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Strengthening Democracy and Democratic Institutions in Pakistan

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PILDAT
Pakistan Institute of
Legislative Development
And Transparency

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PREFACE

Pakistan faces abysmally low tax-to-GDP ratios varying between 9 – 11%. Presently calculated at 9.2%, and especially compared to peer countries and to the region, this percentage is the lowest in the world. This scenario has led to the need for urgent re-thinking and reforms in current tax policies as well as addressing deficiencies in the tax administration system.

The need to tax agricultural income, just like any other income in the country, has also fuelled the debate on how to tax the agricultural income. Because rural income is growing, the demand for taxing agricultural income has gained new importance. Since the right to collect agricultural income tax lies exclusively with the provinces, provincial legislators need to lead an informed discourse on taxing the agricultural income in Pakistan. Like most divisive issues, there is an urgent need to develop a political consensus on this issue which needs to be led by public representatives. This is only possible through an informed debate following which the provincial legislators can recommend and oversee practical reforms required in taxing the agricultural income.

This Briefing Paper on **Tax on Agriculture Income** is part of the PILDAT series of papers on agricultural income tax aimed at crystallizing the issue and its various facets so as to facilitate an informed discourse among MPAs. This paper outlines the perspectives by **Ms. Huzaima Bukhari** and **Dr. Ikramul Haq**.

Disclaimer

PILDAT and its team of researchers have made every effort to ensure the accuracy of the contents of this paper. Therefore any omission or error is not deliberate. The opinions, findings and conclusions or recommendations expressed in this paper do not necessarily reflect the views of PILDAT.

Lahore
December 2011

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Introduction

Income is the consumption and savings opportunity gained by an entity within a specified time frame, which is generally expressed in monetary terms¹. However, for households and individuals, "income is the sum of all the wages, salaries, profits, interests payments, rents and other forms of earnings received... in a given period of time²." For firms, income generally refers to net-profit: what remains of revenue after expenses have been subtracted³. In the field of public economics, it may refer to the accumulation of both monetary and non-monetary consumption ability, the former being used as a proxy for total income.

The law pertaining to income tax i.e., the Income Tax Ordinance, 2001 (hereinafter "the Ordinance") defines 'income' in the widest possible context. Thus, it includes any amount, whether it is earned, expended or transacted and is subject to tax under the Ordinance. In terms of Article 70(4) read with Article 142(c) of the 1973 Constitution of Pakistan ("the Constitution"), the Provinces are competent to levy income tax on "agricultural income." Entry 47, Part 1 of Federal Legislative List contained in the Fourth Schedule to the Constitution of Pakistan empowers the federal government to levy "**Taxes on income other than agriculture income.**" The expression "agricultural income" is defined in Article 260(1) of the Constitution, which says: "**Agricultural income" means agricultural income as defined for the purpose of the law relating to income tax.**"

The Ordinance defines 'agricultural income' as:

"41(1)

- (2) "agricultural income" means-
- (a) any rent or revenue derived by a person from land which is situated in Pakistan and is used for agricultural purposes;
 - (b) any income derived by a person from land situated in Pakistan from-
 - (i) agriculture;
 - (ii) the performance by a cultivator or receiver of rent-

in-kind or any process ordinarily employed by such person to render the produce raised or received by the person fit to be taken to market; or

- (iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by such person, in respect of which no process has been performed other than a process of the nature described in sub-clause (ii); or (c) any income derived by a person from-
 - (i) any building owned and occupied by the receiver of the rent or revenue of any land described in clause (a) or (b);
 - (ii) any building occupied by the cultivator, or the receiver of rent-in-kind, of any land in respect of which, or the produce of which, any operation specified in sub-clauses (ii) or (iii) of clause (b) is carried on, but only where the building is on, or in the immediate vicinity of the land and is a building which the receiver of the rent or revenue, or the cultivator, or the receiver of the rent-in-kind by reason of the person's connection with the land, requires as a dwelling-house, a store-house, or other out-building."

The above definition encompasses a wide scope of agricultural income sources that could be subject to tax. In terms of Article 70(4) of the Constitution, the Provinces are competent to levy income tax on "agricultural income," but none of the provincial legislatures heeded the Constitution as the existing statutes pertaining to income tax on "agricultural income" do not strictly conform to this constitutional command.

1. Barr, N. (2004), *Problems and definition of measurement: In Economics of the welfare state*. New York, Oxford University Press. pp. 121-124
 2. Case, K. & Fair, R. (2007). *Principles of Economics*. Upper Saddle River, NJ: Pearson Education. p. 54
 3. Schoen, John W, "What's the difference between revenue and income?". msnbc. <http://www.msnbc.msn.com/id/7477449/>. Retrieved 2008-03-14

Distribution of incomes-distortion then...⁴

The unequal distribution of riches may be underpinned with figures. Under Shah Jahan's government the total tax revenues in 1646/47—mainly consisting of the land tax produced by the farmers—amounted to 220 million rupees. Of this 36 per cent were meant for sixty eight nabobs and grand amirs and 25 per cent for the next 587 officers and amirs. Consequently 61.5 per cent of the tax revenues were meant for 655 individuals, and average of 210,000 rupees each per year. Shah Jahan's vizir, father-in-law Asif Khan, had a net income of 5 million rupees and left a fortune of 25 million rupees when he died. Those were princely incomes, even when it taken into account that the receivers of these incomes were obliged to maintain large numbers of servants and soldiers; besides, having servants could be considered as a form of private spending as well. In Akbar's time the distribution of incomes was even more unequal: 30 per cent of the tax revenues were meant for twenty-five individuals.

It is impossible to determine the national income other than with a large margin. According to estimates by economic historians the tax revenues of 220 million rupees, there would have been a national income of between 440 and 660 million rupees. If we think in terms of 660 million—with a tax burden of 37 per cent, which seems to be more plausible to me than 50 per cent—the national income per head of population would have come to five rupees, that is ten dollars. If one takes into account that 135 million rupees, that is 22 per cent of the national income, went to 655 top officials, there was an average of four rupees per person left for the rest of the population.

.....and now!

In today's Pakistan the situation is no different. The rich having control over 95% of resources contribute only 2% in taxes. The poor are heavily taxed (16% sales tax is in fact 45% levy after adding taxes imposed at import stage) while the rich enjoy the fruits of these collections. Spending on public services is not even 2% of the GDP. Tax-to-GDP ratio at 9.2% is one of the lowest in the world. The contribution of direct taxes in GDP is just 2.2 % and the rest is through regressive indirect taxes. The prevailing unjust tax system levies negligible tax on absentee landlords, rich property owners, account holders and wealthy investors in Stock Markets and real estate. There are less than 250,000 individuals who filed returns in 2010 showing income exceeding Rs. one million. It is common knowledge that we have at least ten million individuals who have income of Rs. 1.5 million or more. Had all of them paid tax in fiscal year 2010-2011, the collection under income tax head from individuals alone would have been Rs. 3750 billion whereas the Federal Board of Revenue after using all negative tactics and fudging figures, claim to have collected Rs. 1590 billion which includes 70% indirect taxes.

Historical Background

In the Sub-Continent, agricultural income tax was never levied at the federal level or even by the provinces having the right to do so, except by the Communist governments in Bengal and Kerala [See *History of Fiscal Devolution at Appendix A*]. In post independence period, the constitutional position in both the countries remained the same. In India, tax on agricultural income is a provincial subject. Under the leadership of Zulfikar Ali Bhutto in 1977 two revolutionary laws were passed: (1) The Finance (Supplementary) Act, 1977 (Act No 1 of 1977) levying agricultural income tax [Appendix B] and Land Reforms Act 1977 (Act No II of 1977) [Annex C] fulfilling constitutional obligation under Article 253. For the first time in the history of Sub-Continent, agricultural income tax was imposed at federal level along with restrictions on ownership and possession of agricultural land.

The Finance (Supplementary) Act, 1977 amended the definition of agricultural income contained in section 2(1) of Income Tax Act, 1922 by deleting the words: “**and is either assessed to land revenue in Pakistan or subject to a local rate assessed and collected by the officers of the Government as such.**” Even though this was in violation of Article 162 of the Constitution as no previous sanction of the President was sought, the aim was to broaden the scope of agricultural income with a view to subjecting it to tax for which a schedule was also enacted. In the repealed Income Tax Ordinance, 1979 that succeeded Income Tax Act, 1922 exemption of agricultural income from tax was restored. However, the definition of agricultural income (as amended in 1977) still continued. The result, therefore, was that the definition of 'agricultural income' remained as wide and all-encompassing as it was intended by the Act, 1977 for obvious reasons. Since presently there is no desire to tax income from agriculture through federal

4. Professor Ferdinand H.M. Grapperhaus, *Tax Tales*, International Bureau of Fiscal Documentation, the Netherlands, 1998.

legislation, the definition as it exists in its wider scope, may exempt such other income as may not be, strictly speaking 'agricultural'. The general principle of taxation is to 'restrict the definition' if any exemption thereunder is allowed and to 'broaden the definition' if the charge thereon is intended.

The historic decision of taxing "agricultural income" through the Finance Act, 1977, passed by Parliament and assented to by the President on January 9, 1977, was thwarted by the military regime of General Ziaul Haq whose legacy continued for eleven (11) years and that of General Musharraf for eight (8) years. The feudal lords have not paid a single penny as income tax. It is, however, true that other oppressive taxes levied on small farmers on agricultural lands by the British remain in force even today. Both military and civilian rulers after Zulfikar Ali Bhutto faithfully protected colonial legacy of unjust taxes but refused to implement a revolutionary measure taken by the Parliament in 1977 of taxing "agricultural income" at uniform rate in Pakistan.

It is strange that pre-1977 definition of "agricultural income" was not restored in 1979, when Gen. Ziaul Haq himself promulgated the Income Tax Ordinance, 1979 on June 28, 1979 "in pursuance of the Proclamation of the fifth day of July 1977 read with the Laws (Continuance in Force) Order 1977 (CMLA Order No. 1 of 1977)". Despite his enthusiasm to levy⁵ agricultural income tax, General Musharraf also did not bother to do the same when he replaced Income Tax Ordinance, 1979 with Income Tax Ordinance 2001, promulgated on September 13, 2001 'in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order 1 of 1999, read with Provisional Constitutional Amendment Order No. 9 of 1999". This vital aspect even escaped the attention of the Parliamentary Committee on Constitutional Reforms while preparing the 18th Constitutional Amendment. Resultantly, violation committed in 1977 still persists!

Misconceptions about Tax on Agricultural Income

Taxing "agricultural income" under the Constitution is the

5. <http://www.pakistaneconomist.com/issue2001/issue21&22/f&m8.htm>
From Shamim Ahmed Rizvi, Islamabad May 21 - Jun 03, 2001

"It is gratifying to note that, though belated, the government of Gen. Pervez Musharraf has issued firm directive to all the provincial governments to levy a tax on agriculture income at a uniform rate w.e.f. 1.7.2001. Although basic exemption have been raised generously, it may be viewed as a good beginning provided enforced with a strong will".

6. "A conservative estimate is that the total worth of rural land given to military personnel is about 1,400bn rupees; the value of urban land is harder to calculate because of the lack of complete data. But the Defence Housing Scheme built on 720 acres in Rawalpindi, which earned its stakeholders a profit of 24bn rupees, gives some idea. In Lahore, the military authorities paid 11bn rupees for 3,375 acres, which they later sold for 135bn rupees." By Dr. Ayesha Siddiqi, <http://www.forliberation.org/site/archive/issue0208/article030208.htm>

sole prerogative of provincial governments. Confusion prevails about the laws in force levying income tax on "agricultural income. It is strange to note that politicians, parliamentarians, TV anchors and the so-called experts are not clear about these laws. The Federal Government is constantly criticized for non-levy of income tax on "agricultural income" without realizing that fault lies with the provincial governments. It is quite strange that total collection by all the provinces under these laws was dismally low—Rs. 1.89 billion were collected in 2009 against the actual potential of Rs. 200 billion; share of agriculture in GDP that year was about 22%.

The abysmal collection proves beyond any doubt, lack of will to tax absentee landlords in Pakistan—their number is meager but their political clout is very strong. This influential class includes generals and other high-ranking military officers, now owners of substantial state⁶ land, having emerged as a new landed aristocracy armed with gun power—this phenomenon remains unexplored by political analysts, economists, civil society and media.

Like barons of feudal Europe, they are in control of Pakistan's politico-economic system. The real issue that has never been addressed by any political party is ruthless exploitation of the landless tillers and industrial workers—owners of most of the industries are feudal lords-in-Parliaments. Presently, the provincial governments are not levying and collecting tax on "agricultural income" but charging a fixed tax on per acre basis. The charge is usually Rs.150 and Rs. 100 for irrigated and Rs.100 non-irrigated lands respectively. This acreage-based charge is gross violation of the Constitution that stipulates tax on "agricultural income" and not a fixed levy on immovable property.

Present Position in Pakistan

A cursory look at laws (and amendments therein from time to time) promulgated by the provincial governments, to tax "agricultural income" shows a lukewarm attitude towards imposition, enforcement and collection as mentioned below.

The province of the Punjab, while levying tax on agricultural

Tax on Agriculture Income

income under the Punjab Agricultural Income Tax Act 1957 (hereinafter "the Act"), [Appendix D] grossly violated command of the Constitution by providing that cultivated land would be deemed to be agricultural income. By doing so, agricultural income tax was converted into land revenue, based on acreage. The rates provided in the First Schedule to this Act says that if ownership is up to 12½ acres there will be no tax, where it is more than 12½ but less than 25 acres, Rs. 150 per acre and beyond 25 acres it would be Rs. 250 per acre. From July 1, 2001, however, by virtue of section⁷ 3(3) agricultural income tax in the real sense was provided by suggesting progressive rates on⁸ net income basis in the Second Schedule. After allowing minimum exemption of income of Rs. 80,000, rate of tax where income does not exceed Rs. 100,000 is 5% of total income; where income exceeds Rs 100,000 but does not exceed Rs 200,000 is Rs 5,000 plus 7½ of amount exceeding Rs 100,000; where income exceeds Rs 200,000 but not Rs 300,000 its Rs 12,500 plus 10% of amount exceeding Rs. 200,000 and in the last slab where total income exceeds Rs 300,000 its Rs 22,500 plus 15% of the amount exceeding Rs 300,000.

With the introduction of net income taxation the acreage tax should have been abolished but section 3(4) of the Act says that out of net profit tax and acreage tax, the greater would be payable. Here lies the great catch. Nobody is filing return of net income and by paying paltry acreage tax, is posing as if this is greater than tax on net income. Under the First Schedule to the Act, **absentee landlords** are happy paying merely Rs. 250 to Rs 300 per acre. The Government of Punjab is **least bothered** to enforce progressive taxes in its domain while constantly criticizing the Federal government for their inactions. No efforts seem to be made by the Collectors who **are totally disinterested** in enforcing the law and calling for returns of income as envisaged in the Act.

Violation of this law is evident from the very fact that the Prime Minister of Pakistan, Mr. Yusuf Raza Gilani has shown nil agricultural income tax in his declaration before the Election Commission of Pakistan (ECP)⁹. He, like many other **absentee landlords**, does not even admit ownership of **agricultural land, usually kept under religious trusts headed by spiritual leaders (gaddi-nashin pirs). These**

7 **3. Charge of agricultural income-tax.**— (1) Subject to the other provisions of this Act, there shall be levied, assessed and collected each year a tax in respect of agricultural income of a tax year of an owner at the rate specified in the First Schedule to this Act.
Explanation.— For the purposes of this sub-section the cultivated land during a tax year shall be deemed to be agricultural income.

(2) Omitted.

(3) Subject to the other provisions of this Act, there shall be levied, assessed and collected for each assessment year commencing on or after the first day of July, 2001, agricultural income tax in respect of the total agricultural income of the income year of every person [* * *] at the rate specified in the Second Schedule: Provided that where, by virtue of an amendment in the Second Schedule, the rate of income tax, for the purpose of assessment in respect of any assessment year, is altered, the rate of income tax existing prior to the said alteration shall continue to apply in respect of any assessment year to which the said existing rate is applicable

(4) **Out of the two taxes assessed under sub-sections (1) and (3), an assessee shall be liable to pay one tax the amount of which shall be greater.** (Emphasis is ours)

8. Income from tilling the land is to be evaluated as under:

4-A. Computation of agricultural income.— In computing agricultural income of an assessee, the following allowances and deductions shall be made, namely:-

(a) any expenditure on account of labour for—

- (i) tilling the land;
- (ii) sowing the seed;
- (iii) ploughing/planting;
- (iv) tending/pruning;
- (v) rendering the produce fit to be taken to market;
- (vi) any other agricultural operation;

(b) any expenditure incurred on purchase of—

- (i) seed;
- (ii) fertilizers and pesticides;

c any expenditure incurred on—

- (i) hiring animals, tractors, agricultural machinery and implements used for earning agricultural income;
- (ii) repair and maintenance of water-courses;

(d) any expenditure incurred on—

- (i) harvesting of agricultural produce;
- (ii) marketing of the agricultural produce;

(e) any sum paid on account of—

- (i) ushr;
- (ii) local cess and other cesses;
- (iii) water-rate (Abiana);
- (iv) electricity bills in respect of tubewells and lift pumps used for agriculture;
- (v) fuel charges in respect of tubewells and lift pumps uses for agriculture;
- (vi) rent of land used for agriculture;
- (vii) obtaining of agricultural loans;
- (viii) mark-up on agricultural loans;

(f) in respect of depreciation of such buildings, machinery and plant being the property of the assessee used for the purpose of earning agricultural income, allowance at the rate of 15 percent of the written down value; and

(g) any other expenditure not being in the nature of capital expenditure or person expenses of the assessee laid out or expended wholly and exclusively for the purposes of agriculture.

pirs get gifts (*mazraas*) from their followers (*murabba*) in the form of agricultural produce. The followers cultivate the lands attached with mausoleums/tombs (*dargahs/mazaars*). The real beneficiary of these lands are the *pirs*. They do not show these lands as their own property even though benefiting from them. It is evident from the Prime Minister's declaration whose source of income is only from salary. These *pirs* cum politicians cum businessmen dominate our economy and politics without paying taxes.

Most of the **absentee landlords** having colossal agricultural income, especially in Punjab and Sindh, are not paying any personal tax, at least their declarations before ECP testify to this effect. Where it is proven beyond any doubt that they are violating law of the land then the process of disqualification in view of Articles 62 and 63 of the Constitution should be initiated forthwith. This exercise would pave way for true democratization of the country. All tax delinquents should be debarred from participating in elections and those already in assemblies should be disqualified after completing due process of law.

The Sindh Agricultural Income Tax Act of 1994 [Appendix E] as amended from time to time has more or less the same position. The entire Act does not even talk about income from agriculture except in the title but winds around land holdings according to the type of irrigation facility. Subsequent amendments pertain to variations in the rates as per size of lands and a list of penalties for various defaults but nothing with respect to actual income or its assessment.

Khyber Pakhtunkhwa has perhaps done a better job by enacting Northwest Frontier Province Agricultural Income Tax Ordinance, 2000 [Appendix F]. The statute provides for tax on income or tax on land on acreage basis, whichever is more. The Northwest Frontier Province Agricultural Income Tax Rules, 2001 lays down the procedure for calculation of income, filing of return of income and collection of tax. Considering the level of literacy in the region, it is not a surprise that there is no significant response to this piece of legislation. Besides, some of the terms have not been specifically defined but have the same meaning as contained in the Revenue Law.

All in all, the legislators appear to have very sketchy understanding of the way such laws should be drafted. No effort seems to have been made in seeking expert opinion and even the amending acts and ordinances appear to have hurriedly been enacted to keep pace with demands of donor agencies.

From 1993 to 1999, the Governor of Balochistan promulgated various Agricultural Income Tax Ordinances that were amended from time to time, following the same pattern as in the other three provinces. Balochistan Tax on Land and Agriculture Income Tax Ordinance, 2000 [Annex G], came into force on the instructions of the Chief Executive of Pakistan (as mentioned in the Preamble).

For Islamabad Capital Territory the enactment is known as the Tax on Agricultural Land Ordinance, 1996 which came into force on 1st of January 1997. This Ordinance only covers a fixed tax on land without mentioning any agricultural income. [Appendix H]

The above analysis shows that none of the four provinces, while levying *income tax* on “agricultural income” followed Article 260(1) of the Constitution. All the agricultural income tax laws passed by them are merely superficial, whereas in substance no tax on “agricultural income” has been imposed by any province, showing an attitude of **contempt and apathy** towards the Constitutional provisions. Military and civil governments have both, consistently shown disrespect to the Constitution which explains why constitutional democracy has failed to work in Pakistan—economic interests of landed aristocracy have primacy over the Constitutional rule whereas it should have been the other way around.

Problems Relating to Agricultural Income Tax

Imposition of Law-Why Opposed by the Agricultural Lobby

There are two main arguments against imposition of agricultural income tax: Multiple taxes on land; and Complexities in computing agricultural income

It is true that unjust and multiple taxes are in existence and farmers with small holdings are victims of high-

9. “The value of Prime Minister Yousuf Raza Gilani's only declared property remained almost unchanged during 2009-10, but he managed to save more than half a million rupees from his annual salary of less than Rs1 million, the statements of assets and liabilities of members of the National Assembly submitted to the Election Commission reveal. In his statement, the prime minister has described his salary as the only source of income. The statement shows that out of his net annual salary of Rs 971,340, his net saving during the year was Rs. 571,340 while domestic expenses during the year stood at Rs400,000. The value of his assets in year 2008-09 was Rs18.9 million, increasing to Rs19.47 million in 2009-10. Interestingly, the prime minister does not own a car. He had declared the value of his house in Muslim Gilani Colony, Multan, as Rs6.3 million in 2008-09. It remained unchanged the following year. The declaration made no mention of two houses in Defence area of Lahore, one under his own use and the other his son's.” (Dawn April 21, 2011: <http://www.dawn.com/2011/04/21/lawmakers-share-wealth-of-detail-with-nation.html>)

handicapped. For a much shorter pay-off in return due to heavy costs of inputs and excessive multiple taxes. This problem can easily be overcome by abolishing these taxes and replacing them all with tax on income exceeding Rs. 350,000 (minimum threshold for levying income tax). In this way the small farmers would be relieved from unjust taxes and may not even be liable to any tax. Absentee landlords should be subjected to tax on their agricultural income as was done in 1977 [see Annexure B]. Imposition of tax on agricultural income is necessary to bring rich landlords into the tax net as well as to pave the way for corporate farming. Small farmers would also be able to form co-operative societies to pool their resources for better returns as is the case in East Punjab in India. The way forward is towards abolition of all unjust land taxes and introduction of progressive income tax.

Opponents of agricultural income tax argue that in the presence of **multiple taxes** on land and its produce there is no justification to apply the classic model of tax on net profit of a business. Their contention is that agriculture is not business *per se* unless raw material is applied for manufacturing and some value addition is made. They elaborate by citing example of production of sugar extracted from sugar cane. The mere cultivation of sugar cane is not a business as understood in the legal parlance of tax jurisprudence. However, for agro-based industry it can safely be said that business conducted is comparable to any other industrial and commercial ventures.

If we take the example of a company engaged in large scale sugar cane farming and using the crop to produce sugar, income earned would be bifurcated under agricultural and non-agricultural, where on the former, the Federal Government would not be able to levy tax as plea would be taken that cultivation part falls outside the ambit of federal taxation. When this company uses sugar cane as raw material its cost would be determined on market value and while computing net profit from sugar manufacturing,

market value would be taken into account (as company did not purchase raw material) in contrast to the mills that actually buy sugar cane from farmers. **This difference highlights that issue of imposition of agricultural income tax on the basis of net profit computation is not as simple as it appears.**

This problem was solved, again in 1977 by bringing agricultural income into tax net at federal level. Historically, the income tax law recognizes the difficulty and provides that where a person who is also a cultivator or receiver of rent uses agricultural produce raised or received as raw material in a business which is chargeable to tax under the head business, the market value of such raw material shall be allowed as deduction. Thus, the argument is not valid at all as the agriculturalist-cum-manufacturer gets benefit by deducting market value while computing his business income.

Rule 11 of Income Tax Rules, 2002, even provides the basis for calculating the market value of agricultural produce. It is obvious that proponents of agricultural income tax have valid reasons to plead imposition of this law. Vested landed classes having political clout are active in opposing the law at all levels.¹⁰

Enforcement and Collection

Since 1994 in all the provinces as well as the Capital Territory, agricultural income tax is enforceable. As pointed out earlier, there are flagrant violations of the Constitution by both provincial and federal governments in interpreting and implementing provisions related to “agricultural income.” What makes the situation more painful is the **pathetic enforcement** of whatever laws that have been promulgated.

It is well established that there never was any determination to enforce these laws. Their enactments

10 **11. Agricultural produce as raw materials.**— (1) This rule applies to a person who is a cultivator or receiver of agricultural produce as rent-in-kind and who uses agricultural produce raised or received as raw materials in a business the income from which is chargeable to tax under the head “Income from Business”.
(2) In determining the amount of income of a person to whom this section applies, the market value of any agricultural produce raised or received as rent-in-kind by the person and used as raw materials in the person's business shall be allowed as a deduction.
(3) For the purposes of sub-rule (2), the market value of agricultural produce shall be—
(a) where the agricultural produce is ordinarily sold in the market in its raw state or after application of any process ordinarily employed by a cultivator or receiver of agricultural produce as rent-in-kind to render it fit to be taken to market, the market price for the produce at the time it is used as raw materials in the person's business; or
(b) in any other case, the sum of the following amounts, namely:—
(i) the expenses of cultivation; and
(ii) the land revenue rent paid for the area in which the produce is grown.
(4) No deduction shall be allowed for any expenditure incurred by a person as cultivator or receiver of agricultural produce as rent-in-kind, other than as specified in sub-rule (2).

were merely to fulfil certain conditions of the foreign donors as is evident from collections made by the provinces [Appendix I]. There is consensus amongst the experts that potential of agricultural income tax is not less than Rs. 200 billion, keeping in view contribution of agriculture in the GDP.

Taxation on acreage basis in the garb of income tax is not only against the established norms of direct taxation but also violates the supreme law of the land. Provinces were not at all interested in providing the required machinery for collection of this tax, neither did they bother to publicize this levy what to talk of educating the illiterate population.

One of the leading agriculturalists and Member National Assembly, Mr. Jehangir Khan Tareen, in response to our article¹¹ confirmed that when he voluntarily paid this tax, the *patwari* of the area was flabbergasted expressing his doubts about any mistake committed by him. This clearly shows the apathy of Provincial Governments towards this levy.

The actual collection of less than Rs. 2 billion in financial year 2009-2010 against real potential of Rs. 200 billion speaks volumes about issues related to enforcement and collection.

Existing set-up under different provincial boards of revenue is obsolete and not competent to implement the law and enforce/collect agricultural income tax. In the field the *patwaris* and *tehsildars* are collecting land revenue but perhaps they have never heard of this law. Hence they are collecting tax on acreage basis even when in 2001, the amended law in at least two provinces required computation of net income and imposition of progressive rate of taxation.

11. **From:** Jahangir Khan Tareen
Sent: Saturday, January 01, 2011 3:24 PM
To: 'Huzaima & Ikram'; 'Undisclosed-Recipient:.'
Subject: RE: Provinces and agricultural income tax
Dear All

The statement that "Nobody is filing return of net income and by paying paltry acreage tax, is posing as if this is greater than tax on net income." is not entirely correct. I have been filing and paying Agri tax on income basis since the law came into effect. This year I have paid Rs 9.6 m which is way above what was due on acreage basis. When I filed my first return the Revenue authorities returned my cheque telling me I was not liable. I had to write to the Board of Revenue and the Provincial Finance secretary requesting them to accept my taxes. The non collection of this tax is a failure of the Provincial Govt. Most farmers are not aware of this aspect of the tax law.

ALL Income should be taxable whatever the source. Not only farmers but Artis, wholesalers, shopkeepers etc should all have to pay the same tax. Income earned outside Pakistan by Pakistani citizens should also be taxed and those who do not pay taxes should not have a right to impose taxes on others.

Jahangir Tareen

Conclusions and Suggestions

As the law stands today, the Federal Government cannot levy agricultural income tax while the provinces are apparently not interested in collection. Faced with this dilemma, Pakistan has two options:

- a. Constitutional amendment is made by consensus to make agriculture a federal subject; or
- b. Provinces may not surrender the right to taxation but hand over the collection rights to the Federal Government as has been done in the case of sales tax on services.

In the recent months, efforts were made by the Federal Government to convince the provinces to properly enforce agricultural income tax by levying uniform rates and giving collection rights for a few years to the Centre, till the time federating units created their own infrastructure for effective enforcement and collection¹². The provinces reportedly refused to yield to the demand of the Federal Government taking the plea that it amounted to interference in their affairs and violated Constitutional guarantee of provincial autonomy.

The impasse between Centre and provinces over the issue of proper collection of agricultural income tax needs to be overcome. If Pakistan has to become a self-reliant economy, every person earning **Rs. 500,000 or more from agriculture must pay income tax at the same rate as his counterpart in the non-agricultural sector**. At the moment, salaried persons having income exceeding Rs. 300,000 are paying Rs. 100 billion as income tax. The persons engaged in agriculture having same levels of incomes are paying no tax at all—this is gross violation of Article 25 of the Constitution of Pakistan.

If five million agriculturists having average income of Rs. 1.5 million per annum pay income tax at the current rate of **25%**, the collection would be Rs. 1,850 billion. **Our tax-to-GDP would jump up to 20% and there would be no fiscal deficit**. What more could emphasize the importance of levying agricultural income tax in the country?

Collection of income tax from agriculturists will make Pakistan not only self-reliant but also provide necessary funds for the much-needed development programmes in rural areas. **Abolishing unjust taxes on poor farmers and levying agricultural income tax with progressive rates is the key to the country's economic survival and progress**. The dream of an egalitarian Pakistan, economically self-reliant and democratically strong, can never be achieved by keeping the rich and absentee landlords outside the tax net. People sitting in the Parliament and Provincial Assemblies should realize that public interest must prevail over self-interest. By not paying income tax, the rich are creating problems for themselves which may culminate in civil commotion as witnessed in the Middle East. Concentration of wealth, widening of the rich-poor gulf, injustice and awful governance are weakening Pakistan with every passing day.

In the absence of an equitable tax system, we are doomed to fail. It is still not too late that the entire nation put pressure on their elected representatives to take necessary legislative measures and demonstrate political will to raise tax to GDP ratio substantially, which is only possible by taxing all persons having income above the basic threshold, irrespective of source.

12. ISLAMABAD: The federal government's attempt to introduce a uniform agriculture tax in all provinces from July could not sail through, as all the provinces including Sindh opposed the move on Tuesday, burying the controversial issue, at least for the time being. Inside sources told *The Express Tribune* that a meeting between the federal and provincial governments failed to develop consensus on the issue of aligning the agriculture and land tax rates. They added the proposal to tax agriculture income above the ceiling of Rs350,000 also failed to win the provinces' nod. The provinces also opposed the proposal of giving the right of collection of agriculture tax to the Federal Board of Revenue. (Shahbaz Rana Published: June 8, 2011 *The Express Tribune*.)

APPENDICES

Appendix A

Financial Devolution: Historical Perspective¹³

Under the Government of India Act, 1858, the control over the expenditure of Indian revenues was vested in the Secretary of State in Council but that body by its standing rules delegated large financial powers to the Governor-General in Council. Under the system, thus established, the revenues of India constituted a single fund, the Provincial Governments acting as mere agents of the Government of India both for collection of revenues and expending what was given to them to meet the provincial charges. A resolution issued by Lord Mayo's Government in 1870, marked the commencement of financial and administrative devolution. Nine services were provincialised. Their expenditure was to be met out of the receipts under these heads and fixed imperial grants. Subject to the conditions and limitations prescribed, a local Government was to enjoy freedom of allotment. The settlements were made on annual bases. Further advance was made by Lord Lytton's Government in 1877. More heads of administration were provincialised and to meet the additional charges the Government of India instead of raising the fixed imperial grants, transferred more heads of revenue. The resolution issued by Lord Ripon's Government in 1881 made three important changes. The system of giving to the Local Governments fixed sum of money to make good the excess of provincialised expenditure over provincial receipts was done away with. The heads of revenue were reclassified as imperial, provincial, and divided. To give greater security to provincial finance and to encourage economy on the part of Local Governments, the settlements were now placed on five years' basis. In 1904, the settlements were made quasi-permanent, that is to say they were not to be subjected to revision except in case of grave imperial necessity, and in 1912, they were made permanent. As the position stood in 1918, *legally*, British India was still a unit in administration and its revenues constituted a single fund. The assignment and devolution which had developed since 1870, was the outcome of resolutions and administrative policy of the Governor-General in Council. The Provincial Governments had no sources of revenue which they could legally call their own, nor they had any independent powers of taxation or borrowing. Following the position in the 1858 in 1918 also the expenditure of revenues was in the exclusive jurisdiction of the Secretary

of State in Council and their executive agents in India. There existed no popular control in respect of either the central or the provincial budgets.

138. Taxes on income¹⁴

(1) Taxes on income other than agricultural income shall be levied and collected by the Federation, but a prescribed percentage of the net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to Chief Commissioners' Provinces or to taxes payable in respect of Federal emoluments, shall not form part of the revenues of the Federation, but shall be assigned to the Provinces and to the Federated States, if any, within which that tax is leviable in that year, and shall be distributed among the Provinces and those States in such manner as may be prescribed

Provided that

a) the percentage originally prescribed under this sub-section shall not be increased by any subsequent Order in Council;

b) the Federal Legislature may at any time increase the said taxes by a surcharge for Federal purpose and the whole proceeds of any such surcharge shall form part of the revenues of the Federation.

*["For the purposes of this sub-section, in each financial year one per cent. or such other percentage as may be prescribed, of so much of the net proceeds of taxes on income as does not represent the net proceeds of taxes payable in respect of Federal emoluments shall be deemed to represent proceeds attributable to Chief Commissioners' Provinces."]**

(2) Notwithstanding anything in the preceding sub-section, the Federation may retain out of the moneys assigned by that sub-section to Provinces and States---

a) in each year of a prescribed period such sum as may be prescribed *[or if it is so prescribed the whole of those moneys]* and*

b) in each year of a further prescribed period a sum less than that retained in

13. Prof. C.L. Anad, *Constitutional Law and History of Government of India*, Universal Law Publishing Co. Pvt. Ltd, Eight Edition 2008, page 5.

14. Prof. C.L. Anad, *Constitutional Law and History of Government of India*, Universal Law Publishing Co. Pvt. Ltd, Eight Edition 2008, pages 646-652

*India and Burma (Miscellaneous Amendments) Act, 1940.

the preceding year by an amount, being the same amount in each year, of the period will be equal to the amount of each such annual reduction:

Provided that---

- (i) neither of the periods originally prescribed shall be reduced by any subsequent Order in Council;
- ii) the Governor-General in his discretion may in any year of the second prescribed period direct that the sum to be retained by the Federation in that year, and that the second prescribed period shall be correspondingly extended, but he shall not give any such direction except after consultation with such representatives of Federal, Provincial and State interests as he may think desirable, nor shall he give any such direction unless he is satisfied that the maintenance of the financial stability of the Federal Government requires him so to do.

(3) Where an Act of the Federal Legislature imposes a surcharge for Federal purposes under this section, the Act shall provide for the payment by each Federated State in which taxes on income are not leviable by the Federated of a contribution to the revenues of the Federation assessed on such basis as may be prescribed with a view to securing that the contribution shall be the equivalent, as near as may be, of the net proceeds which it is estimated would result from the surcharge if it were leviable in that State, and the State shall become liable to pay that contribution accordingly.

(4) In this section—

“taxes on income” does not include a corporation tax; “prescribed” means prescribed by His Majesty in Council; and “Federal emolument” includes all emoluments and pensions payable out of the revenues of the Federation or of the Federal Railway Authority in respect of which income-tax is chargeable.

Comments

Clause (1). The taxes on income other than agricultural income shall be levied and collected by the Federation but a

prescribed percentage of the net proceeds shall be assigned to the Provinces and to Federated States, if any, within which the tax is leviable. Under the British India Constitution of 1919, separation of resources of the Central and Provincial Governments effected by statutory devolution left the Center with an undue share of those heads of revenue which responded most readily to an improvement in economic conditions, and this led to a strong claim by the Provinces, especially by the more industrialized Provinces like Bombay and Bengal, for a substantial share in the taxes on income, a claim which received added impetus by the attitude of the States into Federation and examining the plans suggested for allocation of taxes on income, the Joint Committee Report observed

“The entry of the States into the Federation removes, indeed, one very serious problem. The incidence of the sea customs duties is upon the consumers in the Indian States and the consumers in British India alike; but the States have no say under the present system in the fixing of the tariff. With the continued rise for many years past in the level of the import duties, the States have pressed more and more for the allocation to them of a share in the proceeds of these duties. There is, of course, another side to the picture in the increased cost of the defence services which is for the benefit of the States as well as for British India; but, nevertheless, the question was becoming one of formidable difficulty, and was recognised as such in the report of the Indian States Committee of 1928-29, presided over by Sir Harcourt Butler. With their entry into the Federation, the States will take part in the determination of the India tariff, and their claim to a separate share in the proceeds disappears. But if their entry removes this major problem, it introduces another, through less formidable, complication. It is obviously desirable that, so far as possible, all the Federal Units should contribute to the resources of the Federation on a similar basis. Broadly speaking, no difficulty arises in the sphere of indirect taxation which constitutes some four-fifths of the central revenues; the difficulty arises over direct taxation, that is to say, taxes on income. If the Federation retains the whole of taxes on income, as the Centre does at present, it would be natural to require that the subjects of the federating States should also pay available tax and that the proceeds (or part thereof) should be made available for the federal finances. The States have made it plain that they are not prepared to adopt any plan of this kind.

“It will be seen, therefore, from two different lines of

approach, that the most difficult question that arises in the problem of allocation is that of the treatment of taxes on income. In earlier discussions at the Round Table Conference, a plan was evolved by which, in the main, all the taxes on income were to be assigned to the Provinces the resulting deficit in the Federal Budget being made up for the time being by contributions from the Provinces which it was hoped could be gradually reduced over a prescribed period of years and would finally disappear, as new Federal resources were developed. The position which would be likely to result from a plan of this kind was examined in India in 1932 by the Federal Finance Committee presided over by one of our own number. The Committee declared itself unable to assume the abolition of which of such provincial contributions within any period that could be foreseen; and this conclusion, and the objections felt to the reintroduction of provincial contributions, experience of which had not been too fortunate under the existing Constitution, led to the abandonment by His Majesty's Government of the scheme.

"There is little doubt that, from the economic point of view, it is desirable that the Provinces should, if it is practicable, share in the proceeds of taxes on income. There has been considerable discussion, since the abandonment of the plan just described, as to the amount of this share. If the problem is considered merely as one of striking a theoretically correct balance between the States and British India on the assumption that the States will not be subject to the federal income tax, there are many factors to be taken into account. Some of the federal expenditure will be for British India purposes only, such as subsidies to deficit British India Provinces; there has also been controversy on the question whether the service on part of the pre-Federation debt should not fall on British India alone; and further, part of the proceeds of taxes on income is derived from subjects of Indian states, *e.g.*, holders of Indian Government securities and shareholders in British India companies. The States also make a contribution in kind to defence of which there is no counterpart in the Provinces of British India. It seems to us both unnecessary and undesirable to attempt any accurate balancing of these factors or to determine on a basis of this kind what share of the income-tax could equitably be retained by the Federation. It will be wiser to base the division upon the financial and economic needs of the Federation and the Units. Nor is it likely that any disequilibrium between British India and the States that might result from such a method of treatment would be of serious character. The difficulty is rather that the Federal centre is unlikely, at least for sometime to come, to be able to spare much, if anything,

by way of fresh resources for the Provinces, apart from the pressing needs of deficit areas to which we refer below. But it is equally undesirable to leave the Provinces with no indication of the share which they may ultimately expect when the strain of present economic difficulties becomes less severe. It is also necessary that any transfer should be gradual, if dislocation of both federal and provincial budgets is to be avoided.

"The solution of this problem proposed in the White Paper may be briefly described as follows: taxes on income derived from federal sources, *i.e.*, federal areas or emoluments of federal officers, will be permanently assigned to the Federation. Of the yield of the rest of the normal taxes on income (except the corporation tax referred to later) a specified percentage (to be fixed by Order in Council, at last possible moment) is to be assigned to the Provinces. This percentage is to be not less than 50 percent. nor more than 70 percent. Out of the sum so assigned to the provinces, the Federal Government will be entitled to retain an amount which will remain constant for three years and will thereafter be reduced gradually to zero over a further period of seven years, power being reserved to the Governor-General to suspend these reductions, if circumstances made it necessary to do so. The Federal Government and Legislature would, in addition be empowered to impose a surcharge on taxes on income, the proceeds of which will be devoted solely to federal purposes. We understand it to implicit in this proposal that the power should be exercisable in times of serious financial stress; and when such charges are in operation the States would make contributions to the federal finances, assessed on a predetermined basis, so as to make them a fair counterpart of the yield of the surcharges from British India. The conditions under which States are ready to accept this proposal were explained in a statement made to us on behalf of the Indian States delegates; and we agree that conditions of the kind mentioned are not unreasonable.

"Some obvious criticism can be made on this plan for dealing with the taxes on income. If a specified percentage of the yield of taxes of income is to be assigned to the Provinces, any alteration in the rate of tax will affect both parties (Federation and Provinces), though there may be only one which desires either an increase or a diminution in the yield. It may be suggested that the yield of a given basic rate should be assigned either to the Federation or the Provinces, the remainder going to the other. We are, however, informed that a plan of this kind would not fit well into the Indian income-tax system, which differs

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considerably from the British. It is also said that the anomaly is more apparent than real, since, at least for many years to come, both Federation and Provinces will need as much money as can be obtained from taxes on income, and the fixing of the rate is likely to depend more on taxable capacity than on the precise budgetary position at any given moment of either.

“We agree that the percentage which is ultimately to be obtained should be fixed as late as possible by Order in Council; but we see little or no prospect of the possibility of fixing a higher percentage than 50 percent and there is an obvious difficulty in prescribing in advance, as the White Paper does, a timetable for the process of transfer, even though power is reserved to the Governor-General to suspend the process (or as we assume, its initiation). The facts discussed below indicate that for some time to come the Centre is unlikely to be able to do much more than find the funds necessary for the deficit provinces; and that an early distribution of any substantial part of the taxes on income is improbable. We think that it would be preferable to leave the actual periods indicated above, which the White Paper proposes should be 3 and 7 years, to be determined by Order in Council in the light of circumstances at the time rather than to fix them by Statute (the Governor-General's power to suspend being of course retained).”

Clause (i)—“A prescribed percentage of the net proceeds.....shall be assigned to the Provinces” etc. The White Paper suggested that the percentage of the proceeds of taxes on income to be assigned to the Provinces should not be less than 50, nor more than 75. Following the recommendations made as a result of Sir Otto Neimeyer's Inquiry, the percentage of revenue derived from taxes on income to be assigned to Provinces is 50 and this is redistributed as follows by the Order in Council relating to the distribution of Revenues, dated July 3rd, 1936.

Bengal.....	20 per cent.
Madras.....	15 per cent.
The United Provinces.....	15 per cent.
The Punjab.....	8 per cent.
Bihar.....	10 per cent.
The Central Provinces & Berar.....	5 per cent.
Assam.....	2 per cent.
The N.W.F. Province.....	1 per cent.
Orissa.....	2 per cent.
Sindh.....	2 per cent.

Proviso (a) to clause (1) provides that the percentage originally prescribed for the Provinces under the clause shall not be increased by any subsequent Order in Council. If this percentage were increased, that would reduce share of the———

*India and Burma (Miscellaneous Amendments) Act, 1940.

Federation and might necessitate imposing of a surcharge for federal purposes under proviso (b).

Clause (2)—See for the periods prescribed and the amount to be retained by the Federation, the Distribution of Revenues Order, paras 6 and 7.

FINANCE (SUPPLEMENTARY) ACT, 1977 NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 9th January, 1977

The following Acts of Parliament received the assent of the President on the 9th January, 1977, and hereby published for general information:--

ACT No. I of 1977

An Act to provide for taxation of agricultural income and to give effect to other financial proposals of the Federal Government.

WHEREAS it is expedient to provide for taxation of agricultural income in the country on a uniform basis and to give effect to other financial proposals of the Federal Government:

It is hereby enacted as follows: ---

1. Short title and commencement. —

(1) This Act may be called the Finance (Supplementary) Act, 1977.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once, so however that income to which the Sixth Schedule applies, shall be liable to tax for the first time in any assessment for the year beginning on the first day of July, 1977.

2. Amendment of Act XI of 1922.

The following amendments shall be made in the Income Tax Act, 1922 (XI of 1922), namely:

(1) in Section 2, in clause (1) in sub-clause (a)

(i) after the words "used for agricultural purposes" a full-stop shall be added, and

(ii) the words "and is either assessed to land revenue in Pakistan or subject to a local rate assessed and collected by officers of the Government as such;" shall be omitted;

(2) in Section 4, in sub-section (3), for clause (viii), the following shall be substituted, namely :

(viii) agricultural income subject to the following limits—

(a) where the total areas of land owned or cultivated by The Whole Such of such person from which Income such income is derived

does not exceed twenty-five acres of irrigated land or fifty acres of unirrigated land or irrigated and unirrigated land the aggregate of which does not exceed twenty-five acres of irrigated land.

(b) where the land owned or Nil cultivated by such person from which such income is derived exceeds twenty-five acres of irrigated land or fifty acres of unirrigated land or irrigated and unirrigated land the aggregate of which exceedstwenty-five acres of irrigated land.

Explanation (1) For the purpose of this clause "irrigated land" means such land as is irrigated by a canal, tube-well, well, lift, spring, tank or any other artificial means of irrigation.

Explanation (2).For the purposes of computation under this clause two acres of unirrigated land shall be reckoned as one acre of irrigated land, ”;

(3) in Section 10, after sub-section (9), the following new sub-section shall be inserted, namely:

(10) Notwithstanding anything to the contrary contained in the preceding sun-section and Section 24, the profits and gains from vocation of agriculture, hereinafter called the agricultural income, of any person, shall be computed and assessed in accordance with the rules contained in the Sixth Schedule. ”;

(4) in Section 18A, in sub-section (1)

(a) after the words "In the case of income" the words "other than income to which the Sixth Schedule applies and", shall be added, and

(b) the words "other than" shall be omitted;

(5) in Section 22, in sub-section (1A), —

(a) the following clause shall be inserted —

Tax on Agriculture Income

(i) in the case of a person the major portion of whose total income consists of income to which the Sixth Schedule applies, by the fifteenth day of December next following;" and

(b) the existing clauses (i) and (ii) shall be renumbered as (ii) and (iii) respectively;

(6) for Section 22A the following shall be substituted. Namely; —

"22A. Every person who is required to furnish a return under sub-section (1) of Section 22 shall pay the amount of tax payable on the basis of the said return as reduced by the amount of any tax already deducted from his income under Section 18 or paid by him under Section 18A, in the following manner

- | | |
|---|--|
| (a) Where the major portion of total income tax on the income to which the Sixth Schedule applies, on | 50% of such date on which return and the balance |
| (b) In other cases, he | 15 th day of May next Following the date on which he furnishes the return." |

(7) in Section 23, after sub-section (6) the following new sub-sections (6A) and (6B) shall be added, namely

"(6A) Whenever there is included in the total income of any person determined under the provisions of this Act, any income to which the Sixth Schedule applies, the Income Tax Officer shall apportion the tax payable by such person in respect of such income and such tax shall be apportioned in the same proportion as such income bears to other income.

6B) In cases to which Sixth Schedule applies and the assessee earns agricultural income in more than one province, the Income Tax Officer shall further apportion such tax in such shares as may correspond to the agricultural income earned by the assessee in each such province.";

(8) after Section 67B the following new section shall be added, namely: "68. The total tax apportioned to each province under sub-section (6A) and (6B) of Section 23 shall on recovery be distributed to each such province." and

(9) after the Fifth Schedule, the following new Schedule shall be added, namely:

"THE SIXTH SCHEDULE

(See sub-section 10 of Section 10) RULES FOR THE COMPUTATION OF AGRICULTURAL INCOME

1. Where any person has agricultural income such income shall be computed after making the following allowances, namely :

- (i) Any rent paid for the land used by him for agriculture;
- (ii) Any sum paid as interest on capital borrowed for agriculture;
- (iii) Any sum paid as premium for insurance against risk, damage or destruction of buildings, machinery, stocks and stores pertaining to agricultural operations;
- (iv) Any expenditure incurred on repairs of buildings, machinery and plant used for the purposes of earning agricultural income
- (v) In respect of depreciation of such buildings, machinery, plant or furniture being the property of the assessee used for the purposes of earning agricultural income, other than buildings, machinery, plant or furniture in respect of which the assessee is entitled to depreciation under clause (vi) of sub-section (2) of Section 10 of the Act, a sum equivalent to such percentage of the written down value thereof as may in any case or class of cases be prescribed ;
- (vi) Any expenditure on purchase of such animals as are used for the purposes of agriculture, which have died or become permanently useless:
- (vii) Any sum paid on account of land revenue, local cesses, municipal taxes and rates in respect of the agricultural land
- (viii) Any sum paid in cash or kind for labour for carrying out agricultural operations;
- (ix) Any expenditure incurred on the purchase of seed, fertilizer and pesticides;
- (x) Any sum paid as water rates or for purchase of water;
- (xi) Any expenditure incurred on hiring animals,

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tractors and agricultural implements used for carding agricultural income;

- (xii) Any expenditure incurred on repairs and maintenance of water courses;
- (xiii) Any expenditure incurred on harvesting and marketing of the agricultural produce; and
- (xiv) Any other expenditure not being in the nature of the capital expenditure or personal expenses of the assessee, laid out or expended wholly and exclusively for the purposes of agriculture.

2. Cost of tractors, agricultural machinery and implements, tubewells and investment in levelling and development of land *being* the property of the assessee and used by him for the purposes of agriculture, shall be allowed as deduction from agricultural income of the year in which they are purchased for use.

3. Where any deduction under paragraph 2 together with allowances contained in sub-paragraphs (v) and (vi) of paragraph 1 cannot be made in full in any year owing to there being no agricultural income chargeable for that year or such income being less than the allowance, the allowance or part of the allowance to which effect cannot be given, shall be carried forward and added to such allowance for the following year.”

3 Income Tax and Super Tax.

(1) Subject to the provisions of sub-sections (2), (3), (4) and (5), in making any assessment for the year beginning on the first day of July, 1977

- (a) income Tax shall be charged at the rates specified in Part I of the Schedule ; and
- (b) the rates of Super Tax shall, for the purposes of Section 55 of the Income Tax Act, 1922 (XI of 1922), be those specified in Part II of the Schedule.

(2) In making any assessment for the year beginning on the first day of July, 1977, where the total income of a company includes any profits and gains from the life insurance business, Super Tax payable by the company shall be reduced by an amount equal to 12.5 per cent of that part of its total income which consists of such inclusion.

(3) In making any assessment for the year beginning on the first day of July, 1977, where the assessee is a cooperative society, the tax shall be payable at the rates specified in paragraph A of Part I, or paragraph B of Part I and paragraph A of Part 11 of the Schedule as if the assessee were a company to which the proviso to

paragraph A of the said Part 11 applied, whichever treatment is more beneficial to the assessee.

(4) (a) In making any assessment for the year beginning on the first day of July, 1977, where the total income of an assessee includes any profit and gains derived from export of goods manufactured in Pakistan, income tax and super tax, if any, payable in respect of such profits and gains shall, subject to the provisions of clauses (b), (c) and (d), be reduced by an amount equal to fifty per cent of the Income Tax and Super Tax, if any, attributable to sale proceeds of such goods:

Provided that in the case of a registered firm, Super Tax payable by it under paragraph C of Part II of the Schedule shall be reduced under this clause by so much of such amount calculated on the basis of the Income Tax payable on its total income under paragraph A of Part I as if it were the total income of an unregistered firm as does not exceed the said Super Tax.

(b) Nothing in clause (a) shall apply to a company which has not made such effective arrangements as may be prescribed by the Central Board of Revenue for declaration and payment in Pakistan of dividends payable out of its profits and gains liable to tax under the Income Tax Act, 1922 (X t of 1922), and for the deduction of tax from such dividends.

(c) Nothing contained in clauses (a) and (l) shall apply *in respect of* the following goods or class of goods, namely:

- (i) raw cotton : and
- (ii) such other goods as may be notified by the Central Board of Revenue from time to time.
- (d) The Central Board of Revenue may make rule providing for the computation of profits and the tax attributable to export sales and for such other matters as may be necessary to give effect to the provisions of this sub-section.

(5) In cases to which Section 17 of the said Act applies the tax chargeable shall be determined as provided in that section. but with reference to the rates referred to in sub-section (1).

(6) For the purposes of making deduction of tax under Section 18, of the said Act, the rates specified in Part I and Part II of the Schedule shall apply as respects the year beginning on the first day of July, 1977, and ending on the thirtieth day of June, 1978.

(7) For the purposes of this section and of the rates of tax imposed thereby the expression "total income" means total income as determined for the purposes of Income Tax or Super Tax, the case may be, in accordance with the provisions of the said Act; and the expression "public company" means a company

- (i) in which not less than fifty per cent of the shares are held by the Government; or
- (ii) whose shares were the subject of dealings in a registered stock ex-change in Pakistan at any time during the previous year and remained listed on the stock exchange till the close of that year.

4. Repeal

The Finance (Supplementary) Ordinance, 1977 (111 of 1977), is hereby repealed.

THE SCHEDULE (See Section 3)

PART I

RATES OF INCOME TAX

A In the case of every individual, unregistered firm, an association of persons, Hindu undivided family and every artificial juridical person referred to in clause (9) of Section 2 of the Income Tax Act, 1922 (XI of 1922), not being a case to which paragraph 13 of this part applies

1. Where the taxable income does not exceed Rs.5,000.----- 10%
2. Where the taxable income exceeds Rs. 5,000 but does not exceed Rs. 10,000-----Rs.500+20% of the amount exceeding Rs.5,000.
3. Where the taxable income exceeds Rs.10,000 but does not exceed Rs.20,000 -----Rs.1,500+30% of the amount exceeding Rs.10,000.
4. Where the taxable income exceeds Rs. 20,000 but does not exceed Rs. 30,000----- Rs. 4,500+40% of the amount exceeding Rs.20,000.
4. Where the taxable income exceeds Rs. 30,000. Rs. 8,500+50% of the amount exceeding Rs.30,000.

Provided that

- (i) no Income Tax shall be payable on a total income *which* before deduction of the sums, if any, exempt under the first and third proviso to sub-section (1) of Section 7. Section 15, Section 15A, Section 15AA, Section 15C Section 15CC, Section CCC Section 15 15D, Section 15F, Section 15H, Section 15HH. Section 58F and Section 58W of the Income Tax Act, 1922 (XI of 1922), does not exceed Rs. 12,000 ;
- (ii) where the total income of an assessee exceeds

Rs. 12,000 but does not exceed Rs. 15,000, the Income Tax payable shall not exceed fifty per cent of the amount by **which th e** total income exceeds Rs. 12,000 ;

- (iii) where the total income includes any income from a share of the income, profits and gains of a firm to which paragraph C of Part II applies, such portion of the Super Tax payable under the said paragraph as bears to the total amount of such Super Tax the same proportion as his share of income, profits and gains of the firm bears to the total income of the firm shall be added to the Income Tax payable by such partner under this paragraph and, if the sum so arrived at exceeds fifty per cent of the total income of such partner (including his share of income, profits and gains of the firm), the amount of Income Tax payable by him under this paragraph shall be reduced by the amount of such excess.

Explanation.—The expression "taxable income", as used in this paragraph, means

- (a) in the case of an assessee to whom or to which clause (a) of subs Section (1) of Section 17 of the Income Tax Act, 1922 (XI of 1922), applies. the total income ;
- (b) in any other case, the total income of an assessee as diminished by the allowance admissible under the first and third provisos to sub-Section (1) of Section 7, Section 15, Section 15A, Section 15AA, Section 15C, Section 15CC, Section 15000. Section 15D, Section 15F, Section 15H, Section 15HH, Section 58F and Section 58W of the Income, Act, 1922 (XI of 1922).

B In the case of every local authority and in every 30 **per cent** of the case in which, under the provisions of the total **amount**. Income Tax Act, 1922 (XI of 1922), Income Tax is to be charged at the maximum rate,

C. In the case of every company, being a public C o m p a n y o r a f o r e i g n association declared to be as company by the Central Board of Revenue under clause (5A) of Section 2 of the Income Tax Act, 1922 (XI of 1922). 30% on the total income excluding

such part of the total income as consists of any dividends

- (1) on the total income, 35 per cent of such income excluding such part f the total income as consists of dividends or in the case of a bonus or bonus shares to which banking

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sub-paragraphs (3) and (4) apply, where such company of income in the case of a Company to which paragraph C of Part I applies.

company and 20 % of income in the case of company other than a banking company;

(2) on the total income excluding such part of the total income as consists of bonus or case bonus shares to which sub-paragraph (4) applies where such company is company to which sub-paragraph (1) does not apply

35 per cent of such income in the case of a banking company and 20 per cent of such income in the case of a company other than a banking company.

or bonus or bonus shares to which sub-paragraph (1) or sub-paragraph (4) of paragraph A of part II applies.

D. In the case of every other company, 30% of total income excluding such part thereof as consists of any bonus or bonus shares to which sub paragraph (4) of paragraph A of Part II applies.

PART II

RATES OF SUPER TAX

A. In the case of a company:

Rates

Provided that where a company, in respect of the profits and gains liable to tax under the Income Tax Act, 1922 (XI of 1922), has made such effective arrangements as may be prescribed by the Central Board of Revenue in this behalf for the declaration and payment in Pakistan of dividends payable out of such profits and gains and for the deduction of tax from such dividends, rebates shall be allowed as follows:

- (i) a rebate of 5 per cent to such company not being a banking company if it is public company;
- (ii) a rebate of 5 per cent to such company not being

a banking company if it is a public company to which clause (iii) does not apply, if its paid-up capital plus free reserves as on the last day of the previous year does not exceed Rs. 5,00,000;

- (iii) a rebate of 5 per cent on so much of the income, profits and gains of such company, being a public company, as are derived by it from an industrial undertaking if its paid-up capital plus free reserves as on the last day of the previous year does not exceed Rs. 10,00,000;
- (iv) a rebate of 5 per cent on so much of the income, profits and gains of Such company, as are derived by it from an industrial undertaking commencing commercial production at any time between the first day of July, 1975 and the thirtieth day of June, 1980 (both dates inclusive) is the original cost of fixed assets (excluding the cost of land) owned by the company and used by the undertaking does not exceed Rs. 30,00,000, so however that no rebate under clauses (ii) and (iii) shall be allowed to such company;
- (v) a rebate of 10 per cent to such company in respect of its income, profits and gains to which sub-section (9) of Section 10 of the Income Tax Act, 1922 (XI of 1922), applies or which are derived by it in Pakistan from processing, freezing, preserving and canning of food, vegetable, fruit, grain, *meat, fish and* poultry;
- (vi) a rebate of 15 per cent to such company on so much of the income, profits and gains accruing or arising outside Pakistan to which sub-section (4) of Section 3 does not apply as are brought by it in Pakistan.

Explanation.—The term "industrial undertaking", as used in clause (iii) means an undertaking which is set up or commenced in Pakistan on or after the 14th day of August, 1947, and which employs (i) ten or more persons in Pakistan and involves the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal agency or (ii) twenty or more persons in Pakistan and does not involve the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal agency and which is

- (i) engaged in—
- (a) the manufacture of goods or materials or the subjection of goods or materials to any process, which substantially changes to original

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<p>(b) ship-building; (c) generation, transformation, conversion, transmission or distribution of electrical energy, or the supply of hydraulic power; (d) the working of any mine, oil-well or other source</p>	<p>10 per cent of Such amount</p>	<p>(1) where the total income does not exceed Rs. 15,000. (2) where the total income exceeds Rs. 15,000 but does not exceed Rs.30,000. (3) Where the total income exceeds Rs.30,000 but does not exceed Rs. 60,000. (4) Where the total income exceeds Rs60,000 but does not exceed Rs. 1,00,000 (5) Where the total income exceeds Rs. 1,00,000.</p> <p>5 per cent of the amount exceeding Rs. 15,000. Rs. 750 plus 10 per cent of the amount exceeding Rs. 30,000 Rs. 3,750 plus 20 per cent of the amount exceeding Rs. 60,000. Rs. 11,750 plus 30 per cent of the amount exceeding Rs. 1,00,000</p>
<p>(a) where such dividends are received by a public company and are declared and paid by a company formed and registered in Pakistan under the Companies Act, 1913 (VII of 1913), or a body corporate formed in pursuance of a law within the legislative competence of Parliament in respect of the share capital issued, subscribed and paid after the fourteenth day of August, 1947.</p>	<p>15 per cent of such amount</p>	
<p>(b) in other cases</p>		
<p>of mineral deposits not being an undertaking to which the Second and Third Schedules to the Income Tax Act, 1922 (XI of 1912). apply; or (ii) any other industrial undertaking which may be</p>		
<p>(a) where a company which issued shares or bonus, as the case may be, is a public company.</p>	<p>10 per cent of such amount</p>	
<p>(b) in other cases</p>	<p>15 per cent of such amount</p>	
<p>approved by the Central Board of Revenue for the purpose of this clause,</p>	<p>12.5 per cent of the income</p>	
<p>(C) In the case of every registered firm—</p>		

Explanation. — The term “registered firm” as used in this paragraph means a firm registered under Section 26A of the Income Tax Act, 1922 (XI of 1922), or a firm treated as a registered firm under clause (b) of sub-section (5) of Section 23 of the said Act.

LAND REFORMS ACT, 1977

ACT No. II of 1977

An Act to provide for further land reforms

WHEREAS it is in the supreme national interest to bring about a more equitable distribution of wealth by carrying out further land reforms:

AND WHEREAS clause (1) of Article 253 of the Constitution of the Islamic Republic of Pakistan provides that Parliament may by law prescribe the maximum limits as to property or any class thereof which may be owned, held, possessed or controlled by any person;

It is hereby enacted as follows:

CHAPTER I—PRELIMINARY

1. Short title extent and commencement.

- (1) This Act may be called the Land Reforms Act, 1977.
- (2) It extends to the whole of Pakistan.
- (3) *It shall come* into force at once.

2. Definitions.

in this Act, unless there is anything repugnant in the subject or context,—

- (1) “Commission” means a Federal or a Provincial Land Commission constituted under the Land Reforms Regulation, 1972;
- (2) “Government” means, in relation to the Islamabad Capital Territory, the Federal Government, and in relation to a Province, the Government of that Province;
- (3) “irrigated land” means land irrigated by a canal, tubewell, well lift, spring, tank or by any other artificial means of irrigation;
- (4) “land” means land which is occupied or has been and can be let for agricultural purposes or for purposes allied or subservient to agriculture, and includes the sites of buildings on such land but does not include land occupied as the site of a village, town, factory or industrial establishment;
- (5) “orchard” means land under fruit trees planted to a density of twenty-five trees or more per acre grown and maintained by human effort;
- (6) “owner” includes a person deemed to be an owner under sub-section (4) of Section 184 of the West Pakistan Land Revenue Act, 1967 (W.P. Act XVII of 1967);
- (7) “person” includes a religious, educational or charitable institution, every trust whether public or private, a Hindu undivided family, a company or association or body of individuals, and a cooperative or other society, but

does not include a local authority, a university established by law, joint stock company which is directly or indirectly held or controlled by Federal Government or a Provincial Government or by both or any other body in which the Government holds majority interest;

(8) “public dues” include dues payable by a person to the Federal Government, or a Provincial Government or to a body directly or indirectly controlled by such Governments;

(9) “prescribed” means prescribed by rules made under this Act;

(10) “President” means the President of the Islamic Republic of Pakistan;

(11) “produce index unit” means the measure in terms of which the comparative productivity of an area of land of a particular kind in a particular assessment circle or area was computed and expressed for the purposes of the schemes relating to the resettlement of displaced persons on land or was determined under the provisions of the repealed Land Reforms Regulation, 1959 and the Land Reforms Regulation, 1972 and in respect of the assessment circle or area where no such unit was determined, such measure as may be determined by the Commission for the Province **within which such assessment circle or area is situate;**

(12) “tenant” means a person who holds land under another person, and is, or but for a special contract would be, liable to pay **rent** for that land to that other person and includes the predecessors and successors-in-interest of such person; but does not include—

- (a) mortgagee of the rights of a landowner, or
- (b) a person holding stateland in any manner and for any purpose. or
- (c) a person to whom a holding has been transferred, or an estate or holding has been let in farm under the West Pakistan Land Revenue Act, 1967, for the recovery of an arrear of **land** revenue or of a sum **recoverable as such an arrear;**

(13) “unirrigated land” means land other than irrigated land and includes land fed by rains, floods, hill torrents, and uncultivable or wasteland.

CHAPTER II. RESTRICTION ON OWNERSHIP AND POSSESSION OF LAND

3. Limits on individual holding.

No person shall, after the commencement of this Act, own or possess land, including his share in Shamilat, if any, in excess of one hundred acres of irrigated land or two

hundred acres of unirrigated land, or irrigated and unirrigated land the aggregate of which exceeds one hundred acres of irrigated land (one acre of irrigated kind being reckoned as equivalent to two acres of unirrigated land) or an area equivalent to eight thousand produce index units of land calculated on the basis of classification of soil as entered in the Revenue Records for *Kharif*, 1976, whichever shall be greater:

Provided that in determining the entitlement of a person any improvement made by him on his land after the commencement of this Act, shall not be taken into account.

4. Choice and exchange of land Save as otherwise provided in this Act -

(1) a person who owns or possesses land including his share in *Shamilat* if any, in excess to his entitlement under this Act shall, out of such land, select in compact blocks as possible, the area which large he is entitled to retain;

(2) a person who is required to surrender land under this Act, before doing so, may, it allowed by an officer of the district concerned who is authorized by a Commission in this behalf, exchange the whole or any part of such land with land owned or possessed within the same district by any member of his family for the purpose of consolidation on the basis of equality of produce index value of the land proposed to be exchanged:

(3) no appeal shall lie in any court or before **any** authority whatsoever against an exchange of land allowed or disallowed under sub-section (2).

Explanation.—For the purpose of sub-section (2) “family” shall mean father, mother, brothers, sisters, husband, wife or wives, sons and daughters.

5. Partitioning of joint holdings and undivided *Shamilat*.

Notwithstanding **anything** contained in any other law for the time being in force, a joint holding or an undivided *shamilat* shall, for the purposes of this Act, **be** subject to partition to the extent of the share of a person who elects to surrender *the* whole or part of his share in such joint holding or such **undivided** *Shamilat*

6. Certain transfers void

(1) The transfer of any land, and the creation of any right or interest in, or encumbrance on any land, made in any manner whatsoever in respect of any area, on or after the commencement of this Act by any person holding immediately before that date an area exceeding his entitlement under Section 3, shall be and shall be deemed

always to have been void, and the land so transferred or encumbered shall be deemed to have been owned or - possessed, as the case may be, by the person by whom it was owned or possessed immediately before that date.

(2) Nothing in sub section (1) shall apply to any transfer of land or the creation of any right or interest in or encumbrance on any land left with a person after he has surrendered the land in excess to his entitlement under this Act.

CHAPTER III.— OBTAINING OF DECLARATIONS, VESTING OF LAND IN GOVERNMENT.

7. Declarations

(1) A Provincial Land Commission may, by notification in the official Gazette, require that any person or class of persons mentioned therein, shall submit such declarations to such authority, *in such* manner and form and by such date, as may be specified in the notification.

(2) In case a person, who is required to make declaration under this section, owns or possesses land in more than one Province, he shall make the declaration to the Commission for the Province where he permanently resides, and the said Commission may call for any information in respect of the declaration from any other province where the declarant owns or possesses land and pass Orders thereon.

(3) In case a person, who is required to make declaration under this section, owns or possesses land in a Province but resides permanently in another province or abroad, he shall make the declaration to the Commission for the Province in which he owns or possesses land.

(4) In case of a minor or a person of **unsound** mind, the **declaration required** under this section, shall be made on his behalf, by his guardian.

(5) Where a person fails to make a declaration **under** this section, an officer of the district concerned, who is **authorized** by a Commission in this behalf, shall, of his own motion or otherwise, and after calling for **such** information and recording such evidence as he may deem necessary, determine the land owned or possessed by such person in excess to his entitlement under this Act and make an order to this effect.

8. Certain restrictions on cutting of trees and dismantling or removal of permanent installations or structures.

A person, who owns or possesses lan a in excess to his entitlement under this **Act, or any on** his behalf **shall** not, with effect from the commencement of this Act, cut or

remove any tree or dismanle, demolition, damage or remove any permanent installation or sty structure, including buildings and tubewells on land owned or possessed by him until the land in excess to his entitlement has been surrendered by him under this Act.

9. Vesting in Government of excess land.

(1) Land in excess of the area permissible for retention by a person under Section 3, shall be surrendered by him within four months of the commencement of this Act, to the Land Commission of the Province where such land is situate, and it shall vest in Government free of any encumbrance or charge: Provided that rights and obligations of any person in respect of the standing crops on land surrendered under this section shall remain unaffected until 30th day of June, 1977.

(2) Land determined, under sub-section (5) of Section 7, to be in excess to the entitlement of a person shall vest forthwith in the Government free of any encumbrance or charge and the defaulter shall be deemed to have forfeited the right and option under Section 4.

(3) Any land under litigation which is in excess to the entitlement of a person under this Act, shall vest in the Government subject to the final adjudication of the rights of the litigants.

(4) Any land surrendered by a person which was in his possession as a lessee or mortgagee shall not vest in Government but shall, subject to the provision of Section 3, revert to lessor or mortgagor, as the case may be.

10. Permanent installations and structures.

Permanent installations and structures, including buildings and tubewells on land surrendered under Section 9, shall not be removed, damaged, dismantled or demolished, and shall vest in Government alongwith such land, free of any encumbrance or charge.

CHAPTER IV.—COMPENSATION

11. Compensation for land.

The Federal Government shall in respect of land surrendered under Section 9, pay compensation to the persons concerned at the rate of rupees thirty per produce index unit.

12. Compensation for permanent installations, structures and buildings.

Compensation for permanent installations and structures

including buildings and tubewells on land surrendered under this Act, shall be determined and paid by the Federal Government on the basis of actual cost incurred subject to such scale of depreciation as may be prescribed.

13. Payment of compensation.

(1) Payment of compensation under Sections 11 and 12 shall be made through heritable bonds which shall be transferable and negotiable through or with banks and *which* shall be redeemable, at the discretion of the Federal Government, by 30th day of June, 1987 and shall carry interest per annum, with effect from the first day of July, 1977, at the rate of one per cent above the bank rate as notified **by** the State Bank of Pakistan, from time to time.

(2) Where the total amount of compensation payable to a person under this Chapter, does not exceed rupees five thousand, the Federal Government may pay the compensation in cash.

(3) Payment of compensation under this section shall be made to the person concerned after deducting such public dues, owned by his whose payment had fallen due on *the* commencement of this Act and which remained unpaid upto the date of payment of compensation.

14. Transfer of encumbrance or charge.

Any encumbrance or charge existing on land surrendered *by* a person or on permanent installations and structures including tubewells on such land, shall be deemed to be an encumbrance or charge on land retained by him under this Act:

Provided that if the encumbrance or charge exceeds the value of the land left with a person, it shall to the extent of such excess, be deemed to be an encumbrance or charge on the bonds payable to him as compensation.

CHAPTER V—UTILIZATION OF SURRENDEERD LAND

15. Disposal of surrendered land.

(1) Land vested in Government under this Act, shall, subject to the provisions of this section, be granted free of charge to the tenants who are shown in the Revenue Records to be in cultivating possession of it during *Kharif* 1976 and *Rabi* 1975-76:

Provided that no land shall be granted to a tenant who but for the coming into force of this Act, would have been entitled to inherit land from a person who is required to surrender land under Section 9.

(2) Where any tenant who is entitled to grant of land under sub-section (1) already owns land, he shall be granted only so much land which together with the land :Arcady owned by him, does not exceed twelve acres.

(b) Land which is not granted under sub-sections (1) and (2) shall be granted to other landless tenants or persons owning less than twelve acres.

16. Conditions for grant of land.

(1) Grant of land under Section 15 shall be made on the following conditions;

(a) a grantee or his heirs shall *not alienate by sale, gift mortgage or otherwise* the land or any portion thereof during a period of twenty years from the date of the grant:

Provided that for the purpose of obtaining a loan for the development of the land the grantee or his heirs may mortgage it in favour of Government, a Government sponsored institution of a cooperative society;

(b) a grantee or his heirs shall not sublet the land.

(2) The Provincial Land Commission concerned may cancel a grant for violation of any of the terms and conditions of the grant after giving an opportunity of being heard to the grantee or his heirs, as the case may be.

17. Utilization of land.—Notwithstanding

anything contained in Section 15, a Provincial Government may, subject to the approval of the Federal Government, utilize or dispose of land surrendered under Section 9 for such public purpose and in such manner as the Provincial Government may deem fit, if it is—

- (a) an orchard; or
- (b) land surrendered by any religious, charitable or educational society or institution; or
- (c) land surrendered by any trust or *waqaf*, whether public or private; or
- (d) land under *Shikargahs* and stud or livestock farms.

CHAPTER VI.—LAND COMMISSIONS

18. Functions of Federal Land Commission.

The Federal Land Commission shall

- (1) coordinate the functioning of Provincial Land Commission;
- (2) assist the Federal Government in deciding any dispute or difference between two or more Provincial Land Commission;
- (3) assist the Federal Government in the exercise of its powers under Section 27;
- (4) issue such directions to any or all Provincial Land Commissions as may be necessary for the purposes of this Act;
- (5) perform such other functions as may, from time

to time, be assigned to it by the Federal Government.

19. Powers and functions of a Provincial Land Commission.

Subject to the provisions of this Act, a Provincial Land Commission shall exercise all powers and perform all functions necessary for the implementation of this Act in the Province concerned.

20. Power to set up organisations, etc.

A Commission may set up such organizations and appoint such authorities, officers and staff and confer such powers upon, and assign such duties to them as it may deem necessary for the purposes of this Act.

21. Power to make rules.

A Commission may make rules for carrying out the purposes of this Act, including rules on matters relating to or connected with the presentation, hearing and determination of appeals from, and applications for revision and review of, orders made under this Act:

Provided that the rules made under this section, in case of Federal Land Commission shall be subject to approval of the Federal Government, **and** in case of a Provincial Land Commission, to the approval of the **Provincial Government concerned**.

22. Delegation of powers.

(1) The Federal Government may, at **any** time, delegate any of its powers or functions under this Act to such body or person as it may deem necessary for the purposes of this Act.

(2) A Commission may, at any time, by notification in the official Gazette, delegate any of its powers to any of its members or officers or authorities, subject to such conditions; if any, as may be specified in the notification.

23. Reconstitution of a Commission.

The Federal Government may at any time, by notification in the official Gazette, reconstitute a Commission to comprise such persons as it deems fit, and the Commission so re-constituted shall be deemed to be a Commission under paragraph 4 or 4A as the case may be, of the Land Reforms Regulation, 1972.

24. Power to review.

A Commission shall review a case or a class of cases decided by it before or after the commencement of this Act, if so directed by the Federal Government.

25. Abatement of pending proceedings.

All proceedings pending before the Federal Land Commission shall, on commencement of this Act, stand abated unless the Federal Government directs otherwise in a case or class of cases.

26. Removal of doubt.

If any dispute or doubt arises as to the extent or scope of any power or the manner in which it shall be exercisable by a Commission, the matter shall be referred to the Federal Government whose decision thereon shall be final.

27. Powers of the Federal Government

The Federal Government may, at any time, of its own motion or otherwise, take cognizance of a case not taken up by a Commission or with draw a case pending before a Commission or call for a case decided by a Commission or any authority empowered by a Commission in this behalf and pass such orders as it may deem necessary and the order so passed shall be final:

Provided that no order, under this section, shall be passed, adversely affecting the rights of any person, unless such person has been given an opportunity of being heard.

CHAPTER VII. — BAR OF JURISDICTION AND INDEMNITY

28. Bar of jurisdiction.

(1) No Court shall call in question or **permit** to be called in question any provision of this Act or of any rule or order made or anything done or any action taken thereunder.

(2) No court shall grant any injunction or make any order, or entertain any proceedings, in relation to anything done or intended to be done under this Act.

29. Indemnity.

No suit, prosecution or other legal proceeding shall lie against the Federal Government, or a Provincial Government, or a Commission or any other person for anything in good faith done under this Act or any rule or order made thereunder.

CHAPTER VIII. — MISCELLANEOUS

30. Act to override other laws, etc.

The provisions of this Act, and any rule or order made thereunder, shall have effect notwithstanding anything to the contrary contained in any law for the time being in force, or any order or decree of a court or tribunal or other authority or in any rule of custom or usage or in any contract, instrument, deed or other document.

31. Power to exempt.

The Federal Government, if satisfied, may, by notification in the official Gazette, exempt from the operation of this Act any educational institution or a cooperative farming society, registered under the Co-operative Farming Act, 1976 (LII of 1976), or a Livestock Farm established or permitted by the Federal Government.

Provided that an exemption granted to a cooperative society or a Livestock Farm shall not apply to land owned by a member of such society.

32. Removal of difficulties,

If any difficulty arises in giving effect to any provision of this Act, the Federal Government may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purposes of removing the difficulty.

(3) Any person convicted of any offence under subsection (1) shall be disqualified from being a public servant or from being appointed as such or from holding any other office for which a person guilty of any offence involving moral turpitude is disqualified.

34. Cognizance of offence.

No court or tribunal shall take cognizance of an offence under this Act except on a report in writing of the facts constituting such offence, made by a public servant under order or authority of the Federal Government or a Provincial Government.

35. Repeal. — The Land Reforms Ordinance, 1977 (II of 1977), is here-by repealed.

THE PUNJAB AGRICULTURAL INCOME TAX ACT 1997
(Pb. Act I of 1997)
C O N T E N T S

SECTIONS

1. Short title and commencement.
2. Definitions.
3. Charge of agricultural income tax
- 3-A. Effect of transfers made on or after the first day of July 2003.
4. Assessment and collection of tax.
- 4-A. Computation of agricultural income.
- 4-B. Allowances to be treated as deduction from income.
- 4-C. Liability in the case of a deceased person.
- 4-D. Liability of agents representing assessee.
5. Refund.
6. Maintenance of accounts.
7. Application of Act XVII of 1967.
8. Penalty for failure to furnish statements, etc.
9. Penalty for concealment of cultivated land etc.
10. Penalty for default in payment of tax.
- 10-A. Bar of jurisdiction.
11. Rules.
12. Repeal.

SCHEDULES

^[1]THE PUNJAB AGRICULTURAL INCOME TAX ACT
1997
(Act I of 1997)

[16 June 1997]

An Act to provide for the imposition of a tax on agricultural income in the Punjab.

Preamble.— Whereas the Constitution of the Islamic Republic of Pakistan envisages the creation of an egalitarian society based on the Islamic principles of social justice;

And whereas for achieving the object it is expedient to provide for the imposition of a tax on agricultural income in the Punjab;

It is hereby enacted as follows:—

1.Short title and commencement.

(1) This Act may be called the Punjab Agricultural Income Tax Act 1997.

^2 It shall come into force on the first day of July 1997.]

2.Definitions.

(1) In this Act, unless there is anything repugnant in the subject or context

^[3][(a) “agricultural income” means—

(a) any rent or revenue derived from land which is situated in the Punjab and is used for agricultural purposes;

(b) any income derived from such land by

(i) agriculture; or

(ii) the performance by a cultivator or receiver of rent-in-kind ^[4][of] any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market; or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature ^[5][described] in paragraph (ii);

(c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in paragraphs (ii) and (iii) of sub-clause (b) is carried on:

Provided that the building is on, or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator, or the receiver of the rent-in-kind by reason of his connection with the land, requires as dwelling-house, or a store-house, or other out-building;]

^[6][(aa) “assessee” means a person by whom any tax or any other sum of money is payable under this Act and includes

(i) every person in respect of whom any proceeding under this Act has been taken for the assessment of his total cultivated land or for the assessment of his agricultural income or the agricultural income of any other person in respect of which he is assessable or of the amount of refund due to him or to such other person;

(ii) every person who is required to file a statement of his total cultivated land or return of total agricultural income under section 4 read with section 3 of this Act; and

(iii) every person who is deemed to be an

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assessee, or an assessee in default, under this Act;

(ab) "assessment" includes reassessment and additional assessment and the cognate expressions shall be construed accordingly;

(ac) "assessment year" means the period of twelve months beginning on the first day of July next following the income year;]

^[71][(ad)] "Collector" means Collector of a district appointed under the Punjab Land Revenue Act 1967 (XVII of 1967) and includes ^[81][* * *] any officer specially appointed by the Government to perform the functions and exercise the powers of a Collector under this Act];

(b) "cultivated land" means any area of land which was sown at least once during the tax year, including land under matured orchard which bore fruit during the tax year, but excluding land under planted forest or forest nursery;

(c) "^[9][mature] orchard" means orchard of the age of seven years or more in the case of mango orchard and of the age of five years or more in the case of other orchards;

(d) "Government" means the Government of the Punjab;

^[10][(da) "income year" in relation to any assessment year (hereinafter in this clause referred to as the 'said assessment year') means the financial year next preceding the said assessment year;]

(e) ^[11][* * * * *];

(f) "owner" includes a member of a joint Hindu family whether owning land individually or jointly with any other person and includes mortgagee in possession, or tenant of Government land;

Explanation I—Where any land is owned by more than one person whether as member of a firm or association or otherwise, every one of those persons individually, to the extent of his share in the said land, shall be deemed to be an owner.

Explanation II—Every 'ward' whose estate is managed by a Court of Wards shall be deemed to be the owner of such estate.

^[12]*Explanation III*—A member of a cooperative farming society shall be deemed to be the owner of such portion of the land possessed by the society as is proportionate to his share or interest as a member.]

(g) "prescribed" means prescribed by rules;

^[13][(ga) "return" mean the return of total agricultural income in the prescribed form setting forth such

particulars and accompanied by such statements, certificates, and other documents, and verified in such manner, as may be prescribed;]

(h) "rules" means rules made under this Act;

(i) "tax" means tax livable under the provisions of this Act and includes any penalty livable under this Act; ^[14][* * *];

(j) "tax year" means agricultural year as defined in the Punjab Land Revenue Act 1967 (XVII of 1967) ^[15]]; and]

^[16][(k) "total agricultural income" means the total amount of agricultural income, computed in the manner laid down in this Act.]

(2) All words and expressions in this Act used or defined in the Punjab Land Revenue Act 1967 (XVII of 1967) and not hereinbefore defined shall be deemed to have meanings respectively attributed to them by that Act.

^[17]**[3. Charge of agricultural income-tax.**

(1) Subject to the other provisions of this Act, there shall be levied, assessed and collected each year a tax in respect of agricultural income of a tax year of an owner at the rate specified in the First Schedule to this Act.

Explanation.—For the purposes of this sub-section, the cultivated land during a tax year shall be deemed to be agricultural income.

(2) ^[18][* * * * *];

^[19][(3) Subject to the other provisions of this Act, there shall be levied, assessed and collected for each assessment year commencing on or after the first day of July, 2001, agricultural income tax in respect of the total agricultural income of the income year of every person ^[20][* * *] at the rate specified in the Second Schedule:

Provided that where, by virtue of an amendment in the Second Schedule, the rate of income tax, for the purpose of assessment in respect of any assessment year, is altered, the rate of income tax existing prior to the said alteration shall continue to apply in respect of any assessment year to which the said existing rate is applicable.]]

^[21][(4) Out of the two taxes assessed under sub-sections (1) and (3), an assessee shall be liable to pay one tax the amount of which shall be greater.]

^[22]**[3-A. Effect of transfers made on or after the first day of July 2003.**

Any person liable to pay tax under this Act, transferring his land or interest therein on or after the first day of July 2003 in favour of his wife or any of his heirs under the age of eighteen years, shall continue to be liable for payment of

the tax as if such transfer had not taken place.

Provided that this liability of the person for payment of the tax in respect of the land or interest therein transferred to any of his heirs under the age of eighteen years, shall cease when the heir attains the age of eighteen years.

Explanation.— For the purpose of determining whether or not a transferee is an heir within the meaning of this section, succession to the property of the owner shall be deemed to have opened at the time of the transfer.]

4. Assessment and collection of tax.

(1) The tax shall be assessed and collected by the Collector in such manner as may be prescribed.

(2) In case of assessment regarding an owner holding land in more than one patwar circle, the owner shall file a statement regarding the location of his land in the Punjab, in such manner as may be prescribed.

^[23][(3) Every person

- (a) whose total agricultural income or the total agricultural income of any other person in respect of which he is assessable under this Act, for any income year (hereinafter referred to as the said income year) exceeds the maximum amount which is not chargeable to tax under this Act; or
- (b) who himself or any other person on whose behalf he is assessable under this Act, has, during the said income year, cultivated land measuring
 - (i) fifty acres or more of irrigated land; or
 - (ii) one hundred acres or more of unirrigated land; or
 - (iii) irrigated and unirrigated land the aggregate area of which is equal to or more than fifty acres of irrigated land, one acre of irrigated land being reckoned as equivalent to two acres of unirrigated land,

shall file a return of his total agricultural income or the agricultural income of such other person, as the case may be, for the said income year in such form and by such date as may be prescribed.]

^[24][(4) No assessment on the basis of return shall be made by the Collector after the expiration of two years from the end of the assessment year in which the total agricultural income was first assessable.]

^[25]4-A. Computation of agricultural income

In computing agricultural income of an assessee, the

following allowances and deductions shall be made, namely:-

- (a) any expenditure on account of labour for
 - (i) tilling the land;
 - (ii) sowing the seed;
 - (iii) ploughing/planting;
 - (iv) tending/pruning;
 - (v) rendering the produce fit to be taken to market;
 - (vi) any other agricultural operation;
- (b) any expenditure incurred on purchase of—
 - (i) seed;
 - (ii) fertilizers and pesticides;
- (c) any expenditure incurred on—
 - (i) hiring animals, tractors, agricultural machinery and implements used for earning agricultural income;
 - (ii) repair and maintenance of water-courses;
- (d) any expenditure incurred on—
 - (i) harvesting of agricultural produce;
 - (ii) marketing of the agricultural produce;
- (e) any sum paid on account of
 - (i) ushr;
 - (ii) local cess and other cesses;
 - (iii) water-rate (Abiana);
 - (iv) electricity bills in respect of tubewells and lift pumps used for agriculture;
 - (v) fuel charges in respect of tubewells and lift pumps uses for agriculture;
 - (vi) rent of land used for agriculture;
 - (vii) obtaining of agricultural loans;
 - (viii) mark-up on agricultural loans;
- (f) in respect of depreciation of such buildings, machinery and plant being the property of the assessee used for the purpose of earning agricultural income, allowance at the rate of 15 percent of the written down value; and
- (g) any other expenditure not being in the nature of capital expenditure or personal expenses of the assessee laid out or expended wholly and exclusively for the purposes of agriculture.

4-B. Allowances to be treated as deduction from income.

— Any allowance admissible under this Act shall be included in the total agricultural income, but may be deducted from such income for the purpose of computing the tax payable by an assessee under this Act.

4-C. Liability in the case of a deceased person.

— (1) where a person dies, his legal representatives shall be liable to pay tax which the deceased would have been liable

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to pay if he had not died, in the like manner and to the same extent as the deceased.

(2) For the purpose of making an assessment of the agricultural income of the deceased and recovery of tax—

- (a) any proceeding taken against the deceased before his death shall be deemed to have been taken against the legal representatives and may be continued against the legal representatives from the stage at which it stood on the date of the death of the deceased; and
- (b) any proceeding which could have been taken against the deceased if he had survived may be taken against the legal representatives,

and all the provisions of this Act shall, so far as may be, apply accordingly.

(3) The legal representatives of the deceased shall, for the purposes of this Act be deemed to be an assessee.

Explanation.— For the purposes of this section, “legal representative” includes an executor, administrator and any person administering the estate of a deceased person.

4-D Liability of agents representing assessee.— (1) Every agent shall, in respect of the agricultural income for which he is, or is declared to be, or is treated as, an agent, be deemed to be an assessee for the purposes of this Act and shall be subject to the same obligations and liabilities as if he were the assessee, and shall be liable to assessment in his own name in respect of that income.

(2) Every agent who pays any tax under this Act shall be entitled to recover the tax so paid from the person on whose behalf it is paid, or to retain an equivalent amount out of any moneys due or belonging to the said person which may be in his possession or come into his possession at any time.

(3) Nothing in this Act shall prevent either the direct assessment of the person on whose behalf or for whose benefit, any such income is receivable, or the recovery from such person of the tax payable in respect of such income.

Explanation.— For the purposes of this section, “agent” includes—

- (i) in respect of the income of a minor, lunatic or idiot, the guardian or manager who is entitled to receive, or is in respect of, such income, on behalf of such minor, lunatic or idiot;
- (ii) in respect of income, which the Court of Wards, the Administrator General, the Official Trustee

or any receiver or manager appointed by or under any order of a Court receives or is entitled to receive on behalf of, or for the benefit, of any person, such Court of Wards, Administrator General, Official Trustee, receiver or manager; and

- (iii) in respect of income which a trustee, appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise including any Wakf Deed which is valid under the Mussalman Wakf Validating Act 1913 (VI of 1913), receives or is entitled to receive on behalf, or for the benefit, of any person, such trustee or trustees.]

5. Refund.— Refund of tax where due shall be made in such manner as may be prescribed.

6. Maintenance of accounts.— Accounts regarding demand and recovery of tax shall be maintained in such manner as may be prescribed.

7. Application of Act XVII of 1967.— (1) Subject to the other provisions of this Act, the provisions of sections 13 and 14 of the Punjab Land Revenue Act 1967 (XVII of 1967) shall apply to cases under this Act.

(2) For the purposes of appeal, review or revision, an order passed under this Act shall be deemed to be an order of a Revenue Officer within the meanings of Sections 161, 162, 163 and 164 of the Punjab Land Revenue Act 1967 (XVII of 1967) ^[26][:]

^[27][Provided that proceedings of *suo-moto* review or revision of an order in respect of any income year shall not be initiated after the expiration of two years from the end of the assessment year in which the total agricultural income of the said income year was first assessable.]

^[28]**8. Penalty for failure to furnish statements, etc.—** (1) Where any person has, without reasonable cause, failed to furnish, within the time allowed for the purpose, the statement or, as the case may be, the return under section 4, the Collector may impose upon such person a penalty of rupees twenty-five for each day of default, subject to maximum of rupees one thousand.

(2) No penalty under sub-section (1) shall be imposed on any person unless such person has been given a reasonable opportunity of being heard.]

^[29]**9. Penalty for concealment of cultivated land, etc.—** (1) Where in the course of any proceedings under this Act, the Collector or the appellate or revisional

authority is satisfied that any [assessee] has, either in the said proceedings or in any earlier proceedings relating to an assessment in respect of the same tax year, concealed his cultivated land or furnished inaccurate particulars of such cultivated land, or concealed his agricultural income or furnished inaccurate particulars of such income, he or, as the case may be, it may impose upon such ^[31][assessee] a penalty equal to the amount of tax which the said ^[32][assessee] sought to evade by concealment of his cultivated land or furnishing inaccurate particulars of such cultivated land, or by concealment of his agricultural income or furnishing inaccurate particulars of such income as aforesaid.

(2) For the purposes of sub-section (1), concealment of cultivated land or the furnishing of inaccurate particulars of cultivated land, concealment of agricultural income or furnishing of inaccurate particulars of such income shall include suppression of information regarding any cultivated land liable to tax or, as the case may be, suppression of any item of receipt of agricultural income or failure to disclose agricultural income chargeable to tax under this Act or claiming any deduction for, or showing any expenditure not actually incurred.]

^[33][(3)No penalty under this section shall be imposed on any assessee unless such assessee has been given a reasonable opportunity of being heard.]

^[34]**[10. Penalty for default in payment of tax.–** (1) Where any assessee is in default in making payment of any tax, the Collector may impose on him a penalty at the rate of five percent per annum of the amount of tax overdue for the period of default:

Provided that the total amount of penalty imposed under this section shall not exceed fifty per cent of the amount of such tax.

(2) No penalty under sub-section (1) shall be imposed on any assessee unless such assessee has been given a reasonable opportunity of being heard.]

^[35]**[10-A. Bar of jurisdiction.–** No Civil Court shall have jurisdiction in any manner relating to the assessment or collection of the tax leviable under this Act and no order passed or proceedings taken by any authority under this Act shall be called in question in any Civil Court.]

11. Rules.– The Government may frame rules to carry out the purposes of this Act.

12. Repeal.–^[36][* * *] The Punjab Agricultural Income Tax Ordinance 1997 (XXII of 1997) is hereby repealed.

^[37][* * * * *]

[THE FIRST SCHEDULE

[SEE SECTION 3(1)]

(1) Slab of total cultivated land, computed as irrigated land, by treating one acre of irrigated land as equal to two acres of unirrigated land, excluding mature orchards.

^[39] (i)Not exceeding 12½ acres	Nil
(ii)Exceeding 12½ acres but not exceeding 25 acres	Rs.150/- Rs.250/-]
(iii)Exceeding 25 acres	

(2)Mature orchards

(i) Irrigated	Rs. 300/-per acre
(ii)Unirrigated	Rs. 150/-per acre

^[40]**[THE SECOND SCHEDULE**

[SEE ^[41][SECTION 3(3)]]

RATES OF TAX ON TOTAL AGRICULTURAL INCOME

The rate of tax on total agricultural income shall be as under:-

(1)Where the total income does not exceed Rs.1,00,000/- 5% of total income.

(2) Where the total income exceeds Rs.5,000/- plus Rs.1,00,000/ but does not exceed Rs.2,00,000/- 7½ % of the amount exceeding Rs. 1,00,000/-.

(3) Where the total income exceeds Rs.12,500 plus Rs.2,00,000/- but does not exceed Rs.3,00,000/- 10% of the amount exceeding Rs.2,00,000/-.

(4) Where the total income exceeds Rs.22,500/- plus Rs.3,00,000/- 15% of the amount exceeding

Provided that no tax shall be payable on the first eighty thousand rupees of the aforementioned income.]

^[1]This Act was passed by the Punjab Assembly on 13th June, 1997; assented to by the Governor of the Punjab on 14th June, 1997; and, was published in the Punjab Gazette (Extraordinary), dated 16th June, 1997, Pages 841 to 844.

^[2]Substituted by the Punjab Agricultural Income Tax (Amendment) Act, 1998 (V of 1998).

^[3]Added by the Punjab Agricultural Income Tax (Amendment) Ordinance 2000 (I of 2000). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

^[4]Substituted for the word “or” by the Punjab Agricultural Income Tax (Second Amendment) Ordinance, 2001 (VIII of 2001). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

^[5]Substituted for the word “specified” by the Punjab Agricultural Income Tax (Second Amendment) Ordinance, 2001 (VIII of 2001). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

^[6]Added *ibid*.

^[7]Relettered *ibid*.

^[8]The words and brackets “a Deputy District Officer (Revenue) and” omitted by the Punjab Laws (Amendment) Act 2011 (VI of 2011).

^[9]Substituted for the word “matured” by the Punjab Agricultural Income Tax (Amendment) Ordinance 2002 (XXXVIII of 2002). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

^[10]Added by the Punjab Agricultural Income Tax (Second Amendment) Ordinance 2001 (VIII of 2001). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

^[11]Deleted by the Punjab Agricultural Income Tax

(Amendment) Ordinance 2000 (I of 2000). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

^[12]Substituted by the Punjab Agricultural Income Tax (Second Amendment) Ordinance, 2001 (VIII of 2001). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

^[13]Added by the Punjab Agricultural Income Tax (Second Amendment) Ordinance, 2001 (VIII of 2001). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

^[14]The word “and” deleted *ibid*.

^[15]Substituted *ibid*., for the full-stop.

^[16]Added *ibid*.

^[17]Substituted first by the Punjab Agricultural Income Tax (Amendment) Act, 1998 (V of 1998) and again by the Punjab Agricultural Income Tax (Amendment) Ordinance 2000 (I of 2000). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

^[18]Omitted by the Punjab Agricultural Income Tax (Amendment) Ordinance 2002 (XXXVIII of 2002). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

^[19]Substituted by the Punjab Agricultural Income Tax (Amendment) Ordinance 2001 (VIII of 2001). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

^[20]The words “who is required to file a return of his total agricultural income under sub-section (2),” omitted by the Punjab Agricultural Income Tax (Amendment) Ordinance 2002 (XXXVIII of 2002). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of

the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

^[21]Added by the Punjab Agricultural Income Tax (Second Amendment) Ordinance, 2001 (VIII of 2001). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

^[22]Added by the Punjab Agricultural Income Tax (Amendment) Act, 2003 (VIII of 2003).

^[23]Added by the Punjab Agricultural Income Tax (Amendment) Ordinance 2000 (I of 2000), and substituted by the Punjab Agricultural Income Tax (Amendment) Ordinance 2002 (XXXVIII of 2002). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

^[24]Added by the Punjab Agricultural Income Tax (Amendment) Ordinance 2000 (VIII of 2000). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

^[25]*Ibid.*

^[26]Substituted for the full-stop by the Punjab Agricultural Income Tax (Second Amendment) Ordinance, 2001 (VIII of 2001). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

^[27]Added *ibid.*

^[28]Substituted *ibid.*

^[29]Substituted by the Punjab Agricultural Income Tax (Amendment) Ordinance, 2000 (I of 2000). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

^[30]Substituted for the word “owner” by the Punjab Agricultural Income Tax (Second Amendment) Ordinance, 2001 (VIII of 2001). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any

limitation as to duration prescribed in the Constitution.

^[31]*Ibid.*

^[32]Substituted for the word “owner” by the Punjab Agricultural Income Tax (Second Amendment) Ordinance, 2001 (VIII of 2001). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

^[33]Added *ibid.*

^[34]Substituted *ibid.*

^[35]Added *ibid.*

^[36]Deleted *ibid.*

^[37]*Ibid.*

^[38]Substituted by the Punjab Agricultural Income Tax (Amendment) Ordinance 2002 (XXXVIII of 2002). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

^[39]Substituted by the Punjab Agricultural Income Tax (Amendment) Act 2003 (VIII of 2003).

^[40]Substituted by the Punjab Agricultural Income Tax (Amendment) Ordinance 2000 (I of 2000). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

^[41]Substituted by the Punjab Agricultural Income Tax (Second Amendment) Ordinance, 2001 (VIII of 2001). Under Article 5A of the Provisional Constitution Order 1999 (I of 1999), as amended, read with Article 270AA of the Constitution of the Islamic Republic of Pakistan, 1973, it shall not be subject to any limitation as to duration prescribed in the Constitution.

**THE SINDH
LAND TAX & AGRICULTURAL INCOME TAX
ORDINANCE, 2000***
(SINDH ORDINANCE NO. XII OF 2000)
[Karachi, the 16th October, 20001]

Notification No. S.LEGIS: 1(12)/2000. - The following Ordinance made by the Governor of Sindh is hereby publish for general information:-
THE SINDH LAND TAX AND AGRICULTURAL INCOME TAX ORDINANCE, 2000

Preamble. - An Ordinance to provide for imposition of tax on land and on income from agricultural land in the Province of Sindh:

WHEREAS, it is expedient to revise the provisions of the Sindh Agricultural Income Tax Act, 1994 ;

AND WHEREAS, the Provincial Assembly stands suspended in pursuance of the proclamation of the fourteenth day of October, 1999 and the Provisional Constitution Order No. 1 of 1999 ;

AND WHEREAS, the Governor of Sindh is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW THEREFORE, in pursuance of the aforesaid proclamation and the Provisional Constitution Order read with Provisional Constitution (Amendment) Order No. 9 of 1999, instructions of the Chief Executive and in exercise of all powers enabling him in that behalf, the Governor of Sindh is pleased to make and promulgate the following Ordinance :

Published in the Sindh Govt. Gaz., Extr., Pt. 1, P. No. 1057, dt. Oct. 16, 2000.

CHAPTER PRELIMINARY

1. Short title, extent and commencement.

- (1) This Ordinance may be called the Sindh Land Tax and Agricultural Income Tax Ordinance, 2000.
- (2) It extends to the whole of the Province of Sindh.
- (3) It shall come into force at once and shall be deemed to have taken effect on and from 1st July, 2000 (from Kharif 2000).

2. Definitions.

In this Ordinance, unless there is anything repugnant in the subject or context

- (a) "agricultural income" means—
 - (a) any rent or revenue derived from land which is

situated in the Province of Sindh and is used for agricultural purposes;

- (b) any income derived from such land by
 - (i) agriculture ; or
 - (ii) the performance by a cultivator or receiver of rent-in-kind or any process ordinarily employed by a cultivator or receiver of rent in-kind to render the produce raised or received by him fit to be taken to market; or
 - (iii) the sale by a cultivator or receiver of rent-in-kind of the **produce raised or received** by him, in respect of which no **process** has been **performed** other than **a process** of the nature **described in paragraph (ii)**;

- (c) any income derived from any building owned and **occupied** by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind, of any land with respect to which, or the produce of which any operation mentioned in paragraphs (ii) and (iii) is carried on:

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator, or the receiver of the rent-in-kind by reason of his connection with the land, requires as a dwelling house, or a store-house or other out building;

- (b) "agriculture income year" means—
 - (i) the agricultural year as defined in the Sindh Land Revenue Act, 1967;
 - (ii) such period as the Board of Revenue may, in the case of any person or class of persons specify by notification in the official Gazette;

(c) "agriculture income tax" means land tax or agricultural income tax leviable under this Ordinance and includes any penalty, fee or other charge or any sum or amount payable under this Ordinance;

(d) "assessee" means a person by whom any tax or any other sum of money is payable under this Ordinance and includes

- (i) every person in respect of whom any proceedings under this Ordinance has been taken for the assessment of his agricultural income or, as the case may be, the agricultural income of any other person in respect of which he is assessable or of the amount of refund due to him or to such other person;
- (ii) every person who is required to file a return of total agricultural income under this Ordinance; and
- (iii) every person who is deemed to be an assessee or an assessee in default under any

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provision of this Ordinance,
(e) "assessment" includes reassessment and additional assessment and the cognate expressions shall be construed accordingly;

(f) "assessment year" means the period of twelve months beginning on the first day of July next following the income year and includes any such period *which* is deemed under any provision of this Ordinance to be the assessment year in respect of any agricultural income or any agriculture income year;

(g) "Board of Revenue" means the Board of Revenue established under the Sindh Board of Revenue Act, 1957;
*[(h) * * *]

(i) "co-operative society" means a co-operative society registered under the Sindh Cooperative Societies Act, 1925 or under any other law for the time being in force in Pakistan for the registration of cooperative societies;

(j) "cultivated land" means the net area sown which was actually cropped during a tax year regardless of the number of crops raised and includes area under matured orchards for the same year;

In section 2, clause (h) omitted by the Sindh Land Tax and Agricultural Income Tax (Arndt.) Ordinance, 2001 (Sindh Ord. No. XXX of 2001), the Sindh Govt. Gaz., Extr., Pt. I, P. No. 2956, dt. 31st August, 2001.

¹[(ij) "District Officer" means the District Officer (²[Revenue]) and includes any officer appointed under the Sindh Land Revenue Act, 1967 to discharge the duties of the District Officer;]

(k) "Government" means the Government of Sindh;

(l) "matured orchard" means orchard of the age of seven years or more in the case of mango orchard and of the age of five years or more in the case of other orchards;

³[(m) "owner" includes a mortgagee in possession, lessee, any other person in possession or tenant of Government land or owner of private land;]

Explanation-I.—Where any land is owned by more than one person whether as member of a firm or association or otherwise, every one of these persons individually to the extent of his share in the said land, shall be deemed to be an owner.

Explanation-II.—Every "ward" whose estate is managed by a Court of Wards shall be deemed to be the owner of such estate.

Explanation III.—A share holder of a joint stock company or member of a Cooperative Farming Society shall be deemed to be the owner of such portion of the land possessed by the company or the society as is proportionate to his share or interest as a share holder or member, as the case may be;

¹Clause (jj) inserted by the Sindh Land Tax and Agricultural Income Tax (Amdt.) Ordinance, 2001 (Sindh Ord. No. XXX of 2001), the Sindh Govt. Gaz., Extr., Pt. I, P. No. 2956, dt. 31st August, 2001.

²Substituted for the words "Land Revenue and Estate" by the Sindh Laws (Amdt.) Ord., 2001 (Ordinance No. XXXVI of 2001), the Sindh Govt. Gaz., Extr., Pt. 1, P. No. 3433, dt. November 28, 2001.

³Clause (m) substituted by the Sindh Land Tax and Agricultural Income Tax (Amdt.) Ordinance, 2001 (Sindh Ord. No. XXX of 2001), the Sindh Govt. Gaz., Extr., Pt. 1, P. No. 2956, dt. 31st August, 2001.

(n) "prescribed" means prescribed by rules ;
(o) "rules" means rules made under this Ordinance.

**CHAPTER – II
LAND TAX**

3. Charge of land tax.

Subject to the other provisions of this Ordinance, there shall be charged levied and paid for every assessment year a land tax in respect of cultivated land of ari owner at the rates specified in the First Schedule to this Ordinance.

4. Liability to pay land tax.

The land tax shall be payable by the owner of land in respect of cultivated land in such manner as may be prescribed.

5. Assessment and collection of land tax.

The land tax shall be assessed and collected by the ¹[District Officer (Revenue)] in such maner as may be prescribed.

**CHAPTER-III
AGRICULTURAL INCOME TAX**

6. Agricultural income tax.

(1) Subject to the provisions of this Ordinance, ²[* * * *] there shall be charged, levied, assessed and paid for each assessment year agricultural income tax in respect of total agriculture income of the agriculture income year

Tax on Agriculture Income

of an owner at the rates specified in the Second Schedule to this Ordinance;

Provided that if, in any case the tax assessed under this sub-

¹In section 5, substituted for the word "Collector" by the Sindh Laws (Amdt.) Ord., 2001 (Ordinance No. XXXVI of 2001), the Sindh Govt. **Gaz.**, Extr., Pt. 1, P. No. **3433, dt. November 28, 2001.**

²In section 6, in sub-section (1), the words and commas " in addition to the land tax charged, levied for any year," omitted by the Sindh Land Tax and Agricultural Income Tax (Amdt.) Ordinance, 2001 (Sindh Ord. No. XXX of 2001), the Sindh Govt. **Gaz.**, Extr., Pt. 1, P. No. 2956, dt. 31st August, 2001.

section works out to be less than the tax calculated in accordance with the First Schedule, then the owner shall pay the tax worked out in accordance with the First Schedule.

(2) Government may by notification in the official gazette re-quire an owner having cultivated land above a certain limit to file a return of his agricultural income of the agriculture income year.

7. Liability to pay agriculture income tax.

The agriculture income tax shall be payable by the owner in such manner as may be prescribed.

8. Assessment and collection of agriculture income tax.

¹[(1)] Subject to the provisions of this Ordinance, agricultural income tax shall be assessed and collected by the ²[District Officer (³[Revenue])] in such manner as may be prescribed.

⁴[(2) An Owner holding land in more than one tapa shall, for the purpose of assessment, file a statement in respect of such land in such manner as may be prescribed.]

⁵[8-A. Computation of Agricultural Income.

In computing the agricultural income of an assessee, the following allowances and deductions shall be made :

- (a) Any expenditure on account of labour for:
 - (i) tilling the land;
 - (ii) sowing the seed;

¹Section 8 re-numbered as sub-section "(1)" by the Sindh Land Tax and Agricultural Income Tax (Amdt.) Ordinance,

2001 (Sindh Ord. No. XXX of 2001), the Sindh Govt. **Gaz.**, Extr., Pt. I, P. No. 2956, dt. 31st August, 2001.

²Substituted for "Collector", *ibid.*

³Substituted for the words "Land Revenue and Estate" by the Sindh Laws (Amdt.) Ord., 2001 (Ordinance No. XXXVI of 2001), the Sindh Govt. **Gaz.**, Extr., Pt. 1, P. No. 3433, dt. November 28, 2001.

⁴Sub-section (2) added by the Sindh Land Tax and Agricultural Income Tax (Amdt.) Ordinance, 2001 (Sindh Ord. No. XXX of 2001), the Sindh Govt. **Gaz.**, Extr., Pt. (, P. No. 2956, dt. 31st August, 2001.

⁵Sections 8A do 8B inserted, *ibid.*

- (iii) ploughing/planting;
- (iv) tending/pruning;
- (v) rendering the produce fit to be taken to market;
- (vi) any other agricultural operation.
- (b) Any expenditure incurred on purchase of :
 - (i) seed;
 - (ii) fertilizers and pesticides.
 - (c) Any expenditure incurred on
 - (i) hiring animals, tractors, agricultural machinery and implements used for earning agricultural income;
 - (ii) repair and maintenance of water-course.
 - (d) Any expenditure incurred on
 - (i) harvesting of agricultural produce;
 - (ii) marketing of the agricultural produce.
 - (e) Any sum paid on account of
 - (i) ushr;
 - (ii) local cess and other cesses;
 - (iii) water rate (Abiana);
 - (iv) electricity bills in respect of tube-wells and lift pumps used for agriculture;
 - (v) fuel charges in respect of tube-wells and lift pumps used for agriculture;
 - (vi) rent of land used-for agriculture;
 - (vii) obtaining of agricultural loans;
 - (viii) mark-up on agricultural loans.

(f) In respect of depreciation of such buildings, machinery and plant being the property of the assessee used for the purpose of earning agricultural income, allowance at the rate of fifteen percent of the written down value.

(g) Any other expenditure not being in the nature of capital expenditure, personal or administrative expenses of the assessee laid out or expended wholly and exclusively for the purpose of agriculture.

8-B. Allowances to be treated as deductions from

income.

Any allowance admissible under this Ordinance shall be included in the total agricultural income, but may be deducted from such income for the purpose of computing the tax payable by an assessee under this Ordinance.]

CHAPTER – IV MISCELLANEOUS

9. Penalty for concealment of cultivated land.

Where in the course of any proceedings under this Ordinance, the ¹[District Officer (²[Revenue])] or the appellate or revisional authority is satisfied that any owner has, either in the said proceedings or in any earlier proceedings relating to an assessment in respect of any agriculture income tax year, concealed the particulars of cultivated land or furnished in-accurate particulars of such cultivated land, he or it may impose upon such owner a penalty equal to the amount of land tax which the said owner sought to evade by con-

¹Substituted for "Collector" by the Sindh Land Tax and Agricultural Income Tax (Amdt.) Ordinance, 2001 (Sindh Ord. No. XXX of 2001), the Sindh Govt. Gaz., Extr., Pt. I, P. No. 2956, dt. 31st August, 2001.

²Substituted for the words "Land Revenue and Estate" by the Sindh Laws (Arndt.) Ord., 2001 (Ordinance No. XXXVI of 2001), the Sindh Govt. Gaz., Extr., Pt. I, P. No. 3433, dt. November 28, 2001.
concealment of his cultivated land or furnishing of inaccurate particulars of such cultivated land as aforesaid.

10. Penalty for concealment of agricultural income etc.

Where in the course of any proceedings under this Ordinance, the ¹[District Officer (²[Revenue])] or the appellate or revisional authority is satisfied that any person has either in the said proceedings or in any earlier proceedings relating to an assessment in respect of agriculture income year concealed his agricultural income or furnished inaccurate particulars of such income he or it may impose upon such person a penalty equal to the amount of tax which the said person sought to evade by concealment of his agricultural income or furnishing of inaccurate particulars of such income, as aforesaid.

11. Imposition of penalty. - No penalty shall be imposed on any person by a ¹[District Officer (²[Revenue])] or the appellate or revisional authority unless such person has been given a reason-able opportunity of being heard.

12. Refund. - Refund of land tax or agricultural income tax where due shall be made in such manner as may be prescribed.

13. Exemption. Government may exempt any land or class of owner wholly or partially from payment of land tax or agricultural income tax in a manner and to the extent as prescribed by the rules.

14. Maintenance of accounts. - Accounts regarding demand and recovery of tax shall be maintained by the [District Officer (²[Revenue])] in such manner as may be prescribed.

15. Application of Act XVII of 1967. - Subject to the other provisions of this Ordinance, the provisions of sections 13 and 14

¹Substituted for "Collector" by the Sindh Land Tax and Agricultural Income Tax (Amdt.) Ordinance, 2001 (Sindh Ord. No. XXX of 2001), the Sindh Govt. Gaz., Extr., Pt. I, P. No. 2956, dt. 31st August, 2001.

²Substituted for the words "Land Revenue and Estate" by the Sindh Laws . (Arndt.) Ord., 2001 (Ordinance No. XXXVI of 2001), the Sindh Govt. Gaz., Extr., Pt. I, P. No. 3433, dt. November 28, 2001.

of the Sindh Land Revenue Act, 1967 shall apply to the cases of land tax and agricultural income tax under this Ordinance.

16. Appeal, review or revision. - For the purpose of appeal, review or revision, an order passed under this Ordinance shall be deemed to be an order of Revenue Officer within the meaning of the Sindh Land Revenue Act, 1967.

17. Bar of jurisdiction. - No Civil Court shall have jurisdiction in any manner relating to the assessment or collection of the agricultural income tax or land tax and no order passed or proceedings taken by an authority under this Ordinance shall be called in question in any Civil Court.

18. Rules. - Government may make rules to carry out the purposes of this Ordinance.

19. Repeal. - The Sindh Agricultural Income Tax Act, 1994 (XXII of 1994) shall stand repealed from Kharif, 2000.

THE FIRST SCHEDULE

(See Section 3)

(i)	land per acre per annum	Irrigated Rs. 200/-
(ii)	Irrigated land per acre per annum	Un - Rs. 100/-
¹ [(iir	(a) Irrigated per acre per annum	Rs. 500/-
	(b) Un-Irrigated per acre per annum.]	Rs. 250/-

¹In the First Schedule, clause (iii) substituted by the Sindh Land Tax and Agriculture Income Tax (Second Amdt.) Ord., 2002 (Sindh Ordinance No. XX of 2002), the Sindh Govt. Gaz., Extr., Pt. I, P. No. 908, dt. June 22, 2002, it shall come into force at once and shall be deemed to have taken effect from Rabbi 2002.

EXEMPTION

1. No land tax shall be levied on holding upto ¹[twelve] acres irrigated and ²[twenty four] acres un-irrigated. This exemption shall not apply to matured orchard, Banana and Beta] leaf.
2. No land tax shall be levied in 'Thar', 'Desert' and 'Kohistan' areas.

THE SECOND SCHEDULE

(See Section 6)

RATES OF TAX ON TOTAL AGRICULTURAL INCOME

The rate of tax on total agricultural income shall be as under : —

- (1) Where the total income does
does not exceed Rs. 100,00% of the total income
- (2) Where the total income exceeds Rs. 5,000/- plus 7-¹/₂ %Rs. 1,00,000/- but does not exceed the amount exceeding Rs. 2,00,000/- s. 1,00,000/-
- (3) Where the total income exceeds Rs. 12,500/- plus 10
%
Rs. 2,00,000/- but does of the amount exceeding
exceed Rs. 3,00,000/Rs. 2,00,000/-
- (4) Where the total income
exceeds

Rs. 22,000/- plus 10 %

Rs. 3,00,000/

f the amount exceeding Rs. 3,00,000/-

Provided that no tax shall be payable on the first eighty thousand rupees of the aforementioned income.

¹In the First Schedule, substituted for the figure "4-0" by the Sindh Land Tax and Agriculture Income Tax (Arndt.) Ord., 2002 (Sindh Ordinance No. Xlli of 2002), the Sindh Govt. Gaz., Extr., Pt. I, P. No. 631, dt. May 11, 2002, it shall come into force at once and shall be deemed to have taken effect from Rabbi 2001-2002.

²In the First Schedule, substituted, ibid, for the figure "8-0".

ORDINANCE IV OF 2000

NORTH-WEST FRONTIER PROVINCE LAND TAX AND AGRICULTURE INCOME TAX ORDINANCE, 2000

An Ordinance to provide for levying of Land Tax and Agricultural Income-tax in the North-West Frontier Province

[Gazette of N.-W.F.P., Extraordinary, 27th July, 2000]

No. Legis.1 (5)/93/4227, dated 27-7-2000.

The following Ordinance by the Governor of the North-West frontier Province is hereby published for general information

Whereas it is expedient to provide for levying Land Tax and Agricultural Income-tax in the North-West Frontier Province.

And whereas the Provincial Assembly of the North-West Frontier Province stands suspended in pursuance of the Proclamation of the fourteenth day of October, 1999, and the Provisional Constitution Order No. I of 1999.

And whereas the Governor of the North-West Frontier Province is satisfied that circumstances exist which render it necessary to take immediate action.

Now, therefore, in pursuance of the aforesaid Proclamation and the Provisional Constitution Order No. 1 of 1999, Article 4 of the Provisional Constitution (Amendment) Order No. 9 of 1999, on the instructions of the Chief Executive of Pakistan, and in exercise of all other powers enabling him in that behalf, the Governor of the North-West Frontier Province is please to make and promulgate the following Ordinance:

CHAPTER-I PRELIMINARY

1. Short title, extent and commencement.

(1) This Ordinance may be called the North-West Frontier Province Land Tax and Agricultural Income Tax Ordinance, 2000

(2) It extends to the whole of the North-West Frontier Province.

(3) It shall come into force at once and shall be deemed to have taken effect on and from the first day of July, 2000.

2. Definitions.

(1) In this Ordinance, unless there is anything repugnant in the subject or context, ---

(a) "agricultural income" means

(a) any rent or revenue derived from land which is situated in the Province in the North-West Frontier Province and is used for agricultural purposes;

(b) any income derived from such land by

(i) agriculture; or

(ii) the performance by cultivator or receiver of rent-in-land or any process ordinarily employed by cultivator or receiver of rent-in-kind to render the produce raised or receiver by him fit to be taken to market; or

(iii) the sale a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in paragraph (ii).

(c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in paragraphs (ii) and (iii) of sub-section (b) is carried on:

Provided that the building is on, or in the immediate vicinity of the land, and is building which the receiver of the rent or revenue of the cultivator, or the receiver of the rent-in-kind by reason of his connection with the land, requires as a dwelling house, or a store-house, or other out building.

(b) "Agriculture income year" means

(i) the agricultural year as defined in North -West Frontier Province Land Revenue Act, 1967;

(ii) such period as the Board of Revenue may, in the case of any person or class of persons specify by notification in the official Gazette;

(c) "agriculture income-tax" means tax on land or, agricultural income tax leviable under this Ordinance and includes any penalty, fee or other charge or any sum or amount payable under this Ordinance.

(d) "assessee" means a person by whom any tax or any other sum of money is payable under this Ordinance and includes

(i) every person in respect of whom any proceedings under this Ordinance has been taken for the assessment of his agricultural income; or, as the case may be, the

Tax on Agriculture Income

- agricultural income of any other person in respect of which he is assessable or of the amount of refund due or to such other person;
- (ii) every person who is required to file a return of total agricultural income under this Ordinance; and
 - (iii) every person who is deemed to be an assessee or an assessee in default under any provision of this Ordinance;

(e) "assessment" includes reassessment and additional assessment and the related expressions shall be construed accordingly;

(f) "assessment year" means the period of twelve months beginning on the first day of July next following the income year and includes any such period *which* is deemed, under any provision of this Ordinance, to be the assessment year in respect of any agricultural income or any agriculture income year;

(g) "Board of Revenue" means the Board of Revenue established under the North -West Frontier Province Board of Revenue Act, 1957;

(h) "Collector" means the Collector of a District appointed under the North -West Frontier Province Land Revenue Act, 1967 and includes an Assistant Commissioner of a Sub-Division;

- (i) "Cooperative society" means a Cooperative Society registered under the Cooperative Act, 1925 or under any other law for the time being in force in Pakistan for the registration of cooperative societies;

(j) "Cultivable land" means the net area sown which was actually cropped during a tax year regardless of the number of crops raised and includes area under matured orchards for the same year;

(k) "Government" means the North -West Frontier Province;

(l) "matured orchard" means orchards of the age of seven years or more in the case of mango orchards and of the age of five years or more in the case of other orchards;

(m) "owner" includes a mortgagee in possession, or tenant of Government land;

Explanation-I --- Where any land is owned by more than one person whether as member of a firm or association or otherwise, every one of these per-sons individually to the

extent of his share in the said land, shall be deemed to be an owner.

Explanation-II --- Every "ward" whose estate is managed by a Court of Wards shall be deemed to be the owner of such estate

Explanation-III --- A shareholder of a joint stock company or member of a Cooperative Farming Society shall be deemed to be the owner of such portion of the land possessed by the company or the society as is proportionate to his share or interest as a share holder or member, as the case may be;

(n) "prescribed" means prescribed by rules ;

(o) "rules" means rules made under this Ordinance;

CHAPTER-IILAND TAX

3. Tax on land.

Subject to the other provision of this Ordinance tax shall be charge, levied and paid for every assessment year as land tax in respect of cultivatable land of an owner at the rates specified in the First Schedule to this Ordinance.

4. Liability to Pay Land Tax.

The land tax shall be payable by the owner of land in respect of cultivable land in such manner as may be prescribed.

5. Assessment and Collection of Land Tax.

The land tax shall be assessed and collected by the Collector in such manner as may be prescribed.

CHAPTER III AGRICULTURAL INCOME-TAX

6. Charge of Agricultural Income-tax.

(1) Subject to the provision of this Ordinance, in addition to the land tax charge for any year, there shall be charged, levied, assessed and paid for each assessment year commencing from 1st July, 2001 agricultural Income-tax in respect of agriculture income of the agriculture income year of an owner of land at the rates specified in the Second Schedule to this Ordinance:

Provided that if in any case the tax assessed under this subsection works out to be less than the tax calculated in accordance with the First Schedule, then the owner shall pay the tax worked out in accordance with the First Schedule.

(2) The Government may, by notification in the official

Gazette, requires an owner having cultivable land above a certain limit to file a return of his agricultural income of the agriculture income year.

7. Liability to pay agricultural income-tax.

The agricultural income tax shall be payable by the owner of land in such manner as may be prescribed.

8. Assessment and collection of Agriculture income-tax.

Subject to the provisions of this Ordinance, agricultural income-tax shall be assessed and collected by the collector in such manner as may be prescribed.

CHAPTER IV MISCELLANEOUS

9. Penalty for concealment of cultivated land etc.

Where, in the course of any proceedings under this Ordinance, the collector or the appellate or revisional authority is satisfied that any owner has, either in the said proceedings or in any earlier proceedings relating to an assessment in respect of any agriculture income-tax year, concealed the particulars of cultivable land or furnished inaccurate particulars of such cultivable land, he or it may impose upon such owner a penalty equal to the amount of land tax which the said owner sought to evade by concealment of his cultivable land or furnishing of inaccurate particulars of such cultivable land as aforesaid.

10. Penalty for concealment of agriculture income etc.

Where, in the course of any proceedings under his Ordinance, the collector or the appellate or revisional authority is satisfied that any person has, either in the said proceedings or in any earlier proceedings relating to an assessment in respect of agriculture income year, concealed his agricultural income or furnished inaccurate particular of such income, he or it may impose upon such person a penalty equal to the amount of tax which the said person sought to evade by concealment of his agricultural income or furnishing of inaccurate particulars of such income, as aforesaid..

11. Imposition of penalty.

No penalty shall be imposed on any person by a collector or the appellate or revisional authority unless such person has been given a reasonable opportunity of being heard.

12. Refund.

Refund of tax where due shall be made in such manner as may be prescribed.

13. Exemptions.

Government may exempt any land or class of owner wholly or partially from payment of tax in a manner and to the extent as prescribed by the rules.

14. Maintenance of accounts.

Accounts regarding demand and recovery of tax shall be maintained by the collector in such manner as may be prescribed.

15. Application of N.-W.F.P Act XVII of 1967.

Subject to the other provisions of this Ordinance, the provision of sections 13 and 14 of the North -West Frontier Province Land Revenue Act, 1967 (XVII of 1967), shall apply to cases of land tax and agriculture income-tax under this Ordinance.

16. Appeal, review or revision.

For the purposes of appeal, review or revision, and order passed under this Ordinance regarding land tax and agriculture income-tax shall be deemed to be an order of a Revenue Officer within the meanings of sections 161, 162, 163, and 164, Weat Pakistan Land Revenue Act, 1967 (XVII of 1967).

17. Bar of Jurisdiction.

No civil Court shall have jurisdiction in any matter relating to the assessment or collection or the agriculture income-tax leviable under this Ordinance and no order passed or proceedings taken by any authority under this Ordinance shall be called in question in any Civil Court.

18. Rules.

The Government may frame rules to carry out the purposes of this Ordinance.

19. Deletion.

Section 5 of North -West Frontier Province Finance Act, 1999 (N.-W.F.P. Act No. V of 1999), is hereby deleted

THE FIRST SCHEDULE

(See section 3)

RATES OF LAND TAX

S. No.	Kind/Area of land	Per acre rate
1.	2	3

1. Slab of total cultivated land, computed as Irrigated land by treating one irrigated Acre as equal to two unirrigated acres, excluding orchards;

- (i) Note exceeding 5 acre. Rs.50
- (ii) Exceeding 5 acres but not exceeding 12-1/2

- acres.Rs.72
(iii) Exceeding 12-1/2 acres Rs.100
2.Orchard.Rs.300

THE SECOND SCHEDULE

(See section 6)

RATES OF AGRICULTURAL INCOME-TAX

PART I

A. In the case of every owner, the agricultural income-tax shall be charged on the agricultural income.

- (1) Where the net agricultural income 5% of the taxable income does not exceed Rs. 1,00,000
- (2) Where the net agriculture income Rs. 1,000 plus 7-1/2% of the Exceeds Rs. 1,00,000 but does not amount exceeding Rs. 1,00,000 Exceed Rs. 2,00,000
- (3) Where the net agriculture income Rs. 8,500 plus 10% of the amount exceeds Rs. 2,00,000 but does not exceeding Rs. 2,00,000 exceed Rs. 3,00,000
- (4) Where the net agriculture income Rs. 18,500 plus 15% of the amount exceed Rs. 3,00,000 exceeding Rs. 3,00,000 Provided that:
 - (a) no tax shall be payable on the first eighty thousand rupees of the aforementioned income; and
 - (b) the agriculture income liable to tax would be net of costs as prescribed in rules.

**ORDINANCE II OF 2000
BALOCHISTAN TAX ON LAND AND AGRICULTURE
INCOME ORDINANCE, 2000**

An Ordinance to provide for imposition of tax on Land and Income from Agricultural Land situated in the Province of Balochistan

[Gazette of Balochistan, Extraordinary,
30th June, 2000]

No. Legis.I-94/Law/93, dated 30-6-2000. The following Ordinance made by the Governor of Balochistan on 30th June, 2000, is hereby Published for general information:

Preamble.

Whereas it is expedient to provide for imposition of tax on Land and Income from Agricultural land in the Province of Balochistan;

And whereas the Provincial Assembly of Balochistan stands suspended in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the Governor of Balochistan is satisfied that circumstances exist which render it necessary to take immediate action;

Now, therefore, in pursuance of Article 4 of the Provisional Constitution (Amendment) Order, 1999 (Chief Executive's Order No. 9 of 1999), and in exercise of all powers enabling him in that behalf, the Governor of Balochistan on the instructions of the Chief Executive of Pakistan is pleased to make and promulgate the following Ordinance:

CHAPTER 1 PRELIMINARY

1. Short title extent and commencement.

- (1) This Ordinance may be called the Balochistan Tax on Land and Agricultural Income Ordinance, 2000.
- (2) It extends to the whole of Balochistan except the Tribal Areas.
- (3) It shall come into force with effect from the first day of July, 2000.

2. Definitions.

In this Ordinance, unless there is anything repugnant in the subject or context---

- (a) "agricultural income" means---

- (i) any rent or revenue derived from land which is situated in the Province of Balochistan and is used for agricultural purposes;
- (ii) any income derived from such land by agriculture or the performance by a cultivator or receiver of rent-in-land or any process ordinarily employed by cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market or in respect of which no process has been performed other than a process of the nature described hereinabove.
- (iii) The sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him in respect of which no person has been performed other than a person of the nature described in paragraph (ii).
- (iv) Any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind, of any land with respect of which, or the produce of which, any operation mentioned in sub-clause (ii) is carried on:

Provided that the building is on, or in the immediate vicinity of the land, and is building which the receiver of the rent or revenue of the cultivator, or the receiver of the rent in kind by reason of his connection with the land, requires as a dwelling house, or a store-house, or other out building.

- (b) "assessee" means a person by whom any tax or any other sum of money is payable under this Ordinance and includes---
 - (i) every person in respect of whom any proceedings under this Ordinance has been taken for the assessment of his agricultural income or; as the case may be, the agricultural income of any other person in respect of which he is assessable or of the amount of refund due or to such other person;
 - (ii) every person who is required to file a return of total agricultural income under this Ordinance; and
 - (iii) every person who is deemed to be an assessee or an assessee in default under any provision of this Ordinance;
- (c) "assessment" includes reassessment and additional assessment and the related expressions shall be construed accordingly;

(d) "assessment year" means the period of twelve months beginning on the first day of July next following the income year and includes any such period which is deemed under any provision of this Ordinance, to be the assessment year in respect of any agricultural income or any agriculture income year;

(e) "Board of Revenue" means the Board of Revenue established under the Balochistan Board of Revenue Act, 1957 (XI of 1957);

(f) "Collector" means the Collector of a District appointed under the Balochistan Land Revenue Act, 1967 (XVII of 1967);

(g) "Society" means a society registered under the Cooperative Societies Act, 1925 (VII of 1925) or under any other law for the time being in force in Pakistan for the registration of societies;

(h) "Government" means the Government of Balochistan;

(i) "Agriculture income year" means---

(i) the agricultural year as defined in Balochistan Land Revenue Act, 1967;

(ii) such period as the Board of Revenue may, in the case of any person or class of persons specify by notification in the official Gazette;

(j) "matured orchard" means orchards of the age of seven years or more in the case of mango orchards and of the age of five years or more in the case of other orchards;

(k) "cultivable land" means the net area shown which was actually cropped during a tax year regardless of the number of crops raised and includes area under matured orchards for the same year;

(l) "owner" includes a mortgagee in possession, or tenant of Government land.

Explanation-I. ---Where any land is owned by more than one person whether as member of a firm or association or otherwise, every one of these persons individually to the extent of his share in the said land, shall be deemed to be an owner.

Explanation-II. ---Every "ward" whose estate is managed by a Court of Wards shall be deemed to be the owner of such estate.

Explanation III. A share holder of a joint stock company or member of a Cooperative Farming Society shall be deemed to be the owner of such portion of the land possessed by the company or the society as is proportionate to his share or interest as a share holder or member, as the case may be;

(n) "prescribed" means prescribed by rules ;

(o) "rules" means rules made under this Ordinance;

(p) "agriculture income-tax" means tax on land or agricultural income leviable under this Ordinance and includes any penalty, fee or other charge or any sum or amount payable under this Ordinance.

CHAPTER II LAND TAX

4. Liability to Pay Land Tax

The land tax shall be payable by the owner of land in respect of cultivable land in such manner as may be prescribed.

5. Assessment and Collection of Land Tax

The land tax shall be assessed and collected by the Collector in such manner as may be prescribed.

CHAPTER III AGRICULTURAL INCOME-TAX

6. Charge of Agricultural Income-tax.

(1) Subject to the provision of this Ordinance, in addition to the land tax charge for any year, there shall be charged, levied, assessed and paid for each assessment year commencing from 1st day of July, 2001. Agriculture Income-tax in respect of Agriculture income of the agriculture income year of an owner of land at the rates specified in the Second Schedule of this Ordinance.

(2) The Government may by notification in the official Gazette required an owner having cultivable land above a certain limit to file return of his agricultural income of the agriculture income year.

7. Liability to pay Agriculture Income-tax.

The Agriculture Income-tax shall be payable by the owner of land in such manner as may be prescribed.

8. Assessment and Collection of Agriculture Income-tax. ---

Subject to the provisions of this Ordinance, agricultural income-tax shall be assessed and collected by the Collector in such manner as may be prescribed.

CHAPTER IV MISCELLANEOUS

9. Penalty for Concealment of Cultivated land etc.

Where, in the course of any proceedings under this Ordinance, the Collector or the appellate or revisional authority is satisfied that any owner as, either in the said proceedings or in any earlier proceedings relating to an assessment in respect of any agriculture income-tax year, concealed the particulars of cultivable land or furnished

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inaccurate particulars of such cultivable land, he or it may impose upon such owner a penalty equal to the amount of land tax which the said owner sought to evade by concealment of his cultivable land or furnishing of inaccurate particulars of such cultivable land as aforesaid.

10. Penalty for Concealment of Agriculture Income etc.

Where, in the course of any proceedings under this Ordinance the Collector, or the appellate or revisional authority is satisfied that any person has, either in the said proceedings or in any earlier proceedings relating to an assessment in respect of agriculture income year, concealed his agricultural income or furnished inaccurate particular of such income, he or it may impose upon such person a penalty equal to the amount of tax which the said person sought to evade by concealment of his agricultural income or furnishing of inaccurate particulars of such income, as aforesaid.

11. Personal hearing.

No penalty shall be imposed on any person by the Collector or the appellate or revisional authority unless such person has been given a reasonable opportunity of being heard.

12. Refund. Refund of tax where due shall be made in such manner as may be prescribed.

13. Exemption. The Government may exempt any land or class of owner wholly or partially from payment of tax in a manner and to the extent as prescribed by the rules.

14. Maintenance of Accounts. Accounts regarding demand and recovery of tax shall be maintained by the Collector in such manner as may be prescribed.

15. Application of Act XVII of 1967.

Subject to the other provisions of this Ordinance, the provision of sections 13 and 14 of the Balochistan Land Revenue Act, 1967 (XVII of 1967), shall apply to cases of land tax and agricultural income-tax under this Ordinance.

16. Appeal, Review or Revision.

For the purposes of appeal, review or revision, and order passed under this Ordinance regarding land tax and agricultural income-tax shall be deemed to be an order of a Revenue Officer within the meanings of sections 161, 162, 163, and 164, Balochistan Land Revenue Act, 1967 (XVII of 1967).

17. Bar of Jurisdiction.

No Civil Court shall have jurisdiction in any matter relating to the assessment or collection or the agriculture income-tax leviable under this Ordinance and no order passed or proceedings taken by any authority under this Ordinance shall be called in question in any Civil Court.

18. Rules.

The Government may make rules to carry out the purposes of this Ordinance.

19. Repeal.

The Balochistan Agricultural Income Tax Act, 1996 (II of 1996), is hereby repealed.

THE FIRST SCHEDULE

(See section 3)

RATES OF LAND TAX

- (I) Irrigated land (excluding matured orchards)
Rs. 50 per acre per annum
- (II) Matured orchards (irrigated)
Rs. 200 per acre per annum
- (III) Unirrigated land
Exempted.

THE SECOND SCHEDULE

(See section 6)

RATES OF AGRICULTURAL INCOME-TAX

In the case of every owner, the agricultural income-tax shall be charged on the agricultural income.

- (1) Where the net agricultural income
5% of the taxable income
does not exceed Rs. 1,00,000
- (2) Where the net agriculture income
Rs. 5,000 plus 7-1/2% of the
Exceeds Rs. 1,00,000 but does not
amount exceeding Rs. 1,00,000
Exceed Rs. 2,00,000
- (3) Where the net agriculture income
Rs. 7,500 plus 10% of the amount
exceeds Rs. 2,00,000 but does not
exceeding Rs. 2,00,000
exceed Rs. 3,00,000
- (4) Where the net agriculture income
Rs. 17,500 plus 15% of the amount
exceed Rs. 3,00,000
exceeding Rs. 3,00,000

Provide that:

- (a) No agricultural income-tax shall be payable by an assessee where net Agriculture total income does not exceed Rs. 80,000 and
- (b) the agriculture income liable to tax would be net of costs as prescribed in rules.

Tax on Agricultural Land Ordinance, 1996 for

Islamabad Capital Territory

F. No. 2(1)/96-Pub, Islamabad, 31st December, 1996. –

The following Ordinance made by the President is hereby published for general information:–

WHEREAS it is expedient to provide for levy and collection of tax on agricultural land in the Islamabad Capital Territory and for matters connected therewith;

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

1. Short title and commencement. – (1)

This Ordinance may be called the Tax on Agricultural Land Ordinance, 1996.

(2) It extends to the Islamabad Capital Territory.

(3) It shall come into force on the 1st day of January, 1997.

2. Definitions. – In this Ordinance–

(a) agricultural land 'means land which is not occupied as the site of any building and is used for agricultural purpose or purposes subservient to agricultural; and

(b) 'owner' means the owner of land and, where the land is owned by the Federal Government or Provincial Government or the Capital Development Authority, a lessee in possession.

3. Levy and collection of agricultural tax.

– There shall, in addition to any other tax, be charged, levied and collected every year a tax in respect of agricultural land from the owner at the rate or rates specified in the Schedule to this Ordinance.

4. Land Revenue Act to apply. – (1)

The provisions of the West Pakistan Land Revenue Act, 1967, (W.P. Act XVII of 1967) shall apply for the levy, recovery and collection of tax under this Ordinance.

(2) An order passed under sub-section (1) shall be deemed to be an order of Revenue Officer within the meaning of said Act and the provisions of Chapter XIII relating to appeal, review and revision shall, *mutatis mutandis* apply to proceeding under this Ordinance.

5. Power to exempt. –

Whenever any land is affected by flood, hailstorm or any other calamity,

the Federal Government may exempt the owner from payment of tax payable under this Ordinance in respect of land affected as aforesaid.

6. Power to make rules. –

The Federal Government may make rules to regulate the levy collection or remission of tax payable under this Ordinance.

SCHEDULE

(See Section 3)

use of land

rates of tax

- | | |
|-----|--|
| 1. | Any land under fruit Orchard or used for growing vegetable or flowers including flowers plants.....Rs. 300.00 per acre |
| 2. | Where the land owned by a person including land used as at 1 above exceeds five acres– |
| (a) | Irrigated land.....Rs. 50.00 per acre |
| (b) | Un-irrigated land.....
Rs.
25.00 per acre |

Agricultural Income Tax Collections for Provinces

PUNJAB

A downward trend in fiscal year 2011-12!

A visible downward trend in collection of Agricultural Income Tax (AIT) has been witnessed in Punjab. Shahbaz Sharif's government reduced budget estimate of tax receipt from Agricultural Income Tax (AIT) to Rs. 927 million from last year's Rs 1.2 billion, showing a significant reduction. Owing to low collection of Agricultural Income Tax by provincial authorities, share of AIT in direct taxes has reduced to 4.04 per cent under Budget Estimate 2011-12 against share of 6.75 per cent in direct taxes that recorded in Budget Estimate 2010-11.

SINDH

A mocking figure!

Sindh Revenue Board (SRB) has collection target of Rs 25 billion for the fiscal year 2011-12. The major source of revenue would be telecom sector. Last year Federal Board of Revenue (FBR) transferred Rs 17 billion to Sindh province under sales tax on services. There is no inclination to collect agricultural income tax as target fixed for its collection is just Rs. 427 million. In year 2010-11, collection under agricultural income tax was just Rs. 281 million.

KHYBER PAKHTUNKHWA

Rejects any meaningful imposition!

In budget 2011-12, the Khyber Pakhtunkhwa government rejected imposition of agricultural income tax on the pretext that it would bring unemployment, economic disparity and poverty in the militancy-affected province. Agriculture contributes 20 per cent of the provincial Gross Domestic Product (GDP). About 68 per cent of its labour force is dependent on the rural economy and 44 per cent is directly engaged in the farming sector. Khyber Pakhtunkhwa has highly diversified agro-climatic zones, ideal for producing different varieties of crops, fruits and vegetables. Total collection from agricultural sector in 2009-10 was Rs. 1.9 million.

BALUCHISTAN

Opposed to uniform rate!

Mr. Dostain Jamaldini, Finance Secretary of Balochistan, after meeting called by Federal Finance Minister for levy of uniform agricultural income tax by all provinces and how to enhance collection, informed the media that there should be separate rate in each province keeping in view the state

of agriculture sector in the province. He said that Balochistan had collected Rs 65 million agricultural income tax in 2009-10. He was also of the view that floods had badly damaged agriculture in the province and that farming community could not take further burden.



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