

# The Federal Excise Act, 2005

(As amended up to 28<sup>th</sup> October, 2009)

Updated Vide Finance Act, 2009 and Finance (amendment )  
Ordinance, 2009

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# The Federal Excise Act, 2005

(As amended up to 28<sup>th</sup> October, 2009)

## CHAPTER I

### PRELIMINARY

**1. Short title, extent and commencement.**— (1) This Act may be called the Federal Excise Act, 2005,

(2) It extends to the whole of Pakistan

(3) It shall come into force on 1<sup>st</sup> day of July, 2005.

**2. Definitions.** – In this Act, unless there is anything repugnant in the subject or context,—

(1) “adjudicating authority” means any authority competent to pass any order or decision under this Act or the rules made there under, but does not include the Board or Appellate Tribunal;

(2) “adjustment” means deduction of amount of duty paid on goods used in the manufacture or production of other goods from the amount of duty payable on such other goods in the prescribed manner;

<sup>1</sup>(3) “Appellate Tribunal” means the Appellate Tribunal Inland Revenue established under section 130 of the Income Tax Ordinance, 2001 (XLIX of 2001);”

<sup>2</sup>(4) “Board” means the Federal Board of Revenue established under the Central Board of Revenue Act, 1924 (IV of 1924) and on the commencement of the Federal Board of Revenue Act, 2007, the Federal Board of Revenue established under section 3 thereof.

<sup>3</sup>(4A) “Chief Commissioner” means a person appointed as Chief Commissioner Inland Revenue under section 29;”

<sup>4</sup>(5) “Commissioner” means an person appointed as Commissioner Inland Revenue under section 29 of this Act;”

(6) “conveyance” means any means of transport used for carrying goods or passengers such as vessel, aircraft, vehicle or animal etc.;

<sup>1</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>2</sup> Substituted vide Finance Act, 2007

<sup>3</sup> Inserted vide Finance (Amendment) ordinance, 2009 .

<sup>4</sup> Substituted vide Finance (Amendment) Ordinance, 2009

- (7) “default surcharge” means surcharge levied under section 8;
- (8) “Distributor” means a person appointed by a manufacturer in or for a specified area to purchase goods from him for sale to a wholesale dealer in that area;
- <sup>1</sup>[(8a) “due date”, in relation to furnishing a return under section 4, means the 15<sup>th</sup> day of the month following the end of the month, or such other date as the Federal Government may, by notification in the official Gazette, specify.
- <sup>2</sup>[(8b) “dutiable goods” means all excisable goods specified in the First Schedule except those which are exempt under section 16 of the Act;
- (8c) “dutiable supply” means a supply of dutiable goods made by a manufacturer other than a supply of goods which is exempt under section 16 of the Act;
- (8d) “dutiable services” means all excisable services specified in the First Schedule except those which are exempt under section 16 of the Act;
- (9) “duty” means any sum payable under the provisions of this Act or the rules made there under and includes the default surcharge and the duty chargeable at the rate of zero per cent;
- <sup>3</sup>(9a) “duty due” means duty in respect of supplies made or services provided or rendered during a month and shall be paid at the time of filing of return;
- (10) “establishment” includes an undertaking, firm or company, whether incorporated or not, an association of persons and an individual;
- (11) “factory” means any premises, including the precincts thereof, wherein or in any part of which goods are manufactured, or wherein or in any part of which any manufacturing process connected with the production of the goods is being carried on or is ordinarily carried on;
- (12) <sup>4</sup>“Officer of Inland Revenue” means any officer appointed by the Board as officer of Inland Revenue under section 29 or any person including an officer of the Provincial Government invested by the Board with any of the powers of an officer of Inland Revenue under this Act or rules made there under;”

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<sup>1</sup> Inserted vide Finance Act, 2006.

<sup>2</sup> Inserted vide Finance Act, 2007.

<sup>3</sup> Inserted vide Finance Act, 2008.

<sup>4</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>1</sup>(12a)

“franchise” means an authority given by a franchiser under which the franchisee is contractually or otherwise granted any right to produce, manufacture, sell or trade in or do any other business activity in respect of goods or to provide service or to undertake any process identified with franchiser against a fee or consideration including royalty or technical fee, whether or not a trade mark, service mark, trade name, logo, brand name or any such representation or symbol, as the case may be, is involved;”

(13) “goods” means goods leviable to excise duty under this Act or as specified in the First Schedule and includes goods manufactured or produced in non-tariff area and brought for use or consumption to tariff area;

(14) “goods insurance” includes fire, marine, theft, accident and other such miscellaneous insurance;

(15) “import” and “export” mean respectively bringing into, and taking out of Pakistan by sea, land or air and shall be deemed to have always been so defined;

<sup>2</sup>(15a) “KIBOR” means Karachi Inter Bank Offered Rate prevalent on first day of each quarter of the financial year;”

(16) “manufacture” includes,—

(a) any process incidental or ancillary to the completion of a manufactured product;

(b) any process of re-manufacture, remaking, reconditioning or repair and the processes of packing or repacking such product, and, in relation to tobacco, includes the preparation of cigarettes, cigars, cheroots, biris, cigarette and pipe or hookah tobacco, chewing tobacco or snuff, and the word "manufacturer" shall be construed accordingly and shall include,—

(i) any person who employs hired labour in the production or manufacture of goods; or

(ii) any person who engages in the production or manufacture of goods on his own account if such goods are intended for sale; and

(iii) any person who, whether or not he carries out any process of manufacture himself or through his employees or any other person, gets any process of manufacture carried out on his behalf by any person who is not in his employment;

Provided that any person so dealing in goods shall be deemed to have manufactured for all purposes of this Act, such goods in which he deals in any capacity whatever;

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<sup>1</sup> Inserted vide Finance Act, 2008.

<sup>2</sup> Inserted vide Finance Act, 2009.

- <sup>1</sup>[(16a) “non-fund banking services” includes all non-interest based services provided or rendered by the banking companies or non-banking financial institutions against a consideration in the form of a fee or commission or charges;”]
- (17) “non-tariff area” means Azad Jammu and Kashmir, Northern Areas and such other territories or areas to which this Act does not apply;
- (18) “person” includes a company, an association, a body of individuals, whether incorporated or not, a public or local authority, a Provincial Government or the Federal Government;
- (19) “prescribed” means prescribed under this Act or by rules made there under;
- <sup>2</sup>(19a) “franchise” means an authority given by a franchiser under which the franchisee is contractually or otherwise granted any right to produce, manufacture, sell or trade in or do any other business activity in respect of goods or to provide service or to undertake any process identified with franchiser against a fee or consideration including royalty or technical fee, whether or not a trade mark, service mark, trade name, logo, brand name or any such representation or symbol, as the case may be, is involved;”
- (20) “registered person” means a person who is registered or is required to be registered under this Act provided that a person who is not registered but is required to be registered shall not be entitled to any benefit or privilege under this Act or rules made there under, unless he is registered and such benefit and privilege, unless allowed by Board, shall be confined to period of registration;
- (21) “sale” and “purchase” with their grammatical variations and cognate expressions, mean any transfer of the possession of goods or rendering and providing of services by one person to another in the ordinary course of trade or business for cash or deferred payment or other consideration;
- <sup>3</sup>[(21a) “sales tax mode” means the manner of collection and payment under the Sales Tax Act, 1990, and rules made there under, of the duties of excise chargeable under this Act specified to be collected and paid as if such duties were tax chargeable under section 3 of the said Act and all the provisions of that Act and rules, notifications, orders and instructions made or issued there under shall, *mutatis mutandis*, apply to the excise duty so chargeable;”]; and]
- (22) “Schedule” means the schedule appended to this Act;

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<sup>1</sup> Inserted vide Finance Act, 2007.

<sup>2</sup> Inserted vide Finance Act, 2008.

<sup>3</sup> Inserted vide Finance Act, 2007.

(23) “services” means services, facilities and utilities leviable to excise duty under this Act or as specified in the First Schedule read with Chapter 98 of the Pakistan Customs Tariff, including the services, facilities and utilities originating from Pakistan or its tariff area or terminating in Pakistan or its tariff area;

<sup>1</sup> [(23a) “supply” includes sale, lease or other disposition of goods and shall include such transaction as the Federal Government may notify in the official Gazette from time to time;]

(24) “tariff area” means area other than the non-tariff area;

(25) “wholesale dealer” means a person who buys or sells goods wholesale for the purpose of trade or manufacture, and includes a broker or commission agent who, in addition to making contracts for the sale or purchase of goods for others, stocks such goods belonging to others as an agent for the purpose of sale; and

(26) “Zero-rated” means duty of Federal excise levied and charged at the rate of zero per cent under section 5 of this act.

## CHAPTER II

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<sup>1</sup> Inserted vide Finance Act, 2007.



## LEVY, COLLECTION AND PAYMENT OF DUTY

**3. Duties specified in the First Schedule to be levied.**— (1) Subject to the provisions of this Act and rules made there under, there shall be levied and collected in such manner as may be prescribed duties of excise on,—

- (a) goods produced or manufactured in Pakistan;
- (b) goods imported into Pakistan;
- (c) such goods as the Federal Government may, by notification in the official Gazette, specify, as are produced or manufactured in the non-tariff areas and are brought to the tariff areas for sale or consumption therein; and
- <sup>1</sup>(d) services provided in Pakistan including the services originated outside but rendered in Pakistan;

at the rate of <sup>2</sup>[fifteen] per cent *ad valorem* except the goods and services specified in the First Schedule, which shall be charged to Federal excise duty as, and at the rates, set-forth therein.

(2) Duty in respect of goods imported into Pakistan shall be levied and collected in the same manner and at the same time as if it were a duty of customs payable under the Customs Act, 1969 (IV of 1969), and the provisions of the said Act including section 31A thereof shall apply.

(3) The Board may, by notification in the official Gazette, in lieu of levying and collecting under sub-section (1) duties of excise on goods and services, as the case may be, levy and collect duties,—

- (a) on the production capacity of plants, machinery, undertakings, establishments or installations producing or manufacturing such goods; or
- (b) on fixed basis, as it may deem fit, on any goods or class of goods or on any services or class of services, payable by any establishment or undertaking producing or manufacturing such goods or providing or rendering such services.

(4) Without prejudice to other provisions of this Act, the Federal Government may levy and collect duty on any class or classes of goods or services by notification in the official Gazette at such higher or lower rate or rates as may be specified in such notification.

**Explanation.** — Subject to sub-section (1), for the purpose of this

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<sup>1</sup> Inserted vide Finance Act, 2008.

<sup>2</sup> Substituted "fifty" vide Finance Act, 2006

section, “goods” means the goods specified in CHAPTERS 1 TO 97 and “services” means the services specified in CHAPTER 98 of the First Schedule to the Customs Act, 1969 (IV of 1969).

[(5) The liability to pay duty shall be—

(a) in case of goods produced or manufactured in Pakistan, of the person manufacturing or producing such goods;

(b) in case of goods imported into Pakistan, of the person importing such goods;

(c) in case of services, <sup>1</sup>[ provided where services are rendered by the person out of Pakistan, the recipient of such services in Pakistan shall be liable to pay Duty];

(d) in case of goods produced or manufactured in non-tariff areas and brought to tariff areas for sale or consumption therein, of the person bringing or causing to bring such goods to tariff areas.]

<sup>2</sup>**[3A. Special excise duty.—** (1) The Federal Government may, by notification in the official Gazette, levy and collect, subject to such conditions, limitations or restrictions as it may deem fit to impose, special excise duty on any,—

(a) goods produced or manufactured in Pakistan; and at the rate of one percent of the value of such goods.

(2) Special duty levied under sub-section (1) shall be in addition to any duty levied under section 3.]

**4. Filing of return and payment of duty etc.—** <sup>3</sup>[(1) <sup>4</sup>[For every month, a registered person] shall furnish not later than the due date a true and correct return in such manner and form as may be prescribed by the Board by notification in the official Gazette.

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1. Substituted vide Finance Act, 2008.  
2. Added vide Finance Act, 2007.  
3. Substituted vide Finance Act, 2006.  
4. Substituted vide Finance Act, 2007.

<sup>1</sup>[(2) Duty due for the dutiable supplies made or services rendered during a month shall be deposited by the registered person in the designated branch of the bank at the time of filing of his return under sub-section (1):

Provided that the Board may, by notification in the official Gazette, prescribe any other manner of depositing the duty.]

(3) If during any month, there is a change in the rate of duty, a separate return showing the application of different rates of duty shall be used in respect of each portion of such month.

<sup>2</sup>(4) A registered person may, subject to approval of the <sup>3</sup>Commissioner Inland Revenue having jurisdiction, file a revised return within <sup>4</sup>[one hundred and twenty] days of the filing of return under sub-section (1), to correct any omission or wrong declaration made therein.

(5) The Board may, by notification in the official Gazette, require any person or class of persons for any goods or class of goods to furnish such summary or details of particulars pertaining to imports, purchases, utilization, consumption, production, sales or disposal of such goods during any month or months in such format and manner as may be specified and provisions of this sub-section may be invoked *mutatis mutandis* in respect of services.

(6) The Board may by an order, specify the manner and procedure for filing of return for the purpose of this Act or rules made there under and for payment of duty by electronic means. The Board may specify the manner and procedure for the submission, receipt and transmission of any information for the purpose of this Act or rules made there under by electronic means.

(7) Every amount of duty due from any person on any other account shall also be deposited on the prescribed return in the bank branch designated and in the same manner as aforesaid.

<sup>5</sup>(8) The Board may, by rules made under this Act, prescribe a composite return.”;

**5. Zero rate of duty and drawback of duty etc.** — (1) Notwithstanding the provisions of section 3, the goods exported out of Pakistan or such goods as may be, by a notification in the official Gazette, specified by the Federal Government shall be charged to duty at the rate of zero per cent and adjustment of duty in terms of section 6 shall be admissible on such goods.

(2) The Board may, by notification in the official Gazette, grant drawback of duty paid on any goods used in the manufacture of any goods manufactured in and exported out of Pakistan, or shipped as provisions or stores for consumption on board a ship or aircraft proceeding to a destination outside

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<sup>1</sup> Substituted vide Finance Act, 2007.

<sup>2</sup> Substituted vide Finance Act, 2006.

<sup>3</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>4</sup> Amended vide Finance Act, 2008.

<sup>5</sup> Added vide Finance Act, 2008.

Pakistan, at such rate or rates and subject to such conditions and limitations as may be specified in the notification.

<sup>1</sup>[(3) Notwithstanding anything in sub-sections (1) and (2), the Board may, by notification in the official Gazette, prohibit the payment of drawback, refund or adjustment of duty upon the exportation of goods or any specified goods or class of goods to any specified foreign port or territory.]

**6. Adjustment of duties of excise.** — (1) For the purpose of determining net liability of duty in respect of any goods, the duty already paid on goods specified in the First Schedule and used directly as input goods for the manufacture or production of such goods shall be deducted from the amount of duty calculated on such goods.

(2) Adjustment of duty of excise under sub-section (1) shall be admissible only if a person registered under this Act holds a valid proof to the effect that he has paid the price of goods purchased by him including the amount of duty and received the price of goods sold by him including the amount of duty through banking channels including online payment whether through credit card or otherwise.

(3) Notwithstanding the provisions of sub-section (1), the Board may, by a notification in the official Gazette, disallow or restrict whole or part of the amount of or otherwise regulate the adjustment of duty in respect of any goods or class of goods.

**7. Application of the provisions of the Sales Tax Act, 1990.**— In case of goods specified in the Second Schedule or such services as may be specified by the Board through a notification in the official Gazette the duty shall be payable in sales tax mode, whereby—

- (1) (a) a registered person manufacturing or producing such goods or providing or rendering such services shall be entitled to deduct input tax paid during the tax period from the amount of duty of excise due from him on such goods or services in respect of that tax period;
- (b) a registered person shall be entitled to deduct the amount of duty of excise paid or payable by him on such goods or services as are acquired by him during a tax period from the output tax due from him in respect of that tax period;
- (c) a registered person supplying such goods or providing or rendering such services shall be entitled to deduct duty of excise paid or payable on such goods or services as are acquired by him during the tax period from the amount of duty of excise due from him on such goods manufactured or produced or services as are provided or rendered by him during that period; and

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<sup>1</sup> Added vide Finance Act, 2007.

- (d) a person shall be entitled to deduct duty of excise paid or payable, on such goods or services as are acquired by him during a month, from the amount of duty of excise due from him on such goods manufactured or produced or services as are provided or rendered by him, during that month. Such services as are provided or rendered by him, during that month.

- <sup>1</sup>(2) The Federal Government may, by notification in the official Gazette, declare that any of the provisions of the Sales Tax Act, 1990, relating to the levy of and exemption from sales tax, registration, book keeping and invoicing requirements, returns, offences and penalties, appeals and recovery of arrears shall, with such modifications and alterations as it may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duty leviable under this Act.”;

**Explanation.**— For the purposes of this section, the expressions “input tax”, “output tax” and “tax period” shall have the same meanings as are assigned to them in the Sales Tax Act, 1990

<sup>2</sup>[\*\*\*\*].

- <sup>3</sup>**8. Default surcharge.**—If a person does not pay the duty due or any part thereof within the prescribed time or receives a refund of duty or drawback or makes an adjustment which is not admissible to him, he shall, in addition to the duty due, pay default surcharge at the rate of <sup>4</sup>“KIBOR plus three per cent” of the duty due, refund of duty or drawback.

**Explanation.**—For the purpose of this section,—

(a) the period of default shall be reckoned from the date following the due date on which the duty was payable to the preceding day on which the duty is actually paid; and

(b) in case of inadmissible adjustment or refund of duty or drawback, the period of default shall be reckoned from the date of such adjustment or as the case may be, refund of duty or drawback is received.”;

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<sup>1</sup> Inserted vide Finance Act, 2008.

<sup>2</sup> Omitted vide Finance Act, 2007.

<sup>3</sup> Inserted vide Finance Act, 2008.

<sup>4</sup> Inserted vide Finance Act, 2009.

**9. Liability for payment of duty in the case of private companies or business enterprises or in case of sale of business ownership.**—

(1) Notwithstanding anything contained in any other law for the time being in force, where any private company or business enterprise is closed or discontinued or otherwise ceases to exist and any amount of duty chargeable on the company or business enterprise, whether before, or in the course of, or after its liquidation cannot be recovered from the company or business enterprise, every person who was a owner of, or partner in, or director of, the company or business enterprise shall, jointly and severally with such persons, be liable for the payment of such duty.

(2) In the case of sale or transfer of ownership of a business or part thereof involving any charge of duty to another person as an ongoing concern, the chargeable duty shall be paid by the person to whom such sale is made or ownership is transferred provided that if any amount of duty payable by such person remains unpaid, such unpaid amount of duty shall be the first charge on the assets of the business and shall be payable by the transferee of business:

Provided that no business enterprise or a part thereof shall be sold or transferred unless the outstanding duty is paid and a no objection certificate in this behalf from the Collector concerned is obtained.

(3) In case of termination of a business or part thereof involving any outstanding charge of duty, a person terminating such business or part thereof shall be required to account for and pay the outstanding charge of duty as if no such termination has taken place.

**10. Applicable value and rate of duty.**— The value and the rate of duty applicable to any goods or services shall be the value, retail price, tariff value and the rate of duty in force,—

- (a) in the case of goods, on the date on which the goods are <sup>1</sup>[supplies] for export or for home consumption;
- (b) in the case of services, on the date on which the services are provided or rendered; and
- (c) in the case of goods produced or manufactured outside the areas to which this Act has been applied and brought to such areas for sale or consumption therein, the date on which the goods are brought to those areas

**11. Collection of excess duty etc.**— Every person who for any reason whatever has collected or collects any duty, which is not payable as duty or which is in excess of the duty actually payable and the incidence of which has been passed on to the consumer, shall pay the amount so collected to the Federal Government and all the provisions of this Act or rules made there under shall apply for the recovery of such amount and claim for refund of any such amount paid or recovered shall not be admissible on any ground whatever.

**12. Determination of value for the purposes of duty.**—  
<sup>1</sup>(1) Where any goods are liable to duty under this Act at a rate dependent on their value, duty shall be assessed and paid on the basis of value as determined in accordance with sub-section (46) of section 2 of the Sales Tax Act, 1990, excluding the amount of duty payable thereon.”

(2) Where any services are liable to duty under this Act at a rate dependent on the charges therefore, the duty shall be paid on total amount of charges for the services including the ancillary facilities or utilities, if any, irrespective whether such services have been rendered or provided on payment of charge or free of charge or on any confessional basis.

(3) Where any goods are chargeable to duty at the import stage, duty will be assessed and paid on the value determined in accordance with section 25 of the Customs Act, 1969 (IV of 1969), including customs duties payable thereon.

(4) Where any good is chargeable to a duty on the basis of retail price, duty thereon shall be paid on the retail price fixed by the manufacturer, inclusive of all duties, charges and taxes, other than sales tax levied and collected under section 3 of the Sales Tax Act, 1990, at which any particular brand or variety of such goods should be sold to the general body of consumers or, if more than one such price is so fixed for the same brand or variety, the highest of such price and such retail price shall, unless otherwise directed by the Board, be legibly, prominently and indelibly indicated on each good, packet, container, package, cover or label of such goods:

Provided that where so and as specified by the Board, any goods or class of goods liable to duty on local production as percentage of retail price, the provisions of this sub-section shall mutatis mutandis apply in case such goods are imported from abroad.

(5) The Board may fix the minimum price of any goods or class of goods, for the purpose of levying and collecting of duty and duty on such goods shall be paid accordingly <sup>2</sup> [:]

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<sup>1</sup> Substituted vide Finance Act, 2008

<sup>2</sup> Full stop substituted vides Finance Act, 2006.

<sup>1</sup> [Provided that, where the price at which the goods or class of goods are sold, is higher than the price fixed by the Board, the duty shall, unless otherwise directed by the Board, be levied and collected at such higher price.]

**13. Registration.—** (1) Any person engaged in the production or manufacture of goods or providing or rendering services liable to duty of excise under this Act shall, unless otherwise specified, be required to obtain registration in the prescribed manner regardless of his annual turnover or volume of sales of such goods or services.

(2) Where a person who is already registered under the Sales Tax Act, 1990, shall not be required to take separate registration for excise purpose and his sales tax registration shall be deemed to be a registration for the purpose of this Act:

Provided that provisions of the Sales Tax Act, 1990, including those relating to exemption threshold shall not apply where a person obtains or is liable to obtain registration for the purposes of this Act but does not have or is not liable to registration under the Sales Tax Act, 1990.

**14. Recovery of unpaid duty or of erroneously refunded duty or arrears of duty, etc.—**(1) Where any person has not levied or paid any duty or has short levied or short paid such duty or where any amount of duty has been refunded erroneously, such person shall be served with notice requiring him to show cause for payment of such duty provided that such notice shall be issued within three years from the relevant date.

(2) The <sup>2</sup>Officer of Inland Revenue, empowered in this behalf, shall after considering the objections of the person served with a notice to show cause under sub-section (1), determine the amount of duty payable by him and such person shall pay the amount so determined along with default surcharge and penalty as specified by such officer under the provisions of this Act.

(3) Where any amount of duty levied and penalty imposed or any other amount payable under this Act is due from any person, such amount or sum shall be recovered in such manner as is prescribed under this Act or rules made there under.

(4) Notwithstanding anything contained under any other law for the time being in force, where any business or activity involving liability to charge, levy and pay duty under this Act is sold, discontinued or liquidated, the amount of unpaid or recoverable duty shall be the first charge on the assets of the business.

**Explanation.—**For the purpose of this section, <sup>3</sup>[refund

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<sup>1</sup> Added vide Finance Act, 2006.

<sup>2</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>3</sup> Added vide Finance Act, 2008.



includes drawback of duty and] the expression “relevant date” means the date on which the payment of duty was due under subsection (3) and in case where any amount of duty has been erroneously refunded, the date of its refund.

<sup>1</sup>[(14A) **Short paid amounts recoverable.**—Notwithstanding the provisions of this Act or the rules made there under, here a registered person pays the amount of duty less than the duty due as indicated in his return, the short paid amount of duty along with default surcharge shall be recovered from such person by stopping removal of any goods from his business premises and through attachment of his business bank accounts without prejudice to any other action under this Act or the rules made there under:

Provided that no penalty under this Act or rules made there under shall be imposed unless a show cause notice is given to such person.]

**15. Application of the Customs Act, 1969 (IV of 1969) to Federal excise duties.**—The Federal Government may, by notification in the official Gazette, declare that any or all of the provisions of the Customs Act, 1969 (IV of 1969), shall, with such modifications and alterations it may specify, consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duties levied by sections 3 and 8.

**16. Exemptions.**— (1) All goods imported, produced or manufactured in Pakistan and services provided or rendered except such goods and services as are specified in the First Schedule shall be exempt from whole of excise duties <sup>2</sup>[levied under section 3]:

Provided that goods and services specified in the Third Schedule shall be exempt from duty subject to such conditions and restrictions, if any, specified therein and no adjustment in terms of section 6 shall be admissible in respect of goods exempt from duty of excise whether conditionally or otherwise.

(2) The Federal Government may by notification in the official Gazette, exempt subject to such conditions as may be specified therein, any goods or class of goods or any services or class of services from the whole or any part of the duty leviable under this Act.

(3) The Board may, by special order, exempt from the payment of the whole or any part of the duty leviable under this Act, under circumstances of exceptional nature, any goods or services on which such duty is leviable.

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<sup>1</sup> Inserted vide Finance Act, 2007.

<sup>2</sup> Added vide Finance Act, 2007.

(4) Notwithstanding the provisions of sub-sections (2) and (3), the Federal Government or the Board may, by a notification in the official Gazette, for reasons to be recorded, exempt any person or class of persons from payment of the whole or part of the default surcharge imposed under section 8 <sup>1</sup>[and penalties] subject to the such conditions or limitations as may be specified in such notification.

**17. Records.**—(1) Every person registered for the purposes of this Act shall maintain and keep for a period of <sup>2</sup>[six] years <sup>3</sup>“or till the final decision in any proceedings for assessment, appeal, revision, reference, petition and any proceedings before an Alternative Dispute Resolution Committee,” at his business premises or registered office in English or Urdu language the following records of excisable goods purchased, manufactured and cleared (including those cleared without payment of excise duty) by him or by his agent acting on his behalf in such form and manner as would permit ready ascertainment of his liability of duty, namely:—

- (a) records of clearances and sales made indicating the description, quantity and value of goods, name and address of the person to whom sales were made and the amount of the duty charged;
- (b) records of goods purchased showing the description, quantity and value of goods, name, address and registration number of the supplier and the amount of the duty, if any, on purchases;
- (c) records of goods cleared and sold without payment of duty;
- (d) records of invoices, bills, accounts, agreements, contracts, orders and other allied business matters;
- (e) records of production, stocks and inventory;
- (f) records of imports and exports; and
- (g) such other records as may be specified by the Board.

(2) For any person or class of persons registered under this Act, or for any goods or class of goods the Board may specify or prescribe,—

- (a) to keep any other records for the purposes of this Act;
- (b) to use such electronic fiscal cash registers as may be approved by the Board; and

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<sup>1</sup> Inserted vide Finance Act, 2007.

<sup>2</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>3</sup> Added vide Finance (Amendment) Ordinance, 2009

- (c) the procedure or software for electronic maintenance of records and filing of statements, documents or information by any person or class of persons.

(3) Provisions of sub-sections (1) and (2) shall apply mutatis mutandis on services provided or rendered by a person registered under this Act.

**18. Invoices.**—(1) A person registered under this Act shall issue for each transaction a serially numbered invoice at the time of clearance or sale of goods, including goods chargeable to duty at the rate of zero per cent, or providing or rendering services containing the following particulars, namely:—

- I. name, address and registration number of the seller;
- II. name, address and registration number of the buyer;
- III. date of issue of the invoice;
- IV. description and quantity of goods or as the case may be, description of services;
- V. value exclusive of excise duty;
- VI. amount of excise duty; and
- VII. value inclusive of excise duty.

(2) Notwithstanding sub-section (1), where a registered person is also engaged in making supplies taxable under the Sales Tax Act, 1990, such person shall not be required to issue a separate invoice for excise purposes and the amount of excise duty and other related information may in such cases be mentioned on the invoice issued for sales tax purposes.

(3) The Board may, by notification in the official Gazette, specify such modified invoices for different persons or classes of persons as it may deem necessary.

(4) The Board may, by notification in the official Gazette, specify goods in respect of which a copy of the invoice shall be carried or accompanied with the conveyance during their transportation or movement in such manner and subject to such conditions as may be specified in this behalf either in such notification or otherwise.

<sup>1</sup>[(5) The Board may, by notification in the official Gazette, specify the goods or services in respect of which sales invoice shall be issued electronically and prescribe the manner and procedure therein.]

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<sup>1</sup> Added vide Finance Act, 2006

### CHAPTER III

#### OFFENCES AND PENALTIES

**19. Offences, penalties, fines and allied matters.—(1)**

Any person who fails to file or files an incorrect return within the period specified in sub-section (1) of section 4 or fails to make payment or makes short payment of duty on any account, shall pay a penalty of <sup>1</sup>[five thousand rupees in case of non-filing of return and ten thousand rupees or five per cent of the duty involved whichever is higher in case of short payment of duty due] in addition to the amount due from him and without prejudice to other liabilities which may be determined against him or action which may be taken against him under this Act and rules made there under ;

<sup>2</sup>[Provided that where a person files the return within fifteen days after the due date he shall pay a penalty of one hundred rupees for each day of default"; and]

(2) Any person who,—

- (a) makes, orally or in writing, or signs any declaration, certificate or other document required by this Act or rules made there under or by any <sup>3</sup>officer of Inland Revenue to do so, which is untrue or incorrect in any particular or which is incomplete by omitting any material particular there from;
- (b) counterfeits or falsifies, or uses, when counterfeited or falsified, any document which is or may be required under this Act or rules made there under or any document used in the transaction of any business or matter relevant to this Act or rules made there under; and
- (c) fails or refuses to give or produce to the <sup>4</sup>officer of Inland Revenue any information or document required to be given or produced under this Act or rules made there under;

shall be guilty of an offence and for every such offence shall be liable to fine which may extend to twenty thousand rupees and in case of offence under clause (b), the fine may extend to one hundred thousand rupees and he shall be punishable with imprisonment for a term which may extend to five years or with both.

(3) Any person who,—

<sup>1</sup> Substituted vide Finance Act, 2008.

<sup>2</sup> Added vide Finance Act, 2008.

<sup>3</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>4</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

- (a) illegally removes, stores, keeps, or withdraws or in any way assists or is concerned in the illegal removal or withdrawal of any goods in the manner other than the manner prescribed under this Act or rules made there under;
- (b) is in any way concerned in conveying, removing, depositing or dealing with any goods with intent to defraud the Government of any duty of excise due thereon, or to violate any of the provisions of this Act or rules made there under;
- (c) is in any way concerned in any fraudulent evasion or attempt at fraudulent evasion of any duty of excise;
- (d) claims, takes or avails adjustment of duty not admissible under this Act or the rules made there under; and
- (e) is in any way concerned in the manufacture of any dutiable goods in contravention of the provisions of this Act or rules made there under;

shall be guilty of an offence and for each such offence, shall be liable to fine which may extend to fifty thousand rupees or five times of the duty involved, whichever is higher and to punishment with imprisonment which may extend to five years or both.

(4) Any person who, without the approval of the <sup>1</sup>Commissioner, directly or otherwise destroys, damages, erases or otherwise manipulates data stored in or used in connection with a computer or otherwise uses a computer, the purpose or effect of which is to reduce, avoid or evade any liability to duty of excise which would otherwise have been imposed by this Act, or to defeat any provisions of this Act or rules made there under shall be guilty of an offence and shall be liable to fine which may extend to seventy five thousand rupees or ten times of the duty involved, whichever is higher and to punishment with imprisonment which may extend to five years or both.

(5) If any person obtains, attempts to obtain or abets in obtaining, or does anything whereby there might be obtained by another person, any amount by way of refund or drawback of any duty in respect of any goods [or services] not lawfully payable or allowable in respect thereof or which is greater than the amount so payable or allowable, he shall be guilty of an offence and shall be liable to fine which may extend to one hundred thousand rupees or five times of duty involved, whichever is higher and to punishment with imprisonment which may extend to five years or both.

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<sup>1</sup> Substituted vide Finance (Amendment) Ordinance, 2009

(6) Any person who obstructs any <sup>1</sup>Officer of Inland Revenue or other public servant or any person acting in his aid or assistance, or duly employed for the prevention of offences under this Act or rules made there under in the execution of his duty or in the due seizing of any goods liable to seizure under this Act or rules made there under, shall be guilty of an offence and for each such offence, shall be liable to fine which may extend to fifty thousand rupees or five times of duty involved, whichever is higher and to punishment which may extend to three years or both.

(7) Where an offence under this Act or rules made there under has been committed by a company, firm, or other body of persons, any person who at the time of the commission of the offence was a director, manager, or other similar officer or a partner of the company, firm, or other body of persons or was purporting to act in that capacity shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

(8) Unless otherwise legally proved, where any person is liable under this Act to any penalty or punishment for any act, omission, neglect or default, he shall be liable to the same punishment, penalty or forfeiture for every such act, omission, neglect or default of any agent or employee.

(9) Where any goods are chargeable to duty on the basis of retail price under this Act and the retail price is not indicated on the goods <sup>2</sup>“and in case of cigarettes, retail price, health warning and name of the manufacturer is not mentioned” in the manner specified therein or in the rules made there under, the duty shall be charged at the rate of 500 per cent *ad valorem* in case of cigarettes, and 40 per cent *ad valorem* in case of goods other than cigarettes:

Provided that in cases where a registered person does not intend to print retail price for any genuine reasons, he may voluntarily pay duty on the said higher rates as applicable to him and declare his duty payments in the return accordingly and other provisions of this section shall not apply in such cases.

(10) Where any person is engaged in the manufacture or production of cigarettes in the manner contrary to this Act or rules made there under or otherwise evades duty of excise on cigarettes or is engaged in the manufacture or production of counterfeited cigarettes, the machinery, equipments, instruments or devices used in such manufacture or production shall, after outright confiscation, be destroyed in such manner as may be approved by the

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<sup>1</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>2</sup> Added vide Finance Act, 2009.

<sup>1</sup>Commissioner and no person shall be entitled to any claim on any ground whatsoever, or be otherwise entitled to any compensation in respect of such machinery or equipments, instruments or devices and such confiscation or destruction shall be without prejudice to any other penal action which may be taken under the law against the person or in respect of the cigarettes or vehicles involved in or otherwise linked or connected with the case.

(11) Any goods in respect of which any of the provisions of this Act or rules made or notifications issued there under has been contravened shall be liable to confiscation along with the conveyance, if any, in which such goods are laden or have been or being carried and all confiscations in this regard shall vest with the Federal Government.

(12) Any person who attempts to commit any offence punishable under this Act, or abets the commission of the offence, shall be liable to the punishment provided for the offence.

**20. Appointment of Special Judges for trial of offences.**— (1) The Federal Government may, by notification in the official Gazette, appoint as many Special Judges as it may consider necessary, and, where it appoints more than one Special Judge, shall specify in the notification the territorial limits within which each one of them shall exercise jurisdiction.

(2) A Special Judge shall be a person who is or has been or is qualified to be a Sessions Judge.

**21. Trial of offences by Special Judge.** — (1) On the appointment of a Special Judge for any area, an offence punishable under this Act shall be tried exclusively by the Special Judge and all cases pending in any other court in such area immediately before such appointment shall stand transferred to such Special Judge.

(2) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), except those of Chapter XXXVIII of that Code, shall apply to the proceedings of the court of a Special Judge and, for the purposes of the said provisions, the court of a Special Judge shall be deemed to be a Court of Session trying cases, and a person conducting prosecution before the court of a Special Judge shall be deemed to be a Public Prosecutor.

(3) For the purposes of sub-section (2), the Code of Criminal Procedure, 1898 (Act V of 1898), shall have effect as if an offence punishable under this Act were one of the offences referred to in sub-section (1) of section 337 of the Code.

(4) A Special Judge shall take cognizance of, and have jurisdiction to try an offence tribal under sub-section (1) only upon a complaint in writing made by such <sup>2</sup>Officer of Inland Revenue as

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<sup>1</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>2</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

may be authorized by the Board in this behalf, by a general or special order in writing.

(5) The provisions of Chapter XX of the Code of Criminal Procedure, 1898 (Act V of 1898), shall apply to trial of cases under this Act in so far as they are not inconsistent with the provisions of this Act.

(6) The Federal Government may, by order in writing, direct the transfer, at any stage of the trial, of any case from the court of one Special Judge to the court of another Special Judge for disposal, whenever it appears to the Federal Government that such transfer will promote the ends of justice or tend to the general convenience of parties or witnesses.

(7) In respect of a case transferred to a Special Judge by virtue of sub-section (1) or under sub-section (6), such Judge shall not, by reason of the said transfer, be bound to recall and rehear any witness who has given evidence in the case before the transfer and may act on the evidence already recorded by or produced before the court which tried the case before the transfer.

**22. Power to arrest and prosecute.** – (1) Any Federal Excise Officer authorized by the Board in this behalf who has reason to believe that any person has committed an offence under this Act may arrest such person after obtaining permission in writing from the <sup>1</sup>Commissioner concerned:

Provided that the <sup>2</sup>Officer of Inland Revenue shall immediately intimate the fact of the arrest of a person to the Special Judge who may direct such Officer to produce that person at such time and place and on such date as the Special Judge considers expedient and such Officer shall act accordingly.

(2) Notwithstanding anything contained in proviso to sub-section (1), any person arrested under this Act shall be produced before the Special Judge or, if there is no Special Judge within a reasonable distance, to the nearest Judicial Magistrate, within twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the Court of the Special Judge or, as the case may be, of such Magistrate.

(3) When any person is produced under sub-section (2) before the Special Judge, he may, on the request of such person, after perusing the record, if any, and after giving the prosecution an opportunity of being heard, admit him to bail on his executing a bond, with or without sureties, or refuse to admit him to bail and direct his detention at such place as he deems fit:

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<sup>1</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>2</sup> Substituted vide Finance (Amendment) Ordinance, 2009.



Provided that nothing herein contained shall preclude the Special Judge from canceling the bail of any such person at a subsequent stage if, for any reason, he considers such cancellation necessary, but before passing such order he shall afford such person an opportunity of being heard, unless for reasons to be recorded he considers that the affording of such opportunity shall defeat the purposes of this Act.

(4) When such person is produced under sub-section (2) before a Judicial Magistrate, such Magistrate may, after authorizing his detention in such custody, at such place and for such period as he considers necessary or proper for facilitating his earliest production before the Special Judge, direct his production before the Special Judge on a date and time to be fixed by him or direct such person to be forthwith taken to, and produced before, the Special Judge and he shall be so taken.

(5) Nothing in sub-section (3) or sub-section (4) shall preclude the Special Judge or the Magistrate from remanding any such person to the custody of the <sup>1</sup>Officer of Inland Revenue holding inquiry against that person if such Officer makes a request in writing, to that effect and the Special Judge or the Judicial Magistrate, after perusing the record, if any, and hearing such person, is of the opinion that for the completion of inquiry or investigation it is necessary to make such an order, provided that in no case the period of such custody shall exceed fourteen days.

(6) When any person is arrested under this Act, the <sup>2</sup>Officer of Inland Revenue shall record the fact of arrest and other relevant particulars in the register mentioned in sub-section (10) and shall immediately proceed to inquire into the charge against such person and if he completes the inquiry within twenty-four hours of his arrest, excluding the time necessary for journey as aforesaid, he may, after producing such person before the Special Judge or the nearest Judicial Magistrate make a request for his further detention in his custody.

(7) While holding an inquiry under sub-section (6), the <sup>3</sup>Officer of Inland Revenue shall exercise the same powers as are exercisable by an officer in charge of a police-station under the Code of Criminal Procedure, 1898 (Act V of 1898), but such Officer shall exercise such powers subject to the foregoing provisions of this section while holding an inquiry under this Act.

(8) If a <sup>4</sup>Officer of Inland Revenue, after holding an inquiry, is of the opinion that there is no sufficient evidence or reasonable grounds to proceed against a person he shall make a

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<sup>1</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>2</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>3</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>4</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

report to this effect to the <sup>1</sup>Commissioner and with his approval may release him on his executing a bond with or without sureties and shall direct such person to appear, as and when required, before the Special Judge and may make a report to the Special Judge for the discharge of such person and shall make a full report of the case of his immediate superior.

(9) The Special Judge to whom a report has been made under subsection (8) may, after the perusal of record of the inquiry and hearing the prosecution, agree with such report and discharge the accused or, if he is of the opinion that there is sufficient ground for proceeding against such person, proceed with his trial and direct the prosecution to produce evidence.

(10) The <sup>2</sup>Officer of Inland Revenue empowered to hold inquiry under this section shall maintain a register to be called "Register of Arrests and Detention" in the prescribed form in which he shall enter the name and other particulars of every person arrested under this Act, together with the time and date of arrest, the details of the information received, the details of things, goods or documents, recovered from his custody, the name of the witnesses and the explanation, if any, given by him and the manner in which the inquiry has been conducted from day to day, and such register or authenticated copies of its aforesaid entries shall be produced before the Special Judge whenever such Officer is so directed by him.

(11) After completing the inquiry, the <sup>3</sup>Officer of Inland Revenue shall, as early as possible, submit to the Special Judge a complaint in the same form and manner, in which the officer in charge of a police-station submits a report before a court.

(12) Any Magistrate of the first class may record any statement or confession during inquiry under this Act, in accordance with the provisions of section 164 of the Code of Criminal Procedure, 1898 (Act V of 1898).

(13) Without prejudice to the foregoing provisions of this section, the Federal Government may, by notification in the official Gazette, authorize any other officer working under the Board to exercise the powers and perform the functions of a <sup>4</sup>Officer of Inland Revenue under this section, subject to such conditions, if any, that it may deem fit to impose.

(14) Notwithstanding any provision of this Act, where any person has committed an offence liable to penalty or punishment under this Act, the <sup>5</sup>Commissioner may, either before or after the initiation of any proceedings for the recovery of duty or prosecution of such person, compound the offence if he pays the amount of

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<sup>1</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>2</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>3</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>4</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>5</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

duty along with such default surcharge and penalty as is determined under the provisions of this Act.

**23. Power to summon persons to give evidence and produce documents in inquiries.**— (1) Any <sup>1</sup>Officer of Inland Revenue duly empowered by the Board in this behalf shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing or information in any inquiry which such officer is making for any of the purposes of this Act.

(2) All persons so summoned shall be bound to attend, either in person or by an authorized agent, as such Officer may direct, and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and to produce such documents and other things as may be required:

Provided that the exemptions under sections 132 and 133 of the Code of Civil Procedure (V of 1908) shall be applicable to requisitions for attendance under this section.

(3) Every such inquiry as aforesaid shall be deemed to be a "judicial proceeding" within the meaning of section 193 and section 228 of the Pakistan Penal Code (XLV of 1860).

**24. Officers required to assist <sup>2</sup>Officers of Inland Revenue.**— All officers of Police and Customs, sales tax, the civil armed forces and all officers of Government engaged in the collection of land-revenue, and all village officers shall assist the <sup>3</sup>Officers of Inland Revenue in the execution of this Act as and when required by such Officers.

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<sup>1</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>2</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>3</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

**CHAPTER IV  
SEARCHES, ARRESTS AND SEIZURES**

**25. Searches and arrests how to be made.**— All searches or arrests made under this Act or any rules made there under and all arrests made under this Act shall be carried out in accordance with the relevant provisions of the Code of Criminal Procedure, 1898 (V of 1898).

**26. Power to seize.** — (1) The counterfeited cigarettes or cigarettes which have been manufactured unlawfully or on which duty has not been paid as required under this Act and rules made there under, shall be liable to seizure besides the conveyance which has been used for the movement, carriage or transportation of such cigarettes.

(2) For the purpose of this section, 'conveyance' shall include all of its fixtures, fittings and accessories etc.

**27. Confiscation of cigarettes.** — (1) The cigarettes seized for the reasons of counterfeiting shall be liable to outright confiscation and shall be destroyed in the manner prescribed in sub-section (10) of section 19.

(2) In case of cigarettes seized on account of evasion of duty, the owner shall be given an option to pay penalties and fines as provided under section 19 and meet other obligations as provided under other relevant provisions of the Act and rules made there under, for release of such cigarettes in lieu of confiscation provided that if such release is not claimed or availed, no reduction or abatement in respect of amounts of duty, penalties and fine shall be admissible in case such cigarettes are auctioned.

(3) In case confiscated cigarettes are rendered unfit for human consumption or become otherwise unfit for sale, the <sup>1</sup>Commissioner may allow destruction of such cigarettes in such manner as he may deem appropriate.

**28. Power to release seized conveyance.** — (1) Where any conveyance is seized which is liable to confiscation, the adjudicating authority may, subject to such conditions as may be prescribed, order its release pending adjudication of the case and on furnishing a guarantee by the owner of the seized conveyance, from a scheduled bank valid for at least one year equal to the value of such conveyance.

(2) In respect of cases pending before the Special Judge, release of conveyance under sub-section (1) shall not be allowed without prior permission of the Special Judge.

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<sup>1</sup> Substituted vide Finance (Amendment) Ordinance, 2009

## CHAPTER V

### POWERS, ADJUDICATION AND APPEALS

**29. Appointment of Inland Revenue officers and delegation of powers.**—<sup>1</sup>(1) For the purposes of this Act and rules made there under, the Board may, by notification in the official Gazette, appoint, in relation to any area or jurisdiction specified in the notification, any person to be –

- (a) Chief Commissioner Inland Revenue;
- (b) Commissioner Inland Revenue;
- (c) Commissioner Inland Revenue (Appeals);
- (d) Additional Commissioner Inland Revenue;
- (e) Deputy Commissioner Inland Revenue;
- (f) Assistant Commissioner Inland Revenue; and
- (h) Officer of Inland Revenue with any other designation.

<sup>2</sup>(1A) the Chief Commissioner Inland Revenue and Commissioner Inland Revenue (Appeals) shall be sub ordinate to the Board and Commissioner Inland Revenue shall be sub-ordinate to Chief Commissioner Inland Revenue.

<sup>3</sup>(1B) the Additional Commissioner Inland Revenue, Deputy Commissioner Inland Revenue, Assistant Commissioner Inland Revenue and officers of any other designation of Inland Revenue shall be sub-ordinate to Commissioner Inland Revenue.

(2) Notwithstanding the other designations of the officers of Inland Revenue used in this Act or the rules made there under:

the Directorate General (Intelligence & Investigation) <sup>4</sup>[FBR] shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors and Assistant Directors and other officers with any other designation as the Board may appoint by notification in the official Gazette;

the Directorate General <sup>5</sup>[\*\*\*\*] Internal Audit shall consist of a Director General and as many Directors, Additional Directors, Deputy Directors and Assistant Directors and other officers with any other designation as the Board may appoint by notification in the official Gazette; and

- (a) the Directorate General of Training & Research shall consist of a Director General and as

<sup>1</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>2</sup> Inserted vide Finance (Amendment) Ordinance, 2009

<sup>3</sup> Inserted vide Finance (Amendment) Ordinance, 2009

<sup>4</sup> Substituted vide Finance Act, 2007.

<sup>5</sup> Omitted vide Finance Act, 2007.

many Directors, Additional Directors, Deputy Directors and Assistant Directors and other officers with any other designation as the Board may appoint by notification in the official Gazette.

(3) The Board may, by notification in the official Gazette and subject to such limitations or conditions as may be specified therein, empower by name or designation,—

- (a) any <sup>1</sup>Additional Commissioner Inland Revenue or Deputy Commissioner Inland Revenue to exercise any of the powers of a Commissioner Inland Revenue;
- (b) any <sup>2</sup>Deputy Commissioner Inland Revenue or Assistant Commissioner Inland Revenue to exercise any of the powers of an Additional Commissioner Inland Revenue;
- (c) any Assistant <sup>3</sup>Commissioner Inland Revenue to exercise any of the powers of a <sup>4</sup>Deputy Commissioner Inland Revenue; and
- (d) any other <sup>5</sup>officer of Inland Revenue to exercise any of the powers of a <sup>6</sup>Commissioner, Additional Commissioner, Deputy Commissioner or Assistant Commissioner Inland Revenue;

under this Act and the rules made there under.

(4) Unless the Board in any case otherwise directs, the <sup>7</sup>Commissioner Inland Revenue may, with the prior approval of the Board, authorize any officer subordinate to him to exercise within any specified area, any of the powers of the Collector or of any other <sup>8</sup>officer of Inland Revenue under this Act.

(5) The officer to whom any powers of any senior officer are delegated under this section shall not further delegate such powers.

**30. Use of powers of subordinate officer.—** (1) An officer appointed under this Act shall exercise such powers and discharge such duties as are conferred or imposed on him under this Act and he shall also be competent to exercise all powers and discharge all duties or functions

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<sup>1</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>2</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>3</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>4</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>5</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>6</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>7</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>8</sup> Substituted vide Finance (Amendment) Ordinance, 2009

conferred or imposed upon any officer subordinate to him.

(2) Notwithstanding anything contained in this Act or the rules made there under, the Board may, by general or special order, impose such limitations or conditions on the exercise of such powers and discharge of such duties by any <sup>1</sup>officer of Inland Revenue as it deems fit.

### 31.<sup>2</sup>[\*\*\*\*] Omitted

### 32. Option to pay fine in lieu of confiscation of conveyance.—

Wherever confiscation is adjudged under this Act or the rules made there under, the officer adjudging it may give the owner of the conveyance an option to pay in lieu of confiscation such fine as the officer thinks fit.

**33. Appeals to <sup>3</sup>Commissioner (Appeals).—** <sup>4</sup>[(1)] Any person other than <sup>5</sup> officer of Inland Revenue aggrieved by any decision or order passed under this Act or the rules made there under by <sup>6</sup>Officer of Inland Revenue up to the rank of Additional Commissioner Inland Revenue, other than a decision or order or notice given or action taken for recovery of the arrears of duty under this Act or rules made there under may within thirty days of receipt of such decision or order prefer appeal there from to the <sup>7</sup>Commissioner (Appeals).

<sup>8</sup>[(2) The <sup>9</sup>Commissioner (Appeals) may, after giving both parties to the appeal an opportunity of being heard, pass such order as he thinks fit, confirming, varying, altering, setting aside or annulling the decision or order appealed against <sup>10</sup>[:]

<sup>11</sup>“Provided that such order shall be passed not later than [one hundred and twenty] days from the date of filing of appeal or within such extended period, not exceeding<sup>12</sup>”sixty” days, as the Collector (Appeals) may, for reasons to be recorded in writing, extend.”: <sup>13</sup>“Provided further that any period during which the proceeding are adjourned on account of stay order or Alternative Dispute Resolution proceedings or the time taken through adjournment by the petitioner not exceeding thirty days shall be excluded for the computation of these period.”

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<sup>1</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>2</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>3</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>4</sup> Numbered vide Finance Act, 2008.

<sup>5</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>6</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>7</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>8</sup> Added vide Finance Act, 2006.

<sup>9</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>10</sup> Full stop substituted vides Finance Act, 2007.

<sup>11</sup> Inserted vide Finance Act, 2007.

<sup>12</sup> Substituted vide Finance Act, 2009.

<sup>13</sup> Added vide Finance Act, 2009.

(3) In deciding an appeal, the <sup>1</sup>Commissioner (Appeals) may make such further inquiry as may be necessary provided that he shall not remand the case for *de novo* consideration.]

**34. Appeals to the Appellate Tribunal and Reference to High Court.—** (1) Any person or officer <sup>2</sup>of Inland Revenue aggrieved by any of the following orders may within sixty days of the receipt of such orders file appeal to the Appellate Tribunal against such orders,—

- (a) an order passed by the <sup>3</sup>Commissioner (Appeals); and
- (b) an order passed by the Board or the <sup>4</sup>Commissioner Inland Revenue under section 35:

Provided that the Appellate Tribunal shall decide the appeal filed under this sub-section within six months of its filing of appeal. Officer of lower rank than the <sup>5</sup>Commissioner, and the reference or appeal is pending before appeal forum or the Court, such reference or appeal shall be deemed to have been filed and shall be taken to have been always so filed by the <sup>6</sup>Commissioner.]

<sup>7</sup>“(2) The Appellate Tribunal may admit, hear and dispose of the appeal in accordance with procedure laid down in section 194A, 194B, 194C of Custom Act, 1969 (IV of 1969) and rules made there under.”

<sup>8</sup>“(2A) The Appellate Tribunal may admit, hear and dispose of the appeal in accordance with procedure laid down in section 131 and 132 of Income Tax Ordinance(XLIX of 2001), and rules made there under.

<sup>9</sup>“(2B) All Appeals and proceedings under this act pending before the Customs, Excise and Sales Tax Appellate Tribunal constituted under section 194 of the Customs Act, 1969 (IV of 1969), shall stand transferred to the Appellate Tribunal constituted under section 130 of Income Tax Ordinance (XLIX of 2001), with effect from the date of promulgation of the Finance (amendment) Ordinance, 2009,”

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<sup>1</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>2</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>3</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>4</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>5</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>6</sup>Substituted vide Finance (Amendment) Ordinance, 2009

<sup>7</sup> substituted vide Finance Act, 2009.

<sup>8</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>9</sup> Substituted vide Finance (Amendment) Ordinance, 2009



**35. Powers of Board or <sup>1</sup>Commissioner to pass certain orders.**— (1) The Board or the <sup>2</sup>Commissioner within his jurisdiction, may *suo moto* call for and examine the records of any proceedings under this Act for the purpose of satisfying itself or, as the case may be, himself as to the legality or propriety of any decision or order passed by a subordinate officer and may pass such order as it or he may think fit.

(2) No order confiscating goods of greater value or enhancing any fine, or imposing or enhancing any penalty, or requiring payment of any duty not levied or short-levied shall be passed under sub-section (1) unless the person affected thereby has been given an opportunity of showing cause against it and of being heard in person or through a counsel or other person duly authorized by him.

(3) No record of any proceedings relating to any decision or order passed by any <sup>3</sup>officer of Inland Revenue shall be called for or examined under subsection (1) after the expiry of two years from the date of such decision or order.

**36. Power to rectify mistakes in orders.**— The Federal Government, the Board or any <sup>4</sup>officer of Inland Revenue may rectify any mistake which is apparent from the record in any order passed by it or him under any of the provisions of this Act or the rules made there under, on its or his own motion or on an application made by a person affected by the order within three years of the passing of such order provided that no such rectification which has

the effect of enhancing any penalty or fine or requiring the payment of a greater amount of duty shall be made unless the person affected by the proposed rectification has been given an opportunity of being heard.

**37. Deposit, pending appeal, of duty demanded or penalty levied.**—

(1) Where in any appeal, the decision or order appealed against relates to any duty demanded or penalty imposed under this Act, the person desirous of appealing against such decision or order shall, pending the appeal, deposit the duty demanded or the penalty imposed provided that the Appellate Tribunal or <sup>5</sup>Commissioner (Appeals) may in any particular case dispense with such deposit subject to such conditions as it may deem fit to impose so as to safeguard the interest of revenue.

(2) The order for such dispensation under sub-section (1)

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<sup>1</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>2</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>3</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>4</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>5</sup> Substituted vide Finance (Amendment) Ordinance, 2009

shall cease to have effect on the expiration of a period of six months following the date on which order for dispensation was passed or until the order of dispensation is withdrawn earlier or the case is finally decided earlier by the Appellate Tribunal or<sup>1</sup> Commissioner (Appeals).

(3) Notwithstanding sub-sections (1) and (2), the Appellate Tribunal or <sup>2</sup>Commissioner (Appeals) may direct that, pending decision on the appeal, the duty demanded or penalty imposed, along with the default surcharge payable under this Act, be paid by the appellant in suitable installments spread over a period not exceeding six months from the date of such direction:

Provided that where a person has, at the time of filing appeal, deposited fifteen *per cent* of the liability covered under the decision or order appealed against, he shall not be required to separately seek stay against recovery and stay in such a case shall commence from the date of payment of such fifteen per cent amount and shall remain valid till the expiry of a period of six months or till the decision of the appeal, whichever is earlier unless the case is decided in his favour and the amount so paid is claimed to have become due for refund.

<sup>3</sup>**[38- Alternative dispute resolution.—** (1) Notwithstanding any other provisions of this Act, or the rules made there under, any registered person aggrieved in connection with any dispute pertaining to,—

- (a) the liability of excise duty against the registered person or, as the case may be, admissibility of refunds;
- (b) the extent of waiver of default surcharge and penalty;
- (c) the confiscation of goods;
- (d) relaxation of any procedural or technical irregularities and condonation of any prescribed time limitation; and
- (e) any other specific relief required to resolve the dispute, may apply to the <sup>4</sup>[Board] for the appointment of a committee for the resolution of any hardship or dispute mentioned in detail in the application

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<sup>1</sup>Substituted vide Finance (Amendment) Ordinance, 2009

<sup>2</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>3</sup> Substituted vide Finance Act, 2007.

<sup>4</sup> Substituted vide Finance Act, 2007.

and if dispute is under litigation in any Court of law or an Appellate authority, except in the cases where first information reports ( F.I.R's ) have been lodged under this Act or criminal proceedings initiated or where interpretation of question of law having larger revenue impact in the opinion of the<sup>1</sup>[Board] is involved, may apply to the<sup>2</sup>[Board] for the appointment of a Committee for the resolution of dispute in appeal and only such application may be entertained for dispute resolution under the provisions of this section.

(2) The Board may, after examination of the application of a registered person, appoint a committee within thirty days of receipt of such application in the Board, consisting of an officer of <sup>3</sup>Inland Revenue, not below the rank of an Additional Commissioner and two persons from the notified panel consisting of retired Judges not below District and Sessions Judge, chartered or cost accountants, advocates, representatives of trade bodies or associations, or any other reputable taxpayers, for the resolution of dispute.

(3) <sup>4</sup>"The committee constituted under sub-section (2) shall examine the issue and may if it deems fit, conduct inquiry, seek expert opinion, direct any officer of <sup>5</sup>Inland Revenue or any other person to conduct an audit and shall make recommendations within ninety days of its constitution in respect of the dispute. If the committee fails to make recommendations within the said period the Board shall dissolve the committee and constitute a new committee which shall decide the matter within a further period of ninety days. If after the expiry of the period the dispute is not resolved the matter shall be taken up by the appropriate forum for decision."

(4) The Board may, on the recommendation of the Committee, pass such order, as it may deem appropriate.

<sup>6</sup>(4A). Notwithstanding anything contained in sub-section (4), the Chairman, FBR, and a member nominated by him, may, on the application of an aggrieved person, for reasons to be recorded in writing and on being satisfied that there is an error in order or decision, pass such order as may be deemed just and equitable.";

<sup>7</sup>[(5) The registered Board may, make payment of duty and other taxes as determined by the Board in its order under sub-section (4), and such order of the Board shall be submitted before the forum, tribunal or the Court where the matter is *sub-judice*, for

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<sup>1</sup> Substituted vide Finance Act, 2007.

<sup>2</sup> Substituted vide Finance Act, 2007.

<sup>3</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>4</sup> Inserted vide Finance Act, 2009.

<sup>5</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>6</sup> Inserted vide Finance Act, 2008.

<sup>7</sup> Substituted vide Finance Act, 2006.

consideration and orders as deemed appropriate.]

(6) The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this section.”

**39. Exclusion of time taken for copy.** – In computing the period of limitation specified for an appeal or application under this Chapter, the day on which the order complained was served, and if the party preferring the appeal or making the application was not furnished with a copy of the order when the notice of the order was served upon him, the time requisite for obtaining a copy of such order shall be excluded.

## **CHAPTER VI SUPPLEMENTAL PROVISIONS**

**40. Power of Board to make rules.**— (1) The Board may make rules to carry into effect the purposes of any or all the provisions of this Act including charging fee for processing of returns, claims and other documents and for preparation of copies thereof.

(2) In making rules under this section, the Board may provide that any person committing a breach of any rule shall, without prejudice to any other action that may be taken against him under this Act, be liable to such penalty as may be prescribed under the rules and that any article in respect of which any such breach is committed shall be confiscated or destroyed.

(3) The Board may, in respect of cigarettes, make rules or issue instructions for the purpose of affixing duty stamps and banderoles and any instructions issued in this behalf shall have the force of rules issued under this Act.

### **41. Bar of suit and limitation of suit and other legal proceedings.**—

(1) No suit shall be brought in any civil court to set aside or modify any order passed, or any assessment, levy or collection of any duty, under this Act.

(2) No suit prosecution or other legal proceeding shall lie against the Federal Government or against any officer of the Government in respect of any order passed in good faith or any act in good faith done or ordered to be done under this Act.

(3) Notwithstanding anything in any other law for the time being in force, no investigation or inquiry shall be undertaken or initiated by any governmental agency against any officer or official for anything done in his official capacity under this Act, rules, instructions or direction made or issued there under without the prior approval of the Board.

**42. Observance of Board's orders, directions and instructions.**— All officers and persons employed in the execution of this Act and the rules made there under shall observe and follow the orders, directions and instructions of the Board provided that no such order, direction or instruction shall be given by the Board so as to interfere with the discretion of an officer in deciding the issues or matters brought before him for adjudication under this Act or rules made there under.

<sup>1</sup>**42A. Reference to the authorities.**— Any reference to the Collector, Additional Collector, Deputy Collector, Superintendent and an officer of Federal Excise, wherever occurring, in this Act and the rules, notifications, general orders made or issued there

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<sup>1</sup> Substituted vide Finance (Amendment) Ordinance, 2009

under, shall be construed as reference to the Commissioner Inland Revenue, Additional Commissioner Inland Revenue, Deputy Commissioner Inland Revenue, Assistant Commissioner Inland Revenue, Superintendent Inland Revenue and an officer of Inland Revenue.”

**43. Removal of difficulties and condonation of time limit etc.—** (1) If any difficulty or situation arises in giving effect to or applying the provisions of this Act or the rules made or notifications issued there under, the Board may, through a general order or otherwise, issue instructions or directions for such actions to be taken by an officer of <sup>1</sup>Inland Revenue or any other person as it considers necessary or expedient for the purpose of removing the difficulty or tackling such situation and every such officer or person shall be bound to comply with such instructions or directions in such manner as may be specified therein.

(2) Where any time or period has been specified under any of the provisions of this Act or rules made there under within which any application is to be made or any act or thing is to be done, the Board may, in any case or class of cases, permit such application to be made or such act or thing to be done within such time or period as it may consider appropriate provided that the Board may subject to such limitations or conditions as may be specified therein, empower any <sup>2</sup>Commissioner or other officer of <sup>3</sup>Inland Revenue to exercise the powers under this subsection in any case or class of cases.

<sup>4</sup>**43A. Issuance of duplicate of <sup>5</sup>Inland Revenue documents.—** An officer of <sup>6</sup>Inland Revenue not below the rank of Assistant <sup>7</sup>Commissioner may, on payment of one hundred rupees, issue an attested duplicate of any <sup>8</sup>Inland Revenue document as is available with the department or has been filed under this Act or rules made there under to a relevant registered person applying for the same.”;

**44. Refund of duty.—**(1) No refund of any amount of duty accrued for any reason under this Act or rules made there under shall be allowed unless claimed within one year of its accrual.

(2) In a case where a registered person did not avail adjustment of duty admissible at the relevant time, the <sup>9</sup>Commissioner may allow such person to avail the adjustment at

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<sup>2</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>3</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>4</sup> Inserted vide Finance Act, 2008.

<sup>5</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>6</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>7</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>8</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>9</sup> Substituted vide Finance (Amendment) Ordinance, 2009

any subsequent time provided that claim for such adjustment is made within a period of one year from the date on which it was admissible.

(3) In a case where claim for refund or adjustment has accrued in consequence of any decision or judgment of any <sup>1</sup>officer of Inland Revenue, the Tribunal or Court, the period of one year, for the purpose of this section, shall be computed from the date of such decision or judgment.

<sup>2</sup>“44A. Delayed refund.\_\_\_\_ Where a refund due under section 44 is not made within the time specified in this behalf, there shall be paid to the claimant, in addition the amount of refund due to him, a further sum equal to KIBOR per annum of the amount of refund due, from the date following the expiry of the time specified as aforesaid, to the day preceding the day of payment of refund:

Provided that where there is a reason to believe that a person has claimed the refund which is not admissible to him, he shall not be entitled to additional amount unless the investigation of his claim is completed.

**45. Access to records and posting of Inland Revenue staff, etc.—** (1)A person who is required to maintain any record or documents under this Act or any other law shall, as and when required by the <sup>3</sup>Officer of Inland Revenue produce record or documents which are in his possession or control or in the possession or control of his agent and where such record or documents have been kept on electronic data, he shall allow access to such officer to have access and use of any machine on which such data is kept and shall facilitate such officer to retrieve whole or part of such data in such manner and to such extent as may be required by him.

(2) Subject to such conditions and restrictions, as deemed fit to specify, the Board may, post <sup>4</sup>Officer of Inland Revenue to the premises of registered person or class of such persons to monitor production, removal or sale of goods and the stock position or the maintenance of records:

Provided that if a <sup>5</sup>Commissioner, on the basis of material evidence, has reason to believe that a registered person is involved in evasion of duty, he may, by recording the reason in writing, post an <sup>6</sup>Officer of Inland Revenue to the premises of such registered person to monitor production, removal or sale of goods and the stocks position or maintenance of records.

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<sup>1</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>2</sup> Inserted vide Finance Act, 2009.

<sup>3</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>4</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>5</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>6</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>1</sup>[(3) The Board may, by notification in the official Gazette, for the purpose to monitor production or manufacture of any goods, specify the manner and procedure for appointment and posting of technical staff and installation, operation, maintenance of close circuit T.V system anywhere in the factory premises.]

**46. Departmental Audit.**—(1) The <sup>2</sup>Officer of Inland Revenue authorized by the Board by designation may, once in a year, after giving advance notice in writing, conduct audit of the records and documents of any person registered under this Act.

(2) In case the <sup>3</sup>Commissioner has information or sufficient evidence showing that such registered person is involved in fraud or evasion of duty, he may authorize a Officer of Inland Revenue, not below the rank of <sup>4</sup> Assistant Commissioner to conduct audit at any time in a year.

“(2A) After completion of the audit under this section or any other provision of law, the <sup>5</sup>Officer of Inland Revenue may, if consider necessary, after obtaining the registered person’s explanation on all the issues raised in the audit shall pass an order under section 14, imposing the correct amount of duty, charging default surcharge imposing penalty and recovery of any amount erroneously refunded.”

(3) Notwithstanding the penalties prescribed in section 19, if a registered person wishes to deposit the amount of duty not paid, short paid or the amount of duty evaded along with default surcharge voluntarily, whenever it comes to his notice, before commencement of audit, no penalty shall be recovered from him:

Provided that if a registered person wishes to deposit the amount of duty not paid, short paid or amount of duty evaded along with default surcharge during or after the audit but before the conclusion of original adjudication proceedings, he may deposit such amount along with twenty five percent of the amount of penalty prescribed under this Act or the rules made there under and in such case, further proceedings in the case shall abate.

(4) The Board may appoint a Chartered Accountant or a Cost and Management Accountant or a firm of such accountants to conduct audit of a person liable to pay duties under this Act in such manner and subject to such conditions it may specify.

(5) The audit of the registered person shall generally be a composite audit covering all duties and taxes to which his business or activity is liable under the laws administered by the Board.

**<sup>6</sup>47. Service of notices and other documents.—**

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<sup>1</sup> Inserted vide Finance Act, 2008.

<sup>2</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>3</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>4</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>5</sup> Substituted vide Finance (Amendment) Ordinance, 2009

<sup>6</sup> Substituted vide Finance (Amendment) Ordinance, 2009



(1) subject to this Act, an notice, order or requisition required to be served on a resident individual other than in a representative capacity for the purposes of this Act shall be treated as properly served on the individual if—

(a) personally served on the individual or, in the case of an individual under a legal disability or a non-resident individual, the representative of the individual;

(b) sent by register post or courier service to the place specified in clause (b) of sub-section(2) or to the individual's usual or last known address in Pakistan; or,

(c) served on the individual in the manner prescribed for service of a summons under the Code of Civil Procedure, 1908(v of 1908),

(2) Subject this Act, an notice, order or requisition required to be served on any person other than a resident individual to whom sub-section (1) applies for the purposes of this Act, shall be treated as properly served on the person if—

(a) personally served on the representative of the person;

(b) sent by register post or courier service to the person's registered office or address for service of notices under this Act, in Pakistan, or where the person does not have such office or address, the notice is sent by registered post to any office or place of business of the person in Pakistan; or

(c) served on the person in the manner prescribed for service of a summons under the Code of Civil Procedure, 1908(v of 1908),

(3) where an association of persons is dissolved, any notice, order of requisition required to be served under this Act, on the association may be served on any person who was the principal officer or a member of the association immediately before such dissolution.

(4) where the business stands discontinued, any notice order or requisition required to be served under this act, on the person discontinuing the business may be served on the person personally or on an individual who was the person's representative at the time of discontinuance.

(5) The validity of any notice issued under this Act, or the validity of any service of a notice under this Act, shall not be called into question after the notice has been compiled with in any manner,"

**48. Repeal.**—(1) Subject to the provisions of sub-section (2), the Central Excises Act, 1944 (I of 1944) shall stand repealed with effect from the date notified under sub-section (3) of section 1.

(2) Unless otherwise directed by the Federal Government,

The Federal Excise Act, 2005

in case of area where the repealed Act was extended through an order by a Governor of the Province or otherwise through an order by any other authority, the application of the repealed Act shall continue to be in force till this Act is made applicable in that area.

The Federal Excise Act, 2005

FIRST SCHEDULE  
[See Section 3]

TABLE 1  
(EXCISABLE GOODS)

S.No.	Description of Goods	Heading/ sub-heading Number	Rate of Duty
Col.(1)	Col.(2)	Col.(3)	Col.(4)
1	Edible oils excluding deoxidized soybean	15.07, 15.08, 15.09, 15.10, 15.11, 15.12, 15.13, 15.14, 15.15, 15.16 1517, and 15.18,	<sup>1</sup> Sixteen percent <u>ad val.</u>
2	Vegetable ghee and cooking oil	Respective heading	<sup>2</sup> Sixteen per cent <u>ad val.</u>
3	Concentrates for aerated beverages in all forms including syrup form	2106.9010	Fifty per cent <u>ad val.</u>
4	Aerated waters	2201.1020	Twelve per cent of retail price
5	Aerated waters, containing added sugar or other sweetening matter or flavored	2202.1010	Twelve per cent of retail price
6	Aerated waters if manufactured wholly from juices or pulp of indigenous vegetables, food grains or fruits and which do not contain any other ingredient, indigenous or imported, other than sugar, coloring materials, preservatives or additives in quantities prescribed under the West Pakistan Pure Food Rules, 1965.	Respective headings	Ten per cent of retail price
7	Un-manufactured tobacco	24.01	Five rupee per kilogram
8	Cigars, cheroots, cigarillos and cigarettes, of tobacco substitutes.	24.02	Sixty Four per cent of retail price

<sup>1</sup> Substituted Finance Act, 2008.

<sup>2</sup> Substituted Finance Act, 2008.

The Federal Excise Act, 2005

S.No.	Description of Goods	Heading/sub-heading Number	Rate of Duty
Col.(1)	Col.(2)	Col.(3)	Col.(4)
<sup>1</sup> 9	Locally produced cigarettes if their retail price exceeds <sup>2</sup> [nineteen rupees and fifty paisa] per ten cigarettes.	24.02	<sup>3</sup> Sixty-Four per cent of the retail price.
10	Locally produced cigarettes if their retail price exceeds <sup>4</sup> [Ten rupees] per ten cigarettes but does not exceed nineteen rupees and fifty paisa per ten cigarettes.	24.02	<sup>5</sup> Four rupees and seventy Five paisas per ten cigarettes plus <sup>5</sup> seventy per cent per incremental rupee or part thereof.
11	Locally produced cigarettes if their retail price does not exceed <sup>6</sup> [Ten rupees] per ten cigarettes	24.02	<sup>4</sup> Four rupees and seventy five paisas per ten cigarettes.
12	Cigarettes manufactured by a manufacturer who remains engaged on and after the 10th June, 1994, either directly or through any other arrangement, in the manufacture of any brand of cigarette in non-tariff areas.	24.02	<sup>7</sup> Sixty Four percent of retail price.
13	Portland cement, aluminous cements, super sulphate cements, whether or not coloured or in the form of clinkers	25.23	<sup>8</sup> Seven hundred rupees per metric ton.
<sup>9</sup> 14	[*****]		
<sup>10</sup> 15	[*****]		
<sup>11</sup> 16	[*****]		
17	Solvent oil (non-composite)	2710.1150	Thirteen rupee per liter.
18	Other	2710.1190	Eighty eight paisa per liter.
<sup>12</sup> 19	[*****]		

<sup>1</sup> Substituted vide Finance Act, 2008.

<sup>2</sup> Amended vide Finance Act, 2009.

<sup>3</sup> Amended vide Finance Act, 2009.

<sup>4</sup> Amended vide Finance Act, 2009.

<sup>5</sup> Amended vide Finance Act, 2009.

<sup>6</sup> Amended vide Finance Act, 2009.

<sup>7</sup> Amended vide Finance Act, 2009.

<sup>8</sup> Amended vide Finance Act, 2009.

<sup>9</sup> Omitted vide Finance Act, 2007.

<sup>10</sup> Omitted vide Finance Act, 2007.

<sup>11</sup> Omitted vide Finance Act, 2007.

<sup>12</sup> Omitted vide Finance Act, 2007.

The Federal Excise Act, 2005

S.No.	Description of Goods	Heading/sub-heading Number	Rate of Duty
Col.(1)	Col.(2)	Col.(3)	Col.(4)
<sup>1</sup> 20	[*****]omitted		
21	Other fuel oils	2710.1949	One hundred and eighty five rupees per Metric Ton.
22	Lubricating oil in packs not exceeding 10 liters,	2710.1951	<sup>2</sup> Ten per cent of the retail price
23	Lubricating oil in packs exceeding 10 liters	2710.1952	<sup>3</sup> Ten per cent of the retail price
24	Lubricating oil in bulk (vessels, bouzers, lorries etc.)	2710.1953	Seven rupees and fifteen paise per liter.
25	<sup>4</sup> [Lubricating oil manufactured from reclaimed oils or sludge or sediment, subject to the condition if sold in retail packing or under brand names the words manufactured from reclaimed oil or sludge or sediment should be clearly printed on the pack]	Respective headings	<sup>5</sup> [Two] rupee per liter.
26	Mineral greases	2710.1992	Twenty five rupees per kilogram.
27	Base lube oil	2710.1993	Seven rupees and fifteen paise per liter.
28	Transformer oil	2710.1997	Ten percent of the retail price or seven rupees and fifteen paise per liter, which ever is higher.

<sup>1</sup> Omitted vide Finance Act, 2007.

<sup>2</sup> Substituted vide Finance Act, 2006.

<sup>3</sup> Substituted vide Finance Act, 2006.

<sup>4</sup> Substituted vide Finance Act, 2007.

<sup>5</sup> Substituted vide Finance Act, 2006.

The Federal Excise Act, 2005

S.No.	Description of Goods	Heading/sub-heading Number	Rate of Duty
Col.(1)	Col.(2)	Col.(3)	Col.(4)
29	Other mineral oil excluding sewing machine oil	2710.1990	Fifteen percent Ad Val.
30	Waste oil	2710.9100 and 2710.9900	Ten per cent of the retail price or seven rupees and fifteen paisa per liter whichever is higher.
31	Liquefied natural gas	2711.1100	Seventeen rupees and eighteen paisa per hundred cubic meters.
32	Liquefied propene	2711.1200	Seventeen rupees and eighteen paisa per hundred cubic meters.
33	Liquefied butanes	2711.1300	Seventeen rupees and eighteen paisa per hundred cubic meters.
34	Liquefied ethylene, propylene, butylenes and butadiene	2711.1400	Seventeen rupees and eighteen paisa per hundred cubic meters.
35	Other Liquefied petroleum Gases and gaseous hydrocarbons	2711.1900	Seventeen rupees and eighteen paisa per hundred cubic meters.
36	Natural Gas in gaseous state	2711.2100	Five rupees and nine paisa per Million British Thermal Units (MMBTu)
37	Other petroleum Gases in gaseous state	2711.2900	Five rupees and nine paisa per Million British Thermal Units (MMBTu)
<sup>1</sup> 38	[*****]		

<sup>1</sup> Omitted vide Finance Act, 2007.

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S.No.	Description of Goods	Heading/sub-heading Number	Rate of Duty
Col.(1)	Col.(2)	Col.(3)	Col.(4)
39	Carbon black oil (carbon black feedstock) Including residue carbon oil	2707.9910, 2713.9010 and 2713.9020	Seven rupees and Fifteen paisa per liter.
40	Methyl tertiary butyl ether (MBTE)	2909.1910	Eighty Eight paisa per liter.
41	Flavors and concentrates for use in aerated beverages	3302.1010	Fifty per cent ad valorem.
42	Perfume and toilet wares:	3303.0000	Ten per cent of the retail price if packed in retail packing and ten per cent <i>Ad valorem</i> if in bulk.
43	Beauty or make-up preparations and preparations for the care of the skin (other than medicaments), including sunscreen or sun tan preparations; manicure or pedicure preparations.	33.04	Ten per cent of the retail price if packed in retail packing and ten per cent <i>Ad valorem</i> if in bulk.
44	Preparations for use on the hair excluding herbal hair oil and kali mehndi	33.05	Ten per cent of the retail price if packed in retail packing and ten per cent <i>Ad valorem</i> if in bulk.
45	Pre-shave, shaving or after-shave preparations, personal deodorants, bath preparations, depilatories and other perfumery, cosmetic or toilet preparations, not elsewhere specified or included; prepared room deodorisers, whether or not perfumed or having disinfectant properties (excluding agarbatti and other odoriferous preparations which operate by burning).	33.07	Ten per cent of the retail price if packed in retail packing and ten per cent <i>Ad valorem</i> if in bulk.
46	Greases	3403.1910	Twenty five rupees per kilogram.

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S.No.	Description of Goods	Heading/sub-heading Number	Rate of Duty
Col.(1)	Col.(2)	Col.(3)	Col.(4)
47	Organic composite solvents and thinners not elsewhere specified or included; prepared paint or varnish removers. (i) Solvent oil (composite)  (ii) Other (excluding thinners)	3814.0000	Thirteen rupee per liter.  Ten per cent of retail price.
48	Viscose-staple fiber	Respective heading	Ten per cent ad valorem.
<sup>1</sup> 49	Motor cars and other ;  motor vehicles principally designed for the transport of persons(other than those of heading 87.02), including station wagons and racing cars of cylinder capacity exceeding 850cc.	87.03	Five per cent ad valorem

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<sup>1</sup> Inserted vide Finance Act, 2008.



**Interpretation.**— (1) unless the intent appears otherwise, for the purpose of levy of duty of excise, the description of goods shall prevail upon the tariff classification. However in order for interpretation of description of any goods or verification of any characteristics of any product, the reliance shall be made on the relevant version of the Explanatory Notes to the Harmonized Commodity Description and Coding System.

(3) The rate of duty mentioned in column (4) of the above table shall also apply on the goods mentioned in column (2) thereof, if imported, or brought from non-tariff to tariff areas in case of notified goods.

<sup>1</sup>*“Restriction.*—For the purpose of levy, collection and payment of duty at the rates specified in column (4) against serial numbers 9, 10 and 11, no cigarette manufacturer shall reduce price from the level adopted on the day of the announcement of the Budget <sup>2</sup>2009-10.”;

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<sup>1</sup> Inserted vide Finance Act, 2008.

<sup>2</sup> Substituted vide Finance Act, 2008.

**TABLE II**  
**(EXCISABLE SERVICES)**

S.No.	Description of Goods	Heading/sub-heading Number	Rate of Duty
Col.(1)	Col.(2)	Col.(3)	Col.(4)
1	Advertisement on closed circuit T.V.	9802.3000	Sixteen per cent of the charges.
2	Advertisements on cable T.V. network.	9802.5000	Sixteen per cent of the charges.
2a	<sup>1</sup> Advertisements in news papers and periodicals (excluding and Classified advertisements) of hoarding boards, poles signs and sign boards.	9802.4000 and 9802.9000	Sixteen per cent of the charges.
3	<sup>2</sup> Facilities for travel	98.03	Sixteen percent of the charges plus rupees twenty per ticket
	(a) Services provided or rendered in respect of travel by air of passenger within the territorial jurisdiction of Pakistan	9803.1000	
	<sup>3</sup> (b) Services provided or rendered in respect of travel by air of passengers embarking on international journey to or from Pakistan	9803.1100	
	(i) Passengers embarking or from SAARC region, UAE (Middle East), Saudi Arabia, Africa, Afghanistan.		Three thousand two hundred and forty rupees for economy and economy plus classed and four thousand two hundred and forty rupees for club, business and first classes.
	(ii) passengers embarking to or from Europe, Far East, China, USA, Canada, Australia, South America, others.		Four thousand two hundred and forty rupees for economy and economy plus classes and five thousand seven hundred rupees for club, business and first classes.
4	Inland carriage of goods by air	9805.1000	<sup>3</sup> [Sixteen] per cent of the charges.

<sup>1</sup> Inserted vide Finance Act, 2009.

<sup>2</sup> Inserted vide Finance Act, 2007.

<sup>3</sup> Inserted vide Finance Act, 2008.

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S.No.	Description of Goods	Heading/sub-heading Number	Rate of Duty
Col.(1)	Col.(2)	Col.(3)	Col.(4)
5	Shipping agents	9804.1000	(i) Two hundred rupees per house-bill of lading issued in case of Non-Vessel Operating Common Carriers (NVOCC), International Freight ii) Fifteen per cent of the charges in case of other categories of shipping agents.
<sup>1</sup> 6	Telecommunication services	98.12 (All sub Headings)	<sup>2</sup> [Nineteen and half per cent of the charges]
<sup>3</sup> [7	Services provided or rendered in respect of insurance to a policy holder by an insurer, including a re-insurer [in case where direct insurance service has been provided.]	9813.1000	
	(i) Goods insurance	9813.1100	<sup>4</sup> Sixteen percent of the charges.
	(ii) Fire insurance	9813.1200	<sup>5</sup> Sixteen percent of the charges.
	(iii)Theft insurance	9813.1300	<sup>6</sup> Sixteen percent of the charges.
	(iv) Marine insurance	9813.1400	<sup>7</sup> Sixteen percent of the charges.
	(v) Other insurance	9813.1500	<sup>8</sup> Sixteen percent of the charges.
8	[* * *] services provided by banking companies or non-banking financial companies	98.13	<sup>9</sup> Sixteen percent of the charges.
<sup>10</sup> 9	[* * *] omitted		
<sup>11</sup> 10	[* * *] omitted		
11	Franchise services	9823.0000	<sup>12</sup> Ten per cent of the charges.

<sup>1</sup> Substituted vide Finance Act, 2008.  
<sup>2</sup> Substituted vide Finance Act, 2009.  
<sup>3</sup> Inserted vide Finance Act, 2008.  
<sup>4</sup> Substituted vide Finance Act, 2009.  
<sup>5</sup> Substituted vide Finance Act, 2009.  
<sup>6</sup> Substituted vide Finance Act, 2009.  
<sup>7</sup> Substituted vide Finance Act, 2009.  
<sup>8</sup> Substituted vide Finance Act, 2009.  
<sup>9</sup> Substituted vide Finance Act, 2009.  
<sup>10</sup> Omitted vide Finance Act, 2007.  
<sup>11</sup> Omitted vide Finance Act, 2007.  
<sup>12</sup> Substituted vide Finance Act, 2008.

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Col.(1)	Col.(2)	Col.(3)	Col.(4)
10	[***** omitted]		
12	Services provided by property developers or promoters for:-  (a) development of purchased or leased land for conversion into residential or commercial plots.  (b) Construction of residential of residential or commercial units.	9814.3000	Rupees 100 per square yard.  Rupees 50 per square foot of covered area.
<sup>1</sup> 13	Services provided or rendered by stock brokers	9819.1000	Sixteen percent of the charges.
<sup>2</sup> 14	Services provided or rendered by port and terminal operators in relation to imports excluding stevedoring services.	9819.9090	Sixteen percent of the charges.

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<sup>1</sup> Inserted vide Finance Act, 2009.

<sup>2</sup> Inserted vide Finance Act, 2009.

**SECOND SCHEDULE**

**(Goods on which duty is collectible under sales tax mode with entitlement for adjustment with sales tax and vice versa)  
[See section 7]**

S.No	Description of Goods	Heading/sub-heading number
(1)	(2)	(3)
<b><u>GOODS</u></b>		
1	Edible oil excluding epoxidized soyabean oil falling under heading 15.18.	15.07, 15.08, 15.09, 15.10, 15.11, 15.12, 15.13, 15.14, 15.15, 15.16, 15.17 and 15.18
2	Vegetable ghee and cooking oil.	Respective headings.

**THIRD SCHEDULE**

(Conditional exemptions) [See  
Sub-section (1) of section 16]

**TABLE-I**

(Goods)

S.No.	Description of Goods	Heading/ sub-heading Number
(1)	Crude vegetable oil, if obtained from the locally grown sees excluding cooking oil, without having undergone any process other than the process of washing.	15.07, 15.08, 15.09, 15.10, 15.11, 15.12, 15.13, 15.14 15.15, 15.16, 15.17 & 15.18
<sup>1</sup> (2)	[* * * ] omitted.	
(3)	Un-manufactured tobacco or tobacco refuses if used for the purposes other than the manufacturer of cigarettes, smoking mixtures for pipes and cigarettes and cigars and cheroots.	24.01
<sup>2</sup> (3A)	[* * * ] omitted.	
(3B)	[* * * ] omitted.	
(4)	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes,-  (i) If supplied to Pakistan Navy for consumption by its personnel on board its vessels.  (ii) If made by hand in tapered shape of biris without the use of any manual or power-operated machine in any process of their manufacture.  (iii) If supplied for consumption by the President of Pakistan, the President of Azad Jammu & Kashmir and the Governors of the Provinces, members of their families and guests provided that the cigarettes are manufactured and supplied on the specific written orders of the competent official authority and the cigarettes and their packets are special-crested for the respective privileged House.	24.02

<sup>1</sup> Omitted vide Finance Act, 2007.

<sup>2</sup> Omitted vide Finance Act, 2008.

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S.No.	Description of Goods	Heading/ sub-heading Number
	(iv) If supplied against payment in foreign exchange, to M/s Duty Free Shops Ltd for sale in its Duty Free Shops and on board international flight by the Pakistan International Airlines subject to the same conditions and procedures as are applicable for the purposes of exemption of customs duty.	
5	Hydraulic cement imported or purchased locally by petroleum or energy sector companies or projects subject to the same conditions and procedures as are applicable for the purposes of exemption of customs duty.	2523.9000
6	Motor spirit,—	2710.1110
	(i) If supplied to Pakistan Navy for consumption in its vessels	
	(ii) If supplied for consumption by the International Bank for Reconstruction and Development in its official cars	
7	Lubricating oil if supplied to Pakistan Navy for consumption in its vessels	
8	Transformer oil if used in the manufacture of transformers supplied against international tenders to a project financed out of funds provided by the international loan or aid giving agencies.	Respective heading
9	Sludge and sediment recovered from storage tanks of the incoming vessels or ships meant for breaking	2710.9900
10	Natural gas if produced and used in the same field for drilling, production, pressure maintenance or in any other joint operations including flaring in the same field.	2711.2100

**Explanation.-** For the purpose of this entry, "Joint Operations" means all marine and land activities, including gas exploration, prospection, development and production activities conducted by Working Interest Owners under a petroleum concession agreement with the Government.

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S.No.	Description of Goods	Heading/sub-heading Number
11	Carbon black oil (carbon black feed stock) if imported by National Petrocarbon (Pvt.) Limited, Pipri, Karachi as raw material for the manufacture of carbon black.	2707.9910 2713.9010
12	<p data-bbox="416 468 523 495">Goods,-</p> <p data-bbox="416 528 1098 842">li) If donated to the President's Funds for Afghan Refugees, Assistance to Palestine and Famine Relief for Africa, provided that before making such donation the manufacturer or importer shall inform in writing to the <sup>1</sup>Commissioner Inland Revenue or as the case may be, Collector of Customs about quantity, value and the duty involved on such goods and shall in case of imports, fulfill the conditions and comply with the procedures specified for the purposes of exemption from customs duty.</p> <p data-bbox="453 875 1098 999">(ii) If purchased by the Cabinet Division, Government of Pakistan, for donation to a foreign country in the event of natural disasters as certified by the Emergency Relief Cell of that Division.</p> <p data-bbox="453 1032 1098 1189">(iii) If supplied against international tender issued by UNICEF, UNDP, WHO, WFP, UNHCR, International Red Cross or any other relief agency, for Afghan Refugees subject to the conditions given below, namely,-</p> <p data-bbox="453 1223 1098 1379">(a) payment for the supply shall be received in foreign currency, which shall be surrendered to the State Bank of Pakistan and the supplier shall receive payment in Pak rupees as per State Bank procedure and foreign exchange regulations;</p> <p data-bbox="453 1413 1098 1626">(b) the goods shall be duly received by the organization which signed the contract, and a certificate to this effect shall be issued by the organization which shall be duly attested by the Chief Commissioner/ Commissioner of Afghan Refugees and will be submitted by the manufacturer to the <sup>2</sup>Commissioner Inland Revenue; and</p> <p data-bbox="453 1659 1098 1715">(c) the registered person shall retain the relevant documents and certificates in record.</p> <p data-bbox="453 1749 1098 1870">(iv) If supplied as ship stores to ships and aircrafts leaving for abroad subject to the satisfaction of the Collector of Customs in terms of section 24 of the Customs Act, 1969.</p>	Respective headings

<sup>1</sup> Substituted vide Finance (Amendment) Ordinance, 2009.

<sup>2</sup> Substituted vide Finance (Amendment) Ordinance, 2009.



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S.No.	Description of Goods	Heading/sub-Heading Number
13	Goods imported or supplied under grants-in-aid for which a specific consent has been obtained from the <sup>1</sup> [Board].	Respective Heading
14	Goods if imported by Duty Free Shops as baggage free of custom duty, regulatory duty and sales tax under the baggage rules made under the Customs Act, 1969 (IV of 1969).	Respective Heading
15	Any goods which are manufactured produced in-house by a registered person and used for the manufacture and production of goods on which duty of excise is paid by such person.	Respective Headings.
<sup>2</sup> 16	Goods for further manufacture Respective of goods in the Export Processing Zones	Respective Headings.

**EXPLANATION:-** Exemption under this entry shall also be admissible on un-manufactured tobacco purchased and used after necessary treatment in the manufacture of cigarettes and other excisable tobacco products.

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<sup>1</sup> Substituted vide Finance Act, 2007.

<sup>2</sup> Inserted vide Finance Act, 2008.

**TABLE-II**

**(Services)**

S. No.	Description of Services	Heading/ sub-heading Number
Col.(1)	Col.(1)	Col.(1)
1	Advertisements financed out of funds provided under grants-in-aid agreements.	Respective heading
<sup>1</sup> [2	Telecommunication services:	Respective sub-heading of Heading 98.02
	(i) Internet services whether dialup or broadband including email services, Data Communication Network services (DCNS) and Value added data services .	
	(ii) Such charges payable on the international leased lines or bandwidth services used by—	Respective sub-heading of Heading 98.12
	(a) software exporting firms registered with the Pakistan Software Exporting Board; and	
	(b) data and internet service providers licensed by the Pakistan Telecommunication Authority	
	(iii) Such amounts received by the Long Distance International license holders including Pakistan Telecommunication Company Limited on International incoming calls under agreements with the foreign telecommunication companies.	
3	Marine insurance for export.	9813.1000
<sup>2</sup> [4	Life insurance	9813.1500
5	Health insurance	9813.1600
6	Crop insurance	9813.1600]

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<sup>1</sup> Substituted vide Finance Act, 2006.

<sup>2</sup> Added vide Finance Act, 2008.