

TAXATION

(Weekly Tax Journal)

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STATUTES

Tax Laws (Amendment) Act, 2012.

C.No.21(3)S.IR-Automation/2011/54386-R, dated April 12, 2012.

S.R.O. 1363(I)/2012, dated November 07, 2012.

S.R.O. 1409(I)/2012, dated November 30, 2012.

Customs General Order No. 16 of 2012, dated December 14, 2012.

S.R.O. 1486(I)/2012, dated December 24, 2012.

S.R.O. 1487(I)/2012, dated December 24, 2012.

SECP Circular No. 41 of 2012, dated December 24, 2012.

S.R.O. 1492(I)/2012, dated December 26, 2012.

F.No.1(9)Jurisdiction/2009-Vol-II/164662-R, dated December 26, 2012.

Sales Tax General Order No. 70 of 2012, dated December 28, 2012.

F.No.1(17)Jurisdiction/2009/165207-R, dated December 28, 2012.

F.No.1(9)Jurisdiction/2007-Vol-II/165937-R, dated December 28, 2012.

No.PRA/Orders.06/2012, dated December 29, 2012.

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Kind regards

Mrs. Huzaima Bukhari

Editor

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Myths about tax base

by

Huzaima Bukhari & Dr. Ikramul Haq

The prevailing myth in Pakistan that our tax base is disappointingly narrow and majority of the people do not pay income tax must be exploded as the reality is quite the opposite. The Pakistanis are the most heavily, rather over-taxed, people in the entire South Asia—not only total taxable population but million of those having below taxable income are paying taxes at source, but not claiming refunds by filing of returns. In most of the cases, the tax deducted is the full and final discharge of liability. Section 115(4) of the Income Tax Ordinance, 2001 says that this class of taxpayers is only required to file statements and not regular returns. Since only a fraction of taxpayers file returns or statements, a wrong impression exists that our income tax base is narrow. The fact is income tax payers are in millions, but return filers are pathetically low—less than 1.5 million.

According to Pakistan Telecommunication Authority (PTA), there were 118 million mobile users in Pakistan as on 30 June 2012. A huge population, not less than 60 million (if we exclude multiple and inactive subscribers), paid both 10% income tax and 19.5% sales tax for using this facility in 2011, but only 513,044 individuals filed income tax returns. Federal Board of Revenue (FBR) did not bother to issue notices to them after utilizing data available with the service providers. Majority of the mobile users might not have taxable income yet they never bothered to claim the tax withheld back by filing tax returns—primarily because it would have cost more than the amount withheld. On the contrary, majority of the rich just pay a fraction of income tax on their colossal incomes—in 2011 only 14,978 individuals in Pakistan filed tax returns showing taxable income exceeding Rs. 500,000! This confirms beyond any doubt the ineffectiveness and incompetence of FBR. Our tax base is not narrow as over 50 million are paying income tax at source, but the rich and mighty are not paying taxes according to their ability.

If Pakistan has 10 million individuals having taxable income of Rs 1.5 million (a very conservative estimate), total income tax collection from them should have been Rs. 3750 billion. If we add income tax collected from corporate bodies, other non-individual taxpayers and individuals having taxable income up to Rs. 1,000,000, the gross figure would be nearly Rs. 5000 billion. FBR collected only Rs. 716 billion as income tax in fiscal year 2011-12—it shows a whopping gap of Rs. 4984 billion in income tax alone.

FBR has been apologetic, specifically before the IMF & the World Bank, that total income tax payers in Pakistan are just around 1.5 million in a population of 180 million. This is a blatant lie. The truth is that since July 1, 1992 all commercial electricity consumers (including about 5 million retail outlets in urban areas) are paying income tax whether their

income is chargeable to tax or not. In 2007, this tax was converted into minimum tax, except for companies and from 2008 with the threshold of Rs. 20,000. Any business outlet receiving electricity bill of exceeding Rs. 20,000 is to pay 10% as advance income tax. The total number of commercial and industrial electricity consumers in Pakistan is more than 20 million. It means that during the financial year 2011-12, the total number of persons who paid income tax under section 235 of the Income Tax Ordinance, 2001 was not less than 20 million. The FBR in its ***Quarterly Statement for April to June 2012*** admitted that tax collection from telephone/mobile and electricity users during the financial year 2011-12 was Rs. 37 billion and Rs. 15 billion respectively. It is worthwhile to mention that total number of mobile and land-line telephone users, subjected to withholding tax, in this period was in excess of 50 million and yet FBR says that our tax base is narrow!

The above figures explode the myth that Pakistan's tax base is narrow. It is a matter of great pity that the FBR itself does not know how many people in Pakistan are paying income tax. The people of this country are accused of not paying income tax; whereas the reality is that even today a small shopkeeper in a village (whose annual total income is much below the minimum taxable limit of Rs. 400,000) is paying minimum income tax of Rs. 960 per annum with electricity bill of Rs. 600 per month. On the contrary, the absentee landlord of his village, who is earning millions by giving fruit orchards on lease, is paying negligible amount, if at all, as agricultural income tax.

The total urban population of Pakistan, according to *Economic Survey of Pakistan 2011-12*, increased from 65.3 million in 2010-11 to 67.5 million in 2011-12. The percentage of rural population is around 60% now. Out of total population, 45% are below the age of 15 years (they are not income earners, hence cannot be taxpayers). The total labour force stands at 57.2 million, out of which 40 million is rural labour force. Reading all these facts together, the income tax paying population of Pakistan having taxable income during the tax year 2011 could not have been more than 25 million, yet over 50 million paid income tax as mobile users. Thus entire taxable population and even those who having below taxable incomes are already paying income tax at source under various sections (section 148 to 156A, section 234 to 236 of the Income Tax Ordinance, 2001), yet the FBR is engaged in a vicious propaganda that people of Pakistan are not paying income tax and that our tax base is narrow!

It was the duty of the FBR to allot National Tax Numbers (NTNs) to all those who paid income tax under section 148, 149, 150, 151, 152, 153, 153A, 154, 155, 156, 156A, 156B, 231A, 231AA, 231B, 233, 233A, 233AA, 234, 234A, 235, 236, 236A, 236B and 236C in 2011-12 and forced them to file tax returns under section 116 and/or tax statements under section 115(4) of the Income Tax Ordinance, 2001, as the case may be. Had the FBR done this by just obtaining the names and particulars of PLS account holders of banks, commercial and industrial electricity consumers, mobile

and land-line users (paying tax with bills) and vehicle owners, Pakistan would have over 40 million income tax filers. It is FBR's failure, for which it cannot blame the public at large. Are the people of Pakistan responsible for this pathetic performance? The responsible officials of FBR should be taken to task for this state of affairs. It is high time that the FBR should put its own house in order and enforce tax laws rather than blaming the others for its fiascoes.

Punishment for tax delinquents

by

Huzaima Bukhari & Dr. Ikramul Haq

A resident of Alberta, Canada, has posed a question through email that deserves a detailed and satisfactory reply. The statement quoted in this mail, though based on misunderstanding, reflects sadly on the conduct of rulers and elected members who, after openly defying the laws ask the concerned officials and whistle-blowers “how was information leaked and obtained?” The apex watchdog in tax matters, the Federal Tax Ombudsman (FTO) on the contrary, has asked Federal Board of Revenue (FBR) to publish tax declarations of all public office holders as law places no bar on it. The real test now will be that of Chairman FBR—whether he complies with the recommendation of FTO or chooses to ignore it. Unfortunately, many people who claim to be authority on the Constitution of Pakistan reaffirm the wisdom contained in an age-old Urdu idiom *neem hakeem khatra-e-jaan* (a quack poses threat to human life). On the basis of their half-cooked knowledge, we will have to substitute the word *hakeem* with *alim* (scholar)—one having inadequate knowledge of the supreme law of the land posing disastrous results for the democratic setup and rule of law in a country that has always been vulnerable to dictatorial and authoritarian dispensations.

The text of the query posed by Pakistan-origin-Canadian citizen is: **“Yesterday [31 December 2012] I was listening to Kamran Khan while he was interviewing Dr. Tahir. He said that there is nothing specific in constitution or law to punish those who do not submit tax returns. I am surprised to hear this. How can this be correct? Can you please confirm that there is nothing in law to take them to court for non-compliance? Note: I am not related to law studies; professionally I am an engineer here in Alberta, Canada. I am just interested in day to day affairs of Pakistan...”**

In reality, Mr. Kamran Khan did not say that there was nothing in the law to deal with tax delinquents. He was just saying that this country had a prime minister without National Tax number (NTN) and nothing happened. M. Kamran Khan further argued that even the known corrupt against whom the apex court ordered proceedings under the law survived and rewarded, what to talk of punishing non-filers of income tax returns.

Responding to this, Dr. Tahir-ul-Qadri quoted Article 62(f) of Constitution that debars such elements from contesting elections.

In the Income Tax Ordinance, 2001, the following specific punitive provisions exist that deal with tax delinquents who fail to file their tax returns:

Section 182(1)—offences and penalties

“Any person who commits any offence specified in column (2) of the Table below shall, in addition to and not in derogation of any punishment to which he may be liable under this Ordinance or any other law, be liable to the penalty mentioned against that offence in column (3) thereof:—

S. No.	Offences.	Penalties.	Section of The Ordinance to which offence has reference.
(1)	(2)	(3)	(4)
1.	Where any person fails to furnish a return of income or a statement as required under section 115 or wealth statement or wealth reconciliation statement or statement under section 165 within the due date.	Such person shall pay a penalty equal to 0.1 % of the tax payable for each day of default subject to a minimum penalty of five thousand rupees and a maximum penalty of 25% of the tax payable in respect of that tax year.	114, 115, 116 and 165

“*Explanation.*— For the purposes of this entry, it is declared that the expression “tax payable” means tax chargeable on the taxable income on the basis of assessment made or treated to have been made under sections 120, 121, 122 or 122C”.

Section 182(2) reads as under:

“The penalties specified under sub-section (1) shall be applied in a consistent manner and no penalty shall be payable unless an order in writing is passed by the Commissioner, Commissioner (Appeals) or the Appellate Tribunal after providing an opportunity of being heard to the person concerned:

Provided that where the taxpayer admits his default he may voluntarily pay the amount of penalty due under this section”.

As we mentioned in our column of 21 December 2012, on discovering lapse on the part of legislators, it was the duty of FBR to promptly issue notices under the law to all those who failed to file their tax returns with wealth statements. If it is true that 70% of Pakistani legislators—members of Senate and National Assembly—violated section 114 and 116 of the Income Tax Ordinance, 2001 then FBR is equally guilty—what has prevented the concerned Commissioner(s) to issue notices under section 114(3) and 116(1) of the Income Tax Ordinance, 2001 to these defaulters?

The act of non-filing of return and wealth statement attracts prosecution proceedings as well which are contained in section 191(1)(a) of the Income Tax Ordinance, 2001. It reads as under:

191. Prosecution for non-compliance with certain statutory obligations

Any person who, without reasonable excuse, fails to—

- (a) comply with a notice under sub-section (3) of section 114 or sub-section (1) of section 116;
- (b)

shall commit an offence punishable on conviction with a fine or imprisonment for a term not exceeding one year, or both.

In case the default of non-filing of return and wealth statement continues even after punishment under section 191(1)(a), sub-section (2) of section 191 provides further action as under:

- (2) If a person convicted of an offence under clause (a) of sub-section (1) fails, without reasonable excuse, to furnish the return of income or wealth statement to which the offence relates within the period specified by the Court, the person shall commit a further offence punishable on conviction with a fine not exceeding fifty thousand rupees or imprisonment for a term not exceeding two years, or both".

The above provisions of the Income Tax Ordinance, 2001 are unambiguous and more than adequate to deal with tax delinquents. These have, unfortunately, not been invoked in the case of holders of public office as they represent the mighty section of society who have made things worse by calling leakage of information as "breach of privilege". Further worsening the situation, some self-assumed scholars claiming to be authority on everything—from religion to law, from morality to constitution—are telling us that since laws are not being implemented "they are justified to take things directly in their hands". This is the worst one can expect from legislators, FBR and champions of reforms! Many supporters of "reformation movement" (sic) of Dr. Tahir-ul-Qadri are sitting in the Senate and Parliament and have allegedly not filed income tax returns and wealth statements. How can they justify joining the cause of purging elected houses? They are not even eligible to sit either in the Senate or Parliament.

In all the leading democracies of the world, laws exist which ensure that people seeking votes are representatives of the masses and should be men of character. Discharging of tax obligations is a requirement of law of the land (reproduced above) and its violation by any individual attracts provisions of Article 62(f) of the Constitution of Pakistan which says: "A person shall not be qualified to be elected or chosen as a member of Majlis-e-Shoora (Parliament) unless he is sagacious, righteous and non-profligate, honest and *ameen*, there being no declaration to the contrary by a court of law". Can a violator of income tax law escape the operation

of this provision even when no action is taken by FBR against him and it is incontrovertible that he did not file income tax return and wealth statement required under the law?

Dr. Tahir-ul-Qadri in his first address on arrival from Canada told us that heaven would not fall if elections were not held in time as Article 254 of the Constitution condones any delay. In his second address in Karachi on the first day of 2013, he threatened the government of turning Islamabad into the world's largest Tahrir Square on 14 January 2013. Is it permissible under the supreme law of land to enforce compliance of Article 62(f) through such means? The law gives every citizen of Pakistan the right to file a petition before Election Commission for any violation by any elected member. Why did Dr. Tahir-ul-Qadri and his supporters never bother to file petitions against tax cheats sitting in houses? How can they pick provisions of constitution in isolation? It is a well-settled principle of constitutional interpretation that the Constitution must be read as an organic whole and all its provisions must be harmoniously reconciled instead of picking out inconsistencies between different provisions—Full Court decision of Supreme Court in *Muhammad Nawaz Sharif v. President of Pakistan* PLD 1993 SC 473.

Instead of adopting the constitutional and legal procedures, option for millions' march towards Islamabad and paralyzing the elected government, is nothing but creating '*fas'ad-fil-Ardh*' in the name of "reforms" and "revolution". Precise translation of this Quranic term (generally translated as 'disorder in the land') is not possible in any language—it covers all possible dimensions of injustice, highhandedness, crime, disarray, chaos, anarchy, mayhem, turmoil, pandemonium and confusion. Those who create *fas'ad* are called *mufsideen* (miscreants) by Allah Almighty. These miscreants, according to Quran, when asked not to spread *fas'ad* retort cheekily: "We do not spread *fas'ad* (disorder); rather we are the *musliheen* (reformists)". Then Holy Quran says: "Beware! They indeed are the *mufsideen* who spread disorder in the name of reform" (2:12).

Undoubtedly, the government during its tenure has failed to protect the life and property of people. It has created a mess of everything; especially its criminal act of making the lives of the poor miserable is simply unpardonable but sadly, the self-acclaimed reformers intend to create further disorder in the name of morality and reforms. They should adopt legal course and contest elections. If they really want to make Pakistan an egalitarian state—they also want to add the term Islamic with it—the best way is to mobilise the people on a concrete agenda. They have no blueprint for change and empowerment of the poor, mere rhetoric of revolution and nothing else. By thriving on money provided by the poor, they are indulging in extreme hypocrisy, failing to realise how the incongruity between their words and deeds expose their true designs.

In Quran, the emphasis is on *taqwa* (piety) in all spheres of life. Leaders have to be role model for all others—they should be able to set standards

for the rest of the citizens. Pakistan, presently a ballooning state, requires a bold and clean leadership. Dr. Tahir-ul-Qadri first of all should declare his own and his team's as well as his institution's accounts (both local and global), public. As we have been highlighted time and again in these columns, the starting point of transparency and accountability in Pakistan should be making public, tax and asset declarations of all holders of public office, judges, generals and high-ranking civil bureaucrats. This would pave the way for a clean system of governance that entails accountability and transparency.

It is not out of place to mention that two important nominees of Barack Obama in his first term—Tom Daschle and Nancy Killefer—withdraw their names after it emerged that they failed to keep their taxes in proper order. Let the government tell us if it knows how many, working with the President and Prime Minister, have no problems with taxes. We, being practicing tax lawyers and having long experience as tax administrators, can say without any fear of contradiction that majority of them will be disqualified if we implement the democratic tradition followed by Barack Obama after landslide and historic victory in 2008 by admitting that he “screwed up” by nominating tax delinquents.

Our rulers, on the contrary, take pride in rewarding known corrupt and offenders by giving them important public offices. This is why our history is that of ‘Barren Years’—phrase aptly adopted as title of book containing editorials and columns by late Mazhar Ali Khan, veteran Pakistani journalist, written as editor of *Viewpoint*. All interested in making Pakistan a just society, including Dr. Tahir-ul-Qadri and his supporters, must read *Barren Years*.

The agenda of change, even from a pure moralistic point of view, must start from one's self and own house. Those who are accusing others of tax avoidance are required to first prove that they have discharged their own liabilities diligently. There cannot be selective accountability and escape from law by using the attractive slogan of “change” or “reform” nor in their garb can anyone be allowed to rise above law by claiming himself to be a custodian (self-acclaimed) of morality and religion.

If in the name of ‘people's parliament’, any individual can override the constitution and parliament, the logical next step would be establishing “people's court” overruling the existing judiciary. In the name of ‘rule of law’ nobody should be allowed to create ‘a rule against law’. Populism, manoeuvred through money and ideological fantasies of superiority of any kind, leads to fascism. Constitutional democracy may not be perfect, system of governance may be deficient, but the only option for meaningful change is through vote, the real expression of people's will and not by ‘show of strength’ on streets when the regime, though highly incompetent and corrupt, is ready to go for fair and independent polls. The illegal throw of government at this stage will give yet another gift of false martyrdom to Zardari *et al* which they do not deserve at all. They will blame “establishment” once again, using Dr. Tahir-ul-Qadri as proxy. For

their poor performances, the present governments in the Centre and provinces are liable to be kicked out by the power of vote—a real democratic revenge!

FBR refund fraud

*Editorial, Courtesy Business Recorder
Dated January 03, 2013*

The State Bank of Pakistan's Annual Performance Review 2011-12 indicates that sales tax refunds by the Federal Board of Revenue (FBR) increased by 54 percent. The increase, the report notes, was from 76.6 billion rupees in fiscal year 2011 to 118.6 billion rupees in fiscal year 2012.

As early as in February 2012, the Federal Tax Ombudsman (FTO) on a complaint filed by the Pakistan Apparel Forum and Site Association against the Revenue Division for unsettled refund claims noted that the issue of pending sales tax refunds had been reconciled but underscored the need for resolving issue of maladministration in the entire process. However, the FTO emphasised the need for expeditious disposal of bona fide refund claims. The emphasis on 'bona fide' refund claims was considered highly appropriate as there are numerous complaints that several companies are being refunded an amount greater than what was actually owed to them as refunds.

The FBR's Directorate of General Intelligence and Investigation of Inland Revenue Service (IRS) recently unearthed 2 billion rupee tax evasion on imports by only one company. One can safely conclude that the actual amount of evasion under this head is probably in hundreds of billions of rupees. This revelation surprises no one as it is well known that tax evasion inclusive of fraudulent sales tax refund claims by several companies continues. However, it is not possible for a company to file a false claim until and unless there is some complicity with the tax authorities. One by now much used method that is known to IRS involves commercial importers acquiring Goods Declarations (GDs) from Pakistan Revenue Automation Limited (PRAL) - an FBR subsidiary - filling out fictitious data and then selling these GDs to taxpayers against critical import documents to obtain input adjustment of tax refunds from the FBR. This scam was unearthed in April of 2012 when the IRS noted that four taxpayers registered in Karachi were using fake GDs of Peshawar Collectorate.

There is therefore an urgent need to cleanse PRAL system that is at present susceptible to abuse. It is strongly suggested that a detailed system audit of PRAL be undertaken on an immediate basis with the objective of plugging all existing and, in some instances of abuse, already identified loopholes in the system. It would be essential to also curtail the limit or access of individuals to make changes in the transactions on the

computer network, though it is relatively easy to determine the name of the abuser as the PRAL system requires an individual specific password for every entry into the system. The overall aim of the system must be to ensure that an invalid refund demand is not validated and once the refund has been approved to re-invalidate it.

There are many issues with the country's tax system which need to be resolved on an emergent basis to ensure that the country is able to raise an appallingly low tax to Gross Domestic Product ratio through developing a tax system that is fair, equitable and non-anomalous. The blueprint for tax reforms has already been identified and was an integral component of the 2008 SBA with the International Monetary Fund. That programme ultimately stalled before it was suspended due to government's inability to meet two critical conditions with tax reform being one of them. As a consequence, the government has been unable to successfully persuade multilaterals to extend budgetary support which it sorely needs. Thus the rationale for tax reforms and plugging all loopholes is of all the more immediate relevance to turning the economy around.

Scheme targets 2.9 million potential individuals: Tax Amend Bill sails past Senate body

The Senate Standing Committee on Finance Friday cleared “Tax Laws (Amendment) Bill, 2012” aimed at bringing 2.9 million potential individuals into the tax net with a recommendation that all those who are part of the government - parliamentarians, bureaucracy, military and their dependents - would not be entitled to avail the scheme.

The law known as tax amnesty scheme was approved with majority votes subsequent to opposition by Pakistan Muslim League (N) and coalition partner Muttahida Qaumi Movement (MQM). The government also accepted the recommendation of Senators that CNIC number of potential persons would be blocked with the approval of Federal Board of Revenue Chairman aimed at averting misuse of the provision by other officials. The proposal to exclude parliamentarians and their families was floated by Senator Ilyas Bilour of Awami National Party (ANP) which was accepted by the committee and made part of the report forwarded to the Senate.

Federal Board of Revenue (FBR) Chairman Ali Arshad Hakeem said the scheme would help develop database of taxpayers which would be an asset for future governments to expand tax base of the country. Hakeem said the economy was in recession and revenue stagnation posed major challenge to the country. The FBR had decided to go after 2.9 million people identified by the authorities. The scheme is being introduced to provide them easy entry into the tax net after paying a nominal amount during three months after approval from the Parliament. “We are simply asking people either pay tax or file appeal against the scheme. We will set up special appeal offices where more than 180 officials of the FBR would be deputed to receive appeals. He said the next step would be to block CNIC numbers of 200,000 high consumption people who have been classified as separate class on the basis of their lifestyle. Arshad Hakeem said that these people have been leading a high consumption life but were not paying any tax. He said people with more than Rs five million assets would be required to avail investment tax scheme by paying 1 percent of their declared assets values. The delay in the scheme would deprive the exchequer of billions of rupees. “We have to incentives people to declare their assets for the economy and growth in tax base,” he added.

Senator Ishaq Dar and chairperson of the committee, Nasreen Jalil of MQM opposed the law saying that it would be violation of the Constitution. Dar said the government has no right to introduce such schemes during last days of its tenure. He suggested that the tax authorities should go against 0.2 million people as per regular process. The chairperson of the committee said that his party would not support this bill because it would be injustice to honest taxpayers. She said the scheme designed to whiten the tax evaders' money would bring bad name to the country. – *Courtesy Business Recorder*

Rs 40,000 registration tax for first month

The new Tax Laws (Amendment) Bill, 2012 has incorporated registration and investment schemes allowing individuals to pay registration tax of Rs 40,000 (first month), Rs 50,000 (second month) and Rs 70,000 (third month) for legalisation of assets and income.

Sources said on Friday that the Federal Board of Revenue has included major features of the schemes in the Tax Laws (Amendment) Bill, 2012. The details of both the schemes have been incorporated in the Bill and it has been revised on the recommendation of Senate Standing Committee on Finance. According to the Bill, where a person has paid registration tax, he shall be entitled to incorporate income/assets/expenses with a declared value up to Rs 5 million in his books of accounts. He shall not be liable to any further tax, charge, levy, penalty or prosecution under the Income Tax Ordinance in respect of his income for any of the tax years prior to the tax year in which he has paid the registration tax. The contents of a declaration shall remain confidential and shall not be disclosed.

Tax Laws (Amendment) Bill, 2012 said that the taxpayers availing the schemes shall be obliged to file returns of income for the succeeding tax year and subsequent three consecutive tax years. If any taxpayer fails, without reasonable cause to file return for the succeeding tax year and the subsequent three consecutive years the immunities granted shall automatically stand withdrawn.

Tax Laws (Amendment) Bill, 2012 said that the unregistered non-filers and registered non-filers who have made declaration under a scheme made under section 120B and desire to declare undisclosed income/assets/expenditure with declared value exceeding Rs 5 million shall be required to pay in addition to Registration Tax, as

defined in section 120B, Investment tax on the declared value of the assets/income/expenditure exceeding Rs 5 million at one percent during first month of payment, 1.25 percent in second month and 1.50 percent in the third month.

An existing taxpayer who desires to declare undisclosed income/assets/expenditure up to the declared value of Rs 5 million shall file a declaration under the scheme made by payment of token Investment Tax of Rs 100 and an existing taxpayer who desires to declare undisclosed income/assets/expenditure with a declared value exceeding Rs 5 million shall pay Investment Tax as provided. Where any person has paid Investment Tax, he shall be entitled to incorporate income/assets/expenses declared in the declaration filed under the scheme in his books of accounts, Bill added. See the text of Tax Laws (Amendment) Bill, 2012 in Statutes portion. – *Courtesy Business Recorder*

Immunity not for holder of public office

Senate has recommended to the National Assembly on Friday that the immunity granted to individuals under tax registration and investment schemes would not be available to any person who was holder of public office in the preceding five years as defined under National Accountability Ordinance, 1999.

According to the report of the Standing Committee on Finance and Revenue, Senate has recommended amendment to the Tax Laws (Amendment) Bill, 2012. Senate has recommended that the immunity under registration and investment schemes would not be available to any person who was holder of public office as defined in clause 'm' of section 5 of the National Accountability Ordinance 1999 (Ordinance XVIII of 1999) in the preceding five years and to his dependents.

Under clause 'm' of section 5 of the National Accountability Ordinance 1999, "Holder of public office" means a person who has been President of Pakistan or the Governor of a Province. "Holder of public office" also means a person who is, or has been the Prime Minister, Chairman Senate, Speaker of the National Assembly, Deputy Speaker National Assembly, Federal Minister, Minister of State, Attorney General and other law officers appointed under the Central Law Officers Ordinance, 1970, Advisor to the Prime Minister, Special Assistant to the Prime Minister, Federal Parliamentary Secretary, Member of Parliament, Auditor General, Political Secretary, Consultant to the Prime Minister and holds or

has held a post or office with the rank or status of a Federal Minister or Minister of State.

“Holder of public office” also means a person who is, or has been, Chief Minister, Speaker Provincial Assembly, Deputy Speaker Provincial Assembly, Provincial Minister, Advisor to the Chief Minister, Special Assistant to the Chief Minister, Provincial Parliamentary Secretary, Member of the Provincial Assembly, Advocate General including Additional Advocate General and Assistant Advocate General, Political Secretary, Consultant to the Chief Minister and who holds or has held a post or office with the rank or status of a Provincial Minister.

“Holder of public office” also means a person who is holding, or has held, an office or post in the service of Pakistan, or any service in connection with the affairs of the Federation, or of a province, or of a local council constituted under any federal or provincial law relating to the constitution of local councils [co-operative societies] or in the management of corporations, banks, financial institutions, firms, concerns, undertakings or any other institution or organisation established, controlled or administered by or under the federal government or a provincial government, other than a person who is a member of any of the armed forces of Pakistan, except a person who is, or has been a member of the said forces and is holding, or has held, a post or office in any public corporation, bank, financial institution, undertaking or other organisation established, controlled or administered by or under the Federal Government or a Provincial Government [or notwithstanding anything contained in the Pakistan Army Act, 1952 or any other law for the time being in force, a person who is a civilian employee of the Armed Forces of Pakistan.

“Holder of public office” means a person who has been the Chairman or Vice Chairman of a zila council, a municipal committee, a municipal corporation or a metropolitan corporation constituted under any Federal or Provincial law relating to local councils, clause m of section 5 of the National Accountability Ordinance 1999 added. The report of the Standing Committee on Finance and Revenue has also proposed other amendment to the Tax Laws (Amendment) Bill, 2012.

Senate has recommended to the National Assembly to introduce a new section 120B after section 120A of the Income Tax Ordinance 2001. According to the section, any person who does not opt to pay the registration tax required to be paid under the scheme and does

not file appeal before the concerned Commissioner in the time and the manner provided and the scheme or the appeal filed by him is rejected by the Commissioner, shall be liable to finalisation of provisional assessment under section 122C and all the provisions of the Ordinance shall apply accordingly. During the pendency of proceedings the person shall, notwithstanding anything contained in any other law, be liable to suspension of his CNIC with the approval of the Chairman, FBR placement of his name on the Exit Control List (ECL), freezing of his bank accounts and blocking of his mobile phone SIMs after being provided an opportunity of being heard, it added.

Senate has recommended to the National Assembly that unregistered non-filers and registered non-filers who have made declaration under a scheme made under section 120B and desire to declare undisclosed income/assets/expenditure with declared value exceeding Rs 5 million shall be required to pay in addition to registration tax as defined in section 120B, investment tax on the declared value of the assets/income/expenditure exceeding Rs 5 million at the prescribed rates.

An existing taxpayer who desires to declare undisclosed income/assets/expenditure up to the declared value of Rs 5 million shall file a declaration under the scheme made under sub-section (1) by payment of token investment tax of rupees 100; and an existing taxpayer who desires to declare undisclosed income/assets/expenditure with a declared value exceeding Rs 5 million shall pay investment tax at the provided rates. Where any person has paid investment tax under sub-section (2) and in accordance with the scheme made and & sub-section (1), he shall be entitled to incorporate income/assets /expenses declared in the declaration filed under the scheme in his books of accounts. Where a person has paid tax in accordance with the scheme, he shall not be liable to any further tax, charge, levy, penalty or prosecution under the Ordinance in respect of the income/assets/ expenses.

The contents of a declaration shall remain confidential and shall not be disclosed. The provisions of section 216 shall be fully applicable to the declarations made under the scheme and nothing contained in any declaration shall be admissible in evidence against the declarant for the purposes of any tax/charge/proceedings/penalty/prosecution under any of the following Acts/Ordinance:

Income Tax Ordinance 2001 as amended from time to time; Foreign Exchange Ordinance 2002 as amended from time to time; Companies Ordinance 1984 as amended from time to time; National Accountability Ordinance 1999 as amended from time to time; Federal Investigation Agency Act 1974 as amended from time to time. Provided that the immunity under this sub-section shall not extend to offences under: Narcotic Substances Act, 1997 As amended from time to time; Anti Terrorist Act, 1997 as amended from time to time and Anti Money Laundering Act, 2010”.

Provided further that the immunity under this sub-section shall not be available to any person who was holder of public office as defined in clause ‘m’ of section 5 of the National Accountability Ordinance 1999 (Ordinance XVIII of 1999) in the preceding five years and to his dependents, the Senate recommendation added. –
Courtesy Business Recorder

FBR to start issuing notices to 0.2 million ‘super rich’

Federal Board of Revenue Chairman Ali Arshad Hakeem on Friday said the tax authorities will start issuing notices to 0.2 million ‘super rich’ people identified as potential tax individuals on the basis of their high consumption lifestyle. Arshad Hakeem stated this during the meeting of Senate Standing Committee on Finance convened to consider and approve the “Tax Law Amendment Bill 2012” which was subsequently approved by the committee.

He said the schemes would generate 0.5 percent of the GDP, which is Rs 118 billion, during the current fiscal year in addition to development of database. He said that over Rs 200 billion revenue cases have been pending in the court. He said the persons who would declare the assets under the registration and investment schemes would not be used as evidence in cases under litigation. The immunity under the schemes would not be allowed to offences under Narcotics Substance Act 1977, Anti-Money Laundering Act 2010 and Anti Terrorist Act 1997. He sought powers from the committee to block the CNICs of 0.2 million potential tax individuals leading affluent life. The FBR Chairman was of the view that all of them would start paying their taxes if CNIC of one of them was blocked and his name put on exit control list.

The FBR Chairman argued before the parliamentarians that they proposed this scheme for easy entry of non-filers as database of 2.9

million non-filers was really goldmine for tax authorities which would benefit now and in many coming years to the country.

He said the FBR prepared tax profiles of 2.9 million non-filers out of which 200,000 were those having high consumption pattern and were really big names. "We will go against 200,000 big fish in a major way," he said. He said the economy was in deep recession and innovative solutions are required as is being done in neighbouring countries. Citing Dubai, he said, there was zero tax rate but they got full information and developed database that resulted in massive revenue generation.

Arshad Hakeem said the remaining 2.7 million people are mostly shopkeepers of the urban areas. Hakeem expressed concern over the misuse of zero rating by yarn sector and complained that 1 per cent was the effective sales tax rate of 16 per cent tax on electricity. He stated that an hour before the start of the committee meeting, FBR officials forfeited 28 land cruisers from a warehouse in the federal capital.

The FBR chairman also agreed to the proposal of Senator Ilyas Bilour that people who have been part of the government during the last five year should not be allowed to avail the facility. He said that the FBR has to go after potential tax individuals to ease the fiscal difficulties of the country and rescue the economy.

Senator Ishaq Dar inquired whether any such move would not be knocked down by the judiciary on the basis of being discriminatory and added that when the FBR possessed information against big tax evaders why it failed to move against them. The FBR Chairman said that they would move against potential dodgers with an iron hand and argued that the Supreme Court had allowed moving against them as a class. "We don't expect that this scheme will be challenged in the judiciary on discriminatory grounds," he added. – *Courtesy Business Recorder*

Tax Laws (Amendment) Bill 2012: Senate body likely to accord approval today

The Federal Board of Revenue has made details of tax registration and investment schemes part of the Tax Laws (Amendment) Bill 2012 on the directions of Senate Standing Committee on Finance. Sources told here on Thursday that the Senate Standing Committee on Finance is likely to approve the Tax Laws

(Amendment) Bill 2012 in its meeting to be held on Friday (today) here at the Parliament House.

The FBR team of legal experts thoroughly reviewed the Tax Registration Enforcement Initiative 2012 (TREI 2012) and Investment Tax Scheme, 2012 (ITS 2012). Taking into account the legal aspects of the Bill, the schemes have been made part of the Tax Laws (Amendment) Bill 2012. The salient features of both the schemes have now been incorporated in the Tax Laws (Amendment) Bill 2012 as per instructions of the Senate Standing Committee on Finance. The tax rates for the registration and legalisation of assets have been made part of the revised scheme. It is not possible to put the whole text as part of the Bill, but key features of both the schemes have been incorporated in the Tax Laws (Amendment) Bill 2012.

In the last meeting, chairperson of Senate Standing Committee Nasreen Jalil had directed the FBR to specifically make tax registration scheme part of the Bill. The Tax Laws (Amendment) Bill, 2012 is expected to be passed in the upcoming 49th session of the National Assembly to be held during current week.

According to experts, the FBR has proposed a new section 120B in the Income Tax Ordinance 2001 which will cater to Tax Registration Enforcement Initiative. The said section will authorise FBR to make a scheme of registration on payment of registration tax in respect of registered and unregistered non-filers and provide them concessions for rapid regularisation of tax affairs. The purpose of execution and implementation of the scheme made under this section.

Besides, Income Tax Authorities as defined in section 207 of the Income Tax Ordinance, 2001, National Database and Registration Authority (NADRA) and Banks shall also be authorised to accept declaration, registration tax, issue receipts and NTN as per scheme.

The new section 120B would also grant immunity to the declarant under the Income Tax Ordinance, 2001, the National Accountability Ordinance, 1999, Federal Investigation Agency Act, 1974 and Foreign Exchange Ordinance, 2002 except Narcotics Substance Act, 1997 and Anti Terrorist Act, 1997 along with power to suspend the CNIC during Tax Registration process after providing an opportunity of hearing/appeal.

In existing section 120A of the Income Tax Ordinance 2001, Investment Tax, through the proposed amendments, the NADRA

and Banks are being made authorised entities in addition to Income Tax Authorities for execution of the ITS 2012 and immunity to the declarants under the Income Tax Ordinance, 2001, the National Accountability Ordinance, 1999, Federal Investigation Agency Act, 1974 and Foreign Exchange Ordinance, 2002 except Narcotics Substance Act, 1997 and Anti Terrorist Act, 1997. – *Courtesy Business Recorder*

CCP issues policy note to FBR, NTC

The Competition Commission of Pakistan (CCP) has issued a policy note to Federal Board of Revenue and National Tariff Commission recommending rationalisation/slash down of tariff structure of Poly Ethylene Terephthalate (PET) Resins to uniform rates to eliminate discrimination, particularly in respect of PET Film Grade, PET Bottle Grade and PET Yarn Grade.

CCP took notice of concerns raised on classification of PET Resins under Pakistan customs Tariff Code (PCT Code) and customs duty levied on them under Notifications SRO 507(I)/2007 and SRO 678(I)/2010 which, prima facie, give undue duty protection to the sole local manufacturer/supplier of PET Resins.

The sole manufacturer of PET Resin is a vertically integrated unit having also presence in downstream market and the policy note examined whether resultant custom duty structure on PET Resin and its downstream products places the competitors of the sole manufacturer of PET Resin at a competitive disadvantage.

While reviewing the tariff structure, classification and customs duty on PET Resin were compared with the tariff structure followed in eight jurisdictions including developing and developed.

Their tariff codes suggest guidelines for classification/nomenclature of PET Resin, which may include function or role of the goods, polymer that they are made from, and method of manufacturing. It has been observed that generally, PET Resins are categorized and duty is levied based on their properties, in particular, Intrinsic Viscosity. Similarly, another interesting feature that helps to understand the international trend in classification of PET Resins is the manufacturing process.

PET Resins, particularly, PET Bottle Grade, Film Grade, and yarn grade are manufactured by using the same type of raw material all used in almost same stoichiometric proportion in same process of esterification and polycondensation carried out on the same plant.

Standard PET Yarn Grade and PET Film Grade have Viscosity of 0.64 dl/g whereas standard PET Bottle Grade has a little higher Viscosity of 0.80dl/g for the reason that it has to go through Solid State Polycondensation Process (SSP) to upgrade amorphous bottle grade chips to high quality bottle grade resin.

However, in case of PCT Code applicable in Pakistan it has been observed that PET Resins have been categorized based on product and not based on a rationale in sync with international trend. Therefore, Film Grade and Yarn Grade even though have identical Viscosity and manufactured through almost similar process using substantially similar raw material have been imposed with different customs duty at the rate of 20pc and 3pc respectively.

Policy note states that the classification PET Resins under PCT Code and diverse rates of customs duty levied on them through notifications seem to extend protection to a particular undertaking by imposing discriminatory rates on similar products, which has resulted into a situation of applying dissimilar conditions to equivalent transactions.

Another important aspect observed with respect to duty structure of PET Resins in Pakistan is adoption of a different tariff escalation modality. Generally, countries provide duty protection by imposing a high tariff on finished goods to restrict their inflow and protect local manufacturers. Whereas comparatively low rate of duty is levied on raw/intermediary material to encourage local production. For example, in case of our own Tobacco industry, imported raw material is charged with 5pc customs duty whereas finished product is charged with 35pc customs duty as given in the PCT Code. Similar incidents are found in marble industry, cosmetic industry and many others.

However, in case of PET Resins, customs duty levied on 'PET Film Grade' (raw material) is 20pc and 'BOPET Film', which is a finished product it is 20pc. Similarly, customs duty on 'PET Bottle Grade' (raw material) is 9pc, whereas 'PET Preform', which is an intermediary product, it is 20pc and on finished product, which is 'PET Bottle' the customs duty, is 10pc. Such duty structure encourages the imports of finished products rather than giving the incentive to manufacturers to produce locally. In case where the sole manufacturer of PET Resins who also has presence in the downstream market, such duty structure gives it an apparent advantage over its competitors by increasing cost of raw material used for production by other players/ competitors, in the down stream market. The increase in cost of production of competitors

may be either through the ability of sole manufacturer to charge higher local prices for the raw material or incidence of higher tariff on raw/intermediary material that makes it difficult for competitors to compete in the downstream markets (BOPET Film and PET Bottle markets).

It has also been stated in the policy note that duty protection invariably has an impact on the price and sets a higher trend in price. Higher price increases the cost of production of customers. In cases where customers are dependent on sole supplier/manufacturer to procure raw material to meet the local demand and compete with it in the downstream market, the duty protection restricts competition and is likely to distort a level playing field in the downstream market. Such restricted competition may set a tendency for supplier cum competitor to engage in exclusionary behavior and once the competitors are driven out of market, end consumers may fall prey to rent seeking behavior of a monopolist.

Policy note goes on to state that if setting up a PET Resin plant necessitated duty protection to recoup the investment and allowing time to become competitive. Such protection cannot be absolute and has to be time bound, particularly, when undertaking enjoying the duty protection also enters the downstream market and becomes a competitor of its customers. Apart from presence in both upstream and downstream market, long duration of protection, positive growth, and financial strength are the strong indicators to establish the fact that continuation of duty protection is unwarranted.

CCP in its policy note highlighted that adoption of a tariff policy, which aims at providing a level playing field to all manufacturers to further grow and develop BOPET Film, and PET Bottle industry would save foreign exchange by substituting imports of finished goods with local production. At the same time, it would encourage to export the surplus production, which would help in reducing the trade deficit of Pakistan. Therefore, CCP in its policy note has recommend that tariff structure of PET Resins, in particularly PET Bottle Grade, PET Film Grade and PET Yarn Grade needs to be rationalized and slashed down to a uniform rate to eliminate discrimination in terms of classification and rates of duty in order to create a level playing field for all the competitors in PET Bottle and BOPET Film markets. – *Courtesy The Nation*

Gilgit-Baltistan: FBR urged to depute IROs for setting up of income tax department

Gilgit-Baltistan Council and has requested the Federal Board of Revenue (FBR) to depute Inland Revenue Officers for establishment of a full-fledged Income Tax Department at Gilgit-Baltistan. Sources told here on Monday that Azad Jammu & Kashmir Council has also asked the FBR to depute IR officials at the AJK.

The Gilgit-Baltistan government has, reportedly, decided to impose income tax in the region. The income tax is being imposed through the Gilgit-Baltistan Council, which is a non-elected body comprising of people from Gilgit-Baltistan and other parts of the country.

According to a letter of FBR to officers of IRS, Gilgit-Baltistan Council Secretariat requires the services of officers of Inland Revenue Service of BS-17 to BS-20 and officials on deputation basis for posting in Income Tax Department at Gilgit-Baltistan. Interested officers/ officials may send their options through proper channel to this office by January 10, 2013.

The FBR has already assisted the Gilgit-Baltistan Council Board of Revenue in drafting of the new bill for imposition of income tax on certain categories of persons including corporate sector of Gilgit-Baltistan (GB), 35 percent corporate tax on GB-based companies and sharing of customs duty between the FBR and the GB on the clearance of Chinese goods from the Sust Dry Port. –
Courtesy Business Recorder

Reconciliation Reform Revival (2008-12): tax experts' opinion not in conformity with government's claims

The opinion of tax experts is not in conformity with the government claims of major reforms in taxation system including development of Information Technology (IT), electronic system and effective risk-based taxpayers' audit as mentioned in its report, ie, Reconciliation Reform Revival (2008-12).

They told on Monday that the government economic performance has been highlighted in the report called "Reconciliation Reforms Revival-Four Years" of democratic government. It has been claimed that the unprecedented growth in revenue can be attributed to the initiatives such as simplification of tax laws, infrastructure improvement and development of IT, introduction of

efficient procedural reforms such as e-filing, a robust awareness campaign and capacity building of human resource and introduction of effective risk-based taxpayer's audit.

Sources said none of the taxation reforms have been implemented during 2012 as no development has been seen in areas of IT, electronic systems, simplification of procedures and risk-based audit, etc, during last calendar year. As far as simplification of tax laws is concerned, there is no change in the language of Sales Tax Act, 1990, Income Tax Ordinance 2001, Federal Excise Act 2005 and Customs Act, 1969 during 2012. The changes made in the tax laws during 2012 were legal and procedural. Taxpayers have to consult lawyers and chartered accountants to deal with the tax matters. The FBR has now started a process to translate all tax laws in Urdu for facilitation of the taxpayers. The Urdu version of the income tax return form is also under consideration of the Board. The Income Tax Rules and Sales Tax Rules/Special Procedures have not been changed during 2012. The government's claim of simplification of tax laws is against facts and is evident from the existing version of the said fiscal laws.

Experts said that the major flaw in the taxation system is lack of development of IT system with integration of taxes. The FBR has failed to implement a major reform pertaining to development of IT system to electronically integrate sales tax and income tax. Even the Integrated Tax Management System (ITMS) has not been fully utilised by the tax officials. The main objective of IT reforms is to simultaneously monitor sales tax, federal excise, income tax and customs duty payment by a registered person, electronically. Thus, the government claim of development of IT systems lead to successful reform in taxation system seemed to be incorrect.

They further said that e-filing system of the FBR is very complicated and usually choke during last days of filing of returns. Taxpayers cannot individually file their returns with the help of electronic filing system. About effective risk based taxpayer's audit, they said that the parametric risk-based selection of cases for audit for Tax Year 2011 has been challenged in the Lahore High Court (LHC). The LHC has declared FBR's selection of cases for audit as illegal and against the provisions of tax laws. Thus, FBR's audit methodology has been declared as illegal by courts.

Reconciliation Reforms Revival said that various tax measures have been taken to broaden the tax-base such as monitoring and

risk-based audit, strengthening electronic payment and close watch on Afghan Transit Trade and recovery of arrears. Responding to this, experts said that field formations of the FBR have failed to put in place an effective plan to recover arrears out of current demand etc. Recently, the FBR has expressed concerns over the poor performance of field formations on issue of withholding taxes, arrears and recovery 'out of current demand' during 2012-13.

The smuggling particularly through Afghan Transit Trade continued to remain a major problem during 2012, sources said. The report said that in pursuance of Prime Minister's relief package to rehabilitation the economy of Khyber Pakhtunkhawa, Fata and Pata following relief has been provided to industrial and commercial taxpayers hailing from affected areas. The profits and gains derived by a taxpayer located in the most affected and moderately affected area of KP, Fata and Pata are exempt from income tax for a period of three years, starting from the Tax Year 2010.

Prior to publication of this report, experts said that the fiscal relief package for KP and Fata/Pata has already been withdrawn by the FBR. The income tax exemptions granted to the business community of the said areas have been taken away from new fiscal (2012-13). After the fiscal relief package ended on June 30, the income tax exemption available to the business community of KPK and tribal areas under Clause 126(F) of the Second Schedule of the Income Tax Ordinance 2001 would not be available to the business units concerned. The income tax exemptions was previously available on profits and gains derived by a taxpayers located in these areas.

The government has also taken credit for providing relief of 50 percent tax rebate to senior citizens (60 years plus) on their income, if does not exceed Rs 1,000,000 as compared to previous maximum limit of Rs 750,000. The report said that the Capital Value Tax on transfer of immovable properties leviable through Finance Act, 1989 has been abolished and the Federal Government is not levying Capital Value Tax on transfer of immovable properties situated in the country. On this issue, experts said that the government has not abolished the CVT on immovable property, but same has been shifted from federal government to provincial governments. – *Courtesy Business Recorder*

Extension allowed in time limit for issuance of 'credit notes'

To facilitate companies engaged in manufacture of food items, the Federal Board of Revenue (FBR) has allowed extension in time limit for issuance of 'credit notes' to companies manufacturing perishable food items with expiry date. In this connection, the FBR has issued a Sales Tax General Order (STGO) 70 of 2012 here on Monday.

The Board has been approached by National Food Limited through Shekha & Mufti Chartered Accountants with the request that food industry largely deals with perishable items having an expiry term of 2-3 years from the date of manufacture resulting in return of goods around the date of expiry as the item become unfit for consumption. The companies have to accept the rejected stock as a business practice and refund price of such goods including sales tax. However, they face hardship because they are not able to make corresponding adjustment in sales tax returns in view of stipulation of section of the Sales Tax Act, 1990 read with Rule 22 of Sales Tax Rules, 2006 which provide for issuance of credit or debit notes within 180 days of the relevant supply. This period is further extendable by 180 days by the Commissioner. However, even this period has been contested to be not sufficient in case of food items.

With a view to mitigating the hardship faced by such companies, the Board, in exercise of powers conferred under section 74 of the Sales Tax Act, 1990, has allowed that in case of companies manufacturing perishable food items having an expiry date; if such items are returned on account of becoming unfit for consumption and are then destroyed in accordance within procedure and conditions stipulated in Rule 23 of Sales Tax Rules, 2006, the corresponding Credit Notes may be issued within the tax period in which goods are so destroyed, Sales Tax General Order added.

When contacted, experts said that under Rule 22 of Sales Tax Rules, 2006, 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 has already claimed input 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. Where the supplier has

already accounted for the output tax in the sales tax return for the supplies against which Debit Note was issued subsequently, he may increase or reduce the amount of output tax by the corresponding amount as mentioned in the Debit Note, in the return for the period in which the respective note was issued. –
Courtesy Business Recorder

Sales tax computerised payment receipt registered taxpayers allowed making genuine correction

The Federal Board of Revenue (FBR) has allowed registered taxpayers to make genuine correction in sales tax computerised payment receipt (CPR) after following specified procedure given by the Board. Sources told here Monday that taxpayers can avail the facility of making corrections in the CPR whenever required. In this regard, the FBR has already issued a procedure for facilitation of taxpayers.

The applicant, who would apply for correction in CPR to the relevant Chief Commissioner, would have to submit the supporting documents. The documents included written request on letter head, copy of computerised national identity card (CNIC) and copy of TPR and CPR. In case of bank's mistake, field formations will obtain letter from the bank and affidavit from the taxpayer on stamp paper that amendment may be made in CPR. For correction of national Tax Number (NTN) in CPR, tax department will obtain affidavit from the person on whose name the payment has been deposited.

Sources said that the Chief Commissioner would recommend and then endorse the application to Chief (IR-Automation), FBR (HQ), Islamabad for correction in sales tax CPR. The approval of change would then be conveyed to Director (MIS), FBR (HQ) who would update changes as per approval, maintain record of changes, intimate applicant and relevant RTO and summary report to be sent to Chief (IR-Automation) on weekly basis. As required by Director (MIS) Pakistan Revenue Automation Limited (PRAL) would provide software support and operational support. The monitoring of changes in CPR would be done by Director (MIS). –
Courtesy Business Recorder

December 2012: ST collection down 3.39 percent; FED up 2.05 percent

Sales tax collection in December 2012 stood at Rs 68.197 billion against Rs 70.586 billion in same period last fiscal year, reflecting
2013

a decrease of 3.39 percent whereas Federal Excise Duty (FED) collection stood at Rs 8.795 billion against Rs 8.618 billion, showing an increase of 2.05 percent.

Data compiled by Federal Board of Revenue (FBR) here on Tuesday revealed that net sales tax collection on domestic consumption was Rs 36.068 billion during December 2012 against Rs 36.790 billion in December 2011, showing a decrease of 1.96 percent. Sales tax collection on imports was Rs 32.128 billion against Rs 33.795 billion, showing a decrease of 4.93 percent. FED collection at local stage and domestic supplies was Rs 8.413 billion during December 2012 against Rs 7.865 billion in same period last fiscal, showing a growth of 6.97 percent. FED collection at import stage was Rs 382.74 million against Rs 753.63 million, showing a decrease of 49.21 percent.

Large Taxpayer Unit (LTU) Karachi has collected Rs 9.711 billion as sales tax during December 2012 against Rs 16.374 billion in December 2011. LTU Islamabad collected Rs 9.802 billion during December 2012 against Rs 10.822 billion. LTU Lahore collected Rs 8.881 billion during December 2012 against Rs 5.581 billion during the corresponding period last fiscal.

According to the FBR's data dated January 1, 2013, the FBR has paid sales tax refund of Rs 1.572 billion during December 2012. Collectorate-wise sales tax collection on imports revealed that the Model Customs Collectorate (MCC) Peshawar has collected sales tax of Rs 187.25 million during December 2012 against Rs 182.80 million in December 2011, MCC Islamabad Rs 297.49 million against Rs 137.66 million, MCC Lahore Rs 2.138 billion against Rs 1.988 billion, MCC Multan Rs 1.890 billion against Rs 1.785 billion, Faisalabad Collectorate Rs 571.73 million against Rs 283 million, MCC Sambrial Rs 55.93 million against Rs 16.34 million, MCC Hyderabad Rs 696.02 million against Rs 742.44 million, MCC Quetta Rs 78.56 million against Rs 3.055 billion, MCC Appraisalment Karachi Rs 11.127 million against Rs 10.618 million, MCC Preventive Karachi Rs 3.685 billion against Rs 3.523 billion, Model Customs Collectorate Exports Karachi Rs 9.54 million against Rs 2.23 million, MCC Port Qasim Rs 11.313 billion during December 2012 against Rs 11.459 billion in December 2011 and MCC Gwadar collected sales tax to the tune of Rs 75.96 million during December 2012. – *Courtesy Business Recorder*

Transit goods to Afghanistan: Isaf has to follow procedure applicable to US cargo: FBR

International Security Assistance Force (Isaf) has to follow the same procedure/conditions, as applicable to the US cargo for transit consignments to Afghanistan through Pakistan. In this connection, the FBR has issued Customs General Order (CGO) 17 of 2012 here on Tuesday.

According to the CGO, the FBR has directed that the provisions of Customs General Order No 10 of 2012 dated July 31, 2012 shall be applicable mutatis mutandis on the transit of International Security Assistance Force (Isaf) cargo to and from Afghanistan through the territory of Pakistan.

Sources added that all procedures applicable to US cargo for transportation of goods to Afghanistan would also be applicable to Isaf consignments. For example, the transit of US and Isaf cargo shall only be allowed to enter or exit through Karachi port, Port Muhammad Bin Qasim, Torkham and Chaman. Similarly, other conditions applicable to US cargo under the Customs General Order No 10 of 2012 would also be applicable to the Isaf consignments destined to Afghanistan through land route of Pakistan, they added. – *Courtesy Business Recorder*

PRA recovers Rs 15.82 billion ST from 17 different services

Punjab Revenue Authority (PRA) recovered over Rs 15.824 billion from seventeen different services as sales tax under the Punjab Sales Tax Act during the first five months of the current financial year.

Sources in the Authority told here on Monday that the Authority recovered sales tax of over Rs 2.83 billion in August, over Rs 2.892 billion in September, over Rs 2.58 billion in October, over Rs 3.092 billion in November while it collected over Rs 2.92 billion in December.

Figures in December show a decline in tax recovery and PRA sources said that three-day closure of mobile phone services in different districts of Punjab in Moharram ul Haraam resulted in decline of revenue of the Authority. They said that the PRA suffered at least Rs 255 million losses due to mobile phone closure. Sources said that the Federal Board of Revenue (FBR) had earlier collected sales tax from mobile companies of Punjab's share. However, now the Board released Rs 1.50 billion out of that sum

and efforts are being made to get rest of the money released. PRA Chairperson Iftikhar Qutab said that tax collection pace is increasing in the province now and hoped that it would reach the tax collection target of Rs 35 billion to 40 billion in a year. – *Courtesy Business Recorder*

Afghan transit rules: transport operators must produce Customs certificate: FBR

The Federal Board of Revenue (FBR) will not allow transportation of transit goods till the transport operators produce a certificate from Customs office en-route for receipt and cross-border movement of consignments transported 20 days ago under Afghanistan-Pakistan Transit Trade Rules.

Referring to S.R.O. 1409 (I)/2012, sources said on Tuesday that the FBR has amended the Customs Rules 2001 through the said notification. As per amended Customs Rules, no further transportation shall be allowed to the transport operator till a certificate from Customs office en-route is produced for receipt and cross-border of earlier consignments transported 20 days ago.

The rules have also explained the procedure for submission of manifest by the carrier of Afghan transit goods under Afghanistan-Pakistan Transit Trade Rules. After taking delivery of goods from the Port and loading thereof on the conveyance, the transport operator shall prepare carrier's manifest in quadruplicate, having security features as specified by the Collector from time to time, for each transport unit. The original copy of the manifest shall be retained by Customs staff posted at exit gate while allowing removal of the conveyance from that area. Duplicate copy shall be sent to the office en-route for reconciliation. Triplicate copy shall be given to the driver of the conveyance who shall hand over the same at the office en-route on arrival. The transport operator shall retain the quadruplicate copy for their official use.

On the day following the date of clearance of transit goods from the port, the transport operator shall submit customs port or station-wise consolidated manifest as specified of consignments to the Afghan Transit Group who shall enter the particulars in computer for subsequent scrutiny. The transport operator shall get this consolidated manifest cleared within 20 days from Afghan transit group certifying that all consignments covered under the manifest of that period have safely and securely reached at the office en-

route and have crossed border, accordingly. – *Courtesy Business Recorder*

Duty on PET resin: CCP, NTC at odds

Yawning gap in the import tariff of same commodity could be bliss for one manufacturer and bane for the other and the two government bodies which could cause injury or bring happiness to the parties concerned are National Tariff Commission (NTC) and Competition Commission of Pakistan (CCP).

The case in point here is the duty on PET resin - while the CCP in its report released on Friday considers that there is no difference in so-called yarn grade resin and the so called film grade resin and that duty should be the same at three percent, NTC in its recommendations forwarded to the ECC has suggested eight percent duty for the film grade resin as well as on bottle grade resin, according to a source in the Ministry of Commerce (MoC).

This issue needs to be tackled in a fair manner, particularly in view of CCP report which vindicated the position that there is no difference in so-called yarn grade resin and the so-called film grade resin and that duty should be the same at three percent, or else new investments may wither in case level playing field is not provided to manufacturers and industrialists who have made huge investments in the country to boost economic growth and send positive signals to investors round the globe.

The issue is between two new investments of about Rs 350 crores each which have come up to produce Bopet films for the first time in Pakistan. One of the producers, M/s. Novatex is also the manufacturer of its raw material and is lobbying to keep the duties high of Pet Resin for films.

The other producer of films and pre form industries, M/s. Astro Plastics had complained to Competition Commission of Pakistan, which took up the case and conducted a thorough study and issued a policy note to Federal Board of Revenue (FBR) and NTC. Pre form industries have been demanding for very long to rationalise and bring protection down and the duties as it affects the consumers directly.

The CCP note clearly states that there is a substantial monopoly in the resin industry by M/s. Novatex and that a level playing field should be ensured for the downstream industry. In a total disregard to CCP findings and keeping the old practice of alleged

“under the table” dealing the NTC has finalised its recommendation and has suggested eight percent duty for the film grade resin as well as on bottle grade resin.

Even though the resin for yarn grade and film grade are of the same chemical nature, the duties, without any justification, are three percent and eight percent, respectively. This situation will still give a blanket protection to the monopoly of resin producer and render all products of pre form and films un-competitive and, in case, NTC recommendations are approved, the monopolies in Pakistan would continue to thrive.

Stakeholders demand that to safeguard the interests of all, a new and independent study under the guidelines of CCP must be conducted as CCP is one body which has done a tremendous job and stayed above board through out under the leadership of its Chairperson, Rahat Kaunain CCP in its report has observed generally PET resins are categorised and duty is levied based on their properties, particularly, Intrinsic Viscosity (I.V.). For example, in India PET resins having viscosity not less than 0.64dl/g and not greater than 0.72 dl/g are categorised under one heading and charged with same rate of customs duty. In United States PET resins having viscosity of .070 dl/g or more but not more than 0.88 dl/g are chargeable with same rate of duty. Similar pattern has been observed in six other jurisdictions namely Sri Lanka, Canada, Vietnam, China, European Union and Bangladesh. This shows that duty around the world is mostly I.V value based.

“It is also pertinent to mention that adoption of a tariff policy which aims at providing a level playing field to all manufacturers to further grow and develop BOPET film and PET bottle industry would save foreign exchange by substituting imports of finished goods with local production. At the same time, it would encourage exporting surplus production, which would help in reducing the trade deficit of Pakistan,” CCP has highlighted in its report.

Director, Astro Plastics, Maqsood Ismail in a letter sent to Chairman, National Tariff Commission, Prince Abbas Khan, said: “In light of above, we most humbly request you to please allow us import of resin at 3 percent import tariff, as is allowed to for the so-called ‘yarn grade’.” – *Courtesy Business Recorder*

Serious violations of tax laws by registered companies: ‘Red Alerts’ issued to Lahore and Islamabad RTOs

Directorate General Intelligence and Investigation Inland Revenue (IR) Federal Board of Revenue has issued “Red Alerts” in two cases of Lahore and Islamabad where concerned Regional Tax Offices (RTOs) failed to check serious violations of tax laws by registered companies.

Sources told here on Tuesday that the directorate of intelligence IR has issued “Red Alerts” to the Regional Tax Offices (RTOs) Lahore and Islamabad. In both cases, illegal refunds were issued within the jurisdiction of RTO Lahore and Islamabad. The exercise is not limited to Karachi, but the “Red Alerts” are also issued in Punjab as well.

According to the “Red Alert” issued to the RTO Lahore, the agency has been engaged in conducting an exercise focusing on Pakistan’s telecom sector. While perusing the sales tax record of various mobile telephone companies it has been revealed that one of their major supplier of advertising materials is an advertising company - a resident AOP falling in the jurisdiction of RTO, Lahore.

Aforesaid registered person has declared its business activity as ‘Other Manufacturing NEC’ on the return filed for Tax Year 2011. From taxpayer’s profile it can be ascertained that apparently the taxpayer is engaged in the manufacture & sale of advertising materials. Following result for the year have been declared: Sales Rs 955,955,731, cost of sales Rs 779,595,951, gross profit Rs 176,359,780, net profit Rs 33,115,212, tax chargeable Rs 8,641,001, tax paid/deducted Rs 49,478,459 and refund claimed Rs 40,837,458.

Directorate said that section 153(3) of the Income Tax Ordinance, 2001 states that any tax deducted on the supplies made by a resident person shall be final discharge of its income tax liability. The only person not falling in Presumptive Tax Regime shall be companies who are manufactures & suppliers of such goods. Being an AOP this unit is not entitled to the exclusion from PTR. Even if the taxpayer claims to have rendered advertisement services then according to Section 153(3) (b) tax deducted on services shall be minimum tax of that person for that year. Therefore, it appears that the refund of Rs: 40,837,458 claimed incorrectly.

Moreover, the perusal of tax record of the taxpayer reveals that it has declared turnover of Rs 955,955,731 for Tax Year 2011, but no withholding statements as required under Section 165 have been

filed. As per Section 153(7) (h) an AOP having turnover of Rs 50 million or more since Tax Year 2007 or any subsequent tax year is the prescribed person responsible for withholding tax under different provisions of the Income Tax Ordinance, 2001. Purchases of Rs 779,595,951/- (cost of sales) have been declared but no tax has apparently been withheld from the suppliers.

The data obtained from RECAP (ITMS) reveals that the taxpayer has withheld tax of Rs 315,043/- under Section 149 from its employees and Rs 93,641/- under Section 153 of the Income Tax Ordinance, 2001 which appears to be a paltry sum keeping in view the purchases made by the taxpayer during the year. This requires complete audit under section 161 of the Income Tax Ordinance, 2001 to ascertain the exact quantum of tax not withheld.

In the light of foregoing RTO, Lahore, may take appropriate corrective measures under section 122 and 169 of the Income Tax Ordinance, 2001, and ensure that no refund is issued/adjusted pending completion of detailed probe on the mentioned lines, directorate of intelligence IR added.

The second “Red Alert” issued to the RTO Islamabad revealed that directorate General I&I-IR has conducted discreet intelligence check and analysis of monthly sales tax returns of subject unit reflects some serious discrepancies which are worth sharing with concerned RTO. The company was incorporated as Private Limited Company on May 10, 1994. The principal activity of the company is the business of electricity generation and to supply the same for consumption for motive power, light and heat. However, the said unit got registered with income tax department as importer/service provider from October 13, 2008 and with sales tax department from May 2011. The aforementioned unit did not declare any manufacturing activity with the department. Despite the fact that principal activity declared by the company is taxable, the company did not bother to get register with the department till October 13, 2008.

After 17 years of incorporation the unit got registered with the department as importer/ service provider and after 2 months of registration made huge purchases and filed refund claim of the same whereas, their sales /output tax is Nil to date.

The data clearly shows that the registered person did not make taxable supplies during the last 18 months. Apparently the registered person is building the structure required for installation of machinery etc which has no relevance with business of an

importer/service provider. Therefore, the whole activity of the registered person from incorporation of company to registration with FBR and then making huge purchases for almost 18 months without showing any taxable supplies is quite suspicious and all transactions are done to get sales tax refund only, directorate said.

The directorate further said that the refund claims of the registered person are against the provisions of section 10 of the Sales Tax Act, 1990 read with Chapter V of the Sales Tax Rules, 2006 notified vide SRO 555(I)/2006, dated 05/06/2006 due to the fact that in terms of section 10(1) of the Sales Tax Act, 1990, if the input tax paid by a registered person on taxable purchases made during a tax period exceeds the output tax on account of zero rated local supplies or export made during that tax period, the excess amount of input tax shall be refunded to the registered person. In the instant case, despite making NIL taxable supplies; the registered person has claimed refund, therefore question of excessive input tax which remains unadjusted against the output tax does not arise. Hence, the registered person is not entitled for refund.

As stated earlier the unit got registered themselves as importers/service provider. No refund of sales tax is allowed to the said category as per rule 26 of the Sales Tax Rules, 2006 notified vide SRO 555(I)/2006, dated 05/06/2006. Furthermore the aforesaid SRO deals with the refund of excess input tax over output tax only in any tax period. However in the instant case input tax has been claimed as refund without declaring any output tax therefore condition of excessive input tax over output tax has not been fulfilled.

As per section 7 of the Sales Tax Act, 1990, for the purpose of determining his tax liability in respect of taxable supplies made during a tax period, a registered person shall be entitled to deduct input tax paid during the tax period for the purpose of taxable supplies made, or to be made, by him from the output tax that is due from him in respect of that tax period. Since no furtherance of taxable activity has been observed in the instant case, therefore the aforesaid registered person is not entitled to claim input tax paid against purchases of good / raw materials for construction of building / civil works, sources said.

According to section 8(1)(a) of the Sales Tax Act, 1990, a registered person shall not be entitled to reclaim or deduct input tax paid on the goods or services used or to be used for any purpose other than

for taxable supplies made or to be made by him. As the aforesaid registered person is not declaring any taxable supplies therefore input tax cannot be claimed or adjusted against these purchases which has no relevance with the taxable activity which has even not took place yet.

Record/data available in respect of subject registered person clearly show NIL taxable activity. Therefore the RTO must check/investigate the description of goods purchased to ascertain whether these goods have any relation to their business activity or otherwise, sources said.

It has also been observed that the subject unit claimed refund against the same invoices twice, ie, January, 2012 and February 2012. The directorate has proposed that the RTO, Islamabad may initiate immediate pre-refund/investigation of the subject unit to be conducted by competent officers enjoying good reputation so as to determine the legality and admissibility of the said refund claim. – *Courtesy Business Recorder*

Revenue officials' power Sindh to take up restoration issue at IPCC

Sindh Government has decided in principle to take up matters pertaining to restoration of magistracy powers of all revenue officers, change of electricity tariff of local governments' institutions from commercial to domestic and other issues in Inter-Provincial Co-ordination Committee's (IPCC) meeting.

Reliable sources told that the decisions were taken at a high level meeting held at Chief Minister's House, which was presided over by Sindh Chief Minister Qaim Ali Shah. The meeting was also attended by Minister for Inter-Provincial Co-ordination Makhdoom Jameel-u-Zaman, Chief Secretary Raja Muhammad Abbas, Secretary IPC Kaleem Lashari, Secretary Zakat, Secretary Labour, Secretary Excise and Taxation, Secretary Law and others.

Sources said that Secretary IPC briefed the Chief Minister over the current Inter-provincial issues which could be take-up in the meeting of IPCC. He said the matters pertaining to restoration of executive magistracy, promulgation of Industrial Relations Ordinance 2011, minutes of Public Accounts Committee meeting about realisation of domestic tariff to strengthen local bodies and tariff of the drinking water supply, grant of permission to export wheat, non-acceptance of token tax, exemption from levy on

employees social security could be taken up in IPCC, wherein Sindh would submit its opinion.

Shah approved the plea of IPC officials and asked them to plead the case comprehensively in this regard, they added. They maintained that IPCC meeting would be held in Islamabad on January 3, (tomorrow) where Sindh government's officials would plead the province's case.

Meanwhile, a handout issued from CM House said that the meeting discussed matters pertaining to restoration of executive magistracy; promulgation of Industrial Relations Ordinance 2011; minutes of Public Accounts Committee meeting about realization of domestic tariff to strengthen local bodies; and tariff on the drinking water supply; grant of permission to export wheat; non-acceptance of token tax, exemption from levy of tax on employees social security etc and regularisation of contract employees of Population Welfare department Punjab. The meeting evolved strategy to take up the issues of Sindh province in CCI in befitting manners. Chief Minister Sindh maintained that the interests of province will properly be taken care of, for which strategy has been evolved. – *Courtesy Business Recorder*

Rs five billion unpaid ST detected through Crest

The Federal Board of Revenue has finally utilised home-grown sales tax IT solution, ie, Computerised Risk-Based Evaluation of Sales Tax (Crest), which resulted in detection of unpaid amount of sales tax to the tune of Rs 5 billion just in one month.

Sources told here on Wednesday that since implementation of the Crest nearly Rs 5 billion of sales tax has been detected through monitoring of the registered persons in a month with the help of IT system. The initial detection of Rs 5 billion not paid by registered persons revealed enormous potential of unpaid amount of sales tax exist within the supply chain to be detected in coming days.

Sources said under Sales Tax Act, 1990 a registered person can claim input adjustment to the extent of 90 percent of their output under section 8B of the Sales Tax Act. The registered person shall not be allowed to adjust input tax in excess of 90 percent of the output tax for that tax period. For this purpose, there are certain categories which have been excluded from this section. When the registered person files return he has to declare whether this restriction applies to him or not. Nobody was checking whether his

declaration was admissible. The system has now identified registered persons who have wrongly claimed exemptions to the tune of Rs 1 billion.

Similarly, on all imports other than those of manufacturers the importer has to pay 3 percent value addition tax along with the statutory taxes. Many people have National Tax Numbers (NTNs) where they got the manufacturers status in the NTN certificate. However, the data revealed that all such persons are actually commercial importers. The system has identified all such cases where they were bound to pay 3 percent value addition tax but have not paid the due amount. In the zero-rated sector, the sale made to registered persons is exempt from 5 percent sales tax. It was surprising to check that a lot of registered persons in this sector including known large registered persons who made sales, but data is not showing any activity. Sales have also been shown to the blacklisted or suspected persons. The value of such sales which has been made to Inactive persons amounted to more than Rs 50 billion. Sales tax on the basis of such sales would be worked out subsequently.

As per Crest results, the situation is not different in case of exports. Huge exports have been claimed in the sales tax returns but in the customs data no such export has been made. It is apprehended that these fictitious exports are made to adjust zero-rated sales, which otherwise would have been paid 5 percent sales tax. The redeeming feature of this system is that the Crest is electronically connected with the tax office as well as taxpayers. Before creating any sales tax demand, the concerned registered person was given a chance to explain their position. Besides, tax conduct of the sales tax registered person, the system also monitors the performance of the tax machinery.

Meanwhile, a press release issued here on Wednesday said: The FBR is capturing transactions by registered persons to identify where a registered person is denied benefit admissible under the Sales Tax Act. Accordingly, FBR has developed Computerised Risk-based Evaluation of Sales Tax (Crest) software that checks information in monthly returns, import/export data and cross matches it for every registered person. Exceptions that emerge will be conveyed electronically to registered taxpayers who in turn can explain the position to FBR by using Crest and attaching their supporting documents.

The Crest system has in-built capacity to verify the veracity of reply received from the registered person. Crest system is designed for Sales Tax and is based on declarations and covers following areas:

1. Purchases including input tax adjustment of buyers and suppliers.
2. Zero-rated sales to registered person with non-active ATL or blacklisted or suspended Sales Tax Registration Numbers (STRNs).
3. Section 8B-exemption-claims against qualifying criteria per notification.
4. Exports claim in returns which do not match with Customs export data.
5. Commercial imports by non-manufactures who also do not show value addition on imports.

Introductory workshops were held in Lahore and Karachi. The system is in test-stage and messages to 1,000 sales taxpayers have already been sent by FBR alerting them about discrepancies detected in their cases. The features of the new system are:

Crest allows faster and timely sending of discrepancy-alerts to taxpayers. Crest also provides taxpayers an IT system that they can use to reply to the Crest discrepancy-alerts without taxpayer compulsion to visit the tax offices.

Crest use by taxpayers is an optional-facility and taxpayers can ignore it and make an in-person visit to tax office to explain his position regarding the discrepancy-alert, the FBR added. –
Courtesy Business Recorder

Bogus sales tax refunds: DG I&I IR's approval a must for issuing 'Red Alerts'

In order to streamline issuance of "Red Alerts", Directorate General of Intelligence and Investigation Inland Revenue (IR) Federal Board of Revenue has made it mandatory for all regional directors to issue them but after prior approval of the Director General of I&I IR.

Information revealed that the DG I&I IR Camp Office Karachi Wednesday issued instructions to all regional directors for compliance. Prior approval of the Directorate is required for issuance of "Red Alerts" to control the menace of bogus sales tax

refunds. According to the instructions of new Director General I&I IR to the field offices, all “Red Alerts” will be issued by the Regional Directorates in whose jurisdiction the registered persons come. Moreover, all cases of “Red Alerts” shall require express approval of Director General and the same will be issued to the concerned Chief Commissioners by the Regional Directors to convey the facts about “Red Alerts”.

DG I&I IR Camp Office Karachi further said that the functions and authority of the Headquarters shall henceforth vest with the Secretariat of the Director General at the place of posting/Camp Office. The Secretariat shall be staffed accordingly with officers/staff who will be under direct supervision of the Director General during their posting.

The guidelines are being issued for strict implementation and compliance by all the officers of the Department with immediate effect, DG I&I IR added. “Red Alerts” are the most effective internal control mechanism of the DG I&I IR which has blocked issuance of bogus refund claims to the tune of billions. This is the first system which checks the fraudulent refund claims before the crime. “Red Alerts” have cautioned the Chief Commissioners of RTO to stop processing, sanctioning and issuance of bogus sales tax refund claims. – *Courtesy Business Recorder*

Discrepancies detected through Crest: manual issued for registered taxpayers

The Federal Board of Revenue on Wednesday issued a manual for registered sales taxpayers allowing them to electronically respond to sales tax discrepancies in monthly returns detected through the Computerised Risk-Based Evaluation of Sales Tax (Crest).

Sources told here on Wednesday that the FBR’s manual would facilitate the registered persons to promptly respond to queries and objections raised by the system. The manual is guide for the registered persons for operating Crest. The manual educates the taxpayers about sales tax laws as well as methodology to remove objections committed while filing sales tax returns. The issuance of manual is an important step of the FBR to train the taxpayers for proper filing of sales tax returns with the help of Crest.

The manual has informed the taxpayers that the selection of relevant option would allow registered person to view the summary of the discrepancies of the taxpayer. NTN and name of

the taxpayer is displayed. Taxpayer can view all the discrepancies or can select a period to view period specific discrepancies.

According to the manual, the Crest checks the information contained in monthly returns, Customs import and export data and cross matches each other for every registered person. Any exceptions pointed out by the system will be conveyed electronically to the concerned registered person who in turn can explain the position through attaching the supporting documents. The system has in-built capacity to verify the veracity of the reply received from the registered person. Crest system is designed for Sales tax Registered persons based on their declarations and covers purchases, customs import data, zero-rated sales, ATL or blacklisted or suspended, section 8B, exports, commercial imports and other areas.

The manual said that the clicking 'View Report' on Crest screen displays the summary of discrepancies of the taxpayer for the selected tax period. The list shows tax period, non verified Purchase, Zero Rated Sales, Imports and Exports and admissibility of Section 8B, Commercial Imports and total thereof. In case of purchase, the selection of 'Value' or 'Tax' under Purchase leads to the 'Invoice Summary Cross Matching Screen' of the Crest.

The manual said that another page of CREST gives detailed report of purchase discrepancy. The selected period, buyer's NTN and Name is displayed at the top of the list. The screen is divided in five sections. Particulars of seller which include NTN, Name and Status are displayed in first section. Status of the supplier can be filer/non-filer/null filer. In the corresponding sections, No of invoices, value and amount of sales tax paid based on invoices of both the seller and the buyer after cross matching is displayed. In the next section difference of No of invoices, value and amount of sales tax paid is shown. Last section requires feedback from the taxpayer on that specific discrepancy raised by the system.

The manual said that the import discrepancies are based on comparing Import Tax declared in Customs with declaration of import in Sales Tax Return. Export discrepancies are based on the Export value declared in Customs with respect to declaration in Sales Tax Return.

Under the system, taxpayer has been allowed to give feedback. Taxpayer can agree for rectification of Return or partially agree

with supporting evidence or disagree with supporting evidence. The manual has also explained other features of Crest along with working of the system. – *Courtesy Business Recorder*

Flaws in Pral system: PAC assured of resolution of problem by February 28

The Federal Board of Revenue Chairman admitted before the National Assembly's Public Accounts Committee (PAC) that it had failed to remove flaws in Pral system, but at the same time assured the committee that the problem will be resolved by February 28 through reforms.

The meeting of PAC was held with Nadeem Afzal Gondal in the chair on Wednesday to review the audit briefs of the FBR for years 2004-05 and 2005-06. Committee member Rasheed Godial expressing concern over surge in cases of fake sale tax refunds claimed that some 132 fake refund cases were detected by the FBR but still a large number of these cases have not been detected.

Another member Noor Alam Khan alleged that customs officials were minting money by allowing wrong entry of vehicles at different check posts of the country. He said these custom officials gave benefit to influential by issuance of clearance certificates of luxurious vehicles showing them as Suzuki Cultus, etc, in their computer database.

The FBR chairman said the trend of smuggling vehicles into the country was increasing at an alarming pace. The customs officials impound around 132 smuggled vehicles every week. Contesting the allegations made by the committee members, he said such cases might have happened, but customs officials did not come under political influence or get benefit from flaws in the system.

He said tax reform would not work unless inbuilt privilege system is abolished. He said we introduced zero rating and tax exemption, which promote wrong practice. He said the board had carried out studies on tax reform through global experts, but it was a established fact that loopholes in the system and connivance of tax officials both were contributing to malpractices. The committee also referred the case of refusal of registrar Supreme Court appearance before PAC to the parliament for debate. The matter would be taken up in the coming session of the parliament. – *Courtesy Business Recorder*

Law Division issues notification: 11 senior IRS officials made accountant members in ATIR

The Law and Justice Division has appointed 11 senior officials of (Grade 20-21) of Inland Revenue Service (IRS) as Accountant Members in the Appellate Tribunal Inland Revenue (ATIR) for a period of three years. The Law and Justice Division has issued a notification here on Wednesday.

According to the notification, Mrs Fiza Muzaffar (IRS-BS21) has been given new assignment as Accountant Member ATIR Lahore; Muhammad Akram (IRS-BS20) has been transferred and posted as Accountant Member ATIR Lahore; Abdul Rehman Dogar (IRS/BS-20) as Accountant Member ATIR Lahore; Sajjad Haider Afzal Cheema (IRS/BS-20) as Accountant Member ATIR Lahore; Shafqat Mahmood (IRS/BS-20) as Accountant Member ATIR Lahore; Muhammad Pervaiz Alam (IRS/BS20) as Accountant Member ATIR Lahore; Shahid Hussain Jatoi (IRS/BS-20) as Accountant Member ATIR Karachi; Faheem ul Haq Khan (IRS/BS-20) as Accountant Member ATIR Karachi; Sajjad Haider Khan (IRS/BS-20) as Accountant Member ATIR Karachi; Jahanzeb Mahmood (IRS/BS-20) as Accountant Member ATIR Islamabad and Haroon M. K Tareen (IRS/BS-21) has been transferred and posted as Accountant Member ATIR Peshawar. – *Courtesy Business Recorder*

Cigarette makers: FED slabs may be revised to curb revenue leakage

The Federal Board of Revenue is expected to revise tax policy for cigarette manufacturers including multinational companies on detection of revenue leakage under the FED slabs applicable for different brands of cigarettes. Sources told here on Wednesday that the issue of revenue leakage in the middle tier of FED slabs was discussed in the last Board-in-Council meeting chaired by FBR Chairman Ali Arshad Hakim.

Board-in-Council directed the FBR Senior Member Tax Policy Asrar Raouf to make a presentation on the revenue leakage under the middle tier slabs of the FED applicable on cigarettes. Board-in-Council would take any decision to revise FED slabs on the basis of presentation to quantify volume of revenue leakage through middle tier slabs of the FED.

Board-in-Council is the highest tax policy forum of the FBR engaged in taking policy decisions on taxation to improve revenue collection and documentation. Any move to change the FED slabs for the cigarette industry is only possible through amendment in the Federal Excise Act 2005 through the Finance Bill.

According to sources, Finance Act 2011 has revised three slabs of the FED on cigarette manufacturer through amendment in the First Schedule of the Federal Excise Act, 2005. The FBR has revised the slab number nine, ten and eleven of the FED applicable on various brands of cigarettes in last budget (2012-2013). The price tiers were also revised for slabs nine, ten and eleven for cigarette manufacturers.

As per Board-in-Council decision, revenue leakage is taking place in middle tier slabs of the FED on cigarettes. The slab number 10 for the cigarette industry is the middle tier slab where such revenue leakage is taking place. In budget (2012-13), the FBR has enhanced tax incidence on cigarettes by revising upward price tiers. The revised slab number nine said that the rate of the FED would be 65 per cent of the retail price on locally produced cigarettes if their retail price exceeds Rs 22 and 86 paise per ten cigarettes.

The revised slab number 10 said that the rate of the FED would be Rs 7 and 2 paise per ten cigarettes plus 70 per cent per incremental rupee or part thereof on locally produced cigarettes if their retail price exceeds Rs 13 and 36 paise per ten cigarettes but does not exceed Rs 22 and 86 paise per ten cigarettes.

The revised slab number eleven said that the rate of the FED would be Rs 7 rupees and 2 paise per ten cigarettes on locally produced cigarettes if their retail price does not exceed Rs 13 and 36 paise per ten cigarettes. The FBR has also amended the Federal Excise Act in last budget to introduce the concept of restrictions for cigarette industry. As per amendment in the Federal Excise Act, no manufacturer or importer of cigarette can introduce or sell a new cigarette brand variant of the same existing brand family at a price lower than the lowest actual price of the existing variant of the same brand family.

For the purposes of this restriction, current minimum price variant of existing brand means the lowest price of a brand variant on the day of announcement of budget 2012-13. Any new brand introduced in the market shall not be priced and sold lower than 5 percent below the price of the Most Popular price Category

(MPPC). MPPC is the price point at which the highest number of excise tax paid cigarettes are sold in the previous fiscal year. – *Courtesy Business Recorder*

Provisional collection: July-December revenue shows Rs 55.2 billion increase

The Federal Board of Revenue has provisionally collected Rs 895.9 billion during July-December (2012-13) against Rs 840.7 billion in the corresponding period of 2011-12, reflecting an increase of Rs 55.2 billion. Sources told here on Thursday that the provisional revenue collection during first half of 2012-13 stood at Rs 895.9 billion.

The revenue collection is expected to reach Rs 905 billion on compilation of final figures in coming days. The latest data of January 3, 2013 revealed that the provisional tax collection in December 2012 amounted to Rs 211.155 billion against Rs 201.7 billion in December 2011, showing an improvement of Rs 9.455 billion.

The FBR has to collect Rs 1485.1 billion in the second half (January-June) 2012-13 to meet the annual target of Rs 2381 billion. On an average, tax machinery has to collect an amount of Rs 247.516 billion which is an ambitious target in the remaining period of 2012-13. The FBR suffered huge revenue loss of Rs 70-75 billion during December 2012 because of holidays and law and order situation in Karachi. – *Courtesy Business Recorder*

FTO tells FBR to share data of MPs filing returns regularly

Federal Tax Ombudsman (FTO) Dr Muhammad Shoaib Suddle has directed the Federal Board of Revenue to share the data of parliamentarians who are regularly filing their income tax returns under the Income Tax Ordinance, 2001. Sources told on Thursday that the FTO Office has also directed the FBR to give details of tax status and payments made by the parliamentarians.

Members of National Assembly and Senate are required to file their income tax returns despite deduction at source on salary. The tax of any salaried person earning annual taxable income of Rs 4 million is deducted at source. The deduction at source is not enough. The question arises whether the parliamentarians have obtained the National Tax Numbers (NTNs) and filed their income tax returns.

The FTO Office also wanted to know about the factual status of a recently issued report on the tax payments made by Members of National Assembly and Senate. The FTO Office has sought details about the number of parliamentarians who have filed returns for the past tax years. The FBR will also provide details about parliamentarians who have paid income tax as well as amount of tax paid.

Referring to a recent order of the FTO on publication of taxpayers' directory, sources said the holders of public offices include parliamentarians, ie, Members of National Assembly and Senate. Tax Directory of the FBR would inform the tax paid by the parliamentarians as well as all other public office holders.

As per FTO order, under Section 216(5) of the Income Tax Ordinance 2001, the FBR could publish a taxpayers' directory, with the prior approval of the federal government. Its publication on a regular basis being in furtherance of Article 19A of the Constitution shall certainly help reduce tax maladministration in Pakistan. Prior approval of the government is, however, not required (Section 216(6)) for publication of particulars of taxpayers who are holders of public office. The FTO recommended the FBR to take steps to bring Section 216(5) of Income Tax Ordinance 2001 in conformity with the provisions of Article 19A of the Constitution and send to the federal government particulars and the amount of tax paid by the holders of public office (as defined in Section 5(m) of National Accountability Ordinance 1999 for making this information public, to meet the obligatory requirement of Article 19A of the Constitution. – *Courtesy Business Recorder*

Tax target, recoveries and audit cases: major shortfall in revenue collection by RTO Islamabad

Regional Tax Office (RTO) Islamabad having jurisdiction over the federal capital has shown poor performance during July-November (2012-13) especially in areas of revenue target, recovery of arrears, recovery of current demand and disposal of audit cases.

Sources in the RTO Islamabad told on Thursday that Muhammad Riaz Chief Commissioner RTO Islamabad has informed its Zones-I, II and III about extremely poor performance during 2012-13 and identified areas to be improved in the remaining period of current fiscal year. There was major shortfall in revenue collection against

the assigned budgetary target of the RTO Islamabad uptill in the current fiscal year. Chief Commissioner RTO Islamabad has also admitted that the overall zonal performance needs improvement without delay.

According to sources, Chief Commissioner RTO Islamabad has informed the Commissioner Inland Revenue Zone-I about the poor performance. The Chief Commissioner said perusal of Monthly Performance Report for and up to the month of November 2012, reveals the meager achievement in terms of revenue target, arrears and current collection and disposal of audit cases, etc.

As far as achievement of revenue target (July-November) 2012-13 is concerned, the target assigned for all taxes up to November 2012 was Rs 4458 million, target achieved up to November 2012 was Rs 1448 million, reflecting a shortfall of 68 percent. The collection up to November 2012 is only 32 percent of that allocated in the budget, which shows lack of efforts in achievement of revenue target, despite the fact that this office has been regularly pointing out the weak areas/potential areas from where collection could be increased, but nothing has been done so far.

The arrear up to November, 2012 is nil whereas arrears stuck up in appeal worth Rs 10.100 million. Nothing visible in arrear has been recovered out of collectable arrear of Rs 1243.219 million, while minimum criteria is 25 percent collection of total arrear demand. Current demand is also 'Nil' whereas required criteria is 80 percent of collectable current demand. This situation needs your immediate attention, the RTO said.

Sources said that the collection out of withholding tax of RTO, Islamabad is less by 23 percent as compared to the last year's collection of corresponding period, instead of 24.5 percent of growth rate.

The capital value tax (CVT) collection up to November, 2012 has been reported Rs 21.596 million which is very low as compared to the total potential under the head CVT. Nothing has been reported regarding advance tax under section 236c of Income Tax Ordinance, 2001 and Capital Gain Tax on transfer of properties wef July 1, 2012, this fact is already incorporated in the performance evaluation of the zone for the month of October, 2012 but still unattended.

Only 348 corporate withholding agents have been shown in monthly performance report (MPR) whereas Association of Persons (AOP) and individual withholding tax agents having turnover of

Rs 50 million has not been identified and reported. This situation shows, that no Audit of withholding tax statements is being conducted and penalty under section 161/205, of Income Tax Ordinance 2001 are not imposed.

Not a single case has been finalised in 5 month out of 23 cases, whereas 10 Audit Units are working in the Zone and sufficient staff/Officers are posted in each. The columns in MPR are left blank and without totals and sub-totals by Commissioner Inland Revenue Zone-I RTO as overall zonal performance needs immediate improvement.

Chief Commissioner RTO Islamabad has also conveyed to the Commissioner Inland Revenue Zone-III RTO about the poor performance of the Zone. According to the RTO Islamabad, perusal of Monthly Performance Report for and up to the month of November, 2012, reveals the meager achievement in terms of revenue target, arrear & current collection and disposal of audit cases, etc. The target assigned (all taxes) up to November, 2012 was Rs 6208 million for Zone-III, target achieved up to November, 2012 was Rs 2786 million, showing a shortfall of 55 percent.

The collection up to November, 2012 is only 45 percent of the budget allocation, which shows lack of efforts in achievement of revenue target, despite the fact that RTO Islamabad has been regularly pointing out the weak areas/potential areas from where collection could be increased, but nothing has been done so far.

Only Rs 3.503 million arrear has so far been recovered out of collectable arrear of Rs 1790.696 million while is 0.019 percent of collectable arrears need dedicated efforts as the performance criteria is at least 25 percent collection of total arrear. The collection out of current demand is 'Nil', while the required criteria is 80 percent of collectable demand. This situation needs immediate attention, Muhammad Riaz warned.

The collection out of withholding tax is less by 23 percent as compared to the last year's collection of the corresponding period, instead of 24.5 percent of growth rate, sources said.

The reported number of withholding agent as per MPR is left blank whereas vast jurisdiction of withholding agents vests with Zone-III. Reasons for not declaring the true facts in MPR for and up to the month of November, 2012 may please be furnished. Such type of incomplete and inaccurate information causes embarrassment for the tax authorities.

In Zone-III of RTO Islamabad, only one case has been finalised in five month out of 73 cases, whereas seven Audit Units are working in the Zone and sufficient staff/ officers are posted there. As per MPR of audit, two set aside cases were disposed of and demand was created to the tune of Rs 606.303 million, but the MPR of the enforcement is silent on that account. Number of columns in MPR are left blank and without totals and sub-totals. Overall zonal performance needs immediate improvement, Chief Commissioner RTO Islamabad added.

As per Chief Commissioner RTO Islamabad, Commissioner Inland Revenue Zone-II RTO has followed the same trend and shown same kind of poor performance. The collection up to November, 2012 is only 52 percent of the budget allocated, shows lack of efforts in achievement of revenue target, despite the fact that RTO Islamabad has been regularly pointing out the weak areas/potential areas from where collection could be increased, but nothing has been done so far. Similar trend has been observed in the areas of audit, recovery of arrases and registration of withholding agents, etc, sources added. – *Courtesy Business Recorder*

FBR clarification on CIRP report

The Federal Board of Revenue (FBR) has said that salary income of the parliamentarians is subjected to deduction of tax at source, and non-filing of return does not lead to the conclusion that no tax has been paid. FBR has clarified here on Thursday that it was for the information of all that FBR has not contributed to the report of Centre for Investigative Reporting in Pakistan's (CIRP) titled "Representation without taxation".

FBR has not provided any information on declared annual incomes or tax paid by the parliamentarians to CIRP for any study. Section 216 of the Income Tax Ordinance 2001 specifically places restrictions on the release of such data. Recent news items appearing in the Press over the last few weeks based on the information available in the report are therefore, apparently not in line with the actual facts on record. FBR, therefore, does not endorse the conclusions drawn in the CIRP's report. However, FBR has constituted a committee to probe into the likelihood of 'data theft' and any involvement of any FBR officer/official in the matter, if found shall be dealt with seriously. – *Courtesy Business Recorder*

CUSTOMS GENERAL ORDER NO. 16/2012

Subject: **Amendment of Customs General Order No.10 of 2012 dated 31.07.2012.**

The Federal Board of Revenue is pleased to direct that following further amendments shall be made in its Customs General Order No.10 of 2012, dated the 31st July, 2012, namely:—

In the aforesaid order, in paragraph 6,—

(i) in clause (ii), sub-clause (c), after the word “invoice”, the bracket, words and semicolon, “(in case of cargo intended for transit from Afghanistan, a US declaration of ownership shall be accepted in lieu of the original invoice);” shall be inserted; and

(ii) after clause (ii) the following new clause shall be inserted, namely:—

“(iia) U.S cargo to be allowed entry for transit under this CGO at Torkham and Chaman consisting of military vehicles and non-containerized equipment shall be certified as free of hazardous waste material, including depleted uranium ammunition, as defined and classified in the Basel Convention on the control of Trans-boundary Movement of Hazardous Wastes and their Disposal, in accordance with National and International standards.”.

S.R.O. 1486(I)/2012, Islamabad, the 24th December, 2012.— In exercise of the powers conferred by sub-section (1) of section 71 of the Sales Tax Act, 1990, read with clauses (9) and (46) of section 2, sections 3 and 4, sub-section (2) of section 6, section 7, section 7A, clause (b) of sub-section (1) of section 8, clause (a) of sub-section (2) of section 13, sub-sections (2A) and (3) of section 22, section 23 and section 60 thereof, the Federal Government is pleased to direct that the following further amendments shall be made in the Sales Tax Special Procedure Rules, 2007, namely:—

In the aforesaid Rules,—

(1) in rule 58H,—

(a) in sub-rule (1), for the word “seven” the word “four” shall be substituted;

(b) in sub-rule (2), in the proviso,—

- (i) for the word “seven” the word “four” shall be substituted; and
 - (ii) for full stop, at the end, a colon shall be substituted and thereafter the following new proviso shall be added, namely;

“Provided further that adjustable Sales Tax @ 5% on the value of imported goods as determined under clause (d) of sub-section (46) of section 2 of the Sales Tax Act, 1990 or Rs.1600 PMT whichever is higher shall be collected on import of remeltable iron and steel scrap.”;
 - (c) in sub-rule (7), after the word “adjustment” the expression “except as provided in second proviso to sub-rule(2)” shall be inserted.
- (2) in rule 58Ha,–
- (a) in sub-rule (2),-
 - (i) after the word “melters” the words “and re-rolling mills” shall be inserted;
 - (ii) for the figure “1663”, the figure “950” shall be substituted; and
 - (iii) for full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely;–

“Provided that adjustment shall be allowed as provided in second proviso to sub-rule (2) of rule 58H.”; and
 - (b) in sub-rule (3), for the words “Re-rolling” and “re-rolling”, occurring in the first and fourth line respectively, the words “Steel melters and re-rolling” and “steel melters and re-rolling” respectively shall be substituted; and
- (3) in rule 58I,–
- (a) in sub-rule (2), for the words “seven thousand three hundred and forty seven” the words “four thousand five hundred and sixty seven” shall be substituted; and
 - (b) in sub-rule (5), for the words “nine hundred and ten” the words “five hundred and twenty” shall be substituted.

S.R.O. 1487(I)/2012, Islamabad, the 24th December, 2012.– In exercise of the powers conferred by sub-section (2) of section 53 of the Income Tax Ordinance, 2001 (XLIX of 2001), the Federal Government if pleased to direct that the following further amendment shall be made in the Second Schedule to the said Ordinance, namely:–

In the aforesaid Schedule, in Part IV, after clause (79), the following new clause shall be inserted, namely:—

“(80) The provisions of section 153A shall not apply to any manufacturer till 30th June, 2013.”.

C.No.2(80)Ex/2011

Islamabad, the 28th December, 2012

SALES TAX GENERAL ORDER NO. 70/2012

Subject: **Extension in time limitation under section 74 of the Sales Tax Act, 1990 for issuance of credit notes by companies manufacturing food items in terms of section 9 of the act read with rule 22 of Sales tax Rules, 2006.**

The Board has been approached by National Food Limited through Shekha & Mufti Chartered Accountants with the request that food industry largely deals with perishable items having an expiry term of 2-3 years from the date of manufacturing resulting in return of goods around the date of expiry due to item becoming unfit for consumption. The companies have to accept the rejected stock as a business practice and refund price of such goods including Sales Tax. However they face hardship because they are not able to make corresponding adjustment in Sales Tax Returns in view of stipulation of section of Sales Tax Act, 1990 read with Rule 22 of Sales Tax Rules, 2006 which provide for issuance of credit or debit notes within one hundred eighthly days of the relevant supply. This period is further extendable by 180 days by the Commissioner. However even this period has been contested to be not sufficient in case of food items.

2. With a view to mitigating the hardship faced by such companies, the Board, in exercise of powers conferred under section 74 of the Sales Tax Act, 1990, is pleased to allow that in case of companies manufacturing perishable food items having an expiry date, if such items are returned on account of becoming unfit for consumption and are then destroyed in accordance within procedure and conditions stipulated in Rule 23 of Sales Tax Rules, 2006, the corresponding Credit Notes may be issued within the tax period in which goods are so destroyed.

3. This is issued with the prior approval of the competent authority.

No.PRA/Orders.06/2012, Lahore, the 29th December, 2012.— In exercise of the powers conferred under section 39 of the Punjab Sales Tax on Services Act, 2012, Mr. Mohsin Abbas Syed, Director (Legislation), Government of Punjab, Law & Parliamentary Affairs Department is hereby appointed as the Commissioner (Appeals) in relation to the cases
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adjudicated by the officers of PRA upto the rank of Additional Commissioner under the said Act and rules made thereunder.

2. This notification shall take effect from the first day of January, 2013 and remain valid for a period of ninety days unless withdrawn earlier or extended further by the Authority. The appeals filed, taken up, heard or otherwise subjected to any adjudicatory process by Mr. Mohsin Abbas Syed during the validity period of this notification will be finalized by him regardless of the expiry of the notification.

S.R.O. 1363(I)/2012, Islamabad, the 7th November, 2012.– In exercise of the powers conferred by clause (b) and (c) of section 9 of the Customs Act, 1969 (IV of 1969), the Federal Board of Revenue is pleased to direct that the following further amendment shall be made in its Notification No. S.R.O. 102(I)/83, dated the 12th February, 1983, namely:–

In the aforesaid Notification, in the Schedule, in Part D, in column (1), serial Nos.3, 4, 5 and 6 and the corresponding entries relating thereto in columns (2) and (3) and (4), shall be omitted.

S.R.O. 1409(I)/2012, Islamabad, the 30th November, 2012.– In exercise of the powers conferred by section 219 of the Customs Act, 1969 (IV of 1969), the Federal Board of Revenue is pleased to direct that the following further amendments shall be made in the Customs Rules, 2001, namely:–

In the aforesaid Rules,–

- (1) in rule 605, in sub-rule (1), the words “by the importer” shall be omitted;
- (2) in rule 621,–
 - (a) in clause (a), in sub-clause (i), the words “the importer or his authorized clearing agent shall submit” shall be omitted; and
 - (b) in clause (b), in sub-clause (i), the words “the importer or his authorized clearing agent shall submit” shall be omitted;
- (3) after rule 627, the following new rule shall be inserted, namely:–

“627A. Manifest of the carrier.– (1) After taking delivery of goods from the Port and loading thereof on the conveyance, the transport operator shall prepare carrier’s manifest as specified in **Appendix-III A**, in quadruplicate, having security features as specified by the Collector from time to time, for each transport unit.

(2) The original copy of the manifest shall be retained by Customs staff posted at exit gate while allowing removal of the conveyance from that area. Duplicate copy shall be sent to the office *en-route* for reconciliation. Triplicate copy shall be given to the driver of the conveyance who shall hand over the same at the office *en-route* on arrival. The transport operator shall retain the quadruplicate copy for their official use.

(3) On the day following the date of clearance of transit goods from the port, the transport operator shall submit customs port or station-wise consolidated manifest as specified in **Appendix-III B**, of consignments to the Afghan Transit Group who shall enter the particulars in computer for subsequent scrutiny. The transport operator shall get this consolidated manifest cleared within twenty days from Afghan transit group certifying that all consignments covered under the manifest of that period have safely and securely reached at the office *en-route* and have crossed border, accordingly.

(4) The Afghan Transit Group shall carry out the job of manifest clearance in the computer on daily basis and provide to the concerned Assistant Collector with a list of Goods Declarations (G.Ds) the consignments which have not reached the office *en-route* within twenty days.

(5) No further transportation shall be allowed to the transport operator till a certificate from Customs office *en-route* is produced for receipt and cross border of earlier consignments transported twenty days ago.”; and

(4) after Appendix-III, the following shall be inserted, namely:–

“Appendix-III A
[See rule 627A (1)]

CARRIER MANIFEST

TRANSPORT OPERATOR (PART-I)			Register Page No:	
1. Transport operator i) Name: _____ ii) Address: _____ iii) CHAL No: _____	2. Transport Mode (cross appropriate) (i) Road (ii) Railway	3. Transport unit information	(i) Vehicle type	
4. GD No. & Date			(ii) Registration No.	
5. Carrier Manifest No: _____ Date: _____			(iii) Driver details	Name: _____ CNIC: _____ Cell Ph 1: _____ Cell Pg 2: _____

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Statutes

6. IGM No: _____ Date: _____		7. Index No: _____		8. Place of loading (Wharf, Terminal Name):	
9. Bill of Lading No.		10. Discharge Vessel		11. Bilty No. & date	
12. Destination Station		13. Clearing Agent (Name/ Address/CHAL)		14. Border Agent (Name/ Address/CHAL)	
15. Via (Specify Route in terms of Rule 631) (i) Route-I (ii) Route-II		16. Container No(s)		17. Total No. of Packages	
18. Gross weight (Kg)		19. Net Wt (Kgs)		20. Tare weight (kgs)	
21. Description of Goods (as per Sr.35 of GD)					
22. We, M/s _____, declare that the particulars given in this declaration are true and correct and accept responsibility for fulfilment of the obligations incurred under this Customs transit operation in accordance with the conditions prescribed by the Customs Act, 1969 and the rules, notifications, general orders as issued thereunder.				23. Place _____ 24. Date _____ 25. Signature/Seal	
PCSS FOCAL PERSON OF ENTRY (PART-II)					
26. Name/Designation of PCCSS Focal Entry Officer				27. Allow Loading Stamp: 28. Date:	
29. PCCSS Seal No.		30. Form-A No:		31. Gate-out time:	
WAY-POINT ENDORSEMENT (PART-III)					
32. Kohat		33. Khairabad		34. Baleli	
i) Time-in		i) Time-in		i) Time-in	
ii) Signature		ii) Signature		ii) Signature	
iii) Name Stamp of Custom officer		iii) Name Stamp of Custom officer		iii) Name Stamp of Custom officer	
iv) Date:		iv) Date:		iv) Date:	
PCSS FOCAL PERSON AT POINT OF EXIT (PART-IV)					
35. Name/Designation of PCCSS Focal Exit Officer		36. Date of Arrival		38. Cross-border Allowed (Name/designation of Pakistan Custom Officer) Official seal/stamp	
		37. De-sealing Time (in 0000 hrs)			
COUNTRY OF DESTINATION (PART-V)					
39. Point of Entry into Afghanistan		40. Date of Arrival		41. Name/designation of Afghan Customs Officer Official seal/ stamp	

Appendix-IIIB
[See rule 627A(3)]

Transport Operator _____ No. _____

Dated _____ Customs-port _____

A. CONSOLIDATED MANIFEST FOR GOODS ALLOWED TRANSIT FROM.

It is hereby declared that the following transit goods/containers have been cleared from _____ for transit to border Customs station on _____ with Customs seals:-

G.D. AND DATE	CARRIER MANIFEST NO. AND DATED	DUE DATE OF RECEIPT AT DRY PORT	NAME OF IMPORTER
1	2	3	4

- 1.
- 2.
- 3.

DESCRIPTION OF GOODS	QUANTITY	ACTUAL DATE OF RECEIPT AT OFFICE <i>EN-ROUTE</i>
5	6	7

- 1.
- 2.
- 3.

Signature and Stamp
of the Transport Operator

B. CERTIFICATE FOR SAFE DELIVERY OF TRANSIT GOODS

Certified that the goods covered under the above G.Ds cleared from _____ have safely and securely reached and delivered at office *en-route* except the ones relating to G.Ds at Serial No. _____ above.

Signature and Stamp
of the authorized officer of Customs
Customs-port _____".

Dated _____

S.R.O. 1492(I)/2012, Islamabad, the 26th December, 2012.– In exercise of powers conferred by sub-section (2) of section 282B of the Companies Ordinance, 1984 (XLVII of 1984) read with sub-section (4) of section 20 of the Securities and Exchange Commission of Pakistan Act,

1997 (XLII of 1997) and having being published in the official Gazette vide notification No.S.R.O.1359 (1)/2012 dated November 5, 2012 the Securities and Exchange Commission of Pakistan hereby makes the following further amendments in Non-Banking Finance Companies and Notified Entities Regulations, 2008 ,namely,–

In the aforesaid Regulations,–

- (1) in regulation 65,–
 - (a) in sub-regulations (1),–
 - (i) the word “every” shall be omitted;
 - (ii) the second proviso shall be omitted; and
 - (iii) in the third proviso for the words “on the completion of one year” the words “within three months” shall be substituted;
 - (b) for sub-regulation (2), the following shall be substituted, namely:–

“(2) The meeting of certificate holders or shareholders, as the case may be, shall decide on any one of the following:

 - (a) conversion of Closed End Fund into an Open End Scheme; or
 - (b) revocation of Closed End Scheme; or
 - (c) winding up of an Investment Company.”;
 - (c) after sub-regulations (2), amended as aforesaid, the following new sub-regulations shall be inserted, namely,–

“(2a) In case of winding up of Investment company, a special resolution of shareholders shall be obtained by casting a vote through proxy or physical presence in a meeting and in case of conversion of Investment Company in to an Open End Scheme, by passing a resolution of shareholders through simple majority by casting vote through proxy or physical presence in the meeting and in case of conversion of Closed End Scheme in to Open End Scheme or revocation of Closed End Scheme, by passing a resolution of certificate holders through simple majority by casting a vote through proxy, physical presence or in writing through post, and all such resolutions once passed shall be binding on the Asset Management Company.

(2aa) The meeting of the certificate holders of the Closed End Scheme shall be convened in accordance with the

requirements as prescribed by the Commission through circular.

(2aaa) An Asset Management Company shall ensure publication and dissemination of the notice of the meeting of certificate holders of the Closed End Scheme along with the draft resolution at least seven days prior to the date of meeting and in case of Investment Company 21 days prior to the date of meeting of shareholders and all such notices shall also specify all material facts, particularly the impact of conversion, revocation or winding up, as the case may be, on the certificate holders or shareholders.”; and

- (d) in sub-regulations (3), for the words and full colon “special resolution:” the words and full stop “relevant resolutions.” shall be substituted.

F.No.1(9)Jurisdiction/2009-Vol-II/164662-R

Islamabad, the 26th December, 2012

ORDER

In exercise of the powers conferred by Sub-Section (1) of Section 209 of the Income Tax Ordinance, 2001, Sections 30 and 31 of the Sales Tax Act, 1990 and Section 29 of the Federal Excise Act, 2005, Federal Board of Revenue is pleased to transfer the jurisdiction over the case of M/s Multi Professional Cooperative Housing Socceity, G-8 Markaz, Islamabad, (NTN 2140070) from Chief Commissioner Inland Revenue, LTU, Islamabad to Chief Commissioner Inland Revenue, RTO, Islamabad.

2. This order shall take immediate effect.

C.No.21(3)S.IR-Automation/2011/54386-R

Islamabad, the 12th April, 2012

To,

All Chief Commissioners Inland Revenue,
Regional Tax Offices/Large Taxpayers Unit.

Subject: **Procedure for change in computerized payment receipt (CPR)-Sales Tax.**

I am directed to refer to the subject and to say that Director e Operations, PRAL, is hereby authorized to allow genuine correction in sales tax CPR for which the procedure to be followed, is as under:-

- i) Applicant to apply for correction in CRP to the relevant Chief Commissioner alongwith following supporting documents:-

- a) Written request on letter head
 - b) Copy of CNIC
 - c) Copy of TPR & CPR
 - d) In case of bank's mistake, letter from the bank and affidavit from the taxpayer on stamp paper that amendment may be made in CPR.
 - e) For correction of NTN in CPR, affidavit from the person on whose name the payment has been deposited.
 - ii) Chief Commissioner would recommend and then endorse the application to Chief (IR-Automation), FBR (HQ), Islamabad.
 - iii) Approval of change would then be conveyed to Director (MIS), FBR (HQ) who would:—
 - a) Update changes as per approval
 - b) Maintain record of changes
 - c) Intimate applicant and relevant RTO
 - d) Summary report to be send to Chief (IR-Automation) on weekly basis.
 - iv) As required by Director (MIS) PRAL would provide
 - a) Software support
 - b) Operational support
 - v) Monitoring of changes in CPR would be done by Director (MIS)
2. The above mentioned procedure is enforced with immediate effect.
3. Receipt of these instructions may be acknowledged to the Board please.

Karachi, the 24th December, 2012

SECP CIRCULAR NO. 41/2012

Subject: **Annual Supervision Fee for the year 2013.**

Attention is drawn towards the 'conditions Imposed on Registered Insurers' vide Sub-section (3) of Section 11 of the Insurance Ordinance, 2000, which states that:

“(3) An insurer registered under this Ordinance shall pay to the Commission, on or before the fifteenth day of January in every calendar year, an annual supervision fee of the greatest of:

- (a) Rs. 100,000; and*
- (b) Such amount as may be prescribed.”*

The amount against Sub-section (c) above was prescribed through the insertion of Rule 7A in the Securities and Exchange Commission (Insurance) Rules, 2002 vide S.R.O. Notification 1123(I)/2009 dated December 18, 2009, whereby the Annual Supervision Fee would be:

“Every insurer registered under the Ordinance shall pay to the Commission, on before the fifteenth day of January in every calendar year, an annual supervision fee:

- (b) *At the expiry of one year, at the rate of Rs. 2.00 per thousand of gross direct premium written in Pakistan during the calendar year, subject to a maximum of rupees fifty million.”*

Pursuant to the insertion of Rule 7A, the rate prescribed for the payment of annual supervision fee for the year 2013 will be; *the greatest of Rs. 100,000 or Rs. 2.00 per thousand of the gross direct premium written in Pakistan during the year 2011, subject to a maximum of Rupees Fifty Million.*

Accordingly, you are advised to deposit the Annual Supervision Fee in the Commission's Bank Account against Code No. 30-05 in the authorized branch of MCB Bank Limited and the original challan thereof, along with the figures of direct gross written premiums *reconciled from the Audited Annual Accounts for the year ended December 31, 2011, should be furnished to the Insurance Division, Karachi, on or before 15th January 2013, positively.*

No.SC/M/RW/SCRS/MMC/2012-496 Karachi, the 31st December, 2012

SECP CIRCULAR NO. 42/2012

Subject: **Filing of Monthly Returns through Specialized Companies Return System (SCRS).**

Dear Sir,

This has reference to the SECP (Modaraba Wing) Circular # 2 of 2010 issued on January 15, 2010, regarding filing of monthly returns by the Modaraba Management Companies through online portal of Specialized Companies Return System (SCRS), whereby Modaraba Management companies are required to submit monthly returns by the 10th of every month. Currently Modaraba Companies are filing returns of Modaraba(s) under their management, however the returns for the Modaraba Companies are not being filed.

2. Please note that in SCRS the folder pertaining to Modaraba Company has now been enabled and can be viewed by the SCRS users of the respective Modaraba(s), which is to be used henceforth for filing of monthly return of Modaraba Company.

3. You are, therefore, advised to ensure that monthly returns pertaining to Modaraba Management Company are also filed, besides monthly return of the Modaraba, latest by the 10th of every month. The first monthly return for the month of Jan-2013 must be submitted latest by February 10, 2013.

4. Should you require any clarification, please contact any of the following officers;

- Ahmed Majeed Fareedi, Joint Director, Email: ahmer.fareedi@secp.gov.pk
- Aamir Qureshi, Deputy Director, Email: aqureshi@secp.gov.pk
- Mubeen Ashraf, Deputy director, Email: mubeen.ashraf@secp.gov.pk

F.No.1(17)Jurisdiction/2009/165207-R

Islamabad, the 28th December, 2012

ORDER

In exercise of the powers conferred by Sub-Section (1) of Section 209 of the Income Tax Ordinance, 2001, Sections 30 and 31 of the Sales Tax Act, 1990 and Section 29 of the Federal Excise Act, 2005, Federal Board of Revenue is pleased to transfer the jurisdiction over the case of M/s Flsmidth (Pvt) Ltd, (NTN 0819508-9) from Chief Commissioner Inland Revenue, RTO, Abbottabad to Chief Commissioner Inland Revenue, RTO, Islamabad.

2. This order shall take immediate effect.

F.No.1(9)Jurisdiction/2007-Vol-II/165937-R

Islamabad, the 28th December, 2012

ORDER

In exercise of the powers conferred by Sub-Section (1) of Section 209 of the Income Tax Ordinance, 2001, Sections 30 and 31 of the Sales Tax Act, 1990 and Section 29 of the Federal Excise Act, 2005, Federal Board of Revenue is pleased to transfer the jurisdiction over the case of M/s Hafeez Iqbal Oil & Ghee Industries, (Private) Limited, Islamabad, (NTN No. 0819498-0) from Chief Commissioner Inland Revenue, LTU, Islamabad to Chief Commissioner Inland Revenue, RTO, Abbottabad.

2. This order shall take immediate effect.

A
Bill
to Amend Tax Laws

WHEREAS it is expedient further to amend certain tax law for the purposes appearing hereinafter;

It is hereby enacted as follows:

1. Short title and commencement.— (1) This Act may be called the Tax Laws (Amendment) Act, 2012.

(2) It shall come into force at once.

2. Amendment of section 195-C, Act IV of 1969.— In the Customs Act, 1969 (IV of 1969) in section 195-C,—

(a) in sub-section (1), the commas and words “except in the cases where first information reports (FIRs) have been lodged or criminal proceedings have been initiated or where interpretation of question of law having larger revenue impact in the opinion of the Federal Board of Revenue is involved,” shall be omitted; and

(b) for the sub-section (4), the following shall be substituted, namely:—

“(4) The Board shall, within forty-five days of the receipt of the recommendations of the Committee, pass an order accepting the recommendations or rejecting the same after recording the reasons thereof in the aforesaid order.”

3. Amendment of section 47A Sales Tax Act, 1990.— In the Sales Tax Act, 1990, in section 47A,—

(a) in sub-section (1), in clause (e), the commas and words, “except in the cases where first information report (FIRs) have been lodge under the Act or criminal proceedings initiated or where interpretation of question of law having larger revenue impact in the opinion of the Federal Board of Revenue is involved,” shall be omitted; and

(b) for sub-section (4), the following shall be substituted, namely:—

“(4) The Board shall, within forty-five days of the receipt of the recommendations of the Committee, pass an order accepting the recommendations or rejecting the same after recording the reasons thereof in the aforesaid order.”.

4. Amendment of Ordinance XLIX of 2001.— In the Income Tax Ordinance, 2001 (XLIX of 2001), the following further amendments shall be made namely:—

(a) in section 79, in sub-section (2), after the word “person” the words “not a citizen of Pakistan” shall be inserted;

(b) in section 120A,–

(i) sub-section (2) shall be substituted by the following, namely:–

“(2) (a) Un-registered non-filers and registered non-filers who have made declaration under a scheme made under section 120B and desire to declare undisclosed income/assets/expenditure with declared value exceeding Rs 5 Million shall be required to pay in addition to Registration Tax as defined in section 120B, Investment tax on the declared value of the assets/income/expenditure exceeding Rs 5 Million at the following rates:

Sr. No	Payment Month	Rate of Investment Tax
1.	First Month	1.00%
2.	Second Month	1.25%
3.	Third Month	1.50%

(b) An existing taxpayer who desires to declare undisclosed income/ assets/expenditure up to the declared value of Rs 5 Million shall file a declaration under the scheme made under sub-section (1) by payment of token Investment Tax of Rupees 100 ; and

(c) An existing taxpayer who desires to declare undisclosed income/assets/expenditure with a declared value exceeding Rs 5 Million shall pay Investment Tax at the rates provided in clause (a) of this sub-section.”;

(ii) sub-section (3) shall be substituted by the following, namely;

“(3) (a) Where any person has paid Investment Tax under sub-section (2) and in accordance with the scheme made under sub-section (1), he shall be entitled to incorporate income/assets/expenses declared in the declaration filed under the scheme in his books of accounts;

(b) Where a person has paid tax in accordance with the scheme, he shall not be liable to any further tax, charge, levy, penalty or prosecution under the Ordinance in respect of the income/assets/expenses;

(c) The contents of a declaration shall remain confidential and shall not be disclosed. The provisions of section 216 shall be fully applicable to the declarations made under the scheme under sub-section (1); and

(d) Nothing contained in any declaration shall be admissible in evidence against the declarant for the purposes of any tax/charge/proceedings/penalty/prosecution under any of the following Acts/Ordinance:–

- (i) Income Tax Ordinance 2001 as amended from time to time;
- (ii) Foreign Exchange Ordinance 2002 as amended from time to time;
- (iii) Companies Ordinance 1984 as amended from time to time;
- (iv) National Accountability Ordinance 1999 as amended from time to time;
- (v) Federal Investigation Agency Act 1974 as amended from time to time.

Provided that the immunity under this sub-section shall not extend to offences under:–

- (i) Narcotic Substances Act, 1997 As amended from time to time;
 - (ii) The Anti Terrorist Act, 1997 as amended from time to time; and
 - (iii) The Anti Money Laundering Act, 2010.”
- (ii) after sub-section (3) substituted as above the following new sub-sections shall be inserted, namely:–
- “(3A) For the purposes of execution and implementation of a scheme under this section besides Income Tax authorities, National Database and Registration Authority (NADRA) and banks shall also be authorised to,–
- (a) accept declaration;
 - (b) accept registration tax;
 - (c) issue receipts; and
 - (d) issue NTN, in accordance with the said scheme.

(3B) Tax payers availing the scheme made under sub-section (1) shall be obliged to file returns of income for the succeeding tax year and subsequent three consecutive tax years. If any taxpayer fails, without reasonable cause to file return for the succeeding tax year and the subsequent three consecutive years the immunities granted under sub-section (3) shall stand automatically withdrawn and action under Chapter VII, Parts I, II, IV, VIII, X, XI and XII of Chapter X

of the Ordinance shall be taken notwithstanding any limitation prescribed under the Ordinance.”;

- (iv) in sub-section (4), after clause (ii) the following new clauses shall be added, namely:–
- “(iii) “Declaration” means declaration made on the prescribed form annexed to the Scheme made under sub-section (1);
- (iv) “Declarant” means a person, as defined under section 80 of Income Tax Ordinance, 2001, who files declaration under the Scheme made under sub-section (1);
- (v) “Registration Tax” means Registration Tax as defined in sub-section (9) of section 120B and as per rates given in sub-section (2) of section 120B;
- (vi) “Registered non-filer” means any person who has been allotted an NTN and,–
- (a) has not filed a return of income for three tax years out of any five completed tax years;
 - (b) has never filed a return of income; or
 - (c) has filed a return of income for any of the tax year prior to five completed tax years; and
- (vii) “Unregistered non-filer” means a person who does not have an NTN or has never filed a return of income.”.
- (c) after section 120A, the following new section shall be inserted, namely:–

“120B. Registration tax.– (1) Notwithstanding anything contained in this Ordinance or any other law for the time being in force, the Board may make a scheme of registration, on payment of registration tax under sub-section (2), in respect of registered and un-registered non-filers.

(2) Where any person being an individual or an Association of persons to whom an intimation from NADRA or from the Commissioner has been issued opts to regularise his income tax affairs vide the scheme made under sub-section (1), he shall be required to pay registration tax at the following amounts depending on the time of payment:

Sr. No	Payment Month	Amount
1.	First Month	Rs 40,000
2.	Second Month	Rs 50,000
3.	Third Month	Rs 70,000

- (3) Where a person has paid registration tax in accordance with sub-section (2) and the scheme made under sub-section (1),—
- (a) He shall be entitled to incorporate income/assets/expenses with a declared value upto Rs 5 Million in his books of accounts;
 - (b) He shall not be liable to any further tax, charge, levy, penalty or prosecution under the Ordinance in respect of his income for any of the tax years prior to the tax year in which he has paid the Registration tax;
 - (c) The contents of a declaration shall remain confidential and shall not be disclosed. The provisions of section 216 shall be fully applicable to the declarations made under the scheme made under sub-section (1).
 - (d) Nothing contained in any declaration shall be admissible in evidence against the declarant for the purposes of tax/charge/proceedings/ penalty/ prosecution under any of the following Acts/Ordinance:—
 - (i) Income Tax Ordinance 2001 as amended from time to time;
 - (ii) Foreign Exchange Ordinance 2002 as amended from time to time;
 - (iii) Companies Ordinance 1984 as amended from time to time;
 - (iv) National Accountability Ordinance 1999 as amended from time to time; and
 - (v) Federal Investigation Agency Act 1974 as amended from time to time.
- Provided that the immunity under this sub-section shall not extend to offences under:-
- (i) Narcotic Substances Act, 1997 As amended from time to time;
 - (ii) The Anti Terrorist Act, 1997 as amended from time to time; and
 - (iii) The Anti Money Laundering Act, 2010 as amended from time to time.
- (4) For the purposes of execution and implementation of a scheme under this section besides Income Tax authorities, National Database and Registration Authority (NADRA) and banks shall also be authorised to,—

- (a) accept declaration;

- (b) accept registration tax;
 - (c) issue receipts; and
 - (d) issue NTN, in accordance with the said scheme.
- (5) Any claim for adjustment of tax already paid, collected or deducted under the Ordinance against the registration tax payable under sub-section (2), shall not be admissible unless regular return of income is filed by the taxpayer and in such case provisions of this section shall not apply.
- (6) Tax payers availing the scheme made under sub-section (1) shall be obliged to file returns of income for the succeeding tax year and subsequent three consecutive tax years. If any taxpayer fails, without reasonable cause to file return for the succeeding tax year and the subsequent three consecutive years the immunities granted under sub-section (3) shall stand automatically withdrawn and action under Chapter VII, Parts I, II, IV, VIII, X, XI and XII of Chapter X of the Ordinance shall be taken notwithstanding any limitation prescribed under the Ordinance.
- (7) A “registered non-filer” and/or “un-registered non filer” having multiple bank accounts, or having undertaken foreign travel or living in expensive localities or owning immovable assets who after receiving intimation from NADRA or from the Commissioner feels that he or she is not liable to pay registration tax under the scheme made under sub-section (1) may file an appeal in the appeal form annexed with the scheme with reasons and basis and evidence of objection by the date provided in the scheme before the concerned Commissioner who shall dispose off the same within 20 days of its receipt after affording an opportunity of hearing.
- (8) Any person who does not opt to pay the registration tax required to be paid under the scheme made under sub-section (1) and does not file appeal before the concerned Commissioner in the time and the manner provided under sub-section (7) and the scheme or the appeal filed by him is rejected by the Commissioner, shall be liable to finalisation of provisional assessment under section 122C and all the provisions of the Ordinance shall apply accordingly. During the pendency of proceedings under section 122C and the resultant recovery proceedings the person shall, notwithstanding anything contained in any other law, be liable to suspension of his CNIC, placement of his name on the Exit Control List (ECL), freezing of his bank accounts and blocking of his mobile phone SIMs after being provided an opportunity of being heard.
- (9) For the purposes of this section,—

- (i) "Declaration" means declaration made on the prescribed form annexed to the Scheme made under sub-section (1) ;
- (ii) "Declarant" means an individual or and AOP, who files declaration under the Scheme made under sub-section (1) ;
- (iii) "Exit Control List" means an exit control list maintained by the Federal Government in pursuance of an order made under sub-section (1) of section 2 of the Exit from Pakistan (Control) Ordinance 1981 (XLV of 1981);
- (iv) "Investment Tax" means investment tax as defined in section 120A(4)(ii) and an Investment Tax Scheme as announced by the Federal Board of Revenue ;
- (v) "Registration Tax" means tax payable under the scheme under sub-section(1) and shall be deemed as tax as defined in clause (63) of section 2;
- (vi) "Registered non-filer" means any person who has been allotted an NTN and,—
 - (a) has not filed a return of income for three tax years out of any five completed tax years;
 - (b) has never filed a return of income; or
 - (c) has filed a return of income for any of the tax year prior to five completed tax years;
- (vii) "Undisclosed income" means any income/expenditure/ asset which was chargeable to tax but could not be so charged under Income Tax Ordinance, 2001, for any tax year(s) or assessment year(s) ended on or before 30th day of June, immediately preceding the tax year in which the scheme under sub-section (1) was made and includes deemed income under section 111 or any other deemed income under the Ordinance(s),
- (viii) "Unregistered non-filer" means an individual who does not have an NTN or has never filed a return of income."
- (d) in section 134A,—
 - (i) in sub-section (1), the commas and words "except where prosecution proceedings have been initiated or where interpretation of question of law having effect on identical other cases," shall be omitted; and
 - (ii) for the sub-section (4), the following shall be substituted, namely:—

“(4) The Board shall, within forty-five days of the receipt of the recommendations of the Committee, pass an order accepting the recommendations or rejecting the same after recording the reasons thereof in the aforesaid order.”; and

(e) in section 216, in sub-section (3),—

(i) in clause (q), the word “or” at the end shall be omitted;

(ii) in clause (r), for the full-stop “.”, at the end, a semicolon shall be substituted and thereafter the following new clause shall be added, namely:—

“(s) to National Database and Registration Authority (NADRA) for the purposes of implementing any scheme made by the Board under section 120A and 120B.”.

5. Amendment of Federal Excise Act, 2005.— In the Federal Excise Act, 2005, in section 38,—

(a) in sub-section (1), in clause (e) the commas and words “,except in the cases where first information reports (FIRs) have been lodged under the Act or criminal proceedings initiated or where interpretation of question of law having larger revenue impact in the opinion of the Board is involved,” shall be omitted; and

(b) for the sub-section (4), the following shall be substituted, namely:—

“(4) The Board shall, within forty-five days of the receipt of the recommendations of the Committee, pass an order accepting the recommendations or rejecting the same after recording the reasons thereof in the aforesaid order.”

[(2013) 107 TAX 1 (H.C. Lah.)]

HIGH COURT LAHORE

Syed Mansoor Ali Shah, J

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FACTS/HELD

1. The petitioners, in these writ petitions, challenged composite audit selection of cases by FBR through computer ballot. The High Court with the consensus of parties held that:
 - a) notices for selection of audit for Tax Year 2011 are set aside.
 - b) Federal Board of Revenue (FBR) may start fresh audit selection process subject to:
 - i) framing three separate sets of parameters for selection of cases under Section 214C of the Income Tax Ordinance, 2001, Section 72B of the Sales Tax Act, 1990 and Section 42B of the Federal Excise Act, 2005.
 - ii) after the selection process has been carried out independently under all the three tax laws, the FBR may wish to further narrow down the selection through carrying out risk analysis.
 - iii) a day or so prior to the selection of cases for audit FBR shall publicize the parameters settled for the concerned tax year in the print media, as well as, upload the same on its website to facilitate the taxpayers.
 - iv) separate notices under different tax laws) issued to the taxpayers selected for audit shall clearly specify the parameters attracted in their cases in order to make the process transparent.
 - v) FBR may consider establishing a Grievance/Review Panel to attend to the issues/questions arising out of

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the audit selection process to alleviate the anxiety of the taxpayers and avoid further litigation.

- vi) FBR in fresh audit selection must fully comply with the mandate given under Section 214C of the Income Tax Ordinance, 2001, Section 72B of the Sales Tax Act, 1990 and Section 42B of the Federal Excise Act, 2005 and adopt the correct legal and procedural methods provided in the relevant statutes and rules.

Petition allowed

W.P. No.30786/2012.

Heard on: 26th, 27th & 28th December, 2012.

Present at hearing: Naveed A. Andrabi and Javed Iqbal Qazi, Advocates, for Petitioner. Imtiaz Rashid Siddiqui, Shaharyar Kasuri, Shahbaz Butt, M. M. Akram Awan, Mian Muhammad Javed, Muhammad Ajmal Khan, Muhammad Anwaar-ul-Haq and Mian Masood Ahmad Advocates in connected writ petitions. Muhammad Ilyas Khan, Advocate alongwith Mr. M. Majid Qureshi, Chief (Taxpayer's Audit), Islamabad. Nadim Rizvi, Commissioner Inland Revenue, Lahore and Dr. Tariq Masood, Additional Commissioner FBR (HQ), Karachi, for Respondent.

JUDGMENT

Syed Mansoor Ali Shah, J.

This judgment shall decide this petition, as well as, petitions mentioned in Schedule-A to this judgment as similar questions of law and facts arise in these cases.

2. After arguing the case at some length, the parties have arrived at the following consensus;

- (a) That notices for selection of audit for Tax Year 2011, which have been impugned in the instant petition, as well as, in the petitions mentioned in Schedule-A may be set aside and the process of audit be initiated afresh by the FBR after framing the parameters for selection of audit, keeping in view the following guidelines:
- (i) That Federal Board of Revenue in terms of Section 214C of the Income Tax Ordinance, 2001, Section 72B of the Sales Tax Act, 1990 and Section 42B of the Federal Excise Act, 2005, shall frame three separate sets of parameters for selection of cases for audit under the three tax laws;
- (ii) That after the selection process has been carried out independently under all the three tax laws, if the Federal

Board of Revenue wishes to further narrow down the selection through carrying out risk analysis (as already done in these cases) the same may be done separately under each tax law;

- (iii) That a day or so prior to the selection of cases for audit the Federal Board of Revenue shall publicize the parameters settled, in the manner above, for the concerned tax year in the print media, as well as, upload the same on the website of FBR to facilitate the taxpayers;
- (iv) That notices (separate notices under different tax laws) issued to the taxpayers selected for audit shall clearly specify the parameters attracted in their cases in order to make the process transparent;
- (v) The Federal Board of Revenue will also consider establishing a Grievance/Review Panel to attend to the issues/questions arising out of the audit selection process. This will alleviate the anxiety of the taxpayers and may also avoid further litigation.

3. Additionally, the petitioners vehemently argued that the Federal Board of Revenue has not framed the parameters for selection of audit under the aforesaid laws. The parameters reflected in Letter dated 24.10.2012 issued by the Federal Board of Revenue, Taxpayer's Audit Wing has been issued under the signature of M. Majid Qureshi, Chief (Taxpayer's Audit) (who is present in person) but does not have the approval of the FBR. In response Dr. Tariq Masood, Additional Commissioner, FBR (HQ) Karachi on behalf of respondent FBR referred to Section 8 of the Federal Board of Revenue Act, 2007, as well as, Rule 3 of the Federal Board of Revenue Rules, 2007 ("Rules") to submit that said powers stand delegated to Member (Audit). He, however, admitted that there is no specific notification delegating the powers under the aforementioned audit provisions in favour of the Member (Audit) but justified the same by relying on Rule 3 (3) of the Rules to submit that the said powers can be exercised by the Member (Audit) till delegation takes place.

4. I was minded to proceed further to consider the question of delegation of the powers of the Board in terms of Section 214C of the Income Tax Ordinance, 2001, Section 72B of the Sales Tax Act, 1990 and Section 42B of the Federal Excise Act, 2005 alongwith the vires of Rule 3 in the background of the parent Act i.e., Federal Board of Revenue Act, 2007 and the legality of Letter dated 24.10.2012 issued by Chief (Taxpayer's Audit). However, at this stage learned counsel for the respondent Federal Board of Revenue, namely Mr. Muhammad Ilyas Khan, Advocate assured the court that as the entire audit process is

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being initiated afresh, FBR will also reconsider the question of delegation and will proceed in framing the parameters for selection of audit strictly in accordance with law. On this assurance given by the learned counsel for the respondent FBR, the question of delegation does not require further deliberation in this case.

5. In view of above arrangements arrived at between the parties, the impugned notices for selection of audit for the Tax Year 2011 are set aside. Respondent FBR will initiate the process of audit afresh in the light of the above guidelines and fully comply with the mandate given under Section 214C of the Income Tax Ordinance, 2001, Section 72B of the Sales Tax Act, 1990 and Section 42B of the Federal Excise Act, 2005.

6. These writ petitions are, therefore, allowed in the above terms with no order as to cost.

SCHEDULE-A

SR. No.	WRIT PETITION NO.	TITLE OF THE CASE.
1.	W.P.No.31754/2012	Ahsan Iqbal Waris vs. Commissioner Inland Revenue, etc.
2.	W.P.No.31830/2012	Chenab Rice Mills vs. The Federation of Pakistan, etc.
3.	W.P.No.31752/2012	Shahzad Hussain vs. Commissioner Inland Revenue, etc.
4.	W.P.No.31742/2012	M/s. Anmol Engineering Works vs. Commissioner Inland Revenue, etc.
5.	W.P.No.31740/2012	M/s. Symans Pharmaceuticals (Pvt.) Ltd. vs. Commissioner Inland Revenue, etc.
6.	W.P.No.31618/2012	Presson Descon International (Pvt.) Ltd. vs. The Federation of Pakistan, etc.
7.	W.P.No.31616/2012	Flying Paper Industries Ltd. vs. The Federation of Pakistan, etc.
8.	W.P.No.31614/2012	Flying Cement Company Ltd. vs. The Federation of Pakistan, etc.
9.	W.P.No.31612/2012	Fazal Cloth Mills Ltd. vs. The Federation of Pakistan, etc.
10.	W.P.No.31538/2012	M/s. Nestle Pakistan Ltd. vs. The Federal Board of Revenue, etc.
11.	W.P.No.31617/2012	Flying Board & Paper Products Ltd. vs. The Federation of Pakistan, etc.

12.	W.P.No.31619/2012	Poly Paper & Board Mills (Pvt.) Ltd. vs. The Federation of Pakistan, etc.
13.	W.P.No.31743/2012	M/s. Chenab Limited vs. The Federation of Pakistan, etc.
14.	W.P. No.31737/2012	M/s. Alka (Pvt.) Ltd. vs. The Commissioner Inland Revenue, etc.
15.	W.P. No.31537/2012	DG Khan Cement Co. Ltd. vs. The Federal Board of Revenue, etc.
16.	W.P. No.31613/2012	Vega Pharmaceuticals (Pvt.) Ltd. vs. The Federation of Pakistan, etc.
17.	W.P. No.31615/2012	Zaman Paper & Board Mills (Pvt.) Ltd. vs. Federation of Pakistan, etc.
18.	W.P. No.31753/2012	Naseer Ahmad Baloch vs. Commissioner Inland Revenue, etc.
19.	W.P. No.31757/2012	M/s. Haji Sons vs. The Federation of Pakistan, etc.
20.	W.P. No.31769/2012	M/s. Packages Club vs. The Commissioner Inland Revenue, etc.
21.	W.P. No.31848/2012	M/s. Koh-i-Noor International vs. Federation of Pakistan, etc.
22.	W.P. No.31849/2012	M/s. Mughal Electric Engineering Co. vs. Federation of Pakistan, etc.
23.	W.P. No.31846/2012	M/s. Hale Enterprises vs. The Federation of Pakistan, etc.
24.	W.P. No.31857/2012	M/s. Bilal Textiles (Pvt.) Ltd. vs. The Commissioner Inland Revenue, etc.
25.	W.P. No.31858/2012	Family Hospital (Pvt.) Ltd. vs. The Commissioner Inland Revenue, etc.
26.	W.P. No.31859/2012	M/s. Wire Manufacturing Industry Ltd. vs. The Commissioner Inland Revenue, etc.
27.	W.P. No.31860/2012	M/s. Shaheen Dyeing vs. The Commissioner Inland Revenue, etc.
28.	W.P. No.31629/2012	M/s. Commercial Textile Dyeing and Printing Industries vs. The Commissioner Inland Revenue, etc.
29.	W.P. No.31637/2012	M/s. Royal Tubes (Pvt.) Ltd. vs. Federation of Pakistan, etc.

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30.	W.P. No.31611/2012	M/s. The Erectors vs. Commissioner Inland Revenue, etc.
31.	W.P. No.31571/2012	M/s. Vita Pakistan Ltd. vs. The Federation of Pakistan, etc.
32.	W.P. No.31303/2012	M/s. Maisonette Luxury Apartments vs. Federation of Pakistan, etc.
33.	W.P. No.31780/2012	M/s. Hoover Pharmaceuticals (Pvt.) Ltd. vs. The Commissioner Inland Revenue, etc.
34.	W.P. No.31781/2012	M/s. Synarome Manufacturing Co. (Pvt.) Ltd. vs. The Commissioner Inland Revenue, etc.
35.	W.P. No.31782/2012	M/s. Noorani Industries (Pvt.) Ltd. vs. The Commissioner Inland Revenue, etc.
36.	W.P. No.31783/2012	M/s. Sheikh Riaz Ahmad Chamara Ferosh vs. The Commissioner Inland Revenue, etc.
37.	W.P. No.31784/2012	M/s. Nabeela Kamal vs. The Commissioner Inland Revenue, etc.
38.	W.P. No.31794/2012	M/s. Coca Cola Beverages Pakistan Ltd. vs. The Federation of Pakistan, etc.
39.	W.P. No.30913/2012	Fine Engineering Works (Pvt.) Ltd. vs. The Federal Board of Revenue, etc.
40.	W.P. No.31732/2012	M/s. Benz Industries Ltd. vs. The Commissioner Inland Revenue, etc.
41.	W.P. No.31733/2012	M/s. Al-Abid Brothers Rice Mills vs. The Commissioner Inland Revenue, etc.
42.	W.P. No.31734/2012	Riaz Sizing Industries vs. Commissioner Inland Revenue, etc.
43.	W.P. No.31738/2012	M/s. Al-Quresh Pet Bottles (Pvt.) Ltd. vs. The Federation of Pakistan, etc.
44.	W.P. No.31739/2012	M/s. Al-Quresh Board Mills vs. The Federation of Pakistan, etc.
45.	W.P. No.31747/2012	A.G. Publications (Pvt.) Ltd. vs. The Federation of Pakistan, etc.
46.	W.P. No.31748/2012	Jamshoro Joint Venture Ltd. vs. The Federation of Pakistan, etc.

47.	W.P. No.31749/2012	Phoenix Aviation (Pvt.) Ltd. vs. The Federation of Pakistan, etc.
48.	W.P. No.31750/2012	Pioneer Gas (Pvt.) Ltd. vs. The Federation of Pakistan, etc.
49.	W.P. No.31224/2012	M/s. Rehmat Nazir Rayon (Pvt.) Ltd. vs. Commissioner Inland Revenue, etc.
50.	W.P. No.31218/2012	Mian Muhammad Javaid vs. Commissioner Inland Revenue, etc.
51.	W.P. No.31154/2012	M/s. Micronizer (Pvt.) Ltd. vs. Federation of Pakistan, etc.
52.	W.P. No.31170/2012	M/s. Ferozesons Trust vs. Federation of Pakistan, etc.
53.	W.P. No.31156/2012	M/s. New Malik Traders vs. Federation of Pakistan, etc.
54.	W.P. No.31636/2012	M/s. Poplon and Co. (Pvt.) Ltd. vs. Federation of Pakistan, etc.
55.	W.P. No.31628/2012	M/s. Prime Dyeing Industries vs. The Commissioner Inland Revenue, etc.
56.	W.P. No.31630/2012	M/s. Qadbross Engineering (Pvt.) Ltd. vs. The Commissioner Inland Revenue, etc.
57.	W.P. No.31610/2012	M/s. Watt N Volt vs. Commissioner Inland Revenue, etc.
58.	W.P. No.31115/2012	M/s. Ibrahim Fibres Ltd. vs. The Federation of Pakistan, etc.
59.	W.P. No.31690/2012	M/s. Ikram Sheesha Elmonium Markaz vs. Commissioner Inland Revenue, etc.
60.	W.P. No.31155/2012	M/s. Pak China Manufacturing (Pvt.) Ltd. vs. Federation of Pakistan, etc.
61.	W.P. No.31756/2012	M/s. Infotech (Pvt.) Ltd. vs. The Federation of Pakistan, etc.
62.	W.P. No.31879/2012	M/s. Kohinoor Sugar Mills Ltd. vs. The Federation of Pakistan, etc.
63.	W.P. No.31880/2012	Talib Hussain vs. The Federation of Pakistan, etc.
64.	W.P. No.31881/2012	M/s. Gujranwala Electric Power Co. Ltd. vs. The Federal Board of Revenue, etc.
65.	W.P. No.31882/2012	M/s. Islam Soap Industries (Pvt.) Ltd. vs. The Federation of Pakistan, etc.

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66.	W.P. No.31895/2012	M/s. ICL International Pvt. Ltd. vs. Federation of Pakistan, etc.
67.	W.P. No.31896/2012	Syed Ali Hasnain Hamdani vs. Federation of Pakistan, etc.