
Finance Act 2010

Changes in Income Tax
Ordinance, 2001 only.

Rearranged by
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For the use of Clients & Staff Only.

1. Amended Sections of ITO 2001

The following sections of Income Tax Ordinance, 2001 were amended by the Finance Act, 2010. Most of the amendments were already made through the Finance (amendment) Ordinance, 2009 & Finance (amendment) Ordinance, 2010 in the Income Tax Ordinance, 2001.

- Section 2(2) – Appellate Tribunal
- Section 2(11B) – Chief Commissioner
- Section 2(13) – Commissioner
- Section 2(13A) – Commissioner (Appeals)
- Section 2(38A) – Officer of Inland Revenue
- Section 2(48A) Omitted – Regional Commissioner
- Section 2(65) Omitted – Taxation Officer
- Section 13 – Value of Perquisites
- Section 37 & 37A – Capital Gains
- Section 65B – Tax credit for Investment
- Section 65C – Tax credit for Enlistment
- Section 111 – Unexplained income or assets
- Section 113 – Minimum tax on the income of certain persons
- Section 114 – Returns
- Section 116 – Wealth Statement
- Section 118 – Method of furnishing returns and other documents
- Section 121 – Best Judgment Assessment
- Section 122 – Amendment of assessments
- Section 122C – Provisional Assessment
- Section 127 – Appeal to the Commissioner (Appeals)
- Section 130 – Appointment of the Appellate Tribunal
- Section 134A – Alternative Dispute Resolution
- Section 137 – Due date for payment of tax
- Section 138B – Estate in bankruptcy
- Section 146B – Tax arrears settlement incentives scheme
- Section 147 – Advance tax paid by the taxpayer
- Section 153 – Payment for goods and services
- Section 155 – Income from property
- Section 165 – Statements
- Section 169 – Tax collected or deducted as a final tax
- Section 161 – Failure to pay tax collected or deducted
- Section 162 – Recovery of tax from the person from whom tax was not collected or deducted
- Section 174 – Records
- Section 176 – Notice to obtain information or evidence
- Section 177 – Audit
- Section 181A – Active Taxpayer List
- Section 182 – Offences and penalties
- Section 203 – Trial by special judge
- Section 205 – Default surcharge
- Section 205A – Reduction in additional tax, consequential to reduction in tax or penalty
- Section 207 – Income tax authorities
- Section 208 – Appointment of income tax authorities
- Section 209 – Jurisdiction of income tax authorities
- Section 210 – Delegation
- Section 211 – Power or function exercised
- Section 215 – Furnishing of returns, documents etc.
- Section 217 – Forms and notices; authentication of documents
- Section 231AA – Advance tax on transaction in bank
- Section 233A – Collection of tax by a stock exchange registered in Pakistan
- Section 236 – Telephone users
- Section 236A – Advance tax at the time of sale of auction
- Section 236B – Advance tax on purchase of air ticket

2. Tax on taxable income

Section 4, Division IB, Part I, First Schedule.

Slab rates for Association of Persons (AOP) have been substituted with flat tax rate of 25% of taxable income. This amendment is to take effect from the Tax Year 2010 and will increase the tax liability of AOPs having income upto Rs. 1,300,000. The exemption of taxable income upto Rs. 100,000 has also been withdrawn.

3. Loan by the employer

Section 13(7)

A new proviso has been inserted to exempt interest not charged or charged less than the bench mark rate on the loans given by the employer, in case there exists a reciprocal arrangement under which any waiver is given by employee to the employer on some account maintained with employer.

4. Capital gain on sale of securities

Section 37 & 37A, Division VII of Part I of 1st Schedule

Clause 110 part I, Second schedule, Rule 6B-6C, Fourth Schedule

Capital gain on sale of securities has been brought into tax net after a long time by introducing a new section 37A (Capital gain on sale of securities) accordingly necessary amendments have been made in section 37 to streamline the chargeability and clause 110, part I of the second schedule has also been omitted which dealt with exemption of capital gains upto June 30, 2010.

Any gain arising on sale of shares of a public company, vouchers of Pakistan Telecommunication Corporation, Modaraba Certificates or instruments of redeemable capital, whether purchased before, on or after the thirtieth day of June, 2010, if disposed of within a period of 12 months shall be charged to tax as a separate block of income at the rates prescribed for Tax year 2011 to Tax year 2016 in Division VII of Part I of 1st Schedule.

However, gains arising to banking or insurance companies shall not be taxed under this section.

Loss on disposal of securities in a tax year 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.

Rate of tax on capital gains arising out of sale of securities:

Held for less than six months at 10%, 10%, 12.5%, 15% and 17.5 for Tax years 2011, 2012, 2013 2014 and 2015 respectively.

Held for more than six months but less than twelve months at 7.5%, 8%, 8.5%, 9%, 9.5%, 10% for Tax years 2011, 2012, 2013 2014 2015 and 2016 respectively.

Rate of tax on capital gains arising out of sale of securities by insurance companies:

Held for less than six months at 10%, 12.5%, 15% 17.5 and 17.5 for Tax years 2011, 2012, 2013 2014 and 2015 respectively.

Held for more than six months but less than twelve months at 8%, 8.5%, 9%, 9.5%, 10% for Tax years 2011, 2012, 2013 2014 and 2015 respectively.

5. Tax credit for investment

Section 65B

An incentive has been provided for companies having industrial undertakings setup in Pakistan {defined in clause (29C) of section 2} against investments made for purchase of plant and machinery for installation, for the purposes of Balancing, Modernization & Replacement (BMR) of the plant and machinery already installed therein, equal to 10% of the amount of investment against tax payable in the relevant tax year in which such costs incurred during the period from July 01, 2010 to June 30, 2015.

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, the excess amount of credit 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.

6. Tax credit for enlistment

Section 65C

By inserting a new section a tax credit @ 5% of tax payable for the tax year in which the company seeks enlistment on stock exchange in Pakistan shall be allowed.

7. Unexplained income or assets

Section 111

Unexplained income is to be taxed in the year to which it relates, previously it was taxed in the tax year immediately preceding the financial year in which it was discovered by the Commissioner and the five years limitation period for chargeability of tax to such income or asset has been abolished.

8. Minimum tax on the income of certain persons

Section 113

The scope of minimum tax is extended to Individual and AOP having turnover of Rs. 50M or above in tax year 2009 and 2007 respectively or in any subsequent year and the rate has also been increased from 0.5% to 1% of the turnover.

9. Return of income

Section 114

The process for revision of return has been modified with re-arrangements of sub-section (6) and insertion of sub-section (6A). Now the taxpayer is allowed to revise a return anytime without limitation of five years period in case any omission or wrong statement is discovered subject to conditions that taxpayer files:

- Revised accounts or revised audited accounts as applicable; and
- The reasons for revision of return in writing duly signed by the taxpayer.

In case of revision of return, the imposition of penalties shall be as follows:

- Voluntarily, before receipt of notice u/s 177 or sub-section (9) of 122 – No penalty
- Deposit of tax as pointed out by the Commissioner during the audit or before issuance of notice under sub-section (9) of section 122 – 25% of the leviable penalties.
- After issuance of show cause notice under sub-section (9) of section 122 – 50% of the leviable penalties.

10. Wealth Statement

Section 116, Section 115(4B)

Sub-section (2A) has been inserted in section 116 requiring the taxpayer filing return in response to provisional assessment u/s 122C to file wealth statement along with wealth reconciliation statement and explanation of sources.

Sub-section (4B) of section 115 has been removed and inserted as sub-section (4) of section 116 and the threshold limit of tax paid by taxpayers falling under FTR for filing of wealth statement along with reconciliation of wealth statement has been increased from rupees twenty thousand to rupees thirty five thousand.

11. Method of furnishing returns and other documents

Section 118

The following changes have been made in filing dates of certain returns and statements:

- Return of income (other than a company) – 30th of September
- Return of income by salaried taxpayer through e-portal – 31st of August
- Annual statement of deduction of income tax from salary, as the concept of annual withholding statement has been abolished (Section 165) – 31st of August
- Statement required u/s 115(4) – 31st of August

12. Best judgment assessment*Section 121, Section 177(10)*

Clause (a) of sub-section (1) has been omitted “where a person fails to file a return of income” and has been covered under newly inserted section 122C.

The “Cost and Management Accountant” has also been inserted in addition to Chartered Accountant, for Best Judgment Assessment of a taxpayer where he fails to produce records and documents required by such accountants under sub-section (10) of section 177.

13. Amendment of Assessment*Section 122*

Reference of sub-section (6A) of section 114 has been inserted.

The authority has been given to the Commissioner to amend as many times as may be necessary the erroneous assessment orders which are prejudice to the interest of revenue.

Sub-section (5AA) is inserted which allows the Commissioner to assume powers available as always to amend or further amend an assessment order in respect of any subject matter which was not in dispute in an appeal.

14. Provisional Assessment*Section 122C*

New section has been inserted to provide authority to the Commissioner to make a provisional assessment of taxable income or income of the person which will be considered final assessment if the taxpayer does not file return of income along with other required statements/documents within a period of sixty days from the date of service of order of such provisional assessment.

15. Appeal to the Commissioner (Appeals)*Section 127*

As all the penalties have been listed in section 182 and sections 184-189 have been omitted from this ordinance, so reference of sections 184-189 being irrelevant has been omitted from section 127 and the appeal fee is fixed at Rs. 1,000/-.

16. Due date for payment of tax*Section 137*

The payment of tax against the provisional assessment order u/s 122C shall be made after 60 days from the date of service of the notice.

17. Estate in bankruptcy*Section 138B*

In case of bankruptcy, the tax liability shall be passed on to the estate in bankruptcy and 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.

18. Advance tax paid by the taxpayer*Section 147*

The exemptions available to the taxpayers having income from capital gain for payment of advance tax have been withdrawn.

The threshold limit for payment of advance tax of Rs. 200,000/- available to AOPs has been withdrawn and for Individuals it has been increased from Rs. 200,000/- to Rs. 500,000/-. The dates for payment of advance tax by companies and AOPs have been prescribed to be as follows:

- September Quarter – 25th of September
- December Quarter – 25th of December
- March Quarter – 25th of March
- June Quarter – 15th of June

Payment of advance tax on capital gains on sale of securities which is adjustable against the final tax liability of the taxpayer, shall be made within 7 days after the close of each quarter in the following manner:

- Securities held for less than six months – 2%
- Securities held for more than six months but less than twelve months – 1.5%

Advance tax under this section is not payable by the individual investors

19. Payment for goods and services*Section 153*

Individual having turnover of Rs. 50M and above in tax year 2009 or in any subsequent year shall be liable for withholding of tax while making payment for goods, services and contracts.

20. Income from Property*Section 155 & Section 169*

Through abolishing sub-section (2) and reference of section 155 from clause (b) of subsection (1) of Section 169, it appears that the income from property has been excluded from the Final Tax Regime based on the withholding of tax at source by the person making payment of rent.

21. Statements*Section 165*

Annual and monthly statements prescribed under sub-section (1) have been abolished and substituted with filing of quarterly statement within 20 days of the end of the each quarter. Filing of Nil statement has also been made mandatory for the withholding agents.

22. Tax collected or deducted as a final tax*Section 169*

By insertion of explanation after sub-section (3) the statement u/s 115(4) shall be taken for all the purposes to be an assessment order.

23. Records*Section 174*

The period for retention of records and documents already increased from five years to six years through the Finance (amendment) Ordinance, 2010, now promulgated by the Finance Act, 2010. The records shall be retained till the final decision in any proceedings for assessment, appeal, revision, reference, petition and any proceeding before the Alternative Dispute Resolution Committee.

24. Notice to obtain information or evidence*Section 176(1)(c)*

In addition to the Board, the commissioner shall also be empowered to appoint Chartered Accountants or Cost and Management Accountants to carry out audit of the taxpayer u/s 177.

25. Audit*Section 177, Section 214C*

Certain amendments were made through the Finance (amendment) Ordinance, 2010 in section 177, these amendments along with some additional amendments have been included in the Finance Act, 2010 for promulgation through the parliament.

The Finance Act, 2010 substituted sub-section (1) & (2), omitted sub-sections (3), (4), (5), amended (6), (7), (8) and inserted sub-section (10).

By substitution of sub-sections (1) & (2) the existing procedure for selection of cases for tax audit on the basis of criteria lay down by FBR has been abolished. The procedure to carry on audit of income tax affairs of the person and to call for any record or documents including books of accounts maintained under this ordinance is streamlined with other tax laws of the Inland Revenue.

The Commissioner may call for records or documents including books of accounts of the taxpayer subject to recording reason in writing and within a period of six years from the end of the tax year to which they relate.

Through insertion of section 214C, the board has been empowered to select persons or class of persons for audit purposes through computer ballot or any other basis. The powers have been assumed to be available with the board retrospectively.

26. Active Taxpayer List*Section 181A*

The “Active Taxpayers’ List” shall be regulated by FBR through prescribed rules.

Previously the “Active Taxpayers’ List” was published on the web portal of FBR without any legal authority.

27. Offences and Penalties

Section 182-190

All the offences and penalties have been listed in Section 182 and omitted section 184- 190 being irrelevant.

(The detail of all offences / penalties as per section 182 is given in our ASC Income Tax Memorandum 2010.)

Section 183 is substituted with “Exemption from penalty and default surcharge” where Federal Government or Board may notify and exempt any person or class of persons from payment of the whole or part of the penalty and default surcharge.

28. Trial by Special Judge and appeal against order of the Special Judge

Section 203, 203A

The Federal Government through notification in the official gazette may appoint as many special judges as may consider necessary. Previously the special judges were appointed under the provisions of Pakistan Criminal Law (Amendment) Act, 1958.

Section 203A prescribed the procedure for filing of appeal to High Court against order of the Special Judge.

29. Default Surcharge

Section 205

The term “additional tax” wherever occurring has been substituted with the term “Default Surcharge” in line with other tax laws falling under IRS.

30. Income Tax Authorities

Section 207

Substituted Section 207 and provided new designations of the income tax authorities to streamline the Inland Revenue Services.

The section also provides hierarchy of the Officers of Inland Revenue. The Chief Commissioner Inland Revenue and the Commissioner Inland Revenue (Appeals) shall be the subordinate to the Board whereas the Commissioner Inland Revenue shall be the subordinate to the Chief Commissioner Inland Revenue and other officers shall be the sub-ordinate to the Commissioner Inland Revenue.

31. Bar of suits in Civil Courts

Section 227

Sub-section (2) has been inserted to restrict investigation or inquiry against any officer or official for anything done in his official capacity under this Ordinance, rules, instructions or direction without prior approval of the Board.

32. Directorate General of Training and Research*Section 229*

The Finance Act, 2010 allowed to established a new “Directorate for Training and Research”.

33. Advance tax on transaction in bank*Section 231AA, Division VIA, Part IV, 2nd Schedule*

By insertion of new section 231AA, every banking company, non-banking financial institution, exchange company or any authorized dealer of foreign exchange shall collect advance tax @ 0.3% at the time of sale against cash of any instrument, including Demand Draft, Pay Order, CDR, STDR, SDR, RTC, or any other instrument of bearer nature or on payment of cash on cancellation of any of these instruments. Previously only cash withdrawal from a bank was taxed @ 0.3% under section 231A.

In addition to above, every banking company, non-banking financial institution, exchange company or any authorized dealer of foreign exchange shall collect advance tax at the time of transfer of any sum against cash through online Transfer, Telegraphic Transfer, Mail Transfer or any other mode of electronic transfer Tax under this section shall not be collected in the case of withdrawals made by the Federal Government, a provincial government, a foreign diplomat or diplomatic mission in Pakistan or a person produces exemption certificate.

34. Collection of tax by a stock exchange registered in Pakistan*Section 233A*

The tax withheld from members of stock exchange in lieu of their commission shall be treated as advance tax adjustable against their tax liability instead of minimum tax as declared by Finance Act, 2008.

35. Telephone Users*Section 236(i)(c)*

Previously 10% tax was withheld on telephone bills and prepaid cards, the scope has been extended to sale of units through any electronic medium or whatever form and the person issuing or selling units shall be responsible for collections of advance tax @ 10% at the time of issuance or sale of units.

36. Advance tax at the time of sale by auction*Section 236A*

The Finance Act, 2010 extended the scope of collection of tax @ 5% on sale of property or goods other than confiscated or attached by public auction.

37. Advance tax on purchase of air ticket*Section 236B, Division IX, Part IV, 1st Schedule.*

The person preparing domestic air ticket shall charge advance tax @ 5% on the sale of gross amount of such ticket.

CHANGES IN THE SCHEDULES TO THE INCOME TAX ORDINANCE, 2001

Changes in 1st Schedule

Rate of Tax

NON-SALARIED INDIVIDUALS

Tax rate for non-salaried individuals for TY 2011.

SN	Taxable Income	Rate of Tax
1	Where the taxable income does not exceed Rs.300,000.	0%
2	Where the taxable income exceeds Rs.300,000 but does not exceed Rs.400,000.	7.5%
3	Where the taxable income exceeds Rs.400,000 but does not exceed Rs.500,000.	10.0%
4	Where the taxable income exceeds Rs.500,000 but does not exceed Rs.600,000.	12.5%
5	Where the taxable income exceeds Rs. 600,000 but does not exceed Rs.800,000.	15.0%
6	Where the taxable income exceeds Rs. 800,000 but does not exceed Rs.1,000,000.	17.5%
7	Where the taxable income exceeds Rs. 1,000,000 but does not exceed Rs.1,300,000.	21.0%
8	Where the taxable income exceeds Rs. 1,300,000.	25.0%

ASSOCIATION OF PERSONS

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

SMALL COMPANY

The Small Company has to pay tax on its taxable income at the rate of 25% instead of 20%.

COMPANY

The Company (other than small company) has to pay tax on its taxable income at the same rate of 35%.

RETAILERS

Rate of tax for retailers having turnover less than Rs. 5M increased from Rs. 0.5% to 1%.

IMPORTERS

Rate of advance tax at u/s 148 (Import of goods) has been increased from 4% to 5%

The tax cards for all major types of taxpayers can be downloaded from our official website by logging onto www.asalamjan.com

SALARIED INDIVIDUALS

Tax rate for salaried individuals for TY 2011.

S.No	Taxable Income	Rate of Tax
1	Where the taxable income does not exceed Rs.300,000.	0%
2	Where the taxable income exceeds Rs.300,000 but does not exceed Rs.350,000.	0.75%
3	Where the taxable income exceeds Rs.350,000 but does not exceed Rs.400,000.	1.5%
4	Where the taxable income exceeds Rs.400,000 but does not exceed Rs.450,000.	2.5%
5	Where the taxable income exceeds Rs. 450,000 but does not exceed Rs.550,000.	3.5%
6	Where the taxable income exceeds Rs. 550,000 but does not exceed Rs.650,000.	4.5%
7	Where the taxable income exceeds Rs. 650,000 but does not exceed Rs.750,000.	6.0%
8	Where the taxable income exceeds Rs. 750,000 but does not exceed Rs.900,000.	7.5%
9	Where the taxable income exceeds Rs. 900,000 but does not exceed Rs.1,050,000.	9.0%
10	Where the taxable income exceeds Rs. 1,050,000 but does not exceed Rs.1,200,000.	10.0%
11	Where the taxable income exceeds Rs. 1,200,000 but does not exceed Rs.1,450,000.	11.0%
12	Where the taxable income exceeds Rs. 1,450,000 but does not exceed Rs.1,700,000.	12.5%
13	Where the taxable income exceeds Rs. 1,700,000 but does not exceed Rs.1,950,000.	14.0%
14	Where the taxable income exceeds Rs. 1,950,000 but does not exceed Rs.2,250,000.	15.0%
15	Where the taxable income exceeds Rs. 2,250,000 but does not exceed Rs.2,850,000.	16.0%
16	Where the taxable income exceeds Rs. 2,850,000 but does not exceed Rs.3,550,000.	17.5%
17	Where the taxable income exceeds Rs. 3,550,000 but does not exceed Rs.4,550,000.	18.5%
18	Where the taxable income exceeds Rs. 4,550,000.	20.0%

MARGINAL RELIEF

Through Finance Act 2008 a provision for marginal relief in the tax rates was introduced to remove anomaly in the tax rates. The marginal relief is available on amount in excess of maximum limit of the preceding slab relative to slab in which the taxable income fall. The marginal amount will be taxed at the following rates:

S.No	If taxable income of the tax payer is	Percentage of incremental income taxable at next applicable tax rate
1	Up to Rs.500,000	20%
2	500,001 to 1,050,000	30%
3	1,050,001 to 2,000,000	40%
4	2,000,001 to 4,450,000	50%
5	4,450,001 and above	60%

Changes in 2nd Schedule

Exemptions and Tax Concessions

Part I – Exemption from total income

1. **Clause 57(2)** exempted income derived by Mutual Fund, Investment Company, or a collective investment scheme or a REIT Scheme or Private Equity and Venture Capital Fund or the National Investment (Unit) Trust of Pakistan. Amendment of sub-clause (2) of clause 57 excluded capital gain on stock and shares of public company, PTC vouchers, modarba certificates, or any instrument of redeemable capital and derivative products held for less than 12 months from such exemption.
2. **Clause 57(3)(xii)** – Income of Punjab Pension Fund established under the Punjab Pension Fund Act, 2007 (I of 2007) and the trust established thereunder has been exempted.
3. **Clause 72(iii)** –insertion of sub-clause (iii) of clause 72 exempted profit on debt payable to a non-resident person being a foreign individual, company, firm or association of persons in respect of a foreign loan as is utilized for industrial investment in Pakistan provided that the agreement for such loan has been concluded on or after the first day of February, 1991, and duly registered with the State Bank of Pakistan. Provided that this exemption shall have retrospective effect to the agreements entered into in the past and shall not be applicable to new contracts after the 30th day of June, 2010, prospectively.
4. **New clause 92A** – The income of any university or any other educational institution established in the most affected and moderately affected areas of Khyber Pakhtunkhwa, FATA and PATA, for a period of two years ending on the 30th day of June, 2011 shall be exempted.
5. **Clause 99A** – The exemption period for profits and gains accruing to a person on sale of immovable property to a REIT Scheme has been extended from 30-06-2010 to 30-06-2015.
6. **Clause 102** has been omitted where dividend received by the ICP from any other company which has paid or will pay tax in respect of the profit out of which such dividends are paid was exempt.
7. **Clause 103** – In line with amendment in clause 57(2), exemption on distribution received by a taxpayer from a collective investment scheme registered by SECP shall be available to only such mutual funds, collective investment schemes that are debt or money market funds and these do not invest in shares.
8. **Clause 103B** - Any dividend in specie derived in the form of shares in a company is exempt from tax, provided on disposal of such shares by the recipient, the amount representing the dividend in specie shall be taxed in accordance with provisions of section 5 (Tax on dividends) and the amount, representing the difference between the consideration received and the amount hereinabove, shall be treated in accordance with provisions of section 37 (Capital Gain) or section 37A (Capital gains on sale of securities), as the case may be.
9. **Clause 110** has been omitted where capital gain was exempt upto tax year ending on the 30th day of June 2010.

10. Clause 111 has also been omitted where any income chargeable under the head “capital gain”, being income from the sale of shares of a public company derived by any foreign institutional investor as is approved by the Federal Government for the purpose of this clause.

11. New clause 126F has been inserted where profits and gains derived by a taxpayer located in the most affected and moderately affected areas of Khyber Pakhtunkhwa, FATA and PATA for a period of three years starting from the tax year 2010 shall be exempt except manufacturers and suppliers of cement, sugar, beverages and cigarettes.

Part II – Reduction in tax rates

12. Clause 24A – Rate of deduction of tax from distribution of cigarette and pharmaceutical products was 1% of gross amount of payments, now the scope of this reduction is extended to large distribution houses who fulfill all the conditions for a large import house laid down under clause (d) of sub-section (7) of section 148, for large import houses.

Part III – Reduction in tax liability

13. Clause (1A) deals with 50% reduction in tax liability of senior citizens. Now this reduction is not applicable to the deduction of tax which falls u/s 169 (final discharge of tax liability) and reduction of 50% in tax liability is applicable to those Senior Citizens whom taxable income does not exceed Rs. 1,000,000 in a tax year. The limit has been increased from Rs. 750,000/-.

Part IV – Exemption from specific provisions

14. New clause 10A - (i)

- the penalty on failing to deposit the amount of tax due or any part thereof in the time or manner laid down under this Ordinance or rules made thereunder or default surcharge shall not be applicable to businesses located in the most affected and moderately affected areas of Khyber Pakhtunkhwa, FATA and PATA, provided that the principal amount of tax due is paid by the 30th day of June, 2010;

- the provisions of section 235, regarding advance tax on electricity, shall not apply to commercial and industrial consumers of electricity located in the most affected and moderately affected areas of Khyber Pakhtunkhwa, FATA and PATA till the 30th day of June, 2011;

- the provisions of section 154, regarding withholding tax on exports, shall not be applicable to the export of goods originating from the most affected and moderately affected areas of Khyber Pakhtunkhwa, FATA and PATA, till the 30th day of June, 2011; provided that this clause shall only be restricted to the exporters based in the above areas;

- the provisions of section 148 (imports) shall not be applicable on the import of plant and machinery for establishment of businesses in the most affected and moderately affected areas of Khyber Pakhtunkhwa, FATA and PATA till the 30th day of June, 2011: provided that this concession shall not be available to the manufacturers and suppliers of cement, sugar, beverages and cigarettes;

- Most affected areas means: district Peshawar, Malakand Agency, and districts of Swat, Buner, Shangla, Upper Dir, Lower Dir, Hangu, Bannu, Tank, Kohat and Chitral; and - Moderately affected areas means districts of Charsadda, Nowshera, DI Khan Batagram, Lakki Marwat, Swabi and Mardan.

15. New clause 73 – Income tax payable by a foreign expert shall be exempted to mitigate part of the cost of obtaining foreign support to fill productivity gap, provided that such expert is acquired with the prior approval of the Ministry of Textile Industry.

16. New clause 74 and 75 –Gain on transfer of assets by Civil Aviation Authority (CAA) for the purpose of the ijara agreement and return back to CAA has been exempted from tax.

Changes in 3rd Schedule Depreciation

17. 100% depreciation has been allowed to “a ramp built to provide access to persons with disabilities” not exceeding Rs. 250,000 each.

Changes in 4th Schedule Rules for the computation of the Profits and Gains of Insurance Business

18. The amendments relevant to 4th schedule are discussed in “Capital gain on sale of securities” above.

Changes in 5th Schedule Rules for the computation of the Profits and gains from the exploration and production of petroleum

19. New Rule 4A, Part I of 5th schedule –

With effect from the Tax Year 2010, Decommissioning Cost as certified by a Chartered Accountant or a Cost Accountants, in the manner prescribed, shall be allowed over a period of ten years or the life of the development and production or mining lease whichever is less, starting from the year of commencement of commercial production or commenced prior to the 1st July, 2010, deduction for decommissioning cost as referred earlier shall be allowed from the Tax Year 2010 over the period of ten years or the remaining life of the development and production or mining lease, whichever is less. This rule is added in line with MoU signed by the Pakistan Petroleum Production & Exploration Companies Association with FBR.

Changes in 7th Schedule Rules for the computation of the profits and gains of a banking company and tax payable thereon

20. Rules 1(c) – The provision for advances and off-balance sheet items shall be allowed @ 5% of total advances for consumers and small and medium enterprises.

21. Inserted Rule 8A in seventh schedule i.e. Transactional Provisions.

(1) Amounts provided for in the tax year 2008 and prior to the said tax year for or against irrecoverable or doubtful advances, which were neither claimed nor allowed as a tax deductible in any tax year, shall be allowed in the tax year in which such advances are actually written off against such provisions, in accordance with the provision of sections 29 and 29A.

(2) Amounts provided for in the tax year 2008 and prior to the said tax year for or against irrecoverable or doubtful advances, which were neither claimed nor allowed as a tax deductible in any tax year, which are written back in the tax year 2009 and thereafter in any tax year and credited to the profit and loss account, shall be excluded in computing the total income of that tax year under rule 1 of this Schedule.

(3) The provisions of this Schedule shall not apply to any asset given or acquired on finance lease by a banking company up to the tax year 2008, and recognition of income and deductions in respect of such asset shall be dealt in accordance with the provisions of the Ordinance as if this Schedule has not come into force:

Provided that un-absorbed depreciation in respect of such assets shall be allowed to be set-off against the said lease rental income only.

Views expressed in this supplement are for assistance of CLIENTS & STAFF & should not be acted upon without obtaining professional advice, as the interpretation may differ in different circumstances.

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