

**COMMENTS ON FINANCE BILL 2010**

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 2010. The memorandum contained results of the fiscal policies of 2009-2010, budget – 2010 at a glance, graphical exhibits, salient features and comments on the changes proposed through this Bill. All changes are effective from July 01, 2010 unless otherwise specified in the Bill.

The comments on the Bill represent our interpretation and understanding of the proposed amendments as contained therein. We recommend 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 wordings in the relevant statute. These comments are general and for specific application and guidance an 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 glad to entertain any further clarification in this regard.

The comment on the finance bill 2010 has also been uploaded on the website of our firm – [www.hyderbhimji.com](http://www.hyderbhimji.com).

June 07, 2010

HYDER BHIMJI & CO.  
CHARTERED ACCOUNTANTS

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## Fragile Pakistan's Economy

- The economy grew by approximately 4% in the outgoing year i.e. 2009-10, after a modest growth of 1.2% in 2008-09. However, the recovery is still fragile and the stabilization needs to be consolidated so that the gains over the past two difficult years are not lost.
- A combination of limited fiscal space and rising spending, debt, and inflationary pressures, significantly reduce the government's ability to spend in order to stimulate the economy.
- For the outgoing year, the *Agriculture* sector grew an estimated 2%, against a target of 3.8%, and previous year's growth rate of 4%. While the *Crops* sub-sector declined 0.4% over the previous year, *Livestock* posted a healthy rise of 4.1%. Industrial output expanded by 4.9%, with *Large Scale Manufacturing (LSM)* posting a 4.4% rate of growth. The *Services* sector grew 4.6%, as compared to 1.6% in 2008-09.
- Overall, the *Commodity Producing Sectors* are estimated to have expanded at a 3.6% pace, which represents a significant turnaround from the anaemic growth rates of the previous two fiscal years.
- A larger-than-expected cotton output, which offset the moderately negative impact on the wheat crop caused by a delay in seasonal rains;
- The economy has had to bear in the last two years on account of the internal security situation, combined with the severe energy shortfall, which have reduced overall GDP growth by approximately 2.0% in 2009-10. Despite the security situation, overall military spending as a proportion of budget outlays has declined. Another focus has been the rehabilitation of Internally Displaced Persons (IDPs) and reconstruction of affected areas. It is pertinent to note that during 2009, Pakistan had one of the largest IDPs population in the world, with an estimated over 3 million people displaced from their homes in Swat, Bajaur, Malakand division, and South Waziristan Agency (SWA).
- The timely availability of water for agriculture was also significantly lower this year, continuing a secular trend of decline over the past several years. Water availability has now become one of Pakistan's top inter-generational policy and development concerns.
- A shortfall in the inflow of external assistance, including from the *Friends of Pakistan* consortium, combined with delays in the release of refunds from the *Coalition Support Fund*, led to heavy borrowing by the government in domestic credit markets, leading to valid fears of crowding out of credit to the private sector.
- Signs of a turnaround in segments of the economy notwithstanding, there are continuing areas of concern and reasons for caution. The recovery in economic growth is fragile, and will remain so till the weaknesses in the macroeconomic framework are forcefully addressed. In order to effectively provide sustainable employment opportunities for the young entrants to the labour force, a higher growth will be needed. In fact, according to the latest *Labour Force Survey* (for 2008-09), the unemployment rate has increased to 5.5% (from 5.2%), largely due to the increase in urban unemployment to 7.1% (from 6.3%).

- Overall, a lower inflow of external assistance, which forced the government to higher-cost domestic borrowing;
- In terms of servicing of the public debt, interest payments were budgeted at 4.4% of GDP for 2009-10, while total debt servicing including repayment of foreign loans and credits was budgeted at 5.8% of GDP. Budget estimates of interest and principal repayment of foreign loans and credits during 2009-10 amounted to nearly 40% of total revenue, and approximately 30% of expenditure.
- The fiscal deficit was reduced to 5.2 percent of GDP in 2008/09, from 7.6 percent of GDP in 2007/08, a fiscal adjustment of 2.4 percent of GDP. For 2009/10, the fiscal deficit was aimed to be kept in check at 5.1 percent of GDP, despite the absorption of unprecedented security-related spending.
- The external current account deficit was contained to 5.6 percent of GDP (US\$ 9.3 billion) in 2008/09, from a high of 8.3 percent of GDP in 2007/08 (US\$ 13.9 billion). The current account deficit is expected to decline to under 3 percent of GDP in the current year;
- Foreign exchange reserves have been rebuilt to nearly US\$ 15 billion, from their low of under US\$ 6 billion in October 2008, though much of the accumulation is due to releases from the IMF;
- International credit rating agencies upgraded Pakistan (from CCC+ to B- by S&P, while Moody's revised its outlook to *Stable*).
- Inflation declined from 25% in October 2008, to a recent low of 8.9% in October 2009, though it has accelerated sharply in recent periods and is showing persistence;
- The re-fuelling of inflationary pressure is evident in all price indices, with the Wholesale Price Index (WPI) rising steeply, from 0.3% in August 2009 to 22% in April 2010. Similarly, the Sensitive Price Index (SPI) has recorded a 16.7% year-on-year increase for April 2010, versus 6.7% in October 2009.
- In the longer run, improvements in agricultural productivity hold the key to mitigation of food price inflation. So far, governments have followed an extensive farming policy, using the crop support price as an intervention tool.
- After a sluggish start, however, and despite a difficult economic situation, tax collection has risen nearly 14% for July to April 2009-2010, as compared to the corresponding period of 2008-09. As a percent of GDP, however, tax collection remains low.
- Second, in a major policy effort to broaden the tax base, legislation was laid before the national as well as provincial assemblies to introduce an integrated, broad-based and modernized system of the GST (leading to a Value Added Tax (VAT)) as originally intended in 1990.

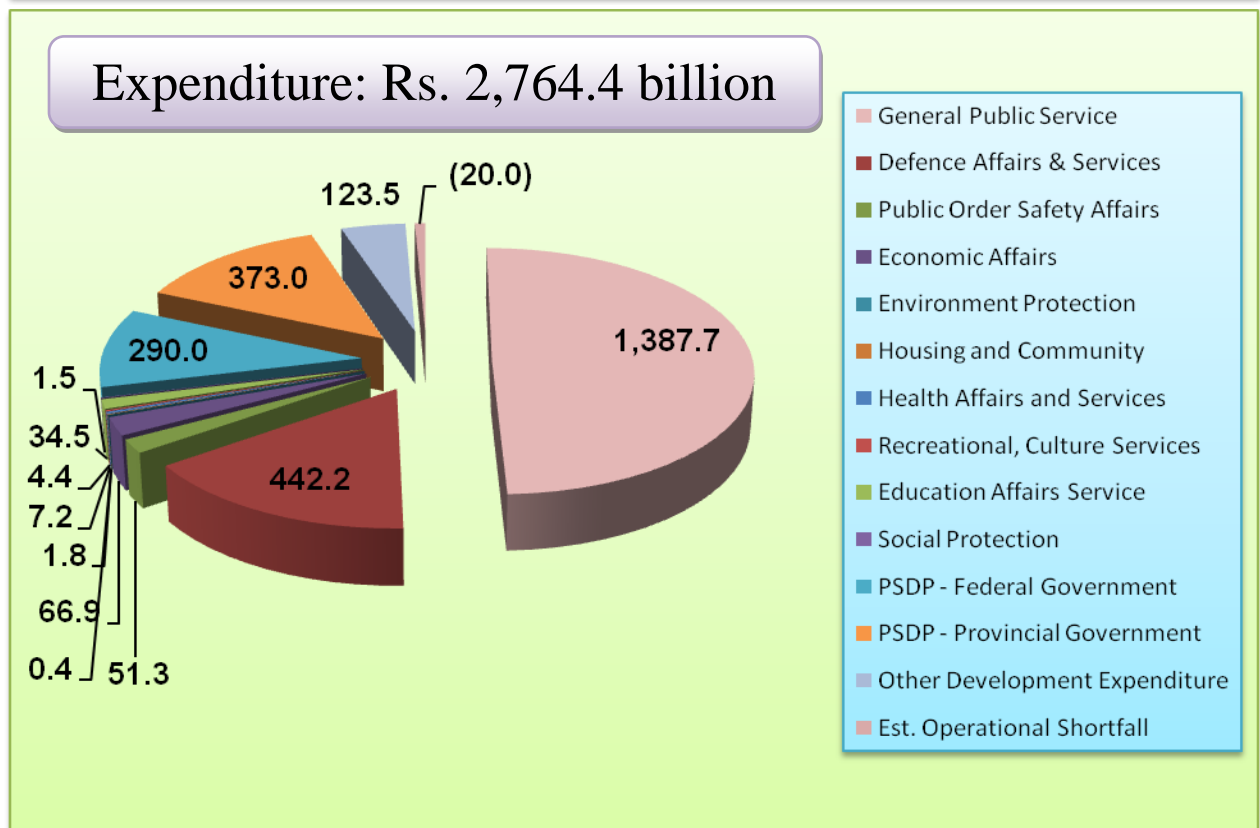
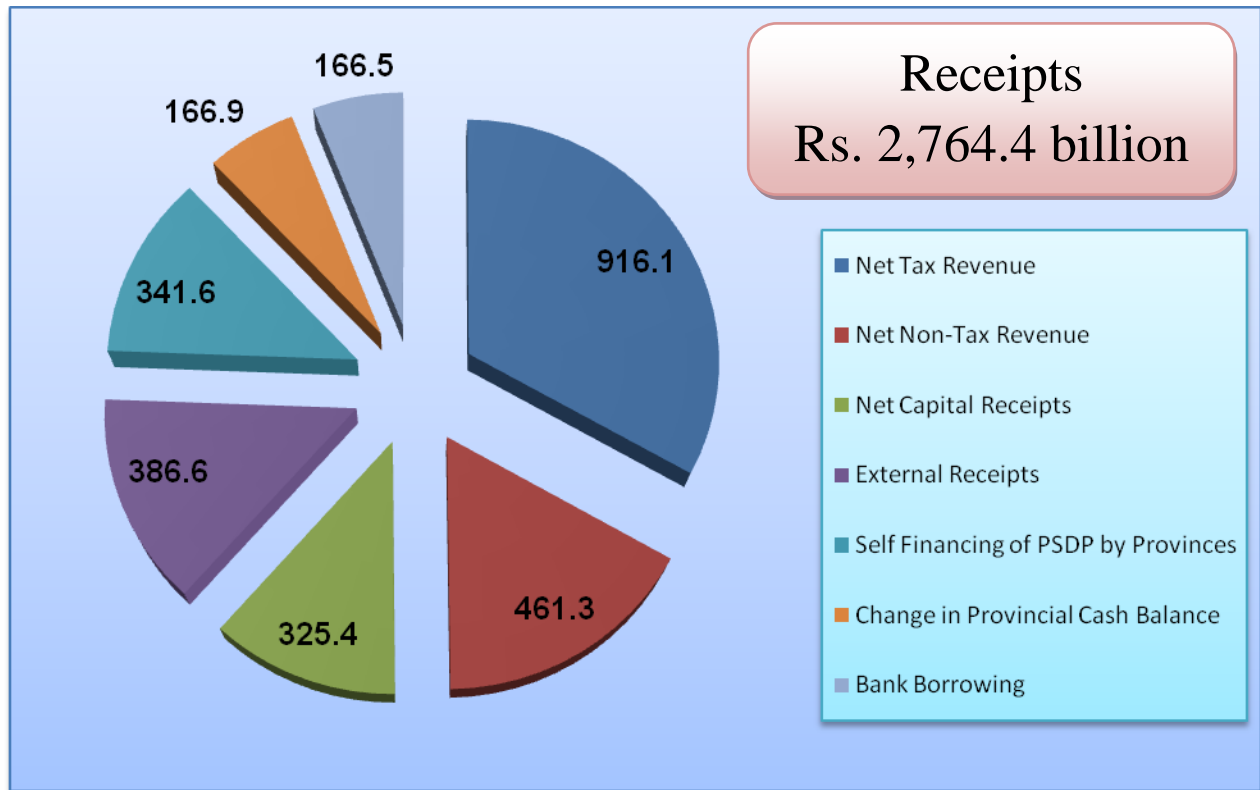


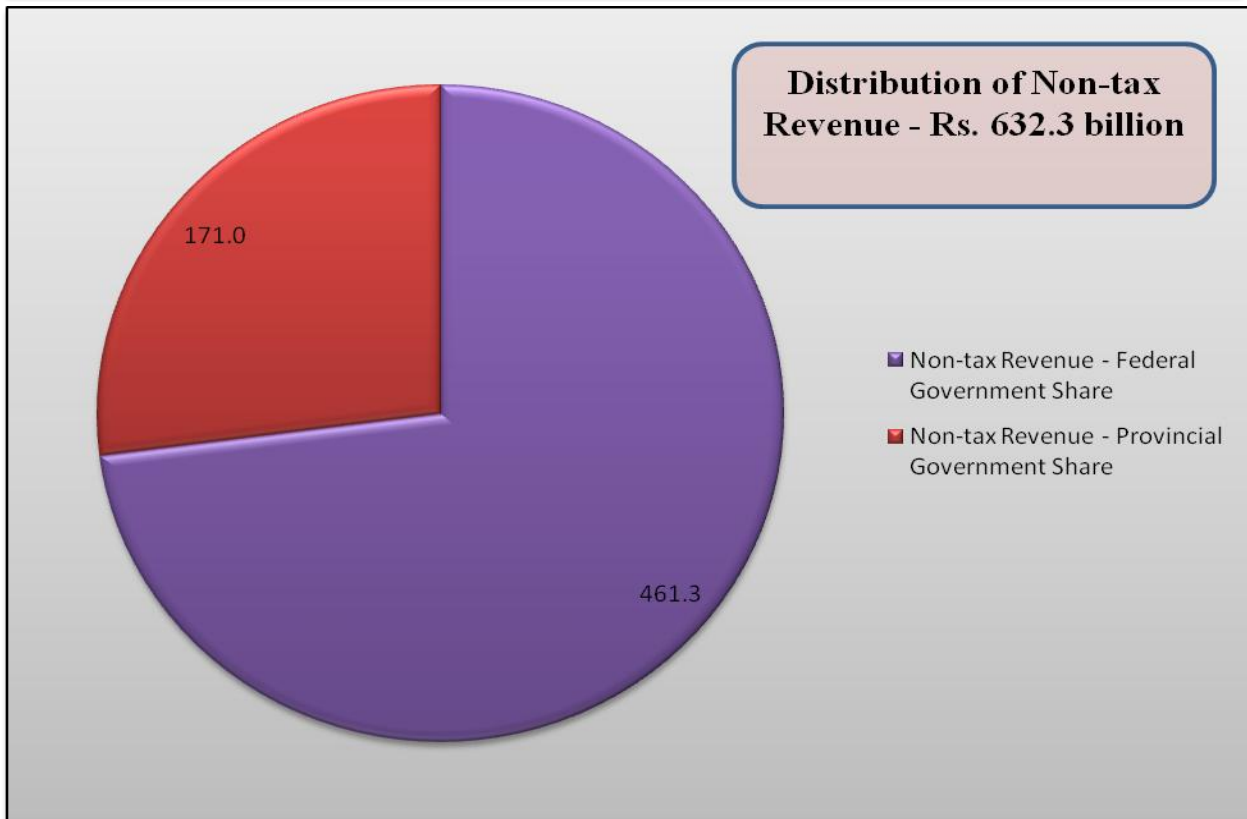
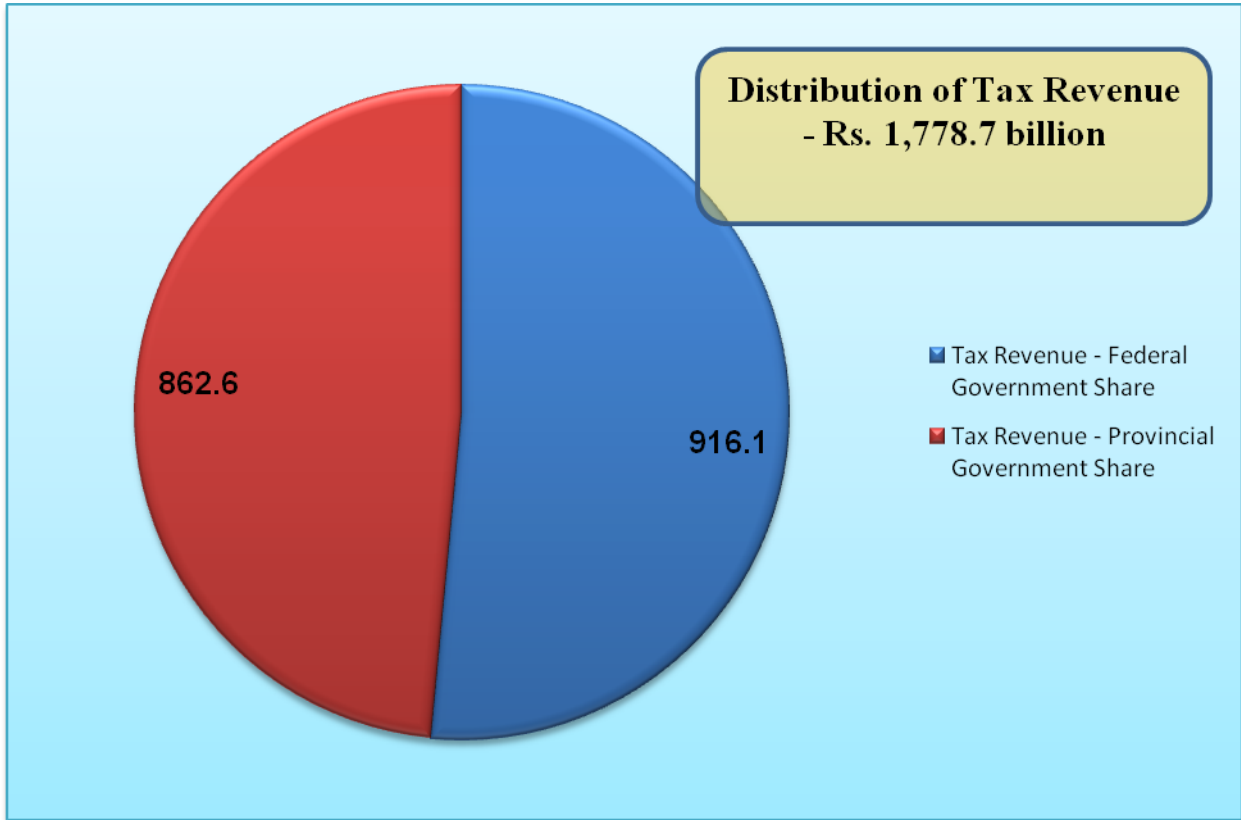
- In addition, other measures such as improving tax administration and reinstating tax audits have been taken. The cumulative effect of these policy measures is expected to be an increase of Pakistan's Tax-to-GDP ratio to 13 percent by 2013 (from 8.9 percent in 2008-09).
- A Cabinet Committee on Restructuring (CCoR) has been formed to restructure key Public Sector Enterprises (PIA, PEPCO, Railways, TCP, USC, Pakistan Steel Mills, NHA) with a view to stop leakages caused by annual losses amounting to approximately 1.5% of GDP. The eventual aim is to turnaround these PSEs into profitable, self-sustaining ventures under Public-Private Partnership mode.
- Under reform of the power sector, electricity tariffs have been raised between 40-55% in less than two years, in an effort to reduce the level of subsidies absorbed in the budget.
- The government successfully concluded the Seventh National Finance Commission (NFC) Award – only the fourth in Pakistan's entire history, and the first for the last 19 years. This Award greatly augments the quantum of resource transfer from the Centre to the Provinces.
- Pakistan's total public debt stood at an estimated Rs. 8,160 billion as of end-March 2010. At this level, public debt is equivalent to 56% of GDP, and 379% of total budgeted revenue for the year. Of the total, Rupee-denominated debt amounted to 31% of GDP, while foreign currency-denominated debt was the equivalent of 25% of GDP.



<b>BUDGET 2010-11 AT A GLANCE</b>				
Description	Budget 2010-11	Budget 2009-10	Budget 2009-10	Budget 2008-09
	Estimate	Revised Estimate	Estimate	Estimate
<b>Receipts</b>				
Tax Revenue				
Direct taxes	657.7	540.4	565.6	496.0
Indirect taxes				
Sales tax	674.9	540.3	499.4	472.0
Custom duty	180.8	164.9	162.2	170.0
Federal excise duty	153.6	134.4	152.8	112.0
Petroleum levy	110.0	101.5	112.0	-
Others	1.7	1.5	1.6	1.5
	1,778.7	1,483.0	1,493.6	1,251.5
Non tax revenue	632.3	568.9	513.6	427.8
Gross revenue receipt	2,411.0	2,051.9	2,007.2	1,679.3
Less: Provincial share	1,033.6	655.3	655.2	568.3
Net revenue receipt	1,377.4	1,396.7	1,352.0	1,111.0
Net capital receipt	325.4	260.3	190.5	221.3
External receipts	386.6	578.0	510.4	300.2
Self financing of PSDP by provinces	341.6	184.0	173.0	124.4
Changes in Provincial cash balance	166.9	77.6	72.9	78.9
Privatization proceeds	-	-	19.4	25.1
Bank borrowing	166.5	89.1	144.1	149.0
Total resources	2,764.4	2,585.6	2,462.3	2,009.9
<b>Expenditure</b>				
Current				
General public services				
Debt servicing	872.9	814.6	779.5	619.3
Others	514.7	657.1	409.6	310.2
	1,387.7	1,471.7	1,189.1	929.5
Defense affairs and services	442.2	378.1	342.9	296.1
Economic affairs	66.9	80.6	84.9	201.2
Others	101.2	86.8	82.3	66.5
	1,997.9	2,017.3	1,699.2	1,493.3
Development				
Public sector development program (PSDP)	663.0	510.0	646.0	549.7
Establishment operational shortfall	(20.0)	(60.0)	(40.0)	(77.0)
Other development expenditures	123.5	118.3	157.1	43.9
	766.5	568.3	763.1	516.6
	2,764.4	2,585.6	2,462.3	2,009.9

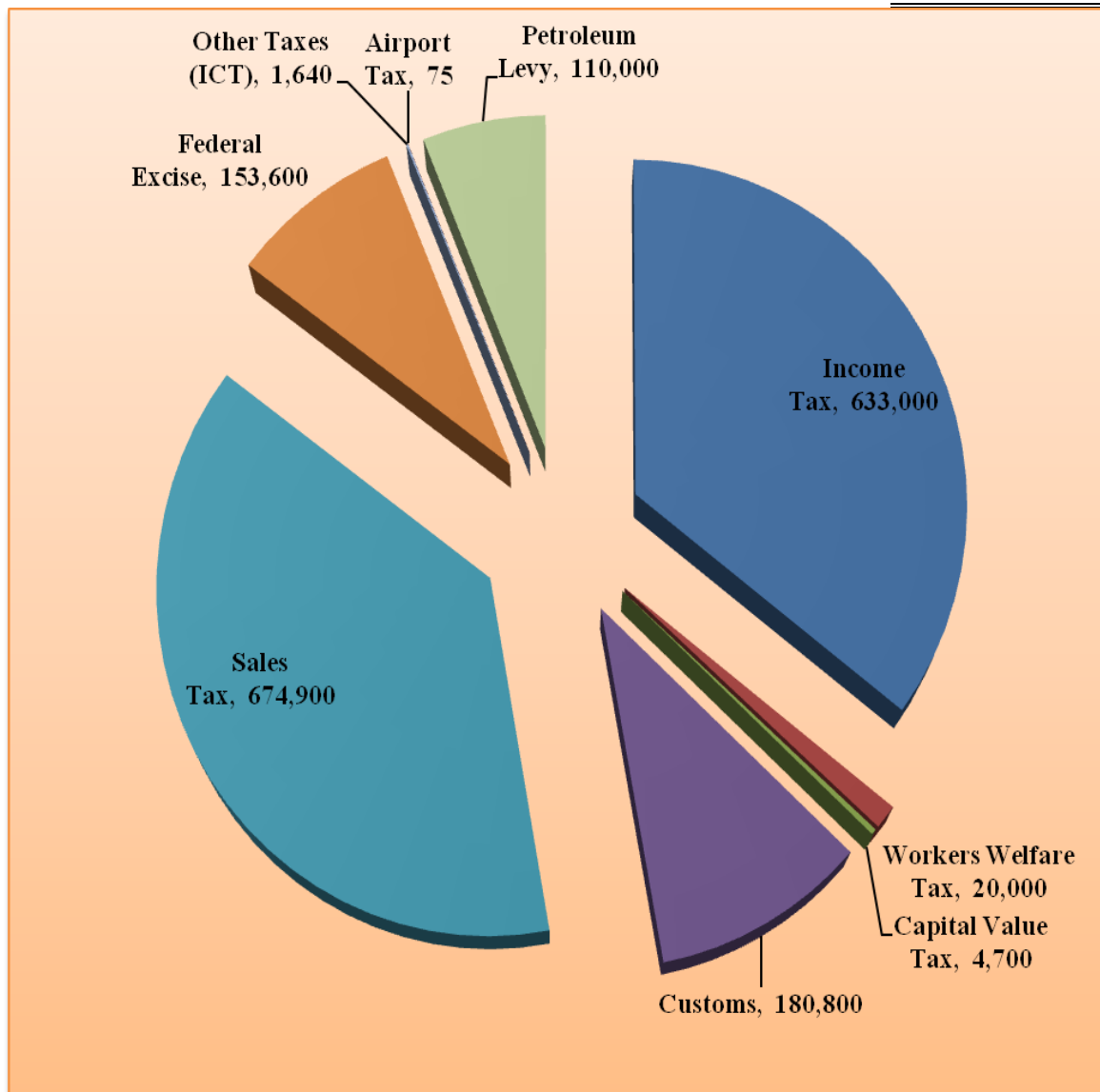
**Budget 2010-11 – Graphical Exhibits**





**Composition of Tax Revenue**

	<u>Rs. in million</u>
Income Tax	633,000
Sales Tax	674,900
Customs	180,800
Federal Excise	153,600
Workers Welfare Tax	20,000
Capital Value Tax	4,700
	<hr/>
	1,667,000
Petroleum Levy	110,000
Other Taxes (ICT)	1,640
Airport Tax	75
	<hr/>
	<b>1,778,715</b>



## SALIENT FEATURES OF THE BUDGET 2010 - INCOME TAX

### RELIEF MEASURES

1. In order to provide relief to large number of taxpayers deriving their incomes from *Salary* and *business*, the limit of *Basic Exemption* is proposed to be enhanced from Rs.200,000/- to Rs.300,000/- in respect of Salaried taxpayers, while in the respect of Non-Salaried taxpayers it has been proposed to enhanced from Rs.100,000/- to Rs.300,000/-.
2. For welfare of industrial & commercial consumers of electricity, the *maximum* rate of advance tax deductible under section 235 on monthly electricity bills is proposed to be reduced from **10%** to **5%**, on the amount of the bills payable by them;
3. The Senior Citizens of the age of 60 years or more, are proposed to be eligible for relief of 50% of tax on their income, if their income does not exceed **Rs.1,000,000/-** as compared to previous maximum limit of Rs.750,000/-. However this relief shall not be available on income subject to Presumptive Tax Regime.
4. In pursuance of Prime Minister's Relief Package to rehabilitate the economy of Khyber Paktunkhwa, FATA and PATA, some amendments are proposed to be introduced in the Income Tax Law. These measures provide following reliefs to industrial and commercial taxpayers hailing from **most** and **moderately affected areas**, as prescribed:
  - a) Waiver of entire amount of default surcharge & penalty till 30th June 2010;
  - b) Exemption from advance tax on electricity for tax years 2010 and 2011;
  - c) Exemption from withholding tax on exports;
  - d) Recovery of outstanding income tax arrears through easy installments;
  - e) Enhancement of income tax exemption limit from Rs.0.1 million to Rs.0.3 million;
  - f) Annual Audit with the approval of FBR; and
  - g) Exemption from advance tax on import of plant and machinery upto 30th June 2011;

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

5. For the wellbeing of disabled persons, 100% depreciation expense can be claimed on Ramp built to provide access to disabled persons, is proposed through a new provision to be inserted in the law.

6. In order to provide relief to employees, exemption from taxation of perquisites on waiver of employees obligation to pay or repay, and amount owed to employer, is proposed.
7. In order to facilitate the withholding agents, instead of *e-filing* monthly, quarterly and annual withholding tax statements, the *e-filing of only quarterly* withholding tax statements is proposed;

### **TAX INCENTIVES FOR FOREIGN AND DOMESTIC INVESTMENTS**

1. For the wellbeing of listed company a Tax credit for *BMR costs* incurred by such a company is proposed to be provided @ **10%** for the tax year of its incurrence. This concession has been proposed to be admissible for the tax years 2011 to 2015;
2. With the purpose to encourage enlistment of corporate sector, a **5%** tax credit is proposed to be allowed to a company in the tax year of its enlistment.
3. In order to align with rest of the scheme, 10% withholding tax deductible on Government Securities is proposed to be a FINAL tax.
4. Withholding tax deductible on debt instruments is proposed to be a FINAL tax, in order to relieve the non-resident taxpayers of statutory requirement for filing income tax return.
5. For providing incentive to foreign lenders for tax-free repatriation of profits earned on foreign industrial loans, Clause 72(iii) of Part-IV of Second Schedule to the Income Tax Ordinance 2001 is proposed to be re-instated.
6. The maximum rate of withholding tax deductible on payments made to non-resident taxpayers who are not subject to Avoidance of Double Taxation Treaties (*other than payments made on account of royalty and fee for technical services*) is proposed to be @ **20%** instead of 30%;
7. Honoring wide demand, the rate of withholding tax deductible @ 20% on cross-word puzzles is proposed to be reduced to a rate of **10%**;

### **REVENUE MEASURES**

1. In order to strengthen the drive for documentation, a uniform tax rate for small companies as well as AOPs is proposed @ **25%** of their taxable income.
2. Advance tax deductible on imports made by *commercial importers* is proposed to be enhanced to @**5%** being a FINAL tax.

3. Tax on capital gains accruing on account of holdings of stocks/shares/securities for *six-months or less* is proposed @ **10%**, while holdings of stocks/shares/securities *exceeding six-months* is proposed @ **7.5%**. However no tax has been proposed on such capital gains arising held for a period exceeding 12 months.
4. In order to rationalize and simplify slab-rates provided in respect of advance tax deductible on *goods transport vehicles* under Item (1) of Division-III of Part-IV of Second Schedule to the Income Tax Ordinance 2001 are proposed to be abolished, and tax is proposed @ **Re.1 per kilogram** of the laden weight capacity of *goods transport vehicle*. No change has been proposed in the rate of tax on goods forwarding contracts, which remain taxable at the existing rate of 2%.
5. In order to bring clarity on advance tax deductible on Cash Withdrawals from Banks, various *banking transactions including* modes like withdrawals through *Demand Draft, Pay Order, Online Transfer, Telegraphic Transfer, TDR, CDR, STDR and RTC*, are proposed to be subject to 0.3% deduction of the advance tax, if such transactions exceed threshold of Rs.25,000/- in a single day. The advance tax is adjustable.
6. Turnover Tax is proposed to be enhanced from **0.5%** to **1%**.
7. Withholding tax on gross value of Inland Air Ticket has been proposed @ **5%**. Under the scheme the Inland Air-Ticketing persons shall withholding the tax, which will be adjustable against the tax liability of the purchaser of such ticket;

## **TECHNICAL MEASURES**

1. In order to bring clarity, expression 'CD' appearing in Division-V of Part-IV of First Schedule to the Income Tax Ordinance 2001 is proposed to be replaced by '*any electronic medium*'.
2. The mandatory requirement of Filing of Wealth Statement by the Taxpayers in FTR cases with yearly tax amounting to Rs.35, 000/- is proposed to be included in section 116 of the Income Tax Ordinance 2001.
3. For enforcing checks on non-compliant taxpayers, and to encourage compliant-taxpayers, a new section 181A is proposed to be inserted in the Ordinance.
4. In order to streamline accounting of Advance Tax payments, certain amendments are proposed in section 147 of the Ordinance, so that quarterly advance tax payments are paid by **25th of last month**, as compared to earlier requirement of such payments by *15th of every month after the end of a quarter*.



5. Through an editorial amendment, the reference of '*minimum tax*' on importer of edible oil and packing materials under section 148, is proposed to be incorporated in provisions referring to final tax on the income of an importer.
6. For the purposes of clarity, through an editorial amendment the reference of sub-section (1AA) of section 152 is proposed to be inserted in sub-section (2) of section 152.
7. In order to rationalize the definition of '*Prescribed Persons*' as given in sub-section (9) of section 153, *an individual with turnover of Rs.50 millions or above* is proposed to be added.
8. In order to perceive better audit of withholding taxes, the withholding agents shall be required to e-file quarterly statements even in the cases where no-tax was deducted. For the purpose of alignment and uniformity, the words '*a person collecting tax*' are proposed to be replaced with the words '*a withholding agent*' in sub-section (2) of section 165.
9. Editorial amendments in Section 236A of the Ordinance are proposed in order to bring clarity and remove confusion about the charge of advance tax on public auction of all kind of property including confiscated or attached goods.
10. On merger of Investment Corporation of Pakistan with Industrial Development Bank, the exemption available to ICP on dividend received from any other company is proposed to be withdrawn.
11. Exemption under clause (52) of Part-IV of the Second Schedule to the Income Tax Ordinance 2001 available to Vanaspati Ghee or Oil is proposed to be withdrawn, in view of demise of SRO. 593(I) 1991 Dated 30th June 1991.

**COMMENTS ON AMENDMENTS PROPOSED VIDE FINANCE BILL 2010 IN  
THE INCOME TAX ORDINANCE, 2001****1. Capital gains on securities earned within a period of one year made taxable.  
Sections 37, 37A, 147, 233A & the First Schedule**

- 1.1 Hitherto the capital gains on sale of shares of public companies including the vouchers of Pakistan Telecommunication Corporation, Modaraba certificates or any instruments of redeemable capital were exempt.

The issue has been debated since long and it has been desired by various quarters that it is unjust to continue exemption

The Bill now seeks to partly meet this demand and proposes to tax gain on sale of securities earned within a holding period of one year and six months respectively at 7.5% and 10% initially in the Tax year 2010 and increasing the rate year by year gradually to 17.5% and 10% in the year 2014 and 2015 respectively.

The aforesaid provisions do not apply in the case of banking companies as provisions with respect to a banking company already exist in the seventh schedule of the Income tax Ordinance which remained intact.

- 1.2 The Bill also seeks to enforce provision regarding payment of advance tax on account of these gains. The Bill proposes that the taxpayer shall pay advance tax on quarterly basis on capital gains on sale of securities as follows:-

<b>Period</b>	<b>Rate of advance tax. Liability</b>
Where holding period of a security is less than six months.	2%
Where holding period of a security is more than six months but less than twelve months.	1.5%

- 1.3 Advance tax shall be payable by the taxpayer within seven days after the close of each quarter.
- 1.4 The Bill defines the term “Securities” means shares of a public company, vouchers of Pakistan Telecommunication Corporation, Modaraba Certificates or instruments of redeemable capital.
- 1.5 The amount of gain under this section shall be treated as a separate block of income.

- 1.6 The Bill also proposes that the tax paid under section 233A as minimum tax to be substituted as adjustable against the liability under this regime. Since previously the tax withholding made under sub-section (1) clauses (a) and (b) of section 233A relates to the purchase and sale of shares made by the clients of the stock brokers and in view of withdrawal of exemption of capital gains, the investor community should be vigilant of such tax withholding for availing credit for such tax payments being adjustable as well, against proposed quarterly advance tax on capital gains. As a consequence of the proposed amendment, the tax withheld on purchase and sale of securities will be available to the taxpayer irrespective of capital gain or loss or income from any source.
- 1.7 It is learnt that there is an agreement to reckon the holding period in the 1<sup>st</sup> year which is to commence from 1<sup>st</sup> July, 2010, however problems are likely to arise in subsequent years when there will be purchases of previous years and current year's and taxpayers may link current years sale with last years' purchase while officers of the department may otherwise link it with current years purchase which needs to be resolved.
- 1.8 Moreover though separate block treatment ensures the sanctity of prescribed tax rate, however there will be issues relating to determination of capital gains and allocation of expenses under section 67 of the Income Tax Ordinance, 2001 where multi income environment exists which needs to be precisely clarified in order to avoid confusion or manipulation.
- 2. Tax Credit on plant & machinery installation, balancing, modernization and replacement by a company. Section 65B**
- 2.1 The Bill seeks to provide for tax credit on investment in purchase of plant & machinery for installation or for balancing, modernization & replacement purposes. This new provision provides that where a taxpayer being a company invests any amount in the purchase of a plant and machinery for installation, for the purposes of balancing, modernization and replacement in an industrial undertaking set up in Pakistan and owned by it, credit equal to **10% of the tax payable** shall be allowed for the tax year in which the said costs are incurred against the tax payable by the company.
- 2.2 These provisions are applicable if the plant and machinery is purchased and installed at any time between the first day of July, 2010, and the 30th day of June, 2015.

2.3 The Bill further provides that where any credit is allowed under this section and subsequently it is discovered by the Commissioner Inland Revenue that any one or more of the conditions specified in this section was, or were, not fulfilled, as the case may be, the credit originally allowed shall be deemed to have been wrongly allowed and the Commissioner Inland Revenue may, notwithstanding anything contained in this Ordinance, re-compute the tax payable by the taxpayer for the relevant year and the provisions of this Ordinance shall, so far as may be, apply accordingly.

2.4 From the plain reading of the Bill, it is noted that there is no mention of the quantum of investment whereas the tax credit is equal to the ten percent of the tax payable; and where no tax is payable, provisions of minimum tax will apply and no tax credit on minimum tax in this case is applicable.

It is important to note that in the year of addition initial depreciation and normal depreciation are usually available to such taxpayers and their tax liability under the normal regime works out at nil due to inflated depreciation allowance and provisions of minimum tax also applies in those cases. Thus this benefit will be negated as this is based on tax payable unlike in the past where tax credit was based on the amount so expended.

### **3. Tax credit to companies opting for enlistment.**

### **Section 65C**

The Bill seeks to provide a tax credit by way of reduction in tax rate of five percent to a company opting for enlistment in any registered stock exchange in Pakistan, to be allowed for the tax year in which the said company is enlisted.

In view of depressed situation of the stock markets, the provision of this tax credit would encourage the companies to enlist themselves. However this benefit will only be available to those companies who are in the normal taxation regime.

### **4. Scope of minimum tax extended to individual and AOPs having turnover of Rs. 50 million or more and rate of minimum tax increased from 0.5% to 1%. Section 113**

4.1 The Bill proposes to broaden the applicability of the provisions of minimum tax to Individuals and AOPs, where their turnover is Rs.50 million or more in tax year 2009 and 2007 respectively or in any subsequent tax year.

4.2 The Bill also proposes to increase the rate of minimum tax from 0.5% to 1% which, despite the fact that this is applicable where a taxpayer has no tax liability on any grounds, has been doubled thus hitting these taxpayers extremely hard.



**5. Advance Tax – Section 147**

- (i) Association of Persons brought at par with a company for advance tax.*
- (ii) Threshold for individual for advance tax payment increased from Rs. 200,000 to Rs. 500,000.*
- (iii) Dates of payment of advance tax revised.*

5.1 The amendments proposed by the Bill were also proposed last year but were not enforced. The Bill proposes to bring association of persons at par with a company and AOPs are also required to calculate their quarterly advance tax liability on the same lines as being computed in the case of a company.

Consequently basic threshold, which was previously available to an AOP, has also been done away and the AOPs have to pay advance tax on the basis of their quarterly turnover.

5.2 The Bill proposes to increase the threshold for payment of advance tax by individuals from Rs 200,000 to Rs. 500,000. This amendment was long awaited as it was lastly increased to present level in the year 2003.

5.3 The Bill also seeks to amend the dates of payment of advance tax in the case of companies and AOPs, as follows:

<b>Quarter ended</b>	<b>Date of payment</b>
September 30 <sup>th</sup>	25 <sup>th</sup> day of September
December 31 <sup>st</sup>	25 <sup>th</sup> day of December
March 31 <sup>st</sup>	25 <sup>th</sup> day of March
June 30 <sup>th</sup>	15 <sup>th</sup> day of June

The dates of payment of advance tax in the case of individual will remain unchanged.

**6. Individuals having turnover of Rs. 50 million or more made withholding tax agent. Section 153**

6.1 The Bill proposes to make individuals having turnover of Rs. 50 million or more in the tax year 2009 or in subsequent year as withholding agents. Thus such persons are required to withhold tax from the payment of goods, services and execution of contracts, but also to deposit the same into the treasury within time specified; and also file quarterly statements, and are also subject to monitoring of taxes by the officer Inland Revenue.

- 6.2 The other amendment in this section relates to AOPs who were made withholding tax agents having turnover of Rs. 50 million or more in the tax year 2007 and onwards. Thus the test of turnover for tax year 2007 or in any subsequent year has been revisited
7. **Final Taxation Regime applicable to “Income from Property” has been brought to normal tax regime. Sections 155 & 169**
- 7.1 The Bill proposes to discontinue the applicability of final tax regime in the case of taxpayers earning income from property. Consequently the total income from property shall be liable to tax at normal rates applicable to respective taxpayers and amount of tax deducted at source will be adjustable while determining the tax liability.
- 7.2 It is important to state here that deductions admissible under the omitted section 17 has not been restored which shows an intent that no deductions will be admissible; which in our opinion is unjust and the contents of omitted section 17 needs to be restored.
- 7.3 The amendments proposed by the Bill will change the mind set of landlords who had earlier accepted the taxability of their rental income at the nominal fixed tax rates and now they are likely to face difficulties of complicated taxation system, . However, we understand that this is a genuine amendment, being equitable and in-discriminatory subject to the restoration of omitted section 17 to allow expenditure against this income to be in line with basic principal of taxation laws.
- 7.4 The amendment proposed in section 169(3) with respect to insertion of section 15 (income from house property) provides that they are not required to furnish a return of income under section 114, which needs to be rectified, as such income is to be treated as a normal taxed income.

**8. Tax withholding on banking transactions.****Section 231AA**

- 8.1 The Bill proposes to enlarge the tax withholding regime by making every banking company responsible to deduct tax on withdrawal through any mode of banking transactions including Demand Draft, Payment Order, Online Transfer, Telegraphic Transfer, CDR, STDR, RTC, if the payments in aggregate exceed twenty-five thousand rupees in a day.
- 8.2 However, the provisions of this section shall not be applicable to withdrawals made by:
- (a) the Federal Government or a Provincial Government;
  - (b) a foreign diplomat or a diplomatic mission in Pakistan; or
  - (c) a person who produces a certificate from the Commissioner that his income during the tax year is exempt
- 8.3 The provision of Collecting tax from a documented process is likely to result in preventing documentation to the extent permitted by the circumstances and though a catch has been provided yet in the case of taxpayer, exemption needs to be provided as even otherwise the taxpayer will its tax liability from quarterly payments however problem may arise in the cases of exporters and taxpayers to whom provisions of final tax regime are applicable and they have to complete the cumbersome process of obtaining refund of tax refund. Furthermore, the use of the word “including” before the identification of banking instruments on which the tax is to be collected in advance enlarged the scope and may endanger the inclusion of “crossed cheques” which needs to be clarified for the intended purpose of the proposed amendment.

**9. Extension of withholding tax provision to air tickets and sale of units through electronic medium or whatever form.****Section 236 ,236B & First Schedule**

- 9.1 The Bill proposes to extend the withholding tax regime by bringing to its ambit the deduction of tax on purchase of air tickets and making responsible the person preparing air tickets to charge / collect advance tax @ 5% on the gross amount of domestic air tickets.
- 9.2 The Bill also proposes to extend the applicability of tax withholding to extend the applicability [in addition to (a) telephone bill of a subscriber and (b) prepaid cards for telephones] to sale of units through any electronic medium or whatever form; and makes the person issuing or selling such units through any electronic medium or whatever form to collect advance tax from the purchaser at the time of issuance or sale of units.

Amendment proposed in section 236A through the Bill proposes to enlarge the definition of property by public auction to “include property or goods confiscated or attached” whereas it was previously restricted to “property or goods confiscated or attached” only.

**10. Rate card of Association of Persons separated. Section 4 & First Schedule**

The Bill proposes to introduce separate rate card for AOPs for the tax year 2010 and onward at a fixed rate of 25% irrespective of any slab / scale of income. Presently AOPS are liable to tax at the same rate as is applicable in the case of individuals. Also refer to our comments given on page 32 below.

**11. Interest on Soft loans to employees. Section 13**

Presently deemed income on soft loans made to employees is liable to tax in the hands of employees irrespective of the fact whether the employee has an account with the employer where the employee has waived off interest thereon.

The Bill seeks to provide relief for these cases and provides that in these cases provision of section 13 (7) will not be applicable. Consequently this deeming provision will be inapplicable to such benefit arising to an employee due to waiver of interest by such employee on his account with the employer.

**12. Deceased Individuals' Estate in bankruptcy. Sections 87 & 138B**

12.1 The legal representative of a deceased individual shall be liable for taxes due to his interest as successor in interest. The Bill proposes to provide that these taxes shall be the first charge on the deceased's estate. Consequently the estate of deceased are first to be utilized towards taxes.

12.2 The Bill further proposes to insert a new section, whereby if a taxpayer is declared bankrupt, the tax liability shall pass on to the estate in bankruptcy and if tax liability is incurred by an estate in bankruptcy, the tax shall be deemed to be a current expenditure in the operations of the estate in bankruptcy and shall be paid before the claims preferred by other creditors are settled.

**13. Unexplained income / expenditure or assets. Section 111**

13.1 Presently where any unexplained income or assets or expenditures have been found, that amount is included as income of the person in the immediately preceding the financial year in which it was discovered.

The Bill proposes to include that income in the tax year to which it relates. This amendment rationalizes the taxability in the proper year instead of immediately preceding year.

- 13.2 Furthermore the provisions of this section were inapplicable in the case of unexplained income or expenditure or assets that related to a period beyond preceding five tax years or assessment years. The bill proposes to delete the said provision, consequently it will be a hanging sword as section 111 which itself is a charging section and thus enabling Officer Inland Revenue to proceed for digging out or making fishy enquiries for indefinite periods, which may cause great hardship and loss of trust of the taxpayers.

**14. Increase in threshold for filing of wealth statement in the cases of FTR.**

**Section 115 & 116.**

- 14.1 Presently every person other than a company who files statement under the final taxation regime and whose tax amounts to Rs. 20,000 or more is required to file wealth statement alongwith reconciliation of wealth.

- 14.2 The Bill proposes to enhance this limit from Rs. 20,000 to Rs. 35,000.

- 14.3 Furthermore this provision has been shifted to Section 116 from section 115.

**15. Date of filing of non-corporate sector etc. changed.**

**Section 118**

Presently a return of income for any person other than a company, an employer certificate of an individual or a statement of final taxation under section 115(4) is required to be furnished on or before 30<sup>th</sup> day of September next following the end of tax year to which it relates.

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

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

The amendment proposed in the other relevant sections prescribes for quarterly filing of statements whereas herein provision regarding annual filing of return has been provided.

**16. Best Judgment assessment.****Section 121**

- 16.1 Amendment proposed in the Bill with respect to best judgment includes empowering the Commissioner to make assessment of income in addition to taxable income of the person and tax thereon.
- 16.2 Amendment also includes empowering the Commissioner to employ a firm of Cost and Management Accountants in addition to himself and any person employed by a firm of Chartered Accountants to produce before him any relevant document or evidence that may be required to proceed to pass an order on the basis of his judgment.

**17. Amendment of Assessment.****Section 122**

- 17.1 The amendment proposed in sub-section (4) empowers the Commissioner to amend an original assessment under sub-section (5A) in addition to sub-sections (1) and (3) as many times as may be necessary within the period prescribed therein. The amendment proposed has retrospective application from 4<sup>th</sup> July 2003.
- 17.2 A new sub-section (5AA) has also been proposed in the Bill empowering Commissioner with further deeming powers. It provides that the Commissioner is deemed to have, and always had, the powers to amend or further amend an assessment order under sub-section (5A), where appeal has been filed or decided against the order of the Commissioner, in respect of any point or issue which was not the subject matter of such appeal.

**18. Provisional assessment.****Section 122C**

Amendment proposed in the Bill with respect to provisional assessment includes empowering the Commissioner to make assessment of income in addition to taxable income of the person and tax thereon.

**19. Appeal to the Commissioner Appeals.****Section 127**

- 19.1 Consequent upon clubbing of different penal provision in one section i.e. section 182, reference of sections 183 to 189 before the Appellate Commissioner has been proposed to be omitted.
- 19.2 Bill further proposes to fix the appeal fee at Rs.1,000 instead of Rs. 1,000 or ten percent of the amount of tax assessed, whichever is less.

**20. Appointment of accountant member – qualification extended to Collector. Section 130**

The Bill seeks to extend the eligibility criteria to become an accountant member of the Tribunal, by including a Collector in addition to a Commissioner.

**21. Importers of edible oil and packing material. Section 148(7)**

The Bill seeks to keep importers of edible oil and packing material outside the ambit of final tax regime and tax collected at import stage on these imports constitutes minimum tax and these importers are therefore required to file income tax returns in the normal course.

**22. Extension of final tax to profit on debt from debt instruments, Government securities and Pakistan Investment Bonds. Section 151**

The Bill seeks to extend final tax regime to tax deducted on profit on debt from Debt instruments, Government securities including Treasury Bills and Pakistan Investment Bonds both in the hands of corporate and non-corporate sector.

However, consequential amendment in section 169 has not been proposed by the Bill, which needs to be made.

**23. Quarterly filing of withholding returns instead of Annual Filing. Section 165**

23.1 The Bill seeks to provide for quarterly filing of return by withholding tax agents instead of annual returns.

23.2 It further prescribes that every prescribed person shall be required to file withholding statement even where no withholding tax is collected or deducted during the period.

23.3 The Bill proposes the dates of filing quarterly returns to be 20<sup>th</sup> of the month following the each respective quarter.

**24. Audit. Sections 177&210**

24.1 Section 177 deals with the provision with regard of conduct of audit of taxpayers record and empower the Commissioner to call for record or documents including books of account including access to record kept on electronic data or to the officer authorized by Commissioner.

The Bill proposes to prescribe that this power to be exercised upon fulfilment of the following:

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

24.2 Furthermore the power to appoint a firm of Chartered Accountants or a firm of Cost and Management Accountants for conduct of audit of income tax affairs of taxpayer presently vests with the Board. The Bill proposes to empower Commissioner as well to appoint them.

24.3 Consequential and appropriate amendment has also been made in section 210 (1B) with respect to delegation of powers to a firm of Chartered Accountants or a firm of Cost and Management Accountants.

**25. Federal Government and Board empowered to provide Exemption from penalty and default surcharge. Section 183**

The Bill proposes to insert new provision with respect to empowering Federal Government and the Board, for reasons to be recorded in writing, to exempt any person or class of persons from payment of the whole or part of the penalty and default surcharge payable under the Ordinance subject to such conditions and limitations as may be specified in such notification.

**26. Redefining income tax authorities upon vesting authority to administer three domestic taxes. Sections 208 & 209**

26.1 The Bill proposes to redefine appointment of tax authorities upon vesting of administration of three taxes to Inland Revenue. Presently Board is empowered to appoint Regional Commissioner, Commissioners and other executive or ministerial officer and staff as may be necessary.

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

26.2 Consequential and appropriate amendment has also been made in section 209 with respect to jurisdiction of these officers.

**27. Selection of cases for audit through computer ballot. Section 214C**

In view of the writ filed with respect to recent selection of cases for audit through computer ballot, the Bill seeks to enact enabling provision with respect to such ballot. The Bill proposes to empower the Board to select persons or classes of persons for audit of Income Tax affairs through computer ballot which may be random or parametric as the Board may deem fit. It further provides that audit of Income Tax affairs of persons selected shall be conducted as per procedure given in section 177 and all the provisions of the Ordinance, except the first proviso to sub-section (1) of section 177, shall apply accordingly.

The Bill further provide for the removal of doubt that Board shall be deemed always to have had the power to select any persons or classes of persons for audit of Income Tax affairs. Thus the Bill intends to have the application of this provision with retrospective effect.

**28. Computation of limitation period. Section 226**

Hitherto in computing limitation period, the following were excluded from limitation period:

- (a) in the case of an appeal or an application the day on which the order complained of was served and, if the taxpayer was not furnished with a copy of the order when the notice of the order was served on the taxpayer, the time requisite for obtaining copy of such order; and
- (b) in the case of assessment or other proceeding the period if any for which such proceedings were stayed by any Court Appellate Tribunal or any other authority.

The Bill proposes to insert another exclusion in the case of assessment or other proceeding for the tax year remained pending before Court, Appellate Tribunal or any other authority.

**29. Bars of suits in Civil Courts. Section 227**

The Bill proposes to insert new provision with respect to filing of suits against any officer or official by any governmental agency and provides that notwithstanding anything contained in any other law for the time being in force, no investigation or inquiry shall be undertaken or initiated by any governmental agency against any officer or official for anything done in his official capacity under this Ordinance, rules, instructions or direction made or issued there-under without the prior approval of the Board.

**30. Reinstating income tax authority of Directorate General of Training and Research. Section 229**

The Bill proposes to reinstate income tax authority of Directorate of Training and Research and provides that the Directorate General of Training and Research shall consist of a Director General, Additional Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such officers as the Board, may, by notification in the official Gazette, appoint. It further empowers the Board, by notification in the official Gazette, to specify the functions, jurisdiction and powers of the Directorate General of Training and Research and its officers.

**31. Removal of difficulties. Section 240**

Presently, the power of Federal Government for removal of difficulties was available upto June 30, 2004 with respect to giving effect to any of the provision of the Ordinance for making such order not in consistence with the provisions of the Ordinance as may appear to it to be necessary for the purposes of removing the difficulty.

The Bill proposes to omit provisions with respect to the date and as a result of which the Federal Government is empowered to issue order for removal of any such difficulty.

**32. Clubbing of penal provisions. Section 182 to 190**

The Bill proposes to club penal provisions with respect to offences and penalties into one place. It also proposes to threshold of minimum and maximum penalties besides reconstructions of texts. The reconstruction of text empowers the officers to impose huge penalties even on small default which includes late filing. It also includes new penalties for defaults such as issue of cash memos or invoices or receipts. These penalties need to be rationalized keeping in view the nature and type of default. The details of proposed amendments are as under:



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

**TABLE**

<b>S.No.</b>	<b>Offences.</b>	<b>Penalties.</b>	<b>Section of the Ordinance to which offence has reference.</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
1.	Where any person fails to furnish a return of income or a statement as required under section 115 or wealth statement or wealth reconciliation statement or statement under section 165 within the due date.	Such person shall pay a penalty equal to 0.1 %of the tax payable for each day of default subject to a minimum penalty of five thousand rupees and a maximum penalty of 25% of the tax payable in respect of that tax year.	114, 115,116 and 165
2.	Any person who fails to issue cash memo or invoice or receipt when required under this Ordinance or the rules made there-under.	Such person shall pay a penalty of five thousand rupees or three per cent of the amount of the tax involved, whichever is higher.	174 and Chapter VII of the Income Tax Rules
3.	Any person who is required to apply for registration under this Ordinance but fails to make an application for registration.	Such person shall pay a penalty of five thousand rupees.	181
4.	Any person who fails to notify the changes of material nature in the particulars of registration.	Such person shall pay a penalty of five thousand rupees.	181
5.	Any person who fails to deposit the amount of tax due or any part thereof in the time or manner laid down under this Ordinance or rules made there-under.	Such person shall pay a penalty of five per cent of the amount of the tax in default.  For the second default an additional penalty of 25% of the amount of tax in default.  For the third and subsequent defaults an additional penalty of 50% of the amount of tax in default.	137
6.	Any person who repeats erroneous calculation in the return for more than one year whereby amount of tax less than the actual tax payable	Such person shall pay a penalty of five thousand rupees or three per cent of the amount of the tax involved, whichever is higher.	137



	under this Ordinance is paid.		
7.	Any person who fails to maintain records required under this Ordinance or the rules made there-under.	Such person shall pay a penalty of ten thousand rupees or five per cent of the amount of tax on income whichever is higher	174
8.	Where a taxpayer who, without any reasonable cause, in non compliance with the provisions of section 177—  a) fails to produce the record or documents on receipt of first notice;  b) fails to produce the record or documents on receipt of second notice; and  c) fails to produce the record or documents on receipt of third notice.	Such person shall pay a penalty of five thousand rupees;  such person shall pay a penalty of ten thousand rupees; and  such person shall pay a penalty of fifty thousand rupees.	
9.	Any person who fails to furnish the information required or to comply with any other term of the notice served under section 176	Such person shall pay a penalty of five thousand rupees for the first default and ten thousand rupees for each subsequent default.	176
10.	Any person who-  a) makes a false or misleading statement to an Inland Revenue Authority either in writing or orally or electronically including a statement in an application, certificate, declaration, notification, return, objection or other document including books of accounts made ,prepared, given, filed or furnished under this ordinance;  b) furnishes or files a false or misleading information or document or statement to an Income tax Authority either in writing or orally or electronically;  c) omits from a statement made	Such person shall pay a penalty of twenty five thousand rupees or 100% of the amount of tax shortfall whichever is higher:  Provided that in case of an assessment order deemed under section 120, no penalty shall be imposed to the extent of the tax shortfall occurring as a result of the taxpayer taking a reasonably arguable position on the application of this Ordinance to the taxpayer’s position.	114,115,116,174,176, 177 and general.



	or information furnished to an Income tax Authority any matter or thing without which the statement or the information is false or misleading in a material particular.		
11.	Any person who denies or obstructs the access of the Commissioner or any officer authorized by the Commissioner to the premises, place, accounts, documents, computers or stocks.	Such person shall pay a penalty of twenty five thousand rupees or one hundred per cent of the amount of tax involved, whichever is higher.	175 and 177
12.	Where a person has concealed income or furnished inaccurate particulars of such income, including but not limited to the suppression of any income or amount chargeable to tax, the claiming of any deduction for any expenditure not actually incurred or any act referred to in sub-section (1) of section 111, in the course of any proceeding under this Ordinance before any Income tax authority or the appellate tribunal.	Such person shall pay a penalty of twenty five thousand rupees or an amount equal to the tax which the person sought to evade whichever is higher. However, no penalty shall be payable on mere disallowance of a claim of exemption from tax of any income or amount declared by a person or mere disallowance of any expenditure declared by a person to be deductible, unless it is proved that the person made the claim knowing it to be wrong.	20, 111 and General.
13.	Any person who obstructs any Income tax Authority in the performance of his official duties.	Such person shall pay a penalty of twenty five thousand rupees.	209, 210 and General.
14	Any person who contravenes any of the provision of this Ordinance for which no penalty has, specifically, been provided in this section.	Such person shall pay a penalty of five thousand rupees or three per cent of the amount of tax involved, whichever is higher.	General.
15.	Any person who fails to collect or deduct tax as required under any provision of this Ordinance or fails to pay the tax collected or deducted as required under section 160.	Such person shall pay a penalty of twenty five thousand rupees or the 10% of the amount of tax whichever is higher.	148,149,150,151,152, 153, 153A, 154, 155, 156, 156A, 156B, 158, 160, 231A, 231B, 233, 233A, 234, 234A, 235, 236, 236A.



The Bill further provides that:

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

**33. Active taxpayer list.**

**Section 181A**

The Bill proposes to introduce new provision with respect to regulation of taxpayers list and empowers the Board to institute active taxpayers list.

**34. Amendment already enacted and made through Finance (Amendment) Ordinance, 2009 w.e.f February 06, 2010.**

Following is the list of major amendments which had already been made in the Income Tax Ordinance, 2001 through Finance (Amendment) Ordinance 2009 on February 06, 2010 but since the date of this ordinance has not been extended by President of Pakistan on June 05, 2010 therefore these amendments have lapsed. Accordingly the Bill seeks to insert these amendments to give them legal cover to remain effective even on or after June 05, 2010.

Sub-section /clause	Section	Brief description of amendments
2	2	Substitution – definition of Appellate Tribunal Inland Revenue
11B	2	New insertion - definition of Chief Commissioner
13	2	Substitution - definition of Commissioner
13A	2	Substitution - definition of Commissioner (Appeals)
29C	2	Substitution - definition industrial undertaking
38A	2	New insertion - definition of Officer of Inland Revenue
48A & 65	2	Omitted
6	114	Substitution - re: revised return
6A	114	New insertion – re: revised return
2A	116	New insertion – re: wealth statement
6	119	Substitution – re: default surcharge in place of additional tax
1(a)	121	Omitted



3	122	New insertion – re: section 6A is added
1	122A	Substitution – re: change of nomenclature
	122C	New insertion – re: provisional assessment
2	137	New insertion – re: additional proviso
6	137	Substitution – re: default surcharge in place of additional tax
1	146B	Substitution – re: default surcharge in place of additional tax
1B	161	Substitution – re: default surcharge in place of additional tax
2	162	Substitution – re: default surcharge in place of additional tax
3	174	Substitution – re: change of figure from five to six, with an addition proviso and an explanation.
1	177	Substitution of existing clause
2	177	Substitution of existing clause
3, 4 & 5	177	Omitted
6	177	Certain omissions of sub-sections (5) & (8)
7	177	Insertion of certain words and figures
10	177	Insertion re: conduct of audit and production of account, records, etc. before the Commissioner or the firms of Chartered Accountants or Cost & Management Accountants
	202	Substitution – re: default surcharge in place of additional tax
1	203	Substitution – re: appointment of special judges
1A & 1B	203	New insertion – re: appointment & conduct of proceedings by special judge
3 & 4	203	New insertion – re: appointment & conduct of proceedings by special judge
	205	Substitution – re: default surcharge in place of additional tax, including headings
	205A	Substitution – re: default surcharge in place of additional tax
	207	Substitution – re: income tax authorities
1, 1A & 1B	210	Substitution – re: change of nomenclature
	211	Substitution – re: change of nomenclature
1 & 2	215	Substitution – re: change of nomenclature
3	217	Substitution – re: change of nomenclature
2(d)	237	Substitution – re: default surcharge in place of additional tax
3 & 7	239	Substitution – re: default surcharge in place of additional tax
	239B	New insertion – re: reference to authorities

**The Finance Bill 2010 has also proposed certain important changes in the Schedules to the Income Tax Ordinance, 2001, which are explained as under:**

**35     The First Schedule – Part I**

***Division - I                     (rate of tax for individuals)***

- Hither-to-before that income tax rates were tabulated for two main categories only i.e. individuals & AOPs and companies. Now these rates have been proposed to be tabulated in three categories i.e. (1) Individuals (both salaried and non-salaried) (2) AOPs (3) Companies including small companies.
- The basic taxable limit for all types of individuals, including women has been proposed to be increased from Rs. 100,000 / Rs. 200,000 to Rs. 300,000. The



purpose of this increase is to give relief to the lower salaried class as well as small traders / proprietary businessman.

- The income tax rates tables for the tax year 2010 and tax year 2011 are given below to depict changes at a glance:

**Table of tax slabs for non-salaried taxpayers**

<b><u>2010-2011</u></b>		<b><u>2009-2010</u></b>	
Where taxable income does not exceed Rs. 300,000	0%	Where taxable income does not exceed Rs. 100,000	0%
Rs.300,000 to Rs.400,000	7.50%	Rs.100,000 to Rs.110,000	0.50%
Rs.400,000 to Rs.500,000	10.00%	Rs.110,000 to Rs.125,000	1.00%
Rs.500,000 to Rs. 600,000	12.50%	Rs.125,000 to Rs.150,000	2.00%
Rs.600,000 to Rs. 800,000	15.00%	Rs.150,000 to Rs.175,000	3.00%
Rs.800,000 to Rs.1,000,000	17.50%	Rs.175,000 to Rs.200,000	4.00%
Rs. 1,000,000 to Rs.1,300,000	21.00%	Rs.200,000 to Rs.300,000	5.00%
Rs.1,300,001 & above	25.00%	Rs.300,000 to Rs.400,000	7.50%
		Rs.400,000 to Rs.500,000	10.00%
		Rs.500,000 to Rs. 600,000	12.50%
		Rs.600,000 to Rs. 800,000	15.00%
		Rs.800,000 to Rs.1,000,000	17.50%
		Rs. 1,000,000 to Rs.1,300,000	21.00%
		Rs.1,300,001 & above	25.00%

- The basic taxable limit for women has also been proposed to be increased from Rs. 125,000 to Rs. 300,000, equivalent to men.

**Table of tax slabs for salaries taxpayers**

<b><u>2010-2011</u></b>		<b><u>2009-2010</u></b>	
Where taxable income does not exceed Rs. 300,000	0%	Where taxable income does not exceed Rs. 200,000	0%
Rs.300,000 to Rs.350,000	0.75%	Rs.200,000 to Rs.250,000	0.50%
Rs.350,000 to Rs.400,000	1.50%	Rs.250,000 to Rs.350,000	0.75%
Rs.400,000 to Rs.450,000	2.50%	Rs.350,000 to Rs.400,000	1.50%
Rs.450,000 to Rs.550,000	3.50%	Rs.400,000 to Rs.450,000	2.50%
Rs.550,000 to Rs.650,000	4.50%	Rs.450,000 to Rs.550,000	3.50%
Rs.650,000 to Rs.750,000	6.00%	Rs.550,000 to Rs.650,000	4.50%
Rs.750,000 to Rs.900,000	7.50%	Rs.650,000 to Rs.750,000	6.00%
Rs.900,000 to Rs.1,050,000	9.00%	Rs.750,000 to Rs.900,000	7.50%
Rs.1,050,000 to Rs.1,200,000	10.00%	Rs.900,000 to Rs.1,050,000	9.00%
Rs.1,200,000 to Rs.1,450,000	11.00%	Rs.1,050,000 to Rs.1,200,000	10.00%
Rs.1,450,000 to Rs.1,700,000	12.50%	Rs.1,200,000 to Rs.1,450,000	11.00%
Rs.1,700,000 to Rs.1,950,000	14.00%	Rs.1,450,000 to Rs.1,700,000	12.50%
Rs.1,950,000 to Rs.2,250,000	15.00%	Rs.1,700,000 to Rs.1,950,000	14.00%
Rs.2,250,000 to Rs.2,850,000	16.00%	Rs.1,950,000 to Rs.2,250,000	15.00%



Rs.2,850,000 to Rs.3,550,000	17.50%	Rs.2,250,000 to Rs.2,850,000	16.00%
Rs.3,550,000 to Rs.4,550,000	18.50%	Rs.2,850,000 to Rs.3,550,000	17.50%
Rs.4,550,000 & above	20.00%	Rs.3,550,000 to Rs.4,550,000	18.50%
		Rs.4,550,000 to Rs.8,650,000	19.00%
		Exceeds Rs.8,650,000	20.00%

- The provisos as regard to basic taxable income / exemption for women as well as Internally Displaced Persons Tax (IDPT) have also been proposed to be deleted, as no more applicable for the tax year 2011.

***Division - IA (rate of tax on certain persons)***

- There is a proposal to increase the turnover tax for retailers, under section 113A of the Income Tax Ordinance, 2001 from 0.5% to 1.00% of the turnover.

***Division - IB (rates of tax for Association of Persons)***

- There is also a proposal to add Division – IB relating to the rate of tax to be imposed on the taxable income of AOP for the tax year 2010 and onward, at a flat rate of 25%, with no apparent basic exemption. Accordingly additional tax liability has to be borne by AOPs this year i.e. tax year 2010 upto the income range of Rs. 1,300,000, as evident from the table given below:

<u>Assumed business income</u>	<u>Tax liability as per new flat rates</u>	<u>Tax liability as per previous slab rates</u>	<u>Excess tax liability of AOPs</u>
100,000	25,000	-	25,000
110,000	27,500	550	26,950
150,000	37,500	3,000	34,500
200,000	50,000	8,000	42,000
300,000	75,000	15,000	60,000
400,000	100,000	30,000	70,000
500,000	125,000	50,000	75,000
600,000	150,000	75,000	75,000
700,000	175,000	105,000	70,000
850,000	212,500	148,750	63,750
1,100,000	275,000	231,000	44,000
1,500,000	375,000	375,000	-
2,000,000	500,000	500,000	-



***Division - II (rates for companies)***

- Similarly there is a proposal that the rate of tax for a small company as defined in Section – 2 of the Income Tax Ordinance, 2001 shall be 25% instead of 20%.

***Division - VII (capital gains on sale of securities)***

- On the consistent demand from various quarters, the government has agreed to levy income tax on the capital gains on the sales of securities / stock. The proposed rates of tax on this head of income has been proposed as under:

	<b>Period of holding</b>	<b>Tax Year.</b>	<b>Rate of tax.</b>
1.	Where the security is held for less than six months.	2010 2011 2012 2013 2014	10.00% 10.00% 12.50% 15.00% 17.50%
2.	Where the security is held for more than six months but less than twelve months.	2010 2011 2012 2013 2014 2015	7.50% 8.00% 8.50% 9.00% 9.50% 10.00%
3.	Where the security is held for more than twelve months.		0%

**The First Schedule – Part II**

The rate of advance tax to be collected by the Collector of Customs u/s 148 is proposed to be enhanced by 1% of the value of imported goods, which would therefore now be collected @ of 5% of the value of such goods.

**The First Schedule – Part III**

***Division – II (payments to non-residents)***

An important amendment is being proposed to reduce the tax deduction rate from 30% to 20% from the payments made to a non-resident u/s 152(2) of the Ordinance. This reduction in tax rate in our opinion will encourage the foreign investment.

***Division – VI (prizes and winnings)***

Approval is also being sought through this finance bill to deduct tax @ 10% on the cross - word puzzle instead of 20%.

**The First Schedule – Part IV**

***Division – III (tax on motor vehicles)***

Different slabs of tax collection rate on the basis of weight in case of goods transport vehicles have been rationalized and increased by deleting these slabs and computing the tax collection rate @ Re. 1 per kg of the laden weight. The increase due to change in tax collection rate in the instant case is shown by the following table:

	<u>2010-2011</u>	<u>2009-2010</u>
Laden weight at 2,000 kgs	2,000	1,200
Laden weight at 8,000 kgs	8,000	7,200
Laden weight at 14,500 kgs	14,500	12,000
Laden weight at 29,500 kgs	29,500	18,200
Laden weight at 44,000 kgs	44,000	24,000
Laden weight at 55,000 kgs	55,000	30,000
Laden weight at 60,000 kgs	60,000	36,000

There thus appears to be substantial increase in the taxation on motor vehicle for transportation of goods.

***Division – IV (electricity consumption)***

The maximum rate of tax collection alongwith the electricity bills has been proposed to reduce from 10% to 5% of the amount of bill. This appears to be a good proposal so that tax may not be collected from those having BTL income, particularly when basic exemption has been increased upto Rs. 300,000.

***Division – VIA (advance tax on transaction in bank)***

Almost all the bank transactions made through any mode i.e. have been brought into the tax net, by virtue of deducting tax from such transactions @ 0.3%, if the aggregate of these transactions exceeds Rs. 25,000 in a day. A new section 231AA has also been incorporated explaining such transactions as well as exemption there-from.

Although this appears to be a harsh proposal / amendment, yet it is an adjustable tax; and the deduction can be avoided by producing a certificate from the Commissioner to the effect that his income during the year is exempt.

***Division – IX (advance tax on purchase of air ticket)***

There is a proposal that tax @ 5% of the gross amount of the ticket should be collected, in line with the newly inserted / proposed section 236A of the Ordinance.

**36 The Second Schedule – Part I**

- A new sub-clause – III of clause (72) is proposed to be inserted to provide exemption for profit on debt payable to non-residents in respect of foreign loan for industrial investment in Pakistan, provided that the agreement for such loan is

concluded on or after the 1<sup>st</sup> day of February 1991 and is duly registered with the State Bank of Pakistan.

- Certain exemptions / concessions have been proposed for the most affected and moderately affected areas of Khyber Pakhtunkhwa, FATA & PATA due to IDPs and war against terrorism. These may be briefly discussed as under:

***Clause – 92A***

Two year exemption is provided to the income of any university or any other educational institution established in the above said affected areas.

***Clause – 126F***

Three year exemption is provided to profit and gains derived by a taxpayer located in the above said affected areas. However such exemption is not provided to the manufacturers and suppliers of cement, sugar, beverages and cigarettes.

**Clauses 102, 110 & 110A** are proposed to be omitted, which in fact had become time barred and no more relevant.

**The Second Schedule – Part II**

By a proposed amendment in clause 24A, the deduction of tax at source from the payment on account of sale of goods has been sought @ 1% of the gross amount of the payment by the large distribution houses. Previously there was no requirement for deduction of such tax by the Large Distribution Houses.

**The Second Schedule – Part III**

The only amendment in this Part is in the existing clause 1A where two changes have been proposed, as under:

- Taxable income of a senior citizen means the income other than FTR income; and
- That income does not exceed Rs. 1,000,000. Previously this limit was Rs. 750,000.

If the above conditions are fulfilled, the senior citizen is entitled to a rebate of 50% of his normal tax liability on such income. This appears to be a very generous and genuine proposal, whereby a lot of retired but otherwise working senior citizens will be benefited.

**The Second Schedule – Part IV**

The proposed insertion of clause 10A in this part is related to and applicable to the persons and business located in the most effected and moderately affected areas of Khyber Pakhtunkhwa, FATA & PATA due to IDPs and war against terrorism, such as:

- Provision of section 182(1) i.e. various failure and defaults as detailed in this newly inserted section and clause (a) of section 205(1) i.e. default surcharge shall not apply to such persons / business, if the tax due is paid by June 30, 2010.

- Withholding tax on exports as per the provision of section 154 shall not be applicable until June 30, 2011.
- Provision of section 148 shall also not be applicable for such persons until June 30, 2011, other than the manufacturers and suppliers of cement, sugar, beverages and cigarettes.

**Clause 52 of this Part** is proposed to be omitted, which after the omission of clause (vi) of the notification no. SRO 593(1)/91 dated 30-06-1991 vide SRO 669(I)/2007 dated July 02, 2007 was appearing as a superfluous clause.

**Another clause namely (72)** is proposed to be added in this part stating that “income tax payable by a foreign expert shall be exempted provided that such expert is acquired with the prior approval of the Ministry of Textile Industry”. This exemption appears to be necessary one to reduce the cost of foreign support.

### **37 The Third Schedule – Part I**

Only one change is proposed in this part of the schedule by inserting the following sub-clause:

*“100% depreciation is allowed on a ramp built to provide access to person with disabilities not exceeding Rs. 250,000 each”.*

### **38 The Fifth Schedule – Part I**

There is a proposal to insert a new rule namely “4A. Decommissioning cost”, whereby such cost, duly certified by Chartered Accountants or Cost Accountants in the prescribed manner, shall be allowed as an admissible expenditure over a period of ten years or the remaining life of the development and production of mining lease, whichever is less, commencing from the tax year 2010.

In our opinion, it is an important amendment providing genuine relief to the concerned persons.

### **39 The Seventh Schedule**

The proposed changes in this schedule represent the limit, allow-ability and treatment of provisions for advances and off balance sheet items, the texts of which are self explanatory and thus do not call for any further explanation.



**SALIENT FEATURES OF THE BUDGET 2010 SALES TAX**

- Increase in the rate of sales tax by 1% w.e.f. July 01, 2010. Accordingly new rates will be as follow:

<b>Sales Tax</b>	<b>Existing Rate</b>	<b>New Rate</b>
General sales tax	16%	17%
Sales tax rate prescribed for certain goods, imported or supplied, through SRO644(I)/2007 date June 27, 2007.	21% & 18.5%	22% & 19.5%
Sales tax rate prescribed for import of soya been seed by solvent extraction industries through SRO 313(I)/2006 dated March 31, 2006	6%	7%
Sales tax rate prescribed for import of rapeseed, sunflower seed and canola seed by solvent extraction industries through SRO 69(I)/2006 dated January 28, 2006	14%	15%
Sales tax rate prescribed through rule 20 of the Special Procedure Rules 2007 for supply of natural gas to CNG stations by gas transmission and distribution companies.	25%	26%

- Selection of parsons or classes of persons for audit through computer ballot by the Board, as it deems fit.
- Vetting of Sales tax amendments made through Finance (Amendment) Ordinance, 2009 w.e.f Feb 06, 2010 which were being expired on June 05, 2010. These mainly relate to unification of administrative and adjudicating authorities of three domestic taxes i.e. Income Tax, Sales Tax and Central Excise Duty.

**COMMENTS ON AMENDMENTS PROPOSED  
VIDE FINANCE BILL 2010 IN THE SALES TAX ACT, 1990**

**1. Scope of tax****Section 3**

The Bill seeks to propose a general increase in sales tax rate by 1% to shift the burden of additional tax across the board. Accordingly existing sales tax rate of 16% is replaced by 17% wherever appearing in this section.

Further sales tax rates specified through SROs 644(I)/2007 date June 27, 2007, 313(I)/2006 dated March 31, 2006, 69(I)/2006 dated January 28, 2006 and sales tax rate prescribed in rule 20 of the Special Procedure Rules 2007 to be charged by transmission and distribution companies to CNG station have also been increased by 1% through SROs 395 to 398(I)/2010 date June 05, 2010.

These new rates will be effective from 1<sup>st</sup> July, 2010.

We feel that such increase bound to cause inflation to certain extent, having severed impact on the lower income group of people.

**2. Access to record, documents, etc.****Section 25(2)&(3)**

The Bill seeks to provide power to the officer of Inland Revenue, duly authorised by the Commissioner, to conduct audit of the taxpayer's record once in a year provided that in case Commissioner has information or sufficient evidence showing that Registered Person (RP) is involved in tax fraud or evasion of tax, he may authorize officer not below the rank of Assistant Commissioner to conduct audit. This audit can be carried out even if the same RP was earlier audited by the office of the Auditor General of Pakistan.

The Officer of Inland Revenue after completion the audit shall pass an order u/s 11 or 36 as the case may be.

**3. Selection for audit by the Board****Section 72B**

The Bill seeks to propose a new section which will enable the Board to select persons or classes of persons for audit of tax affairs through computer ballot which may be random or parametric as the Board may deemed fit.

The insertion of this provision will avoid the unnecessary litigation on the selection procedure through random balloting, as seen in the past.



**4. Amendment already enacted and made through Finance (Amendment) Ordinance, 2009 w.e.f February 06, 2010.**

Following are the major amendments which had already been made in the Sales Tax Act, 1990 through Finance (Amendment) Ordinance 2009 on February 06, 2010 but since the date of this ordinance has not been extended by President of Pakistan on June 05, 2010 therefore these amendments have lapsed. Accordingly the Bill seeks to insert these amendments to give them legal cover to remain effective on or after June 5, 2010:

**4.1 Re-designation of administrative and adjudicating authorities**

Re-designation of administrative and adjudicating authorities of sales tax to amass and harmonize the authorities of three domestic taxes i.e. income tax, sales tax and central excise duty:

<b>Reference given in Sections</b>	<b>Before amendment sales tax Authority</b>	<b>After amendment sales tax Authority</b>
2(1)	Sales Tax Appellate Tribunal	Appellate Tribunal Inland Revenue, established under Section 130 of the Income Tax Ordinance, 2001
2(2), 11(1),11(2), 11(3),11(5), 25A,37(3), 38(2)&(4), 40(1),40B,46 48,52,55 and 69	Officer of Sales Tax	Officer Inland Revenue
3(f)(iv), 2(5),2(46), 10(3),11(4), 11(5),21(2), 23(3),26(3), 27(b),32A(2) 36,38A,38B, 40B,45A,47 49A,58A, 58B and 66	Collector of Sales Tax	Commissioner Inland Revenue
2(4)	Not defined	Chief Commissioner Inland Revenue
30,45B and 46	Collector (Appeals)	Commissioner Inland Revenue (Appeals)
30 and 47A	Additional Collector Sales Tax	Additional Commissioner Inland Revenue
30	Deputy Collector Sales Tax	Deputy Commissioner Inland Revenue
30	Assistant Collector Sales Tax	Assistant Commissioner Inland Revenue
30	Superintendent Sales Tax	Superintendent Inland Revenue
30	Senior audit Sales Tax	Senior auditor Inland Revenue

**4.2 Definition of Chief Commissioner Section 2(4A)**

The definition of Chief Commissioner Inland Revenue proposed to be inserted to harmonize the higher administrative authority for the three domestic taxes i.e. income tax, sales tax and federal excise duty.

**4.3 Definition of Commissioner Section 2(5)**

The definition of Commissioner Inland Revenue is proposed to be inserted to harmonize the administrative authority for the three domestic taxes i.e. income tax, sales tax and federal excise duty.

**4.4 Definition of Local Inland Revenue Office Section 2(15)**

Means office of the Superintendent of Inland Revenue and such other office as the Board may by notification in official gazette.

**4.5 Definition of Inland Revenue Officer Section 2(18)**

The term Inland Revenue Officer is proposed to be inserted to harmonize the administrative authority for the three domestic taxes i.e. income tax, sales tax and federal excise duty.

**4.6 Retention of record and documents Section 24**

Before the amendments made through Finance (Amendments) Ordinance, 2010 a taxpayer was required to maintained and keep sales tax record for a period of 5 years. The Bill seeks to increase record retention period for 6 years or till such period the final decision of any proceeding including proceeding for assessment, appeal, revision, reference, petition and any proceedings before an Alternate Dispute Resolution Committee (ADRC) is finalized.

**4.7 Transactions between associates Section 25AA**

To make the sales tax law in line with income tax a concept of arm's length transactions between associate has been introduced.

**4.8 Appointment of authorities Section 30**

The Bills seeks to authorize the Board for the appointment of the following authorities:

- (a) Chief Commissioner Inland Revenue;
- (b) Commissioner Inland Revenue;
- (c) Commissioner Inland Revenue (Appeals); 14
- (d) Additional Commissioner Inland Revenue;
- (e) Deputy Commissioner Inland Revenue;
- (f) Assistant Commissioner Inland Revenue;

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

**4.9 Delegation of power****Section 32**

The Bill seeks to empower the Board or the Chief Commissioner, with the approval of the Board, to delegate its power to the following officers of Inland Revenue subject to certain conditions and limitations:

- (a) Additional Commissioner Inland Revenue or Deputy Commissioner Inland Revenue to exercise any of the powers of a Commissioner Inland Revenue under this Act;
- (b) Deputy Commissioner Inland Revenue or Assistant Commissioner Inland Revenue to exercise any of the powers of an Additional Commissioner Inland Revenue under this Act;
- (c) Assistant Commissioner Inland Revenue to exercise any of the powers of Deputy Commissioner Inland Revenue under this Act;
- (d) any other officer of Inland Revenue to exercise any of the powers of an Assistant Commissioner Inland Revenue under this Act.

This amendment seeks to empower commissioner besides the Board.

**4.10 Power of Adjudication****Section 45**

After introducing the amendments in section 25, the same become superfluous hence Bill seeks to omit this section.

**4.11 Appeals****Section 45B(1)**

The Bill seeks to substitute subsection 1 of section 45B to read as follows:

- (1) Any person, other than the Sales Tax Department, aggrieved by any decision or order passed under sections 10, 11, 25, 36, or 66, by an officer of Inland Revenue may, within thirty days of the 19 date of receipt of such decision or order, prefer appeal to the Commissioner Inland Revenue (Appeals) :

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

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

**4.12 Appeals to Appellate Tribunal****Section 46(2A)**

This sub-section proposed to insert to shift appellate jurisdiction of Sales Tax cases from Customs Tribunal to Appellate Tribunal constituted u/s 130 of the Income Tax Ordinance, 2001 w.e.f. 28<sup>th</sup> day of October 2009.

**4.13 Service of order, decisions, etc.****Section 56**

To harmonize service of order and decisions of three domestic taxes and to be in line with Income Tax Laws, the Bill seeks to substitute this section as follows:

- (1) Subject to this Act, any notice, order or requisition required to be served on a resident individual, other than in a representative capacity, for the purposes of this Act shall be treated as properly served on the individual if:
  - (a) personally served on the individual or, in the case of an individual under a legal disability or a non-resident individual, the representative of the individual;
  - (b) sent by registered post or courier service to the place specified in clause (b) of sub-section (2) or to the individual's usual or last known address in Pakistan; or
  - (c) served on the individual in the manner prescribed for service of a summons under the Code of Civil Procedure, 1908 (V of 1908).
- (2) Subject to this Act, any notice, order or requisition required to be served on any person, other than a resident individual to whom sub-section (1) applies, for the purposes of this Act, shall be treated as properly served on the person if:
  - (a) personally served on the representative of the person;
  - (b) sent by registered post or courier service to the person's registered office or address for service of notices under this Act, in Pakistan, or where the person does not have such office or address, the notice is sent by registered post to any office or place of business of the person in Pakistan; or
  - (c) served on the person in the manner prescribed for service of a summons under the Code of Civil Procedure, 1908 (V of 1908).
- (3) Where an association of persons is dissolved, any notice, order or requisition required to be served under this Act, on the association may be served on any person who was the principal officer or a member of the association immediately before such dissolution.
- (4) Where, business stands discontinued, any notice, order or requisition required to be served under this Act, on the person discontinuing the business may be served on the person personally or on any individual who was the person's representative at the time of discontinuance.



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

**4.14 Reference to authorities**

**Section 72A**

The Bill seeks to insert this section to give general protection to change mode in respect of nomenclature of authorities given in Sales Tax Act, Rules, Circular and Notification, etc.

**Summary of significant notifications issued simultaneously with the Finance Bill, 2010-11 with their effective dates, alongwith our brief comments is tabulated below:**

	<u>SRO No.</u>	<u>Dated</u>	<u>Subject matter</u>	<u>Effective from</u>
1	395(I)/2010	5-06-2010	SRO 644(I)/2007 dated June 27, 2007 specify certain goods on which sales tax shall be charged at the rate of 21% and 18.5%.  Now through this SRO these rates have been increased to 22% and 19.5% respectively.	1-07-2010
2	396(I)/2010	5-06-2010	SRO 313(I)/2006 dated March 31, 2006 deals with import of soyabean seed by solvent extraction industries which are subject to sales tax of 6%.  Now through this SRO rate of sales tax has been increased to 7%.	1-07-2010
3	397(I)/2010	5-06-2010	SRO 669(I)/2006 dated January 28, 2006 deals with import of rapeseed, sunflower seed and canola seed by solvent extraction industries which is subject sales tax 14%.  Now through this SRO rate of sales tax has been increased to 15%.	1-07-2010
4	398(I)/2010	13-06-2009	Sub-rule 2 (c) of rule 20 of the Sales Tax Special Procedure Rules 2007 prescribes that transmission and distribution companies shall charge 25% sales tax to CNG stations.  Now through this SRO this rate of sales tax has been increased to 26%.	1-07-2010

**The imposition of Value Added Tax (VAT) has been deferred for a period of three months till September 30, 2010. The salient features of VAT are jot down as under:**

- VAT is similar to a sales tax. It is a tax on the market value added to a product or material at each stage of its manufacture or distribution, ultimately passed on to the consumer.
- Goods and services will be subject to tax at a uniform rate of 15%.
- Exempt goods and services are clearly defined which are few in numbers such as food and educational services of Government institutions.
- Zero rating only to exports and only few other such as Warranty claims, maintenance, sale of economic activity, Basic medicine etc.
- No exemption or zero rating can be made by any government department or authority , except as expressly provided in the VAT Act.
- Late filing of VAT return only with the approval of the Board.
- Revision of VAT return within three years and only after the approval of the Board.
- Adjustment of 100% input tax allowed in case of manufacturer.
- Second Hand Goods (SHG) are subject to tax, Input tax adjustment is allowed by tax fraction.
- Supplier is entitled to adjust output tax paid which relate to bad debts in the period in which he/she actually write off these bad debts.
- Supply that is progressive or periodic and that provides for progressive or periodic payments shall be treated a separate supply.
- All Goods and services are taxable unless specified.
- If sales are up to 25,000 and the buyer is unregistered person then supplier will issue Sales Receipt instead of Sales Tax Invoice.
- Turnover threshold for registration is Rs. 7.5 million or more during the last 12 months other than voluntary registration.
- Carry forward of refund can be made up to six month

- Refund of VAT input tax will be without carry forward If:
  - (i) 50% or more person's turnover is or will be zero rated export;
  - (ii) 50% or more input relate to zero rated export.
- If advance tax paid + tax withheld by others (Government department or LTU) is greater than output tax + increasing adjustments then the amount shall be refunded without carry forward.
- Within 45 days after application and in case of delay additional refund @ KIBOR however where an officer of IRS suspects or believes that some documents are not genuine, true or correct, he may reject the claim.
- Increase of advance tax rate for commercial importer from 2% to 3.75%.
- Increase of withholding tax by LTU taxpayer from supplier assessed in RTO from 3.2% to 3.75%.
- Input tax will include:
  - VAT paid on purchase of goods
  - VAT paid on import of goods
  - VAT paid on purchase of services
  - VAT paid on import of services
- Output tax will include:
  - VAT received on sales of goods
  - VAT received on sales of services
  - VAT paid on purchases of services
- Adjustment of input VAT will only be allowed to buyer if the supplier paid output VAT and in the tax period in which the supplier paid output tax and within the subsequent six tax periods.
- Forensic Audit to find out fact behind the figures with unlimited powers to the officers of Inland Revenue to go to any extent for carrying out investigation against a registered unit.

After the implementation of VAT sales tax and central excise duty laws will be abolished.

**SALIENT FEATURES OF BUDGET 2010 - FEDERAL EXCISE DUTY**

- The adjustment of FED paid on beverage concentrate has been allowed. The measure may lead to new investment in beverage industry and reducing the prices of aerated waters. This change has been enforced through SRO 399(I)/2010 dated 05.06.2010, effective from the 1st July, 2010.
- The rate of Federal Excise Duty on Natural Gas has been enhanced from Rs.5.09 per MMBTu to Rs.10/- per MMBTu aiming to put heavy load on the shoulders of common man. The revised rate is effective from the 1st July, 2010.
- The enhancement of rate of Federal Excise on locally produced Cigarettes in different slabs has been enforced effective from the 6th June, 2010. Further levy of Federal Excise Duty @ Rs.1/- per filter rod of cigarettes has also been levied and is effective from the 6th June, 2010.
- The Federal Excise Duty @ 10% has been levied on electricity intensive home appliances comprising Deep Freezers and Air Conditioners. This revision is effective from the 6th June, 2010.

**COMMENTS ON AMENDMENTS PROPOSED VIDE FINANCE BILL 2010  
IN THE FEDERAL EXCISE ACT, 2005**

1. The restructuring of the Federal Board of Revenue renders the merger of jurisdictions of the Income Tax, Sales tax and Federal Excise Departments which leads the promulgation of Finance Amendment Ordinance, 2002. To harmonize the functions and powers of the merged departments under newly constituted department the term “Inland Revenue” has been introduced so far.

The bill seeks to ratify the amendments already implemented by the Federal Board of Revenue through Finance (Amendment) Ordinance 2009 w.e.f. February 06, 2010.

<b><u>Section</u></b>	<b><u>Adjudicating Authority before amendment</u></b>	<b><u>Adjudicating Authority after amendment</u></b>
2(3)	Federal Excise Appellate Tribunal	Appellate Tribunal Inland Revenue established under Section 130 of the Income Tax Ordinance, 2001 (XLIX of 2001)
4(4)	Collector of Federal Excise	Commissioner Inland Revenue
2(12)	Federal Excise Officer	Officer of Inland Revenue
9(2)	Collector	Commissioner
14(2)	Federal Excise Officer	Officer of Inland Revenue
19(2a & c)	Federal Excise Officer	Officer of Inland Revenue
19(4)	Collector	Commissioner
19(6)	Federal Excise Officer	Officer of Inland Revenue
19(10)	Collector	Commissioner
21(4)	Federal Excise Officer	Officer of Inland Revenue
22(1,5,6,7,8,10 11,13 & 14)	Federal Excise Officer Collector	Officer of Inland Revenue Commissioner
23(1)	Federal Excise Officer	Officer of Inland Revenue



24	Federal Excise Officer	Officer of Inland Revenue
27(3)	Collector	Commissioner
29(3)	Collector of Federal Excise	Commissioner Inland Revenue
	Additional Collector of Federal Excise	Additional Commissioner Inland Revenue
	Deputy Collector of Federal Excise	Deputy Commissioner Inland Revenue
	Assistant Collector of Federal Excise	Assistant Commissioner Inland Revenue
	Officer of Federal Excise	Officer of Inland Revenue
30(2)	Federal Excise Officer	Officer of Inland Revenue
33(Heading) (1, 2 & 3)	Collector	Commissioner
33(1 )	Federal Excise Officer upto the rank of Additional Collector of Federal Excise	Officer of Inland Revenue upto the rank of Additional Commissioner Inland Revenue
34(1)	Federal Excise Officer	Officer of Inland Revenue
(a)	Collector	Commissioner
(b)	Collector of Federal Excise	Inland Revenue
34(3)	Any officer of Federal Excise not below the rank of Additional Collector Authorized By the Collector	Any officer of Inland Revenue not below the rank of additional Commissioner authorized by the Commissioner
34(9) (Proviso)	Additional Collector authorized by the Collector	Additional Commissioner authorized by the Commissioner
	Authorizing the Collector	Authorizing the Commissioner
34(12)	Additional Collector authorized by the Collector	Additional Commissioner authorized by the Commissioner
34(13)	Collector	Commissioner



35 (heading)	Collector	Commissioner
35(1)	Collector	Commissioner
35(3)	Federal Excise Officer	Officer of Inland Revenue
36(1)	Federal Excise Officer	Officer of Inland Revenue
37(1, 2 & 3)	Collector (Appeals)	Commissioner ((Appeals)
38(2)	Any officer of Federal Excise not below the rank of Additional Collector	Any officer of Inland Revenue not below the rank of additional Commissioner
43(2)	Collector Federal Excise Officer	Commissioner Officer of Inland Revenue
44(2)	Collector	Commissioner
(Proviso)	Collector & Officer of Federal Excise	Commissioner & Officer of Inland Revenue
45(1)	Federal Excise Officer	Officer of Inland Revenue
45(2)	Federal Excise Officer	Officer of Inland Revenue
(Proviso)	Federal Excise Officer Collector	Officer of Inland Revenue Commissioner
46(1)	Federal Excise Officer	Officer of Inland Revenue
46(2)	Collector Federal Excise Officer Assistant Collector	Commissioner Officer of Inland Revenue Assistant Commissioner
Third Schedule Table-I Column 2 Paragraph (iii) (b)	Collector of Federal Excise	Commissioner Inland Revenue

**2. Definition of Chief Commissioner** **Section 2(4A)**

The Bill seeks to insert the definition of “Chief Commissioner” in the Federal Excise Act, 2005 as “a person appointed as the Chief Commissioner Inland Revenue under section 29”. This term harmonizes the higher administrative authority for the three domestic taxes i.e., income tax, sales tax and federal excise duty.

**3. Appointment of Commissioner Inland Revenue** **Section 2(5)**

The Bill Seeks to ratify the appointment of Commissioner Inland Revenue by the board instead of Collector as defined under section 29 of the Act to harmonize the administrative authority for the three domestic taxes i.e., income tax, sales tax and federal excise duty.

**4. Record** **Section 17(1)**

The registered person is required to maintain and keep the record for a period of five years under the Federal Excise Act 2005.

The bill proposes to maintain and keep the record for a period of six years or till the final decision of any proceedings including proceeding for assessment, appeal, revision, reference, petition and any proceeding before an Alternate Dispute Resolution Committee.

**5. Appointment of Inland Revenue Officers** **Section 29**

The Bill seeks to authorize the Board for appointment and delegation of powers of the following Adjudication Authorities:

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

**6. Delegation of powers Section 29 (1A), (1B) and (1C)**

The bill proposes to insert these subsections in order to provide the hierarchy of the adjudicating authorities.

**7. Powers of Commissioner Inland Revenue Section 29 (4)**

Due to insertion of subsection (1A), (1B) and (1C), this subsection seems to be superfluous so the bill proposes to delete this sub-section.

**8. Powers of Adjudication Section 31**

The hierarchy of the powers of adjudicating authorities has been fixed in section 29 above; therefore, this section seems to be superfluous, hence, proposed to be omitted.

**9. Appeals to the Appellate Tribunal and Reference to high Court Section 34 (2)**

Through the promulgation of Finance Amendment Ordinance 2009, the Custom Department has been separated from the Inland Revenue therefore; this section seems to be superfluous. The Bill proposes to delete this section.

**10. Reference to High Court Section 34A**

The section 34 of the Act carries the words “Reference to High Court” in its heading but the procedure had not been discussed so far. Now the bill proposes to insert section 34A laid down the procedure and limitation for filing a reference to the High Court for both the stake holders.

**11. Reference to Authorities Section 42A**

The bill proposes to insert a new section 42A to provide deeming provision in connection with reference to the Adjudicating authorities to be treated as reference to the reconstituted authorities in anywhere in the Act, rules, notifications, clarifications. General orders or orders made or issued.

**12. Selection for audit by the Board section 42B**

The purpose of this section is to authorize the board to select persons or classes of persons for audit of records and documents through computer ballot which may be random or parametric as the Board may deem fit.

**13. Departmental Audit** **Section 46(1)**

As per existing provision the Board was authorized to appoint Officer of inland Revenue to conduct audit of the records and documents of a registered person by giving advance notice in writing.

This bill proposes to give this authority to the Commissioner as well.

**14. Departmental Audit** **Section 46 (2A)**

By insertion of this section, the officer of Inland Revenue will be authorized to pass an order under section 14 on the basis of audit queries, imposing the amount of duty as per law, charging default surcharge, imposing penalties and recovery of any amount erroneously refunded. But the Officer of Inland Revenue will not be authorized to issue such order without obtaining the prior explanation of registered person on the issues raised in the audit.

**15. Departmental Audit** **Section 46(3)**

By virtue of proposed insertion of section 46(2A), the bill seeks to deposit the unpaid, short paid, evaded amount of duty alongwith default surcharge during or after the audit but before the determination of such liability by the officer of Inland Revenue.

**16. Service of Notices and other documents** **Section 47**

By virtue of this amendment the bill seeks to enhance the scope of service of notice and define the procedures and limitations for service of notice in different situations.

To harmonize service of order and decisions of three domestic taxes and to be in line with Income Tax Laws this section has been substituted as follows :

- (1) Subject to this Act, any notice, order or requisition required to be served on a resident individual, other than in a representative capacity, for the purposes of this Act shall be treated as properly served on the individual if:
  - (a) Personally served on the individual or, in the case of an individual under a legal disability or a non-resident individual, the representative of the individual;
  - (b) sent by registered post or courier service to the place specified in clause (b) of sub-section (2) or to the individual's usual or last known address in Pakistan; or



- (c) served on the individual in the manner prescribed for service of a summons under the Code of Civil Procedure, 1908 (V of 1908).
  
- (2) Subject to this Act, any notice, order or requisition required to be served on any person, other than a resident individual to whom sub-section (1) applies, for the purposes of this Act, shall be treated as properly served on the person if:
  - (a) personally served on the representative of the person;
  - (b) sent by registered post or courier service to the person’s registered office or address for service of notices under this Act, in Pakistan, or where the person does not have such office or address, the notice is sent by registered post to any office or place of business of the person in Pakistan; or
  - (c) served on the person in the manner prescribed for service of a summons under the Code of Civil Procedure, 1908 (V of 1908).
  
- (3) Where an association of persons is dissolved, any notice, order or requisition required to be served under this Act, on the association may be served on any person who was the principal officer or a member of the association immediately before such dissolution.
  
- (4) Where, business stands discontinued, any notice, order or requisition required to be served under this Act, on the person discontinuing the business may be served on the person personally or on any individual who was the person’s representative at the time of discontinuance.
  
- (5) The validity of any notice issued under this Act, or the validity of any service of a notice under this Act, shall not be called into question after the notice has been complied with in any manner.

**The detail of proposed amendments in the First Schedule is as under:**

Table No.	Relevant Entry in Table	Existing		Existing	
		Description	Rate of duty	Description	Rate of duty
1	8	Cigars, cheroots, cigarillos and cigarettes, of tobacco substitutes.	64% of Retail Price	Same	65% of Retail Price
2	9	Locally produced cigarettes if their retail price exceeds nineteen	64% of Retail Price	Same	65% of Retail Price



		rupees and fifty paise per ten cigarettes.			
3	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.	Four rupees and seventy Five paisas per ten cigarettes plus seventy per cent per incremental rupee or part thereof.	Same	Five rupees and twenty Five paisas per ten cigarettes plus seventy per cent per incremental rupee or part thereof.
4	12	Cigarettes manufactured by a manufacturer who remains engaged on and after the 10th June, 1994, either directly or through any other arrangement, in the manufacture of any brand of cigarette in non-tariff areas.	Sixty Four percent of retail price.	Same	Sixty Five percent of retail price.
5	36	Natural Gas in gaseous state	Five rupees and nine paise per Million British Thermal Unit	Same	Ten rupees per Million British Thermal Unit
6	37	Other petroleum Gases in gaseous state	Five rupees and nine paise per Million British Thermal Unit	Same	Ten rupees per Million British Thermal Unit
7	50	New Insertion	0	Filter rods for Cigarettes	One Rupee per filter rod
8	51	New Insertion	0	Air Conditioners	10 percent ad val.
9	52	New Insertion	0	Deep Freezers	10 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 2010-11.";