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**The information presented in this Memorandum has been sifted from the Federal Budget and Finance Bill, 2006, as presented in the National Assembly. It contains proposed amendments, which will become operative only after adoption by the legislative. Views expressed herein should not be acted upon without first obtaining professional advice, as the interpretation may differ in different circumstances.**

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## FROM SENIOR PARTNER'S DESK

The Minister of State for Finance presented a Rs. 1.31 trillion federal budget for the fiscal year 2006-07. Setting a growth target of 7 % for 2006-07, the Government allocated Rs. 250 billion for defence, Rs. 415 billion for the Public Sector Development Programme, Rs. 48.72 billion for foreign debt servicing, Rs. 56.33 billion for foreign loan repayment and Rs. 190.78 billion for domestic debt servicing.

Number of relief measures announced to offset the inflationary pressure with Rs. 109 billion as subsidy in oil, power, edibles, safety net and salaries and pensions. The government would provide subsidy of Rs. 59 billion under the head of power, Rs. 10 billion on fuel, Rs.12 billion on sugar, wheat and pulses, Rs. 13 billion on fertilizer, Rs. 5 billion under safety net (bait ul mal). The Government announced a 15 % dearness allowance for government employees. In order to give relief to salaried class, the government enhanced taxable limit from present Rs. 100,000/= to Rs. 150,000/=in the next budget year. The people who got retirement before 1977 will get 20 % increase in their pensions and those who retired after 1977 will get 15 % increase in their pensions. The federal government has increased allocation for health as well.

The Government has enhanced allocation for higher education and earmarked Rs. 16.3 billion for 369 projects for financial year 2006-07. The allocation includes Rs. 11.423 billion for 209 ongoing projects while Rs. 1.832 billion for 62 new (approved) projects. The main emphasis would be laid on human resource development and faculty development by initiating Masters, M Phil, PhD and post doctoral programmes at indigenous and international level. Huge amount is allocated for various scholarship schemes and other key areas. The other areas of focus regarding infrastructure include physical infrastructure, electronic access highway, curriculum and distance education mechanism.

The entire tilt of changes under the fiscal plan is to attract local investor, foreign investors, to end tax frauds, empower tax officials, especially income tax commissioners and custom collectors, with new discretions, beside relief in couple of areas.

The fiscal deficit has been projected at about Rs. 373.5 billion, which would be met with the help of external receipts and loans from banks.

Summing up the debate, the budget can be termed as relief oriented and investment friendly budget. By carrying out wide ranging changes in sales tax, income tax, customs and central excise, it has been sought to reduce cost of doing business in the

country. We had to sustain the growth rate shown by the economy this year while efforts should be made to arrest increasing inflation.

The Tax Memorandum hereinafter provides in depth analysis of changes brought in the tax laws regime of the country brought by the budget. We hope our clients will find this document useful for the better understanding thereof. This memorandum is simultaneously being made available at our web site [www.ijaztabussum.com](http://www.ijaztabussum.com) .The clients are encouraged to access this and other useful information made available by the Firm.

The Partners of HLB Ijaz Tabussum & Co. Chartered Accountants acknowledge the tireless efforts of staff of Islamabad and Gujranwala to produce this document.

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## BUDGET AT A GLANCE

(Rs. in millions)

	<b>2006-07 Budget</b>	<b>% of total Expenditure</b>
<b>Receipts</b>		
a) Tax Revenue	840,923	64
b) Non-Tax Revenue	241,887	18
<b>Gross Revenue Receipts (a+b)</b>	<b>1,082,810</b>	<b>82</b>
Less Provincial Share in Taxes	378,260	29
<b>I Net Revenue Receipts</b>	<b>704,550</b>	<b>53</b>
II Net Capital Receipts	16,387	1
III External Receipts	239,309	18
IV Self Financing of PSDP by Provinces	85,621	7
V Change in Provincial Cash	53,817	4
VI Privatization Proceeds	75,000	6
VII Bank Borrowing	140,093	11
<b>Total Resources (I to VII)</b>	<b>1,314,778</b>	<b>100</b>

## Expenditure

<b>A CURRENT EXPENDITURE</b>	<b>879,778</b>	<b>67</b>
General Public Services	504,288	38
Defence Affairs and Services	250,182	19
Public Order & Safety Affairs	22,463	2
Economic Affairs	74,663	6
Environment Protection	167	
Housing and Community	1,040	
Health Affairs & Services	4,728	
Recreational, Culture Services	2,741	
Education Affairs Services	18,778	1
Social Protection	728	
<b>B DEVELOPMENT EXPENDITURE</b>	<b>435,000</b>	<b>33</b>
Federal Government	320,000	24
Provincial Government	115,000	9
<b>Total expenditure (A+B)</b>	<b>1,314,778</b>	<b>100</b>

## **BUDGET HIGHLIGHTS**

### **GENERAL**

- Rs. 250 billion allocated for defence, showing an increase of Rs. 27 billion over the outgoing year's allocation, or 3% of the GDP.
- Rs. 415 billion earmarked for the Public Sector Development Programme.
- An additional amount of Rs. 94 billion will go to provinces in 2006-07 as part of the National Finance Award with 45% share in divisible pool. This share will be increased to 50% in five years.
- 15% dearness allowance to be paid to government employees from July 1.
- Pensioners retiring before May 1, 1977 will get 20 percent increase, rest to get 15%.
- Teachers to get allowance of Rs. 500, Rs. 750 and Rs. 1,000 according to their qualification.
- Minimum wages increased to Rs. 4,000 from Rs. 3,000.
- Pensioners under the Employees Old Age Benefit Act, 1976 will get a raise from Rs.1,000 to Rs. 3,000.
- Grant for marriage of daughters under the Workers Welfare Fund increased from Rs. 30,000 to Rs. 50,000.
- Stipend for children of workers increased from Rs. 800 to Rs.1,000.
- Maximum limit of profit share for industrial workers doubled from Rs. 6,000 to Rs.12,000.
- Special grant upon death of a worker is enhanced from Rs.150,000 to Rs. 200,000.
- Profit raised for all savings schemes and prize bonds from 0.5% to 1.5%.
- Relief package in case of sudden death of a government employee in shape of one-time grant increased from Rs. 200,000 to Rs. 1 million, according to the grade.

- The family of the deceased to retain official residence from 3 to 5 years and one legal heir to get a two-year contract job in Grade 1-15.
- Overtime and conveyance allowance of government drivers, dispatch riders and other non-gazetted employees increased by 50%.

## **SALES TAX**

- Zero rating of sales tax on some dairy products and stationery items.
- Levying single stage sales tax 3% for retailer having turnover more than Rs. 5 million per annum. This 3% include 2% sales tax and 1% income tax as final discharge of tax liability.
- Abolishing the condition of depositing the 15% of principal amount at the time of filing the appeal before Collector Appeals.
- Imposition of sales tax on computer hardware.
- Electronic filing of returns and other documents through e-intermediaries.
- Audit of refund claims by chartered accountants.
- Input tax credit/refund not allowed in case input tax is not deposited in Government Treasury by supplier.
- Maintenance of double entry sales tax account by tax payer.
- Imposition of sales tax on finance and operating lease.
- Imposition of embargo and attachment of business bank account without show cause notice in case of short payment of sales tax.
- Prescribing penalty of Rs. 25,000 for non submission of summary of sales and purchase invoices.
- Supplies to persons, who deduct income tax at source under Income Tax Ordinance, 2001, shall be treated as wholesale supplies for sales tax purposes.
- Revised return can be filled with the approval of concerned Collector Sales Tax, within ninety days of filing of original return.

- Sales tax department cannot search the premises of taxpayer without search warrant.
- Application to Central Board of Revenue for appointment of Alternative Dispute Resolution Committee can only be filed in cases, which are sub-judice before Appellate authority or the High Court.
- Special Returns to be filed by registered manufacturers of specified goods.
- Annual Sales Tax Return to be filed by registered public and private limited companies.
- Taxpayer has to file supportive documents and data in RCPS-10 software relating to a refund claim within 60 days of filing of return in which such refund appears.

## **INCOME TAX**

- Simplification of salary taxation proposed by applying effective rate on gross salary. Basic exemption limit proposed to be raised to Rs. 150,000/- with tax rates ranging from 0.25% to 20% on the gross salary.
- Tax rates for non-salaried persons proposed to be rationalized. Rates proposed to range from 0.5% to 25%.
- Special tax concession proposed for Women taxpayers. Basic exemption limit proposed to be raised to Rs. 200,000/- for salaried and to Rs. 125,000/- for non-salaried women taxpayers.
- Reduction in tax rate for inter-corporate dividends from 10% to 5% proposed.
- Exemption on corporatization of individual stock exchange membership proposed up to 30th June, 2007 along with exemption for room in the stock exchange.
- Removal of limit/restriction on expenses incurred by an employer on provision of perquisites to employees proposed.
- Rationalization of advance tax estimate regime on the basis of current year income proposed.
- Reduction of the exemption of Withholding Tax from 100% to 75% in the case of certain importers is proposed.

- Depreciation @ 30% for the machinery producing I.T. products proposed.
- Exemption to venture companies proposed to be extended upto 2014.
- Withholding Tax on import of motor cars and fertilizer by manufacturers proposed to be made adjustable.
- Minimum tax on turnover on Murabaha financing proposed to be withdrawn.
- Tax credit for investment in IPOs – limit for investment for tax credit proposed to be enhanced from Rs.150,000 to Rs.200,000.
- Real Estate Investment Trust (REIT) income proposed to be exempt
- Minimum tax in the cases of trading houses proposed to be suspended for first 10 years.
- Services of sizing and weaving proposed to be deemed as exports.
- Rebate for teachers and researchers proposed to be extended to officers posted in government training institutions.
- Tax rebate for senior citizens – age limit proposed to be reduced from 65 to 60 years.
- Agriculture income proposed to be excluded from personal tax rate card.
- Exemption to export of locally developed television programme proposed.
- Withholding tax rate on government securities proposed to be rationalized.
- Withholding Tax on commission and brokerage proposed to be made uniform.
- Presumptive tax regime (PTR) proposed to be extended to services.
- Withholding Tax on various imports proposed to be rationalized.
- Withholding tax on supplies of raw hides and skins proposed to be withdrawn to provide level playing field.
- Upward adjustment in withholding tax rate on stock market transactions proposed.

- Upward adjustment from 0.1% to 0.2% in Withholding tax rate on cash withdrawals from banks proposed.
- Taxation of carryover trade (COT), (Badla) in Stock Exchanges – exemption available to Mutual Funds proposed to be withdrawn.
- Withholding tax rate proposed to be enhanced in cases where NTN/CNIC is not disclosed.
- Fixed tax on income from property proposed.
- Presumptive tax regime (PTR) proposed to be extended to profit on debt.
- Regional Commissioner of Income Tax proposed to be authorized to revise an order of the Commissioner in matters relating to withholding tax regime
- Commissioner proposed to be authorized to allow extension of time for filing periodical statements.
- Electronic filing of Withholding Tax statements by certain classes of prescribed withholding agents proposed to be made mandatory.
- Monthly filing of withholding tax return/statement proposed to be made mandatory.
- Provisions relating to deductibility of expense made through banking channel proposed to be rationalized.
- Filing of return by Non-profit Organizations (NPOs) proposed to be made mandatory.
- Government departments proposed to be specifically exempted from withholding tax.
- Scope of tax on retailers is proposed to be extended.
- Periodic statement regarding certain transactions proposed to be introduced.
- CVT proposed to be imposed on investment in real estate.

## EXCISE DUTY

- The Federal excise rate specified in Section 3 of the Federal Excise Act, 2005 has been reduced from 50% to 15%.
- Levying 5% excise duty on services rendered by banking companies in relation to letter of credit, guarantee, brokerages, issuance of PO and DD, bill of exchange, telegraphic transfers, mail transfer, electronic transfer, bank guarantee, bill discounting commission, safe deposits locker fee, safe vault, credit and debit card issuance, processing and renewal.
- Levying 15% excise duty on international air travel.
- Withdrawal of 12.5% excise duty on inland travel by train.
- Excise duty on insurance services has been enhanced from 3% to 5%.
- Revised return can be filed within ninety days of filing of original return and such revised return can be filed with the approval of concerned Collector.
- Due date for filing returns shall be 15<sup>th</sup> day of the month following the end of the month to which returns relates.
- Payment of excise duty shall be made on the last day of the month during which goods are cleared.
- Levying 5% excise duty on gross amount of commission and brokerage of foreign exchange dealers, exchange companies and money changers.
- Levying 5% excise duty on the gross amount paid by the franchisee to franchiser for having the right to sell product under his brand name or trade mark.
- Levying excise duty of Rs. 25 per connection per month on cable TV operator.
- Monitoring of manufacturing facilities through CCTV cameras and technical expert is allowed
- Empowering Board to collect excise duty at minimum fixed price

## CUSTOMS

- Vitamins used in the poultry feed industry have been exempted from customs duty, besides this, duty on prefabricated buildings and disinfectants have been reduced to 5%
- Special incentives introduced for development of dairy industry.
- Inputs of horticulture and floriculture sectors exempted from customs duty
- Import of agriculture tractors exempted from customs duty to optimize the output of the agriculture sector.
- Import of agriculture tractors exempted from customs duty to optimize the output of the agriculture sector.
- Reduction of duty on raw materials, parts and components used for manufacture of fixed wireless terminals for CDMA
- Duty on equipment for assembly of CNG kits exempted,
- Duty on flat rolled steel products, articles, cutting tools, plastic materials, machine tools, electrical devices and broad casting equipment reduced.
- Chemicals used in textile processing industry exempted from duty.

## **THE SALES TAX ACT, 1990**

### **AMENDMENTS PROPOSED BY THE FINANCE BILL, 2006**

#### **1. DEFINITIONS**

#### **SECTION 2**

The following amendments to Section 2 of the Sales Tax Act, 1990, have been proposed through the Finance Bill, 2006.

#### **COMMON TAXPAYER IDENTIFICATION NUMBER**

#### **Clause (5A)**

This newly inserted Clause defines "common taxpayer identification number" as the registration number or any other number allocated to a registered person.

It is pertinent to note that a similar Clause titled as "common taxpayer identifier" inserted by Tax Laws (Amendment) Ordinance 1999 was omitted by Finance Act, 2004. Perhaps, by re-insertion, the legislature intends to assign a common identification number to every taxpayer.

#### **COMPUTERIZED SYSTEM**

#### **Clause (5AA)**

According to this newly inserted Clause, "computerized system" means any comprehensive information technology system to be used by the Board or any other office as may be notified by the Board, for carrying out the purposes of this Act.

#### **E-INTERMEDIARY**

#### **Clause (9A)**

A new concept of "e-intermediary" has been proposed through Finance Bill, 2006, and accordingly an "e-intermediary" has been defined as a person appointed as e-intermediary under section 52A for filing of electronic returns and such other documents as may be prescribed by the Board from time to time, on behalf of a person registered under section 14.

#### **INPUT TAX**

#### **Clause (14)**

The sub-clause (d) of this Clause has been proposed to be substituted. The substitution seeks clarity and abolishes the reference to Repealed Central Excises Act, 1944.

## **SALES TAX ACCOUNT**

### **Clause (29A)**

Double entry sales tax account is proposed to be made a part of records which a registered person is required to maintain under Section 22 of the Sales Tax Act, 1990. Accordingly the term "sales tax account" has been inserted to mean as an account representing the double entry recording of sales tax transactions in the books of account.

## **SUPPLY**

### **Clause (33)**

Up-till now the financial and operating leases have been expressly excluded from the definition of supply and through this proposed amendment the term "supply" includes the financial and operating leases in its ambit meaning thereby that the business of leasing has been subjected to the levy of sales tax.

## **VALUE OF SUPPLY**

### **Clause (46)**

The two provisos to sub-clause (g) of Clause 46 have been substituted and the first substituted proviso aims to empower CBR to fix the value of any imported goods. It is to be noted that the powers to fix value of any taxable supplies or class of supplies already exist. The second substitution clarifies that where the value at which import or supply is made is higher than the value fixed by the Board, the value of goods shall, unless otherwise directed by the Board, be the value at which the import or supply is made.

## **WHOLESALE**

### **Clause (47)**

The proposed amendment seeks to broaden the scope of the term "wholesaler". By this amendment it has been sought to treat a person as "wholesaler" who is supplying taxable goods upon which tax at source has been deducted and deposited by the buyer of such goods under Income Tax Ordinance, 2001.

## **2. TAX CREDIT NOT ALLOWED**

### **SECTION 8**

A new clause (ca) is proposed to be inserted in sub-section (1) of this section by virtue of that a registered person is not entitled to reclaim or deduct input tax paid on the goods in respect of which sales tax has not been deposited in the Government treasury by the respective supplier.

The registered persons are thus required to ensure that the supplier from whom they are making purchases pays the tax in the Government treasury otherwise, their input tax claims shall be rejected alongwith an additional burden of default

surcharge and huge penalties. This in fact, will create a great harassment and unrest among the registered persons.

**3. JOINT & SEVERAL LIABILITY OF REGISTERED PERSONS IN SUPPLY CHAIN WHERE TAX UNPAID SECTION 8A**

According to this newly proposed insertion, Where a registered person receiving a taxable supply from another registered person is in the knowledge or has reasonable grounds to suspect that some or all of the tax payable in respect of that supply or any previous or subsequent supply of the goods supplied would go unpaid, such person as well as the person making the taxable supply shall be jointly and severally liable for payment of such unpaid amount of tax.

**4. EXCESS AMOUNT TO BE REFUNDED SECTION 10**

By elimination of words "in connection with a zero rated supply" from sub-section (2) of this section, the input tax incurred (whether related to exports or otherwise) shall be refunded within thirty days of the filing of return subject to certain conditions.

**5. SHORT PAID AMOUNTS RECOVERABLE WITHOUT NOTICE SECTION 11A**

The existing section is proposed to be substituted and according to the new section where a registered person pays the amount of tax less than the tax due as indicated in his return, the short paid amount of tax along with default surcharge shall be recovered from such person by stopping removal of any goods from his business premises and through attachment of his business bank accounts, without giving him a show cause notice and without prejudice to any other action prescribed under section 48 of this Act or the rules made there under. Provided that no penalty under section 33 of this Act shall be imposed unless a show cause notice is given to such person.

**6. EXEMPTIONS SECTION 13**

The sub-section (4) of this section is proposed to be omitted. The omission of this sub-section results in the cessation of the option to such persons who do not desire to avail any tax exemption and after voluntary registration opt to pay sales tax.

**7. RECORDS SECTION 22**

Double entry sales tax account is proposed to be made a part of records which a registered person is required to maintain under Section 22 of the Sales Tax Act,

1990. Thus a new clause (da) "double entry sales tax account" is being inserted in sub-section (1) of this section.

## **8. RETURNS**

## **SECTION 26**

The proposed amendment in sub-section (1) empowers CBR to require any person or class of persons to submit return on quarterly basis. Further CBR may also require any person or class of persons to submit return annually in addition to the monthly return or quarterly return. Similarly, an electronically filed return shall be deemed to be a return and CBR may make rules for determining eligibility of the data of such returns and e-intermediaries who will digitize the data of such returns and transmit the same electronically under their digital signatures.

Accordingly the marginal note has been proposed to be amended to eliminate the word "monthly". Another proposed amendment is that a sales tax return can be furnished to any other office in addition to a designated bank.

A very important proposed amendment is that a period of 90 days for filing of the revised return from the date of filing of original return has been specified in order to correct any omission or wrong declaration made therein but the revision has been made subject to the approval of the Collector of Sales Tax.

## **9. SPECIAL AUDIT BY CHARTERED ACCOUNTANTS OR COST ACCOUNTANTS**

## **SECTION 32A**

According to the proposed amendment the newly inserted proviso to sub-section (1) of this section empowers CBR to appoint a firm of Chartered Accountants to conduct audit of refund claims.

## **10. OFFENCES AND PENALTIES**

## **SECTION 33**

The following new penalties have been proposed to be imposed through the Finance Bill, 2006.

- Where a person fails to file Summary of sale and purchase invoices, such person shall pay penalty of Rs. 25,000.
- If an offence for which penalty has been provided in the Act, has been repeated by a person, such person shall pay penalty equal to twice the amount of penalty for such offence.
- Where a person:

1. Unlawfully / unauthorizedly gain or attempts to gain access to computerized system or;
2. Unauthorizedly uses, discloses or publishes the information obtained from computerized system or;
3. Falsifies any information/record stored in computerized system or;
4. Knowingly damages/impairs the computerized system or duplicate tape / disc on which information of computerized system is stored or;
5. Unauthorizedly uses unique identifier of any other registered user or;
6. fails to comply with or contravenes any of the security conditions of unique user identifier;

shall pay penalty of 25,000 rupees or 100% of amount of tax involved, which ever is the higher.

Further, such person shall be subject to imprisonment by the Special Judge for a term which may extend to one year or fine which may extend to an amount equal to the loss of tax involved, or with both.

**11. OBLIGATION TO PRODUCE DOCUMENTS AND PROVIDE INFORMATION**

**SECTION 38B**

According to this newly inserted section, any person required to maintain the record under the Act, on demand by an officer, not below the rank of a Deputy Collector of Sales Tax, by notice in writing, as and when specified in the notice, shall—

- (a) produce for examination, such documents or records which the officer of Sales Tax considers necessary or relevant to the audit, inquiry or investigation under the Act;
- (b) allow the officer of Sales Tax to take extracts from or make copies of such documents or records; and
- (c) appear before the officer of Sales Tax and answer any question put to him concerning the documents and records relating to the audit or inquiry or investigation referred to in clause (a) above.

Further, an officer of Sales Tax conducting an audit, inquiry or, as the case may be, an investigation under the Act, may require in writing any person, department, company or organization to furnish such information as is held by that person, department, company or organization, which, in the opinion of the officer of Sales Tax, is relevant to such audit, inquiry or investigation.

Similarly, the CBR may require, in writing, any person, department, company or organization, as the case may be, to provide any information or data held by that person, department, company or organization, which, in the opinion of the Board, is required for purposes of formulation of policy or administering the Customs, Sales Tax, Federal Excise or Income Tax and every person, department, company or organization shall furnish the information requisitioned by the Board or the officer of Sales Tax within the time specified in the notice issued by the Board or the officer of Sales Tax.

**12. SEARCH WITHOUT WARRANT** **SECTION 40A**

This section has been proposed to be omitted.

**13. POWER OF ADJUDICATION** **SECTION 45**

According to the proposed amendment in this section, the time for adjudication in all the cases pending as on 30<sup>th</sup> June, 2006, shall be deemed always to have been extended up to 31<sup>st</sup> December, 2006, from the date on which the time-limit prescribed under sub-section (4) of section 11 and sub-section (3) of section 36, expires.

**14. APPEALS** **SECTION 45B**

It has been proposed to omit the sub-section (4) and thus the stipulation of deposit of 15 % of the principle amount of tax before presenting the appeal has been proposed to be abolished. However, with the omission of the aforesaid sub-section, the automatic stay of recovery for six months will also be eliminated.

**15. APPEALS TO APPELLATE TRIBUNAL** **SECTION 46**

The sub-section (1) of this section is proposed to be amended to the extent that after amendment only an officer not below the rank of an Additional Collector can prefer an appeal to the Appellate Tribunal whereas according to the prevailing law the sales tax department was allowed to prefer an appeal.

**16. REFERENCE TO HIGH COURT**

**SECTION 47**

As a result of proposed amendments in this section, reference application to High Court will be preferred only by an Additional Collector authorized by the Collector. It has also been proposed that where any reference or appeal was filed with the approval of Collector by the officer of lower rank than the Collector, and the reference or appeal is pending before an appellate forum or the Court, such reference or appeal shall always be deemed to have been so filed by the Collector.

**17. ALTERNATIVE DISPUTE RESOLUTION**

**SECTION 47A**

The first proposed amendment in sub-section (1) aims to clarify that any registered person aggrieved in connection with any matter of sales tax pending before an Appellate authority or the High Court may apply to CBR for the appointment of a committee for the resolution thereof.

The second proposed amendment substitutes sub-section (2) and sub-section (5) and the new sub-sections are being reproduced respectively as under:

- (2) The Board may, after examination of the application of a registered person, appoint a committee consisting of an officer of sales tax not below the rank of an Additional Collector and two persons from the notified panel consisting of retired Judges not below District and Sessions Judge, chartered or cost accountants, advocates, representatives of trade bodies or associations, or any other reputable taxpayers, for the resolution of dispute.
  
- (5) The registered person may make payment of sales tax and other duty and taxes as determined by the Board in its order under sub-section (4), and such order of the Board shall be submitted before the forum, tribunal or the Court where the matter is *sub-judice*, for consideration and orders as deemed appropriate.

**18. COMPUTERIZED SYSTEM**

**SECTION 50A**

According to this newly proposed section the Board may prescribe the use of computerized system for carrying out the purposes of this Act, including the receipt of applications for registration, returns and such other declarations or information required to be provided under this Act and the rules made thereunder, from such date and for such registered persons or class of persons as the Board may, by notification in the official Gazette, specify. The Board may make rules for regulating the conduct and transaction of business in relation to

the submission of returns or other information to the Board by the persons required to transmit or receive any information through the computerized system, including their authorization, suspension and cancellation of authorization and for security of the information transmitted or received through the computerized system.

**19. E-INTERMEDIARIES TO BE APPOINTED**

**SECTION 52A**

According to this proposed section, the Board may, by a notification in the official Gazette, appoint a person to electronically file return and such other documents electronically, as may be prescribed from time to time, on behalf of a person registered under section 14.

A person registered under section 14 may authorize an e-intermediary to electronically file return or any other documents and the return or such other documents filed by an e-intermediary on behalf of a registered person shall be deemed to have been filed by that registered person.

Where this Act requires anything to be done by the registered person and if such thing is done by an e-intermediary authorized by the registered person, unless the contrary is proved, shall be deemed to have been done with the knowledge and consent of such registered person so that in any proceedings under this Act, the registered person shall be liable as if the thing has been done by him.

Where an e-intermediary, authorized by a registered person to act on his behalf, knowingly or willfully submits a false or incorrect information or document or declaration with an intent to avoid payment of tax due or any part thereof or claiming a tax credit or a refund that is not due to the registered person, such e-intermediary shall be jointly and severally responsible for recovery of the amount of tax short paid or the amount refunded in excess as a result of such incorrect or false information or document or declaration, without prejudice to any other action that may be taken against him under the relevant provisions of the law.

The Board may, by notification in the official Gazette, prescribe rules for the conduct and transaction of business of e- intermediaries, including their appointment, suspension and cancellation of appointment, subject to such conditions as specified therein.

**20. THIRD SCHEDULE**

According to the proposed amendment in the Third Schedule, the following items are included in the Third Schedule and as a result the sales tax on these items shall be charged on their retail price and the manufacturers of these items

print or emboss the retail price alongwith amount of sales tax on each article, packet, container package cover or label.

The items proposed to be added include toilet paper and tissue paper, spices sold in retail packing bearing brand names and trade marks, electric bulbs including energy saving lamps and fluorescent tube lights, snacks including potato chips sold in retail packing, Shoe polish and shoe cream.

## **21. SIXTH SCHEDULE**

The proposed amendment in this Schedule aims to withdraw the exemption on the following items and consequentially these items are subjected to 15 % sales tax.

The items include:

- fresh, liquid and dried milk and any other sweetening matter packed or not.
- Cream excluding those packaged and sold under brand name or trademark.
- Plain yogurt excluding packaged or sold under trademark or brand name.
- Whey excluding packaged or sold under brand names or trademark.
- Butter not sold under brand names or trademarks.
- Desi ghee derived from milk.
- Cheese excluding packaged of sold under brand names or trademarks.
- Computer hardware including laptops, notebooks, PCs mainframe and other peripheral units and part thereof.

## **PROPOSED SALES TAX NOTIFICATIONS ACCOMPANIED WITH FINANCE BILL, 2006**

### **S.R.O. 523(I)/2006**

This SRO rescinds SRO 338(I)/2002 dated June 15, 2002 with effect from July 22, 2005, ceasing the powers of Collector Sales Tax to Adjudicate the cases of LTU.

### **S.R.O. 524(I)/2006**

This SRO suppresses the SRO 1212(I)/2005 dated December 10, 2005 and specifies the designated branches of National Bank of Pakistan for payment of sales tax on prescribed return-cum-challan.

### **S.R.O. 525(I)/2006**

This SRO supersedes the SRO 621 (I)/2005 dated June 17, 2005 and provides the new list of items on which sales tax shall be charged at the rate of zero percent. The comparison with old SRO is as under:

#### ITEMS / GOODS INCLUDED

- Artificial Leather Footwear
- Sodium Dichromate

#### ITEMS / GOODS EXCLUDED

- Caustic Soda Solid
- Caustic Soda Aqueous Solution
- Di-Sodium Carbonate
- Lacquer Hardener Resin

### **S.R.Os. 526(I)/2006 To 534(I)/2006**

These nine SROs suppress the existing SROs from 927(I)/2005 to 935(I)/2005 dated September 10, 2005 and provides the list of registered persons to whom sales tax shall be charged at the rate of zero percent sales tax on supply of electricity.

### **S.R.O. 535(I)/2006 To 538(I)/2006**

These three SROs suppress the SRO 1039(I)/2005 and 1040(I)/2005 both dated October 14, 2005 and provide the list of registered persons who are subject to zero percent sales tax on supply of natural gas.

**S.R.O. 539(I)/2006**

This SRO takes over the SRO 579(I)/1999, 194(I)/2001, 195(I)/2001 and 821(I)/2005 dated May 17, 1999, March 24, 2001, March 24, 2001 and August 15, 2005 respectively and provides the list of Chartered Accountants and Management Accountants on the panel of CBR to conduct audit u/s 32A of the Sales Tax Act, 1990.

**S.R.O. 540(I)/2006**

This SRO suppresses the SRO 288(I)/2003, and 214(I)/2005 dated March 25, 2003 and March 03, 2005 respectively and provides the panel for constitution of committees for Alternative Dispute Resolution.

**S.R.O. 541(I)/2006**

This SRO suppresses the SRO 390(I)/2001 dated June 18, 2001 and levies a combined sales tax and customs duty of Rs. 500 on cellular telephone sets.

**S.R.O. 542(I)/2006**

This SRO takes over the SRO 495(I)/2004 dated June 12, 2004 and provides the detailed list of agricultural machinery and equipment, which shall be exempt from sales tax.

**S.R.O. 543(I)/2006**

This SRO provides that the manufacturers of goods specified in the SRO shall file prescribed Monthly Quantitative Returns for each tax period on 20<sup>th</sup> day of every month.

Some of the major goods falling under this SRO are:

Sugar	Air Conditioners
Tea Blended	Refrigerators
Cigarettes	Deep Freezers
Aerated Waters	Washing Machines
Cement	Television Sets
Cars/Buses/Jeeps/Trucks	Natural Gas/LPG

**S.R.O. 544(I)/2006**

This SRO fixes the value of locally produced coal at six hundred and seventy rupees per metric tonne for sales tax purposes.

**S.R.O. 545(I)/2006**

This SRO sets to charge sales tax on imported cigarettes on its retail price.

**S.R.O. 546(I)/2006**

This SRO rescinds SRO 511(I)/97, and 497(I)/2004 dated August 05, 1997 and June 12, 2004 respectively, withdrawing exemption of sales tax on plant and machinery of specified industries.

**S.R.O. 547(I)/2006**

This SRO rescinds SRO 77(I)/2005, and 525(I)/2005 dated January 27, 2005 and June 06, 2005 respectively.

**S.R.O. 548(I)/2006**

This SRO provides to zero-rate the sales tax on following items:

Milk	Pens/Ball Pens
Yogurt	Pencils/Colour Pencils
Cheese	Trucks/Dumpers (with g.v.w.
Flavoured Milk	exceeding 5 Tonnes)

**S.R.O. 549(I)/2006**

This SRO prescribes that no input tax adjustment shall be allowed to a registered persons making supply of locally produced coal.

**S.R.O. 550(I)/2006**

This SRO supersedes the SRO 648(I)/2005 dated July 01, 2005 and provides the list of services on which federal excise shall be levied and collected as sales tax.

**S.R.O. 551(I)/2006**

This SRO zero-rates the sale tax on supply of locally produced compost.

**S.R.O. 552(I)/2006**

This SRO exempts the import and supply of dried milk without addition of sugar or any other sweetening matter, from sales tax.

### **S.R.O. 553(I)/2006**

This SRO charges the sales tax on imported pesticides on fixed value addition of thirty percent at import stage.

### **S.R.O. 554(I)/2006**

This SRO rescinds SRO 575(I)/2002 dated August 31, 2002.

### **S.R.O. 555(I)/2006**

This SRO introduces Sales Tax Rules, 2006. Following Rules has been provided under this SRO:

- Registration, Compulsory Registration and De-registration;
- Filing of Returns;
- Credit and Debit Note and Destruction of goods;
- Apportionment of Input Tax;
- Refund;
- Special Audit;
- Zero-rating of Supplies against International Tender for Afghan Refugees;
- Supply of Zero-Rated goods to Diplomats, Diplomatic Missions, Privileged Persons and Privileged Organizations;
- Taxpayer's Authorized Representatives;
- Alternative Dispute Resolution;
- Recovery.

The major changes in these rules as compared with Sales Tax Rules, 2005 are:

- Rule No. 17, Chapter II (Filing of Returns) of these rules provides that every registered person, being a private or public limited company, shall file annual sales tax return, in prescribed form for a financial year by the 30<sup>th</sup> September of the following financial year.
- Rule No. 28, Chapter V (Refund) of these rules provides that no refund claim shall be entertained, by the sales tax department, if the registered person fails to furnish the claim on the prescribed software (RCPS 10) alongwith the supporting documents within sixty days of filing the return on which such refund appears. Collector Sales Tax has been empowered to extend the sixty days time limit for further thirty days on request of registered person.

### **S.R.O. 556(I)/2006**

This SRO supplants the SRO 334(I)/2002, and 528(I)/2005 dated June 15, 2002 and June 06, 2005. It provides the list of officers of Sales Tax in cases falling in the Large Taxpayers Unit.

### **S.R.O. 557(I)/2006 & S.R.O. 558(I)/2006**

These SROs replaces the SRO 350(I)/2002 dated June 15, 2002 and SRO 529(I)/2005 dated June 06, 2005 respectively and provides list of registered persons falling within the jurisdiction of Large Taxpayers Unit, Karachi and Lahore.

### **S.R.O. 559(I)/2006**

This SRO supersedes the SRO 525(I)/2005 dated June 06, 2005, and requires all registered persons engaged in import or supply of taxable goods, excluding the persons specified therein shall furnish a summary of purchases and sales made during a tax period including debit and credit notes issued, by the 15<sup>th</sup> of the month following the said tax period.

### **S.R.O. 560(I)/2006**

This SRO specifies the Sales Tax Special Procedures Rules, 2006. Following special procedures has been provided under this SRO:

- Filing of Nil Returns;
- Payment of Sales Tax by Commercial Importers;
- Payment of Sales Tax by Retailers;
- Payment of Sales Tax by Wholesale-cum-Retail Outlets;
- Payment of Sales Tax by Jewellers;
- Collection and Payment of Sales Tax on Electric Power;
- Collection and Payment of Sales Tax on Natural Gas;
- Supply of Sugar to Trading Corporation of Pakistan;
- Payment of Sales Tax on Supply of Food;
- Advertisement on Television and Radio;
- Customs Agents and Ship Chandlers;
- Services provided by Stevedores;
- Payment of Sales Tax by Steel-Melters and Re-Rollers;
- The Ship-Breaking Industry;
- Zero-rating of Hand-knitted Carpets;
- Collection and Payment of Sales Tax by Advertising Agencies;
- Collection and Payment of Sales Tax from Oil Marketing Companies;

- Issuance of Electronic Sales Tax Invoices between Buyer and Seller;
- Payment of Sales Tax by Manufacturers of Biscuits and Confectionery;
- Collection and Payment of Sales Tax on Vehicles;
- Processing of Refund Claims filed by person engaged in Zero-rated supply of Ginned Cotton;
- Accessing the Computerized System.

**S.R.O. 563(I)/2006**

By succeeding the SRO 314(I)/2006 dated April 01, 2006, this SRO fixes the value of imported white crystalline sugar at US\$ 440 per metric ton at import stage for sales tax purposes.

**S.R.O. 564(I)/2006**

This SRO surpasses the SRO 315(I)/2006 dated April 01, 2006 and proposes to fix the value of locally produced white crystalline sugar at 29 rupees per kilogram, at the time of supply, for sales tax purposes.

## **INCOME TAX ORDINANCE 2001**

### **AMENDMENTS PROPOSED BY THE FINANCE BILL, 2006**

The following amendments are proposed to be made in the Income Tax Ordinance, 2001:

#### **DEFINITIONS**

#### **SECTION 2**

The following amendments have been proposed to be made to section 2 of the Income Tax Ordinance, 2001:

1) In continuation with the amendments brought through Finance Act, 2005 the following two new definitions have been added by the insertion of clause (3D) and (3E) to section (2) of the Income Tax Ordinance, 2001:

a) Approved Employment pension or Annuity Scheme

“Approved Employment pension or Annuity Scheme” means any employment related retirement scheme approved under this Ordinance, which makes periodical payment to a beneficiary i.e. pension or annuity such as approved superannuation fund, public sector pension scheme and Employees Old-Age Benefit Scheme.

b) Approved Occupational Savings Scheme

“Approved Occupational Savings Scheme” means any approved gratuity fund or recognized provident fund.

These definitions have been proposed to be added to define the nature of the plans and funds, which were introduced by the insertion of the clauses (3A), (3B), (3C) through the previous Finance Act. Earlier, these funds and plans are added to harmonize the tax laws in accordance with the corporate laws and were defined to the extent, as they have to be approved by the Securities and Exchange Commission of Pakistan.

2. By the omission of the comma and words “but not exceeding five hundred thousand rupees in a tax year” from Clause (13B), the limitation of contribution to the Approved Pension Fund has been deleted.
3. By the omission of words “but does not include an individual who is entitled to benefit under any other approved employment pension or annuity scheme” from clause (19A) the scope limitation for eligibility in terms of Voluntary Pension System Rules, 2005 has been reduced. By this proposed amendment every individual Pakistani who has obtained a valid National Tax Number is entitled to get benefit under any private pension or annuity scheme.

Further, a proviso has been added to clause (19A) to tune the eligibility criteria for private pension schemes and funds in accordance with the provisions of section 63 of the Income Tax Ordinance, 2001.

4. The proposed amendment seeks to reduce the scope of definition of “permanent establishment”. By the insertion of word “fixed” in clause 41 it has been sought to further classify the definition.

In continuation with the above, a further amendment has been proposed to sub clause (c) of clause (41). By this amendment it has been sought to further elucidate the definition of “permanent establishment”. By this amendment it has been proposed to treat only those projects, sites and building where the supervisory activities in connection with the above projects continues for a period or periods aggregating more than ninety days within any twelve-months period.

5. By these amendments it has been proposed to add two new clauses (47A) and (47B) to the clause 47. The proposed amendments seek to the following two new definitions:

(47A) Real Estate Investment Trust (REIT) means a scheme, which consists of a closed-end collective investment scheme constituted as a unit trust fund and managed by a REIT management company for the purposes of investment in real estate, approved and authorized by the Securities and Exchange Commission of Pakistan under the Real Estate Investment Trust Rules, 2006

(47B) Real Estate Investment Trust Management Company means a company licensed by the Security and Exchange Commission of Pakistan under the Real Estate Investment Trust Rules, 2006.

The aforesaid amendments seek to introduce a new scheme and a company in the area of housing and real estate, whose income will be exempt from tax under the clause 57 of the Part I of the 2<sup>nd</sup> Schedule to the Income Tax Ordinance, 2001. The amendment has been proposed for the provision of the aforesaid exemption. Earlier, the kind of exemption was available to the Co-operative Societies established under the co-operative Societies Act, 1925, which was very well supported by the doctrine of mutuality.

## **INCOME FROM PROPERTY**

## **SECTION 15 & 17**

By this amendment a new sub section has been proposed to be added to section 15 of the Income Tax Ordinance, 2001, whereby new rate of tax has been provided for the taxation of the property income. According to this amendment the tax shall be charged on the gross property income at the rate of 5%. In this connection, a new Division namely "Division VI" has been added to Part I of the 1<sup>st</sup> Schedule to the Income Tax Ordinance, 2001, which provides the separate rate of tax for property income.

As tax is proposed to be charged on the gross rent, section 17 (deductions in computing income chargeable under the head "Income from Property") being superfluous is proposed to be omitted.

## **DEDUCTION NOT ALLOWED**

## **SECTION 21**

The proposed amendment seeks to omit clause "k" of the section 21 to rationalize the provisions of this section in accordance with the proposed amended tax rates. As newly proposed clause "1A" of the Division I of the Part I of the First Schedule to the Income Tax Ordinance, 2001 provides tax rates for the gross salary income, therefore, the current provisions of clause "k" come out to be irrelevant.

Further, clause l of the section 21 is proposed to be substituted. The proposed clause is reproduced as follows:

“(l) any expenditure for a transaction, paid or payable under a single account head which, in aggregate, exceeds fifty thousand rupees, made other than by a crossed cheque drawn on a bank or by crossed bank draft or crossed pay order or any other crossed banking instrument showing transfer of amount from the business bank account of the taxpayer:

Provided that online transfer of payment from the business account of the payer to the business account of payee as well as payments through credit card shall be treated as transactions through the banking channel, subject to the condition that such transactions are verifiable from the bank statements of the respective payer and the payee:

Provided further that this clause shall not apply in the case of:

- (a) expenditures not exceeding ten thousand rupees;
- (b) expenditures on account of –
  - i) utility bills;
  - ii) freight charges;
  - iii) travel fare;
  - iv) postage; and
  - v) payment of taxes, duties, fee, fines or any other statutory obligation;”;

A new proviso has been proposed to be added to clause l vide which, the scope of the banking channel transactions has been extended to the online banking transactions and the transaction made through credit cards. Further, a condition has been applied on these for their establishment as banking channel that these expenditures should be verifiable from the bank statement.

## **INCOME FROM OTHER SOURCES**

## **SECTION 39**

By the deletion of the word card from sub-section 3 of section 39, it has been sought to correct the provisions of aforesaid subsection.

## **FEDERAL/PROVINCIAL AND LOCAL AUTHORITY**

## **SECTION 49**

As new sub-section (3) has been proposed to be added to section 49 of the Income Tax Ordinance, 2001, whereby it has been sought to provide exemption to the

Federal/Provincial and Local Authorities from deduction of withholding tax. The proposed sub section is produced as follow:

- 3) Subject to sub-section (2), any payment received by the Federal Government, a Provincial Government or a local authority shall not be liable to any collection or deduction of advance tax."

#### **TAX CREDIT ON INVESTMENT ON SHARES**

#### **SECTION 62**

The proposed amendment seeks to increase the limit of tax credit on Investment from One Hundred and Fifty Thousands Rupees to Two Hundred Thousand Rupees.

#### **TAX CREDIT ON CONTRIBUTION TO AN APPROVED PENSION FUND**

#### **SECTION 63**

The proposed amendments seeks to harmonize provisions of the section 63 in accordance with the definitions provided under section 2 of the Income tax Ordinance, 2001. As per the proposed amendments the tax credits shall be allowed to those persons who are eligible for the purpose of the private pension schemes/plans.

A new sub-section (3) is proposed to be added to section 63 of the Income Tax Ordinance, 2001. The new section is reproduced as under:

- "(3) The transfer by the members of approved employment pension or annuity scheme or approved occupational saving scheme of their existing balance to their individual pension accounts maintained with one or more pension fund managers shall not qualify for tax credit under this section.

The proposed amendment seeks to minimize the scope of tax credits available to the members of approved employment pension or annuity scheme or approved occupational saving scheme provided they transfer their balances of such funds to the private individual pension benefit accounts.

#### **RESIDENT INDIVIDUAL**

#### **SECTION 82**

The proposed amendment seeks to amend first condition necessary to qualify as resident person. As per the proposed amendment it has been required to present in Pakistan aggregately 183 days to qualify as resident, whereas the earlier limit was 182 days.

## **TAX ON INCOME OF CERTAIN RETAILERS**

## **SECTION 113B**

By this amendment it has been sought to increase the scope of Presumptive Tax Regime to all type of individuals and AOPs whose turnover is exceeding Five Million. Earlier, the facility was available only to retailers of textile fabrics and articles of apparel including ready-made garments or fashion wear, articles of leather including foot-wear, carpets, surgical goods and sports goods. Now the scope of this section is proposed to be extended to all kind of businesses.

## **RETURN OF INCOME**

## **SECTION 114**

The proposed amendments seek to add two new clauses (ac) and (ad) to sub-section (1) of section 114. the proposed amendment seeks to add the following two persons, who are required to file the Income tax Return:

- a) Non Profit organization as defined in clause 36 of section 2;
- b) Welfare institution approved under clause 58 of Part I of the Second Schedule to the Income Tax Ordinance, 2001

By the separate addition of the aforesaid persons an attempt is made to remove the ambiguities of section 114. Under the prevalent laws, the following organizations are working in terms of clause 36 of section 2 and clause 58 of Part I of the Second Schedule to the Income Tax Ordinance, 2001:

- a) "Non Profit Organization" licensed under section 42 of the Companies Ordinance, 1984
- b) "Trust" registered under the Trust Act, 1872
- c) "Societies" registered under the Societies Act, 1860
- d) "WSWA" registered under the Voluntary Social Welfare Agencies (Registration and Control) Ordinance, 1961
- e) "Organization" approved under any Ordinance approved by the president of Pakistan.
- f) "Organization" approved by any ministry

The aforesaid available corporate structures of the non profit organizations are not quite covered under the definition of the company, therefore, by the addition of the above clauses the defect is removed and the same are required to file their return in

terms of section 114. In continuation with the above amendment the clause (b) of section 114 is accordingly modified.

**PERSONS NOT REQUIRED TO FILE THE RETURN OF TOTAL INCOME**

**SECTION 115**

The proposed amendments seeks to tax the income generated from the following the following two sources under the presumptive tax regime (PTR):

- a) Profit on debt – Section 151(1)
- b) Payments to non residents – Section 152 (1A)

The tax deduction made on the aforesaid payments shall be treated is the final tax liability. By the aforesaid amendments the scope of the PTR is further extended.

**AMENDMENT OF ASSESSMENTS**

**SECTION 122A**

The proposed amendments seek to add new section 122B to the Income Tax Ordinance, 2001. By this amendment it has been sought to give power to Regional Commissioners to revise the assessments after taking into considerations the various facts and circumstances of the cases. The provisions of this section are almost equivalent to the equivalent to the provisions of section 138 of the Income Tax ordinance, 1979 (Repealed). The proposed new amendment is reproduced as under:

122B. Revision by the Regional Commissioner

- (c) The Regional Commissioner may, either of his own motion or on an application made by the taxpayer for revision, call for the record of any proceedings relating to issuance of an exemption or lower rate certificate with regard to collection or deduction of tax at source under this Ordinance, in which an order has been passed by any authority subordinate to him.
- (1) Where, after making such inquiry as is necessary, Regional Commissioner considers that the order requires revision, the Regional Commissioner may, after providing reasonable opportunity of being heard to the taxpayer, make such order as he may deem fit in the circumstances of the case.

## **ALTERNATE DISPUTE RESOLUTION**

## **SECTION 134A**

The proposed amendment seeks to simplify the provision of section 134A. In this connection, the title of the section is changed to "alternative dispute resolution". Further, the sub section (1) of section 134 is proposed to be substituted by the following sub section:

- 1) Notwithstanding any other provision of this Ordinance, or the rules made there under an aggrieved person, in connection with any matter pending before an Appellate Authority, may apply to Board for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application.

In continuation with aforesaid amendment the provisions of sub-section 5 are accordingly modified.

## **ADVANCE TAX**

## **SECTION 147**

The proposed amendment seeks to add a new clause (ca) to sub section (1) of section 147. By this amendment it has been sought to extend the scope of section 147 to the income which are subject to tax withholding in terms of section 233 and clauses (a) and (b) of sub section (1) of section 233A. Further, a new sub section 4A is proposed to added to section 147 of the Income Tax Ordinance, 2001 and the accordingly the old sub-section (4A) is renumbered as (4B). The proposed new sub-section is reproduced as under:

- (4A) Any taxpayer who is required to make payment of advance tax in accordance with sub-section (4), shall estimate the tax payable by him for the relevant tax year, at any time before the last installment is due. In case the tax payable is likely to be more than the amount he is required to pay under sub-section (4), the taxpayer shall furnish to the Commissioner an estimate of the amount of the tax payable by him and thereafter pay such amount after making adjustment for the amount (if any) already paid in terms of sub-section (4).

By the insertion of the proposed new sub-section it has been sought to provide relaxation to taxpayers in payment of advance tax. The taxpayers are allowed to estimate their income at any time before the last installment of advance tax is due. In case the estimated advance tax is more than the tax earlier paid, the taxpayer is asked to file an estimate to the Commissioner regarding the payable advance tax.

## **IMPORTS**

## **SECTION 148**

By the substitution of word "seventy five" it has been sought to increase the impact of advance tax on the industrial undertakings engaged in the import of raw material for their own use. The Commissioner can only certify the reduction in advance tax to the extent of 75%, whereas, the current provisions empower the Commissioner to certify the reduction in advance tax to the extent of 100%.

Further, the proposed amendment seeks to substitute new sub-section (7) to extend the scope of presumptive tax regime to the industrial undertakings, which are engaged in the import of raw material other than raw material imported for their own use. Further, the scope of this sub section is extended to the manufacturers of fertilizers, who import the fertilizers and manufacturers of cars who import the cars in CBU Condition. The newly substituted sub-section is reproduced as under:

- (7) The tax collected under this section shall be a final tax on the income of the importer arising from the imports subject to sub-section (1) and this sub-section shall not apply in the case of import of:
- (d) raw material, plant, machinery, equipment and parts by an industrial undertaking for its own use;
  - (e) fertilizer by manufacturer of fertilizer; and
  - (f) cars in CBU condition by manufacturer of cars.";

## **PROFIT ON DEBTS-TAX DEDUCTION AT SOURCE**

## **SECTION 151**

The proposed amendment seeks to add a new sub-section, namely "sub-section (3)" to section 151 of the Income Tax Ordinance, 2001. By the insertion of this sub-section, it has been sought extend the scope of the presumptive tax regime (PTR). The tax deducted under on profit on debt arising on transaction referred to in clauses (a), (b) and d of sub-section (1) is proposed to be treated as final tax. The proposed newly added clause is reproduced as under:

- (3) Tax deducted under this section shall be a final tax on the profit on debt arising from transactions referred to in clauses (a), (b) and (d) of sub-section (1).

## **PAYMENTS TO NON RESIDENTS-TAX DEDUCTION AT SOURCE**

## **SECTION 152**

The proposed amendments seeks to add new sub-sections, namely "sub-section (1A) and (1B) to section 152 of the Income Tax Ordinance, 2001. By the insertion of these two new sub-sections, it has been sought to reduce the rates of tax deductions applicable to the contracts of non-residents engaged in the construction related activities and the contracts for advertisement services rendered by Satellite TV Channels. The proposed rate of tax deduction is reduced to 6%, whereas the current rate of tax is 15%.

Further, by the insertion of the subsection (1B), it has been sought to treat the tax deduction made under the aforesaid subsection as final tax liability, which is another extension of presumptive tax regime (PTR). For ready reference the proposed sub sections are reproduced as under:

(1A) Every person making a payment in full or part (including a payment by way of advance) to a non-resident person on the execution of:

(a) a contract or sub-contract under a construction, assembly or installation project in Pakistan, including a contract for the supply of supervisory activities in relation to such project; or

(b) any other contract for construction or services rendered relating thereto; or

(c) a contract for advertisement services rendered by T.V. Satellite Channels,

shall deduct tax from the gross amount payable under the contract at the rate specified in Division II of Part III of the First Schedule.

(1B) The tax deducted under sub-section (1A) shall be a final tax on the income of a non-resident person arising from a contract.

## **PAYMENTS FOR GOOD AND SERVICES**

## **SECTION 153**

The proposed amendment seeks to add a new sub-section (1A) to section 153 of the Income Tax Ordinance, 2001. By the insertion of the aforesaid sub-section, it has been

required from the exporter to deduct tax as per the specified rates on payment in full or part including a payment by way of advance to a resident person or permanent establishment in Pakistan of a nonresident person for the rendering of or providing of services of stitching, dying, printing, embroidery, washing, sizing and 74 weaving, shall at the time of making the payment, deduct tax from the gross amount payable. The newly inserted sub-section is reproduced as under:

- (1A) Every exporter or an export house making a payment in full or part including a payment by way of advance to a resident person or permanent establishment in Pakistan of a nonresident person for the rendering of or providing of services of stitching, dying, printing, embroidery, washing, sizing and 74 weaving, shall at the time of making the payment, deduct tax from the gross amount payable at the rate specified in Division IV of Part III of the First Schedule.

Further, by the insertion of a new sub-section (8A) it has been required from the taxpayer to provide their national tax number or computerized national identity card's Number to the withholding agent at the time of payment, otherwise, further two percent tax shall be deducted on payment.

Further, the provision of sub-section (3), (6), (7) and sub-section (9) are accordingly modified to make the provisions of section 153 well-matched with the provisions of the section 152 and 154 of Income Tax Ordinance, 2001.

## **EXPORTS**

## **SECTION 154**

The proposed amendment seeks to amend the section 154 to harmonize its impact in terms of section 152 and 153 of the Income Tax Ordinance, 2001.

## **TAX DEDUCTION ON INCOME FROM PROPERTY**

## **SECTION 155**

In continuation with amendment proposed for section 15 and section 17 of the Income Tax Ordinance, 2001, section 155 is accordingly modified. In this connection, sub-section (2) of section 155 is substituted. By the substitution of new sub-section (2), it has been sought to treat tax deduction made @5% on payments of rent as full and final tax liability. Further, by the deletion of sub section (2) it has been proposed to withdraw the limit of Rupees Three Hundred Thousand for tax deduction. Any payment made under this section shall be subject to tax deduction @5%.

Further, by the substitution of new sub-section (3) the definition of the prescribed person has been modified. The new proposed definition is reproduced as under:

(2) In this section, "prescribed person" means:

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

#### **WITHDRAWAL OF BALANCE UNDER THE PENSION FUND**

#### **SECTION 156B**

The proposed amendment seeks to add a proviso to clause (a) of sub-section (1) of section 156B of the Income Tax Ordinance, 2001. By the insertion of this proviso immunity from deduction tax has been provided to eligible person suffering from any disability. Further, the nominated survivors of the deceased eligible person are also immune from deduction of tax on withdrawal of balance under the approved pension Fund.

Further, in continuation with the amendments made to section 2 of the Income Tax Ordinance, 2001, the proviso to the clause (b) of sub-section (1) of section 156B has been substituted. By this amendment it has been sought to make compatible the provisions of this section with the definitions provided in section 2 of the Income Tax Ordinance, 2001.

#### **STATEMENTS**

#### **SECTION 165**

An important amendment has been proposed to be made to sub-section (2) of section 165 of the Income Tax Ordinance, 2001, By this amendment it has been required from person to file monthly statements in addition to quarterly and annual statements. By this amendment the taxpayers is once again proposed to burden with the extra documentations and time as well as the fiscal loss.

Further, a subsection (3) is proposed to be added to section 165, which will provide provisions regarding the filing of periodic information with Central Board of Revenue,

as and when Revenue require the same. The new proposed sub-section is reproduced as under:

- 3) Central Board of Revenue may prescribe a statement requiring any person to furnish information periodically in respect of any transactions in the prescribed form and verified in the prescribed manner.

Further, the person responsible for the filing of the tax statement may apply in writing for extension of time to furnish the statement after the due date and the Commissioner, if satisfied may grant extension to the person in writing. For the purpose of the said provision a new subsection (4) has been added to section 165.

Further, the board is in process of making rules for the electronic filing of these statements. In this connection a new sub-section, namely "sub-section 5" has been proposed to be added to section 65, which is reproduce for the ready reference.

- (3) The Board may make rules relating to electronic furnishing of statements under this section including:
  - (a) mandatory electronic filing of statements; and
  - (b) determination of eligibility of the data of such statements and e-intermediaries, etc.

## **CREDIT FOR TAX DEDUCTED AND COLLECTED**

## **SECTION 168**

In continuation with the amendments proposed for section 151(1), 152(1B), section 154, 155, 156A and section 233, the criteria for the tax credit provided under section 168 is accordingly proposed to be amended. The tax deducted under section 151(1), 152(1B), 154, and 155 is proposed to be treated as final tax liability. In this connection, provisions of section 168 are accordingly modified in accordance with the related amendments.

## **TAX DEDUCTED AND COLLECTED AS FINAL TAX**

## **SECTION 169**

Proposed amendments seeks to extend the scope of the Presumptive Tax Regime (PTR) to section 151(1), 152(1B), 154, 155. The amendments to this section has been proposed in continuation of with amendments proposed to be made under section 151(1), 152(1B), 154, and 155.

**ADDITIONAL TAX****SECTION 205**

The proposed amendment seeks to enhance the scope of applicability of additional tax. By this amendment, it has been required to levy additional tax on the taxpayers who have failed to pay advance tax in terms of section 147 to the extent of 90% of the tax chargeable for the relevant tax year, which was earlier 80%. Further, the scope of applicability of additional tax is also extended to the newly proposed sub-section 4A, which is also proposed to be added to section 147 of the Income Tax Ordinance, 2001.

**CIRCULARS****SECTION 206**

By the substitution of new sub-section (2) of section 206 of the Income Tax Ordinance, 2001, it has been sought to clarify the jurisdictions of the circulars issued by the Central Board of Revenue. The new proposed sub-section 2 is reproduced as under:

- (2) A circular issued by the Central Board of Revenue shall be binding on all Income Tax Authorities and other persons employed in the execution of the Ordinance, under the control of the said Board other than Commissioners of Income Tax (Appeals).

**CASH WITHDRAWAL FROM BANK****SECTION 231A**

By this amendment it has been sought to increase the rate of tax deductions from 0.1% to 0.2%. Further, it has been proposed that the aforesaid tax have to be deducted on cash withdrawal where the sum total of the payments for cash withdrawal in a day exceeds Twenty-Five Thousands Rupees. The proposed new sub-section (1) is reproduced as under:

- (1) Every banking company shall deduct tax at the rate specified in Division VI of Part IV of the First Schedule, if the payment for cash withdrawal, or the sum total of the payments for cash withdrawal in a day, exceeds twenty-five thousand rupees.

**BROKERAGE AND COMMISSION****SECTION 233**

The proposed amendment seeks to extend the scope of applicability of the tax deduction to non-residents for payment of brokerage and commission. Currently, only the resident persons are subject to tax withholding under section 233 of the Income Tax Ordinance, 2001.

## **FIRST SCHEDULE TO THE INCOME TAX ORDINANCE, 2001**

The Finance Bill, 2006 aims to make the following amendments to the First Schedule to the Income Tax Ordinance, 2001.

### **PART I**

1. The proposed amendment seeks to substitute tax tables available under clause (1) of Division I of Part I of the First Schedule to the Income Tax Ordinance, 2001. By this proposed amendment it has been sought to introduce new tax rates for the individuals and association of persons. The proposed tax rates range from 0% to 25%. The current rates of taxes for these persons range from 3.5% to a maximum of 35%. The detail of these tax rates is available on tax card annexed to these comments.

Further, it has been proposed that no tax shall be charged on the income of a woman, provided her taxable income do not exceed Rs. 125,000/-

2. The proposed amendment seeks to substitute tax tables available under clause (1A) of Division I of Part I of the First Schedule to the Income Tax Ordinance, 2001. The new tax rates shall be applicable to the gross salaries. The proposed salaries tax rates range from 0% to maximum of 20%. The prevailing rates of tax for salaried class range from 3.5% to a maximum of 30%. The detail of these tax rates is also available on the tax card.

Further, it has been proposed that no tax shall be charged on the income of a woman, provided her taxable salary income do not exceed Rs. 200,000/-

3. By the omission of clause (2) it has been sought to provide wholesome tax exemption on agriculture income. Earlier, if a person had agriculture income more than Rs. 80,000/- in addition to income from other sources, then the person was not entitled to the initial exemption of Rs. 80,000/-.
4. By the addition of words "or any other resident company" the scope of tax deduction on dividend received is extended to all resident companies, as defined by the Income Tax Ordinance, 2001. The rate of tax applicable for such transaction is 5%.

5. In continuation with amendments proposed for section 15 and section 17 of the Income Tax Ordinance, 2001, the new rates of tax has been proposed for the taxation of the property income. By the insertion of Division VI it has been sought to tax the gross rental income at 5%.

### **PART III**

1. The proposed amendment seeks to provide a uniform rate of tax deduction on profit on debts. The rate of tax to be applied under section 151 amounts to be 10% and will be the final tax liability in terms of sub-section 4 of section 115 of the Income Tax Ordinance, 2001.
2. In continuation with amendments proposed for the section 152, the rate of taxes available under Division 2 has been substituted by new tax rates. As per these amendments the payments made to the non residents in consideration of their services in construction related activities shall be taxed at 6% and all the other payments made to non residents unless specified under this ordinance shall be taxed at 30%.
3. By the substitution of clause (2) in Division III it has been sought to increase the rates of tax deductions from 5% to 6% on payments made in consideration of services rendered by a resident person.
4. In continuation with the amendment proposed for section 154 the clause (1) of Division IV has been modified.

### **PART IV**

1. The proposed amendment seeks to substitute new division II. By the substitution of new Division II, it has been sought to tax all payments under the head brokerage and commission at a uniform rate of 10%.
2. The proposed amendment seeks to increase the rate of tax on payment made on sale/purchase of shares by companies registered with the Stock exchanges. The rate of tax is increased from 0.005% to 0.01% by virtue of amendment in Div IIA.
3. The proposed amendment seeks to enhance the rate of tax on cash withdrawals from 0.1% to 0.2%. The amendment is made in continuation with the amendment proposed for section 231A.

## **SECOND SCHEDULE TO THE INCOME TAX ORDINANCE, 2001**

The following amendments have been proposed to be made in the second Schedule to the Income Tax Ordinance, 2001.

### **PART I**

1. The proposed amendment to clause (4) seeks to enhance the scope of exemption available under aforesaid clause. By the said amendment it has been sought to provide exemption to Pakistani seafarers working on a Pakistani flag vessels for 183 days or more.
2. The proposed amendment to clause (9) seeks to provide exemption on grants to the dependents of the Public servants or member of the Armed Forces of Pakistan who die during services.
3. By the substitution of new clause (66), it has been proposed to provide exemption on total income to certain welfare and not-for profit organizations.
4. The proposed amendment to clause (57) seeks to provide exemption, on total income of a real estate Management Trust, provided, trust is approved by the Securities and Exchange Commission of Pakistan.
5. By the insertion of new Para (ix) in sub-clause (3) of clause 57 of the Part I of the Second Schedule to the Income Tax Ordinance, 2001 it has been proposed to provide exemption on balance received to the extent of 25% out of the voluntary pension System.
6. The proposed amendment to clause 58 aims to confer powers to The Regional Commissioner of Income Tax for the purpose of approval in terms of sub-clause (3) of clause 58 of the Part I of the Second Schedule to the Income Tax Ordinance, 2001. Currently, the Central Board of Revenue has powers to provide such approvals.
7. By the substitution of new clause (72) the following exemptions have been provided to the non-resident persons on their profit on debts:

- (i) in respect of such private loan to be utilized on such project in Pakistan as may be approved by the Federal Government for the purposes of this clause, having regard to the rate of profit and the terms of repayment of the loan and the nature of project on which it is to be utilized;
  - (ii) on a loan in foreign exchange against export letter of credit which is used exclusively for export of goods manufactured or processed for exports in Pakistan;
  - (iii) being a foreign individual, company, firm or association of persons in respect of a foreign loan as is utilized for industrial investment in Pakistan provided that the agreement for such loan is concluded on or after the First day of February 1991, and is duly registered with the State Bank of Pakistan.
8. The proposed amendment seeks to withdraw the exemption on mark up arising from investment in COT market of stock exchange to a mutual fund or an investment company registered under the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2003, or a unit trust scheme constituted by an assets management company registered under the Assets Management Companies Rules, 1995.
9. The proposed amendment to clause 101 targets to extend the tenure of exemption from 2007 to 2014 available to the Ventures Capital companies and the ventures capitals funds.
10. By the insertion of new clause (102A), it has been sought to provide exemption on Income of a person as represents a subsidy granted to him by the Federal Government for the purposes of implementation of any orders of the Federal Government in this behalf.
11. The proposed amendment seeks to omit clauses (10), (11), (14), (15), (18), (38), (42), (43), (44), (45), (46), (47), (48), (49), sub-clauses (xxi) and (xxii) of clause (61), (63), (67), (68), (69), (70), (71), (71A), (73), (76), (95), (96), (97), (106), (106A), (120) and (137). The amendment is made in continuation with the amendments made to the provisions of law related to the Salary income, Pension Fund and approval of exemption for the purpose inclusion in clause (66).

## **PART II**

1. By the omission of clause 11 and 12 it has been proposed to withdraw the exemption available to the non-resident O&M Contractors, STFA Construction Company of Turkey and JDN Belgium.
2. The proposed amendment to clause (13G) seeks to extend the scope of reduced tax rates to many other products as provided under the Finance bill. The proposed amendment will reduce the import cost of the plant and machinery, cement, mobile sets, sugar, wheat, medicine and many other products.
3. The proposed amendment seeks to introduce new clause (13H), which provides reduced rates of tax deduction at import stage. The tax under section 148 on the following items shall be collected @ 2% of their import value as increased by customs duty and sales tax, if any levied thereon:
  - (1) raw material for steel industry including re-meltable;
  - (2) and re-rollable scrap;
  - (3) raw material for manufacturer of poultry feed; and stationery.

## **PART III**

1. The proposed amendment to clause (1A) seeks to decrease the age limit from 65 to 60 for the purpose of qualifying as a senior citizen.

## **PART IV**

1. The proposed amendment to the clause (11) seeks to provide exemption to Real Estate Management Trust duly approved by the Securities and Exchange Commission of Pakistan, from the provisions of the section 113, i.e. Minimum tax.
2. A new sub clause (xvii) has been proposed to be added to clause (11), by virtue of which the exemption from the provision of section 113 has been provided to morabaha bank or a financial institution approved by the State Bank of Pakistan or the Securities and Exchange Commission of Pakistan

(SECP), as the case may be, for the purpose of Islamic Banking and Finance in respect of turnover under a morabaha arrangement.

3. The proposed amendment to clause 33 seeks to provide exemption to real investment trust, approved and authorized under the Real Estate Investment Trust Rules, 2006.
4. By this amendment to clause 41, it has been sought to rectify a mistake. The words and the figure "section 153" is substituted by the words and the figure "section 152" to rectify the mistake.
5. By the substitution of clause (vi), (vii) and (x) the following shall the exemption from the levy of tax under section 148 has been provided for the following products:
  - vi) Liquefied Petroleum Gas (LPG)
  - vii) Liquefied Natural Gas (LNG)
  - X) Radio Navigational Aid Apparatus imported for an airport or on after First January 2006.

Further, the provisions of sub-clauses (xi), (xiii) and (xvi) are proposed to be omitted in continuation with the earlier amendments made to the Part I.

6. The proposed amendment to clause 57 seeks to provide the exemption from the levy of minimum tax under section 113 of the Income Tax Ordinance, 2001 to the companies operating Trading Houses and also comply with other provisions as specified in clause (57). Further, a proviso has been added to this clause, which provides limitations that the subject exemption shall be available for a period of ten years.

### **THIRD SCHEDULE TO THE INCOME TAX ORDINANCE, 2001**

By virtue of Finance Bill, 2006, the following amendment has been proposed to be made in the Third Schedule to the Income Tax Ordinance, 2001.

#### **PART I**

By this amendment, it has been allowed to claim depreciation allowance at 30% on all the equipment and machinery, which are used in the manufacture of IT products.