

**Dear CAF 7 Students,**

**These notes are a summarized version of STUDY TEXT by ICAP.**

**These notes are mainly for revision purposes.**

**Do not wholly and solely depend on them.**

**It has a coverage of tax year 2015 - 2016.**

**Good luck for your exams.**

**Regards,**

**Sanam Alam**

# 1. System of taxation in Pakistan

## 1.1 Definition

It is a means for the government in increasing its revenue under the authority of the law, purposely used to promote welfare and protection of its citizenry.

## 1.2 Non-revenue objectives

- For collection of revenue to run and administer the Government;
- To use as a tool for implementation of its policies
- For fair distribution of wealth.
- Granting them tax exemptions or other conditions or incentives for growth;
- To protect local industries against foreign competition
- As a bargaining tool in trade negotiations with other countries;
- To counter the effects of inflation or depression;
- To reduce inequalities in the distribution of wealth;
- To promote science and invention, finance educational activities
- To eliminate discrimination among various elements in the markets/businesses.
- To discourage certain undesirable sectors and activities

## 1.3 Illustration



### Illustration: Objectives of Taxation Laws

Explain what are the objectives of following tax laws:

Tax Law	Objective
Tax on salary income	Revenue Collection
Any amount transferred otherwise than banking channel will be deemed as income	Documentation of economy
Tax on moveable assets of the taxpayers	Fair distribution of wealth
Higher taxes on import of luxury goods	Reduction in imports of unnecessary goods and create good balance of trade
Allowability of expenditure of research & developments	Promotion of research & developments
Zero rating on Exports, reduced rates of taxes on imports	Promotion of Exports
Tax credit on Donations to approved institutions	To promote culture of payment of donation to only organised and regulated institutions
Tax credit on investments	Promote investments in listed companies
Tax exemptions to software exports	Promote software Industry

#### 1.4 Taxes as means for development

- Provide incentives to attract business men which in return bring employment, opportunities and overall prosperity in under developed areas.
- Taxing the rich at higher rates while taxing the low income groups at lower tax rates.
- To promote local manufacturers and industry by application of high custom duty rates
- Tax credits on charity/donations to promote welfare activities.
- Tax exemptions to charity organisation/educational institutions to promote these activities.
- Tax incentives for agro based projects to promote agriculture.

#### 2.1 Canons of Taxation:

- **Equality Tax**
- **Certainty Tax** (liabilities should be clear and certain)
- **Convenience of payment of taxes**
- **Economy of collection** (Taxes should not be expensive to collect)

#### 2.2 Principles for levy of tax

Following are some broad principles for levy of taxes:

- **The Benefit Principle** (taxes should be paid by those people who receive the direct benefit of government programs and projects out of the taxes paid)
- **The Ability-to-Pay Principle** (those with greater income or wealth who can afford to pay should be taxed)
- **The Equal-Distribution Principle** (people who earn more and spend more should pay more taxes, but not pay a higher rate of tax)

#### 2.3 Structure of taxes

- **Proportional tax/Flat tax**  
A tax system that requires the same percentage of income from all taxpayers. Taxpayers with higher incomes pay higher tax rates than taxpayers with lower incomes.
- **Regressive tax**  
A tax that takes a larger percentage from a person's low-income than from another person's high-income. It hits lower-income individuals harder.
- **Progressive tax**  
A tax that takes a larger percentage from high-income earners than it does from low-income earners. The more one earns, the more tax he would have to pay.

## 2.4 Characteristics of tax laws

- It is enforced contribution. Its payment is not voluntary in nature.
- It is generally payable in cash.
- It is proportionate in character. Payment of taxes should be based on the ability to pay.
- It is levied on income, transactions or property, acts, rights or privileges.
- It is levied by the state which has jurisdiction over the person or property
- It is levied by the law making body of the state.
- It is levied for public purposes.
- The sources of revenue should be sufficient to meet the expenditures of the government
- Equality. Taxes levied must be based upon the ability of the citizen to pay.
- Administrative Feasibility
  - Tax should be clear and plain to taxpayers
  - capable of enforcement by an adequate and well-trained public officials
  - convenient as to the time and manner of payment
  - Not unduly burdensome to discourage business activity.
- Consistency or Compatibility with Economic Goals

## 2.5 Forms of escape from taxation

### • Shifting

It is a way of passing the burden of tax from one person to another.

**For example:** Taxes paid by the manufacturer may be shifted to the consumer by adding the amount of the tax paid to the price of the product.

#### Kinds of Shifting

- **Forward shifting:** burden of the tax is transferred from a factor of the production to the factor of distribution.
  - **Backward shifting:** burden of tax is transferred from the consumer to the producer or manufacturer.
  - **Onward shifting:** tax is shifted two or more times either forward or backward.
- 
- **Capitalization**

Capitalization refers to how asset value is changed when the cash flow is changed by an increase or decrease in the tax liability for that asset

**For example:** A reduction made by the seller on the price of the real estate, in anticipation of the future tax to be shouldered by the future buyer.
  - **Transformation**

Occurs when the manufacturer or producer upon whom the tax has been imposed, pays the tax and make up for himself by improving his process of production.
  - **Tax Exemption**

The granting of immunity or freedom from a financial charge or obligation.

#### Grounds for tax exemption:

- Contract, wherein the government is the contracting party
- Public policy
- Reciprocity

## 2.6 Strategies of taxation management to lessen tax burden

- **Tax avoidance**
  - Legal exploitation of tax
  - To reduce the amount of tax by means that are within the law whilst making a full disclosure to the tax authorities.
  - Examples: tax deductions, changing one's business structure through incorporation or establishing an offshore company in a tax haven.
- **Tax evasion**
  - Efforts by individuals, firms, trusts and other entities to evade the payment of taxes by illegal means.  
Taxpayers deliberately misrepresent or conceal the true state of their affairs to the tax authorities to reduce their tax liability.
  - Examples: declaring income, profits or gains; or overstating deductions

## 3.1 Direct and indirect taxes

### DIRECT TAXES

- **Income Tax**
  - It is Levied on the net income of a taxpayer earned during a tax year
  - It is Computed by applying the specified tax rates as applicable to respective taxpayer.
  - All income is classified under the following heads:
    - Salary
    - Income from property
    - Income from business
    - Capital gains; and
    - Income from other sources

- **Capital Value Tax**

Capital value tax is levied on different transaction such as transfer of immoveable property, transfer of rights etc.

### INDIRECT TAXES

- **Custom Duty Goods**
  - Goods imported and exported from Pakistan are liable to rates of customs duties as prescribed in Pakistan Customs Tariff.
  - The rate structure of customs duty is determined by a large number of socio-economic factors.
  - Import duties on industrial plants and machinery and raw material lower than those on consumer goods.

### **Federal Excise Duty**

- Levied on a limited number of goods produced or manufactured, and services provided or rendered.
- On most of the items, Federal Excise duty is charged on the basis of value or retail price and some on the basis of weight or quantity.
- Classification of goods is done in accordance with the Harmonized Commodity Description and Coding system.
- All exports are liable to Zero per cent Federal Excise Duty.

- **Sales Tax**

- Sales tax is levied at various stages of economic activity at the rate of 17 per cent on:
  - All goods imported into Pakistan, payable by the importers
  - All supplies made in Pakistan by a registered person in the course of any business carried on by him;

### **3.2 Tax reliefs in cross border transactions**

- **Unilateral Relief**

- A person resident in Pakistan is entitled to a relief in tax on any income earned abroad, if such income has already been subjected to tax outside Pakistan.
- Proportionate relief is allowed on such income at an average rate of tax in **Pakistan** or **abroad**, whichever is lower.

- **Agreement for avoidance of double taxation and fiscal evasion with respect to Taxes**

The Government of Pakistan has so far signed agreements to avoid double taxation with more than 50 countries including almost all the developed countries of the world.

## **2. Constitutional Provisions On Taxes**

### **1.2 Federal consolidated fund and public account**

- All revenues received by the Federal Government
- all loans raised by that Government
- all monies received by it in repayment of any loan;

Shall form part of a consolidated fund, to be known as the Federal Consolidated Fund.

All other monies:

- Received by or on behalf of the Federal Government
- Received by or deposited with the Supreme Court
- Any other court established under the authority of the Federation;

Shall be credited to the Public Account of the Federation.

### **1.3 Custody of federal consolidated fund and public account**

- The custody of the Federal Consolidated Fund,
- the payment or monies into that Fund,
- the withdrawal of monies there from,
- the custody of other monies received by or on behalf of the Federal Government,
- payment of other monies
- withdrawal of other monies from the Public Account of the Federation,
- and all matters connected with or ancillary to the matters aforesaid

Shall be regulated by:

- Act of Majlis-e-Shoora (Parliament) or,
- Until provision in that behalf is so made, by rules made by the President.

### **1.4 Annual budget statement**

- The Federal Government shall lay estimated receipts and expenditure (Annual Budget Statement) to National Assembly.
- The Annual Budget Statement shall show separately:
  - the sums required to meet expenditure to be charged upon the Federal Consolidated Fund; and
  - the sums required to meet other expenditure proposed to be made from the Federal Consolidated Fund; and
  - shall distinguish expenditure on revenue account from other expenditure.

### **1.5 Expenditure charged upon federal consolidated fund**

- the remuneration payable to the President and other expenditure relating to his office
- the remuneration payable to-
  - the Judges of the Supreme Court and the Islamabad High Court
  - the Chief Election Commissioner;

- [?] the Chairman and the Deputy Chairman;
- [?] the Speaker and the Deputy Speaker of the National Assembly;
- [?] the Auditor-General;
- The administrative expenses, including the remuneration payable to
  - officers and servants, of the Supreme Court, the Islamabad High Court,
  - the department of the Auditor-General,
  - the Office of the Chief Election Commissioner and
  - of the Election Commission and the Secretariats of the Senate and the National Assembly;
- All debt charges for which the Federal Government is liable,
  - including interest,
  - sinking fund charges,
  - the repayment or amortisation of capital,
  - and other expenditure in connection with the raising of loans, and
  - the service and redemption of debt on the security of the Federal Consolidated Fund;
- Any sums required to satisfy any judgment, decree or award against Pakistan by any court or tribunal; and
- Any other sums declared by the Constitution or by Act of Majlis-e-Shoora (Parliament) to be so charged.

#### **1.6 Procedure relating to annual budget statement**

- Annual Budget Statement related to expenditure charged upon the Federal Consolidated Fund may be discussed, but shall not be submitted to the vote of, the National Assembly.
- [?] So much of the Annual Budget Statement as relates to other expenditure shall be submitted to the National Assembly in the form of demands for grants, and the Assembly shall have power to
  - assent to, or
  - to refuse to assent to, any demand, or
  - to assent to any demand subject to a reduction of the amount specified therein;
- [?] Provided that, for a period of ten years
  - from the commencing day or
  - the holding of the second general election to the National Assembly,

whichever occurs later, a demand shall be deemed to have been assented to without any reduction of the amount specified therein, unless, by the votes of a majority of the total membership of the Assembly, it is refused or assented to subject to a reduction of the amount specified therein.

- [?] No demand for a grant shall be made except on the recommendation of the Federal Government.

### **1.7 Authentication of schedule of authorised expenditure**

1) The Prime Minister shall authenticate by his signature, a schedule specifying:

- a) The grants made or deemed to have been made by the National Assembly
- b) The several sums required to meet the expenditure charged upon the Federal Consolidated Fund but not exceeding, in the case of any sum, the sum shown in the statement previously laid before the National Assembly.

2) The schedule so authenticated shall be laid before the National Assembly, but shall not be open to discussion or vote thereon.

3) Subject to the Constitution, no expenditure from the Federal Consolidated Fund shall be deemed to be duly authorised unless it is specified in the schedule so authenticated and such schedule is laid before the National Assembly

### **1.8 Supplementary and excess grants**

If in respect of any financial year it is found:

- [?] that the amount authorized to be expended for a particular service insufficient, or that
- a need has arisen for expenditure upon some new service not included in the Annual Budget Statement for that year; or
- [?] that any money has been spent on any service during a financial year in excess for that service

The Federal Government shall have power to authorize expenditure from the Federal Consolidated Fund, and shall cause to be laid before the National Assembly

- a Supplementary Budget Statement or
- an Excess Budget Statement,

Setting out the amount of that expenditure.

### **1.9 Votes on account & 1.10 Power to authorise expenditure when assembly stands dissolved**

- The National Assembly shall have power to make any grant in advance in respect of the estimated expenditure for a part of any financial year,
- not exceeding four months,
- Pending completion of the procedure for the voting of such grant and the authentication of the schedule of authorized expenditure.

### 1.11 Secretariats of Majlis-e-Shoora (Parliament)

- ☐ Each House shall have a separate Secretariat:
- ☐ Provided that nothing in this clause shall be construed as preventing the creation of posts common to both Houses.
- ☐ Majlis-e-Shoora (Parliament) may by law regulate the recruitment and the conditions of service of persons appointed to the Secretarial staff of either House.
- ☐ Until provision is made by
  - Majlis-e-Shoora (Parliament)
  - the Speaker or,
  - the Chairman may, with the approval of the President,

Make rules regulating the recruitment and the conditions of service, of persons appointed to the secretarial staff of the National Assembly or the Senate.

### 1.12 Finance committees

- ☐ The expenditure of the National Assembly and the Senate shall be controlled by
  - the National Assembly or,
  - the Senate acting on the advice of its Finance Committee.
- ☐ The Finance Committee shall consist of
  - the Speaker or,
  - the Chairman,
  - the Minister of Finance and
  - such other members as may be elected thereto
    - by the National Assembly or
    - the Senate.
- ☐ The Finance Committee may make rules for regulating its procedure

### 2.1 Provincial consolidated fund and public account [Article 118]

- All revenues received by the Provincial Government,
  - all loans raised by that Government, and
  - all revenues received by the Provincial Government,
  - all loans raised by that Government, and
  - all monies received by it in repayment of any loan,
- shall form part of a consolidated fund, to be known as the Provincial Consolidated Fund.

All other monies:

- ☐ received by or on behalf of the Provincial Government; or
  - ☐ Received by or deposited with the High Court or any other court established under the authority of the Province;
- shall be credited to the Public Account of the Province.

### 2.3 Custody of provincial consolidated fund and public account [Article 119]

- The custody of the Provincial Consolidated Fund,
- the payment of moneys into that Fund,

- the withdrawal of monies therefrom,
  - the custody of other monies received by or on behalf of the Provincial Government,
  - their payment into, and
  - withdrawal from,
  - the Public Account of the Province, and
  - all matters connected with or ancillary to the matters aforesaid,
- shall be regulated by Act of the Provincial Assembly or, until provision in that behalf is so made, by rules made by the Governor.

#### 2.4 Annual budget statement [Article 120]

The Provincial Government shall, in respect of every financial year, cause to be laid before the Provincial Assembly a statement of the estimated receipts and expenditure of the Provincial Government for that year

☐ The Annual Budget Statement shall show separately:

- ☐ The sums required to meet expenditure
- ☐ The sums required to meet other expenditure

and shall distinguish expenditure on revenue account from other expenditure.

#### 2.5 Expenditure charged upon provincial consolidated fund. [Article 121] ¶

☐ The following expenditure shall be expenditure charged upon the Provincial Consolidated Fund:

- The remuneration payable to the Governor and other expenditure relating to his office, and the remuneration payable to:
  - the Judges of the High Court; and
  - the Speaker and Deputy Speaker of the Provincial Assembly;
  - the administrative expenses, including the remuneration payable to officers and servants, of the High Court and the Secretariat of the Provincial Assembly;
- all debt charges for which the Provincial Government is liable, including interest, sinking fund charges, the repayment or amortization of capital, and other expenditure in connection with the raising of loans, and the service and redemption of debt on the security of the Provincial Consolidation Fund.
- any sums required to satisfy any judgment, decree or award against the Province by any court or tribunal; and
- Any other sums declared by the Constitution or by Act of the Provincial Assembly to be so charged.

## 2.6 Procedure relating to annual budget statement [Article 122] ¶

- ❑ Annual Budget Statement as relates to expenditure charged upon the Provincial Consolidated Fund may be discussed in, but shall not be submitted to the vote of, the Provincial Assembly.
- ❑ Annual Budget Statement as relates to other expenditure shall be submitted to the Provincial Assembly in the form of demands for grants, and that Assembly shall have power to
  - assent to, or
  - to refuse to assent to, any demand, or
  - to assent to any demand subject to a reduction of the amount specified therein:
- ❑ No demand for a grant shall be made except on the recommendation of the Provincial Government.

## 2.7 Authentication of schedule of authorised expenditure [Article 123]

1) The Chief Minister shall authenticate by his signature a schedule specifying:

- ❑ that the amount authorized to be expended is insufficient, or that a need has arisen for expenditure upon some new service not included in the Annual Budget Statement for that year; or
- ❑ that any money has been spent on any service during a financial year in excess of the amount granted for that service for that year;

The Provincial Government shall have power to authorize expenditure from the Provincial Consolidated Fund, whether the expenditure is charged by the Constitution upon that Fund or not, and shall cause to be laid before the Provincial Assembly a Supplementary Budget Statement or, as the case may be, an Excess Budget Statement, setting out the amount of that expenditure.

- a) the grants made or deemed to have been made by the Provincial Assembly
  - b) The several sums required to meet the expenditure charged upon the Provincial Consolidated Fund but not exceeding, in the case of any sum, the sum shown in the statement previously laid before the Assembly.
- 2) The schedule so authenticated shall be laid before the Provincial Assembly, but shall not be open to discussion or vote thereon.
- 3) Subject to the Constitution, no expenditure from the Provincial Consolidated Fund shall be deemed to be duly authorized unless it is specified in the schedule so authenticated and such schedule is laid before the Provincial Assembly

## 2.9 Votes on account [Article ¶ 125] ¶

the Provincial Assembly shall have power to make any grant in advance in respect of the estimated expenditure for a part of any financial year, not exceeding three months, pending completion of the procedure or the voting of such grant and the authentication of the schedule of expenditure.

## 2.10 Power to authorise expenditure when assembly stands dissolved [Article 126]¶

when the Provincial Assembly stands dissolved, the Provincial Government may authorize expenditure from the Provincial Consolidated Fund in respect of the estimated expenditure for a period not exceeding four months in any financial year, pending completion of the procedure for the voting of grants and the authentication of the schedule of authorized expenditure

## 2.11 Provisions relating to provincial assembly, etc., to apply to provincial assembly, etc. [Article 127]¶

- ❑ Any reference in those provisions to Majlis-e-Shoora (Parliament), a House or the National Assembly shall be read as a reference to the Provincial Assembly;
- ❑ Any reference in those provisions to the President shall be read as a reference to the Governor of the Province;
- ❑ any reference in those provisions to the Federal Government shall be, read as a reference to the Provincial Government;
- ❑ any reference in those provisions to the Prime Minister shall be read as a reference to the Chief Minister.
- ❑ any reference in those provisions to a Federal Minister shall be read as a reference to a Provincial Minister.
- ❑ any reference in those provisions to the National Assembly of Pakistan shall be read as a reference to the Provincial Assembly in existence immediately before the commencing day

## National Finance Commission [Article 160]

- 1) Within six months of the commencing day and thereafter at intervals not exceeding five years, the President shall constitute a National Finance Commission consisting of the Minister of Finance of the Federal Government, the Ministers of Finance of the Provincial Governments, and such other persons as may be appointed by the President after consultation with the Governors of the Provinces
- 2) It shall be the duty of the National Finance Commission to make recommendations to the President as to:
  - a) the distribution between the Federation and the Provinces of the net proceeds of the taxes
  - b) the making of grants-in-aid by the Federal Government to the Provincial Governments;
  - c) the exercise by the Federal Government and the Provincial Governments of the borrowing powers conferred by the Constitution; and
  - d) Any other matter relating to finance referred to the Commission by the President.
- 3) The taxes referred to in are the following taxes raised under the authority of Majlis-e-Shoora (Parliament), namely:
  - a) taxes on income, including corporation tax, but not including taxes on income consisting of remuneration paid out of the Federal Consolidated Fund;

- b) taxes on the sales and purchases of goods imported, exported, produced, manufactured or consumed;
  - c) export duties on cotton, and such other export duties as may be specified by the President;
  - d) export duties on cotton, and such other export duties as may be specified by the President;
  - e) such duties of exercise as may be specified by the President; and
  - f) Such other taxes as may be specified by the President.
- 4) The share of the Provinces in each Award of National Finance Commission shall not be less than the share given to the Provinces in the previous Award.
  - 5) The Federal Finance Minister and Provincial Finance Ministers shall monitor the implementation of the Award biannually and lay their reports before both Houses of Majlis-e-Shoora (Parliament) and the Provincial Assemblies.
  - 6) As soon as may be after receiving the recommendation, of the National Finance Commission, the President shall, by Order, specify, in accordance with the recommendations of the Commission under paragraph (a) of clause (2), the share of the net proceeds of the taxes mentioned in clause (3) which is to be allocated to each Province, and that share shall be paid to the Government of the Province concerned, and, notwithstanding the provision of Article 78 shall not form part of the Federal Consolidated Fund.
  - 7) The recommendations of the National Finance Commission, together with an explanatory memorandum as to the action taken thereon, shall be laid before both Houses and the Provincial Assemblies.
  - 8) At any time before an Order under clause (4) is made, the President may, by Order, make such amendments or modifications in the law relating to the distribution of revenues between the Federal Government and the Provincial Governments as he may deem necessary or expedient.
  - 9) The President may, by Order, make grants-in-aid of the revenues of the Provinces in need of assistance and such grants shall be charged upon the Federal Consolidated Fund.

### 3.33. Natural gas and hydro-electric power [Article 161]1

- ☐ Notwithstanding the provisions of Article 78:
  - the net proceeds of the Federal duty of excise on natural gas levied at well-head and collected by the Federal Government and of the royalty collected by the Federal Government, shall not form part of the Federal Consolidated Fund and shall be paid to the Province in which the well-head of natural gas is situated;
  - the net proceeds of the Federal duty of excise on oil levied at well-head and collected by the Federal Government, shall not form part of the Federal Consolidated Fund and shall be paid to the Province in which the well-head of oil is situated.
- ☐ the net profits earned by the Federal Government, or any undertaking established or administered by the Federal Government from the bulk generation of power at a hydro-electric station shall be paid to the Province in which the hydro-electric station is situated.
- ☐ Explanation for the purposes of this clause "net profits" shall be computed by deducting from the revenues accruing from the bulk supply of power from the bus-

3.4

bars of a hydro-electric station at a rate to be determined by the Council of Common Interests, the operating expenses of the station, which shall include any sums payable as taxes, duties, interest or return on investment, and depreciations and element of obsolescence, and over-heads, and provision for reserves.

### 3.4 Prior sanction of President to Bills affecting taxation in I which provinces are interested I [Article 162] II

No Bill or amendment which imposes or varies a tax or duty the whole or part of the net proceeds whereof is assigned to any province, or which varies the meaning of the expression "agricultural income" as defined for the purpose of the enactments relating to income-tax, or which affects the principles on which under any of the foregoing provisions of this chapter monies are or may be distributable to provinces, shall be introduced or moved in the National Assembly except with the previous sanction of the President

### 3.5 Provincial taxes in I respect of professions, etc. [Article 163] II

A Provincial Assembly may by Act impose taxes, not exceeding such limits as may from time to time be fixed by Act of Majlis-e-Shoora (Parliament)], on persons engaged in professions, trades, callings or employments, and no such Act of the Assembly shall be regarded as imposing a tax on income..

3.6

### 3.6 Grants out of consolidated fund [Article 164] II

The Federation or a Province may make grants for any purpose, notwithstanding that the purpose is not one with respect to which Majlis-e-Shoora (Parliament)] or, as the case may be, a Provincial Assembly may make laws.

### 3.7 Exemption of certain public property from taxation [Article 165] II

- ❑ The Federal Government shall not, in respect of its property or income, be liable to taxation under any Act of Provincial Assembly and, subject to clause (2), a Provincial Government shall not, in respect of its property or income, be liable to taxation under Act of Majlis-e-Shoora (Parliament) or under Act of the Provincial Assembly of any other Province.
- ❑ If a trade or business of any kind is carried on by or on behalf of the Government of a Province outside that Province, that Government may, in respect of any property used in connection with that trade or business or any income arising from that trade or business, be taxed under Act of Majlis-e-Shoora (Parliament) or under Act of the Provincial Assembly of the Province in which that trade or business is carried on.
- ❑ Nothing in this Article shall prevent the imposition of fees for services rendered.

### 3.83. Power of Majlis-e-Shoora (Parliament) to impose I tax on the income I of certain corporations, etc. [Article 166] II

- 1) For the removal of doubt, it is hereby declared that Majlis-e-Shoora (Parliament) has, and shall be deemed always to have had, the power to make a law to provide for the levy and recovery of a tax on the income of a corporation, company or other body or institution established by or under a Federal law or a provincial law or an existing law or a corporation, company

or other body or institution owned or controlled, either directly or indirectly, by the Federal Government or a Provincial Government, regardless of the ultimate destination of such income.

- 2) All orders made, proceedings taken and acts done by any authority or person, which were made, taken or done, or purported to have been made, taken or done, before the commencement of the Constitution (Amendment) Order 1985, in exercise of the powers derived from any law referred to in clause (1), or in execution of any orders made by any authority in the exercise or purported exercise of powers as aforesaid, shall, notwithstanding any judgment of any court or tribunal, including the Supreme Court and a High Court, be deemed to be and always to have been validly made, taken or done and shall not be called in question in any court, including the Supreme Court and a High Court, on any ground whatsoever.

Every judgment or order of any court or tribunal, including the Supreme Court and a High Court, which is repugnant to the provisions of clause (1) or clause (2) shall be, and shall be deemed always to have been, void and of no effect whatsoever.

## Introduction

Federal Legislative List defines the areas whereby Federal Government can legislate to collect revenue. This is a long list, however, we herein discuss the areas which relate to taxation

### 4.1 Powers of the Federation to legislate on taxes

Following entries in the Federal legislative list as contained in the Constitution of Pakistan relates to taxes:

Entry No	Taxes which can be imposed by the Federation
47.	Taxes on income other than agricultural income;
48.	Taxes on corporations.
49.	Taxes on the sales and purchases of goods imported, exported, produced, manufactured or consumed, except sales tax on services.
50.	Taxes on the capital value of the assets, not including taxes on immovable property.
51.	Taxes on mineral oil, natural gas and minerals for use in generation of nuclear energy.
52.	Taxes and duties on the production capacity of any plant, machinery, undertaking, establishment or installation in lieu of any one or more of them.
53.	Terminal taxes on goods or passengers carried by railway, sea or air; taxes on their fares and freights.

Keeping in view the above provisions, following laws are enacted by the Federal Government:

Legislative powers of Federation	Laws enacted thereunder
Taxes on income other than agricultural income; Taxes on corporations. Taxes on mineral oil, natural gas and minerals for use in generation of nuclear energy.	Income Tax Ordinance, 2001
Taxes on the sales and purchases of goods imported, exported, produced, manufactured or consumed, except sales tax on services Taxes and duties on the production capacity of any plant, machinery, undertaking, establishment or installation in lieu of any one or more of them.	Sales Tax Act, 1990, Federal Excise Act, 2005, Customs Act, 1969
Taxes on the capital value of the assets, not including taxes on immovable property.	Capital Value Tax levied through Finance Act, 1989

#### 4.3 Powers of the Provinces to legislate on taxes

All taxes other than the mentioned in above list of Federal legislative list as contained in the Constitution of Pakistan are covered in the scope of legislation of Provinces. Accordingly, various types of taxes are introduced by the Provinces:

- ☐ Agriculture income tax
- ☐ Sales tax on services
- ☐ Taxes on transfer of immoveable property
- ☐ Professional tax
- ☐ Tax on luxury houses
- ☐ Tax on registration of luxury vehicles etc.
- ☐ Property tax

## 2.2 Ethics and canons of taxation

"a tax is a compulsory contribution imposed by a public authority, irrespective of the exact amount of service rendered to the taxpayer in return, and not imposed as penalty for any legal offence."

- taxes are **compulsory contribution**.
- their compliance is obligatory for a citizen
- otherwise the state has the right to enforce its laws including recovery of tax
- State's right to tax its people should be based upon some rational grounds.
- The tax system should strike a balance between the interest of the taxpayer and that of tax authorities.

## 2.3 Canons of taxation

the basic principles (i.e. rules) set to build a 'Good Tax System'.

1. **Canon of Equity:** every person should pay to the government depending upon his ability to pay. Rich people should pay higher taxes.
2. **Canon of Certainty:** The tax payer should know in advance how much tax he has to pay, at what time, and in what form.
3. **Canon of Convenience:** The mode and timing of tax payment should be convenient to the tax payers.
4. **Canon of Economy:** The cost of tax collection should be lower than the amount of tax collected.
5. **Canon of Productivity:** the tax system should be able to yield enough revenue for the treasury and the government should have no need to resort to deficit financing.
6. **Canon of Elasticity:** the income from tax should be capable of increasing or decreasing according to the country's requirement.
7. **Canon of Flexibility:** It should be easy to revise the tax structure (coverage and rates), to suit the changing requirements of the economy.
8. **Canon of Simplicity:** The tax system should not be complicated.
9. **Canon of Diversity:** collect taxes from different sources rather than concentrating on a single source of tax.

## 🔗 Ethics for tax administrators – introduction I

Federal Board of Revenue is empowered under the law to monitor, assess, levy, collect taxes as provided in the tax statutes. There are a number of occasions whereby they possess any of the following powers.

Assess taxes

Collect Revenue;

Seize Property;

Attach bank accounts;

Commence legal (criminal/civil) proceedings against taxpayer

Such powers may be misused and can become abusive powers as exercise of that power can result in the following against the taxpayer:

- ❑ Loss of property and income;
- ❑ Imprisonment

So, these powers can result in the loss of some of the fundamental human rights of the taxpayer.

### 3.2 Pillars of tax administration

In order to safeguard the interest of taxpayers and avoid abuse of powers by the tax administration, following four pillars of Tax administration are defined:

1. **Fairness:** Strive to be impartial, fair, neutral and consistent in administering the law without regard to race, social or economic circumstances;
2. **Transparency:** All Proceedings must be transparent and must be seen as transparent.
3. **Equity:** Do not achieve their objectives in an irrational manner.
4. **Accountability:** There must be a strong system of accountability for wrong doers which should curb corruption, nepotism and maladministration.

Under the four pillars, some of the ethical issues facing tax administration are:

1. Acceptance of gifts;
2. Conflict of Interest;
3. Selective application of the law/ or inconsistency in applying the law;
4. Political influence;
5. Confidentiality/secretcy;
6. Discretion;
7. Corruption;
8. Lack of Autonomy

In order to avoid pitfalls of the abusive use of discretion, seven principles for structuring discretion are defined which are as under:

- ❑ Open plans,
- ❑ Open policy statements,
- ❑ Open rules,
- ❑ Open findings,
- ❑ Open reasons,
- ❑ Open precedents and
- ❑ Fair informal procedure

### 3.3 Responsibilities of the tax implementing authorities

1. Obey all laws and grant no exemptions, credit or advantage to any taxpayer that is not provided by the law;
2. Be honest in all matters in order to maintain the respect and confidence of the government and taxpayers;

3. be impartial, fair, neutral and consistent in administering the law without regard to race, social status or economic circumstances;
4. Provide prompt, efficient and quality service to all stakeholders
5. Refrain from actively participating in partisan political activities;
6. Accurately record proceedings and maintain taxpayer information in the strictest confidence and highest level of security;
7. Refrain from soliciting gifts
8. collect the proper amount of tax revenue due at the lowest possible cost with confidence in our integrity, efficiency, effectiveness and fairness;
9. Respond to valid taxpayer refund claims
10. Educate taxpayers on their rights and responsibilities

#### 4.1 Ethics for tax practitioners

- 1 **Integrity.** straightforward and honest
- 2 **Objectivity.** not allow bias, conflicts of interest or undue influence
- 3 **Professional competence and due care.** maintain their professional knowledge and skill that a client or employer receives competent service
- 4 **Confidentiality.** not disclose information to third parties unless there is a legal or professional right or duty to disclose.
- 5 **Professional behaviour.** avoid any action which discredits the profession.

#### 5.1 Three approaches of tax compliance

- ② **Utilitarianism**, aim for the satisfaction of desires across the population.
- ② **Deontology**, which bases ethics on the idea of duty.
- ② **Virtue ethics**, virtues we should have, and on what constitutes a virtuous life.

#### 5.2 Ethics and morality for taxation compliance

Tax payers who prefer:

Tax on: public services such as healthcare and education

- Utilitarians: approve, because they allow more goods and services to be produced, and they also allow more non-materialistic desires to be satisfied.
- Virtue ethicists: approve, because these services enhance people's opportunities to use their talents and to lead prosperous lives.

When we turn to aid the poor:

- utilitarians: approve, because it means increased transfer of resources from the rich to the poor rendering them in a happier position.
- Virtue ethicists: approve, because with redistribution the poor can be helped to flourish and develop virtues.
- Deontologists can recognize a duty to care for the poor.

Taxes should be in return for basic needs, benefits, peace & prosperity, infrastructural development and economic growth etc.

#### 5.3 The conduct of taxpayers

utilitarian: might be quite relaxed about tax avoidance. when tax is avoided, wealth is not destroyed: it is merely kept in the private sector instead of being transferred to the

public sector. The main utilitarian concern would probably be that it would result in an unintended distribution of the tax burden. That would reduce their satisfaction.

A virtue ethicist: would perhaps dislike tax avoidance. It is hardly virtuous to exploit rules.

A deontologist: would not positively favour tax avoidance, but might not condemn it either.

## Scope of tax

“Tax shall be imposed for each tax year on every person who has taxable income, as per the applicable tax rates”

### 2.1 Tax year

#### Normal tax year

Normal tax year is a period of twelve months ending on the 30<sup>th</sup> day of June

#### Special tax year

Where a person's income year is different from the normal tax year, in respect of certain classes of assesses following special tax years are specified by the Board.

Classes of persons	Special tax year
Companies	1st October to
manufacturing sugar	30th September
rice	1st January to
	31st December
All insurance companies	1st January to
	31st December

A change of tax year granted by the Commissioner is subject to withdrawal if in his opinion it is no longer feasible but not unless the person has been provided an opportunity of being heard.

A person dissatisfied with the order may file a review application with the Board and the decision by the Board on such application shall be final.

#### Transitional tax year

the period between the end of the last tax year prior to change and the date on which the changed tax year commences shall be treated as a 'transitional tax year'

### 3.1 Heads of income (Sec-11)

- ☐ Salary;
- ☐ Income from property;
- ☐ Income from business;
- ☐ Capital gains; and
- ☐ Income from other sources.

The income of a resident person: Pakistan-source income and foreign-source income.  
income of a non-resident person: Pakistan-source income.

### 3.3 Total income

The total income shall be the sum of the

- ☐ Person's income under all heads
- ☐ Person's income exempt from tax

### 3.4 Taxable income

Total Income other than exempt	xxxxx
Less: Deductible Allowances (Discussed below)	<u>(xxxx)</u>
Taxable Income	<u>xxxxx</u>

### 3.5 Deductible allowances

#### Zakat (Sec-60)

- ☐ A person is entitled to a deductible allowance for Zakat paid
- ☐ Where the Zakat has been deducted out of the profit on debt, such Zakat shall not be deducted out of the total income
- ☐ Where Zakat > total income, the excess amount shall not be refunded or carried forward or carried back.

#### Worker's welfare fund (Sec-60A)

#### Worker's participation fund (Sec-60B)

### 5.3 Resident individual II

The following rules

- day of arrival in, and the day of departure from, Pakistan counts
- the following days count:
  - i. a public holiday;
  - ii. a day of leave, including sick leave;
  - iii. a strike, lock-out or delay in receipt of supplies; or
  - iv. a holiday spent by the individual in Pakistan before, during or after any activity in Pakistan; and
- being in transit between two different places outside Pakistan does not count

### 6.1 Computation of tax liability and tax rates

Tax means

Any tax imposed under the Ordinance and includes any penalty, fee or other charge or any sum or amount leviable or payable under this Ordinance.

### 7.1 Normal tax regime (Net-income basis)

tax is charged on gross amounts chargeable reduced by deductions allowed.

### 7.2 Income subject to separate charge (Sec-5-8)

- ❑ incomes which do not form part of total income or taxable income and are subject to tax on the basis of gross income.

(i). Dividend

(ii). Pakistan-source royalty of non-resident

(iii). Pakistan-source Fee for technical services of non-resident (iv).

Shipping income of non-resident.

(v). Air transport income of non-resident.

- ❑ rules:

(i). Tax imposed is a final tax

(ii). Such income is not chargeable to tax under any head of income

(iii). No deduction is allowed

(iv). The amount of such income is not reduced by:

(a). Any deductible allowance

(b). The set off of any loss

(v). The final tax payable is not reduced by any tax credit allowed

(vi). The liability of the recipient of such income is discharged to the extent that:

(a). In the case of shipping and air transport income, the tax is paid in accordance with Ordinance

(b). the final tax payable has been deducted at source

### 7.3 Final tax regime (Gross income basis)

- ❑ which are subject to collection or deduction of tax at source and the tax so collected or deducted at source is treated as final tax on the income arising from such transactions.

- ❑ The tax collected or deducted on such transactions is commonly known as non-adjustable tax collected or deducted at source.

- ❑ All transactions subject to collection or deduction of tax at source do not fall under income subject to final tax.

- ❑ Where the tax collected or deducted at source is not treated as final tax the income arising from such transactions is chargeable to tax under the respective heads of income.

- ❑ Following rules apply to the income subject to final tax:

(i). Such income is not chargeable to tax under any head of

(ii). No deduction is allowed

(iii). The amount of the income is not reduced by

- (a). Any deductible allowance; or
- (b). The set off of any loss
- (iv). The tax deducted is not reduced by any tax credit
- (v). There is no refund of the non-adjustable tax
- (vi). An assessment is treated to have been made and the person is not required to furnish a return of income in respect such income.
- ☐ Various incomes which are treated as final tax liability of the person under the Income Tax Ordinance, 2001 are:
  - (i) Profit on debt except in case of company
  - (ii) Execution of contract by non-resident
  - (iii) Sale of goods by individual, AOP and trading companies
  - (iv) Services of stitching, dying, printing, washing, sizing and weaving
  - (v) Media services by non-resident
  - (vi) Exports
  - (vii) Prizes and winnings
  - (viii) Commercial importer
  - (ix) Person selling petroleum products to petrol pump operator
  - (x) CNG stations
  - (xi) Commission and brokerage

#### 7.4 Minimum tax regime

- ☐ Various incomes which are treated as minimum tax
  - (i). Minimum tax on turnover
  - (ii). Minimum tax on builders
  - (iii). Minimum tax on land developers
- (iv). Tax collected on import of edible oil and packing material
- (v). Tax deduction at source @ 10% from gross amount of service rendered for all persons other than a company.
- (vi). Tax collected upto the electricity bill amount of Rs.30,000 per month for a person other than company

### 8 INCOME TAX AUTHORITIES

- (a) Federal Board of Revenue;
- (b) Chief Commissioner Inland Revenue;
- (c) Commissioner Inland Revenue;
- (d) Commissioner Inland Revenue (Appeals);
- (e) Officer of Inland Revenue i.e.
  - (i). Additional Commissioner Inland Revenue; (ii). Deputy Commissioner Inland Revenue; (iii). Assistant Commissioner Inland Revenue; (iv). Inland Revenue Officer;

- (v). Inland Revenue Audit Officer or any other Officer;
- (h) Superintendent Inland Revenue;
- (i) Inspector Inland Revenue; and
- (j) Auditor Inland Revenue.

### 9.1 Apportionment of deductions (S67)

Rules for apportionment of common expenditures:

- ☐ any expenditure that is not clearly allocable to any particular class or classes of incomes.
- ☐ Any expenditure that is incurred for particular class of income shall be allocated/apportioned to that class only.
- ☐ Any common expenditure (including financial expenses) shall be apportioned amongst each class of income according to the following formula:

$$\text{Amount of expense} \times \frac{\text{Gross receipts for the class of income}}{\text{Gross receipts for all class of income}}$$

Note: Gross receipts means all receipts without deduction of expenditures.

- ☐ While allocating common expenditure (particularly selling expenses) the nature and source of each class of income must be taken into account.
- ☐ The basis determined for allocation of expenditure should be certified by a Chartered Accountant or a Cost and Management Accountant.
- ☐ Where in case of certain transaction the net gain, brokerage, commission and other income is taken as turnover, then the gross profit from business shall be taken as gross receipts for the purpose of apportionment of expenditures.
- ☐ For the purpose of these rules a person may have following classes of incomes:

Pakistani source incomes as well as Foreign source income further classified as:

- (i) Income from property
- (ii) Income from business- Non speculation
- (iii) Income from business-speculation
- (iv) Capital gains
- (v) Income from other source
- (vi) Income chargeable to tax as separate block
- (vii) Income exempt from tax e.g. agriculture income
- (viii) Income chargeable to tax under final tax regime.

### 9.3 Receipt of income (S69)

A person shall be treated as having received an amount, benefit, or perquisite if it is:

- i. actually received by the person;
- ii. applied on behalf of the person, at the instruction of the person or under any law; or

- iii. made available to the person.

### Recouped expenditure (S70)

Any amount received subsequently in respect of deduction previously allowed as deduction will be added in the income in the year of receipt

### 9.6 Cessation of source of income I (S72)

- ☐ where any income is derived by a person in a tax year from any business, activity, investment or other source that has ceased either before the commencement of the year or during the year.
- ☐ In such a case the income derived before the business, activity, investment or other source ceased, shall be chargeable to tax .as if the source of such income had not ceased.

### 9.7 Rules to prevent double derivation and double deductions (S73)

- ☐ If any amount is chargeable to tax on the basis that it is receivable, the amount shall not be chargeable again on the basis that it is received & vice versa
- ☐ If any expenditure is allowable as deduction on the basis that it is payable, the expenditure shall not be allowed as deduction again on the basis that it is paid & vice versa

- ❑ An employee's salary income, wherever received is taxed in Pakistan to the extent it relates to employment exercised in Pakistan. However salary received by Pakistan Government employee is taxable in Pakistan whether employment is exercised in Pakistan or abroad.

## 1.2 Basis of chargeability

- ❑ A person shall be treated as having received an amount, benefit, or perquisite if it is
  - (i). actually received by the person
  - (ii). applied on behalf of the person, at the instruction of the person or under any law
  - (iii). made available to the person.

### Deductions not allowed (Section 12(4))

In computing the income under the head salary, no deduction shall be allowed for expenses incurred by the employee in earning such income.

## 1.5 Relief where salary is received in arrears

- ❑ the employee may by a notice to the Commissioner elect for tax rate applicable in the tax year in which such salary was earned.

### 1.7 Amount or Perquisite when treated received [Section 12(5)]

An amount or perquisite shall be treated as received by an employee from any employment regardless of whether the amount or perquisite is paid or provided:

- (i) By the employee's employer, an associate of the employer, or by a third party under an arrangement
- (ii) By a past employer or a prospective employer; or
- (iii) To the employee or to an associate of the employee or to a third party under an agreement

### Interest Free / Concessional Loan

- ❑ Where an amount has been included in salary of an employee in connection with above loan, and the employee uses the loan wholly or partly for acquiring any asset or property producing income chargeable to tax under any head of income, the amount of interest on such loan shall be allowed as deduction against income from such asset. In this regard, an amount equal to benchmark rate shall be allowed as deduction. However, where interest charged by the employer is higher than the benchmark rate, the whole amount paid by the employee shall be allowed as deduction.
- ❑ Similarly, where an amount has been included in salary of an employee in connection

with above loan, and the employee uses the loan for construction of a new house or acquisition of a house, the amount of interest on such loan shall entitle the employee to claim a deductible allowance

## 2.6 Self hiring of property [Section 15(5)]

- ❑ Where an employee or his spouse is the owner of any such building that is given on rent to the employer and the employer has provided the same building to the employee against his entitlement for a rent free accommodation, then it will have following effect
  - Receipt of rent of building is chargeable to tax under the head income from property.
  - Any rent received by the employee or his spouse shall be property income of the recipient and be treated accordingly.
  - The building is provided by the employer to his employee as a rent free accommodation. It will be a perquisite and added in the salary income of the employee

### Gratuity

- ❑ Exemption:
  - (i) Any payment not received in Pakistan
  - (ii) Any payment received by a director of a company who is not a regular employee of such company
  - (iii) Any payment received by a non-resident
  - (iv) Any gratuity received by an employee who has already received any gratuity from the same or other employer.

**Certain Perquisites without by virtue of employment: (Clause 53A Part I of 2<sup>nd</sup> Sch.)**

The following perquisites received by an employee by virtue of his employment are exempt from tax.

- (i) Free or subsidized food provided by hotels and restaurants to its employees during duty hours
- (ii) Free or subsidized education provided by an educational institution to the children of employees
- (iii) Free or subsidized medical treatment provided by a hospital or clinic to its employees
- (iv) Any other perquisite for which the employer does not have to bear any marginal cost, as notified by the Board

What more is exempt?

Leave Encashment

Worker's Profit Participation Fund (WPPF)

Salary income of Seafarer

Salary earned outside Pakistan by citizen of Pakistan

Foreign source salary if foreign tax is paid

Travelling and daily allowance payments are tax exempt

Scholarship (if employer and employee aren't associates)

grant of right or option of employee share scheme

relocation allowance

No exemption for:

Gratuity received from outside Pakistan

## INCOME FROM PROPERTY

What is excluded?

- (i) Rent in respect of lease of building together with plant and machinery
- (ii) Amount received or receivable in rent for the provision of amenities, utilities and any other service connected with renting of the building
- (iii) Rent from sub-lease of land or a building
- (iv) Amount received as consideration for vacating the possession of a building or a part thereof, reduced by any amount paid by the person to acquire possession of such building or part thereof.
- (v) Rent on Land used for agriculture purpose
- (vi) Employer giving a free rent accommodation to employee in his own building

What is included?

- I. forfeited deposit
- II. Foreign source property income (less tax lower of paid abroad and Pakistani tax payable)

❑ A person sustaining a loss in any head of income cannot set off such loss against income under the head income from property however, any loss under the head "income from property" can be set-off against income chargeable under any other head except for salary

### 2.1 Admissible deductions

- (a) An allowance equal to  $1/5^{\text{th}}$  of the rent chargeable to tax as repair allowance (be it greater/lesser or not used at all)
- (b) premium to insure the building.
- (c) taxes, charge not being any tax payable under the ordinance.
- (d) ground rent
- (e) mark-up on loan/mortgage borrowed for bulding
- (f) Any administration and rent collection charges in respect of the property, not exceeding 6% of the rent chargeable
- (i) expenditures for legal services (only to defend the person's title to the property or any suit connected with the property in the court)
- (j) An Allowance equal to the unpaid rent, , subject to the conditions that:
  - (i) the tenancy was bonafide.

- (ii) the defaulting tenant has vacated the property or steps have been taken to compel the tenant to vacate the property.
  - (iii) the defaulting tenant is not in occupation of any other property of the landlord.
  - (iv) all reasonable steps have been taken to institute legal proceedings for the recovery but legal proceedings would be useless and
  - (v) tax has been paid on the unpaid rent
- ☐ if unpaid rent allowed as a deduction is recovered, the amount shall be chargeable to tax in the tax year in which it is recovered.
  - ☐ If any of the above deductions are allowed in a tax year on 'payable basis', its payment must be made within three years or it shall be added back
  - ☐ If an unpaid liability is subsequently paid, the person shall be allowed a deduction again.

### 3.1 The treatment of non-adjustable amounts against income from property

- ☐ Where the owner of building receives an advance which is not adjustable against rent. 1/10th of such un-adjustable advance shall be included
- ☐ If advance is refunded in any year before the expiry of 10 years such advance shall not be included in the income from the tax year in which it is refunded or thereafter.

### 1.1 Income from business

The following incomes of a person for a tax year shall be chargeable to tax under the head “Income from Business”:

- ☐ The profits and gains
- ☐ Any income derived by any trade, sale of goods or provision of services
- ☐ Any income from the hire or lease of tangible movable property;
- ☐ The fair market value of any benefit or perquisite derived in the course of business relationship.
- ☐ Any management fee
- ☐ Profit on debt where the person’s business is to derive such income. In other cases it will be “Income from other sources”
- ☐ Lease rentals derived by a scheduled bank, investment bank, development finance institution, modaraba or a leasing company.
- ☐ Any amount distributed by a mutual fund or a private equity and venture capital fund, to a banking company or a non-banking finance company.

### 1.2 Important aspects of income from business

General principles relating to taxation of business income are summarized below:

- ☐ A resident: worldwide business income
- ☐ non-resident: income to the extent it is Pakistan-sourced.
- ☐ gain arising from revaluation/impairment of fixed assets, investments or foreign currency is **not taxable** as these are not real profits and can only be taxed when these are actually realised.
- ☐ Profits can arise only out of the trading (revenue) receipts. Capital receipts are not taxable.
- ☐ following receipts are taxable even if the taxpayer does not carry on business during the tax year:
  - Recovery in cash or kind against a deduction/loss allowed previously
  - Gain on sale of depreciable assets
  - Recovery of bad debts allowed in preceding years
  - Trading liabilities not paid within the expiration of three years in which it was allowed
  - Sum received after discontinuance of a business

### 1.3 Speculation business

#### Tax implications for speculation business

Where a person carries on a speculation business:

- that business shall be treated as distinct and separate from any other business carried on by the person;
- Apportionment of deductions shall apply as if the profits and gains arising from a

speculation business were a separate head of income;

- any profits and gains arising from the speculation business shall be included "Income from Business"
- **any loss** of the person arising **from the speculation business** shall be set off only against the income of the person from any **other speculation business**
- the amount of the loss not set off shall be carried forward but no speculation loss shall be carried forward to **more than six tax years**

Expenses allowed:

sales tax/federal excise duty paid by a taxpayer is not charged by him to his customer, such sales tax/federal excise duty paid shall be allowed as deduction.

## 2.1 Inadmissible Deductions

- ☐ Any amount of tax deducted at source (eg sales tax)
- ☐ Any expense the person was supposed to withhold tax but he didnt
- ☐ any entertainment expenditure in excess of limits

expenditure allowed is:

- (a) Such expenditure is:
  - (i) Incurred outside Pakistan on entertainment in connection with business transactions; or
  - (ii) Allocated as head office expenditure; or
- (b) Incurred in Pakistan on the entertainment of foreign customers & suppliers;
- (c) Incurred on the entertainment of customer & clients at the person's business premises
- (d) Incurred on the entertainment at the meeting of shareholders, agents, directors or employees
- (e) Incurred on entertainment at the opening of branches.

**Note:** All these people (who are entertained) should be related directly to the person's business.

- ☐ Any contribution made by the person to a unapproved funds (gratuity, pension)
- ☐ Any contribution made by the person to any provident or other fund established for the benefit of employees of the person, unless the person has made effective arrangements to secure that tax is deducte
- ☐ Any fine or penalty
- ☐ Any personal expenditures
- ☐ Any amount carried to a reserve fund or capitalised in any way;
- ☐ Any profit on debt, brokerage, commission, salary or other remuneration paid by an association of persons to a member of the association;
- ☐ any salary paid or payable **exceeding fifteen thousand rupees** per month other than by a crossed cheque or direct transfer of funds to the employee's bank account;

- ❑ Any expenditure paid or payable of a capital nature. However, depreciation or amortization shall be allowed in respect of a depreciable asset, intangible or pre-commencement expenditure; and
- ❑ Any expenditure **exceeds fifty thousand rupees**, made other than by a crossed cheque drawn

It is important to note that the above provisions shall not apply in the case of:

expenditures **not exceeding ten thousand rupees**;

expenditures on account of:

- utility bills;
- freight charges;
- travel fare;
- postage; and
- payment of taxes, duties, fee, fines or any other statutory obligation;

## 2.3 Deductions - Special provisions

- ❑ Depreciation of tangible fixed assets where they have a useful life of more than 1 year.
- ❑ Initial allowance on eligible depreciable assets.
- ❑ Amortization of intangibles where they have a useful life of more than 1 year.
- ❑ Pre-commencement expenditure at the rate of 20% on straight line basis
- ❑ Expenditure incurred by an amalgamated company on legal and financial advisory services and other administrative cost relating to planning and implementation of amalgamation.
- ❑ Scientific research expenditures
- ❑ Employee training facilities expenditure
- ❑ Profit on debt if related to taxable business income
- ❑ Entertainment expenditures in the limits as prescribed
- ❑ Bad debts written off in the accounts subject to fulfilment of certain conditions

### Scientific research expenditure (Sec-26)

- ❑ A person shall be allowed a deduction for scientific research expenditure incurred in **Pakistan** for business

### Employee training and facilities (Sec-27).

- ❑ A person shall be allowed a deduction for any expenditure (other than capital expenditure) incurred in a tax year in respect of:
  - any educational institution or hospital in Pakistan established for the benefit of the person's employees and their dependents;

- any institute in Pakistan established for the training of industrial workers recognized, aided, or run by the Federal Government or a Provincial Government or a Local Government ; or
- The training of any person, being a citizen of Pakistan, in connection with a scheme approved by the Board

**Profit on debt, financial costs and lease payments (Sec-28)**

- Profit on debt if debts are utilized for business purpose.
- Lease rentals of an asset to a scheduled bank, financial institution, an approved modaraba or leasing company or a Special Purpose Vehicle (SPV) on behalf of the Originator.
- Financial cost of securitization of receivables by an originator in respect of SPV
- Share of profit under musharika scheme to a bank
- Share of profit to a certificate holder under a musharika scheme approved by SECP and Religious Board under Modaraba Ordinance
- On funds borrowed from a modaraba or participation term certificate holders
- By a bank to a person maintaining PLS account or a deposit with the bank
- SBP's share of profit by House Building Finance Corporation, National Development Leasing Corporation or Small and Medium Enterprises Bank on any investment or credit line provided by the SBP.



**Exercise:**

XYZ Limited engaged in the business of manufacturing and sale of chemicals has incurred the following expenditures for tax year 2016:

- Rs. 150,000 given as a scholarship to Mr. Sameel, a citizen of Pakistan, for his technical training in connection with a scheme approved by the Federal Board of Revenue under the relevant provision of the law. Mr. Sameel is not an employee of XYZ Ltd.
- Maintenance of XYZ's shares records has been outsourced. The total expenditure incurred was Rs. 400,000, including the fee paid of Rs. 245,000 to increase the company's authorized capital.
- Contribution of Rs. 200,000 to unrecognized provident fund. XYZ Ltd, in its accounting system, has ensured that when any payment is made from the fund to an employee, tax would be deducted at source from the amount of the payment, if the amount is chargeable to tax as the salary income of the employee.
- Rs. 50,000 paid as motor vehicle tax on the company's vehicles.
- Rs. 500,000 paid for the valuation of the assets of another company which XYZ Ltd intended to acquire.
- Rs. 45,000 paid as a penalty imposed by the Commissioner for late filing of the annual return of income for the tax year 2016.
- New computer purchased for Rs. 300,000 on 20 June 2016 for which installation could not be made until 15 July 2016.
- Compulsory annual fee of Rs. 200,000 paid in cash, to the Engineering Development Board established by the Federal Government.
- Donation in kind to a relief fund runs by the Government of Sindh.
- Rs. 1,530,000 out of travelling expenses, being the travel and hotel expenses for XYZ's technical manager's visit to Japan. The travel to Japan was entirely for business purposes. It was necessary for the firm's technical manager to travel to Japan for the purpose of selecting a

second-hand mixing machine, so as to ensure that the machine was compatible with the company's existing plant.



- (xi) Cash flow statement shows that an amount of Rs. 2 million has been paid as legal and professional charges to one of the company consultants. The said amount was overdue since tax year 2009. XYZ Ltd has claimed this amount as an expense in tax year 2016 also.
- (xii) XYZ Limited entered into a forward contract for the purchase of raw materials used in its business of manufacturing edible oils to guard against loss through price fluctuations. On the date of maturity of the forward contract, XYZ Ltd did not take delivery of the raw materials but the contract was settled by a payment of Rs. 950,000.

Required

Being tax consultant of the company you are required to explain the admissibility/inadmissibility of the above along with reason keeping in view the provisions of the Income Tax Ordinance, 2001

Answer

- (i) Since the scholarship has been granted to a Pakistani citizen for his technical training under a scheme approved by the Federal Board of Revenue, the expenditure is admissible. The beneficiary of the scholarship does not need to be an employee of the taxpayer. [S.27(c)]
- (ii) The total amount of expenditure being of revenue in nature is admissible.
- (iii) A contribution to a recognized provident fund is an allowable deduction. A contribution made to an unrecognized provident fund is not deductible: u/s 21(e) of the ITO, 2001 although admissible expenses u/s 21(f) as the employer has made effective arrangements to ensure that tax would be deducted from any payments made by the fund in respect of which the recipient is chargeable to tax under the head 'Salary'
- (iv) Motor vehicle tax is for the purposes of business and revenue in nature. Further, it does not fall in the list of inadmissible deductions. [S.20(1) read with S.21(a)]
- (v) Expenses incurred at Rs. 500,000 relate to the acquisition of another company. The expense, therefore, being capital in nature, is disallowed. [S.21(n)]
- (vi) A penalty of Rs. 45,000 paid for the late filing of a return of income is an inadmissible expense on either of the following two grounds:
  - (a) A penalty for the late filing of a return of income is included in tax as defined in the Income Tax Ordinance, 2001 (the 'Ordinance'). Tax is an inadmissible deduction under the law. [S.21(a)]
  - (b) It was imposed for violation of the provisions of the Ordinance, hence not admissible. [S.21(g)]
- (vii) A computer costing Rs. 300,000 was not put to use during the year ended 30 June 2014 hence is not entitled to any Depreciation / initial allowance.
- (viii) Any expenditure, in aggregate, under a single accounting heading in excess of Rs. 50,000 other than by crossed bank cheque or crossed bank

draft or any other banking instrument is not deductible with certain exceptions. One of the exceptions is any fee expenditure. Hence, the Rs. 200,000 paid, in cash, to the Engineering Development Board established by the Federal Government is allowable and no adjustment is required. [2nd proviso to S.21(I)]

---

- (ix) A donation in kind to a relief fund run by the Government of Sindh is not for the purpose of business, hence not allowable as expenditure. However, it is eligible for tax credit under the law. [S.20(1) & 61]
- (x) The expenditure of Rs. 1,530,000 incurred solely to secure the purchase of a mixing machine, is capital expenditure and is not deductible. Rs. 1,530,000 should be added to the cost of the mixing machine for tax purposes.
- (xi) Where a person has been allowed a deduction for any expenditure incurred in deriving income chargeable to tax under the head Income from Business and the person has not paid the liability or a part of the liability to which the deduction relates within three years from the end of the tax year in which the deduction was allowed, the unpaid amount of the liability shall become chargeable to tax under the head Income from Business in the first tax year following the end of those three years.
- However, if the person subsequently pays the liability or a part of the liability, the person shall be allowed a deduction for the amount paid in the tax year in which the payment is made. [Ref: S 34(5) and 34(6)]
- a. Therefore, amount will be added back to the taxable income of the taxpayer in tax year 2013, whereas it will be again allowed as an expense in tax year 2016.
- (xii) The forward contract entered into by XYZ Ltd for the purchase of raw materials used in its business of manufacturing edible oils is in the nature of a hedging contract which was entered into to guard against loss from future price fluctuations. Such contracts have specifically been excluded from the definition of speculative business [s.19(2)]. Therefore, the Rs. 950,000 paid to settle the forward contract is an expenditure incurred in the normal course of business and is a deductible expenditure

#### Bad debts (Sec-29)

- ❑ A person shall be allowed if
  - The amount of the debt was:
    - previously included in the person's income from business chargeable to tax; or
    - in respect of money lent by a financial institution in deriving income from business chargeable to tax;
  - the debt or part of the debt is written off in the accounts of the person in the tax year; and
  - There are reasonable grounds for believing that the debt is irrecoverable.
- ❑ The amount of the deduction allowed to a person for a tax year shall not exceed the amount of the debt written off in the accounts of the person in the tax year.

- ❑ If a bad debt is recovered, a computation shall be made as under:

a- b

Here

- (a) is amount received against the written off debt; and  
 (b) is the difference between whole amount of bad debt and bad debt allowed as a deduction under Income Tax Ordinance, 2001.

If (a) is greater than (b), the difference shall be treated as income of the person. In other case, where (a) is less than (b) the difference shall be treated as bad debts for the year in which the amount is received.

### 3.5 Long Term Contracts (Sec. 36)

- ❑ A person accounting for income from business, on an accrual basis, under a long-term contract shall compute income for a tax year on the basis of the percentage of completion method.  
 ❑ The percentage of completion of a long-term contract in a tax year shall be determined by comparing the total cost incurred before the end of the year with the estimated total contract costs as determined at the commencement of the contract.



Exercise:

Umar Gul Limited (UGL) a public company registered on Karachi Stock Exchange is engaged in the construction business for the past many years. In July 2013, KPK Government awarded a contract of Rs. 9 million to UGL for construction of 3 dams in Peshawar over a period of three years. The company expects to earn a profit of 25% of the contract value. The project was scheduled to start in July 2013 and be completed on 30 June 2016.

The amount received and costs incurred by UGL on the contract over the period of three years were as under:

Tax year	Receipts	Costs
2014	3,000,000	3,105,000
2015	3,000,000	2,632,500
2016	3,000,000	1,012,500

Required:

Under the provisions of the Income Tax Ordinance, 2001 calculate the taxable income for each of the above three tax years.

Answer

Tax year	Revenue	Percentage of Completion W-1 & W-2	Taxable income
2014	2,250,000	46%	1,035,000
2015	2,250,000	39%	877,500

2016	2,250,000	15%	337,500
------	-----------	-----	---------

Workings: W-

1

Estimated profit = Total contract price- total costs

$$2,250,000 = 9,000,000 - 6,750,000$$

W-2

Percentage of completion method =  $\frac{\text{Contract costs incurred}}{\text{Total contract costs}}$

Tax year	Percentage of completion
2014	$3,105,000 / 6,750,000 \times 100 = 46\%$
2015	$2,632,500 / 6,750,000 \times 100 = 39\%$
2016	$1,012,500 / 6,750,000 \times 100 = 15\%$

### 1.1 Depreciable assets (Sec-22)

- ❑ A person is allowed a deduction for the depreciation of the person's depreciable assets used in the person's business in the tax year.
- ❑ Depreciation is allowed on proportional basis if the asset was also used for the purpose other than deriving business income in a tax year.
- ❑ Where a person disposes of a depreciable asset in any tax year,, no depreciation deduction shall be allowed in that year.
- ❑ An asset owned by a financial institution or leasing company and leased, the depreciation deductions allowed shall be deductible only against the lease rental income derived in respect of such assets.
- ❑ For computing gain on disposal of immovable property, the consideration received shall be treated as the cost of the property if the consideration exceeds its cost (Gain on disposal shall be equal to the depreciation previously allowed) .
- ❑ Where a depreciable asset that has been used by a person in Pakistan is exported or transferred out of Pakistan, the person shall be treated as having disposed of the asset at the time of the export or transfer for a consideration received equal to the cost of the asset. (Gain on disposal shall be equal to the depreciation allowed).



Example:

During the tax year 2016, CFG (Pvt.) Limited disposed off the following assets:

- (a) Immoveable property was sold for Rs. 150 million. The cost of the property was Rs. 100 million. Upto tax year 2015, tax depreciation of Rs. 30 million had been allowed on the immovable property.
- (b) A machinery used in the business in Pakistan, was exported to USA. The export proceeds amounted to Rs. 45 million. The cost and written down value of the machinery was Rs. 35 million and 28 million respectively.
- (c) Two buses were disposed off for Rs. 2.5 million. They were acquired in tax year 2015. The tax written down value of buses at the beginning of the tax year 2016 was Rs. 2.4 million. The trucks were being used partly i.e. 60% for business purpose. Tax rate of depreciation is 15%.

Required

Calculate tax gain on loss on disposal of above assets

## Answer

(a)		Rs. In Million
Sale Proceed		150
Cost (Note)	150	
Depreciation allowed	30	<u>120</u>
Gain on disposal		<u>30</u>

Note: For computing gain on disposal of immovable property, the consideration received shall be treated as the cost of property if the consideration exceeds its cost (Gain on disposal shall be equal to the depreciation allowed).

(b)		Rs. In Million
Consideration received equal to actual cost		35
WDV at the time of disposal		<u>28</u>
Gain on disposal		<u>07</u>

For computing gain on disposal of depreciable asset by way of export that has been used previously in Pakistan, the consideration received shall be treated as the cost of asset (Gain on disposal shall be equal to depreciation allowed)

(c)		Rs. In Million
Sale proceed		2.5
Less WDV at beginning of the year		(2.4)
Depreciation not allowed		
( $2.4/0.85 \times 0.15 \times 0.40$ )		<u>(0.17)</u>
Loss on disposal		<u>(0.07)</u>

WDV of the asset, in case asset is used partly for business and partly for non-business purpose, shall be computed on the basis that the asset has been solely used to derive business income. It means that depreciation allowed as well as disallowed shall be deducted from the cost of the asset in arriving at the WDV. However, the WDV of the asset shall be increased by the amount of depreciation disallowed on account of non-business use at the time of disposal

### 1.2 Initial allowance (Sec-23)

- 1) A person who places an **eligible depreciable asset** into **service in Pakistan** for the first time in a tax year shall be allowed an initial allowance
- 2) initial allowance allowed to a lessor in respect of assets owned by him and leased to another person shall be deductible only against the lease rental income derived in respect of such assets.

## First year allowance for rural areas and alternate energy projects

- 1) Plant, machinery and equipment installed by an industrial undertaking set up in specified rural and under developed areas or engaged in the manufacturing of cellular mobile phones and qualifying for exemption
- 2) First year allowance allowed to a lessor in respect of assets owned by him and leased to another person shall be deductible only against the lease rental income derived in respect of such assets.

### 2.3 Method for computation of amortisation charge on intangibles:

- ☐ If an intangible is used in a tax year partly in deriving income from business chargeable to tax and partly for another use, the deduction allowed for that year shall be restricted to the fair proportional part of the amount that would be allowed if the intangible were wholly used to derive income from business chargeable to tax.
- ☐ Where an intangible is not used for the whole of the tax year in deriving income from business chargeable to tax, the deduction allowed under this section shall be computed according to the following formula, namely:

$$A \times B/C$$

Where:

**A** is the amount of amortization computed in accordance with the above provisions

**B** is the number of days in the tax year the intangible is used in deriving income from business chargeable to tax; and

**C** is the number of days in the tax year.

### 4.1 Disposal of assets (Sec-75)

- ☐ This shall include when the asset is
  - (i) sold, exchanged, transferred or distributed; or
  - (ii) cancelled, redeemed, relinquished, destroyed, lost, expired or surrendered.
- ☐ The transmission of an asset by succession or under a will.
- ☐ The application of business assets (including stock or depreciable asset) to personal use
- ☐ Where a business asset is discarded or ceases to be used in business
- ☐ A disposal shall include the disposal of a part of an asset.

### 4.2 Acquisition of assets (Sec-75)

- ☐ A person shall be treated as having acquired an asset at the time the person begins to own the asset, including at the time the person is granted any right.
- ☐ The application of a personal asset to business use shall be treated as an acquisition of the asset by the owner at the time the asset is so applied

Cost:

- ☐ If an asset has been acquired by a person with a loan denominated in a foreign currency and, before full and final repayment of the loan, there is an increase or decrease in the liability of the person under the loan as expressed in rupees, the amount by which the liability is increased or reduced shall be added to or deducted from the cost of the asset, as the case may be.
- ☐ The cost of an asset does not include the amount of any grant, subsidy, rebate, commission or any other assistance (other than a loan repayable with or without profit) received or receivable by a person in respect of the acquisition of the asset, except to the extent to which the amount is chargeable to tax under this Ordinance.

### 1.1 Capital Asset

This term is defined in sub-section (5) of section 37 of the Ordinance in the following manner:

Common examples of capital assets are shares, Modaraba Certificates, Participation Term Certificates, Term Finance Certificates, Musharika Certificates, PTC Vouchers, goodwill, patent, copyrights etc.

It is important to note that a:

- ❑ **“Business asset”** means an asset held wholly or partly for use in a business, including stock-in-trade and a depreciable asset; and
- ❑ **“Personal asset”** means an asset held wholly for personal use.

### 2.1 Determination of cost of capital asset

- In case the capital asset becomes the property of the person: under a gift, bequest or will;
  - by succession, inheritance or devolution;
  - a distribution of assets on dissolution of an association of persons; or on distribution of assets on liquidation of a company,

the fair market value of the asset, on the date of its transfer or acquisition by the person shall be treated to be the cost of the asset.

### 3.1 Treatment of capital loss

The amount of capital loss which cannot be set-off shall be carried forward upto six tax years

Where a person has a loss carried forward for more than one tax year, the loss of earliest tax year shall be set-off first.

### 4.2 Capital gain on sale of securities (37A)

Gain on disposal of immovable property and securities shall be treated as a separate block of income and taxable at above respective prescribed tax rates.

On the other hand, gain on disposal of capital assets will be added to the normal income of the taxpayer and taxable on the basis of the tax rates applicable to such person.

Loss sustained by a person on disposal of securities shall be set off only against the gain of the person from any other securities chargeable to tax and no loss shall be carried forward to the subsequent tax year.

### **Capital loss adjustment disallowed (Rule 13 F)**

Capital loss adjustment as mentioned above shall not be admissible in the following cases, namely

#### **Wash Sale**

Where capital loss realized on disposal of a specific security by an investor is preceded or followed in one month's period by purchase of the same security by the same investor or its related parties, thus maintaining his portfolio.

#### **Cross Trade**

Where coordinated reshuffle of securities between two related accounts of the same investor or between two related brokerage houses is undertaken and securities accumulating unrealized losses are sold to related accounts to artificially realize capital losses in one account without actually selling the securities to an outsider.

#### **Tax Swap sale**

Where the investor having realized loss on a particular security does not repurchase the same security but chooses another similar security in the same sector thus not only minimizing or eliminating altogether liability on account of tax on capital gain, but also maintaining the portfolio broadly at the same risk return profile

## **4.3 Special provision relating to capital gain tax**

100B Special provision relating to capital gain tax:

- ❑ Provisions of section 37A and Eight Schedule of the Income Tax Ordinance, 2001 shall not apply to the following persons or class of persons, namely:
  - a mutual fund;
  - a banking company, a non-banking finance company, and an insurance company subject to tax under the Fourth Schedule;
  - a modaraba;
  - a company, in respect of debt securities only; and;

any other person or class of persons notified by the Board.

## 2.1 Admissible deductions

- ❑ In computing the income under the head "Income from Other Sources", the following allowances and deductions shall be made, namely:
  - (i) Any expenditure paid for earning Income from Other Sources other than expenditure of capital nature. the basis for allowability of deductions is '**paid basis**'.
  - (ii) In the case of profit on debt not falling under final tax regime, any zakat paid (at the time of receipt of profit).
  - (iii) In the case of income from sub-lease of land or a building or from lease of building together with machinery or plant, **deduction for depreciation** on plant, machinery and building and **initial allowance** on plant and machinery only
- ❑ Expenditure is of a capital nature if it has a normal useful life of more than one year.

### Exercise

On 13 September 2015, Azhar purchased a building which had been previously used as a factory in the Sundar Industrial Estate for Rs. 5,000,000 and installed in the building an item of second hand plant previously used in Pakistan, costing Rs.3,000,000. Azhar leased the Sundar property consisting of the building together with the plant on 01 January 2016 to Mr. Atif for a composite rent of Rs.400,000 per month payable in advance.

Azhar is also the owner of a residential building in Gulberg which was let to Beta Limited on 01 August 2015 for a monthly rent of Rs. 250,000. Rent for the two years was received in advance on 01 August 2015 after deduction of tax at the prescribed rate.

Following expenses were incurred by Azhar on the two properties during the tax year 2016:

Description	Sundar	Gulberg
Repair to building	140,000	63,000
Repair to plant	50,000	
Ground rent	5,000	5,000
Insurance	48,000	20,000
Total	243,000	88,000

Required:

Compute the taxable income of Mr. Azhar for the tax year 2016 under appropriate heads of income.

Answer:

Description	Note	Head of income	
		Other Source	Income from Property
Rent (400,000x 6)/(250,000x11)	1 & 2	2,400,000	2,750,000
Less: Deductions			
Repair to building/allowance	3	140,00	550,000
Repair to plant		50,000	-
Ground rent		5,000	5,000
Insurance		48,000	20,000
Initial allowance: Plant	4		
Building			
Depreciation: Plant	5	450,000	
Building		500,000	
		1,193,000	575,000
Net income		1,207,000	2,175,000

Notes:

N-1: Rent received in advance

Rent is not chargeable to tax on receipt basis. Rent relating to a tax year, whether received or receivable, is chargeable to tax in that tax year. Therefore, rent received in advance amounting to Rs.3,000,000(250,000x 12) will be charged to tax in the tax year (TY 2017) to which it relates.

N-2: Income from lease of building with plant

A composite rent of Rs. 2,400,000 (400,000x6) was received as consideration for the lease of the Sundar Industrial Estate property consisting of building together with the plant installed in the building. Such income after permissible deductions is chargeable to tax as "Income from Other Source" under section 39 of the Income Tax Ordinance, 2001. Further all the expenditures incurred in deriving such expense (along with depreciation and initial allowance) will be allowed.

N-3: Repair expense/allowance

In case of income from other source, actual expense incurred will be allowed as deduction, whereas in case of income from property, statutory allowance of 1/5th of the gross rent

will be allowed irrespective of the actual amount

of expense. N-4: Initial allowance

Initial allowance is not allowed on second hand plant or machinery. Further as per section 40(3)(b) initial allowance is restricted only to plant and machinery in case of income from other source.

N-5: Depreciation

	Building	Plant
Cost	5,000,000	3,000,000
Rate of depreciation	10%	15%
Total	500,00	450,00

## 1.1 Set-off of losses

### Set-off of losses (Sec-56)

- ❑ If a person sustains a loss under any head of income in a tax year, the same can be set-off against the income from any other head of income except for "income under the heads 'salary' or 'income from property'". However the following are exception to the said rule:
  - (i) Loss in speculation business cannot be set-off against any other income.
  - (ii) Capital loss cannot be set-off against any other income.
  - (iii) Loss from any head of income falling under presumptive tax regime.
  - (iv) Loss in a case where the income would have been an exempt income e.g. loss of agriculture income cannot be set-off against any taxable income.
- ❑ No loss except loss under the head "Income from Business" (including income from speculation business) and "Capital gain" can be carried forward.
- ❑ If a person sustains loss under the head "Income from Business" in addition to loss under any other head, the loss under the head "Income from Business" shall be set-off last.



#### Exercise:

For tax year 2016, taxable income/(loss) of Mr. Bilal under various heads of income is as follows:

	Rs.
Salary	500,000
Income from dividend	125,000
Income from property	250,000
Income from business	300,000
Loss from capital gain	100,000
Loss from income from other source	100,000
Loss from speculation business	100,000

Required:

Calculate the total income of Mr. Bilal after making adjustment of losses and income under keeping in view the provisions of Income Tax Ordinance, 2001.

Answer

Note    Amount

Income from salary and property	1	750,000
Income from business	2	200,000
Income from speculation and capital gain	3	-
Income from dividend	4	
Total income		<u>950,000</u>

Note 1

No loss is allowed to be adjusted against income from salary and property.

Note 2

Income from business amounting to Rs. 300,000 will be adjusted against loss under the head income from other source amounting to Rs. 100,000.

Note 3

Loss from speculation business and capital gain will be carried forward. These losses cannot be set-off against any other head of income. However it is pertinent to mention here that although speculation losses and capital gain losses cannot be set-off against income in any other head but vice versa is not prohibited. For instance loss under the head income from business can be set-off against any profit of speculation business.

Note 4

Income from dividend is chargeable to tax under section 5 on the gross amount. No loss is allowed to be adjusted.

---

#### Carry forward of business losses (Sec-57)

- ☐ business loss : can be carried forward
- ☐ In subsequent years, this loss can only be set-off against the person's income under the head "Income from Business".
- ☐ No loss shall be carried forward to more than **six tax years**
- ☐ the loss of earliest tax year shall be set-off first.
- ☐ If the loss, which is carried forward, includes depreciation, initial depreciation, first year allowance, accelerated depreciation and amortisation, shall be carried forward till they are completely set-off. (NO TIME LIMIT)

While computing person's taxable income, the deductions available for depreciation, initial depreciation, first year allowance, accelerated depreciation and amortisation shall be taken into account last.



### Exercise:

The business loss of a company for a tax year amounts to Rs. 900 million arrived at as follows:

	Rs. Million
Gross Revenue	2,000
Less Expenses:	
Tax depreciation	100
Initial Allowance	200
Amortization of intangibles	100
Other deductions	2,500
Business loss for the year	(900)

Required:

Calculate the business loss and depreciation/amortization loss. Also mention the number of years for which the said loss can be carried forward.

Answer

The tax loss of Rs. 900 million will be considered as made up of Rs. 100 on account of depreciation, Rs. 200 on account of initial allowance, Rs. 100 on account of amortization of intangibles and the balance amount of Rs. 500 million on account of other deductions. Accordingly tax loss of Rs. 900 million will be carried forward as follows:

On account of:	Rs. In "Million"
Depreciation + initial allowance + amortization	400
Business loss	500
	<u>900</u>

Loss under the head income from business can be carried forward for a maximum period of six years immediately succeeding the tax year in which it was first computed.

Depreciation, initial allowance and amortization loss can be carried forward in the following tax years until they are completely set-off.

#### Carry forward of speculation business losses (Sec -8)

- ☐ he can set off such loss only against profits of any other speculation business carried on by him during the same tax year.
- ☐ loss can be carried forward upto **six tax years**
- ☐ loss from speculation business cannot be adjusted against income under any other head.  
the loss of earliest tax year shall be set-off first.

#### Carry forward of capital losses (Sec-59)

- ☐ can not be set-off against income of that person under any other head
- ☐ carried forward upto **six tax years**
- ☐ In the subsequent years too, cannot be adjusted against income under any other head.
- ☐ the loss of earliest tax year shall be set-off first

### Limitations on set off and carry forward of losses (Sec-59A)

- ☐ Any members of an AOP shall not be entitled to set off or carried forward and set off loss of AOP against his income.
- ☐ Any person who has succeeded in the business of another person otherwise than by inheritance, shall not be entitled to set off or carry forward and set off loss of predecessor.
- ☐ If the loss includes depreciation, initial depreciation and amortization etc., shall be carried forward in the following tax years till they are completely set-off.
- ☐ Business loss, speculation loss and capital loss can not be carried forward and set off unless these are determined by an order made or treated

#### 2.1 Deductible allowances

- (i) Zakat
- (ii) Workers' welfare fund
- (iii) Workers' participation fund
- (iv) Profit on debt

##### (i) Zakat (Sec-60)

A person is entitled to a deductible allowance However, no deduction is allowed if Zakat is paid at the time of receiving profit on debt under the head "income from other source".

##### (ii) Profit on debt (Sec-64A)

- ☐ the individual utilizes the loan for the construction of a new house or the acquisition of a house.
- ☐ Any allowance or part of an allowance that is not able to be deducted for the tax year shall not be carried forward to a subsequent tax year.

#### 2.2 Tax credits

these tax credits shall be applied in the following order:

- (i) Foreign tax credit u/s 103
- (ii) Tax credit on donations, investment, enlistment, etc.,
  - (iii) Quarterly advance tax and tax deducted/collected at source

Following are the tax credits available

- ☐ Tax credit for charitable donations
- ☐ Tax credit for investment in shares or insurance premium
- ☐ Tax credit for contribution to approved pension fund
- ☐ Tax credit for employment generation
- ☐ Tax credit to the persons registered under the Sales Tax Act, 1990
- ☐ Tax credit for investment
- ☐ Tax credit for enlistment

- ❑ Tax credit for newly established industrial undertakings
- ❑ Tax credit for industrial undertakings set up before 01 July 2011

#### Charitable donations (Sec-61):

a donation to:

- any board of education or any university in Pakistan established by, or under, a Federal or a Provincial law;
- any educational institution, hospital or relief fund established or run in Pakistan by Federal Government or a Provincial Government or a local Government; or
- Any non-profit organization.

#### Tax credit for investment in shares and insurance (Sec-62)

- ❑ A resident person other than a company shall be entitled to a tax credit for a tax year either:
  - in respect of the cost of acquiring in the year new shares offered to the public by a public company listed on a stock exchange in Pakistan provided the resident person is the original allottee of the shares or the shares are acquired from the Privatization Commission of Pakistan; or
  - in respect of any life insurance premium paid on a policy to a life insurance company registered by the Securities and Exchange Commission of Pakistan under the Insurance Ordinance, 2000, provided the resident person is deriving income chargeable to tax under the heading “salary” or “income from business.”.

**Note:** In case a taxpayer has made investment in shares and life insurance during a tax year, he will be entitled for only one tax credit (Higher of both amounts)

#### Contribution to an Approved Pension Fund (Sec-63)

- ❑ An eligible person deriving income chargeable to tax under the head “Salary” or the head “Income from Business” shall be entitled to a tax credit of any contribution or premium paid in the year by the person in approved pension fund
- ❑ Eligible Person means an individual Pakistani who holds a valid NTN or Computerized NIC or NICOP by NADRA:

Provided that the total tax credit should not exceed the limit

- ❑ The transfer by the members of their existing balance to their individual pension accounts maintained with one or more pension fund managers shall not qualify for tax credit
- ❑ “Approved Annuity Plan” means approved (SECP) and offered by a Life Insurance Company registered with the SECP
- “Approved Income Payment Plan” means approved (SECP) and offered by a

Pension Fund Manager registered with the SECP

“Approved Pension Fund” means approved by (SECP) and managed by a Pension Fund Manager registered with the SECP

“Approved Employment Pension or Annuity Scheme” means any employment related retirement scheme approved under this Ordinance, which makes periodical payment to a beneficiary i.e. pension or annuity such as approved superannuation fund, public sector pension scheme and Employees Old-Age Benefit Scheme;

“Approved Occupational Savings Scheme” means any approved gratuity fund or recognized provident fund;

#### Tax credit for employment generation by manufacturers (Sec-64B)

- ❑ Where a taxpayer being a company formed for establishing and operating a new manufacturing unit sets up a new manufacturing unit between 1st day of July, 2015 and 30th of June, 2018, it shall be given a tax credit for a period of ten years.
- ❑ The amount of tax credit shall be equal to one percent of the tax payable for every fifty employees registered with The Employees Old Age Benefits Institution and the Employees Social Security Institutions of Provincial Governments during the tax year, subject to a maximum of ten percent of the tax payable.
- ❑ Tax credit shall be admissible where—
  - (a) the company is incorporated and manufacturing unit is setup between the first day of July, 2015 and 30th day of June, 2018, both days inclusive;
  - (b) employs more than fifty employees in a tax year registered with The Employees Old Age Benefits Institution and the Employees Social Security Institutions of Provincial Governments;
  - (c) manufacturing unit is managed by a company formed for operating the said manufacturing unit and registered under the Companies Ordinance, 1984 (XLVII of 1984) and having its registered office in Pakistan; and
  - (d) the manufacturing unit is not established by the splitting up or reconstruction or reconstitution of an undertaking already in existence or by transfer of machinery or plant from an undertaking established in Pakistan at any time before 1<sup>st</sup> July 2015.
- ❑ Where any credit is allowed and it is subsequently discovered by the Commissioner that any of the conditions specified were not fulfilled, the credit originally allowed shall be deemed to have been wrongly allowed and the Commissioner may re-compute the tax payable by the taxpayer for the relevant year.
- ❑ A manufacturing unit shall be treated to have been setup on the date on which the manufacturing unit is ready to go into production, whether trial production or commercial production.”;

#### Miscellaneous provisions and tax credits for members of AOP (Sec-65)

Where the above mentioned tax credits are allowed to a person who is also a member of an association of persons, the amount of taxable income shall include the share of person in the profit of the AOP (which is otherwise exempt) and tax payable shall be an amount payable on taxable income including share in the profit of AOP.

- ❑ If any tax credit as mentioned above, is not fully credited due to the credit being in excess of tax payable, the excess amount shall not be refunded, carried forward to a subsequent tax year or carried back to a preceding tax year
- ❑ However, if the person is the member of an AOP the amount of tax credit which cannot be applied as above by the member, can be claimed by the association of which he is member, in the same year. For this purpose a copy of written agreement between the member and the association shall be furnished along with the return of association.

#### Tax credit to a person registered under the Sales Tax Act, 1990 (Sec-65A)

- ❑ Every manufacturer, registered under the Sales Tax Act, 1990, shall be entitled to a tax credit **of two and a half per cent of tax payable** for a tax year, **if ninety per cent of his sales are to the person who is registered** under the aforesaid Act during the said tax year.
- ❑ For claiming of the credit, the person shall provide complete details of the persons to whom the sales were made.
- ❑ No credit will be allowed to a person whose income is covered under final tax or minimum tax.
- ❑ Carry forward of any amount where full credit may not be allowed against the tax liability for the tax year, shall not be allowed.

#### Tax credit for investment (Sec 65-B)

- ❑ Where a taxpayer being a company invests any amount in the purchase of plant and machinery, for the purposes of extension, expansion, balancing, modernization and replacement of the plant and machinery, already installed therein, in an industrial undertaking set up in Pakistan and owned by it, credit equal to **ten percent of the amount so invested** shall be allowed against the tax payable including on account of minimum tax and final taxes payable under any of the provisions of this Ordinance by it in the manner hereinafter provided.
- ❑ The above provisions shall apply if the plant and machinery is purchased and installed at any time between the first day of July, 2010, and the 30th day of June, 2016.
- ❑ The provisions of this section shall *mutatis mutandis* apply to a company setup in Pakistan before the first day of July, 2011  
However, credit equal to **twenty percent of the amount** so invested shall be allowed against the tax payable, including on account of minimum tax and final taxes payable under any of the provisions of this Ordinance. The credit shall be allowed in the year in which the plant and machinery in the purchase of which the investment as aforesaid is made, is installed therein
- ❑ “**new equity**” means equity raised through fresh issue of shares against cash by the company and shall not include loans obtained from shareholders or directors
- ❑ shall be carried forward but not more than **two tax years** in the case of investment by companies between first day of July 2010 to 30<sup>th</sup> day of June 2016 and for more than **five tax years** in respect of investment before first day of July 2011

#### Tax credit for enlistment (Sec-65C)

- ❑ Where a taxpayer being a company, opts for enlistment in any registered stock exchange in Pakistan, **a tax credit equal to 20%** of tax payable shall be allowed for the tax year in which the said company is enlisted.

#### Tax credit for newly established industrial undertakings (Sec-65D)

- ❑ Where a taxpayer being a company formed for establishing and operating a new industrial undertaking for manufacturing in Pakistan sets up a new industrial undertaking, it shall be given a **tax credit equal to 100%** of the tax payable including on account of minimum tax and final tax payable by that industrial undertaking for a period of five years beginning from setting up or commencement of commercial production whichever is later.
- ❑ Tax credit shall be allowed subject to the following conditions:
  - (i) the industrial undertaking is set up between 01-07-2011 and 30-06-2016;
  - (ii) the company is registered in Pakistan;
  - (iii) the industrial undertaking is not established for splitting up or reconstruction or reconstitution of an undertaking already in existence; andthe industrial undertaking is set up with hundred percent equity raised through issuance of new shares for cash consideration;

#### Tax credit for industrial undertakings established before 01 July 2011 (Sec-65E)

- ❑ invests any amount, with hundred percent new equity raised through issuance of new shares, in the purchase and installation of plant and machinery for an industrial undertaking, including corporate dairy farming, for the purposes of
  - (a) expansion of the plant and machinery already installed therein or
  - (b) undertaking a new project,a tax credit shall be allowed against the tax payable for a period of **five years** beginning from the date of setting up or commencement of commercial production from the new plant or expansion project, whichever is later.
- ❑ Where a taxpayer maintains separate accounts of an expansion project or a new project, as the case may be, the taxpayer shall be allowed a tax credit equal to **one hundred percent** of the tax payable,
- ❑ This tax credit shall be given if the plant and machinery is installed at any time between the first day of July, 2011 and the 30th day of June, 2016.

### 3.1 Exemptions and tax concessions (Sec-41-55)

#### S41. Agriculture income (Sec -1)

- ❑ Agriculture income means an income, which satisfies the following conditions:
  - (i) The income is derived from land (rent or revenue)
  - (ii) The land must be used for agriculture purpose and be situated in Pakistan;

- ❑ Agricultural Income derived by a person during the tax year shall be exempt from tax.
- ❑ Various sources of agriculture income are:
  - a. sale of agriculture produce without performing any further process.
  - b. Income from the performance of any process to render the produce, fit to be taken, to market.
  - c. Income from building shall also be agriculture income, subject to the following conditions
    - (a) Building is owned and occupied by the cultivator or receiver of rent-in-kind;
    - (b) Building is situated in the immediate vicinity of the land used for agricultural purposes;
    - (c) Building is required as a dwelling house, a store house or other out building by the cultivator or the receiver of rent-in-kind due to his connection with the agriculture land.

#### Agriculture produce as raw material (Rule-11)

- ❑ Where a person uses agriculture produce as raw materials in his business, then the income chargeable to tax under the head income from business shall be computed as follows:

Total income	xxx
Less: Market value of agricultural produce used in the business as raw material	<u>xxx</u>

Only the market value of agriculture produce is deducted. No further deduction shall be allowed in respect of any expenditure incurred by a taxpayer as cultivator or as a receiver of rent in kind.

- ❑ The market value shall be calculated as follows:
  - (i) Market value at the time of usage
  - (ii) in any other case, the sum of the following amounts, namely
    - a. the expenses of cultivation; and
    - b. the land revenue rent paid for the area in which the produce is grown.

#### Diplomatic and United Nations Exemptions (Sec-42)

- ❑ Income of an individual entitled to privileges under the Diplomatic and or United Nations shall be exempt from tax
- ❑ Any pension received by a person from United Nations

#### Foreign Government Officials (Sec -3)

- ❑ shall be exempt from tax if:
  - (iii) the employee is a citizen of foreign country and not a citizen of Pakistan.
  - (iv) the services performed are similar to those performed by employees of

Federal Government in foreign countries; and

- (v) the foreign government grants similar exemptions to employees of Federal Government of Pakistan performing similar services in such foreign country.

#### Exemptions under International Agreements (Sec-44)

- ❑ Any Pakistan source income shall be exempt if Pakistan is not permitted to tax it.
- ❑ Any salary received by an individual (who is not a citizen of Pakistan) shall be exempt from tax under the Ordinance to the extent provided for in an Aid Agreement between the Federal Government and a Foreign Government or Public International Organization, where:
  - (i) the individual is either not a resident individual or a resident individual solely by reason of the performance of services under the Aid Agreement;
  - (ii) if any Aid Agreement is with a foreign country, the individual is a citizen of that country; andthe salary is paid by the foreign government or public international organization out of funds or grants released as aid to Pakistan in pursuance of such Agreement.

- ❑ A non citizen engaged as a contractor, consultant, or expert on a project in Pakistan. This income shall be exempt from tax to the extent provided for in a bilateral or multilateral technical assistance agreement between the Federal Government and a foreign government or public international organization, where:
  - (i) the project is financed out of grant funds in accordance with the agreement;
  - (ii) the person is either a non-resident person or a resident person solely by reason of the performance of services under the agreement; and
  - (iii) the income is paid out of the funds of the grant in pursuance of the agreement.

#### President's Honours (Section-45)

Any allowance attached to any Honour, Award or Medal as well as any Monetary award granted to a person by President of Pakistan shall be exempt.

#### Profit on Debt (Sec 46)

Any profit received by a **non- resident person** on a security issued by a resident person shall be exempt from tax if:

- (i) the persons are not associates;
- (ii) the security was widely issued outside Pakistan for the purposes of raising a loan outside Pakistan for use in a business carried on by the resident person in Pakistan;
- (iii) the profit was paid outside Pakistan; and
- (iv) the security is approved by the Board for the purposes of this section.

#### Scholarship (Sec-47)

Any scholarship granted to a person to meet the cost of the person's education shall be exempt from tax if it is not paid directly or indirectly by an associate.

#### Support Payments under an Agreement to Live Apart (Sec-48)

Any amount received by a spouse as support payment under an agreement to live apart shall be exempt from tax.

#### Federal, Provincial and Local Government Income (Sec-49)

- ❑ The income of the Federal Government shall be exempt from tax.  
except income chargeable under the head "Income from Business" derived by a Provincial Government or Local Government from a business carried on outside its jurisdictional area.

- ❑ Exemption under this para shall not be available to:

- (i) corporation;
- (ii) company;
- (iii) regulatory authority;
- (iv) a development authority;
- (v) other body; or
- (vi) institution;

established by or under a Federal law or a Provincial law or an existing law or, owned and controlled either directly or indirectly by Federal Government or a Provincial Government

#### Foreign-source income of short-term resident individuals (Sec-50)

- ❑ The foreign-source income of an individual, shall be exempt if:
  - (i) the person is a resident individual solely by reason of the individual's employment and
  - (ii) the person's stay in Pakistan does not exceed three years.
- ❑ This exemption shall not be available to:
  - (i) any income derived from a business of the person established in Pakistan; or
  - (i) any foreign source income brought into or received in Pakistan by the person.

#### Foreign Source Income of Returning Expatriates (Sec-51)

- ❑ Foreign Source Income of a Citizen of Pakistan shall be exempt from tax in the year in which the person became resident and following one tax year. For this purpose the individual must not remained resident in any of the four preceding tax years from the year in which the person became resident.
- ❑ Where a citizen of Pakistan leaves Pakistan during a tax year and remains abroad during that tax year, any salary income earned by him outside Pakistan (only during that tax year) shall be exempt from tax.

### Exemptions and tax provisions in other laws (Sec-54)

No provision contained in any other law has a legal effect unless it is also provided for in the Ordinance

### Limitation of exemption (Sec-55)

Where any income is exempt from tax, the exemption shall be, limited to the original recipient of that income and shall not extend to any person receiving any payment wholly or in part out of that income.

## 3.2 Exemptions and tax concessions in Second Schedule (Sec-53)

- ☐ Where any income is exempt from tax under any provision of Second Schedule, it shall be included in the total income, however, the tax shall not be payable in respect of such income.
- ☐ The Federal Government is empowered to make such amendment in the Second Schedule as the Government thinks fit.
- ☐ The amendments shall be effective from such tax year (as notified by the Government)
- ☐ The Federal Government shall place before the National Assembly, all amendments made to the Second Schedule in a financial year.

### Significant Exemptions from total income (Part I of 2nd Schedule)

- Income of mutual fund/unit trust/investment company
- Profits and gains of a venture capital company
- Subsidy granted to a person by Fed govt.
- Inter corporate dividend within group companies
- Export of IT services
- Income of special purpose vehicle
- Income from services rendered and construction contracts outside Pakistan

### Reduction in tax liability (Part III of 2nd Schedule)

- Full time teacher or researcher (40%)
- Behbood saving certificates (10%)
- Minimum tax on distributors of cigarettes (80%)
- Minimum tax on distributors of pharmaceutical products, flour mills, fertilizers (80%)

### 1.3 Taxation of certain individuals

#### Deceased individual:

- ❑ Any person to whom the estate of the deceased person passes on his death or who intermeddles with such estate is also treated as legal representative.
- ❑ Legal representative is liable for:
  - (i) any tax that the deceased would have become liable for if he had not died; and
  - (ii) any tax payable in respect of the income of deceased's estate.
- ❑ Liability of the legal representative shall be limited to the extent to which deceased estate is capable of meeting the liability.
- ❑ Any proceedings taken against the deceased before his death shall be treated as taken against the legal representative and may be continued against him from the stage at which the proceedings stood on the date of deceased death.
- ❑ Any proceedings which could have been taken against the deceased if he had survived may be taken against the legal representative.

#### Income of a minor child



##### Definition: Minor child

"Minor child" means an individual who is under the age of eighteen years at the end of a tax year.

any income of a minor child under the head "Income from Business" shall be chargeable to tax

However, the above provision shall not apply in case the income of a minor child is derived from a business acquired by the child through an inheritance.

#### Authors

where the time taken by an author of a literary or artistic work to complete the work exceeds twenty-four months, the author may elect to treat any lump sum amount received by him in a tax year on account of royalties as having been received in that tax year and the preceding two tax years in equal proportions.

### 2.2 Basic principles for taxation of AOP

- AOP is liable to tax separately from the members of the association.
- An AOP is treated as tax resident for a tax year if the control and management of its affairs is situated wholly or partly in Pakistan at any time during that tax year.
- A resident AOP is taxable on its worldwide income.
- If the AOP has paid tax for a tax year, the amount received by a member shall be exempt from tax. However, such share of member is included for determination of tax rate i.e. for rate purpose
- If at least one of the members of an AOP is a company, the share of such company or companies shall be excluded for the purpose of computing the total

income of the AOP and the company or companies shall be taxed separately at the rates applicable to the companies, according to their share.

- The AOP is entitled to set off and carry forward its losses. However, share of loss from AOP is neither adjustable against the income of its members nor it is considered for rate purpose.
- Where a change occurs in the constitution of a firm during a tax year, the firm's income is apportioned amongst the members on a time basis.
- The responsibility for filing the tax return of a firm for any tax year rests with the persons who are members in the firm on the date the firm is required to file its tax return.
- Where a firm dissolves or discontinues carrying on business, any tax payable by the firm is recoverable from any person who was a member in the firm at the time of dissolution or discontinuance of business. Tax payable can also be recovered from legal heirs of the deceased partners
- In case more than 50% of underlying ownership of an AOP changes in a tax year, any loss incurred before the said change will not be allowed as deduction unless
  - (i) The said AOP continues to conduct the same business as it was doing before the change until loss has been fully set off
  - (ii) AOP, until the loss is set off, does not engage in any new business or investment after the change
- Any profit on debt, brokerage, commission, salary or other remuneration paid by an association of persons to a member of the association is not allowed as an expense; hence it should be added back to the taxable income of AOP.
- FBR has clarified that it is the divisible income (profit after tax) of AOP that will be included in the taxable income of its members for rate purpose.
- Share of loss from AOP is neither adjustable against income of its members nor it is considered for rate purpose.
- If an AOP has any income that falls under presumptive tax regime (PTR) then members share from such income shall not be added in the taxable income of the member.
- A joint venture is treated as an association of persons and is liable to tax separately from its members. In case a joint venture incurs a loss in a tax year, the entire loss would be carried forward to the following tax year and so on for a maximum period of six tax years.

### 1.1 Principles of taxation of foreign source income of resident persons

a resident person is liable to tax in respect of his worldwide income & business outside Pakistan

### 1.2 Computation of income

- ❑ Foreign sourced income is computed separately from Pakistan-sourced income.
- ❑ expenditure incurred in deriving foreign-sourced income is deductible only from foreign-sourced income and not deductible against Pakistan-sourced income and vice versa.
- ❑ Foreign sourced income is computed separately for each head of income.
- ❑ Foreign-sourced business income is computed using the same principles as these apply to computation of Pakistan-sourced business income.
- ❑ Foreign losses are not adjustable against Pakistan-sourced income

### 1.4 Foreign tax losses

- 1) no foreign loss shall be carried forward to more than six tax years
- 2) Where a taxpayer has a foreign loss carried forward for more than one tax year, the loss for the earliest year shall be set off first.

- ❑ Section 67-Apportionment of deductions shall apply for the purposes of this section on the basis that:
  - income from carrying on a speculation business is a separate head of income; and
  - foreign source income chargeable under a head of income including a speculation business is a separate head of income.

### 2.4 Exemptions to certain foreign residents or foreign source income of residents

Following exemptions are available to foreigners or the foreign source income of residents

<b>Title of Section</b>
Diplomatic and United Nations exemptions.
Foreign government official
Exemption under international agreements

Exercise:

Mr. Akhtar has served in South Africa (SA) for last five years. He was Chief Engineer at a multinational Company in SA. He returned to Pakistan in September 2015. Detail of his income for the year 2016 is as under:

1. His emoluments for the last July to September converted into Pak Rupees are as under:

Particulars	Amount
Pay	1,500,000
Expatriate allowance	680,000
Medical allowance	320,000
Total	2,500,000

2. Mr. Akhtar spent his whole income for personal expenses and balance amount was invested in a Consultancy business. He was a member in an engineering consulting AoP in of South Africa. His investment in the firm still exists and during the year 2013, he earned income equivalent to Rs 750,000 after paying tax of Rs 125,000. He has not drawn any sum from the share of his profit.
3. Mr. Akhtar also received rent in Pakistan of his apartment situated in SA. The rental income earned and received aggregates to PKR 1,200,000. In SA the rental income is taxed as separate block of income and tax on the rental income paid by Mr. Akhtar was Rs 120,000. Mr. Akhtar paid a sum of Rs 12,000 to the banker for rent collection.
4. Mr. Akhtar received pension amounting to Rs 250,000 during the year from his employer at SA. This pension was paid to his son in South Africa to meet his educational expenses.
5. Mr. Akhtar deposited his cumulative pension in the SA special bonds and earned profit on debt amounting to Rs 325,000 during the year from the said investment. Mr. Akhtar opted to invest the profit in the said bonds in order to avoid reduction in interest rates which are applicable on fresh investments.
6. In Pakistan, Mr. Akhtar joined Gatron International Limited on 01 October 2015 and received following salary income from the company:

Particulars	Amount
Basic Pay	2,800,000
Utilities allowance	280,000
Medical allowance	280,000
Total	3,360,000

7. South African Revenue Authorities raised a tax demand against Mr. Akhtar equivalent to Rs 25,000 on the rental income in view of claim of inadmissible expenses there against and Mr. Akhtar paid this demand in August 2016.

You are required to compute Pakistan tax liability of Mr. Akhtar for the tax year 2016. It is worthwhile to mention here that the nationality of Mr. Akhtar is not confirmed, therefore, it is desired that the Pakistan tax of Mr. Akhtar should be worked out considering that:

- (a) Mr. Akhtar is Pakistani National
- (b) Mr. Akhtar is SA National

Answer

MR. AKHTAR

Situation Number 1

Mr. Akhtar is Pakistani National Person

As per information provided to us, he remained outside Pakistan since last five years, therefore, foreign source income of Mr. Akhtar is exempt from levy of tax under section 51 of the Ordinance and tax liability on the Pakistan source income is as under:

Particulars	Gross Income	Exempt	Taxable
Basic Pay	2,800,000	0	2,800,000
Utilities allowance	280,000		280,000
Medical allowance	280,000	280,000	=
Total taxable income			<u>3,080,000</u>
Tax			<u>377,500</u>

Situation Number 2

Mr. Akhtar is a national of South Africa

Under section 50 of the Ordinance, the foreign source income of a short term resident individual is not taxable in Pakistan if it is not received in Pakistan. Therefore, Income of Mr. Akhtar is only taxable to the extent it is received in Pakistan. The bare perusal of the question reveals that Mr. Akhtar received only rental income in Pakistan from abroad. Therefore, the same will be taxed with the Pakistan source income.

Particulars	Notes	Taxable Amount
Income from salary	As in Situation 1	3,080,000
Foreign source rental income (less 1/5 <sup>th</sup> allowance at Rs. 240,000 and collection charges at Rs. 12,000)		948,000
Total Income		<u>4,028,000</u>
Tax Liability		
As the taxable salary exceeds 50% of taxable income hence, tax rates applicable on salaried person is computed as under		
Tax on taxable income 597,000 + 27.5% on sum exceeding Rs 4 M		604,700
Less Foreign Tax Credit		
Average tax 604,700/4,028,000 x 948,000		142,318
Foreign Tax paid (120,000 +25,000) whichever is less		<u>142,318</u>
Balance Tax Payable		<u>462,382</u>

## 2.1 Persons liable to file a tax return

The following persons are required to furnish a return of income for a tax year:

- (i) Every company;
- (ii) Every person (other than a company)
- (iii) Any non-profit organisation
- (iv) Any welfare institution

In addition to the above, return is also required to be filed by the person who,-

- (i) has been charged to tax in respect of any of the two preceding tax years;
- (ii) claims a loss carried forward for a tax year;
- (iii) owns immovable property with a land area of two hundred and fifty square yards or more or owns any flat except:
  - a. a widow
  - b. an orphan below the age of 25 years
  - c. a disabled person; or
  - d. a non-resident person
- (iv) owns immovable property with a land area of five hundred square yards or more located in a rating area;
- (v) owns a flat having covered area of two thousand square feet or more located in a rating area;
- (vi) owns a motor vehicle having engine capacity above 1000 CC;
- (vii) has obtained National Tax Number or
- (viii) Is the holder of commercial or industrial connection of electricity where the amount of annual bill exceeds five hundred thousand.
- (ix) is a resident person registered with any chamber of commerce and industry or any trade or business association or any market committee or any professional body.
- (x) Every individual whose income under the heading 'Income from business' exceeds Rupees three hundred thousand but does not exceed Rupees four hundred thousand is also required to file tax return.

## 2.2 Persons not liable to file tax return

- solely by reason of owning immovable property with a land area of two hundred and fifty square yards or more or any flat located in areas falling within the municipal limits
  - a widow;
  - an orphan below the age of twenty-five years;
  - a disabled person; or
  - a non-resident person.

- such a person shall furnish to the Commissioner a statement showing such particulars relating to the person's income for the tax year. This statement is usually called 'statement of final tax'

## 2.3 Powers to call for returns and statements

- the Commissioner may require a person, to furnish a return of income for a period of less than twelve months, where:
  - the person has died;
  - the person has become bankrupt or gone into liquidation;
  - the person is about to leave Pakistan permanently;
  - the Commissioner otherwise considers it appropriate to require such a return to be furnished.
- who has failed to do so within thirty days from the date of of such notice or such longer or shorter period as may be specified in such notice or as the Commissioner may allow. Any such notice may be issued in respect of one or more of the last five completed tax years or assessment years.

## 3.1 Method of filing of Tax Return [Section 118]:

- 1) A return of income shall be in the prescribed form and shall be accompanied by such annexure, statements or documents as may be prescribed;
  - a. shall fully state all the relevant particulars or information as specified in the form of return, including a declaration of the records kept by the taxpayer; and
  - b. shall be signed
  - c. shall be accompanied with due payment of tax
  - d. shall be accompanied with a wealth statement
- 2) A return of income filed electronically on the web or any magnetic media or any other computer readable media and the Board may, make rules for determining eligibility of the data of such returns
- 3) Every return purporting to be made or signed by, or on behalf of a person shall be treated as having been duly made by the person or with the person's authority until the person proves the contrary.

## 4.1 Filing of revised return or statement

Any person who, having furnished a return, discovers any omission or wrong statement therein, may file revised return subject to the following conditions, namely: —

- a. It is accompanied by the revised accounts or revised audited accounts.

- b. the reasons for revision of return, in writing, duly signed.
- c. it is accompanied by approval of the Commissioner in writing for revision of return.  
this condition shall not apply if revised return is filed within sixty (60) days of filing of return.  
where the Commissioner has not made an order or approval in writing before the expiration of sixty days it shall be deemed to have been granted by the Commissioner, and the specified condition shall not apply
- d. taxable income declared is not less than and loss declared is not more than income or loss.

If any of the above conditions is not fulfilled, the return furnished shall be treated as an invalid return as if it had not been furnished.

## 4.2 Procedure for filing of revised return and statement

- taxpayer files a revised return voluntarily: no penalty shall be recovered from him
- taxpayer deposits as pointed out by the Commissioner: the default surcharge and 25% of the penalties along with the revised return
- taxpayer revises the return after the issuance of a show cause notice: deposit the amount of tax sought to be evaded, default surcharge and 50% of the leviable penalties along with the revised return.

## 5.1 Due dates for filing tax returns

Tax Return Filer	Return Period	Due Date
A return of income and statement of final tax of a company	Tax year ending between 1 <sup>st</sup> January to 30 June	On or before 31 December next following the end of tax year
A return of income and statement of final tax of a company	Tax year ending between 1 <sup>st</sup> July to 31 December	On or before 30 September next following the end of tax year
All salaried person and persons required to file statement of final tax	All year ends	On or before 31 August next following the end of tax year
All other cases of person filing returns or statement of final tax	All year ends	On or before 30 September next following the end of tax year
Return in response to notice under section 11 (discontinuance of business)	Year end as specified in notice	Due date fixed for submission of tax return.
Return in response to notice under section 114(5)	Year end as specified in notice	Due date specified in the notice for submission of tax

(return liable to be  
filed but not filed)

return or thirty days  
from the date of

### 6.1 Wealth statement [S116]

☐ Wealth statement is a statement of assets and liabilities, for any year, which a person is required to file, in the prescribed form and verified in prescribed manner giving particulars of

- the person's total assets and liabilities
- the total assets and liabilities of the person's spouse, minor children, and other dependents
- any assets transferred by the person to any other person and the consideration
- the total expenditures incurred by the person, and the person's spouse, minor children, and other dependents details
- the reconciliation statement of wealth.

☐ Every resident taxpayer being an individual/AOP, shall furnish a wealth statement and wealth reconciliation statement along with such return.

☐ Where a person files a return in response to a provisional assessment, he shall furnish a wealth statement, return, wealth statement, wealth reconciliation statement and an explanation of sources of acquisition of assets specified therein.

☐ Where a person, discovers any omission or wrong statement, he may, without prejudice to any liability incurred by him, furnish a revised wealth statement at any time before an assessment.

☐ Every person (other than a company or an association of persons) filing statement of final tax, shall file a wealth statement along with reconciliation of wealth statement.

### 6.2 How to prepare a wealth statement

☐ wealth statement is primarily a balance sheet of an individual taxpayer where personal assets and liabilities of a person. wealth statement only gives details of personal assets and liabilities but does not reflect the status of business assets and liabilities. However, it does show net equity or shareholding of that person in any business. A wealth statement is incomplete without reconciliation statement showing accretion no change or decrease in wealth.

☐ Cash and bank reconciliation statement is derived from the cash & bank account. It starts from taking opening balance of cash & bank balances and after adding cash inflows and subtracting cash outflows, the remaining amount portrays closing balances of cash & bank account(s).

☐ now after taking the figure of the cash & bank reconciliation, wealth statement for the current year is complete and a person can easily calculate the figure of increase/decrease in the net wealth by subtracting the last year's net wealth figure from the current year's net wealth figure shown in the current year wealth statement.

☐ While preparing wealth statement assets and liabilities are recorded at historical cost irrespective of their present market value



**Exercise:**

Mr. Nadeem has filled following wealth statement as on 30.06.2016

Plot at DHA, Lahore	3,500,000
Capital in ABC & Co	2,500,000
Jewelry	500,000
Shares in XYZ (Pvt.) Ltd	1,000,000
Cash	1,500,000
Bank	2,000,000
TOTAL	11,000,000
Personal Loan	1,000,000
TOTAL	10,000,000

During the year following information is provided:

He earned salary income of Rs. 1,200,000 and paid tax Rs. 100,000.

He sold share of Rs. 200,000 for a consideration of Rs.

350,000. He settled his personal loan of Rs. 500,000.

His household expenses aggregates to Rs. 850,000.

He has given gift of Rs. 400,000 to his brother Kamran through crossed cheque.

He has earned profit on ABC & Co of Rs. 450,000. His drawings from the firm during the year was Rs. 275,000. He paid tax of Rs. 40,000 on firm income.

He purchased a new plot at EME society for total consideration Rs. 2,000,000 payable in 20 installments. During the year. He paid Rs. 700,000 in installments.

On 30<sup>th</sup> June 2016, his bank balance was Rs. 475,000.

**Required:**

Prepare the wealth reconciliation statement and wealth statement for 2016.

Answer

MR. NADEEM

Wealth reconciliation statement

	Amount
<i>Opening Wealth</i>	10,000,000
Add: Sources	
Salary Income	1,200,000
Gain on sale of shares	150,000
Profit on ABC & CO	450,000
Total	11,800,000
Less:	
Gift to brother	400,000
Tax deducted from salary	100,000
Tax on profit of ABC & Co.	40,000
Household expenses	850,000
	1,390,000
Total (11,800,000-1,390,000)	<u>10,410,000</u>

Note 2

Cash Reconciliation

Opening cash	1,500,000	
Opening bank	2,000,000	
		3,500,000
Add:		
Salary	1,200,000	
Drawings	275,000	
Sale of shares	350,000	
		1,825,000
Total		5,325,000
Less:		
House hold expenses	850,000	
Taxes	140,000	
Gift	400,000	
Plot instalments	700,000	
Loan instalment	500,000	2,590,000
		2,735,000
Cash balancing (Rs. 2,735,000 – 475,000)		2,260,000
Bank		<u>475,000</u>

Wealth statement 2016

Plot at DHA	3,500,000
Capital in ABC (Note 1)	2,675,000
Advance for plot at EME	700,000
Jewellery	500,000
Shares in XYZ	800,000
Cash (note 2)	2,260,000
Bank (note 2)	475,000
Total	10,910,000
Less:	
Loan	(500,000)
Closing wealth	<u>10,410,000</u>
Note 2capital	

Opening	2,500,000
Profit	<u>450,000</u>
	<u>2,950,000</u>
Drawings	275,000
Total	2,675,000

### 7.1 Notice of discontinued business

- ❑ Any person discontinuing a business shall give the Commissioner a notice in writing **within fifteen days of the discontinuance**.
- ❑ The person discontinuing a business shall, in writing, furnish a return of income for the period commencing on the first day of the tax year in which the discontinuance occurred and ending on the date of discontinuance and this period shall be treated as a separate tax year
- ❑ Where no notice has been given by taxpayer but the Commissioner has reasonable grounds to believe that a business has discontinued or is likely to discontinue, the Commissioner may serve a notice to furnish to the Commissioner within the time specified in the notice a return of income for the period specified in the notice.
- ❑ A return furnished under this case shall be treated as a return of income;

### 8.1 Extension of time for furnishing returns and other documents:

- ❑ A person required to furnish return or statement may apply, in writing, to the Commissioner for an extension of time to furnish the return or statement, as the case may be.
- ❑ The application for extension must be made by the due date of filing of the return or statement, as the case may be.
- ❑ Extension in due date may be granted if the Commissioner is satisfied that the taxpayer was unable to furnish return, or statement due to
  - (a) absence from Pakistan;
  - (b) sickness or other misadventure; or
  - (c) any other reasonable cause
- ❑ An extension of time as discussed above should not exceed fifteen days, unless there are exceptional circumstances justifying a longer extension of time.
- ❑ An extension of time granted as discussed above shall not change the due date for payment of income tax payable on the basis of return and default surcharge shall be chargeable for delayed payment of tax due.

## 1.1 Assessment

Assessment is generally made on the basis of returns filed for a tax year. This is termed as Universal Self-Assessment Scheme (USAS) by the FBR, though no such words are used in the Ordinance.

## 1.2 Ways of framing the assessment

- ☐ Normal assessment, usually referred to as 'assessment'
- ☐ Best judgment assessment
- ☐ Provisional assessment
- ☐ Provisional assessment in certain cases

## 1.3 Assessment (Normal assessment) – Section 120

- ☐ If a taxpayer has furnished a complete return of income other than a revised return, the Commissioner shall be treated to have assessed it.
- ☐ Return furnished shall be considered as an assessment order issued by the Commissioner to the taxpayer on the date it was furnished.
- ☐ However, in addition to above deemed assessment, the Commissioner has powers to conduct audit of income tax affairs

### Assessment in case of incomplete return

- ☐ the Commissioner shall issue a notice to the taxpayer informing him of the deficiencies (other than incorrect amount or short payment of tax payable) and directing him to provide certain information, particulars, statement or documents by the date specified in the notice in order to make the return a 'complete return'.
- ☐ If a taxpayer fails, the return furnished shall be treated as an invalid. However, if the taxpayer fully complies, the return furnished shall be treated to be complete
- ☐ Such notice shall not be issued after expiry of 180 days from the end of the financial year in which return was furnished.

## 1.4 Best judgment assessment – Section 121

- ☐ This type of judgment is made where a person fails to:
  - furnish a statement
  - furnish a return
  - furnish the wealth statement
  - produce before the commissioner any other relevant document or evidence that may be required by him for the purpose of making assessment of income and determination of tax due thereon.
- ☐ the Commissioner may, make an assessment of the taxable income of the person and the tax due thereon. Under such a case, the assessment, if any, treated to have been made on the basis of return or revised return filed by the taxpayer shall be of no legal effect.
- ☐ As soon as possible after making a best judgment assessment, the Commissioner shall issue the assessment order to the taxpayer stating:

the taxable income; the amount  
of tax due;  
the amount of tax paid,

The time, place and manner of appealing against the assessment order.

- ❑ An assessment order under this section shall only be issued within **five years**

### 1.5 Provisional assessment – Section 122C

- ❑ Where a person fails to furnish return of income, the commissioner may, make a provisional assessment and issue a provisional assessment order
- ❑ The provisional assessment order completed is treated as the final assessment order after the expiry of **forty five days** from the date of service of order of provisional assessment;
- ❑ However, the provisional assessment shall not be treated as final order if:
  - (i) In case of individual and AOP, the person files return of income along with wealth statement, wealth reconciliation statement and other documents for the relevant tax year during the said period of 45 days.
  - (ii) In case of company the person files return of income electronically along with audited accounts for the relevant tax year during the said period of 45 days

### 1.6 Provisional assessment in certain cases

- ❑ This type of assessment is applicable in case where any concealed asset of a person is impounded by any agency of Federal or Provincial Government. In such a case, the Commissioner is empowered to make provisional assessment before making a best judgment assessment or amended assessment.
- ❑ Where any concealed asset is impounded, it shall be taken into account in the computation of taxable income and tax payable for the last completed tax year of the person during which the concealed asset was accounted for.
- ❑ The Commissioner shall finalize the provisional order or provisional amended assessment order as soon as possible.
- ❑ Concealed asset means any property or asset which, in the opinion of Commissioner, is acquired from any income chargeable to tax but could not be charged to tax.

### 2.1 Assessment in relation to disputed property – Section 125

Where the ownership of any property the income from which is chargeable to tax is in dispute in any civil court in Pakistan, an assessment order or amended assessment order in respect of such income may be issued at any time within one year after the end of the financial year in which the decision of the court is made.

### 2.2 Evidence of Assessment – Section 126

- ❑ The production of an assessment order or its certified copy shall be conclusive evidence of due making of assessment.
- ❑ Any order of assessment or other document required may not be:
  - (i) quashed or void or voidable for want of form; or
  - (ii) affected due to any mistake, defect or omission therein

- ❑ However, an order shall be quashed or void:
  - (i) if it is in substance and effect, not in conformity with ITO; or
  - (ii) the person assessed is not designated in it according to common understanding.

### 3.1 Amendment of assessments – Section 122

- ❑ Commissioner is empowered to amend an assessment order.
- ❑ Amendment of assessment shall not be made after the expiry of 5 years, from which the order is issued or treated as issued.
- ❑ If a taxpayer furnishes a revised return of income
  - (i) the Commissioner shall treat the revised return as amended assessment
  - (ii) the taxpayer's revised return shall be taken to be an amended assessment order issued to the taxpayer by the Commissioner
- ❑ Commissioner is also empowered to amend further as many times as may be necessary, the original assessment order as amended previously within the later of:
  - (i) **five years** from which the original assessment order is issued
  - (ii) **one year** from which the amended assessment order is issued
- ❑ An assessment order or amended assessment shall only be amended, where the Commissioner has definite information, acquired from an audit or otherwise, that:
  - (i) any taxable income has escaped assessment;
  - (ii) total income has been under assessed
  - (iii) any amount under a head of income has been misclassified.
- ❑ Definite information includes information relating to sales or purchases of any goods made by the taxpayer, receipts of the taxpayer from services rendered or other receipts relating to the acquisition / possession / disposal of any money / asset / valuable article, or investment made or expenditure incurred by the taxpayer.
- ❑ The Commissioner may amend, or further amend, an assessment order, if he considers that it is erroneous in so far it is prejudicial to the interest of revenue.
- ❑ Once the order of assessment is amended, the Commissioner shall issue an amended assessment order as soon as possible stating:
  - (i) the amended taxable income of taxpayer;
  - (ii) the amended amount of tax due;
  - (iii) the amount of tax paid, if any, and
  - (iv) the time, place and manner of appealing the amended assessment
- ❑ No assessment shall be amended or further amended without giving the taxpayer an opportunity of being heard.

### 3.2 Detailed explanation

- 1) An assessment can only be amended in two situations:
  - on the basis of any definite information or where the assessment is erroneous

- prejudicial to the interest of revenue.
- 2) An assessment can be erroneous however, in case the same is not prejudicial to the interest of revenue then tax authorities cannot initiate the proceedings of amendment of assessment
  - 3) Any change of opinion does not constitute any definite information or makes the assessment as erroneous and prejudicial to the interest of revenue.

#### 4 ACTION AGAINST THE ASSESSMENT/AMENDED ASSESSMENT ORDER

From the Tax department

- ☐ Revision by the Commissioner
- ☐ Revision by the Chief Commissioner
- ☐ Modification of orders

From the Tax payer

- ☐ Rectification of mistake
- ☐ Appeal (see Chapter 16)
- ☐ Alternate dispute resolution committee (see Chapter 16)

##### 4.1 Revision of assessment by the Commissioner – Section 122A

- ☐ The Commissioner may, call for the record of any proceeding in which an order has been passed by any Officer of Inland Revenue other than the Commissioner (Appeals).
- ☐ Commissioner considers that the order requires revision, then he may make such revision to the order as he deems fit.
- ☐ Any such order shall not be prejudicial to the person to whom the order relates.
- ☐ The Commissioner shall not revise any order if:
  - (i) an appeal against the order lies to the Commissioner (Appeals) or to the Appellate Tribunal and the time within which such appeal may be made has not expired; or
  - (ii) The order is pending in appeal before the Commissioner (Appeals) or has been made the subject of an appeal to the Appellate Tribunal.

##### 4.2 Revision by Chief Commissioner – Section 122B

- ☐ The Chief Commissioner may call for the record of any proceedings relating to issuance of an exemption or lower rate certificate with regard to collection or deduction of tax at source under ITO. Record of such proceedings shall be called in which an order has been passed by any authority subordinate to him.
- ☐ If, after making such inquiry as is necessary, The Chief Commissioner considers that the order requires, revision, he may make such order as he may deem fit in the circumstances of the case. However, he shall provide a reasonable opportunity of being heard to the taxpayer.

##### 4.3 Powers of tax authorities to modify orders, etc. – Section 124A

- ☐ This applies where a question of law is decided either by a High Court or the Appellate Tribunal in case of a taxpayer.
- ☐ In such a case the Commissioner may proceed to amend the assessment, to the extent it needs revision due to the decision of High Court or Appellate Tribunal on the question of law. In this regard the Commissioner shall ignore the fact that either an appeal is

preferred or an application for reference is made against the order of High Court or Appellate Tribunal.

- ❑ Where decision is reversed or modified, the Commissioner may modify assessment in which the said decision was followed within one year of the date of receipt of decision. In making such modification, the provisions of ITO relating to time limit for making an assessment or amended assessment shall be ignored.

## 5.1 Records - Section 174

- ❑ Every taxpayer shall maintain in Pakistan such accounts, documents and records as may be prescribed.
- ❑ The Commissioner may disallow or reduce a taxpayer's claim for a deduction if the taxpayer is unable to prove it.
- ❑ The accounts and documents required to be maintained shall be maintained for **six years** after the end of the tax year to which they relate;  
However where any proceeding is pending before any authority or court the taxpayer shall maintain the record **till final decision of the proceedings**.
- ❑ Pending proceedings include proceedings for assessment or amendment of assessment, appeal, revision, reference, petition or prosecution and any proceedings before an Alternative Dispute Resolution Committee.
- ❑ Deduction means any amount debited to trading account, manufacturing account, receipts and expenses account or profit and loss account.
- ❑ The Commissioner may require any person to install and use an Electronic Tax Register.

## 5.2 Prescribed books of accounts (Rule 28-33)

S.N	Taxpayer required to maintain proper books of account, documents and records	Records to be kept
1.	Every taxpayer deriving income from business	all sums of money received and expended all sales and purchases all assets all liabilities
		all items of cost relating to the utilization of materials, labour and other inputs. All this shall be maintained for five years
	<u>Every taxpayer other than companies, deriving income chargeable under the head Income from business</u>	

	Taxpayers with business income upto Rs. 200,000 and new taxpayers deriving income from	<p>Serially numbered and dated cash-memo / invoice / receipt for each transaction containing</p> <ul style="list-style-type: none"> <li>(a) taxpayer's name or the name of his business, address, national tax number and sales tax registration number, if any</li> <li>(b) the description, quantity and value of goods sold or services rendered;</li> </ul> <p>Where each transaction does not Exceed Rs. 100, maintain cash-memos</p> <p>Daily record of receipts, sales, payments, purchases and expenses a single entry in respect of daily receipts, sales, purchases and different heads of expenses will suffice; and</p> <p>Vouchers of purchases and expenses.</p>
	Taxpayers with business income exceeding Rs. 200,000 and wholesalers, distributors, dealers and commission agents	Serially numbered and dated cash-memo / invoice / receipt for each transaction of sale or receipt containing the following

		<ul style="list-style-type: none"> <li>(a) taxpayer's name or the name of his business, address, national tax number and sales tax registration number, if any</li> <li>(b) the description, quantity and value of goods sold or services rendered; and</li> <li>(c) in case of a wholesaler, distributor, dealer and commission agent, where a single transaction exceeds Rs. 10,000, the name and address of the customer</li> </ul> <p>Provided that where each transaction does not exceed Rs.100, one or more cash-memos per day for all such transactions may be maintained</p> <p>Cash book and/or bank book or daily record of receipts, sales, payments, purchases and expenses; a single entry in respect</p>
--	--	---

		<p>of daily receipts, sales, purchases and different heads of expenses will suffice.</p> <p>General ledger or annual summary of receipts, sales, payments, purchases and expenses under distinctive heads.</p> <p>Vouchers of purchases and expenses and where a single transaction exceeds Rs. 10,000 with the name and address of the payee; and</p> <p>Where the taxpayer deals in purchase and sale of goods, quarterly inventory of stock-in-trade showing description, quantity and value.</p>
	<p>Professionals like medical practitioners, legal practitioners, accountants, auditors, architects, engineers etc.</p>	<p>Serially numbered and dated patient-slip / invoice /receipt for each transaction of sale or receipt containing the following</p> <p>(a) taxpayer's name or the name of his business or profession, address, national tax number and sales tax registration</p> <p>number, if any</p>
		<p>(b) the description, quantity and value of medicines supplied or details of treatment/ case/ services rendered (confidential details are not required) and amount charged</p> <p>(c) the name and address of the patient / client</p> <p>Provided that the condition of recording address of the patient on the patient slip under this clause shall not apply to general medical practitioners</p> <p>Daily appointment and engagement diary in respect of clients and</p> <p>Daily record of receipts, sales, payments, purchases and expenses; a single entry in respect of daily receipts, sales, purchases and different heads of expenses will suffice</p>

		Vouchers of purchases and expenses
	Manufacturers (with turnover exceeding Rs. 2.5 million):	<p>Serially numbered and dated cash-memo / invoice /receipt for each transaction of sale or receipt containing the following</p> <p>(a) taxpayer's name or the name of his business address, national tax number and sales tax registration number, if any</p> <p>(b) the description, quantity and, value of goods sold</p> <p>(c) where a single transaction exceeds Rs. 10,000 with the name and address of the customer</p> <p>Cash book and/or bank book</p> <p>Sales day book and sales ledger (where applicable)</p> <p>Purchases day book and purchase ledger (where applicable)</p>

		<p>General ledger</p> <p>Vouchers of purchases and expenses and where a single transaction exceeds Rs. 10,000 with the name and address of the payee;</p> <p>Stock register of stock-in-trade (major raw materials and finished goods) supported by gate in-ward and outward records and quarterly inventory of all items of stock-in-trade including work-in-process showing description, quantity and value.</p>
	Every taxpayer deriving income chargeable under the head income from salary, property, capital gains or other sources	<p><b>Salary</b></p> <p>Salary certificate indicating the amount of salary and tax deducted there from.</p> <p><b>Income from property</b></p> <p>Tenancy agreement, if executed</p> <p>Tenancy termination agreement, if executed</p> <p>Receipt for amount of rent received</p>

		<p>Evidence of deductions claimed in respect of premium paid to insure the building, local rate, tax, charge or cess, ground rent, profit/interest or share in rent on money borrowed, expenditure on collecting the rent, legal services and unpaid rent.</p> <p><b>Capital gain</b></p> <p>Evidence of cost of acquiring the capital asset</p> <p>Evidence of deduction for any other costs claimed</p> <p>Evidence in respect of consideration received on disposal of the capital asset.</p> <p><b>Income from other sources</b></p> <p><b>Dividends</b></p> <p>Dividend warrants</p> <p><b>Royalty</b></p> <p>Royalty agreement.</p>
--	--	---

		<p><b>Profit on debt</b></p> <p>Evidence and detail of profit yielding debt</p> <p>Evidence of profit on debt and tax deducted thereon, like certificate in the prescribed form or bank account statement; and</p> <p>Evidence of Zakat deducted, if any.</p> <p><b>Ground rent, rent from the sub-lease of land or building, income from the lease of any building together with plant or machinery and consideration for vacating the possession of a building or part thereof</b></p> <p>(a) Lease agreement</p> <p>(b) Lease termination agreement.</p> <p><b>Annuity or Pension</b></p> <p>Evidence of amount received.</p> <p><b>Prize money on bond, winning from a raffle, lottery or cross word puzzle</b></p> <p>Evidence of income and tax deducted thereon, like certificate in the prescribed form.</p> <p><b>Provision, use or exploitation of property</b></p> <p>Agreement.</p> <p><b>Loan, advance, deposit or gift</b></p> <p>Evidence of mode of receipt of a loan, advance, deposit or gift i.e., by a crossed cheque or through a banking channel.</p> <p><b>General</b></p> <p>Evidence of deduction for any other expenditure claimed.</p>
--	--	---

### 5.3 Books of accounts, documents, records to be kept at specified place (Rule 33)

<b>1. Income from business</b>	The books of accounts, documents and records required to be maintained by a taxpayer shall be kept at the place where the taxpayer is carrying on the business or, where the business is carried on in more places than one, at the principal place of business or at each of such places if separate books of accounts are maintained in respect of each place.
<b>2. Income from sources other than business</b>	Where a person derives income from sources other than from business, the books of accounts, documents and records shall be kept at the person's place of residence or such other place as may be so declared by such person.
<b>3. Place to be clearly stated on tax returns</b>	The place or places where the books of accounts, documents and records are kept shall be clearly stated on the tax return form in the column requiring the details of the records maintained.

### 5.4 Audit

A person can be selected for audit in the following two manners.

- (i) Selection for audit by the Board
- (ii) Selection by the Commissioner

#### (i) Selection for audit by the Board - Section 214C

- ☐ The Board may select through computer ballot which may be random or parametric
- ☐ The Board shall keep the parameters confidential.
- ☐ Audit of Income Tax affairs of persons selected shall be conducted
- ☐ Board shall be deemed always to have had the power to select any persons or classes of persons for audit of Income Tax affairs.
- ☐ nothing restricts the power of the Commissioner to call for the record or documents including books of accounts for audit

#### (ii) Audit - Section 177

- ☐ The Commissioner may call for any record or for conducting audit of the income tax affairs of the person
- ☐ Where such record or documents have been kept on electronic data, the person shall allow access to the for use of machine and software
- ☐ The Commissioner shall not call for record or documents of the taxpayer after expiry of **six years** to which they relate.

- ❑ Commissioner shall conduct an audit of the income tax affairs.
- ❑ Commissioner after obtaining taxpayer's explanation on all the issues raised in the audit, make amendment of assessment
- ❑ The fact that a person has been audited in a year shall not preclude the person from being audited again in the next and following years.
- ❑ The Board may appoint a firm of CA or CMA to conduct an audit and the scope of such audit shall be as determined by the Board or the Commissioner on a case to case basis.
- ❑ where a person fails to produce any accounts, documents and records, required to be maintained, the Commissioner may proceed to make best judgment assessment
- ❑ The Board may appoint as many special audit panels as may be necessary:
  - a) The panel shall comprise of any two or more members from:
    - an officer of Inland Revenue;
    - a firm of chartered accountants;
    - a firm of cost and management accountants; or
    - any other person as directed by the Board.
  - b) The Panel shall be headed by a Chairman who shall be an officer of Inland Revenue;
  - c) Powers for the purpose of conducting an audit shall only be exercised by an officer of Inland Revenue who are member or members of the panel, and authorized by the Commissioner;
  - d) If any member of the panel, not being the Chairman, is absent from conducting an audit, the proceedings may continue and the audit conducted by the special audit panel shall not be invalid or be called into question merely on account of such absence;
  - e) Functions performed by the officer or officers of Inland Revenue as members of the special audit panel to conduct audit, shall be treated as having been performed by the special audit panel;
  - f) The Board may prescribe the mode and manner of constitution, procedure and working of the special audit panel.

### 1.1 What is an appeal?

- ❑ Most appeals arise on account of disagreement between the taxpayer and the tax collectors (income tax department) regarding the quantification of the taxable income and tax liability thereon as well as levy of default surcharge, penalties, etc.
- ❑ disputes are settled with the taxpayers at the Taxation Officer's / Commissioner's level
- ❑ To resolve disagreement over facts, figures or interpretation of law, law lays down the procedure, which gives the taxpayer right of appeal before the Commissioner (Appeals) and if not satisfied, they have further right of appeal before the Appellate Tribunal.
- ❑ The taxpayer or the tax collectors may refer the case to the High Court in case a question of law arises out of the decision of the Appellate Tribunal.

### 1.2 Circumstances giving rise to appeal to the Commissioner (Appeal)

Circumstances giving rise to an appeal may include:

- (i) A best judgment assessment
- (ii) An amendment of assessment
- (iii) An order holding an individual personally liable to pay the amount of tax, which he failed to collect
- (iv) An order declaring or treating a person as a representative of a non-resident person
- (v) An order refusing to rectify the mistake
- (vi) An order having the effect of enhancing the assessment or reducing a refund or otherwise increasing the tax liability

### 1.3 Forums of appeals

Following forums of appeal are available to an aggrieved person:

- (i) Commissioner (Appeals)
- (ii) Appellate Tribunal
- (iii) High Court; and
- (iv) Supreme Court of Pakistan

## 2.1 Procedure for filing of appeal before the Commissioner (Appeals)

### Filing of appeal to the Commissioner (Appeals):

- ❑ Any person who is aggrieved by an order passed by the Commissioner or a Taxation Officer can file the appeal before the Commissioner (Appeals).
- ❑ Every appeal shall be filed in the prescribed form, verified, be accompanied by the prescribed fee and shall precisely state the grounds upon which the appeal is made.
- ❑ In case appeal is made against an order of assessment the application shall be accompanied by fee of Rs.1,000.
- ❑ In case of any other order, fee of Rs. 1,000 in case of company and Rs. 200 in other cases, shall be payable.
- ❑ No appeal shall lie if the taxpayer has not paid tax due
- ❑ The appeal should be filed:
  - (i) where the appeal relates to an order of assessment or penalty, within 30 days from the date of service of notice of demand
  - (ii) in any other case within 30 days of the service of intimation of order against which appeal is to be filed.
- ❑ However, Commissioner (Appeals) may condone the delay in filing of an appeal upon application in writing by the appellant

## 2.2 Procedures for disposal of appeals

### Procedure in appeal:

- ❑ The Commissioner (Appeals) shall give notice of the day fixed for the hearing of the appeal to the appellant and to the Commissioner against whose order the appeal has been made.
- ❑ Where Commissioner (Appeals) is of the opinion that the recovery of tax levied, shall cause undue hardship to the taxpayer, he, after affording opportunity of being heard to the Commissioner, may stay the recovery of such tax, provided that the order on appeal shall be pass within the said period of thirty days.
- ❑ The Commissioner (Appeals) may, before the hearing of an appeal, allow an appellant to file any new ground of appeal not specified in the grounds of appeal already filed by the appellant where the Commissioner (Appeals) is satisfied that the omission of the ground from the form of the appeal was not wilful or unreasonable.
- ❑ The Commissioner (Appeals) may, before disposing of an appeal, call for such particulars as the Commissioner (Appeals) may require respecting the matters arising in the appeal or cause further enquiry to be made by the Commissioner.
- ❑ The Commissioner (Appeals) shall not admit any documentary material or evidence which was not produced before the Commissioner unless the Commissioner (Appeals) is satisfied that the appellant was prevented by sufficient cause from producing such material or evidence before the Commissioner.

## 2.3 Decision in appeal

Decision in  
appeal:

- ❑ In disposing of an appeal, the Commissioner (Appeals) may:
  - (i) make an order to confirm, modify or annul the assessment order after examining such evidence as required by him respecting the matters arising in appeal or causing such further enquires to be made as he deems fit; or
  - (ii) In any other case, make such order as the Commissioner (Appeals) thinks fit.
- ❑ The Commissioner (Appeals) shall not increase the amount of any assessment order or decrease the amount of any refund unless the appellant has been given a reasonable opportunity of showing cause against such increase or decrease, as the case may be.
- ❑ Where, as the result of an appeal, any change is made in the assessment of an AOP or a new assessment of an AOP is ordered to be made, the Commissioner (Appeals) may authorise the Commissioner to amend accordingly any assessment order made on a member of the association and the time limit shall not apply to the making of such amended assessment.
- ❑ As soon as practicable after deciding an appeal, the Commissioner (Appeals) shall serve his order on the appellant and the Commissioner. Provided that such order shall be passed not later than 120 days from the date of filing of appeal or within an extended period of 60 days, for reasons to be recorded in writing by the Commissioner (Appeals):  
Provided further that any period during which the hearing of an appeal is adjourned at the request of the appellant or is postponed due to any appeal or proceedings or stay order, remand or alternative dispute resolution proceedings or for any other reason, shall be excluded in the computation of the aforementioned periods.

### 3.1 Appointment of Appellate Tribunal

- ❑ This Tribunal is under the administrative control of the Ministry of Law, Justice and Parliamentary Affairs and therefore enjoys independence from the Board and the assessment machinery.
- ❑ The Appellate Tribunal shall consist of a chairperson and such other judicial and accountant members as are appointed by the Federal Government
- ❑ A person may be appointed as a judicial member of the Appellate Tribunal if the person:
  - (i) has exercised the powers of a District Judge and is qualified to be a Judge of a High Court;
  - (ii) is or has been an advocate of a High Court and is qualified to be a Judge of the High Court: or
  - (iii) Is an officer of Inland Revenue Service in BS-20 or above and is a law graduate.
- ❑ A person may be appointed as an accountant member of an

Appellate Tribunal if,

- (i) he is an officer of Inland Revenue Service equivalent to the rank of Regional Commissioner;
  - (ii) a Commissioner Inland Revenue or Commissioner Inland Revenue (Appeals) having at least three years' experience as Commissioner or Collector.
  - (iii) a person who has, for a period of not less than ten years, practiced professionally as a chartered accountant within the meaning of the Chartered Accountants Ordinance, 1961.
  - (iv) a person who has, for a period of not less than ten years, practiced professionally as a cost and management accountant within the meaning of the Cost and Management Accountants Act, 1966
- ❑ The Federal Government shall appoint a member of the Appellate Tribunal as Chairperson of the tribunal and, except in special circumstances; the person appointed should be a judicial member.
  - ❑ The powers and functions of the Appellate Tribunal shall be exercised and discharged by Benches constituted from members of the tribunal by the Chairperson of the tribunal.
  - ❑ A Bench shall consist of not less than two members of the Appellate Tribunal and shall be constituted so as to contain an equal number of judicial and accountant members
- ❑ The Federal Government may direct that all or any of the powers of the Appellate Tribunal shall be exercised by:
    - (i) any one member; or
    - (ii) More members than one, jointly or severally.
  - ❑ the Chairperson may constitute as many benches consisting of a single member as he may deem necessary to hear such cases or class of cases as the Federal Government may by order in writing, specify.
  - ❑ The Chairperson or other member of the Appellate Tribunal authorized, in this behalf by the Chairman may, sitting singly, dispose of any case where the amount of tax or penalty involved does not exceed one million rupees.
  - ❑ A contradicting point shall be decided according to the opinion of the majority.
  - ❑ If the members of a Bench are equally divided on a point, they shall state the point on which they differ and the case shall be referred by the Chairperson, and the point shall be decided according to the opinion of the majority of the members
  - ❑ If there are an equal number of members of the Appellate Tribunal, the Federal Government may appoint an additional member for the purpose of deciding the case on which there is a difference of opinion.
  - ❑ The Appellate Tribunal shall have the power to regulate its own

procedure, and the procedure of Benches of the Tribunal in all matters arising out of the discharge of its functions including the places at which the Benches shall hold their sittings.

### 3.2 Appeal to Appellate Tribunal

- ❑ Where the taxpayer or Commissioner objects to an order passed by the Commissioner (Appeals), the taxpayer or Commissioner may appeal to the Appellate Tribunal against such order.
- ❑ An appeal shall be:
  - (i) in the prescribed form;
  - (ii) verified in the prescribed manner;
  - (iii) accompanied by the prescribed fee (Rs. 2000) and
  - (iv) Preferred to the Appellate Tribunal within **sixty days** of the date of service of order of the Commissioner (Appeals)
- ❑ The Appellate Tribunal may, admit an appeal after the expiration of the above said sixty days if it is satisfied
- ❑ tax shall be payable in accordance with the assessment made in the case:  
the Appellate Tribunal is of the opinion that the recovery of tax, shall cause undue hardship to the taxpayer, may stay the recovery of such tax for a period not exceeding one hundred and eighty days in aggregate:

### 3.3 Procedure for disposal of appeal by Appellate Tribunal

- ❑ The Appellate Tribunal may, require in respect of the matters arising on the appeal or cause further enquiry to be made by the Commissioner.
- ❑ The Appellate Tribunal shall afford an opportunity of being heard to the parties to the appeal and, in case of default by any of the party on the date of hearing, the Tribunal may proceed ex-parte to decide the appeal on the basis of the available record.
- ❑ shall decide the appeal within six months of its filing;
- ❑ Where the appeal relates to an assessment order, the Appellate Tribunal may make an order to:
  - (i) affirm, modify or annul the assessment order; or
  - (ii) remand the case to the Commissioner or the Commissioner (Appeals) for making such enquiry or taking such action as the Tribunal may direct.
- ❑ The Appellate Tribunal shall not increase the amount of any assessment or penalty or decrease the amount of any refund unless the taxpayer has been given a reasonable opportunity of showing cause against such increase or decrease, as the case may be.
- ❑ any change is made in the assessment of an AOP is ordered to be made, the Appellate Tribunal may authorise the Commissioner to amend assessment and the time limit shall not apply to the making of it.
- ❑ Where the appeal relates to a decision other than in respect of an

assessment, the Appellate Tribunal may make an order to affirm, vary or annul the decision, and issue such consequential directions as the case may require.

- ❑ The Appellate Tribunal shall communicate its order to the taxpayer and the Commissioner.
- ❑ the decision of the Appellate Tribunal on an appeal shall be final.

#### 4.1 Reference application before High Court

- ❑ The taxpayer or the Commissioner who find themselves aggrieved upon the order of the Appellate Tribunal can make an application in the prescribed form to the High Court within **ninety days** of the communication of an order of the Appellate Tribunal.
- ❑ The application should be with a statement of case to the High Court stating any question of law arising out of such order.
- ❑ The statement to the High Court referred to in above para shall set out the facts, the determination of the Appellate Tribunal and the question of law which arises out of its order.
- ❑ Where, on an application the High Court is satisfied that a question of law arises out of the order of the Appellate Tribunal, it may proceed to hear the case.
- ❑ A reference to the High Court shall be heard by a Bench of not less than two judges of the High Court
- ❑ The High Court upon hearing a reference shall decide the question of law raised by the reference and pass judgment thereon specifying the grounds on which such judgment is based and the Tribunal's order shall stand modified accordingly. The Court shall send a copy of the judgment under the seal of the Court to the Appellate Tribunal.
- ❑ Notwithstanding that a reference has been made to the High court, the amount of tax shall be payable in accordance with the order of the Appellate Tribunal:

However, if the amount of tax is reduced as a result of the judgment in the reference by the High Court, and any amount of tax is found refundable, the High Court may, on application submitted by the Commissioner, within thirty days of the receipt of the judgement of the High Court, that he wants to prefer petition for leave to appeal to the Supreme Court, make an order authorizing the Commissioner to postpone the refund until the disposal of the appeal by the Supreme Court.

- ❑ Where recovery of tax has been stayed by the High Court by an order, such order shall cease to have effect on the expiration of a period of six months following the day on which it is made unless the appeal is

decided, or such order is withdrawn by the High Court earlier.

- ❑ A Reference application by a person other than the Commissioner shall be accompanied by a fee of one hundred rupees.

## 4.2 Petition before Supreme Court

Supreme Court is the final forum for appeal available to the aggrieved parties against any judgment of the High Court any aggrieved party to the decision of the High Court can prefer appeal before the Supreme Court of Pakistan. Accordingly, no provision in this regard is required in the ITO.

## 5.1 Alternative Dispute Resolution Committee

- ❑ An aggrieved person, in connection with any matter pending before an Appellate Authority, may apply to Board for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application except where prosecution proceedings have been initiated or where interpretation of question of law having effect on identical other cases.
- ❑ The Board after examination of the application of an aggrieved person, shall within sixty days of receipt of such application in the Board appoint a committee consisting of an Officer of Inland Revenue and two persons from a panel comprising of Chartered or Cost Accountants, Advocates, Income Tax Practitioners or reputable taxpayers for the resolution of the hardship or dispute.
- ❑ The Committee constituted shall examine the issue and may if it deems fit necessary conduct inquiry seek expert opinion, direct any officer of the Inland Revenue or any other person to conduct an audit and shall make recommendations within ninety days of its constitution in respect of the resolution of the dispute. If the committee fails to make recommendations within the said period the Board shall dissolve the committee and constitute a new committee which shall decide the matter within a further period of ninety days. If after the expiry of that period the dispute is not resolved the matter shall be taken up by the appropriate forum for decision.
- ❑ The Board may, on the recommendation of the committee, pass such order, as it may deem appropriate within forty five days of the receipt of recommendations of the Committee.
- ❑ The Chairman Federal Board of Revenue may, on the application of an aggrieved person, for reasons to be recorded in writing, and on being satisfied that there is an error in order or decision, pass such order as may be deemed just and equitable.
- ❑ The aggrieved person may make the payment of income tax and other taxes as determined by the Board in its order under and all decisions, orders and judgments made or passed shall stand modified to that extent and all proceedings under this Ordinance or the rules made there-under by any authority shall abate:  
However, the order passed by the Board in the light of recommendations of the committee has to be submitted before that authority, tribunal or the court where the matter is subjudice for consideration and orders as deemed appropriate:  
Further, if the taxpayer is not satisfied with the said order, he may

continue to pursue his remedy before the relevant authority, tribunal or court as if no such order had been made by the Board.

- ❑ The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this section.

## 5.2 Rules for formation and working of ADRC

- ❑ This rule shall apply to all cases of disputes brought or specified for resolution
- ❑ Any person or class of persons interested for resolution of any dispute shall submit a written application for alternative dispute resolution to the Board in the form as set out after this rule.
- ❑ The Board, after examination of the contents of an application by a taxpayer and facts stated therein and on satisfaction that the application may be referred to a Committee for the resolution of the hardship or dispute, shall constitute a Committee consisting of the following members, namely:
  - (i) the Director General, Large Taxpayers Unit or Commissioner, Medium Taxpayers Unit or any other Commissioner or officer of the Income Tax Department nominated by the Board;
  - (ii) a Fellow of Chartered Accountants, registered with the Institute of Chartered Accountants of Pakistan or an Associate of Cost and Management Accountant, an advocate of High Court or Income Tax Practitioner; and
  - (iii) a reputable taxpayer.
- ❑ The Board may appoint one of the members of the Committee to be its Chairman.
- ❑ An application filed under this rule may be disposed of by the Committee within thirty days of its constitution:  
Provided that the time so specified may, if requested by the Chairman, of the Committee for reasons to be recorded in the request, be extended by the Board to such extent and subject to such conditions and limitations as it may deem proper.
- ❑ The Chairman of the Committee shall be responsible for deciding the procedure to be followed by the Committee which may inter-alia include the following, namely:
  - (a) to decide about the place of sitting of the Committee, in consultation with the Director General Regional Tax Office, or as the case may be, the Director General Large Taxpayer Unit;
  - (b) to specify date and time for conducting proceedings by the Committee;
  - (c) to supervise the proceedings of the Committee;
  - (d) to issue notices by courier or registered post or electronic mail to the applicant;
  - (e) to requisition and produce relevant records or witnesses from the

Commissioner or other concerned quarters;

(f) to ensure attendance of the applicant for hearing either in person or through an advocate, representative or a tax consultant;

(g) to consolidate recommendations for the Committee and Submission of a conclusive report to the Board; and

(h) for any other matter covered under these rules.

- ☐ The Committee may conduct inquiry, seek expert opinion, direct any officer of income tax or any other person to conduct an audit and make recommendations to the Committee in respect of dispute or hardship.
- ☐ The Committee may determine the issue and may thereafter seek further information or data or expert opinion or make or cause to be made such inquiries or audit as it may deem fit, to formulate its recommendations in respect of any matter specified in sub-section (1) of section 134A.
- ☐ The applicant may withdraw the application at any time before the Committee submits its recommendations to the Board.
- ☐ The Chairman of the Committee shall send a copy of the recommendations of the Committee to the Board, applicant and the concerned Commissioner, simultaneously.
- ☐ The Board on its own motion or on the request of the applicant may refer back the recommendations of the Committee for rectification of any mistake apparent from record or for reconsideration of the facts or law as the case may be, not considered earlier by the Committee.
- ☐ The Committee after rectification of the mistake or reconsideration of the facts or law as aforesaid shall furnish to the Board its fresh or amended recommendation within such period as specified by the Board.
- ☐ The Board, after examining the recommendations of the Committee shall finally decide the dispute or hardship and make such orders as it may deem fit for the resolution of the dispute or hardship, within ninety days of receipt of such recommendations, under intimation to the applicant, Chairman, of the Committee and the concerned Commissioner:  
  
The resolution reached by the taxpayer and the Board shall not bind them for tax year not covered by the agreement. Any such resolution shall not be used as precedent, except as provided in the agreement.
- ☐ The copy of order passed by the Board shall be provided to the applicant and to the Commissioner having jurisdiction over the case for modification of all decision, orders and judgments passed in respect of the said dispute or hardship, within such period as may be specified by the Board in the order.
- ☐ On receipt of the Board's order as aforesaid, the concerned Commissioner shall implement the order in such manner and within such period as may be specified by the Board in the order.

- ❑ Notwithstanding anything contained in this rule an order passed by the Board shall cease to exist if it is subsequently found to have been obtained by fraud or misrepresentation of facts about the nature of dispute or hardship on which the said order was passed and all decisions, orders and judgments modified under the said order shall deemed to be re-modified.

### 6.1 Assessment giving effect to an order

- ❑ The various situations and time limitations are tabulated below:

Decision of appellate authority	Time within which the new assessment order has to be made
Direct relief provided to taxpayer	Two months from the date the order is served on the commissioner
Assessment order wholly or partly set aside	One year from the end of the financial year in which the commissioner is served with the order provided no further appeal or reference is preferred against the order of the appellate authority either by the commissioner or the taxpayer
Any other decision	Two years from the end of the financial year in which the commissioner is served with the order

- ❑ In case of an assessment order is set aside or modified, the proceedings may commence from the stage next preceding the stage where the setting aside or modification took place. In these cases, Commissioner shall not be entitled to re-issue any notice which was earlier issued or shall not require refurnishing or re-filing of any return, statement or other particulars which were earlier furnished or filed.
- ❑ Where in consequence of an order of any appellate forum or court any income is excluded from the computation:
- of taxable income of a person for any year and included in the computation of taxable income for another year; or
  - of taxable income of one person is included in the taxable income of other person.

the assessment or amended assessment made as above shall be treated as assessment in consequence of such order.

### 6.2 Burden of Proof

- 1) In the case of an assessment order, the extent to which the order does not correctly reflect the taxpayer's tax liability for the tax year; or
- 2) In the case of any other decision, that the decision is erroneous.

### 1.1 Preamble

it is an act to consolidate and amend the law relating to the levy of a tax on the sale, importation, exportation, production, manufacture or consumption of goods.

sales tax is not only leviable on the sale of goods but is also on import, export, production, manufacture and consumption of goods.

### 1.2 Extent and applicability of STA

- 1) the Provinces of Baluchistan, the North-West Frontier, the Punjab and Sind;
- 2) the Islamabad Capital territory hereinafter referred to as the Federal Capital;
- 3) the Federally Administered Tribal Areas; and
- 4) Such States and territories as are or may be included in Pakistan, whether by accession or otherwise.

It is applicable to the whole of Pakistan except for the tribal areas

It is clear from the above definition that the following transactions do not constitute taxable supply:

- ☐ Supply of exempt goods
- ☐ Supply of taxable goods by persons other than importer, wholesaler, distributor, retailer, and manufacturer e.g. agriculturist, transporters etc.

following goods are exempt from levy of sales tax:

- ☐ Goods listed in sixth schedule
- ☐ Goods specified by Federal Government through its SROs to the extents and from the date specified therein

### 2.5 Zero rated supplies

following items which are chargeable to tax at the rate of zero per cent:

- a. Goods exported, or the goods specified in the **Fifth Schedule**;
- b. Stores and provisions for consumption aboard a conveyance proceeding to a destination outside Pakistan
- c. Such other goods as the Federal Government may, by notification in the Official Gazette, specify
- d. Such other goods as may be specified by the Federal Board of Revenue through a general order.

## 2.6 Importer, manufacturer, wholesaler, distributor and retailer

Goods supplied by an importer; manufacturer, wholesaler (including dealer), distributor or retailer are taxable goods. Therefore, the goods supplied by persons other than by these are not taxable goods e.g. supplies by an agriculturist or a bank.

### 3.1 Normal rate of sales tax

- ❑ Sales tax @ 17%% is charged, levied and paid on the value of:
  - (i) taxable supplies made by a registered person
  - (ii) goods imported into Pakistan.
- ❑ Where the taxable supplies are made to a person who has not obtained registration number, there shall be charged, levied and paid a further tax at the rate of 2% of the value in addition to the normal rate of 17%.
- ❑ list of persons on which this further tax is not leviable:
  - (i) Electricity energy supplied to domestic and agricultural consumers.
  - (ii) Natural gas supplied to domestic consumers.
  - (iii) Motor oil, diesel oil, jet fuel, kerosene oil and fuel oil.
  - (iv) Goods sold by the retailers to end customers.
  - (v) Supply of goods directly to end customers including food, beverages, fertilizers and vehicles.
  - (vi) Items listed in Third Schedule to the STA.

### 3.2 Tax on taxable supplies specified in third schedule [Section 3(2)(a)]

- ❑ Sales Tax @17 % will be charged on the retail price on the goods specified in Third Schedule.
- ❑ The manufacturer shall legibly, prominently and indelibly print or emboss retail price along with the amount of sales tax on the packet, container, package, cover or label etc.
- ❑ Federal Government, may exclude from or include into said schedule any taxable supply by notification in the official Gazette.

**Goods specified in the third schedule are:**

S.N	Description	S.N	Description
1.	Fruit Juices and Vegetable Juices	11.	Toilet Soap
2.	Detergents	12.	Shampoo
3.	Toothpaste	13.	Milky Drinks
4.	Shaving Cream	14.	Powder Drinks
5.	Perfumery and Cosmetics	15.	Toilet paper & tissue paper
6.	Ice Cream	16.	Spices sold in retail packing bearing brand names and trade marks.
7.	Tea	17.	Fertilizer
8.	Aerated Waters or Beverages	18.	Cement sold in retail packing
9.	Syrups and Squashes	19.	Shoe polish and shoe cream
10.	Cigarettes		

### 3.3 Capacity tax [Section 3(1B)]

Moreover the Board may levy and collect tax on the following instead of levying and collecting tax on taxable supplies:

- production capacity of plants, machinery, undertaking, establishments or installations producing or manufacturing such goods; or
- fixed basis, as it may deem fit, from any person who is in a position to collect such tax due to the nature of the business.

### 3.4 Tax on supply to CNG stations

- ☐ rate of 17% on the value of supply to the CNG consumers.
- ☐ Value for the purpose of levy of sales tax shall include price of natural gas, charges, rents, commissions and all local, provincial and Federal duties and taxes but excluding the amount of sales tax

### 3.7 Special Powers to the Federal Government

levy tax as it may deem fit on any supplies or class of supplies or any goods or class of goods and specify the mode, manner or time of payment of such tax.

### 4.1 Liability to pay tax

- ☐ The liability to pay the tax shall be:
  - In the case of supply of goods in Pakistan
  - goods imported into Pakistan.

#### 4.2 Collection of excess tax (Sec-3b)

- ☐ Any person who has collected tax or charge, which was not payable as tax and has been passed on to the consumer, shall pay the amount to the Federal Government.
- ☐ It shall be deemed to be an arrear of tax or charge payable and shall be recoverable accordingly and no claim for refund shall be admissible.
- ☐ The burden of proof shall be on the person collecting the tax or charge.

#### 4.3 Joint and several liability of registered persons in supply chain where tax unpaid (Sec-8B)

- ☐ Where a registered person receiving a taxable supply from another registered person knows that tax payable in respect of supply would go unpaid, both making the taxable supply shall be jointly and severally liable

#### 5.1 Goods charged to tax @ 0%

- ☐ Value of following goods shall be charged to tax at the rate of zero percent:
  - (i) goods exported
  - (ii) goods specified in the Fifth Schedule;
  - (iii) supply of stores and provisions for consumption aboard a conveyance proceeding to a destination outside Pakistan
  - (iv) goods notified by the Federal Government through special or general order

#### 5.2 Exception to the above rule

- ☐ Provision relating to zero rating shall not apply in respect of a supply of goods which:
  - (i) are exported, but are intended to be re-imported into Pakistan; or
  - (ii) have been entered for export but are not exported; or
  - (iii) have been exported to a country specified by the Federal Government
- ☐ Federal Government may, by a notification in the official Gazette, restrict the amount of credit for input tax actually paid and claimed by a person making a zero-rated supply of goods otherwise chargeable to sales tax.

### 5.3 Fifth Schedule is given hereunder:

Sr. #	Description
1.	(i) Supply, repair or maintenance of any ship which is neither; (a) a ship of gross tonnage of less than 15 LDT; nor (b) a ship designed or adapted for use for recreation or pleasure. (ii) Supply, repair or maintenance of any aircraft which is neither; (a) an aircraft of weight-less than 8000 kilograms; nor (b) an aircraft designed or adapted for use for recreation or pleasure.

(iii) Supply of spare parts and equipment for ships and aircraft falling under (i) and (ii) above.

(iv) Supply of equipment and machinery for pilot age, salvage or towage services.

(v) Supply of equipment and machinery for air navigation services.

(vi) Supply of equipment and machinery for other services provided for the handling of ships or aircraft in a port or Customs Airport.

2. Supply to diplomats, diplomatic missions, privileged persons and privileged organizations which are covered under various Acts, Orders, Rules, Regulations and Agreements passed by the Parliament or issued or agreed by the Government of Pakistan.

3. Supplies to duty free shops, provided that in case of clearance from duty free shops against various baggage rules issued under the Customs Act, 1969, (IV of 1969), the supplies from duty free shops shall be treated as import for the purpose of levy of sales tax.

4. Supplies of raw materials, components and goods for further manufacture of goods in the Export Processing Zone.

5. Supplies of such locally manufactured plant and machinery to petroleum and gas sector Exploration and Production companies, their contractors and sub-contractors as may be specified by the Federal Government, by notification in the official Gazette, subject to such conditions and restrictions as may be specified in such notification.

6. Supplies of locally manufactured plant and machinery of the following specifications, to manufacturers in the Export processing zone, subject to the conditions, restriction and procedure given below, namely:-

- (i) Plant and machinery, operated by power of any description, as is used for the manufacture or production of goods by that manufacture,
- (ii) Apparatus, appliances and equipments specifically meant or adapted for use in conjunction with the machinery specified in clause (i) ;
- (iii) Mechanical and electrical control and transmission gear, meant or adopted for use in conjunction with machinery specified in clause (i) ; and
- (iv) Parts of machinery as specified I clauses (i), (ii) and (iii) identifiable for use in or with such machinery.

Conditions, restrictions and procedures:-

- (a) The supplier of the machinery is registered under the Act;
- (b) Proper bill of export is filed showing registration number;
- (c) The purchaser of the machinery is an established manufacturer located in the Export processing zone and holds a certificate from the Export processing zone and holds a certificate from the Export processing zone Authority to that effect;
- (d) The purchaser submits and indemnity bond in proper form to the satisfaction of the concerned commissioner inland Revenue that the machinery shall, without prior permission from the said commissioner, not be sold, transferred or otherwise moved out of the Export processing zone before a period of five years from the date of entry into the Zone;
- (e) If the machinery in brought to tariff area of Pakistan, sales tax shall be charged on the value assessed on the bill of entry; and
- (f) Breach of any of the conditions specified herein shall attract legal action under the relevant provisions of the Act, besides recovery of the amount of sales tax along with default surcharge and penalties involved.”;
- (g) against serial number 9, in column (2), the word “who makes local supplies of both taxable and exempt goods” shall be omitted;
- (h) against serial number 12, in column (2), in clause (ix), the words “including flavored milk” and the word and figure “and 0402.9900” shall be omitted; and thereafter clauses
- (x) to (xvi) shall be omitted;

7. Supplies made To exporters under the Duty and Tax Remission Rules, 2001 subject to the observance of procedures, restrictions and conditions prescribed therein.

8. Imports or supplies made to Gawadar Special Economic Zone, excluding

---

vehicles falling under heading 87.02 of the Pakistan Customs Tariff, subject to such conditions, limitations and restrictions as the Board may impose.

---

#### 5.4 Goods exempt from sales tax (Sec-13)

- ❑ Supply of goods or import of goods specified in the Sixth Schedule
- ❑ The Federal Government may, exempt any taxable supplies
- ❑ The Federal Government shall place before the National Assembly all exemptions related notifications issued during the financial year.
- ❑ Any notification issued above, if not earlier recommended stand rescinded on the expiry of financial year in which it has issued.



##### Exercise:

Distinguish the concept of zero rating with exempt supply

Distinction points	Zero Rated Supply	Exempt Supply
Definition under section 2	48) "Zero rated supply means a taxable supply which is charged to tax at the rate of zero per cent	11) "Exempt Supply means a supply which is exempt from tax
Products covered	Fifth Schedule	Sixth Schedule & Federal Government and FBR may specify any goods exempt.
Invoicing Requirements	Invoice shall be raised for the goods supplied but sales tax shall be charged at the rate of zero per cent	No sales tax invoice shall be raised.
Registration	needed	Needed
Input tax credit	refundable.	neither adjustable nor refundable.

## 6.1 Registration and person required to be registered

- a) a manufacturer who is not running a cottage industry;
- b) a retailer who is liable to pay sales tax excluding such retailer required to pay sales tax through his electricity bill;
- c) an importer;
- d) an exporter who intends to obtain sales tax refund against his zero-rated supplies;
- e) a wholesaler, dealer or distributor; and
- f) a person who is required, under any other Federal law or Provincial law

## 6.2 Registration application (Rule 5)

- ❑ apply on the computerized system through owner, authorized member or partner or authorized director, as the case may be, in the Form STR-1. Such application shall specify the Regional Tax Office (RTO) in whose jurisdiction the registration is sought, as per criteria given below:

- (a) in case of listed or unlisted public limited company, the place where the registered office is located;
- (b) in case of other companies—
  - (i) if the company is primarily engaged in manufacture or processing, the place where the factory is situated; and
  - (ii) if the company is primarily engaged in business other than manufacture or processing the place where main business activities are actually carried on;
- (c) in case of a person not incorporated, the jurisdiction where the business is actually carried on; and
- (d) in case of a person not incorporated, having a single manufacturing unit and whose business premises and manufacturing unit are located in different areas, the jurisdiction where the manufacturing unit is located:

- ❑ Further, the Board may transfer the registration of any registered person to a jurisdiction where the place of business or registered office or manufacturing unit is located.

- ❑ The applicant shall submit through the computerized system the following documents:

- (a) CNIC  
in case of non- residents, their passports;
- (b) in case of a company or registered AOP, the Registration or Incorporation Certificate, along with Form III or Form A;
- (c) in case of a partnership, the partnership deed;
- (d) bank account certificate issued by the bank in the name of the business;
- (e) lease or rent agreement, if the premises is on rent, along with CNIC of the owner of the premises;
- (f) ownership documents of the premises, such as registered sale deed or registered transfer deed;
- (g) latest utility bills
- (h) list of machinery installed in case of manufacturer;

- (i) distribution certificate from the principal showing distributorship or dealership, in case of distributor or dealer;
  - (j) balance sheet/statement of affairs/equity of the business;
  - (k) particulars of all branches in case of multiple branches at various locations; and
  - (l) particulars of all franchise holders in case of national or international franchise.
- ☐ The applicant shall visit the concerned RTO for biometric verification
  - ☐ The applicant shall also submit the following to the computerized system:
    - (a) GPS-tagged photographs of the business premises, office equipment, electricity meter and gas meter;
    - (b) in case of manufacturer, in addition to clause (a), GPS tagged photographs of factory premises, machinery, industrial electricity or gas meter installed; and
    - (c) in case of wholesaler, in addition to clause (a), GPS-tagged photographs of the business premises and godown.
  - ☐ Incomplete applications shall not be entertained by the computerized system.
    - ☐ Where an applicant has unsold or unused stocks of tax-paid inputs on which he desires to claim the benefit of, he shall declare them in a statement in the Form set out as STR-4, to be appended with his application for registration.
    - ☐ The application shall be processed by the computerized system and if found complete in all respects, shall be assigned a risk score. In case the application is found low risk, registration shall be issued by the computer system and certificate shall be sent to the applicant by courier service. The high risk cases shall, for further inquiry and scrutiny of documents, be sent to the Commissioner Inland Revenue, designated in the RTO for the purpose.
    - ☐ Where a person, who has furnished a Form for registration, discovers any omission or wrong statement or a subsequent change he may, furnish a revised Form for registration.
    - ☐ In case the person applying for registration as manufacturer is sharing the premises, he shall provide evidence of –
      - (a) demarcation of manufacturing premises for registration, and
      - (b) installation of sub-meter by the relevant utility company, in case he does not have independent industrial utility connection but is using electricity or gas through sub-meter.

### 6.3 Option to file application with Commissioner Inland Revenue

A person who is unable to file application for registration or change in particulars of registration directly in computerized system may submit the prescribed application and required documents to the concerned Commissioner Inland Revenue at RTO, which shall ensure entry of the application and documents in computerized system within **three days**.

### 6.4 Compulsory registration (Rule 6)

- ☐ If a person, who is required to be registered under the Act, does not apply for registration, the Commissioner Inland he shall issue notice to such person
- ☐ In case the Commissioner receives a written reply, contesting his liability to be registered, the

Commissioner shall grant such person opportunity of personal hearing, and shall thereafter pass an order whether or not such person is liable to be registered compulsorily.

- ❑ Where the person, does not respond within the time specified in the notice, the Commissioner shall cause to compulsorily register
- ❑ A person registered compulsorily is required to comply with all the provisions of the STA and in case of failure to do so, the Commissioner Inland Revenue may issue notice for production of records or documents and appearance in person to assess the amount of sales tax payable and to take any other action as required under the law against such person:
- ❑ If it is subsequently established that a person was not liable to be registered but was wrongly registered, the Commissioner shall cause to cancel his registration such person shall not be liable to pay any tax, default surcharge or penalty

#### 6.5 Change in the particulars of registration (Rule 7)

- ❑ In case there is a change in the registration certificate, the registered person shall notify the change in the Form STR-I to the computerized system , within **fourteen days** of such change.
- ❑ The change of business category as 'manufacturer' shall be allowed subject to fulfilment of all applicable requirements.
- ❑ In case of approval of the change applied for, a revised registration certificate shall be issued
- ❑ The Commissioner may, after providing reasonable opportunity of being heard to a person, make modifications in registration of the person.

#### 6.6 Transfer of registration (Rule 8)

- ❑ The Board may, by an order, transfer the registration of a registered person from the jurisdiction of one LTU or RTO to another.
- ❑ On transfer of registration,--
  - (a) all the records and responsibilities shall be transferred to the LTU or RTO
  - (b) the LTU or RTO, in whose jurisdiction the registration is so transferred shall exercise the jurisdiction over such person in the manner as if it always had such jurisdiction.
- ❑ the Board shall issue intimation letter to the registered person along with copy to concerned LTU or RTO.
  - ❑ In case a registered person intends to shift his business activity from the jurisdiction of one LTU or RTO to another, or he has any other valid reason for such transfer, he shall apply to the Board

#### 6.7 Cancellation of multiple registrations (Rule 10)

- ❑ In case a person holds multiple sales tax registrations, he shall retain only one registration  
However, the Board may, allow or allocate a person separate registration for manufacturing units located in different LTU or RTO.

- ❑ The tax liabilities against the registration cancelled shall be transferred against the registration retained and in case of such registrations being in different LTU or RTO, the Commissioner having jurisdiction over cancelled registrations shall ensure that tax arrears' files are transferred to the LTU or RTO, having jurisdiction over the registration so retained.

### 7.1 De-registration (Sec-21)

- ❑ The Board may deregister a registered person as are not required to be registered under the Sales Tax Act.
- ❑ A registered person may be liable for deregistration due to any of the following reasons:
  - (i) He ceases to carry on his business;
  - (ii) His supplies have become exempt from tax;
  - (iii) He transfers or sells his business;
  - (iv) Merger with another person; or
  - (v) Failure to file tax return for six consecutive months.

#### Procedure of de-registration:

- ❑ apply to the Commissioner
  - ❑ Commissioner ,on such application, may issue order of de-registration of such person:
    - not later than ninety days from the date of such application
      - or the date all the dues outstanding against Such person are Deposited by him Whichever is later
  - ❑ The Commissioner , upon completion of any audit proceedings or inquiry, shall complete the proceedings or inquiry within ninety days from the date of application and direct the applicant to discharge any outstanding liability
  - ❑ The person applying for de-registration shall not be de-registered unless he provides record for the purpose of audit or inquiry.
- ❑ The obligations and liabilities of the person shall not be affected by the fact that his registration has been cancelled

### 7.2 Suspension of registration (Rule 12)

- ❑ Where a Commissioner, having jurisdiction, is satisfied that a registered person has issued fake invoices, evaded tax or committed tax fraud, registration of such person may be suspended by the Commissioner through the system, without prior notice, pending further inquiry. The basis for such satisfaction may include the following:
  - (a) non-availability of the registered person at the given address;
  - (b) refusal to allow access to business premises or refusal to furnish records to an authorized Inland Revenue Officer;
  - (c) abnormal tax profile, such as taking excessive input tax adjustments, continuous carry-forwards, or sudden increase in turnover;
  - (d) making substantial purchases from or making supplies to other blacklisted or

- suspended person;
- (e) non-filing of sales tax returns;
- (f) on recommendation of a commissioner of any other jurisdiction;
- (g) any other reason to be specified by the Commissioner;
- ☐ The suspension of registration shall take place through a written order of the Commissioner concerned, giving reasons for suspension.
- ☐ A registered person who does not file sales tax return for six consecutive months shall be caused to be suspended through the system without any notice;
- ☐ In cases, where the buyers and suppliers of any such person, whose registration is being suspended, belongs to another LTU/RTO, and these buyers / suppliers are also required to be suspended, the Commissioner shall intimate the Chief Commissioner of the concerned LTU/RTO, in writing explaining the complete facts of the case and the reasons
- ☐ No input tax adjustment/refund shall be admissible to the registered person during the currency of suspension and neither to any other registered persons on the strength of invoices issued by such suspended person
- ☐ The Commissioner shall, within **seven days** of issuance of order of suspension, issue a show cause notice to afford an opportunity of hearing with **fifteen days** of the issuance of such notice clearly indicating that he will be blacklisted, in case–
  - (a) there is no response to the notice;
  - (b) he has not provided the required record;
  - (c) he has not allowed access to his business record or premises;
  - (d) any other reason specified by the Commissioner;
- ☐ In case show cause notice is not issued within seven days of the order of suspension, the order of suspension shall become void ab initio;
- ☐ In case of non-availability of the suspended person at the given address, the notice may be affixed on the main notice Board of the LTU/RTO;
- ☐ On receipt of the reply to the notice and after giving an opportunity of hearing to the registered person, if the Commissioner is satisfied, he may order for revoking of suspension of the registered person;

### 7.3 Blacklisting (Rule 12)

- ☐ In case, after giving an opportunity of hearing, the offence is confirmed, the Commissioner shall issue an appealable selfspeaking order for blacklisting of the registered person, and shall proceed to take legal and penal action under the relevant provisions of the Act;
- ☐ The order of blacklisting shall contain the reasons for blacklisting, the time period for which any refund or input tax claimed by such person or by any other registered person on the strength of invoices issued by him from the date of his registration shall be inadmissible, any recovery to be

paid or penalties to be imposed ;

- ❑ The order of blacklisting shall be issued within ninety days of the issuance of the notice of hearing. In case, the order of blacklisting is not issued within this time period the suspension of registered person shall become void ab-initio;
- ❑ Copies of the order shall be endorsed to the registered person concerned, all other LTUs/RTOs, the FBR/PRAL computer system, the STARR computer system and the Customs Wing computer system.
- ❑ All LTUs / RTOs shall further circulate to all officers of Inland Revenue having jurisdiction over the registered persons who have claimed credit of input tax or refund on the strength of the invoices issued by the said blacklisted persons; and

### 1.1 Determination of tax liability

- ❑ The liability shall be the difference between
  - (i) Output tax due from him
  - (ii) Input tax paid or payable by him excluding the amount of further tax;
 Any adjustment due to debit or credit notes.
- ❑ A person may claim input tax for **six succeeding tax** periods.
- ❑ Credit for input tax paid on purchases which are not paid for, shall not be allowed.
- ❑ Deduction of input tax from the output tax payable by a registered person shall be allowed if:
  - (i) In case of a taxable supply, he holds a tax invoice in his name and bearing his registration number
  - (ii) In case of goods imported into Pakistan, he holds bill of entry or goods declaration in his name and showing his sales tax registration number, duly cleared by the customs
  - (iii) In case of goods purchased in auction, he holds a treasury challans bearing his name and his registration number showing payment of Sales Tax.

### 1.2 Change in the rate of tax (Section 5)

- ❑ If there is a change in the rate, tax shall be applicable as under:-
  - (i) A taxable supply made by a registered person shall be charged to tax at such rate which is in force at the time of making supply;
  - (ii) Imported goods shall be charged to tax at such rate as is in force:
    - (a) in case the goods are entered for home consumption, on the date on which a goods declaration is presented
    - (b) in case the goods are cleared from warehouse, on the date on which a goods declaration for clearance of such goods is presented.
- ❑ Where a goods declaration is presented in advance of the arrival of the conveyance by which the goods are imported, the tax shall be charged at the rate as is in force on the date on which the manifest of the conveyance is delivered.
 

If the tax is not paid within seven days of the presenting of the goods declaration, the tax shall be charged at the rate as is in force on the date on which tax is actually paid.
- ❑ If there is a change in the rate of tax during a tax period, a separate return in respect of each portion of tax period showing the application of different rates of tax shall be furnished.

#### Exercise

Rate of sales tax has increased from 16% to 17% effective from 23 May 2016. The accountant of the company is unsure about the manner in which sales tax return for the month of May 2016 would need to be furnished.

Answer

If there is a change in the rate of tax during a tax period, a separate return in respect of each portion of the tax period has to be furnished showing the application of the different rates of tax.

Therefore, company will furnish two returns:

a return for the period from 1 May 2016 to 23 May 2016 with 16% rate; and a separate return for the period from 23 May 2016 to 31 May 2016 with 17% rate

### 1.3 Time and manner of payment (Section 6)

#### Time of payment

##### ☐ Time for payment of tax on goods imported

Tax in respect of goods imported into Pakistan shall be charged and paid in the same manner and at the same time as if it were a duty of customs payable under the Customs Act, 1969.

##### ☐ Time for payment of tax on taxable supplies

Tax in respect of taxable supplies made during a tax period shall be paid by the registered person at the time of filing the return in respect of that period.

#### Mode of payment

##### ☐ The tax due on goods imported or taxable supplies shall be paid in any of the following manners:

- (i) Tax on goods imported shall be paid in the manner as if it were a duty of customs payable under the Custom Act, 1969;
- (ii) The tax due on taxable supplies shall be paid by any of the following modes, namely:
  - (a) through deposit in a bank designated by the Board; and
  - (b) other mode and manner as may be specified by the Board.

### 2.2 Adjustment for debit and credit notes

invoice may desire amendments:

- ☐ Cancellation of supply
- ☐ Return of goods
- ☐ A change in the nature of supply
- ☐ Change in the value of the supply
- ☐ Some such event the amount shown in the tax invoice
- ☐ Return needs to be modified.

#### 2.2.1 Cancellation or return of supply. (Rule 20)

- ☐ the buyer or the recipient shall issue a debit note (in duplicate) indicating the quantity being returned, its value as shown in the tax invoice and the amount of related sales tax paid, as well as the following, namely:-
  - i. Name and registration number of the recipient;
  - ii. name and registration number of the supplier;
  - iii. number and date of the original sales tax invoice;

- iv. the reason of issuance of the debit note; and
- v. Signature and seal of the authorized person issuing the note.

❑ The original copy of the debit note shall be sent to the buyer and the duplicate copy shall be retained for record.

❑ Same treatment for unregistered person.

#### 2.2.3 Change in Value of Supply or amount of sales tax. (Rule 21)

the supplier shall issue a debit note (in duplicate), with the following particulars, namely:-

- name and registration number of the supplier;
  - name and registration number of the recipient;
  - number and date of the original sales tax invoice;
  - original value and sales tax as in original invoice;
  - the revised value and sales tax;
  - the difference of value and sales tax adjustable;
  - the reason for revision of value; and
  - Signature and seal of the authorized person issuing the note.
- ❑ Where, for any valid reason, the value of supply or the amount of sales tax mentioned in the invoice issued has decreased, the supplier shall issue a credit note (in duplicate), with the same particulars as specified above. The original copy of the note shall be sent to the recipient and the duplicate shall be retained for record.

#### 2.2.4 Adjustment of input and output tax (Rule 22)

- ❑ The buyer shall not be entitled to claim input tax in respect of the supply which has been cancelled or returned to the supplier or in respect of which the amount of tax was reduced.
- ❑ Where the buyer/supplier has already claimed input/output tax credit in respect of such supplies, he shall reduce or increase the amount of input tax by the corresponding amount as mentioned in the Debit Note or Credit Note, as the case may be, in the return for the period in which the respective note was issued.

Provided that in case of return of supplies by an unregistered person, the adjustment as aforesaid can be made against the Credit Note issued by the supplier.

- ❑ The adjustments as herein before noted which lead to reduction in output tax or increase in input tax can only be made if the corresponding Debit Note or Credit Note is issued within 180 days of the relevant supply
- the Collector may, at the request of the supplier, extend the period by a further 180 days.
- ❑ Where the goods relating to a returned or cancelled supply are subsequently supplied, the supplier shall charge sales tax thereon in the normal manner

#### 2.2.5 Destruction of goods. (Rule 23)

the goods shall be destroyed after obtaining permission from the Collector of sales tax having jurisdiction, and under the supervision of an inland revenue and the input tax credit in respect of goods so destroyed shall not be admissible.

### 3.1 Time of claim of input tax

a registered person shall not be entitled to deduct input tax from output tax unless:

- ☐ taxable supply made in Pakistan: he holds a tax invoice in his name and bearing his registration number in respect of such supply for which a return is furnished;
- ☐ imported into Pakistan: he holds the goods declaration duly cleared by the customs
- ☐ in case of goods purchased in auction, he holds a treasury challan in his name and bearing his registration Number;

### 3.2 Input tax not admissible

☐ A registered person shall not be entitled to deduct input tax paid on:

- (i) the goods or services which are not used or not to be used for the taxable goods or supplies;
  - (ii) the goods on which extra amount of tax is payable
  - (iii) any other goods;
  - (iv) the goods or services in respect of which sales tax has not been deposited
  - (v) fake invoices;
  - (vi) purchases made by a registered person in case he fails to provide information relating to his imports, purchases, sales etc
  - (vii) Purchases in respect of which a discrepancy is indicated by CREST
  - (viii) input tax of which is not verifiable in the supply chain;
  - (ix) Goods and services not related to the taxable supplies made by the registered person;
  - (x) Goods and services acquired for personal or non-business consumption;
  - (xi) Goods used in, or permanently attached to, immoveable property, and such goods acquired for sale or re-sale or for direct use in the production or manufacture of taxable goods; ;
  - (xii) services in respect of which input tax adjustment is barred
  - (xiii) import or purchase of agricultural machinery or equipment subject to sales tax at the rate of 7%
  - (xiv) goods and services which, at the time of filing of return by the buyer, have not been declared by the supplier in his return.
- ☐ Monthly adjustment of input tax claimed by a registered person shall be treated as **provisional adjustment** and at the end of each financial year, the registered person shall make **final adjustment**

### 3.3 Certain transactions and input tax related thereto that are inadmissible

Where the sum received is partly in cash and partly in kind, then the same transaction would be allowed subject to the conditions:

- ☐ Goods received in kind represent taxable goods
- ☐ Goods received are reflected in records.
- ☐ The balance amount even less than Rs 50,000 is received through crossed banking instrument.

If the banking instrument is issued but the same is not encashed or deposited within 180 days then the input tax shall not be denied. However, it must be ensured that the amount is ultimately

deposited in the seller account and the said instrument is not cancelled.

### 3.5 Adjustable input tax [Section 8B]

- ❑ A registered person shall not be allowed to adjust input tax in excess of 90% of the output tax for that tax period.
- ❑ Restriction on the adjustment of input tax in excess of 90% of the output tax shall not apply in case of fixed assets or capital goods.
- ❑ A registered person may be allowed adjustment or refund of input tax not allowed as per the above provisions subject to the following conditions
  - (i) In the case of registered persons, whose accounts are subject to audit upon furnishing a statement along with annual audited accounts, duly certified by the auditors, showing value additions less than the limit prescribed above; or
  - (ii) In case of other registered persons, subject to the conditions and restrictions as may be specified by the Board by notification in the official Gazette.
- ❑ The adjustment or refund of input tax if any, shall be made on yearly basis in the second month following the end of the financial year of the registered person.
- ❑ Any auditor found guilty of misconduct in furnishing the certificate mentioned above shall be referred to the Council for disciplinary action.

#### Exercise

In the light of the provisions of Sales chargeability/adjustment of sales tax in independent situations

- (i) Rate of sales tax has increased from 16% to 17% effective from 23 May 2016. The accountant of the company is unsure about the manner in which sales tax return for the month of May 2016 would need to be furnished.
- (ii) Sales tax of Rs. 100,000 was paid along with the electricity bill paid in cash during February 2016. The bill pertained to the manufacture of 50% of goods exported to the UAE and 50% of the goods which are exempt from sales tax.
- (iii) Free replacement of defective parts is made in the case of taxable goods, which have been sold under warranty. During the month of May 2016 the market value of such replacement parts was Rs. 500,000
- (iv) ABC Manufacturing Limited purchased raw material amounting to Rs. 100 million on credit. The payment was made after 240 days of the issuance of tax invoice by way of crossed cheque drawn on the business bank account of the supplier.
- (v) Destruction of damaged goods.
- (vi) Purchase of taxable goods from a person who has reputation of evading sales tax.
- (vii) Payment of fuel to be used for machinery by the Director of the company using his own credit card.

#### Answer

- (i) Change in rate of sales tax

If there is a change in the rate of tax during a tax period, a separate return in respect of each portion of the tax period has to be furnished showing the application of the different rates of tax. Therefore, company will furnish two returns:

- a return for the period from 1 May 2016 to 23 May 2016; and
- a separate return for the period from 23 May 2016 to 31 May 2016

(ii) Sales tax paid on electricity bills

Sales tax paid along with an electricity bill is an admissible input tax only when the electricity was used to produce taxable goods. Further, in the case of utility bills, payment in cash does not disentitle a claim of input tax paid thereon. Therefore, input tax of Rs. 50,000 would be admissible, whereas, balance sales tax of Rs. 50,000 paid in respect of exempt supplies would not be allowed as input.

(iii) Free replacement of defective parts

The free replacement of defective parts (open market value of Rs. 500,000) during the warranty period is considered as equivalent to the value of the original supply and not a separate supply. Such replacement is not chargeable to tax.

(iv) Payment after 240 days

Although payment is made through crossed cheque drawn on the business bank account of the seller yet the transaction is inadmissible for the purpose of claiming input tax as the payment was made after 180 days of the issuance of tax invoice.

(v) Destruction of damaged goods

Where any goods are returned by the buyer on the ground that the same are unfit for consumption and are required to be destroyed by the supplier, the goods shall be destroyed after obtaining permission from the Collector of Sales Tax having jurisdiction, and under the supervision of an Inland Revenue Officer not below the rank of an Assistant Collector as may be deputed by the Collector for the purpose and the input tax credit in respect of goods so destroyed shall not be admissible.

(vi) Joint and several liability of registered persons in supply chain where tax unpaid

Where a registered person receiving a taxable supply from another registered person is in the knowledge or has reasonable grounds to suspect that some or all of the tax payable in respect of that supply or any previous or subsequent supply of the goods supplied would go unpaid, of which the burden to prove shall be on the department, such person as well as the person making the taxable supply shall be jointly and severally liable for payment of such unpaid amount of tax

(vii) Payment through credit card

Although payment made through credit card is considered as payment made through banking channel yet the payment must be verifiable from the business bank accounts of both the buyer and the seller. Since the director made the payment from his personal credit card, therefore, company will not be able to obtain input tax on its payment due to non verifiability of the said payment from the business bank account of the company.

#### 4.1 Refund of input Tax (Section 10)

- ☐ If the input tax paid exceeds the output tax on account of zero rated local supplies or export, the excess amount of input tax shall be refunded to the registered person not later than **forty-five days** of filing of refund claim.
- ☐ In case of excess input tax against supplies other than zero-rated or exports, such excess input tax may be **carried forward**
- ☐ The Board may direct that refund of input tax against exports shall be paid along with duty drawback at the rates notified

- ❑ If a registered person is liable to pay any tax, default surcharge or penalty, the refund of input tax shall be made after adjustment of that liability.
- ❑ Where there is reason to believe that a person has claimed input tax credit or refund which was not admissible to him, the proceedings against him shall be completed within **sixty days** extended up to **120 days** not exceeding **9 months**

#### 4.2 Assessment of Tax (Section 11)

- ❑ Assessment, of tax can be made Where
  - (i) a person failed to file the return for a tax period by due date; or
  - (ii) a person pays an amount which is less than the amount of tax actually payable due to some miscalculation or error.
- ❑ In the above-referred cases, an officer of Inland Revenue shall serve a notice to show cause to such person. After this, the officer shall make an order for assessment of tax, including imposition of penalty and default surcharge.
- ❑ However, the notice stated above and the order of assessment shall abate if the person required to file a tax return, files return along with default surcharge and penalty.
- ❑ Where a person for reasons other than those specified does not pay proper tax, an officer of Inland Revenue shall make an assessment of Sales Tax actually payable by that person or determine the amount of tax credit or tax refund which he has unlawfully claimed and shall impose a penalty and charge default surcharge
- ❑ Order under the above para shall not be made by an officer of Inland Revenue unless a notice to show cause is given within **five years** to the person in default. The notice shall specify the grounds on which the officer is intended to proceed against him. The officer of Inland Revenue shall take into consideration the representation made by such person and provide him with an opportunity of being heard.
- ❑ Order as referred above shall be made within **120 days** of issuance of show cause notice or within such extended time which the Commissioner may fix. Such extended time shall not exceed **90 days**.
- ❑ Where a registered person fails to file a return, an officer of Inland Revenue shall determine the minimum tax liability of the registered person.

#### 4.3 Recovery of short paid amounts without notice (Section 11A)

- ❑ Where a registered person pays the amount of tax less than the tax due, the short paid amount of tax along with default surcharge shall be recovered from such person by stopping removal of any goods from his business premises and through attachment of his business bank accounts. Any of these actions may be taken without giving him a show cause notice.
- Provided that no penalty shall be imposed unless a show cause notice is given to such person.

#### 5.1 Tax on value addition

- ❑ sales tax chargeable on the supply of goods of notified description or class, shall be levied and collected on the difference between the following:
  - (i) the value of supply for which the goods are acquired; and
  - (ii) the value of supply for which the goods, either in the same state or on further manufacture, are supplied.
- ❑ It is important to note that the Federal Government may specify the minimum value

addition required to be declared by certain persons for supply of goods of such description, or class as may be prescribed.

The tax charged in this manner shall be subject to the conditions, limitations, restrictions and procedure mentioned in the notification.

The Federal Government may also, by notification, waive the requirement of audit or scrutiny of records if such minimum value addition is declared.

### 1.1 Returns [Sections 26 to 28]

- ❑ A Sales Tax return is the taxpayer's document of declaration through which taxpayer not only furnishes the details of transactions during a tax period but also determines his sales tax liability.
- ❑ On the return form, the taxpayer declares, for a particular tax period, his respective input tax and output tax for different categories of taxpayers, monthly, quarterly or annual returns may be filed on prescribed format.

#### Monthly Return

- ❑ Every registered person shall furnish a true and correct return in the prescribed form upto **the 15<sup>th</sup> day** of month next following the end of tax period.
- ❑ The return shall be filed in the bank or any other office specified by Board.

#### Quarterly Return

- ❑ The Board may require any person or class of persons to submit return on quarterly basis
- ❑ And require any person to submit such return as may be prescribed annually in addition to the monthly return or quarterly return.

#### Annual return

A private or public limited company is required to file annual sales tax return, for a financial year by **30<sup>th</sup> September** of the following financial year.

### 1.2 Return for person operating in different sectors- U/R 14(2)

In case a registered person operates in different sectors for which different dates of filing of return have been prescribed, such person shall file a single return for all such sectors by the due date applicable to his major activity in terms of sales tax or federal excise duty payable.

### 1.3 Electronic filing

- ❑ The return filed electronically shall also be deemed to be a valid return filed. The Board is authorised to make rules for determining eligibility.
- ❑ Every registered person required to file return or other statement or any notification issued thereunder shall file such a return or, as the case may be, statement, electronically in the manner as specified by the Board through a general order.
- ❑ A registered person filing returns electronically shall make payment of the amount of sales tax due, if any, in any of the designated branches of the National Bank of Pakistan.
- ❑ In case where due date has been prescribed as 15<sup>th</sup> of a month, the tax due shall be submitted electronically by **18<sup>th</sup> of the same month**.

### 1.4 Particulars of sales tax return

- ❑ The return shall indicate:
  - i. Sales tax registration number (STRN), name and address of registered person.
  - ii. Tax credit carried forward from previous period.

- iii. Value of supplies
- iv. Output tax due on supplies as under:
  - a) Local taxable supplies
  - b) Exempted supplies
  - c) Zero rated supplies
- v. Value of purchases;
  - vi. Input tax paid on purchases as under:
    - a) Local taxed goods
    - b) Imported taxed goods
    - c) Exempted purchases
    - d) Zero rated purchases
    - e) Other purchases
- vii. Arrears payable
- viii. Amount payable / refundable.

- ☐ The registered person shall deposit in the banks, "Sales Tax Payable" in the return at the time of filing of return.
- ☐ In case no amount of sales tax is payable by the registered person, he shall file "Nil" return without depositing any amount.
- ☐ If there is a change in the rate of tax during a tax period, a separate return in respect of each portion of tax period showing the application of different rates of tax shall be furnished.
- ☐ A registered person may file a revised return to correct any omission or wrong declaration made in a return filed, subject to approval of the Commissioner Inland Revenue within **120 days** of filing of return.

If a registered person wishes to file revised return voluntarily with tax short paid or tax evaded along with default surcharge, no penalty shall be recovered from him.

However, in case the registered person wishes to deposit the amount of tax as pointed out by the officer of Inland Revenue during the audit, 25% of the penalty is payable by him.

Further in case the registered person wishes to deposit the amount after issuance of show cause notice, he shall deposit the evaded amount of Sales Tax, default surcharge and full amount of the leviable penalty.

- ☐ Board may require any person to furnish such summary or details or particulars relating to imports, purchases and supplies made by them

### 1.5 Special return (Section 27)

- ☐ a registered person may be required to file special return containing information relating to:
  - (i) Quantity of goods manufactured or produced.
  - (ii) Purchases made.
  - (iii) Goods supplied.
  - (iv) Payment of arrears made.

- ❑ The Commissioner may also require from any person whether, he is registered or not, a return in a prescribed form and such person shall furnish the return.

## 1.6 Final return (Section 28)

- ❑ If a person applies for de-registration, he shall before such de-registration, furnish a final return to the Commissioner in the specified form, in such manner and at such time as directed by the Commissioner.

## 1.7 Returns deemed to have been made (Section 29)

- ❑ A return purporting to be made on behalf of a person by his duly appointed representative shall, for all purposes, be deemed to have been made by such person or under his authority unless proved to the contrary.

## 1.8 Summary of returns and their filing dates

Summary of returns and their filing dates is given hereunder:

Person	Nature of Return	Filing Date
Registered person	Monthly return	15 <sup>th</sup> of next month following any tax period (*Electronic filing – 18 <sup>th</sup> of next month)
Registered person	Change in rate of tax	Separate returns for each applicable rate in the next month following the tax period.
Registered or unregistered person	Special return	By the date specified by the Commissioner in its notice calling for such return.
Person applying for de-registration	Final return	By the date specified by the Commissioner
Every private or public Limited company	Annual return	30 <sup>th</sup> of September following the year ended.

## 2.1 Records (Section 22)

- ❑ A registered person shall maintain the following records of goods purchased locally or imported and supplies (including zero-rated and exempt supplies):
  - ❑ Records of supplies indicating
    - description
    - quantity value of goods
    - name and address of the person to whom supplies were made the amount of the tax charged;
  - ❑ records of goods purchased showing
    - description
    - quantity value of goods

- name, address and registration number of the supplier the amount of the tax on purchases;
- ☐ records of goods imported showing description quantity value of goods the amount of the tax paid on imports;
- ☐ records of zero-rated and exempt supplies;
- ☐ double entry sales tax accounts;
- ☐ Following further records is desired
  - Tax invoices
  - Credit notes, debit notes, Bank statements,
  - Banking instruments in terms of section 73 Inventory records,
  - Utility bills,
  - Salary and labour bills Rental agreements, Sale-purchase agreements and Lease agreements;
  - Record relating to gate passes, inward or outward, and transport receipts; Such other records as may be specified by the Board.
- ☐ The Board may also require a registered person to declare and use only as many number of business bank accounts as may be specified by the Board to make or receive payments on account of purchase and sale transactions
- ☐ The Board may specify to keep such other records for the sales tax law purposes.
- ☐ The Board may specify to use such electronic fiscal cash registers as are approved by the Board.
- ☐ The registered person shall keep the aforesaid record at his business premises or registered office in English or Urdu language
- ☐ The registered persons, whose accounts are subject to audit, shall be required to submit a copy of the annual audited accounts, along with a certificate by the auditors certifying the payment of due tax by the registered person.

## 2.2 Tax invoices (Section 23)

- ☐ A registered person making a taxable supply shall issue a serially numbered tax invoice at the time of supply of goods containing the following particulars, namely:
  - (i) name, address and registration number of the supplier;
  - (ii) name, address and registration number of the recipient;
  - (iii) date of issue of invoice;
  - (iv) description and quantity of goods;
  - (v) value exclusive of tax;
  - (vi) amount of sales tax; and
  - (vii) value inclusive of tax:

- ❑ No person other than a registered person or a person paying retail tax shall issue an invoice. Moreover, not more than one tax invoice shall be issued for a taxable supply.
- ❑ The sales tax registered person may also issue sales tax invoice electronically to its buyers.

## 2.3 Retention of record and documents for six years (Section 24)

A person shall retain the record and documents for a period of **six years** or till the final decision in any proceedings including proceedings for assessment, appeal, revision, reference, petition and any proceedings before an alternative Dispute Resolution Committee.

### 3.1 Access to record and documents (Section 25)

- ❑ A person who is required to maintain any record or documents and when required by Commissioner, produce record or documents which are in his possession or control or in the possession or control of his agent. Where such record or documents have been kept on electronic data, access to such data shall be allowed to the officer of Inland Revenue authorized by the Commissioner and use of any machine on which such data is kept.
- ❑ The officer of Inland Revenue authorized by the Commissioner, on the basis of the record, may, once in a year, conduct audit.  
However, in case the Commissioner has information or sufficient evidence showing that such registered person is involved in tax fraud or evasion of tax, he may authorize an officer of Inland Revenue, to conduct an inquiry or investigation
- ❑ After completion of audit, the officer of Inland Revenue may, after obtaining the registered person's explanation shall pass an order

## 3.2 Drawing of samples (Section 25A)

- ❑ An authorized officer of Inland Revenue, if consider it necessary, may take a sample of any goods or raw materials, for the purpose of:
  - (i) determining the liability to sales tax of a registered person; or
  - (ii) for the purpose of establishing value of goods; or
  - (iii) for any other reason.
- ❑ The sample drawn shall be a minimum quantity of goods or raw materials sufficient to enable a proper examination or analysis to be made.
- ❑ At the time of taking the sample the person in possession of the goods shall be informed and given the opportunity to sign the representative samples, so drawn, and take corresponding sample for his own record.
- ❑ Any sample taken as above shall be taken against a proper receipt a copy each of which shall be kept in the record by the registered person and the large Tax payers unit or Regional Tax Officer, as the case may be.

## 3.3 Transaction between associates (Section 25AA)

The Commissioner or an officer of Inland Revenue may, in respect of any transaction between persons who are associates, determine the transfer price of taxable supplies between the persons as is necessary to reflect the fair market value of supplies in an arm's length transaction.