

The Finance Bill 2008 was presented by the Finance Minister in the National Assembly of Pakistan on 11 June 2008. Enclosed, are the brief comments on the changes proposed by the Finance Bill 2008, relating to Income tax Ordinance, 2001, the Sales Tax Act, 1990 and the Companies Ordinance, 1984.

The amendments proposed by the Bill after being passed by the National Assembly, shall, with or without modification become effective for the tax year 2009 i.e. from 1st July 2008, unless indicated otherwise. It is therefore, suggested that proper professional advice be obtained before any final decision is taken to act upon the relevant provisions of law.

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HYDER & COMPANY
CHARTERED ACCOUNTANTS

June 12, 2008

INCOME TAX ORDINANCE, 2001

1. SALARIED CLASS

Presently, any salary paid or payable exceeding Rs.10,000/- if not paid through cross cheque or direct transfer to the employee's bank account is not an admissible deduction for computing income from business under the Income Tax Ordinance, 2001. The Bill now seeks to enhance the threshold to Rs.15,000/-. Through the proposed amendment salary upto Rs.15,000/- if paid through cash will be an allowable deduction. Moreover the basic threshold for tax @ 0% on taxable income from salary increases as :-

Salaried person	from	150,000	to	180,000
Salaried woman	from	200,000	to	240,000

2. FIRST YEAR ALLOWANCE- Section 23A

The Bill seeks to insert a new section in order to broaden the industrial base of the country and to develop rural areas and under developed areas of the country. The bill seeks to insert a new section whereby plant, machinery and equipment installed by any industrial undertaking set up in specified rural and under developed area and owned and managed by a company shall be allowed first year allowance in lieu of initial allowance @ 90% of the cost of eligible depreciable assets put to use after 1st July, 2008.

3. CHARITABLE DONATIONS - Section 61

The donations eligible for tax credits in the case of individual and AOP and companies at presently is admissible @ of 30% and 15%, respectively, the Bill now seeks to reduce the same @ 10% of the taxable income.

4. MINIMUM TAX ON INCOME OF CERTAIN PERSONS / ADVANCE TAX

Presently, resident companies are required to pay 0.5% tax on their turnover as the minimum tax irrespective of the loss sustained due to any exemption or the applications of credits or rebates or due to claiming of allowances or deduction (including depreciation and amortization deduction allowed under the ITO 2001). The Bill with the view to encourage industrialization in the country seeks to omit minimum tax. Further, corresponding change has also been proposed in section 147 whereby it is proposed to omit sub section 4AA, therefore, where a company is not liable to pay any minimum tax in the event of negative income will also not liable to pay advance tax.

5. TAXATION OF BUILDERS & DEVELOPERS – Section 113 C

Presently, the taxation on the income of the builders and developers is required to be computed under the income from business, the Bill seeks to introduce a new minimum taxation system whereby the builders and developers would be required to pay “minimum tax” @ Rs.50/- sq ft. of the covered area of a unit and a developers of open plots would be liable to pay “minimum tax” @ Rs.100/- sq.yard of the plot.

6. MANDATORY FILING OF WEALTH STATEMENT –Section 115

The Bill seeks to substitute sub-section 1 of section 115, through the proposed amendment salaried individual are not required to file return of income if the employer of such salaried tax payer has already filed an annual statement of deduction of income tax from salary. The filing of annual statement by the employer is proposed to be treated as a return of income furnished by the tax payer u/s.114 of Income Tax Ordinance 2001. The Bill further seeks to clarify the ambiguity regarding the filing of wealth statement whereby the salaried tax payers whose salary income for the tax year or the last tax year is Rs.500,000/- or more is required to file wealth statement as required u/s.116.

7. INVESTMENT TAX ON INCOME –Section 120A

The Bill seeks to introduce the new section i.e. 120A, whereby the board is empowered to introduce the scheme of investment tax in respect of undisclosed income representing any amount of moveable or immovable assets. The salient features of such scheme may include the following:-

- (i) Where any person declares undisclosed income under such scheme and the rules made there under the tax on such income shall be called investment tax and such tax shall be levied at such rate as may be prescribed.
- (ii) Where a person has paid investment tax he shall be entitled to incorporate in his books of account such undisclosed income In tangible form.
- (iii) Such person shall not be liable to pay any tax, charges, levy, penalty or prosecution in respect of such income under the Income Tax Ordinance 2001. The proposed section is being introduced with a view to broaden tax base.

The rate of tax talked about is 2% but is not mentioned in the finance bill but was mentioned in the speech of Finance Minister and is given in salient features issued by the Board.

8. TAX ARREARS SETTLEMENT INCENTIVES SCHEME - Section 146B

The Bill seeks to introduce a new section through which the Board shall be empowered to introduce a scheme and to make rules for implementation of wavier of additional tax and penalties etc. whereby a tax payer would be able to pay the principal amount of tax within a certain period.

9. REDUCTION IN WITH HOLDING TAX RATES ON IMPORTS - Section 148

The Bill seeks to reduce the rate of with holding tax at import stage from 5% to 2% at par whether the imports are being made by the manufacturers or the commercial importers. It appears that the change is proposed to stop mal practices. Correspondingly, omission of sub-section (4A) has also been proposed by virtue of which the Commissioner is empowered to issue a lower rate certificate.

10. INDIVIDUAL & AOP BECAME WITHOLDING AGENTS – Section 153(9)

The concept of Small Companies was introduced vide Finance Act 2005 whereby the Small Companies were given miscellaneous facilities under the Ordinance, one of the facility to the Small Companies was the exclusion of Small Companies from the purview of “prescribed person” as envisaged under section 153(a) read with section 153 sub section (5) clause (e). The said facility was granted to promote the corporate culture and to improve the documentation of the economy. The Bill seeks to withdraw said facility from Small Companies and even to enlarge the scope of “prescribed person” to the individuals and association of persons, with following conditions:-

An association of persons, having turnover of fifty million rupees or above; or An individual, having turnover of twenty-five million rupees or above.”

The bill further seeks to define the expression of “manufacturer” for the purpose of section 153:-

“Manufacturer” for the purpose of this section means, a person who is engaged in production or manufacturing of goods, which includes –

- (a) any process in which an article singly or in combination with other articles, material, components, is either converted into another distinct article or produce is so changed, transferred, or reshaped that it becomes capable of being put to use differently or distinctly; or
- (b) a process of assembling, mixing, cutting, packing, repacking or reparation of goods in any other manner.”

10. **INCOME FROM HOUSE PROPERTY – Section 15 and 155**

At present gross rental income from property is chargeable to tax at the rate of 5% which is final discharge of tax liability under the head “income from property”. The Bill seeks to differentiate tax liability between Individual/AOP and companies and seeks to tax income from this source on progressive rates. However, the companies will not be entitled to the basic exemption of Rs.150,000/- . The Bill proposes following schedule for “determination of tax liability” of the Individual/ association of persons and companies :-

S.No.	Gross amount of rent	Rate of tax Individual/AOP
1.	Where the gross amount of rent does not exceed Rs.150,000.	Nil
2.	Where the gross amount of rent exceeds Rs.150,000 but does not exceed Rs.400,000	5 per cent of the gross amount exceeding Rs.150,000
3.	Where the gross amount of rent exceeds Rs.400,000 but does not exceed Rs.1,000,000	Rs.12,500 plus 10 per cent of the gross amount exceeding Rs.400,000
4	Where the gross amount of rent exceeds Rs.1,000,000	Rs.72,500 plus 15 per cent of the gross amount exceeding Rs.1,000,000.

S.No.	Gross amount of rent	Rate of tax Companies
1.	Where the gross amount of rent does not exceed Rs.400,000	5 per cent of the gross amount of rent

- | | | |
|----|---|---|
| 2. | Where the gross amount of rent exceeds
Rs.400,000 but does not exceed Rs.1,000,000 | Rs.20,000 plus 10 per cent of
the gross amount of rent
exceeding Rs.400,000 |
| 3. | Where the gross amount of rent exceeds
Rs.1,000,000 | Rs.80,000 plus 15 per cent of
the gross amount exceeding
Rs.1,000,000 |

Further the Bill also prescribes different parameters of with-holding tax for the payments made by an Individual/AOP and Companies on account of rent, the bill proposes following schedule for the with-holding of tax by an Individual, AOP and Companies:-

S.No.	Gross amount of rent	Rate of tax Individual/AOP
1.	Where the gross amount of rent does not exceed Rs.150,000.	Nil
2.	Where the gross amount of rent exceeds Rs.150,000 but does not exceed Rs.500,000	5 per cent of the gross amount exceeding Rs.150,000
3.	Where the gross amount of rent exceeds Rs.500,000 but does not exceed Rs.1,300,000	Rs.17,500 plus 10 per cent of the gross amount exceeding Rs.500,000
4.	Where the gross amount of rent exceeds Rs.1,300,000	Rs.97,500 plus 15 per cent of the gross amount exceeding Rs.1,300,000

S.No.	Gross amount of rent	Rate of tax Companies
1.	Where the gross amount of rent does not exceed Rs.400,000	5 per cent of the gross amount of rent
2.	Where the gross amount of rent exceeds Rs.400,000 but does not exceed Rs.1,000,000	Rs.20,000 plus 10 per cent of the gross amount of rent exceeding Rs.400,000

3. Where the gross amount of rent exceeds

Rs.1,000,000

Rs.80,000 plus 15 per cent of the gross amount exceeding Rs.1,000,000

11. LUXURY TAX ON PURCHASE OF MOTOR CAR & JEEPS – Section 231B

It may be recalled that through the enactment of Finance Act 2007, a new section was introduced whereby the local manufacturing car companies were made responsible to collect advance tax @ 2.5% on the purchase price of the cars and Jeep. The Bill now seeks to enlarge the scope to the registration of new motor car irrespective of their origin of manufacturing, in accordance with the following schedule:-

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

The tax deducted under this section is proposed to be final tax on purchase of Motor Cars & Jeeps.

12. COLLECTION OF TAX BY STOCK EXCHANGE REGISTERED IN PAKISTAN – Section 233A

Presently, the Stock Exchanges in Pakistan are required to collect advance tax from its members on purchase, sale, trading of shares and in respect of financing of carry over transaction in shares business at varying rates. The tax deducted by the stock exchanges constitute the final discharge of tax liability of the income of the Members arising from the above transactions. The Bill now seeks to substitute the final taxability with the minimum tax.

13. TAX ON ELECTRICITY BILLS – Section 235

Presently the tax collected on the electricity bills is the minimum tax on the income of a person other than a company, however companies can adjust and take refund of the amount paid in excess of their tax liability, the Bill seeks

to limit the refund of tax to the companies whose monthly electricity bills are upto Rs.20,000/-. Therefore the tax on electricity bills upto Rs.20,000/- per month is proposed to be a minimum tax in case of Companies.

14. TAX RATES FOR SMALL COMPANIES DIV-II, PART-I OF FIRST SCHEDULE

The Bill seeks to enhance the 20% rate of taxation for Small Companies, the bill now proposes to charge the income of the Small Company in accordance with the following schedule.

Income attributable to the turnover	Rate
Upto Rs.250 million	20% Plus
Exceeding 250 but not exceeding Rs.350 million	25% Plus
Exceeding Rs.350 million but not exceeding Rs.500 million	30% Plus
Exceeding Rs.500 million	35% Plus

Through the proposed amendment in the First Schedule and under section 153, the initial facility envisaged through the idea of Small Company is almost shattered, now there is a very narrow difference between Small Company and a Company.

FIRST SCHEDULE

PART -I

RATE OF TAX

Division I

TAX RATES FOR SALARIED TAX PAYERS FOR TAX YEAR-2009

(1A) Where the income of an individual chargeable under the head “salary” exceeds fifty percent of his taxable income , the rates of tax to be applied shall be as set out in the following table namely :-

S.No	Taxable Income	Rate of tax
1	Where the taxable income does not exceed Rs. 180,000	0%
2	Where the taxable income exceed Rs. 180,000 but does not exceeds Rs.250,000	0.50%
3	Where the taxable income exceed Rs. 250,000 but does not exceeds Rs.350,000	0.75%
4	Where the taxable income exceed Rs. 350,000 but does not exceeds Rs.400,000	1.50%

5	Where the taxable income exceed Rs. 400,000 but does not exceeds Rs.450,000	2.50%
6	Where the taxable income exceed Rs. 450,000 but does not exceeds Rs.550,000	3.50%
7	Where the taxable income exceed Rs. 550,000 but does not exceeds Rs.650,000	4.50%
8	Where the taxable income exceed Rs. 650,000 but does not exceeds Rs.750,000	6.00%
9	Where the taxable income exceed Rs. 750,000 but does not exceeds Rs.900,000	7.50%
10	Where the taxable income exceed Rs. 900,000 but does not exceeds Rs.1.050,000	9.00%
11	Where the taxable income exceed Rs. 1,050,000 but does not exceeds Rs.1,200,000	10.00%
12	Where the taxable income exceed Rs. 1,200,000 but does not exceeds Rs.1,450,000	11.00%
13	Where the taxable income exceed Rs. 1,450,000 but does not exceeds Rs.1,700,000	12.50%
14	Where the taxable income exceed Rs. 1,700,000 but does not exceeds Rs.1,950,000	14.00%
15	Where the taxable income exceed Rs. 1,950,000 but does not exceeds Rs.2,250,000	15.00%
16	Where the taxable income exceed Rs. 2,250,000 but does not exceeds Rs.2,850,000	16.00%
17	Where the taxable income exceed Rs. 2,850,000 but does not exceeds Rs.3,550,000	17.50%
18	Where the taxable income exceed Rs. 3,550,000 but does not exceeds Rs.4,550,000	18.50%
19	Where the taxable income exceed Rs. 4,550,000 but does not exceeds Rs.8,650,000	19.00%
20	Where the taxable income exceed Rs. 8,650,000	20.00%

MARGINAL TAX

The concept of marginal tax which in a way is sort of natural law has been re-introduced after quite some time. The marginal increase in salary is proposed to be taxed as per the following schedule:

Total income does not exceed	Increase in tax not to exceed tax payable on the maximum of the relevant slab plus
Rs. 500,000	20%
Rs 1,050,000	30%
Rs.2,000,000	40%
Rs.4,450,000	50%
Over Rs.4,450,000	60%

SALES TAX ACT 1990

1. **SCOPE OF TAX / INCREASE IN SALES TAX RATE- Section-3**

The Bill seeks to increase the sales tax rate by one percent i.e. The sales tax now is proposed to be charged at the rate of 16% as a measure to increase the revenue collection through the imposition of indirect tax.
2. **TAX LIABILITY/ADJUSTMENT- Section 7**

Presently, Registered person can make an adjustment of input tax paid on the purchases in the immediate twelve preceding tax periods from the out put tax subject to the condition that the taxpayer specifies the reasons for such delayed input tax adjustment in the revised Sales tax return for such period or in the return for the immediately succeeding tax period. The Bill now seeks to rationalize this provision whereby the registered person who did not deduct input tax within the relevant period may claim such tax in the return for any of the six succeeding tax period.
3. **TAX CREDIT NOT ALLOWED - Section 8**

Presently, according to section 8 a registered person is not allowed to re-claim or deduct out put tax on the goods used or to be used for any purpose other than for the taxable supplies made or to be made. Further the Bill now seeks to enlarge the scope of inadmissibility by extending the scope to the services also. Therefore the services like the goods if falls within the criteria specified u/s.8 shall also not be the re-claimable or admissible.
4. **ADJUSTABLE INPUT TAX – Section 8(b)**

Presently, a registered person is allowed to claim input tax paid on acquisition of fixed assets in 12 monthly installments after the start of production of new vis a vis unit, the Bill seeks to relax the condition to the start of the production of new unit. A registered person may claim input tax from the date of acquiring fixed assets in 12 equal installments.
5. **REFUNDABLE INPUT TAX -Section 10**

Finance Bill 2007 substituted section 10 whereby the scope of Sales Tax refund was made limited to zero rated supplies or exports only and for the other supplies the Board has issued notification and rules for the refunds. The Bill now seeks to simplify the procedure of the adjustment of input tax against

the other taxable supplies also. The Bill seeks that in case of excess input tax against supplies other than zero rated or export, excess input tax may be carried forward to the next period and shall be treated as input tax for that period and the Board may specify restriction and condition in this regard.

6. ASSESSMENT OF TAX – Section 11

Presently under sub section 4 of the Sales Tax Act, the Sales Tax Officer has the powers to issue show cause notice to the defaulting person at any time without time limitation. The Bill now seeks to limit the time for exercise of powers by the Sales Tax Officer within 5 years, through the proposed amendment. The Sales Tax Officer can now issue a show cause notice to the person within 5 years of the default. Further under section 11 the order is required to be made within 90 days of the issuance of show cause notice. The time limit for passing the order is also proposed to be increased to 120 days.

7. ACCESS TO DOCUMENTS, RECORD etc.- Section 25

The Bill seeks to enlarge the scope of audit by the Sales Tax Officer by inserting a new proviso to sub section 2 of section 25 whereby there shall not be any restriction on the sales tax officer for conducting audit of the record of the registered person if the same is audited by the office of the Accountant General of Pakistan. The proposed amendment is an extra burden on tax payers and is against the assurances of the government that only one audit will be conducted during the year.

8. REVISION OF SALES TAX RETURN – Section 26

It may be re-called that through the promulgation of Finance Bill 2006 sub section 3 of section 26 was substituted whereby a registered person was allowed to revise the sales tax return after the approval of the Collectorate of Sales Tax within 90 days of the filing of return to correct any omission or wrong declaration made thereunder. The Bill now seeks to increase the time limit for revision upto 120 days. Through the proposed amendment the registered person can revise its return within 120 days after the approval of Collectorate of Sales Tax to correct any omission or wrong declaration made in sales tax return.

9. PENALTY – Section 33

Presently, any person who fails to submit summary of sales and purchase invoice under the Sales Tax Act , has to pay a penalty of Rs.25,000/-, however

no time limit is prescribed. The Bill now seeks to omit such penalty as it appears to be redundant.

10. RATE OF ADDITIONAL SURCHARGE – Section 34

In order to keep the rate of additional surcharge higher than the interest rate of bank and to discourage short filing by tax payers, the rate is proposed to be increased from 1% to 1.5% per month. Presently, additional surcharge for six months is 1% and from 7th month it is 1.5% per month.

11. ISSUANCE OF DUPLICATE SALES TAX RECORD, DOCUMENTS - Section 69

In order to streamline and to make the performance of Sales Tax Department effective. Bill seeks to introduce a new section whereby it is proposed that officer of the sales tax not below the rank of Assistant Collector may on payment of Rs.100/- can issue attested duplicate of any sales tax documents as is available with the department or has been filed under Sales Tax Act or Rules to a relevant registered person applying for the same.

THE COMPANIES ORDINANCE ,1984.

- 1. HOLDING OF AGM AND FILING OF ACCOUNTS WITH SECP – Section 158**
Increase time of holding AGM, the Bill seeks to increase the time of holding AGM from three to four months , the reduction in the holding of AGM was enacted through Finance Act 2007, however, due to practicability issues the time period for holding AGM is again proposed to be increased upto four months. Corresponding change have also been proposed under section 233 which seeks increase of time of filing of annual account and Balance sheet from 3 months to 4 months. Further the Bill also seeks to empower the Commission to specify form and manner in which the company should sent its annual account and Balance sheet to the members.
- 2. INELIGIBILITY OF CERTAIN PERSONS TO BECOME DIRECTOR - Section 187**
The Bill seeks to extend ineligibility criteria for becoming a director of a listed company to the sponsors, directors or officers of a corporate brokerage houses and clarifies that clause (j) that is a newly inserted clause shall not apply where the company in subject is a Stock Exchange.
- 3. PAYMENT OF DIVIDENDS – Section 251**
Presently the Ordinance the specify time period of the dividend in case of public company 45 days and any other case 30 days, the bill seeks to amend section 251 whereby seeks to empower the Commission to specify time for the payment of dividend.