

No. 2(1)/2012-Pub

Islamabad, the 24<sup>th</sup> April, 2012

The following Ordinance promulgated by the President is hereby published for general information:-

ATTESTED

**Ordinance No. III of 2012**

AN

**ORDINANCE**

**further to amend certain fiscal laws**

*S. A. Gill*  
(SHAHBAZ AHMAD GILL)  
Printing Officer  
Ministry of Law, Justice & Human Rights  
Government of Pakistan  
Islamabad

**WHEREAS** it is expedient to further amend certain fiscal laws and matters for the purpose hereinafter appearing;

**AND WHEREAS** the National Assembly and Senate are not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

**NOW, THEREFORE,** in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance, namely:-

1. **Short title and commencement.**- (1) This Ordinance may be called the Finance (Amendment) Ordinance, 2012.

(2) It shall come into force at once.

2. **Amendment of Finance Act, 1989 (Act V of 1989).**- In the Finance Act, 1989 (Act V of 1989), in section 7,-

(i) in sub-section (1), after the word "thereon", the words, brackets, commas and figures ", and shares of a public company, listed on a registered stock exchange in Pakistan by a person defined in section 80 of the Income Tax Ordinance, 2001 (XLIX of 2001)," shall be inserted;

(ii) in sub-section (2), after clause (E), the following shall be added, namely:-

“(F) purchase of shares of a public company listed on a registered stock exchange in Pakistan 0.01% of the purchase value”; and

- (iii) in sub-section (4), in the last proviso, for the words "modaraba certificates or any instrument of redeemable capital or shares of a public company from the resident persons", the words "shares of a public company" shall be substituted.

**3. Amendment of Ordinance XLIX of 2001.-** In the Income Tax Ordinance, 2001 (XLIX of 2001), the following further amendment shall be made, namely:-

- (1) In section 2, after clause (35A), a new clause shall be inserted, namely:-

“(35AA) “NCCPL” means National clearing Company of Pakistan Limited, which is a company incorporated under the Companies Ordinance, 1984 (XLVII of 1984) and licensed as “Clearing House” by the Securities and Exchange Commissioner of Pakistan;”;

- (2) In section 37A, in sub-section (1), after the word “year”, occurring for the first time, the comma and words “, other than a gain that is exempt from tax under this Ordinance” shall be inserted;
- (3) after section 100A, the following new section, shall be inserted, namely:-

**“100B Special provision relating to capital gain tax.-** (1) Capital gains on disposal of listed securities and tax thereon, subject to section 37A, shall be computed, determined, collected and

deposited in accordance with the rules laid down in the Eighth Schedule.

(2) The provisions of sub-section (1) shall not apply to the following persons or class of persons, namely:-

- (a) a mutual fund;
- (b) a banking company, a non-banking finance company, and an insurance company subject to tax under the Fourth Schedule;
- (c) a modaraba;
- (d) a "foreign institutional investor" being a person registered with NCCPL as a foreign institutional investor; and
- (g) any other person or class of persons notified by the Board.;

(4) in section 233A,-

- (a) in sub-section (1),-
  - (i) in clause (b), after the semicolon, at the end, the word "and" shall be added; and
  - (ii) clause (c) shall be omitted; and
- (b) in sub-section (2), for the brackets and letter "(c)", the brackets and letter "(b)" shall substituted;

(5) In the First Schedule,-

(i) in Part I, in Division VII, in the Table, in column (1),-

(a) against serial number 1, in column (4), for the existing rates, the following shall be substituted:-

"10%  
10%  
10%  
10%  
17.5%";

(b) against serial number 2, column (4), for the existing rates, the following shall be substituted:-

"7.5%  
8%  
8%  
8%  
9.5%  
10%"; and

(c) serial number 3, and the entries relating thereto in columns (2), (3) and (4), shall be omitted; and

(ii) in Part IV, in Division IIA, clause (iii), shall be omitted; and

(6) after the SEVENTH SCHEDULE, the following new Schedule shall be added, namely:-

**"EIGHTH SCHEDULE  
[section 100B]**

**RULES FOR THE COMPUTATION OF CAPITAL GAINS ON  
LISTED SECURITIES**

1. **Manner and basis of computation of capital gains and tax thereon.-** (1) Capital gains on disposal of listed

securities, subject to tax under section 37A, and to which section 100B apply, shall be computed and determined under this Schedule and tax thereon shall be collected and deposited on behalf of taxpayers by NCCPL in the manner prescribed.

(2) For the purpose of sub-rule (1), NCCPL shall develop an automated system.

(3) Central Depository Company of Pakistan Limited shall furnish information as required by NCCPL for discharging obligations under this Schedule.

(4) NCCPL shall issue an annual certificate to the taxpayer on the prescribed form in respect of capital gains subject to tax under this Schedule for a financial year:

Provided that on the request of a taxpayer or if required by the Commissioner, NCCPL shall issue a certificate for a shorter period within a financial year.

(5) Every taxpayer shall file the certificate referred to in sub-rule (4) along with the return of income and such certificate shall be conclusive evidence in respect of the income under this Schedule.

(6) NCCPL shall furnish to the Board within thirty days of the end of each quarter, a statement of capital gains and tax computed thereon in that quarter in the prescribed manner and format.

(7) Capital gains computed under this Schedule shall be chargeable to tax at the rate applicable in Division VII of Part I of the First Schedule.

2. **Sources of Investment.**- (1) Where a person has made any investment in the listed securities, enquiries as to the nature and source of the amount invested shall not be made for any investment made prior to the introduction of this Schedule, provided that –

(a) a statement of investments is filed with the Commissioner along with the return of income and wealth statement for tax year 2012 within the due date as provided in section 118 of this Ordinance and in the manners prescribed; and

(b) that the amount remains invested for a period of forty-five days upto 30<sup>th</sup> of June 2012, in the manner as may be prescribed.

(2) Where a person has made any investment in the shares of a public company traded at a registered stock exchange in Pakistan from the date of coming into force of this Schedule till June 30, 2014, enquiries as to the nature and sources of amount invested shall not be made provided that –

(a) the amount remains invested for a period of one hundred and twenty days in the manner as may be prescribed ;

- (b) tax on capital gains, if any, has duly been discharged in the manner laid down in this Schedule; and
  - (c) a statement of investments is filed with the Commissioner along with the return of income and wealth statement for the relevant tax year within the due date as provided in section 118 of this Ordinance and in the manner prescribed.
- (3) For the purpose of this rule, amount of investment shall be calculated in the prescribed manner, excluding market value of net open sale position in futures and derivatives, if such sale is in a security that constitutes the said investment.
3. **Certain provisions of this Ordinance not to apply.**- The respective provisions for collection and recovery of tax, advance tax and deduction of tax at source laid down in the Parts IV and V of Chapter X shall not apply on the income from capital gains subject to tax under this Schedule and these provisions shall apply in the manner as laid down in the rules made under this Ordinance, except where the recovery of tax is referred by NCCPL to the Board in terms of rule 6(3).
4. **Payment of tax collected by NCCPL to the Board.**- The amount collected by NCCPL on behalf of the Board as computed in the manner laid down under this Schedule shall be deposited in a separate bank account with National Bank of Pakistan and the said amount shall be paid to the Board along with interest accrued thereon on yearly basis by July

31<sup>st</sup> next following the financial year in which the amount was collected.

5. **Persons to whom this Schedule shall not apply.-** If a person intends not to opt for determination and payment of tax as laid down in this Schedule, he shall file an irrevocable option to NCCPL after obtaining prior approval of the Commissioner in the manner prescribed. In such case the provisions of rule 2 shall not apply.

6. **Responsibility and obligation of NCCPL.-** (1) Pakistan Revenue Automation Limited (PRAL), a company incorporated under the Companies Ordinance, 1984 (XLVII of 1984) or any other company or firm approved by the Board and any authority appointed under section 209 of this Ordinance, not below the level of an Additional Commissioner Inland Revenue, shall conduct regular system and procedural audits of NCCPL on quarterly basis to verify the implementation of this Schedule and rules made under this Ordinance.

(2) NCCPL shall implement the recommendations, if any, of the audit report under sub-rule (1), as approved by the Commissioner, and make adjustments for short or excessive deductions. However, no penal action shall be taken against NCCPL on account of any error, omission or mistake that has occurred from application of the system as audited under sub-rule (1).



(3) NCCPL shall be empowered to refer a particular case for recovery of tax to the Board in case NCCPL is unable to recover the amount of tax.

7. **Transitional Provisions.**- In respect of tax year 2012, for the period commencing from coming into force of this Schedule till June 30, 2012, the certificate issued by NCCPL under rule 1(4) shall be the basis of capital gains and tax thereon for that period."

ASIF ALI ZARDARI  
PRESIDENT

ATTESTED

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