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**The information presented in this Memorandum has been sifted from the Federal Budget and Finance Bill, 2007, 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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## **SALIENT FEATURES OF FEDERAL BUDGET 2007-08**

Following are the salient features of budget 2007-08:

- Total outlay of budget 2007-08 is Rs 1,599 billion, which is 21.7 percent higher than the size of budget estimates of 2006-07.
- The resource availability during 2007-08 has been estimated at Rs 1,394 billion against Rs 1,100 billion in the budget estimates of 2006-07.
- Net revenue receipts for 2007-08 have been estimated at Rs 902 billion, an increase of 28 percent over the budget estimates of the outgoing fiscal year.
- The provincial share in federal revenue receipts is estimated at Rs 466 billion during 2007-08, which is 23 percent higher than the previous year.
- Capital receipts (net) for 2007-08 have been estimated at Rs 59 billion, against the budget estimates of Rs 16 billion in 2006-07.
- External receipts in 2007-08 are estimated at Rs 259 billion, an increase of 8 percent over the 2006-07 budget estimates.
- The overall expenditure during 2007-08 has been estimated at Rs 1,599 billion of which the current expenditure is Rs 1,056 billion and development expenditure Rs 543 billion. Current expenditure shows an increase of 2.2 percent over the revised estimates of 2006-07, while development expenditure will increase by 37.7 percent in 2007-08 over the revised estimates of 2006-07. The share of current expenditure in the total budgetary outlay for 2007-08 is 66 percent compared to 72.4 percent in revised estimates for 2006-07. The expenditure on general public service (inclusive of debt servicing, transfer payments and superannuation allowance) is estimated at Rs 642 billion, which is 60.8 percent of the current expenditure.
- The size of the Public Sector Development Programme (PSDP) for 2007-08 is Rs 520 billion, while Rs 23 billion has been allocated for other development expenditure.
- The provinces have been allocated an enhanced allocation for budget estimates 2007-08 in their PSDP. The increase is Rs 35 billion when compared with budget estimates of 2006-07.
- A sum of Rs 35 billion has been allocated for the Earthquake Reconstruction and Rehabilitation Authority (ERRA) in the PSDP 2007-08

## BUDGET AT A GLANCE

		(Rs. in millions)	
		2007-08 Budget	% of total Expenditure
<b>Receipts</b>			
a)	Tax Revenue	1,030,547	64
b)	Non-Tax Revenue	337,593	21
	<b>Gross Revenue Receipts (a+b)</b>	<b>1,368,140</b>	<b>86</b>
	Less Provincial Share in Taxes	465,964	29
I	<b>Net Revenue Receipts</b>	<b>902,176</b>	<b>56</b>
II	Net Capital Receipts	58,518	4
III	External Receipts	258,533	16
IV	Self Financing of PSDP by Provinces	122,695	8
V	Change in Provincial Cash Balances	51,751	3
VI	Privatization Proceeds	75,000	5
VII	Bank Borrowing	130,937	8
	<b>Total Resources (I to VII)</b>	<b>1,599,611</b>	<b>100</b>
<b>Expenditure</b>			
<b>A</b>	<b>CURRENT EXPENDITURE</b>	<b>1,056,350</b>	<b>66</b>
	General Public Services	641,875	40
	Defense Affairs and Services	275,000	17
	Public Order & Safety Affairs	24,540	2
	Economic Affairs	78,941	5
	Environment Protection	182	
	Housing and Community	1,095	
	Health Affairs & Services	5,240	
	Recreational, Culture Services	2,929	
	Education Affairs Services	24,147	2
	Social Protection	2,401	
<b>B</b>	<b>DEVELOPMENT EXPENDITURE</b>	<b>520,000</b>	<b>34</b>
	Federal Government	370,000	23
	Provincial Government	150,000	9
<b>C</b>	<b>OTHER DEVELOPMENT EXPENDITURE</b>	<b>23,261</b>	<b>1</b>
	<b>Total expenditure (A+B+C)</b>	<b>1,599,611</b>	<b>100</b>

## **BUDGET HIGHLIGHTS**

### **SALES TAX**

- Zero-rating of sales tax on sewing machines, exercise books, writing drawing and marking inks, trailers and bicycles, is aimed at providing relief to the general public.
- Sales tax on cottonseed oil, surgical tapes, ultrasound gel and glass bangles has been exempted.
- Amnesty scheme for waiver of default surcharge and penalty.
- Exemption of sales tax arrears of industries located in FATA/PATA.
- Zero-rating of utilities of rice exporters.
- Zero-rating of sales tax on uncooked poultry meat.
- Increase in retail price of cigarettes and other items of Third Schedule.
- Increase in rate of sales tax from 15% to 20% on specified raw materials.
- Withdrawal of input tax adjustment on the supply of utilities (electricity and gas) to the residential colonies of manufacturers.
- Withdrawal of zero-rating of chemicals of multiple usages.
- Collection of sales tax from CNG stations at 9% value addition.
- Abolition of sales tax on advance payments
- Input tax adjustment has been restricted up to 90% of the out put tax.
- Provisions for payment of sales tax refund along with duty drawback.
- Withdrawal of special procedures for commercial importers, iron & steel sector, restaurants, biscuits and confectionery.
- Introduction of concept of withholding agents in sales tax.

- Issuance of refunds to Large Taxpayers units within three days of filing of refund claims along with bank guarantees.
- Period for retention of record is enhanced from 3 years to 5 Years

## **INCOME TAX**

- Present corporate tax rate of 35% to continue.
- Income of Micro Finance Banks (MFBs) exempted from tax for five years.
- Withholding tax on passenger transport services reduced from 6% to 2% on the analogy of goods transport services.
- Exemption under clause (132) of Part I of Second Schedule extended to companies owning and managing Hydel Power Projects situated in AJ&K.
- Companies operating Hotels in Pakistan or AJ&K are allowed set off of losses arising in Pakistan or AJ&K against income in Pakistan or AJ&K and vice versa as the case may be.
- Exemption of tax on capital gains extended for further one year.
- Withdrawal of 2% withholding tax over and above the prescribed rate on supplies for non-disclosure of NTN or CNIC to withholding agent.
- Mergers and Acquisitions to be treated as non tax event.
- Withholding tax rate on all exports to be unified @ 1%.
- Permanent Establishments of non-resident Exploration and Production Companies exempted from withholding tax on supply of crude oil and gas.
- E&P Companies exempted from WHT on imports (other than vehicles).

### **Review of Law Relating to Holding Companies**

- 75% share holding required if none of the companies is a public listed limited company.

- 55% share holding required if one of the group companies is a public listed limited company.
- Group relief restricted to domestic companies.
- Current tax year losses can be surrendered by holding company to a subsidiary or between subsidiaries which fulfill the requirements of share holding;
- Inter corporate dividend - liable to 10% adjustable withholding tax.

### **Group Taxation/Relief**

- For group formation, transfer of shares between companies and the owners in one direction to be treated as non-tax event.
- Group taxation to be restricted to locally registered companies under Companies Ordinance, 1984 domestic companies.
- CNIC to be used for identification purpose, as an alternate, where NTN is not obtained.
- Capital Gains of private limited companies on sale of their assets to private equity and Venture Capital Funds to be taxed @ 10% (reduced tax rate).
- Income arising on sale of immovable property to Real Estate Investment Trust (REIT), exempted from tax for three years.
- Separate tax regime for retailers:

### **Turnover Rate of Tax**

Upto Rs. 5 million	0.5%
From 5 to 10 M	Rs 25,000 + 0.5% of the amount exceeding Rs. 5 M
From Rs. 10 M	Rs.50,000 + 0.75% of the amounting exceeding Rs. 10 M

- Separate Schedule for Banking Companies introduced.
- Maximum limit of investment in IPOs to avail tax credit enhanced from Rs. 200,000 to 300,000.
- Presumptive Tax Regime introduced for service providers to exporters/export house under the Trade Policy withdrawn.

- Withdrawal of withholding tax on payments to travel agents on sale of air tickets where withholding tax on commission is already deducted.
- Advertising services provided by owners of newspapers/magazines in the non-corporate sector taken out of Presumptive Tax Regime.
- Withdrawal of CVT on import of cars and power of attorney executed between first relations. Withholding tax @ 5% on purchase of locally manufactured cars.
- Federal Excise duty also to be included in the value of goods for withholding tax purposes at the import stage.

#### **Withholding Tax on Imports**

- For commercial importers covered under PTR, WHT rate reduced from 6% to 5%.
- For manufacturers a uniform adjustable withholding tax on imports @ 1%.
- Exemption in respect of imports covered by statutory provisions will continue. Taxpayers having losses or those having paid advance tax eligible for reduced rate exemption certificates on imports.
- Withholding tax on import of edible oil reduced from 3% to 2%.
- Import of polyester filament fiber yarn to be subjected to 5% withholding tax.
- Import of Bitumen, pesticides/weedicides and FWT to be subjected at reduced withholding tax rate of 2%.
- Exclusion of companies (Large Import Houses) importing bulk industrial raw material from presumptive tax regime.
- Professional Firms to be taxed at par with other AOPs.

#### **Revenue generation**

- Withdrawal of exemption to Mutual Fund on CFS interest income.
- Companies to pay advance tax in the first year of operations.

### **Simplification**

- Presumptive tax regime for Compressed Natural Gas
- (CNG) stations and withholding tax @ 6% of gas bill.

### **Documentation**

- Electronic filing of returns and withholding statements for corporate taxpayer made mandatory.

### **EXCISE DUTY**

- Abolition of excise duty on motor gasoline, petroleum bitumen and jet fuel.
- Abolition of excise duty on exchange companies and health insurance.
- Abolition of excise duty on cable TV operators.
- Extension of scope of excise duty on financial services.
- Rationalization of excise duty on international air travel.
- Levy and deposit of excise duty in the manner of sales tax.
- Linkage of registration threshold of manufacturers with utility bills.

### **CUSTOMS**

#### **Sectoral industrial incentives**

In order to enhance local industrialization, capacity building, production competitiveness efficiency and product presentability, duty rates on raw materials, parts and components for manufacturing of various capital good and industrial raw material are reduced or the duty is withdrawn e.g., CNG compressors, Paper and paperboard, Items/equipments which have dedicated use in non-conventional/ alternate renewable energy resources like solar, wind and bio tech. Transformers, submersible motors, electricity meters, switchgears and electric bulbs and tube lights.

**Increase in duty rates**

In order to safeguard the local industry from an onslaught of foreign goods duty rates have been increased on import of poultry meat, welded stainless steel pipes, Vehicles etc.

**Revenue measures**

Levy of 1% Special surcharge on imports excluding vegetables/pulses, edible oil/ghee, crude petroleum, furnace oil, HSD, medicines, fertilizers, imports under chapter 99, temporary imports etc.

**Legal changes**

Legislative changes have been suggested for simplification of law/procedures. Section 25 and 25A of the Customs Act have been amended to address the phenomenon of under invoicing.

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

### **AMENDMENTS PROPOSED BY THE FINANCE BILL, 2007**

#### **1. DEFINITIONS**

#### **SECTION 2**

The following amendments to Section 2 of the Sales Tax Act, 1990, have been proposed through the Finance Bill, 2007.

#### **COTTAGE INDUSTRY**

#### **Clause (5AB)**

The following new clause defining the term “cottage industry” is proposed to be inserted. Accordingly, “cottage industry” means a manufacturer whose annual turnover from taxable supplies made in any tax period during the last twelve months ending any tax period does not exceed five million rupees or whose annual utility (electricity, gas and telephone) bills during the last twelve months ending any tax period do not exceed six hundred thousand rupees.

Under the existing provisions of the Sales Tax Act, 1990, manufacturers and retailers whose annual supplies don't exceed five million rupees are not required to be registered. By the proposed insertion, the legislature intends to introduce a new parameter based on utility bills whereby, the manufacturers whose utility bills exceed Rs. 600,000 during the last 12 months ending any tax period shall also be required to obtain sales tax registration.

In line with this proposal, the corresponding entries in the Sixth Schedule relating to exemption threshold are also proposed to be amended. It is pertinent to mention here that the registration threshold for retailers remains the same.

#### **INPUT TAX**

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

The proposed insertion in the definition of “input tax” seeks to include the sales tax levied under the respective “Provincial and Capital Sales Tax Ordinances”.

#### **OUTPUT TAX**

#### **Clause (20)**

The proposed substitution seeks to redefine the “output tax” in order to harmonize it with the definition of “input tax”.

**RETAIL PRICE****Clause (27)**

The proposed amendment seeks to include all duties in the definition of the term "retail price". Consequentially, the amendment shall increase the retail price of all such items in the Third Schedule which are subject to any duty.

**TAX FRAUD****Clause (37)**

Under the prevailing sales tax law, the act of falsifying the sales tax invoices constitutes tax fraud. The proposed amendment in the definition aims that any action causing falsification in the sales tax invoices shall also be a tax fraud.

**TIME OF SUPPLY****Clause (44)**

To simplify the levy of sales tax, it is proposed that the sales tax shall be charged at the time of delivery of goods. The levy of sales tax on advances received against the intended supply is being abolished.

**VALUE OF SUPPLY****Clause (46)**

The four SROs have been rescinded which previously have been issued under this clause regarding the fixation of value of supply of certain goods.

S.R.O. 475(I)/2007 has been issued to rescind the SRO No. 679(I)/2006 and SRO No. 680(I)/2006 both dated June 30, 2006, with effect from July 01, 2007, withdrawing the fixed value of Iron and Billets for assessment of sales tax, at the import stage and supply of billets by Pakistan Steel Mills.

S.R.O. 477(I)/2007 rescinds the SRO No. 762(I)/1996 dated September 15, 1996, withdrawing the minimum value of chipboard, paper cones and reconditioned paper cones for assessment of sales tax on their supply.

S.R.O. 478(I)/2007 rescinds the SRO No. 940(I)/1998 dated September 01, 1998, withdrawing the minimum value of ship plates, pipes of cast iron, non-ferrous metals and stores/machinery for assessment of sales tax on their supply.

**2. SCOPE OF TAX****SECTION 3**

Vide SRO No.466(I)/2007 dated June 9, 2007, a list of 85 goods have been specified on which sales tax shall be charged @ 20 % with immediate effect. According to legislature, in order to discourage the informal manufacturing in

iron and steel, plastics and paper, the rate of sales tax on import and supply of their raw materials as well as some specified chemicals is being increased to 20 % which will induce the informal manufacturing sector to be compliant to obtain input tax adjustment as the end products remain chargeable to sales tax @ 15 %.

### **3. ZERO RATING**

#### **SECTION 4**

The proposed amendment seeks to empower the Federal Board of Revenue (FBR) to specify goods which shall be supplied at the rate of zero percent to such registered persons who are engaged in manufacture and supply of zero rated goods.

The Federal Government has also issued SRO No. 509(I)/2007 dated 9<sup>th</sup> June 2007 in supersession of SRO NO. 525(I)/2006 dated 5<sup>th</sup> June 2006 because of change in PTC heading numbers. The comparison with the rescinded SRO reflects that 'buttons' have been added to the new list whereas Sodium Hydrogen Carbonate (Sodium Bicarbonate), Methylene Chloride, Methyl Ethyl Ketone, Citric Acid, Antioxidant, Acrylonitrile, Ink for Inkjet Engraver, Prepared Binders for Foundry Moulds and Peroxide Stabilizer & Nickel Salt are excluded.

S.R.O. 462(I)/2007 provides the list of items on which sales tax shall be charged at the rate of zero percent. The list consists of Sewing machines of the household type, Bicycles, Exercise Books, Writing, Drawing and Marking Inks, Uncooked Poultry Meat, Trailers and Semi-trailers for the transport of goods having specifications duly approved by the Engineering Development Board.

### **4. DETERMINATION OF TAX LIABILITY**

#### **SECTION 7**

In order to link the determination of the sales tax liability with the extent of adjustment of input tax (provided through insertion of a new section 8B), the existing section 7 has been proposed to be amended accordingly.

### **5. TAX ON VALUE ADDITION BASIS**

#### **SECTION 7A**

The legislature focuses on withdrawal of special procedures for commercial importers, iron & steel sectors, restaurants and biscuit and confectionery. In order to harmonize with the sales tax system, special treatment procedures are being abolished. These sectors shall operate in standard sales tax procedure of payment of due tax after adjusting the input tax on purchases from the output tax charged on supplies.

For commercial importers, SRO No. 468(I)/2007 dated 9<sup>th</sup> June 2007, abolishes 10% value addition at import stage immediately.

For iron & steel sectors, restaurants and biscuit and confectionery sector, the withdrawal of special procedures become effective from 1<sup>st</sup> July, 2007 through amendment in the Sales Tax Special Procedure Rules, 2007.

**6. TAX CREDIT NOT ALLOWED SECTION 8**

The proposed amendment seeks to exclude the words "for the manufacture or production of taxable goods". The impact of this exclusion will be a simplification of the prevalent law.

Input tax adjustment on supply of electricity and gas to residential colonies of the registered persons is being disallowed vide SRO NO. 464(I)/2007 dated 9<sup>th</sup> June 2007 that amends the earlier SRO No. 490(I)/2004 dated 12<sup>th</sup> June, 2004.

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

The proposed amendment seeks to empower the Board to exclude certain transactions from the purview of this section.

**8. ADJUSTABLE INPUT TAX SECTION 8B**

According to this newly proposed insertion, legislature, in order to check mal-practices, seeks to restrict the amount of input tax to 90 % of the output tax. The system of adjustment notes and adjustment advices causing problems for the taxpayers is being abolished.

The essence of the proposal is that a registered person who makes supplies at loss or zero value addition is required to deposit sales tax to the extent of 10 % of output tax. However, the registered persons making supplies at any value addition shall pay output tax progressively.

**Illustration:** Suppose that a registered person purchases certain goods at Rs. 800,000 in a tax period. The input tax shall be Rs. 120,000. For that tax period, his sales tax liability shall, at different sale prices, be as follows:

Sales (Rs.)	Output tax	Input tax restricted upto 90 % of output tax	Sales Tax Liability
700,000	105,000	94,500	10,500
800,000	120,000	108,000	12,000
900,000	135,000	120,000	15,000
1,000,000	150,000	120,000	30,000

The above table suggests that the registered persons will be induced to declare minimal value addition. This proposed amendment shall also cause hardship to such registered persons who, because of the seasonal nature or otherwise of their manufacturing operations / needs, make bulk imports or local purchases.

The other provisions accompanying section 8B, sought to be inserted are given as follows:

- The tax charged on the acquisition of fixed assets shall be adjustable against the output tax in twelve equal monthly installments after the start of production of a new unit.
- The Board has been empowered to exclude any person or class of persons from the purview of this regime.
- A registered person (being a company) subjected to this regime, may be allowed adjustment of inadmissible input tax provided his accounts are subject to audit under the Companies Ordinance, 1984 and it furnishes a statement along with annual audited accounts, duly certified by the auditors, showing value additions less than the prescribed limit.
- In case of other registered persons, adjustment of inadmissible input tax may be allowed subject to the conditions and restrictions as may be prescribed by the Board.
- The adjustment of such inadmissible input tax shall be made on yearly basis in the second month following the end of the financial year of the concerned registered person.
- The Board may prescribe any other limit of input tax adjustment for any person or class of persons.
- Any auditor found guilty of misconduct in furnishing the aforementioned certificate, shall be referred to disciplinary action under section 20D of Chartered Accountants, Ordinance, 1961.

## **9. REFUND OF INPUT TAX**

## **SECTION 10**

The proposed substitution limits the scope of refund to zero-rated supplies and exports only. The refund shall be made, within forty five days of filing of refund claim, subject to the verification. The Board has to prescribe the procedure for refund of excess input tax against supplies other than exports or zero rated supplies.

If a registered person is liable to pay any tax, default surcharge or penalty payable under any law administered by the Board, the refund of input tax shall be made after adjustment of such unpaid outstanding amount.

A scheme is being envisaged whereby the exporters of five zero-rated sectors shall be able to obtain sales tax refund on packing material, chemicals along with customs duty drawback.

To expedite the sales tax refunds of large taxpayers registered in Large Taxpayers Units, a new procedure has been issued whereby they can claim their sales tax refunds within three days of filing of refund application along with bank guarantee equivalent to refund amounts.

#### **10. ASSESSMENT OF TAX**

#### **SECTION 11**

The proposed amendment seeks to remove the words "or, as the case may be, Collector (Adjudication)" erroneously appearing in the section, as the office of Collector (Adjudication) was dissolved vide Finance Bill, 2005.

#### **11. RECORDS**

#### **SECTION 22**

The proposed amendment empowers the FBR to restrict the number of bank accounts maintained by a registered person and to receive and make payments of sales and purchases only from such bank accounts.

It has further been proposed that the registered persons, whose accounts are subject to audit under the Companies Ordinance, 1984, shall be required to submit a copy of the annual audited accounts, along with a certificate by the auditors certifying the payment of due tax by the registered person.

#### **12. TAX INVOICES**

#### **SECTION 23**

It has been proposed to empower the CBR to prescribe the procedure for regulating the issuance and authentication of sales tax invoices.

#### **13. RETENTION OF RECORD AND DOCUMENTS FOR FIVE YEARS**

#### **SECTION 24**

According to this proposed amendment the registered persons shall maintain the sales tax record and documents for a period of five years after the end of the tax period to which such record or documents relate. Prior to this proposed amendment, registered persons were required to maintain the sales tax records for three years.

**14. DIRECTORATE GENERAL OF VALUATION** **SECTION 30D**

The proposed amendment, seeks to segregate the functions and powers of Directorate General of Valuation and Directorate of Post Clearance Audit, and accordingly the words "and Post Clearance Audit" appearing in this section shall be omitted.

**15. DIRECTORATE OF POST CLEARANCE AUDIT** **SECTION 30DD**

The proposed amendment provides the formation of a separate office of Directorate of Post Clearance Audit.

**16. POWER TO ARREST AND PROSECUTE** **SECTION 37A**

The proposed amendment seeks to empower an authorized officer of sales tax to arrest and prosecute a person who commits a tax fraud or any offence warranting prosecution under the Act.

**17. POWER TO CALL FOR INFORMATION** **SECTION 38A**

It has been proposed to empower the Collector to call information from any regulatory authority concerning the licenses and authorizations issued by it.

**18. ALTERNATIVE DISPUTE RESOLUTION** **SECTION 47A**

The existing section is proposed to be substituted and the proposed substitution aims at the following:

- Any registered person aggrieved in connection with any dispute pertaining to the liability of tax, admissibility of refunds, the extent of waiver of default surcharge and penalty, the quantum of input tax admissible, relaxation of any procedural or technical irregularities and condonation and any other specific relief may apply to the Board, for appointment of a committee for the resolution of the above.
- The cases where FIRs have been lodged under the Act or criminal proceedings initiated or where interpretation of question of law having larger revenue impact is involved, can not be eligible for dispute resolution.
- The Board shall appoint the committee within thirty days of receipt of application.

- The committee shall make its recommendations within sixty days of its constitution. Provided that the Board is empowered to extend this period for another sixty days.
- The Board may, on the recommendation of the committee, pass such order, as it may deem appropriate.
- S.R.O. 461(I)/2007 rescinds SRO 540(I)/2006 and SRO 230(I)/2007 dated June 05, 2006 and March 14, 2007 respectively and provides the new panel for constitution of committees for Alternative Dispute Resolution.

**19. RECOVERY OF ARREARS OF TAX**

**SECTION 48**

The proposed amendment seeks to empower the Board to write off the arrears of tax which cannot be recovered in the manner prescribed in this section."

**20. COMPUTERIZED SYSTEM**

**SECTION 50A**

According to proposed amendment in this section, the information received in computerized system from or on behalf of any registered person shall be deemed to have been furnished by such registered person, unless otherwise proved. It has further been proposed that the information gathered through computerized system shall be confidential to be used only for official and legal purposes and no unauthorized person can claim for any access to such information.

**21. DELAYED REFUND**

**SECTION 67**

It has been proposed that for the purpose of calculation of additional amount in case of delayed refund, the time limit for release of refund as prescribed in section 10 of the Act shall start from the date of filing of refund claim. Prior to this amendment, the time limit shall have started from the date of filing of monthly sales tax return.

**22. FEDERAL BOARD OF REVENUE**

**SECTION 76**

This newly inserted section proposes that any references to Central Board of Revenue in the Act and rules or notifications there under shall be construed to a reference to the Federal Board of Revenue from the commencement of Federal Board of Revenue Act, 2007.

## 23. SIXTH SCHEDULE

The proposed amendments in this Schedule aim to harmonize the PTC Headings with the PTC Heading of the First Schedule to the Customs Act, 1969.

**It has been proposed to withdraw exemption on the following items:**

- Live fish
- Supply of edible oils, vegetable ghee and cooking oil by distributors, wholesalers and retailers
- Palm stearin
- Margarine (excluding liquid margarine)
- Malt extract

**It has been proposed to grant exemption on the following items:**

- Surgical tapes
- Ultrasound gel
- Glass bangles
- Local supply and import of dextrose and saline infusion giving sets along with empty non-toxic bags for infusion solution
- Goods imported by various agencies of the United Nations, subject to certain conditions
- Supply of locally produced crude vegetable oil obtained from locally produced cottonseed, without having undergone any process except washing.

## **SALES TAX NOTIFICATIONS ACCOMPANIED WITH FINANCE BILL, 2007**

### **S.R.O. 463(I)/2007**

This SRO announces an amnesty for waiver of default surcharge and penalties subject to the condition that such persons deposit the outstanding principal amount of sales tax by June 30, 2007.

### **S.R.O. 470(I)/2007**

This SRO provides the amendments to be made in Sales Tax Rules, 2006, which shall take effect on July 01, 2007. Some of the major amendments are as follows:-

#### **Option to File Nil Return**

Registered persons intending to file Nil return can file such return in duplicate at the counter set up in the respective Collectorate on or before the due date.

#### **Special Procedure for Accessing the Computerized System**

- A person desirous to become authorized user of computerized system shall apply to the Board in the prescribed manner. The Board shall grant authorization or shall refuse the application after giving the applicant a reasonable opportunity of being heard.
- Every authorized user shall be allotted a Unique User Identifier for his identification. The authorized user shall access the computerized system for transmission to or receipt of information there from, subject to certain limitations and conditions. The authorized user shall be responsible for security and confidentiality of the Unique User Identifier.
- Information transmitted to the computerized system using a Unique User Identifier shall be sufficient evidence that the respective authorized user has transmitted that information.
- The Board may cancel the authorization of a user who failed to comply with the prescribed conditions or acted in contravention of any provision of Act or failed to take adequate measures for security and confidentiality of UIN or been convicted. Board shall keep the record of each transmission sent to or received from an authorized user for a period of five years from the date of such transmission or receipt.

- The officers of sales tax may examine records maintained by authorized user.

### **Electronic Intermediaries**

- A person desirous of being appointed as e-intermediary, having sufficient information technology infrastructure and professional experience in the field of providing taxation services, may apply to the e-declaration administrator in the prescribed manner. The following persons can apply under this chapter:

Chartered Accountant Firm

A person appointed as authorized representative

An Income Tax Practitioner

Any other person approved by Board.

- The e-declaration administrator after sufficient verification shall forward his recommendation to the Board for appointment of the applicant as e-intermediary. The Board shall appoint the applicant as an e-intermediary and issue him a Unique User Identifier.
- The Board may cancel the appointment of an e-intermediary who failed to comply with the prescribed conditions or acted in contravention of any provision of Act or failed to take adequate measures for security and confidentiality of Unique User Identifier or been convicted.
- A registered person can authorize an e-intermediary to furnish electronic data to the computerized system, on his behalf. An e-intermediary shall be responsible for security and confidentiality of the Unique User Identifier. Information transmitted to the computerized system using a Unique User Identifier shall be sufficient evidence that the respective e-intermediary has transmitted that information.
- The e-intermediary shall retain the data relating to all e-declarations transmitted by him on behalf of registered person, for a period of 5 years. The officers of sales tax may examine records maintained by e-intermediary. E-intermediary shall be liable to penalty in case of any discrepancy or irregularity.

### **Special Procedure for Issuance of Electronic Sales Tax Invoices between Buyers and Sellers**

- Every registered person desirous to use electronic invoicing system shall seek prior authorization from the concerned Collector. Such registered person shall

issue electronic sales tax invoice for every supply, containing the information required under section 23 of the Act. Such registered person shall retain record and documents on electronic media for a period of five years.

- Electronic sales tax invoice may be generated and transmitted where authenticity of the origin and integrity of the invoice data are guaranteed.
- The registered person issuing such electronic invoices shall simultaneously transmit a copy of all invoices to the concerned Collector.
- The registered person shall prevent the data from loss and corruption. The registered person shall allow, an officer of sales tax, access to the electronic record and documents. A registered buyer who receives electronic invoices shall fulfill the same criterion and conditions for storing them as mentioned above. However a buyer can store electronic invoices in a paper-based system after obtaining necessary approval from the concerned Collector.

**Repeal:**

Following rules have been repealed:-

- The Sales Tax Rules, 2005.
- The Electronic Filing of Sales Tax Return Rules, 2005.
- Sales Tax Refund on Zero-Rated Supply Rules, 2006.

**S.R.O. 480(I)/2007**

This SRO provides the Sales Tax Special Procedures Rules, 2007. The following major amendments have been proposed in comparison with Sales Tax Special Procedure Rules, 2006

**Special Procedure for Filing of Nil Return**

This procedure has been repealed and a corresponding Rule has been incorporated in Sales Tax Rules 2007.

**Special Procedure for Payment of Sales Tax by Commercial Importer**

Repealed

### **Special Procedure for Payment of Sales Tax by Retailers**

- Jewellers shall be treated as retailers and shall be covered under this procedure.
- A person registered as wholesaler as well as retailer shall be treated as wholesaler and this procedure shall not be applicable on such registered person.
- Retailer shall charge sales tax in accordance with following schedule:-

<b>Sr #</b>	<b>Annual Turnover</b>	<b>Sales Tax Rate</b>	<b>Income Tax Rate</b>
1	Up to Rs. 5 million	Nil	0.5% of Total Turnover
2	More than Rs. 5 million and up to Rs. 10 million	0.5% of turnover which is in excess of Rs. 5 million	Rs. 25,000 plus 0.5% of turnover which is in excess of Rs. 5 million
3	More than Rs. 10 million	Rs. 25,000 plus 0.75% of turnover which is in excess of Rs. 10 million	Rs. 50,000 plus 0.75% of turnover which is in excess of Rs. 10 million

Previously retailers were required to pay tax at the rate of 3% of the total turnover.

- Retailers shall be required to pay sales tax on financial year basis. Previously they were required to pay sales tax on monthly basis. Consequent to this amendment, retailers shall not be required to file monthly sales tax return.

### **Special Procedure for Payment of Sales Tax by Jewellers**

Repealed

### **Special Procedure for Collection and Payment of Sales Tax on Electric Power**

No significant change

### **Special Procedure for Collection and Payment of Sales Tax on Natural Gas**

- Sales tax shall be charged at the rate of 24% (15% GST 9% value addition) on supply of natural gas to CNG Stations.
- CNG stations shall not be required to get sales tax registration or file monthly sales tax return or maintain any record under Sales Tax Act, 1990.

### **Special Procedure for Supply of Sugar to Trading Corporation of Pakistan (TCP)**

No significant change

### **Special Procedure for Payment of Sales Tax on Supply of Food**

This special procedure has been repealed and consequently, such suppliers are required to issue proper sales tax invoices instead of cash memos.

### **Special Procedure for Persons Providing or Rendering Services subject to Sales Tax under the Provincial Laws**

The requirement of maintenance of record as prescribed in section 22 is withdrawn. Further amendments in Part 1 to 4 are as follows:-

#### **Advertisement on Television and Radio**

No significant change

#### **Customs Agents and Ship-Chandlers**

The minimum value of taxable services has been withdrawn.

#### **Services Provided by Stevedores**

Repealed

#### **Courier Services**

Repealed

### **Special Procedure for Payment of Sales Tax by Steel Melters and Re-Rollers**

Repealed

### **Special Procedure for Payment of Sales Tax by Ship Breaking Industry**

Repealed

### **Special Procedure for Zero-Rating of Hand-Knotted Carpets**

Repealed

**Special Procedure for Collection and Payment of Sales Tax by the Advertising Agencies**

Repealed

**Special Procedure for Collection and Payment of Sales Tax from the Oil Marketing Companies (Sharing of Product)**

No significant change

**Special Procedure for Issuance of Electronic Sales Tax Invoices between Buyers and Sellers**

Repealed

**Special Procedure for Payment of Sales Tax by Manufacturers of Biscuits and Confectionery**

Repealed

**Special Procedure for Collection and Payment of Sales Tax by Vehicle Dealers**

Manufacturers and Importers of vehicles are not covered under this procedure. Previously both were covered in this procedure.

**Special Procedure for Processing of Refund Claims Filed by the Persons Engaged in Making Zero Rated Supply of Ginned Cotton.**

No significant change

**Special Procedure for Assessing the Computerized System**

Repealed

## **INCOME TAX ORDINANCE 2001**

### **AMENDMENTS PROPOSED BY THE FINANCE BILL, 2007**

Through finance bill 2007, following further amendments are proposed to be incorporated in the Income Tax Ordinance, 2001:

#### **DEFINITIONS**

#### **SECTION 2**

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

- a) By the addition of words "companies engaged in providing services and not being a trading company or companies" to Clause (1A), the scope of the definition "amalgamation" has been broadened and by this amendment it has been sought that, services providers company will be treated as amalgamating company if it made merger with any other company the other conditions are fulfilled.
- b) By the substitution of the word "holds" in the place of words "has obtained" in clause (19A), a clarification has been sought to avoid the misunderstanding regarding the scope of eligibility of a person under Voluntary Pension System Rules, 2005. Further, the scope for the eligibility under the aforesaid rules is extended to the person who holds Computerized National Identity Cards.
- c) By the insertion of clause (45A) and (45B), following new definitions have been inserted:
  - i) "Private Equity and Venture Capital Fund" means a fund registered with the Securities and Exchange Commission of Pakistan under the Private Equity and Venture Capital Fund Rules, 2007.
  - ii) "Private Equity and Venture Capital Fund Management Company" means a company licensed by the Securities and Exchange Commission of Pakistan under the Private Equity and Venture Capital Fund Rules, 2007.
- d) By the insertion of new paragraph (ia) in clause (59A) it has been sought to rationalize the scope of definition of small company. The scope of the definition of small company is restricted to the extent of companies who has employees not exceeding two hundred and fifty at any time during the tax year. Further, under this clause, the other qualifying condition for the definition "small

Company" has been relaxed and it has been proposed that, the scope of the small company may be extended to the companies, who have turnover less than or equal to two hundred and fifty million rupees for any tax year.

## **INCOME FROM BUSINESS**

## **SECTION 18**

In continuation with amendments proposed to section 2, the sub section 4 of the section 18 has been modified. By this amendment it has been sought to increase the scope of the business income to the extent, amount received from private Equity and Venture Capital fund.

## **FEDERAL AND PROVINCIAL GOVERNMENT AND LOCAL AUTHORITY INCOME**

## **SECTION 49**

A new proviso has been proposed to be added to section 49 of the Ordinance, which is reproduced:

"Provided that exemption under this section shall not be available in the case of a corporation, company, a regulatory authority, a development authority or other body or institution established by or under a Federal law or a Provincial law or an existing law or a corporation, company or other body or institution set up, owned and controlled, either directly or indirectly, by the Federal Government or a Provincial Government, regardless of the ultimate destination of such income, as laid down in Article 165A of the Constitution of the Islamic Republic of Pakistan"

By the insertion of the aforesaid proviso it has been required to further define the scope of exemption available to the income of the Federal, Provincial Government and Local Authorities.

## **SET OFF OF LOSSES OF COMPANIES OPERATING HOTELS**

## **SECTION 56A**

A new section 56A is proposed to be added after section 56. By this amendment, it has been sought to facilitate the companies registered either in Pakistan or Azad Jamuu & Kashmir (AJK) operating hotels in Pakistan or AJ&K, sustain losses in Pakistan or AJ&K for any tax year under the head "income from business" to have the amount of the loss set off against the company's income in Pakistan or AJ&K, as the case may be, for the year.

## **SET OFF OF BUSINESS LOSS CONSEQUENT TO AMALGAMATION**

## **SECTION 57A**

By the substitution of sub section (1) of section 57A it has been sought to further define few matters pertaining to the computation of business income of the amalgamating companies. The prevalent sub-section (1) allow to set off or carry forward the loss of amalgamated company up to a period of six tax years immediately succeeding the tax year in which the loss was first computed, whereas the newly proposed sub section (1) allows to set off or carry forward the loss of amalgamated company up to a period of six tax years succeeding the year of amalgamation.

## **GROUP TAXATION**

## **SECTION 59AA**

A new section 59AA is proposed to be added after section 59A. The new sub section is reproduced for the benefit for the reader:

### **59AA. Group taxation.**

- 1) Holding companies and subsidiary companies of 100% owned group may opt to be taxed as one fiscal unit. In such cases, besides consolidated group accounts as required under the Companies Ordinance, 1984 (XLVII of 1984), computation of income and tax payable shall be made for tax purposes.
- 2) The companies in the group shall give irrevocable option for taxation under this section as one fiscal unit.
- 3) The group taxation shall be restricted to companies locally incorporated under the Companies Ordinance, 1984 (XLVII of 1984).
- 4) The relief under group taxation would not be available to losses prior to the formation of the group.
- 5) Accounts of the group companies shall be prepared and audited by a Chartered Accountant as prescribed for listed companies under the Companies Ordinance, 1984 (XLVII of 1984).
- 6) Group taxation may be regulated through rules as may be made by the Central Board of Revenue.

By the insertion of this new section it has been sought to accommodate the taxpayers having holding companies and subsidiary companies of 100% owned group may opt to be taxed as one fiscal unit. The loss of one unit for one tax year can be adjusted

against the profit of other unit for the same tax year provided all the aforesaid conditions have been fulfilled.

## **GROUP RELIEF**

## **SECTION 59B**

According to this amendment a new section 59B is proposed to be added to the Ordinance, which is reproduced for the benefit of the reader:

### **59B Group relief**

- 1) Subject to sub-section (2), any company, being a subsidiary of a holding company, may surrender its assessed loss (excluding capital loss) for the tax year (other than brought forward losses and capital losses), in favour of its holding company or between subsidiaries of the holding company:

Provided that such holding company being a public company listed on a registered stock exchange in Pakistan, directly acquires fifty-five per cent or more of the share capital of the subsidiary company. Where none of the companies in the group is a listed company, the holding company shall acquire seventy-five per cent or more of the share capital of the subsidiary company.

- 2) The loss surrendered by the subsidiary company may be claimed by the holding company or a subsidiary company for set off against its income under the head "income from Business" in the tax year and the following two tax years subject to the following conditions, namely:
  - a) there is continued ownership for five years, of share capital of the subsidiary company to the extent of fifty-five per cent in the case of a listed company, or seventy-five per cent or more, in the case of other companies;
  - b) none of the group companies is engaged in the business of trading;
  - c) holding company, being a private limited company with seventy-five per cent of ownership of share capital gets itself listed within three years from the year in which loss is claimed;
  - d) the group companies are locally incorporated companies under the Companies Ordinance, 1984 (XLVII of 1984);

- e) the loss surrendered and loss claimed under this section shall have approval of the Board of Directors of the respective companies;
  - f) the subsidiary company continues the same business during the said period of three years;
  - g) accounts of the group companies are prepared and audited by a Chartered Accountant as prescribed for listed companies under the Companies Ordinance, 1984 (XLVII of 1984); and
  - h) the group companies observe Code of Corporate governance as provided in the Companies Ordinance, 1984 (XLVII of 1984).
- 3) The subsidiary company shall not be allowed to surrender its assessed losses for set off against income of the holding company for more than three tax years.
- 4) Where the losses surrendered by a subsidiary company are not adjusted against income of the holding company in the said three tax years, the subsidiary company shall carry forward the unadjusted losses in accordance with section 57.
- 5) If there has been any disposal of shares by the holding company during the aforesaid period of five years to bring the ownership of the holding company to less than fifty-five per cent or seventy-five per cent, as the case may be, the holding company shall, in the year of disposal, offer the amount of profit on which taxes have not been paid due to set off of losses surrendered by the subsidiary company.
- 6) Loss claiming company may, with the approval of the Board of Directors, transfer cash to the loss surrendering company equal to the amount of tax payable on the profits to be set off against the acquired loss. The transfer of cash would not be taken as a taxable event in the case of either of the two companies.
- 7) The transfer of shares between companies and the shareholders, in one direction, would not be taken as a taxable event provided the transfer is to acquire share capital for formation of the group and approval of the Security and Exchange Commission of Pakistan or State Bank of Pakistan, as

the case may be, has been obtained in this effect. Sale and purchase from third party would be taken as taxable event.

By the insertion of this section a complete criterion has been defined for the subsidiary and the holding companies that, how they the holding companies can opt the losses of their subsidiaries for the purpose of computing income from business. By this amendment the revenue seeks to facilitate the taxpayers for the timely realization of its losses against the income. Since, the defined qualifying criteria is complicated, however, its a big relief for the taxpayers, who have been incurring losses and it is not expected that the same are adjustable against the profits in near future.

#### **INVESTMENT IN SHARES**

#### **SECTION 62**

A further amendment is proposed to be made in paragraph C of sub-section 2 of section 62. By this amendment, a change in the formula for the calculation of tax credits based on investment in shares is proposed, due to which a slight increase in the tax credit is given to the taxpayers.

#### **PRINCIPAL OF TAXATION OF ASSOCIATION OF PERSON (AOP)**

#### **SECTION 92**

By this amendment it has been sought to simplify the computation of tax for the members of an AOP. By the omission of sub section 2, 3 4 and 5 all the conditions and provisos are withdrawn from the exemption on the income of the members of an AOP provided the same is already taxed with AOP.

#### **TAXATION OF MEMBER OF ASSOCIATION OF PERSON (AOP)**

#### **SECTION 93**

In connection with the amendment proposed to be made in section 92 of the ordinance, section 93 is omitted, as the same become ineffective. By this amendment various complications pertaining to the computation of the income have been ended.

#### **DISPOSAL OF BUSINESS BY INDIVIDUAL TO WHOLY OWNED COMPANY**

#### **SECTION 95**

By the omission of the words "at fair market value" from sub clause (ii) of clause (b) of sub section 2 of section 95, the Revenue seeks to reduce the intervention of the tax officials regarding the estimation of value of stock in trade. Same kind of amendments has been made to section 96 and 97 of the Ordinance to achieve the aforesaid goal.

## **DISPOSAL OF ASSETS UNDER A SCHEME OF ARRANGEMENT AND RECONSTRUCTION**

## **SECTION 97A**

In order to harmonize the provisions of the Income Tax Ordinance, 2001 with Companies Ordinance, 1984 regarding accounting of disposal of assets a new section 97A is proposed to be inserted. By this amendment it has been sought to make the provisions of both the ordinances compatible and to remove the conflicts. For the benefit of the readers the newly inserted section is reproduced as under:

### **97A. Disposal of asset under a scheme of arrangement and reconstruction:**

- 1) No gain or loss shall be taken to arise on disposal of asset from one company (hereinafter referred to as the "transferor") to another company (hereinafter referred to as the "transferee") by virtue of operation of a Scheme of Arrangement and Reconstruction under sections 282L and 284 to 287 of the Companies Ordinance, 1984 (XLVII of 1984) or section 48 of the Banking Companies Ordinance, 1962 (LVII of 1962), if the following conditions are satisfied, namely:
  - a) the transferee must undertake to discharge any liability in respect of the asset acquired;
  - b) any liability in respect of the asset must not exceed the transferor's cost of the asset at the time of the disposal;
  - c) the transferee must not be exempt from tax for the tax year in which the disposal takes place; and
  - d) scheme is approved by the High Court, State Bank of Pakistan or Securities and Exchange Commission of Pakistan, as the case may be, on or after first day of July, 2007.
- 2) No gain or loss shall be taken to arise on issue, cancellation, exchange or receipt of shares as a result of scheme of arrangement and reconstruction under sections 282L and 284 to 287 of the companies Ordinance, 1984 (XLVII of 1984) or section 48 of the Banking Companies Ordinance, 1962 (LVII of 1962) and approved by:
  - i) the High Court;

- ii) State Bank of Pakistan; or
- iii) Securities and Exchange Commission of Pakistan,

as the case may be, on or after first day of July, 2007.

- 3) Where sub-section (1) applies –
  - a) the asset acquired by the transferee shall be treated as having the same character as it had in the hands of the transferor;
  - b) the transferee's cost in respect of acquisition of the asset shall be-
    - i) in the case of a depreciable asset or amortized intangible, the written down value of the asset or intangible immediately before the disposal;
    - ii) in the case of stock-in-trade valued for tax purposes under sub-section (4) of section 35 that value; or
    - iii) in any other case, the transferor's cost at the time of the disposal;
  - c) if, immediately before the disposal, the transferor has deductions allowed under sections 22, 23 and 24 in respect of the asset transferred which have not been set off against the transferor's income, the amount not set off shall be added to the deduction allowed under those sections to the transferee in the tax year in which the transfer is made.
- 4) In determining whether the transferor's deductions under sections 22, 23 or 24 in respect of the asset transferred have been set off against income for the purposes of clause (c) of sub-section (2), those deductions shall be taken into account last.
- 5. Where sub-section (2) applies and the shares issued vested by virtue of the Scheme of Arrangement and Reconstruction under sections 282L and 284 to 287 of the Companies Ordinance, 1984 (XLVII of 1984) or section 48 of the Banking Companies Ordinance, 1962 (LVII of 1962) and approved by the Court or State Bank of Pakistan or Securities and Exchange

Commission of Pakistan as the case may be, are disposed of, the cost of shares shall be the cost prior to the operation of the said scheme.

#### **SPECIAL PROVISIONS RELATING TO BANKING BUSINESS**

#### **SECTION 100A**

In continuation with the insertion of the Seventh Schedule to the Ordinance a new section 100A is proposed to be inserted. By this amendment it has been sought to compute the income, profits and gains of the banking companies in accordance with the proposed seventh schedule.

#### **TAX ON INCOME OF CERTAIN PERSONS**

#### **SECTION 113A**

By the insertion of the words "The retailer shall not be entitled to claim any adjustment of withholding tax collected or deducted under any head during the year" to sub section 3 of section 113A, the revenue seeks from tax payers to deposit the tax liability along with return created under the aforesaid provision of law.

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

#### **SECTION 113B**

By this proposed amendments, new slabs of tax rates have been introduced, which are produced as under:

<b>S. NO.</b>	<b>AMOUNT OF TURNOVER</b>	<b>RATE/AMOUNT OF TAX (RS)</b>
1.	From Rs. 1 to Rs. 5,000,000/-	25,000
2.	From Rs. 5,000,001 to Rs. 10,000,000/-	0.5% of the Turnover exceeding Rs. 5,000,000/-
3.	From Rs. 10,000,001 and above	50000+ 0.75% of the Turnover exceeding Rs. 10,000,000/-

Further, section 113B also seeks from taxpayers to deposit the tax liability along with return, created under section 113B of the Ordinance.

#### **RETURN OF INCOME**

#### **SECTION 114**

According to this proposed amendment, the Revenue seeks to remove the imperfections of the law, which are impediments in the implementations of the upcoming rules framed for the e-filing of income tax returns and statements.

## **APPOINTMENT OF THE APPELLATE TRIBUNAL**

## **SECTION 130**

By the insertion of the words “ or Commissioner of Income Tax or Commissioner of Income Tax (Appeals) having at least five years experience as a Commissioner” to sub section 4 of section 130, it has been sought to change the applicability criteria for the purpose of appointment as Accountant Member. The scope of applicability is enhanced and now Commissioner having five-year experience as commissioner can qualify for the position of Accountant Member.

## **ADVANCE TAX**

## **SECTION 147**

By this amendment a new sub section (4AA) is proposed to be added after subsection (4A). By the insertion of this sub section the scope of the collection of advance tax is enhanced and it has been sought the tax liability created under section 113 may be considered for the purpose of collection of advance tax under section 147. The newly inserted clause is reproduced as under:

**4AA)** Tax liability under section 113 shall also be taken into account while working out payment of advance tax liability under this section.

Further, a new sub section (6A) has also been proposed to be added after sub-section (6). By this amendment revenue seeks to further enhance the scope of applicability of advance tax. For ready reference, the newly inserted sub section is reproduced

**6A)** Notwithstanding anything contained in this section, where the taxpayer is a company, advance tax shall be payable in the absence of last assessed income also. The taxpayer shall estimate the amount of advance tax payable on the basis of estimated quarterly accounting profit of the company and thereafter pay such amount after:

- i) taking into account tax payable under section 113 as provided in sub-section (4AA);
- ii) making adjustment for the amount (if any) already paid.

## **IMPORTS**

## **SECTION 148**

By virtue of these proposed amendments various changes have been sought in section 148 of the Ordinance, which are discussed as under:

1. New sub section 2 has been substituted and accordingly the sub section 3 and 4 are omitted. By this amendment it has been sought to simplify the provisions of section 148. The newly proposed sub section 2 is reproduced as under:

**Sub section (2):** Nothing contained in sub-section (1) shall apply to any goods or class of goods or persons or class of persons importing such goods or class of goods as may be specified by the Central Board of Revenue.

2. By this amendment it has been sought to substitute a new sub section 4A. By this amendment the Revenue seeks to further relax the conditions for the obtainment of exemption certificate. Earlier the manufacturers were facilitated with this immunity conditionally, but now scope of these provisions is extended to the other taxpayers. For ready reference section 148 is reproduced as under:
3. A new clause (d) has been inserted in sub section 7 of section 148. By the insertion of this clause, the imports of the large imports houses are conditionally separated from the imports, which are covered under the PTR.
4. By this amendment in sub section (9) it has been sought to add the Federal Excise Duty as determining factor of the value of goods imported. Earlier the sales tax and custom duty were part of the value of the goods imported.

## **SALARY**

## **SECTION 149**

According to this amendment, it has been sought to substitute the words “adjustment of tax withheld from employee under other heads and tax credit admissible under sections 61, 62, 63 and 64 during the tax year after obtaining documentary evidence”. By this amendment it has been required from the employer to deduct tax on estimated annual salary of the employee after taking into accounts all adjustments pertaining to charitable donations, investment in shares, contribution to the approved pension funds and profit in debts.

## **PAYMENTS TO NON RESIDENTS**

## **SECTION 152**

According to this amendment it has been sought to rationalize the provision of section 152. Earlier, sub section (1A) has been incorporated through the Finance Act, 2006, but the other provisions of the section were not modified accordingly. Therefore, by this amendment the provisions of section 152 are proposed to be modified in accordance with the previous finance act.

## **PAYMENTS FOR GOODS AND SERVICES**

## **SECTION 153**

The proposed amendment to section 153 seeks to make the following changes in section 153:

1. By this amendment it has been proposed to omit sub-section (1A). The proposed amendment seeks to reduce the scope of applicability of section 153.
2. A new clause (bb) has been proposed to be added to sub section 5. By this amendment the Revenue seeks to provide exemption from withholding tax to the Cotton ginner upon complying with certain conditions.
3. A proviso has been proposed to be added to sub section 6 of the section 153. By this amendment the following two business activities are separated from the scope of PTR:
  - a) advertisement services, by owners of newspapers and magazines;
  - b) sale of goods and execution of contracts by a public company listed on a registered stock exchange in Pakistan.
4. A new sub section 6A has been proposed to be added to section 153. The proposed amendment seeks to enhance the scope of PTR with a retrospective effect.

## **NATIONAL TAX NUMBER CERTIFICATE**

## **SECTION 181**

By this amendment a new proviso is proposed to be added to section 181. The amendment seeks to relax the condition of National Tax Number certificate and it has been proposed that CBR may allow to use the CNIC instead of NTN.

## **PURCHASE OF MOTOR CAR**

## **SECTION 231B**

The proposed amendment seeks to incorporate the following new sub section in the Ordinance:

### **231B. Purchase of motorcars**

- 1) Every manufacturer or authorized dealer of motorcars shall at the time of sale of a motorcar, collect advance tax at the rate specified in Division VIII of Part IV, of the First Schedule.

- 2) Advance tax under this section shall not be collected in the case of purchase made by-
- i) the Federal Government or a Provincial Government; or
  - ii) a foreign diplomat or diplomatic mission in Pakistan

By this amendment it has been required that the authorized dealers and the manufacturer of the motorcars shall deduct tax @5% at the time of sale of motorcars.

### **CNG STATIONS**

### **SECTION 234A**

A new section 234A is proposed to be incorporated in the Ordinance. By virtue of this amendment it has been sought to bring the income of CNG Station under the PTR. It has been proposed that tax shall be collected @6% of the Gas consumption charges (Sui gas bill) of the CNG station and the same will be the final tax liability of the CNG station.

### **ELECTRICITY CONSUMPTION**

### **SECTION 235**

By this amendment a new sub section (4) has been added to section 235. Through this amendment it has been sought that, the income tax collected on electricity bills shall be the minimum tax and no refund shall be made out from the said tax collection except in the cases of companies whose tax liability is less then the tax collected under section 235.

### **TRANSITION TO THE FEDERAL BOARD OF REVENUE**

### **SECTION 239A**

By this amendment a new section 239A is introduced by virtue of this it has been construed to refer the name "Federal Board of Revenue" instead of Central Board of Revenue, wherever the same is referred in the Ordinance, Rules and Notifications, etc. For ready reference section 239A is reproduced

#### **239A Transition to Federal Board of Revenue**

Any reference to the Central Board of Revenue, wherever occurring, in this Ordinance and the rules made thereunder and Notifications, Orders, or any other instrument issued thereunder shall be construed as a reference to the Federal Board of Revenue on the commencement of the Federal Board of Revenue Act, 2007.

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

The Finance Bill, 2007 aims to make the following amendments to the First Schedule to the Income Tax Ordinance, 2001.

### **PART I**

1. The proposed amendment seeks to decrease the rate of tax from 0.75% to 0.5% required to be paid under section 113A of the Ordinance
2. An amendment brought to Ordinance through Finance Ordinance, 2002, by virtue of which the rates of tax for companies were gradually decreased from 45% to 35%. To harmonize the effects of this amendment a new clause (i) is introduced in Div II which will substitute the prevalent clause. By virtue of this amendment tax rates for Banking Companies, public and private companies are fixed at 35%.
3. Through this amendment to Division III it has been sought to fix the rate of tax deduction on dividend at 10% for all companies.

### **PART II**

1. The proposed amendment seeks to decrease the rate of tax from 6% to 5% required to be collected under section 148 of the Ordinance. Further, it has been required to collect tax under section 148 on the Polyester filament yarn

### **PART III**

1. The proposed amendment seeks to substitute the new clause 2 in Div III of Part III. The newly substituted clause shall be read as follows:
  - 2) The rate of tax to be deducted from a payment referred to in clause (b) of sub-section (1) of section 153 shall be :
    - i) in the case of transport services, two per cent of the gross amount payable; or
    - ii) in any other case, six per cent of the gross amount payable.
2. The proposed amendment seeks to substitute the new clause (1) in Div IV of Part III. By this amendment revenue seeks to provide a smooth rate of tax deduction, i.e., 1% on exports.

## 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 seeks to modify to clause (57) in connection with new definitions introduced vide sub section 45A and 45B of section 2.
2. The proposed amendment seeks to introduce a new clause 66 to provide exemption to Micro Finance Bank for a period of 5 Years.
3. A new clause (99A) is proposed to be introduced, by virtue of which it has been sought to provide exemption to real estate investment trust up to June 30, 2010.
4. By this amendment, Revenue seeks to extend the period of exemption from tax on capital gain arisen due to the sale of modarba certificates and other redeemable instruments as specified in the clause till June 30, 2008.
5. The following new clauses have been proposed to be incorporated in second schedule:
  - 110A) Any gain on transfer of a capital asset of the existing stock exchanges to new corporatized stock exchange, in the course of corporatization of an existing stock exchange.
  - 110B) Any gain on transfer of a capital asset, being a membership right held by a member of an existing stock exchange, for acquisition of shares and trading or clearing rights acquired by such member in new corporatized stock exchange in the course of corporatization of an existing stock exchange.
6. By this amendment a new proviso has been added to clause 132, by virtue of the same the scope of exemption is extended to the companies registered in Pakistan as well as in Azad Jamuu & Kashmir
7. The exemption available to the members of stock exchanges upon income derived from transfer of his memberships rights or shares of stock exchange in Pakistan is extended for a further period of one year. Now the aforesaid exemption is available till 2008.

## **PART II**

1. By this amendment the clause (3) of the Part II is broken into two clauses (3) and (3A) and there is no change in the contents and after effects of this amendment.
2. A new clause (5A) has been introduced to rationalize provisions of clause 5 of the Part II in accordance with the Double Taxation Treaties.
3. By the substitution of new clause (13) of Part II the Revenue seeks to reduce the tax rate to 1% on import of capital good and raw material.
4. An amendment is proposed to be made to clause 13H, by virtue of which the revenue seeks to add further items on import of which tax shall be collected at 2% (reduced rate). The detail of these items are given as under:
  - a) Edible oils including crude oil imported as raw material for manufacture of ghee or cooking oil;
  - b) Energy saver lamps [PCT heading 8539.10];
  - c) Bitumen [PCT heading 2714]
  - d) Fixed Wireless Terminal [PCT heading 8525.2040]
  - e) Pesticides and weedicides.
5. According to a further amendment the clauses 22, 25 and 27 have been omitted to rationalize the provisions of the law with other amendments made.

## **PART IV**

1. A new clause (41B) has been proposed to be added after clause 41(A), by virtue of which the exemption from the provision of section 152(2) of the ordinance is provided to foreign news agencies, syndicate services and non-resident contributors, who have no permanent establishment in Pakistan.
2. The proposed amendment to clause 43A seeks to extend the scope of this exemption to the Permanent Establishment of Non-resident Petroleum Exploration and Production (E&P) Companies.

3. The proposed amendment seeks to insert a new clause (43B), by virtue of which an explicit exemption is provided to the sellers of the air tickets from the deduction tax under sub section 1 of section 153.
4. The proposed amendment seeks to add the following new sub-clauses to clause 56. By this amendment it has been sought to extend the scope of the said exemption to some other companies and items. The proposed sub clauses are reproduced as under:
  - i) Capital goods and raw material imported by manufacturer exporter registered with Sales Tax Department as a manufacturer.
  - ii) Petroleum (E&P) companies covered under SRO.678(I)2004 dated 07.08.2004 except motor vehicles imported by such companies.
  - iii) Companies importing high-speed diesel oil, light diesel oil, high octane blending component or motor spirit, furnace oil, JP-1, MTBE, kerosene oil, crude oil. for refining and chemical use in refining thereof in respect of such goods; and
  - iv) The re-importation of re-usable containers for re-export qualifying for customs-duty and sales tax exemption on temporary import under the Customs Notification No. S.R.O. 344(I)/95 dated the 25th day of April 1995.
5. By the addition of new clause (57A) to Part IV of the second schedule, it has been sought to provide exemption to large import houses from the provision of section 153 and 169.

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

By virtue of Finance Bill, 2007, for the Seventh Schedule new schedule is proposed to be substituted. By this amendment Revenue seeks to introduce rules for the computation of the profits and gains of a banking company and tax payable thereon. Earlier such rules were provided for the Insurances Companies and for the exploration and petroleum companies. For the benefit of the reader, the proposed rules are reproduced as under;

### **RULES FOR THE COMPUTATION OF THE PROFITS AND GAINS OF A BANKING COMPANY AND TAX PAYABLE THEREON**

1. Income, profits and gains of a banking company shall be taken to be the balance of the income, from all sources before tax, disclosed in the annual accounts required to be furnished to the State Bank of Pakistan subject to the following provisions, namely:
  - a) Deduction shall be allowed in respect of depreciation, initial allowance and amortization under sections 22, 23, and 24 provided that accounting depreciation, initial allowance or amortization deduction shall be added to the income. No allowance or deduction under this rule shall be admissible on assets given on finance lease.
  - b) Section 21, sub section (8) of section 22, section 68 and Part III of Chapter IV shall, *mutatis mutandis*, for computation of a banking company apply.
  - c) Provisions for classified advances and off balance sheet items shall be allowed as claimed in the accounts, provided a certificate from the external auditors is furnished by the banking company to the effect that such provisions were in line with the requirements of the Prudential Regulations.
  - d) The amount claimed as expense, on account of "irrecoverable debt" classified under the Prudential Regulations issued by the State Bank of Pakistan as "substandard", shall not be allowed.
  - e) Where any addition made under paragraph (d) is reclassified by the taxpayer as 'doubtful' or 'loss', under the Prudential Regulations issued by

the State Bank of Pakistan, a deduction shall be allowed in computing the income for that tax year.

- f) Where any addition made under paragraph (d) is reclassified by the taxpayer in a subsequent year as 'recoverable', a deduction shall be allowed in computing the income for that tax year.
  - g) Adjustment made in the annual accounts, on account of application of international accounting standards 39 and 40 shall be excluded in arriving at taxable income.
  - h) An adjustment shall be made for exclusions from income on account of paragraph (g) for determining the cost of related item in the financial statement in the year of disposal of such item or asset or the discharge of the liability, as the case may be.
- 2.
- 1) Where a deduction is allowed for any expenditure (other than on account of charge for irrecoverable debt) in the manner referred to in rule 1 and the liability or a part of the liability to which the deduction relates is not paid within three years of the end of the tax year in which the deduction was allowed, the unpaid amount of the liability shall be chargeable to tax under the head "Income from Business" in the first tax year following the end of three years.
  - 2) Where an unpaid liability is chargeable to tax as a result of the application of sub-rule (i) and such liability or a part thereof is subsequently paid, a deduction shall be allowed for the amount paid in the tax year in which the payment is made.
  - 3) Loss on sale of shares of listed companies shall be adjustable only against gain on sale of share of the listed companies. Where such loss is not fully set off against gain of a tax year the unadjusted loss shall be carried forward to the following tax year and set off against such gain. No loss shall be carried forward for more than six years immediately succeeding the tax year for which the loss was first computed.

**3. Treatment for 'shariah compliant banking:**

- i. Any special treatment for 'Shariah Compliant Banking' approved by the State Bank of Pakistan shall not be provided for any reduction or addition to income and tax liability for the said 'Shariah Compliant Banking' as computed in the manner laid down in this schedule.
- ii. A statement, certified by the auditors of the bank, shall be attached to the return of income to disclose the comparative position of transaction as per Islamic mode of financing and as per normal accounting principles. Adjustment to the income of the company on this account shall be made according to the accounting income for purpose of this schedule.

**4. Head office expenditure**

- 1) In case of foreign banks head office expenditure shall be allowed as deduction as per the following formula, namely:-

$$\text{Head office expenditure} = (A/B) \times C$$

Where—

A is the gross receipts of permanent establishment in Pakistan;  
B is the world gross receipts; and  
C is the total Head Office expenditure.

- 2) The head office expenditure shall have the meaning as given in subsections (3) and (4) of section 105.
- 3) The head office expenditure shall only be allowed if it is charged in the books of accounts of the Permanent Establishment and a certificate from external auditors to the effect that the claim of Head Office expenditure has been made in accordance with provision of this rule is provided and are reasonable in relation to operation of the Permanent Establishment in Pakistan.

5. **Advance tax**

- i. The banking company shall be required to pay advance tax for the year under section 147 in twelve equal installments payable by 15th of every month. Other provisions of section 147 shall apply as such.
- ii. Provisions of withholding tax under this Ordinance shall not apply to a banking company as a recipient of the amount on which tax is deductible.

6. **Tax on income computed**

Income computed under this Schedule shall be chargeable to tax under the head "income from business" and tax payable thereon shall be computed at the rate applicable in Division II of Part I of the First Schedule. The income under the head "dividend" and "capital gains on sale of shares of listed companies" shall be taxed at the rate of ten per cent.

Provided that where the shares of listed companies are disposed of within one year of the date of acquisition, the gain shall be computed under section 37 and taxed at the rate provided in Division II of Part I of the First Schedule.

7. The provisions of section 113 shall apply to banking companies as they apply to any other resident company.

8. **Exemptions**

1. Exemptions and tax concessions under the Second Schedule to this Ordinance shall not apply to income of a banking company computed under this Schedule.
2. The provisions relating to group relief as contained in section 59B shall be available to the banking companies provided the holding and subsidiary companies are banking companies. The accounts of the group companies shall be audited by the chartered accountants firm on the panel of auditors of the State Bank of Pakistan. The surrender and claim of loss would be subject to the approval of the State Bank of Pakistan.
3. The holding and subsidiary companies of 100% owned group of banking companies may opt to be taxed as one fiscal unit as per the provisions of section 59AA relating to group taxation subject to the approval of the State Bank of Pakistan.