TAX MEMORANDUM 2007
comments on budget & fiscal laws

Anjum Asim Shahid Rahman
Chartered Accountants
The Finance Bill 2007


This Memorandum is intended to provide general guidance to the readers of the important changes brought through the Bill and should not be considered a substitute for specific advice relating to a particular enactment. For considering the precise effect of a proposed change, reference should be made to the appropriate wordings in the relevant statute and notifications where relevant.

The Memorandum has been prepared exclusively for the use of our clients and staff based on information available with us till the time giving it for printing. Printing of this Memorandum, in any manner, is strictly prohibited without seeking a written permission from the firm.

Anjum Asim Shahid Rahman
Chartered Accountants
June 10, 2007
# Table of Contents

- Budget at a glance ...................................................................................................................01
- The Economic Impact of Budget 2007-2008..........................................................................02
- The Finance Bill 2007 - Highlights.......................................................................................12
- The Income Tax Ordinance, 2001 .........................................................................................19
- The Sales Tax Act, 1990 ........................................................................................................40
- The Federal Excise Act, 2005.................................................................................................48
- The Custom Act, 1969 ............................................................................................................51

**Other Laws**

- The Banking Companies Ordinance, 1962 ......................................................................53
- The Companies Ordinance, 1984.......................................................................................54
- The Federal Board of Revenue Act, 2007 ...........................................................................56
- The Securities & Exchange Commission of Pakistan Act, 1997.....................................57
- The Insurance Ordinance, 2000 (XXXXIX of 2000) .......................................................58
- The Workmen’s Compensation Act, 1923. (Act No. VIII of 1923)...............................59
- The Companies Profit (Workers Participation) Act, 1968..............................................59
- The Employees Old-Age Benefits Act, 1976 (Act No. XII of 1976)...............................59
- The Finance Act, 1989 .....................................................................................................59
- The Microfinance Institutions, Ordinance, 2006 ...............................................................60
BUDGE 2007-2008
AT A GLANCE

<table>
<thead>
<tr>
<th></th>
<th>2007-08 (Rs. in billion)</th>
<th>%</th>
<th>2006-07 (Rs. in billion)</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>RECEIPTS</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Revenue Receipts (CBR)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Direct Taxes</td>
<td>405.00</td>
<td>22%</td>
<td>267.00</td>
<td>20%</td>
</tr>
<tr>
<td>Indirect Taxes</td>
<td>620.00</td>
<td>33%</td>
<td>568.00</td>
<td>43%</td>
</tr>
<tr>
<td>Tax revenue</td>
<td>1,025.00</td>
<td>55%</td>
<td>835.00</td>
<td>63%</td>
</tr>
<tr>
<td>Non-tax revenue</td>
<td>381.49</td>
<td>29%</td>
<td>242.00</td>
<td>18%</td>
</tr>
<tr>
<td>Gross revenue receipts</td>
<td>1,406.49</td>
<td>75%</td>
<td>1,077.00</td>
<td>82%</td>
</tr>
<tr>
<td>Less: Provincial share in federal taxes</td>
<td>(497.00)</td>
<td>-38%</td>
<td>(398.00)</td>
<td>-30%</td>
</tr>
<tr>
<td>Net revenue receipts</td>
<td>909.49</td>
<td>49%</td>
<td>679.00</td>
<td>52%</td>
</tr>
<tr>
<td>Capital receipts</td>
<td>58.53</td>
<td>3%</td>
<td>16.00</td>
<td>1%</td>
</tr>
<tr>
<td>External resources</td>
<td>258.53</td>
<td>14%</td>
<td>213.00</td>
<td>16%</td>
</tr>
<tr>
<td>Self financing of PSDP by Provinces</td>
<td>122.70</td>
<td>7%</td>
<td>118.00</td>
<td>9%</td>
</tr>
<tr>
<td>Cash balance</td>
<td>51.75</td>
<td>3%</td>
<td>54.00</td>
<td>4%</td>
</tr>
<tr>
<td>Privatization proceeds</td>
<td>75.00</td>
<td>4%</td>
<td>75.00</td>
<td>6%</td>
</tr>
<tr>
<td>Bank borrowings</td>
<td>398.00</td>
<td>21%</td>
<td>160.00</td>
<td>12%</td>
</tr>
<tr>
<td></td>
<td>964.51</td>
<td>51%</td>
<td>636.00</td>
<td>48%</td>
</tr>
<tr>
<td><strong>TOTAL RESOURCES</strong></td>
<td>1,874.00</td>
<td>100%</td>
<td>1,315.00</td>
<td>100%</td>
</tr>
<tr>
<td><strong>EXPENDITURE</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current Expenditure</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>* General Public Servicing</td>
<td>1,055.74</td>
<td>56%</td>
<td>629.80</td>
<td>48%</td>
</tr>
<tr>
<td>Defence</td>
<td>275.00</td>
<td>15%</td>
<td>250.20</td>
<td>19%</td>
</tr>
<tr>
<td></td>
<td>1,330.74</td>
<td>71%</td>
<td>880.00</td>
<td>67%</td>
</tr>
<tr>
<td>Development expenditure</td>
<td>543.26</td>
<td>29%</td>
<td>435.00</td>
<td>33%</td>
</tr>
<tr>
<td><strong>TOTAL EXPENDITURE</strong></td>
<td>1,874.00</td>
<td>100%</td>
<td>1,315.00</td>
<td>100%</td>
</tr>
</tbody>
</table>

* Includes debts servicing, transfer payments, superannuation allowance and Running of civil government, pension, subsidies and unallocable.

Note: The above figures have been extracted from the budget speech.
The Economic Impact of Budget 2007-2008

Pakistan's economy reflected overwhelming momentum over the last five years with the real GDP posting an impressive CAGR of nearly 7%. On year-on-year basis real GDP grew at a marginally better rate in the FY 2006-07 at 7% as compared to FY 2005-06 at 6.6% although this was lower when compared to FY 2004-05 at 8.6%. Slower growth in FY 2005-06 was the result of reduced contributions to GDP growth from agriculture and industrial sector. Besides this damage and expenditure incurred due to earthquake was another major contributing factors for slow down in the growth of the overall economy. However, overall robust growth this year in manufacturing, agriculture and services have continued to maintain an upward growth trend for the economy.

In the same line, Pakistan's per capita GDP has increased by nearly 11% this year and went up to USD 925 from around USD 833 in 2006. Overall the per capita income in dollar terms has grown at an average rate of 13% during the last five years from USD 586 in 2002-03 to USD 925 in 2006-07.

Some of the key factors supporting this growth are the acceleration in the growth of real GDP, which has been supported by exponential growth in worker remittances and stable exchange rates.

All in all the economy has remained on a strong and positive trajectory over the last couple of years, which is underpinned by accommodative macroeconomic policies, growing domestic demand, renewed confidence of private sector, fiscal discipline and competitive exchange rates, with specific emphasis on reduction of poverty.

Figure 1: GDP Growth

Figure 2: Per Capita Income
The Government of Pakistan has made significant macroeconomic reforms in last five years; however, inflation remains one of the biggest threats to the economy, which jumped to 9.3% in FY 2004-05 before easing to 7.9% in FY 2005-06 and is similar for the first ten months of FY 2006-07, which is higher than target rate of 6.5% for this year. Food inflation was in fact higher averaging at 10.2% during 2006-07 as compared to 7% last year.

State Bank of Pakistan (SBP) is pursuing tighter monetary policy raising interest rates in 2006, while trying to preserve economic growth. As lending rates have risen much faster as compared to deposit rates in last two years spread has overall increased and resulting in considerable slowdown in credit growth to private sector.

Performance of Sub-Sectors

Pakistan is becoming more and more competitive and liberal market regime with the reforms implemented by the current government under the supervision of IMF. However, Pakistan's economy is based on commodity producing sectors such as agriculture, manufacturing, mining etc. together they make about 47% of GDP. Services sector accounted for about 43% of GDP. Finance sector makes a small contribution of only 4.6% of GDP. It is expected in the future that as the economy expands and develops further, services sector is going to dominate the overall economy.

The services sector grew by 8% as compared to a growth of 9.6% last year reflecting an average growth rate of 8.7% in the last three years. Among the services sector finance & insurance grew very rapidly in the last year at 23% followed by wholesale & retail trade, which grew at 9.9%.

The first 10 months of the current FY 2006-07 have witnessed positive trends in all sub sectors of the economy. One of the most impressive comebacks have been the growth in the agriculture sector, which registered a growth of 5% on the back of bumper crop year for wheat.

The manufacturing sector is the second largest sector of the economy accounting for 19.1% of GDP. In the current FY 2006-07 manufacturing sector also registered a growth of 8.4% as compared to 10% last year. The relatively slower pace of expansion this year is primarily attributed to higher capacity utilization, difficulties in the textile sector and dampening performance of the auto sector.

Figure 3: Performance of Sub Sectors
Investment and Savings

Investment is a key determinant of growth, total investment has increased from 16.9% of GDP in FY 2002-03 to 23.0% of GDP in FY 2006-07, showing an increase of 6% percent of GDP in five years. Private sector investment grew by 20.4% in FY 2006-07, where as public sector investment has also increased by 25.7% in the current fiscal year. Public sector investment has created spillovers effects for private sector investment through massive increase in development spending particularly on infrastructure. The other interesting development that has taken place on investment scene is that the share of private sector investment in domestic fixed investment has increased from less than 64.2% to more than three 76.0% in the last seven years clearly reflecting the growing confidence of private sector in the current and future prospects of the economy.

The contribution of national savings to the domestic investment is indirectly the mirror image of foreign savings required to meet investment demand. The requirement for foreign savings needed to finance the saving-investment gap simply reflects the current account deficit in the balance of payments. National Savings at 18% of GDP has financed 84% of fixed investment in FY 2006-07 as against 85.5% FY 2005-06. National savings as percentage of GDP stood at 18.0 percent in FY 2006-07 fractionally higher than last year's level of 17.2%. Domestic savings has risen from 15.3% of GDP to 16.1% of GDP.

Figure 4: Structure of Investment and Savings as a % of GDP

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Investment</td>
<td>16.9</td>
<td>16.6</td>
<td>19.1</td>
<td>21.7</td>
<td>23.0</td>
</tr>
<tr>
<td>Gross Fixed Investment</td>
<td>15.3</td>
<td>15</td>
<td>17.5</td>
<td>20.1</td>
<td>21.4</td>
</tr>
<tr>
<td>Foreign Savings</td>
<td>-3.8</td>
<td>-1.3</td>
<td>1.6</td>
<td>4.5</td>
<td>5.0</td>
</tr>
<tr>
<td>National Savings</td>
<td>20.8</td>
<td>17.9</td>
<td>17.5</td>
<td>17.2</td>
<td>18.0</td>
</tr>
<tr>
<td>Domestic Savings</td>
<td>17.6</td>
<td>15.7</td>
<td>15.4</td>
<td>15.3</td>
<td>16.1</td>
</tr>
</tbody>
</table>

Public Debt

The external debt is one of problems that Pakistan currently faces. More than 50% of its public debt is made by the external debt. It had an external debt of about 28% of GDP as at end of FY 2005-06. However, it has been consistently decreasing for last few years; figure has come down from about 47% of GDP in June 2002 to 28% of GDP in June 2006. The government has been rolling over loan of USD 1,300 MN for last few years.

Total external debt was held constant in the range of USD 33.3 BN to USD 34 BN during FY 2001-02 to FY 2004-05. It increased by 4.8% on year over year basis during FY 2005-06. Total external liabilities increased by 4% on year over year basis during FY 2006, while official liquid reserves increased by 9.8% during the year.

Debt service by the government has consistently decreased from USD 6.3 BN FY 2002-2003 to USD 3.1 BN FY2005-06, which has decreased from 7.7% to 2.4% during the period 2003 to 2006 as a percentage of GDP.

Total debt as percentage of GDP has consistently decreased from 88% of GDP in FY 2001-02 to 57.3% of GDP in FY 2005-06 and a further decline to 53.4% in end March 2007. Similarly, the external debt as percentage of GDP decreased from 46.5% in 2002 to 27.7% in
2006. The fall has come on the back of sharply rising Nominal GDP.

Figure 5: Trend of Public Debt

The increasing capital inflows have to an extent offset a gradual widening of the current account deficit. The current account deficit further widened to USD 6.2 Bn. A further increase from FY 2005-06 which also witnessed significant dip in the current account balance and registered a deficit of USD 5,015 MN against deficit of USD 1,534 MN in FY 2004-05. This gap came on the back of an 87.5% year over year increase in trade deficit. Current account deficit was kept in check by the net transfer, which grew by 21.8% on year over year basis. The overall effect was- current account deficit increased from 1.4% of GDP in FY2004-05 to 3.9% of GDP in FY2005-06 and the present 4.3%.

Figure 6: Current Account Balance as a percentage of GDP

The trade deficit has consistently increased over the last couple of years. It has increased from USD 294 MN in FY 2001-02 to USD 8,464 MN in FY 2005-06, which likely to further growth in the current fiscal year. In first seven months of FY 2006-07 the deficit has grown to USD 6,106 MN. The phenomenon is typical of rapidly growing economy where due to increased
disposable income demand for external goods and services far outpace the exports and the exponential growth in energy requirements, which is further accelerated due to the increase in global oil prices.

The first 10 months of FY 2006-07 exports reaching USD 14BN against the target set by the government for USD 18 BN. Textile comprising of 60% of the country’s exports let the pack with a growth of 6.2% in comparison to FY 2005-06.

The growth in imports decelerated to 8.9% in the first 10 months of FY 2006-07 in comparison to 40% increase in the same period for FY 2005-06. One of the major contributors to this decline in growth is the government’s efforts to curb the trade deficit through a tight monetary policy in order to soften the demand caused by increased investment. Slight decreased in international oil prices, decline in import of cars due to change in policy and decrease in imports of iron & steel products as Pakistan Steel Mill resuming it’s normal steel production level.

Figure 7: Export and Import Trends

Foreign Direct Investment

Pakistan has succeeded in attracting USD 3,521 MN in FDI during FY 2005-06, the highest ever in the country’s history, a 131% growth year over year.

Pakistan has been witnessing increasing FDI every year for last few years, USA, UK and UAE make a major percentage of investment in Pakistan (about 62% of total FDI). UAE has emerged as a major investor with its investments comprising more than 40% of FDI to Pakistan in FY 2005-06. Besides this, Saudi Arabia (KSA) has been other important investor from the GCC countries. The liberalizing economy has attracted quite a few foreign acquisitions in Pakistani companies from foreign investors including that from GCC.

In the first 10 months of the current FY 2006-07, FDI has grown to almost USD 6 Bn, which is almost 48% higher than same period last year and expected to close at USD 6.5 Bn by the end of the year. Communication led the tally followed by Financial Business, Power and Oil& Gas business. This once again reflects the Government’s positive initiatives to bring about positive structural changes, which has led to increased foreign investment in the country.
Remittances

Worker remittances has increased during first 10 months of FY 2006-07 by 22.3% on year-on-year basis reaching almost USD 5.5 BN. USA workers contributes the maximum over USD 1 BN of total remittances, followed by Saudi Arabia (KSA) at USD 733.5 MN of total remittances. Other major contributors are UAE and rest four of the GCC countries making USD 596 MN and USD 583.3 MN respectively.

Foreign Exchange Reserves

Pakistan's foreign exchange reserves have been on rise on average for last five years and stood at fair level of USD 13,738 MN at the end of April 2007, slightly higher than USD 13,136.9 MN at the end of FY 2005-06. This translates into year over year increase of increase of 4.1%. It is expected to pass USD 14 BN by the end of the current FY 2006-07 due to increase foreign remittances, FDI, floatation of bonds and privatization proceeds.

Pakistan total forex reserves has grown at healthy pace of 19.5% in last four years as a result of growing economy and increasing FDI and portfolio investments. Net Reserves with SBP has grown at much better rate of 25.5% as compared to net reserves with commercial banks, which grew at 3.2%.
Despite a healthy increase in forex reserves, reserves in terms of months of imports fell from a high of 11.3 months of imports in FY 2002-03 to 6.4 months of imports in FY 2005-06. The reason for this fall is high growth in imports which grew by 117% in last three years.

Figure 10: Foreign Exchange Reserves

Inflation

In most countries, the main focus for assessing inflationary trends is placed on Consumer Price Index (CPI), because it most closely represents the cost of living. In Pakistan, the main focus is placed on the CPI as a measure of inflation as it is more representative with a wider coverage of 375 items in 71 markets of 35 cities around the country.

Inflation, as measured by changes in Consumer Price Index (CPI), averaged 7.9% during the first ten months of FY 2006-07 as against 9.3% in the same period last year, FY 2005-06.

Food inflation recorded at 7.0% compared with 12.8% for the same period last year. Non-food inflation rose to 8.8% as against 6.9% in the same period last year. Core inflation; arrived at by excluding food and energy inflation, also indicated a rising trend for the period under review, increasing from 7.0% to 7.7%.

Although the government’s target for inflation of 6.5% is not achieved for the current FY 2006-07, it is still considered to be manageable at 7.9% in light of significant increase in basic commodity prices in the global market.
Figure 11: Inflationary Trends

<table>
<thead>
<tr>
<th>Year</th>
<th>Overall Inflation</th>
<th>Food Inflation</th>
<th>Non Food Inflation</th>
<th>Non Food-Core Inflation</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000-01</td>
<td>4.4</td>
<td>3.6</td>
<td>5.1</td>
<td>4.2</td>
</tr>
<tr>
<td>2001-02</td>
<td>3.5</td>
<td>2.5</td>
<td>4.3</td>
<td>3.6</td>
</tr>
<tr>
<td>2002-03</td>
<td>3.1</td>
<td>2.9</td>
<td>3.2</td>
<td>2.6</td>
</tr>
<tr>
<td>2003-04</td>
<td>4.6</td>
<td>6</td>
<td>3.6</td>
<td>3.7</td>
</tr>
<tr>
<td>2004-05</td>
<td>9.3</td>
<td>12.8</td>
<td>6.9</td>
<td>7.0</td>
</tr>
<tr>
<td>2005-06</td>
<td>8.0</td>
<td>7.0</td>
<td>8.8</td>
<td>7.7</td>
</tr>
<tr>
<td>2006-Apr 07</td>
<td>7.9</td>
<td>10.2</td>
<td>6.2</td>
<td>6.0</td>
</tr>
</tbody>
</table>

Allocation

Revenue
The Government has presented a total budget outlay of PKR 1.874 TN which is approximately 25% higher compared to last year's estimate of PKR 1.5 TN.

Tax revenue target has been increased by 22.37% to PKR 1,025 BN for FY 2007-08 as against PKR 837.61 for FY 2006-07.

Direct Taxes receipts have been projected at PKR 405 BN which is 26.3% higher as compared to PKR 320 BN for 2006-07. This includes an upward revision in income tax collection to PKR 388 BN in comparison to revised target of PKR 305 BN for 2006-07. The remaining PKR 17 BN is part of other taxes of Direct Taxation which reflects a 30.7% increase as against PKR 13 BN for the previous year.
Indirect taxation receipts have been projected at PKR 620 MN for 2007-08 against revised target of PKR 517 BN for 2006-07. Break-up of indirect collections along with comparison for last year given below:

<table>
<thead>
<tr>
<th>Indirect Taxes</th>
<th>2006-07</th>
<th>% Change</th>
<th>2006-07 (Revised)</th>
<th>% Change</th>
<th>2007-08</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customs Duty</td>
<td>157.1</td>
<td>(14.7)%</td>
<td>134</td>
<td>15%</td>
<td>154</td>
</tr>
<tr>
<td>Sales Tax</td>
<td>341.6</td>
<td>(9)%</td>
<td>311</td>
<td>20.5%</td>
<td>375</td>
</tr>
<tr>
<td>Federal Excise Duty</td>
<td>68.1</td>
<td>5.7%</td>
<td>72</td>
<td>26.3%</td>
<td>91</td>
</tr>
<tr>
<td></td>
<td>566.8</td>
<td></td>
<td>620</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Expenditure**

Total expenditure has been increased to PKR 1,286 in FY 2007-08. It comprises defence spending which has been increased by 9.1% from PKR 252 BN in 2006-07 to PKR 275 BN in 2007-08. The Public Sector Development Programme (PSDP) has been kept at a record level of PKR 520 BN which will cover 669 new, 1,450 ongoing development projects and PKR 35 BN for rehabilitation of earthquake areas.

**Inflation**

Inflation being the backbone of economic stability has been an adverse economic indicator having impaired startling performances by the Government in the previous years. During 2006-07 food inflation averaged 10.2 % as against 7% of previous year whereas non food inflation averaged 6.2 % in comparison to 7.7% last year. Food inflation being the main driver of inflation in FY 2006-07 was fueled by increase in prices of several commodities and local demand & supply situation. Recognizing the staggering rise in food inflation and to curb the effects the budget proposes subsidy on essential commodities such as rice, ghee, sugar and pulses offered through Utility Stores Corporation (USC). To ensure supply and reach the number of USC outlets would be increased to 5000.
Exports

Finance bill 2007-08 does not offer much to the export industry with hardly any emphasis on the textile sector which continues to constitute a significant portion of exports. The withholding tax on export of yarn has been reduced to 1% in FY 2007-08 as compared to 1.25% of previous year while no measures have been taken to incentivize the value added sectors which will continue to pay withholding tax @ 1% on exports. Import on textile machinery had not been reduced to zero while agriculture on the other hand has been awarded 20% subsidy of electricity charges for tube wells and increased subsidy on DAP fertilizers to PKR 470 per bag against PKR 400 in FY 2006-07.

The budget has withdrawn customs duty on machinery used in horticulture, furniture, marble, granite, surgical and medical instruments. Similarly, duty on raw materials used in electrical, chemicals, paper, paper boards, rubber, plastic and capital goods has been reduced by 5%.

Being an agri-based economy the government has provided incentives to the agriculture sector however, have major incentives have not been offered to he textile sector which faces stiff competition due to abolition of quota system

Imports

In order to manage the growth in imports several measures have been undertaken which include restriction in import of used cars beyond 3 years. Another measure comes in the form of a 1% surcharge on the import of all goods excluding essential commodities. However, the proposed measures may not have any major impact on the overall imports during the current fiscal year.

Trade Deficit

Trade Deficit amounting to a substantial gap of USD 10.6 BN, owing primarily on account of unchecked demand for imports in the country which is expected to rise by a further USD 2.4 BN aggregates to a total target of USD 29.5 BN during the FY 2007-08.

Exports on the other hand have only being targeted at USD 18.9 BN which is only USD 1.7 BN higher than the previous fiscal year.

Despite that and in the wake of continuing problems faced by the textile sector, even the presently stated targets for exports would be challenging to meet in the absence of any major structural reforms for overall diversification and expansion of the export base.

Compiled by:

Research Team
Specialist Advisory Services Group
Anjum Asim Shahid Rahman
Member firm of Grant Thornton International
June 10, 2007
The Finance Bill 2007 Highlights

Income Tax

- Concept of group taxation is proposed to be introduced. An irrevocable option would be filed to be taxed as one ‘fiscal unit’ by the holding company and its 100% owned subsidiary.

- Subsidiary of a holding company may surrender it’s assessed loss for the tax year in favour of its holding company or between other subsidiary of the holding company.

- Transfer of shares between companies and the shareholder for group formation with statutory approvals would not constitute taxable event.

- As part of group relief, tax deducted @ 10% on the inter-corporate dividends will be excluded from the ambit of final tax regime.

- Assets disposed off to group under a scheme of arrangement of reconstructions under the provision of the Companies Ordinance, 1984, or the Banking Companies Ordinance, 1962 not to constitute taxable event.

- Separate Schedule for computation of income, for profits and gains of banking companies is proposed whereby:
  - Dividend/capital gains are taxed @ 10%.
  - Capital gain without holding shares for one year as normal business income.
  - No apportionment of common expenditure required to the done.
  - Bad debts to be allowed as per Prudential Regulations except classified as sub-standard.
  - Advance tax to be paid on monthly basis.

- In amalgamation process it is proposed now that only assessed loss for the tax year be allowed to be set-off instead of accumulated loss of the amalgamating company against the business profits and gains of the amalgamated company and vice versa.

- Relaxation is proposed for companies operating hotels in Pakistan or AJ&K to set off losses arising in Pakistan or AJ&K against income in Pakistan or AJ&K as the case may be.

- Companies having annual turnover of Rs. 250m with 250 employees are re-defined as small companies.

- Tax rates for retailers on their turnover are proposed to be rationalized. However, tax deducted on utilities, considered as the minimum tax and excess tax, if any, deducted shall not be refundable.

- Filing of wealth statement proposed to be mandatory on the basis of declared income of Rs. 500,000 or more for the tax year.
• Advance tax is proposed to be imposed on newly established companies in the first year of business operations.

• Large import houses importing bulk industrial raw materials are proposed to be excluded from presumptive tax regime.

• Employers authorized to give credit of tax withheld from employees under different withholding provisions during the tax year. They are further authorized to adjust tax credit allowable to salaried taxpayers having salary income after obtaining documentary evidence.

• Withholding tax on sale of goods and execution of contract are made adjustable for listed public companies. Only individual and AOPs fall under final tax liability.

• Additional 2% withholding tax for non-production of NTN or CNIC is proposed to be withdrawn.

• Tax in respect of income from construction contracts outside Pakistan to be charged at the rate of one per cent of the gross receipts brought into Pakistan in foreign exchange through normal banking channel.

• No withholding tax is proposed on payments to travel agents on sale of air tickets where withholding tax on commission has already been suffered.

• Payments received for service provided by non-resident news agencies, syndicate services and individual contributors/writers not having permanent establishment in Pakistan shall not be subject to withholding tax.

• Advertising services provided by owners of newspapers / magazines in the non-corporate sector are proposed to be excluded from final tax regime.

• Withdrawal of CVT on imported cars.

• Tax rate on export of good made uniform @ 1% of export proceeds. Earlier it was between 0.50% to 0.75%.

• Manufacturer to collect tax from buyer @ 5% on purchase of locally manufactured cars.

• Presumptive tax regime is proposed for Compressed Natural Gas (CNG) stations and withholding tax @ 6% of gas consumption charges.

• The monetary threshold is proposed to be increased to Rs. 300,000 from 200,000 for claiming tax credit in respect of IPO for an individual.

• Income of Micro Finance Banks exempted from tax for five years.

• Withholding tax on passenger transport services reduced from 6% to 2% on the analogy of goods transport services.

• Exemption under clause (132) of the Part I of the Second Schedule extended to companies owning and managing Hydel Power Projects situated in Azad Jammu & Kashmir.
- Tax exemption on capital gains extended for further one year upto June 30, 2008.
- Withholding tax rate on all exports to be unified @ 1%.
- Permanent Establishments of non-resident exploration and production companies exempted from withholding tax on supply of crude oil and gas.
- Exploration and production companies exempted from withholding tax on imports (other than vehicles).
- Tax exemption to Private Equity and Venture Capital Funds extended upto June, 2014.
- Capital gains of private limited companies on sale of their assets to private equity and Venture Capital Funds to be taxed @ 10% (reduced tax rate).
- Income arising in the hand of the seller on sale of immoveable property to Real Estate Investment Trust (REIT), exempted from tax for three years.
- For commercial importers covered under PTR, withholding tax rate at import stage reduced from 6% to 5%.
- For manufacturers a uniform adjustable withholding tax on imports is proposed @ 1%.
- No withholding tax on import of material by manufacturer exporter registered with sales tax department.
- Withholding tax on import of edible oil reduced from 3% to 2%.
Sales Tax

- Input tax adjustment for a tax period is restricted to 90% of output tax, balance to be claimed in second month after end of financial year
- Auditor's certificate on 'lesser value addition' mandatory for companies to claim adjustment beyond 90% of output tax
- Sales tax no more payable on advance payments received by registered person
- Commercial importers, iron & steel sector, restaurants, biscuits and confectionary sectors reverted back to standard sales tax procedure from special procedures
- Immediate refunds to large taxpayers on submission of bank guarantees
- Records retention period enhanced from three years to five years
- Registration threshold of manufacturers linked to utility bills
- Zero-rated sales tax on sewing machines, bicycles, writing inks, exercise books, trailers and semi-trailers and uncooked poultry meat
- Exemption of sales tax on cottonseed oil, glass bangles, surgical tapes and ultrasound gel
- Amnesty from payment of fine / penalties and surcharges on payment of principal amount by June 30, 2007
- Zero-rated utilities to be provided to rice exporters
- Increase in rate of tax from 15% to 20% on specified raw materials of iron, steel, plastics and paper manufacturing
- Withdrawal of input tax adjustment on supply of utilities to residential colonies by energy producer
- Withdrawal of zero-rating on chemicals of multiple usage
- Rationalization of collection of tax from CNG stations through gas distribution companies
Federal Excise

- Excise duty on motor gasoline, jet fuel and petroleum bitumen abolished
- Duty on exchange companies and cable operators removed
- Duty on life and health insurance abolished
- All non-fund based services, except specified ones are brought to excise net
- Non Banking Financial Companies also brought under excise net for non-fund based services
- Excise duty on international air travel enhanced
- Exemption of excise duty to passengers coming from abroad withdrawn
- Retail price of cigarettes for purpose of levy increased by 7% to increase tax incidence
- Excise duty levied on supply of goods instead of clearance. Duty is required to be deposited by 15th of next month along with the return
- Filing of return and payment of duty combined at one stage
- Excise duty to be calculated by grossing up of retail price
- Record keeping requirements extended from three to five years
Custom Act

- Tariff classification scheme aligned with HS code 2007 version; related notifications also amended
- Duty rates increased on import of poultry meat, welded stainless steel pipes
- Levy of 1% special surcharge on all imports excluding vegetables, pulses, edible oil / ghee, crude petroleum, furnace oil, HSD, medicines, fertilizers, imports under chapter 99 and temporary imports etc
- Merger of capital value tax (CVT) in custom duty for imported vehicles
- Amnesty scheme to condone delays in submission of installation / consumption certificates etc
- Amnesty from payment of fines / penalties and surcharges on payment of principal amount by June 30, 2007
- Downward revision of five years capping to three years for import of old / used cars / jeeps
- Five years tariff plan for automobile sector
- Reduction / elimination of duty rates on specified diesel generating sets
- Inputs used by the newspaper industry are being provided at concessionary rate
- Duty rates on equipments for broadcasting sector have been reduced to 5%
- Extension of incentives for expansion and up-gradation of existing hospitals
- Inclusion of polyester stable fiber in DTRE scheme
- Time limit for utilization of input goods under DTRE now linked to twenty four months of approval of DTRE application, instead of eighteen months from the date of acquisition
- 25% ad valorem duty on export extended from ferrous and non-ferrous waste and scrap to bars, rods, ingots, slabs and billets
- Vehicle tracking systems granted exemption retrospectively
- Regulatory duty on import of sugar, wireless terminals and certain medicaments removed
- Surcharge on deferment of custom duty reduced by 1%
Other Laws

Companies Ordinance

- Subsidiaries allowed to purchase shares of holding companies.
- Time period for holding AGM and presenting annual audited accounts curtailed to three months from four months
- Fresh election of directors can be requisitioned by shareholder having 12.5% voting rights
- Listed companies shall have independent share registrar
- Special audit can now be instigated by shareholders having 20 percent voting rights or by the SECP
- Concept of "Rehabilitation of NBFCs and notified entities" introduced.

Banking Companies Ordinance

- Non-cumulative preference shares can also be issued as part of eligible share capital
- Additional duties and responsibilities assigned to banking Mohtasib

Workmen's Compensation Act 1923. (Act No. VIII of 1923)

Monthly wages ceiling of Rs. 6,000 for entitlement to compensation in cases of permanent disablement or death of an industrial worker is proposed to be withdrawn

The Companies Profits (Workers' Participation Act, 1968 (Act No. XII of 1969)

Wage limit of Rs.10,000 per month for entitlement of share from the Workers Profits Participation Fund is proposed to be abolished. Maximum share limit is proposed to be enhanced to Rs.18,000

The Minimum Wage for Unskilled Workers Ordinance, 1969 (Ordinance No.XX of 1969)

Minimum threshold of wages for unskilled workers is proposed to be increased from Rs. 4,000 to Rs.4,600

The Employees Old-Age Benefits Act, 1976 (Act No. XII) of 1976)

Monthly rate of old-age pension shall be increased by fifteen per cent.


CVT on imported motor cars is proposed to be withdrawn

The Microfinance Institutions Ordinance, 2001 (LV of 2001)

Proposed to enable Microfinance institutions to receive foreign currency remittances from overseas Pakistani workers for their beneficiaries in Pakistan

The Federal Board of Revenue Act, 2007

The new act, the Federal Board of Revenue Act, 2007 proposes to substitute the provisions of the Central Board of Revenue Act, 1924 (IV of 1924)
The Income Tax Ordinance, 2001

Definition of amalgamation

The proposed amendment in section 2(1A) seeks to include within it's ambit 'companies engaged in providing services not being a trading company or companies'. This change was necessary in the context of proposed amendment in section 57A whereby consequent to amalgamation it is intended that the set-off business loss be restricted to current year’s loss by substituting the word 'accumulated loss' presently stated in the tax laws.

Computerized National Identity Card to substitute National Tax Number Sections 2(19A) and 181(3)

It is proposed that if a person has not obtained National Tax Number, then his computerized National Identity Card will be sufficient for the purposes of eligibility of Voluntary Pension System Rules, 2005.

At the request of the tax payer, it is proposed that the Board be authorized to allow an individual to use his Computerized National Identity Card in place of his National Tax Number.

Definition of 'Private Equity' and Venture Capital Fund & Private Equity and Venture Capital Fund Management Company Section 2(45A) & (45B)

The proposed amendments seek to define:

(i) Private Equity and Venture Capital Fund

(45A) "Private Equity and Venture Capital Fund" means a fund registered with the Securities and Exchange Commission of Pakistan under the Private Equity and Venture Capital Fund Rules, 2007

(ii) Private Equity and Venture Capital Fund Management Company

(45B) "Private Equity and Venture Capital Fund Management Company" means a company licensed by the Securities and Exchange Commission of Pakistan under the Private Equity and Venture Capital Fund Rules, 2007

Parameters for small company defined

The proposed amendment seeks to re-define parameters for the small company in the light of SME policy recommendation. The comparative position of existing conditions and proposed are:

<table>
<thead>
<tr>
<th>Description</th>
<th>Existing</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paid-up capital</td>
<td>Rs.25 million</td>
<td>Rs.25 million</td>
</tr>
<tr>
<td>Annual turnover</td>
<td>Rs.200 million</td>
<td>Rs.250 million</td>
</tr>
<tr>
<td>Employment limit</td>
<td>-</td>
<td>250 employees</td>
</tr>
</tbody>
</table>
Returns received from Private Equity and Venture Capital Fund to constitute business income

The above proposed insertions seek to consider in the hand of recipients the distribution received from the Private Equity and Venture Capital Fund out of its income from 'profit on debt' as income chargeable to tax under the heading 'income from business'.

The necessary amendments have also been proposed in Clauses (101) and (103) of Part-I of the Second Schedule to extend the exemption from tax to the income of these funds.

Withdrawal of tax exemption

The proposed amendment seeks to insert a proviso in the above section whereby it is clarified that the income of the following entities is not entitled under tax law to enjoy tax exemption:

(i) regulatory authority, development authority or other body or institution established by or under a Federal law or Provincial law or an existing law.

(ii) or a corporation company or other body or institution set-up, owned and controlled, either directly or indirectly, by the Federal Government or a Provincial Governments, regardless of the ultimate destination of such income, as laid down in Article 165A of the Constitution of Islamic Republic of Pakistan.

The intent behind this proposed change is to clarify that tax exemption would not be available to entities named above whether owned or controlled directly or indirectly by the Federal Government or Provincial Governments and regardless whether or not the ultimate profits are distributed to the Federal or Provincial Governments. Although this position stood settled in the favour of taxpayers after the judicial pronouncement of the Supreme Court reported as PLD 1985 SC 97 (CBR Vs SITE). In this case the principle of lifting "the veil of incorporation" was discussed and it was pronounced that if the ultimate funds provided to manage business relate to the Provincial Governments then the real ownership of the entity would be with the government. Thus the appellant was granted tax exemption. It was after the above judgement that the Article 165A was inserted in the Constitution of Islamic Republic of Pakistan to nullify the effects of the above judgement, but tax laws were not amended. The apparent intention appears here to bring tax laws, after laps of over two decades, in consonance with constitutional provision for removal of all doubts.

However, it is pertinent to mention here that the proviso to section 54 has not been withdrawn that provides tax exemption or a reduction in the rate of tax or a reduction in tax liability of any person or an exemption from the operation of any provision of this Ordinance provided in any other law and in force on the commencement of this Ordinance shall continue to be available unless withdrawn.

Set-off of losses of companies operating hotels

The proposed amendment seeks to insert a new section to provide an incentive to companies operating hotels in Pakistan or Azad Jammu and Kashmir (AJ&K) whether registered in Pakistan or in the territorial jurisdiction of AJ&K to set off losses sustained in Pakistan or in AJ&K for any tax year under the head income from business subject to conditions and limitations of sections 56 & 57 which remain unchanged. The hardship arose as a result of applicability of section 104 whereby it is provided that deductible expenditures incurred by a person in
deriving foreign source income chargeable to tax under a head of income shall be deductible only against that income and in case of loss such loss shall be set-off against the future foreign source income and not against Pakistan source income.

The relief is positive in nature and the legislature has considered the bona-fide hardship being faced by the hotel businesses in both the jurisdictions. It was also against the principle of taxability of residents who are taxed on global basis in terms of income as well as related expenditure of foreign territory. It would have been unfair or inequitable to tax foreign profits and in the year of loss, the same is not allowed to resident tax payers.

Set-off of business loss consequent to amalgamation Section 57A(1)

The proposed amendment seeks to substitute the sub-section (1) of section 57 whereby the scope of this section is curtailed. Previously accumulated loss brought forward under the head 'income from business' was available for set-off. With the proposed change in the year of amalgamation only assessed loss for the tax year of the amalgamating company or companies shall be available for set off against the business profit and gains of the amalgamated company and vice versa. The concession of accumulated loss earlier available is intended to be withdrawn which will result in hardship to the affected tax payers. This situation is not seen positively as the already granted concession is being withdrawn. It will further dilute the impact of relief and objective of the change brought in the previous years.

Group taxation Section 59AA

A new section is proposed to be inserted to introduce a new concept of 'group taxation' as is already prevalent in the developed economies. An irrevocable option is to be provided by companies both for holding as well as for subsidiary company to be taxed as one 'fiscal unit'. After this option is exercised companies are required to present consolidated group accounts as required under the Companies Ordinance, 1984 besides computation of income and tax payable shall be made for the tax purposes. The accounts of the group companies shall be audited by a firm of the chartered accountants as prescribed for listed companies under the Companies Ordinance, 1984. The exercise of the option can only be made by the 100% owned company within the group locally incorporated under the Companies Ordinance, 1984. But it is not clear whether or not this option once availed would also be valid for all future years or each year such an option would be separately exercised. The matter needs clarification. The losses prior to formation of group would not be available for relief under the group taxation.

The Central Board of Revenue may prescribe rules for group taxation in future for compliance.

This is a positive change and would prove helpful to groups having number of companies within their umbrella. The proposed change will have far reaching positive impact on group companies in which some are profitable and others running in losses. Fiscal incentives often provide opportunities of tax planning within industrial groups whereby mileage is achieved and overall group profitability is enhanced.

Group Relief Sections 59B and 169(3)

The proposed amendment seeks to substitute the existing section. Before substitution a subsidiary of a public company listed on a stock exchange owning and managing industrial undertaking or an undertaking engaged in providing services could have surrendered its assessed loss other than brought forward losses for the tax year in favour of its holding company. Now as per proposed substitution, a subsidiary company in addition to surrendering assessed loss, other
than capital loss and brought forward losses, to its holding company may also surrender the loss between other subsidiaries of the same holding company. Further before substitution 75% or more of the share capital of the subsidiary company was required for ownership by the holding company. This is proposed to be reduced to 55% or more of the share capital of the holding company in case of holding company is a listed company and 75% in case of none of holding or subsidiary company is listed.

In the proposed substitution now private limited companies may also be entitled for group relief, if it's holding company acquires 75% or more of the share capital of subsidiary company. The loss surrendered by the subsidiary company is to be set off against the income of the holding company or subsidiary company against the income under the head ‘income from business’ in the tax year and the following two tax years. Before the proposed substitution this period was fixed as three years. The above relief is available subject to the following conditions, some of which also existed previously and most of them are the new conditions:

- the loss so surrendered by the subsidiary company may be claimed by the holding company against its income under the head ‘income from business’ in the tax year and the following two tax years;
- none of the group companies should be engaged in trading businesses;
- holding company being a private limited company is required to get itself listed within three years from the year in which loss is claimed;
- group companies should be incorporated under the Companies Ordinance, 1984;
- approvals of the board of directors of the respective companies in respect of surrender of loss or claim;
- same business is required to be continued for three years by the subsidiary company;
- accounts of group companies are required to be audited by the chartered accountants eligible for audit of limited companies under the Companies Ordinance, 1984;
- the group companies would observe code of corporate governance;
- the subsidiary company shall not be allowed to surrender its annual losses for set-off against income of the holding company for more than three tax years; and
- in the event the surrendered losses by a subsidiary company are not availed of or adjusted against the income of holding company in the stipulated period of three tax years, the subsidiary company shall be entitled to carry forward the un-adjusted losses itself in accordance with the provision of section 57 for six tax years.

A facility has also been provided in sub-section (6) whereby with the approval of board of directors, loss claiming company may transfer cash to the loss surrendering company equal to the amount of tax payable on the profits to be set-off against the acquired loss. This activity would not be taken as a taxable event in case of either of the two companies.

The proposed sub-section (7) seeks to provide that in case of transfer of shares between companies and the shareholders, in one direction, for formation of the group with the approval of the Security and Exchange Commission of Pakistan and the State Bank of Pakistan, it would
not be taken as a taxable event. However, sale and purchase from the third party would constitute as a taxable event.

The proposed amendment in section 169(3) also seeks to exclude inter-corporate dividends from the ambit of final tax regime. The dividend although will be subject to withholding tax @ 10% but would not constitute final discharge of tax liability and would be adjusted against the final tax liability of the recipient company.

The above provision will only be beneficial for any group, if it has a loss situation as the dividend income from this source will be set-off against losses and tax will be levied on total income after set-off against group loss. However, in the event if the group has overall profit then the tax withheld will be adjusted there against. Normally the dividend income does not have financing cost to set-off unless the investment was made from the borrowed funds. Further the condition for observance of corporate governance should be removed for private or unlisted companies as the same is not applicable thereto. Tax relief should not be linked with inapplicable corporate laws as it will create future problems for entities claiming group relief.

**Investment in shares**  
Section 62(2)

The proposed amendment seeks to enhance monetary threshold to Rs.300,000 from Rs.200,000 for the purposes of claiming tax credit in a tax year by person other than a company in respect of acquiring new shares in the year offered to the public by a public company listed on Stock Exchanges in Pakistan. The other conditions would remain the same including the formula of claiming tax credit or the shares are acquired from the Privatization Commission of Pakistan.

**Principle of taxation of associations of persons**  
Sections 92 (2), (3), (4) and (5) & Section 93

The above proposed amendments seek to delete sub-sections (2), (3), (4) & (5). As a consequence thereof now professional firms including Chartered Accountants firms which are prohibited from incorporating by any law or the rules of the body regulating the profession are also to be taxed in the similar manner as other associations of persons. The proposed amendment was necessitated due to the reason that in the Finance Act, 2006 services rendered / provided on which tax is withheld under section 153, other than companies, had been subjected to final tax regime. Accordingly, professional firms, being a service providers also fall under the final tax regime. Consequently, the sub-sections (2), (3), (4) & (5) which provides for the taxation mechanism of the professional firms and partners thereof have become redundant.

Consequential amendment is also proposed to delete section 93 which has also become redundant after change in mechanism of taxation of professional firms and their partners.

**Reference to fair market value**  
Sections 95, 96 & 97

The proposed amendments seek to delete the redundant expression "at fair market value" in above sections. The purpose of this amendment is to bring the provision in line with the sub section (4) of section 35 which stipulates that the basis of valuation of stock-in-trade will be lower of cost or net realisable value.

**Disposal of asset under a scheme of arrangement and reconstruction**  
Section 97A

The proposed amendment seeks to make disposal of assets from one company to another company a ’non taxable event' through a scheme of arrangement and reconstruction under
sections 282L and 284 of the Companies Ordinance, 1984 or section 48 of the Banking Companies Ordinance, 1962 subject to the following conditions:

(a) the transferee must undertake to discharge any liability in respect of the asset acquired;
(b) any liability in respect of the asset must not exceed the transferor's cost of the asset at the time of the disposal;
(c) the transferee must not be exempt from tax for the tax year in which the disposal takes place; and
(d) scheme is approved by the High Court, the State Bank of Pakistan or the Securities and Exchange Commission of Pakistan, as the case may be, on or after July 1, 2007.

The proposed sub-section (3) seeks to describe the treatment of assets in the hands of transferee as follows:

(a) the asset acquired by the transferee shall be treated as having the same character as it had in the hands of the transferor;
(b) the transferee's cost in respect of acquisition of the asset shall be-
   (i) in the case of a depreciable asset or amortized intangible, the written down value of the asset or intangible immediately before the disposal;
   (ii) in the case of stock-in-trade valued for tax purposes under sub-section (4) of section 35 that value; or
   (iii) in any other case, the transferor's cost at the time of the disposal.

The proposed amendment seeks to describe deduction against the transferor income as follows:

(c) if, immediately before the disposal, the transferor has deductions allowed under sections 22, 23 and 24 in respect of the asset transferred which have not been set off against the transferor's income. The amount not set off shall be added to the deduction allowed under those sections to the transferee in the tax year in which the transfer is made; and

In determining whether the transferor's deductions under sections 22, 23 or 24 in respect of the asset transferred have been set off against income for the purposes of clause (c) of sub-section (2), those deductions shall be taken into account last.

The proposed sub-section (5) also defines the cost of shares issued vested by virtue of above said scheme and propose that the cost of shares shall be the cost prior to the operation of this scheme.

These are constructive changes. It is indeed encouraging to observe that Pakistan tax laws are taking cognizance of international corporate practices and tax laws.

**Tax on income of retailers below Rs.5 million**

Section 113A(3)
Division 1A of Part I
of the First Schedule

The proposed amendment seeks to restrict claim or set-off the tax deducted or collected at source under any head during the year against the retailer's tax liability worked out on the
basis of such person's declared turnover. However, the tax rate on turnover has been reduced from 0.75% to 0.5% as per Division IA of Part-I of the First Schedule. The tax so worked out will be required to be paid in cash without adjustment of withholding taxes suffered during the tax year. This will result in payment of more tax by such retailers.

**Taxation of income of certain retailers above Rs. 5 million  Section 113B**

The proposed amendment seeks to restrict claim or set-off of tax deducted or collected under any head against the tax liability worked out as follows:

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Amount of turnover</th>
<th>Rate of tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Where turnover exceeds Rs.5,000,000 but does not exceed Rs.10,000,000</td>
<td>Rs.25,000 plus 0.5% of the turnover exceeding Rs.5,000,000</td>
</tr>
<tr>
<td>2.</td>
<td>Where turnover exceeding Rs.10,000,000. exceeding Rs.10,000,000.</td>
<td>Rs. 50,000 plus 0.75% of the turnover</td>
</tr>
</tbody>
</table>

Previously tax rate was 1% on declared turnover with sales tax @ 2% on the declared turnover.

**Wealth statement  Section 116**

The proposed change seeks to amend sub-section (2) of section 116 whereby, filing of wealth statement is proposed to be mandatory on the basis of declared income of Rs. 500,000 or more for the tax year. Earlier wealth statement was required to be filed only along with filing of return of income for the tax year whose last declared or assessed income was Rs. 500,000 or more.

As a result of the proposed amendment salaried individuals who were not required to furnish return of income owing to the fact that their employers had filed statements instead are now also liable for filing wealth statement.

**Appointment in Appellate Tribunal (ITAT)  Section 130(4)**

Proposed amendment seeks to set-out eligibility criterion for Commissioner of Income Tax and Commissioner of Income Tax (Appeals) having at least five years experience as a Commissioner eligible for appointment as an accountant member of ITAT.

**Advance tax paid by the taxpayer  Section 147(4AA) (6A)**

The new sub-sections are proposed to be inserted whereby it is now compulsory for an existing company to consider that it's quarterly advance tax liability should not be lower than turnover tax based on quarterly accounting profits. The proposed amendment further seeks to impose advance tax on newly established companies i.e. in the first year of business operations of a company payable on the basis of turnover on a quarterly basis which should also not be lower than minimum tax under section 113. The tax payer company is however entitled for adjustment of any amounts already paid. Previously unless and until the first assessment was framed even under deeming provisions, advance tax was not payable by companies.
Imports  

Sections 148(2), (3), (4), (4A), (7) and (9)

The proposed new sub-section (2) seeks to substitute the existing sub-section (2) whereby the existing provisions are withdrawn related to exemption on re-importation of re-usable containers for re-export qualifying for custom duty and sale tax exemption on temporary import under the Customs Notification no. S.R.O. 344(1)/95 dated the 25th day of April, 1995 and importation of the Motor Spirit (MS), Furnace Oil (FO), JP-1 and MTBE. As a matter of fact the scope of the section is being widened with the insertion of proposed sub-section (4A). Also the Board has retained the power with itself to exempt any goods or class of goods or persons, or class of persons importing such goods or class of goods.

The proposed amendment seeks to delete sub-section (3) and (4) wherein the Commissioner of Income Tax was empowered to issue reduced rate certificate on import by the manufacturer for its own use up to 75% of the rate of advance tax subject to amount of tax paid or collected in a tax year equals the tax paid by the manufacturer in the immediately preceding year and also issue exemption certificate in case of manufacturer who is liable to pay advance tax under section 147 on import of raw material other than edible oil exclusively for his own use.

The proposed amendment by way of insertion of section (4A) seeks to empower the Commissioner to issue exemption certificate under section 148 in case of a person (other than PTR) liable to pay who is not likely to pay any tax other than tax under section 113 (minimum tax). Earlier the exemption certificate was issued to such person who was not likely to pay any tax under section 113 or having depreciation or brought forward losses.

The proposed amendment in sub-section (7) seeks to substitute the word of "motor vehicle" instead of the word "car" thereby all types of motor vehicles are now being excluded from the final tax regime.

The proposed amendment in sub-section 7(d) seeks to introduce a new concept of `large import houses' subject to the following conditions:

(i) have paid-up capital of exceeding Rs.100 million;
(ii) have imports exceeding Rs.500 million during the tax year;
(iii) own total assets exceeding Rs.100 million at the close of the tax year;
(iv) is single object company;
(v) maintain computerized records of imports and sale of goods;
(vi) maintain a system for issuance of 100% cash receipts on sales;
(vii) present accounts for tax audit every year;
(viii) is registered with Sales Tax Department; and
(ix) made sales to only Sales Tax registered persons.

The companies falling in the above parameters would be taxed under normal tax regime.

The proposed amendment in sub-section (9) seeks to enlarge the definition of `value of goods' for the purpose of computing withholding tax at import stage with the insertion of the Federal Excise Duty (FED) into its ambit. This insertion is proposed to be retrospective in effect under deeming provisions. This appear to be correction of mistake as FED was levied on earlier which it appears was omitted to be inserted in the definition of `value of goods'. This will result in hardship in certain cases where the FED is intended to be levied and recovered now.
Employers allowed to give tax credit adjustments to employees  

Section 149(1)

The proposed amendment seeks to authorize employers to provide adjustment of tax withheld from employees under other heads in addition to under the head salary and also allowed tax credit adjustments under sections 61, 62, 63 and 64 during the tax year after obtaining documentary evidences.

This is a good change as employees having tax withheld other than on salary income and entitled to tax credits were facing difficulties when employer’s certificate filed was considered their returns of income. Such employees were to file special returns of income. Now suitable adjustments will be incorporated by the employers too.

Services providers to exporters out of final tax regime  

Section 153(1A)

The proposed amendment seeks to withdraw sub-section (1A) of section 153 from the statute book as a result of which the residents or permanent establishment of non-residents which were providing services to the exporters or export houses on account of stitching, dying, printing, embroidery, washing, sizing and weaving would no more be subject to tax on the rates applicable to exports nor would be taxed under final tax regime. Now such services providers will be out of the ambit of final tax regime and tax withheld will be adjusted against the normal income such as six percent applicable to service providers.

Such exporter being non-corporate tax payers will again fall under final tax regime @ six percent otherwise corporate set-ups will be subjected to six percent withholding tax at source but the taxation will be done under normal tax regime and their expenses shall be set-off against their receipts to arrive at net income.

It is felt that the tax charge in both the situations will increase on such service providers as compared to the existing basis of taxation.

Exemption from withholding tax responsibility  

Section 153(5) (bb)

The new insertion in shape of Clause (bb) in sub-section (5) of section 153 seeks to authorize the withholding tax agents not to withhold tax at source at the time of making payment to cotton ginner provided the payer furnishes evidence that he has deposited in the government treasury an amount equal to the amount of tax deductible on the payment being made to him.

Certain person excluded from final tax regime  

Section 153(6)

A new proviso is proposed to be inserted whereby the following two categories of tax-payers are excluded from the ambit of final tax regime:

(a) persons rendering advertising services, owners of newspapers and magazines being non-corporate entities; and

(b) public listed companies registered on stock exchanges in Pakistan engaged in sale of goods and execution of contracts.

After the proposed changes the tax-payer which remain under final tax regime are as follows:

(a) individuals and association of person for goods, services and execution of contract; and

(b) companies other than public listed companies i.e. private and unlisted public companies for goods and execution of contract.
The purpose and intent is to bring public listed companies in normal tax regime as part of government policy to improve documentation. This is a major shift in the policy of the government. In previous years, all tax-payers were pushed into presumptive tax regime which process is now being reversed gradually.

**Individuals and Association of Persons to fall under final tax regime retrospectively**

The proposed amendment seeks to insert a new sub-section to extend final tax regime for the tax year, 2007 i.e. retrospectively on sale of goods on which tax was 'deductible' irrespective of the fact whether or not tax was actually deducted. In the Income Tax Ordinance, 2001 when tax is actually deducted, such receipts fall under final tax regime. The proposed amendment has reverted back to the provision of demised Income Tax Ordinance, 1979 where in order to fall under presumptive tax regime, the tax should be deductible i.e. whether or not actually deducted.

**Additional two percent withholding tax withdrawn for non production of National Tax Number (NTN) or Computerized National Identity Card (CNIC)**

The existing provision of additional 2% tax for non-production of NTN or CNIC is proposed to be removed from the statute book. It is not understand as to what alternate the Board has identified for the purposes of identification of the person in absence of the above documents.

**Purchase of motor cars**

The proposed new section seeks to make every manufacturer or authorized dealer of motor cars responsible to collect advance tax at the time of sale of a motor vehicle at the rate of 5% of the gross amount.

However, the withholding shall not be made in the case of sale of motor vehicles to:

(i) the Federal Government or a Provincial Government; or
(ii) a foreign diplomat or diplomatic mission in Pakistan

**Compressed Natural Gas (CNG) stations**

The proposed new section seeks to collect advance tax @ 6% of gas consumption charges from the amount of gas bill of a CNG stations.

The payer i.e. utility company preparing gas consumption bill shall charge advance tax under sub-section (1) in the manner gas consumption charges are recovered.

The tax collection under this section shall be a final tax on the income of a CNG station arising from the consumption of the gas.
Electricity consumption  
Section 235(4)

The proposed insertion seeks that the tax collected on electricity bills under section 235 shall be the minimum tax on the income of a person other than a company and excess tax collected shall not be refundable in case of a person other than a company.

Transition to Federal Board of Revenue  
Section 239A

The proposed amended seeks to replace the term "Central Board of Revenue" with the "Federal Board of Revenue".
Income Tax
The First Schedule

Part-1
Rates of Tax

Retailers

Currently the rate of tax applicable to a retailer being an individual or an AOP is 0.75% of turnover. The Bill proposes to reduce such rate to 0.5%. The above regime is applicable if the aggregate turnover is up to Rupees five million.

Corporate tax rate

The Bill proposes to continue to tax corporate earnings @ 35% of profits in the tax year 2007 and onwards.

Tax on dividend

Currently tax on dividend received by a public company or an insurance company or any other resident company is 5% of the gross amount of dividend. In the case of other companies, the rate of tax was 10%. The Bill proposes to impose a uniform rate of tax of 10% on dividend received from all types of companies.

Part-II
Withholding tax on imports

Currently the rate of withholding of tax at the time of import of goods excluding polyester filament yarn is 6%. The Bill proposes to reduce such rate to 5% while withholding tax rate on polyester filament yarn is proposed to be increased from 1% to 5%.

Part-III
Rate of withholding tax on payment on account of rendering or providing of services

The rate of withholding tax under Section 153(1) (b) relating to income from provision of services is @ 6% of the gross payment in the case of a resident person or PE of a non-resident person. Earlier, rate of withholding tax on account of transportation of goods through transport vehicles was prescribed @ 2% vide Clause 27 of Part II of Second Schedule to the Ordinance effective July 01, 2006. The Bill prescribes separate rates of withholding of tax on such services in Division III of Part III of the First Schedule to the Ordinance.

Part-III
Withholding tax on exports

The rate of withholding tax under sub-section (1), (3), (3A) and 3B of section 154 is proposed to be rationalized @ 1% of the export proceeds at a uniform rate. Earlier, the rate of withholding tax was ranging between 0.75% to 1.50% of the export proceeds varying with regard to description of goods given under Seventh Schedule to the Ordinance.
Part-III
Tax on the compressed natural gas charges

A new division is proposed to be inserted to provide a rate of tax to be collected from CNG operators in respect of gas consumption charges under the provisions of proposed Section 234A. The rate of proposed tax is 6% of the gas consumption charges which would be final tax on such income.

Part-III
Adjustable tax on purchase of motor car

The Bill prescribes an adjustable tax rate to be collected under section 231B of the Ordinance on purchase of motor vehicle @ 5%. This tax shall be collected by every manufacture or authorized dealer of motor cars at the time of sale. The provision is proposed to be not applicable to the Federal or Provincial Governments, foreign diplomat or diplomatic mission in Pakistan.
Income Tax
The Second Schedule

Part I
Exemptions

Exemption to Private Equity and Venture Capital Fund
Clause (57) (2)

The Bill proposes to extend the scope of exemption to the income of 'Private Equity and Venture Capital Fund' registered under the Private Equity and Venture Capital Fund Rules, 2007. The exemption is dependent upon distribution of 90% of its profits to the unit holders.

Exemption to Micro Finance Bank
Clause (66) (xviii)

Any income of Micro Finance Bank is proposed to be exempt from tax for a period of five years starting from July 1, 2007. The pre-requisite to qualify for such exemption is that no dividend shall be distributed to the shareholders but profits retained for Micro Finance Operations only.

Withdrawal of exemption on interest income from CFS
Clause (99)

Currently any income of the following organizations is exempt from tax subject to fulfillment of certain conditions:
- mutual fund
- an investment company registered under the (Non-Banking Finance Companies Establishment and Regulation) Rules 2003
- a unit trust scheme constituted by an assets management company registered under the Assets Management Companies Rules 1995, and
- A Real Estate Investment Trust Rules 2006 established and managed by a REIT Management company licensed under the Real Estate Investment Trust Rules 2006.

The Bill proposes to excludes exemption under this clause to income from 'Continuous Funding System' (CFS).

Exemption on sale of immovable property to REIT
Clause (99A)

The Bill proposes to seek exemption on profit and gains accrued on sale of immovable property to a Real Estate Investment Trust (REIT) up to the end of tax year 2010.

Exemption to Private Equity and Venture Capital Fund
Clause (101)

Profits and gains derived by a Venture Capital Company / Fund registered under the Venture Capital Companies and Funds Management Rules, 2000 is currently exempt from tax which is derived between July 1, 2000 to June 30, 2014. The Bill proposes to extend such exemption to a 'Private Equity and Venture Capital Fund'.

Exemption to distributions by Private Equity and Venture Capital Fund
Clause (103)

Currently any distribution received by a tax payer from NIT or a collective Investment Scheme authorized or registered under the Non-Banking Finance Companies (Establishment and
Regulation) Rules, 2003) out of capital gains of the said Trust or Fund on which tax has already been paid. The scope of exemption under this clause is proposed to be extended to a 'Private Equity and Venture Capital Fund'.

**Exemption on capital gains**

Clause (110)

The exemption under this clause is currently expiring on June 30, 2007. The period of exemption is proposed to be extended till June 30, 2008 as verbally promised by the Prime Minister to the members of the Stock Exchange during the last year.

**Gain on transfer of assets to new corporatized Stock Exchange**

Clause (110A)

The Bill proposes to declare exempt 'gains from transfer of capital assets' of an existing Stock Exchange to the new corporatized Stock Exchange.

**Exemption to porting-in members of new corporatization of Stock Exchange**

Clause (110B)

The gain arising to a member of new corporatized Stock Exchange from transfer of membership right in the existing Stock Exchange for acquisition of trading or clearing rights in the corporatized Stock Exchange is sought to be exempt.

**Exemption to Hydel Power Project in AJ&K**

Clause (132)

Currently, profit and gains derived from an electric power generation project using dual fuel (Oil/Gas) set up after September 01, 2005 enjoys tax exemption subject to conditions prescribed under clause 132 of the Part 1 to Second Schedule to the Ordinance. The Bill proposes to extend the exemption to a company registered in Pakistan or AJ&K and owns or manages a Hydel Power Project in either of these jurisdictions.

**Extension in Exemption under Corporatization of Stock Exchange**

Clause (133A)

Currently, income derived by an individual from the transfer of the membership rights or share of Stock Exchange along with a room in the building to a company is exempt from tax up to June 30, 2007. The exemption provided therein proposed to be extended to June 30, 2008.
Part II
Reduction in tax rates

Off shore construction contracts Clauses (3) & (3A)

The income from offshore construction contracts remitted into Pakistan through normal banking channel charged to tax @1% of the gross receipts is separately provided by insertion of Clause 3A. The income from services rendered outside Pakistan is likewise taxed on the same basis as aforesaid @ 1% under clause 3.

Profit on debt payable to non-resident Clause (5A)

The proposed insertion aims to clarify the rate of withholding tax on payments being profit on debt, payable to a non-resident person not having a permanent establishment in Pakistan, shall be the rate provided in the Double Taxation Treaty between Pakistan and the country of residence of the beneficiary. By virtue of the proposed amendment, the burden of withholding tax @ 30% under the domestic legislation on such payments is likely to be lowered.

Capital gain on sale of private limited company shares Clause (5B)

In consonance with the policy to encourage ‘Private Equity and Venture Capital Fund’, tax @ 10% is proposed on capital gains arising to a private limited company from sale of its shares/assets to a Private Equity and Venture Capital Fund.

Withholding on registered manufacturers with sales tax Clause (13)

The Bill proposes to prescribe rate of collection of advance tax under section 148 on capital goods and raw material (other than polyester filament yarn) @ 1%. The benefit of lower rate of tax collection is restricted to a manufacturer registered with Sales Tax Department importing such goods and material exclusively for its own use.

Inclusions of Federal Excise Duty Clause (13H) (i)

The proposed insertion aims to include the amount of Federal Excise Duty, if any, levied on the imported goods for the purposes of collection of tax @ 2% at the import stage under section 148. The applicability of the concessionary rate of withholding tax is extended to edible oil(currently 3%), crude oil imported as raw material for manufacture of ghee or cooking oil, energy saver lamps, Bitumen, Fixed wireless terminals, pesticides and wedicides.

Deletion of redundant clause Clause (22)

The Bill proposes to delete the redundant clause which provided reduction in tax liability by 1 %, as an incentive to companies enlisted on the stock exchanges during the period July 01, 2005 to June 30, 2006.

Reduced rate to service provider to exporters Clause (25)

The clause was inserted SRO 946(I)/2005 dated September 12, 2005 benefiting services of sizing, weaving, stitching, dying, printing, embroidery and washing rendered or provided to an exporter or an export house to be treated as export, to be taxed at the rate applicable to the exporter of goods. The Bill proposes to withdraw the benefit by deleting the clause, thus payments to such service providers would now be liable to withholding tax @ 6% under section 153.
Rate of withholding on transport services Clause (27)

The applicable rate of withholding tax on payment on account of transport services has been proposed @ 2% under Division III of Part III of the First Schedule to the Ordinance, accordingly, this clause, setting out rate of withholding tax @ 2% in respect of payment on account of transportation of goods through goods transport vehicles, has been deleted as it has become redundant.

Part-IV
Exemption from specific provisions

Extending exemption to private equity and Venture Capital Fund from minimum tax Clause (11)

The Bill proposes to extend exemption to a 'Private Equity and Venture Capital Fund' qualifying for exemption under Clause (101) of Part 1 of the First Schedule to the Ordinance from application of section 113 (minimum tax on income).

Exemption to Private Equity and Venture Capital Fund from Section 151 and 233 Clause (33)

Amendment in the clause has been proposed to include a 'Private Equity and Venture Capital Fund' to qualify for exemption from the application of the provisions of section 151 and 233 of the Ordinance.

Exemption to non resident for specified payments Clause (41A)

The proposed insertion provides non applicability of the provisions of Section 152(2) to payments made to foreign news agencies, syndicate services and non resident contributors, not having a Permanent Establishment in Pakistan. Consequently, such payments shall not be subject to tax withholding.

Inapplicability of the provisions of section 153(1) to permanent establishment of non-resident petroleum exploration and production companies Clause (43A)

The Bill seeks to extend the inapplicability of provisions of Section 153(1) of the Ordinance to the payments made to the permanent establishment of non-resident petroleum exploration and production companies.

Income of travel agents Clause (43B)

The Bill proposes non applicability of withholding tax provisions of section 153(1)(a) of the Ordinance on payments to be made on sale of air tickets by the travel agents provided such travel agents who have paid withholding tax on their commission income under section 233 of the Ordinance. It is not clear from the bare perusal of the proposed law how the withholding agents will ensure that the commission income of the travel agents has been subjected to tax.

Exemption to Private Equity and Venture Capital Fund from Sections 150, 151 and 233 Clause (47B)
The exemption from withholding tax available under this clause is proposed to be extended to Private Equity and Venture Capital Funds also. However, exemption from section 151 and 233 has already been provided to Private Equity and Venture Capital Fund under clause 33 of Part IV of Second Schedule to the Ordinance.

**Exemption from section 148**

The Bill proposes to extend / rationalize exemption from withholding tax on import of certain goods, as under:

- New listing for seeking exemption from the provisions of Section 148 of the Ordinance
- Capital goods and raw material imported by manufacturer exporter registered with Sales Tax Department as a manufacturer.
- Petroleum exploration and production companies except motor vehicles imported by such companies.
- Rationalization of existing exemption provisions

Exemption from withholding of tax on the following items was contained in the main section, which has now been rationalized under this clause:

- High speed and light diesel oil, high octane blending component, motor spirit, furnace oil, JP-1, MTBE, kerosene oil, crude oil, crude oil for refining and chemical used in refining in such good.
- Re-importation of re-usable containers for re-export covered under Custom Notification SRO 344(I)/95 dated April 25, 1995.

**Non applicability of provision of sections 153 & 159 to Large Import House**

The Bill proposes non applicability of provisions of section 153 and 169 of the Ordinance to 'Large Import Houses' provided conditions envisaged under section 148 of the Ordinance are fully complied with.

**Income Tax**

**The Fourth Schedule**

**Exemption on capital gains extended by one year**

The Bill proposes to extend the tax exemption on the income arising from capital gains from sale of modaraba certificates, instruments of redeemable capital and shares of public companies and Pakistan Telecommunication Corporation voucher issued by the government upto tax year 2008.
Income Tax
The Seventh Schedule
(Read With Section 100A)
Rules for the computation of the profits and gains of a banking companies and tax payable thereon

Banking, being a specialized business activity for the purposes of applicability of the provisions of the Income Tax Ordinance, 2001 [Ordinance], was not separately recognized until the introduction of Finance Bill, 2007. It was expected in last year that the Finance Bill 2006 would enumerate taxation rules relating to banking companies in a separate schedule, but the same was not announced. This year, after constituting a committee and considerable deliberation in the committee, the Seventh Schedule is proposed to be dedicated to the banking sector.

The purpose and intent behind this exercise is to recognize that banking is a specialized business, totally documented and regulated by the State Bank of Pakistan, whose issues need to be addressed in the light of statutory laws and applicable regulations related to the banking business. Income Tax Ordinance, 2001 already contains rules and regulations relating to taxability of Insurance and Exploration and Production of Petroleum [E& P] businesses in the Fourth Schedule and Fifth Schedule respectively. The containing of separate rules for special businesses is an effective tool and guidance both for the tax administrators and taxpayers.

The need and necessity of the proposed Schedule is to facilitate in the taxation of banking sector which has a lot of significance in the national economy and also is a major contributor to the government exchequer. Another reason for this proposed schedule is to put to rest existing litigation as a result of disagreements between the tax payer banks and the taxation authorities.

The salient features of the proposals contained in the Seventh Schedule are summarized as under:

(a) it is recognized that the total income of a banking company, as a taxpayer, will be accepted by the tax department which is the balance of the income, from all sources before tax, as disclosed in the annual accounts required to be furnished to the State Bank of Pakistan (SBP) subject to certain adjustments which are enumerated below;

(b) consistent with the provisions of the Ordinance applicable to the non-banking companies; accounting depreciation, including amortization of intangibles, will be added to the total income and tax depreciation and initial allowance including amortization of intangibles shall be deducted as admissible expenditure in accordance with the provisions of sections 22, 23 and 24 of the Ordinance. For banking company, tax treatment in respect of assets given on lease shall be different than other taxpayers i.e. finance charges earned to be considered as income instead of lease rentals received and no depreciation whether normal or initial shall be an admissible deduction;

(c) certain deduction will be inadmissible while computing the total income as envisaged under section 21 of the Ordinance which are relevant for all taxpayers. The provisions contained under sub-section (8) of section 22 and section 68 of the Ordinance relating to adjustments of depreciation on disposal of assets and determination of Fair Market Value respectively shall also be applicable to a banking company;
(d) the claim of bad and doubtful debt shall be allowed to a banking company which are claimed as an admissible deduction in line with the requirements of the Prudential Regulation (PR) issued by the SBP subject to the condition that the external auditors of such banking company will furnish a certificate to this effect. However, advances classified as 'substandard' under such regulations would not be allowed as an expenditure and an adjustment will be made to exclude such expenses from admissible deductions while computing the total income. All the other categories of classified advances for which a provision is necessary under PR shall be allowed as an admissible deduction;

(e) the advances classified as sub-standard in the first year can either be converted into 'doubtful' or 'loss' category in the subsequent year or can become 'recoverable' depending upon their status. In case of former, the taxpayer bank will be allowed to claim the same as admissible deduction and in the case of later the taxpayer bank can claim deduction which will be allowed to the taxpayer bank as tax was already paid thereon;

(f) while computing taxable income, adjustments to historical cost figures made under the requirements of the International Accounting Standards 39 and 40 shall not be taken into account. Suitable adjustments will be made in the computation of income with the income stated in the financial statements worked out under the requirements of accounting standards stated above. Consequently, adjustments will also be required to be made for the computation of income for the purposes of the above in the year of disposal of assets or the discharge of liability under the applicable accounting standards as stated above;

(g) the provisions of section 34(5) of the Ordinance will be applicable to a deduction which is allowed as an admissible deduction (other than on account of charge of irrecoverable debt) if it has not been paid within three years of the tax year in which it was claimed admissible. Accordingly, an addition will be made to the total income in the fourth year of the tax year in which it was allowed. Any unpaid liability, for which an addition is made as aforesaid, will eventually be allowed as an admissible deduction in the year it was actually paid;

(h) capital losses can only be set-off against the capital gains and if such losses remain un-absorbed, the same can be carried forward to six years immediately following the tax year in which the loss was originally suffered;

(i) the proposed schedule does not have effect to any reduction or addition to the tax liability of a 'Shariah Compliant Banking' approved by SBP which is subject to any special treatment. A certificate of the auditor of such banking company is required to be produced alongwith the return of income to disclose the comparative position of transaction as per Islamic mode of financing and as per normal accounting principles. Thus the treatment under normal accounting income will be acceptable for computation of taxable income;

(j) with respect to claim of head office expenditure being the branch of non-resident bank, the same shall only be allowed as admissible and to the extent it is charged in the books of account of permanent establishment of the non-resident branch. Certificate from external auditors to the effect that the head office expenditure has been claimed in accordance with the prescribed rule and that such are reasonable in relation to operation of the permanent establishment. The formula on which the claim will be made is to ratio of receipts of permanent establishment in Pakistan over the world gross receipts which ratio with be applied on the total head office expenditure. The definition of head office expenditure will be the same as provided for in sub-section (3) and (4) of section 105;
(k) the advance tax liability by the banking company shall be discharged every month instead of quarterly as applicable under tax laws for other tax payers;

(l) the receipts of the banking company will not be liable for withholding tax by the withholding agents making payments to the banking company;

(m) the dividend income of the banking company will be subject to tax @ 10 percent instead of 5 percent currently applicable to the banking companies listed on Stock Exchange. The capital gains earned on disposal of shares of listed companies after holding it for the period exceeding one year shall be taxable @ 10% as against the tax exemption presently provided. However when such shares are disposed off before the completion of one year from the date of their acquisition, the gain so worked out on such shares shall be taxed as capital gains under section 37 and taxed at normal rate;

(n) minimum tax shall also be applicable to a banking company in case there is a loss in a tax year for any reason;

(o) the tax exemptions and concessions as provided under the Second Schedule shall not be applicable to a banking company;

(p) the provisions relating to group relief as provided under section 59B shall also be available to the banking companies provided that both the holding and subsidiary companies are banking companies and surrendering and claiming of loss by one another would be subject to the approval of SBP;

(q) the accounts of group companies shall be audited by the firm of chartered accountants which are on the panel of auditors of the SBP;

(r) the holding and subsidiary companies being 100% owned by group of banking companies may opt to be taxed as one fiscal unit as per the provision of section 59AA relating to group taxation loss subject to the approval of SBP;

(s) the rules contained in the proposed Seventh Schedule explicitly cater for all possible aspects relating to taxation of the banking companies under the new tax regime. However, it does not categorically state that no apportionment of common expenditure would be made between business income, dividend and capital gains (earned on disposal of shares of listed companies within one year of their purchase). This proposal was specifically made in the draft rules announced before the announcement of budget and also recommended by the committee constituted for this purpose. It is recommended that a clear statement on this aspect be included in the proposed Seventh Schedule to leave no ambiguity for the tax authorities which may invoke litigation and hardships. Although it can be inferred by reading the law that all heads of income would be taxed as business income so the question of apportionment does not arose. But it is advisable to clear all aspects while finalizing the Bill into the Finance Act. It is also stated in the proposed rules that the other provisions of the Income Tax Ordinance, 2001 not specifically dealt with in these rules shall apply mutatis mutandis to a banking company. Therefore, it is all the more reason that this matter be clarified before the Bill becomes an Act.
The Sales Tax Act, 1990

Cottage industry  
Section 2(5AB)

The proposed amendment seeks to define the term 'cottage industry' and has been prescribed to mean a manufacturer whose:

- annual turnover of taxable supplies made in any last twelve months does not exceed Rs.5,000,000; or

- annual utility (electricity, gas and telephone) bills during any last twelve months does not exceed Rs. 600,000.

Additionally, changes are also proposed in the Sixth Schedule to the Act to replace the word manufacturer with cottage industry to bring the Schedules in line with the proposed amendment. Presently, exemption from sales tax is denied where manufacturer's turnover exceeds five million rupees. The Bill proposes that exemption should also be denied where annual utility bill exceeds Rs.600,000. Accordingly, manufacturers having utility bills of last twelve months more than the prescribed limit are now required to seek registration.

Input tax  
Section 2(14)(e)

Presently there is an ambiguity with respect to input tax adjustment paid on various services chargeable to sales tax under respective Provincial Sales Tax Ordinances, where all provisions of the Sales Tax Act, 1990 are applied. Now, necessary amendment is proposed by amending definition of input tax to allow adjustment of tax paid on services.

Output tax  
Section 2(20)

The proposed amendment seeks to rationalize the definition of output tax in the following manner:

- sales tax chargeable under the respective Provincial Ordinances shall now be recognized as output tax; and

- excise on goods and services under VAT mode, leviable through the Federal Excise Act, 2005, are recognized as output tax by deletion of the respective clauses of repealed Central Excises Act, 1944.

Retail price  
Section 2(27)

Recently, the Supreme Court of Pakistan has decided that the value of excise duty shall not be included in the retail price for purpose of excise duty on retail price which also indirectly affects sales tax chargeable on the retail price and consequently results in a loss of revenue. In order to nullify the effect of the Supreme Court’s decision the proposed amendment seeks to incorporate the word 'duties' in the definition of retail price. Similar amendment is also proposed under the Federal Excise Act, 2005.

Time of supply  
Section 2(44)

Ever since the decision of the Supreme Court of Pakistan that the sales tax was rightly levied on receipt of advance payment against taxable supplies, the registered persons are facing difficulties in the payment of sales tax against advance payment as well as maintenance of its records.
The proposed amendment seeks to provide relief by deleting the condition of the payment of sales tax on receipt of advance payment against taxable supplies.

**Zero rating**

The proposed Bill seeks to empower the Board to specify any goods as zero-rated which are supplied to a registered person who is engaged in the manufacture and supply of zero-rated goods.

**Liability of registered persons in supply chain where tax unpaid**

This section was inserted through the Finance Act, 2006 whereby if a registered person at the time of receiving taxable supply is aware of or suspects that the tax is not paid by that supplier or previous suppliers the registered person as well as the person making the taxable supply are jointly and severally liable for payment of such unpaid amount of tax.

The proposed Bill seeks empowers to the Board to exempt any transaction from the provisions of this section through a notification.

**Adjustable input tax**

A new section is proposed to limit the input tax adjustment in following manner:

- input tax on fixed assets to be allowed for adjustment in twelve equal monthly installments after the start of production using such fixed assets. However, appropriate clarification may be required to restrict the meaning of word fixed asset to plant and machinery; and
- upto 90% input tax for a tax period is allowed to be adjusted against the output tax. The remaining balance of input tax for all tax periods will allowed to be adjusted on a yearly basis in second month following the end of financial year on:
  - submission of annual audited accounts and auditor’s certificate of lesser value addition by registered person subject to audit under the corporate laws;
  - compliance of conditions and restrictions specified by the Board for non corporate assesses.

The proposed amendment also seeks to empower the Board to exempt any person or class of person from aforesaid restriction or to impose any other limit for input tax adjustment. Additionally, notifications specifying adjustment notes and adjustment advices for carrying forward input tax are also withdrawn. The proposed amendment may cause severe hardship to seasonal industries.

**Refund of input tax**

The proposed amendment seeks to bifurcate excess input tax of registered person for a tax period into two categories, namely zero-rated local supplies including exports and other supplies. It is also proposed that the refund for the first category should be allowed within 45 days of filing refund claim as prescribed by the Board. However, the procedure for claiming refund on second category is yet to be specified by the Board.

Presently, input tax of a registered person for a tax period are considered collectively without
bifurcation between the two categories.

Assessment of tax

Presently, the order under this section is made within 90 days of issuance of show cause notice which can be extended to further 90 days with the approval of the Collector or the Collector (Adjudication). The proposed Bill seeks to withdraw the power of the Collector (Adjudication) for allowing such extension.

Records

A new sub-section is proposed to empower the Board to restrict number of business bank accounts to be maintained by a registered person for making and receiving payments on account of taxable activity as well as making payment of sales tax to the treasury.

The Bill proposes to extend the requirement for sales tax registered companies to submit copy of the annual audited accounts with a certificate by the auditors certifying the payment of due tax by the registered person.

Tax invoices

A proposed new sub-section empowers the Board to prescribe the manner and procedure for regulating the issuance and authentication of tax invoices.

Retention of record and documents

Presently, a registered person is required to maintain record and documents for three years while any sales tax not levied due to some collision is recoverable within five years through show cause notice under section 36(1). In order to remove the anomaly, the proposed amendment requires maintenance of sales tax record and documents for five years.

Directorate of post clearance audit

The proposed amendment creates a new directorate of post clearance audit consisting of the Director, the Additional Directors and other officers and empowers the Board for their appointment through notification.

Power to arrest and prosecute

The proposed Bill seeks to include a person for arrest and prosecution who is not directly related to the taxable supply but causes a tax fraud.

Access to premises and records

In order to further strengthen the purpose of this section, the Collector is empowered to require any regulatory authority to provide information concerning licenses and authorizations issued by it.

Alternative dispute resolution

The proposed Bill redrafts the section and clarifies that the following cases shall not be entertained in the Alternative dispute resolution:

• cases where FIR’s have been lodged under the Act;
cases where criminal proceedings have been initiated; or
• cases where interpretation of question of law having larger revenue impact in the opinion of the Board is involved.

The Board is required to appoint Alternative Dispute Committee within thirty days from receipt of the application and the committee is required to make recommendation within sixty days of its constitution which may be extended to further sixty days on specific request.

Recovery of arrears of tax  

The Board is empowered to write off any irrecoverable arrear of sales tax in the manner as prescribed by the Board.

The Sixth Schedule

The Bill proposes following significant amendment in the Sixth Schedule to the Sales Tax Act, 1990

Table-I (Imports or Supplies)
Addition/Substitution/Withdrawal/Insertion

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Description</th>
<th>Heading Nos</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td>Meat of bovine animals, sheep and goat, excluding poultry and offal, whether or not fresh, frozen or other preserved</td>
<td>02.01, 02.02 and 02.4</td>
<td>Withdrawal of exemption on meat of poultry Under SRO 462(I)/2007 dated June 9, 2007 un-cooked poultry meat has been zero-rated with immediate effect.</td>
</tr>
<tr>
<td>24.</td>
<td>Edible oils and vegetable ghee where FED is charged on VAT mode by a registered manufactured or importer.</td>
<td>Deletion of Headings 1511.9010 and 1517.1000</td>
<td>The proposed amendment seeks to clarify that the exemption is not available to distributor, wholesalers or retailers. Further, the Bill proposes withdrawal of exemption of the following: - Palm stearin - Margarine, excluding liquid margarine.</td>
</tr>
<tr>
<td>25.</td>
<td>Milk preparations obtained by replacing one or more of the constituents of milk by another substance, whether or not packed for retail sale.</td>
<td>Substitution of heading 19.01 with the following: 1901.1000, 1901.9020 and 1901.9090</td>
<td>The Bill proposes to withdraw exemption of Malt extract and Mixes and doughs for the preparation of bakers’wares of heading 19.05.</td>
</tr>
</tbody>
</table>

29A Surgical tapes | 30.05 | Seeks to allow exemption |
29B Ultrasound gel | 3006.7000 | Seeks to allow exemption |
29C Glass bangles | 7020.0090 | Seeks to allow exemption |
45. Dextrose and saline infusion giving sets along with empty non-toxic bags for infusion solution, Dextrose and saline infusion giving sets, Artificial parts of the, Intra-Ocular lenses and glucose testing equipment | | Locally purchased Dextrose and saline infusion giving sets is proposed to be exempted. |
Table-II (Local Supplies only)
Addition/Substitution/Withdrawal/Insertion

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Description</th>
<th>Heading Nos</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td>Supply of locally produced crude vegetable oil obtained from the locally produced seeds except cooking oil, without having undergone any process except the processing of washing</td>
<td>Respective Headsings</td>
<td>The Bill seeks to allow exemption on cottonseed which is currently taxable. However, there exists an apparent mistake which mention serial number 2 of Table -II as serial number 3 of Table-II</td>
</tr>
<tr>
<td>3.</td>
<td>Supplies made by (a) cottage industry; and (b) retailers whose annual turnover from supplies, whether taxable or otherwise, made in any tax period during the last twelve months ending any tax period does not exceed rupees five million</td>
<td></td>
<td>The proposed amendment seeks to allow exemption to cottage industry which is currently allowed to manufacturer whose turnover from taxable supplies made in any tax period during the last twelve months does not exceed Rs. 5,000,000.</td>
</tr>
</tbody>
</table>

Amendments through notifications

Zero-rating for new items
SRO 462(I)/2007

The newly promulgated SRO prescribes that following goods shall be charged to tax at zero-rate with immediate effect.

<table>
<thead>
<tr>
<th>Description</th>
<th>PCT Heading</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Sewing machines - household type</td>
<td>8452.1010 and 8452.1090</td>
</tr>
<tr>
<td>• Bicycles</td>
<td>87.12</td>
</tr>
<tr>
<td>• Exercise books</td>
<td>4820.2000</td>
</tr>
<tr>
<td>• Writing, drawing and marking inks</td>
<td>3215.9010 and 3215.9090</td>
</tr>
<tr>
<td>• Trailers and semi-trailers for the transport of goods having specifications duly approved by the Engineering Development Board</td>
<td>87.16</td>
</tr>
<tr>
<td>• Uncooked poultry meat</td>
<td>02.07</td>
</tr>
</tbody>
</table>

Amnesty
SRO 463(I)/2007

Amnesty is available on the whole amount of default surcharge and penalties payable except in the case of tax fraud provided a person discharges outstanding principal amount upto June 30, 2007

Refund to Large Taxpayer
SRO 465(I)/2007

The newly promulgated SRO prescribes separate rules for processing of refund claims of the person registered in Large Tax Payer Units. Salient features of the rules are as under:
• sales tax refund shall be allowed to the registered person within three days from the submission of refund application against an undertaking and a revolving bank guarantee;

• within fifteen days of the sanctioning of refund, the claimant shall file a complete refund claim along with the supportive documents; and

• where amount already sanctioned and paid is found inadmissible the same shall be recovered within seven days by encashment of the bank guarantee to such extent.

**Enhancement of tax rate on import and supply**

SRO 466 (I)/2007

The newly promulgated SRO prescribes twenty percent rate of sales tax on the import or supply of raw material as well as some other specified chemicals to discourage the following informal manufacturing sector:

• Iron and steel
• Plastics and papers.

**Minimum value addition**

SRO 468(I)/2007

With immediate effect, this notification withdraws 10% minimum value addition leviable at import stage for commercial importers. Now, the commercial importer is required to pay sales tax on the basis of actual value addition.

**Input tax on electricity to residential colonies**

SRO 464(I)/2007 - amending SRO 490(I)/2004

The notification prescribes that input tax paid on supply of electricity and gas to residential colonies of registered persons shall not be allowed.

**Withdrawal of zero-rating**

SRO 509(I)/2007 - superseding SRO 525(I)/2006

Following zero-rated items are now chargeable to tax at standard rate of 15%:

<table>
<thead>
<tr>
<th>Description of goods</th>
<th>PCT Heading No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Sodium hydrogen carbonate (Sodium bicarbonate)</td>
<td>2836.3000</td>
</tr>
<tr>
<td>• Methylene chloride</td>
<td>2903.1200</td>
</tr>
<tr>
<td>• Methyl ethyl ketone</td>
<td>2914.1200</td>
</tr>
<tr>
<td>• Citric acid</td>
<td>2918.1400</td>
</tr>
<tr>
<td>• Antioxidant</td>
<td>2921.4500</td>
</tr>
<tr>
<td>• Ink for inkjet engraver</td>
<td>3215.1110</td>
</tr>
<tr>
<td>• Prepared binders for foundry moulds including Peroxide stabilizer &amp; Nickel salt</td>
<td>3824.9099</td>
</tr>
</tbody>
</table>
Rescinded notifications
Following notifications are withdrawn

<table>
<thead>
<tr>
<th>Rescinding SRO</th>
<th>Rescinded SRO</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>SRO 475(I)/2007</td>
<td>SROs 679(I)/2006</td>
<td>Fixing value of Iron and Steel products.</td>
</tr>
<tr>
<td>SRO 477(I)/2007</td>
<td>SRO 762 (I)/1996</td>
<td>Fixing the value of paper and paperboard.</td>
</tr>
<tr>
<td>SRO 478(I)/2007</td>
<td>SRO 940(I)/1998</td>
<td>Fixing value of goods obtained from ship breaking.</td>
</tr>
<tr>
<td>SRO 470(I)/2007</td>
<td>SRO 666(I)/2005 &amp; SRO 666(I)/2005 &amp;</td>
<td>Permitting manufacturer to adjust excess input tax against output tax liabilities of next three tax periods through adjustment note/advice.</td>
</tr>
<tr>
<td>-do-</td>
<td>SRO 813(I)/2005</td>
<td>Permitting dealers, distributors and wholesalers to adjust excess input tax against output tax liabilities of next three tax periods through adjustment note/advice.</td>
</tr>
</tbody>
</table>

Sales Tax Special Procedures Rules, 2007
SRO 480(I)/2007

By virtue of this notification, the Sales Tax Special Procedures Rules, 2007 are now promulgated repealing the Sales Tax Special Procedures Rules, 2006 with effect from July 01, 2007. The significant amendments in comparison to repealed rules are summarized as under:

Chapter II - Payment of Sales Tax by retailers

- Jewelers shall also be treated as retailers.
- Persons registered as wholesaler as well as retailer shall be treated as wholesalers and the provisions of this Chapter shall not be applicable to such person.
- Chargeability and determination of sales tax:

A retailer operating under these rules shall pay sales tax and income tax at the following rate which shall be construed as the discharge of final tax liability for the purpose of sales tax and income tax. However, in the case of corporate sector retailers the income tax paid shall be treated as withholding tax adjustable against the final income tax liability.

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Annual turnover</th>
<th>Sales tax rate</th>
<th>Income tax rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Upto Rs. 5,000,000</td>
<td>Nil</td>
<td>0.5% of total turnover</td>
</tr>
<tr>
<td>2.</td>
<td>More than Rs. 5,000,000 and upto Rs. 10,000,000</td>
<td>0.5% of turnover which is in excess of Rs. 5,000,000</td>
<td>Rs. 25,000 plus 0.5% of turnover which is in excess of Rs. 5,000,000</td>
</tr>
<tr>
<td>3.</td>
<td>More than Rs. 10,000,000</td>
<td>Rs. 25,000 plus 0.75% of turnover which is in excess of Rs. 10,000,000</td>
<td>Rs. 50,000 plus 0.75% of turnover which is in excess of Rs. 10,000,000</td>
</tr>
</tbody>
</table>

The annual turnover shall constitute value for all supplies including Third Schedule, exemption or zero-rating.

- Payment of sales tax, filing of return and issuance of invoice shall be in following manner:
  - the retailer shall be required to deposit sales tax annually according to the financial year on a payment challan and file income tax return for a financial year by September 30th.
  - The retailers shall issue serially numbered invoice.
Chapter III - Payment of Sales Tax on natural gas

In addition to existing procedure for collection and payment of sales tax on natural gas, procedure has been introduced with regard to the chargeability of sales tax to the CNG stations whereby the gas company shall charge sales tax @ 24% on supply of natural gas to CNG stations which shall include 15% sales tax chargeable at the standard rate and 9% sales tax chargeable in lieu of value addition to be made by CNG stations. In this way, CNG stations are no longer required to be registered.

Sales Tax Rules, 2007

Following rules are either transferred from special procedures to general rules or are newly inserted:

- Special Procedure for Accessing the Computerized System
- Special Procedure for issuance of Electronic Sales Tax Invoices between buyer and sellers.
- Electronic intermediaries

Repealed procedures and rules

By the promulgation of the Special Procedures Rules, 2007 the following special procedures have been repealed:

- Special Procedure for filling of Nil Returns
- Special Procedure for Payment of Sales Tax by Commercial Importer
- Special Procedure for Payment of Sales Tax by Wholesale-Cum-Retail Outlets
- Special Procedure for Payment of Sales Tax by Jewelers
- Special Procedure for Payment of Sales Tax on Food
- Special Procedure for Payment of Sales Tax by Steel Melter and Re-Rollers
- Special Procedure for Payment of Sales Tax by Ship Breaking Industries
- Special Procedure for Payment of Zero-Rated of Hand-Knotted Carpets
- Special Procedure for Payment of Sales Tax by the Advertising Agencies
- Special Procedure for Payment of Sales Tax by Manufacturer of Biscuit and Confectionary
- The Sales Tax Rules, 2005
- The Electronic filing of Sales Tax Returns Rules, 2005
- The Sales Tax Refund on Zero -Rated supply, rules, 2006
The Federal Excise Act, 2005

Definition

Section 2

The Bill seeks to add following significant definitions into the excise law:

- non-fund banking services are specified to cover all non-interest based services provided by banking companies and NBFC’s for consideration in the form of fee;
- sales tax mode to prescribe compliance of the Sales Tax Act, 1990 and rules thereunder for collection and payment of excise duties levied under VAT mode; and
- supply to cover sale, lease and other disposition of goods including other transactions as specified by Federal Government for this purpose.

Liability to pay

Section 3 (5)

The Bill proposes to amend the Federal Excise Act, 2005 on the pattern of the Sales Tax Act, 1990 by specifically providing responsibility to pay duty on following persons:

- manufacturer for goods produced in Pakistan
- importer for goods imported into Pakistan
- service provider for services rendered or provided in Pakistan
- person bringing goods from non-tariff areas to tariff areas

Filing of return and payment of duty

Section 4

The Bill also proposes to consolidate filing of return and payment of duty at one stage i.e. on 15th day of next month. Presently, these two are separate compliances i.e. duty is required to be deposited at the close of the month and return is required to be filed on 15th of next month. The proposed procedure is in line with the sales tax laws.

Time and value for levy

Section 10

The Bill seeks to levy duty on supply of goods instead of current procedure of levy on clearance. However, similar to sales tax law appropriate provisions will also be required with respect to time of supply to cover every eventuality.

Value for purpose of duty

Section 12

With respect to goods chargeable to duty on retail price; the Bill proposes that along with the current provisions of including charges and taxes to price fixed by manufacturer; excise duty should also be included for calculating excise duty i.e. grossed up. This proposal seeks to remove by express provisions the long controversy between duty payers and tax department and to avoid the revenue impact of recently announced Supreme Court judgement.

Recovery of short paid duty

Section 14A

The Bill proposes insertion of new clause to empower recovery without notice of short paid duty as compared to amount indicated on return. It is also proposed that surcharge should also be recovered in similar manner but penalty should not be imposed without show cause notice. The proposed insertion is inline with section 11A of the Sales Tax Act, 1990s
Records Section 17

The Bill seeks to extend the mandatory requirement of records keeping from three years to five years.

Time limit for decision on appeal Section 33

The Bill proposes to prescribe ninety days time limit for decision by the Collector (Appeals). The said limit is extendable to further ninety days subject to recording of reasons in writing by Collector (Appeals).

Alternate dispute resolution Section 38

The Bill seeks to make the concept of alternative dispute resolution more time effective by prescribing thirty days for the Board to constitute committee and sixty days for committee to make recommendations. The time limit for committee is extendable to further sixty days by Board on request of committee.

The Bill also proposes to exclude from the ambit of alternative dispute resolution all such cases where criminal proceedings are initiated or FIR’s are lodged and cases where such interpretation of question of law are involved which in the opinion of CBR have material revenue impact.

First Schedule

Table I- Excisable Goods

The Bill proposes to exempt following items from levy of excise duty

- Motor spirit
- Aviation spirit
- Spirit type jet fuel
- J.P.1
- Other jet fuels
- Petroleum Bitumen
Table II - Excisable Services

- International air traveling

The Bill also seeks to modify the rate of duty on international air traveling by prescribing following rates

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Destination</th>
<th>Economy Class Premier, Club, and economy Plus business and first class</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>New rates</td>
</tr>
<tr>
<td>1.</td>
<td>SAARC region, UAE, (Middle East), Saudi Arabia, Africa, Afghanistan</td>
<td>3,200</td>
</tr>
<tr>
<td>2.</td>
<td>Europe, Far East, China, USA, Canada, Australia, South America, others</td>
<td>4,200</td>
</tr>
</tbody>
</table>

Earlier rates were prescribed for this purpose by SRO 777(I)/2006. Additionally, effective July 1, 2007 notification SRO 469(I)/2007 also caused withdrawal of exemption available to passengers arriving in Pakistan from abroad on tickets issued outside Pakistan. This exemption was earlier provided through SRO 778(I)/2206.

- Non-fund services

The Bill also proposes to extend the scope of levy from banking companies to NBFI's. Additionally, instead of current provision of the Schedule where services are specified; all non-fund services are now proposed to be covered. However, the budget documents entail certain exceptions, such as cheque book issuance charges, Umra and Hajj services charges and utility collection charges which are yet to be covered by legal provisions.

- Exemption

The Bill also seeks to provide exemption from levy of duty to services provided by foreign exchange brokers and authorized dealers

The Bill also suggests exemption to services provided by Cable TV operators, which was levied @ Rs.8 per connection per month. Additionally through notification SRO 467 (I)/2007; exemption to Cable TV operators is granted retrospectively i.e. from July 1, 2006.

Third Schedule

Conditional exemption

The Bill also proposes to withdraw conditional exemption available to Non-aerated beverage concentrates. Additionally, it suggests exemption from duty to life insurance and health insurance, however conditions associated with such exemptions are not prescribed.
The Customs Act, 1969

Maximum duty  
Section 18

The Bill proposes to empower the Federal Government to levy regulatory duty and additional customs-duty also on value determined by the Directorate General of Valuation.

The Bill also seeks to cap the total incidence of customs duty, regulator duty and additional customs-duty to not to exceed the rates agreed by government of Pakistan under multilateral trade agreements.

Levy of fee and service charges  
Section 18D

The Bill proposes to empower to Federal Government to levy fee and service charges in respect of examination, scanning, inspections, sealing and de-sealing, valuation and other services provided by any formation under the control of the Board including public private partnership.

Power to determine custom value  
Sections 25A and 25D

The Bill seeks to provide powers to the Director General of Valuation to determine value of goods specified in First Schedule on his own motion; such powers are currently available to the Collector Customs and to the Director Customs Valuation on reference. The proposed powers include retrospective determination.

The Bill also seeks to restrict pending as well as future referral of valuation matter to the court, unless the dispute is referred to DG Valuation.

Time limit for decision on appeal  
Section 193A

The Bill proposes to prescribe ninety days time limit for decision by the Collector (Appeals); extendable to further ninety days on recording of reasons in writing. The Board is empowered to further extend this time. The Bill also seeks to withdraw powers of the Collector (Appeals) to remand back cases.

Appeal to Tribunal  
Section 194

The Bill proposes to restrict the time limit for rectification of an order by the Appellate Tribunal from three years to one year. It is also suggested to modify the monetary limits prescribed for hearing of appeals by single member or benches of the Tribunal.

Alternate dispute resolution  
Section 38

The Bill seeks to oblige the Board to constitute alternative dispute resolution committee within thirty days of receipt of application. It is also suggested that the time limit for committee's recommendation should be extended to sixty days instead of forty five days.

The Bill also proposes to exclude from the ambit of alternative dispute resolution all such cases where criminal proceedings are initiated or FIR's are lodged and cases where such interpretation of question of law are involved which in the opinion of CBR have material revenue impact.
Records

Section 211

The Bill seeks to extend the mandatory requirement of records retention from three years to five years.

Special Surcharge

Section 220

The Bill proposes to levy special surcharge as additional customs-duty on import of all goods specified in the First Schedule at the rate of 1%. The following are salient features of the proposal:

- additional duty will not constitute value of goods for the purposes of sales tax;
- the Federal Government is empowered to provide exemption from this levy;
- exemption from customs duty will not be applicable to proposed levy;
- following items are proposed to be exempted from the levy;
- goods classifiable in chapter 07.
- Edible oils and fats
- Petroleum oils and oils obtained from bituminous minerals, crude
- Motor spirit
- Aviation spirit
- High speed diesel oil
- Furnace oil
- Pharmaceutical products
- Fertilizers
- Temporary importation under DTRE Scheme and imports under manufacturing bonds scheme.

Amnesty

SRO. 485(I)/2007

By virtue of aforesaid notification an amnesty is provided in respect of fines, penalties and surcharge if principal amount of customs duty is paid by June 30, 2007. However, said amnesty is not available in respect of vehicles falling under Chapter 87 of Pakistan customs Tariff and in cases where criminal proceedings have are already been initiated.
Other Laws

The Banking Companies Ordinance, 1962

Definitions

- Definition of "Banking Companies" has been enhanced to include branches and subsidiaries of Pakistan incorporated banking companies, functioning outside Pakistan.

- Definition of "company" has been enhanced to include branch of a foreign banking company doing business in Pakistan under a license from State Bank of Pakistan.

- New definition added for "foreign banking company".

Forms of business in which banking companies may engage

- The State Bank shall now ascertain any other business to be lawful for a banking company, whereas previously Federal Government was empowered to do so.

Regulation of capital and voting rights of shareholders

- Non-cumulative preference shares may now form part of capital of the banking company in addition to ordinary share capital.

Restrictions as to payment of dividends

- An express provision has been added whereby a banking company is eligible to pay dividend out of profits if it meets certain conditions related to capital adequacy, minimum capital requirements, capitalized expenses, goodwill, etc to the satisfaction of the auditors.

Audit

- Panel of auditors maintained by State Bank shall now be classified in different categories for different banking companies keeping in view the scope and size of such banking companies.

- State bank, if not satisfied with the performance of the auditor, has further been empowered to: a) revoke the appointment of auditors, b) downgrade the category in panel of auditors or, c) remove the name of auditors from the panel of auditors for banking companies for a maximum period of five years.

Procedure for amalgamation of banking companies

- A foreign banking company may provide a certificate issued by its head office approving a scheme of amalgamation, if a meeting of shareholders of the said foreign banking company has not been convened.
Terms and conditions of the banking Mohtasib

• Additional powers and responsibilities have now been vested in the banking Mohtasib to receive evidence on affidavits and issuing commission for examination of witnesses.

• The banking Mohtasib shall not entertain any application that has already been disposed off by State Bank or any court before commencement of Banking Companies (Amendment) Act, 2007.

Procedure for making complaints

• The banks are now required to respond to the intimation given by a complainant within 45 days. If the bank does not respond satisfactorily, the complainant may proceed with complain within a period of 45 days from the lapse of time available to the bank for responding. These time periods have been curtailed to 45 days from three months.

Exchange of information

• Banking companies may now exchange information on confidential basis with any person providing credit information services. Previously such exchange was only possible with Pakistan Banking Council.

Disclosure of information

• New section has been inserted requiring banking companies to disclose information on confidential basis to State Bank of Pakistan.

• The banking company shall forthwith report to State Bank of Pakistan in case grounds for suspicion arise giving details in respect of identity of person involved, transaction or any other circumstances.

Disclosure of information liable to punishment

• Any person who commits any act which is prejudicial to any investigation into any offence of money laundering or funding of terrorism or terrorists shall be penalized with imprisonment and financial penalty.

The Companies Ordinance, 1984

Prohibition of purchase or grant of financial assistance by a company for purchase of its own or its holding company’s shares

• A subsidiary has now been allowed to purchase shares of its holding company in the ordinary course of its brokerage business. However, it shall not be entitled to exercise voting rights attached to these shares.

Annual general meeting

• Time for holding AGM and presenting annual audited accounts before the members has been further curtailed to three months from four months. Extension may be granted upto a maximum period of one month.
Fresh election of directors on request of substantial acquirer

- Fresh election of directors may now be requisitioned by a person holding at least 12.5% voting shares in a listed company. Such person shall not dispose off his shareholding for at least one year after the meeting at which fresh election has been carried out.

Certain companies to have secretaries

- A new requirement for all listed companies to have independent Share Registrars.

Investment in associated companies and undertakings

- Applicability of restriction on investments in associated companies and undertakings has now been extended on banking companies, financial institution, private companies and companies having their primary business as dealing in securities.

Special audit

- A special audit may now be instigated by Commission on its own motive or on requisition by members holding at least 20% of voting power in the company

Copy of balance sheet to the forwarded to the registrar

- Private companies with paid up share capital of Rs. 7.5 million or more are now required to submit their annual audited accounts to the registrar within thirty days of holding of AGM.

Certain restriction on declaration on dividend

- Express restriction has now been placed on declaration or payment of dividend out of unrealized gain on investment property.

Qualification and disqualification of auditors

- One of the disqualifications of a person to act as auditor of a company was his / her indebtedness to the company. For this purpose, the person would not be deemed indebted, and hence disqualified, if:
  - The person owes upto Rs. 500,000 to the company as credit card dues
  - The person owes utilities dues to the company, and such dues are owed for a period not more than ninety days.

Application of this part

- Introduction of "Notified Entities". These are entities notified by the Commission to which provisions of the ordinance related to NBFCs is applicable. Such notified entities are required to be registered with the Commission and shall be treated in the manner prescribed for NBFCs.
Rehabilitation of NBFCs and notified entities

- Concept of "Rehabilitation of NBFCs and notified entities" has been introduced through a new section in the ordinance. Legal requirements and practical guidance are on the same lines as "Rehabilitation of Sick Industrial Units" with the exception that Commission, instead of Federal Government, has been empowered to implement and monitor the rehabilitation activities.

The Federal Board of Revenue Act, 2007

The new Act, Federal Board of Revenue Act, 2007 proposes to substitute the provisions of the Central Board of Revenue Act, 1924 (IV of 1924).

Establishment of the Federal Board of Revenue

The new Act proposes to establish a board to be called the Federal Board of Revenue, which shall consist of not less than seven members to be appointed by the Federal Government.

The Board shall meet at least six times in a year and a special meeting of the Board may be convened on the request of any member.

Powers and functions of the Board

Under the new proposed Act the Board shall exercise powers and perform all such functions that are necessary to achieve the objects and purposes of this Act.

Delegation of functions and powers by the Board

The new proposed Act allows the Board to, subject to such conditions as it deems necessary, delegate any of its functions and powers to any government agency, Chairman or any member or employee duly appointed under this Act.

Validity of proceedings

No act proceeding, decision or order of the Board or a committee of the Board shall be invalid by reason only of the existence of vacancy in, or any defect in the constitution of, the board or any committee.

Budget and accounts of the Board

The Board shall, in respect of each financial year, in accordance with the prescribed financial procedure, prepare its accounts of the receipts and payments and budget estimates and submit the same to the Finance Division for further process.

Once the budget has been approved, the Board shall have the full powers to incur expenditure, or re-appropriate funds, subject to any general or specific instructions that the Finance Division or any other competent forum or authority may from time to time issue in this regard.

The Board shall maintain its accounts in accordance with the procedure prescribed by the Controller General of Accounts and such accounts shall be audited by the Auditor-General of Pakistan.
The Board shall provide an annual financial report to the Federal Government.

Properties and assets, etc., to vest in the Board

The proposed new Act vests all properties, assets and records which, before the commencement of this Act, were vested in or belonged or allocated to the Central Board of Revenue and shall become the property of the Federal Board of Revenue from the commencement of this Act.

The Securities and Exchange Commission of Pakistan Act, 1997 (XLII of 1997)

It is proposed that the Policy Board of the Securities and Exchange Commission of Pakistan shall consist of ten members instead of nine members.

The proposed amendment that the Finance Minister or, as the case may be, the Adviser to Prime Minister on Finance shall be the Chairman of the Board who shall, in the event of a tie, have a casting vote.

The new sub-section is proposed to be inserted in the section 20, sub-section (4), whereby the Commission shall be responsible for regulating professionals who provide services within the financial services markets.

The section 33, sub-section (1), is proposed to be substituted, namely:

Except as otherwise provided any person aggrieved by an order of the Commission passed by one Commissioner or an officer authorized in this behalf by the Commission, may within thirty days of the order, prefer an appeal to an Appellate Bench of the Commission constituted under sub-section (2):

Provided that no appeal shall lie against:

a. an administrative direction given by a Commissioner or an officer of the Commission;

b. an order passed in exercise of the powers of revision or review;

c. a sanction provided or decision made by a Commissioner or an officer of the Commission to commence legal proceedings in a court of law; and

d. an interim order which does not dispose of the entire matter."

The new proposed section, "Penalty for violation of rules and regulations" is proposed to be inserted that any rule made under section 39 or regulation made under section 40 may provide that a contravention thereof shall be punishable with a fine which may extend to ten million rupees and, where the contravention is a continuing one, with a further fine which may extend to one hundred thousand rupees for every day after the first during which such contravention continues. A fine shall be imposed by the Commission after providing a reasonable opportunity of being heard to the party.

The new proposed section, "Power of the Commission to issue directives, circulars, guidelines, etc." is proposed to be inserted that Commission shall have the power to issue such directives, codes, guidelines, circulars or notifications as are necessary to carry out the purposes of this Act, the rules and regulations made there under and all laws administered by it.
The Insurance Ordinance, 2000 (XXXIX of 2000)

Admissible assets are determined for the purpose of solvency which is a primary concern of a regulator. It is definitely not prudent that an asset is automatically treated admissible just because it is not included in the list of in-admissible list.

After amending Section 32(1) (c) it is necessary that commission has the power to declare an asset an admissible if it feels that the assets is secured enough to be treated as admissible.

The following new sub-section is proposed to be inserted after section 59, sub-section (3), namely:

4. Power of the Commission to undertake on-site inspection of insurance companies:-

a. The Commission may undertake on-site inspections of an insurer to ensure that the requirements of sound and prudent management are being fulfilled by the insurer and the insurer is complying with the requirements of the ordinance and the rules made there under.

b. On-site inspections shall be conducted with such frequency as the commission may deem appropriate.

c. All officers and agents of the company, including lawyers, auditors and actuaries shall supply all information, documents and assistance that may be required by the Commission in the course of the inspection.

d. The inspectors shall have the right to enter any company premises during conduct of the inspections, and may search, seize, take possession of any record, object, article, material whether electronic or otherwise, account books or other documents, including any travel or other personal documents which may be used as evidence.

e. Except where the Commission believes that the record may be destroyed by the insurer, the Commission shall give two week written notice to the insurer before undertaking an on-site inspection.

To protect the interest of the policyholder, it is necessary that SECP has powers to intervene and remove an unfit or improper CEO or Director.

Presently, powers are confused between SECP and Tribunal and it has to be clarified that Tribunal is an Appellate Body and not the trial body

It is proposed to insert that the Commission shall have the power to levy fine. The Commission must have a clear power of levying fine for effective supervision.

It is proposed that only the fine would be imposed by the Commission.
The Workmen's Compensation Act, 1923.  
(Act No. VIII of 1923)

The proposed amendment in Workmen's Compensation Act 1923. (Act No. VIII of 1923) seeks to remove monthly wages ceiling of Rs. 6000 for entitlement to compensation in cases of permanent disablement or death of an industrial workers.

The employee on monthly wages not exceeding three thousand rupees" shall be omitted from the definition of "workman".

The Companies Profits (Workers' Participation Act, 1968 (Act No. XII of 1969)

The proposed amendment in the Companies Profits (Workers' Participation Act, 1968 (Act No. XII of 1969) seeks to abolish wage limit of Rs.10,000 per month for entitlement of share from the Workers Profits Participation Fund. Also maximum share limit is proposed to be enhanced to Rs.18,000.

The Minimum Wage for Unskilled Workers Ordinance, 1969 (Ordinance No.XX of 1969)

The proposed amendment in the Minimum Wage for Unskilled Workers Ordinance, 1969 (Ordinance No.XX of 1969) seeks to increase minimum threshold of wages for unskilled workers from Rs. 4,000 to Rs. 4,600.

The Employees Old-Age Benefits Act, 1976  
(Act No. XII) of 1976)

The proposed new provision to be inserted in the Employees Old-Age Benefits Act, 1976 (Act No. XII) of 1976) is that the monthly rate of old-age pension, invalidity pension and survivors pension being paid on or before first day of July, 2007, shall be increased by fifteen per cent. Pension shall be calculated on the basis of last minimum wage and not on the average wage of last 12 months.

It is proposed to allow pension of the deceased to the surviving spouse where the deceased contributed to EOBI in addition to his/her own pension and also removal of discrimination for widow to get pension as per entitlement and not minimum pension.


The proposed amendment in the Finance Act, 1989 (V of 1989) seeks to exempt revocable and time bound (not exceeding 60 days) Power of Attorney between spouses, parents, grand parents, brothers and sisters from charge of CVT. Further it is also proposed to omit levy of CVT on imported motor cars.
The Microfinance Institutions Ordinance, 2001
(LV of 2001)

The proposed amendment seeks to enable Microfinance Institutions to receive foreign currency remittances from overseas Pakistani workers for their beneficiaries in Pakistan and also promote development of low cost delivery channel for remittances market in rural and remote areas.

The proposed amendment seeks to empower the State Bank to determine the amount of minimum paid-up capital based on the sector development requirements.

The Payment Systems and Electronic Fund Transfers Act, 2007

The proposed new Act, The Payment System and Electronic Fund Transfer Act, 2007 seeks powers for the State Bank to regulate the payment systems and designation / revocation of designation of Payment System.

Real Time Gross Settlement (RTGS) System

The State Bank may establish and operate one or more Real Time Gross Settlement Systems for the transfer of funds and settlement of payment obligations as approved by it.

Requirement for Retention of Electronic Record

The financial institutions or other Authorized Parties providing funds transfer facility shall be required to retain complete record of electronic transactions in electronic form in the same manner as provided in section 6 of the Electronic Transactions Ordinance, 2002 (LI of 2002) for a period as may be determined by the State Bank.
Karachi:
Tax and Business Assurance Services
1st & 3rd Floor, Modern Motors House
Beaumont Road, Karachi-75530
Tel: +92 21 5687096, 5672951-56
Fax: +92 21 5688834

Specialist Advisory Services:
2nd Floor, Plot No. 23-E,
2nd Zamzama Commercial Lane,
(E- Street), Phase V,
Defence Housing Authority, Karachi.
Tel: +92 21 5822641-2, 5876418
Fax: +92 21 5875872

Islamabad:
1st Floor, 2 Ali Plaza,
Jinnah Avenue, Blue Area, Islamabad.
Tel: +92 51 2271906-2273883-2274665
Fax: +92 51 2273874

Lahore:
1-Inter Floor, Eden Centre
43-Jail Road, Lahore.
Tel: +92 42 7590214-6
Fax: +92 42 7599023

www.aasr.com.pk