Circular No. 1 of 2007
(Income Tax)


Amendments have been made in the Income Tax Ordinance, 2001, through the Finance Act, 2007 which are explained as under:-

1. REDEFINING “SMALL COMPANY”.
   [Section 2(59A)]

   The concept of “small company” was introduced through Finance Act, 2005 with incentives of reduced corporate tax rate of 20% and absolving it to withhold tax under section 153 of the Income Tax Ordinance. This expression has been redefined with following parameters:

   (i) paid up capital upto Rs. 25 million;
   (ii) the threshold of maximum turnover has been raised to Rs.250(m); and
   (iii) employees limit not exceeding 250 persons at any time during the year

2. TAXATION OF REGULATORY & DEVELOPMENT AUTHORITIES:
   [Section 49(3)]

   Regulatory authorities and development entities are liable to income tax. These authorities are covered by the definition of “company” given under Income Tax Ordinance but some of these entities have gone into litigation on the issue of taxability.

   In view of above a clarificatory amendment has been made in the law by adding a new sub-section to section 49, which specifically prescribes that income of a –

   (i) corporation;
   (ii) company;
   (iii) regulatory authority;
   (iv) other body; or
   (v) institution;
established by or under a Federal law or a Provincial law or an existing law and setup, owned and controlled;

(a) either directly; or
(b) indirectly;

by the Federal Government or a Provincial Government, is chargeable to tax. Further the ultimate destination of such income is not a bar for the purpose of chargeability of tax as laid down in Article 165A of the Constitution of Islamic Republic of Pakistan.

3. **SET-OFF OF BUSINESS LOSSES ARISING TO COMPANIES OPERATING HOTELS IN PAKISTAN AND AJ&K. [Section 56A]**

Previously companies registered in Pakistan or AJ&K were not allowed to set off business loss against income arising in Pakistan or AJ&K and vice versa.

A new section 56A has been added in the Income Tax Ordinance 2001, which provides set off of business loss arising to companies registered in Pakistan and operating hotels in AJ&K against business income arising in Pakistan.

4. **ADJUSTMENT OF BROUGHT FORWARD LOSSES IN CASE OF AMALGAMATION OF COMPANIES. [Section 57A]**

Prior to Finance Act 2007, amalgamation meant merger of one or more;

(i) banking companies; or
(ii) non-banking financial institutions; or
(iii) insurance companies; or
(iv) companies owning and managing industrial undertaking in which at least one company is a;

(a) public company; or
(b) company incorporated under a specific law other than the Companies Ordinance 1984.

The meaning of “amalgamation” has been extended to include companies engaged in providing services other than trading companies.

Furthermore, on amalgamation the business loss other than speculation loss of an amalgamating company was available for set-off against the business profits and gains of an amalgamated company for 6 tax years. This set-off has been withdrawn for amalgamation taking place on or after 1st July, 2007.
5. **GROUP TAXATION.** [Section 59AA]

The concept of “Group Taxation” has been introduced through newly inserted section 59AA. The salient features of the regime are as follows:

(i) 100% owned group of companies locally incorporated under the Companies Ordinance, 1984 will be taxed as a single fiscal unit, provided an irrevocable option is exercised to be taxed as a group;

(ii) Losses incurred by the group company will be off-set against income of other group companies;

(iii) Consolidated group account as required under the Companies Ordinance, 1984 will form;

(a) the basis of computation of income; and
(b) tax payable by the group.

(iv) the relief under group taxation will not be available to losses prior to the formation of the group;

(v) any income derived, on or after 1\textsuperscript{st} July 2007, from inter corporate dividend within a group companies, entitled to group taxation under section 59AA shall be exempt [clause (103A), Part I of Second Schedule].

6. **REVIEW OF LAW RELATING TO HOLDING COMPANIES.**

[Section 59B – Section 169(3)]

Section 59B was added through the Finance Act, 2004, with the purpose of providing group relief by way of allowing a holding company with certain conditions, to set-off losses incurred by its subsidiary. The existing regime has been substituted through the Finance Act 2007. The salient features of the changes brought in the scheme are as follows:

(i) a subsidiary company may surrender its assessed losses (excluding capital loss or brought forward losses) for the tax year in favour of its holding company or between the subsidiaries of the holding company or between another subsidiary of the holding company;

(ii) holding company shall be a public company listed on a registered stock exchange in Pakistan or a private limited company;

(iii) holding company being a public company, should directly hold 55 percent or more of the share capital of the subsidiary company. Where none of the companies in the group is a listed company, the holding
company shall hold directly 75% or more of the share capital of the subsidiary company;

(iv) losses surrendered by the subsidiary company can be claimed by the holding company or a subsidiary for set-off against its “income from business” in the tax years in which losses have been surrendered and the following two tax years;

(v) there should be a continued ownership of prescribed shareholding for five years. In case of disposal of shares in a year bringing the ownership below the prescribed threshold, the holding company shall be required to offer for tax the amount of profit on which taxes have not been paid due to set off of losses surrendered by the subsidiary company;

(vi) a company within the group engaged in the business of trading shall not be entitled to avail group relief;

(vii) a private limited company, being a holding company, should get listed within 3 years from the year in which loss is claimed;

(viii) group companies should be locally incorporated companies under the companies Ordinance, 1984;

(ix) loss surrendered and claimed should have approval from the Board of Directors of the respective companies;

(x) subsidiary company should continue the same business during the period of 3 years;

(xi) all the companies in the group shall comply with such corporate governance requirements as may be specified by the SECP from time to time and are designated as companies entitled to avail group relief;

(xii) subsidiary company shall not be allowed to surrender its assessed loss for set-off against income of the holding company for more than (consecutive) 3 tax years;

(xiii) any unadjusted surrendered loss after the period of 3 years, shall be available to the surrendering subsidiary company to carry forward according to statute of limitation;

(xiv) loss claiming company, with the approval of Board of Directors shall transfer cash to the loss surrendering company equal to the amount of applicable tax rate on the profits to be set off against the acquired loss. The transfer of cash would not be taken as a taxable event in the case of either of the 2 companies;
(xv) transfer of shares between companies and shareholders in one direction, would not be taken as a taxable event if the purpose is to hold share capital for formation of group and approval of;

(a) Securities and Exchange Commission of Pakistan; or

(b) State Bank of Pakistan whichever, applicable, has been obtained. However, sale and purchase from third party would be taken as taxable event and after acquiring shares for purpose of group formation, if sold in the open market or to a third party shall attract tax on the capital gains, if any, arising from such sale.

7. **INCREASE IN TAX CREDIT FOR INITIAL PUBLIC OFFERINGS (IPOs).**
   [Section 62]

The maximum limit of investment in Initial Public Offerings (IPOs) for the purpose of tax credit under section 62, for a person (other than a company) has been enhanced from Rs.200,000/- to 300,000/-

8. **CHANGE IN ASSESSMENT REGIME FOR PROFESSIONAL FIRMS.**
   [Sections 92 & 93]

An AOP is liable to tax separately from its members. Where AOP has paid tax, the amount received by a member of the association, in the capacity as member, out of the income of the association is exempt from tax. An AOP being a professional firm such as firm providing legal and advisory services through professional skills of the partners and which are prohibited from incorporation by any law or rules of the body regulating the profession, was however, not liable to tax. Partners of such firm instead individually pay tax on their respective share of income from the firm. In order to bring professional firms at par with other AOPs, sub-sections (2) to (5) of section 92 and section 93 have been omitted. Consequently, professional firms shall be liable to tax at par with other AOPs. This amendment will be applicable, where income of the professional firm is derived from July 01, 2007 onwards.

9. **MERGERS AND ACQUISITIONS.**
   [Section 97A]

A new section 97A has been inserted which envisages that no gain or loss shall arise on disposal of assets by one company to another company under a Scheme of Arrangement and Re-construction under sections 282L and 284 to 287 of the Companies Ordinance, 1984 or section 48 of the Banking Companies Ordinance, 1962.

The other salient features of the Scheme are as follows:
(i) No loss or gain shall be taken to arise on disposal of asset from one company to another company by virtue of Scheme of Arrangement and Reconstruction as approved by;

(a) the High Court;
(b) State Bank of Pakistan; or
(c) the Securities and Exchange Commission of Pakistan, as the case may be;

(ii) No loss or gain shall be taken to arise on issue, cancellation, exchange or receipt of shares as a result of Scheme of Arrangement and Reconstruction;

(iii) In case of disposal of shares issued and vested under Scheme of Arrangement and Reconstruction, the cost of the shares shall be the cost prior to the operation of the scheme; and

(iv) Scheme of Arrangement and Reconstruction, approved on or after 1st July 2007 is eligible for the benefits available under this section.

10. **SEPARATE SCHEDULE FOR BANKING COMPANIES.**

[Section 100A – Seventh Schedule]

For computation of income of the banking companies, a separate schedule has been provided by substituting the Seventh Schedule to the Income Tax Ordinance, 2001 as “Rules for computation of the profits and gains of a banking company and tax payable thereon”. The salient features of scheme as provided in the Seventh Schedule are as under:

(i) a banking company’s income as disclosed in the annual accounts furnished to the State Bank of Pakistan, subject to specified adjustments, shall be taken as “Income from Business”;

(ii) deductions for depreciation, initial allowance and amortization of intangibles shall be available in accordance with law [Sections 22, 23 and 24];

(iii) deductions shall be inadmissible if covered under section 21 of the Ordinance;

(iv) gain or loss on disposal of depreciable asset shall be computed in accordance with law [Section 22(8)];

(v) provisions of law relating to disposal and acquisition of asset shall be applied to make adjustments [Sections 68 to 79];

(vi) provision for classified advances and off balance sheet items shall be allowed as claimed in the accounts, provided a certificate from the
external auditors is furnished by the banking company to the effect that such provisions are in line with the requirements of Prudential Regulations;

(vii) expense charged in the accounts in respect of a debt classified as ‘substandard’ under Prudential Regulations shall not be allowed as deduction. However, if such debt is re-classified as ‘doubtful’ or ‘loss’ subsequently, a deduction shall be allowed for the amount disallowed being ‘substandard’. Further, reversal of provision in respect of a substandard debt, which was disallowed earlier, shall not be taken as income;

(viii) adjustments made in the accounts due to application of International Accounting Standards 39 and 40 and consequently any gain or loss arising, shall be excluded while computing the income of the banking companies;

(ix) liabilities, against which deduction was allowed, if remain unpaid for 3 years shall be added in the first tax year following the end of the 3 tax years. Payment of such liability shall however be allowed as deduction in the year of the payment;

(x) gain or loss on sale of shares of listed securities shall be dealt separately:

(a) loss on sale of shares of listed companies, disposed of within one year of the date of acquisition, shall be adjustable against business income of the tax year;

(b) where such loss is not fully set-off against business income during the tax year, it shall be carried forward to the following tax year and set-off against capital gain only; and

(c) no loss shall be carried forward for more than 6 years immediately succeeding the tax year for which the loss was first computed;

(xi) any special treatment for ‘Shariah Compliant Banking’ approved by the State Bank of Pakistan shall not be provided for any reduction or addition to income and tax liability. A statement, certified by the auditors of the banking company, shall be attached to the return of income to disclose the comparative position of transaction as per Islamic mode of financing and as per normal accounting principles. Adjustment shall be made to take into account treatment under normal accounting principles;

(xii) foreign banks shall be allowed deduction for head office expenditure in the ratio of gross receipts of permanent establishment to world gross receipts, provided that expenditure is:

(i) charged in the books of accounts of the permanent establishment; and
(ii) a certificate from the external auditors is provided to the effect that the claim of such expenditure:

(a) has been made in accordance with the provisions of this rule; and

(b) is reasonable in relation to the operation of permanent establishment in Pakistan.

(xiii) Federal Government has been empowered to amend, or modify or omit any entry in this schedule.

(xiv) special provisions relating to banking business (section 100A) shall apply to the profit and gains of the banking companies relevant to tax year 2009 and onwards.

11. TAXATION OF RETAILERS.
[Section 113A & 113B]

Retailers were assessed under two regimes given under section 113A and 113B. These regimes envisaged payment of income tax thereon, as under:

<table>
<thead>
<tr>
<th>Turnover</th>
<th>Rate of Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) up to Rs. 5 million</td>
<td>@ 0.75%</td>
</tr>
<tr>
<td>(ii) exceeding Rs. 5 million</td>
<td>2% -</td>
</tr>
<tr>
<td></td>
<td>(Sales Tax @ 1.25% and Income Tax @ 0.75%) under single stage sales tax regime.</td>
</tr>
</tbody>
</table>

After amendments the retailers will now pay income tax as under:-

<table>
<thead>
<tr>
<th>Turnover</th>
<th>Rate of Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Upto Rs.5 million</td>
<td>0.5%</td>
</tr>
<tr>
<td>(ii) Exceeding Rs.5 million but does not exceed Rs.10 million</td>
<td>Rs.25,000 plus 0.5% of the amount of turnover exceeding Rs.5 million</td>
</tr>
<tr>
<td>(iii) Exceeding Rs.10 million</td>
<td>Rs.50,000 plus 0.75 % of the amount of turnover exceeding Rs.10 million (under single stage sales tax regime).</td>
</tr>
</tbody>
</table>
The retailers will not be entitled to claim any adjustment of withholding tax collected/deducted under any head during the year. The amendments made under sections 113A and 113B are applicable from tax year 2007 and onward.

12. **MANDATORY ELECTRONIC FILING OF RETURNS AND STATEMENTS OF WITHHOLDING TAX.** [Section 114(2A)]

Section 114(2A) has been amended empowering the Board to make rules for the matters relating to electronic filing of returns and statements etc. Accordingly, corporate taxpayers will be required to file returns of income and withholding tax statements electronically from 1st July 2007 onwards.

13. **FILING OF STATEMENT IN LIEU OF INCOME TAX RETURNS BY TAXPAYERS.** [Section 115]

Taxpayers who are covered by Presumptive Tax Regime are not obliged to file a return of income as required under section 114 of the Income Tax Ordinance, 2001. Such taxpayers are, however, required under section 115(4) to file prescribed statement showing particulars relating to the person’s income for the tax year. New sub-sections (5) and (6) to section 115 have been added through the Finance Act 2007 empowering the Commissioner to issue notice for filing the prescribed statement where statement has not been filed voluntarily by the taxpayer. The provision will be applicable from the tax year 2007.

14. **FILING OF WEALTH STATEMENT BY TAXPAYERS.** [Section 116]

Amendment has been made in section 116 through the Finance Act 2007 to authorize the commissioner to require any individual, to file wealth statement, irrespective of his quantum of income during the relevant tax year. Further, the mandatory requirement to file a wealth statement is extended to all those individuals whose declared income for the year exceeds Rs.500,000/-. This amendment will be applicable for the tax year 2007 and onward.

15. **APPOINTMENT OF COMMISSIONER AS ACCOUNTANT MEMBER.** [Section 130(4)]

Section 130(4) has been substituted through Finance Act, 2007, in pursuance to which Commissioners and Commissioners of Income Tax (Appeals), having at least 5 years experience as Commissioner, are also eligible for appointment as accountant member of the Income Tax Appellate Tribunal.

16. **ADVANCE TAX PAYMENT BY COMPANIES.**
[Section 147(4AA) & (6A)]

The law requires payment of advance tax in 4 quarterly installments which is worked out on the basis of the last assessed income. Where taxpayers do not have last assessed income, they were not required to pay advance tax. To cater for such eventuality, new sub-sections (4AA) and (6A) have been inserted in section 147 requiring companies to take into account minimum tax paid or payable under section 113 also. Advance tax will be payable even if there is no last assessed income. Thus a company having –

(a) last assessed loss;
(b) current year’s loss; or
(c) no previous assessment;

is now obliged to pay advance tax on the basis of estimated quarterly accounting profit.

Provisions of sub-sections (4AA) and (6A) are applicable from 1st July 2007.

17. RATIONALIZATION OF WITHHOLDING TAX ON IMPORTS.
[Section 148 - Parts II & IV of Second Schedule]

Previously, advance income tax @ 6% of the value of goods was collected on import (except edible oil) which was;

(i) adjustable in the case of manufacturer; and
(ii) final tax liability for commercial importers.

The salient features of amended withholding tax regime under section 148 are:

(i) the standard rate of withholding tax on import has been reduced from 6% to 5% of the value of goods;

(ii) sub-sections (3) and (4) relating to issuance of exemption certificates to manufacturer importers on the basis of payment of withholding tax or advance tax under section 147 during the year, have been omitted.

Similarly, clauses (vi) and (ix) of SRO.593(I)/91 dated 30th June 1991 have also been omitted;

(iii) the commissioner shall issue a reduced rate certificate to a person whose income is not subject to final taxation and is not likely to pay any tax (other than tax under section 113), allowing payment of tax collectable under this section at a reduced rate of 0.5% [section 148(4A)]
(iv) the expression “value of goods” shall include Federal Excise Duty which shall be deemed to have always been included;

(v) a uniform adjustable withholding tax @ 1% on import of capital goods and raw material imported exclusively for its own use, has been introduced for a manufacturer registered with sales tax department [clause (13), Part II];

(vi) manufacturer exporters registered with Sales Tax department will not be subject to WHT at import stage in respect of capital goods and raw material. For this purpose a new sub-clause (xxii) has been inserted in Part IV of the Second Schedule to the Income Tax Ordinance, 2001;

(vii) tax collected from the manufacturers of motor vehicles on import of all types of motor vehicles (in CBU condition) shall not be treated as discharge of final tax liability [section 148(7)(c)];

(viii) on import of edible oils including crude oil imported as raw material for manufacturer of ghee or cooking oil the withholding tax rate has been reduced from 3% to 2% [clause (13H), Part II];

(ix) withholding tax has been reduced to 2% on import of following items:

   (a) energy saver lamps;
   (b) bitumen;
   (c) fixed wireless terminal;
   (d) pesticides and wedicides [clause (13H), Part II]

(x) section 148(2) has been substituted empowering the Board to exempt any goods, class of goods or persons or class of persons from the applicability of section 148(1).

18. **WITHHOLDING TAX IN CASE OF BULK IMPORTERS OF INDUSTRIAL RAW MATERIAL. [Section 148(7)(d) – Clause (57A) of Part IV of the 2nd Schedule]**

   A new clause (d) has been inserted in section 148(7), in pursuant to which importer companies of bulk industrial raw material shall fall outside the ambit of PTR, provided the following conditions are fulfilled:

   (i) paid up capital = exceeds Rs.100 (M)
   (ii) imports during a tax year = exceed Rs.500 (M)
   (iii) owns assets at the close of the tax year = exceed Rs.100 (M)
   (iv) formed as single object company;
(v) maintain computerized record of imports and sale of goods;
(vi) issue 100% cash receipts on sales;
(vii) company is registered with sales tax department;
(viii) make sales of industrial raw material to manufacturer(s) registered with sales tax department; and
(ix) present accounts for tax audit every year.

Further, newly inserted clause (57A) in Part IV of the Second Schedule provides that such importers will;

(i) be exempt from withholding tax under section 153 on “sale of goods”; and
(ii) not be “prescribed persons” as envisaged in section 153(9).

18. **ADJUSTMENT OF TAX CREDIT AND WHT BY EMPLOYERS.**

[Section 149]

Previously, employers while making deduction of tax, from salary paid to employees were authorized to adjust withholding tax collected on telephone subscription and private motor cars only. Amendment has been made in section 149, empowering the employer to;

(i) adjust tax withheld under other heads; and

(ii) allow tax credits available to an employee on –

(a) donations to approved NPOs (section 61);
(b) investment in shares (section 62);
(c) contribution to approved pension funds (section 63); and
(d) profit on debt (section 64).

The employers shall, however, be responsible to obtain documentary evidence and for correct application of relevant provisions of law.

This amendment will be effective from the tax year 2008 and onward.

19. **PAYMENT OF WITHHOLDING TAX BY GINNERS.**

[Section 153(5)(bb)]

Amendment has been made in section 153 allowing ginners to pay withholding tax instead of deduction being made from payments by the withholding agents. However, the ginners will be required to furnish evidence of payment of tax to the
withholding agents and the withholding agents will still be required to file prescribed statements of withholding tax, inter-alia, on the basis of challans provided by the ginners. However, in the absence of evidence of payment withholding agents shall deduct tax as required under the law.

20. **TAXATION OF SERVICES PROVIDED BY NEWSPAPER/MAGAZINE OWNERS.**
   
   [Section 153(6)]

   Amendment has been made in section 153(6) to exclude non-corporate (Individual and AOP) owners of newspapers and magazines from the ambit of presumptive tax regime (PTR).

21. **TAXATION OF CONTRACTS EXECUTED BY LISTED COMPANIES.**

   [Section 153(6)]

   Public limited companies listed on a registered stock exchange in Pakistan have been excluded from PTR in respect of payments received:
   
   (i) for sale of goods; and
   (ii) execution of contracts;

   to bring this income under the normal mode of taxation. Tax deducted from listed companies on account of sale of goods and execution of contracts from 1st July 2007 onwards shall be adjustable. For this purpose a proviso has been added to section 153(6) of the Income Tax Ordinance, 2001.

22. **TAX DEDUCTED ON PAYMENTS MADE TO NON-CORPORATE TAXPAYERS (INDIVIDUALS & AOPs) TO BE COVERED BY PTR.**

   [Section 153(6B)]

   Section 153(6A) was introduced last year which excluded all manufacturers from presumptive tax regime in respect of sale of goods. A new sub-section (6B) has been added which provides that tax deductible on sale of goods will be discharge of the final tax liability in the case of an individual and AOP being a manufacturer. Thus the application of sub-section (6A) has now been restricted to corporate manufacturers only. This provision will be effective from tax year 2007.

23. **CHARGE OF WITHHOLDING TAX @ 2% OVER AND ABOVE THE PRESCRIBED RATE.**

   [Section 153(8A)]

   An amendment was made last year providing that in case a person at the time of receiving payments for sale of goods, fails to disclose NTN/CNIC, he shall be liable to WHT rate of 2% over and above the prescribed rate. Sub-section (8A) of section
153 has been omitted and now tax is to be withheld at normal rate from all taxpayers without making any distinction between NTN/CNIC holders and others.

24. **APPLICATION OF PTR IN RESPECT OF RENTAL RECEIPTS LESS THAN Rs.150,000/-.**  
   [Section 155]

   Under section 155, a prescribed person is required to deduct tax @ 5% at the time of making payment on account of rent of immovable property, which is treated as final tax liability of the taxpayer. No threshold is prescribed for deduction of tax on such payments. On the other hand, section 15(7) envisages that no tax is chargeable in respect of income from property not exceeding Rs.150,000/-, in the case of an individual or AOP, who does not derive taxable income under any other head.

   An amendment has been made in section 155(2) by inserting the words “subject to section 5” by virtue of which tax deducted in such cases will be refundable.

25. **BOARD EMPOWERED TO AMEND RATE OF WITHHOLDING TAXES.**  
   [Section 159]

   Sub-sections (3), (4) and (5) have been added in section 159 giving enabling powers to the Board to amend the rates of withholding taxes.

26. **WHT ON INTER CORPORATE DIVIDEND MADE ADJUSTABLE.**  
   [Sections 58 & 169]

   Inter Corporate dividend was liable to WHT @ 5% which was final tax liability in the case of a company. Amendments have been made in sections 8, 169 and in the First Schedule of the Income Tax Ordinance, 2001 to;

   (i) exclude dividend received by a company from the ambit of PTR; and

   (ii) provide for an adjustable uniform rate of 10% applicable for transactions made on or after 1st July 2007.

27. **CNIC TO BE USED WHERE NTN IS NOT OBTAINED.**  
   [Section 181]

   For the purposes of Income Tax Ordinance all taxpayers are required to hold NTN for identification. It has been decided that use of CNIC may also be prescribed, as an alternate for identification. For this purpose amendment has been made in sub-section (3) of section 181 and the Board has been empowered to allow such use.
28. **WITHHOLDING TAX ON PURCHASE OF LOCALLY MANUFACTURED CARS.** [Section 231B – Clause (9A) Part II]

A new section 231B has been inserted envisaging that every manufacturer or its authorized dealer of cars is obliged to collect advance tax @ 2.5% (as amended by clause (9A) of Part II) of the value of car after 31.08.2007 at the time of sale, irrespective of the date of booking or advance payment made by the purchaser. The tax so collected is adjustable and the taxpayers are entitled to claim credit of the same while filing return of income for the relevant tax year.

29. **PRESUMPTIVE TAX REGIME FOR CNG STATIONS.**

   [Section 234A]

All gas marketing companies shall collect advance tax at the rate of 4% of the amount of gas bill with effect from first day of July 2007. The tax so collected will be final tax on the income of CNG stations operators arising from sale of gas. Further, CNG station operators will not be entitled to claim any adjustment of withholding tax collected or deducted under any other head during a tax year. The provisions of this section shall be applicable from the year 2008.

30. **TREATMENT OF WHT ON ELECTRICITY BILLS AS MINIMUM TAX:**

   [Section 235]

Previously, tax collected from electricity consumers along with the electricity bill was adjustable against the final tax liability of the taxpayer. A new sub-section (4) has been inserted to treat tax collected along with electricity bill as minimum tax on the income of an individual and AOP. The provision of this sub-section shall be applicable with effect from tax year 2008.

31. **CONTINUATION OF CORPORATE TAX RATE.**

   [First Schedule Division II Part III]

At present corporate tax rate of 35% is applicable for tax year 2007. This rate shall continue to be applicable for subsequent years also. For this purpose, an amendment has been made in Part III, Division II of the First Schedule to the Income Tax Ordinance, 2001.

32. **REDUCTION IN WITHHOLDING TAX ON TRANSPORT SERVICES.**

   [First Schedule Division III]

Prior to this amendment, transport services were subjected to reduced rate of 2% which was consequently enhanced to 6%. The issue was re-examined and resultanty WHT on goods transport was reduced to 2% as final tax liability. The passenger transport remained outside the purview of this amendment. An amendment has been made in Part III, Division III of First Schedule to the Income Tax Ordinance,
2001 whereby the rate of withholding tax on all types of transport services has been reduced to 2%.

33. **UNIFICATION OF WITHHOLDING TAX RATE ON EXPORTS.**  
   [First Schedule Division IV]

   Income from export of goods is covered by presumptive tax regime and withholding tax was deducted at different rates i.e. 0.75%, 1%, 1.25 and 1.5% on different categories of export proceeds. A uniform withholding tax rate of 1% on export proceeds of all sorts of exports has been introduced with effect from 1st July 2007. For this purpose a new clause (I) has been inserted in Part III, Division IV of the First Schedule to the Income Tax Ordinance, 2001.

34. **EXEMPTION TO MICRO FINANCE BANKS (MFBs).**  
   [Second Schedule Part I, Clause (66)]

   Income of MFBs has been exempted for 5 years, starting from first day of July 2007 subject to following conditions.

   These banks will –

   (i) not issue dividends to their shareholders; and  
   (ii) utilize their profits and gains for Micro Finance Operations only.

35. **EXEMPTION TO SELLER OF REAL ESTATE TO REIT.**  
   [Second Schedule Part I, Clause (99A)]

   A new clause (99A) has been inserted in Part I of the Second Schedule providing exemption to profits and gains accruing/arising to a person on sale of immovable property to a Real Estate Investment Trust (REIT) upto 30th June 2010. the provisions of this clause will apply where transactions of sale have been made from 1st July 2007 onwards.

36. **EXEMPTION TO PRIVATE EQUITY AND VENTURE CAPITAL FUND:**  
   [Second Schedule Part I, Clause (101)]

   Income Tax Ordinance provides exemption to profits and gains of Venture Capital Companies and Venture Capital Funds upto June 2014. Venture Capital Funds have since been replaced with Private Equity and Venture Capital Funds and new rules to this effect have been framed by SECP being a regulatory authority. Since exemption to venture capital funds is already available in the law, it has been decided that this exemption may also be extended to Private Equity and Venture Capital Funds. For this purpose amendment has been made in clause (101) of Part I of the Second Schedule to the Income Tax Ordinance, 2001.
37. **EXTENSION OF EXEMPTION ON CAPITAL GAINS.**

[Second Schedule Part I, Clause (110)]

The existing exemption under clause (110) on capital gain tax was available upto 30\textsuperscript{th} June 2007. The period of exemption has been extended upto tax year ending on 30\textsuperscript{th} June 2008. Likewise this exemption is also extended for insurance companies and amendment to this effect has also been made in clause (6A) of the Fourth Schedule to the Income Tax Ordinance, 2001.

38. **EXEMPTION OF GAINS ON TRANSFER OF CAPITAL ASSET DUE TO DEMUTALIZATION OF STOCK EXCHANGES.**

[Second Schedule Part I, Clause (110A) & (110B)]

Demutualization is a process through which stock exchanges will convert into profit making public limited companies. As a result, capital assets of present stock exchanges will be transferred:

(i) to new corporatized stock exchanges; and

(ii) members of an existing stock exchange for;

(a) acquisition of shares; and

(b) trading and clearing rights acquired in the new corporatized stock exchanges.

In order to facilitate the process of demutualization and corporatization of Stock Exchanges any gain on transfer of capital assets of the existing stock exchanges to new corporatized stock exchange has been exempted under newly inserted clause (110A). Similarly, any gain on transfer of a capital asset, being a membership right held by a member of an existing stock exchange for acquisition of shares or trading rights by such member in a newly corporatized stock exchange has also been exempted under clause (110B) of Part I of Second Schedule to the Income Tax Ordinance, 2001.

39. **EXEMPTION TO COMPANIES OWNING AND MANAGING HYDEL POWER PROJECTS SITUATED IN PAKISTAN AND AJ&K.**

[Second Schedule Part I, Clause (132)]

Previously, law provided exemption to companies deriving income from an electric power generation project, set up in Pakistan. Exemption has been extended to companies registered in Pakistan or AJ&K setting up Hydel Power Projects in AJ&K or Pakistan. For this purpose a new proviso has been added to clause (132) of Part I of Second Schedule to the Income Tax Ordinance, 2001.
40. **TAXABILITY OF SERVICES RENDERED/CONSTRUCTION CONTRACTS OUTSIDE PAKISTAN.**
[Second Schedule Part II, Clause (3A)]

The gross receipts on account of or construction contracts executed outside Pakistan, (if brought into Pakistan in foreign exchange through normal banking channel) are chargeable to tax @ 1%. The provision has been amended to the effect that condition of bringing “gross receipts” has been substituted by bringing of “income” into Pakistan through banking channel. Accordingly, a new clause (3A) has been inserted in Part II of Second Schedule to the Income Tax Ordinance, 2001.

41. **TAX ON CAPITAL GAINS OF PRIVATE COMPANIES IN RESPECT OF SHARES SOLD OF PRIVATE EQUITY AND VENTURE CAPITAL FUNDS:**
[Second Schedule Part II, Clause (5B)]

A new clause (5B) has been added in Part II of Second Schedule to the Income Tax Ordinance, 2001 by virtue of which capital gains arising to a person from sale of shares or assets of private limited company to private equity and venture capital fund shall be taxed at a reduced rate of 10%. This provision will be applicable to those transactions which will be executed on or after 1st July 2007.

42. **WITHHOLDING TAX ON REMITTANCES/PAYMENTS TO FOREIGN NEWS AGENCIES, SYNDICATE SERVICES AND NON-RESIDENT CONTRIBUTORS.** [Second Schedule Part IV, Clause (41B)]

A new clause (41B) has been inserted in Part IV of Second Schedule to the Income Tax Ordinance, 2001 to exempt payments/remittances made to non-resident from withholding tax under section 152(2), in respect of –

(i) news agencies;
(ii) syndicate services; and
(iii) individual contributors/writers;

who do not have Permanent Establishment in Pakistan.

43. **EXEMPTION TO PERMANENT ESTABLISHMENT (PE) OF NON-RESIDENT PETROLEUM EXPLORATION & PRODUCTION COMPANIES.**
[Second Schedule Part IV, Clause (43A)]

Law provides exemption from withholding tax on any payment received by an oil distribution company or an oil refinery for supply of its petroleum products. In order to bring at par the non-resident petroleum exploration & production companies, PEs of the non-resident companies have also been exempted from withholding tax on supply of crude oil and gas.
44. **EXEMPTION OF WHT ON PAYMENTS TO TRAVELING AGENTS FOR SALE OF AIR TICKETS.** [Second Schedule Part IV, Clause (43B)]

Traveling agents are paid commission by airlines which is liable to WHT @ 10% and is treated as final tax. While receiving payments on account of sale of air tickets, the same are again subject to WHT tax, which being excess deduction is refundable. A new clause (43B) has been inserted in Part IV of Second Schedule to the Income Tax Ordinance, 2001. Consequently, withholding tax on sale of air tickets made by traveling agents who have paid WHT on their commission income, will not be collected.

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