 1972 for old and new shares after entitlement date is 80 divided by (4+1)= 16

Market rate as on 31-03-2012 = 25 per share
Market rate as on 01-04-2012 due to adjustment as a result of entitlement= 20 (25/1.25)

It is assumed that no change in market value of the share from 01-04-2012 to 18-05-2012

1.18 Right issue

1.18.1 Details of the transaction

A Company may grant letter of rights to its shareholders to acquire further shares in the company at a given price. Such rights are credited to the respective shareholders account and such rights are also traded on stock exchange. A shareholder granted the right, or an investor who bought the right from the stock market, subscribe the shares of the company by making payment of given price of the shares. Shares so acquired may then be disposed of.

1.18.2 Tax treatment

When a person disposes of Letter of Rights(LORs) before subscription, the sale proceeds shall be treated as capital gain. Upon expiry/exercise of right, the disposal of LORs shall be recorded at zero price for the purpose of computation of CGT. Whereas normal sale/purchase of LORs shall be treated in a same manner as provided in clause 1.1 of this Part.

When a person disposes shares acquired through right, the subscription cost of the right shares shall be treated as cost of acquisition of such shares and capital gain or loss shall be computed accordingly.

1.19 Merger

1.19.1 Details of the transaction

Securities are moved pursuant to order or directive of authorities like SECP, SBP, High Court etc.

1.19.2 Tax treatment

Since no change of ownership of the shareholder is involved therefore such transfer will not be taken as taxable event and no CGT will be collected on such transfer.

1.19.3 Example

A holds 1,000 shares in ABC which he acquired at Rs. 10 each on the 1st January, 2011. ABC merged into company XYZ through scheme approved by the High Court. XYZ issues 1 share for each 2 shares of company ABC. Consequently, in A's account, 1,000 shares in company ABC are replaced with 500 shares of company XYZ. The extinguishment of 1,000 shares in company ABC will be treated as tax neutral event, and 500 shares in XYZ will have the same cost base i.e. Rs. 10,000 (Rs. 20 per share). If subsequently, A sells shares of XYZ, capital gain will be computed taking into account the date of acquisition i.e. the 1st January, 2011.

1.20 De-merger

1.20.1 Details of the transaction

Consequent to the order of the court, SECP or State Bank of Pakistan, a company may de-merged and split into two companies. Consequently, the shareholding of existing company is also divided into shares of the two companies i.e. existing company and the new company. In Central Depository System, in a shareholders account the existing company's shareholding is reduced to the revised shareholding whereas new shareholding in the new company is also recognized.

1.20.1 Tax treatment

Pursuance to section 97A of the Ordinance, the splitting will be tax neutral event. The cost base of existing shareholding shall be divided in proportion to the revised shareholding in the existing company and the new company. The date of acquisition of shares in the existing company will remain same for the revised shareholding in the two companies.

1.21 Capital reduction / Splitting of shares / Conversion

1.21.1 Details of the transaction

A company may consider reducing its paid capital or splitting the shares under the relevant laws. In such, the existing shareholders are either required to surrender the existing shares and obtain new shares in the ratio approved, or the existing shares are divided into specified numbers of new shares.

1.21.2 Tax treatment

Since the existing shareholders are issued with new shares in exchange of their existing shares due to the corporate requirements, and no change in ownership occurs, therefore, the cancellation of existing shares is not to be treated as 'disposal' for tax purposes. Further, the cost and date of acquisition of new shares will remain same, as it was for existing shares.

1.22 Specie dividend

1.22.1 Details of the transaction

A company declares dividend in specie, whereby, the dividend is paid in the form of shares in a company (other than the shares of the company declaring dividend). Such shares held in the account of the company are transferred to the respective shareholders' account. The shareholders who received such shares in other company may then dispose of such shares.

1.22.2 Tax treatment

When a person will be transferring shares in other company to its shareholders as specie dividend, then such shares will be taken as disposed of and will be subject to capital gain tax.

The shares will be added in the share holders' account and the cost will be calculated as calculated for Bonus shares in Example 1.17.3, whereas, the acquisition date will be the date on which shares are credited. Such cost base shall be taken into account for computation of gain or loss at the time of disposal of shares received as specie dividend and original shares.

1.23 Offer for sale

1.23.1 Details of the transaction

Pursuant to section 61 of the Companies Ordinance, 1984, transactions for issuance / sale of securities can be carried out as offer for sale.

1.23.2 Tax treatment

When securities are issued by the company under offer for sale, the issuance is not a taxable event. The date on which such securities are credited to the investor's account shall be taken as acquisition date and the price paid for acquiring such securities shall be taken as cost of acquisition of such securities. Such date and cost base shall then be considered for computation of capital gains tax if such securities are disposed of by the investor subsequently.

If under offer for sale, a person disposes of securities held by him, then such disposal will be taxable event and subject to capital gains tax.

1.24 Court orders

1.24.1 Details of the transaction

There could be certain orders of the courts whereby transfer of securities may be required from an investor's account to another investor's account or any other person, e.g. deposit of securities with Nazir of the Court, transfer of securities in case of dispute among legal heirs, award of decree etc. etc.

1.24.2 Tax treatment

Capital gains tax on transfer under a court order will depend on the contents of the order. For example, in case of an order in dispute among legal heirs, the transfer of securities may not be taxable being covered under section 79 of the Ordinance. Similarly, in case of mergers / de-mergers, transfers would be tax neutral event. Whereas, in case of a decree against an investor, transfer of securities from his account may constitute taxable event.

NCCPL shall be responsible to compute capital gains tax, where a clearing member report transfer under a court order as taxable event through Central Depository System.

1.25 Computation of investment amount for the purpose of rule 2 of the Eighth Schedule to the Ordinance

The period of investment and amount eligible under rule 2 of Eighth Schedule to the Ordinance shall be determined as per following examples:

Example-1

Statement of Net Investment With Age - clause 2(1) of Eighth Schedule						
Date	**Description**	**Cost of Investment**	**Value of open Derivatives Sale Position**	**Net Investment**	**No of days**	**Accumulative Investment**
31-Mar-12	**Opening Balance**	5,000,000	1,000,000	4,000,000	24	4,000,000
24-Apr-12	Disposal	(2,000,000)	-	3,000,000	8	3,000,000
02-May-12	Disposal	-	1,500,000	1,500,000	12	1,500,000
14-May-12	Acquisition	4,000,000	-	7,000,000	17	7,000,000
31-May-12	Disposal	(5,000,000)	-	2,000,000	30	2,000,000
30-Jun-12	**Closing balance**	**2,000,000**				

Sorted in Descending Order	
No of days	**Accumulative Investment**
17	7,000,000
24	4,000,000
8	3,000,000
30	2,000,000
12	1,500,000

Calculation of Time Weighted Average			
No of days	**Accumulative Investment**	**Product**	**Time Weighted Average**
17	7,000,000	119,000,000	
24	4,000,000	96,000,000	
4	3,000,000	12,000,000	
45		**227,000,000**	
Time Weighted Average = Total product/No of days		**5,044,444**	

Since Time Weighted Average Amount is higher than the net investment on April 23, 2012, the net amount invested as on April 23, 2012 shall be deemed as investment for the purpose of clause 2(1) i.e. Rs.4000,000/-

Statement of Net Investment With Age - clause 2(2) of the Eighth Schedule						
Date	**Description**	**Cost of Investment**	**Value of open Derivatives Sale Position**	**Net Investment**	**No of days**	**Accumulative Investment**
01-Apr-12	Acquisition	10,000,000	-	10,000,000	14	10,000,000
25-Apr-12	Disposal	(2,000,000)	500,000	(2,500,000)	27	7,500,000
02-May-12	Disposal	(3,000,000)	-	(3,000,000)	20	4,500,000
01-Jun-12	Acquisition	4,000,000	-	4,000,000	29	8,500,000
30-Jun-12	Disposal	(1,000,000)	1,500,000	(2,500,000)	258	6,000,000
15-Mar-13	Acquisition	3,000,000	-	3,000,000	416	9,000,000
05-May-14	Disposal	(6,000,000)	-	(6,000,000)	31	3,000,000
05-Jun-14	Acquisition	12,000,000	-	12,000,000	20	15,000,000
25-Jun-14	Disposal	2,000,000	3,000,000	(1,000,000)	5	14,000,000
30-Jun-14	**Closing balance**	**19,000,000**	**5,000,000**	**14,000,000**		

Sorted in Descending Order	
No of days	**Accumulative Investment**
20	15,000,000
5	14,000,000
14	10,000,000
416	9,000,000
29	8,500,000
27	7,500,000
258	6,000,000
20	4,500,000
31	3,000,000

Calculation of Time Weighted Average			
No of days	**Accumulative Investment**	**Product**	**Time Weighted Average**
20	15,000,000	300,000,000	
5	14,000,000	70,000,000	
14	10,000,000	140,000,000	
81	9,000,000	729,000,000	
120		**1,239,000,000**	
Time Weighted Average = Total product/No of days			**10,325,000**

[C.No. 4(90)ITP/2007]

(Shahid Hussain Asad)
Member (Inland Revenue)/
Additional Secretary