

[AS PASSED BY THE NATIONAL ASSEMBLY]

A

BILL

to give effect to the financial proposals of the Federal Government for the year beginning on the first day of July, 2010, and to amend certain laws

WHEREAS it is expedient to make provisions to give effect to the financial proposals of the Federal Government for the year beginning on the first day of July, 2010, and to amend certain laws for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Finance Act, 2010.

(2) It extends to the whole of Pakistan.

(3) It shall, unless otherwise provided, come into force on the first day of July, 2010.

2. **Amendment of Ordinance XXV of 1961.**—In the Petroleum Products (Surcharge) Ordinance, 1961 (XXV of 1961), the following amendments shall be made, namely:—

(1) in the long title and preamble, for the word “surcharge”, the words “petroleum levy” shall be substituted;

(2) in section 1, in sub-section (1), for the word “Surcharge”, the words “Petroleum Levy” shall be substituted;

(3) in section 2,—

(a) in clause (4Ba), the word “development” shall be omitted; and

(b) clause (4D) shall be omitted;

(4) in section 3,—

(a) in the marginal note, for the words “Development Surcharge”, the words “Petroleum Levy” shall be substituted;

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

“(1) Subject to the provisions of this Ordinance, every company and licensee shall pay to the Federal Government the petroleum levy on such rates and on such petroleum products, produced by a refinery or purchased by a company for resale, as are specified in the Fifth Schedule.”; and

(c) after sub-section (1), substituted as aforesaid, the following new sub-section shall be inserted, namely:—

“(1A) Every company and licensee shall pay the petroleum levy in such manner as the Federal Government may, by rules, prescribe.”;

(5) in section 3A,—

(a) for the words “development surcharge”, wherever occurring, the words “petroleum levy” shall be substituted;

(b) in sub-section (2), in clause (b), for the words, comma and figure “Central Excise Act, 1944”, the words, comma and figure “Federal Excise Act, 2005” shall be substituted;

(c) in sub-section (3), for the words, comma and figure “Central Excise Act, 1944”, the words, comma and figure “Federal Excise Act, 2005” shall be substituted; and

(d) in the margin, the letter, word and figure “I of 1944”, occurring twice, shall be omitted.;

(6) in section 5,—

(a) in the marginal note, for the words “development surcharge”, the words “petroleum levy” shall be substituted;

(b) for the words “development surcharge”, the words “petroleum levy” shall be substituted;

(c) for the words, figures, and comma “section 23 of the Income Tax Ordinance, 1979”, the words, comma, figures and brackets “Income Tax Ordinance, 2001 (XLIX of 2001)” shall be substituted; and

(d) in the margin, the figures and word “XXXI of 1979” shall be omitted;

- (7) in section 6, in sub-section (2), in clause (aaa), for the words "development surcharge", the words "petroleum levy" shall be substituted;
- (8) in section 8,—
- (a) the words "or Secretary of Oil Companies Advisory Committee or his duly authorized nominee" shall be omitted; and
- (b) the Explanation shall be omitted;
- (9) after section 8, the following new section shall be added, namely:—
- "9. **Validation.**—Notwithstanding anything contained in any law, rule or judgment of a Court, the petroleum development levy levied and collected from a company during the period from the 1st day of March, 2010, to the 30th June, 2010, shall be deemed to have been validly and lawfully levied and collected and shall not be refunded. So much of such levy as has not been paid, collected or realized during the said period shall be recoverable in accordance with the provisions of this Ordinance and the rules made thereunder.";and
- (10) for the Fifth Schedule, the following shall be substituted, namely:—

"THE FIFTH SCHEDULE

Rates of Petroleum Levy

[See section 3(1)]

S. No.	Petroleum products	Petroleum Levy Rate (Rupees per litre)
1	2	3
1.	High Speed Diesel Oil (HSDO)	8
2.	Motor Gasoline 87 ROM	10
3.	SKO	6
4.	Light Diesel Oil (LDO)	3
5.	HOBC	14
6.	E-10 Gasoline	9"

3. **Amendments of Act IV of 1969.**—In the Customs Act, 1969 (IV of 1969), the following further amendments shall be made, namely:—

(1) in section 2,—

(a) in clause (aaa), the comma and words “, Excise and Sales Tax” shall be omitted;

(b) in clause (s), in sub-clause (ii), after the word “exceed”, the words “one hundred and” shall be inserted;

(2) in section 25, in sub-section (15), in clause (b), for the words “export duty which may be chargeable”, the following shall be substituted, namely:—

“regulatory duty which may be chargeable under sub-section (3) of section 18”;

(3) in section 25A, after sub-section (3), the following new sub-section shall be added, namely:—

“(4) The customs value determined under sub-section (1) or, as the case may be, under sub-section (3), shall be applicable until and unless revised or rescinded by the competent authority.”;

(4) for section 25D, the following shall be substituted, namely:—

“25D. **Revision of the value determined.**—Where the customs value has been determined under section 25A by the Collector of Customs or Director of Valuation the revision petition may be filed before the Director-General of Valuation within thirty days from the date of determination of customs value and any proceeding pending before any court, authority or tribunal shall be referred to the Director-General for the decision.”;

(5) for section 27A, the following shall be substituted, namely:—

“27A. **Allowing mutilation or scrapping of goods.**—At the request of the owner the mutilation or scrapping of goods as are notified by the Board, may be allowed, in the manner as prescribed by the rules and where such goods are so mutilated or scrapped they shall be chargeable to duty at such rates as may be applicable to the goods as if they had been imported in the mutilated form or as scrapped.”;

- (6) in section 32, in sub-section (5), in clause (d), for the full stop, at the end, a semicolon shall be substituted and thereafter the following new clause shall be added; namely:—

“(c) in case of clearance of goods through the Customs Computerized System, on self assessment or electronic assessment, the date of detection.”;

- (7) in section 32A, in sub-section (1), in clause (c), after the word “regarding”, the words and comma “payment of duties and taxes through self-assessment,” shall be inserted;

- (8) in section 79, in sub-section (1), for the first proviso, the following shall be substituted, namely:—

“Provided that if, in case of used goods, before filing of goods declaration, the owner makes a request to an officer of customs not below the rank of an Additional Collector that he is unable, for want of full information, to make a correct and complete declaration of the goods, then such officer subject to such conditions as he may deem fit, may permit the owner to examine the goods and thereafter make entry of such goods by filing a goods declaration after having assessed and paid his liabilities of duties, taxes and other charges.”;

- (9) in section 81,—

- (a) in sub-section (2) in the proviso, for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:—

“Provided further that any period, during which the proceedings are adjourned on account of a stay order or for want of clarification from the Board or the time taken through adjournment by the importer, shall be excluded for the computation of aforesaid periods.”; and

- (b) after sub-section (4), the following new sub-section shall be added namely:—

“(5) On completion of final determination under sub-section (3) or (4), the appropriate officer shall issue an order for adjustment, refund or recovery of amount determined, as the case may be.”;

(10) in section 156, in sub-section (1), in the Table,—

- (a) against S.No.1, in column (2), for the word “twenty-five”, the word “fifty” shall be substituted;
- (b) against S.No.64, in column (2), for the words “not exceeding twenty-five thousand rupees and any goods” the words “up to twice the value of the goods and the goods” shall be substituted; and
- (c) against S. No. 89, in column (2) for the word “one” the word “three” shall be substituted;

(11) in section 194, in sub-section (1), the comma and words “, Excise and Sales Tax” shall be omitted;

(12) in section 194A, in sub-section (1), after clause (d), the following new clause shall be added, namely:—

- “(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.”; and

(13) the amendments set out in the Schedule to this Act shall be made in the First Schedule to the Customs Act, 1969 (IV of 1969).

4 **Amendment of Finance Act, 1989 (V of 1989).**—In the Finance Act, 1989 (V of 1989), in section 7, in sub-section (2) paragraph (CA) shall be omitted.”.

5. **Amendments of Act LXXXII of 1975.**—In the Chairman and Speaker (Salaries, Allowances and Privileges) Act, 1975 (LXXXII of 1975), the following further amendments shall be made, namely:—

(1) For section 17-A, the following shall be substituted, namely:—

- “17A. **Discretionary grant.**—The Chairman and the Speaker shall be entitled to authorize discretionary grant of six hundred thousand rupees per annum or such amount as may be decided by the Finance Committee of each House; and

- (2) in section 18, after the word "Government", the word and commas "or the Finance Committee of the Senate or National Assembly, as the case may be, may grant to the Chairman or the Speaker, including a person who has held such office after election thereto, such additional privileges as it may deem fit," shall be inserted.

6. **Amendment of Act, XXVII of 1974.**—In the Members of Parliament (Salaries and Allowances) Act, 1974 (XXVII of 1974),—

- (i) in section 5, in sub-section (1), in paragraph (c), for the word "Five", the word "ten" shall be substituted; and
- (ii) in section 10, in sub-section (2A), for the word "fifteen", the words "twenty" shall be substituted.

7. **Amendment of Sales Tax Act, 1990.**—In the Sales Tax Act, 1990,—

- (1) in section 2,—
- (a) for clause (1), the following shall be substituted, namely:—
- “(1) Appellate Tribunal” means the Appellate Tribunal Inland Revenue established under section 130 of the Income Tax Ordinance, 2001 (XLIX of 2001)”;
- (b) in clause (2), for the words “officer of Sales Tax”, the words “officer of Inland Revenue” shall be substituted;
- (c) in clause (3), in sub-clause (f), in entry (iv), for the word “Collector” the word “Commissioner” shall be substituted;
- (d) after clause (4), the following new clause shall be inserted, namely:—
- “(4A) “Chief Commissioner” means a person appointed as the Chief Commissioner Inland Revenue under section 30;”;
- (e) for clause (5) the following shall be substituted, namely:—
- “(5) “Commissioner” means the Commissioner Inland Revenue appointed under section 30;”;

(f) for clause (15) the following shall be substituted, namely:—

“(15) “local Inland Revenue office” means the office of Superintendent of Inland Revenue or such other office as the Board may, by notification in the official Gazette, specify:”;

(g) for clause (18) the following shall be substituted, namely:—

“(18) “officer of Inland Revenue” means an officer appointed under section 30;”;

(h) in clause (32), after the word, “section” the figure and words, “37C of the Act and till such appointment is made the Special Judge appointed under section” be inserted; and

(i) in clause (46), in sub-clause (c), for the words “Sales Tax Department”, the words “Inland Revenue” and for the word “Collector”, the word “Commissioner” shall respectively be substituted;

(2) in section 3, for the word “sixteen”, wherever occurring, the word “seventeen” shall be substituted;

(3) in section 10, in sub-section (3), for the words “collector of Sales Tax” the words “Commissioner Inland Revenue” shall be substituted;

(4) in section 11,—

(a) in sub-section (1), for the words “Sales Tax” the words “Inland Revenue” shall be substituted;

(b) in sub-section (2), for the words “Sales Tax” the words “Inland Revenue” shall be substituted;

(c) in sub-section (4), for the words “Sales Tax”, occurring twice, the words “Inland Revenue” shall be substituted;

(d) in sub-section (4), in the proviso, for the word “Collector”, the word “Commissioner” shall be substituted; and

(e) in sub-section (5), for the word “Collector”, the word “Commissioner” and for the words “Sales Tax Department”, the words “Inland Revenue” shall respectively be substituted;

- (5) in section 21, in sub-section (2), for the word "Collector", the word "Commissioner" shall be substituted;
- (6) in section 23, in sub-section (3), for the word "Collector", the word "Commissioner" shall be substituted;
- (7) in section 24, for the word "five", occurring twice, the word "six" shall be substituted and after the word "relate", at the end, the words and commas "or till such further period the final decision in any proceedings including proceedings for assessment, appeal, revision, reference, petition and any proceedings before an Alternative Dispute Resolution Committee is finalized" shall be added;
- (8) in section 25,—
 - (a) in sub-section (1),—
 - (i) for the words "an officer of Sales Tax", occurring for the first time, the words "Commissioner" shall be substituted; and
 - (ii) for the words "such officer of Sales Tax", the words "the officer of Inland Revenue authorized by the Commissioner" shall be substituted;
 - (b) for sub-section (2) the following shall be substituted, namely:—
 - "(2) The officer of Inland Revenue authorized by the Commissioner, on the basis of the record, obtained under sub-section (1), may, once in a year, conduct audit:

Provided that in case the Commissioner has information or sufficient evidence showing that such registered person is involved in tax fraud or evasion of tax, he may authorize an officer of Inland Revenue, not below the rank of Assistant Commissioner, to conduct an inquiry or investigation under section 38:

Provided further that nothing in this sub-section shall bar the officer of Inland Revenue from conducting audit of the records of the registered person if the same were earlier audited by the

office of the Auditor-General of Pakistan.”;

(c) for sub-section (3) the following shall be substituted, namely:—

“(3) After completion of the audit under this section or any other provision of this Act, the officer of Inland Revenue may, after obtaining the registered person’s explanation on all the issues raised in the audit shall pass an order under section 11 or section 36, as the case may be.”;

(d) sub-section (4) shall be omitted; and

(e) in sub-section (5), in the first proviso, the words “in lieu of audit report” shall be omitted;

(9) in section 25A, for the words “Sales Tax”, the words “Inland Revenue” shall be substituted and for the word and comma “collectorate”, the words “Large Taxpayers Unit or Regional Tax Office, as the case may be” shall be substituted;

(10) after section 25A, the following new section shall be inserted, namely:—

“25AA. **Transactions between associates.**—The Commissioner or an officer of Inland Revenue may, in respect of any transaction between persons who are associates, determine the transfer price of taxable supplies between the persons as is necessary to reflect the fair market value of supplies in an arm’s length transaction.”;

(11) in section 26,—

(a) in sub-section (3), for the words “Collector of Sales Tax”, the words “Commissioner Inland Revenue” and in the first proviso, for the words “Sales Tax”, the words “Inland Revenue” shall respectively be substituted; and

(b) in sub-section (4), in the first proviso, the words “in lieu of the audit report” shall be omitted;

(12) in section 27, in clause (b), for the word “Collector”, the word “Commissioner” shall be substituted;

(13) in section 28, for the word “Collector”, occurring twice, the word “Commissioner” shall be substituted;

(14) for section 30, the following shall be substituted, namely:—

“30. **Appointment of authorities.**—(1) For the purposes of this Act, the Board may, appoint in relation to any area, person or class of persons, any person to be—

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

(2) 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.

(3) Additional Commissioner Inland Revenue, Deputy Commissioners Inland Revenue, Assistant Commissioner Inland Revenue, Superintendent Inland Revenue, Inland Revenue Audit Officer, Inland Revenue Officer, and officer 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.

(4) Deputy Commissioner Inland Revenue, Assistant Commissioner Inland Revenue, Superintendent Inland Revenue, Inland Revenue Audit Officer, Inland Revenue Officer and officer of Inland Revenue with any other designation shall be subordinate to the Additional Commissioner Inland Revenue.”;

(15) in section 31, for the words “Sales Tax” the words “Inland Revenue” shall be substituted;

(16) in section 32,—

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

“(1) The Board or the Chief Commissioner, with the approval of the Board, may, by an order 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 under this Act;

(b) any Deputy Commissioner Inland Revenue or Assistant Commissioner Inland Revenue to exercise any of the powers of an Additional Commissioner Inland Revenue under this Act;

(c) any Assistant Commissioner Inland Revenue to exercise any of the powers of a Deputy Commissioner Inland Revenue under this Act;

(d) any other officer of Inland Revenue to exercise any of the powers of an Assistant Commissioner Inland Revenue under this Act.”; and

(b) sub-section (2) shall be omitted.

(17) in section 32A,—

(a) in sub-section (1),—

(i) after the word “Board”, the words “or the Commissioner” shall be inserted; and

(ii) the words and comma “by notification in the official Gazette,” shall be omitted;

(b) in sub-section (2), for the word “Collector”, the word “Commissioner” shall be substituted; and

(c) in sub-section (3), for the words “sales tax”, the words “Inland Revenue” shall be substituted;

(18) in section 33, in the Table, in column (1),—

- (a) against S.No.5, in column (2), for the words, " Sales Tax not below the rank of Assistant Collector of Sales Tax", the words "Inland Revenue not below the rank of Assistant Commissioner Inland Revenue" shall be substituted;
- (b) against S. No. 11 against entry (a), for the words, "sales tax" the words, "Inland Revenue" shall be substituted; and
- (c) against S.No.18, in column (2), for the words, "Sales Tax", wherever occurring, the words "Inland Revenue" shall be substituted;

(19) in section 36, in sub-section (3), for the words "Sales Tax", the words "Inland Revenue" and in the proviso, for the word "Collector" the word "Commissioner" shall be respectively substituted;

(20) in section 37, for the words "Sales Tax", wherever occurring, the words " Inland Revenue" shall be substituted;

(21) in section 37A,—

- (a) in sub-section (1), for the words and comma "Sales Tax, not below the rank of an Assistant Collector of Sales Tax", the words and comma "Inland Revenue, not below the rank of an Assistant Commissioner Inland Revenue" shall be substituted; and
- (b) in sub-section (4), for the word "Collector", the word "Commissioner" shall be substituted;

(22) after section 37B, the following new sections shall be inserted, namely,—

“37C. **Special Judges.**—(1) The Federal Government may by notification in the official Gazette, appoint as many Special Judges as it considers necessary and, where it appoints more than one Special Judge, it shall specify in the notification the headquarters of each Special Judge and the territorial limits within which he shall exercise jurisdiction under this Act.

(2) No person shall be appointed as a Special Judge unless he is or has been a Sessions Judge.

37D. Cognizance of offences by Special Judges.—(1)

Notwithstanding anything contained in this Act or any other law for the time being in force, a Special Judge may, within the limits of his jurisdiction, take cognizance of any offence punishable under this Act,—

- (a) upon a report in writing made by an officer of Inland Revenue or by any other officer especially authorized in this behalf by the Federal Government; or
 - (b) upon receiving a complaint or information of facts constituting such offence made or communicated by any person; or
 - (c) upon his own knowledge acquired during any proceeding before him under this Act or under any other law for the time being in force.
- (2) Upon the receipt of report under clause (a) of sub-section (1), the Special Judge shall proceed with the trial of the accused.
- (3) Upon the receipt of a complaint or information under clause (b), or acquired in the manner referred to in clause (c) of sub-section (1), the Special Judge may, before issuing a summon or warrant for appearance of the person complained against, hold a preliminary inquiry for the purpose of ascertaining the truth or falsehood of the complaint, or direct any Magistrate or any officer of Inland Revenue or any police officer to hold such inquiry and submit a report, and such Magistrate or officer shall conduct such inquiry and make report accordingly.
- (4) If, after conducting such inquiry or after considering the report of such Magistrate or officer, the Special Judge is of the opinion that,—
- (a) there is no sufficient ground for proceeding, he may dismiss the complaint, or
 - (b) there is sufficient ground for proceeding, he may proceed against the person complained against in accordance with law.

- (5) A Special Judge or a Magistrate or an officer holding inquiry under sub-section (3) may hold such inquiry, as early as possible, in accordance with the provisions of section 202 of the Code of Criminal Procedure, 1898(Act V of 1898).

37E. Special Judge, etc. to have exclusive jurisdiction.— Notwithstanding anything contained in this Act or in any other law for the time being in force,—

- (a) no court other than the Special Judge having jurisdiction, shall try an offence punishable under this Act;
- (b) no other court or officer, except in the manner and to the extent specifically provided for in this Act, shall exercise any power, or perform any function under this Act;
- (c) no court, other than the High Court, shall entertain, hear or decide any application, petition or appeal under chapters XXXI and XXXII of the Code of Criminal Procedure, 1898 (Act V of 1898), against or in respect of any order or direction made under this Act; and
- (d) no court, other than the Special Judge or the High Court, shall entertain any application or petition or pass any order or give any direction under chapters XXXVII, XXXIX, XLIV or XLV of the aforesaid Code.

37F. Provisions of Code of Criminal Procedure, 1898, to apply.—

- (1) The provisions of the Code of Criminal Procedure, 1898(Act V of 1898), so far as they are not inconsistent with the provisions of this Act, shall apply to the proceedings of the court of a Special Judge and such court shall be deemed to be a court of Sessions for the purposes of the said Code and the provisions of Chapter XXIIA of the aforesaid Code, so far as applicable and with the necessary modifications, shall apply to the trial of cases by the Special Judge under this Act.
- (2) For the purposes of sub-section (1), 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 said Code.

- 37G. **Transfer of cases.**—(1) Where more than one Special Judge are appointed within the territorial jurisdiction of a High Court, the High Court, and where not more than one Special Judge is so appointed, 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 High Court or, as the case may be, the Federal Government, that such transfer may promote the ends of justice or tend to the general convenience of the parties or witnesses.
- (2) In respect of a case transferred to a Special Judge under sub-section (1), such Special Judge shall not by reason of the said transfer, be bound to recall and rehear any witness whose evidence has been recorded in the case before the transfer and may act upon the evidence already recorded or produced before the court which tried the case before the transfer.
- 37H. **Place of sittings.**—A Special Judge shall ordinarily hold sittings at his headquarters but, keeping in view the general convenience of the parties or the witnesses, he may hold sittings at any other place.
- 37I. **Appeal to the High Court.**—(1) Any person, including the Federal Government, the Board, the Commissioner or Director of Intelligence and Investigation or any other officer authorized in this behalf by the Board, aggrieved by any order passed or decision made by a Special Judge under this Act or under the Code of Criminal Procedure, 1898 (Act V of 1898), may, subject to the provisions of Chapters XXXI and XXXII of the said Code, within sixty days from the date of the order or decision, prefer an appeal to the High Court.
- (2) Except as otherwise provided in sub-section (1), the provisions of the Limitation Act, 1908 (IX of 1908), shall apply to an appeal preferred under sub-section (1).”;
- (23) in section 38, in sub-section (1) after the word, “Board”, the words, “or the Commissioner” shall be inserted;
- (24) in section 38A, for the word “Collector”, occurring twice, the word “Commissioner” shall be substituted;

(25) in section 38B,—

(a) in sub-section (1),—

- (i) for the words "Collector of Sales Tax", the words "Commissioner Inland Revenue" shall be substituted;
- (ii) in clause (a), for the words "Sales Tax", the words "Inland Revenue" shall be substituted;
- (iii) in clause (b), for the words "Sales Tax", the words "Inland Revenue" shall be substituted; and
- (iv) in clause (c), for the words "Sales Tax", the words "Inland Revenue" shall be substituted;

(b) in sub-section (2), for the words "Sales Tax", occurring twice, the words "Inland Revenue" shall be substituted; and

(c) in sub-section (4), for the words "Sales Tax", occurring twice, the words "Inland Revenue" shall be substituted;

(26) in section 40, in sub-section (1), for the words "Sales Tax", the words "Inland Revenue" shall be substituted;

(27) in section 40B,—

(a) for the words "sales tax", wherever occurring, the words "Inland Revenue" shall be substituted; and

(b) for the word "Collector", the word "Commissioner" shall be substituted;

(28) section 45 shall be omitted;

(29) in section 45A,—

(a) in the marginal note, for the word "Collector", the word "Commissioner" shall be substituted;

- (b) in sub-section (1), for the words "Sales Tax", the words "Inland Revenue" shall be substituted; and
 - (c) in sub-section (4), for the word "Collector", the word "Commissioner" and for the words "Sales Tax" the words "Inland Revenue" shall be respectively substituted;
- (30) in sub-section 45B,—

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

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

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

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

- (b) in sub-section (2), for the words "Collector of Sales Tax", the words "Commissioner Inland Revenue" and in the first proviso, for the word "Collector", the word "Commissioner" shall respectively be substituted; and
 - (c) in sub-section (3), for the words "Collector of Sales Tax", the words "Commissioner Inland Revenue" shall be substituted;
- (31) in section 46,—
- (a) in sub-section (1),—

- (i) for the word "Collector" the word "Commissioner" and for the words "Sales Tax", the words "Inland Revenue", shall be respectively substituted;

- (ii) in clause (a), for the words "Collector of Sales Tax", the words "Commissioner Inland Revenue" shall be substituted; and
 - (iii) in clause (b), for the words "Collector of Sales Tax" the words "Commissioner Inland Revenue" shall be substituted;
 - (b) in sub-section (2), for the words, figures, commas and brackets "194A, 194B, 194C of the Customs Act, 1969 (IV of 1969)", the figures, comma, words and brackets "131 and 132 of the Income Tax Ordinance, 2001 (XLIX of 2001)" shall be substituted; and
 - (c) after sub-section (2), the following new sub-section shall be inserted, namely:

“(2A) All appeals and proceedings under this Act pending before the Customs, Excise and Sales Tax Appellate Tribunal constituted under section 194 of the Customs Act 1969 (IV of 1969) shall stand transferred to the Appellate Tribunal constituted under section 130 of the Income Tax Ordinance 2001 (XLIX of 2001) with effect from the 28th day of October, 2009.”;
- (32) in section 47,—
- (a) in sub-section (1), for the words "Sales Tax", the words "Inland Revenue", for the word "Collector", occurring twice, the words "Commissioner" and for the figure "5" the figure "2" shall respectively be substituted;
 - (b) in sub-section (7), in the proviso, for the word "Collector", occurring twice, the word "Commissioner" shall be substituted;
 - (c) in sub-section (10), for the word "Collector", occurring twice, the word "Commissioner" shall be substituted; and
 - (d) in sub-section (11), for the word "Collector", occurring thrice, the word "Commissioner" shall be substituted;
- (33) in section 47A,—
- (a) in sub-section (2), for the words "Sales Tax not below the rank of Additional Collector", the words "Inland Revenue not below the rank of Additional Commissioner" shall be substituted; and

- (b) in sub-section (3), for the words "Sales Tax", the words "Inland Revenue" shall be substituted;
- (34) in section 48, in sub-sections (1) and (2), for the words "Sales Tax", the words "Inland Revenue" shall be substituted;
- (35) in section 49A,—
 - (a) in sub-section (1), for the word "Collector", the word "Commissioner" shall be substituted;
 - (b) in sub-section (2), for the word "Collector", occurring twice, the word "Commissioner" shall be substituted;
 - (c) in sub-section (3), for the word "Collector", the word "Commissioner" shall be substituted;
 - (d) in sub-section (4), in clause (a), for the word "Collector", occurring twice, the word "Commissioner" shall be substituted; and
 - (e) in sub-section (6), for the word "Collector", the word "Commissioner" shall be substituted;
- (36) in section 52, for the words "Sales Tax", the words "Inland Revenue" shall be substituted;
- (37) in section 55, for the words "Sales Tax", the words "Inland Revenue" shall be substituted;
- (38) for section 56, the following shall be substituted, namely:—

"56. Service of orders, decisions, etc.—(1) Subject to this Act, any notice, order or requisition required to be served on a resident individual, other than in a representative capacity, for the purposes of this Act shall be treated as properly served on the individual if—

 - (a) personally served on the individual or, in the case of an individual under a legal disability or a non-resident individual, the representative of the individual;
 - (b) sent by registered post or courier service to the place specified in clause (b) of sub-section (2) or to the individual's usual or last known address in Pakistan; or

- (c) served on the individual in the manner prescribed for service of a summons under the Code of Civil Procedure, 1908 (Act V of 1908).
- (2) Subject to this Act, any notice, order or requisition required to be served on any person, other than a resident individual to whom sub-section (1) applies, for the purposes of this Act, shall be treated as properly served on the person if—
- (a) personally served on the representative of the person;
 - (b) sent by registered post or courier service to the person's registered office or address for service of notices under this Act, in Pakistan, or where the person does not have such office or address, the notice is sent by registered post to any office or place of business of the person in Pakistan; or
 - (c) served on the person in the manner prescribed for service of a summons under the Code of Civil Procedure, 1908 (Act V of 1908).
- (3) Where an association of persons is dissolved, any notice, order or requisition required to be served under this Act, on the association may be served on any person who was the principal officer or a member of the association immediately before such dissolution.
- (4) Where, business stands discontinued, any notice, order or requisition required to be served under this Act, on the person discontinuing the business may be served on the person personally or on any individual who was the person's representative at the time of discontinuance.
- (5) The validity of service of a notice under this Act shall not be called into question after the notice has been complied with in any manner.”;
- (39) in section 58A,—
- (a) in sub-section (3), in clause (f), for the word “Collector”, the word “Commissioner” shall be substituted; and

- (b) in sub-section (4), for the word "Collector", the word "Commissioner" shall be substituted;
- (40) in section 58B, in sub-section (4), for the word "Collector", the word "Commissioner" shall be substituted;
- (41) in section 66, for the word "Collector", occurring twice, the word "Commissioner" and for the words "Sales Tax", the words "Inland Revenue" shall respectively be substituted;
- (42) in section 69, for the words "Sales Tax not below the rank of Assistant Collector", the words "Inland Revenue not below the rank of Assistant Commissioner" shall be substituted;
- (43) in section 72, for the words "Sales Tax", the words "Inland Revenue" shall be substituted;
- (44) after section 72, the following new section shall be inserted, namely:—

72A. Reference to authorities.—Any reference to Collector, Additional Collector, Deputy Collector, Assistant Collector, Superintendent, Senior Auditor and an Officer of Sales Tax, wherever occurring, in this Act and the rules, notifications, clarifications, general orders or orders made or issued thereunder, shall be construed as reference to Commissioner Inland Revenue, Additional Commissioner Inland Revenue, Deputy Commissioner Inland Revenue, Assistant Commissioner Inland Revenue, Superintendent Inland Revenue, Inland Revenue Audit Officer and an officer of Inland Revenue, respectively.”;

- (45) after section 72A the following new section shall be inserted, namely:—

72B. Selection for audit by the Board.—(1) The Board may select persons or classes of persons for audit of tax affairs through computer ballot which may be random or parametric as the Board may deem fit.

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

- (3) For the removal of doubt it is hereby declared that the Board shall be deemed always to have had the power to select any persons or classes of persons for audit of tax affairs under this section.”;
- (46) in section 73, in the Explanation, for the word “Collector”, the word “Commissioner” shall be substituted; and
- (47) in section 74, for the word “Collector”, the word “Commissioner” shall be substituted; and
- (48) this section, except the provisions of sub-sections (2), (22) and (44), shall take effect and shall be deemed to have taken effect from the 5th June, 2010.

8. **Amendment of Ordinance, XLIX of 2001.**—In the Income Tax Ordinance, 2001 (XLIX of 2001), the following further amendments shall be made, namely:—

(1) in section 2,—

(a) for clause (2), the following shall be substituted, namely:—

“(2) “Appellate Tribunal” means the Appellate Tribunal Inland Revenue established under section 130;”;

(b) after clause (11A), the following new clause shall be inserted, namely:—

“(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;”;

(c) for clause (13), the following shall be substituted, namely:—

“(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;”;

(d) for clause (13A), the following shall be substituted, namely:—

“(13A) “Commissioner (Appeals)” means a person appointed as Commissioner Inland Revenue (Appeals) under section 208;”;

(e) for clause (29C) the following shall be substituted, namely:—

“(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

(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.”;

- (f) after clause (38), the following new clause shall be inserted, namely:—

“(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;” and

- (g) in clause (41), in clause (c), for the word “connect” the word “connected” shall be substituted;

- (h) clauses (48A) and (65) shall be omitted;

- (2) in section 4,—

- (a) in sub-section (1), for the words and letters “Division I or II” the words, comma and letters “Division I, IB or II” shall be substituted; and

- (b) in sub-section (4), in clause (b), for the word “or” occurring for the second time, the word “of” shall be substituted;

- (3) in section 13, in sub-section (7), for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:—

“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.”;

- (4) in section 22, in sub-section (3), for the word “were”, the word “was” shall be substituted;

- (5) in section 37,—

- (a) in sub-section (3), after the word “year” the words, the comma, brackets and figures “other than shares of public companies including the vouchers of Pakistan Telecommunication Corporation, modaraba certificates or any instrument of

redeemable capital as defined in the Companies Ordinance, 1984 (XLVII of 1984),” shall be inserted; and

- (b) in sub-section (5), in clause (a), the brackets and words “(not being stocks and shares)” shall be omitted;
- (6) after section 37, the following new section shall be inserted, namely:—

“37A. **Capital gain on disposal of securities.**—(1) The capital gain arising on or after the first day of July 2010, from disposal of securities held for a period of less than a year, shall be chargeable to tax at the rates specified in Division VII of Part I of the First Schedule:

Provided that this section shall not apply if the securities are held for a period of more than a year:

Provided further that this section shall not apply to a banking company and an insurance company.

- (2) The holding period of a security, for the purposes of this section, shall be reckoned from the date of acquisition (whether before, on or after the thirtieth day of June, 2010) to the date of disposal of such security falling after the thirtieth day of June, 2010.
- (3) For the purposes of this section “security” means share of a public company, voucher of Pakistan Telecommunication Corporation, Modaraba Certificate, an instrument of redeemable capital and derivative products.
- (4) Gain under this section shall be treated as a separate block of income.
- (5) Notwithstanding anything contained in this Ordinance, 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.”;
- (7) after section 65A, the following new sections shall be inserted, namely:—

“65B. **Tax credit for investment.**—(1) Where a taxpayer being a company invests any amount in the purchase of plant and

machinery, for the purposes of 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 by it in the manner hereinafter provided.

- (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) 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.
- (4) 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 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, however, the deduction made under sub-section (2) and this sub-section shall not exceed in aggregate the limit specified in sub-section (1).
- (5) 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.—

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.”;

- (8) in section 87, after sub-section (2), the following new sub-section shall be inserted, namely:—

“(2A) The liability under this Ordinance shall be the first charge on the deceased’s estate.”;

- (9) in section 111,—

(a) 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;

(b) in sub-section (3), for the words “immediately preceding the financial year in which the difference is discovered” the words and comma “to which the investment, valuable article or the expenditure relates” shall be substituted;

(c) in sub-section (4),—

(i) in clause (a), for the semicolon and the word, “; and” the “full stop” shall be substituted; and

(ii) clause (b) shall be omitted.

- (10) in section 113,—

(a) in sub-section (1),—

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

(ii) in clause (e), for the word “one-half” the word “one” shall be substituted; and

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

(11) in section 114,—

(a) for 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”;

(b) after sub-section (6), substituted as aforesaid, the following new sub-section shall be inserted, namely:—

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

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

Provided further that in case the taxpayer wishes to revise the return after the issuance of a show cause notice under sub-section (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.”;

(12) in section 115, sub-section (4B), shall be omitted;

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

(a) “(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.”;

(b) 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.”;

(14) 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.”;

- (15) in section 119, in sub-section (6), for the words "additional tax", the words "default surcharge" shall be substituted;
- (16) in section 120, in sub-section (1A) for the words, "select a person for an audit of his income tax affairs" the words, "conduct audit of the income tax affairs of a person" shall be substituted;
- (17) in section 121, in sub-section (1),—
 - (a) clause (a) shall be omitted;
 - (b) after the words "taxable income" the words "or income" shall be inserted; and
 - (c) in clause (d) after the word, "accountants", the words , " or a firm of cost and management accountants" shall be inserted;
- (18) in section 122,—
 - (a) in sub-section (3), after the brackets and figures "(6)" the word, brackets, figure and letter, "or (6A)" shall be inserted;
 - (b) in sub-section (4), after the figure and brackets, "(1)", the word, "or" shall be substituted by a comma and after the figure and brackets "(3)" the word, figures and brackets "or (5A)" shall be added and shall have effect from the first day of July, 2003; and
 - (c) after sub-section (5A) the following new sub-section shall be inserted, namely:—
 - "(5AA) In respect of any subject matter which was not in dispute in an appeal the Commissioner shall have and shall be deemed always to have had the powers to amend or further amend an assessment order under sub-section (5A).";
- (19) in section 122A, in sub-section (1), for the words "taxation officer" the words "Officer of Inland Revenue" shall be substituted;

- (20) 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.

- (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.”;

- (21) in section 124, in sub-section (2),—

- (a) the words and brackets, “Commissioner (Appeals)” occurring for the first time shall be omitted.
- (b) for the word, “make”, wherever occurring the word “pass” shall be substituted; and
- (c) in the proviso,—
 - (i) the words and comma, “setting aside the assessment,” shall be omitted; and
 - (ii) the words and brackets “a Commissioner (Appeals)” shall be omitted;

(22) in section 127,—

- (a) in sub-section (1), the figures and commas "183, 184, 185, 186, 187, 188, 189" shall be omitted; and
- (b) in sub-section (4), in clause (a), the words, "or ten *per cent* of the tax assessed" shall be omitted.

(23) in section 130, for sub-section (4) the following shall be substituted, namely:—

"(4) 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."

(24) in section 134A,—

- (a) in sub-section (2) the words, "Income Tax", occurring for the first time the words "Inland Revenue" shall be substituted;
- (b) in sub-section (3) for the words, "Income Tax", the words "Inland Revenue" shall be substituted;

(25) in section 137,—

- (a) in sub-section (2), for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:—

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

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

(26) after section 138A, the following 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.”;

(27) in section 146B, in sub-section (1), for the words “additional tax” the words “default surcharge” shall be substituted;

(28) in section 147.—

(a) in sub-section (1), clause (a) shall be omitted;

(b) in sub-section (2),—

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

(ii) for the word “two” the word “five” shall be substituted;

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

(d) in sub-section (4B),—

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

(ii) for the word “two” the word “five” shall be substituted;

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

(f) 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.”; and
- (g) after section (5A), amended as aforesaid, the following new sub-section shall be inserted, namely:—

“(5B) Adjustable advance tax on capital gain from sale of securities shall be chargeable as under, namely:—

TABLE

S. No	Period	Rate of Advance Tax
1	2	3
1.	Where holding period of a security is less than six months.	2% of the capital gains derived during the quarter.
2.	Where holding period of a security is more than six months but less than twelve months.	1.5% of the capital gains derived during the quarter.

Provided that such advance tax shall be payable to the Commissioner within a period of seven days after the close of each quarter:

Provided further that the provisions of this sub-section shall not be applicable to individual investors.”;

- (29) in section 148, in sub-section (7), after the word “tax” occurring for the second time, the words, brackets and figure “except as provided under sub-section (8)” shall be inserted;
- (30) in section 152, in sub-section (2), after brackets, figure and letter “(1A)” the comma, brackets, figure and letters “, (1AA)” shall be inserted;
- (31) in section 153, in sub-section (9), in clause (g), for the words, “and onwards” the words “or in any subsequent tax year shall be substituted;

and 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.”;
- (32) in section 155, sub-section (2) shall be omitted;
- (33) in section 161, in sub-section (1B), for the words “additional tax” the words “default surcharge” shall be substituted;
- (34) in section 162, in sub-section (2) for the words “additional tax” the words “default surcharge” shall be substituted;
- (35) in section 165,—
- (a) in sub-section (1),—
- (i) 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;
 - (ii) for the words “the financial year”, the words “each quarter” shall be substituted;
 - (iii) in clause (a), for the words “the year”, at the end, the words “each quarter” shall be substituted;
 - (iv) in clause (b), for the words “the year”, at the end, the words “each quarter” shall be substituted;
 - (v) in clause (c), for the words “the year”, at the end, the words “each quarter” shall be substituted; and
 - (vi) in clause (d), for the full stop, at the end, a colon shall be substituted and thereafter 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.”;

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

“(2) Every prescribed 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.”; and

(c) in sub-section (4), for the brackets and figure “(2)” the brackets and figure “(1)” shall be substituted;

(36) in section 169,—

(a) in sub-section (1), in clause (b) after the words and digits, “section 154” the words, digits and comma, “section 155,” may be omitted.

(b) in sub-section (3) the word “and” may be substituted by a “comma” and after the figure “7” the word and figure “and 15” may be inserted.

(c) after sub-section (3), the following Explanation may be added namely:—

“*Explanation.*—The expression, “an assessment shall be treated to have been made under section 120” means,—

(a) the Commissioner shall be taken to have made an assessment of income for that tax year, and the tax due thereon equal to those respective amounts specified in the

return or statement under sub-section (4) of section 115;
and

- (b) the return or the statement under sub-section (4) of section 115 shall be taken for all purposes of this Ordinance to be an assessment order."

(37) in section 174,—

- (a) in sub-section (3), for the word "five" the word "six" shall be substituted; and
- (b) for the full stop at the end, a colon shall be substituted and thereafter the following proviso and the explanation shall be added, namely:

"Provided that where any proceeding is pending before any authority or court the taxpayer shall maintain the record till final decision of the proceedings:

Explanation.—Pending proceedings include proceedings for assessment or amendment of assessment, appeal, revision, reference, petition or prosecution and any proceedings before an Alternative Dispute Resolution Committee.";

(38) in section 176, in sub-section (1), in clause (c), for the word and comma "Board" the words "Board or the Commissioner" shall be substituted;

(39) in section 177,—

- (a) 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 have access to the

required information and data 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.”;

- (b) 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.”;

- (c) sub-sections (3),(4) and (5) shall be omitted;
- (d) in sub-section (6), the words, brackets and figures “under sub-section (5) or sub-section (8)” shall be omitted;
- (e) in sub-section (7), the words, comma, brackets and figure “particularly having regard to the factors in sub-section (4)”, shall be omitted;

(f) in sub-section (8),

- (i) the words, "selected for audit by the Commissioner or by the Board" shall be omitted;
- (ii) after the word, "Board" occurring twice the words, "or the Commissioner" shall be added; and
- (iii) 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; and

(g) 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.";

(40) 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.";

(41) 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