# Highlights on Finance Bill 2008

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# Highlights on the Finance Bill, 2008

This document summarizes significant changes proposed to be brought to statute vide the Finance Bill, 2008 (Bill) relating to Income-tax & Sales-tax law, Federal Excise Duty and Corporate law.

Effective date of applicability of these changes will be July 1, 2008, unless otherwise mentioned.

For ascertaining any effect of these changes in a particular case, the wordings in the Bill should carefully be examined taking in to consideration the applicable laws and regulations and precise advice should be sought before taking any decision based on, or acting up on any of the contents hereof.

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# SECTION I SALIENT FEATURES

## INCOME TAX

1. The ***basic limit of exemption from income tax in respect of salaried person*** is proposed to be increased from Rs.150,000 to Rs.180,000. In the case of a women salaried taxpayer the basic exemption limit is proposed to be increased from Rs.200,000 to Rs.240,000.
2. The concept of ***marginal tax relief for the salaried persons*** is being introduced to cater for the negative impact of taxation under the present flat tax rate system. The marginal increase in salary income is proposed to be taxed at the rates not exceeding 20% to 60% allowing relief in tax payable.
3. The ***limit of donations eligible for tax credit*** in the case of individual/ association of persons and companies presently admissible @ 30% and 15% respectively are proposed to be reduced to 10% of the taxable income.
4. Scheme of investment tax is being introduced, allowing ***immunity from probe in respect of any moveable and immoveable assets*** on the value of which tax @ 2% is paid.
5. Association of person and individuals having annual turnover of Rs.50 & 25 million respectively and cases of small companies are proposed to be made ***withholding tax agents*** for the purpose of tax deduction on payments relating to on sale of goods, services rendered and execution of contracts.
6. It has been proposed to place a maximum allowable annual ***monetary limit of Rs. 100,000*** for tax-free allowability of ***employer's contribution to provident fund*** instead of one-tenth of the basic-salary of the employee.
7. In case of ***withdrawals from superannuation fund*** liable to WHT the deduction of tax is proposed to be made at the rate applicable to the year of withdrawal instead of average rate of the preceding three years.
8. Tax ***income from property*** to be based on progressive rates of 5%, 10 and 15%, with a basic exemption of Rs.150,000 to individuals and AOPs.
9. ***Limit for payment of cash salary*** enhanced from existing Rs. 10,000 to Rs. 15,000 per month.
10. ***First Year Allowance*** in the shape of accelerated depreciation @ 90% is proposed to be allowed to the industrial undertakings established in the specified rural and undeveloped areas.
11. ***Minimum tax*** payable on the declared turnover @ 0.5% is being ***proposed to be withdrawn***.
12. The ***builders*** would be required to pay tax @ Rs.50 per sq. ft. of the covered area of a unit, while ***developers of open plots*** would be subjected to tax @ Rs.100 per sq. yard of the plot.
13. Where turnover of a ***small company*** exceeds Rs.250 million, the income attributable to the turnover exceeding the said limit, is proposed to be charged to tax at progressive slab rate of 25%, 30% and 35%.
14. ***Withholding tax on monthly telephone bills*** exceeding Rs.1,000 is proposed to be collected @ 10%.
15. ***Withholding tax on electricity bills*** is being increased to collect the same @ 10% on bill amount exceeding Rs.20,000 per month which would be adjustable. Withholding Tax on bill amount of Rs. 20,000 and below would be collected at the previous rates.
16. It has been proposed that ***reinsurance premium paid to overseas insurance companies*** to be subjected to withholding tax @ 5% which would be a final tax.
17. Exemption available to ***capital gain on sale of shares of listed securities*** proposed to be extended to 30th June 2010.
18. Income shown as ***unrealized gains in the case of non life insurance companies*** would be excluded from the taxable income and not charged to tax.
19. A ***scheme for waiver of additional tax and penalty*** has been proposed to be introduced where the taxpayer is able to pay the principal amount of tax within a certain period.
20. It is proposed to apply a uniform rate of 2% for all categories of ***imports***.
21. The pensioners, senior citizens and widows who are exempt from withholding tax in respect of ***profit from pensioners benefit scheme and behbood fund*** would be charged to tax at a rate of 10% of such profit.
22. ***Profit transferred by a branch of foreign company*** out of Pakistan are proposed to be treated as dividend and chargeable to tax @ 10% as final tax.
23. The facility of reduced tax rate to a ***society*** or a ***cooperative society*** is proposed to be withdrawn and would be treated at par with the company for the purpose of taxation.
24. Payments made to ***media persons relaying from abroad*** are proposed to be subjected to WHT @ 10%, to be treated as final tax.
25. The ***period of payment of tax*** due from a taxpayer is being reduced from 30 days to 15 days.
26. The provisions of ***Seventh Schedule*** allowing deduction on account of non-performing loans as per prudential regulation issued by the SBP are proposed to be deleted.

# SALES TAX & FEDERAL EXCISE

## SALES TAX

***Increase in rates and fresh levies***

a. Sales tax rate enhanced from 15% to 16% [*Section 3 of the Sales Tax Act, 1990*].

b. Enhancement of sales tax on Provincial services from 15% to 16%.

c. Enhancement of rate of default surcharge from 1% to 1.5% per month.

d. Collection of fixed tax @ 0.75% at import and manufacturing stage in lieu of tax payable by dealers of electric goods [*Sales Tax Special Procedure Rules, 2007, effective from 11th June, 2008*].

***Exemptions*** of sales tax

a. Import and local supply of fertilizers and pesticides [*SRO 535(I)/2008 and 536(I)/2008 both dated 11.06.2008, effective from the 11th June, 2008*].

b. Energy saver lamps [*Sixth Schedule to the Sales Tax Act, 1990*].

e. Medical equipment, apparatus, reagents, disposables, spares and donations supplied to operating hospitals of 50 beds or more [*Sixth Schedule to the Sales Tax Act, 1990*].

***Zero rating*** of sales tax on

a. Molasses for the manufacturing of acetic acid [*SRO 863(I)/2007 dated 24.08.2007, effective from the 11th June, 2008*]

b. Caustic soda flakes/solid, cotton linter and sequins [*SRO 509(I)/2007, dated 9th June, 2007, effective from the 11th June, 2008*]

***Other measures***

a. Section 10 proposed to be amended to incorporate the carry forward amount for excess input tax.

b. Sales tax refund to foreign nationals visiting Pakistan on trade fairs on reciprocal basis [*Sixth Schedule to the Sales Tax Act, 1990*].

c. General amnesty from payment of past liability to persons opting to get themselves registered under the Sales Tax Act, 1990 [*SRO 524(I)/2008 dated 11th June, 2008, effective from 11th June, 2008*].

d. Enhancement of monetary ceiling of single member of Appellate Tribunal to be increased from Rs. 1.5 million to Rs. 10 million.

e. Exclusion of biscuits, confectionary, snacks, electric bulbs and tube lights from Third Schedule to the Sales Tax Act, 1990.

## FEDERAL EXCISE

***Enhancements and fresh levies***

a. Rate of duty enhanced from 15% to 16% on goods and services which are subject to FED in VAT mode [*Table-I & II of First Schedule to the Federal Excise Act, 2005*].

b. FED enhanced from 5% to 10% on banking, insurance and franchise services as well as including royalty and technical fee under the purview of franchise services [*Table-II of First Schedule to the Federal Excise Act, 2005*]

c. Levy of duty on all telecommunication services [*Table-II of the First Schedule to the Federal Excise Act, 2005*].

d. Increase rate of duty on telecommunication services to 21% [*Table-II of the First Schedule to the Federal Excise Act, 2005*].

e. Levy of duty on the services coming from abroad and terminating in Pakistan, an enabling provision is proposed to be made to charge duty from the recipient of services.

f. FED on cement to be levied at Rs. 900/- per ton [*Table-I of First Schedule to the Federal Excise Act, 2005*].

g. FED @ 5% to be levied on import as well as locally manufactured cars having engine capacity exceeding 850cc [*Table-I of First Schedule to the Federal Excise Act, 2005*].

***Exemption from levy of duty***

Exemption of crop insurance from the levy of 5% FED [*Third Schedule to the Federal Excise Act, 2005*].

# SECTION 2 INCOME TAX

## 1. INDIVIDUALS AND AOPS

### Rates of tax

| *Taxable Income (Rupees)* From | To | *Rate of Tax* |
|---|---|---|
| Up to 180,000 | | 0% |
| 180,001 | 250,000 | 0.50% |
| 250,001 | 350,000 | 0.75% |
| 350,001 | 400,000 | 1.50% |
| 400,001 | 450,000 | 2.50% |
| 450,001 | 550,000 | 3.50% |
| 550,001 | 650,000 | 4.50% |
| 650,001 | 750,000 | 6.00% |
| 750,001 | 900,000 | 7.50% |
| 900,001 | 1,050,000 | 9.00% |
| 1,050,001 | 1,200,000 | 10.00% |
| 1,200,001 | 1,450,000 | 11.00% |
| 1,450,001 | 1,700,000 | 12.50% |
| 1,700,001 | 1,950,000 | 14.00% |
| 1,950,001 | 2,250,000 | 15.00% |
| 2,250,001 | 2,850,000 | 16.00% |
| 2,850,001 | 3,550,000 | 17.50% |
| 3,550,001 | 4,450,000 | 18.50% |
| 4,450,001 | 8,650,000 | 19.00% |
| Above 8,650,000 | | 20.00% |

### Treatment of marginal limits

In such cases where the total income of a taxpayer marginally exceeds the maximum limit of a slab in the table, the income tax payable shall be the tax payable on the maximum of that slab plus tax on –

i. 20% of the amount by which the total income exceeds the said limit where the total income does not exceed Rs.500,000.

ii. 30% of the amount by which the total income exceeds in each slab but total income does not exceed Rs.1,050,000.

iii. 40% of the amount by which the total income exceeds in each slab but total income does not exceed Rs.2,000,000.

iv. 50% of the amount by which the total income exceeds in each slab but total income does not exceed Rs.4,450,000.

v. 60% of the amount by which the total income exceeds in each slab but the total income exceeds Rs.4,450,000.

### Women taxpayers

It has been proposed that the non-taxable limit for women taxpayers be enhanced to Rs. 240,000.

### Voluntary Pension Scheme Rules [Section 2(19A)]

The definition of Eligibility for the purpose of Voluntary Pension Scheme Rules is proposed to be extended to persons holding National Identity Card for Overseas Pakistanis.

### Reduction in tax credit on donations [Section 61(2)(b)(i)]

The limit of donations eligible for tax credit in the case of individual/ association of persons, presently admissible at the rate of 30% of the taxable income, is proposed to be reduced to 10%.

### Return of income for salaried taxpayers [Section 115]

The bill seeks to clarify that:

a. no return of income is required to be filed in case of such salaried taxpayers whose' entire income consist of salary and Annual Statement of Deduction of Income Tax from Salary filed by the employer will be treated as a return of income; and

b. where salary income, for the tax year or the last tax year is five hundred thousand rupees or more, the taxpayer is required to file wealth statement as per section 116.

### Investment tax on income [Section 120A]

It has been proposed to introduce a scheme of immunity for declaration of undisclosed income on payment of 2% tax on such income called 'investment tax'. On payment of investment tax, a taxpayer:

a. be entitled to incorporate in his books of account such undisclosed income in tangible form; and

b. not be liable to pay any tax, charge, levy, penalty or prosecution in respect of such income under the Income Tax Ordinance, 2001.

**Liability to withhold tax from payments [Section 153(9)]**

The bill seeks to include AOPs and individuals to the list of withholding agents for payments against good, services and contracts who have an annual turnover of Rs. 50 M and and 25 M respectively.

**Provident fund [Sixth Schedule Part I]**

The proposed amendment to the Sixth Schedule apparently attracts hardships to salaried taxpayers. It has been proposed to place a maximum allowable annual monetary limit of Rs. 100,000 for tax-free allow-ability of employer's contribution instead of one-tenth of the basic-salary of the employee. This amendment will attract more tax to be paid by employees with higher salary brackets.

**Approved superannuation funds [Sixth Schedule Part II]**

The concept of charging tax on contributions paid to an employee during his lifetime, other than commutations, is proposed to be based on the current rate of tax applicable to the employee instead of the average rate of tax for the preceding three years, which would cause taxing the past service benefits of the employee at prevailing rates.

## 2. INCOME FROM PROPERTY [Section 15]

**Income from property not subjected to deduction of tax at source**

It has been proposed to enhance tax rates on rental income by linking the same with rental thresholds instead of the current flat rate of 5% as under:

| *In case of Individuals & AOPs* | | | *In case of Companies* | | |
|---|---|---|---|---|---|
| *Gross Rental (Rupees)* | | *Rate of Tax* | *Gross Rental (Rupees)* | | *Rate of Tax* |
| From | To | | From | To | |
| Up to 150,000 | | NIL | Up to 400,000 | | 5% of the gross rent |
| 150,001 | 400,000 | 5% of gross rent exceeding Rs.150,000 | | | |
| 400,001 | 1,000,000 | Rs.12,500 + 10% of gross rent exceeding Rs.400,000 | 400,001 | 1,000,000 | Rs.20,000 + 10% of gross rent exceeding Rs.400,000 |
| Exceeding 1,000,000 | | Rs.72,500 + 15% of gross rent exceeding Rs.1,000,000 | Exceeding 1,000,000 | | Rs.80,000 + 15% of gross rent exceeding Rs.1,000,000 |

The above rates would apply for the purpose of payment of tax as final discharge of liability under this head where the income from property has not been subjected to deduction of tax at source.

**Rates for deduction of tax at source on income from property**

For the purposes of deduction of tax at source, which will be in the nature of final tax in these cases, the Bill seeks to propose linkage of rental income and the corporate status of the recipient instead of the current flat rate of 5% as under:

| *In case of Individuals & AOPs* | | | *In case of Companies* | | |
|---|---|---|---|---|---|
| *Gross Rental (Rupees)* | | *Rate of Tax* | *Gross Rental (Rupees)* | | *Rate of Tax* |
| From | To | | From | To | |
| Up to 150,000 | | NIL | Up to 400,000 | | 5% of the gross rent |
| 150,001 | 500,000 | 5% of gross rent exceeding Rs.150,000 | | | |
| 500,001 | 1,300,000 | Rs.17,500 + 10% of gross rent exceeding Rs.500,000 | 400,001 | 1,000,000 | Rs.20,000 + 10% of gross rent exceeding Rs.400,000 |
| Exceeding 1,300,000 | | Rs.97,500 + 15% of gross rent exceeding Rs.1,300,000 | Exceeding 1,000,000 | | Rs.80,000 + 15% of gross rent exceeding Rs.1,000,000 |

As an effect of the discrimination, as may be noted in case of individuals and AOPs, such taxpayers will be subjected to a lower tax incidence on property let out to Federal, Provincial & Local Governments, Companies, Non-profit Organizations, Diplomatic Missions, etc.

## 3. BUSINESS INCOME

### Inadmissibility for cash salaries [Section 21(m)]

The maximum admissible limit for payment of cash salaries is proposed to be increased from the current threshold of Rs. 10,000 to Rs. 15,000 per month.

### First year allowance [Section 23A & Third Schedule Part II]

A new concept of First Year Allowance of 90% in lieu of Initial Allowance for industrial undertakings operating in rural and under developed areas, owned and managed by companies on plant, machinery and equipment against the cost of the "eligible depreciable assets" put to use after July 1, 2008 is proposed to be introduced.

### Exemptions and tax provisions in other laws [Section 54 & Second Schedule]

The provision of law to accommodate exemptions from income tax as provided under other prevailing statue, not specifically covered under the Second Schedule, has been proposed to be abolished. Accordingly, no exemptions or relieves provided under any other law will be considered while computing the income tax payable by a taxpayer.

### Set-off of losses consequent to amalgamation [Section 57A]

The bill seeks to introduce a new section allowing set off/ carried forward of losses (not being speculation business losses) of amalgamating NBFC, modarba or insurance company for six years.

### Reduction in tax credit on donations [Section 61(2)(b)(ii)]

The limit of donations eligible for tax credit for companies, presently admissible at the rate of 15% of the taxable income, has been proposed to be reduced to 10%.

### Geographical source of income [Section 101]

It is sought to bring the amount paid by an insurance company to an overseas insurance or re-insurance company on account of insurance or re-insurance premium under the purview of Pakistan-source income.

### Minimum tax [Section 113]

The bill seeks to withdraw the concept of 0.5% minimum tax applicable to turnover.

### Taxation of builders and developers [Section 113C]

Developers of land for residential, commercial or industrial purposes or builders engaged in construction of houses, commercial or industrial property are proposed to be made liable to pay minimum tax at the following rates:

| | |
|---|---|
| (a) Minimum tax for builders: | Rs.50 per sq. ft. on covered constructed area |
| (b) Minimum tax for developers: | Rs.100 per sq. yard on the area of land developed |

### Alternative dispute resolution [Section 134A]

It has been sought to empower the Chairman to entertain and decide an application for correcting any error in order or decision of the Board in Alternates Dispute Resolution cases.

### Due date for payment of tax [Section 137]

The Bill seeks to reduce the period of payment of tax from the current timeframe of thirty days to fifteen days.

### Tax arrears settlement incentives scheme [Section 146B]

The Bill seeks to insert a new section for a waiver of additional tax and penalty for settlement of arrears and to empower the Board to make rules for the implementation of scheme.

### Electronic record-keeping [Section 237A]

It has been sought to empower the Federal Board of Revenue to require any person to use its information system and electronic resource in order to replace or supplement, its manual business processes by automated business processes and substitute its paper based records by electronic record.

## 4. SMALL COMPANIES

### Linkage of turnover-base to tax rates

While no corresponding changes have been observed to be proposed to the definition of Small Companies [Section 2(59A)], an amendment has been proposed to be made to the rates of tax which indicates a linkage between turnover-base in excess of the prevailing threshold of Rs. 250M to tax rates as under:

| *Turnover* | *Tax Rate* |
|---|---|
| Income attributable to turnover up to Rs.250 million | 20% |
| Income attributable to turnover exceeding Rs.250 million up to Rs.350 million | 25% |
| Income attributable to turnover exceeding Rs.350 million up to Rs.500 million | 30% |
| Income attributable to turnover exceeding Rs.500 million | 35% |

### Liability to withhold tax from payments [Section 153(e)]

With the introduction of the concept of Small Companies, the immunity to deduct tax on ***payments for goods, services and contracts*** was considered as one of the incentives to provide operational efficiencies to these companies.

However, the bill seeks to withdraw this concession by the proposed omission of clause (e) of section 153, making small companies responsible to deduct tax at prevailing rates like other companies.

## 5. FOREIGN COMPANIES

### Dividend [Section 2(19)]

The definition of Dividends is proposed to be enhanced to cover after tax profits of branches of foreign companies operating in the country.

### Thin capitalization [Section 106]

The bill seeks to extend the concept of thin capitalization to branches of foreign companies operating in Pakistan, which previously had a restricted applicability to foreign controlled resident companies. Summarily, the concept relates to enforcing maintenance of debt-equity ratio up to 3:1 thereby disallowing any profit on debt which attributes to such portion of debt which exceeds the prescribed ratio.

## 6. ADVANCE TAX AND WITHHOLDING TAX

1. With a view to give necessary ***effect to the proposed abolishment of Minimum Tax***, the Bill seeks to omit charge of minimum tax on turnover for the purpose of advance tax and to omit payment of turnover tax for the purpose of advance tax.
2. The Bill seeks ***inclusion of new type of taxpayers to the list of tax withholding agents*** for payments against goods, services and contracts:
   a. Small companies;
   b. AOPs – having turnover of Rs. 50 million or above;
   c. Individuals – having turnover of Rs. 25 million or above
3. It has been sought to empower the ***Federal Board of Revenue to change the rates for deduction and collection of withholding taxes*** and to exempt persons, class of persons, goods or class of goods from withholding tax through notifications to this effect.
4. ***Purchase of new motor cars and jeeps*** is proposed to be subjected to advance tax at the time of registration at the following revised rates instead of the current rate of 2.5% under the prevailing clause (9A)***** of Part II to the Second Schedule of the Ordinance of the value (gross amount) of motor vehicle:

| *Engine Capacity* | *Amount of Tax* |
|---|---|
| upto 850cc | Rs.10,000 |
| 851cc to 1000cc | Rs.14,000 |
| 1001cc to 1300cc | Rs.22,500 |
| 1301cc to 1600cc | Rs.22,500 |
| 1601cc to 1800cc | Rs.35,000 |
| 1801cc to 2000cc | Rs.30,000 |
| Above 2000cc | Rs.50,000 |

These rates have been specified in Division VII of Part IV of the First Schedule, which shows a conflict with the word “advance tax”, as used in the proposed section 231B by including the heading “Amount of Final Tax” in the Schedule. It has to be noted that the incidence of this collection is aimed at the private sector only since Federal and Provincial Governments, foreign diplomats and diplomatic missions have been kept from the purview of this

* _Clause (9A) is also being proposed to be omitted._ amendment.

5. On the other hand, slabs for collection of ***annual advance tax on private motor cars*** along with motor vehicle tax have also been ***proposed to be increased heavily***.
6. The ***tax rate on imports*** has been proposed to be fixed at the rate of 2% instead of the general rate of 5% and 1% for certain cases.
7. Withholding tax on ***non-corporate commercial and industrial consumers of electricity*** was made minimum tax liability vide Finance Act, 2007. The bill now seeks to allow adjustment of withholding tax collected on electric bills exceeding Rs.20,000. On the other hand the rate of collection of tax on electricity bills exceeding 20,000 (for all classes of consumers) are now sought to be linked @ 10% of the amount instead of the current fixation of the same at Rs. 2,000.
8. The current slab-based minimal collection of ***advance tax on telephone bills*** (other than mobiles) is being proposed to be subjected to be amended. The proposed version suggests that 10% tax will be collected on bill exceeding Rs. 1,000 per month.
9. ***Cash withdrawals***, which are currently subjected to collection of advance tax at 0.2%, are now being proposed to be penalized at 0.3% with a view to support the desired documentation of economy as well as to follow the apparent strategy to increase collections from advance taxes.

## 7. PRESUMPTIVE (FINAL) TAX

### Reduced rate certificate in certain cases of imports [Section 148]

It has been sought to ***withdraw the clause 4A*** regarding issuance of reduced rate certificate for certain cases of imports being redundant provision with the proposed abolishment of section 113.

### Inclusion to the final tax regime

It has been proposed to treat tax deducted on ***supply of goods by non-corporate manufacturers*** within the ambit of final tax regime [**Section 153(6A) and (6B)**].

For this purpose, the bill also seeks to propose a ***definition of manufacturer*** for the purpose of section 153, which reads:

_"**manufacturer**" means a person who is engaged in production or manufacturing of goods, which includes-_

(a) _any process in which an article singly or in combination with other articles, material, components, is either converted into another distinct article or produce is so changed, transferred, or reshaped that it becomes capable of being put to use differently or distinctly; or_

(b) _a process of assembling, mixing, cutting, packing, repacking or preparation of goods in any other manner_. [**Explanation to Section 153**]

### Exclusion from final tax regime

***Tax collected by Stock Exchanges from Members*** on Commission Earned on Sale & Purchase of Shares is proposed to be excluded from final tax regime by way of pronouncing the same as Minimum Tax. Tax collected on Trading of Shares by the Members has also been proposed to be considered as Minimum Tax.

The effect of this change would be that the amount of taxes so collected will be compared with the tax on actual income of members from these activities, effectively bringing their business out of the final tax immunities. [**Section 233A**]

## 8. PAYMENTS TO NON-RESIDENTS

### Section 152

a. With the proposal to treat payments received by ***foreign insurance companies*** from local insurance companies against insurance and re-insurance as Pakistan-source income, it is being proposed that tax at 5% of the gross amount be deducted from such payments as final tax.
b. The Bill seeks to ***simplify the procedure for making payments to non-residents*** under reduced rates of taxation in case of prevalence of an agreement for avoidance of double taxation. In such cases the requirement to notify the Commissioner has been proposed to be eliminated.
c. With the simplification of procedure for making payments to non-residents, it has been sought to include a requirement to submit import documents for remittance of foreign currency against imports, ***where the title of goods passes outside Pakistan***.

d. It has also been intended to clarify that the requirements relating to payments to non-residents also apply to payments by way of remittances through foreign currency accounts and exchange companies.

**Section 153A and Section 169(1)(b) – Payments to non-resident media persons**

Payments to non-resident media persons relaying from outside Pakistan are sought to be subjected to tax deduction on the gross amount paid at a rate of 10%, being in the nature of final tax.

## 9. EXEMPTIONS FROM TOTAL INCOME [First Schedule Part I]

**Exemptions granted**

1. Limits of exemption on of ***payments from approved superannuation funds*** are proposed to be withdrawn. Now any and all amounts received on death of a beneficiary or in lieu of or in commutation of an annuity or by way of refund of contribution on death of a beneficiary will be fully exempt from tax. **[Clause 25]**
2. The Bill seeks to extend the exemption on income derived from ***inter-corporate dividend*** within the group companies entitled to group taxation scheme under section 59AA to companies under ***Group Relief*** [under section 59B], however, the in-comprehendible concept of this exemption has not been explained. **[Clause 103A]**

**Extension granted**

Exemption on income chargeable under the head ***capital gains*** on listed securities, which is due for expiry on June 30, 2008 has been proposed to be extended up to June 30, 2010. **[Clause 110]**

**Exemptions withdrawn**

1. By virtue of the proposed amendment, the current exemption of higher of 50% or 75,000 of the ***amount received form an un-approved superannuation*** fund will be withdrawn subjecting the whole of such amount to taxation. **[Clause 25]**
2. The Bill seeks to withdraw the exemption of 25% on accumulated balance received on retirement, disability and death from a ***Voluntary Pension System*** under Voluntary Pension System Rules, 2005. **[Clause 57]**
3. Exemption is proposed to be withdrawn on so much of the ***donations to approved institutions as in excess of 10% of taxable income of taxpayers***. Currently the admissible limits are 30% percent for individuals and AOPs and 15% for companies. **[Clause 61]**
4. ***Donations to Liaquat National Hospital*** and ***President's Relief Fund for Earthquake Victims***. **[Clauses 62** and **63A]**
5. Existing exemption is proposed to be on ***profit on debt payable to non-residents*** in respect of a foreign loan for industrial investment in Pakistan against prescribed conditions has been proposed to be withdrawn. **[Clause 72]**
6. Exemption to ***Pakistan Cricket Board*** **[Clause 98]**
7. Income derived by an individual from ***transfer of membership rights or shares of a stock exchange*** in Pakistan along with a room in the Stock Exchange to a company, which will lapse of June 30, 2008, has been proposed to be withdrawn. **[Clause 133A]**
8. Other proposed withdrawals – **Clauses 77**, **82**, **83** and **132A**.

## 10. REDUCTION IN TAX RATES [First Schedule Part II]

**Omissions (withdrawals) proposed**

1. Profit on Special US Dollar Bonds purchased out of any incremental deposits. **[Clasue 6]**
2. 2.5% advance tax at the time of sale of motor cars. **[Clause 9A]**
3. Certain income of M/s Fauji Foundation and Army Welfare Trust. **[Clause 10]**
4. 1% tax on import of capital goods and raw material by manufacturers. **[Clause 13]**
5. 2% tax on import of certain items. **[Clause 13B]**
6. Certain items on which reduced rate of 1% was applicable under **Clause 13G**, including:
    a. Capital goods, cement and coal;
    b. Sugar, wheat and raw wood;
    c. Certain trucks in CBU condition and dump trucks;

   d. Medical, surgical, dental or veterinary machinery/ equipment, fixtures, fittings, furniture and diagnostic kits;
   e. Equipments relating to call centers, disinfectants used in and pre-fabricated structures for poultry business;
   f. Live stock and raw materials and intermediaries goods used in packing of dairy products;
   g. Equipment for horticulture, floriculture business and fish farming business;
   h. Medicines covered by SRO 567(I)/2006 dated 05.06.2006 under the Customs Act, 1969;
   i. Broadcasting equipments and news print
   j. Computer hardware, parts and accessories;
   k. Condemned ships for the purpose of breaking.

7. Collection of tax at 0.75% on export proceeds of certain items. **[Clauses 14 & 15]**

**Enhancement in rate**

The reduced rate in respect of ***purchase of locally produced edible oil by manufacturers*** of cooking oil or vegetable ghee or both is being proposed to be increased to 2% from the prevailing rate of 1%. **[Clause 13C]**

## 11. REDUCTION IN TAX LIABILITY [Second Schedule Part III]

It appears that the Bill seeks to withdraw the exemption from the provision of section 151 under Clause (36A) of the Part IV to the Second Schedule, however, since a corresponding omission of Clause (36A) has not been made, there is an apparent ambiguity as to which clause would actually prevail on law. **[Clause 5]**

## 12. EXEMPTION FROM SPECIFIC PROVISIONS [Second Schedule Part IV]

**Exemptions granted**

1. Exemption from section 150 (tax on dividends) is proposed to be granted to NIT, other Collective Investment Schemes and REITs in addition to the prevailing exemption from sections 151 (profit on debt) and 233 (brokerage & commission) available to NIT, other Collective Investment Schemes and REITs on receipt of profit on debt or brokerage & commission. These exemptions will also be available to modarabas, approved pension funds, approved income payment plans, recognized provident funds, approved superannuation funds and an approved gratuity funds. **[Clause 47B]**
2. The Bill seeks to substitute exemption available to the long list of items as per the prevailing **Clause 56** by the following from the purview of collection of tax at import stage:
   a. Goods as per Chapter 27 of the PCT – Coal, briquettes, ovoids and similar fuels manufactured from coal and allied items;
   b. Goods as per Chapter 52.01 of the PCT – Cotton, not carded or combed;
   c. Goods as per Chapter 86 of the PCT – Rail locomotives and allied;
   d. Goods as per Chapter 99 of the PCT – Imports by privileged persons, organizations and other dignitaries.
3. It has been sought to give effect to exemption from total income (typically a case of Part I to the Second Schedule) by way of inclusion of a new Clause 65 to this Part, which reads as:

   "*any income derived by a project, approved by Designated National Authority (DNA), from the transfer or sale of Clean Development Mechanism Credits i.e. Certified Emission Reductions, verified Emission Reductions*"
4. It has been proposed to keep the following exporters-cum-manufacturers from the incidence of collection of advance tax on electricity bills under section 235 of the Ordinance:

   (a) carpets (b) leather and articles thereof including artificial leather footwear (c) surgical goods
   (d) sports goods (e) textile and articles thereof

**Exemptions withdrawn**

1. Benefit derived by way of waiver of profit on debt or the debt itself under the State Bank of Pakistan, Banking Policy Department's Circular No.29 of 2002, dated the 15th October, 2002 is proposed to be withdrawn. **[Clause 3A]**
2. Exemption from section 151 and 233 available to NIT, other Collective Investment Schemes and REITs on receipt of profit on debt or brokerage & commission has been proposed to be withdrawn, however, *this exemption is now proposed to be covered under the new Clause 47B*. **[Clause 33]**

3. The Bill seeks to omit the provision for exemption of amount paid as interest or profit on Special US Dollar Bonds issued under the Special US Dollar Bonds Rules, 1998. **[Clause 36]**

## 13. INSURANCE BUSINESS [Fourth Schedule]

It has been sought to:

1. exclude unrealized gain in the case of non life insurance company from computation of taxable income;
2. disallow deduction for any expenditure incurred on account of insurance premium or re-insurance premium paid to an overseas insurance or re-insurance company or a local agent of an overseas insurance company until tax at the rate of 5% is withheld on the gross amount of insurance or re-insurance premium;
3. extend the time-limit of exemption of capital gains from the sale of modaraba certificates/ shares by insurance companies up to 2010.

## 14. BANKING COMPANIES [Seventh Schedule]

The Bill seeks to:

1. revert to the concept of subjecting the maximum allowance against non-performing loans and bad debts to the general conditions prescribed under section 29 of the Income Tax Ordinance, 2001 and the specific limit as per section 29A of the Ordinance in case of consumer loans of 3% of the related tax year's income as attributable to such loans;
2. omit Sub-rules (c), (d) and (e) to the Rule 1, while not mentioning the reversion to section 30 of the Ordinance for the purpose of removing any possible ambiguities;
3. adopt the omission of rule for minimum tax in line with the abolishment of this concept;
4. include a clarificationary sub-rule (1A) to rule 8 which enunciates, "*The accumulated loss under the head 'Income from Business' (not being speculation business losses) of an amalgamating banking company or banking companies shall be set off or carried forward against the business profits and gains of the amalgamated company and vice versa, up to a period of six tax years immediately succeeding the tax year in which the loss was first computed in the case of amalgamated banking company or amalgamating banking company or companies*", although it has to be recognized that the existing provisions in the Ordinance regarding amalgamation were initially confined to address the cases of banking companies only before broadening the purview of the same to other cases vide Finance Acts for the years 2004, 2005 and 2007.

## 15. APPLICABLE RATES FOR WITHHOLDING/ ADVANCE/ FINAL TAX

| | Nature of Payment | Tax Rate | Advance Tax/ Final Tax |
|---|---|---|---|
| Cases of Residents and Permanent Establishments of Non-residents | Dividend paid to:<br>❑ Companies under group relief scheme<br>❑ Other cases | <br>Exempt<br>10% | <br>N/A<br>Final Tax |
| | Imports | 2% | Advance Tax for Manufacturers and Large Import Houses & Final tax in other cases. |
| | Profit on debt paid to:<br>❑ Individuals<br>❑ Companies and AOPs | <br>10%<br>10% | <br>Final Tax<br>Advance Tax |
| | Payments for goods other than imported goods in the case of:<br>❑ sale of rice, cotton, cotton seed or edible oils<br>❑ sale of any other goods | <br>1.5%<br>3.5% | Advance Tax for Manufacturers which are Companies |
| | Payments for services<br>❑ Passenger and road transport services<br>❑ Other services | <br>2%<br>6% | Advance tax for companies & Final Tax for other cases |
| | Payment on account of execution of contract | 6% | Advance Tax for Listed Companies |
| | Exports | 1% | Final Tax |
| | Indenting commission | 5% | Final Tax |
| | Rental of property income | Refer para 2 | Final Tax |
| | Prizes and winnings:<br>❑ Prize on prize bonds<br>❑ Winnings from a raffle, lottery, prize on winning a quiz, cross-word puzzle or prizes related to companies' sales promotion schemes | <br>10%<br>20% | Final Tax |
| | Brokerage and commission | 10% | Final Tax |
| | Tax on vehicles (to be collected with motor vehicle tax) | Various rates | Final Tax in case of Commercial Vehicles |
| | Tax on purchase of locally manufactured cars and jeeps | Refer para 6.4. | Advance Tax |
| | Tax on electricity & telephone bills | Various rates | Final Tax for non-corporate industries upto bill amount of 20K & Advance Tax in Other Cases |
| | Tax on gas bills for CNG stations | 6% | Final Tax |
| | Mobile phone bills and prepaid telephone cards | 10% | Advance Tax |
| | Cash Withdrawal from a bank above exceeding cumulative sum of Rs.25,000 | 0.3% | Advance Tax |
| Cases of Non-residents | Salary, supply of goods & services*, income from property and prizes & winnings<br>(* services of news agencies, syndicate services & individual contributors/ writers not to be subjected to withholding tax) | Same as residents | Final Tax |
| | Profit on debt | As per applicable DTT | Advance Tax |
| | Dividends received from:<br>- a company which purchases a power project privatized by WAPDA, OR which is exclusively engaged in mining operations other than petroleum, OR which is engaged in power generation projects<br>- other cases (including repatriation of profits by branches) | 7.5%<br><br>10% | Final Tax |
| | Contracts | 6% | Advance Tax, with option for PTR |
| | Royalty or fee for technical services | As per applicable DTT | Final Tax |
| | Shipping income of non-residents | 8% | Final Tax |
| | Air transport income of non-residents | 3% | Final Tax |
| | Payments received by foreign insurance companies from local insurance companies against insurance and re-insurance | 5% | Final Tax |
| | Payments to non-resident media persons | 10% | Final Tax |
| | Any other receipts | 30% | Advance Tax |

# SECTION 3 SALES TAX & FEDERAL EXCISE

## 1. SALES TAX ACT, 1990

**Rate of tax** **[Section 3]**

The bill seeks to increase the rate of sales tax to sixteen (16%), which is currently chargeable at the rate of fifteen (15%).

**Provisions related to retail tax** **[Section 3AA, 26AA, 32AA]**

Provisions of the Sales Tax Act, 1990 regarding Retail Tax (applicable to cases of retailer having annual turnover of Rs. 5M and above) are proposed to be abolished. These cases will now be covered under Chapter II of the Sales Tax Special Procedures Rules, 2007.

**Determination of tax liability** **[Section 7]**

The bill seeks to propose a major changeover whereby input tax not claimed in the relevant tax period by a registered person may be claimed in six succeeding tax periods, which is presently claimable within twelve tax periods.

**Adjustable input tax** **[Section 8B]**

The bill seeks to facilitate tax payers by allowing adjustment of tax paid, at the time of acquisition of fixed assets, which, at present, is adjustable only after the start of the production of the new unit.

**Refund on input tax** **[Section 10]**

It has been proposed to allow carry forward of input tax against supplies, other than zero-rated supplies or exports, to the next tax period and treating the same as input tax for that next period, in addition to existing powers of the Board to impose and prescribe the procedure and conditions for refund of such excess input tax.

**Assessment of tax** **[Section 11]**

The bill seeks to propose a time limitation of five years for issuance of a show cause notice to the person in default.

Further it has also been sought to add that an order under section 10 has to be made within a period of 120 days of issuance of show cause notice instead of the current timeframe of 90 days.

**Access to record, documents etc.** **[section 25]**

The bill seeks to propose an additional clause whereby records of a registered person already audited by the Auditor General of Pakistan may also be subjected to audit by the Sales Tax Officer.

**Revised return** **[Section 26]**

With a view to facilitate tax payers, it has been proposed to increase the time limit for filing of revised return from 90 days to 120 days with a view to correct any omission or wrong declaration.

**Offences and penalties** **[Section 33]**

The bill seeks to abolish the penalty of Rs.25,000 previously chargeable incase of non-filing of summary of sales and purchases invoices as this summary has already been made part of the return and accordingly the separate filing of the same is not required.

**Default surcharge** **[Section 34]**

The bill seeks to increase the default surcharge rate for non-fraud cases, by using a flat rate of 1.5%, as compared to previously used rate of 1% for the first six months and 1.5% thereafter, payable incase of non-payment of tax due, claiming inadmissible adjustment or claiming excess refund erroneously.

**Recovery of tax not/ short levied or erroneously refunded** **[Section 36]**

The bill seeks to increase the timeframe for order in case of recovery of tax not levied/ short levied or erroneously refunded to 120 days from the date of issuance of the show cause notice instead of the current time limit of 90 days.

**Collector of Sales Tax Appeal [section 45B]**

A period of 120 days from the date of filing of appeal for passing of an order by the Collector of Sales Tax Appeals has been proposed, which currently stands at 90 days.

**Appeal to Appellate Tribunal [section 46]**

It has been sought to propose to extend the period for passing of order by the Appellate Tribunal within eight months form the date of filing of appeal instead of the current timeframe of six months..

Further the powers of the Chairman or an authorized member of the Appellate Tribunal to dispose of any case sitting singly has been proposed to considerably be extended to monetary value of tax and penalty up to Rs. 10 Million as against the limit of Rs.1.5 million.

**Alternative dispute resolution [section 47A]**

It has been sought to empower the Chairman to entertain and decide, for reasons to be recorded in writing, applications for correcting any error in order or decision of the Board in Alternates Dispute Resolution cases.

**Items subject to Sales Tax on retail prices [Third schedule]**

The bill seeks to propose a conceptual changeover whereby the supply of biscuits, confectionery, electric bulbs (including energy savers & fluorescent tube-lights) and snacks (including potato chips) have been excluded from the Third Schedule.

**Exemptions [Sixth schedule]**

The bill seeks to exempt sales tax on certain items including:

(a) margarine (excluding liquid margarine), (b) ready mix concrete blocks, (c) energy saving lamps, (d) goods supplied to hospitals run by the Federal or Provincial Governments or charitable operating hospitals of fifty beds or more, (e) cardiology/ cardiac surgery disposables & related equipment, and (f) goods and services purchased by non-resident entrepreneurs and traders visiting Pakistan to participate in trade fairs and exhibitions subject to reciprocity and such conditions and restrictions as may be specified by the Board.

## 2. AMENDMENTS TO THE SALES TAX RULES, 2006

The following amendments have been made in the Sales Tax Rules, 2006 vide S.R.O. 530(I)/2008, which shall take effect on the 1st day of July, 2008:

(1) for the words “Central Board of Revenue” wherever occurring, the words “Federal Board of Revenue” shall be substituted;

(2) in rule (2), in sub-rule (1), clauses (xviii), (xxxiii), (xxxiv) and (xxxv-a) shall be omitted;

(3) in rule 4, for clause (a), the following shall be substituted, namely:-

*(a) a manufacturer not being a cottage industry*

(4) in rule 5, after sub-rule (3), the following new sub-rules shall be added, namely:─

*(4) A person who has applied for registration as manufacturer shall be registered after LRO has verified his manufacturing facility.”;*

*(5) In no case, a person required to be registered under the Act shall be issued more than one registration number.*

(5) in rule 7, in sub-rule (7), for the words, letters and figure “prescribed form STR-2”, the word, letters and figure “form STR-1” shall be substituted;

(6) for rule 10, the following shall be substituted, namely:─

***10. Cancellation of multiple registrations.—*** *(1) In case a person holds multiple sales tax registrations, he shall retain only one registration and surrender all other registrations under intimation to CRO. Alternatively, such registered persons shall file only one return for the tax period July 2008, and onwards, against the registration number they wish to retain and all other registration numbers shall be cancelled by CRO.*

*(2) The tax liabilities against the registrations cancelled in the aforesaid manner shall be transferred against the registration retained and in case of such registrations being in different Collectorates, the Collector having jurisdiction over cancelled registrations shall ensure that tax arrear files are transferred to the Collectorate having jurisdiction over the registration so retained.*

(7) for rule 14, the following shall be substituted, namely:─

***14. Filing of returns.—*** *(1) Every person registered under the Sales Tax Act, 1990, or the Federal Excise Act, 2005, shall file the return as specified in the form STR-7, along with all its annexures provided therein, in accordance with the instructions given therewith, in the manner as specified in rule 18.*

*(2) Where a registered person operates in different sectors for which different dates of filing of return have*

*been prescribed in any rules made under the Sales Tax Act, 1990, or the Federal Excise Act, 2005, such person shall file a single return for all such sectors by the due date applicable to his major activity in terms of sales tax or federal excise duty payable.";*

(8) rule 14A shall be omitted;

(9) in rule 18,–

(a) for sub-rule (1), the following shall be substituted, namely:─

*(1) Every registered person required to file return or other statement as prescribed under section 26 or section 27 of the Act or any notification issued thereunder shall file such a return or, as the case may be, statement, electronically in the manner as specified by the Board through a general order.*

(b) after sub-rule (2), the following new sub-rule shall be added, namely:─

*(3) In cases where due date has been prescribed as 15th of a month, the tax due shall be deposited by the 15th and the return shall be submitted electronically by 18th of the same month.*

(10) in rule 20, in sub-rule (2), for the word "buyer", the word "supplier" shall be substituted;

(11) in rule 22, in sub-rule (4), for the words "output", occurring for the second time, the word "input" shall be substituted;

(12) in rule 23, after the word "purpose", the words "and the input tax credit in respect of goods so destroyed shall not be admissible", shall be added;

(13) in rule 28,–

(a) in sub-rule (1), for the word "sixty", occurring twice, the words "one hundred and twenty" shall be substituted;

(b) after sub-rule (1), amended as aforesaid, the following new sub-rule shall be inserted, namely:-

*(1A) The manufacturer-cum-exporters, who are registered as limited companies, having annual turnover more than one hundred million rupees and whose refund claim on inputs consumed in zero-rated supplies excluding building material and utilities is less than one per cent of the value of exports and local zero-rated sales, shall have the option to file refund claim electronically provided their suppliers are also filing return along with details of sale and purchases electronically.*

(c) in sub-rule (2), for the word "thirty", the word "sixty" shall be substituted;

(14) in rule 29, sub-rule (5) shall be omitted;

(15) in rule 30, for sub-rule (1), the following shall be substituted, namely:─

*(1) On receipt of analysis Report and refund payment order for the amount verified by CREST and found admissible by the processing officer, the officer in-charge shall sanction the amount so determined and issue the Refund Payment Order (RPO).;*

(16) in rule 37, for the words "on account of discrepancies pointed out by the RRAS", the words "or unverified" shall be substituted;

(17) in rule 38, in sub-rule (5) for the figure "X", the figure "VIII", shall be substituted;

(18) after rule 39, the following new rule shall be inserted, namely:─

***39A. Processing of refund claims in LTUs,–*** *(1) The refund claimant registered in a Large Taxpayer Unit, desirous of availing facility under this rule, shall file a refund application to the Collector of Sales Tax having jurisdiction along with the following documents, namely:─*

*(a) an undertaking affirming the accuracy and genuineness of refund; and*

*(b) a revolving bank guarantee valid for at least one hundred and twenty days issued by a scheduled bank, to the satisfaction of Collector of Sales Tax (Large Taxpayers Unit), of an amount not less than amount of refund claimed.*

*(2) Where the claimant has filed documents under sub-rule (1), the Collector shall allow the refund of input tax within three days of receipt thereof.*

*(3) Within fifteen days of the sanctioning of refund, the claimant shall file a complete refund claim along with the supportive documents and soft copy on the prescribed format, which shall be scrutinized in the Large Taxpayer Unit and the objections, if any, related to the refund claim shall be conveyed to the claimant within seven days of the receipt of claim.*

*(4) In case any amount already sanctioned and paid is found inadmissible or remains unverified after six month of payment of refund, the same shall be recovered within seven days by encashing the bank guarantee to the extent of inadmissible amount besides other legal action under the relevant provisions of the Act and rules made thereunder.*

*(5) The Collector of Sales Tax shall notify an officer, not below the rank of an Assistant Collector, as focal person in the LTU to liaise with other Collectorates regarding the problems or objections encountered on account of purchases and supplies of the refund claimant for speedy solution thereof.*

(19) In rule 150B, for the expression "at such time and in such manner, as may be prescribed", the expression "by visiting the website https://e.fbr.gov.pk" shall be substituted;

### 3. THE SALES TAX SPECIAL PROCEDURES RULES, 2007

Chapter index and related highlights are as under:

**Chapter II** **Special procedure for payment of sales tax by retailers**

a. Persons, except dealers of motorcycles and specified electric goods, who make supplies from retail outlets to final consumers, including Jewellers

b. Following rates are proposed to be prescribed for retailers:

| *Annual turnover* | *Rate of Sales Tax* |
|---|---|
| Up to Rs.1.25 M | Nil |
| Above Rs. 1.25 M & up to 2.5 M | 0.5% of turnover which is in excess of Rs. 1.25M |
| More than Rs. 2.5 M | Rs. 6,250 + 0.75% of turnover above Rs 2.5 M |

Annual turnover of a retailer shall constitute the value of all supplies including those specified in the third schedule, exempt supplies or zero rated supplies.

The supplies made to a person deducting income tax under the Income Tax Ordinance shall not be considered for calculation of annual turnover of the retailer and normal sales tax rules shall apply whereby input tax and output tax can be adjusted accordingly.

For the purposes of ascertaining the total sales value, Jewelers are entitled to exclude the value of gold & silver used in the jewellery supplied, however, the minimum assessable value to be declared shall not be less than 10% of the actual sales price excluding the amount of tax.

Retailers of mild steel products are out of ambit of these Rules and shall pay normal tax (@16% of sales) based on a value addition of not less than Rs.1,680/MT

**Payment of sales tax:** A retailer shall deposit the sales tax on a yearly basis (i.e for each financial year).

**Invoicing:** Issuance of serially numbered invoices or cash-memos for each supply is a must. There is a choice for generating invoices or cash-memos manually or through Fiscal Electronic Cash Register (FECR).

**Chapter III** **Special procedure for collection and payment of sales tax on electric power**

Applies to persons dealing in importation, generation, production, transmission, distribution and supply of electric power.

Unconditional and compulsory registration for related persons.

Rate of tax is 16%, for being covered under section 3(1) of the Act.

Collection and levy:

| *Case* | *Responsibility* | *Value* |
|---|---|---|
| Importation | Importer | As determined u/s 25 or 25B of the Customs Act, 1969, including the amount of customs-duties and excise duties levied thereon |
| Generation, transmission, distribution and supply of electric power by public or private sector projects or other persons | Person making the supply | The price of electric power including all charges, surcharges excluding the amount of late payment surcharge, rents, commissions and all duties & taxes, but excluding the amount of sales tax, as per section 2(46) of the Act |
| Generation, transmission, distribution and supply of electric power by IPP, HUBCO or KAPCO | Person making the supply (i.e. IPP, HUBCO or KAPCO, as the case be) | The amount received by such IPP, HUBCO or KAPCO, on account of Energy Purchase Price only* |

* i.e. amount in excess of Energy Purchase Price received on account of Capacity Purchase Price, Energy Price Premium, Excess Bonus, Supplemental Charges, etc., shall not be deemed as a component of the value of supply.

Disputes: In case of a dispute, WAPDA/ KESC, as the case may be, shall issue a certificate showing such amount and the tax involved therein and such certificate shall be deemed to be a Credit Note for the IPP for the purposes of section 9 of the Act, and shall be accounted for in the return for the tax period in which such Credit Note is issued.

Filing of returns and deposit of sales tax

| **Supplier** | **Basis** | **Timing** |
|---|---|---|
| WAPDA & KESC | Delayed (Accrual) | 21st day of the month following the month in which the electric bill/ invoice has been raised |
| IPP | Normal | 25th day of the month following the month to which the sales tax invoice relates |
| Others | Normal | 15th day of the month following the tax period (month) |

**Chapter IV** **Special procedure for collection and payment of sales tax on natural gas**

Sales Tax is chargeable and collectable at 16% on Natural Gas including Compressed Natural Gas (CNG) and Liquefied Petroleum Gas (LPG) imported, produced, transmitted and supplied by gas well-head companies and gas transmission and distribution companies licensed under the Natural Gas Rules, 1960, including their distributors, dealers, sales agents, retailers or by any other persons and dealing in importation, production or distribution and supply of Natural Gas including Compressed Natural Gas and Liquefied Petroleum Gas.

Returns are required to be filed on monthly basis by the 15th day of the month following the month in which the gas has been supplied.

However, in case of gas supplied by gas companies to its consumers directly, and charges are billed on a monthly basis, the date shall be the 16th day of the second month following the month in which supplies were made.

**Chapter V** **Special procedure for supply of sugar to Trading Corporation of Pakistan (TCP)**

**Chapter VI** **Special procedure for persons providing or rendering services subject to sales tax under the provincial laws**

Requirement for registration – There is no monetary threshold related to turnover.

Rate of sales tax is 16%, which has to be deposited up to the $15^{th}$ day of next month.

Input sales tax on all taxable inputs, other than mobile phone bills, can be deducted from output tax for determining sales tax liability.

All records under section 22 of the Act are required to be maintained and serially numbered invoices are required to be issued.

Scope – Two categories of services fall under the ambit of these rules, being covered under the following two parts:

| | |
|---|---|
| _Part One_ | Advertisements on television and radio |
| _Part Two_ | Customs agents and ship-chandlers |

**Chapter VII** **Special procedure for collection and payment of sales tax from the oil marketing companies (sharing of product)**

**Chapter VIII** **Special procedure for collection and payment of sales tax by vehicles dealers**

Applies to dealers in or of:
i. new locally manufactured vehicles; and
ii. all types of imported vehicles, whether new or old or used.

Registration is mandatory for every manufacturer, importer and dealer of vehicles.

Declaration of full particulars of dealers is required. Manufacturers and importers required to mention rates of commission payable to dealers for each category, make and model of vehicle. Changes in rates should be communicated within seven days.

Booking of vehicles*****, other than through a dealer shall not be effected unless the following particulars are clearly mentioned in the relevant booking documents:
- particulars of the dealer; and
- particulars of concerned buyer.

***** Requirement not applicable in case of vehicles imported under Personal Baggage, Transfer of Residence or Gift Scheme.

Supply and invoicing
_For supplies to dealers_, invoices (consolidated or item-based) should be issued in the name of the dealer and the dealer will issue sales tax invoice in the name of the consumer.

_For direct supplies to consumers_, sales tax invoice shall be issued in the name of consumers.

_For supplies through dealers with invoicing directly to customers_, the dealer shall issue a delivery advice-cum-invoice to consumers in the prescribed format along with the invoice issued by the manufacturer or importer.

The manufacturers shall be entitled to input tax adjustment against their output tax liability based on routine conditions of the Act.

Dealers are required to pay sales tax on:

a. Amounts received over and above the amount of commission from manufacturers and importers.
b. Tax shall also be payable on amounts over and above the said commission in case of non-cash vehicles exchanges between dealers.

Filing of returns and payment of sales tax is required to be made by manufacturers, importers and dealers by the 15th day of the following month.

Records to be maintained by dealers include record of all purchases, sales tax invoices including import documents and routine records as required to be maintained under section 22 of the Act.

**Chapter IX** **Special procedure for processing of refund claims filed by the persons engaged in making zero-rated supply of ginned cotton**

**Chapter X** **Special procedure for payment of sales tax by importers**

The provisions of this Chapter shall apply to imports of all taxable goods as are chargeable to tax under section 3 of the Act or any notification issued thereunder.

The sales tax on account of minimum value addition (hereinafter referred to as value addition tax in this Chapter), shall be levied and collected at import stage on goods as specified aforesaid at the rate of two per cent of the value of goods in addition to the tax chargeable under section 3 of the Act or a notification issued thereunder.

The value addition tax shall not be charged on the goods as are imported by a manufacturer for in-house consumption.

The value addition tax paid at import stage shall form part of input tax, and the importer shall deduct the same from the output tax due for the tax period, subject to limitations and restrictions under the Act, for determining his net liability. The excess of input tax over output tax shall be carried forwarded to the next tax period as provided in section 10 of the Act.

In no case, the refund of excess input tax over output tax, which is attributable to value addition tax, shall be refunded to a registered person.

The registered person shall be entitled to file refund claim of excess carried forward input tax for a period as provided in section 10 or in a notification issued by the Board after deducting the amount attributable to value addition tax (i.e. sum of amounts paid during the claim period and brought forward to claim period). Such deducted amount shall be carried forward to subsequent tax period.

The closing stocks of imported goods held by commercial importers on 30th June 2008 on which additional sales tax at two per cent was paid at import stage shall be disposed of under the provisions of this Chapter as in force before 1st July, 2008. The differential amount payable, in case tax charged was higher than that paid at import stage, shall be paid on the monthly return as arrears of tax.

The importers paying value addition tax under this Chapter shall file monthly return as provided in Chapter II of the Sales Tax Rules, 2006.

The importers who do not claim any refund of excess input tax shall not be subjected to audit except with the permission of the Board.

**Chapter XI** **Special procedure for payment of sales tax by steel-melters, re-rollers and ship breakers**

**Chapter XII** **Special procedure for payment of sales tax by wholesale-cum-retail outlets**

**Application**

The provisions of this Chapter shall apply to chains of wholesale-cum-retail outlets, engaged in bulk import and supply of consumer goods on wholesale basis to the retailers as well as on retail basis to the general body of consumers and who maintain their records electronically.

**Rate and determination of sales tax**

A wholesaler-cum-retailer operating under these rules shall, in respect of the supplies made by him, pay sales tax at the rate specified in sub-sections (1) or (2) of section 3 of the Act or any notification issued thereunder, as the case may be.

The liability to pay sales tax shall be determined in accordance with the provisions of sections 7 and 8 of the Act.

**Filing of return, and payment of sales tax and maintenance of records**

The wholesaler-cum-retailers operating under these rules shall file sales tax return and deposit the amount of tax due as provided in Chapter II of the Sales Tax Rules, 2006.

The registered wholesaler-cum-retailer shall issue a serially numbered computer generated sales tax invoice, indicating the description of goods supplied along with value and sales tax chargeable thereon.

The wholesaler-cum-retailer shall maintain entire sales tax records, as required under section 22 of the Act, electronically.

**Supplies to diplomats and diplomatic missions and refund of tax collected**

In case the supplies are made by the wholesaler-cum-retailers to diplomats and diplomatic missions, the same shall be charged to sales tax at zero rate provided an exemption certificate issued by Ministry of Foreign Affairs is provided mentioning the description and quantity of goods to be purchased.

The invoice issued against zero-rated supplies as aforesaid shall mention the reference number and date of the exemption certificate.

In case the supplies to a diplomat or diplomatic mission have been charged to sales tax at a rate other than zero, the wholesaler-cum-retailer may refund the amount charged after preparation of a credit note mentioning the particulars of the invoice and the exemption certificate.

**Other significant provisions**

The provisions of Chapters II and X of these rules shall not apply to the wholesaler-cum-retailers operating under this Chapter.

The purchases made by wholesaler-cum-retailer operating under this Chapter shall not be subjected to extra tax provided under Chapter XIII

The provisions of section 73 of the Act shall not affect the admissibility of input tax adjustment where the wholesaler-cum-retailer receives consideration in cash against the supplies made by him.

## Chapter XIII — Special Procedure for payment of extra sales tax on specified electric home appliances

**Application**

The provisions of this Chapter shall apply to the supplies of electric home appliances namely, television sets, refrigerators, freezers, air conditioners, electric ovens, microwave ovens, washing machines, spin dryers, and DVD/ CD players of all types, hereinafter referred to as specified electric goods in this Chapter.

**Mode, manner and rate applicable for payment of extra amount of tax**

Extra amount of sales tax at the rate of 0.75% of value of supplies shall be levied and collected on the supplies of all specified electric goods by manufacturers and importers in addition to the tax payable under sub-sections (1) and (2) of section 3 of the Act, as the case may be.

Extra amount of sales tax so charged and collected by the above listed registered persons shall be declared in the column relating to ‘other supplies’ in the monthly return and shall form part of output tax declared by the said registered person

The supplier of specified electric goods shall mention the extra mount of sales tax charged under this chapter separately on the sales tax invoice to be issued by them.

The said registered persons shall charge the said extra sales tax even if they have paid any tax relating to value addition at import stage.

The specified electric goods on which extra sales tax has been paid in the aforesaid manner shall be exempt from payment of sales tax on subsequent supplies including those as made by a retailer.

The retailers operating under Chapter II shall be entitled to deduct value of supplies subject to extra tax under this Chapter from their turnover for the purpose of payment of sales tax under the said Chapter. However, they shall pay sales tax at a rate specified in Chapter II which is based on their total turnover.

If a registered person, other than a retailer, who buys the specified electric goods on payment of extra sales tax under this Chapter, also deals in sale and purchase of other goods, he shall discharge his liability in respect of such other goods under sub-section (1) of section 3 and other relevant provisions of the Act and shall also be entitled to input tax adjustment only in respect of taxable supplies of such other goods.

A registered person who is engaged exclusively in purchase and sale of specified electric goods and purchases the same on payment of extra sales tax, shall file quarterly sales tax return, in the manner prescribed in rule 7.

## 4. OTHER SROs PROMULGATED

**S. R. O. 523(I)/2008** To rescind SRO 645(I)/2007 dated 27th June, 2007.

**S. R. O. 524(I)/2008** The SRO seeks to exempt the amount of sales tax, default surcharge and penalty payable in respect of the taxable supplies made prior to 11th June, 2008, subject to following conditions:

(i) the supplies were made by an unregistered person who was otherwise liable to be registered under the Sales Tax Act, 1990; and

(ii) such person applies for registration during the period 1st June, 2008 to 31st July, 2008, and thereafter files sales tax returns and pays tax due regularly.

This notification shall not apply to the registered persons against whom a case of tax fraud or evasion has already been framed.

**S.R.O. 526(I)/2008** To rescind the Refund of Sales Tax (On Export Of Specified Goods) Rules, 2006, and the Processing of Refund Claims of Large Taxpayers Rules, 2007, with effect from the 1st July, 2008.

**S.R.O. 527(I)/2008** To rescind its Notification No. S.R.O. 543(I)/2006, dated the 5th June, 2006, with effect from the 1st July, 2008.

**S.R.O. 528(I)/2008** To rescind its Notification No. S.R.O. 559(I)/2006, dated the 5th June, 2006, with effect from the 1st July 2008.

**S.R.O. 529(I)/2008** To direct that the TABLE in Notification No. S.R.O. 647(I)/2007, dated the 27th June, 2007, be substituted with the following and the same shall be effective from the 1st July, 2008:

| *S. No.* | *Sectors* |
|---|---|
| 1. | Persons registered in electrical energy sector. |
| 2. | Oil marketing companies and petroleum refineries. |
| 3. | Fertilizers manufacturers. |
| 4. | Manufacturers consuming raw materials chargeable to sales tax at the rate of 18.5% or 21% provided value of such raw materials exceeds 50% of value of all taxable purchases in a tax period. |
| 5. | Wholesalers-cum-retailers operating in Chapter XII of the Sales Tax Special Procedures Rules, 2007. |
| 6. | Commercial importers provided the value of imports subjected to 2% value addition tax under Chapter X of the Sales Tax Special Procedures Rules, 2007, exceeds 50% of value of all taxable purchases in a tax period. |
| 7. | Person making zero-rated supplies provided value of such supplies exceeds 50% of value of all taxable supplies in a tax period. |

**S.R.O. 531(I)/2008** To rescind its Notification No. S.R.O. 544(I)/2006, dated the 5th June, 2006.

**S.R.O. 532(I)/2008** To fix the minimum value of taxable supply of locally produced coal (PCT heading 27.01) at Rs. 1,000 per ton.

**S.R.O. 533(I)/2008** To rescind its Notification No. S.R.O. 645(I)/2006, dated the 21st June, 2006, with effect from the 11th June, 2008.

**S.R.O. 534(I)/2008** To rescind its Notification No. S.R.O. 609(I)/2004, dated the 16th July, 2004, with effect from the 11th June, 2008.

**S.R.O. 535(I)/2008** To exempt import and supply of fertilizers from payment of sales tax.

**S.R.O. 536(I)/2008** To exempt import and supply of pesticides (HS code 38.08) and the active ingredients of such pesticides.

**S.R.O. 537(I)/2008** To make certain amendments to Notification No. S.R.O. 644(I)/2007 dated the 27th June, 2007.

**S.R.O. 538(I)/2008** To make certain amendments to Notification No. S.R.O. S.R.O. 509(I)/2007, dated the 9th June, 2007.

**S.R.O. 539(I)/2008** To exempt specified goods imported for manufacture of certain goods as specified in the Table to the SRO, subject to certain conditions.

**S.R.O. 540(I)/2008** To amend Notification No. S.R.O. 863(I)/2007, dated the 24th August, 2007.

**S.R.O. 541(I)/2008** To rescind Notification No. S.R.O. 541(I)/2006, dated the 5th June, 2006 with immediate effect.

**S.R.O. 542(I)/2008** To exempt sales tax on the import or supply of cellular telephone sets (hand-held sets) to the extent that the effect of sales tax shall be five hundred rupees per such set.

**S.R.O. 543(I)/2008** To declare that provisions of sub-section (2A), (3), (5AA), (6A), (8), (9A), (19), (21), of section 2, section 50A and section 52A of Sales Tax Act, 1990 shall be applicable, mutatis mutandis, in regard to like matters in respect of the duty leviable under the Federal Excise Act, 2005.

**S.R.O. 544(I)/2008** To amend SRO. 550(I)/2006 dated the 5th June, 2006 to the effect of requiring airlines to file return for carriage of goods by air by the day specified in sub-rule (9) of rule 41A of the Federal Excise Rules, 2005.

**S.R.O. 545(I)/2008** To rescind Notification No. 410(I)/2008, dated the 29th April, 2008.

**S.R.O. 546(I)/2008** To make certain amendments in the Federal Excise Rules, 2005.

**S.R.O. 547(I)/2008** Administrative notification.

**S.R.O. 548(I)/2008** To rescind following notifications:
S.R.O. 727(I)/2003 dated 14th July, 2003; S.R.O. 556(I)/2006 dated 5th June, 2006; S.R.O. 29(I)/2007 dated 10th January, 2007; S.R.O. 993(I)/2007 dated 1st October, 2007; S.R.O. 995(I)/2007 dated 1st October, 2007; S.R.O. 996(I)/2007 dated 1st October, 2007; S.R.O. 1069(I)/2007 dated 1st October, 2007; S.R.O. 1197(I)/2007 dated 8th December, 2007; S.R.O. 66(I)/2008 dated 22nd January, 2008; S.R.O. 100(I)/2008 dated 1st February, 2008; S.R.O. 220(I)/2008 dated 4th March, 2008; and S.R.O. 222(I)/2008 dated 4th March, 2008.

**S.R.O. 549(I)/2008** The bill seeks to propose charging sales tax at the rate of zero percent for items mentioned below subject to conditions specified therein:

| ***S.No.*** | ***Description of goods*** | ***Conditions and restrictions*** |
|---|---|---|
| ***(1)*** | ***(2)*** | ***(3)*** |
| 1. | Goods exempted under section 13. | If exported by the manufacturer who makes local supplies of both taxable and exempt goods. |
| 2. | (i) Cotton seeds (PCT Heading 1207.2000); and<br>(ii) Oil cake and other solid residues, whether or not ground or in the form of pellets (PCT Heading 2306.1000) | Supplies thereof. |
| 3. | (i) Plant, machinery and equipment (whether or not manufactured locally), including parts thereof.<br>(ii) Plant, machinery and equipment, whether locally manufactured or imported. | (i) Import thereof.<br>(ii) Supplies thereof;<br>Provided that the expressions “plant”, “machinery and “equipment” mentioned in this serial number do not include consumer durables and office machines |
| 4. | Uncooked poultry meat, Milk, Flavored Milk, Cream (PCT Heading 04.01 and 04.02), Milk and cream, concentrated or containing added sugar or other sweetening matter, Yogurt, Whey, Butter, Desi ghee, Cheese, Processed cheese not grated or powdered, Frozen, prepared or preserved sausages and similar products of poultry meat or meat offal, Preparations for infant use, Fat filled milk, Soyabean meal, Petroleum crude oil, Colours in sets (Poster colours), Writing, drawing and marking inks, Erasers, Exercise books, Remeltable scrap, Pencil sharpeners, Sewing machines of the household type, Dedicated CNG buses and all other buses meant for transportation of forty or more passengers whether in CBU or CKD condition, Trucks and dumpers with g.v.w. exceeding 5 tonnes, Bicycles, Trailers and semi-trailers for the transport of goods having specifications duly approved by the Engineering Development Board, Road | Import and supplies thereof |

| | | |
|---|---|---|
| | tractors for semi-trailers, prime movers and road tractors for trailers whether in CBU condition or in kit form, Purpose built taxis, whether in CBU or CKD condition which are built on girder chassis, Vessels for breaking up, Other drawing, marking out or mathematical calculating instruments (geometry box), Pens and ball pens, Pencils including colour pencils | |
| 5. | Compost (non-chemical fertilizer) | If produced and supplied locally |
| 6. | Raw materials, components, sub-components and parts | If purchased from authorized vendors by a recognized manufacturer of tractors for use in the manufacturing of such tractors subject to the following conditions, namely:-<br>(a) the manufacturer shall sell tractors against a proper zero-rate sales tax invoice without charging any sales tax.<br>(b) the vendors shall be entitled to input tax adjustment, or as the case maybe, refund in respect of zero-rated supply of the components, sub-components and parts supplied to recognized manufacturers of tractors:<br><br>Provided that the electricity and gas consumed in the plant where tractors are manufactured shall also be zero-rated for the purposes of sales tax levy |
| 7. | Raw materials, components, sub-components and parts | If imported or purchased locally for use in the manufacturing of such plant and machinery as is chargeable to sales tax at the rate of zero percent subject to the condition that the importer or the purchaser of the raw materials, components, sub-components and parts holds a valid sales tax registration showing his registration category as "manufacturer" |

**S.R.O. 550(I)/2008**

To rescind its following Notifications:

S.R.O. 343 (I)/2002 dated 15th June, 2002; S.R.O. 515 (I)/2005 dated 6th June, 2005; S.R.O. 527(I)/2005 dated 6th June, 2005; S.R.O. 530(I)/2005 dated 6th June, 2005; S.R.O. 531(I)/2005 dated 6th June, 2005; S.R.O. 537(I)/2005 dated 6th June, 2005; S.R.O. 548(I)/2006 dated 5th June, 2006; S.R.O. 551(I)/2006 dated 5th June, 2006; S.R.O. 1204(I)/2006 dated 30th November, 2006; S.R.O. 1270(I)/2006 dated 27th December, 2006 and S.R.O. 462(I)/2007 dated 9th June, 2007.

**S.R.O. 551(I)/2008**

To exempt the goods mentioned in column (2) of the Table below from the whole of sales tax with effect from 1st July, 2008 subject to the conditions and restrictions specified in column (3) thereof, namely:

| *S.No.* | *Description of goods* | *Conditions and restrictions* |
|---|---|---|
| *(1)* | *(2)* | *(3)* |
| 1. | Raw materials, sub-components and components | If imported for the manufacturing of goods to be supplied against international tenders. |
| 2. | CNG kits, cylinders and valves for CNG kits | If supplied for automotive vehicles |
| 3. | Raw and pickled hides and skins; wet blue hides and skins; finished leather; and accessories, components and trimmings for leather manufacturers | If imported for the manufacture of goods meant wholly for export provided that conditions, procedures and restrictions laid down in rules 264 to 278 of the Customs Rules, 2001 are duly fulfilled and complied with. |
| 4. | Machinery, equipments and materials either for exclusive use within the limits of Export Processing Zone or for making exports there from; and goods imported for warehousing purpose in Export Processing Zone | If imported by investors of Export Processing Zones subject to the condition that the procedures, limitations and restrictions as are applicable on such goods under the Customs Act, 1969 (IV of 1969) and rules made there under shall mutatis mutandis, apply. |
| 5. | Ships of gross tonnage of less than 15 LDT and all floating crafts including tugs, dredgers, survey vessels and other specialized crafts purchased or bare-boat chartered by a Pakistan entity and flying the Pakistan flag except the ships or crafts which are acquired for demolition purposes or are designed or adapted for use for recreation or pleasure purposes. | Import and supply thereof up to the year 2020 subject to the condition that the said ships or crafts are used only for the purpose for which they were procured and in case such ships or crafts are used for demolition purposes within a period of five years of their acquisition, sales tax applicable to such ships purchased for demolition purposes shall be chargeable. |
| 6. | Canola seed. | Import thereof. |
| 7. | The substances registered as drugs under the Drugs Act, 1976 (XXXI of 1976) and medicaments as are classifiable under Chapter 30 of the First Schedule to the Customs Act, 1969 (IV of 1969) except the following, even if medicated or medicinal in nature, namely (a) filled infusion solution bags imported with or without infusion given sets; (b) scrubs, detergents and washing preparations; (c) soft soap or no-soap soap; (d) adhesive plaster; (e) surgical tapes; (f) liquid paraffin; (g) disinfectants; and (h) cosmetics and toilet preparations | Import and supplies thereof |

| | | |
|---|---|---|
| 8. | Fresh, liquid and dried milk with addition of sugar or any other sweetening matter whether packed or not. | Supplies thereof. |
| 9. | Dried milk without addition of sugar or any other sweetening matter, whether packed or not, falling under PCT Headings 0402.1000, 0402.2100 and 0402.9100. | Import and supplies thereof. |
| 10. | Oilseeds meant for sowing. | Import thereof subject to the condition that Plant Protection Department of Ministry of Food, Agriculture and Livestock certifies that the imported seeds are fungicide and insecticide treated and are meant for sowing. |
| 11. | Raw materials for the basic manufacture of pharmaceutical active ingredients and for manufacture of pharmaceutical products. | Import and supplies thereof provided that where such raw materials are imported then only those raw materials shall be entitled to exemption under this notification which are liable to customs duty not exceeding ten per cent ad- valorem, either under the First Schedule to the Customs Act, 1969 (IV of 1969) or under a notification issued under section 19 thereof. |
| 12. | Commercial catalogues. | Import and supplies thereof. |
| 13. | Halal edible offal of bovine animals. | Import thereof |
| 14. | Iodized salt bearing brand names and trademarks whether or not sold in retail packing. | Import and supplies thereof. |

**S.R.O. 552(I)/2008**

To rescind its following Notifications with effect from 1st July, 2008:

S.R.O. 608(I)/1997 dated 8th August, 1997; S.R.O. 614(I)/2000 dated 9th February, 2000; S.R.O. 675(I)/2000 dated 28th September, 2000; S.R.O. 714(I)/2000 dated 30th September, 2000; S.R.O. 90(I)/2001 dated 10th February, 2001; S.R.O. 91(I)/2001 dated 10th February, 2001; S.R.O. 392(I)/2001 dated 18th June, 2001; S.R.O. 395(I)/2001 dated 18th June, 2001; S.R.O. 456(I)/2001 dated 20th June, 2001; S.R.O. 207(I)/2002 dated 5th April, 2002; S.R.O. 474(I)/2002 dated 30th July, 2002; S.R.O. 555(I)/2002 dated 23rd August, 2002; S.R.O. 267(I)/2003 dated 19th March, 2003; S.R.O. 345(I)/2003 dated 22nd March, 2003; S.R.O. 455(I)/2003 dated 29th May, 2003; S.R.O. 591(I)/2003 dated 18th June, 2003; S.R.O. 874(I)/2003 dated 4th September, 2003; S.R.O. 875(I)/2003 dated 4th September, 2003; S.R.O. 890(I)/2003 dated 5th September, 2003; S.R.O. 1024(I)/2003 dated 7th November, 2003; S.R.O. 16(I)/2004 dated 9th January, 2004; S.R.O. 217(I)/2004 dated 17th April, 2004; S.R.O. 218(I)/2004 dated 17th April, 2004; S.R.O. 234(I)/2004 dated 21st April, 2004; S.R.O. 750(I)/2004 dated 2nd September, 2004; S.R.O. 845(I)/2004 dated 2nd October, 2004; S.R.O. 991(I)/2004 dated 21st December, 2004; S.R.O. 993(I)/2004 dated 20th December, 2004; S.R.O. 30(I)/2005 dated 8th January, 2005; S.R.O. 673(I)/2005 dated 2nd July, 2005; S.R.O. 1035(I)/2005 dated 13th October, 2005; S.R.O. 501(I)/2006 dated 31st May, 2006; S.R.O. 552(I)/2006 dated 5th June, 2006; S.R.O. 758(I)/2006 dated 24th July, 2006; S.R.O. 800(I)/2006 dated 7th August, 2006; S.R.O. 953(I)/2006 dated 7th September, 2006; S.R.O. 1205(I)/2006 dated 30th November, 2006; S.R.O. 135(I)/2008 dated 12th February, 2008; S.R.O. 193(I)/2008 dated 1st March, 2008; S.R.O. 275(I)/2008 dated 12th March, 2008; and S.R.O. 471(I)/2008 dated 19th May, 2008.

### 5. SALES TAX PENALTIES

| Sec Ref. | Contravention or Offence | | Penalty | Relaxation/ Exception |
|---|---|---|---|---|
| 26 | Failure to | Furnish a return within the due date | Rs. 5,000 | If return is filed within 15 days of the due date, penalty of Rs. 100/ day of default |
| 23 | | Issue an invoice when required under this Act. | Higher of Rs. 5,000 or 3% of the amount of tax | None |
| 73 | | Make payment in the manner prescribed under section 73 of the Act | | |
| 71 & Gen | | Fulfill any of the conditions, limitations or restrictions prescribed in a Notification issued under any of the provisions of this Act | | |
| Gen | Contravention of any of the provision of the Act for which no penalty has specifically been provided under section 33 of the Act | | | |
| 3, 7 & 23 | Un-authorized issues an invoice in which an amount of tax is specified | | Higher of Rs. 10,000 or 5% of the amount of tax | None |
| 14 | Failure to notify the changes of material nature in the particulars of registration of taxable activity. | | Rs. 5,000 | None |
| 3, 6, 7 & 48 | Failure to deposit the amount of tax due or any part thereof in the time or manner laid down under the Act or rules or orders made there-under. | Payment made within 15 days from the due date | Rs. 500/ day of default | None |
| | | Payment made within 60 of payment notice | Higher of Rs. 10,000 or 5% of the amount tax | None |
| | | Tax due remains unpaid even after the expiry of 60 days of issuance of payment notice | Further exposure for imprisonment for a term up to 3 years or with fine up to the amount of tax involved or with both | Further exposure is subject to conviction by a Special Judge |
| 7 | Erroneous calculation in the return, due to which amount of tax less than the actual tax due is paid | First event during a year | No penalty | - N/A - |
| 7 & 26 | | Repetition of error | Higher of Rs. 5,000 or 3% of the amount of tax | |
| 14 | Failure to Apply for registration when it was required | Before making taxable supplies | Higher of Rs. 10,000 or 5% of the amount tax | Further exposure is subject to conviction by a Special Judge |
| | | Within sixty days of the commencement of taxable activity | Further exposure for imprisonment for a term up to 3 years or with fine up to the amount of tax involved or with both | |
| 22 & 24 | Maintain records required under the Act or the rules made there-under | | Higher of Rs. 10,000 or 5% of the amount tax | None |
| 25 | Failure to produce records without any reasonable cause | On receipt of 1st notice | Rs. 5,000 | None |
| | | On receipt of 2nd notice | Rs. 10,000 | |
| | | On receipt of 3rd notice | Rs. 50,000 | |
| 26 | Failure to furnish information required by the Board through a notification under section 26(5) | | Rs. 10,000 | |
| 2(37) & Gen | Submission of a false or forged document to any officer of sales tax | | Higher of Rs. 25,000 or 100% of the amount of tax PLUS further exposure for imprisonment for a term up to 5 years or with fine up to the amount of tax involved or with both | Further exposure is subject to conviction by a Special Judge |
| | Destruction, alteration, mutilation or falsification of records including a sales tax invoice | | | |
| | Intentional making of false statement/ declaration/ representation/ personification or gives any false information or issuing or using a document which is forged or false | | | |

| Sec Ref. | Contravention or Offence | | Penalty | Relaxation/ Exception |
|---|---|---|---|---|
| 25, 38 & 38A | Denial/ obstruction in the access to the business premises, registered office or to any other place where records are kept | | Higher of Rs. 25,000 or 100% of the amount of tax PLUS further exposure for imprisonment for a term up to 3 years or with fine up to the amount of tax involved or with both | Further exposure is subject to conviction by a Special Judge |
| | Refusal of access to the stocks, accounts or records or fails to present the same when required under section 25, 38 or 38A | | | |
| 2(37) | Committing, causing or attempting to commit tax fraud, or abetting or conniving in commissioning of tax fraud | | Higher of Rs. 25,000 or 100% of the amount of tax PLUS further exposure for imprisonment for a term up to 5 years or with fine up to the amount of tax involved or with both | Further exposure is subject to conviction by a Special Judge |
| 48 | Violation of any embargo placed on removal of goods in connection with recovery of tax | | Higher of Rs. 25,000 or 10% of the amount of tax PLUS further exposure for imprisonment for a term up to 1 year or with fine up to the amount of tax involved or with both | Further exposure is subject to conviction by a Special Judge |
| 31 & Gen | Obstructing the authorized officer in the performance of his official duties | | Higher of Rs. 25,000 or 100% of the amount of tax | None |
| Gen | Authorized officer of Sales Tax, who acts/ omits/ attempts to act/ omit in a manner causing loss to the sales tax revenue or otherwise abets or connives in any such act | | Exposure for imprisonment for a term up to 3 years or with fine up to the amount of tax involved or with both | Exposure is subject to conviction by a Special Judge |
| Gen | Repetition of an offence for which a penalty is provided under the Act | | Twice the amount of related penalty | None |
| 50A | Intentional | access or attempt to gain access to the computerized system without lawful authority | Higher of Rs. 25,000 or 100% of the amount of tax PLUS further exposure for imprisonment for a term up to 1year or with fine up to the amount of tax involved or with both | Further exposure is subject to conviction by a Special Judge |
| | | and dishonest damage or impairment of the computerized system | | |
| | | and dishonest damage or impairment to any duplicate tape/ disc/ other medium on which any information obtained from the computerized system is kept or stored | | |
| | Unauthorized | use or disclosure or publish or otherwise dissemination of information obtained from the computerized system | | |
| | | use of unique user identifier of any other registered user to authenticate a transmission of information to the computerized system | | |
| | Falsification of any record or information stored in the computerized system | | | |
| | Failure to comply with or contravention of any of the conditions prescribed for security of unique user identifier | | | |

**Note**: Proviso to section 11A clarifies that none of the penalties can be imposed unless a show cause notice is served.

# SECTION 4 CORPORATE LAW

## 1. THE COMPANIES ORDINANCE, 1984

### Holding of Annual General Meeting [Section 158]

***Increase in mandatory timeframe***
The bill seeks to increase the timeframe limit for holding AGM from the current period of 3 months to 4 months from the close of its financial year.

***Failure in holding of AGM within prescribed time period***

a. <u>For listed companies</u> – A fine not less than fifty thousand rupees instead of twenty thousand rupees and not exceeding five hundred thousand instead of fifty thousand has been proposed.
b. <u>For other companies</u> – A fine not exceeding one hundred thousand rupees instead of ten thousand rupees has been proposed.

### Ineligibility of Certain Persons to Become Director [Section 187]

a) Clause (j) has been amended to read as “is engaged in the business of brokerage, or is a spouse of such person or is a sponsor, director or officer of a corporate brokerage house”
b) After the proviso, the following new proviso is proposed to be added to clarify that prohibition contained in clause (j) shall not apply where the company is a stock exchange.

### Bar on Appointment of Managing Agents, Sole Purchase, Sole Agents etc. [Section 206]

The Bill seeks to include following two contracts/ agreements from the purview of Section 206(1) of the Ordinance:

a) an agreement or contract with an NBFC licensed to undertake asset management services in relation to an investment company registered with the Commission; and
b) an agreement or contract with an NBFC licensed as a venture capital company in relation to a fund registered with the Commission.

### Annual Accounts and Balance Sheet [Section 233]

Pursuant to the proposed change in the period of holding AGM, the Bill seeks to make necessary amendment for Annual Accounts & Balance Sheet to be laid before it to four months.

### Period of Payment of Dividend [Section 251]

It has been proposed that dividend shall be paid to the shareholders within a period to be specified by the Commission instead of the prevailing timeframe of 45 days for listed companies and 30 days for other companies.

## 2. THE SECURITIES & EXCHANGE ORDINANCE, 1969

The bill seeks to propose specific provisions with reference to listed companies with relation to inside information. Some of the significant highlights are as under:

c. listed companies will be required to inform inside information that directly concerns the listed securities to public as soon as possible, unless the disclosure is delayed in order not to prejudice their legitimate interests.
d. that, at the time of disclosing any inside information to any third party in the normal course of business, complete and effective public disclosure of that information must be made simultaneously.
e. listed companies or persons acting on its behalf, shall maintain and regularly update a list of persons employed, under contract or otherwise having access to inside information, and also to provide such list to the Commission on demand.
f. persons discharging managerial responsibilities within a listed company and, where applicable, persons closely associated with them, shall notify the Commission of transactions conducted on their own account relating to the securities of such listed company.
g. a fine of rupees ten million or three times the amount of gain made or loss avoided by such person, or loss suffered by another person, whichever amount is higher for non-compliance on prohibition of insider trading is proposed to be imposed. Moreover, such person may be directed by the Commission to surrender an amount equivalent to the gain made or loss avoided, to pay any other person the loss suffered by him and further be removed from his office if he is an executive officer, director, auditor, advisor or consultant of a listed company and debarred from auditing any listed companies for a period up to 3 years and cancellation of registration if he is a broker/ agent.

It has also been sought to propose definitions to the terms “*Insider Trading*” and “*Inside information*”.

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