

Finance Bill

2010

A

BILL

to give effect to the financial proposals of the Federal Government for the year beginning on the first day of July, 2010, and to amend certain laws

WHEREAS it is expedient to make provisions to give effect to the financial proposals of the Federal Government for the year beginning on the first day of July, 2010, and to amend certain laws for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title, extent and commencement.** – (1) This Act may be called the Finance Act, 2010.

(2) It extends to the whole of Pakistan.

(3) It shall, unless otherwise provided, come into force on the first day of July, 2010.

2. **Amendment of Ordinance XXV of 1961.**- In the Petroleum Products (Surcharge) Ordinance, 1961 (XXV of 1961), the following amendments shall be made namely:-

(1) in the long title and preamble, for the word “surcharge”, the words “petroleum levy” shall be substituted;

(2) in section 1, in sub-section (1), for the word “Surcharge”, the words “Petroleum Levy” shall be substituted;

(3) in section 2,-

(a) in clause (4Ba), the word “development” shall be omitted; and

- (b) clause (4D) shall be omitted;
- (4) in section 3,-
 - (a) in the marginal note, for the words “Development Surcharge”, the words “Petroleum Levy” shall be substituted;
 - (b) for sub-section (1), the following shall be substituted, namely:-

“(1) Subject to the provisions of this Ordinance, every company and licensee shall pay to the Federal Government the petroleum levy on such rates and on such petroleum products, produced by a refinery or purchased by a company for resale, as are specified in the Fifth Schedule.”; and
 - (c) after sub-section (1), substituted as aforesaid , the following new sub-section shall be inserted, namely:-

“(1A) Every company and licensee shall pay the petroleum levy in such manner as the Federal Government may, by rules, prescribe.
- (5) In section 3A,
 - (a) for the words “development surcharge”, wherever occurring, the words ‘petroleum levy” shall be substituted;
 - (b) in sub-section (2), in clause (b), for the words, comma and figure “Central Excises Act, 1944” the words, comma and figure “Federal Excise Act, 2005” shall be substituted;
 - (c) in sub-section (3), for the words, comma and figure “Central Excises Act, 1944”, the words, comma and figure “Federal Excise Act, 2005” shall be substituted; and

- (d) in the margin, the figures and word “I of 1944” shall be omitted.
- (6) in section 5,-
 - (a) in the marginal note, for the words “development surcharge”, the words “petroleum levy” shall be substituted;
 - (b) for the words “development surcharge”, the words “petroleum levy” shall be substituted;
 - (c) for the words, figures, and comma “section 23 of the Income Tax Ordinance, 1979”, the words, comma, figures and brackets “Income Tax Ordinance, 2001 (XLIX of 2001)” shall be substituted; and
 - (d) in the margin, the figures and word “XXXI of 1979” shall be omitted;
- (7) in section 6, in sub-section (2), in clause (aaa), for the words “development surcharge”, the words “petroleum levy” shall be substituted;
- (8) in section 8,-
 - (a) the words “or Secretary of Oil Companies Advisory Committee or his duly authorized nominee” shall be omitted; and
 - (b) the Explanation shall be omitted;
- (9) after section 8, the following new section shall be added, namely:-

“9. **Validation.**- Notwithstanding anything contained in any law, rule or judgment of a Court, the petroleum development levy levied and collected from a company during the period from the 1st day of March, 2010, to the 30th June, 2010, shall be deemed to have been validly and lawfully levied and collected and shall not be refunded. So much of such levy as has not been paid, collected or realized during the said period shall be

recoverable in accordance with the provisions of this Ordinance and the rules made thereunder.”;and

(10) for the Fifth Schedule, the following shall be substituted, namely:-

“THE FIFTH SCHEDULE

Rates of Petroleum Levy

[See section 3(1)]

S.No.	Petroleum Products	Petroleum Levy Rate (Rupees per litre)
(1)	(2)	(3)
1.	High Speed Diesel Oil (HSDO)	8
2.	Motor Gasoline 87 ROM	10
3.	SKO	6
4.	Light Diesel Oil (LDO)	3
5.	HOBC	14
6.	E-10 Gasoline	9”.

3. **Amendments of Act IV of 1969.-** In the Customs Act, 1969 (IV of 1969), the following further amendments shall be made, namely:-

(1) in section 2,-

(a) in clause (aaa), the comma and words “Excise and Sales Tax” shall be omitted;

- (b) in clause (s), in sub-clause (ii), after the word “exceed”, the words
“one hundred and” shall be inserted;
- (2) in section 25, in sub-section (15), in clause (b), for the words “export duty
which may be chargeable”, the following shall be substituted, namely:-
“regulatory duty which may be chargeable under sub-section (3) of section
18”;
- (3) in section 25A, after sub-section (3), the following new sub-section shall
be added, namely;-
“(4) the customs value determined under sub-section (1) or, as the case
may be, under sub-section (3), shall be applicable until and unless revised
or rescinded by the competent authority,”;
- (4) for section 25D, the following shall be substituted, namely:-
“25D. **Review of the value determined.**- Where the customs value has
been determined, under section 25A, by the Collector of Customs or
Director of Valuation, a review application shall be filed before Director
General of Valuation, within thirty days from the date of determination of
customs value, and any proceeding pending before any court, authority or
tribunal shall forthwith abate.”;
- (5) for section 27A, the following shall be substituted, namely:-
“27A. **Allowing mutilation or scrapping of certain goods.**- The
mutilation or scrapping of certain goods, as are notified by the Board, may
be allowed, as prescribed under the rules, on the request of the owner and
where such goods are so mutilated or scrapped they shall be chargeable

to duty at such rates as may be applicable if the goods had been imported in the mutilated form or as scrap.”;

- (6) in section 32, in sub-section (5), in clause (d), for the full stop, at the end, a semicolon shall be substituted and thereafter the following new clause shall be added; namely:-

“(e) in case of clearance of goods through the Customs Computerized System, on self assessment or electronic assessment, the date of detection on post clearance audit.”;

- (7) in section 32A, in sub-section (1), in clause (c), after the word “regarding”, the words and comma “payment of revenue through self-assessment,” shall be inserted;

- (8) in section 79, in sub-section (1), for the first proviso, the following shall be substituted, namely:-

“Provided that if, in case of used goods, before filing of goods declaration, the owner makes a request to an officer of customs not below the rank of an Additional Collector that he is unable, for want of full information, to make a correct and complete declaration of the goods, then such officer subject to such conditions as he may deem fit, may permit the owner to examine the goods and thereafter make entry of such goods by filing a goods declaration after having assessed and paid his liabilities of duties, taxes and other charges: “;

- (9) in section 81, -

- (a) in sub-section (2), - (i) for the word “six”, the word “three” shall be substituted; and
- (ii) in the proviso, for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:-
- “Provided further that any period, during which the proceedings are adjourned on account of a stay order or for want of clarification from the Board or the time taken through adjournment by the importer, shall be excluded for the computation of aforesaid periods.”; and
- (b) after sub-section (4), the following new clause shall be added namely:-
- “(5) On completion of final determination under sub-section (3) or (4), the appropriate officer shall issue an order for adjustment, refund or recovery of amount secured, as the case may be.”;
- (10) in section 156, in sub-section (1), in the Table,-
- (a) against S.No.1, in column (2), for the word “twenty-five”, the word “fifty” shall be substituted; and
- (b) against S.No.64, in column (2), for the words “exceeding twenty-five thousand rupees and any goods”, the words “not less than twice the value of the goods” shall be substituted;
- (11) in section 194, in sub-section (1), the comma and words”, Excise and Sales Tax” shall be omitted;

(12) in section 194A, in sub-section (1), after clause (d), the following new clause shall be added, namely:-

“(e) a review order passed by the Director-General Customs Valuation under section 25D, provided that the appeal under this clause is heard by a Special Bench consisting of one technical member and one judicial member.”; and

(13) the amendments set out in the Schedule to this Act shall be made in the First Schedule to the Customs Act, 1969 (IV of 1969).

4. **Amendments of Act LXXXII of 1975.** – In the Chairman and Speaker (Salaries, Allowances and Privileges) Act, 1975 (LXXXII of 1975), the following amendments shall be made, namely:-

(1) in section 2, -

(a) in clause (b), after the word “President”, the words “and in sections 13 and 18 includes a person who has held such office after election thereto” shall be inserted; and

(b) in clause (g), after the word “President” the words “and in section 13 and 18 includes a person who has held such office after election thereto” shall be inserted;

(2) in section 17A, for the words “six hundred thousand”, the words “one million” shall be substituted; and

(3) in section 18, after the word “Government”, the word and commas “or the Finance Committee of the Senate or National Assembly, as the case may be” shall be inserted.

5. **Amendment of Sales Tax Act, 1990.**- In the Sales Tax Act, 1990,-

(1) in section 2,-

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

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

(b) in clause (2), for the words “officer of Sales Tax”, the words “officer of Inland Revenue” shall be substituted;

(c) in clause (3), in sub-clause (f), in entry (iv), for the word “Collector” the word “Commissioner” shall be substituted;

(d) after clause (4), the following new clause shall be inserted, namely:
“(4A) “Chief Commissioner” means a person appointed as the Chief Commissioner Inland Revenue under section 30;”;

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

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

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

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

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

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

- (h) in clause (46), in sub-clause (e), for the words “Sales Tax Department”, the words “Inland Revenue” and for the word “Collector”, the word “Commissioner” shall respectively be substituted;
- (2) in section 3, for the word “sixteen”, wherever occurring, the word “seventeen” shall be substituted;
- (3) in section 10, in sub-section (3), for the words “collector of Sales Tax” the words “ Commissioner Inland Revenue” shall be substituted;
- (4) in section 11,-
 - (a) in sub-section (1), for the words “Sales Tax” the words “ Inland Revenue” shall be substituted;
 - (b) in sub-section (2), for the words “Sales Tax” the words “ Inland Revenue” shall be substituted;
 - (c) in sub-section (4), for the words “ Sales Tax”, occurring twice, the words " Inland Revenue" shall be substituted;
 - (d) in sub-section (4), in the proviso, for the word “Collector”, the word “Commissioner” shall be substituted; and
 - (e) in sub-section (5), for the word “ Collector”, the word “Commissioner” and for the words “ Sales Tax Department”, the words “ Inland Revenue” shall respectively be substituted;
- (5) in section 21, in sub-section (2), for the word “Collector”, the word “Commissioner” shall be substituted;

- (6) in section 23, in sub-section (3), for the word "Collector", the word "Commissioner" shall be substituted;
- (7) in section 24, for the word "five", occurring twice, the word "six" shall be substituted and after the word "relate", at the end, the words and commas "or till such further period the final decision in any proceedings including proceedings for assessment, appeal, revision, reference, petition and any proceedings before an Alternative Dispute Resolution Committee is finalized" shall be added;
- (8) in section 25,-
- (a) in sub-section (1),-
- (i) for the words "an officer of Sales Tax", appearing for the first time, the words "Commissioner" shall be substituted; and
- (ii) for the words "such officer of Sales Tax", the words "the officer of Inland Revenue authorized by the Commissioner" shall be substituted;
- (b) for sub-section (2) the following shall be substituted, namely:-
- "(2) The officer of Inland Revenue authorized by the Commissioner, on the basis of the record, obtained under sub-section (1), may, once in a year, conduct audit:

Provided that in case the Commissioner has information or sufficient evidence showing that such registered person is involved in tax fraud or evasion of tax, he may authorize an officer of Inland

Revenue, not below the rank of Assistant Commissioner, to conduct an inquiry or investigation under section 38:

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

- (c) for sub-section (3) the following shall be substituted, namely:-

“(3) After completion of the audit under this section or any other provision of this Act, the officer of Inland Revenue may, if considered necessary, after obtaining the registered person’s explanation on all the issues raised in the audit shall pass an order under section 11 or section 36, as the case may be, imposing the amount of tax under this Act, charging default surcharge, imposing penalty and recovery of any amount erroneously refunded.”;
- (d) sub-section (4) shall be omitted; and
- (e) in sub-section (5), in the first proviso, the words “in lieu of audit report” shall be omitted;
- (9) in section 25A, for the words " Sales Tax", the words “ Inland Revenue” shall be substituted and for the word and comma “collectorate”, the words “Large Taxpayers Unit or Regional Tax Office, as the case may be” shall be substituted;
- (10) after section 25A, the following new section shall be inserted, namely:-

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

(11) in section 26,

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

(b) in sub-section (4), in the first proviso, the words “in lieu of the audit report” shall be omitted;

(12) in section 27, in clause (b), for the word “Collector”, the word “Commissioner” shall be substituted;

(13) in section 28, for the word "Collector", occurring twice, the word "Commissioner" shall be substituted;

(14) for section 30, the following shall be substituted, namely:-

“30. Appointment of authorities.- (1) For the purposes of this Act, 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.

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

(3) Additional Commissioner Inland Revenue, Deputy Commissioners Inland Revenue, Assistant Commissioner Inland Revenue, Superintendent Inland Revenue, 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.

(4) 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) in section 31, for the words "Sales Tax" the words "Inland Revenue" shall be substituted;

(16) in section 32,-

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

“(1) The Board or the Chief Commissioner, with the approval of the Board, may, by an order and subject to such limitations or conditions as may be specified therein, empower by name or designation,-

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

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

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

(d) any other officer of Inland Revenue to exercise any of the powers of an Assistant Commissioner Inland Revenue under this Act.”; and

(b) sub-section (2) shall be omitted.

(17) in section 32A,-

- (a) in sub-section (1), -
 - (i) after the word “Board”, the words “or the Commissioner” shall be inserted; and
 - (ii) in sub-section (1), the words and comma “by notification in the official Gazette,” shall be omitted.
 - (b) in sub-section (2), for the word “Collector”, the word “Commissioner” shall be substituted; and
 - (c) in sub-section (3), for the words “ sales tax”, the words “Inland Revenue” shall be substituted;
- (18) in section 33, in the Table, in column (1),
- (a) against S.No.5, in column (2), for the words, " Sales Tax not below the rank of Assistant Collector of Sales Tax", the words "Inland Revenue not below the rank of Assistant Commissioner Inland Revenue" shall be substituted; and
 - (b) against S.No.18, in column (2), for the words, “Sales Tax”, wherever occurring, the words “Inland Revenue” shall be substituted;
- (19) in section 36, in sub-section (3), for the words “Sales Tax”, the words “Inland Revenue” and in the proviso, for the word “Collector” the word “Commissioner” shall be respectively substituted;
- (20) in section 37, for the words “Sales Tax”, wherever occurring, the words “ Inland Revenue” shall be substituted;
- (21) in section 37A,-

- (a) in sub-section (1), for the words and comma “Sales Tax, not below the rank of an Assistant Collector of Sales Tax”, the words and comma “Inland Revenue, not below the rank of an Assistant Commissioner Inland Revenue” shall be substituted; and
 - (b) in sub-section (4), for the word “Collector”, the word “Commissioner” shall be substituted;
- (22) in section 38, in sub-section (1) after the word, “Board”, the words, “or the Commissioner” shall be inserted;
- (23) in section 38A, for the word “Collector”, occurring twice, the word “Commissioner” shall be substituted;
- (24) in section 38B,-
- (a) in sub-section (1),-
 - (i) for the words “ Collector of Sales Tax”, the words “ Commissioner Inland Revenue” shall be substituted;
 - (ii) in clause (a), for the words “Sales Tax”, the words “Inland Revenue” shall be substituted;
 - (iii) in clause (b), for the words “ Sales Tax”, the words “Inland Revenue” shall be substituted; and
 - (iv) in clause (c), for the words “Sales Tax”, the words “Inland Revenue” shall be substituted;
 - (b) in sub-section (2), for the words “Sales Tax”, occurring twice, the words “Inland Revenue” shall be substituted; and

- (c) in sub-section (4), for the words "Sales Tax", occurring twice, the words "Inland Revenue" shall be substituted;
- (25) in section 40, in sub-section (1), for the words "Sales Tax", the words "Inland Revenue" shall be substituted;
- (26) in section 40B,-
 - (a) for the words "sales tax", wherever occurring, the words " Inland Revenue" shall be substituted; and
 - (b) for the word "Collector", the word "Commissioner" shall be substituted;
- (27) section 45 shall be omitted;
- (28) in section 45A,-
 - (a) in the marginal note, for the word "Collector", the word "Commissioner" shall be substituted;
 - (b) in sub-section (1), for the words "Sales Tax", the words " Inland Revenue" shall be substituted; and
 - (c) in sub-section (4), for the word "Collector", the word "Commissioner" and for the words " Sales Tax" the words "Inland Revenue" shall be respectively substituted;
- (29) in sub-section 45B,-
 - (a) for sub-section (1), the following shall be substituted, namely:-

“(1) Any person, other than the Sales Tax Department, aggrieved by any decision or order passed under sections 10, 11,25, 36, or 66, by an officer of Inland Revenue may, within thirty days of the

date of receipt of such decision or order, prefer appeal to the Commissioner Inland Revenue (Appeals) :

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

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

(b) in sub-section (2), for the words “Collector of Sales Tax”, the words “Commissioner Inland Revenue” and in the first proviso, for the words “Collector ”, the word “Commissioner ” shall be substituted; and

(c) in sub-section (3), for the words “Collector of Sales Tax”, the words “Commissioner Inland Revenue ” shall be substituted;

(30) in section 46,-

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

(i) for the word “Collector” the word “ Commissioner” and for the words “Sales Tax”, the words “Inland Revenue” shall be respectively substituted;

(ii) in clause (a), for the words “Collector of Sales Tax”, the words “Commissioner Inland Revenue” shall be substituted; and

(iii) in clause (b), for the words “Collector of Sales Tax” the words “Commissioner Inland Revenue” shall be substituted;

(b) in sub-section (2), for the words, figures, commas and brackets “194A, 194B, 194C of the Customs Act, 1969 (IV of 1969)”, the figures, comma, words and brackets “131 and 132 of the Income Tax Ordinance, 2001 (XLIX of 2001)” shall be substituted; and

(c) after sub-section (2), the following new sub-section shall be inserted, namely;

“(2A) All appeals and proceedings under this Act pending before the Customs, Excise and Sales Tax Appellate Tribunal constituted under section 194 of the Customs Act 1969 (IV of 1969) shall stand transferred to the Appellate Tribunal constituted under section 130 of the Income Tax Ordinance 2001 (XLIX of 2001) with effect from the 28th day of October, 2009.”;

(31) in section 47,-

(a) in sub-section (1), for the words “ Sales Tax”, the words "Inland Revenue”, for the word “Collector”, occurring twice, the words “Commissioner” and for the figure “5” the figure “2” shall be substituted;

(b) in sub section (7), in the proviso, for the word “Collector”, occurring twice, the word “Commissioner” shall be substituted;

(c) in sub-section (10), for the word “Collector”, occurring twice, the word “Commissioner ” shall be substituted; and

- (d) in sub-section (11), for the word "Collector", occurring thrice, the word "Commissioner" shall be substituted;
- (32) in section 47A,-
- (a) in sub-section (2), for the words "Sales Tax not below the rank of Additional Collector", the words "Inland Revenue not below the rank of Additional Commissioner" shall be substituted; and
 - (b) in sub-section (3), for the words " Sales Tax", the words "Inland Revenue" shall be substituted;
- (33) in section 48, in sub-sections (1) and (2), for the words "Sales Tax", the words "Inland Revenue" shall be substituted;
- (34) in section 49A,-
- (a) in sub-section (1), for the word "Collector", the word "Commissioner" shall be substituted;
 - (b) in sub-section (2), for the word "Collector", occurring twice, the word "Commissioner" shall be substituted;
 - (c) in sub- section (3), for the word "Collector", the word "Commissioner" shall be substituted;
 - (d) in sub-section (4), in clause (a), for the word "Collector", occurring twice, the word "Commissioner" shall be substituted; and
 - (e) in sub-section (6), for the word "Collector", the word "Commissioner" shall be substituted;
- (35) in section 52, for the words "Sales Tax", the words " Inland Revenue" shall be substituted;

- (36) in section 55, for the words "Sales Tax", the words " Inland Revenue" shall be substituted;
- (37) for section 56, the following shall be substituted, namely:-
- "56. Service of orders, decisions, etc.- (1) Subject to this Act, any notice, order or requisition required to be served on a resident individual, other than in a representative capacity, for the purposes of this Act shall be treated as properly served on the individual if –
- (a) personally served on the individual or, in the case of an individual under a legal disability or a non-resident individual, the representative of the individual;
- (b) sent by registered post or courier service to the place specified in clause (b) of sub-section (2) or to the individual's usual or last known address in Pakistan; or
- (c) served on the individual in the manner prescribed for service of a summons under the Code of Civil Procedure, 1908 (V of 1908).
- (2) Subject to this Act, any notice, order or requisition required to be served on any person, other than a resident individual to whom sub-section (1) applies, for the purposes of this Act, shall be treated as properly served on the person if –
- (a) personally served on the representative of the person;
- (b) sent by registered post or courier service to the person's registered office or address for service of notices under this Act, in Pakistan, or where the person does not have such office or address, the notice is sent

by registered post to any office or place of business of the person in Pakistan; or

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

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

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

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

(38) in section 58A,-

(a) in sub-section (3), in clause (f), for the word “Collector”, the word “Commissioner” shall be substituted; and

(b) in sub-section (4), for the word “Collector”, the word “Commissioner” shall be substituted;

(39) in section 58B, in sub-section (4), for the word “Collector”, the word “Commissioner” shall be substituted;

- (40) in section 66, for the word “Collector”, occurring twice, the word “Commissioner” and for the words " Sales Tax", the words " Inland Revenue" shall respectively be substituted;
- (41) in section 69, for the word “Sales Tax not below the rank of Assistant Collector”, the word “Inland Revenue not below the rank of Assistant Commissioner” shall be substituted;
- (42) in section 72, for the words “ Sales Tax”, the words“ Inland Revenue” shall be substituted.
- (43) after section 72, the following new section shall be inserted, namely:-
“72A. Reference to authorities.- Any reference to Collector, Additional Collector, Deputy Collector, Assistant Collector, Superintendent, Senior Auditor and an Officer of Sales Tax, wherever occurring, in this Act and the rules, notifications, clarifications, general orders or orders made or issued thereunder, shall be construed as reference to Commissioner Inland Revenue, Additional Commissioner Inland Revenue, Deputy Commissioner Inland Revenue, Assistant Commissioner Inland Revenue, Superintendent Inland Revenue, Inland Revenue Audit Officer and an officer of Inland Revenue, respectively.”;
- (44) after section 72A the following new section shall be inserted, namely;-
“72B. Selection for audit by the Board.- (1) The Board may select persons or classes of persons for audit of tax affairs through computer ballot which may be random or parametric as the Board may deem fit.

(2) Audit of tax affairs of persons selected under sub-section (1) shall be conducted as per procedure given in section 25 and all the provisions of this Act shall apply accordingly.

(3) For the removal of doubt, it is hereby declared that the Board shall be deemed always to have had, the power to select any persons or classes of persons for audit of tax affairs under this section.” ;

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

(46) in section 74, for the word “Collector”, the word “Commissioner” shall be substituted; and

(47) this section, except the provisions of sub-sections (2),(22) and (44), shall take effect and shall be deemed to have taken effect from the 5th June, 2010.

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

(1) in section 2, -

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

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

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

“(11B) “Chief Commissioner” means a person appointed as Chief Commissioner Inland Revenue under section 208 and includes a

Regional Commissioner of Income Tax and a Director General of Income Tax and Sales Tax;”;

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

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

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

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

(e) for clause (29C) the following shall be substituted, namely:-

“(29C) “Industrial undertaking” means –

(a) an undertaking which is set up in Pakistan and which employs,-

(i) ten or more persons in Pakistan and involves the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal energy; or

(ii) twenty or more persons in Pakistan and does not involve the use of electrical energy or any other form of energy which is mechanically

transmitted and is not generated by human or animal energy;

and which is engaged in,-

- (i) the manufacture of goods or materials or the subjection of goods or materials to any process which substantially changes their original condition; or
- (ii) ship-building; or
- (iii) generation, conversion, transmission or distribution of electrical energy, or the supply of hydraulic power; or
- (iv) the working of any mine, oil-well or any other source of mineral deposits; and

(b) any other industrial undertaking which the Board may by notification in the Official Gazette, specify.”;

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

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

- (g) in clause (41), in clause (c), for the word “connect” the word “connected” shall be substituted;
 - (h) clauses (48A) and (65) shall be omitted;
- (2) in section 4,-
- (a) in sub-section (1), for the words and letters “Division I or II” the words, comma and letters “Division I, IB or II” shall be substituted;
and
 - (b) in sub-section (4), in clause (b), for the word “or” appearing for the second time, the word “of” shall be substituted;
- (3) in section 13, in sub-section (7), for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:-
- “Provided that this sub-section shall not apply to such benefit arising to an employee due to waiver of interest by such employee on his account with the employer.”;
- (4) in section 22, in sub-section (3), for the word “were”, the word “was” shall be substituted;
- (5) in section 37,-
- (a) in sub-section (3), after the word “year” the words, the comma, brackets and figures “other than shares of public companies including the vouchers of Pakistan Telecommunication Corporation, modaraba certificates or any instrument of redeemable capital as

defined in the Companies Ordinance, 1984 (XLVII of 1984),” shall be inserted; and

(b) in sub-section (5), in clause (a), the brackets and words “(not being stocks and shares)” shall be omitted;

(6) after section 37, the following new section shall be inserted, namely:-

“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.”;

(7) after section 65A, the following new sections shall be inserted, namely:-

“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;

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.”;

(8) in section 87, after sub-section (2), the following new sub-section shall be inserted, namely:-

“(2A) The liability under this Ordinance shall be the first charge on the deceased’s estate.”;

(9) in section 111,-

- (a) in sub section (2), for the words, “immediately preceding the financial year in which it was discovered by the Commissioner” the words “to which such amount relates.” shall be substituted;
 - (b) in sub-section (4), -
 - (i) in clause (a), for the semicolon and the word, “; and” the “full stop” shall be substituted; and
 - (ii) clause (b) shall be omitted.
- (10) in section 113,-
- (a) in sub-section (1),-
 - (i) after the word “company” the comma, words, brackets and figures “, an individual (having turnover of fifty million rupees or above in the tax year 2009 or in any subsequent tax year) and an association of persons (having turnover of fifty million rupees or above in the tax year 2007 or in any subsequent tax year)” shall be inserted; and
 - (ii) in clause (e), for the word “one-half” the word “one” shall be substituted; and
 - (b) in sub-section (2), in clause (b), for the word “one-half” the word “one” shall be substituted;
- (11) in section 114,-
- (a) for sub-section (6), the following shall be substituted, namely:-

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

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

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

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

“(6A) If a taxpayer wishes to file a revised return voluntarily along with deposit of the amount of tax short paid or amount of tax sought to be evaded along with the default surcharge, whenever it comes to his notice, before receipt of notice under sections 177 or sub-section(9) of 122, no penalty shall be recovered from him:

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

Provided further that in case the taxpayer wishes to revise the return after the issuance of a show cause notice under

subsection (9) of section 122, he shall deposit the amount of tax sought to be evaded, default surcharge and fifty per cent of the leviable penalties under the Ordinance along with the revised return and thereafter, the show cause notice shall stand abated.”;

(12) in section 115, sub-section (4B), shall be omitted;

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

(a) “(2A) Where a person files a return in response to a provisional assessment under section 122C, he shall furnish a wealth statement for that year along with that return and such wealth statement shall be accompanied by a wealth reconciliation statement and an explanation of sources of acquisition of assets specified therein.”;

(b) after sub-section (3), the following new sub-section shall be added, namely:-

“(4) Every person (other than a company) filing statement under sub-section (4) of section 115, falling under final tax regime (FTR) and has paid tax amounting to thirty-five thousand rupees or more for the tax year, shall file a wealth statement alongwith reconciliation of wealth statement.”;

(14) in section 118, for sub-section (3) the following shall be substituted, namely:-

“(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.”;
- (15) in section 119, in sub-section (6), for the words “additional tax”, the words “default surcharge” shall be substituted;
- (16) in section 120, in sub-section (1A) for the words, “select a person for an audit of his income tax affairs” the words, “conduct audit of the income tax affairs of a person” shall be substituted;
- (17) in section 121, in sub-section (1),-
- (a) clause (a) shall be omitted;
 - (b) after the words “taxable income” the words “or income” shall be inserted; and

- (c) in clause (d) after the word, “accountants”, the words , “ or a firm of cost and management accountants” shall be inserted;
- (18) in section 122,
- (a) in sub-section (3), after the brackets and figures “(6)” the word, brackets, figure and letter, “or (6A)” shall be inserted;
- (b) in sub-section (4), after the figure and brackets,”(1)”, the word, “or” shall be substituted by a comma and after the figure and brackets “(3)” the word, figures and brackets “or (5A)” shall be added and shall have effect from (from the fourth July, 2003; and
- (c) after sub-section (5A) the following new sub-section shall be inserted namely:-
- “(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.”
- (19) in section 122A, in sub-section (1), for the words “taxation officer” the words “Officer of Inland Revenue” shall be substituted;
- (20) after section 122B, the following new section shall be inserted, namely:-
- “122C. Provisional assessment.-** (1) Where in response to a notice under sub-section (3) or sub-section (4) of section 114 a person fails to furnish return of income for any tax year, the Commissioner may, based on any available information or material and to the best of his judgment,

make a provisional assessment of the taxable income 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 alongwith wealth statement, wealth reconciliation statement and other documents required under sub-section (2A) of section 116 are filed by the person for the relevant tax year during the said period of sixty days”;

(21) in section 124, in sub-section (2),-

(a) the words and brackets, “Commissioner (Appeals)” appearing for the first time shall be omitted.

(b) for the word, “make”, wherever appearing, the word “pass” shall be substituted; and

(c) in the proviso,-

(i) the words and comma, “setting aside the assessment,” shall be omitted; and

(ii) the words and brackets “a Commissioner (Appeals)” shall be omitted;

- (22) in section 127,-
- (a) in sub-section (1), the figures and commas “183, 184, 185, 186, 187, 188, 189” shall be omitted; and
 - (b) in sub-section (4), in clause (a), the words, “or ten percent of the tax assessed” shall be omitted.
- (23) in section 130, sub-section (4) shall be substituted, namely:-
- “(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.” ;
- (24) in section 134A,-
- (a) in sub-section (2) the words, “Income Tax”, appearing for the first time the words “Inland Revenue” shall be substituted;
 - (b) in sub-section (3) for the words, “Income Tax”, the words “Inland Revenue” shall be substituted;
- (25) in section 137,-
- (a) in sub-section (2),for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:-

“Provided that the tax payable as a result of provisional assessment under section 122C, as specified in the notice under

sub-section (2) shall be payable after a period of sixty days from the date of service of the notice.”;

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

(26) after section 138A, a new section shall be added, namely;-

“138B. **Estate in bankruptcy.**— (1) If a taxpayer is declared bankrupt, the tax liability under this Ordinance shall pass on to the estate in bankruptcy.

(2) If tax liability is incurred by an estate in bankruptcy, the tax shall be deemed to be a current expenditure in the operations of the estate in bankruptcy and shall be paid before the claims preferred by other creditors are settled.”;

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

(28) in section 147,-

(a) in sub-section (1), clause (a) shall be omitted;

(b) in sub-section (2),-

(i) the words “or association of persons” shall be omitted; and

(ii) for the word “two” the word “five” shall be substituted;

(c) in sub-section (4), after the word “is” occurring for the first time, the words “an association of persons or” shall be inserted;

(d) in sub-section (4B),-

(i) the words “or an association of persons” shall be omitted;
and

- (ii) for the word “two” the word “five” shall be substituted;
- (e) in sub-section (5) the words “or an association of persons” shall be omitted;
- (f) for sub-section (5A) the following shall be substituted, namely:-
 - “(5A) Advance tax shall be payable by an association of persons or a company to the Commissioner-
 - (a) in respect of the September quarter, on or before the 25th day of September;
 - (b) in respect of the December quarter, on or before the 25th day of December;
 - (c) in respect of the March quarter, on or before the 25th day of March; and
 - (d) in respect of the June quarter, on or before the 15th day of June.”; and
- (g) after section (5A), amended as aforesaid, the following new sub-section shall be inserted, namely:-
 - “(5B) Advance tax on capital gains on sale of securities, shall be as follows, namely:-

- (a) the taxpayer shall pay advance tax on quarterly basis as per the following schedule and rates, namely:-

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%” ; and

(b) advance tax shall be payable by the taxpayer to the Commissioner within seven days after the close of each quarter.”;

- (29) in section 148, in sub-section (7), after the word “tax” occurring for the second time, the words, brackets and figure “except as provided under sub-section (8)” shall be inserted;
- (30) in section 151, after sub-section (3), the following new sub-section shall be added, namely:-
- “(4) Tax deducted on profit on debt from Debt instruments, Government securities including Treasury Bills and Pakistan Investment Bonds, shall be final tax on profit or debt.”;
- (31) in section 152, in sub-section (2), after brackets, figure and letter “(1A)” the comma, brackets, figure and letters “, (1AA)” shall be inserted;
- (32) in section 153, in sub-section (9), in clause (g), for the words, “and onwards” the words “or in any subsequent tax year shall be substituted;

and after clause (g), amended as aforesaid, the following new clause shall be inserted, namely:-

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

- (33) in section 155, sub-section (2) shall be omitted.
- (34) in section 161 , in sub-section (1B), for the words “additional tax” the words “ default surcharge” shall be substituted;
- (35) in section 162, in sub-section (2) for the words “additional tax” the words “ default surcharge” shall be substituted;
- (36) in section 165,-
 - (a) in sub-section (1), -
 - (i) the words and comma “within two months after the end of the financial year or within such further time as the Commissioner may allow by order in writing,” shall be omitted;
 - (ii) for the words “the financial year”, the words “each quarter” shall be substituted;
 - (iii) in clause (a), for the words “the year”, at the end, the words “each quarter” shall be substituted;
 - (iv) in clause (b), for the words “the year”, at the end, the words “each quarter” shall be substituted;
 - (v) in clause (c), for the words “the year”, at the end, the words “each quarter” shall be substituted; and

(vi) in clause (d), for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:-

“Provided that every person as provided in sub-section (1) shall be required to file withholding statement even where no withholding tax is collected or deducted during the period.”;

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

“(2) Every person collecting tax under Division II of this Part or Chapter XII or deducting tax under Division III of this Part or Chapter XII shall furnish statements under sub-section (1) as per the following schedule, namely:-

(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

(c) in sub-section (4), for the brackets and figure “(2)” the brackets and figure “(1)” shall be substituted;

(37) in section 169,-

- (a) in sub-section (1), in clause (b) after the words and digits, “section 154” the words, digits and comma, “section 155,” may be omitted.
- (b) in sub-section (3) the word “and” may be substituted by a “comma” and after the figure”7” the word and figure “and 15” may be inserted.
- (c) after sub-section (3), the following Explanation may be added namely:-

“Explanation. - The expression, “an assessment shall be treated to have been made under section 120” means,

- (a) the Commissioner shall be taken to have made an assessment of income for that tax year, and the tax due thereon equal to those respective amounts specified in the return or statement under sub-section (4) of section 115; and
- (b) the return or the statement under sub-section (4) of section 115 shall be taken for all purposes of this Ordinance to be an assessment order.”

(38) in section 174,-

- (a) in sub-section (3),for the word “five” the word “six” shall be substituted; and
- (b) for the full stop at the end, a colon shall be substituted and thereafter the following proviso and the explanation shall be added, namely:-

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

Explanation.- Pending proceedings include proceedings for assessment or amendment of assessment, appeal, revision, reference, petition or prosecution and any proceedings before an Alternative Dispute Resolution Committee.”;

(39) in section 176, in sub-section (1), in clause (c), for the word and comma “Board” the words “Board or the Commissioner” shall be substituted;

(40) in section 177,-

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

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

Provided that-

- (a) the Commissioner may, after recording reasons in writing call for record or documents including books of accounts of the taxpayer; and
- (b) the reasons shall be communicated to the taxpayer while calling record or documents including books of accounts of the taxpayer:

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

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

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

- (c) sub-sections (3),(4) and (5) shall be omitted;
- (d) in sub-section (6), the words, brackets and figures “under sub-section (5) or sub-section (8)” shall be omitted;
- (e) in sub-section (7), a full stop shall be added after the word, “audits” and the words, comma, brackets and figure “particularly having regard to the factors in sub-section (4)”, shall be omitted;
- (f) in sub-section (8),

- (i) the words, “selected for audit by the Commissioner or by the Board” shall be omitted;
 - (ii) after the word, “Board” appearing twice the words, “or the Commissioner” shall be added; and
 - (iii) after the brackets letter, word, figure and commas (X of 1961)”, the words, figures and brackets “or a firm of Cost and Management Accountants as defined under the Cost and Management Accountants Act, 1966 (XIV of 1966)” shall be inserted; and
- (g) after sub-section (9), the following new sub-section (10) shall be added, namely:-
- “(10) Notwithstanding anything contained in sub-sections (2) and (6) where a person fails to produce before the Commissioner or a firm of Chartered Accountants or a firm of Cost and Management Accountants appointed by the Board or the Commissioner under sub-section (8) to conduct an audit, any accounts, documents and records, required to be maintained under section 174 or any other relevant document, electronically kept record, electronic machine or any other evidence that may be required by the Commissioner or the firm of Chartered Accountants or the firm of Cost and Management Accountants for the purpose of audit or determination of income and tax due thereon, the Commissioner may proceed to make best judgment assessment under section 121 of this Ordinance and the assessment treated to have been

made on the basis of return or revised return filed by the taxpayer shall be of no legal effect.”;

(41) after section 181, the following new section shall be added, namely:-

“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.”;

(42) for section 182 the following shall be substituted, namely:-

“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	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	114, 115,116 and 165

- | | | | |
|----|---|---|---|
| | statement or statement
under section 165
within the due date. | and a maximum
penalty of 25% of the
tax payable in respect
of that tax year. | |
| 2. | Any person who fails to
issue cash memo or
invoice or receipt when
required under this
Ordinance or the rules
made thereunder. | 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 | Such person shall | 137 |

deposit the amount of tax due or any part thereof in the time or manner laid down under this Ordinance or rules made thereunder.

pay a penalty of five per cent 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.

- | | | | |
|----|--|---|-----|
| 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 | Such person shall | 174 |

maintain records pay a penalty of ten
required under this thousand rupees or
Ordinance or the rules five per cent of the
made thereunder. amount of tax on
income whichever is
higher

8. Where a taxpayer who, 177
without any reasonable
cause, in non
compliance with the
provisions of section
177—

(a) fails to produce the Such person shall
record or pay a penalty of five
documents on thousand rupees;
receipt of first
notice;

(b) fails to produce the such person shall pay
record or a penalty of ten
documents on thousand rupees; and
receipt of second
notice; and

(c) fails to produce the such person shall pay

record or a penalty of fifty
documents on thousand rupees.
receipt of third
notice.

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-

(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,

Such person shall pay a penalty of twenty five thousand rupees or 100% of the amount of tax shortfall whichever is higher:

114,115,116,174, 176, 177 and general.

Provided that in case of an assessment order deemed under section 120, no

declaration, penalty shall be
notification, return, imposed to the extent
objection or other of the tax shortfall
document including occurring as a result
books of accounts of the taxpayer taking
made, prepared, a reasonably
given, filed or arguable position on
furnished under the application of this
this ordinance; Ordinance to the

(b) furnishes or files a taxpayer's position.

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 in 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 particulars of such income, including but not limited to the suppression of any income or amount. Such person shall pay a penalty of twenty five thousand rupees or an amount equal to the tax which the person sought to evade whichever is higher. However, no 20, 111 and General.

chargeable to tax, the penalty shall be claiming of any payable on mere deduction for any disallowance of a expenditure not claim of exemption actually incurred or any from tax of any act referred to in sub-income or amount section (1) of section declared by a person 111, in the course of or mere disallowance of any expenditure of any expenditure declared by a person this Ordinance before to be deductible, any Income tax unless it is proved authority or the that the person made appellate tribunal. the claim knowing it to be wrong.

13. Any person who obstructs any Income tax Authority in the performance of his official duties. Such person shall pay a penalty of twenty five thousand rupees. 209, 210 and General.

14 Any person who contravenes any of the provision of this Such person shall pay a penalty of five thousand rupees or General.

	Ordinance for which no penalty has, specifically, been provided in this section.	three per cent of the amount of tax involved, whichever is higher.	
15.	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 under section 160.	Such person shall pay a penalty of twenty five thousand rupees or the 10% of the amount of tax whichever is higher.	148,149,150,151, 152, 153, 153A, 154, 155, 156, 156A, 156B, 158, 160, 231A, 231B, 233, 233A, 234, 234A, 235, 236, 236A.

(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.”;
- (43) for section 183 the following shall be substituted, namely:-
- “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.”;
- (44) sections 184, 185, 186, 187, 188, 189 and 190 shall be omitted;
- (45) in section 202 for the words “additional tax” the words “ default surcharge” shall be substituted;
- (46) in section 203,-
- (a) for sub-section (1) the following new sub-section shall be substituted, namely:-
- “(1) The Federal Government may, by notification in the official Gazette, appoint as many special judges as it may consider necessary, and where it appoints more than one Special Judge, it shall specify in the notification the territorial limits within which each of them shall exercise jurisdiction.”;

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

“(1A) A Special Judge shall be a person who is or has been a Sessions Judge and shall, on appointment, have the jurisdiction to try exclusively an offence punishable under this Part other than an offence referred to in section 198.

(1B) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), except those of Chapter XXXVIII, 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.”; and

- (c) after sub-section (2), the following new sub-sections (3) and (4) shall be added, namely:

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

(4) In respect of a case transferred to a Special Judge by virtue of sub-section (1) or under sub-section (3), such Judge shall

not, by reason of the said transfer, be bound to recall and record again any witness who has given evidence in the case before the transfer and may act on the evidence already recorded by or produced before the court which tried the case before the transfer.”;

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

(48) in section 205,-

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

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

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

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

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

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

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

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

- (g) in sub-section (5), for the words “additional tax”, occurring twice, the words “default surcharge” shall be substituted; and
 - (h) in sub-section (6), for the words “additional tax” the words “default surcharge” shall be substituted;
- (49) in section 205A,-
- (a) in the heading, for the words “additional tax”, the words “default surcharge” shall be substituted; and
 - (b) for the words “additional tax”, occurring twice, the words “ default surcharge” shall be substituted;
- (50) for section 207, the following shall be substituted, namely:-
- “207. Income tax authorities.-** (1) There shall be the following Income Tax authorities for the purposes of this Ordinance and rules made thereunder, namely:-
- (a) Board;
 - (b) Chief Commissioner Inland Revenue;
 - (c) Commissioner Inland Revenue;
 - (d) Commissioner Inland Revenue (Appeals);
 - (e) Additional Commissioner Inland Revenue;
 - (f) Deputy Commissioner Inland Revenue;
 - (g) Assistant Commissioner Inland Revenue;
 - (h) 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.”;

(51) in section 208, for sub-section (1) the following shall be substituted, namely:-

“(1) The Board may appoint as many Chief Commissioners Inland Revenue, Commissioners Inland Revenue, Commissioners Inland Revenue (Appeals), Additional Commissioners Inland Revenue, Deputy Commissioners Inland Revenue, Assistant Commissioners Inland Revenue, Inland Revenue Officers, Inland Revenue Audit Officers, Superintendents Inland Revenue, Inspectors Inland Revenue, Auditors Inland Revenue and such other executive or ministerial officers and staff as may be necessary.”;

(52) in section 209,

(a) for the words “Regional Commissioners” and “Regional Commissioner”, wherever occurring, the words “Chief Commissioners” and “Chief Commissioner” shall be substituted;

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

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

(53) in section 210, in sub-section (1B), for the word and comma “Board,” the words, “Board or the Commissioner” shall be substituted;

(54) in section 210,-

- (a) in sub-section (1), for the words "taxation officer" the words and comma "officer of Inland Revenue, subordinate to the Commissioner" shall be substituted;
 - (b) in sub-section (1A), the words "taxation officer below the rank of Additional Commissioner of Income Tax" the words "an officer of Inland Revenue below the rank of Additional Commissioner Inland Revenue" shall be substituted; and
 - (c) in sub-section (1B), after the words "chartered accountants" the words "or a firm of Cost and Management Accountants" shall be inserted; and
- (55) in section 211, for the words "a taxation officer", wherever occurring, the words "an Officer of Inland Revenue" shall be substituted;
- (56) after section 214B, a new section may be added, namely:-
- "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.”;
- (57) in section 215,-
- (a) in sub-section (1), for the words “taxation officer”, occurring twice, the words “officer of Inland Revenue” shall be substituted; and
 - (b) in sub-section (2), for the words “taxation officer” the words “officer of Inland Revenue” shall be substituted;
- (58) in section 217, in sub-section (3),-
- (a) for the words, “taxation officer” the words “Officer of Inland Revenue” shall be substituted; and
 - (b) after the word, “document”, at the end, the words “or if it is computer generated and bears the authentication in the manner prescribed by the Board” shall be added;
- (59) in section 226, for clause (b) the following shall be substituted, namely:-
- “(b) in the case of an assessment or other proceeding under this Ordinance,-
- (i) the period, if any, for which such proceedings were stayed by any Court, Appellate Tribunal or any other authority; or
 - (ii) the period, if any, for which any proceeding for the tax year remained pending before any Court, Appellate Tribunal or any other authority.”;

(60) in section 227, the existing section shall be renumbered as sub-section (1) of that section, and after sub-section (1), renumbered as aforesaid, the following new sub-section shall be added, namely:-

“(2) Notwithstanding anything contained in any other law for the time being in force, no investigation or inquiry shall be undertaken or initiated by any governmental agency against any officer or official for anything done in his official capacity under this Ordinance, rules, instructions or direction made or issued thereunder without the prior approval of the Board.”;

(61) after section 228, the following new section shall be added, namely:-

“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.”;

(62) after section 231A, the following new section shall be inserted, namely:-

“231AA. **Advance tax on transactions in bank.**- (1) Every banking company shall deduct tax at the rate specified in Division VIA of Part IV of the First Schedule, if the payment for withdrawal is made through 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.

(2) Advance tax under this section shall not be collected in the case of withdrawals made by,-

- (a) the Federal Government or a Provincial Government;
- (b) a foreign diplomat or a diplomatic mission in Pakistan; or
- (c) a person who produces a certificate from the Commissioner that his income during the tax year is exempt.”;

(63) in section 233, in sub-section (1), after the word “in”, the words “Division II of” shall be inserted;

(64) in section 233A, in sub-section (2), for the words “minimum tax” the word “adjustable” shall be substituted;

(65) in section 236,-

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

(i) in clause (a), the word “and” occurring at the end, shall be omitted; and

(ii) in clause (b), for the full stop at the end, the semicolon and word “; and”, shall be added; and thereafter the following new clause shall be inserted, namely:-

“(c) sale of units through any electronic medium or whatever form.”;

- (b) after sub-section (3), the following new sub-section shall be inserted, namely:-
- “(3A) The person issuing or selling units through any electronic medium or whatever form shall collect advance tax under sub-section (1) from the purchaser at the time of issuance or sale of units.”;
- (66) in section 236A, in sub-section (1), for the words “confiscated or attached” the brackets and words “(including property or goods confiscated or attached)” shall be inserted;
- (67) after section 236A, the following new section shall be inserted, namely:-
- “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.”;
- (68) in section 237, in sub-section (2) , in clause (d), for the words “additional tax”, the words “ default surcharge” shall be substituted;
- (69) in section 239,-
- (a) in sub-section (3), for the words “additional tax”, the words “ default surcharge” shall be substituted;
- (b) in sub-section (7), for the words “additional tax”, the words “ default surcharge” shall be substituted; and
- (70) after section 239A, the following new section shall be inserted, namely:-

“239B. Reference to authorities.- Any reference to the Regional Commissioner of Income Tax, Commissioner of Income Tax, Commissioner of Income Tax (Appeals) and Taxation Officer, wherever occurring, in this Ordinance and the rules made thereunder and notifications, orders, circulars or clarifications or any instrument issued thereunder shall be construed as reference to the Chief Commissioner Inland Revenue, Commissioner Inland Revenue, Commissioner Inland Revenue (Appeals) and officer of Inland Revenue, respectively.”;

(71) in section 240, sub-section (2) shall be omitted.

(72) in the FIRST SCHEDULE,-

(i) in Part I,-

(a) in Division I,

(i) in the heading, the words “and **Association of Persons**” shall be omitted;

(ii) in clause (1), the words “or Association of Persons” shall be omitted;

(iii) in clause (1), for the TABLE, the following shall be substituted, namely:-

TABLE

S.No.	Taxable Income.	Rate of tax.
(1)	(2)	(3)
1.	Where taxable income does not exceed	0%

	Rs.300,000	
2.	Where the taxable income exceeds Rs.300,000 but does not exceed Rs.400,000	7.50%
3.	Where the taxable income exceeds Rs.400,000 but does not exceed Rs.500,000	10.00%
4.	Where the taxable income exceeds Rs.500,000 but does not exceed Rs.600,000	12.50%
5.	Where the taxable income exceeds Rs.600,000 but does not exceed Rs.800,000	15.00%
6.	Where the taxable income exceeds Rs.800,000 but does not exceed Rs.10,00,000	17.50%
7.	Where the taxable income exceeds Rs.10,00,000 but does not exceed Rs.13,00,000	21.00%
8.	Where the taxable income exceeds Rs.13,00,000	25.00%

(iv) in clause (1A), after the TABLE, the first proviso shall be omitted;

(v) in clause (1A), for the TABLE, the following shall be substituted, namely:-

TABLE

S.No.	Taxable Income.	Rate of tax.
(1)	(2)	(3)
1.	Where the taxable income does not exceed Rs.300,000,	0%
2.	Where the taxable income exceeds Rs.300,000 but does not exceed Rs.350,000,	0.75%
3.	Where the taxable income exceeds Rs.350,000 but does not exceed Rs.400,000,	1.50%
4.	Where the taxable income exceeds Rs.400,000 but does not exceed Rs.450,000,	2.50%
5.	Where the taxable income exceeds Rs.450,000 but does not exceed Rs.550,000,	3.50%
6.	Where the taxable income exceeds Rs.550,000 but does not exceed Rs.650,000,	4.50%

7. Where the taxable income exceeds 6.00%
Rs.650,000 but does not exceed
Rs.750,000,
8. Where the taxable income exceeds 7.50%
Rs.750,000 but does not exceed
Rs.900,000,
9. Where the taxable income exceeds 9.00%
Rs.900,000 but does not exceed
Rs.1,050,000,
10. Where the taxable income exceeds 10.00%
Rs.1,050,000 but does not exceed
Rs.1,200,000,
11. Where the taxable income exceeds 11.00%
Rs.1,200,000 but does not exceed
Rs.1,450,000,
12. Where the taxable income exceeds 12.50%
Rs.1,450,000 but does not exceed
Rs.1,700,000,
13. Where the taxable income exceeds 14.00%
Rs.1,700,000 but does not exceed
Rs.1,950,000,
14. Where the taxable income exceeds 15.00%
Rs.1,950,000 but does not exceed

- Rs.2,250,000,
15. Where the taxable income exceeds 16.00%
Rs.2,250,000 but does not exceed
Rs.2,850,000,
16. Where the taxable income exceeds 17.50%
Rs.2,850,000 but does not exceed
Rs.3,550,000,
17. Where the taxable income exceeds 18.50%
Rs.3,550,000 but does not exceed
Rs.4,550,000,
18. Where the taxable income exceeds 20.00%
Rs.4,550,000.
-

- (b) in Division IA, for the figure and sign “0.50%” the words “one per cent” shall be substituted;
- (c) after Division IA, the following new Division shall be added, namely:-

Division IB

Rates of Tax for Association of Persons

The rate of tax imposed on the taxable income of Association of Persons for the tax year 2010 and onward shall be 25%.

- (d) in Division II, in clause (iii), for the figure “20” the figure “25” shall be substituted;

- (e) after Division VI, the following new Division shall be added,
namely:-

Division VII

Capital Gains on Sale of Securities

The rate of tax to be paid under section 37A shall be as follows-

S.No.	Period.	Tax Year.	Rate of tax.
(1)	(2)	(3)	(4)
1.	Where holding period of a security is less than six months.	2010	10%
		2011	10%
		2012	12.5%
		2013	15%
		2014	17.5%
2.	Where holding period of a security is more than six months but less than twelve months.	2010	7.5%
		2011	8%
		2012	8.5%
		2013	9%
		2014	9.5%
		2015	10%

- (ii) in Part II, for the figure “4” the figure “5” shall be substituted;
- (iii) In Part III,-
- (a) in Division II, in clause (2), for the figure “30” the figure “20” shall be substituted;

- (b) for Division VI, the following shall be substituted, namely:-

Division VI

Prizes and Winnings

(1) The rate of tax to be deducted under section 156 on a prize on prize bond or cross-word puzzle shall be 10% of the gross amount paid.

(2) The rate of tax to be deducted under section 156 on winnings from a raffle, lottery, prize on winning a quiz, prize offered by a company for promotion of sale, shall be 20% of the gross amount paid.

- (iv) in Part IV,-

- (a) in Division III, for clause (i) the following shall be substituted, namely:-

“(i) in case of goods transport vehicles, tax of one rupee per kilogram of the laden weight shall be charged.”;

- (b) in Division IV, in the third column, for the figure “10”, at the end, the figure “5” shall be substituted;

- (c) in Division V, in clause (b), in the third column for the letter “CD” the words “any electronic medium” shall be substituted;

- (d) after Division VI, the following new Division shall be inserted, namely:-

“Division VIA

Advance tax on Transactions in Bank

The rate of tax to be deducted under section 231AA shall be at the rate of 0.3% of the transaction.

- (e) after Division IX, the following new Division shall be added, namely:-

Division IX

Advance tax on Purchase of Air Ticket

The rate of tax to be deducted under section 236B shall be 5% of the gross amount of air ticket.

- (73) in the SECOND SCHEDULE,-

- (i) in Part I,-

- (a) in clause (72), after sub-clause (ii), the following new sub-clause shall be inserted, namely:-

“(iii) being a foreign individual, company, firm or association of persons in respect of a foreign loan as is utilized for industrial investment in Pakistan provided that the agreement for such loan is concluded on or after the first day of February, 1991, and is duly registered with the State Bank of Pakistan.”;

- (b) after clause (92), the following new clause shall be inserted, namely:-

“(92A) Any income of any university or any other educational institution established in the most affected and moderately affected areas of Khyber Pakhtunkhwa, FATA and PATA, for a period of two years ending on the 30th day of June, 2011;”;

- (c) clause (102), shall be omitted;
- (d) clause (110), shall be omitted;
- (e) clause (110A), shall be omitted;
- (f) after clause (126E), the following new clause shall be inserted, namely:-

“(126F) Profits and gains derived by a taxpayer located in the most affected and moderately affected areas of Khyber Pakhtunkhwa, FATA and PATA for a period of three years starting from the tax year 2010:

Provided that this concession shall not be available to the manufacturers and suppliers of cement, sugar, beverages and cigarettes;”;

- (ii) in part-II, in clause (24A), after the word “products”, the words “and for large distribution houses who fulfill all the conditions for a large import house as laid down under clause (d) of sub-section (7) of section 148, for large import houses,” shall be added;
- (iii) in Part III, in clause (1A),-
 - (a) after the words “taxable income”, the words “other than income on which the deduction of tax is final” shall be inserted; and
 - (b) for the words “seven hundred fifty thousand”, the words “one million” shall be substituted;
- (iv) in Part IV,-

(a) after clause (10), the following new clause shall be inserted, namely:-

“(10A) (i) The provisions of serial No. 5 of the Table given in sub-section (1) of section 182 and clause (a) of sub-section (1) of section 205 shall not apply to business located in the most affected and moderately affected areas of Khyber Pakhtunkhwa, FATA and PATA, provided that the principal amount of tax due is paid by the 30th day of June, 2010;

(ii) the provisions of section 235, regarding advance tax on electricity, shall not apply to commercial and industrial consumers of electricity located in the most affected and moderately affected areas of Khyber Pakhtunkhwa, FATA and PATA till the 30th day of June, 2011;

(iii) the provisions of section 154, regarding withholding tax on exports, shall not be applicable to the export of goods originating from the most affected and moderately affected areas of Khyber Pakhtunkhwa, FATA and PATA, till the 30th day of June, 2011;

Provided that this clause shall only be restricted to the exporters based in the above areas;

(iv) the provisions of section 148 shall not be applicable on the import of plant and machinery for establishment of businesses in the most affected and moderately affected

areas of Khyber Pakhtunkhwa, FATA and PATA till the 30th day of June, 2011:

Provided that this concession shall not be available to the manufacturers and suppliers of cement, sugar, beverages and cigarettes;”

Explanation.- For the purpose of this Schedule,-

(a) most affected areas means district Peshawar, Malakand Agency, and districts of Swat, Buner, Shangla, Upper Dir, Lower Dir, Hangu, Bannu, Tank, Kohat and Chitral; and

(b) moderately affected areas means districts of Charsadda, Nowshera, DI Khan Batagram, Lakki Marwat, Swabi and Mardan.”;

(b) clause (52) shall be omitted;

(c) after clause (72), the following new clause shall be added, namely:-

“(73) To mitigate part of the cost of obtaining foreign support to fill productivity gap, income tax payable by a foreign experts shall be exempted provided that such expert is acquired with the prior approval of the Ministry of Textile Industry.”;

(74) in the THIRD SCHEDULE,-

in Part I, in the table, after sub-clause IV, the following new sub-clause shall be added, namely:-

“V A ramp built to provide access to persons with 100%”
disabilities not exceeding Rs. 250,000 each.

(75) in the FIFTH SCHEDULE,-

(i) in Part I, after rule 4, the following new rule shall be inserted,
namely:-

“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.”;

(76) in the SEVENTH SCHEDULE,-

- (i) in clause 1, in sub-clause (c), after the word and semicolon “advances;” the words, figure, brackets and letters “and provisions for advances and off-balance sheet items shall be allowed at 5% of total advances for consumers and small and medium enterprises (SMEs) (as defined under the State Bank Prudential Regulations)” shall be inserted; and
- (ii) after rule 8, the following new rule shall be inserted, namely:-

“8A. *Transactional provisions.*- (1) Amounts provided for in the tax year 2008 and prior to the said tax year for or against irrecoverable or doubtful advances, which were neither claimed nor allowed as a tax deductible in any tax year, shall be allowed in the tax year in which such advances are actually written off against such provisions, in accordance with the provision of sections 29 and 29A.

(2) Amounts provided for in the tax year 2008 and prior to the said tax year for or against irrecoverable or doubtful advances, which were neither claimed nor allowed as a tax deductible in any tax year, which are written back in the tax year 2009 and thereafter in any tax year and credited to the profit and loss account, shall be excluded in computing the total income of that tax year under rule 1 of this Schedule.

(3) The provisions of this Schedule shall not apply to any asset given or acquired on finance lease by a banking company up to the tax year 2008, and recognition of income and deductions in respect of such asset shall be dealt in accordance with the provisions of the Ordinance as if this Schedule has not come into force:

Provided that un-absorbed depreciation in respect of such assets shall be allowed to be set-off against the said lease rental income only.”;

(77) The provisions of clauses (a), (b), (c), (d), (f) and (h) of sub-section (2), clause (a) of sub-section (17) and clause (a) of sub-section (18) and sub-sections (11), (13), (15), (16), (19), (20), (23),(24), (25), (27), (34), (35),

(38), (40), (46), (47), (48), (49), (50), (51), (52), (53), (54), (55), (57), (58), (68), (69) and (70) of this section shall take effect and shall be deemed to have taken effect from the 5th June, 2010.

7. Amendments of the Federal Excise Act, 2005.- In the Federal Excise Act, 2005,-

(1) in section 2,-

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

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

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

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

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

“(5) Commissioner” means a person appointed as a Commissioner Inland Revenue under section 29.”;

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

“(12A) “Officer of Inland Revenue” means any person appointed by the Board as officer of Inland Revenue under section 29 or any person (including an officer of the provincial government) entrusted by the Board with any of the powers of an officer of Inland Revenue under this Act or rules made thereunder;”;

- (2) in section 4, in sub-section (4), for the words "Collector of Federal Excise" the words "Commissioner Inland Revenue" shall be substituted;
- (3) in section 9, in sub-section (2), for the word "Collector" the word "Commissioner" shall be substituted;
- (4) in section 14, in sub-section (2), for the words "Federal Excise Officer" the words "officer of Inland Revenue" shall be substituted;
- (5) in section 17,-
 - (a) in sub-section (1), for the word "five" the word "six" shall be substituted; and
 - (b) after the word "years" the following words and commas shall be inserted, namely:-

"or till such further period the final decision in any proceedings including proceedings for assessment, appeal, revision, reference, petition and any proceedings before an Alternative Dispute Resolution Committee is finalized" may be inserted;
- (6) in section 19,-
 - (a) in sub-section (2), in clauses (a) and (c), for the words "Federal Excise officer" the words "officer of Inland Revenue" shall be substituted;
 - (b) in sub-section (4), for the word "Collector" the words "Commissioner" shall be substituted;

- (c) in sub-section (6), for the words "Federal Excise officer" the words "officer of Inland Revenue" shall be substituted; and
- (d) in sub-section (10), for the word "Collector" the word "Commissioner" shall be substituted;
- (7) in section 21, in sub-section (4), for the words "Federal Excise Officers" the words "officers of Inland Revenue" shall be substituted;
- (8) in section 22, in sub-sections (1), (5), (6), (7), (8), (10), (11), (13) and (14), for the words "Federal Excise Officer", wherever occurring, the word "Collector" and for the words "officer of Inland Revenue" the word "Commissioner", shall respectively be substituted;
- (9) in section 23, in sub-section (1), for the words "Federal Excise Officer" the words "officer of Inland Revenue" shall be substituted;
- (10) in section 24, for the words "Federal Excise Officer", wherever occurring, the words "officers of Inland Revenue" shall be substituted;
- (11) in section 27, in sub-section (3), for the word "Collector" the word "Commissioner" shall be substituted;
- (12) in section 29,-
 - (a) for sub-section (1) the following shall be substituted, namely:-
 - “(1) For the purposes of this Act, the Board may, appoint in relation to any area, any person or any 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;
 - (i) Inland Revenue Audit Officer; and
 - (k) officer of Inland Revenue with any other designation.”;
- (b) after sub-section (1), the following new sub-sections (1A), (1B) and (1C) shall be inserted, namely:-
- “(1A) 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.
- (1B) Additional Commissioners Inland Revenue, Deputy Commissioners Inland Revenue, Assistant Commissioners Inland Revenue, Inland Revenue Officers, Superintendents 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.

- (1C) Deputy Commissioners Inland Revenue, Assistant Commissioners Inland Revenue, Inland Revenue Officers, Superintendents 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.”;
- (c) In sub-section (3) for the words and comma, “The Board may, by notification in the official Gazette and subject to such limitations or conditions as maybe specified therein ” the words “The Board or the Chief Commissioner with the approval of the Board, may” shall be substituted;
- (d) in sub-section (3), for the words “Collector of Federal Excise, Additional Collector of Federal Excise, Deputy Collector of Federal Excise, Assistant Collector of Federal Excise, or officer of Federal Excise”, wherever occurring, the words “Commissioner Inland Revenue, Additional Commissioner Inland Revenue, Deputy Commissioner Inland Revenue, Assistant Commissioner Inland Revenue or Officer of Inland Revenue” shall respectively be substituted;
- (e) sub-section (4) shall be omitted;
- (13) in section 30, in sub-section (2), for the words "Federal Excise Officer" the words "officers of Inland Revenue" shall be substituted;
- (14) section 31 may be omitted.

- (15) in section 33,-
- (a) in the heading, for the word "Collector" the word "Commissioner" shall be substituted;
 - (b) in sub-section (1), for the words "Federal Excise Officer up to the rank of Additional Collector of Federal Excise" the words "officer of Inland Revenue upto the rank of Additional Commissioner Inland Revenue" shall be substituted; and
 - (c) in sub-sections (1), (2) and (3) for the word "Collector", wherever occurring, the word "Commissioner" shall respectively be substituted";
- (16) in section 34,-
- (a) in sub-section (1),
 - (i) for the words "Federal Excise Officer" the words "officer of Inland Revenue" shall be substituted; and
 - (ii) in clause (a), for the word "Collector" the word "Commissioner" shall be substituted; and
 - (iii) in clause (b), for the words "Collector of Federal Excise" the words "Commissioner Inland Revenue" shall be substituted;
 - (b) sub-section (2) shall be omitted;
 - (c) in sub-section (3), for the words " any officer of Federal Excise not below the rank of Additional Collector authorized by the Collector" the words "any officer of Inland Revenue not below the rank of

Additional Commissioner authorized by the Commissioner” shall be substituted;

- (d) in sub-section (9), in the proviso, for the words “Additional Collector authorized by the Collector” the words “Additional Commissioner authorized by the Commissioner”, and for the words "authorizing the Collector" the words "authorizing the Commissioner" shall respectively be substituted;
 - (e) in sub-section (12), for the words “Additional Collector authorized by the Collector” the words “Additional Commissioner authorized by the Commissioner” shall be substituted; and
 - (f) in sub-section (13), for the word “Collector”, occurring thrice, the word “Commissioner” shall be substituted;
- (17) after section 34 the following section shall be inserted, namely:-

“34A. Reference to High Court.- (1) Within ninety days of the communication of the order of the Appellate Tribunal under sub-section (2A) of section 34, 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.

(2) The statement to the High Court referred to in sub-section (1), shall set out the facts, the determination of the Appellate Tribunal and the question of law which arises out of its order.

(3) Where, on an application made under sub-section (1), the High Court is satisfied that a question of law arises out of the order referred to in sub-section (1), it may proceed to hear the case.

(4) A reference to the High Court under this section 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, so far as may be, notwithstanding anything contained in any other law for the time being in force.

(5) The High Court upon hearing a reference under this section 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.

(6) 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.

(7) 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.

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

(9) An application under sub-section (1) by a person other than the Commissioner shall be accompanied by a fee of one hundred rupees.”;

- (18) in section 35,-
- (a) in the heading, for the word “Collector” the word “Commissioner” shall be substituted;
 - (b) in sub-section (1), for the word “Collector” the word “Commissioner” shall be substituted; and
 - (c) in sub-section (3), for the words “Federal Excise Officers” the words “officer of Inland Revenue” shall be substituted;
- (19) in section 36, in sub-section (1), for the words “Federal Excise Officer” the words “officer of Inland Revenue” shall be substituted;

- (20) in section 37, in sub-sections (1), (2) and (3), for the words “Collector (Appeals)”, wherever occurring, the words “Commissioner (Appeals)” shall respectively be substituted;
- (21) in section 38, in sub-section (2), for the words “an officer of Federal Excise not below the rank of Additional Collector” the words “an officer of Inland Revenue not below the rank of an Additional Commissioner” shall be substituted;
- (22) after section 42, the following new sections shall be inserted, namely:-

“42A. Reference to authorities.- Any reference to Collector, Additional Collector, Deputy Collector, Assistant Collector, Superintendent and an officer of Federal Excise, wherever occurring, in this Act and the rules, notifications, clarifications, general orders or orders made or issued thereunder, shall be construed as reference to Commissioner Inland Revenue, Additional Commissioner Inland Revenue, Deputy Commissioner Inland Revenue, Assistant Commissioner Inland Revenue, Superintendent Inland Revenue and an officer of Inland Revenue, respectively;

42B. Selection for audit by the Board.- (1) The Board may select persons or classes of persons for audit of records and documents through computer ballot which may be random or parametric as the Board may deem fit.

(2) Audit of such persons selected under sub-section (1) shall be conducted as per procedure given in section 46 and all the provisions of the Act 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.”;

(23) in section 43, in sub-section (2), for the word “Collector” the word “Commissioner” and for the words "officer of Federal Excise" the words "officer of Inland Revenue” shall be substituted;

(24) in section 44, in sub-section (2), for the word “Collector” the word “Commissioner” and in the proviso, for the words “Collector” and "officer of Federal Excise" the words "Commissioner" and “officer of Inland Revenue” shall respectively be substituted;

(25) in section 45,-

(a) in sub-section (1), for the words “Federal Excise officer” the words “officer of Inland Revenue” shall be substituted; and

(b) in sub-section (2), for the words “Federal Excise officer” the words “officer of Inland Revenue”; and in the proviso for the words “Federal Excise officer” the words “officer of Inland Revenue” and for the word “Collector” the word “Commissioner” shall respectively be substituted;

(26) in section 46,-

- (a) in sub-section (1), for the words “Federal Excise officer” the words “officer of Inland Revenue” shall be substituted and after the word, “Board”, the words, “or the Commissioner”, shall be inserted;
- (b) in sub-section (2), for the words “Collector”, “Federal Excise officer” and “Assistant Collector” the words “Commissioner”, “Officer of Inland Revenue” and “Assistant Commissioner”, shall respectively be substituted;
- (c) after sub-section (2), the following new sub-section shall be inserted, namely:-
- “(2A) After completion of the audit under this section or any other provision of law, the officer of Inland Revenue may, if considered necessary, after obtaining the registered person’s explanation on all the issues raised in the audit shall pass an order under section 14, imposing the amount of duty as per law, charging default surcharge, imposing penalty and recovery of any amount erroneously refunded.”; and
- (d) in sub-section (3), in the proviso, for the words, “conclusion of original adjudication proceedings”, the words, “determination of liability under sub-section (2A)” shall be substituted;
- (27) for section 47 the following shall be substituted, namely:-
- “47. Service of notices and other documents.-** (1) Subject to this Act, any notice, order or requisition required to be served on a resident

individual (other than in a representative capacity) for the purposes of this Act shall be treated as properly served on the individual if –

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

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

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

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

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

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

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

(28) In the First Schedule,-

in the TABLE I, in column (1),-

(a) against serial number 8 and 9, in column (4), for the word “four”, the word “five” shall respectively be substituted;

(b) against serial number 10 and 11, in column (4), for the words “Four rupees and seventy-five paisa”, the

words "Five rupees and twenty-five paisa" shall respectively be substituted;

(c) against serial number 12, in column (4), for the word "four", the word "five" shall be substituted;

(d) against serial numbers 36 and 37, in column (4), for the words "five rupee and nine paisa", the words "ten rupees" shall be substituted;

(e) after serial number 49 and the corresponding entries relating thereto in column (2), (3) and (4) the following shall be inserted; namely:-

(1)	(2)	(3)	(4)
"50.	Filter rods for cigarettes	5502.0090	one rupee per filter rod
51.	Air Conditioners	Respective Headings	Ten percent ad val.
52.	Deep Freezers	Respective Headings	Ten percent ad val. ";

(f) in the Restriction, for the figures and hyphen "2009-10", the figures and hyphen "2010-11" shall be substituted;

(29) in the THIRD SCHEDULE, in TABLE-I, in column (1) against S.NO. 12 in column (2) in paragraph (iii), in sub-paragraph (b) for the words "Collector of Federal Excise" the words "Commissioner Inland Revenue" shall be substituted;

(30) this section, except the provisions of sub-section (17) and clause (d) of sub-section (28), shall take effect and shall be deemed to have taken effect from the 5th June, 2010.