

M.Com/MBA

TAXATION MANAGEMENT

Course Code: 8531

Edited by :
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Department of Commerce
ALLAMA IQBAL OPEN UNIVERSITY

TAXATION MANAGEMENT

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Department of Commerce
ALLAMA IQBAL OPEN UNIVERSITY, ISLAMABAD

DISCLAIMER

The contents of this book contain certain sections from the Income Tax Ordinance 2001, Income Tax Rules 2002, publications/guides of the FBR and other guides/resources available on the website of various government departments. The objective of this book is to enable students to understand the system of taxation in Pakistan.

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INTRODUCTION

In this modern age, businesses are facing numerous challenges and significant changes in their operational aspects. A student of business taxation needs to understand these issues and changes to correctly scan the twists and turns of taxation for designing a competitive business model. In this course, we have tried to describe the latest concepts emerging in the area of business taxation and incorporated them in the context of Pakistan to present a day-to-day observable picture of the textbook material to the students.

The **unit one** presents a brief introduction of the subject of taxation and core concepts in the context of the Income Tax Ordinance 2001. The basic concepts of income and taxpayer have been highlighted. The **unit two** describes the heads of income as classified in the Income Tax Ordinance 2001. In **unit three**, the taxation of income of non-salaried persons has been presented with a view to facilitate the calculation of taxable income of small traders.

In **unit four**, the taxation of income of a partnership is presented in order to know the method of calculation of taxable income of Association of Persons (AOPs). In **unit five**, the focus has been on explaining the taxation treatment of the income of different types of companies. The **unit six** prescribes the tax credits, tax exemptions and tax rebates available for different companies in Pakistan. Similarly, **unit seven** prescribes the treatment of withholding tax advance tax for businesses and companies.

In **unit eight**, a special attention has been given to the customs duties applicable in Pakistan by discussing its various concepts, return filing procedures and calculation details. Lastly, in **unit nine**, theoretical and practical problems related to the sales tax and federal excise duty has been discussed. Errors and omissions are expected as writing is a continuous exercise of improving the subject matter. Kindly inform us such discrepancies and give your valuable suggestions.

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CONTENTS

Unit-1: Understanding the Tax System of Pakistan.....	01
Introduction.....	02
Objectives	02
1. Basics of Taxation.....	03
1.1 Concept of Tax.....	03
1.2 Definition of Tax.....	03
1.3 Types/Qualities/Properties of Taxes	03
2. Tax System of Pakistan.....	04
2.1 Income Tax	05
2.2 Customs Duty.....	05
2.3 Federal Excise Duty.....	05
2.4 Sales Tax	06
2.5 Provincial Taxes.....	06
3. Adam Smith's Principles of Taxation.....	06
4. Role of Tax in Society	07
5. Federal Budget & Taxes 2017-18	08
5.1 Resource Position 2017-18	08
6. Federal Board of Revenue	10
6.1 Introduction to FBR:.....	10
6.2 Organizational Structure of Federal Board of Revenue...	12
6.3 Powers and Functions of the Board (FBR)	12
7. Concept of Taxpayer.....	14
7.1 Introduction to the Income Tax Ordinance 2001:	14
7.2 Sources/Components of Income Tax Law in Pakistan ...	15
7.3 Major Terms and their Definitions under Income Tax Ordinance 2001.....	16
8. Concept of tax payer	18
8.1 Taxpayer	18
8.2 Concept of Resident & Non-Resident Person	23
8.3 Principles of Taxation of persons	25
SUMMARY	26
 Unit-2: Income Tax Ordinance 2001: Heads of Income	 27
Introduction.....	28
Objectives	28
1. Salary	29
1.1 Concept of Salary.....	29
1.2 Taxation of Salary Income.....	29

1.3	Components of Salary Income.....	29
1.4	Taxation of Pay, Wages or Basic Salary.....	30
1.5	Taxation of Additional Benefits	31
2.	Concept of Income from Property	34
2.1	Income from Property	34
2.2	Taxation of Property Income	36
3.	Income from Business.....	37
3.1	Definition of Business.....	37
3.2	Components of Business Income.....	37
3.3	Taxation of Business Income.....	38
3.4	Special Topics in Business Income.....	41
3.4.1	Depreciation & Amortization	41
4.	Introduction to Capital Gains.....	45
4.1	Calculation of Capital Gain	45
4.2	Taxation of Capital Gain.....	46
4.3	Treatment of Capital Loss.....	46
4.4	Exempted Capital Gains	47
5.	Income from other Sources	49
5.1	Deductions allowed under Income from other Sources...	50
	SUMMARY	52

Unit-3: Income from Business: Non-Salaried Individuals & Tax Credits. 53

	Introduction	54
	Objectives	54
1.	Introduction of Non- Salaried Person	55
1.1	Income from Business.....	55
1.1.1	Components of Business Income.....	55
1.1.2	Taxation of Business Income.....	55
2.	Deductions	56
3.	Tax Credits: (Through Average Relief).....	63
3.1	Foreign Tax Credit.....	63
3.2	Charitable Donations	64
3.3	Contribution Paid to an Approved Pension Fund	64
3.4	Investment in Shares	64
3.5	Life Insurance Premium Paid.....	64
3.6	Health Insurance Premium Paid.....	65
4.	Taxations of Income of Traders.....	65
4.1	Rules for the Computation of the Tax Payable on Profits and Gains of a Trader (Part-I).....	65
4.2	Rules for the Computation of the Tax Payable on Profits and Gains of a Trader (Part-II).....	66

4.3	General Provisions for the Traders	67
5.	Taxation of Incomes of Non-salaried Individuals	68
	SUMMARY	76
Unit-4:	Income from Business: Association of Persons	77
	Introduction	78
	Objectives	78
1.	Association of Persons.....	79
1.1	Introduction to Partnership Firms	79
1.2	Principles of Taxation of Associations of Persons	79
1.2.1	Principles of Taxation of Associations of Persons	80
1.2.2	Taxation of members of an Association of Persons	80
1.3	Resident and Non-resident Persons	81
1.4.	Resident Association of Persons.....	81
2.	Taxation of Business Income of AOP	81
3.	Depreciation & Amortization	85
3.1	Tax Depreciation.....	85
3.2	Amortization	86
4.	Format of AOP Taxation Numericales	88
	SUMMARY	94
Unit-5:	Income from Business: Companies	95
	Introduction	96
	Objectives	96
1.	Principles of Taxation of Companies.....	97
2.	Concept of Company	97
3.	Taxation of Business Income of Companies	98
3.1	Deductions Permissible.....	98
4.	Tax Returns Requirements.....	100
4.1	Which Company is Required to File?.....	100
4.2	Due date for Furnishing the Return of Income	100
4.3	Method of Furnishing Returns and Other Documents.....	101
4.4	Corporate Tax Rates	101
4.5	Institution of Tax Reforms in the Real Estate Sector	101
4.6	Successive Reduction in the Rates of Super Tax.....	101
4.7	Reduction in Tax Rate on Undistributed Profit	102
4.8	Tax at Import Stage on Commercial Importers	102
5.	Format of Taxation of Companies	102
6.	Practical Questions on Taxation of Companies	103
	SUMMARY	108

Unit-6: Tax Credits, Deductions, Exemptions and Loss Adjustments for Companies	109
Introduction	110
Objectives	110
1. Tax Credits for Companies under Income Tax Ordinance 2001	111
2. Deductions Allowed to Companies	116
3. Rules for Set-off and Carry Forward of Losses	116
4. Understanding Exemptions for Companies	120
5. Practical Questions.....	122
SUMMARY	126
 Unit-7: Withholding Taxes & Advance Taxes.....	 127
Introduction	128
Objectives	128
1. Due Date for Payment of Tax	129
2. Withholding Tax/tax Deducted at Source.....	129
2.1 Procedure for Deduction and Collection of Withholding Tax	130
2.1.1 Who Will Deduct Withholding Tax?.....	130
2.1.2 Rates of Withholding Tax.....	130
2.1.3 Statement of Withholding Tax.....	132
2.1.4 Certificate of Collection or Deduction of Tax	133
2.1.5 Payment of Tax Collected or Deducted	133
2.1.6 Failure to Pay Tax Collected or Deducted	133
2.1.7 Recovery of Tax from The Person from Whom Tax Was Not Collected or Deducted	134
2.1.8 Exemption or Lower Rate Certificate	134
2.1.9 Priority of Tax Collected or Deducted.....	135
2.1.10 Credit for Tax Collected or Deducted.....	135
2.1.11 Tax Collected or Deducted as a Final Tax.....	135
3. Advance Tax	137
3.1 Advance Tax Paid by the Taxpayer	137
3.2 Advance Tax for Companies and AOPs	137
3.3 Advance Tax for Individuals	138
3.4 Dates for the Payment of Advance Tax	138
4. Recovery of Tax.....	140
5. Appeals	144
SUMMARY	154

Unit-8: Custom Duties Act 1969	155
Introduction	156
Objectives	156
1. Definitions	157
2. Appointment of Officers of Customs and their Powers	161
3. Declaration of Ports, Airports Lands Customs Stations, etc.....	163
4. Prohibition and Restriction of Importation and Exportation ...	165
5. Levy of, Exemption from, and Repayment of, Customs-duties	166
6. Drawbacks.....	169
7. Appeals and Revisions	170
SUMMARY	180
 Unit-9: Sales Tax act 1990 & Federal Excise Act 2005.....	181
Introduction	182
Objectives	182
1. Sales Tax Act 1990	183
1.1 Basic Concepts of Sales Tax.....	183
1.2 Registration under Sales Tax Act 1990	184
1.3 Sales Tax Returns	186
1.4 Sales Tax Refunds.....	188
1.5 Appeal Filing	189
1.6 Calculation of Sales Tax	192
1.7 Practical Questions on Sales Tax	194
2. The Federal Excise Act, 2005	199
2.1 Definitions.....	199
2.2 Levy, Collection and Payment of Duty.....	202
2.3 Offences and Penalties	210
2.4 Searches, Arrests and Seizures	216
2.5 Powers, Adjudication and Appeals	217
SUMMARY	223

UNIT: 1

UNDERSTANDING THE TAX SYSTEM OF PAKISTAN

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Introduction

This unit will introduce the basic concepts of tax to the students with a view to enhance their understanding of government budgetary receipts system. The taxation principles will be explained to the students to create awareness for a good taxation system. Similarly, the key concepts of taxpayer, income and taxable income will be explained. The authorities responsible for the collection of tax and role of tax in society will be studied in detail. Lastly, Tax Reforms Programs in Pakistan will also be explained.

Objectives

After reading this unit, you will be able;

1. to introduce the concept and type of taxes
2. to explain the various types of taxes in Pakistan
3. to understand the tax reforms programs in Pakistan
4. to highlight the structure and powers of Federal Board of Revenue
5. to know the basic concepts of income tax in Pakistan

1. Basics of Taxation

1.1 Concept of Tax

Tax (from the Latin word *taxo* which means rate) is a financial charge or other levy imposed upon a taxpayer (an individual or legal entity) by a state or the functional equivalent of a state such that failure to pay is punishable by law. The modern government system in the world requires revenues collected from the citizens of a country and in return various services are provided to them. The collection of revenues through taxation is the sole domain of the governments and the money collected from the people is spent on providing education, health, security, infrastructure and other useful facilities to the general public.

1.2 Definition of Tax

A compulsory contribution to state revenue, levied by the government on workers' income and business profits, or added to the cost of some goods, services, and transactions. (Oxford Dictionary)

An involuntary fee levied on corporations or individuals that is enforced by a level of government in order to finance government activities. (Investopedia)

According to *Black's Law Dictionary*, a tax is a "pecuniary burden laid upon individuals or property owners to support the government [...] a payment exacted by legislative authority." It "is not a voluntary payment or donation, but an enforced contribution, exacted pursuant to legislative authority" and is "any contribution imposed by government [...] whether under the name of toll, duty, custom, excise, subsidy, aid, supply, or other name".

At macro level, the tax system of a country is highly related to its economic performance. The fiscal imbalance in a country indicates its poor performance. The taxes imposed on its citizens by a government largely depend on the objectives that a government set in to achieve a level of economic growth and social development. In developing countries where tax evasion and tax avoidance is high at individual level, corporate taxation plays the main role for the collection of the desired revenue by the government. The strength of the laws related to the taxation allows a country to generate the higher revenues from the companies while at the same time offering investments incentives.

1.3 Types/Qualities/Properties of Taxes

There are different types of taxes imposed by the governments all over the world. The taxes are divided in such types based on their specific objective for which they are imposed. Such types of taxes can also be called their properties or qualities as their division is made based on certain common qualities. A brief discussion on the types of taxes is presented below:

i. Direct Tax and Indirect Tax

Taxes are sometimes referred to as "direct taxes" or "indirect taxes". The meaning of these terms can vary in different contexts, which can sometimes lead to confusion. A simple way to understand the difference between them is consider the method in which these taxes are paid. A direct tax is paid by the taxpayer himself to the tax authorities while the indirect tax is collected by a third party and paid to the tax authorities. For example, the income tax is direct tax as it is paid by the taxpayer himself to the tax authorities and the sales tax is an indirect tax as it is paid by the taxpayer in the form of price of product and deposited to the tax authorities by the companies making that product.

An economic definition, by Atkinson, states that "...direct taxes may be adjusted to the individual characteristics of the taxpayer, whereas indirect taxes are levied on transactions irrespective of the circumstances of buyer or seller." According to this definition, for example, income tax is "direct", and sales tax is "indirect". In law, the terms may have different meanings. A tax on the sale of property would be considered an indirect tax, whereas the tax on simply owning the property itself would be a direct tax.

ii. Progressive Tax

A Progressive Tax is a tax in which the tax rate increases as the taxable base amount increases. "Progressive" describes a distribution effect on income or expenditure, referring to the way the rate progresses from low to high, where the average tax rate is less than the marginal tax rate. The progressive taxes places more burdens on the rich people as the tax rates goes up as the income level increases. A progressive tax attempts to bring equality in the society as the rich people are taxed higher than the poor. The income tax is a progressive tax in Pakistan as the rate of income tax increases with an increase in the level of income.

iii. Regressive Tax

A Regressive Tax is a tax imposed in such a manner that the tax rate decreases as the amount subject to taxation increases. The regressive taxes are applied in manner that results in shifting more tax burden on those people who have lower incomes and fewer burdens on people having higher income. For example, the sales tax is imposed in Pakistan at 17% rate on different products. All persons will pay the same rate of tax irrespective of their incomes. A rich person buying a cold drink will also pay the same level of tax as a poor person is paying.

iv. Proportional or Flat Tax

Proportional or Flat Tax is a tax imposed so that the tax rate is fixed, with no change as the taxable base amount increases or decreases. The amount of the tax is in proportion to the amount subject to taxation. It can be applied to individual taxes or to a tax system as a whole; a year, multi-year, or lifetime. Proportional taxes maintain equal tax incidence regardless of the ability-to-pay and do not shift the incidence disproportionately to those with a higher or lower economic well-being. The motor vehicle tax, stamp duty, customs duty are designed on the pattern of proportional or flat tax.

2. Tax System of Pakistan

There are different taxes imposed in Pakistan by the Federal and Provincial governments. A broad description regarding the nature of administration of these taxes is explained below:

2.1 Income Tax

The income tax is imposed in Pakistan through the Income Tax Ordinance 2001. The income tax is payable by the individuals, association of persons and companies. The income tax is payable on the income generated by a person in a year. The rates of income tax are described by the federal government in the annual budget or finance bill. These rates are charged on the taxable incomes of the persons for calculation of the income tax liability. The revenues collected through income tax contribute approximately 40% to the tax revenues of the country.

i. Personal Income Tax

All individuals, unregistered firms, associations of persons, etc., are liable to tax, at the rates ranging from 5% to 20% on different income levels. For the purpose of the charge of tax and the computation of total income, all income is classified under the following heads:

- a. Salaries
- b. Income from property;
- c. Income from business or professions
- d. Capital gains; and
- e. Income from other sources.

ii. Income Tax on Companies

All companies incorporated in Pakistan are assessed for the payment of income tax. The income tax rate for companies in Pakistan is 29% on their taxable profits. However, the effective rate is likely to differ on account of allowances and exemptions related to industry, location, exports, etc. The income tax on companies which is also called the corporate income tax is calculated by looking at the net profits reported in the annual profit and loss account by a company. This net profit is further adjusted by following the rules of taxation to arrive at the figure of income tax liability.

2.2 Customs Duty

Goods imported and exported from Pakistan are liable to rates of customs duties as prescribed in Customs Act 1969. Customs duties in the form of import duties and export duties constitute about 10% of the total tax receipts. The rate structure of customs duty is determined by a large number of socio-economic factors. However, the general scheme envisages higher rates on luxury items as well as on less essential goods. The import tariff has been given an industrial bias by keeping the duties on industrial plants and machinery and raw material lower than those on consumer goods.

2.3 Federal Excise Duty

The Federal Excise Duty (FED) is charged under Federal Excise Act 2005 on a limited number of goods produced or manufactured, and services provided or rendered in Pakistan. On most of the items Federal Excise Duty is charged on the basis of value or retail price. Some items are, however, chargeable to duty on the basis of weight or quantity. Classification of goods is done in accordance with the Harmonized Commodity Description and Coding system which is being used all over the world. All exports are exempted from Central Excise Duty.

2.4 Sales Tax

Sales Tax is levied under Sales Tax Act 1990 at various stages of economic activity at the general rate (GST) on:

- All goods imported into Pakistan, payable by the importers;
- All supplies made in Pakistan by a registered person in the course of furtherance of any business carried on by him;
- There is an in-built system of input tax adjustment and a registered person can make adjustment of tax paid at earlier stages against.

2.5 Provincial Taxes

The four provinces of Pakistan have also imposed their own taxes on different transactions. These taxes include provincial sales tax on services, property tax, excise tax, motor vehicle tax, professional tax etc. These taxes are collected in addition to the taxes imposed by the Federal Government. The purpose of these taxes is to collect more revenues for the Provincial Governments to meet their budget objectives. All four provinces have established their own tax collection organizations/authorities that collect these taxes from the individuals and companies. The share of revenue of provinces collect through these taxes is very small and contributes only 5% in the overall share of the tax revenues of the country.

3. Adam Smith's Principles of Taxation

The taxes are imposed by following certain principles. These principles are the standards against which we judge the system of taxation in a country. These principles have been devised over the years by various economists. The famous economist Adam Smith has given the following four important canons of taxation:

i. Canon of Equity

The principle aims at providing economic and social justice to the people. According to this principle, every person should pay to the government depending upon his ability to pay. The rich class people should pay higher taxes to the government, because without the protection of the government authorities (Police, Defense, etc.) they could not have earned and enjoyed their income. Adam Smith argued that the taxes should be proportional to income, i.e., citizens should pay the taxes in proportion to the revenue which they respectively enjoy under the protection of the state.

ii. Canon of Certainty

According to Adam Smith, the tax which an individual has to pay should be certain, not arbitrary. The tax payer should know in advance how much tax he has to pay, at what time he has to pay the tax, and in what form the tax is to be paid to the government. In other words, every tax should satisfy the canon of certainty. At the same time a good tax system also ensures that the government is also certain about the amount that will be collected by way of tax.

iii. Canon of Convenience

The mode and timing of tax payment should be as far as possible, convenient to the tax payers. For example, land revenue is collected at time of harvest income tax is deducted at source. Convenient tax system will encourage people to pay tax and will increase tax revenue.

iv. Canon of Economy

This principle states that there should be economy in tax administration. The cost of tax collection should be lower than the amount of tax collected. It may not serve any purpose, if the taxes imposed are widespread but are difficult to administer. Therefore, it would make no sense to impose certain taxes, if it is difficult to administer.

4. Role of Tax in Society

i. Establishes equality

Those societies which pay regular taxes bring a feeling of equality among its members. A tax system is designed to provide maximum benefits to those sections of society which have a relatively lesser income. If a tax is imposed at higher rate on rich and at lower rate on poor, then it can establish the sense of equality in its members.

ii. Circulation of wealth

Concentration on wealth in few hands discourages the working especially poor people of a society to engage in a meaningful job. The distribution of wealth through a fairer system of tax brings the stored wealth of rich into circulation providing opportunities for poor people.

iii. Reduction in poverty

The tax revenue collected by a Govt. can be utilized to design pro-poor schemes to uplift their economic conditions. A Govt. can provide maximum relief to poor by envisioning poverty reduction schemes with the help of tax payer's money. This can result in engaging the marginalized portion of society into some productive tasks.

iv. Increase in democratic awareness

The tax paid by a tax payer inserts a sense of belongingness in him that he is a member of this society. In general, majority of taxpayers favor that political party which can provide the services to the taxpayer in effective manner thereby making best use of his tax money. This results in increased participation by the general public in political affairs of a country.

v. Promotion of cultural activities

The tax money can be used by a Govt. to spread the positive image of their culture in the world. The promotion of arts, literature, poetry etc. can be taken effectively if a Govt. have sufficient revenue in its account. This can result in teaching the values of tolerance, peace and positive thinking among general public.

5. Federal Budget & Taxes 2017-18

A government budget is an annual financial statement presenting the government's proposed revenues and spending for a financial year that is often passed by the legislature, approved by the chief executive or president and presented by the Finance Minister to the nation. The budget is also known as the Annual Financial Statement of the country. This document estimates the anticipated government revenues and government expenditures for the ensuing (current) financial year.^[1] For example, only certain types of revenue may be imposed and collected. Property tax is frequently the basis for municipal and county revenues, while sales tax and/or income tax are the basis for state revenues, and income tax and corporate tax are the basis for national revenues.

A budget can be of 3 types:

- **Balanced Budget:** When government receipts are equal to the government expenditure, it is called a balanced budget.
- **Deficit Budget:** When government expenditure exceeds government receipts, the budget is said to be deficit. A deficit can be of 3 types, Revenue, Fiscal and Primary deficit.
- **Surplus:** When government receipts are more than expenditure

5.1 Resource Position 2017-18

There are two types of resources i.e. internal and external. The internal resources comprise of revenue receipts, capital receipts and estimated provincial Surplus. The external resources come from foreign loans and grants. Table-7 below presents the overall comparative resource position for the year 2016-17 (budget and revised) and 2017-18 (budget).

RESOURCE POSITION

(Rs in Million)			
Classification	Budget 2016-17	Revised 2016-17	Budget 2017-18
A Internal Resources	3,759,263	3,230,492	3,913,909
I Net Revenue Receipts [(i) - (ii)]	2,779,695	2,616,007	2,926,074
(i) Gross Revenue Receipts	4,915,575	4,737,354	5,310,317
(ii) Less Provincial Share in Taxes	2,135,881	2,121,347	2,384,243
II Total Capital Receipts	640,547	324,896	640,567
III Estimated Provincial Surplus	339,022	289,589	347,269
B External Resources	819,610	996,287	837,824
TOTAL RESOURCES (A + B)	4,578,874	4,226,779	4,751,733

(Ministry of Finance: Budget 2017-18)

Internal Resources

I. Net Revenue Receipts

3.2 The gross revenue receipts in budget 2017-18 are estimated at Rs 5,310,317 million showing an increase of 8% over the budget estimates 2016-17 and 12.1% over revised estimates of outgoing fiscal year 2016-17.

3.3 The provincial share in taxes for 2017-18 is estimated at Rs 2,384,243 million, which is 12.4% higher than the revised estimates of 2016-17. After the share of Provinces in gross revenues is transferred, the net revenue of Federal Government has been estimated to be Rs 2,926,074 million for fiscal year 2017-18.

3.4 The tax revenue for 2017-18 is estimated at Rs 4,330,463 million, which reflects an increase of 13.2% over revised estimates 2016-17. Out of which FBR collection is Rs 4,013,000 million. Non-tax revenue is projected at Rs 979,854 million in 2017-18 as compared with Rs 912,119 million in revised estimates 2016-17.

3.5 Tables are present information on various components of tax revenue and non-tax revenue.

NET REVENUE RECEIPTS

(Rs in Million)			
Classification	Budget 2016-17	Revised 2016-17	Budget 2017-18
TAX REVENUE (A + B)	3,956,123	3,825,235	4,330,463
A. FBR TAXES	3,621,000	3,521,000	4,013,000
- Direct Taxes	1,558,000	1,378,840	1,594,910
- Indirect Taxes	2,063,000	2,142,160	2,418,090
B. OTHER TAXES	335,123	304,235	317,463
NON-TAX REVENUE	959,452	912,119	979,854
- Property and Enterprise	261,217	243,815	214,689
- Civil Administration and Other Functions	459,811	314,139	413,172
- Miscellaneous Receipts	238,424	354,165	351,992
Gross Revenue Receipts	4,915,575	4,737,354	5,310,317
Provincial Share in Gross Revenue	2,135,881	2,121,347	2,384,243
NET REVENUE RECEIPTS	2,779,695	2,616,007	2,926,074

(Ministry of Finance: Budget 2017-18)

TAX REVENUE

Classification	(Rs in Million)		
	Budget 2016-17	Revised 2016-17	Budget 2017-18
A. FBR TAXES (I + II)	3,621,000	3,521,000	4,013,000
I. Direct Taxes	1,558,000	1,378,840	1,594,910
- Income Tax	1,538,756	1,363,837	1,577,557
- Workers Welfare Fund	16,947	12,641	14,622
- Capital Value Tax	2,297	2,362	2,731
II. Indirect Taxes	2,063,000	2,142,160	2,418,090
- Customs Duties	413,000	491,054	581,371
- Sales Tax	1,437,000	1,444,962	1,605,200
- Federal Excise	213,000	206,144	231,519
B. OTHER TAXES	335,123	304,235	317,463
- Other Indirect Taxes	5,003	4,165	4,373
- Airport Tax	120	70	90
- Gas Infrastructure Development Cess (GIDC)	145,000	80,000	110,000
- Natural Gas Development Surcharge	35,000	65,000	43,000
- Petroleum Levy	150,000	155,000	160,000
TOTAL TAX REVENUE:	3,956,123	3,825,235	4,330,463

(Ministry of Finance: Budget 2017-18)

6. Federal Board of Revenue

6.1 Introduction to FBR

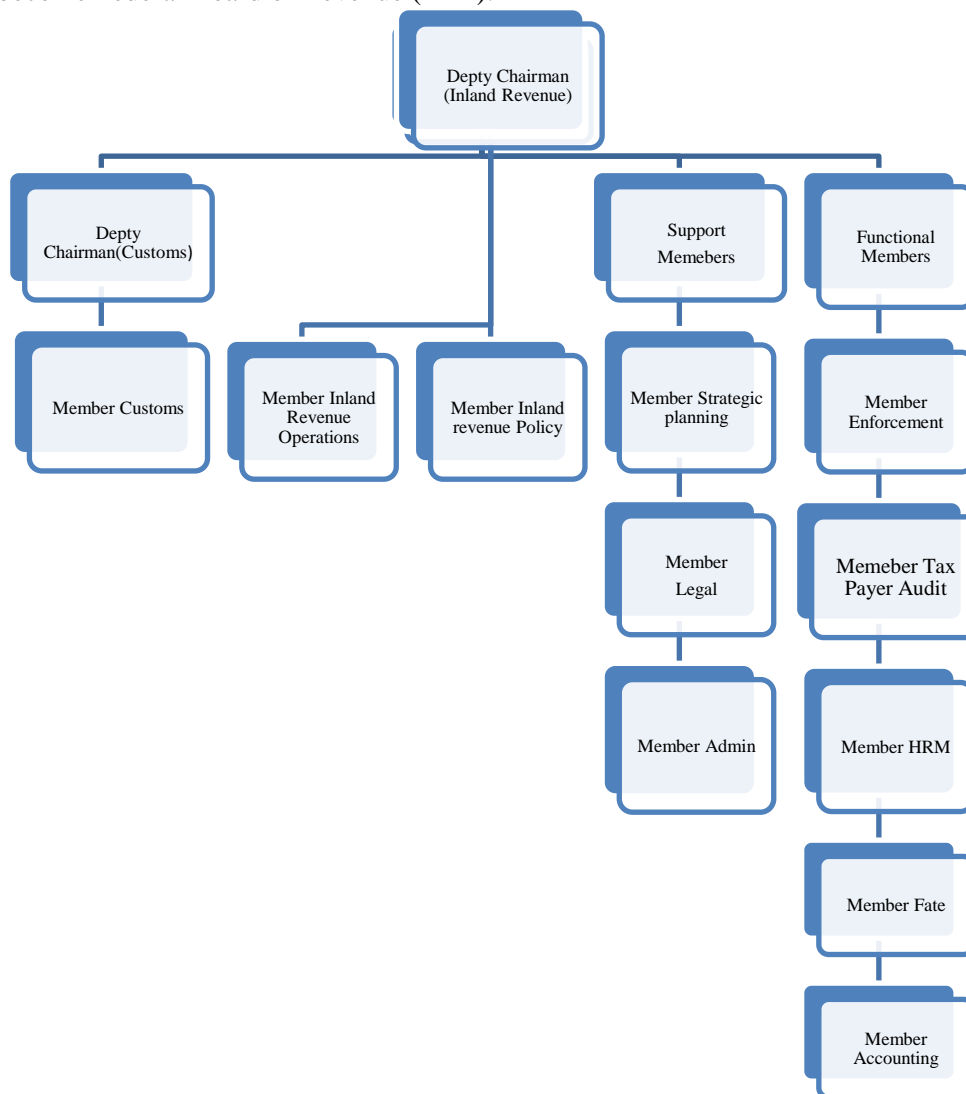
The government body responsible for collection of income tax in Pakistan is called the Federal Board of Revenue (FBR). The Federal Board of Revenue is empowered through the Income Tax Ordinance 2001 to implement the provisions of the law in Pakistan for the purpose of collection of income tax from individuals, association of persons and companies. To achieve this goal, the Federal Board of Revenue is authorized by the Federal Govt. of Pakistan to draft different rules for the effective implementation of the Income Tax Ordinance 2001.

The old name of the Federal Board of Revenue was the Central Board of Revenue (CBR) that was created on April 1, 1924 through enactment of the Central Board of Revenue Act, 1924 in British India. In 1944, a full-fledged Revenue Division was created under the Ministry of Finance. After independence, this arrangement continued up to 31st August 1960 when on the recommendations of the Administrative Re-organization Committee, CBR was made an attached department of the Ministry of Finance. In 1974, further changes were made to streamline the organization and its functions. Consequently, the post of Chairman CBR was created with the status of ex-officio

Additional Secretary and Secretary Finance was relieved of his duties as ex-officio Chairman of the CBR.

In order to remove impediments in the exercise of administrative powers of a Secretary to the Government and effective formulation and implementation of fiscal policy measures, the status of CBR as a Revenue Division was restored under the Ministry of Finance on October 22, 1991. However, the Revenue Division was abolished in January 1995, and CBR reverted back to the pre-1991 position. The Revenue Division continues to exist since from December 01, 1998.

By the enactment of FBR Act 2007 in July 2007 the Central Board of Revenue has now become Federal Board of Revenue (FBR).



6.2 Organizational Structure of Federal Board of Revenue

The Federal Board of Revenue is composed of a Chairman and eleven members as shown in the diagram above. All these members constitute the core team of FBR. They are responsible for efficient working of their respective portfolios.

In the existing setup, the Chairman, FBR, being the executive head of the Board as well as Secretary of the Revenue Division has the responsibility for

- i. Formulation and administration of fiscal policies,
- ii. Levy and collection of federal taxes and
- iii. Quasi-judicial function of hearing of appeals.

His responsibilities also involve interaction with the offices of the President, the Prime Minister, all economic Ministries as well as trade and industry.

6.3 Powers and Functions of the Board (FBR)

According to the federal Board of Revenue Act 2007, the Board shall exercise powers and perform all such functions that are necessary to achieve the objects and purposes of this Act and include the following, namely:

- i. to implement the tax administration reforms;
- ii. to promote voluntary tax compliance and to make the Board a service oriented organization; and to implement comprehensive policies and programs for the education and facilitation of taxpayers, stakeholders and employees, etc., in order to develop the Board into a modern efficient authority;
- iii. to adopt modern effective tax administration methods, information technology systems and policies in order to consolidate assessments; improve processes, organize registration of tax payers, widen the tax base, and make departmental remedies more efficient including enforcement of, or reduction or remission in, duty, penalty or tax, in accordance with the relevant law for the time being in force;
- iv. to improve the productivity through a comprehensive and effective human resource strategy;
- v. to identify and select through Internal Job Posting process the employees for designated jobs;
- vi. to grant additional allowances or any other incentives and rewards to the employees and members of the Board;
- vii. to take appropriate measures including internal controls to combat corruption within the organizations under the Board and provide checks to ensure the integrity of employees that is verified periodically through applicable procedure which shall be made one of the criterion for promotion and incentives;
- viii. to re-designate existing posts within its jurisdiction, prepare job description of any post and create posts in accordance with the rules;
- ix. to direct or advise, where necessary, investigation or inquiry into suspected duty tax evasion, tax and commercial fraud, money-laundering, financial crimes cases and to coordinate with the relevant law enforcement agencies;
- x. to introduce and maintain a system of accountability of performance, competence and conduct of the employees.

- xi. to implement the provisions of all the fiscal laws for the time being in force and to exercise all powers provided under the provisions of the fiscal laws and to take any action, make policy, issue rules or guidelines for the purpose to make the implementation of the fiscal laws clearer, transparent, effective and convenient;
- xii. to implement international obligations pursuant to a treaty, resolution or any international commitment;
- xiii. to establish a Foundation and Fund relating thereto so as to provide support and facilities to the employees and for the welfare of serving and retired employees and their families, and to create, establish, organize, assist in the social and cultural activities;
- xiv. to create a surplus pool of employees as and when required;
- xv. to make regulations, policies, programs, strategies in order to carry out the purposes of this Act (FBR 2007);
- xvi. to engage any person or entity on contract basis to carry out assignments or for the consultancy in accordance with the rules of the Federal Government;
- xvii. to regulate and enter into any agreement, contract understanding, with any international organization or institution or donor agency or counterpart entity with approval of the Federal Government;
- xviii. to create field formations of Board for greater efficiency in implementation of fiscal laws and refer to them with appropriate titles;
- xix. to set up mechanism and processes that facilitate removal of grievances and complaints of the tax payers;
- xx. to carry out any other function, activity and acts, etc., as decided and determined by the Board;
- xxi. to enable electronic communication in respect of all taxation matters such as e-filing, e-payments, e-notice, e-notification, digital imaging, protocols or agreements as may be prescribed; and to perform any other functions entrusted from time to time by the Federal Government.
- xxii. The Board may, where appropriate, issue statutory rules and orders (SROs), orders, circulars and instructions for the enforcement of any of the provisions of fiscal law and the provision of this Act (FBR 2007).
- xxiii. The Board shall perform all other functions assigned by the Federal Government for the purpose of implementation of this Act (FBR 2007).

6.4 Powers and Function of Commissioner Inland Revenue:

Commissioner Inland Revenue (CIR) has the following powers and functions under the Income Tax Ordinance 2001;

- i. Require a person or his representative to file the return of income
- ii. Require a person to file the wealth statement.
- iii. Extending the time for filing of the return
- iv. Requires a person to file the return of income on discontinuing the business
- v. Make an assessment order if the taxpayer has not furnished the return of income
- vi. Make an amended assessment order
- vii. Make a provisional assessment order
- viii. Make an assessment after the decision of the court

- ix. Allow a person to change the method of accounting
- x. Allow a person to change the method of stock valuation
- xi. Permit a person to use special tax year
- xii. Withdraw the permission for using special tax year
- xiii. Authorize a person to maintain the prescribed records
- xiv. Issue an exemption certificate issue notice to obtain the information
- xv. Impose penalties for different defaults
- xvi. Appoint any of his sub-ordinate authority with the approval of the FBR.
- xvii. Delegate any of his powers to any subordinate
- xviii. Taking necessary action for recovery of tax
- xix. Rectify any mistake in his orders
- xx. Selecting any person for audit

7. Basic Concepts of Income Tax in Pakistan

7.1 Introduction to the Income Tax Ordinance 2001

A tax is an amount computed by applying the applicable rate of tax, on taxable income, income subject to a separate charge, income subject to final tax and separate block of income subject to fixed tax. Tax payable on taxable income under the Income Tax Ordinance 2001 is called the income tax.

The Federal levy, tax, on income (Income Tax) is governed by the Income Tax Ordinance, 2001 and Income Tax Rules, 2002. It is an annual charge on the taxable income, income subject to separate charge and income subject to final tax of a person for a tax year. The Income Tax Ordinance 2001 is divided into **13** chapters and **7** schedules. It contains **240** sections. Section **3** of the Ordinance overrides all other laws in force to the extent any conflict arises. The seven schedules of Income Tax Ordinance 2001 are;

Seven schedules that are an integral part of the new Ordinance 2001 are divided as under:

First Schedule: provides rates of tax for all kinds of taxpayers and collection and deduction at source.

Second Schedule: specifies tax exemptions and concessions.

Third Schedule: prescribes rates of depreciation of assets and pre-commencement expenditure.

Fourth and Fifth Schedules: contain rules for computation of profits and gains of insurance business, and petroleum and minerals.

Sixth Schedule: describes provisions concerning recognized/approved provident, superannuation and gratuity funds.

Seventh Schedule: concerns taxation of income from export of goods manufactured in Pakistan.

Levy of tax on taxable income is divided into two parts:

- i. Income Tax on taxable income
- ii. Final tax on certain incomes

7.2 Sources/Components of Income Tax Law in Pakistan

i. Income Tax Ordinance 2001

The main source of guidance for calculating the tax liability of a person is Income Tax Ordinance 2001. This law has been designed to be less ambiguous than its predecessor the Income Tax Ordinance 1979. The federal Govt. of Pakistan has the power to amend and modify this law as per its revenue requirements. The Income Tax Ordinance 2001 is divided into 13 chapters and 7 schedules. It contains 240 sections. Section 3 of the Ordinance overrides all other laws in force to the extent any conflict arises.

ii. Income Tax Rules 2002

Income Tax Rules 2002 have been drafted to provide a detailed mechanism on the operational aspect of income tax. These rules have been crafted by the Federal Board of Revenue (FBR) under the power granted to it in section 237 of the Income Tax Ordinance 2001. FBR being the regulatory body has the authority to devise such laws for the implementation of the Income Tax ordinance 2001. These rules help the taxpayers to easily understand the procedural matters of taxation.

iii. Notifications, Circulars and Orders

The Federal Board of Revenue has the power to issue various notifications, instructions, orders, circulars, Statutory Regulatory Orders (SROs) under section 206 of the Income Tax Ordinance 2001 for taxpayers and its officers to guide them on certain matters of income tax. Through these measures FBR can exempt certain class of persons from paying income tax or paying the tax at reduced rates. All such amendments by the FBR shall be issued by the federal govt. in the official gazette along with approval of these changes from the parliament.

iv. Income Tax Case Laws

In case of dispute arising between a taxpayer and the FBR, the power to decide such matters resides with the courts. The decision of a court in a tax case not only solves the problem for that particular individual but also has status to act as a future reference for the same nature of disputes. These case laws or judgments of courts are regarded to have an official status to act for future guidance to taxpayers and officers of the FBR.

v. Finance Act or Budget

Every year the federal Govt. declares its budget describing the revenues and expenditures details. Usually, the Govt. amends the tax rates of income tax or declares the income of certain industries to be exempt from tax. When the budget gets approval from the parliament these changes become operational and income tax from the taxpayers is collected on the new rates prescribed by the Govt. in the budget or Finance Act.

The Concept of Income

The income tax liability is calculated on the taxable income of a person. To know the taxable income of a person, we need to know the concept of income, total income, taxable income & income subject to final tax. The Income Tax Ordinance 2001 has outlined these concepts to arrive at the tax payable of a person.

7.3 Major Terms and their Definitions under Income Tax Ordinance 2001

1. Definition of Income

(Section 2(21))

Income includes;

- i. Any amount chargeable to tax under this Ordinance,
- ii. Any amount subject to collection or deduction of tax under section
 - a. 148, (imports)
 - b. 150, (dividend)
 - c. 152(1), (Royalty to non-resident)
 - d. 153, (amount received for supply of goods and services)
 - e. 154, (Exports)
 - f. 156, (Prizes and Winnings)
 - g. 156A, (Tax deducted on petroleum products)
 - h. 233, (Brokerage and Commission)
 - i. 233A (Collection of tax by a stock exchange in Pakistan)
 - j. 234 (5) (Advance tax collected on motor vehicles)
- iii. Any amount treated as income under any provision of this Ordinance
- iv. Any loss of income.

- 2. Total Income** is the aggregate of income chargeable to tax under each of head of income.

Under the Income Tax Ordinance, 2001, all incomes are broadly divided into following five heads of income:

- i. Salary;
- ii. Income from property;
- iii. Income from business;
- iv. Capital gains; and
- v. Income from other sources

Different set of rules apply for determination of income chargeable to tax under each head of Income. Generally, income under a head of income is the total of the amounts derived as reduced by the admissible deductions against such income, if any. Expenditures attributable to a particular head of income are deductible as allowed by the Income Tax Ordinance 2001. When net amounts are calculated under all five heads of income, they are added to arrive at the total income

- 3. Taxable Income** means total income reduced by:

- i. Donations qualifying for direct deductions; and
- ii. Following deductible allowances:
 - a. Zakat paid under the Zakat and Ushr Ordinance, 1980,
 - b. Workers Welfare Fund paid under the Workers Welfare Fund Ordinance, 1971 (applies to certain specified industrial establishments); and
 - c. Worker's Participation Fund paid under the Companies Profit (Workers Participation) Act, 1968 (applies on companies only)

- d. Interest paid on loan obtained for house building purposes

The taxable income is considered for the purpose of calculation of income tax. The taxable income is multiplied with the rate of tax prescribed in the law. For example, if the taxable income of a person is Rs. 500,000 and the rate of tax is 10% then the tax liability of that person would be Rs. 10,000 ($500,000 \times 10\%$).

4. Income subject to Final Tax, which are subject to collection or deduction of tax at source and such tax collected or deducted at source is treated as final tax liability in respect of such income e.g. Income arising from business on account of:

- i. Import of goods;
- ii. Execution of contracts by non-residents
- iii. Insurance and re-insurance premiums received by non-residents
- iv. Any other amounts received by a non-resident (profit on debt)
- v. Supply of goods (other than by manufacturers);
- vi. Execution of contracts;
- vii. Services of stitching, dying, printing, embroidery, washing, sizing and weaving
- viii. Media services by non-residents
- ix. Export realization (goods)
- x. Commission / discount on petroleum products
- xi. Brokerage and commission;
- xii. Plying of goods transport vehicles; and
- xiii. Natural Gas Consumption (CNG Stations).
- xiv. Income arising from other sources on account of:
 - a. Profit on debt; and
 - b. Prizes and winnings

5. Time Period for Calculation of Tax Liability:

The income tax liability calculated above is paid according to the time period as prescribed by the law. The concept of time period is presented in the form of assessment year, income year and tax year.

i. Assessment Year:

Section 2(5A)

It means an assessment year as defined in the Income Tax ordinance 1979.

The assessment year is defined in section 2(8) of the Income Tax Ordinance 1979 as under:

Assessment year means the period of twelve months beginning on the first day of July next following the income year and includes any such period which is deemed, under any provision of this Ordinance, to be the assessment year in respect of any income or any income year.

ii. Income Year:

Section 2(29A)

It means an income year as defined in the Income Tax Ordinance 1979.

The income year is defined in section 2(26) of the Income Tax ordinance 1979 as under:

"Income year", in relation to any assessment year (hereafter in this clause, referred to as 'the said assessment year'), means-

- a. The financial year next preceding the said assessment year, or

- b. Such period as the Central Board of Revenue may, in the case of any person or class of persons or any source of income, specify by notification in the official Gazette, and includes any period which, under any provision of this Ordinance, is deemed to be an income year, or in respect of which a return of total income is required to be furnished, or any income is liable to be determined or assessed, or any tax is payable.

iii. Tax Year

(Section 74)

The tax payable by a person is calculated according to the tax year which is defined in the form of normal tax year, special tax year and transitional tax year as follows:

iv. Normal Tax Year

The tax year shall be a period of twelve months ending on the 30th day of June (hereinafter referred to as 'normal tax year') and shall, be denoted by the calendar year in which the said date falls.

v. Special tax Year

A person may apply, in writing, to the Commissioner to allow him to use a twelve months' period, other than normal tax year, as special tax year and the Commissioner may by an order, allow him to use such special tax year.

The Commissioner shall grant permission only if the person has shown a compelling need to use special tax year or normal tax year, as the case may be, and the permission shall be subject to such conditions, if any, as the Commissioner may impose.

vi. Transitional Tax Year

Where the tax year of a person changes as a result of an order the period between the end of the last tax year prior to change and the date on which the changed tax year commences shall be treated as a separate tax year, to be known as the "transitional tax year."

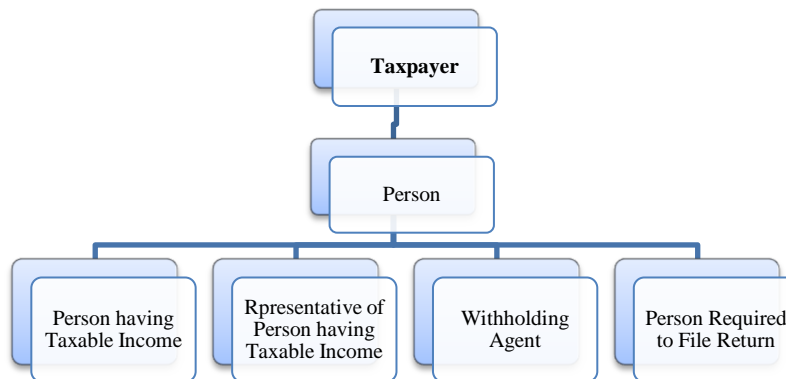
8. Concept of Taxpayer

8.1 Taxpayer

[Section 2(66)]

Taxpayer means any person who derives an amount chargeable to tax under this Ordinance, and includes

- i. any representative of a person who derives an amount chargeable to tax under this Ordinance;
- ii. any person who is required to deduct or collect tax (withholding agents) or
- iii. any person required to furnish a return of income or pay tax under this Ordinance;

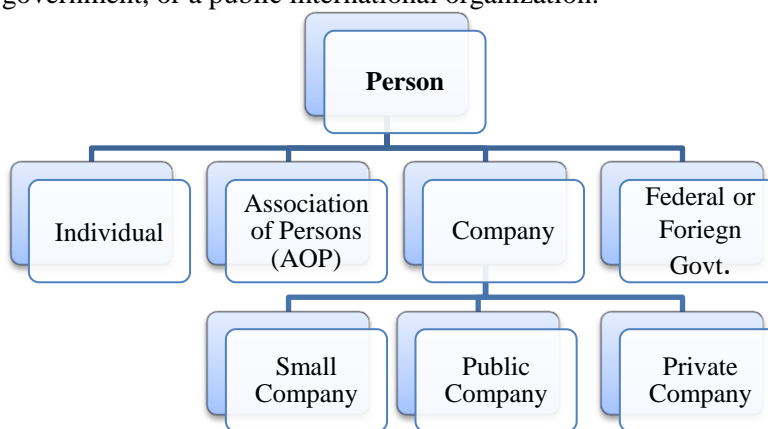


The above mentioned types of taxpayers are explained in detail in the following pages as per the Income Tax Ordinance 2001.

Person means:

[Section 2(42) & 80]

- An individual;
- A company or association of persons incorporated, formed, organized or established in Pakistan or elsewhere;
- The Federal Government, a foreign government, a political subdivision of a foreign government, or a public international organization.



Now, each type of person described in above definition is explained below in the light of provisions of the Income Tax Ordinance 2001.

1. Association of Persons:

[Section 2(6) & 80]

Association of persons includes a firm (the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all), a Hindu undivided family, any artificial juridical person and anybody of persons formed under a foreign law, but does not include a company.

2. Company means [Section 2(12) & 80]

- i. A company as defined in the Companies Ordinance, 1984 (XLVII of 1984);
- ii. A body corporate formed by or under any law in force in Pakistan;
- iii. A modaraba;
- iv. A body incorporated by or under the law of a country outside Pakistan relating to incorporation of companies;
- v. A trust, a co-operative society or a finance society or any other society established or constituted by or under any law for the time being in force;
- vi. A non-profit organization
- vii. A foreign association, whether incorporated or not, which the Board has, by general or special order, declared to be a company for the purposes of this Ordinance;
- viii. A Provincial Government;
- ix. A Local Government in Pakistan.

There are following three types of companies discussed in the Income Tax Ordinance 2001

1. Small Company: [Section 2(59A)]

Small company means a company registered on or after the first day of July, 2005, under the Companies Ordinance, 1984 (XLVII) of 1984, which;

- i. has paid up capital plus undistributed reserves not exceeding twenty-five million rupees;
- ii. has employees not exceeding two hundred and fifty any time during the year;
- iii. has annual turnover not exceeding two hundred and fifty million rupees; and
- iv. is not formed by the splitting up or the reconstitution of business already in existence.

2. Public Company means — [Section 2(47)]

- i. a company in which not less than fifty per cent of the shares are held by the Federal Government or Provincial Government;
- ii. a company in which not less than fifty per cent of the shares are held by a foreign Government, or a foreign company owned by a foreign Government
- iii. a company whose shares were traded on a registered stock exchange in Pakistan at any time in the tax year and which remained listed on that exchange at the end of that year; or
- iv. a unit trust whose units are widely available to the public and any other trust as defined in the Trusts Act, 1882 (II of 1882);]

3. Private Company: It means a company which is not a public company.

Who is required to furnish the return of income? [Section 114(1)]

1. Every company irrespective of any conditions;
2. ***Associations of persons and individuals*** under any of the following conditions:
 - Taxable income for a tax year exceeds the maximum amount that is not chargeable to tax.
 - Charged to tax in any of the two preceding tax years.
 - Claims a loss to be carried forward and set-off against the income of the following year(s).
 - Owns immovable property:
 - with land area of 250 sq. yards or more located in areas falling within the municipal limits, a Cantonment Board, or the Islamabad Capital Territory;
 - Has obtained a National Tax Number; or
 - Is the holder of commercial or industrial connection of electricity where the amount of annual bill exceeds Rs.500,000.
1. Nonprofit organizations, irrespective of any conditions;
2. Any welfare institution approved under Clause (58) of Part I of the Second Schedule to the Income Tax Ordinance, 2001, irrespective of any conditions.
3. Every individual whose income under the head „Income from business exceeds Rs. 300,000 but does not exceed the maximum amount that is not chargeable to tax.
4. Any person [who in the opinion of the Commissioner was required to furnish the return of income (for any of the aforesaid reasons) but has failed to do so] to whom a notice for furnishing of the return of income has been served by the Commissioner.
5. A resident person registered with any Chamber of Commerce and Industry or any trade or business association or any market committee or any professional body including Pakistan Engineering Council, Pakistan Medical and Dental Council, Pakistan Bar Council or any Provincial Bar Council, Institute of Chartered Accountants of Pakistan or Institute of Cost and Management Accountants of Pakistan has to file return of income.

Even if none of the above applies, one may still need to file a return in order to claim a refund of tax deducted or collected at source (other than final tax).

Exceptions (not required to file return of income) to the above are as under:

1. Entire income is subject to final tax or fixed tax for which a separate statement is prescribed;
2. A widow, an orphan below the age of 25 years or a disabled person solely for the reason of owning immovable property (a flat or land of 250 sq. yards or more) located in areas falling within the municipal limits*, a Cantonment Board, or the Islamabad Capital Territory; and
3. A non-resident for the reason of owning immovable property; “Municipal limits” means arrears existing immediately before the commencement of local government laws in the provinces.

Non-profit organization:**[Section 2(36)]**

Non-profit organization means any person other than an individual which is:

- a. Established for religious, educational, charitable, welfare or development purposes, or for the promotion of amateur sport;
- b. Formed and registered under any law as a non-profit organization;
- c. Approved by the commissioner of income tax; and
- d. None of the assets of such person confers, or may confer, a private benefit to any other person.

Withholding Agent:**[Section****153]**

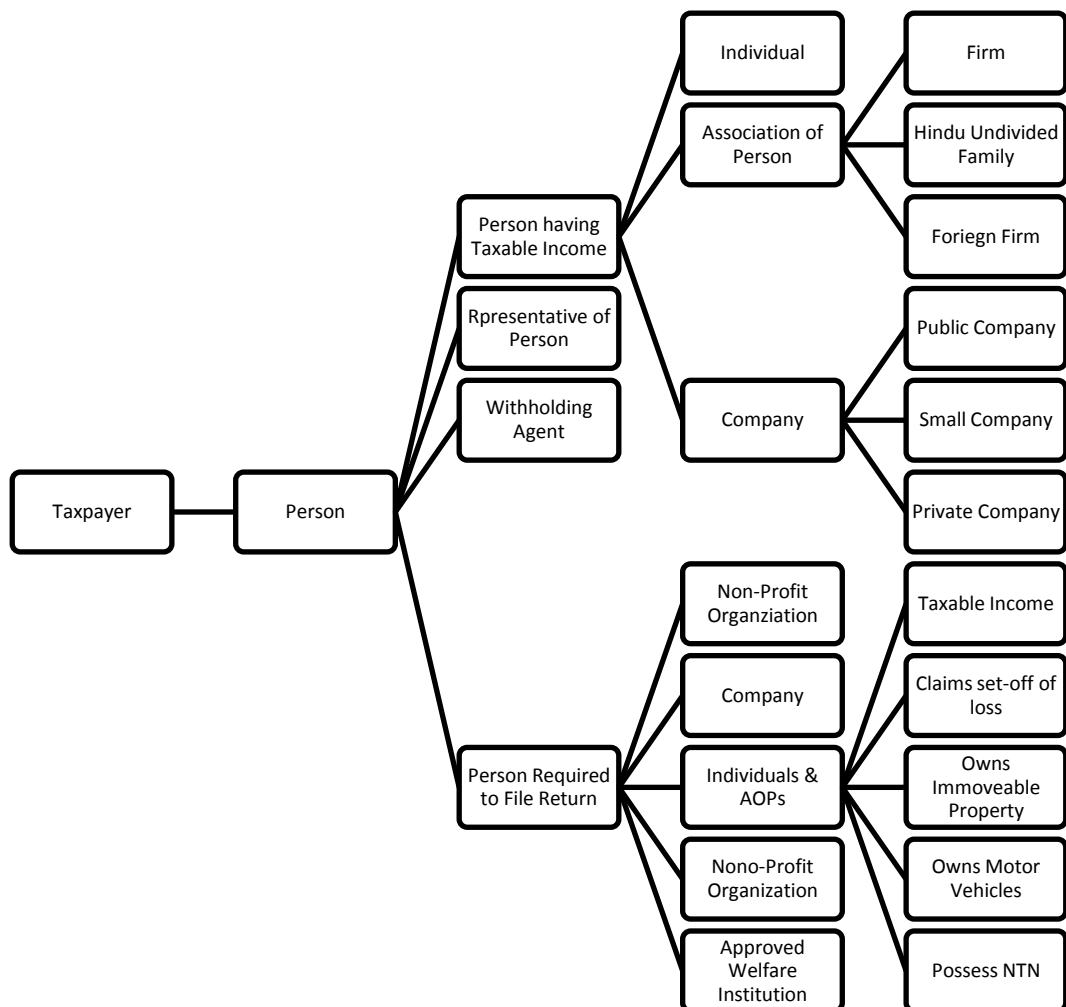
The withholding agent is defined as prescribed person in section 153 of the Income Tax Ordinance 2001 for the purpose of deduction or collection of tax at source/withholding tax.

The withholding agent includes the following persons:

- a. the Federal Government;
- b. a company;
- c. an association of persons constituted by, or under law;
- d. a non-profit organization;
- e. a foreign contractor or consultant;
- f. a consortium or joint venture;
- g. an exporter or an export house
- h. an association of persons, having turnover of fifty million rupees or above in tax year 2007 or in any subsequent tax year;
- i. an individual, having turnover of fifty million rupees or above in the tax year 2009 or in any subsequent year;
- j. a person registered under the Sales Tax Act, 1990;

All of the above mentioned persons are treated as taxpayers for the purpose of Income Tax ordinance 2001 and it is obligatory on them to collect or deduct the withholding tax at the prescribed rates on different transactions.

The following diagram summarizes the discussion presented above and shows the persons required to pay income tax in Pakistan.



The tax liability of a person is decided on the basis of his status which may be resident or non-resident.

8.2 Concept of Resident & Non-Resident Person

1. Resident

An *Association of Persons (AOP)* is resident for a tax year if the control and management of its affairs is situated wholly or partly in Pakistan at any time in the year.

[Section 84]

A *company* is resident for a tax year if

[Section 2(50) & 83]

- it is incorporated or formed by or under any law in force in Pakistan;
- the control and management of its affairs is situated wholly in Pakistan at any time in the year; or
- It is a Provincial Government or a local Government in Pakistan.

An *individual* is resident for a tax year if he/she [Section 2(51) & 82]

- a. is present in Pakistan for a period of, or periods amounting in aggregate to, 183 days or more in the tax year; or
 - b. is an employee or official of the Federal Government or a Provincial Government posted abroad in the tax year.
2. **Non-Resident Person:** A person who is not a resident person is called a non-resident person.

7.3 Taxpayer's Registration: (Section 181)

- i. Every taxpayer shall apply in the prescribed form and in the prescribed manner for registration.
- ii. The Commissioner having jurisdiction over a case, where necessitated by the facts of the case, may also register a taxpayer in the prescribed manner.
- iii. Taxpayers' registration scheme shall be regulated through the rules to be notified by the Board

Note

From tax year 2015 and onwards, in case of individuals having Computerized National Identity Card (CNIC) issued by the National Database and Registration Authority, CNIC shall be used as National Tax Number.

Active Taxpayers' List: (Section 181A)

- i. The Board shall have the power to institute active taxpayers' list.
- ii. Active taxpayers' list shall be regulated as may be prescribed.

Explanation

The active taxpayers' list contains names and NTN/CNIC of all those persons who have filed their income tax return in the last tax year. The name in this list entitles a person to be declared as filer. The concept of filer has been introduced in the tax year 2014 and refers to a person who files his/her tax return in a tax year.

Taxpayer (Honor) Card: (Section 181B)

The Board may make a scheme for introduction of a tax-payer honor card for individual taxpayers, who fulfill minimum criteria to be eligible for the benefits as contained in the scheme

Explanation

The taxpayer honor card is issued to the top 100 taxpayers in Pakistan in a tax year. This card entitles a person to receive extra facilities and enjoy VIP protocol in different

government offices and organizations. This card is issued by the FBR as an incentive to the wealthy persons in Pakistan to pay more taxes in order to list their name in the recipient of taxpayer honor card list.

Displaying of National Tax Number: (Section 181C)

Every person deriving income from business chargeable to tax, who has been issued a National Tax Number, shall display his National Tax Number at a conspicuous place at every place of his business.

The FBR's advertisement informing taxpayers to display their NTN number



8.4 Principles of Taxation of Persons

1. Principle of Taxation of Individuals: [Section 86]

Subject to this Ordinance, the taxable income of each individual shall be determined separately.

Explanation: This section establishes the basic rule for calculation of tax liability of a person. The tax liability of each person whether individual, AOP or company is determined separately. There is no option of combining the income of any other person i.e.

combining the income of husband and wife or son and father for calculation of tax is not allowed.

Deceased Individuals:

[Section 87]

1. The legal representative of a deceased individual shall be liable for
 - a. any tax that the individual would have become liable for if the individual had not died; and
 - b. any tax payable in respect of the income of the deceased's estate.
2. The liability of a legal representative under this section shall be limited to the extent to which the deceased's estate is capable of meeting the liability.

2. Principle of taxation of associations of persons:

[Section 92]

An association of persons shall be liable to tax separately from the members of the association and where the association of persons has paid tax the amount received by a member of the association in the capacity as member out of the income of the association shall be exempt from tax.

3. Principle of taxation of companies:

[Section 94]

1. A company shall be liable to tax separately from its shareholders.
2. A dividend paid by a resident company shall be taxable in accordance with Section 5.
3. A dividend paid by a non-resident company to a resident person shall be chargeable to tax under the head "Income from Business" or "Income from Other Sources", as the case may be, unless the dividend is exempt from tax.

SUMMARY

This unit explained the basic concept of tax and highlighted the various federal and provincial government taxes in Pakistan. The government desires to collect revenues by

imposing various taxes on different transactions and persons. Taxes can be classified into direct and indirect mode based on the burden they directly impose on the taxpayers. Similarly, the tax system of a country may develop progressive, regressive or flat taxes to achieve various budgetary goals. The Adam Smith has given four key cannons of taxation to guide the governments.

The Income Tax Ordinance 2001 is the law that governs the collection of the income tax in Pakistan. The Federal Board of Revenue (FBR) is the government body designed for the collection of the income tax in Pakistan. An Introduction of the Federal Board of Revenue (FBR) as a government body to implement the provisions of the Income Tax Ordinance 2001 has been explained.

The concept of taxpayers has been elaborated in the Income Tax Ordinance 2001 with a view to broaden the tax net in Pakistan. Similarly, the concept of income, total income and taxable income is provided to facilitate the calculation of tax on the income of a person.

UNIT: 02

INCOME TAX ORDINANCE 2001: HEADS OF INCOME

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Introduction

In this unit, we will focus on calculating the tax liability of a person. This unit will highlight the salary income and relevant rules that have been explained in order to calculate the tax on the salary of public and private sector employees in Pakistan. This unit will also explain the taxation of other four heads of incomes; income from property, income from business, capital gains and income from other sources. The relevant deductions and non-admissible items have also been explained with the help of numericals to develop a better understanding of these concepts.

Objectives

After reading this unit, you will be able;

1. to explain the nature and components of salary income
2. to know the various rules for tax calculation on salary income
3. to demonstrate the calculation of tax under the income from property
4. to highlight the concept of business income and its taxation
5. to describe the concept of capital gains and their taxation
6. to understand the incomes covered under the head of income from other sources

1. Salary

1.1 Concept of Salary

Salary is the first head of income for computing the tax liability of a person. To understand the salary income we need to examine the term employment involving the relationship of employer and employee. Generally, salary means any amount received by an employee from any employment.

Employment includes: [Section 2(22)]

- a. a directorship or any other office involved in the management of a company;
- b. a position entitling the holder to a fixed or ascertainable remuneration; or
- c. the holding or acting in any public office;

Employee means any individual engaged in employment; [Section 2(20)]

Employer means any person who engages and remunerates an employee; [Section 2(21)]

1.2 Taxation of Salary Income

Salary is taxable on receipt basis i.e. any salary received by an employee in a tax year shall be chargeable to tax. However, salary paid by a private company to its employee in arrears may be taxable on accrual basis if the commissioner is of the view that the payment of salary was deferred.

1.3 Components of Salary Income

Salary means any amount received by an employee from any employment, whether of a revenue or capital nature, and includes:

1. Pay, wages or other remuneration provided to an employee
2. Allowances including cost of living, rent, utilities, education, entertainment or travel allowance excluding any amount expended in the performance of duties of employment.
3. Perquisite
4. Reimbursement of any expenditure incurred by the employee, other than expenditure incurred solely in the performance of duties of employment.
5. Profits in lieu of salary or wages including:
 - i. Consideration for an employee agreement to enter into an employment relationship, to any conditions of employment or to a restrictive covenant to any past, present or future employment
 - ii. Amount received from a Provident Fund
 - iii. Amount paid on termination of employment whether on voluntary basis or under any agreement.
6. Retirement benefits

Taxability of the above mentioned items is as under:

1.4 Taxation of Pay, Wages or Basic Salary

The payment made in cash to a person is called pay or wage. In Govt. sector, the pay of an employee is usually includes basic pay and other allowances and is provided as per the scale and grade of that employee. The basic pay of a Govt. employee is written in the format of Minimum Time Scale (MTS) in three figures like 16000-1200-40000.

The first figure depicts the basic salary of the employee, the second figure shows annual increment in the basic pay and the last figure defines the maximum limit of basic salary in a particular grade.

Example 1

Mr. Zaheer is an employee in a govt. dept in the pay scale of Rs. 30,000 – 2500 – 75,000. He received regular salary of Rs. 35,000 per month.

His salary income will be:

$$\begin{aligned} \text{Higher of } \begin{cases} 35,000 \times 12 & = & 420,000 \\ 30,000 \times 12 & = & 360,000 \end{cases} \\ = 420,000 \end{aligned}$$

Remember → Govt. pay scale is written in three figures like → 30,000 – 2500 – 75,000 which means that 30,000 will be basic salary, 2500 will be the annual increment and 75,000 will be the maximum basic salary in this grade.

Taxation of Allowances

An allowance is a cash payment to an employee in addition to the basic salary. All allowances are taxable except for medical allowance and allowances provided by the employer for the performance of official duties associated with the job. Allowances including cost of living, rent, utilities, education, entertainment or travel allowance excluding any amount expended in the performance of duties of employment.

Taxation of Perquisites:

(Section 13)

The perquisites refer to the facilities provided by an employer to the employee in addition to the basic salary and allowances. An amount or perquisite shall be treated as received by an employee from any employment regardless of whether the amount or perquisite is paid or provided:

1. By the employer, an associate of the employer, or by a third party under an arrangement with the employer or an associate of the employer;
2. By a past employer or a prospective employer; or
3. To the employee or to an associate of the employee or to a third party under an agreement with the employee or an associate of the employee.
 - a. Motor Vehicle provided by an employer wholly or partly for private use, the amount chargeable to tax under the head salary shall include: (Rule 5 of Income

Tax Rules, 2002)

Partly for personal and official use	5% of the cost of vehicle to the employer or Fair Market Value (FMV) of motor vehicle at the commencement of lease.
For personal use only	10% of the cost of vehicle to the employer or FMV of motor vehicle at the commencement of lease.

- b. Services of housekeeper, gardener driver, or other domestic assistant, the amount chargeable to tax under the head salary shall include the amount of total salary paid to the domestic assistants as reduced by any payment made to the employer for such services
- c. Utilities, the amount chargeable to tax under the head salary shall include the Fair Market Value of utilities as reduced by any payment made to the employer for such utilities.
- d. Interest free loan or a loan of more than Rs. 1,5,00,000 made at lower than benchmark rate by the employer on or after 1.7.2002, the amount chargeable to tax under the head salary shall include the profit on loan computed at benchmark rate or the difference between the amount of profit paid and the amount of profit on loan computed at benchmark rate of 10%.
Provided that this shall not apply where such benefit is extended by the employer due to waiver of interest by such employee on his accounts maintained with the employer.
- e. Any obligation waived of an employee owed to the employer.
- f. Any obligation paid by the employer of an employee owed to another person.
- g. Difference between the Fair Market Value (FMV) of any property transferred or service provided to the employee by the employer and the amount of any payment made by the employee in this respect.
- h. Accommodation or housing, the amount chargeable to tax under the head salary shall include

Higher of the following;

- i. Amount that would have been paid in case such accommodation was not provided; and
- ii. 45% (30% in case of persons serving in stations in Mufasal areas) of the Minimum Time Scale (MTS) of the basic salary or the basic salary where there is no MTS.

1.5 Taxation of Additional Benefits

1. Reimbursement of Expenditures

The reimbursement of expenditures means the transfer of amounts to the employee incurred earlier for meeting different requirements both personal and official. All type of reimbursement of expenditures by the employer incurred by the employee shall become part of the salary income, other than expenditure incurred solely in the performance of

duties of employment. The contract of job shall clearly specify which types of expenses are allowed to the employee for the purpose of performance of duty. For example, if a person is hired in a job as a salesman then it is usual to grant travelling and entertainment expenses to perform his duty. Such expenditures will not be taxable. Only those reimbursed expenditures will be taxable which are given to an employee as an additional benefit.

2. Profits in Lieu of Salary or Wages: [Section 12 (6) & (8)]

The profit in lieu of salary or wages refers to an additional monetary or non-monetary benefit provided to an employee by the employer in addition to the basic salary and allowances. An employee who has received amount on termination of employment whether on voluntary basis or under any agreement including compensation for redundancy or loss of employment and golden hand shake payments, may elect for the amount to be taxed at the last 3 years average rate of tax computed as follows, provided that such election shall be made by the due date for furnishing employees return of income or employer certificate by a notice in writing to the commissioner.

3. Exemptions from Salary Income: (2nd Schedule)

- i. Amount received from workers profit participation fund WPPF (Clause 26)
- ii. Any special allowance provided to meet the expenses incurred in performing of office duties (Clause 39)
- iii. Perquisites: (Clause 53A).
- iv. Free or concessional passage provided by transporters to its employee including airlines
- v. Free or subsidized food provided by hotels and restaurants to its employees during duty hours
- vi. Free or subsidized education provided by an educational institution to the children of employees.
- vii. Free or subsidized medical treatment provided by a hospital or clinic to its employees.
- viii. Any other perquisite for which the employer does not have to bear any marginal cost.
 - a. Medical facility or the reimbursement received by an employee where such provision or reimbursement is in accordance with the terms of employment provided that the NTN of the hospital or clinic is provided and employer also certifies and attests the medical bills.
 - b. Medical allowance up to 10% of basic salary (The same is fully taxable if it is provided in addition to the exempt medical facility provided by the employer).
 - c. Salary earned outside Pakistan by the citizen of Pakistan during the tax year in which he leaves Pakistan shall be exempt if he leaves Pakistan during the tax year and remains abroad during that tax year. [Section 51 (2)].
 - d. Foreign source salary received by a resident shall be exempt if the individual has paid foreign income tax in respect of that salary or the employer has

withheld income tax in respect of foreign source salary and paid to the revenue authority of that foreign country in which the employment was exercised. (Section 102)

TAX RATES FOR INDIVIDUALS (SALARIED AND NON-SALARIED) 2018-19

	Taxable Income	Rate of tax
(1)	(2)	(3)
1.	Where the taxable income does not exceed Rs.400,000	0%
2.	Where the taxable income exceeds Rs.400,000 but does not exceed Rs.800,000	Rs.1,000
3.	Where the taxable income exceeds Rs.800,000 but does not exceed Rs.12,00,000	Rs. 2000
4.	Where the taxable income exceeds Rs.12,00,000 but does not exceed Rs.2,40,000	5% of the amount exceeding Rs.12,00,000
5.	Where the taxable income exceeds Rs.2,40,000 but does not exceed Rs.4,80,000	Rs. 60,000 + 10% of the amount exceeding Rs.24,00,000
6.	Where the taxable income exceeds Rs.48,00,000	Rs. 300,000 + 15% of the amount exceeding 48,00,000

Example

Mr. Usman is a Govt. servant in the pay scale of 16,000 – 1200 – 40,000. His other salary details are below.

1. Basic salary 18,400 P.M
2. Conveyance allowance 4000 P.M
3. Utilities allowance 3000 P.M
4. Medical allowance 2000 P.M
5. Accommodation facility is provided to Mr. Usman by the Govt. his bases rent allowance entitlement is Rs. 5000 P.M.
6. Entertainment expenditures reimbursed by the Govt. Rs. 3000 P.M (For performing official duty).
7. Interest free loan from Govt. Of Rs. 600,000 has been obtained by Mr. Usman.
8. Employee's contribution of Govt. provident fund Rs. 1000 P.M
9. Employer's contribution of govt. provident fund Rs. 1000 P.M
10. Interest credited of Govt. provident fund Rs. 5000 P.M

Solutions

MR. Usman
NTN.....
Status: Resident
Tax year 2018

	Rs.	Rs.
Basic salary	18,400 x 12	220,800
Conveyance allowance	4000 x 12	48,000
Utilities allowance	3000 x 12	36000
Medical allowance	2000 x 12=24000	1920
Exempt upto 10% basic salary	220800×10%=22080	
Accommodation Facility: a – 45% of basic salary = 45% x 220,800 = 99,360 OR b – House rent allowance = 5000 x 12 = 60,000		99,360
Entertainment expenditures reimbursed (For performing official duty)	Not taxable	
Interest free loan	Amount is less than Rs. 15,00,000 No tax is chargeable	
Employee's contribution to Govt. provident fund	(Already included)	
Employee's contribution to Govt. provident fund	(Not included)	
Interest credited on Govt. provident fund	(Not included)	
Taxable salary income		406,080
Income tax payable (Where Taxable income is exceeding 400000 but does not exceed Rs. 800,000 Tax will be Rs 1000)		1000

2. Concept of Income from Property

The income from property is the second head of income. The income from property generally includes rent derived by a person by giving the right to use a property for a definite period of time against a payment. The income from property is taxed according to the following rules and methods as described in the Income Tax Ordinance 2001.

2.1 Income from property

The rent received or receivable by a person for a tax year, other than rent exempt from tax under this Ordinance, shall be chargeable to tax in that year under the head "Income

from Property”.

Definition of Rent:

[Section

15(2)]

“Rent” means any amount received or receivable by the owner of land or a building as consideration for the use or occupation of, or the right to use or occupy, the land or building, and includes any forfeited deposit paid under a contract for the sale of land or a building.

Where the rent received or receivable by a person is less than the fair market rent for the property, the person shall be treated as having derived the fair market rent for the period the property is let on rent in the tax year.

Rent Chargeable to Tax includes

- Normal Rent (higher of actual or fair market rent)
- Non-adjustable amount in respect of building
- Forfeited deposit

Actual rent or Fair Market Rent, whichever is higher is taxable on accrual basis. The tax on property income is charged separately. The rent chargeable to tax is not clubbed with any other type of income and separate tax rates have been designed to calculate the tax on property income. Please remember, the tax on property income is not a subtitle of the property tax collected by the provincial governments in Pakistan.

Exceptions under section 15 (Chargeable to tax under the head income from Other Sources)

- Rent in respect of lease of building together with plant and machinery
- Amount received for the provision of amenities, utilities and any other service connected with renting of the building.

Non-Adjustable Amounts Received in respect of a building:

(Section 16)

Non-adjustable amounts against the rent of a building received from a tenant in respect of rent payable by him shall be chargeable to tax under the head income from property in the tax year in which it was received and in the following nine tax years in equal proportion. Where the same is refunded to the tenant on or before the expiry of 10 years, no amount therefore shall be chargeable to tax in the year in which it is refunded subject to the following requirement:

If the same property is lent out to the succeeding tenant, then any succeeding non-adjustable amount received from the succeeding tenant as reduced by such portion of the earlier amount as was charged to tax shall be charged to tax in the year in which it was received and in the following nine tax years in equal proportion.

Joint Ownership:

(Section 66)

Where any property is owned by two or more persons and their respective shares are

defined and ascertainable, such persons shall not be treated as an AOP in respect of that property, and the share of each person is taxable in the hands of each co-owner separately.

Tax Deduction at Source:

(Section 155)

Following prescribed persons shall deduct tax at source when making payment on account of rent of immoveable property:

- Federal, provincial or local government
- Company
- Nonprofit organization
- Diplomatic mission of a foreign state

2.2 Taxation of Property Income

From the tax year 2016, the income from property of an individual and association of persons shall be taxed separately on gross basis from the other incomes and separate tax rates are applied. No deduction will be allowed from the rent chargeable to tax. However, in case of companies the deductions will be applied as mentioned in the section 15.

TAX RATE FOR INCOME FROM PROPERTY (2018-2019)

The rate of tax to be paid under section 15, in the case of individual and association of persons, shall be as follows:

S.No.	Gross amount of rent	Rate of tax
(1)	(2)	(3)
1.	Where the gross amount of rent does not exceed Rs.200,000.	Nil
2.	Where the gross amount of rent exceeds Rs.200,000 but does not exceed Rs.600,000.	5 per cent of the gross amount exceeding Rs.200,000.
3.	Where the gross amount of rent exceeds Rs.600,000 but does not exceed Rs.1,000,000.	Rs.20,000 plus 10 per cent of the gross amount exceeding Rs.600,000.
4.	Where the gross amount of rent exceeds Rs.1,000,000 but does not exceed Rs.2,000,000.	Rs.60,000 plus 15 per cent of the gross amount exceeding Rs.1,000,000.
5.	Where the gross amount of rent exceeds Rs.2,000,000.	Rs.210,000 plus 20 per cent of the gross amount exceeding Rs.2,000,000”]

Example

Mr. Zaheer has provided the following details for income tax purposes.

1. Basic salary Rs. 30,000 P.M
2. Dearness allowance Rs. 3000 P.M
3. Accommodation facility is provided to Mr. Zaheer by his employer.
4. Office car transferred to Mr. Zaheer as owner worth Rs. 300,000. He paid Rs. 200,000 for it.

5. Personal entertainment expenditure of Rs. 20,000 reimbursed by employer.
6. Rent received from the tenant Rs. 250,000.
7. He claims repair allowance and incurred expenses of Rs. 10,000 for rent collection.
Calculate the taxable income of Mr. Zaheer.

Solution

Mr. Zaheer
NTN.....
Status: Resident
Tax year 2018

Sr.No	Particulars	Rs.	Taxable income
	Income from Salary		
	Basic salary	30000×12	360000
	Dearness allowance	3000×12	36000
	Valuation of Accommodation: Higher of		
	(a-45% of basic salary	$45\% \times 360,000 = 162000$	
	OR		
	(b-House rent allowance	10,000	162,000
	Value of office car	$(300,000 - 200,000)$	100,000
	Personal entertainment expenses		20000
	Taxable salary income		678000
	Tax on salary A (Where Taxable income is exceeding 400000 but does not exceed Rs. 800000 Tax will be Rs 1000)		1000
	Tax on property income: B $= 5\% \times (250,000 - 200,000)$ $= 50,000 \times 5\% = 2500$		2500
	Total tax=A+B		3500

3. Income from Business

The third head under Income Tax Ordinance 2001 is the income from business. The profits a person derives from incurring in different business related transactions are classified under this head for taxation purposes. Generally, this chapter deals with specifying the rules and methods for calculation of taxable profits of businessmen and traders under the Income Tax Ordinance 2001.

3.1 Definition of Business:

[Section 2(9)]

Business includes any trade, commerce, manufacture, profession, vocation or adventure or concern in the nature of trade, commerce, manufacture, profession or vocation, but does not include employment.

3.2 Components of Business Income

The following incomes of a person for a tax year shall be chargeable to tax under the head income from business:

- i. Profits and gains of any business carried on by a person
- ii. Income from the sale of goods or provision of services
- iii. Income from hire or lease of tangible moveable property
- iv. Management fee derived by a management company (including a modaraba management company)
- v. Fair Market Value (FMV) of any benefit derived by a person in the course of or by virtue of past, present or prospective business relationship
- vi. Profit on debt where the person's business is to derive such income (e.g. banks and financial institutions)
- vii. Lease Rentals earned by a scheduled bank, investment bank, Development Finance Institution (DFI), modaraba or a leasing company.

3.3 Taxation of Business Income

The income from business of a person is taxed by deducting expenses from the revenues earned by a business in a year. Only those revenues are included in the income of a business which are earned through normal business activities. Capital receipts are ignored while calculating the taxable income of a business. In the same manner, only those expenses are allowed to be deducted from the revenues of a business which are related to the current period. No capital expense is allowed for deduction.

A list of expenses allowed for deduction is given below:

Deductions permissible in arriving at the income chargeable to tax under the head Income from business:

(Section 20)

1. A deduction shall be allowed for expenditure incurred by the person exclusively for the purpose of business.

Explanation: These expenses include most of the items which appear in the profit and loss account of a business concern. A tentative list of these expenses includes;

- a. Repair and maintenance expenses
- b. Cost of goods sold
- c. Insurance of the land and building of business
- d. Electricity and telephone bills
- e. Lighting and heating expenses
- f. Rent of building
- g. Salaries & wages of the employees
- h. Interest on loan

- i. Bad debts allowed
- j. Freight charges
- k. Other business related expenses
- 2. Amortization or depreciation of intangible or tangible assets where they have a useful life of more than 1 year
- 3. Pre-commencement expenditure at the rate of 20% on straight line basis
- 4. Scientific research expenditure
- 5. Employee training facilities expenditure
- 6. Profit on debt if related to Taxable Business Income
- 7. Entertainment expenditure in the limits as prescribed (Rule 10 of Income Tax Rules, 2002)
- 8. Bad Debts

Where a person has been allowed a tax deduction in respect of any expenditure and subsequently the person receives the amount of such expenditure as a reimbursement in cash or in kind, the amount so received shall be included in the person income chargeable to tax in the year in which it is received.

Note

An important distinction here is required between capital expenditures and revenue expenditures.

Capital expenditures provide benefit to a person for more than one year. Examples are buying a vehicle or a building.

Revenue expenditures provide benefit for less than one year e.s electricity bills or repair expenses.

Only revenue expenditures are allowed to be deducted from the revenues of a person to compute the taxable income.

Capital receipts are those revenues earned through sale of goods or provision of services other than normal course of doing business. Examples include sale of old furniture or computer.

Revenue receipts are those revenues earned through sale of goods or provision of services in the normal course of doing business. Examples include sale of goods.

Only revenue receipts are included in the revenues of a person for the purpose of taxation.

Deductions Inadmissible

Deductions inadmissible in arriving at the income chargeable to tax under the head Income from business: (Section 21)

- i. Any cess, rate, or tax paid or payable in Pakistan or foreign country on the profits of the business as a % or otherwise on the basis of such profits (Income tax charge, Workers Welfare Fund, Workers Profit Participation Fund)
- ii. Any amount of tax deducted at source

- iii. Entertainment expenditures in excess of limits provided in Rule 10 of Income Tax Rules, 2002
- iv. Any fine or penalty for the violation of any law, rule or regulation
- v. Personal expenses of the tax payer
- vi. Amount carried to reserve fund or capitalized in any way
- vii. Any profit on debt, brokerage, commission, salary or other remuneration paid by an AOP to a member of the association
- viii. Any payment of salary, rent, commission/brokerage, profit on debt, services and payments to non-residents made without tax deduction where a person is required to deduct tax
- ix. Payments of business expenditure required to be paid through banking channel other than the following:
 - a. Where salary of an employee does not exceed 15,000 per month
 - b. Where aggregate of a single account head does not exceed 50,000 for the year
 - c. Single payment up to 10,000
 - d. Payment on account of freight, travel fare, postage, utility and other government dues.
- x. Payments to establish a business entity (e.g. company incorporation expenses).
- xi. Contribution to unrecognized provident fund, unapproved pension fund, unapproved superannuation fund or unapproved gratuity fund unless the person has made effective arrangements to secure that tax is deducted from any payments made by the fund.

Example

Mr. Johar is the owner of a departmental store. His details of incomes and expenses are listed below.

Sales of merchandise	Rs. 50,000 P.M
Sale of old furniture	Rs. 10,000
Amount received from brother	Rs. 70,000
Repair expenses	Rs. 30,000
Personal entertainment expenses	Rs. 10,000
Tax depreciation	Rs. 40,000
Insurance premium paid	Rs. 15,000
Cost of goods sold	Rs. 150,000
Fine paid traffic law violation	Rs. 2000
Sales tax paid	Rs. 35,000
Salary of employee (4 months)	Rs. 80,000 (Cash paid)

Solution 2

Mr. Johar
NTN.....
Status: Resident
Tax year 2018

Particulars	Rs.	Rs.
Income:		
Sales of merchandise	50,000 x 12	600,000
Sale of old furniture (Note 1)		

Amount received from brother (Note 2)		
Expenses:		
Repair expenses		
Personal entertainment expenses (Note 3)	30000	
Tax depreciation	40,000	
Insurance premium paid	15000	
Cost of goods sold	150,000	
Fine paid (Note 4)	-	
Sales tax paid (Note 5)	-	
Salary of employee (Note 6)	-	235,000
Taxable profit / business income		365,000
No tax is payable as the income is less than Rs. 400,000		

Note

1. Sale of old furniture is a capital receipts. So it is not included in the income of Mr. Johar.
2. Amount received from brother is not a business income.
3. Personal entertainment expenses are inadmissible
4. Fine paid for violation of law is an inadmissible expense.
5. Sales tax paid is not allowed as deduction from income.
6. Salary of employees paid through cash is not allowed to be deducted from income.

Business Assets:

(Section 75-

79)

Disposal of an asset also includes the disposal of part of an asset. A person shall be treated to have disposed off the asset when the assets is sold, destroyed, exchanged, transferred, cancelled, lost, expired etc. Application of business asset to personal use shall also be treated as disposal.

(Section 75)

Cost of an asset purchased by a person shall include:

(Section 76)

- a. Consideration paid including FMV of consideration given in kind
- b. Expenditure in acquiring and disposing off the asset
- c. Expenditure to alter or improve the asset.

3.4 Special Topics in Business Income

Two important topics have been discussed below with reference to the business income. These are;

- i. Depreciation and Amortization
- ii. Tax Accounting

3.4.1 Depreciation & Amortization

1. Tax Depreciation:

(Section 22, 23)

- i. Depreciation shall be allowed in relation to depreciable assets used in relation to the person's business.

Depreciable Asset:

[Section 2(17) &

22]

Depreciable asset means any tangible movable property, immovable property (other than unimproved land), or structural improvement to immovable property, owned by a person that

- a. has a normal useful life exceeding one year;
- b. is likely to lose value as a result of normal wear and tear, or obsolescence; and
- c. is used wholly or partly by the person in deriving income from business chargeable to tax,

- i. Depreciation rates are specified below: (Third Schedule)

Description of Asset	Rate of Depreciation
Building	10%
Furniture, plant and machinery, motor vehicles, ships, technical or professional books	15%
Computer hardware and aircrafts and aero engines	30%
Ramp built to provide access to disabled persons not exceeding 250,000 each	100%

- ii. Depreciation shall be allowed on proportional basis if the asset was also used for the purpose other than deriving business income in a tax year.
- iii. Written down Value (WDV) of the asset in the above case shall be computed on the basis that the asset has been solely used to derive business income. It means that depreciation allowed as well as disallowed shall be deducted from the cost of the asset in arriving at the WDV. In that case, the WDV of the asset shall be increased by the amount of depreciation disallowed on account of non business use at the time of disposal.
- iv. Depreciation shall not be allowed in the year of disposal.
- v. For computing gain on disposal of immovable property, the consideration received shall be treated as the cost of the property if the consideration exceeds its cost (Gain on disposal shall be equal to the depreciation allowed)
- vi. For computing gain on disposal of a depreciable asset by way of export that has been previously used in Pakistan, the consideration received shall be treated as the cost of the asset (Gain on disposal shall be equal to the depreciation allowed)
- vii. **Initial Allowance** equal to 25% of the cost of the asset shall be allowed on eligible assets as defined below:
 - a. Road transport vehicle plying for hire
 - b. Building
 - c. Plant and machinery not previously used in Pakistan
 - d. Computer hardware
 - e. Technical and professional books
- viii. **First Year allowance** in lieu of initial allowance equal to 90% of the cost of the asset shall be allowed in respect of plant & machinery installed by any industrial undertaking set up in specified rural areas and owned and managed by a company.
- ix. Accelerated Depreciation in lieu of initial allowance equal to 90% of the cost of the asset shall be allowed in respect of plant & machinery installed for generation of

alternate energy by an industrial undertaking set up anywhere in Pakistan and owned and managed by a company.

Summary of Depreciation Allowances

No.	Type of depreciation	Rate of tax	Conditions for depreciation	Type of asset
1.	Initial allowances for depreciation	25%	Allowed only in the first year of operations on depreciable assets	Plant and Machinery Building
2.	First year allowance for depreciation	90%	Plant and machinery Installed in rural and under developed areas after July 1, 2008	Plant and Machinery
3.	Normal allowance for depreciation	Prescribed in the ordinance	Depreciable asset must be owned by the person.	Building, computers, furniture and fixtures etc
4.	Accelerated depreciation	90%	Allowed on alternate energy projects installed after July 1, 2009.	Plant and Machinery

2. Amortization:

(Section 24)

Intangible Asset

It means any patent, invention, design or model, secret formula or process, copyright, trade mark, scientific or technical knowledge, computer software, motion picture film, export quotas, franchise, licence, intellectual property], or other like property or right, contractual rights and any expenditure that provides an advantage or benefit for a period of more than one year (other than expenditure incurred to acquire a depreciable asset or unimproved land).

- Amortization shall be allowed for the cost of intangible assets that have been used for the purpose of deriving business income and that have a normal useful life of more than 1 year.
- An intangible with a normal useful life of more than 10 years or having an unascertainable useful life, it shall be treated as having a normal useful life of 10 years.
- Where intangible asset have been used partly for deriving business income, amortization deduction shall be allowed proportionately based on the number of days the intangible is used in deriving business income.
- No amortization shall be allowed in the year in which the person disposes off an intangible.

2. Tax Accounting:

(Section 33-36)

- A company shall apply accrual basis of accounting for the purpose of determining income chargeable to tax under the head income from business.
- The board may prescribe for any class of persons to account for income chargeable to tax based on accrual or cash basis accounting.
- Person accounting for income chargeable to tax on cash basis accounting under the head income from business shall record income when it is received and expense

when it is paid. Person accounting for income chargeable to tax on accrual basis accounting under the head income from business shall record vice versa to cash basis.

- iv. Person accounting for income chargeable to tax on accrual basis accounting, when allowed a deduction of expense, shall pay off such liability within 3 years of the end of tax year in which it was allowed as a deduction. If not paid within such specified time, tax deduction allowed earlier shall be reversed in the first year following the end of 3 years.
- v. Subsequent payment of such liability as mentioned above shall be allowed as a deduction for in the year of payment.
- vi. The closing value for a person's stock in trade shall be lower of cost and Net Realizable Value (NRV).
- vii. Income on long term contracts accounted for on the basis of accrual accounting system shall be recorded based on the percentage of completion method. Computation is as follows:

Cost incurred before the end of a tax year

Total estimated cost at the commencement of the contract

Entertainment Expenditures: (Rule 10 of Income Tax Rules, 2002)

A deduction for entertainment expenditures shall be limited to the following expenditures directly related to the person's business:

- i. incurred outside Pakistan on entertainment in connection with business transactions
- ii. incurred in Pakistan for foreign customers and suppliers
- iii. incurred for customers and clients at the business premises
- iv. incurred on entertainment at meetings of shareholders, agents, directors or employees
- v. Incurred at the opening of branches.

Example

Mr. Sohail has reported the following details of his income.

1. Basic salary Rs. 30,000 P.M
 2. Cost of living allowance provided with Rs. 3000 P.M
 3. Mr. Sohail is conveyance facility for personal use. Cost of vehicle is Rs. 500,000.
 4. Reimbursement of medical expenditures of Rs. 40,000 under job contract.
 5. Rent received from property 20,000 P.M
 6. Rent collection charges Rs. 10,000, interest on mortgage Rs. 15,000.
 7. Sales of goods Rs. 300,000. Cost of goods was Rs. 160,000.
 8. Electricity bills 3000 and insurance Rs. 6000.
- Calculate taxable income of Mr. Sohail.

Solution

Mr. Sohail
NTN.....
Status: Resident
Tax year 2018

Particulars	Rs.	Rs.
Income from Salary		
Basic salary	30,000×12	360,000
Cost of living allowance	3000×12	36,000

Value of conveyance facility	500,000 x 10%	50,000
Reimbursement of medical expenses	Not Taxable	-
Taxable salary income (A)		446,000
Income from Property:		
Rent received	20,000 x 12	240,000
Less: Rent collection charges		10,000
Less: Interest on mortgage		15000
Rent chargeable to tax (B) (N-1)		215000
Income from Business:		
Sales of goods	300,000	
Less: Cost of sales	160,000	
Electricity bills	3000	
Insurance	6000	
Taxable business income (C)		131,000
Total taxable income, (A) + (C)		577000
Income tax payable (Where Taxable income is exceeding 400000 but does not exceed Rs. 800000 Tax will be Rs 1000)		
<u>Tax payable</u>		1000
Note:1		
Property income is separately taxable:		
=Property income =215000		
=5% ×(215000-200000)		
=5% × (15000)		
=750		
Total Tax Payable	1000+750	1,750

4. Introduction to Capital Gains

The fourth head of income is capital gains. The capital gains refer to the profits derived by a person on selling a capital asset. The capital asset include shares of companies (both public and private limited), paintings, antiques, old coins, jewellery, immovable property. Generally, this chapter deals with the treatment of profits and losses arising on transactions executed in stock exchange. The following legal points explain the taxation treatment of capital gains:

Capital Gains: (Section 37)

A gain arising on the disposal of a capital asset by a person in a tax year, other than a gain that is exempt from tax under this Ordinance, shall be chargeable to tax in that year under the head “Capital Gains”.

Capital Asset: [Section 2(10) & 37(5)]

Capital asset means property of any kind held by a person, whether or not connected with a business, but does not include

1. any stock-in-trade, consumable stores or raw materials held for the purpose of business;]

2. any property with respect to which the person is entitled to a depreciation deduction under section 22 or amortization deduction under section 24;
3. any movable property held for personal use by the person or any member of the person's family dependent on the person except
 - i. A painting, sculpture, drawing or other work of art;
 - ii. jewellery;
 - iii. a rare manuscript, folio or book;
 - iv. a postage stamp or first day cover;
 - v. a coin or medallion; or
 - vi. an antique.

Specified Capital Assets (Securities **u/s 37A**) includes:

- i. Shares of a public company
- ii. Vouchers of PTCL
- iii. Modaraba Certificate
- iv. Redeemable capital
- v. Derivative product
- vi. Debt securities

4.1 Calculation of Capital Gain

The gain arising on the disposal of a capital asset by a person shall be computed in accordance with the following formula, namely:

$$A - B$$

A is the consideration received by the person on disposal of the asset; and

B is the cost of the asset.

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:

$$A \times \frac{3}{4}$$

Where **A** is the amount of the gain.

4.2 Taxation of Capital Gain

1. Where the capital asset is held for more than 1 year, *other than those mentioned in section 37A*, gain if any on their disposal shall be restricted to 75% (25% is exempt).
2. Where a person sustains loss on disposal of any of the capital asset mentioned u/s 37A, it shall be set off only against gain arising from any other security mentioned u/s 37A, and any unadjusted loss shall not be carried forward.
3. Where the capital asset is transferred by way of:
 - a. Gift, bequest or a will
 - b. Succession, inheritance or devolution
 - c. Distribution of assets on dissolution of an AOP
 - d. Distribution of assets on liquidation of a company
4. No gain or loss shall arise where the recipient is a resident in Pakistan in the relevant tax year. The recipient shall be treated to have acquired the capital asset at

the Fair Market Value at the time of such transfer.

5. Any gain from the alienation of any share in a company, the assets of which comprise wholly or principally, directly or indirectly, of immovable property or rights to explore natural resources in Pakistan shall be Pakistan source income. **(Section 101)**
6. Any gain arising on the disposal of shares in a resident company shall be Pakistan source income.
7. Capital gain arising on the sale of immovable property is taxed as separate block of income at the following rates:

Holding Period of Immovable Property	Rate of Tax
Upto five year	10%
More than five year	0%

8. Calculation of capital gain tax:(only for shares of public limited companies)

Tax Year 2017-18	
Filer	Non-Filer
15%	20%

9. No gain or loss is taken to arise on the disposal of an asset by reason of a gift of the asset under sections 37 and 79 of the Ordinance i.e. it is treated as a non-recognition event, therefore, no liability for capital gains tax arises. However, from 2018-19 onwards, such non-recognition shall now be restricted to gifts given to “relatives” of an individual as defined in section 85(5) of the Income Tax Ordinance, 2001.

4.3 Treatment of Capital Loss: (Section 38)

- i. in computing the amount of a person chargeable to tax under the head “Capital Gains” for a tax year, a deduction shall be allowed for any loss on the disposal of a capital asset by the person in the year.
- ii. No loss shall be deducted under this section on the disposal of a capital asset where a gain on the disposal of such asset would not be chargeable to tax.
- iii. The loss arising on the disposal of a capital asset by a person shall be computed in accordance with the following formula, namely:

$$A - B$$

Where:

A is the cost of the asset; and

B is the consideration received by the person on disposal of the asset.

- iv. No loss shall be recognized under this Ordinance on the disposal of the following capital assets, namely:
 - a. A painting, sculpture, drawing or other work of art;
 - b. jewellery;
 - c. a rare manuscript, folio or book;
 - d. a postage stamp or first day cover;

- e. a coin or medallion; or
- f. an antique.

Note

Where a person sustains a loss on disposal of securities in a tax year, the loss shall be set off only against the gain of the person from any other securities chargeable to tax under this section and no loss shall be carried forward to the subsequent tax year

4.4 Exempted Capital Gains

1. Capital gain on disposal of the shares of a company in Export Processing Zone (EPZ) is exempt. *(Clause 114 2nd Schedule Part I).*
2. Any gain on transfer of a capital asset, being a membership right held by a member of an existing stock exchange, for acquisition of shares and trading or clearing rights acquired by such member in new corporatized stock exchange in the course of corporatization of an existing stock exchange. *(Clause 110B, 2nd Schedule)*
3. Any income chargeable under the head "capital gains", being income from the sale of shares of a public company set up in any Special Industrial Zone referred to in clause ¹[(126)]of this Schedule, derived by a person for a period of five years from the date of commencement of its commercial production.*(Clause 113, 2nd Schedule)*

Example

Mr. Qasim has reported the following details of his income for the tax year 2014:

- i. Basic salary Rs. 30,000 P.M
 - ii. Conveyance allowance Rs. 5000 P.M
 - iii. House rent allowance Rs. 4000 P.M
 - iv. Loan from employer at 2% interest rate of Rs. 300,000
 - v. Rent from property Rs. 20,000 P.M
 - vi. He claims repair allowance on property and interest expense Rs. 10,000
 - vii. Sales of goods of grocery store Rs. 100,000. Cost of the goods Rs. 40,000.
Salary of employee Rs. 10,000.
 - viii. Disposed off shares of a private co. after one year of purchase for Rs. 100,000.
Cost of the shares was Rs. 60,000.
 - ix. A capital loss on sale of Pvt. Co. shares was reported of Rs. 10,000.
 - x. Shares of a public company were sold after 6 months of purchase but within one year for Rs. 200,000. Cost of the shares was Rs. 100,000.
- Calculate taxable income of Mr. Qasim.

Solution

Mr. Qasim
NTN.....
Status: Resident
Tax year 2018

Particulars	Rs.	Rs.
Salary:		
Basic salary	30,000 x 12	360,000
Conveyance allowance	5,000 x 12	60,000
House rent allowance	4,000 x 12	48,000
Loan from employer = (N-1)		
Total taxable salary income (A)		468,000
Property Income:		
Rent received	20,000 x 12	240,000
Taxable property income (B) (N-2)		240,000
Business Income:		
Sales of goods	100,000	
Less: Cost of goods	40,000	
Less: Salary of employee	10,000	50,000
Taxable business income (C)		50,000
Capital Gains:		
Consideration for sale for shares	100,000	
Less: Cost of shares	60,000	
Capital gain	40,000	
Taxable capital gain = $40,000 \times \frac{3}{4} = 30,000$		
Less: Capital loss		30,000
Taxable capital gain (D)		10,000
Total taxable income (A) + (C) + (D)		20,000
(468,000 + 50,000 + 20,000)		538,000
Tax payable		
(Where Taxable income is exceeding 400,000 but does not exceed Rs. 800,000 Tax will be Rs 1,000)		
Note-2		
Property income is separately taxable:		1,000
Property income = 240,000		
5% x (240,000 - 200,000)		
5% x 40,000		
2,000		
Total Tax Payable	1,000 + 2,000	3,000

Note1: No tax is payable on 1000 from employer as the amount is less than Rs. 15,00,000

5. Income from other Sources

Income of every kind received by a person (taxable on receipt basis) in a tax year, if it is not included in any other head, other than income exempt from tax under the ordinance, shall be chargeable to tax in that year under the head Income from Other Sources including the following:

1. Dividend (including face value of bonus shares i.e. dividend in specie at the time of disposal of bonus shares)
2. Royalty

3. Profit on debt
4. Ground rent
5. Rent in respect of lease of building together with plant and machinery
6. Amount received for the provision of amenities, utilities and any other service connected with renting of the building
7. Prize bond, winnings from a raffle, lottery, prize on winning a quiz, prize offered by companies for promotion of sale or cross word puzzle
8. Amount received as a loan, advance, deposit for issuance of shares, gift by a person otherwise than by banking channel other than advance payment for sale of goods or supply of services.
9. Where a person fails to provide a reasonable explanation:
 - i. For any amount credited in a person's books,
 - ii. For source of funds where a person has made an investment or is the owner of any money or valuable article,
 - iii. For any expenditure incurred or
 - iv. Where a person has concealed income or furnished inaccurate particulars of income including;
 - a. The suppression(concealment) of any production, sales or any amount chargeable to tax; or
 - b. The suppression(concealment) of any item of receipt liable to tax in whole or in par.
10. The **unexplained income** shall be included in the person's income chargeable to tax under the head income from other source to the extent it is not adequately explained. (Section 111)
 - a. Foreign exchange remitted from abroad through normal banking channels and got en-cashed in Pakistan rupee from a scheduled bank is immune and no question shall be asked.
 - b. Section 111 shall not apply on encashment of Foreign Exchange Bearer Certificates (FEBC), US \$ Certificates and Foreign currency bearer certificates.

Where the declared cost of an asset is less than the reasonable cost of that asset, the commissioner may having regard to all the circumstances include the difference in the person's income chargeable to tax under the head income from other source. (Section 111)

5.1 Deductions Allowed under Income from other Sources

A deduction shall be allowed for any expenditure incurred in deriving income chargeable to tax under the head income from other source, such as the following:

- i. Zakat deducted in accordance with Zakat & Ushr Ordinance, 1980 from profit on debt
- ii. Rent of the building
- iii. Electricity, gas and telephone bills
- iv. Insurance premium paid

- v. Salaries and wages of the employees
- vi. Lighting and heating expenses
- vii. Travelling and entertainment expenses
- viii. Bad debts
- ix. Cost of goods or services
- x. Maintenance and repairs expenses
- xi. Interest expense on loan
- xii. Depreciation (including initial allowance) of plant and machinery against Rent in respect of lease of building together with plant and machinery.

Example

Mr. Saeed has reported the following details of his income for the tax year 2014:

- i. Basic salary Rs. 350,000 P.A
- ii. Orderly allowance Rs. 3000 P.M
- iii. Higher education allowance Rs. 2000 P.M
- iv. Employer paid salary of domestic servants Rs.10,000 P.M
- v. Rent received Rs. 25,000 P.M
- vi. Profit from departmental store Rs. 100,000
- vii. Sale of shares of Pvt. Co within 1 year of purchase for 80,000 cost was 50,000.
- viii. Lease rental of building together with plant Rs.70,000
- ix. Royalty received Rs. 20,000
- x. Grand rent received of Rs. 8000.

Solution

Mr. Saeed
NTN.....
Status: Resident
Tax year 2018

Particulars	Rs.	Taxable income
Salary:		

Basic salary		350,000
Orderly allowance	3000 x 12	36,000
Higher education allowance	2000 x 12	24,000
Salary of domestic servants	10,000 x 12	120,000
Taxable salary income (A)		530,000
Property Income		
Rent received (B) (N-1)	25,000x12	300,000
Business Income:		
Profit from department store (C)		100,000
Capital Gains:		
Sale of shares of Pvt. Co.	80,000	
Less: Cost of shares	50,000	
Taxable capital gain (D)		30,000
Income from other Source:		
Lease rentals of building with plant	70,000	
Royalty received (ignore withholding tax)	20,000	
Good rent received	8,000	
Taxable income from other sources (E)		98000
Total taxable income (A) + (C) + (D) + (E)		758000
Tax payable		1,000
(Where Taxable income is exceeding 400000 but does not exceed Rs. 800000 Tax will be Rs 1,000)		
Note 1:		
Property income is separately taxable:		
Property income =300,000		
=5% × (300000-200000)		
=5% × (100000) =5,000		
Total Tax Payable	1,000+5,000	6,000

SUMMARY

This unit has prescribed the taxation treatment of various items received under the various heads of income. The term salary involves the relationship of employee and employer against an agreed term. The taxation of salary starts with defining the basic salary and it also includes overtime and bonus. The second component of salary is the allowances which are the cash received in addition to salary. Almost, all allowances are taxable except travelling and daily allowance. The third component of salary income is the receipt of various perquisites that may be in monetary form such as loans, advances, servants and non-monetary form such as housing, car etc.

The concept of income from property and its taxation under the tax rates provided in the Income Tax Ordinance 2001 has been elaborated. The rent received or receivable is taxed separately from the other heads of incomes and separate tax rates are applied. The concept and components of income from business have been explained in order to facilitate the calculation of taxable profits of a business. The concept of capital assets and capital gains generated has been explained with relevant taxation provisions. The numerical examples have been given in this section to help students to calculate the tax on capital gains on various capital assets.

In the last section of this unit, the income from other sources has been explained and its different components/parts have been described with their taxation treatment. A comprehensive numerical has been provided at the end of the unit to summarize the discussion.

UNIT: 3

INCOME FROM BUSINESS: NON-SALARIED INDIVIDUALS & TAX CREDITS

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Introduction

The previous unit has explained the taxation of salaried individuals. This unit will discuss the taxation of non- salaried individuals. The various deductions permissible in arriving at the income chargeable to tax under the head income from business will be briefly explained.

Tax credits allowed to tax payers will be discussed as tax credit is an amount of money that taxpayers are permitted to subtract from taxes owed to the government. The value of a tax credit depends on the nature of the credit; many types of tax credits are granted to individuals.

This unit will also explain the calculation of income tax of non-salaried individual and taxation of income of traders.

Objectives

After reading this unit you will be able;

1. to know the taxation of non- salaried persons
2. to calculate taxation of non-salaried individuals
3. to understand the concept of tax credits
4. to know the rules for taxations of income of traders

1. Introduction of Non- Salaried Person

Taxes are the main source of revenues for the government of modern ages. The government imposes taxes to collect revenue to run the government, to impose its policies, for fair distribution of wealth, and to administer the government is the best way. Self-employed (Non-salaried) people generally find their own work rather than being provided with work by an employer, earning income from a trade or business that they operate.

1.1 Income from Business

The third head under Income Tax Ordinance 2001 is the income from business. The profits a person derives from incurring in different business related transactions are classified under this head for taxation purposes. Generally, this chapter deals with specifying the rules and methods for calculation of taxable profits of businessmen and traders under the Income Tax Ordinance 2001.

Definition of Business:

[Section 2(9)]

Business includes any trade, commerce, manufacture, profession, vocation or adventure or concern in the nature of trade, commerce, manufacture, profession or vocation, but does not include employment.

1.1.1 Components of Business Income

The following incomes of a person for a tax year shall be chargeable to tax under the head income from business:

- i. Profits and gains of any business carried on by a person
- ii. Income from the sale of goods or provision of services
- iii. Income from hire or lease of tangible moveable property
- iv. Management fee derived by a management company (including a modaraba management company)
- v. Fair Market Value (FMV) of any benefit derived by a person in the course of or by virtue of past, present or prospective business relationship
- vi. Profit on debt where the person's business is to derive such income (e.g. banks and financial institutions)
- vii. Lease Rentals earned by a scheduled bank, investment bank, Development Finance Institution (DFI), modaraba or a leasing company

1.1.2 Taxation of Business Income

The income from business of a person is taxed by deducting expenses from the revenues earned by a business in a year. Only those revenues are included in the income of a business which are earned through normal business activities. Capital receipts are ignored while calculating the taxable income of a business. In the same manner, only those expenses are allowed to be deducted from the revenues of a business which are related to the current period. No capital expense is allowed for deduction.

A list of expenses allowed for deduction is given below:

2. Deductions permissible in arriving at the income chargeable to tax under the head Income from business: (Section 20)

1. A deduction shall be allowed for expenditure incurred by the person exclusively for the purpose of business.
Explanation: These expenses include most of the items which appear in the profit and loss account of a business concern. A tentative list of these expenses includes;
 - a. Repair and maintenance expenses
 - b. Cost of goods sold
 - c. Insurance of the land and building of business
 - d. Electricity and telephone bills
 - e. Lighting and heating expenses
 - f. Rent of building
 - g. Salaries & wages of the employees
 - h. Interest on loan
 - i. Bad debts allowed
 - j. Freight charges
 - k. Other business related expenses
1. Amortization or depreciation of intangible or tangible assets where they have a useful life of more than 1 year (Section 22, 23, 24), **(Third Schedule)**
2. Pre-commencement expenditure at the rate of 20% on straight line basis
3. Scientific research expenditure **(Section 26)**
4. Employee training facilities expenditure **(Section 27)**
5. Profit on debt if related to Taxable Business Income **(Section 28)**
6. Entertainment expenditure in the limits as prescribed (Rule 10 of Income Tax Rules, 2002)
7. Bad Debts **(Section 29)**

Where a person has been allowed a tax deduction in respect of any expenditure and subsequently the person receives the amount of such expenditure as a reimbursement in cash or in kind, the amount so received shall be included in the person income chargeable to tax in the year in which it is received. **(Section 70)**

Note

An important distinction here is required between capital expenditures and revenue expenditures.

Capital expenditures provide benefit to a person for more than one year. Examples are buying a vehicle or a building.

Revenue expenditures provide benefit for less than one year e.s electricity bills or repair expenses.

Only revenue expenditures are allowed to be deducted from the revenues of a person to compute the taxable income.

Capital receipts are those revenues earned through sale of goods or provision of services other than normal course of doing business. Examples include sale of old furniture or computer.

Revenue receipts are those revenues earned through sale of goods or provision of services in the normal course of doing business. Examples include sale of goods.

Only revenue receipts are included in the revenues of a person for the purpose of taxation.

**Deductions inadmissible in arriving at the income chargeable to tax under the head
Income from business: (Section 21)**

- a. Any cess, rate, or tax paid or payable in Pakistan or foreign country on the profits of the business as a % or otherwise on the basis of such profits (Income tax charge, Workers Welfare Fund, Workers Profit Participation Fund)
- b. Any amount of tax deducted at source
- c. Entertainment expenditures in excess of limits provided in Rule 10 of Income Tax Rules, 2002
- d. Any fine or penalty for the violation of any law, rule or regulation
- e. Personal expenses of the tax payer
- f. Amount carried to reserve fund or capitalized in any way
- g. Any profit on debt, brokerage, commission, salary or other remuneration paid by an AOP to a member of the association
- h. Any payment of salary, rent, commission/brokerage, profit on debt, services and payments to non-residents made without tax deduction where a person is required to deduct tax
- i. Payments of business expenditure required to be paid through banking channel other than the following:
 - i. Where salary of an employee does not exceed 15,000 per month
 - ii. Where aggregate of a single account head does not exceed 50,000 for the year
 - iii. Single payment up to 10,000
 - iv. Payment on account of freight, travel fare, postage, utility and other government dues.
- j. Payments to establish a business entity (e.g. company incorporation expenses).
- k. Contribution to unrecognized provident fund, unapproved pension fund, unapproved superannuation fund or unapproved gratuity fund unless the person has made effective arrangements to secure that tax is deducted from any payments made by the fund.

Example 1

Mr. Salim is running a business. His details of income and expenses are listed below:

1.	Sales of goods	Rs. 700,000
2.	Sale of car	Rs. 200,000
3.	Electricity bills paid	Rs. 40,000
4.	Telephone bills paid	Rs. 10,000
5.	Salaries of Employees	Rs. 90,000 paid through crossed cheque
6.	Insurance of building	Rs. 20,000
7.	Rent of building Rs. 60,000 paid through banking channel	
8.	Tax deducted at source	
9.	Sum paid to unrecognized provident fund	Rs. 20,000
10.	Accounting depreciation	Rs. 30,000
11.	Tax depreciation	Rs. 50,000

Calculate taxable business income of Mr. Salim.

Solution

Mr. Salim
NTN.....
Status: Resident
Tax year 2018

Particulars	Rs.	Rs.
Income		
Sales of goods	700,000	700,000
Sale of car (Note 1)		
Expenses:		
Electricity bills paid	40,000	
Telephone bills paid	10,000	
Salaries of employees	90,000	
Insurance of building	20,000	
Rent of building	60,000	
Tax deducted at source (Note 2)	-	
Payment to unrecognized provident fund (Note 3)	-	
	-	
Accounting depreciation (Note 4)		
Tax depreciation	50,000	270,000
Taxable profit		430,000
Tax payable		1,000
(Where Taxable income is exceeding 400,000 but does not exceed Rs. 800,000 Tax will be Rs 1,000)		

Note

- i. Sale of a car is a capital receipt therefore it is not included in the business income.
- ii. Tax deducted at source is an inadmissible expense.
- iii. Payment to unrecognized provident fund is an inadmissible expense.

- iv. Accounting depreciation is not allowed as allowable deduction; However, tax depreciation can be deducted from the business.

Example 2

Mr. Johar is the owner of a departmental store. His details of incomes and expenses are listed below.

Sales of merchandise	Rs. 50,000 P.M
Sale of old furniture	Rs. 10,000
Amount received from brother	Rs. 70,000
Repair expenses	Rs. 30,000
Personal entertainment expenses	Rs. 10,000
Tax depreciation	Rs. 40,000
Insurance premium paid	Rs. 15,000
Cost of goods sold	Rs. 150,000
Fine paid traffic law violation	Rs. 2000
Sales tax paid	Rs. 35,000
Salary of employee (4 months)	Rs. 80,000 (Cash paid)

Solution 2

Mr. Johar
NTN.....
Status: Resident
Tax year 2018

Particulars	Rs.	Rs.
Income:		
Sales of merchandise	50,000 x 12	600,000
Sale of old furniture (Note 1)	-	
Amount received from brother (Note 2)	-	
Expenses:		
Repair expenses	30000	
Personal entertainment expenses (Note 3)	-	
Tax depreciation	40,000	
Insurance premium paid	15,000	
Cost of goods sold	150,000	
Fine paid (Note 4)	-	
Sales tax paid (Note 5)	-	
Salary of employee (Note 6)	-	
Taxable profit / business income		235,000
No tax is payable as the income is less than Rs. 400,000		365,000

Note

- i. Sale of old furniture is a capital receipts. So it is not included in the income of Mr. Johar.

- ii. Amount received from brother is not a business income.
- iii. Personal entertainment expenses are inadmissible
- iv. Fine paid for violation of law is an inadmissible expense.
- v. Sales tax paid is not allowed as deduction from income.
- vi. Salary of employees paid through cash is not allowed to be deducted from income.

Special Topics in Business Income

Two important topics have been discussed below with reference to the business income. These are;

- i. Depreciation and Amortization
- ii. Tax Accounting
- iii. **Depreciation & Amortization**
- 1. **Tax Depreciation: (Section 22, 23)**

- i. Depreciation shall be allowed in relation to depreciable assets used in relation to the person's business.

Depreciable Asset :

[Section 2(17) & 22]

Depreciable asset means any tangible movable property, immovable property (other than unimproved land), or structural improvement to immovable property, owned by a person that

- a. has a normal useful life exceeding one year;
- b. is likely to lose value as a result of normal wear and tear, or obsolescence; and
- c. is used wholly or partly by the person in deriving income from business chargeable to tax,
- ii. Depreciation rates are specified below: (Third Schedule)

Description of Asset	Rate of Depreciation
Building	10%
Furniture, plant and machinery, motor vehicles, ships, technical or professional books	15%
Computer hardware and aircrafts and aero engines	30%
Ramp built to provide access to disabled persons not exceeding 250,000 each	100%

- iii. Depreciation shall be allowed on proportional basis if the asset was also used for the purpose other than deriving business income in a tax year.
- iv. Written Down Value (WDV) of the asset in the above case shall be computed on the basis that the asset has been solely used to derive business income. It means that depreciation allowed as well as disallowed shall be deducted from the cost of the asset in arriving at the WDV. In that case, the WDV of the asset shall be increased by the amount of depreciation disallowed on account of non-business use at the time of disposal.
- v. Depreciation shall not be allowed in the year of disposal.
- vi. For computing gain on disposal of immovable property, the consideration received shall be treated as the cost of the property if the consideration exceeds its cost (Gain on disposal shall be equal to the depreciation allowed)

- vii. For computing gain on disposal of a depreciable asset by way of export that has been previously used in Pakistan, the consideration received shall be treated as the cost of the asset (Gain on disposal shall be equal to the depreciation allowed)
- viii. **Initial Allowance** equal to 25% of the cost of the asset shall be allowed on eligible assets as defined below:
 - a. Road transport vehicle plying for hire
 - b. Building
 - c. Plant and machinery not previously used in Pakistan
 - d. Computer hardware
 - e. Technical and professional books
- ix. **First Year allowance** in lieu of initial allowance equal to 90% of the cost of the asset shall be allowed in respect of plant & machinery installed by any industrial undertaking set up in specified rural areas and owned and managed by a company.
- x. Accelerated Depreciation in lieu of initial allowance equal to 90% of the cost of the asset shall be allowed in respect of plant & machinery installed for generation of alternate energy by an industrial undertaking set up anywhere in Pakistan and owned and managed by a company.

Summary of Depreciation Allowances

No.	Type of depreciation	Rate of tax	Conditions for depreciation	Type of asset
1.	Initial allowances for depreciation	25%	Allowed only in the first year of operations on depreciable assets	Plant and Machinery Building
2.	First year allowance for depreciation	90%	Plant and machinery Installed in rural and under developed areas after July 1, 2008	Plant and Machinery
3.	Normal allowance for depreciation	Prescribed in the ordinance	Depreciable asset must be owned by the person.	Building, computers, furniture and fixtures etc
4.	Accelerated depreciation	90%	Allowed on alternate energy projects installed after July 1, 2009.	Plant and Machinery

2. Amortization:

(Section 24)

Intangible Asset

It means any patent, invention, design or model, secret formula or process, copyright, trade mark, scientific or technical knowledge, computer software, motion picture film, export quotas, franchise, licence, intellectual property], or other like property or right, contractual rights and any expenditure that provides an advantage or benefit for a period

of more than one year (other than expenditure incurred to acquire a depreciable asset or unimproved land).

- i. Amortization shall be allowed for the cost of intangible assets that have been used for the purpose of deriving business income and that have a normal useful life of more than 1 year.
- ii. An intangible with a normal useful life of more than 10 years or having an unascertainable useful life, it shall be treated as having a normal useful life of 10 years.
- iii. Where intangible asset have been used partly for deriving business income, amortization deduction shall be allowed proportionately based on the number of days the intangible is used in deriving business income.
- iv. No amortization shall be allowed in the year in which the person disposes off an intangible.

Tax Accounting:

(Section 33-36)

1. A company shall apply accrual basis of accounting for the purpose of determining income chargeable to tax under the head income from business.
2. The board may prescribe for any class of persons to account for income chargeable to tax based on accrual or cash basis accounting.
3. Person accounting for income chargeable to tax on cash basis accounting under the head income from business shall record income when it is received and expense when it is paid. Person accounting for income chargeable to tax on accrual basis accounting under the head income from business shall record vice versa to cash basis.
4. Person accounting for income chargeable to tax on accrual basis accounting, when allowed a deduction of expense, shall pay off such liability within 3 years of the end of tax year in which it was allowed as a deduction. If not paid within such specified time, tax deduction allowed earlier shall be reversed in the first year following the end of 3 years.
5. Subsequent payment of such liability as mentioned above shall be allowed as a deduction for in the year of payment.
6. The closing value for a person's stock in trade shall be lower of cost and net realizable value (NRV).
7. Income on long term contracts accounted for on the basis of accrual accounting system shall be recorded based on the percentage of completion method. Computation is as follows:

$$\frac{\text{Cost incurred before the end of a tax year}}{\text{Total estimated cost at the commencement of the contract}} = \text{Fraction}$$

Example 3

Mr. Sohail has reported the following details of his income.

- | | | |
|-----|--|----------------|
| i. | Basic salary | Rs. 30,000 P.M |
| ii. | Cost of living allowance provided with | Rs. 3000 P.M |

- iii. Mr. Sohail is conveyance facility for personal use. Cost of vehicle is Rs. 500,000.
 - iv. Reimbursement of medical expenditures of Rs. 40,000 under job contract.
 - v. Rent received from property 20,000 P.M
 - vi. Rent collection charges Rs. 10,000, interest on mortgage Rs. 15,000.
 - vii. Sales of goods Rs. 300,000. Cost of goods was Rs. 160,000.
 - viii. Electricity bills 3000 and insurance Rs. 6000.
- Calculate taxable income of Mr. Sohail.

Solution

Mr. Sohail
NTN.....
Status: Resident
Tax year 2018

Particulars	Rs.	Rs.
Income from Salary		
Basic salary	30,000×12	360,000
Cost of living allowance	3000×12	36,000
Value of conveyance facility	500,000 x 10%	50,000
Reimbursement of medical expenses	Not Taxable	-
Taxable salary income (A)		446,000
Income from Property:		
Rent received	20,000 x 12	240,000
Less: Rent collection charges	10,000	
Less: Interest on mortgage	15,000	25000
Rent chargeable to tax (B) (N-1)	215,000	
Income from Business:		
Sales of goods		300,000
Less: Cost of sales	160,000	
Electricity bills	3000	
Insurance	6000	169,000
Taxable business income (c)		131,000
Total taxable income, (A) + (C)		577000
<u>Tax payable</u>		1000
(Where Taxable income is exceeding 400000 but does not exceed Rs. 800000 Tax will be Rs 1000)		
Tax on Property Income (N-1)		750
Total Tax Payable	1,000+750	1,750

Note 1

Property income is separately taxable:

$$\begin{aligned}
 &= \text{Property income} = 215000 \\
 &= 5\% \times (215000 - 200000) \\
 &= 5\% \times (15,000) \\
 &= 750
 \end{aligned}$$

3. Tax Credits: (Through Average Relief)

3.1 Foreign Tax Credit: (Section 103)

Where a resident person derives foreign source income which is taxable in Pakistan, the tax payer shall be allowed a tax credit in respect of foreign income tax paid by him as lower of the following:

- a. Foreign income tax paid
 - b. Pakistan tax payable in respect of foreign source income at the average rate of tax
- Foreign income tax is to be paid within 2 years after the end of tax year to which it relates. If not paid within 2 years, tax credit allowed earlier shall be treated as tax payable by the person.

3.2 Charitable Donations (Section 61)

In the form of any sum paid or property given by the person as a donation to the following:

- a. Board of education or university established under federal or provincial law
- b. Educational institution, hospital or relief fund established or run by the federal, provincial or local government

Rebate on donations made in cash shall only be allowed if paid by a crossed cheque drawn on a bank.

Tax credit shall be allowed at the average rate of tax on lower of the following:

- i. Actual amount of donation or Fair Market Value of the property given
- ii. 30% of taxable income of individual or AOP (20% in case of a company)

3.3 Contribution Paid to an Approved Pension Fund: (Section 63)

An eligible person (an individual Pakistani holding valid NTN, CNIC or NICOP) deriving income chargeable to tax under the head salary or income from business shall be entitled to a tax credit on the average rate of tax in respect of contribution or premium paid to an approved pension fund. Tax credit shall be allowed on **lower** of the following:

- i. Actual amount of contribution or premium; or
- ii. 20% of taxable income of the relevant tax year. Provided that an eligible person joining the pension fund at the age of 41 years or above shall be entitled to additional 2% for every year of age exceeding 40 years subject to the maximum of 50% of the taxable income of the preceding year.

3.4 Investment in Shares: (Section 62)

A resident person other than a company shall be entitled to a tax credit at the average rate of tax in respect of purchase of the following shares:

- a. Shares of a public listed company as an original allottee
- b. Shares acquired from the privatization commission of Pakistan

Amount eligible for tax credit shall be **lower** of the following;

- i. Actual cost of the shares
- ii. Rs. 1,500,000
- iii. 20% of the taxable income for the year

Shares are required to be held for at least 36 months otherwise tax credit allowed earlier shall be reversed.

3.5 Life Insurance Premium Paid: (Section 62)

A resident person other than a company shall be entitled to a tax credit at the average rate of tax in respect of any life insurance premium paid on a policy to a life insurance company registered by the SECP under the Insurance Ordinance, 2000, provided the resident person is deriving income chargeable to tax under the head “salary” or “income from business”.

Amount eligible for tax credit shall be **lower** of the following;

- i. Total contribution of premium paid by the person
- ii. Rs. 1,500,000
- iii. 20% of the taxable income for the year

3.6 Health Insurance Premium Paid: (Section 62 A)

1. A resident person being a filer other than a company shall be entitled to a tax credit for a tax year in respect of any health insurance premium or contribution paid to any insurance company registered by the Securities and Exchange Commission of Pakistan under the Insurance Ordinance, 2000, provided the resident person being a filer is deriving income chargeable to tax under the head “salary” or “income from business”.
2. The amount of a person’s tax credit allowed under sub-section (1) for a tax year shall be computed according to the following formula, namely:

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

where

- A** is the amount of tax assessed to the person for the tax year before allowance of tax credit under this section;
- B** is the person’s taxable income for the tax year; and
- C** is the lesser of
- i. the total contribution or premium paid by the person referred to in sub-section (1) in the year;
 - ii. five per cent of the person’s taxable income for the year; and
 - iii. 150,000 rupees.”

Formula

Average Relief for the above mentioned tax credits are provided in the following manner:

Gross tax payable / Taxable Income × Amount eligible for average relief

4. Taxations of Income of Traders

4.1 Rules for the Computation of the Tax Payable on Profits and Gains of a Trader Falling Under Sub-Section (1) of Section 99 A(PART I)

1. The tax payable on profits and gains of a trader falling under sub-section (1) of section 99A in respect of trading activities chargeable under the head “income from business” shall be computed in the manner hereinafter provided.
2. For trader qualifying under this Part, working capital for tax year 2015 shall not exceed rupees fifty million and tax at the rate of one per cent of the working capital shall be the tax payable on profits and gains from the trading activity.
3. For tax years 2016, 2017 and 2018, trader qualifying under this Part and who has paid tax for the tax year 2015 under rule 2 of this Part shall pay tax specified in rule 4 of this Part subject to the following conditions, namely:
 - i. for tax year 2016, the trader shall declare turnover at least three times of the working capital declared during tax year 2015; and
 - ii. for tax years 2017 and 2018 the trader shall declare turnover on which tax paid is at least twenty-five per cent more than the tax paid for the preceding tax year.
4. For the purpose of rule 3 of this Part, the following shall be tax rate on turnover:

Turnover	Rate
(1)	(2)
Where turnover does not exceed 50 million rupees	0.2%
Where turnover exceeds 50 million rupees but does not exceeds 250 million	Rs 100,000 plus 0.15% of the amount exceeding 50 million rupees
Where turnover exceeds 250 million rupees	Rs 400,000 plus 0.1% of the amount exceeding 250 million rupees

5. Trader qualifying under this Part shall be entitled to take credit of imputable income as defined in clause (28A) of section 2 of the Ordinance, for tax years 2016 to 2018, in relation to tax paid under rule 3 of this Part for the purpose of section 111.

4.2 Rules for the Computation of the Tax Payable on Profits and Gains of a Trader Falling Under Sub-Section (2) of Section 99A (PART II)

1. The tax payable on profits and gains of a trader falling under sub-section (2) of section 99A in respect of trading activities chargeable under the head “income from business” shall be computed in the manner hereinafter provided.
2. For tax year 2015, the tax payable on profits and gains of a trader qualifying under this Part shall be higher of the following:

- i. 25% higher tax than paid for tax year 2014 or for the latest tax year for which return has been filed on the basis of taxable income;
 - ii. tax on turnover at the rates specified in rule 4 of Part I; or
 - iii. rupees thirty thousand.
- 3. For tax years 2016 to 2018, the tax payable on profits and gains of a trader qualifying under this Part shall be higher of the following:
 - i. 25% higher tax on the basis of taxable income than tax paid for the preceding tax year; or
 - ii. tax on turnover at the rates specified in rule 4 of Part I.
- 4. Trader qualifying under this Part, who has filed return for tax year 2015 before the due date of filing of return under this Schedule, may file a revised return subject to the condition that the tax paid is higher of the following:
 - i. tax as per rule 2 of this Part on the basis of revised return; or
 - ii. 10% higher tax than the tax paid as per original return.
- 5. For tax year 2015, the provisions of clause (ba) of sub-section
- 6. of section 114 shall not apply to a trader who has revised the return under rule 4 of this Part before the due date of filing of return under this Schedule. 6. Where the imputable income as defined in clause (28A) of section 2 of the Ordinance in relation to tax on turnover at the rates specified in rule 4 of Part I is higher than the taxable income declared, the trader qualifying under this Part may opt to take the credit for the purpose of section 111, of the difference between the said imputable income and taxable income, provided that tax at the rate of one per cent of the difference is paid along with the return.

4.3 General Provisions for the Traders under Part I and Part II (PART III)

- 1. Traders deriving income other than from trading activities chargeable under the head “income from business”, profit on debt, dividend and income from property shall not qualify under this Schedule.
- 2. The provisions of sections 177 and 214C shall not apply to a trader qualifying under this Schedule, for tax years 2015 to 2018.
- 3. Trader qualifying under Part I of this Schedule shall file a return as specified in Form ‘A’ of rule 17 of this Part of this Part and trader qualifying under Part II of this Schedule shall file a return as prescribed under the Income Tax Rules, 2002.
- 4. A trader qualifying under this Schedule shall not be entitled to claim any adjustment of withholding tax collected or deducted under the Ordinance, against tax payable in respect of profits and gains relating to trading activity.
- 5. A trader qualifying under this Schedule shall not be entitled to claim any adjustment of refund due against tax payable under rule 2 or 3 of Part I or rule 1, 3, or 4 of Part II.
- 6. A trader qualifying under this Schedule shall be entitled to claim adjustment of withholding tax collected or deducted under sections 150, 151 and 155 against tax payable in respect of income under section 5, 7B and 15 respectively.
- 7. If a trader fails to furnish a return for any of the tax years 2016, 2017 or 2018 after having furnished a return for tax year 2015 shall not qualify under this Schedule for any of the tax years 2015 to 2018 notwithstanding the fact that the return for tax

- year 2015 stood qualified under this Schedule at the time of furnishing of such return and all the provisions of the Ordinance shall apply.
8. Where it is subsequently discovered by the Commissioner that the trader was not eligible to be qualified under this Schedule or became ineligible to be qualified under this Schedule during any time between tax years 2015 to 2018 due to non-payment of tax or filing of return or otherwise, the trader shall be treated to have exercised the option to be assessed under the provisions of this Ordinance, other than this Schedule and all the provisions of the Ordinance shall apply accordingly.
 9. Tax payable under rule 2 or 3 of Part I or rule 1, 3, or 4 of Part II shall be paid in the State Bank of Pakistan or authorized branches of National Bank of Pakistan and evidence in the form of a copy of computerized tax payment receipt (CPR) shall be provided along with the specified or prescribed return, as the case may be, by the due date.
 10. A trader qualifying under this Schedule shall not be a prescribed person for the purpose of section 153 of the Ordinance.
 11. For the income relating to trading activity and qualifying under this Schedule
 - i. the Commissioner shall be deemed to have made an assessment of income for that tax year and the tax due thereon as equal to those respective amounts computed under rules 2 or 3 of Part I or rule 1, 3, or 4 of Part II; and
 - ii. the specified or prescribed return, as the case may be, shall, for all purposes of this Ordinance, be deemed to be an assessment order including the application of section 120. Explanation.- For removal of doubt and for the purpose of this rule, it is declared that income means taxable income or imputable income as the case may be.
 12. The Federal Government may, from time to time, by notification in the official Gazette, amend the Schedule so as to add any rule therein or modify or omit any rule thereof.
 13. The provisions of sub-section (2) of section 116 shall not apply for the tax year 2015 to the trader qualifying under this Schedule if the declared income for the year is less than one million rupees.
 14. Notwithstanding anything contained in aforesaid rules, a return qualifying under this Schedule may be subject to amendment under section 122 where definite information, as defined in sub-section (8) of section 122, comes into the knowledge or possession of the Commissioner in which case all the provisions of the Ordinance shall apply accordingly.
 15. In this Schedule,-
 - i. 'due date' means the date as specified by the Federal Government for tax year 2015 and for the tax years 2016, 2017 and 2018 the date specified in clause
 - ii. of sub-section (2) of section 118. (b) 'turnover' means turnover as defined in clause (a) of sub-section (3) of section 113 of the Ordinance.
 16. Members of Senate of Pakistan, National Assembly of Pakistan, Provincial Assemblies and persons convicted under Control of Narcotics Substances Act, 1997 (XXV of 1997), Anti-Terrorism Act, 1997 (XXVII of 1997) and Anti-Money Laundering Act, 2010 (VII of 2010) shall not be eligible to qualify under this Schedule.

5. Taxation of Income Non-Salaried Individuals

Q. 1 MR. Sabhi has reported the following record for calculation of income tax for the year 2017.

- | | | |
|-----|---|--------------|
| 1. | Rent Received | Rs.40000 P.M |
| 2. | Unadjustable advances received | Rs.500000 |
| 3. | Deduction claimed | |
| | Repair & Maintenance | Rs.50000 |
| | Legal charges | Rs.5000 P.A |
| | Rent collection charges | Rs.40000 |
| 4. | Income from business is reported as follows: | |
| 5. | Sales | Rs.900000 |
| 6. | Cost of sales | Rs.300000 |
| 7. | Utilities expenses | Rs.15000 |
| 8. | Salaries expenses | Rs.50000 |
| 9. | Sale of old painting for Rs.100000. it was purchased for Rs.20000 | |
| 10. | Capital gain have been reported on following transactions: | |
| 11. | Shares of X Ltd=Rs.70000 (within 1 year of purchase) | |
| 12. | Shares of Y pvt Ltd =Rs.60000 (within 1 year of purchase) | |
| 13. | Agriculture income received | Rs.70000 |
| 14. | Income for performance of contract for a company | Rs.90000 |
| 15. | Amount paid to worker welfare fund | Rs.10000 |
| 16. | Adjustable withholding tax paid | Rs.8000 |

Solution

Mr.Sabhi

NTN:

Status: Resident

Tax Year: 2018

Calculation of tax

Sr. No	Particulars	Rs.	Rs.
	<u>Income from property U/s 15:</u>		
	Rent received Rs.40000 P.M	40000×12	480000
	Unadjustable advance received Rs.500000	500000/10	50000
	Taxable income from property (N)		530000
	<u>Income from Business u/s 18:</u>		
	Sales	900,000	
	Less: cost of sales	300,000	
	Less: salaries	50,000	
	Less: utilities	15,000	
	Taxable income from business		535000
	<u>Capital gain u/s 37:</u>		
	capital gain on shares of pvt Ltd		60000

capital gain on sale of old painting (within 1 year) (N)	100,000-20,000	80000
Taxable capital gain		140,000
<u>Income from other sources u/s 39:</u>		
Agriculture income Rs.70000	Exempt	-
Income from contract		90000
Taxable income from other sources		90000
Total taxable income		825000
Less: payment to worker welfare fund		(10,000)
Total Taxable income		815000
(Where Taxable income is exceeding 800000 but does not exceed Rs. 1200,000 Tax will be Rs 2000)		2,000
Less: adjustable withholding tax paid		(8000)
Net tax payable with return (refundable)		(6000)

Note 1

Tax on sale of shares of X Ltd

Capital gain=70,000 (within 1 year)

Tax=70000×15%=10,500

Note 2

Property income is separately taxable:

Property income =443200

=5% ×(530000-200000)

=5% × (330000) =16,500

We treated to property income as a separate block of income beside that it is less than 200000 so tax is Nil for that

No deduction is allowed from property income.

Q. 2 MR. Junaid has reported the following record for calculation of income tax for the year 2017.

1.	Rent Received	Rs.60000 P.M
2.	Unadjustable advances received	Rs.200000
3.	Deduction claimed	
	Repair & Maintenance	Rs.40000
	Load tax/property tax paid	Rs.15000
	Rent collection charges	Rs.35000
4.	Income from business is reported as follows:	
5.	Sales	Rs.1000000
6.	Cost of sales	Rs.400000
7.	interest expenses	Rs.20000

8. Disposal of old car Rs.200000

9. Capital gain.(losses)

Company	Sale prices	purchase price	capital gain	holding period
X Ltd	300000	210000	90000	within 1 year
Z pvt Ltd	100000	120000	(20000)	within 1 year
J Ltd	400000	230000	170000	after 3 years

10. Share from AOP received Rs.90000

11. Commission received from a friend Rs.15000

12. Zakat paid Rs.10000

13. Tax credit claimed for insurance premium paid Rs.25000

14. Advance tax paid Rs.12000

15. Income tax refund due from last year of Rs.11000

16. Mr. Junaid has been selected for audit for tax year 2017

Solution

Mr. Junaid

NTN:

Status: Resident

Tax Year: 2018

Calculation of tax

Sr. No	Particulars	Rs.	Rs.
--------	-------------	-----	-----

<u>Income from property U/s 15:</u>		
Rent received Rs.60000 P.M	60000×12	720000
Un-adjustable advance received Rs.200000	$200000/10$	20000
Taxable income from property (N)		740000
<u>Income from Business u/s 18:</u>		
Sales	10,00,000	
Less: cost of sales	400,000	
Less: interest expenses	200,000	
Taxable income from business		580,000
<u>Capital gain u/s 37:</u>		
capital loss on sale of 2 pvt Ltd	20,000	-
Taxable capital gain		-
<u>Income from other sources u/s 39:</u>		
Commission received from friend		15,000
Taxable income from other sources		15,000
Total income		595,000
Less: zakat paid		(10,000)
Taxable income		585,000
Add: share from AOP		90,000
Taxable income for rate purpose		675,000
Gross tax		
(Where Taxable income is exceeding 400,000 but does not exceed Rs. 800,000 Tax will be Rs 1000)		1,000
Less: credit for share from AOP		
=gross tax/taxable income for rate purpose× share from AOP		(133)
= $1000/675000 \times 90000 = 133$		
Net tax payable		867
Less: Tax credit for insurance premium paid		(37)
=net tax payable/taxable income× amount entitled for average relief (N)		
= $867/585000 \times 25000 = 37$		
Tax payable		830
Less: advance tax paid		(12000)
Less: tax refund due		(11000)
Tax payable with return (refundable)		(22170)

Note 1

Amount entitled for average relief

Lower of (25000 =25000 =25000

OR

20% of taxable income= $585000 \times 20\% = 117,000$

Note 2

Property income is separately taxable:

Property income = 740,000

= 20,000 + 10% × (740,000 - 600,000)

= 20,000 + 10% × (140,000)

= 20,000 + 14,000

= 34,000

Note 3

Tax on capital gain

X Ltd: 90,000 × 15% = 13,500 (holiday period < 1 year)

J Ltd: 170,000 × 7.5% = 12,750 (holiday period > 3 years)

Note 4

The selection of MR. Junaid for audit will require him to produce documentary proof of his income and expenses.

Q. 3 MR. Raheem has reported the following transaction for the tax year 2017.

1. Rent Received Rs. 30,000 P.M
2. Deduction claimed on property income
Unpaid rent Rs. 10,000 P.A
3. Income from fruit selling business Rs. 200,000
4. Income from Sale of juices Rs. 100,000
5. Ground rent received = Rs. 30,000
6. Royalty income received = Rs. 60,000
7. Capital gain on sale of shares of a pvt Ltd of Rs. 70,000. The holiday period is 6 months
8. Donation to a govt. school of Rs. 15,000
9. Share of income received from AOP Rs. 90,000
10. Mr. Raheem is a senior citizen tax rebate

Solution

Mr. Raheem

NTN:

Status: Resident

Tax Year: 2018

Calculation of tax

Sr.	Particulars	Rs.	Rs.
-----	-------------	-----	-----

No			
	<u>Income from property U/s 15:</u> Rent received Rs.30000 P.M Taxable income from property (N)	30000×12 	360000 360,000
	<u>Income from Business u/s 18:</u> Income from fruit selling business Income from sale of juices Taxable income from business	200,000 100,000 	 300,000 70000 70000
	<u>Capital gain u/s 37:</u> Capital gain on sale of shares of A pvt Ltd Taxable capital gain		
	<u>Income from other sources u/s 39:</u> Ground rent received Rs.30000 P.A Royalty income received Rs.60000 P.A Taxable income from other sources Total taxable income		30000 60000 90000 460000
	Add: Share of AOP Taxable income for rate purpose		90000 550000
	Gross tax (Where Taxable income is exceeding 400000 but does not exceed Rs. 800,000 Tax will be Rs 1000)		1000
	Less: Tax credit for share of AOP =gross tax/taxable income for rate purpose× share of AOP =1000/550000×90000=163		(163) 837
	Tax payable Less: Tax credit for donation to govt school =Tax payable/taxable income× amount entitled for relief (N) =837/460000×15000=27		(27) 810 (405) 405
	Tax payable Less: senior citizen tax payable 50% Tax payable with return		

Note 1

Amount entitled for average relief

Maximum allowed

30% of taxable income

=30% of 460000

=138000

So 15000 is within limit

Note 2

Property income is separately taxable:

Property income = 360000

= 5% of (360000 - 200000)

= 5% of (160000)

= 8,000

Q. 4 MR. Subhan has reported the following transactions for the tax year 2017.

1. Salary Received Rs. 250000 P.A
2. Rent Received Rs. 25000 P.M
3. Unadjustable advances received Rs. 100000
4. Deduction of Repairs allowance & Rent collection charges have been claimed.
5. Income from books selling business Rs. 350000 P.A
6. Expenses claimed on business income: a. Depreciation = Rs. 10000
b. Insurance = Rs. 6000 c. cost of sales = Rs. 80000 d. salaries = Rs. 20000
7. Capital gains/losses details:
Share of company Sale prices purchase price capital gain holding period

co	Sale price	purchase price	capital gain	holding period
P Ltd	10,00,000	500,000	500,000	1 month
R pvt Ltd	70,000	100,000	30,000	1 month
8. Income from past agent relationship Rs. 70000
9. Share from AOP Rs. 70000
10. Contribution to recognized pension fund Rs. 20000
11. Mr. Subhan is a full-time teacher in a HEC recognized university.

Solution

Mr. Subhan
NTN:
Status: Resident
Tax Year: 2018
Calculation of tax

Sr. No	Particulars	Rs.	Rs.
	<u>Income from salary U/s 12:</u>		
	Salary received		250000
	<u>Income from property U/s 15:</u>		
	Rent received Rs.25000 P.M	25000×12	300000
	Unadjustable advance received Rs.100000	100000/10	10000
	Taxable income from property (N)		310000
	<u>Income from Business u/s 18:</u>		
	Income from book selling business		350000
	Less: expenses on business:	10000	
	Depreciation	6000	
	Insurance	80000	
	Cost of sales	20000	(116000)
	Salaries		
	Taxable income from business		234000
	<u>Capital gain u/s 37:</u>		
	capital loss on sale on share of R pvt Ltd (30,000) (N)	-	-
	Taxable capital gain		
	<u>Income from other sources u/s 37:</u>	-	-
	Income from past agent relationship		70,000
	Taxable income from other sources		70,000
	Total taxable income		553,600
	Add: share from AOP		70,000
	Taxable income for rate purpose		623,600
	Gross tax		1,000
	(Where Taxable income is exceeding 400000 but does not exceed Rs. 800000 Tax will be Rs 1000)		
	Less: Tax credit for share from AOP		
	=gross tax/taxable income for rate purpose× share from AOP		
	=1000/623600×70000=112		(112)
	Net tax payable		888
	Less: Tax credit for contribution to recognized pension fund		
	=Net tax payable/taxable income× amount entitled for average relief (N)		
	=888/553600×20000=35		(35)
	Tax payable		853
	Less: Tax rebate as full-time teacher (40%)		(341)
	Tax payable with return		512

Note 1

Amount entitled for average relief

Lower of (20,000 =20,000 =20,000

OR

20% of taxable income=553,600×20%=110,720

Note 2**Property income is separately taxable**

Property income = 229,400

= $5\% \times (310,000 - 200,000)$

= $5\% \times (110,000)$

= 5,500

We treated to property income as a separate block of income

Note 3**Tax on capital gain**

P Ltd: $50,000 \times 15\% = 2,250$ (holidays period < 1 year)

Note 4

The capital loss on shares of R pvt Ltd cannot be adjusted as there is no capital gain given in question.

SUMMARY

This unit has prescribed the taxation treatment of non-salaried persons. Non-salaried persons generally do their own work rather than being provided with work by an employer, earning income from a trade or business. The concept of tax credit has been discussed in detail as tax credit is an amount of money that taxpayers are permitted to subtract from taxes owed to their government.

In this unit; tax treatment of income of traders have been elaborated, which governs rules for the computation of the tax payable on profits and gains of a trader. A comprehensive non-salaried questions been provided at the end of the unit to summarize the discussion.

UNIT: 4

**INCOME FROM BUSINESS:
ASSOCIATION OF PERSONS**

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Introduction

This unit will discuss the taxation of Association of Persons (AOPs). The AOPs or Partnership firms are taxed separately from their owners/partners. This unit will discuss in detail the taxation treatment of various expenses & incomes of AOPs as per the income Tax Ordinance 2001.

Objectives

After reading this unit you will be able;

1. to know the taxation of Association of Persons (AOPs)
2. to calculate tax of Association of Persons
3. to understand tax credit & rebates for AOPs

1. Association of Persons:

[Section 2(6) & 80]

Association of persons includes a firm (the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all), a Hindu undivided family, any artificial juridical person and anybody of persons formed under a foreign law, but does not include a company.

1.1 Introduction to Partnership Firms

A “Partnership” is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all. Persons who have entered into partnership with one another called individually “partners” and collectively “a firm” and the name under which their business is carried on is called the “firm name”. A partnership is an arrangement where parties, known as partners, agree to cooperate to advance their mutual interests. The partners in a partnership may be individuals, businesses, interest-based organizations, schools, governments or combinations. Organizations may partner to increase the likelihood of each achieving their mission and to amplify their reach. A partnership may result in issuing and holding equity or may be only governed by a contract.

Although not required by law, partners should create a partnership agreement that defines the important terms of their relationship. Partnership agreements can be formed in the following areas:

- i. Business
- ii. Politic
- iii. Knowledge
- iv. Individual

Partners are bound to carry on the business of the firm to the greatest common advantage, to be just and faithful to each other, and to render true accounts and full information of all things affecting the firm to any partner or his legal representative.

1.2 Principles of Taxation of Associations of Persons. (Section 92)

An association of persons shall be liable to tax separately from the members of the association and where the association of persons has paid tax the amount received by a member of the association in the capacity as member out of the income of the association shall be exempt from tax.

Provided that if at least one member of the association of persons is a company, the share of such company or companies shall be excluded for the purpose of computing the total income of the association of persons and the company or the companies shall be taxed separately, at the rate applicable to the companies, according to their share.

1.1.1 Principles of Taxation of Associations of Persons (Section 92)
(1979: 2nd Sch. Part I Clause 110 & 1st Sch. Part IV Para A(2B)) (1) Subject to sub-section (2),

1. Subject to sub-section 2., an association of persons shall be liable to tax separately from the members of the association and 1 [where the association of persons has paid tax the] amount received by a member of the association in the capacity as member out of the income of the association shall be exempt from tax.
2. Sub-section 1. shall not apply to an association of persons that is a professional firm prohibited from incorporating by any law or the rules of the body regulating the profession.
3. An association of persons to which subsection 2. applies shall not be liable to tax and the income of the association shall be taxed to the members in accordance with section 93.
4. An association of persons referred to in sub-section 3. shall furnish a return of total income for each tax year.
5. Sections 114, 118 and 119 shall apply to a return of total income required to be furnished under sub-section 4.

1.1.2 Taxation of Members of an Association of Persons (Section 93)

1. Where sub-section 3. of section 92 applies, the income of a member of an association of persons chargeable under the head “Income from Business” for a tax year shall include –
 - a. in the case of a resident member, the member’s share in the total income of the association; or
 - b. in the case of a non-resident member, the member’s share in so much of the total income of the association as is attributable to Pakistani-source income.
2. Where an association of persons to which sub-section 3. of section 92 applies sustains a loss that cannot be set off against any other income of the association in accordance with section 56, the amount of the loss shall be apportioned among the members of the association according to their interest in the association and the members shall be entitled to have their share of the loss set off and carried forward for set off under Part VIII of Chapter III in computing their taxable income under this Ordinance.
3. The share of a loss referred to in sub-section 2. of a non-resident member shall be limited to the extent that the loss relates to the derivation of Pakistan-source income.
4. The total income of an association of persons for the purposes of sub-section 1. and the loss of an association for the purposes of sub-section 2. shall be computed as if the association were a resident person.
5. Income, expenditures and losses of an association of persons to which this section applies shall retain their character as to geographic source and type of income, expenditure or loss in the hands of the members of the association, and shall be treated as having passed through the association on a pro rata basis, unless the Commissioner permits otherwise by 3 [order] in writing to the association.

6. The share of a member in the total income of an association of persons shall be determined according to the member's interest in the association and shall include any profit on debt, brokerage, commission, salary or other remuneration received or due from the association.

1.3 Resident and Non-resident Persons (Section 81) [1979: Sec 2(30) & 2(40)]

1. A person shall be a resident person for a tax year if the person is –
 - a. a resident individual, resident company or resident association of persons for the year; or
 - b. the Federal Government.
2. A person shall be a non-resident person for a tax year if the person is not a resident person for that year.

1.4 Resident Association of Persons (Section 84) [1979: Sec 2(40)(b)]

An association of persons shall be a resident association of persons for a tax year if the control and management of the affairs of the association is situated wholly or partly in Pakistan at any time in the year.

2. Taxation of Business Income of AOP

The income from business of a person is taxed by deducting expenses from the revenues earned by a business in a year. Only those revenues are included in the income of a business which are earned through normal business activities. Capital receipts are ignored while calculating the taxable income of a business. In the same manner, only those expenses are allowed to be deducted from the revenues of a business which are related to the current period. No capital expense is allowed for deduction.

A list of expenses allowed for deduction is given below:

Deductions permissible in arriving at the income chargeable to tax under the head Income from business: (Section 20)

1. A deduction shall be allowed for expenditure incurred by the person exclusively for the purpose of business.

Explanation: These expenses include most of the items which appear in the profit and loss account of a business concern. A tentative list of these expenses includes;

- a. Repair and maintenance expenses
- b. Cost of goods sold
- c. Insurance of the land and building of business
- d. Electricity and telephone bills
- e. Lighting and heating expenses
- f. Rent of building
- g. Salaries & wages of the employees
- h. Interest on loan
- i. Bad debts allowed
- j. Freight charges

- k. Other business related expenses
- 1. Amortization or depreciation of intangible or tangible assets where they have a useful life of more than 1 year (Section 22, 23, 24), **(Third Schedule)**
- 2. Pre-commencement expenditure at the rate of 20% on straight line basis **(Section 25)**, (Third Schedule)
- 3. Scientific research expenditure **(Section 26)**
- 4. Employee training facilities expenditure **(Section 27)**
- 5. Profit on debt if related to Taxable Business Income **(Section 28)**
- 6. Entertainment expenditure in the limits as prescribed (Rule 10 of Income Tax Rules, 2002)
- 7. Bad Debts **(Section 29)**

Where a person has been allowed a tax deduction in respect of any expenditure and subsequently the person receives the amount of such expenditure as a reimbursement in cash or in kind, the amount so received shall be included in the person income chargeable to tax in the year in which it is received. **(Section 70)**

Note

An important distinction here is required between capital expenditures and revenue expenditures.

Capital expenditures provide benefit to a person for more than one year. Examples are buying a vehicle or a building.

Revenue expenditures provide benefit for less than one year e.s electricity bills or repair expenses.

Only revenue expenditures are allowed to be deducted from the revenues of a person to compute the taxable income.

Capital receipts are those revenues earned through sale of goods or provision of services other than normal course of doing business. Examples include sale of old furniture or computer.

Revenue receipts are those revenues earned through sale of goods or provision of services in the normal course of doing business. Examples include sale of goods.

Only revenue receipts are included in the revenues of a person for the purpose of taxation.

Deductions inadmissible in arriving at the income chargeable to tax under the head Income from business: **(Section 21)**

- a. Any cess, rate, or tax paid or payable in Pakistan or foreign country on the profits of the business as a % or otherwise on the basis of such profits (Income tax charge, Workers Welfare Fund, Workers Profit Participation Fund)
- b. Any amount of tax deducted at source

- c. Entertainment expenditures in excess of limits provided in Rule 10 of Income Tax Rules, 2002
- d. Any fine or penalty for the violation of any law, rule or regulation
- e. Personal expenses of the tax payer
- f. Amount carried to reserve fund or capitalized in any way
- g. Any profit on debt, brokerage, commission, salary or other remuneration paid by an AOP to a member of the association
- h. Any payment of salary, rent, commission/brokerage, profit on debt, services and payments to non-residents made without tax deduction where a person is required to deduct tax
- i. Payments of business expenditure required to be paid through banking channel other than the following:
 - i. Where salary of an employee does not exceed 15,000 per month
 - ii. Where aggregate of a single account head does not exceed 50,000 for the year
 - iii. Single payment up to 10,000
 - iv. Payment on account of freight, travel fare, postage, utility and other government dues.
- j. Payments to establish a business entity (e.g. company incorporation expenses).

Contribution to unrecognized provident fund, unapproved pension fund, unapproved superannuation fund or unapproved gratuity fund unless the person has made effective arrangements to secure that tax is deducted from any payments made by the fund.

FORMAT OF AOP TAXATION

XYZ

Status: Resident

Tax year 2017

Sr. No	Particulars	Rs.	Rs.
	Net profit as per profit & loss A/C		XXX
	Add: Inadmissible expenses:		
	Personal expenses of partners	XXX	
	Personal expenses of partners	XXX	
	Commission paid to partner	XXX	
	Accounting depreciation	XXX	
	Salary of partner	XXX	
	Payment to partner	XXX	XXX
	Less: Admissible expenses:		
	Tax depreciation	XXX	
	Travelling expenses	XXX	
	Interest on bank deposit	XXX	
	Taxable Profit		XXX
	Tax payable on taxable profit		XXX

Example 1

Compute the tax liability of a registered firm XY where X & Y equal partners are working.

Expenses	Rs.	Revenues	Rs.
Purchases	160,000		
Wages to workers	30,000	Sales	700,000
Maintenance	5,000	Interest on bank Deposits	10,000
Personal expenses X	2000		
Personal expenses Y	3000		
Commission X	11,000		
Commission Y	7000		
Depreciation	15,000		
Salaries	70,000		
Net Profit	407,000		
	710,000		710,000

Additional information

1. Tax depreciation is of Rs. 15,000
2. The travelling expenses of Rs. 10,000 have not been recorded.
3. The salaries include salary of X of Rs. 17000 & salary of Y of Rs. 20000.
4. The maintenance expenses include a payment of Rs. 2000 to Mr. X.

Solution

M/S XY
IYTN
Status: Resident
Tax year 2018

Sr. No	Particulars	Rs.	Rs.
	Net profit as per profit & loss A/C		407000
	Add: Inadmissible expenses:		
	Personal expenses X	2,000	
	Personal expenses Y	3,000	
	Commission X	11,000	
	Commission Y	7,000	
	Accounting depreciation	15,000	
	Salary to X	17,000	
	Salary to Y	20,000	
	Payment to Mr. X	2,000	77,000
	Less: Admissible expenses:		
	Tax depreciation	15,000	
	Travelling expenses	10,000	(25,000)
	Less: Interest on bank deposit (Note-1)		(10,000)
	Taxable Profit		
	Tax payable on taxable profit		449,000
	=5% (449,000-400,000)		
	= $(5\% \times 49,000) = 2,450$		
	(Note-1) Interest received on bank deposits is respectively taxed & included in Final Tax Regime (FTR)		2,450

3. Depreciation & Amortization

3.1 Tax Depreciation: (Section 22, 23)

- i. Depreciation shall be allowed in relation to depreciable assets used in relation to the person's business.

Depreciable Asset: [Section 2(17) & 22]

Depreciable asset means any tangible movable property, immovable property (other than unimproved land), or structural improvement to immovable property, owned by a person that

- a. has a normal useful life exceeding one year;
- b. is likely to lose value as a result of normal wear and tear, or obsolescence; and
- c. is used wholly or partly by the person in deriving income from business chargeable to tax,

- ii. Depreciation rates are specified below: (Third Schedule)

Description of Asset	Rate of Depreciation
Building	10%
Furniture, plant and machinery, motor vehicles, ships, technical or professional books	15%
Computer hardware and aircrafts and aero engines	30%
Ramp built to provide access to disabled persons not exceeding 250,000 each	100%

- iii. Depreciation shall be allowed on proportional basis if the asset was also used for the purpose other than deriving business income in a tax year.
- iv. Written Down Value (WDV) of the asset in the above case shall be computed on the basis that the asset has been solely used to derive business income. It means that depreciation allowed as well as disallowed shall be deducted from the cost of the asset in arriving at the WDV. In that case, the WDV of the asset shall be increased by the amount of depreciation disallowed on account of non business use at the time of disposal.
- v. Depreciation shall not be allowed in the year of disposal.
- vi. The maximum depreciation to be absorbed in a tax year shall be restricted to the fifty percent of the taxable income of the year except for persons having taxable income of upto Rs. 10 million.
- vii. For computing gain on disposal of immovable property, the consideration received shall be treated as the cost of the property if the consideration exceeds its cost (Gain on disposal shall be equal to the depreciation allowed)
- viii. For computing gain on disposal of a depreciable asset by way of export that has been previously used in Pakistan, the consideration received shall be treated as the cost of the asset (Gain on disposal shall be equal to the depreciation allowed)
- ix. **Initial Allowance** equal to 25% of the cost of the asset shall be allowed on eligible assets as defined below:
 - a. Road transport vehicle plying for hire
 - b. Building
 - c. Plant and machinery not previously used in Pakistan

- d. Computer hardware
- e. Technical and professional books
- x. **First Year allowance** in lieu of initial allowance equal to 90% of the cost of the asset shall be allowed in respect of plant & machinery installed by any industrial undertaking set up in specified rural areas and owned and managed by a company.
- xi. Accelerated Depreciation in lieu of initial allowance equal to 90% of the cost of the asset shall be allowed in respect of plant & machinery installed for generation of alternate energy by an industrial undertaking set up anywhere in Pakistan and owned and managed by a company.

Summary of Depreciation Allowances

No.	Type of depreciation	Rate of tax	Conditions for depreciation	Type of asset
1.	Initial allowances for depreciation	25%	Allowed only in the first year of operations on depreciable assets	i. Plant and Machinery ii. Building
2.	First year allowance for depreciation	90%	Plant and machinery Installed in rural and under developed areas after July 1, 2008	Plant and Machinery
3.	Normal allowance for depreciation	Prescribed in the ordinance	Depreciable asset must be owned by the person.	Building, computers, furniture and fixtures etc
4.	Accelerated depreciation	90%	Allowed on alternate energy projects installed after July 1, 2009.	Plant and Machinery

3.2 Amortization: Intangible Asset

(Section 24)

It means any patent, invention, design or model, secret formula or process, copyright, trade mark, scientific or technical knowledge, computer software, motion picture film, export quotas, franchise, license, intellectual property], or other like property or right, contractual rights and any expenditure that provides an advantage or benefit for a period of more than one year (other than expenditure incurred to acquire a depreciable asset or unimproved land).

- i. Amortization shall be allowed for the cost of intangible assets that have been used for the purpose of deriving business income and that have a normal useful life of more than 1 year.
- ii. An intangible with a normal useful life of more than 10 years or having an unascertainable useful life, it shall be treated as having a normal useful life of 10 years.
- iii. Where intangible asset have been used partly for deriving business income, amortization deduction shall be allowed proportionately based on the number of days the intangible is used in deriving business income.
- iv. No amortization shall be allowed in the year in which the person disposes off an intangible.

Tax Accounting:**(Section 33-36)**

1. A company shall apply accrual basis of accounting for the purpose of determining income chargeable to tax under the head income from business.
2. The board may prescribe for any class of persons to account for income chargeable to tax based on accrual or cash basis accounting.
3. Person accounting for income chargeable to tax on cash basis accounting under the head income from business shall record income when it is received and expense when it is paid. Person accounting for income chargeable to tax on accrual basis accounting under the head income from business shall record vice versa to cash basis.
4. Person accounting for income chargeable to tax on accrual basis accounting, when allowed a deduction of expense, shall pay off such liability within 3 years of the end of tax year in which it was allowed as a deduction. If not paid within such specified time, tax deduction allowed earlier shall be reversed in the first year following the end of 3 years.
5. Subsequent payment of such liability as mentioned above shall be allowed as a deduction for in the year of payment.
6. The closing value for a person's stock in trade shall be lower of cost and Net Realizable Value (NRV).
7. Income on long term contracts accounted for on the basis of accrual accounting system shall be recorded based on the percentage of completion method. Computation is as follows:

Cost incurred before the end of a tax year

Total estimated cost at the commencement of the contract

Example 2

Compute the income tax liability of a registered partnership firm PQ being run by P & Q two equal partners, for the year 2016-17

Expenses	Rs.	Revenues	Rs.
Purchases	150,000	Sales	770,000
Salaries to staff	30,000	Sale of old machine	20,000
Personal expenses P	15,000	Dividend received	5,000
Personal expenses Q	5000	Prize on prize bond	22,000
Interest paid to P	8000		
Commission to Q	10000		
Depreciation	15000		
Bad debts	8000		
Entertainment expenses	20000		
Net profit	556,000		
	817,000		817,000

Additional Information

1. Tax depreciation amounts to Rs.15000
2. The CIR has allowed bad debts of only 8000
3. The utilities expenses of Rs.10000 have not been recorded.
4. The entertainment expenses include Rs.12000 as personal expenses of Mr. Q.

Solution

M/S PQ
NTN.....
Status: Resident
Tax year 2018

Sr. No	Particulars	Rs.	Rs.
	Net profit as per profit & loss A/C		
	Add: Inadmissible expenses:		556,000
	Personal expenses to Mr. P		
	Personal expenses Mr. Q	15,000	
	Interest paid to Mr. Q	5000	
	Commission paid to Mr. Q	8000	
	Accounting depreciation	10,000	
	Bad debts (not allowed by CIR)	15000	
	Personal expenses of Mr. Q	2000	
	Less: Admissible expenses:	12,000	67,000
	Tax depreciation		
	Utilities expenses	15000	
		10000	(25,000)
	Less: Dividend received (N-1)		(5,000)
	Less: prize on prize bonds (N-2)		(22,000)
	Taxable profit		638,000
	Tax on taxable profit		
	=5% X (638,000-400,000)		
	=5% X (238,000)=11,900		11,900
	(N-1) Dividend received is separately taxed under FTR.		
	(N-2) Prize on prize bonds is separately taxed under FTR.		

4. Format of AOP Taxation

Sr. No	Particulars	Rs.	Rs.
	Net profit as per profit & Loss A/C		
	Add: Inadmissible		
	Revenues not recorded		
	Accounting depreciation		
	Expenses not allowed		
	Less: Admissible		
	Tax depreciation		
	Revenues (Not recorded)		
	Expenses allowed		
	Taxable profit		
	Higher (Tax on taxable profit 30% (A)		
	Of OR		
	(Tax on accounting profit 17% (B)		
	OR		
	(1.25% of sales. (C)		
	Tax payable with return		

4.1 Practical Questions on Association of Persons

Q.1 Compute the tax liability of a registered firm XY where X & Y equal partners are working.

Expenses	Rs.	Revenues	Rs.
Purchases	180,000		
Wages to workers	20,000	Sales	800,000
Maintenance	10,000	Interest on bank Deposits	15,000
Personal expenses X	4000		
Personal expenses Y	5000		
Commission X	10,000		
Commission Y	9000		
Depreciation	12,000		
Salaries	50,000		
Net Profit	515,000		
	815,000		815,000

Additional information

1. Tax depreciation is of Rs. 20,000
2. The travelling expenses of Rs. 12000 have not been recorded.
3. The salaries include salary of X of Rs. 20000 & salary of Y of Rs. 22000.
4. The maintenance expenses include a payment of Rs. 3000 to Mr. X.

Solution

M/S XY
IYTN
Status: Resident
Tax year 2018

Sr. No	Particulars	Rs.	Rs.
	Net profit as per profit & loss A/C		515,000
	Add: Inadmissible expenses:		
	Personal expenses X	4,000	
	Personal expenses Y	5,000	
	Commission X	10,000	
	Commission Y	9,000	
	Accounting depreciation	12,000	
	Salary to X	20,000	
	Salary to Y	22,000	
	Payment to Mr. X	3,000	85,000
	Less: Admissible expenses:		
	Tax depreciation	20,000	
	Travelling expenses	12,000	(32,000)
	Less: Interest on bank deposit (Note-1)		(15,000)
	Taxable Profit		553,000
	Tax payable on taxable profit		
	5% (553,000-400,000)		
	5% × 153,000=7,650		7,650
	(Note-1)		
	Interest received on bank deposits is respectively taxed & included in Final Tax Regime (FTR)		

Q. 2 Calculate the tax liability of a registered firm ABC where three partners A, B & C are working on equal profit & loss sharing basis

Expenses	Rs.	Revenues	Rs.
Purchases	312,000	Sales	15,00,000
Wages to labour	50,000	Sales tax refund	100,000
Rent	40,000	Interest on saving certificate	12000
Interest paid to A	10,000		
Commission paid to B	15000		
Commission paid to C	10000		
Salary paid to A	12000		
Salary paid to C	14000		
Utilities expenses	10000		
Sundry expenses	15000		
Depreciation	40,000		
Net profit	10,084,000		
	16,12,000		16,12,000

Additional Information

1. Tax depreciation amounts to Rs. 52000
2. Legal expenses of Rs.15000 have not been recorded.
3. The sundry expenses include a payment of Rs. 5000 as school fees for children of A & B.
4. The salary paid to partner B has been recorded for Rs.11000.

Solution

M/S ABC
NTN.....
Status: Resident
Tax year: 2018

Sr. No	Particulars	Rs.	Rs.
	Net profit as per Profit & Loss A/C		10,84,000
	Add: Inadmissible expenses:		
	Interest paid to Mr. A	10,000	
	Commission paid to Mr. B	15000	
	Commission paid to Mr. C	10,000	
	Salary paid to Mr. A	12000	
	Salary paid to Mr. C	14000	
	Accounting depreciation	40,000	
	School fees of children of Mr. A & B	5000	106,000
	Less: Admissible expenses:		
	Tax depreciation	52000	
	Legal expenses	15000	(67000)
	Less: Sales tax refund (Note-1)		100,000
	Less: Interest on saving certificates (Note-2)		12000
	Taxable profit		1011,000
	Tax on taxable profit		
	=5%(1011000-400000)		
	=5%(611000) =30550		30,550
	(Note-1) Sales tax refund is not a regular income of business.		
	(Note-2) Tax on interest on saving certificates is covered under FTR & treated separately.		

Q. 3 Compute the income tax liability of a registered firm AA Brothers being run by two partners Ahmad& Ali for the tax year 2016-17

Expenses	Rs.	Revenues	Rs.
Utilities expenses	10,000	Gross profit	650,000
Personal expenses Ahmad	1000	Income from property	109,000
Salary to Ali	11000	Capital gain on public Co. Shares	50,000
Interest paid to Ali	12000		
Commission to Ahmad	15000		
Printing expenses	10000		
Depreciation	18000		
Bad debts	10000		
Salaries- Staff	40000		
Net profit	668000		
	800,000		800,000

Additional information

1. Tax depreciation amounts to Rs.25000.
2. Bad debts of Rs.3000 are not approved by CIR.
3. Printing expenses include Rs.4000 paid as sales Tax.
4. The staff salaries include Rs.15000 paid as salary to Ahmad

Solution

M/S AA Brothers

NTN.....

Status: Resident

Tax year:2018

Sr. No	Particulars	Rs.	Rs.
	Net profit as per profit & loss A/C		668,000
	Add: Inadmissible expenses		
	Personal expenses of Mr. Ahmad	6000	
	Salary to Mr. Ali	11000	
	Interest paid to Mr. Ahmad	12000	
	Commission paid to Mr. Ahmad	15000	
	Accounting depreciation	18000	
	Bad debts (not approved by CIR)	3000	
	Sales tax paid	4000	
	Salary to Mr. Ahmad	15000	84000
	Less: Admissible expenses:		
	Tax depreciation	25000	(25000)
	Less: Capital gain on shares of Public (N-1)		(50000)
	Taxable profit		677,000
	Tax on taxable profit		
	5% X (677000-400000)		
	5% X (277000)= 13,850		13850
	(N-1) Tax on capital gain on shares of public company is covered under FTR & Taxed separately		

Q. 4 Calculate the income tax liability of a registered partnership firm that consists of T. w partners J & S equally sharing profit & losses.

Expenses	Rs.	Revenues	Rs.
Purchases	180,000	Sales (Net of returns)	650,000
Salaries to staff	50,000	Grant from SMEDA	100,000
Rent	10,000	Income Tax refunds	10,000
Depreciation	12000	Dividend received	9000
Provision for bad debts	6000		
Legal expenses	3000		
Commission-J	5000		
Commission-S	4000		
Salary-J	3000		
Salary-S	12000		
Net profit	474,000		
	769,000		769,000

Additional Information

1. Tax depreciation is of Rs.20000
2. Entertainment expenses of Rs.10000 have not been recorded.
3. During the year, J took a loan of Rs.30000 from firm.
4. The income tax refund is related to previous year.

Solution

M/S JS
NTN.....
Status: Resident
Tax year 2018

Sr. No	Particulars	Rs.	Rs.
	Net profit as per profit & loss A/C		474,000
	Add: Inadmissible expenses:		
	Commission to Mr. J	5000	
	Commission to Mr. S	4000	
	Salary to Mr. J	13000	
	Salary to Mr. S	12000	
	Accounting depreciation	12000	46000
	Less: Admissible expenses:		
	Tax depreciation	20000	
	Entertainment expenses (Not recorded)	10000	(30000)
	Less: Grant from SMEDA (N-1)		100,000
	Less: Income tax refund (N-2)		10,000
	Less: Dividend received (N-3)		9000
	Taxable profit		371000
	No Tax is payable as the taxable profit is below Rs.400000.		
	(N-1) Grant from SMEDA is not a regular business income.		
	(N-2) Income tax refund of last year is not a business income.		
	(N-3) Dividend received is taxed under FTR.		

Q. 5 Compute the income tax liability of a registered partnership firm PQ being run by P & Q two equal partners, for the year 2016-17

Expenses	Rs.	Revenues	Rs.
Purchases	170,000	Sales	750,000
Salaries to staff	40,000	Sale of old machine	30,000
Personal expenses P	10,000	Dividend received	10,000
Personal expenses Q	8000	Prize on prize bond	20,000
Interest paid to P	7000		
Commission to Q	9000		
Depreciation	14000		
Bad debts	10000		
Entertainment expenses	26000		
Net profit	516,000		
	810,000		810,000

Additional Information

1. Tax depreciation amounts to Rs.19000
2. The CIR has allowed bad debts of only 6000
3. The utilities expenses of Rs.13000 have not been recorded.
4. The entertainment expenses include Rs.10000 as personal expenses of Mr. Q.

Solution

M/S PQ
NTN.....
Status: Resident
Tax year 2018

Sr. No	Particulars	Rs.	Rs.
	Net profit as per profit & loss A/C		516,000
	Add: Inadmissible expenses:		
	Personal expenses to Mr. P	10,000	
	Personal expenses Mr. Q	8000	
	Interest paid to Mr. Q	7000	
	Commission paid to Mr. Q	9000	
	Accounting depreciation	14000	
	Bad debts (not allowed by CIR)	4000	
	Personal expenses of Mr. Q	10,000	62000
	Less: Admissible expenses:		
	Tax depreciation	19000	
	Utilities expenses	13000	(32000)
	Less: Dividend received (N-1)		(10,000)
	Less: prize on prize bonds (N-2)		(20000)
	Taxable profit		516,000
	Tax on taxable profit		
	=5% X (516000-400000)		
	=5% X (116000)= 5,800		5,800
	(N-1) Dividend received is separately taxed under FTR.		
	(N-2) Prize on prize bonds is separately taxed under FTR.		

SUMMARY

The Association of Person (AOP) is a relation between persons who have agreed to share the profits of a business carried out by all or any of them acting for all. An AOP shall be liable to tax separately from the members of the association and where the association of persons has paid tax the amount received by a member of the association in the capacity as member out of the income of the association shall be exempt from tax.

Same Practical questions on Taxation of AOP have been explained to clarify the methods for taxation of AOP.

UNIT: 5

INCOME FROM BUSINESS: COMPANIES

**Written by:
Moazzam Ali**

**Reviewed by:
Prof. Dr. S. M. Amir Shah**

Introduction

The previous unit described the basic concepts of taxation of AOP. Now, in this unit, the concept of companies and its types will be introduced. This unit has been designed to guide students to understand the procedural aspects of the income taxation of companies and develop know-how on the practical calculation of taxation. The tax return requirements for companies will also be discussed.

Objectives

After reading this unit you will be able;

1. to know the principles of taxation of companies
2. to understand the taxation of business income of companies
3. to explain the tax returns requirements for companies
4. to understand the format of taxation of companies
5. to know practical calculation of taxation of companies

1. Principles of Taxation of Companies

(Section 94)

A company shall be liable to tax separately from its shareholders. A dividend paid by a company shall be taxable in accordance with Section 5.

Disposal of business by individual to wholly-owned company

(Section 95)

Where a resident individual (hereinafter referred to as the —transferor) disposes of all the assets of a business of the transferor to a resident company, no gain or loss shall be taken to arise on the disposal if the following conditions are satisfied, namely:

- a. The consideration received by the transferor for the disposal is a share or shares in the company (other than redeemable shares);
- b. the transferor must beneficially own all the issued shares in the company immediately after the disposal;
- c. the company must undertake to discharge any liability in respect of the assets disposed of to the company;
- d. any liability in respect of the assets disposed of to the company must not exceed the transferor's cost of the assets at the time of the disposal;
- e. the fair market value of the share or shares received by the transferor for the disposal must be substantially the same as the fair market value of the assets disposed of to the company, less any liability that the company has undertaken to discharge in respect of the assets; and
- f. the company must not be exempt from tax for the tax year in which the disposal takes place.

2. Concept of Company

Company means

[Section 2(12) & 80]

- a. A company as defined in the Companies Ordinance, 1984 (XLVII of 1984);
- b. A body corporate formed by or under any law in force in Pakistan;
- c. A modaraba;
- d. A body incorporated by or under the law of a country outside Pakistan relating to incorporation of companies;
- e. A trust, a co-operative society or a finance society or any other society established or constituted by or under any law for the time being in force;
- f. A non-profit organization
- g. A foreign association, whether incorporated or not, which the Board has, by general or special order, declared to be a company for the purposes of this Ordinance;
- h. A Provincial Government;
- i. A Local Government in Pakistan.

There are following three types of companies discussed in the Income Tax Ordinance 2001

1. Small Company: [Section 2(59A)]

Small company means a company registered on or after the first day of July, 2005, under the Companies Ordinance, 1984 (XLVII) of 1984, which;

- i. has paid up capital plus undistributed reserves not exceeding twenty-five million rupees;
- ii. has employees not exceeding two hundred and fifty any time during the year;
- iii. has annual turnover not exceeding two hundred and fifty million rupees; and
- iv. is not formed by the splitting up or the reconstitution of business already in existence.

2. Public Company means: [Section 2(47)]

- a. a company in which not less than fifty per cent of the shares are held by the Federal Government or Provincial Government;
- b. a company in which not less than fifty per cent of the shares are held by a foreign Government, or a foreign company owned by a foreign Government
- c. a company whose shares were traded on a registered stock exchange in Pakistan at any time in the tax year and which remained listed on that exchange at the end of that year; or
- d. a unit trust whose units are widely available to the public and any other trust as defined in the Trusts Act, 1882 (II of 1882);]

3. Private Company:

It means a company which is not a public company.

3. Taxation of Business Income of Companies

The income from business of a person is taxed by deducting expenses from the revenues earned by a business in a year. Only those revenues are included in the income of a business which are earned through normal business activities. Capital receipts are ignored while calculating the taxable income of a business. In the same manner, only those expenses are allowed to be deducted from the revenues of a business which are related to the current period. No capital expense is allowed for deduction.

A list of expenses allowed for deduction is given below:

3.1 Deductions Permissible

Deductions permissible in arriving at the income chargeable to tax under the head Income from business: (Section 20)

A deduction shall be allowed for expenditure incurred by the person exclusively for the purpose of business.

Explanation: These expenses include most of the items which appear in the profit and

loss account of a business concern. A tentative list of these expenses includes;

- a. Repair and maintenance expenses
 - b. Cost of goods sold
 - c. Insurance of the land and building of business
 - d. Electricity and telephone bills
 - e. Lighting and heating expenses
 - f. Rent of building
 - g. Salaries & wages of the employees
 - h. Interest on loan
 - i. Bad debts allowed
 - j. Freight charges
 - k. Other business related expenses
-
- 1. Amortization or depreciation of intangible or tangible assets where they have a useful life of more than 1 year
 - 2. Pre-commencement expenditure at the rate of 20% on straight line basis
 - 3. Scientific research expenditure
 - 4. Employee training facilities expenditure
 - 5. Profit on debt if related to Taxable Business Income
 - 6. Entertainment expenditure in the limits as prescribed
 - 7. Bad Debts

Where a person has been allowed a tax deduction in respect of any expenditure and subsequently the person receives the amount of such expenditure as a reimbursement in cash or in kind, the amount so received shall be included in the person income chargeable to tax in the year in which it is received. **(Section 70)**

Note

An important distinction here is required between capital expenditures and revenue expenditures.

Capital expenditures provide benefit to a person for more than one year. Examples are buying a vehicle or a building.

Revenue expenditures provide benefit for less than one year e.s electricity bills or repair expenses.

Only revenue expenditures are allowed to be deducted from the revenues of a person to compute the taxable income.

Capital receipts are those revenues earned through sale of goods or provision of services other than normal course of doing business. Examples include sale of old furniture or computer.

Revenue receipts are those revenues earned through sale of goods or provision of services in the normal course of doing business. Examples include sale of goods.

Only revenue receipts are included in the revenues of a person for the purpose of taxation.

Deductions inadmissible in arriving at the income chargeable to tax under the head Income from business: (Section 21)

- a. Any cess, rate, or tax paid or payable in Pakistan or foreign country on the profits of the business as a % or otherwise on the basis of such profits (Income tax charge, Workers Welfare Fund, Workers Profit Participation Fund)
- b. Any amount of tax deducted at source
- c. Entertainment expenditures in excess of limits provided in Rule 10 of Income Tax Rules, 2002
- d. Any fine or penalty for the violation of any law, rule or regulation
- e. Personal expenses of the tax payer
- f. Amount carried to reserve fund or capitalized in any way
- g. Any profit on debt, brokerage, commission, salary or other remuneration paid by an AOP to a member of the association
- h. Any payment of salary, rent, commission/brokerage, profit on debt, services and payments to non-residents made without tax deduction where a person is required to deduct tax
- i. Payments of business expenditure required to be paid through banking channel other than the following:
 - i. Where salary of an employee does not exceed 15,000 per month
 - ii. Where aggregate of a single account head does not exceed 50,000 for the year
 - iii. Single payment up to 10,000
 - iv. Payment on account of freight, travel fare, postage, utility and other government dues.
- j. Payments to establish a business entity (e.g. company incorporation expenses).

Contribution to unrecognized provident fund, unapproved pension fund, unapproved superannuation fund or unapproved gratuity fund unless the person has made effective arrangements to secure that tax is deducted from any payments made by the fund.

4. Corporate Tax Requirements

4.1 Which Company is Required to File?

Every company irrespective of any conditions

4.2 Due date for Furnishing the Return of Income

Due date for furnishing the return of income and/or statement of final/fixed tax [Section 118]

Whose tax year ends between 1 st July and 31 st December	30 th September
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Whose tax year ends between 1 st January and 30 th June	31 st December
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4.3 Method of Furnishing Returns and other Documents.

1. A return of income under section 114, a statement required under sub-section (4) of section 115 or a wealth statement under section 116 shall be furnished in the prescribed manner.
2. A return of income 6 [under section 114 or a statement under subsection (4) of section 115 of a company shall be furnished
 - i. In the case of a company with a tax year ending any time between the first day of January and the thirtieth day of June, on or before the thirty-first day of December next following the end of the tax year to which the return relates; or
 - ii. In any other case, on or before the thirtieth day of September next following the end of the tax year to which the return relates.

4.4 Corporate Tax Rates

The Govt. of Pakistan, in a bid to promote and incentivize companies and bolster their competitiveness, the corporate tax rates shall be reduced from 30% in Tax Year 2018 to 25% in

Tax Year 2023. The corporate tax rate will be 29% in Tax Year 2019 and will be reduced by 1% each year upto Tax Year 2023. i.e the corporate tax rate shall be 29% for Tax Year 2019, 28% for Tax Year 2020, 27% for Tax Year 2021, 26% for Tax Year 2022 and 25% for Tax Year 2023.

4.5 Tax Reforms in the Real Estate Sector

Widespread tax reforms have been envisaged for streamlining the issues related to the real estate sector in the budget of 2018-19. The salient features of such tax reforms are as under:

- i. Property transactions shall be recorded at the value declared by the buyer and the seller.
- ii. Property rates notified by FBR (for the purpose of collection of taxes on sale purchase of property) and DC rates are to be abolished.
- iii. At the Federal level, a one percent adjustable advance tax from the purchaser on the declared value shall be collected and this tax shall replace the existing withholding tax on sellers and purchasers of property.
- iv. Non-filers shall not be permitted to purchase property having declared value exceeding four million rupees.
- v. Provinces shall be requested to abolish the provincial rates for the collection of stamp duty (commonly known as DC rates) and to collect a total of one percent tax under stamp duty and capital value tax on the value declared by the buyer and the seller of property.
- vi. In order to deter under-declaration and consequent loss of revenue, FBR shall have the right to purchase any property within six months of registration by paying a

certain amount over and above the declared value which may be 100 percent in the fiscal year 2018-19, 75 percent in the fiscal year 2019-20 and 50 percent in the fiscal year 2020-21 and thereafter.

4.6 Successive Reduction in the Rates of Super Tax

As announced in the budget for 2018-19, the existing rate of super tax under section 4B of the Income Tax Ordinance, 2001 is 4% for banking companies and 3% for persons other than banking companies having income of Rs.500 Million and above. In order to encourage, incentivize and increase the competitiveness of companies and to enable them to contribute optimally towards economic growth, super tax shall be gradually withdrawn. It will be continued at the same rate for the financial year 2017-2018, however, the rate of super tax for both banking as well as non-banking persons shall be reduced by 1% for each successive year starting from the financial year 2018-19.

4.7 Reduction in Tax Rate on Undistributed Profit

Presently under section 5A of the Income Tax Ordinance, 2001 public companies are obliged to distribute at least 40% of their after tax profits through cash or issuance of bonus shares within six months of the end of the financial year, failing which such companies are subjected to tax @ 7.5% of their accounting profit (before tax). In order to create a balance between safeguarding the interest of shareholders as well as facilitating capital formation through retention of corporate profit earnings for future investments, the condition of distributing 40% of after tax profits is being reduced to 20% and the applicable tax rate on accounting profit in case of failure to distribute such dividend is being reduced from 7.5% to 5%.

4.8 Tax at Import Stage on Commercial Importers

At present the tax collected under section 148 of the Income Tax Ordinance, 2001 from commercial importers at the import stage is final tax, therefore, commercial importers are not required to file their return of income and compute their taxable income. This leads to under-invoicing, domestic transfer pricing and evasion of tax. Tax collected from commercial importers at the import stage shall now constitute minimum tax instead of final tax; therefore, commercial importers shall be required to file their returns of income depicting their taxable income(s). This measure is also a step towards gradual phasing out of the final tax regime.

5. Format of Taxation of Companies

Sr. No	Particulars	Rs.	Rs.
	Net profit as per profit & Loss A/C		
	Add: Inadmissible		
	Revenues not recorded		
	Accounting depreciation		
	Expenses not allowed		
	Less: Admissible		
	Tax depreciation		

	Revenues (Not recorded)		
	Expenses allowed		
	Taxable profit		
	Higher (Tax on taxable profit 30% (A)		
	Of OR		
	(Tax on accounting profit 17% (B)		
	OR		
	(1.25% of sales. (C)		
	Tax payable with return		

6. Practical Questions on Taxation of Companies

Q.1 The following is profit and loss account of star Ltd. For the year ended June 30th, 2016. Calculate its tax liability after considering the notes given at the end.

Expenses	RS.	Revenue	RS.
Purchases	450,000	Sales	12,00,000
Wages	120,000	Sale of old car	150,000
Fuel charges	30,000		
Depreciation	70,000		
Donation	10,000		
Maintenance	12,000		
Sales tax paid	11,000		
Bad debts	25,000		
Net profit	622,000		
	13,50,000		13,50,000

Additional information

1. Tax depreciation amounts to RS. 95,000.
2. Bad debts allowed by CIR are of RS. 10,000.
3. Purchases include RS. 25,000 incurred on buying new computer.
4. The corporate income tax rate is 29% & alternate corporate tax is 17%.

Solution

Star Ltd
NTN.....
Status: Resident
Tax year:2018

Sr. No	Particulars	Rs.	Rs.
	Net profit as per profit & Loss A/C		622,000
	Add: Inadmissible expenses:		
	Sales tax paid.	11000	
	Bad debts (not allowed).	25000	
	Purchases of new computer.	25000	
	Accounting depreciation.	70,000	
	Donation (Not allowed).	10,000	
	Less: Admissible expenses:		141,000

Tax depreciation	95,000	
Bad debts allowed.	10,000	(105000)
Taxable profit		658,000
Higher a) (Tax on taxable profit 29%	658,000×29%	190820
Of OR		
b) (Tax on accounting profit 17%	622,000×17%	105740
OR		
c) (1.25% of sales. (C)	1200,000×1.25%	15000
Tax payable with return		190820

Q. 2 Prepare the tax records of the Z Ltd from the following data:

Expenses	Rs.	Revenues	Rs.
Purchases	250,000	Sales (net of returns)	900,000
Carriage inward	10,000	Interest on saving	10,000
Wages	50,000	certificates	
Salaries	70,000	Sales of old painting	40,000
Challan paid for law vibration.	5000		
Rent	40,000		
Depreciation	50,000		
Phone bills paid	7000		
Other expenses	6000		
Net profit	452,000		
	950,000		950,000

Additional Information

1. Tax depreciation is of Rs. 65,000.
2. Rent includes a payment pf Rs. 5000 to the officer of building control authority.
3. Other expenses include a payment of Rs. 3000 to a charity organization.
4. The company claims tax credit for enlistment on Karachi stock exchange.
5. The corporate income tax rate is 29% & alternate corporate tax rate is 17%.

Solution

Z Ltd
NTN.....
Status: Resident
Tax year: 2018

Sr. No	Particulars	Rs.	Rs.
	Net profit as per profit & loss A/C		452,000
	Add: Inadmissible expenses:		
	Challan paid for law violation.	5000	
	Accounting depreciation	50,000	
	Payment to officer of building control.	5000	
	Payment to charity organization	3000	63000
	Less: Admissible expenses:		
	Tax depreciation.	65000	(65000)
	Less: Interest on saving certificate (N-1)	10000	(10000)
	Taxable profit		440,000
	Higher a) Tax on taxable profit 29%	440,000×29%	127,600

Of	b) Alternate corporate tax 17%	452,000×17%	76,840
	c) 1.25% of sales)	900,000×1.25%	11,250
	Less: Tax credit for enlistment on stock exchange. (N-2)		127600
	Net tax payable with return	127600×20%	(25520)
	(N-1) Interest on saving certificate is taxed as separate block of income.		102080
	(N-2) Tax credit on enlistment at a stock exchange is calculated at 20%		

Q. 3 Calculate the tax liability of M.Y Ltd from the following records:

Expenses	Rs.	Revenues	Rs.
Cost of goods sold	510,000	Sales	11,00,000
Travelling	15,000	Dividend received	14000
Legal fee	10,000	Capital gain on sale of shares of public company	25000
Zakat fee	5000		
Rent	16000		
Withholding tax paid	11000		
Net profit	572,000		
	11,39,000		11,39,000

Additional information

1. Tax depreciation amounts to Rs.35000.
2. Cost of goods sold includes a payment of Rs.12000 to an advertising agency for last year advertisement.
3. Travelling expenses of Rs.5000 are recorded without invoices proof.
4. Legal fee includes a payment of Rs.3000 to the settlement of a case.
5. The corporate income tax rate is 29% & alternate corporate tax rate is 17%.

Solution

MR Y Ltd
NTN.....
Status: Resident
Tax year 2018

Sr. No	Particulars	Rs.	Rs.
	Net profit as per profit & loss		572,000
	Add: Inadmissible expenses:		
	Zakat fee	55000	
	Withholding tax paid	11000	
	Payment for last year advertising	12000	
	Travelling expenses without invoices	5000	33000
	Less: Admissible expenses:		
	Tax depreciation	35000	(35000)
	Less: Dividend received (N-1)	14000	(14000)
	Taxable profit		556,000

Higher (Tax on taxable profit 29% (A) Of OR (Alternate corporate tax 17% (B) OR (1.25% of sales C) Tax payable with return (N-1) Dividend received is taxed separately & not include in normal income.	161400 97240 13750	161240
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Q. 4 Calculate the tax payable of Y Ltd from the following record for the tax year 2016-2017.

Expenses	Rs.	Revenue	Rs.
Salaries	40,000	Gross profit	750,000
Contribution to provident fund	12000	Prize on prize bond	15000
Auditor's fee	13000	Govt. grant received	10000
Insurance premium	10000		
Depreciation	8000		
Advertising	7000		
Rent	18000		
Excise Duty paid	10000		
Net Profit	657,000		
	775,000		775,000

Additional information

1. Tax depreciation amounts to Rs.17000.
2. The provident fund is recognized by the Federal Board of Revenue.
3. The wages paid to workers of Rs.19000 have not been recorded.
4. Salaries include a payment of Rs.4000 to a mosque.
5. The corporate tax rate is 29% & alternate tax rate is 17%.

Solution

Y Ltd
NTN.....
Status: Resident
Tax year: 2018

Sr. No	Particulars	Rs.	Rs.
	Net Profit as per profit & loss A/c		657,000
	Add: Inadmissible expenses:		
	Excise duty paid.	10,000	
	Payment to mosque.	4000	
	Accounting depreciation.	8000	22000
	Less: Admissible expenses:		
	Tax depreciation.	17000	
	Wages to workers not recognized.	19000	(36000)
	Less: Prize on prize bond (N-1)		(15000)
	Less: Govt. Grant received (N-2)		(10000)
	Taxable profit		618,000

	Higher (Tax on taxable profit 29% (A)	618000×29%	179220
	Of OR		
	(Alternate corporate tax (B)	657000×17%	111690
	OR		
	(1.25% of sales (C)	-	-
	Tax payable with return		179220
	(N-1) Prize on prize bond is taxed separately in FTR		
	(N-2) Govt. grant recognized is not the regular business income		

Q. 5 Compute the tax liability of X (PVT) Ltd from the following records for the tax year 2016-2017.

Expenses	Rs.	Revenues	Rs.
purchases	300,000	Sales	900,000
Wages	40,000	Interest on debentures	10,000
Sundry expenses.	5000		
Provision for the bad debts.	10,000		
Depreciation	15000		
Research expenses.	16000		
Entertainment expenses.	24000		
Net profit	500,000		
	910,000		910,000

Additional Information

1. The tax depreciation amounts to Rs.22000.
2. The sundry expenses include a payment of Rs.3000 for federal excise duty (FED).
3. The research expenses of Rs.4000 do not meet the criteria prescribed by income tax ordinance 2001.
4. The entertainment expenses of Rs.14000 are not allowed by CIR.
5. The corporate income tax rate is 29% & the alternate tax rate is 17%.

Solution

X (PVT) Ltd
NTN.....
Status: Resident
Tax year:2018

Sr. No	Particulars	Rs.	Rs.
	Net profit as per profit& Loss A/C		500,000
	Add: Inadmissible expenses:		
	Payment for Federal excise duty.	3000	
	Research expenses (not recognized)	4000	
	Entertainment expenses not allowed by CIR.	14000	
	Accounting depreciation.	15000	36000
	Less: Admissible expense:		
	Tax depreciation.	22000	(22000)

	Less: Interest on debentures (N-1)		(10,000)
	Taxable profit		504,000
Higher	a) (Tax on taxable profit 29%	504,000×29%	146160
Of	OR		
	b) (Tax on accounting profit 17%	500,000×17%	85000
	OR		
	c) (1.25% of sales	900,000×1.25%	11250
	Tax payable with return		146160
	(N-1) Interest received on debentures is taxed separately under FTR.		

SUMMARY

This unit has explained the taxation treatment of companies. This unit has provided the important procedural aspects related to the income tax calculation. The practical questions on Taxation of Companies have been explained to clarify the methods for taxation of.

UNIT: 6

**TAX CREDIT, DEDUCTIONS,
EXEMPTIONS AND LOSS
ADJUSTMENTS FOR COMPANIES**

**Written by:
Moazzam Ali**

**Reviewed by:
Prof. Dr. S. M. Amir Shah**

Introduction

This unit will introduce the basic concepts of tax credit for companies. In this unit, we will explore the possible ways to reduce the tax burden of a person. This reduction in tax burden can be through various tax credits announced by the govt. to facilitate taxpayers (companies) and also for the benefit of certain segments of society. Similarly, rules for set-off and carry forward of losses will be elaborate & deduction allowed to companies will also be explained. The format of company taxation questions will be explained to clarify the practical calculation of tax payable.

Objectives

After reading this unit you will be able;

1. to know the tax credits for companies
2. to understand deductions allowed to companies
3. to explain the rules for set-off and carry forward of losses
4. to understand the exemptions for companies

1. Tax Credits for Companies under Income Tax Ordinance 2001

1. Enlistment in Registered Stock Exchange: (Section 65C)

Tax credit for enlistment is presently available for two tax years at 20% of the tax payable. The said tax credit will now be available for four tax years in the following manner:

- i. For first two years (including the year of enlistment) at the rate of 20%;
- ii. For following two years at the rate of 10%.

2. Investment for BMR: (Section 65B)

- i. Where a taxpayer being a company invests any amount in the purchase of plant and machinery, for the purposes of extension, expansion, balancing, modernization and replacement of the plant and machinery, already installed therein, in an industrial undertaking set up in Pakistan and owned by it, credit equal to ten per cent of the amount so invested shall be allowed against the tax payable, including on account of minimum tax and final taxes payable under any of the provisions of this Ordinance, by it in the manner hereinafter provided.
- ii. 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, 2021.
- iii. The amount of credit admissible under this section shall be deducted from the tax payable by the taxpayer in respect of the tax year in which the plant or machinery in the purchase of which the amount referred to in sub-section (1) is invested and installed.
- iv. The provisions of this section shall mutatis mutandis apply to a company setup in Pakistan before the first day of July, 2011, which makes investment, through hundred per cent new equity, during first day of July, 2011 and 30th day of June, 2016, for the purposes of balancing, modernization and replacement of the plant and machinery already installed in an industrial undertaking owned by the company. However, credit equal to twenty per cent of the amount so invested shall be allowed against the tax payable, including on account of minimum tax and final taxes payable under any of the provisions of this Ordinance. The credit shall be allowed in the year in which the plant and machinery in the purchase of which the investment as aforesaid is made, is installed therein.
- v. Where no tax is payable by the taxpayer in respect of the tax year in which such plant or machinery is installed, or where the tax payable is less than the amount of credit as aforesaid, the amount of the credit or so much of it as is in excess thereof, as the case may be, shall be carried forward and deducted from the tax payable by the taxpayer in respect of the following tax year and so on, but no such amount shall be carried forward for more than two tax years in the case of investment referred to in sub-section (1) and for more than five tax years in respect of

investment referred to in sub-section (4), however, the deduction made under this section shall not exceed in aggregate the limit specified in sub-section (1) or sub-section (4), as the case may be.

- vi. 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, notwithstanding anything contained in this Ordinance, shall 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.

3. Establishing a New Industrial Undertaking:(Section 65D)

- 1. Where a taxpayer being a company formed for establishing and operating a new industrial undertaking including corporate dairy farming] sets up a new industrial undertaking including a corporate dairy farm, it shall be given a tax credit equal to an amount as computed in sub-section (1A) of the tax payable including on account of minimum tax and final taxes payable under any of the provisions of this Ordinance, on the taxable income arising from such industrial undertaking for a period of five years beginning from the date of setting up or commencement of commercial production, whichever is later.

(1A) The amount of a person's tax credit allowed under sub-section (1) for a tax year shall be computed according to the following formula, namely:

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

Where

A is the amount of tax assessed to the person for the tax year before allowance of any tax credit for the tax year;

B is the equity raised through issuance of new shares for cash consideration; and

C is the total amount invested in setting up the new industrial undertaking.

- 2. Tax credit under this section shall be admissible where
 - a. The company is incorporated and industrial undertaking is setup between the first day of July, 2011 and 30th day of June, 2021.
 - b. Industrial undertaking is managed by a company formed for operating the said industrial undertaking and registered under the Companies Ordinance, 1984 (XLVII of 1984) and having its registered office in Pakistan;
 - c. The industrial undertaking is not established by the splitting up or reconstruction or reconstitution of an undertaking already in existence or by transfer of machinery or plant from an industrial undertaking established in Pakistan at any time before 1st July 2011; and
 - d. The industrial undertaking is set up with at least seventy per cent]] equity 4 [raised through issuance of new shares for cash consideration

[Provided that short term loans and finances obtained from banking companies or non-banking financial institutions for the purposes of meeting working capital requirements shall not disqualify the taxpayer from claiming tax credit under this section]

4. Where any credit is allowed under this section and subsequently it is discovered, on the basis of documents or otherwise, by the Commissioner Inland Revenue that the business has been discontinued in the subsequent five years after the credit has been allowed or any of the 4 [conditions] specified in this section were not fulfilled, the credit originally allowed shall be deemed to have been wrongly allowed and the Commissioner Inland Revenue may, notwithstanding anything contained in this Ordinance, re-compute the tax payable by the taxpayer for the relevant year and the provisions of this Ordinance shall, so far as may be, apply accordingly
5. For the purposes of this section and sections 65B and 65E, an industrial undertaking shall be treated to have been setup on the date on which the industrial undertaking is ready to go into production, whether trial production or commercial production.

4. Tax Credit for Industrial Undertakings Established Before the First day of July, 2011: (Section 65E)

1. Where a taxpayer being a company, setup in Pakistan before the first day of July, 2011, invests any amount, with at least seventy per cent new equity raised through issuance of new shares, in the purchase and installation of plant and machinery for an industrial undertaking, including corporate dairy farming, for the purposes of
 - i. Expansion of the plant and machinery already installed therein; or
 - ii. Undertaking a new project,
 A tax credit shall be allowed against the tax payable in the manner provided in sub-section (2) and sub-section (3), as the case may be, for a period of five years beginning from the date of setting up or commencement of commercial production from the new plant or expansion project, whichever is later.
2. Where a taxpayer maintains separate accounts of an expansion project or a new project, as the case may be, the taxpayer shall be allowed a tax credit equal to one an amount as computed in sub-section (3A) of the tax payable, including minimum tax and final taxes payable under any of the provisions of this Ordinance, attributable to such expansion project or new project.
3. In all other cases, the credit under sub-section (3A) shall be such proportion of the tax payable, including minimum tax and final taxes payable under any of the provisions of this Ordinance, as is the proportion between the new equity and the total equity including new equity.

(3A) The amount of a person's tax credit allowed under sub-section (1) for a tax year shall be computed according to the following formula, namely:

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

Where

A is the amount of tax assessed to the person for the tax year before allowance of any tax credit for the tax year;

B is the equity raised through issuance of new shares for cash consideration; and

C is the total amount invested in the purchase and installation of plant and machinery for the industrial undertaking.

4. The provisions of sub-section (1) shall apply if the plant and machinery is installed at any time between the first day of July, 2011 and the 30th day of June, 2021.
5. The amount of credit admissible under this section shall be deducted from the tax payable, including minimum tax and final taxes payable under any of the provisions of this Ordinance, by the taxpayer for a period of five years beginning from the date of setting up or commencement of commercial production from the new plant or expansion project, whichever is later.
6. Where any credit is allowed under this section and subsequently it is discovered, on the basis of documents or otherwise, by the Commissioner Inland Revenue that the business has been discontinued in the subsequent five years after the credit has been allowed or any of the condition specified in this section was not fulfilled, the credit originally allowed shall be deemed to have been wrongly allowed and the Commissioner Inland Revenue may, notwithstanding anything contained in this Ordinance, re-compute the tax payable by the taxpayer for the relevant year and the provisions of this Ordinance shall apply accordingly.
7. For the purposes of this section, 'new equity' means equity raised through fresh issue of shares against cash by the company and shall not include loans obtained from shareholders or directors: Provided that short term loans and finances obtained from banking companies or non-banking financial institutions for the purposes of meeting working capital requirements shall not disqualify the taxpayer from claiming tax credit under this section.

FBR's advertisement for encouraging companies through tax credits

5 سال تک ٹیکس کریڈٹ

ملک میں اندرونی و بیرونی سرمایہ کاری کو فروغ دینے کیلئے حکومت پاکستان نے ایک نیا کمپن آرڈیننس 2001 (کمپن 65-D اور 65-E) میں بذریعہ نائٹس ایکٹ-2011 انٹر نیشنل ٹریڈ بینک میں 100 فیصد کیو بی سی سرمایہ کاری پر 5 سال کی مکمل کرڈٹ کا اعلانہ کیا ہے جس کے مطابق:

(انکم ٹیکس آرڈیننس 2001 کے سیکشن E-65 کے تحت)

یکم جولائی 2011ء سے قبل قائم ہونے والی انٹرنیٹ کیلئے ٹیکس کریڈٹ:

■ انڈسٹریل انڈر ٹیکنیک کی جانب سے کی جانے والی ایکوینٹی نوٹسٹنٹ اوپن سرہایہ کاری کے درمیان مہاشی شرح میں واجب الادا ٹیکس کے مقابلہ درج ذیل صورت میں ٹیکس کریڈٹ دیا جائے گا:

کوئی کمپنی پاکستان میں یکم جولائی 2011 سے قبل قائم شدہ کسی انڈسٹریل انٹرپرائز میں

نصب پلانٹ یا مشینری میں، ہیلڈنگ، ماڈرنائزیشن، ریموونٹ (BMR) یا توسیع کے مقاصد کیلئے خرید و فروخت میں کسی بھی حجم میں 100 فیصد ایکویٹی انوسٹمنٹ کرتی ہے۔

في سنة ١٢٠٠ هـ

سال میں پلانٹ یا مشینری کی خریداری و قصبہ اور آئندہ آنے والے حاربیسوں کیلئے واجب الادا ہو۔

$\frac{1}{2} \times \frac{1}{2} = \frac{1}{4}$

(انکم ٹیکس آرڈیننس 2001 کے سیکشن 65-D کے تحت)

یکم جولائی 2011ء تا 30 جون 2016ء کے درمیان قائم ہونے والی انٹرنیٹ ایڈریسنگ کیلئے ٹیکس کریڈٹ:

■ ایسی کھیتی باڑی پاکستان میں موجود ہے جس کے لیے بطوری خاطر سڑیل خاطر زمین کا کام ہوتی ہو، کی قابل نہیں آمدن پر خارج کیا گیا۔ تمام آبادی (جو بھی زمین کا واقع ہوا ہو) ہے پانچ سال کے لیے 100 فیصد آبادی اور ان کے کے مساوی نکل کر یہ دیا جائے گا۔

■ اس سیکشن کے تحت درج ذیل صورت میں ٹیکس کریڈٹ دیا جائے گا:

▶ انڈسٹریل انڈریٹنگ جو 100 فیصد ایکوٹی کے ساتھ قائم ہوئی ہو

◀ مذکورہ انڈسٹریل انڈریٹنگ کی جانب سے قائم کردہ کمیٹی اس انڈسٹریل انڈریٹنگ کی منتظم ہو

اور وہ کمپنیز آرڈیننس 1984ء کے تحت رجسٹرڈ ہونے کے ساتھ پاکستان میں رجسٹرڈ آفس کی حامل ہو۔

وہ انڈسٹریل انڈریٹنگ جو پہلے سے قائم کسی انڈسٹریل انڈریٹنگ کو تقسیم کر کے یا تعمیر نو کے تحت، یا

کیم جولائی 2011 سے قبل کسی بھی وقت پاکستان میں مشینری یا پلانٹ منتقل کر کے قائم نہ کی گئی ہو۔

پاکستان میں کریں سرمایہ کاری۔ اپنے روشن مستقبل کیلئے

[illegible]

نوٹ: اشتہار ہذا کے متن پر قانون کو قیادت حاصل ہوگی اور اسے انکم ٹیکس آرڈیننس 2001 کے سیکشن 65-D اور 65-E کے قیاد و سہا جی میں پڑھا جائے۔

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Source: FBR Ad-2011

5. Foreign Exchange for Establishing Industrial Undertaking

To attract, Foreign Direct Investment, generate employment and attract inflow of foreign exchange in Pakistan, the corporate tax rate is to be reduced to 20% if the investment is in a new industrial undertaking to be set up between 01.07.2014 to 30.06.2017 and at least 50% of the project cost including working capital is through FDI in equity. This tax credit shall be available for a period of five years beginning with period when the industrial undertaking is set-up or commercial production is commenced whichever is later.

6. Tax Credit for Employment Generation by Manufacturers [Section 64B]

1. Where a taxpayer being a company formed for establishing and operating a new manufacturing unit sets up a new manufacturing unit between 1st day of July, 2015 and 30th of June, 2018, it shall be given a tax credit for a period of ten years.
2. The tax credit under sub-section (1) for a tax year shall be equal to one percent of the tax payable for every fifty employees registered with The Employees Old Age

Benefits Institution and the Employees Social Security Institutions of Provincial Governments during the tax year, subject to a maximum of ten percent of the tax payable.

3. Tax credit under this section shall be admissible where
 - a. the company is incorporated and manufacturing unit is setup between the first day of July, 2015 and 30th day of June, 2018, both days inclusive;
 - b. employs more than fifty employees in a tax year registered with The Employees Old Age Benefits Institution and the Employees Social Security Institutions of Provincial Governments;
 - c. manufacturing unit is managed by a company formed for operating the said manufacturing unit and registered under the Companies Ordinance, 1984 (XLVII of 1984) and having its registered office in Pakistan; and
 - d. the manufacturing unit is not established by the splitting up or reconstruction or reconstitution of an undertaking already in existence or by transfer of machinery or plant from an undertaking established in Pakistan at any time before 1st July 2015.
4. Where any credit is allowed under this section and subsequently it is discovered, on the basis of documents or otherwise, by the Commissioner that any of the conditions specified in this section were not fulfilled, the credit originally allowed shall be deemed to have been wrongly allowed and the Commissioner may, notwithstanding anything contained in this Ordinance, re-compute the tax payable by the taxpayer for the relevant year and the provisions of this Ordinance shall, so far as may be, apply accordingly.
5. For the purposes of this section a manufacturing unit shall be treated to have been setup on the date on which the manufacturing unit is ready to go into production, whether trial production or commercial production.”;

7. Allowing Credit of Tax to Companies as Per Their Share in an AOP

In cases where a company is a member of an association of persons, the company has to file a separate return in respect of its share of income in the AOP. However, tax is deducted in the name of the AOP and the company is unable to take credit of tax deducted against income declared by the company. In order to alleviate the hardship of companies being members of an AOP, necessary amendment has been made to enable companies to take credit of tax deducted in the name of the AOP in the same proportion as the share of the company in the profits of the AOP.

2. Deductions Allowed to Companies

1. Zakat (Section 60)

- i. A person shall be entitled to a deductible allowance for the amount of any Zakat paid by the person in a tax year under the Zakat and Ushr Ordinance, 1980 (XVIII of 1980).
- ii. Sub-section (1) does not apply to any Zakat taken into account under sub-section (2) of section 40.

- iii. Any allowance or part of an allowance under this section for a tax year that is not able to be deducted under section 9 for the year shall not be refunded, carried forward to a subsequent tax year, or carried back to a preceding tax year.

2. Workers' Welfare Fund (Section 60A)

A person shall be entitled to a deductible allowance for the amount of any Workers' Welfare Fund paid by the person in tax year under Workers' Welfare Fund Ordinance, 1971 (XXXVI of 1971)

3. Workers' Participation Fund (Section 60B)

A person shall be entitled to a deductible allowance for the amount of any Workers' Participation Fund paid by the person in a tax year in accordance with the provisions of the Companies Profit (Workers' Participation) Act, 1968 (XII of 1968).

3. Rules for Set-off and Carry Forward of Losses

1. Set Off of Losses of Companies Operating Hotels. (Section 56A)

Subject to sections 56 and 57, where a company registered in Pakistan or Azad Jammu and Kashmir (AJ&K), operating hotels in Pakistan or AJ&K, sustains a loss in Pakistan or AJ&K for any tax year under the head income from business¹ shall be entitled to have the amount of the loss set off against the company's income in Pakistan or AJ&K, as the case may be, from the tax year 2007.

2. Carry Forward of Business Losses. (Section 57)

- i. Where a person sustains a loss for a tax year under the head —Income from Business (other than a loss to which section 58 applies) and the loss cannot be wholly set off under section 56, so much of the loss that has not been set off shall be carried forward to the following tax year and set off against the person's income chargeable under the head Income from Business¹ for that year.
- ii. If a loss sustained by a person for a tax year under the head —Income from Business is not wholly set off under sub-section (1), then the amount of the loss not set off shall be carried forward to the following tax year and applied as specified in sub-section (1) in that year, and so on, but no loss can be carried forward to more than six tax years immediately succeeding the tax year for which the loss was first computed.
- iii. (2A) Where a loss, referred to in sub-section (2), relating to any assessment year commencing on or after 1st day of July, 1995, and ending on the 30th day of June 2001, is sustained by a banking company wholly owned by the Federal Government as on first day of June, 2002, which is approved by the State Bank of Pakistan for the purpose of this sub-section, the said loss shall be carried forward for a period of ten years.

- iv. Where a person has a loss carried forward under this section for more than one tax year, the loss of the earliest tax year shall be set off first.
- v. Where the loss referred to in sub-section (1) includes deductions allowed under sections 22, 23 [23A, 23B] and 24 that have not been set off against income, the amount not set off shall be added to the deductions allowed under those sections in the following tax year, and so on until completely set off. (5) In determining whether a person's deductions under sections 22, 23, 3 [23A, 23B] and 24 have been set off against income, the deductions allowed under those sections shall be taken into account last.

3. Set Off of Business Loss Consequent to Amalgamation (Section 57)

- 1. The assessed loss (excluding capital loss) for the tax year, other than brought forward and capital loss, of the amalgamating company or companies shall be set off against business profits and gains of the amalgamated company, and vice versa, in the year of amalgamation and where the loss is not adjusted against the profits and gains for the tax year the unadjusted loss shall be carried forward for adjustment up to a period of six tax years succeeding the year of amalgamation.
- 2. The provisions of sub-section (4) and (5) of section 57 shall, mutatis mutandis, apply for the purposes of allowing unabsorbed depreciation of amalgamating company or companies in the assessment of amalgamated company and vice versa. (2A). In case of amalgamation of Banking Company or Non-banking Finance Company, modarabas or insurance company, the accumulated loss under the head Income from Business (not being speculation business losses) of an amalgamating company or companies shall be set off or carried forward against the business profits and gains of the amalgamated company and vice versa, up to a period of six tax years immediately succeeding the tax year in which the loss was first computed in the case of amalgamated company or amalgamating company or companies. Provided that the provisions of this sub-section shall in the case of Banking companies be applicable from July 1, 2007.
- 3. Where any of the conditions as laid down by the State Bank of Pakistan or the Securities and Exchange Commission of Pakistan or any court as the case may be, in the scheme of amalgamation, are not fulfilled, the set off of loss or allowance for depreciation made in any tax year of the amalgamated company 4 [or the amalgamating company or companies] shall be deemed to be the income of that amalgamated company or the amalgamating company or companies, as the case may be, for the year in which such default is discovered by the Commissioner or taxation officer, and all the provisions of this Ordinance shall apply accordingly.

4. Carry Forward of Speculation Business Losses. (Section 58)

- 1. Where a person sustains a loss for a tax year in respect of a speculation business carried on by the person (hereinafter referred to as a —speculation loss), the loss shall be set off only against the income of the person from any other speculation business of the person chargeable to tax for that year.
- 2. If a speculation loss sustained by a person for a tax year is not wholly set off under sub-section (1), then the amount of the loss not set off shall be carried forward to

the following tax year and applied against the income of any speculation business of the person in that year and applied as specified in subsection (1) in that year, and so on, but no speculation loss shall be carried forward to more than six tax years immediately succeeding the tax year for which the loss was first computed.

3. Where a person has a loss carried forward under this section for more than one tax year, the loss of the earliest tax year shall be set off first.

5. Carry Forward of Capital Losses. (Section 59)

1. Where a person sustains a loss for a tax year under the head Capital Gains¹ (hereinafter referred to as a capital loss¹), the loss shall not be set off against the person's income, if any, chargeable under any other head of income for the year, but shall be carried forward to the next tax year and set off against the capital gain, if any, chargeable under the head Capital Gains¹ for that year.
2. If a capital loss sustained by a person for a tax year under the head Capital Gains¹ is not wholly set off under sub-section (1), then the amount of the loss not set off shall be carried forward to the following tax year, and so on, but no loss shall be carried forward to more than six tax years immediately succeeding the tax year for which the loss was first computed.
3. Where a person has a loss carried forward under this section for more than one tax year, the loss of the earliest tax year shall be set off first.

6. Group Taxation: (Section 59AA)

1. Holding companies and subsidiary companies of 100% owned group may opt to be taxed as one fiscal unit. In such cases, besides consolidated group accounts as required under the Companies Ordinance, 1984 (XLVII of 1984), computation of income and tax payable shall be made for tax purposes.
2. The companies in the group shall give irrevocable option for taxation under this section as one fiscal unit.
3. The group taxation shall be restricted to companies locally incorporated under the Companies Ordinance, 1984 (XLVII of 1984).
4. The relief under group taxation would not be available to losses prior to the formation of the group.
5. The option of group taxation shall be available to those group companies which comply with such corporate governance requirements and group designation rules or regulations as may be specified by the Securities and Exchange Commission of Pakistan from time to time and are designated as companies entitled to avail group taxation.
6. Group taxation may be regulated through rules as may be made by the Board.

3. Group Relief: (Section 59B)

1. Any company, being a subsidiary of a holding company, may surrender its assessed loss excluding capital loss for the tax year other than brought forward losses and capital losses, in favor of its holding company or its subsidiary or between another subsidiary of the holding company as under

One of the company in group is public listed	55% or more
None of the company in group is public listed	75% or more

The loss to be surrendered under sub-section (1) shall be allowed as per following formula, namely:-

$$(A/100) \times B$$

where

A is the percentage share capital held by the holding company of its subsidiary company; and

B is the assessed loss of the subsidiary company.

2. The loss surrendered by the subsidiary company may be claimed by the holding or any subsidiary company in the tax year in which the loss has been surrendered and in the following 2 tax years subject to the following conditions;
 - a. There is continued ownership for five years, of share capital of the subsidiary company to the extent of fifty-five per cent in the case of a listed company, or seventy-five per cent or more, in the case of other companies;
 - b. A company within the group engaged in the business of trading shall not be entitled to avail group relief;
 - c. Holding company, being a private limited company with seventy-five per cent of ownership of share capital gets itself listed within three years from the year in which loss is claimed;
 - d. The group companies are locally incorporated companies under the Companies Ordinance, 1984 (XLVII of 1984);
 - e. The loss surrendered and loss claimed under this section shall have approval of the Board of Directors of the respective companies;
 - f. The subsidiary company continues the same business during the said period of three years;
 - g. All the companies in the group shall comply with such corporate governance requirements and group designation rules or regulations] as may be specified by the Securities and Exchange Commission of Pakistan from time to time, and are designated as companies entitled to avail group relief; and
 - h. Any other condition as may be prescribed
3. The subsidiary company shall not be allowed to surrender its assessed losses for set off against income of the holding company for more than three tax years.
4. Where the losses surrendered by a subsidiary company are not adjusted against income of the holding company in the said three tax years, the subsidiary company shall carry forward the unadjusted losses in accordance with section 57.
5. If there has been any disposal of shares by the holding company during the aforesaid period of five years to bring the ownership of the holding company to less than fifty-five per cent or seventy-five per cent, as the case may be, the holding company shall, in the year of disposal, offer the amount of profit on which taxes have not been paid due to set off of losses surrendered by the subsidiary company.
6. Loss claiming company shall, with the approval of the Board of Directors, transfer cash to the loss surrendering company equal to the amount of tax payable on the profits to be set off against the acquired loss at the applicable tax rate. The transfer

of cash would not be taken as a taxable event in the case of either of the two companies.

7. The transfer of shares between companies and the shareholders, in one direction, would not be taken as a taxable event provided the transfer is to acquire share capital for formation of the group and approval of the Security and Exchange Commission of Pakistan or State Bank of Pakistan, as the case may be, has been obtained in this effect. Sale and purchase from third party would be taken as taxable event.

4. Understanding Exemptions for Companies

1. Profits and gains derived by a taxpayer, from an industrial undertaking set up by 31st day of December, 2016 and engaged in the manufacture of plant, machinery, equipment and items with dedicated use (no multiple uses) for generation of renewable energy from sources like solar and wind, for a period of five years beginning from first day of July, 2015.
2. Profits and gains derived by a taxpayer, from an industrial undertaking set up between 1st day of July, 2015 and 30th day of June, 2016 engaged in operating warehousing or cold chain facilities for storage of agriculture produce for a period of three years beginning with the month in which the industrial undertaking is set up or commercial operations are commenced, whichever is later.
3. Profits and gains derived by a taxpayer, from an industrial undertaking set up between 1st day of July, 2015 and 31st day of December, 2016 which is engaged in operating halal meat production and has obtained halal certification, for a period of four years beginning with the month in which the industrial undertaking is set up or commercial production is commenced, whichever is later.
4. Profits and gains derived by a taxpayer, from a manufacturing unit set up in Khyber Pukhtunkhwa Province between 1st day of July, 2015 and 30th day of June, 2018 for a period of five years beginning with the month in which the industrial undertaking is set up or commercial production is commenced, whichever is later: Provided that exemption under this clause shall be admissible where
 - a. The manufacturing unit is setup between the first day of July, 2015 and 30th day of June, 2018, both days inclusive; and
 - b. The manufacturing unit is not established by the splitting up or reconstruction or reconstitution of an undertaking already in existence or by transfer of machinery or plant from an undertaking established in Pakistan at any time before 1st July 2015.
5. Profits and gains derived by a taxpayer from a transmission line project set up in Pakistan on or after the 1st day of July, 2015. The exemption under this clause shall apply to such project which is—
 - a. Owned and managed by a company formed for operating the said project and registered under the Companies Ordinance, 1984 (XLVII of 1984), and having its registered office in Pakistan;
 - b. Not formed by the splitting up, or the reconstruction or reconstitution, of a business already in existence or by transfer to a new business of any machinery

or plant used in a business which was being carried on in Pakistan at any time before the commencement of the new business; and

- c. Owned by a company fifty per cent of whose shares are not held by the Federal Government or Provincial Government or a Local Government or which is not controlled by the Federal Government or a Provincial Government or a Local Government:

Provided that the exemption under this clause shall not apply to projects set up on or after the thirtieth day of June, 2018.

6. Profit and gains derived by LNG Terminal Operators and Terminal Owners for a period of five years beginning from the date when commercial operations are commenced are exempt from tax.
7. Income from social security contributions derived by Balochistan Employees' Social Security Institution, Employees' Social Security Institution Khyber Pakhtunkhwa, Punjab Employees' Social Security Institution and Sindh Employees' Social Security Institution is exempt.
8. Income derived by China Overseas Ports Holding Company Limited, China Overseas Ports Holding Company Pakistan (Private) Limited, Gawadar International Terminal Limited, Gawadar Marine Services Limited and Gawadar Free Zone Company Limited from Gawadar Port operations for a period of twenty-three years, with effect from the sixth day of February, 2007.
9. Profit and gains derived by a taxpayer from businesses set up in the Gawadar Free Zone Area for a period of twenty three years with effect from the first day of July, 2016.
10. Profit on debt derived by-
 - a. any foreign lender; or
 - b. any local bank having more than 75 per cent shareholding of the Government or the State Bank of Pakistan,under a Financing Agreement with the China Overseas Ports Holding Company Limited, for a period of twenty three years with effect from the first day of July, 2016;”
11. Income derived by contractors and sub-contractors of China Overseas Ports Holding Company Limited, China Overseas Ports Holding Company Pakistan (Private) Limited, Gawadar International Terminal Limited, Gawadar Marine Services Limited and Gawadar Free Zone Company Limited from Gawadar Port operations for a period of twenty years, with effect from the first day of July, 2016.
12. (1) Any income derived by China Overseas Ports Holding Company Limited being dividend received from China Overseas Ports Holding Company Pakistan (Private) Limited, Gwadar International Terminal Limited Gwadar Marine Services Limited and Gwadar Free Zone Company Limited for a period of twenty-three years with effect from the first day of July, 2016.
13. Any income derived by China Overseas Ports Holding Company Pakistan (Private) Limited being dividend received from, Gwadar International Terminal Limited Gwadar Marine Services Limited and Gwadar Free Zone Company Limited for a period of twenty-three years with effect from the first day of July, 2016.

5. Practical Questions

Q.1 The following is profit and loss account of star Ltd. For the year ended June 30th, 2016. Calculate its tax liability after considering the notes given at the end.

Expenses	RS.	Revenue	RS.
Purchases	350,000	Sales	9,00,000
Wages	80,000	Sale of old machinery	140,000
Depreciation	50,000	Sales of old painting	40,000
Rent	30000		
Sales tax paid	9000		
Carriage inward	10000		
Other expenses	5000		
Net profit	546000		
	10,80,000		10,80,000

Additional information

1. Tax depreciation amounts to RS. 70,000.
2. Rent includes a payment of Rs. 3000 to the officer of building control authority.
3. Other expenses include a payment of Rs. 2000 to a charity organization.
4. The company claims tax credit for enlistment on Karachi stock exchange
5. The corporate income tax rate is 29% & alternate corporate tax is 17%.

Solution

Star Ltd
NTN.....
Status: Resident
Tax year:2018

Sr. No	Particulars	Rs.	Rs.
	Net profit as per profit & Loss A/C		546,000
	Add: Inadmissible expenses:		
	Sales tax paid.	9000	
	Accounting depreciation.	50,000	

Payment to officer of building control.	3000	
Payment to charity organization	2000	64000
Less: Admissible expenses:		
Tax depreciation	70,000	(70,000)
Taxable profit		540000
Higher (Tax on taxable profit 29%	540,000×29%	1,56,600
Of OR		
(Tax on accounting profit 17%	546,000×17%	92,820
OR		
(1.25% of sales.	900,000×1.25%	11,250
Tax payable with return		1,56,600
Less: Tax credit for enlistment on stock exchange.(N-1)	1,56,600×20%	(31,320)
Net tax payable with return		1,25,280
(N-1) Tax credit on enlistment at a stock exchange is calculated at 20%		

Q. 2 Calculate the tax liability of Mr. X Ltd from the following records:

Expenses	Rs.	Revenues	Rs.
Cost of goods sold	250,000	Sales	600,000
Depreciation	60,000	Interest on Saving	5000
Rent	40000	certificates	
Telephone bills paid	8000	Sales of old furniture	30,000
Donation	12000		
Maintenance	9000		
Net profit	256000		
	635000		635000

Additional information

1. Tax depreciation amounts to Rs.30000.
2. Cost of goods sold includes a payment of Rs.10000 to an advertising agency for last year advertisement.
3. The company claims tax credit for installation of new machinery Rs.500000.
4. The corporate income tax rate is 29% & alternate corporate tax rate is 17%.

Solution

MR Y Ltd
NTN.....
Status: Resident
Tax year 2018

Sr. No	Particulars	Rs.	Rs.
	Net profit as per profit & loss		256,000
	Add: Inadmissible expenses:		
	Payment for last year advertising	10000	
	Accounting Depreciation	60000	70000

Less: Admissible expenses:		
Tax depreciation	30000	
Less: Interest on saving certificate (N-1)	5000	(35000)
Taxable profit		291000
Higher (Tax on taxable profit 29%)	84,390	
Of OR		
(Alternate corporate tax 17%)	43520	
OR		
(1.25% of sales)	7500	
Tax payable with return		84390
Less: Tax credit for installation of new machinery (N-2)		(145000)
Net tax payable with return		
Gross tax/taxable income × amount allowed for tax credit =203,700/291,000×500,000= 350,000		
Net Tax Payable		(60610)
(N-1) Interest on saving certificate is taxed as separate block of income.		
(N-2) Tax credit for installation of new machinery.		
A x (B/C)		

Q.3 Calculate the tax payable of Y Ltd from the following record for the tax year 2016-2017.

Expenses	Rs.	Revenue	Rs.
Salaries	30,000	Gross profit	650,000
Contribution to provident fund	9000	Prize on prize bond	
Insurance premium	10000	Govt. grant received	10000
Depreciation	12000		6000
Rent	18000		
Excise Duty paid	10000		
Net Profit	577,000		
	666,000		666,000

Additional Information

- Tax depreciation amounts to Rs.15000.
- The provident fund is recognized by the Federal Board of Revenue.
- The wages paid to workers of Rs.15000 have not been recorded.
- Salaries include a payment of Rs.5000 to a mosque.
- Tax credit for employment generation for 150 person by manufacturers
- The corporate tax rate is 29% & alternate tax rate is 17%.

Solution

Y Ltd
NTN.....
Status: Resident
Tax year: 2018

Sr. No	Particulars	Rs.	Rs.
	Net Profit as per profit & loss A/c		577,000
	Add: Inadmissible expenses:		
	Excise duty paid.	10,000	

Payment to mosque.	5000	
Accounting depreciation.	12000	27000
Less: Admissible expenses:		
Tax depreciation.	15000	
Wages to workers not recognized.	15000	(30000)
Less: Prize on prize bond (N-1)		(10000)
Less: Govt. Grant received (N-2)		(6000)
Taxable profit		558,000
Higher (Tax on taxable profit 29%)	558000×29%	
Of OR		161820
(Alternate corporate tax)	577000×17%	
OR		98090
(1.25% of sales)	-	-
Tax payable with return		161820
Less: Tax credit for employment generation for 150 person (N-3)		(4855)
Net tax payable with return		156965
(N-1) Prize on prize bond is taxed separately in FTR		
(N-2) Govt. grant recognized is not the regular business income		
(N-3) Tax credit on employment generation for every fifty employees is 1%.		

SUMMARY

In this unit, the concept of tax credit has been elaborated to clarify the calculation of taxable income after deducting allowable allowances. After calculation of tax, a tax credit is given for enlistment in registered stock exchange & investment for BMR etc. In second part of the unit deductible allowances has been discussed as Zakat, Workers' Welfare Fund, Workers' Participation Fund and deductible allowance for profit on debt. Lastly, we have explained the working of various losses and their adjustment with the taxable

income to reduce the tax liability of a company. Similarly, the carry-forward of losses and their taxation treatments have been explained.

UNIT: 7

WITHHOLDING TAXES & ADVANCE TAXES

**Written by:
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**Reviewed by:
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Introduction

After understanding the calculation of taxable income in the previous units, we are now going to discuss the process of payment of tax calculated as per said procedures. This unit will explain the concept of payment of tax voluntarily by the taxpayer himself or through the demand of Commissioner Inland Revenue. Similarly, the concepts of withholding tax and advanced tax have also been discussed with the relevant numerical examples to explain their practical working in the whole income tax system. This unit will also explain the detailed procedure for deduction and collection of withholding tax.

Objectives

After reading this unit you will be able;

1. to know the due date for payment of tax
2. to understand the concept of withholding tax/tax deducted at source
3. to explain the procedure for deduction and collection of withholding tax
4. to understand the concept of advance tax

1. Due Date For Payment Of Tax:

[Section 137]

1. The tax payable by a taxpayer on the taxable income of the taxpayer including the tax payable under section 113 or 113A for a tax year shall be due on the due date for furnishing the taxpayer's return of income for that year.
2. 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 [thirty] days from the date of service of the notice.
3. Nothing in sub-section (2) [or (4)] shall affect the operation of sub-section (1).
4. Upon written application by a taxpayer, the Commissioner may, where good cause is shown, grant the taxpayer an extension of time for payment of tax due [under sub-section (2) or allow the taxpayer to pay such tax in installments of equal or varying amounts as the Commissioner may determine having regard to the circumstances of the case.
5. Where a taxpayer is permitted to pay tax by installments and the taxpayer defaults in payment of any installments, the whole balance of the tax outstanding shall become immediately payable.
6. 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 default surcharge arising under section 205 from the due date of the tax under sub-section (2).

Methods of Payment of Income Tax

The tax liability of a person is paid through any of the following methods;

1. Withholding Tax/Tax deducted at source
2. Advance Tax
3. Tax Payment With The Return Of Income
4. Late Payment Of Tax/On demand from FBR

2. Withholding Tax/Tax Deducted at Source:

Withholding tax or tax deducted at source is a tax which is deducted at the time of making payment to a person as directed under Income Tax Ordinance 2001. This tax is also called retention tax or pay-as-you-earn (PAYE). Governments use withholding tax as a means to combat tax evasion, and sometimes impose additional withholding tax requirements if the recipient has been delinquent in filing tax returns or in industries where tax evasion is perceived to be common.

In Pakistan, it is introduced to collect the required income tax from the taxpayers leaving little chances of tax evasion. Remember, withholding tax or tax deducted at source is a component of income tax payable by a taxpayer. Government of Pakistan collects its 65% income tax through this tax.

An important point to note is that the tax deducted at source/withholding tax may be treated as;

- 1. Advance Tax** against the total tax liability of the taxpayer at the end of the tax year. This amount of tax shall be adjusted against the total tax payable by the taxpayer at the time of filing of return. Any excess amount can be claimed as refund from the Federal Board of Revenue.
- 2. Final Tax** which is non-adjustable against the total tax liability of the taxpayer at the end of the tax year. However, the amount on which final tax is paid is not included in the taxable income for further taxation.

2.1 Procedure for Deduction and Collection of Withholding Tax

2.1.1 Who Will Deduct Withholding Tax?

Section 153 authorizes the following **prescribe persons** for deduction of withholding tax;

- a. the Federal Government;
- b. a company;
- c. an association of persons constituted by, or under law;
- d. a non-profit organization;
- e. a foreign contractor or consultant;
- f. a consortium or joint venture;
- g. an exporter or an export house for the purpose of sub-section (2);
- h. an association of persons, having turnover of fifty million rupees or above in tax year 2007 or in any subsequent tax year;
- i. an individual, having turnover of fifty million rupees or above in the tax year 2009 or in any subsequent year; or]
- j. a person registered under the Sales Tax Act, 1990;

2.1.2 Rates of Withholding Tax

The rates for deduction or collection of tax at source/withholding tax are specified in the part –V of chapter X of the first Schedule of Income Tax.

Examples: Rates for withholding tax/tax at source for the tax year 2017-18.

Section	Nature of Payment/Transaction	Tax Rate	Status
149	Salary	Prescribed Rates As per slab	Adjustable
150	Dividend	15% filer 20% non-filer	Final Discharge
151	Profit on Debt (exceeding Rs 500,000)	10% filer 17.5% non-filer	Final Discharge
153 (b)	Sale of goods		Final (except public company & manufacturer company)
	Companies	4% filer 8% non-filer	
	Other Persons	4.5% filer 9% non-filer	
153 (a)	Rendering of services		Minimum Tax
	companies	8% filer 14% non-filer	
	Other persons	10% filer 17.5% non-filer	
156	Prizes on prize bond or cross word puzzle	15% filer 25% non-filer	Final Discharge
231 A	Cash withdrawal from bank	0.3% filer 0.4% non-filer	Adjustable
154 (1)	Exports proceeds realization	1%	Final Discharge
233	Brokerage and Commission	12% filer 15% non-filer	Final Discharge
234 A	Sale of Gas to CNG stations	4% filer 6% non-filer	Final Discharge
236	Mobile bills and prepaid cards	10% on bill exceeding Rs1,000.	Adjustable
236B	Purchase of domestic air tickets	5%	Adjustable
152(1)	Royalty, fee for technical services	15% tax of the gross amount	Final Discharge

Filer: It means a person whose name appears in the active taxpayers list or who possess taxpayers card.

Non-Filer means a person whose name does not appear in the active taxpayers list or who does not possess taxpayer's card

Adjustable: It means the withholding tax paid can be adjusted against the total tax liability of the tax payer at the end of the tax year.

Final Discharge: It means the withholding tax paid cannot be adjusted against the total tax liability of the tax payer at the end of the tax year.

Withholding Tax in the nature of Advance Tax: Tax Rates 2017-18

No.	Headings of advance tax	Rate of tax
1.	Advance tax on purchase of international air ticket	16,000 Business Class 12,000 First Class
2.	Advance tax on purchase of immovable property (exceeding Rs. 4 million)	2% filer 4% for non-filer
3.	Advance tax on sale or transfer of immovable property	1% filer 2% non-filer
4.	Advance tax on function or gathering	5% of bill or minimum Rs. 20,000
5.	Advance tax on foreign produced TV plays and serials	100,000 per episode
6.	Advance tax on cable operators and other electronic media	Rates specified in ordinance
7.	Advance tax on sale to retailer	0.5% filer 1% filer
8.	Collection of advance tax by educational institution	5% of fee
9	Advance tax on electricity bill exceeding Rs. 75,000	7.5%
10	Advance tax on internet usage	12.5% of gross amount
11	Advance tax collected on educational fees remitted abroad	5% of gross fee exceeding Rs. 200,000
12	Advance tax at the time of sale by Auction	10% filer 15% for non-filer

2.1.3 Statement of Withholding Tax:

(Section 165)

1. Every person collecting tax under or deducting tax from a payment shall, furnish to the Commissioner a monthly statement in the prescribed form setting out

- a. the name, Computerized National Identity Card Number, National Tax Number and address of each person from whom tax has been collected or to whom payments have been made from which tax has been deducted;
 - b. the total amount of payments made to a person from which tax has been deducted in each month
 - c. the total amount of tax collected from a or deducted from payments made to a person in each month; and
 - d. such other particulars as may be prescribed
- provided that every person as provided in sub-section (1) shall be required to file withholding statement even where no withholding tax is collected or deducted during the period.
2. Every prescribed person collecting tax or deducting tax from payment shall furnish or e-file statements under sub-section (1) by the 15th day of the month following the month to which the withholding tax pertains.
 3. Board may prescribe a statement requiring any person to furnish information in respect of any transactions in the prescribed form and verified in the prescribed manner.
 4. A person required to furnish a statement under sub-section (1), may apply in writing, to the Commissioner for an extension of time to furnish the statement after the due date and the Commissioner if satisfied that a reasonable cause exists for non-furnishing of the statement by the due date may, by an order in writing, grant the applicant an extension of time to furnish the statement.

2.1.4 Certificate of Collection Or Deduction Of Tax: **[Section 164]**

1. Every person collecting tax or deducting or collecting tax under shall, at the time of collection or deduction of the tax, furnish to the person from whom the tax has been collected or to whom the payment from which tax has been deducted has been made, copies of the challan of payment or any other equivalent document along with a certificate setting out the amount of tax collected or deducted and such other particulars as may be prescribed.
2. A person required to furnish a return of taxable income for a tax year shall attach to the return copies of the challan of payment on the basis of which a certificate is provided to the person under this section in respect of tax collected or deducted in that year and such certificate shall be treated as sufficient evidence of the collection or deduction for the purposes of section 168.

2.1.5 Payment of Tax Collected or Deducted: **[Section 160]**

Any tax that has been collected or purported to be collected shall be paid to the Commissioner by the person making the collection or deduction within the time and in the manner as may be prescribed.

2.1.6 Failure to Pay Tax Collected or Deducted: **[Section 161]**

1. Where a person
 - a. fails to collect tax as required or deduct tax from a payment
 - b. having collected tax fails to pay the tax to the Commissioner as required under section 160, or having collected tax under section 50 of the repealed Ordinance pay to the credit of the Federal Government as required under sub-section (8) of section 50 of the repealed Ordinance,
the person shall be personally liable to pay the amount of tax to the Commissioner [who may [pass an order to that effect and] proceed to recover the same.
- (1A) No recovery under sub-section (1) shall be made unless the person referred to in sub-section (1) has been provided with an opportunity of being heard.
- (1B) Where at the time of recovery of tax under sub-section (1) it is established that the tax that was to be deducted from the payment made to a person or collected from a person has meanwhile been paid by that person, no recovery shall be made from the person who had failed to collect or deduct the tax but the said person shall be liable to pay default surcharge at the rate of **eighteen percent (18%) per annum** from the date he failed to collect or deduct the tax to the date the tax was paid.
2. A person personally liable for an amount of tax under sub-section (1) as a result of failing to collect or deduct the tax shall be entitled to recover the tax from the person from whom the tax should have been collected or deducted.

**2.1.7 Recovery Of Tax From The Person From Whom Tax Was Not Collected Or Deducted:
Section 162]**

1. Where a person fails to collect tax the Commissioner may pass an order to that effect and recover the amount not collected or deducted from the person from whom the tax should have been collected or to whom the payment was made.
2. The recovery of tax under sub-section (1) does not absolve the person who failed to deduct tax from any other legal action in relation to the failure, or from a charge of [default surcharge] or the disallowance of a deduction for the expense to which the failure relates, as provided for under this Ordinance.

2.1.8 Exemption or Lower Rate Certificate: [Section 159]

1. Where the Commissioner is satisfied that an amount
 - a. exempt from tax under this Ordinance; or
 - b. subject to tax at a rate lower than that specified in the First Schedule, the Commissioner shall, upon application in writing by the person, issue the person with an exemption or lower rate certificate.
- (1A) The Commissioner shall, upon application from a person whose income is not likely to be chargeable to tax under this Ordinance, issue exemption certificate for the profit on debt referred to in clause (c) of sub-section (1) of section 151.

2. A person required to collect advance tax unless there is in force a certificate issued under sub-section (1) relating to the collection or deduction of such tax, in which case the person shall comply with the certificate.
3. The Board may, from time to time, by notification in the official Gazette
 - a. Amend the rates of withholding tax prescribed under this Ordinance; or
 - b. Exempt persons, class of persons, goods or class of goods from withholding tax under this Ordinance.

2.1.9 Priority of Tax Collected or Deducted. [Section 166]

Tax collected by a person or deducted from a payment shall be

- a. Held by the person in trust for the [Federal] Government; and
- b. Not subject to attachment in respect of any debt or liability of the person.

2.1.10 Credit for Tax Collected or Deducted. [Section 168]

1. For the purposes of this Ordinance
 - a. the amount of any tax deducted from a payment shall be treated as income derived by the person to whom the payment was made; and
 - b. The amount of any tax collected under or deducted shall be treated as tax paid by the person from whom the tax was collected or deducted.
2. Subject to sub-sections (3) and (4), where an amount of tax has been collected from a person or deducted from a payment made to a person, the person shall be allowed a tax credit for that tax in computing the tax due by the person on the taxable income of the person for the tax year in which the tax was collected or deducted.
3. No tax credit shall be allowed for any tax collected or deducted that is a final tax.
4. A tax credit allowed under this section shall be applied in accordance with sub-section (3) of section 4.
5. A tax credit or part of a tax credit allowed under this section for a tax year that is not able to be credited under sub-section (3) of section 4 for the year shall be refunded to the taxpayer in accordance with section 170.
6. No amount shall be deducted on account of service charges from the tax withheld or collected by any person under the provisions of this Ordinance.
7. In case any amount is deducted on account of service charges, by the person, the said person will be liable to pay the said amount to the Federal Government and all the provisions of this Ordinance shall apply in so far as they apply to the recovery of tax.

2.1.11 Tax Collected or Deducted as a Final Tax. [Section 169]

1. This section shall apply where
 - a. the collection of advance tax is a final tax on the income to which it relates; or
 - b. The deduction of tax is a final tax on the income from which it has been deducted.
2. Where this section applies

- a. The income shall not be chargeable to tax under any head of income in computing the taxable income of the person;
- b. No deduction shall be allowable under this Ordinance for any expenditure incurred in deriving the income;
- c. The amount of the income shall not be reduced by
 - i. Any deductible allowance or
 - ii. The set off of any loss;
- d. The tax deducted shall not be reduced by any tax credit allowed under this Ordinance; and
- e. There shall be no refund of the tax collected or deducted [unless the tax so collected or deducted is in excess of the amount for which the taxpayer is chargeable under this Ordinance.

Example 1

Mr. Zohaib a non-filer has reported taxable income of Rs. 800,000 with a tax liability of Rs. 22,500. During the year his withholding tax has been deducted on the following transactions.

1. Tax deducted at source on salary of rs.3000.
2. Dividend income received of Rs.10000.
3. Cash withdrawal from bank of Rs.60000.
4. Profit of rs.10,000 received on defense saving certificate.
5. Withholding tax on telephone bill deducted of Rs.2500.

Solution

Mr. Zohaib
NTN.....
Status: Resident
Tax year 2018

Particulars	Rs.	Rs.
Tax payable		22,500
Less: Adjustable withholding tax		
Tax deducted at source on salary		3000
Cash withdrawn withholding	60,000×0.6%	360
Withholding tax on telephone bill		2500
Tax payable with return		16,640

Notes: Non-adjustable withholding tax/ final discharge

1. Dividend income=10,000×20%=2000
2. Profit on defense saving certificate =10,000×10%=1000

Example 2

Mr. Shah Nawaz, a filer, has reported Rs.75000 as his tax liability for the tax year 2017. Following transactions were subject to withholding tax.

1. Tax deducted at source from salary of Rs.10,000
2. Purchase of domestic air ticket of Rs.8000

3. Commission received of Rs.15000
4. Purchased a new car paying withholding tax Rs.10,000
5. Tax deducted on electricity bill of Rs.6000.

Solution

Mr. Shahnawaz
NTN.....
Status: Resident
Tax year 2018

Particular	Rs.	Rs.
Tax liability		75000
Less: Adjustable withholding tax.		
Tax deducted at source on salary		10,000
Purchases of domestic air ticket (5% of 8000)		400
Withholding tax purchase of car		10,000
Tax payable with return		54600

Note: Non-adjustable withholding tax/find discharge.

1. Withholding tax on commission= $15000 \times 12\% = 1800$
2. Withholding tax on electricity bill Rs. 6000
(Adjustable only in case of companies)

3. Advance Tax

3.1 Advance Tax Paid by the Taxpayer:

[Section 147]

]

1. Subject to sub-section (2), every taxpayer whose income was charged to tax for the latest tax year under this Ordinance or latest assessment year under the repealed Ordinance other than
 - a. income chargeable to tax under sections 5, 6 and 7;
 - b. income chargeable to tax under section 15;
 - c. income subject to deduction of tax at source under section 149;
 shall be liable to pay advance tax for the year in accordance with this section.
2. This section does not apply to an individual where the individual's latest assessed taxable income excluding income referred to in clauses (a), (b), (c) of sub-section (1) is less than [ten] hundred thousand] rupees.

3.2 Advance Tax for Companies and AOPs

- (4) Where the taxpayer is an association of persons or a company, the amount of advance tax due for a quarter shall be computed according to the following formula, namely:-

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

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.

“(4A) any taxpayer who is required to make payment of advance tax in accordance with sub-section (4), shall estimate the tax payable for the relevant tax year, at any time before the second installment is due. In case the tax payable is likely to be more than the amount that the taxpayer is required to pay under sub-section (4), the taxpayer shall furnish to the Commissioner on or before the due date of the second quarter an estimate of the amount of tax payable by the taxpayer and thereafter pay fifty per cent of such amount by the due date of the second quarter of the tax year after making adjustment for the amount (if any) already paid in terms of sub-section (4). The remaining fifty per cent of the estimate shall be paid after the second quarter in two equal installments payable by the due date of the third and fourth quarter of the tax year.”;

3.3 Advance Tax for Individuals

- (4B) Where the taxpayer is an individual having latest assessed income of [ten] hundred thousand rupees or more as determined under sub-section (2), the amount of advance tax due for a quarter shall be computed according to the following formula, namely:

$$(A/4) - B$$

Where

- A is the tax assessed to the taxpayer for the latest tax year or latest assessment year under the repealed Ordinance; and
B is the tax paid in the quarter for which a tax credit is allowed under section 168, other than tax deducted under section 149 or 155.]

3.4 Dates for the Payment of Advance Tax

- (5) Advance tax is payable by an **individual** to the Commissioner;
- in respect of the September quarter, on or [before] the [15th day of September];
 - in respect of the December quarter, on or before the [15th day of December];
 - in respect of the March quarter, on or before the [15th day of March]; and
 - in respect of the June quarter, on or before the [15th day of June].
- (5A) Advance tax shall be payable by an **association of persons or a company** to the Commissioner
- in respect of the September quarter, on or before the 25th day of September;
 - in respect of the December quarter, on or before the 25th day of December;
 - in respect of the March quarter, on or before the 25th day of March; and

- d. in respect of the June quarter, on or before the 15th day of June.
6. If any taxpayer who is required to make payment of advance tax under sub-section (1) estimates at any time before the last installment is due, that the tax payable by him for the relevant tax year is likely to be less than the amount he is required to pay under sub-section (1), the taxpayer may furnish to the Commissioner an estimate of the amount of the tax payable by him, and thereafter pay such estimated amount, as reduced by the amount, if any, already paid under sub-section (1), in equal installments on such dates as have not expired.
- (6A) where the taxpayer is a company or an association of persons, advance tax shall be payable by it in the absence of last assessed income or declared turnover also. The taxpayer shall estimate the amount of advance tax payable on the basis of quarterly turnover of the company or an association of persons, as the case may be, and thereafter pay such amount after,
- taking into account tax payable under section 113 as provided in sub-section (4AA); and
 - making adjustment for the amount (if any) already paid.]
7. The provisions of this Ordinance shall apply to any advance tax due under this section as if the amount due were tax due under an assessment order.

Tax Credit

8. A taxpayer who has paid advance tax under this section for a tax year shall be allowed a tax credit for that tax in computing the tax due by the taxpayer on the taxable income of the taxpayer for that year

Tax Payment with the Return of Income:

At the end of a tax year, a person is required to file the income tax return by disclosing all income and the calculation of tax on it. This return is accompanied by the payment of tax calculated in the following manner;

Gross income tax (taxable income * rate of income tax)	XXX
Less: Reductions in tax liability (Tax Reductions, Rebates and Credits);	(XXX)
Less: Advance tax already paid; and	(XXX)
Less: Adjustable tax collected or deducted at source.	(XXX)
Less: Refund due from FBR	(XXX)
Net Income tax payable with the return	XXX

STREAMLINING PROCEDURE FOR PAYMENT OF ADVANCE TAX

1. In the budget of 2018-19 following changes were suggested in the advance tax regime:

At present, a taxpayer can file a lower estimate of advance tax without furnishing any basis of such lower estimate. Provisions of law have been streamlined so that a lower estimate is accompanied by an estimate of the turnover of the remaining quarters, reasons for any projected decline in turnover, documentary evidence of any claim of expenses resulting in lowering of estimate and computation of estimated taxable income. In case the estimate is not supported with adequate basis, the Commissioner shall have the mandate to reject the lower estimate and the

taxpayer shall be required to pay advance tax on the basis of his turnover for the quarter.

2. In order to streamline computation of advance tax where the taxpayer has not paid advance tax and his turnover for the quarter is not known, turnover for the quarter shall be taken to be 10% higher than one-fourth of the turnover for the year.
3. Banking companies are required to pay advance tax in 12 monthly installments but lower estimate is not allowable as per the Seventh Schedule. The existing provision of law has been clarified by technical amendments in the Seventh Schedule. Furthermore, banks are required to pay advance tax in 12 “equal” installments, however, banks interpret the term “equal” to imply that the amount of advance tax paid in the first month shall also be paid in all subsequent months. An enabling provision has been provided in law for collection of advance tax from banks on the basis of their actual income.

4. Recovery of Tax

1. Recovery of Tax Out of Property and Through Arrest of Taxpayer: [Section 138]

- i. For the purpose of recovering any tax due by a taxpayer, the Commissioner may serve upon the taxpayer a notice in the prescribed form requiring him to pay the said amount within such time as may be specified in the notice.
- ii. If the amount referred to in the notice issued under sub -section (1) is not paid within the time specified therein or within the further time, if any, allowed by the Commissioner, the Commissioner may proceed to recover from the taxpayer the said amount by one or more of the following modes, namely:-
 - a. attachment and sale of any movable or immovable property of the taxpayer;
 - b. appointment of a receiver for the management of the movable or immovable property of the taxpayer; and
 - c. arrest of the taxpayer and his detention in prison for a period not exceeding six months.
- iii. For the purposes of recovery of tax under sub-section (2), the Commissioner shall have the same powers as a Civil Court has under the Code of Civil Procedure, 1908 (Act V of 1908), for the purposes of the recovery of any amount due under a decree.

2. Recovery of tax by District Officer (Revenue). [Section 138A]

1. The Commissioner may forward to the District Officer (Revenue) of the district in which the taxpayer resides or carries on business or in which any property belonging to the taxpayer is situated, a certificate specifying the amount of any tax due from the taxpayer, and, on receipt of such certificate, the District Officer (Revenue) shall proceed to recover from the taxpayer the amount so specified as, it were an arrear of land revenue.
2. Without prejudice to any other power of the District Officer (Revenue) in this behalf, he shall have the same powers as a Civil Court has under the Code of Civil

Procedure, 1908 (Act V of 1908), for the purpose of the recovery of the amount due under a decree.]

3. Estate in Bankruptcy: [Section 138B]

1. If a taxpayer is declared bankrupt, the tax liability under this Ordinance shall pass on to the estate in bankruptcy.
2. If tax liability is incurred by an estate in bankruptcy, the tax shall be deemed to be a current expenditure in the operations of the estate in bankruptcy and shall be paid before the claims preferred by other creditors are settled.]

4. Collection of Tax In The Case of Private Companies and Associations of Persons: [Section 139]

1. Where any tax payable by a private company (including a private company that has been wound up or gone into liquidation) in respect of any tax year cannot be recovered from the company, every person who was, at any time in that tax year –
 - a. a director of the company, other than an employed director; or
 - b. a shareholder in the company owning not less than ten per cent of the paid-up capital of the company;shall be jointly and severally liable for payment of the tax due by the company.
2. Any director who pays tax under sub-section (1) shall be entitled to recover the tax paid from the company or a share of the tax from any other director.
3. A shareholder who pays tax under sub-section (1) shall be entitled to recover the tax paid from the company or from any other shareholder to whom clause (b) of sub-section
4. applies in proportion to the shares owned by that other shareholder.

5. Recovery of tax from persons holding money on behalf of a taxpayer: [Section 140]

1. For the purpose of recovering any tax due by a taxpayer, the Commissioner may, by notice, in writing, require any person –
 - a. owing or who may owe money to the taxpayer; or
 - b. holding or who may hold money for, or on account of the taxpayer;
 - c. holding or who may hold money on account of some other person for payment to the taxpayer; or
 - d. having authority of some other person to pay money to the taxpayer; to pay to the Commissioner so much of the money as set out in the notice by the date set out in the notice.

6. Liquidators: [Section 141]

1. Every person (hereinafter referred to as a —liquidator who is –
 - a. a liquidator of a company;
 - b. a receiver appointed by a Court or appointed out of Court;
 - c. a trustee for a bankrupt; or

- d. a mortgagee in possession, shall, within fourteen days of being appointed or taking possession of an asset in Pakistan, whichever occurs first, give written notice thereof to the Commissioner.
- 2. The Commissioner shall, within three months of being notified under sub-section (1), notify the liquidator in writing of the amount which appears to the Commissioner to be sufficient to provide for any tax which is or will become payable by the person whose assets are in the possession of the liquidator.
- 3. A liquidator shall not, without leave of the Commissioner, part with any asset held as liquidator until the liquidator has been notified under sub-section (2).
- 4. A liquidator
 - a. shall set aside, out of the proceeds of sale of any asset by the liquidator, the amount notified by the Commissioner under sub -section (2), or such lesser amount as is subsequently agreed to by the Commissioner;
 - b. shall be liable to the extent of the amount set aside for the tax of the person who owned the asset; and
 - c. may pay any debt that has priority over the tax referred to in this section notwithstanding any provision of this section.
- 5. A liquidator shall be personally liable to the extent of any amount required to be set aside under sub-section (4) for the tax referred to in sub-section (2) if, and to the extent that, the liquidator fails to comply with the requirements of this section.

7. Recovery of Tax Due by Non-Resident Member of an Association of Persons: **[Section 142]**

- 1. The tax due by a non-resident member of an association of persons in respect of the member's share of the profits of the association shall be assessable in the name of the association or of any resident member of the association and may be recovered out of the assets of the association or from the resident member personally.
- 2. A person making a payment under this section shall be treated as acting under the authority of the non-resident member and is hereby indemnified in respect of the payment against all proceedings, civil or criminal, and all processes, judicial or extra-judicial, notwithstanding any provisions to the contrary in any written law, contract or agreement.

8. Non-Resident Ship Owner Or Charterer: **[Section 143]**

- 1. Before the departure of a ship owned or chartered by a non-resident person from any port in Pakistan, the master of the ship shall furnish to the Commissioner a return showing the gross amount specified in sub-section (1) of section 7 in respect of the ship.
- 2. Where the master of a ship has furnished a return under sub-section (1), the Commissioner shall after calling for such particulars, accounts or documents as he may require,] determine the amount of tax due under section 7 in respect of the ship and, as soon as possible, notify the master, in writing, of the amount payable.

3. The master of a ship shall be liable for the tax notified under sub-section (2) and the provisions of this Ordinance shall apply to such tax as if it were tax due under an assessment order.

9. Non-Resident Aircraft Owner Or Charterer: [Section 144]

1. A non-resident owner or charterer of an aircraft liable for tax under section 7, or an agent authorised by the non-resident person for this purpose, shall furnish to the Commissioner, within forty-five days from the last day of each quarter of the financial year, a return, in respect of the quarter, showing the gross amount specified in sub-section (1) of section 7 of the non-resident person for the quarter.
2. Where a return has been furnished under sub-section (1), the Commissioner shall after calling for such particulars, accounts or documents as he may require,] determine the amount of tax due under section 7 by the non-resident person for the quarter and notify the non-resident person, in writing, of the amount payable.
3. The non-resident person shall be liable to pay the tax notified under sub-section (2) within the time specified in the notice and the provisions of this Ordinance shall apply to such tax as if it were tax due under an assessment order.

10. Assessment Of Persons About To Leave Pakistan: [Section 145]

1. Where any person is likely to leave Pakistan during the currency of tax year or shortly after its expiry with no intention of returning to Pakistan, he shall give to the Commissioner a notice to that effect not less than fifteen days before the probable date of his departure (hereinafter in this section referred to as the said date').
2. The notice under sub-section (1) shall be accompanied by a return or returns of taxable income in respect of the period commencing from the end of the latest tax year for which an assessment has been or, where no such assessment has been made, a return has been made, as the case may be, and ending on the said date, or where no such assessment or return has been made, the tax year or tax years comprising the period ending on the said date; and the period commencing from the end of the latest tax year to the said date shall, for the purposes of this section, be deemed to be a tax year (distinct and separate from any other tax year) in which the said date falls.
3. The Commissioner may serve a notice on any person who, in his opinion, is likely to leave Pakistan during the current tax year or shortly after its expiry and has no intention of returning to Pakistan, to furnish within such time as may be specified in such notice, a return or returns of taxable income for the tax year or tax years for which the taxpayer is required to furnish such return or returns under sub -section (2).
4. The taxable income shall be charged to tax at the rates applicable to the relevant tax year and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

11. Recovery of Tax From Persons Assessed In Azad Jammu And Kashmir:

[Section 146]

1. Where any person assessed to tax for any tax year under the law relating to income tax in the Azad Jammu and Kashmir has failed to pay the tax and the income tax authorities of the Azad Jammu and Kashmir cannot recover the tax because –
 - a. the person's residence is in Pakistan; or
 - b. the person has no movable or immovable property in the Azad Jammu and Kashmir,
The Deputy Commissioner in the Azad Jammu and Kashmir may forward a certificate of recovery to the Commissioner and, on receipt of such certificate, the Commissioner shall recover the tax referred to in the certificate in accordance with this Part.
2. A certificate of recovery under sub-section (1) shall be in the prescribed form specifying
 - a. the place of residence of the person in Pakistan;
 - b. the description and location of movable or immovable property of the person in Pakistan; and
 - c. the amount of tax payable by the person.

12. Initiation, Validity, Etc., Of Recovery Proceedings:

[Section 146A]

1. Any proceedings for the recovery of tax under this Part may be initiated at any time.
2. The Commissioner may, at any time, amend the certificate issued under section 138A, or recall such certificate and issue fresh certificate, as he thinks fit.
3. It shall not be open to a taxpayer to question before the District Officer (Revenue) the validity or correctness of any certificate issued under section 138A, or any such certificate as amended, or any fresh certificate issued, under sub-section (2).
4. The several modes of recovery provided in this Part shall be deemed to be neither mutually exclusive nor affect in any way any other law for the time being in force relating to the recovery of debts due to the Government and the Commissioner may have recourse to any such mode of recovery notwithstanding that the tax due is being recovered from a taxpayer by any other mode.

13. Tax Arrears Settlement Incentives Scheme:

[Section 146B]

1. Subject to provisions of this Ordinance, the Board may make scheme in respect of recovery of tax arrears or withholding taxes and waiver of default surcharge or penalty levied thereon.
2. The Board may make rules under section 237 for implementation of such scheme.

5. Appeals

1. Appeal to the Commissioner (Appeals).

[Section

127]

[(1) Any person dissatisfied with any order passed by a Commissioner or an[Officer of Inland Revenue]under section 121, 122, 143, 144, [162,] 170, 182, [or 205], or an order under sub-section (1) of section 161 holding a person to be personally liable to pay an amount of tax, or an order under clause (f) of sub-section (3) of section 172 [declaring] a person to be the representative of a non -resident person [or an order giving effect to any finding or directions in any order made under this Part by the Commissioner (Appeals), Appellate Tribunal, High Court or Supreme Court], or an order under section 221 refusing to rectify the mistake, either in full or in part, as claimed by the taxpayer or an order having the effect of enhancing the assessment or reducing a refund or otherwise increasing the liability of the person[, except a provisional assessment order under section 122C,] may prefer an appeal to the Commissioner (Appeals) against the order.]

Explanation

Appealable Orders: Appeals can arise in connection with:

1. A best judgment assessment (ex-parte assessment) based on any available information or material to the best of the Taxation Officer's / Commissioner's judgment.
2. An amendment made to the taxpayer's self-assessment or a further amendment made to an already amended assessment, where the Commissioner consider that such assessment is erroneous and prejudicial to the interest of revenue.
3. An amendment made to the taxpayer's self-assessment or a further amendment made to an already amended assessment, where the Commissioner, based on definite information acquired from an audit or otherwise, is satisfied that:
4. Any income chargeable to tax has escaped assessment;
5. Total income has been:
 - a. Under assessed;
 - b. Assessed at too low a rate;
 - c. Subjected to excessive relief; or
 - d. Subjected to excessive refund; and
6. An amount relating to a "head of income" has been classified as an amount under another "head of income";
7. An order holding an individual personally liable to pay the amount of tax, which was required to be collected or deducted by him/her or having collected or deducted fails to pay the same as required by the law
8. An order declaring or treating a person as a representative of a non-resident person;
9. An order refusing to rectify the mistake, either in full or in part;
10. An order having the effect of enhancing the assessment or reducing a refund or otherwise increasing the tax liability;
11. Determination of amount of tax due on shipping and air transport income of non-resident;
12. An order refusing or curtailing the amount of refund of tax paid in excess;
13. An order imposing the default surcharge;
14. An order imposing penalty for:
 - a. Failure to furnish a return or statement;
 - b. Non-payment of tax;

- c. Concealment of income or furnishing inaccurate particulars of income;
 - d. Failure to maintain records;
 - e. Non-compliance with notice;
 - f. Making fake or misleading statement;
 - g. Failure to give notice of discontinuation of business;
 - h. Failure to give notice of appointment as liquidator;
 - i. Obstruction in discharge of functions of the Taxation Officer / Commissioner
15. No appeal under sub-section (1), shall be made by a taxpayer against an order of assessment unless the taxpayer has paid the amount of tax due under sub-section (1) of section 137.]
16. An appeal under sub-section (1) shall
- a. be in the prescribed form;
 - b. be verified in the prescribed manner;
 - c. state precisely the grounds upon which the appeal is made;
 - d. be accompanied by the prescribed fee specified in sub-section (4); and
 - e. be lodged with the Commissioner (Appeals) within the time set out in sub-section (5)
17. The prescribed fee shall be
- a. in the case of an appeal against an assessment, [one thousand rupees] or
 - b. in any other case
 - i. where the appellant is a company, one thousand rupees; or
 - ii. where the appellant is not a company, two hundred rupees.
18. An appeal shall be referred to the Commissioner (Appeals) within thirty days of the following
- a. where the appeal relates to any assessment or penalty, the date of service of the notice of demand relating to the said assessment or penalty, as the case may be; and
 - b. in any other case, the date on which the order to be appealed against is served.]
19. The Commissioner (Appeals) may, upon application in writing by the appellant, admit an appeal after the expiration of the period specified in sub-section (5) if the Commissioner (Appeals) is satisfied that the appellant was prevented by sufficient cause from lodging the appeal within that period.

2. Procedure in Appeal:

[Section 128]

- 1. The Commissioner (Appeals) shall give notice of the day fixed for the hearing of the appeal to the appellant and to the Commissioner against whose order the appeal has been made.
- (1A) Where in a particular case, the Commissioner (Appeals) is of the opinion that the recovery of tax levied under this Ordinance, shall cause undue hardship to the taxpayer, he, after affording opportunity of being heard to the Commissioner against whose order appeal has been made, may stay the recovery of such tax for a period not exceeding thirty days in aggregate.
- (1AA) The Commissioner (Appeals), after affording opportunity of being heard to the Commissioner against whose order appeal has been made, may stay the recovery of

such tax for a further period of thirty days, provided that the order on appeal shall be passed within the said period of thirty days.

2. The Commissioner (Appeals) may adjourn the hearing of the appeal from time to time.
3. The Commissioner (Appeals) may, before the hearing of an appeal, allow an appellant to file any new ground of appeal not specified in the grounds of appeal already filed by the appellant where the Commissioner (Appeals) is satisfied that the omission of the ground from the form of the appeal was not willful or unreasonable.
4. The Commissioner (Appeals) may, before disposing of an appeal, call for such particulars as the Commissioner (Appeals) may require respecting the matters arising in the appeal or cause further enquiry to be made by the Commissioner.
5. The Commissioner (Appeals) shall not admit any documentary material or evidence which was not produced before the Commissioner unless the Commissioner (Appeals) is satisfied that the appellant was prevented by sufficient cause from producing such material or evidence before the Commissioner.

3. Decision in Appeal: **[Section 129]**

1. In disposing of an appeal lodged under section 127, the Commissioner (Appeals) may
 - a. make an order to confirm, modify or annul the assessment order after examining such evidence as required by him respecting the matters arising in appeal or causing such further enquires to be made as he deems fit; or]
 - b. in any other case, make such order as the Commissioner (Appeals) thinks fit.
2. The Commissioner (Appeals) shall not increase the amount of any assessment order or decrease the amount of any refund unless the appellant has been given a reasonable opportunity of showing cause against such increase or decrease, as the case may be.
3. Where, as the result of an appeal, any change is made in the assessment of an association of persons or a new assessment of an association of persons is ordered to be made, the Commissioner (Appeals) may authorise the Commissioner to amend accordingly any assessment order made on a member of the association and the time limit in sub-section (2) of section 122 shall not apply to the making such amended assessment.
4. As soon as practicable after deciding an appeal, the Commissioner (Appeals) shall serve his order on the appellant and the Commissioner:
[Provided that such order shall be passed not later than one hundred and twenty days from the date of filing of appeal or within an extended period of sixty days, for reasons to be recorded in writing by the Commissioner (Appeals):
5. Where the Commissioner (Appeals) has not made an order on an appeal before the expiration of [four] months from the end of the month in which the appeal was lodged, the relief sought by the appellant in the appeal shall be treated as having been given and all the provisions of this Ordinance shall have effect accordingly.

6. For the purposes of sub-section (5), any period during which the hearing of an appeal is adjourned on the request of the appellant shall be excluded in the computation of the period of [four] months referred to in that sub-section.
7. The provisions of sub-section (5) shall not apply unless a notice by the appellant stating that no order under sub-section (1) has been made is personally served by the appellant on the Commissioner (Appeals) not less than thirty days before the expiration of the period of [four] months.

4. Appointment of the Appellate Tribunal: [Section 130]

1. There shall be established an Appellate Tribunal to exercise the functions conferred on the Tribunal by this Ordinance.
2. The Appellate Tribunal shall consist of a chairperson and such other judicial and accountant members as are appointed by the Federal Government having regard to the needs of the Tribunal.
3. A person may be appointed as a judicial member of the Appellate Tribunal if the person
 - a. has exercised the powers of a District Judge and is qualified to be a Judge of a High Court; or
 - b. is or has been an advocate of a High Court and is qualified to be a Judge of the High Court.
3. A person may be appointed as an accountant member of an appellate tribunal if,
 - a. he is an officer of Inland Revenue equivalent to the rank of Regional Commissioner; or
 - b. a Commissioner Inland Revenue or Commissioner Inland Revenue (Appeals) having at least five years experience as Commissioner or Collector.]
5. The Federal Government shall appoint a member of the Appellate Tribunal as Chairperson of the Tribunal and, except in special circumstances, the person appointed should be a judicial member.
6. The powers and functions of the Appellate Tribunal shall be exercised and discharged by Benches constituted from members of the Tribunal by the Chairperson of the Tribunal.
7. Subject to sub-section (8), a Bench shall consist of not less than two members of the Appellate Tribunal and shall be constituted so as to contain an equal number of judicial and accountant members, or so that the number of members of one class does not exceed the number of members of the other class by more than one.
8. The Federal Government may direct that all or any of the powers of the Appellate Tribunal shall be exercised by —
 - a. any one member; or
 - b. more members than one, jointly or severally.
- 8A. The [Chairperson] may constitute as many benches consisting of a single member as he may deem necessary to hear such cases or class of cases as the Federal Government may by order in writing, specify.]
- 8AA. The [Chairperson] or other member of the Appellate Tribunal authorized, in this behalf by the [Chairperson] may, sitting singly, dispose of any case where the amount of tax or penalty involved does not exceed [one] million rupees.

9. Subject to sub-section (10), if the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority.
10. If the members of a Bench are equally divided on a point, they shall state the point on which they differ and the case shall be referred by the Chairperson for hearing on that point by one or more other members of the Appellate Tribunal, and the point shall be decided according to the opinion of the majority of the members of the Tribunal who have heard the case including those who first heard it.
11. If there are an equal number of members of the Appellate Tribunal, the Federal Government may appoint an additional member for the purpose of deciding the case on which there is a difference of opinion.
12. The Appellate Tribunal shall have the power to regulate its own procedure, and the procedure of Benches of the Tribunal in all matters arising out of the discharge of its functions including the places at which the Benches shall hold their sittings.

5. Appeal to the Appellate Tribunal. [Section 131]

1. Where the [taxpayer] or Commissioner objects to an order passed by the Commissioner (Appeals), the [taxpayer] or Commissioner may appeal to the Appellate Tribunal against such order.
2. An appeal under sub-section (1) shall be
 - a. in the prescribed form;
 - b. verified in the prescribed manner;
 - c. accompanied [, except in case of an appeal preferred by the Commissioner,] by the prescribed fee specified in sub-section (3); and
 - d. preferred to the Appellate Tribunal within sixty days of the date of service of order of the Commissioner (Appeals) on the taxpayer or the Commissioner, as the case may be.]
3. [The prescribed fee shall be two thousand rupees.]
4. The Appellate Tribunal may, upon application in writing, admit an appeal after the expiration of the period specified in clause (d) of sub-section (2) if it is satisfied that the person appealing was prevented by sufficient cause from filing the appeal within that period.
5. [Tax shall, unless recovery thereof has been stayed by the Appellate Tribunal, be payable in accordance with the assessment made in the case.]

6. Disposal of Appeals by the Appellate Tribunal: [Section 132]

1. The Appellate Tribunal may, before disposing of an appeal, call for such particulars as it may require in respect of the matters arising on the appeal or cause further enquiry to be made by the Commissioner.
2. The Appellate Tribunal shall afford an opportunity of being heard to the parties to the appeal and, in case of default by any of the party on the date of hearing, the Tribunal may proceed ex parte to decide the appeal on the basis of the available record.
- 2A. The Appellate Tribunal shall decide the appeal within six months of its filing;

3. Where the appeal relates to an assessment order, the Appellate Tribunal may, without prejudice to the powers specified in sub-section (2), make an order to –
 - a. affirm, modify or annul the assessment order; or
 - b. remand the case to the Commissioner or the Commissioner (Appeals) for making such enquiry or taking such action as the Tribunal may direct.]
4. The Appellate Tribunal shall not increase the amount of any assessment or penalty or decrease the amount of any refund unless the taxpayer has been given a reasonable opportunity of showing cause against such increase or decrease, as the case may be.
5. Where, as the result of an appeal, any change is made in the assessment of an association of persons or a new assessment of an association of persons is ordered to be made, the Appellate Tribunal may authorise the Commissioner to amend accordingly any assessment order made on a member of the association and the time limit in sub-section(2) of section 122 shall not apply to the making of such amended assessment.
6. Where the appeal relates to a decision other than in respect of an assessment, the Appellate Tribunal may make an order to affirm, vary or annul the decision, and issue such consequential directions as the case may require.
7. The Appellate Tribunal shall communicate its order to the taxpayer and the Commissioner.
10. Save as provided in section 133, the decision of the Appellate Tribunal on an appeal shall be final.

7. Reference to High Court: [Section 133]

1. Within ninety days of the communication of the order of the Appellate Tribunal under sub-section (7) of section 132, the aggrieved person or the Commissioner may prefer an application, in the prescribed form along with a statement of the case, to the High Court, stating any question of law arising out of such order.
2. The statement to the High Court referred to in sub-section (1), shall set out the facts, the determination of the Appellate Tribunal and the question of law which arises out of its order.
3. Where, on an application made under sub-section (1), the High Court is satisfied that a question of law arises out of the order referred to in sub-section (1), it may proceed to hear the case.
4. A reference to the High Court under this section shall be heard by a Bench of not less than two judges of the High Court and, in respect of the reference, the provisions of section 98 of the Code of Civil Procedure, 1908 (Act V of 1908), shall apply, so far as may be, notwithstanding anything contained in any other law for the time being in force.
5. The High Court upon hearing a reference under this section shall decide the question of law raised by the reference and pass judgment thereon specifying the grounds on which such judgment is based and the Tribunal's order shall stand modified accordingly. The Court shall send a copy of the judgment under the seal of the Court to the Appellate Tribunal.

6. Notwithstanding that a reference has been made to the High Court, the tax shall be payable in accordance with the order of the Appellate Tribunal:
Provided that, if the amount of tax is reduced as a result of the judgment in the reference by the High Court and the amount of tax found refundable, the High Court may, on application by the Commissioner within thirty days of the receipt of the judgment of the High Court that he wants to prefer petition for leave to appeal to the Supreme Court, make an order authorizing the Commissioner to postpone the refund until the disposal of the appeal by the Supreme Court.
7. Where recovery of tax has been stayed by the High Court by an order, such order shall cease to have effect on the expiration of a period of six months following the day on which it was made unless the appeal is decided or such order is withdrawn by the High Court earlier.
9. An application under sub-section (1) by a person other than the Commissioner shall be accompanied by a fee of one hundred rupees.]

8. Alternative Dispute Resolution.

[Section 134A

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1. An aggrieved person, in connection with any matter pending before an Appellate Authority, may apply to Board for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application[except where prosecution proceedings have been initiated or where interpretation of question of law having effect on identical other cases.
2. The Board after examination of the application of an aggrieved person, shall [within sixty days of receipt of such application in the Board] appoint a committee consisting of an officer of Inland Revenue and two persons from a [panel comprising] of Chartered or Cost Accountants, Advocates, Income Tax Practitioners, retired Justices of High Courts or reputable taxpayers for the resolution of the hardship or dispute.
3. The Committee constituted under sub-section (2) shall examine the issue and may if it deem necessary conduct inquiry seek expert opinion, direct any officer of the Inland Revenue or any other person to conduct an audit and shall make recommendations within ninety days of its constitution in respect of the resolution of the dispute. If the committee fails to make recommendations within the said period the Board shall dissolve the committee and constitute a new committee which shall decide the matter within a further period of ninety days. If after the expiry of that period the dispute is not resolved the matter shall be taken up by the appropriate forum for decision.
4. The Board is bound subject to the withdrawal of appeals by the taxpayer, on the recommendation of the committee, pass such order, as it may deem appropriate [within forty five days of the receipt of recommendations of the Committee.
- 4A. The Chairman Federal Board of Revenue may, on the application of an aggrieved person, for reasons to be recorded in writing, and on being satisfied that there is an error in order or decision, pass such order as may be deemed just and equitable.]
5. The aggrieved person may make the payment of income tax and other taxes as determined by the [Board] in its order under sub-section (4) and all decisions,

orders and judgments made or passed shall stand modified to that extent and all proceedings under this Ordinance or the rules made thereunder by any authority shall abate:

Provided that an order passed by the Board in the light of recommendations of the committee shall be submitted before that authority, tribunal or the court where the matter is subjudice for consideration and orders as deemed appropriate

Provided further that if the taxpayer is not satisfied with the said order, he may continue to pursue his remedy before the relevant authority, tribunal or court as if no such order had been made by the Board.

7. The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this section.



FBR
PAKISTAN

ریونیو بورڈ آف ریونیو
حکومت پاکستان

تنازعات کے متبادل حل کے نظام (ADRC) کے ذریعے

اب

عدالت سے باہر

ٹیکس تنازعات کا

آسان حل

ٹیکس کلیکٹر کے ساتھ انکم ٹیکس، سیلز ٹیکس، فیڈرل ایکسائز اینڈ کسٹمز جیسے معاملات، عدالت سے باہر سلجھانے کیلئے (ADRC) ایف بی آر کی منفرد ہولت ہے جس کے ذریعے آزادانہ ماہرین کی خدمات حاصل کرتے ہوئے معاملات با آسانی سلجھائے جاسکتے ہیں۔

ADRC کی سہولت سے کون مستفید ہو سکتے ہیں؟

- کوئی بھی متاثرہ فرد جیسا کہ۔۔۔
- کمپنی (اس کا پرنسپل آفیسر یا آرٹھی)
- انفرادی شخص
- ایسوسی ایشن آف پرنسز (AOPs)
- قانونی نمائندہ (کسی فوت شدہ شخص کا)
- معدور غیر رہائشی فرد کا نمائندہ

شرائط و ضوابط

- تنازعہ کسی ایسی ہیٹ اختیاری ٹریبیونل یا عدالت میں زیر سماعت ہونا لازمی ہے۔
- کسی قسم کا استغاثہ یا فوجداری کارروائی شروع نہ ہوئی ہو۔
- قانون کی کوئی ایسی تفسیر موجود نہ ہو جو اس تنازعہ سے ملنے چلتے دیگر مقدمات پر اثر انداز ہو سکتی ہو۔

یاد رکھیں!

ADRC معزز ٹیکس گزاروں کے مسائل کے حل کیلئے آزادانہ ماہرین کی سفارشات کی روشنی میں قانونی چارہ جوئی کے بغیر متبادل طریقہ کار فراہم کرتی اور عدالت سے باہر معاملات کو سہولت اور آسانی سے سلجھاتی ہے



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9. Burden of Proof.

[Section 136]

In any appeal [by a taxpayer] under this Part, the burden shall be on the taxpayer to prove, on the balance of probabilities –

- in the case of an assessment order, the extent to which the order does not correctly reflect the taxpayer's tax liability for the tax year; or
- in the case of any other decision, that the decision is erroneous.

Summary of Appeal Mechanism

No.	Appeal to	Appeal against the order of	Section	Appeal time	Documents required	Decision time	Appeal fees
1.	Commissioner inland revenue (Appeals)	Commissioner Inland Revenue	127, 128 and 129	30 days (with extension 30 days)	1. Prescribed form. 2. CIR order. 3. Fees challan. 4. Grounds of appeal. 5. Power of attorney.	120 days (With extension 60 days)	Rs.R1000 for Companies Rs.200 for individual
2.	Appellate Tribunal Inland Revenue	Commissioner Inland Revenue (Appeals)	131 and 132	60 days	1. Prescribed form. 2. Copy of CIR order. 3. Fees challan. 4. Grounds of appeal. 5. Power of attorney	6 months	Rs.2000
3.	Reference to High court	Tribunal Appellate Inland Revenue	133	90 days	1. Prescribed form. 2. CIR – CIR (appeals) and tribunals orders. 3. Fees challan 4. Grounds of appeal. 5.Power of attorney	---	Rs.100
4.	Reference to Supreme Court	High court	Article 185(3)	-	1. Prescribed form. 2. CIR – CIR (appeals) and tribunals orders. 3. Fees challan. 4. Grounds of appeal. 5. Power of attorney	---	-----

SUMMARY

In this unit, we have discussed the concept of payment of tax. Under the Income Tax Ordinance 2001, a person can pay tax in four possible ways; with the submission of tax return, through withholding tax, through advance tax & on demand of CIR. The concept of withholding tax has been incorporated in the Income Tax Ordinance 2001 to collect tax on certain payments through withholding agents. This tax is submitted to the FBR by the withholding agents on the behalf of taxpayers. Similarly, the concept of advance tax has been explained where a tax payer can his tax liability in advance and necessary adjustment is done at the end of the tax year.

UNIT: 8

CUSTOM DUTIES ACT 1969

**Compiled by:
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Introduction

The customs duties constitute a major part of the revenues of the govt. In this unit, the various terminologies under Custom Duties Act 1969 will be defined. After this, the appointment of officers or customs and their powers will be described in detail. In next section, the declaration of Ports, Airports & Land Custom Stations which is based on authority to specify the limit of customs, will be discussed. The prohibition and restriction of importation and exportation will also be elaborated. After this, the drawbacks of the export on imported goods will be studied in detail. Lastly, appeals and revisions mechanism will be explained in detail.

Objectives

After completion of this unit, the student will be able;

1. to understand various terminologies defined under Custom Duties Act 1969.
2. to described the appointment of officers or customs and also their powers.
3. to highlights the role of board for the declaration of Ports, Airports and Land Custom Stations.
4. to explain the prohibition and restrictions of importation and exportation.
5. to discuss the appeals and revisions.

1. Definitions

1. Adjudicating Authority [Section 2(a)]

Adjudicating authority means any authority competent to pass any order or decision under this Act, but does not include the Board, 6[the Collector (Appeals) or the Appellate Tribunal.

2. Advance Ruling [Section 2(ai)]

Advance ruling means classification determined by the Board or any officer, or committee authorized by the Board for the assessment of the goods intended to be imported or exported.

3. Agent [Section 2(aa)]

Agent means a person licensed under section 207 or permitted to transact any business under section 208

4. Appellate tribunal [Section 2(aaa)]

Appellate tribunal means the Customs Appellate Tribunal constituted under section 194.

5. Appropriate officer [Section 2(b)]

Appropriate officer means the officer of customs to whom such functions have been assigned by or under this Act or the rules made there under.

6. Assessment [Section 2(bb)]

Assessment includes provisional assessment, reassessment and any order or assessment in which the duty assessed is nil

7. Audit [Section 2(bba)]

Audit means examination of books, records, documents, correspondence, stocks and inventory of goods relating to import. Export and other business activities of the persons referred to in section 211, in order to ascertain their liability of duties and taxes and compliance with relevant laws and rules.

8. Baggage [Section 2(bbb)]

Baggage includes unaccompanied baggage but does not include motor vehicles.

9. Board [Section 2(e)]

Board means the Central Board of Revenue established under the Central Board of Revenue Act, 1924 (IV of 1924), and on the commencement of Federal Board of Revenue Act, 2007, the Federal Board of Revenue established under section 3 thereof.

10. Carrier [Section 2(ea)]

Carrier means the person actually transporting goods or in charge of, or responsible for, the operations of the means of transport or the owner thereof.

11. Coastal goods [Section 2(f)]

Coastal goods means the goods transported in a vessel from one port in Pakistan to another, but does not include imported goods on which customs duty has not been paid.

12. Collector [Section 2(fa)]

Collector means Collector of Customs appointed under section 3 and includes any other officers equivalent in rank with any other designation appointed under this Act to perform specified functions in own jurisdiction.

- 13. Collector (Appeals) [Section 2(ff)]**
Collector (Appeals) means a person appointed to be a Collector of Customs (Appeals) under section 3.
- 14. Conveyance [Section 2(g)]**
Conveyance means any means of transport used for carrying goods or passengers such as a vessel, aircraft, vehicle or animal.
- 15. Customs-airport [Section 2(h)]**
Customs-airport means any airport declared under section 9 to be a customs-airport.
- 16. Customs-area [Section 2(i)]**
Customs-area means the limits of the customs-station specified under section 10 and includes any area in which imported goods or goods for export are ordinarily kept before clearance by the customs authorities.
- 17. Customs Computerized System [Section 2(ia)]**
Customs Computerized System means a comprehensive Customs information technology system specified in Chapter XVI-A.
- 18. Customs-port [Section 2(j)]**
Customs-port means any place declared under section 9 to be a [customs-port]
- 19. Customs-station [Section 2(k)]**
Customs-station means any customs-station, customs-airport, an inland river port, land customs-station or any place declared as such under section 9.
- 20. Detain [Section 2(kk)]**
Detain in relation to goods, means to prohibit the disposal or use of the goods, pending the finalization of any proceedings under this Act in relation to the goods or the owner thereof.
- 21. Documents [Section 2(kka)]**
Documents means a goods declaration, application for claim of refund, duty drawback or repayment of duty, import or export general manifest, passenger manifest, bill of lading, airway bill, commercial invoice and packing list or similar other forms or documents used for customs clearance or making a declaration to Customs, whether or not signed or initialed or otherwise authenticated, and also includes,-
i. any form of writing on material, data or information recorded, transmitted, or stored by means of a tape recorder, computer or any other device, and material subsequently derived from information so recorded, transmitted or stored;
ii. a label, marking or other form of writing that identifies anything of which it forms part or to which it is attached by any means;
iii. a book, map, plan, graph, or drawing; and
iv. a photograph, film, negative, tape, or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced.
- 22. Electronic duty drawback filing and payment system [Section 2(kkb)]**
It means Electronic Duty Drawback Filing and Payment System as specified by the rules.
- 23. Export manifest [Section 2(kkk)]**

It means export manifest delivered under sub-section (2) of section 53 and includes electronically filed export manifest.

24. Goods [Section 2 (l)]

It means all movable goods and includes-

- i. Conveyance,
- ii. Stores and materials,
- iii. Baggage, and
- iv. Currency and Negotiable instruments.

25. Goods Declaration [Section 2(la)]

It means a goods declaration filed under sections 79, 10439[, 121], 131, 139 or 144 and includes a goods declaration electronically filed.

26. Import manifest [Section 2(lb)]

It means import manifest delivered under section 43 or 44 as the case may be and includes electronically filed import manifest.

27. KIBOR [Section 2(lc)]

It means Karachi Inter Bank Offered Rate prevalent on the first day of each quarter of the financial year.

28. Master [Section 2(n)]

It means when used in relation to any vessel, means any person, except a pilot or harbor master, having command or charge of such vessel.

29. Officer of customs [Section 2(o)]

It means an officer appointed under section 3.

30. Pakistan customs-waters [Section 2(p)]

It means the waters extending into the sea to a distance of twelve nautical miles measured from the appropriate base line on the coast of Pakistan.

31. Person [Section 2(pa)]

It includes a company, an association, a body of individuals whether incorporated or not.

32. Person-in-charge [Section 2(q)]

It means

- i. in relation to a vessel, the master of the vessel;
- ii. in relation to an aircraft, the commander or pilot in charge of the aircraft;
- iii. in relation to a railway train, the conductor, guard or other person having the chief direction of the train;
- iv. in relation to any other conveyance, the driver or any other person having control of the conveyance.

33. Principal [Section 2(qa)]

It means the owner of the goods or the person primarily responsible for making a declaration to Customs under this Act and includes the person in-charge of the conveyance, carrier, custodian of cargo, and the terminal operator.

34. Rules [Section 2(r)]

It means the rules made under this Act.

35. Seize [Section 2(rr)]

It means to take into custody, physically or otherwise, goods in respect of which some offence has been committed or is believed to have been committed under this

Act or the rules, and all cognate words and expressions shall be construed accordingly.

36. Smuggle [Section 2(s)]

It means to bring into or take out of Pakistan, in breach of any prohibition or restriction for the time being in force or *en route* pilferage of transit goods or evading payment of customs-duties or taxes leviable thereon,-

- i. Gold bullion, silver bullion, platinum, palladium, radium, precious stones, antiques, currency, narcotics and narcotic and psychotropic substances; or
- ii. manufactures 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, which, in each case, exceed one hundred and] 28[fifty thousand rupees] in value; or
- iii. Any goods by any route other than a route declared under section 9 or 10 or from any place other than a customs-station, and includes an attempt, abetment or connivance of so bringing in or taking out of such goods; and all cognate words and expressions shall be construed accordingly.

37. Special Judge [Section 2(ss)]

It means a Special Judge appointed under Section 185;

38. Special Appellate Court [Section 2(sss)]

It means a Special Appellate Court constituted under section 46 of the Prevention of Smuggling Act, 1977.

39. Surcharge [Section 2(ssss)]

It means an amount or charge required to be paid under sections 21A, 83, 86, 98 and 202A or any surcharge payable as such under this Act.

40. Warehouse [Section 2(t)]

It means any place appointed or licensed under section 12 or section 13.

41. Warehousing station [Section 2(u)]

It means a place declared as a warehousing station under section 11.

42. Wharf [Section 2(v)]

It means any place in customs-port approved under clause (b) of section 10 for the loading and unloading of goods or any class of goods.

43. Arrears [Section 2(w)]

It means the amount of any duty, surcharge, fine or penalty 34[or any other amount] which is adjudged or demanded through an adjudication order passed by the competent authority or the amount referred to in the notice under sub-section (2) of section 202 which is recoverable in full or in part and is not paid within the time prescribed.

44. Default [Section 2(w)]

It means the failure to pay the outstanding arrears as defined in clause (w).

45. Defaulter [Section 2(y)]

It means the person and in the case of a company or firm every director or partner of the company or, as the case may be of the firm and of which he is a director or a partner of proprietor, and includes the guarantor who fails to pay outstanding arrears.

2. Appointment of Officers of Customs and their Powers

1. Appointment of officers of customs [Section 3]

The Board may, by notification in the official Gazette, appoint, in relation to any area specified in the notification, any person to be

- a. A Chief Collector of Customs;
- b. A Collector of Customs;
- c. A Collector of Customs (Appeals);
- d. An Additional Collector of Customs;
- e. A Deputy Collector of Customs;
- f. An Assistant Collector of Customs;
- g. An officer of Customs with any other designation.
- h. Directorate General of Intelligence and Investigation,

2. Federal Board of Revenue [Section 3A]

The Directorate General of Intelligence and Investigation shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.

3. Directorate General of Transit Trade[Section 3AA]

The Directorate General of Transit Trade shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.

4. Directorate General of Internal Audit [Section 3b]

The Directorate General of Internal Audit shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.

5. Directorate General of Reform and Automation[Section 3BB]

The Directorate General of Reform and Automation shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such officers as the Board may, by notification in the official Gazette, appoint.]

6. Directorate General of Risk Management[Section 3BBB]

The Directorate General of Risk Management shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.

7. Directorate General of Training and Research [Section 3c]

The Directorate General of Training and Research shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors and

Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.

- 8. Directorate General of Intellectual Property Rights Enforcement [Section 3CC]**
The Directorate General of Intellectual Property Rights Enforcement shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint
- 9. Directorate General of Valuation [Section 3D]**
The Directorate General of Valuation shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.
- 10. Directorate General of Post Clearance audit (PCA) [Section 3DD]**
The Directorate-General of Post Clearance Audit(PCA) shall consist of a Directors-General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.
- 11. Directorate General of Input Output Co-efficient Organization [Section 3DDD]**
The Directorate General of Input Output Co-efficient Organization (IOCO) shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such other officers as the Board may, by notification in the official Gazette, appoint.
- 12. Powers and Functioning of the Directorates, etc [Section 3E]**
The Board may specify the functions, jurisdiction and powers of the Directorates specified in the preceding sections and their officers by notification in the official Gazette.
- 13. Powers and Duties of Officers of Customs [Section 4]**
An officer of customs appointed under section 3 shall exercise such powers and discharge such duties as are conferred or imposed on him by or under this Act or the rules made there under and he shall also be competent to exercise all powers and discharge all duties conferred or imposed upon any officer subordinate to him: Provided that, notwithstanding anything contained in this Act or the rules, the Board may, by general or special order, impose such limitations or conditions on the exercise of such powers and discharge of such duties as it thinks fit.
- 14. Delegation of Powers[Section 5]**
 1. The Board may, by notification in the official Gazette and subject to such limitations or conditions as may be specified therein, empower by name or designation-

 - a. Any Additional Collector of Customs or Deputy Collector of Customs to exercise any of the powers of a Collector of Customs under this Act;
 - b. Any Deputy Collector of Customs or Assistant Collector of Customs to exercise any of the powers of an Additional Collector of Customs under this Act;

- c. Any Assistant Collector of Customs to exercise any of the powers of a Deputy Collector of Customs under this Act; and
 - d. Any other officer of customs with any other designation.
2. Unless the Board in any case otherwise directs, the Director General, Director, and Collector may authorize any officer to exercise within any specified area any of the powers of the Director General, Director, Collector or any other officer of Customs under this Act.

15. Entrustment of Functions of Customs Officers to Certain other Officers [Section 6]

1. The Board may, by notification in the official Gazette, entrust, either conditionally or unconditionally, any functions of any officer of customs under this Act to any officer of the Federal Government, Provincial Government, State Bank 6 with any functions of any officer of customs under sub-section (1) shall interfere in any manner in the performance or discharge of any duty by an officer of customs in places notified under section 9.

16. Assistance to the Officers of Customs [Section 7]

All officers of 13[Federal] Excise, Police, and the Civil Armed Forces, and all officers engaged in the collection of land-revenue are hereby empowered and required to assist officers of customs in the discharge of their functions under this Act.

17. Exemption from Service on Jury or Inquest or as Assessors [Section 8]

Notwithstanding anything contained in any other law, no officer of the Board or Collector of Customs and no other officer of customs whom the Board or Collector of Customs deems it necessary to exempt on grounds of public duty, shall be compelled to serve on any jury or inquest or as an assessor.

3. Declaration of Ports, Airports Lands Customs Stations, etc.

1. Declaration of Customs–ports, Customs Airports, etc [Section 9]

The Board may, by notification in the official Gazette, declare:

- a. the places which alone shall be customs-ports or customs-airports for the clearance of goods or any class of goods imported or to be exported;]
- b. The places which alone shall be land customs-stations for the clearance of goods or any class of goods imported or to be exported by land or inland waterways;
- c. The routes by which alone goods or any class of goods specified in the notification may pass by land or inland waterways into or out of Pakistan, or to or from any land customs-station or to or from any land frontier;
- d. The places which alone shall be ports for the carrying on of coastal trade with any specified customs-ports in Pakistan; and
- e. What shall for the purposes of this Act be deemed to be a custom house and the limits thereof.

2. Power to Approve Landing Places and Specify Limits of Customs-stations [Section 10]

The Board may, by notification in the official Gazette:

- a. Specify the limits of any customs-station; and
- b. Approve proper places in any customs-station for the loading and unloading of goods or any class of goods.

3. Power to Declare Warehousing Stations [Section 11]

The Board may, by notification in the official Gazette, declare places to be warehousing stations at which alone public warehouses may be appointed and private warehouses may be licensed.

4. Power to Appoint or License Public Warehouses [Section 12]

1. At any warehousing station, the Collector of Customs may, from time to time, appoint or license public warehouses wherein dutiable goods may be deposited without payment of customs-duty.
2. Every application for a license for a public warehouse shall be made in such form as may be prescribed by the Collector of Customs.
3. A license granted under this section may be cancelled by the Collector of Customs for infringement of any condition laid down in the license or for any violation of any of the provisions of this Act or any rules made there under, after the licensee has been given proper opportunity of showing cause against the proposed cancellation.
4. Pending consideration whether a license is cancelled under sub-section (3), the Collector of Customs may suspend the license.

5. Power to License Private Warehouses [Section 13]

1. At any warehousing station, the Collector of Customs may, from time to time, license private warehouses wherein dutiable goods may be deposited [without payment of customs-duty.
2. Every application for a license for a private warehouse shall be made in such form as may be prescribed by the Collector of Customs.
3. A license granted under this Section may be cancelled by the Collector of Customs for infringement of any condition laid down in the license or for any violation of any of the provisions of this Act or any rules made there under, after the licensee has been given proper opportunity of showing cause against the proposed cancellation.
4. Pending consideration whether a license is cancelled under sub-section (3), the Collector of Customs may suspend the license.

6. Stations for Officers of Customs to Board and Land [Section 14]

The Collector of Customs may, from time to time, appoint, in or near any customs-port, stations or limits at or within which vessels arriving at or departing from such port shall bring to for the boarding or landing of officers of customs, and may, unless separate provisions therefore have been made under the Ports Act, 1908 (XV of 1908) direct at what particular place in any such port vessels, not brought into port by pilots, shall anchor or moor.

7. Provision of Security and Accommodation at Customs-ports, etc [Section 14A]

1. Any agency or person including port authorities managing or owning a customs-port, a customs-airport or a land customs station or a container freight station shall provide at its or his own cost adequate security and accommodation to customs staff for residential purposes, offices, examination of goods, detention and storage of goods and for other departmental requirements to be determined by the Collector of Customs and shall pay utility bills, rent and taxes in respect of such accommodation.
2. Any agency or person including, but not limited to port authorities managing or owning a customs port, a customs airport or a land customs station or a container freight station, shall entertain delay and detention certificate issued by an officer not below the rank of Assistant Collector of Customs and also refund demurrage charges which the agency or person has received on account of delay because of no fault of importers or exporters.

4. Prohibition and Restriction of Importation and Exportation

1. Prohibitions [Section 15]

No goods specified in the following clauses shall be brought into or taken out of Pakistan, namely:

- a. Counterfeit coins, forged or counterfeit currency notes, and any other counterfeit product;
- b. Any obscene book, pamphlet, paper, drawing, painting, representation, figure, photograph, film, or, article, video or audio recording, CDs or recording on any other media;
- c. Goods having applied thereto a counterfeit trade mark within the meaning of the Pakistan Penal Code, 1860 (Act XLV of 1860), or a false trade description within the meaning of the Copyright Ordinance, 1962 (XXXIV of 1962), the Registered Layout-Designs of Integrated Circuits Ordinance, 2000 (XLIX of 2000), the Registered Designs Ordinance, 2000 (XLV of 2000), the Patents Ordinance, 2000 (LXI of 2000), and the Trade Marks Ordinance, 2001 (XIX of 2001).
- d. goods made or produced outside Pakistan and having applied thereto any name or trade mark, being or purporting to be the name or trade mark of any manufacturer, dealer or trader in Pakistan, unless,-
 - i. the name or trade mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced in a place outside Pakistan; and
 - ii. the country in which that place is situated is in that indication shown in letters as large and conspicuous as any letter in the name or trade mark, and in the same language and character as the name or trade mark;
- e. goods involving infringement of copyright, layout-design of integrated circuits, industrial designs, patents within the meaning of the Copyright Ordinance,

1962 (XXXIV of 1962), the Registered Designs Ordinance, 2000 (XLV of 2000), and the Patents Ordinance, 2000 (LXI of 2000), respectively; and

- f. goods made or produced outside Pakistan and intended for sale, and having applied thereto, a design in which copyright exists under the Copyright Ordinance, 1962 (XXXIV of 1962), the Registered Layout –Designs of Integrated Circuits Ordinance, 2000 (XLV of 2000), the Patents Ordinance, 2000 (LXI of 2000), and the Trade Marks Ordinance, 2001 (XIX of 2001), in respect of the class to which the goods belong any fraudulent or obvious imitation of such design, patent, copyright except when the application of such design has been made with the license or written consent of the registered proprietor, right holder of the design, patent or copyright, as the case may be:

Provided that offences relating to goods imported or exported in violation of Intellectual Property Rights shall, notwithstanding anything contained in any other law for the time being in force, be adjudicated under section 179 by the appropriate officer of customs.

2. Power to Prohibit or Restrict Importation and Exportation of Goods [Section 16]

The Federal Government] may, from time to time, by notification in the official Gazette, prohibit or restrict the bringing into or taking out of Pakistan of any goods of specified description by air, sea or land.

3. Detention, Seizure and Confiscation of Goods Imported in Violation of section 15 or section 16 [Section 17]

Where any goods are imported into, or attempted to be exported out of, Pakistan in violation of the provisions of section 15 or of a notification under section 16, such goods shall, without prejudice to any other penalty to which the offender may be liable under this Act or the rules made there under or any other law, be liable to detention, for seizure or confiscation subject to approval of an officer not below the rank of an Assistant Collector of Customs, and seizure for confiscation through adjudication, if required.

5. Levy of, Exemption from, and Repayment of, Customs Duties

1. Goods Dutiable [Section 18]

- 1. Except as hereinafter provided, customs duties shall be levied at such rates as are prescribed in the First Schedule or under any other law for the time being in force on,

- a. Goods imported into Pakistan;
- b. Goods brought from any foreign country to any customs station, and without payment of duty there, transshipped or transported for, or thence carried to, and imported at any other customs-station; and
- c. Goods brought in bond from one customs station to another.

- 1A. notwithstanding anything contained in sub-section (1), customs duties shall be levied at such rates on import of goods or class of goods as are prescribed in the Fifth Schedule, subject to such conditions, limitations and restrictions as prescribed therein.

2. No export duty shall be levied on the goods exported from Pakistan.
3. The Federal Government may, by notification in the official Gazette, levy, subject to such conditions, limitations or restrictions as it may deem fit to impose, a regulatory duty on all or any of the goods imported or exported, as specified in the First Schedule at a rate not exceeding one hundred per cent of the value of such goods as determined under section 25 or, as the case may be, section 25A].
4. The regulatory duty levied under sub-section (3) shall
 - a. be in addition to any duty imposed under sub-section (1) or under any other law for the time being in force; and
 - b. be leviable on and from the day specified in the notification issued under that sub-section, notwithstanding the fact that the issue of the official Gazette in which such notification appears is published at any time after that day.
5. The Federal Government may, by notification in the official Gazette, levy an additional customs-duty on such imported goods as are specified in the First Schedule, at a rate not exceeding thirty-five *per cent* of value of such goods as determined under section 25 2a[or, as the case may be, section 25A.
- 2b Provided that the cumulative incidence of customs-duties leviable under sub-sections (1), (3) and (5) shall not exceed the rates agreed to by the Government of Pakistan under multilateral trade agreements.
6. The additional customs-duty levied under sub-section (5) shall be,-
 - a. in addition to any duty imposed under sub-sections (1) and (3) or under any other law for the time being in force; and
 - b. Leviable on and from the day specified in the notification issued under that sub-section, notwithstanding the fact that the official Gazette in which such notification appears is published at any time after that day.
2. **Special Customs Duty on Imported Goods [Section 18A]**
 The Federal Government may, by notification in the official Gazette, levy a special customs duty on the importation of such of the goods specified in the First Schedule as are of the same kind as goods produced or manufactured in Pakistan, at a rate not exceeding the rate of duty of excise leviable under 106[the Federal Excise Act, 2005], on the goods produced or manufactured in Pakistan:
 Provided that the exemption of any goods from the whole or any part of the duty of excise for the time being in force shall not prevent the Federal Government from levying a special customs duty on the importation of goods of the same kind:
 Provided further that, for the purposes of the Sales Tax Act 1990 (VII of 1990), the special customs duty shall not constitute a part of the value of supply.]
3. **Rates of Duty and Taxes and Determination of Origin under Trade Agreements [Section 18C]**
 1. Where under a trade agreement between the Government of Pakistan and the Government of a foreign country or territory, duty at a rate lower than that specified in the First Schedule is to be charged on articles which are the produce or manufacture of such foreign country or territory, the Federal

Government may, by notification in the official Gazette, make rules for determining if any article is the produce or manufacture of such foreign country or territory and for requiring the owner to make a claim at the time of importation, supported by such evidence as may be prescribed in the said rules, for assessment at the appropriate lower rate under such agreement.

2. Where in respect of any article, a preferential rate of duty is specified in the First Schedule, or is admissible by virtue of a notification under sub-section (1), the duty to be levied and collected shall be at the standard rate unless the owner of the article claims at the time of importation that it is chargeable with a preferential rate of duty, being the produce or manufacture of such preferential or free trade area, as is notified under sub-section (3) and the article is determined, in accordance with the rules made under sub-section (1) to be such produce or manufacture.
3. For the purposes of this section and the First Schedule —preferential area or free trade area means any country or territory which the Federal Government may, by notification in the official Gazette, declare to be such area.
4. Notwithstanding anything contained in sub-sections (1) and (2), where the Federal Government is satisfied that, in the interests of trade including promotion of exports, it is necessary to take immediate action for discontinuing the preferential rate or increasing the preferential rate to a rate not exceeding the standard rate, or decreasing the preferential rate, in respect of an article specified in the First Schedule, the Federal Government may, by notification in the official Gazette, direct discontinuation of, or increase or decrease, as the case may be, the preferential rate.

4. Levy of Fee and Service Charges [Section 18D]

The Federal Government may, by notification in the official Gazette, subject to such conditions, limitations or restrictions as it may deem fit to impose, levy fee and service charges for examination, scanning, inspections, sealing and resealing, valuation check or in respect of any other service or control mechanism provided by any formation under the control of the Board, including ventures of public-private partnership, at such rates as may be specified in the notification.

5. Pakistan Customs Tariff [Section 18E]

The Board may, by notification in the official Gazette, subject to such conditions, limitations or restrictions as it may deem fit to impose, make such changes in the Pakistan Customs Tariff, specified in the First Schedule to this Act, required only for the purposes of statistical suffix of the Pakistan Customs Tariff (PCT) Code.

6. General Power to Exempt from Customs-Duties [Section 19]

1. The Federal Government pursuant to the approval of the Economic Coordination Committee of Cabinet, whenever circumstances exist to take immediate action for the purposes of national security, natural disaster, national food security in emergency situations, protection of national economic interests in situations arising out of abnormal fluctuation in international commodity

prices, removal of anomalies in duties, development of backward areas and implementation of bilateral and multilateral agreements, subject to such conditions, limitations or restrictions, if any, as it deems fit to impose, may, by notification in the official Gazette, exempt any goods imported into, or exported from, Pakistan or into or from any specified port or station or area therein, from the whole or any part of the customs-duties chargeable thereon and may remit fine, penalty, charge or any other amount recoverable under this Act.

2. A notification issued under sub-section (1) shall be effective from the day specified therein, notwithstanding the fact that the issue of the official Gazette in which such notification appears is published at any time after that day.
3. Notwithstanding anything contained in any other law for the time being in force, including but not limited to the Protection of Economic Reforms 1992 (XII of 1992), and notwithstanding any decision or judgment of any forum, authority or court, no person shall, in the absence of a notification by the Federal Government published in the official Gazette expressly granting and affirming exemption from customs duty, be entitled to or have any right to any such exemption from or refund of customs duty on the basis of the doctrine of promissory estoppels or on account of any correspondence or admission or promise or commitment or concessionary order made or understanding given whether in writing or otherwise, by any government department or authority.
4. The Federal Government shall place before the National Assembly all notifications issued under this section in a financial year.
5. Any notification issued under sub-section (1) after the commencement of the Finance Act, 2015 shall, if not earlier rescinded, stand rescinded on the expiry of the financial year in which it was issued.

6. Drawback

1. Drawback of the Export on Imported Goods [Section 35]

Subject to the subsequent provisions of this Chapter and the rules, when any goods, capable of being easily identified, which have been imported into Pakistan and upon which customs-duties have been paid on importation, are exported to any place outside Pakistan or as provisions or stores for use on board a conveyance proceeding to a foreign territory, seven-eighth of such duties shall be repaid as drawback, subject to the following conditions, namely:

1. the goods are identified to the satisfaction of an officer of customs not below the rank of Assistant Collector of Customs at the customs-station, to be the same as had been imported, and
2. The goods are entered for export within two years of the date of their importation, as shown by the records of the custom-house or if such time is

extended by the Board or the Collector of Customs for sufficient cause within such extended time:

Provided that the Collector of Customs shall not extend the time beyond three years of the importation of such goods.

Explanation.- For the purposes of this section, the goods shall be deemed to have been entered for export on the date on which the 3 [goods declaration] is delivered to the appropriate officer under section 131.

2. Drawback on Goods taken into use between Importation and Exportation [Section 36]

Notwithstanding anything contained in section 35, the repayment of duty as drawback in respect of goods which have been taken into use between their importation and subsequent exportation shall be made in accordance with the provisions of the rules made in that behalf.

3. Drawback on Goods used in the Manufacture of Goods which are Exported [Section 37]

Where it appears to the Board that in respect of goods of any class or description manufactured in Pakistan and exported to any place outside Pakistan, a drawback of customs-duties should be allowed on any imported goods of a class or description used in the manufacture of such exported goods, the Board may, by notification in the official Gazette, direct that drawback shall be allowed in respect of such imported goods to such extent and subject to such condition as may be provided in the rules.

Power to declare what goods are identifiable and to prohibit draw-back in case of specified.

4. Foreign Territory. [Section 38]

1. The Board may, from time to time, by notification in the official Gazette, declare what goods shall, for the purposes of this Chapter, be deemed to be not capable of being easily identified.
2. The Federal Government] may, from time to time, by notification in the official Gazette, prohibit the payment of drawback upon the exportation of goods or any specified goods or class of goods to any specified foreign port or territory.

5. When no Drawback Allowed [Section 39]

Notwithstanding anything hereinbefore contained, no drawback shall be allowed-

- a. Upon goods which are required to be included in the export manifest and are not so included, or
- b. When the claim is for drawback amounting, in respect of any single shipment, to less than 6or equal to] hundred rupees, or
- c. Unless the claim for drawback has been made and established at the time of export.

6. Time of Payment of Drawback [Section 40]

No such payment of drawback shall be made until the vessel carrying the goods has put out to sea or other conveyance has left Pakistan.

7. Declaration by Parties Claiming Drawback [Section 41]

Every person, or his duly authorized agent, claiming drawback on any goods duly exported, shall make and subscribe a declaration that such goods have been actually exported and have not been re-landed and are not intended to be re-landed at any place in Pakistan and that such person was at the time of entry outwards and export and continues to be entitled to drawback thereon.

7. Appeals and Revisions

1. Appeals to Collector (Appeals) [Section 193]

1. Any person including an officer of Customs aggrieved by any decision or order passed under sections 33, 79, 80 and 179 by an officer of Customs below the rank of Additional Collector may prefer appeal to the Collector (Appeals) within thirty days of the date of communication to him of such decision or order.

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

2. An appeal under this section shall be in such form and shall be verified in such manner as may be prescribed by rules made in this behalf.
3. An appeal made under this Act shall be accompanied by a fee of one thousand rupees to be paid in the manner that may be prescribed by the Board.

2. Procedure in Appeal [Section 193A]

1. The Collector (Appeals) shall give an opportunity to the appellant to be heard if he so desires.
2. The Collector (Appeals) may, at the hearing of an appeal, allow the appellant to go into any ground of appeal not specified in the ground of appeal, if the Collector (Appeals) is satisfied that the omission of that ground from the grounds of appeal was not willful or unreasonable.
3. The Collector (Appeals) may, after making such further inquiry as may be necessary pass an order, within one hundred and twenty days from the date of filing of appeal or within such extended period as the Collector (Appeals) may for reasons to be recorded in writing, extend, confirm, modify or annul the decision or order appealed against.

Provided that such extended period shall not exceed {sixty} days unless the Board further extends at any time during the pendency of appeal.

Provided further that any period during which the hearing of an appeal is adjourned on account of a stay order or alternative dispute resolution proceedings or the time

taken through adjournment by the petitioner not exceeding thirty days, shall be excluded for the purpose of computation of aforesaid period.

Provided further that, where the Collector (Appeals) is of opinion that any duty has not been levied or has been short-levied or erroneously refunded, no or requiring the appellant to pay any duty not levied, short-levied or erroneously refunded shall be passed unless the appellant is given notice within the time-limit specified in section 32 to show cause against the proposed order.

4. The order of the Collector (Appeals) disposing of the appeal shall be in writing and shall state that points for determination, the decision thereon and the reasons for the decision.
5. On the disposal of the appeal, the Collector (Appeals) shall communicate the order passed by him to the appellant, the adjudicating authority and the Collector of Customs.

3. Appellate Tribunal [Section 194]

1. The Federal Government shall constitute an Appellate Tribunal to be called the Customs 58[Omitted] Appellate Tribunal consisting of as many judicial and technical members as it thinks fit to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act.
2. A judicial member shall be a person who has been a Judge of the High Court, or is or has been a District Judge and is qualified to be a Judge of High Court, or is or has been an advocate of a High Court and is qualified to be a Judge of a High Court.
3. A technical member shall be an officer of 63[Pakistan Customs Service] equivalent in rank to that of a Member of the Board or Chief Collector of Customs or Director General or a senior Collector with 64[three] years of experience in that position.
4. The Federal Government shall appoint one of the members of the Appellate Tribunal to be the Chairman thereof.
5. The terms and conditions of appointment of the Chairman and judicial and technical members shall be such as the Federal Government may determine.

4. Appeals to the Appellate Tribunal [Section 194A]

1. Any person 10[or an officer of Customs] aggrieved by any of the following orders may appeal to the Appellate Tribunal against such orders:-
 - a. A decision or order passed by an officer of Customs not below the rank of Additional Collector under section 179.
 - b. an order passed by the Collector (Appeals) under section 193.
 - c. An order passed under section 193, as it stood immediately before the appointed day;
 - d. An order passed by the Board or the Collector of Customs under section 195

- e. an order passed in revision by the Director-General Customs Valuation under section 25D, provided that such appeal shall be heard by a special bench consisting of one technical member and one judicial member.

Provided that the Appellate Tribunal may, in its discretion, refuse to admit an appeal in respect of an order referred to in sub-section(1) where-

- i. the value of the goods confiscated without option having been given to the owner of the goods to pay a fine in lieu of confiscation under section 181; or
 - ii. in any disputed case other than a case where the determination of any question having a relation to rate of duty of customs or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or
 - iii. The amount of fine or penalty determined by such order; does not exceed 17[fifty] thousand rupees.
2. Where the Board or the Collector of Customs is aggrieved by an order passed by the Collector (Appeals), it, or as the case may be, he may prefer an appeal to the Appellate Tribunal. Such appeal shall be preferred by an officer, not below the rank of Assistant Collector or Assistant Director so authorized in writing by the Board or the Collector or the Director, as the case may be.
 3. Every appeal under this section shall be filed within sixty days from the date on which the decision or order sought to be appealed against is communicated to the Board or the Collector of Customs, or as the case may be, the other party preferring the appeal.
 4. On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within thirty days of the receipt of the notice, a memorandum of cross-objections verified in such manner as may be specified by rules made in this behalf against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).
 5. The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section(3) or sub-section (4), if it is satisfied that there was sufficient cause for not presenting it within that period.
 6. An appeal to the Appellate Tribunal shall be in such form and shall be verified in such manner as may be specified by the rules made in this behalf and shall, except in the case of a memorandum of cross-objections referred to in sub-section (4), be accompanied by a fee of 20[one thousand] rupees.
 7. All cases pending, immediately before the commencement of the Finance Ordinance, with the Collector (Appeals) shall stand transferred to the Appellate Tribunal for disposal in accordance with law.

8. Notwithstanding anything in this Act where any reference or appeal was preferred with the approval of Collector of Customs by the officer of lower rank than that of the Collector and the reference or appeal is pending before an appellate forum or the Court, such reference or appeal shall be deemed to have been so filed by the Collector and for removal of doubt it is hereby declared the pending appeals shall not abate solely on this ground.

5. Orders of Appellate Tribunal [Section 194B]

1. The Appellate Tribunal may after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit confirming, modifying or annulling the decision or order appealed against. The Appellate Tribunal may record additional evidence and decide the case but shall not remand the case for recording the additional evidence:
Provided that the appeal shall be decided within sixty days of filing the appeal or within such extended period as the Tribunal may, for reasons to be recorded in writing, fix:
Provided further that the Appellate Tribunal may stay recovery of the duty and Sales Tax on filing of appeal which order shall remain operative for thirty days and during which period a notice shall be issued to the respondent and after hearing the parties, order may be confirmed or varied as the Tribunal deems fit but stay order shall in no case remain operative for more than one hundred and eighty days.
2. The Appellate Tribunal may, at any time within [one] years from the date of order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under-sub-section (1) and shall make such amendments if the mistake is brought to its notice by the Collector of Customs or the other party to the appeal: Provided that an amendment which has the effect of enhancing the assessment or reducing a refund or otherwise increasing the liability of the other party shall not be made under this sub-section, unless the Appellate Tribunal has given notice to the party of its intention to do so and has allowed a reasonable opportunity of being heard.
3. The Appellate Tribunal shall send a copy of every order passed by it under this section, disposing of an appeal, to the 24[officer of Customs] and in valuation cases also to the Controller, Valuation, and the other party to the appeal.
4. Save as otherwise expressly provided in 25[section 196], an order passed by the Appellate Tribunal in appeal shall be final.

6. Procedure of Appellate Tribunal [Section 194C]

1. The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted by the Chairman from amongst the members thereof.

2. Subject to the provisions contained in sub-sections (3) and (4), a Bench shall consist of one judicial member and one technical member.
3. Every appeal against a decision or order 25a [deciding a case involving duty, tax, penalty or fine exceeding five million rupees] shall be heard by a Special Bench constituted by the Chairman for hearing such appeals and such Bench shall consist of not less than two members and shall include at least one judicial member and one technical member 26
27[Provided that the Chairman may, for reasons to be recorded in writing, constitute Benches including special Benches consisting of
 - a. Two or more technical members; or
 - b. Two or more judicial members:
- 3A. notwithstanding anything contained in sub-sections (2) and (3), the Chairman may constitute as many Benches consisting of a single member as he may deem necessary to hear such cases or class of cases as the Federal Government may, by order in writing, specify.
4. The Chairman or any other member of the Appellate Tribunal authorized in this behalf by the Chairman may, sitting singly, dispose of any case which has been allotted to the bench of which he is a member where-(a) the value of the goods confiscated without option having been given to the owner of the goods to pay a fine in lieu of confiscation under section 181; or
 - c. in any disputed case, the difference in duty or tax involved or the duty or tax involved, or the amount of fine or penalty involved does not exceed five million rupees.
5. If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ and the case shall be referred by the Chairman for hearing on such point or points by one or more of the other members of the Appellate Tribunal, and such point or points shall be decided according to the opinion of the majority of the members of the Appellate Tribunal who have heard the case including those who first heard it.
Provided that, where the members of a Special Bench are equally divided, the points on which they differ shall be decided by the Chairman.
6. Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure and the procedure of the Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.
7. The Appellate Tribunal shall, for the purposes of discharging its functions, have the same powers as are vested in a court under the Code of Civil Procedure, 1908(V of 1908), when trying suit in respect of the following matters, namely:-
 - a. Discovery and inspection;

- b. Enforcing the attendance of any person and examining him on oath;
 - c. Compelling the production of books of account and other documents; and
 - d. Issuing commissions.
8. Any proceeding before the Appellate Tribunal shall be deemed to be judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Pakistan Penal Code (Act XLV of 1860), and the Appellate Tribunal shall be deemed to be a Court for all the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

7. Powers of Board or Collector to Pass Certain Orders[Section 195]

1. The Board or the Collector of Customs 32/32A may, within his jurisdiction, call for and examine the records of any proceedings under this Act for the purpose of satisfying itself or, as the case may be, himself as to the legality or propriety of any decision or order passed by a subordinate officer and may pass such order as it or he may think fit:
- Provided that no order confiscating goods of greater value or enhancing any fine in lieu of confiscation, or imposing or enhancing any penalty, or requiring payment of any duty not levied or short-levied shall be passed unless the person affected thereby has been given an opportunity of showing cause against it and of being heard in person or through a counsel or other person duly authorized by him.
2. No record of any proceedings relating to any decision or order passed by an officer of customs shall be called for or examined under sub-section (1) after the expiry of two years from the date of such decision or order.

8. Deposit, Pending Appeal, of Duty Demanded or Penalty Levied [Section 195B]

Where, in any appeal under this Chapter, the decision or order appealed against relates to any duty demanded in respect of goods which are not under the control of the customs authorities or any penalty levied under this Act, the person desirous of appealing against such decision or order shall, pending the appeal, deposit with the proper officer the duty demanded or the penalty levied:

Provided that where in any particular case the Collector (Appeals) or the Appellate Tribunal is of the opinion that the deposit of duty demanded or penalty levied would cause undue hardship to such person, the Collector (Appeals) or, as the case may be, the Appellate Tribunal may dispense with such deposit subject to such conditions as he, or it, may deem fit to impose so as to safeguard the interest of revenue.

Provided further that an order dispensing with such deposit shall, without effecting the appeal, cease to have effect on the expiration of a period of six months following the day on which it is made unless the appeal is finally decided earlier and nothing in the order

dispensing with such deposit which is ceased to have effect shall debar the appropriate officer to recover the amount of the duty demanded or penalty levied.

9. Dispute Resolution [Section 195C]

1. Notwithstanding anything in this Act, or the rules made there under, any aggrieved person, in connection with any dispute pertaining to liability of customs-duty, admissibility of refund or rebate, waiver or fixation of penalty or fine, confiscation of goods, relaxation of any time period or procedural and technical condition which is under litigation in any Court of law or an Appellate Authority, except in the cases where first information reports (FIRs) have been lodged or criminal proceedings have been initiated or where interpretation of question of law having larger revenue impact in the opinion of the Board is involved, may apply to the Board for the appointment of a Committee for the resolution of dispute in appeal.
2. Subject to the provision of sub-section (1), the Board, after examination of the application of an aggrieved person, may appoint a committee, within thirty days of receipt of such application, consisting of an officer of customs and two persons from a notified panel of retired District and Sessions judge and retired judges of High Court or Chartered or Cost Accountants, Advocates, Tax consultants or reputable taxpayers for the resolution of the hardship or dispute.]
3. The committee constituted under sub-section (2) shall examine the issue and may, if it deems necessary, conduct inquiry, seek expert opinion, direct any officer of customs or any other person to conduct an audit and make recommendations ,within [ninety] days of its constitution,] in respect of the resolution of dispute as it may deem fit
- 3A.If the Committee constituted under sub-section (2) fails to make recommendations within a stipulated period of ninety days, the Board may dissolve the committee and constitute a new committee which shall decide the matter within a further period of ninety days, and after expiry of that period, if the dispute is not resolved, the matter shall be taken up the by the appropriate forum for decision.
4. The Board may, on the recommendation of the committee, pass such order, as it may deem appropriate 57, within forty-five days of the receipt of recommendations of the committee].
- 4A.notwithstanding anything contained in sub-section (4), the Chairman and a member nominated by him may, on the application of an aggrieved person, for reasons to be recorded in writing and on being satisfied that there is an error in the order or decision, pass such order as may be deemed just and equitable.
5. The aggrieved person may make the payment of customs duty and other taxes as determined 41 if anyby the Board in its order under sub-section (4) and all decisions, orders and judgments made or passed shall stand modified to that extent and all proceedings under this Act or the rules made there under by any authority shall abate:
6. Provided that, in case the matter is already sub-judice before any authority, or tribunal or the court, an agreement made between the aggrieved person and the

Board in the light of recommendations of the committee shall be submitted before that authority, tribunal or the court for consideration and order as deemed appropriate.

7. The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this section.

10. Reference to High Court [Section 196]

1. Within ninety days of the date on which the aggrieved person or Collector or Director of Intelligence and Investigation] , or Director of Valuation], as the case may be, was served with order of the Appellate Tribunal under sub-section (3) of section 194B, the aggrieved person or any officer of Customs not below the rank of an Additional Collector 44a[or Additional Director, authorized by the Collector or Director in writing], may prefer an application, in the prescribed form along with a statement of the case, to the High Court, stating any question of law arising out of such order.
2. The statement to the High Court, referred to in sub-section (1), shall set out the facts, the determination of the Appellate Tribunal and the question of law, which arises out of such order.
3. Where, on an application made under sub-section (1), the High Court is satisfied that a question of law arises out of the order, referred to in sub-section (1), may proceed to hear the cases.
4. A reference to the High Court under this section shall be heard by a Bench of not less than two judges of the High Court and, in respect of the reference, the provisions of section 98 of the Code of Civil Procedure, 1908 (Act V of 1908), shall apply so far as may be, notwithstanding anything contained in any other law for the time being in force.
5. The High Court upon hearing a reference under this section shall decide the question of law raised by the reference and pass judgment thereon specifying the grounds on which such judgment is based and the Tribunal's order shall stand modified accordingly. The Court shall send a copy of the judgment under the seal of the Court to the Appellate Tribunal.
6. Notwithstanding that a reference has been made to the High Court, the duty shall be payable in accordance with the order of the Appellate Tribunal. Provided that, the amount of duty is reduced as a result of the judgment in the reference by such officer as authorized by the Collector or] the High Court, and any amount of duty is found refundable, the High Court may, on application submitted by the Collector, within thirty days of the receipt of the judgment of the High Court, that he wants to prefer petition for leave to appeal to the Supreme Court, make an order authorizing the Collector to postpone the refund until the disposal of the appeal by the Supreme Court.
7. Where recovery of duty has been stayed by the High Court by an order, such order shall cease to have effect on the expiration of a period of six months following the day on which it is made unless the reference is decided, or such order is withdrawn by the High Court earlier.

8. Section 5 of the Limitation Act, 1908 (IX of 1908), shall apply to an application made to the High Court under sub-section (1).
9. An application under sub-section (1) by a person other than 45[such officer as authorized by the Collector] the Collector shall be accompanied by a fee of one hundred rupees.
10. Notwithstanding anything in this Act where any reference or appeal was preferred with the approval of Collector by the officer below the rank of Collector, and the reference or appeal is pending before appellate forum or the Court, such reference or appeal shall be deemed to have been preferred and shall be deemed always to have been so preferred by the Collector.

11. Exclusion of Time Taken for Copy [Section 196H]

In computing the period of limitation specified for an appeal or application under this Chapter, the day on which the order complained of was served, and if the party preferring the appeal or making the application was not furnished with a copy of the order when the notice of the order was served upon him, the time requisite for obtaining a copy of such order, shall be excluded.

12. Transfer of Certain Pending Proceedings [Section 196I]

1. Every appeal which is pending before the Board under section 193 as it stood immediately before the appointed day and any matter arising out of or connected with such proceedings shall stand transferred on the appointed day to the Appellate Tribunal and the Appellate Tribunal may proceed with such appeal or matter from the stage at which it then was or may re-hear the same, as it may deem fit.
2. Every proceeding which is pending immediately before the appointed day before the Board or the Collector of Customs under section 195 as it stood immediately before that day, and any matter arising out of or connected with such proceedings and which is so pending shall continue to be dealt with by the Board or the Collector of Customs, as the case may be, as if the said section had not been substituted.
3. Every proceeding pending before the Federal Government under section 196 as it stood immediately before the appointed day and any matter arising out of or connected with such proceedings which is so pending shall stand transferred to the Appellate Tribunal and Appellate Tribunal may proceed with such proceedings or matter from the stage at which it then was or may re-hear the same, as it may deem fit, as if such proceedings or matter were an appeal filed before it.

Provided that if any such proceeding or matter relates to an order where-

- a. the value of the goods confiscated without option having been given to the owner of the goods to pay a fine in lieu of confiscation under section 181; or
- b. in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or

- c. the amount of fine or penalty determined by such order; does not exceed ten thousand rupees, such proceeding or matter shall continue to be dealt with by the Federal Government as if the said section 196 had not been substituted:

Provided further that the applicant or the other party may make a demand to the Appellate Tribunal that, before proceeding further with that proceeding or matter; he may be re-heard.

SUMMARY

In this unit, we have studied the Custom Duties Act 1969. In first section of this unit, definitions under the Custom Duties Act 1969 have been elaborated. In second section, the appointment of officers of customs and also their powers has been discussed in detail. In third section, declaration of Ports, Airports, Land Customs stations etc have been explained. Similarly the prohibition and restrictions of importation and exportation have been explained where no goods specified shall be brought into taken out of Pakistan. After this, the special Custom duty on imported goods, levy of fee and service charges, Pakistan Custom tariff and general power to exempt from custom duties have been discussed in detail. Lastly, the procedures for appeals and revision have been explained under the Customs Duties Act 1969.

UNIT: 9

SALES TAX ACT 1990 & FEDERAL EXCISE ACT 2005

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Introduction

The first part of this unit deals with the sales tax law in Pakistan which is covered under the Sales Tax Act 1990. The sales tax is a tax on the consumption of various products and services and is collected from the general public in indirect way through addition in the retail price of the products. The sales tax on goods is the largest source of revenue in Pakistan and administrated by the Federal Board of Revenue (FBR). This unit will describe the basic concepts of sales tax, calculation method of sales tax, refund cases and return filing under the Sales Tax Act 1990. The second part of this unit deals various concepts under Federal Excise Act 2005 that will also be discussed in detail.

Objectives

After reading this unit, you will be able;

1. to build basic understanding of sales tax
2. to highlight the return filing under the Sales Tax Act 1990
3. to discuss the refund mechanism under the Sales Tax Act 1990
4. to understand the concept of appeals under the Sales Tax Act 1990
5. to describe the various concepts under the Federal Excise Act 2005
6. to understand the concept of levy, collection, offences and penalties under the Federal Excise Act 2005

1. Sales Tax Act 1990

1.1. Basic Concepts of Sales Tax

The sales tax is a tax levied by the Federal Government under the Sales Tax Act, 1990, on sale and supply of goods and services and on the goods imported into Pakistan. Sales tax is levied on the consumption of goods and services. In a typical business, value chain following persons plays their role to bring a product to the general consumer. The system of charging sales tax in Pakistan is a generalized one where manufacturer of a product pays the sales tax to the FBR and recovers it from the consumers by including it in the retail price of the product. The law that deals with the sales tax in Pakistan is the Sales Tax Act 1990 imposed by the Federal Govt. Following are some of the important concepts of the sales tax in Pakistan in the light of the provisions of the Sales Tax Act 1990:

1. Manufacturer or Producer [Section 2(17)]

Manufacturer or Producer means a person who engages, whether exclusively or not, in the production or manufacture of goods whether or not the raw material of which the goods are produced or manufactured are owned by him; and shall include – –

- a. a person who by any process or operation assembles, mixes, cuts, dilutes, bottles, packages, repackages or prepares goods by any other manner;
- b. an assignee or trustee in bankruptcy, liquidator, executor, or curator or any manufacturer or producer and any person who disposes of his assets in any fiduciary capacity; and
- c. any person, firm or company which owns, holds, claims or uses any patent, proprietary, or other right to goods being manufactured, whether in his or its name, or on his or its behalf, as the case may be, whether or not such person, firm or company sells, distributes, consigns or otherwise disposes of the goods.

2. Distributor [Section 2(7)]

Distributor means a person appointed by a manufacturer, importer or any other person for a specified area to purchase goods from him for further supply and includes a person who in addition to being a distributor is also engaged in supply of goods as a wholesaler or a retailer.

3. Wholesaler [Section 2(47)]

Wholesaler includes a dealer and means any person who carries on, whether regularly or otherwise, the business of buying and selling goods by wholesale or of supplying or distributing goods, directly or indirectly, by wholesale for cash or deferred payment or for commission or other valuable consideration or stores such goods belonging to others as an agent for the purpose of sale; and includes a person supplying taxable goods to a person who deducts income tax at source under the Income Tax Ordinance, 2001

4. Retailer [Section 2(28)]

Retailer means a person supplying goods to general public for the purpose of consumption provided that any person, who combines the business of import and retail or manufacture or production with retail, shall notify and advertise wholesale prices and retail prices separately, and declare the address of retail outlets, and his total turnover per annum shall be taken into account for the purposes of registration under section 14.

1.2. Registration under Sales Tax Act 1990 (Section 14 to 21)

1. Who is to be Registered?

1. Every person engaged in making taxable supplies in Pakistan, including zero-rated supplies, in the course or furtherance of any taxable activity carried on by him, falling in any of the following categories, if not already registered, is required to be registered under this Act, namely:
 - a. a manufacturer who is not running a cottage industry;
 - b. a retailer who is liable to pay sales tax under the Act or rules made there under, excluding such retailer required to pay sales tax through his electricity bill under sub-section (9) of section 3;
 - c. an importer;
 - d. an exporter who intends to obtain sales tax refund against his zero-rated supplies;
 - e. a wholesaler, dealer or distributor; and
 - f. a person who is required, under any other Federal law or Provincial law, to be registered for the purpose of any duty or tax collected or paid as if it were a levy of sales tax to be collected under the Act;
2. Persons not engaged in making of taxable supplies in Pakistan, if required to be registered for making imports or exports, or under any provisions of the Act, or any other Federal law, may apply for registration.
3. The registration under this Act shall be regulated in such manner as the Board may, by notification in the official Gazette, prescribe.

2. Procedure of Registration

1. The application may be submitted electronically on Form STR-1 as well as either through post or courier services to Central Registration Office (CRO). Application can also be sent to Local Registration Office (LRO) in the form of hard copy. The LRO after proper scrutiny of documents and necessary editing of the application and particulars, electronically forwards the application to CRO.
2. All the columns of the Forms have to be duly filled in as per instructions given with the Form.
3. After verification, the Central Registration Office will issue a Registration Certificate bearing registration number and mail the same to the Registered Person, on a prescribed Form (STR-5).

Office (CRO) normally verifies the contents from the data available with it, but has an authority to get an enquiry conducted through Local Registration Office, to verify contents of declaration by a person. The CRO may reject the application within fifteen days from the date, the complete application is received in CRO under intimation to the applicant, specifying the reasons for such rejection.

3. Where a Person is to be Registered?

1. A corporate person (listed/ unlisted public company, private limited company) has to be registered under the Collectorate where the registered office of the business is located.

2. A non-corporate person is to be registered under the collectorate, where the business is actually carried on.
3. In case of non-corporate person having single manufacturing unit and the same is located in a different place than the business premises, in the Collectorate having jurisdiction over the manufacturing unit. A corporate person has the option of transferring his registration to the place of business.

4. Information to be Furnished for Registration:

1. Complete business name
2. .Business nature, main / activity or service;
3. Complete address of Head Office and all business units, go downs, outlets mentioning, phone, fax, e-mail, electricity, gas consumer no. etc.
4. All Bank account numbers, with name and address.
5. NTN (National Tax Number)
6. NIC (National Identity Card Number) of the owner, partners or directors of the business (passport number in case of foreigner).
7. In case of a company, registration number and date of incorporation.
8. Every director / member of AOP has to fill in STR – 1 (A) Form.
9. Date of commencement of business and initial capital employed.
10. The mode of maintenances of business records should also be mentioned.

5. Change in Particulars of Registration

In case there is a change in the name address, or other particulars as stated in the registration certificate, the registered person shall notify the change in the prescribed form STR-2 to the CRO within fourteen days of such change. The change in the business category shall be allowed after LRO has verified the manufacturing facility and confirmed the status as industrial consumer of the electricity and gas distribution companies.

6. Transfer of Registration

In case a registered person intends to shift his business activity from the jurisdiction of one collectorate, to another collectorate, or as the case may be to an RTO or LTU, or he has any other valid reason for such transfer, he shall apply to the CRO for transfer of his registration, along with form STR-2. The CRO may subject to such conditions, limitations or restrictions as it may deem fit to impose, by an order, transfer the registration of a registered person from the jurisdiction of one collectorate, to another collectorate, or as the case may be to the LTU or RTO. The return for the tax period in which the registration is transferred shall be filed in the collectorate from where the registration is transferred.

7. Revised Registration Certificate:

In case of multiple registrations, the registered person shall apply on Form STR-1 for single registration to the CRO which after ascertaining tax liabilities from concerned Collectorate shall issue revised registration certificate in which previous registration number shall be merged.

8. Deregistration

A registered person can be deregistered

- i. who ceases to carry on the business, or

- ii. whose supplies become exempt from sales tax, or
- iii. Whose turnover becomes less than the threshold level can apply for cancellation of the registration.

9. Active Taxpayer:

It means a registered person who does not fall in any of the following categories, namely:-

- a. Who is blacklisted or whose registration is suspended or is blocked in terms of section 21;
- b. Who fails to file the return under section 26 by the due date for two consecutive tax periods;
- c. who fails to file an Income Tax return under section 114 or statement under section 115, of the Income Tax Ordinance, 2001(XLIX of 2001), by the due date; and
- d. Who fails to file two consecutive monthly or an annual withholding tax statement under section 165 of the Income Tax Ordinance, 2001.

10. Active Taxpayers List:

The FBR shall have the power to maintain active taxpayers list in the manner as may be prescribed by rules and such rules may provide for the restrictions and limitations to be imposed on a person who ceases to be an active taxpayer.

10. Prize Schemes to Promote Tax Culture:

The Board may prescribe prize schemes to encourage the general public to make purchases only from registered persons issuing tax invoices.”;

11. Reward to Whistleblowers:

- 1. The Board may sanction reward to whistleblowers in cases of concealment or evasion of tax, tax fraud, corruption or misconduct providing credible information leading to such detection of tax fraud;
- 2. The Board may, by notification in the official Gazette, prescribe the procedure in this behalf and also specify the apportionment of reward sanctioned under this section for whistleblowers;
- 3. The claim for reward by the whistleblower shall be rejected if-
 - a. The information provided is of no value;
 - b. The Board already had the information;
 - c. The information was available in public records; or
 - d. No collection of taxes is made from the information provided from which the Board can pay the reward;
- 4. For the purpose of this section, “whistleblower” means a person who reports concealment or evasion of sales tax and tax fraud leading to detection or collection of taxes, fraud, corruption or misconduct, to the competent authority having power to take action against the person or a sales tax authority committing fraud, corruption, misconduct, or involved in concealment or evasion of taxes.

1.3. Sales Tax Returns (Section 26 to 29)

A Sales Tax return is the taxpayer’s document of declaration through which taxpayer not only furnishes the details of transactions during a tax period but also deposits his Sales Tax liability. On the return form, the taxpayer declares for a particular tax period and

respective input tax and output tax, at prescribed rate of Sale Tax. In case input tax exceeds output tax, the amount of refund claimed or excess input tax is also declared in the return.

1. Categories of Sales Tax Return

i. Monthly Return:

Under the standard procedure a registered person is required to file monthly return by the 15th day of the month following the period in which the supplies were made, in the designated branches of National Bank of Pakistan. In case of certain categories as mentioned below procedure has been devised to file return on monthly and quarterly basis.

ii. Quarterly Return:

The taxpayers falling exclusively in the category of commercial importer, i.e the importer who imports taxable goods for business activity other than industrial use of such goods or manufacturing by him, is required to file the return on quarterly basis.

iii. Annual Return:

A private or public Ltd Company is to file annual Sales Tax return, for a financial year by the 30th September of the following financial year.

iv. Final Return:

If a person applies for de-registration in terms of section 21, he shall before such de-registration, furnish a final return to the commissioner in the specified form in such manner and at such time as directed by the commissioner.

v. Special Returns:

A person registered under this Act shall furnish special return within such date and in such form indicating information such as quantity manufactured or produced, purchases made, goods supplied or payment of arrears made, etc, for such period as the Board may, by a notification in official gazette.

vi. Electronic Filing:

Facility of Electronic filing of Sales Tax return has also been made available to the following categories of registered persons:

- a. The registered persons falling in the jurisdiction of the Large Taxpayers Units, Karachi and, Lahore.
- b. The private and public Ltd companies registered in any Collectorate of Sales Tax.
- c. other taxpayers who may like to opt for electronic filing of sales tax returns

vii. Record of Electronic Return:

The electronic sales tax return and its relevant attachments, if any , shall be kept in electronic record of the registered person and shall be produced to the officer- in- charge on demand along with the supportive documents. If the delay is beyond 15 days, a penalty of Rs.5000/= is payable.

viii. Penalties for Late Return Filing

If a return is not filed within 15 days after the end of the relevant tax period, a registered person will be liable to a penalty besides additional tax at the rate of Rs 100/- per day. If the delay is beyond 15 days, a penalty of Rs. Five

Thousand is payable. If full amount due is not paid, any outstanding balance will also attract additional tax and a penalty. If a registered person fails to deposit the correct amount of tax for two consecutive months he/she will be deemed to have committed a tax fraud for which the penalty is Rs. 10,000 or five percent of the amount of tax involved, whichever is higher, besides prosecution.

1.4 Sales Tax Refunds

(Section 66 & 67)

If the input tax paid by a registered person on taxable purchases made during a tax period exceeds the output tax on account of zero rated local supplies or export made during that tax period, the excess amount of input tax shall be refunded to the registered person not later than forty five days of filing of refund claim in such manner and subject to such conditions as the board may, by a notification in the official Gazette specify.

1. Who Can Claim Refund?

Refund of sales tax paid as input tax can be claimed by the following registered persons in the respective situations:

- i. Registered manufacturer-cum-exporters and commercial exporters who zero rate all or part of their supplies under section 4 of the Act;
- ii. Registered persons who acquire tax paid inputs for use thereof in the manufacture of goods chargeable to sales tax at the rate of zero percent under the Act or a notification issued there-under
- iii. Registered persons claiming refund of the excess amount of input tax which could not be consumed within three months;
- iv. Registered persons who acquire tax paid inputs used in the export of goods , local supply of which is exempt under the Act or any notification issued there-under.
- v. Refund can also be claimed if an amount of sales tax is paid inadvertently or by mistake. may also be
- vi. Refund may also be claimed if an amount is paid on demand of the department, but subsequently the demand is set aside by any competent authority, Tribunal or Court.

2. Filing of Refund Claim:

Monthly sales tax return filed by a claimant shall be treated as a refund claim once all the supportive documents including the requisite data in the format or software has been received. No refund claim shall be entertained if the claimant fails to furnish the claim on the prescribed software along with the supportive documents within sixty days of the filing of return.

3. Required Supportive Documents for Refund Claim:

The refund claimant shall submit to the Refund Division of the concerned Collectorate , RTO or Large Taxpayer unit , as the case may be, the refund claim in computer diskette in the prescribed format or software along-with the following documents, namely:-

- a. Input tax invoices or as the case may be, goods declaration for import in respect of which refund is being claimed;
- b. output tax invoices and summary of invoices for local zero rated goods.
- c. goods declaration for export (quadruplicate copy) indicating Mate Receipt number with date or airway bill or railway receipt or postal receipt besides the examination

report endorsed on the reverse side thereof by the customs officers; in case of claims by persons other than manufacturer-cum-exporter of goods zero-rated in a notification issued under section 4 of the Act.

- d. copy of House and Master bill of lading and airway bill or as the case may be, railway receipt in token or verification of the goods taken out of Pakistan; and
- e. Statement of the tax paid inputs, in respect of which refund is claimed by the claimants other than the manufacturers of the goods zero-rated for supplies.

In addition to the documents specified above, a commercial exporter shall submit bank credit advice issued by the concerned bank and copy of the duty drawback order, if issued by the customs authorities.

Where the refund claim is filed under section 66 of the Act, the claimant shall submit an application for refund indicating his name, address, registration number, the amount of sales tax refund claimed and reasons for seeking such refund along-with following documents, namely:

- a. input tax invoices in respect of which refund is claimed;
- b. proof of payment of input tax
- c. Claimed as refund; and copy of the relevant order on the basis of which refund is claimed.

The refund claimed under section 66 of the Act shall be sanctioned after verifying that no adjustment or refund of input tax has been claimed earlier and that the goods have been duly accounted for in the inventory records and the invoices claimed are validated by the CREST (Computerized Risk – Based Evaluation of Sales Tax) System.

4. Refund of Amount Overpaid:

If a registered person has over paid sales tax because of error, he/she may request a refund of the over paid amount from the tax authorities within one year after the payment is made or after the decision or order causing the refund is announced from the end of the period for which a claim is made.

1.5 Appeal Filing (Section 45 to 47A)

In situations which involve contravention on the part of the registered person with respect to assessment of tax, recovery of amount erroneously refunded, charging of default surcharge, imposition of penalty and any other contravention under the Sales Tax Act, the sales tax officers are vested with the powers and jurisdiction to adjudicate such cases after issuing the proper show cause notice and providing opportunity of hearing to the taxpayer.

1. Jurisdiction and Monetary Competence:-

For the purpose of adjudication, the jurisdiction of respective adjudicating officers is fixed according to the amount of tax involved or amount erroneously refunded as following:

Additional Collector	Unlimited
Deputy Collector	Above Rs.1 million And below Rs.2.5 million
Assistant Collector	Above Rs.10000 and below Rs.1 million
Superintendent	Below Rs.10000

2. Requirement of Show Cause Notices for Adjudication:

When the tax is not levied, short levied or erroneously refunded by reason of some collusion or some deliberate act, the person liable to pay the tax or refund shall be served with a notice within five years of the relevant date, requiring him to show cause for payment of amount specified in the notice. When the recovery of tax or refund is necessitated due to any inadvertence, error or misconstruction, the person liable to make the payment shall be served with show cause notice within three years of the relevant date. The expression relevant date means the time when the tax was due to be paid, and in case where tax has been erroneously refunded, the date of its refund.

3. Appeal to the Collector Appeals

An appeal can be filed with the Collector (Appeals) against the order-in-original passed by the Additional Collector, Deputy Collector, Assistant Collector and Superintendent.

i. Limitation of Time:

An appeal before the collector (Appeals), has to be filed within thirty days of the receipt of decision or order passed by the Additional Collector, Deputy Collector, Assistant Collector or Superintendent.

ii. Condonation of Delay:

An appeal preferred after the expiry of thirty days may be admitted by the Collector (Appeals) if he is satisfied that the appellant has sufficient cause for not preferring the appeal within the specified period.

iii. Format of Appeal:

No specific format for appeal has been prescribed under the law. It is however advisable that Memo of appeal should be accompanied by supporting documents such as show cause notice issued to the appellant by the adjudicating officer at the original stage, order-in-original passed by the adjudicating authority and the documentary evidential material in support of the appellant.

iv. Requirement of Partial Payment of Principal Amount:

Any person desirous of, preferring an appeal against any decision or order relating to any tax demand or any penalty imposed under the Sales Tax Act, shall, before preferring the appeal deposit 15% of the principal amount of tax under such decision or order.

v. Grant of Stay by the Collector:

Once the appellant has deposited 15% of the principal amount of tax, recovery of remaining amount of tax due shall be stayed for a period not exceeding six months following the day on which the 15% amount of principal tax was deposited, unless the case is finally decided earlier.

vi. Waiver of Prior Deposit of Tax:

In any case, where Collector (Appeals) is satisfied that the deposit of tax as aforesaid, is likely to cause undue hardship to the appellant, he may dispense with such deposit, subject to such conditions or restrictions, he may deem fit to impose.

vii. How the Appeal is Settled:

The Collector of Sales Tax (Appeals) may, after giving both parties to the appeal an opportunity of being heard, pass such order as he thinks fit, confirming, varying, altering, setting aside or annulling the decision or order appealed against.

4. Appeal to the Appellate Tribunal

An appeal can be filed against the order of the Collector (Appeals) before the Appellate Tribunal.

i. Limitation and Computation of Time:

The limitation for preferring an appeal against any order or decision of an officer of Sales Tax under the Act is 60 days from the date of receipt of such order or decision. The day on which the order is passed and the period up to issue and receipt of the order is to be excluded in computing the period of limitation of 60 days.

ii. Condonation of Delay:

The Appellate Tribunal has been empowered to condone the delay in filing the appeal, if it is satisfied that the appellant had sufficient cause for not filing the appeal within time.

iii. Payment of Appeal Fee:

For filing appeal a fee of Rs. 1000 has to be deposited in the government Treasury (or in any designated branch of the National Bank of Pakistan) under the head “B02341-Sales Tax”.

iv. Reference to the High Court

The person aggrieved by the order of Appellate Tribunal may prefer an application to the High Court.

v. Limitation of Time:

The reference has to be filed within ninety days of the communication of the order of the Appellate Tribunal.

vi. Issues on Which Reference Can be Filed:

Reference to the High Court can be filed if a question of law arises out of the Appellate Tribunal’s order, against which application is being preferred.

vii. Grant of Stay by the High Court:

Notwithstanding that a reference has been made to the High Court, the tax shall be payable in accordance with the order of the Appellate Tribunal. However, where a recovery of tax has been stayed by the High Court by an order, such order shall cease to have effect on the expiration of a period of six months following the day on which it is made unless the reference is decided, or such order is withdrawn, by the High Court, earlier.

viii. Number of Copies of Application:

The application must be made in triplicate.

ix. Application Fee:

The application must be accompanied with a payment challan showing deposit of Rs. 100 in the treasury, or National Bank of Pakistan or State Bank of Pakistan.

x. Leave to Appeal to the Supreme Court:

Against the order of the High Court a leave to appeal can be sought from the Supreme Court of Pakistan.

5. Alternative Dispute Resolution (Section 47A)

- i. With a purpose to reduce the volume of long pending disputes between the department and the taxpayers the government has devised an alternative arrangement whereby disputes may be settled between the parties out of court. This arrangement has been provided for in section 47- A of the Sales Tax Act, 1990, whereby taxpayers can apply to the Board for constitution of Alternative Dispute Resolution Committee.

- ii. Only those cases can be requested for alternative dispute resolution which is pending at some appellate forum. The committee comprises one chairman and two members. The chairman and one member of the committee are from the private sector whereas the second member is to be a Collector or an Additional Collector.
- iii. The applicant taxpayer is to submit the application to the Board in four copies, i.e, and one copy for each of the official on the panel of the committee and the remaining for the record. The application should contain facts and arguments on the case and supporting references such as copies of show cause notice, order- in – original, order- in- appeal and citations and authorities to be quoted, if any.
- iv. The Board, after scrutinizing the application, constitutes the committee. The committee after affording the hearing opportunity to both the parties concludes its report of recommendations and forwards the same to the Board. The Board may on the recommendation of the committee, pass such order as it deems appropriate.
- v. In case the matter is already sub-judice before any authority, or tribunal or court, an agreement made between the registered person and the Board in the light of recommendations of the committee shall be submitted before that authority, tribunal or the court for consideration and orders as deemed appropriate.

6. Taxpayer's Authorized Representatives:

A taxpayer can authorize the following persons to represent the taxpayer before the adjudicating authority and the Appellate Tribunal:

A full time employer of the taxpayer, holding at least a bachelor degree.

A practicing lawyer

A person holding a bachelor or Masters Degree in Commerce.

A retired officer of Sales Tax, Customs or Federal Excise department who has put in at least 10 years of satisfactory service not lower than post of an Assistant collector.

An accountant.

1. Who cannot be Authorized?

- i. A person who has been convicted of criminal proceedings.
- ii. A person compulsorily dismissed or retired from service.
- iii. A person who is undischarged insolvent.

On receipt of complaint for misconduct against an authorized representative, the adjudicating authority, Appellate Tribunal or the Board may disqualify him from representing the taxpayer.

2. How to Appoint an Authorized Representative:

In order to appoint his authorized representative, a taxpayer shall issue a letter of authorization, duly signed by the proprietor, partner or director of the company or, business concern, which shall be submitted by the authorized representative before the adjudicating authority or Appellate Tribunal.

1.6 Calculation of Sales Tax

6.1 Steps involved in calculation of sales tax

The sales tax is calculated in a different method as compared to the income tax. The exercise of calculation of sales tax involves many steps. The first step is the recording of transaction in the accounting records. After this, the sales tax is calculated by considering the three factors in a transaction. These three factors are: value of supply, sales tax rate and time of supply.

First Step

1. Value of Supply

For sales tax purposes, 'value' means the value on which amount of sales tax is calculated. In case of local supply, the value is the amount paid for the goods or services including all the federal and provincial taxes but excluding the amount of sales tax. Normal trade discounts are allowed under sales tax law. For imported goods the value means the value determined under the Customs Act, 1969 including the amount of customs duty and federal excise duty. The value of supply of goods as listed in the Third Schedule of the Sales tax Act 1990 is based on the retail price printed on the product. The goods include fruit and vegetable juices, ice cream, aerated water and beverages and cigarettes.

2. Sales Tax Rates

The general rate of sales tax (GST) is 17% and some other rates have also been provided in the schedules of the Sales Tax Act 1990 for calculation of sales tax. On the sales to goods to the unregistered person, the sales tax rate is 19%.

3. Time of Supply

Sales tax is chargeable at the time of supply of goods or services. The time of supply means the time of delivery of goods by the supplier.

Second Step

The second step is to make adjustment by categorizing the sales tax on sales and purchases. This second step involves the input tax and output tax which are explained below:

1. Input Tax and Output Tax

An important feature of the sales tax is the adjustment of input tax paid on purchases and imports, meaning thereby that a registered person has to pay sales tax only on his value addition.

2. Output tax

It is the total amount of sales tax charged at current rate of sales tax on taxable sales made during the month i.e. total sales excluding exempt and zero-rated supplies.

3. Input tax

It is the amount paid by the registered person on business purchases and imports. He/she can claim a deduction for the sales tax paid as input tax if used in the manufacture of taxable supplies.

4. Tax Due

For a particular tax period it will be the output tax minus input tax during that tax period.

An Example

For example if a registered person has bought goods that cost Rs 100 and he/she is charged Rs 15 as sales tax (input tax) at the rate of 15% his total purchase price becomes Rs 115. If he/she sells the goods for Rs 200 and charges Rs 30 @ 15% (as output tax) his total sale price becomes Rs 230.

Output tax (15% of 200) = Rs. 30

Less: Input tax (15% of 100) = Rs. 15

Tax due (Rs. 30 minus Rs. 15) = Rs. 15

Adjustable Input Tax

In a particular tax period, a registered person can adjust input tax paid on goods and services purchased from local market, imported from abroad and goods purchased in auction during that tax period. He/she can also claim input tax paid in the immediate twelve preceding tax periods by mentioning the reasons for not claiming it earlier on the sales tax return.

Extent of Adjustment of Input Tax

In relation to tax period, a registered person shall not be allowed to adjust input tax in excess of ninety percent of the output tax for that tax period. The adjustment or refund of remaining input tax shall be made on yearly basis in the second month following the end of the financial year of the registered person.

Input Tax Adjustment on Fixed Assets

The tax charged on acquisition of fixed assets shall be adjustable against the output tax in twelve equal monthly installments after the start of production of a new unit.

Non-Adjustable Input Tax

Input tax cannot be adjusted on purchases of goods and services that are not used in making of taxable supplies. input tax is also not adjustable on the following goods, if acquired other than as stock-in-trade:

- Vehicles falling in chapter 87 of the First Schedule to the Customs Act, 1969.
- Food, beverage, garments, fabrics etc and consumption on entertainment:
- Gifts

A tax credit cannot be claimed unless the registered person holds a valid tax invoice or bill of entry or treasury challan Form in case of goods purchased in auction. Input tax credit cannot be claimed also if payment of the amount of sales tax is not made or received through banking channel as prescribed in section 73 of the Act.

1.7 Practical Questions on Sales Tax

Q.1 Z Ltd, a manufactures, has reported the following transactions for the month of October 2015 for calculation of sales tax:

1.	Supplier to registered person	Rs, 10, 00,000
2.	Supplies to non-registered person	Rs. 400,000
3.	Purchases from registered person	Rs. 300,000
4.	Purchases from non-registered person	Rs. 100,000
5.	Imports	Rs. 150,000
6.	Water charges paid	Rs. 50,000
7.	Sales tax paid on electricity bills	Rs. 14,000
8.	Sales Tax refund due from last year	Rs.4000

Solution

Sr. No	Particulars	Rs.	Rs.
	Output Tax:		
	Supplies to registered person = RS.10,00,000	10,00,000×17%	170,000
	Supplies to non-registered person= Rs.400,000	400,000×19%	76000
			246,000
	Less: Input tax:		

Purchases from registered person = Rs. 300,000 Purchases from non-registered person Rs. 100,000 Imports = Rs. 150,000	300,000×17% Note-2 15000×17%	51,000 25,500
Sales Tax payable (Output tax – Input tax) [Input tax allowed = 90% of output tax: Maximum]	246000-76,500	76,500
Less: Sales tax paid on electricity bill Less: Sales tax refund due Net Sales Tax payable		169,500
Note 1: Water charges are not subject to sales tax Note 2: Purchases from non-registered person are not subject to sales tax.		14000 4000 151,500

Q. 2 CONPLAX LTD, a registered manufactures, has reported the following transactions for the month of February 2016 for calculation of sales tax:

1.	Taxable supplies to registered persons	Rs.650, 000.
2.	Taxable supplies to registered wholesalers	Rs.110, 000.
3.	Zero-rated supplies	Rs.80, 000.
4.	Supplies donated	Rs.20, 000.
5.	Taxable purchase from registered persons	Rs.190, 000.
6.	Purchase from non-registered person	Rs.30, 000.
7.	Purchase of plant & Machinery	Rs.450, 000.
8.	Import of raw materials	Rs.50, 000.
9.	Sales tax debit	Rs.10, 000.

Solution

CONPAX LTD.

STRN _____

Tax Period: February

Tax Year:2018

Sr. No.	Particulars	Rs.	Rs.
	Output Tax:		
	<u>Taxable Supplies:</u>		
	Taxable supplies to registered persons Rs.650,000	650,000×17%	110,500
	Taxable supplies to registered wholesales Rs.110,000	110,000×17%	18,700
	<u>Zero-Rated Supplies:</u>		
	Zero-rated supplies = Rs.80,000	80,000×0%	0
	<u>Exempt Supplies:</u>		
	Supplies donated = Rs.20,000	-	-
	Total output tax		129,200
	<u>Input tax:</u>		
	Taxable, purchase from registered person	190,000×17%	32,300
	Purchases from non- registered person	30000	-
	Import of raw material	50000×17%	8500
	Purchase of plant & Machinery =	450,000×17%	76500

Total Input tax		117,300
Input Tax Apportionment		
=Input tax/Total Supplies ×Relevant Supplies		
1) Taxable Supplies =		
117,300/860,000×760,000 = 103,660		
Can be adjusted against output tax.		
2) Zero-Rated Supplies		
117,300/860,000×80,000 = 10,911 Claimed		
as refund fund from FBR		
3) Exempt supplies 117,300/860,000×20,000 =		
2729		
Not allowed to deduct.	129,200 – 103,660	25,540
Gross sales Tax payable		25,540
Net sales Tax payable		10,000
Add: Sales tax debit		35,540
Sales tax payable		

Q. 3 BOTEX Ltd a registered manufactured manufacturer has reported the following transactions for the month of January 20-16 for calculation of sales tax:

- Supplies to registered person at discount (7%) = Rs.450, 000 (Normal discount)
- Supplies to a government school as donation = Rs.16, 000.
- Export supplies Rs. 50,000.
- Supplies to a non-registered person Rs.200, 000.
- Purchases from registered person Rs.110, 000.
- Purchases from non-registered person Rs.60, 000.
- Import of raw materials Rs. 70, 000.
- Sales tax paid on phone bills Rs. 7000.
- Sales for refund due Rs. 4000

Solution

BOTEX LTD.

STRN_____

Status: Manufacturer

Tax Period = January 2018

Sr. No	Particulars	Rs.	Rs.
	Output tax:		
	Supplies to registered persons at 7% discount 450,000	450,000×17%	76500
	Supplies to non-registered person 200,000	200,000×19%	38000
	Supplies to a govt. school = Rs. 16,000	--	--
	Export supplies = 50,000	50000×0%	0
	Total output tax		114,500
	Less Input tax:		
	Purchases from registered person = Rs. 110,000	110,000×17%	18,700
	Purchases from non- registered person = Rs. 60,000.	--	--
	Import of raw material = Rs. 70,000	70,000×17%	11900
	Total Input tax		30,600

	<u>Apportionment of Input tax:</u> Input tax/Total supplies × Relevant supplies (1) Taxable supplies = $30,600/716,000 \times 650,000 = 27,780$. Can be adjusted (2) Exempt supplies = $30,600/716,000 \times 16,000 = 684$ Not allowed to claimed (3) Zero-rated supplies = $30,600/716,000 \times 50,000 = 2,136$. Claimed as refund from FBR Gross, sales tax payable = Output tax – Input tax on taxable supplies) = $114,500 - 27,780$ Less: Sales tax paid on phone on phone bills Less: Sales tax refund due Net sales tax payable		86,720 (7000) (4000) 75,720
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Q. 4 NEW Ltd a registered manufacturer has reported the following transactions for the month of December for the calculation of sales tax:

1.	Supplies to registered person	Rs. 12, 00,000.
2.	Supplies to an NGO	Rs. 100,000.
3.	Supplies to non-registered persons on discount (5%)	Rs.80, 000.
4.	Supplies to registered government supplies	Rs. 100,000.
5.	Purchases from registered persons	Rs. 500,000.
6.	Imports of raw materials	Rs. 40,000.
7.	Purchases from non-registered persons on discount (10%)	Rs.50, 000 (Normal discount)
8.	Sales tax refund due	Rs. 10,000.

Solutions

New LTD
STRN_____
Status: Manufacturer
Tax Period = January 2018

Sr. No	Particulars	Rs.	Rs.
	Supplies to registered persons at 7% discount =Rs.12,00,000	$1200,000 \times 17\%$	204,000
	Supplies to non-registered persons at 5% discount = Rs.80,000	$80,000 \times 19\%$	15,200
	Supplies to NGO = Rs. 100, 000.	--	--
	Supplies to registered govt. Supplies = Rs. 100,000	$100,000 \times 17\%$	17000
	Total Output tax		236,200
	Less input tax:		
	Purchases from registered person Rs. 500, 000.	$500,000 \times 17\%$	85000
		--	--
	Purchases from non- registered person =	$40,000 \times 17\%$	6800

50,000		
Imports = Rs. 40,000		91,800
Total Input tax		
Apportionment of Input tax =		
Input tax/Total supplies × Relevant supplies		
(1) Taxable supplies = $91,800/14,80,0000 \times 13,850,000 = 85,597$		
Can be adjusted		
(2) Exempt supplies = $91,800/14,80,0000 \times 100,000 = 6203$.		
Cannot be adjusted	144,400	
Gross sales tax payable		144,400
= Output tax – Input tax on taxable supplies)		(10,000)
= 236,200 – 91,800 =		134,400
Less : Sales Tax Refund due		
Net sales tax payable		

Q. 5 XYZ Ltd a registered distributor, has reported the following transactions for the month of September 2016 for the calculation of sales tax.

1.	Taxable turnover	Rs. 900000 (to registered person)
2.	Taxable turnover	Rs. 110,000 (to non registered persons)
3.	Items donated	Rs. 30,000
4.	Exports to Afghanistan	Rs. 170,000
5.	Taxable purchases from registered person	Rs. 270,000
6.	Taxable purchases from non registered person	Rs. 170,000
7.	Credit notes issued in respect of taxable supplies	Rs.15000
8.	Sales tax paid on electricity bills	Rs.3000
9.	Sales tax refund due	Rs.10,000.

Solution

XYZ Ltd
STRN.....
Registered distributor
Sales tax year 2018

Sr. No	Particulars	Rs.	Rs.
	Output tax		
	Taxable turnover Rs. 900000 (to registered person)	$900,000 \times 17\%$	153,000
	Taxable turnover Rs. 110,000 (to non-registered persons)	$110,000 \times 19\%$	20,900
	Items donated Rs. 30,000		
	Exports to Afghanistan Rs. 170,000	--	--
	Credit notes issued in respect of taxable supplies		
	Rs.15000 (Note-1)	$170,000 \times 0\%$	0
	Total output tax	$15000 \times 17\%$	(2550)
			171,350
	Less: Input tax		

Taxable purchases from registered person Rs. 270,000	270,000×17%	45,900
Taxable purchases from non-registered person Rs. 170,000	170,000	--
Total input tax		45,900
Apportionments of input tax		
Input tax/total supplies× relevant supplies		
1. Taxable supplies=45,900/11,95,000×995,000 =38218		
2. Exempt supplies=45,900/11,95,000×30000=1152	125,450	
3. Zero rated supplies=45,900/11,95000×170,000 =6530		
Gross sales Tax payable		
=output tax-input tax on taxable supplies		125,450
=171,350-45,900		
Less: Sales tax paid on electricity bills		(3000)
Less: Sales refund due		(10,000)
Net sales tax payable		112,450
Note-1: Credit note for taxable supplies represents sales returns.		

2. The Federal Excise Act, 2005

2.1 Definitions

Section 2 of Federal Excise Act, 2005, provides definitions of various terms and concepts used in the Act. A complete understanding of these terms will enable the readers to follow the subject more easily and comprehensively.

Adjudicating Authority [Section 2(1)]

Adjudicating Authority means any authority competent to pass any order or decision under this Act or the rules made there under, but does not include the Board or Appellate Tribunal;

Adjustment [Section 2(2)]

Adjustment means deduction of amount of duty paid on goods used in the manufacture or production of other goods from the amount of duty payable on such other goods in the prescribed manner

Appellate Tribunal [Section 2(3)]

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

Board [(Section 2(4)]

Board means the Federal Board of Revenue established under the Central Board of Revenue Act, 1924 (IV of 1924) and on the commencement of the Federal Board of Revenue Act, 2007, the Federal Board of Revenue established under section 3 thereof.

Chief Commissioner [Section 2(4a)]

Chief Commissioner means a person appointed as the Chief Commissioner Inland Revenue under section 29.

Commissioner [Section 2(5)]

Commissioner means a person appointed as a Commissioner Inland Revenue under section 29.

Conveyance [Section 2(6)]

Conveyance means any means of transport used for carrying goods or passengers such as vessel, aircraft, vehicle or animal etc.

Default Surcharge [Section 2(7)]

Default surcharge means surcharge levied under section 8.

Distributor [Section 2(8)]

Distributor means a person appointed by a manufacturer in or for a specified area to purchase goods from him for sale to a wholesale dealer in that area;

Due date [Section 2(8a)]

Due date in relation to furnishing a return under section 4, means the 15th day of the month following the end of the month, or such other date as the Federal Government may, by notification in the official Gazette, specify.

Dutiable Goods [Section 2(8b)]

Dutiable goods means all excisable goods specified in the First Schedule except those which are exempt under section 16 of the Act;

Dutiable Supply [Section 2(8c)]

Dutiable supply means a supply of dutiable goods made by a manufacturer other than a supply of goods which is exempt under section 16 of the Act;

Dutiable Services [Section 2(8d)]

Dutiable services means all excisable services specified in the First Schedule except those which are exempt under section 16 of the Act;

Duty [Section 2(9)]

Duty means any sum payable under the provisions of this Act or the rules made there under and includes the default surcharge and the duty chargeable at the rate of zero per cent

Duty Due [Section 2(9a)]

Duty due means duty in respect of supplies made or services provided or rendered during a month and shall be paid at the time of filing of return;

Establishment [Section 2(10)]

Establishment includes an undertaking, firm or company, whether incorporated or not, an association of persons and an individual;

Factory [Section 2(11)]

Factory means any premises, including the precincts thereof, wherein or in any part of which goods are manufactured, or wherein or in any part of which any manufacturing process connected with the production of the goods is being carried on or is ordinarily carried on.

Officer of Inland Revenue [Section 2(12)]

Officer of Inland Revenue means any person appointed by the Board as officer of Inland Revenue under section 29 or any person (including an officer of the Provincial Government) entrusted by the Board with any of the powers of an officer of Inland Revenue under this Act or rules made there under.

Franchise [Section 2(12a)]

Franchise means an authority given by a franchiser under which the franchisee is contractually or otherwise granted any right to produce, manufacture, sell or trade in or do any other business activity in respect of goods or to provide service or to undertake any process identified with franchiser against a fee or consideration including royalty or technical fee, whether or not a trade mark, service mark, trade name, logo, brand name or any such representation or symbol, as the case may be, is involved;

Goods [Section 2(13)]

Goods mean goods leviable to excise duty under this Act or as specified in the First Schedule and includes goods manufactured or produced in non-tariff area and brought for use or consumption to tariff area;

Goods Insurance [Section 2(14)]

Goods insurance includes fire, marine, theft, accident and other such miscellaneous insurance;

Import and Export [Section 2(15)]

Import and export mean respectively bringing into, and taking out of Pakistan by sea, land or air and shall be deemed to have always been so defined;

KIBOR [Section 2(15a)]

KIBOR means Karachi Inter Bank Offered Rate prevalent on first day of each quarter of the financial year;

Manufacture [Section 2(16)]

Manufacture includes,

- a. Any process incidental or ancillary to the completion of a manufactured product;
- b. any process of re-manufacture, remaking, reconditioning or repair and the processes of packing or repacking such product, and, in relation to tobacco, includes the preparation of cigarettes, cigars, cheroots, biris, cigarette and pipe or hookah tobacco, chewing tobacco or snuff, or preparation of unmanufactured tobacco by drying, cutting and thrashing of raw tobacco, and the word "manufacturer" shall be construed accordingly and shall include,—
 - i. any person who employs hired labour in the production or manufacture of goods; or
 - ii. any person who engages in the production or manufacture of goods on his own account if such goods are intended for sale; and
 - iii. any person who engages in the production or manufacture of goods on his own account if such goods are intended for sale; and
- c. any person who, whether or not he carries out any process of manufacture himself or through his employees or any other person, gets any process of manufacture carried out on his behalf by any person who is not in his employment:

Provided that any person so dealing in goods shall be deemed to have manufactured for all purposes of this Act, such goods in which he deals in any capacity whatever;

Non-fund Banking Services [Section 2(16a)]

Non-fund banking services includes all non-interest based services provided or rendered by the banking companies or non-banking financial institutions against a consideration in the form of a fee or commission or charges.

Non-tariff Area [Section 2(17)]

Non-tariff area means Azad Jammu and Kashmir, Northern Areas and such other territories or areas to which this Act does not apply;

Person [Section 2(18)]

Person includes a company, an association, a body of individuals, whether incorporated or not, a public or local authority, a Provincial Government or the Federal Government;

Prescribed [Section 2(19)]

Prescribed means prescribed under this Act or by rules made there under;

Franchise

Registered person [Section 2(20)]

Registered person means a person who is registered or is required to be registered under this Act provided that a person who is not registered but is required to be registered shall not be entitled to any benefit or privilege under this Act or rules made there under, unless he is registered and such benefit and privilege, unless allowed by Board, shall be confined to period of registration;

Sale and Purchase [Section 2(21)]

Sale and Purchase with their grammatical variations and cognate expressions, mean any transfer of the possession of goods or rendering and providing of services by one person to another in the ordinary course of trade or business for cash or deferred payment or other consideration;

Sales Tax Mode [Section 2(21a)]

Sales tax mode means the manner of collection and payment under the Sales Tax Act, 1990, and rules made there under, of the duties of excise chargeable under this Act specified to be collected and paid as if such duties were tax chargeable under section 3 of the said Act and all the provisions of that Act and rules, notifications, orders and instructions made or issued there under shall, *mutatis mutandis*, apply to the excise duty so chargeable.

Schedule [Section 2(22)]

Schedule means the schedule appended to this Act;

Services[Section 2(23)]

Services means services, facilities and utilities leviable to excise duty under this Act or as specified in the First Schedule read with Chapter 98 of the Pakistan Customs Tariff, including the services, facilities and utilities originating from Pakistan or its tariff area or terminating in Pakistan or its tariff area;

Supply [Section 2(23a)]

Supply includes sale, lease or other disposition of goods and shall include such transaction as the Federal Government may notify in the official Gazette from time to time.

Tariff Area [Section 2(24)]

Tariff area means area other than the non-tariff area;

Wholesale Dealer [Section 2(25)]

Wholesale dealer means a person who buys or sells goods wholesale for the purpose of trade or manufacture, and includes a broker or commission agent who, in addition to making contracts for the sale or purchase of goods for others, stocks such goods belonging to others as an agent for the purpose of sale.

Zero-rated [Section 2(26)]

Zero-rated means duty of Federal excise levied and charged at the rate of zero per cent under section 5 of this act.

2.2 Levy, Collection and Payment of Duty

1. Levy and Collection of Duty (Section 3)

1. The Federal Excise Duty specified in the First Schedule to be levied on the following categories.

- a. Goods produced or manufactured in Pakistan;
 - b. Goods imported into Pakistan;
 - c. such goods as the Federal Government may, by notification in the official Gazette, specify, as are produced or manufactured in the non-tariff areas and are brought to the tariff areas for sale or consumption therein; and
 - d. Services provided in Pakistan including the services originated outside but rendered in Pakistan;
at the rate of 2[fifteen] per cent *ad valorem* except the goods and services specified in the First Schedule, which shall be charged to Federal excise duty as, and at the rates, set-forth therein.
2. Duty in respect of goods imported into Pakistan shall be levied and collected in the same manner and at the same time as if it were a duty of customs payable under the Customs Act, 1969 (IV of 1969), and the provisions of the said Act including section 31A thereof shall apply.
3. The Board may, by notification in the official Gazette, in lieu of levying and collecting under sub-section (1) duties of excise on goods and services, as the case may be, levy and collect duties,
- a. On the production capacity of plants, machinery, undertakings, establishments or installations producing or manufacturing such goods; or
 - b. on fixed basis, as it may deem fit, on any goods or class of goods or on any services or class of services, payable by any establishment or undertaking producing or manufacturing such goods or providing or rendering such services.
4. The Federal Government may levy and collect duty on any class or classes of goods or services by notification in the official Gazette at such higher or lower rate or rates as may be specified in such notification.
5. The liability to pay duty shall be
- a. in case of goods produced or manufactured in Pakistan, of the person manufacturing or producing such goods;
 - b. In case of goods imported into Pakistan, of the person importing such goods;
 - c. in case of services provided or rendered in Pakistan, of the person providing or rendering such service , provided where services are rendered by the person out of Pakistan, the recipient of such service in Pakistan shall be liable to pay duty; and
 - d. In case of goods produced or manufactured in non-tariff areas and brought to tariff areas for sale or consumption therein, of the person bringing or causing to bring such goods to tariff areas.
- 1. Filing of Return and Payment of Duty etc (Section 4)**
- i. For every month, a registered person/ shall furnish not later than the due date a true and correct return in such manner and form as may be prescribed by the Board by notification in the official Gazette.
 - ii. Duty due for the dutiable supplies made or services rendered during a month shall be deposited by the registered person in the designated branch of the bank at the time of filing of his return under sub-section (1):

Provided that the Board may, by notification in the official Gazette, prescribe any other manner of depositing the duty.

- iii. If during any month, there is a change in the rate of duty, a separate return showing the application of different rates of duty shall be used in respect of each portion of such month.
- iv. A registered person may, subject to approval of the 3[Commissioner Inland Revenue] of Federal Excise having jurisdiction, file a revised return within 4[one hundred and twenty] days of the filing of return under sub-section (1), to correct any omission or wrong declaration made therein.
- v. The Board may, by notification in the official Gazette, require any person or class of persons for any goods or class of goods to furnish such summary or details of particulars pertaining to imports, purchases, utilization, consumption, production, sales or disposal of such goods during any month or months in such format and manner as may be specified and provisions of this sub-section may be invoked *mutatis mutandis* in respect of services.
- vi. The Board may by an order, specify the manner and procedure for filing of return for the purpose of this Act or rules made there under and for payment of duty by electronic means. The Board may specify the manner and procedure for the submission, receipt and transmission of any information for the purpose of this Act or rules made there under by electronic means.
- vii. Every amount of duty due from any person on any other account shall also be deposited on the prescribed 5[return] in the bank branch designated and in the same manner as aforesaid.
- viii. The Board may, by rules made under this Act, prescribe a composite return.

3. Zero Rates of Duty and Drawback of Duty etc (Section 5)

- i. Notwithstanding the provisions of section 3, the goods exported out of Pakistan or such goods as may be, by a notification in the official Gazette, specified by the Federal Government shall be charged to duty at the rate of zero per cent and adjustment of duty in terms of section 6 shall be admissible on such goods.
- ii. The Board may, by notification in the official Gazette, grant drawback of duty paid on any goods used in the manufacture of any goods manufactured in and exported out of Pakistan, or shipped as provisions or stores for consumption on board a ship or aircraft proceeding to a destination outside Pakistan, at such rate or rates and subject to such conditions and limitations as may be specified in the notification.
- iii. Notwithstanding anything in sub-sections (1) and (2), the Board may, by notification in the official Gazette, prohibit the payment of drawback, refund or adjustment of duty upon the exportation of goods or any specified goods or class of goods to any specified foreign port or territory.

4. Adjustment of Duties of Excise (Section 6)

- i. For the purpose of determining net liability of duty in respect of any goods, the duty already paid on goods specified in the First Schedule and used directly as input goods for the manufacture or production of such goods shall be deducted from the amount of duty calculated on such goods.

- ii. Adjustment of duty of excise under sub-section (1) shall be admissible only if a person registered under this Act holds a valid proof to the effect that he has paid the price of goods purchased by him including the amount of duty and received the price of goods sold by him including the amount of duty through banking channels including online payment whether through credit card or otherwise.
- iii. Notwithstanding the provisions of sub-section (1), the Board may, by a notification in the official Gazette, disallow or restrict whole or part of the amount of or otherwise regulate the adjustment of duty in respect of any goods or class of goods.

5. Application of the Provisions of the Sales Tax Act, 1990 (Section 7)

- i. In case of goods specified in the Second Schedule or such services as may be specified by the Board through a notification in the official Gazette 3[the duty shall be payable in sales tax mode, whereby,
 - a. a registered person manufacturing or producing such goods or providing or rendering such services shall be entitled to deduct input tax paid during the tax period from the amount of duty of excise due from him on such goods or services in respect of that tax period;
 - b. a registered person shall be entitled to deduct the amount of duty of excise paid or payable by him on such goods or services as are acquired by him during a tax period from the output tax due from him in respect of that tax period;
 - c. a registered person supplying such goods or providing or rendering such services shall be entitled to deduct duty of excise paid or payable on such goods or services as are acquired by him during the tax period from the amount of duty of excise due from him on such goods manufactured or produced or services as are provided or rendered by him during that period; and
 - d. a person shall be entitled to deduct duty of excise paid or payable, on such goods or services as are acquired by him during a month, from the amount of duty of excise due from him on such goods manufactured or produced or services as are provided or rendered by him, during that month. Such services are provided or rendered by him, during that month.
- ii. The Federal Government may, by notification in the official Gazette, declare that any of the provisions of the Sales Tax Act, 1990, relating to the levy of and exemption from sales tax, registration, book keeping and invoicing requirements, returns, offences and penalties, appeals and recovery of arrears shall, with such modifications and alterations as it may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duty leviable under this Act.

6. Default Surcharge (Section 8)

If a person does not pay the duty due or any part thereof within the prescribed time or receives a refund of duty or drawback or makes an adjustment which is not admissible to him, he shall, in addition to the duty due, pay default surcharge at the rate of KIBOR plus three percent per annum of the duty due, refund of duty or drawback.

Explanation.—For the purpose of this section,

- a. The period of default shall be reckoned from the date following the due date on which the duty was payable to the preceding day on which the duty is actually paid; and
- b. in case of inadmissible adjustment or refund of duty or drawback, the period of default shall be reckoned from the date of such adjustment or as the case may be, refund of duty or drawback is received.

7. Liability for Payment of Duty in the Case of Private Companies or Business Enterprises or in Case of Sale of Business Ownership (Section 9)

- i. Notwithstanding anything contained in any other law for the time being in force, where any private company or business enterprise is closed or discontinued or otherwise ceases to exist and any amount of duty chargeable on the company or business enterprise, whether before, or in the course of, or after its liquidation cannot be recovered from the company or business enterprise, every person who was a owner of, or partner in, or director of, the company or business enterprise shall, jointly and severally with such persons, be liable for the payment of such duty.
- ii. In the case of sale or transfer of ownership of a business or part thereof involving any charge of duty to another person as an ongoing concern, the chargeable duty shall be paid by the person to whom such sale is made or ownership is transferred provided that if any amount of duty payable by such person remains unpaid, such unpaid amount of duty shall be the first charge on the assets of the business and shall be payable by the transferee of business:
- iii. In case of termination of a business or part thereof involving any outstanding charge of duty, a person terminating such business or part thereof shall be required to account for and pay the outstanding charge of duty as if no such termination has taken place.

8. Applicable Value and Rate of Duty (Section 10)

The value and the rate of duty applicable to any goods or services shall be the value, retail price, tariff value and the rate of duty in force,

- a. in the case of goods, on the date on which the goods are 2[supplies] for export or for home consumption;
- b. in the case of services, on the date on which the services are provided or rendered; and
- c. in the case of goods produced or manufactured outside the areas to which this Act has been applied and brought to such areas for sale or consumption therein, the date on which the goods are brought to those areas.

9. Collection of Excess Duty etc (Section 11)

Every person who for any reason whatever has collected or collects any duty, which is not payable as duty or which is in excess of the duty actually payable and the incidence of which has been passed on to the consumer, shall pay the amount so collected to the Federal Government and all the provisions of this Act or rules made there under shall apply for the recovery of such amount and claim for refund of any such amount paid or recovered shall not be admissible on any ground whatever.

10. Determination of Value for the Purposes of Duty (Section 12)

- i. Where any goods are liable to duty under this Act at a rate dependent on their value, duty shall be assessed and paid on the basis of value as determined in accordance with sub-section (46) of section 2 of the Sales Tax Act, 1990, excluding the amount of duty payable thereon.]
- ii. Where any services are liable to duty under this Act at a rate dependent on the charges therefore, the duty shall be paid on total amount of charges for the services including the ancillary facilities or utilities, if any, irrespective whether such services have been rendered or provided on payment of charge or free of charge or on any confessional basis.
- iii. Where any goods are chargeable to duty at the import stage, duty will be assessed and paid on the value determined in accordance with section 25 of the Customs Act, 1969 (IV of 1969), including customs duties payable thereon.
- iv. Where any good is chargeable to a duty on the basis of retail price, duty thereon shall be paid on the retail price fixed by the manufacturer, inclusive of all 2[duties,] charges and taxes, other than sales tax levied and collected under section 3 of the Sales Tax Act, 1990, at which any particular brand or variety of such goods should be sold to the general body of consumers or, if more than one such price is so fixed for the same brand or variety, the highest of such price and such retail price shall, unless otherwise directed by the Board, be legibly, prominently and indelibly indicated on each good, packet, container, package, cover or label of such goods:
Provided that where so and as specified by the Board, any goods or class of goods liable to duty on local production as percentage of retail price, the provisions of this sub-section shall mutatis mutandis apply in case such goods are imported from abroad.
- v. The Board may fix the minimum price of any goods or class of goods, for the purpose of levying and collecting of duty and duty on such goods shall be paid accordingly.
Provided that, where the price at which the goods or class of goods are sold, is higher than the price fixed by the Board, the duty shall, unless otherwise directed by the Board, be levied and collected at such higher price.

11. Registration (Section 13)

- i. Any person engaged in the production or manufacture of goods or providing or rendering services liable to duty of excise under this Act shall, unless otherwise specified, be required to obtain registration in the prescribed manner regardless of his annual turnover or volume of sales of such goods or services.
- ii. Where a person who is already registered under the Sales Tax Act, 1990, shall not be required to take separate registration for excise purpose and his sales tax registration shall be deemed to be a registration for the purpose of this Act:
Provided that provisions of the Sales Tax Act, 1990, including those relating to exemption threshold shall not apply where a person obtains or is liable to obtain registration for the purposes of this Act but does not have or is not liable to registration under the Sales Tax Act, 1990.

12. Recovery of Unpaid Duty or of Erroneously Refunded Duty or Arrears of Duty, etc. (Section 14)

- i. Where any person has not levied or paid any duty or has short levied or short paid such duty or where any amount of duty has been refunded erroneously, such person shall be serviced with notice requiring him to show cause for payment of such duty provided that such notice shall be issued within 2[five] years from the relevant date.
- ii. The officer of Inland Revenue], empowered in this behalf, shall after considering the objections of the person served with a notice to show cause under sub-section (1), determine the amount of duty payable by him and such person shall pay the amount so determined along with default surcharge and penalty as specified by such officer under the provisions of this Act
 Provided that an order under this section shall be made within one hundred and twenty days of issuance of show cause notice or within such extended period as the Commissioner may, for reasons to be recorded in writing, fix, provided that such extended period shall in no case exceed sixty days :
 Provided further that any period during which the proceedings are adjourned on account of a stay order or Alternative Dispute Resolution proceedings or the time taken through adjournment by the petitioner not exceeding thirty days shall be excluded from the computation of the periods specified in the first proviso.
- iii. Where any amount of duty levied and penalty imposed or any other amount payable under this Act is due from any person, such amount or sum shall be recovered in such manner as is prescribed under this Act or rules made there under.
- iv. Notwithstanding anything contained under any other law for the time being in force, where any business or activity involving liability to charge, levy and pay duty under this Act is sold, discontinued or liquidated, the amount of unpaid or recoverable duty shall be the first charge on the assets of the business.

Explanation

For the purpose of this section, 2[refund includes drawback of duty and] the expression —relevant date] means the date on which the payment of duty was due under sub-section (3) and in case where any amount of duty has been erroneously refunded, the date of its refund.

13. Short Paid Amounts Recoverable (Section 14A)

Notwithstanding the provisions of this Act or the rules made there under, here a registered person pays the amount of duty less than the duty due as indicated in his return, the short paid amount of duty along with default surcharge shall be recovered from such person by stopping removal of any goods from his business premises and through attachment of his business bank accounts without prejudice to any other action under this Act or the rules made there under:

Provided that no penalty under this Act or rules made there under shall be imposed unless a show cause notice is given to such person.

14. Application of the Customs Act, 1969 (IV of 1969) to Federal Excise Duties. (Section 15)

The Federal Government may, by notification in the official Gazette, declare that any or all of the provisions of the Customs Act, 1969 (IV of 1969), shall, with such

modifications and alterations it may specify, consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duties levied by sections 3 and 8.

15. Exemptions. (Section 16)

- i. All goods imported, produced or manufactured in Pakistan and services provided or rendered except such goods and services as are specified in the First Schedule shall be exempt from whole of excise duties 1[levied under section 3]:
Provided that goods and services specified in the Third Schedule shall be exempt from duty subject to such conditions and restrictions, if any, specified therein and no adjustment in terms of section 6 shall be admissible in respect of goods exempt from duty of excise whether conditionally or otherwise.
- ii. The Federal Government may by notification in the official Gazette, exempt subject to such conditions as may be specified therein, any goods or class of goods or any services or class of services from the whole or any part of the duty leviable under this Act.
- iii. The Board may, by special order, exempt from the payment of the whole or any part of the duty leviable under this Act, under circumstances of exceptional nature, any goods or services on which such duty is leviable.
- iv. Notwithstanding the provisions of sub-sections (2) and (3), the Federal Government or the Board may, by a notification in the official Gazette, for reasons to be recorded, exempt any person or class of persons from payment of the whole or part of the default surcharge imposed under section 8 2[and penalties] subject to the such conditions or limitations as may be specified in such notification.

16. Records. (Section 17)

- i. Every person registered for the purposes of this Act shall maintain and keep for a period of 3[six] years 4[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] at his business premises or registered office in English or Urdu language the following records of excisable goods purchased, manufactured and cleared (including those cleared without payment of excise duty) by him or by his agent acting on his behalf in such form and manner as would permit ready ascertainment of his liability of duty, namely:
 - a. records of clearances and sales made indicating the description, quantity and value of goods, name and address of the person to whom sales were made and the amount of the duty charged;
 - b. records of goods purchased showing the description, quantity and value of goods, name, address and registration number of the supplier and the amount of the duty, if any, on purchases;
 - c. records of goods cleared and sold without payment of duty;
 - d. records of invoices, bills, accounts, agreements, contracts, orders and other allied business matters
 - e. records of production, stocks and inventory;

- f. records of imports and exports; and
- g. such other records as may be specified by the Board.
- ii. For any person or class of persons registered under this Act, or for any goods or class of goods the Board may specify or prescribe,—
 - a. to keep any other records for the purposes of this Act;
 - b. to use such electronic fiscal cash registers as may be approved by the Board; and
 - c. the procedure or software for electronic maintenance of records and filing of statements, documents or information by any person or class of persons.
- iii. Provisions of sub-sections (1) and (2) shall apply mutatis mutandis on services provided or rendered by a person registered under this Act.

17. Invoices. (Section 18)

- i. A person registered under this Act shall issue for each transaction a serially numbered invoice at the time of clearance or sale of goods, including goods chargeable to duty at the rate of zero per cent, or providing or rendering services containing the following particulars, namely:—
 - a. name, address and registration number of the seller;
 - b. name, address and registration number of the buyer;
 - c. date of issue of the invoice;
 - d. description and quantity of goods or as the case may be, description of services;
 - e. value exclusive of excise duty;
 - f. amount of excise duty; and
 - g. value inclusive of excise duty.
- 2. Notwithstanding sub-section (1), where a registered person is also engaged in making supplies taxable under the Sales Tax Act, 1990, such person shall not be required to issue a separate invoice for excise purposes and the amount of excise duty and other related information may in such cases be mentioned on the invoice issued for sales tax purposes.
- 3. The Board may, by notification in the official Gazette, specify such modified invoices for different persons or classes of persons as it may deem necessary.
- 4. The Board may, by notification in the official Gazette, specify goods in respect of which a copy of the invoice shall be carried or accompanied with the conveyance during their transportation or movement in such manner and subject to such conditions as may be specified in this behalf either in such notification or otherwise.
- 5. The Board may, by notification in the official Gazette, specify the goods or services in respect of which sales invoice shall be issued electronically and prescribe the manner and procedure therein.

2.3 Offences and Penalties

1. Offences, Penalties, Fines and Allied Matters (Section 19)

- i. Any person who fails to file or files an incorrect return within the period specified in sub-section (1) of section 4 or fails to make payment or makes short payment of duty on any account, shall pay a penalty of 1[five thousand

rupees in case of non-filing of return and ten thousand rupees or five per cent of the duty involved whichever is higher in case of short payment of duty due] in addition to the amount due from him and without prejudice to other liabilities which may be determined against him or action which may be taken against him under this Act and rules made there under ;

Provided that where a person files the return within fifteen days after the due date he shall pay a penalty of one hundred rupees for each day of default; and

- ii. Any person who,
 - a. makes, orally or in writing, or signs any declaration, certificate or other document required by this Act or rules made there under or by any Federal Excise officer to do so, which is untrue or incorrect in any particular or which is incomplete by omitting any material particular there from;
 - b. counterfeits or falsifies, or uses, when counterfeited or falsified, any document which is or may be required under this Act or rules made there under or any document used in the transaction of any business or matter relevant to this Act or rules made there under; and
 - c. fails or refuses to give or produce to the 3[officer of Inland Revenue] any information or document required to be given or produced under this Act or rules made there under;
shall be guilty of an offence and for every such offence shall be liable to fine which may extend to twenty thousand rupees and in case of offence under clause (b), the fine may extend to one hundred thousand rupees and he shall be punishable with imprisonment for a term which may extend to five years or with both.
- iii. Any person who,
 - a. illegally removes, stores, keeps, or withdraws or in any way assists or is concerned in the illegal removal or withdrawal of any goods in the manner other than the manner prescribed under this Act or rules made there under;
 - b. is in any way concerned in conveying, removing, depositing or dealing with any goods with intent to defraud the Government of any duty of excise due thereon, or to violate any of the provisions of this Act or rules made there under;
 - c. is in any way concerned in any fraudulent evasion or attempt at fraudulent evasion of any duty of excise;
 - d. claims, takes or avails adjustment of duty not admissible under this Act or the rules made there under; and
 - e. is in any way concerned in the manufacture of any dutiable goods in contravention of the provisions of this Act or rules made there under;
shall be guilty of an offence and for each such offence, shall be liable to fine which may extend to fifty thousand rupees or five times of the duty involved, whichever is higher and to punishment with imprisonment which may extend to five years or both.
- iv. Any person who, without the approval of the Commissioner, directly or otherwise destroys, damages, erases or otherwise manipulates data stored in or used in connection with a computer or otherwise uses a computer, the purpose

or effect of which is to reduce, avoid or evade any liability to duty of excise which would otherwise have been imposed by this Act, or to defeat any provisions of this Act or rules made there under shall be guilty of an offence and shall be liable to fine which may extend to seventy five thousand rupees or ten times of the duty involved, whichever is higher and to punishment with imprisonment which may extend to five years or both.

- v. If any person obtains, attempts to obtain or abets in obtaining, or does anything whereby there might be obtained by another person, any amount by way of refund or drawback of any duty in respect of any goods 2[or services] not lawfully payable or allowable in respect thereof or which is greater than the amount so payable or allowable, he shall be guilty of an offence and shall be liable to fine which may extend to one hundred thousand rupees or five times of duty involved, whichever is higher and to punishment with imprisonment which may extend to five years or both.
- vi. Any person who obstructs any 1[officer of Inland Revenue] or other public servant or any person acting in his aid or assistance, or duly employed for the prevention of offences under this Act or rules made there under in the execution of his duty or in the due seizing of any goods liable to seizure under this Act or rules made there under, shall be guilty of an offence and for each such offence, shall be liable to fine which may extend to fifty thousand rupees or five times of duty involved, whichever is higher and to punishment which may extend to three years or both.
- vii. Where an offence under this Act or rules made there under has been committed by a company, firm, or other body of persons, any person who at the time of the commission of the offence was a director, manager, or other similar officer or a partner of the company, firm, or other body of persons or was purporting to act in that capacity shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.
- viii. Unless otherwise legally proved, where any person is liable under this Act to any penalty or punishment for any act, omission, neglect or default, he shall be liable to the same punishment, penalty or forfeiture for every such act, omission, neglect or default of any agent or employee.
- ix. Where any goods are chargeable to duty on the basis of retail price under this Act and the retail price is not indicated on the goods 2[and in case of cigarettes, retail price, health warning and name of the manufacturer is not mentioned] in the manner specified therein or in the rules made there under, the duty shall be charged at the rate of 500 per cent *ad valorem* in case of cigarettes, and 40 per cent *ad valorem* in case of goods other than cigarettes:
 Provided that in cases where a registered person does not intend to print retail price for any genuine reasons, he may voluntarily pay duty on the said higher rates as applicable to him and declare his duty payments in the return accordingly and other provisions of this section shall not apply in such cases.

- x. Where any person is engaged in the manufacture or production of cigarettes in the manner contrary to this Act or rules made there under or otherwise evades duty of excise on cigarettes or is engaged in the manufacture or production of counterfeited cigarettes, the machinery, equipment, instruments or devices used in such manufacture or production shall, after outright confiscation, be destroyed in such manner as may be approved by the 1[Commissioner] and no person shall be entitled to any claim on any ground whatsoever, or be otherwise entitled to any compensation in respect of such machinery or equipment, instruments or devices and such confiscation or destruction shall be without prejudice to any other penal action which may be taken under the law against the person or in respect of the cigarettes or vehicles involved in or otherwise linked or connected with the case.
- xi. Any goods in respect of which any of the provisions of this Act or rules made or notifications issued there under has been contravened shall be liable to confiscation along with the conveyance, if any, in which such goods are laden or have been or being carried and all confiscations in this regard shall vest with the Federal Government.
- xii. Any person who attempts to commit any offence punishable under this Act, or abets the commission of the offence, shall be liable to the punishment provided for the offence.

2. Appointment of Special Judges for Trial of Offences (Section 20)

- i. The Federal Government may, by notification in the official Gazette, appoint as many Special Judges as it may consider necessary, and, where it appoints more than one Special Judge, shall specify in the notification the territorial limits within which each one of them shall exercise jurisdiction.
- ii. A Special Judge shall be a person who is or has been or is qualified to be a Sessions Judge.

3. Trial of offences by Special Judge (Section 21)

- i. On the appointment of a Special Judge for any area, an offence punishable under this Act shall be tried exclusively by the Special Judge and all cases pending in any other court in such area immediately before such appointment shall stand transferred to such Special Judge.
- ii. The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), except those of Chapter XXXVIII of that Code, shall apply to the proceedings of the court of a Special Judge and, for the purposes of the said provisions, the court of a Special Judge shall be deemed to be a Court of Session trying cases, and a person conducting prosecution before the court of a Special Judge shall be deemed to be a Public Prosecutor.
- iii. For the purposes of sub-section (2), the Code of Criminal Procedure, 1898 (Act V of 1898), shall have effect as if an offence punishable under this Act were one of the offences referred to in sub-section (1) of section 337 of the Code.

- iv. A Special Judge shall take cognizance of, and have jurisdiction to try an offence tribal under sub-section (1) only upon a complaint in writing made by such 1[officer of Inland Revenue] as may be authorized by the Board in this behalf, by a general or special order in writing.
- v. The provisions of Chapter XX of the Code of Criminal Procedure, 1898 (Act V of 1898), shall apply to trial of cases under this Act in so far as they are not inconsistent with the provisions of this Act.
- vi. The Federal Government may, by order in writing, direct the transfer, at any stage of the trial, of any case from the court of one Special Judge to the court of another Special Judge for disposal, whenever it appears to the Federal Government that such transfer will promote the ends of justice or tend to the general convenience of parties or witnesses.
- vii. In respect of a case transferred to a Special Judge by virtue of sub-section (1) or under sub-section (6), such Judge shall not, by reason of the said transfer, be bound to recall and rehear any witness who has given evidence in the case before the transfer and may act on the evidence already recorded by or produced before the court which tried the case before the transfer

4. Appeal Against the Order of Special Judge (Section 21A)

An appeal against the order of a special Judge in respect of the trial of offence shall lie to the respective High Court of the Province within thirty days of the passing of the order and it shall be heard as an appeal under the Code of Criminal Procedure 1898 (Act V of 1898) by a single judge of High Court.]

5. Power to Arrest and Prosecute. (Section 22)

- i. Any officer of Inland Revenue authorized by the Board in this behalf who has reason to believe that any person has committed an offence under this Act may arrest such person after obtaining permission in writing from the Commissioner] concerned:
Provided that the 1[officer of Inland Revenue shall immediately intimate the fact of the arrest of a person to the Special Judge who may direct such Officer to produce that person at such time and place and on such date as the Special Judge considers expedient and such Officer shall act accordingly.
- ii. Notwithstanding anything contained in proviso to sub-section (1), any person arrested under this Act shall be produced before the Special Judge or, if there is no Special Judge within a reasonable distance, to the nearest Judicial Magistrate, within twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the Court of the Special Judge or, as the case may be, of such Magistrate.
- iii. When any person is produced under sub-section (2) before the Special Judge, he may, on the request of such person, after perusing the record, if any, and after giving the prosecution an opportunity of being heard, admit him to bail on his executing a bond, with or without sureties, or refuse to admit him to bail and direct his detention at such place as he deems fit:

Provided that nothing herein contained shall preclude the Special Judge from canceling the bail of any such person at a subsequent stage if, for any reason, he considers such cancellation necessary, but before passing such order he shall afford such person an opportunity of being heard, unless for reasons to be recorded he considers that the affording of such opportunity shall defeat the purposes of this Act.

- iv. When such person is produced under sub-section (2) before a Judicial Magistrate, such Magistrate may, after authorizing his detention in such custody, at such place and for such period as he considers necessary or proper for facilitating his earliest production before the Special Judge, direct his production before the Special Judge on a date and time to be fixed by him or direct such person to be forthwith taken to, and produced before, the Special Judge and he shall be so taken.
- v. Nothing in sub-section (3) or sub-section (4) shall preclude the Special Judge or the Magistrate from remanding any such person to the custody of the Federal Excise Officer holding inquiry against that person if such Officer makes a request in writing, to that effect and the Special Judge or the Judicial Magistrate, after perusing the record, if any, and hearing such person, is of the opinion that for the completion of inquiry or investigation it is necessary to make such an order, provided that in no case the period of such custody shall exceed fourteen days.
- vi. When any person is arrested under this Act, the Federal Excise Officer shall record the fact of arrest and other relevant particulars in the register mentioned in sub-section (10) and shall immediately proceed to inquire into the charge against such person and if he completes the inquiry within twenty-four hours of his arrest, excluding the time necessary for journey as aforesaid, he may, after producing such person before the Special Judge or the nearest Judicial Magistrate make a request for his further detention in his custody.
- vii. While holding an inquiry under sub-section (6), the Federal Excise Officer shall exercise the same powers as are exercisable by an officer in charge of a police-station under the Code of Criminal Procedure, 1898 (Act V of 1898), but such Officer shall exercise such powers subject to the foregoing provisions of this section while holding an inquiry under this Act.
- viii. If a officer of Inland Revenue, after holding an inquiry, is of the opinion that there is no sufficient evidence or reasonable grounds to proceed against a person he shall make a report to this effect to the Commissioner and with his approval may release him on his executing a bond with or without sureties and shall direct such person to appear, as and when required, before the Special Judge and may make a report to the Special Judge for the discharge of such person and shall make a full report of the case of his immediate superior.
- ix. The Special Judge to whom a report has been made under subsection (8) may, after the perusal of record of the inquiry and hearing the prosecution, agree with such report and discharge the accused or, if he is of the opinion that there is sufficient ground for proceeding against such person, proceed with his trial and direct the prosecution to produce evidence.

- x. The 1[officer of Inland Revenue] empowered to hold inquiry under this section shall maintain a register to be called "Register of Arrests and Detention" in the prescribed form in which he shall enter the name and other particulars of every person arrested under this Act, together with the time and date of arrest, the details of the information received, the details of things, goods or documents, recovered from his custody, the name of the witnesses and the explanation, if any, given by him and the manner in which the inquiry has been conducted from day to day, and such register or authenticated copies of its aforesaid entries shall be produced before the Special Judge whenever such Officer is so directed by him.
- xi. After completing the inquiry, the 1[officer of Inland Revenue] shall, as early as possible, submit to the Special Judge a complaint in the same form and manner, in which the officer in charge of a police-station submits a report before a court.
- xii. Any Magistrate of the first class may record any statement or confession during inquiry under this Act, in accordance with the provisions of section 164 of the Code of Criminal Procedure, 1898 (Act V of 1898).
- xiii. Without prejudice to the foregoing provisions of this section, the Federal Government may, by notification in the official Gazette, authorize any other officer working under the Board to exercise the powers and perform the functions of a 1[officer of Inland Revenue] under this section, subject to such conditions, if any, that it may deem fit to impose.
- xiv. Notwithstanding any provision of this Act, where any person has committed an offence liable to penalty or punishment under this Act, the 2[Commissioner] may, either before or after the initiation of any proceedings for the recovery of duty or prosecution of such person, compound the offence if he pays the amount of duty along with such default surcharge and penalty as is determined under the provisions of this Act.

6. Power to Summon Persons to give Evidence and Produce Documents in Inquiries. (Section 23)

- i. Any officer of Inland Revenue] duly empowered by the Board in this behalf shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing or information in any inquiry which such officer is making for any of the purposes of this Act.
- ii. All persons so summoned shall be bound to attend, either in person or by an authorized agent, as such Officer may direct, and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and to produce such documents and other things as may be required:

Provided that the exemptions under sections 132 and 133 of the Code of Civil Procedure (V of 1908) shall be applicable to requisitions for attendance under this section. (3) Every such inquiry as aforesaid shall be deemed to be a "judicial proceeding" within the meaning of section 193 and section 228 of the Pakistan Penal Code (XLV of 1860).

7. Officers Required to Assist 1[officer of Inland Revenue] (Section 24)

All officers of Police and Customs, sales tax, the civil armed forces and all officers of Government engaged in the collection of land-revenue, and all village officers shall assist the officer of Inland Revenue in the execution of this Act as and when required by such Officers.

2.4 Searches, Arrests and Seizures

1. Searches and Arrests how to be made. (Section 25)

All searches or arrests made under this Act or any rules made there under and all arrests made under this Act shall be carried out in accordance with the relevant provisions of the Code of Criminal Procedure, 1898 (V of 1898).

2. Power to Seize.(Section 26)

- i. The counterfeited cigarettes or beverages which have been manufactured unlawfully or on which duty has not been paid as required under this Act and rules made there under, shall be liable to seizure besides the conveyance which has been used for the movement, carriage or transportation of such cigarettes 1[or beverages].
- ii. For the purpose of this section, _conveyance ‘shall include all of its fixtures, fittings and accessories etc.

3. Confiscation of Cigarettes (Section 27)

- i. The cigarettes 1[or beverages] seized for the reasons of counterfeiting shall be liable to outright confiscation and shall be destroyed in the manner prescribed in sub-section (10) of section 19.
- ii. In case of cigarettes 1[or beverages] seized on account of evasion of duty, the owner shall be given an option to pay penalties and fines as provided under section 19 and meet other obligations as provided under other relevant provisions of the Act and rules made there under, for release of such cigarettes 1[or beverages] in lieu of confiscation provided that if such release is not claimed or availed, no reduction or abatement in respect of amounts of duty, penalties and fine shall be admissible in case such cigarettes 1[or beverages] are auctioned.
- iii. In case confiscated cigarettes are rendered unfit for human consumption or become otherwise unfit for sale, the 2[Commissioner] may allow destruction of such cigarettes in such manner as he may deem appropriate.

4. Power to Release Seized Conveyance. (Section 28)

- i. Where any conveyance is seized which is liable to confiscation, the adjudicating authority may, subject to such conditions as may be prescribed, order its release pending adjudication of the case and on furnishing a guarantee by the owner of the seized conveyance, from a scheduled bank valid for at least one year equal to the value of such conveyance.
- ii. In respect of cases pending before the Special Judge, release of conveyance under sub-section (1) shall not be allowed without prior permission of the Special Judge.

2.5 Powers, Adjudication and Appeals

1. Appointment of Federal Excise Officers and Delegation of Powers (Section 29)

- i. For the purposes of this Act and rules made there under, the Board may, by notification in the official Gazette, appoint, in relation to any area or jurisdiction specified in the notification, any person to be –
 - a. Chief Commissioner Inland Revenue;
 - b. Commissioner Inland Revenue;
 - c. Commissioner Inland Revenue (Appeals);
 - d. Additional Commissioner Inland Revenue;
 - e. Deputy Commissioner Inland Revenue;
 - f. Assistant Commissioner Inland Revenue;
 - g. Inland Revenue Officer;
 - h. Superintendent Inland Revenue;
 - i. Inspector Inland Revenue;
 - j. Inland revenue Audit Officer; and
 - k. Officer of Inland Revenue with any other designation.]
- 1A. The Chief Commissioner Inland Revenue and Commissioner Inland Revenue (Appeals) shall be subordinate to the Board and Commissioner Inland Revenue shall be subordinate to the Chief Commissioner Inland Revenue.
- 1B. Additional Commissioner Inland Revenue, Deputy Commissioner Inland Revenue, Assistant Commissioners Inland Revenue Officers, Inspector Inland Revenue and Officers of Inland Revenue with any other designation shall be subordinate to the Commissioner Inland Revenue and shall perform their functions in respect of such persons or classes of persons or such areas as the Commissioners, to whom they are subordinate, may direct.
- 1C. Deputy Commissioners Inland Revenue, Assistant Commissioners Inland Revenue, Inland revenue Officers, Superintendents Inland Revenue, Inland Revenue Audit Officers, Inspectors Inland Revenue, and Officers of Inland Revenue with any other designation shall be subordinate to the Additional Commissioner Inland Revenue.
- ii. Notwithstanding the other designations of the officers of Federal Excise used in this Act or the rules made there under:
 - a. the Directorate General (Intelligence & Investigation) 1[Inland Revenue] shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors and Assistant Directors and other officers with any other designation as the Board may appoint by notification in the official Gazette;
 - b. the Directorate General 2[] Internal Audit shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors and Assistant Directors and other officers with any other designation as the Board may appoint by notification in the official Gazette; and
 - c. the Directorate General of Training & Research shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors and

Assistant Directors and other officers with any other designation as the Board may appoint by notification in the official Gazette.

- iii. The Board may, by notification in the official Gazette and subject to such limitations or conditions as may be specified therein, empower by name or designation,
 - a. any Additional Commissioner Inland Revenue or Deputy Commissioner Inland Revenue to exercise any of the powers of a Commissioner Inland Revenue;
 - b. any Deputy Commissioner Inland Revenue] or 6[Assistant Commissioner Inland Revenue to exercise. any of the powers of an Additional Commissioner Inland Revenue
 - c. any Assistant Commissioner Inland Revenue to exercise any of the powers of a Deputy Commissioner Inland Revenue; and
 - d. any other officer of Inland Revenue to exercise any of the powers of a Commissioner Inland Revenue, Additional Commissioner Inland Revenue, Deputy Commissioner Inland Revenue or Assistant Commissioner Inland Revenue;under this Act and the rules made there under.
- iv. The officer to whom any powers of any senior officer are delegated under this section shall not further delegate such powers.

2. Use of Powers of Subordinate Officer. (Section 30)

- i. An officer appointed under this Act shall exercise such powers and discharge such duties as are conferred or imposed on him under this Act and he shall also be competent to exercise all powers and discharge all duties or functions conferred or imposed upon any officer subordinate to him.
- ii. Notwithstanding anything contained in this Act or the rules made there under, the Board may, by general or special order, impose such limitations or conditions on the exercise of such powers and discharge of such duties by any officer of Inland Revenue]as it deems fit.

3. Option to Pay Fine in Lieu of Confiscation of Conveyance. (Section 32)

Wherever confiscation is adjudged under this Act or the rules made there under, the officer adjudging it may give the owner of the conveyance an option to pay in lieu of confiscation such fine as the officer thinks fit.

4. Appeals to [Commissioner] (Appeals). (Section 33)

- i. Any Any person other than Federal Excise officer aggrieved by any decision or order passed under this Act or the rules made there under by a officer of Inland Revenue up to the rank of Additional Commissioner Inland Revenue, other than a decision or order or notice given or action taken for recovery of the arrears of duty under this Act or rules made there under may within thirty days of receipt of such decision or order prefer appeal there from to the Commissioner (Appeals).
- 1A. where in a particular case, the Commissioner (Appeals) is of the opinion that the recovery of tax levied under this Act, shall cause undue hardship to the taxpayer, he, after affording opportunity of being heard to the Commissioner or

officer of Inland Revenue against whose order appeal has been made, may stay the recovery of such tax for a period not exceeding thirty days in aggregate.

- ii. The Commissioner (Appeals) may, after giving both parties to the appeal an opportunity of being heard, pass such order as he thinks fit, confirming, varying, altering, setting aside or annulling the decision or order appealed against

Provided that such order shall be passed not later than [one hundred and twenty days from the date of filing of appeal or within such extended period, not exceeding sixty days, as the Commissioner (Appeals) may, for reasons to be recorded in writing, extend.

Provided further that any period during which the proceeding are adjourned on account of stay order or Alternative Dispute Resolution proceedings or the time taken through adjournment by the petitioner not exceeding thirty days shall be excluded for the computation of these period.

- iii. In deciding an appeal, the Commissioner (Appeals) may make such further inquiry as may be necessary provided that he shall not remand the case for *de novo* consideration.

5. Appeals to the Appellate Tribunal (Section 34)

- i. Any person or 8[officer of Inland Revenue] aggrieved by any of the following orders may within sixty days of the receipt of such orders file appeal to the Appellate Tribunal against such orders,
 - a. an order passed by the 2[Commissioner] (Appeals); and
 - b. an order passed by the Board or the Commissioner Inland Revenue under section 35:

Provided that the Appellate Tribunal shall decide the appeal filed under this sub-section within six months of its filing of appeal.

6. Reference to High Court (Section 34A)

- i. Within ninety days of the communication of the order of the Appellate Tribunal under sub-section (2A) of section 34, the aggrieved person or the Commissioner may preference 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.
- ii. The statement to the High Court referred to in sub-section (1), shall set out the facts, the determination of the Appellate Tribunal and the question of law which arises out of its order.
- iii. Where, on an application made under sub-section (1), the High Court is satisfied that a question of law arises out of the order referred to in sub-section (1), it may proceed to hear the case.
- iv. A reference to the High Court under this section shall be heard by a Bench of not less than two judges of the High Court and, in respect of the reference , the provisions of section 98 of the Code of Civil Procedure, 1908 (Act V of 1908), shall apply.
- v. The High Court upon hearing a reference under this section shall decide the question of law raised by the reference and pass judgment thereon specifying the grounds on which such judgment is based and the Tribunal's order shall

stand modified accordingly. The Court shall send a copy of the Judgment under the seal of the Court to the Appellate Tribunal.

- vi. Notwithstanding that a reference has been made to the High Court, the tax shall be payable in accordance with the order of the Appellate Tribunal.
- vii. Where recovery of tax has been stayed by the High Court by an order, such order shall cease to have effect on the expiration of a period of six month following the day on which it was made unless the appeal is decided or such order is withdrawn by the High Court earlier.
- viii. Section 5 of the Limitation Act, 1908 (IX of 1908), shall apply to an application made to the High Court under sub-section (1).
- ix. An application under sub-section (1) by a person other than the Commissioner shall be accompanied by a fee of one hundred rupees.

7. Powers of Board or Commissioner] to Pass Certain Orders (Section 35)

- i. The Board or the Commissioner] within his jurisdiction, may *suo moto* call for and examine the records of any proceedings under this Act for the purpose of satisfying itself or, as the case may be, himself as to the legality or propriety of any decision or order passed by a subordinate officer and may pass such order as it or he may think fit.
- ii. No order confiscating goods of greater value or enhancing any fine, or imposing or enhancing any penalty, or requiring payment of any duty not levied or short-levied shall be passed under sub-section (1) unless the person affected thereby has been given an opportunity of showing cause against it and of being heard in person or through a counsel or other person duly authorized by him.
- iii. No record of any proceedings relating to any decision or order passed by any 1[officer of Inland Revenue] shall be called for or examined under subsection (1) after the expiry of two years from the date of such decision or order.

Explanation.

For the purpose of sections 35, 45 and 46 and for removal of doubt, it is declared that the powers of the Board, Commissioner or officer of Inland Revenue under these sections are independent of the powers of the Board under section 42B and nothing contained in section 42B restrict the powers of the Board, Commissioner or officer of Inland Revenue under these sections or to conduct audit under these sections.

8. Power to Rectify Mistakes in Orders (Section 36)

The Federal Government, the Board or any 3[officer of Inland Revenue] may rectify any mistake which is apparent from the record in any order passed by it or him under any of the provisions of this Act or the rules made there under, on its or his own motion or on an application made by a person affected by the order within three years of the passing of such order provided that no such rectification which has the effect of enhancing any penalty or fine or requiring the payment of a greater amount of duty shall be made unless the person affected by the proposed rectification has been given an opportunity of being heard.

9. Deposit, Pending Appeal, of Duty Demanded or Penalty Levied (Section 37)

- i. Where in any appeal, the decision or order appealed against relates to any duty demanded or penalty imposed under this Act, the person desirous of appealing against such decision or order shall, pending the appeal, deposit the duty demanded or the penalty imposed provided that the Appellate Tribunal or 1[Commissioner] (Appeals) may in any particular case dispense with such deposit subject to such conditions as it may deem fit to impose so as to safeguard the interest of revenue.
- ii. The order for such dispensation under sub-section (1) shall cease to have effect on the expiration of a period of six months following the date on which order for dispensation was passed or until the order of dispensation is withdrawn earlier or the case is finally decided earlier by the Appellate Tribunal or 1[Commissioner] (Appeals).
- iii. Notwithstanding sub-sections (1) and (2), the Appellate Tribunal or 1[Commissioner] (Appeals) may direct that, pending decision on the appeal, the duty demanded or penalty imposed, alongwith the default surcharge payable under this Act, be paid by the appellant in suitable installments spread over a period not exceeding six months from the date of such direction:

Provided that where a person has, at the time of filing appeal, deposited fifteen *per cent* of the liability covered under the decision or order appealed against, he shall not be required to separately seek stay against recovery and stay in such a case shall commence from the date of payment of such fifteen per cent amount and shall remain valid till the expiry of a period of six months or till the decision of the appeal, whichever is earlier unless the case is decided in his favour and the amount so paid is claimed to have become due for refund.

10. Alternative Dispute Resolution (Section 38)

- i. Notwithstanding any other provisions of this Act, or the rules made there under, any registered person aggrieved in connection with any dispute pertaining to,—
 - a. the liability of excise duty against the registered person or, as the case may be, admissibility of refunds;
 - b. the extent of waiver of default surcharge and penalty;
 - c. the confiscation of goods;
 - d. relaxation of any procedural or technical irregularities and condonation of any prescribed time limitation; and
 - e. any other specific relief required to resolve the dispute, may apply to the Board for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application and if dispute is under litigation in any Court of law or an Appellate authority, except in the cases where first information reports (F.I.R's) have been lodged under this Act or criminal proceedings initiated or where interpretation of question of law having larger revenue impact in the opinion of the Board is involved, may apply to the Board for the appointment of a Committee for the resolution of dispute in appeal and only such application may be entertained for dispute resolution under the provisions of this section.

- ii. The Board may, after examination of the application of a registered person, appoint a committee within thirty days of receipt of such application in the Board, consisting of an 1[officer of Inland revenue not below the rank of an Additional Commissioner] and two persons from the notified panel consisting of retired Judges not below District and Sessions Judge, chartered or cost accountants, advocates, representatives of trade bodies or associations, or any other reputable taxpayers, for the resolution of dispute.
- iii. The committee constituted under sub-section (2) shall examine the issue and may if it deems fit, conduct inquiry, seek expert opinion, direct any officer of the sales tax or any other person to conduct an audit and shall make recommendations within ninety days of its constitution in respect of the dispute. If the committee fails to make recommendations within the said period the Board shall dissolve the committee and constitute a new committee which shall decide the matter within a further period of ninety days. If after the expiry of the period the dispute is not resolved the matter shall be taken up by the appropriate forum for decision.
- iv. The Board may, on the recommendation of the Committee, pass such order, as it may deem appropriate within forty-five days of the receipt thereof.
- 4A. Notwithstanding anything contained in sub-section (4), the Chairman, FBR, and a member nominated by him, may, on the application of an aggrieved person, for reasons to be recorded in writing and on being satisfied that there is an error in order or decision, pass such order as may be deemed just and equitable.
- v. The registered Board may, make payment of duty and other taxes as determined by the Board in its order under sub-section (4), and such order of the Board shall be submitted before the forum, tribunal or the Court where the matter is *sub-judice*, for consideration and orders as deemed appropriate.
- vi. The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this section.

11. Exclusion of Time taken for Copy (Section 39)

In computing the period of limitation specified for an appeal or application under this Chapter, the day on which the order complained was served, and if the party preferring the appeal or making the application was not furnished with a copy of the order when the notice of the order was served upon him, the time requisite for obtaining a copy of such order shall be excluded.

SUMMARY

These unit has discussed the various concepts under the Sales Tax Act 1990 and presented a brief overview of the requirements for a business firm to comply with the law. The registration of the business entities with FBR is highlighted. After that, the concepts of return filing and recovery of sales tax have been described as per the Sales Tax Act 1990. The appeal filing mechanism and various penalties have been described for violation of the provisions of the Sales Tax Act 1990. The practical questions on the

calculation sales tax are also presented in this unit. In last section the various concepts such as levy, collection, offences and penalties under Federal Excise Act 2005 has been described in detail to build a basic understanding among students.

	Taxable Income	Rate of tax
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1. The Income Tax Ordinance 2001 amended upto June 30th, 2017
2. The Sales Tax Act 1990 amended upto June 30th 2017
3. Taxpayers Guides published by the FBR
4. Synopsis of Taxation by Mirza Munawar Husain published by Waheed Publishers, Lahore.
5. Income Tax Practice and Questions by Muhammad Muazzam Mughal, Syed Moben Printers, Lahore

Annexure 1

TAX RATES FOR INDIVIDUALS (SALARIED AND NON-SALARIED) 2018-19

(1)	(2)	(3)
1.	Where the taxable income does not exceed Taxable income Rs.400,000	0%
		Rate of tax
2.	Where the taxable income exceeds Rs.400,000 but does not exceed Rs.800,000	Rs.1,000
(1)	(2)	(3)
3.	Where the taxable income exceeds Rs.800,000 but does not exceed Rs.12,00,000	Rs. 2000
4.	Where the taxable income exceeds Rs.12,00,000 but does not exceed Rs.2,40,000	5% of the amount exceeding Rs.12,00,000
5.	Where the taxable income exceeds Rs.2,40,000 but does not exceed Rs.4,80,000	Rs. 60,000 + 10% of the amount exceeding Rs.24,00,000
6.	Where the taxable income exceeds Rs.48,00,000	Rs. 300,000 + 15% of the amount exceeding 48,00,000

Annexure 2 TAX RATES FOR ASSOCIATION OF PERSONS (AOP) 2018-19

1.	Where the taxable income does not exceed Rs.400,000	0%
2.	Where the taxable income exceeds Rs.400,000 but does not exceed Rs.12,00,000	5% of the amount exceeding Rs.400,000
3.	Where the taxable income exceeds Rs.12,00,000 but does not exceed Rs.24,00,000	Rs. 40,000 + 10% of the amount exceeding Rs.12,00,000
4.	Where the taxable income exceeds Rs.24,00,000 but does not exceed Rs.36,00,000	Rs.160,000 + 15% of the amount exceeding Rs.24,00,000
5.	Where the taxable income exceeds Rs.36,00,000 but does not exceed Rs.48,00,000	Rs. 340,000 + 20% of the amount exceeding Rs.36,00,000
6.	Where the taxable income exceeds Rs.4,800,000 but does not exceed Rs.60,00,000	Rs. 580,000+ 25% of the amount exceeding 48,00,000
7.	Where the taxable income exceeds Rs.60,00,000	Rs.880,000 + 30% of the amount exceeding Rs.60,00,000

ANNEXURE 3

TAX RATES FOR PROPERTY INCOME: INCOME FROM PROPERTY

The rate of tax to be paid under section 15, in the case of individual and association of persons, shall be as follows:

S.No.	Gross amount of rent	Rate of tax
(1)	(2)	(3)
1.	Where the gross amount of rent does not exceed Rs.200,000.	Nil
2.	Where the gross amount of rent exceeds Rs.200,000 but does not exceed Rs.600,000.	5 per cent of the gross amount exceeding Rs.200,000.
3.	Where the gross amount of rent exceeds Rs.600,000 but does not exceed Rs.1,000,000.	Rs.20,000 plus 10 per cent of the gross amount exceeding Rs.600,000.
4.	Where the gross amount of rent exceeds Rs.1,000,000 but does not exceed Rs.2,000,000.	Rs.60,000 plus 15 per cent of the gross amount exceeding Rs.1,000,000.
5.	Where the gross amount of rent exceeds Rs.2,000,000.	Rs.210,000 plus 20 per cent of the gross amount exceeding Rs.2,000,000”]