

NOTES ON CLAUSES

FINANCE BILL, 2012

CUSTOMS ACT, 1969(IV OF 1969)

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| Clause 4(1) | Seeks to amend section 2(s) by inserting the comma and words “or <i>en route</i> pilferage of transit goods” in the definition of “smuggle”. |
| Clause 4(2) | Seeks to add a new section, namely; 3AA, to establish the Directorate General of Transit Trade for exclusive clearances and monitoring of the transit cargo. |
| Clause 4(3) | Seeks to add new sections, namely; 3BB and 3BBB to establish the Directorates General of Reform and Automation, and Risk Management to manage automation and reforms of Pakistan Customs, and to regulate the self-clearance system. |
| Clause 4(4) | Seeks to add a new section, namely; 3CC, to establish the Directorate General of Intellectual Property Rights Enforcement for enforcement of intellectual proper rights at the borders and ports of the country. |

- Clause 4(5) Seeks to add a new section; namely 18E, to provide enabling provision to empower the Board to make necessary changes in Pakistan Customs Tariff for statistical clarity.
- Clause 4(6) Seeks to amend section 81, by inserting the words “or pay order” in the second proviso to bring it in line with the first proviso of the section.
- Clause 4(7)(a)(i) Seeks to amend section 156, by omitting the commas and words “and, if the Special Judge in his discretion so orders, also to whipping” in column (2) against serial No. 8(i) in the Table, to remove the punishment of whipping for the offence of smuggling of goods.
- Clause 4(7)(a)(ii) Seeks to amend section 156, by omitting the words “and the person convicted shall also be awarded sentence of whipping” in proviso in column (2) against serial No. 8(i) in the Table, to remove the punishment of whipping for the offence of smuggling of notified goods.
- Clause 4(7)(b) Seeks to amend section 156, by substituting column (3) against serial No.45 in the Table to delete reference of the omitted sections 79A and 131A.

- Clause 4(7)(c) Seeks to amend section 156, by substituting column (2) against serial No. 64 in the Table to make persons, including custodian and inland carrier, also liable for imprisonment for a term not exceeding five years in cases of contravention of any rule or condition of transit.
- Clause 4(7)(d) Seeks to amend section 156, by omitting the words “and if the Special Judge in his decision so orders also to whipping” in column (2) against serial No. 89(i) of the Table to remove the punishment of whipping for the offence of possession or acquiring of smuggled goods.
- Clause 4(7)(e) Seeks to amend section 156, by omitting the commas and words “and, if the Special Judge in his discretion so orders, to whipping” in column (2) against serial No. 92 of the Table to remove the punishment of whipping for the offence of intimidation, by being armed with an offensive weapon, of persons duly engaged in the discharge of duty or powers under the Act or any person acting in his aid.
- Clause 4(7)(f) Seeks to amend section 156 by inserting the words “or attempt to make unauthorized access to or improper

use of” in column (1) against serial No.101 of the Table to treat an attempt in this respect an offence.

Clause 4(7)(g) Seeks to amend the section 156 by inserting the words “or attempts to interfere” in column (1) against serial No.102 of the Table to treat an attempt in this respect an offence.

Clause 4(7)(h) Seeks to amend the section 156 by inserting the words “or attempt to make unauthorized use of” in column (1) against serial No.103 of the Table to treat an attempt in this respect an offence.

Clause 4(8)(a) Seeks to amend section 179 by substituting the existing sub-section (1), in order to separate adjudication from executive functions, expand its scope, and re-distribute their jurisdiction and powers, for efficient disposal of cases.

Clause 4(8)(b)(i) Seeks to amend section 179, sub-section (2) by substituting the word “officer” for the word “Collector” to allow for transfer of adjudication cases to other officers.

Clause 4(8)(b)(ii) Seeks to amend section 179, sub-section (2), by inserting the commas and words “, by an order,” after

the word “transfer” to allow for transfer of adjudication cases by an order in the interests of disposal of cases.

Clause 4(9) Seeks to amend section 193 by substituting the existing sub-section (1), for appeals by any person including an officer of Customs to the Collector (Appeals) against the orders of officers below the rank of Additional Collector, and to allow appeal against rejection of refund claims.

Clause 4(10) Seeks to amend section 194-A, sub-section (1) by inserting clause (a), to make orders of adjudication of officers not below the rank of Additional Collector appealable before the Appellate Tribunal.

Clause 4(11) Seeks to insert a new sub-section; namely (1A) in section 201 to provide for sale of goods through electronic means (e-auction).

Clause 4(12) Seeks to add new section; namely 202B to sanction rewards to Customs officers and officials for their meritorious conduct in cases of evasion of Customs duty and other taxes, and confiscation of goods, as prescribed by the rules, only after realization of part or whole of the duty and taxes involved in such cases.

- Clause 4(13) Seeks to substitute sub-section (1) of section 211, to require maintenance and keeping of record by Customs licensed transport operators and tracking companies, and concerning transit trade also.
- Clause 4(14) Seeks to amend section 224 to enable to condone the delay and extend the time limit laid down in the Act or the rules made thereunder.
- Clause 4(15) Seeks to substitute the First Schedule to the Customs Act, 1969 (IV of 1969).

SALES TAX ACT, 1990

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| Clause 8(1) | Seeks to substitute section 11 to combine section 11 and 36. |
| Clause 8(2) | Seeks to omit section 36 as same has been combined with section 11. |
| Clause 8(3) | Seeks to omit S. No. 4 and entries relating thereto in column (2) and (3) of the Fifth Schedule to withdraw facility of zero-rating on supplies against international tender. |
| Clause 8(4)(a) | Seeks to add S. No. 12 and entries relating thereto in column (2) and (3) of the Table-II in the Sixth Schedule to exempt from sales tax the supplies against international tender and seeks for alignment of PCT Headings with HS – 2012 of Pakistan Customs Tariff. . |
| Clause 8(4)(b) | Seeks to omit S. No. 2 and entries relating thereto in column (2) and (3) of Table -II of the Sixth Schedule to withdraw exemption of sales tax on locally produced oil obtained from cotton seed. |

AMENDMENT OF ORDINANCE, XLIX OF 2001

Clause 13(1)(a)	Seeks to define NCCPL (National Clearing Company of Pakistan Limited).
Clause 13(2)	Seeks to make a consequential amendment in the definition of taxable income
Clause 13(3)	Seeks to amend the definition of Total Income.
Clause 13(4)(a)	Seeks to exempt concessional loans up to Rs.500,000.
Clause 13(4)(b)	Seeks to cap interest rate on concessional loans.
Clause 13(5)(a)	Seeks to tax gain on disposal of immovable property.
Clause 13(5)(b)	Seeks to correct grammatical error.
Clause 13(6)(a)	Seeks to exclude exempt capital gains from the heads of income.
Clause 13(6)(b)	Seeks to provide computation method for calculating gain arising on disposal of securities.
Clause 13(7)	Seeks to include additional payments on delayed refunds under the head "income from other sources".

Clause 13(8)	Seeks to delete Section 53(1A).
Clause 13(9)(a)	Seeks to harmonize provision of adjustment of losses in AOP cases.
Clause 13(9)(b)	Seeks to harmonize provision of adjustment of losses in AOP cases.
Clause 13(9)(c)	Seeks to harmonize provision of adjustment of losses in AOP cases.
Clause 13(10)(a)(i)&(ii)	Seeks to enhance the limit of investment for tax credit.
Clause 13(10)(b)	Seeks to curtail the limit of holding period of shares.
Clause 13(11)(a)-(c)	Seeks to clarify and remove the ambiguities in Section 65B.
Clause 13(12)(i)(a)-(c)	Seeks to clarify and remove the ambiguities in Section 65D.
Clause 13(12)(ii)(a)-(c)	Seeks to clarify and remove the ambiguities in Section 65D.
Clause 13(12)(iii)	Seeks to clarify and remove the ambiguities in Section 65D.

Clause 13(12)(iv)(a)-(c)	Seeks to clarify and remove the ambiguities in Section 65D.
Clause 13(13)(a)-(c)	Seeks to clarify and remove the ambiguities in Section 65E.
Clause 13(14)	Seeks to authorize FBR to make rules for determination of cost for any asset.
Clause 13(15)	Seeks to authorize FBR to make rules for determination of consideration received.
Clause 13(16)	Seeks to introduce special provisions relating to capital gains tax on disposal of securities.
Clause 13(17)	Seeks to treat remittance of Branch Profit as Pakistan Source Dividend.
Clause 13(18)	Seeks to define tax payable in section 113.
Clause 13(19)	Seeks to provide conditions for filing a revised return.
Clause 13(20)	Seeks to increase the period for examination of return.
Clause 13(21)	Seeks to remove ambiguity for ex-parte assessments.
Clause 13(22)(a)(i)	Seeks to include section 122C for amendment of assessments.

Clause 13(22)(a)(ii)	Seeks to delete sections of the Repealed Ordinance from Section 122.
Clause 13(22)(b)	Seeks to empower Additional Commissioner to conduct enquiries under section 122(5A).
Clause 13(23)	Seeks to clarify and remove ambiguities in Section 122C.
Clause 13(24)	Seeks to remove a lacuna..
Clause 13(25)	Seeks to provide limitation for stay of recovery of tax by Commissioner Appeals.
Clause 13(26)	Seeks to omit duplication of limitation for the stay of recovery of tax by ITAT.
Clause 13(27)(a)(i)	Seeks to provide for change of nomenclature.
Clause 13(27)(a)(ii)	Seeks to reduce the limit of experience required to be a Member of ITAT from 5 years to 3 years.
Clause 13(27)(b)	Seeks to modify the eligibility criterion for the Chairperson of Inland Revenue Appellate Tribunal.
Clause 13(28)	Seeks to change grammatical structure for clarity.

Clause 13(29)	Seeks to provide option to taxpayer for payment of tax voluntarily.
Clause 13(30)	Seeks to remove ambiguity in section 148(7).
Clause 13(31)	Seeks to replace the word deducted with deductible in section 151(3).
Clause 13(32)	Seeks to consolidate provisions regarding non-residents.
Clause 13(33)	Seeks to remove non-resident provisions from section 153.
Clause 13(34)	Seeks to make manufacturers as withholding agent for distributors, dealers and wholesalers.
Clause 13(35)	Seeks to replace the word deducted with deductible in section 154.
Clause 13(36)	Seeks to replace the word deducted with deductible in section 156.
Clause 13(37)	Seeks to replace the word deducted with deductible in section 156A.

Clause 13(38)(a)	Seeks to replace the word “collection of advance tax” with “required to be collected” in section 169.
Clause 13(38)(b)	Seeks to replace the figures 153A with subsection (1AAA) of section 152.
Clause 13(38)(c)	Seeks to replace the expression “deduction of tax” with “tax required to be deducted”.
Clause 13(38)(d)	Seeks to remove grammatical error.
Clause 13(39)	Seeks to replace KIBOR with fifteen per cent.
Clause 13(40)	Seeks to clarify the provisions of 176.
Clause 13(41)	Seeks to introduce Taxpayers Honour Card to provide benefits to honest and compliant taxpayers.
Clause 13(42)	Seeks to provide an option to the taxpayer to pay the amount of penalty voluntarily.
Clause 13(43)	Seeks to replace the term Director General with Chief Commissioner.
Clause 13(44)(a)(i)	Seeks to replace KIBOR plus three per cent with eighteen per cent.

Clause 13(44)(a)(ii)	Seeks to provide relief in the amount of default surcharge on payment of tax due after first appeal.
Clause 13(44)(b)	Seeks to replace KIBOR plus three per cent with eighteen per cent.
Clause 13(44)(c)	Seeks to replace KIBOR plus three per cent with eighteen per cent.
Clause 13(44)(d)(i)	Seeks to replace KIBOR plus three per cent with eighteen per cent.
Clause 13(44)(d)(ii)	Seeks to provide relief in the amount of penalty on payment of tax due after first appeal.
Clause 13(45)(b)	Seeks to make all the Income Tax authorities subordinate to FBR.
Clause 13(45)(c)	Seeks to make all the other Income Tax authorities subordinate to Chief Commissioner.
Clause 13(46)	Seeks to make editorial corrections.
Clause 13(47)	Seeks to authorize Board and other authorities to exercise the powers of subordinate authorities.

Clause 13(48)(a)	Seeks to replace the term Director General with Chief Commissioner.
Clause 13(48)(b)	Seeks to clarify the powers of the Board under section 214A.
Clause 13(49)	Seeks to assign functions to DG, Intelligence and Investigation-IR.
Clause 13(50)	Seeks to enhance the limit of daily cash withdrawals without deduction from Rs 25000 to Rs. 50000.
Clause 13(51)	Seeks to clarify and remove ambiguities regarding presumptive tax on brokerage and commission.
Clause 13(52)	Seeks to remove Stock Exchange as withholding agent to collect tax on carryover trades.
Clause 13(53)	Seeks to make NCCPL as withholding agent for margin financing.
Clause 13(54)(I)(a)(i)-(iii)	Seeks to revise tax rates for non-salaried individuals and AOPs.
Clause 13(54)(I)(a)	Seeks to revise tax rates for salaried individuals.

Clause 13(54)(I)(b)	Seeks to reduce the rates of tax under section 113 from 1% to 0.5%.
Clause 13(54)(I)(c)	Seeks to remove separate tax rates for AOPs.
Clause 13(54)(I)(d)(i)-(iii)	Seeks to make editorial correction and freeze the rates of CGT upto till 2014.
Clause 13(54)(I)(e)	Seeks to prescribe rates for tax on gain of immovable property.
Clause 13(54)(II)	Seeks to prescribe rate of collection of tax by manufacturers.
Clause 13(54)(III)(a)	Seeks to prescribe the rate of tax to be deducted under sub-sections (1AAA), (2A)(a), (2A)(b) and (2A)(c) of section 152.
Clause 13(54)(IV)	Seeks to enhance tax rates on motor vehicles.
Clause 13(55)(I)(a)	Seeks to exempt amounts received from income payment plan out of accumulated balance of pension accounts with a fund manager and/or other funds.
Clause 13(55)(I)(b) &(c)	Seeks to grant exemption to the Citizens Foundation.

Clause 13(55)(I)(d)	Seeks to extend exemption period from 2014 to 2024 in respect of profits and gains of venture capital company and fund.
Clause 13(55)(II)(a)	Seeks to make provisions of section 150 and 151 inapplicable in respect of inter-corporate dividend and inter-corporate profit on debt.
Clause 13(55)(II)(b)	Seeks to make editorial correction in clause (16A) of Part IV of Second Schedule.
Clause 13(55)(II)(c)	Seeks to provide incentive to importers, exporters and suppliers, if they opt out of presumptive tax regime and file their returns under normal law.
Clause 13(55)(II)(d)	Seeks to provide exemption to collective investment scheme, Approved Pension Funds, Income payment plan etc. in respect of CGT.
Clause 13(55)(II)(e)	Seeks to replace SRO 1065(1)/2005 with SRO 492(1)/2009.
Clause 13(55)(II)(f)	Seeks to omit clause (76) of Part IV of Second Schedule.
Clause 13(55)(II)(g)	Seeks to correct grammatical error.

Clause 13(56)	Seeks to restrict initial allowance on new building to 25%.
Clause 13(57)	Seeks to provide rates of gain on sale of shares in respect of Insurance Companies
Clause 13(58)	Provides for a mechanism for computation of profits and gains and tax thereon in respect of Petroleum Exploration and Production companies.
Clause 13(59)	Seeks to enhance rate of dividend received by Banks from money market funds and Income funds from 10% to 25% for tax year 2013 and 35% for tax year 2014 and onwards.
Clause 13(60)	Seeks to provide Rules for the computation of capital gains on listed securities.

FEDERAL EXCISE ACT, 2005

- Clause 16(1) Seeks to renumber the clause (12A) of section 2 as clause (12).
- Clause 16(2)(a)(i) Seeks to substitute entries at S. No. 9, 10 and 11 of Table-I in the First Schedule to provide for enhanced rates of duty on locally produced cigarettes.
- Clause 16(2)(a)(ii) Seeks to amend S. No. 13 of Table-I in the First Schedule to substitute the word “four” for “five” to provide for lower rate of duty on cement.
- Clause 16(2)(a)(iii) Seeks to omit S. No. 22, 23, 24, 25, 27, 42, 43, 44, 45 and 50 and entries thereto in column No. (2), (3) and (4) of Table-I of the First Schedule to abolish FED on lubricating oils, cosmetics and filter rods (10 items).
- Clause 16(2)(a)(iv)(a) Seeks to amend the Restriction at the end of Table-I in First Schedule to add new conditions regarding variant and different price points and minimum price of new brands”.
- Clause 16(2)(b) Seeks to amend S. No. 3 of Table-II in the First Schedule to revise rate of FED on international travelling from Pakistan.

Clause 16(3) Seeks to amend Table-II in the Third Schedule by adding new serial numbers to exempt FED on services in respect of livestock insurance and Asset Management Companies.