

The background of the entire page is a light purple color with a grid pattern. Overlaid on this are several faint, semi-transparent financial charts and graphs. These include line graphs with fluctuating lines, bar charts with vertical bars of varying heights, and circular gauges or pie charts. Some numbers are visible on these charts, such as '810', '11.12', '14.56', and '19'. The overall aesthetic is professional and data-oriented.

**COMMENTS ON
FINANCE BILL**

2011

KRESTON INTERNATIONAL
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HYDER BHIMJI & CO.
CHARTERED ACCOUNTANTS
A member of Kreston International
KARACHI - LAHORE - FAISALABAD

COMMENTS ON FINANCE BILL 2011

This memorandum has been prepared for the convenience, guidance and general knowledge of our valued clients and staff members and may be used as a ready reference to the proposed amendments mentioned in the Finance Bill 2011. The memorandum contains results of the fiscal policies of 2010-2011, budget- 2011 at a glance, graphical exhibits, salient features and comments on the changes proposed through this Bill. All changes are effective from July 01, 2011 unless otherwise specified in the date.

The comments on the Bill represent our interpretation and understanding of the proposed amendments as contained therein. We recommended that the actual text of the Bill should be read in conjunction with the comments for a better understanding of the proposed changes and for considering the precise effect of a particular change, reference should also be made to the specific wording in the relevant statute.

These are general comments on the proposed amendments, which shall be enacted when the Bill is passed by the National Assembly; accordingly, for specific application of any part of this information, guidance / advice may be obtained separately in order to avoid any risk. The firm therefore accepts no liability for any action taken as a result of this information. We would be glad to entertain any further clarification regarding our comments.

The comments on Finance Bill 2011 can also be accessed on / downloaded from the website of our firm – <http://www.hyderbhimji.com>.

June 04, 2011

HYDER BHIMJI & CO.
CHARTERED ACCOUNTANTS



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Glimpses of grim and stubborn Pakistan's Economy

Pakistan economy is negatively affected by the catastrophic floods in 1st quarter of 2010-11; internal and cross border terrorism; administrative infrastructural instability due to political immaturity; rising prices of oil & other commodities; persistently high inflation; deteriorating law and order situation within the country; and decreasing revenue collections resulting into high budgetary deficits. The government, despite of support from United States of America (US), Friends of Pakistan (FoP) and International Monetary Fund (IMF), practically seems helpless in combating the macroeconomic economic instability causing increase in poverty level, unemployment, price hike in consumer products, minimal business / manufacturing activities and rising populations.

US Government, FoP and IMF authorities expressed their strong resolve for the Government of Pakistan (GoP) to pursue prudent macroeconomic policies for enhancing Pakistan's medium-term growth prospects and extended full cooperation to GoP for taking specific measures to improve economic stabilization through fiscal reform for protecting the masses. by focusing on measures to reduce the budget deficit in 2011/12 through higher revenue by broadening the tax base, including steps to implement reforms in the General Sales Tax and create space for more credit to the private sector as well as quasi-fiscal operations like procurement of agricultural commodities in order to reduce inflation, assure fiscal sustainability and protect the external position to assure continuing financial stability.



Highlights of the Economy

✚ Financial Position of Pakistan in International Monetary Fund as of April 30, 2011

		SDR in Million	%Quota		
I. General Resources Account:					
Quota		1,033.70	100.00		
Fund holdings of currency (Exchange Rate)		6,266.60	606.23		
Reserve Tranche Position		0.12	0.01		
II. SDR Department:			%Allocation		
Net cumulative allocation		988.56	100.00		
Holdings		771.51	78.04		
III. Outstanding Purchases and Loans:			%Quota		
Stand-by Arrangements		4,936.04	477.51		
Emergency Assistance		296.98	28.73		
ECF Arrangements		396.25	38.33		
IV. Latest Financial Arrangements:					
	Date of	Expiration	Amount Approved	Amount Drawn	
Type	Arrangement	Date	(SDR Million)	(SDR Million)	
Stand-By	Nov 24, 2008	Sep 30, 2011	7,235.90	4,936.04	
ECF ^{1/}	Dec 06, 2001	Dec 05, 2004	1,033.70	861.42	
Stand-By	Nov 29, 2000	Sep 30, 2001	465.00	465.00	
V. Projected Payments to Fund ^{2/}					
(SDR Million; based on existing use of resources and present holdings of SDRs):					
	Forthcoming				
	2011	2012	2013	2014	2015
Principal	129.21	1,418.11	2,399.61	1,379.29	303.04
Charges/Interest	87.48	108.18	57.39	19.40	3.86
Total	216.69	1,526.29	2,457.00	1,398.69	306.90
^{2/} When a member has overdue financial obligations outstanding for more than three months, the amount of such arrears will be shown in this section.					
VI. Implementation of HIPC Initiative:		Not Applicable			
VII. Implementation of Multilateral Debt Relief Initiative (MDRI):		Not Applicable			
VIII. Implementation of Post-Catastrophe Debt Relief (PCDR):		Not Applicable			

Courtesy: IMF website

SDR signifies Special Drawing Rights

✚ The lethal combination of low growth and high inflation is accompanied by a high fiscal deficit, growing unemployment and a rising debt burden.



- ✚ The relatively low growth rather decline in GDP has been recorded during the year 2010-11 which remained at 2.4% as compared to the budgeted GDP ratio of 4.5%, whereas actual GDP for the year 2009-10 was 4.1%.
- ✚ The sense of despondency and despair arising from rising insurgency and a difficult security situation on our Eastern and Western Borders, has been compounded by the Abbottabad operation of May 2, creating new strains in Pakistan`s relation with the US and seriously affecting the US aid to Pakistan.
- ✚ The Real GDP is estimated to grow at 2.4 percent on the back of strong performance of services sector as against actual growth of 3.8 percent last year and target of 4.5 percent.
- ✚ The growth in the agriculture is estimated at 1.2 percent on the strength of 3.7 percent growth in the livestock sector.
- ✚ Major Crops accounting for 31.1 percent of agricultural value added registered negative growth of 4.0 percent compared to a negative growth of 2.4 percent last year and a target of 3.7 percent.
- ✚ Minor crops registered a growth rate of 4.8 percent compared to the target of 3.0 percent and massive negative growth of 7.8 percent last year.
- ✚ Output in the manufacturing sector has witnessed expansion of 3 percent in 2010-11 as compared to expansion of 5.5 percent last year on the back of strong performance from small and medium manufacturing sector
- ✚ Large-scale manufacturing grew 1.7 percent in July-March 2010-11 as against 4.9 percent of last year.
- ✚ The services sector grew by 4.1 percent against the target of 4.7 percent and actual outcome of 2.9 percent of last year. Within services sector Wholesale and retail trade sector grew at 3.9 percent as compared to 4.6 percent last year and the target for the year of 5.1 percent. Finance and insurance sector recorded

negative growth of 6.3 percent in 2010-11 as against contraction of 11.3 percent last year. Public administration and defence posted a stellar growth of 13.2 percent as compared to 2.5 percent in last year. Social Services Sector grew by 7.1 percent which is slightly higher than the target of 5.0 percent but lower than last year's actual growth of 7.8 percent.

- ✚ Pakistan's per capita real income has risen by 0.7 percent in 2010-11 as against 2.9 percent last year.
- ✚ The total investment has declined from 22.5 percent of GDP in 2006-07 to 13.4 percent of GDP in 2010-11. Fixed investment has decreased to 11.8 percent of GDP from 13.4 percent last year.
- ✚ The national savings rate has decreased to 13.8 percent of GDP in 2010-11 as against 15.4 percent of GDP last year. Domestic savings has also declined substantially from 16.3 percent of GDP in 2005-06 to 9.5 percent of GDP in 2010-11.
- ✚ The agriculture growth in the year 2010-11 is estimated at 1.2 percent as compared with 0.6 percent during 2009-10.
- ✚ Cotton production has decreased from 12,913 thousand bales in 2009-10 to 11,460 thousand bales in 2010-11, showing a decrease of 11.3 percent.
- ✚ Wheat production has increased from 23,311 thousand tons in 2009-10 to 24,214 thousand tons in 2010-11, showing an increase of 3.9 percent.
- ✚ Rice production has decreased from 6,883 thousand tons in 2009-10 to 4,823 thousand tons in 2010-11, showing a decrease of 29.9 percent.
- ✚ Sugarcane production has increased by 12 percent to 55.3 million tons in 2010-11 from 49.4 million tons last year.
- ✚ Gram production has increased from 562 thousand tons in 2009-10 to 523 thousand tons in 2010-11, showing a decrease of 6.9 percent. Maize production



has increased from 3,262 thousand tons in 2009-10 to 3,341 thousand tons in 2010-11, showing an increase of 2.4 percent.

- ✚ Exports earning of the Textile products in 2010-11 (July-March) showing an increase of 29.9 percent.
- ✚ During 2010-11 (July-March) in automotive industry cars, LCVs/Jeeps and two/three wheelers registered a positive growth of 16.4 percent, 20.5 percent and 12.6 percent, respectively.
- ✚ Tax collection by the FBR was targeted at Rs 1667 billion for fiscal year 2010-11. However, the target was downward revised to Rs 1,588 billion, as a result of devastation caused by floods during July and August 2011. Revenue collections of FBR stood at Rs 1,156 billion during July-April 2010-11, thereby reflecting 12.6 percent growth over Rs 1,026.5 billion collected during the corresponding period last year.
- ✚ Among the four federal taxes, the highest growth 15.6 % has been recorded in sales tax receipts, followed by customs (12.6 %), direct tax (10.7 %) and federal excise duty (7.0%).
- ✚ SBP has raised the discount rate to 14 percent on 30th November 2010, and decided to keep the rate unchanged at 14 percent.
- ✚ The government borrowing from the banking system for budgetary support and commodity operations stood at Rs 342.2 billion during July-April, 2011. Government has borrowed Rs 196.3 billion from the State Bank of Pakistan (SBP) , while Rs 275.9 billion has been borrowed from the scheduled banks. In the month of May 2011, the government has further reduced its borrowing stock from the SBP to attain the target of net zero borrowing from the SBP.
- ✚ Net inflow of foreign investment in Pakistan from July –March 2010-11 was US\$ 301.5 million which as compared to US\$431.9 million in the last corresponding period, it is important to mention that noteworthy contribution was made during the first two quarter of 2010-11.



- ✚ The inflation rate as measured by the changes in Consumer Price Index (CPI) stood at 14.1 percent during (July-April) of the current fiscal year 2010-11, as against 11.5 percent in the comparable period of last year.
- ✚ The food inflation is estimated at 18.4 percent and non-food 10.4 percent, against 12.0 percent and 11.0 percent in the corresponding period of last year.
- ✚ Overall exports recorded a positive growth of 27.8 percent during the first ten months (July-April) of the current fiscal year against an increase of 8.0 percent in the same period of last year. In absolute terms, exports have increased from \$15,773.2 million to \$20,154.2 million in the above said period.
- ✚ Imports during the first ten months (July-April) of the current fiscal year (2010-11) increased by 14.7 percent compared with the same period of last year, reaching to \$32.3 billion. The overall import bill is higher by \$4.1 billion, reflecting the impact of higher global crude oil & Commodity Prices.
- ✚ Worker's Remittances totalled \$ 9.1 billion in July-April 2010-11 as against \$ 7.3 billion in the comparable period of last year, depicting an increase of 23.8 percent.
- ✚ Foreign direct investment (private) stood at \$1232 million during the first ten months (July-April) of the current fiscal year as against \$1725 million in the same period last year thereby showing a decline of 29 percent.
- ✚ Foreign Exchange Reserves amounted to \$ 17.1 billion by the end of April, 2011. Of which, reserves held by State Bank of Pakistan stood at \$ 13.7 billion and by banks stood at \$ 3.4 billion.
- ✚ The overall literacy rate (10 years & above) which was 57.4 percent in 2008-09 has increased to 57.7 percent in 2009-10, indicating 0.5 percent increase over the same period last year.



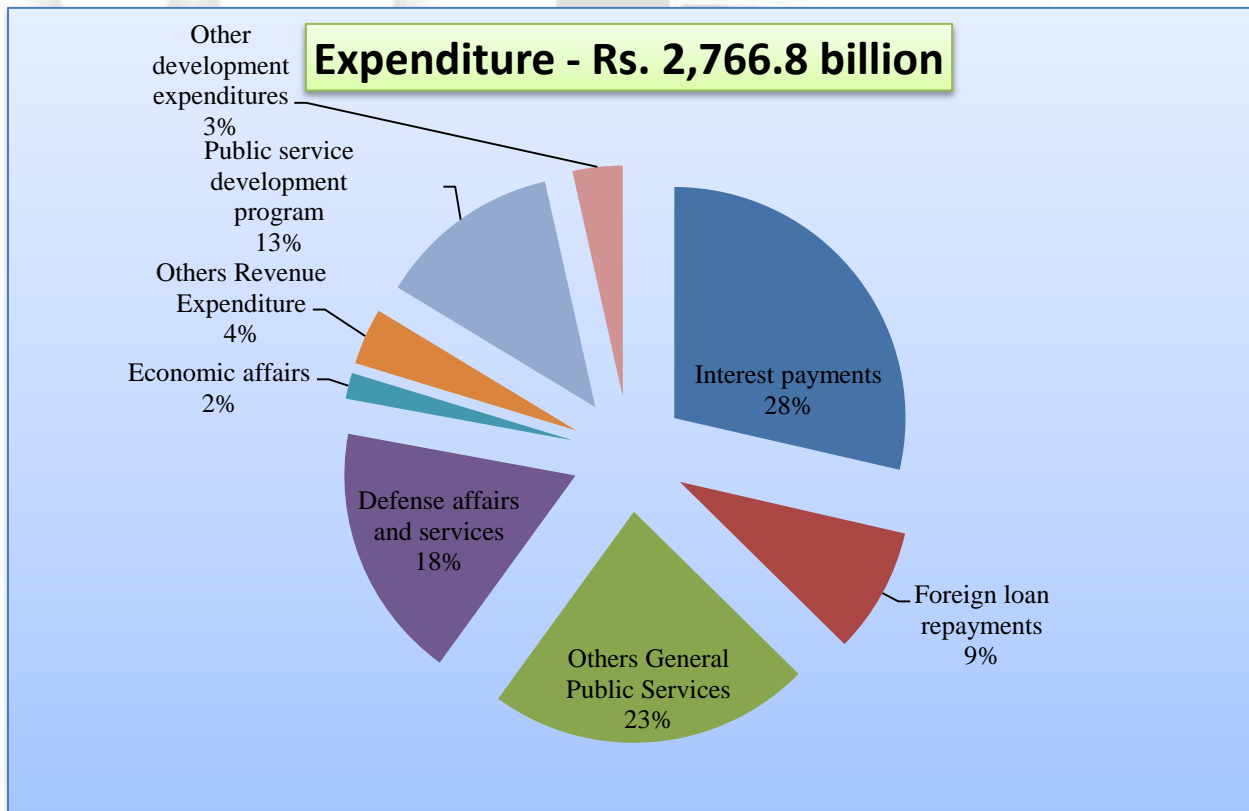
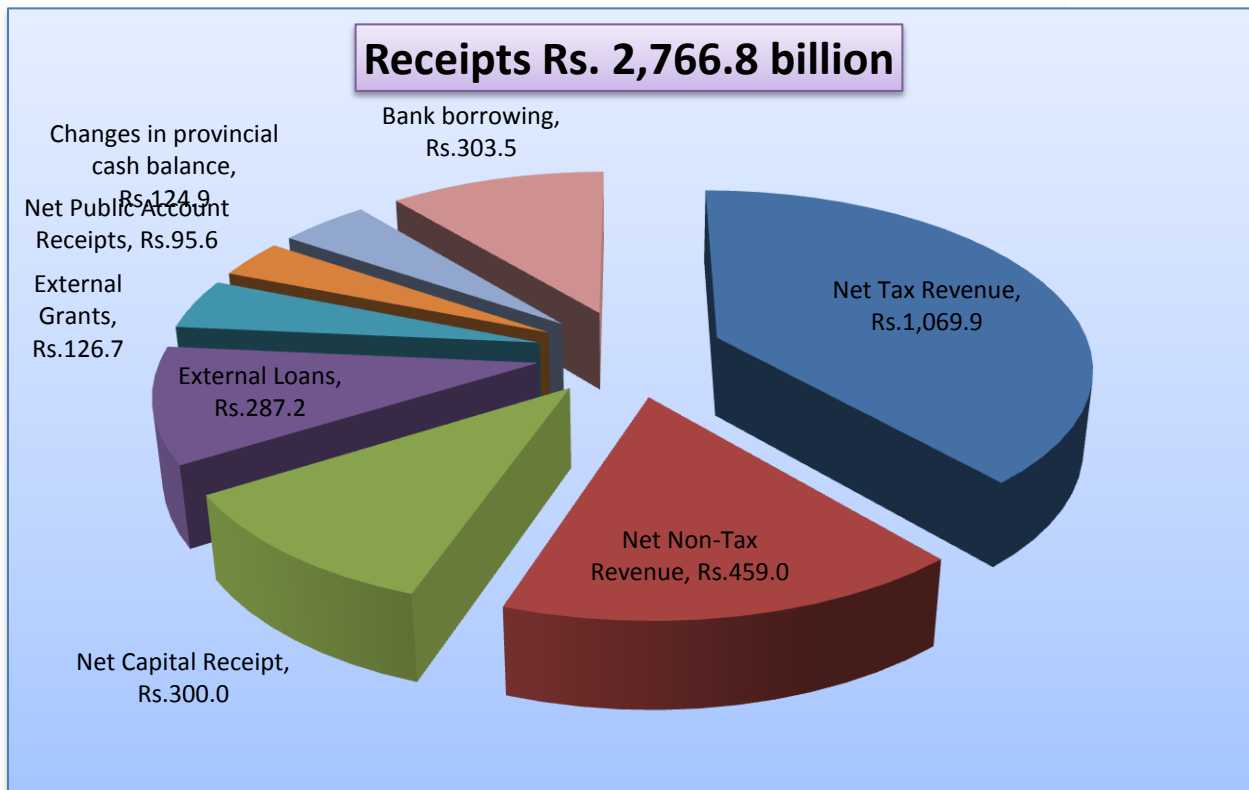
- ✚ Production of crude oil per day has increased to 65,996.50 barrels during July-March 2010-11 from 65,245.69 barrels per day during the same period last year, showing an increase of 1.15 percent.
- ✚ The average production of natural gas per day stood at 4050.84 million cubic feet during July-March 2010-11, as compared to 4,048.76 million cubic feet over the same period last year showing an increase of 0.05 percent.
- ✚ The power sector consumed 23.81 percent of gas followed by industrial (20.15 percent), household (16.75 percent), fertilizer (15.04 percent), commercial (2.45 percent) and cement sector (0.05 percent) during July-March 2010-11
- ✚ The total installed capacity of PEPCO system is 20,681 MW as of March 2011, compared to 20,190MW in first nine months of the last fiscal year.
- ✚ Total installed capacity of WAPDA stood at 11,439 MW during July-March 2010-11 of which hydel accounts 57.30 percent or 6,555 MW, thermal accounts for 42.70 percent or 4,884 MW.

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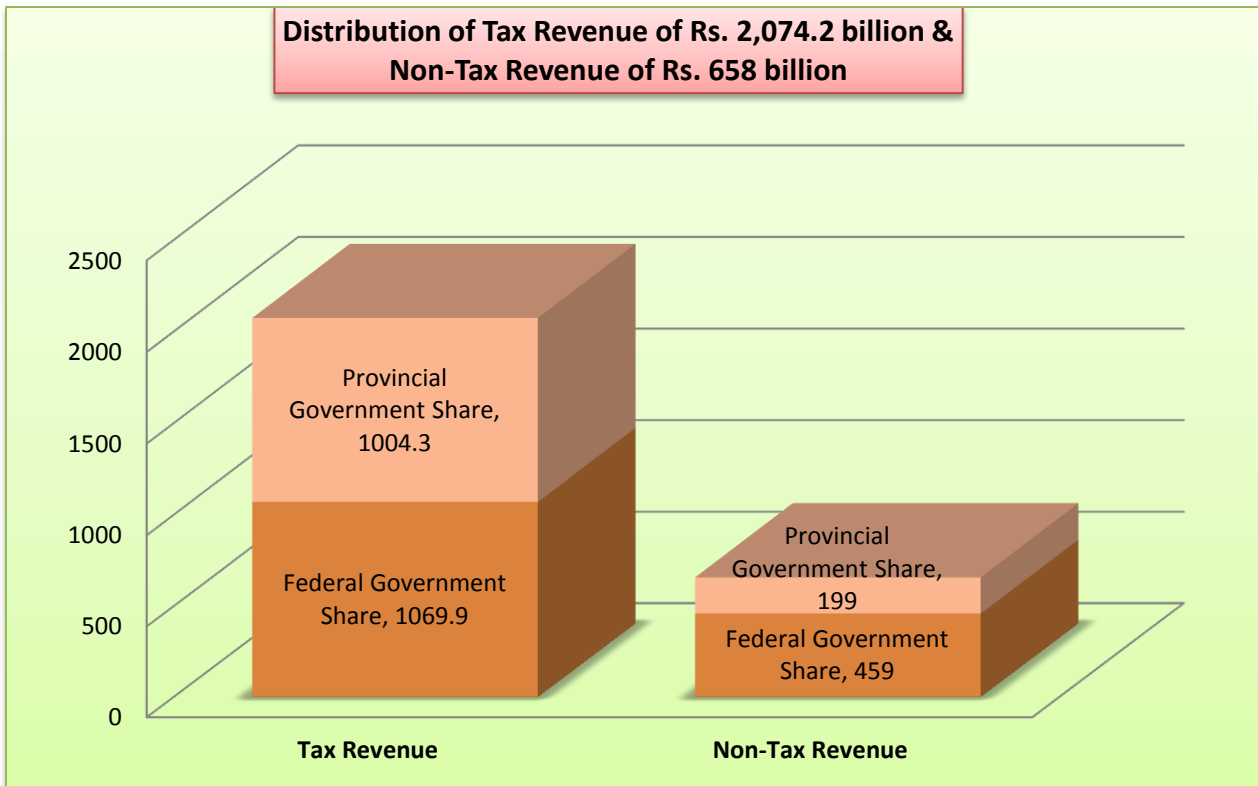
BUDGET 2011 AT A GLANCE

	<i>Rs. in billion</i>		
Receipt			
Tax revenue			
Direct taxes			
Income tax	633.0	602.5	718.6
Workers Welfare Tax	20.0	20.0	25.0
Capital value tax	4.7	4.4	-
	657.7	626.9	743.6
Indirect taxes			
Sales tax	674.9	654.6	836.7
Custom Duty	180.8	173.3	206.4
Federal Excise Duty	153.6	132.9	165.6
Petroleum levy	110.0	90.0	120.0
Other	1.7	1.7	1.9
	1,121.0	1,052.5	1,330.6
	1,778.7	1,679.4	2,074.2
Non Tax revenue	632.3	556.5	658.0
	2,411.0	2,235.9	2,732.2
Less: Provincial Share	1,033.6	997.7	1,203.3
Net revenue receipts	1,377.4	1,238.2	1,528.9
Net Capital Receipt	163.9	319.0	300.0
External receipts			
Loans	286.9	254.7	287.2
Grants	99.7	35.1	126.7
	386.6	289.8	413.9
Public account receipts			
Deferred liabilities	215	188.6	151.2
Deposit & reserves	1.1	12.6	13.0
Less: current expenditures on capital account	54.7	61.0	68.6
	161.4	140.2	95.6
Changes in provincial cash balance	166.9	119.8	124.9
Bank borrowing	166.5	452.2	303.5
Total receipt	2,422.7	2,559.2	2,766.8
Expenditure			
Current			
General public services			
Debt servicing			
Interest payments	698.6	738.0	791.0
Foreign loan repayments	174.4	127.4	243.2
	873.0	865.4	1,034.2
Others	514.7	791.2	625.8
	1,387.7	1,656.6	1,660.0
Defense affairs and services	442.2	444.6	495.2
Other revenue expenditures			
Economic affairs	66.9	80.0	50.3
Others	101.0	114.7	109.4
	167.9	194.7	159.7
Development			
Public service development program	321.4	275.7	354.9
Establishment operational shortfall	(20.0)	(57.8)	-
Other development expenditures	123.5	45.4	97.0
	424.9	263.3	451.9
Total expenditure	2,422.7	2,559.2	2,766.8

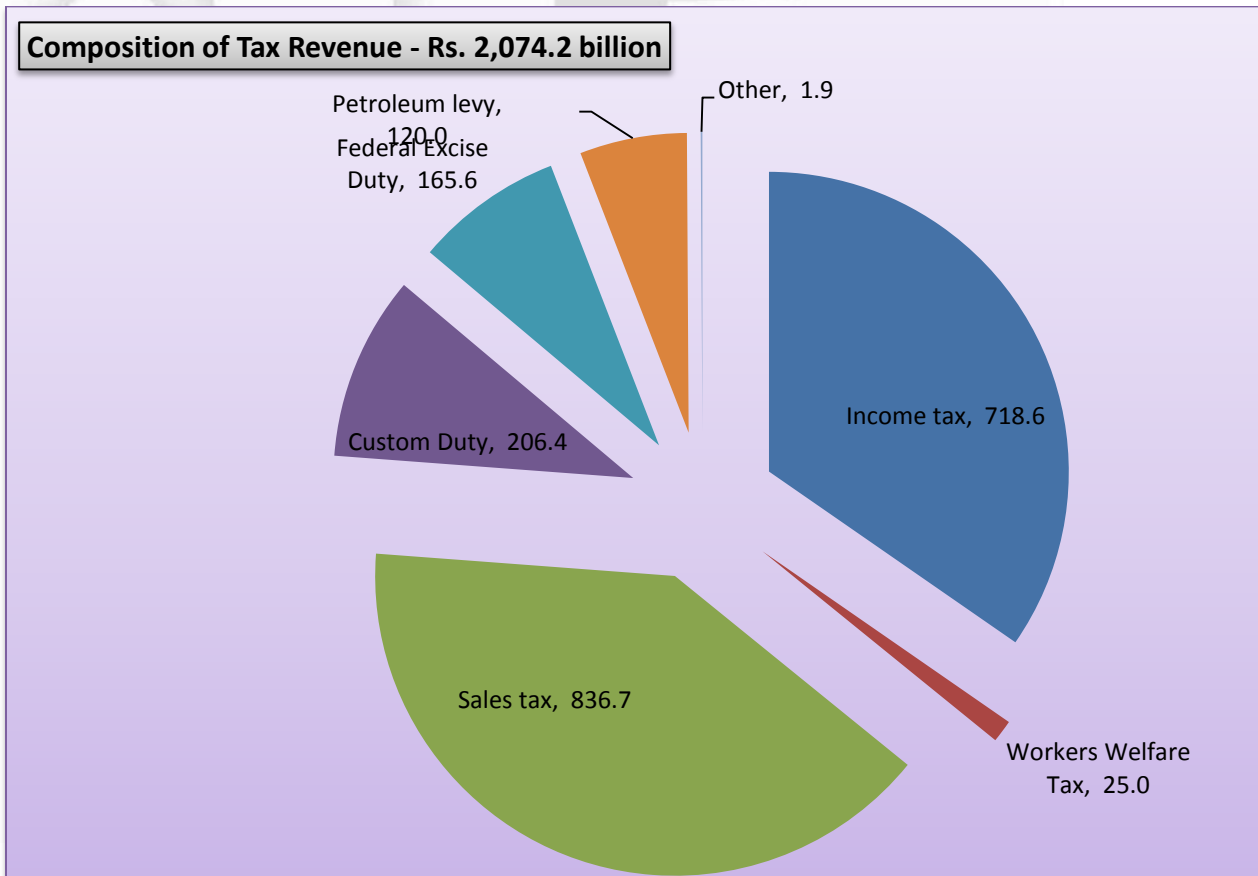
Budget 2011-12 - Graphical Exhibits



Distribution of Tax Revenue of Rs. 2,074.2 billion & Non-Tax Revenue of Rs. 658 billion



Composition of Tax Revenue - Rs. 2,074.2 billion



SALIENT FEATURES OF THE BUDGET 2011 - INCOME TAX

1. Relief Measures

- The basic exemption limit is proposed to be enhanced from Rs. 300,000 to Rs. 350,000 in case of individuals (both salaried and non-salaried persons as well as men & women).
- A tax credit equal to 100% of tax payable is proposed for industrial undertakings established on or after 1st July 2011, with 100% equity financing. This benefit is extended to the existing companies, if investment in their BMR exercise is also financed through their own 100% equity on or after by 1st July 2011.
- The rate of tax deductible on cash withdrawals from banks is proposed to be reduced to 0.2% from existing 0.3% for bringing in improvement in the liquidity position of eligible taxpayers.
- The maximum cumulative limit for tax credits available to individuals for investments in shares and for premium paid to insurance company is fixed @ 15% of the taxable income, with maximum upper limit for investment upto five hundred thousand rupees.
- Tax relief is proposed to be provided to withdrawals exceeding 50% of the accumulated balance of the taxpayer at or after the retirement age, under a Voluntary Pension Fund.
- The existing tax credit equal to 5% is proposed to be enhanced to 15% for encouraging companies' enlistment on stock exchange.
- The withholding tax on profit on debt deductible @ 10% is proposed to be a final tax in case of non-residents making investment in the Government securities. This measure will relieve the non-residents from the statutory requirement of filing of return of income to boost national economy.
- The withholding tax on profit on debt deductible @ 10% arising from investment in Government securities by individuals is also proposed to

be a final tax. This measure will relieve such taxpayers from the statutory requirement of filing of return of income, and will also encourage domestic investments in the Government Securities.

2. Documentation & Revenue Measures

- Individual taxpayers whose normal income is between Rs. 300,000 to Rs. 350,000 shall be required to file return of income, whereas the employers in case of salaried persons are required to file annual statements for the same threshold of Rs. 300,000 to Rs. 350,000 in a tax year.
 - CNIC and NTN of eligible taxpayers are proposed to be provided expressly alongwith other particulars, in the withholding tax statements filed by withholding agents for broadening of tax base and utilization of third party databases.
 - For the purpose of identification of eligible taxpayers, the requirement of mandatory filing of return of income by the commercial and Industrial consumers of electricity with annual billing above one million rupees is proposed.
 - In order to discourage the practice of arbitrage by banks for receiving 'dividends' from Asset Management Companies, the rate of tax on such return is proposed to be enhanced from 10% to 20%.
-

**COMMENTS ON AMENDMENTS PROPOSED VIDE
FINANCE BILL 2011 IN THE INCOME TAX ORDINANCE, 2001**

1. Waiver of Bank Loan

Section 18.

Consequent upon the recent development to curb the person availing loans write off and pressure of the higher courts, the Bill proposes to insert an explanation whereby the word benefit has been defined to mean any benefit derived by way of waiver of profit on debt or the debt itself under the State Bank of Pakistan Banking Policy Department, circular No. 29 of 2002 or in any other scheme issued by the State Bank of Pakistan and accordingly the same falls under the scope of income from business.

Strangely Clause (3A) of Part IV of Second Schedule provided inapplicability of sections 34 and 70 for the benefit derived by way of waiver of profit on debt or the debt itself under the State Bank of Pakistan Banking Policy Department Circular No. 29 of 2002, dated the 15th October 2002 to the extent not set off against the losses under Part VIII of Chapter III. At that time, since this benefit for the revival of sick industry was of immense importance and to ensure that the written off amount of markup on debt is not again subjected to tax, specific provisions in law were provided so that the sick industries get real benefit of SBP decision.

In view of the amendment proposed, we understand that the waiver under Circular No. 29 of 2002 would continue to enjoy the relief provided vide clause (3A) of Part IV of Second Schedule, however the waiver otherwise than that of this scheme would be taxable and only the tax losses available for set off would be adjustable against such benefit.

**2. Tax Credit for Investment in Shares and
Insurance Premium**

Section 62

The Bill proposes to provide for tax credit in respect of any life insurance premium paid on a policy to a life insurance company registered by the Securities

and Exchange Commission of Pakistan under the Insurance Ordinance, 2000, provided the resident person is deriving income chargeable to tax under the head “salary” or “income from business, on the similar lines as are applicable to the tax credit on investment in shares of a public company offering shares to the public or the shares acquisition from Privatization Commission.

The other changes in this respect are as under:

- Tax credit was previously available to any person which has now been restricted to a resident person only.
- The threshold of investment in shares and now life insurance premium as well was lesser of the following:
 - (a) the total cost of acquiring the shares (now in the case of life insurance premium the total contribution or premium paid by the person)
 - (b) ten per cent of the person’s taxable income for the year; or
 - (c) three hundred thousand rupees.

The Bill intends to increase the threshold of 10 per cent as provided in (b) above to fifteen percent and Rs. 300,000 as provided in (c) above to Rs. 500,000.

- Requirement for holding period in respect of investment in shares has been increased from 24 to 36 months.

3. Contribution to an Approved Pension Fund

Section 63

An eligible person as defined in sub-section (19A) of section 2 deriving income chargeable to tax under the head — Salary or the head — Income from Business is entitled to a tax credit for a tax year in respect of any contribution or premium paid in the year by the person in approved pension fund under the Voluntary Pension System Rules, 2005. The threshold of amount entitled for rebate is lesser of:

- (i) the total contribution or premium referred to in sub-section (1) paid by the person in the year; or
- (ii) twenty per cent of the eligible person's taxable income for the relevant tax year, however an eligible person joining the pension fund at the age of forty-one years or above, during the first ten years starting from July 1, 2006 shall be allowed additional contribution of 2% per annum for each year of age exceeding forty years and furthermore the total contribution allowed to such person shall not exceed 50% of the total taxable income of the preceding year; or
- (iii) five hundred thousand rupees.

The Bill proposes to omit the clause (iii) above thereby removing limit of Rs. 500,000 for consideration; and thus the amount entitled for tax credit will be lesser of (i) and (ii) above. This provides a level playing field.

4. Tax Credit for Enlistment

Section 65C

Vide Finance Act, 2010, tax credit to a taxpayer being a company was introduced upon opting for enlistment in any registered stock exchange in Pakistan equal to five *per cent* of the tax payable for the tax year in which the said company is enlisted.

The Bill proposes to enhance the said investment from 5% to 15%.

This of course is an attempt on the parts of the Government to lift the present situation of the economy.

5. Tax Credit for Equity Investment

Section 65D

Last year vide Finance Act, 2010, tax credit on plant & machinery installation, balancing, modernization and replacement by a company was provided vide section 65B to the extent of 10% of the tax payable. However in order to encourage new industrial undertakings due to continuing bleak economic scenario, the Bill proposes to introduce new tax credit relief for equity investment. The salient features of the same are as under:

- Where a taxpayer being a company establishes a new industrial undertaking for manufacturing in Pakistan or invests any amount in the purchase and installation of plant and machinery, for the purposes of balancing, modernization and replacement of the plant and machinery, already installed therein, in an industrial undertaking set up in Pakistan and owned by it, with hundred percent equity owned by it, a tax credit equal to **hundred per cent of the tax payable** shall be allowed to such company on or after first day of July 2011, **for a period of five years or commencement of commercial production, whichever is later.**
- Where any credit is allowed under this section and subsequently it is discovered, on the basis of documents or otherwise, by the Commissioner Inland Revenue that any of the condition specified in this section was not fulfilled, the credit originally allowed shall be deemed to have been wrongly allowed and the Commissioner Inland Revenue may, notwithstanding anything contained in this Ordinance, re-compute the tax payable by the taxpayer for the relevant year and the provisions of this Ordinance shall, so far as may be, apply accordingly.

From the plain reading of the section, it seems that the exemption is being provided through this section though the appropriate place for this would have been the exemption section i.e. part 1 of the second schedule.

Furthermore the mechanism for the benefit to be provided in the case of purchase and installation of plant and machinery, for the purposes of balancing, modernization and replacement of the plant and machinery, already installed therein, in an industrial undertaking set up in Pakistan and owned by it, with hundred percent equity owned by it raises various questions which include that balancing, modernization and replacement is for only a part of operations and thus how the mechanism of profitability yiz-a-viz the taxability of that company will be worked out.

6. Unexplained Income or Assets**Section 111**

Hitherto, in the following cases, the provisions of unexplained income or assets or expenses were enforceable:

- (a) any amount is credited in a person's books of account;
- (b) a person has made any investment or is the owner of any -money or valuable article; or
- (c) a person has incurred any expenditure,

and for which the person offers no explanation about the nature and source of the amount credited or the investment, money, valuable article, or funds from which the expenditure was made or the explanation offered by the person was not, in the Commissioner's opinion, satisfactory

The Bill proposes to enlarge the scope of this section by including the following as 4th category under the aforesaid section.

- (d) any person has concealed income or furnished inaccurate particulars of income including
 - (i) the suppression of any production, sales or any amount chargeable to tax; or
 - (ii) the suppression of any item of receipt liable to tax in whole or in part.

We understand that the provisions would be applicable prospectively and cannot be invoked retrospectively with respect to that additional category.

7. Minimum Tax on Turnover**Section 113****7.1 ADJUSTMENT OF MINIMUM TAX CARRY FORWARD PERIOD INCREASED FROM THREE TO FIVE YEAR.**

Adjustment period for minimum tax paid is presently available for carry forward upto three year immediately succeeding the tax year for which such tax was paid.

The Bill proposes to increase the time period of three years of carry forward to five years

7.2 GROSS SALES BROUGHT INTO THE AMBIT OF TURNOVER.

The term turnover has been defined in sub-section (3) of Section 133 to mean as under:

- (a) the gross receipts, exclusive of Sales Tax and Federal Excise Duty or any trade discounts shown on invoices, or bills, derived from the sale of goods, and also excluding any amount taken as deemed income and is assessed as final discharge of the tax liability for which tax is already paid or payable;
- (b) the gross fees for the rendering of services for giving benefits including commissions; except covered by final discharge of tax liability for which tax is separately paid or payable;
- (c) the gross receipts from the execution of contracts; except covered by final discharge of tax liability for which tax is separately paid or payable; and
- (d) the company's share of the amounts stated above of any association of persons of which the company is a member.

The Bill proposes to enlarge the scope of turnover to include gross sales in clause (a) above as well in the scope.

8. Return of Income**Section 114****8.1 ADDITIONAL CATEGORIES FOR MANDATORY FILERS OF TAX RETURNS**

Hitherto the following persons are required to furnish the return of income under the aforesaid section, namely

- every company;
- every person (other than a company) whose taxable income for the year exceeds the maximum amount that is not chargeable to tax under this Ordinance for the year;
- any non-profit organization as defined in clause (36) of section 2; and
- any welfare institution approved under clause (58) of Part I of the Second Schedule;
- any person not covered by the aforementioned persons who,—
 - (i) has been charged to tax in respect of any of the two preceding tax years;
 - (ii) claims a loss carried forward under this Ordinance for a tax year;
 - (iii) owns immovable property with a land area of two hundred and fifty square yards or more or owns any flat located in areas falling within the municipal limits existing immediately before the commencement of Local Government laws in the provinces; or areas in a Cantonment; or the Islamabad Capital Territory.
- owns immovable property with a land area of five hundred square yards or more located in a rating area;

- owns a flat having covered area of two thousand square feet or more located in a rating area;
- owns a motor vehicle having engine capacity above 1000 CC; and
- has obtained National Tax Number.

The Bill proposes to add an additional category amongst the aforesaid persons which is the holder of commercial or industrial connection of electricity where the amount of annual bill exceeds rupees one million.

The Bill further proposes to insert a new sub-section (1A after section 1) requiring every individual whose income under the head 'Income from business' exceeds rupees three hundred thousand but does not exceed rupees three hundred and fifty thousand in a tax year to furnish return of income for the tax year.

8.2 REQUIREMENTS OF RETURN

Presently a return of income is required to -

- (a) be in the prescribed form and shall be accompanied by such annexures, statements or documents as may be prescribed;
- (b) fully state all the relevant particulars or information as specified in the form of return, including a declaration of the records kept by the taxpayer; and
- (c) be signed by the person, being an individual, or the person's representative where section 172 applies.

The Bill proposes to add two more requirements in the above context and provide that the return shall be accompanied with:

- (d) due payment of tax as per return of income; and
- (e) a wealth statement as required under section 116.

Surprisingly the corporate taxpayers are also required to file their financial statements and this needs to be taken care of as these taxpayers do not have their wealth statements. Amendment proposed in section 116 through the Bill thus specifically requires filing of wealth statement only in the case of individuals and members of associations of persons.

9. FTR Extension to all Classes of Profit on Debt – included in the ambit of Filers of Statement instead of Return of Income

Sections 115 & 151

Presently there are four categories of profit on debt out of which three categories falls under the final tax regime as stated hereunder.

Categories falling under FTR

- yield on an account, deposit or a certificate under the National Savings Scheme or Post Office Savings Account;
- a banking company or financial institution paying any profit on a debt, being an account or deposit maintained with the company or institution;
- a banking company, a financial institution, a company referred to in sub-clauses (i) and (ii) of clause (b) of sub-section (2) of section 80, or a finance society pays any profit on any bond, certificate, debenture, security or instrument of any kind (other than a loan agreement between a borrower and a banking company or a development finance institution) to any person other than financial institution.

Category presently not falling under FTR

- the Federal Government, a Provincial Government or a Local Authority paying profit to any person on any security other than that referred to in clause (a) issued by such Government or Authority.

The Bill as also proposed in Section 169 proposes to make consequential changes in this section with respect to final taxation of last category as well.



10. Wealth Statement

Section 116

The following changes have been proposed by the Bill with respect to wealth statement:

- The threshold for mandatory filing of wealth statement has been increased from income of Rs. 500,000 or more to Rs. 1,000,000 or more.
- Filing of return is restricted only to individual taxpayers and members of associations of persons.
- Every member of an association of persons whose share from the income of such association of persons, before tax, for the year is one million rupees or more is also required to furnish wealth statement and wealth reconciliation statement for the year along with return of income of the association.

11. Appeal to The Appellate Commissioner

Section 127

The Bill seeks to withdraw the right of appeal available to the taxpayer against a provisional assessment order.

The withdrawal of this right is naturally against the norms of justice even in circumstances that when any notice is not received to a person and assessment is framed accordingly the said person is left with no option except to refer to the court in this behalf and thus the provision being harsh, harmful and against the norms of justice needs to be withdrawn.

12. Appointment of The Appellate Tribunal

Section 130

Hitherto the Chairman or other member of the Appellate Tribunal authorized, in this behalf by the Chairman may, sitting singly, dispose of any case where the amount of tax or penalty involved does not exceed five million rupees.

The Bill proposes to reduce this ceiling to one million rupees.

13. Disposal of Appeals by The Appellate Tribunal

Section 132

Hitherto the Appellate Tribunal is empowered that after affording an opportunity of being heard to the parties to the appeal and in case of default by any of the party on the date of hearing, the Tribunal may, if it deems fit, dismiss the appeal in default, or may proceed *ex parte* to decide the appeal on the basis of the available record.

The Bill seeks to remove the underlined words from the legal provisions and accordingly the Tribunal shall only have the power to proceed *ex parte* to decide the appeal on the basis of the available record and thus the power to dismiss the appeal in default has been done away to meet the true norms of justice

14. Due Date for Payment of Tax

Section 137

Presently where any tax is payable under an assessment order or an amended assessment order or any other order issued by the Commissioner under this Ordinance, a notice is served upon the taxpayer in the prescribed form specifying the amount payable and thereupon the sum so specified shall be paid within fifteen days from the date of service of the notice.

Furthermore the tax payable as a result of provisional assessment under section 122C, as specified in the notice under sub-section (2) is payable after a period of sixty days from the date of service of the notice.

The Bill proposes to insert the word “immediately” after the word “payable” in the preceding paragraph and thus as a result of provisional assessment order under section 122C tax is payable immediately after a period of sixty days from the date of service of the notice.

15. Advance Tax Payable on Capital Gain from Sale of Securities

Section 147 (5B)

Payment of advance tax on capital gain from sale of securities in the case of person not being an individual are required to deposit advance tax on capital gain within seven days of the close of each quarter.

The Bill proposed to provide a relief and requires that such tax is to be paid within twenty one days of the close of each quarter.

20. Payments for Goods and Services

Section 153

Due to frequent changes in the past as well as those proposed in the Finance Bill 2011, the whole section has been reorganised by consolidating related matters already covered in other sections of the Ordinance.

The only conceptual change is to the case of companies rendering services which are proposed to be considered at par with non-corporate cases by bringing them under the ambit of minimum tax.

The bill also seeks to add that the provision of section 153 shall not be applicable in case of payments made to trader of yarn by the taxpayers specified in the zero-rated regime of sales tax, as provided under clause (45A) of Part – IV of the Second Schedule. The Federal Government through SRO 33(I)/2001 dated May 02, 2011 inserted clause 45A in Part – IV of the Second Schedule of the Ordinance, whereby the tax under section 153 shall be one percent on local sales, supplies and services provided or rendered to the sales tax zero rated taxpayers. SRO further prescribes that tax under section 153 shall not be deducted from sales, supplies and services made by renders of yarn to the sales tax zero rated taxpayers. Such traders of yarn shall pay minimum tax @ 0.1% on their annual turnover on monthly basis on 30th day of each month and monthly withholding tax statement shall be e-filed under the provisions of section 165 of the Ordinance.

No other important change has been proposed, except for “Turnover” that has been defined as under for the purpose of this section:

- (a) the gross sales or gross receipts, inclusive of sales tax and federal excise duty or any trade discounts shown on invoices, or bills, derived from the sale of goods;
- (b) the gross fees for the rendering of services for giving benefits including commissions;
- (c) the gross receipts from the execution of contracts; and
- (d) the company’s share of the amounts stated above of any association of persons of which the company is a member.



However, the same definition with certain changes has also been included under section 113 of the Income Tax Ordinance, 2001, with the reason that the purpose of both the sections is distinct from each other.

21. Deduction of Tax on Withdrawal of Balance under Pension Fund

Section 156 B

The limit for tax deduction on the withdrawals of balance of the pension fund has been proposed to be extended to the withdrawals in cases these are in excess of 50% of the accumulated balance of the taxpayer at or after the retirement age. The previous limit was 25%. Such increase will provide tax relief to the persons concerned.

22. Statements

Section 165

The proposals to amend this section are as under:

1. To change the period of filing the various statements as required under this section from each quarter or periodically to monthly basis.
2. These monthly statements then shall be e-filed by the 15th of the month following the month to which the withholding tax pertains.
3. A sub-section (6) shall be added to this section, reads as under:

“Every person deducting tax from payment under section 149 shall furnish to the Commissioner an annual statement in the prescribed form and manner:

Provided that annual statement shall also be filed where the income exceeds rupees three hundred thousand but does not exceed rupees three hundred and fifty thousand in a tax year.”

23. Credit for Tax Collected or Deducted

Section 168

Sub-section (3) of this section provides that no tax credit shall be allowed for any tax collected or deducted that is a final tax under certain sections. Due to substitution / amendment of certain withholding tax provisions, the said sub-section has been substituted as under:



“No tax credit shall be allowed for any tax collected or deducted that is a final tax under:

- (a) sub-section (7) of section 148;
- (b) sub-section (3) of section 151;
- (c) sub-section (1B) and (1BB) of section 152;
- (d) clauses (a),(c)and (d) sub-section (3) of section 153;
- (e) sub-section (4) of section 154;
- (f) sub-section (3) of section 156;
- (g) sub-section (2) of section 156A;
- (h) sub-section (3) of section 233;
- (i) sub-section (5) of section 234; and
- (j) sub-section (3) of section 234A.”

24. Offences and Penalties

Section 182

An explanation has been proposed in section 182(1) at serial no. 1 column 3, where the expression “tax payable” has been defined as tax chargeable on the taxable income on the basis of assessment made or treated to have been made under section 120, 121, 122 & 122C of the Ordinance.

25. Advance Ruling

Section 206A

A new sub-section namely (4) is proposed, which states that the provisions of advance ruling are not applicable to a non-resident taxpayer having a permanent establishment in Pakistan.

26. Jurisdiction of Income Tax Authorities

Section 209

A proviso is also proposed to be included in this section, which states that the Board or the Chief Commissioner, as the case may be, may transfer jurisdiction in respect of cases or persons from one Commissioner to another.

27. Advance Tax at The Time of Sale by Auction

Section 236A

The words “auction by a tender” are proposed to be inserted in this section, whereby any auction by way of a tender would also be subjected to collection of advance tax at the rate specified in Division VIII of Part IV of the First Schedule (i.e. @ 5% of the gross sale price of the property or goods), from the person to whom such property or goods are being sold.

**28. Advance tax on purchase of air ticket****Section 236B**

This provision was enacted last year, wherein it has now been proposed to add the following two new sub-sections to make it more meaningful and without ambiguity:

- The advance tax so collected shall be adjustable.
- The advance tax under this section shall not be collected in the case of:
 - (a) the Federal Government or a Provincial Government; and
 - (b) a person who produces a certificate from the Commissioner Inland Revenue that income of such person during the tax year is exempt.

Important changes proposed by the Finance Bill 2011 in the Schedules to the Income Tax Ordinance, 2001 are briefly explained as under:

29 The First Schedule – Part I***Division - I (rate of tax for individuals – both salaries & non-salaries)***

1. After proposing a minor correction, the basic limit / exemption of taxable income for non-salaried individuals for the tax year 2012 has been proposed to be revised from Rs. 300,000 to Rs. 350,000 per annum with no change in the subsequent slabs and tax rates, which is apparent from the following comparative tables:

Table of tax slabs for non-salaried taxpayers

<u>Tax year 2012</u>		<u>Tax year 2011</u>	
Where taxable income does not exceed Rs. 350,000	0%	Where taxable income does not exceed Rs. 300,000	0%
Rs.350,001 to Rs.500,000	7.50%	Rs.300,001 to Rs.500,000	7.50%
Rs.500,001 to Rs.750,000	10.00%	Rs.500,001 to Rs.750,000	10.00%
Rs.750,001 to Rs. 1,000,000	15.00%	Rs.750,001 to Rs. 1,000,000	15.00%
Rs.1,000,001 to Rs. 1,500,000	20.00%	Rs.1,000,001 to Rs. 1,500,000	20.00%
Rs. 1,500,001 & above	25.00%	Rs.1,500,001& above	25.00%

Table of tax slabs for salaried taxpayers

<u>2011-2012</u>		<u>2010-2011</u>	
Where taxable income does not exceed Rs. 350,000	0%	Where taxable income does not exceed Rs. 300,000	0%
Rs.350,001 to Rs.400,000	1.50%	Rs.300,001 to Rs.350,000	0.75%
Rs.400,001 to Rs.450,000	2.50%	Rs.350,001 to Rs.400,000	1.50%
Rs.450,001 to Rs.550,000	3.50%	Rs.400,001 to Rs.450,000	2.50%
Rs.550,001 to Rs.650,000	4.50%	Rs.450,001 to Rs.550,000	3.50%
Rs.650,001 to Rs.750,000	6.00%	Rs.550,001 to Rs.650,000	4.50%
Rs.750,001 to Rs.900,000	7.50%	Rs.650,001 to Rs.750,000	6.00%
Rs.900,001 to Rs.1,050,000	9.00%	Rs.750,001 to Rs.900,000	7.50%
Rs.1,050,001 to Rs.1,200,000	10.00%	Rs.900,001 to Rs.1,050,000	9.00%
Rs.1,200,001 to Rs.1,450,000	11.00%	Rs.1,050,001 to Rs.1,200,000	10.00%
Rs.1,450,001 to Rs.1,700,000	12.50%	Rs.1,200,001 to Rs.1,450,000	11.00%
Rs.1,700,001 to Rs.1,950,000	14.00%	Rs.1,450,001 to Rs.1,700,000	12.50%
Rs.1,950,001 to Rs.2,250,000	15.00%	Rs.1,700,001 to Rs.1,950,000	14.00%
Rs.2,250,001 to Rs.2,850,000	16.00%	Rs.1,950,001 to Rs.2,250,000	15.00%
Rs.2,850,001 to Rs.3,550,000	17.50%	Rs.2,250,001 to Rs.2,850,000	16.00%
Rs.3,550,001 to Rs.4,550,000	18.50%	Rs.2,850,001 to Rs.3,550,000	17.50%
Rs.4,550,001 & above	20.00%	Rs.3,550,001 to Rs.4,550,000	18.50%
		Rs.4,550,001 & above	20.00%

2. However, as proposed in section 114(1A), the individuals (non-salaried) drawing salaries between Rs. 300,001 to Rs. 350,000 in a tax year are required to file income tax return for the tax year 2012 and onward. Similarly in case of salaried individuals, their employers are required to file annual statements under section 165(6), i.e. for those falling in the above said threshold of Rs. 300,001 to Rs. 350,000 in a tax year.

Division - VII (capital gains on sale of securities)

- On the consistent demand from various quarters, the government had agreed to levy income tax on the capital gains on the sales of securities / stock in the last year's budget. While there is a minor change in the schedule of tax rates, the revised table with the addition of years 2015 and 2016 has been inserted, by deleting the departed year 2010. The following table explains the change / revision in a better way:

	Period of holding	2011-2012		2010-2011	
		Tax Year.	Rate of tax.	Tax Year.	Rate of tax.



1.	Where the security is held for less than six months.	2011	10.00%	2010	10.00%
		2012	10.00%	2011	10.00%
		2013	12.50%	2012	12.50%
		2014	15.00%	2013	15.00%
		2015	17.50%	2014	17.50%
2.	Where the security is held for more than six months but less than twelve months.	2011	7.50%	2010	7.50%
		2012	8.00%	2011	8.00%
		2013	8.50%	2012	8.50%
		2014	9.00%	2013	9.00%
		2015	9.50%	2014	9.50%
		2016	10.00%	2015	10.00%
3.	Where the security is held for more than twelve months.		0%		0%

The First Schedule – Part IV

Division – VI (Cash Withdrawal from a Bank)

Considering the genuine demand and position of the eligible taxpayers, the Bill proposes to reduce the rate of tax deductible on cash withdrawals from the banks from the existing 0.3% to 0.2%, but by retaining the cash threshold of over Rs. 25,000 per day, which we understand should have at least been revised to Rs. 50,000 per transaction rather than a day.

30 The Second Schedule – Part I

Certain redundant clauses such as 74A, 93 & 114A have been proposed to be deleted, while clause 107 is proposed to be inserted to give exemption of all the income derived by the Islamic Development Bank from its operations in Pakistan in connection with its social and economic development activities.

However, rationale for omitting sub-clauses (xi) and (xxv) of clause 61 relating to BCCI FAST & BCCI Foundation is not understandable / equitable, which needs to be reconsidered, as these institutions clearly and squarely fall into the categories of other institutions included in clause 61.

The Second Schedule – Part II

A proviso has been proposed to be added in clause (5A) stating that profit on debt from debt instruments, government securities (including treasury bills and Pakistan Investment Bonds payable to a non-resident having no permanent



establishment in Pakistan) shall be the final tax, provided the investments are exclusively made through a Special Rupee Convertible Account maintained with a Bank in Pakistan.

The Second Schedule – Part III

It is proposed that the tax payable under section 148 of the Income Tax Ordinance, 2001 on the import of old and used automotive vehicles shall not exceed the amount that was specified in Notification no. SRO577(I)/2005, dated the June 6, 2005, reproduced as under for quick reference which is self explanatory:

1. SRO. 577(I)/2005.- In exercise of the powers conferred by section 19 of the Customs Act, 1969 (IV of 1969), clause (a) of sub-section (2) of section 13 of the Sales Tax Act, 1990, 1[and] sections 148 and 53 read with the Second Schedule to the Income Tax Ordinance, 2001 (XLIX of 2001), [omitted] and in supersession of its Notification No.S.R.O.932(I)/2004, dated the 20th November, 2004, the Federal Government is pleased to exempt old and used automotive vehicles [of Asian makes]meant for transport of persons, specified in column (2) of the Table below, falling under PCT heading No. 87.03 of the First Schedule to the Customs Act, 1969 (IV of 1969), on the imports from so much of the customs duty, sales tax [and] withholding tax [omitted] as are in excess of the cumulative amount specified in column (3) thereof.

TABLE

S. No.	Automotive vehicles of Asian makes meant for transport of persons.	Duty and taxes in US\$ or equivalent amount in Pak Rupees.
1	Upto 800CC	US\$ 4400
2	Upto 801cc to 1000cc	US\$ 5500
3	From 1001cc to 1300CC	US\$ 11000
4	From 1301cc to 1500CC	US\$ 15400
5	From 1501cc to 1600CC	US\$ 18700
6	From 1601 cc to 1800 CC (excluding jeeps)	US\$ 23100]

2. Depreciation in the duties and taxes @ [1]% per month in payable amount as per cumulative scales mentioned in the Table shall be allowed subject to a maximum of 50% [but 60% for cars] as per Customs General Order No. 14 of 2005 dated 6th June, 2005. Other old and used vehicles shall be assessed as per normal procedure prescribed under the above mentioned Customs General Order.



3. *This notification shall take effect from the 6th day of June, 2005.*

The Second Schedule – Part IV

- An amendment is proposed through clause 11A by enlarging the exemption of section 113 (minimum tax) to a pension fund registered under the Voluntary Pension System Rules, 2005.
- Similarly, there is a proposal to insert another clause namely (38C) in this part to give an exemption to Islamic Development Bank from the applications of provisions of sections 151, 152, 153 & 233 of the Ordinance.
- There are a few other minor proposals for the corrections of references of the various sections / subsections of the Ordinance that do not require any comments.

The Seventh Schedule

1. Sub-rule (1)(c) of Rule 1 has been proposed to be amended to define the allowable limits of provisioning for non-performing loans as per the Prudential Regulations of the State Bank of Pakistan as well as carrying forward of these provisions, specifically mentioning the limits of such allowance i.e.
 - the provision in excess of 1% of total advances for a banking company and 5% of total advances for consumers and small and medium enterprises (SMEs) would be allowed to be carried forward to succeeding years; and
 - where these are less than the above stated percentages, the same shall be allowable from the first day of July 2011.
2. The Bill also proposes that rate of tax on dividend received by banks from Asset Management Companies would be 20% rather than the existing rate of 10%, of course applicable for the tax year 2012.

SALIENT FEATURES OF BUDGET 2011 - SALES TAX

- Reduction in standard rate of sales tax from 17% to 16%.
- Immediate full adjustment of sales tax paid on import or local purchase of fixed assets/capital goods allowed.
- Increase in the rate of value addition tax on commercial importers from 2% to 3%.
- Withdrawal of exemption of sales tax on number of items w.e.f 4-06-2011.
- Exemption of sales tax on white crystalline sugar at import and local supply.
- Revision of special return filed under section 27 is allowed with the permission of CIR.
- Empowering CIR to effectively enforce the blacklisting regime.
- Withdrawal of power of the taxpayer to revise the sales tax return in the case tax is short paid without the permission of the CIR.
- Disallowance of refunds filed under section 66 of the Sales Tax Act, 1990 where incidence has been passed on to the consumers.
- Condonation of delay under section 74 also allowed to Tax Authorities

**COMMENTS ON AMENDMENTS PROPOSED VIDE
FINANCE BILL 2011 IN SALES TAX ACT, 1990**

Our comments on the proposed amendments in the Sales Tax Act, 1990 through Finance Bill 2011 are explained as under:

1. Scope of tax Section 3

The Bill seeks to propose a general reduction in sales tax rate by 1%. Accordingly existing sales tax rate of 17% is replaced by 16% wherever appearing in this section.

The new rate will be effective from 1st July, 2011.

However special sales tax rates specified through SROs 644(I)/2007 dated June 27, 2007, SRO 313(I)/2006 dated March 31, 2006, SRO 669(I)/2006 dated January 28, 2006 and sales tax rate prescribed in Rule 20 of the Special Procedure Rules 2007, i.e. at the rate of 22% & 19.5%, 7%, 15%, and 26% respectively will remain the same.

2. Adjustable input tax Section 8B(1)

The Bill seeks to substitute the first proviso to sub-section 1 to allow immediate adjustment of sales tax paid on fixed assets or capital goods acquired by a taxpayer.

Presently the first proviso to sub-section 1 of section 8B prescribes that the tax charged on acquisition of fixed asset shall be adjustable against the output tax in twelve equal monthly instalments. Now after the proposed amendment a registered person has become entitled for the adjustment of the entire amount of input tax in its monthly return in the tax period in which the taxpayer acquires any fixed asset or capital goods.

It appears that the proposed change has been made to give relief to the industrial sector, which is presently facing cash flow problem as the exemption /zero rating of sales tax on import/local purchase of plant and machinery has been withdrawn and the industrial sector was obliged to pay sales tax on acquisition of fixed assets/capital goods and was compelled to make adjustment of tax paid on fixed assets/capital goods in twelve equal instalments. So now there is some relief to this sector.

3. De-registration, blacklisting and suspension of registration

Section 21(3)

The bill seeks to insert a new sub-section 3 which inter-alia prescribes that during the period of suspension of registration, the invoices issued by such person shall not be entertained for the purposes of sales tax refund or input tax credit, and once such person is blacklisted, the refund or input tax credit claimed against the invoices issued by him, whether prior or after such blacklisting, shall be rejected through a self-speaking appealable order and after affording an opportunity of being heard to such person.

Previously same provisions were available in sub rule (5) of rule 12 but these provisions contained in the rules were, since, inconsistent with the provisions of section 21 of the Act, therefore, legal objection could have been raised before a competent court of law, therefore, these provisions have now been made a part of the statute, to provide for specific and express legal provisions to effectively enforce the blacklisting regime.

4. Return

Section 26(3)

The bill seeks to amend sub-section 3 by inserting the words “or ~~filed~~ under clause (a) or (b) of section 27” so as to allow the revision of special return, to be filed under section 27.

Sub section (3) thereof inter alia prescribes that a registered person may, subject to approval of the Commissioner Inland Revenue having jurisdiction, file a revised return within 120 days of the filing of return under sub section (1) or as the case may be, sub section (2), to correct any omission or wrong declaration made therein.

Section 27 of the Act prescribes that in addition to the returns specified in section 26 i.e. monthly or quarterly return, a registered person shall furnish special return within such date and in such form indicating information such as quantity manufactured or produced, purchases made, goods supplied or payment of arrears made, for such period as the Board may specify through a notification. It further prescribes that the Commissioner may require any person whether registered or not, to furnish a return in prescribed format and such person shall furnish the return.

After the proposed amendment the taxpayer can also file a revised returns prescribed in section 27 subject to the approval of the Commissioner Inland Revenue.

5. Appointment of authorities **Section 30(1)(3)(4)**

The bill seeks to insert a new clause (ia) in sub-section 1 to empower the Board to appoint any person to be an Inspector of Inland Revenue in additions to the authorities listed in sub-section 1 from (a) to (i).

The bill further seeks corresponding amendments in sub-section 3 and prescribes that an Inspector of Inland Revenue shall be subordinate to the Commissioner IR and shall perform his functions in respect of such persons or classes of persons or such areas as the Commissioner, to whom he is subordinate, may direct.

The bill further seeks corresponding amendments in sub section 4 and prescribes that Inspector Inland Revenue shall also be subordinate to Additional Commissioner Inland Revenue.

6. Director General, (intelligence and Investigation) **Section 30A**

The bill seeks to amend section 30A to provide for the nomenclature of Directorate General of Intelligence and Investigation, CBR to Directorate General of Intelligence and Investigation, Inland Revenue.

Since three local taxes including sales tax, federal excise duty and income tax have been given under the administrative control of Inland Revenue department since 28.10.2009, therefore, a corrective amendment in marginal note as well as in section 30A, words “CBR” have been substituted with words “Inland Revenue”.

7. Obligation to produce documents and provide information **Section 38B(1)**

The bill seeks to amend sub-section 1 to insert the words “an Assistant” in place of words “ a Deputy” to empower an Assistant Commissioner Inland Revenue to initiate investigative audit.



Presently Deputy Commissioner Inland Revenue is empowered to issue notice in writing to any person required to maintain the record under the Act, as and when specified. Now after the proposed amendment the Assistant Commissioner Inland Revenue will exercise powers of section 38B.

8. Alternative dispute resolution Section 47A(4A)

The bill seeks to amend by substituting existing sub-section 4A to include the words “FBR, and a member nominated by him” to bring this section in conformity with section 38 of the Federal Excise Act, 2005.

Sub-section (4A) was inserted in section 47A through Finance Act, 2008 which prescribes that the Chairman may on the application of an aggrieved person, for reasons to be recorded in writing, and on being satisfied that there is an error in order or decision of FBR made in pursuance of the recommendations of ADRC, may pass such order as may be deemed just and equitable.

After the proposed amendments in sub-section 4A the Chairman FBR and a Member nominated by him may, on the application of an aggrieved person, for reasons to be recorded in writing, and on being satisfied that there is an error in order or decision, pass such order as may be deemed just and equitable.

9. Refund to be claimed within one year Section 66

Section 66 prescribes that no refund of tax claimed to have been paid or overpaid through inadvertence, error or misconception or refund on account of input adjustment not claimed within the relevant tax period, shall be allowed unless the claim is made within one year of the date of payment.

The bill seeks to insert a new proviso in addition to the existing provisos, which prescribes that no refund shall be admissible under section 66 if incidence of tax has already been passed on directly or indirectly to consumers.

10. Condonation of time limit Section 74

The bill seeks to add explanation to section 74 to empower the FBR, either by itself or through Commissioner Inland Revenue, to also grant condonation of time limit in cases where the delay is on part of the Tax Authority.



There existed a difference of opinion between the departmental authorities and the legal fraternities that whether or not under the provisions of section 74, the Board can grant condonation of time limit for an act to be done by the departmental officer. After insertion of the explanation in section 74, the stance of legal fraternities seems to have been accepted as these provisions have prospective effect and only after 01.07.2011, the Board is empowered to grant condonation of time limit prescribed for any act or thing to be done by the departmental officers under various provisions of the Act.

Amendments in Sixth Schedule to withdrawal of exemptions from the charge of sales tax w.e.f 4-06-2011

Section 13 overrides the provisions of section 3 of the Act and provides that the goods specified in the Sixth Schedule shall, subject to such conditions as may be specified by the Federal Government, be exempt from sales tax.

Sixth Schedule has been divided into two Tables i.e. Table-1 and Table-2. Table-1 covers goods on which exemption is available on “import and local supply” whereas table-2 covers goods on which exemption is available only on local supply.

Following are the entries which the bill seeks to omit, meaning thereby that sales tax will now be charged at standard rate of 16% w.e.f 4-06-2011:

Entries in Table-1 from Sixth Schedule:--

1. Sr. No. 29A- Surgical tapes classified under HS 30.05.
2. Sr. No. 29B-Ultrasound gel classified under HS 3006.7000.
3. Sr. No. 30-Diapers for adults (Patients) classified under HS 4818.4010.
4. Sr. No. 34-Bricks classified under HS 6901.0000.
5. Sr. No. 35-Building blocks of cement including ready mix concrete blocks classified under HS 6810.1100.
6. Sr. No. 41-Computer software classified under HS 8523.2990, 8523.4010, 8523.4090, 8523.5990 and 8523.8090.
7. Sr. No. 42-Ambulances, firefighting vehicles, waste disposal trucks, brake down



- lorries, special purposes vehicles for maintenance of street lights and overhead cables classified under HS 87.02, 87.03, 8704.2200, 8704.2300, 8705.3000 and 8705.9000.
8. Sr. No. 43-Aircrafts classified under HS 8802.2000, 8802.3000 and 8802.4000.
 9. Sr. No. 44-Ships of gross tonnage exceeding 15 LDTs, excluding those for recreation or pleasure purpose classified under HS [8901.2000,8901.3000 and 8901.9000] 30.
 10. Serial No. 62-Import and supply of “Defence stores, whether manufactured locally or imported by the Federal Government against foreign exchange allocation for defence, including trucks, trailers and vehicles falling under PCT heading 87.04 of the first schedule to the Customs Act, 1969 (IV of 1969), specially modified for mounting defence equipments, their parts and accessories for supply to Armed Forces classified under respective heading.
 11. Sr. No. 64-Spare parts and equipment for aircraft and ships covered by serial number 43 and 44 above classified under respective headings.
 12. Sr. No. 65-Equipment and machinery for pilotage salvage or towage for use in ports or airports classified under respective headings.
 13. Sr. No. 66-Equipment and machinery for air navigation classified under respective headings.
 14. Sr. No. 67-Equipment and machinery used for services provided for handling of ships or aircrafts in a customs-port or customs-airport classified under respective headings.
 15. Sr. No. 68-Such plants and machinery as is notified by the Federal Government in official gazette but if imported, these shall be entitled to exemption from sales tax on importation if these are not manufactured in Pakistan classified under respective headings.
 16. Sr. No. 69-Bulldozers and combined harvesters; and components (which include, sub-components, components, sub-assemblies and assemblies but exclude consumables) imported in any kit form and direct materials, assembly or manufacture thereof, subject to the same conditions as are envisaged for the purpose of exemption under the Customs Act, 1969 (IV of 1969) classified



under respective headings.

17. Sr. No. 70-Import and supply of fully dedicated CNG Euro-2 buses whether in CBU or CKD condition classified under HS 8702.9010 and 8702.9090.

Entry No. 5 from Table-2 of Sixth Schedule:--

In terms of entry at Sr. No. 5 of Table-2, exemption of sales tax has been granted to “supply of agricultural implements as are specified in a notification issued by the Federal Government in the official gazette.

Summary of significant notifications issued simultaneously with the Finance Bill, 2011-12 with their effective dates, alongwith our brief comments is tabulated below:

<u>Sr.No.</u>	<u>SRO No.</u>	<u>Dated</u>	<u>Subject matter</u>	<u>Effective from</u>
1	480(I)/2011	3-06-2011	<p>Federal Government has rescinded its following notifications whereby exemption of sales tax was granted subject to certain conditions namely:</p> <p>SRO 1240(I)/2005 dated December 16, 2005:</p> <p>Exemption of whole of sales tax on dump trucks for off-highway use, on-highway dump trucks of 320 HP and above classified under HS 8704.2290 and 8704.2390 and transit concrete mixer.</p> <p>SRO 542(I)/2006 dated June 5, 2006:</p> <p>Exemption from whole of sales tax on supply of locally manufactured agricultural machinery, equipment and implements as specified in the Table</p>	4-06-2011



given below the said notification including “Tillage and seed bed preparation equipment”, “Seeding or planting equipment”, “Irrigation drainage and agro chemical application equipment”, “Harvesting, threshing and storage equipment” and “Post-harvest handling and processing and miscellaneous machinery”.

Exemption of sales tax had also been granted under the said notification on import of agricultural machinery, equipment and implements as specified under the respective customs concessionary notifications subject to same conditions as are prescribed for the purpose of applying zero rating of customs duty.

SRO 275(I)/2008 dated March 12, 2008:

Exemption of whole of sales tax on import and supply of CKD kits of single cylinder agriculture diesel engines of 3 to 36 HP. SRO 275(I)/2008

SRO 1(3)STM/2004(Pt-II) dated August 23, 2009:

Sales tax on local supplies of sugar shall be charged to tax at the rate of 8%.

SRO 1(3)STM/2009 Pt-II dated 23.08.2009 has been rescinded through SRO 480(I)/2011 dated 03.06.2011 which is effective from



			<i>04.06.2011 however through SRO 481(I)/2011 dated 03.06.2011, a new serial number 27 has been added in SRO 551(I)/2008 dated 11.06.2008 through which exemption of whole of sales tax has been granted on supply/import of sugar.</i>	
2	481(I)/2011	3-06-2011	<p>Through SRO 551(I)/2008 dated 11.06.2008, the Federal Government has granted exemption of sales tax on a number of items specified in the Table given below the said notification. Now through SRO 481(I)/2011 Federal Government omitted serial numbers 2, 12, 15, 17, and 18 relating to the exemption from sales tax on various other items including sugar, CNG kits, cylinders, commercial catalogues, rock phosphate, phosphoric acid and mineral oil.</p> <p>Now onward all the above items will be charged at a standard rate of sales tax.</p>	4-06-2011
3.	482(I)/2011	3-06-2011	Through SRO (I) 2011 Rule 58B of Sales Tax Special Procedures Rules 2007 has been amended whereby rate of sales tax on account of minimum value addition for a commercial importer increased from 2% to 3%.	04-06-2011
4	483(I)/2011	3-06-2011	Through SRO 880(I)/2007 dated 01.09.2007; the Federal Government has granted exemption of whole of sales tax on 63 types of diagnostic kits or equipment as had been specified in the Table given below said notification.	4-06-2011



			<p>Now through SRO 483(I)/2011 , the Federal Government has amended the entries at Sr. Nos. 50 & 59 of the Table of aforesaid notification.</p> <p>In terms of Sr. No. 50 of the Table exemption of sales tax is now available to “standard or calibrated” classified under HS 3822.0000 whereas in terms of section 59 thereof, exemption of sales tax is now available to “Elisa or Ecila kit” classified under HS 3822.0000.</p>	
5.	485(I)/2011	3-06-2011	<p>The Federal Government rescinded its notification no. SRO 116(I)/2007 dated November 30, 2007 whereby exemption from sales tax was granted on the import of raw materials use for the manufacture of diapers of HS 5601.1040 is now withdrawn.</p> <p>Now sales tax will be charged at the standard rate on the import of raw material required by a manufacture of diapers of HS 5601.1040.</p>	4-06-2011
6.	486(I)/2011	3-06-2011	<p>Through SRO 549(I)/2008 dated 11.06.2008; the Federal Government has directed that sales tax at the rate of 0% shall be charged on goods specified at Sr. Nos. 1 to 9 of the Table given below the said notification.</p> <p>Now through SRO 486(I)/2011 the Federal Government has amended SRO 549(I)/2008 to omit the following clauses in column 1 against serial number 4, in column 2 to withdraw zero rating of sales tax on items</p>	4-06-2011



			<p>specified against these entries:</p> <p>Clause (xxv)</p> <p>Dedicated CNG buses and all other buses meant for transportation of forty or more passengers whether in CBU or CKD condition classified under HS 87.02.</p> <p>Clause (xxvi)</p> <p>Truck and dumpers with g.v.w. exceeding 5 tonnes classified under HS 87.04.</p> <p>Clause (xxviii)</p> <p>Trailers and semi trailers” for transport of goods having specifications duly approved by EDB classified under HS 87.16.</p> <p>Clause (xxix)</p> <p>Road tractors for semi trailers, prime movers and road tractors for trailers whether in CBU condition or in kit form” classified under HS 8701.2010, 8701.2020, 8701.2030, 8701.2090, 8701.9030, 8701.9040, 8701.9050 and 8701.9060.</p>	
7.	487(I)/2011	3-6-2011	<p>Sales Tax Rules, 2006 amended as follows:</p> <ul style="list-style-type: none"> • Rule 14A- Omitted: <p>This rule was prescribed that where any registered person wishes to revise his return resulting in the payment of tax over the tax already paid on the</p>	



			<p>original return and prior approval of such revision is required under section 26(3) of the Act, regardless whether or not such person has already file to the Commissioner any application for approval of such revision, may file his revised return and pay the differential amount of tax alongwith default surcharge, if any, without such approval from the Commissioner and without any penalty whether adjudged or not. It was further prescribes that the time limitation of 120 days prescribed in sub section (3) of section 26 shall not apply to revision the return made by a registered person.</p> <ul style="list-style-type: none">• Appointment of Alternative Dispute Resolution Committee ---- Amendment in rule 65: <p>Presently the Board shall require ADRC to submit its report within 60 days of its appointment. Now the period of 60 days has been enhanced to 90 days</p>	
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SALIENT FEATURES OF BUDGET 2011 - FEDERAL EXCISE DUTY

- Withdrawal of special excise duty to reduce quantum of taxation on all the items including those used by the middle and lower class of population, effective from 1st July 2011.
- The existing Federal Excise Duty @ Rs.1/- per filter rod of cigarettes is proposed to be restricted to 20% ad val. Upward limit of duty slabs on locally produced cigarettes has been proposed for revision to increase the duties.
- The bill seeks to enhance the prevailing rate of FED on unmanufactured tobacco @ Rs. 5 per KG to Rs.10 per KG.
- The scope of Federal Excise Duty has been reviewed to reduce the number of goods liable to Federal Excise Duty, effective from 1st July 2011.
- Reduction in quantum of Excise Duty on cement and withdrawal of excise duty on white cement has been proposed to encourage the construction activities.
- The FED paid on beverage concentrate has been proposed to be reduced from 12% to 6% effective from the 1st July, 2011. The reducing prices of products might have good impacts for enhancement of business of beverage industry.
- The existing Federal Excise Duty @ 10% on electricity intensive home appliances comprising Deep Freezers and Air Conditioners has been withdrawn. This revision refers to as a beneficiary measure for the aristocratic community.

Presently the show cause notice for recovery of above mentioned shortfalls was required to be served upon to the taxpayer within three years from the relevant date. Now the bill seeks to replace this period by “Five Years” to harmonize it with Sales Tax Act 1990.

Further the limitation of time line for framing an order was not available under this Act. The bill seeks to insert the following provision in subsection 2 of section 14 to keep it at par with Sales Tax Act:

“Provided that an order under this section shall be made within one hundred and twenty days of issuance of show cause notice or within such extended period as the Commissioner may, for reasons to be recorded in writing, fix, provided that such extended period shall in no case exceed sixty days:

Provided further that any period during which the proceedings are adjourned on account of a stay order or Alternative Dispute Resolution proceedings or the time taken through adjournment by the petitioner not exceeding thirty days shall be excluded from the computation of the periods specified in the first proviso.”

5. Power to seize

Section 26

Presently unlawful production of cigarettes or on which duty has not been paid as required under the Act is liable to be seized. Now the bill seeks to add the word beverages, by virtue of which such type of beverages will also be subjected to seizer.

6. Confiscation of cigarettes

Section 27

The word “Beverages” have been inserted wherever the word cigarettes occurring in order to harmonize with section 26 above.

7. Substitution of acronym

Section 29 Subsection 2 Clause (a)

The bill seeks to substitute the acronym “CBR” with the words “Inland Revenue”.

8. Amendment in Marginal Note**Section 34**

As this section deals with the appeals to the Appellate Tribunal, therefore, the wordings “and Reference to High Court” in Marginal Note/Heading seems to be superfluous. Hence, the wording sought to be eliminated.

9. Alternative Dispute Resolution**Section 38**

Presently no specific time period was available for framing a decision by the Board on recommendation of ADRC. Now the bill seeks to restrict the time period of forty five days after submission of recommendation by ADRC.



**PROPOSED AMENDMENTS IN
FIRST SCHEDULE OF THE FEDERAL EXCISE ACT 2005.**

Serial No.	Serial No. in Table	Existing		Proposed amendments	
		Description	Rate of duty	Description	Rate of duty
1	4	Aerated waters	Twelve per cent of retail price	No Change	Six per cent of retail price
2	5	Aerated waters, containing added sugar or other sweetening matter or flavored	Twelve per cent of retail price	No Change	Six per cent of retail price
3	6	Aerated waters if manufactured wholly from juices or pulp of indigenous vegetables, food grains or fruits and which do not contain any other ingredient, indigenous or imported, other than sugar, coloring materials, preservatives or additives in quantities prescribed under the West Pakistan Pure Food Rules, 1965.	Ten per cent of retail price	No Change	Six per cent of retail price
4	7	Un-manufactured tobacco	Five rupee per kilogram	No Change	Ten rupee per kilogram
5	9	Locally produced cigarettes if their retail price exceeds [nineteen rupees and fifty paisa] per	Sixty-Five per cent of the retail price.	Locally produced cigarettes if their retail price exceeds	Sixty-five per cent of the retail price.



		ten cigarettes.		twenty one rupees per ten cigarettes.	
6	10	Locally produced cigarettes if their retail price exceeds [Ten rupees] per ten cigarettes but does not exceed nineteen rupees and fifty paise per ten cigarettes.	Five rupees and seventy five paisas per ten cigarettes plus seventy per cent per incremental rupee or part thereof.	Locally produced cigarettes if their retail price exceeds eleven rupees and fifty paise per ten cigarettes but does not exceed twenty one rupees per ten cigarettes.	Six rupees and four paise per ten cigarettes plus seventy per cent per incremental rupee or part thereof.
7	11	<i>Locally produced cigarettes if their retail price does not exceed [Ten rupees] per ten cigarettes</i>	<i>Five rupees and seventy five paisas per ten cigarettes.</i>	<i>Locally produced cigarettes if their retail price does not exceed eleven rupees and fifty paise per ten cigarettes.</i>	<i>Six rupees and four paise per ten cigarettes”;</i>
8	13	Portland cement, aluminous cement, slag cement, super sulphate cement and similar hydraulic cements, whether or not colored or in the form of clinkers	Seven hundred rupees per metric ton.	No Change	Five hundred rupees per metric ton.
9	17	Solvent oil (non-composite)	Thirteen rupee per liter.	Omitted	Omitted
10	18	Other	Eighty eight paise per liter.	Omitted	Omitted
11	21	Other fuel oils	One hundred and eighty five rupees per Metric Ton.	Omitted	Omitted
12	26	Mineral greases	Twenty five	Omitted	Omitted



			rupees per kilogram.		
13	28	Transformer oil	Ten percent of the retail price or seven rupees and fifteen paise per liter, whichever is higher.	Omitted	Omitted
14	29	Other mineral oil excluding sewing machine oil	Fifteen percent Ad Val.	Omitted	Omitted
15	30	Waste oil	Ten per cent of the retail price or seven rupees and fifteen paise per liter whichever is higher.	Omitted	Omitted
16	39	Carbon black oil (carbon black feedstock) Including residue carbon oil	Seven rupees and Fifteen paise per liter.	Omitted	Omitted
17	40	Methyl tertiary butyl ether (MBTE)	Eighty Eight paise per liter.	Omitted	Omitted
18	46	Greases	Twenty five rupees per kilogram.	Omitted	Omitted
19	47	Organic composite solvents and thinners not elsewhere specified or included; prepared paint or varnish removers. (i) Solvent oil (composite) (ii) Other (excluding thinners)	Thirteen rupee per liter. Ten per cent of retail price.	Omitted	Omitted



20	48	Viscose-staple fiber	Ten per cent ad valorem.	Omitted	Omitted
21	49	Motor cars and other ; motor vehicles principally designed for the transport of persons (other than those of heading 87.02), including station wagons and racing cars of cylinder capacity exceeding 850cc.	Five per cent ad valorem	Omitted	Omitted
22	50	Filter rods for Cigarettes	One Rupee per filter rod	No Change	Twenty percent ad val
23	51	Air Conditioners	10 percent ad val.	Omitted	Omitted
24	52	Deep Freezers	10 percent ad val.	Omitted	Omitted
25	53	New Insertion	0	White Crystalline Sugar	Eight percent ad val

"Restriction.—For the purpose of levy, collection and payment of duty at the rates specified in column (4) against serial numbers 9, 10 and 11, no cigarette manufacturer shall reduce price from the level adopted on the day of the announcement of the Budget 2011-12.”;

The following amendment has been proposed in the Second Schedule of the Federal Excise Act 2005

Table Serial/ No.	Relevant Entry in Table	Existing		Proposed amendments	
		Description	Corresponding Entry	Description	Corresponding Entry
1	3	New Insertion	0	White Crystalline Sugar	17.99101 1710.9920