

# **INCOME TAX ORDINANCE, 1979**

## **ORDINANCE NO. XXXI OF 1979**

### **AN ORDINANCE**

to consolidate and amend the law relating to income-tax and super-tax

WHEREAS it is expedient to consolidate and amend the law relating to income tax and super tax for the purposes hereinafter appearing;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977 read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No.1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

### **CHAPTER I**

#### **PRELIMINARY**

**1. Short title, extent and commencement.** (1) This Ordinance may be called the Income Tax Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on the first day of July, 1979.

**2. Definitions.**-In this Ordinance, unless the context otherwise requires,-

(1) "Agricultural income" means-

- (a) any rent or revenue derived from land which is situated in Pakistan and is used for agricultural purposes;
- (b) any income derived from such land by-
  - (i) agriculture; or
  - (ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market; or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in paragraph (ii);

(c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator, or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in paragraphs (ii) and (iii) of sub-clause (b) is carried on:

Provided that the building is on, or in the immediate vicinity of, the land, and is a building which the receiver of the rent or revenue or the cultivator, or the receiver of the rent-in-kind by reason of his connection with the land, requires as a dwelling-house, or as a store-house, or other out-building;

(2) "Appellate <sup>1</sup>[Additional Commissioner]" means a person appointed to be an Appellate Additional Commissioner of Income Tax under section 4;

(3) "Appellate Tribunal" means the Appellate Tribunal constituted under section 133;

(4) "approved gratuity fund" means a gratuity fund which has been, and continues to be, approved by the Commissioner in accordance with the rules contained in Part III of the Sixth Schedule;

(5) "approved superannuation fund" means a superannuation fund, or any part of a superannuation fund, which has been, and continues to be, approved by the Commissioner in accordance with the rules contained in Part II of the Sixth Schedule;

(6) "assessee" means a person by whom any tax or any other sum of money is payable under this Ordinance, and includes-

(a) every person in respect of whom any proceeding under this Ordinance has been taken for the assessment of his income or the income of any other person in respect of which he is assessable or of the amount of refund due to him or to such other person;

(b) every person who is required to file a return of total income under section 55, section 72 or section 81; and

(c) every person who is deemed to be an assessee, or an assessee in default, under any provision of this Ordinance;

(7) "assessment" includes re-assessment and additional assessment and the cognate expressions shall be construed accordingly;

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

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<sup>1</sup> Subs. for "Assistant Commissioner" by F.A. 1993.

- (9) "average rate of tax" means the rate arrived at by dividing the amount of tax calculated on the total income by such income;
- (10) "banking company" has the same meaning as in the Banking Companies Ordinance, 1962 (LVII of 1962), and includes any body corporate formed by, or under, any law for the time being in force which transacts the business of banking in Pakistan;
- (11) "business" includes any, trade, commerce or manufacture, or any adventure or concern in the nature of trade, commerce or manufacture;
- (12) "capital asset" means property of any kind held by an assessee, whether or not connected with his business or profession, but does not include-
- (i) any stock-in-trade (not being stocks and shares), consumable stores or raw materials held for the purposes of his business or profession;
  - (ii) personal effects, that is to say, movable property (including wearing apparel, jewellery and furniture) held for personal use by the assessee or any member of his family dependent on him; and
  - (iii) any land from which the income derived by the assessee is agricultural income;
- (13) "Central Board of Revenue" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (IV) of (1924);
- (14) "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility;
- (15) "Commissioner" means a person appointed to be a Commissioner of Income Tax under section 4 [and includes a Director of Tax Withholding and a Director of Intelligence and Investigation];
- <sup>1</sup>[(16) "company" means-
- (a) company as defined in the Companies Act, 1913 (VII of 1913); or
  - (b) a body corporate formed by or under any law for the time being in force; or
  - <sup>2</sup>[(bb) a trust formed by or under any law for the time being in force; or]
  - (c) a body corporate incorporated by or under the law of a country outside Pakistan relating to incorporation of companies; or
  - <sup>3</sup>[(cc) a modaraba as defined in the Modaraba Companies and Modarabas (Floatation and Control) Ordinance, 1980 (XXXI of 1980);

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<sup>1</sup> Cl. (16) subs. by F. O. 1980.

<sup>2</sup> Sub-cl.(bb) ins.by F. O. 1983.

<sup>3</sup> Sub-cl. (cc) ins. by F. A. 1992.

(d) the Government of a Province;

(e) a foreign association, whether incorporated or not which the Central Board of Revenue may, be general or special order, declare to be company for the purposes of this Ordinance for such assessment year or years (whether commencing before, on or after the first day of July, 1979) as may be specified in the said order;]

(17) "co-operative society" means a co-operative society registered under the Co-operative Societies Act, 1912 (XI of 1912) or under any other law for the time being in force in Pakistan for the registration of co-operative societies;

<sup>1</sup>[(17A) "Deputy Commissioner" means a person appointed to be a Deputy Commissioner of Income Tax under section 4 and includes an Income Tax Officer, a Special Officer][ , a Deputy Director of Tax Withholding, an Assistant Director of Tax Withholding, a Deputy Director of Intelligence and Investigation, an Assistant Director of Intelligence and Investigation] and a Tax Recovery Officer;

(18) "director" and "manager", in relation to a company, have the meaning assigned to them in the Companies Act, 1913 (VII of 1913);

<sup>2</sup>[(19) "Director-General of Intelligence and Investigation means a person appointed to be a Director-General of Intelligence and Investigation under section 4; ]

<sup>3</sup>[(19A) "Director-General of Training and Research" means a person appointed to be a Director-General of Intelligence and Investigation under section 4, and includes a person appointed to be Director of Training and Research, an Additional Director of Training and Research, a Deputy Director of Training and Research, an Assistant Director of Training and Research or any other officer, howsoever designated, appointed by the Central Board of Revenue for the purposes of any or all functions performed by Director-General of Training and Research and any other function that may be assigned to him;]

(20) "dividend" includes-

- (a) any distribution by a company of accumulated profits to its shareholders <sup>4</sup>[or modaraba certificate holders], whether capitalised or not, if such distribution entails the release by the company to its share holders of all or any part of the assets of the company;
- (b) any distribution by a company, to its shareholders <sup>1</sup>[or modaraba certificate holders], of debentures, debenture stock or deposit certificates in any form, whether with or without interest, and any distribution to its <sup>5</sup>[ ]shareholders of shares by way of bonus <sup>6</sup>[or bonus shares], to the extent to which the company possesses accumulated profits whether capitalised or not;

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<sup>1</sup> Cl.(17A) ins. by F. A. 1993.

<sup>2</sup> Cl.(19) subs. by F. A. 1995.

<sup>3</sup> Cl.(19A) ins. ibid.

<sup>4</sup> Words ins. by F. A. 19.92.

<sup>5</sup> Word "preference" omitted by F.O. 2001.

<sup>6</sup> Words ins. by F.O. 2001.

- (c) any distribution made to the shareholders <sup>1</sup>[or modaraba certificate holders] of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not;
- (d) any distribution by a company to its shareholders <sup>1</sup>[or modaraba certificate holders] on the reduction of its capital, to the extent to which the company possesses accumulated profits, whether such accumulated profits have been capitalised or not; and
- (e) any payment by a private company of any sum (whether as representing a part of the assets of the company or otherwise) by way of advance or loan to a shareholder or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company, in either case, possesses accumulated profits; but does not include-
  - (i) distribution made in accordance with sub-clause (c) or sub-clause (d) in respect of any share for full cash consideration, or redemption of debentures or debenture-stock, where the holder of the share or debenture is not entitled in the event of liquidation to participate in the surplus assets;
  - (ii) any advance or loan made to a shareholder by a company in the ordinary course of its business, where the lending of money is a substantial part of the business of the company;
  - (iii) any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as a dividend within the meaning of sub-clause (e), to the extent to which it is so set off.

*Explanation.-* The expression "accumulated profits",-

- (a) wherever it occurs in this clause, includes any reserve made up wholly or partly of any allowance, deduction or exemption admissible under this Ordinance or the repealed Act, but does not include capital gains arising before the first day of April, 1946 or after the thirty-first day of March, 1949 and before the eighth day of June, 1963;
- (b) as used in sub-clauses (a), (b), (d) and (e), includes all profits of the company up to the date of such distribution or such payment, as the case may be; and
- (c) as used in sub-clause (c), includes all profits of the company up to the date of its liquidation.

(21) "domestic company" means a Pakistani company and includes any company which, in respect of its income liable to tax under this Ordinance had made the prescribed arrangements for the declaration and payment, within Pakistan, of the dividends (including dividends on preference shares) payable out of such income and for the deduction of tax from such dividends;

<sup>1</sup>[(21A)"finance society" includes a co-operative society which accepts money on deposit or otherwise for the purpose of advancing loans or making investments in the ordinary course of business;]

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<sup>1</sup> Cl.(21A) ins. by F. A. 1991.

(22) "firm", "partner", and "partnership" have the meanings respectively assigned to them in the Partnership Act, 1932 (IX of 1932); and the expression "partner" includes any person, who being a minor, has been admitted to the benefits of partnership;

(23) "foreign company" means a company which is not a domestic company;

(24) "income" includes-

- (a) any income, profits or gains, from whatever source derived, chargeable to tax under any provision of this Ordinance under any head specified in section 15;
- (b) any loss of such income, profits or gains; [ ]
- (c) any sum deemed to be income, or income accruing or arising or received in Pakistan under any provision of this Ordinance, but does not include, in the case of a shareholder of a domestic company, the amount representing the face value of any bonus shares or the amount of any bonus declared, issued or paid by the company to its share-holders with a view to increasing its paid-up share-capital; [and]
- (d) in the case of shareholder of a domestic company, the amount representing the face value of any bonus shares or the amount of any bonus declared, issued or paid by the company to its shareholders with a view to increasing its paid-up share capital,

<sup>1</sup>[ ]

<sup>2</sup>[ ]

<sup>3</sup>[(25A) "Income Tax Panel" means a panel comprising an Inspecting <sup>4</sup>[Additional Commissioner], as its Chairman, and one or more <sup>5</sup>[Deputy Commissioner]s.

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

- (a) the financial year next preceding the said assessment year, or

<sup>6</sup>[( )]

- (c) such period as the Central Board of Revenue may, in the case of any person or class of persons or any source of income, specify by notification in the official Gazette,

and includes any period which, under any provision of this Ordinance, is deemed to be an income year, or in respect of which a return of total income is required to be furnished, or any income is liable to be determined or assessed, or any tax is payable.

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<sup>1</sup> Words omitted by F.O. 2001.

<sup>2</sup> Cl. (25) omitted by F. A. 1993.

<sup>3</sup> Cl. (25A) ins. by F. A. 1988.

<sup>4</sup> Subs. for "Assistant Commissioner" by F. A. 1993.

<sup>5</sup> Subs. for "Income Tax Officer" by F. A. 1993.

<sup>6</sup> Cl. (b) omitted by F. A. 1995.

*Explanation.-*

(a) Where, in any case,-

<sup>1</sup>[ ]

[ ]

<sup>2</sup>[(iii) both sub-clause (a) and sub-clause (c) apply, the income year as specified under clause (c) shall be deemed to be the income year of the assessee in respect of his income from all sources; and

(iv) the sources of income of an assessee include two or more sources in respect of which income years have been specified under clause (c), the income year of the said income years ending last shall be deemed to be the income year of the assessee in respect of his income from all sources except the sources to which \*clause (c) applies; and]

(b) as used in sub-clause (c), "period" means any period of twelve months, or any period of more or less than twelve months, and includes any such period as may commence from, or end on, any date, including a date falling before the commencement, or after the end, as the case may be, of the financial year next preceding the said assessment year;

(27) "Inspecting <sup>3</sup>[Additional Commissioner]" means a person appointed to be an Inspecting <sup>1</sup>[Additional Commissioner] of Income Tax under section 4 [and includes an Additional Director of Tax Withholding and an Additional Director of Intelligence and Investigation];

(28) "Inspector of Income Tax" means a person appointed to be an Inspector of Income Tax under section 4 [and includes an Auditor of Tax Withholding and an Inspector of Intelligence and Investigation];

(29) "interest" means interest payable in any manner in respect of any money borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes any service fee or other charge in respect of the money borrowed or debt incurred or in respect of any credit facility which has not been utilised;

<sup>4</sup>[(29A)"modaraba", "modaraba company" and "Modaraba Certificate" have the meaning respectively assigned to them in the Modaraba Companies and Modarabas (Floatation and Control) Ordinance, 1980 (XXXI of 1980);]

(30) "non-resident" means a person who is not resident;

(31) "Pakistani company" means a company formed and registered under the Companies Act, 1913 (VII of 1913), or a body corporate formed by, or under any law for the time being in force in Pakistan, having in

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<sup>1</sup> Sub-paras (i) & (ii) omitted by F. A. 1995.

<sup>2</sup> Sub-paras (iii) & (iv) ins. by F. O. 1980.

<sup>3</sup> Subs. for "Assistant Commissioner" by F. A. 1993.

<sup>4</sup> Cl.(29A) ins. by F.O. 1981.

either case its registered office in Pakistan, and includes <sup>1</sup>[a trust formed by or under any law for the time being in force and] the Government of a Province of Pakistan;

(32) "person" includes an individual, a firm, an association of persons, a Hindu undivided family, a company, a local authority and every other artificial juridical person;

(33) "prescribed" means prescribed by rules made under this Ordinance;

(34) "principal officer", used with reference to a local authority, or a company or any association of persons, includes-

- (a) managing director, secretary, treasurer, manager, agent or accountant, by whatever designation known, of the authority, company or association; and
- (b) any person connected with the management or administration of the local authority, company or association upon whom the <sup>2</sup>[Deputy Commissioner] has served a notice of his intention of treating him as the principal officer thereof;

(35) "profession" includes vocation;

(36) "public servant" has the same meaning as in the Pakistan Penal Code (XLV of 1860), and includes any income tax authority and any person employed in the execution of this Ordinance;

(37) "recognised provident fund" means a provident fund which has been, and continues to be, recognised by the Commissioner in accordance with the rules contained in Part I of the Sixth Schedule;

<sup>3</sup>[(37A) "Regional Commissioner" means a person appointed to be a Regional Commissioner of Income Tax under section 4 [and includes a Director-General of Tax Withholding and a Director-General of Intelligence and Investigation];]

(38) "registered firm" means a firm which has been, and continues to be, registered under section 68;

(39) "repealed Act" means the Income Tax Act, 1922 (XI of 1922);

(40) "resident", in relation to any income year, means-

- (a) an individual, who-
  - (i) is in Pakistan in that year for a period of, or for periods amounting in all to, one hundred and eighty two days or more; or
  - (ii) is in Pakistan for a period of, or periods amounting in all to, <sup>4</sup>[ninety] days or more in that year and who, within the four years preceding that year, has been in Pakistan for a period of, or periods amounting in all to, three hundred and sixty-five days or more; or

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<sup>1</sup> Words ins. by F.O.1983.

<sup>2</sup> Subs. for "Income Tax Officer" by F. A. 1993.

<sup>3</sup> Cl. (37A) ins. by F.O. 1980.

<sup>4</sup> Subs. for "sixty" by F.O.1981.



- (b) a Hindu undivided family, firm or other association of persons, the control and management of whose affairs is situated wholly or partly in Pakistan in that year; or
- (c) a Pakistani company or any other company, the control and management of whose affairs is situated wholly in Pakistan in that year;

(41) "return of total income" means the return of total income in the prescribed form, setting forth such particulars and accompanied by such statements, certificates and other documents, and verified in such manner, as may be prescribed;

(42) "share-holder" includes a preference share-holder;

(43) "tax" means income tax, super tax, surcharge and additional tax chargeable or payable under this Ordinance, and includes any penalty, fee or other charge or any sum or amount leviable or payable under this Ordinance;

(44) "total income" means the total amount of income referred to in section 11 computed in the manner laid down in this Ordinance; and includes any income which, under any provision of this Ordinance, is to be included in the total income of an assessee;

(45) "unregistered firm" means a firm which is not a registered firm; and

(46) "valuer" means a person appointed to be a valuer under section 4.

## CHAPTER II

### ADMINISTRATION

**3. Income tax authorities.-** (1) There shall be the following classes of income tax authorities for the purposes of this Ordinance, namely:-

(a) Central Board of Revenue;

<sup>1</sup>[(aa) Regional Commissioners of Income Tax;]

(b) <sup>2</sup>[Director-General of Investigation and Intelligence;]

<sup>3</sup>[(bb) Director-General of Training and Research;]

[(bbb) Director-General of Tax Withholding;]

(c) Commissioners of Income Tax;

(d) <sup>4</sup>[Additional Commissioner]s of Income Tax, who may be either Appellate <sup>4</sup>[Additional Commissioner]s of Income Tax or Inspecting <sup>4</sup>[Additional Commissioner]s of Income Tax;

<sup>5</sup>[(dd) Income Tax Panels;]

(e) <sup>6</sup>[Deputy Commissioners of Income Tax]; and

(f) Inspectors of Income Tax.

<sup>7</sup>[(1A) <sup>8</sup>[ ] Commissioners of Income Tax, <sup>9</sup>[ ] Additional Commissioners of Income Tax, <sup>10</sup>[Income Tax Panels], <sup>6</sup>[Deputy Commissioners of Income Tax] and Inspectors of Income Tax shall be subordinate to the Regional Commissioners of Income Tax within whose jurisdiction they perform their functions.]

(2) Inspecting <sup>11</sup>[Additional Commissioners], <sup>12</sup>[Income Tax Panels,] <sup>13</sup>[Deputy Commissioners] and Inspectors of Income Tax shall be subordinate to the Commissioners within whose jurisdiction they perform their functions.

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<sup>1</sup> Cl.(aa) ins. by F. O. 1980.

<sup>2</sup> Subs. for "Director, Survey, Vigilance, Inspection and Audit" by F. A. 1995. Earlier, the words "Survey, Vigilance" ins. by F. A. 1986 and the words "and Audit" were ins. by F. O. 1984.

<sup>3</sup> Cl. (bb) ins. by F. A. 1995.

<sup>4</sup> Subs. for "Assistant Commissioner" by F. A. 1993.

<sup>5</sup> Cl. (dd) ins. by F. A. 1988.

<sup>6</sup> Subs. for "Income Tax Officer" by F. A. 1993.

<sup>7</sup> Sub-sec. (1A) ins. by F. O. 1980.

<sup>8</sup> Words "Director, Survey, Vigilance, Inspection and Audit" omitted by F. A. 1995. Earlier these were ins. by F. A. 1986.

<sup>9</sup> Word "Inspecting" omitted by F. A. 1986.

<sup>10</sup> Words etc. ins. by F. A. 1988.

<sup>11</sup> Subs. for "Assistant Commissioner" by F. A. 1993.

<sup>12</sup> Words etc. ins. by F. A. 1988.

<sup>13</sup> Subs. for "Income Tax Officer" by F. A. 1993.

(3) <sup>3</sup>[Deputy Commissioners] and Inspectors of Income Tax shall be subordinate to the Inspecting <sup>1</sup>[Additional Commissioners] within whose jurisdiction they perform their functions.

(4) Inspectors of Income Tax shall be subordinate to the <sup>3</sup>[Deputy Commissioners] within whose jurisdiction they perform their functions.

**4. Appointment of income tax authorities, etc.-** (1) The Central Board of Revenue may appoint as many <sup>1</sup>[Regional Commissioners of Income Tax,] <sup>2</sup>[Director-General of Investigation and Intelligence,] [Director-General of Tax Withholding], Commissioners of Income Tax, Appellate and Inspecting <sup>1</sup>[Additional Commissioners] of Income Tax, <sup>3</sup>[Deputy Commissioners] and other executive or ministerial officers and staff as may be necessary.

<sup>3</sup>[(1A) The Regional Commissioner, or, where the Board directs, the Commissioner may appoint as many Income Tax Panels as may be necessary.

(1B) The Central Board of Revenue may make rules in respect of constitution, procedure and working of the Income Tax Panels.]

(2) Subject to such orders or directions as may be issued by the Central Board of Revenue from time to time, any other income tax authority may appoint any income tax authority subordinate to it and such other executive or ministerial officers and staff, as may be necessary.

(3) The Central Board of Revenue or the <sup>4</sup>[Regional Commissioner of Income Tax] may appoint a sufficient number of qualified persons to act as valuers for the purposes of this Ordinance and <sup>7</sup>[the Central Board of Revenue] shall fix a scale of charges for the remuneration of such persons.

(4) All appointments under this Ordinance shall be subject to the rules and orders of the Federal Government regulating the terms and conditions of service of persons in public services and posts.

<sup>5</sup> **[4A. Private income tax authorities.-** (1) Notwithstanding anything contained in this Ordinance, the Central Board of Revenue may appoint a firm of Chartered Accountants as defined under Chartered Accountants Ordinance, 1961 (Ordinance of 1961) to conduct audit of any person.

(2) Any person authorised by the firm referred to in sub-section (1), while conducting an audit under that sub-section may, for the purposes of such audit enter into any premises belonging to or in the occupation of the person to whom the audit relates and call for and inspect and seize books of accounts or documents in possession of such person and wherever deemed necessary for conducting the said audit may be authorized in writing, by the Commissioner to exercise the powers laid down under sections 144, 145, 146 and 148 of the Ordinance.

(3) The scope of audit under this section shall be such as the Central Board of Revenue may determine on case to case basis.]

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<sup>1</sup> Words etc. ins. by F. A. 1988.

<sup>2</sup> Words “Director, Survey, Vigilance, Inspection and Audit” omitted by F. A. 1995. Earlier, the words “Survey, Vigilance” ins. by F. A. 1986 and the words “and Audit” ins. by F. O. 1984.

<sup>3</sup> Sub-secs. (1A) & (1B) ins. by F. A. 1988.

<sup>4</sup> Words ins. by F. O. 1984.

<sup>1</sup>[4AA. **Appointment of certain persons for survey etc.-** (1) Notwithstanding anything contained in this Ordinance, the Central Board of Revenue may, appoint any private agency, firm or company to carry out survey in respect of such persons or in such areas as it may assign by an order in writing.

(2) The agency, firm or company appointed under sub-section (1), shall have the power to make such enquiries and obtain from any person such information as Central Board of Revenue may, by order in writing, specify.

(3) The Central Board of Revenue shall, by order in writing, determine the scope of the survey referred to in sub-section (1).

4AAA. **Appointment of persons for audit of tax withholding.-** (1) Notwithstanding anything contained in this Ordinance, the Central Board of Revenue may appoint any private agency, firm or company to carry out audit of tax withholding of a registered firm or a company.

(2) The Central Board of Revenue shall, by order in writing, determine the scope of audit referred to in sub-section (1).

(3) The private agency, firm or company appointed under sub-section (1) shall have the power to enter the premises and inspect books of accounts and records of any person or classes of persons assigned to such agency, firm or company by an order in writing made by the Director Tax Withholding, in this regard.]

**5. Jurisdiction of income tax authorities.-** (1) Subject to the provisions of this Ordinance,-

(a) <sup>2</sup>[the Regional Commissioners and the Research and <sup>3</sup>[Director-General of Training and Research, Director General of Investigation and Intelligence] shall perform such functions <sup>4</sup>[in respect of such persons or classes of persons or such areas], as may be assigned to them by the Central Board of Revenue;

(b) the Commissioners and the Appellate <sup>5</sup>[Additional Commissioner]s shall perform their functions in respect of such persons or classes of persons or such areas as the Central Board of Revenue may direct; <sup>6</sup>[and the Central Board of Revenue may, by general or special order in writing, direct that the powers conferred on the Appellate <sup>4</sup>[Additional Commissioner] by or under this Ordinance shall, in respect of appeals relating to specified cases or classes of cases or specified persons or classes of persons, be exercised by the Commissioners and for the purposes of any proceedings in respect of such cases or persons, references in this Ordinance or in any rules made there under to "Appellate <sup>4</sup>[Additional Commissioner]" shall be deemed to be references to "Commissioner":]

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<sup>1</sup> Secs. 4AA & 4AAA ins. by F.A. 1999.

<sup>2</sup> Words ins. by F. O. 1980.

<sup>3</sup> Subs. for "Director, Survey, Vigilance, Inspection and Audit" by F. A. 1995. Earlier, the words "Survey, Vigilance" ins. by F. A. 1986 and the words "and Audit" were ins. by F. O. 1984.

<sup>4</sup> Words etc ins. by F. O. 1980.

<sup>5</sup> Subs. for "Assistant Commissioner" by F. A. 1993.

<sup>6</sup> Words etc ins. by F. O. 1980.

<sup>1</sup>[Provided that the Central Board of Revenue may, by general or special order in writing, direct that the jurisdiction of the <sup>2</sup>[Commissioners exercising the powers of an Appellate <sup>4</sup>[Additional Commissioner] and the Appellate Additional Commissioners shall be determined by the Regional Commissioner <sup>3</sup>[ ]:]

[Provided further that the Regional Commissioner may transfer jurisdiction in respect of cases or persons from one Commissioner subordinate to him to another;]

- (c) the Inspecting Additional Commissioners and the Deputy Commissioners shall perform their functions in respect of such persons or classes of persons or such areas as [the Commissioners, to whom they are subordinate, may direct and the Commissioner may with the prior approval of the Central Board of Revenue [or if the Central Board of Revenue so directs, of the Regional Commissioner, by general or special order in writing direct that the powers conferred on the Deputy Commissioner and the Inspecting Additional Commissioner by or under this Ordinance shall, in respect of all or any proceedings relating to specified cases or classes of cases or specified persons or classes of persons, be exercised by the Inspecting Additional Commissioner and the Commissioner, respectively, and, for the purposes of any proceedings in respect of such cases or persons references in this Ordinance or in any rules made thereunder to "Deputy Commissioner" and "Inspecting Additional Commissioner" shall be deemed to be references to "Inspecting Additional Commissioner" and "Commissioner", respectively;]

- [(cc) Notwithstanding anything contained in clause (c), the Commissioner may, by general or special order in writing, direct that all or any of the powers conferred on the Income Tax Officer and the Inspecting Additional Commissioner shall, in respect of all or any proceedings relating to specified cases or classes of cases or specified persons or classes of persons, be exercised by the Income Tax Panel and the Commissioner, respectively, and, for the purposes of any proceedings in respect of such cases or person, references in this Ordinance or in any rules made thereunder to "Income Tax Officer" and "Inspecting Additional Commissioner" shall be deemed to be references to "Income Tax Panel" and "Commissioner", respectively:

Provided that, any function performed by the [Deputy Commissioners] as members of the Income Tax Panel, on the directions of the said Inspecting [Additional Commissioner], shall be deemed to have been performed in exercise of the powers conferred on the Income Tax Panel:

Provided further that an order made by the Income Tax Panel under any provision of this Ordinance shall be made only by the said Inspecting Additional Commissioner:

Provided further that, if any one member of the Income Tax Panel, other than the Chairman, is absent from any sitting of the Income Tax Panel, the proceedings of the Panel may continue, and no act, proceedings or order of the Panel shall be invalid or be called in question merely on the ground of such absence; and]

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<sup>1</sup> Proviso is. By F. O. 1981.

<sup>2</sup> Words ins. by F. A. 1986.

<sup>3</sup> Ords "or the Commissioner" omitted by F. A. 1993.

- (d) the Inspectors of Income Tax shall perform such functions as may be assigned to them by the Income Tax authority under whom they are appointed to work.

*Explanation.-* The power to confer jurisdiction under this sub-section shall include the power to transfer jurisdiction from one income tax authority to another.

(2) Where any directions issued under sub-section (1) have assigned to two or more income tax authorities the same functions or functions in respect of the same persons or classes of persons or the same area, they shall perform their functions in accordance with such orders as the Central Board of Revenue, or any other authority to whom they are subordinate, may make for the allocation of functions and the distribution of the work to be performed.

(3) Within the area assigned to him, the Deputy Commissioner] shall have jurisdiction,-

- (a) in respect of any person carrying on business or profession, if the place of business or profession is situated within such area, or where the business or profession is carried on in more places than one, if the principal place of the business or profession is situated within such area; and

- (b) in respect of any other person, if he resides within the area.

(4) Where a question arises as to whether [Deputy Commissioner] has jurisdiction to assess any person, the question shall be determined by the Commissioner, or where the question is one relating to the jurisdiction of different Commissioners, [by the Regional Commissioner or Regional Commissioners concerned] and, if they are not in agreement, by the Central Board of Revenue.

(5) No person shall be entitled to call in question the jurisdiction of [Deputy Commissioner] after he has made the return of total income or, where he has not made such return, after the time allowed by any notice served on him for making such return has expired.

(6) Notwithstanding anything contained in this section, every [Deputy Commissioner] shall have all the powers conferred by, or under, this Ordinance on [Deputy Commissioner] in respect of any income accruing or arising or received or deemed, under any provision of this Ordinance, to accrue or arise or be received within the area assigned to him.

**6. Exercise of jurisdiction by a successor.-** Whenever, in respect of any proceedings under this Ordinance, an income tax authority is succeeded by another, the income tax authority so succeeding may continue any proceeding from the stage at which it was left by his predecessor.

**7. Guidance to [Deputy Commissioner].-** In the course of any proceedings under this Ordinance, the [Deputy Commissioner] may be assisted, guided or instructed by any other income tax authority to whom he is subordinate or any other person authorised in this behalf by the Central Board of Revenue.

**8. All officers to follow the orders of the Central Board of Revenue.-** All officers and persons, employed in the execution of this Ordinance, shall observe and follow the orders, instructions and directions of the Central Board of Revenue:

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Appellate [Additional Commissioner] in the exercise of his appellate functions or any valuer in the exercise of his functions under this Ordinance.

### **CHAPTER III**

#### **CHARGE OF TAX**

**9. Charge of income tax.**- (1) Subject to the provisions of this Ordinance, there shall be charged, levied and paid for each assessment year commencing on or after the first day of July, 1979, income tax in respect of the total income of the income year or years, as the case may be, of every person at the rate or rates specified in the First Schedule:

[Provided that where, by virtue of an amendment in the First Schedule, the rate of income tax, for the purpose of assessment in respect of any assessment year, is altered, the rate of income tax existing prior to the said alteration shall continue to apply in respect of any assessment year to which the said existing rate is applicable.]

[(1A) Notwithstanding anything contained in section 37 of the Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 1980 (XXXI of 1980), or any other law for the time being in force, there shall be charged, levied and paid for each assessment year commencing on or after the first day of July, 1993, income tax in respect of the total income of a modaraba at the rate specified in the First Schedule.

Provided that the total income of a modaraba shall not be chargeable to tax for the first three assessment years after commencement of its business if not less than ninety percent of its profits in a year is distributed to the modaraba certificate holders.]

(2) Where, by virtue of any provision of this Ordinance, income tax is to be deducted at source or collected or paid in advance, it shall be so deducted, collected or paid, as the case may be, accordingly.

**10. Charge of super tax and surcharge.**- (1) In addition to the income tax charged for any year, there shall be charged, levied and paid for that year in respect of the total income, or any part thereof, of the income year or years, as the case may be, of every person, an additional duty of income tax (in this Ordinance referred to as 'super tax') and surcharge at the rate or rates specified in the First Schedule:

[Provided that where, by virtue of an amendment in the First Schedule, the rate of super tax and surcharge, for the purpose of assessment in respect of any assessment year, is altered, the rate of super tax and surcharge existing prior to the said alteration shall continue to apply in respect of any assessment year to which the said existing rate is applicable.]

(2) Subject to the provisions of this Ordinance, the total income of any person shall, for the purposes of super tax and surcharge, be the total income as assessed for the purposes of income tax, and where an assessment has become final and conclusive for the purposes of income tax for any year, the assessment shall also be final and conclusive for the purposes of super tax or surcharge, as the case may be, for the same year.

(3) All the provisions of this Ordinance relating to the charge, assessment, deduction at source, collection, or payment in advance, recovery and refund of income tax shall apply, so far as may be, to the charge,

assessment, deduction at source, collection, payment in advance, recovery and refund of super tax and surcharge, as the case may be.

**11. Scope of total income.-** (1) Subject to the provisions of this Ordinance, the total income, in relation to any assessment year, or a person,-

(a) who is a resident, includes all income from whatever source derived, which -

- (i) is received, or is deemed to be received, in Pakistan in the income year by, or on behalf of, such person; or
- (ii) accrues or arises, or is deemed to accrue or arise, to him in Pakistan during such year; or
- (iii) accrues or arises to him outside Pakistan during such year;

(b) who is a non-resident, includes all income from whatever source derived, which-

- (i) is received, or is deemed to be received, in Pakistan in the income year by, or on behalf of, such person; or
- (ii) accrues or arises, or is deemed to accrue or arise, to him in Pakistan during such year.

(2) Notwithstanding anything contained in sub-section (1), where any amount consisting of either the whole or a part of any income has been included in the total income of a person on the basis that it has accrued or arisen, or is deemed to have accrued or arisen, to him in any year, it shall not be included again in his total income on the basis that it is received, or is deemed to be received, by him in Pakistan in any other year.

**12. Income deemed to accrue or arise in Pakistan.-** (1) Income which would be chargeable under the head "Salary" shall be deemed to accrue or arise in Pakistan, wherever paid, if it is earned in Pakistan, or if it is paid by, or on behalf of, the Government or a local authority in Pakistan to a person in the service of such Government or authority, as the case may be.

(2) Any income accruing or arising, whether directly or indirectly, through or from-

- (a) any business connection in Pakistan.
- (b) any asset, property or source of income in Pakistan; or
- (c) transfer of a capital asset situated in Pakistan, shall be deemed to accrue or arise in Pakistan:

Provided that, in the case of a business all the operations of which are not carried out in Pakistan, the income of the business deemed under this sub-section to accrue or arise in Pakistan shall be only such part of the income as is reasonably attributable to the operations carried out in Pakistan.

(3) Any income by way of interest payable by-



- (a) a person who is a resident, except where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person outside Pakistan or for the purposes of making or earning any income from any source outside Pakistan; or
- (b) a person who is a non-resident, where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person in Pakistan or for the purposes of making or earning any income from any source in Pakistan,

shall be deemed to accrue or arise in Pakistan.

(4) Any income by way of royalty payable by-

- (a) a person who is a resident, except where the royalty is payable in respect of any right, property or information used or services utilised for the purposes of a business or profession carried on by such person outside Pakistan or for the purposes of making or earning any income from any source outside Pakistan; or
- (b) a person who is a non-resident, where the royalty is payable in respect of any right, property or information used or services utilised for the purposes of a business or profession carried on by such person in Pakistan or for the purposes of making or earning any income from any source in Pakistan,

shall be deemed to accrue or arise in Pakistan.

*Explanation.-* For the purposes of this section and sub-section (4) of section 31, "royalty" means consideration (including lump sum consideration) but excluding any consideration which would be the income of the recipient chargeable under the head "Capital gains") for-

- (i) the transfer of all or any rights (including the granting of a licence) in respect of a patent, design, secret process or formula, or trade mark or similar property;
- (ii) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret process or formula, or trade mark or similar property;
- (iii) the use of any patent, invention, model, design, secret process or formula, or trade mark or similar property;
- (iv) the imparting of any information concerning technical, industrial, commercial or scientific knowledge, experience or skill;
- (v) the transfer of all or any rights (including the granting of a licence) in respect of any copyright, literary, artistic or scientific work including films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting but not including consideration for the sale, distribution or exhibition of cinematograph films; or

- (vi) the rendering of any services in connection with the activities referred to in clauses (i) to (v).

(5) Any income by way of fees for technical services payable by-

- (a) a person who is a resident, except where the fees are payable in respect of services utilised in a business or profession carried on by such person outside Pakistan or for the purposes of making or earning any income from any source outside Pakistan; or
- (b) a person who is a non-resident, where the fees are payable in respect of services utilised in a business or profession carried on by such person in Pakistan or for the purposes of making or earning any income from any source in Pakistan,

shall be deemed to accrue or arise in Pakistan.

*Explanation.-* For the purposes of this sub-section [, clause (b) of section 24, sub-section (2) of section 30, sub-section (3A) of section 50 and section 80AA], "fees for technical services" means any consideration (including any lump-sum consideration) for the rendering of any managerial, technical or consultancy services (including the provision of the services of technical or other personnel) but does not include consideration for any construction, assembly or like project undertaken by the recipient or consideration which would be income of the recipient chargeable under the head "Salary".

(6) As used in sub-sections (3), (4) and (5), the expression "a person who is resident" includes Government.

(7) Where an assessee has made any loan or advance to any person on which no interest has been charged or the rate at which interest has been charged is less than the rate (hereinafter referred to as the 'said rate') arrived at by adding two per cent to the bank rate notified by the State Bank of Pakistan as applicable on the date on which the loan or advance was made, the amount not charged or the amount equal to the interest computed at the said rate as reduced by the interest actually charged shall be deemed to be the income of the assessee and shall be included in his total income:

Provided that nothing contained in this sub-section shall apply to-

- (a) any loan or advance made by an assessee to an employee in accordance with the terms and conditions of his employment and for such purposes or purposes; or
- (b) such assessee or persons or class or classes of assessee or persons, as may be specified in this behalf by the Central Board of Revenue by notification in the official Gazette:

[Provided further that nothing contained in this sub-section shall apply in respect of any assessment year beginning on or after the first day of July, 1985.]

(8) Any income derived by an assessee in any income year (hereafter in this sub-section referred to as the 'said income year') from any business or profession, which has been or was, discontinued, or any other source which has ceased, as the case may be, at any time before the commencement, or during the course, of the said income year shall, if such income would have been chargeable to tax if it had been received in the income year in which it accrued or arose, be deemed to be income chargeable to tax from such business or profession or other source, which shall, for the purposes of this Ordinance, be deemed to have

been carried on, or not ceased, as the case may be, before the commencement, or during the course, of the said income year.

<sup>1</sup>[ ]

<sup>2</sup>[(9A) Where an assessee, being a public company other than a scheduled bank or a modaraba, derives profits for any income year but does not distribute cash dividends within seven months of the end of the said income year or distributes dividends to such an extent that its reserves, after such distribution, are in excess of fifty percent of its paid up capital, so much of its reserves as exceed fifty per cent of its paid up capital shall be deemed to be the income having accrued to such company during that year:

Provided that in respect of assessment year commencing on the 1<sup>st</sup> day of July, 1999, the cash distribution made within the following period shall be treated as distribution for the purpose of this sub-section:-

- (i) where the income year ended on a date prior to the thirtieth day of June, 1999, and the distribution is made within a period of three months reckoned from the first day of July, 1999; or
- (ii) where the income year ended on the thirtieth day of June, 1999, and the distribution is made within a period of eight months reckoned from the first day of July, 1999.

*Explanation.-* For the purpose of this sub-section, the expression ‘reserves’ shall have the meaning as may be prescribed.]

(10) Any dividend paid to any share-holder without Pakistan by a Pakistani company shall be deemed to be income accruing or arising in Pakistan to such share-holder.

(11) Any dividend declared or distributed by a company shall be deemed to be the income of the income year in which it is declared [ ] and shall be included in the total income of the assessee of that year:

[Provided that, where any dividend is declared within six weeks of the end of the income year, it shall be deemed to be the income of the income year in which it is distributed and included in the total income of that year.]

(12) Where any assets not being stock-in-trade [ ] are purchased by an assessee from any company and the Income Tax Officer has reason to believe that the price paid by the assessee is less than the fair market value thereof, the difference between the price so paid and the fair market value shall, be deemed to be income of the assessee chargeable to tax under this Ordinance[:]

<sup>3</sup>[Provided that in the case of asset leased by a scheduled bank, a financial institution, modarba or a leasing company the fair market value shall mean the residual value paid by the assessee, being the first lessee, on the maturity of the lease agreement and the amount paid by way of lease rentals and other

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<sup>1</sup> Sub-sec. (9) omitted by F. O.2001.

<sup>2</sup> Sub-sec. (9A) ins. by F.A.1999.

<sup>3</sup> Proviso ins. by F.A.1998.

charges so however that the aggregate of such payments and the residual is not less than the original cost of the asset.]

[(13) Where an assessee, being the owner of a building, receives from any person to whom such building or any part thereof is let out on rent [ ] any amount which is not adjustable against the rent payable by such person, such amount shall be deemed to be the income of the assessee and chargeable to tax under the head "Income from house property" in the income year in which such amount is received and the nine income year next following the said income year in equal proportion; and the amount so allocated to each income year shall be deemed to be the rent received in respect of such building or a part thereof.]

(14) Where the [amount] mentioned in sub-section (13) is refunded by the assessee to the tenant on termination of the tenancy before expiry of ten years as aforementioned, no portion of such amount shall be allocated to the income year in which it is refunded or any income year thereafter except in a case mentioned in sub-section (15).

[(15) Where, on the termination of the tenancy of one person and refund to that person of the amount mentioned in sub-section (13), the assessee lets out such building or such part thereof, as the case may be, to another person and receives from such other person any amount (hereinafter called the "succeeding amount") which is not adjustable against the rent payable by such other person, the succeeding amount as reduced by such portion of the earlier amount as was charged to tax, shall be deemed to be the income of the assessee chargeable under the head "Income from house property" and charged to tax as laid down in sub-section (13).]

(16) Where an assessee receives any amount in consideration for vacating the possession of a building or a part thereof of which he is a tenant, the said amount as reduced by the amount, if any, paid by the assessee for acquiring possession of such building or part thereof shall be deemed to be the income of the assessee and chargeable to tax under the head 'Income from other sources' in the income year in which it is received and nine income year next following the said income year in equal proportion.

(17) The provisions of sub-sections (13) to (16) shall also apply to an assessee who has received the amount referred to in sub-sections (13), (15) or (16) in the income year relevant to the assessment year commencing on the first day of July, 1980, or in any earlier income year so, however, that income chargeable to tax in the manner laid down in the said sub-sections shall be charged to tax only in respect of the income year relevant to the assessment year commencing on the first day of July, 1980, or any assessment year thereafter.]

<sup>1</sup>[(18) Where any sum claimed, or shown, to have been received as loan or advance or gift by an assessee during any income year commencing on or after the first day of July, 1998, from any person, not being a banking company, or a financial institution notified by the Central Board of Revenue for this purpose, otherwise than by a crossed cheque drawn on a bank or through a banking channel from a person holding a National Tax Number, the said sum shall be deemed to be the income of the assessee for the said income year chargeable to tax under this Ordinance:

Provided that, where the said loan or advance or gift is claimed, or shown, by way of the explanation, referred to in sub-section (1) of section 13, in a case to which the first proviso to the said sub-section applies, the income under this sub-section shall relate to the assessment referred to in the said proviso.]

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<sup>1</sup> Sub-sec. (18) subs. by F. A. 1998.

[ ]

[(19) Where an assessee, being a scheduled bank, a financial institution, or such modaraba or leasing company as is approved by the Central Board of Revenue for the purposes of the Third Schedule, has leased out, on or after the first day of July, 1985, any asset, whether owned by it or not, to another person, any amount paid or payable by the said person in connection with the lease of the said asset shall be deemed to be the income of the said assessee.]

**13. Un-explained investments, etc., deemed to be income.-** (1) Where [ ],

- (a) any sum is found to be credited in the books of an assessee maintained for any income year; or
- [(aa) the assessee is found to have made any investment or is found to be the owner of any money or valuable article, in any year; or]
- (b) the assessee is found to have made any investment in any income year which is not recorded in the books of account maintained for that income year [or is not] shown in the wealth statement [or return of wealth] furnished under section 58 in respect of that year; or
- (c) the assessee is found in respect of any income year to be the owner of any money or valuable article which is not recorded in the books of account, if any, maintained by him or is not shown by him in any wealth statement [or return of wealth] furnished under section 58 in respect of that year; or
- (d) the assessee has made investment in any income year or is found in respect of any such year to be the owner of any valuable article and the [Deputy Commissioner] finds that the amount expended on making such investment or in acquiring such valuable article exceeds the amount recorded in this behalf in the books of account maintained by him or shown in the wealth statement [or return of wealth] furnished under section 58 in respect of that year; or
- (e) an assessee has, during any income year, incurred any expenditure,

and the assessee offers no explanation about the nature and source of such sum, investment, acquisition of the money or valuable article, excess amount or the money from which the expenditure was met, as the case may be, or the explanation offered by him is not, in the opinion of the [Deputy Commissioner], satisfactory, the sum so credited, the value of the investment, the money or the value of the article, the excess amount or the amount of the expenditure, as the case may be, shall be deemed to be the income of the assessee of such income year chargeable to tax under this Ordinance:

[Provided that, where any act referred to in clauses (a) to (e) is discovered after the assessment of income of the income year to which the said act relates has been made, the income chargeable to tax under this section shall be included in the total income of the income year relevant to the assessment year in which the said discovery is made:

Provided further that in cases referred to in clauses (aa) to (e) such income shall not be chargeable to tax unless [ ] approval of the Inspecting Additional Commissioner has been obtained.]

(2) Where the value of any investment or article referred to in [clause (aa), (b),] (c) or (d), or the amount of expenditure referred to in clause (e) of sub-section (1) is, in the opinion of the Deputy Commissioner, too low, the Deputy Commissioner may determine, after giving a reasonable opportunity to the assessee of being heard [ ], a reasonable value or the amount thereof, as the case may be, and all the provisions of sub-section (1) shall have effect accordingly.

<sup>1</sup>[(2A) The provisions of this section shall not apply in respect of any amount of foreign exchange remitted from abroad through normal banking channels and got encashed in Pakistan rupees from a scheduled bank and a certificate is produced to that effect from such bank.]

[(3) The Central Board of Revenue may by rules provide for the determination off the value of any property or article for the purposes of this section.]

14. **Exemptions.**- [(1) [The] incomes or classes of income, or persons or classes of persons specified in the Second Schedule shall be-

- (a) exempt from tax under this Ordinance, subject to the conditions and to the extent specified therein; or
- (b) liable to tax at such rates, which are less than the rates specified in the First Schedule, as are specified therein; or
- (c) allowed a reduction in tax liability, subject to the conditions and to the extent specified therein; or
- (d) exempt from the operation of any provision of this Ordinance, subject to the conditions and to the extent specified therein:]

[Provided that, where any income which is exempt from tax under any provision of the Second Schedule, such income, as may be specified in the said Schedule and subject to such conditions as may be specified therein, shall be included in the total income, so however that the tax shall not be payable in respect of such income.]

[ ]

(2) The Federal Government may, from time to time, by notification in the official Gazette, make such amendment in the Second Schedule by-

- (a) adding any clause or condition therein;
- (b) deleting any clause or condition therein; or
- (c) making any change in any clause or condition therein,

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<sup>1</sup> Sub-sec. (2A) ins. by F.O.2001.

as it may thing fit, and all such amendments shall have effect in respect of any assessment year, as may be specified in this behalf, including any such year beginning on any date before or after the commencement of the financial year in which the said notification is issued.

Provided that the Federal Government shall place before the National Assembly all amendments made by it in the Second Schedule during a financial year.]

## CHAPTER IV

### COMPUTATION OF TOTAL INCOME

15. **Heads of income.**- All income shall, for the purposes of the charge of tax and the computation of total income, be classified under the following heads namely:-

- (a) Salary;
- (b) Interest on securities;
- (c) Income from house property;
- (d) Income from business or profession;
- (e) Capital gains; and
- (f) Income from other sources.

16. **Salary.**- (1) The following incomes shall be chargeable under the head "Salary", namely:-

- (a) any salary due to the assessee from an employer in the income year, whether paid or not; and
- (b) any salary (including arrears [or advances] of salary) paid to the assessee in the income year by an employer:

Provided that where any salary is included in the total income on the basis that it has become due to an assessee, it shall not be included again on the basis that it is paid.

(2) For the purposes of sub-section (1),-

- (a) "salary" includes-
  - (i) any wages;
  - (ii) any annuity, pensioner gratuity;
  - (iii) any fees, commissions, allowances, perquisites or profits in lieu of, or in addition to, salary or wages;
- (b) "perquisite" includes-
  - (i) the value of rent-free accommodation;
  - (ii) the value of any concession in the matter of rent respecting any accommodation;



- (iii) any sum payable by the employer, whether directly or indirectly, to effect an insurance on the life of, or to effect a contract for any annuity for the benefit of, the assessee, or his spouse or any dependent child;
- (iv) the value of any benefit provided free of cost or at a concessional rate;
- (v) any sum paid by an employer in respect of any obligation of an employee;
- (c) "profits in lieu of salary" includes-
  - (i) the amount of any compensation due to, or received by, an assessee from his employer at, or in connection with, the termination of, or the modification of any terms or conditions relating to, his employment;
  - (ii) any payment due to, or received by, an assessee from a provident or other fund to the extent to which it does not consist of contributions by the assessee and the interest on such contributions;
- (d) "employee" includes a former employer; and
- (e) "employee", in relation to a company, includes a managing director or any other director or other individual, who irrespective of his designation, performs any duties or functions in connection with the management of the affairs of the company.

17. **Interest on securities.**- (1) The following income shall be chargeable under the head "Interest on securities", namely:-

- (a) interest on any securities of the Federal Government or a Provincial Government received by an assessee in any income year; and
- (b) interest on debentures or other securities for money issued by, or on behalf of, a local authority or a Pakistani company receivable by an assessee in any income year.

(2) Notwithstanding anything contained in sub-section (1),-

- (a) where any security of the Federal Government is issued with the condition that the interest hereon shall not be liable to tax the interest receivable on such security shall be exempt from tax in accordance with such condition; and
- (b) [tax] payable on the interest receivable on any security of a Provincial Government issued with the same condition as aforesaid shall be payable by that Provincial Government.

18. **Deductions.**- (1) In computing the income under the head "Interest on securities", the following allowances and deductions shall be made, namely:-

- (a) any interest paid by the assessee to any banking company or other person on moneys borrowed by him for the purpose of investment in securities; and

- b) any commission paid to a banking company for realising interest on such securities on behalf of the assessee.

(2) For the purposes of sub-section (1),-

- (a) "moneys borrowed" shall, in the case of a banking company, include moneys received by way of deposits; and
- (b) the amount to be regarded as interest paid on moneys borrowed shall not exceed an amount which bears to the amount of interest paid on all moneys borrowed by the assessee the same proportion as the total amount of interest on securities (inclusive of tax deducted under sub-section (2) of section 50) bears to the gross receipts from all sources included in the profit and loss account of the assessee.

(3) Where the securities in respect of which any interest is receivable by an assessee consist of, or include, any securities to which clause (a) of sub-section (2) of section 17 applies, no allowance or deduction on account of any interest or commission paid under clause (a) or clause (b) of sub-section (1), as the case may, be, in respect of, or allocable to, the said securities shall be made in computing the income under the said sub-section (1).

(4) The allowances and deductions made under sub-section (1) shall not be admissible for the purpose of computing the income of the assessee under any other head.

(5) The provisions of section 24 shall, so far as may be, apply to the allowances and deductions under this section as they apply to the allowances and deductions in respect of income chargeable under the head "Income from business or profession".

**19. Income from house property.-** (1) The annual value of property shall be chargeable under the head "Income from house property".

(2) For the purposes of sub-section (1),-

- (a) "house property" means any property consisting of any buildings or lands appurtenant thereto of which the assessee is the owner, but does not include any such property (or any portion thereof) which is occupied by the assessee for purposes of any business or profession carried on by him the profits whereof are chargeable to tax under this Ordinance; and
- (b) "annual value" of any property shall be deemed to be the sum for which the property might reasonably be expected to let from year to year;

Provided that where the property is let on rent, the annual value shall not be less than the rent payable by the tenant.

(3) Nothing contained in this section shall apply in the case of any such property which is in the occupation of the owner for purposes of his own residence.

*Explanation.-* For the purpose of this section, any property, the owner of which is in receipt of any rent, whether in cash or otherwise, whether from employer or otherwise, shall not be taken to be in the occupation of such owner for the purpose of his own residence.";

20. **Deductions.-** (1) In computing the income under the head "Income from house property" the following allowances and deductions shall be made, namely:-

- (a) in respect of repairs, an allowance equal to [one fifth] of the annual value;
- (b) the amount of any premium paid to insure the property against risk of damage or destruction;
- (c) the amount of any local rate, tax, charge or cess (being owners burden) in respect of property or income from property paid to any local authority or Government, not being any tax payable under this Ordinance;
- (d) where the property is subject to a ground rent, the amount paid on account of such ground rent;
- (e) where the property has been acquired, constructed, renovated or reconstructed with borrowed capital, the amount of any interest paid on such capital;
- [(ee) where the property has been acquired, constructed, renovated, extended or reconstructed with capital contributed by the House Building Finance Corporation constituted under the House Building Finance Corporation Act, 1952 (XVIII of 1952), or a scheduled bank, under a scheme of investment in property on the basis of sharing the rental income made by the said Corporation or the bank, the amount representing share in rental income (excluding return of capital, if any) from the said property paid to the said Corporation or the bank;]
- (f) where the property is subject to mortgage or other capital charge, the amount of interest paid on such mortgage or charge;
- (g) any expenditure (not exceeding six percent of the annual value) incurred by the assessee for the purpose of collecting the rent of the property;
- [(gg) any expenditure incurred by the assessee on legal service acquired to defend title of the property or any suit connected therewith in a court of law;]
- (h) where the property is vacant during a part of the year, an allowance equal to that part of the annual value, which is proportionate to the period during which the property was vacant or, where the property is let out in parts, that part of the annual value which is proportionate to the period during which such part was vacant; and
- (i) subject to such rules as may be made in this behalf, an allowance on account of unrealised rent.

(2) The allowance and deductions under sub-section (1) shall not be admissible for the purpose of computing the income of the assessee under any other head.

(3) The provisions of section 24 shall, so far as may be, apply to the allowances and deductions under this section as they apply to the allowances and deductions in respect of income chargeable under the head "Income from business or profession."

[(4) Where in any income year the assessee had paid any amount referred to in clauses (b) to (g) of sub-section (1) which relates to any earlier income year and the said amount has not been allowed as deduction in that year, the said amount shall be allowed as deduction in the income year in which it is paid or, at the written option of the assessee, in the income year to which it relates.]

21. **Liability in the case of co-owners.-** Where any property to which section 19 applies is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not, in respect of such property, be assessed as an association of persons, but the share of each such person in the income from the property shall be included in his total income.

22. **Income from business or profession.-** The following incomes shall be chargeable under the head "Income from business or profession", namely:-

- (a) profits and gains of any business or profession carried on, or deemed to be carried on, by the assessee at any time during the income year;
- (b) income derived by any trade, professional and similar association from specific services performed for its members; and
- (c) value of any benefit or perquisite, whether convertible in to money or not, arising from business or the exercise of a profession.

*Explanation.-* Where speculative transactions carried on by an assessee are of such a nature as to constitute a business, the business (hereinafter referred to as "speculation business") shall be deemed to be distinct and separate from any other business carried on by the assessee.

23. **Deductions.-** (1) In computing the income under the head "Income from business or profession", the following allowances and deductions shall be made, namely:-

- (i) any rent paid for the premises in which such business or profession is carried on;
- (ii) any local rate, tax, charge or cess in respect of such premises paid to any local authority or Government, not being any tax payable under this Ordinance;
- (iii) any amount paid on account of current repairs to any such premises or any machinery, plant, furniture or fittings used for purposes of business or profession;
- (iv) any premium paid in respect of insurance against risk of damage or destruction to any building, machinery, plant, furniture or fittings, or stocks and stores used for the purposes of business or profession;
- (v) in respect of depreciation [including First Year Allowance or Reinvestment Allowance or Industrial Building Allowance] of any such building, machinery, plant, furniture or fittings, being the property of the assessee, the allowance admissible under the Third Schedule,

[except depreciation <sup>1</sup>[or First Year Allowance] on assets given on lease shall be allowed against income from lease rentals only] ;

- (vi) in respect of animals which have been used for the purposes of the business or profession (otherwise than as stock-in-trade) and have died or become permanently useless for such purposes, the difference between the original cost to the assessee of the animals and the amount, if any, realised in respect of the carcasses or animals;
- [(via) any sum paid on or after the first day of July, 1985, to a schedule bank, a financial institution, or such modaraba or leasing company as is approved by the Central Board of Revenue for the purposes of the Third Schedule <sup>2</sup>[,or any payment to a Special Purpose Vehicle on behalf of the Originator], by way of lease money in respect of an asset taken on lease by the assessee and used for the purposes of any business or profession carried on by him;]
- (vii) any interest paid in respect of capital borrowed for the purposes of the business or profession;
- [(viiia) any sum paid to a modaraba or to a Participation Term Certificate holder for any funds borrowed for the purposes of the business or profession;]
- [(viiib) any sum paid or credited to any person maintaining a profit and loss sharing account or deposit with a scheduled bank by way of distribution of profits by the said bank in respect of the said account or deposit;]
- [(viic) any sum paid by the House Building Finance Corporation constituted under the House Building Finance Corporation Act, 1952 (XVIII of 1952), to the State Bank of Pakistan (hereinafter referred to as the 'Bank') as the share of the Bank in the profits earned by the said Corporation on its investment in the property made under a Scheme of investment in property on partnership in profit and loss, where such investment is provided by the Bank under the House Building Finance Corporation (Issue and Redemption of Certificates) Regulations, 1982;]
- [(viicc) any sum paid by the National Development Leasing Corporation Limited to the State Bank of Pakistan (hereinafter referred to as the 'Bank') as the share of the Bank in the profits earned by the said Corporation on its leasing operations financed out of a credit line provided by the Bank on a profit and loss sharing basis;]
- <sup>3</sup>[(viiccc) any sum paid by the Small Business Finance Corporation to the State Bank of Pakistan (hereinafter referred to as the "Bank") as the share of the Bank in profit earned by the said Corporation on its investment in small business out of credit line provided by the Bank on profit and loss sharing basis.
- [(viid) any sum paid to a bank under a scheme of musharika representing its share in the profits of that Musharika;]

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<sup>1</sup>

<sup>2</sup> Words ins. by F. O. 2001.

<sup>3</sup> Cl. (viiccc) ins. by F.O.2001.

<sup>1</sup>[(viidd) the financial cost of securitization of receivables by an Originator from a Special Purpose Vehicle being the difference between the amount received by the originator and the amount of receivables securitised from a Special Purpose Vehicle.]

[(viie) any sum paid to a certificate holder under a Musharika scheme approved by the Corporate Law Authority and Religious Board formed under the Modaraba Companies and Modarabas (Floatation and Control) Ordinance, 1980 (XXXI of 1980) representing his in the profits of that Musharika,:

(viii) any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission:

Provided that the amount of the bonus or commission is of a reasonable amount with reference to-

- (a) the pay of the employee and the conditions of his service;
- (b) the profits of the business or profession for the year in question; and
- (c) the general practice in similar businesses or professions;

<sup>2</sup> [ ]

(x) in respect of bad debts, such amount (not exceeding the amount actually written off by the assessee) as may be determined by the [Deputy Commissioner] to be irrecoverable;

(xi) any sum paid to a scientific research institute, polytechnic, college or other institution in Pakistan affiliated to any University or Board of Education established or incorporated by, or under, any Federal or Provincial law, or recognised, aided or run by Government or run by any local authority, to be used for scientific research or technical training in Pakistan; [ ]

(xii) any expenditure laid out or expended on scientific research in Pakistan related to the business carried on by the assessee;

(xiii) any expenditure laid out or expended on any educational institution or hospital in Pakistan established for the benefit of the employees, their families and dependants;

(xiv) any expenditure laid out or expended on any institute in Pakistan established for the training of industrial workers recognised, aided or run by Government or run by any local authority;

(xv) any expenditure laid out or expended on the training of any person, being a citizen of Pakistan, in connection with a scheme approved by the Central Board of Revenue for the purposes of this clause;

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<sup>1</sup> Cl. (viidd) ins. ibid.

<sup>2</sup> Cl.(ix) deleted by F.O. 2000.

- (xiv) any sums paid on account of annual membership subscription to a registered trade organisation within the meaning of the Trade Organisations Ordinance, 1961 (XLV of 1961);
- (xvii) any expenditure incurred by an assessee wholly and exclusively in connection with his visit abroad as a member of a trade delegation sponsored by the Federal Government;
- (xviii) any expenditure (not being in the nature of capital expenditure or personal expenses of the assessee) laid out or expended wholly and exclusively for the purpose of such business or profession;

[Provided that, where a domestic company has, in any income year, incurred any expenditure on advertisement or publicity outside Pakistan in respect of such goods as may be specified by the Federal Government by notification in the official Gazette and as are exported in the said income year, or on furnishing of samples of such goods to a person outside Pakistan, deduction in respect of the said expenditure allowable under this clause shall be of a sum equal to one and one-third times the amount of actual expenditure so incurred.]

- [(xix) any transfer to a participatory reserve created by a company under section 120 of the Companies Ordinance, 1984 (XLVII of 1984), in accordance with an agreement relating to participatory redeemable capital entered into between the company and a banking company as defined in the Banking Tribunals Ordinance, 1984:

Provided that, out of the amount so transferred in any income year, not more than five percent of the value of participatory redeemable capital shall qualify for deduction under this sub-section:

Provided further that no deduction shall be allowed if the amount of the tax-exempted accumulation in the participatory reserve exceeds 10 percent of the amount of participatory redeemable capital;

- [(xx) any expenditure incurred by an assessee in the purchase of one machine[, with permanent sealed memory system,] used for recording and printing cash sales made by him during the regular course of his business:

[ ]

*Explanation.-*

- (a) the expression "any expenditure", as used in clauses (xii), (xiii) and (xiv), includes expenditure in the nature of capital expenditure; and
  - (b) the expression "paid", as used in this section and sections 18, [ ] 24 and 31, means actually paid or incurred according to the method of accounting upon the basis of which the income is computed.
- (2) Where any such premises, building, machinery, plant, furniture or fittings is or are not wholly used for the purposes of the business or profession, any allowance or deduction

admissible under this section shall be restricted to the fair proportional part of the amount which would be allowable if such premises, building, machinery, plant, furniture, or fittings were wholly so used.

<sup>1</sup>[(xxi)] any interest accrued on or after the first day of July, 2000, on a non-performing loan credited to suspense account by a banking company in accordance with the Prudential Regulations for banks issued by State Bank of Pakistan (;)]

<sup>2</sup>[(xxii)] any interest accrued on, or after, the first day of July 2001 on a non-performing loan credited to suspense account by a Development Finance Institution in accordance with the Prudential Regulations for banks and such institutions issued by the State Bank of Pakistan:

*Explanation.-* For the purpose of this section the expression “Originator”, “Special Purpose Vehicle” and “Securitization” shall have the same meaning as are respectively assigned to them in the Assets Backed Securitization

Rules, 1999.]

24. **Deductions not admissible.-** Nothing contained in section 23 shall be so construed as to authorise the allowance or deduction of-

- (a) any sum paid on account of any cess, rate or tax levied on the profits or gains of any business or profession or assessed as a percentage, or otherwise on the basis, of any such profits or gains;
- (b) any sum paid to a non-resident on account of interest,[fees for technical services,] brokerage or commission or any other sum chargeable under the provisions of this Ordinance, unless tax thereon has been paid or deducted and paid under section 50, as the case may be;
- <sup>3</sup>[(c)] any sum paid to any person on account of salary, interest or profit, services rendered, brokerage or commission or rent of house property on which tax is deductible under section 50, unless such tax has been paid or deducted and paid under section 50, as the case may be;]
- <sup>4</sup>[(cc)] any expenditure or allowance which results directly or indirectly in the provision of salaries of directors of a domestic company, not being a public company as defined in the First Schedule which exceeds <sup>5</sup>[forty] per cent of total income of the company before the charge of such expenditure or allowance:

Provided that the deduction in respect of the aggregate of such expenditure or allowance in respect of any director shall not exceed,-

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<sup>1</sup> Cl.(xxi) ins. by F.O. 2000.

<sup>2</sup> Cl. (xxii) ins. by F.O.2001.

<sup>3</sup> Cl. (c) subs. by F.A. 1995

<sup>4</sup> Cl. (cc) ins. by F.A.1990 w.e.f. assesment year 1991-92.

<sup>5</sup> Subs. for the word “thirty” by F.A.1991.



- (i) where such expenditure or allowance relates to a period exceeding eleven months comprised in an income year, the amount <sup>1</sup>[three hundred and sixty] thousand rupees; and
- (ii) where such expenditure or allowance relates to a period not exceeding eleven months comprised in an income year, an amount calculated at the rate of <sup>2</sup>[thirty] thousand rupees for each month or part thereof comprised in that period:

<sup>3</sup>[Provided further that nothing contained in this clause shall apply in respect of any assessment year commencing on or after the first day of July, 1991.]

- (d) any sum paid, on account of interest, brokerage, commission, salary or other remuneration, by a firm or an association of persons to any partner of the firm or the member of the association of persons, as the case may be;
- (e) Any expenditure by way of head office expenditure, in the case of an assessee, being a non-resident, in excess of such limits as may be prescribed.

*Explanation.-* As used in this clause, "head office expenditure" means executive and general administration expenditure incurred by the assessee outside Pakistan for the purposes of the business or profession, including expenditure incurred in respect of-

- (a) any rent, local rates and taxes (excluding any foreign tax corresponding to any tax leviable under this Ordinance), current repairs or insurance against risks of damage or destruction of any premises outside Pakistan used for the purposes of the business or profession;
- (b) any salary paid to an employee employed by the head office outside Pakistan for the purposes of the business or profession;
- (c) any travelling by such employee for the purposes of business or profession; and
- (d) such other matters connected with executive and general administration as may be prescribed;
- (f) any allowance in respect of expenditure on entertainment in excess of such limits and in contravention of such conditions as may be prescribed;
- <sup>4</sup>[(ff) any payments, made on or after the first day July, 1998, on account of expenditure under a single account head which, in aggregate, exceed fifty thousand rupees made otherwise than through a crossed bank cheque or by a crossed bank draft except transactions not exceeding five hundred rupees or payment account of postage or utility bills:

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<sup>1</sup> Subs. for "two hundred and forty" *ibid.*

<sup>2</sup> Subs. for the word "twenty" *ibid.*

<sup>3</sup> Proviso ins. by F.A. 1992.

<sup>4</sup> Cl. (ff) subs. by F.A.1998. Earlier ins. by F.A.1990.

<sup>1</sup>[(fff) Notwithstanding anything contained in clause (ff), any payment made on or after the first day of July , 1998, on account off salary if -

- (i) It exceed five thousand rupees , through a crossed cheque or transfer to the employee's bank account, or
  - (ii) It dose not exceed five thousand rupees, made through a bearer cheque.”
- (g) any sum paid to any provident fund, superannuation fund or gratuity fund, not being a recognised provident fund, an approved superannuation fund or an approved gratuity fund;
- (h) any sum paid to any provident fund or other fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are chargeable to tax under the head "Salary"; or
- (i) any expenditure incurred by an assessee on the provision of perquisites <sup>2</sup>[allowances] or other benefits to any employee, in excess of <sup>3</sup>[fifty] per cent of his salary excluding perquisites <sup>4</sup>[allowances or other benefits]:

<sup>5</sup>[ ]

*Explanation.-* As used in this clause-

- (i) "salary" means remuneration or compensation for services rendered paid, or to be paid, at regular intervals, and includes dearness or cost of living allowance and bonus or commission payable to an employee in accordance with the terms of his employment as remuneration or compensation for services but does not include the employer's contribution to a recognised provident fund or an approved superannuation or gratuity fund or any other sum which does not enter into the computation for pensionary or retirement benefits;
  - (ii) "perquisite", "employee", and "employer" have the same meaning as in sub-section (2) of section 16; and
  - (iii) "other benefits" does not include employer's contribution to a recognised provident fund or an approved superannuation or gratuity fund.
- <sup>6</sup>[(j) any expenditure incurred on account of payment of a fine or penalty for the violation of of any law, rule or regulation for the time being in force.]

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<sup>1</sup> Cl.(fff) ins. by F.A. 1998.

<sup>2</sup> Ins. by F.A. 1980.

<sup>3</sup> Subs. for "thirty" ibid for assessment year 1981-82.

<sup>4</sup> Ins. by F.A.1980

<sup>5</sup> Proviso omitted by F.A.1996.

<sup>6</sup> Cl. (j) ins. by F. O. 2000.

**25. Amounts subsequently recovered in respect of deductions, etc.-** Notwithstanding anything contained in this Ordinance, where an allowance or deduction has been made under section 23 for any year in respect of any loss, bad debt, <sup>1</sup>[interest credited to suspense account,] expenditure or trading liability incurred by the assessee, and subsequently,-

- (a) during any income year, the assessee has received, whether in cash or in any other manner whatsoever, any amount in respect of such loss or [ ] expenditure, the amount so received shall be deemed to be income from business or profession of that income year;
- [(aa) during any income year, the assessee has received, whether in cash or in any other manner whatsoever, any amount in respect of such bad debt,-
  - (i) where the said amount is greater than the difference between the whole of such bad debt and the amount of bad debt allowed as deduction under section 23, the excess shall be deemed to be income from business or profession of that income year; and
  - (ii) where the said amount is less than the difference between the whole of such bad debt and the amount of bad debt allowed as deduction under section 23, the deficiency shall be deemed to be a business expense of that year;
- <sup>2</sup>[(ab) during the income, the assessee has received, whether in cash or in any other manner whatsoever, any amount in respect of a loan referred to in clause (xxi) of sub-section (1) of section 23, the amount so received shall be deemed to be income from business or profession of that income year, provided that such amount does not exceed the interest receivable in respect of the aforesaid loan;]
- (b) during any income year, the assessee has derived any benefit in respect of such trading liability, the value of such benefit shall be deemed to be income from business or profession of that income year;
- (c) such trading liability or a portion thereof is found not to have been paid within three years of the expiration of the income year in which it was allowed, such liability or portion thereof, as the case may be, shall be deemed to be income from business or profession of the year in which such finding is made or any other year (not being a year commencing after the expiration of five years from the end of the said three years) as the [Deputy Commissioner] may think fit;
- [(d) where any amount accumulated in the participatory reserve of a company which has been allowed as a deduction under clause (xix) of sub-section (1) of section 23 is applied by the company towards any purpose other than payment of share of profit on the participatory redeemable capital or towards any purpose not allowable for deduction or exemption under this Ordinance, the amount so applied shall be added to the income of the company in the income year during which it is so applied,

and the business or profession in respect of which such allowance or deduction was made shall, for the purposes of section 22, be deemed to be carried on by the assessee in that year:

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<sup>1</sup> Words etc. ins. by F. O. 2000.

<sup>2</sup> Cl. (ab) ins. by F. O. 2000.

Provided that where a trading liability referred to in clause (c) is paid in a subsequent year, the amount so paid shall be deducted in computing the income in respect of that year.

**26. Special provisions regarding business of insurance and production of oil and natural gas and exploration and extraction of other mineral deposits[, etc.]**- Notwithstanding anything contained in this Ordinance,-

- (a) the profits and gains of any business of insurance and the tax payable thereon shall be computed in accordance with the rules contained in the Fourth Schedule;
- (b) the profits and gains from the exploration and production of petroleum (including natural gas) [and from refineries to be set up at Dhodak and Bobi fields; income from exploration and production companies from pipeline operations, and manufacture and sale of liquefied gas or compressed natural gas] and the tax payable thereon shall be computed in accordance with the rules contained in Part I of the Fifth Schedule;

[Provided that nothing in this clause shall apply to the profits and gains attributable to the production of petroleum (including natural gas) which was discovered before the twenty-fourth day of September, 1954; and

- (c) the profits and gains of any business which consists of, or includes, the exploration and extraction of such mineral deposits of a wasting nature (not being petroleum and natural gas) as may be specified in this behalf by the Federal Government carried on by an assessee in Pakistan shall be computed in accordance with the rules contained in Part II of the Fifth Schedule:

Provided that nothing contained in this clause shall apply in the case of an assessee whose income has at any time been exempt from tax under clause (123A) of Part I of the Second Schedule.

**27. Capital gains.**- (1) Any profits or gains arising from the transfer of a capital asset shall be chargeable under the head "Capital gains" and shall be deemed to be income of the income year in which the transfer took place.

(2) For the purposes of sub-section (1) and section 28 and 29,-

(a) "capital asset" does not include-

- (i) any asset or class of assets in respect of which the assessee is entitled to an allowance for depreciation under the Third Schedule; and
  - (ii) any immovable property; and
- (b) "transfer" includes the sale, disposition, exchange or relinquishment of the asset, or the extinguishment of any rights therein, but does not include -
- (i) any transfer by reason of the compulsory acquisition of any capital asset under any law for the time being in force;

- (ii) any transfer of a capital asset under a gift, bequest or will or an irrevocable trust;
- (iii) any distribution of the assets of a company to its shareholders on its liquidation; and
- (iv) any distribution of capital assets on the dissolution of a firm or other association of persons or the partition of a Hindu undivided family.

**28. Computation of capital gains.-** (1) In computing the income under the head "Capital gains", the cost of acquisition of the capital asset and any expenditure incurred wholly and exclusively in connection with the transfer thereof shall be deducted.

(2) The provisions of section 24 shall, so far as may be, apply to the allowances and deductions under this section as they apply to the allowances and deductions in respect of income chargeable under the head "Income from business or profession".

**29. Cost of acquisition, and consideration for transfer, how determined.-** (1) Where the capital asset became the property of the assessee-

- (a) under a gift, bequest or will; or
- (b) by succession, inheritance or devolution; or
- (c) on any distribution of assets on the dissolution of a firm or other association of persons or the partition or a Hindu undivided family; or
- (d) on any distribution of assets on the liquidation of a company; or
- (e) under a transfer to a revocable or an irrevocable trust,

the fair market value of the asset, as on the date on which it became the property of the assessee, shall, for the purposes of sub-section (1) of section 28, be deemed to be the cost of acquisition.

(2) Where the person who acquires a capital asset from an assessee is directly or indirectly connected with him and the [Deputy Commissioner] has reason to believe that the transfer was effected with the object of avoiding or reducing the liability of the assessee, the fair market value of the capital asset, as on the date of the transfer, shall be deemed to be the consideration received by the assessee for its transfer.

(3) For the purposes of sub-section (1) and (2) and sub-section (12) of section 12, "fair market value" means-

- (a) the price which the capital asset would ordinarily fetch on sale in the open market on the relevant date; and
- (b) where the price referred to in clause (a) is not ascertainable, such price as may be determined by the [Deputy Commissioner] after obtaining the approval of the Inspecting [Additional Commissioner] in writing.

30. **Income from other sources.**- (1) Income of every kind which may be included in the total income of an assessee under this Ordinance shall be chargeable under the head "Income from other sources", if it is not included in his total income under any other head.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), the following incomes shall, save as otherwise provided in this Ordinance, be chargeable under the head "Income from other sources", namely:-

- (a) dividend;
- (b) interest, royalties and fees for technical services;
- (c) ground rent;
- (d) income from the hire of machinery, plant or furniture belonging to the assessee and also of buildings belonging to him if the letting of the buildings is inseparable from the letting of the said machinery, plant or furniture; and
- (e) any income to which sub-section (12) of section 12 or section 13 applies.

31. **Deductions.**- (1) In computing the income under the head "Income from other sources", the following allowances and deductions shall be made, namely:-

- (a) in the case of dividends, any sum paid by way of commission to a banking company realising such dividends on behalf of the assessee;[ ]
- (b) any expenditure (not being in the nature of capital expenditure or personal expenses of the assessee) laid out or expended wholly and exclusively for the purpose of earning such income[; and]
- [(c) in the case of income to which clause (d) of sub-section (2) of section 30 applies, any allowance or deduction computed in accordance with the provisions of clauses (iii), (iv) and (v) of sub- section (1) of section 23;]

(2) Nothing contained in sub-section (1) shall apply-

- (a) to any such sum paid or expenditure laid out or expended which is allocable to any income exempt from tax under this Ordinance;
- (b) in computing the income by way of dividends in the case of an assessee, being a foreign company.

(3) The provisions of section 24 shall, so far as may be, apply to the allowance and deductions under this section as they apply to the allowance and deductions in respect of income chargeable under the head "Income from business or profession".

(4) Notwithstanding anything contained in sub-section (1) or sections 22 and 23, in the case of an assessee, being a foreign company [or a foreign association], the income by way of royalty [ ]received from a Pakistani concern in pursuance of any agreement made by the foreign company [or the foreign

association, as the case may be,] with the Pakistani concern shall be computed in such manner as may be prescribed.

32. **Method of accounting.**- (1) Income, profits and gains [except income from dividends,] shall be computed for purposes of sections 17, 19, 22, 27 and 30 in accordance with the method of accounting regularly employed by the assessee.

(2) Notwithstanding anything contained in sub-section (1), the Central Board of Revenue may, in the case of any business or profession, or class of business, or profession, or any other source of income or any class of persons,-

- (a) require, by a general or special order published in the official Gazette that the accounts shall be maintained in such form and in such manner as may be prescribed; and
- (b) prescribe the manner in which payments of commercial nature shall be made or commercial transactions recorded,

and thereupon, the income, profits and gains of the assessee shall be computed on the basis of the accounts or records maintained or payments made accordingly.

(3) Where no method of accounting has been regularly employed, or if the method employed is such that, in the opinion of the [Deputy Commissioner], the income, profits and gains cannot be properly deducted therefrom, or where, in any case to which sub-section (2) applies, the assessee fails to maintain accounts, make payments or record transactions in the form or manner, as the case may be, prescribed under the said sub-section, then, the income, profits and gains of the assessee shall be computed on such basis and in such manner as the Deputy Commissioner thinks fit.

[(4) For the purpose of sub-section (3), where the Central Board of Revenue deems necessary, it may, by a general or special order prescribe rates of net profit or gross profit and conditions of their applicability in respect of any trade, business or profession for any assessment year or years:

Provided that such rates shall be applicable in case of an assessee at his option to be exercised in writing before the finalisation of assessment proceedings for an assessment year.]

[32A. **Documents, certificates, etc., to be furnished by certain companies.**- (1) Every private company as defined in the Companies Act, 1913 (VII of 1913), whose paid up capital on the last day of any income year is [five hundred thousand] rupees or more shall, with the return of total income for that year, furnish a copy of the balance sheet and profit and loss account for that year and [an auditors' report for that year, in Form 35A of the Companies (General Provisions and Forms) Rules, 1985, prepared and signed] by a person who is a Chartered Accountant within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961), or a cost and management accountant within the meaning of the Cost and Management Accountants Act, 1966 (XIV of 1966).

(2) Where a company has not complied with the requirements of sub-section (1), its income, profits and gains shall be computed upon such basis and in such manner as the Deputy Commissioner may determine.]

33. **Assessment of royalties or copy-right fees for literary or artistic work.**- Where the time taken by the author of a literary or artistic work in the making thereof exceeds twenty-four months, the amount

received by him during any income year in lump-sum on account of any royalties or copy-right fees in respect of that work, shall, if he so claims, be deemed to be the income of the income year in which it is received and the two immediately preceding income years and shall be allocated thereto in equal proportions and all the provisions of this Ordinance shall apply accordingly.

34. **Set-off of losses.-** Where an assessee sustains a loss (not being a loss to which section 36 or section 37 applies) in any assessment year under any head of income specified in section 15, he shall[, subject to clause (v) of sub-section (1) of section 23] be entitled to have the amount of the loss set-off against his income (other than income to which sub-section (7) or (9) of section 12 applies), if any, under any other head assessable for that assessment year.

[34A. **Set-off of losses of certain companies.-** (1) Where an assessee, being a company listed on a registered stock exchange in Pakistan, owns the entire share capital of another company (hereinafter called the 'subsidiary company') in any income year, being an income year relevant to the assessment year ending on the thirtieth day of June, 1982, or any assessment year thereafter, the loss of the subsidiary company under the head 'Income from business or profession' (not being a loss on account of depreciation allowed under clause (v) of sub-section (1) of section 23 or a loss to which section 36 applies) in respect of the said assessment year as has been determined by an order under section 62, 63 or 65 and as had not been set-off under section 344 shall, at the option of the assessee and subject to the provisions of sub-section (2), be set-off against the income, if any, of the assessee in respect of the said assessment year, and where the said loss cannot wholly be so set-off, so much of the loss as had not been set-off, or the whole of the loss where the assessee has no income chargeable to tax in that year, shall be carried forward by the subsidiary company in accordance with the provisions of section 35; and the said loss of the subsidiary company in respect of the two assessment years immediately succeeding the said assessment year shall, at the option of the assessee, be set-off and carried forward in the manner as aforesaid:

Provided that nothing contained in this sub-section shall prevent the assessee from claiming set-off of the said loss of the subsidiary company in respect of the said assessment year or years if it has not been determined as aforesaid at the time of filing of return or returns of income by the assessee in respect of the said assessment year or years.

(2) Nothing contained in sub-section (1) shall apply unless-

- (a) income of the subsidiary company under the head 'Income from business or profession' is liable to tax under this Ordinance in the income year in which it has sustained loss under that head;
- (b) a scheme for the profitable operation of the business of the subsidiary company submitted by the assessee has been approved, before the commencement of the income year referred to in sub-section (1), by-
  - (i) the Pakistan Industrial Credit and Investment Corporation Limited;
  - (ii) the Industrial Development Bank of Pakistan;
  - (iii) the National Development Finance Corporation; or
  - (iv) the Bankers Equity Limited; and



- (c) the assessee has, by the first day of October of the assessment year or years referred to in sub-section (1), submitted to the institution to which the said scheme was submitted by the assessee a report on the implementation of the scheme referred to in clause (b).]

**35. Carry forward of business losses.-** Where an assessee sustains a loss in any assessment year under the head 'Income from business or profession' (not being a loss to which section 36 applies) and the loss cannot be wholly set-off under section 34, so much of the loss as has not been set-off, or the whole of the loss where the assessee has no income under any other head, shall be carried forward [, subject to clause (v) of sub-section (1) of section 23,] to the following assessment year and set-off against the profits and gains, if any, of such business or profession assessable for that year if such business or profession continues to be carried on by the assessee for that assessment year; and if the loss cannot be wholly set-off in this manner, the amount of the loss not so set-off shall be carried forward to the following assessment year, and so on, but no loss shall be carried forward to more than six assessment years immediately succeeding the assessment year for which the loss was first computed:

[Provided that, where the said loss relates to an assessment year commencing on or after the first day of July, 1976, and is sustained by any such assessee, being the owner of an industrial unit which is declared sick and is being rehabilitated under a scheme approved by the Federal Government, as may be notified by the Central Board of Revenue in the official Gazette, this section shall have effect as if for the words "six assessment years" the words "ten assessment years" were substituted.

**36. Speculation losses.-** (1) Where an assessee sustains a loss in any assessment year in respect of any speculation business carried on by him, it shall not be set-off, except against profits or gains, if any, of another speculation business carried on by him and assessable for that assessment year.

(2) Where, for any assessment year, any loss computed in respect of a speculation business has not been wholly set-off under sub-section (1), so much of the loss as is not so set-off, or the whole of the loss where the assessee has no income from any other speculation business, shall be carried forward to the following assessment year and set-off against the profits and gains, if any, of speculation business carried on by him and assessable for that assessment year; and if the loss cannot be wholly set-off in this manner, the amount of the loss not so set-off shall be carried forward to the following assessment year and so on, but no loss shall be carried forward for more than six assessment years immediately succeeding the assessment year for which the loss was first computed.

*Explanation.-* The expression "speculation business", as used in this section and section 22, means business in which a contract for the purchase and sale of any commodity (including stocks and shares) is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or \*scripts, but does not include business in which -

- (a) a contract in respect of raw materials or merchandise is entered into by a person in the course of his manufacturing or mercantile business to guard against loss through future price fluctuations for the purpose of fulfilling his other contracts for the actual delivery of the goods to be manufactured or the merchandise to be sold by him;
- (b) a contract in respect of stocks and shares is entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations; and

- (c) a contract is entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of his business as such member.

37. **Capital losses.**- Where an assessee sustains a loss in any assessment year under the head "Capital gains", such loss shall be carried forward to the following assessment year and set-off against the capital gains chargeable for that assessment year under the said head, and if it cannot be set-off in this manner, the amount of the loss not so set-off shall be carried forward to the following assessment year, and so on, but no loss shall be carried forward for more than six assessment years immediately succeeding the assessment year for which the loss was first computed:

Provided that where the loss sustained by any assessee in any income year does not exceed five thousand rupees, it shall not be carried forward and, where it exceeds five thousand rupees, only so much of such loss shall be carried forward as exceeds five thousand rupees:

Provided further that as respects the assessments for the years beginning on the first day of July, 1975 and ending on the thirtieth day of June, [1984] this section shall have effect as if the assessment year beginning on the first day of July, [1984] were the next following assessment year to any assessment year ending at any time between the thirtieth day of June, 1975, and the thirtieth day of June, [1983] and the first proviso were omitted:

[Provided further that as respect the assessments, in respect of loss arising from sale of shares of a public company (as defined in the First Schedule), for the years beginning on the first day of July, 1984, and ending on the thirtieth day of June, 1989, this section shall have effect as if the assessment year beginning on the first day of July, 1989, were the next following assessment year to any assessment year ending at any time between the thirtieth day of June, 1984, and the thirtieth day of June, 1988, and the first proviso were omitted.

38. **Limitations as to set-off and carry forward of losses in the case of firms, partners, etc.-** (1) Where the assessee is a registered firm, any loss which cannot be set-off against any other income of the firm shall be apportioned among the partners of the firm and they alone shall be entitled to have the amount of the loss set-off and carried forward for set-off under sections 34, 35, 36 and 37.

(2) Nothing contained in section 35, sub-section (2) of section 36 or section 37 shall entitle any assessee, being a registered firm, to have its loss carried forward and set-off under the provisions of the aforesaid sections.

(3) In the case of an unregistered firm assessed as a registered firm under the provisions of sub-clause (ii) of clause (b) of sub-section (1) of section 69 in respect of any assessment year, its losses for that assessment year shall be dealt with as if it were a registered firm.

(4) Where the assessee is an unregistered firm which has not been assessed as a registered firm under the provisions of sub-clause (ii) of clause (b) of sub-section (1) of section 69, any loss of the firm shall be set-off or carried forward and set-off only against the income of the firm.

(5) Nothing contained in sections 34, 35, 36 and 37 and sub-sections (1), (2), (3) and (4) of this section shall entitle-

- (a) any partner of an unregistered firm which has not been assessed as a registered firm under the provisions of sub-clause (ii) of clause (b) of sub-section (1) of section 69, or any member of an association of persons to set-off any loss sustained by such firm or association of persons, as the case may be, or have it carried forward and set-off, against his income; or
- (b) any firm in the constitution of which any change has occurred to have carried forward and set-off so much of the loss proportionate to the share of a retired or deceased partner computed in accordance with the provisions of sub-section (4) of section 69 as exceed his share of profits if any, of the income year in the firm, or entitle any partner to the benefit of any portion of the said loss which is not apportionable to him under section 69; or
- (c) any person who has succeeded, in such capacity, any other person carrying on any business or profession, otherwise than by inheritance, to carry forward and set off against his income, any loss sustained by such other person.

(6) Where, in making an assessment for any year, full effect cannot be given to the allowances referred to in clause (v) of sub-section (1) of section 23 owing to there being no profits or gains chargeable for that year or such profits or gains being less than the allowance, then, subject to [clause (v) of sub-section (1) of section 23 and] the provisions of sub-section (7), the allowance or part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following year and be deemed to be part of that allowance, or if there is no such allowance for that year, be deemed to be the allowance for that year and so on for succeeding years.

(7) Where, under sub-section (6), depreciation allowance is also to be carried forward, effect shall first be given to the provisions of section 35 and sub-section (2) of section 36.

(8) Notwithstanding anything contained in this Ordinance, no loss which has not been determined in pursuance of an order made under section 59, [59A,] 62, 63 or 65 shall be carried forward and set-off under section 35, sub-section (2) of section 36 or section 37.

## CHAPTER

### ALLOWANCES AND RELIEFS

39. **Allowance for life insurance.-** (1) Subject to the provisions of section 45,-

- (a) an assessee, being an individual, shall be entitled to an allowance for life insurance in respect of any premium paid by him in any income year to effect an insurance, including a contract for deferred annuity, on his own life or the life of his spouse; and
- (b) where the assessee is a Hindu undivided family, it shall be entitled to an allowance for life insurance in respect of any premium paid by it in the income year to effect an insurance on the life of any male member of the family or the wife of any such male member.

(2) The provisions of sub-section (1) shall not apply,.

- (a) in respect of so much of any premium paid to effect an insurance other than a contract for deferred annuity as exceeds ten percent of the capital sum assured; and
- (b) unless the premium and the proceeds of the life insurance policy or the contract for deferred annuity, as the case may be, are both payable in Pakistan.

(3) Where any insurance policy to which sub-section (1) applies lapses or is surrendered or paid up within thirty-six months of the date on which it became effective, then, notwithstanding anything contained in this Ordinance, the amount of tax payable by the assessee under the other provisions of this Ordinance in respect of the income year in which such policy lapses or is surrendered or paid up, as the case may be, shall be increased by an amount equal to the relief in tax allowed to the assessee in respect of such policy (hereinafter referred to as the 'said amount') and the sum so arrived at, or where no tax is payable by the assessee under the other provisions of this Ordinance in respect of that income year, the said amount shall be deemed to be the tax payable in respect of that income year and all the provisions of this Ordinance shall, so far as maybe, apply accordingly

(4) No order under sub-section (3) shall be made without giving the assessee a reasonable opportunity of being heard.

40. **Allowance for contributions to Provident Funds, etc.-** Subject to the provisions of section 45, an assessee shall be entitled to an allowance in respect of-

- (a) any sum deducted in the income year from the salary payable to him by Government, being a sum deducted in accordance with the conditions of his service, for the purpose of securing to him a deferred annuity or making provision for his wife or children, in so far as the sum so deducted does not exceed twenty percent of the salary.

- (b) any contribution made by him in the income year to any provident fund to which the Provident Funds Act, 1925 (XIX Of 1925) applies;
- (c) any contribution (not exceeding twenty per cent of his salary) made by him in the income year to a recognised provident fund.

*Explanation.-* As used in this clause "salary" shall have the meaning assigned to it in clause (h) of rule 14 of Part I of the Sixth Schedule;

- (d) any contribution made by him in the income year to any approved superannuation fund.

41. **Allowance for investment in Defence Savings and NIT Certificates, etc.-** (1) Subject to the provisions of section 45, an assessee (not being a company) shall be entitled to an allowance in respect of any sum invested by him in the income year in the purchase of-

- (a) Defence Savings Certificates;
- (b) Unit (Trust) certificates (not being Bearer Certificates) issued by the National Investment (Unit) Trust of Pakistan and such Government Securities (including Development Loans) as may be specified by the Central Board of Revenue in this behalf;
- (c) Certificates (other than Certificates acquired by purchase or otherwise from a previous holder thereof) of Mutual Funds issued by the Investment Corporation of Pakistan;
- (d) such shares of such Pakistani investment companies (other than shares acquired by purchase or otherwise from a previous holder thereof) as may be specified by the Central Board of Revenue for the purposes of this clause;
- (e) such debentures or debentures stock (other than debentures or debenture stock acquired by purchase or otherwise from a previous holder thereof) issued by such public companies as may be approved by the Central Board of Revenue for the purposes of this clause; [ ]
- (f) such stocks and shares (other than stocks and shares acquired by purchase or otherwise from a previous holder thereof) of such a Pakistani industrial public company as may be approved by the Central Board of Revenue for the purposes of this clause.

*Explanation.-* As used in this clause, and sub-section (2) of section 43, "Pakistani industrial public company" means a public company [within the meaning of clauses (a) and (b) of sub-paragraph (2) of paragraph B of Part IV of the First Schedule] which is formed for the purpose of, or is actually engaged in, the carrying on of an industrial undertaking set up in Pakistan on or after the fourteenth day of August, 1947, provided such undertaking (i) is owned by such company and (ii) fulfils the conditions specified in clauses (a), (d) and (e) of sub-section (2) of section 48; and includes any public company engaged in, or formed for the purpose of, carrying on insurance or transport business or the business of building residential houses for sale in Pakistan or any business in the case of a Government sponsored finance corporation approved by the Central Board of Revenue or the Controller of Capital Issues for the purposes of this section;

- [(g) Modaraba Certificates (other than Certificates acquired by purchase or otherwise from a previous holder thereof) of a modaraba of specific value issued by a modaraba company;
- (h) Modaraba certificates of a modaraba of non-specific value issued by a modaraba company; and Participation Term Certificates (other than Certificates acquired by purchase or otherwise from a previous holder thereof) issued by a company.]

[(1A) Notwithstanding anything contained in sub-section (1), the Central Board of Revenue may, in the case of any company applying for approval, grant approval under this section before the industrial undertaking for the purpose of which it is formed is set up or has commenced commercial production or may grant approval from such date, whether preceding or following the date on which the approval is granted, as it may specify in this behalf.]

[ ]

(3) Where any [certificate, security, share, debenture or debenture stock (hereinafter referred to as the 'Certificate') to which clauses (a), (b), (d)[, (e), (h) and (i)] of sub-section (1)] applies and in respect of which any relief in tax has been allowed to the assessee is disposed of by sale, transfer or in any other manner within thirty-six months of the date of its purchase, then, notwithstanding anything contained in this Ordinance the amount of tax payable by the assessee under the other provisions of this Ordinance in respect of the income year in which such Certificate was so disposed of shall be increased by an amount equal to the relief in tax allowed to the assessee in respect of such Certificate (hereinafter referred to as the 'said amount'), and the sum so arrived at or, where no tax is payable by the assessee under the other provisions of this Ordinance in respect of that income year, the said amount shall be deemed to be the tax payable in respect of that income year and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

[(3A) Where a company has been approved for purposes of clause (f) of sub-section (1) on the basis of an undertaking given by such company to the effect that its shares shall be made subject of dealing in a registered stock exchange in Pakistan within the period specified in the said undertaking, and it is subsequently found that the said company has not complied with the terms of the said undertaking, the Central Board of Revenue may cancel the approval already given from the date it took effect, and the amount of tax payable by an assessee under the other provisions of this Ordinance in respect of the income year in which the approval was cancelled shall be increased by an amount equal to the relief in tax allowed to the assessee in respect of the purchase of stocks and shares of the said company, and the sum so arrived at or, where no tax is payable by the assessee under the other provisions of this Ordinance in respect of that income year, the said amount shall be deemed to be the tax payable in respect of that income year and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

(4) No order under [sub-sections (3) and (3A)] shall be made without giving the assessee a reasonable opportunity of being heard.

(5) The Central Board of Revenue may make rules regulating the procedure for the grant of approval under this section and any other matter connected with, or incidental to, the operation of this section.

<sup>1</sup>[**41A. Allowance for investment in shares.**- (1) An assessee, other than a company, shall be entitled to an allowance not exceeding ten per cent of his income or one hundred thousand rupees, whichever is the less,

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<sup>1</sup> Sec. 41A ins. by F.O.2001.

invested in the income year commencing on or after the first day of July, 2001, in the purchase of new shares offered to the public by a public company listed on a stock exchange in Pakistan provided that the assessee is the original allottee of such shares, or listed shares, sold by the Privatization Commission of Pakistan.

(2) Where any share to which sub-section (1) applies and in respect of which any relief in tax has been allowed to the assessee is disposed of by sale, transfer or in any other manner within twelve months of the date of its purchase, then, notwithstanding anything contained in this Ordinance, the amount of tax payable by the assessee under the other provisions of this Ordinance in respect of the income year in which such share was so disposed of shall be increased by an amount equal to the relief in tax allowed to the assessee in respect of such shares (hereinafter referred to as the `said amount'), and the sum so arrived at or, where no tax is payable by the assessee under the other provision of this Ordinance in respect of that income year, the said amount shall be deemed to be the tax payable in respect of that income year and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

<sup>1</sup>[**44AA. Retirement annuity scheme.**- (1) Where an individual, being a resident of Pakistan, is (or would but for the loss of profit or gains, be) chargeable to tax,-

- (a) in respect of any salary or remuneration from an office or employment held by him which is not a pensionable office or employment or which does not provide any other retirement benefits; or
- (b) in respect of profit and gains, accruing or arising, from any business or profession carried on by him,

he shall be entitled to an allowance in respect of any sum paid by him in the income year commencing on or after the first day of July, 2001, by way of contribution or premium under a contract of annuity scheme approved by SECP of an insurance company duly registered under the Insurance Ordinance, 2000 (XXXIX of 2000), having for its main object the provision to the assessee of an annuity in old age.

(2) The amount of allowance under sub-section (1) in a year shall not exceed five per cent of the income or fifty thousand rupees whichever is the less.

(3) No allowance shall be made under sub-section (1) in respect of a contract which provides—

- (a) for the payment during the life of the assessee of any sums besides the sums payable as annuity;
- (b) for the annuity payable to the assessee to commence before he attains the age of sixty years;
- (c) that the annuity shall be capable in whole or in part, of surrender, commutation or assignment; or
- (d) for payment of the annuity outside Pakistan.

**44AAA.- Allowance for mark up paid.**- (1) An assessee shall be entitled to an allowance in respect of any mark up paid by him in an income year on a loan sanctioned and advanced on, or after, the first day of July, 2001, not exceeding six hundred thousand rupees by a Scheduled Bank under a house finance scheme

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<sup>1</sup> Secs. 41AA & 41AAA ins. by F.O.2001.

approved by the State Bank of Pakistan or advanced by Government or a local authority or House Building Finance Corporation:

Provided that –

- (a) the maximum amount eligible for an allowance shall not exceed twenty five per cent of the income or fifty thousand rupees – whichever is the less;
- (b) the loan is utilized for construction of new house or the acquisition of a house; and
- (c) no deduction for mark up has been claimed under clause (e) or (ee) of sub-section (1) of section 20.

42. **Allowance for purchase of books.**– [An] assessee shall be entitled to an allowance in respect of any sum expended by him in the income year on the purchase of books of [religious or] professional or technical nature or of scientific or general knowledge.

[Provided that purchase receipts is furnished containing National Tax Number of the book seller. This proviso shall not apply in case of books imported by the assessee for his own use.]

43. **Exemption of investments in the share-capital of approved investment, holding and industrial companies.**– (1) Subject to the provisions of section 45, the tax shall not be payable by an assessee, not being a company, on such portion of his total income as is invested by him in the income year on the acquisition (otherwise than from the previous shareholders) of the shares of a Pakistani company which fulfils the conditions specified in sub-section (2).

(2) The following are the conditions referred to in sub-section (1), namely:–

- (a) that it is–
  - (i) an investment company; or
  - (ii) holding company; or
  - (iii) Pakistani industrial public company, the share-capital of which is owned, wholly or in part, and the management of whose affairs is controlled, directly or indirectly, by the Federal Government; and
- (b) that it is approved by the Central Board of Revenue for the purposes of this section.

(3) The Central Board of Revenue may make rules regulating the procedure for the grant of approval under this section and any other matter connected with, or incidental to, the operation of this section.

44.– **Retirement annuity contracts and trust schemes.**– <sup>1</sup>[(1)] Subject to such rules as may be made in this behalf, where an individual, being a resident of Pakistan, is (or would, but for the loss or profits or gains, be) chargeable to tax–

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<sup>1</sup> Sec. 44 renumbered as sub-section (1) of sec. 44



- (a) in respect of any salary or remuneration from an office or employment held by him, which is not a pensionable office or employment or which does not provide any other retirement benefits; or
- (b) in respect of profits or gains accruing or arising from any business or profession carried on by him,

he shall, subject to the provisions of section 45, be entitled to an allowance in respect of any sum paid by him in the income year under a contract of annuity with the State Life Insurance Corporation of Pakistan or the Pakistan Post Office Life Insurance Department having for its main object the provision for him of an annuity in old age, provided such contract is approved by the Commissioner for the purposes of this section.

[(2) Nothing contained in this section shall apply to any amount in respect of which an allowance has been made under section 44A.]

**[44A. Retirement annuity contract for professionals.-** (1) Where an assessee, being an individual who is resident in Pakistan, derives income from the exercise of a profession as an accountant, actuary, lawyer, architect, medical or veterinary physician or surgeon, or from such other professions as may be notified by the Central Board of Revenue for the purpose of this section, either independently or as a partner in a registered firm carrying on such profession, and has paid, out of his income from such profession in any income year, any amount in that year as a premium under an annuity contract scheme, approved by the Central Board of Revenue, having for its main object the provision to the assessee of a life annuity in old age, he shall, subject to the provisions of sub-sections (2), (3), (4) and (5), be allowed an allowance in respect of the said amount in that year.

(2) The amount of the allowance under sub-section (1) shall not exceed five per cent of the income from such profession or ten thousand rupees, whichever is the less.

(3) No assessee shall be entitled to the allowance under sub-section (1) if he is entitled, on his retirement, to a pension or other benefits.

(4) No allowance shall be made under sub-section (1) in respect of a contract which provides-

- (a) for the payment during the life of the assessee of any sums besides the sums payable as annuity;
- (b) for the annuity payable to the assessee to commence before he attains the age of sixty or after he attains the age of seventy;
- (c) that the annuity shall be capable, in whole or in part, of surrender, commutation or assignment; or
- (d) for payment of the annuity outside Pakistan.

(5) Nothing contained in this section shall apply to any amount in respect of which an allowance has been made under section 44.]

<sup>1</sup>[ ]

45. **Limitation as to relief.**- The aggregate of the allowances under sections 39, 40, 41, [ ] 43 and 44 shall not exceed [one-third] of the total income of the assessee or [fifty] thousand rupees whichever is the less.

46. **Contributions to benevolent fund and group insurance.**- An assessee shall be entitled to an allowance in respect of any sum paid, in order to make provision for his spouse or children or other persons dependent on him, to a benevolent fund or any premium paid under a group insurance scheme, if such fund or scheme is approved by the Central Board of Revenue for the purposes of this section.

47. **Allowance for donations for charitable purposes.**-(1) An assessee shall be entitled to an allowance in respect of any sum paid by him [by a crossed cheque drawn on a bank] [or such value of articles or goods as may be prescribed given] in any income year as donation to-

- (a) any Board of Education in Pakistan or any University in Pakistan established or incorporated by, or under, any Federal or Provincial Act or any educational institution in Pakistan affiliated to any such Board of Education or University, or recognised, aided or run by Government or run by any local authority; or
- (b) any hospital in Pakistan recognised, aided or run by Government or run by a local authority; or
- (c) any relief fund sponsored or approved by Government; or
- (d) any other institution or fund which is established in Pakistan for a religious or charitable purpose and is approved by the Central Board of Revenue for the purposes of this section[; or
- (e) institutions, foundations, societies, boards, trusts or funds referred to in clause (91) of Part I of the Second Schedule.]

(2) Nothing contained in sub-section (1) shall apply to any donation made to a private religious institution or fund which does not enure for the benefit of the public.

<sup>2</sup>[ ]

(3A) The aggregate of allowances, under sub-section (1), in respect of donations, <sup>3</sup>[ ] shall not exceed-

- (i) in the case of a company, <sup>4</sup>[fifteen] per cent of the total income; and
- (ii) in any other case, <sup>5</sup>[thirty] per cent of the total income.]

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<sup>1</sup> Sec.44B omitted by F. O. 2000. Earlier ins. by F. A. 1999.

<sup>2</sup> Sub-sec. (3) omitted by F.A.1998.

<sup>3</sup> Words “subject to the limit specified in sub-section (3)” omitted *ibid*.

<sup>4</sup> Subs. for “ten” *ibid*.

<sup>5</sup> Subs. for “twentyfive” *ibid*.

[(4) Nothing contained in sub-section (3) or sub-section (3A) shall apply in respect of any donation made to the Quaid-e-Azam Memorial Fund [or to an institution, museum, library or monument referred to in sub-clause (xxxii) of clause (91) of Part I of the Second Schedule.]]

(5) The Central Board of Revenue may make rules regulating the procedure for the grant of approval under this section and any other matter connected with, or incidental to, the operation of this section.

**48. Exemption from tax of newly established industrial undertakings.-** (1) Subject to the provisions of this section, there shall be exempt from the tax payable under this Ordinance so much of the profits and gains derived by an assessee from an industrial undertaking, to which this section applies, as does not exceed an amount computed with reference to the capital employed in the undertaking as hereinafter provided.

(2) This section applies to an industrial undertaking (hereinafter referred to as the "said undertaking") which fulfils the following conditions, namely:-

- (a) that it is an undertaking engaged in the manufacture of goods or materials, or the subjection of goods or materials to any such process, ship-building and navigation, or the generation, transformation, conversion, transmission, distribution or supply of electrical energy or hydraulic power; or
- (b) that it is an industrial undertaking which is approved by the Central Board of Revenue for the purposes of this section;
- [(c) that it is set up by a Pakistani company in the areas specified in clauses (119), (120), (121) and (122) of the Second Schedule or in an industrial estate approved by the Central Board of Revenue and located in the territories of Pakistan (excluding Talukas of Karachi and Hyderabad, and Tehsils of Faisalabad and Lahore, and such adjoining areas of Lahore Tehsil as may be notified in this behalf by the Federal Government;]
- (d) that it employs ten or more workers and involves the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal agency; or twenty or more workers and does not involve the use of electrical energy or any other form of energy which is mechanically transmitted;
- (e) that it is not formed by the splitting up or the reconstruction or reconstitution of business already in existence or by transfer to a new business of any machinery or plant used in a business which was being carried on in Pakistan at any time before the commencement of the new business; and
- (f) that it has commenced commercial production at any time between the first day of July, 1975 and the thirtieth day of June [1988] (both dates inclusive).

(3) The amount referred to in sub-section (1) is a sum (hereafter in this sub-section and sub-section (4) referred to as the "said sum") equal to ten per cent of the capital employed in the said undertaking;

(4) The said sum shall be subject to an adjustment where the profits and gains of the said undertaking, computed for any year of assessment, cover a period which is less than, or exceeds, twelve months, the

adjustment decreasing or increasing, as the case may be, the said sum to an amount bearing the same proportion to the said sum as the said period bears to a period of twelve months.

(5) The profits and gains of the said undertaking shall be computed in the same manner as is applicable to income chargeable under the head "Income from business or profession".

(6) Nothing contained in this section shall be so construed as to exempt from tax any dividend paid, credited or distributed or deemed to have been paid, credited or distributed, by a company to its, shareholders out of profits or gains exempt from tax under this section.

[(7) The provisions of this section shall apply in respect of the assessment years commencing with the assessment year relevant to the income year in which the said undertaking has commenced commercial production and ending with-

- (a) the assessment year ending on the thirtieth day of June, 1985, or
- (b) the assessment year which is the last of the four assessment years next following the assessment year relevant to the income year in which commercial production has commenced, whichever is the later.

Provided that where assessment year referred to in clause (a) is the later, no exemption under this section shall be allowed in respect of any income accruing or arising after the thirtieth day of June, 1983.]

(8) Where any exemption is allowed under this section and subsequently it is discovered by the [Deputy Commissioner] that any one or more of the conditions specified in this section was, or were, not fulfilled, as the case may be, the exemption originally allowed shall be deemed to have been wrongly allowed and the Deputy Commissioner may, notwithstanding anything contained in this Ordinance, recompute the tax payable by the assessee for the relevant year and the provisions of section 65 shall, so far as may be, apply accordingly, the period of ten years specified in sub-section (3) of that section being reckoned from the end of the assessment year relevant to the income year in which the condition or conditions was or were discovered not to have been fulfilled.

(9) The Central Board of Revenue may make rules regulating the procedure for the grant of approval under sub-section (2) and providing for the computation of capital employed in an undertaking for the purposes of sub-section (3) and any other matter connected with, or incidental to, the operation of this section.

49. **Allowances to be treated as deductions from income.**- Save as otherwise provided in this Ordinance, any allowance admissible or any sum exempt from tax under any provision contained in this Ordinance shall be included in the total income, but may be deducted from such income for the purposes of computing the tax payable by an assessee.

## CHAPTER VI

### PAYMENT OF TAX BEFORE ASSESSMENT

50. **Deduction of tax at source.**- (1) Any person responsible for paying any income chargeable under the head "Salary" shall, at the time of payment, deduct tax on the amount payable at the average rate of tax computed at the rates specified in the First Schedule on the estimated income of the assessee under this head for the financial year in which the payment is made after making such adjustment, as may be necessary, for any excess deduction or deficiency arising out of any previous deduction or failure to make such deduction during the said financial year.

(2) Any person responsible for paying any income chargeable under the head "Interest on securities" shall, except in cases to which clause (a) of sub-section (2) of section 17 <sup>1</sup>[or sub-section (7D)] applies, deduct, at the time of payment, tax at the rates specified in the First Schedule:

[Provided that tax under this sub-section shall be deducted from the said income as reduced by the amount of Zakat, if any, payable thereon under the Zakat and Ushr Ordinance, 1980 (XVIII of 1980)]:

[Provided further that, where the Deputy Commissioner gives a certificate in writing (which certificate he shall give in every proper case on the application of the assessee) that to the best of his belief the assessee shall not be liable to pay any tax under this Ordinance or shall be liable to pay tax at a rate which is less than the rate specified in the First Schedule, the person responsible for paying any income referred to in this sub-section shall, until such certificate is cancelled by the [Deputy Commissioner], pay the amount involved without deduction or deduct the tax at such less rate, as the case may be.]

[(2A) Any person responsible for paying any sum by way of interest [or profit] on an account or deposit maintained with any banking company[, or any [financial institution]] shall deduct, at the time of credit of such interest [or profit] to the account of the recipient [ ] or at the time of payment thereof, whichever is earlier, tax at the rates specified in the First Schedule:

[ ]

[Provided further that nothing contained in this sub-section shall apply to any sum paid or credited before the first day of July, 1989.]

[(2B) Any person responsible for clearing an outstation cheque for an amount exceeding [twenty-five] thousand rupees or issuing a demand draft or pay order or special deposit receipt ["or cash deposit receipts or rupee travellers cheques"] effecting a telegraphic or electronic transfer of funds shall collect tax from the drawer of such cheque, draft, pay order, receipt or, as the case may be, transfer of funds at the rates specified in the First Schedule; and credit for the tax collected in any financial year shall, subject to the provisions of section 53, be given in computing the tax payable by the person from whom tax has been collected, for the assessment year commencing on the first day of July next following the said financial year, and in the case of an assessee to whom section 71 or section 81 applies, the assessment year as reckoned in accordance with these provisions:

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<sup>1</sup> Words ins. by F. O. 2000

Provided that the provisions of this sub-section shall not apply to the payments made by the Federal Government and Provincial Governments, statutory bodies, universities, approved charitable institutions, industrial undertakings and institutions exempt under the Second Schedule, listed public companies, foreign diplomats and foreign diplomatic missions in Pakistan,[ ] intra-company financial transactions [and the payments in respect of which the drawer furnishes a statement to the bank in the prescribed manner providing particulars of payment, including the name and address of payer and payee, the National Identity Card number, national tax number, the amount and purpose of payment and nature of instrument.]]

- (3) <sup>1</sup>[(a) Any person responsible for paying to a non-resident any sum chargeable under the provisions of this Ordinance (other than income to which sub-section (1) or sub-section (2) [or sub-[section (2A) or sub-section (3A) or sub-section (4) [or sub-section (4A) or sub-section (6A) or sub-section (7A)] or sub-section (7C) or sub-section (7D)]] applies) shall, unless such person is himself liable to pay tax thereon as an agent, deduct, at the time of payment, tax at the rates specified in the First Schedule.

Provided that where the [Deputy Commissioner] gives a certificate in writing (which certificate he shall give in every proper case on the application of the assessee) that to the best of his knowledge and belief, the assessee shall not be liable to pay any tax under this Ordinance or shall be liable to pay tax at a rate which is less than the rate specified in the First Schedule, the person responsible for paying any income referred to in this sub-section [ ]to such recipient shall, until such certificate is cancelled by the Deputy Commissioner, pay the amount involved without deduction or deduct the tax at such less rate, as the case may be.

[Provided further that nothing contained in this sub-section shall apply to any payment made to a branch in Pakistan of a non-resident [banking] [or insurance] company[:]

- [(b) where a person claims to be an agent of a non-resident he shall, before making any payment to such non-resident, file a declaration to that effect with the concerned Deputy Commissioner;
- (c) where a person intends not to deduct tax, from any payment other than -
- (i) payment on account of imports of goods where title of ownership is transferred outside Pakistan; or
  - (ii) any payment on account of educational and medical expenses remitted in accordance with the regulations of State Bank of Pakistan;

for the reason that it is not chargeable to tax under this Ordinance, he shall furnish the particulars of such non-resident and the nature and quantum of such payment to the Deputy Commissioner at the time of making the payment;

- (d) Notwithstanding anything contained in clause (c), the Deputy Commissioner may, where he has reason to believe that the payment is chargeable to tax under this Ordinance, direct

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<sup>1</sup> Sub-sec. (3) renumbered as cl. (a) & cls. (b), (c) & (d) ins. by F.A.1999.

the person making the payment to deduct tax from such payment at the rates specified in the First Schedule or such lower rate as he may by order in writing, specify.]

[(3A) Any person responsible for paying to a non-resident any sum by way of fees for technical services shall, unless such person is himself liable to pay tax thereon as an agent, deduct, at the time of payment, tax at the rate specified in the First Schedule.]

(4) Notwithstanding anything contained in this Ordinance,-

- (a) any person responsible for making any payment in full or in part (including a payment by way of an advance) to any person [,being resident,] (hereinafter referred to respectively as "payer" and "recipient"), on account of the supply of goods or for service rendered to, or the execution of a contract with the Government, or a local authority, or [a company] [or a registered firm,] or any foreign contractor or consultant or consortium shall, [ ] deduct advance tax, at the time of making such payment, at the rate specified in the First Schedule, and credit for the tax so deducted in any financial year shall, subject to the provisions of section 53, be given in computing the tax payable by the recipient for the assessment year commencing on the first day of July next following the said financial year, or in the case of an assessee to whom section 72 or section 81 applies, the assessment year, if any, in which the "said date", as referred to therein, falls, whichever is the later:

<sup>1</sup>[Provided that the provisions of this clause shall apply, mutatis mutandis, to any payment made on or after the first day of July, 1998, to a non-resident person on account of execution of a turnkey contract, a contract or sub-contract for designing, supply of plant and equipment and construction of power projects, a contract for construction, assembly or like project in Pakistan or any other project for construction or for services rendered other than that to which the provisions of sub-sections (3A) and (4A) apply.]

<sup>2</sup>[*Explanation.-* For the purposes of clause (a) the expression "supply of goods" includes both cash and credit purchases of goods by the payer, whether under a contract or not, on credit or in cash;]

- (b) the Commissioner may, on an application made by any such recipient and after making such enquiry as he thinks fit, allow, by an order in writing, any person responsible for making such payment not to deduct any tax from any payment or payments made to such recipient in any financial year; and where such order is made, the person responsible for making any payment shall thereafter, and until such order is cancelled, make such payment without deduction of tax under clause (a):

<sup>3</sup>[ ]

[Provided that-

- (i) nothing contained in clause (a) or clause (b) shall apply to <sup>4</sup>[any payment on account of securitization of receivables by a special purpose vehicle to the originator or] any payment

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<sup>1</sup> Proviso subs. by F. A. 1998.

<sup>2</sup> Explanation ins. ibid.

<sup>3</sup> Cl. (c) omitted by F.A.1994.

<sup>4</sup> words ins. by F.O.2001.

made on account of refund of any security deposit <sup>1</sup>[or to the purchase of an asset under a lease and buy back agreement by a modaraba or a leasing company <sup>2</sup>{or a banking company or a financial institution}]; <sup>3</sup>[ ]

- (ii) nothing contained in sub-section (10) shall apply to companies as payers.]

<sup>4</sup>[ ]

<sup>5</sup>[(4A) Any person responsible for making any payment in full or in part (including a payment by way of advance) to any person, on account of brokerage or commission on behalf of the Government, a local authority, a company, a registered firm or foreign contractor or consortium shall deduct tax, at the time of making such payment, at the rate specified in the First Schedule:

Provided that where any person receives payment on behalf of his principal and remits it after deducting his commission such commission shall be deemed to have been paid to him and the tax shall be collected by such principal.]

[ ]

(5) Notwithstanding anything contained in any law for the time being in force,

- (a) the Collector of Customs shall, in the case of every importer of goods, collect advance tax computed, on the basis of the value of such goods as increased by the customs duty and sales-tax, if any, levied thereon, at the rates specified in the First Schedule, and credit for the tax so collected in any financial year shall, subject to the provisions of section 53, be given in computing the tax payable by such importer for the assessment year commencing on the first day of July next following the said financial year, or in the case of an assessee to whom section 72 or section 81 applies, the assessment year, in which the "said date", as referred to therein, falls, whichever is the later;
- (b) the tax under clause (a) shall be collected in the same manner and at the same time as the customs duty, as if such goods (even though exempt from such duty) were liable to such duty, and all the provisions of the Customs Act, 1969 (IV of 1969) shall, so far as may be, apply accordingly [;]

[Provided that in the case of a manufacturer importing raw materials[, other than edible oils,] exclusively for its own use, the Regional Commissioner of Income Tax may certify reduction of the rate of collection under this sub-section [upto one hundred] percent, if the aggregate of tax paid or collected [ ] during that year equals the amount of tax paid by such assessee in the immediately preceding year and the certificate is not issued during the first year of assessee's business:

[Provided further that the provisions of this sub-section shall not apply to-

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<sup>1</sup> Words ins. ibid.

<sup>2</sup> Words ins. by F. O. 2000.

<sup>3</sup> "and" omitted by F.O.2001.

<sup>4</sup> Explanation omitted by F.O.1981.

<sup>5</sup> Sub-sec.(4A) subs. by F.A.1999.



- (i) any person re-importing re-usable containers for re-export qualifying for customs and sales tax exemptions on temporary import under Customs Notification SRO 344(I)/95, dated 25th April, 1995; or
- (ii) any person importing the following petroleum products, mainly:-

Motor Spirit (MS), Furnace Oil (FO), JP-1 & MTBE.]

Provided also that if at any stage it is known that the provisions of this proviso have been misused, such person shall be treated as an assessee in default in respect of such tax and be treated accordingly;]

<sup>1</sup>[ ]

*Explanation.-* As used in this sub-section,-

- (i) "value", in relation to any goods, means the value as determined under section 25 of the Customs Act, 1969 (IV of 1969), as if the goods were subject to ad valorem duty; and
- (ii) "Collector of Customs" means a person appointed as Collector of Customs under section 3 of the Customs Act, 1969 (IV of 1969) and includes a Deputy Collector of Customs, an Assistant Collector of Customs or an officer of Customs appointed as such under the aforesaid section.

[(5A) Any person, being an authorised dealer in foreign exchange, shall at the time of realisation of foreign exchange proceeds on account of export of goods by a person, being an exporter <sup>2</sup>[or on account of commission due to an indenting commission agent], deduct tax at the rates specified in the First Schedule.]

<sup>3</sup>[(5AA) Every banking company shall at the time of realisation of proceeds on account of supply of goods to an exporter under an inland back to back letter of credit, deduct tax at the rates specified in the First Schedule.

<sup>4</sup>[ ]

<sup>5</sup>[(5AAB) The Export Processing Zone Authority created under the Export Processing Zone Authority Ordinance, 1980 (IV of 1980), shall at the time of export of goods by an industrial undertaking located in the area declared by the Federal Government to be a "Zone" within the meaning of the aforesaid Ordinance, collect tax at the rates specified in sub-paragraph CCCCA of the First Schedule.]

<sup>6</sup>[ ]

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<sup>1</sup> Third proviso omitted by F.A.1994.

<sup>2</sup> Words etc. ins. by F.A.1999.

<sup>3</sup> Clauses (5A) ins. by F.A.1999.

<sup>4</sup> Sub-sec. (5AAA) deleted by F. O. 2001. Earlier ins. by F.A. 1999 & took effect from 12-6-1999.

<sup>5</sup> Sub-sec. (5AAB) ins. by F. O. 2000.

<sup>6</sup> Sub-sec. (5B) deleted by F. O. 2001. Earlier ins. by F.A.1995. Still earlier a different sub-section was ins. by F.A. 1993 which was omitted by F.A.1994.

(6) Any person responsible for the collection of motor vehicles tax shall, at the time of collecting the said tax, collect income tax at the rates specified in the First Schedule in respect of any transport vehicle [ ]:

Provided that where the motor vehicle tax is collected in instalments, income tax may also be collected in the like manner:

Provided further that the collection of tax in respect of passenger transport vehicles with registered seating capacity of not less than [ten] persons shall be made [for a period of ten years commencing with the first day of July of the year of make of such vehicles].

[(6A) The principal officer of a company shall, at the time of making payment to a shareholder, not being a company, on account of dividends, deduct <sup>1</sup>[,and in case of bonus or bonus shares, collect,] tax at the rate specified in the First Schedule.

[ ]

<sup>2</sup>[ ]

<sup>3</sup>[(7A) Any person making sale, by public auction, of any property <sup>4</sup>[ ] belonging to the Government, a local authority, a public company, a foreign association declared to be a company under clause (16) of section 2, or a foreign contractor or consultant or consortium shall collect advance tax, computed on the basis of sales price of such property and at the rate specified in the First Schedule, from any person to whom such property is sold, and credit for the tax so collected in any financial year shall, subject to the provisions of section 53, be given in computing the tax payable by the person purchasing such property for the assessment year commencing on the first day of July next following the said financial year, or in the case of an assessee to whom section 72 or section 81 applies, the assessment year, if any, in which the "said date" as referred to therein, falls, whichever is the later.]

[*Explanation,-* For the purposes of this sub-section, sale of any property includes the awarding of any lease to any person, including a lease of the right to collect octroi duties, tolls, fees or other levies, by whatever name called.

<sup>5</sup>[(7B) Any person responsible for making nay payment in full or in part (including a payment by way of an advance) to any person, on account of the rent of house property (including rent of furniture[, fixtures and services,] if any) on behalf of Government, a local authority, a company, [a non-government charitable institution, a private educational institution, a hospital, a clinic or a maternity home] or the diplomatic mission of a foreign state shall, where the annual rent of such property exceeds one hundred thousand rupees, deduct advance tax, at the time of making such payment, at the rate specified in the First Schedule, and credit for the tax so deduct in any financial year shall, subject to the provisions of section 53, be given in computing the tax payable by the recipient for the assessment year commencing on the first day of July next following the said financial year, or in the case of an assessee to whom section 72 or section 81 applies, the assessment year, if any, in which the "said date", as referred to therein, falls, whichever is the later.]

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<sup>1</sup> Words etc ins. by F. O. 2001.

<sup>2</sup> Sub-sec. (7) deleted by F. O. 2001.

<sup>3</sup> Sub-sec. (7A) deleted by F. O. 2001. Earlier ins. by F. O. 1981 w.e.f. 1-7-1981.

<sup>4</sup> Words etc. "other than a plot of land" ins. by F. A. 1885 later omitted by F. A. 1992.

<sup>5</sup> Sub-sec.(7B) ins. by F. A. 1989 w.e.f. 1-7-1989.

[ ]

<sup>1</sup>[ ]

[(7C) Any person responsible for making any payment [ ] to any person (hereinafter called the 'recipient') by way of a prize on prize bond or on account of winnings from a raffle, lottery or crossword puzzle shall deduct from the said payment (in case the payment is made in any other form) advance tax at the time of such payment at the rate specified in the First Schedule.]

[(7D) Any person responsible for making any payment by way of profit or interest on bonds, certificates, debentures, securities or instruments of any kind issued by any banking company, or any company referred to in sub-clause (a) or sub-clause (b) of clause (16) of section 2, or any local authority, or any finance society <sup>2</sup>[ ], shall deduct advance tax, at the time of making such payment, at the rate specified in the First Schedule:]

[Provided that where the Deputy Commissioner gives a certificate in writing (which certificate he shall give in every proper case for a period of three years on the application of a recognised provident fund) that to the best of his knowledge and belief, it shall not be liable to pay any tax under this Ordinance or shall be liable to pay tax at a rate which is less than the rate specified in the First Schedule, the person responsible for paying any income referred to in this sub-section to such recognised provident fund shall until such certificate is cancelled by the Deputy Commissioner, pay the amount involved without deduction or deduct tax at such less rate, as the case may be.]

[(7E) At the time of preparing electricity consumption bills in respect of any commercial or industrial consumer, the person responsible for preparing such bills, shall charge tax on the amount of the electricity bill at the rates specified in the First Schedule, and the credit for the tax so collected in any financial year shall, subject to the provisions of section 53, be given in computing the tax payable by such consumer for the assessment year commencing on the first day of July next following the said financial year, or in the case of an assessee to whom section 72 or section 81 applies, the assessment year in which the "said date" as referred to therein falls, whichever is the later.

[(7F) At the time of preparing [telephone bills or issuing or selling prepaid telephone cards for mobile telephone, the person responsible for preparing such bills or issuing or selling such prepaid telephone cards shall charge tax on the amount of such bill or card, the case may be ]at the rates specified in the First Schedule, and the credit for the tax so collected in any financial year shall, subject to the provisions of section 53, be given in computing the tax payable by such subscriber for the assessment year commencing on the first day of July next following the said financial year, or in the case of an assessee to whom section 72 or section 81 applies, the assessment year in which the "said date" as referred to therein falls, whichever is the later;

Provided that nothing contained in this sub-section shall apply where the Government or a diplomat is the subscriber.";

<sup>3</sup>[ ]

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<sup>1</sup> Sub-sec. (7BB) omitted by F. O. 2000. Earlier ins. by F. A. 1993.

<sup>2</sup> Words etc. " , not being a payment to which sub-section (2) of section 50 applies" omitted by F. O. 2000.

<sup>3</sup> Sub-sec. (7G) deleted by F. O. 2001. Earlier ins. by F. A. 1999.

(7H) Every person, at the time of making sale of petroleum products to a petrol pump operator, shall collect tax on the amount of commission or discount allowed to such operator at the rate specified in the First Schedule.]

(8) Any sum deducted or collected, or purported to be deducted or collected, under this section shall be-

- (a) deemed, in cases to which sub-sections (1), (2) and (3) apply, to be income received by the assessee;
- (b) treated as payment of tax on behalf of the assessee; and
- (c) paid within the prescribed time and in the prescribed manner by the person making the deduction or collection, as the case may be, to the credit of the Federal Government.

(9) For the purpose of this section,-

- (a) "person responsible" means the prescribed person and includes,-
  - (i) in the case of a company, local authority or an association of persons, the principal officer thereof; and
  - (ii) in every other case, the payer himself; and
- (b) any sum from which tax is deductible under this section shall be deemed to be income chargeable to tax under this Ordinance.

[(10) Notwithstanding the omission of the first proviso to sub-section (2A), clause (c) of sub-section (4), and the provisos to sub-section (4A), sub-section (5), sub-section (5A), sub-section (6A), sub-section (7B) and sub-section (7BB), and substitution of the proviso to sub-section (4), under the Finance Act, 1994 (XII of 1994), and without prejudice to the provisions of section 6 or section 24 of the General Clauses Act, 1897 (X of 1897), all the notifications issued under the aforesaid provisions till the 30th day of June, 1994, shall be deemed to have been validly made and continue to remain in force until specifically repealed or amended.]

51. **Certificate of deduction of tax.**- Every person deducting or collecting tax under section 50 shall, at the time of making payment of the sum from which tax has been deducted, or at the time of the collection of the tax, as the case may be, furnish to the person to or from whom such payment or collection has been made, a certificate to the effect that tax has been so deducted or collected and such other particulars as may be prescribed.

52. **Liability of persons failing to deduct or pay tax.**- Where any person fails to deduct or collect, or having deducted or collected, as the case may be, fails to pay the tax as required by, or under, section 50, he shall, without prejudice to any other liability which he may incur under this Ordinance, be deemed to be an assessee in default in respect of such tax.

<sup>1</sup>[*Explanation.*- For the purposes of this section, the Deputy Commissioner having jurisdiction under section 5 over the case of the assessee in default may initiate action.]

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<sup>1</sup> Expln. ins. by F.A.1999.

[52A. **Recovery from the person from whom tax was not deducted or collected.**- Where any sum deductible or collectable by any person has not been deducted or collected as required by, or under section 50, the Deputy Commissioner having jurisdiction over the case of the person from whom tax was deductible or collectable, without prejudice to any liability which the person responsible for deduction or collection of tax under section 50 may incur under this Ordinance, may recover the sum not deducted or collected from the person from whom tax was to be deducted or collected and all provisions of this Ordinance relating to recovery of tax shall apply.]

[53. **Advance payment of tax.**- (1) An assessee-

- (a) other than a company or a registered firm whose total income (excluding income to which section 27, section 80B, section 80C or section 80CC or sub-sections (1) and (2) of section 50 applies) for the latest assessment year in respect of which the tax payable by him has been determined under sections 59, 59A, 60, 62, 63 or 65, is not less than one hundred and fifty thousand rupees shall be liable to pay by way of [advance tax to the credit of the Federal Government, on or before the seventh day of October, the seventh day of January, the seventh day of April and the twenty-first day of June in each financial year] an amount equal to one-fourth of the full amount of income tax and super-tax so determined to be payable in respect of that assessment year (without making any adjustment for any tax already paid by way of advance tax or otherwise), as reduced by the tax, if any, already collected all deducted and paid under section 50 in the said financial year; and
- (b) being a company or a registered firm shall, in respect of its income (excluding income to which section 27, section 80C, [or section 80CC] applies) be liable to pay by way of advance tax an amount which bears the same proportion to the company's or a registered firm's turnover for that year as the tax assessed, bears to the turnover assessed, for the latest assessment year in respect of which the tax payable by the company or registered firm has been determined under sections 59, 59A, 60, 62, 63 or 65 as reduced by the tax already paid under section 50 [other than the tax attributable to income covered by sections 80C and 80CC] in the said financial year.

(2) The tax payable,-

[ ]

(ii) under clause (b) of sub-section (1) (i.e. by companies and registered firms) shall be paid to the credit of the Federal Government in each financial year, according to the following schedule:

TURNOVER RELATING TO THE PERIOD	TAX TO BE PAID ON OR BEFORE
From 1 <sup>st</sup> of July to 30th September	the seventh day of October
From 1 <sup>st</sup> of October to [31 <sup>st</sup> December]	the seventh day of January
From 1 <sup>st</sup> of January to [31 <sup>st</sup> March]	the seventh day of April
From 1 <sup>st</sup> of July to 30th of June	the [twenty-first day of June]

Turnover for 16<sup>th</sup> June to 30<sup>th</sup> June shall be taken equal to the turnover of between 1<sup>st</sup> of June and 15<sup>th</sup> of June.

(3) In the case of non-resident assessee, dividend income shall be excluded from the total income for the purposes of sub-section (1).

(4) If any assessee who is required to make payment of advance tax under clause (a) of sub-section (1) estimates at any time before the last instalment is due, that the tax payable by him for the relevant assessment year is likely to be less than the amount he is required to pay under clause (a) of sub-section (1), the assessee may furnish to the Deputy Commissioner an estimate of the amount of the tax payable by him, and thereafter pay such estimated amount, as reduced by the amount, if any, already paid under clause (a) of sub-section (1), in equal instalments on such dates as have not expired.

(5) Any sum paid under sub-section (1) shall be treated as an advance payment of tax in respect of the assessment year commencing on the first day of July next following the financial year in which it is paid or, in the case of an assessee to whom section 72 or section 81 applies, the assessment year in which the 'said date', as referred to therein, falls, whichever is the later, and credit therefore shall be allowed to the assessee in computing the tax payable by him for the said assessment year.]

**54. Payment of tax with return of income.-** Every person who is required, under this Ordinance to furnish a return of total income shall pay the tax payable, on the basis of such return, on or before the date on which he is so required to furnish such return:

[Provided that where such person has paid any sum under sub-section (1) or sub-section (2) of section 53, the Deputy Commissioner shall adjust the said sum against the tax payable under this section.

[*Explanation.-* For the removal of doubt, it is declared that the expression "tax payable" as used in this section includes any tax under section 80D.]

## CHAPTER VII

### ASSESSMENT

55. **Return of total income.-** (1) Every person,-

- (a) whose total income or the total income of any other person, in respect of which he is assessable under this Ordinance, for any income year, (herein-after referred to as the 'said income year') exceeds the maximum amount which is not chargeable to tax under this Ordinance; or
- (b) who has been charged to tax for any of the four income years immediately preceding the said income year, <sup>1</sup>[or]
- <sup>2</sup>[(c) who fulfils any of the following conditions, namely:-
  - (i) owns immovable property, with land area of 250 sq yards or more, located in areas falling in the limits of Metropolitan /Municipal Corporation, a Cantonment Board of the Islamabad Capital Territory;
  - (ii) owns a motor vehicle
  - (iii) subscribes a telephone; or
  - (iv) has undertaken foreign travel (except for the purposes of Haj <sup>3</sup>[, Umrah] or Ziarat) during the income year,]

shall furnish a return of his total income or the total income of such other person, as the case may be, for the said income year <sup>4</sup>[ ]:

<sup>5</sup>[Provided that, where the entire total income of an assessee during the income year consists of income chargeable under the head "Salary", he may, instead of furnishing a return as aforesaid, file a certificate from his employer in the prescribed form setting forth such particulars, and accompanied by such statements, and verified in such manner, as may be prescribed, and the said certificate shall be deemed to be a return under this sub-section:]

<sup>6</sup>[Provided further that the persons otherwise not required to file return of total income under the first proviso or section 80C or section 80CC shall, except in the case of firms, association of persons, or bodies of individuals, whether incorporated or not, and companies who are otherwise not chargeable to wealth-tax under the Wealth-tax Act, 1963 (XV of 1963) <sup>7</sup>[and persons whose declared income for the relevant

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<sup>1</sup> Ins. by Fin. Suppl. (Amend.) Act, 1997.

<sup>2</sup> Cl. (c) ins. *ibid*.

<sup>3</sup> Word ins. by F. A. 1997

<sup>4</sup> Words etc. deleted by F. O. 2001. Earlier ins. by F. A. 1994.

<sup>5</sup> Prov. Ins. by F. A. 1987.

<sup>6</sup> Second Prov. Ins. by F. A. 1994.

<sup>7</sup> Words etc. ins. by F. A. 1995. Earlier ins. by I. T. (Amendt.) Ord. 1994.

year or the last declared or assessed income is less than <sup>1</sup>[two] hundred thousand rupees,] file return of wealth alongwith the certificate or statement of their income in lieu of such return of total income.]

<sup>2</sup>[Provided also that clause (c) of this section shall not apply to a person, who is:

- (a) widow
- (b) orphan below the age of 25 years;
- (c) pensioner;
- (d) disabled; or
- (e) non-resident Pakistani in the case of foreign travel [and ownership of immovable property][:/]

<sup>3</sup>[Provided that where a taxpayer is not borne on the National Tax Number Register, and fails to file an application in the prescribed form and manner for the said number, alongwith the return of his income or certificate in lieu of return under the first proviso to sub-section (1), such return of income or certificate shall not be considered a return under this section.]

<sup>4</sup>[(2) The return of total income under sub-section (1) shall be furnished -

- (a) in the case of a company, in respect of the income year ending at any time between the first day of January and the thirtieth day of June, both days inclusive, on or before the thirty-first day of December next following the income year; and
- (b) in the case of an assessee other than referred to in clause (a), on or before the thirtieth day of September next following the income year.

<sup>5</sup>[(3) The {Deputy Commissioner} may, on sufficient cause being shown, extend the date for the delivery of the return so, however, that no extension of time for a period or periods amounting in all to more than fifteen days from the dates specified in sub-section (2) shall be allowed except with the approval of the Inspecting {Additional Commissioner}].

<sup>6</sup>[*Explanation.*- Non furnishing of wealth-tax return alongwith the return of total income, certificate or statement of income shall render such return, certificate or statement as invalid.

<sup>7</sup>[55A. **Method of furnishing return of total income.**- Where an assessee is required by section 55 to furnish a return of his total income, such return shall be furnished by registered post, with acknowledgement due, or delivered by hand, to [the officer having jurisdiction or such other officer which the Commissioner of Income Tax may specify].

56. **Notice for furnishing return of total income.**- The Deputy Commissioner may, at any time by notice in writing, require any person who, in his opinion, is chargeable to tax [or is required to file return of total income under section 55] for any income year to furnish a return of total income for such year

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<sup>1</sup> Subs. for “one” by F. A. 1999.

<sup>2</sup> Third Prov. ins. by F. Suppl. (Amendt.) Act, 1997.

<sup>3</sup> Fourth Proviso ins. by F. O. 2000.

<sup>4</sup> Sub-sec. (2) subs. By F.A. 1995. Earlier, it was subs. by F.O. 1980.

<sup>5</sup> Sub-sec. (3) ins. by F.O. 1980.

<sup>6</sup> Expln. ins. by F.A. 1994.

<sup>7</sup> Sec. (55A) subs. by F.A. 1988. Earlier it was ins. by F. A. 1987.



within thirty days from the date of service of such notice or such longer or shorter period as may be specified in such notice or as the Income Tax Officer may allow [:]

[Provided that no notice under this section shall be issued after the expiration of five years from the end of the assessment year for which the return of income was due.]<sup>1</sup>

<sup>2</sup>[ ]

**57. Revised returns of total income.-** If any person has not furnished a return of total income as required by, or under, any provision of this Ordinance (hereafter in this section referred to as 'return'), or having furnished a return, discovers any omission or wrong statement therein, he may, without prejudice to any liability incurred by him under any provision of this Ordinance or the repealed Act, furnish a return or a revised return, as the case maybe, at any time before the assessment is made.

**58. Wealth statement.-**<sup>3</sup>[ ]The Deputy Commissioner may, by notice in writing, require any assessee to furnish, on a date to be specified in the notice, a statement (hereinafter referred to as the 'wealth statement') in the prescribed form and verified in the prescribed manner giving particulars-

- (a) his total assets and liabilities as on the date or dates specified in such notice;
- (b) the total assets and liabilities of his spouse, minor children and dependants as on the date or dates specified in such notice; [ ]
- (c) any assets transferred by him to any person during the period or periods specified in such notice and the consideration therefore[";and]
- [(d) the total expenses incurred by the assessee, his spouse, minor children and dependants during the period or periods specified in the notice and the details thereof <sup>4</sup>[:]

<sup>5</sup>[Provided that where the income declared is two hundred thousand rupees or more, the return of total income shall be accompanied a wealth statement.]

<sup>6</sup>[(2). Where a person, who has furnished a wealth statement as required under sub-section (1), discovers any omission or wrong statement therein, he may, without prejudice to any liability incurred by him under any provision of this Ordinance, he may furnish a revised wealth statement at any time before the assessment is made.]

**59. Self-assessment.-** [(1) Where the return of total income for any income year furnished by the assessee [not being <sup>7</sup>[ ] or a company engaged in the business of banking, leasing and modaraba,] under section 55 qualifies for acceptance in accordance with the provisions of a scheme of self assessment made by the Central Board of Revenue for that year or under any instructions or orders issued thereunder, the

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<sup>1</sup> Proviso ins. by F. O. 2001.

<sup>2</sup> Expln. Deleted by F. O. 2001. Earlier added by F. O. 2000.

<sup>3</sup> Sec. 58 renumbered as sub-sec.(1) by F. O. 2001. Earlier "(1)" omitted by F. O. 2000.

<sup>4</sup> Subs. for full stop *ibid*.

<sup>5</sup> Proviso ins. *ibid*.

<sup>6</sup> Sub-sec. (2) ins. by F. O. 2001. Earlier omitted by F. A. 1996.

<sup>7</sup> Words "a public company" omitted by F. O. 2001.

[Deputy Commissioner] shall assess, by an order in writing, the total income of the assessee on the basis of such return and determine the tax payable on the basis of such assessment.

<sup>1</sup>[*Explanation.-* For the removal of doubt it is hereby declared that a return of total income furnished under section 55 does not include a return of total income furnished under section 57.]

<sup>2</sup>[(1A) Notwithstanding anything contained in sub-section (1), the Central Board of Revenue or any authority subordinate to it, if so authorised by the Central Board of Revenue in this behalf, may, in accordance with a scheme referred to in sub-section (1), select out of returns referred to in that sub-section any cases or classes of cases or persons or classes of persons, howsoever determined, for assessment under section 62, and the [Deputy Commissioner] shall proceed to make the assessment under that section or, if the circumstances so warrant, under section 63, accordingly.

<sup>3</sup>[ ]

<sup>4</sup>[ ]

(3) In [assessing the total income and determining the tax payable under sub-section (1)], the [Deputy Commissioner] may make such adjustments as may be necessary, including any adjustment under sections 34, 35, 36, 37, 38, 50, 53 or 54, the rules made under section 165, the First Schedule and the Third Schedule.

<sup>5</sup>[(4) No order under sub-section (1) shall be made in any case after the thirtieth day of June of the financial year next following the income year in respect of which a return of total income has been furnished under section 55:

Provided that if such order is not passed by such date, order under sub-section (1) shall be deemed to have been passed on such date.]

[59A. **Assessment on the basis of return.-** (1) If the [Deputy Commissioner] is satisfied without requiring the presence of the assessee or the production by him of any evidence that a return furnished under section 55 is correct and complete, he shall, by an order in writing assess the total income of the assessee and determine the tax payable on the basis of such return.

(2) The provisions of [sub-section (3)] of section 59 shall apply to an assessment and determination under this section as they apply to an assessment and determination under that section.]

[59B. **Assessment under the Simplified Procedure for Assessment.-** (1) Where the return of total income of an assessee, being an individual, an un-registered firm, a registered firm, an association of persons or a Hindu undivided family, for the income year relevant to the assessment year commencing on or after the first day of July, 1988, [and ending on or before the thirtieth day of June, 1990,] qualifies for acceptance in accordance with the provisions of a scheme of Simplified Procedure for Assessment made by the Central Board of Revenue for that year, or under any instructions or orders issued thereunder, the total income of the assessee shall be assessed on the basis of the said return.

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<sup>1</sup> EpIn. added by F. A. 1985 & shall always deemed to have been so added.

<sup>2</sup> Sub-sec. (1A) ins. by F. A. 1985 & shall always deemed to have been so ins.

<sup>3</sup> Sub-sec. (1B) omitted by F. A. 1990. Earlier ins. by F. A. 1987.

<sup>4</sup> Sub-sec. (2) omitted by F. A. 1980.

<sup>5</sup> Sub-sec.(4) ins. by F. O. 2001. Earlier omitted by F. O. 2000.

(2) After receipt of a return of total income referred to in sub-section (1), an acknowledgement of its receipts, in the prescribed form, shall be issued by such income tax authority subordinate too the Commissioner as may be authorised in this behalf by the Commissioner.

(3) The acknowledgement referred to in sub-section (2) shall be deemed to bean order of assessment in respect of the return of total income referred to in sub-section (1).]

[59C. **Fixed Tax.**- [(1) Notwithstanding anything contained in this Ordinance, the Central Board of Revenue, may make scheme or schemes of fixed tax ["or minimum fixed tax"]

- (a) for persons maintaining small establishments to carry on business or profession whereunder an assessee may opt to pay fixed amount of tax without being required to furnish a return of his total income under section 55 or 56 and receipt obtained for payment of such tax shall deem to be an order of assessment under section 59A; []
- (b) for persons carrying on any business or profession in shopping centres and commercial markets whereunder an assessee shall pay fixed amount of tax; [and]
- [(c) for persons engaged in or carrying on any business or profession, whereunder an assessee may be required to pay a minimum fixed amount of tax without being required to furnish a return of his total income under section 55 or 56 and receipt obtained for payment of such tax shall be deemed to be an order of assessment under section 59A;"]

(2) The scheme [or schemes] referred to in sub-section (1) may provide for such classes of persons by whom fixed tax may become payable, at such rates, and in such areas, as may be specified in the scheme.

(3) The Central Board of Revenue may, by notification in the official Gazette, make provisions relating to the payment and collection of, or any other matter connected with or incidental to, the fixed tax.]

<sup>1</sup>[59D. **Tax on undisclosed income.**- (1) Notwithstanding anything contained in this Ordinance, the Central Board of Revenue may, make scheme of payment of tax in respect of undisclosed income.

(2) Where any person declares his undisclosed income in accordance with the scheme and the rules the tax on such income shall be charged at <sup>2</sup>[such rate as may be prescribed.]

(3) Where a person has paid tax on his undisclosed income in accordance with the scheme and the rules, he shall-

- (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 this Ordinance.

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<sup>1</sup> Sec. 59D ins. by F.A.1997.

<sup>2</sup> Words ins. by F.A.1999.

(4) For the purpose of this section "undisclosed income" shall mean any income (including any investment to be deemed as income under section 13 or any other deemed income) for any year or years <sup>1</sup>[ ], which was chargeable to tax but was not so charged.]

<sup>2</sup>[59E. **Fixed or minimum tax.**- Notwithstanding anything contained in this Ordinance, the Central Board of revenue, may make a scheme for the payment of fixed or minimum tax by persons falling within section 3AA of the Sales Tax Act, 1990.]

[60. **Provisional assessment.**- Where no return of total income has been furnished by an assessee for any income year, the Deputy Commissioner may, by an order in writing made before any assessment is made under section 62, 63 or 65 assess provisionally the total income of the assessee and the tax payable by him on the basis of the assessment, if any, made under any of the said sections or under section 59 or section 59A for the latest preceding assessment year.]

[60A. **Provisional assessment in certain cases.**- Where a concealed assets of any person [ ] is impounded by any department or agency of the Federal or Provincial Government, the [Deputy Commissioner may], at any time, by an order in writing before making any assessment under section 62, 63 or 65, assess provisionally the total income of such person and the tax payable by him on the basis of the assessment:

Provided that proceedings under this section shall not be initiated without prior permission in writing of the Commissioner.

*Explanation.*- For the purpose of this section, "concealed asset" means any property or asset which, in the opinion of the [Deputy Commissioner], was acquired from any income liable to tax.

[61. **Notice for production of books of account, etc.**- The [Deputy Commissioner] may serve upon any person who has furnished a return of total income for any income year, or upon whom a notice has been served to furnish such return, a notice requiring him of a date specified therein, to attend at the [Deputy Commissioner's] office or to produce, or cause to be produced, any evidence on which such person may rely in support of the return, if furnished and such accounts, documents or evidence (including accounts or documents) relating to any period prior or subsequent to the said income year) as the [Deputy Commissioner] may require:

Provided that the [Deputy Commissioner] shall not require the production of any accounts relating to a period more than three years prior to the income year.

<sup>3</sup>[61A. **Utilisation of certain information.**- The value of stock-in-trade determined or any other information obtained or collected during survey of any business or profession, carried out under the Survey for Documentation of National Economy Ordinance, 2000, may be used for purposes of assessment or re-assessment of total income of the income year during which the said survey is carried out and any preceding income year not being earlier than the income year ending 30th day of June, 1999, unless there is sufficient evidence provided by the assessee to show that the value of stock-in-trade or

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<sup>1</sup> Words etc. "relevant to any assessment year or years ending on or before the thirtieth day of June, 1997" omitted by F.A.1999.

<sup>2</sup> Sec. 59E ins. by F.A.1999.

<sup>3</sup> Sec. 61A ins. by F. O. 2000.

other information as aforesaid was substantially different in respect of the preceding income year as aforesaid.]

62. **Assessment on production of accounts, evidence, etc.-** (1) The [Deputy Commissioner], after considering the evidence on record (including evidence, if any, produced under section 61 and such other evidence as the [Deputy Commissioner] may require, on specific points, shall, by an order in writing, assess the total income of the assessee and determine the tax payable by him on the basis of such assessment.

<sup>1</sup>[Provided that the assessee produces books of accounts as evidence in support of the return, the Deputy Commissioner shall, before disagreeing with such accounts, give a notice to the assessee of the defects in the accounts and provide an opportunity to the assessee to explain his point of view about such defects and record such explanation and the basis of computation of total income of the assessee in the assessment order.]

(2) Where a person is authorised by the Central Board of Revenue under section 7 to assist the [Deputy Commissioner] in making an assessment and the Deputy Commissioner disagrees with the opinion of such person on any point concerning assessment, the [Deputy Commissioner] shall record, in the order under sub-section (1), the opinion of such person and the reason for his disagreement with such opinion.

[62A. **Assessment after appellate decision.-** Where an assessment or re-assessment or any order made under this Ordinance, has been annulled, set aside, cancelled or modified, the proceedings may commence from the stage next preceding the stage at which such annulment, setting aside, cancellation or modification took place and nothing contained in this Ordinance shall render necessary the re-issue of any notice which had already been issued or the re-furnishing or re-filing of any return, statement, or other particulars which had already been furnished or filed, as the case may be.]

[62B. In making any assessment for the year beginning on the first day of July, 1995, the 'income year' shall be deemed to include the period, if any comprised in the 'income year' as defined in the repealed clause (b) of sub-section (26) of section 2, for which the assessment would have been made if the said clause had not been repealed and where such income year exceeds a period of twelve months, the total income and the tax payable shall be prorated on the basis of the average income of a period of twelve months.]

<sup>2</sup>[ ]

63. **Best judgement assessment.-** Where any person-

- (a) fails to furnish a return of total income required to be furnished by him under section 56, sub-section (3) of section 72 or sub-section (3) of section 81; or
- (b) fails to comply with any of the terms of a notice issued under sections 58 ] or 61,

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<sup>1</sup> Prov. Ins. by F.A. 1993

<sup>2</sup> Sec.62A. omitted by F. O. 2001. Earlier ins. by F. O. 2000.

the [Deputy Commissioner] may, by an order in writing, assess the total income of the assessee to the best of his judgement and determine the amount of tax payable by him.

**[64. Limitation for assessment.-** (1) No assessment under [section 59A], section 62 or section 63 shall be made after the expiration of two years from the end of the assessment year in which the total income was first assessable.

(2) Notwithstanding anything contained in sub-section (1), where a return of total income [ ] has been filed after the end of the financial year in which the last date of filing of such return specified in [section 55] falls, no assessment under [section 59A,] section 62 or section 63 shall be made after the expiration of two years from the end of the financial year in which the said return is filed.

(3) Notwithstanding anything contained in sub-section (1), where, for any income year, an assessee has failed to furnish the return of total income, no assessment under section 62 or section 63 shall be made after the expiration of two years from the end of the financial year in which notice under section 56, sub-section (3) of section 72 or sub-section (3) of section 81, as the case may be, was served.

**65. Additional assessment.-** (1) If, in any year, for any reason,-

- (a) any income chargeable to tax under this Ordinance has escaped assessment; or
- (b) the total income of an assessee has been under assessed, or assessed at too low a rate, or has been the subject of excessive relief or refund under this ordinance; or
- [(c) the total income of an assessee and the tax payable by him has been assessed or determined under sub-section (1) of section 59 or section 59A or deemed to have been so assessed or determined under sub-section (1) of section 59 or section 59A,]

the [Deputy Commissioner] may, at any time, subject to the provisions of sub-sections (2),(3) and (4), issue a notice to the assessee contained all or any of the requirements of a notice under section 56 [ ] and may proceed to assess or determine, by an order in writing, the total income of the assessee or the tax payable by him, as the case may be, and all the provisions of this Ordinance shall, so far as may be, apply accordingly:

Provided that the tax shall be charged at the rate or rates applicable to the assessment year for which the assessment is made.

(2) No proceedings under sub-section (1) shall be initiated unless definite information has come into the possession of the Deputy Commissioner [and] he has obtained the previous approval of the Inspecting Additional Commissioner of Income Tax in writing to do so.

*[Explanation.-* As used in this sub-section, "definite information" includes information in respect of sales purchases, made by the assessee, of any goods, and any information regarding acquisition, possession or transfer, by the assessee, of any money, asset or valuable article, or any investment made or expenditure incurred by him.]

[(3) Notice under sub-section (1), in respect of any income year, may be issued within ten years from the end of the assessment year in which the total income of the said income year was first assessable:

[Provided that, where the said notice is issued on or after the first day of July, 1987, this sub-section shall have effect as if for the words "ten years" the words "five years" were substituted.]

[(3A) Where a notice under sub-section (1) is issued on or after the first day of July, 1982, no order under the said sub-section shall be made after the expiration of one year from the end of the financial year in which such notice was served.]

[ ]

**66. Limitation for assessment in certain cases.-** (1) Notwithstanding anything contained in section 64 and sub-section (3) of section 65 where in consequence of, or to give effect to, any finding or direction contained in any order made under this Chapter or Chapter VIII, XIII or XIV or any order made by any High Court or the Supreme Court of Pakistan in exercise of its original or appellate jurisdiction,-

- (a) an assessment is to be made on any firm or a partner of any firm; or
- (b) an assessment is to be made on the assessee or any other person; or
- (c) an assessment has been set aside, in full or in part, by an order under section 132 or section 135 and no appeal is filed under section 134 against such order or no [appeal filed] under section 136 in respect thereof, as the case may be,

such assessment may be made at any time within two years in any case to which clause (a) or clause (b) applies, and within one year in any case to which clause (c) applies, from the end of the financial year in which such order is received by the [Deputy Commissioner.

(2) Where, by any such order, as is referred to in sub-section (1), any income is excluded-

- (i) from the total Income of the assessee for any year and held to be the income of another year;
- (ii) from the total income of one person and held to be the income of another persons,

the assessment of such income as income of another income year or of another person, as the case may be, shall, for the purposes of the said sub-section, be deemed to be an assessment made in consequence of, or to give effect to, a finding or direction contained in such order.

(3) Notwithstanding anything contained in this Ordinance, where the ownership of any property the income from which is chargeable under this Ordinance is in dispute in any Civil Court in Pakistan, the assessment on any person in respect of such income may be made at any time within one year of the end of the financial year in which the decision of such Court is brought, or otherwise comes, to the notice of the Deputy Commissioner.

**[66A. Powers of Inspecting [Additional Commissioner] to revise [Deputy Commissioner]'s order.-**

(1) The Inspecting [Additional Commissioner] may call for and examine the record of any proceedings under this Ordinance, and if he considers that any order passed therein by the [Deputy Commissioner] is erroneous in so far as it is prejudicial to the interests of revenue, he may, after giving the assessee an opportunity of being heard and after making, or causing to be made, such enquiry as he deems necessary,

pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment to be made.

[(1A) The provisions of sub-section (1) shall, in like manner, apply,-

- (a) where an appeal has been filed under sections 129, 134 and 137, or [an appeal has been filed] under section 136, against an order passed by the Deputy Commissioner; and
- (b) where an appeal [ ] referred to in clause (a) has been decided, in respect of any point or issue which was not the subject matter of such appeal [ ].

(2) No order under sub-section (1) shall be made after the expiry of four years from the date of the order sought to be revised.

[*Explanation*.- For the purpose of this section, an order prejudicial to the interests of revenue shall include an order passed without lawful jurisdiction.

67. **Reference to valuers.**- (1) Where, in the course of any assessment proceedings, [the Deputy Commissioner is of the opinion that the value of any capital asset shown in any return, statement or other document furnished by an assessee is not correct, he may, either on an application by the assessee or otherwise, refer the matter to a valuer or valuer for ascertaining the proper value of such asset.

(2) Nothing contained in sub-section (1) shall be so construed as to make it obligatory on the [Deputy Commissioner] to make a reference to a valuer or valuers, as the case may be, or to adopt the value as determined by any valuer or valuers.

(3) The Central Board of Revenue may make rules to give effect to the provisions of this section and to provide for any matter connected with, or incidental to, the operation of this section.



## CHAPTER VIII

### TAX LIABILITY IN SPECIAL CASES

68. **Registration of firms.-** (1) An application may be made to the Deputy Commissioner on behalf of a firm for registration of the firm for the purposes of this Ordinance.

(2) No application shall be made under sub-section (1) unless, before the end of the income year relevant to the year for which assessment is to be made,-

- (a) the firm had been constituted by an instrument of partnership;
- (b) the said instrument specifies, among other things, the shares of the partners; and
- (c) the said [firm] had been registered under the Partnership Act, 1932 (IX of 1932), or an application for registration under the said Act had been made.

(3) An application under sub-section (1) shall be in such form, be accompanied by such documents, be verified in such manner and be made on or before such date as may be prescribed.

(4) Where the [Deputy Commissioner], after making such enquiry or requiring the firm to furnish such particulars, documents or evidence as he may think fit, is satisfied that the requirements of sub-section (2) and (3) have been fulfilled and that there is, or was, a genuine firm in existence in the relevant income year constituted as shown in the instrument of partnership, he may, by an order in writing, made within three months of the date on which the return of total income was filed under section 55 or six months of the end of the income year, whichever is the earlier, register the firm for the purposes of this Ordinance and, subject to the provisions of sub-section (5), such firm shall be treated as a registered firm for the income year for which it is first registered and for all subsequent income years for so long as there is no change in the constitution of the firm; and if he is not so satisfied, he may, by an order in writing made within the aforesaid period, refuse to register the firm:

Provided that, where no such order is made within the aforesaid period, the firm shall be treated as a registered firm and all the provisions of this Ordinance shall, so far as may be, apply as they apply in the case of a firm registered under this sub-section.

(5) If, at any time after a firm has been registered or treated as a registered firm under sub-section (4) for any income year, the [Deputy Commissioner] has reason to believe that-

- (a) there was no genuine firm in existence in such income year constituted as shown in the instrument of partnership; or
- (b) the requirements of sub-sections (2) and (3) had not been fulfilled in respect of the said income year.

he may cancel the registration after giving a reasonable opportunity to the firm of being heard.

69. **Assessment of firms and partners.-** (1) Notwithstanding anything contained in this Ordinance, where the assessee is a firm and the total income of the firm has been determined or assessed under sections 59, [59A, 60], 62, 63 and 65, as the case may be,-

- (a) in the case of a registered firm,-
  - (i) the tax payable by the firm itself shall be determined;
  - (ii) the total income of each partner of the firm, including therein his share of its income, profits and gains of the income year shall be assessed and the sum payable by him on the basis of such assessment shall be determined;
  - (iii) if such share of any partner is a loss, it shall be set off against his other income or carried forward and set off in accordance with the provisions of sections 34, 35, 36, 37 and 38;
  - (iv) where any of such partners is a non-resident, his share of the income, profits and gains of the firm shall be assessed on the firm at the rates which would be applicable if it were assessed on him personally, and the sum so determined as payable shall be paid by the firm; and
- (b) in the case of an unregistered firm, the [Deputy Commissioner]-
  - (i) may determine the tax payable by the firm on the basis of the total income of the firm; or
  - (ii) may proceed in the manner laid down in clause (a) as applicable to a registered firm, if, in his opinion, the aggregate amount of tax (including the tax payable under sub-clause (i) of that clause) would be greater than the aggregate amount which would be payable by the firm and the partners individually if the firm were assessed as an unregistered firm:

[Provided that this sub-clause shall not apply in respect of any assessment year commencing on or after the first day of July, 1986.]

(2) Whenever the [Deputy Commissioner] makes a determination in accordance with the provisions of sub-section (1), he shall notify to the firm, by an order in writing, the amount of tax payable by it, if any, and the amount of the total income on which the determination has been based and the apportionment thereof between the several partners.

[(3) Notwithstanding anything contained in sub-section (1) of this section or sub-section (4) of section 83, there shall be included in the total income of an assessee, being a partner in a firm,-

- (a) share income of the spouse or a minor child of the assessee from the firm in which the assessee is a partner; and
- (b) share income of the spouse of the assessee from a firm in which the assessee is not a partner unless the capital contribution, in any form, of the spouse in such firm is not provided, directly or indirectly, by the assessee [ ]; and

- (c) share income of a minor child of the assessee from a firm in which the assessee is not a partner unless the capital contribution, in any form, of the minor child in such firm is derived from inheritance passed on to him [ ].

Provided that nothing in this sub-section shall apply unless the assessee, in the cases referred to in clauses (b) and (c), and the spouse in the case referred to in clause (b), has been given a reasonable opportunity of being heard.

(4) For the purposes of this section, the share of a partner in the income of any firm means the aggregate of-

- (a) the proportionate share in the total income of the firm as reduced by the tax, if any, payable by the firm and any sum referred to in clause (b); and
- (b) any salary, brokerage, interest or commission receivable by the partner from the firm.

**70. Change in the constitution of a firm.-** (1) Where, at the time of making an assessment on a firm under section 62, 63 or 65 it is found that a change has occurred in the constitution of the firm, the assessment shall be made on the firm as constituted at the time of making the assessment, but the income of the firm shall be apportioned among the partners who were entitled to receive it and, where the tax assessed upon a partner cannot be recovered from him, it shall be recovered from the firm as constituted at the time of making the assessment.

(2) The provisions of sub-section (1) shall, so far as may be, apply to the determination of total income and the tax payable under section 59 [or section 59A] as they apply to an assessment under section 62, 63 or 65.

**71. Discontinuance of business or dissolution of a firm or association of persons.-** (1) Subject to the provisions of section 72, where any business or profession carried on by a firm or an association of persons has been discontinued, or where a firm or an association of persons is dissolved, all the provisions of this Ordinance, shall, so far as may be, apply as if no such discontinuance or dissolution had taken place.

(2) Every person, who was, at the time of such discontinuance or dissolution, a partner of such firm or a member of such association and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax payable by the firm or the association, as the case may be.

**72. Assessment in the case of discontinued business or profession.-** (1) Where, in any year, any business or profession is discontinued, the person discontinuing such business or profession shall give to the [Deputy Commissioner] a notice of such discontinuance within fifteen days of the date of such discontinuance (hereinafter referred to as the "said date").

(2) [The person discontinuing such business or profession shall, under the provisions of this Ordinance or upon being required by the [Deputy Commissioner] by a notice in writing, furnish] a return or returns of total income in respect of the period commencing from the end of the latest income year for which an order has been made under sub-section (1) of section 59, [section 59A, 62,] 63 or 65, or, where no such order has been made, a return has been made under section 55, 56 or 57, as the case maybe, and ending on the said date, or where no such order or return has been made, the income year or years comprising the period ending on the said date; and the period commencing from the end of the latest income year to the

said date shall, for purposes of this section, be deemed to be an income year (distinct and separate from any other income year) for the assessment year in which the said date falls.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the [Deputy Commissioner] may serve a notice on any person who, in his opinion, has discontinued, or is likely to discontinue, in any year, any business or profession, to furnish, within such time as may be specified in such notice, a return or returns of total income for the income year or years for which the assessee is required to furnish such return or returns under sub-section (2).

(4) The assessment shall be made at the rates applicable to the relevant assessment year and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

**73. Succession to business, otherwise than on death.-** (1) Where a person carrying on any business or profession has been succeeded in any income year by any other person (hereafter in this section referred to as the "predecessor" and "successor" respectively), otherwise than on the death of the predecessor, and the successor continues to carry on that business or profession,-

- (a) the predecessor shall be assessed in respect of the income of the income year in which the succession took place up to the date of succession and of the income year or years preceding that year; and
- (b) the successor shall be assessed in respect of the income of such income year after the date of succession.

(2) Notwithstanding anything contained in sub-section (1), where the predecessor cannot be found, the assessment of the income of the income year in which the succession took place up to the date of succession and of the income year or years preceding that year shall be made on the successor in like manner and to the same extent as it would have been made on the predecessor, and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

(3) Where any tax payable under this section in respect of such business or profession cannot be recovered from the predecessor, it shall be recoverable from the successor, who shall be entitled to recover it from the predecessor.

**74. Liability in the case of a deceased person.-** (1) Where a person dies, his legal representative shall be liable to pay any tax which the deceased would have been liable to pay if he had not died, in the like manner and to the same extent as the deceased.

(2) For the purpose of making an assessment of the income of the deceased and recovery of tax,-

- (a) any proceeding taken against the deceased before his death shall be deemed to have been taken against the legal representative and may be continued against the legal representative from the stage at which it stood on the date of the death of the deceased; and
- (b) any proceeding which could have been taken against the deceased if he had survived may be taken against the legal representative.

and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

(3) The legal representative of the deceased shall, for the purposes of this Ordinance, be deemed to be an assessee.

(4) The liability of a legal representative under this section or section 71 shall be limited to the extent to which the estate of the deceased person is capable of meeting the liability.

(5) For the purposes of this section and sections 71 and 97, "legal representative" includes an executor, administrator and any person administering the estate of a deceased person.

**75. Partition of a Hindu undivided family.-** (1) Where it is claimed by, or on behalf of, any member of a Hindu family, hitherto assessed as undivided, that a partition has taken place among the members of such family, the Deputy Commissioner shall, after giving a notice to all the members of the family and making such enquiry as he thinks fit, make an order holding either that a partition has taken place with effect from a date specified in such order or that no partition has taken place.

(2) Where, according to an order under sub-section (1), the partition has taken place, the total income of the joint family in respect of the income year or years comprising the period up to the date of partition shall be assessed as if no partition had taken place and each member or group of members shall, in addition to any tax for which he or it may be separately liable, be jointly and severally liable for the tax on the income so assessed.

**76. Liability in the case of a private company going into liquidation.-** (1) Every person who is a liquidator of a private company which is wound up, or who has been appointed the receiver of any assets of such company (hereinafter referred to as the "liquidator"), shall, within thirty days of his having become such liquidator, give notice of his appointment to the [Deputy Commissioner] who has jurisdiction to assess the company.

(2) The [Deputy Commissioner] shall, after making such enquiries or calling for such information as he may deem fit, notify to the liquidator, within three months of the date of receipt of the notice referred to in sub-section (1), the amount which, in his opinion, would be sufficient to provide for any tax which is then, or is likely thereafter to become, payable by the company.

(3) On being notified by the [Deputy Commissioner] under sub-section (2), the liquidator shall set aside an amount equal to the amount so notified and until he sets aside such amount, he shall not part with any of the assets of the company, except for the purpose aforesaid or for making any payment to secured creditors whose debts are entitled under the law to priority of payment over debts due to Government.

(4) If the liquidator fails to comply with or contravenes any provision of sub-section (1) or sub-section (3), he shall be personally liable for the payment of the tax payable by the company, not exceeding the amount, if any, notified under sub-section (2), and all the provisions of this Ordinance shall, so far as may be, apply as if he were an assessee in default.

(5) The provisions of this section shall have effect notwithstanding anything contained in any other law for the time being in force.

**77. Liability for payment of tax in the case of private companies, firms and associations of persons.-** (1) Notwithstanding anything contained in the Companies Act, 1913 (VII of 1913), where any tax payable by a private company (including a private company which is wound up or has gone into liquidation) in respect of any income year (whether ending before or after the date of commencement of

the winding-up or liquidation proceedings) cannot be recovered, every person who is, or was at any time during the said income year, a director of the company and every share-holder owning not less than ten percent of its paid-up share capital at any time during the said income year shall be jointly and severally liable for the payment of such tax, and such person shall be entitled to recover the amount so paid by him from the company on whose behalf it is paid or any other director or share-holder of the company in proportion to the shares owned by him.

(2) No proceedings under sub-section (1) shall be commenced except with the prior approval in writing of the Commissioner.

(3) Where any tax payable by a partner of a firm or a member of an association of persons in respect of his share of income from the firm or the association, as the case may be, cannot be recovered from him, the [Deputy Commissioner] may notify the amount of such tax to the firm or association, and thereupon, notwithstanding anything contained in any law for the time being in force, the tax shall be payable by the firm or the association, as the case may be, and such firm or association shall, for purposes of recovery of such tax, be treated as an assessee; and in the case of default in making the payment of such tax, the provisions of sections 91, 92, 93, 94 and 95 shall, so far as may be, apply accordingly.

**78. Liability of agents representing assessee.-** (1) Every agent shall, in respect of the income for which he is, or is declared to be, or is treated as, an agent, be deemed to be an assessee for the purposes of this Ordinance and be subject to the same obligations and liabilities as if he were the assessee, and shall be liable to assessment in his own name in respect of that income.

(2) Every agent who pays any tax under this Ordinance, shall be entitled to recover the tax so paid from the person on whose behalf it is paid, or to retain an equivalent amount out of any moneys due or belonging to the said person which may be in his possession or come into his possession at any time.

(3) Any agent, or any person who apprehends that he may be assessed as an agent, may retain out of any money payable by him to the person on whose behalf he is liable to pay tax (hereinafter in this section referred to as the 'principal'), a sum equal to his estimated liability under this Ordinance, and in the event of any disagreement between the principal and such agent or person as to the amount to be so retained, such agent or person may secure from the [Deputy Commissioner] a certificate stating the amount to be so retained pending final determination of the tax liability, and the certificate so obtained shall be his authority for retaining that amount.

*Explanation.-* For the purposes of this section and section 80, "agent" includes-

- (1) in respect of the income of a minor, lunatic or idiot, the guardian or manager who is entitled to receive, or is in receipt of, such income on behalf of such minor, lunatic or idiot;
- (2) in respect of income which the Court of Wards, the Administrator-General, the Official Trustee or any receiver or manager appointed by, or under, any order of a court receives or is entitled to receive on behalf of, or for the benefit of, any person, such Court of Wards, Administrator-General, Official Trustee, receiver or manager;
- (3) in respect of income which a trustee, appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise (including any Wakf deed which is valid under the Mussalman Wakf Validating Act, 1913) (VI of 1913), receives or is entitled to receive on behalf, or for the benefit, of any person, such trustee or trustees; and

- (4) in respect of the income of a non-resident-
- (a) any person in Pakistan-
    - (i) who is employed by, or on behalf of, the non-resident; or
    - (ii) who has any business connection with the non-resident; or
    - (iii) from or through whom the non-resident is in receipt of any income, whether directly or indirectly; or
    - (iv) who holds, or controls the receipt or disposal of, any money belonging to the non-resident; or
    - (v) who is the trustee of the non-resident; or
  - (b) any person, whether a resident or a non-resident, who has acquired, by means of a transfer, a capital asset in Pakistan; or
  - (c) any person, who is declared or treated as an agent of the non-resident:

Provided that-

- (a) a bona fide independent broker in Pakistan who, in respect of any transactions, does not deal directly with, or on behalf of, a non-resident principal but deals with, or through, a non-resident broker, shall not be treated as an agent under this section in respect of such transactions, if-
  - (i) the transactions are carried on in the ordinary course of business through the first-mentioned broker; and
  - (ii) the non-resident broker is carrying on such transactions in the ordinary course of his business and not as a principal; and
- (b) no person shall be declared or treated as the agent of a non-resident unless he has been given an opportunity, by the [Deputy Commissioner], of being heard.

(4) Nothing in this section shall prevent either the direct assessment of the person on whose behalf, or for whose benefit, any such income is receivable, or the recovery from such person of the tax payable in respect of such income.

**[79. Income from transactions with non-resident.-** Where business is carried on between a resident and a non-resident and it appears to the on [Deputy Commissioner] that conditions are made or imposed between them in their commercial or financial transactions which differ from those which would be made between independent persons, the Income Tax Officer shall determine the amount of profits which would have accrued to the resident but, by reason of those conditions, have not so accrued, and include such amount in the total income of the resident.]

**80. Shipping business of non-residents.**- (1) Notwithstanding anything contained in this Ordinance, where a non-resident carries on business of operation of ships as the owner or charterer thereof (hereinafter in this section referred to as the 'principal') tax shall be levied and collected in respect of such business in accordance with the provisions of this section.

(2) Before the departure from any port in Pakistan of any ship, the master of the ship shall prepare and furnish to the Deputy Commissioner a return showing (a) the amount paid or payable (whether in or out of Pakistan) to the principal, or to any person on his behalf, on account of the carriage of passengers, livestock, mail or goods shipped at that port since the last arrival of the ship and (b) the amount received, or deemed to be received, in Pakistan by, or on behalf of, the principal on account of the carriage of passengers, livestock, mail or goods at any port outside Pakistan.

(3) On receipt of the return, the [Deputy Commissioner] shall determine the aggregate of the amounts referred to in sub-section (2) and, for this purpose, may call for such particulars, accounts or documents, as he may require and the aggregate of the said amounts so determined shall be deemed to be income received in Pakistan by the principal from the said business chargeable to tax under this Ordinance under the head 'Income from business or profession' and tax thereon shall be charged at the rate of eight per cent of such income.

(4) Where the [Deputy Commissioner] is satisfied that it is not possible for the master of the ship or the principal to furnish the return required under sub-section (2) before the departure of the ship from the port and the principal has made satisfactory arrangements for the filing of the return and payment of the tax by any other person on his behalf, the [Deputy Commissioner] may, if the return is filed within thirty days of the departure of the ship, deem the filing of the return by the person so authorised by the principal as sufficient compliance with sub-section (2)

(5) No port clearance shall be granted to the ship until the Collector of Customs, or other officer duly authorised to grant the same, is satisfied that the tax payable under sub-section (3) has been duly paid or that satisfactory arrangements have been made for the payment thereof.

[(6) Nothing contained in this Ordinance shall be so construed as to allow any expense against the aggregate amount of receipts as determined under sub-section (3).

(7) The tax paid under this section shall be deemed to be the final discharge of the tax liability of the assessee under this Ordinance, and the assessee shall not be required to file the return of total income under section 55 nor shall he be entitled to claim any refund or adjustment on the basis of such return.]

**[80A. Air transport business of non-residents.**-(1) Notwithstanding anything contained in this Ordinance, where a non-resident person carries on the business of operation of aircrafts, as the owner or charterer thereof (hereafter in this section referred to as the "principal"), the aggregate of the receipts specified in sub-section (1A) shall be deemed to be income received in Pakistan by the principal from the said business chargeable to tax under the head "Income from business or profession" and tax thereon shall be charged at the rate of three per cent of such income.

(1A) The receipts, referred to in sub-section (1), shall be the following, namely:-

- (a) the amount paid or payable (whether in or out of Pakistan) to the principal or to any person on his behalf on account of the carriage of passengers, livestock, mail or goods loaded from any place in Pakistan; and



- (b) the amount received or deemed to be received in Pakistan by or on behalf of the principal on account of the carriage of passengers, livestock, mail or goods from any place outside Pakistan.]

(2) The principal or any agent authorised by him in this behalf shall prepare and furnish to the Deputy Commissioner, within forty-five days from the last day of each quarter of every financial year, that is to say, the thirtieth day of September, the thirty-first day of December, the thirty-first of March and the thirtieth day of June, respectively, a return, in respect of each quarter as aforesaid, showing the receipts referred to in sub-section (1A).

(3) On receipt of the return, the [Deputy Commissioner] may, after calling for such particulars, accounts or documents as he may require, determine the aggregate of the amounts referred to in sub-section [(1A)] and charge tax as laid down in sub-section (1).

(4) Where the principal fails to pay tax as determined under sub-section (1), for more than three months, the Commissioner of Income Tax may issue to the authority by whom clearance may be granted to that aircraft a certificate containing the name of the principal and the amount of tax payable by him; and, on receipt of such certificate, the said authority shall be empowered and required to refuse clearance from any airport in Pakistan to any aircraft owned or chartered by such person until the tax payable has been paid.

(5) Nothing contained in this Ordinance shall so construed as to allow any expense against the aggregate amount of receipts as determined under sub-section (1A).

(6) The tax paid under this section shall be deemed to be the final discharge of the tax liability of the assessee under this Ordinance, and the assessee shall not be required to file the return of total income under section 55 nor shall he be entitled to claim any refund or adjustment on the basis of such return.

**[80AA. Tax on income of non-residents from fees for technical services.-** (1) Notwithstanding anything contained in this Ordinance, where any consideration by way of fees for technical services referred to in the *Explanation* to sub-section (5) of section 12 is received or is deemed to be received by, or accrues or arises or is deemed to accrue or arise to, a non-resident, the whole of such consideration shall be deemed to be income of the non-resident and tax thereon shall be charged at the rate of [fifteen] per cent of such income.

(2) A non-resident referred too in sub-section (1), or an agent authorised by him in this behalf, shall prepare and furnish to the [Deputy Commissioner] within thirty days from the last day of each period of six months in every financial year, that is to say, the thirty-first day of December and the thirtieth day of June, respectively, a return, in respect of each such period of six months as aforesaid, showing therein full particulars of the income referred to in the said sub-section:

Provided that, where such non-resident is likely to leave Pakistan in any six month period as aforesaid or shortly after its expiry and he has no present intention of returning to Pakistan, the provisions of section 81 shall, so far as may be, apply as if references to financial year, the return of total income, the income year, the order of assessment, the assessment year and rate of tax were references to the corresponding provisions of this section.

(3) On receipt of such return, the [Deputy Commissioner] may, after calling for such particulars, accounts or documents as he may require, determine the income referred to in sub-section (2) and charge tax thereon in accordance with the provisions of this section.

(4) Nothing contained in this Ordinance shall be so construed as to allow any expense against the income determined under sub-section (3).

(5) The tax paid under this section shall, to the extent that the income of the non-resident is chargeable under this section, be deemed to be the final discharge of his tax liability under this Ordinance, and he shall not be required to file the return of total income under section 55 or be entitled to claim any refund or adjustment on the basis of such return.

(6) The provisions of this section shall not apply to a non-resident in respect of any consideration referred to in sub-section (1) for rendering technical day of June, 1987.

<sup>1</sup>[**80AAA. Tax on income of non-residents from royalty.**- (1) Notwithstanding anything contained in this Ordinance where any consideration by way of royalty, referred to in the Explanation to sub-section (4) of section 12 is received or is deemed to be received by, or accrues or arises or is deemed to accrue or arise to, a non-resident, the whole of such consideration shall be deemed to be income of the non-resident and tax thereon shall be charged at the rate of fifteen per cent of such income.

(2) A non-resident referred to in sub-section (1), or an agent authorised by the non-resident to receive such royalty on his behalf, shall prepare and furnish to the Deputy Commissioner within thirty days from the last day of each period of six months in every financial year, that is to say, the thirty-first day of December and the thirtieth day of June respectively, a return, in respect of each such period of six months as aforesaid, showing therein full particulars of the income referred to in the said sub-section and tax deducted thereon.

(3) On receipt of such return, the Deputy Commissioner may, after calling for such particulars, accounts or documents as he may require, determine the income referred to in sub-section (2) and charge tax thereon in accordance with the provisions of this section.

(4) Nothing contained in this Ordinance shall be so construed as to allow any expense against the income determined under sub-section (3).

(5) The tax paid under this section shall, to the extent that the income of the non-resident is chargeable under this section, be deemed to be the final discharge of his tax liability under this Ordinance and he shall not be required to file the return of total income under section 55 nor shall claim any refund or adjustment on the basis of such return.]

[**80B. Tax on income of certain persons from dividends and bank profits, etc.**- (1) Notwithstanding anything contained in this Ordinance or any other law for the time being in force, where any amount referred to in sub-section (2) is received by or accrues or arises or is deemed to accrue or arise to an individual, unregistered firm, association of persons, Hindu undivided family or artificial juridical person referred to in clause (32) of section 2, the whole of such amount shall be deemed to be income of such person and tax thereon shall be charged at the rates specified in the First Schedule.

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<sup>1</sup> Sec. 80AAA ins. by F.A.1999.

(2) The amount referred to in sub-section (1) shall be the following namely:-

- (a) dividend on which tax is deductible under sub-section (6A) of section 50;
- <sup>1</sup>[(aa) interest or profit on Directorate of National Savings' regular income certificates and monthly income savings account scheme where monthly installment exceeds one thousand rupees, in which investment is made upto thirtieth June, 2001.]
- (b) interest or profit on which tax is deductible under sub-section (2A) of section 50;
- [(bb) the amount received on encashment of bearer certificates on which tax is deductible under sub-section (5B) of section 50[:]

<sup>2</sup>[Provided that this clause shall not apply in respect of any assessment year commencing on, or after, the first day of July, 2002;]

- (c) interest or profit on which tax is deductible under sub-section (7D) of section 50[:]

<sup>3</sup>[Provided that this clause shall not apply in respect of any assessment year commencing on, or after, the first day of July, 2002;”;

- (d) prizes and winnings on which tax is deductible or collectable under sub-section (7C) of section 50.

(3) Nothing contained in this Ordinance shall be so construed as to authorise any allowance or deduction against the income as determined under sub-section (1) or any refund of tax deducted or collected under section 50 or set off of any loss under any provision of this Ordinance.

(4) Where the assessee has no income other than the income referred to in sub-section (1) in respect of which tax has been deducted or collected, the tax deducted or collected under section 50 shall be deemed to be the final discharge of the tax liability of the assessee under this Ordinance and he shall not be required to file the return of total income under section 55.

(5) In a case to which sub-section (4) applies, an order under section 59A shall be deemed to have been made in respect of income referred to in sub-section (1).]

<sup>4</sup>[**80BB. Tax on income of goods transport vehicles owners.** (1) Notwithstanding anything contained in this Ordinance or any other law for the time being in force, where any tax is withheld in accordance with sub-section (6) of section 50 at the rates specified in sub-paragraph (I) of paragraph G of the First Schedule, from any person being the owner of a goods transport vehicle, the tax so collected shall be deemed to be the final discharge of the tax liability of such person under this Ordinance in respect of income derived from plying of goods transport vehicles and he shall not be required to file the return of total income under section 55.

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<sup>1</sup> Cl.(aa) ins. by F. O. 2001.

<sup>2</sup> Proviso ins. by F. O. 2001.

<sup>3</sup> Proviso ins. *ibid*.

<sup>4</sup> Sec.80BB ins. by F. O. 2000.

(2) In a case to which sub-section (1) applies, an order under section 59A shall be deemed to have been made in respect of income referred to in sub-section (1).”;

[80C. **Tax on income of certain contractors and importers.**- (1) Notwithstanding anything contained in this Ordinance or any other law for the time being in force, where any amount referred to in sub-section (2) is received by or accrues or arises or is deemed to accrue or arise to any person [ ] the whole of such amount shall be deemed to be income of the said person and tax thereon shall be charged at the rate specified in the First Schedule.

[(2) The amount referred to in sub-section (1) shall be the following namely:-

(a) Where the person is a resident,-

(i) the amount representing payments on which tax is deductible under sub-section (4) of section 50, other than payments on account of services rendered <sup>1</sup>[by doctors, lawyers, accountants, auditors, architects, surveyors, actuaries, engineers, advisors and consultants];

<sup>2</sup>[(ia) the amount representing payments from which tax is deductible under sub-section (4A) of section 50;]

(ii) the amount as computed for the purpose of collection of tax under sub-section (5) of section 50 in respect of goods imported, not being goods imported by an industrial undertaking as raw material for its own consumption; [ ]

<sup>3</sup>[(ia) the amount on which tax is collectable under sub-section (5AAA) of section 50;]

<sup>4</sup>[(iii) the amount on which tax is deductible under sub-section (7A) of section 50 in respect of lease of right to collect octroi duties, tolls, fees or other levies, by whatever named called;]

<sup>5</sup>[(iv) the amount on which tax is deductible under sub-section (7H) of section 50; and

(b) where the person is a non-resident, the amount representing payments on account of execution of a contract for construction, assembly or like project in Pakistan on which tax is deductible under sub-section (4) of section 50[:]

<sup>6</sup>[Provided that nothing in this section shall apply to amounts referred to in clauses (ia), (iaa) and (iii) of sub-section (2) in respect of any assessment year commencing on, or after, the first day of July, 2002.]

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<sup>1</sup> Words “by doctors, lawyers, accountants, auditors, architects, surveyors, actuaries, engineers, advisors and consultants” omitted by F. O. 2000. Earlier ins. by F. A.. 1999.

<sup>2</sup> Cl. (ia) ins. by F.A.1999.

<sup>3</sup> Cl. (iaa) ins. by F.A.1999.

<sup>4</sup> Cl. (iii) ins. by F.A.1996 w.e.f. 1997-98 onwards.

<sup>5</sup> Cl.(iv) ins. ibid.

<sup>6</sup> Proviso added by F.O. 2001.

(3) Nothing contained in this Ordinance shall be so construed as to authorise any allowance or deduction against the income as determined under sub-section (1) or any refund of tax deducted or collected under section 50 or set off of any loss under any provision of this Ordinance.

(4) Where the assessee has no income other than the income referred to in sub-section (1) in respect of which tax has been deducted or collected, the tax deducted or collected under section 50 shall be deemed to be the final discharge of his tax liability under this Ordinance and he shall not be required to file the return of total income under section 55 [:]

Provided that, in respect of the assessment year commencing on the first day of July, 1991, where the tax deducted or collected in the preceding financial year under sub-section (4) or sub-section (5) of section 50 is less than the tax payable under this section, the tax so deducted or collected shall not constitute full and final discharge of the tax liability of the assessee and he shall be required to pay the amount representing the difference between the tax payable under this section and the tax so deducted or collected and all the provisions of this Ordinance shall apply accordingly[:]

[Provided further that where the tax deducted or collected under any sub-section of section 50 specified in clause (a) of sub-section (2) is, for any reason, not collected or deducted in accordance with the said sub-section or the tax so deducted is less than the amount deductible or collectable, the assessee shall be required to pay the said amount.]

(5) Where an assessee, while explaining the nature and source of any sum, investment, money, valuable article, excess amount or expenditure, referred to in section 13, takes into account any source of income which is subject to tax in accordance with the provisions of this section, he shall not be entitled to take credit of any sum as is in excess of an amount which if taxed at a rate or rates, other than the rate applicable to income chargeable to tax under this section, would have resulted in tax liability equal to the tax payable in respect of income under this section.

<sup>1</sup>[(5A) Where an assessee derives income from any source which is subject to tax in accordance with the provisions of this section, and the tax liability is less than the tax payable on such income had it not been chargeable to tax under this section, the difference in tax shall be payable in accordance with section 54 along with the return of income, provisions of sub-section (4) notwithstanding.]

(6) For the purpose of determining the share of a partner of a firm out of such income of the firm as is determined under section 80B or this section, the said income of the firm shall be taken to be an amount which if taxed at the rate or rates, other than the rate applicable to income chargeable to tax under section 80B or this section, would have resulted in tax liability equal to the tax payable in respect of income under section 80B or this section.

(7) In a case to which sub-section (4) applies, an order under section 59A shall be deemed to have been made in respect of income referred to in sub-section (1).]

**[80CC. Tax on income of certain exporters.-** (1) Notwithstanding anything contained in this Ordinance or any other law for the time being in force, where any amount referred to in sub-section (5A) [or sub-section (5AA)], of section 50 is received by any person, the whole of such amount shall be deemed to be the income of the said person and tax there on shall be charged at the rates specified in the First Schedule.

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<sup>1</sup> Sub-sec (5A) omitted by F. O. 2000. Earlier ins. by F.A.1999.

(2) Nothing contained in this Ordinance shall be so construed as to authorise any allowance or deduction against the income as determined under sub-section (1) or any refund of tax deducted under sub-section (5A) of section 50 or set off of any loss under any provision of this Ordinance.

(3) Where the assessee has no income other than the income referred to in sub-section (1) in respect of which tax has been deducted under sub-section (5A) of section 50, the tax so deducted shall be deemed to be the final discharge of his tax liability under this Ordinance and he shall not be required to file the return of total income under section 55.]

[(4) Where an assessee, while explaining the nature and source of any sum, investment, money, valuable article, excess amount or expenditure, referred to in section 13, takes into account any source of income which is subject to tax in accordance with the provisions of this section, he shall not be entitled to take credit of any sum as is in excess of an amount which if taxed at a rate or rates, other than the rate applicable to income chargeable to tax under this section, would have resulted in tax liability equal to the tax payable in respect of income under this section.

(5) For the purpose of determining the share of a partner of a firm out of such income of the firm as is determined under section 80B or this section, the said income of the firm shall be taken to be an amount which if taxed at the rate or rates, other than the rate applicable to income chargeable to tax under section 80B or this section, would have resulted in tax liability equal to the tax payable in respect of income under section 80B or this section.

(6) In a case to which sub-section (4) applies, an order under section 59B shall be deemed to have been made in respect of income referred to in sub-section (1).]

<sup>1</sup>[**80CD. Tax on income of industrial undertakings located in Export Processing Zones.** (1) Notwithstanding anything contained in this Ordinance or any other law for the time being in force, where any goods referred to in sub-section (5AAB) of section 50 are exported by any person, the value of such goods shall be deemed to be the income of the said person and tax thereon shall be charged at the rates specified in the First Schedule.

(2) Nothing contained in this Ordinance shall be so construed as to authorise any allowance or deduction against the income as determined under sub-section (1) or any refund of tax collected under sub-section (5AAB) of section 50 or set off of any loss under any provision of this Ordinance.

(3) Where the assessee has no income other than the income referred to in sub-section (1) in respect of which tax has been deducted under sub-section (5AAB) of section 50, the tax so deducted shall be deemed to be the final discharge of his tax liability under this Ordinance and he shall not be required to file the return of total income under section 55.

(4) Where an assessee while explaining the nature and source of any sum, investment, money, valueable article, excess amount or expenditure, referred to in section 13, takes into account any source of income which is subject to tax in accordance with the provision of this section, he shall not be entitled to credit of any sum as is in excess of an amount which if taxed at a rate or rates, other than the rate applicable to income chargeable to tax under this section, would have resulted in tax liability equal to the tax payable in respect of income under this section.

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<sup>1</sup> Sec. 80CD ins. by F. O. 2000.

(5) In a case to which sub-section (3) applies, an order under section 59A shall be deemed to have been made in respect of income referred to in sub-section (1).]

[80D. **Minimum tax on income of certain [persons].** (1) Notwithstanding anything contained in this Ordinance or any other law for the time being in force, where no tax is payable [or paid] by a company or a registered firm [, an individual, an association of persons, an unregistered firm or a Hindu undivided family which, not being a company, does not qualify for assessment under the self assessment scheme under sub-section (1) of section 59] resident in Pakistan or the tax payable or paid is less than one-half per cent of the amount representing its turnover from all sources, the aggregate of the declared turnover shall be deemed to be the income of the said company or a registered firm [, an individual, an association of persons, an unregistered firm or a Hindu undivided family which, not being a company, does not qualify for assessment under the self assessment scheme under sub-section (1) of section 59] and tax thereon shall be charged in the manner specified in sub-section (2).

[*Explanation.-* For the removal of doubt, it is declared that the expression "where no tax is payable or paid" and "or the tax payable or paid" apply to all cases where tax is not payable or paid for any reason whatsoever including any loss of income, profits or gains or set off of loss of earlier years, exemption from tax, credits or rebates in tax, and allowances and deductions (including depreciation) admissible under any provision of this Ordinance or any other law for the time being in force.]

(2) The company or a registered firm<sup>1</sup> [, an individual, an association of persons, an unregistered firm or a Hindu undivided family which, not being a company, does not qualify for assessment under the self assessment scheme under sub-section (1) of section 59] referred to in sub-section (1) shall pay as income tax-

- (a) an amount, where no tax is payable or paid equal to one-half per cent of the said turnover; and
- (b) an amount, where the tax payable or paid is less than one-half per cent of the said turnover, equal to the difference between the tax payable [or paid] and the amount calculated in accordance with clause (a).

*Explanation:* For the removal of doubt it is declared that "turnover" means the gross receipts, exclusive of trade discount shown on invoices or bills, derived from the sale of goods or from rendering, giving or supplying services or benefits or from execution of contracts.

<sup>2</sup>[(3) Nothing in this section shall apply to an individual, an association of persons, an unregistered firm or a Hindu undivided family in respect of any assessment year commencing on, or after, the first day of July, 2001.]

[80DD. **Minimum tax on income of importers of edible oils, etc.-** Notwithstanding anything contained in this Ordinance, or any other law for the time being in force, the tax collected under sub-section (5) of section 50 on import of edible oils as raw material by an industrial undertaking shall be deemed to be the minimum amount of tax payable under this Ordinance and where the final tax liability determined under

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<sup>1</sup> Words etc. ins. by F.A.1999.

<sup>2</sup> Sub-sec.(3) added by F. O. 2001.

this Ordinance exceeds the amount collected under the said sub-section, the said amount shall be adjustable against such liability <sup>1</sup>[.]

**80E. Minimum tax on income of certain persons.-** (1) Notwithstanding anything contained in the Ordinance, where a person being an individual, unregistered firm, association of persons, Hindu undivided family is liable to 'turnover tax' in accordance with section 3A of Sales Tax Act, 1990, he may, for the assessment year commencing on or after 1st day of July, 2000, opt for payment of tax, in accordance with the provisions of this section, on his income to which such turnover relates.

(2) For the purposes of this section, the turnover on which sales tax is payable under the Sales Tax Act, 1990, shall be deemed to be the income of such person and tax equal to one per cent of turnover shall be payable along with the sales tax returns.

(3) The tax paid under this section shall, to the extent that the income of a person is chargeable to tax under this section, be deemed to be the final discharge of his tax liability under this Ordinance, and he shall not be required to file the return of total income under section 55 nor shall be entitled to claim any refund or adjustment.

Provided that where the tax so paid is less than the tax payable on the last assessed income under the Ordinance; the tax so paid shall not constitute full and final discharge of the tax liability of the assessee, and he shall be required to pay the amount representing the difference between the tax payable under this section and the tax so paid and all the provisions of this Ordinance shall apply accordingly.]

**81. Assessment of persons about to leave Pakistan.-** (1) Where any person is likely to leave Pakistan in the current financial year or shortly after its expiry and has no present intention of returning to Pakistan, he shall give to the [Deputy Commissioner] a notice to that effect not less than fifteen days before the probable date of his departure (hereinafter in this section referred to as the 'said date').

(2) The notice under sub-section (1) shall be accompanied by a return or returns of total income in respect of the period commencing from the end of the latest income year for which an order has been made under sub-section (1) of section 59, section 62, 63 or 65, or, where no such order has been made, a return has been made under section 55, 56 or 57, as the case may be, and ending on the said date, or where no such order or return has been made, the income year or years comprising the period ending on the said date; and the period commencing from the end of the latest income year to the said date shall, for purposes of this section, be deemed to be an income year (distinct and separate from any other income year) for the assessment year in which the said date falls.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the [Deputy Commissioner] may serve a notice on any person who, in his opinion, is likely to leave Pakistan during the current financial year or shortly after its expiry and has no present intention of returning to Pakistan to furnish, within such time as may be specified in such notice, a return or returns of total income for the income year or years for which the assessee is required to furnish such return or returns under sub-section (2).

(4) The assessment shall be made at the rates applicable to the relevant assessment year and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

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<sup>1</sup> Words "of the said industrial undertaking" omitted by F. O. 2000.



**82. Persons leaving Pakistan to obtain tax clearance certificate.**- (1) Subject to such exceptions as may be made by the Central Board of Revenue, no person who is not domiciled in Pakistan or who, being domiciled in Pakistan at the time of his departure, has no intention of returning to Pakistan or, in the opinion of any income tax authority, is not likely to return to Pakistan, shall leave Pakistan either by land, sea or air, unless he first obtains from the [Deputy Commissioner], authorised in this behalf by the Central Board of Revenue, a certificate stating that he has no liabilities under this Ordinance, the repealed Act, the Estate Duty Act, 1950 (X of 1950), the Sales Tax Act, 1951 (III of 1951), the Gift Tax Act, 1963 (XIV of 1963) or the Wealth Tax Act, 1963 (XV of 1963), or that satisfactory arrangements have been made for the payment of all such taxes and duties which are or may become payable by that person.

(2) Notwithstanding anything contained in sub-section (1), in the case of a person not domiciled in Pakistan, the [Deputy Commissioner] may, if he is satisfied that such person intends to return to Pakistan, issue an exemption certificate in respect of any journey or journeys to be undertaken by that person within such period as may be specified in the certificate.

(3) If the owner or charterer of any ship or aircraft carrying persons from any place in Pakistan to any place outside Pakistan allows any person to whom sub-section (1) applies to travel by such ship or aircraft without first satisfying himself that such person is in possession of a certificate as required by sub-section (1) or sub-section (2), he shall be personally liable to pay the amount of tax, if any, payable by such person and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

(4) For the purposes of this section, the expression "owner" and "charterer" include any representative, agent or employee empowered by the owner or charterer to allow persons too travel by the ship or aircraft, as the case may be.

**83. Income from revocable transfer of assets, etc.**- (1) All income arising to any person by virtue of revocable transfer of assets shall be chargeable to tax as the income of the transferor and shall be included in his total income.

(2) The provisions of sub-section (1) shall not apply to any income arising to any person by virtue of a transfer which is not revocable during the life-time of the beneficiary and the transferor derives no direct or indirect benefit from such income.

(3) All income arising by virtue of a transfer, whether revocable or not, and whether effected before or after the commencement of this Ordinance shall, where the assets remain the property of the transferor be chargeable to tax as the income of the transferor and shall be included in his total income.

(4) All income derived from any asset transferred by an assessee directly or indirectly to-

- (a) his spouse, otherwise than [ ] for adequate consideration, or in connection with an agreement to live apart; or
- (b) any minor child of the assessee otherwise than for adequate consideration; or
- (c) any person for the benefit of his spouse or any minor child, or both, otherwise than [ ] for adequate consideration,

shall be chargeable to tax as the income of the transferor, and shall be included in his total income[:]

<sup>1</sup>[Provided that where a transferor fails to produce evidence of transfer of an asset by way of its registration or mutation in the relevant record, income arising from such asset shall be chargeable to tax as the income of the transferor and shall be included in his total income.]

(5) For the purpose of this section,-

- (a) a transfer shall be deemed to be revocable if-
  - (i) it contains any provision for the re-transfer directly or indirectly of the whole or any part of the assets to the transferor, or
  - (ii) it gives, in any way, the transferor a right to resume power, directly or indirectly over the whole or nay part of the assets;
- (b) "transfer" includes any disposition, settlement, trust, covenant, agreement or arrangement; and
- (c) "minor child" does not include a married daughter..

[83A. **Income of minor child.**- Any income chargeable under the head "Income from business or profession" which is received by or arises or accrues, or is deemed to arise or accrue to any minor child of the assessee, such income shall be deemed to be the income of the assessee:

Provided that the provisions of this section shall not apply where the income of the minor child is derived from a business acquired by him through inheritance.

*Explanation.*- For the purpose of this section, "assessee" shall be the parent determined by the {Deputy Commissioner.}]

**84. Liability certain in transactions in securities.**- (1) Where the owner of any securities sells or transfers in any manner those securities and thereafter buys back or re-acquires them and the result of the transaction is that any interest becoming payable in respect thereof is receivable by any person other than the said owner, the interest so payable shall be deemed to be the income of the said owner and not of any other person and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

(2) For the purpose of sub-section (1), "interest" includes dividends, and "securities" includes stocks and shares.

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<sup>1</sup> Proviso ins. by F. O. 2000.

## CHAPTER IX

### RECOVERY OF TAX

85. Payment of tax on demand.-[(1)] Where any tax is payable in consequence of any assessment or other order under this Ordinance, the [Deputy Commissioner] shall serve upon the assessee, or any other person liable to any such tax on behalf of the assessee, a notice of demand in the prescribed form specifying the sum payable; and thereupon the sum so specified shall be paid to the credit of the Federal Government within the time specified in the said notice.

[(2) Notwithstanding anything contained in sub-section (1), where the assessee or any other person on whom a notice under the said sub-section has been served makes an application for granting stay of payment of tax or for allowing payment in installments, the Inspecting [Additional Commissioner] may, subject to the provisions of section 89, stay the payment of tax till such time as he thinks fit or allow the payment of tax in such instalments as he may determine[.]]

[ ]

86. Charge of additional tax for failure to deduct and pay tax.- Where any person fails to deduct, or having deducted, fails to pay any tax, as required by section 50, such person shall, without prejudice to any other liability which he may incur, be liable to pay additional tax at the rate of ["twenty four"] percent per annum on the amount not paid for the period commencing from the date on which he was required to pay such tax to the date of the payment thereof.

87. Charge of additional tax for failure to pay advance tax.- (1) Where an assessee who was required to pay tax under sub-section (1) of section 53.-

(a) fails to pay any instalment; or

(b) fails to pay any instalment on or before the specified date; or

(c) fails too pay the full amount payable by him,

he shall, without prejudice to any other liability which he may incur under this Ordinance, be liable to pay additional tax at the rate of twenty-four per cent per annum on the amount not paid, and such additional tax shall be calculated from the date on which such amount was payable to the date on which it is paid or the thirtieth day of September of the financial year next following, whichever is the earlier.

(2) Where, in respect of any year, any assessee fails to pay tax under sub-section [(4)] of section 53 or the tax so paid is less than eighty percent of the tax chargeable for the relevant assessment year, he shall be liable to pay additional tax at the rate of twenty-four per cent per annum on the amount of tax so chargeable or the amount by which the tax paid by him falls short of the said eighty per cent, as the case may be; and such additional tax shall be calculated from the first day of April in that year to the date on which assessment is made or the thirtieth day of June of the financial year next following, whichever is the earlier.

**88. Charge of additional tax for failure to pay tax with the return.-** Where any assessee fails to pay tax under section 54 or the tax so paid is less than the tax payable under that section, he shall be liable to

pay additional tax at the rate of [twenty-four] per cent per annum on the amount not paid or the amount by which the tax paid by him falls short of the tax payable under that section, as the case may be, and such additional tax shall be calculated from the first day of October or the date on which the tax was payable, whichever is the later, to the date on which the tax is paid or the date on which an order under sub-section (1) of section 59, [section 59A], section 62, section 63 or section 65, as the case may be, is made, whichever is the earlier.

**89. Charge of additional tax for failure to pay tax or penalty.**-Where any assessee fails to pay the whole or any part of the tax levied under Chapter VII or the whole or any part of any penalty levied under Chapter XI, [or has been allowed stay of payment or payment in instalments of the tax under sub-section (2) of section 85,] he shall be liable to pay additional tax at the rate of ["twenty-four"] per cent per annum on the amount of such tax or penalty or any part thereof, as the case may be, which has not been paid; and such additional tax shall be calculated from the date on which such tax or penalty or part thereof, as the case may be, was originally payable to the date on which it is paid or, in respelled each instalment, the date on which it is paid [.]

[ ]

90. Reduction in additional tax, consequential to reduction in tax or penalty.- Where, in consequence of any order under this Ordinance, the amount of tax or penalty in respect of which additional tax is chargeable under section 86, 87, 88 or 89 is reduced, the additional tax, if any, levied under any of the aforesaid sections shall be reduced accordingly.

91. Penalty for non-payment of tax.- (1) Where any assessee is in default in making payment of any tax (other than the tax payable under section 53) the [Deputy Commissioner] may impose on him a penalty not exceeding an amount equal to the said tax.

(2) The [Deputy Commissioner] may impose a penalty under sub-section (1) by one order or, in the case of a continuing default, by several orders, so, however, that the total amount of penalty does not exceed the amount of such tax.

(3) For the purpose of sub-section (1), any penalty imposed under that sub-section or any additional tax levied under section 86,87,88 or 89 shall be excluded from the amount of tax in respect of which the penalty is imposed.

(4) Where, after an order under sub-section (1) has been made, the [Deputy Commissioner] discovers, or the assessee proves to the satisfaction of the Deputy Commissioner, that the amount of tax, or any part thereof, in respect of which the said order was made, the [Deputy Commissioner] shall cancel or modify the said order, as may be necessary, and the provisions of section 156 shall, so far as may be, apply as they apply to the rectification of any mistake apparent from the record.

[(4A) Where, in consequence of any order under this Ordinance, the amount of tax in respect of which penalty under this section was imposed is reduced, the amount of the said penalty shall be reduced accordingly.

(5) Notwithstanding anything contained in any law for the time being in force, no order of penalty made under sub-section (1) shall be called in question in any court, or tribunal or before any authority on the ground that-

(a) no show-cause notice was issued before the said order was made; or

(b) an application for stay of recovery of tax or the payment of tax in instalments had been pending before any court or tribunal or any other authority.

92. Recovery of tax from persons holding money on behalf of an assessee.- (1) For the purpose of recovering any tax payable by an assessee, the [Deputy Commissioner] may, by notice in writing, require any person-

(a) from whom any money is due or may become due to the assessee; or

(b) who holds, or controls the receipt or disposal of, or may subsequently hold, or control the receipt or disposal of, any money belonging to the assessee or on account of the assessee; or

(c) who is responsible for payment of any sum to the assessee to which section 50 applies, to pay to the [Deputy Commissioner], in any case to which clause (a) or clause (b) applies, the sum specified in the notice on or before such date as may be so specified, or to deduct, in any case to which clause (c) applies, from any payment subsequent to the date of such notice any arrears of tax due from the assessee as specified in the said notice and the provisions of sub-sections (8) and (9) of section 50 and section 52 shall, so far as may be, apply as if the sum or the arrears of tax specified in the said notice, as the case may be, were a sum deductible under section 50.

(2) Any person who has paid any sum in compliance with a notice under sub-section (1) shall be deemed to have paid such sum under the authority of the assessee and the receipt of the Deputy Commissioner shall constitute a good and sufficient discharge of the liability of such person to the assessee to the extent of the sum referred to in such receipt.

[(2A) If any person on whom a notice under sub-section 91) is served fails to pay, or to deduct, as the case may be, the amount specified in the said notice, such person shall be treated as an assessee in default and the amount specified in the said notice shall be recoverable from him by the Tax Recovery Officer or the Collector in accordance with the provisions of sections 93 and 94.]

(3) For the purpose of this section, "person" includes any court, tribunal or any other authority.

93. Recovery of tax by Tax Recovery Officer.- (1) "where any assessee is in default in making payment of tax, the [Deputy Commissioner] may forward to the Tax Recovery Officer a certificate in the prescribed form specifying the amount of tax due from the assessee.

(2) Where such certificate is received by the Tax Recovery Officer, he shall serve upon the assessee a notice in the prescribed form requiring him to pay the amount specified in the certificate within such time as may be specified in the notice.

(3) If the amount referred to in the notice issued under sub-section (2) is not paid within the time specified therein or within the further time, if any, allowed by the Tax Recovery Officer, the Tax Recovery Officer may proceed to recover from the assessee the said amount by one or more of the following modes, namely:-

(a) attachment and sale of any movable or immovable property of the assessee;

(b) appointment of a receiver for the management of the movable or immovable property of the assessee; and

(c) arrest of the assessee and his detention in person for a period not exceeding six months.

(4) For the purposes of recovery of tax under sub-section (3), the Tax Recovery Officer shall have the same powers which, under the Code of Civil Procedure, 1908 (V of 1908), a Civil Court has for the purposes of the recovery of an amount due under a decree.

(5) The Central Board of Revenue may make rules regulating the procedure for the recovery of tax under this section and any other matter connected with, or incidental to, the operation of this section.

[93A.Recovery of tax from persons assessed in Azad Jammu and Kashmir.- Where any person who has, at any time before or after the commencement of the Finance Ordinance, 1980, been assessed to tax for any income year under the law relating to income tax for the time being in force in Azad Jammu and Kashmir has failed or fails to pay such tax and the income tax authorities of Azad Jammu and Kashmir cannot recover such tax on account of the residence of the said person in Pakistan, or on account of there being no movable or immovable property in Azad Jammu and Kashmir belonging to the said person, the Deputy Commissioner in Azad Jammu and Kashmir may forward to the Tax Recovery Officer in Pakistan a certificate in the prescribed form specifying the place of residence of the said person in Pakistan, the description and location of the movable and immovable property in Pakistan belonging to him and the amount of the said tax due from him; and, where the said certificate is so forwarded, the Tax Recovery Officer shall proceed to recover the said tax in the manner specified in section 93, and all the provisions of the said section and section 95 shall apply accordingly.]

94. Recovery of tax by Collector.- The [Deputy Commissioner] may forward to the Collector of the District in which the assessee resides or carries on business, or in which any property belonging to the assessee is situate, a certificate specifying the amount of any tax payable by the assessee; and, on receipt of such certificate, the Collector shall proceed to recover from the assessee the amount so specified as if it were an arrear of land revenue;

Provided that, without prejudice to any other powers of the Collector in this behalf, he shall, for the purposes of recovering the amount so specified, have the powers which, under the Code of Civil Procedure, 1908 (V of 1908), a Civil Court has for the purpose of the recovery of an amount due under a decree.

95. Initiation, validity, etc., of recovery proceedings.- Notwithstanding anything contained in any other law for the time being in force,-

(a) any proceedings for the recovery of tax under this Chapter may be initiated at any time;

(b) the [Deputy Commissioner] may, at any time, amend any certificate issued under section 93 or section 94, or recall such certificate and issue of fresh certificate, as he thinks fit;

(c) it shall not be open to an assessee to question, before the Tax Recovery Officer or the Collector, as the case may be, the validity or correctness of any certificate issued under section 93 or section 94, or any such certificate as amended, or any fresh certificate issued, under clause (b); and

(d) the several modes of recovery specified in this Chapter shall be deemed to be neither mutually exclusive nor affect in any way any other law for the time being in force relating to the recovery of debts due to Government, and the [Deputy Commissioner] may have recourse to any such mode of recovery notwithstanding that the tax due is being recovered from an assessee by any other mode.

## CHAPTER X

### REFUND AND TAX CREDIT

96. Refunds.- (1) Where any person satisfies the [Deputy Commissioner] that the amount of tax paid by him, or on his behalf, for any year exceeds the amount with which he is properly chargeable under this Ordinance for that year, he shall be entitled to a refund of the amount so paid in excess.

(2) Where any advance or loan, to which sub-clause (e) of clause (20) of section 2 applies, is repaid by an assessee, he shall be entitled to a refund of the tax, if any, paid by him as a result of such advance or loan having been treated as dividend under the aforesaid provision.

97. Persons entitled to claim refund in certain cases.- (1) Where the income of any person is included under any provisions of this Ordinance in the total income of any other person, such other person only shall be entitled to a refund under section 96 or section 98, as the case may be, in respect of such income.

(2) Where any person is unable to claim or receive any refund under section 96 or section 98, as the case may be, on account of incapacity, insolvency, liquidation, death or any other cause, his legal representative or the trustee, or guardian or receiver, as the case may be, shall be entitled to claim or receive such refund for the benefit of such person or his estate.

98. Refund where salary, etc. is paid in arrears.- Where, by reason of,-

(a) income chargeable under the head "Salary" being paid in arrears or in advance; or

(b) any interest chargeable under the head "Interest on securities" being received in arrears,

an assessee's total income [is assessable] at a rate higher than that at which it would otherwise have been assessed, the [Deputy Commissioner] may, on an application made by the assessee within one year of the date of receipt thereof, determine the tax payable as if the said income or interest had been received by him during the income year to which it relates and may refund the amount of tax, if any, paid in excess thereof.

99. Form of application, disposal of claims for refund and limitation.- (1) An application for refund under section 96, 97 or 98 shall be made in the prescribed form and verified in the prescribed manner.

(2) An application under sub-section (1) shall be made,-

(a) in any case to which sub-section (2) of section 96 applies, within one year or the end of the income year in which the advance or loan is repaid; and

(b) in other cases, within two years of the end of the assessment year to which it relates:

Provided that an [Deputy Commissioner] may, after obtaining the previous approval in writing of the Inspecting [Additional Commissioner], admit an application made after the expiration of the aforesaid period, if he is satisfied that the assessee was prevented by sufficient cause from making the application within that period.



(3) When an application for refund is made under sub-section (1), the [Deputy Commissioner] shall, subject to the provisions of this Ordinance, determine, by an order in writing, the amount of refund on being satisfied that such amount is due to the assessee, and, where he is not so satisfied, he may, by an order in writing, reject the application.

(4) The [Deputy Commissioner] may, before making an order under sub-section (3), call for such particulars, documents or evidence as he may require.

(5) Where no order is made under sub-section (3) on or before the thirtieth day of June of the financial year next following the date on which the application for refund under sub-section (2) was made, the amount of refund claimed in the said application shall be deemed to be due to the assessee.

(6) The provisions of sub-section (5) shall not apply unless a notice stating that no order under sub-section (3) has been made, is served on the Commissioner on or before the thirty-first day of May of the said financial year.

**[100. Refund on assessment and appeal, etc.-** Whereas as a result of any order passed under section 59, 59A, 62 or 63 or in appeal, revision, [ ] or other proceedings under the Ordinance (not being an order setting aside an assessment), refund of any amount becomes due to the assessee, the [Deputy Commissioner] shall, except as otherwise provided in this Ordinance, refund the amount to the assessee irrespective of whether he has or has not made any claim in that behalf:

[Provided that where a refund becomes due to an assessee, who had paid tax under section 85 read with section 129, as a result of the decision of the Income Tax Appellate Tribunal, a sum at the rate of fifteen per cent per annum shall be payable to him after three months from the receipt of such decision.]

**101. Correctness of assessment, etc., not to be questioned through refund applications.-** Nothing in this Chapter shall entitle any assessee to question the correctness of any assessment or other matter which has become final.

**102. Additional payment for delayed refunds.-** (1) Where a refund due, or deemed under sub-section (5) of section 99 to be due, to an assessee is not paid within three months of the date on which it becomes due, there shall be paid to the assessee, a further sum [by way of compensation at the rate of [fifteen] per cent per annum] of the amount of refund from the expiration of the said three months up to the date on which the refund order is made.

(2) For the purposes of this section, a refund shall be deemed to have become due,-

- (a) in any case where the refund is required to be made in consequence of any order on an appeal or a revision or [an appeal] to the High Court or an appeal to the Supreme Court, on the date of receipt of such order by the Deputy Commissioner;
- (b) in any case to which sub-section (5) of section 99 applies, on the thirtieth day of June of the financial year next following the date on which the application for refund was made; and
- (c) in other cases, on the date on which the refund order is made.

(3) In computing the period for which the further sum referred to in sub-section (1) is payable, the period for which the refund is withheld under section 103 shall be excluded.

(4) Nothing contained in this section shall apply in any case where any refund becomes due as a result of an order on appeal, revision or reference setting aside the assessment.

**103. Power to withhold refund in certain cases.-** Where an order giving rise to a refund is the subject matter of an appeal or further proceedings under this Ordinance, the [Deputy Commissioner] may, with the prior approval of the Commissioner, withhold the refund till such time as the Commissioner may determine.

**104. Adjustment of refund against tax.-**<sup>1</sup>[(1)] Where, under the provisions of this Ordinance, the repealed Act, <sup>2</sup>[the Central Excises Act, 1944 (I of 1944),] the Sales Tax Act, 1951(III of 1951), the Gift-tax Act, 1963 (XIV of 1963), <sup>3</sup>[ ] the Wealth Tax Act, 1963 (XV of 1963), <sup>4</sup>[or the Customs Act, 1969, (IV of 1969),] any refund is due to any person, the amount to be refunded or any part thereof, may be set off against the tax payable by that person under this Ordinance, or the repealed Act.

<sup>5</sup>[(2) Where any refund is due to any person under this Ordinance, the amount to be refunded or any part thereof, may be set off against the tax payable under any Act referred to in sub-section (1).]

**105. Tax credit for investment in shares or debentures of Equity Participation Fund.-** (1) Where an assessee, being a Pakistan Company invests at any time before the first day of July, 1991, any amount in the purchase of shares or debentures issued by the Equity Participation Fund Ordinance, 1970 (I of 1970), and approved by the Central Board of Revenue for the purposes of this section, a credit equal to fifty percent of the amount so invested shall be allowed against the tax payable by the assessee in the manner hereinafter provided.

(2) The amount of the credit admissible under sub-section 91) shall be deducted from the tax payable by the assessee in respect of the income year in which the investment was made.

(3) Where no tax is payable by the assessee in respect of the assessment year relevant to the income year in which such investment was made, or where the amount of the tax payable is less than the amount of the credit, the amount of the credit or so much of it as is in excess thereof, as the case may be shall be carried forward and deducted in the manner laid down in sub-section (2) from the tax payable by the assessee in the following assessment year and so on, so, however, that the deductions made under sub-section (2) and this sub-section shall not exceed in the aggregate the limit specified in sub-section (1).

(4) Nothing contained in sub-section (1) shall apply in respect of any shares or debentures acquired by an assessee by purchase or transfer from a previous holder thereof, or in respect of any shares or debentures sold, transferred or otherwise disposed of by an assessee within the income year in which they were purchased.

(5) Where any shares or debentures in respect of which any credit has been allowed under sub-sections (1), (2), (3) are sold, transferred or otherwise disposed of in any subsequent year, the assessee shall, notwithstanding anything to the contrary contained in this Ordinance, be liable to pay, in addition to any tax otherwise payable by it in respect of the income year in which such sale, transfer or disposal took

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<sup>1</sup> Section renumbered as sub-sec. (1) by F. O. 2000.

<sup>2</sup> Words etc. ins. by F. O. 2000.

<sup>3</sup> Word “ or” omitted *ibid.*

<sup>4</sup> Words etc. subs. for the word “any” *ibid.*

<sup>5</sup> Sub-sec. (2) ins. *ibid.*

place, additional tax equal to the amount of such credit, and where no such tax is otherwise payable by the assessee in respect of the said income year, the said additional tax shall be deemed to be the tax payable by it in respect of the said income year.

(6) The provisions of sections 96, 97, 99, 100, 103 and 104 shall, so far as may be, apply to tax credit under this section as they apply to refunds.

(7) The Central Board of Revenue may make rules regulating the procedure for the grant of approval under this section and any other matter connected with, or incidental to, the operation of this section.

**[105A. Tax credit for investment in debentures or negotiable bonds.-** (1) Where an assessee invests [, at any time before the first day of July, 1991] any amount in the purchase of debentures or negotiable bonds issued by the Government or a corporation owned by the Government and approved by the Central Board of Revenue for the purposes of this section, a credit equal to five per cent of nominal value of such debenture or bond shall be allowed against the tax payable by the assessee in the manner hereinafter provided:

(2) The amount of the credit admissible under sub-section (1) shall be deducted from the tax payable by the assessee in respect of the income year in which the investment is made and in any subsequent year in which the said investment is retained.

(3) Where no tax is payable by the assessee in respect of the assessment year relevant to the income year in which such investment was made, or where the amount of the tax payable is less than the amount of the credit, the amount of the credit or so much of it as is in excess thereof, as the case may be, shall be carried forward and deducted in the manner laid down in sub-section (2) from the tax payable by the assessee in the following assessment year and so on, so, however, that the deductions made under sub-section 92) and this sub-section shall not exceed in the aggregate the limits specified in sub-section (1).

(4) Nothing contained in sub-section (1) shall apply in respect of any debenture or bond-

- (a) sold, transferred or otherwise disposed of by an assessee before the 31st December, in any year; and
- (b) after fifteen years of the date of its issue.

(5) The provisions of sections 96, 97, 99, 100, 103 and 104 shall, so far as may be, apply to tax credit under this section as they apply to refunds.

(6) The Central Board of Revenue may make rules regulating the procedure for the grant of approval under this section and any other matter connected with, or incidental to the operation of this section.]

**106. Tax credit for investment in share-capital of industrial companies.-** (1) Where an assessee, being a [company] invests [at any time before the first day of July, 1991 any amount in the purchase of shares issued by any other Pakistani company which fulfils the condition specified in sub-section (7), credit for the amount so invested shall be allowed to the assessee against the tax payable by it in the manner and to the extent hereinafter provided.

(2) The credit under sub-section (1) shall be allowed at the following rates, namely:-

Where the industrial undertaking set up by the company is located in-

	Rate
(a) Baluchistan, Tribal areas, Northern Areas or Azad Kashmir.	Thirty percent of the amount invested.
(aa) the district of Mansehra, Kohistan, Dera Ismail Khan,] Bannu or Karak in the North West Frontier Province, the District of Dera Ghazi Khan or Rajanpur in the Punjab or the district of Jacobabad or Shikarpur in Sind.	Twenty percent of the amount invested.
(b) Other places excluding the Karachi and Hyderabad. Talukas and Tehsils of Faisalabad and Lahore and such adjoining areas of Lahore Tehsil as may be notified in this behalf by the Federal Government.	Fifteen percent of the amount invested

(3) The amount of the credit admissible under this section shall be deducted from the tax payable by the assessee in respect of the income year in which the investment was made.

(4) Where no tax is payable by an assessee in respect of the assessment year relevant to the income year in which such investment was made, or where the amount of the tax payable is less than the amount of the credit, the amount of the credit, or so much of it as is in excess thereof, as the case may be, shall be carried forward and deducted from the tax payable by the company in the following assessment year and so on, so, however, that the deductions made under sub-section (3) and this sub-section shall not exceed in the aggregate the limits specified in sub-section (2).

(5) Nothing contained in sub-section (1) shall apply in respect of any shares acquired by an assessee by purchase or transfer from a previous holder thereof or in respect of any shares sold or transferred or otherwise disposed of by an assessee within five years from the date of their purchase.

[(5A) Notwithstanding anything contained in this section, a banking company or a financial institution shall not be entitled to tax credit under this section.]

[(6) Where any credit is allowed under this section and it is subsequently discovered by the Deputy Commissioner that-

- (a) any shares, investment in which has resulted in the said credit, are sold, transferred or otherwise disposed of within five years of the date of their purchase; or
- (b) the approved industrial undertaking referred to in sub-section (7)-
  - (i) was not set up within the period specified in the order of approval; or
  - (ii) was set up in an area other than that specified in the order of approval and in consequence of that the assessee was not entitled to any credit; or
  - (iii) was set up in an area other than that specified in the order of approval and in consequence of that the assessee was entitled to an amount of credit which is less than the amount actually allowed; or

- (iv) has not started commercial production within the period specified in the order of approval,

the assessee shall, notwithstanding anything contained in this Ordinance, be liable to pay, in addition to any tax otherwise payable by it in respect of the income year in which such infringement was discovered, additional tax equal to,-

- (i) in the case referred to in sub-section (iii) of clause (b), the difference in the amount actually allowed and the amount of credit allowable; and
- (ii) in other cases, the full amount of credit actually allowed, and

where no such tax is otherwise payable by the assessee in respect of the said income year, the said additional tax shall be deemed to be the tax payable by it in respect of the said income year.

(7) The following are the conditions referred to in sub-section (1), namely:-

- (a) that the company is a public company; and
- (b) that the company is formed for the purpose of, and is actually engaged in, carrying on in Pakistan an approved industrial undertaking owned by it.

*Explanation.-* As used in this sub-section,-

- (a) "approved industrial undertaking" means an industrial undertaking which is set up in Pakistan after the fourteenth day of August, 1947 and is approved by the Central Board of Revenue for the purposes of this section; and
- (b) "industrial undertaking" means-
  - (i) any undertaking which fulfils the conditions specified in clauses (a), (d) and (e) of sub-section (2) of section 48; and
  - (ii) any other industrial undertaking, which is approved by the Central Board of Revenue for the purposes of this section.

and includes any expansion of an industrial undertaking to which this section applies, where such expansion constitutes-

- (a) an identifiable industrial unit for the production of any goods or class of goods; or
- (b) a similar unit for the carrying on of an identifiable industrial process.

[(7A) Notwithstanding anything contained in this section, the Central Board of Revenue may, in the case of any company applying for approval of an industrial undertaking owned by it, grant approval under this section before the said undertaking is set up or has commenced commercial production {or may grant approval from such date, whether preceding or following the date on which the approval is granted, as it may specify in this behalf}.]

(8) The provisions of sections 96, 97, 99, 100, 103 and 104 shall, so far as may be, apply to tax credit under this section as they apply to refunds.

(9) The Central Board of Revenue may make rules regulating the procedure for the grant of approval under this section and any other matter connected with, or incidental to, the operation of this section.

**107. Tax credit for replacement, balancing and modernisation of machinery or plant.-** (1) Where an assessee being a Pakistani company invests any amount in the purchase of plant and machinery for installation at any time between the first day of July, 1976 and the thirtieth day of June, [1988] [or between the first day of July, 1990 and the thirtieth day of June, {1991},] in an industrial undertaking set up in Pakistan and owned by it, for the purposes of replacement, balancing or modernisation of the machinery and plant already installed therein, credit at the rate of fifteen per cent of the amount so invested shall be allowed against the tax payable by it in the manner hereinafter provided.

*Explanation.-* As used in this sub-section,-

- (a) "amount", in case of plant and machinery acquired on lease, means the amount expended by the lessor in the purchase of the said plant and machinery; and
- (b) "purchase of plant and machinery" includes acquisition of plant and machinery on lease from a scheduled bank, a financial institution or a leasing company on such terms and conditions as may be approved by the Central Board of Revenue.

(2) The amount of credit admissible under this section shall be deducted from the tax payable by the assessee in respect of the income year in which the machinery or plant in the purchase of which the amount referred to in sub-section (1) is invested is installed.

(3) Where no tax is payable by the assessee in respect of the assessment year relevant to the income year in which such plant or machinery is installed, or where the tax payable is less than the amount of the credit, the amount of the credit or so much of it as is in excess thereof, as the case may be, shall be carried forward and deducted from the tax payable by the assessee in respect of the following assessment year, and so on, but no such amount shall be carried forward for more than two assessment years so, however, that the deductions made under sub-section (2) and this sub-section shall not exceed in the aggregate the limit specified in sub-section (1).

(4) The provisions of sub-section (1) and (2) shall also apply in the like manner to any plant and machinery installed, for the purposes of extension of the industrial undertaking:-

(i) on or after the first day of July, 1978, and before the thirtieth day of June, 1983 in the territories of Pakistan; or

(ii) on or after the first day of July, 1983, in the territories of Pakistan (excluding Talukas of Karachi and Hyderabad, and Tehsils of Faisalabad and Lahore, and such adjoining areas of Lahore Tehsil as may be notified in this behalf by the Federal Government).

(5) Where any credit is allowed under this section and subsequently it is discovered by the Deputy Commissioner that any one or more of the conditions specified in this section was or were not fulfilled, as the case may be, the credit originally allowed shall be deemed to have been wrongly allowed and the Deputy Commissioner may, notwithstanding anything contained in this Ordinance, recompute the tax

payable by the assessee for the relevant year and the provisions of section 65 shall, so far as may be, apply accordingly, the period of ten years specified in sub-section (3) of that section being reckoned from the end of the assessment year relevant to the income year in which the infringement was discovered.

(6) The provisions of sections 96, 97, 99, 100, 103 and 104 shall, so far as may be, apply to tax credit under this section as they apply to refunds.

(7) As used in this section, "industrial undertaking" means an undertaking which fulfils the conditions laid down in clauses (a), (d) and (e) of sub-section(2) of section 48 [or which is engaged in the business of exploration or extraction of coal deposits] and includes any such undertaking which is approved by the Central Board of Revenue for the purposes of this section.

(8) The Central Board of Revenue may make rules regulating the procedure for the grant of approval under this section and any other matter connected with, or incidental to, the operation of this section.

[107A. **Tax Credit.**- (1) Notwithstanding anything contained in this Ordinance, the Central Board of Revenue may make scheme or schemes for the provisions of tax credit, and such credit shall be available to such persons or classes of persons, in such manner, at such rates and in such areas as may be specified in such scheme or schemes.

(2) The Central Board of Revenue may, by notification in the official Gazette, make provisions relating to the adjustment of tax credit, or any other matter connected with or incidental to, the tax credit.";]

<sup>1</sup>[107AA. **Tax credit for investment.**- (1) Where an assessee being a Pakistani company invests any amount in the purchase of plant and machinery for installation, at any time between the first day of July, 2000 and the 30th day of June, 2002, in an industrial undertaking set up in Pakistan and owned by it, credit equal to ten per cent of the amount so invested shall be allowed against the tax payable by it in the manner hereinafter provided.

(2) The amount of credit admissible under this section shall be deducted from the tax payable by the assessee in respect of the income year in which the machinery or plant in the purchase of which the amount referred to in sub-section (1) is invested, is installed.

(3) Where no tax is payable by the assessee in respect of the assessment year relevant to the income year in which such plant or machinery is installed, or where the tax payable is less than the amount of the credit, the amount of the credit, or so much of it, as is in excess thereof, as the case may be, shall be carried forward and deducted from the tax payable by the 25 assessee in respect of the immediately following assessment year only.

(4) Where any credit is allowed under this section and subsequently it is discovered by the Deputy Commissioner of Income Tax that any one or more of the conditions specified in this section was, or were, not fulfilled, as the case may be, the credit originally allowed shall be deemed to have been wrongly allowed and the Deputy Commissioner may, notwithstanding anything contained in this Ordinance, recompute the tax payable by the assessee for the relevant year and the provisions of section 65 shall, so far as may be, apply accordingly.

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<sup>1</sup> Sec. 107AA ins. by F. O. 2000.

(5) The provisions of sub-section (1) and (2) shall also apply in the like manner to any plant and machinery installed, for the purposes of balancing, modernization and replacement.

(6) Nothing contained in rule 5A of the Third Schedule to the Ordinance, shall apply to an industrial undertaking which claims tax credit under sub-section (1).]

## CHAPTER XI

### PENALTIES

**108. Penalty for failure to furnish return of total income and certain statements.-** Where any person has, without reasonable cause, failed to furnish, within the time allowed for the purposes,-

- (a) any return of total income under section 55 or 56, sub-section (1) of section 65, sub-section (3) of section 72 or sub-section (3) of section 81; or
- (b) any certificate, statement, accounts or information under section 51, 139, 140, 141, 142, 143, [143A], [143B] or 144,

the [Deputy Commissioner] [shall] impose upon such person a [penalty-

- [(i) [in case of default specified in clause (a) , an] amount equal to one tenth of one per cent of the tax payable for each day of default subject to a minimum of five hundred rupees and a maximum of twenty-five per cent of the tax payable.]

- |     |   |   |
|-----|---|---|
| (A) | for the period of default which does not exceed six weeks | Rs.300 for companies and Rs.100 in other cases, for each day of default   |
| (B) | for the period of default exceeding six weeks             | the amount calculated as provided at (A) above plus Rs.500 for companies and Rs. 200 in other cases for each day of default |

Provided that the amount of penalty shall in no case exceed fifty percent of the amount of tax assessed; and]

[ ]

- (ii) in case of default specified in clause (b), an amount equal to two thousand rupees and a further sum equal to two hundred rupees for every day during which the default continues.]

**109. Penalty for failure to maintain prescribed accounts.-** Where any person has, without reasonable cause, failed to comply with the provisions of any order or rule made under or in pursuance of sub-section (2) of section 32, the [Deputy Commissioner may impose on him a penalty [equal to fifteen per cent of the tax payable, subject to a minimum of two thousand rupees.]

**110. Penalty for non-compliance with notice, etc.-** Where any person has, without reasonable cause, failed to comply with any notice issued under section 58 [ ] or 61, the [Deputy Commissioner] may



impose on him a penalty [equal to fifty per cent of] the amount of tax which would have been avoided if the income as returned by such person had been accepted as the correct income.]

**111. Penalty for concealment of income.**-(1) Where in the course of any proceedings under this Ordinance, the [Deputy Commissioner], the Appellate [Additional Commissioner] or the Appellate Tribunal is satisfied that any person has, either in the said proceedings or in any earlier proceedings relating to an assessment in respect of the same income year, concealed his income or furnished inaccurate particulars of such income, he or it may impose on such person a penalty [equal to the] the amount of tax which [the said person sought to evade by concealment of his income or furnishing of inaccurate particulars of such income, as aforesaid.]

(2) For the purposes of sub-section (1) and section 119, concealment of income or the furnishing of inaccurate particulars of income shall include-

- (a) the suppression of any item of receipt liable to tax in whole or in part, [or failure to disclose income chargeable to tax] [ ]
- (b) claiming any deduction for, or showing, any expenditure not actually incurred; [and]
- [(c) any act referred to in clauses (aa), (b), (c), (d) and (e) of sub-section (1) of section 13.]

[(2A) Notwithstanding anything contained in sub-section (1) or sub-section (2), where any item of receipt declared by the assessee is claimed by him as exempt from tax, or where any deduction in respect of any expenditure is claimed by him, mere disallowance of such claim shall not constitute concealment of income or the furnishing of inaccurate particulars of income, unless it is proved that he assessee deliberately claimed exemption from tax in respect of the aforesaid item of receipt or claimed deduction in respect of such expenditure not actually incurred by him.]

(3) An Appellate [Additional Commissioner] or the Appellate Tribunal, on making an order under sub-section (1), shall forthwith send a copy thereof to the [Deputy Commissioner] and thereupon all the provisions of this Ordinance relating to the recovery of penalty shall apply as if such order were made by the [Deputy Commissioner.]

**112. Penalty for failure to give notice of discontinuance of business or profession.**- Where any person fails to comply with the provisions of sub-section (1) or sub-section (2) of section 72, the [Deputy Commissioner] may impose on him a penalty not exceeding the amount of the tax payable for the income year in which the business was discontinued.

**113. Penalty in the case of registered firms.**- Where a person liable to penalty under section 109, 110, 111 or 112 is a registered firm, the amount of penalty shall, notwithstanding anything contained in this Ordinance, be calculated as if such registered firm were an unregistered firm.

**114. Penalty for failure to give notice by liquidator.**- Where a liquidator or a private company fails to give notice of his appointment as required by sub-section (1) of section 76, the [Deputy Commissioner] may impose on him penalty not exceeding ten thousand rupees.

**115. Penalty for obstruction.**- Where any person obstructs any income tax authority in the discharge of his functions under this Ordinance, the [Commissioner] may impose on such person a penalty not exceeding ten thousand rupees.

116. **Imposition of penalty after notice of hearing, etc.-** No penalty under this Chapter shall be imposed on any person-

- (a) by an [Deputy Commissioner] except with the prior approval in writing of the Inspecting [Additional Commissioner]; and
- (b) unless such person has been given a reasonable opportunity of being heard,

and the imposition of such penalty shall be without prejudice to any other liability incurred by such person under this Ordinance, the repealed Act or any other law for the time being in force:

[Provided that where a notice for hearing is given on or after the first day of July, 1990, no order of penalty shall be passed after the expiration of two years from the end of the financial year in which such notice was served.

## **CHAPTER XII**

### **OFFENCES AND PROSECUTIONS**

117. **Prosecution for non-compliance of certain statutory obligations.-** Where any person, without reasonable cause,-

- (a) fails to comply with the provisions of section 50 or section 53; or
- (b) fails to furnish the return of total income required to be furnished under section 56, sub-section 93) of section 72 or sub-section (3) of section 81; or
- (c) fails to comply with the requirements of any notice served upon him under section 58, 61, 65 or 144; or
- (d) fails to comply with the notice under section 92 or section 148; or
- (e) obstructs any income tax authority in the discharge of his functions under this Ordinance,

he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

118. **Prosecution for false statement in verification.-** Where any person makes a statement in any verification in any return or any other document furnished under any provisions of this Ordinance which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

119. **Prosecution for concealment of income, etc.-** Where any person conceals his income or deliberately furnishes inaccurate particulars thereof, he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

120. **Prosecution for abetment.-** Where any person knowingly and willfully aids, abets, assists, incites or induces another person to make or deliver a false return, account, statement, certificate or declaration

under this Ordinance, or himself knowingly and willfully makes or delivers such false return, account, statement, certificate or declaration on behalf of another person, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

**121. Prosecution for disposal of property to prevent attachment, etc.-** Where the owner of any property, or a person acting on his behalf or claiming under him, sells, mortgages, charges or leases or otherwise deals with the property after the receipt of a notice from the Tax Recovery Officer with a view to preventing that Officer from attaching it, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

**122. Prosecution for unauthorised disclosure of information by a public servant.-** Where any person discloses any particulars in contravention of the provisions of sub-section (1) of section 150, he shall be punishable with Imprisonment for a term which may extend to six months, or with fine, or with both.

**123. Liability for prosecution in the case of company, etc.-** Where any offence referred to in this Chapter has been committed by a company, or an association of persons or a firm or a Hindu undivided family, every person, who, at the time the offence was committed, was the principal officer thereof, or was acting, or purporting to act, in such capacity, or a member of the association of persons, or a partner in the firm, or the manager or a male adult member of the family, he shall, notwithstanding anything contained in any other law for the time being in force, be deemed to be guilty of such offence and all the provisions of this Ordinance shall apply accordingly.

**124. Institution of prosecution proceedings without prejudice to other action.-** Notwithstanding anything contained in any law for the time being in force, a prosecution for an offence against this Ordinance may be instituted without prejudice to any other liability incurred by any person under this Ordinance or the repealed Act.

**125. Sanction of prosecution, etc.-** No prosecution in respect of any offence referred to in this Chapter shall be instituted except with the previous sanction of the [Commissioner].

**126. Power to compound offence.-** Where any person has committed any offence referred to in this Chapter, the Commissioner may, either before or after the institution of proceedings, compound such offence and order that such person shall pay the amount for which the offence may be compounded.

**127. Trial by Special Judge.-** (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898) or in any other law for the time being in force, an offence punishable under this Chapter (other than an offence under section 122) shall be tried exclusively by a Special Judge appointed by the Federal Government under the Pakistan Criminal Law Amendment Act, 1958 (XL of 1958) as if such offence were an offence specified in the Schedule to that Act.

(2) A special Judge shall take cognizance of, and have jurisdiction too try, an offence triable under sub-section (1) only upon a complaint in writing made by an income tax authority authorised by the Central Board of Revenue in this behalf.

**128. Power to tender immunity from prosecution.-** (1) The Federal Government may, for the purpose of obtaining the evidence of any person appearing to have been directly or indirectly concerned in, or privy to, the concealment of income or to the evasion of tax, tender to such person immunity from prosecution for any offence under this Ordinance or under the Pakistan Penal Code (XLV of 1860), or

under any other Federal law on condition of his making a full and true disclosure of the whole circumstances relating to the concealment of income or evasion of tax.

(2) A tender of immunity made to, and accepted by, the person concerned shall, to the extent to which the immunity extends, render him immune from prosecution for any offence in respect of which the tender was made.

(3) If it appears to the Federal Government that any person to whom immunity has been tendered under this section has not complied with the condition on which the tender was made or is concealing anything or giving false evidence, the Federal Government may withdraw the immunity, and any such person may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter.

## CHAPTER XIII

### APPEALS AND REVISION

129. **Appeal to the Appellate [Additional Commissioner].-** (1) Any assessee objecting to an order made by an [Deputy Commissioner] under section [59 or 59A [ where any adjustment has been made under sub-section (3) or sub-section (2), respectively, of those sections],] 62,63, 65, 68, 75, [80, 80A,] 91, 98, 99, 105 to 112 (inclusive), 114 [ ] or sub-section (2) of section 148, [or an order under section 52, treating a person to be an assessee in default,] or an order under section 78, treating the assessee as an agent of a non resident, or an order under section 156 [refusing to rectify the mistake, either in full or in part, as claimed by the assessee or having the effect of enhancing the assessment or reducing a refund or otherwise increasing the liability of the assessee may appeal to the Appellate [Additional Commissioner] against such order.

(2) No appeal under sub-section (1) shall lie against any order of assessment unless the tax payable under section 54 <sup>1</sup>[and not less than fifteen percent of the amount of tax assessed] has been paid[.]

[ ]

130. **Form of appeal and limitation.-** (1) Every appeal under section 129 shall be in the prescribed form and shall be verified in the prescribed manner, and shall be accompanied by a fee of ["one thousand"] rupees or ten per cent of tax levied, whichever is less, provided that where no tax is levied, ["a fee of one thousand rupees in case of companies and two hundred rupees in case of other assesseees"] shall be paid].

(2) The appeal shall be presented within thirty days of the following date, namely:-

- (a) where the appeal relates to any assessment or penalty, the date of service of the notice of demand relating to the said assessment or penalty, as the case may be; and
- (b) in any other case, the date on which intimation of the order to be appealed against is served.

(3) The Appellate [Additional Commissioner] may admit an appeal after the expiration of the period specified in sub-section (2) if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within that period.

131. **Procedure in appeal.-** (1) The Appellate [Additional Commissioner] shall give notice of the day fixed for the hearing of the appeal to the appellant and to the [Deputy Commissioner] against whose order the appeal is preferred and may adjourn the hearing of the appeal from time to time.

(2) The Appellate [Additional Commissioner] may, before the hearing of an appeal, allow an appellant to file any new ground of appeal not specified in the grounds of appeal already filed by him on being satisfied that the omission of that ground from the form of appeal was not willful or unreasonable.

(3) The Appellate [Additional Commissioner] may, before disposing of any appeal, call for such particulars as he may require respecting the matters arising in the appeal or cause further inquiry to be made by the Deputy Commissioner.

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<sup>1</sup> Words etc ins. by F. O. 2000. Earlier these words were ins. by F. A. 1994 and omitted by F. A.1996.

(4) The Appellate [Additional Commissioner] shall not admit any documentary material or evidence which was not produced before the [Deputy Commissioner], unless he is satisfied that the appellant was prevented by sufficient cause from producing such material or evidence before the [Deputy Commissioner].

**132. Decision in appeal.-** (1) In disposing of an appeal, the Appellate [Additional Commissioner] may,-

- (a) in the case of an order of assessment,-
  - (i) set aside the assessment and direct the assessment to be made afresh after making such further inquiry as the Appellate [Additional Commissioner] may direct or the [Deputy Commissioner] thinks fit;
  - (ii) confirm, reduce, enhance or annul the assessment;
- (b) in the case of an order imposing a penalty, confirm, set aside or cancel such order or enhance or reduce the penalty; and
- (c) in any other case, pass such order as he thinks fit.

(2) The Appellate [Additional Commissioner] shall not enhance an assessment or a penalty or reduce the amount of refund unless the appellant has been given a reasonable opportunity of showing cause against such enhancement or reduction, as the case may be.

(3) Where, as the result of an appeal, any change is made in the assessment of a firm or an association of persons or a new assessment of a firm or an association of persons is ordered to be made, the Appellate [Additional Commissioner] may authorise the [Deputy Commissioner] to amend accordingly any assessment made on any partner of the firm or any member of the association.

(4) On the disposal of an appeal, the Appellate [Additional Commissioner] shall communicate the order passed by him to the appellant and to the [Deputy Commissioner] and the Commissioner.

[(5) Where no order under sub-section (1) is made before the expiration of three months from the end of the month in which the appeal is presented, the relief sought through the said appeal shall be deemed to have been given and all the provisions of this Ordinance shall have effect accordingly.

Provided that, where the hearing of appeal is adjourned for any period on the request of the appellant, the said period shall be excluded while computing the aforesaid period of three months:

Provided further that nothing contained in this sub-section shall apply to any appeal presented before the first day of January, 1992.

(6) The provisions of sub-section (5) shall not apply unless a notice by the appellant stating that no order under sub-section (1) has been made is personally served by the appellant on the Appellate [Additional Commissioner] not less than thirty days before the expiration of the period of three months.]

<sup>1</sup>[(7) Where an appeal has been preferred under section 129, the Appellate Additional Commissioner may, by an order in writing, stay the recovery upto eighty-five per cent of the amount of tax, upto a period of three months or till the decision of appeal, whichever may be earlier.]

133. **Appointment of the Appellate Tribunal.**- (1) The Federal Government shall appoint an Appellate Tribunal to exercise the functions conferred on the Appellate Tribunal by this Ordinance.

(2) The Appellate Tribunal shall consist of as many judicial members and accountant members, as may be necessary:

Provided that the Tribunal shall not be deemed to be invalidly constituted merely by reason of the absence of a judicial or an accountant member.

<sup>2</sup>[(3) A judicial member shall be--

- (i) a person who has exercised the powers of a District Judge and is qualified to be a Judge of a High Court; or
- (ii) a person who is, or has been, an advocate of a High Court and is qualified to be a Judge of a High Court.]

<sup>3</sup>[(3A) An accountant member shall be an officer of the Income Tax Group equivalent in rank to that of a Regional Commissioner of Income Tax.]

(4) The Federal Government shall [ordinarily] appoint a judicial member of the Tribunal to be Chairman thereof.

(5) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted from members of the Tribunal by the [Chairman] of the Tribunal.

(6) A Bench shall consist of not less than two members of the Tribunal, and shall be constituted so as to contain an equal number of judicial members and accountant members, or so that the number of members of one class does not exceed the number of members of the other class by more than one:

Provided that the Federal Government may direct that all or any of the powers of the Appellate Tribunal shall be exercised (a) by any one member, or (b) by more members than one, severally and singly.

(7) If the members of a bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority; but if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the [Chairman] of the Tribunal for hearing on such point or points by one or more of the other members of the Tribunal, and such point or points shall be decided according to the opinion of the majority of the members of the Tribunal who have heard the case, including those who first heard it:

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<sup>1</sup> Sub-sec. (7) ins. by F. O. 2000.

<sup>2</sup> Sub-sec. (3) subs. by F.O. 2001. Earlier subs. by F. A. 1997.

<sup>3</sup> Sub-sec.(3A) ins. by F. A. 2001.

Provided that if there are only two members of the Tribunal the Federal Government may appoint an additional member for the purpose of deciding the case on which there is a difference of opinion.

(8) Subject to the provisions of this Ordinance, the Appellate Tribunal shall have power to regulate its own procedure, and the procedure of Benches of the Tribunal in all matters arising out of the discharge of its functions, including the places at which the Benches shall hold their sittings.

134. **Appeal to the Appellate Tribunal.**-(1) An assessee objecting to an order passed by an Appellate [Additional Commissioner] under section 111 or 132, or sub-section (2) of section 148, or an order made by the Appellate [Additional Commissioner] under section 156, [ ] having the effect of enhancing the assessment or reducing a refund or otherwise increasing the liability of the assessee [or an order made by Inspecting {Additional Commissioner} under section 66A] may appeal to the Appellate Tribunal against such order.

(2) The Commissioner may, if he objects to any order passed by an Appellate [Additional Commissioner] under section 132 direct the [Deputy Commissioner] to appeal to the Appellate Tribunal against such order.

(3) Every appeal under sub-section (1) or sub-section (2) shall be filed within sixty days of the date on which the impugned order is communicated to the assessee or the Commissioner, as the case may be[.]

[ ]

(4) The Appellate Tribunal may admit an appeal after the expiration of the period specified in sub-section (3) if it is satisfied that the appellant was prevented by sufficient cause from presenting it within that period.

(5) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner, and shall, except in the case of an appeal under sub-section (2), be accompanied by a fee of <sup>1</sup>[<sup>2</sup>{two thousand five hundred} rupees or ten per cent of tax levied, whichever is less, provided that where no tax is levied, <sup>3</sup>[a fee of two thousand rupees in case of companies and five hundred rupees in case of other assesseees] shall be paid.

(6) Notwithstanding that an appeal has been filed under this section, tax shall, unless recovery thereof has been stayed by the Appellate Tribunal, be payable in accordance with the assessment made in the case:

[Provided that where recovery of tax has been stayed by the Appellate Tribunal by an order, such order shall cease to have effect on the expiration of a period of three months following the day on which it is made, unless the appeal is decided, or such order is withdrawn, by the Appellate Tribunal earlier;

Provided further that the Appellate Tribunal shall not made an order which has the effect of staying the recovery of tax beyond the period of {six} months in the aggregate.]

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<sup>1</sup> Subs. for “one hundred rupees” by F.A. 1994.

<sup>2</sup> Subs. for “five thousand” by F.A. 1996.

<sup>3</sup> Subs. for “a fee of five thousand rupees” ibid.



**135. Disposal of appeals by the Appellate Tribunal.-** (1) The Appellate Tribunal may, before disposing of any appeal, call for such particulars as it may require respecting the matters arising in the appeal or cause further enquiry to be made by the [Deputy Commissioner].

(2) The Appellate Tribunal shall give both parties to the appeal an opportunity of being heard either in person or through an authorised representative.

(3) If the Appellate Tribunal is not satisfied that the assessment or the order which is the subject of the appeal ought to be interfered with, it shall reject the appeal.

(4) If the Appellate Tribunal is satisfied that an assessment which is the subject of appeal-

- (a) ought to be reduced or annulled, it shall reduce or annul the assessment accordingly; or
- (b) is insufficient, it shall enhance the assessment accordingly; or
- (c) ought to be set aside, it shall set aside the assessment and direct the [Deputy Commissioner] to make a fresh assessment.

(5) If the Appellate Tribunal is satisfied that an order which is the subject of appeal, ought to be interfered with, it shall cancel or vary the order accordingly and shall issue such consequential directions as the case may require.

*Explanation.-* In the case of an order imposing a penalty, the power to vary the order shall include the power to enhance the penalty.

(6) The Appellate Tribunal shall not enhance an assessment or a penalty or reduce the amount of refund, unless the assessee has been given reasonable opportunity of showing cause against such enhancement or reduction, as the case may be.

(7) Where, as the result of an appeal, any change is made in the assessment of a firm or an association of persons or a fresh assessment of a firm or an association of persons is ordered to be made, the Appellate Tribunal may authorise the [Deputy Commissioner] to amend accordingly any assessment made on any partner of the firm or any member of the association, as the case may be.

[(7A) Where no order under this section is made before the expiration of six months from the end of the month in which the appeal under sub-section (1) of Section 134 is presented, the relief sought through the said appeal shall be deemed to have been given and all the provisions of this Ordinance shall have effect accordingly;

Provided that, where the hearing of appeal is adjourned for any period on the request of the appellant, the said period shall be excluded while computing the aforesaid period of six months:

Provided further that the provisions of this sub-section shall come into force on such date [ ] as may be notified by the Income Tax Appellate Tribunal in the official Gazette.]

(8) The Appellate Tribunal shall communicate its order to the assessee and to the Commissioner.

(9) Save as provided in section 136, an order passed by the Appellate Tribunal on appeal shall be final.

<sup>1</sup>[**136. Reference to High Court.-** (1) Within ninety days of the date upon which he is served with notice of an order under section 135, the assessee or the Commissioner may, by application in such form and accompanied by such documents as may be prescribed, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and the Appellate Tribunal shall, within ninety days of the receipt of such application, draw up a statement of the case and refer it to the High Court.

**Explanation.-** For the removal of doubts it is hereby declared that a reference application under this section may be made in respect of a question of law arising out of an order of the Appellate Tribunal made on or after the first day of July, 2000.

(2) If, on an application made under sub-section (1), the Appellate Tribunal refuses to state the case on the ground that no question of law arises, the assessee or the Commissioner, as the case may be, may within one hundred and twenty days from the date on which he is served with notice of the refusal, apply to the High Court and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, frame a question of law and the provisions of sub-sections (5), (6), (7) and (8) shall, so far as may be, apply as they apply to a reference made under sub-section (1).

(3) If on any application made under sub-section (1), the Appellate Tribunal rejects it on the ground that it is time-barred, the assessee or the Commissioner, as the case may be, may, within three months from the date on which he is served with notice of the rejection, apply to the High Court, and the High Court, if it is not satisfied of the correctness of the Appellate Tribunal's decision, may require the Appellate Tribunal to treat the application as made within the time allowed under sub-section (1).

(4) If the High Court is not satisfied that the statement in a case referred under sub-section (1) is sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Appellate Tribunal to make such modification therein as the Court may direct.

(5) When any case has been referred to the High Court under this section, it shall be heard by a Bench of not less than two Judges of the High Court, and in respect of such case the provisions of section 98 of the Code of Civil Procedure, 1908 (V of 1908), shall, so far as may be, apply notwithstanding anything contained in the Letters Patent applicable to any High Court or in any other law for the time being in force.

(6) The High Court upon the hearing of any such case, shall decide the questions of law raised thereby and shall deliver its judgement thereon containing the grounds on which such decision is founded and shall send a copy of such judgement under the seal of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case conformably to such judgement.

(7) Where a reference is made to the High Court under this section, the costs shall be in the discretion of the Court.

(8) Notwithstanding that a reference has been made under this section to the High Court, tax shall, unless the recovery thereof has been stayed by the High Court, be payable in accordance with the assessment made in the case.

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<sup>1</sup> Se. 136 subs. by F. O. 2000. Earlier subs. by F. A. 1997.

(9) Section 5 of the Limitation Act, 1908 (IX of 1908), shall apply to an application under sub-section (1) or sub-section (2).

(10) When an application is made under sub-section (1) by the assessee, it shall be accompanied by a fee of one hundred rupees.]

**137. Appeal to the Supreme Court.-** (1) An appeal shall lie to the Supreme Court from any judgement of the High Court delivered on <sup>1</sup>[a reference filed] under section 136 in any case which the High Court certifies to be a fit one for appeal to the Supreme Court.

(2) The provisions of the Code of Civil Procedure, 1908 (V of 1908), relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of a High Court.

(3) Where the judgement of the High Court is varied or reversed in appeal under this section, effect shall be given to the order of the Supreme Court in the manner provided in sub-section (5) of section 136 in the case of a judgement of the High Court.

(4) The provisions of sub-sections (6) and (7) of section 136 shall apply in the case of an appeal to the Supreme Court made under this section as they apply to a reference made under the said section 136.

**138. Revision by Commissioner.-** (1) The Commissioner may, either of his own motion or on an application made by the assessee for revision, call for the record of any proceeding under this Ordinance in which an order has been passed by any authority subordinate to him and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Ordinance, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit[:]

<sup>2</sup>[Provided that no application for revision under sub-section (1) against an order made under section 132 shall lie after the thirtieth day of June, 2001.]

(2) The Commissioner shall not revise any order under sub-section (1) if,-

- (a) where an appeal against the order lies to the Appellate [Additional Commissioner] or to the Appellate Tribunal, the time within which such appeal may be made has not expired, or the assessee has not waived his right of appeal; or
- (b) the order is pending on appeal before the Appellate [Additional Commissioner] or has been made the subject of an appeal to the Appellate Tribunal; or
- (c) in the case of an application made by the assessee, the application has not been made within ninety days of the date on which such order was communicated to him, unless the Commissioner is satisfied that the assessee was prevented by sufficient cause from making the application within the said period.

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<sup>1</sup> Subs. for "an appeal filed" by F. O. 2000.

<sup>2</sup> Proviso ins. by F. O. 2001.

(3) No application for revision shall lie under sub-section (1) unless the tax payable under section 54 has been paid.

(4) Every application by an assessee under sub-section (1) shall be accompanied by a fee of [one thousand] rupees or ten per cent of tax levied, whichever is less, provided that where no tax is levied, [a fee of one thousand rupees in case of companies and two hundred rupees in case of other assesseees] shall be paid.]

(5) For the purposes of this section,-

- (a) an order by the Commissioner declining to interfere shall be deemed not to be an order prejudicial to the assessee; [ ]
- (b) the Appellate [Additional Commissioner] shall be deemed too be an authority subordinate to the [Central Board of Revenue];
- [(c) where, in pursuance of an order by the <sup>1</sup>[Central Board of Revenue] under clause (b) of sub-section (1) of section 5, a Commissioner exercises the powers of an Appellate [Additional Commissioner], references to "Commissioner" shall be deemed to be references to {Central Board of Revenue};]
- [(cc) where, in pursuance of an order by the Commissioner under clause (cc) of sub-section (1) of section 5, an Income Tax Panel exercises the powers of an Income Tax Officers, references to "Commissioner" shall be deemed to be references to "Regional Commissioner";
- [(ccc) where, in pursuance of an order by the Commissioner under clause (c) of sub-section (1) of section 5, an Inspecting [Additional Commissioner] exercises the powers of an [Deputy Commissioner of Income Tax], references to "Commissioner" shall be deemed to be references to "Regional Commissioner";]
- [(d) where an order is passed under section 115, references to "Commissioner" shall be deemed to be references to "Regional Commissioner"; [and]
- [(e) where an order is passed by an Appellate [Additional Commissioner] on or after the first day of July, 1991, reference to "Commissioner" shall be deemed to be reference to "<sup>1</sup>[Regional Commissioner] ".

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<sup>1</sup> Subs. for "Regional Commissioner" by F. O. 2001 & shall always deemed to have been so substituted. Earlier subs. for "Central Board of Revenue" by F. O. 2000.

## [CHAPTER XIII]

### SETTLEMENT OF CASES

**138A. Income Tax Settlement Commission.-** (1) The Federal Government shall appoint an Income Tax Settlement Commission to exercise the powers and discharge the functions conferred on it under this Chapter.

(2) The Commission shall consist of a Chairman and as many members [and associate members] as may be necessary and shall function within the Division of the Federal Government dealing with revenue.

(3) The members of the Commission shall be appointed by the Federal Government from amongst persons of integrity and outstanding ability having special knowledge of, and experience in, matters relating to income tax law and accounts.

[(3A) The Federal Government may also appoint from amongst persons of integrity and outstanding ability a person with such experience as may be prescribed, being a Chartered Accountant or a Cost and Management Accountant or possessing such qualification as may be prescribed by the Federal Government, as an associate member of the Commission;

Provided that the number of associate members shall not exceed the number of benches of the Commission.

(3B) The terms, conditions and tenure of service of the associate members shall be determined by the Federal Government.";]

(4) The Federal Government shall ordinarily appoint the senior most member of the Commission to be the Chairman thereof.

**138B. Definitions.-** In this Chapter, unless the context otherwise requires,-

[(i) "associate member" means an associate member appointed under sub-section (3A) of section 138A;]

[(ii)] "case" means any proceedings under this Ordinance for the assessment, including additional assessment, appeal or revision in connection with such proceedings, of any person in respect of any year or years, which may be pending before an income tax authority, Income Tax Appellate Tribunal or any court on the date of making the application under sub-section (1) of section 138D;

Provided that where any appeal or application for revision or reference has been filed after the period of limitation and which has not been admitted, such appeal, application for revision or reference shall not be deemed to be a proceeding pending within the meaning of this clause;

[(iii)] "Chairman" means the Chairman of the Commission;

[(iv)] "member" means a member of the Commission, and includes the Chairman thereof; and

[(v)] "Commission" means the Income Tax Settlement Commission appointed under section 138A.

**138C. Powers and functions of the Commission.**- (1) The powers and functions of the Commission may be exercised and discharged by benches constituted from amongst members of the Commission by the Chairman.

(2) A bench shall ordinarily consist of two members and shall be presided over by the Chairman:

Provided that, where the Chairman is not a member of the bench, the Chairman may authorise any member to discharge the functions of the Chairman[:]

[Provided further that where the applicant makes an application under section 138D in writing for settlement of his case with the inclusion of associate member in the bench, the bench shall be so constituted.]

[(2A) The functions of the Commission shall be-

- (a) to process and decide applications filed by assesseees declaring income not hitherto declared;
- (b) to process and decide applications filed by the assesseees regarding tax disputes arising out of an assessment order or an order passed by an Appellate Additional Commissioner;
- (c) to process departmental appeals filed before the Income Tax Appellate Tribunal for settlement or withdrawal thereof; and
- (d) any other function specifically assigned by the Federal Government to the Commission{:}]

<sup>1</sup>[Provided that this Commission shall not perform its functions referred to in clause (c) after the 30th day of June, 2000.]

(3) Subject to the provisions of this Ordinance, the Commission shall have power to regulate its own procedure, and the procedure of benches in all matters arising out of the discharge of its functions, including the places at which the benches shall hold their sittings.

(4) If the members of a bench differ in opinion as to the decision to be given on any point,-

- (a) the point shall be decided according to the opinion of the majority, if there is a majority;
- (b) if the members are equally divided and the Chairman of the Commission is not himself a member of the Bench, the case shall be referred to the Chairman and the decision of the Commission shall be expressed in terms of the opinion of the Chairman; and
- (c) if the members are equally divided and the Chairman of the Commission is himself a member of the bench, the opinion of the Chairman shall prevail and the decision of the Commission shall be expressed in terms of opinion of the Chairman.

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<sup>1</sup> Proviso ins. by F. O. 2000.

(5) In addition to powers conferred on the Commission under this Chapter, it shall have all the powers which are vested in an income tax authority under this Ordinance.

**138D. Application for settlement of cases.-** (1) An assessee [whose case falls under clause (a) of sub-section (2A) of section 138C] may, at any stage of his case, make an application in such form and in such manner as may be prescribed, containing full and true disclosure of his income which he may not have disclosed before the assessing officer, the manner in which such income has been derived, the additional amount of income tax payable on such income and such other particulars as may be prescribed, to the Commission to have the case settled and any such application shall be disposed of in the manner provided hereinafter:

[(1A) An assessee whose case falls under clause (b) of sub-section (2A) of section 138C may make an application in such form and in such manner as may be prescribed against an assessment order or an order passed by an appellate authority, not being the Income Tax Appellate Tribunal or any court of law, to the Commission, to have the case settled and any such application shall be disposed of in the manner provided hereinafter:

Provided that the tax payable under such order exceeds twenty-five thousand rupees.]

Provided that no such application shall be made unless the assessee has filed the return of income which he was or is required to furnish under the Ordinance and the income tax payable on the basis of such application exceeds twenty-five thousand rupees.

[ ]

(2) Every application made under sub-section (1) shall be accompanied by such fees as may be prescribed by the Commission.

(3) An assessee once having made an application under sub-section (1) shall not be entitled to withdraw it.

<sup>1</sup>[(4) No application under this section shall be made after the 30th day of June, 2000.]

**[138E. Disposal of application by the Commission.-** (1) The Commission may, before disposing of any application, [filed under sub-section (1) or sub-section (1A) of section 138D] call for such particulars as it may require in respect of the case in the application brought before it or cause further enquiries to be made by the Commissioner and on the basis of his report and having regard to the nature and circumstances of the case, the Commission may, by order, allow the application to be proceeded with or reject the application:

Provided that an application shall not be rejected under this sub-section unless an opportunity has been given to the applicant of being heard.

(2) Notwithstanding anything contained in sub-section (1), an application shall not be proceeded with under that sub-section if the Commissioner objects to such application on the ground that concealment of particulars of income on the part of the applicant or perpetration of fraud by him for evading any tax under this Ordinance, has been established or is likely to be established by any income tax authority:

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<sup>1</sup> Sub-sec. (4) ins. by F. O. 2000.

Provided that where the Commission does not agree with the objections raised by the Commissioner, it may, after giving the Commissioner an opportunity of being heard, accept the application for being proceeded with under sub-section (1).

(3) Where an application is allowed to be proceeded with under sub-section (1), the Commission may call for the relevant records from the Commissioner and after examination of such records, if the Commission is of the opinion that any further inquiry in the matter is necessary, it may direct the Commissioner to make or cause to be made such further enquiry and furnish a report on the matters within such time as it may fix.

(4) After examination of the records and the report of the Commissioner received under sub-section (1) or sub-section (3), and after giving an opportunity to the applicant and to the Commissioner to be heard, in person or through their authorised representatives and after examining such further evidence as may be placed before it or obtained by it, the Commission may, in accordance with the provisions of this Ordinance, pass such order as it thinks fit on the matters enumerated in the application and reported to it by the Commissioner under sub-section (1) or sub-section (3).

(5) Every order passed under sub-section (4) shall provide for the terms of settlement including any demand of tax, penalty or interest, the manner in which any sum due under the settlement shall be paid and all other matters to make the settlement effective and shall also provide that the settlement shall be void if it is subsequently found by the Commission that it has been obtained by fraud or misrepresentation.

(6) Where a settlement becomes void the proceedings with respect to the matters relating to the settlement, shall be revived from the stage at which the application was allowed except a matter pending in appeal or revision before making an application under sub-section (1) of section 138D, to be proceeded with and the concerned income tax authority may, notwithstanding anything contained in any other provision of this Ordinance, complete such proceedings within two years from the end of the financial year in which the settlement became void.

(7) The Commission may, if it is of the opinion that any person who made an application under section 138D does not cooperate with the Commission in the proceedings before it, send the case back to the assessing officer, if such case was pending for assessment at the time application under that section was made, who shall thereupon dispose of the case in accordance with the provisions of this Ordinance as if no application under section 138D had been made.

<sup>1</sup>[ ]

**138F. Recovery of sums due under order of settlement.-** Any sum specified in an order of settlement passed under sub-section (4) of section 138E shall, subject to such conditions as may be specified therein, be recovered, and any penalty for default in making payment of such sum may be imposed and recovered in accordance with the provisions of this Ordinance by the Deputy Commissioner having jurisdiction in the case.

**138G. Bar on subsequent application for settlement in certain cases.-** Where-

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<sup>1</sup> Sec. 138EE omitted by F. O. 2000. Earlier ins. by F. A. 1996.



- (i) an order of the settlement passed under section 138E provides for the imposition of a penalty on the person on the ground of concealment of particulars of his income; or
- (ii) a person is convicted of any offence under Chapter XII in pursuance of settlement of a case; or
- (iii) a case is sent back to the Deputy Commissioner by the Commission for assessment or re-assessment for any reason or where the settlement becomes void under this Chapter, any fresh application for settlement shall not be admissible.

**138H. Order of Settlement to be conclusive.-** Every order of the Commission passed under section 138E shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter be re-opened in any proceeding under this Ordinance or under any law for the time being in force.

**138I. Power of Commission to re-open proceedings.-** If Commission is, for reasons to be recorded in writing, of the opinion that for the proper disposal of the case pending before it, it is essential to re-open any proceedings connected with the case but which have been completed under this Ordinance by any income tax authority before the application under section 138D was made, it may, with the concurrence of the applicant, reopened such proceedings and pass such order thereon as it thinks fit, as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceedings as well:

Provided that no proceedings shall be re-opened by the Commission under this section if the period between the end of the assessment year to which such proceedings relate and the date of application for settlement under section 138D exceeds five years.

**138J. Proceedings before Commission to be judicial proceedings.-**Any proceedings before the Commission shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 and for the purposes of section 196 of the Pakistan Penal Code (Act XLV of 1860).

**138K. Communications of orders.-** The Commission shall communicate its order to the applicant, the Deputy Commissioner and the Commissioner.

## [CHAPTER XIII-B

### DIRECTORATE GENERAL OF INSPECTION

138L. **Appointment of Directorate General of Inspection.**- (1) The Federal Government shall appoint a Directorate General of Inspection to exercise the powers and discharge the functions conferred on it under this Chapter.

(2) The Directorate-General shall consist of a Director-General and as many Directors, Additional Directors, Deputy Directors, Assistant Directors, Extra-Assistant Directors and Inspectors, as the Director-General may deem necessary to be appointed from amongst the officers of Income Tax Group.

138M. **Definitions.**- In this Chapter, unless the context otherwise requires,-

- (a) "Director-General" means a person appointed to be the Director-General of Inspection;
- (b) "Director" means a person appointed to be a Director of Inspection;
- (c) "Additional Director" means a person appointed to be an Additional Director of Inspection;
- (d) "Deputy Director" means a person appointed to be a Deputy Director of Inspection and includes an Assistant Director of Inspection and an Extra Assistant Director of Inspection;
- (e) "Inspector" means a person appointed to be an Inspector of Inspection.

138N. **Inspection authorities.**- (1) There shall be the following classes of inspection authorities for the purposes of this Act, namely:-

- (a) Director-General of Inspection;
- (b) Directors of Inspection;
- (c) Additional Directors of Inspection;
- (d) Deputy Directors of Inspection; and
- (e) Inspectors of Inspection.

(2) The Directors of Inspection, Additional Directors of Inspection, Deputy Directors of Inspection and Inspectors of Inspection shall be subordinate to the Director-General of Inspection.

(3) Additional Directors of Inspection, Deputy Directors of Inspection and Inspectors of Inspection shall be subordinate to the Director of Inspection within whose jurisdiction they perform their functions.

(4) Deputy Directors of Inspection and Inspectors of Inspection shall be subordinate to the Additional Director of Inspection within whose jurisdiction they perform their functions.

(5) Inspectors of Inspection shall be subordinate to the Deputy Director of Inspection within whose jurisdiction they perform their functions.

138O. **Jurisdiction of inspection authorities.**- (1) Subject to the provisions of this Chapter,-

- (a) the Directors of Inspection, Additional Directors of Inspection, Deputy Directors of Inspection and Inspectors of Inspection shall perform their function in respect of such persons or classes of persons or such areas as may be assigned to them by the Director-General;
- (b) the Additional Directors of Inspection, Deputy Directors of Inspection and Inspectors of Inspection shall perform their functions in respect of such persons or classes of persons or such areas as may be assigned to them by the Director of Inspection.

(2) The Director-General or the Director may assign any function or functions in respect of any area, office or offices located within an area, case, class of cases, person or classes of persons, to any inspection authority working under his control.

**138P. Functions and powers of Director-General.-** (1) The functions of the Director-General of Inspection shall be-

- (a) to carry out inspections of income tax cases and offices;
- (b) to investigate or cause investigation to be carried out in respect of-
  - (i) cases involving leakage of revenue or evasion of taxes;, and
  - (ii) officers and staff of the income tax offices allegedly involved in corruption and malpractice and recommend to competent authority appropriate disciplinary action;
- (c) to carry out audit of cases or office involving income tax revenues;
- (d) to recommend the Central Board of Revenue in matters of tax policy, tax administration and tax operations;
- (e) to furnish an annual report about the working of Income Tax offices to the Central Board of Revenue by the thirty first day of December, following the end of the financial to which it relates;
- (f) any other work of function that may be assigned to it by the Federal Government.

(2) In discharge of his functions under sub-section (1), the Director-General shall have the power specified in section 148.]

## CHAPTER XIV

### MISCELLANEOUS

**139. Statement regarding salary.**- Every person responsible for paying any income chargeable under the head 'Salary' shall, [ ] furnish to the [Deputy Commissioner] or any other officer authorised in this behalf by the Central Board of Revenue, a statement [ ] in the prescribed manner, showing-

- (a) the name and address of every person who has been paid, or to whom was due during the [period for which each statement is being furnished], any income chargeable under the head 'Salary', exceeding such amount as may be prescribed;
- (b) the amount so paid, or due to such person;
- (c) the amount of tax deducted from the income of such person; and
- (d) such other particulars as may be prescribed.

**140. Statement regarding dividends.**- The principal officer of every domestic company shall, [ ] furnish to the [Deputy Commissioner] or any other officer authorised in this behalf by the Central Board of Revenue, a statement in the [ ] prescribed manner, showing-

- (a) the name and address (as entered in the registered of share-holders maintained by the company) of every shareholder to whom [bonus shares or bonus or] a dividend or aggregate dividends exceeding such amount as may be prescribed in this behalf has or have been distributed during the [period for which each statement is being furnished];
- (b) the total amount of [bonus shares or bonus] or dividend or dividends so distributed to such shareholder; and
- (c) such other particulars as may be prescribed.

**141. Statement regarding interest, [profit,] rent, etc.**- Every person responsible for paying any interest ([including] interest on securities), [profit in respect of a profit and loss sharing account or deposit with a banking company,] brokerage, commission, rent, or professional fee (exceeding such amount as may be prescribed) on behalf of Government, a local authority, [company], a foreign contractor consultant or consortium shall [ ] furnish to the [Deputy Commissioner] or any other officer authorised in this behalf by the Central Board of Revenue, a statement [ ] in the prescribed manner, showing-

- (a) the name and address of every person to whom such interest, [profit,] brokerage, commission, rent or professional fee, during the [period for which each statement is being furnished];
- (b) the total amount of such interest, profit, brokerage, commission, rent or professional fee was paid to such person;
- (c) the date on which such payment was made; and
- (d) such other particulars as may be prescribed-

*Explanation.-* As used in this section,-

[ ]

(2) "professional fee" includes fee paid for services performed by a doctor, architect, lawyer, Chartered Accountant or a Management and Cost Accountant, and such other person as may be prescribed.

**142. Statement regarding payments to non-residents and contractors.-** Every person responsible for paying to any person any sum to which sub-section (3)[, sub-section (3A)] or sub-section (4) of section 50 applies shall, [ ] furnish to the Deputy Commissioner or any other officer authorised in this behalf by the Central Board of Revenue, a statement [ ] in the prescribed manner showing-

- (a) the name and address of every person to whom any such sum was paid during the [period for which each statement is being furnished];
- (b) the amount so paid;
- (c) the amount of tax deducted; and
- (d) such other particulars as may be prescribed.

**143. Statement regarding certain payments.-** Every person responsible to deduct or collect advance tax under sub-section (2B), (5A), (6), (7C) [,(7E) or (7F)] of section 50 shall, [ ] furnish to the [Deputy Commissioner] or any other officer authorised in this behalf by the Central Board of Revenue, a statement showing particulars [ ] in the prescribed manner.

**143A. Statement regarding certain properties.-** (1) Every Registering Officer, Revenue Officer or other officer appointed to register any documents relating to property, other than agricultural land, under the Registration Act, 1908 (XVI of 1908, shall, on or before the first day of September in each year, furnish to the [Deputy Commissioner] or any other officer authorised in this behalf by the Central Board of Revenue, a statement regarding the properties the value of which is not less than fifty thousand rupees, registered with him during the preceding financial year, in the prescribed form and verified in the prescribed manner, showing-

- (a) the names and addresses of the buyer and the seller;
- (b) the registered value of the property;
- (c) the address of the property;
- (d) the date of registration; and
- (e) such other particulars as may be prescribed.

(2) Every person responsible for the assessment of capital gains tax arising from the sale, exchange or transfer of immovable property situated within the urban areas specified by the Government under the

West Pakistan Urban Immovable Property Tax Acct, 1958 (West Pakistan Act No. V of 1958), shall, on or before the first day of September in each year, furnish to the [Deputy Commissioner] or any other officer authorised in this behalf by the Central Board of Revenue, a statement regarding the properties assessed to capital gains tax by him during the preceding financial year in the prescribed form and verified in the prescribed manner, showing-

- (a) the names and addresses of the buyer and the seller;
- (b) the assessed value of the property;
- (c) the address of the property;
- (d) the date of assessment; and
- (e) such other particulars as may be prescribed.

(3) Every person responsible to collect advance tax under sub-section (7A) or sub-section (7BB) of section 50 shall, on or before the first day of September in each year, furnish to the [Deputy Commissioner] or any other officer authorised in this behalf by the Central Board of Revenue, a statement showing particulars in the prescribed form and verified in the prescribed manner.

**143B. Statement regarding certain assesseees.**- Every person whose income is chargeable under section 80B, <sup>1</sup>[section 80BB, section 80C, section 80CC or section 80CD] shall, on or before the thirtieth day of September in each year, furnish to the [Deputy Commissioner], or any other officer authorised in this behalf by the Central Board of Revenue, a statement showing such particulars relating to his income for the preceding financial year, and in such form, and verified in such manner, as may be prescribed.

<sup>2</sup>[**143C. Displaying of National Tax Number certificate.** (1) All assesseees having income from business or profession shall display their National Tax Number certificate at some conspicuous place of their business premises.

(2) Where any person has, without reasonable cause, failed to comply with the provisions of sub-section (1), the Deputy Commissioner may, with the prior approval of Commissioner impose a fine which may not exceed two thousand rupees.

(3) No action under sub-section (2) shall be taken unless the assessee has been given a reasonable opportunity of being heard.

**143D. Obtaining of National Tax Number Card.**- (1) All assesseees shall obtain National Tax Number Card on payment of a prescribed fee.

(2) Where any person has, without reasonable cause, failed to comply with the provisions of sub-section (91), the Deputy Commissioner may, with the prior approval of the Commissioner, impose a fine not exceeding two thousand rupees.

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<sup>1</sup> Subs. for certain words etc. by F. O. 2001.

<sup>2</sup> Secs. 143C & 143D ins. by F.A.1996.

(3) No action under sub-section (2) shall be taken unless the assessee has been given a reasonable opportunity of being heard.]

<sup>1</sup>[143E. **Liability of tax withholding agents to be registered.**- (1) Every person responsible to deduct or collect tax under this Ordinance shall get himself registered in the manner as may be prescribed;

(2) Where any person without reasonable cause, fails to get himself registered under sub-section (1), the Deputy Commissioner may impose upon such person a penalty not exceeding two thousand rupees:

Provided that no such penalty shall be imposed unless such person has been given a reasonable opportunity of being heard.]

**144. Power to call for information.**- The [Deputy Commissioner], the Inspecting [Additional Commissioner], the Commissioner, or any other officer authorised in this behalf by the Commissioner or the Central Board of Revenue, may, by notice in writing, require-

- (a) any assessee to furnish within such time as may be specified in such notice a statement showing the names and addresses of all persons to whom he has paid in any income year rent, interest, commission, [fee], royalty or brokerage, or any annuity amounting to not less than four hundred rupees together with particulars of all such payments [or remuneration in the nature of valuable consideration, under whatever nomenclature];
- (b) any dealer, broker or agent or any person concerned in the management of a Stock or Commodity Exchange to furnish, within such time as may be specified in such notice, a statement showing the names and addresses of all persons to or from whom he, or the Exchange, has paid or received in any income year any sum amounting to not less than five thousand rupees in the aggregate, in connection with the transfer of assets, together with particulars of all such payments and receipts;
- (c) any person, including a banking company, to furnish such information or such statement or accounts as may be specified in such notice:

Provided that no such notice shall be issued to any banking company as respects any client, except with the prior approval of the Commissioner in the case of an [Deputy Commissioner], or the Central Board of Revenue or any other income-tax authority authorised by it in this behalf in the case of the other officer.

**145. Power of survey.**- Notwithstanding anything contained in any other provision of this Ordinance and subject to such directions as may, from time to time, be issued by the Central Board of Revenue in this behalf, the Inspecting [Additional Commissioner], the [Deputy Commissioner] or an Inspector of Income Tax may enter any premises within the area assigned to him for the purpose of making a survey of persons liable to tax under this Ordinance and-

- (a) inspect any accounts or documents;
- (b) stamp such accounts and documents;

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<sup>1</sup> Sec. 143E ins. by F.A.1999.

- (c) take extracts from such accounts and documents; and
- (d) make such enquiries as may be necessary.

**146. Power to enter and search business premises.-** "The Inspecting [Additional Commissioner] or the [Deputy Commissioner] or any other officer authorised in this behalf by the Central Board of Revenue or if so authorised in writing by the Inspecting [Additional Commissioner] or the [Deputy Commissioner] to whom he is subordinate, an Inspector of Income Tax may, for the purpose of making any inquiry, enter the premises in which a person carries on, or is believed to carry on, his business or profession, and may-

- (a) search such premises and inspect any accounts or documents;
- (b) stamp such accounts or documents or take extracts or copies thereof;
- (c) impound such accounts or documents and retain them for so long as may be necessary for examination thereof or for the purposes of prosecution; and
- (d) make any inventory of any articles found in such premises.

(2) The [Director-General of Intelligence and Investigation], the Commissioner and the Inspecting [Additional Commissioner] may make any enquiry which they consider necessary as respects any person liable or believed to be liable to assessment under this Ordinance or require any such person to produce or cause to be produced any accounts or documents which they consider necessary, and shall have the same powers for the purpose of making any such enquiry of requiring the production of accounts or documents under this Ordinance as the [Deputy Commissioner] has.

(3) Notwithstanding anything contained in this Ordinance, the [Deputy Commissioner] may, with the prior approval of the Commissioner, authorise any valuer to enter any place and inspect such accounts and documents as may be necessary to enable him to make a valuation of any asset for the purposes of section 67.

**147. Assistance to income tax authorities.-** All officers of Customs, Central Excise, Provincial Excise and Taxation, Police and the Civil Armed Forces are hereby empowered and required to assist income tax authorities in the discharge of their functions under this Ordinance.

**148. Power to take evidence on oath, etc.-** (1) The [Deputy Commissioner], the Inspecting [Additional Commissioner], the Appellate [Additional Commissioner], the Commissioner and any other officer under the administrative control of the Central Board of Revenue authorised by it in this behalf, and the Appellate Tribunal shall, for the purposes of this Ordinance, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (V of 1908), when trying a suit in respect of the following matters, namely:-

- (a) enforcing the attendance of any person and examining him on oath or affirmation;
- (b) compelling the production of any accounts or documents;
- (c) receiving evidence on affidavit; and
- (d) issuing commissions for the examination of witnesses.



(2) Where a person to whom a summons is issued under sub-section (1) either to attend to give evidence or to produce accounts or documents at the place and time specified in such summons fails to do so without any reasonable cause, the authority issuing such summons may, without prejudice to the provisions of any other law for the time being in force, imposed upon him such fine not exceeding one thousand rupees as it thinks fit, and the fine so imposed may be recovered in the manner provided in Chapter IX.

(3) The provisions of sub-section (3) of section 111 shall mutatis mutandis apply in the case of an order made under sub-section (2) by any authority (other than the [Deputy Commissioner] of Income Tax) as they apply to an order made under sub-section (1) of the said section 111.

**149. Power to impound and retain books of accounts, etc.-** Any authority referred to in sub-section (1) of section 148 may impound and retain in its custody for such period as it thinks fit any books of accounts or retain in its custody for such period as it thinks fit any books of accounts or other documents produced before it in any proceeding under this Ordinance.

**150. Disclosure of information by a public servant.-** (1) All particulars contained in-

- (a) any statement made, return furnished or accounts or documents produced under the provisions of this Ordinance; or
- (b) any evidence given, or affidavit or deposition made, in the course of any proceedings under this Ordinance other than proceedings under Chapter XII; or
- (c) any record of any assessment proceedings or any proceedings relating to the recovery of a demand, shall be treated as confidential, and no public servant shall, save as provided in this Ordinance, shall disclose any such particulars.

(2) Notwithstanding anything contained in the Evidence Act, 1872 (I of 1872), or any other law for the time being in force, no court or other authority shall, save as provided in this Ordinance, be entitled to require any public servant to produce before it any return, accounts or documents contained in, or forming a part of, the records relating to any proceedings under this Ordinance, or any records of the Income Tax Department generally, or any part thereof, or to give evidence before it in respect thereof.

(3) Nothing contained in sub-section (1) shall apply to the disclosure-

- (a) of any such particulars to any person acting in the execution of this Ordinance, where it is necessary to disclose the same to him for the purposes of this Ordinance; or
- [(aa) of any such particulars to any person authorised by the Central Board of Revenue in this behalf, where it is necessary to disclose the same to him for the purposes of processing of data and preparation of computer print-outs relating to returns of income or calculation of tax; or]
- (b) of any such particulars, where the disclosure is occasioned by the lawful employment under this Ordinance of any process for the service of any notice or the recovery of any demand; or

- (c) of any such particulars to the Auditor General of Pakistan for the purpose of enabling him to discharge his functions under the Constitution; or
- (d) of any such particulars to any officer appointed by the Auditor General of Pakistan or the Central Board of Revenue to audit income tax receipts or refunds; or
- (e) of such facts to an officer of a Provincial Government or the Federal Government authorised by such Government in this behalf as may be necessary for the purpose of enabling that Government to levy or realise any tax imposed by it; or
- (f) of such facts to any authority exercising powers under the Central Excises and Salt Act, 1944 [ ] (I of 1944), the Sales Tax Act, 1951 (III of 1951), the Gift Tax Act, 1963, (XIV of 1963), the Wealth Tax Act, 1963 (XV of 1963), or the Customs Act, 1969 (IV of 1969), as may be necessary for the purpose of enabling it duly to exercise such powers; or
- (g) of any such particulars occasioned by the lawful exercise by a public servant of his powers under the Stamp Act, 1899 (II of 1899), to impound an insufficiently stamped document; or
- (h) of such particulars to the State Bank of Pakistan as are required by the said Bank to enable it to compile financial statistics of international investment and balance of payments; or
- (i) of any such particulars as may be required by any order made under sub-section (2) of section 19 of the Foreign Exchange Regulation Act, 1947 (VII of 1947), or for the purposes of any prosecution for an offence under section 23 of that Act; or
- (j) of any such particulars as may be required by the [Corporate Law Authority] or the Monopolies Control Authority for the purposes of the Securities and Exchange Ordinance, 1969 (XVII of 1969), or the Monopolies and Restrictive Trade Practices (Control and Prevention) Ordinance, 1970 (V of 1970), as the case may be; or
- (k) of any such particulars relevant to any inquiry into a charge of misconduct in connection with income tax proceedings against a legal practitioner or an accountant to the authority referred to in sub-section (4) of section 157, when exercising the functions referred to in that section; or
- (l) of any such particulars to a Civil Court in any suit or proceeding to which the Government or any income tax authority is a party, which relates to any matter arising out of any proceeding under this Ordinance; or
- (m) of any such particulars for the purposes of a prosecution for any offence under the Pakistan Penal Code (act XLV of 1860) in respect of any such statement, returns accounts, documents, evidence, affidavit or deposition, or for the purposes of a prosecution for any offence under this Ordinance; or
- (n) of any such particulars, relevant to any inquiry into the conduct of an official of the Income Tax Department to any [person or officer] appointed to hold such inquiry, or to a Public Service Commission, established under the Constitution, when exercising its functions in relation to any matter arising out of such inquiry; or

- (o) of such information as may be required by any officer or department of the Federal Government or of a Provincial Government for the purpose of investigation into the conduct and affairs of any public servant, or to a court in connection with any prosecution of the public servant arising out of any such investigation; or
- (p) of such facts too an authorised officer of the Government of any country outside Pakistan with which the Federal Government has entered into an agreement under section 163 for the avoidance of double taxation and the prevention of fiscal evasion as may be required to be disclosed in pursuance of that agreement[; or]

[(q) of such facts to the Federal Tax Ombudsman appointed under any law for the time being in force.]

(4) Nothing in this section shall apply to the production by a public servant before a court of any document, declaration or affidavit filed, or the record of any statement or deposition made in a proceeding under section 68 or section 75 or the giving of evidence by a public servant in respect thereof.

[(5) Nothing contained in sub-section (1) shall prevent the Central Board of Revenue from publishing, with the prior approval of the Federal Government, any such particulars as are referred to in that sub-section.

[(5A) Nothing contained in sub-section (1) shall prevent the Federal Government from publishing particulars and the amount of tax paid by a holder of a public office as defined in the Ehtesab Act, 1997 (IX of 1997).]

(6) Any person to whom any information is communicated under this section, and any person or employee under his control, shall, in respect of that information, be subject to the same rights, privileges, obligations and liabilities as if he were a public servant and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

(7) No prosecution shall be instituted under this section except with the previous sanction of the Central Board of Revenue.

**151. Limitation of exemption.-** Where any income is exempt from tax, the exemption shall, in the absence of a specific provision to the contrary contained in this Ordinance, be limited to the original recipient of that income and shall not extend to any person receiving any payment wholly or in part out of that income.

**152. Tax or refund to be calculated to the nearest rupee.-** In the determination of the amount of tax or a refund payable under this Ordinance, fractions of a rupee less than fifty paise shall be disregarded and fractions of a rupee equal to or exceeding fifty paise shall be regarded as one rupee.

**153. Receipts to be given for moneys paid or recovered under this Ordinance.-** A receipt shall be given for any money paid or recovered under this Ordinance.

**154. Service of notice.-** (1) A notice, order or requisition (hereinafter referred to as 'notice') under this Ordinance may be served on the person therein named either by post or in the manner provided for service of a summons issued by a Court under the Code of Civil Procedure, 1908 (V of 1908).

(2) Any such notice may be addressed,-

- (a) in the case of a firm or a Hindu undivided family, to any member of the firm or to the manager or any adult male member of the family;
- (b) in the case of a local authority, a company or an association of persons, to the principal officer thereof; and
- (c) in the case of any other person (not being an individual), to the person who manages or controls its affairs.

(3) Where a firm or other association of persons is dissolved, any such notice may be served on any person who was a member of the firm or the association, as the case may be, immediately before such dissolution.

(4) In any case to which section 72 applies such notice may be served on the person whose income is to be assessed, or in the case of a firm or an association of persons, on any person who was a member of such firm or association as the case may be at the time of the discontinuance of business or profession, or in the case of a company, on the principal officer thereof.

(5) Where an order is made under sub-section (1) of section 75 holding that a partition of any Hindu undivided family has taken place, any such notice may be served on the person who was the last manager of the family or, if such person is dead, on all adult male persons who were members of the family immediately before the partition.

(6) The validity of any notice issued under this Ordinance or the validity of service of any such notice shall not be called in question after the return in response to such notice has been filed or compliance thereto has been made.

**155. Certain mistake not to vitiate assessment, etc.-** No assessment order, notice, warrant or other document made, issued or executed or purporting to be made, issued or executed under this Ordinance shall be void or otherwise inoperative merely for want of form, [or for having been generated through a computer,] or for a mistake, defect or omission therein, if such want of form, or for having been generated through a computer,] or mistake defect or omission, is not of a substantial nature prejudicially affecting an assessee.

**156. Rectification of mistakes.-**(1) Any income tax authority or the Appellate Tribunal may amend any order passed by it to rectify any mistake apparent from the record on its own motion or on such mistake being brought to its notice by any income tax authority or by the assessee.

(2) No order under sub-section (1), which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall be made unless the parties affected thereby have been given a reasonable opportunity of being heard.

(3) Where any such mistake brought to the notice of any income tax authority by the assessee and no order under sub-section (1) is made by such authority before the expiration of the financial year next following the date in which it was so brought to its notice, the mistake shall be deemed to have been rectified and all the provisions of this Ordinance shall have the effect accordingly.

(4) No order under sub-section (1) shall be made after the expiration of four years from the date of the order sought to be amended.

**157. Appearance by authorised representative.**- (1) Any assessee who is entitled or required to attend before any income tax authority or the Appellate Tribunal in connection with any proceeding under this Ordinance, may, except when required under section 148 to attend personally, attend by an authorised representative.

(2) For the purpose of this section,-

(a) "authorised representative" means a person authorised by the assessee in writing to appear on his behalf, being-

- (i) a relative of the assessee; or
- (ii) a person in the employment of the assessee on a whole time basis; or
- (iii) any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings; or
- (iv) any legal practitioner who is entitled to practice in any Civil Court in Pakistan; or
- (v) an accountant; or
- (vi) an income tax practitioner;

(b) "accountant" means-

- (i) a chartered accountant within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961); or
- (ii) a cost and management accountant within the meaning of the Cost and Management Accountants Act, 1966 (XIV of 1966); or
- (iii) a member of any association of accountants recognised in this behalf by the Central Board of Revenue; and

(c) "income tax practitioner" means a person who is registered as such by the Central Board of Revenue, being a person who possesses such [ ] qualification as may be prescribed in this behalf or who has retired after putting in satisfactory service in the Income Tax Department for a period of not less than ten years [in a post or posts not inferior to that of an Income Tax Officer], and includes any person who was, and had continued to be, registered as an income tax practitioner immediately before the commencement of this Ordinance.

(3) Notwithstanding anything contained in this section,-

(a) no person who has been dismissed or removed from service after the first day of April, 1938, shall be qualified to represent an assessee under sub-section (1);

- (b) no person who has become an insolvent shall be qualified to represent an assessee under sub-section (1) for so long as the insolvency continues;
- (c) no person other than a person to whom clause (a) applies, who is disqualified to represent an assessee by virtue of the provisions of sub-section (3) of section 61 of the repealed Act shall be qualified to represent an assessee under sub-section (1);
- (d) no person having resigned from service after having been employed in the Income Tax Department for not less than two years shall be entitled to represent an assessee under sub-section (1) for a period of two years from the date of his resignation;
- (e) no person having retired from service in the Income Tax Department shall be entitled to represent an assessee under sub-section (1) for a period of one year from the date of his retirement in any case in which he had made or approved, as the case may be, any order of assessment, refund or appeal within a period of one year before the said date; and
- (f) no person who has been convicted of any offence connected with any income tax proceedings under this Ordinance, or the repealed Act, shall be qualified to represent an assessee under sub-section (1) for such time as the Commissioner may, by order in writing, determine.

(4) If any person, being a legal practitioner or an accountant, is found guilty of misconduct in his professional capacity by any authority entitled to take disciplinary action against him, an order passed by that authority shall have effect in relation to his right to represent an assessee under sub-section (1) as it has in relation to his right to practice as legal practitioner or accountant, as the case may be.

(5) If any person, not being a person to whom sub-section (4) applies, is found guilty of misconduct in connection with any income tax proceedings by any Commissioner, the Commissioner may, by an order in writing direct that the said person shall thenceforward be disqualified to represent an assessee under sub-section (1) before any income tax authority and the Appellate Tribunal.

(6) No order under clause (f) of sub-section (3) or sub-section (5) shall be made in respect of any person unless he has been given a reasonable opportunity of being heard.

(7) Any person against whom any order under clause (f) of sub-section (3) or sub-section (5) has been made may, within thirty days of such order, appeal to the Central Board of Revenue to have the order cancelled.

(8) The Central Board of Revenue may admit an appeal after the expiration of the period specified in sub-section (7), if it is satisfied that the appellant was prevented by sufficient cause from presenting it within that period.

(9) No order made under clause (f) of sub-section (3) or sub-section (5) shall take effect until the expiration of thirty days from the making thereof, or, where on appeal has been preferred under sub-section (7), until the disposal of the appeal, whichever is the later.

(10) The Central Board of Revenue may make rules for the registration of income tax practitioners and matters connected therewith or incidental thereto, including matters relating to their code of conduct.

158. **Proceedings under the Ordinance to be judicial proceedings.-** Any proceedings under this Ordinance before an Deputy Commissioner, Commissioner or the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 and for the purposes of section 196 of the Pakistan Penal Code (Act XLV of 1860).

159. **Proceedings against companies under liquidation.-** Notwithstanding anything contained in section 171 of the Companies Act, 1913 (VIII of 1913), leave of the Court shall not be required for proceeding with or commencing any proceeding under this Ordinance against a company in respect of which a winding up order has been made or provisional liquidator appointed.

160. **Computation of limitation period.-** In computing the period of limitation, there shall be excluded,-

- (a) in the case of an appeal or an application under this Ordinance, the day on which the order complained of was served and, if the assessee was not furnished with a copy of the order when the notice of the order was served upon him, the time requisite for obtaining a copy of such order; and
- (b) in the case of any assessment or other proceedings under this Ordinance, the period, if any, for which such proceedings were stayed by any court, tribunal or any other authority.

161. **Indemnity.-** Every person deducting, retaining or paying any tax in pursuance of this Ordinance in respect of income belonging to another person is hereby indemnified for the deduction, retention or payment thereof.

162. **Bar of suits in Civil courts.-** No suit shall be brought in any Civil Court against any order made under this Ordinance, and no prosecution, suit or other proceeding shall lie against any person for anything in good faith done or intended to be done under this Ordinance.

163. **Avoidance of double taxation and prevention of fiscal evasion.-** (1) The Federal Government may enter into an agreement with the Government of any country for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income leviable under this Ordinance and under the corresponding law in force in that country, and may, by notification in the official Gazette, make such provisions as may be necessary for implementing the agreement.

(2) Where any agreement is made in accordance with sub-section (1), the agreement and the provisions made by notification for implementing the said agreement shall, notwithstanding anything contained in any law for the time being in force, have effect in so far as they provide for-

- (a) relief from the tax payable under this Ordinance; or
- (b) determining the income accruing or arising, or deemed to accrue or arise, to non-residents from sources within Pakistan; or
- (c) where all the operations of business or profession are not carried on within Pakistan, determining the income attributable to operations carried on within and outside Pakistan, or the income chargeable to tax in Pakistan in the hands of such persons, including their agents, branches or establishments in Pakistan; or

- (d) determining the income to be attributed to any person resident in Pakistan having any special relationship with a non-resident; or
- (e) exchange of information for the prevention of fiscal evasion or avoidance of taxes on income chargeable under this Ordinance and under the corresponding law in force in that other country.

(3) The provisions of the Seventh Schedule shall have effect where an agreement provides that the tax payable under the laws of the country concerned shall be allowed as a credit against the tax payable in Pakistan.

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3) any such agreement may include provisions for relief from tax for any period before the commencement of this Ordinance or before the making of the agreement.

**164. Unilateral relief.**- If any person who is resident in Pakistan in any year proves to the satisfaction of the Deputy Commissioner that, in respect of any income which has accrued or arisen to him during that year outside Pakistan, he has paid income tax, by deduction or otherwise, in any country (including a country with which there is an agreement under section 163 for the avoidance of double taxation, the Deputy Commissioner may, subject to such rules as may be made in this behalf, deduct from the tax payable by him under this Ordinance a sum equal to the tax calculated on such doubly-taxed income at the average rate of tax [of Pakistan or the average rate of tax] of the said country, whichever is the lower.

[164A. **Power to collect information regarding exempt income.**- The Central Board of Revenue may, by notification in the official Gazette, authorise any department or agency of the Federal Government to collect and compile any data in respect of incomes from industrial and commercial undertakings which are exempt under the Second Schedule.]

**165. Power to make rules.**- (1) The Central Board of Revenue may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular, and with out prejudice to the generality of sub-section (1), such rules may-

(a) prescribe the manner in, and the procedure by, which the income, profits and gains liable to tax and the tax payable under this Ordinance shall be determined in the case of-

(i) income derived in part from agriculture and in part from business; or

(ii) persons to whom section 59 applies; or

(iii) non-residents;

(b) provide for the determination of the value of any allowances, benefits or perquisites;

(c) provide for the ascertainment or determination of any income or class of income to be included in the total income of an assessee, and any deduction from such income;

(d) prescribe fees and other charges to be paid in respect of any matter referred to in this Ordinance;[ ]



(e) provide for anything which is to be or may be prescribed under this Ordinance[; or]

[(f) prescribe forms for return of total income, or statements, which may include details of personal expenses[; or]

[(g) prescribe the format and procedure for filling of returns of income, documents or statements on computer media or through electronic medium or for the issuance of orders or notices or levy of additional tax or penalty through computer”

(3) In cases coming under clause (a) of sub-section (2), the rules may prescribe methods by which an estimate of such income, profits and gains may be made and prescribe the proportion of the income which shall be deemed to be income liable to tax under this Ordinance, and an assessment based on such estimate or proportion, as the case may be, shall be deemed to be duly made in accordance with the provisions of this Ordinance.

(4) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

[165A. **Authority of approval.**- The Central Board of Revenue may, by general or special order in writing, authorise the Regional Commissioner or the Commissioner to grant approval in any case where such approval is required from the Central Board of Revenue under any provision of this Ordinance.]

166. Repeal and savings.- (1) The income-tax Act, 1922 (XI of 1922) is hereby repealed.

(2) Notwithstanding the repeal of the Income-tax Act, 1922 (XI of 1922) and without prejudice to the provisions of section 6 or section 24 of the General Clauses Act, 1897 (X of 1897),-

(a) where a return of income has been filed before the commencement of this Ordinance by any person for any assessment year, proceedings for the assessment of that person for that year may be taken and continued as if this Ordinance had not come into force;

(b) where a return of income is filed after the commencement of this Ordinance otherwise than in pursuance of any notice under section 34 of the repealed Act, by any person for any assessment year ending on or before the thirtieth day of June, 1979, the assessment of the person for that year shall be made in accordance with the procedure specified in this Ordinance;

(c) where in respect of any assessment year,-

(i) a notice under section 34 of the repealed Act had been issued before the commencement of this Ordinance, the proceedings in pursuance of such notice may be continued and disposed of as if this Ordinance had not come into force;

(ii) any income chargeable to tax had escaped assessment, or had been under assessed or assessed at too low a rate, or had been the subject of excessive relief or refund or the total income or the total world income and the tax payable had been determined under sub-section (1) of section 23 of the repealed Act and no proceedings under section 34 of the said Act in respect of any such income are pending at the commencement of this Ordinance a notice under section 65 may be issued with respect to that assessment year and all the provisions of this Ordinance shall apply accordingly;

(d) in making any assessment for any year ending on or before the thirtieth day of June, 1979, the provisions of the repealed Act relating to the computation of total income and the tax payable shall apply as if this Ordinance had not come into force;

(e) in making any assessment for the year beginning on the first day of July, 1979, the income year shall be deemed to include the period, if any, comprised in the previous year, as defined in clause (11) of section 2 of the repealed Act, for which the assessment would have been made if this Ordinance had not come into force and where such income year exceeds a period of twelve months, the total income and the tax payable shall be prorated on the basis of the average income of a period of twelve months;

(f) in making any assessment for any year beginning on or before the first day of July, 1979, the provisions of section 18A and section 26A of the repealed Act shall apply as if this Ordinance had not come into force;

(g) any proceedings for the imposition of penalty or prosecution in respect of any assessment completed before the first day of July, 1979, may be initiated and any such penalty may be imposed or prosecution proceedings continued as if this Ordinance had not come into force;

(h) any proceeding for the imposition of a penalty or prosecution in respect of any assessment for any year ending on or before the thirtieth day of June, 1979, which is completed on or after the first day of July, 1979, may be initiated and any such penalty may be imposed or prosecution proceeding continued as if this Ordinance had not come into force;

(i) any proceeding pending on the commencement of this Ordinance before any income tax authority, the Appellate Tribunal or any court or tribunal by way of appeal, reference, revision or prosecution, shall be continued and disposed of as if this Ordinance had not come into force;

(j) where the period prescribed for any application, appeal, reference or revision under the repealed Act had expired on or before the commencement of this Ordinance, nothing contained in this Ordinance shall be construed as enabling any such application, appeal, reference or revision to be made under this Ordinance by reason only of the fact that a longer period therefore is prescribed or provision is made for extension of time in suitable cases by the appropriate authority;

(k) any sum payable by way of income tax, super tax, interest, additional tax, surcharge, penalty or otherwise under the repealed Act may be recovered under this Ordinance but without prejudice to any action already taken for the recovery of such sum under the repealed Act;

(l) where, in respect of any assessment completed before the commencement of this Ordinance, any default is made after such commencement in the payment of any sum due under such completed assessment or any refund falls due after such commencement, the provisions of section 89 or section 102 of this Ordinance, as the case may be, shall apply;

(m) any notification issued under sub-section (1) of section 60 of the repealed Act and in force immediately before the commencement of this Ordinance, shall, to the extent to which provision has not been made under this Ordinance, continue in force until rescinded by the Federal Government;

(n) any election or declaration made or option exercised by an assessee under any provision of the repealed Act and in force immediately before the commencement of this Ordinance shall be deemed to

have been an election or declaration made or an option exercised under the corresponding provision of this Ordinance;

(o) anything done or any action taken under the repealed Act in so far as it is not inconsistent with the provisions of this Ordinance shall, without prejudice to anything already done or any action already taken, be deemed to have been done or taken under this Ordinance;

(p) any agreement entered into, appointment made, approval given, recognition granted, direction, instruction, notification, notice, order or rule issued or made under any provision of the repealed Act and in force or valid at the commencement of this Ordinance shall, so far as it is not inconsistent with the corresponding provision of this Ordinance or any agreement, appointment, approval, recognition, direction, instruction, notification, notice, order or rule entered into, made, given, granted, issued or made under this Ordinance, be deemed to have been entered into, made, given, granted, or issued or made, as the case may be, under the corresponding provision aforesaid and shall, unless revoked, cancelled or replaced by, or under, this Ordinance, continue in force accordingly; and

(q) any appointment or any act of authority or other thing made or done by any authority or person and subsisting or in force at the commencement of this Ordinance which could have been made or done under any substantially corresponding provision of this Ordinance by any authority or person other than the one specified in the repealed Act, or in any manner other than that so specified, shall, continue in force and have effect as if it had been made or done under the corresponding provision of this Ordinance by the authority or person or in the manner specified in the corresponding provision as if such provision had been in force when it was made or done.

**167. Removal of difficulties.**-(1) If any difficulty arises in giving effect to any of the provisions of this Ordinance, the Federal Government may, by notification in the official Gazette, make such provision as it thinks fit for removing that difficulty.

(2) No order under this section shall be made after the thirtieth day of June, [1983.]

## THE FIRST SCHEDULE

### PART 1

#### RATE OF INCOME TAX

[A. In the case of every individual, unregistered firm, association of persons, Hindu undivided family and artificial juridical person referred to in clause (32) of section 2, not being a case to which [paragraph AA or] paragraph B of this part applies the income tax shall be charged on the total income, excluding income to which sections 80B, 80C and 80CC apply, at the following rates:-

1. Where the total income does not exceed Rs.100,000.	5% of total income,
2. Where the total income exceeds Rs.100,000 but does not exceed Rs.200,000.	Rs.5,000 plus 10% of the amount exceeding Rs.100,000.
3. Where the total income exceeds Rs.200,000 but does not exceed Rs.300,000.	Rs.15,000 plus 15% of the amount exceeding Rs.200,000.
4. Where the total income exceeds Rs.300,000 but does not exceed Rs.500,000	Rs.30,000 plus 20% of the amount exceeding Rs.300,000.
4. Where the total income exceeds Rs.300,000 but does not exceed Rs.500,000	Rs.30,000 plus 20% of the amount exceeding Rs.300,000.
5. Where the total income exceeds Rs.500,000 but does not exceed Rs.700,000	Rs.70,000 plus 25% of the amount exceeding Rs.500,000.
6. Where the total income exceeds Rs.700,000 but does not exceed Rs.1,000,000	Rs.120,000 plus 30% of the amount exceeding Rs.700,000.
7. Where the total income exceeds Rs.1,000,000	Rs.210,000 plus 35% of the amount exceeding Rs.300,000.

Provided that-

- (a) no income tax shall be payable by an assessee where his total income does not exceed-
  - (i) Rs.50,000, in case the total income consists of, or includes, any income chargeable under the head "Salary", and such income constitutes more than 50% of his total income;

<sup>1</sup>[ ]

(iii) Rs.40,000, in other cases.

(b) the income tax payable shall be reduced by-

(i) Rs.2,500, in case the total income consists of, or includes, any income chargeable under the head "Salary", and such income constitutes more than fifty per cent of his total income;

<sup>2</sup>[ ]

(iii) Rs.2,000, in other cases; and

(iv) Special tax rebate of an amount equal to [50%] of the tax payable by an assessee of 65 years of age or above as on the first day of the relevant income year and earning income upto Rs.200,000 in addition to any other rebate admissible under the law;

[ ]

(d) Notwithstanding anything contained in this Ordinance, no rebate for any allowance under sections 39, 40, 41, [ ] 43, 44, 44A or 46 shall be admissible;

(e) Notwithstanding anything contained in this Ordinance, the rebate for any allowance under section 47 shall be computed at the average rate of tax and allowed accordingly.

(f) where the total income includes any income from a share of the income, profits and gains of a firm to which paragraph C of Part II applies, such portion of the super tax payable under the said paragraph as bears to the total amount of such super tax the same proportion as his share of income, profits and gains of the firm bears to the total income of the firm shall be added to the income tax payable by such partner under this paragraph, and if the sum so arrived at exceeds 20% of the income of such partner (including his share of income, profits and gains of the firm before the deduction of super tax), the amount of income tax payable by him under this paragraph shall be reduced by the amount of such excess; and

(g) in the case of an assessee whose income consisting of, or including any income chargeable under the head "salary", (inclusive of allowances and perquisites) exceeds Rs. 300,000 income tax shall be charged in respect of income representing allowances and perquisites, at the following rates:

Where the amount representing the value of allowances and perquisites:

[1. does not exceed Rs.100,000.      3% of such amount

2. exceeds Rs.100,000 but does      Rs.3,000 plus 5% of the

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<sup>1</sup> Sub-cl. (ii) omitted by F. O. 2000.

<sup>2</sup> Sub-cl. (ii) omitted by F. A. 2001.

not exceed Rs.200,000.	amount exceeding Rs.100,000
3. exceeds Rs.200,000 but does not exceed Rs.300,000	Rs.8,000 plus 10% of the amount exceeding Rs.200,000
4. exceeds Rs.300,000	Rs.18,000 plus 15% of the amount exceeding Rs. 300,000

Provided that for the assessment year 1997-98

- (a) the tax liability of an assessee in whose case valuation of perquisites, allowances and benefits for the purposes of computing income under the head "salary" is made under sub-rule (1A) of rule 3 of the Income Tax Rules, 1982, shall be;
  - (i) the tax computed on total income on the basis of valuation of perquisites under sub-rule (1) of rule 3 of the said Rules;
  - (ii) three per cent of the amount representing the difference between the value of perquisites, benefits and allowances computed under sub-rule (1A) and the value computed under sub-rule (1) of the rule 3 said Rules; and
- (b) for the purposes of computing the income chargeable under the head "Salary", the value of perquisites, allowances and benefits in the case of employees of Pakistan International Airlines and journalists covered under the Wage Board Awards shall be computed under the provisions of sub-rule (1) of the rule 3 of the said Rules[:]

<sup>1</sup> [Provided further that nothing contained in this clause shall apply in the case of any assessee for any assessment year commencing on or after the first day of July, 2000:

- [(h) Notwithstanding any in clause (g), for the purposes of assessment for the assessment year 1999-2000, in the case of an assessee whose income consisting of, or including any income chargeable under the head "salary" (inclusive of allowances and perquisites ) exceeds Rs. 300,000, income tax shall be charged in respect of income representing allowances and perquisites, at the following rates:

Where the amount representing the value of allowances and perquisites,-

(a) does not exceed Rs. 100,000	5% of such amount;
(b) exceeds Rs. 100,000 but does not exceed Rs.200,000	Rs.5,000 plus 10% of the amount exceeding Rs.100,000
(c) exceeds Rs.200,000 but does not exceed Rs. 300,000	Rs. 15,000 plus 15% of the amount exceeding Rs.200,000
(d) exceeds Rs. 300, 000	Rs.30,000 plus 20% of the amount ex exceeding

<sup>1</sup> The 2<sup>nd</sup> & 3<sup>rd</sup> provisos ins. by F.A.1999.

Rs.300,000.

- (i) For the purpose of deduction of tax at source under sub-section (1) of section 50, the tax in respect of the income for the financial year 1998-1999 covered by clause (h) shall be computed at the rates specified in that clause.]

- <sup>1</sup>[(j) For the purposes of assessment, where the total income of an assessee comprises or includes any income chargeable under the head “Salary” and such income is more than fifty per cent of his total income, the rates specified in this paragraph shall be effective from the assessment year commencing on or after the first day of July, 2000.

Provided further that in the said cases, the entry at serial number 7 in this paragraph, shall have the effect as if for the figure “35”, the figure “30” was substituted.

Provided further that for the purpose of deduction of tax from salary under sub-section (1) of section 50, the rates specified in this para-graph shall, subject to the first proviso, apply in respect of income year 1999-2000 and thereafter.

*Explanation.-* For the removal of doubt, it is hereby declared that for the purposes of assessment for the assessment year 1999-2000, the rates of tax applicable to aforesaid cases shall be the same as given in this paragraph as it stood before its amendment, through Finance Act, 1999, and in clause (h) in respect of the income representing allowances and perquisites.

<sup>2</sup>[ ]

- <sup>3</sup>[A1. Notwithstanding anything contained in paragraph A, in the case of every individual, unregistered firm, association of persons, Hindu undivided family and artificial juridical person referred to in clause (32) of section 2, not being a case to which paragraph B of this part applies, the income tax shall be charged on the total income, excluding income to which section 80B, 80BB, 80C, 80CC or 80CD apply, for any assessment year commencing on or after the first day of July, 2002, at the following rates:

(1)	where the total income does not exceed Rs.60,000	Nil
(2)	where the total income exceeds Rs.60,000 but does not exceed Rs.150,000	7.5% of the amount exceeding Rs.60,000;
(3)	where the total income exceeds Rs.150,000 but does not exceed Rs.300,000	Rs.6,750 plus 12.5% of the amount exceeding Rs.150,000;

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<sup>1</sup> Cl. (j) ins. by F.A.1999.

<sup>2</sup> Para AA omitted by F. O. 2000.

<sup>3</sup> Paragraph A1 ins. by F. O. 2001.

Rs.300,000 but does	(4) where the total income of the amount not exceed Rs.400,000	Rs.25,500 plus 20% exceeding Rs.300,000;	exceeds
	(5) where the total income exceeds Rs.400,000 but does not exceed Rs.700,000.	Rs.45,500 plus 25% of the amount exceeding Rs.400,000.	
	(6) where the total income exceeds Rs.700,000	Rs.120,500 plus 35% of the amount exceeding Rs.700,000	

Provided that --

- (a) where an assessee's income includes any income from agriculture which is liable to tax under the laws of any province of Pakistan and such income exceeds Rs.80,000, the tax rates applicable in case of such taxpayers would be as under:-

(1)	where the total income does not exceed Rs.150,000	7.5 %
(2)	where the total income exceeds Rs.150,000 but does not exceed Rs.300,000	Rs.11,250 plus 12.5% of the amount exceeding Rs.150,000;
(3)	where the total income exceeds Rs. 300,000 but does not exceed Rs. 400,000	Rs.30,000 plus 20% of the amount exceeding Rs.300,000;
(4)	where the total income exceeds Rs. 400,000 but does not exceed Rs. 700,000	Rs.50,000 plus 25% of the amount exceeding Rs.400,000;
(5)	where the total income exceeds Rs. 700,000	Rs.125,000 plus 35% of the amount exceeding Rs. 700,000.

- (b) The tax payable shall be reduced by an amount equal to fifty per cent of the tax payable by an assessee of sixty-five years of age or above as on first day of the relevant income year and earning income upto two hundred thousand rupees in addition to any other rebate admissible under the law.
- (c) notwithstanding anything contained in this Ordinance, no rebate for any allowance under sections 39, 40, 41, 43, 44, 44A or 46 shall be admissible.



- (d) notwithstanding anything contained in this Ordinance, rebate for any allowance under sections 41AA, 44AA and 44AAA shall be computed at the average rate of tax and allowed accordingly.
- (e) where the total income includes any income from a share of the income profits and gains of a firm to which paragraph C of Part II applies, such portion of the super tax payable under the said paragraph as bears to the total amount of such super tax the same proportion as his share of income, profits and gains of the firm bears to the total income of the firm shall be added to the income tax payable by such partner under this paragraph, and, if the sum so arrived at exceeds 20% of the total income of such partner (including his share of income, profits and gains of the firm before the deduction of super tax), the amount of income tax payable by him under this paragraph shall be reduced by the amount of such excess;
- (f) for the purposes of assessment, the rates specified in above paragraph will be applicable to the assessment year commencing on, or after, the 1st day of July 2002;
- (g) notwithstanding the provisions of clause (f) of proviso to paragraph A1 where the total income of an assessee comprises or includes any income chargeable under the head "salary" and such income is more than fifty per cent of his total income, the rates specified in this paragraph for the purposes of deduction of tax under sub-section (1) of section 50 shall be effective from the first day of July, 2001;]

B. In the case of every local authority 30 per cent of the total income.

C. In the case of every company 30 per cent of such income including a foreign association declared to be a company by the Central Board of Revenue under clause (16) of section 2 on the total income excluding such part of the total income as consists of any dividends or bonus or bonus shares to which sub-paragraph (2) or sub-paragraph (3) of paragraph A of Part II applies and income to which Chapter V applies.

[CC. In the case of every individual, unregistered firm, association of persons, Hindu undivided family and every artificial juridical person referred to in clause (32) of section 2, not being a case to which paragraph B of this Part applies.

- (a) on the dividend income; Ten per cent of such income.
- (b) on the income by way of prize on a prize bond or income representing winnings from a raffle, lottery or cross-word puzzle; Ten per cent of such income.

- (c) on the income representing profit or interest on an account or deposit maintained with any banking company, or any [financial institutions]; and Ten per cent of such income.

<sup>1</sup>[Provided that this sub-paragraph shall not apply in respect of any assessment year commencing on, or after, the first day of July, 2002.]

- (d) on the income representing profit or interest on bonds, certificates, debentures, and instruments of every kind issued by any banking company, or any company referred to in sub-clause (a) and (b) of clause (16) of section 2, or any local authority, or any finance society; Ten per cent of such income.]

- [(e) on the amount received on encashment of:

- (i) bearer certificates (other than Foreign Exchange Bearer Certificates) issued on behalf of the Government, banking company, financial institution or any company referred to in sub-clause (a) or sub-clause (b) of clause (16) of section 2, any local authority or any finance society. 2% of the amount.

- (ii) Foreign Exchange Bearer Certificates. 1% of the amount.]

<sup>2</sup>[Provided that this sub-paragraph shall not apply in respect of any assessment year commencing on, or after, the first day of July, 2002.]

[CCC{(i)}. In the case of every resident person <sup>3</sup>[holding a National Tax Number and] to whom section 80C applies,-

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<sup>1</sup> Proviso ins. by F. O. 2001.

<sup>2</sup> Proviso ins. *ibid*.

<sup>3</sup> Words ins. by F. O. 2001.

<sup>1</sup>[(a) From the assessment year commencing on or after the first day of July, 1999, on the income representing payments on account of execution of contracts other than the income to which clause (b) or (c) [or (cc)] applies-

- |      |   |  |
|------|---|--|
| (i)  | Where the value of contract does not exceed thirty million rupees ...   | five per cent of such income;                |
| (ii) | Where the value of contract exceeds thirty million rupees ...   | six percent of such income.]                 |
| (b)  | on the income representing payments on account of supply of rice, cotton, cotton seed and edible oils;        | One and one half per cent of such income.    |
| (c)  | on the income representing payments on account of supplies other than those referred to in sub-paragraph (b); | [Three] and one half per cent of such income |
| (cc) | on the income representing payments on account of brokerage or commission                                     | Ten per cent of such income;                 |

Provided that this clause shall take effect from the assessment year commencing on the first day of July, 2000[:]

<sup>2</sup>[Provided further that this clause shall not apply in respect of any assessment year commencing on, or after, the first day of July, 2002;]

- |     |  |   |
|-----|--|---|
| (d) | on the income representing value of goods imported | [Five] per cent of the value of such goods determined for the purposes of deduction of advance tax under sub-section (5) of section 50[:] |
|-----|--|---|

<sup>3</sup>[Provided that for the assessment year commencing on or after the first day of July, 2001, the rate of tax shall be six per cent of the value of goods imported;]

- |                    |   |                                |
|--------------------|---|--------------------------------|
| <sup>4</sup> [(dd) | on the income representing the difference referred to in sub-section (5AAA) of section 50 | Ninety per cent of such income |
|--------------------|---|--------------------------------|

<sup>1</sup>[Provided that this clause shall not apply in respect of any assessment year commencing on, or after, the first day of July, 2002.]

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<sup>1</sup> Cl. (a) subs. by F.A.1998.

<sup>2</sup> Second proviso added by F. O. 2001.

<sup>3</sup> Proviso ins. by F. O. 2000.

<sup>4</sup> Cl. (dd) ins. by F.A.1999.

- [(e) on the income representing lease money on account of octroi duties, tolls, fees or other levies[:] Five percent of the sale price.

<sup>2</sup>[Provided that this clause shall not apply in respect of any assessment year commencing on, or after, the first day of July, 2002.]

- [(f) on the income representing commission or discount referred to in sub-section (7H) of section 50 Ten per cent.

<sup>3</sup>[(ia) in the case of every resident person not holding a National Tax Number and to whom section 80C applies, from the assessment year commencing on, or after, the first day of July, 2001, on the income representing payments on account of execution of contracts other than the income to which clause (b) or (c) or (cc) of sub-paragraph (i) apply--

- |       |  |                                |
|-------|--|--------------------------------|
| (i)   | where the value of contract does not exceed thirty million rupees. | seven per cent of such income. |
| (ii)  | where the value of contract exceeds thirty million rupees.         | eight per cent of such income. |
| (iii) | on the income representing payment on account of supplies          | five per cent of such income.] |

[(ii) In the case of every non-resident person, to whom section 80C applies, on the income representing payments on account of:

<sup>4</sup>[(a) From the assessment year commencing on or after the first day of July, 1999, on the income representing payments on account of execution of contracts other than those mentioned in sub-clause (b), (c), and (d);

- |      |   |                               |
|------|---|-------------------------------|
| (i)  | Where the value of contract does not exceed thirty million rupees ... | five per cent of such income; |
| (ii) | Where the value of contract exceeds thirty million rupees ...         | six percent of such income.]  |

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<sup>1</sup> Proviso ins. by F. O. 2001

<sup>2</sup> Proviso ins. by F. O. 2001.

<sup>3</sup> Sub-paragraph (ia) ins. by F. O. 2001.

<sup>4</sup> Cl. (a) subs by F.A.1998.

- |        |   |   |
|--------|---|---|
| (b)    | execution of turn-key contracts   | [eight] percent of the amount of payment. |
| (c)    | execution of contracts or sub-contracts for designing, supply of plant and equipment and construction of power projects [(other than hydel power projects) and transmission line projects]; | four per cent of the amount of payment.   |
| [(d)]  | execution of contracts, or sub-contractors for designing supply of plant and equipment and construction of hydel power projects   | five per cent of the amount of payment.]  |
| [(dd)] | on the income representing the difference referred to in sub-section (5AAA) of section 50.  | Ninety per cent of such income.           |

[CCCC.<sup>1</sup>[(a)] In the case of every person to whom section 80CC <sup>2</sup>[or 80CD] applies [including supplies of goods to an exporter under a back to back inland letter of credit], and the income pertains to exports covered under:

- |     |                                  |                       |
|-----|----------------------------------|-----------------------|
| (a) | Part I of the Eighth Schedule;   | 0.50% of such income. |
| (b) | Part II of the Eighth Schedule;  | 0.75% of such income. |
| (c) | Part III of the Eighth Schedule; | 1% of such income.    |

<sup>3</sup>[(b) for the assessment year commencing on or after the first day of July, 2001, the rates shall be as under:-

- |       |                             |                        |
|-------|-----------------------------|------------------------|
| (i)   | Part-I of Eighth Schedule   | 0.75% of such income   |
| (ii)  | Part-II of Eighth Schedule  | 1.0% of such income    |
| (iii) | Part-III of Eighth Schedule | 1.25% of such income.] |

<sup>4</sup>[CCCCA. In the case of every person to whom section 80CD applies and the income pertains to exports covered under:

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<sup>1</sup> Paragraph CCCC renumbered as Sub-paragraph (a) by F. O. 2000.

<sup>2</sup> Words etc. added by F. O. 2001.

<sup>3</sup> Sub-paragraph (b) ins. *ibid*.

<sup>4</sup> Paragraph CCCCCA ins. *ibid*.

- |       |                             |                        |
|-------|-----------------------------|------------------------|
| (i)   | Part-I of Eighth Schedule   | 0.75% of such income   |
| (ii)  | Part-II of Eighth Schedule  | 1% of such income      |
| (iii) | Part-III of Eighth Schedule | 1.25% of such income.] |

CCCCC. On income from indenting commission Ten per cent referred to in sub-section (5A) of section 50.

[D. Rates of income tax for deduction under sub-section (2) of section 50.-

(i) Residents

On the whole of income chargeable 30% of such income under the head 'Interest on securities' (not being interest payable on debentures issued by or on behalf of a local authority or a company).

(ii) Non-Residents

On the whole of income chargeable under the head 'Interest on securities' paid to a non-resident -

- |   |  |
|---|--|
| (a) where such person is a company is a company | thirty per cent; and   |
| (b) where such person is not a company          | the rate applicable to a resident person not being a company.] |

[DD. Rate of income tax for the purposes of deduction under sub-section (2A) of section 50.	Ten per cent of such income.]
---	-------------------------------

[DDA. Rate of income tax for the purposes of collection of tax under sub-section (2B) of section 50.	<sup>1</sup> [0.30] per cent the sum]
--	---------------------------------------

[DDD. Rate of income tax for purposes of deduction under sub-section (3) of section 50-

- |   |  |
|---|--|
| (i) in cases of payment on account of royalty ... | Fifteen percent of such payment          |
| (ii) in any other case                            | Thirty per cent sum chargeable or at the |

---

<sup>1</sup> Subs. for "0.20" by F.A.1999.

rate applicable to a  
resident whichever is  
greater

[DDDD. Rate of income tax for  
purposes of deduction under sub-  
section (3A) of section 50.

15 per cent of the  
sum]

E. Rate for collection of income tax under sub-section (4) of section 50,-

(i) Where the payment is made to a resident assessee [holding a National Tax Number], on account of-

(a) execution of contracts, other than those mentioned in sub-clauses (b), (c) and (d) ...

(i) where the value of the contract Does not exceed thirty million rupees, five per cent of such income.

(ii) Where the value of contract exceeds thirty million rupees, six per cent of such income.

(b) supply of rice, cotton, cotton seed or edible oils; payment. one and one-half per cent of the amount of

(c) supply of goods other than those referred to in sub-paragraph (b); and [three] and one half per cent of the amount of payment.

(d) services rendered. five per cent of the amount of payment.

<sup>1</sup>[(ia) Where the payment is made to a resident assessee not holding a National Tax Number, on account of execution of contract other than the payments to which sub clause (b), (c) or (d) of sub-paragraph (i) apply--

(i) where the value of contract does not exceed thirty million rupees. seven per cent of such income

(ii) where the value of contract exceeds thirty million rupees. eight per cent of such income

(iii) on the income representing payments five per cent of such income.]

<sup>1</sup> Sub-paragraph (ia) ins. by F. O. 2001.

on account of supplies.

(ii) Where the payment is made to a non-resident, on account of-

(a) execution of contracts, other than those mentioned in sub-clauses (b), (c) and (d) ...

(i) where the value of the contract does not exceed thirty million rupees, five per cent of such income.

(ii) Where the value of contract exceeds thirty million rupees, six per cent of such income.

(b) execution of turn-key contracts. [eight] per cent of the amount of payment.

(c) execution of contracts or sub-contracts for designing, supply of plant and equipment and construction of power projects ( other than hydel projects) and transmission line projects. four per cent of the amount of payment.

[(d) execution of contracts, or sub-contractors for designing, supply of plant and equipment and construction of hydel power projects five per cent of the amount of payment.]

EE. Rate for collection of income tax under sub-section (4A) of section 50. Ten per cent of the amount of payment.

F. Rate for collection of income tax under sub-section (5) of section 50. <sup>1</sup>[Six] per cent.

<sup>2</sup>[FF. Rate of collection of income tax under sub-sections (5A), (5AA) and (5AAB) of section 50 apply, excluding income to which paragraph FFA applies:

Where the income pertains to supply of goods to an exporter under a back to back inland letter of credit and from exports covered under:

(i) Part-I of Eighth Schedule Rates  
0.75% of such income

<sup>1</sup> Subs. for “five by F. O. 2000. Earlier subs. for “four” by I. T. (Second Amendt.) Ord. , 1997 and for “two” by F. A. 1995.

<sup>2</sup> Paragraph FF subs. by F. O. 2000. Earlier ins. by F. A. 1992 and subs. by F. A. 1997.



(ii)	Part-II of Eighth Schedule	1% of such income
(iii)	Part-III of Eighth Schedule	1.25% of such income.]

FFA. Income from indenting commission referred to in sub-section (5A) of section 50. Ten per cent.

<sup>1</sup>[ ]

G. Rates for collection of income tax under sub-section (6) of section 50,-

[(1) goods transport vehicles with registered laden weight of-

(a)	less than 2030 kilograms.	One thousand two hundred rupees per annum
(b)	2030 kilograms or more less than 8120 kilograms.	Seven thousand two hundred rupees per annum
(c)	8120 kilograms or more but less than 15000 kilograms;	Twelve thousand rupees per annum
(d)	15000 kilograms but less than 30,000 kilograms	Eighteen thousand rupees per annum;
(e)	30,000 kilograms or more but less than 45,000 kilograms	Twenty-four thousand rupees per annum;
(f)	45,000 kilograms or more but less than 60,000 kilograms	Thirty thousand rupees per annum;
(g)	60,000 kilograms or more	Thirty-six thousand rupees per annum.

Provided that no collection shall be made in respect of goods transport vehicles falling under sub-clause (b) after ten years from the date of first registration of such vehicle with a motor vehicle registration authority in Pakistan.

(2) passenger transport vehicles plying for hire with registered seating capacity of-

(a)	four or more persons but less than ten persons.	Twenty five rupees per seat per annum.
(b)	ten or more persons but less than twenty persons; and	Sixty rupees per seat per annum.

<sup>1</sup> Paragraphs FFA & FFF omitted by F. O. 2001.

(c) twenty persons or more. One hundred rupees per seat per annum]

(3) Other private motor cars with engine capacity exceeding,-

- |                          |  |
|--------------------------|--|
| (a) 1000 CC upto 1200 CC | Five hundred rupees per annum            |
| (b) 1200 CC upto 1299 CC | Seven hundred and fifty rupees per annum |
| (c) 1300 CC to 1599 CC   | Fifteen hundred rupees per annum;        |
| (d) 1600 CC to 1999 CC   | Two thousand rupees per annum;           |
| (e) 2000 CC and above    | Three thousand rupees per annum.         |

Provided that collection of tax in respect of a private motor car first registered for more than five years but less than ten years ending on or before the first day of July, 1992, shall be made at one-half of the rates specified in this sub-paragraph:

Provided further that no collection of tax shall be made if a private motor car was first registered for more than ten years ending on or before the first day of July, 1992.

[GG. Rate of deduction of income tax under sub-section (6A) of section 50. Ten per cent of such amount.]

<sup>1</sup>[ ]

[H. Rates of collection of income tax under sub-section (7A) of section 50,-

- |   |                                  |
|---|----------------------------------|
| (i) Sale of property consisting of lease of right to collect octroi duties, tolls fee or other levies, by whatever name called. | Five percent of the sale price.  |
| (ii) In others cases  | Three percent of the sale price. |

[HH. Rate for collection of income tax under sub-section (7B) of section 50. [Seven and one half]per cent of such amount]

<sup>2</sup>[ ]

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<sup>1</sup> Paragraph GGG omitted by F.O. 2001. Earlier ins. by F. A. 1995.

<sup>2</sup> Paragraph HHH omitted by F. O. 2000. Earlier ins. by F. A. 1993.

[HHHH. Rate of deduction or collection of income tax under sub-section (7C) of section 50. [Ten] per cent of such amount.]

[J. Rate of deduction of income of tax under sub-section (7D) of section 50. Ten per cent of such amount.]

<sup>1</sup>[K. Rate of collection of income tax under sub-section (7E) of section 50,-

<sup>2</sup>[(a) in the case commercial consumer if the electricity bill ...

(i)	does not exceed Rs.400	Rs.60
(ii)	exceeds Rs.400 but does not exceed Rs.600	Rs.80
(iii)	exceeds Rs.600 but does not exceed Rs.800	Rs. 100
(iv)	exceeds Rs.800 but does not exceed Rs.1000	Rs. 160
(v)	exceeds Rs.1000 but does not exceed Rs.1500	Rs. 300
(vi)	exceeds Rs.1500 but does not exceed Rs.3000	Rs. 450
(vii)	exceeds Rs.3000 but does not exceed Rs.4500	Rs. 600
(viii)	exceeds Rs.4500 but does not exceed Rs.6000	Rs. 750
(ix)	exceeds Rs.6000.	Rs. 1000;

(b) in the case of an industrial consumer if the electricity bill-

<sup>3</sup> [i]	does not exceed Rs.500;	Rs.30
ii)	exceeds Rs.500 but does not exceed Rs.750;	Rs.40}
iii)	exceeds Rs.750 but does not exceed Rs.1000;	Rs.50
iv)	exceeds Rs.1000 but does not exceed Rs.1500;	Rs.80
v)	exceeds Rs.500 but does not exceed Rs.2000;	Rs.120
vi)	exceeds Rs.2000 but does not exceed Rs.3000;	Rs.180
vii)	exceeds Rs.3000 but does not exceed Rs.4000;	Rs.240
viii)	exceeds Rs.4000 but does not exceed Rs.5000;	Rs.300
ix)	exceeds Rs.5000.	Rs.360]

[L Rates of collection of income tax under sub-section (7F) of section 50--

(a) In the case of telephone subscriber where the monthly bill ---

(i) exceeds Rs. 1,000 but does not exceed Rs.2,000. Fifty rupees.

<sup>1</sup> Paragraph K ins. by F.A.1992

<sup>2</sup> Sub-para (a) subs. by F.A.1996.

<sup>3</sup> Subs. by F.A.1993.

(ii)	exceeds Rs. 2,000 but does not Rs.3,000	One hundred rupees
(iii)	exceeds Rs. 3.000 but dose not exceed Rs.5,000	Two hundred rupees
(iv)	exceeds Rs. 5,000	Three hundred rupees

(b) In the case of mobile telephone subscribers if the monthly bill or the issue of sale price of prepaid telephone card ---

(i)	does not exceed Rs.2000.	One hundred twenty five rupees
(ii)	exceeds Rs.2000 but does not exceed Rs. 5,000.	Two hundred fifty rupees;
(iii)	exceeds Rs.5.000	Four hundred rupees.]

<sup>1</sup>[ ]

N. The rate of collection of income tax under sub-section (7H) of section 50	Ten per cent of the amount of commission or discount.]
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## PART II

### RATES OF SUPER TAX

[ ]

B. In the case of every local authority, on the whole of the total income.	12.5 per cent of the income.
--	------------------------------

[C. In the case of every registered firm, -

(1) Where the total income does not exceed Rs.30,000.	Nil.
(2) Where the total income exceeds Rs.30,000 but does not exceed Rs.80,000.	5 per cent of the amount exceeding Rs.30,000.
(3) Where the total income exceeds Rs.80,000 but does not exceed Rs.130,000.	Rs.2,500 plus 10 per cent of the amount exceeding Rs.80,000.
(4) Where the total income exceeds Rs.130,000 but does not exceed Rs.180,000..	Rs.7,500 plus 15 per cent of the amount exceeding Rs.130,000
(5) Where the total income exceeds	Rs.15,000 plus 25 per cent of the

<sup>1</sup> Paragraph M omitted by F. O. 2001.

Rs.180,000.

amount exceeding Rs.180,000.

*"Explanation.-* For the removal of doubt, it is hereby declared that the term "total income" referred to in this paragraph does not include income to which section 80C [or section 80CC] applies.]

[ ]

[E. Rate of super tax for purposes of deduction under sub-section (3) of section 50,-

(ii) in cases other than companies The rate applicable to a resident person, not being a company on the sum charge able.

### **[PART III**

#### **RATES OF SURCHARGE**

<sup>1</sup>[ ]

B. In respect of the income year relevant to the assessment year commencing on or after the first day of July, 1990,-

<sup>2</sup>[ ]

- (c) where the total income of any person (not being a person whose total income consists of, or includes, any income chargeable under the head 'Salary' and such income constitutes more than fifty per cent of the total income) does not exceed one hundred thousand rupees and the return of total income qualifies for acceptance under a scheme of self assessment made under sub-section (1) of section 59 for that year, the amount of surcharge payable shall be three hundred rupees[:]

<sup>3</sup>[Provided that no surcharge under this sub-paragraph shall be payable for the assessment year commencing on, or after, the first day of July, 2002.]

- <sup>4</sup>[(d) any individual, unregistered firm, association of persons and Hindu undivided family shall pay surcharge , in addition to the amount specified in sub-paragraph (c) equal to ten per cent of the amount of income tax payable, not being the amount of presumptive income tax payable under section 80B, 80C or 80CC{: }]

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<sup>1</sup> Paragraph A omitted by F.S.(Amend) Act, 1997

<sup>2</sup> Sub-paragraphs (a) & (b) omitted ibid.

<sup>3</sup> Proviso ins. by F.O. 2001.

<sup>4</sup> Sub-paragraph (d) ins. by F.A.1998.

<sup>1</sup>[Provided that no surcharge shall be payable by an assessee for any assessment year beginning on or after the first day of July, 1999, where his total income consists of, or includes, any income chargeable under the head "salary" and such income constitutes more than fifty per cent of his total income.]

<sup>2</sup>[Provided further that no surcharge under this sub-paragraph shall be payable for the assessment year commencing on, or after, the first day of July, 2002.]

<sup>3</sup>[C. In respect of the income year relevant to the assessment year commencing on or after the first day of July, 2000, a company, not being a banking company, shall pay surcharge equal to five per cent of the amount of income tax payable excluding the amount of presumptive income tax payable under section <sup>4</sup>{80BB, 80C 80CC or 80CD}.]

[Provided that no surcharge under this sub-paragraph shall be payable for the assessment year commencing on or after the first day of July, 2002.]<sup>5</sup>

## **PART IV**

A. Notwithstanding anything contained in this Schedule [ ]-

(1) where the assessee is a co-operative society, the tax shall be payable at the rates specified in paragraph A of Part I, or [paragraph A of Part V of this Schedule relevant to the rates of public companies], whichever treatment is more beneficial to the assessee;

[(2) Tax rebate at the rate of five per cent shall be allowed in the case of a person other than a company who-

- (i) derives income chargeable under the head "Income from business or profession"; and
- (ii) issues to the customers, for each transaction of sale or receipt, a cash memo with his name, or the name of his business and address, National Tax Number and serial number of the memo printed thereon.]

[(2A) where an assessee,-

- (a) being a company registered under the Companies Act, 1913 (VII of 1913), and having its registered office in Pakistan, repatriates to Pakistan any income chargeable to tax under the head 'Income from business or profession' in any income year which has been derived by it from a construction work executed by it outside Pakistan, no super tax shall be payable by it on such income;
- (b) not being a company, who is resident in Pakistan, repatriates in any income year any income earned abroad by way of fees for any technical or consultancy service rendered outside

---

<sup>1</sup> Proviso ins. by F.A.1999.

<sup>2</sup> Proviso ins. by F. O. 2001.

<sup>3</sup> Paragraph C ins. by F. O. 2000.

<sup>4</sup> Subs. for certain words etc. by F. O. 2001.

<sup>5</sup> Proviso ins. by F. O. 2001.

Pakistan, he shall be entitled to a rebate equal to thirty per cent of income-tax or super-tax payable on the income so repatriated:

Provided that-

- (i) such income is received in Pakistan in accordance with the law for the time being in force for regulating payments and dealings in foreign exchange; and
- (ii) where the assessee is a registered firm, super-tax payable by it shall be reduced by an amount calculated on the basis of the income tax payable on its total income if it were the total income of an un-registered firm as does not exceed the said super tax;]

[(2B) no super tax shall be payable by a registered firm in respect of the income, profits and gains derived by it from the exercise of a profession if such income, profits and gains depend wholly or mainly on the professional qualifications of its partners who are prevented by any law for the time being in force or by convention or rules or regulations of the professional association, society or similar body of which they are members to constitute themselves into a corporate body with a limited liability which can be registered as a company under the Companies Act, 1913 (VII of 1913), unless such profession consists wholly or mainly in the making of contracts on behalf of other persons or the giving to other persons of advice of a commercial nature in connection with the making of contracts;]

[(2C) Where the total income of an assessee includes any profits and gains derived from import of goods or wholesale business the tax payable by him [in respect of such import or wholesale] shall be reduced by an amount equal to five per cent of the said tax, if he furnishes complete details of sales indicating the amount of sales and the names[, National Tax Number] and full addresses of the purchasers.

(2D) Where an assessee, being an individual and resident in Pakistan, incurs any personal expenditure on legal [ ] services and furnishes alongwith his return of total income the receipts bearing names[,National Tax Number] and complete addresses of the [ ] legal practitioners, a rebate in tax computed at the average rate of tax shall be allowed to him on the total amount of such receipts.

[(2E) Where an assessee, incurs any expenditure on education of his dependent children, the tax payable by him shall be reduced by five per cent of such expenditure, subject to the conditions that:-

- (i) the educational expense does not exceed Rs.30,000 per annum per child; and
- (ii) the receipt of such expense bears National Tax Number of the educational institution.]

(3) where a person, not being a company, is not resident in Pakistan, the tax, including super tax payable by him or on his behalf on his total income shall be an amount equal to-

- (a) the income-tax which would be payable on his total income at the rate of [twenty] per cent or the income tax which would be payable on his total income if it were the total income of the person resident in Pakistan, whichever is the greater; plus
- (b) the super-tax which would be payable on his total income if it were the total income of the person resident in Pakistan:

Provided that any such person may, on the first occasion subsequent to the thirty-first day of March, 1956, on which he is, under this Ordinance or the repealed Act, assessable for any year by notice in writing given to the [Deputy Commissioner] before the thirtieth day of September in the year of assessment declare (such declaration being final and being applicable to all assessments thereafter) that the tax, payable by him or on his behalf on his total income shall be determined with reference to his total world income, and thereupon such tax shall be an amount bearing to the total amount of tax, which would have been payable on his total world income had it been his total income, the same proportion as his total income bears to his total world income:

Provided further that where any such person satisfied the [Deputy Commissioner] that he was prevented by sufficient cause from making such declaration on the first occasion on which he became assessable and his failure to make such declaration has not resulted in reducing his liability to tax for any year, the [Deputy Commissioner], may, with the previous approval of the Inspecting [Additional Commissioner], allow such person to make the declaration at any time on or after the expiry of the period specified, and such declaration shall have effect in relation to the assessment for the year in which the declaration is made (if such assessment has not been completed before such declaration) and all assessments thereafter.

[*Explanation.*- For the removal of doubt, it is hereby declared that the term "total income" referred to in this sub-paragraph does not include income to which sections 80B, 80C and 80CC apply; and]

(4) where the total income of an assessee includes any income chargeable under the head 'Capital gains' (hereinafter referred to as the said income), the tax including super tax payable by him on his total income shall be-

- (a) where the said income has arisen as a result of disposal by the assessee of his capital assets after not more than twelve months from the date of their acquisition by him-

income tax and super tax payable on the total income (including the said income);

- (b) where the said income consists of capital gains which have arisen on account of the disposal by the assessee of his capital assets after twelve months from the date of their acquisition by him-

- (i) in the case of a company or a firm registered under section 68 (including a firm treated as a registered firm under sub-clause (ii) of clause (b) of sub-section (1) of section 69-

- (1) income tax and super tax payable on the total income, as reduced by the said income had such reduced income been the total income, plus

- (2) income tax at the rate of twenty five per cent on the whole amount of the said income;

- (ii) in the case of other assessee income tax payable on-

- (1) the total income, as reduced by the said income had such reduced income been the total income, plus



- (2) the amount of the said income as reduced by-
  - (i) an amount equal to sixty per cent of the amount of the said income, or
  - (ii) five thousand rupees, whichever is the greater:

Provided that as respects the assessments for the years ending on the thirtieth day of June, 1981; income tax and super tax shall, subject to the other provisions of this Ordinance, be payable on the total income as reduced by the said income.

B. As used in this Schedule,-

- (1) "industrial undertaking" means an undertaking which is set up or commenced in Pakistan on or after the 14th day of August, 1947, and which employs (i) ten or more persons in Pakistan and involves the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal agency; or (ii) twenty or more persons in Pakistan and does not involve the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal agency and which is-
  - (i) engaged in-
    - (a) the manufacture of goods or materials or the subjection on of goods or materials to any process, which substantially changes their original condition;
    - (b) ship-building;
    - (c) generation, transformation, conversion, transmission or distribution of electrical energy, or the supply of hydraulic power; or
    - (d) the working of any mine, oil-well or other source of mineral deposits not being an undertaking to which the Fifth Schedule applies; or
  - (ii) any other industrial undertaking which may be approved by the Central Board of Revenue for the purposes of this clause;

[(2) "public company" means-

- (a) a company in which not less than fifty per cent of the shares are held by the Government;
- (b) a company whose shares were the subject of dealings in a registered stock exchange in Pakistan at any time during the income year and remained listed on the stock exchange till the close of that year; or
- (c) a trust formed by or under any law for the time being in force;]

(3) "registered firm" means a firm registered under section 68 or a firm treated as a registered firm under sub-clause (ii) of clause (b) of sub-section (1) of section 69;

[ ]

(5) "total world income" includes all income, profits and gains wherever accruing or arising except any income which is not includible in the total income of an assessee.

## [PART V

### RATES OF INCOME TAX FOR COMPANIES

A. Notwithstanding anything contained in this Schedule, except Part IV, in the case of a company, not being a modaraba, the rates of income tax on total income excluding such part of total income to which paragraph D and E <sup>1</sup>[or F] or sections <sup>2</sup>[80BB, 80C, 80CC and 80CD] apply, shall be as under:-

(1) in respect of the assessment year commencing on the first day of July 1992,-

- (a) in the case of a banking company; 66 per cent
- (b) in the case of a public company 44 per cent  
other than a banking company; and
- (c) in the case of any other company; 55 per cent

(2) in respect of the assessment year commencing on or after the first day of July, 1993, as set out in the table below:-

[TABLE

Assessment year	Banking Company	Public company other than a banking company	Other Company
1993-94	64 per cent	42 per cent	52 per cent
1994-95	62 per cent	39 per cent	49 per cent
1995-96	60 per cent	36 per cent	46 per cent
1996-97	60 per cent	36 per cent	46 per cent
1997-98	58 per cent	33 per cent	43 per cent
1998-99	58 per cent	33 per cent	43 per cent

<sup>3</sup>[ ]

<sup>1</sup>

<sup>2</sup> Proviso added by F. O. 2001.

<sup>3</sup> Sub-paragraph (2A) omitted by F.A. 1999.

<sup>1</sup>[(3) in respect of the assessment year commencing on or after first day of July, 1999 and thereafter,-

- (a) in the case of a banking company; 58 per cent
- (b) in the case of a public company 33 per cent  
other than a banking company; and
- (c) in the case of any other company. 43 per cent]

<sup>2</sup>[(4) in respect of the assessment year commencing on, or after, the first day of July, 2002,-

- (a) in case of a banking company 50%
- (b) in case of a public company other 35%  
than a banking company
- (c) in case of any other company 45%.]

B. In the case of a modaraba in respect of any assessment year commencing on or after the first day of July, 1993, the rate of income tax shall be 25 per cent of total income excluding such part of total income to which paragraph D and E <sup>3</sup>[or section 80C or 80CC] applies:

[Provided that, for any assessment year commencing on or after the first day of July, 1993, and ending on or before the thirtieth day of June, 1995, this paragraph shall have effect as if for the figure "25" the figure "12.5" was substituted:

Provided further that in case of the total income of a modaraba becoming chargeable to tax for the first time in any assessment year commencing on or after the first day of July, 1994, the rate of income tax in the case of such modaraba for such assessment year and the assessment year next following shall be 12.5 per cent of total income.]

C. No super tax <sup>4</sup>[ ]shall be payable by a company in respect of any assessment year beginning on or after the first day of July, 1992.

D. The rates of income tax in respect of the amount representing income from dividends declared or distributed by a Pakistani company or a modaraba shall be as under:-

- (a) Where such dividends are received by a public company <sup>5</sup>[other than the dividend received upto thirtieth June, 2001 by a public company carrying on insurance business] 5 per cent of such amount

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<sup>1</sup> Sub-paragraph (3) subs. *ibid*.

<sup>2</sup> Sub-paragraph (4) added by F.O. 2001.

<sup>3</sup> Words etc. ins.*ibid*.

<sup>4</sup> Words "and surcharge" omitted by F. O. 2001 & shall be deemed to have been so omitted since July 1, 2000.

<sup>5</sup> Words subs. by F. O. 2001. Earlier ins. by F. O. 2000.

(b) where such dividends are 15 per cent of such amount.  
received by a body corporate  
referred to in  
sub-clause (c) of clause(16) of  
section 2 or a foreign association  
declared to be a company under  
sub-clause (e) of clause (16) of  
section 2.

(c) in other cases. 20 per cent of such amount

[Provided that rates of tax as specified in clause (b) and clause (c) shall be reduced to 7.5% in case of dividends declared or distributed on shares of a company set up for power generation <sup>1</sup>[ ] [:]

<sup>2</sup>[Provided further that notwithstanding anything contained in this paragraph, the rate of tax in respect of dividend income received <sup>3</sup>[upto thirtieth June, 2001] by a company carrying on insurance business shall be the same as specified in paragraph A.]

E. The rates of income tax on the amount representing the face value of any bonus shares or the amount of any bonus issued by the company, with a view to increasing its paid-up capital-

(a) Where a company which issued 10 per cent of such  
bonus shares or the bonus is a amount.  
public company.

(b) in other cases. 15 per cent of such  
amount.]

<sup>4</sup>[F. Rate of income tax on the Ten per cent of such income]  
amount deemed to be income  
under sub-section (9A) of  
section 12.

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<sup>1</sup> Words “and transmission line projects” omitted by F. O. 2001.

<sup>2</sup> Second prov. Ins. by F.A.1999.

<sup>3</sup> Words added by F. O. 2001.

<sup>4</sup> Paragraph F ins. ibid.

## **[THE SECOND SCHEDULE**

### **PART I**

#### **[EXEMPTIONS] FROM TOTAL INCOME**

Incomes, or classes of income, or persons or classes of persons, enumerated below, shall be exempt from tax, subject to the conditions and to the extent specified hereunder:-

##### **Agricultural income**

##### **(1) Agricultural Income:**

[Provided that, in case an assessee has, in any income year, any income (other than the agricultural income) which is chargeable to tax (hereinafter called "chargeable income"), the agricultural income shall be included in the total income, so however that the tax payable on the chargeable income shall be an amount which bears the same proportion to the chargeable income as the tax on total income bears to the total income:

Provided further that nothing contained in the first proviso shall apply in the case of an individual, not being a director of a company, whose chargeable income does not consist of, or include, income chargeable under the head 'income from business or profession'.]

##### **Salary income**

(2) Any income chargeable under the head "Salary" derived by any employee of a foreign Government (including a consular or other officer or a non-diplomatic representative) as remuneration for services to such Government, if-

- (a) such employee is a citizen of the foreign country and not a citizen of Pakistan; and
- (b) the services performed by him are of a character similar to those performed by employees of the Government of Pakistan in foreign countries; and
- (c) the foreign Government grants a similar exemption to employees of the Government of Pakistan performing similar services in such foreign country.

[ ]

[ ]

The Expatriate Employees of the International Irrigation Management Institute (IIMI), Pakistan:

[ ]

[ ]

[(7B) Any income chargeable under the head "Salary" received by, or due to, any person being an employee of the International Irrigation Management Institute (IIMI) in Pakistan, who is neither a citizen of Pakistan nor was resident in Pakistan in any of the four years immediately preceding the year in which he arrived in Pakistan.]

[(7C) Any income chargeable under the head "Salary" received by, or due to, any person (who is neither a citizen of Pakistan nor was resident in Pakistan in any of the four years immediately preceding the year in which he arrived in Pakistan) for the period ending the thirtieth day of June, 1999 from the date of his arrival in Pakistan, as remuneration for services rendered by him during such period as an expert under a contract of service approved by the Commissioner of Income Tax for the purposes of this clause, employed by the Agha Khan Hospital and Medical College Foundation, Karachi:

Provided that the total number of expatriate employees enjoying exemption under this clause shall not exceed seventeen in number.

*Explanation.-* For the purpose of this clause, the expression "expert" means a professionally qualified person who possesses specialised knowledge in the fields of medicine, surgery, including general medicine pathology, pharmacy, obstetrics, paediatrics, nursing intensive care, central sterile supply, consulting clinic, medical record, health/ hospital administration, community health sciences and all branches of basic health sciences, including bio-chemistry, cellular biology, anatomy, physiology, psychiatry, microbiology, pharmacology, anaesthesiology, radiology and allied fields of health, hospital management or administration, or in other branches of higher learning in aforesaid educational fields, teacher training and educational research and whose employment in Pakistan, irrespective of his designation or capacity in which he is employed to impart such specialised knowledge and experience.]

[(7D)

[(7E)

<sup>1</sup>[(7F) Any income chargeable under the head salary received by a Pakistani seafarer working on a foreign vessel provided that such income is remitted to Pakistan, not later than two months of the relevant income year, through normal banking channels.”;

[ ]

(9) Any allowance or perquisite paid or allowed as such outside Pakistan by the Government to a citizen of Pakistan for rendering service outside Pakistan.

[ ]

[ ]

(12) Any income chargeable under the head "Salary" of persons, not being citizens of Pakistan or persons resident in Pakistan, who are stationed in Pakistan in accordance with the terms of an Aid Agreement entered into by the Government of Pakistan with the Government of the country to which such persons belong or with any international agency and whose salary is paid by such Government or agency out of funds or grants released as aid to Pakistan in pursuance of such Agreement.

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<sup>1</sup> Cl.(7F) ins. by F. O. 2001.

[(12A) Any income of a person who, not being a citizen of Pakistan <sup>1</sup>[ ], is engaged as a contractor, consultant or expert on a project in Pakistan financed out of grant funds in accordance with the terms of a bilateral or multilateral technical assistance agreement entered into by the Government of Pakistan with any foreign government, international donor agency or bank or other aid-giving organisation and derives such income out of the funds of the grant in pursuance of such agreement:

<sup>2</sup>[ ]

(13) Any salary received by a person, not being a citizen of Pakistan, by virtue of his employment with the British Council.

[ ]

(16) Any pension received by a person, being a citizen of Pakistan, by virtue of his former employment, with the approval of the Federal Government, in the United Nations or its specialised agencies (including the International Court of justice):

Provided that this clause shall not apply if the emoluments drawn by any such person during the course of such employment were not exempt from tax payable under this Ordinance or the repealed Act.

(17) Any pension due to, or received by, an assessee being a citizen of Pakistan over sixty years of age:

[Provided that, with effect from an assessment year commencing on or after the first day of July, 1992, this clause shall have effect as if the words "over sixty years of age" were omitted, so however that exemption under this clause shall apply in respect of pension from one employer only:

Provided further that exemption under this clause shall not apply in respect of a retired person who works for the same employer in any capacity for any remuneration or reward.]

[(17A)Any pension due to, or received by, an assessee in respect of any service rendered as a member of the Armed Forces of Pakistan or as an employee of the Federal Government or a Provincial Government.

[Leave encashment on retirement.-

(17AA) Any sum representing encashment of leave preparatory to retirement of a member of the Armed Forces of Pakistan or an employee of the Federal Government or a Provincial Government.]

(18) Any pension granted to any public servant to whom clause (48) does not apply in respect of injuries received in the performance of this duties.

(19) Any pension granted to any public servant to whom clause (49) does not apply who has been invalided from service on account of any bodily disability.

[ ]

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<sup>1</sup> Words "or a person resident in Pakistan" omitted by SRO23(I)/98, dated 16-1-1998.

<sup>2</sup> Proviso omitted ibid.

(22) Any income received by an assessee from an annuity issued under the Pakistan Postal Annuity Certificate Scheme on or after the 27th July, 1977:

Provided that nothing in this clause shall apply to so much of the income received by an assessee from an annuity or annuities issued after the 1st May, 1980, as exceeds seven thousand and two hundred rupees per annum[, and in respect of any assessment year commencing on or after the first day of July, 1986, as exceeds ten thousand rupees per annum.]

[(22A) Any income received by an assessee from an annuity or annuities issued by the State Life Insurance Corporation of Pakistan [or a life insurance company registered under section 3 of the Insurance Act, 1938]:

Provided that this clause shall not apply to so much of the income received by an assessee from an annuity or annuities which, together with the income from any annuity or annuities referred to in clause (22), exceeds ten thousand rupees per annum.

(23) Any payment from a provident fund to which the Provident Funds Act, 1925 (XIX of 1925) applies.

[Benevolent grant

(23A) Any benevolent grant paid from the Benevolent Fund to the employees or members of their families in accordance with the provisions of the Central Employees Benevolent Fund and Group Insurance Act, 1969.]

(24) The accumulated balance due and becoming payable to an employee participating in a recognised provident fund.

(25) Any payment from an approved superannuation fund made on the death of a beneficiary or in lieu of or in commutation of any annuity or by way of refund of contribution on the death of a beneficiary.

(26) Any payment in the nature of commutation of pension received from Government or under any pension scheme approved by the Central Board of Revenue for the purpose of this clause.

(27) Any income representing any payment received by way of gratuity or commutation of pension by an employee on his retirement or, in the event of his death by his heirs as does not exceed-

- (i) in the case of an employee of the Government or a local authority or a statutory body or corporation established by any law for the time being in force, the amount receivable in accordance with the rules and conditions of his service;
- (ii) any amount receivable from any gratuity fund approved by the Commissioner of Income Tax in accordance with the rules contained in Part III of the Sixth Schedule;
- (iii) in the case of any other employee, the amount not exceeding [two hundred] thousand rupees receivable under any scheme applicable to all employees of the employer and approved by the Central Board of Revenue for the purposes of this sub-clause; and
- (iv) in the case of any employee to whom sub-clauses (i), (ii) and (iii) do not apply, fifty per cent of the amount receivable or [seventy-five thousand] rupees, whichever is the less:



Provided that nothing in this sub-clause shall apply-

- (a) to any payment which is not received in Pakistan;
- (b) to any payment received from a company by a director of such company who is not regular employee of such company;
- (c) to any payment received by an employee who is not a resident of Pakistan; and
- (d) to any gratuity received by an employee who has already received any gratuity from the same or any other employer.

(28) Any income of a person representing the sums received by him as a worker from out of the Works Participation Fund established under the Companies Profits (Workers Participation) Act, 1968 (XII of 1968).

(29) Any income of an officer representing the sum received by him as Entertainment Allowance admissible to him under the Ministry of Finance and Provincial Coordination (Finance Division) Office Memorandum No.F.2(2)-Imp-I/77, dated the 29th April 1977.

[(29A) Any income of an officer representing the sum received by him as Entertainment Allowance admissible to him under the Ministry of Finance (Finance Division) Office Memorandum No.F.1(1)-Imp/83, dated the 18th August, 1983.

(30) Any income of an officer of the Pakistan Armed Forces representing the sum received as Entertainment Allowance admissible to him under the Ministry of Defence Office Memorandum No. 716(D)/(B)/77, dated the 29th April, 1977.

(31) Any income of an officer representing the sum received by him as Entertainment Allowance admissible to him under the Cabinet Secretariat (Establishment Division) Office Memorandum No.18/2/78-CV, dated the 13th July, 1978.

(32) Any income of an officer representing the sum received by him as Senior Post Allowance admissible to him under the Ministry of Finance, Planning and Development (Finance Division) Office Memorandum No.F1(36) Gaz-IMP-I/73, dated the 18th August 1973.

(33) Any income of an officer representing the sum received by him as Senior Post Allowance admissible to him under the Ministry of Finance and Provincial Coordination (Finance Division) Office Memorandum No.F1(1)IMP-1/77, dated the 28th April, 1977.

[(33A) Any income of any officer representing the sum received by him as Orderly Allowance admissible to him under the Finance Division O.M.No.F.1(3)-IMP-II/85, dated the 24th October, 1985.]

[(33B) Any income of an employee of a recognised University in Pakistan representing the sums received by him as Senior Post Allowance, Entertainment Allowance or Orderly Allowance admissible under the terms and conditions of his service.

[ ]

(37) Any income representing compensatory allowance payable to a citizen of Pakistan locally recruited in Pakistan Mission abroad as does not exceed [75] per cent of his gross salary.

(38) Any income of an officer representing the sum received by him as Personal Staff Subsidy admissible to him under the Cabinet Secretariat (Establishment Division) Office Memorandum No. 18/2/78-CV, dated the 13th July, 1978.

[Cost of living allowance]

(38A) Any income representing cost of living allowance admissible to the Government employees at the rate of 7% with effect from the first day of July, 1995.]

Special allowance to meet certain expenses:

(39) Any special allowance or benefit (not being entertainment or conveyance allowance or other perquisite within the meaning of sub-section (2) of section 16 specially granted to meet expenses wholly and necessarily incurred in the performance of the duties of an office or employment of profit.

[(39A) Any income of a newspaper employee representing Local Travelling Allowance paid in accordance with the decision of the Third Wage Board for Newspaper Employees constituted under the Newspaper Employees (Conditions of Service) Act, 1973, published in Part II of the Gazette of Pakistan, Extraordinary, dated the 28th June, 1980.

[(39B) Any amount received as flying allowance by pilots , fight engineers and employed by any Pakistani airline <sup>1</sup>[or by Civil Aviation Authority.]

(40) Any allowance attached to any Honour, Award or Medal awarded by the President of Pakistan and any monetary award granted by the President of Pakistan.

[(41) Disturbance pay of the armed forces personnel for the assessment year 1997-98. ]

(42) Such portion of the income of a member of Pakistan Armed Forces as is compulsorily payable by him under any orders issued by Government to mess, entertainment or band fund.

[(42A) Any amount notified as flying allowance payable to pilots, flight engineers and navigators of the Pakistan Air Force.]

[(42B)Any amount notified as flying allowance payable to pilots, flight engineers and navigators of the Pakistan Army and the Pakistan Navy.

(42C)Any amount notified as submarine allowance payable to officers of the Pakistan Navy.

[(42D) any amount received as flying allowance by Junior commissioned officers or other ranks of Pakistan Armed Forces;]

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<sup>1</sup> Words ins. by F. O. 2001.

*Free rations:*

(43) The value of rations issued in kind, or cash allowance paid in lieu thereof, to members of Pakistan Armed Forces or of Territorial Forces.

*Rent-free quarters:*

(44) The value of rent-free quarters occupied by, or cash allowance paid in lieu thereof, to members of the Pakistan Armed Forces, including Territorial Force.

*Conservancy allowance:*

(45) The conservancy allowance granted in lieu of free conservancy to personnel below commissioned rank of Pakistan Armed Forces and Territorial Force.

*Deferred pay:*

(46) Deferred pay admissible to Armed Forces personnel under the new Pay Code.

*Salary of Khasadars, etc.:*

(47) Any income chargeable under the head "Salary" paid by Government to Khasadars, levies and Badraggas employed in the tribal territory on the North West Frontier and of all persons employed in the tribal levy services in Baluchistan.

*Pensions for injuries, etc.*

(48) Any pension granted to the personnel of Armed Forces of Pakistan (including personnel of the Territorial Force and the National Service of Pakistan) in respect of injuries received in the performance of their duties as such.

*Invalid pensions:*

(49) Any pension granted to the personnel of the Armed Forces of Pakistan (including personnel of the Territorial Force and the National Service of Pakistan) invalidated from service with such Forces on account of bodily disability attributable to, or aggravated by, such service.

*Pensions to dependants of Shaheeds:*

(50) Any income derived by the families and dependents of the "Shaheeds" belonging to Pakistan Armed Forces from the special family pension, dependents pension or children's allowance granted under the provisions of the Joint Services Instruction No.5/66.

(51) Any income derived by the families and dependents of the "Shaheeds" belonging to the Civil Armed Forces of Pakistan to whom the provisions of the Joint Services Instruction No.5/66 would have applied had they belonged to the Pakistan Armed Forces from any like payment made to them.

*[Pension of dependents of public servants:*

(51A) Any pension granted under the relevant rules to the families and dependents of public servants or members of the Armed Forces of Pakistan who die during service.]

*Perquisites to President, Provincial Governors, etc.:*

(52) The perquisite represented by the right of the President of Pakistan, the Provincial Governors and the Chiefs of Staff, Pakistan Armed Forces to occupy free of rent as a place of residence any premises provided by the Government.

(53) The perquisite represented by free conveyance provided and the sumptuary (entertainment) allowance granted by Government to Provincial Governors, the Chiefs of Staff, Pakistan Armed Forces and the Corps Commanders.

(54) The following perquisites and allowances provided or granted by Government to the Ministers of the Federal Government, namely:-

- (a) rent-free accommodation in so far as the value thereof exceeds ten per cent of the basic salary of the Ministers concerned;
- (b) house-rent allowance paid by Government in lieu of rent-free accommodation in so far as it exceeds five hundred and fifty rupees per mensem;
- (c) free conveyance; and
- (d) sumptuary allowance.

*[Free provision of utilities:*

(54A) Any sum paid, for purpose of meeting the charges for gas, water and electricity, to-

- (a) the Federal and Provincial Ministers; and
- (b) an employee upto ten percent of the minimum of time scale, and where there is no time scale, upto ten per cent of the basic salary.

(54B) The value of gas, water and electricity provided free of charge to-

- (a) the Federal and Provincial Ministers; and
- (b) an employee upto ten percent of the minimum of time scale, and where there is no time scale, upto ten per cent of the basic salary.]

(55) The perquisite represented by the right of a Judge of the Supreme Court of Pakistan or of a Judge of a High Court to occupy free of rent as a place of residence any premises provided by the Federal or the Provincial Government, as the case may be, or in case no such residence is provided, or a Judge chooses to reside in his own house, so much of income which represents the sum paid to him as house rent allowance, but not exceeding seven hundred and fifty rupees per mensem.

[(55A) The following allowance and privileges provided to a Judge of a High Court vide the Transfer of High Court Judges (Allowances and Privileges) Order, 1983 (P.O.No. 2 of 1983), namely:-

- (a) monthly allowances of one thousand and five hundred rupees; and
- (b) if the family of a Judge does not join him at the place to which he is transferred or at which he is posted, he shall be provided at such place with-
  - (i) single rent free accommodation maintained by Government; and
  - (ii) an official car maintained at Government expense, including the supply of petrol not exceeding one hundred and fifty litres per month for use in such car.]

[(56)(1) Any income from voluntary contributions, house property and investments in securities of the Federal Government derived by the following, namely:-

- (i) National Investment (Unit) Trust of Pakistan established by the National Investment Trust Limited, if not less than ninety per cent of its Units at the end of that year are held by the public and not less than ninety per cent of its income of the year is distributed among the Unit-holders;
- (ii) any Mutual Fund approved by the Controller of Capital Issues and set up by the Investment Corporation of Pakistan, if not less than ninety per cent of its Certificates at the end of that year are held by the public and not less than ninety per cent of its income of that year is distributed among the Certificate-holders;
- <sup>1</sup>[(iia) Overseas Pakistanis Pension Trust;]
- (iii) Shaukat Khanum Memorial Trust, Lahore; and
- (iv) Sheikh Sultan Trust, Karachi.

[(1A) Any income derived by any Mutual Fund[investment company, or a collective investment scheme approved by the Corporate Law Authority] or the National Investment (Unit) Trust of Pakistan established by the National Investment Trust Limited from any instrument of redeemable capital as defined in the Companies Ordinance, 1984 (XLVII of 1984), if not less than ninety per cent of its income of that year is distributed amongst the Unit-holders.

(2) Any income of the following funds and institutions, namely:-

- (i) a provident fund to which the Provident Funds Act, 1925 (XIX of 1925), applies;
- (ii) trustees on behalf of a recognised provident fund or an approved superannuation fund or an approved gratuity fund;

<sup>2</sup>[(iia) Overseas Pakistanis Pension Trust;]

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<sup>1</sup> Ins. by SRO529(I)/98, dated 9-6-1998

<sup>2</sup> Item (iia) ins. by S RO 529 (1) / 98, dated 9-6-1988

- (iii) a benevolent fund or group insurance scheme approved by the Central Board of Revenue for the purposes of this sub-clause;
- (iv) Service Fund;
- (v) Employees Old-Age Benefits Institution established under the Employees Old-Age Benefit Act, 1976 (XIV of 1976);
- (vi) any Unit, Station or Regimental Institute; and
- (vii) any recognised Regimental Thrift and Savings Fund, the assets of which consist solely of deposits made by members and profits earned by investment thereof.

*Explanation.-* For the purpose of this sub-clause, "Service Fund" means a fund which is established under the authority, or with the approval, of the Federal Government for the purpose of-

- (a) securing deferred annuities to the subscribers or payment to them in the event of their leaving the service in which they are employed; or
- (b) making provision for their wives or children after their death; or
- (c) making payment to their estate or their nominees upon their death.]

[ ]

[(62)(1) Any income of a trust [or welfare institution] specified [in sub-clauses (2) and (3)] from donations, voluntary contributions, subscriptions, house property, investments in the securities of the Federal Government and so much of the income chargeable under the head "Income from business or profession" as is expended in Pakistan for the purposes of carrying out welfare activities:

Provided that in the case of income under the head "Income from business or profession", the exemption in respect of income under the said head shall not exceed an amount which bears to the income under the said head the same proportion as the said amount bears to the aggregate of the incomes from the aforesaid sources of income.

(2) A trust administered under a scheme approved by the Federal Government in this behalf and established in Pakistan exclusively for the purposes of carrying out such activities as are for the benefit and welfare of-

- (i) ex-servicemen and serving personnel, including civilian employees of the Armed Forces, and their dependents; or
- (ii) ex-employees and serving personnel of the Federal Government or a Provincial Government and their dependents, where the said trust is administered by a committee nominated by the Federal Government or, as the case may be, a Provincial Government.

{(3) A trust or welfare institution approved by the Central Board of Revenue for purposes of this sub-clause.}}

[ ]  
[ ]  
[ ]  
[ ]

*Interest income:*

<sup>1</sup>[ ]  
<sup>1</sup>[ ]  
<sup>2</sup>[ ]

(75) Any interest payable to a non-resident in respect of such private loan to be utilised on such project in Pakistan as may be approved by the Federal Government for the purposes of this clause, having regard to the rate of interest and the terms of re-payment of the loan and the nature of the project on which it is to be utilised.

[(75A) Any interest payable to a non-resident on a loan in foreign exchange against export letter of credit which is used exclusively for export of goods manufactured or processed for exports in Pakistan.]

(76) Any interest payable by an industrial undertaking in Pakistan-

- (i) on moneys borrowed by it under a loan agreement entered into with any such financial institution in a foreign country as may be approved in this behalf by the Federal Government by a general or special order; and
- (ii) on moneys borrowed or debts incurred by it in a foreign country in respect of the purchase outside Pakistan of capital plant and machinery in any case where the loan or debt is approved by the Federal Government, having regard to its terms generally and in particular to the terms of its payment, from so much of the tax payable in respect thereof as exceeds the tax or taxes on income paid on such interest in the foreign country from which the loan emanated or in which the debt was incurred (hereinafter referred to as the 'said country');

Provided that, where the amount of such tax or taxes paid in the said country exceeds the amount of the tax payable in Pakistan, no refund of the amount paid in excess shall be allowed:

Provided further that, where the said country exempts such would have been payable in Pakistan if the said interest were liable to tax in Pakistan, no tax shall be payable in Pakistan in respect of such interest.

(77) Any income of an agency of a foreign Government, or other foreign national[, company, firm or association of persons] approved by the Federal Government for the purposes of this clause, from interest paid on moneys borrowed by the Federal Government or by any other person in Pakistan under a loan agreement approved by the Federal Government.

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<sup>1</sup> Cls. (72) & (73) omitted by SRO 1012(I)/99, dated 9-3-1999

<sup>2</sup> Cl. (74) omitted by SRO 447(I)/93, dated 19-5-1993 w.e.f. 30-5-1993. Existing beneficiaries protected.

[(77A) Any interest payable to a non-resident being a foreign individual, company, firm or association of persons in respect of a foreign loan as is utilised for industrial investment in Pakistan provided that the agreement for such loan is concluded on or after the First day of February 1991, and is duly registered with the State Bank of Pakistan.]

[(77B) Any profit derived by a non-resident, [(whether a citizen of Pakistan or otherwise)] in respect of the Islamic mode of financing, including istisna, morabaha, musharika[:]]

[Provided that in the case of Hub Power Company Limited, this clause shall apply to such Islamic modes of financing agreements which have been concluded on or after the 30th day of November, 1992.]

<sup>1</sup>[(77C)The yield of National Savings or Deposit Certificate, including Defence Savings Certificate, issued under the National Saving Schemes:

Provided that exemption under this clause shall not apply in respect of any profit received on the reinvestment of Khas Deposit Certificates made under the National Savings Scheme on or after the tenth day of November, 1991.

Provided further that exemption under this clause shall not be available in respect of bearer certificates (under whatever nomenclature) purchased on or after the 15<sup>th</sup> June, 1995[:]

<sup>2</sup>[Provided further that the exemption under this clause shall not apply in respect of profit received on any investment made in the aforementioned deposit certificates on, or after, the first day of July, 2001.

(77D) Any interest on deposits in the Post Office savings Bank or National Savings Centers under the National Saving Schemes.

Provided that exemption under this clause shall not apply in respect of any profit received on the reinvestment of Khas Deposit Certificates made under the National Savings Scheme on or after the tenth day of November, 1991].

(77E) Any income derived by a person from his investment from Monthly Income Savings Account Scheme of the Directorate of National Savings provided that the monthly instalment in an account does not exceed Rs.1000.]

<sup>3</sup>[Provided that the exemption under this clause shall not apply in respect of investment in such scheme made on, or after, the first day of July, 2001.]

(78) Any interest derived from foreign currency accounts held with the authorised banks in Pakistan, in accordance with Foreign Currency Accounts Scheme introduced by the State Bank of Pakistan, by citizens of Pakistan and foreign nationals residing abroad, foreign associations of persons, companies registered and operating abroad and foreign nationals residing in Pakistan.

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<sup>1</sup> Cls. (77C), (77D) & (77E) ins. by SRO 1343(I)/99, dated 16-12-1999 w.e.f. 3-9-1999.

<sup>2</sup> Third proviso added by F. O. 2001.

<sup>3</sup> Proviso ins. by F. O. 2001



[(78A) Any interest {or profit} derived from a rupee account held with a scheduled bank in Pakistan by a citizen of Pakistan residing abroad{, where the deposits in the said account are made exclusively from foreign exchange remitted into the said account}.]

[(78B) Any income derived from a private foreign currency account held with an authorised bank in Pakistan, in accordance with the Foreign Currency Accounts Scheme introduced by the State Bank of Pakistan, by a resident citizen of Pakistan.]

<sup>1</sup>[Provided that the exemption under this clause shall not be available in respect of any incremental deposits made in the said accounts on or after the 16<sup>th</sup> day of December, 1999, or in respect of any accounts opened under the said scheme on or after the said date].

<sup>2</sup>[(78C) The income of an individual, a firm, an institution or a body corporate, other than a bank or a financial institution, by way of interest on Foreign Currency Bearer Certificates issued under the Three-Years Foreign Currency Bearer Certificate Rules, 1997.]

<sup>3</sup>[(78D) Any profit on Special U. S .Dollar Bonds issued under the Special U. S. Dollar Bonds Rules, 1998.

<sup>4</sup>[Provided that exemption under this clause shall not apply to profits on the said bonds purchased by a resident person out of any incremental deposits made in the foreign currency accounts on or after the 16<sup>th</sup> day of December, 1999, or out of new accounts opened on or after the said date.

<sup>5</sup>[(78E) Any profits or interest derived from Pak rupee account or certificates of deposit which have been created by conversion of a foreign currency account or deposit held on the 28th day of May, 1998, with a bank authorised under the Foreign Currency Accounts scheme of state bank of Pakistan:

Provided that nothing contained in this clause shall apply to such Pak rupee account or certificates which are created out of foreign currency deposits which are not exempt under clause (78);]

(79) Any interest income received from a Pakistani bank by a foreign bank, approved by the Federal Government for the purposes of this clause, for such period as may be determined by the Federal Government:

Provided that-

- (i) the interest income is earned on deposits comprising of remittances from abroad held in a rupee account opened with a Pakistani bank with the prior approval of the State Bank of Pakistan;
- (ii) the Pakistani bank maintaining the said rupee account holds 20 per cent or more of the equity capital of the said foreign bank and the management of the latter vests in the Pakistani bank; and

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<sup>1</sup> Proviso ins. by SRO No.1344, dated 16-12-1999.

<sup>2</sup> Cl. (78C) ins. by SRO 111 (I) /98, dated 19-2-1998.

<sup>3</sup> Cls. (78D) & (78E) ins. by SRO 871(I)/98, dated 5-8-1998.

<sup>4</sup> Proviso ins. by SRO No.1344, dated 16-12-1999.

<sup>5</sup> Cl. (78E) ins. by SRO No.87(I)/98, dated 5-8-1998

- (iii) the rate of interest chargeable on the said deposits does not exceed the rate of interest chargeable on the deposits in the foreign currency accounts allowed to be opened with banks in Pakistan by the State Bank of Pakistan.

[(79A) Any income derived by any person, not being a bank, a banking company, a financial institution, a development financing institution or a company engaged in the business of insurance, by way of return on bearer bonds issued by the Pakistan Water and Power Development Authority, established under the Pakistan Water and Power Development Authority Act, 1958 (West Pakistan Act No.(XXXI of 1958){:}]

[Provided that nothing contained in this clause shall apply in respect of return on bonds issued on or after the first day of July, 1991.]

[(79B) Any income derived by any person, being an individual, by way of return on bearer or registered bonds (Second issue, 1989), issued by the Pakistan Water and Power Development Authority, established under the Pakistan Water and Power Authority Act, 1958 (West Pakistan Act, No.(XXXI of 1958){:}]

[Provided that nothing contained in this clause shall apply in respect of return on bonds issued on or after the first day of July, 1991.]

<sup>1</sup>[(79C) Any income derived by a non-resident from foreign investment in 7th issue of Pak rupee denominated WAPDA Energy Bonds issued under the WAPDA Energy Bonds (7th Issue)Regulation 1997.]

[(80) Any income derived by a non-resident (excluding local branches, subsidiaries or offices of foreign banks, companies, associations of persons or any other person operating in Pakistan) from Federal Government securities and redeemable capital, as defined in the Companies Ordinance, 1984, (XLVII of 1984) listed on a registered stock exchange, where the investments are made exclusively from foreign exchange remitted into Pakistan through a Special Convertible Rupee Account maintained with a bank in Pakistan.]

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<sup>2</sup>[(80A) Any income derived by an individual, unregistered firm, association of persons, Hindu undivided family or an artificial juridical person, other than a company, from rated and Listed Term Finance Certificates Ordinance, 1984, issued on or capital under the Companies Ordinance, 1984, issued on or after the 14th day of September, 1997[:]]

<sup>3</sup>[Provided that the exemption under this clause shall not apply in respect of any assessment year commencing on, or after, the first day of July, 2002.]

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<sup>1</sup> Cl. (79C) ins. by SRO 406(I)/97, dated 3-5-1997.

<sup>2</sup> Cl. (80A) subs. by SRO171(I)/98, dated 17-3-1998 . Earlier ins. by 703(1)/97, dated 13-9-1997.

<sup>3</sup> Proviso ins. by F.O. 2001.

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*[Income of text-book boards:*

(85A) Any income of a text-book board of a Province established under any law for the time being in force, accruing or arising from the date of its establishment.]

*Income of universities and educational institutions:*

(86) Any income of any university or other educational institution established solely for educational purposes and not for purposes of profit.

[(86A) Profits and gains derived by an assessee from the running of any educational institution set up between the first day of July, 1991, and the thirtieth day of June, 1995, both days inclusive, for a period of five years beginning with the month in which institution is set up.

<sup>1</sup>[(86B) Profits and gains derived by an assessee from the running of any computer training institution or computer training scheme, <sup>2</sup>[recognized by a Board of Education or a University or the University Grant Commission, as the case may be], set up between the first day of July, 1997, and the thirtieth day of June, <sup>3</sup>[2005], both days inclusive, for a period of five years beginning with the month in which such institution is set up{:}]

<sup>4</sup>[Provided that a computer training institution or computer training scheme approved by the Central Board of Revenue before the first day of July, 2000, shall continue to avail exemption under this clause till the expiry of the specified period.]

*Scholarships:*

(87) Scholarships granted to meet the cost of education.

*Local authorities:*

(88) Any income of a local authority, not being income from business, if any, carried on by it outside its jurisdictional area.

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*Sports Boards, etc.:*

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<sup>1</sup> Cl. (86B) ins. by F. A. 1997.

<sup>2</sup> Subs. for “approved by the Central Board of Revenue” by F. O. 2000.

<sup>3</sup> Subs. for “2000” *ibid.*

<sup>4</sup> Proviso ins. *ibid.*

(90) Any income derived by any Board or other organisation established <sup>1</sup>[by Government] in Pakistan for the purposes of controlling, regulating or encouraging major games and sports recognised by Government.

[(91) Subject to the provisions of sub-section (3A) of section 47, any amount paid as donation to the following institutions, foundations, societies, boards, trusts and funds, namely:-

- (i) any Sports Board or institution recognised by the Federal Government for the purposes of promoting, controlling or regulating any sport or game;
- (ii) President's fund for Afghan Refugees;
- (iii) Fund for promotion of Science and Technology in Pakistan;
- (iv) Fund for Retarded and Handicapped Children;
- (v) National Trust Fund for the Disabled;
- (vi) Bangladesh Flood Relief Fund, 1988;
- (vii) Fund for Development of Mazar of Hazarat Burri Imam;
- (viii) Rabita-e-Islami's Project for printing copies of the Holy Quran;
- (ix) Fatimid Foundation, Karachi;
- (x) Al-Shifa Trust;
- (xi) Bank of Commerce and Credit International Foundation for Advancement of Science and Technology;
- (xii) Society for the Promotion of Engineering Sciences and Technology in Pakistan;
- (xiii) President's Fund for Assistance to Palestine;
- (xiv) President's Famine Relief Fund for Africa;
- (xv) Bangladesh Cyclone Relief Fund, 1985;
- (xvi) Prime Minister's Fund for the Welfare of Widows and Orphans;
- (xvii) Prime Minister's Disaster Relief Fund, 1987;
- (xviii) Chief Minister Punjab's Flood Relief Fund, 1988;
- (xix) Prime Minister's Fund for Welfare and Relief for Kashmiris;

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<sup>1</sup> Words ins. by F.A.1997.

- (xx) Prime Minister's Bangladesh Cyclone Relief Fund, 1991;
- (xxi) Sindh Governor's Relief Fund, 1990, for the Relief and Rehabilitation of Victims of Violence in Sindh;
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- (xxii) Citizens-Police Liaison Committee, Central Reporting Cell, Sindh Governor House, Karachi;
- (xxiii) ICIC Foundation;
- (xxiv) BCCI Foundation;
- (xxv) National Management Foundation;
- (xxvi) [Endowment Fund of the institutions of the Agha Khan Development Network (Pakistan) listed in Schedule 1 of the Accord and Protocol, dated November 13, 1994, executed between the Government of the Islamic Republic of Pakistan and Agha Khan Development Network]
- (xxvii) Shaheed Zulfiqar Ali Bhutto Memorial Awards Society;
- (xxviii) Iqbal Memorial Fund;
- (xxix) Cancer Research Foundation of Pakistan, Lahore;
- (xxx) Shaukat Khanum Memorial Trust, Lahore;
- [(xxxi) Christian Memorial Hospital, Sialkot]; [and]
- [(xxxii) National Museums, National Libraries and Monuments or institutions declared to be National Heritage by the Federal Government.]
- [(xxxiii) Mumtaz Bakhtawar Memorial Trust Hospital, Lahore.]
- [xxxiv) Kashmir Fund for Rehabilitation of Kashmir Refugees and Freedom Fighters.]
- [(xxxv) Institutions of the Agha Khan Development Network (Pakistan) listed in Schedule 1 of the Accord and Protocol, dated November 13, 1994, executed between the Government of the Islamic Republic of Pakistan and Agha Khan Development Network.]
- [(xxxvi) Azad Kashmir President's Mujahid Fund, 1972; National Institute of Cardiovascular Diseases, (Pakistan) Karachi; Businessmen Hospital Trust, Lahore; Premier Trust Hospital, Mardan; Faisal Shaheed Memorial Hospital, Gujranwala; Faisal Shaheed Memorial Hospital Trust, Gujranwala; Khair-un-Nisa Hospital Foundation, Lahore; Sind and Baluchistan Advocates' Benevolent Fund; Rashid Minhas Memorial Hospital Fund; and
- (xxxvii) Mohatta Palace Gallery Trust;
- (xxxviii) Any relief or welfare fund established by the Federal Government.]

<sup>1</sup>(91A) Any amount paid as donation to the Prime Minister's Fund for National Debt Retirement[:]

<sup>2</sup>[Provided that the exemption under this clause shall not apply in respect of any assessment year commencing on, or after, the first day of July, 2002.]

<sup>3</sup>[(91B) Any amount paid as donation to the National Self Reliance Fund[:]

<sup>4</sup>[Provided that the exemption under this clause shall not apply in respect of any assessment year commencing on, or after, the first day of July, 2002.]

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*Income of religious or charitable trusts, etc.:*

(93) Any income which is derived from, [{investments in securities of the Federal Government and [house property] [ ] held under trust or other legal obligations wholly, or in part only, for [religious or] charitable purposes and is actually applied or finally set apart for application thereto:

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[Provided that nothing in this clause shall apply to so much of the income as is not expended within Pakistan:]

Provided further that if any sum out of the amount so set apart is expended outside Pakistan, it shall be included in the total income of the income year in which it is so expended or of the year in which it was set apart, whichever is the greater, and the provisions of sub-section (3) of section 65 shall not apply to any assessment made or to be made in pursuance of this proviso.

[*Explanation.-* Notwithstanding anything contained in the Mussalman Wakf Validating Act, 1913 (VI of 1913), or any other law for the time being in force or in the instrument relating to the trust or the institution, if any amount is set apart, expended or disbursed for the maintenance and support wholly or partially of the family, children or descendants of the author of the trust or the donor or the maker of the institution or for his own maintenance and support during his life time or payment to himself or his family, children, relations or descendants or for the payment of his or their debts out of the income from house property dedicated, or if any expenditure is made other than for charitable purposes, in each case such expenditure, provision, setting apart, payment or disbursement shall not be deemed, for the purposes of this clause, to be for religious or charitable purposes.]

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(94) Any income of a religious or charitable institution derived from voluntary [contributions] applicable solely to religious or charitable purposes of the institution:

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<sup>1</sup> Cl.(91A) ins. by S R O 181(1)/97, dated 22-3-1997.

<sup>2</sup> Proviso ins. by F. O. 2001.

<sup>3</sup> Cl. (91B) ins. by SRO 529 (1) / 98, dated 9-6-1988

<sup>4</sup> Proviso ins. by F. O. 2001.

Provided that nothing contained in clause (93) or this clause shall apply to the income of a private religious trust which does not enure for the benefit of the public.

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[(102C) Any income derived by an assessee from the business of fish catching or fish processing, where the fish catching business or fish processing unit is established by the assessee for the first time between first day of July, 1993, and 30th day of June, [1997], for a period of five years from the date of such establishment, subject to the condition that the said date shall be determined by the Commissioner on an application made by the assessee.]

[(102D) Income of Mutual Funds:

Any income derived by a Mutual Fund or an investment company registered under the Investment Companies and Investment Advisors Rules, 1971 or a unit trust scheme constituted by an asset management company registered under the Assets Management Companies Rules, 1995, if not less than ninety per cent of its income of that year is distributed amongst the unit or certificate holders or shareholders, as the case may be.]

#### *Income of modarabas*

<sup>1</sup>[(102E) Any income, not being income from trading activity, of a modaraba registered under the Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 1980 (XXXI of 1980), for any assessment year commencing on or after the first day of July, 1999:

Provided that not less than ninety per cent of its total profits in the year as reduced by the amount transferred to a mandatory reserve, as required under the provisions of the said Ordinance or the rules made thereunder:

Provided further that with effect from the first day of July, 1999, for the purpose of determining the distribution of ninety per cent profits, the profits distributed through bonus certificates or shares to the certificate holders shall not be taken into account.;

(102F) The income of National Investment (Unit) Trust for the assessment years 1999-2000 and 2000-2001.

<sup>2</sup>[(102G) <sup>3</sup>[venture capital company and venture capital fund]

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<sup>1</sup> Subs. by F.A.1999. Earlier inserted by F.A. 1998.

<sup>2</sup> Cl.(102G) ins. by SRO dated .

<sup>3</sup> Words etc subs. by SRO 127(I)/2001, dated 24-2-2001.

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[(107A) Any dividends received on or after the first day of July, 1982, by the Investment Corporation of Pakistan from any other company which has paid or will pay the tax in respect of the profits out of which such dividends are paid.

<sup>1</sup>[ ]

*Income of partners of firms, etc.:*

(109) Any sum received by an assessee as a member of a Hindu undivided family out of the income of the family.

(110) Any sum which the assessee is entitled to receive out of the income of an association of persons (other than a Hindu undivided family, a company or a firm) on which tax has already been paid by the association:

Provided that such sum shall be included in the total income of the assessee for computing the average rate of tax applicable to the total income excluding such sum.

(111) Any sum being the share of the assessee (or any portion thereof) in the profits and gains of an unregistered firm, not being a firm treated as a registered firm under sub-clause (ii) of clause (b) of sub-section (1) of section 69, computed in the manner laid down in sub-section (4) of section 69, on which tax has already been paid by the firm:

Provided that such sum shall be included in the total income of the assessee for computing the average rate of tax applicable to the total income excluding such sum.

[(111A) Any sum being the share of the assessee (or any portion thereof) in such profits and gains of a registered firm as are liable to be assessed under the provisions of section 80C [or section 80CC].

(112) Any distribution received by an assessee from the National Investment (Unit) Trust or a Mutual Fund established by the Investment Corporation of Pakistan out of the capital gains of the said Trust or Fund on which tax has already been paid.

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*Income from transport business:*

(115) Any income derived by a person from plying of any vehicle registered in the territories of Azad Jammu and Kashmir, excluding income arising from the operation of such vehicle in Pakistan to a person who is resident in Pakistan and non-resident in those territories.

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<sup>1</sup> Clause (108) omitted by F. O. 2001. Earlier in ins. by F. A. 1997. Still earlier, the original clause was omitted by F. A. 1995.



*Income of Water and Power Development Authority:*

[(115A) Any income derived by the Pakistan Water and Power Development Authority, established under the Pakistan Water and Power Development Authority Act, 1958 (West Pakistan Act No. XXXI of 1958).]

<sup>1</sup>[(115B) The income derived by a company being a holding company of which more than ninety-nine per cent shares are owned and held by the Water and Power Development Authority specified in entry (115A) for the assessment years 1998-99 -2000 and 2000-2001.

(115C) The Income derived by subsidiary company in Which more than ninety -nine per cent shares are held by a company specified in entry (115B), engaged in generation of thermal power or transmission or distribution of electricity, for assessment years 1998-99,1999-2000 and 2000-01.]

*Capital gains:*

(116) Any income chargeable under the head "capital gains"[, being income from the sale of {modaraba certificates or} {any instrument of redeemable capital as defined in the Companies Ordinance, 1984 (XLVII of 1984), listed on any stock exchange in Pakistan or} shares of a public company (as defined in the First Schedule) {and the Pakistan Telecommunications Corporation vouchers issued by the Government of Pakistan},] derived by an assessee in respect of any assessment year ending on or before the thirtieth day of June, <sup>2</sup>[2005].

[(116A) Any income chargeable under the head `capital gains`, being income from the sale of shares of a public company (as defined in the First Schedule), derived by any foreign institutional investor as is approved by the Federal Government for the purposes of this clause.]

[(116B) Any income chargeable under the head `capital gains` arising to an assessee for any assessment year commencing on or after the first day of July, 1991, from the sale of shares of industrial units of public sector corporations by the Privatization Commission.]

[(116C) Any income chargeable under the head "capital gains", being income from the sale of shares of a public company (as defined in the First Schedule) set up in any Special Industrial Zone referred to in clause (126C) derived by an assessee for a period of five years from the date of commencement of its commercial production[:]]

[Provided that the exemption under this clause shall not be available to an assessee from the sale of shares of such companies which are not eligible for exemption from tax under clause (126C).]

(117) Any income chargeable under the head "capital gains" derived by an assessee from an industrial undertaking set up in an area declared by the Federal Government to be a "Zone" within the meaning of the Export Processing Zones Authority Ordinance, 1980 (IV of 1980).

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<sup>1</sup> Cls. (115B) & (115C) ins. by SRO 169 (I) /98, dated 6-3-1998.

<sup>2</sup> Subs. for "2002" by F. O. 2001. Earlier, figure "2002" subs. "1999" by F. A. 1997. Figure "1999" was subs. for "1996" by SRO 177(I)/95, dated 1-3-1995. Figure "1996" replaced "1994" by F. A. 1993. Figure "1994" subs. figure "1992" through F. A. 1991. Figure "1992" replaced "1989" through F. A. 1998 & figure "1989" replaced figure "1984" through F. O. 1983.

<sup>1</sup>[( 117A) Any income derived by an individual from transfer of his membership rights or share of a stock exchange in Pakistan to a company at any time between the 1<sup>st</sup> day of July, 1998, and the 30th day of June, 1999 <sup>2</sup>{and between the first day of July, 2000 and the 30th day of June, 2001}.]

(118) Any share of income received by an assessee out of capital gains on which tax has been paid by the firm of which he is a partner.

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[(121A) Profits and gains derived by an assessee from a pioneer industrial undertaking [which is set up by 30th day of June, 1997,] for a period of five years from the date of commencement of commercial production:

The exemption under this clause shall apply to a pioneer industrial undertaking which-

(a) is owned and managed by a company formed and registered under the Companies Act, 1913 (VII of 1913), having its registered office in Pakistan;

(b) is an undertaking the income, profits and gains of which are not liable to be computed in accordance with the rules contained in the Fifth Schedule;

{(c) fulfils the following conditions, namely:-

(i) that the undertaking is based on highly sophisticated technology;

(ii) that the technology employed has fast obsolescence;

(iii) that investment in the undertaking involves high risk; and

(iv) that the goods produced, a are to be produced, are such that neither these goods, nor identical or close substitutes thereof, are being produced in Pakistan; and

(d) is approved, on an application made by the assessee in such form and manner and accompanied by such statements, certificates, documents and undertakings, and in accordance with such procedure, as may be prescribed, by the Central Board of Revenue.}]

[(121B) Profits and gains derived by an assessee, being a Pakistani company, from an industrial undertaking engaged in the manufacture of electronic equipment or components thereof which is set up in the North West Frontier Province or in the Islamabad Capital Territory [by 30th day of June, 1997,] and is

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<sup>1</sup> Cl. (117A) ins. by F. A. 1997.

<sup>2</sup> Words etc. ins. by F. O. 2000.

approved by the Central Board of Revenue for purposes of this clause, for a period of five years from the date of commencement of commercial production.]

*[Income from ships]*

(121C) Profits and gains derived by an assessee being a Pakistani company from a ship registered in Pakistan between the first day of July, 1993, and 31st day of December, 1995, for a period of five years from the date of registration of such ship in Pakistan.]

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*[(125C) Fruit Processing]*

(1) Profits and gains derived by an assessee from an industrial undertaking for a period of five years from the date of commencement of commercial production.

(2) The exemption under this clause shall apply to an undertaking which is-

(a) set up between the first day of July, 1994, and the thirtieth day of June, [2000], both days inclusive;

(b) owned and managed by a company formed exclusively for operating the said industrial undertaking engaged in fruit processing and registered under the Companies Ordinance, 1984 (XLVII of 1984), and having its registered office in Pakistan; and

(c) is not formed by splitting up or the reconstruction or reconstitution of business already in existence or by transfer to a new business of any machinery or plant in Pakistan at any time before the commencement of the new business.

*(125D) Manufacture of soft and stuffed toys*

(1) Profits and gains derived by an assessee from an industrial undertaking for a period of five years from the date of commencement of commercial production.

(2) The exemption under this clause shall apply to an industrial undertaking which is-

(a) set up between the first day of July, 1994, and the thirtieth day of June, [2000], both days inclusive;

(b) owned and managed by a company formed exclusively for operating the said industrial undertaking engaged in the manufacture of soft and stuffed toys; and

(c) not formed by splitting up, reconstruction or reconstitution of business already in existence or by transfer to a new business of any machinery or plant in Pakistan at any time before the commencement of the new business.]

*[(125E) Manufacture of Solar Energy Equipment*

(1) Profits and gains derived by an assessee from an industrial undertaking for a period of five years from the date of commencement of commercial production.

(2) The exemption under this clause shall apply to an industrial undertaking which is-

(a) engaged in the manufacture of solar thermal, photovoltaic equipment for production of solar energy and solar appliances;

(b) set up between the first day of July, 1997 and the thirtieth day of June, 2000; and

(c) is not formed by splitting up or the reconstruction or reconstitution of business already in existence or by transfer to a new business of any machinery or plant in Pakistan at any time before the commencement of the new business.]

(126) Profits and gains derived by an assessee from an industrial undertaking set up in an area declared by the Federal Government to be a "Zone" within the meaning of the Export Processing Zones Authority Ordinance, 1980 (IV of 1980), for a period of five years from the date of commencement of production, and for such further period as may be allowed by the Federal Government[:]

Provided that nothing contained in this clause shall apply to an industrial undertaking set up after the 30th June, 1997.

[(126A) Profits and gains derived by an assessee upto the [thirtieth day of June, 1997], from an industrial undertaking set up in the Karachi Export Processing Zone, declared by the Federal Government as a 'Zone' within the meaning of the Export Processing Zones Authority Ordinance, 1980 (IV of 1980).]

[(126B) (i) Profits and gains derived by a company for a period of five years from an industrial undertaking set up in such area and within such period and on such conditions as the Federal Government may, by notification in the official Gazette, specify[:]

[Provided that the exemption under this sub-clause shall not be available after the 31st January, 1996, except to such companies, otherwise qualifying under this clause, which have established letters of credit for the import of plant and machinery for such industrial undertaking by the 31st January, 1996.]

(ii) Income chargeable under the head "Capital gains" derived by an assessee from the sale of shares representing foreign equity in such company and on such conditions as the Federal Government may, by notification in the official Gazette, specify[:]

Provided that the exemption under this sub-clause shall not be available to an assessee from the sale of shares representing foreign equity in such companies which do not qualify for exemption under sub-clause (i).

[(126C) (1) Profits and gains derived by an assessee from an industrial undertaking set up between the first day of July, 1995, and the thirtieth day of June, 1999, both days inclusive, for a period of ten years beginning with the month in which the undertaking is set up or commercial production is commenced, whichever is the later[:]

Provided that the exemption under this clause shall not be available after the 31st January, 1996, except to such assesseees, otherwise qualifying under this clause, who have established letters of credit for the import of plant and machinery for such industrial undertaking by the 31st January, 1996.

(2) The exemption under this clause shall apply to an industrial undertaking which fulfils the following conditions, namely:-

- (a) that it is set up such area as may be notified by the Federal Government to be a Special Industrial Zone;
- (b) that it is not formed by the splitting up, or the reconstruction or reconstitution of a business already in existence or by transfer to a new business of any machinery or plant used in a business which was being carried on in Pakistan at any time before the commencement of the new business;
- (c) that it is owned and managed by a company formed exclusively for operating such industrial undertaking and registered under the Companies Ordinance, 1984 (XLVII of 1984), having its registered office in Pakistan; and
- (d) that it is not engaged in the manufacture of arms and ammunition, security printing, currency and mint, high explosives, radioactive substances, alcohol (except industrial alcohol), cotton ginning, spinning (except as part of integrated textile unit), sugar manufacturing (white), flour milling, steel rerolling and furnace, tobacco industry, ghee or vegetable oil industry, plastic bags (including Polypropylene, and Polyethylene) beverages (excluding fruit juices), polyester industry, automobile assembly and cement industry.

(126D) (1) Profit and gains derived by an assessee from an industrial undertaking set up between the first day of July, 1995, and the thirtieth day of June, [1997], both days inclusive, for a period of eight years beginning with the month in which commercial production is commenced.

(2) The exemption under this clause shall apply to an industrial undertaking which fulfils the following conditions, namely:-

- (i) It is set up in a rural area i.e. outside the limits of any municipal corporation, municipal committee, cantonment board or Islamabad Capital Territory and in no case within the following areas namely:-
  - (a) upto thirty kilometers from the municipal or cantonment limits of Karachi or Lahore; and
  - (b) upto ten kilometers from the existing limits of municipal corporations or cantonment boards;

*Explanation.-* The distance between an industrial undertaking and the outer boundary of a municipal or cantonment limit shall be measured in a straight line on horizontal plane as provided in section 11 of the general Clauses Act, (X of 1897), and the said distance, wherever required, will be defined and determined by the concerned officer of the District Administration.

- (ii) It is not formed by the splitting up, or the reconstruction or reconstitution of a business already in existence or by transfer to a new business of any machinery or plant used in a business which was being carried on in Pakistan at any time before the commencement of the new business.
- (iii) It is owned and managed by a company formed for operating such industrial undertaking and registered under the Companies Ordinance, 1984 (XLVII of 1984), having its registered office in Pakistan.
- (iv) It is an undertaking engaged in any of the following agro-based industries:-
  - (a) cultivation, production, processing and preservation of flowers and ornamental plants;
  - (b) cattle, sheep and goat farming for the production and processing of meat. It will cover rearing, sale and slaughtering of animals and processing and packing of meat and meat products;
  - (c) dairy farming for the production of milk;
  - (d) processing, packing, preservation and canning of milk and milk products with or without addition of other things;
  - (e) processing, packing, preservation and canning of meat and meat products;
  - (f) processing, packing, preservation and canning of fruits and vegetable;
  - (g) inland farming and preservation, packing and canning of fish and seafood with or without addition of other things;
  - (h) cultivation, production and multiplication of high yielding seeds of cereals, pluses, vegetables, fruits, oilseeds, and cash crops like sugarcane, cotton coca, coffee, tea, herbs and spices;
  - (i) cultivation, production and extraction of edible oils;
  - (j) poultry farming and processing, packing, preservation and canning of poultry meat with or without addition of other things; and
  - (k) manufacture of cattle and poultry feeds.]

[(126E) (1) Profits and gains derived by a company set up between the first day of January, 1996, and the thirtieth day of June, 1999, both days inclusive, and engaged in the development of new deep sea port at

Gawadar and the construction of coastal roads in such area for a period of ten years beginning with the month in which such company is set up and subject to such conditions as specified in sub-clause (2) or may be notified by the Federal Government from time to time.

(2) The exemption under this clause shall apply to a company which fulfills the following conditions, namely:-

- (a) that the company is formed exclusively for undertaking activities specified in sub-clause (1) and is registered under the Companies Ordinance, 1984 (XLVII of 1984), having its registered office in Pakistan; and
- (b) that it is not formed by the splitting up, or the reconstruction or reconstitution of a business already in existence or by transfer to a new business of any machinery or plant used in a business which was being carried on in Pakistan at any time before the commencement of the new business.]

[ ]

(128) Any income accruing or arising outside Pakistan to an industrial undertaking set up in an area declared by the Federal Government to be a 'Zone' within the meaning of the Export Processing Zones Authority Ordinance, 1980 (IV of 1980), provided the said income accrues or arises from such activities of the said undertaking as are approved by the Federal Government[:]

[Provided that nothing contained in this clause shall apply to an industrial undertaking set up after the 30th June, 1997.]

[ ]

*[Medical expenditure by individuals.*

(129A) Any amount paid by an assessee, being an individual and resident in Pakistan, by way of personal expenditure on medical services:

Provided that the receipts in respect of such expenditure bearing names[, National Tax Number] and complete addresses of the medical practitioners are furnished alongwith his return of total income.]

[(129B) Any amount paid by way of Federal Educational Fee or expended on setting up and managing or running of a middle, high or technical school in accordance with the conditions laid down in the Federal Educational Fee Scheme.

[ ]

(130A) Any income which accrues or arises outside Pakistan to a resident (who is a citizen of Pakistan but was no resident in any of the four years preceding the year in which he became resident) for two years, that is to say, in respect of the income year in which he became resident and the income year next following.]

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*Income of Pakistan Agricultural Research Council:*

(133) Income of Pakistan Agricultural Research Council, Islamabad.

[(133A) Any income of the Institutions of the Agha Khan Development Network, (Pakistan) as contained in Schedule 1 of the Accord and protocol, dated November 13, 1994, executed between the Government of the Islamic Republic of Pakistan and the Agha Khan Development Network. and ]

*Income of Pak-Libya Holding Company:*

[(134) Any income of Pak-Libya Holding Company in Pakistan upto the fourteenth day of October, 1998, subject to the conditions that-

(i) the Libyan contribution in foreign exchange shall be deposited with the State Bank of Pakistan or in a foreign currency account with a nationalised commercial bank in Pakistan;

(ii) the said contribution in foreign exchange shall not be converted into Pak rupee unless it is invested in a project in Pakistan; and

(iii) the return payable to Libyans shall not be covered by the exchange risk facility in Pakistan.]

*[Income of Saudi-Pak Industrial and Agricultural Investment Company Limited:*

(134A) Any income of Saudi-Pak Industrial and Agricultural Investment Company Limited in Pakistan for a period of [twenty years] commencing with the thirty-first day of December, 1982.]

*Income of Pakistan-Kuwait Investment Company:*

(135) Any income of Pakistan-Kuwait Investment Company in Pakistan for a period of [twenty years] from the date of its incorporation.

[ ]

[(135B) Any income of the Liaquat National Hospital Association, Karachi.]

[(135C) Any income derived by-

(i) Abdul Sattar Edhi Foundation, Karachi; and

(ii) Bilquis Edhi Foundation, Karachi.]

[ ]

[ ]



[ ]

(139) Any income-

- (a) of a company registered under the Companies Act, 1913 (VII of 1913), and having its registered office in Pakistan, as is derived by it by way of royalty, commission or fees from a foreign enterprise in consideration for the use outside Pakistan of any patent, invention, model, design, secret process or formula or similar property right, or information concerning industrial, commercial or scientific knowledge, experience or skill made available or provided to such enterprise by the company or in consideration of technical services rendered outside Pakistan to such enterprise by the company under an agreement \* in this behalf, or
- (b) of any other assessee as is derived by him, in the income year relevant to the assessment year beginning with the first day of July, 1982 and any assessment year thereafter, by way of fees for technical services rendered outside Pakistan to a foreign enterprise under an agreement \*entered into in this behalf:-

Provided that-

- (i) such income is received in Pakistan by or on behalf of the said company or other assessee, as the case may be, in accordance with the law for the time being in force for regulating payments and dealings in foreign exchange; and
- (ii) where any income as aforesaid is not brought into Pakistan in the year in which it is earned and tax is paid thereon, an amount equal to the tax so paid shall be deducted from the tax payable for the year in which it is brought into Pakistan and, where no tax is payable for that year or the tax payable is less than the amount to be deducted, the whole or such part of the said amount as is not deducted shall be carried forward and deducted from the tax payable for the year next following and so on.

\*

(140) Any income of an assessee, being a partner in a registered firm, as represents his share of such income of the said firm as is exempt under clause (139).

*[Pakistan Telecommunication Corporation:]*

(140A) Any income derived by the Pakistan Telecommunication Corporation from the 1st July, 1994, till the incorporation of its successor company, namely, the Pakistan Telecommunication Company Limited.]

*[Pakistan Telecommunications Company (Pvt) Limited:]*

(140B) Any income derived by the Pakistan Telecommunication Company (Pvt) Limited, for a period of three [complete financial] years from the date of its establishment as a company under the Companies Ordinance, 1984 (XLVII of 1984).]

*Income of foreign air and shipping enterprises:*

(141) Any income of a foreign enterprise, for the time being approved by the Federal Government for the purpose of this clause, from the operation of ships and aircraft in international traffic except where such income is earned from ships and aircraft used principally to transport passengers and goods exclusively between places in Pakistan:

Provided that exemption under this clause shall not be available to an enterprise of a country which does not allow similar exemption to a like enterprise of Pakistan.

*Explanation.-* "Foreign enterprises" means an enterprise which is carried on by a person who is not resident in Pakistan and the effective management of which is situated outside Pakistan.

[ ]

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[ ]

*[Donations to the Liaquat National Hospital Association, Karachi.*

(147B) Such portion of the total income of an assessee as is paid by him during the income year as donation to the Liaquat National Hospital Association, Karachi:

Provided that the amount so donated shall be included in computing the total income of the assessee:

Provided further that the amount by which the tax payable by an assessee is reduced on account of the exemption under this clause shall be equal to the sum which bears the same proportion to the sum exempted from tax under this clause as the tax payable on the total income of the assessee bears to the said total income.]

*[Income of Subsidiary of Islamic Development Bank:*

[(148) Any income derived by any subsidiary of the Islamic Development Bank wholly owned by it and set up in Pakistan and engaged in owning and leasing of tankers.]

[ ]

[ ]

*[Donations to the Prime Minister's Relief Fund for Bosnia-Herzegovina.-*

[ ]

*[Donations to the Prime Minister's Flood Relief Fund 1992:-*

[ ]

[ ]

[(152) Any income derived by the Libyan Arab Foreign Investment Company being dividend of the Pak-Libya Holding Company.

(153) Any income derived by the Government of Kingdom of Saudi Arabia being dividend of the Saudi Pak Industrial and Agricultural Investment Company Limited.]

[(154) Any income derived by the Pakistan Council of Scientific and Industrial Research.]

<sup>1</sup> to <sup>9</sup>[ ]

<sup>2</sup>[ ]

*[Income from Monthly Income Savings Account Scheme of the Directorate of National Savings:*

(160) Any income derived by a person from his investment from Monthly Income Savings Account Scheme of the Directorate of National Savings provided that the monthly instalment in an account does not exceed Rs.500.]

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[ ]

[ ]

[ ]

[(167C) Any amount deemed to be income of an [employee] for the purposes of tax on tax. [ ]

*[Institution of Engineers, Pakistan, Lahore:*

(168) Any income derived by the {Institution of Engineers, Pakistan, Lahore}.]

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1. Cl.(154A) omitted by F. O. 2000. Earlier ins. by SRO 227(I)/95, dated 21-3-1995.

2. Cl.(155) deleted by SRO 1266(I)/90, dated 11-12-1990.

3.Cl. (155A) deleted by SRO 954(I)/ 85, dated 1-10-1985.

4.Cl. (115B) deleted by SRO 1278(I)/91, dated 31-12-1991.

5.Cl. (155C) deleted *ibid*.

6. Cl. (155D) deleted *ibid*.

7. Cl. (156) deleted by SRO 1266(I)/90, dated 11-12-1990. Earlier ins. by SRO 1064(I)/82, dated 25-10-1982.

8.Cl. (157) deleted *ibid*. Earlier ins. by 1164(I)/82, dated 17-11-1982.

9. Cl (158) omitted by F. A. 1992. Earlier ins. by SRO 38(I)/83, dated 17-1-1983.

<sup>2</sup> Cl. (159) deleted by SRO 1178(I)/91, dated 31-12-1991. Earlier ins. by SRO 77(I)/83, dated 30-1-1983.

<sup>1</sup>[ ]

{Provided that exemption under this clause shall not be available in respect of certificates purchased on or after the 15 June, 1995.}}

[(171A) Any amount received on encashment of any certificate issued in pursuance of the U.S. Dollar Bearer Certificates Rules, 1991:

{Provided that exemption under this clause shall not be available in respect of certificates purchased on or after the 15 June, 1995}.]

<sup>2</sup>[(171B) Any amount received on encashment of any Special US Dollar Bond issued under the Special US Dollar Bonds Rules, 1998.

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[ ]

[The International Irrigation Management Institute, Pakistan:

(174) Any income derived by the International Irrigation Management Institute (IIMI), Pakistan.]

[ ]

[Private Sector power Projects:

(176) Profits and gains derived by an assessee from an electric power generation project set up in Pakistan on or after the 1st day of July, 1988[:]

Provided that the condition laid down in sub-clause (a) shall not apply to the Hub Power Company Limited.

The exemption under this clause shall apply to such project which is-

(a) owned and managed by a company formed exclusively for operating the said project and registered under the Companies Ordinance, 1984 (XLVII of 1984), and having its registered office in Pakistan;[and]

(b) not formed by the splitting up, or the reconstruction or reconstitution, of a business already in existence or by transfer to a new business of any machinery or plant used in a business which was being carried on in Pakistan at any time before the commencement of the new business[:]

[ ]

[Provided that nothing contained in this clause shall apply to such company commencing business after the 30th June, 1997.]

[ ]

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<sup>1</sup> Cl.(171) omitted by F. O. 2001. Earlier ins. by SRO654(I)/85, dated 1-7-1985.

<sup>2</sup> Cl. (171B) ins. by SRO159(I)/99, dated 9-3-1999.

*[Private Transmission Line Project:-*

(178) Profits and gains derived by an assessee from transmission line project set up in Pakistan on or after the 1st day of July, 1995.

The exemption under this clause shall apply to such project which is-

- (a) owned and managed by a company formed for operating the said project and registered under the Companies Ordinance, 1984 (XLVII of 1984), and having its registered office in Pakistan;
- (b) not formed by splitting up, reconstruction or reconstitution of a business already in existence or by transfer to a new business of any machinery or plant used in a business which was being carried on in Pakistan at any time before the commencement of the new business; and
- (c) owned by a company fifty per cent of whose shares are not held by the Federal Government or Provincial Government or a local authority or which is not controlled by the Federal Government or a Provincial Government or a local authority.

(179) Income from export of computer software and its related services developed in Pakistan.

[ ]

[ ]

[ ]

[ ]

(182) Any income referred to in Section 3.4 of the Facilitation Agreement between the President of Islamic Republic of Pakistan and the assessee purchasing the Kot Addu Power Station from Pakistan Water and Power Development Authority for a period of ten years from the 28<sup>th</sup> June, 1996; provided, however, that the exemption under this clause shall only be available subject to the business of the said assessee being restricted to owning and operating the Kot Addu power station.]

[(183) Any amount collected by Civil Aviation Authority upto the thirty-first December, 1998, on account of security charges.]

[(184). Any income of a special purpose vehicle as defined in the Asset Backed Securitization Rules, 1999 made under the Companies Ordinance, 1984 (XLVII of 1984):

Provided that, if there is any income which accrues or arises in the accounts of the special purpose vehicle, after completion of the process of the securitization, it shall be returned to the Originator as defined by the said rules within the income year next following the year in which the income has been determined and such income shall be taxable in the hands of the Originator.]

## **PART II**

### **REDUCTION IN TAX RATES**

Incomes or classes of income, or persons or classes of persons, enumerated below, shall be liable to tax at such rates which are less than the rates specified in the First Schedule, as are specified hereunder:

#### **Rates of tax for companies engaged in exploration and extraction of mineral deposits.**

(1) In respect of such profits and gains of such company as are referred to in clause (123) of part I, the rates of income tax and super tax, as specified in the First Schedule and as applicable to the said profits and gains of the said company accruing or arising after the expiry of the period of five years referred to in the said clause, shall be reduced by fifty per cent for a period of five years immediately next following the exemption period.

#### **Rate of tax in respect of undertakings in the Export Processing Zone.**

(2) In the case of an industrial undertaking set up in an area declared by the Federal Government to be a "Zone" within the meaning of the Export Processing zones Authority Ordinance, 1980 (IV of 1980), the income, profits and gains of such undertaking accruing or arising after the expiry of the period of exemption under clause (126) of Part I shall be charged to tax [for a period of five years thereafter] at the rate equal to twenty-five per cent of the rates specified in the First Schedule [:]

[Provided that nothing contained in this clause shall apply in respect of undertakings whose period of exemption under clause (126) of Part I will expire after the 30th June, 1997.]

#### **<sup>1</sup>[Rate of tax in respect of commission of export indenting agents etc.**

(2A) the tax chargeable in respect of commission received by an export indenting agent or an export buying house shall be <sup>2</sup>[at the rate equal to the rate of tax applicable to] the exporter on export of goods to which such export relates.

#### **Rate of tax in respect of income of engineering contracting services rendered outside Pakistan.**

(2AB) the tax in respect of income from engineering contracting services rendered outside Pakistan shall be charged at the rate of one percent of the gross receipts, provided that such receipts are brought into Pakistan in foreign exchange through normal banking channels.]

#### **[Income from letting out pipeline for petroleum.**

(3) Any income of persons whose profits or gains from business are computed under the Fifth Schedule to this Ordinance as is derived from letting out to other similar persons any pipeline for the purpose of carriage of petroleum shall be charged to tax at the same rate as is applicable to such persons in accordance with the provisions of the said Schedule.

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<sup>1</sup> Cls. (2A) & (2AB) ins. by SRO 1052(I)/99, dated 17-9-1999.

<sup>2</sup> Subs. for words etc. "amount equal to the tax payable by" by SRO 1313 (I)/99, dated 30-11-1999.

[(4) In the case of a resident being an individual, unregistered firm, association of persons, Hindu undivided family or artificial juridical person referred to in clause (32) of section 2, the profit on Federal Investment Bonds issued under the Federal Investment Bonds Rules, 1991, shall be liable to deduction of income tax under sub-section (2) of section 50 at the rate of ten per cent of the amount of the said profit.]

[(5) In the case of any person referred to in clause (32) of section 2, being a resident, profit on the reinvestment or the redeposit of Khaas Deposit Certificates or Khaas Deposit Accounts made under the National Savings Scheme on or after the tenth day of November, 1991, shall be liable to deduction of income tax under sub-section (2) of section 50 at the rate of ten per cent of the amount of the said profit.]

<sup>1</sup>[(5AA) In case of any individual, being a resident, the tax from profit or interest of any National Savings Schemes of Directorate of National Savings or Post Office Savings Account in which investment is made on, or after, the first day of July, 2001, shall be deducted at the rate of ten per cent of such profit or interest:

Provided that no tax shall be deducted from income or profits paid on-

- (a) Defence Savings Certificates, Special Savings Certificates, Savings Accounts or Post Office Savings Account, made on, or after, the first day of July, 2001, where such deposit does not exceed three hundred thousand rupees; and
- (b) investment in Monthly Income Saving Accounts Scheme of Directorate of National Savings on, or after, the first day of July, 2001, where monthly installment in an account does not exceed one thousand rupees.]

#### **[Rate of tax in respect of Lahore-Islamabad Motorway Project.**

(6) In the case of Daewoo Corporation, Seoul, Korea (hereinafter referred to as the Contractor), payments received in full or in part (including a payment by way of an advance) in pursuance of the contract agreements made with the National Highway Authority on the thirtieth day of December, 1991, for design and construction of Lahore-Islamabad Motorway shall be deemed to be the income of the Contractor and charged to tax at the rate of three per cent of such payments which shall constitute final discharge of his tax liability under this Ordinance and the Contractor shall not be required to file the return of total income under section 55.]

<sup>2</sup>[(6A) Tax shall be collected at 3/4<sup>th</sup> of the rate applicable under section (5) of section 50 on the goods imported under the Afghan Transit Trade Agreement, 1965 and subject to Notification S.R.O. 368(I)/95, dated the 2<sup>nd</sup> May, 1965)]

<sup>3</sup>[(6AA). In respect of any edible oils imported <sup>4</sup>[ ], the tax under sub-section (5) of section 50 shall be collected at the rate of <sup>5</sup>[three] per cent of the value of such edible oils as increased by customs-duty and sales tax, if any, levied thereon.]

<sup>6</sup>[ ]

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<sup>1</sup> Cl. (5AA) ins. by F. O. 2001.

<sup>2</sup> Cl. (6A) ins. by SRO 412(I)/95, dated 23-5-1995.

<sup>3</sup> Cl. (6AA). Subs. by SRO 824(I)/99, dated 8-7-99. Earlier ins. by F.A. 1999.

<sup>4</sup> Words "as raw material by an industrial undertaking exclusively for its own use" omitted by F. O. 2000.

<sup>5</sup> Subs. for "two" by F. O. 2000.

<sup>6</sup> Cl. (6B) deleted by F. A. 1999. Earlier ins. by SRO 30(I)/99, dated 14-1-1999.

[ ]

[ ]

**[Rate in respect of certain Trusts falling under clause (62) of Part I.**

(9) In the case of Messrs Fauji Foundation and Army Welfare Trust, so much of the income chargeable under the head "Income from business or profession" as is not exempt under clause (62) of Part I, shall be charged to tax at the rate of 20% of such income.]

**[Rate of tax in respect of O & M contractors of private sector power projects:**

(10) In the case of a non-resident O & M Contractor payments, received in full or in part including a payment by way of an advance, for the operation and maintenance of a private sector power project [and transmission line projects] approved by the Federal Government shall be deemed to be the income of the said O & M Contractor and charged to tax at the rate of five per cent of such payments for a period of three years beginning with the date of commencement of [company's operations] which shall constitute the final discharge of tax liability by the O & M Contractor under this Ordinance in respect of the said project.]

[(11) In the case of a non-resident, being a company, rate of deduction of tax under sub-section (3) of section 50 on dividends received from a company engaged exclusively in mining operations, other than petroleum, shall be 7.5 per cent of the gross amount of dividend.]

[(12) The rates of tax as specified in clause (b) and clause (c) of paragraph D of Part V of the First Schedule shall be reduced to 7.5% in case of dividends declared or distributed by purchaser of a power project privatized by WAPDA.]

<sup>1</sup>[(13) In the case of consortium of M/s. STFA Construction Company of Turkey and M/s. JDN of Belgium (hereinafter referred to as the contractor ) all payments received in pursuance of the contract agreement No CEN -126/93, made with the Ormara Naval Harbour Project Board , on the fourteenth day of June, 1993 for the construction of Naval Harbour at Ormara (including off-shore and land development works) chargeable to tax any assessment years, shall be deemed to be the income of the contractor and charged to tax at the rate three per cent which shall constitute final discharge of contractor's tax liability under this Ordinance.”

<sup>2</sup>[ ]

<sup>3</sup>[ ]

### **PART III**

#### **REDUCTION IN TAX LIABILITY**

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<sup>1</sup> Cl.(13) ins. by SRO 1313(1) / 97, dated 20-12-1997.

<sup>2</sup> Cl.(14) omitted by F. O. 2000. Earlier ins. by F. A. 1998.

<sup>3</sup> Cl.(15) omitted by F. O. 2000. Earlier ins. by F.A. 1999.



Incomes, or classes of income, or persons or classes of persons, enumerated below, shall be allowed reduction in tax liability to the extent and subject to such conditions as are specified hereunder:-

*Limit on the income tax payable.*

(1) Where any person for any year-

- (a) is liable to income tax and also to the Wealth-tax payable under the Wealth-tax Act, 1963 (XV of 1963); and
- (b) his taxable income under this Ordinance exceeds one hundred thousand rupees; and
- (c) the aggregate amount of income tax and wealth-tax payable by him exceeds seventy-five per cent of his total income,

the income tax payable by him shall be reduced by the amount by which the said aggregate amount exceeds seventy-five percent of his total income.

**Reduction in tax in such cases to which USAS apply.**

<sup>1</sup>[<sup>2</sup>{(1A)}] The amount of tax payable under Paragraph AA of Part I of the First Schedule to this Ordinance by a person qualifying for assessment under the Universal Self Assessment Scheme made under sub-section (1) of section 59 of this Ordinance for the assessment year 1999-2000, shall be reduced by an amount of one thousand, two hundred and fifty rupees.]

<sup>3</sup>[*Reduction in tax in the cases of salaried tax payers.*-

<sup>4</sup>[(1B) <sup>5</sup>[ ]

(2) In addition to the reduction specified in sub-clause (1), the tax payable by a full time teacher or a researcher, employed in a non profit education or research institution duly recognised by a Board of Education or a University or the University Grants Commission <sup>6</sup>[including government training and research institution], shall be further reduced by an amount equal to 50% of the tax payable after the aforesaid reduction.

(3) The reduction in tax liability in sub-clauses (1) and (2) shall be applicable for the purposes of tax withholding under sub-section (1) of section 50 from the first day of July, 2000 and for the purposes of assessment from assessment year 2001-2002.]

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1.Cl. (A1) ins. by SRO 1041(I)/99, dated 11-9-1999.

2. Subs. for “(A1)” by F. O. 2000.

3. Cl. (1B) ins. by F. O. 2000.

4. Cl. (3) omitted by F.A. 1998. Earlier ins. by SRO 996(I)/88, dated 5-11-1988.

5. Cls. (4) to (9) omitted by F. A. 1997.

6. Clause (10) omitted by F. A. 1998. Earlier ins. by SRO 856(I)/ 91, dated 28-8-1991.

<sup>4</sup> Cl. (1A) ins. by SRO 1041(I)/99, dated 11-9-1999.

<sup>5</sup> Sub-Cl.(1) omitted by F. O. 2001.

<sup>6</sup> Words added *ibid*.

*Reduction in tax in consequence of devaluation or revaluation of rupee.*

(2) The amount of tax payable, in a year in which the rupee is revalued or devalued, by an assessee whose profits or gains are computed in accordance with the rules contained in the Fifth Schedule to this Ordinance and who had entered with the Government into an agreement which provides for such reduction, shall be reduced to the amount that would be payable in the absence of the revaluation or devaluation of the rupee.

<sup>3 to 5</sup> [ ]

[(11) Where any company engaged in the business of distribution of cigarettes manufactured in Pakistan is required to pay minimum tax on the amount representing its turnover under section 80D, the amount of tax payable under the said section shall be reduced by eighty per cent.]

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[ ]

[ ]

## **PART IV**

### **EXEMPTION FROM SPECIFIC PROVISIONS**

Incomes, or classes of income, or persons or classes of persons, enumerated below, shall be exempt from the operation of such provisions of this Ordinance, subject to such conditions and to the extent, as are specified hereunder:-

*Carry forward of losses of undertakings in Export Processing Zone.*

(1) In the case of losses referred to in section 35 in respect of an industrial undertaking set up in an area declared by the Federal Government to be a "Zone" within the meaning of Export Processing Zones Authority Ordinance, 1980 (IV of 1980), the period of six assessment years specified in the said section shall not apply.

[(2) The provisions of section 80D shall not apply to National Investment (Unit) Trust or a Mutual Fund established by the Investment Corporation of Pakistan or an investment company registered under the Investment Companies and Investment Advisors Rules, 1971 or any other company in respect of turnover representing transactions in shares, or securities listed on a registered stock exchange.]

<sup>1</sup>[(2A) The provisions of sub-sections (2), (2A), (4A) and (7D) of section 50 shall not apply to any person making payment to National Investment (Unit) Trust or a mutual fund established by the Investment Corporation of Pakistan or an investment company registered under the Investment Companies and Investment Advisors Rules, 1971 or a unit trust scheme constituted by an Asset Management Company registered under the Asset Management Companies Rules, 1995.]

[ ]

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<sup>1</sup> Cl. (2A) ins. by F.A.1999.

*[Allowance of perquisites paid by certain corporations.]*

(3) The provisions of clause (i) of section 24 shall not apply to any expenditure incurred by a banking company or a financial institution owned and controlled by the Federal Government on the provisions of perquisites, allowances or other benefits to any employee in pursuance of any law.]

*[Certain provisions of the Ordinance not to apply in the case of Fuji Fertilizer Company Limited.]*

(4) The provisions of sections 88 and 89 of the Ordinance shall not apply up to the date of finalisation of the assessment for the assessment year 1981-82 or any preceding assessment years in the case of foreign contractors, consultants and their expatriate employees engaged by the Fuji Fertilizer Company Limited where the said company has undertaken to pay their tax liability.]

[(5) The provisions of section 13, Chapter XI or Chapter XII shall not apply in respect of any amount invested in the acquisition of Special National Fund Bonds issued under the Special National Fund Bonds Rules, 1985;

(6) The provisions of section 13, Chapter XI or Chapter XII shall not apply in respect of any amount invested in the acquisition of Foreign Exchange Bearer Certificates issued under the Foreign Exchange Bearer Certificates Rules, 1985[:]]

[(6A) The provisions of section 13, Chapter XI or Chapter XII shall not apply in respect of any amount of foreign exchange deposited in a private foreign currency account held with an authorised bank in Pakistan in accordance with the Foreign Currency Accounts Scheme introduced by the State Bank of Pakistan.]

<sup>1</sup>[Provided that the exemption under this clause shall not be available in respect of any incremental deposits made on or after the 16<sup>th</sup> day of December, 1999 in such accounts held by a resident person or in respect of amounts deposited in accounts opened on or after the said date by such person].

[(6B) The provisions of section 13, Chapter XI or Chapter XII shall not apply in respect of any amount invested in the acquisition of U.S. Dollar Bearer Certificate issued under the U.S. Dollar Bearer Certificates Rules, 1991.]

<sup>2</sup>[(6C) The provisions of section 13, Chapter XI or Chapter XII shall not apply in respect of any amount invested in the acquisition of “Three-Years Foreign Currency Bearer Certificates” issued under the Foreign Currency Bearer Certificate Rules, 1997.]

<sup>3</sup>[(6D) The provision of section 13 or section 65 or Chapters XI and XII shall not apply in respect of with drawn or assets created out of such withdrawal in rupees from private foreign currency accounts or encashment of Foreign Exchange Bearer Certificates, U. S. Dollar Bearer Certificates and Foreign Currency Bearer Certificates;]

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<sup>1</sup> Proviso ins. by SRO No.1344(I)/90, dated 16-12-1999

<sup>2</sup> Cl. (6C) ins. by SRO No.111(I)/98, dated 19-2-1998.

<sup>3</sup> Cl. (6D) subs. by SRO 871(I)/98, dated 5-8-1998. Earlier ins. by SRO No. 516(I)/98, dated 5-6-1998.

[(6E) The provisions of section 13 or Chapter XI or Chapter XII shall not apply in respect of any amount invested in acquisition of ownership or management and control of any state owned enterprise privatized by the Government[:]

Provided that the exemption under this clause shall not be available on or after 16<sup>th</sup> day of December, 1999/]

(6F) The provisions of section 13 or Chapter XI or Chapter XII shall not be apply in respect of any amount invested in purchasing of any land or any other assets sold through public auction by Federal Government or a provincial Government or a body established or controlled by such Government.

<sup>1</sup>[(6FA) The provisions of section 13 or Chapter-XI or Chapter XII of the Income Tax Ordinance, 1979 (XXXI of 1979), shall not apply in respect of any amount invested in purchase of any plots of Land sold by the Capital Development Authority , Islamabad through public auctions conducted on the 16th, 17th, 23rd and 26th days of February, 1998.]

(6G) The provisions of section 13 or Chapter XI or Chapter XII shall not apply in respect of any amount invested by a sponsor or an original allottee in the purchase of shares of a company owning and managing an industrial undertaking specified in rule 5A of the Third Schedule.]

<sup>2</sup>[(6H) The provisions of sections 13 or Chapter XI or Chapter XII shall not apply in respect of any amount invested in the purchase of assets auctioned or sold as a consequence of a court order or decree in a case filed by a banking company or a DFI whose management or control vests in the Federal Government;]

<sup>3</sup>[(6HA) The provisions of section 13 and Chapters XI and XII shall not apply in respect of any amount invested by a Foreign Currency Account holder in the purchase of Special U. S. Dollars Bonds, issued under the Special U. S. Dollars Bonds Rules, 1998;

<sup>4</sup>[(6HB) The provisions of section 13, Chapters XI and XII of this Ordinance shall not apply in respect of any amount paid the 16<sup>th</sup> November, 1999, towards the settlement of debt owed to a banking company or a financial institution or by way of any tax or other Government dues.]

<sup>5</sup>[ ]

[(8) The provisions of section 13, Chapter XI or Chapter XII shall not apply in respect of any amount invested in the purchase of shares of a company owning and managing a industrial undertaking the profits and gains from which are exempted under clause (118C) or clause (118D) or clause (118E) of Part I of this Schedule:]

(8A) The provisions of section 13, Chapter VI and Chapter XII shall not apply in respect of any amount as is invested in the new livestock, dairy and poultry farms the income of which is exempted under clause (102B) of Part I of this Schedule.]

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<sup>1</sup> Cl. (6F. A. 19) ins. by SRO 981(I)/98, dated 14-9-1998.

<sup>2</sup> Cl.. (6H) ins. by SRO 829 (I)/98, dated 22-7-1988.

<sup>2</sup>Cl. (6HA) ins. by SRO 871(I)/98, dated 5-8-1998.

<sup>3</sup>Cl. (6HB) ins. by SRO 1175(I)/99, dated 11-11-1999.

<sup>5</sup>Cl. (7) omitted by F. O. 2000.

[(9) The provisions of section 80C in so far as they relate to payments on account of the supply of goods on which tax is deductible under sub-section (4) of section 50 shall not apply in respect of any person, being a manufacturer of such goods, [unless he opts for] the presumptive tax regime:

[Provided that a declaration of option is furnished in writing within three months of the commencement of the income year and such declaration shall be irrevocable and shall remain in force for three years.]

[Provided further that nothing contained in this clause shall apply to any manufacturer of goods for which special rates of deduction of tax are specified under clause (c) of sub-section (4) of section 50.]

[(9A)The provisions of section 80C shall not apply in respect of a non-resident person [ ] [unless he opts for] the presumptive tax regime:

[Provided that a declaration of option is furnished in writing within three months of the commencement of the income year and such declaration shall be irrevocable and shall remain in force for three years.]

<sup>1</sup>[(9B) The provisions of section 80C in so far as they relate to the payments on account of the supply of goods on which tax is deductible under sub-section (4) of section 50 shall not apply to any person, being an importer of goods, from whom tax is collectable under sub-section (5) of section 50 if supplies are made by the same importer under the same name and title and he opts out of the presumptive tax regime:

Provided that a declaration of final and irrevocable option is furnished in writing alongwith the return of total income under section 55:

Provided further that nothing contained in this clause shall apply to any manufacturer of goods for which special rates of deduction of tax are specified under clause (c) of sub-section (4) of section 50:

Provided also that the aggregate overall tax liability in respect of such goods shall not be less than [five] percent of the value of goods supplied.]

[(10) The provisions of sub-section (4) of section 80C in so far as they relate to payments on account of supply of rice to the Rice Export Corporation of Pakistan on which tax has been deducted under sub-section (4) of section 50 during the period from first day of September, 1989 and the thirtieth day of August, 1990, shall not apply to any assessee being a supplier of such rice, in respect of the assessment year commencing on the first day of July, 1991.]

<sup>2</sup>[(10B) The provision of sub-section (7D) of section 50 shall not apply in respect of profit or interest paid on a Term Finance Certificate held by a company which has been issued on, or after, the first day of July, 1999.]

<sup>3</sup>[(10C) The provisions of sub-section (2) of section 50 shall not apply to any payment made by way of interest earned by banks on Foreign Currency Bearer Certificates issued under the Three-Years Foreign Currency Bearer Certificate Rules, 1997, discounted by them and held in their own portfolios.]

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<sup>1</sup> Cl. (9B) ins. by F.A.1996.

<sup>2</sup> Cl.(10B) subs. By F. O. 2001. Earlier subs. by SRO 171(I)/98, dated 17-3-1998. Earlier ins. by SRO 703(1)/97, dated 13-9-1997.

<sup>3</sup> Cl.(10C) ins. by SRO 111 (1) /98, dated 19-2-1998.

[(11) The provisions of section 80D shall not apply to the oil distributing companies namely (1) Pakistan Burmah Shell Limited, Karachi, and (2) Pakistan State Oil Company Limited, Karachi, for the purposes of assessment of their income and determination of tax thereon, in respect of any of the income years relevant to the assessment years commencing on the first day of July, 1991, and ending on the thirtieth day of June, 1993.]

[(12) The provisions of clause (30) of section 2 in so far as these relate to the application of rate of tax under sub-paragraph (3) of Paragraph A of Part IV of the First Schedule shall not apply to an individual being-

- (i) a Government servant staying abroad on official assignment or with the permission of the Federal Government or Provincial Government; and
- (ii) a Pakistani student, teacher or scholar staying abroad for studies or research [ ]
- {(iii) a Pakistani national who is not resident in Pakistan in any year and not earning any income abroad}.]

[(13) The provisions of section 80D, in so far as they relate to turnover on account of sale of petrol and diesel, shall not apply to any assessee being a registered firm dealing in petroleum products for the purposes of assessment of its income and determination of tax thereon, in respect of any income year relevant to the assessment year commencing from the first day of July, 1992, and ending on the thirtieth day of June, 1993.

[(14) The provisions of section 80D, in so far as they relate to turnover on account of sale of petroleum and petroleum products shall not apply to petroleum dealers, notwithstanding their status as a company, a registered firm or an individual, engaged in retail sale of petroleum and petroleum products through petrol pumps for the purposes of assessment of their income and determination of tax thereon:

Provided that this exemption shall not apply to the sale of petroleum and petroleum products through petrol pumps which are directly operated or managed by companies and registered firms engaged in distribution of petroleum and petroleum products.

*Explanation.-* For the removal of doubt it is declared that the companies and registered firms engaged in distribution of petroleum and petroleum products other than through petrol pumps shall not be entitled to the benefits of this exemption.]

[(15) The provisions of section 80D shall not apply to Hub Power Company Limited so far as they relate to its receipts on account of sale of electricity.]

[(16) The provisions of sub-sections (4) and (5) of section 50 and section 80C shall not apply to tractors imported and supplied by the Agricultural Development Bank of Pakistan or by the importers authorized by the Ministry of Food, Agriculture and Livestock or the Agricultural Development Bank of Pakistan under the Awami Tractors Scheme.]

[(16) A company registered and authorised by the Federal Government to import gold and silver shall be liable to pay tax on import of gold at the rate of two rupees per eleven grams six hundred and sixty-four milligrams and five rupees per kilogram in the case of silver in accordance with the provisions of sub-

section (5) of section 50 and such payment of tax shall be deemed to be full and final liability of tax in respect of income accruing from such import including liability of tax under section 80C and 80D.]

[(17) The provisions of sub-section (5) of section 50 shall not apply to goods or classes of goods imported by contractors and sub-contractors engaged in the execution of power project under the agreement between the Islamic Republic of Pakistan and Hub Power Company Limited.

<sup>1</sup>[ ]

<sup>2</sup>[(17B) The provisions of sub-section (5) of section 50 shall not apply to such specially equipped motor vehicle or support equipment imported by a disabled person, as is allowed by the Federal Government.

(17C) The provision of sub-section (5) of section 50 shall not apply in case of such goods imported into Pakistan as are exempt from customs duty and sales tax under SROs 360(I)/2000, 362(I)/2000 and 363(I)/2000 dated 17.6.2000.]

(18) The provisions of section 80D shall not apply to Hub Power Company Limited so far as they relate to its receipts on account of sale of electricity.]

[(19) The provisions of section 50 read with sections 80C and 80CC of the Income Tax Ordinance, 1979, shall not apply to Expo Centers Limited in respect of income for the period of exemption under clause (154A) of Part I of this Schedule.]

[(20) The provisions of section 80D shall not apply to companies, qualifying for exemption under clause (176) <sup>3</sup>[ ] of Part-I of this Schedule, in respect of receipts from sale of electricity.]

[(21) The provisions of sections 50 and section 80D shall not apply to the institutions of the Agha Khan Development Network (Pakistan) listed in Schedule 1 of the Accord and Protocol dated November 13, 1994, executed between the Government of the Islamic Republic of Pakistan and Agha Khan Development Network:

Provided that such institutions shall continue to collect and deduct tax under section 50 from others persons, wherever required thereunder[:]]

[Provided further that in respect of application of section 80D, this clause shall take effect from the <sup>4</sup>[1<sup>st</sup> day of July, 1991].]

[(22) The provisions of sub-section (5) of section 50 shall not apply to vehicles imported under the Yellow-Cab Scheme and sold to serving and retired civil and armed forces personnel.]

[(23) The provisions of section 80D, shall not apply to local authorities, qualifying for exemption under clause (88) and other than corporate, Government or semi-Governmental bodies, not otherwise liable to income tax:

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<sup>1</sup> Cl. (17A) omitted by F. O. 2000. Earlier ins. by F. A.. 1999.

<sup>2</sup> Cl. (17B) & (17C) ins. by F. O. 2000.

<sup>3</sup> Words “and clause (178)” omitted by F. O. 2001. Earlier ins. by F.A. 1995.

<sup>4</sup> Subs. for words “17<sup>th</sup> September, 1992” by SRO 941(I)/98, dated 1-9-1998.

Provided that nothing contained in this clause shall be construed to authorize any refund of tax already paid or the collection of any outstanding demand created under the said section.

<sup>1</sup>[ ]

(25) The provisions of section 13, Chapter XI and Chapter XII shall not apply for assessment year 1996-97, in respect of investment in business made by a new assessee liable to assessment under a scheme made under clause (c) of sub-section (1) of section 59C.

(26) An expatriate individual, who by virtue of his stay in Pakistan in connection with his employment becomes a resident, shall not be liable to tax in respect of income accruing or arising to him outside Pakistan other than the income derived from a business controlled in or a profession or vocation set up in Pakistan or unless it is brought into or received in Pakistan by him during such income year.]

[(27) The provisions of section 80D shall not apply to the assessee exempted from tax under clause (182) of Part I of this Schedule for the period the said assessee continues to be entitled to the benefit of the exemption under that clause.]

[(28) In the case of companies engaged in the manufacture of fertilizers, the provisions of clause (c) of sub-rule (1) of rule 5 of the Third Schedule shall apply with effect from the income year commencing on or after the 1st day of July, 1996.]

[(29) The provisions of section 80D shall not apply to Pakistan Red Crescent Society.]

[(30) The provisions of sub-section (2) and (7D) of section 50 and section 80D shall not apply to non residents, (excluding local branches or subsidiaries or offices of foreign banks, companies, associations of persons or any other person operating in Pakistan), in respect of their receipts from Pak rupees denominated Government and corporate securities and redeemable capital, as defined in the Companies Ordinance, 1984 (XLVII of 1984), listed on a registered stock exchange, where the investments are made exclusively from foreign exchange remitted into Pakistan through a Special Convertible Rupee Account maintained with a bank in Pakistan.]

(31) The provisions of section 13, Chapter XI or Chapter XII shall not apply in respect of any amount deposited in the Qarz-e-Hasna Scheme under the Prime Minister's Fund for National Debt Retirement.

<sup>2</sup>[(31A) The provisions of section 13, Chapter XI or Chapter XII shall not apply in respect of any amount donated to the National Self Reliance Fund;]

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<sup>3</sup>[(32). Subject to the conditions as specified in clause (184) of Part I of the Second Schedule, the provisions of section 80D shall not apply to a special purpose vehicle formed for the purpose of securitization.

<sup>4</sup>[(32) The provisions of section 80D shall not apply to the companies specified in entries (115B) and (115C) of Part-I of the Schedule for the assessment years 1998-99, 1999-2000 and 2000-2001.]

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<sup>1</sup> Cl.(24) omitted by F. O. 2000. Earlier ins. by F. A. 1996.

<sup>2</sup> Cl. (31A) ins. by SRO 529(i)/97, dated 22-3-97.

<sup>3</sup> Cls. (32) & (32A) ins. by F.A. 1999.

<sup>4</sup> Cl.(32) ins. by SRO169(I)/98, dated 6-3-1998.



(32A) The provisions of section 80D shall not apply to special purpose, non-profit companies engaged in securitizing the receivable of Provincial Governments or the companies.]

<sup>1</sup>[(32B) The provisions of section 80D shall not apply to a charitable institution which is approved under clause (d) of sub-section (1) of section 47 or clause (62) or is included in clause (62) or clause (91) of Part-I of the Second Schedule to this Ordinance.

(32C) The provisions of section 80D shall not apply to an assessee who qualifies for exemption under clause (179) of Part-I of the Second Schedule to this Ordinance.]

<sup>2</sup>[ ]

[(32F) ??

<sup>3</sup>[(32G). Nothing in section 80D shall apply to Corporate and Industrial Restructuring Corporation.]

[(33) The provisions of sub-section (4) of section 50, far as they relate to obligation of registered firm to deduct tax, shall not apply to a registered firm whose capital (total of closing balances of capital accounts of partners ) as per the balance sheet in respect of the latest assessment year is less than one million rupees:

Provided that, this exemption shall cease to be applicable to a registered firm if, at the end of any income year, its capital exceeds the aforementioned amount.]

<sup>4</sup>[(33A) The provisions of sub-section (4) of section 50 shall not apply to payments received by Pak-Arab Refinery Limited on account of supply of its products.]

<sup>5</sup>[( 34) The provision of clause (ff) of section 24 shall not apply in respect of payments made on account of -

- (a) transactions which do not exceed five thousand rupees,
- (b) any amount credited by direct transfer of funds to the assessee employee's bank account for reimbursement of expenses incurred on behalf of such assessee,
- (c) freight charges or passenger fare to an airline or railways or a goods carriage company ; and
- (d) discharge of a statutory obligation like payment of duties taxes, octroi, tax fines, fees, cases or levies.

(35) Notwithstanding anything contained in clause (fff) of section 24, the provisions of the said clause shall not to any salaries except salary exceeding Rs. 5,000 per month which is not paid through a crossed cheque or by direct transfer of funds to such employee's account.

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<sup>1</sup> Cls. (32B) & (32C) ins. by F. O. 2000.

<sup>2</sup> Cl. (32) omitted by F. O. 2001. Earlier ins. by ??

<sup>3</sup> Cl. (32G) ins. by F. O. 2001.

<sup>4</sup> Cl.(33A) ins. *ibid*.

<sup>5</sup> Cls. (34) to (36) ins. by SRO 848 (1) /98, dated 25-7-1998.

(36) The provisions of sub-section (7F) of section 50 shall not apply where the subscriber is non-taxable charitable institution.;

(37) The provisions of sub-section (4) of section 50 shall not apply to an indirect exporter as defined in the <sup>1</sup>[Duty and Tax Remission for Export Rules, 2001, issued under Notification No.S.R.O.185 (I)/2001, dated the 21st March, 2001].

<sup>2</sup>[(37A) The provisions of sub-section (4) of section 50 shall not apply to any manufacturer-cum-exporter as a payer.]

@ @

(38) The provisions of sub-section (5) of section 50 shall not apply to goods imported by direct and indirect and exporters covered under :-

- (i) the Manufacturing in Bond Rules , 1997 issued under Notification No. S.R.O. 1140(I)/97 , dated the 6th November, 1997 ;
- (ii) the Common Bonded Warehouse (Conventional) Rules, 1998 issued under Notification No. S.R.O. 844(I) /98, dated 23 rd July, 1998; and
- (iii) <sup>3</sup>[the Duty and Tax Remission for Export Rules, 2001, issued under Notification No.S.R.O.185 (I)/2001 dated the 21st March, 2001];]

<sup>4</sup>[(39) the provisions of sub-section (2) of section 50 shall not apply in respect of any amount paid as interest or profit on Special U. S. Dollar Bonds issued under the Special U. S. Dollar Bonds Rules, 1998.

(40) The provisions of sub-section (2A) and (7D) of section 50 shall not apply to Pak rupee accounts or certificates referred to in clause(78E) of Part 1 of this Schedule;]

(41) The provisions of sub-section (7A) of section 50 of the Income Tax Ordinance, 1979, not apply to the assets auctioned by Provincial Privatization Boards.

<sup>5</sup>[(41A) The provisions of sub-section (7A) of section 50 of the Income Tax Ordinance, 1979, shall not apply to the sale of surplus land made by Pakistan Railway through public auction.]

<sup>6</sup>[(41B) The provisions (7A) of section 50 of the Income Tax Ordinance, 1979, shall not apply to the privatisation Commission in respect of sale of public sector units, by public auction, made on or after the 22nd day of January, 1991.]

<sup>7</sup>[(42) The provisions of sub-section (1) of section 50 of the Ordinance, shall not apply , to an employer in so as they relate to deduction of the amount of surcharge payable under clause (d) of paragraph B of Part III of the First Schedule to the Ordinance, in respect of income for the income year 1998-99.

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<sup>1</sup> Subs. for certain words etc by SRO 211(I)/2001 dated 3-4-2001

<sup>2</sup> Cl.(37A) ins. by F.A.1999.

<sup>3</sup> Subs. for certain words etc by SRO 211(I)/2001 dated 3-4-2001

<sup>4</sup> Cls.(39) & (40) ins. by SRO 871, dated 5-8-1998.

<sup>5</sup> Cl.. (41A) ins. by SRO 1333(I)/98, dated 30-11-1998.

<sup>6</sup> Cl. (41B) ins. by SRO 1385(I)/98, dated 21-12-1998.

<sup>7</sup> Cls. (42) & (43) ins. by SRO 941(I)/98, dated 1-9-1998.

(43) The provisions of section 54 and section 88 shall not apply, in respect of income chargeable to tax under clause (d) of paragraph B of Part III of the First Schedule to the Ordinance, provided that the employer deducts and pays such amount in monthly instalments by the 31st day of May, 1999.]

<sup>1</sup>[(44)The provisions of sub-section (3A) of section 47 shall not apply in case of donations made to Agha Khan Hospital and Medical College , Karachi provided that this clause effect from the 13thday of June ,1996.

<sup>2</sup>[(45) The provisions of sub-section (6) of section 50 of the Income Tax Ordinance,1979, shall not apply to a person who produces certificate from the Commissioner of Income Tax concerned to the effect his income during the income year is exempt from tax under the Income Tax Ordinance, 1979.]

<sup>3</sup>[(46) The provisions of sub-section (7B) of section 50 of the Income Tax Ordinance, 1979, shall not apply to a person who produces a certificate from the Commissioner of Income tax concerned to the effect that income during the income year is exempt from tax under the Income Tax Ordinance,1979.]

<sup>4</sup>[(47) The provisions of sub-section (7D) of section 50 of the Income tax Ordinance,1979, shall not apply to a person who produces a certificate from the Commissioner of Income tax concerned to the effect that his income during the income year is exempt from tax under Income Tax Ordinance,1979.]

<sup>5</sup>[(48) The provisions of sub-section (7E) of section 50 of the Income Tax Ordinance, 1979, shall not apply to a person who produces a certificate from the Commissioner of Income Tax concerned to the effect that his income during the income year is exempt from tax under the Income Tax Ordinance,1979.]

<sup>6</sup>[(50) The provisions of sub-section (1) and (3A) of section 50 of the Income Tax Ordinance, 1979, shall not apply to M/s Crescent Industrial Chemicals Limited and M/s Siddiq Sons Tin Plate Limited in respect of salaries of expatriate employees ,royalty or technological and know-how fee for technical assistance for projects located in Special Industrial Zone, Windher , Balochistan , who have established L/Cs prior to the 31st January , 1996.]

<sup>7</sup>[(51) The provisions of the sections 80C shall not apply in so far as they relate to income from import and supply of palm oil or edible oil imported by Treading Corporation of Pakistan from Malaysia under IDB Export Financing Scheme to the extent of U. S. \$ 44 million and supplied to manufacturers of oil or ghee for their own consumption according to their rated capacity on profit no loss basis.

(52) The provisions of sub-section (4) of section 50 shall not apply in respect of supply of palm oil or edible oil by Treading Corporation of Pakistan Imported from Malaysia under IDB Export Financing Scheme to the extent of U. S. \$ 44 million to manufacturers of oil or ghee for their own manufacturers allocated to them on the basis of their rated capacity.

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<sup>1</sup> Cl.(44) ins. by SRO 9412(I)/98, dated 1-9-1998.

<sup>2</sup> Cl. (45) ins. bySRO 1264(I), dated 2-11-1998.

<sup>3</sup> Cl.(46)ins. by SRO 1265(I), dated 2-11-1998

<sup>4</sup> Cl.. (47) ins. by SRO 1266, dated 2-11-1998.

<sup>5</sup> Cl.(48) ins. by SRO 1268(I), dated 2-11-1998.

<sup>6</sup> Cl.. (50) ins. by SRO 1308, dated 20-11-1998.

<sup>7</sup> Cls. (51) to (53) ins. by SRO(I)/98, dated 1370, dated 17-12-1998.

(53) The provisions of sub-section (5) of section 50 shall not apply in respect of palm oil or imported by Trading Corporation of Pakistan imported from Malaysia under IDB Export Financing Scheme to the extent of U.S. \$ 44 million, provided that entire oil is allocated to manufacturers of oil /ghee for their own manufacturing.]

<sup>1</sup>[(54) The deduction of sub-section (5) of section 50 shall not apply in respect of goods temporarily imported into Pakistan for subsequent exportation and which are exempt from customs duty under Notification No S.R.O. 818(1)/98 dated 9th August , 1989 and Notification No. S.R.O.954(1)/98 dated 7th September, 1998.]

<sup>2</sup>[(55)] The provisions of sub-section (5B) of section 50 of the Income Tax Ordinance, 1979 shall not apply to any amount received on encashment of any bearer bonds issued under the Special US Dollar Bonds Rules, 1998.]

<sup>3</sup>[(56) The provisions of sub-section (4) of section 50 of the Income Tax Ordinance, 1979, shall not apply in respect of payments received on account of supply of petroleum products by Attock Petroleum Limited.]

<sup>4</sup>[(57). The provisions of sub-sections (2), (2A) and (7D) of section 50 shall not apply to special purpose vehicle for the purpose of securitization.]

[(58) The provisions of clause (vi) of Notification No. SRO 583(I)/91, dated 30<sup>th</sup> June, 19991, shall not apply to any importer being an industrial undertaking engaged in the manufacture of *vanaspati ghee* or oil.

[(59)??

- [(i) a company listed on Stock Exchange which distributes profit equal to either forty per cent of its after tax profits or fifty per cent of its paid up capital, whichever may be the less;]

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<sup>1</sup> Cl. (54) ins. by SRO 31(I)/99, dated 14-1-1999.

<sup>2</sup> Cl. (55) ins. by SRO 159(I)/99, dated 9-3-1999.

<sup>3</sup> Cl. (56) ins. by SRO 306(I)/99, dated 3-4-1999.

<sup>4</sup> Cls. (57) & (58) ins. by F.A.1999.

## **THE THIRD SCHEDULE**

(See Section 23)

### **RULES FOR THE COMPUTATION OF DEPRECIATION ALLOWANCE**

1. Allowances for depreciation.- [(1) Where, in any income year, any building, machinery, plant or furniture owned by an assessee is used for purposes of any business or profession carried on by him, or in any income year commencing on or after the first day of July, 1982, any machinery or plant is given on lease by the assessee, being a scheduled bank, a financial institution {or such modaraba or leasing company as is} approved by the Central Board of Revenue for purposes of this Schedule, on such conditions as may be specified, an allowance for depreciation shall be made in computing the profits and gains of the business or profession of the assessee in the manner hereinafter provided.]

[(1A) The provisions of sub-rule (1) shall in the like manner apply to a building given on lease in any income year commencing on or after the first day of July, 1986, provided that the said building is used by the lessee for the purposes of his business or profession.]

(2) Where any such building, machinery, plant or furniture is not wholly used for the purposes of the business or profession, the allowance under sub-rule (1) shall be restricted to the fair proportional part of the amount which would be admissible if such building, machinery, plant or furniture were wholly so used.

(3) No allowance under this rule shall be made unless-

(a) [at the time of filing a return of total income] such particulars as may be prescribed and such further information or documents as the Deputy Commissioner may require, are furnished; and

(b) such building, machinery, plant or furniture has been so used [ ] during the income year.

[(3A) Where any building, furniture, machinery or plant is used for the purposes of business or profession during any income year for which the income from such business or profession is exempt from tax, depreciation admissible under sub-rule (1) shall be deemed to have been allowed in respect of the said income year and after expiration of the exemption period written down value of such assets shall be determined in accordance with sub-clause (ii) of clause (b) of sub-rule (7) of rule 8.]

[(4) No allowance under this rule shall be made in respect of a machine referred to in clause (xx) of sub-section (1) of section 23.]

2. Rates of depreciation allowance.- (1) The allowance under rule 1 shall be computed at the rates specified in the Table annexed hereto:-

### **TABLE**

Class of asset	Description	Rate per cent of the written down value
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## BUILDING

- I. Building (not otherwise specified) 5% (general rate)
- II. Factory or workshop (excluding 10%  
godown and offices)
- IIA. Residential quarters for labour 10%

## FURNITURE

- III. Furniture 10%

## MACHINERY AND PLANT

- IV. Machinery and plant (not otherwise specified) 10% (general rate)
- IVA. Technical or professional books 20%
- IVAA. Personal computer hardware 30%
- V. Ships
  - (i) New 5%
  - (ii) Second hand: Age at time of purchase
    - (a) Not more than 10 years 10%
    - (b) More than ten years 20%
- VI. Batteries, X-Ray and electrotherapeutics apparatus and accessories 20%
- <sup>1</sup>[VIA. Laboratory equipment used in educational institutions 25%]
- VII. Machinery used in production and exhibition of cinematograph films 20%
- VIII. Motor vehicles, all sorts 20%

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<sup>1</sup> Entry "IVA" ins. by F. O. 2001.

IX.	Aircraft, aeroengines & aerial photographic apparatus	30%
X.	Moulds used in manufacture of glass or concrete pipes	30%
XI.	Below ground installations in mineral oil concerns the income of which is liable to be computed in accordance with rules contained in Part I of the Fifth Schedule.	100%
[XII.	Below ground installations, including but not limited to the cost of drilling, casing, cementing, logging and testing of wells, in off-shore mineral oil concerns the income of which is liable to be computed in accordance with the rules contained in Part I of the Fifth Schedule.	100%
XIII.	Off-shore platforms and production installations in mineral oil concerns the income of which is liable to be computed in accordance with the rules contained in Part I of the Fifth Schedule.	20%]

**3. Extra depreciation allowance for multiple shift working.**- (1) In the case of machinery and plant, to which the general rate applies, an extra depreciation allowance, equal to fifty per cent of the allowance computed under sub-rule (1) of rules 2 shall be allowed on account of double shift working and hundred percent of such allowance on account of triple shift working.

(2) The extra depreciation allowance under sub-rule (1) shall be proportionate to the number of days during which the double or triple shifts are worked, and, for the purpose of computing this allowance, the normal working days throughout the year shall be taken as three hundred.

(3) The provisions of sub-rules (2) and (3) of rule 1 shall, so far as may be, apply to this rule as they apply to the said rule.

**4. Depreciation not to be allowed in cases where the cost of renewal or replacement is allowed.**- (1) Notwithstanding anything contained in this Ordinance, no allowance under rule 1 or rule 3 shall be made in the case of any asset falling under the description "Machinery and Plant" the normal useful life of which does not exceed one year; but the cost of renewal or replacement thereof shall be allowed as a revenue expenditure.

**5. Initial depreciation.**- (1) Where any building has been newly erected, or any machinery or plant has been installed, in Pakistan at any time between the first day of July, 1976, and the thirtieth day of June, [2000] (both dates inclusive), further depreciation allowance in respect of the year of erection or installation or the year in which such building, machinery or plant is used by the assessee for the first time

for the purposes of his business or profession or the year in which commercial production is commenced, whichever is the later, shall be allowed at the following rates, namely:-

#### Rates

(a) in the case of residential building for industrial labour the erection of which is begun and completed between the first day of July, 1979 and the thirtieth day of June, 1991 (both dates inclusive).	Twenty-five per cent of the written down value.
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*Explanation.-* The expression 'residential building for industrial labour means building constructed for use as dwelling houses by workmen and other persons, employed on monthly wages not exceeding one thousand rupees in an industrial undertaking which fulfils the conditions specified in clauses (a), (d) and (e) of sub-section (2) of section 48 or any other industrial undertaking which is approved by the Central Board of Revenue for the purposes of this rule.

[(aa) in the case of a building given on lease by the assessee, being a scheduled bank, a financial institution {or such modaraba or leasing company as is} approved by the Central Board of Revenue for purposes of this Schedule, on or after the first day of July, 1986, if the said building is used by the lessee for purposes of his business or profession.	Ten per cent of the written down value.]
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[(aaa) in the case of a building owned and used by an educational institution.	25 per cent of the written down value.
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(b) in the case of other building.	Ten per cent of the written down value.
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(c) in the case of machinery or plant (other than [X-Ray and electrotherapeutic apparatus [ ]and accessories, or] ships or motor vehicles not plying for hire.	Twenty-five percent of the writted down value.
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[Provided that in addition to the initial depreciation allowance dmissible under this clause to an industrial undertaking, an additional allowance of initial depreciation, shall be admissi-ble for the next year (following the first year of admissibility of such allowance), which:

(a) is set up after the 30 June, 1995; and

(b) manufactures engineering goods.]

*[Explanation.-* As used in this clause, "industrial undertaking" has the same meaning as in the First Schedule.



[(cc) in the case of machinery or plant (other than ships or motor vehicles not plying for hire), given on lease by the assessee, being a scheduled bank, a financial institution, or such modaraba or leasing company as is approved by the Central Board of Revenue for purposes of this Schedule, on or after the first day of July, 1982.

Forty per cent of the written down value and in respect of any assessment year commencing on or after the first day of July, 1989 twenty five per cent of the written down value.]

[(ccc) in the case of X-Ray and electrotherapeutic apparatus and accessories.

Forty per cent of the written down value {and in respect of any assessment year commencing on or after the first day of July, 1989, twenty five per cent of the written down value}.]

(d) in the case of ships whose port of registry is in Pakistan.

Thirty per cent of the written down value

[(e) in the case of library books owned and used by an educational institution.

25 per cent of the written down value.]

(2) Nothing contained in sub-rule (1) shall apply in the case of-

(a) any road transport vehicle not plying for hire;[ ]

(b) any machinery or plant which has previously been used in Pakistan[;]

[(c) any building, plant or machinery owned or used by an industrial undertaking to which clause (118B) of the Second Schedule applies; and

(d) a machine referred to in clause (xx) of sub-section (1) of section 23.]

(3) The provisions of sub-rules (2) and (3) of rule 1 shall, so far as may be, apply to this rule as they apply to the said rule.

**5A. First year Allowance.**- Where any machinery, plant and equipment <sup>1</sup>[, other than machinery, plant and equipment entitled to first year allowance under rule 5AA,] is installed by any industrial undertaking set up in Pakistan on or after the twenty-first day of November, 1997 and owned and managed by a company formed after the said date, exclusively for operating the said industrial undertaking <sup>2</sup>[ ], further

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<sup>1</sup> Words etc. ins. by F. O. 2001.

<sup>2</sup> Words “engaged in the manufacture of goods or materials or the subjection of goods or materials to a manufacturing process” omitted by F.A.1999.

depreciation by way of First Year Allowance in respect of the year of installation or the year in which such machinery, plant or equipment is used by the assessee for the first time for the purposes of his business or profession or the year in which commercial production is commenced, whichever is the later, shall be allowed at the rates specified in the table below:-

**TABLE**

A	Industries for the manufacture of leather (value added), textiles (value added ), footwear, surgical and sports goods, carpets, electronics, soft, stuffed and battery operated toys, frozen concentrated citrus juices, seafood industry (farming, catching, processing and preservation of fish, shrimp and other marine products ), mining and value added mineral processing.	Eighty per cent of the written down value .
B	Industries for the manufacture of process control equipment or system, power and pneumatic tools, powder metallurgical industry and manufacture of alloys and stainless steel, information technology equipment, solar technology equipment and solar cell industry, aerospace industry, defence production, hermetical sealing technology, mineral oil refining and hydro-cracking and other value added petroleum products' production industries.	Eighty per cent of the written down value .
C (i)	Industries for the manufacture of the plants, machinery and equipment including mining or mineral processing, agricultural and earthmoving machinery, valves and controls for fluids and gas, high pressure or temperature piping and fittings, specialized pumps for chemical or petroleum industry, elevators or escalators, locomotives, ship building, turbines, seamless high pressure gas cylinders.	Sixty-five per cent of the written down value
C (ii)	Industries for the manufacture of rubber and textile chemicals, dyes, pigments, specialized paints or coatings, basic manufacture of pesticides; pharmaceutical raw materials; manufacture of basic chemicals; fire-fighting foam, petrochemicals and their down stream products (including fibers), safety (auto) glass, float glass, chloro-alkali, fertilizers, pulp and paper (integrated unit).	Sixty-five per cent of the written down value.
C (iii)	Industries for the development and production of fiber-optic communication equipment, treatment and disposal of toxic and hazardous and industrial wastes sewerage, effluent and solid waste management, water supply, laboratory, chemical or industrial ware, optical goods and equipment, x-ray and photographic films,	Sixty-five per cent of the written down value

manufacture of bio-medical and medical diagnostic equipment or devices, research and development <sup>1</sup>[,and tourism, hotels and tourism related projects, housing and construction, infrastructure and agriculture projects.]

- |   |   |  |
|---|---|--|
| D | Industries for the production of quality and hybrid seeds, edible oil extraction or refining, livestock or poultry feed, the written down integrated poultry livestock complex including the facility, value for processing and packing, milk processing and milk products or dairy products, fruits, vegetables and flowers-grading, packing or processing etc., agro-based value-added products and chemicals, (e.g. cotton, sugar cane, rice, corn-based like cattle feed, cellulose and its products, industrial alcohol, glycerine, fructose, furfural, xylose, etc.). | Sixty-five per cent of the written down  |
| E | Other industries <sup>2</sup> [including service, <sup>3</sup> [ ] social and agricultural sector <sup>4</sup> [, other than the agriculture projects specified in entry C (iii) ]  | Forty per cent of the written down value |

<sup>5</sup>[ ]

<sup>6</sup>[5AA. Where any machinery, plant <sup>7</sup>[, other than machinery, plant and equipment entitled to a First Year Allowance under rule 5A or rule 5AA,] and equipment (other than motor vehicles not plying for hire and ships not being fishing trawlers) is given on lease for the first time on, or after, the first day of July, 2000, by an assessee being an investment bank or a modaraba or a leasing company, further depreciation by way of First Year Allowance equal to thirty per cent of the written down value shall be allowed to such assessee in respect of the year in which such machinery, plant or equipment (other than motor vehicles not plying for hire and ships not being fishing trawlers) is given on lease for the first time on, or after, the first day of July, 2000:

Provided that no allowance shall be admissible under this rule where such allowance has been availed previously under this rule or rules 5, 5A or 5B in respect of aforesaid asset.

*Explanation.-* For the purposes of this rule the expression "investment bank" means a company incorporated under the Companies Ordinance, 1984 (XLVII of 1984), which has been granted a license by the Federal Government to operate as an investment bank.

**5B. Re-Investment Allowance.-** Where any expenditure or investment is made by an industrial undertaking on or after the twenty first day November , 1997 for the purposes of balancing, moderization and replacement (BMR) and expansion of the machinery and plant already installed therein, further depreciation allowance equal to forty per cent of the written down value shall be allowed in respect of the

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<sup>1</sup> Words ins. by F. O. 2001.

<sup>2</sup> Ins. by F.A.1999.

<sup>3</sup> Word "infrastructure" omitted by F. O. 2001.

<sup>4</sup> Words etc. ins. by F. O. 2001.

<sup>5</sup> Entry F deleted by F. O. 2000.

<sup>6</sup> Rule 5AA added by F. O. 2001.

<sup>7</sup> Words etc. ins. by F. O. 2001.

year in which such machinery, plant or equipment is used by the assessee for the first time for the purposes of his business or profession or the year in which commercial production is commenced, whichever is the later .

**5C . Industrial Building Allowance.** -Where any industrial sheds or structures are erected by an industrial undertaking referred to in rule 5A, a further depreciation allowance shall be allowed equal to twenty per cent of the written down value in respect of the year of erection of such structures.

**6. Limitation as to allowance for depreciation.**- The aggregate of the allowance for depreciation allowed under this Ordinance and the repealed Act shall not exceed the original cost of any asset [ ] as the case may be.

**7. Disposal of assets and treatment of resultant gains or losses.**- Notwithstanding anything contained in this Ordinance or the repealed Act, where, in any income year,-

- (a) any asset [ ] is disposed of by an assessee, no allowance under rules 1, 3, 4, <sup>1</sup>[, 5, 5A, 5AA, 5B or 5C] shall be made in respect thereof in that year;
- (b) any [asset] is disposed of by an assessee,-
  - (i) if the sale proceeds thereof exceed the written down value, the excess shall be deemed to be the income of the assessee of that year chargeable under the head "Income from business or profession"; and
  - (ii) if the sale proceeds are less than the written down value, the deficit shall be deemed to be an expenditure deductible from the profits and gains of the business or profession of that year;[]

[ ]

and the business or profession for the purposes of which the said [asset] was used before its disposal, shall be deemed to be carried on by the assessee during that year and all the provisions of this Ordinance shall apply accordingly:

[ ]

**8. Definitions.**- For the purpose of this Schedule,-

[ ]

(2) "fair market value" has the same meaning as in sub-section 93) of section 29;

(3) "furniture" includes fittings;

(4) "plant" means any ship, aircraft or vehicle registered in Pakistan and includes books (other than books in respect of which an allowance has been made under section 42 of this Ordinance or section 15F of the repealed Act), scientific apparatus and surgical equipment used for the purposes of business or profession;

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<sup>1</sup> *Ibid.*

(5) "sale proceeds" means-

- (a) where the asset is actually sold, the sale price thereof or the fair market value, whichever is the higher;
- (b) where the asset is transferred by way of exchange, the fair market value of the asset acquired through such transfer;
- (c) where the asset is transferred otherwise than by sale or exchange, the consideration for such transfer;
- (d) where an asset is discarded, demolished, destroyed or lost, the scrap value, or the amount realised by the disposal thereof together with any insurance, compensation or salvage money received or receivable in respect thereof;
- (e) where the asset is compulsorily acquired under any law for the time being in force in Pakistan, the compensation paid therefore;
- (f) where the asset ceases to be used by the assessee for purposes of his business or profession, the fair market value thereof at the time of such cessation;
- (g) where the asset [other than an asset to which sub-clause (h) or sub-clause (i) {or sub-clause (j)} applies,] is exported or transferred outside Pakistan, the original cost thereof, or the fair market value at the time of export, whichever is the higher,
- [(h) where an asset, after having been used in Pakistan in the execution of a contract entered into by the assessee before the first day of July, 1979, is exported or transferred outside Pakistan, the original cost thereof less all depreciation allowed excepting the sum allowed in pursuance of rule 5;
- (i) where an asset, not being an asset to which sub-clause (j) applies, after having been used in Pakistan in the execution of a contract entered into by the assessee on or after the first day of July, 1979, is exported or transferred outside Pakistan the original cost thereof; and]
- [(j) where an asset, after having been used in Pakistan in the execution of a contract for exploration and production of petroleum (such contract having been entered into by the assessee on or after the first day of July, 1981), is exported or transferred outside Pakistan, the original cost thereof less all depreciation allowed excepting the sum allowed in pursuance of rule 5,

and in each such case, the asset shall, for purposes of rule 7, be deemed to have been disposed of by the assessee:]

[Provided that in the case of a building the term "sale proceeds" shall mean an amount equal to the lower of the following, namely:-

- (a) original cost, and

(b) sale price or fair market value, whichever is higher:

Provided further that, where the actual cost of a road transport vehicle is, in accordance with sub-clause (a) of clause (8), taken to be <sup>1</sup>[seven hundred and fifty thousand] rupees, the sale proceeds thereof shall be taken to be a sum which bears to the amount for which the said vehicle is sold together with any insurance, salvage or compensation money received or receivable or, as the case may be, scrap value in respect thereof the same proportion as the said sum of <sup>1</sup>[seven hundred and fifty thousand] rupees bears to the actual cost of the said vehicle to the assessee had the said sub-clause not been applicable to such vehicle:

{ Provided also that in case of an asset leased by a scheduled bank, a financial institution or any modaraba or leasing company which is approved by the Central Board of Revenue the term "sale proceeds" shall mean the residual value received by such leasing company on maturity of lease agreement with the first lessee, subject to the condition that the residual value plus the amount realised during the currency of the agreement towards cost of the asset is not less than the original cost to the lessor. }

*Explanation.-* The expression 'sale', as used in the second proviso, includes a transfer by way of exchange or otherwise or a compulsory acquisition under any law for the time being in force;]

(6) "ship" includes a steamer, motor vessel, sail, tug, boat, iron or steel float for cargo, wooden cargo boat, motor launch and speed boat;

(7) "written down value" means-

[(a) in the case of a ship or any asset to which sub-rule (3) of rule 2 applies,-

(i) for purpose of rule 7, as in sub-clause (b), and

(ii) for any other purpose, the actual cost thereof to the assessee; and]

(b) in the case of other assets, [ ]-

(i) where the asset [ ], was acquired in the income year, the actual cost thereof to the assessee; and

(ii) where the asset, was acquired before the income year, the actual cost thereof to the assessee as reduced by the aggregate of the allowance for depreciation allowed to him under this Ordinance or the repealed Act in respect of the assessments for earlier years.

(8) For the purposes of [clause (7)],-

(a) in the case of road transport vehicles[, being passenger transport vehicles,] not plying for hire, the actual cost to the assessee shall be deemed not to exceed <sup>2</sup>[seven hundred and fifty thousand] rupees;

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<sup>1</sup> Words "six hundred thousand" subs. by F. O. 2001.

<sup>2</sup>

- (b) in computing the actual cost of an asset, the amount of any grant, subsidy, rebate or commission and the value of any assistance (not being in the nature of any loan repayable with or without interest) received by an assessee from Government or any other authority or person and any deduction or allowance admissible under this Ordinance or the repealed Act shall be excluded;
- (c) where, before the date of acquisition by the assessee, any such asset had at any time been used by any person for the purposes of his business or profession, the actual cost to the assessee shall, except in any case where [sub-clause (d)] applies, be deemed not to exceed the fair market value thereof;
- (d) where any assessee has succeeded another person in business or profession, the written down value of an asset shall be computed as if no succession had taken place;
- (e) where an assessee has acquired any plant or machinery (hereafter referred to as 'asset') from a country outside Pakistan for installation in Pakistan for the purposes of his business or profession and, in consequence of a change in the rate of exchange at any time after the acquisition of such asset and before full and final repayment of any foreign loan, there is an increase or reduction in the liability of the assessee as expressed in Pakistan currency for making payment towards the whole or a part of the moneys borrowed by him from any person directly or indirectly, in any foreign currency specifically for the purposes of acquiring the asset (being in either case the liability existing immediately before the date on which change in the rate of exchange takes effect), the amount by which the liability aforesaid is so increased or reduced during the income year shall be added to, or, as the case may be, deducted from the actual cost of the asset and the amount arrived at after such addition or deduction shall be taken to be the actual cost of the asset;
- (f) where the whole or any part of the liability aforesaid is met, not by the assessee, but, directly or indirectly, by any other person or authority, the liability so met shall not be taken into account for the purposes of [sub-clause (e)];
- (g) where the assessee has entered into a contract with an authorised dealer for providing him with a specified sum in a foreign currency on or after a stipulated future date at the rate of exchange specified in the contract to enable him to meet the whole or any part of the liability aforesaid, the amount, if any, to be added to, or deducted from the actual cost of the asset or the amount of expenditure of a capital nature or, as the case may be, the cost of acquisition of the capital asset under this sub-clause shall, in respect of so much of the sum specified in the contract as is available for discharging the liability aforesaid, be computed with reference to the rate of exchange specified therein; and
- (h) for the purposes of making an assessment for the year beginning on the first day of July, 1979, the written down value of such asset shall be increased or reduced by the amount by which the liability aforesaid was so increased or reduced during any income year for the assessment year beginning on the first day of July, 1975 or the first day of July, 1976, the first day of July, 1977 or the first day of July, 1978.

*Explanation.-* As used in this clause,-

(a) "rate of exchange" means the rate of exchange determined or recognised by the Federal Government for the conversion of Pakistan currency into foreign currency or foreign currency into Pakistan currency; and

(b) "authorised dealer", "foreign currency" and "Pakistan currency" have the same meaning as in the Foreign Exchange Regulation Act, 1947 (VII of 1947).

(9) The provisions of clauses (5) and (7) shall, so far as may be, apply to a class of assets as they apply to an asset.



## THE FOURTH SCHEDULE

(See section 26(a))

### **RULES FOR THE COMPUTATION OF THE PROFITS AND GAINS OF INSURANCE BUSINESS.**

**1. Profits of life insurance to be computed separately.**- The profits and gains of an assessee carrying on life insurance business shall, from whatever source derived, be chargeable under the head "Income from business or profession" and shall be computed separately from his income from any other business.

**2. Computation of profits and gains of life insurance business.**- The profits and gains of life insurance business [ ] shall be taken to be the annual average of the surplus arrived at by adjusting the surplus or deficit disclosed by the actuarial valuation made for the last inter-valuation period ending before the year for which the assessment is to be made, so as to exclude from it any surplus or deficit included therein which was made in any earlier inter-valuation period and any expenditure other than expenditure which may, under the provisions of section 23 of this Ordinance, be allowed for computing the profits and gains of a business.

3. In computing the surplus for purposes of rule 2,-

- (a) the amounts paid to, or reserved for, or expended on behalf of, policy-holders shall be allowed as a deduction:

Provided that in the first such computation made under this rule of any such surplus, no account shall be taken of any such amounts to the extent to which they are paid out, or in respect, of any surplus brought forward from a previous inter-valuation period:

Provided further that if any amount so reserved for policy-holders ceases to be so reserved, and is not paid to, or expended on behalf of, policy-holders, the sums previously allowed as a deduction under this Ordinance or under the repealed Act shall be treated as part of the surplus for the period in which the said amount ceased to be so reserved;

- (b) any amount either written off or reserved in the accounts or through the actuarial valuation balance sheet to meet depreciation, or loss on the realisation, of investments, shall be allowed as a deduction, and any sums taken credit for in the accounts or actuarial valuation balance sheet on account of appreciation, or gains on the realisation, of investments shall be included in the surplus:

Provided that if it appears to the Deputy Commissioner after consultation with the Controller of Insurance that the rate of interest or other factors employed in determining the liability in respect of outstanding policies is inconsistent with the valuation of investments so as artificially to reduce the surplus, he may make such adjustment to the allowance for depreciation, or in respect of appreciation, of such investment as he thinks reasonable; and

- (c) interest received during the inter-valuation period in respect of any securities of the Federal Government which have been issued or declared to be income-tax-free, shall not be excluded; but such interest shall be exempt from tax in accordance with the provisions of sub-section (2) of section 17.

4. Adjustment of tax paid by deduction at source.- Where for any year an assessment of the profits and gains of life insurance business is made in accordance with the annual average of a surplus disclosed by a valuation for an inter-valuation period exceeding twelve months, then, in computing the tax payable for that year, credit shall not be given for the tax paid in the income year but credit shall be given for the annual average of the tax paid by deduction at source from interest on securities or otherwise during such period.

5. **General insurance.**- The profits and gains of any business of insurance other than life insurance shall be taken to be the balance of the profits disclosed by the annual accounts required under the Insurance Act, 1938 (IV of 1938) to be furnished to the Controller of Insurance, subject to the following adjustments, namely:-

(a) any expenditure or allowance, [or any reserve or provision for any expenditure, or the amount of any tax deducted at source from any dividends or interest received] which is not deductible in computing the income chargeable under the head "Income from business or profession" shall be excluded;

(b) any amount either written off or taken to reserve to meet depreciation or loss on the realisation, of investments shall be allowed as a deduction, and any sums taken credit for in the accounts on account of appreciation, or gains on the realisation, of investments shall be treated as part of the profits and gains:

Provided that the Deputy Commissioner is satisfied about the reasonableness of the amount written off or taken to reserve in the accounts to meet depreciation, or loss on the realisation, of investments, as the case may be.

<sup>1</sup>[(c) Nothing contained in this rule shall be construed to authorise deduction of any expenditure or allowance or reserve or provision in excess of the limits laid down in the Insurance Act, 1938 (IV of 1938).

6. Mutual Insurance associations.- These rules shall also apply to the assessment of the profits of any business of insurance carried on by a mutual insurance association and such profits shall be deemed to be liable to tax under the head 'Income from business or profession'.

6A. Exemption of capital gains from sale of shares:- In computing income under this Schedule, there shall not be included 'capital gains' being income from the sale of any instrument of redeemable capital as defined in clause (30A) of sub-section (1) of Section 2 of the Companies Ordinance, 1984 (XLVII of 1984), listed on any stock exchange in Pakistan or shares of a public company, as defined in subparagraph (2) of Part IV of the First Schedule to this Ordinance, derived in respect of any assessment year ending on or before the thirtieth day of June, [1999].

7. Definitions.- For the purposes of these rules,-

(a) "investments" includes securities, stocks and shares; and

(b) "life insurance business" means life insurance business as defined in clause (11) of section 2 of the Insurance Act, 1938 (IV of 1938).

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<sup>1</sup> Cl. (c) ins. by F.A.1999.

8. Application of this Schedule.- The provisions of this Schedule shall apply notwithstanding anything contained in this Ordinance or any law for the time being in force.

## THE FIFTH SCHEDULE

### PART I

(See section 26(b))

#### **RULES FOR THE COMPUTATION OF THE PROFITS AND GAINS FROM THE EXPLORATION AND PRODUCTION OF PETROLEUM.**

1. Exploration and production of petroleum to be treated as a separate business undertaking.- Where any person carries on, or is deemed to carry on, under any agreement with the Government, any business, which consists of, or includes, the exploration or production of petroleum in Pakistan, [or setting up of refineries at Dhodak and Bobi fields, income of exploration and production companies from pipe-line operations, and manufacture and sale of liquified petroleum gas] or compressed natural gas such business or part thereof, as the case may be, shall for the purposes of this Ordinance, be deemed to be a separate business undertaking hereinafter referred to as "such undertaking" and the profits and gains of such undertaking shall be computed separately from his income, profits or gains from any other business, if any, carried on by him.

2. **Computation of profits.-** (1) Subject to the provisions of this Part, the profits and gains of such undertaking shall be computed in the "Income from business or profession".

(2) Where such person incurs any expenditure on searching for or on discovering and testing a petroleum deposit or winning access thereto, but the search, exploration or enquiry upon which the expenditure is incurred is given up before the commencement of commercial production, the expenditure allocable to a surrendered area or to the drilling of a dry-hole shall be deemed to be a lost at the time of the surrender of the area or the completion of the dry-hole, as the case may be.

(3) Where the agreement provides that any portion of the expenditure deemed to be lost under sub-rule (2) (such portion hereinafter referred to as the said loss) shall be allowed against any income of such undertaking, it shall be allowed in either of the following two ways, as may be provided for in the agreement, namely:-

(a) the said loss in any year shall be set-off against the income of that year chargeable under the head "Income from business or profession" or any income (other than income from dividends) chargeable under any other head and where the loss cannot be wholly set off in this manner, the portion not so set off shall be carried forward to the following year and set off in the same manner, and so on, but no loss shall be carried forward for more than six years; or

(b) the said loss in any year shall be set off against the income of such undertaking of the income year in which commercial production has commenced and where the loss cannot be wholly set off against the income of such undertaking of that year, the portion not so set off shall be carried forward to the following year and set off against the income, if any, of such undertaking of that year, and if it cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following year, and so on, but no loss shall be carried forward for more than ten years.

(4) After the commencement of commercial production all expenditure incurred prior thereto and not deemed to be lost under sub-rule (2) and not represented by physical assets in use at the time the commercial production commenced shall be allowed as a deduction, so, however, that the portion of such

deduction to be so allowed in any year shall be such amount (not exceeding ten per cent of the aggregate amount deductible [in respect of onshore areas and twenty-five per cent for offshore areas]) as may be selected by the assessee.

(5) Any expenditure <sup>1</sup>[including royalty paid to the Government by an onshore petroleum exploration and production undertaking on, or after, the first day of July, 2001,] (not being in the nature of capital expenditure or personal expenses of the assessee) laid out or expended after the commencement of commercial production wholly and exclusively for the purpose of the business of production and exploration of petroleum carried on by such undertaking shall be allowed as a deduction:

Provided that-

- (i) no deduction shall be allowed in respect of such expenditure incurred on the acquisition of assets in respect of which depreciation allowance is admissible under the Third Schedule;
- (ii) depreciation allowance admissible under the Third Schedule shall be deducted in respect of the assets referred to in paragraph (i);
- (iii) depreciation allowance admissible under the Third Schedule shall also be deducted in respect of such expenditure incurred on the acquisition of the physical assets, which were acquired before the date of the commencement of commercial production and were being used by such undertaken on and after that date, as if such assets had been acquired at the time of the commencement of commercial production at their original cost, as reduced by the amount of depreciation allowance, if any, previously allowed to be deducted under this Ordinance or the repealed Act.

(6) If in any year the deductions admissible under section 23 and sub-rules (3) and (4) exceed the gross receipts from the sale of petroleum produced in Pakistan, such excess shall be set off against other income (not being income from dividends) and carried forward in the manner and subject to the limitations laid down in sections 35 and 38 and the Third Schedule, so however, that no portion of such excess shall be carried forward for more than six years[:]

[Provided that the limitation of six years prescribed in this sub-rule shall not apply to depreciation allowance admissible to a person carrying on the business of offshore petroleum exploration and production, in respect of any machinery, plant or other equipment used in such exploration or production.]

**3. Depletion allowance.-** In determining the income of such undertaking for any year ending after the date on which commercial production has commenced, an allowance for depletion shall be made equal to fifteen per cent of the gross receipts representing the well-head value of the production:

Provided that such allowance shall not exceed fifty per cent of the profits or gains of such undertaking before the deduction of such allowance.

**4. Limitation on payment to Government and taxes.-** (1) The aggregate of the taxes on income and other payments <sup>2</sup>[excluding royalty as specified in the Pakistan Petroleum (Production) Rules, 1949 or the

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<sup>1</sup> Words etc. ins. by F. O. 2001.

<sup>2</sup> *Ibid.*

Pakistan Petroleum (Exploration and Production) Rules, 1986 and paid by onshore petroleum exploration and production undertaking on, or after, the first day of July, 2001,] to the Government in respect of the profits or gains derived from an undertaking to which this Part applies for any assessment year shall not exceed the limits provided for in the agreement:

[Provided that the said aggregate shall not be less than fifty per cent of the profits or gains derived by an onshore petroleum exploration and production undertaking and forty per cent of the profits or gains and derived by an offshore petroleum exploration and production undertaking before the deduction of the payment to the Government{:}]

<sup>1</sup>[Provided further that in respect of assessment year commencing on, or after, the first day of July, 2002 the said aggregate shall not be less than forty percent of the profit or gains derived by an onshore petroleum exploration and production undertaking before the deduction of payment excluding royalty paid by an onshore company to the Government.]

(2) If in respect of any year, the aggregate of the taxes on income and payments to the Government is greater or less than the amount provided for in the agreement, an additional tax shall be payable by the assessee or an abatement of tax shall be allowed to the assessee, as the case may be, so as to make the aggregate of the taxes on income and payments to the Government equal to the amount provided for in the agreement.]

(3) If in respect of any year the payments to the Government exceed the amount provided for in the agreement, so much of the excess as consist of any tax or levy referred to in sub-clause (b) of clause (5) of rule 6 shall be carried forward and treated, for the purposes of this rule, as payments to the Government for the succeeding year:

Provided that the whole of the payments to the Government exceeding the amount provided for in such agreement may be so carried forward if so provided for in any agreement with an assessee made before the first day of July, 1970.

**5. Provision relating to rules.-** The Central Board of Revenue may make rules for the purposes of any matter connected with, or incidental to, the operation of this Part.

**6. "Definition.-** For the purpose of this Part,-

(1) "agreement" means an agreement entered into between the Government and an assessee for the exploration and production of petroleum in Pakistan;

(2) "commercial production" means production as determined by the Government;

(3) "Government" means the Government of Pakistan;

(4) "Part" means part of this Schedule;

(5) "payments to the Government" means amounts payable to the Government or to any governmental authority in Pakistan-

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<sup>1</sup> Second proviso ins. by F. O. 2001.

- (a) in respect of royalties as specified in the Pakistan Petroleum (Production) Rules, 1949[, or the Pakistan Petroleum (Exploration and Production) Rules, 1986]; and
- (b) in respect of any tax or levy imposed in Pakistan peculiarly applicable to oil production or to extractive industries or any of them and not generally imposed upon all industrial and commercial activities;

(6) "Petroleum" means crude oil, natural gas and casing-head petroleum spirit as defined in the Pakistan Petroleum (Production) Rules, 1949, or the Pakistan Petroleum (Exploration and Production) Rules, 1986 but does not include refined petroleum products;

(7) "surrender" means the termination of rights with respect to an area including the expiration of rights according to the terms of an agreement;

(8) "surrendered area" means an area with respect to which the rights of a person have terminated by surrender or by assignment or by termination of the business;

(9) "taxes on income" and "tax" includes income-tax and super-tax but does not include payments to Government; and

(10) "well-head value" has the meaning assigned to it in the agreement between the assessee and the Government and, in the absence of any such definition in the agreement, the meaning assigned to it in the Pakistan Petroleum (Production) Rules, 1949 [or the Pakistan Petroleum (Exploration and Production) Rules, 1986]; and

## **PART II**

See section 26(c)

### **RULES FOR THE COMPUTATION OF PROFITS AND GAINS FROM THE EXPLORATION AND EXTRACTION OF MINERAL DEPOSITS (OTHER THAN PETROLEUM)**

1. Exploration and extraction of mineral deposits to be treated as separate undertaking.- Where any person carries on, or is deemed to carry on, any business which consists of or includes the exploration or extraction of mineral deposits of a wasting nature (other than petroleum) in Pakistan, such business or part thereof, as the case may be, shall, for the purpose of this Ordinance, be deemed to be a separate undertaking (hereinafter referred to as 'such undertaking') and the profits and gains of such undertaking shall be computed separately from his income, profits or gains from other business, if any, carried on by him.

**2. Computation of profits.-** (1) Subject to the provisions of this Part, the profits and gains of such undertaking shall be computed in the manner applicable to income, profits and gains chargeable under the head "Income from business or profession".

(2) All expenditure on prospecting and exploration incurred by such undertaking, after the thirty-first day of March, 1958, upto the date of commercial production shall, to the extent it cannot be set off against any other income of the said undertaking, be treated as a loss.

(3) The loss referred to in sub-rule (2) shall be carried forward and set off against the income of such undertaking after the commencement of commercial production, so however, that if it cannot be wholly set off against the income of the said undertaking of the income year in which the commercial production had commenced, the portion not so set off shall be carried forward for more than ten years beginning with the year in which commercial production had commenced.

(4) After the commencement of commercial production, depreciation allowance in respect of machinery and plant purchased or acquired after the thirty-first day of March, 1958 for extracting the ore shall be allowed as a deduction from profits and gains of the year in which they are used for the first time in an amount equal to the original cost of such asset and all the provisions of the Third Schedule shall, so far as may be, apply accordingly.

**3. Depletion Allowance.-** (1) In determining the profits and gains of such undertaking for any year an additional allowance (hereinafter referred to as the depletion allowance) shall be made equal to [twenty] per cent of the total income of such undertaking (before the deduction of such allowance) [ ].

(2) No deduction under sub-rule (1) shall be made unless an amount equal to the depletion allowance is set apart and left as a reserve to be utilised for the development and expansion of such undertaking.

(3) Where an allowance by way of depletion allowance has been made in any year and subsequently it is utilised for any purpose contrary to the provisions of sub-rule (2), the amount originally allowed under this Ordinance, or the repealed Act shall be deemed to have been wrongly allowed and the Deputy Commissioner may, notwithstanding anything contained in this Ordinance or the repealed Act, recompute the total income of the assessee for the relevant income years and the provisions of section 65 shall, so far as may be, apply thereto, the period of ten years specified in sub-section (3) of that section being reckoned from the end of the assessment year relevant to the income year in which the amount was so utilised.

**4. Tax exemption of profits from refining or concentrating minerals deposits.-** (1) Where such undertaking is also engaged in the business of refining or concentrating in Pakistan the mineral deposits extracted by it in Pakistan, so much of the profits and gains (hereinafter referred to in sub-rule (2) as the said amount derived from such business as does not exceed ten per cent of the capital employed in such business (such capital being computed in accordance with such rules as may be made by the Central Board of Revenue for the purposes of this rule), shall be exempt from tax.

(2) Where the profits and gains of such business computed for any assessment year cover a period which is less or more than one year, the amount of profits and gains exempt under sub-rule (1) shall be the amount which bears the same proportion to the said amount of profits and gains the same proportion as the said period bears to a period of one year.

(3) The profits and gains of the business to which this rule applies shall be computed in accordance with the provisions of sections 23 and 24.

(4) Nothing contained in this rule shall apply to an undertaking which is formed by the splitting up or the reconstruction or reconstitution of business already in existence or by the transfer to a new business of any building, machinery or plant used in a business which was being carried on before the 1st day of July, 1975.

(5) The provisions of this rule shall apply to the assessment year next following the income year in which commercial production is commenced or the loss or allowance, if any, under sub-rules (3) and (4) of rule



2, as the case may be, has been set off or deducted in full, whichever is the later, and for the next following four years.

**5. Provision relating to rules.**- The Central Board of Revenue, may make rules providing for any matter connected with, or incidental to, the operation of this Part.

**6. Definitions.**- For the purposes of this Part,-

- (1) "commercial production" means production as determined by the Deputy Commissioner;
- (2) "Part" means Part of this Schedule; and
- (3) "petroleum" has the same meaning as in clause (6) of rule 6 of Part I.

## THE SIXTH SCHEDULE

### PART I

See sections 2(37), 24 and 40

#### RECOGNISED PROVIDENT FUNDS

##

1. Recognition of provident funds.- (1) The Commissioner may accord recognition to any provident fund which, in his opinion, complies with the requirements of rule 2, and may, at any time, withdraw such recognition if, in his opinion, the circumstances of the fund cease to warrant the continuance of the recognition.

(2) An order according recognition shall take effect on such date as the Commissioner may fix in accordance with such rules as the Central Board of Revenue may make in this behalf, such date not being later than the last day of the financial year in which the order is made.

(3) An order according recognition to a provident fund shall no, unless the Commissioner otherwise directs, be affected by the fact that the fund is subsequently amalgamated with another provident fund on the occurrence of an amalgamation of the undertakings in connection with which the two funds are maintained, or that it subsequently absorbs the whole or a part of another provident fund belonging to an undertaking which is wholly or in part transferred to, or merged in, the undertaking of the employer maintaining the first-mentioned fund.

(4) An order withdrawing recognition shall take effect from such date as the Commissioner may fix.

(5) The Commissioner shall neither refuse nor withdraw recognition of any provident fund, unless he has given to the trustees of the fund a reasonable opportunity of being heard.

**2. Conditions for approval.-** (1) In order that a provident fund may receive and retain recognition it shall satisfy the conditions hereinafter specified and any other conditions which the Central Board of Revenue may, by rules, prescribe-

- (a) all employees shall be employed in Pakistan, or shall be employed by an employer whose principal place of business is in Pakistan:

Provided that the Commissioner may, if he thinks fit, and subject to such conditions, if any, as he thinks proper to attach to the recognition, accord recognition to a fund maintained by an employer whose principal place of business is not in Pakistan, provided the proportion of employees employed outside Pakistan does not exceed ten per cent;

- (b) the contributions of an employee in any year shall be a definite proportion of his salary for that year, and shall be deducted by the employer from the employee's salary in that proportion, at each periodical payment of such salary in that year, and credited to the employees individual account in the fund:

Provided that an employee, who retains his employment while serving in the armed forces of Pakistan or when taken into, or employed in, the national service under any law for the time being in force, may, whether he receives from the employer any salary or not

contribute to the fund during his service in the armed forces of Pakistan or while so taken into, or employed in, the national service a sum not exceeding the amount he would have contributed had he continued to serve the employer;

- (c) the contributions of an employer to the individual account of an employee in any year shall not exceed the amount of the contributions of the employee in that year, and shall be credited to the employee's individual account at intervals not exceeding one year;

Provided that, subject to any rules which the Central Board of Revenue may make in this behalf, the Commissioner may, in respect of any particular fund, relax the provisions of this clause-

- (i) so as to permit the payment of larger contributions by an employer to the individual accounts of employees whose salaries do not, in each case, exceed five hundred rupees per mensem;
  - (ii) so as to permit the crediting by employers to the individual accounts of employees of periodical bonuses or other contributions of a contingent nature, where the calculation and payment of such bonuses or other contributions is provided for on definite principles by the regulations of the fund;
- (d) the employer shall not be entitled to recover any sum whatsoever from the fund, save in cases where the employee is dismissed for misconduct or voluntarily leaves his employment otherwise than on account of ill-health or other unavoidable cause before the expiration of the term of service specified in this behalf in the regulations of the fund:

Provided that in such cases the recoveries made by the employer shall be limited to the contributions made by him to the individual account of the employee, and to interest credited in respect of such contributions in accordance with the regulations of the fund and accumulations thereof;

- (e) the fund shall be vested in two or more trustees or in the Official Trustees under a trust which shall not be revocable save with the consent of all the beneficiaries;
- (f) the fund shall consist of contributions as above specified, received by the trustees, or accumulations thereof, and of interest credited in respect of such contributions and accumulations, and of securities purchased therewith and of any capital gains arising from the transfer of capital assets of the fund, and of no other sums;
- (g) the accumulated balance due to an employee shall be payable on the day he ceases to be an employee of the employer maintaining the funds:

Provided that notwithstanding anything contained in clause (f) or clause (g):-

- (i) at the request made in writing by the employee who ceases to be an employee of the employer maintaining the fund, the trustees of the fund may consent to retain the whole or any part of the accumulated balance due to the employee to be drawn by him at any time on demand;

- (ii) where the accumulated balance due to an employee who has ceased to be an employee is retained in the fund in accordance with the preceding clause, the fund may consist also of interest in respect of such accumulated balance;
- (iii) the fund may also consist of any amount transferred from the individual account of an employee in any recognised provident fund maintained by his former employer and the interest in respect thereof;
- (h) save as provided in clause (g) or in accordance with such conditions and restrictions as the Central Board of Revenue may, by rules, specify, no portion of the balance to the credit of an employee shall be payable to him:

Provided that in order to enable an employee to pay the amount of tax assessed on his total income as determined under sub-rule (4) of rule 7, he shall be entitled to withdraw from the balance to his credit in the recognised provident fund a sum not exceeding the difference between such amount and the amount to which he would have been assessed if the transferred balance referred to in sub-rule (2) of rule 7 had not been included in his total income.

**3. Employer's annual contributions, when deemed to be income received by employee.-** That portion of the annual accretion in any year to the balance at the credit of an employee participating in a recognised provident fund as consists of-

- (a) contributions made by the employer in excess of ten percent of the salary of the employee; and
- (b) interest credited on the balance to the credit of the employee in so far as it exceeds one third of the salary of the employee or is allowed at a rate exceeding such rate as may be fixed by the Federal Government in this behalf by notification in the official Gazette,

shall be deemed to have been received by the employee in that year and shall be included in his total income for that year and shall be liable to income tax.

**4. Exclusion from total income of accumulated balance.-** (1) Subject to such rules as may be made by the Central Board of Revenue in this behalf, the accumulated balance due and becoming payable to an employee participating in a recognised provident fund shall be excluded from the computation of his total income.

(2) The provisions of sub-rule (1) shall also apply where, on the cessation of his employment, the employee obtains employment with any other employer and the accumulated balance due and becoming payable to him is transferred to his individual account in any recognised provident fund maintained by such other employer.

**5. Tax on accumulated balance.-** Where the accumulated balance due to an employee participating in a recognised provident fund is included in his total income, the Deputy Commissioner shall calculate the total of the various sums of tax which would have been payable by the employee in respect of his total income for each of the years concerned if the fund had not been a recognised provident fund and the amount by which such total exceeds the total of all sums paid by, or on behalf of such employee by way of tax for such years shall be payable by the employee in addition to any other tax for which he may be liable for the income year in which the accumulated balance due to him becomes payable.

**6. Deduction at source of tax payable on accumulated balance.-** The trustees of a recognised provident fund, or any person authorised by the regulations of the fund to make payable of accumulated balance due to employees shall, in cases where rule 5 applies, at the time an accumulated balance due to an employee is paid, deduct therefrom the amount payable under that rule and the provisions of Chapter VI shall, so far as may be, apply as if the accumulated balance were income chargeable under the head "Salary".

**7. Treatment of balance in newly recognised provident fund.-** (1) Where recognition is accorded to a provident fund with existing balances, an account shall be made of the fund up to the day immediately preceding the day on which the recognition takes effect showing the balance to the credit of each employee on such day and containing such further particulars as the Central board of Revenue may prescribe.

(2) The account referred to in sub-rule (1) shall also show in respect of the balance to the credit of an employee the amount thereof which is to be transferred to that employee's account in the recognised provident fund, and such amount (hereinafter called his 'transferred balance') shall be shown as the balance to his credit in the recognised provident fund on the date on which the recognition of the fund takes effect, and the provisions of sub-rule (4) and the proviso to clause (h) of rule 3 shall apply thereto.

(3) Any portion of the balance to the credit of an employee in the existing fund which is not transferred to the recognised fund shall be excluded from the accounts of the recognised fund and shall be liable to income tax in accordance with the provisions of this Ordinance, other than this Part.

(4) Subject to such rules as the Central Board of Revenue may make in this behalf, the Deputy Commissioner shall make a calculation of the aggregate of all sums comprised in a transferred balance which would have been liable to income-tax if this Part had been in force from the date of the institution of the fund, without regard to any tax which may have been paid on any sum, and such aggregate, if any, shall be deemed to be income received by the employee in the income year in which the recognition of the fund takes effect and shall be included in the employee's total income for that year, and, for the purposes of assessment, the remainder of the transferred balance shall be disregarded, but no other exemption or relief, by way of refund or otherwise, shall be granted in respect of any sum comprised in such transferred balance:

Provided that, in cases of serious accounting difficulty, the Commissioner may, subject to the said rules, make a summary calculation of such aggregate.

(5) Nothing in this rule shall affect the rights of the persons administering an unrecognised provident fund or dealing with it, or with the balance to the credit of any individual employees, before recognition is accorded, in any manner which may be lawful.

**8. Accounts of recognised provident funds.-** (1) The accounts of a recognised provident fund shall be maintained by the trustees of the fund and shall be in such form and for such periods, and shall contain such particulars, as may be prescribed.

(2) The accounts shall be open to inspection at all reasonable times by income tax authorities, and the trustees shall furnish to the Deputy Commissioner such abstracts thereof as may be prescribed.

**9. Treatment of fund transferred by employer to trustee.-** (1) Where an employer, who maintains a provident fund (whether recognised or not) for the benefit of his employees and has not transferred the

fund or any portion of it, transfers such fund or portion to trustees in trust for the employees participating in the fund, the amount so transferred shall be deemed to be of the nature of capital expenditure.

(2) When an employee participating in such fund is paid the accumulated balance due to him therefrom, any portion of such balance as represents his share in the amount so transferred to the trustees (without addition of interest, and exclusive of the employee's contributions and interest thereon) shall, if the employer has made effective arrangement to secure that tax shall be deducted at source from the amount of such share when paid to the employee, be deemed to be an expenditure by the employer, within the meaning of clause (xviii) of sub-section (1) of section 23, incurred in the income year in which the accumulated balance due to the employee is paid.

**10. Particulars to be furnished in respect of recognised provident funds.-** The trustees of a recognised provident fund and any employer who contributes to a recognised provident fund shall, when required by notice from the Deputy Commissioner, within such period (not being less than twenty one days from the date of the notice), as may be specified in the notice, furnish such return, statement, particulars or information, as the Deputy Commissioner may require.

**11. Provisions of this Part to prevail against regulations of the fund.-** Where there is a repugnance between any regulation of a recognised provident fund and any provision of this Part or of the rules made thereunder, the regulation shall, to the extent of the repugnance, be of no effect, and the Commissioner may, at any time, require that such repugnance shall be removed from the regulations of the fund.

**12. Appeals.-** (1) An employer objecting to an order of Commissioner refusing to recognise, or an order withdrawing recognition from, a provident fund may appeal, within sixty days of the making of such order, to the Central board of Revenue.

(2) The Central Board of Revenue may admit an appeal after the expiration of the period specified in sub-rule (1), if it is satisfied that the appellant was prevented by sufficient cause from presenting it within that period.

(3) The appeal shall be in such form and shall be verified in such manner and shall be accompanied by such fee as may be prescribed.

**13. Provisions relating to rules.-** In addition to any power conferred by this Part, the Central Board of Revenue may make rules:-

(a) prescribing the form of application for recognition and the statement and other particulars and documents to be submitted therewith;

(b) limiting the contributions to a recognised provident fund by employees of a company, who are shareholders in the company;

(c) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in a recognised provident fund;

(d) determining the extent to, and the manner in, which exemption from payment of tax may be granted in respect of contributions and interest credited to the individual accounts of employees in a provident fund from which recognition has been withdrawn;

(e) regulating the investment of the moneys of a recognised provident fund; and

(f) generally, to carry out the purposes of this part and to secure such further control over the recognition of provident funds and the administration of recognised provident funds as it may deem requisite.

**14. Definitions.-** In this Part, unless the context otherwise requires,

(a) "accumulated balance due to an employee" means the balance to his credit, or such portion thereof as may be claimable by him under the regulations of the fund, on the day he ceases to be an employee of the employer maintaining the funds;

(b) "annual accretion" in relation to the balance to the credit of an employee, means the increase to such balance in any year, arising from contributions and interest;

(c) "balance to the credit of an employee" means the total amount to the credit of his individual account in a provident fund at any time;

(d) "contribution" means any sum credited by or on behalf of, any employee out of his salary, or by an employer out of his own money, to the individual account of an employee, but does not include any sum credited as interest;

(e) "employee" means an employee participating in a provident fund, but does not include a personal or domestic servant;

(f) "employer" means any person who maintains a provident fund for the benefit of his or its employees, being an individual, a company, a Hindu undivided family, a firm or other association of persons engaged in any business or profession the profits and gains whereof are chargeable to income tax under the head "Income from business or profession";

(g) "regulations of a fund" means the special body of regulations governing the constitution and administration of a particular provident fund; and

(h) "salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites.

**15. Application of this Part.-** This Part shall not apply to any provident fund to which the Provident Funds Act, 1925 (XIX of 1925) applies.

## **PART II**

(See sections 2(), 24 and 40)

### **APPROVED SUPERANNUATION FUNDS**

**1. Approval of superannuation funds.-** (1) The Commissioner may accord approval to any superannuation fund or any part of a superannuation fund which, in his opinion, complies with the requirements of rule 2, and may, at any time withdraw such approval if, in his opinion, the circumstances of the fund or the part, as the case may be, cease to warrant the continuance of the approval.

(2) An order according approval or withdrawing approval shall take effect from such date as the Commissioner may fix.

(3) The Commissioner shall neither refuse nor withdraw approval to any superannuation fund or any part of a superannuation fund unless he has given the trustees of that fund a reasonable opportunity of being heard.

**2. Conditions for approval.**- In order that a superannuation fund may receive and retain approval, it shall satisfy the conditions hereinafter specified and any other conditions which the Central Board of Revenue may, by rules prescribe-

(a) the fund shall be a fund established under an irrevocable trust, in connection with a trade or undertaking carried on in Pakistan, and not less than ninety per cent of the employees shall be employed in Pakistan;

(b) the fund shall have for its sole purpose the provision of annuities for employees in the trade or undertaking on their retirement at or after a specified age or on their becoming incapacitated prior to such retirement, or for widows, children or dependents of persons who are or have been such employees on the death of these persons;

(c) the employer in the trade or undertaking shall be a contributor to the fund; and

(d) all annuities, pensions and other benefits granted from the fund shall be payable only in Pakistan.

**3. Application for approval.**- (1) An application for approval of a superannuation fund, or part of a superannuation fund, shall be made in writing by the trustees of the fund to the Deputy Commissioner by whom the employer is assessable, and shall be accompanied by a copy of the instrument under which the fund is established and by two copies of the regulations and, where the fund has been in existence during any year or years prior to the financial year in which the application for approval is made, also two copies of the accounts of the funds relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up, but the Commissioner may require such further information to be supplied as he thinks proper.

(2) If any alteration in the regulations, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alteration to the Deputy Commissioner mentioned in sub-rule (1), and, in default of such communication, any approval given shall, unless the Commissioner otherwise directs, be deemed to have been withdrawn from the date on which the alteration took effect.

**4. Contributions by employer, when deemed to be his income.**- Where any contributions by an employer (including the interest thereon, if any), are repaid to the employer, the amount so repaid shall be deemed for the purpose of tax to be the income of the employer of the income year in which it is so repaid.

**5. Deduction of tax on contributions paid to an employee.**- Where any contributions made by an employer (including interest on contributions, if any), are repaid to an employee during his life-time in circumstances other than those referred to in clause (25) of part I of the Second Schedule, tax on the amount so repaid shall be deducted by the trustees at the average rate of tax at which the employee was liable to tax during the preceding three years or during such period, if less than three years, as he was a



member of the fund, and shall be paid by the trustees to the credit of the Federal Government within such time and in such manner as may be prescribed.

**6. Deduction from pay of and contributions on behalf of employees to be included in return under section 139.-** Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to an approved superannuation fund, he shall include all such deductions or payments in return which he is required to furnish under section 139.

**7. Liability of trustees on cessation of approval.-** If a fund, or a part of a fund, for any reason ceases to be an approved superannuation fund, the trustees of the fund shall nevertheless remain liable to tax on any sum paid on account of returned contributions (including interest on contributions, if any), in so far as the sum so paid is in respect of contributions made before the fund or part of the fund, as the case may be, ceased to be an approved superannuation fund under the provisions of this Part.

**8. particulars to be furnished in respect of superannuation fund.-** The trustees of an approved superannuation fund and any employer who contributes to an approved superannuation fund shall, when required by notice from the Deputy Commissioner, within such period (not being less than twenty-one days from the date of the notice), as may be specified in the notice, furnish such return, statement, particulars or information, as the Deputy Commissioner may require.

**9. Provisions of the Part to prevail against regulations of the fund.-** Where there is a repugnance between any regulation of an approved superannuation fund and any provision of this Part or of the rules made thereunder, the regulation shall, to the extent of the repugnance, be of no effect; and the Commissioner may, at any time, require that such repugnance shall be removed from the regulations of the fund.

**10. Appeals.-** (1) An employer objecting to an order of the Commissioner refusing to accord approval to a superannuation fund or an order withdrawing such approval may appeal, within sixty days of the making of such order, to the Central Board of Revenue.

(2) The Central Board of Revenue may admit an appeal after the expiration of the period specified in sub-rule (1), if it is satisfied that the appellant was prevented by sufficient cause from presenting it within that period.

(3) The appeal shall be in such form and shall be verified in such manner and shall be accompanied by such fee as may be prescribed.

**11. Provisions relating to rules.-** (1) In addition to any power conferred by this Part, the Central Board of Revenue may make rules-

(a) prescribing the statements and other information to be submitted alongwith an application for approval;

(b) prescribing the returns, statements, particulars, or information which the Deputy Commissioner may require from the trustees of an approved superannuation fund or from the employer;

(c) limiting the ordinary annual contribution and any other contributions to an approved superannuation fund by an employer;

- (d) regulating the investment or deposit of the moneys of any approved superannuation fund;
- (e) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in an approved superannuation fund;
- (f) providing for the withdrawal of approval in the case of a fund which ceases to satisfy the requirements of this Part or of the rules made thereunder; and
- (g) generally, to carry out the purposes of this Part and to secure such further control over the approval of superannuation funds and the administration of approved superannuation funds as it may deem requisite.

**12. Definitions.-** In this part, unless the context otherwise requires "contributions", "employee", "employer", "regulations of a fund" and "salary" have, in relation to superannuation funds, the meanings assigned to those expressions in rule 14 of Part I in relation to provident funds.

### **PART III**

(See sections 2(4) and 24)

### **APPROVED GRATUITY FUNDS**

**1. Approval of Gratuity Funds.-** "The Commissioner may accord approval to any gratuity fund which, in his opinion, complies with the requirements of rule 2 and may, at any time, withdraw such approval if, in his opinion, the circumstances of the fund cease to warrant the continuance of the approval.

(2) An order according approval or withdrawing approval shall take effect from such date as the Commissioner may fix.

(3) The Commissioner shall neither refuse nor withdraw approval to any gratuity fund unless he has given the trustees of that fund a reasonable opportunity of being heard.

**2. Conditions for approval.-** In order that a gratuity fund may receive and retain approval, it shall satisfy the conditions hereinafter specified and any other conditions which the Central Board of Revenue may, by rules, prescribe-

- (a) the fund shall be a fund established under an irrevocable trust in connection with trade or undertaking carried on in Pakistan, and not less than ninety per cent of the employees shall be employed in Pakistan;
- (b) the fund shall have for its sole purpose the provision of a gratuity to employees in the trade or undertaking on their retirement at or after a specified age or on their becoming incapacitated prior to such retirement, or on termination of their employment after a minimum period of service specified in the regulations of the fund or to the widows, children or dependents of such employees on their death;
- (c) the employer in the trade or undertaking shall be a contributor to the fund; and
- (d) all benefits granted by the fund shall be payable only in Pakistan.

**3. Application for approval.-** (1) An application for approval of a gratuity fund shall be made in writing by the trustees of the fund to the Deputy Commissioner by whom the employer is assessable and shall be accompanied by a copy of the instrument under which the fund is established and by two copies of the rules and, where the fund has been in existence during any year or years prior to the financial year in which the application for approval is made, also two copies of the accounts of the fund relating to such prior year or years (not being more than three years immediately preceding year in which the said application is made) for which such accounts have been made up, but the Commissioner may require such further information to be supplied as he thinks proper.

(2) If any alteration in the regulations, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alterations to the Deputy Commissioner mentioned in sub-rule (1), and in default of such communication, any approval given shall, unless the Commissioner otherwise orders, be deemed to have been withdrawn from the date on which the alteration took effect.

**4. Gratuity deemed to be salary.-** Where any gratuity is paid to an employee during his life-time, the gratuity shall be treated as salary paid to the employee for the purposes of this Ordinance.

**5. Liability of trustees on cessation of approval.-** If a gratuity fund for any reason ceases to be an approved gratuity fund, the trustees of the fund shall nevertheless remain liable to tax on any gratuity paid to any employee.

**6. Contributions by employer, when deemed to be his income.-** Where any contributions by an employer (including the interest thereon, if any,) are repaid to the employer, the amount so repaid shall be deemed for the purposes of tax to be the income of the employer of the income year in which they are so repaid.

**7. Particulars to be furnished in respect of gratuity funds.-** The trustees of an approved gratuity fund and any employer who contributes to an approved gratuity fund shall, when required by notice from the Income Tax officer, furnish, within such period not being less than twenty-one day from the date of the notice as may be specified in the notice, such return, statement, particulars or information, as the Deputy Commissioner may require.

**8. Provisions of the Part to prevail against regulations of the fund.-** Where there is a repugnance between any rule of an approved gratuity fund and any provision of this Part or of the rules made thereunder, the said rule shall, to the extent of repugnance, be of no effect and the Commissioner may, at any time, require that such repugnance shall be removed from the rules of the fund.

**9. Appeals.-** (1) An employer objecting to an order of the Commissioner refusing to accord approval to a gratuity fund or an order withdrawing such approval may appeal, within sixty days of the making of such order, to the Central Board of Revenue.

(2) The Central board of Revenue may admit an appeal after the expiration of the period specified in sub-rule (1), if it is satisfied that the appellant was prevented by sufficient cause from presenting it within that period.

(3) The appeal shall be in such form and shall be verified in such manner and shall be accompanied by such fee as may be prescribed.

**10. Provisions relating to rules.-** (1) In addition to any power conferred in this Part, the Central board of Revenue may make rules-

- (a) prescribing the statements and other information to be submitted alongwith an application for approval;
- (b) limiting the ordinary annual and other contributions of an employer to the fund;
- (c) regulating the investment or deposit of the moneys of an approved gratuity fund;
- (d) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or the creation of a charge upon, his beneficial interest in an approved gratuity fund;
- (e) providing for withdrawal of the approval in the case of a fund which ceases to satisfy the requirements of this Part of the rules made thereunder; and
- (f) generally, to carry out the purposes of this Part and to secure such further control over the approval of gratuity funds and the administration of gratuity funds as it may deem requisite.

**11. Definitions.-** In this Part, unless the context otherwise requires, "contribution", "employee", "employer", "regulations of a fund" and "salary" have in relation to gratuity funds, the meaning assigned to those expressions in rule 14 of Part I in relation to provident funds.

## THE SEVENTH SCHEDULE

(See Section 163(2))

### **RULES FOR THE COMPUTATION OF RELIEF FROM TAX BY WAY OF CREDIT IN RESPECT OF FOREIGN TAX.**

**1. Credit against Pakistan tax.-** Subject to the provisions of this Schedule, under an agreement concluded under section 163, credit is to be allowed against Pakistan tax chargeable in respect of any income, the amount of the Pakistan tax so chargeable shall, subject to the provisions of the said agreement, be reduced by the amount of the credit.

**2. Credit admissible to residents.-** No credit under rule 1 shall be allowed against Pakistan tax for any assessment year unless the person in respect of whose income the tax is chargeable is resident in Pakistan in the relevant income year.

**3. Computation of credit.-** The amount of the credit to be allowed for foreign tax against Pakistan tax in respect of any income shall not exceed the amount which would be arrived at by applying the average rate of such tax to the doubly-taxed income.

**4. Tax credit in respect of dividends.-** (1) Where the income includes a dividend and, under the agreement, foreign tax, whether chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what, credit is to be allowed against Pakistan tax in respect of the dividend, the amount of the income shall be treated as increased by the amount of the foreign tax appropriate to the dividend which falls to be taken into account in computing the amount of the credit.

(2) Where the amount of the income is to be treated as increased under sub-rule (1), the foreign tax not chargeable directly or by deduction which is to be taken into account shall be that borne by the company paying the dividend upon the profits for the period for which the dividend is paid, or, if the dividend is not paid for a specified period, the profits of the last period for which accounts of the company were made up which ended before the dividend became payable.

*Explanation.-* In this sub-rule, "paid" means paid, credited or distributed or deemed to have been paid, credited or distributed, as the case may be.

(3) Notwithstanding anything contained in sub-rules (1) and (2) and section 24, where any part of the foreign tax in respect of the income cannot be allowed as a credit against Pakistan tax, the amount of the income shall be treated for the purposes of Pakistan tax as reduced by that part of the foreign tax.

(4) Where Pakistan tax payable depends on the amount received in Pakistan, the said amount shall be treated as increased by the amount of the credit allowable against Pakistan tax.

(5) In computing the total income of a person for the purpose of determining the rate mentioned in rule 3, sub-rules (1) and (3) shall not apply and, for the reference in sub-rule (4) to the amount of the credit allowable against Pakistan tax, there shall be substituted a reference to the amount of the foreign tax in respect of the income.

**5. Limitation.**- (1) Subject to the provisions of sub-rule (2), any claim for an allowance by way of credit for foreign tax in respect of any income shall be made to the Deputy Commissioner not later than two years from the end of the assessment year for which that income falls to be charged to Pakistan tax or would fall so to be charged if any such tax were chargeable in respect thereof.

(2) Where the amount of any credit given under the agreement is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in Pakistan or under the laws of any other territory, nothing in this Ordinance limiting the time for the making of assessment or claims for refund shall apply to any assessment or claims to which the adjustment gives rise, being an assessment or claim made not later than two years from the time when all such assessments, adjustments and other determinations have been made, whether in, Pakistan or else, where, as are material in determining whether any, and if so what, credit falls to be given.

(3) The provisions of sections 96 and 97, sub-sections (1), (3) and (4) of section 99 and sections 100 and 103 shall, as far as may be, apply to tax credit under this Schedule as they apply to refunds.

**6. Provisions as the deduction of tax at source.**- (1) The provisions of this rule shall have effect where an agreement concluded under section 163 provides for the exemption from Pakistan tax of any class of income arising to persons resident in the territory with the Government of which the agreement is made, being income from which deduction of tax is required to be made under this Ordinance.

(2) Any person who pays income of any such class (hereinafter referred to in this rule as 'the Pakistan payer') to a person in the said territory who is beneficially entitled to the income (hereinafter referred to in this rule as 'the non-resident') may be required, by notice given by or under the direction of the Commissioner, to pay any such income to the non-resident without deduction of tax, and where such notice is given any income from any source specified in the notice, being income for a year for which the agreement has effect, which the Pakistan payer, after the date on which the notice was communicated, pays to the non-resident whose name is specified wherein shall, subject to the provisions of sub-rules (3), (4), (5) and (6), be paid without deduction of tax.

(3) Any notice given under sub-rule (2) may be expressed to become ineffective if certain specified events happen or, whether so expressed or not, may be cancelled by a notice of cancellation given by, or under, the direction of the Commissioner, and if, to the knowledge of the Pakistan payer, any of those events happens or if such notice of cancellation is given, any payment made to the non-resident by the Pakistan payer after the happening of that event becomes known to the Pakistan payer or after the date on which that notice was communicated to the Pakistan payer, as the case may be, shall be subject to deduction of tax in accordance with this Ordinance.

(4) If it is discovered, after a notice has been given under sub-rule (2), that the non-resident is not entitled to exemption from tax in respect of income from any source specified in the notice, any tax which, but for the notice, would have been deductible from any payment made to the non-resident by the Pakistan payer but by virtue of the notice has not been so deducted, shall, if a direction to that effect is given by or under the direction of the Commissioner, be deducted by the Pakistan payer out of so much of the first payment made to the non-resident after the date on which the direction was communicated to the Pakistan payer as remains after the deduction of any tax deductible therefrom under this Ordinance and any balance which cannot be deducted out of the first such payment shall be deducted, subject to the same limitation, out of the next such payment, and so on until the whole of the tax (the amount of which shall be specified in the direction) has been deducted.

(5) Any tax which the Pakistan payer is required to deduct under sub-rule (4) shall be paid to the Federal Government and the provisions of section 50 shall, so far as may e, apply accordingly.

(6) A notice may be given under sub-rule (2) where income is paid to a person authorised to receive that income on behalf of the non-resident, and in such a case the reference in this rule to payment to the non-resident shall be deemed to include reference to payment to that person.

**7. Definitions.-** (1) In these rules,-

(a) "Pakistan tax" means income tax, super tax and surcharge chargeable in accordance with the provisions of this Ordinance; and

(b) "foreign tax", in relation to any territory with which an agreement for the avoidance of double taxation has been concluded under section 163, means any tax corresponding to Pakistan tax which is chargeable under the laws of that territory and for which credit may be allowed under the agreement.

(2) Where an agreement concluded under section 163 provides for any tax chargeable under the laws of the territory concerned being treated as income tax, that tax shall, notwithstanding anything contained in clause (b) of sub-rule (1) be treated as foreign tax.

(3) Any reference in this Schedule to foreign tax shall be construed, in relation to credit to be allowed under any agreement concluded under section 163, as a reference only to tax chargeable under the laws of the territory with the Government of which the agreement was made.

## [THE EIGHTH SCHEDULE

(See Part IV of the First Schedule)

### RATES OF TAX ON INCOME FROM EXPORT OF GOODS

<sup>1</sup>[The rate of tax payable under sub-section (5A) of section 50, in respect of income of a person (being a resident), from export of goods shall be --

	Where the income pertains to exports covered under:	The rate
(a)	Part I.	0.75% of such income or the rate as prescribed by the Central Board of Revenue.
(b)	Part II	1.0% of such income or the rate as prescribed by the Central Board of Revenue.
(c)	Part III	1.25% of such income or the rate as prescribed by the Central Board of Revenue.]

### PART I

(Specified goods manufactured in Pakistan)

#### TABLE

S. No. Description

1. Leather and textile made ups
2. Engineering goods including electrical goods.
3. Goods specified under heading No.90.18 of the Fifth Schedule to the Customs Act, 1969 (IV of 1969)
4. Jewellery, pharmaceuticals, sports goods, toilet linen, including terry towels, durries, horticulture products.

<sup>1</sup> First Paragraph subs. by F. O. 2000.



5. Ceramic tiles and wares

6. Cutlery

7. Engineering goods manufactured  
in Pakistan as specified in  
Import of Engineering Goods  
(Control) Order, 1983.

8. Wooden furniture and wooden  
doors and windows

9. Goods specified in the following  
table:

TABLE

S. No.. Goods specified under Description  
Chapters, Heading and  
Sub-Heading Nos. Of the  
Pakistan Customs Tariff.

(i) 42.05 Other articles of leather.

(ii) 57.01 Hand-knotted carpets and rugs

(iii) 61.01 Men and boys overcoats, jackets knitted or crocheted

(iv) 61.02 Women and girls overcoats, jackets knitted or crocheted.

(v) 61.03 Men and boys suits, jackets, trousers, shirts knitted or  
crocheted.

(vi) 61.05 Men and boys shirts knitted or crocheted.

(vii) 61.06 Women and girls blouses, shirts knitted or crocheted.

(viii) 61.09 T-shirts knitted or crocheted.

(ix) 61.12 Track suits, swim wear knitted or crocheted.

(x) 63.01, 2000, 3000, 4000 Blankets, wool, cotton and MMF.

(xi) 63.02 Bed linen, table linen and kitchen linen.

10. The rate of tax under this part is applicable to Vegetables, fresh fruits and cut  
flowers also.

**PART II**  
(Goods manufactured in Pakistan)

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**S.No. Description**

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1. Export of goods manufactured in Pakistan subject to other provisions of this Schedule.
2. (i) Refined/treated salt  
(ii) Ground barytes  
(iii) Granite blocks and slabs  
(iv) Heat insulating bricks  
(v) Magnesite refractory.
3. Sale in Pakistan of goods manufactured in Pakistan against an international tender, where the contract under which such sale is made is approved by the Commissioner of Income Tax.

**PART III**

*(Goods not covered by Part I and Part II)*

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<b>S. No.</b>	<b>Description</b>
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- |    |  |
|----|--|
| 1. | All other goods not covered under Part I and Part II of this Schedule;   |
| 2. | The following goods or class of goods [produced or manufactured] in Pakistan, namely,- <ol style="list-style-type: none"><li>(i) raw cotton;</li><li>(ii) rice;</li><li>(iii) rice bran;</li><li>(iv) wheat bran;</li><li>(v) lamb skin; and</li><li>(vi) cotton yarn; and</li></ol> |
| 3. | Such other goods as may be notified by the Central Board of Revenue.]  |

