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HLB IJAZ TABUSSUM & CO.,
Chartered Accountants
Islamabad.

June 05, 2010

The information presented in this Memorandum has been sifted from the Federal Budget and Finance Bill, 2010, 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 Annual Budget for the 2010-2011 has been received with mixed reaction. Pro-Government has termed this as people friendly and other has rejected. But considering the budget is being presented in very hard times has not brought as much bad news as many had feared. The Economic Survey, launched a day before the budget announcement, spells out in many ways why times are so hard. The figures presented in the Economic Survey inform us that unemployment has risen from 5.2 % to 5.5 %. Unofficial estimates put it considerably higher. Food inflation, at 14.5 %, also meant fewer and fewer people were able to put meals on tables. Economic Survey suggests why this is so. Wages have not kept up with the rate of inflation and job losses mean added hardship for more and more households. The Survey, while highlighting the fact that estimates for growth had climbed to 4.1 % in light of some economic growth, also notes that power shortage have been a key factor hampering the economy. Militancy is another very major challenge which nation is facing from last many years. If militancy is to be dealt with we need to create more jobs and give people more hope in life. This was acknowledged in the budget speech. It is only when militancy is controlled that we see the investment and business confidence required to fuel genuine economic growth. We are indeed caught in a vicious circle. But we can break free only by taking away money from sectors such as defence and administration and investing them in the future of people. We need to spend far more on the development of citizens – and perhaps, most of all, on their education.

Dr. Hafeez Sheikh presented the consolidated budget of the country with outlay of Rs. 3.25 trillion, which is 10.7 % higher than the current fiscal year and revenue of Rs. 2.574 trillion showing a massive budget deficit of the GDP (Rs. 685 billion). The proposed revenues that include tax and non-tax have been targeted at Rs. 2.411 trillion while tax collection has been estimated at Rs. 1.667 trillion depicting a yawning gap of over Rs. 700 billion between Government income and expense.

It appears that Government has visibly succumbed to pressure of the influential trade, textile and surgical lobbies on the issue of implementation of Value Added Tax (VAT) system, as it also did not withdraw the GST tax exemptions from the said lobbies. However, it is proposed to increase GST by 1 % from 16 % to 17 %. It is further announced that the 15% Value Added Tax will be enforced by October 1, this year.

In the summary of foreign assistance, the funding that will come to Pakistan under Kerry Lugar Act is on number 3 quantum wise. The largest money – Rs 81.993 billion with Rs. 26.693 billion being grant and Rs. 55.299 loans - will reach Islamabad as part of the Tokyo Package to be followed by the Asian Development Bank's funding, Rs. 62.224 billion being the loans and Rs. 390 million the grant.

The Tax Memorandum hereinafter provides in depth analyses of changes brought in the tax laws regime of the country by the budget. We hope our clients and other users will find this document useful for the better understanding thereof. This document is simultaneously being made available at our website www.ijaztabussum.com. The clients are encouraged to access this and other useful information made available by the Firm.

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

IJAZ AKBER - FCA
Senior Partner & International Contact Person

BUDGET 2010-11 AT A GLANCE

RECEIPTS:		Budget Estimates
S. No.	SOURCES OF FUNDS (ESTIMATED)	(Rs. In billion)
1.	Tax Revenue	1778.7
2.	Non-Tax Revenue	632.3
	Gross Revenue Receipts	2411.0
	Less: Provincial Share	1033.6
	Net Revenue Receipts	1377.4
3.	Net Capital Receipts	325.4
4.	External Receipts	386.6
5.	Self-financing of PSDP by Province	341.6
6.	Change in Provincial Cash Balance	166.9
7.	Bank Borrowing	166.5
TOTAL RESOURCES		2764.4
EXPENDITURES:		
S. No.	APPLICATION OF FUNDS (ESTIMATED)	
	(A) <u>Current:</u>	
1.	General Public Service	1387.7
2.	Defense Affairs & Service	442.2
3.	Public Order Safety	51.3
.	Environment	66.9
6.	Housing	0.4
7.	Health	7.3
8.	Culture	4.4
9.	Education	34.4
10.	Social Protection	1.5
	TOTAL (A)	1996.1
	(B) <u>Development:</u>	
1.	PSDP:	
	▪ Federal	663.0
	▪ Provincial	290.0
2.	Other dev. Expenditure	123.5
	Less: Est. Operational shortfall	-20.0
	TOTAL (B)	766.5
TOTAL SPENDING (A+B)		2764.4

SALIENT FEATURES FOR THE BUDGET 20 10-11

SALES TAX & FEDERAL EXCISE BUDGETARY MEASURES (FY 20 10-11)

Policy Objectives:

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

- Enhancing the federal excise and sales tax revenues without inducing any additional burden on the common man and poor segments of society.
- Distributing the burden of extra taxation measures on all sectors of the economy.
- Enhancing tax incidence on cigarettes which are injurious to health.

Relief Measures:

- Withdrawal of restriction on adjustment of Federal Excise Duty paid on beverage concentrate.

Revenue Measures:

- Increase in the rate of sales tax from 16% to 17%.
- Increase in rate of specified goods in SRO 644(I)/2007 from 20% to 21% and from 18% to 19% respectively
- Increase in rate of tax from 6% to 7% of the value on import of soyabean by solvent extraction industries.
- Increase in rate of tax from 14% to 15% of the value on import of rape seed by solvent extraction industries.
- Increase in rate of tax from 25% to 26% on supply of natural gas to CNG Stations.
- Increase in rate of Federal Excise Duty on Natural Gas from Rs. 5.09 per MMBTu to Rs. 10/- per MMBTu.
- Increase in rate of Federal Excise Duty on other petroleum gases from Rs. 5.09 per MMBTu to Rs. 10/- per MMBTu.

- Upward revision of Federal Excise duty structure on cigarettes.
- Levy of Federal Excise Duty @ Rs. 1/- per filter rod of cigarettes.
- Levy of 10% Federal Excise Duty on Air Conditioners.
- Levy of 10% Federal Excise Duty on Deep Freezers.

INCOME TAX BUDGETARY MEASURES (FY 20 10-11)

Relief Measures:

- In order to provide relief to large number of taxpayers deriving their incomes from Salary and business, the limit of Basic Exemption is proposed to be enhanced from Rs.200,000/- to Rs.300,000/- in respect of Salaried taxpayers, while in the respect of Non-Salaried taxpayers it has been proposed to be enhanced from Rs.100,000/- to Rs.300,000/-.
- For welfare of industrial & commercial consumers of electricity, the maximum rate of advance tax deductible under section 235 on monthly electricity bills is proposed to be reduced from 10% to 5%, on the amount of the bills payable by them.
- The Senior Citizens of the age of 60 years or more, are proposed to be eligible for relief of 50% of tax on their income, if their income does not exceed Rs.100,000/- as compared to previous maximum limit of Rs.75,000/ -. However this relief shall not be available on income subject to Presumptive Tax Regime.
- In pursuance of Prime Minister's Relief Package to rehabilitate the economy of Khyber Paktunkhwa, FATA and PATA, some amendments are proposed to be introduced in the Income Tax Law. These measures provide following reliefs to industrial and commercial taxpayers hailing from most and moderately affected areas, as prescribed:
 - a) Waiver of entire amount of default surcharge & penalty till 30th June 2010;
 - b) Exemption from advance tax on electricity for tax years 2010 and 2011;
 - c) Exemption from withholding tax on exports;
 - d) Recovery of outstanding income tax arrears through easy installments;
 - e) Enhancement of income tax exemption limit from Rs.0.1 million to Rs.0.3 million;

- f) Annual Audit with the approval of FBR; and
- g) Exemption from advance tax on import of plant and machinery upto 30th June 2011;

However these concessions shall not be available to manufacturers and suppliers of cement, sugar, beverages and cigarettes.

- For the wellbeing of disabled persons, 100% depreciation expense can be claimed on Ramp built to provide access to disabled persons, is proposed through a new provision to be inserted in the law.
- In order to provide relief to employees, exemption from taxation of perquisites on waiver of employees obligation to pay or repay, and amount owed to employer, is proposed.
- In order to facilitate the withholding agents, instead of e-filing monthly, quarterly and annual withholding tax statements, the e-filing of only quarterly withholding tax statements is proposed;

Tax Incentives for Foreign and Domestic Investments:

- For the wellbeing of listed company a Tax credit for BMR costs incurred by such a company is proposed to be provided @ 10% for the tax year of its incurrence. This concession has been proposed to be admissible for the tax years 2011 to 2015;
- With the purpose to encourage enlistment of corporate sector, a 5% tax credit is proposed to be allowed to a company in the tax year of its enlistment.
- In order to align with rest of the scheme, 10% withholding tax deductible on Government Securities is proposed to be a FINAL tax.
- Withholding tax deductible on debt instruments is proposed to be a FINAL tax, in order to relieve the non-resident taxpayers of statutory requirement for filing income tax return.
- For providing incentive to foreign lenders for tax-free repatriation of profits earned on foreign industrial loans, Clause 72(iii) of Part-IV of Second Schedule to the Income Tax Ordinance 2001 is proposed to be re-instated.
- The maximum rate of withholding tax deductible on payments made to non-resident taxpayers who are not subject to Avoidance of Double Taxation Treaties

(other than payments made on account of royalty and fee for technical services) is proposed to be @ 20% instead of 30%.

- Honoring wide demand, the rate of withholding tax deductible @ 20% on cross-word puzzles is proposed to be reduced to a rate of 10%;

Revenue Measures:

- In order to strengthen the drive for documentation, a uniform tax rate for small companies as well as AOPs is proposed @ 25% of their taxable income.
- Advance tax deductible on imports made by commercial importers is proposed to be enhanced to @5% being a FINAL tax.
- Tax on capital gains accruing on account of holdings of stocks/shares/securities for six-months or less is proposed @ 10%, while holdings of stocks/shares/securities exceeding six-months is proposed @ 7.5%. However no tax has been proposed on such capital gains arising held for a period exceeding 12 months.
- In order to rationalize and simplify slab-rates provided in respect of advance tax deductible on goods transport vehicles under Item (1) of Division-III of Part-IV of Second Schedule to the Income Tax Ordinance 2001 are proposed to be abolished, and tax is proposed @ Re.1 per kilogram of the laden weight capacity of goods transport vehicle. No change has been proposed in the rate of tax on goods forwarding contracts, which remain taxable at the existing rate of 2%.
- In order to bring clarity on advance tax deductible on Cash Withdrawals from Banks, various banking transactions including modes like withdrawals through Demand Draft, Pay Order, Online Transfer, Telegraphic Transfer, TDR, CDR, STDR and RTC, are proposed to be subject to 0.3% deduction of the advance tax, if such transactions exceed threshold of Rs.25,000/- in a single day. The advance tax is adjustable.
- Turnover Tax on Loss Making Companies is proposed to be enhanced to @ 1%.
- Withholding tax on gross value of Inland Air Ticket has been proposed @ 5%. Under the scheme the Inland Air-Ticketing persons shall withholding the tax, which will be adjustable against the tax liability of the purchaser of such ticket;

Technical Measures:

- Section 4 of the Income Tax Ordinance 2001 is proposed to be amended to include a reference regarding tax credit on account of share of profits received by a company from an AOP.

- In order to bring clarity, expression 'CD' appearing in Division-V of Part-IV of First Schedule to the Income Tax Ordinance 2001 is proposed to be replaced by 'any electronic medium'.
- The mandatory requirement of Filing of Wealth Statement by the Taxpayers in FTR cases with yearly tax amounting to Rs.35, 000/- is proposed to be included in section 116 of the Income Tax Ordinance 2001.
- For enforcing checks on non-compliant taxpayers, and to encourage compliant-taxpayers, a new section 181A is proposed to be inserted in the Ordinance.
- In order to streamline accounting of Advance Tax payments, certain amendments are proposed in section 147 of the Ordinance, so that quarterly advance tax payments are paid by 25th of last month, as compared to earlier requirement of such payments by 15th of every month after the end of a quarter .
- Through an editorial amendment, the reference of 'minimum tax' on importer of edible oil and packing materials under section 148, is proposed to be incorporated in provisions referring to final tax on the income of an importer.
- For the purposes of clarity, through an editorial amendment the reference of sub-section (1AA) of section 152 is proposed to be inserted in sub -section (2) of section 152.
- In order to rationalize the definition of 'Prescribed Persons' as given in sub-section (9) of section 153, an individual with turnover of Rs.50 millions or above is proposed to be added.
- In order to perceive better audit of withholding taxes, the withholding agents shall be required to e-file quarterly statements even in the cases where no -tax was deducted. For the purpose of alignment and uniformity, the words 'a person collecting tax' are proposed to be replaced with the words 'a withholding agent' in sub-section (2) of section 165.
- Editorial amendments in Section 236A of the Ordinance are proposed in order to bring clarity and remove confusion about the charge of advance tax on public auction of all kind of property including confiscated or attached goods.
- On merger of Investment Corporation of Pakistan with Industrial Development Bank, the exemption available to ICP on dividend received from any other company is proposed to be withdrawn.

- Exemption under clause (52) of Part-IV of the Second Schedule to the Income Tax Ordinance 2001 available to Vanaspati Ghee or Oil is proposed to be withdrawn, in view of demise of SRO. 593(I) 1991 Dated 30th June 1991.

CUSTOMS BUDGETARY MEASURES (FY 2010-11)

Policy Objectives:

- Relief to general public
- Minimizing the cost of doing business.
- Industrial incentives for growth and expansion.
- Boosting the export oriented sectors.
- Amendments in legal provisions to make them more transparent and simple.

Relief Measures:

- Reduction of customs duty on crude palm oil from Rs.9,000/MT to Rs.8,000/MT to decrease cost of vegetable ghee and oil.
- Exemption of customs duty on import of photographic plates and film for X-ray to lower cost of medical diagnoses for general public.
- Reduction of duty to 5% on pharmaceutical raw materials and drugs to provide relief to common man.
- Reduction of duty on equipment for dedicated use of renewable energy to encourage use of renewable energy resources.
- Reduction of duty on raw materials for laundry soap and detergent to provide relief to general public.
- Concession of customs duty on import of Road Sweeping Lorries to increase efficiency of municipal and local governments.
- Exemption of customs duty on import of fully dedicated LPG buses and dispensing equipment to encourage use of cheaper environment friendly fuel.

Incentive to Local Industry:

- Exemption of customs duty on import of raw materials/components for energy saving lamps to support its local manufacturers.

- Exemption of customs duty and sales tax on rice processing machinery to boost value addition and export of rice.
- Reduction of duty on raw materials of leather industry to encourage leather exports.
- Reduction of duty on raw materials of glass industry to make them more competitive.
- Reduction of duty on secondary quality tin mill black plate for manufacturers of tin plate to reduce their manufacturing cost.
- Exemption of duty on milk filters to support dairy industry.

Tariff rationalization:

- Exemption of duty on other than pure bred breeding animals to bring their duty at par with pure bred breeding animals.
- Rationalization of duty on glucose and glucose syrup to avoid misdeclaration.
- Rationalization of duty on prepared industrial colours to rationalize their duty structure.
- Inclusion of LED T.V. in industry specific concessionary regime to encourage their local manufacturing.
- Levy of 5% concessionary duty on copper & aluminum tubes and electro galva nized steel sheets if imported by manufacturers of evaporators and washing machines.
- Exemption of duty on silk yarn spun from other than silk waste to rationalize tariff.
- Rationalization of duty on two PCTs of adhesives.

Miscellaneous:

- Creation of separate PCT code for auto parts scrap in pressed bundles to streamline its clearance process.
- Correction of PCT code for asphalt paver.
- Correction in description of PCT codes 6813.2010 & 6813.8110.
- Rationalization of PCT code 3920.6300 with Pak -China FTA.

Legal Changes in Customs Act, 1969

- Keeping in view the change in rate of exchange of US \$ vis -à-vis Pak rupees and increase in prices of gold and other items the limit for taking cognizance under the smuggling related provisions is being enhanced from Rs.50,000/- to Rs.150,000/-.
- The valuation formula for the goods to be exported is being simplified by including regulatory duty instead of export duty in section 25 in sub-section (15)(b).
- The customs value determined under section 25A shall be applicable until and unless revised or superseded or rescinded by the competent authority.
- Section 25D is being elaborated by inserting the words "under section 25A" in order to clarify that review application before Director General Valuation shall lie in cases of the values determined by Director Valuation or Collector of Customs under section 25A. For filing a review application under section 25D, the time period of 30 days from the date of determination of customs value is being fixed.
- Section 32 is being amended so that cognizance could be taken in cases where revenue is paid through self assessment in order to curb the tendency of mis-declaration and less payment of revenue through computerized clearance system.
- Section 32A is being amended by inserting words and comma "payment of revenue through self-assessment," to curb the tendency of deliberate wrong self-assessments on the part of the importers.
- Proviso to sub-section (1) of section 79 is being amended in order to restrict the facility of filing of goods declaration after examining the goods by the importer to only in case of used goods. Besides, the permission for filing of goods declaration after examination of goods can now only be granted by the Additional Collector.
- Section 81, sub-section (2) is being amended in order to finalize the cases of provisional assessment within three months.
- Section 81, sub-section (4) is being amended in order to streamline procedure for passing an order after final determination of provisional assessment.
- Section 156, sub-section (1), is being amended to enhance the general penalty to the extent of Rs.50,000/-.
- Section 156, sub-section (1), clause (64) is being amended to enhance the penalty to the extent of not less than twice the value of the offending goods besides the

confiscation of goods for violation of section 128 and 129 of Customs Act, 1969. This penalty will create a deterrence vis-à-vis the smuggling of transit trade goods.

- In section 194A, sub-section (1), a new clause (e) is being added which would enable any person or an officer of Customs to file an appeal before the Appellate Tribunal in cases of review order passed by the Director General Customs Valuation under section 25D provided the appeal is heard by the double bench of the Appellate Tribunal.

THE SALES TAX ACT, 1990

AMENDMENTS PROPOSED BY THE FINANCE BILL, 20 10

All amendments shall be effective from June 05, 2010 unless otherwise provided

1. DEFINITIONS

SECTION 2

The following amendments to Section 2 of the Sales Tax Act , 1990, have been proposed through the Finance Bill, 20 10.

Appellate Tribunal

Clause (1)

The proposed amendment seeks to provide unified Appellate Tribunal for Income Tax, Sales Tax and Federal Excise under the name "Appellate Tribunal Inland Revenue" established under section 130 of the Income Tax Act, 2001.

Before this proposed amendment sales tax cases were being dealt by Customs, Excise and Sales Tax Appellate Tribunal established under section 194 of the Customs Act, 1969.

Appropriate Officer

Clause (2)

This proposed amendment seeks to replace the words "Officer of Sales Tax" with the words "Officer of Inland Revenue" in order to provide a single nomenclature for unified authority for Income Tax, Sales Tax and Federal Excise.

After this amendment, the officer dealing with sales tax shall be named as Officer of Inland Revenue

Number of amendments has been proposed in various relevant sections of the Act to incorporate the effect of this proposed amendment.

Associates (Associated Persons)

Clause (3)

This proposed amendment seeks to incorporate the effect of amendment proposed in section 2(5) by replacing the word "Collector" with the word "Commissioner".

Chief Commissioner

Clause (4A)

This newly proposed clause defines Chief Commissioner as a person appointed as Chief Commissioner Inland Revenue under section 30 of the Act.

Commissioner

Clause (5)

This proposed amendment seeks to provide the designation of Commissioner in place of Collector. The Commissioner means the Commissioner Inland Revenue appointed under section 30 of the Act.

The proposed designation shall have unified authority under Income Tax, Sales Tax and Federal Excise.

Number of amendments has been proposed in various relevant sections of the Act to incorporate the effect of this proposed amendment.

Local Inland Revenue Office

Clause (15)

This proposed amendment defines the Local Inland Revenue Office as office of Superintendent of Inland Revenue, which will deal with three domestic taxes. Before the proposed amendment for sales tax purposes this office was named as Local Sales Tax Office.

Number of amendments has been proposed in various relevant sections of the Act to incorporate the effect of this proposed amendment.

Officer of Inland Revenue

Clause (18)

This proposed amendment defines the Officer of Inland Revenue as an officer appointed under section 30 of the Act.

Value of Supply

Clause (46)

The amendment proposed in this clause seeks to incorporate the effect of amendments proposed in section 2(5) and section 2 (15) by replacing the words "Sales Tax" and "Collector" with the words "Inland Revenue" and "Commissioner" respectively.

2. Scope of tax

SECTION 3

The proposed amendment seeks to enhance the standard rate of sales tax from 16% to 17%. This proposed amendment shall take effect from July 01, 2010

3. Refund of input tax

SECTION 10

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Collector of Sales Tax" with the words "Commissioner Inland Revenue".

4. Assessment of Tax

SECTION 11

The proposed amendment seeks to incorporate the effect of amendments proposed in sections 2 and section 30 by replacing the words "Sales Tax Officer", "Collector of Sales Tax" and "Sales Tax Department" with the words "Officer of Inland Revenue", "Commissioner" and "Inland Revenue" respectively.

5. De-registration, blacklisting and suspension of registration

SECTION 21

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the word "Collector" with the word "Commissioner".

6. Tax Invoices

SECTION 23

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the word "Collector" with the word "Commissioner".

7. Retention of record and documents for six years-

SECTION 24

The proposed amendment seeks to enhance the limit for retention of record from five to six years.

According to the proposed amendment, the registered person shall be required to maintain the sales tax record for six years or such further period till the final decision of any relevant proceeding.

8. Access to record, documents, etc.

SECTION 25

The proposed amendment seeks to redefine the audit procedure in order to bring harmony in conducting audit of income tax, sales tax and federal excise.

According to the proposed amendment, the audit procedure shall be as under: -

The registered person on demand of Commissioner, shall provide the sales tax records to an officer of Inland Revenue authorized by the Commissioner.

Such officer shall conduct the audit on annual basis, however if the commissioner has sufficient information or evidence showing that the registered person is involved in tax fraud or evasion, he may authorized an officer, not below the rank of Assistant Commissioner, to conduct an inquiry or

investigation under section 38 of the Act by visiting the business premises of the registered person.

The officer of Inland Revenue is empowered to conduct the audit of the records which were earlier audited by the office of the Auditor -General of Pakistan.

After audit, the officer may pass an order under section 11 or 36 of the Act as the case may be.

If a registered person wishes to deposit the amount of tax short paid or amount of tax evaded along with default surcharge voluntarily, whenever it comes to his notice, before receipt of notice of audit, no penalty shall be recovered from him.

If a registered person wishes to deposit the amount of tax short paid or amount of tax evaded along with default surcharge during the audit, or at any time before issuance of show cause notice, he may deposit the evaded amount of tax, default surcharge under section 34, and twenty five per cent of the penalty payable under section 33 .

If a registered person wishes to deposit the amount of tax short paid or amount of tax evaded along with default surcharge after issuance of show cause notice, he shall deposit the evaded amount of tax, default surcharge under section 34, and full amount of the penalty payable under section 33 and thereafter, the show cause notice, shall stand abated.

9. Drawing of samples

SECTION 25A

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Officer of Sales Tax" with the words "Officer of Inland Revenue".

It has further been proposed to incorporate the words "Large Taxpayers Unit or Regional Tax Office, as the case may be" in place of the word "Collectorate".

10. Transactions between associates

SECTION 25AA

This newly proposed section empowers the Commissioner or an officer of Inland Revenue to determine the transfer price of taxable supplies between two associated persons in order to reflect the fair market value of such supplies in an arm's length transaction.

11. Return

SECTION 26

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Officer of Sales Tax" and "Collector of Sales Tax" with the words "Officer of Inland Revenue" and "Commissioner Inland Revenue" respectively.

12. Special Returns

SECTION 27

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the word "Collector" with the word "Commissioner".

13. Final Return

SECTION 28

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the word "Collector" with the word "Commissioner".

14. Appointment of authorities

SECTION 30

The proposed amendment seeks to harmonize nomenclature of authorities for Inland Revenue taxes and empowers the Board to appoint such authorities.

The proposed amendment seeks to substitute existing provisions and provide that the Board may, appoint in relation to any area, person or class of persons, any person to be-

- (a) a Chief Commissioner Inland Revenue;
- (b) a Commissioner Inland Revenue;
- (c) a Commissioner Inland Revenue (Appeals);
- (d) an Additional Commissioner Inland Revenue;
- (e) a Deputy Commissioner Inland Revenue;
- (f) an Assistant Commissioner Inland Revenue;
- (g) an Inland Revenue Officer;
- (h) a Superintendent Inland Revenue;
- (i) an Inland Revenue Audit Officer; and
- (j) an officer of Inland Revenue with any other designation.

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

Additional Commissioner Inland Revenue, Deputy Commissioners Inland Revenue, Assistant Commissioner Inland Revenue, Superintendent Inland Revenue, Inland Revenue Audit Officer, Inland Revenue Officer, and officer of Inland Revenue with any other designation shall be subordinate to the Commissioner Inland Revenue and shall perform their functions in respect of such persons or classes of persons or such areas as the Commissioners, to whom they are subordinate, may direct.

Deputy Commissioner Inland Revenue, Assistant Commissioner Inland Revenue, Superintendent Inland Revenue, Inland Revenue Audit Officer, Inland Revenue Officer and officer of Inland Revenue with any other designation shall be subordinate to the Additional Commissioner Inland Revenue.

15. Powers

SECTION 31

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Officer of Sales Tax" with the words "Officer of Inland Revenue".

16. Delegation of powers

SECTION 32

The proposed amendment seeks to empower the Board or a Chief Commissioner, with approval of Board, to delegate the powers to various officers. The Board or a Commissioner can empower:-

Any Additional Commissioner Inland Revenue or Deputy Commissioner Inland Revenue to exercise any of the powers of a Commissioner Inland Revenue .

Any Deputy Commissioner Inland Revenue or Assistant Commissioner Inland Revenue to exercise any of the powers of an Additional Commissioner Inland Revenue.

Any Assistant Commissioner Inland Revenue to exercise any of the powers of a Deputy Commissioner Inland Revenue .

Any other officer of Inland Revenue to exercise any of the powers of an Assistant Commissioner Inland Revenue .

17. Special Audit by Chartered Accountants or Cost Accountants

SECTION 32A

The proposed amendment seeks to empower the Commissioner besides to the Board to appoint the Chartered Accountant or Cost Accountant to conduct the Special Audit.

Further amendments have been proposed seeking to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Officer of Sales Tax" and "Collector" with the words "Officer of Inland Revenue" and "Commissioner" respectively.

18. Offences and penalties

SECTION 33

The proposed amendment seeks to incorporate the corresponding effects of amendments proposed in section 2 and section 30 by replacing the words "Officer of Sales Tax" and "Assistant Collector of Sales Tax" with the words "Officer of Inland Revenue" and "Assistant Commissioner" respectively.

19. Recovery of tax not levied or short -levied or erroneously refunded

SECTION 36

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Officer of Sales Tax" and "Collector" with the words "Officer of Inland Revenue" and "Commissioner" respectively.

20. Power to summon persons to give evidence and produce documents in inquiries under the Act

SECTION 37

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Officer of Sales Tax" with the words "Officer of Inland Revenue".

21. Power to arrest and prosecute

SECTION 37A

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Officer of Sales Tax", "Collector" and "Assistant Collector of Sales Tax" with the words "Officer of Inland Revenue", "Commissioner" and "Assistant Commissioner Inland Revenue" respectively.

22. Authorised officers to have access to premises, stocks, accounts and records

SECTION 38

The proposed amendment seeks to empower the Commissioner besides the Board to authorize any officer to have access to premises, stocks, accounts and records of the registered person. This proposed amendment shall take effect from July 01, 2010.

23. Power to call for information **SECTION 38A**

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the word "Collector" with the word "Commissioner".

24. Obligation to produce documents and provide information **SECTION 38B**

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Officer of Sales Tax" and "Deputy Collector of Sales Tax" with the words "Officer of In land Revenue" and "Deputy Commissioner Inland Revenue".

25. Searches under warrant **SECTION 40**

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Officer of Sales Tax" with the words "Officer of Inland Revenue".

26. Posting of Sales Tax Officer **SECTION 40B**

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Officer of Sales Tax" and "Collector" with the words "Officer of Inland Revenue" and "Commissioner" respectively.

27. Power of Adjudication **SECTION 45**

This section specifying the jurisdiction and powers of officers is proposed to be omitted. After this amendment, the audit and other relevant proceedings shall be initiated under section 25 of the Act.

28. Power of the Board and Commissioner to call for records **SECTION 45A**

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Officer of Sales Tax" and "Collector" with the words "Officer of Inland Revenue" and "Commissioner" respectively.

29. Appeals **SECTION 45B**

The proposed amendment seeks to omit the reference of section 45, since section 45 is proposed to be omitted, however it has been proposed to give right of appeal to the person aggrieved by any order under section 25 of the Act.

Further amendments have been proposed to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Collector of Sales Tax" and "Collector" with the words "Commissioner Inland Revenue" and "Commissioner" respectively.

30. Appeals to Appellate Tribunal

SECTION 46

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Officer of Sales Tax", "Additional Collector", "Collector of Sales Tax (Appeals)" and "Collector of Sales Tax" with the words "Officer of Inland Revenue", "Additional Commissioner", "Commissioner Inland Revenue (Appeals) and "Commissioner Inland Revenue" respectively.

Further in order to incorporate the corresponding effect of amendment proposed in section 2(1) the reference to Customs Act, 1969 is proposed to be replaced with Income Tax Ordinance, 2001.

It has further been proposed that all appeals and proceedings under this Act pending before the Customs, Excise and Sales Tax Appellate Tribunal constituted under section 194 of the Customs Act 1969 (IV of 1969) shall stand transferred to the Appellate Tribunal constituted under section 130 of the Income Tax Ordinance 2001 (XLIX of 2001) with effect from the 28th day of October, 2009 .

31. Reference to the High Court

SECTION 47

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Officer of Sales Tax" and "Collector" with the words "Officer of Inland Revenue" and "Commissioner" respectively.

32. Alternative dispute resolution

SECTION 47A

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Officer of Sales Tax" and "Additional Collector" with the words "Officer of Inland Revenue" and "Additional Commissioner" respectively.

33. Recovery of arrears of tax

SECTION 48

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Officer of Sales Tax" with the words "Officer of Inland Revenue".

34. Liquidators

SECTION 49A

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the word "Collector" with the word "Commissioner".

35. Appearance by authorised representative

SECTION 52

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Officer of Sales Tax" with the words "Officer of Inland Revenue".

36. Removal of difficulties

SECTION 55

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Officer of Sales Tax" with the words "Officer of Inland Revenue".

37. Service of orders, decisions, etc.

SECTION 56

The proposed amendment seeks to bring improvement in service of notices / orders. The proposed amendment provides that: -

Any notice, order or requisition required to be served on a resident individual, other than in a representative capacity, shall be treated as properly served on the individual if –

- (a) personally served on the individual or, in the case of an individual under a legal disability or a non-resident individual, the representative of the individual;
- (b) sent by registered post or courier service to the place specified in clause (b) of sub-section (2) or to the individual's usual or last known address in Pakistan; or
- (c) served on the individual in the manner prescribed for service of a summons under the Code of Civil Procedure, 1908 (V of 1908).

Any notice, order or requisition required to be served on any person, other than a resident individual shall be treated as properly served on the person if –

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

- (b) sent by registered post or courier service to the person's registered office or address for service of notices under this Act, in Pakistan, or where the person does not have such office or address, the notice is sent by registered post to any office or place of business of the person in Pakistan; or
- (c) served on the person in the manner prescribed for service of a summons under the Code of Civil Procedure, 1908 (V of 1908).

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

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

The validity of any notice issued or the validity of any service of a notice shall not be called into question after the notice has been complied with in any manner.

38. Representatives **SECTION 58A**

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the word "Collector" with the word "Commissioner".

39. Liability and obligations of representatives **SECTION 58B**

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the word "Collector" with the word "Commissioner".

40. Refund to be claimed within one year **SECTION 66**

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Officer of Sales Tax" and "Collector" with the words "Officer of Inland Revenue" and "Commissioner" respectively.

41. Issuance of duplicate of sales tax documents **SECTION 69**

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Officer

of Sales Tax" and "Assistant Collector" with the words "Officer of Inland Revenue" and "Assistant Commissioner" respectively.

42. Officers of Inland Revenue to follow Board's orders, etc. SECTION 72

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the words "Officers of Sales Tax" with the words "Officers of Inland Revenue".

43. Reference to authorities SECTION 72A

This newly proposed section provides that any reference to Collector, Additional Collector, Deputy Collector, Assistant Collector, Superintendent, Senior Auditor and an Officer of Sales Tax, wherever occurring, in this Act and the rules, notifications, clarifications, general orders or orders made or issued thereunder, shall be construed as reference to Commissioner Inland Revenue, Additional Commissioner Inland Revenue, Deputy Commissioner Inland Revenue, Assistant Commissioner Inland Revenue, Superintendent Inland Revenue, Inland Revenue Audit Officer and an officer of Inland Revenue, respectively.

44. Selection of audit by the Board SECTION 72B

This newly proposed section empowers the Board to select the persons or classes of persons, for audit, through random or parametric computer ballot. The audit of the persons selected under this section shall be conducted under the procedure as provided in section 25 of the Act.

This newly proposed section shall be effective from July 01, 2010.

45. Certain transactions not admissible SECTION 73

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the word "Collector" with the word "Commissioner".

46. Condonation of time-limit SECTION 74

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 30 by replacing the word "Collector" with the word "Commissioner".

PROPOSED SALES TAX NOTIFICATIONS ACCOMPANIED WITH FINANCE BILL, 2010

S.R.O. 395(I)/2010

This SRO amends the SRO 644(I)/2007 dated June 27, 2007 with effect from July 01, 2010. The SRO 644(I)/2007 provides two list of items on which sales tax is charged and collected at the rate of 20% and 18% respectively.

The proposed SRO seeks to enhance the rate of tax from 20% to 21% and 18% to 19% respectively.

S.R.O. 396(I)/2010

This SRO amends the SRO 313(I)/2006 dated March 31, 2006, which deals with rate of tax on import of soyabean by solvent extraction industries.

The proposed SRO seeks to enhance the rate of tax from 6% to 7% of the value on import of soyabean by solvent extraction industries subject to the condition that no refund of input tax shall be admissible.

The proposed SRO shall take effect from July 01, 2010.

S.R.O. 397(I)/2010

This SRO amends the SRO 69(I)/2006 dated January 28, 2006. The proposed SRO seeks to enhance the rate of tax from 14% to 15% of the value on import of rape seed by solvent extraction industries.

The proposed SRO shall take effect from July 01, 2010.

S.R.O. 398(I)/2010

This SRO amends the Sales Tax Special Procedures Rules, 2007 with immediate effect.

The proposed SRO seeks to enhance the rate of tax to be charged on supply of natural gas to CNG Stations from 25% to 26%. This rate shall include 17% standard sales tax and 9% value addition tax.

Federal Excise ACT, 2005

AMENDMENTS PROPOSED BY THE FINANCE BILL, 2010

All amendments shall be effective from June 05, 2010 unless otherwise provided

1. DEFINITIONS

SECTION 2

The following amendments to Section 2 of the Federal Excise Act, 2005, have been proposed through the Finance Bill, 2009.

Appellate Tribunal

Clause (3)

The proposed amendment seeks to provide unified Appellate Tribunal for Income Tax, Sales Tax and Federal Excise under the name "Appellate Tribunal Inland Revenue" established under section 130 of the Income Tax Act, 2001.

Before this proposed amendment federal excise cases were being dealt by Customs, Excise and Sales Tax Appellate Tribunal established under section 194 of the Customs Act, 1969.

Chief Commissioner

Clause (4A)

This newly proposed clause defines Chief Commissioner as a person appointed as Chief Commissioner Inland Revenue under section 29 of the Act.

Commissioner

Clause (5)

This proposed amendment seeks to provide the designation of Commissioner in place of Collector. The Commissioner means the Commissioner Inland Revenue appointed under section 29 of the Act.

The proposed designation shall have unified authority under Income Tax, Sales Tax and Federal Excise.

Number of amendments has been proposed in various relevant sections of the Act to incorporate the effect of this proposed amendment.

Officer of Inland Revenue

Clause (12)

This proposed amendment defines the Officer of Inland Revenue as an officer appointed under section 29 of the Act or any other person entrusted by Board with any powers of an officer of Inland Revenue.

2. Filing of return and payment of duty etc. SECTION 4

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 29 by replacing the words "Collector of Federal Excise" with the words "Commissioner Inland Revenue".

3. Liability for payment of duty in the case of private companies or business enterprises or in case of sale of business ownership SECTION 9

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 29 by replacing the word "Collector" with the word "Commissioner".

4. Recovery of unpaid duty or of erroneously refunded duty of arrears of duty, etc. SECTION 14

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 29 by replacing the words "Federal Excise Officer" with the words "Officer of Inland Revenue".

5. Records SECTION 17

The proposed amendment seeks to enhance the limit for retention of record from five to six years.

According to the proposed amendment, the registered person shall be required to maintain the federal excise record for six years or such further period till the final decision of any relevant proceeding.

6. Offences, penalties, fines and allied matters SECTION 19

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 29 by replacing the words "Federal Excise Officer" and "Collector" with the words "Officer of Inland Revenue" and "Commissioner" respectively.

7. Trial of offences by Special Judge SECTION 21

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 29 by replacing the words "Federal Excise Officers" with the words "Officers of Inland Revenue".

8. Power to arrest and prosecute **SECTION 22**

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 29 by replacing the words "Federal Excise Officer" and "Collector" with the words "Officer of Inland Revenue" and "Commissioner" respectively.

9. Power to summon persons to give evidence and produce documents in inquiries **SECTION 23**

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 29 by replacing the words "Federal Excise Officer" with the words "Officer of Inland Revenue".

10. Officers required to assist Officers of Inland Revenue **SECTION 24**

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 29 by replacing the words "Federal Excise Officer" with the words "Officers of Inland Revenue".

11. Confiscation of cigarettes **SECTION 27**

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 29 by replacing the word "Collector" with the word "Commissioner".

12. Appointment of Inland Revenue officers and delegation of powers **SECTION 29**

The proposed amendment seeks to harmonize nomenclature of authorities for Inland Revenue taxes and empowers the Board to appoint such authorities.

The proposed amendment seeks to provide that the Board may, appoint in relation to any area, person or class of persons, any person to be -

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

- (h) Superintendent Inland Revenue;
- (i) Inspectors Inland Revenue;
- (j) Inland Revenue Audit Officer; and
- (k) officer of Inland Revenue with any other designation.

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

Additional Commissioners Inland Revenue, Deputy Commissioners Inland Revenue, Assistant Commissioners Inland Revenue, Inland Revenue Officers, Superintendent Inland Revenue, Inland Revenue Audit Officers, Inspectors Inland Revenue and Officers of Inland Revenue with any other designation shall be subordinate to the Commissioners Inland Revenue and shall perform their functions in respect of such persons or classes of persons or such areas as the Commissioners, to whom they are subordinate, may direct.

Deputy Commissioners Inland Revenue, Assistant Commissioners Inland Revenue, Inland Revenue Officers, Superintendent Inland Revenue, Inland Revenue Audit Officers, Inspectors Inland Revenue and Officers of Inland Revenue with any other designation shall be subordinate to the Additional Commissioners Inland Revenue.

It has further been proposed to empower Chief Commissioner, with the approval of Board, besides the Board to delegate the powers to various officers.

It has further been proposed to withdraw the powers of Commissioner to delegate his powers to any of his subordinate.

Further necessary amendments have been proposed to incorporate the effect of amendments made in section 2 and section 29 of the Act.

13. Use of powers of subordinate officer

SECTION 30

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 29 by replacing the words "Federal Excise Officer" with the words "Officers of Inland Revenue".

14. Power of adjudication

SECTION 31

The proposed amendment seeks to omit the existing section relating to the jurisdiction and powers of the officers for audit and adjudication. The audit and other relevant proceedings shall be initiated under section 46 of the Act

15. Appeals to Commissioner (Appeals)

SECTION 33

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 29 by replacing the words "Federal Excise Officer", "Collector" and "Additional Collector of Federal Excise" with the words "Officer of Inland Revenue", "Commissioner", and "Additional Commissioner Inland Revenue" respectively.

16. Appeals to Appellate Tribunal and Reference to High Court

SECTION 34

It has been proposed to withdraw the powers of Appellate Tribunal to refuse to admit an appeal in respect of order where the duty involved, or fine and penalty imposed does not exceed Rs. 500,00/-

Further amendment have been proposed seeking to incorporate the corresponding effect of amendments proposed in section 2 and section 29 by replacing the words "Federal Excise Officer", "Collector", "Additional Collector" and "Collector of Federal Excise" with the words "Officer of Inland Revenue", "Commissioner", "Additional Commissioner" and "Commissioner Inland Revenue" respectively.

17. Reference to High Court

SECTION 34A

This newly proposed section provides procedure for reference to be filed before High Court with effect from July 01, 2010. The proposed section provides that: -

Within ninety days of the communication of the order of the Appellate Tribunal, the aggrieved person or the Commissioner may prefer an application, in the prescribed form along with a statement of the case, to the High Court, stating any question of law arising out of such order.

The statement shall set out the facts, the determination of the Appellate Tribunal and the question of law which arises out of its order.

If the High Court is satisfied that a question of law arises out of the order it may proceed to hear the case.

The reference shall be heard by a Bench of not less than two judges of the High Court and, in respect of the reference, the provisions of section 98 of the Code of Civil Procedure, 1908 (Act V of 1908), shall apply.

The High Court after hearing shall decide the question of law raised by the reference and pass judgment thereon specifying the grounds on which such

judgment is based and the Tribunal's order shall stand modified accordingly. The Court shall send a copy of the judgment under the seal of the Court to the Appellate Tribunal.

Notwithstanding that a reference has been made to the High Court, the tax shall be payable in accordance with the order of the Appellate Tribunal.

Provided that, if the amount of tax is reduced as a result of the judgment in the reference by the High Court and the amount of tax found refundable, the High Court may, on application by the Commissioner within thirty days of the receipt of the judgment of the High Court that he wants to prefer petition for leave to appeal to the Supreme Court, make an order authorizing the Commissioner to postpone the refund until the disposal of the appeal by the Supreme Court.

Where recovery of tax has been stayed by the High Court by an order, such order shall cease to have effect on the expiration of a period of six months following the day on which it was made unless the appeal is decided or such order is withdrawn by the High Court earlier.

Section 5 of the Limitation Act, 1908 (IX of 1908), shall apply to an application made to the High Court under sub-section (1).

An application under this section by a person other than the Commissioner shall be accompanied by a fee of one hundred rupees.

18. Powers of Board or Commissioner to pass certain orders **SECTION 35**

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 29 by replacing the words "Federal Excise Officers", and "Collector" with the words "Officer of Inland Revenue", and "Commissioner" respectively.

19. Power to rectify mistakes in orders **SECTION 36**

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 29 by replacing the words "Federal Excise Officer" with the words "Officer of Inland Revenue".

20. Deposit, pending appeal, of duty demanded or penalty levied **SECTION 37**

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 29 by replacing the words "Collector (Appeals)" with the words "Commissioner (Appeals)" respectively.

21. Alternative dispute resolution

SECTION 38

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 29 by replacing the words "Officer of Federal Excise", and "Additional Collector" with the words "Officer of Inland Revenue", and "Additional Commissioner" respectively.

22. Reference to authorities

SECTION 42A

This newly proposed section provides that any reference to Collector, Additional Collector, Deputy Collector, Assistant Collector, Superintendent and an officer of Federal Excise, wherever occurring, in this Act and the rules, notifications, clarifications, general orders or orders made or issued thereunder, shall be construed as reference to Commissioner Inland Revenue, Additional Commissioner Inland Revenue, Deputy Commissioner Inland Revenue, Assistant Commissioner Inland Revenue, Superintendent Inland Revenue and an officer of Inland Revenue, respectively.

23. Selection of audit by the Board

SECTION 42B

This newly proposed section empowers the Board to select the persons or classes of persons, for audit, through random or parametric computer ballot. The audit of the persons selected under this section shall be conducted under the procedure as provided in section 46 of the Act.

24. Removal of difficulties and condonation of time limit etc.

SECTION 43

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 29 by replacing the words "Officer of Federal Excise", and "Collector" with the words "Officer of Inland Revenue", and "Commissioner" respectively.

25. Refund of duty

SECTION 44

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 29 by replacing the words "Officer of Federal Excise", and "Collector" with the words "Officer of Inland Revenue", and "Commissioner" respectively.

26. Access to records and posting of Inland Revenue staff, etc.

SECTION 45

The proposed amendment seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 29 by replacing the words

“Federal Excise Officer”, and “Collector” with the words “Officer of Inland Revenue”, and “Commissioner” respectively.

27. Departmental Audit

SECTION 46

The proposed amendment seeks to empower Commissioner besides the Board to authorize an officer of Inland Revenue to conduct audit.

It has further been proposed that the officer of Inland Revenue, after completion of audit and necessary explanations for registered person, shall pass an order under section 14 of the Act.

Further proposed amendments seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 29 by replacing the words “Federal Excise Officer”, “Collector” and “Assistant Collector” with the words “Officer of Inland Revenue”, “Commissioner” and “Assistant Commissioner” respectively.

28. Service of notices and other documents

SECTION 47

The proposed amendment seeks to substitute the existing provisions relating service of notices and orders. The proposed amendment provides that: -

Any notice, order or requisition required to be served on a resident individual (other than in a representative capacity) shall be treated as properly served on the individual if:-

- (a) Personally served on the individual or, in the case of an individual under a legal disability or a non-resident individual, the representative of the individual;
- (b) Sent by registered post or courier service to the individual's usual or last known address in Pakistan; or
- (c) Served on the individual in the manner prescribed for service of a summons under the Code of Civil Procedure, 1908 (Act V of 1908).

Any notice, order or requisition required to be served on any person (other than a resident individual) shall be treated as properly served on the person if –

- (a) Personally served on the representative of the person;
- (b) Sent by registered post or courier service to the person's registered office or address for service of notices, in Pakistan, or where the person does not have

such office or address, the notice is sent by registered post to any office or place of business of the person in Pakistan;

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

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

Where, business stands discontinued, any notice, on the person discontinuing the business may be served on the person personally or on any individual who was the person's representative at the time of discontinuance.

The validity of any notice issued or the validity of any service of a notice shall not be called into question after the notice has been complied with in any manner.

29. FIRST SCHEDULE

Following amendments have been proposed in First Schedule: -

- The proposed rate of duty applicable on cigarettes shall be as follows: -
 - (i) 65% of retail price of Cigars, cheroots, cigarillos and cigarettes of tobacco substitutes. Before amendment, the rate of duty was 64% of the retail price for this category.
 - (ii) 65% of retail price of locally produced cigarettes, if retail price exceeds Rs. 19.50/- per ten cigarettes. Before the amendment, the rate of duty was 64% of retail price for this category.
 - (iii) Rs. 5.75 per ten cigarettes plus 70% per incremental rupee or part thereof of locally produced cigarettes, if their retail price exceeds Rs. 10 but does not exceed Rs. 19.50 per ten cigarettes. Before the amendment, the rate of duty was Rs. 4.75 per ten cigarettes plus 70% per incremental rupee or part thereof for this category.
 - (iv) Rs. 5.75 per ten cigarettes of locally produced cigarettes, if retail prices do not exceed Rs. 10.00 per ten cigarettes. Before this amendment, the rate of duty was Rs. 4.75 per ten cigarettes for this category.
 - (v) 65% of retail price of cigarettes manufactured by a manufacturer who remains engaged on and after the 10th June 1994, either directly or through any other

arrangement, in the manufacture of any brand of cigarette in non-tariff areas. Before the amendment, the rate of duty for this category was 64% of retail price for this category.

- (vi) It has also been proposed that no cigarette manufacturer shall reduce the price from the level adopted on the day of announcement of the Budget 2010-11.
- Rate of duty on natural gas in gaseous state and other petroleum gases in gaseous state is proposed to be enhanced from Rs. 5.09 per MMBTu to Rs. 10 per MMBTu. This proposed amendment shall take effect from July 01 , 2010.
 - Duty at the rate of Rs. 1 per filter rod is proposed to be imposed on filter rods for cigarettes.
 - Duty at the rate of 10% ad val. is proposed to be imposed on Air Conditioners.
 - Duty at the rate of 10% ad val. is proposed to be imposed on Deep Fr eezers.

30. THIRD SCHEDULE

The proposed amendment in this schedule seeks to incorporate the corresponding effect of amendments proposed in section 2 and section 29 by replacing the words “Collector of Federal Excise” with the words “Commissioner Inland Revenue”.

PROPOSED FEDERAL EXCISE NOTIFICATIONS ACCOMPANIED WITH FINANCE BILL, 2010

S.R.O. 399/(I)/2010

This SRO rescinds SRO 650(I)/2005, dated July 01, 2005, hence allowing, the manufacturers of the aerated waters to adjust the duty paid on Concentrates in all forms including syrup form, Flavours and concentrates.

This SRO shall take effect from July 01, 2010.

INCOME TAX ORDINANCE 2001

AMENDMENTS PROPOSED BY THE FINANCE BILL, 2010

Through Finance Bill 2010, 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 this amendment Clause (2) of the section (2) to this Ordinance is proposed to be substituted, whereby it has been sought to change the name of the Income Tax Appellate Tribunal and now Appellate Tribunal means Appellate Tribunal Inland Revenue established under section 130, which is a consequence of establishment of Inland Revenue Services Board.
- b) A new sub-clause (11B) is also proposed to be added to the Section 2, whereby, definition of Chief Commissioner is provided and as per proposed definition - Chief Commissioner means a person appointed as Chief Commissioner Inland Revenue under section 208 and includes a Regional Commissioner of Income Tax and a Director General of Income Tax and Sales Tax;
- c) By this amendment a clause (13) is proposed to be substituted, whereby the definition and functions of the commissioner are modified in accordance with the requirements of Inland Revenue Services and now Commissioner means a person appointed as Commissioner Inland Revenue under section 208 and includes any other authority vested with all or any of the powers and functions of the Commissioner;
- d) A new sub-clause (13B) is also proposed to be added to the section 2, whereby, definition of Commissioner (Appeals) is provided and as per proposed definition Commissioner (Appeals) means a person appointed as Commissioner Inland Revenue (Appeals) under section 208;
- e) By this amendment a clause (29C) is proposed to be substituted, however, there is no difference in the definition of Industrial undertaking as provided by both

substituted and eliminated clause (29C).

- f) By this proposed amendment it has been sought to include the special officers in the definition of Officer of Inland Revenue, whereby it has been sought to resolve a long outstanding demand of the Special Officers.
- g) The proposed amendment seeks to omit the Clause (48A) and Clause 6 5, however, these clauses has already been omitted by Finance Amendment Ordinance, 2009. By these two amendments, it has been sought to remove the definition of Regional Commissioner and Taxation Officer, as the same are proposed in the aforesaid proposed amendments.

VALUE OF PERQUISITES

SECTION 13

The proposed amendments seeks to add a proviso after sub -section 7 of section 13, whereby, it has been proposed to provide exemption to the employees in respect of benefit arising to an employee due to a waiver of interest on his account with the employer.

CAPITAL GAIN

SECTION 37

The proposed amendment seeks to harmonize sub -section 3 of section 37 with newly proposed section 37A.

CAPITAL GAIN ON GAIN OF SECURITIES

SECTION 37A

By the Insertion of this new section, it has been sought to broaden the tax net and the scope of taxation is extended to the capital gain arising from sale of securities. The proposed section is reproduced for the benefit of reader:

37A. Capital gains on sale of securities:

- 1) Subject to this Ordinance, a gain arising on the sale of securities shall be chargeable to tax at the rate specified in Division VII of Part I of the First Schedule;

Provided that this sub-section shall not apply if the securities are held for

a period of more than twelve months;

Provided further that the provisions shall not apply to a banking company.

- 2) In this section, securities means shares of a public company, vouchers of Pakistan Telecommunication Corporation, Modaraba, Certificates or instruments of redeemable capital.
- 3) The amount of gain under this section shall be treated as a separate block of income.

TAX CREDITS FOR INVESTMENT

SECTION 65B

The proposed amendment seeks to insert a new section 65B, whereby it has been proposed to provide tax credit equal to 10% of cost incurred on balancing, modernization and replacement (BMR) in an industrial undertaking set up in Pakistan against net tax liability. The newly proposed section is reproduced for ready reference:

65B. Tax credit for investment:

- 1) Subject to sub-section (1), where a taxpayer being a company invests any amount in the purchase of a plant and machinery for installation, for the purposes of balancing, modernization and replacement in an industrial undertaking set up in Pakistan and owned by it, credit equal to ten per cent of the tax payable shall be allowed for the tax year in which the said costs are incurred against the tax payable by the company.
- 2) The provisions of sub-section (1) shall apply if the plant and machinery is purchased and installed at any time between the first day of July, 2010, and the 30th day of June, 2015.
- 3) Where any credit is allowed under this section and subsequently it is discovered by the Commissioner Inland Revenue that any one or more of the conditions specified in this section was, or were, not fulfilled, as the case may be, the credit originally allowed shall be deemed to have

been wrongly allowed and the Commissioner Inland Revenue may, notwithstanding anything contained in this Ordinance, re-compute the tax payable by the taxpayer for the relevant year and the provisions of this Ordinance shall, so far as may be, apply accordingly;

TAX CREDITS FOR ENLISTMENT

SECTION 65C

The proposed amendment seeks to insert a new section 65C, whereby it has been sought to provide tax credit equal to 5% of the tax payable for companies opting for enlistment on registered stock exchanges in Pakistan. The newly proposed section is reproduced for ready reference:

65C. Tax credit for enlistment

- 1) Where a taxpayer being a company opts for enlistment in any registered stock exchange in Pakistan, a tax credit equal to five per cent of the tax payable shall be allowed for the tax year in which the said company is enlisted.

DECEASED INDIVIDUALS

SECTION 87

By this amendment it has been sought to add a new sub-section 2A after section 2 of section 87, whereby it has been sought to create first charge of Income tax on the estate of deceased taxpayer.

UNEXPLAINED INCOME

SECTION 111

The proposed amendment seeks to omit clause b of sub-section 4, whereby it has been sought to withdraw the immunity provided to the taxpayer against their unexplained income credited in the books of accounts relating to a period preceding five tax years or assessment years. Further, the provisions of sub-section 2 are also harmonized with respect to the aforesaid amendment and it has been sought to tax the unexplained income pertain to any tax or assessment year whenever it comes to the notice of revenue.

MINIMUM TAX

SECTION 113

The proposed amendment seeks to extend the scope of the minimum tax to the individual and AOPs having turnover of Rs. 50 Million or above. Earlier minimum tax was

only payable by the companies. Further, another amendment is proposed to clause (e) of sub-section 1 whereby it has been sought to impose minimum tax on those resident companies/individuals/AOPs whose tax paid or payable is less than 1% of turnover from all their sources.

RETURN OF INCOME

SECTION 114

An amendment was made to aforesaid section, where by new sub-section (6) was substituted and a new sub-section (6A) was inserted through Finance Amendment Ordinance, 2009. The proposed amendment seeks to re-substitute the aforesaid subsection through the Finance Bill 2010. By this amendment the legislator seeks to streamline the procedure for revision of return and to provide for revision of return after initiation of audit proceedings. The newly proposed sub-section (6) and sub-section (6A) is reproduced for ready reference:

Sub-section (6)

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

- (a) it is accompanied by the revised accounts or revised audited accounts, as the case may be; and
- (b) the reasons for revision of return, in writing, duly signed, by the taxpayers are filed with the return;
- (c) after sub-section (6), substituted as aforesaid, the following new sub-section shall be inserted, namely: -

Sub-section (6A)

If a taxpayer wishes to file a revised return voluntarily along with deposit of the amount of tax short paid or amount of tax sought to be evaded along with the default surcharge, whenever it comes to his notice, before receipt of notice under sections 177 or sub-section (9) of 122, no penalty shall be recovered from him:

Provided that in case the taxpayer wishes to deposit the amount of tax as pointed out by the Commissioner during the audit or before the issuance of notice under sub-

section (9) of section 122, he shall deposit the amount of tax sought to be evaded, the default surcharge and twenty-five per cent of the penalties leviable under the Ordinance along with the revised return:

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

WEALTH STATEMENT

SECTION 116

The proposed amendment seeks to substitute new sub -section (2A), whereby it has been sought to make obligatory filing of wealth statement along with return where no return has been filed in response to a tax notice.

Further, the provision regarding filing of wealth statement has been shifted to this section from section 115 through an amendment proposed in section 115. Further, a new sub-section 4 is proposed to be added after sub-section 3, whereby, it has been sought to make obligatory the filing of wealth statement for the taxpayers other than a share limited Company, who have filed tax statement under sub -section 4 of section 115 of this Ordinance and paid tax amounting to Rs. 35,000/- or above.

METHODS OF FURNISHING RETURN

SECTION 118

The proposed amendment seeks to substitute sub -section 3 of section 118, whereby it has been sought to change the date of filing of salaried tax return and date of filing of tax statement under sub-section 4 of section 115. Earlier the last date of filing of these returns/statements is 30th of Sep, where as now it has been changed to 31st of August. The substituted subsection 3 is reproduced for the benefit of the reader:

Sub-section (3)

A return of income for any person (other than a company), an Annual Statement of deduction of income tax from salary, filed by the employer of an individual or a statement required under sub-section (4) of section 115 shall be furnished as per the following schedule, namely:-

- (a) In the case of an Annual Statement of deduction of income tax from salary, filed by the employer of an individual, return of income through e-portal in the case of a salaried person or a statement required under sub-section (4) of section 115, on or before the 31st day of August next following the end of the tax year to which the return, Annual Statement of deduction of income tax from salary, filed by the employer or statement relates.
- (b) in the case of a return of income for any person (other than a company), as described under clause (a), on or before the 30th day of September next following the end of the tax year to which the return relates;

ASSESSMENTS

SECTION 120

The proposed amendment to sub-section-(1A), seeks to harmonize the provision of this section with respect to the amendments made to section 177.

BEST JUDGMENT ASSESSMENT

SECTION 121

The proposed amendment seeks to omit clause (a) of sub-section (1). The said amendment is made in consequence to an amendment made to section 122. Further, the proposed amendment seeks to confer power for best judgment assessments to Cost and Management Accountants which is made in consequence of amendment made to sub section 8 of section 177 of this Ordinance.

AMENDMENT OF ASSESSMENTS

SECTION 122

By this proposed amendment to section 122, it has been sought to insert a new sub-section (5AA), whereby, the Commissioner has been empowered to amend the assessment made as per revised return filed under section 114(6A) or even if the case pertaining to said tax is pending before Commissioner (Appeal), provided the amendment in assessment is not with regard to any matter, which is sub-judice before Commissioner (Appeal). The newly proposed amendment is reproduced for ready reference:

- (5AA) The Commissioner is deemed to have, and always had, the powers to amend or further amend an assessment order under sub-section (5A), where appeal has been filed or decided against the order of the Commissioner, in respect of any point or issue which was not the subject matter of such appeal.

PROVISIONAL ASSESSMENT

SECTION 122C

By virtue of this amendment it has been sought to insert a new section 122C after section 122B, whereby it has been sought to make the provision of section 122 compatible with the amended section 114. The newly proposed section is reproduced as under:

122C. Provisional assessment:

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

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

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

APPEAL TO COMMISSIONER

SECTION 127

This proposed amendment is made in consequence of omission of sections 183-189 (Various kinds of penal actions). As no penalty under aforesaid sections could be levied, therefore, right of appeal under said provisions of law has also been withdrawn.

APPOINTMENT OF THE APPELLANT TRIBUNAL

SECTION 130

An amendment to section 130 was made by Finance Amendment Ordinance, 2009, whereby, the criteria for appointment as Member ITAT has been relaxed. The proposed

amendment seeks to validate the aforesaid amendment. The amended sub -section (4) of section 130 is reproduced for ready reference:

- 4) A person may be appointed as an accountant member of the Appellate Tribunal if the person is an officer of Inland Revenue equivalent in rank to that of a Regional Commissioner and the Commissioner of Inland Revenue or Commissioner of Inland Revenue (Appeals) having at least five years experience as Commissioner or Collector shall also be eligible for appointment.

DUE DATE FOR PAYMENT OF TAX

SECTION 137

By this amendment a proviso has been added after sub -section 2 of this section, whereby it has been required to provide a period of sixty days for payment of tax in respect of any tax demand created vide provisional assessment made under section 122C of this Ordinance.

ESTATE IN BANKRUPTCY

SECTION 138B

By this amendment seeks to insert a new section 138B; by virtue of this amendment it has been sought to pass on the tax liability on the estate in bankruptcy. Vide this proposed amendment it has also been required to settle the tax liability before the settlement of claims of other creditors.

ADVANCE TAX

SECTION 147

Several amendments are proposed to be made in section 147 to make it compatible with respect to various amendment proposed to be made in the provisions of this Ordinance. A brief of these amendments is given as under:

- a) The pattern of applicability of advance tax for association of person has been changed and it has been proposed to collect the advance tax from AOP on the same pattern as applicable to the Share limited companies.
- b) The minimum threshold of taxable income for applicability of advance tax has been proposed to be increased from Rs. 200,000/- (Current) to Rs. 500,000/- in the case of individual.
- c) The date of collection of advance tax has also been proposed to be changed

and now the same are proposed as under:

- i) in respect of the September quarter, on or before the 25th day of September;
 - ii) in respect of the December quarter, on or before the 25th day of December;
 - iii) in respect of the March quarter, on or before the 25th day of March; and
 - iv) in respect of the June quarter, on or before the 15th day of June.
- d) The advance tax on capital gain on sale of securities shall be collected as per the following pattern:

S. NO.	PERIOD	RATE OF ADVANCE TAX LIABILITY
(1)	(2)	(3)
(1)	Where holding period of a security is less than six months.	2%
(2)	Where holding period of a security is more than six months but less than twelve months.	1.5%

Advance tax under such cases shall be payable to Commissioner within seven days of end of Quarter.

TAX ON IMPORTS

SECTION 148

By the insertion of words "except as provided under sub-section (8)" it has been sought to clarify that the tax collected on import of edible oil and packing material shall not be the final tax liability, but minimum tax.

PROFIT ON DEBTS

SECTION 151

A new sub-section (4) is proposed to be added after sub-section 3 of section 151, whereby it has been sought to make tax deducted on profit on debt from Debt

instruments, Government securities including Treasury Bills and Pakistan Investment Bonds final tax.

PAYMENTS FOR GOODS AND SERVICES

SECTION 153

The proposed amendment seeks to make certain individual withholding agent. For the purpose of aforesaid amendment, any individual taxpayer, having turnover of Rs. 50 Million or above shall be responsible for tax withholding. The proposed amendment is made by the insertion of clause "h", which is reproduced for ready reference:

- (h) an individual, having turnover of fifty million rupees or above in the tax year 2009 or in any subsequent tax year.

PAYMENTS FOR GOODS AND SERVICES

SECTION 155

The proposed amendment seeks to omit sub-section 2 of section 155, whereby it has been sought to make tax deducted and collected under section 155 as adjustable. Whereas, currently tax deducted under section 155 is final tax for the purpose of this Ordinance.

PAYMENTS FOR GOODS AND SERVICES

SECTION 165

The proposed amendments to section 165 seek to strengthen the withholding tax monitoring system. The detail of these proposed amendments is given as under:

- i) The proposed amendment seeks to make obligatory filing of tax withholding statements, even in the cases, where no tax deductions have been made or required.
- ii) Further, it has also been sought to file the quarterly tax withholding statements instead of monthly and annual tax withholding statements. The proposed dates for filing of these tax statements are given as under:
 - a) in respect of the September quarter, on or before the 20th day of October;
 - b) in respect of the December quarter, on or before the 20th day of January;
 - c) in respect of the March quarter, on or before the 20th day of April; and
 - d) in respect of the June quarter, on or before the 20th day of July and

**TAX COLLECTED OR DEDUCTED AS FINAL
TAX**

SECTION 169

In consequence of amendment proposed for section 155, it has also been sought to harmonize the provision of section 169 with those of section 155. As tax collected under section 155 is proposed as adjustable, therefore same has also been omitted from section 169, as the same only includes those taxes which are final tax for the purpose of this Ordinance.

RECORDS

SECTION 174

The proposed amendment seeks to validate the amendment made by Finance Amendment Ordinance, 2009, whereby it has been sought to extend the limitation of retention of record from five to six years; and in case of proceedings pending before any Authority till the final decision of the authority.

**NOTICE TO OBTAIN INFORMATION OR
EVIDENCE**

SECTION 176

The proposed amendment section 176 seeks to confer power to Commissioner for appointment of a Firm of Chartered Accountants, to conduct audit under section 177 and to conduct all the related proceedings of audit.

AUDIT

SECTION 177

Several amendments were made to section 177, through Finance amendment Ordinance, 2009 to harmonize the audit procedures for Income Tax, Sales Tax and Federal Excise. To revalidate these amendments and to confer further powers to Commissioner, several further amendments are proposed to be made through this Finance Bill. A detail of these amendments is given as under:

- a) By virtue of substitution of sub-section (1) of section 177, the Commissioner of Income Tax has been empowered to get access over all the financial data of taxpayer, whether the same is maintained electronically or manually. In this connection, the Commissioner has also conferred power to use machine and software on which such data is kept and the Commissioner or the officer may take into possession such machine and duly attested hard copies of such information or data for the purpose of investigation and proceedings under this Ordinance in respect of such person or any other person:

- b) Further, a clarification has also been proposed regarding smooth execution of tax audits. In this connection, the role of Commissioner is redefined and now same has improved to the conduction of audit, in addition to selection of case for audit.
- c) By the omission of sub-section (3), (4) and (5) it has also been sought to eliminate the previous decent criteria of cases for selection of total audit. As the same h as been eliminated and powers for selection of cases for total audit has been conferred to the Commissioner.
- d) Further, a new sub-section (10) is also proposed to be added after sub -section (9), whereby, it has been clarified that, if an assessment is made under section 121 as best judgment assessment by Commissioner, and subsequent to that assessment the tax return for the relevant tax year is revised by Taxpayer, then the amended assessment at the basis of revised return shall not have any legal impact over the assessment made by Commissioner.

ACTIVE TAXPAYERS' LIST

SECTION 181A

By the insertion of section 181A, it has been proposed to keep the records of Active Taxpayers. The proposed section is reproduced for the benefit of reader:

181A. Active taxpayers' list

- 1) The Board shall have the power to institute active taxpayers' list.
- 2) Active taxpayers' list shall be regulated as may be prescribed.

OFFENCES AND PENALTIES

SECTION 182

By virtue of this amendment, it has been sought to provide all the penalties under section 182, whereas, currently, section 182, 184, 185, 186, 187, 188, 189 and section 190 provides penalties under different kinds of offences. Further, it has been sought to amend the amount of penalties leviable under different kind of offences. For the benefit of reader and for ready reference the proposed substituted section 182 is reproduced as under:

182. Offences and penalties.—(1) Any person who commits any offence specified in column (2) of the Table below shall, in addition to and not in derogation of any punishment to which he may be liable under this Ordinance or any other law, be liable to the penalty mentioned against that offence in column (3) thereof:—

TABLE

S.No.	Offences	Penalties	Section of the Ordinance to which offence has reference
(1)	(2)	(3)	(4)
1.	Where any person fails to furnish a return of income or a statement as required under section 115 or wealth statement or wealth reconciliation statement or statement under section 165 within the due date.	Such person shall pay a penalty equal to 0.1% of the tax payable for each day of default subject to a minimum penalty of five thousand rupees and a maximum penalty of 25% of the tax payable in respect of that tax year.	114, 115, 116 and 165
2.	Any person who fails to issue cash memo or invoice or receipt when required under this Ordinance or the rules made there under.	Such person shall pay a penalty of five thousand rupees or three per cent of the amount of the tax involved, whichever is Higher	174 and Chapter VII of the Income Tax Rules
3.	Any person who is required to apply for registration under this Ordinance but fails to make an application for registration.	Such person shall pay a penalty of five thousand rupees	181

4.	Any person who fails to notify the changes of material nature in the particulars of Registration	Such person shall pay a penalty of five thousand rupees	181
5.	Any person who fails to deposit the amount of tax due or any part thereof in the time or manner laid down under this Ordinance or rules made there under.	Such person shall pay a penalty of five percent of the amount of the tax in default. For the second default an additional penalty of 25% of the amount of tax in default. For the third and subsequent defaults an additional penalty of 50% of the amount of tax in default	137
6.	Any person who repeats erroneous calculation in the return for more than one year whereby amount of tax less than the actual tax payable under this Ordinance is paid	Such person shall pay a penalty of five thousand rupees or three per cent of the amount of the tax involved, whichever is higher	137
7.	Any person who fails to maintain records required under this Ordinance or the rules made there under	Such person shall pay a penalty of ten thousand rupees or five per cent of the amount of tax on income whichever is Higher	174
8.	Where a taxpayer who, without any reasonable cause, in non compliance with the provisions of section 177:		177

	(a) fails to produce the record or documents on receipt of first notice;	Such person shall pay a penalty of five thousand rupees;	
	(b) fails to produce the record or documents on receipt of second notice; and	such person shall pay a penalty of ten thousand rupees; and	
	(c) fails to produce the record or documents on receipt of third notice	such person shall pay a penalty of fifty thousand rupees	
9.	Any person who fails to furnish the information required or to comply with any other term of the notice served under section 176	Such person shall pay a penalty of five thousand rupees for the first default and ten thousand rupees for each subsequent Default	176
10	Any person who-		114,115,116,174, 176, 177 and general
	(a) makes a false or misleading statement to an Inland Revenue Authority either in writing or orally or electronically including a statement in an application, certificate declaration, notification, return,	Such person shall pay a penalty of twenty five thousand rupees or 100% of the amount of tax shortfall whichever is higher Provided that in case of an assessment order deemed under section 120, no penalty shall be imposed to the extent of the tax	

objection or other document including books of accounts made, prepared, given, filed or furnished under this Ordinance;

shortfall occurring as a result of the taxpayer taking a reasonably arguable position on the application of this Ordinance to the taxpayer's position.

(b) furnishes or files a false or misleading information or document or statement to an Income tax Authority either in writing or orally or electronically;

(c) omits from a statement made or information furnished to an Income tax authority any matter or thing without which the statement or the information is false or misleading a material particular.

- | | | | |
|-----|--|---|----------------------|
| 11. | Any person who denies or obstructs the access of the Commissioner or any officer authorized by the Commissioner to the premises, place, accounts, documents, computers or stocks | Such person shall pay a penalty of twenty five thousand rupees or one hundred per cent of the amount of tax involved, whichever is higher | 175 and 177 |
| 12. | Where a person has concealed income or furnished inaccurate | Such person shall pay a penalty of twenty five thousand rupees | 20, 111 and general. |

	<p>particulars of such income, including but not limited to the suppression of any income or amount chargeable to tax, the claiming of any deduction for any expenditure not actually incurred or any act referred to in sub-section (1) of section 111, in the course of any proceeding under this Ordinance before any Income tax authority or the appellate tribunal</p>	<p>or an amount equal to the tax which the person sought to evade whichever is higher. However, no penalty shall be payable on mere disallowance of a claim of exemption from tax of any income or amount declared by a person or mere disallowance of any expenditure declared by a person to be deductible, unless it is proved that the person made the claim knowing it To be wrong.</p>	
13.	<p>Any person who obstructs any Income tax Authority in the performance of his official duties</p>	<p>Such person shall pay a penalty of twenty five thousand rupees</p>	<p>209, 210 and general</p>
14.	<p>Any person who contravenes any of the provision of this Ordinance for which no penalty has specifically, been provided in this section.</p>	<p>Such person shall pay a penalty of five thousand rupees or three per cent of the amount of tax involved, whichever is Higher</p>	<p>General</p>
15.	<p>Any person who fails to collect or deduct tax as required under any provision of this Ordinance or fails to pay the tax collected or deducted as required</p>	<p>Such person shall pay a penalty of twenty five thousand rupees or the 10% of the amount of tax whichever is higher</p>	<p>148, 149, 150, 151, 152, 153, 153A, 154, 155, 156, 156A, 156B, 158, 160, 231A, 231B, 233, 233A, 234, 234A,</p>

under section 160

- (2) The penalties specified under sub-section (1) shall be applied in a consistent manner and no penalty shall be payable unless an order in writing is passed by the Commissioner, Commissioner (Appeals) or the Appellate Tribunal after providing an opportunity of being heard.
- (3) Where a Commissioner (Appeals) or the Appellate Tribunal makes an order under sub-section (2), the Commissioner (Appeals) or the Appellate Tribunal, as the case may be, shall immediately serve a copy of the order on the Commissioner and thereupon all the provision of this Ordinance relating to the recovery of penalty shall apply as if the order was made by the Commissioner.
- (4) Where, in consequence of any order under this Ordinance, the amount of tax in respect of which any penalty payable under sub-section (1) is reduced, the amount of penalty shall be reduced accordingly.

**EXEMPTION FROM PENALTY AND
DEFAULT SURCHARGE**

SECTION 183

By virtue of this amendment, it has been sought to substitute existing section 183, with new proposed section 183, whereby, it has been sought to empower the federal government and Board to grant exemption from payment of whole or part of penalties. The proposed section 183 is reproduced as under:

Section 183: Exemption from penalty and default surcharge:

The Federal Government may, by notification in the official Gazette, or the Board by an order published in the official Gazette for reasons to be recorded in writing, exempt any person or class of persons from payment of the whole or part of the penalty and Default surcharge payable under this Ordinance subject to such conditions and limitations as may be specified in such notification or, as the case may be, order.

TRIAL BY SPECIAL JUDGE

SECTION 203

The proposed amendment seeks to substitute sub-section 1 of section 203, whereby ,

the federal government is authorized to appoint a civil judge and define the terms and conditions for their appointment. The newly substituted sub-section 1 and other proposed amendments, whereby, the jurisdiction and other terms of these special judges are settled are reproduced:

Sub-section (1) of section 203

- (1) The Federal Government may, by notification in the official Gazette, appoint as many special judges as it may consider necessary, and where it appoints more than one Special Judge, it shall specify in which each of them shall exercise jurisdiction.

Sub-section (1A) and (1B) of section 203

- (1A) A Special Judge shall be a person who is or has been a Sessions Judge and shall, on appointment, have the jurisdiction to try exclusively an offence punishable under this Part other than an offence referred to in section 198.
- (1B) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), except those of Chapter XXXVIII, thereof shall apply to the proceedings of the court of a Special Judge and, for the purposes of the said provisions, the court of Special Judge shall be deemed to be a Court of Sessions trying cases, and a person conducting prosecution before the court of a Special Judge shall be deemed to be a Public Prosecutor.

ADDITIONAL TAX/DEFAULT SURCHARGE

SECTION 205

By virtue of this amendment it has been sought to change the name of additional tax to default surcharge. Further, various amendment has also been proposed to section 205, whereby uniformity in nomenclatures of additional taxes for nonpayment of taxes in respect of three domestic taxes has been sought.

INCOME TAX AUTHORITIES

SECTION 207

The proposed amendment seeks uniformity in nomenclature of authorities of three domestic taxes. The proposed amendment also seeks to rev alidate the amendments made vide Finance amendment ordinance 2009. The newly substituted section 207 is reproduced as under:

207. Income tax authorities

- 1) There shall be the following Income Tax authorities for the purposes of this Ordinance and rules made there under, namely:-
 - a) Board;
 - b) Chief Commissioner Inland Revenue;
 - c) Commissioner Inland Revenue;
 - d) Commissioner Inland Revenue (Appeals);
 - e) Additional Commissioner Inland Revenue;
 - f) Deputy Commissioner Inland Revenue;
 - g) Assistant Commissioner Inland Revenue;
 - h) Inland Revenue Officer;
 - i) Inland Revenue Audit Officer;
 - j) Superintendent Inland Revenue;
 - k) Inspector Inland Revenue; and
 - l) Auditor Inland Revenue.
- 2) The Board shall examine, supervise and oversee the general administration of this Ordinance.
- 3) The Chief Commissioners Inland Revenue and Commissioners Inland Revenue (Appeals) shall be subordinate to the Board and Commissioners Inland Revenue shall be subordinate to the Chief Commissioner Inland Revenue.
- 4) Subject to sub-section (5), Additional Commissioners Inland Revenue, Deputy Commissioners Inland Revenue, Assistant Commissioners Inland Revenue, Inland Revenue Officers, Inland Revenue Audit Officers, Superintendents Inland Revenue, Auditors Inland Revenue and Inspectors Inland Revenue shall be subordinate to the Commissioners Inland Revenue.
- 4A) Deputy Commissioners Inland Revenue, Assistant Commissioners Inland Revenue, Inland Revenue Officers, Inland Revenue Audit Officers, Superintendents Inland Revenue, Auditors Inland Revenue and Inspectors Inland Revenue shall be subordinate to the Additional Commissioners Inland Revenue.

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

INCOME TAX AUTHORITIES

SECTION 208

The proposed amendment seeks to substitute subsection (1) of section 208, whereby it has been sought to empower board to appoint the officer of Inland Revenue to carry out operations under this Ordinance.

DELEGATION

SECTION 210

The proposed amendment seeks to empower the board and Commissioner for delegation of powers.

SELECTION OF AUDIT BY BOARD

SECTION 214C

By the insertion of new section 214C it has been sought to empower the board for selection of case for audit through Computer ballot or through any other criteria as board deem fit. The proposed new section 214 is reproduced as under:

214C. Selection for audit by the Board

- 1) The Board may select persons or classes of persons for audit of Income Tax affairs through computer ballot which may be random or parametric as the Board may deem fit.
- 2) Audit of Income Tax affairs of persons selected under sub-section (1) shall be conducted as per procedure given in section 177 and all the provisions of the Ordinance, except the first proviso to sub-section (1) of section 177, shall apply accordingly.
- 3) For the removal of doubt it is hereby declared that Board shall be deemed always to have had the power to select any persons or classes of persons for audit of Income Tax affairs;

CALCULATION OF LIMITATION PERIOD

SECTION 226

The proposed amendment seeks to amend the criteria for calculation of limitation

period for the purpose of this Ordinance. By virtue of this amendment it has been sought to exclude the period, if any, for which such proceedings were stayed by any Court, Appellate Tribunal or any other authority; or for the period, if any, for which any proceeding for the tax year remained pending before any Court, Appellate Tribunal or any other authority.

BAR OF SUITS IN CIVIL COURTS

SECTION 227

By this amendment, it has been sought to provide an overriding, whereby protection has been granted to the employees of the board against any investigation or inquiry without prior approval of the Board.

DIRECTORATE GENERAL OF TRAINING AND RESEARCH

SECTION 229

By virtue of this amendment, it has been sought to empower the board to appoint officers of The Directorate General of Training and Research. The proposed new section shall be read as follows:

229. Directorate General of Training and Research

- 1) The Directorate General of Training and Research shall consist of a Director General, Additional Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such officers as the Board, may, by notification in the official Gazette, appoint.
- 2) The Board may, by notification in the official Gazette, specify the functions, jurisdiction and powers of the Directorate General of Training and Research and its officers.

ADVANCE TAX ON TRANSACTION IN BANK

SECTION 231AA

The proposed amendment seeks to bring different banking transaction to withholding tax net. By virtue of this amendment it has been sought to collect tax withholding @ 0.3% on any mode of banking transactions including Demand Draft, Payment Order, Online Transfer, Telegraphic Transfer, CDR, STDR, RTC, or the sum total of the payments for such transaction in a day, exceeds twenty-five thousand rupees. However, immunity has been provided in the case of withdrawals made by Federal Government,

Provincial Government, a foreign diplomat or a diplomatic mission in Pakistan; or to a person who produces a certificate from the Commissioner that his income during the tax year is exempt.

COLLECTION OF TAX BY STOCK EXCHANGE

SECTION 233A

The proposed amendment seeks to make tax collected by stock exchange registered in Pakistan as adjustable, whereas, under the prevalent provisions the tax collected under this section is minimum tax.

TELEPHONE USERS

SECTION 236

The proposed amendment seeks to bring the sale of units through any electronic medium or whatever form in the net of withholding tax.

ADVANCE TAX ON PURCHASE OF AIR TICKETS

SECTION 236B

A new section 236 B is proposed to be added after section 236A, whereby it has been sought to introduce advance tax on purchase of Domestic Air Tickets. The proposed section 236 is reproduced for ready reference:

236B. Advance tax on purchase of air ticket:

- 1) There shall be collected advance tax at the rate specified in Division IX of Part IV of the First Schedule, on the purchase of gross amount of domestic air ticket.
- 2) The person preparing air ticket shall charge advance tax under sub-section (1) in the manner air ticket charges are charged.;

REMOVAL OF DIFFICULTIES

SECTION 240

The proposed amendment seeks to omit sub-section 2 of section 240. Whereby, it is sought to withdraw the time limit of making of an order by the Federal Government under sub-section 1 for the purpose of removal of any difficulties which may arise in giving effect to any of the provisions of this Ordinance. Currently, no order under sub-section 1 can be made after the 30th day of June 2004. The proposed amendment seeks to omit the aforesaid time limit.

FIRST SCHEDULE TO THE INCOME TAX ORDINANCE, 2001

The Finance Bill, 2010 aims to make the following amendments to the First Schedule to the Income Tax Ordinance, 2001.

PART-I

1. By this amendment it has been sought to create a separate tax rate for individual. The proposed amendment is made in consequence of amendments made to section 113 and section 147.
2. Minimum taxable limit for salaried and business individual has been increased to Rs. 300,000/- whereas earlier it was Rs. 200,000/- for salaries working men and Rs. 260,000/- for salaried working women and Rs. 100,000/- for business individual. The detailed tax rates are available as per slabs tax card attached.
3. Minimum tax imposed under section 113 is also proposed to be increased from 0.5% to 1 percent.
4. As consequence of a change in the taxation of AOP, it has also been proposed to introduce a new flat tax rate of 25% for AOPs.
5. Tax rates for small companies are also proposed to be enhanced to 25%.
6. In consequence to insertion of section 37A, tax rates for capital gain arising from sales of securities are also provided as per this part to Sch -I. For tax year 2010 the rate of tax for holding securities for different period of times ranges from 7.5% to 10%, however, same will gradually increased in subsequent periods and till tax year 2014 the said rate of tax will range from 10% to 17.5 % for different period of holding securities.

PART-II

By virtue of this amendment it has been sought to increase the rate of advance tax collected on import from 4% to 5%.

PART-III

1. The proposed amendment seeks to decrease rate of tax on payment made to non residents is decreased from 30% to 20%.

2. The proposed amendment seeks to introduce new division VI to Part III, where by it has been sought to decrease the rate of tax to be deducted under section 156 on a prize on prize bond or cross-word puzzle from 20% to 10%.

PART-IV

1. The proposed amendment seeks to introduce new pattern of collection of advance tax from goods transport vehicles. By virtue of this amendment it has been sought to collect tax of one rupee per kilogram of the laden weight shall be charged.
2. A further amendment is proposed to decrease the rate of collection of advance tax on electricity bill for industrial and commercial consumer from 10% to 5%.
3. In consequence to an amendment made to section 236, it has also been sought to customize DIV-V of Part-IV of this Schedule.
4. The proposed amendment seeks to add a new DIV -VIA, whereby it has been sought to provide rate of tax collection on certain banking transaction as provided in section 231AA.
5. The proposed amendment seeks to add a new DIV -IX, whereby it has been sought to provide tax rate of 5% on purchase of air Tickets as provided by section 236B.

SECOND SCHEDULE TO THE INCOME TAX ORDINANCE, 2001

The Finance Bill, 2010 aims to make the following amendments to the Second Schedule to the Income Tax Ordinance, 2001.

PART-I

1. A new sub-clause (iii) is proposed to be added after to clause 72, whereby it has been sought to provide exemption for profit on debt payable to non -residents in respect of foreign loan for industrial investment in Pakistan.
2. By virtue of this amendment a new clause 92A is proposed to be introduced, whereby it has been sought to exempt educational institution established in the most/moderately effected areas of NWFP, PATA and F ATA for two years ending on 30th June 2011.

3. The proposed amendment seeks to withdraw the exemption available under clause 102 on dividend received by Investment Corporation of Pakistan.
4. The proposed amendment seeks to withdraw the exemption available under clause 110 on capital gains on sale of shares of public companies, modaraba, etc. This amendment has been made in consequence of insertion of section 37A, whereby, it is proposed to charge income tax on capital gains realized from sale of securities.
5. The proposed amendment seeks to withdraw the exemption available under clause 110A on transfer of a capital asset from stock exchanges to newly corporatized stock exchange.
6. By virtue of this amendment, a new clause 126F is proposed to be inserted, whereby, it has been sought to exempt the profits and gains derived by a taxpayer (except a taxpayer engaged in the manufacture and supply of cement, sugar, beverages and cigarettes) in the most/moderately effected areas of NWFP, FATA and PATA for a period of three years starting from the tax year 2010.

PART-II

1. The proposed amendment seeks to enhance the scope of clause 24A by extending the reduced tax rate facility of 1% to large import houses as laid down under clause (d) of sub-section 7 of section 148.

PART-III

1. The proposed amendment seeks to constrict the scope of clause (1A) whereby it has been sought to limit the tax reduction of 50% for taxpayers aged 60 years or above only in the case of Normal Tax Regime. Further, it has been proposed to enhance the income limit from seven hundred fifty thousand to one million.

PART-IV

1. By virtue of this amendment, a new clause 10A has been introduced, whereby, it has been sought to provide exemption from penal provisions as provided in section 182 and default surcharge as provided in section 205 to business located in most/moderated areas of NWFP, FATA and PATA provided that principle amount due is paid latest by June 30, 2010. Exemption under section 235 for commercial and industrial consumer till June 30, 2011 has also been provided in the aforesaid area. Exemption from provision of section 154 has also been

provided to exporters based in aforesaid areas till June 30, 2011. Exemption from provision of section 148 on import of plant and machinery for establishment of business in the above mentioned areas has also been provided for the year ending on June 30, 2011. However, a proviso has also been provided vide this newly proposed clause whereby it has been sought to do not make available this concession to manufacturers of cement, sugar and beverages and cigarettes.

2. The proposed amendment seeks to omit clause 52 of Part IV whereby it has been sought to withdraw exemption available to industrial imports of edible oil industry. As per the current reduction in rate available the applicable rate of tax collected on import of edible oil is 2%, however, with the omission of aforesaid clause the aforesaid applicable rate is proposed to be enhanced to 5%.
3. A new clause 73 is proposed to be added after clause 72, whereby, it has been introduced a new exemption from tax available to the experts required by Ministry of Textile Industry to improve the productivity of said sector.

THIRD SCHEDULE TO THE INCOME TAX ORDINANCE, 2001

The Finance Bill, 2010 aims to make the following amendments in Third Schedule to the Income Tax Ordinance, 2001.

PART-I

1. The proposed amendment seeks to insert a new sub-clause 5 whereby, a depreciation allowance of 100% is allowed for ramp not exceeding Rs. 250,000/- each built to provide access to disabled persons.

FIFTH SCHEDULE TO THE INCOME TAX ORDINANCE, 2001

The Finance Bill, 2010 aims to make the following amendments in Fifth Schedule to the Income Tax Ordinance, 2001.

PART-I

1. By virtue of this amendment, a new Rule 4A has been introduced in Part I to this Schedule whereby it has been sought to provide decommissioning cost over a

period of 10 years or the life of the development and production / mining lease whichever is less. The newly proposed Rule 4A is reproduced for the benefit of the reader: -

4A. Decommissioning cost

With effect from the Tax Year 2010, Decommissioning Cost as certified by a Chartered Accountant or a Cost Accountants, in the manner prescribed, shall be allowed over a period of ten years or the life of the development and production or mining lease whichever is less, starting from the year of commencement of commercial production or commenced prior to the 1st July, 2010, deduction for decommissioning cost as referred earlier shall be allowed from the Tax Year 2010 over the period of ten years or the remaining life of the development and production or mining lease, which ever is less.

SEVENTH SCHEDULE TO THE INCOME TAX ORDINANCE, 2001

The Finance Bill, 2010 aims to make the following amendments in Seventh Schedule to the Income Tax Ordinance, 2001.

1. The proposed amendment to sub-clause (c) of clause 1 seeks to allow for provision for advances and off balance sheet items at 5% of total advances for consumer and SMEs.
2. By virtue of this amendment a new Rule 8A has been introduced whereby, it has been sought to provide for deduction for irrecoverable/doubtful advances which are actually written off against transactional provision.