

# BUDGET 10'11

## Finance Bill '2010

*Changes in Income Tax Law only.*

### INCOME TAX MEMORANDUM



Compiled by

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# F o r e w o r d

Every year federal budget is presented in national assembly for the forthcoming fiscal year. Besides setting expected receipts and payments, budget also includes various fiscal measures to set direction for various fiscal targets which government wants to achieve.

Various amendments are made in fiscal laws including income tax law every year in furtherance of such objectives.

This tax memorandum aims to cover all proposed amendments in income tax law and its implications on private limited companies (PVT), non-governmental organizations (NGO), association of persons (AOP) and individuals (IND).

I hope that the tax memorandum will assist our clients and staff to understand the changes in income tax law i.e. Income Tax Ordinance 2001 & Income Tax Rules 2002 and implications of such changes.

The information presented in this Memorandum has been taken from the Federal Budget and Finance Bill, 2010, as presented in the National Assembly. It contains proposed amendments, which will become operative once the Finance Bill is formally passed in National Assembly and become Finance Act, 2010.

Views expressed herein should not be acted upon without obtaining professional advice, as the interpretation may differ in different circumstances.

In the end I want to thank my colleagues Ms Ayesha Ahmad Murtaza ACA, APA, and Mr. Shahzad Hanan for their contribution to compile this Tax Memorandum.

Peshawar

Abdus Salam Jan - FCA, FPA

June 07, 2010

**CHANGES IN INCOME TAX LAW  
IN BRIEF**

## CHANGES IN INCOME TAX LAW - IN BRIEF

### EXEMPTION LIMIT FOR SALARIED & NON-SALARIED INDIVIDUALS

In order to provide relief to large number of taxpayers deriving their incomes from *Salary* and *business*, the limit of *Basic Exemption* is proposed to be enhanced from Rs.200,000/- to Rs.300,000/- in respect of Salaried taxpayers, while in respect of Non-Salaried taxpayers it has been proposed to enhance from Rs.100,000/- to Rs.300,000/-.

### LIMIT FOR SENIOR CITIZENS

The Senior Citizens of the age of 60 years or more, are proposed to be eligible for relief of 50% of tax on their income, if their income does not exceed **Rs.1,000,000/-** as compared to previous maximum limit of Rs.750,000/-. However this relief shall not be available on income subject to Presumptive Tax Regime.

### ADVANCE TAX ON ELECTRICITY

For welfare of industrial & commercial consumers of electricity, the maximum rate of advance tax deductible under section 235 on monthly electricity bills is proposed to be reduced from 10% to 5%, on the amount of the bills payable by them.

### EXEMPTION ON CERTAIN PERKS OF EMPLOYEE

In order to provide relief to employees, exemption from taxation of perquisites on waiver of employees obligation to pay or repay, and amount owed to employer, is proposed.

### E-FILING FOR WITHHOLDING TAX AGENTS

In order to facilitate the withholding tax agents, instead of *e-filing* monthly, quarterly and annual withholding tax statements, the *e-filing of only quarterly* withholding tax statements is proposed.

### RATE FOR SMALL COMPANIES & AOPs

In order to strengthen the drive for documentation, a uniform tax rate for small companies as well as AOPs is proposed @ **25%** of their taxable income.

## CHANGES IN INCOME TAX LAW - IN BRIEF

Cont'd

## RELIEF FOR KHYBER PAKHTUNKHWA

In pursuance of Prime Minister's Relief Package to rehabilitate the economy of Khyber Pakhtunkhwa, FATA and PATA, some amendments are proposed to be introduced in the Income Tax Law. These measures provide following reliefs to industrial and commercial taxpayers hailing from **most** and **moderately affected areas**, as prescribed:

- a) Waiver of entire amount of default surcharge & penalty till 30th June 2010;
- b) Exemption from advance tax on electricity for tax years 2010 and 2011;
- c) Exemption from withholding tax on exports;
- d) Recovery of outstanding income tax arrears through easy instalments;
- e) Enhancement of income tax exemption limit from Rs.0.1 million to Rs.0.3 million;
- f) Annual Audit with the approval of FBR; and
- g) Exemption from advance tax on import of plant and machinery upto 30th June 2011;

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

## RATE OF WITHHOLDING TAX ON PAYMENTS MADE TO NON-RESIDENTS

The maximum rate of withholding tax deductible on payments made to non-resident taxpayers who are not subject to Avoidance of Double Taxation Treaties (*other than payments made on account of royalty and fee for technical services*) is proposed to be @ **20%** instead of 30%;

## E-FILING OF WITHHOLDING TAX STATEMENT WHERE NO TAX HAS BEEN DEDUCTED

In order to perceive better audit of withholding taxes, the withholding tax agents shall be required to e-file quarterly statements even in the cases where no-tax was deducted. For the purpose of alignment and uniformity, the words '*a person collecting tax*' are proposed to be replaced with the words '*a withholding tax agent*' in sub-section (2) of section 165.

## CHANGES IN INCOME TAX LAW – IN BRIEF

Cont 'd

## TAX ON IMPORTS OF COMMERCIAL IMPORTERS

Advance tax deductible on imports made by *commercial importers* is proposed to be enhanced to @5% being a FINAL tax.

## RATE OF TAX FOR CAPITAL GAINS ACCRUING ON SHARES &amp; SECURITIES

Tax on *capital* gains accruing on account of holdings of stocks/shares/securities for *six-months or less* is proposed @ 10%, while holdings of stocks/shares/securities *exceeding six-months* is proposed @ 7.5%. However no tax has been proposed on such capital gains arising held for a period exceeding 12 months.

## TAX ON CASH WITHDRAWAL FROM BANKS

In order to bring clarity on advance tax deductible on Cash Withdrawals from Banks, various *banking transactions including* modes like withdrawals through *Demand Draft, Pay Order, Online Transfer, Telegraphic Transfer, TDR, CDR, STDR and RTC*, are proposed to be subject to 0.3% deduction of the advance tax, if such transactions exceed threshold of Rs.25,000/- in a single day. The advance tax is adjustable.

## MINIMUM TAX ON LOSS MAKING COMPANIES

Turnover Tax on Loss Making Companies *is* proposed to be enhanced to @ 1%.

## WITHHOLDING TAX ON DOMESTIC AIR TICKETS

Withholding tax on gross value of *Inland* Air Ticket has been proposed @ 5%. Under the scheme the Inland Air-Ticketing persons shall withhold the tax, which will be adjustable against the tax liability of the purchaser of such ticket.

## WITH HOLDING TAX ON AUCTION

Editorial amendments in Section 236A of the Ordinance are proposed in *order* to bring clarity and remove confusion about the charge of advance tax on public auction of all kind of property including confiscated or attached goods.

## CHANGES IN INCOME TAX LAW – IN BRIEF

Cont'd

## WEALTH STATEMENT IN FTR CASES

The mandatory requirement of Filing of Wealth Statement by the Taxpayers in FTR cases with yearly tax amounting to Rs.35, 000/- is proposed to be included in section 116 of the Income Tax Ordinance 2001.

## POWER TO INSTITUTE THE ACTIVE TAXPAYERS LIST BY FBR

For enforcing checks on non-compliant taxpayers, and to encourage compliant-taxpayers, a new section 181A is proposed to be inserted in the Ordinance, which will empower FBR to institute the Active Taxpayers List.

## DATE OF PAYMENT OF ADVANCE TAX UNDER SECTION 147

In order to streamline accounting of Advance Tax payments, certain amendments are proposed in section 147 of the Ordinance, so that quarterly advance tax payments are paid by **25th day of last month of the quarter**, as compared to earlier requirement of such payments by *15th of every month after the end of a quarter*.

## MINIMUM TAX ON IMPORTER

Through an editorial amendment, the reference of '**minimum tax**' on importer of edible oil and packing materials under section 148, is proposed to be incorporated in provisions referring to final tax on the income of an importer.

## PRESCRIBED PERSONS DEFINITION IN SECTION 153

In order to rationalize the definition of '**Prescribed Persons**' as given in sub-section (9) of section 153, *an individual with turnover of Rs.50 millions or above* is proposed to be added.

**CHANGES IN INCOME TAX LAW  
IN DETAIL**

## CHANGES IN INCOME TAX LAW – IN DETAIL

### DEFINITIONS

#### APPELLATE TRIBUNAL

SECTION 2 (2)

Appellate Tribunal means the Appellate Tribunal Inland Revenue established under section 130.

#### CHIEF COMMISSIONER

SECTION 2 (11B)

Chief Commissioner means a person appointed as Chief Commissioner Inland Revenue under section 208 and includes a Regional Commissioner of Income Tax and a Director General of Income Tax and Sales Tax.

#### COMMISSIONER

SECTION 2 (13)

Commissioner means a person appointed as Commissioner Inland Revenue under section 208 and includes any other authority vested with all or any of the powers and functions of the Commissioner.

#### COMMISSIONER (APPEALS)

SECTION 2 (13A)

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

#### INDUSTRIAL UNDERTAKING

SECTION 2 (29C)

Industrial undertaking means –

(a) an undertaking which is set up in Pakistan and which employs,-

(i) ten or more persons in Pakistan and involves the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal energy; or

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**CHANGES IN INCOME TAX LAW – IN DETAIL**

Cont'd

**INDUSTRIAL UNDERTAKING****SECTION 2 (29C)**

(ii) twenty or more persons in Pakistan and does not involve the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal energy;

and which is engaged in,-

(i) the manufacture of goods or materials or the subjection of goods or materials to any process which substantially changes their original condition; or

(ii) ship-building; or

(iii) generation, conversion, transmission or distribution of electrical energy, or the supply of hydraulic power; or

(iv) the working of any mine, oil-well or any other source of mineral deposits; and

(b) any other industrial undertaking which the Board may by notification in the Official Gazette, specify.

**OFFICER OF INLAND REVENUE****SECTION 2 (38A)**

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

**REGIONAL COMMISSIONER****SECTION 2 (48A)**

This definition is proposed to be omitted from ITO 2001.

## CHANGES IN INCOME TAX LAW – IN DETAIL

Cont'd

## TAXATION OFFICER

SECTION 2 (65)

This definition is proposed to be omitted from ITO 2001.

## VALUE OF PERQUISITES

SECTION 13 (7)

Through a proposed insertion of Proviso after sub section (7) of section 13, the benefit arising to an employee due to waiver of interest has to be exempt.

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

## CAPITAL GAINS ON SALES OF SECURITIES

SECTION 37A

Through a proposed insertion of section 37A, the capital gains on sales of securities is brought under the ambit of tax.

37A. “Capital gains on sale of securities.-

(1) Subject to this Ordinance, a gain arising on the sale of securities shall be chargeable to tax at the rate specified in Division VII of Part I of the First Schedule;

Provided that this sub-section shall not apply if the securities are held for a period of more than twelve months;

Provided further that the provisions shall not apply to a banking company.

(2) In this section “securities” means shares of a public company, vouchers of Pakistan Telecommunication Corporation, Modaraba Certificates or instruments of redeemable capital.

(3) The amount of gain under this section shall be treated as a separate block of income.”

## CHANGES IN INCOME TAX LAW – IN DETAIL

Cont'd

## TAX CREDIT FOR INVESTMENT

## SECTION 65B

Through a proposed insertion of section 65B, tax credit has to be allowed for investment in BMR in an industrial undertaking.

65B. "Tax credit for investment.-

(1) Subject to sub-section (1), where a taxpayer being a company invests any amount in the purchase of a plant and machinery for installation, for the purposes of balancing, modernization and replacement in an industrial undertaking set up in Pakistan and owned by it, credit equal to ten per cent of the tax payable shall be allowed for the tax year in which the said costs are incurred against the tax payable by the company.

(2) The provisions of sub-section (1) shall apply if the plant and machinery is purchased and installed at any time between the first day of July, 2010, and the 30th day of June, 2015.

(3) Where any credit is allowed under this section and subsequently it is discovered by the Commissioner Inland Revenue that any one or more of the conditions specified in this section was, or were, not fulfilled, as the case may be, the credit originally allowed shall be deemed to have been wrongly allowed and the Commissioner Inland Revenue may, 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."

## TAX CREDIT FOR ENLISTMENT

## SECTION 65C

Through a proposed insertion of section 65C, tax credit has to be allowed for enlistment of companies on stock exchange of the country.

65C. "Tax credit for enlistment.-

(1) Where a taxpayer being a company opts for enlistment in any registered stock exchange in Pakistan, a tax credit equal to five per cent of the tax payable shall be allowed for the tax year in which the said company is enlisted."

## DECEASED INDIVIDUALS

## SECTION 87

Through a proposed insertion of sub section 2A after sub section 2 in section 87, deceased individual's liability shall be subject to first charge on the deceased's property.

"2A. The liability under this Ordinance shall be the first charge on the deceased's estate."

## CHANGES IN INCOME TAX LAW – IN DETAIL

Cont'd

## UNEXPLAINED INCOME OR ASSETS

## SECTION 111

Through a proposed substitution of words in clause (a) of sub section (2) of section 111, taxing the unexplained income in the year to which it relates is proposed, rather than immediately preceding year.

“in sub section (2), for the words, (immediately preceding the financial year in which it was discovered by the Commissioner), the words **(to which such amount relates)** shall be substituted).”

Through a proposed deletion of clause (b) in sub section (4) of section 111, provision related to not taxing the unexplained income beyond the preceding five tax years is proposed to be removed.

“clause (b) shall be omitted”.

## MINIMUM TAX ON THE INCOME OF CERTAIN PERSONS

## SECTION 113

Through a proposed addition of words in sub section (1) of section 113, business individuals are also propose to be brought under the scope of minimum tax.

“after the word “company”, the words, “**an individual (having turnover of fifty million rupees or above in the tax year 2009 or in any subsequent tax year) and an association of persons (having turnover of fifty million rupees or above in the tax year 2007 or in any subsequent tax year)**” shall be inserted”.

Through a proposed change in clause (e) of sub section (1) & clause (b) of sub section (2) of section 113, the rate of tax has to be increased from 0.5% to 1%.

“in clause (e), sub section (1) for the word (one-half) the word **(one)** shall be substituted; and

“in clause (b), sub-section (2), for the word (one-half) the word **(one)** shall be substituted.”

## RETURN OF INCOME

## SECTION 114

Through a proposed substitution of sub section (6) & insertion of sub section (6A) in section 114, the provisions related to revision of return has to be modified.

“ Sub- section (6), the following shall be substituted, namely:-

(6) Subject to sub-section (6A), any person who, having furnished a return, discovers any omission or wrong statement therein, may file revised return subject to the following conditions, namely:-

(a) it is accompanied by the revised accounts or revised audited accounts, as the case may be; and

(b) the reasons for revision of return, in writing, duly signed, by the taxpayers are filed with the return.”

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## CHANGES IN INCOME TAX LAW – IN DETAIL

Cont'd

## RETURN OF INCOME

## SECTION 114

And the following new sub-section shall be inserted, namely:-

“(6A) If a taxpayer wishes to file a revised return voluntarily along with deposit of the amount of tax short paid or amount of tax sought to be evaded along with the default surcharge, whenever it comes to his notice, before receipt of notice under sections 177 or sub-section (9) of 122, no penalty shall be recovered from him:

Provided that in case the taxpayer wishes to deposit the amount of tax as pointed out by the Commissioner during the audit or before the issuance of notice under sub-section (9) of section 122, he shall deposit the amount of tax sought to be evaded, the default surcharge and twenty-five per cent of the penalties leviable under the Ordinance along with the revised return:

Provided further that in case the taxpayer wishes to revise the return after the issuance of a show cause notice under subsection (9) of section 122, he shall deposit the amount of tax sought to be evaded, default surcharge and fifty per cent of the leviable penalties under the Ordinance along with the revised return and thereafter, the show cause notice shall stand abated.”

## WEALTH STATEMENT

## SECTION 116

Through a proposed omission of sub-section (4B) of section 115 & reinsertion as sub section (4) to section 116 along with insertion of new sub section (2A) to the section 116, the requirement for wealth statement has to be streamlined.

“section 115, sub-section (4B), shall be omitted”

“in section 116, after sub-section (2), the following new sub-section shall be added, namely:-

(2A) Where a person files a return in response to a provisional assessment under section 122C, he shall furnish a wealth statement for that year along with that return and such wealth statement shall be accompanied by a wealth reconciliation statement and an explanation of sources of acquisition of assets specified therein.”

“after sub-section (3), the following new sub-section shall be added, namely:-

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

## CHANGES IN INCOME TAX LAW – IN DETAIL

Cont'd

## METHOD OF FURNISHING RETURNS AND OTHER DOCUMENTS

## SECTION 118

Through a proposed substitution of sub-section (3) of section 118, the dates of filing of return & statement are specified.

“in section 118, for sub-section (3) the following shall be substituted, namely:-

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

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

(b) in the case of a return of income for any person (other than a company), as described under clause (a), on or before the 30th day of September next following the end of the tax year to which the return relates.”

## AMENDMENT OF ASSESSMENTS

## SECTION 122

Through a proposed insertion of sub-section (5AA) to the section 122, the power of commissioner are propose to be extended for amendments of assessment while an appeal has been filed/decided.

“after sub-section (5A) the following new sub-section shall be inserted namely:-

(5AA) The Commissioner is deemed to have, and always had, the powers to amend or further amend an assessment order under sub-section (5A), where appeal has been filed or decided against the order of the Commissioner, in respect of any point or issue which was not the subject matter of such appeal.”

## PROVISIONAL ASSESSMENT

## SECTION 122C

Through a proposed insertion of section 122C, the concept of provisional assessment is proposed in cases where no return of income is filed.

“after section 122B, the following new section shall be inserted, namely

122C. Provisional assessment.- (1) Where in response to a notice under sub-section (3) or sub-section (4) of section 114 a person fails to furnish return of income for any tax year, the Commissioner may, based on any available information or material and to the best of his judgment, make a provisional assessment of the taxable income or income of the person and issue a provisional assessment order specifying the taxable income or income assessed and the tax due thereon.

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## CHANGES IN INCOME TAX LAW – IN DETAIL

Cont' d

## PROVISIONAL ASSESSMENT

SECTION 122C

(2) Notwithstanding anything contained in this Ordinance, the provisional assessment order completed under sub-section (1) shall be treated as the final assessment order after the expiry of sixty days from the date of service of order of provisional assessment and the provisions of this Ordinance shall apply accordingly:

Provided that the provisions of sub-section (2) shall not apply if return of income alongwith wealth statement, wealth reconciliation statement and other documents required under sub-section (2A) of section 116 are filed by the person for the relevant tax year during the said period of sixty days.”

## APPEAL TO THE COMMISSIONER (APPEAL)

SECTION 127

Through a proposed deletion in clause (a) of sub-section (4) of section 127, the appeal fee has to be made fixed for Rs. 1,000.

“in sub-section (4), in clause (a), the words, (or ten percent of the tax assessed) shall be omitted.”

## APPOINTMENT OF THE APPELLATE TRIBUNAL

SECTION 130

Through a proposed substitution of sub-section (4) of section 130, the requirement for appointment of accountant member of Appellate Tribunal is proposed.

“in section 130, sub-section (4) shall be substituted, namely:-

(4) A person may be appointed as an accountant member of the Appellate Tribunal if the person is an officer of Inland Revenue equivalent in rank to that of a Regional Commissioner and the Commissioner of Inland Revenue or Commissioner of Inland Revenue (Appeals) having at least five years experience as Commissioner or Collector shall also be eligible for appointment.”

## ESTATE IN BANKRUPTCY

SECTION 138B

Through a proposed insertion of section 138B, the requirement for estate in bankruptcy is proposed.

“after section 138A, a new section shall be added, namely;-

138B. Estate in bankruptcy.— (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.”

## CHANGES IN INCOME TAX LAW – IN DETAIL

Cont 'd

## ADVANCE TAX PAID BY THE TAXPAYER

## SECTION 147

Through the proposed changes in section 147, the requirements for advance tax for Association of Persons has to be modified. The minimum limit of taxable income for payment of advance tax by individuals and AOP's is proposed to be enhanced from Rs. 200,000 to Rs. 500.000. Further the basis of computation of advance tax payable by AOP is proposed to be amended i.e. advance tax payable by AOP should be computed in the like manner as the company does.

“in sub-section (1), clause (a) shall be omitted.”

“ in sub-section (2),-

the words (or association of persons) shall be omitted; and

for the word (two) the word (five) shall be substituted.”

“in sub-section (4), after the word (is) occurring for the first time, the words (an association of persons or) shall be inserted.”

“in sub-section (4B),-

the words (or an association of persons) shall be omitted; and

for the word (two) the word (five) shall be substituted.”

“in sub-section (5) the words (or an association of persons) shall be omitted;”

Through the proposed substitution of section 5A in section 147, the dates for payment of advance tax by company and AOP's has to be modified.

“for sub-section (5A) the following shall be substituted, namely:-

(5A) Advance tax shall be payable by an association of persons or a company to the Commissioner-

(a) in respect of the September quarter, on or before the 25th day of September;

(b) in respect of the December quarter, on or before the 25th day of December;

(c) 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.“

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## CHANGES IN INCOME TAX LAW – IN DETAIL

Cont'd

## ADVANCE TAX PAID BY THE TAXPAYER

## SECTION 147

Through the proposed insertion of section 5B in section 147, the requirements for advance tax on capital gains on sale of securities has to be laid down.

“after section (5A), amended as aforesaid, the following new sub-section shall be inserted, namely:-

(5B) Advance tax on capital gains on sale of securities, shall be as follows, namely:-

(a) the taxpayer shall pay advance tax on quarterly basis as per the following schedule and rates, namely:-

S.No.	Period.	Rate of Advance Tax Liability
1.	Where holding period of a security is less than six months.	2%
2.	Where holding period of a security is more than six months but less than twelve months.	1.5%.

(b) advance tax shall be payable by the taxpayer to the Commissioner within seven days after the close of each quarter.”

## PROFIT ON DEBT

## SECTION 151

Through the proposed insertion of sub-section (4) in section 151, the tax on profit on debt (debt instruments and governments securities) has to be made final.

“in section 151, after sub-section (3), the following new sub-section shall be added, namely:-

(4) Tax deducted on profit on debt from Debt instruments, Government securities including Treasury Bills and Pakistan Investment Bonds, shall be final tax on profit or debt.”

## CHANGES IN INCOME TAX LAW – IN DETAIL

Cont 'd

## PAYMENTS FOR GOODS AND SERVICES

## SECTION 153

Through the proposed insertion clause (h) in sub-section (9) of section 153, the individual has to be brought under the ambit of 153 and has to be consider a withholding tax agent for the purposes of section 153, if his turnover in tax year 2009 or subsequent tax year is Rs. 50 million or above.

“in section 153, in sub-section (9), after clause (g), amended as aforesaid, the following new clause shall be inserted, namely:-

(h) an individual, having turnover of fifty million rupees or above in the tax year 2009 or in any subsequent tax year.”

## INCOME FROM PROPERTY

## SECTION 155

Through the proposed omission of sub-section (2) to section 155, the tax on income from property has to be brought out of final tax regime.

“in section 155, sub-section (2) shall be omitted.”

## STATEMENTS

## SECTION 165

Through the proposed changes in section 165, the requirements for filing statement of income tax deduction has to be modified.

“in sub-section (1), -

the words and comma .within two months after the end of the financial year or within such further time as the Commissioner may allow by order in writing,. shall be omitted;

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

in clause (a), for the words .the year., at the end, the words .each quarter. shall be substituted;

in clause (b), for the words .the year., at the end, the words .each quarter. shall be substituted;

in clause (c), for the words .the year., at the end, the words .each quarter. shall be substituted;”

“in clause (d), the following proviso shall be added, namely:-

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.”

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## CHANGES IN INCOME TAX LAW – IN DETAIL

Cont'd

## STATEMENTS

## SECTION 165

“for sub-section (2) the following shall be substituted, namely:-

(2) Every person collecting tax under Division II of this Part or Chapter XII or deducting tax under Division III of this Part or Chapter XII shall furnish statements under sub-section (1) as per the following schedule, namely:-

- (a) in respect of the September quarter, on or before the 20th day of October;
- (b) in respect of the December quarter, on or before the 20th day of January;
- (c) in respect of the March quarter, on or before the 20th day of April; and
- (d) in respect of the June quarter, on or before the 20th day of July.”

## AUDIT

## SECTION 177

Through the proposed changes in section 177, the provisions related to audit procedures has to be modified.

“in section 177,-

for sub-section (1) the following shall be substituted, namely:-

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

Provided that-

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

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

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## CHANGES IN INCOME TAX LAW – IN DETAIL

Cont 'd

## AUDIT

## SECTION 177

“for sub-section(2) the following shall be substituted, namely:-

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

“sub-sections (3),(4) and (5) shall be omitted.”

“in sub-section (8),

the words, .selected for audit by the Commissioner or by the Board. shall be omitted;

after the brackets letter, word, figure and commas (X of 1961)., the words, figures and brackets (or a firm of Cost and Management Accountants as defined under the Cost and Management Accountants Act, 1966 (XIV of 1966)) shall be inserted.”

“after sub-section (9), the following new sub-section (10) shall be added, namely:-

(10) Notwithstanding anything contained in sub-sections (2) and (6) where a person fails to produce before the Commissioner or a firm of Chartered Accountants or a firm of Cost and Management Accountants appointed by the Board or the Commissioner under sub-section (8) to conduct an audit, any accounts, documents and records, required to be maintained under section 174 or any other relevant document, electronically kept record, electronic machine or any other evidence that may be required by the Commissioner or the firm of Chartered Accountants or the firm of Cost and Management Accountants for the purpose of audit or determination of income and tax due thereon, the Commissioner may proceed to make best judgment assessment under section 121 of this Ordinance and the assessment treated to have been made on the basis of return or revised return filed by the taxpayer shall be of no legal effect.”

## TAX PAYER'S REGISTRATION

## SECTION 181

Through the changes in section 181, the FBR has to be empowered to institute an active taxpayer's list.

“after section 181, the following new section shall be added, namely:-

181A. Active taxpayers' list.-

- (1) The Board shall have the power to institute active taxpayers' list.
- (2) Active taxpayers' list shall be regulated as may be prescribed.”

## CHANGES IN INCOME TAX LAW – IN DETAIL

Cont'd

## OFFENCES AND PENALTIES

## SECTION 182

Through the proposed substitution of section 182, the detail of all the penalties against various offences are proposed to be laid down in one section for simplification.

“for section 182 the following shall be substituted, namely:-

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

**(see table of offences and penalties on page no. 25 of this Income Tax Memorandum.)**

(2) The penalties specified under sub-section (1) shall be applied in a consistent manner and no penalty shall be payable unless an order in writing is passed by the Commissioner, Commissioner (Appeals) or the Appellate Tribunal after providing an opportunity of being heard.

(3) Where a Commissioner (Appeals) or the Appellate Tribunal makes an order under sub-section (2), the Commissioner (Appeals) or the Appellate Tribunal, as the case may be, shall immediately serve a copy of the order on the Commissioner and thereupon all the provisions of this Ordinance relating to the recovery of penalty shall apply as if the order was made by the Commissioner.

(4) Where in consequence of any order under this Ordinance, the amount of tax in respect of which any penalty payable under sub-section (1) is reduced, the amount of penalty shall be reduced accordingly.”

## EXEMPTION FROM PENALTY AND DEFAULT SURCHARGE

## SECTION 183

Through the proposed substitution of section 183, FBR has to be empowered for exempting any person from the payment of penalty and default surcharge.

“for section 183 the following shall be substituted, namely:-

183. Exemption from penalty and default surcharge.- The Federal Government may, by notification in the official Gazette, or the Board by an order published in the official Gazette for reasons to be recorded in writing, exempt any person or class of persons from payment of the whole or part of the penalty and default surcharge payable under this Ordinance subject to such conditions and limitations as may be specified in such notification or, as the case may be, order.”

## CHANGES IN INCOME TAX LAW – IN DETAIL

Cont'd

## INCOME TAX AUTHORITIES

## SECTION 207

Through the proposed substitution of section 207, the nomenclatures of the tax authorities has to be changed.

“for section 207, the following shall be substituted, namely:-

207. Income tax authorities.- (1) There shall be the following Income Tax authorities for the purposes of this Ordinance and rules made there under, namely:-

- (a) Board;
- (b) Chief Commissioner Inland Revenue;
- (c) Commissioner Inland Revenue;
- (d) Commissioner Inland Revenue (Appeals);
- (e) Additional Commissioner Inland Revenue;
- (f) Deputy Commissioner Inland Revenue;
- (g) Assistant Commissioner Inland Revenue;
- (h) Inland Revenue Officer;
- (i) Inland Revenue Audit Officer;
- (j) Superintendent Inland Revenue;
- (k) Inspector Inland Revenue; and
- (l) Auditor Inland Revenue.

(2) The Board shall examine, supervise and oversee the general administration of this Ordinance.

(3) The Chief Commissioners Inland Revenue and Commissioners Inland Revenue (Appeals) shall be subordinate to the Board and Commissioners Inland Revenue, shall be subordinate to the Chief Commissioner Inland Revenue.

(4) Subject to sub-section (5), Additional Commissioners Inland Revenue, Deputy Commissioners Inland Revenue, Assistant Commissioners Inland Revenue, Inland Revenue Officers, Inland Revenue Audit Officers, Superintendents Inland Revenue, Auditors Inland Revenue and Inspectors Inland Revenue shall be subordinate to the Commissioners Inland Revenue.

(4A) Deputy Commissioners Inland Revenue, Assistant Commissioners Inland Revenue, Inland Revenue Officers, Inland Revenue Audit Officers, Superintendents Inland Revenue, Auditors Inland Revenue and Inspectors Inland Revenue shall be subordinate to the Additional Commissioners Inland Revenue.

(5) An officer vested with the powers and functions of Commissioner shall be subordinate to the Chief Commissioner Inland Revenue.

## CHANGES IN INCOME TAX LAW – IN DETAIL

Cont'd

## APPOINTMENT OF INCOME TAX AUTHORITIES

## SECTION 208

Through the proposed substitution of sub-section (1) of section 208, the nomenclatures of the tax authorities has to be changed.

“in section 208, for sub-section (1) the following shall be substituted, namely:-

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

## SELECTION FOR AUDIT BY THE BOARD

## SECTION 214C

Through the proposed insertion of section 214C, FBR has to be empowered for selecting the cases for audit through computer ballot.

“after section 214B, a new section may be added, namely:-

214C. Selection for audit by the Board,- (1) The Board may select persons or classes of persons for audit of Income Tax affairs through computer ballot which may be random or parametric as the Board may deem fit.

(2) Audit of Income Tax affairs of persons selected under sub-section (1) shall be conducted as per procedure given in section 177 and all the provisions of the Ordinance, except the first proviso to sub-section (1) of section 177, shall apply accordingly.

(3) For the removal of doubt it is hereby declared that Board shall be deemed always to have had the power to select any persons or classes of persons for audit of Income Tax affairs.”

## DIRECTORATE GENERAL OF TRAINING AND RESEARCH

## SECTION 229

Through the proposed insertion of section 229, the formation of the directorate general of training and research is proposed.

“after section 228, the following new section shall be added, namely:-

229. Directorate General of Training and Research.- (1) The Directorate General of Training and Research shall consist of a Director General, Additional Director General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors and such officers as the Board, may, by notification in the official Gazette, appoint.

(2) The Board may, by notification in the official Gazette, specify the functions, jurisdiction and powers of the Directorate General of Training and Research and its officers.”

## CHANGES IN INCOME TAX LAW – IN DETAIL

Cont 'd

## ADVANCE TAX ON TRANSACTION IN BANK

## SECTION 231AA

Through the proposed insertion of section 231AA, the ambit of levy of tax on cash withdrawal is proposed to be extended on all types of cash withdrawals.

“after section 231A, the following new section shall be inserted, namely:-

231AA. Advance tax on transactions in bank.- (1) Every banking company shall deduct tax at the rate specified in Division VIA of Part IV of the First Schedule, if the payment for withdrawal is made through any mode of banking transactions including Demand Draft, Payment Order, Online Transfer, Tele-graphic Transfer, CDR, STDR, RTC, or the sum total of the payments for such transaction in a day, exceeds twenty-five thousand rupees.

(2) Advance tax under this section shall not be collected in the case of withdrawals made by,-

- (a) the Federal Government or a Provincial Government;
- (b) a foreign diplomat or a diplomatic mission in Pakistan; or
- (c) a person who produces a certificate from the Commissioner that his income during the tax year is exempt.”

## ADVANCE TAX ON PURCHASE OF AIR TICKETS

## SECTION 236B

Through the proposed insertion of section 236B, levy of tax on purchase of domestic air ticket is proposed.

“after section 236A, the following new section shall be inserted, namely:-

236B. Advance tax on purchase of air ticket.- (1) There shall be collected advance tax at the rate specified in Division IX of Part IV of the First Schedule, on the purchase of gross amount of domestic air ticket.

(2) The person preparing air ticket shall charge advance tax under sub-section (1) in the manner air ticket charges are charged.”

## REFERENCE TO AUTHORITIES

## SECTION 239B

Through the proposed insertion of section 239B, modification of reference section due to change in the nomenclatures of tax authorities is proposed.

“after section 239A, the following new section shall be inserted, namely:-

239B. Reference to authorities.- Any reference to the Regional Commissioner of Income Tax, Commissioner of Income Tax, Commissioner of Income Tax (Appeals) and Taxation Officer, wherever occurring, in this Ordinance and the rules made thereunder and notifications, orders, circulars or clarifications or any instrument issued thereunder shall be construed as reference to the Chief Commissioner Inland Revenue, Commissioner Inland Revenue, Commissioner Inland Revenue (Appeals) and officer of Inland Revenue, respectively.”

## CHANGES IN INCOME TAX LAW - IN DETAIL

Cont'd

**Table for Offences and Penalties**  
Under Section 182 of Income Tax Ordinance, 2001

SN	Offences	Penalties	Section to which offence has reference
1	Where any person fails to furnish a return of income or a statement as required under section 115 or wealth statement or wealth reconciliation statement or statement under section 165 within the due date.	Such person shall pay a penalty equal to 0.1 %of the tax payable for each day of default subject to a minimum penalty of five thousand rupees and a maximum penalty of 25% of the tax payable in respect of that tax year.	114, 115,116 and 165
2	Any person who fails to issue cash memo or invoice or receipt when required under this Ordinance or the rules made there under.	Such person shall pay a penalty of five thousand rupees or three per cent of the amount of the tax involved, whichever is higher.	174 and Chapter VII of the Income Tax Rules.
3	Any person who is required to apply for registration under this Ordinance but fails to make an application for registration.	Such person shall pay a penalty of five thousand rupees.	181
4	Any person who fails to notify the changes of material nature in the particulars of registration.	Such person shall pay a penalty of five thousand rupees.	181
5	Any person who fails to deposit the amount of tax due or any part thereof in the time or manner laid down under this Ordinance or rules made there under.	Such person shall pay a penalty of five per cent of the amount of the tax in default.  For the second default an additional penalty of 25% of the amount of tax in default.  For the third and subsequent defaults an additional penalty of 50% of the	137
6	Any person who repeats erroneous calculation in the return for more than one year whereby amount of tax less than the actual tax payable under this Ordinance is paid.	Such person shall pay a penalty of five thousand rupees or three per cent of the amount of the tax involved, whichever is higher.	137
7	Any person who fails to maintain records required under this Ordinance or the rules made there under.	Such person shall pay a penalty of ten thousand rupees or five per cent of the amount of tax on income whichever is	174

## CHANGES IN INCOME TAX LAW – IN DETAIL

Cont'd

## Table for Offences and Penalties

Under Section 182 of Income Tax Ordinance, 2001

Cont'd

SN	Offences	Penalties	Section to which offence has reference
8	Where a taxpayer who, without any reasonable cause, in non compliance with the provisions of section 177-  (a) fails to produce the record or documents on receipt of first notice;  (b) fails to produce the record or documents on receipt of second notice; and  (c) fails to produce the record or documents on receipt of third notice.	Such person shall pay a penalty of five thousand rupees;  Such person shall pay a penalty of ten thousand rupees; and  Such person shall pay a penalty of fifty thousand rupees.	177
9	Any person who fails to furnish the information required or to comply with any other term of the notice served under section 176.	Such person shall pay a penalty of five thousand rupees for the first default and ten thousand rupees for each subsequent default.	176
10	Any person who-  (a) makes a false or misleading statement to an Inland Revenue Authority either in writing or orally or Electronically including a statement in an application, certificate, declaration, notification, return, objection or other document including books of accounts made ,prepared, given, filed or furnished under this ordinance;  (b) furnishes or files a false or misleading information or document or statement to an Income tax Authority either in writing or orally or electronically;  (c) omits from a statement made or Information furnished to an Income tax Authority any matter or thing without which the statement or the information is false or misleading in a	Such person shall pay a penalty of twenty five thousand rupees or 100% of the amount of tax shortfall whichever is higher:  Provided that in case of an assessment order deemed under section 120, no penalty shall be imposed to the extent of the tax shortfall occurring as a result of the taxpayer taking a reasonably arguable position on the application of this Ordinance to the taxpayers, position.	114,115,116,174, 176, 177 and general.
11	Any person who denies or obstructs the access of the Commissioner or any officer authorized by the Commissioner to the premises, place, accounts, documents, computers or stocks.	Such person shall pay a penalty of twenty five thousand rupees or one hundred per cent of the amount of tax involved, whichever is higher.	175 and 177

## CHANGES IN INCOME TAX LAW IN DETAIL

Cont'd

## Table for Offences and Penalties

Under Section 182 of Income Tax Ordinance, 2001

Cont'd

SN	Offences	Penalties	Section to which offence has reference
12	Where a person has concealed income or furnished inaccurate particulars of such income, including but not limited to the suppression of any income or amount chargeable to tax, the claiming of any deduction for any expenditure not actually incurred or any act referred to in subsection (1) of section 111, in the course of any proceeding under this Ordinance before any Income tax authority or the appellate tribunal.	Such person shall pay a penalty of twenty five thousand rupees or an amount equal to the tax which the person sought to evade whichever is higher. However, no penalty shall be payable on mere disallowance of a claim of exemption from tax of any income or amount declared by a person or mere disallowance of any expenditure declared by a person to be deductible, unless it is proved that the person made the claim	20, 111 and General.
13	Any person who obstructs any Income tax Authority in the performance of his official duties.	Such person shall pay a penalty of twenty five thousand rupees.	209, 210 and General.
14	Any person who contravenes any of the provision of this Ordinance for which no penalty has, specifically, been provided in this section.	Such person shall pay a penalty of five thousand rupees or three per cent of the amount of tax involved, whichever is higher.	General.
15	Any person who fails to collect or deduct tax as required under any provision of this Ordinance or fails to pay the tax collected or deducted as required under section 160.	Such person shall pay a penalty of twenty five thousand rupees or the 10% of the amount of tax whichever is higher.	148,149,150,151,152,153,153A,154,155,156,156A,156B,158,160,231A,231B,233,233A,234,234A,235,236,236A.

## CHANGES IN INCOME TAX LAW – TAX CARD

### PROPOSED TAX RATE CARD FOR SALARIED MALES AND FEMALES TAX YEAR 2011

Where the income of an individual chargeable under the head “salary” exceeds fifty percent of his taxable income, the rates of tax to be applied shall be as set out in the following table namely: -

SN	TAXABLE INCOME	RATE OF TAX
1	Where the taxable income does not exceed Rs.300,000.	<b>0%</b>
2	Where the taxable income exceeds Rs.300,000 but does not exceed Rs.350,000.	<b>0.75%</b>
3	Where the taxable income exceeds Rs.350,000 but does not exceed Rs.400,000.	<b>1.5%</b>
4	Where the taxable income exceeds Rs.400,000 but does not exceed Rs.450,000.	<b>2.5%</b>
5	Where the taxable income exceeds Rs. 450,000 but does not exceed Rs.550,000.	<b>3.5%</b>
6	Where the taxable income exceeds Rs. 550,000 but does not exceed Rs.650,000.	<b>4.5%</b>
7	Where the taxable income exceeds Rs. 650,000 but does not exceed Rs.750,000.	<b>6.0%</b>
8	Where the taxable income exceeds Rs. 750,000 but does not exceed Rs.900,000.	<b>7.5%</b>
9	Where the taxable income exceeds Rs. 900,000 but does not exceed Rs.1,050,000.	<b>9.0%</b>
10	Where the taxable income exceeds Rs. 1,050,000 but does not exceed Rs.1,200,000.	<b>10.0%</b>
11	Where the taxable income exceeds Rs. 1,200,000 but does not exceed Rs.1,450,000.	<b>11.0%</b>
12	Where the taxable income exceeds Rs. 1,450,000 but does not exceed Rs.1,700,000.	<b>12.5%</b>
13	Where the taxable income exceeds Rs. 1,700,000 but does not exceed Rs.1,950,000.	<b>14.0%</b>
14	Where the taxable income exceeds Rs. 1,950,000 but does not exceed Rs.2,250,000.	<b>15.0%</b>
15	Where the taxable income exceeds Rs. 2,250,000 but does not exceed Rs.2,850,000.	<b>16.0%</b>
16	Where the taxable income exceeds Rs. 2,850,000 but does not exceed Rs.3,550,000.	<b>17.5%</b>
17	Where the taxable income exceeds Rs. 3,550,000 but does not exceed Rs.4,550,000.	<b>18.5%</b>
18	Where the taxable income exceeds Rs. 4,550,000.	<b>20.0%</b>

Note: The above mentioned rates shall be applicable to both male and female tax payers without any distinction.

Provided further that where the total income of a taxpayer marginally exceeds the maximum limit of a slab in the table, the income tax payable shall be the tax payable on the maximum of that slab plus an amount equal to:

- (i) 20% of the amount by which the total income exceeds the said limit where the total income does not exceed Rs.550,000.
- (ii) 30% of the amount by which the total income exceeds in each slab but total income does not exceed Rs.1,050,000.
- (iii) 40% of the amount by which the total income exceeds in each slab but total income does not exceed Rs.2,250,000.
- (iv) 50% of the amount by which the total income exceeds in each slab but total income does not exceed Rs.4,550,000.
- (v) 60% of the amount by which the total income exceeds in each slab but the total income exceeds Rs.4,550,000.

***When the relief worked out through this provision ceases to exist then it would not be applicable and tax shall be computed normally without marginal relief.***

## CHANGES IN INCOME TAX LAW – TAX CARD

### PROPOSED TAX RATE CARD FOR NON-SALARIED INDIVIDUALS TAX YEAR 2011

Non-Salaried Individual has to pay taxes on their income, the rates of tax to be applied shall be as set out in the following table namely:-

SN	TAXABLE INCOME	RATE OF TAX
1	Where the taxable income does not exceed Rs. 300,000.	<b>0%</b>
2	Where the taxable income exceeds Rs. 300,000 but does not exceed Rs.400,000.	<b>7.5%</b>
3	Where the taxable income exceeds Rs. 400,000 but does not exceed Rs.500,000.	<b>10.0%</b>
4	Where the taxable income exceeds Rs. 500,000 but does not exceed Rs.600,000.	<b>12.5%</b>
5	Where the taxable income exceeds Rs. 600,000 but does not exceed Rs.800,000.	<b>15.0%</b>
6	Where the taxable income exceeds Rs. 800,000 but does not exceed Rs.1,000,000.	<b>17.5%</b>
7	Where the taxable income exceeds Rs. 1,000,000 but does not exceed Rs.1,300,000.	<b>21.0%</b>
8	Where the taxable income exceeds Rs. 1,300,000.	<b>25.0%</b>

### PROPOSED TAX RATE FOR ASSOCIATION OF PERSONS TAX YEAR 2011

The Association of Persons has to pay tax on its taxable income at the rate of 25%. Further this rate is proposed to be applicable to AOP's retrospectively i.e. not only to Tax Year 2011 but also to Tax Year 2010.

### PROPOSED TAX RATE FOR SMALL COMPANY TAX YEAR 2011

The Small Company has to pay tax on its taxable income at the rate of 25%.

### PROPOSED TAX RATE FOR COMPANIES TAX YEAR 2011

The Company has to pay tax on its taxable income at the rate of 35%.

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