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The information presented in this Memorandum has been sifted from the Federal Budget and Finance Bill, 2008, 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 newly elected Government on June 11, 2008 presented its first budget for the fiscal year 2008-09 in the National Assembly with an outlay of Rs. 2.010 trillion, mainly relying on reducing expenditures and generating more revenues to keep fiscal deficit in the range of 4.7 per cent of the GDP.

The budget has been received with mix feelings by the Public. Some terming it balanced and some otherwise.

Investment Tax Scheme has been launched to generate additional revenues. Whereby Tax Payers are proposed to declare past business and assets acquired by paying just 2 % on their market value. The rate of Sales Tax has been increased from 15 per cent to 16 percent.

The PPP government proposed to raise Rs. 61 billion in new taxes and revenue measures in the budget for 2008-09. Finance Minister announced major actions to increase duty rates on non-essential and luxury items from 25 to 30 percent, cosmetics 20-25 to 35 percent.

The Federal Government has allocated amount of Rs. 24.6 billion for education sector in the financial year 2008-09 as compared 24.2 billion- a negligible raise. The Farm sector has been not been given the required attention to address sorry fate of millions of small farmers. The relief given is the increase in the subsidy on DAP fertilizer from Rs. 470 per bag to Rs. 1,000 per bag.

The public sector development programs (PSDP) has been budgeted at Rs. 549.7 billion, slightly than last year but it remains to be seen whether oil price crises and other economic issues don't end up restricting the government's ability to finance the PSDP.

The government would provide Rs. 295.2 billion subsidy to various public and private sector entities in fiscal year 2008-09, which is 249 percent more than what was allocated in last fiscal year. According to the budget documents, expenditure on this account was estimated at Rs. 114 billion which is expected to increase to Rs. 407 billion. This is mainly because of subsidy payment to oil marketing companies as price differential claims (PDC), subsidy on imported wheat and on electricity and fertilizers.

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 Pakistan.

The tax Memorandum hereinafter provides in depth analyses 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 understating thereof. This memorandum is simultaneously being made at our web site 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 Office and Gujranwala Office to produce this document.

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Senior Partner

SALIENT FEATURES BUDGETARY MEASURES 2008-09

SALES TAX & FEDERAL EXCISE BUDGETARY MEASURES (FY 2008-09)

The budgetary measures of Sales Tax and Federal Excise are primarily aimed at:

- Providing impetus and a big powerful push to the agricultural sector by offering number of incentives.
- Simplifying sales tax and Federal excise law and procedures to facilitate the trade and industry for easier collection of revenues.
- To enhance the sales tax and Federal excise revenues so as to meet the financial crunch due to soaring prices of oil, failure of major cash crops and rising import bill.
- Taxing the luxury items being used by the affluent class like motorcars, mobiles, telecommunication services, etc.
- Prescribing mandatory e-filing of sales tax return to overcome problem of delayed refunds and collection of error free tax data.

Relief Measures:

- Exemption of sales tax on import and local supply of fertilizers and pesticides is aimed at providing fertilizers and pesticides at cheaper prices to the farmers.
- Exemption of energy saver lamps is aimed at providing these items at cheaper prices and save the electricity to cope with the energy crises.
- In order to encourage the farmers to get their crops insured, 5% FED on insurance premium has been exempted.
- Acetic acid is used extensively in the textile industry which is zero rated. To save the manufacturers of acetic acid from the hassle of refunds, its raw materials including molasses has also been zero rated.
- To further facilitate the export oriented zero-rated sectors caustic soda flakes/solid, cotton linter and sequins are being zero-rated.
- To enable AJK Government to pay refunds to their registered persons on purchase of taxable goods from Pakistan, a provision is being introduced in Sales Tax Law to pay sales tax refunds to persons registered in AJK.

- Ambassador of Pakistan in Germany has requested that Sales Tax Law of Pakistan may be suitably amended to enable refund/exemption of sales tax relating to non-resident entrepreneurs/traders visiting Pakistan on business tours. In this way, their Pakistani counterparts will benefit while visiting abroad on reciprocal basis.
- In order to provide level playing field to the manufacturers of medical equipment, apparatus, reagents, disposables and spares, exemption of sales tax on these items is being granted on their supply to operating hospitals of 50 beds or more.
- In order to encourage unregistered persons to come forward for registration, it is being proposed that those willing for voluntary registration may be granted amnesty from payment of past dues. The same has been done by issuing an exemption notification in exercise of powers under section 13 (2) (a) of the Sales Tax Act, 1990.
- Sales Tax Special Procedure Rules, 2007 have been amended to allow adjustment as aforesaid.

Revenue Measures:

- The rate of sales tax has been increased from 15% to 16% to meet revenue requirements.
- As general rate of sales tax is being enhanced from 15% to 16%. Therefore, the same rate should be applied on the goods and services subject to FED in sales tax mode.
- To generate additional revenue for meeting dire national needs, rate of FED on telecommunication services is being enhanced to 21%.
- Cement is subject to federal excise duty @ Rs. 750/- per tonne since July, 2003. Being a fixed rate, it does not indexes inflation. It has been enhanced to Rs. 900/- per tonne.
- To generate revenue from well to do people, FED @ 5% has been levied on import as well as locally manufactured cars having engine capacity exceeding 850cc.
- In order to meet the revenue requirements and to keep this levy in line with the rates prevalent in the neighboring countries, the rate of FED on these services has been increased from 5% to 10%.

- In order to bring the remaining telecommunication services in the tax net, all telecommunication services has been being subjected to FED except those which are already exempt.
- Due to revenue crunch, rate of sales tax and FED has been increased from 15% to 16%. As sales tax on Provincial services is charged under the Sales Tax Act, 1990. Therefore, all provinces have been requested to increase the rate of sales tax on Provincial services from 15% to 16%.
- Sales Tax Special Procedure Rules, 2007 have been amended giving a procedure for collection of fixed tax @ 0.75% of the value of goods at the import and manufacturing stage.

Streamlining measures:

- Section 10 regulates the excess input tax over the output tax but there is no mention of carry forward of excess input tax. Section 10 is being amended to incorporate the carry forward amount for excess input tax.
- In order to keep the rate of default surcharge higher than the interest rates of banks to avoid short-filing by the taxpayers, it has been enhanced from 1% to 1.5% per month.
- Time to adjudicate the cases under Sales Tax Act, 1990 and Federal Excise Act, 2005 has been increased from 90 to 120 days.
- In order to clear pendency at the tribunal level and to make it a more effective forum, the monetary limit for single member bench is being proposed to be increased from Rs. 1.5 million to Rs. 10 million.
- The definition of "franchise services" has been enlarged by including royalty and technical fee in it. Moreover, the definition of franchise has been shifted from Federal Excise Rules, 2005 to Federal Excise Act, 2005.
- The supplies to Export Processing Zones were exempt from central excise duty vide SRO 333(I)/2002. However, the entry relating to supplies to EPZs could not be given in Third Schedule of the Act at the time of promulgation of Federal Excise Act, 2005. To remove this adequacy, a new entry has been inserted in Table-I of the Third Schedule of Federal Excise Act to exempt goods imported or purchased locally for use in further manufacture of goods in export processing zones.
- Biscuits, confectionary and snacks have been excluded from the Third Schedule to the Sales Tax Act, 1990.

- To charge duty on the services coming from abroad and terminating in Pakistan, an enabling provision has been made to charge duty from the recipient of services.

INCOME TAX

Relief measures:

- The basic limit of exemption from income tax in respect of salaried person is proposed to be increased from Rs.150,000 to Rs.180,000. In the case of a women salaried taxpayer the basic exemption limit is proposed to be increased from Rs.200,000 to Rs.240,000.
- The concept of marginal tax relief for the salaried persons is being introduced to cater for the negative impact of taxation under the present flat tax rate system. The marginal increase in salary income is proposed to be taxed at the rates not exceeding 20% to 50% allowing sufficient relief in tax payable.
- Minimum tax payable on the declared turnover @ 0.5% is being proposed to be withdrawn.
- In future instead of tax holidays, First Year Allowance in the shape of accelerated depreciation @ 90% is proposed to be allowed to the industrial undertakings established in the specified rural and undeveloped areas.
- The value of accommodation provided to the salaried persons in small cities is proposed to be taken at 30% instead of 45% of the minimum time scale of the employees for the purpose of taxation.
- At present inter corporate dividend in respect of companies entitled to group relief under section 59AA is exempt from tax. The facility is proposed to be extended to the companies eligible for group taxation under section 59B.
- Exemption available to capital gain on shares of listed companies upto the tax year ending 30th June 2008 is proposed to be extended to 30th June 2010 without any change in the withholding tax and CVT regime.
- To encourage amalgamation of banking companies, modarabas and insurance companies the facility of carry forward of "accumulated loss" is proposed to be allowed for a period of six years in the case of amalgamated or amalgamating companies.
- Rice Exporters Association of Pakistan (REAP) is proposed to be allowed the

facility of reduced withholding tax rate of 1% in respect of payments payable for supply of rice to M/s Utility Stores Corporation.

- Income derived by a project approved by Designated National Authority (DNA) from transfer/sale of CDM emissions credit i.e. Certified Emissions Reduction (CER) etc is being proposed to be exempt from income tax.
- In the case of bank no CVT is proposed to be charged on General Power of Attorney unless it is used into force the mortgage of property offered as collateral against a loan.
- In the case of a small company if turnover exceeds Rs.250 million, the income attributable to the turnover exceeding the said limit, is proposed to be charged to tax at progressive slab rate of 25%, 30% and 35%, so that the company is able to progress still retaining its status of a "small company".
- Income shown as unrealized gains in the case of non life insurance companies would be excluded from the taxable income and not charged to tax.
- Proportionate relief is proposed to be allowed in the amount of penalty imposed in tax evasion cases where the appellate authorities reduce the quantum of concealed income and tax charged thereon.
- A scheme for waiver of additional tax and penalty etc. is proposed to be introduced where the taxpayer is able to pay the principal amount of tax within a certain period.

Revenue measures:

- At present gross rental income from property is chargeable to tax at a flat rate of 5%. It is proposed that no tax may be charged on income upto Rs.150,000 and tax income from this source on progressive rates of 5%, 10 and 15%. However, in the case of a company basic exemption of Rs.150,000 would not be available.
- At present withholding tax rate of 5% and 1% is applicable in respect of commercial and manufacturer importers respectively. It is proposed to apply a uniform rate of 2% for both the categories of importers.
- Withholding tax collected on electricity bills is being rationalized to collect the same @ 10% on bill amount exceeding Rs. 20,000 per month which would be adjustable. Withholding Tax on bill amount of Rs.2000 and below would be collected at the previous rates.
- The pensioners, senior citizens and widows who are exempt from withholding

tax in respect of profit from pensioners benefit scheme and behbood fund would not be charged to tax at a rate not exceeding 10% of such profit.

- Exemption from income tax available to Pakistan Cricket Board is proposed to be withdrawn.
- In order to encourage and promote investment in the business and industries, scheme of investment tax is being introduced, allowing immunity from probe in respect of any moveable and immoveable assets on the value of which tax @ 2% is paid.
- The rates of advance tax, collected at the time of renewal of registration of private motor cars, are proposed to be rationalized by making about 30% to 40% Increase in WHT rates.
- Withholding tax on monthly telephone bills exceeding Rs.1000 is proposed to be collected @ 10%.
- Association of person and individuals having annual turnover of Rs.50 million respectively are proposed to be made withholding tax agents for the purpose of tax deduction on payments relating to on sale of goods, services rendered and execution of contracts.
- The existing exemption regime provided under the Second Schedule of the Income Tax Ordinance, has been reviewed to delete all redundant and unjustified exemptions.
- Profit transferred by a branch of foreign company out of Pakistan are proposed to be treated as dividend and chargeable to tax @ 10% as final tax.
- The limit of donations eligible for tax credit in the case of individual/association of persons and companies presently admissible @ 30% and 15% respectively are proposed to be reduced to 10% of the taxable income.
- It has been proposed that reinsurance premium paid to overseas insurance companies may be subjected to withholding tax @ 5% which would be a final tax.
- Withholding tax on cash withdrawal from banks presently collected @ 0.2% is proposed to be collected @ 0.3% on cash withdrawal.
- A new taxation system is being introduced for builders and developers, whereby the builder would be required to pay tax @ Rs.50 per sq. ft. of the

covered area of a unit. The developer of open plots would be subjected to tax @ Rs.100 per sq. yard of the plot.

- The facility of reduced tax rate to a cooperative society or a finance society is proposed to be withdrawn and would be treated at par with the company for the purpose of taxation.
- Exemptions from income tax available under the other statutes are proposed to be withdrawn unless provided specifically under 2nd Schedule to the Income Tax Ordinance, 2001.
- Payments made to media companies out side Pakistan are proposed to be subjected to WHT @ 10%, to be treated as final tax.
- Any payment made through a foreign currency account and exchange companies proposed to be included in the payments requiring deduction of WHT unless the CIT has allowed otherwise as provided under section 152 of Income Tax Ordinance, 2001.
- From the next financial year WHT on purchase of locally manufactured motor car or jeep is proposed to be collected by a motor vehicle registration authority at fixed rates depending on the engine capacity.
- Thin capitalization rule is proposed to be made applicable to branches of foreign companies operating in Pakistan.
- The discrimination in tax rates applicable to exporters is being removed by withdrawal of provisions allowing deduction of tax at a rate lesser than 1%.
- The tax collected from the members of stock exchange on sale as well as purchase of shares in lieu of commission income and trading of share is proposed to be made a minimum tax on income of such members/ brokers.

Technical measures:

- The period of payment of tax due from a taxpayer is being reduced from 30 days to 15 days.
- The provisions of section 115 of the Income Tax Ordinance, 2001 are proposed to be amended so as to ensure filing of wealth statement by a salaried taxpayer whose income is more than Rs.500,000 even if he is not required to file a return of income.
- Sub-section (6A) of section 153 is being amended to clearly state the intention of legislature that tax deducted in the case of non-corporate taxpayers on supply

of manufactured goods shall be a final tax. Sub-section (6B) is proposed to be deleted.

- To bring clarity in law, clause (46) of Part I of the 2nd Schedule to the Income Tax Ordinance, 2001 is being amended so that exemption is provided from deduction of tax on supplies made by PE of non-resident E&P companies.
- To ensure correct recording of sale, Electronic Tax Register (ETR) are planned to be installed at selected wholesale and retail outlets with known high volume of business. For the purpose amendment is being proposed to be made in the Income Tax Law and Rules.
- In order to ensure quick disposal of cases remanded back by the ITAT to the CIT (A) for making a fresh order, a limitation of six months is being provided in the law.
- The limit for payment of salary to be paid by an employer through cheque or transfer to employee's account is being increased from Rs.10,000 to Rs.15,000.
- A time limit of 90 days is being provided under the Income Tax Rules, 2002 for making an order by the FBR on receipt of recommendations from the Alternate Dispute Resolution Committee (ADRC).
- In case of withdrawals from superannuation fund liable to WHT the deduction of tax is proposed to be made at the rate applicable to the year of withdrawal instead of average rate of the preceding three years.
- In order to create linkages between voluntary and occupational savings schemes, the subscriber of a Recognized Provident Fund is proposed to be allowed to transfer funds to a voluntary pension fund scheme.
- The provisions of 7th Schedule allowing deduction on account of non-performing loans as per prudential regulation issued by the SBP are proposed to be deleted. From the next financial year such deductions would be allowed under sections 29 and 29A of the Income Tax Ordinance, 2001.
- A person making payment to a non-resident would not be required to give a notice to the CIT under section 152(5) of the Income Tax Ordinance, 2001, if no withholding or withholding of tax at a lesser rate is provided under the avoidance of double taxation treaty.
- Enabling powers are proposed to be given to the FBR to allow exemption from Withholding taxes required under different provisions of the Ordinance.

- The term "local authority" as used in section 49 and elsewhere in the Income Tax Ordinance is proposed to be substituted by the term "Local Government" to bring clarity in the law regarding exemption from income tax.
- The definition of "Urban Area" as given under section 7 of the Finance Act, 1989 for the purpose of levy of CVT is being amended to bring it in consonance with the changes made as a result of devolution plan.

CUSTOMS

Policy Objectives:

- Industrial incentives for growth and expansion
- Discouraging import of non-essential and luxury items.
- Minimizing the cost of doing business.
- Cascading principle in tariff rates maintained as guiding principle (primary raw materials @ 0%-5%, secondary/components @ 5-10% and finished goods @ 20%-35%).
- Amendments in Customs Act, Rules and Procedures for further simplification.

Relief Measures:

- The local industry producing water dispensers, hooks & eyes, aluminum alloy, electric irons, mini choppers, vacuum cleaners, central heating gas boilers, mini ovens, gas heaters, gas stoves/cooking ranges with ovens, air handling equipments, central heating equipments, UPS, Chlorinated paraffin, chrysotile cement pipes, sheets & fittings and perforated steel products have been provided inputs at 0%, 5% and 10% rates of duty.
- Fully dedicated CNG buses exempted of from duty.
- Pharmaceutical industry given specified active ingredients, chemicals and packing materials at 5% duty.
- Eighteen medicines used for cancer/heart treatment etc. exempted from customs duty.
- Bitumen, JP4&JP8 exempted from duty. Duty rate on base oil for lubricating oils reduced from 20% to 10%.

- Rice seeds, energy saving lamps, dredgers, specified solar energy equipments exempted from customs duty.
- Power plants imported by WAPDA on temporary basis exempted from customs duty.
- Reduction of duty on calcium carbide from 15% to 5%, PTA from 15% TO 7.5%, PSF 6.5% to 4.5%, Caustic soda from Rs. 5,000/MT to Rs.4000/MT, Printing screens from 15% to 10%, nickel not alloyed from 5% to 0%, Textile buckram from 25% to 10%.
- Manufacturers have been allowed to import samples duty free as per specified conditions in chapter 99 of PCT.
- Seized/confiscated vehicles as on 31st May, 2008 may be released against payment of leviable duty/taxes and 30% redemption fine.

Revenue measures:

- Duty rates on non-essential & luxury items have been increased. Hence, duty rate on dairy products, fruits, chewing gum, chocolate, processed food, fruit, juices, aerated, waters, ceramic, products, air- conditioners/refrigerators, electric fans, toasters, micro wave ovens, televisions, furniture and lighting equipment etc increased from 25% to 35%. Duty rates on cosmetics increased from 20 - 25% to 35%. Duty rate on electric ovens/ cooking ranges etc. increased from 20% to 30%.
- Customs duty @ Rs. 500/ per set levied on import of mobile phone.
- Customs duty on betel leaves increased from Rs.150/kg to Rs. 200/kg.
- Duty rate increased on sulphonic acid from 10% to 15%.
- Duty rate increased on CKD/SKD of sewing machines from 5% to 20%
- A uniform rate of 30% specified for import of special purpose motor vehicles.
- Increase in duty rates on import of cars/jeeps above 1800cc from 90% to 100%. Fixed duty/tax rates on old and used cars/jeeps increased by 10%.

Investment /trade facilitative measures:

- Manufacturers and particularly soap manufacturers based in AJ&K have been extended concessionary duty regime in line with SRO 565(I)/2006, as available

to Pakistan based manufacturers.

- Specified industries/projects have been de-linked from the local manufacturing condition for import of required machinery, equipments and raw materials etc.
- Tariff based system (TBS) for auto sector has further been improved.
- Release of held up indemnity bonds is eased out.

Legal changes:

Following amendments have been proposed in the Customs Act, 1969:

- Clause (ab) in section 21 of the Customs Act proposed to be omitted.
- A new section 3DD is proposed to be introduced in the Customs Act, 1969 for constituting a Directorate General of Post Clearance Audit (PCA)
- A proviso is proposed to be added to section 155F of the Customs Act for suspension of unique user identifier of any person.
- Section 156 is proposed to be amended to provide for penalizing the custodian of any goods for involvement in an offence under the Customs Act.
- Section 179 of the Customs Act is proposed to be amended for allowing adjudicating officers to decide cases within 120 days.
- Section 194C is proposed to be amended for enhancing the limit of single bench of the Appellate Tribunal from five to ten million rupees.
- A new sub-section 4A is proposed to be added in section 195C for redressal of grievances of an aggrieved person.

THE SALES TAX ACT, 1990

AMENDMENTS PROPOSED BY THE FINANCE BILL, 2008

1. DEFINITIONS

SECTION 2

The following amendments to Section 2 of the Sales Tax Act, 1990, have been proposed through the Finance Bill, 2008.

Arrears

Clause (2A)

In order to simplify the sales tax law, the proposed amendment seeks to substitute the term "arrears". The proposed substitution reads as follows:

"arrears", in relation to a person, means, on any day, the sales tax due and payable by the person under this Act before that day but which has not yet been paid.

Consequently, the term "sales tax" has been introduced by inserting Clause 29(A) according to which **"sales tax"** means-

- (a) the tax, additional tax, or default surcharge levied under this Act;
- (b) a fine, penalty or fee imposed or charged under this Act; and
- (c) any other sum payable under the provisions of this Act or the rules made thereunder.

Associates (associated persons)

Clause (3)

The legislature seeks to substitute the existing definition "associated persons" and the proposed amendment aims at enhancing the scope of "associates" in the following manner:

- where two persons associate and the relationship between the two is such that one may reasonably be expected to act in accordance with the intentions of the other, or both persons may reasonably be expected to act in accordance with the intentions of a third person.

Provided that such persons shall not be associates solely by reason of the fact that one person is an employee of the other or both persons are employees of a third person.

- The following persons shall be treated as associates namely:
 - a) An individual and a relative of the individual, provided that these two persons shall not be associates where the Collector is satisfied that neither person may reasonably be expected to act in accordance with the intentions of the other.

“relative” in relation to an individual, means –

- (i) an ancestor, a descendant of any of the grandparents, or an adopted child, of the individual, or of a spouse of the individual; or
- (ii) a spouse of the individual or of any person specified in clause (a);
- b) Members of an association of persons (AOP), provided that these two persons shall not be associates where the Collector is satisfied that neither person may reasonably be expected to act in accordance with the intentions of the other;
- c) A member of AOP and the association where the member directly or indirectly controls 50% or more rights to income or capital of association;
- d) Trust and any person who benefits or may benefit under the trust;
- e) A shareholder in a company and the company where the shareholder controls directly or indirectly 50% or more of the voting power or right to dividends or right to capital;
- f) Two companies, where a person either directly or indirectly controls 50% or more of the voting power or right to dividends or right to capital in both companies.

By proposed substitution, legislature intends to eradicate the arrangements made by certain persons to under-declare the value of supplies in respect of transactions made between them. It is hereby highlighted that the value of supplies shall now be the open market price if transactions are made between such interconnected persons.

Association of persons (AOP)

Clause (3A)

According to the proposed insertion, the term “association of persons” includes a firm, a Hindu undivided family, any artificial juridical person and any body of persons formed under a foreign law, but does not include a company.

Company

Clause (5AA)

To harmonize with the prevalent income tax law, the definition of company is proposed to be inserted.

Importer

Clause (13)

The proposed amendment seeks to include every person in the category of importer, who imports any goods in Pakistan whether lawfully or unlawfully. Prior

to this amendment only making lawful imports of goods were covered under this clause.

Input tax

Clause (14)

The definition of "input tax" is sought to be substituted. After substitution, the sales tax paid on goods received in Azad Jammu and Kashmir is proposed to be excluded from the definition of input tax. It has further been proposed to treat the provincial sales tax, levied on services, as input tax under the Sales Tax Act, 1990.

Output tax

Clause (20)

The proposed amendment seeks to simplify the definition and harmonize it with section 3 of the Act.

Person

Clause (21)

The proposed amendment will widen the scope of the term "person" by including the foreign governments, political subdivision of foreign governments and public international organization in its ambit.

Supply

Clause (33)

The existing definition is proposed to be substituted. According to the proposed definition "**supply**," means a sale or other transfer of the right to dispose of goods as owner, including such sale or transfer under a hire purchase agreement.

Provided that the Federal Government, may by notification in the official Gazette, specify such other transactions which shall or shall not constitute supply.

Taxable activity

Clause (35)

The existing clause is proposed to be substituted and taxable activity under the newly proposed clause means any economic activity carried on whether or not for profit and includes:-

- An activity carried on in the form of a business, trade or manufacture.
- An activity that involves the supply of goods, the rendering or providing of services or both to another person.
- A one-off adventure or concern in the nature of a trade.
- Anything done or undertaken during the commencement or termination of the economic activity,

Following activities are not treated as taxable activities under the proposed amendment:-

- The activities of an employee providing services in that capacity to an employer.
- An activity carried on by an individual as a private recreational pursuit or hobby.
- An activity carried on by a person other than an individual, which if carried on by an individual shall amount as a private recreational pursuit or hobby.

Time of supply

Clause (44)

The proposed substitution for the term "time of supply" reads as follows:

"time of supply," in relation to,—

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

Wholesaler

Clause (47)

This proposed amendment seeks to exclude such person from the ambit of wholesaler who in addition to making retail supplies is engaged in wholesale business.

2. Scope of tax

SECTION 3

It has been proposed to increase the rate of sales tax from 15% to 16%. The legislature has justified the increase by narrating that this increase in rates will enhance the sales tax revenue so as to meet the financial crunch due to soaring prices of oil, failure of major cash crops and rising import bill.

3. Determination of tax liability

SECTION 7

The proposed amendment seeks to substitute the proviso to sub-section (1). The existing proviso and proposed substitution are compared as follows:-

Existing proviso:

“Provided that the taxpayer may adjust input tax paid on the purchases in the immediate twelve preceding tax periods from the output tax subject to the condition that the taxpayer specifies the reasons for such delayed input tax adjustment in the revised sales tax return for such period or in the return for the immediately succeeding tax period.”

Proposed substitution:

“Provided that where a registered person did not deduct input tax within the relevant period, he may claim such tax in the return for any of the six succeeding tax periods.”

According to the proposed amendment, relief has been given to registered persons from giving reasons for delayed input tax adjustment however, the time limitation has been restricted to six months.

4. Refund of input tax **SECTION 10**

According to proposed amendment, the legal backing for the carry forward of amount for excess input tax paid by a registered person is being incorporated.

5. Assessment of tax **SECTION 11**

Two amendments to this section have been proposed. Firstly, the time limit of five years to issue a show cause notice has been prescribed. Secondly, time to adjudicate the cases has been increased from 90 to 120 days.

6. Access to record, documents, etc. **SECTION 25**

It has been proposed to empower the sales tax department to conduct the audit of registered person for the tax period, which has already been audited by Auditor-General of Pakistan. The proposed proviso reads as follows:-

“Provided further that nothing in this sub-section shall bar the sales tax officer from conducting audit of the records of the registered person if the same were earlier audited by the office of the Auditor-General of Pakistan.”

7. Return **SECTION 26**

According to the proposed amendment, the time limit to file a revised return has been enhanced from 90 days to 120 days of filing of the return, subject to the approval of Collector.

8. Default surcharge

SECTION 34

In order to keep the rate of default surcharge higher than the interest rates of banks to avoid short-filing by the taxpayers, it has been proposed to enhance the same from 1% to 1.5% per month.

Under the existing statute, the rate of default surcharge is 1% per month for first six months of default and 1.5% per month from the seventh month onwards.

9. Appeals

SECTION 45B

The proposed amendment seeks to increase the time period for passing an order by Collector Appeals from 90 (ninety) days to 120 (One hundred and twenty) days of filing of appeal

Extension in time period for passing an order by Collector Appeals under this section is also proposed to be increased from 90 (ninety) days to 120 (One hundred and twenty) days.

10. Appeals to Appellate Tribunal

SECTION 46

Following amendments have been proposed in respect of appeals before the Appellate Tribunal:-

- Officer of sales tax not below the rank of Assistant Collector can file appeal before Appellate Tribunal. Previously only the Additional Collector and officers senior to Additional Collector were eligible to file appeal before Appellate Tribunal.
- Now appeal can be filed against any order of the Collector of Sales Tax. Before this proposed amendment, appeal could only be filed against the order of Collector of Sales Tax passed under section 45A(4) of the Sales Tax Act, 1990.
- Time period for passing an order by appellate tribunal has been proposed to be extended from six months to eight months.
- The single member bench of Appellate Tribunal can dispose off the appeals involving the disputed amount of tax or penalty up to ten million rupees. Prior to this proposed amendment, the single member bench could only hear and dispose of the appeals involving tax or penalty up to one and a half million rupees.

11. Alternative dispute resolution

SECTION 47A

It has been proposed that on an application filed by any aggrieved person, the Chairman of FBR is empowered to rectify the errors in any order passed by the board, under this section.

12. Powers to make rules

SECTION 50

It has been proposed that all the rules, general orders and the departmental instructions issued under Sales Tax Act, 1990 shall be arranged and published at appropriate intervals for general public.

13. Representatives

SECTION 58A

This newly inserted proposed section defines the representative in respect of different categories of registered persons.

14. Liability and obligations of representatives

SECTION 58B

This newly inserted section proposes the liabilities and responsibilities of a representative of registered person.

15. Delayed refund

SECTION 67

It has been proposed to substitute the words "as aforesaid, of filing of refund claim" with the words "in this behalf" in order to remove the ambiguity and to clarify the procedure for calculation of excess amount.

16. Issuance of duplicate of sales tax documents

SECTION 69

The proposed amendment seeks to increase the fee, for issuance of attested copy of any document filed or available with sales tax department, from 10 rupees to 100 rupees.

It has also been proposed that the registered person can obtain attested copy of only those documents, which are relevant to him.

It has further been proposed that only the sales tax officer not below the rank of Assistant Collector can issue attested copy of any document under this section.

17. THIRD SCHEDULE

The following items have been proposed to be omitted from this schedule:-

- Biscuits
- Confectionary
- Electric bulbs including energy saving lamps and fluorescent tube lights
- Snacks including potato chips sold in retail packing

As a result of this proposed amendment, the manufacturers of above items shall charge sales tax in accordance with Section 3 rather than charging sales tax at retail price.

18. SIXTH SCHEDULE

It has been proposed to grant exemption on following items:-

- Packed edible vegetables including roots and tubers, whether fresh, frozen or otherwise preserved (e.g. in cold storage).
- Packed edible fruits excluding imported fruits (except fruits imported from Afghanistan) whether fresh, frozen or otherwise preserved.
- Ready mix concrete blocks.
- Energy saving lamps.
- Goods supplied to Federal or Provincial Hospitals and charitable operating hospitals having fifty or more beds.
- Goods and services purchased by non-resident entrepreneurs and traders visiting Pakistan to participate in trade fairs and exhibitions subject to reciprocity and restrictions specified by the board.
- Other proposed amendment in this Schedule aim to harmonize the PTC Headings with the PTC Headings of the First Schedule to the Customs Act, 1969.

PROPOSED SALES TAX NOTIFICATIONS ACCOMPANIED WITH FINANCE BILL, 2008

S.R.O. 524/(I)/2008

This SRO provides exemption of sales tax (including default surcharge and penalty) in respect of supplies made prior to June 11, 2008 by those un-registered persons, who were required to get registered under the Act. In order to avail this relief such persons have to apply for registration during the period from June 01, 2008 to July 31, 2008.

However, Exemption under this SRO shall not be available to those registered persons against whom a case of tax fraud or evasion has already been framed by the tax authorities.

S.R.O. 525/(I)/2008

This SRO provides amendments to be made in Sales Tax Special Procedure Rules, 2007, which shall be effective on July 01, 2008. Some of the major amendments are indicated as follows:-

Special Procedure for Payment of Sales Tax by Retailers

- The mild steel retailers operating under this procedure shall pay tax at the rate of 16% on minimum value addition of Rs. 1,680/- per metric ton.

Special Procedure for Payment of Sales Tax on Natural Gas

- Sales tax shall be charged at the rate of 25% (16% GST 9% value addition) on supply of natural gas to CNG Stations.
- The gas distribution companies can adjust input tax paid on supplies made in Azad Jammu and Kashmir.

Special Procedure for Payment of Sales Tax by Importer

- Value addition tax at the rate of 2% shall be charged on all imports except imports made by a manufacturer for in-house consumption and this 2% value addition tax shall be adjustable against the output tax liability. However this value addition tax shall not be refunded back to the importer in any case.
- The importer operating under this procedure shall file monthly sales tax return. Further if such importer do not claim any refund, his audit shall not be conducted except prior approval of board.

Special Procedure for Payment of Sales Tax by Steel Melters and Re-Rollers & Ship Breakers

- The rate of sales tax for steel-melter, steel re-roller and composite unit having a single electricity meter, has been increased from Rs. 4.75/- to Rs. 6 per unit of

electricity consumed for the production of steel billets, ingots and mild steel (MS) products.

- The rate of sales tax for ship breakers has been increased from Rs. 3,500/- per metric ton to Rs. 4,545/- per metric ton on re-roll able scrap supplied.
- The steel melters producing electricity with the help of gas generators shall pay sales tax by using following formula:

$$\text{Sales tax payable} = (\text{HM}^3 \times \text{Rs. 1972}) - \text{Sales tax paid of gas bill}$$

- Re-rolling mills having self generated electricity shall pay sales tax by using following formula:-

$$\text{Sales tax payable} = \text{Mill size (in inches)} \times \text{Rs. 38,964}$$

- The invoices issued by steel melters and re-rollers shall show sales tax amounting Rs. 5,180/- per metric ton.

Special Procedure for Payment of Sales Tax by Wholesaler-Cum-Retail Outlets

- This newly proposed procedure shall apply to chains of wholesale-cum-retail outlets having bulk imports and engaged in wholesale as well as retail supplies. Such person shall charge sales tax at the rate of 16% of the value of supplies and shall determine sales tax liability in accordance with section 7 and 8 of the Act.
- The person operating under this procedure shall file sales tax return on monthly basis and shall maintain sales tax record as required under section 22 of the Act.
- The provision of section 73 shall not be applicable on person operation under this procedure.

Special Procedure for Payment of Extra Sales Tax on Specified Electric Home Appliances

- This newly proposed procedure shall apply to the supplies of electric home appliances (television, refrigerators, freezers, A.C. etc.).
- The manufacturers and importers of goods covered under this procedure shall charge extra amount of sales tax at the rate of 0.75% of value of supplies. This extra sales tax shall be separately mentioned on the invoices issued by the supplier and shall be payable on monthly basis along with monthly sales tax return.
- The goods on which extra sales tax have been levied and paid shall be exempt from sales tax on subsequent supply by wholesaler and retailer.

- If a person, who buy such goods, also deals in other goods, he shall discharge his tax liability in respect of such other goods in accordance with the normal procedure of charging sales tax, adjustment of input tax and payment of balance amount on monthly basis as provided in section 3, 7 and 8 of the Act.
- If a registered person exclusively deals in goods covered under this procedure, such person shall file sales tax return on quarterly basis.

S.R.O 527(I)/2008

This SRO withdraws the legal provision of filing of Special Sales Tax Return required to be filed by specified manufacturers by rescinding the SRO 543(I)/2006 dated June 05, 2006. However, the same return has been incorporated in the Monthly Sales Tax Return as prescribed by rule 14 of the Sales Tax Rules, 2006.

S.R.O. 528(I)/2008

This SRO withdraws the legal provision of filing of Monthly Invoice Summary Statement by rescinding the SRO 559(I)/2006 dated June 05, 2006. However, the Invoice Summary Statement has been incorporated in the Monthly Sales Tax Return as prescribed by rule 14 of the Sales Tax Rules, 2006.

S.R.O. 529(I)/2008

This SRO provides the revised list of registered persons who are not covered under purview of section 8B of the Act. Following categories of registered persons have been excluded from the existing list:-

- Manufacturers consuming raw materials chargeable to sales tax at the rate of 17.5% or 20%.
- Wholesalers and distributors.
- Gas distribution companies.
- Solvent extracting units of edible oils.

Following categories of registered persons have been included in the existing list:-

- Manufacturers consuming raw materials chargeable to sales tax at the rate of 18.5 % or 21% provided value of such raw materials exceeds 50% of value of all taxable purchases in a tax period.
- Person making zero rated supplies provided value of such supplies exceeds 50% of value of all taxable supplies in a tax period.

S.R.O. 530(I)/2008

This SRO provides proposed amendments to be made in Sales Tax Rules, 2006, which shall take effect on July 01, 2008. Some of the important amendments are as follows:-

Registration, Compulsory Registration & De-Registration

- A manufacturer shall only be registered, once his manufacturing facility is verified by the concerned local registration office.
- For change in registration particulars, Form STR-1 shall be used instead of Form STR-2.
- Persons holding multiple sales tax registration shall retain only one registration and shall surrender all other registrations and shall file only one sales tax return for the tax period July, 2008 onwards. The tax liabilities against the registrations surrender / cancelled shall be transferred to the registration retained by the person

Filing of Returns

- All registered persons are required to file returns and other related statements electronically on new prescribed format. A person operating in different sectors involving different dates of filing of return shall file a single return on due date applicable to his major activity in terms of tax.
- The returns for which the due date is 15th of the month, the payment of sales tax shall be made by the due date i.e. 15th day of respective the month, however, the return could be filed electronically by the 18th day of the same month.
- The input tax, relating to the goods, which are destructed, shall not be allowed in any case.

Refund

- The time limit for filing of refund claim has been extended from 60 days to 120 days. Further the powers of Collector of Sales Tax in respect of extending the time limit for filing of refund claim has also been enhanced and now Collector can extend the time limit for filing of sales tax refund up to 60 days instead of 30 days.
- Further a manufacturer-cum-exporter, having annual turnover more than 100 million shall be able to file refund claims electronically if his refund claim on input consumed in zero rated supplies, excluding building material and utilities, is less than 1% of value of zero rated supplies.

S.R.O. 535(I)/2008

This SRO provides exemption of sales tax on import and supply of specified fertilizers.

S.R.O. 536(I)/2008

This SRO provides exemption of sales tax on import and supply of specified pesticides.

S.R.O. 537(I)/2008

This SRO amends the SRO 644(I)/2007 dated June 27, 2007. The proposed SRO seeks to increase the rate of tax from 20% and 17.5% to 21% and 18.5% respectively on the goods specified in SRO 644(I)/2007.

S.R.O. 538(I)/2008

This SRO amends the SRO 509(I)/2007 dated June 09, 2007. The amended SRO provides the list of items on which sales tax is charged at the rate of zero percent.

The amendment seeks to allow zero rating of sales tax on following additional items:-

- Caustic soda flakes in solid form
- Cotton linter
- Sequins

The amendment seeks to disallow zero rating of sales tax on following items:-

- Maize (corn) starch

S.R.O. 539(I)/2008

Subject to certain conditions and restrictions, this SRO provides the exemption of sales tax on purchase of specified raw material to be used in the manufacturer of Dextrose and saline infusion giving sets.

S.R.O. 540(I)/2008

This SRO amends the SRO 863(I)/2007 dated August 24, 2007. The amended SRO provided the list of items which are subject to zero percent rate of sales tax. The amendment seeks to allow zero rating on Acetic Acid.

S.R.O. 541(I)/2008

This SRO disallow the exemption of sales tax and customs duty on supply and import of cellular telephone sets with immediate effect by rescinding the SRO 541 (I)/2006 dated June 5, 2006.

S.R.O. 542(I)/2008

This SRO provides exemption of sales tax on supply and import of cellular telephone sets subject to the condition that the sales tax at the rate of Rs. 500/- per set shall be paid by the cellular company operators.

S.R.O. 547(I)/2008

This SRO provides jurisdiction of the officers of sales tax.

S.R.O. 549(I)/2008

This SRO provides zero rating on specified goods subject to certain conditions. The major items on which zero rating is provided are as under:-

Description	Conditions
Goods exempted under section 13	If exported by the manufacturer who makes local supplies of both taxable and exempt goods
Cotton seeds, Oil cake and other residues	Supplies thereof
Plant, machinery & equipment including parts thereof	Imports thereof
Plant, machinery & equipment	Supply thereof, provided that these do not include consumer durables and office machines
Uncooked poultry meat, Milk, Cream, Yogurt, Whey, Butter, Desi Ghee, Cheese, Frozen meat, Soyabean meal, Crude oil, Poster Colours, Inks, Erasers, CNG buses meant for 40 or more passengers, Trucks exceeding 5 tones	Import and supply thereof

S.R.O. 551(I)/2008

This SRO provides exemption of sales tax, with effect from July 01, 2008, on specified goods subject to certain conditions. The significant items on which exemption is provided are as under:-

Description	Conditions
Raw material and components	Imported for the manufacturing of goods to be supplied against International tenders
CNG Kits, Cylinders and valves for kits	Supplies for automotive vehicles
Canola seed	Import thereof
Drugs	Import and supply thereof
Iodized salt with brand name & trade mark	Import and supply thereof

INCOME TAX ORDINANCE 2001

AMENDMENTS PROPOSED BY THE FINANCE BILL, 2008

Through finance bill 2008, 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 substitution of clause 5(B) of section (2), it has been sought to modify the definition of the "asset management company". Earlier, the scope of this definition was limited to the extent as defined in Assets Management Companies Rules, 1995, whereas, by this proposed amendment it has been proposed to presume this definition equivalent to the definition as provided in the Non-Banking Finance Companies and Notified Entities Regulations, 2007.
- b) A new sub-clause "f" has been proposed to be added after sub-clause "e" to clause (19), whereby, it has been sought to treat the after tax profit of branch office of a foreign company, operating in Pakistan, as dividend.
- c) Clause 19(A) provides definition for the "eligible person" for the purpose of Voluntary Pension System Rules, 2005. Earlier, only CNIC holders were covered under this scheme, whereas, the proposed amendment seeks to extend the scope of this definition to the holders of National Identity Card for Overseas Pakistanis.
- d) The addition of clause 19(B) seeks to provide definition for terms "addressee", "automated", "electronic", "electronic signature", "information", "information system", "originator" and "transaction". It has been proposed that these terms shall have the same meanings as defined in the Electronic Transactions Ordinance, 2002.
- e) Insertion of new clause 19(C) seeks to define "electronic record" which includes the contents of communications, transactions and procedures under this Ordinance, including attachments, annexes, enclosures, accounts, returns, statements, certificates, applications, forms, receipts, acknowledgements, notices, orders, judgments, approvals, notifications, circulars, rulings, documents and any other information associated with such communications, transactions

and procedures, created, sent, forwarded, replied to, transmitted, distributed, broadcast, stored, held, copied, downloaded, displayed, viewed, read, or printed, by one or several electronic resources and any other information in electronic form.

- f) The new clause 19(D) is sought to provide definition for “electronic resource”. The said definition of “electronic resource” includes telecommunication systems, transmission devices, electronic video or audio equipment, encoding or decoding equipment, input, output or connecting devices, data processing or storage systems, computer systems, servers, networks and related computer programs, applications and software including databases, data warehouses and web portals as may be prescribed by the Board from time to time, for the purpose of creating electronic record.
- g) A new clause 19(E) is proposed to be added after proposed clause 19(D), whereby, Board seeks to provide definition for “telecommunication system”. The said definition of “telecommunication system” includes a system for the conveyance, through the agency of electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy, of speech, music and other sounds, visual images and signals serving for the impartation of any matter otherwise than in the form of sounds or visual images and also includes real time online sharing of any matter in manner and mode as may be prescribed by the Board from time to time.
- h) By this amendment, it has been sought to substitute clause 30(A) of the section (2), whereby, it has been has been proposed to modify the definition of the “Investment Company”. Earlier, the scope of this definition was limited to the extent, as defined in Investment Companies and Investment Advisors Rules, 1971, whereas, by this proposed amendment it has been proposed to consider this definition as provided in the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2003.
- i) The proposed amendment seeks to substitute clause 30(B) of the section (2), whereby, it has been has been proposed to modify the definition of the “Leasing Company”. Earlier, a company, which is licensed under Leasing Companies (Establishment and Registration) Rules 2000 was considered as leasing company, whereas, by this proposed amendment it has been proposed to consider this definition as provided in the Non-Banking Finance Companies and Notified Entities Regulation, 2007;
- j) By virtue of this amendment, it has been proposed to add a new clause (31A), whereby, a new definition for “Local Government” has been added.

- k) The proposed amendment seeks to omit clauses (45A) and (45B), whereby, it has been sought to delete the definitions of "Private Equity Venture Capital Fund" and "Private Equity Venture Capital Fund Management Company".
- l) By this amendment it has been sought to substitute clause 47(A) and 47(B) of the section (2), whereby, it has been proposed to modify the definition of the "Real Estate Investment Trust (REIT) Scheme" and "Real Estate Investment Trust (REITMC) Management Company". Earlier, a detailed definition for the aforesaid statutory bodies have been provided, whereas, by this proposed amendment it has been sought to consider this definition as provided in the Real Estate Investment Trust Regulations, 2008.

DEDUCTION NOT ALLOWED

SECTION 21

As per clause (m) of section 21, salary paid to a person to the extent of Rs. 10,000/- will be an allowable deduction, even if it is paid through cash and not through cross cheque. The proposed amendment seeks to enhance this limit from Rs. 10,000/- to Rs. 15,000/-

FIRST YEAR ALLOWANCE

SECTION 23A

A new section (23A) is proposed to be added after section 23, whereby, it has been sought by the Revenue to provide first year allowance @ 90 % to the companies on Plant, Machinery and Equipment, working in the rural and under developed areas.

EXEMPTION AND TAX PROVISIONS IN OTHER LAWS

SECTION 54

The proposed amendment seeks to omit the proviso to Section 54, whereby, it has been sought to withdraw all exemptions, which are provided in any other law for the time being in force. Thus, no exemption from Income tax and no reduction of rate in Income tax will take effect unless it has been specifically provided in the Income Tax Ordinance, 2001.

CARRY FORWARD OF BUSINESS LOSSES

SECTION 57

A new sub-section (2A) is proposed to be added after subsection (2) of section 57. The proposed amendment seeks to allow the Non-banking Finance Companies, Modarabas or Insurance Companies, to set off or carry forward their business losses in case of amalgamation. The newly added sub-section is reproduced for ready reference:

"In case of amalgamation of Non-banking Finance Company, Modarabas or Insurance Company, the accumulated loss under the head "Income from

Business" (not being speculation business losses) of an amalgamating company or companies shall be set off or carried forward against the business profits and gains of the amalgamated company and vice versa, up to a period of six tax years immediately succeeding the tax year in which the loss was first computed in the case of amalgamated company or amalgamating company or companies."

CHARITABLE DONATIONS

SECTION 61

Section 61 of Ordinance provides tax credit in respect of paid charitable donations. Earlier, the maximum limit of donation for an individual or association of person and Company was fixed at 30% and 15% of the taxable income for the year, respectively. Whereas, by virtue of this proposed amendment, Revenue seeks to reduce this limit to 10% of the taxable income of a particular tax year for all taxpayers.

GEOGRAPHICAL SOURCE OF INCOME

SECTION 101

By virtue of this proposed amendment, it has been sought to insert a new sub section 13A to section 101. Revenue seeks to extend the scope of Pakistan Source Income and accordingly, It is proposed that any sum paid on account of insurance or re-insurance premium by an insurance company to an overseas insurance or re-insurance company shall be consider as Pakistan source income.

MINIMUM TAX

SECTION 113

As per section 113 of this Ordinance, every taxpayer is required to pay minimum tax @.5% of their aggregate gross turnover except the taxpayers, who have been provided exemption from this provision under clause 11 and clause 16 of the Part-IV of the Second Schedule to this Ordinance. By virtue of this amendment, it has been proposed to omit section 113, whereby, provisions of minimum tax have been withdrawn from all taxpayers.

TAXATION OF BUILDERS AND DEVELOPERS

SECTION 113C

A new section 113C, is proposed to be added after section 113B, whereby it has been sought to provide a new criteria for the Taxation of Builders and Developers. By virtue of this amendment it has been proposed to charge minimum tax on Builders and Developers in the following manner:

- (a) In the case of a builder Rs. 50 per sq. ft. on covered constructed area; and
- (b) In the case of a developer Rs.100 per sq. yard on the area of land developed.

The proposed section is reproduced as under:

113C. **Taxation of builders and developers.-**

- 1) Subject to this Ordinance, a person who is a developer of land for residential, commercial or industrial purposes or a builder engaged in construction of houses, commercial or industrial property shall be liable to pay tax at the rates specified in Division IAA of Part I of the First Schedule.
- 2) The tax paid under sub-section (1) shall be minimum tax on the income of such person.

PERSONS NOT REQUIRED TO FURNISH A RETURN OF TOTAL INCOME

SECTION 115

To harmonize the provisions of section 115 and 116, it has been proposed to substitute sub section (1) of section 115. The legislature now requires that all such salaried persons, having taxable income five hundred thousand rupees or more, shall file wealth statement.

INVESTMENT TAX ON INCOME

SECTION 120A

By the insertion of this proposed section (120A), it has been sought to introduce a scheme, whereby, amnesty will be provided to the taxpayers against their undisclosed investments in movable and immovable assets in consideration of payment of Investment Tax. As per the proposed section, no rate of tax is provided for the proposed investment tax, whereas, in their budget speech, the Finance Minister announced rate @2% for the purpose of investment tax. The newly inserted provisions shall be read as follow:

20A. Investment Tax on income:

- 1) Subject to this Ordinance, the Board may make a scheme of payment of investment tax in respect of undisclosed income, representing any amount or investment made in movable or immovable assets.
- 2) Where any person declares undisclosed income under sub-section (1) in accordance with the scheme and the rules, the tax on such income called investment tax shall be charged at such rate as may be prescribed.
- 3) Where a person has paid tax on his undisclosed income in accordance with the scheme and the rules, he shall –
 - a) be entitled to incorporate in his books of account such undisclosed income in tangible form; and

- b) not be liable to pay any tax, charge, levy, penalty or prosecution in respect of such income under this Ordinance.
- 4) For the purposes of this section –
 - i) “Undisclosed income” means any income, including any investment to be deemed as income under section 111 or any other deemed income, for any year or years, which was chargeable to tax but was not so charged; and
 - ii) “Investment tax” means tax chargeable on the undisclosed income under the scheme under sub-section (1) and shall have the same meaning as given in clause (63) of section 2 of the Income Tax Ordinance, 2001.

DECISION IN APPEAL

SECTION 129

Subsection (5) of section 129 provides time frame for the decision of appeals filed with Commissioner of Income Tax (Appeals). As per subsection (5), a time period of three month is provided for decision on the filed appeals. The proposed amendment to subsection (5), (6) and (7) seeks to enhance the time frame for the decision on the filed appeals from period from three Months to four months.

TAX ARREARS SETTLEMENT INCENTIVE SCHEME

SECTION 146B

A new section (146B) is proposed to be added, whereby, it has been sought to introduce a scheme for the collection and recovery of tax arrears. It has been proposed to waive the penalties and additional taxes calculated on the principal tax liability for its immediate recovery.

ADVANCE TAX

SECTION 147

By this amendment it has been proposed to omit sub-section (4AA) consequential to the omission of section 113.

IMPORTS

SECTION 148

By this amendment it has been proposed to omit sub-section (4A) of section 148, as a result of omission of section 113.

PAYMENT TO NON RESIDENTS

SECTION 152

Two new sub-sections (1AA) and (1BB) are proposed to be added after sub-section (1A) and (1B) respectively, whereby, it has been directed to withholding agents to

deduct tax on payments of gross amount of insurance premium or re-insurance premium to a non-resident person at the rate specified in Division II of Part III of the First Schedule. The tax deducted under sub-section (1AA) shall be a final tax on the income of the non-resident person arising out of such payment.

A further, amendment has been proposed to section 152, whereby, a clarification has been provided, that exemption from deduction of tax against payment to non residents could not be obtained from Commissioner of Income Tax, who have already been provided reduced rates of tax under relevant agreement for avoidance of double taxation.

PAYMENT FOR GOODS AND SERVICES

SECTION 153

The following several amendments have been proposed to be incorporated in this Section:

- a) By the substitution of words "a company" in sub-section (6A), it has been proposed to exclude the Companies, which are engaged in the business of manufacturing from the ambit of Presumptive Tax Regime.
- b) it has been sought to extend the scope of section 153 to small companies.
- c) Further, the scope of section 153 is extended to the following persons.
 - i) an association of persons, having turnover of fifty million rupees or above; or
 - ii) an Individual, having turnover of twenty-five million rupees or above.

The definition of manufacturer is provided in line with Sales Tax Act, 1990.

PAYMENT TO NON RESIDENT MEDIA PERSON

SECTION 153A

A new section (153A) is proposed to be added, whereby, it has been sought to provide provisions for withholding tax for taxpayers making a payment for advertisement services to a non-resident media person relaying from outside Pakistan shall deduct tax from the gross amount paid at the rate specified in Division IIIA of Part III of the First Schedule. All these payments for advertisement services to a non-resident media person will be subjected to tax @10%.

EXEMPTION OR LOW RATE CERTIFICATE

SECTION 159

Through this proposed amendment, it has been sought to substitute subsection (3) of section 159, whereby, the Board has now been empowered to grant exemptions from withholding taxes to certain persons, class of persons, goods or class of goods.

RECORDS

SECTION 174

The proposed amendment seeks to add a new subsection (5) to section 174, whereby, the Commissioner has been empowered to require any person to install and use an Electronic Tax Register of such type and description as may be prescribed for the purpose of storing and accessing information regarding any transaction that has a bearing on the tax liability of such person.

TAXPAYER REGISTRATION

SECTION 181

Section 181 of this Ordinance provides procedures and requirements for the obtainment of National tax Number Certificates. Keeping in view, the recent electronic filing, it has been required to modify Section 181 to harmonize it with the provision of section 181. The proposed amendment to section 181 seeks to provide legislation for the aforesaid purpose. The newly substituted amendment may be read as follow:

181. Taxpayer’s registration

- 1) Every taxpayer shall apply in the prescribed form and in the prescribed manner for registration.
- 2) The Commissioner having jurisdiction over a case, where necessitated by the facts of the case, may also register a taxpayer in the prescribed manner.
- 3) Taxpayers' registration scheme shall be regulated through the rules to be notified by the Board.

DIRECTORATE GENERAL OF WITHHOLDING TAXES

SECTION 230A

The proposed amendment seeks to add a new section (230A), whereby, it has been sought to establish a Directorate, namely-Directorate General of Withholding Taxes.

PURCHASE OF MOPTOR CARS AND JEEPS

SECTION 231B

The proposed amendment seeks to substitute the existing section and the proposed new section is reproduced as follows:

231B. **Purchase of motor cars and jeeps.**- Every person shall pay, at the time of registration of a new motor car or a jeep, advance tax at the rates specified in Division VII of Part IV of the First Schedule:

Provided that the provisions of this section shall not be applicable in the case of

- (i) the Federal Government;
- (ii) the Provincial Government;
- (iii) a foreign diplomat; or
- (iv) a diplomatic mission in Pakistan.

COLLECTION OF TAX BY A STOCK EXCHANGE REGISTERED IN PAKISTAN

SECTION 233A

The proposed amendment seeks to substitute the sub section (2), whereby, it has been directed to treat the tax deducted under clause (a) to (c) of sub section (1) by stock exchange from Members in respect of trading of shares as minimum tax liability. Currently, tax deducted under the aforesaid provisions is treated as final tax.

ELECTRICITY CONSUMPTION

SECTION 235

Through Finance Act, 2007 subsection (4) was added to section 235. By virtue of this amendment, it has been asked to treat tax collected under this section as minimum tax liability and no refund shall be issued against the said tax deduction. Currently, no limitation is provided for qualifying for minimum tax, and no claim could be lodged for refund of tax deducted under this section, whereas, the proposed amendment seeks to provided limitation that tax deducted on bill up to Twenty Thousand Rupees per month shall be the minimum tax.

ELECTRONIC RECORD

SECTION 237A

The proposed amendment seeks to add a new section (237A), whereby, it has been sought to define Electronic record and its usage. The proposed new section may be read as follow:

237A. Electronic record:

- 1) The Board may require any person to use its information system and electronic resource, in order to replace or supplement, its manual business processes by automated business processes and substitute its paper based records by electronic record.

- 2) Electronic record generated, maintained, issued, served, received, filed or requisitioned through the electronic resource of the Board shall by itself sufficiently and conclusively prove its validity, authenticity and integrity and shall be treated to have been done so according to the provisions of this Ordinance.

FIRST SCHEDULE TO THE INCOME TAX ORDINANCE, 2001

The Finance Bill, 2008 aims to make the following amendments to the First Schedule to the Income Tax Ordinance, 2001.

PART I

1. Minimum taxable limit for salaried class has been increased to Rs. 180,000/- from Rs. 150,000/- for men and increased to Rs. 240,000/- from Rs. 200,000/- for working women.
2. Gradual decrease in the rate of tax applicable to salaries has been proposed to be made for different slabs.
3. A new Division IAA is proposed to be added to part I of the First Schedule whereby tax minimum tax rates have been provided Builders and Developers.
4. Para (ii) of Division II of Part I of the First Schedule is proposed to be omitted as the same is in contradiction with the other provisions of law.
5. A new proviso is proposed to be added to after Para (iii) of the Div II, whereby, a formula has been slab rates have been provided for gradual decrease in rate of taxes applicable to the companies.
6. The proposed amendment seeks to substitute paragraph (a) of Div VI, whereby, new slab rates for the taxation of property income have been provided. Earlier, it was fixed at 5% and now it has been proposed enhance the tax rates as per the following slabs:

For Individual and Association of Person

S. NO.	GROSS AMOUNT OF RENT	RATE OF TAX
1.	Where the gross amount of rent does not exceed Rs. 150,000/-	NIL
2.	Where the gross amount of rent exceeds Rs.150,000/- but does not exceed Rs. 400,000/-	5 per cent of the gross amount exceeding Rs.150,000/-
3.	Where the gross amount of rent exceeds Rs.400,000/- but does not exceed	Rs.12,500/- plus 10 per cent of the gross

	Rs.1,000,000/-	amount exceeding Rs.400,000/-
4.	Where the gross amount of rent exceeds Rs.1,000,000/-	Rs.72,500/- plus 15 per cent of the gross amount exceeding Rs.1,000,000/-

For companies:

S. NO.	GROSS AMOUNT OF RENT	RATE OF TAX
1.	Where the gross amount of rent does not exceed Rs. 400,000/-	5 per cent of the gross amount of rent
2.	Where the gross amount of rent exceeds Rs. 400,000/- but does not exceed Rs.1,000,000/-	Rs. 20,000/- plus 10 per cent of the gross amount of rent exceeding Rs. 400,000/-
3.	Where the gross amount of rent exceeds Rs.1,000,000/-	Rs. 80,000 plus 15 per cent of the gross amount of rent exceeding Rs.1,000,000/-.

7. The proposed amendment seeks to provide new rates of tax for the purpose of deduction of tax on rents. The new slab rates are given as under:

For Individual and Association of Person

S. NO.	GROSS AMOUNT OF RENT	RATE OF TAX
1.	Where the gross amount of rent does not exceed Rs. 150,000/-	NIL
2.	Where the gross amount of rent exceeds Rs.150,000/- but does not exceed Rs. 500,000/-	5 per cent of the gross amount exceeding Rs.150,000/-
3.	Where the gross amount of rent exceeds Rs. 500,000/- but does not exceed Rs.1,300,000/-	Rs.17,500/- plus 10 per cent of the gross amount exceeding Rs. 500,000/-
4.	Where the gross amount of rent exceeds Rs. 1,300,000/-	Rs. 97,500/- plus 15 per cent of the gross amount exceeding Rs.1,300,000/-

For Companies

S. NO.	GROSS AMOUNT OF RENT	RATE OF TAX
1.	Where the gross amount of rent does not exceed Rs. 400,000/-	5 per cent of the gross amount of rent.
2.	Where the gross amount of rent exceeds Rs.400,000/- but does not exceed Rs.1,000,000/-	Rs. 20,000/- plus 10 per cent of the gross amount of rent exceeding Rs. 400,000/-
3.	Where the gross amount of rent exceeds Rs.1,000,000/-	Rs. 80,000/- plus 15 per cent of the gross amount of rent exceeding Rs.1,000,000/-

8. The proposed amendment seeks to provide new rates of tax for the purpose of registration of motor vehicles:

S.No.	Engine Capacity	Rupees
1.	upto 1000cc	500
2.	1001cc to 1199cc	750
3.	1200 to 1299cc	1,000
4.	1300cc to 1599cc	2,000
5.	1600cc to 1999cc	3,000
6.	2000cc and above	5,000

9. The proposed amendment seeks to provide new rates of tax payable at the time of purchase of motor cars and Jeeps:

S.No.	Engine Capacity	Rupees
1.	Up to 850cc	10,000
2.	851cc to 1000cc	14,000
3.	1001 to 1300cc	22,500
4.	1301cc to 1600cc	22,500
5.	1601cc to 1800cc	35,000
6.	1801cc to 2000cc	30,000
7.	2000cc and above	50,000

SECOND SCHEDULE TO THE INCOME TAX ORDINANCE, 2001

The Finance Bill, 2008 aims to make the following amendments to the Second Schedule to the Income Tax Ordinance, 2001.

PART I

1. The proposed amendment to clauses (2), (6) and (21) seeks to withdraw the exemptions available to the following:
 - a) Specific tax exemptions available to the health professionals of Shaikat Khanum Memorial Hospital and Research Centre.
 - b) Specific tax exemptions available to the expatriate employees of British Council.
 - c) Tax exemption available to the persons on income received from an annuity issued by State Life Insurance Corporation of Pakistan or from a life Insurance company.
2. The proposed amendment to clause 25 seeks to reduce the scope of exemption available on payment from an approved superannuation fund.
3. As submitted earlier, it has been proposed to reduce the percentage of admissible allowance under the head charitable donations for all taxpayers. Therefore, in continuation with the above, the following tax exemptions are also proposed to be withdrawn on portion of income allocated to the Liaqat National Hospital, President Relief Fund for Earthquake, Victims, 2005 and World Islamic Economic Forum.
4. Tax Exemptions available to income generated from Islamic mode of financing, Special US Dollars Bond are also proposed to be withdrawn.
5. Clause (103) is proposed to be substituted. The proposed clause may be read as follow:

“Any distribution received by a taxpayer from a collective investment scheme registered by the Securities and Exchange Commission of Pakistan under the Non-Banking Finance Companies and Notified Entities Regulations, 2007, including National Investment (Unit) Trust or RIET Scheme or a Private Equity and Venture Capital Fund out of the capital gains of the said Schemes or Trust or Fund on which tax has already been paid”.
6. With the substitution of figure '2010' in clause (110) it has been proposed to extend the exemption available on “capital gain” generated from the sale purchase of stocks and shares, modarba certificates and any instrument of redeemable capital for a further period of two years.

7. By the omission of clause (132A), (133A) and (138) it has been proposed to withdraw specific exemptions available to different industrial groups.

PART II

1. By the omission of clause (6), (9A), (10), (13), (13A) and (13B), it has been proposed to even out the rates of taxation applicable to, Fauji Foundation, profits on Special US\$ Bonds, import of edible oil, import of Phosphatic Fertilizers, whereas, earlier, these institutes and transactions enjoyed the reduced rates for taxation.
2. The proposed amendment to clause 13C of the Part II of Second Schedule seeks to increase the rate of tax on purchase of locally produced edible oil from 1% to 2%.
3. The proposed amendment seeks to add a new clause 13HH, whereby, it has been sought to tax the Rice Exporter Association @1% on their sale of rice to utility Stores.
4. By the omission of clauses (14), (15) and (16) it has been proposed to withdraw the provisions regarding the reduction in tax rates applicable to export proceeds of different export item, like rice, fish and gems.

THIRD SCHEDULE TO THE INCOME TAX ORDINANCE, 2001

The Finance Bill, 2008 aims to make the following amendments to the Third Schedule to the Income Tax Ordinance, 2001.

PART II

By virtue of this amendment it has been sought to provide first year allowance at 90% as prescribed by the proposed section (23A) of this Ordinance.

FOURTH SCHEDULE TO THE INCOME TAX ORDINANCE, 2001

The Finance Bill, 2008 aims to make the following amendments to the Fourth Schedule to the Income Tax Ordinance, 2001.

PART II

1. The proposed amendment, seeks to substitute the sub rule (b) of Rule 5 of the Rules for the computation of profits and gains of Insurance Companies. By virtue of this amendment it has been sought to rationalize the admissible deductions. The newly inserted sub rule may be read as follow:

“(b) subject to the provisions of rule 6A, any amount of investment written off shall be allowed as a deduction, but any amount taken to reserve to meet depreciation of investments shall not be allowed as a deduction, and any sums taken credit for in the accounts on account of appreciation of investment shall not be treated as part of the profits and gains, unless these have been crystallized as gains or losses on the realization of investments”

2. The proposed amendment seeks to add a new sub rule-d to the aforesaid rules, which is reproduced for the benefit of user:

“(d) no deduction shall be allowed for any expenditure incurred on account of insurance premium or re-insurance premium paid to an overseas insurance or re-insurance company or a local agent of an overseas insurance company until tax at the rate of 5% is withheld on the gross amount of insurance or re-insurance premium”