

Tax Commentary 2010



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Notice:

*RASG is also pleased to notify its valued clients, friends and associates that our website, www.rasgco.com has been uploaded with our “**Tax Commentary - 2010**” and a digital copy of the Commentary can also be downloaded both in ‘MS Word’ and ‘PDF’ formats.*

Special Thanks:

For the excellent teamwork displayed by the staff of RASG as well as our other associates and printers during the preparation of this document.

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ALHAMDULILLAH

RIAZ AHMAD SAQIB GOHAR & CO. (RASG) is pleased to present the highlights comparison and comments on this year's budget to its client, friends and associates. While developing this document every endeavor has been made to keep the presentation simple with the view to help our readers understand the amendments proposed in the various statutes through the Finance Bill, 2010.

This commentary reflects our understanding of the legislation and we recommended that reference should be made to the precise wording of the bill wherever necessary we would also recommend that the professional advice should be sought before acting upon any of the proposed amendments.

The production of this year's "Tax Commentary" was a great challenge for the RASG Team. As you are aware that I have been recently operated for a "Cardiac Surgery" therefore I was not able to give my 100%. The things were further aggravated with the tough weather conditions in Karachi. Despite these complications, we endeavored to bring this publication to your hands within a reasonable time and with utmost care while interpreting the proposed amendments.

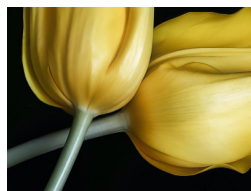
We offer special thanks to our clients, friends and associates whose support and feedback always encourages us to deliver better.

In the end, it would be unfair if I do not acknowledge the efforts put in by all members of my team specially my partner Mr. Adeel Shahzad and my dearest Mr. Fareed H. Siddique without their leadership qualities and effort this would not have been possible.
THANK YOU VERY MUCH!

Regards

Gohar Manzoor
Managing Partner

June 6, 2010



Federal Budget 2010-2011 Highlights



INCOME TAX

- In case of Business Individual taxpayers the limit is proposed to be enhanced to Rs. 300,000/- from the previous limit of Rs. 100,000/- in order to relieve large number of taxpayers.
- Basic exemption available to Salaried Taxpayers including that of salaried women in respect of Income Tax is proposed to be enhanced from Rs. 200,000 to Rs. 300,000/-.
- The limit of taxable income for reduction in tax liability in case of senior citizens is proposed to be enhanced to Rs. 1,000,000/-
- Withholding tax on electricity for industrial and commercial connection is proposed to be reduced to 5% from the existing rate of 10%.
- In order to support the economies of Khyber Paktunkhwa province including Tribal areas some relief packages are proposed to be announced as under but will not include manufacturers and suppliers of cement, sugar, beverages and cigarettes:
 - Waiver of entire amount of default surcharge & penalty till 30th June 2010;
 - Exemption from advance tax on electricity for tax years 2010 and 2011;
 - Exemption from withholding tax on exports;
 - Recovery of outstanding income tax arrears through easy installments;
 - Enhancement of income tax exemption limit from Rs.0.1 million to Rs.0.3 million
 - Annual Audit with the approval of FBR; and
 - Exemption from advance tax on import of plant and machinery upto 30th June 2011.
- A section is proposed to be introduced for 100% Depreciation expense claim on account of Ramp built for providing access to disabled persons.
- A straight procedure for e-filing withholding statements only on quarterly basis is proposed to be introduced to facilitate withholding agents.
- A 10% admissible tax credit from the tax year 2011 to 2015 is proposed to be provided on BMR costs for listed companies.
- In order to encourage the corporate sector, a tax credit of 5% is proposed to be allowed in the initial year of enlistment for a company.
- Withholding on Government Securities is proposed to be treated as a Final Tax.

- Relief is proposed for non-resident taxpayers on account of withholding on debt instruments as a Final Tax.
- Presently, the withholding tax applicable on payments made to non-resident taxpayers, not subject to Avoidance of Double Taxation Treaties is 30%. The existing rate is proposed to be reduced to 20%.
- Withholding tax rate @ 20% on cross-word puzzle is proposed to be reduced to 10%, considering the overall demand.
- A straight tax rate @ 25% is proposed to be imposed on the taxable income of Association of Persons.
- Withholding tax on commercial imports is proposed to be enhanced to 5%.
- Capital gain tax is proposed to be imposed on gains on sale of securities which will be calculated on the basis of time limit (10% for six months or less & 7.5% on six months to twelve months and no tax for above the period of 12 months).
- In order to simplify the slab rates on goods transport vehicle, the tax is proposed to be charged @ Rs. 1 per kilogram of the laden capacity and the existing rates are proposed to be eliminated.
- Advance tax deduction is proposed @ 0.3% on all banking instruments if total of withdrawal exceeds Rs. 25,000/- in a single day.
- Turnover Tax under section 113 is proposed to be enhanced from 0.5% to 1%.
- Adjustable withholding tax @ 5% is proposed on the gross value of Air ticket
- Filing of wealth statement is proposed in FTR cases where the yearly tax deduction is Rs. 35,000 or more. Currently, the limit is Rs. 25,000/-.
- Payments of quarterly advance tax are proposed to be paid by the 25th of the last month of the quarter.
- An individual having a turnover of Rs. Fifty million or more is proposed to be included in the definition of withholding agent.
- Provision for advances and off balance sheet items at 5% of total advances for consumers and SMEs allowed.
- write off of irrecoverable advances provided for in the tax year 2008 or prior tax years and were neither claimed nor allowed as a tax deductible in any tax year; allowed.

SALES TAX and FED

- Restricted adjustment of FED is proposed to be withdrawn for beverage industry.
- Flat rate of Sales Tax is proposed @ 17%.
- Enhanced FED is proposed on Natural Gas.
- Enhanced FED is proposed on locally manufactured cigarettes with immediate effect.
- Levy of 10% FED on all home appliances is proposed with immediate effect.

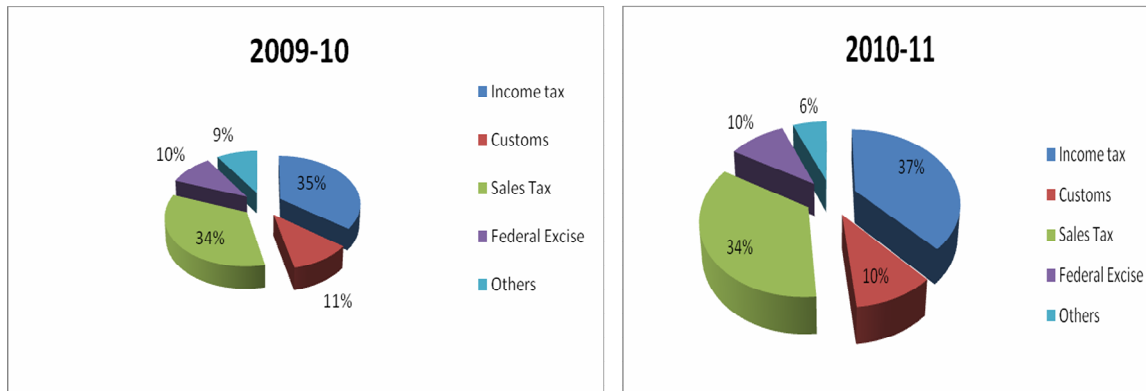
CUSTOMS

- Reduced custom duty @ 5% is proposed on pharmaceutical raw material & drugs.
- Exemption proposed on import of photographic plates, x-ray films, laundry soap, detergents, crude palm oil raw materials of leather & glass industry.
- Exemption on LPG buses and dispensing equipment is proposed.
- Concessional rates are proposed on imports of local government machinery.
- Exemption of custom duty on import of raw material for energy savings lamps is proposed for local manufacturers.
- Exemption of custom duty & sales tax is proposed on rice processing machinery.
- Duty on milk filters is proposed to be exempted for boosting up dairy industry.
- L.E.D. T.V. is proposed to be included in concessionary regime for local manufacturers
- Duty on copper & aluminum tubes and electro galvanized steel sheets is proposed to be reduced to 5% for evaporators and washing machine manufacturers.
- Duty on silk yarn spun is proposed to be exempted
- Keeping in view the fluctuating rates of US\$ and gold the related provisions of Custom Act is proposed to be enhanced to Rs. 150,000/-.
- Regulatory duty is proposed to be inserted for valuation of exported goods.
- General penalty is proposed to be enhanced to Rs. 50,000/-

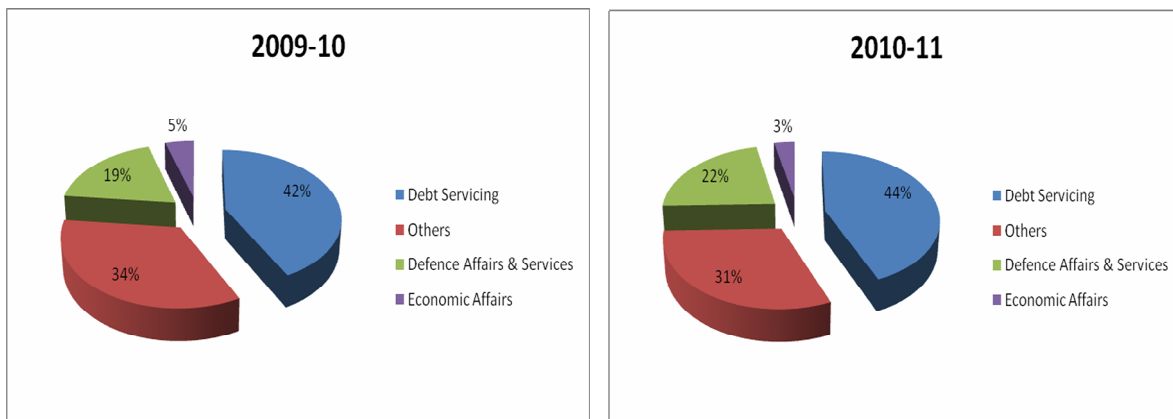


BUDGET AT A GLANCE 2010-11

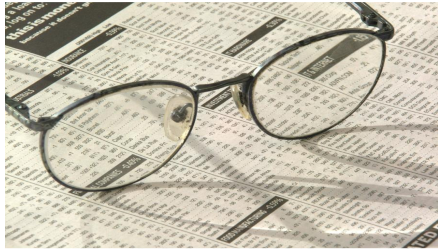
	Budget Estimates			
	2009-10		2010-11	
	Rs. in Bn.	%	Rs. in Bn.	%
Resources				
Direct Taxes				
Income tax	536.2	22%	657.7	24%
Others	21.1	1%	0.0	0%
	557.3	22%	657.7	24%
Indirect taxes				
Customs	167.2	7%	181.0	7%
Sales Tax	515.6	21%	675.0	24%
Federal Excise	137.4	6%	153.0	6%
Others	135.5	5%	112.0	4%
	955.7	39%	1121.0	41%
Total Tax Revenue	1513.0	61%	1778.7	64%
Non Tax Revenue	513.7	21%	632.3	23%
	2026.7	82%	2411.0	87%
Less Provincial Share	655.2	26%	1033.6	37%
	1371.5	55%	1377.4	50%
Net Capital Receipts	190.5	8%	325.4	12%
External Receipts	510.4	21%	386.6	14%
Self Financing By PSDP by Provinces	173.0	7%	341.6	12%
Change in Provincial Cash Balance	72.9	3%	166.9	6%
Privatization Proceeds	19.3	1%	0.0	0%
Bank Borrowings	144.7	6%	166.5	6%
	2482.3	100%	2764.4	100%
Expenditure				
Current Expenditure				
General Public Services				
Debt Servicing	779.6	31%	873.0	33%
Others	491.8	20%	514.7	19%
	1271.4	51%	1387.7	52%
Defence Affairs & Services	342.9	14%	442.2	17%
Economic Affairs	84.9	3%	66.9	3%
	1699.2	68%	1896.8	71%
Development Expenditure				
PSDP	646.0	26%	663.0	25%
Others	137.1	6%	103.5	4%
	783.1	32%	766.5	29%
Total Expenditure	2482.3	100%	2663.3	100%



RESOURCES



EXPENDITURES



ECONOMIC REVIEW 2009-10

According to **Economic Survey of Pakistan 2009-10** launched by Prime Minister's Advisor on Finance and Economic Affairs Dr. Abdul Hafeez Sheikh on Friday, June 4, 2010, the economy has shown its resilience to longstanding economic constraints of escalating inflation, mounting debt-servicing, stagnating domestic tax revenues and rising expenditures on security and subsidies, etc. and was able to revise its growth projections from earlier estimates of 3.3 percent to 4.1 percent. The recovery, although, is above expectations but it is fragile and will remain so till weaknesses in macro-economic framework are forcefully addressed.

Pakistan has achieved initial gains in restoring macro-economic stability in the aftermath severe balance-of payment crisis during the first half of 2008-09, although the economy has to operate under challenging circumstances.

The medium term prospects for the economy are promising, provided the current path of reform is not abandoned. Pakistan has achieved fairly impressive early success in its efforts to stabilize the economy from a parlous state of affairs in the aftermath of the macroeconomic crisis of 2008.

Protecting the recovery is of paramount importance, and the government needs to keep a restrictive stance on public spending. Greater realism about the prospects and accurate forecasts about resources and available funds for the development plans at each level of government is needed.

A number of interlinked actions are needed in the coming year:

- Checking inflation—this involves limiting borrowing by the government and the public sector.
- Bringing people to the centre stage, by appropriately designed employment and training programs to protect those in strife-affected areas, and new entrants to the labor force.
- But there are major risks to the growth and stabilization prospects if there is
 - Non-implementation of the reform of the GST, leading to a VAT, or other significant tax broadening measures;

- This might affect the phased nature of fiscal devolution envisaged under the Eighteenth Constitutional amendment (to be effective from 2011-12), in the context of the frontloaded transfers to the provinces under the Seventh NFC Award (effective from July 1, 2010);
- Larger-than-budgeted security related expenditures;
- Inadequate targeting of subsidies,
- Failing to reform public sector enterprises, including the power sector, with no resolution of the energy circular debt issue;
- Continued overhang of commodity financing debt stock, if unchecked, threatens to constrict access to bank credit by the private sector, while simultaneously increasing the interest rates in the economy;
- A deterioration of the internal security situation.

The tipping of the world economy into a severe recession in the wake of the Euro-zone debt crisis, could hurt Pakistan's exports as well as remittances on the one hand, but could reduce international prices of key commodities such as oil, on the other.

With relatively low levels of capacity utilization in the economy, a turnaround in investor confidence can unleash large productivity gains even with low levels of fixed investment. Nonetheless, overall, a combination of rising fiscal pressures, a developing debt overhang, and an uncertain path of inflation in the near term, significantly reduces policy space to stimulate the economy.

For the longer term, efforts to meaningfully address Pakistan's perennial structural challenges, such as the abysmally low tax/GDP ratio and low overall productivity in the economy, are more than likely to unlock Pakistan's substantial economic potential.

Following is a quick account of various important aspects of the economic survey 2009-10:

Growth

In 2009-10 the economic growth has developed with stronger rate on the back of several favorable developments, which have included:

- ✓ Substantial transfers to the rural sector over the past two years via the government's crop support price policies, which, combined with higher worker remittances
- ✓ ,
- ✓ have sustained aggregate demand in the economy;

- ✓ A larger-than-expected cotton output, which offset the moderately negative impact on the wheat crop caused by a delay in seasonal rains;
- ✓ An ongoing improvement in external demand for Pakistan's exports, mainly textiles;

GDP growth: Sectoral contribution (Percent)					(Percent)
Sector	2005-06	2006-07	2007-08	2008-09	2009-10
Agriculture	24%	13%	6%	71%	11%
Industry	19%	34%	10%	-41%	30%
Manufacturing	28%	24%	24%	-58%	23%
Services	57%	53%	85%	70%	59%
Real GDP (fc)	100%	100%	100%	100%	100%

Source: Federal Bureau of Statistics

Growth in Gross Domestic Product (GDP) has been recorded at a provisional 4.1% despite severe challenges. This compares with GDP growth of 1.2% (revised) in the previous year.

Agriculture sector grew at 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% as against 3.7% of last year. Industrial output expanded by 4.9%, with *Large Scale Manufacturing (LSM)* posting a 4.4% rate of growth.

Services sector grew by 4.6%, as compared to 3.6% in 2008-09.

Signs of a turnaround in segments of the economy notwithstanding, there are continuing areas of concern and reasons for caution.

In order to effectively provide sustainable employment opportunities for the young entrants to the labor force, a higher growth will be needed. In fact, according to the latest *Labor 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%).

Investment

At current market prices, Gross Fixed Capital Formation (GFCF) has been estimated to have declined 0.6%, after recording a 5.5% increase in 2008-09. A decline in fixed investment by the private sector has accounted for the overall change, with an estimated contraction of 3.5% for the year. The bulk of the decline has occurred in *Electricity & Gas*, *Large Scale Manufacturing*, *Transport & Communication*, and *Finance & Insurance*.

A substantial decline in Foreign Direct Investment (FDI) inflows for the period also contributed to the decline in fixed investment in 2009-10. FDI accounts for a high share of gross fixed investment in Pakistan, with a share of close to 20 percent.

Change in GDP growth, Investment, LSM, FDI and Exports					(Percent)
	2005	2006	2007	2008	2009
Real GDP Growth (fc) %	9.1%	5.8%	6.8%	4.1%	1.2%
Fixed Investment %	17.5%	20.5%	20.9%	20.4%	18.1%
Government %GDP	4.3 %	4.8 %	5.6 %	5.4 %	4.9 %
Private %GDP	13.1 %	15.7 %	15.4 %	15.0 %	13.2 %
Foreign Direct Investment (FDI) US \$ bn.	1.5 %	3.5 %	5.1 %	5.2 %	3.7 %
Large Scale Manufacturing %	18.8 %	9.2 %	8.8 %	4.2 %	-8.2 %
Private Sector Credit %	34.4%	23.5%	17.3%	16.5%	0.7%
Export (FBS) US \$ bn	14.39%	16.45%	17.0%	19.1%	14.8%

Source: Federal Bureau of Statistics; State Bank of Pakistan; Economic Adviser's Wing, Ministry of Finance

A large part of the decline in FDI for the period was recorded under Telecommunications (a net decline of US\$ 607 million), and Financial Services (a fall of US\$ 548 million). Combined, the decline in these two sectors, which related to a few "lumpy" transactions, last year, amounted to 81 percent of the overall reduction in FDI in 2009-10. Investment levels in some sectors remained healthy, including in *Oil and Gas exploration* (FDI of US\$ 605 million), *Communications* (US\$ 222 million), *Transport* (US\$ 104 million), *Construction* (US\$ 86 million), and *Paper and Pulp* (US\$ 81 million). Despite a steep decline, inflow of FDI into *Financial Services* was recorded at US\$ 133 million for the period.

Inflation

After a period of containment, inflationary pressure has intensified since October last year on account of a number of adverse developments, including the washing out of the base effect from the previous year and a sharp spike in global commodity prices that has persisted since 2008 and which is exerting strong upward pressure on domestic prices. To some extent, this also reflects the excessive public sector borrowing, as well as adjustments in public utility prices, generated by losses in the public sector enterprises, especially electricity.

Annual Inflation by Commodity Groups

Commodity Group	Weight	(July 2009 □ Apr 2010)		Point Contribution (July 2009 □ Apr 2010)	
		2008 □ 09	2009 □ 10	2008 □ 09	2009 □ 10
		Percent		Percent	
CPI	100	22.3	11.5	22.4	11.5
Food	40.3	26.6	12	10.7	4.8
i) Perishable	5.14	23.2	14.5	1.2	0.7
ii) Non perishable	35.2	28.6	11.7	10.1	4.1
Non □ Food	59.7	19	11	11.3	6.6
Apparel, Textile	6.1	14.9	5.8	0.9	0.4
House Rent	23.4	16.8	14.6	3.9	3.4
Energy	8.7	25.1	10.5	2.2	0.9
Household	3.3	13.5	6.4	0.4	0.2
Transport	7.3	28	3.8	2.1	0.3
Recreation	0.8	12.7	3.1	0.1	0
Education	3.5	16.7	13.3	0.6	0.5
Cleaning	5.9	18.7	10.8	1.1	0.6
Medicare	2.1	12.4	6	0.3	0.1

Source: Federal Bureau of Statistics

As a result, after easing to a recent low of 8.9% in October 2009, overall CPI inflation accelerated to 13.3% year-on-year in April, with food inflation at 14.5% and non-food inflation at 12.2%. Core inflation, as measured by the rate of increase in prices of non-food, non-energy components of the CPI basket, registered an increase of 10.6% year-on-year. On a period-average basis, overall inflation was recorded at 11.5% for July to April. The State Bank of Pakistan expects the average CPI inflation for the current fiscal year to remain close to 12%.

The refueling of inflationary pressure is evident in all price indices, with the Wholesale Price Index (WPI) rising uphill 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, versus 6.7% in October 2009.

The resurgence of inflation is not restricted to Pakistan and is both a global as well as a regional phenomenon, though with varying orders of magnitude.

In terms of mitigation strategies, policy options have been limited for much of the current fiscal year in the backdrop of high – and rising – international commodity prices. Imports under these conditions are not likely to dampen domestic prices, except to the extent of excess pressure caused by domestic shortfalls, if any.

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. However, there are clear limitations to this strategy, including the diminishing responsiveness of output to price incentives, the impact on the general price level, and the implication for recourse to budgetary resources, especially in the case of wheat. A shift to more *intensive* agriculture is the need of the hour, with returns to farmers linked to better yields (volume-based) rather than to a price-based mechanism of support.

Poverty & Income Inequality

In the absence of an official recent poverty survey, it is unclear what the distributional effects of developments in the global as well as domestic economic landscape over the past two years have been. The reduction in inflation from 25 percent to single digits represents the most significant benefit of the stabilization as far as the poor are concerned. Yet greater unemployment and the fairly steep adjustment in administered prices of food and energy, has, in all likelihood, adversely impacted vulnerable segments of the population, especially those on low and fixed incomes, and in the urban areas.

Public finances

Pakistan's public finances have come under increasing strain over the past two years due, in large part, to substantial outlays on electricity subsidies. Despite a sharp upward adjustment over the past two years, amounting to over 60% for some consumer categories, electricity tariffs have still not reached cost-recovery for the public sector utilities. In large part, this is due to two adverse developments in operation for much of the last over one year. First, lower rainfall reduced power generation from the dams. Second, the adverse shift in the energy generation mix towards fuel oil has been accompanied by a near-doubling of international oil prices between January 2009 and April 2010.

The heavy recourse by the government to borrowing from the domestic banking system led to fears of crowding out of the private sector. However this was obviated by weak credit demand from the private sector, as well as improved liquidity in the banking system. Nonetheless, there was an unintended consequence: interest rates moved upward as a result.

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.

Meeting the expected expenditure requirements in the medium term will require redressing the fundamental weaknesses in the structure of public finances. These perennial weak links have remained unaddressed in the past, and include a low, and declining, ratio of tax collection to GDP; weak incentives for improvements in provincial finances, which could possibly have been weakened further by the new NFC award; and, leakages in public sector expenditure.

External account

Amid still-difficult global economic conditions, large costs to exports imposed by the war on terror, and a severe energy crisis faced by Pakistan's economy, the external sector witnessed an overall improvement during 2009-10. This recovery was mainly contributed by a sharp narrowing of the current account deficit which more than offset the declining financial account surplus during the period. In addition, macroeconomic stabilization measures taken by the government also significantly contributed to overall improvement in the external sector of Pakistan.

The external current account deficit is expected to contract to around 2.8 percent of GDP in the outgoing year. This large improvement is mainly on the back of a steep decline in imports for much of the year, improving exports as world demand is gradually restored, and a continued increase in worker remittances, which are expected to reach 4.8 percent of GDP for the full fiscal year. Worker remittances have increased from US\$ 6.4 billion in July-April 2008-09 to US\$ 7.3 billion in ten months of the current fiscal year (July-April). A large part of the recent increase in remittances, which appears to be secular in nature, has emanated from a policy initiative of the government in early 2009 called the *Pakistan Remittance Initiative (PRI)*. With the potential for formalizing the remittances market estimated between US\$ 16 billion (World Bank) and US\$ 21 billion (PRI) annually, further success on this front can have far-reaching positive effects on stability of Pakistan's balance of payments in the years ahead.

An added factor that is likely to extend support to the external account in the months ahead, and possibly for much of 2010-11, is the collapse in global commodity prices induced by the Euro zone-wide contagion from the ongoing Greek debt crisis. Since the start of the difficulties in Greece earlier in 2010, international oil prices have fallen by over 11 percent. However, developments on this front could potentially also impact remittances and exports, especially if the fall out is not contained, and spreads to other regions. On balance, it appears for now that, in immediate terms at least, the deflation in import payments will outweigh the other factors, as evident from Figure 2. If so, this could insulate the external account from pressure in the near term.

Public debt

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.

The bulk of the increase in public debt in the first nine months of 2009-10 has been recorded under higher-cost domestic debt, with the government forced to borrow from the onshore credit markets in the absence of meaningful flows of external assistance, barring disbursements under the IMF loan. Domestic debt rose 22% in annualized terms during July to March. Another source of increase has been the depreciation of the Rupee against the US dollar between July 2009 and March 2010, amounting to 4.4%. The weaker Rupee added 17% to public debt in the first nine months of the year.

Public debt has risen rapidly since 2005-06. While the relative debt burden measured either as a percent of GDP or of total revenue, does not depict a significant deterioration in the debt dynamic, the net annual addition to the debt stock has been fairly rapid over the past 4 years.

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.

In the context of a rising stock of public debt, it is important to make the nexus between, on the one hand, the weak tax effort that has characterized Pakistan's policy landscape for the last several decades, and on the other, the reversal of the favorable debt dynamic that had been set in motion earlier.



INCOME TAX ORDINANCE, 2001

Definitions

SECTION 2(2)

Existing	Proposed Amendment
<p>“Appellate Tribunal” means the Appellate Tribunal Inland Revenue established under section 130;</p>	<p>Appellate Tribunal means the Appellate Tribunal Inland Revenue established under section 130;</p>
<p>Comments: It is proposed to regularize the amendments made earlier by the Finance (Amendment) Ordinance, 2009 dated October 28, 2009 and the Finance (Amendment) Ordinance, 2010 dated February 6, 2010 to provide for a unified appellate forum “Appellate Tribunal Inland Revenue” for the three domestic taxes namely Income Tax, Sales Tax, and Federal Excises</p>	

Definitions

SECTION 2(11B)

Existing	Proposed Amendment
<p>“New Sub-Clauses shall be added”</p>	<p>Chief Commissioner means a person appointed as Chief Commissioner Inland Revenue under section 208 and includes a Regional Commissioner of Income Tax and a Director General of Income Tax and Sales Tax;</p>
<p>Comments: It is proposed to regularize the amendments earlier made by the Finance (Amendment) Ordinance, 2009 dated October 28, 2009 and the Finance (Amendment) Ordinance, 2010 dated February 6, 2010 to provide for a unified designation of the “Chief Commissioner Inland Revenue” for functional and operational integration of the domestic taxes.</p>	

Definitions

SECTION 2(13)

Existing	Proposed Amendment
<p>“Commissioner” means a person appointed as Commissioner Inland Revenue under section 208 and includes any other authority vested with all or any of the powers and functions of the Commissioner.</p>	<p>Commissioner means a person appointed as Commissioner Inland Revenue under section 208 and includes any other authority vested with all or any of the powers and functions of the Commissioner;”;</p>
<p>Comments: As is the case with proposed amendments relating to clause (2) and (11) of the Section 2 of the Income Tax Ordinance, 2001 (<i>the Ordinance</i>), the bill seeks to regularize the amendments earlier made by the Finance (Amendment) Ordinance, 2009</p>	

Definitions**SECTION 2(13)**

dated October 28, 2009 and the Finance (Amendment) Ordinance, 2010 dated February 6, 2010 to provide for a unified designation of the "Commissioner Inland Revenue" for functional and operational integration of the domestic taxes.

Definitions**SECTION 2(13A)****Existing**

"Commissioner (Appeals)" means a person appointed as Commissioner Inland Revenue (Appeals) under section 208

Proposed Amendment

Commissioner (Appeals) means a person appointed as Commissioner Inland Revenue (Appeals) under section 208;"

Comments: The bill seeks to re-insert the amendments earlier made by the Finance (Amendment) Ordinance, 2009 dated October 28, 2009 and the Finance (Amendment) Ordinance, 2010 dated February 6, 2010 to provide for a unified first appellate forum "Commissioner Inland Revenue (Appeals)" for the domestic taxes. These amendments earlier lapsed due to non-presentation of the Finance (Amendment) Ordinances 2009 and 2010 before the National Assembly within time of their promulgation.

Definitions**SECTION 2(29C)****Existing**

- (a) an undertaking which is set up in Pakistan and which employs,
- (i) ten or more persons in Pakistan and involves the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal energy; or
 - (ii) twenty or more persons
- (i) the manufacture of goods or materials or the subjection of goods or materials to any process which substantially changes their original condition;
- (ii) ship-building;
 - (iii) generation, conversion.....
 - (iv) the working of any mine.....
- (b) any other industrial undertaking which the [Board] may by notification in the official Gazette, specify;

Proposed Amendment

- (a) an undertaking which is set up in Pakistan and which employs,-
- (i) ten or more persons in Pakistan and involves the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal energy; or
 - (ii) twenty or more persons.....
- (i) the manufacture of goods or materials or the subjection of goods or materials to any process which substantially changes their original condition; or
- (ii) ship-building; or
 - (iii) generation, conversion.....
 - (iv) the working of any mine.....
- (b) any other industrial undertaking which the Board may by notification in the Official Gazette, specify;

Definitions**SECTION 2(29C)**

Comments: The bill proposes to re-draft the definition of “Industrial Undertaking” given in *the Ordinance* to give it a more clarified meaning while removing ambiguity that may be caused while interpreting the term.

Definitions**SECTION 2(38A) (48A) & (65)****Existing**

“New Sub-Clauses shall be added”

Proposed Amendment

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

Comments: The bill seeks to ratify the earlier amendments made by the Finance (Amendment) Ordinance, 2009 dated October 28, 2009 and the Finance (Amendment) Ordinance, 2010 dated February 6, 2010 to provide for the change in nomenclature of operational designations from taxation officer.

Deemed perquisite not to apply in cases where right of waiver of interest provided:**SECTION 13(7)****Existing**

Where a loan is made, on or after the 1st day of July, 2002, by an employer to an employee and either no profit on loan is payable by the employee or the rate of profit on loan is less than the benchmark rate, the amount chargeable to tax to the employee under the head “Salary” for a tax year shall include an amount equal to

Proposed Amendment

Provided that this sub-section shall not apply to such benefit arising to an employee due to waiver of interest by such employee on his account with the employer;

Comments: The sub-section (7) of Section 13 of *the Ordinance* provides for a deemed perquisite where loans have been advanced by an employer to an employee either on no interest basis or the interest payable by the employee is less than the “Benchmark Rate”. The amount of such deemed perquisite is currently being work out as difference between the amount of interest actually paid by the employee and the interest on the loan computed at benchmark rate.

The bill proposes that such deemed perquisite should not be treated as perquisite in cases where the employee concerned is deriving such benefit due to waiver of his right to interest on his account being maintained with the employer.

Capital Gains on securities levied**SECTION 37(3)(5) & 37A**

Existing	Proposed Amendment
<p>Where a capital asset has been held by a person for more than one year, the amount of any gain arising on disposal of the asset shall be computed in accordance with the following formula, namely</p> <p>Any stock-in-trade (not being stocks and shares), consumable stores or raw materials held for the purpose of business;</p> <p style="text-align: center;">“New Section shall be added”</p>	<p>After the word year the words, the comma, brackets and figures other than shares of public companies including the vouchers of Pakistan Tele-communication Corporation, modaraba certificates or any instrument of redeemable capital as defined in the Companies Ordinance, 1984 (XLVII of 1984), shall be inserted</p> <p>In clause (a), the brackets and words (not being stocks and shares) shall be omitted;</p> <p>(1) Subject to this Ordinance, a gain arising on the sale of securities shall be chargeable to tax at the rate specified in Division VII of Part I of the First Schedule; Provided that this sub-section shall not apply if the securities are held for a period of more than twelve months; Provided further that the provisions shall not apply to a banking company.</p> <p>(2) In this section securities means shares of a public company, vouchers of Pakistan Telecommunication Corporation, Modaraba Certificates or instruments of redeemable capital.</p> <p>(3) The amount of gain under this section shall be treated as a separate block of income.</p>
<p>Comments: By virtue of the proposed amendments the bill seeks to make appropriate amendments in Section 37 including the definition of “Capital Assets” laid down in Section 37(5). It also proposes for levy of tax on capital gains arising on sale of securities.</p> <p>The word “securities” has been proposed to mean shares of a public company, voucher of Pakistan Telecommunication Corporation, Modaraba Certificates or instruments of redeemable capital.</p> <p>The gain is also proposed to be treated as a separate block of income</p> <p>The proposed amendment also seeks to exclude from preview of proposed levy the gains arising from sale of securities where such securities will be held for period of more than twelve months. It has also been proposed that the levy will also not be applicable to such gains derived by banking companies.</p>	

Capital Gains on securities levied**SECTION 37(3)(5) & 37A**

The table of rates proposed to be applicable to capital gains on sale of securities is as under:

Sr. #	Period	Tax Year	Rate of tax %
1.	Where holding period of a security is less than six months	2010	10
		2011	10
		2012	12.5
		2013	15
		2014	17.5
2.	Where holding period of a security is more than six months but less than twelve months	2010	7.5
		2011	8
		2012	8.5
		2013	9
		2014	9.5
		2015	10

Tax Credit for Investment in Plant & Machinery**SECTION 65B**

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

Tax Credit for Investment in Plant & Machinery**SECTION 65B**

	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;
<p>Comments: In order to encourage investment in plant and machinery the bill proposes to introduce a tax credit @ 10% of the tax payable to corporate taxpayer if;</p> <ul style="list-style-type: none"> • such company invests any amount on purchase of a plant and machinery • for installation, for the purpose of balancing, modernization and replacement (BMR) • in an industrial undertaking owned by it and set-up in Pakistan. • for BMRs started and completed between July 1, 2010 and June 30, 2015. <p>Such tax credit is proposed to be only available in the tax year in which the costs will be incurred.</p> <p>The proposed amendment also lays down that where the above referred allowed tax credit is subsequently discovered by the Commissioner Inland Revenue to be obtained by not fulfilling one or more related conditions, the Commissioner may treat the credit as wrongly claimed and may re-compute the tax payable by the taxpayer for the relevant tax year and all the provisions of <i>the Ordinance</i> will apply accordingly.</p>	

Special tax credit on enlistment on registered stock exchange in Pakistan:**SECTION 65C**

Existing	Proposed Amendment
“New Section shall be added”	Where a taxpayer being a company opts for enlistment in any registered stock exchange in Pakistan, a tax credit equal to five per cent of the tax payable shall be allowed for the tax year in which the said company is enlisted;
<p>Comments: The Government, in a bid to encourage the corporate entities to get enlisted on registered stock exchanges in Pakistan, has proposed through the bill to give credit equivalent to 5% of the tax payable to the companies opting for enlistment on any registered stock exchange in Pakistan. Such tax credit is proposed to be only available for the tax year in which the company is enlisted.</p>	

Recoveries under the Ordinance to have first charge on the estates of the deceased

SECTION 87(2)

Existing	Proposed Amendment
<p align="center">“New Sub-Clauses shall be added”</p>	<p>(2A) The liability under this Ordinance shall be the first charge on the deceased’s estate.□;</p>
<p>Comments: The bill seeks to create first charge on a deceased’s estate for any liability outstanding or created against the said deceased under <i>the Ordinance</i>.</p>	

Unexplained investment, etc. to be taxed in the year to which it relates

SECTION 111(2) & (4)

Existing	Proposed Amendment
<p>The amount referred to in sub-section (1) shall be included in the person’s income chargeable to tax in the tax year [immediately preceding the financial year] in which it was discovered by the Commissioner.</p> <p>(a) to any amount of foreign exchange remitted from outside Pakistan through normal banking channels that is encashed into rupees by a scheduled bank and a certificate from such bank is produced to that effect; and</p> <p>(b) to any amount referred to in sub-section (1), relating to a period beyond preceding five tax years or assessment years</p>	<p>In sub section (2), for the words, immediately preceding the financial year in which it was discovered by the Commissioner” the words “to which such amount relates” shall be substituted;</p> <p>(a), for the semicolon and the word, ; “and” the “full stop” shall be substituted; and</p> <p align="center">“Shall be omitted”</p>
<p>Comments: The proposed amendment seeks to tax un-explained credit in a person’s books of accounts, investments or assets, or expenditures in the year to which they relate instead of immediately preceding financial year in which it is discovered.</p> <p>Furthermore presently, provisions of Section 111 are not applicable to above referred un-explained credit in a person’s books of accounts, investments or assets, or expenditures if these relate to a period beyond preceding five tax years or assessment years. The proposed amendment also seeks to remove this limitation.</p>	

Applicability of minimum tax criteria broadened to include individuals and AOP's

SECTION 113(1) & (e)

Existing	Proposed Amendment
<p>This section shall apply to a resident company where, for any reason whatsoever allowed under this Ordinance, including any other law for the time being in force</p> <p>The claiming of allowances or deductions (including depreciation and amortization deductions) no tax is payable or paid by the person for a tax year or the tax payable or paid by the person for a tax year is less than one-half per cent of the amount representing the person's turnover from all sources for that year:</p>	<p>After the word "company" the comma, words, brackets and figures, "an individual (having turnover of fifty million rupees or above in the tax year 2009 or in any subsequent tax year) and an association of persons (having turnover of fifty million rupees or above in the tax year 2007 or in any subsequent tax year)" shall be inserted; and</p> <p>(ii) in clause (e), for the word "one-half" the word "one" shall be substituted; and</p>
<p>Comments: Presently, the minimum tax on turnover is being levied to companies only in situations where such taxpayers are not required to pay tax or tax payable by those is less than minimum threshold of turnover laid down in the section due to any of the following reasons:</p> <ul style="list-style-type: none"> (a) Loss for the year; (b) Setting off of a loss of an earlier year; (c) Exemption from tax; (d) Applicability of credit or rebate; or (e) Claiming of allowances or deductions (including depreciation and amortization deductions). <p>Now, it is proposed to bring following persons in minimum tax net:</p> <ol style="list-style-type: none"> 1) Individuals having turnover of fifty (50) million rupees or above in the tax year 2009 or in any subsequent tax year; and 2) Associations of Persons having turnover of fifty (50) million or above in tax year 2007 or in any subsequent tax year <p>The minimum tax does not apply to companies which have declared gross loss before set off of depreciation and other inadmissible expenses under <i>the Ordinance</i>. No such relaxation is proposed for above referred persons sought to be included in the net.</p>	

Applicability of minimum tax criteria broadened to include individuals and AOP's

SECTION 113(1) & (e)

The bill also proposes to increase the minimum threshold of turnover referred above and the minimum tax payable under the Section 113 from one-half percent (0.5%) to one percent (1%) of the turnover.

Revisions of returns/accounts subject to certain conditions

SECTION 114(6) & (6A)

Existing

Subject to sub-section (6A), any person who, having furnished a return, discovers any omission or wrong statement therein, may file revised return subject to the following conditions, namely:-
 (a) it is accompanied by the revised accounts or revised audited accounts, as the case may be; and
 (b) the reasons for revision of return, in writing, duly signed, by the taxpayers are filed with the return”;

“New Sub-Clauses shall be added”

Proposed Amendment

Subject to sub-section (6A), any person who, having furnished a return, discovers any omission or wrong statement therein, may file revised return subject to the following conditions, namely:-
 (a) it is accompanied by the revised accounts or revised audited accounts, as the case may be; and
 (b) the reasons for revision of return, in writing, duly signed, by the taxpayers are filed with the return;
 (b) after sub-section (6), substituted as aforesaid, the following new sub-section shall be inserted, namely:-
 (6A) If a taxpayer wishes to file a revised return voluntarily along with deposit of the amount of tax short paid or amount of tax sought to be evaded along with the default surcharge, whenever it comes to his notice, before receipt of notice under sections 177 or sub-section(9) of 122, no penalty shall be recovered from him:
 Provided that in case the taxpayer wishes to deposit the amount of tax as pointed out by the Commissioner during the audit or before the issuance of notice under sub-section (9) of section 122, he shall deposit the amount of tax sought to be evaded, the default surcharge and twenty-five per cent of the penalties leviable under the Ordinance along with the revised return:
 Provided further that in case the taxpayer wishes to revise the return after the issuance of a show cause notice under subsection (9) of section 122, he shall deposit the amount of tax sought to be

Revisions of returns/accounts subject to certain conditions

SECTION 114(6) & (6A)

	evaded, default surcharge and fifty per cent of the leviabale penalties under the Ordinance along with the revised return and thereafter, the show cause notice shall stand abated.;
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Comments: The bill seeks to ratify the earlier amendments made by the Finance (Amendment) Ordinance, 2009 dated October 28, 2009 and the Finance (Amendment) Ordinance, 2010 dated February 6, 2010 from National Assembly. The amendment places conditions before revising income if a person discovers any omission or misstatement. These conditions include filing revised accounts or revised audited accounts, as the case may be, along with duly signed written reasons for revision of return.

The amendments also provides for payment of different percentages of penalties levy able under *the Ordinance* for the evasion in different situation when the person revises his return while making payment of tax short paid or evaded along with default surcharge.

Filing of Wealth Statement

SECTION 115(4B)

Existing	Proposed Amendment
Every person (other than a company) filing statement under sub-section (4), falling under final tax regime (FTR) and has paid tax amounting to twenty thousand rupees or more for the tax year, shall file a wealth statement alongwith reconciliation of wealth statement	“Shall be Omitted”

Comments: The bill seek to make an amendment for clarity purpose by shifting the provision relating to filing of wealth statement in relevant section instead of including it in this section which lays down the list of persons who are not required to file a return of income.

Wealth statement to be filed in response to a provisional assessment

SECTION 116(2A)&(4)

Existing	Proposed Amendment
“New Sub-Clauses shall be added”	Where a person files a return in response to a provisional assessment under section 122C, he shall furnish a wealth statement for that year along with that return and such wealth statement shall be accompanied by a wealth reconciliation statement and an explanation of sources

Wealth statement to be filed in response to a provisional assessment**SECTION 116(2A)&(4)**

“New Sub-Clauses shall be added”

of acquisition of assets specified therein

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

Comments: A new sub-section (2A) is proposed to be inserted which clarifies that where a person files a return of income in response to a provisional assessment under section 122C, it would be mandatory for him to file wealth statement for that year along with the return and such wealth statement would need to be accompanied by a wealth reconciliation statement and an explanation of sources of acquisition of assets specified therein.

As the proposes to omit section 115 therefore the requirement of filing of wealth statement along with reconciliation of wealth in case of persons (other than a company) falling under final tax regime (FTR) has been included in this section by increasing threshold of tax paid from Rs. 25,000/- to Rs. 35,000/-

Filing of Returns/Annual Statements revisited**SECTION 118(3)****Existing**

A return of income for any person (other than a company), an employer certificate of an individual or a statement required under sub-section (4) of section 115 shall be furnished on or before the thirtieth day of September next following the end of the tax year to which the return, certificate or statement relates

Proposed Amendment

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

Filing of Returns/Annual Statements revisited

SECTION 118(3)

	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
<p>Comments: Currently, all persons (other than a company) including salaried taxpayers are required to file a return of income, an employer certificate or a statement required under Section 115(4), etc as the case may be by September 30th following the end of relevant tax year.</p> <p>The proposed amendment seeks to modify the above prescribed date for return of income for above referred persons, an Annual Statement of deduction of income tax from salary, filed by the employer of an individual or a statement required under Section 115(4) as per the following schedule:-</p>	
(a) In 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 Section 115(4),	on or before August 31 st next following the end of relevant tax year.
(b) In case of a return of income for any person (other than a company), as described under clause (a),	on or before the September 30th next following the end of relevant tax year.

Commissioner’s power to select audit substituted with power to conduct audit

SECTION 120(1A)

Existing	Proposed Amendment
Notwithstanding the provisions of sub-section (1), the Commissioner may select a person for an audit of his income tax affairs under section 177 and all the provisions of that section shall apply accordingly.]	For the words, “select a person for an audit of his income tax affairs” the words, “conduct audit of the income tax affairs” of a person shall be substituted;
<p>Comments: This is a consequential amendment to bring the powers of the commissioner in line with the new provisions of section 177 whereby the Commissioner’s power to select a person for an audit of his income tax affairs have been replaces with his power to conduct audit.</p>	

Prescribed time limit to amend assessment order changed**SECTION 122(3), (4), (5AA) & A(1)**

Existing	Proposed Amendment
<p>Where a taxpayer furnishes a revised return under sub-section (6) 4[or (6A)] [of section 114</p> <p>Where an assessment order (hereinafter referred to as the “original assessment”) has been amended under sub-section (1) or (3), the Commissioner may further amend,5[as many times as may be necessary,] the original assessment within the later of</p> <p style="text-align: center;">“New Sub-Clauses shall be added”</p> <p>The Commissioner may 2[3[, <i>suo moto</i>,]] call for the record of any proceeding under this Ordinance or under the repealed Ordinance in which an order has been passed by any 4[Officer of Inland Revenue] other than the Commissioner (Appeals).</p>	<p>After the brackets and figures “(6)” the word, brackets, figure and letter, “or (6A)” shall be inserted;</p> <p>After the figure and brackets, “(1)”, the word, “or” shall be substituted by a comma and after the figure and brackets “(3)” the word, figures and brackets “or (5A)” shall be added and shall have effect from (from the fourth July, 2003; and</p> <p>(5AA) The Commissioner is deemed to have, and always had, the powers to amend or further amend an assessment order under sub-section (5A), where appeal has been filed or decided against the order of the Commissioner, in respect of any point or issue which was not the subject matter of such appeal.</p> <p>For the words “taxation officer” the words “Officer of Inland Revenue” shall be substituted;</p>
<p>Comments: The proposed amendments seek to prescribe a time limit for amendment, or further amendment, of an assessment order, if the Commissioner considers that the assessment order is erroneous in so far it is prejudicial to the interest of revenue by bringing such cases at par with other amendment of assessments. The proposal seeks to implement the time limit w.e.f. July 4, 2003. Amendment of assessment in above referred cases is proposed to be later of:</p> <ul style="list-style-type: none"> (a) Five years from the end of the financial year in which the Commissioner has issued or is treated as having issued the original assessment order to the taxpayer; and (b) One year from the end of the financial year in which the Commissioner has issued or is treated as having issued the amended assessment order to the taxpayer. 	

Prescribed time limit to amend assessment order changed

SECTION 122(3), (4), (5AA) & A(1)

The proposed insertion of sub-section (5AA) intends to empower the Commissioner to amend or further amend an assessment order even in cases 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 if the Commissioner considers that the assessment order is erroneous in so far it is prejudicial to the interest of revenue. The proposed insertion also seeks to deem that the Commissioner has and always had such powers to be given under the sub-section.

Provisional assessment deemed to be final if not responded by tax payer within 60 days of the order

SECTION 122C

Existing	Proposed Amendment
<p style="text-align: center;">“New Section shall be added”</p>	<p>Where in response to a notice under sub-section (3) or sub-section (4) of section 114 a person fails to furnish return of income for any tax year, the Commissioner may, based on any available information or material and to the best of his judgment, make a provisional assessment of the taxable income or income of the person and issue a provisional assessment order specifying the taxable income or income assessed and the tax due thereon.</p> <p>(2) Notwithstanding anything contained in this Ordinance, the provisional assessment order completed under sub-section (1) shall be treated as the final assessment order after the expiry of sixty days from the date of service of order of provisional assessment and the provisions of this Ordinance shall apply accordingly: Provided that the provisions of sub-section (2) shall not apply if return of income alongwith wealth statement, wealth reconciliation statement and other documents required under sub-section (2A) of section 116 are filed by the person for the relevant tax year during the said period of sixty days;</p>

Comments: The bill seeks to ratify the earlier amendments made by the Finance (Amendment) Ordinance, 2009 dated October 28, 2009 and the Finance (Amendment) Ordinance, 2010 dated February 6, 2010 from National Assembly. The amendment

Provisional assessment deemed to be final if not responded by tax payer within 60 days of the order

SECTION 122C

provides for “Provisional Assessment” which may be made by the Commissioner based on any available information or material and to the best of his judgment if a person fails to file a return of income in response to a notice issued under sub-section (3) or (4) of Section 114 of *the Ordinance*. Such provisional assessment shall deem to be final if the person concerned does not file the return along with wealth statement, wealth reconciliation statement and other documents required under Section 116(2A) within sixty (60) days of service of the provisional assessment order

Tax demand to be paid after 60 days of the provisional assessment order

SECTION 137(2)

Existing

Where any tax is payable under an assessment order or an amended assessment order or any other order issued by the Commissioner under this Ordinance, a notice shall be served upon the taxpayer in the prescribed form specifying the amount payable and thereupon the sum so specified shall be paid within 3[fifteen] days from the date of service of the notice:]

4[Provided that the tax payable as a result of provisional assessment under section 122C, as specified in the notice under sub-section (2) shall be payable after a period of sixty days from the date of service of the notice.]

The grant of an extension of time to pay tax due or the grant of permission to pay tax due by installments shall not preclude the liability for 8[default surcharge] arising under section 205 from the due date of the tax under sub-section 9[(2)].

Proposed Amendment

For the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:-

“Provided that the tax payable as a result of provisional assessment under section 122C, as specified in the notice under sub-section (2) shall be payable after a period of sixty days from the date of service of the notice.”;

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

Comments: The proposed amendment seeks to ratify the earlier amendments made by the Finance (Amendment) Ordinance, 2009 dated October 28, 2009 and the Finance (Amendment) Ordinance, 2010 dated February 6, 2010 which prescribes that the date of payment of demand consequent to provisional assessment order under Section 122C shall be after expiry of 60 days from the date of service of the order.

Tax liability to be passed on the estate in bankruptcy

SECTION 138B

Existing	Proposed Amendment
<p>“New Section shall be added”</p>	<p>(1) If a taxpayer is declared bankrupt, the tax liability under this Ordinance shall pass on to the estate in bankruptcy.</p> <p>(2) If tax liability is incurred by an estate in bankruptcy, the tax shall be deemed to be a current expenditure in the operations of the estate in bankruptcy and shall be paid before the claims preferred by other creditors are settled.;</p>
<p>Comments: A new section is proposed to be inserted to lay down that the tax liability will be passed on the estate in bankruptcy and such liability will be deemed to be current expenditure in the operations of the estate and shall be paid before the claims preferred by other creditors are settled.</p>	

Advance Tax Collection scheme

SECTION 147

Existing	Proposed Amendment
<p>income chargeable to tax under the head “Capital Gains”;</p> <p>This section does not apply to an individual 2[or association of persons] where the individual’s 3[or 4[association of persons]] latest assessed taxable income excluding income referred to in clauses (a), (b), 5[(ba),] (c) and (d) of sub-section (1) is less than 6[two hundred thousand] rupees.</p> <p>Where the taxpayer is a company, the amount of advance tax due for a quarter shall be computed according to the following formula, namely:-</p> <p style="text-align: center;">(A x B/C) –D</p>	<p style="text-align: center;">“Shall be Omitted”</p> <p>(i) the words “or association of persons” shall be omitted; and</p> <p>(ii) for the word “two” the word “five” shall be substituted;</p> <p>After the word “is” occurring for the first time, the words “an association of persons or” shall be inserted;</p>
<p>Comments: A number of changes in advance tax collection scheme have been proposed including changes in limit of taxable income for applicability of advance tax provisions, formula for calculation of advance tax liability for AOPs, and dates of payment of quarterly installments. A major change proposed by the bill is applicability of advance tax on capital gains on sale of securities.</p>	

Advance Tax Collection scheme**SECTION 147**

Summary of proposed amendments is as under:

(1) Currently, individuals having latest assessed income of Rs. 200,000/- or more are required to pay advance tax under Section 147 in four quarterly installments. Such limit of Rs. 200,000/- is proposed to be enhanced to Rs. 500,000/-

(2) Currently, AOPs having latest assessed income of Rs. 200,000/- or more are required to pay advance tax under Section 147 in four quarterly installments. It has now been proposed that such limit be done away with and the AOPs be required to pay advance tax in the same manner as required of companies without limit to latest assessed income i.e. in accordance with following formula:

$$(A \times B/C) - D$$

Where-

A is the taxpayer's turnover for the quarter;

B is the tax assessed to the taxpayer for the latest tax year;

C is the taxpayer's turnover for the latest tax year; and

D is the tax paid in the quarter for which a tax credit is allowed under section 168, other than tax deducted under section 155.

(3) Dates for payment of quarterly installments of advance tax by AOPs and companies have also been proposed to be amended as per the following schedule:

Name of quarter	Current date of payment for		Proposed Dates
	Companies	AOPs	
September quarter	October 15 th	September 15 th	September 25 th
December quarter	January 15 th	December 15 th	December 25 th
March quarter	April 15 th	March 15 th	March 25 th
June quarter	June 15 th	June 15 th	June 15 th

(4) Advance tax on capital gains on sale of securities is proposed to be collected on quarterly basis from persons deriving such income which shall be payable within seven (7) days after the close of each quarter as per the following schedule:

Sr. #	Period	Rate of advance tax liability
1.	Where holding period of a security is less than six months	2%
2.	Where holding period of a security is more than six months but less than twelve months	1.5%

Scope of FTR broadens		SECTION 151 (4)
Existing	Proposed Amendment	
	Tax deducted on profit on debt from Debt instruments, Government securities including Treasury Bills and Pakistan Investment Bonds, shall be final tax on profit or debt.”;	
“New Sub-Section shall be added”		
Comments: The bill intends to declare tax deducted on profit on debt from Debt instruments, Government securities including Treasury Bills and Pakistan investment Bonds as final tax.		

Individuals declared as with holding agents		SECTION 153(9)(g)&(h)
Existing	Proposed Amendment	
An association of persons, having turnover of fifty million rupees or above in tax year 2007 and onwards.	for the words, “and onwards” the words “or in any subsequent tax year shall be substituted;	
“New Clause shall be added”	“an individual, having turnover of fifty million rupees or above in the tax year 2009 or in any subsequent tax year.”	
Comments: The proposed amendment intends to declare individuals having turnover of Rs. 50 million or above in the tax year 2009 or in any subsequent year as withholding agents. As consequence of proposed amendment, the above referred individuals will be required to deduct withholding tax while making payments for goods and services under Section 153 and would also be required to file statements of withholding tax under Section 165 of <i>the Ordinance</i> .		

Income from property to be taxed as normal income		SECTION 155(2)
Existing	Proposed Amendment	
The tax deducted under sub-section (1) shall be a final tax on the income from property 3[.]	“Shall be Omitted”	
Comments: The tax deducted under Section 155 from income from property is currently final tax on such income. The bill proposes that such income be taxable as normal income and tax deducted would be adjusted against liability arising there from at the rates specified in First Schedule to <i>the Ordinance</i> .		

Procedure for filing of annual statement of withholding tax changed		SECTION 165(1)(a)(b)(c)&(d)
Existing	Proposed Amendment	
Every person collecting tax under Division II of this Part 3[or Chapter XII] or deducting tax from a payment under Division III of this Part 4[or Chapter XII]	the words and comma “within two months after the end of the financial year or within such further time as the Commissioner may allow by order in writing,” shall be	

Procedure for filing of annual statement of withholding tax changed

SECTION 165(1)(a)(b)(c)&(d)

shall, within two months after the end of the financial year or within such further time as the Commissioner may allow by 5[order] in writing, furnish to the Commissioner a statement in the prescribed form setting out...

omitted;
for the words "the financial year", the words "each quarter" shall be substituted;
.....

Comments: The proposed amendment seek to done away the requirement to file annual statement of withholding tax and instead proposes to make it mandatory to file quarterly statements even when no withholding tax would be collected or deducted during the period. The bill also proposes to prescribe following dates for filing of quarterly withholding tax statements:

Name of quarter	Proposed Dates
September quarter	October 20 th
December quarter	January 20 th
March quarter	April 20 th
June quarter	July 20 th

Records

SECTION 174(3)

Requirement for retention of record changed

Proposed Amendment

The accounts and documents required to be maintained under this section shall be maintained for 3[six] years after the end of the tax year to which they relate 4[: "Provided that where any proceeding is pending before any authority or court the taxpayer shall maintain the record till final decision of the proceedings.
Explanation.- Pending proceedings include proceedings for assessment or amendment of assessment, appeal, revision, reference, petition or prosecution and any proceedings before an Alternative Dispute Resolution Committee".]

for the word "five" the word "six" shall be substituted; and for the full stop at the end, a colon shall be substituted and thereafter the following proviso and the explanation shall be added, namely:-

Provided that where any proceeding is pending before any authority or court the taxpayer shall maintain the record till final decision of the proceedings.
Explanation.- Pending proceedings include proceedings for assessment or amendment of assessment, appeal, revision, reference, petition or prosecution and any proceedings before an Alternative Dispute Resolution Committee.";

Comments: The proposed amendment seeks to ratify the earlier amendments made by the Finance (Amendment) Ordinance, 2009 dated October 28, 2009 and the Finance

Records

SECTION 174(3)

(Amendment) Ordinance, 2010 dated February 6, 2010 which requires that the record required to be maintained under *the Ordinance* be maintained for a period of six years except when the relevant year's proceedings would be pending. In the case of pending proceedings such record would be required to be kept for longer period till the final disposal of the proceedings.

Commissioners given powers to select CA firm to conduct audit

SECTION 176(1)(c)

Existing

the firm of chartered accountants, as appointed by the Board, to conduct audit under section 177, for any tax year, may with the prior approval of the Commissioner concerned, enter the business premises of a taxpayer, selected for audit, to obtain any information, require production of any record, on which the required information is stored and examine it within such premises; and such firm may if specifically delegated by the Commissioner, also exercise the powers as provided in subsection (4).]

Proposed Amendment

for the word and comma "Board" the words "Board or the Commissioner" shall be substituted;

Comments: The bill seeks to empower Commissioner to authorize a firm of chartered accountants to conduct the audit and call for information, etc. for the purpose of the audit.

Commissioner's powers to conduct audit explained

SECTION 177(1)(2)(3)(4)(5)(6)(7)(8) & (10)

Existing

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

Proposed Amendment

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

Commissioner’s powers to conduct audit explained

SECTION 177(1)(2)(3)(4)(5)(6)(7)(8) & (10)

or data for the purpose of investigation and proceedings under this Ordinance in respect of such person or any other person:

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

After obtaining the record of a person under sub-section (1) or where necessary record is not maintained, the Commissioner shall conduct an audit of the income tax affairs (including examination of accounts and records, enquiry into expenditure, assets and liabilities) of that person or any other person and

“Omitted”

“Omitted”

“Omitted”

After completion of the audit 4[],.....

and proceedings under this Ordinance in respect of such person or any other person:

Provided that-

(a) the Commissioner may, after recording reasons in writing call for record or documents including books of accounts of the taxpayer; and

(b) the reasons shall be communicated to the taxpayer while calling record or documents including books of accounts of the taxpayer:

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

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

“Sub-Section shall be Omitted”

“Sub-Section shall be Omitted”

“Sub-Section shall be Omitted”

the words, brackets and figures

Commissioner’s powers to conduct audit explained

SECTION 177(1)(2)(3)(4)(5)(6)(7)(8) & (10)

Comments: The proposed amendment seeks to ratify the earlier amendments made by the Finance (Amendment) Ordinance, 2009 dated October 28, 2009 and the Finance (Amendment) Ordinance, 2010 dated February 6, 2010 and make further amendment in Section 177 whereby the Commissioner would be empowered to call for any record or documents required to be maintained under the Ordinance or any other law for the time being in force for the purpose of tax audit.

Where such information would be kept in electronic form, the Commissioner or any other person authorized in this regard would be empowered to use the computer or take the machine into possession alongwith duly attested hard copies of such information for the purpose of audit or investigation of such person or any other person. The Commissioner may not be able call for information after expiry of six years from the end of the tax year to which they relate.

It has also been proposed that the Commissioner may only call for record or documents after recording the reasons in writing and communicating the same to the taxpayer.

The amendment also empowers the Board to appoint a firm of chartered accountants or cost and management accountants to carry out tax audit of a person. It further allows a Commissioner to make Best Judgment Assessment where the taxpayer fails to produce the record and documents required of him for the purpose of audit.

Active Taxpayers List

SECTION 181A(1)&(2)

Existing	Proposed Amendment
<p>“New Section shall be added”</p>	<p>The Board shall have the power to institute active taxpayer’s list.</p> <p>Active taxpayers’ list shall be regulated as may be prescribed.”; (42) for section 182 the following shall be substituted, namely:-</p>

Comments: The bill seeks to empower the Board to institute active taxpayers’ list and prescribe its regulations.

Penal provisions in the Ordinance

SECTION 182 To 190

Existing	Proposed Amendment
Penalty for concealment of income	<p>“Section shall be Omitted”</p>
Penalty for failure to maintain records	<p>“Section shall be Omitted”</p>
Penalty for non-compliance with notice	<p>“Section shall be Omitted”</p>

Penal provisions in the Ordinance

SECTION 182 To 190

<p>Penalty for making false or misleading statements</p> <p>Penalty for failure to give notice</p> <p>Penalty for obstruction</p> <p>Imposition of Penalty</p>	<p>“Section shall be Omitted”</p> <p>“Section shall be Omitted”</p> <p>“Section shall be Omitted”</p> <p>“Section shall be Omitted”</p>
<p>Comments: The proposed amendment seeks to consolidate various penal provisions while making some minor changes in amount of penalties. The proposed amendment also seeks to harmonize the penalty amount with other domestic taxes. Different offences and related penalties proposed in the bill are given in table above.</p> <p>The bill further proposes that the penalties would be applied in consistent manner and by an order in writing passed by Commissioner, Commissioner (Appeals), or the Appellate Tribunal. The Commissioner will be served order of penalty by Commissioner (Appeals) and the Appellate Tribunal and will be empowered to recover the penalty under <i>the Ordinance</i> from the concerned taxpayer.</p> <p>The Federal Government has been proposed to empower to exempt any person or class of persons from payment of whole or part of the penalty and default surcharge payable under <i>the Ordinance</i>.</p>	

Power of the Board to select person for audit

SECTION 214C

<p>Existing</p> <p>“New Section shall be added”</p>	<p>Proposed Amendment</p> <p>The Board may select persons or classes of persons for audit of Income Tax affairs through computer ballot which may be random or parametric as the Board may deem fit.</p> <p>Audit of Income Tax affairs of persons selected under sub-section (1) shall be conducted as per procedure given in section 177 and all the provisions of the Ordinance, except the first proviso to sub-section (1) of section 177, shall apply accordingly.</p>
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Power of the Board to select person for audit**SECTION 214C**

	For the removal of doubt it is hereby declared that Board shall be deemed always to have had the power to select any persons or classes of persons for audit of Income Tax affairs.”;
Comments: The bill intends to empower the Board to select persons or class of persons for audit of Income Tax affairs through computer ballot which may be random or parametric as the Board may deem fit.	

Various banking transactions to attract levy of advance tax**SECTION 231AA**

Existing	Proposed Amendment
“New Section shall be added”	<p>Every banking company shall deduct tax at the rate specified in Division VIA of Part IV of the First Schedule, if the payment for withdrawal is made through any mode of banking transactions including Demand Draft, Payment Order, Online Transfer, Telegraphic Transfer, CDR, STDR, RTC, or the sum total of the payments for such transaction in a day, exceeds twenty-five thousand rupees.</p> <p>Advance tax under this section shall not be collected in the case of withdrawals made by,-</p> <ul style="list-style-type: none"> (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.”;

Comments: The bill in a bid to enhance the revenue proposes to levy advance tax on payment of withdrawal made through any mode of banking transactions including but not limited to DD, PO, online transfer, TT, CDR, STDR, RTC, or where the total sum of payments for such transaction in a day, exceeds Rs. 25,000/-. The rate of advance tax is proposed to 0.3% of the amount of transaction.

The provisions would not be applicable to Federal and Provincial Governments, foreign diplomats and diplomatic missions, or to person producing a certificate from the Commissioner that his income during the tax year would be exempt.

We understand that this proposed amendment, if approved, may work as a deterrence to document the economy and may discourage the use of banking channels.

Tax collect on stock exchange transactions to be allowed as tax credit**SECTION 233A**

Existing	Proposed Amendment
The tax collected under clauses (a) to (c) of sub-section (1) shall be minimum tax.]	For the words “minimum tax” the word “adjustable” shall be substituted;
Comments: The proposed amendment intends to allow credit of tax deducted by stock exchanges registered in Pakistan on various transactions of sales and purchase of shares, commission on trading of shares and financing of COT. Currently, such tax is minimum tax on transactions referred above.	

Sale of telephone units brought in with holding tax net**SECTION 236**

Existing	Proposed Amendment
Telephone bill of a subscriber; and prepaid cards for 2[] telephones.	The word “and” occurring at the end, shall be omitted; and for the full stop at the end, the semicolon and word”; and”, shall be added; and thereafter the following new clause shall be inserted, namely:- sale of units through any electronic medium or whatever form.”;
Comments: The bill seeks to bring the sale of telephone units through any electronic medium or whatever form in the net of withholding tax.	

Advance tax to be collected on air tickets**SECTION 236B**

Existing	Proposed Amendment
“New Section shall be added”	There shall be collected advance tax at the rate specified in Division IX of Part IV of the First Schedule, on the purchase of gross amount of domestic air ticket. The person preparing air ticket shall charge advance tax under sub-section (1) in the manner air ticket charges are charged.”;
Comments: The bill proposes to also bring air way tickets into net of advance tax and would require the person preparing the tickets to collect advance tax on the purchase of domestic air ticket @ 5% of the gross amount of air ticket.	

THE FIRST SCHEDULE
PART I – DIVISION I
RATES OF TAX FOR INDIVIDUALS

Comments: The rates of tax chargeable for the tax year 2010 (corresponding to the income year ending at any time between July, 2010 to June, 2011) are as under:

The taxable income of Associations of Persons is proposed to be excluded from the slab rate of Division – I and a straight rate @ 25% is being proposed on declared profits.

The basic limit of exemption is proposed to be enhanced to Rs. 300,000/- and all the subsequent slabs of tax rates for taxable income in excess of Rs. 300,000/- will remain unchanged. This exemption of taxable income will not put any effect on the tax liability of business individual as the amount of tax will start from Rs. 22,500/-. The proposed tax rates as per 1st Schedule for the business individuals are summarized as under:

Taxable Income	Tax Rate %	Tax Charge
Upto Rs.300,000	0	Nil
Rs.300,001 to Rs.400,000	7.5	22,500 to 28,000
Rs.400,001 to Rs.500,000	10	40,000 to 50,000
Rs.500,001 to Rs.600,000	12.5	62,500 to 75,000
Rs.600,001 to Rs.800,000	15	90,000 to 120,000
Rs.800,001 to Rs.1,000,000	17.5	136,000 to 175,000
Rs.1,000,001 to Rs.1,300,000	21	210,000 to 273,000
Rs. 1,300,001 and above	25	325,000 and above

The changes in the 1st Schedule for the salaried individuals including women salaried taxpayers are summarized as under: (The basic exemption limit of salaried individuals is being enhanced from Rs.200,000 to Rs.300,000).

No tax will be levied on the salary of Rs. 25,000/- per month. This proposed amendment is also affected with the higher side slab of 20% on the taxable salary of Rs. 4,550,000/-

8S. #	Salary Income	Tax Rate %	Tax Charge
1	Upto Rs.300,000	0	Nil

2	Rs.300,000 to Rs.350,000	0.75	2,250 to 2,625
3	Rs.350,000 to Rs.400,000	1.5	5,250 to 6,000
4	Rs.400,000 to Rs.450,000	2.5	10,000 to 11,250
5	Rs.450,000 to Rs.550,000	3.5	15,750 to 19,250
6	Rs.550,000 to Rs.650,000	4.5	24,750 to 29,250
7	Rs.650,000 to Rs.750,000	6	39,000 to 45,000
8	Rs.750,000 to Rs.900,000	7.5	56,250 to 67,500
9	Rs.900,000 to Rs. 1,050,000	9	81,000 to 94,500
10	Rs.1,050,000 to Rs.1,200,000	10	105,000 to 120,000
11	Rs.1,200,000 to Rs.1,450,000	11	132,000 to 159,500
12	Rs.1,450,000 to Rs.1,700,000	12.50	181,250 to 212,500
13	Rs.1,700,000 to Rs.1,950,000	14	238,000 to 273,000
14	Rs.1,950,000 to Rs.2,250,000	15	292,500 to 337,500
15	Rs.2,250,000 to Rs.2,850,000	16	360,000 to 456,000
16	Rs.2,850,000 to Rs.3,550,000	17.5	498,750 to 621,250
17	Rs.3,550,000 to Rs.4,550,000	18.5	656,750 to 841,750
18	Rs.4,550,000 and above	20	910,000 and above

The above tax will be charged without marginal relief

Marginal Relief:

Comments: The slab rates of Marginal Relief are same as in the previous year.

DIVISION IA
RATES OF TAX ON CERTAIN PERSONS

Comments: It has been proposed to enhance the rate of turnover tax from 0.5% to 1%.

DIVISION IB
RATES OF TAX FOR ASSOCIATION OF PERSONS

Comments: A new division has been added and it has been proposed to impose straight rate of 25% of any taxable income earned by AOP without having any basic exemption.

DIVISION II
RATES OF TAX FOR COMPANIES

Clause (iii)

Comments: It has been proposed to impose enhanced rates @ 25% on Small Companies from the existing flat rate of 20%.

DIVISION VII
CAPITAL GAIN ON SALE OF SECURITIES

Comments: A new division imposing tax on capital gain on sale of securities has been added and the following slab will apply under section 37A:

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

**PART II
RATES OF ADVANCE TAX**

Comments: The rate of with holding tax on imports is proposed to be increased from 4% to 5%

**PART III
DIVISION II
PAYMENTS TO NON-RESIDENTS**

Comments: The rate of withholding tax is proposed to reduced to 20% on those transaction where the rate of 30% was applicable

**DIVISION IV
PRIZES AND WINNINGS**

Comments: The amount of tax on cross-words puzzle is proposed to be at a reduced rate of 10% equivalent to the prize bonds.

**PART IV
DIVISION III
TAX ON MOTOR VEHICLES**

Comments: A uniform rate on all types of goods transport vehicles is proposed to be announced @ Rs. 1. Kilogram of the laden weight and the existing slab shall be omitted

**DIVISION IV
ELECTRICITY CONSUMPTION**

Comments: The rate of advance tax on electricity consumption for industrial and commercial consumer on monthly bill exceeds Rs. 20,000/- is proposed to be charged at a reduced rate of 5% instead of 10%.

**DIVISION V
TELEPHONE USERS**

Comments: The term CD used in clause (b) is proposed to be substituted by "Any electronic medium" being more extensive

**DIVISION VIA
ADVANCE TAX ON TRANSACTIONS IN BANK**

Comments: A new division has been proposed for levy of advance tax @ 0.3% on various banking transactions similar to that currently being collected on Cash Withdrawals.

DIVISION IX**ADVANCE TAX ON PURCHASES OF AIR TICKET**

Comments: A new division has been proposed for tax deduction on purchase of domestic air tickets @ 5% which will be adjustable against the tax liability of the purchaser.

SECOND SCHEDULE**PART-I****EXEMPTION FROM TOTAL INCOME**

Clause	Description	Remarks
72(iii)	Exemption for utilization foreign loan for industrial investment in Pakistan on or before February, 1991 for foreign individual, company, firm or AOPs if registered with	Exemption subject to conditions
92(A)	Income of any university or any other educational institute in Khyber Pakhtunkhwa and related tribal areas	Exemption for two years
102	Dividend in the hand of Investment Corporation of Pakistan	Exemption withdrawn
110	Capital gain income from the sale of Modaraba certificates	Exemption withdrawn
110(A)	Gain on transfer of capital assets to the existing stock exchange	Exemption withdrawn
126(F)	Profit or gains of a taxpayer starting from tax year 2010, located in Khyber Pakhtunkhwa and related tribal areas	Exemption for three

PART-II**REDUCTION IN TAX RATES**

Clause	Description	Remarks
24(A)	Reduced tax rates has been proposed for large import houses fulfilling the conditions laid down in Section 148(7)(d) of the Ordinance.	Relaxation allowed

PART-III**REDUCTION IN TAX LIABILITY**

Clause	Description	Remarks
1A	Limit of income for senior citizen allowance has been enhanced to Rs. 1(M) from Rs. 750,000/-.	Limit enhanced

**PART-IV
EXEMPTION FROM SPECIFIC PROVISIONS**

Clause	Description	Remarks
10(A)	The following provisions of Income Tax Ordinance have been proposed to be withdrawn for the business located in areas of Khyber Pakhtunkhwa and related tribal areas: i) Default surcharge & penalty on tax. ii) Advance tax on electricity under section 235. iii) Provisions of section 154 for withholding tax on exports iv) Provisions of section 148 for import of plant & machinery	Exemption Inserted subject to conditions.
52	Raw material imported in the case of vanaspati ghee or oil.	Exemption Withdrawn
73	Exemption proposed for the Income Tax payable by a foreign expert	Exemption subject to approval of Ministry of Textile

**THIRD SCHEDULE
PART-I**

DEPRECIATION

Clause	Comments
V	100% depreciation is proposed for building ramp to provide access to disable person subject to a limit of Rs. 250,000/-

**FIFTH SCHEDULE
PART-I**

**RULES FOR THE COMPUTATION OF THE PROFITS AND GAINS FROM THE
EXPLORATION AND PRODUCTION OF PETROLEUM**

Clause	Comments
4A	The proposed amendment seeks to allow decommissioning cost as certified by a Chartered Accountant or a Cost Accountant, in a manner prescribed, over a period of ten year or the remaining life of the development and production or mining lease, whichever is less. Such allowance will start from the tax year 2010.

SEVENTH SCHEDULE

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

Clause	Comments
1(c)	The proposed amendment intends to allow for provision for advances and off balance sheet items at 5% of total advances for consumers and SMEs.
8A	<p>The bill seeks to allow for write off of irrecoverable advances that were provided for in the tax year 2008 or prior tax years and were neither claimed nor allowed as a tax deductible in any tax year.</p> <p>The proposed amendment also provides that where above referred advances are subsequently recovered instead of write off, these would not be liable to tax.</p>

SALES TAX ACT, 1990

The bill proposes to harmonize the tax authorities for domestic taxes and have defined “Appellate Tribunal”, “Chief Commissioner”, “Commissioner”, and “Officer of Inland Revenue” as is the case in the Income Tax Ordinance, 2001 and have proposed appropriate amendment to replace “Collector” with “Commissioner”, “Additional Collector” with “Additional Commissioner”, “Assistant Collector” with “Assistant Commissioner”, “Deputy Collector” with “Deputy Commissioner”, and “Federal Excise Officer” with “Officer of Inland Revenue” wherever occurring in the Act. These amendments have already been made through the Finance (Amendment) Ordinance, 2009 dated October 28, 2009 and the Finance (Amendment) Ordinance, 2010 dated February 6, 2010 and apparently included in the bill to receive its ratification from the Lower and Upper House. Apart from above harmonization measures, following amendments have proposed to be made:

Scope of Tax

SECTION 3

Existing	Proposed Amendment
Subject to the provisions of this Act, there shall be charged, levied and paid a tax known as sales tax at the rate of 16 per cent of the value of--	for the word “sixteen”, wherever occurring, the word “seventeen” shall be substituted;
<p>Comments: Rate of sales tax has been proposed to be increased from 16% to 17% across the board. This is major revenue measure to finance government expenditures as the Government has not imposed VAT w.e.f. July 1, 2010 due to hues and cries raised from various sectors of the economy.</p>	

Retention of record and documents for five years

SECTION 24

Existing	Proposed Amendment
A person, who is required to maintain any record or documents under this Act, shall retain the record and documents for a period of Six years after the end of the tax period to which such record or documents relate 1or till the final decision in any proceedings including proceedings for assessment, appeal, revision, reference, petition and any proceedings before an alternative Dispute Resolution Committee.	for the word “five”, occurring twice, the word “six” shall be substituted and after the word “relate”, at the end, the words and commas “or till such further period the final decision in any proceedings including proceedings for assessment, appeal, revision, reference, petition and any proceedings before an Alternative Dispute Resolution Committee is finalized” shall be added;
<p>Comments: The proposed amendment seeks to ratify the earlier amendments made by the Finance (Amendment) Ordinance, 2009 dated October 28, 2009 and the Finance (Amendment) Ordinance, 2010 dated February 6, 2010 which requires that the record required to be maintained under <i>the Act</i> be maintained for a period of six years except when the relevant year’s proceedings would be pending. In the case of pending</p>	

**Retention of record and documents
for five years****SECTION 24**

proceedings such record would be required to be kept for longer period till the final disposal of the proceedings.
--

Access to record, documents, etc**SECTION 25(3)****Existing**

The Assistant Commissioner (Audit), shall issue audit observation pointing out the contraventions of the Act or rules, as the case may be, and the amount of tax evaded therein, on the basis of scrutiny of such records, as prescribed under the Act or rules or in any other manner by the Board. The registered person may, within a period of fifteen days of the receipt of audit observation, submit his point of view in writing.

Proposed Amendment

After completion of the audit under this section or any other provision of this Act, the officer of Inland Revenue may, if considered necessary, after obtaining the registered person's explanation on all the issues raised in the audit shall pass an order under section 11 or section 36, as the case may be, imposing the amount of tax under this Act, charging default surcharge, imposing penalty and recovery of any amount erroneously refunded.”;

Comments: It has been proposed that the Officer of Inland Revenue may, if considered necessary, after obtaining the registered person explanation would be able to pass an order. Currently, the Officer is required to raise audit observations and either obtain or wait for 15 days for the registered person's comments before issuing an audit report.
--

Transactions between Associates**SECTION 25AA****Existing**

“New Section Shall Be Added”

Proposed Amendment

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

Comments: A new section proposed to be inserted through which the Commissioner or an Officer of Inland Revenue will be empowered to determine the transfer price of taxable supplies in transactions between associated parties to reflect the fair market value of supplies.
--

**Special Audit by Chartered
Accountants or Cost Accountants****SECTION 32A(1)****Existing**

The Board may, by notification in the official Gazette, appoint a Chartered Accountant as defined under Chartered Accountants Ordinance, 1961 (X of

Proposed Amendment

after the word “Board”, the words “or the Commissioner” shall be inserted; and
--

Special Audit by Chartered Accountants or Cost Accountants

SECTION 32A(1)

1961) or a firm of Chartered Accountants or a Cost and Management Accountant within the meaning of the Cost and Management Accountants Act, 1966 (XIV of 1966) or a firm of Cost and Management Accountants, for conducting special audit of records of registered person:

the words and comma “by notification in the official Gazette,” shall be omitted.

Provided that the Board may, by notification in the official Gazette, appoint a firm of Chartered Accountants as defined under the Chartered Accountants Ordinance, 1961 (X of 1961), or a Cost and Management Accountant within the meaning of the Cost and Management Accountants Act, 1966 (XIV of 1966), or a firm of Cost and Management Accountants to conduct audit of refund claims.

Comments: The provision of this section currently authorize the Board to appoint a Chartered Accountant or a firm of Chartered Accountant or a Cost and Management Accountant or a firm of Cost and Management Accountant for conducting special audit of records of registered person by notification in the official gazette. Now the Commissioner is also proposed to be empowered to appoint such persons and condition for notifying in the official gazette is also proposed to be abolished.

Authorized officers to have access to premises, stocks, accounts and records

SECTION 38(1)

Existing

Proposed Amendment

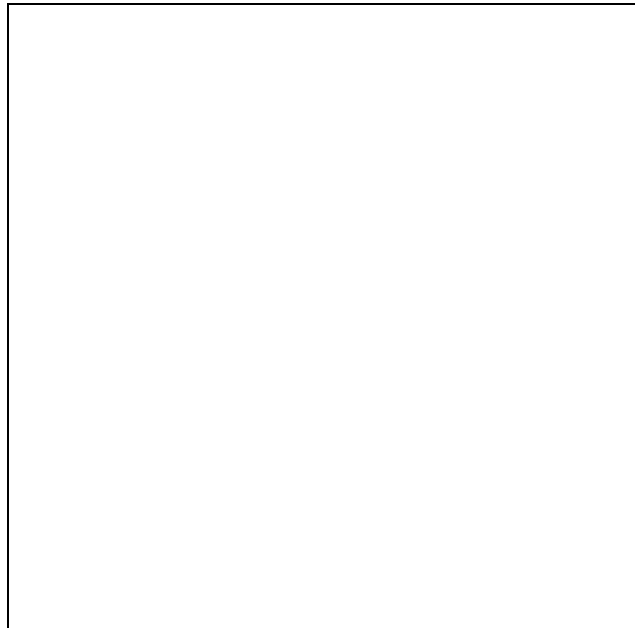
Any officer authorized in this behalf by the Board 3[***]shall have free access to business or manufacturing premises, registered office or any other place where any stocks, business records or documents required under this Act are kept or maintained belonging to any registered person or a person liable for registration or whose business activities are covered under this Act or who may be required for any inquiry or investigation in any tax fraud committed by him or his agent or any other person;

after the word, “Board”, the words, “or the Commissioner” shall be inserted;

Authorized officers to have access to premises, stocks, accounts and records

SECTION 38(1)

and such officer may, at any time, inspect the goods, stocks, records, data, documents, correspondence, accounts and statements, utility bills, bank statements, information regarding nature and sources of funds or assets with which his business is financed, and any other records or documents, including those which are required under any of the Federal, Provincial or local laws maintained in any form or mode and may take into his custody such records, statements, diskettes, documents or any part thereof, in original or copies thereof in such form as the authorized officer may deem fit against a signed receipt.



Comments: The provision of this section currently empowers the Board to authorize any Officer of Inland Revenue to have free access to the business or manufacturing premises or registered office of the registered person and to inspect the stocks, accounts, records and documents. Now it is proposed to empower the Commissioner, in addition to the Board, to authorize any Officer in this respect. Earlier the Collector has the same powers which were abolished through Finance Act 2009.

Service of orders, decisions, etc

SECTION 56 (1)(a)(b)&(c)

Existing

Proposed Amendment

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 _____

personally served on the individual or, in the case of an individual under a legal disability or a non-residents individual” the representative of the individual;

sent by register post or courier service 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

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 –

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;

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

Service of orders, decisions, etc

SECTION 56 (1)(a)(b)&(c)

civil procedure, 1908(v of 1908)

served on the individual in the manner prescribed for service of a summons under the Code of Civil Procedure, 1908 (V of1908).

Comments: The proposed change provides for the mode of service of any notice, order and requisition on resident and non-resident individual and association of persons in the following manner;

- (1) In case of a resident individual it shall be treated as properly served if;
 - it is personally served on the individual or in case of legal disability or a nonresident individual; the representative of the individual;
 - sent by registered post or courier services; or
 - served in the manner of a summon under the Code of Civil Procedure, 1908.
- (2) In case of any person (other than a resident individual) it shall be served as properly served if;
 - personally served on the representative of the person;
 - sent by register port or courier services to the register office or address or does not have register office or address then to any office or place of business in Pakistan; or
 - served in the manner of a summon under the Code of Civil Procedure, 1908
- (3) In case of an association of persons which has been dissolved; by serving on the principal officer or a member immediately before such dissolution.
- (4) In case of business which stands discontinued; personally on the person discontinuing the business or on person’s representative at the time of discontinuance.

Selection for audit by the Board

SECTION 72B (1)(2)&(3)

Existing

“New Section shall be added”

Proposed Amendment

The Board may select persons or classes of persons for audit of tax affairs through computer ballot which may be random or parametric as the Board may deem fit.

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

Selection for audit by the Board**SECTION 72B (1)(2)&(3)**

“New Section shall be added”	For the removal of doubt, it is hereby declared that the Board shall be deemed always to have had, the power to select any persons or classes of persons for audit of tax affairs under this section.”;
Comments: The bill intends to empower the Board to select persons or class of persons for audit of tax affairs through computer ballot which may be random or parametric as the Board may deem fit.	

Amendments in Sales Tax Rates

- (1) Rate of sales tax for Areca, flavouring powders for preparation of food, Petroleum jelly, vinyl chloride, methanol, pigments and preparation, plasticized, aluminium alloys and others goods in Table I of SRO 644(I)/2007 dated June 27, 2007 has been raised from 21% to 22% of the value of goods (SRO 395(I)/2010).
- (2) Rate of sales tax for flat-rolled products of iron or non-alloy steel of different width which may be cold rolled or clad plated or coated mentioned in Table II of SRO 644(I)/2007 dated June 27, 2007 has been raised from 18.5% to 19.5% of the value of goods (SRO 395(I)/2010).
- (3) Rate of sales tax on import of soyabean seed by the solvent extraction industries has been revised from 6% to 7%. (SRO 396(I)/2010)
- (4) Rate of sales tax on import of sunflower seed and canola seed by the solvent extraction industries has been revised from 14% to 15%. (SRO 397(I)/2010)

FEDERAL EXCISES

Harmonization of Tax Authorities:

The proposed amendment is technical in nature and it intends to harmonize the titles of “tax authorities” for domestic taxes viz. “Appellate Tribunal”, “Chief Commissioner”, “Commissioner”, and “Officer of Inland Revenue” in line with Income Tax Ordinance, 2001. Through the proposed amendment the titles; wherever occurring in the Act, i.e. “Collector” is being replaced with “Commissioner”, “Additional Collector” with “Additional Commissioner”, “Assistant Collector” with “Assistant Commissioner”, “Deputy Collector” with “Deputy Commissioner”, and “Federal Excise Officer” with “Officer of Inland Revenue”. These amendments have already been made through the Finance (Amendment) Ordinance, 2009 dated October 28, 2009 and the Finance (Amendment) Ordinance, 2010 dated February 6, 2010 and apparently have been included in the bill to receive its ratification from the Lower and Upper House. Apart from above harmonization measures, following amendments have proposed to be made:

Section 17(1)

Period for retention of record enhanced

The bill proposes to increase the time period of maintaining and keeping the records of excisable goods purchased, manufactured and cleared from 5 years to 6 years or till the final decision in any proceedings for assessment, appeal, revision, reference, petition and any proceedings before an Alternative Dispute Resolution Committee.

Section 34 A

Procedure for filing reference before the High Court harmonized

The bill proposes to include procedure for filing reference before the High Court. The proposed amendment lays down that any person or the Commissioner if aggrieved by an order of Appellate Tribunal may prefer an application, in the prescribed form along with a statement of the case, to the High Court, stating any question of law arising out of such order within 90 days of communication of the order under Section 34(2A).

The procedure for filing of reference and its proceedings is proposed in line with those given in the Income Tax Ordinance, 2001 to bring harmony within the domestic tax laws.

Section 42 B

Retrospective powers given to the tax authorities for selection of case for audit

It is proposed to empower 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. Audit of such persons selected is proposed to be conducted as per procedure given in section 46. It has also been proposed that the Board shall be deemed always to have had, the power to select any persons or classes of persons for audit.

Section 46 (2A)**Powers of Officer Inland Revenue to imposed duty, etc.**

A new sub section 2A is proposed to be inserted whereby after the completion of audit the Officer of Inland Revenue is being empowered to pass an order under section 14 after obtaining the registered person explanation on the issues raised as a result of the audit proceedings for imposing amount of duty, charging default surcharge, penalty and recovery of any amount erroneously refunded.

Section 47**Mode of Service of notice, etc. defined**

The proposed change provides for the mode of service of any notice, order and requisition on resident and non-resident individual and association of persons in the following manner;

- (5) In case of a resident individual it shall be treated as properly served if;
 - it is personally served on the individual or in case of legal disability or a nonresident individual, to the representative of such individual;
 - sent by registered post or courier services; or
 - served in the manner of a summon under the Code of Civil Procedure, 1908.
- (6) In case of any person (other than a resident individual) it shall be served as properly served if;
 - personally served on the representative of the person;
 - sent by register port or courier services to the register office or address or if he does not have register office or address then to any office or place of business in Pakistan; or
 - served in the manner of a summon under the Code of Civil Procedure, 1908
- (7) In case of an association of persons which has been dissolved; by serving on the principal officer or a member immediately before such dissolution.
- (8) In case of business which stands discontinued; personally on the person discontinuing the business or on person's representative at the time of discontinuance.

CHANGE IN RATE OF DUTIES

Following amendments in the rate of duty for various items have also been proposed:

- (1) Rate of duty on cigars, cheroots, cigarillos and cigarettes, of tobacco substitutes and that of locally produced cigarettes if their retail price exceeds nineteen rupees and fifty paise per ten cigarettes from 64% of the retail price to 65%.
- (2) Rate of duty on locally produced cigarettes, where their retail price do not exceeds nineteen rupees and fifty paise per ten cigarettes, has been proposed to be enhanced by 50 paises per ten cigarettes.
- (3) Rate of duty on 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 has been proposed to be enhanced from 64% of the retail price to 65%.
- (4) Rate of duty on natural gas in gaseous state and other petroleum gasses in gaseous state has been proposed to increase by Rs. 4.10/- per MMBTu to ten rupees from the existing rate of five rupee and nine paise per MMBTu.
- (5) Following new duties are also proposed to be levied:

Description of goods	Proposed rate of duty
Filter rods for cigarette	One rupee per filter rod
Air Conditioners	Ten percent ad val.
Deep Freezers	Ten percent ad val.

Note: The bill proposes that the amendments proposed in Federal Excises will have effect from June 5, 2010.

SRO. 395(I)/2010 dated 05.06.2010

In exercise of the powers conferred by sub-section (3) of section 6 of the Federal Excise Act, 2005 the Federal Board of Revenue is pleased to rescind its Notification No. S.R.O. 650(I)/2005, dated 1st July, 2005 with effect from 1st July 2010.

The amendment through aforesaid SRO regarding the withdrawal of restriction of adjustment of FED paid on beverage concentrate is aimed at attracting new investment in beverage industry and reducing the prices of aerated waters in the country.

CUSTOM S ACT, 1969 (IV OF 1969) PROPOSED AMENDMENTS

Section 2(s)(II)	The bill seeks to enhance the value of gold or silver or platinum or palladium or radium or precious stones, and any other goods notified by the Federal Government in the official Gazette from fifty thousand to one hundred thousand rupees in value to discourage the smuggling of above mentioned items.
Section 25(15)(b)	The bill seeks to substitute the export duty with the regulatory duty which may be chargeable under sub section 3 of section 18 as specified in the First Schedule at a rate not exceeding one hundred per cent of the value of such goods. Regulatory duty is proposed to be levied in place of export duty due to restrictions imposed in Section 18(2) of the Act.
Section 25A	The bill seeks clarify that the customs value determined under sub-section (1) or, as the case may be, under sub-section (3)of the Section 25A, shall be applicable until and unless revised or rescinded by the competent authority.
Section 25D	The bill proposes for review of value determined under Section 25A through filing of a review application before Director General of Valuation within 30 days from the determination of customs value.
Section 27A	The bill seeks to substitute the section that the mutilation or scrapping of certain goods, as are notified by the Board, may be allowed, as prescribed under the rules, on the request of the owner and where such goods are so mutilated or scrapped they shall be chargeable to duty at such rates as may be applicable if the goods had been imported in the mutilated form or as scrap.
Section 32(5)(e)	The bill seeks to enter new sub clause so that cognizance could be taken in cases where revenue is paid through self assessment in order to curb the tendency of mis-declaration and less payment of revenue through computerized clearance system.
Section 32A (1) (C)	The bill seeks to amend the aforesaid clause by inserting words and comma “payment of revenue through self-assessment,” to curb the tendency of deliberate wrong self-assessments on the part of the importers
Section 79(1)	The bill seeks to substitute the first proviso in order to restrict the facility of filing of goods declaration after examining the goods by the importer to only in case of used goods. Besides, the permission for filing of goods declaration after examination of goods can now only be granted by the Additional Collector.
Section 81(2)	<p>The proposal seeks to decrease the time period of three months from six months for the payment of amount of duty, taxes and charges correctly payable of provisional determination.</p> <p>The above change will ensure finalization of the cases of provisional assessment within three months.</p> <p>The proposal seeks to insert a second proviso to clarify that time period taken by way of any adjournment on account of a stay order or</p>

	for want of clarification from the board or the time taken through adjournment by the importer, shall be excluded from the computation of the period mentioned in first proviso.
Section 81(5)	The proposed insertion of new sub clause 5 will bound the appropriate officer that on completion of final determination, he will issue an order for adjustment refund or recovery of amount secured, as the case may be.
Section 156(1)	The proposed amendments will enhance the general penalty to the extent of Rs.50, 000/- and discourage the non-compliance of law The bill seeks to enhance the penalty to the extent of not less than twice the value of the offending goods besides the confiscation of goods for violation of section 128 and 129 of Customs Act, 1969.
194A(1)(e)	The bill seeks to add a new clause (e) which would enable any person or an officer of Customs to file an appeal before the Appellate Tribunal in cases of review order passed by the Director General Customs Valuation under section 25D provided the appeal is heard by the Special Bench consisting of one technical member and one judicial member.

S.R.O'S

S.R.O 391(I)/2010

Custom duty @ 5% is being imposed on Protacine (Proglumet, Dimaleate), Celecoxib, Sodium Casinate, Activated Glucuronate and Tassigna (Nilotinib) with effect from 6th June, 2010.

S.R.O 392(I)/2010

Custom duty is being increased from 0% to 5% on various raw materials for washing machines. Further, duty has been imposed @5% on the substituted Screw sets, speaker, front cabinet assy, filter for plasma display or LCD panel or LED panel , rear cover assy, Plasma display or LCD or LED control unit, Plasma display panel/LCD panel/Led panel, Printed circuit board and AC cable accessories. Custom duty has also been imposed on Glass manufacturing and detergent raw materials @ 10% and on leather tanning industry @ 15% ad val with effect from 6th June, 2010.

S.R.O 394(I)/2010

Custom duty is being imposed @ 0% on Rice Whitener, rice polisher, rice flow meter and magnetic separator and Milk Filters and at the rate of 5% on LPG Dispensers imported by company having LPG Licence, Road Sweeping lorries, Pyranometers and accessories for solar data collection, Solar charges for charging electronic devices, Remote control for solar charge controller and Wind water pump with effect from 6th June, 2010.

OTHER LAWS

Petroleum Products (Petroleum Development Levy) Ordinance, 1961

A 'Petroleum Levy' is now payable by a refinery producing specified petroleum products or by a company purchasing specified petroleum products for resale. The subject petroleum products and the rate of surcharge applicable thereon are as under:

Petroleum Products	Petroleum Levy Rate Rupees / Litre	
High Speed Diesel Oil (HSDO)	8	
Motor Gasoline 87 ROM	10	
SKO	6	
Light Diesel Oil (LDO)	3	
HOBC	14	
E-10 Gasoline	9	

The Carbon Surcharge has been abolished.

A new section is proposed to be inserted validating the Petroleum Development levy during the period from March 1, 2010 to June 30, 2010.

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