

An ORDINANCE

further to amend certain laws

WHEREAS it is expedient further to amend certain laws;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance, namely:-

1. **Short title, extent and commencement.**- (1) This Ordinance may be called the Finance (Amendment) Ordinance, 2009.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Amendment of Sales Tax Act, 1990.**- In the Sales Tax Act, 1990, the following further amendments shall be made, namely:-

(1) in section 2,-

(a) for clause (1), the following be substituted, namely:-

“(1) Appellate Tribunal” means the Appellate Tribunal Inland Revenue established under section 130 of the Income Tax Ordinance, 2001(XLIX of 2001)”;

- (b) in clause (2), the words “officer of Sales Tax” shall be substituted by the words “officer of Inland Revenue”,
- (c) in clause (3), in sub-clause (f), in entry (iv), the word “Collector” shall be substituted by the word “Commissioner”;
- (d) after clause (4), the following new clause (4A) shall be inserted, namely:

“(4A) “Chief Commissioner” means a person appointed as the Chief Commissioner Inland Revenue under section 30;”;

- (e) clause (5) shall be substituted by the following, namely:-

“(5) “Commissioner” means the Commissioner Inland Revenue appointed under section 30;”;

- (f) clause (15) shall be substituted by the following namely:-

“(15) “local Inland Revenue office” means the office of Superintendent of Inland Revenue or such other office as the Board may, by notification in the official Gazette, specify;”;

- (g) clause (18) shall be substituted by the following, namely:-

“(18) “officer of Inland Revenue” means an officer appointed under section 30;”;

- (h) in clause (23), the word “Collector” shall be substituted by the word “Commissioner”; and

- (i) in clause (46), in sub-clause (e), the words “Sales Tax Department” shall be substituted by the words “Inland Revenue” and the word “Collector” shall be substituted by the word “Commissioner”;
- (2) in section 10, in sub-section (3), the words “collector of Sales Tax” shall be substituted by the words “ Commissioner Inland Revenue”;
- (3) in section 11,-
 - (a) in sub-section (1), the words “Sales Tax” shall be substituted by the words “ Inland Revenue”;
 - (b) in sub-section (2), the words “Sales Tax” shall be substituted by the words “ Inland Revenue”;
 - (c) in sub-section (4), the words “ Sales Tax”, occurring twice, shall be substituted by the words " Inland Revenue";
 - (d) in sub-section (4), in the proviso, the word “Collector” shall be substituted by the word “Commissioner”; and
 - (e) in sub-section (5), the word “ Collector” shall be substituted by the word “Commissioner” and the words “ Sales Tax Department” shall be substituted by the words “ Inland Revenue”;
- (4) in section 21, in sub-section (2), the word “Collector” shall be substituted by the word “Commissioner”;
- (5) in section 23, in sub-section (3), the word “Collector” shall be substituted by the word “Commissioner”;
- (6) in section 24, the word “five” appearing in the heading and the body of section shall be substituted by the word “six” and after the word “relate”, at the end, the words and commas

“or till the final decision in any proceedings including proceedings for assessment, appeal, revision, reference, petition and any proceedings before an Alternative Dispute Resolution Committee” shall be substituted;

(7) in section 25,-

- (a) in sub-section (1), the words " Sales Tax" shall be substituted by the words “ Inland Revenue”;
- (b) in sub-section (2), the words " Sales Tax", wherever occurring, shall be substituted by the words “ Inland Revenue" and the word “Collector”, occurring twice, shall be substituted by the word “Commissioner”;
- (c) in sub-section (3), the word “Collector” shall be substituted by the word “ Commissioner”;
- (d) in sub-section (4), the word “ Collector” shall be substituted by the word “ Commissioner”; and
- (e) after sub-section (4), the following new sub-section (4A) shall be inserted, namely:

“(4A) After completion of the audit under this section or any other provision of law, the officer of Inland Revenue may, if considered necessary, after obtaining the registered person’s explanation on all the issues raised in the audit shall pass an order under section 11 or section 36, as the case may be, imposing the correct amount of tax, charging default surcharge, imposing penalty and recovery of any amount erroneously refunded.”;

(8) in section 25A, the words " Sales Tax" shall be substituted by the words “ Inland Revenue" and the word and comma “collectorate” shall be substituted by the words “Large Taxpayers Unit or Regional Tax Office, as the case may be”;

- (9) after section 25A, the following new section 25AA shall be inserted, namely:

“25AA. Transactions between associates.- The Commissioner or an officer of Inland Revenue may, in respect of any transaction between persons who are associates, determine the transfer price of taxable supplies between the persons as is necessary to reflect the fair market value of supplies in an arm’s length transaction.”;

- (10) in section 26, in sub-section (3), the words “Collector of Sales Tax” shall be substituted by the words “Commissioner Inland Revenue” and in the first proviso, the words "Sales Tax" shall be substituted by the words "Inland Revenue";

- (11) in section 27, in clause (b), the word “Collector” shall be substituted by the word “Commissioner”;

- (12) in section 28, the word "Collector", occurring twice, shall be substituted by the word "Commissioner";

- (13) section 30 shall be substituted by the following, namely:-

“30. Appointment of authorities.- (1) For the purposes of this Act, the Board may, by notification in the official Gazette, appoint in relation to any area, any case or any class of cases specified in the notification, any person to be -

- (a) a Chief Commissioner Inland Revenue;
- (b) a Commissioner Inland Revenue;
- (c) a Commissioner Inland Revenue (Appeals);
- (d) an Additional Commissioner Inland Revenue;
- (e) a Deputy Commissioner Inland Revenue;
- (f) an Assistant Commissioner Inland Revenue;
- (g) a Superintendent Inland Revenue;

- (h) a Senior Auditor Inland Revenue; and
- (i) an officer of Inland Revenue with any other designation.

(2) The Chief Commissioner Inland Revenue and Commissioner Inland Revenue (Appeals) shall be subordinate to the Board and Commissioner Inland Revenue shall be subordinate to the Chief Commissioner Inland Revenue.

(3) Additional Commissioner Inland Revenue, Deputy Commissioners Inland Revenue, Assistant Commissioner Inland Revenue, Superintendent Inland Revenue, Senior Auditor Inland Revenue and officer of Inland Revenue with any other designation shall be subordinate to the Commissioner Inland Revenue.”;

(14) in section 31, the words "Sales Tax" shall be substituted by the words “Inland Revenue”;

(15) in section 32,-

- (a) in sub-section (1), clauses (a) to (d) shall be substituted by the following, namely:-

“(a) any Additional Commissioner Inland Revenue or Deputy Commissioner Inland Revenue to exercise any of the powers of a Commissioner Inland Revenue under this Act;

(b) any Deputy Commissioner Inland Revenue or Assistant Commissioner Inland Revenue to exercise any of the powers of an Additional Commissioner Inland Revenue under this Act;

(c) any Assistant Commissioner Inland Revenue to exercise any of the powers of a Deputy Commissioner Inland Revenue under this Act;
and

- (d) any other officer of Inland Revenue to exercise any of the powers of an Assistant Commissioner Inland Revenue under this Act.”;
 - (b) in sub-section (2), the word “Collector”, occurring twice, shall be substituted by the word “Commissioner” and the words “Sales Tax” shall be substituted by the words “ Inland Revenue”;
- (16) in section 32A,-
- (a) in sub-section (2), the word “Collector” shall be substituted by the word “Commissioner”; and
 - (b) in sub-section (3), the words “ Sales Tax” shall be substituted by the words “Inland Revenue”;
- (17) in section 33, in the Table,-
- (a) against S.No.5 in column(1), in column (2), the words " Sales Tax not below the rank of Assistant Collector of Sales Tax" shall be substituted by the words "Inland Revenue not below the rank of Assistant Commissioner Inland Revenue"; and
 - (b) against S.No.18 in column (1), in column (2), the words “Sales Tax” wherever occurring, shall be substituted by the words “Inland Revenue”;
- (18) in section 36, in sub-section (3), the words “Sales Tax” shall be substituted by the words “Inland Revenue”, and in the proviso, the word “Collector” shall be substituted by the word “Commissioner”;
- (19) in section 37, the words “Sales Tax” wherever occurring, shall be substituted by the words “ Inland Revenue”;

(20) in section 37A,-

- (a) in sub-section (1), the words and comma “Sales Tax, not below the rank of an Assistant Collector of Sales Tax” shall be substituted by the words and comma “Inland Revenue, not below the rank of an Assistant Commissioner Inland Revenue”; and
- (b) in sub-section (4), the word “Collector” shall be substituted by the word “Commissioner”;

(21) in section 38A, the word “Collector”, occurring twice, shall be substituted by the word “Commissioner”;

(22) in section 38B,-

- (a) in sub-section (1),-
 - (i) the words “ Collector of Sales Tax” shall be substituted by the words “ Commissioner Inland Revenue”;
 - (ii) in clause (a), the words “Sales Tax” shall be substituted by the words “Inland Revenue”;
 - (iii) in clause (b), the words “ Sales Tax” shall be substituted by the words “Inland Revenue”; and
 - (iv) in clause (c), the words “Sales Tax” shall be substituted by the words “Inland Revenue”;
- (b) in sub-section (2), the words “Sales Tax”, occurring twice, shall be substituted by the words “Inland Revenue”; and
- (c) in sub-section (4), the words “Sales Tax”, occurring twice, shall be substituted by the words “Inland Revenue”;

- (23) in section 40, in sub-section (1), the words "Sales Tax" shall be substituted by the words "Inland Revenue";
- (24) in section 40B,-
- (a) in the heading, the words "sales tax" shall be substituted by the words " Inland Revenue"; and
 - (b) the words "Sales Tax ", occurring twice, shall be substituted by the words " Inland Revenue", and the word "Collector" shall be substituted by the word "Commissioner";
- (25) section 45 shall be omitted;
- (26) in section 45A,-
- (a) the word "Collector" in the heading shall be substituted by the word "Commissioner";
 - (b) in sub-section (1), the words "Sales Tax" shall be substituted by the words " Inland Revenue"; and
 - (c) in sub-section (4), the word "Collector" shall be substituted by the word "Commissioner" and the words " Sales Tax" shall be substituted by the words "Inland Revenue";
- (27) in sub-section 45B,-
- (a) sub-section (1), shall be substituted by the following, namely:-

"(1) Any person, other than the Sales Tax Department, aggrieved by any decision or order passed under sections 10, 11,25, 36, or 66, by an officer of Inland Revenue may, within thirty days of the date of receipt of such decision or order, prefer appeal to the Commissioner Inland Revenue (Appeals) :

Provided that an appeal preferred after the expiry of thirty days may be admitted by the Commissioner Inland Revenue (Appeals) if he is satisfied that the appellant has sufficient cause for not preferring the appeal within the specified period.” ;

Provided further that the appeal shall be accompanied by a fee of one thousand rupees to be paid in such manner as the Board may prescribe.”;

- (b) in sub-section (2), the words “Collector of Sales Tax” shall be substituted by the words “Commissioner Inland Revenue” and in the first proviso, the words “Collector ” shall be substituted by the word “Commissioner ”; and
 - (c) in sub-section (3), the words “Collector of Sales Tax” shall be substituted by the words “Commissioner Inland Revenue ”;
- (28) in section 46,-
- (a) in sub-section (1),-
 - (i) the word “Collector” shall be substituted by the word “ Commissioner” and the words “Sales Tax” shall be substituted by the words “Inland Revenue”;
 - (ii) in clause (a), the words “Collector of Sales Tax” shall be substituted by the words “Commissioner Inland Revenue”; and
 - (iii) in clause (b), the words “Collector of Sales Tax” shall be substituted by the words “Commissioner Inland Revenue”;
 - (b) in sub-section (2) for the words, figures, commas and brackets “194-A, 194-B, 194-C of the Customs Act,1969 (IV of 1969)”, the words, comma, figures and brackets “131 and 132 of the Income Tax Ordinance, 2001 (XLIX of 2001)” shall be substituted;

(c) after sub-section (2), a new sub-section (2A) shall be added;

“(2A) All appeals and proceedings under this Act pending before the Customs, Excise and Sales Tax Appellate Tribunal constituted under section 194 of the Customs Act 1969 (IV of 1969) shall stand transferred to the Appellate Tribunal constituted under section 130 of the Income Tax Ordinance 2001 (XLIX of 2001) with effect from the date of promulgation of the Finance (Amendment) Ordinance, 2009.”;

(29) in section 47,-

- (a) in sub-section (1), the words “ Sales Tax” shall be substituted by the words “Inland Revenue” and the word “Collector, occurring twice, shall be substituted by the words “Commissioner”;
- (b) in sub section (7), in the proviso, the word “Collector”, occurring twice, shall be substituted by the word “Commissioner” ;
- (c) in sub-section (10), the word “Collector”, occurring twice shall be substituted by the words “Commissioner ”; and
- (d) in sub-section (11), the word “Collector”, occurring thrice, shall be substituted by the word “Commissioner”;

(30) in section 47A,-

- (a) in sub-section (2), the words "Sales Tax not below the rank of Additional Collector" shall be substituted by the words "Inland Revenue not below the rank of Additional Commissioner"; and
- (b) in sub-section (3), the words " Sales Tax" shall be substituted by the words "Inland Revenue";

(31) in section 48, in sub-sections (1) and (2) the words "Sales Tax" shall be substituted by the words "Inland Revenue";

(32) in section 49A,-

- (a) in sub-section (1), the word "Collector", shall be substituted by the word "Commissioner";
- (b) in sub-section (2), the word "Collector" , occurring twice, shall be substituted by the word "Commissioner";
- (c) in sub- section (3), the word "Collector" shall be substituted by the word "Commissioner";
- (d) in sub-section (4), in clause (a), the word "Collector", occurring twice, shall be substituted by the word "Commissioner"; and
- (e) in sub-section (6), the word "Collector" shall be substituted by the word "Commissioner";

(33) in section 52, the words "Sales Tax" shall be substituted by the words " Inland Revenue";

(34) in section 55, the words "Sales Tax" shall be substituted by the words " Inland Revenue";

(35) section 56 shall be substituted by the following, namely:-

“56. Service of orders, decisions, etc.- (1) Subject to this Act, any notice, order or requisition required to be served on a resident individual, other than in a representative capacity, for the purposes of this Act shall be treated as properly served on the individual if –

- (a) personally served on the individual or, in the case of an individual under a legal disability or a non-resident individual, the representative of the individual;
- (b) sent by registered post or courier service to the place specified in clause (b) of sub-section (2) or to the individual's usual or last known address in Pakistan; or

(c) served on the individual in the manner prescribed for service of a summons under the Code of Civil Procedure, 1908 (V of 1908).

(2) Subject to this Act, any notice, order or requisition required to be served on any person, other than a resident individual to whom sub-section (1) applies, for the purposes of this Act, shall be treated as properly served on the person if –

(a) personally served on the representative of the person;

(b) sent by registered post or courier service to the person's registered office or address for service of notices under this Act, in Pakistan, or where the person does not have such office or address, the notice is sent by registered post to any office or place of business of the person in Pakistan; or

(c) served on the person in the manner prescribed for service of a summons under the Code of Civil Procedure, 1908 (V of 1908).

(3) Where an association of persons is dissolved, any notice, order or requisition required to be served under this Act, on the association may be served on any person who was the principal officer or a member of the association immediately before such dissolution.

(4) Where, business stands discontinued, any notice, order or requisition required to be served under this Act, on the person discontinuing the business may be served on the person personally or on any individual who was the person's representative at the time of discontinuance.

(5) The validity of any notice issued under this Act, or the validity of any service of a notice under this Act, shall not be called into question after the notice has been complied with in any manner.”;

- (36) in section 57, the words "Sales Tax" shall be substituted by the words " Inland Revenue";
- (37) in section 58A,-
- (a) in sub-section (3), in clause (f), the word "Collector" shall be substituted by the word "Commissioner"; and
- (b) in sub-section (4), the word "Collector" shall be substituted by the word "Commissioner";
- (38) in section 58B, in sub-section (4), the word "Collector" shall be substituted by the word "Commissioner";
- (39) in section 66, the word "Collector", occurring twice, shall be substituted by the word "Commissioner" and the words " Sales Tax" shall be substituted by the words " Inland Revenue";
- (40) in section 69, the word "Sales Tax not below the rank of Assistant Collector" shall be substituted by the word "an Inland Revenue not below the rank of Assistant Commissioner";
- (41) in section 72, the words " Sales Tax" shall be substituted by the words " Inland Revenue".
- (42) after section 72, the following new section shall be inserted, namely:

"72A. Reference to authorities.- Any reference to Collector, Additional Collector, Deputy Collector, Assistant Collector, Superintendent, Senior Auditor and an Officer of Sales Tax wherever occurring in this Act and the rules, notifications, clarifications, general orders or orders made or issued thereunder, shall be construed as reference to Commissioner Inland Revenue, Additional Commissioner Inland Revenue, "Deputy Commissioner Inland Revenue, Assistant Commissioner Inland Revenue, Superintendent

Inland Revenue, Senior Auditor Inland Revenue and an officer of Inland Revenue, respectively.”;

(43) in section 73, in the Explanation, for the word “Collector” the word “Commissioner” shall be substituted; and

(44) in section 74, for the word “Collector” the word “Commissioner” shall be substituted.

3. **Amendment of Ordinance XLIX of -2001.-** In the Income Tax Ordinance, 2001 (XLIX of 2001), the following further amendments shall be made, namely:-

(1) in section 2,-

(a) for clause (2), the following shall be substituted, namely:-

“(2) “Appellate Tribunal” means the Appellate Tribunal Inland Revenue established under section 130;”;

(b) after clause (11A), the following new clause shall be inserted, namely:-

“(11B) “Chief Commissioner” means a person appointed as Chief Commissioner Inland Revenue under section 208 and includes a Regional Commissioner of Income Tax and a Director General of Income Tax and Sales Tax;”;

(c) for clause (13), the following shall be substituted, namely:-

“(13) “Commissioner” means a person appointed as Commissioner Inland Revenue under section 208 and includes any other authority vested with all or any of the powers and functions of the Commissioner;”;

(d) for clause (13A), the following shall be substituted, namely:-

"(13A) "Commissioner (Appeals)" means a person appointed as Commissioner Inland Revenue (Appeals) under section 208;;

(e) after clause (38), the following new clause shall be inserted, namely:-

"(38A) "Officer of Inland Revenue" means any Additional Commissioner Inland Revenue, Deputy Commissioner Inland Revenue, Assistant Commissioner Inland Revenue, Inland Revenue Officer, Special Officer Inland Revenue or any other officer however designated or appointed by the Board for the purposes of this Ordinance;; and

(f) clauses (48A) and (65) shall be omitted;

(2) in section 114,-

(a) for sub-section (6), the following shall be substituted, namely:-

"(6) Subject to sub-section (6A), any person who, having furnished a return, discovers any omission or wrong statement therein, may file revised return subject to the following conditions, namely:-

(a) it is accompanied by the revised accounts or revised audited accounts, as the case may be; and

(b) the reasons for revision of return, in writing, duly signed, by the taxpayers are filed with the return";

(b) after sub-section (6),substituted as aforesaid, the following new sub-section shall be inserted, namely:-

"(6A) If a taxpayer wishes to file a revised return voluntarily along with deposit of the amount of tax short paid or amount of tax sought to be evaded along with the default surcharge, whenever it comes to his

notice, before receipt of notice under sections 177 or sub-section(9) of 122, no penalty shall be recovered from him:

Provided that in case the taxpayer wishes to deposit the amount of tax as pointed out by the Commissioner during the audit or before the issuance of notice under sub-section (9) of section 122, he shall deposit the amount of tax sought to be evaded, the default surcharge and twenty-five per cent of the penalties leviable under the Ordinance along with the revised return:

Provided further that in case the taxpayer wishes to revise the return after the issuance of a show cause notice under subsection (9) of section 122, he shall deposit the amount of tax sought to be evaded, default surcharge and fifty per cent of the leviable penalties under the Ordinance along with the revised return and thereafter, the show cause notice shall stand abated.”;

- (3) in section 116, after sub-section (2), the following new sub-section shall be inserted, namely:-

“(2A) Where a person files a return in response to a provisional assessment under section 123, he shall furnish a wealth statement for that year along with that return and such wealth statement shall be accompanied by a wealth reconciliation statement and an explanation of sources of acquisition of assets specified therein.”;

- (4) in section 119, in sub-section (6), for the words “additional tax”, the words “default surcharge” shall be substituted;

- (5) in section 121, in sub-section (1), clause (a) shall be omitted.

- (6) in section 122, in sub-section (3), after the brackets and figures “(6)” the word, brackets, figure and letter, “or (6A)” shall be inserted;
- (7) in section 122A, in sub-section (1), for the words “taxation officer” the words “Officer of Inland Revenue” shall be substituted;
- (8) after section 122B, the following new section shall be inserted, namely:-

“122C. Provisional assessment.- (1) Where in response to a notice under sub-section (3) or sub-section (4) of section 114 a person fails to furnish return of income for any tax year, the Commissioner may, based on any available information or material and to the best of his judgment, make a provisional assessment of the taxable income of the person and issue a provisional assessment order specifying the taxable income assessed and the tax due thereon.

(2) Notwithstanding anything contained in this Ordinance, the provisional assessment completed under sub-section (1) shall be treated as the final assessment after the expiry of sixty days from the date of service of order of provisional assessment and the provisions of this Ordinance shall apply accordingly:

Provided that the provisions of sub-section (2) shall not apply if return of income alongwith wealth statement, wealth reconciliation statement and other documents required under sub-section (2A) of section 116 are filed by the person for the relevant tax year during the said period of sixty days.”

- (9) in section 127, in sub-section (1),for the words “taxation officer” the words “Officer of Inland Revenue” shall be substituted;
- (10) in section 130, in sub-section (4), for the words “an officer of Income Tax”, “Commissioner of Income Tax” and “Commissioner of Income Tax (Appeals)” the words “an officer of Inland Revenue”, “Commissioner Inland Revenue”

and “Commissioner Inland Revenue (Appeals) shall, respectively, be substituted;

- (11) in section 137, in sub-section (2), for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:-

“Provided that the tax payable as a result of provisional assessment under section 122C, as specified in the notice under sub-section (2) shall be payable after a period of sixty days from the date of service of the notice.”;

- (12) in section 137, in sub-section (6), for the words “additional tax” the words “default surcharge” shall be substituted;

- (13) in section 146B, in sub-section(1), for the words “additional tax” the words “default surcharge” shall be substituted;

- (14) in section 161 , in sub-section (1B), for the words “additional tax” the words “default surcharge” shall be substituted;

- (15) in section 162, in sub-section (2) for the words “additional tax” the words “default surcharge” shall be substituted;

- (16) in section 174,-

- (a) in sub-section (3), for the word “five” the word “six” shall be substituted;
and

- (b) for the full stop at the end, colon shall be substituted and thereafter the following proviso and the explanation shall be added, namely:-

“Provided that where any proceeding is pending before any authority or court the taxpayer shall maintain the record till final decision of the proceedings.

Explanation.- Pending proceedings include proceedings for assessment or amendment of assessment, appeal, revision, reference,

petition or prosecution and any proceedings before an Alternative Dispute Resolution Committee.”;

(17) in section 177,-

- (a) for sub-section (1) the following shall be substituted, namely:-“(1) The Commissioner may call for any record or documents including books of accounts maintained under this Ordinance or any other law for the time being in force for conducting audit of the income tax affairs of the person and where such record or documents have been kept on electronic data, the person shall allow access to the Commissioner or the officer authorized by the Commissioner for use of machine and software on which such data is kept and the Commissioner or the officer may take into possession such machine and duly attested hard copies of such information or data for the purpose of investigation and proceedings under this Ordinance in respect of such person or any other person:

Provided that the Commissioner shall not call for record or documents of the taxpayer after expiry of six years from the end of the tax year to which they relate.”;

- (b) for sub-section(2) the following shall be substituted, namely:-

(2) After obtaining the record of a person under sub-section (1) or where necessary record is not maintained, the Commissioner shall conduct an audit of the income tax affairs (including examination of accounts and records, enquiry into expenditure, assets and liabilities) of that person or any other person and may call for such other information and documents as he may deem appropriate.”;

- (c) sub-section (3),(4) and (5) shall be omitted;
- (d) in sub-section (6), the words, brackets and figures “under sub-section (5) or sub-section (8)” shall be omitted;
- (e) in sub-section (7), the words, brackets and figure “where there are reasonable grounds for such audits, particularly having regard to the factors in sub-section (4)”, shall be omitted;
- (f) in sub-section (8), after the brackets letter, word, figure and commas (X of 1961)”, the words, figures and brackets “or a firm of Cost and Management Accountants as defined under the Cost and Management Accountants Act, 1966 (XIV of 1966)” shall be inserted, and
- (g) after sub-section (9), the following new sub-section (10) shall be added, namely:

“(10) Notwithstanding anything contained in sub-sections (2) and (6) where a person fails to produce before the Commissioner or a firm of Chartered Accountants or a firm of Cost and Management Accountants appointed by the Board under sub-section (8) to conduct an audit, any accounts, documents and records, required to be maintained under section 174 or any other relevant document, electronically kept record, electronic machine or any other evidence that may be required by the Commissioner or the firm of Chartered Accountants or the firm of Cost and Management Accountants for the purpose of audit or determination of income and tax due thereon, the Commissioner may proceed to make best judgment assessment under section 121 of this Ordinance and the assessment treated to have been made on the basis of return or revised return filed by the taxpayer shall be of no legal effect.”;

- (18) in section 202 for the words “additional tax” the words “ default surcharge” shall be substituted;
- (19) in section 203,
- (a) for sub-section (1) the following new sub-section shall be substituted, namely:-
- “(1) The Federal Government” may, by notification in the official Gazette, appoint as many special judges as it may consider necessary, and where it appoints more than one Special Judge, shall specify in the notification the territorial limits within which each of them shall exercise jurisdiction.”;
- (b) after sub-section (1), substituted as aforesaid, the following new sub-sections (1A) and (1B) shall be inserted, namely:-
- “(1A) A Special Judge shall be a person who is or has been a Sessions Judge and shall, on appointment, have the jurisdiction to try exclusively an offence punishable under this Part other than an offence referred to in section 198.
- (1B) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), except those of Chapter XXXVIII of that Code, shall apply to the proceedings of the court of a Special Judge and, for the purposes of the said provisions, the court of Special Judge shall be deemed to be a Court of Sessions trying cases, and a person conducting prosecution before the court of a Special Judge shall be deemed to be a Public Prosecutor.”; and
- (c) after sub-section (2), the following new sub-sections (3) and (4) shall be added, namely:

“(3) The Federal Government may, by order in writing, direct the transfer, at any stage of the trial, of any case from the court of one Special Judge to the court of another Special Judge for disposal, whenever it appears to the Federal Government that such transfer shall promote the ends of justice or tend to the general convenience of parties or witnesses.

(4) In respect of a case transferred to a Special Judge by virtue of sub-section (1) or under sub-section (3), such Judge shall not, by reason of the said transfer, be bound to recall and rehear any witness who has given evidence in the case before the transfer and may act on the evidence already recorded by or produced before the court which tried the case before the transfer.”;

(20) in Chapter X, in Part XII, in the title, “for the words “ADDITIONAL TAX”, the words “DEFAULT SURCHARGE” shall be substituted;

(21) in section 205 ;

(a) in the heading for the words “Additional tax” the words “Default surcharge” shall be substituted;

(b) in sub-section (1),-

(i) in clause (a), for the words “additional tax”, the words “ default surcharge” shall be substituted; and

(ii) after clause (c), for the words “additional tax”, the words “ default surcharge” shall be substituted;

(c) in sub-section (1A), for the words “additional tax” the words “ default surcharge” shall be substituted;

(d) in sub-section (1B), for the words “additional tax”, occurring twice, the words “default surcharge” shall be substituted;

- (e) in sub-section (2), for the words “additional tax”, the words “ default surcharge” shall be substituted;
 - (f) in sub-section (3), for the words “additional tax”, the words “ default surcharge” shall be substituted;
 - (g) in sub-section (5), for the words “additional tax”, occurring twice, the words “default surcharge” shall be substituted; and
 - (h) in sub-section (6), for the words “additional tax” the words “default surcharge” shall be substituted;
- (22) in section 205A,
- (a) in the heading, for the words “additional tax”, the words “default surcharge” shall be substituted; and
 - (b) for the words “additional tax”, occurring twice, the words “ default surcharge” shall be substituted;

(23) for section 207, the following shall be substituted, namely:-

“207. Income tax authorities.- (1) There shall be the following Income Tax authorities for the purposes of this Ordinance and rules made thereunder, namely:-

- (a) Board;
- (b) Chief Commissioner Inland Revenue;
- (c) Commissioner Inland Revenue;
- (d) Commissioner Inland Revenue (Appeals);
- (e) Additional Commissioner Inland Revenue;
- (f) Deputy Commissioner Inland Revenue;
- (g) Assistant Commissioner Inland Revenue;
- (h) Officer of Inland Revenue;

(i) Special Officer Inland Revenue; and

(j) Inspector Inland Revenue.

(2) The Board shall examine, supervise and oversee the general administration of this Ordinance.

(3) The Chief Commissioners Inland Revenue and Commissioners Inland Revenue (Appeals) shall be subordinate to the Board and Commissioners Inland Revenue, shall be subordinate to the Chief Commissioner Inland Revenue.

(4) Subject to sub-section (5), Additional Commissioners Inland Revenue, Deputy Commissioners Inland Revenue, Assistant Commissioners Inland Revenue, Officer of Inland Revenue, Special Officers Inland Revenue and Inspectors Inland Revenue shall be subordinate to the Commissioners Inland Revenue.

(5) An officer vested with the powers and functions of Commissioner shall be subordinate to the Chief Commissioner Inland Revenue.”;

(24) in section 209,-

(a) in sub-section (2), for the words “taxation officer” the words “Officer of Inland Revenue” shall be substituted;

(b) in sub-section (4), for the words “taxation officer” the words and commas “Officer of Inland Revenue” shall be substituted;

(25) in section 210,-

(a) in sub-section (1), for the words "taxation officer" the words and comma "Officer of inland revenue, subordinate to the Commissioner" shall be substituted;

(b) in sub-section (1A), the words "taxation officer below the rank of Additional Commissioner of Income Tax" the words “an officer of Inland

Revenue below the rank of Additional Commissioner Inland Revenue” shall be substituted; and

- (c) in sub-section (1B), after the words “chartered accountants” the words “or a firm of Cost and Management Accountants” shall be inserted; and

(26) in section 211,-

- (a) in sub-section (1),for the words “a taxation officer” the words “an Officer of Inland Revenue” shall be substituted; and
- (b) in sub-section (2), the words “a taxation officer” the words “an Officer of Inland Revenue” shall be substituted;

(27) in section 215,-

- (a) in sub-section (1), the words “ taxation officer” occurring twice shall be substituted by the words “officer of Inland Revenue”; and
- (b) in sub-section (2), the words “taxation officer” shall be substituted by the words “officer of Inland Revenue”;

(28) in section 237, in sub-section (2) , in clause (d), for the words “additional tax”, the words “ default surcharge” shall be substituted;

(29) in section 239,-

- (a) in sub-section (3), for the words “additional tax”, the words “ default surcharge” shall be substituted;
- (b) in sub-section (7), for the words “additional tax”, the words “ default surcharge” shall be substituted; and

(30) after section 239A, the following new section shall be inserted, namely:-

“239B. Reference to authorities.- Any reference to the Regional Commissioner of Income Tax, Commissioner of Income Tax, Commissioner of Income Tax (Appeals) and Taxation Officer, wherever occurring, in this Ordinance and the rules made thereunder and notifications, orders, circulars or clarifications or

any instrument issued thereunder shall be construed as reference to the Chief Commissioner Inland Revenue, Commissioner Inland Revenue, Commissioner Inland Revenue (Appeals) and officer of Inland Revenue, respectively.”.

4. **Amendment of Federal Excise Act, 2005.-** In the Federal Excise Act, 2005, the following further amendments shall be made, namely:-

(1) in section 2,-

(a) clause (3) shall be substituted by the following, namely:-

“(3) “Appellate Tribunal” means the Appellate Tribunal Inland Revenue established under section 130 of the Income Tax Ordinance, 2001(XLIX of 2001); ” ;

(b) after clause (4), the following new clause (4A) shall be inserted, namely:-

“(4A) “Chief Commissioner” means a person appointed as the Chief Commissioner Inland Revenue under section 29;”;

(c) clause (5) shall be substituted by the following, namely:-

“Commissioner” means a person appointed as a Commissioner Inland Revenue under section 29 of this Act;” and

(d) clause (12) shall be substituted by the following, namely:

“(12) “officer of Inland Revenue” means any person appointed by the Board as officer of Inland Revenue under section 29 or any person including an officer of the Provincial Government) invested by the Board with any of the powers of an officer of Inland Revenue under this Act or rules made thereunder;”;

(2) in section 4, in sub-section (4), the words “Collector of Federal Excise” shall be substituted by the words “Commissioner Inland Revenue”;

- (3) in section 14, in sub-section (2), the words "Federal Excise Officer" shall be substituted by the words "officer of Inland Revenue";
- (4) in section 17,-
 - (a) in sub-section (1), the word "five" shall be substituted by the word "six";
and
 - (b) after the word "years" the following words and commas shall be inserted,
namely:-
"or till the final decision in any proceedings including proceedings for
assessment, appeal, revision, reference, petition and any proceedings
before an Alternative Dispute Resolution Committee,";
- (5) in section 19,-
 - (a) in sub-section (2), in clauses (a) and (c), the words "Federal Excise officer" shall be substituted by the words "officer of Inland Revenue";
 - (b) in sub-section (4), the word "Collector" shall be substituted by the words "Commissioner";
 - (c) in sub-section (6), the words "Federal Excise officer" shall be substituted by the words "officer of Inland Revenue"; and
 - (d) in sub-section (10), the word "Collector" shall be substituted by the words "Commissioner";
- (6) in section 21, in sub-section (4), the words "Federal Excise Officers" shall be substituted by the words "officers of Inland Revenue";
- (7) In section 22, in sub-sections (1), (5), (6), (7), (8), (10), (11), (13) and (14), the words "Federal Excise Officer" and the word "Collector" wherever occurring, shall be substituted by the words "officer of Inland Revenue" and "Commissioner", respectively;

- (8) in section 23, in sub-section (1), the words "Federal Excise Officer" shall be substituted by the words "officer of Inland Revenue";
- (9) in section 24, the words "Federal Excise officers" ,wherever occurring, shall be substituted by the words "officers of Inland Revenue";
- (10) in section 27, in sub-section (3), the word "Collector" shall be substituted by the word "Commissioner";
- (11) in section 29,-

- (a) sub-section (1) shall be substituted by the following new sub-section, namely:-

“(1) For the purposes of this Act and rules made thereunder, the Board may, by notification in the official Gazette, appoint, in relation to any area or jurisdiction specified in the notification, any person to be-

- (a) Chief Commissioner Inland Revenue;
 - (b) Commissioner Inland Revenue;
 - (c) Commissioner Inland Revenue (Appeals);
 - (d) Additional Commissioner Inland Revenue;
 - (e) Deputy Commissioner Inland Revenue;
 - (f) Assistant Commissioner Inland Revenue; and
 - (h) officer of Inland Revenue with any other designation.”;

- (b) after sub-section (1), the following new sub-sections (1A) and (1B) shall be inserted, namely:-

“(1A) The Chief Commissioner Inland Revenue and Commissioner Inland Revenue (Appeals) shall be subordinate to the Board and Commissioner Inland Revenue shall be subordinate to the Chief Commissioner Inland Revenue.

(1B) Additional Commissioner Inland Revenue, Deputy Commissioner Inland Revenue, Assistant Commissioner Inland Revenue, and officers of Inland Revenue with any other designation shall be subordinate to the Commissioner Inland Revenue.”; and

- (c) in sub-sections (3), (4) and (5), the words “Collector of Federal Excise”, “Additional Collector of Federal Excise”, Deputy Collector of Federal Excise”, “Assistant Collector of Federal Excise”, “officer of Federal Excise” wherever occurring shall be substituted by the words “Commissioner Inland Revenue”, “Additional Commissioner Inland Revenue”, “Deputy Commissioner Inland Revenue”, “Assistant Commissioner Inland Revenue, officer of Inland Revenue”, respectively;
- (12) in section 30, in sub-section (2), the words "Federal Excise Officer" shall be substituted by the words "officer of Inland Revenue.";
- (13) section 31 shall be omitted;
- (14) in section 33,-
 - (a) in the heading, the words "Collector " shall be substituted by the word “Commissioner”;
 - (b) in sub-section (1), the words "Federal Excise Officer up to the rank of Additional Collector of Federal Excise" shall be substituted by the words “officer of Inland Revenue upto the rank of Additional Commissioner Inland Revenue”; and
 - (c) in sub-sections (1), (2) and (3) the words "Collector", wherever occurring, shall be substituted by the word “Commissioner”;
- (15) in section 34,-
 - (a) in sub-section(1),-

- (i) the words "Federal Excise Officer" shall be substituted by the word "officer of Inland Revenue" ;
 - (ii) in clause (a), the words "Collector " shall be substituted by the words "Commissioner" ; and
 - (iii) in clause (b), the words "Collector of Federal Excise" shall be substituted by the words "Commissioner Inland Revenue" and
- (b) after sub-section (2), new sub-sections (2A) and (2B) shall be added;
- “(2A) The Appellate Tribunal may admit, hear and dispose of the appeal as per procedure laid down in sections 131 and 132 of the Income Tax Ordinance, 2001 (XLIX of 2001), and the rules made thereunder.
- (2B) All appeals and proceedings under this Act pending before the Customs, Excise and Sales Tax Appellate Tribunal constituted under section 194 of the Customs Act, 1969 (IV of 1969), shall stand transferred to the Appellate Tribunal constituted under section 130 of the Income Tax Ordinance, 2001 (XLIX of 2001), with effect from the date of promulgation of the Finance (Amendment) Ordinance, 2009.”;

(16) in section 35,-

- (a) in the heading, the word "Collector", shall be substituted by the word "Commissioner";
- (b) in sub-section (1), the word "Collector" shall be substituted by the word "Commissioner", and
- (c) in sub-section (3), the words "Federal Excise Officer" shall be substituted by the words "officer of Inland Revenue";

- (17) in section 36, in sub-section (1), the words “Federal Excise Officer” shall be substituted by the words “officer of Inland Revenue”;
- (18) in section 37, in sub-sections (1), (2) and (3), the words “Collector” wherever occurring, shall be substituted by the word “Commissioner ”.
- (19) in section 38,-
- (a) in sub-section (2) for the words “Federal Excise not below the rank of Additional Collector” the words “ Inland Revenue not below the rank of an Additional Commissioner” shall be substituted;
 - (b) in sub-section (3) for the words “Federal Excise” the words “Inland Revenue” shall be substituted;
- (20) after section 42, the following new section 42A shall be inserted, namely:-
- “42A. Reference to authorities.-** Any reference to Collector, Additional Collector, Deputy Collector, Assistant Collector, Superintendent and an Officer of Federal Excise, wherever occurring, in this Act and the rules, notifications, clarifications, general orders or orders made or issued thereunder, shall be construed as reference to Commissioner Inland Revenue, Additional Commissioner Inland Revenue, Deputy Commissioner Inland Revenue, Assistant Commissioner Inland Revenue, Superintendent Inland Revenue and an officer of Inland Revenue, respectively.”;
- (21) in section 43;
- (a) in sub-section (1) , for the words “Federal Excise” the words “Inland Revenue” shall be substituted, and
 - (b) in sub-section (2), for the words “Collector” and “Federal Excise”, the words “Commissioner” and “Inland Revenue” shall be substituted, respectively;
- (22) in section 43A,-

- (i) in the heading, for the words “federal excise”, the words “Inland Revenue” shall be substituted;
 - (ii) for the words “federal excise”, occurring twice, the words “Inland Revenue” shall be substituted; and
 - (iii) for the word “Collector”, the word “Commissioner” shall be substituted;
- (23) in section 44, in sub-section (2), the word “Collector” shall be substituted by the word “Commissioner”.
- (24) in section 45,-
- (a) in sub-section (1), the words “Federal Excise Officer” shall be substituted by the words “officer of Inland Revenue”; and
 - (b) in sub-section (2), the words “Federal Excise”, occurring twice, shall be substituted by the words “officer of Inland Revenue” and in the proviso, the word “Collector” shall be substituted by the word “Commissioner”;
- (25) in section 46,-
- (a) in sub-section (1), the words “Federal Excise Officer” shall be substituted by the words “officer of Inland Revenue”;
 - (b) in sub-section (2), the words “Collector”, “Federal Excise Officer” and “Assistant Collector” shall be substituted by the words “Commissioner”, “officer of Inland Revenue” and “Assistant Commissioner”, respectively; and
 - (c) after sub-section (2), a new sub-section (2A) shall be inserted, namely:
“(2A) After completion of the audit under this section or any other provision of law, the officer of Inland Revenue may, if considers necessary, after obtaining the registered person’s explanation on all the issues raised in the audit shall pass an order under section 14,

imposing the correct amount of duty, charging default surcharge,
imposing penalty and recovery of any amount erroneously refunded”;

(26) section 47 shall be substituted by the following, namely:-

“47. Service of notices and other documents.- (1) Subject to this Act, any notice, order or requisition required to be served on a resident individual other than in a representative capacity for the purposes of this Act shall be treated as properly served on the individual if –

(a) personally served on the individual or, in the case of an individual under a legal disability or a non-resident individual, the representative of the individual;

(b) sent by registered post or courier service to the place specified in clause (b) of sub-section (2) or to the individual’s usual or last known address in Pakistan; or

(c) served on the individual in the manner prescribed for service of a summons under the Code of Civil Procedure, 1908 (V of 1908).

(2) Subject to this Act, any notice, order or requisition required to be served on any person other than a resident individual to whom sub-section (1) applies for the purposes of this Act, shall be treated as properly served on the person if –

(a) personally served on the representative of the person;

(b) sent by registered post or courier service to the person’s registered office or address for service of notices under this Act, in Pakistan, or where the person does not have such office or address, the notice is sent by registered post to any office or place of business of the person in Pakistan; or

(c) served on the person in the manner prescribed for service of a summons under the Code of Civil Procedure, 1908 (V of 1908).

(3) Where an association of persons is dissolved, any notice, order or requisition required to be served under this Act, on the association may be served on any person who was the principal officer or a member of the association immediately before such dissolution.

(4) Where, business stands discontinued, any notice, order or requisition required to be served under this Act, on the person discontinuing the business may be served on the person personally or on any individual who was the person's representative at the time of discontinuance.

(5) The validity of any notice issued under this Act, or the validity of any service of a notice under this Act, shall not be called into question after the notice has been complied with in any manner.” ; and

(27) in the Third Schedule, in Table-1 against S.No.12 in column (1), in column(2),in paragraph(iii), in sub-paragraph(b), for the words “ Collector of Federal Excise”, the words “ Commissioner Inland Revenue” shall be substituted.

(ASIF ALI ZARDARI)
President