

Tax Commentary, 2007

This commentary has been prepared for our clients and staff for information and guidance only and is available for interested persons at our website <http://www.bdoebrahim.com.pk>. The notes contained herein are based on the Finance Bill, 2007 which upon enactment with or without modification shall be issued as Finance Act, 2007.

Clients are advised to consult the actual text of the Bill while interpreting the specific provisions. and to consult our tax department for clear advice on specific issues. The budget provisions are applicable for tax year 2008 unless otherwise stated. The reference to the repealed Ordinance means the repealed Income Tax Ordinance, 1979.



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**COMPARATIVE BUDGET AT A GLANCE
(AMOUNTS ROUNDED TO NEAREST
BILLION)**

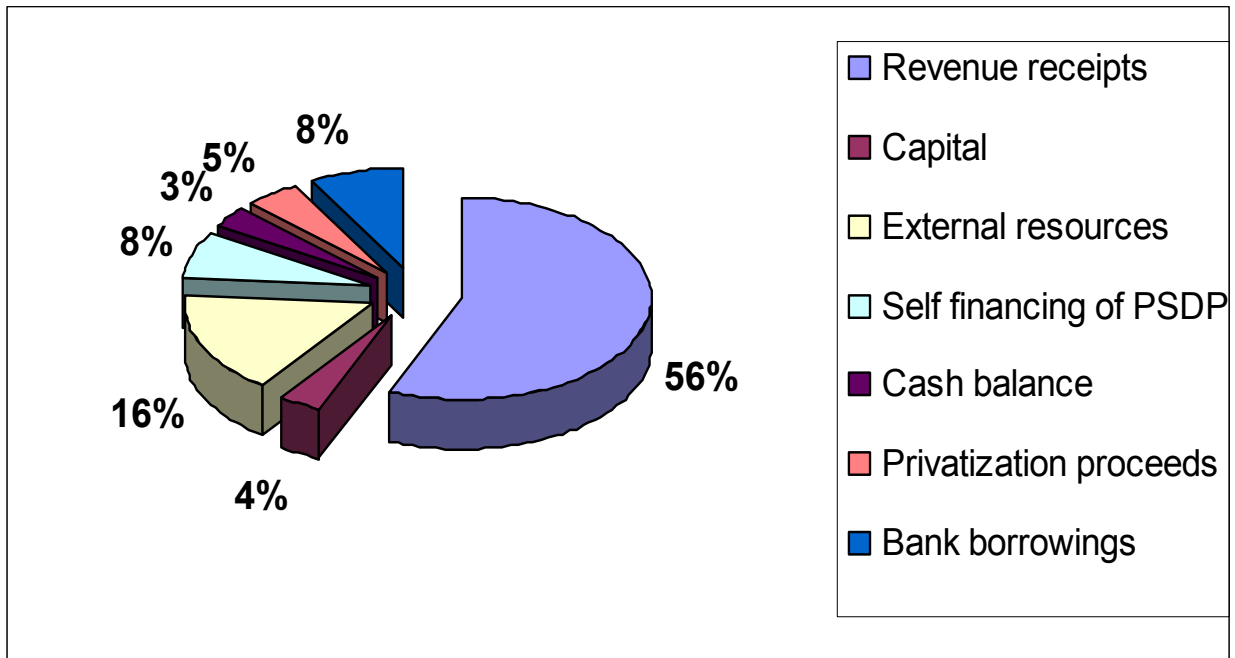
	2007-08		2006-07	
	Rs.	%	Rs.	%
Receipts				
Revenue Receipts				
Direct taxes	408	25	276	21
Indirect taxes	622	39	565	43
	<u>1,030</u>	<u>64</u>	<u>841</u>	<u>64</u>
Non-tax revenue	363	23	242	18
Gross revenue receipts	1,393	87	1,083	82
Less: Provincial share	(491)	(31)	(378)	(29)
	<u>(491)</u>	<u>(31)</u>	<u>(378)</u>	<u>(29)</u>
Net revenue receipts	902	56	705	54
Capital receipts	58	4	16	1
External resources	258	16	239	18
Self financing of PSDP by Provinces	123	8	86	7
Cash balance	52	3	54	4
Privatization proceeds	75	5	75	6
Bank borrowings	131	8	140	11
	<u>131</u>	<u>8</u>	<u>140</u>	<u>11</u>
Total Resources	1,599	100	1,315	100
	<u>1,599</u>	<u>100</u>	<u>1,315</u>	<u>100</u>
Expenditure				
Current Expenditure				
Defence	275	17	250	19
General public services	643	40	514	17
Others	138	9	116	9
	<u>1,056</u>	<u>66</u>	<u>880</u>	<u>67</u>
Development expenditure	543	34	435	33
	<u>543</u>	<u>34</u>	<u>435</u>	<u>33</u>
Total Expenditure	1,599	100	1,315	100
	<u>1,599</u>	<u>100</u>	<u>1,315</u>	<u>100</u>

Note:

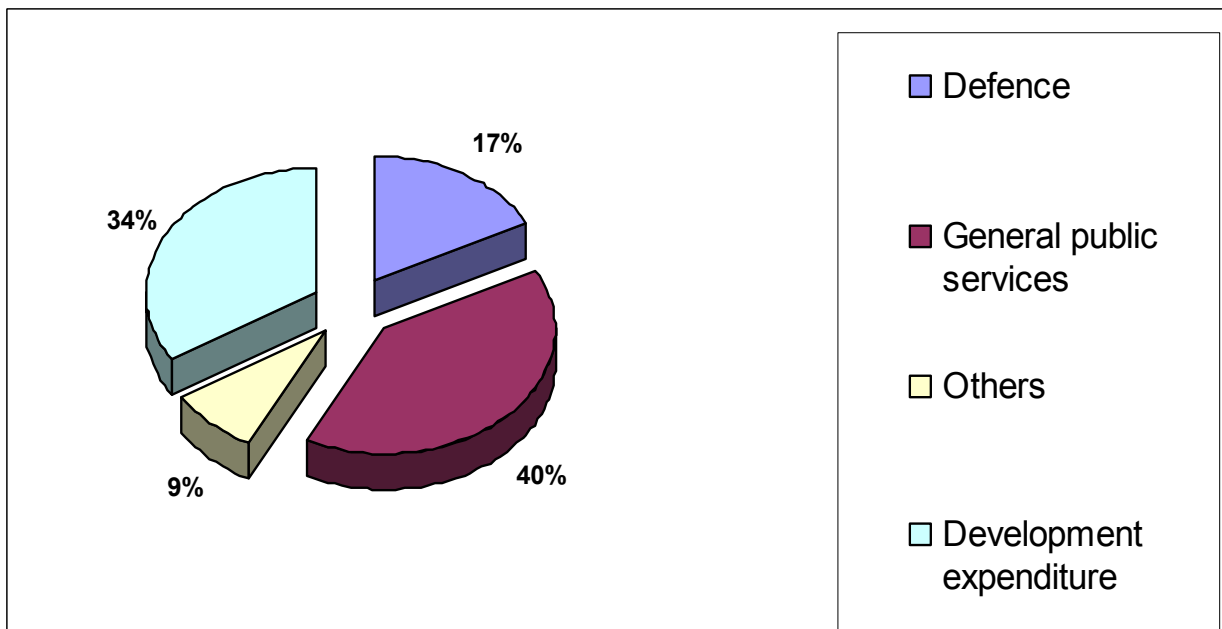
- i Figures have been obtained from amounts quoted in various articles and newspapers.
- ii General public services includes debt servicing, transfer payments and allowances.

COMPARATIVE BUDGET AT A GLANCE

Sources of Funds

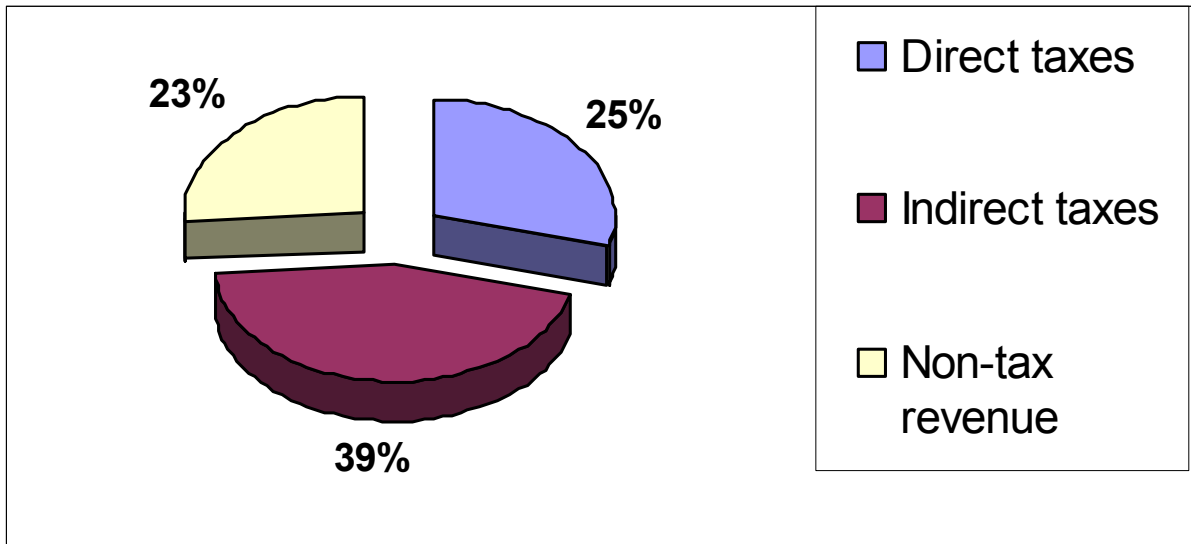


Utilisation Of Funds



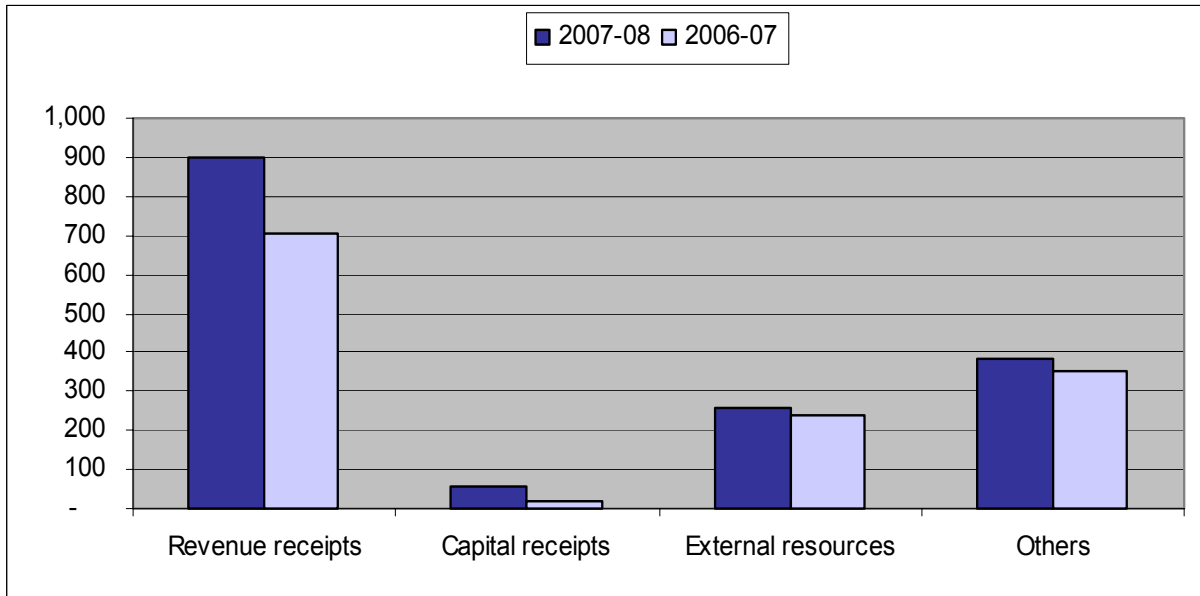
COMPARATIVE BUDGET AT A GLANCE

Breakup Of Revenue Receipts

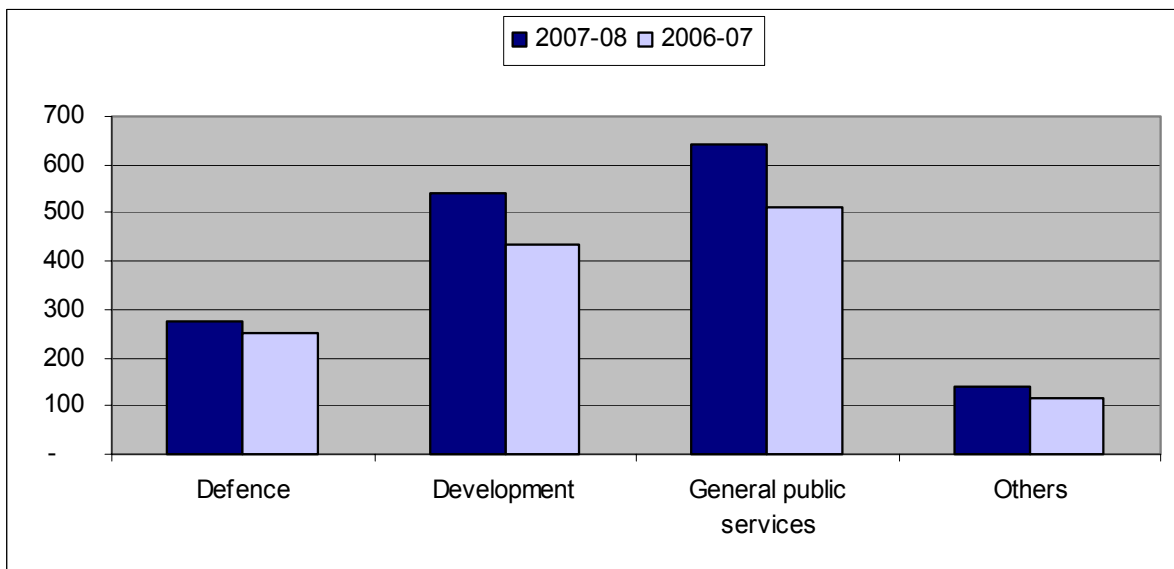


COMPARATIVE BUDGET AT A GLANCE

Comparison Of Revenue



Comparison Of Expenses



AN OVERVIEW

The Economic Survey 2007 provides impressive information regarding the performance during the current fiscal year. But the gloss is lost because of the crises facing the present Government politically and other wise. On the one hand the challenge is to create a stable political framework while on the other there is an urgent, almost desperate need to deal with issues like the energy crisis and rising prices which are affecting the common man.

Macroeconomic analysis

At a glance the broad statistics are as follows:

	2007	2006
Overall real GDP growth rate	7.0%	6.6%
Growth rates by sector		
Agriculture	5.0%	1.6%
Manufacturing	8.4%	10.0%
Services	8.0%	9.6%
Per capita income USD	925	847








The tools used for effective management of economic fundamentals have to be chosen prudently to effectively leverage the growth momentum being enjoyed by the country presently.

Monetary policy reforms have focused on aggressive monetary tightening to combat inflation from reaching unhealthy levels. Even in the wake of private sector credit growth declining from 19.8% to 12.4% in 2007, inflation has not been contained to expected levels, albeit exhibiting a declining trend over the year. Inflation remains a core issue to be tackled on an ongoing basis.

Fiscal policy stance of the government has been aimed at reducing tax rates wherever permissible and broadening the tax base to untaxed or undertaxed sectors. The reforms in CBR have enabled a higher tax collection by 17%, however, the incidence of tax must be reviewed in the context of addressing income inequality.

A sectoral analysis of components of economy leading to real GDP growth indicates a consistent growth in the service sector with telecoms, banking and insurance companies leading the way with other service sectors also demonstrating consistent growth. The agriculture sector has demonstrated a definitive recovery with bumper wheat and sugarcane crops. Despite the recovery, efforts need to be made to ensure a more diversified growth base in the agricultural sector which continues to remain the largest sector of the economy. Large scale manufacturing has demonstrated modest growth, somewhat impeded by challenges faced by the textile sector across the value chain. Infrastructure building initiatives both in fiscal reforms as well as beneficial impact of development expenditure should be targeted at leveraging this sector of the economy which will also support the balance of trade deficit through increase in exports.

A cursory review at the dashboard reporting below indicates progressive growth in indicators of economic health of the country. In particular, the expansion in private sector investment as well as the development of capital markets, oversubscribed sovereign bond, burgeoning foreign exchange reserves indicate a healthy trend which would enable the growth momentum to continue.

						
Inflation rate 100 basis points above target	Exchange rate Real effective exchange rate appreciation by 2.06%	Private sector investments YOY growth of 18.70%	Overall foreign investment YOY growth 47.7%	Per capita income YOY growth of 9.2%	Forex reserves YOY growth of 14%	Balance of trade (deficit) 9.5% to 9.0%

Tax reforms

There are a few significant tax reforms announced in the Finance Bill, 2007. The ones worthy of mention and discussion are:

- The introduction of tax incentive for Private Equity and Venture Capital Funds should generate significant interest from these investments. The fiscal advantages afforded to these entities should create interest and the availability of venture capital as a form of financing would provide opportunities to small and medium sized entities to grow the size of their businesses on the basis of profit participation
- Group relief provision is being extended to allow non listed companies to avail the benefits from group relief. The amendments proposed may now create more interest among entrepreneurs and business advisers to form groups which would eventually lead to stronger corporate entities, more resilient to face challenges of today.

- Group tax is a new concept being proposed for groups with 100% owned subsidiaries. The proposals are to treat such groups as a single fiscal unit for tax purposes
- The relaxation allowed for treatment of tax on inter-corporate dividends as an adjustable advance tax would also be welcomed as this reduces the overall burden of taxation

The Central Board of Revenue is adopting a new corporate image with the introduction of the Federal Board of Revenue. The timing may be just right given that a new administrative structure for tax administration is being projected with the formation of Regional Tax Offices having fully automated information systems. The Board is also being empowered by the Federal Government to act more proactively on issues.

Corporate reforms

The corporate reforms are primarily relating to the strengthening of the Securities and Exchange Commission of Pakistan and the State Bank of Pakistan as primary regulators. The amendments proposed in the Insurance Ordinance, Companies Ordinance and Banking Companies Ordinance are steps in the right direction as they are based on adoption of international best practices. A law is as good as it is when implemented. With the increased autonomy and powers vested with institutions, it is imperative that the letter and spirit of laws be taken into due context by both regulators and stakeholders.

Conclusions

As a nation with half a century of experience behind us, we have learnt several lessons; often the hard way. As we march through the first decade of the twenty first century, we are well positioned to take advantage of global and regional economic expansion and growth. The Finance Bill 2007 provides the regulators with necessary institutional reforms to enable more effective management. The fiscal measures seek to leverage the development expenditure in the wake of a widening and arguably more equitable tax net which is aimed at facilitating critical sectors of the economy. The institutional reforms, fiscal and monetary policies and socio-political reforms must be used in unison to continue our enviable growth momentum and enable us to earn our place in the comity of nations as a modern progressive state.

Karachi

Dated: June 10, 2007

HIGHLIGHTS

- Federal Board of Revenue (Board), in place of CBR, has been introduced through Federal Board of Revenue Act, 2007.

Income Tax

- Amalgamation of service companies which are not trading has been allowed and mergers and acquisitions shall be treated as non tax event.
- Income of Microfinance Banks exempted from tax for 5 years
- 2% withholding tax over and above the prescribed rate on supplies for non-disclosure of NTN or CNIC has been withdrawn
- Tax withholding on passenger transport reduced from 6% to 2%
- Exemption extended upto 2014 to "Private Equity and Venture Capital Fund" as fund registered with the Securities and Exchange Commission of Pakistan.
- "Private Equity and Venture Capital Fund Management Company" is to be established under license from Securities and Exchange Commission of Pakistan under the Private Equity and Venture Capital Fund Rules, 2007.
- The definition of "small company" has been further elaborated to include maximum of 250 employees any time during the year, and increase the limit of turn over from Rs 200 million to Rs 250 million as part of the criteria for qualifying as a small company.
- Exemption of tax on capital gains extended further for one year
- Withholding tax rate on exports has been unified at 1%
- Exemption from withholding tax allowed to non-resident exploration and production (E&P) companies on supply of crude oil and gas.
- E&P companies exempted from withholding tax on imports of goods other than vehicles.

HIGHLIGHTS

- Inter corporate dividends shall be liable to 10% adjustable withholding tax.
- Concept of group taxation has been introduced and shall be restricted to local companies registered under the Companies Ordinance, 1984
- Separate tax regime for retailers has been introduced.
- Separate schedule for banking companies has been introduced.
- Withholding tax has been withdrawn on payments to travel agents where withholding tax on commission has been deducted.

Capital Value Tax

- CVT on import of cars and power of attorney between first relations has been withdrawn

Sales Tax

- Input tax to be estimated to 90% of the output tax
- Refund to be proceed in 45 days
- Cottonseed oil has been exempted from sales tax.
- Concept of 'cottage industry' has been introduced.
- Input tax shall now include tax paid under provincial sales tax.
- Output tax shall now include taxes paid under Federal Excise Duty and provincial sales tax.
- Retail price shall now include duties levied and paid.
- Concept of 'adjustable input tax' has been introduced
- The Sales Tax (Refund of Excess Input Tax to the Manufacturers) Rules, 2005 has been withdrawn

HIGHLIGHTS

- The Sales Tax (Refund of Excess Input Tax to the Dealers, Distributors and Wholesalers) Rules, 2005 has been withdrawn
- The Sales Tax Special Procedures Rules 2007 has been introduced.

The Customs

- Rs. 100 as the minimum of duties and taxes shall not be demanded by the Customs department.
- Rs. 100 as the minimum of amount of refund shall not be refunded by the Customs department.
- Concept of Customs Valuation has been reintroduced.

The Companies Ordinance, 1984

- Subsidiaries of companies involved in the business of brokerage are exempted from the restriction against purchase of shares of its holding company.
- Time limit for holding annual general meeting has been reduced from 4 months to 3 months after the close of financial year.
- Maximum extension period for annual general meetings has been reduced from 60 days to a period not exceeding 30 days.
- A person who acquires 12.5% or more voting shares in a listed company may request fresh election of directors.
- Applicability of Section 208, investments in associated companies and undertakings has been amended to empower the Commission to specify the class of companies or undertakings to which the restriction in Section 208(1) shall not apply.
- Members holding not less than 20% voting rights may apply to the Commission to conduct a special audit.

HIGHLIGHTS

- Private companies with a paid up capital of Rs. 7.5 million or more to submit a copy of balance sheet to Registrar within thirty days after AGM.
- No dividend shall be declared or paid out of unrealized gain on investment property charged to profit and loss account during the year.
- Provisions relating to NBFC's are also to include "notified entities" as notified by the Commission.
- Commission is empowered to make regulations and issue directives, circulars, guidelines, etc. to carry out powers under this Ordinance.

Banking Companies Ordinance, 1962

- Definition of "banking company" now includes branches and subsidiaries functioning outside of Pakistan of banking companies incorporated in Pakistan.
- Perpetual non-cumulative preference shares now permissible in the composition of capital of a banking company.
- Relaxation provided to foreign banking companies for holding shareholder's meetings to approve amalgamation scheme.
- Banking companies and financial institutions to disclose information on a confidential basis to the SBP about their respective clients as required by SBP.

The Federal Excise Duty

- The term 'dutiable goods', 'dutiable supplies' and 'dutiable services' CBR have been introduced.
- 'Non-fund banking services' has been introduced and includes all non-interest based services provided by banks of NBFIs for a fee.
- Payment of duties and filing of returns shall be under the Sales Tax mode.

HIGHLIGHTS

- The composition of Alternative Dispute Resolution Committee has been revised.
- Duty on locally produced cigarette has been increased.
- Duty on Motor spirit (Petrol), Aviation spirit, Spirit type jet fuel, J.P.1 and Other jet fuels has been withdrawn.
- Duty on Petroleum bitumen (Bitumen and Asphalt) including bituminous mixtures has been withdrawn.
- Duty on travel by air to Pakistan has been levied and duty on travel by air from Pakistan has been increased.
- Duty on cable TV operators has been withdrawn.
- Duty on service provided or rendered by a foreign exchange broker including any authorized dealer of foreign exchange to a customer has been withdrawn.

The Banks Nationalisation Ordinance

- The Federal Government is empowered to reduce its shareholding upto 49% instead of not less than 26%.
- The private shareholders have been given right of representation on the Board.
- Extension in the tenure of Chief Executive, President and the Board on re-appointment, shall be determined by the Federal Government.

The Securities & Exchange Ordinance

- National Commodity Exchange has been brought into the purview of this Ordinance.
- The Commission may impose penalty on the Exchanges for default upto Rs. 50 million and further sum of Rs. 200,000 per day

HIGHLIGHTS

The Securities & Exchange Commission of Pakistan Act

- Number of members of the Policy Board has been increased from 9 to 10.
- Number of members from public sector has been increased from 5 to 6 and the Finance Minister or in his absence the Advisor to Prime Minister on Finance is appointed as Chairman of the Board.

The Microfinance Institutions Ordinance

- Microfinance Banks have been allowed to receive foreign currency remittances from overseas Pakistani workers for their beneficiaries in Pakistan.

The Khushhali Bank Ordinance

- State Bank has been empowered to extend the tenure of office of the President of the Khushhali Bank.

**SECTION
(CLAUSE)**

THE INCOME TAX ORDINANCE, 2001

2

Definitions

(1A)

The definition of "amalgamation is proposed to be amended to allow amalgamation of companies providing services which are not trading companies

(19A)

The proposed amendments to this definition of "eligible person" for voluntary pension are of an editorial nature only

(45A)

The proposed new clause seeks to introduce the definition of "Private Equity and Venture Capital Fund" to be a fund registered with the Securities and Exchange Commission under the Private Equity and Venture Capital Fund Rules, 2007

(45B)

The proposed new clause seeks to introduce the definition of "Private Equity and Venture Capital Fund Management Company" to be a company licensed by Securities and Exchange Commission of Pakistan under the Private Equity and Venture Capital Fund Rules, 2007

(59A)

The definition of a "small company" is proposed to be amended to:

- include a limit of 250 employees or less, any time during the year
- increase the limit of Rs 200 million for turnover to Rs 250 million

as part of the criteria for qualifying as a small company

The existing definition also provides for a capital and reserves limit of Rs 25 million apart from the overall requirement that the company should not be formed by the splitting up or reconstitution of a company already in existence. These requirements remain part of the definition. These amendments are being proposed in the light of recommendations related to small and medium sized enterprises.

**SECTION
(CLAUSE)**

THE INCOME TAX ORDINANCE, 2001

18

Income from business

(4)

The proposed amendment seeks to include income received by a banking company or a non banking finance company by way of a distribution by a Private Equity and Venture Capital Fund. This inclusion is as a consequence of the introduction of this new form of entity to be formed under the proposed new Private Equity and Venture Capital Fund Rules, 2007

49

Federal and Provincial Government, and local authority income

(3)

The proposed new proviso seeks to bring the income of a corporation, company, a regulatory authority, development authority or other body or institution established by or under a Federal law or a Provincial law or an existing law or a corporation, company or other body or institution set up, owned and controlled, either directly or indirectly, by the Federal Government or a Provincial Government, regardless of the ultimate destination of the income, into the ambit of taxation by not allowing exemption from withholding tax on amounts received by them. The amendment is being sought in the context of Article 165A of the Constitution of the country

56A

Set off of losses of companies operating hotels

This proposed new section seeks to allow set off of losses of companies operating hotels in Pakistan or Azad Jammu and Kashmir against their business income in Pakistan or Azad Jammu and Kashmir and vice versa as the case may be. The proposed amendment seek to provide incentives to hotel operators in the two territories by allowing cross relief of set off. The existing limitation for set off and carry forward under sections 56 and 57 would continue to apply

**SECTION
(CLAUSE)****THE INCOME TAX ORDINANCE, 2001****57A****Set off of business loss consequent to amalgamation**

(1)

The proposed substitution of clause (1) seeks to restrict adjustment of loss of the amalgamating company to the assessed loss for the tax year only in which amalgamation takes place and does not allow adjustment for brought forward losses and capital losses of the amalgamating company

59AA**Group taxation**

This proposed new section seeks to introduce the concept of treating a "group" as a single fiscal unit for taxation purposes. The section requires that the condition to qualify for "group taxation" the subsidiary companies should be owned 100% by holding company and computation of income should be on the basis of consolidated financial statements required to be prepared under the Companies Ordinance, 1984. The other conditions to qualify for group taxation are:

- The companies in the Group shall give irrevocable option for taxation under this section as one fiscal unit
- The group should consist of local companies incorporated under the Companies Ordinance, 1984
- The relief under group taxation would not be available to losses prior to the formation of the group
- Accounts of the group companies shall be prepared and audited by a chartered accountant as prescribed for listed companies (the auditors who have satisfactory clearance of the Institute of Chartered Accountants of Pakistan are qualified to carry out audits of listed companies)
- The group taxation facility being announced may be regulated through rules formed by Central Board of Revenue

**SECTION
(CLAUSE)****THE INCOME TAX ORDINANCE, 2001****59B****Group relief**

This relief was first introduced under the Finance Act, 2005. The proposed amendment seek to replace the existing provisions as a result of which group relief would be available to listed companies and their subsidiaries if the holding company holds 55% of the share capital of the subsidiary. The amended section extends this facility to all groups where within the group there is no listed company and the holding company holds 75% of the share capital of the subsidiary.

The assessed loss (other than brought forward losses and capital loss) of the subsidiary can be surrendered to the holding company or any of the other subsidiaries. The surrendered loss can be claimed by the holding company or a subsidiary company for set off against business income in the tax year and the two years following. The set off is subject to the following conditions:

- There is continued ownership for 5 years of the share capital of the subsidiary company, i.e. 55% in the case of a listed company or 75% or more in the case of other companies
- None of the group companies is engaged in the business of trading
- Holding company, being a private limited company with 75% of ownership of share capital gets itself listed within 3 years from the year in which the loss is claimed
- Group companies are locally incorporated companies under the Companies Ordinance, 1984
- The loss surrendered and loss claimed under this section shall have approval of the Board of Directors of the respective companies

**SECTION
(CLAUSE)****THE INCOME TAX ORDINANCE, 2001**

- The subsidiary company continues the same business during the period of 3 years referred above
- Accounts of the group companies shall be prepared and audited by a chartered accountant as prescribed for listed companies (the auditors who have satisfactory clearance of the Institute of Chartered Accountants of Pakistan are qualified to carry out audits of listed companies)
- The group companies observe Code of Corporate Governance as provided in the Companies Ordinance, 1984

The subsidiary company will not be allowed to surrender losses to holding company for more than 3 tax years. Where losses remain unadjusted against holding company profits over the 3 years, the subsidiary company shall be able to carry forward the unadjusted losses under section 57.

If the holding company disposes shares as a result of which the holding falls below 55% and 75% limits stated above the holding company shall in the year of disposal offer the amount of profit on which taxes have not been paid due to set off of losses surrendered by the subsidiary company.

The proposed amendment also seeks to allow the surrendering company to receive cash from the company claiming the loss to the extent of the tax payable on the profits to be set off against the acquired loss subject to approval of Board of Directors. The transfer of cash between the two companies would not be a taxable event for either of the two companies.

The amended section also clarifies that transfer of shares in one direction between companies and the shareholders would not be taken as a taxable event if the transfers are for the formation of the group and are approved by Securities and Exchange Commission or State Bank of Pakistan, as required. The section emphasizes that sale and purchase of shares from third parties would be taken as taxable events. This part of the section appears to be in the nature of enabling genuine groups to take advantage of this new relief and to avoid misuse by "groups" formed for tax evasion.

**SECTION
(CLAUSE)**

THE INCOME TAX ORDINANCE, 2001

62

Investment in shares

(2)

The proposed amendment to the formula for calculating the tax credit allowed to persons investing in shares of newly floated public listed companies is to increase the monetary limit in the formula from Rs 200,000 to Rs 300,000

**92 and
93**

**Principles of taxation of association of persons
Taxation of members of an association of persons**

The proposed amendment seeks to withdraw the facility allowed to professional firms not to be taxed as an Association of Person (AOP). With the amendments introduced all professional firms will be taxed as an AOP and not as individual members as allowed in the past on the grounds that the firms were not allowed to be incorporated under the law. The accountancy profession and the legal fraternity are likely to contest this amendment as the overall tax liability of the members is likely to increase significantly.

95

Disposal of business by individual to wholly-owned company

(2)

The proposed amendment seeks to withdraw the reference to "fair market value" for attributing value to stock in trade

96

Disposal of business by association of persons to wholly-owned company

The proposed amendment seeks to withdraw the reference to "fair market value" for attributing value to stock in trade

97

Disposal of asset between wholly owned companies

The proposed amendment seeks to withdraw the reference to "fair market value" for attributing value to stock in trade

**SECTION
(CLAUSE)****THE INCOME TAX ORDINANCE, 2001****97A****Disposal of asset under a scheme of arrangement and reconstruction**

This proposed new section seeks to provide that no gain or loss shall be taken to arise on disposal of assets under a scheme of arrangement and reconstruction under sections 282L and 284 to 287 of the Companies Ordinance, 1984 or section 48 of the Banking Companies Ordinance, 1962 if the following conditions are met:

- The transferee company must undertake to discharge any liability in respect of the asset transferred
- Any liability in respect of the asset must not exceed the transferor's cost of the asset at the time of the disposal
- The transferee must not be exempt from tax for the tax year in which the disposal takes place
- The scheme is approved by the High Court, State Bank of Pakistan or Securities and Exchange Commission, as the case may be, on or after July 1, 2007

The new section provides that in these situations:

- The asset acquired by the transferee shall be treated as having the same character as it had in the hands of the transferor
- The transferee's cost in respect of acquisition of the asset shall be:
 - Written down value immediately before disposal in the case of depreciable asset or amortizable intangible
 - Valued for tax purpose under sub-section (4) of section 35 for stock in trade

**SECTION
(CLAUSE)****THE INCOME TAX ORDINANCE, 2001**

- Transferor's cost at the time of disposal for other assets
- If before disposal the transferor is entitled to deduction under sections 22, 23 and 24 in respect of the asset transferred which have not been set off against the transferor's income, the amount not set off shall be added to the deduction allowed under those sections to the transferee in the tax year in which the transfer is made

The section also provides that no gain or loss shall be taken to arise on issue, cancellation, exchange or receipt of shares as a result of scheme of arrangement and reconstruction under section 282L and 284 to 287 of the Companies Ordinance, 1984 or section 48 of the Banking Companies Ordinance, 1962 and the scheme is approved by the High Court, State Bank of Pakistan or Securities and Exchange Commission, as the case may. In these situations the cost of shares shall be the cost prior to the operation of the scheme.

100A**Special provisions relating to banking business**

This new section is proposed for introducing the new Seventh Schedule which lays down the rules for computation of income of a banking company

113A**Tax on income of certain persons**

The proposed amendment in this section is of an editorial nature.

113B**Taxation of income of certain retailers**

This section deals with tax payable by exporters who are individuals or association of persons and whose turnover is more than Rs 5 million and who are subject to the special procedure for payment of sales tax under chapter III of the Sales Tax Procedure Rules , 2006. The proposed amendment seeks to levy a tax as follows in addition to the 3% sales tax:

- Turnover exceeding Rs 5 million but less than 10 million the tax is Rs 25,000 plus 0.5% of the turnover exceeding Rs 5 million

**SECTION
(CLAUSE)**

THE INCOME TAX ORDINANCE, 2001

- Turnover exceeding Rs 10 million the tax is Rs 50,000 plus 0.75% of the turnover exceeding Rs 10 million

The retailer is not entitled to claim adjustment of the withholding tax collected or deducted under any head during the year.

114

Return on income

The proposed amendment to this section seeks to clarify on matters relating to electronic filing of returns.

116

Wealth statement

The proposed amendment is of editorial nature clarifying that the Commissioner of income tax can require filing of wealth statement in cases where the declared income is more than Rs 500,000.

130

Appointment of the Appellate Tribunal

The proposed amendment seeks to include Commissioner of Income Tax or Commissioner of Income Tax (Appeals) having at least 5 years experience as a Commissioner to be eligible for appointment as an Accountant Member.

147

Advance tax paid by the taxpayer

The proposed amendment seeks to provide for taking into account the minimum tax under section 113 when computing the amount payable as advance tax under section 147.

148

Imports

(2)

The proposed amendment to clause (2) seeks to empower the Central Board of Revenue to specify the goods, or class of goods or person or class of persons to whom the requirement to pay tax on imports shall not apply. Presently, the clause identifies the persons or goods exempted from the levy of this tax.

**SECTION
(CLAUSE)**

THE INCOME TAX ORDINANCE, 2001

(3), (4) and (4A)

The existing clauses provide for exemption or lower rate for tax payment at the import stage to manufacturer who has paid the tax under various provisions aggregating to an amount exceeding the tax due in the preceding year. These clauses are replaced by an amended clause (4A) that provides for exemption to a manufacturer who is not liable to pay tax because of brought forward loss or depreciation loss.

(7)

The proposed amendment to this clause seek to exempt large import houses from the presumptive tax regime applicable on imports. The criteria of a large import house is an importer who:

- Has paid up capital exceeding Rs 100 million
- Has imports exceeding Rs 500 million
- Owns assets exceeding Rs 100 million at the close of the tax year
- Is a single object company
- Maintains computerized records of imports and sale of goods
- Maintains a system for issuance of 100% cash receipts on sales
- Presents accounts for tax audit every year
- Is registered with the Sales Tax Department
- Makes sales to only persons registered with Sales Tax Department.

(9)

The amendment seeks to include Federal Excise Duty in the value of imports for purposes of determining the value of goods on which tax on imports is to be levied.

149

Salary

(1)

The proposed amendment seeks to authorize employers to adjust tax withheld from employees under other heads and to give tax credit admissible on donations and investments in shares after obtaining the required documentary evidence. The other proposed amendments in this clause are of an editorial nature.

**SECTION
(CLAUSE)**

THE INCOME TAX ORDINANCE, 2001

152

Payments to non-residents

The proposed amendment to this clause is of an editorial nature rectifying an earlier omission.

153

Payments for goods and services

(1A)

The proposed deletion of this clause seeks to exempt exports from withholding tax when making payments to service providers.

(4)

The proposed amendment in this clause is editorial deleting a redundant reference.

(5)(bb)

This proposed new clause seeks to exempt a cotton ginner from being subjected to withholding tax for supply of goods if tax payable on the payments is deposited in Government Treasury and evidence provided to the payer.

(6)

The proposed new provisos seeks to exclude tax withheld on payments made to owners of newspapers and magazines for advertising services and payments to listed companies for supply of goods and against execution of contracts from the presumptive tax regime under this section except for payments to individuals and association of persons from the tax year 2007.

(8A)

The provisions requiring deduction of additional 2% when making payments to persons who do not have a computerized national identity card number or national tax number is proposed to be withdrawn.

154

Exports

The proposed amendment seeks to make an editorial correction.

**SECTION
(CLAUSE)**

THE INCOME TAX ORDINANCE, 2001

169

Tax collected or deducted as a final tax

The proposed amendment seeks to exclude tax on inter-
corporate dividend from the presumptive tax regime. Now the tax
withheld at 5% would be adjustable against the overall tax
liability,

181

National Tax Number Certificate

The proposed amendment seeks to permit the use of CNIC in
place of NTN for individuals.

231B

Purchase of motor cars

The proposed amendment seeks to provide for payment of
advance tax at the time of sale of car. Sales to Federal and
Provincial Government and Foreign diplomat/Diplomatic mission
are exempted.

234A

CNG Stations

This proposed new section provides for advance tax on the
amount of gas bill issued to a CNG station for consumption of
gas. The tax collected under this head is the final tax liability of
the CNG station.

235

Electricity consumption

(4)

The proposed new clause seeks to make the tax collected at
source on electricity bills of non-company commercial and
industrial consumers as the minimum tax payable by these
persons.

239A

Transition to Federal Board of Revenue

This new section seeks to provide for introduction of the Federal
Board of Revenue in place of the Central Board of Revenue (see
separate note).

**SECTION
(CLAUSE)
FIRST SCHEDULE**

THE INCOME TAX ORDINANCE, 2001

PART I

Rates of tax

Division 1A

Rate of tax on certain persons

The proposed amendment in this clause seeks to reduce rate of tax on retailers from 0.75% to 0.50%.

Division II

Rate of tax for companies

(i) The rate of tax imposed on the taxable income of a company for the tax year 2007 and onward is 35%.

Division III

Rate of dividend tax

(a) The proposed amendment in this clause seeks to levy uniform tax at 10% on dividend income. The existing rate of 5% available for dividend received by a public company and insurance company is proposed to be withdrawn

PART II

Rates of advance tax

The proposed amendment in this clause seeks to reduce the rate of tax on import from 6% to 5% and to enlarge the scope to include import of polyester filament yarn.

PART III

Deduction of tax at source

Division III

Payments for goods or services

The rate of tax to be deducted from a payment referred to in clause (b) of sub-section (1) of section 153 for services rendered is proposed to be reduced from 6% to 2% in respect of payments for transport services. In all other cases the existing rate of 6% is to continue

**SECTION
(CLAUSE)
FIRST SCHEDULE**

THE INCOME TAX ORDINANCE, 2001

Division IV

Exports

The rate of tax to be deducted under sub-section (1), (3), (3A) or (3B) of section 154 with respect to exports is now proposed to be made uniform at 1% of export proceeds instead of the different rates ranging from 0.5% to 1.5% existing at present

Division VIB

CNG stations

The rate of tax to be deducted under section 234A in the case of a Compressed Natural Gas station is proposed to be 6% of the gas consumption charges.

Division VIII

Purchase of motor cars

The rate of tax to be deducted under section 231B is proposed to be 5% of the gross amount payable for the purchase of motor vehicle

**SECTION
(CLAUSE)
SECOND SCHEDULE** **THE INCOME TAX ORDINANCE, 2001**
Exemptions from total income

PART –I

- 57(2) The proposed amendment in this clause seeks to provide exemption from levy of tax on this class of income of Private Equity and Venture Capital Fund provided the Fund distributes 90% of its income to the members/unit holders
- 66 (xvii) The proposed addition of this sub clause seeks to allow exemption to Micro Finance Banks from levy of tax on income for five years starting from first day of July 2007 provided the banks do not issue dividends to their shareholders and their profit and gain is utilized for micro finance operations
- 99 Exemption on interest income of Continuous Funding System (CFS) of Mutual Funds is being proposed to be withdrawn.
- 99A The proposed addition of this new clause seeks to exempt real estate income arising from sale of immovable property to a Real Estate Investment Trust (REIT) up to the period ending on June 30, 2010.
- 101 The proposed amendment in this clause seeks to extend the exemption to Venture Capital Funds to include income of Private Equity and Venture Capital Fund
- 103 The proposed amendment in this clause seeks to extend exemption available on distribution received by a tax payer to include distribution by a Private Equity and Venture Capital Fund out of capital gains
- 110 The proposed amendment seeks to extend the exemption on capital gains arising on sale of listed securities to June 30, 2008
- 110A & 110B These proposed new clauses seek to exempt capital gain arising on de-mutualization of Stock Exchanges by transfer of capital assets including transfer of membership right

SECTION THE INCOME TAX ORDINANCE, 2001

(CLAUSE)

SECOND SCHEDULE Exemptions from total income

132 The proposed amendment seeks to extend exemption to companies registered in Azad Jammu and Kashmir or Pakistan for owning and managing of Hydel Power Projects

133A The proposed amendments seeks to extend the exemption on income from transfer of membership rights of Stock Exchange of an individual to a company upto June 30, 2008

PART –II

3 and 3A The proposed amendment seeks some editorial changes.

5A This proposed new clause seeks to allow non-resident lenders to have the benefit of the withholding tax rate on payment of profit on debt as provided for in the avoidance of double taxation treaty

5B This proposed new clause seeks to prescribe a reduced rate of 10 % on capital gains from sale of shares/ assets of a private limited company to a Private Equity and Venture Capital Fund

13 The proposed amendment to this clause seeks to prescribe a lower rate of 1% on import of capital goods and raw material (other than polyester yarn) which is imported exclusively for the own use of the manufacturer registered with the Sales Tax Department

13H The proposed amendments seek inclusion of Federal Excise Duty in the import value and makes some editorial changes

SECTION THE INCOME TAX ORDINANCE, 2001**(CLAUSE)****SECOND SCHEDULE Exemptions from total income**

13H (iv) The proposed inclusion of this new sub-clause seeks to provide for collection of tax under section 148 at the rate of 2 % on edible oils including crude oil imported as raw material for manufacture of following :

- Ghee or cooking oil
- Energy saver lamps
- Bitumen
- Fixed Wireless Terminal
- Pesticides and medicides

22 and 25 The proposed deletion of these clauses seek to withdraw the incentive for the companies to obtain listing at a reduced tax rate and to exclude service provider to exporters from the presumptive tax regime

27 The proposed amendment makes editorial changes.

PART –IV Exemption from specific provisions

11 The proposed amendment seeks to exclude Private Equity and Venture Capital Fund from being liable to minimum tax under section 113

33 The proposed amendment seek to exempt payments to Private Equity and Venture Capital Fund from withholding tax provisions on account of payment of profit on debt and brokerage and commission

41B The proposed insertion of this new clause seeks to exclude payments to foreign news agencies, syndicate services and non-resident contributors who have no permanent establishment in Pakistan from levy of with holding tax

SECTION THE INCOME TAX ORDINANCE, 2001

(CLAUSE)

SECOND SCHEDULE Exemptions from total income

- 43A The proposed amendment seeks to exempt permanent establishment of non resident Petroleum Exploration and Production (E&P) Companies from withholding tax on sale of petroleum products to them
- 43B The proposed insertion of this new clause seeks to exclude double levy of withholding tax on sale of air tickets if the travel agents have paid withholding tax on their commission income
- 47B The proposed amendment seek to exempt payments to Private Equity and Venture Capital Fund from withholding tax provisions on account of payment of dividend, profit on debt and brokerage and commission
- 56 (xxii) The proposed insertion of this new sub-clause seeks to provide exemption from with holding tax on import:
- of capital goods and raw material by manufacturer exporter registered with Sales Tax Department
 - by Petroleum (E&P) companies covered under SRO 678(1)2004 dated 07.08.2004 except motor vehicles
 - high speed diesel oil, light diesel oil, high octane blending component or motor spirit, furnace oil, JP-1,MTBE, kerosene oil, crude oil for refining and chemical use in refining
 - Re-usable containers for re-export qualifying for custom duty and sales tax exemption on temporary import under Custom notification under SRO 344(1)/95 dated 25 April, 1995
- 57A The proposed amendment seeks to provide exemption from with holding tax on sale of goods by large import houses and to exclude these entities from Presumptive Tax Regime (see note above)

**SECTION
(CLAUSE)
THE FOURTH
SCHEDULE**

THE INCOME TAX ORDINANCE, 2001

**RULES FOR THE COMPUTATION OF THE PROFITS AND
GAINS OF INSURANCE BUSINESS**

6A

The proposed amendment in this clause seeks to extend the exemption of capital gains tax, in case of insurance companies, from sale of shares and modaraba certificates from 2007 to 2008 listed on the stock exchanges in Pakistan

**THE SEVENTH
SCHEDULE**

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

The existing Seventh Schedule which dealt with the rates of withholding tax on exports is proposed to be deleted as a common rate of 1% is prescribed as the tax rate on export proceeds

Rule 1

The proposed new Seventh Schedule deals with Rules for computation of the profits and gains of a banking company and tax payable thereon.

The proposed schedule provides for computation of profits and gains of a banking company as follows:

- Balance of income from all sources before tax, disclosed in the annual accounts required to be furnished to the State Bank of Pakistan to be included in profits and gains
- Deduction to be allowed for depreciation, initial allowance and amortization under sections 22, 23 and 24 after add back of accounting depreciation and amortization
- Provisions in the tax law regarding deductions not allowed under section 21, disposal of fixed assets under clause 8 of section 22, fair market value under section 68 and common rules for assets under Part III of Chapter IV shall apply as applicable to all other persons

**SECTION
(CLAUSE)****THE INCOME TAX ORDINANCE, 2001**

- Provisions for classified advances and off balance sheet items shall be allowed as claimed in the accounts, provided a certificate from the external auditors is furnished to the effect that such provisions are in line with the requirements of Prudential Regulations
- The amount claimed as expense on account of "irrecoverable debt" classified as "sub-standard" under the Prudential Regulations shall not be allowed
- Where any addition is made for sub-standard debt the amount shall be allowed in the year the debt is classified as doubtful or loss
- Where any addition is made on account of sub-standard debt and the debt is re-classified as recoverable in a subsequent year a deduction shall be allowed in computing income for that tax year.
- Adjustment made in the annual accounts on account of Recognition and Measurement of Financial Instruments under IAS 39 and Investment Property under IAS 40 is to be excluded in arriving at taxable income
- Adjustment relating to IAS 39 and IAS 40 shall be made when disposing assets or discharging liability to arrive at the cost

Rule 2

Where a deduction is allowed for any expenditure (other than on account of charge for irrecoverable debt) and the liability or a part of the liability to which the deduction relates is not paid within 3 years of the end of the tax year in which the deduction was allowed, the unpaid amount of the liability shall be chargeable to tax under the head "income from business" in the first year following the end of 3 years. If the liability is subsequently paid the amount shall be allowed in the year of the payment.

Loss on sale of shares of listed companies is adjustable against gain on sale of shares of listed companies. Where the loss remains unadjusted the amount can be carried forward for a maximum period of 6 years immediately succeeding the tax year for which the loss was first computed.

**SECTION
(CLAUSE)****THE INCOME TAX ORDINANCE, 2001**

Rule 3

No adjustment to income and tax liability shall arise on account of "Shariah Compliant Banking" approved by State Bank of Pakistan.

A statement certified by the auditors of the bank shall be attached to the return of income to disclose the comparative position of transactions as per Islamic mode of financing and as per normal accounting principles. Adjustment to the income on this account is to be according to accounting income.

Rule 4

In case of foreign banks head office expenditure shall be allowed as deduction as per the following formula:

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

A is the gross receipts of permanent establishment in Pakistan

B is the world gross receipts

C is the total Head Office expenditure

The definition of head office expenditure is as given in sections (3) and (4) of section 105

The head office expenditure shall be only allowed if it is charged in the books of account of the Permanent Establishment and a certificate from the external auditors is furnished confirming that the claim for the expenditure has been made in accordance with the rule and that the amounts are reasonable to the operation of the permanent establishment in Pakistan

Rule 5

The banking company is required to pay advance tax for the year under section 147 in 12 equal monthly installments payable by 15th of each month. Other provisions relating to advance tax under section 147 also apply.

The banking companies are exempted from applicability of the withholding tax provisions on amounts received by them.

Rule 6

The income of the banking company computed under the Rules in this schedule shall be liable to tax at 35%. The income under the head "dividend" and "capital gains on sale of shares of listed companies" is to be taxed at 10%. If the shares are sold within a period of one year of the date of acquisition the gain is to be included as part of income from business and taxed at 35%.

**SECTION
(CLAUSE)**

THE INCOME TAX ORDINANCE, 2001

Rule 7

The provisions relating to minimum tax under section 113 also apply to banking companies.

Rule 8

Exemptions and tax concessions under Second Schedule do not apply to income of banking company since these proposed new Rules are being introduced for them.

The provisions relating to group relief are available for banking companies provided the holding and subsidiary companies are banking companies. The accounts of the group companies are required to be audited by the chartered accountants firm on the panel of auditors of State Bank of Pakistan. The surrender and claim of loss under the group relief is subject to the approval of State Bank of Pakistan.

The option under the proposed new section 59AA available to holding companies and 100% owned subsidiaries to be taxed as one fiscal unit as group taxation is available subject to the approval of State Bank of Pakistan.

Rule 9

Where the rules do not provide specifically for the banking companies the provisions of the Income Tax Ordinance, 2001 will apply also to banking companies.

**SECTION
(CLAUSE)****THE SALES TAX ACT, 1990****2****Definitions**

(5AB)

A new definition for the term "cottage industry" is proposed. The definition refers to a manufacturer whose annual turnover from taxable supplies made in any tax period during the last twelve months ending any tax period does not exceed Rs 5 million or whose annual utility (electricity, gas and telephone) bills during the last twelve months ending any tax period do not exceed Rs 600,000.

(14e)

The definition of "input tax" is proposed to be enlarged to include tax levied under:

- Punjab Sales Tax Ordinance, 2000
- North West Frontier Province Sales Tax Ordinance, 2000
- Sindh Sales Tax Ordinance, 2000
- Baluchistan Sales Tax Ordinance, 2000
- Islamabad Capital Territory (Tax on Services) Ordinance, 2000

(20)

The definition of "output tax" is proposed to be enlarged to include the following:

- Tax charged on supply of goods made by the person
- Duties charged, levied and paid under the Federal Excise Act, 2005 on such excisable goods or services as are mentioned in the Second Schedule or services as are specified by the Federal Government under section 7
- The tax levied under the above provincial territories

(27)

The proposed amendment seeks to include "duties" as part of the "retail price" definition

(37) (iii)

The proposed amendment seeks to insert the words "or causing falsification" after the word "falsifying" in the context of defining what is considered to be a "tax fraud".

**SECTION
(CLAUSE)**

THE SALES TAX ACT, 1990

(44) (a)

The proposed amendment seeks to remove the reference to "advance payment" with respect to the "time of supply". As a result of the amendment the time of supply now refers to the time when goods are dispatched. As a consequence of this proposed change sales tax would no longer be required to be paid when making advance payments against supply of goods.

4

Zero rating

The new clause (d) is proposed to be added. This seeks to empower the Federal Board of Revenue to zero-rate export related supplies through a general order.

7

Determination of tax liability

The proposed amendment in this section is linked with the proposed insertion of the new section 8B discussed below.

8

Tax credit not allowed

The proposed amendment seeks to exclude the words "for the manufacture or production of taxable goods" in clause (a) in sub section (1) in view of the more detailed provisions in section 8B regarding claiming tax credit of input tax by manufacturers

8A

Joint and several liability of registered persons in supply chain where tax unpaid

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

**SECTION
(CLAUSE)**

THE SALES TAX ACT, 1990

8B

Adjustable input tax

This proposed new section is being introduced for “adjustable input tax” whereby a registered person shall not be allowed to adjust input tax in excess of ninety percent of the output tax of that tax period. The following provisos are also included:

- Tax charged on acquisition of fixed assets shall be adjustable against the output tax in 12 equal monthly installments
- The Board is empowered to exempt by notification any person or class or persons from the applicability of this section

The amount of input tax determined as “inadmissible” because of the 90% limit may be allowed if:

- The value addition is less than 10% as verifiable from the audited accounts and as certified by the auditors in a statement
- The Board notifies in the Official Gazette registered persons, subject to conditions and restrictions
- The adjustment of input tax not previously allowed shall be made on yearly basis in the second month following the end of the financial year of the registered person

The Board is also empowered to prescribe a limit other than 90% for any person or class of person by notification through Official Gazette.

An auditor found guilty of misconduct in furnishing the certificate is liable to disciplinary action under section 20D of the Chartered Accountants Ordinance, 1961.

**SECTION
(CLAUSE)
10**

THE SALES TAX ACT, 1990

Refund of input tax

This proposed new section seeks to replace the existing provisions regarding refund of input tax. The proposed new section provides for a refund arising because the input tax paid by registered person exceeds the output tax on account of zero rated local supplies or exports. The section provides that the amount shall be refunded not later than 45 days of filing of refund claim. These provisions are subject to conditions and restrictions that the Board may impose by notification in the Official Gazette.

The section also states that if the registered person is liable to pay any tax, default surcharge or penalty under any law administered by the Board, the refund of input tax shall be made after adjustment of unpaid outstanding amount of dues.

The section also provides for a process in the event the claims have been wrongly filed by the registered person.

11

Assessment of tax

(4)

The proposed amendment seeks to exclude the words "or, as the case may be, Collector (Adjudication)" as these are no longer required.

22

Records

(1A) and (4)

The proposed new clauses seek to bind the registered persons to declare the business bank accounts to Board and to require the companies to submit audited accounts duly certified by auditors and to require the companies to submit audited accounts along with certificate by the auditors.

23

Tax invoices

The proposed new clause seeks to empower the Board to prescribe the manner and procedure for regulating issuance and authentication of tax invoices by notification in the Official Gazette.

**SECTION
(CLAUSE)
24**

THE SALES TAX ACT, 1990

Retention of record and documents for three years

The proposed amendment increases the time limit of record keeping from three years to "five years".

30A

**Directorate General, (Intelligence and Investigation)
Customs and Excise**

The proposed amendment in this clause seeks to adopt the new name of "Directorate General, (Intelligence and Investigation) CBR" wherever occurring.

30B

Directorate General of Inspection and Internal Audit

The proposed amendment in this clause seeks to omit the word "of Inspection and" wherever occurring to correct the title as now applicable.

30D

Directorate General of Valuation and Post Clearance Audit

The proposed amendment in this clause seeks to omit the word "and Post Clearance Audit" wherever occurring to correct the title as now applicable.

30DD

Directorate of Post Clearance Audit

This new section is proposed to provide for the creation of a Directorate of Post Clearance Audit.

37A

Power to arrest and prosecute

The proposed omission of the words "in respect of a supply or supplies made by him" would imply that the Board is empowered to cause arrest of a person if there is evidence that he has been involved in a tax fraud. The amendment seek to bring persons indirectly connected with a tax fraud within the ambit of a criminal offence.

**SECTION
(CLAUSE)**

THE SALES TAX ACT, 1990

38A

Power to call for information

The proposed amendment to this section seeks to empower the Collector to call for information from any regulatory authority regarding licenses and authorizations issued by it.

47A

Alternative dispute resolution

This proposed new section seeks to prescribe clear provisions for dispute resolutions.

If a registered person is aggrieved in connection with any dispute regarding:

- The liability of tax against the registered person or admissibility of refunds, as the case may be
- The extent of waiver of default surcharge and penalty
- The quantum of input tax admissible in terms of sub-section (3) of section 7
- Relaxation of any procedural or technical irregularities and condonation of any prescribed time limitation
- An other specific relief required to resolve the dispute

He may apply to the Federal Board of Revenue for the appointment of a committee for the resolution of any hardship or dispute mentioned in the application and pending before an appellate or judicial forum. The application cannot be made if an FIR has been lodged or criminal proceedings are in progress or where interpretation of question of law having larger revenue impact is involved

The Board may appoint a committee within 30 days of the receipt of the application consisting of specified persons from a notified panel.

**SECTION
(CLAUSE)**

THE SALES TAX ACT, 1990

The committee may carry out detailed investigations and make recommendations within 60 days of its constitution which period may be extended for a further period of 60 days by the Board.

The Board may on the recommendation of the committee pass an order that it deems fit.

The Board is also empowered to make rules by notification in the Official Gazette for the process under this section.

48

Recovery of arrears of tax

The proposed amendments to this section seek to empower the Board to write off arrears.

50A

Computerized system

The proposed amendments deal with procedural matters related to defining the responsibility of registered person in case of computerized transactions.

67

Delayed refund

The proposed amendments to this section are of an editorial nature necessitated because of changes in the provisions relating to refunds.

76

Federal Board of Revenue

This new section is proposed to define and introduce Federal Board of Revenue as the replacement body for Central Board of Revenue and to deal with matters relating to the reference wherever occurring in the Sales Tax Act, 1990 and rules or notifications. The section provides for substitution of the Board wherever necessary.

**SECTION
(CLAUSE)**

THE SALES TAX ACT, 1990

462(I)/2007	<p>Certain goods are chargeable to zero percent sales tax as given below:</p> <ul style="list-style-type: none">• Sewing machines of the household type• Bicycles• Exercise books• Writing, drawing and marking inks• Trailers and semi-trailers for the transport of goods having specifications duly approved by the Engineering Development Board• Uncooked poultry meat
463(I)/2007	<p>The whole amount of default surcharge and penalties are exempted subject to the condition that the outstanding principal amount of sales tax is paid by the 30th June 2007.</p>
464(I)/2007	<p>The new clause (d) "supply of electricity and gas to residential colonies of registered persons" shall be inserted in S.R.O. 490(I)/2004 dated 12th June 2004 in respect of which input tax shall not be claimed.</p>
473(I)/2007	<p>The words "inspection and" wherever occurring in S.R.O. 26(I)/2006 dated 9th January, 2006 proposed to be omitted.</p>
475(I)/2007	<p>S.R.O. No. 679(I)/2006 dated 30th June 2006 and S.R.O. No. 679(I)/2006 dated 30th June 2006 have been withdrawn w.e.f. 01.07.07</p>
477(I)/2007	<p>S.R.O. No. 762(I)/1996 dated 15th September 1996 has been withdrawn.</p>
478(I)/2007	<p>S.R.O. No. 940(I)/1998 dated 1st September 1998 has been withdrawn.</p>

**SECTION
(CLAUSE)****THE SALES TAX ACT, 1990**

479(I)/2007

The following rules have been withdrawn

- The Sales Tax (Refund of Excess Input Tax to the Manufacturers Rules, 2005
- The Sales Tax (Refund of Excess Input Tax to the Dealers, Distributors and Wholesalers) Rules, 2005

480(I)/2007

The Sales Tax Special Procedures Rules 2007 comprise of following:

- | | |
|--------------|---|
| Chapter-I | Preliminary |
| Chapter-II | Special Procedure for payment of Sales Tax by Retailers |
| Chapter-III | Special Procedure for collection and payment of Sales Tax on Electric Power |
| Chapter-IV | Special Procedure for collection and payment of Sales Tax on Natural Gas |
| Chapter-V | Special Procedure for supply of sugar to Trading Corporation of Pakistan(TCP) |
| Chapter-VI | Special Procedure for person providing or rendering services subject to Sales Tax under the Provincial Laws |
| | Part - 1 Advertisements of Television and Radio |
| | Part - 2 Customs Agents and Ship Chandlers |
| Chapter-VII | Special Procedure for collection and payment of sales tax from the Oil Marketing Companies (sharing of product) |
| Chapter-VIII | Special Procedure for collection and payment of Sales Tax by Vehicle Dealers |
| Chapter-IX | Special Procedure for processing of refund claims filed by the persons engaged in making zero-rated supply of Ginned Cotton |

The following are the major amendments in the Sales Tax Special Procedures Rules 2006

- The Jewellers shall also be treated as retailers

**SECTION
(CLAUSE)**

THE SALES TAX ACT, 1990

509(I)/2007

The following description of goods shall be charged zero percent on the supply and import. The main items are:

- Leather and articles thereof including artificial leather footwear
- Textile and articles thereof
- Carpets
- Sports goods
- Surgical goods
- Maize (corn) starch
- Spin Finish Oil
- Nylon tubes
- Rubber latex
- Buttons
- Studs
- Shoe tacks
- Carbon Fiber
- Satin Finishing Wheels

**SECTION
(CLAUSE)**

THE FEDERAL EXCISE ACT, 2005

- 2 (8b), (8c), (8d) These clauses are intended to be inserted to define the term 'dutiable goods', 'dutiable supplies' and 'dutiable services' specified in the First Schedule excluding those which are exempt under section 16 of the Act.
- (16a) This clause is proposed to be inserted to define the term 'non-fund banking services' and includes all non-interest based services provided by banks of NBFIs for a fee.
- (21a) The new clause is proposed to be inserted to define the term 'sales tax mode' and means the manner of collection and payment of chargeable excise duty as if such duty is chargeable under section 3 of the Sales Tax Act and Rules, notifications, orders and instructions made thereunder.
- (23a) This new insertion seeks to define the term 'supply' and intends to include sales, lease and other disposition of goods and such other transactions as the Federal Government may determine through notification in the Official Gazette.
- 3(5) This new sub-section seeks to explain the liability of payment of duty and the person liable to pay the same.
- 4(1) The amendment seeks to allow a registered person to file a monthly return after close of the month as being done in case of Sales Tax. This is a step in the right direction as it was required to be filed at the close of the month, which was cumbersome for registered person.
- (2) This new sub-section is proposed to be inserted to allow the registered person to deposit the amount of duty payable during the month in the designated branch of the bank at the time of filing return.
- (7) The amendment seeks to allow a registered person to file monthly return in the bank instead of payment of duty through challan and filing return with the authorities.

SECTION (CLAUSE)	THE FEDERAL EXCISE ACT, 2005
7	The amendment seeks to insert the term 'sales tax mode' and align the explanation with section 4.
10(a)	This amendment is proposed to link the chargeability of excise duty to supplies instead of clearance.
12(4)	This amendment seeks to define the manner of calculation of excise duty in case of items chargeable on retail price basis.
14A	This new section is proposed to be inserted to empower CBR to recover the short paid amount of duty with default surcharge, through stoppage of clearance and attachment of bank accounts of the registered person. No penalty can, however, be imposed without giving prior show cause notice to such person.
17(1)	This amendment seeks to extend the time limit of record keeping from 3 years to 5 years.
29(2)(a)	This amendment seeks to give effect to creation of Directorate General of Intelligence and Investigation, CBR. Earlier separate Directorates General of Intelligence and Investigation existed in Custom & Excise, Income Tax and Sales tax departments.
(b)	The amendment seeks to give effect to new name of Directorate General of Internal Audit.
33(2)	Insertion of new proviso seeks to fix the time limit of 90 days for the Collector (Appeals) to decide the appeal.
38	The proposed substitution seeks to further rationalize the provisions relating to Alternate Dispute Resolution.
49	This new section seeks to insert Federal Board of Revenue (Board), in place of CBR, being introduced through Federal Board of Revenue Act, 2007 sought to be promulgated through the Finance Bill, 2007.

**SECTION
(CLAUSE)**

THE FEDERAL EXCISE ACT, 2005

Description of services provided by banks and NBFIs is proposed to be changed.

The duty on service provided or rendered by a foreign exchange broker including any authorized dealer of foreign exchange to a customer and cable TV operators is proposed to be withdrawn.

The Third Schedule

Conditional exemption to non-aerated beverage concentrate is proposed to be withdrawn.

Conditional exemption is proposed to Life Insurance and Health Insurance.

SECTION (CLAUSE)	THE CUSTOMS ACT, 1969
Preamble	The amendment seeks to empower the Government to levy fees and services charges on account of various tasks being provided under the Act.
2(b)	The proposed substitution seeks to define the term 'appropriate officer.
(e)	The proposed substitution seeks to define the term 'Board' which shall mean the Federal Board of Revenue being constituted under the Federal Board of Revenue Act, 2007 being promulgated through the Finance Bill 2007.
3A	This substitution seeks to give effect to creation of Directorate General of Intelligence and Investigation, CBR. Earlier separate Directorates General of Intelligence and Investigation existed in Custom & Excise, Income Tax and Sales tax departments.
3B	The substitution seeks to give effect to new name of Directorate General of Internal Audit.
3D	The substitution seeks to give effect to new name of Directorate General of Valuation.
18(3), (5) and proviso	Amendment to this clause seeks to include section 25A and to provide that cumulative incidence of custom duties does not exceed the agreed tariff rates under multilateral agreements.
18D	This new insertion seeks to provide for levy of fees and service charges on account of services to be provided for examining, scanning, inspection, sealing and desealing, valuation check or in respect of any other services, including ventures public-private partnership, at such rates as may be specified in the notification.
19C	This section is proposed to be inserted to describe Rs. 100 as the minimum of duties and taxes that should not be demanded by the Customs department.

SECTION (CLAUSE)	THE CUSTOMS ACT, 1969
21A(2)	The proposed amendment seeks to reduce the rate of surcharge from 15% to 14% per annum to bring it in conformity with section 83(2) and the Rules.
22A	The proposed new insertion seeks to provide for duty-free re-importation of temporarily exported plant and machinery.
25	This amendment seeks to change the title to 'Value of imported and exported goods' to distinguish the customs values determined under sections 25 and 25A and also to remove the impracticability in application of this section.
25A	This insertion is proposed to empower the Directorate General of Valuation to determine and notify the values of different categories of goods. The concept is not new and was withdrawn a few years back as a result of agitation from the concerned quarters.
25D	This new insertion seeks to give legal cover to the values determined by the Directorate General of Valuation under section 25A.
39(b)	The proposed amendment seeks to describe Rs. 100 as the maximum of duty drawback that shall not be allowed by the Customs department.
81	The proposed amendment seeks to include 'pay order' for the payment of differential duty of provisional assessment and to empower the Director Valuation also to extend the limitation period.
179	The proposed amendment seeks to rationalize the adjudication powers by enhancing the monetary limit of the officers of the Customs.
185A(1)(a)	Amendment is proposed to seek exclusion of reference to a police officer.

**SECTION
(CLAUSE)****THE CUSTOMS ACT, 1969**

185F(1)	The proposed amendment seeks to empower the Directorate of intelligence and Investigation also to file appeal before the Special Appellate Court.
193A(3)	The proposed insertion seeks to fix time limit of 90 days for the Collector (Appeals) for deciding cases and to withdraw powers of Collector (Appeals) to remand back the cases.
194(3)	The proposed substitution seeks to describe qualifications for appointment of Technical Members in the Appellate Tribunal.
194A(2)	The proposed substitution seeks to prescribe that an authorized officer of Customs not below the rank of Assistant Collector, may prefer an appeal to the Appellate Tribunal.
194A(7)	The proposed substitution seeks to protect pending appeals filed by an officer of Customs below the rank of Assistant Collector.
194B(2)	The proposed amendment seeks to curtail the time limit for rectification of errors from 3 years to one year.
194C(3)	The proposed amendment seeks to prescribe monetary limit of duty and taxes exceeding Rs. 5 million for deciding cases by single bench, and in dispute cases where amount of duty and taxes involved does not exceed Rs. 5 million, earlier there was no limit.
195C(1)	The proposed insertion seeks to empower the Board to appoint a committee for the resolution of dispute on application by the aggrieved party.
(2)	The proposed insertion seeks to fix time limit of 30 days for the Board to appoint a committee for the resolution of dispute after receipt of such application.
196(1)	The proposed insertion seeks to enable the Director of Intelligence and Investigation also to make reference to the High Court.

SECTION (CLAUSE)	THE CUSTOMS ACT, 1969
202(2) Proviso	There is an apparent typing error, as 'clause (b)' has been mentioned instead of 'sub-section (2)'. The proposed insertion of Proviso seeks to provide for recovery of arrears as the first charge on the business transferred by a defaulter.
(5) Proviso	The proviso is proposed to be inserted to empower the Board to write off the non recoverable arrears.
203A	The proposed insertion of this section seeks to authorise the Board to make expenditure out of fee and service charges collected under section 18D.
207	The proposed amendment seeks to restrict the scope of licensing of Freight Forwarders.
211	The proposed amendment seeks to provide for increase in the period of retention of record from 3 years to 5 years.
225	This new section seeks to insert Federal Board of Revenue (Board), in place of CBR, being introduced through Federal Board of Revenue Act, 2007 sought to be promulgated through Finance Bill, 2007.
First Schedule	It is proposed to substitute this schedule with a view to rationalize import taxes.
Special Surcharge	It is proposed that a special surcharge as additional customs duty shall be levied and collected on imports at the rate of one (1) %. The special surcharge shall not constitute a part of value of goods for the purposes of Sales Tax Act. Edible oils and fats, petroleum oils, motor spirit, aviation spirit, high speed diesel oil, furnace oil, pharmaceutical products, fertilizers, etc shall be exempt from the special surcharge.

**SECTION
(CLAUSE)**

COMPANIES ORDINANCE, 1984

Entire Ordinance

The proposed amendments to change the word "Authority" to "Commission" seeks to correct delayed replacement from Corporate Law Authority to the Securities and Exchange Commission of Pakistan "SECP".

2

Definitions

(3)

The proposed omission seeks to remove any references to the Corporate Law Authority which has been replaced by the Securities and Exchange Commission of Pakistan.

(5)

The proposed substitution to the definition of "book and paper" seeks to provide for electronic maintenance of books of accounts and related documents. The substitution recognizes the prevalence of maintenance of books and papers in electronic form.

(14)

The proposed amendment to the definition of "document" seeks to include documents issued, sent or kept in pursuance of any law for the time being in force including those maintained through electronic means.

(26) (b)

The proposed amendment to the definition of "prescribed" seeks to include provisions of the rules and regulations promulgated by the SECP.

(30) (B)

The proposed insertion seeks to define "register" as register of members and includes register of debenture holders or holders of other securities including those maintained electronically.

24

Procedures on confirmation of alteration

(2)

The proposed omission seeks to remove the requirement for filing with the Registrar in the event of alteration involving transfer of the registered office from one province to another or from the Islamabad Capital Territory to a province or from a Province to Islamabad Capital Territory.

30

Registration of memorandum and articles

(1)

The proposed amendment seeks to remove the reference to location where the registered office of the Company is situated as also amended above by section 24 (2).

**SECTION
(CLAUSE)**

COMPANIES ORDINANCE, 1984

95

Prohibition of purchase or grant of financial assistance by a company for purchase of its own or its holding company shares.

(1)

The proposed insertion to the sub-section seeks to provide an exemption to the prohibition under this Section to the following:

- Subsidiaries acting as a trustee, unless the holding company is beneficially interested in the Trust; and
- Subsidiaries from dealing in shares of its holding company in the ordinary course of its business, where such subsidiary carries on a bona fide business of brokerage, however, provided that the subsidiary shall not exercise voting rights attached to such shares.

158

Annual General Meeting

(1)

The proposed amendment seeks to reduce the time limit for holding annual general meeting from four months to three months following the close of financial year.

The proposed amendment seeks to reduce the extension limit for holding Annual General Meetings from a period of 60 days to a period not exceeding 30 days.

178

Procedure for election of directors

(A)

The proposed insertion seeks to provide a person who acquires 12.5% or more voting shares in a listed company in his own name the right to apply to the Commission for requiring the Company to hold fresh election of directors in accordance with the existing specified procedures.

If deemed appropriate the Commission can direct the Company to hold the elections as requested. The person on whose request election of directors is held shall not sell or otherwise dispose of shares acquired by him for atleast one year.

**SECTION
(CLAUSE)**

COMPANIES ORDINANCE, 1984

183

Certain provisions not to apply to directors representing special interest

(b) The proposed insertion seeks to also include directors nominated by the Securities and Exchange Commission of Pakistan for the purpose of this Section.

204

Certain companies to have secretaries and share registrars

(A) The proposed insertion seeks to include requirement of listed companies to have an independent share registrar possessing such qualifications and performing such functions as may be specified by the Commission.

208

Investments in associated companies and undertakings

The proposed insertion is a proviso to the existing restrictions of investments.

Through the insertion, the Commission may through notification by Gazette, specify the class of companies or undertakings to which the restriction shall not apply.

(3) The proposed insertion seeks to include "regulations" as part of compliance requirements for this Section. The inference to "regulations" refers to rules framed under the Companies Ordinance, 1984.

(4) The proposed omission seeks to provide the Commission with the authority to specify the class of companies or undertakings to which the restriction in section 208(1) shall not apply. The previous list of excluded entities has now been omitted.

233

Annual accounts and balance sheet

(1) The proposed substitution seeks to limit the time frame for presentation of annual accounts at an AGM to a period of three months as amended in section 158(1).

**SECTION
(CLAUSE)**

COMPANIES ORDINANCE, 1984

234

Special Audit

(A) The proposed insertion provides for a special audit upon the Commission on its own motion or upon an application made by members holding not less than 20% voting rights in a company. The Commission may issue directions for immediate compliance upon receipt of the special audit report. The Section also provides for allocation of expenses borne in the conduct of special audit.

242

Copy of balance sheet to be forwarded to the registrar

(3) The proposed insertion seeks to require private companies with a paid up capital of Rs. 7.5 million or more to submit a copy of balance sheet to Registrar thirty days after AGM.

246

Power of Commission to require submission of additional statement of accounts and reports

(1) The proposed insertion requires the aforementioned reports to be audited.

(2)

The proposed insertion seeks to provide a ceiling of Rs. 1 million for a fine and increase the daily fine for failure to comply from Rs. 1,000 per day to Rs. 10,000 per day.

248

Certain restrictions on declaration of dividends

The proposed insertion is a proviso to the section which requires that no dividend shall be declared or paid out of unrealized gain on investment property charged to profit and loss account.

254

Qualification and disqualification of auditors

The proposed insertion seeks to define a person not considered to be indebted to the Company in relation to disqualification to act as an Auditor as:

- a person who owes a sum exceeding Rs. 500,000 to a credit card issuer.
- a person who owes a sum to a utility company in form of unpaid dues for a period not exceeding 90 days.

**SECTION
(CLAUSE)**

COMPANIES ORDINANCE, 1984

255

Powers and duties of auditors

The proposed substitution seeks to provide the Commission with powers to issue general or special orders in relation to inclusions in the auditors reports; these rights were previously held with the Federal Government.

267

Power of inspectors to carry investigation into affairs of associated companies

The proposed omission seeks to remove the proviso to the section which previously required the Commission to give the body corporate or chief executive a reasonable opportunity to show cause why approval for investigation should not be given.

282 A, 282 B, 282 C.
282 D, 282 E
(NBFC)

The proposed amendments seek to include notified entities in the provisions relating to NBFC's including trust or any other entity or person.

**SECTION
(CLAUSE)**

BANKING COMPANIES ORDINANCE, 1962

5

Definitions

(c) The proposed amendment seeks to expand the definition of "banking company" to include branches and subsidiaries functioning outside of Pakistan of banking companies incorporated in Pakistan.

(e) The proposed amendment seeks to expand the definition of "company" to include a branch of a foreign banking company doing business in Pakistan under a license issued by State Bank of Pakistan.

(ff) The proposed insertion seeks to define "foreign banking company" as a banking company, not incorporated in Pakistan, which has a branch or branches doing banking business in Pakistan under a license issued by SBP.

7 (1) (o) The proposed amendment seeks to empower the State Bank (through circular) to specify a form of business which is lawful for a banking company to engage in. Powers were previously vested with the Federal Government.

14 (1) (ii) The proposed amendment seeks to include perpetual non-cumulative preference shares in the composition of capital of a banking company.

19 (3) The proposed insertion seeks to allow banking companies to pay dividend out of profits for the said year if a banking company meets minimum capital requirement, capital adequacy ratio as specified by SBP and has also accounted for capitalized expenses and goodwill to the satisfaction of the auditor.

35

Audit

(1) The proposed amendment seeks to inform that the SBP shall classify a panel of auditors in different categories for different banking companies keeping in view the scope and size of such banking company. This amendment likely serves to provide a clarification with respect to the existing panels maintained.

**SECTION
(CLAUSE)**

BANKING COMPANIES ORDINANCE, 1962

(3), (4) The proposed insertions seek to provide for certain actions if State Bank is dissatisfied with the performance of the auditor of a banking company or the auditor has not fulfilled any of the requirements laid down.

41 Power of the State Bank to give direction

(2) The proposed insertion empowers SBP to issue direction, guidelines and instructions with respect to activities and operations of banks and other institutions mentioned in the Ordinance.

48 Procedure for amalgamation of banking companies

(4) The proposed insertion is a proviso which seeks to provide a relaxation regarding holding of shareholder's meetings to foreign banking companies which would allow them to demonstrate approval of scheme upon a certificate issued by their respective head office.

82B Terms and conditions of the Banking Mohtasib

(4) (b) The proposed amendment seeks to expand the powers and responsibilities of the banking mohtasib to include

- receiving evidence on affidavit
- issuing commission for the examination of witnesses

(5) (c) The proposed insertion states that the banking mohtasib shall not entertain any complaint or application which has already been disposed off by the SBP or any court in Pakistan.

82D Procedure for making complaints

The proposed amendment seeks to reduce the prescribed maximum time frame for responding to a complaint and filing a new complaint from 3 months to 45 days.

**SECTION
(CLAUSE)
82E****BANKING COMPANIES ORDINANCE, 1962****Recommendations for implementation**

(4) The proposed substitution requires the Governor State Bank to decide appeals made by banks, officials of a bank or a complainant aggrieved by the Banking Mohtasib within a period of 60 days. Previously no authority at State Bank was specified and the timeline was 30 days.

(5) The proposed insertion requires that findings of Banking Mohtasib shall be implemented within a period of 40 days and compliance thereof shall be submitted accordingly.

83**Penalties**

(1) The proposed amendment seeks to provide a maximum ceiling to penalties under this sub-section at Rs. 500,000.

(1A) The proposed amendment seeks to provide a maximum ceiling to penalties under this sub-section at Rs. 10,000,000.

(1AA) The proposed amendment seeks to provide a maximum ceiling to penalties under this sub-section to the amount of loan, advance or financial facility so extended.

(1C) The proposed amendment seeks to provide a maximum ceiling to penalties under this sub-section at Rs. 5,000,000 and the daily fine at Rs. 100,000.

(2) The proposed amendment seeks to provide a maximum ceiling to penalties under this sub-section to the amount of loan, advance or financial facility so extended with a daily fine at Rs. 100,000.

(3) The proposed amendment seeks to provide a maximum ceiling to penalties under this sub-section at Rs. 200,000 and the daily fine at Rs. 20,000.

(5) The proposed amendment seeks to provide a maximum ceiling to penalties under this sub-section at Rs. 200,000 and the daily fine at Rs. 10,000.

**SECTION
(CLAUSE)****BANKING COMPANIES ORDINANCE, 1962**

(8) The proposed insertion empowers State Bank to impose and recover the fines imposed by SBP and if any banking company fails to or refuses to pay the fines or penalties, SBP may debit the amount to an account of the banking company held with SBP.

93 C Exchange of information

(1), (2) The proposed amendments recognize "credit information providers" as a source through which banking companies may exchange information about their clients. Previously exchange of information was permissible through Pakistan Banking Council

93 E Disclosure of information

The proposed insertion requires banking companies and financial institutions to disclose information on a confidential basis to the SBP about their respective clients as required by SBP. The banking company may be required to provide detailed information in respect of identity to person involved and nature of transaction if a suspicious business transaction as determined by SBP is identified.

The insertion also provides for SBP to send information perceived to be related to money laundering, funding of terrorists to law enforcement agencies having jurisdiction in the matter. The disclosure of information shall not result in any liability for the SBP, banking company or employee due to disclosure made under this sub-section.

The proposed insertion permits SBP to pass an order for freezing accounts of such Company or corporation pending investigation; the investigation is required to be completed within a period of 180 days.

93 F Disclosure of information liable to punishment

The proposed insertion provides penalties and fines extending to Rs. 100,000 and/or term of imprisonment upto 5 years for any person who divulges information likely to affect an investigation or conceals, destroys or otherwise disposes off any material which is likely to be relevant to the investigation.

**SECTION
(CLAUSE)
32**

THE INSURANCE ORDINANCE, 2000

Admissible assets

(1) (c) This section deals with the subject of admissible assets for purposes of computing "solvency position" of the insurance company. The proposed amendment seeks to remove an anomaly because of which an asset not included as "inadmissible" was treated as not allowed to be treated as a "admissible". .As a result of the proposed amendment if an asset is not identified as "inadmissible" it will be treated as admissible.

(1) (d) The proposed amendment also seeks to empower the regulator to classify any asset as "admissible" if it is considered to be secure for purposes of calculating solvency margin.

42 Compulsory cession

(1) The proposed amendment seeks to correct the provisions of the law in respect of business which has been discontinued since January 01, 2005.

(3) The proposed amendment seeks an editorial change necessitated because of proposed deletion of clause (1).

43 Premiums and statements

(1) The proposed amendment seeks some editorial changes due to changes in Section 42

44 Rules and regulations for the administration of compulsory reinsurance

The proposed amendment seeks to amend the Section Title due to elimination of compulsory cession

**SECTION
(CLAUSE)
59****THE INSURANCE ORDINANCE, 2000****Power of commission to order investigation**

(3)

The proposed insertion of new clause seeks to explain the power of commission in respect of onsite inspection as follows:

- The inspection may be undertaken to ensure that the requirements of sound and prudent management are being fulfilled by the insurer and the insurer is complying with the requirements of the Insurance Ordinance
- On site inspections may be undertaken at a frequency to be decided by the Securities and Exchange Commission (the Commission)
- All officers and agents of the company including lawyers, auditors and actuaries are required to supply information, documents and assistance that the Commission may require in the course of their inspection
- The inspectors appointed by the Commission have a right to enter any company premises during the conduct of their inspections and they are empowered to search, seize, take possession of any record, object, article, material etc
- The notice period for the inspection is 2 weeks and this may not be observed if in the opinion of the Commission the company may destroy the records.

65**Power to remove Chairman, Director etc of the insurer**

(1), (2) and (3)

The amendment proposed seeks to provide for a procedure allowing the Commission to make a report to the Tribunal requiring removal of Chairman or Director of an insurer to protect the interest of the policy holder. In the case of public sector companies the Commission can only refer the matter to the Federal Government.

**SECTION
(CLAUSE)**

THE INSURANCE ORDINANCE, 2000

156

**Penalty for default in complying with , or acting in
contravention of this ordinance**

The proposed amendment seeks to explain the power of Commission in respect of levy of fine.

158

Penalty for false statement in documents

(a), (b) & (c)

The proposed amendment explains the power of Commission to impose fine which may include imprisonment of up to 3 years.

172

Removal of difficulties

The proposed omission of the limit of 2 years is to avoid any possible difficulty in future and to allow Federal Government to issue notification for removal of difficulties

FEDERAL BOARD OF REVENUE

The Finance Bill 2007 proposes The Federal Board of Revenue Act, 2007 (referred hereafter as "the Act").

The Act would replace in due course the Central Board of Revenue Act, 1924, and the Board constituted under the Act would have all the powers and functions that were vested in the latter; in addition to these would have powers and functions vested under section 4. Some of the salient ones are:

- to implement the tax administration reforms
- to promote voluntary tax compliance and to make the Board a service oriented organization
- to adopt modern effective tax administration methods, information technology systems and policies
- to improve productivity through a comprehensive and effective human resource strategy to grant additional allowances and rewards to the employees and members of the Board
- to take appropriate measures including internal controls to combat corruption within the organization
- to direct or advise, where necessary, investigation or inquiry into suspected duty tax evasion, tax and commercial fraud, money laundering and financial crime cases
- to introduce and maintain a system of accountability of performance, competency and conduct of the employees
- to set up a mechanism and process that facilitate removal of grievances and complaints of the tax payers
- to enable electronic communication in respect of all taxation matters

Section 5 of the Act is devoted to Human resource management.

Section 6 of the Act requires the Federal Government to constitute a Cabinet Committee for Federal Revenue as a supervisory body, which shall approve guidelines with regard to policy, planning reforms budget and any such matter referred to it by the Board.

Section 14 of the Act states that the Board shall create and maintain a data bank containing information from third parties necessary to perform the objects and purposes of the Act. Such data shall be used for increasing the taxpayers base and to ensure accuracy of information submitted by existing taxpayers and for the financial analyses leading to proper economic assessments, audits, detection of tax evasion and policy decisions as may be necessary. The data shall be used further to evaluate the performance of the employees

The Act will serve a very useful purpose in replacing the outdated Central Board of Revenue Act, 1924 and enhance the capacity of the tax system to collect due taxes through application of modern techniques, providing assistance to tax payers and creating a motivated professional work force. However, it is doubtful that it would provide the desired level of autonomy as the Act allows the Federal Government considerable powers to intervene in the operations

PAYMENT SYSTEMS AND ELECTRONIC FUND TRANSFERS ACT, 2007

The Finance Act, 2007 introduces a new Act titled "Payment Systems and Electronic Fund Transfers Act, 2007".

This Act is being introduced to provide a regulatory framework for payment systems and electronic fund transfers.

The Act is expected to affect financial institutions, clearing houses and other service providers ("institutions") authorized to transact business under this Act.

As part of the growth in the Financial Services industry in Pakistan, this Act is being introduced as in addition to the Electronic Transactions Ordinance, 2002 and various measures taken by the State Bank of Pakistan to introduce and promote progressive reforms in financial institutions.

The Act provides for some of the following key parameters for engaging in transactions involving payment systems and electronic fund transfers:

- Authorization to operate a Designated Payment System
- Requirements as to operational arrangements required to facilitate a designated payment system.
- Adequacy of maintenance of records of transactions.
- Security and confidentiality requirements.
- Governance principles with respect to accountability and audits of systems.
- Disclosure requirements for customers engaging in transactions under this Act.
- Penalties and liability for institutions under this Act

**SECTION
(CLAUSE)**

MICROFINANCE INSTITUTIONS ORDINANCE, 2001

- 6 (2) (a) The proposed addition seeks to enable Microfinance Banks to receive foreign currency remittances from overseas Pakistani workers for their beneficiaries in Pakistan.
- 6 (2) (pa) The proposed addition seeks to promote development of low-cost delivery channel for remittances market in rural and remote areas through facilitation of remittances from abroad.
- 10 (1) The proposed replacement seeks to empower State Bank to determine the amount of minimum paid-up capital based on the sector development requirements. The limits at district, provincial and national levels prescribed previously shall now be determined by State Bank which may prescribe varying minimum paid-up capital requirements for microfinance banks operating at district, regional, provincial and national level.

**SECTION
(CLAUSE)**

20 (2)

KHUSHHALI BANK ORDINANCE, 2000

The proposed amendment seeks to permit the State Bank to extend the tenure of office of the President of the Khushhali Bank for a term of "similar term or terms" from the previous allowance of a period of three years.

**SECTION
(CLAUSE)**

BANKS NATIONALIZATION ACT 1974

- 5 (6) (a) The proposed amendment seeks to facilitate the Federal Government to reduce its shareholding upto 49% instead of not less than 26%.
- 5A (1) (a) The proposed amendment seeks to bring the provisions in conformity with section 5(6)(a).
- 11 (1) (b) The proposed amendment seeks to give the right to private shareholders for representation on the Board.
- 11 (3) The proposed amendment seeks to provide for representation of Federal Government on the Board.
- 11 (3) (d) The proposed amendment seeks to provide for extension in the tenure of Chief Executive, President and the Board on re-appointment, as may be determined by the Federal Government.

**SECTION
(CLAUSE)**

**THE WEST PAKISTAN INDUSTRIAL AND COMMERCIAL
EMPLOYMENT (STANDING ORDERS) ORDINANCE, 1968
(VI OF 1968)**

Order 12 (6)

Second Proviso is proposed to be inserted to provide for voluntary contribution of at least 50% by an industrial worker to an Approved Pension Fund and to restrict payment of gratuity for the period during which such contribution has been made.

**SECTION
(CLAUSE)**

**THE WEST PAKISTAN MINIMUM WAGES FOR
UNSKILLED WORKERS ORDINANCE, 1969
(W.P. ORDINANCE NO. XX OF 1969)**

Schedule

Clause 24 of the Schedule is proposed to be amended to seek increase minimum threshold of wages for unskilled workers from Rs. 4,000 to Rs. 4,600 per month.

**SECTION
(CLAUSE)**

**THE NATURAL GAS (DEVELOPMENT SURCHARGE)
ORDINANCE, 1967 (I OF 1967)**

3(3)

A Proviso is proposed to be inserted to provide for the Federal Government to allow one time exemption to any company from payment of additional amount, payable due to non-payment of Gas Development Surcharge within the stipulated time.

4

The proposed amendment seeks to update reference to the relevant section and nomenclature of Income Tax Ordinance.

**SECTION
(CLAUSE)**

**THE WORKMEN'S COMPENSATION ACT, 1923
(VIII OF 1923)**

2(n)

Sub-clause (ii) is proposed to be amended to remove monthly wages ceiling of for entitlement to compensation in cases of permanent disability or death of an industrial worker.

Schedule IV

This is proposed to be amended for the above purpose.

**SECTION
(CLAUSE)**

THE EMPLOYEES' OLD-AGE BENEFITS ACT, 1976

22B

This section is proposed to be amended to provide for increase in the minimum rate of pension by 15% through amendment in the Schedule.

Schedule

This is proposed to be amended to allow pension of the deceased to the surviving spouse where the deceased contributed in addition to his/her own pension, and also to remove discrimination for the widow to get pension as per entitlement and not minimum pension. This shall also provide for calculation of pension on last minimum wage and not average wage of last 12 months.

**SECTION
(CLAUSE)**

**FINANCE ACT, 1989
(Capital Value Tax)**

7(1)

The proposed amendment seeks to provide for exemption from payment of CVT on revocable and time bound (not exceeding 60 days) Power of Attorney between spouses, parents, grand parents, brothers and sisters.

(2)(c)

This paragraph is proposed to be deleted to provide for omission of CVT on imported cars.

**SECTION
(CLAUSE)**

SECURITIES AND EXCHANGE ORDINANCE, 1969

- | | |
|------------------------------|---|
| 3, 4, 5, 6, 7, 21, 33 and 34 | The proposed amendment seeks to provide for National Commodity Exchange within the purview of this Ordinance. |
| 22 | This proposed amendment seeks to increase the power of the Commission to impose penalty for default upto Rs. 50 million instead of Rs. 100,000 and a further sum of Rs. 200,000 instead of Rs. 2,000 for every day after the issue of such order. |
| 35 | This section is proposed to be deleted as the provisions have become redundant. |

SECTION (CLAUSE)	SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN ACT, 1997
12	<p>The proposed amendment seeks to provide for increase in the number:</p> <ul style="list-style-type: none">• of Members to Securities and Exchange Policy Board from 9 to 10.• of public sector Members to Securities and Exchange Policy Board from 5 to 6 and include the Finance Minister or in his absence the Advisor to Prime Minister on Finance as Chairman of the Board who shall, in the event of a tie, have a casting vote.
20(4)	<p>This proposed new insertion of clause (ja) seeks to empower the Commission to regulating the professionals who provide services within the financial services markets.</p>
29(1)	<p>The proposed amendment seeks to empower the Commission to conduct <i>suo moto</i> investigation under other enactments administered by the Commission.</p>
33(1)	<p>Proposed substitution of this sub-section seeks to allow any person aggrieved by an order passed by one Commissioner or an authorized officer to prefer an appeal to an Appellate Bench of the Commission. Such appeal shall, under the proviso, not be admissible against administrative direction, revision or review order, sanction of legal proceedings in a court of law and interim order not disposing the entire matter.</p>
40(1)	<p>The proposed amendment seeks to further elaborate the functions of the Commission.</p>
40A	<p>The proposed new section seeks to empower the Commission to impose fine for any contravention upto Rs. 10 million and a further sum of Rs. 100,000 for every day after the first during which such contravention continues, after giving opportunity of being heard to the party.</p>
40B	<p>The proposed new section seeks to empower the Commission to issue such directives, codes, circulars, guidelines or notifications, as are deemed necessary.</p>
42A	<p>The proposed new section seeks to provide for immunity to the Commission, Commissioners, members, officers and employees of the Commission for any thing done in good faith.</p>

INFORMATION ABOUT WITHHOLDING TAXES

APPENDIX – I

SECTION REFERENCE	NATURE OF PAYMENT/ TRANSACTION	TAX RATE (%/Rs)	DEDUCTING/COLLECTING AUTHORITY	WITHHOLDING TAX ADJUSTABLE/ FINAL
148	Import of goods except for the items mentioned below	5	Collector of Customs	Final except large import houses
	Import of di-ammonium phosphate (DAP) fertilizer, all fibers, yarns and fabrics excluding pure cotton or its yarn or its fabrics, condemned ships, manufactures registered with sales tax department import capital goods and raw material (other than polyester filament yarn)	1	Collector of Customs	
	Import of agriculture tractor	2	Collector of Customs	
	Import of goods falling under HS code of the First Schedule to the Customs Act, 1969 (IV of 1969)	2	Collector of Customs	
	Import of edible oil	2	Collector of Customs	Final (Tax collected for the tax year shall be final tax)

INFORMATION ABOUT WITHHOLDING TAXES

APPENDIX – I

SECTION REFERENCE	NATURE OF PAYMENT/ TRANSACTION	TAX RATE (%/Rs)	DEDUCTING/COLLECTING AUTHORITY	WITHHOLDING TAX ADJUSTABLE/FINAL
151	<p>Payment of profit/yield to resident in respect of following after deducting zakat thereon:</p> <ul style="list-style-type: none"> • Deposit or account maintained with banking company or financial institution • Yield on National Saving Schemes and Post Office Saving Account where investment made on or after 01 July, 2001 exceeds Rs.150,000 • Profit on securities issued by Government and local authority • Profit on bond, certificates, debenture, security or instrument of any kind (other than a loan agreement between a borrower and banking Co. or a Development financial institution) 	<p>10</p> <p>10</p> <p>10</p> <p>10</p>	Payer of the profit or yield	Final

INFORMATION ABOUT WITHHOLDING TAXES

APPENDIX – I

SECTION REFERENCE	NATURE OF PAYMENT/ TRANSACTION	TAX RATE (%/Rs)	DEDUCTING/COLLECTING AUTHORITY	WITHHOLDING TAX ADJUSTABLE/FINAL
152	Payments to non-residents: <ul style="list-style-type: none">• Royalty• Fees for technical services• Shipping income• Air Transport income• Contract• Advertisement services• Other Contract or services• Profit on debt• Other cases	15 15 8 3 6 6 6 30	Every person	Final Final Final Final Final Final Final Adjustable

INFORMATION ABOUT WITHHOLDING TAXES

APPENDIX – I

SECTION REFERENCE	NATURE OF PAYMENT/ TRANSACTION	TAX RATE (%/Rs)	DEDUCTING/COLLECTING AUTHORITY	WITHHOLDING TAX ADJUSTABLE/FINAL
153	<p>Payments to resident person or permanent establishment of non resident person on account of:</p> <ul style="list-style-type: none"> • Sale of goods on amount inclusive of Sales Tax <ul style="list-style-type: none"> - General 3.5 - Rice, cotton seed and edible oil other than 1.5 - mentioned below Edible oil purchased locally by manufacturers of cooking oil and vegetable ghee or both 1 • Rendering of services <ul style="list-style-type: none"> - General 6 - Transport 2 • Execution of contract <ul style="list-style-type: none"> - More than Rs. 30.000 million 6 - Others 6 		Federal Government, company, Association of Persons, Foreign Contractor or Consultant and Consortium or Joint Venture	Final

INFORMATION ABOUT WITHHOLDING TAXES

APPENDIX – I

SECTION REFERENCE	NATURE OF PAYMENT/ TRANSACTION	TAX RATE (%/Rs)	DEDUCTING/COLLECTING AUTHORITY	WITHHOLDING TAX ADJUSTABLE/FINAL
155	Payment of rent (including advance) on immovable property, rent of furniture and fixture and amounts received for services related to such property.	5	Federal Government, Provincial Government, Local Authority, Company, Non-Profit Organization and Diplomatic Mission of Foreign State	Final
156	Payment of prize on prize bond.	10	Person paying the amount where the payment is not in cash amount to be collect	Final
	Payment of prize on winning of raffle, lottery, a quiz, offered by companies for promotion of sale or crosswords puzzle.	20		Final
156A	Payment of commission or discount allowed to a petrol pump operator	10	Person selling petroleum products to a petrol pump operator	Final
231A	Cash withdrawal from a bank (all payments in a day amount exceeding 25,000)	0.2	Every Banking Company	Adjustable
231B	Purchase of motor cars	5	Every manufacturer or authorized dealer of motor car	Adjustable

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SECTION REFERENCE	NATURE OF PAYMENT/ TRANSACTION	TAX RATE (%/Rs)	DEDUCTING/COLLECTING AUTHORITY	WITHHOLDING TAX ADJUSTABLE/FINAL
233	Payment of Brokerage and Commission	10	Government, Local Authority, Company and Association of Person constituted by or under any law	Final
233A	On purchase of shares On sale of shares On trading of share	0.01	Registered Stock Exchange	Final Final Adjustable
234	On collection of motor vehicle tax of : <ul style="list-style-type: none"> • Passenger transport vehicle with registered seating capacity of 10 or more persons upto 10 years of the year of the make of vehicle • Goods transport vehicle with minimum registered laden weight of 8,120 kg upto 10 years from the date of first registration of vehicle in Pakistan 	Rs.25 to 100 per seat per annum Rs. 1,200 to 36,000 per annum	Person collecting motor vehicle tax	Adjustable Final

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	In the case of goods transport vehicles with minimum laden weight of 8120 Kg, advance tax after a period of ten years from the date of first registration of vehicle in Pakistan. <ul style="list-style-type: none"> Other private motor cars 	Rs. 1,200 per annum Rs. 500 to 3,000 per annum.		Final Adjustable
234A	In the case of a compressed natural gas station	6	Person preparing Gas Consumption bills	Final
235	On collection of amount of electricity bill	Rs. 60 to 2000 per month	Person preparing electricity consumption bill	Adjustable (not available for retailer)
236	On collection of amount of telephone charges of: <ul style="list-style-type: none"> Telephone subscriber (bill exceeds Rs. 1,000.) Prepaid mobile telephone and prepaid telephone cards 	Rs. 50 to 300 per month 10	Person preparing telephone bills	Adjustable (not available for retailer)

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