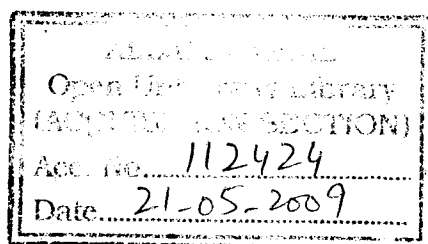


The Legitimacy of Pakistani Income Tax And Wealth Tax Laws in “Shariah”

Thesis for the Degree of Ph.D Islamic Studies



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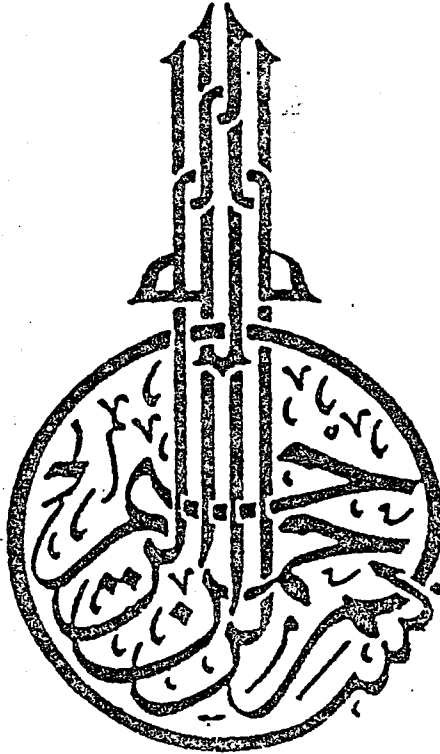
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In the name of Allah, Most Gracious, Most Merciful

CONTENTS

| S# | | Page |
|-----|-----------------------------------------------------------------------------------------------------------------------------|------|
| | Acknowledgement | 1 |
| | Introduction of thesis | 2 |
| | Glossary/ Abbreviation | 8 |
| | Chapter No.1: Objective of taxation in Islam | 13 |
| 1:1 | Concept of taxation in Islam | 13 |
| 1:2 | Sources of Revenue of the Public Treasury (Bait-ul-Māl) | 26 |
| 1:3 | The Legitimacy of Taxation in Islam | 39 |
| 1:4 | Evaluation of Arguments | 54 |
| | Endnotes of chapter No.1 | 74 |
| | Chapter No.2: Taxation levied in Pakistan | 83 |
| 2:1 | Direct and Indirect Taxes | 83 |
| 2:2 | Charge of Tax and Islamic Tenets. | 108 |
| 2:3 | Income Tax Ordinance and Allowances. | 115 |
| 2:4 | Additional Tax under section 88 to 104, recovery and refunds of Tax under sections 94 to 102 in the Islamic perspective | 124 |
| | Endnotes of chapter No.2 | 130 |
| | Chapter No.3. Study of Heads of Income under sections 15 to 32 and penalties under section 108 to 122 | 135 |
| 3:1 | Heads of Income. | 135 |
| 3:2 | Ribā (Interest) according to Quran and Sunnah | 137 |
| 3:3 | Recommendations of the council of Islamic Ideology. | 159 |
| 3:4 | Penalties, offenses and prosecutions. | 163 |
| 3:5 | Tazir bil Māl (financial punishment) according to Islamic Shariah | 168 |
| | Endnotes of chapter No.3 | 177 |
| | Chapter No.4 . Assessment procedure, appeal and revisions, income exempt from tax and analysis of finance bill 2001. | 184 |
| 4:1 | Assessment procedure. | 184 |
| 4:2 | Appeals and Revisions. | 185 |
| 4:3 | Income exempt from Tax. | 190 |
| 4:4 | Analysis of Finance Bill 2001. | 206 |
| | Endnotes of chapter No.4 | |

| | | |
|-----|---------------------------------------------------------------------------------------------------------------------------------|------------|
| | Chapter No.5. Evaluation of Taxes levied in Pakistan, Principles of Modern Taxes characteristics of good Taxation System | 232 |
| 5:1 | Evaluation of Taxes levied in Pakistan | 233 |
| 5:2 | Modern Objectives and Principles. | 257 |
| 5:3 | Characteristics of good Taxation System. | 263 |
| | Endnotes of chapter No.5 | 268 |
| | Results of the research | 271 |
| | Recommendations. | 274 |
| | Index of the thesis. | 275 |
| | Index of the verses. | 283 |
| | Index of Ahadith. | 287 |
| | List of prominent figures. | 292 |
| | Bibliography | 298 |

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May Allah reward the Authors, Muslim Scholars and Jurists who compiled many authentic books for the guidance of Muslim Ummah (AMIN).

Introduction

Islam established its own taxation system nearly fourteen hundred and twenty five years ago which comprised taxes like Zakkah, Ushur, Jiziah, Kharaj, Khums and many other minor imposts. This system was devised by the Muslims in the early Islamic state in the light of their revealed book "The Holly quran" an Sunnah of the Prophet (S.A.A.W) of Islam. The system of taxation introduced during the period of the Holly Prophet (S.A.A.W) and the rightly-guided Caliphs, remained in operation, with little modifications and extended application, for almost one thousand years in a greater part of the civilized world which formed the grand Muslim empire. However decline of the Muslim power and the occupation of the Muslim states by the western imperialists led to the replacement of the Islamic taxation system by a system of secular taxes imposed by the colonial administrators. As Pakistan is an ideological state which was created to enable the Muslims to order their lives in accordance with the tenets of Islam. There has been a consistent demand for the establishment of the Islamic order in the country since its very creation. In the wake of Islamization, many laws have been modified and the system of Zakkah and 'Ushr' was introduced in the year 1980.

There is controversy in the literature on Islamic economics about the legitimacy of taxes other than Zakah in an Islamic state. So some people argued in favour of and against the levy of taxes side by side with Zakah. Consequently some religious scholars such as Maulana Fazal-ur-Rehman bin Muhammad and

Hafiz S.A. Rehman has filed an application to the Federal Shariat Court challenging the clause 203 of constitution of Pakistan 1973 about the imposing of Income Tax and Wealth Tax. In the meanwhile about 115 Shariat Petitions have also been filed in Federal Shariat Court and challenged about twenty Acts and Ordinances. On the other hand Maulana Sufi Muhammad of Malakand Agency has not only submitted his application in the Council of Islamic Ideology of Pakistan against the levy of Income Tax but also instigated the people of Malakand not to pay the Income Tax being unauthorised by Quran and Sunnah.

Accordingly against this background, the topic of thesis entitled, "The Legitimacy of Pakistani Income Tax and Wealth Tax Laws in Shariah", have been selected for research (which is exactly an important and cure issue)

Statement of the Problems:-

The main problems of the research dissertation are as follows:

- (1) Can an Islamic State levy Income Tax and Wealth Tax on Muslims besides Zakah?
- (2) To indicate the sections and sub-sections of Income Tax Ordinance, which are against the Islamic Laws.
- (3) To submit certain proposals and recommendations for amendments and revision of Pakistani Income Tax and Wealth Tax Laws according to the Islamic Perspective.

Hypothesis of the Research:-

- (1) An Islamic state cannot impose taxes like Income Tax and Wealth Tax on the wealth of Muslims other than Zakah
- (2) An Islamic State has rights to levy Taxes on Muslims side by side with the Zakah.

- (3) All the Pakistani Laws of Income Tax and Wealth Tax are contrast to the Islamic Shariah.
- (4) Certain provisions of Income tax and Wealth Tax Laws are un-Islamic.

Objectives of the Research:-

The main objectives of this research are as under:

- (1) To acquire the will of Allah Almighty.
- (2) To discuss and evaluate the arguments about the Legitimacy of Income Tax and wealth Tax Laws impartially.
- (3) To point out various un-Islamic provisions and to appreciate the Islamic provisions of Law.
- (4) To complete this thesis to achieve the degree of Ph.D in Islamic Studies.
- (5) To serve the whole Muslim community in general and to serve the people of Pakistan in particular by this research effort.
- (6) To prepare various valuable recommendations and proposals to amend such laws in accordance with the Islamic Shariah.

Literature Review:-

Although there is debate among Muslim Jurists on the permissibility of Taxes in addition to Zakah yet Muslim Jurists of our time have not discussed at length the question raised above. As there is no clear-cut injunction either in the Qur'an or in the Sunnah which authorizes or prohibits the Islamic state to levy Taxes like Income Tax and Wealth Tax on Muslims other than Zakah, the Muslim Scholars have expressed their opinions about this matter in their books very shortly like as Imam Abu Yousuf, Abu Ubaid, Yahya Bin Adam, Abu Jafar, Ahmad Bin Nasar, Imam Sarkhasi, Imam Al-Zahbi, Ibn-e-taimiyah, Ibn-e-Hazam, Al-Mawardi, Abu

Yala al-Fara, Ibn-e-Khuldoon, Ibn-Hamam, syed Qutub Shaheed, Dr. Yousuf Qardhawi, Abdur Rehman al-Jaziri, Syed Sabiq, Dr. Wahbah al-Zuhaili, Muhammad Hashim Awad, Dr. Umer Chapra, Sabah-ud-Din zaim, Dr. Muhammad Fahim Khan, Dr. Noor Muhammad Ghaffari, Mualana Maududi, Prof. Khurshid Ahmad, Muhammad Taqi Animi, Kauser Niazi, Dr. Imran Ahsan Niazi, Muhammad Sharif Ch (ex-member Income Tax Appellate Tribunal, Lahore) and other Scholars. But nobody has conducted the research work at Ph.D level on this issue particularly about Legitimacy of Pakistani Income Tax and Wealth Tax Laws in Islamic Shariah. Consequently the above mentioned research topic has its vital importance being the current issue. So it is justified to select this topic for research study.

Methodology of the research:-

It is state for kind information of the readers that translation of Holly verses are taken from the Translation of the meanings of the Holly Qur'an by Marmaduke Pickthall, similarly the English translation of Ahadiths are taken from the books of Ahadith (English and Arabic texts) translated in English by Dr. Muhammad Mohsin Khan published by Dar-us-Salam, Riyadh, K.S.A.

Moreover the end notes are given at the end of every chapter of the thesis. As the Government of Pakistan has announced to abolish the Wealth Tax in the annual budget for the year 2000-01, the Wealth Tax Law is being discussed in general to point out the un-Islamic provisions of the Wealth Tax Act, 1963. However, the section-wise research study of the Income Tax Ordinance, 1979 and

2001 is being presented in the Islamic perspective. At the end of the thesis the index of the thesis, verses and A-hadith, list of prominent figures and references are given alphabetically abbreviations.

Outline:-

This thesis has been divided into give chapters;

The first chapter of the thesis deals with the objectives of the Taxation system of Islam and sources of Income of Bait-ul-Mal (Treasury) it also discusses comprehensively the difference between Zakah and Taxes and the Legitimacy of Taxes in Islamic Law, evaluation of arguments against and in favour of modern Taxes and conclusion of the this debate.

The second chapter explains the Taxes levied in Pakistan like Income Tax and Wealth Tax. The historical background of Income Tax and Wealth Tax Laws including charge of Tax, additional tax, advance tax, process of recovery and refunds and evaluation of Zakah and Ushr levied in Pakistan are also being discussed in the light of Qur'an and Sunnah.

The third chapter presents the brief discussion about heads of Income, Amnesty Schemes, Interest (riba) and tazir-bil-Mal (financial punishment and penalty) in accordance with the tenets of Islamic Shariah.

The fourth chapter concentrates the assessment procedure, appeals and revisions, Income exempt from tax under Income Tax Ordinance, 1979. This chapter also focus the analysis of Finance Bill 2001.

The fifth and the last chapter contains the evaluation of taxes levied in Pakistan, objectives and principles of modern taxation, characteristics of good taxation system, results of research and recommendation for the revision of tax laws. At the end of this dissertation the indexes of Holly verses, A-hadith, Eminent figures and bibliography are given alphabetically.

It is to be hoped that this research work will be found useful for those interested in studying the Islamic economic and taxation system. May Allah accept this effort since He alone knows the real intention of a person. I earnestly pray to Allah almighty to bless more strength, light and vision to all of us that we may be able to succeed in our service to Islam. May Allah grant us ability to practice Islamic tenets in our every day life (Amin).

GLOSSARY / ABBREVIATIONS

| | | |
|------------------|-------------|-------------------------------------------------------------------------|
| assessee | | Tax payer |
| amanah | أمانة | Keeping something in trust – for safe-keeping only (see also wadee'ah) |
| A.O.P | | Assouatan of persons |
| Asher | عاشر | Collector, Receiver. |
| Ayah (pl Ayaat) | آية (آيات) | Sign (The term for a verse in the Qur'an) |
| b. binn of Ibne | ابن | Son of |
| bai | بيع | Trading |
| bayt-al-Mal | | Treasury are exchequer of the state |
| daribah | مكس ، ضريبة | Tax, Imposts. |
| dayn | دين | Loans and debts created in lieu of credit sales (see also qard) |
| Fard | فرض | Duty, Obligatory |
| Fay | فئ | All properties, goods, lands tabor from non-believers without fighting. |

| | | |
|------------|--------|------------------------------------------------------------------------------------------------|
| Fiqh | فقه | Islamic law |
| F.O | | Fenanee ordinance |
| Ghal | غال | One who trespasses, crosses the limit, Challenges the authorities. |
| haram | حرام | Absolutely prohibited , unlawful |
| ijarah | إجارة | Leasing |
| IRITI | | Islamic Research and Training Institute |
| IDB | | Islamic Development Bank. |
| Individual | فرد | Who runs a business personally. |
| ijtihaad | اجتهاد | Applying human reasoning to solve newly emerging problems in the light of Shari'ah principles. |
| infaq | إنفاق | Spending for the sake of Allah SWT. |
| Jizyah | جزية | It was imposed on non – muslim citizen (zīmīee) |
| Khumus | خُمْس | (1/5 from spoils of war)from buried wealth in mineral productions |
| kharaj | خراج | Usually imposed on Kharaji conquered lands |

| | | |
|---------------------|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| khamr | خمير | Alcoholic beverages |
| modarabah | مُضَارَبَة | A partnership arrangement between two/more persons in which one/some partner (S) provides capital while the other (S) effort of expertise. |
| Mosalah Mursalah | مصالح مرسله | Social welfare / public Interest |
| modarib | مُضَارِب | Partner (S) contributing effort or expertise in a modarabah. |
| musharakah | مُشَارَكَة | A partnership arrangement in which all parties provide capital as well as labour, albeit in varying degrees. |
| Max | مكس | Tax |
| Max As | المالكس ، مكاس صاحب مكس | Tax collector or receiver of Tax |
| Nisab | نصاب | Minimum exemption limit |
| Oulul Amr | أولو الأمر | Representative of the Shari'ah that can exercise Shari'ah authority |
| qard | قرض | Loan (also referred to as Qarz-e-Hasanah) |

| | | |
|--------------------------|---------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| rabb-ul-maal | رب المال | Provider (S) of capital in a modarabah/ musharakah framework. |
| riba | ربا | Interest |
| RAA / RAAH | رضي الله عنه ، رضي الله عنها | RadiAllaho Anho/Anha – May Allah SWT be pleased with him/her "Salutation reserved for the companions of the Prophet SAAWS." |
| RF | | Registered firm |
| Sadaqah (pl.sadaqaat) | صدقة (صدقات) | Charity |
| sultan | سلطان (إمام) | Imam, ruler or khalifa |
| SWT | سبحانه وتعالى | Subhanahu wa Ta'aala – He who is above any defect whatsoever and who is the Exalted. "Praise reserved for Allah SWT" |
| SAAWS | صلى الله عليه وسلم | SallAllaho Alaihay wa Sallam. –May Allah SWT's blessings and peace be upon Him- "Salutation for the Prophet SAAWS" |
| Sunnah | سنة | Actions and deeds of the prophet SAAWS and also those tacitly approved by him (SAAWS) |

| | | |
|-------------------|-----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Tazir | تعزير | Punishment by Imam |
| Tazir – bin - mal | تعزير بالمال ، تعزير بإتلاف المال، تعزير بأخذ المال | Financial Punishment)(1. Tazir – bin – Itlaf –al – Mal (punishment with the Wastage of wealth) 2. Tazir – bin – Akhaz –al – Mal (To snatch the wealth) |
| usury | ربا | Interest |
| ushur | عشر زكاة الأرض | Akah at the rate of 1/10,8 1/10 from Agriculture Produce |
| Ushur | عشور | Import duty / Tax |
| Waqf (pl. awqaf) | وقف (أوقاف) | The Islamic institution of trust for charitable/welfare purposes |
| Wali | ولي | Guardian, Custodiant |
| Zakah | زكاة | Obligatory religious due on wealth and selected other output and income flows. |
| zulm | ظلم | Exploitation or injustice |

CHAPTER NO.1

Concept And Objectives Of Taxation in Islam

1. Theory of Taxation in Islam

The theory of taxation in Islam is derived from the principles underlying the law of Zakah. The Qur'an has made it obligatory for all Muslims, who have wealth and income beyond a certain level, to pay Zakah for meeting some defined purposes.¹ Zakah is not a tax; that is rather a form of worship ('ibadah). They think so because tax, by its very connotation, smacks of something unfair and coercive. It is argued that Zakah is a means to purify one's wealth and to seek the pleasure of God. Therefore, we should not treat Zakah as a tax.² The Islamic state can compel its Muslim citizens to pay it. In fact, this was done by the first caliph of Islam who even fought a battle against those who refused to pay it. Its rates are fixed. Its periodicity is fixed. Its heads of expenditure are laid down. All these characteristics make it a tax. This is notwithstanding the fact that people might like to pay it voluntarily in the hope of getting a reward in the Hereafter. We can say that divine sanction has made Zakah a special type of tax. But it is still a tax.³

There is consensus in the Muslim ummah that the law of Zakah, as given by the Prophet (S.A.A.W), is binding. The rates, exemption limits and the properties on

which it is to be levied have been prescribed by the Prophet (S.A.A.W) and hence they cannot be changed. Incidentally, the range of such prescriptions is not very wide, considering a present-day Islamic economy. New forms of wealth have arisen. New methods of creating wealth have come into being. Therefore, we need some fresh thinking about the law of Zakah. The earlier jurists engaged in a lot of analogical reasoning to apply the law in their respective times. In our times we need to do the same.⁴

1.1. *Objectives of Taxation in Islam*

Taxes in Islam are levied keeping in view the following objectives and purposes:-

a) **To Purify Human Soul As Well As Wealth:**

The Qur'an says:

خُذْ مِنْ أَمْوَالِهِمْ صَدَقَةً تُطَهِّرُهُمْ وَتُزَكِّيهِمْ بِهَا وَصَلِّ عَلَيْهِمْ إِنَّ صَلَاتَكَ سَكَنٌ لَهُمْ وَاللَّهُ سَمِيعٌ عَلِيمٌ ٥

"Of their goods take alms, that so thou mightest purify and sanctify them; and pray on their behalf. Verily thy prayers are a source of security for them: and Allah (SWT) is One who heareth and knoweth".

Thus, the Prophet of Islam (S.A.A.W) has been commanded by Allah (SWT) to take Zakah from the wealth of

his followers to purify them.⁶ So the major objective of Zakah (which in fact is one generic term applicable to all compulsory contributions which an Islamic state levies on its Muslim citizens), according to the Qur'an, is the purification of the human soul as well as wealth. It purifies the human soul of the vices like greed, miserliness, selfishness and love of wealth. Wealth is dear to everybody and the loves to acquire it, accumulate it and possess it like anything. But the one who pays Zakah and spends his wealth in the way of God attains goodness of heart and purity of soul.⁷ Al-Qur'an says:

﴿وَمَثَلُ الَّذِينَ يُنْفِقُونَ أَمْوَالَهُمْ آتِغَاءَ مَرْضَاتِ اللَّهِ وَتَثْبِيتًا مِّنْ أَنفُسِهِمْ كَمَثَلِ جَنَّةٍ بِرَبْوَةٍ أَصَابَهَا وَابِلٌ فَكَاتَتْ أَكْطُلَهَا ضِعْفَيْنِ فَإِن لَّمْ يُصِبْهَا وَابِلٌ فَطَلٌّ وَاللَّهُ بِمَا تَعْمَلُونَ بَصِيرٌ ۝۸﴾

"And the likeness of those who spend their substance, seeking to please Allah (SWT) and to strengthen their souls, is as a garden, high and fertile...."

Payment of tax (Zakah) effects purification in three directions, i.e. moral, social and economic. In the moral sphere, it washes away from the hearts of the rich the lust, greed and acquisitiveness of wealth. In the social field, it makes the rich alive to and responsible for making their due contributions in helping the eradication of poverty and ensuring the basic necessities of life to all the members of the nation. In the economic field, Zakah prevents the accumulation of wealth in

a few hands and encourages its circulation in the nation thus benefiting the economic development of country.⁹

b) Fair Distribution of Wealth:

The Holy Qur'an, the revealed book of Islam, says:

﴿ مَا أَفَاءَ اللَّهُ عَلَى رَسُولِهِ مِنْ أَهْلِ الْقُرَىٰ فَلِلَّهِ وَلِلرَّسُولِ وَلِذِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسْكِينِ وَابْنِ السَّبِيلِ كَيْ لَا يَكُونَ دُولَةً بَيْنَ الْأَغْنِيَاءِ مِنْكُمْ وَمَا آتَاكُمُ الرَّسُولُ فَخُذُوهُ وَمَا نَهَاكُمْ عَنْهُ فَانْتَهُوا وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ شَدِيدُ الْعِقَابِ ﴾ 10

“That which Allah (SWT) giveth as spoil unto His messenger from the people of the townships, it is for Allah (SWT) and His messenger and for the near of kin and the orphans and the needy and the wayfarer, that it become not a commodity between the rich among you” .

It means that according to the Qur'an, wealth should not be allowed to concentrate among the rich citizens of the Islamic State; rather it should be distributed among the poor, needy, orphans and the less fortunate people of the nation. For ensuring fair distribution of wealth among the citizens, taxation can be a good means. So the most important objective of an Islamic system of taxation would be to safeguard against the concentration of wealth of the nation among the few rich hands, to distribute it fairly and equitably among all and consequently to remove the income disparities

and bridge the gulf between the rich and the poor.¹¹ The Qur'an says:

﴿وَفِي أَمْوَالِهِمْ حَقٌّ لِّلسَّائِلِ وَالْمَحْرُومِ﴾¹²

"And in their wealth the beggar and the deprived of have due share".

The Prophet of Islam, when he sent Muaz-b-Jabal as the Amil and Zakah Collector to Yemen, directed him to tell the people that "Allah (SWT) has made obligatory over them Zakah which will be taken from the rich and will be given to the poor among them".¹³ Thus the Holy Prophet described Zakah as money taken from the rich and returned to the poor. Economic inequalities have been strongly condemned by the Prophet (S.A.A.W) who is reported to have said: "A town in which a man sleeps hungry and wakes up in the morning hungry loses the promise of protection from God". Taxation is indeed an effective instrument in the hands of an Islamic state to eradicate poverty and to bridge the gulf between the poor rich.¹⁴

c) Establishment of Social Justice:

One of the major objectives of the Islamic state is to establish socio-economic justice among all the members of the nation. The Holy Qur'an says:

﴿وَجَعَلَ فِيهَا رُوسًا مِّن فَوْقِهَا وَبَرَكَ فِيهَا وَقَدَّرَ فِيهَا أَقْوَامًا فِي أَرْبَعَةِ

أَيَّامٍ سَوَاءٍ لِّلسَّائِلِينَ﴾¹⁵

"He (Allah (SWT)) placed therein firm hills rising

above it, an blessed it and measured therein its sustenance in four days, alike for (all) who ask”.

Allah (SWT) has placed in the earth sustenance and provisions for all to cater their needs. However, on account of various reasons, the distribution of these provisions does not remain fair among all the human beings, thus making some lucky ones very rich who possess wealth more than their needs and making many others very poor who possess nothing or too little to meet their very basic necessities of life. Islam meets this challenge of disproportionate division of wealth by making it obligatory on the rich to surrender a part of their wealth for helping the poor and unfortunate members of the community.¹⁶ Al-Qur'an says:

﴿وَأَقِيمُوا الصَّلَاةَ وَآتُوا الزَّكَاةَ وَارْكَعُوا مَعَ الرَّاكِعِينَ﴾¹⁷

“Establish worship, pay Zakah and bow your heads with those who bow (in worship)”.

The Holy book again says:

﴿لَنْ تَنَالُوا الْبِرَّ حَتَّى تُنْفِقُوا مِمَّا تُحِبُّونَ ۚ وَمَا تُنْفِقُوا مِنْ شَيْءٍ

فَإِنَّ اللَّهَ بِهِ عَلِيمٌ﴾¹⁸

“Ye will not attain unto piety until ye spend of that which ye love. And whatsoever ye spend, Allah (SWT) is aware thereof.”.

It further pronounces:

﴿وَالَّذِينَ فِي أَمْوَالِهِمْ حَقٌّ مَعْلُومٌ ۖ لِلْسَّائِلِ وَالْمَحْرُومِ﴾¹⁹

“And in whose wealth there is a right acknowledged, for the beggar and the destitute”.

d) To Prevent Hoarding and Ensure Circulation of Wealth:

Another important objective of taxation in Islam is to discourage hoarding and ensure the constant circulation of wealth. About hoarding of wealth the Qur'an says:

يٰۤاَيُّهَا الَّذِيْنَ ءَامَنُوْا اِنَّ كَثِيْرًا مِّنَ الْاَحْبَارِ وَالرُّهْبٰنِ
لَيٰكُلُوْنَ اَمْوَالَ النَّاسِ بِالْبٰطِلِ وَيَصُدُّوْنَ عَنْ سَبِيْلِ اللّٰهِ
وَالَّذِيْنَ يَكْتٰزُوْنَ الذَّهَبَ وَالْفِضَّةَ وَلَا يَنْفِقُوْنَهَا فِيْ سَبِيْلِ اللّٰهِ
فَبَشِّرْهُمْ بِعَذَابٍ اَلِيْمٍ ﴿٢٠﴾ يَوْمَ تُحْمٰى عَلَيْهَا فِىْ نَارِ جَهَنَّمَ
فَتَكُوْنُ بِمَا جَبَٰهُهُمْ وَجُنُوْهُمْ وُظُّوْرُهُمْ ۚ هٰذَا مَا كُنْتُمْ
لَاَنْفُسَكُمْ فَذُوقُوْا مَا كُنْتُمْ تَكْتٰزُوْنَ ﴿٢١﴾

“They who hoard up gold and silver and spend it not in the way of Allah (SWT), unto them give tidings of a painful doom. On the day when it will (all) be heated in the fire of hell and their foreheads and their flanks and their backs will be branded there with (and it will be said unto them): Here is that which ye hoarded for yourselves. Now taste of what ye used to hoard:”.

So the Qur'an not only discourages hoarding of wealth but also threatens persons responsible for this heinous crime with the dire consequences.

Zakah is a great enemy of hoarding. If it is paid regularly on the hoarded wealth, it would eat away the whole or main portion of such wealth in a few years time. Thus a person possessing such hoarded wealth is forced to bring it into circulation by investing it or spending it.²¹

e) To Establish Brotherhood, Unity and Solidarity Among the Muslims:

The Holy Qur'an says:

لَيْسَ الْبِرَّ أَنْ تُوَلُّوا وُجُوهَكُمْ قِبَلَ الْمَشْرِقِ وَالْمَغْرِبِ
وَلَكِنَّ الْبِرَّ مَنْ ءَامَنَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَالْمَلَائِكَةِ وَالْكِتَابِ
وَالنَّبِيِّينَ وَءَاتَى الْمَالَ عَلَى حُبِّهِ ذَوِي الْقُرْبَىٰ وَالْيَتَامَىٰ
وَالْمَسْكِينِ وَابْنَ السَّبِيلِ وَالسَّائِلِينَ وَفِي الرِّقَابِ وَأَقَامَ الصَّلَاةَ
وَءَاتَى الزَّكَاةَ وَالْمُوفُونَ بِعَهْدِهِمْ إِذَا عَاهَدُوا وَالصَّابِرِينَ
فِي الْبَأْسَاءِ وَالضَّرَّاءِ وَحِينَ الْبَأْسِ ۗ أُولَٰئِكَ الَّذِينَ صَدَقُوا
وَأُولَٰئِكَ هُمُ الْمُتَّقُونَ ﴿٢٢﴾

"It is not righteousness that ye turn your faces to the East and the West; but righteous is he who believeth in Allah (SWT) and the Last Day and the Angels and the Scripture and the

Prophets; and giveth his wealth, for love of Him, to kinsfolk and to orphans and the needy and the way farer and to those who ask, and to set slaves free; and observeth proper worship and payeth Zakah”.

Again the Holy Book enjoins upon its followers:

﴿ يَسْأَلُونَكَ مَاذَا يُنْفِقُونَ ۖ قُلْ مَا أُنْفِقْتُمْ مِنْ خَيْرٍ فَلِلْوَالِدَيْنِ
وَالْأَقْرَبِينَ وََالْيَتَامَىٰ وَالمَسْكِينِ وَابْنِ السَّبِيلِ ۚ وَمَا تَفْعَلُوا مِنْ خَيْرٍ
فَإِنَّ اللَّهَ بِهِ عَلِيمٌ ۝ ٢٣ ﴾

“They ask thee, (O Muhammad), what they shall spend. Say: that which ye spend for good (must go) to parents and near kindred and orphans and the needy and the wayfarer. And whatsoever good ye do, lo! Allah (SWT) is aware of it”.

Thus by enjoining upon the rich and wealthy to pay Zakah and spend for their poor parents, relatives, orphans and needy, Islam lays the foundations of fellow-feeling, brotherhood, friendship and love among all the members of Muslim Ummah. By helping the poor, the rich persons not only discharge their religious obligations but also earn their gratitude, love and affection. So the Zakah and alms pave the way for national solidarity and social cohesion by cementing the bonds of fraternity among the rich and the poor.²⁴

f) To Ensure economic Development of the Nation:

Whether a particular system of taxation is good or bad depends on the fact as to how much it brings about a socio-economic change in the society and how much it helps the economic advancement of the nation. Islamic taxation system particularly Zakah discourages hoarding of wealth and encourages its circulation. The persons who possess hoarded wealth know that if they keep it like that, it would be consumed by Zakah. So they would not keep it lying idle, rather they would per force bring it into circulation by investing or spending it. Thus the consumption and investment would have multiplier effect on the growth of the national income. Moreover, taxes like Zakah are collected from the rich and returned to the poor and thus the purchasing power of the poor is strengthened. The poor people now having purchasing power in their hands will demand more goods. The industrialists would produce more in order to meet the increasing demand. Thus the increase in demand and supply will encourage industrialization and thereby expand the scope of employment in the country. In this way, the human and material resources of the country would be fully exploited and national income would grow rapidly. The Qur'an perhaps refers to this situation when it compares usury and Zakah and pronounces:²⁵

﴿ وَمَا أَتَيْتُمْ مِنْ رَبًّا لِيَرْبُوهَا فِي أَمْوَالِ النَّاسِ فَلَا يَرْبُوهَا عِنْدَ
اللَّهِ وَمَا أَتَيْتُمْ مِنْ زَكَاةٍ تُرِيدُونَ وَجْهَ اللَّهِ فَأُولَٰئِكَ هُمُ
الْمُضْعِفُونَ ﴾ 26

“That which ye give in usury in order that it may increase on (other) people's property hath no

increase with Allah (SWT); but that which ye give in charity, seeking Allah's (SWT) countenance, hath increase manifold”.

g) Arrangement of the Finance for the Needs of the State:

One of most important objectives of the taxation system of Islam is to provide funds to enable the state to discharge its functions regarding the establishment of Justice and Islamic legal system, waging of Jihad against its enemies, mitigation of poverty, spread of education and Islam, welfare of the poor and the sick etc. Islam therefore, has made Zakah a state institution. The Holy Qur'an authorizes the Prophet of Islam, who was the first head of Islamic State, to collect Zakah from his followers in these words: 27

﴿ خُذْ مِنْ أَمْوَالِهِمْ صَدَقَةً تُطَهِّرُهُمْ وَتُزَكِّيهِمْ بِهَا وَصَلِّ عَلَيْهِمْ إِنَّ صَلَاتَكَ سَكَنٌ لَهُمْ وَاللَّهُ سَمِيعٌ عَلِيمٌ ﴾ 28

“Take alms of their wealth wherewith thou mayst purify them and mayst make them grow and pray for them”.

Following verses of the Holy Qur'an not only provide guidance for the expenditure of the taxes collected by state but also highlight the socio-economic objectives of the Islamic state:-

﴿ وَأَعْلَمُوا أَنَّمَا غَنِمْتُمْ مِنْ شَيْءٍ فَإِنَّ لِلَّهِ خُمُسَهُ وَلِلرَّسُولِ وَلِذِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسْكِينِ وَابْنِ السَّبِيلِ إِن كُنْتُمْ أَمَنْتُمْ بِاللَّهِ وَمَا أُنْزِلْنَا عَلَىٰ عَبْدِنَا يَوْمَ الْفُرْقَانِ يَوْمَ التَّقَىٰ أَجْمَعِينَ ﴾ وَاللَّهُ

عَلَىٰ كُلِّ شَيْءٍ قَدِيرٌ ﴿٢٩﴾

- (i) And know that whatever ye take as spoils of war, lo: a fifth thereof is for Allah (SWT), and for the messenger and for the kinsman (who hath need) and orphans and the needy and the wayfarer... .

﴿ إِنَّمَا الصَّدَقَتُ لِلْفُقَرَاءِ وَالْمَسْكِينِ وَالْعَمِلِينَ عَلَيْهَا وَالْمُؤَلَّفَةِ قُلُوبُهُمْ وَفِي الرِّقَابِ وَالْغَرَمِينَ وَفِي سَبِيلِ اللَّهِ وَابْنِ السَّبِيلِ ۖ فَرِيضَةً مِّنَ اللَّهِ ۚ وَاللَّهُ عَلِيمٌ حَكِيمٌ ۝٣٠﴾

- (ii) The alms are only for the poor and the needy, and those who collect them, and those whose hearts are to be reconciled and to free the captives and the debtors, and for the cause of Allah (SWT), and for the wayfarer, a duty imposed by Allah (SWT).

Islam envisages the establishment of a welfare state which would need huge financial resources to fund its development programs in education, health, labour and social welfare sectors. So it places substantial resources at the disposal of the state in the form of taxes and voluntary contributions by the citizens. Islamic state can also raise Qard-e-Hasana (Loan without interest) from its well-to-do citizens. However, Zakah, Sadaqat and other taxes are the main sources of finance for the Islamic state.³¹

h). Provision of Social Security:

In the modern world, almost, all the countries are maintaining some sort of social security schemes for providing monetary benefit to persons suffering economic hardship. Such schemes embrace in their fold insurance against sickness and unemployment; pensions to old people, widows and disabled; compensation to workers who have met with some accident; maternity benefits; family allowances etc. But the scope of the social security scheme conceived by Islam some fourteen hundred years ago is much wider than what a modern man can perceive.³²

If we examine some verses (9:60, 2:177, 2:215) of the Holy Qur'an, we come to understand that the modern concept of social security has no comparison with the Islamic conception. Funds for the social security scheme of Islam are provided by Zakah and Sadaqat. Zakah fund is more than a social security scheme or group insurance scheme of today. It helps the poor, needy, unemployed, sick, disabled, widows, orphans, old people, wayfarers, debtors, prisoners, slaves, poor preachers etc. So "It is an insurance fund to which only the wealthy make contributions. If you are rich today, you contribute to this fund. The needy and the poor benefit from this fund today, but if you (or your children) are rendered poor tomorrow by the vicissitudes of this world, you (or your children) will also benefit from it. Thus no member of the Muslim community need ever feel financially insecure for himself, his wife or his children after him because the social insurance fund (Zakah) will always look after the interests of

the needy and the poor. A Muslim should, therefore never worry himself even about unforeseeable catastrophes, such as diseases, fire accidents, floods, bank-ruptcies, death, etc., which might wreck his career, destroy his property or business and render his descendants penniless, for the Zakah funds is his permanent insurance against all types of risks. Even when one is on a journey and becomes penniless through theft, sickness or other reasons, this fund will meet all one's needs.³³

1.2 Sources of Revenue of the Public Treasury

(Bayt – Al – Mâl)

Sources of revenue of the public treasury (Bayt-al-Mal) and the taxes levied in the early Islamic state in the times of the Holy Prophet (May Allah's (SWT) peace be upon him) and his immediate successors (known in the Islamic history as rightly guided caliphs) included the following:³⁴

1. **Khumus:** 1/5 of the spoils of war. It was also collected from buried treasure, mineral wealth and produce of the sea.³⁵
2. **Fay:** all properties, goods, lands, tributes or indemnities taken from the non-believers without fighting.³⁶
3. **Jizyah:** It was imposed on non-Muslim citizens (Called Zimmis) of the Islamic state in consideration of the protection given to them.³⁷

4. **Kharāj:** Lands of the conquered countries were declared to be the property of the Islamic state and were left in the hands of their former cultivators. Kharaj tax was imposed on such lands.³⁸

5. **Miscellaneous Revenues:** such taxes or revenues are:-

- a) ^ʿUshūr: Customs or tolls levied on merchandise imported into the Islamic state by Harbi traders, Zhimmis and Muslim traders.
- b) Income from waqf properties.
- c) Income from public domain.
- d) Income from lease or licence to exploit or use certain things belonging to the state.
- e) The proceeds from things found on the highways when there is no claimant of such things.
- f) Property found in the hands of thieves or highway robbers when there is no owner to claim it.
- g) Income from the estates of persons who died having no heirs.
- h) Property of the apostates.
- i) Property of the Zimmi-rebels guilty of treason.
- j) Income from forests.
- k) Tax levied on produce of fish.

Taxes mentioned above continued to be levied even in the times of the caliphs belonging to Ummayyid and Abbaside family with little or no changes or modifications.³⁹

Broadly speaking, taxes levied in the Islamic state are collected either from its Muslim citizens or from its non-Muslim citizens. Taxes collected from Muslims are called Zakah and Sadaqat while taxes imposed on non-Muslims are known by the generic name of fai revenues.⁴⁰

6. Emergency Taxes.

Such taxes are called (Draib) by the Muslim jurists. These levies are imposed by the Islamic state in case of emergency needs like war, flood, earthquake, cyclone, outbreak of disease etc.

There is a brief definition of these sources but Zakah will be discussed in details at the end of this chapter due to its length.⁴¹

7 Zakah:- The Backbone of The Islamic Economy.

a. Definition of Zakah

Zakah is one of the five pillars of Islam. Its importance can be judged by the fact that at different places in the Qur'an, the injunction to perform prayers is followed by the commandments regarding Zakah.

In Islam, Zakah payment is compulsory, levied on the members of the Muslim community, so as to take the surplus money from the comparatively well-to-do members of the society and to give it to the destitute and the needy.⁴²

Zakah literally means "increase" as well as "purity"

Sadaqah is a synonym for Zakah. The general usage however, is to consider Sadaqah as a more generic term

applying to alms whose payment is a fard (compulsory), as well as to alms the giving of which is entirely voluntary.

Zakah, being a compulsory payment becomes the right of the entire community or society in the wealth of individuals, as prayer is the right of all from Muslims.⁴³

Zakah is regarded by some as mere alms giving. But this is a wrong interpretation of the tenets of 'Zakah as enunciated in the Qur'an, although private charity and payment by individuals is permissible, Zakah does not fall in the general category. The definition of Zakah is precise: The amount collected by way of Zakah is also distributed in a precise manner.⁴⁴

b. Public Revenue and Zakah in the Period of the prophet (S.A.A.W)

Going back in the first application of Zakah at the time of the Prophet (S.A.A.W) is like studying Zakah at its sources in order to discover its significance, mode of application and effects, whether social, spiritual or economic.

It is well known that Zakah was prescribed in the second year of Hijrah. Since that time the Prophet (S.A.A.W), as a Head of the State, used to send out Zakah workers to collect and distribute the due Zakah on livestock and agriculture. It is extremely difficult to reach estimation to the amount of the Zakah proceeds during the period. Very little is known about the amount of agricultural production as well as the cumulative wealth of livestock in the society of Madiana. However, from

the available information one may conclude that a one Dirham worth of food was sufficient to sustain of family of four for a day. Such an amount was also a good approximation of the value of day's work for an unskilled person in agriculture or other kinds of employment including government service.

What is known, with certainty, about the society of Madina in that period is that poverty was existing and continued to exist until the time of Umar (RAA) when large scale transfer of income started to flow in Madina from newly conquered lands to the North of the Arabian Peninsula. One should remember that the main sources of income in Madina were agriculture and livestock. Trade came at a third level of importance as it was actually the specialty of the Makkans. The people of Madina had only a few trade activities in comparison to their holdings of palm orchards and livestock.

It should also be noted that the society of Madina had a small government, whose functions could always readily be fulfilled by a continuously available supply of voluntary manpower and financial contribution from its enthusiastic public of believers.

We should also bring in the picture the role of Awqaf in providing revenues that contribute to funding social welfare activities. Awqaf in Madina started with the seven palm orchards of Mukhairiq which were bequested to the Prophet (S.A.A.W) who, in turn, made them as Awqaf. Their revenues used to be spent on the household needs of the Prophet (S.A.A.W) and on buying horses and defense equipment. The

drinking water fountain of ruma was bought and made Awqaf by Usman (RAA) on suggestion from the Holy Prophet (S.A.A.W). Hence, drinking water became free in Madina for the first time. Before Uthman bought it, water used to be sold by the fountain's former owner for a high price (approximately a gallon for a pound of date). The farm land of Umar in Khaibar came next under the title of Awqaf, also on the Prophet's (S.A.A.W) advice. Those and similar Awqaf properties were able to provide for the support of the poor and needy in the society in addition to public utilities that included mosques, roads and water.⁴⁵

Several conclusions can be drawn from the application of Zakah at the time of the Prophet (S.A.A.W).

1. Zakah proceeds alone may have not been sufficient to take charge of fulfilling the basic needs of the poor in the society.
2. The fact that a tremendous emphasis is placed on Infaq adds support to the first conclusion. This emphasis in Qur'an and Sunnah must be read as an indication that Zakah, alone, must not be charged with all responsibility of social welfare. This is also supported by the adoption of the concept of Awqaf and its extension to cover many areas of societal welfare needs, especially poverty eradication.
3. The ideology brought about by Zakah, Infaq and Awqaf draws a new picture of social solidarity. Accordingly, every stomach has a right to be filled and every human being

has a right to live and to be maintained regardless of race, ethnicity, religion, etc.

4. This new ideology which is established by Islam as a religious responsibility is expressed in a multi-fact form. A form consisting of a kind of spirituality that seeks to please Allah (SWT), the Lord of the World, - interwoven with civic responsibility that considers the able ones morally and legally responsible for those who lack ability of sustenance, along with a concept of human brotherhood indicated in the oneness of origin of all human fulfillment.
5. The definition of richness with regard to taxability is given a broad meaning by the Zakah system. Hence, richness is not measured by wealth alone or income alone rather both wealth and income together make the base for social responsibility and taxability.
6. Consequently, the rich must take charge of funding welfare activities in the society, directly or indirectly, from their wealth and / or from their income, voluntarily, out of their own inner feeling of responsibility and for seeking to please the Lord; or by obligation and compulsion of the law.⁴⁶

C. Conditions for Zakah.

The following conditions must be fulfilled before Zakah becomes fard on an individual.

d. Reason and maturity.

There can be no responsibility without reason and maturity. Children and the infane are not responsible for Zakah-obligation.

e. The state of being a Muslim

Because the payment of Zakah is a divinely ordained act, it can be performed by a Muslim. Non Muslims are not liable to pay Zakah.

F. Property which lacks productivity and basic essentials of life are exempt from Zakah.

This includes dwelling houses, wearing apparel, household utensils, slaves, employed tenants, riding animals, arms kept for use, food used for oneself and family, articles of adornment, if not made of gold and silver; gems, pearls, emeralds and the like; coins other than those of gold and silver, if intended for personal expenditure, books and tools. The principle behind the exemption is to avoid hardship on the part of the Muslim to pay Zakah on items which he needs to meet the daily necessities of life, (e.g. items required in trade but not intended for trade). Taxable limits or exemptions as developed in modern theory of taxation are based on this principle.

g. Condition of completion of one year.

Once the conditions enumerated above are met, the property becomes subject to Zakah, but only if a year has elapsed over the nisab of productive property. There is an explicit Hadith to the effect that

[لا زكاة مال حتى يحول عليه الحول]

“no Zakah is due on property before a year has elapsed”.

The elapse of a year is essential, because time is indispensable for productivity to materialize. According to the Hanafie view, Zakah payment may elapse after it becomes due if the deceased owner has not left any will making settlement of the Zakah from his estate. Shafies and Hanbalis differ on this. They believe that Zakah debt of the deceased person may be collected from the entire estate, whether or not he left any will.⁴⁷

g. Rate of Zakah

The rates of Zakah depend upon the type of capital that has gone into the creation of the property. The concept is similar to the value added tax, although it differs in substance. The rates vary anywhere between 1/5 to 1/40, depending upon the source of income or the extent of property accumulation. For example, if a person has unearned income or windfall income of some kind the rates are higher as in the case of a discovered treasure, a war-booty, etc. which are subject to Zakah at the rate of 20% where the rate of Zakah on gold, silver and articles of trade is 1/40.

Similarly, the rates of Zakah on agricultural land including land including horticultural plots vary between 1/10 to 1/20 depending upon the type of irrigation facilities. It is appropriate to mention that the economy of any Islamic state during those days was basically agricultural and to some extent commercial, but certainly lacked the complexity of modern business. If the land has been irrigated and the irrigation facilities have been developed through investment of capital and labour, the rate of Zakah on such land would be lower to 1/20 of the total produce, but if the irrigation facilities were developed either by the state or wholly dependent on rain, the rates would be higher up to 1/10 of the entire produce.

Rate of Zakah on articles of trade is the same on gold or silver. The same applies to transactions relating to sale and purchase of horses etc., carried out on business.

The nisab of gold is 20 mithqals (85 gram) and nisab of silver is 200 dirhams (595 grams). There is no Zakah for less than 20 mithqals of gold and 200 dirhams of silver. In determining whether or not the nisab is complete and Zakah is due, it is the weight and not the value or number that is taken into account. There is, however, a difference of opinion as to the basis of payment.⁴⁸

Zakah from real estate, buildings and vehicles:

The income from this kind of property has recently increased very much. There is no difference of opinion on the

necessity to pay Zakah in respect of such income. As regards difference related to the rate of Zakah there are two views:

- a) To pay Zakah out of income at 2.5 percent if that income is retained, in money form, for one year;
- b) To pay Zakah at 10 percent of net income.
- c) Income from share and bonds: This kind of income is very popular now-a-days. If shares are used as a trade article, 1/40 Zakah has to be paid annually on their current market value. But if they are saved and kept to get dividends out of them, then 10 percent Zakah should be paid on the dividends. Some of the Muslim economists argue that after a period of one year, out of current value of shares, 2.5 percent Zakah should be paid. Of course, bonds are not permissible in Islam, as they carry interest. But, if there is interest income, still Zakah should be paid. According to Yousaf Qaradqwi 10 percent Zakah should be paid out of the net income shares of all companies, whether trading or industrial.⁴⁹

Nisab and Rates for Deferent Animals

For Sheep and Goat

| | |
|--------------------------------------|--------------------------------------|
| 40-120 seeps and goats | 1 goat or sheep upto 1 year or more |
| 121-200 sheep and goats ² | goats or sheep upto 1 year or more |
| 201-399 sheep and goats | 3 goats or sheep upto 1 year or more |
| 400 seeps and goats | 4 goats or sheep upto 1 year or more |

For every additional 100 goats or sheep (or part of hundred) one goat or sheep. There is no Zakah for less than 40 sheep and goats.

For Cows And Buffaloes

Zakah is leviable from 30 upwards as follows:

| | |
|-------------------------------------------|---------------------------|
| 30-39 cows or buffaloes | 1 calf of a year or more |
| 40-59 cows or buffaloes | 1 calf not less two years |
| 60 cows or buffaloes | 1 one-year old calf. |
| For each additional 40 cows or buffaloes. | 1 two-year old calf. |

For Camels.

A person having 5 camels in owner of nisab and will pay Zakah at the following rates:

| | |
|--------------|------------------------------------------------|
| 05-09 camels | 1 goat |
| 10-14 camels | 2 goat |
| 15-19 camels | 3 goat |
| 20-24 camels | 4 goat |
| 25-35 camels | 1 camel colt in its 2 nd year |
| 36-45 camels | 1 camel colt in its 3 rd year |
| 46-60 camels | 1 camel colt in its 4 th year |
| 61-75 camels | 1 camel colt in its 5 th year |
| 76-90 camels | 2 camel colt in their 3 rd year. 50 |

While there is no difference of opinion among the Islamic jurists as regards these eight heads of expenditure, some differences of opinion do exist concerning items of expenditure to be carried particularly under the item number seven above which says that the Zakah revenue can be spent in the cause

of Allah (SWT) which includes all good deeds and jihad. Besides, the question involving the choice of income units' basis for measurement has not been thoroughly analyzed, although many scholars tried to identify the characteristic of the poor or destitute because the problem of choice of income unit or a family unit is much more intractable than it appears in the first instance. The size and composition of the family as an income unit does affect the assessment and Zakah dues because a narrower definition of income unit whose income is going measured implies a greater incidence of poverty. Suppose a family of five has an income of US\$ 150 per month, all earned by one person. Then none of them appears to be poor if the poverty line for such a family is defined in terms of US\$100. But if the family size consists of four persons, then one of them will be poor who is entitled to receive Zakah as he has no income. In other words, the wider the definition of the family unit whose income is being matters is to define the limits of voluntary and obligatory sharing of income in the light of the Shari'ah. At an operational level, definition of family unit should give due weight to dependants. If the poverty line of a single person is \$50 then the poverty line for a couple should be \$100 or less. What about the children and relatives who have some claim on the income of a rich relative? Answers to such question cannot be given without defining the term 'standard of living' of families of different sizes and income in a particular social and economic context. Which ever way one tries to answer this question, one has to face a set of complex

operational problems. This is likely to affect the assessment of the Zakah revenue and its consequent disbursement.⁵¹

1:3 *"The Legitimacy of Taxation in Islamic Law"*

The question, whether an Islamic state can levy taxes such as income tax, and wealth tax, besides Zakah on its Muslim citizens, has become a subject of debate and discussion among the modern Muslim Scholar. The reason for this controversy is that since there is no clear-cut injunction in the Qur'an or the Sunnah in the favour of or against the proposition under debate. Some people argue that an Islamic state can charge taxes in addition to Zakah while the others contend that Islam does not permit the government to levy any tax on Muslims besides Zakah incidentally both the parties try to build up their arguments from the Qur'an and the Sunnah and also quote the early jurists and scholars of Islam in order to prove their contention.⁵²

Before further discussion about the levy of Taxes side by side with the Zakah, it is necessary to describe the difference between Zakah & Taxes.

a. The Difference between Zakah and Tax.

According to Income tax law,

Taxes are compulsory payments to the Government to support the public services which include income tax, super tax, penalties and additional tax. ⁵³

Dr. G. Fundlay says:

"Taxes are compulsory contributions to public authorities to meet the general expenses of government which have been incurred for the public goods".⁵⁴

Raja I. Chelliah has defined:

It is a compulsory payment to a public authority in return for which the tax payer receives no measurable direct benefit.⁵⁵

To describe the difference between Zakah & Tax Abu-al-Kalam Azad writes that:

"The government imposes tax to meet the expenditure whereas Islam receives the Zakah from the believers and distributes it among poor and destitute".⁵⁶

S.A. Maududi says:

The assessment procedure, mode of collection and expenditure of the taxes levied by governments are not consistent to the tenets of Zakah".⁵⁷

There is fundamental difference between Zakah and other taxes, commonly used in the contemporary world. The payment of Zakah is a religious duty and Allah (SWT) has designated Zakah as the right of the poor and the needy in the wealth of the rich. As opposed to this, the payment of taxes derives its sanction from the principle of cost-sharing, which individuals agreed to share for producing "public goods" in the society. Accordingly, as correctly pointed out by early jurists,

Zakah and taxes should not be mixed either conceptually or administratively.

Tax is a compulsory contribution imposed and collected by the state from its citizens to fulfill certain obligations. A levy which fulfils the following conditions is regarded tax by the economists:

- 1) It is a compulsory payment.
- 2) It is levied on all citizens.⁵⁸

Zakah fulfills the above mentioned conditions in the case of an Islamic state whose all citizens are Muslims, but in a state which has got some non-Muslim minorities, Zakah would be collected from its Muslim citizens only. Since Zakah fulfils the conditions of a tax, it is considered a tax by many economists. However, to consider Zakah like an ordinary temporal tax would be a gross injustice to this term. Zakah is much more than a tax. It is not only a compulsory levy collected by the Islamic state from its Muslim citizens but also a religious obligation of the Muslims. Thus it is a tax as well as an act of worship for the Muslims.⁵⁹

Sabah-ud-Din Zain (Dr. Sabah-ud-Din Zain was a Professor at the Istanbul University, Turkey in 1999-2000) is of the view that there are generally many differences between Zakah and tax.

- a) Zakah is a religious duty and worship in terms of finance. Tax is an economic and financial responsibility.
- b) Zakah is only for Muslims: tax is for all citizens.

- c) Tax can be forgiven, Zakah can never be waived.
- d) The rate, the way of payment of Zakah which are clear and definite, cannot be altered; but tax is relatively changeable.
- e) The methods of distribution and spending of Zakah are definite, while tax is not.
- f) Zakah is taken from the rich and paid to the poor, while in respect of tax, it is not necessary to be always so.
- g) Zakah is taken only out of productive wealth, but tax can be taken out of consumption expenditure.
- h) Exemptions in respect of Zakah are organic, elastic and realistic, but in case of a tax the exemptions are not flexible but accountable.
- i) The limit of minimum responsibility is definite in Zakah, but does not exist in the case of tax, as is the case with indirect taxes.
- j) Evasion is real possibility in tax, but Zakah is paid by the believer as form of worship.
- k) Zakah is the divinely granted right of the poor on the wealth of the rich: a tax is the non-divine right of the state to collect money to meet state needs.
- l) Tax burden can be transferred by the tax payer to the consumer or producer; but in Zakah there is no such transfer of Zakah burden.
- m) From the practical point of view, the collection of Zakah ears to be cheaper than tax collection.

- n) Comparing Zakah with progressive taxes, it is claimed that Zakah has a wider base than progressive taxation; it is imposed not only on income, but also on idle assets. The proceeds of Zakah go mainly and directly to the poor and the needy and hence act immediately to raise the propensity to consume. Zakah falls heavily on assets which are capable of growing, and would therefore have a stimulating rather than discouraging effect (as with taxation) on investment.⁶⁰

So the following differences between Zakah and an ordinary tax can be under lined in this regard.

1. Zakah is a religious duty and an act of worship, whereas an ordinary tax is only an economic expediency adopted to collect revenue for the State.
2. Zakah is levied upon the Muslim members of the State only, whereas an ordinary tax is generally levied upon all members of the State, irrespective of caste, creed or colour.
3. Zakah is an obligatory duty upon the Muslims which must be paid under all circumstances and can never be remitted. An ordinary tax, on the other hand, can be remitted by the Government of the time.
4. The source and the rate of Zakah are determined by the Holy Qur'an and the Sunnah and can never be changed by any person or Government. The source and the rate of an ordinary tax, on the other hand,

can be changed from time to time according to requirements by the Government of the country.

5. The items of expenditure and the beneficiaries of Zakah are also enumerated by the Holy Qur'an and the Sunnah and no person or Government has the right or power to change them; whereas ordinary tax expenditure can be changed or modified as required by the Government.
6. Zakah is received from the wealth and is spent on the poor and the needy, while an ordinary tax benefits the rich as well as the poor and may under certain circumstances, benefit the former more than the latter.
7. Furthermore, Zakah, unlike an ordinary tax, is levied not only on money capital but on commercial goods, agricultural produce, animals, minerals, including gold and silver, and ornaments, etc. In short, Zakah is levied on the total wealth which has remained with the owner for a full year and not on savings.
8. Zakah is levied fundamentally to check uneven and inequitable distribution of wealth and concentration of wealth in a few hands, while an ordinary tax is levied mainly for revenue purposes.⁶¹

b. Can an Islamic State Levy Taxes on Muslims Besides Zakah?

Ibn Hazm holds that “

It is the duty of the rich in every country to take care of the poor. If the Zakah and general welfare funds fall short of caring for the poor, the ruler has the right to impose taxes on the rich in addition to Zakah.

Furthermore to support the right of government of imposition the tax, Ibn-e-Hazam has copied the statement of Ali (RAA):

عن علي بن أبي طالب يقول إن الله فرضَ على الأغنياء في أموالهم بقدر ما يكفي فقرائهم فإن جاعوا أو عروا فيمتنع الأغنياء. 62.

"No doubt, God has made necessary (Frad) for the rich to spend so much to finance the basic needs of the poor and if the poor are in miserable condition then it means they (riches) are responsible for this negligence".

In the opinion of Ibn-e-Hazam, such new taxes are generally collected for the betterment of the people. So this is the duty of rich Muslims to pay tax.⁶³

According to Syeed Qutub, an Islamic state has powers to levy the tax in the crucial financial position of the country to complete its programmes which include "Masaleh Mursalah" (Social welfare of Mankind).⁶⁴

Zakah is not a tax only; it is a kind of worship as well. No change in it is permissible. In the second place, Zakah is not an inflexible fiscal measure. Its base is net savings or net

wealth of the assesses. These bases are variable in size and likely to grow or decline in response to variation in income. In addition, the reductions allowed on account of trade or consumption do not vary in a magnitude proportionate to the fluctuations in the scale of economic activity or incomes. The marginal propensity to consume bears a stable relationship to income in the short period and may decline, other things being equal, after a certain level of individual income. Thus, deduction allowed on account of consumption expenditure has little likelihood of substantial growth to the detriment of Zakah collections. The case of trade expenses is not so clear, but certain items of cost are subject to economies of scale. Hence, every change in the scale of economic activity may not cause a proportional rise or fall in such a cost. These considerations have led to "built-in-flexibility" to the statutory rate of Zakah although its degree of sensitivity of yield in response to changes in income may not be so high as that of some other taxes.

Zakah is "fundamental tax sanctioned by Islam" for attaining social objectives. It is suggested that, if necessary other taxes may be devised to accomplish these objectives. For example, some kind of consumption Tax may be introduced. The practices or phenomena which Islam condemns can be checked through additional or supplementary. These would also supplement the funds of proceeds of Zakah for Welfare. However, it is for the top

religious scholars to thing over the matter for the guidance of the ummah.⁶⁵

About the permission of supplementary taxes, Professor M. Hashim Awad gives the example of the Second Caliph, who intrudced 'Ushur'. The term "Ushur", however, was a commodity tax, something like customs duty. Interestingly, he given the historical bank ground of this decision. To use the modern terminology it was something like by non-Muslim countries. Islamic states, therefore, had to receiprocate. The example illustrates that 'new taxes' can be introduced and levied according to needs of the time.⁶⁶ There is a misconception among some people that taxes not mentioned in the Holy Qur'an and the Hadith, cannot be introduced.⁶⁷

In the opinion of late Justice Peer Muhammad Karam Shah Al-Azhari the Government has right to impose taxes particularly in emergency under some conditions but the Government has no right to fulfill its exchequer for its luxuries and non-development expenditure. Taxes are the result of necessity and emergency. So to meet the defencive and social needs of the state, income tax can be levied, but as the matter of wealth tax is concerned, it is stated brifly that wealth tax is against the tenets of Islamic shariah.⁶⁸

According to Maulana Abdul Maalik the Government should depend on its legitimate financial sources in normal life but in emergency its has right to impose tax only for funding the necessity of the state. As Islam hasforbidden the taxation

many a time on the same wealth, so the imposition of wealth tax is not justified.⁶⁹

While answering the question about the levy of tax despite the laws of Zakah, usher, (Late) Mufti Ghulam Sarwar says:

“It is legal and justified to collect other funds for national requirements and integrity. Accordingly if these funds are collected by force, these are called taxes if their collection is made voluntarily, it is called “Loan” (Qard-e-Hasana).⁷⁰

According to Muhammad Taqi Amini:

Every Government need for financial assistances to run the affairs of the state and the source of income is generally met by the collection of Tax from the public; consequently the government is authorized to levy the tax for the uplift of the poor.⁷¹

Sh. Muhammad Shantut describes:

The modern Muslim government is justified to impose taxes other than Zakah on its halitants for national safety and integrity. So obligatory mode of Payment as Zakah & Usher does not impede the levies.⁷²

S.A. Maududi expresses his ideas about this matter as under:

Islamic Shariah has allowed to receive income

tax besides the Zakah because in Islamic State both the collections are correct. The Holy Qur'an has fixed the expenditure, Nisab and rates of Zakah and as these rules cannot be changed, the government can demand and collect funds for its financial help.⁷³

Muhammad Najeeb Khan is of the view :

A Government is allowed in Shariah to introduce new Taxes under some limitations. If the Government needs funds from the people for the betterment of the needy and the poor, it can do so and all the habitants should abide by the order of the state.⁷⁴

Maulana Fazal-ur-Rehman Bin Mian Muhammad has expressed his views about taxes that:

In fact, at the time of the Holy Prophet (S.A.A.W) the Islamic state needed for finance so much but even then the Holy Prophet (S.A.A.W) did not impose any tax but instigated the Muslims to donate funds for emergency circumstances. So for the support of his ideas, Maulana has quoted the example of Tabouk war.⁷⁵

Prof. Khurshid Ahmed is of the view:

The recent fiscal and taxation system is not consistent to the Islamic Shariah. If our

Government introduces a well organized system of Zakah, there shall be no need of any further taxation. As a matter of fact, the government sometimes needs additional funds for funding the actual basic necessities of the society; so these expenditures are called Masaleh Mursalah (Social welfare) in Shariah terminology and the Government has conditional right to achieve financial assistance from its rich. He adds "I feel it necessary to amend the recent system of income tax and wealth tax because the rules of taxation are exactly contrast to the spirit of Islamic fiscal system.⁷⁶

Maulana Hifz-ur-Rehman Sayuharwi explains the right of the Government to impose the new taxes along with the Zakah in these words:

The missions and methods of taxation have not reasonability and justice in their structures, because these are quite different from the mission and mode of Islamic Taxation system. If the means of income of Bayt-ul-Mal as like Kharaj, Jizya, Ushr, Zakah Maal-e-Fay, Khumas and endowment are not sufficient for emergency needs of the state, the government is justified to collect emergency taxes which are called "daraib". ⁷⁷

Abdul Rahim Alvi (the ex-chariman of C.B.R) addressed the members of Commerce and trade association, Faisalabad about the loans and total revenue of our Country. He informed that 82 per cent of the total receipts is spent on paying the installments of loans. Accordingly our country needs more taxes to strengthen its economy.⁷⁸

Prof. Dr. Amjad Saeed Khawaja says:

“Among the total population of Pakistan only 14 lac persons are paying income tax because under II schedule of Income tax Ordinance, 1979, about 185 kinds of income have been exempted from tax. So the Government should discontinue these exemptions and promote direct taxes.”⁷⁹

In the opinion of Dr. Mehbub-ul-Haq and Dr. Munir Ahmed:

The taxes are collected for the welfare of general public. So the Government should extend the tax base and minimize the rates and kinds of Taxes.⁸⁰

Ehtisham Ahmed and Nicholas Astern have described the taxational problems of under-developed countries. They have mentioned some difficulties of Agricultrists. They say:

“Taxes plays an important role in the development of the state”. Similarly the best way to impose tax on agricultural income is to abolish all exemptions of taxes and levy the tax

equally on all kinds of receipts and income. So, it will be very easy to introduce the broad based Tax scheme.⁸¹

On 9th to 11th January, 2001, the newly established the council of Islamic Ideology - discussed nine points agenda including imposition of income tax. All honourable members agreed after detailed discussion that the Government can impose the income tax conditionally to provide the basic facilities to the citizens.⁸²

Although there is debate among Muslim scholars the permissibility of taxes other than Zakah, yet Muslim scholars in our time have not discussed at length the question raised above. We can not say that the totality of our understanding of the principles of Zakah necessarily provides a better and more equitable basis for taxation in the Islamic society than some principles suggested by human beings who do not consider themselves to be bound by the principles of Zakah. But this statement has a caveat. What we call the principles of Zakah is, in fact, the notions about Zakah entertained by certain human beings; their varying notions based on religious texts. Therefore, the possibility of having recourse to one's intellect in examining a situation is always there. We shall, therefore, base our discussion on the principles of taxation which seem to flow from the law of Zakah although we think that the Islamic state can also introduce some new principles if the *maslahah* of the *ummah* so requires. Even in the case of Zakah, there are several questions which need contemporary

answers. Those answers can be deduced from the principles of Zakah and if no guidance from God and His Messenger is available, human intellect can still contrive some answers.⁸³

According to Dr. Yousaf Qaradawi:

“There is controversy in the literature on Islamic economics about the legitimacy of taxes other than Zakah in an Islamic state. Some people have argued that the Zakah is the only tax that an Islamic state is authorized by the Shari'ah to levy. But this is an unnecessarily restrictive view. Firstly, there are explicit traditions of the Prophet (S.A.A.W) that allow levying of other taxes. Secondly, this question also has a pragmatic dimension. If we expect a present day government to perform certain functions we will have to allow it to collect revenue as well. The only method to restrain the government from other taxes is to reduce the mandate of the government. Anyhow, we do not want to get into the details of the controversy here. We presume that an Islamic government of the present day has the mandate to perform some functions for the masalahah of the society. Therefore, it also has the authority to levy these taxes”.⁸⁴

Muhammad Sharif Ch. Comments that:- It is a cardinal principle of the Islamic law that anything which is for the

welfare of the Ummah can be done provided it does not violate any injunction or command of the Qur'an or Sunnah. So the Islamic state can levy taxes for the welfare of the poor, for providing social services like health care and education, for meeting the expenses on defence, communications, establishment of law and order, economic development, etc. But such taxes should not be repugnant to the injunctions of the Qur'an and Sunnah and general principles of Islam regarding justice, fairplay and equity.⁸⁵

1.4 *Evaluation of Arguments.*

a. **Arguments against Taxes.**

The following arguments are presented against the right of Government to impose any other tax in addition to Zakah on the Muslims:

1. The Holy Qur'an says:

﴿وَأَقِيمُوا الصَّلَاةَ وَآتُوا الزَّكَاةَ وَارْكَعُوا مَعَ الرَّاكِعِينَ﴾ ⁸⁶

"Establish worship, pay the poor-due (Zakah) and bow your heads with those who bow. (in worship)".

Again the Holy Qur'an says

﴿وَأَقِيمُوا الصَّلَاةَ وَآتُوا الزَّكَاةَ وَمَا تُقَدِّمُوا لِأَنفُسِكُمْ مِنْ خَيْرٍ

تَجِدُوهُ عِنْدَ اللَّهِ إِنَّ اللَّهَ بِمَا تَعْمَلُونَ بَصِيرٌ﴾ ⁸⁷

"Establish worship, and pay the poor due and whatever of good ye send before (you) for your

souls, ye will find it with Allah (SWT). Lo! "Allah (SWT) is Seer of what ye do" .

In the verses mentioned above, the Qur'an emphasizes payment of Zakah along with offering of prayers. Thus a Muslim is required to make payment of Zakah only which is an act of worship as well as a financial obligation.⁸⁸

The Holy Qur'an says:

﴿الَّذِينَ إِنْ مَكَّنَّاهُمْ فِي الْأَرْضِ أَقَامُوا الصَّلَاةَ وَآتَوُا الزَّكَاةَ وَأَمَرُوا

بِالْمَعْرُوفِ وَنَهَوْا عَنِ الْمُنْكَرِ ۗ وَاللَّهُ عَاقِبَةُ الْأُمُورِ﴾ ⁸⁹

"Those – who, if We give them power in the land, establish worship, pay the poor due (Zakah) and enjoin kindness and forbid iniquity...."

Thus the government of an Islamic state is required to establish system of Zakah (its collection and distribution) only and not a system of any other tax. According to the verse of the Holy book mentioned above, the Islamic state would collect Zakah and distribute it, but the state is not charged with the responsibility of administration of any other tax. That is why Allah (SWT) enjoined upon the Prophet (S.A.A.W) of Islam to take Zakah from his followers.⁹⁰ The Holy Qur'an says:

﴿خُذْ مِنْ أَمْوَالِهِمْ صَدَقَةً تُطَهِّرُهُمْ وَتُزَكِّيهِمْ بِهَا وَصَلِّ عَلَيْهِمْ ۖ إِنَّ

صَلَاتَكَ سَكَنٌ لَّهُمْ ۗ وَاللَّهُ سَمِيعٌ عَلِيمٌ﴾ ⁹¹

"Take alms of their wealth, wherewith thou

mayest purify them and mayest make them grow, and pray for them.....”

So the Prophet (S.A.A.W) charged only Zakah from his followers and did not impose any other tax on the Muslims. Prophet's successors, the rightly guided caliphs also collected from the Muslims Zakah only and nothing else.⁹²

2. Following Ahadith of the Prophet Muhammad (S.A.A.W) are also produced to prove that Zakah is the only financial obligation which a Muslim owes to his community:

عن عبد الله بن عمر قال: قال رسول الله صلى الله عليه وسلم بني الإسلام على خمس.....⁹³

a) Ibn Umar reported that the Holy Prophet (S.A.A.W) said: Islam is built on five things, to bear witness that there is no god but Allah (SWT) and that Muhammad (S.A.A.W) is His apostle, to keep up prayer, to pay Zakah to make pilgrimage and to keep fast in Ramadan.

عن ابن عباس رضي الله عنهما : أن النبي صلى الله عليه وسلم :
بعث مُعَاذًا رضي الله عنه إلى اليمن ، فقال : [ادعُهُمْ إلى :
شهادة أن لا إله إلا الله وأني رسول الله ، فإن هُم أطاعوا لذلك ،
فأَعْلِمُهُمْ أن الله قد افترضَ عليهم خمسَ صلوات في كلِّ يومٍ
وليلة ، فإن هُم أطاعوا لذلك ، فأَعْلِمُهُمْ أن الله افترضَ عليهم
صدقةً في أموالهم ، تُؤخذُ من أغنيائهم وتردُّ على فقرائهم] .⁹⁴

- b) Ibn Abbas reported that the Holy Prophet sent Mu'ad to Yemen saying: certainly you will come across a people, the people of the Book. Call them to bear witness that there is no God but Allah (SWT) and that Muhammad is the Messenger of Allah (SWT). If they submit to that, teach them that Allah (SWT) has made obligatory upon them prayer for five times a day and a night. If they submit to that, teach them that Allah (SWT) has made obligatory over them Zakah which will be taken from the rich and will be given to the poor among them.

[عن أبي هريرة قال أن إعرابياً أتى النبي صلى الله عليه وسلم
.... فليُنظر إلى هذا. 95

- c) Abu Hurairah reported that a villager Arab came to the Holy Prophet and said: Guide me to an action which, if I do, will certainly take me to Paradise. He replied: You shall serve Allah, shall not associate with Him anything, keep up the prescribed prayers, pay the obligatory Zakah, and kept fast of Ramadan. He said: By Him in whose hand there is my life; I shall neither do more than this, nor diminish aught therefrom.

When he departed, the Holy Prophet said: Whoever is pleased to see a man of the inmates of Paradise, let him look at this (man).

[إذا أدّيت زكاة مالك فقد قضيت فاعليك]⁹⁶

- d) Abu Hurairah reported that the Holy Prophet (S.A.A.W) said: When you have paid Zakah of your wealth, you have indeed discharged what was obligatory on you. In the narration Tirmizi writes that it is reported through many sources that when the Prophet (S.A.A.W) mentioned of Zakah, someone asked him if something else was due from him besides Zakah, the Prophet (S.A.A.W) said: nothing else except what you give voluntarily at your pleasure.

3. For prohibition of levy of taxes other than Zakah on Muslims following arguments are presented:-

ليس في المال حقاً سوى الزكاة.⁹⁷

There is no other right on your wealth besides Zakah.

لا يجب على المسلم في ماله حقاً سواها.⁹⁸

Al-Mawardi, in his renowned work Ahkam-ul-Sultaniah writes: "In the wealth of a Muslim nothing is due besides Zakah".

أي ليسَ عليهم غير الزكاة من الضرائب والمكس. 99.

Allama Shaukani in 'Neel-ul-Awtar' writes:

"There is no tax other than Zakah on the wealth of a Muslim".

Ibn Hazm writes

[نسخت الزكاة كلَّ حقٍّ في المال]

that Zakah has abolished all other rights on wealth.¹⁰⁰

Ibn-e-Hazam holds that Zakah has abolished all other rights in wealth.

4. Sayings of the Prophet (S.A.A.W) of Islam about imposition of 'Ushur' and Jizyah are as under, according to which such taxes are strongly disliked:-

Payment of 'Ushur' is not obligatory on Muslims, rather their payment is on Jews and Christians.

لا يصلح قبلتان في أرض واحدة ولُبس على المؤمنين جزية. 101.

Two Qiblah (imposts) are not permitted in a land and there is no Jizy'ah on a Muslim.

يا معشر العرب أحمدا الله الذي رفع عنكم العشور. 102.

O people of Arabia! Glorify Allah (SWT) who abolished 'Ushur' from you.

لا يدخل الجنة صاحب مكسٍ بغير العشار. 103.

He who levies tax (tax of the days of ignorance) will not enter Paradise.

إن صاحب المكس في النار. 104

Undoubtedly one who levies Mux (unjust taxes) would enter Hell.

إن تمام إسلامكم أن تؤدوا الزكاة أموالكم. 105

"Truely the completion of your Islam it to pay Zakah from your wealth."

c Arguments in Favour of Taxes

The following arguments are given in favour of taxes besides Zakah:

1. The Holy Qur'an, the revealed book of Islam, prescribes the rights of the poor in the wealth of the rich when it says:

﴿وَالَّذِينَ فِي أَمْوَالِهِمْ حَقٌّ مَّعْلُومٌ ۖ لِلسَّائِلِ وَالْمَحْرُومِ﴾ 106

"And in whose wealth there is a right acknowledged for the beggar and the destitute".

The Holy book again says:

﴿وَفِي أَمْوَالِهِمْ حَقٌّ لِلسَّائِلِ وَالْمَحْرُومِ﴾ 107

"And in their wealth the beggar and the outcast had due share".

Yet at another place, the Qur'an enjoins upon the wealthy to discharge their liability towards the persons having rights in their wealth, in these words:

﴿فَقَاتِ ذَا الْقُرْبَىٰ حَقَّهُ وَالْمِسْكِينَ وَابْنَ السَّبِيلِ ۚ ذَٰلِكَ خَيْرٌ

لِّلَّذِينَ يُرِيدُونَ وَجْهَ اللَّهِ وَأُولَئِكَ هُمُ الْمُفْلِحُونَ ﴿١٠٨﴾

“So give to the kinsman his due, and to the need, and to the wayfarer. That is best for those who seek Allah's (SWT) countenance. And such are they who are successful” .

In these verses, the Holy Qur'an is not only stressing the due share of the poor in the wealth of the rich but is also commanding the wealthy to discharge their financial obligations towards the poor claimants. Here the reference is not to Zakah, which is a compulsory levy collectable by the Islamic state. Rather the claims of the needy and the destitute upon the wealth of the rich are being stressed.¹⁰⁹

It can be said on the strength of the verses mentioned above, that the Islamic government can force the rich to discharge their obligations if the poor are not being maintained and looked after properly. Ali is reported to have said: “Allah (SWT) has prescribed in the wealth of the rich so much which could suffice the needs of the poor. So if the poor are hungry or without clothes or in bad plight, it would mean that the rich are neglecting their duties towards them”.¹¹⁰

2. No upper limit has been fixed by the Qur'an with regard to spending one's wealth in the way of Allah. The Holy Qur'an says:

وَسْأَلُونَكَ مَاذَا يُنْفِقُونَ قُلِ الْغَفْوُ كَذَلِكَ يُبَيِّنُ اللَّهُ لَكُمْ

الْآيَاتِ لَعَلَّكُمْ تَتَفَكَّرُونَ ﴿١١١﴾

“And they ask thee what they ought to spend.

Say: That which is superfluous” .

So after meeting one's needs one can spend one's entire wealth in the way of God. The surplus wealth which one possesses after satisfying his genuine needs ought to be spent for the cause of Allah (SWT) like helping the poor, providing relief to the sick, assisting the community in acts of charity and helping the state in its welfare activities. Since the individuals have neither time, nor knowledge nor organization and nor planning, the surplus wealth, therefore, should be handed over to the state which would utilize it for the welfare and common benefit of the Islamic Ummah. If the government of the Islamic country requires the funds for its welfare activities and emergency needs but the wealthy citizens are not making voluntary contributions, the government can take away all or part of their surplus wealth for meeting its needs. So the government can impose compulsory contributions for its needs which are called taxes these days. And there is no limit of these taxes in an Islamic state. In case of emergencies, even the entire wealth of an individual can be acquired by the government leaving with him only what is required for his basic necessities.¹¹²

3. The Qur'an prescribes the heads of expenditure of Zakah funds when it says:

﴿ إِنَّمَا الصَّدَقَتُ لِلْفُقَرَاءِ وَالْمَسْكِينِ وَالْعَمِلِينَ عَلَيْهَا وَالْمُؤَلَّفَةِ

قُلُوبِهِمْ. وَفِي الرِّقَابِ وَالْغُرَمِينَ وَفِي سَبِيلِ اللَّهِ وَأَبْنِ السَّبِيلِ فَرِيضَةً

مِنَ اللَّهِ وَاللَّهُ عَلِيمٌ حَكِيمٌ ﴿١١٣﴾

"The alms are only for the poor and the needy, and those who collect them and those whose hearts are to be reconciled, and to free the captives and the debtors, and for the cause of Allah, and (for) the wayfarers: a duty imposed by Allah. Allah (SWT) is knower, Wise."

Majority of the jurists hold that the word 'alms' used in this verse refers to Zakah and not to voluntary charity because the words next used in this very verse, 'and those who collect them' clearly authorize the Islamic state to give remunerations to those who collect them, which means the Zakah collectors. It is clear from the above verse that Zakah funds can be applied by an Islamic state only on the expenditures enumerated by the Holy Qur'an. The Islamic state has no discretion to utilize the Zakah revenues on the heads other than listed by the Qur'an. So the government of an Islamic country will have to levy other taxes to meet its expenses other than those to which Zakah revenues can be applied. 114

There is a well known Hadith which means

[إِنَّ فِي الْمَالِ حَقَّ سِوَى الزَّكَاةِ]

"there are other rights or claims too on the wealth of a person besides Zakah". The abovementioned Hadith is

interpreted by the scholars to authorize the Islamic state to levy taxes besides Zakah for meeting its needs.¹¹⁵

4. The nisab of Zakah (the minimum limit of wealth the ownership of which attracts the liability of Zakah and the rates of Zakah have been prescribed by the Prophet (S.A.A.W) of Islam and the same cannot be changed or amended. On this there is almost consensus of the Muslim jurists and scholars. It is, therefore, obvious that the Islamic state can impose taxes in addition to Zakah if the Zakah income fails to meet its financial needs.¹¹⁶
5. Zakah is one of the five fundamental articles of Islamic faith. It is one of the five pillars or columns upon which the entire edifice of Islam is built. Like prayer, fasting and pilgrimage, Zakah is an act of worship. It is not like an ordinary tax or cess levied by a state or Government. To consider Zakah only a tax and then to argue that no other tax can be levied in addition to this tax is an erroneous approach. An employee of the government, for example, cannot argue that he has performed the pilgrimage or offers his prayers five times a day, so he should be exempted from performing his official duties. Similarly, it is said that by paying Zakah, which is an act of worship nobody can argue that he should be exempted from the payment of taxes which are his financial obligations towards the state and the society. Thus it is deducted that the Islamic state can impose taxes in addition to Zakah.¹¹⁷

6. It is held unanimously by the jurists of Islam that the Islamic government can impose extra levies in emergencies and abnormal situations like war, floods, earthquake outbreak of an epidemic, etc. The Holy Prophet (may Allah's peace be upon him) himself asked for contributions for the Battle of Tabuk and his companions set unparalleled examples of sacrifice in compliance of his orders. Everyone of them paid to the defence fund as much as he could. Umar brought half of his property while Abu Bakr presented his entire belongings 'leaving in his home the name of Allah (SWT) and his apostle'.
7. History bears witness to the fact that taxes in addition to Zakah were levied even in the early period of Islam. Umar levied duties on imports which were called Ushr those days. Umar also included the horses in the properties which are subjected to Zakah. 118

c. Evaluation

The saying of the Holy prophet (S.A.A.W)

إن في المال لحقاً سوى الزكاة وفي مالك حق سوى الزكاة. 119
"There are other rights of claims too on the wealth of a person besides Zakah".

إن في أموالكم حقاً سوى الزكاة . 120

Abu Muhammad Abdullah bin Abdul Rehman-

ul-Durmi has mentioned the same Hadith with some difference of word: there are other rights claims too on your wealth besides Zakah”.

قال عبدالرحمن مبارك بوري: أن هذا — إن في أموالكم حقاً سوى الزكاة — الحديث ضعيف بوجه أبي حمزة . وقال الإمام أحمد بن حنبل : هذا متروك الحديث . وقال الإمام دارقطني: ضعيف الحديث. وقال الإمام بخاري : ليس بقوي. وقال الإمام نسائي: ليس بثقة في الميزان. 121

Maulana Abdul Rehman Mubarik Puri comments about this hadith:- in these words:- This Hadith is a da'iff (poor) on account of Abu Hamzah, Imam Ahmed Ibn Hambal says:- “ This Hadith is Matruk (abandoned), Dar Qutni says, it da'if (poor), Imam Bukhari is of opinion, “This Hadith is not “Qaviyy” (patent, and Imam Nasai calls it “weak”.

قال ابن العربي: إذا كان الحديث ضعيفاً فلا يشتغل به. 122
Ibn-e-Arabi says:- “being a da'if (poor), this Hadith is not applicable.

قال يوسف بنوري عن أنور شاه كشميري: هذا الحديث غير منضبط. 123

Muhammad Yousuf Binouri narrates that according to Sh. Anwar Shah Kashmiri, this Hadith is not strong.

قال محمد بن عبدالله علوي : ليس في المال حقاً سوى الزكاة ،
هذا الحديث مضطرب فلا يشتغل به . 124

Similarly Muhammad Bin Abdullah Alvi has also copied this Hadith, "there is no other right on the wealth besides the Zakah". So this Hadith is not practicable due to the "mudtarib".

قال جلال الدين سيوطي لهذا الحديث : ومثال الاضطراب في
المتن : فيما أورده العراقي : حديث فاطمة بيت قيس قالت :
سُئِلَ النبي صلى الله عليه وسلم عن الزكاة : فقال إن في
المال لحقاً سوى الزكاة رواه الترمذي هكذا من رواية شريك
عن أبي حمزة عن فاطمة ورواه ابن ماجة من هذا الوجه بلفظ
: في المال حق سوى الزكاة ، قال هذا فقط اضطراب يحتمل
التأويل . 125

Imam Jalal-ud-din Suyuti says, "This Hadith is not reliable because two Ahadith bearing contrast meaning has been narrated with the same Sanad. Accordingly it may be stated that the above mentioned Ahadith cannot be produced to determine the legitimacy or prohibition of the levy of tax.

Maulana Kausor Niazi (ex-Minister and Chairman the Council of Islamic Ideology) expressed his views about imposing taxes on the Muslims other than Zakah in these words.

"Now-a-days this issue is under-discussion whether an Islamic state is authorized in Shariah to impose tax for defense and social welfare besides the Zakah or not." It may be stated that Islam has empowered the Imam (Khalifa, ruler) to levy taxes in emergency circumstances with the consultation of scholars on the wealth of Muslim sides by side with zakah."¹²⁶

Dr. Hamed ullah comments on this issue in his book as under:-"The Sadaqat was the only tax of the state in the time of the Holly Prophet (S.A.A.W) and orthodox caliphs. In later times of extra Ordinary needs the jurists have admitted the legal possibility of imposing supplementary charges on a strictly provisional basis for possible exigencies. Such taxes are called "nawaib (calamities).¹²⁷

'Allama Shatbi has given many arguments in favour of taxation in addition to Zakah for funding the basic necessities of the public.¹²⁸

Ibn-e-Khuldoon has described the objectives of Politics and Government:-

"السياسة والمملك هي لفاله المخلوق وخلاقة الله في الصباد لينفذ
الأحكام بينهم"¹²⁹

Actually the politics and government means the provision of basic needs to the public and Khilafah of Allah (SWT) is rightful to implement orders among them."

According to Ibn-e-Qayyim, the levy of taxes and receipts in Muslim society are obligatory charges of government but only to fund the basic needs of the people as the government has legal right to do so. 130

Imam Sarakhasi has confirmed these ideas also in Mabsnt.131

Ibn-e-Najaim and Majad-ul-din ferozabadi are of the views that:-

"Islamic state is justified to impose taxes for economic development, poverty reduction, social welfare and providing the basic necessities to its people."132

Dr. Muhammad Din Jami after detailed discussion on this issue concludes:

"The Islamic government has powers to impose tax on Muslim's wealth besides Zakah but only for social welfare (Muslahah Mursalah) not to fill it's treasury".133

In "Tirmizi a famous saying of the Holy Prophet (S.A.A.W) have been narrated about the responsibilities of the sultan (Ruler).

[السلطان ولی من لا ولی له].134

"The sultan is the custodian of those people who have no guardian".

Imam Abu Yousuf has said in this regards:

[ومن يرلاه الله عز وجل شيئا من أمور المسلمين فاستجب دون

حاجتهم خلقهم وفقرهم احتجب الله تعالى دون حاجته وخلقهم وفقره. [135]

The person who is entrusted with the affairs of Muslims should fulfill his responsibility to provide them with basic needs and expenditures. If he (ruler) does so, Allah (SWT) will fulfill his necessities positively.

In 5th (AH), in Undlus, Yusuf bin Tashqin consulted with jurists including Abu-al-Walid about imposing defensive tax, they (jurists) allowed the ruler to collect the taxes only for actual needs.¹³⁶

Imam Qurtubi has said with reference to Imam Maalik that after paying the Zakah, it is necessary for Muslims to spend their wealth to get release the Muslim prisoners.¹³⁷

Abu Yala-al-Farra exclaimed that ruler of an Islamic state is authorised to impose new tax if the treasury is not sufficient to bear the expenditures of public necessities.¹³⁸

Al-Marwadi has mentioned the responsibilities of khalifah as under:

"implementation of Islamic Shari'ah, restoration of social justice defense of the state, maintenance of peace and security, enforcement of Islamic hudud, Propagation of Islamic Teachings, recovery of Zakah and Sadaqat and protection of state treasury;¹³⁹

"Federal Shariat Court's judgment"

Maulana fazal-ur-rehman bin Mian Muhammad and Hafiz S.A Rehman filed an application in federal shariat court, and challenged the clause 203 of constitution of Pakistan 1973 about the imposing of Income tax besides Zakah.

The divisional bench of federal shariat court comprising two judges, justice DR. Tanzil-ur-Rehman (CJ) and justice Dr, Fida Muhammad Khan started hearing. The applicants. Juris-consults and famous scholars like Syeed Muzammil Hussain shah, Maulana Fazal-ur-Rehman, Hafiz Abdul Rehman Nadvi and Muhammad Aslam Assistant. Commissioner of income tax (on behalf of government) attended the court and gave arguments to substantiate their point of view. After the detailed discussion in various meeting. The court rejected the petition and announced its judgment as under:-

"Keeping the above mentioned arguments in views, It is stated that the challenged clause 203 is correct because the government is authorized by Islamic Shariah to levy taxes on the wealth side by side with Zakah. However, the applicants are allowed to submit another petitions against the disputed sections of the ordinance 1979".¹⁴⁰

Conclusion• the above mentioned discussion shows that there is no clear-cut injunction either in the Qur'an or in the Sunnah which authorizes or prohibits the Islamic state to levy taxes in addition to Zakah. So the question that "can an Islamic state impose taxes on Muslims in addition to Zakah" is to be decided keeping in view the spirit of the tenets of the Qur'an and Sunnah, the general

principles of interpretation of the Islamic injunctions, the experience of the Islamic states through history and the financial needs of the modern welfare states. An impartial analysis of the arguments of both the schools of thought reveals that the arguments advanced in support of the proposition (which authorizes the Islamic state to levy other taxes) are more convincing and forceful than the arguments given against the proposition because the heads of expenditure on which the Zakah funds can be spent by an Islamic state have been clearly mentioned in verse 60 of chapter 9 of the Qur'an and, therefore, the Islamic state will have to raise funds from other taxes to meet its expenses on the heads which have not been mentioned in this verse.

The activities of a modern Islamic state have expanded due to the socio-economic changes brought about by the industrial revolution and the progress made in sciences and technology. In the medieval times, the state was charged only with the functions of defense against the foreign aggression and establishment of justice within its frontiers. But today the responsibilities of the state have increased manifold. The state is expected to provide education, health care, employment, civic amenities, social services, communications, economic development, etc. besides performing its traditional functions of establishment of law and justice and security against aggression. With the extension in the responsibilities of the

state, the need for finances has also increased. But on the other hand the sources of finance like Jizyah, Kharāj, Fay, Khumus, etc. which were available to the early Islamic state have no longer been in vogue for a modern Islamic state. So a modern Islamic state has the right to impose modern taxes like income tax, wealth tax, etc. to raise the funds for financing its ever growing activities.

Endnotes of Chapter No. 1

1. Q 2: 43, 177, 215, 265; Q 9: 34-35, 103; Q 3: 42; Q 59: 7; Q 61: 18.
2. Al-Zahbi; Shamas-ud-Din, Dowal al-Islām fi al-Tārikh (Hyderabad: Dāirāh al-Ma'ārif, 1333 H), p. 18 (486).
3. Ibn-e-Hazam; Ali bin Ahmad, al-Maḥallāh, (Beirūt: Dār-al-Fikr,.....), p. 6/158.
4. Hamid ullah Dr; Introduction to Islām, (Lahore: Sh. M. Ashraf, 1974), p. 146-47.
5. Q 9: 103.
6. Ahmad bin Ḥambal; (241) Imām, Musnad, (Qairo: Taba Dār-ul-Ma'ārif), p. 6/293.
7. Abu Yousuf; Yaqoob bin Ibrahim; Imām, Kitāb-al-Khrāj, (Qairo: al-Maṭbah al-Salfiyāh, 1382 H), p. 44.
8. Q 2: 265.
9. Abu Abdullah; Muhammad bin Ahmad, al-Qurtubi, al-Jāmi' Le Ahkām al-Qur'ān, (Qairo: Dār-ul-Kitāb al-Arbi Le-al-Taba'at wa al-Nashr, 1387 H), p. 3/314,

Muhammad bin Ali, (1255) al-Shukani, Falḥ-al-Qadir, (Qairo: Dār al-Fikr wa al-Tabah wa al-Towziḥ, 1409 H), p. 1/284.
10. Q 59: 7.
11. Al-Qurubi: p. 18/10.

Al-Shukāni, p. 5/195.
12. Q 51: 19.

13. Muhammad bin Ismā'il: al-Bukhari, (256) al. Jam'i. al-Ṣaḥiḥ. (Riyadh: Dār-ul-Salām Pblishers), Kitāb-al-Tawḥid, bab Ma Jāa' Min Dua al-Nabi, Hadith No. 7372, p. 1268.
14. Al-Qurutbi; p. 17/35, al-Shukāni, p. 5/82.
15. Q 41: 10.
16. Al-Qurutbi, 16/82.
17. Q 2: 43.
18. Q 3: 92.
19. Q 70: 24-25.
20. Q 9: 34-35.
21. Al-Qurutbi, p. 8/112, Al-Shukani, p. 2/371.
22. Q 2: 177.
23. Q 2: 215.
24. Al-Qurutbi, p. 3 /36, Al-Shukani, p. 1/216.
25. Muhammad Sharif Ch., (Ex-Commissioner and Member Income Tax Appellate Tribunal) Taxation in Islam and Modern Taxes, (Lahore; Impact Publishers International, 1992), p. 5-6.
26. Q 30: 38.
27. M. Sharif Ch, Taxation in Islam and Modern Taxes, p. 6-7.
28. Q 9: 103.
29. Q 8: 41.

30. Q 9: 60.
31. Al-Qurutbi, p. 8/169; Al-Shukani, p. 2/371.
32. Sayuharwi, Hifz-ur-Rehman, Islām kā Iqtisādī Nizām, (Lahore: Idāra Islāmiyāt, 1984), p. 39.
33. Ibn-e-Najaim; Zain-ud-Din, al-Bakhr-al-Rāiq, (Qairo; 1893), p. 5/128.
34. Abu-Ubaid: Qasim bin Salm, (224) Kitāb-al-Amwāl, (Qairo: Maktaba al-Tujjāriyāh al-Kubrā, 1353 H), p. 43.
- Abu Yousuf; Kitāb-al-Kharāj, p. 125.
35. Q 8: 41: Abu Yousuf, p. 17–19, Al-Mawardi, Abu al-Husan Ali bin Muhammad (369) al-Aḥkām al-Sultaniyah; (..... : Matba-al-Watan, 1298 H), p. 183.
36. Q 59: 7.
- Yousaf-ud-Din, Dr., Islām kay Mu‘āhi Nazriē, (Hyderabad:, 1955), p. 2/638.
37. Q 9: 29, Al-Quritbi, p. 8/110, al-Shukani; p. 2/370.
- Sarabhasi, Abu Baker Muhammad bin Ahmad. (483) al-Mabsuṭ (Beirut: Dār-ul-Miṣariyāh,), p. 1/188,
- Yousuf, p. 69, Ibn-e-Asakar Abul Hasan Ali bin Hasan, (571) al-Tārīkh al-Kabir, (Barut: Rozah-al-Shām, 1329), p. 1/114.
- Ibn-e-Athir, (630) Abu-al-Hassan Ali bin Muhammad, al-Kāmil Fi al-Tārīkh, (Beirut: Maṭba‘ Mimbriyah, 1349), p. 1/191.
- Ibn-e-Khuldoon Q 56: 6, Abdul Rehman bin Muhammad (808) al-Moqaddimah, (Beirut: Muassah Jamal-ul-Nasar,), p. 6/394.

38. M. Zia-ud-Din; al-Rais, al-Khārj fi Daulah al-Islāmiyah, (Qairo: , 1997), p. 392.

Al-Billazri: Ahmad bin Yahya bin Jabir (279) Futuḥ al-Baladān, (Qairo:), p. 34.

Ibn-e-‘Abideen: Rad-ul-Mukhtār, Kitāb-al-Waqaf (Bombay: 1309), p. 3.

39. Abu Ubaid; p. 561.

Ghaffari, Noor Muhammad Dr, Nabi Karim Key Mu‘āshi Zindgi, (Lahore: Diyal Singh Trust Library, 1989), p. 274.

40. M. Sharif Ch, Taxation in Islam and Modern taxes, p. 27.

41. Hamid Ullah Dr., Introduction to Islam, p. 145–46.

42. Q 2: 17, 27, 43, 110, 177, 215, 265 Q 3: 92, Q 5: 58., Q 7: 156, Q 9: 34-35, 110, Q 19: 55, Q 21: 73, Q 22: 78, Q 30: 37, Q 31: 4, Q 33: 33, Q 59: 7, Q 61: 18.

43. Sabah-ud-Din Zaim; Management of Zakāh in Muslim Modern Society, (Jeddah; Islmaic Research and Training Institute, IDB, 1992), p. 101–102.

44. Hamid Ullah Dr, Introduction to Islam, p. 147.

45. Abu Ubaid, Kitāb al-Amwāl, p. 28.

46. Manzer Kahf, The performance of the Institutions of Islam, Theory and practice, (Jeddah: IRTI), p. 6.

47. Al-Bukhari, Kitāl al-Zakēh, Tāb Shurooṭ-al-Zakāh. Ḥadith No. 112, p. 100.

48. Al-Bukhari, Kitāb-al-Zakāh, bāb Zakāh-al-Warq, Ḥadith No. 1447, p. 234.

49. Al-Qardhwai; Yousuf Dr, Fiqh-al-Zakāh, p. 2/258.

Al-Bukhri; Kitāb-al-Zakāh, bāb Zakāh-al-Ibil, Ḥadith No. 1452, p. 234.

50. Al-Bukhari; Kitāb-al-Zakāh bāb Zakāh al-Ghnām Hadith No. 1454, p. 235,
Al-Bukhari; Kitāb-al-Zakāh, bāb Zakāh-al-Baqar Hadith No. 1460, P 236.
51. Maududi; S.A. Maulana. Foundation of Islam, (Lahore: Islamic Publications,
.....), p. 182.
52. M. Sharif Ch; Taxation in Islam and Modern Taxes, p. 24.
53. Income Tax Ordinance 1979, p. 12.
Income Tax Ordinance 2001, p. 978.
54. C. Fundlay Dr. The Schemes of Public Finance, (Lahore; 1926), p. 113.
55. I. Chelliah Raja, Fiscal Policy in Under Developed Countries, (Lahore; 1966),
p. 61.
56. Abu-al-Kalām Azād. Ḥaḳīqat-e-Zakāt, (Lahore: Maṭba‘ Lahore, 1950), p. 44.
57. Maududi S.A, Islāmi Ma‘ishat, (Lahore; Islamic Publishes Limited), p. 369.
58. D.M. Querashi (Mananging Director, Bankers Equity, Karachi) Comments on the
use of Zakāh Funds Management of Zakāh, (Jeddah: IRTI, 1989), p. 57.
59. Muhammad Hashim Awad; (Professor, University of Khartum, Sudan)
Introduction; Towards A Zakah based tax Structure, (Jeddah: IRTI, 1989), p. 77–
78.
60. Sabah-ud-Din Zain (Professor of Istanbul University Turkey) Philosophy of Zakāh
(Jeddah: IRTI), p. 121–22.
61. Muhammad Akram Khan; Public Finance in Islam, Islamic Studies, (Islamabad:
Islamic Research Institute, 2001), Vol. 40, No. 2, p. 240–41.
62. Ibn-e-Ḥazam; al-Maḥallāh, p. 6/156.

63. Ibn-e-Hazam; al-Maḥallāh, p. 6/ 422.
64. Qutub Syed; al-‘Adāllah al-Ijtimayāb fi al-Islām, with Urdu Translation (Lahore: Islamic Publication 1985), p. 361.
65. Shawki Ismail Shehatah (Advisor, Faisal Islamic Bank Qaira); Distribution and Management of Zakāh, (Jeddah: IRTI), p. 74–75.
66. M. Hashim Awad, (Professor in University of Khartum, Sudan) “Adjusting Tax Structure to accommodate Zakāh” Jeddah, IRTI, IDB, p. 99.
67. Sabah-al-Din Zain, “Recent Interpretation of the Economic Aspects of Zakāh” (Jeddah IRTI, IDB), p. 113.
68. Justice (Late) Pir Muhammad Karam Shah al-Azhari in an interview with Researcher on June, 21th 1996 at Bhera Sharif.
69. Muhammad Abdul Malak, ‘Idāra M‘ārif Islāmi Maṣūrah Lahore’ in his letter to the researcher.
70. Ghulam Sarwar Professor, “Masail-al-Zakāh-o-‘Ushr”, (Islamabad Central Zakah Administration), p. 251.
71. Muhammad Taqi Amini, “Islām Kā Zari‘ Nizām”, (Karachi Ahsan Academy), p. 277.
72. Muhammad Shantut Sheikh, “Mafariqah-al-Mazahib Fi al-Fiqh (Qairo), p. 262.
73. Maududi S. A., “Islāmi Mae‘shat, (Lahore) Islamic Publishers Limited, p. 337.
74. Muhammad Najeeb Khan Nowshahi, “Dār-al-Iftā, Dār-al-‘Ulūm Karachi”, in his letter to the researcher.
75. Fazal-al-Rehman ibn Mian Muhammad, “Income Tax Key Shari‘ Hathiāt”, Dār-al-Dawah al-Salfiyah (Lahore) Shish Maḥal Road, p. 37.
76. Khurshid Ahmed Prof, Chairman IPS Islamabad in his letter to the researcher.

77. Sayuharvi Hifz Al-Rehman, "Islām Kā Iqtisādi Nizām" (Lahore) Idara-e-Islamiat, (2nd edition), p. 123.
78. Abdul Rahim Alvi, (Ex-Chairman CBR) The Daily Jang, Lahore 5th Jan. 1996.
79. Amjad Saeed Khawaja Dr. (Friday Magazine). "The Daily Jang Lahore" 8th March 1996.
80. Mehbub-ul-Haq Dr., "Ex-Minister Finance" and Dr. Munir Ahmed, Ex-Chairman Islamic Society of Statistical Sciences, (The Daily Jang Lahore), 31st March, 1996.
81. Ehtishtam Ahmed and Nicholas Stern, "The Theory & Practice of Tax-Reforma in developing countries, Islamabad Cambridge University Press" world Bank Library, p. 110.
82. 12th report of the Council of Islamic Ideology of Pakistan, (Islamabad), p. 19-20.
83. M. Sharif, Ch. Taxation in Islam and Modern Taxes. p. 110.
84. Al-Qaradawi Dr. Yusuf, "Fiqh-al-Zakāh", (2nd Eddition) Muassasah-al-Risālah, (Beirut, 1977), p. 296.
85. Muhammad Sharif Ch. (Member Income Tax Tribunal Lahore) "Taxation in Islam and Modern Taxes" p. 108-10.
86. Q 2: 43.
87. Q 2: 110.
88. Al-Qurutbi: p. 2/278 Maududi S.A, Tafhim al-Qur'ān, p. 1/104.
89. Q 22: 41.
90. Al-Maududi, Tafhim-al-Qur'ān, p. 3/234.
91. Q 9: 103.

92. Al-Qurutbi, p. 8/188, Maududi, S.A, Tafhim al-Qur'ān p. 2/205-208, Al-Azhari, Muhammad Karam Shah Justice, Zia-ul-Qur'ān, p. 2/222-225.
93. Al-Bukhari Kitāb-al-Imān bāb Duāukunn Imānw-o-kum, Hadith No. 8, p. 5.
94. Al-Bukhari, Kitāb-ul-Tawḥed, Bāb Ma jāa' Fi Duā-in-Nabi, Hadith No. 7372, p. 1268.
95. Al-Bukhari, Kitāb-ul-Zakāh bāb Wujūb-al-Zakāh, Hadith No. 702, p. 349.
96. al-Bukhari, Kitāb al-Zakāh, bāb Wujūb-al-Zakāh, Hadith No. 704, p. 350.
97. Nasir-al-Din al-Bani, "Dāif Sunan Tirmizī" (1988), p. 79.
98. Al-Mawardi al-Aḥkām al-Sultāniyyah, p. 133.
99. Al-Shukani, "Nail-al-Awtār", p. 8, P/64.
100. Ibn-i-Hazam, "al-Maḥallāh", p. 6, P/113.
101. Al-Dar-al-Qutni Ali bin 'Umer, (385) al-Sunan, (Multan; al-Nashr-al-Sunnah), p. 2, p./106.
102. Ahmad bin Hunbal Imam, (241) al-Musnad, (Qairo: Tabe'ah Dār-al-Ma'ārif), p. 1/19.
103. Al-Darmi, Abdullah, (255) al-Sunan, Kitāb-al-Zakāh, p. 2, P/38.
104. Abu Dawud, Suleman bin Ashath Sajistāni, al-Sunnan, (Multan: Makṭaba Imdādiuah), 1318, p. 408.
105. Ahmad bin Hambal, Musnad-i-Ahmed, p. 4/9.
106. Q 70: 24-25.
107. Q 51: 19.
108. Q 30: 38.

109. Maududi S.A: Tafhīm-ul-Qur’ān, p. 3/757.
110. Al-Bukhare Kitāb-al-Zakāh, Bāb Wujūb-al-Zakāh, Hadith No. 702, p. 349.
111. Q 2: 215.

Maududi, Tafhīm-ul-Qur’ān, p. 1/164.
112. Al-Qurutbi, p. 3/36.

Al-Shubani, P1/216.
113. Q. 9: 60.
114. Al-Qurutbi, p. 8/169.

Al-Shukani, p. 2/371.
115. Al-Darmi, Bab Ma Yajibu Fi māl Siwa-al-Zakah, Maktaba Dār Aḥyā-al-Sunah al-Nabviyyah, p. 1/395.
116. Hamid ullah Dr. Introduction to Islam, p. 138.
117. M. Sharif. Ch Taxation in Islam and Modern Taxes, p. 107
118. Al-‘Asqalāni; Ibn-e-Hajar, Shabāb-al-Din Ahmed bin Ali, Fath-ul-Bāri (Qairo: Maktaba al-Amiriyah al-Kubrā, 1318), p. 2/273.
119. Nasir-ud-Din Albani Dā‘if Sunan al-Tirmizī, p. 79.
120. Abu Muhammad Abdullah Ibn Abdul Rehman, “Al-Dārmī al-Sunan, p. 1/395.
121. Abdul Rehman Mubarikpuri, “Tuḥfa-al-Akhwazi, (Beirut: Dār-al-Kitāb-al-Arabī), p. 2/22.
122. Ibn-al-Arabi, “‘Aāridah-al-Akhwazē Li-Sharāḥ-al-Tirmizī p. 3/162-163.

123. Muhammad Yusuf Binawree "Ma'ārif-al-Sunan", (Karachi: Maktabah H.M. Saeed & Co, 1395, 2nd Ed), p. 5/268.
124. Muhammad ibn Abdullah Alvi, "Miftāḥ-al-Ḥajāh Li-Sunan Abi Mājah, (Sargodha: Idārah Aḥyā-al-Sunan-al-Nabviyah, 1394), p. 129.
125. Jalal-al-Din Sayuti "Tadrīb-al-Rāwi, (Dār-al-Nashr-al-Kutub-al-Islāmiyah"), p. 1/266.
126. Kausar Niazi Mulana "Income Tax Ki Shatiḥ Hasiat, Al-I'htisām (Lahore: Vol. 18, 19, 1996), p. 23.
127. Dr. Hamid ullah Dr, Introduction to Islam, p. 146.
128. Shatbi Allama Ei'htisām (Egypt: Maṭb'ah al-Monār, 1914), p. 2/298.
129. Ibn-e-Khuldoon, al-Mooqadmah Tab'ah Beirut, p. 113.
130. Ibn-e-Qayyim, al-Ṭuruq al-Ḥukmiyyah Fi al-Siyāsiah al-Shariāh, Egypt 1961, p. 15.
131. Sara Khasi Imam al-Mabsuṭ, p. 1/20.
132. Ibn-e-Najaim al-Baḥr al-Raiq. p. 1/249.
Majad-ud-Din Ferozabadi, Qamoos-al-Muhit, (Beirut: 1987), p. 7.
133. Muhammad Din Jami Dr, Maḥāsīl Key Tanfiz, al-Mobāḥath al-Islāmiyah (Bannu: Moharram, 1424), p. 29.
134. Al-Tirmizi, Abu Eisa Muhammad bin Eisā, al-Tirmezi, (Karachi: Mir Muhammad Kulul Khana), p. 95.
135. Abu Yusuf Imam, Kitāb-al-Kharāj, Bāb Fi Mā Yalzīm-al-Imam Min Amar-al-Rai'yyah, p. 10.

136. Ibn-e-Khlkan; Shamas-ud-Din Ahmad bin Muhammad, (618) Wufiyāt-al-Awyān, (Qairo: Maktaba Naḥzah al-Miṣariyah), p. 6/118.
137. Al-Qurtubi Imam, Tafseer Ahkam al-Qur'ān, p. 2/242.
138. Abu Ya'la al-Farrā', al-Aḥkām al-Sultāniyyah, (Qairo: Mustafā Ḥalbi, 1357 CH), p. 3.
139. Al-Marwardi, al-Aḥkām-ul-Sultāniyyah, p. 15.
140. PLD 329 Federal Shariat Court of Pakistan (Islamabad 1992), p. 324.

CHAPTER

NO.2

TAXES LEVIED IN PAKISTAN

✦ **Direct and indirect Taxes.**

✦ **FEDERAL TAXES**

✦ **Charge of Tax and Islamic Tenets**

✦ **Verses about halal and Haram**

✦ **Income tax ordinance and allowances**

✦ **Additional Tax**

CHAPTER-II

2:- Taxes levied in Pakistan

1. Direct and Indirect Taxes

A traditional classification of taxes is that of direct and indirect taxes. Briefly speaking the distinction between direct and indirect taxes is that the former cannot be shifted while the latter are shifted wholly or partly to the others. In the following paragraphs we discuss them in detail.

DIRECT TAXES: Direct taxes are primarily taxes on persons. They are aimed at the individual's ability to pay as measured by his income or wealth or expenditure. So the direct tax is one in which the incidence of tax and the impact of tax is on the same person.

In the case of a direct tax the man who pays it also bears its burden. It is called direct because the relation between the tax payer and revenue authorities is direct and personal, there being no agency in between. If a person pays income tax, he also bears its burden, as he cannot shift it to the other, examples of direct taxes are Income tax, Wealth tax, gift tax, Property tax, Capital Gains tax, Expenditures tax, Inheritance tax etc.

INDIRECT TAXES: In the case of an indirect tax the person who pays the tax can shift it in whole or in part to the others. These taxes are taxes on goods, commodities, services or on outlay. Assumption behind an indirect tax is (may power sometimes erroneous) that the tax will be shifted to the ultimate consumer of the goods, who presumably has the ability to bear it.

Incidence of tax and the impact of tax in indirect taxes is on different persons. One who pays it is different from one who ultimately bears the burden of tax. For example if tax is imposed on sugar, the manufacturer who pays it, charges it from dealer who in turn charges it from retailer who again recovers it from the consumer. So the burden of tax has ultimately settled on the consumer of sugar. It is called indirect tax because there is an indirect relation between the tax and the tax payer. Consumers in fact are the tax payers while the taxes are collected through producers, importers, wholesalers, etc.

Examples of indirect taxes are duties on imports and exports, excise duties, taxes on sales, taxes on services, taxes on legal transactions, etc. ¹

2.1.1 Evaluation of Direct and Indirect Taxes:

Both direct and indirect taxes are needed in a good tax system. In some respects the direct taxes maybe better while in some other respects the indirect taxes would be better. In

the following paragraphs we discuss the relative merits and demerits of direct and indirect taxes.

Direct taxes have the merit of being more equitable and just. Progressive rates can be applied to them to make them conform to the taxpayer's ability to pay. A person who pays a direct tax feels that he is making sacrifice and is contributing towards the state expenditure. Thus a direct tax creates a civic consciousness among the tax payers. Moreover, these taxes are economical, productive, certain, flexible and elastic. On the contrary, indirect taxes are regressive. Their burden is on the poor consumers. They cause inflation and make life harder for the poor. Hence they are not equitable, just and fair. Moreover, the indirect taxes are uncertain, sometimes uneconomical and more often inelastic. They do not create any civic consciousness or any sense of contribution among the tax payers.

Indirect taxes have the merits of being very convenient to pay and very easy to administer. A consumer pays the tax when he purchases a commodity. Tax is wrapped in the price and he does not feel that he is paying it. Similarly a producer of a commodity does not feel the pinch when he pays the tax because he recovers it from the buyer of that commodity. It is very difficult to evade an indirect tax. These taxes can also be made equitable when imposed on luxurious articles which are generally consumed by the rich. Indirect taxes are also

used for very noble social objectives when harmful drugs and intoxicants are subjected to heavy duties. On the other hands, direct taxes are very difficult to administer. They are very inconvenient to pay. There are complicated laws and cumbersome procedures regarding filing of returns, assessment of incomes, maintenance of accounts and payment of demand in lump sum, etc. As the tax has to be paid from one's own pocket and once cannot shift it, one feels the pinch. Hence a direct tax is a tax on honesty. People mostly try to evade such taxes as far as they can do.²

The distinction between direct taxes and indirect taxes is sometimes very difficult to determine. We cannot draw hard and fast lines between taxes which are direct and those which are indirect tax. A tax on commodity, if not shifted, may become a direct tax. On the other hands, if a tax on property is successfully shifted by the owner to the tenant, it assumes the characteristics of an indirect tax. Some taxes cannot be said with certainty to be either direct or indirect, as they are ambiguous in their incidence.

In a national tax system, we must have a balance between the direct and indirect taxes. No country today can claim to rely exclusively on one type of taxes. A great scientist of public finance is reported to have said: "I can never think of direct and indirect taxation except as I should think of two

attractive sisters who have been introduced into the gay world of London, each with an ample fortune, both having the same parentage – for the parents of both I believe to be Necessity and Invention – differing only as sisters may differ....." ³

Taxes at the federal level

The Constitution of the Islamic Republic of Pakistan 1973, in the Fourth Schedule in the Federal Legislative list, mentions the following items of taxation which can be imposed and legislated by the Federal Government:-

- 1) Duties of customs, including export duties.
- 2) Duties of excise, including duties on salt, but not including duties on alcoholic liquors, opium and other narcotics.
- 3) Duties in respect of succession to property.
- 4) Estate duty in respect of property.
- 5) Taxes on income other than agricultural income.
- 6) Taxes on corporations.
- 7) Taxes on the sales and purchases of goods imported , exported, produced, manufactured or consumed.
- 8) Taxes on the capital value of the assets, not including taxes on capital gains on immovable property.
- 9) Taxes on mineral oil, natural gas and minerals for use in generation of nuclear energy.
- 10) Taxes and duties on the production capacity of any plant, machinery undertaking, establishment or installation in

lieu of the taxes and duties specified in entries 2, 3, 4, and 5 or in lieu of any one or more of them.

- 11) Terminal taxes on goods or passengers carried by railway, sea or air: taxes pm their fares and freights.⁴
- 12) Fees in respect of any of the matters in this part, but not including fees taken in any court.

The abovementioned list includes both direct and indirect taxes. Under direct taxes are included Income tax and Wealth Tax, while under indirect taxes are included customs central excise and sales tax.

Federal Taxes

Let us now discuss briefly the law, practice and role of the main federal taxes levied in Pakistan like income tax, Wealth tax, Customs, Central excise and Sales tax.

A: Income Tax

1. The British Government introduced Income tax in the Indo- Pakistan Sub-Continent in the year 1860 as a result of the financial stringency caused by the War of Independence, 1857. The Income Tax Act, 18560 modeled on the British lines imposed Income Tax was withdrawn in 1865 but was reimposed in the year 1877. The Act of 1886 forms an important epoch in the history of incometax in British India. This Act

exempted the agricultural Income from tax. The Act remained in force for a pretty long time of 30 years till the promulgation of the Incometax (Amendment) Act of 1916 which introduced a graduated scale of incometax rates. The Act of 1918 provided reference to the High Court and introduced the concepts of "Total Income". The most important event in the history of Incometax occurred in the year 1922 when on the recommendations of an All-India Committee, the Income Tax Act, 1922 was passed. It widened the scope and application of incometax, improved and systemized the law and took away its administration from the provincial revenue authorities entrusting it to the Commissioners of Income tax appointed by the central Government. The Act was destined to rule and regulate the incometax for next half a century. After independence in 1947, the government of Pakistan adopted this Act. Many amendments and changes were carried every year in the Income Tax Act, 1922, to cope with our needs of changing society and developing economy.

The income-tax Act of 1922 was at last repeated in the year 1979 as it had gone outdated and also cumbersome on account of so many amendments. So it was felt that the Act of 1922 was not meeting our requirement and it should be replaced by some new

legislation where in the provisions of law should be simplified to make it easily understandable by the tax-payers, loopholes and ambiguities should be plugged, possibilities of tax evasion should be reduced as far as possible a fair and equitable system should be reduced as far as possible, a fair and equitable system should be evolved ensuring voluntary compliance by the tax-payers, atmosphere of mutual trust and confidence should be created between the tax payers and the tax collectors. Keeping these major objectives in view, the old order was changed giving place to new. Thus came into existence the Incometax Ordinance of 1979 comprising 167 sections and 7 Schedules replacing the Incometax Act of 1922 with 68 Sections and 4 Schedules. It became effective from July 1, 1979 and is today the law of Incometax in Pakistan. Many amendments are made every year in this Ordinance also to keep it abreast of socio-economic changes of these days.

Today the law of Incometax in Pakistan not only consists of Income Tax Ordinance of 1979 but it also comprises Income Tax Rules of 1982, Notification and Circulars of Central Board of Revenue of Pakistan, case-law propounded by the judgments of superior Courts etc.

2. Incometax is charged under the authority of Income Tax Ordinance, 1979. It is levied on the total income of the income year of every person at the rates specified in the

First Schedule of the Ordinance. Person includes an individual, a firm, an association of persons, a Hindu undivided family, a company, a local authority and every other artificial juridical person. Income year is normally a financial year or calendar year or any other period of twelve months specified by the CBR. Section 15 of the Income Tax Ordinance classifies the income under the six heads of income for purpose of computation, namely: (1) income for salary, (2) interest on securities, (3) income from house property, (4) income from business or profession, (5) capital gains and (6) Income from other sources. Income under each of these heads is computed separately after deduction of admissible expenses. Then the income is aggregated and is subjected to tax in accordance with the rules and rates of the First Schedule. Basic exemption in the case of a person deriving income from salary is Rs. 40,000/- while in the case of other persons it is Rs. 30,000/-.⁵

Every person whose total income exceeds the amount which is exempt from tax is required under section 55 of the Ordinance to file his return of total income within the prescribed time. The I.T.O. Then proceeds to make the assessment of total income in accordance with law and determines the amount of tax. The assessment order alongwith the calculation chart of tax and the demand notice is served upon the assessee, specifying the date

within which he is required to pay the tax as per demand notice. Vast powers have been given to the tax, levy of penalty, attachment of Bank accounts, sale of property, arrest of the defaulter and finally his detention in prison. An aggrieved tax payer has been given right of appeal, reference and revision petition.

3. The Income Tax Ordinance, 1979, introduced self - Assessment Scheme vide its section 59. According to this scheme, a tax payer also plays the role of an I.T.O. The scheme casts obligation on the tax payer to make his own assessment of income, to determine himself his tax liability and to pay the tax along with his return of income within the due date. The I.T.O would examine the return and the accompanied papers and if all the requirements have been satisfied as per Xscheme of self-Assessment, he would intimate the tax payer about that. The primary aim of introduction of this scheme is to reduce the credibility gap between the tax collector and the taxpayer and create better understanding between them. Its object is also to motivate the tax payer's voluntary response by depositing trust in him and spare the energy and time of the incometax officials to concentrate more on the important cases. The self - Assessnemt Scheme which was introduced from the year 1979-80 remained in vogue up to the year 1987-88. Its scope was gradually widened till it embraced all types

of assesses including new assesses of every category without any upper limit of income. The most outstanding feature of the scheme was its immunity clause. According to this clause, if any tax payer returned his income at an enhanced level as compared with preceding years in accordance with a prescribed formula, his case was declared immune from selection for total audit. Cases of other assesses, however, who filed their returns under the scheme but did not avail of this clause were open for selection for total audit through computer ballot, though only 2 or 3% of such cases were so selected. The scheme was so much widely applied that almost 80% of the tax payers who voluntarily filed their income returns with the department availed of this scheme.

The scheme of Self -Assessment was abruptly abolished by the CBR in the year 1988-89 when a new scheme of assessment called "Assessment under Simplified Procedure of Assessment" was introduced which remained in practice only for two years i.e. 1989 and 1989-90. During these two years a new experiment in the regime of assessment was also made in the sense that the function of making assessment of income was assigned to a panel of officers comprising of an Assistant Commissioner and two Income Tax Officers as against previous practice of only the concerned Income Tax

Officer making the assessment. This new scheme of "Assessment under Simplified Procedure" and panel System also met their end and from the year 1990-91 the scheme of Self – Assessment with certain conditions and without immunity clause has been reintroduced.

4. Many allowances, reliefs, rebates and tax credits have been provided by the Incometax Law to the tax payers for encouraging investments, capital formation and national savings. Allowance for life Insurance, allowance for investment in Defence Saving Certificates, stocks and shares, debentures, NIT certificates, certificates of ICP, allowance for contribution to provident Funds, allowance for purchase of books, allowance for payments to retirement annuity contracts and trust schemes, and allowance for contributions to benevolent fund and group insurance etc. are granted under various provisions of Income Tax Ordinance, 1979 to the assesses who make investments in these schmes and ventures. They are provided relief from Income tax on these investment allowances. Incometax relief is also given to those tax payers who give donations for charitable purposes or approved by Government and religious charitable institutions, hospitals, relief funds sponsored or approved by Government and religious charitable institutions. To promote capital formation, tax credits under various provisions of Income tax law are allowed for investment

in shares or debentures of Equity Participation Fund, for investment in share capital of industrial companies, and for replacement, balancing and modernization of machinery or plant. Expot rebate is also allowed to the exporters in order to boost exports. ⁶

5. For achieving certain objectives like dispersal of industries in comparatively under-developed areas, installation of industries which are considered very essential for the national economy and above all for the industrialization and economic development of the nation, tax holiday is being liberally given to various industrial undertakings. Almost the whole of Pakistan has been declared tax holiday area with a very few exceptions. Industries set up between the prescribed dates can avail of the concession of tax holiday for a specified period depending upon the place where such industries have been installed, undertakings set up in relatively backward regions getting longer period of tax holiday than the industries set up in developed areas. Similarly agro-based industries and certain other industries which are considered essential for national economy are exempt from payment of tax either wholly or for a specified period.
6. The most salient feature of Incometax Law in Pakistan is perhaps the innumerable exemptions which it provides to various persons and various classes of incomes. Second Schedule to the Income Tax Ordinance, 1979 alone

concedes almost 200 exemptions. Agricultural sector whose share in the GDP in the Pakistan is more than 25% and which provides living to more than 60% of the total population of the country is exempt from incometax. Apart from that, agro-based industries like manufacture of agricultural machinery, certain services provided to the agriculturists, dairy farms, poultry farms, fish farms, sheep breeding, beef producing farms, etc. are also exempt from payment of tax. Income of religious and charitable institutions, hospitals, etc. has also been declared exempt with certain conditions. Various types of allowances, perquisites, rewards or honorariums given to salaried persons are not included in their incomes chargeable to tax. Certain incomes from house property, income from national saving schemes and income of certain institutions like Text Book Board, Service funds etc. are also exempt besides exemption given to various specified persons or institutions. ⁷

B: Wealth Tax

1. Tax on wealth was for the first time levied in Pakistan when the Wealth tax Act, 1963, came into force on 1st day of July, 1963. The first assessment under this Act was made for the financial year 1963-64. The Wealth Tax Act was passed with the avowed object to eliminate inequities, to create harmony in the society and to

provide adequate domestic resources for the development programmers. How far these noble objectives have been achieved by the wealth Tax Act is yet to be seen. But none can deny the importance and also the need of a tax on wealth as it can be to a considerable extent instrumental in removing wealth disparities in the society.

Since its inception in the year 1963, the Wealth Tax Act has undergone many changes and amendments. Although section 1 of the wealth Tax Act says about the Act that "it extends to the whole of Pakistan", yet, practically, the Act is not applicable to the Federally Administered Tribal Areas and the Provincially Administered Tribal Areas unless the President or the concerned Governor so directs.

2. Today the law of Wealth Tax in Pakistan is derived from the Wealth Tax Act, 1963, the Wealth Tax Rules, 1963, Notifications and Circulars, and Case law which has been built up by the Appellate Tribunal, High Courts and the Supreme Court of Pakistan. The Wealth Tax Act, 1963 comprises of 46 sections and a Schedule. Section 2 defines certain terms and expressions for the purpose of wealth tax. Section 3 creates charge of wealth tax, while section 5 enumerates certain assets which have been exempted from Wealth Tax. For determination of the value of the assets the law is contained in section 7

of the Act read with Rule 8 of the Wealth Tax Authorities have been discussed in various sections grouped under Chapter III. Assessment procedure is set in Chapter IV while Chapter VII deals with the payment and recovery of wealth tax. For vindication of the grievances of the tax payers, right of appeal, revision and reference has been provided in Chapter VI. The schedule provides the rates at which wealth tax is to be charged.

3. Wealth tax is charged under the Wealth Tax Act, 1963. It is charged on the net wealth of every individual, Hindu Undivided Family. Firm, association of persons or body of individuals, whether incorporated or not, and company, at the rates specified in the Schedule of Wealth Tax Act. The tax is charged for every assessment year but the net wealth as computed on the valuation date is subjected to the levy. Valuation date is the last date of the income year as defined in the Income Tax Ordinance, which is generally financial year or calendar year. Net wealth means the amount by which the aggregate value of all the assets mean in the case of an individual and a Hindu Undivided Family, property of every description movable or immovable. Property held for the purpose of the business of construction and sale, or letting out of property. Thus an individual and Hindu Undivided Family pays the tax in respect of all assets held on the valuation date while firm, an AOP and a company pay the tax in respect of its immovable property only which is held for

the purpose of the business of construction and sale, or letting out of property.

If any immovable property other than agricultural and is owned by more than one person, such persons in respect of such property are assessed as an association of persons. A novel concept of a family unit has also been introduced in the Wealth Tax Act, whereby urban immovable properties belonging to the assessee's spouse and minor children are assessed in the hands of the assessee in the hands of the assessee as one unit of assessment.⁸

4. Many assets have been declared exempt from wealth tax some of these exemptions are as follows:
 - i. Property held under trust for religious or charitable purpose.
 - ii. The rights under any patent or copy right.
 - iii. Furniture, household utensils, wearing apparel, provision and other articles (excluding jewelry) and cars intended for personal or household use.
 - iv. Tools and implements used for the raising of agricultural produce.
 - v. The tools and instruments necessary for profession.
 - vi. Amount standing in Provident Fund.

- vii. Agricultural land subject to a maximum of one lakh rupees in value.
- viii. Investment not exceeding one lakh rupees in stocks or shares subject to certain conditions.
- ix. Assets brought or remitted into Pakistan from outside or created out of remittances received for a period of six years.
- x. One residential house owned and occupied for purpose of his own residence at the option of the assessee.
- xi. Assets from which Zakah has been deducted.
- xii. Right or interest in any policy of insurance.
- xiii. Right to receive a pension or other life annuity.
- xiv. Basic exemption in the case of wealth tax is either on self-occupied residential house or net wealth of Rs.10, 00,000 at the option of the assessee.

Subsection (2) of section 5 of the Act empowers the Federal Government to exempt any class of assets or class of persons from the tax payable under the Act. Moreover, no wealth tax is payable by an assessee on the value of agricultural land if he is not liable to income tax and the net wealth excluding the value of agricultural land is not liable to wealth tax.

5. The base of this tax is very small and so is the position of total revenue of this levy. The number of persons

appearing with the wealth Tax Department as assesses, during the last few years is as under. ⁹

Pakistan's Experience

C: The Wealth Tax Act, 1963

Act (XV of 1963)

The Wealth Tax Act, 1963 was passed by the Pakistan's Legislative Assembly in the sixteenth year of the Republic of Pakistan, i.e. in 1963. The objective of the Act as stated in the preamble, was to provide for the levy of tax on wealth.

It appears that Pakistan followed India in this area after ten years, without giving any serious thought of its justification or improving the legislative framework. The Indian Act, was copied in letter and spirit! Wealth tax in Pakistan is payable by the following "persons":

- a. Individuals;
- b. Hindu undivided families;
- c. Partnership firms;
- d. Companies [as defined in section 2(1)(9); and
- e. Association of person and body of individuals (whether incorporated or not, except for assessment year 1996-97 when this category was omitted.

Public limited companies, (listed on stock exchange),. Banking companies and state owned enterprises (in which at least 50% shares are held by the government) are, however, not liable to wealth tax. In the case of (c), (d) and (e) above, wealth tax levy is restricted only on immovable assets if held for the purposes of /or business of construction and sale or letting out whereas in the cases or (a) and (b) above, wealth tax is payable on all the assets subject to exemptions specified under Second Schedule of the Wealth Tax Act, 1963 immovable assets like house property, lands etc., which used to be clubbed for wealth tax levy with the assets of spouse of the assessee are now assessed separately (with effect from the assessment year 1985 – 86)

Immovable assets "belonging to" and "owned" by the minor children of the assessee except agricultural land with effect from the assessment year 1985 – 86 shall, however, be deemed to belong to the "parent" and, who is to be termed to be the 'assessee; (father or mother) is the discretion (for revenue reasons) of the Deputy Commissioner of Wealth Tax.

The wealth tax is payable on the net wealth of the assessee computed on the basis of the valuation of assests held on the valuation date which is normally the 30th June (last day of Pakistan's financial year). It is leviable only on the net wealth in excess of Rs.10 million (the limit is raised to rs.2.5 million by Tax laws (Amendment) Ordinance, 1999 with effect from 2000-2001) or alternatively assessee can claim exemption

of one self-occupied house. The wealth tax is chargeable up to assessment year 1999-2000 on that portion of net wealth, which comprises assets other than agricultural assets the taxable wealth at the following rates:

- i. On the first Rs.5,00,000 of net taxable wealth 1/2 per cent;
- ii. On the next Rs.5,00,000 of net taxable wealth 1 per cent;
- iii. On the next Rs.5,00,000 of net taxable wealth 1 1/2 per cent;
- iv. On the next Rs.5,00,000 of net taxable wealth 2 per cent; and
- v. On the next Rs.5,00,000 of net taxable wealth 2 1/2 per cent;

A surcharge of 105 of wealth tax payable was levied for the first time with effect from the assessment year 1998-99.¹⁰

The Tax Laws (amendment) Ordinance, 1999, promulgated on 17th December 1999, made a number of changes with effect from assessment year 2000-2001. The filing of separate return from agricultural assets with land revenue authorities has been disbanded. One return for agricultural and non – agricultural assets will be filed from assessment year 2000-2001 and tax exemption limit is raised to Rs.2.5 million.

Wealth Tax actually paid was allowed as a deduction up to assessment year 1993 – 94 against the total income of the relevant income year. However, with effect from assessment year 1994-95 total income is not to be reduced to the extent of wealth tax paid. An assessee has, however an option to claim an outright exemption of a self occupied house irrespective of its cost, size, class, location, by foregoing statutory exemption of Rs.1.0 million.

As discussed above, association of persons, bodies of individuals, firms and private limited. Companies are liable to wealth tax only on immovable property held for the purposes of construction, sale or letting out at the above rates. Jointly owned immovable properties or where right and interest in such properties vest in more than one person and if these are let out were used to be assessed as one unit at the above rates. However, the Finance act, 1996 – 97. The very next year, the finance Act, 1997 restored the old position. It shows how legislations works in this country.

In Pakistan the wealth tax collection have been improving at an impressive compound growth rate of 35% during the last five years. The net collection has jumped from Rs.327 million in financial year 1988 – 89 to Rs.1785 million in financial year 1995 – 96 showing an increase over 400%. Table 'A' indicates annual collection vis-à-vis the budgetary targets assigned. It also shows the growth rate and share of wealth tax in the direct taxes and total federal taxes.

Table 'A'

Wealth Tax Collection

| Year | Target | Collection | %age achievement | % annual growth | %SHARE IN | |
|---------|--------|------------|------------------|-----------------|-----------|------------|
| | | | | | Total Tax | Direct Tax |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 1991-92 | 700 | 632 | 90.3% | 27.4% | 0.5% | 2.2% |
| 1992-93 | 1,000 | 1196 | 119.6% | 89.2% | 0.8% | 3.3% |
| 1993-94 | 1,225 | 1,216 | 99.3% | 1.7% | 0.7% | 2.8% |
| 1994-95 | 2,100 | 1,644 | 78.3% | 35.2% | 0.7% | 2.7% |
| 1995-96 | 1,406 | 1,785 | 127.0% | 8.6% | 0.7% | 2.3% |

Total collections from wealth tax in financial year 1997-98 was Rs.3509 million as compared to Rs.2411 million in financial year 1996-97. Although the annual growth rate is more than impressive the fact remains that total collection of wealth tax constitutes a negligible proportion of the total federal tax revenues. This insignificant collection can hardly have any impact on the overall pattern of distribution of tax burden among the population, notwithstanding the progressiveness of the rate structure of the levy. This minimal role of the tax is essentially a result of the low converge that it carries on account of exclusions from its base.²

Therefore, wealth tax in its present form may be progressive in so far as its incidence falls only on the rich but it

is no way equitable among those who pay it. The Wealth Tax Act was amended in 1994 to bring agriculturists within the purview of wealth tax (previously they were exempt from levy of wealth tax by virtue of section 5A of the Wealth Tax Act, 1963). However, the impact of these amendments shows horrible results. The rich landed elite paid only Rs.3.1 million as Wealth Tax during the financial year 1997-98 compared Rs.3409 million paid by non-agriculturists taxpayers. In 1994-95 the agriculturists paid Rs.2.3 million while Rs.1,644 million was collected from non – agriculturists. The Total number of Wealth Tax payers from the agriculture class was 2457 in 1997-98. In comparison the number of non – agriculture wealth tax payer went up to 182086 in 1995 – 96 from 143817 in 1994 – 95 and shows an increase of 3,23,083 in 1997 – 98.¹¹

Federal Budget for The Year 2000 – 2001

The Government of Pakistan discontinued the Wealth Tax. ¹²

C: Evaluation of Zakah and Ushr levied in Pakistan

Following are some of the usual criticisms which one hears against the system of Zakah and Ushr introduced in Pakistan:-¹³

1. Islamic provisions regarding Nisab (minimum amount which attracts Zakah) and holding period of one year in respect of assets chargeable to Zakah are not being properly observed so far as deduction of Zakah from bank accounts and dividend from investments is concerned. ¹⁴
2. Law of Zakah and Ushr is not being universally applied to all the Muslims of Pakistan as some of the sects or factions of the Muslims have been exempted from compulsory collection of Zakah and Ushr. ¹⁵
3. According to Shariah, Ushr is to be charged at the rate of 10% of the actual produce in case of Barani land and at the rate of 5% of the actual produce in case of land irrigated through artificial means of irrigation. These provisions are not being strictly observed in Pakistan. ¹⁶
4. According to the Qur'an (Chapter 9, verse 60), Zakah receipts can be expended on eight heads i.e. for the poor, for the needy, for those who collect them, for those whose hearts are to be reconciled, to free the captives and to free the debtors, for the cause of Allah (SWT) and for the wayfarers. While interpreting the injunctions of the Qur'an regarding the heads of expenditure, the jurists of Islam permit the Islamic state to spend the Zakah funds on education, medical relief, communications, building and maintenance of roads and bridges, Defence of the Islamic faith and state, etc. However, in Pakistan Zakah

funds are mainly being used in making cash payments to the poor and the needy.¹⁷

5. Many irregularities are pointed out in the cash disbursements and distributions of Zakah funds. Total collection of Zakah amounts to almost Rs.3 billion every year, but a substantial portion of these receipts goes unutilized.
6. Procedure of Zakah as prescribed by the Zakah and Ushr law of Pakistan is very cumbersome and time consuming.

Despite all criticism the levy of Zakah and Ushr in Pakistan is a bold act of the Government of Pakistan and is a step forward in our venture to establish Islamic order in the country.¹⁸

2.2 Charge of Tax and Islamic Tenets

9. Charge of income tax: (1) Subject to the provisions of this Ordinance, there shall be charged, levied and paid for each assessment year commencing on or after the first day of July, 1979, income tax in respect of the total income of the income year or year, as the case may be, of every person at the rate or rates specified in the First Schedule:

(1-A) Notwithstanding anything contained in Section 37 of the Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 1980 (XXXI Of 1980), or any other law for the time being in force, there shall be charged, levied and paid

for each assessment year commencing on or after the first day of July, 1993, income tax in respect of the total income of a modaraba at the rate specified in the First Schedule:

Provided that the total income of a modaraba shall not be chargeable to tax for the first three assessment years after the commencement of its business if not less than ninety percent of its profits in a year is distributed, to the modaraba certificate holders].¹⁹

10. charge of Super tax and surcharge: (1) In addition to the income tax charged for any year, there shall be charged, levied and paid for that year in respect of the total income, or any part thereof of the income year or years, as the case may be, of every person, an additional duty of income tax (in this Ordinance referred to as 'super tax') and surcharge at the rate or rates specified in the First Schedule.²⁰

Evaluation /Comments

Section 9 is about charge of tax. It determines various concessions for Modarab companies. This clause really represents the Islamic modes of financing, so the relevant laws are justified because it encourages the Islamic financing system.²¹

Section 10 relates with super Tax and Surcharge. It empowers the income tax Authorities to impose additional Tax

and surcharge on the assessee due to the delayed or failure of filing of return of Tax or payment of Tax. This section is against the Islamic spirit of taxation because any amount received in addition is unjust.²²

Section 11&12 indicates the incomes which are deemed to accrue or arises in Pakistan and chargeable to tax under the law. It carry's the justified principles which relates to scope of total income for tax purposes these both sections relates will the concept of incomes.²³

Section 13 determines various unexplained investments deemed to the income of any person or firm. By this law the income authorities are empowered to reopen the assessments and include such income with the already assessed or declared previous income along with certain penalties sometimes equal to tax. ²⁴

This section includes interest (Riba) which is strictly prohibited by Allah (SWT).

Section 14 of the Income Tax ordinance 1979 is related with such incomes which are exempted from tax. So this section will be discussed in next papers.

Section 15 to 33 deals with the Heads of Income including deductions and computation of total income. These sections will also be discussed in the light of Islamic principles earlier in next pages.

Section 34 and 35 Throw lights on "set off of losses of certain companies and carry forward of business losses.²⁵ According to these sections the assesses are given such facilities and concessions not only to bear the losses but to run their business continuously in next three to five income years. Such actions are helpful to promote economy. So these are commendable actions of the government.

Section 36 pertains to various concessions to those people who run the speculation business.²⁶ It also elaborates the relief for speculation losses and compels their owners to carry on their unlawful business. So this section is entirely against the concept of Halal & Haram in Islamic Shariah,

Some Verse and Ahadith are being presented in this regard:-

Some verses About Halal & Haram. (Lawful and unlawful)

﴿ فَإِنْ أَمِنَ بَعْضُكُم بَعْضًا فَلْيُؤَدِّ الَّذِي أُؤْتِمِنَ أَمْنَتَهُ وَلْيَتَّقِ اللَّهَ رَبَّهُ ۖ وَلَا تَكُونُوا الشَّاهِدَةَ ۚ وَمَنْ يَكْتُمْهَا فَإِنَّهُ آثِمٌ قَلْبُهُ ۗ وَاللَّهُ بِمَا تَعْمَلُونَ عَلِيمٌ ۖ ﴾²⁷

1. And if one of you entrusted to an other, let him who is trusted deliver up that which is entrusted to him and let him observe his

duty to Allah (SWT), his lord.

﴿وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا جِزَاءُ بِمَا كَسَبَا تَكْلًا مِّنْ

اللَّهِ وَاللَّهُ عَزِيزٌ حَكِيمٌ﴾ 28.

2. As for the thief, both male and female, cut off their hands. It is the reward of their own – deeds, an exemplary punishment from Allah (SWT). Allah (SWT) is Might wise.

﴿يَتَأْتِيَ الَّذِينَ ءَامَنُوا إِنَّمَا الْحُمُرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَمُ

رِجْسٌ مِّنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ﴾ 29.

3. Ye who believe! Strong drink and games of chance and idols and divining arrows are only a infamy of satins handiwork, Leave it aside in order that ye may succeed.

﴿إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ

فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِّنْ خَلْفٍ

أَوْ يُنْفَوْا مِنَ الْأَرْضِ ذَلِكَ لَهُمْ خِزْيٌ فِي الدُّنْيَا وَلَهُمْ فِي

الْآخِرَةِ عَذَابٌ عَظِيمٌ﴾ 30

4. The only reward of those who make war upon Allah (SWT) and his messenger and strive offer corruption in the land will be that they will be killed or crucified, or have

their hands and feet in alternate sides cut off, or will be expelled out of the land, and in the hereafter theirs will be a full doom.

﴿ وَلَا تَقْرَبُوا الزَّانِيَ إِنَّهُ كَانَ فَحِشَةً وَسَاءَ سَبِيلًا ﴾ 31

5. And come not near unto a dilatory. Lo! It is an abomination and evil way.

﴿ الزَّانِيَةُ وَالزَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِّنْهُمَا مِائَةَ جَلْدَةٍ وَلَا تَأْخُذْكُمْ بِهِمَا رَأْفَةٌ فِي دِينِ اللَّهِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَلَيْشَهِدَ عَذَابُهُمَا طَآئِفَةٌ مِّنَ الْمُؤْمِنِينَ ﴾ 32

6. The adulterer and adulteress, punish ye each one of them (with a hundred stripes.)

﴿ إِنَّ الَّذِينَ يُحِبُّونَ أَنْ تَشِيعَ الْفَاحِشَةُ فِي الَّذِينَ ءَامَنُوا لَهُمْ عَذَابٌ أَلِيمٌ فِي الدُّنْيَا وَالْآخِرَةِ وَاللَّهُ يَعْلَمُ وَأَنْتُمْ لَا تَعْلَمُونَ ﴾ 33

7. Lo! Those who love that slander should be spread concerning those who believe theirs will be a painful punishment in the world and the hereafter, Allah (SWT) knoweth, ye know not.(al-Noor,24:19)

﴿ يَسْأَلُونَكَ عَنِ الْخَمْرِ وَالْمَيْسِرِ قُلْ فِيهِمَا إِثْمٌ كَبِيرٌ وَمَنْفَعَةٌ لِلنَّاسِ وَإِثْمُهُمَا أَكْبَرُ مِنْ نَّفْعِهِمَا ۗ وَيَسْأَلُونَكَ مَاذَا يُنْفِقُونَ قُلِ

الْعَفْوُ ۚ كَذَلِكَ يُبَيِّنُ اللَّهُ لَكُمْ الْآيَاتِ لَعَلَّكُمْ تَتَفَكَّرُونَ ﴾ 34

8. They Question thee about strong drink

and games of chance. Say: In both is great sin, and (some) utility for men; but the sin of them is greater than their usefulness. And they ask thee what they ought to spend. Say: That which is superfluous. Thus Allah (SWT) maketh plain to you (His) revelations that hapily ye may reflect.

﴿يَتَأْتِيهَا الَّذِينَ ءَامَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا ۝ 35﴾

9. O ye who believe! Squander not your wealth among yourselves in vanity. Except it be a trade by mutual consent. And kill not one another. Lo! Allah (SWT) is ever Merciful unto you.

﴿وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْلُوا بِهَا إِلَى الْحُكَّامِ لِيَأْكُلُوا فَرِيقًا مِّنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ ۝ 36﴾

10. And eat not up your property among yourselves in vanity, nor seek by it to gain the hearing of the judges that ye may knowingly devour a portion of the property of others wrongfully.

﴿وَمَا كَانَ لِمُؤْمِنٍ وَلَا مُؤْمِنَةٍ إِذَا قَضَى اللَّهُ وَرَسُولُهُ أَمْرًا أَنْ يَكُونَ

لَهُمُ الْحِكْمَةُ مِنْ أَمْرِهِمْ وَمَنْ يَعْصِ اللَّهَ وَرَسُولَهُ فَقَدْ ضَلَّ ضَلَالًا

مُبِينًا ﴿٣٧﴾

11. And it becometh not a believing man or a believing woman, when Allah (SWT) and His messenger have decided an affair (for them), that they should (after that) claim any say in their affair: and whoso is rebellious to Allah (SWT) and His messenger, he verily goeth astray in error manifest.

2:3 Income Tax Ordinance and Allowances

According to Section 42 of Income Tax Ordinance, an assessee is entitled to claim the benefit of purchasing some professional, scientific and technical books. But in section 45 the limitation of such relief is bounded up to (33%) of total income so read these Section 42 of the I.T. Ordinance, 1979.

42- Allowance for purchase of books: - subject to the provision of section 45- An assessee shall be entitled to an allowance in respect of any sum expended by him in the income year on the purchase of books of professional or technical nature or of scientific or general knowledge.³⁸

Section 45 reads:

45- Limitation as to relief: - the aggregate of the allowance under section 39, 40, 41, 43, and 44 shall not exceed one-

third 1/3 of the total income of the assessee or fifty thousand rupees – whichever is less.³⁹

The above mentioned restrictions are against the commandments of the Holy Qur'an.

A: Qard-e-Hasanah and Income Tax law

Section 12(7) of the Income Tax Ordinance, 1979 reads:-

12(7) where an assessee has made any loan or advance to any person on which no interest has been charged or the rate as which interest has been charged is less than the rate (hereinafter referred to as the said rate) arrived at by adding two percent to the bank rate notified by the state Bank of Pakistan as applicable on the date on the date on which the loan or advance was made, the amount not charged or the interest actually charged shall be deemed to be the income of the assessee and shall be included in his total income.⁴⁰

B: Donation and spending for the sake of God.

Section 47 of the Income Tax Ord. 1979 reads:-

47- Allowance for donations for charitable purposes...

(1) An assessee shall be entitled to an allowance in respect of any sum claimed by him in any income year as donation to:-

- a. any Board of Education in Pakistan or any university in Pakistan established or incorporated by or under any Federal or provincial Act or any educational institution in Pakistan affiliated to any such board of Education or University, or

recognized, aided or run by Government or run by any local authority: or

- b. Any hospital in Pakistan recognized, aided or run by Government or run by a local authority: or
- c. Any relief fund sponsored or approved by Government or
- d. Any other institution or fund which is established in Pakistan for a religious or charitable purpose and is approved by Central Board of Revenue for the purposes of this Section.

Save as otherwise revised in this Ordinance, any allowance admissible or any sum exempted from Tax under any provision contained in this ordinance shall be included in the total income, but deducted from such income for the purposes of computing the tax payable by an assessee.⁴¹

Such restrictions are unjust in the light of the following Verses:-

﴿وَإِذْ أَخَذْنَا مِيثَاقَ بَنِي إِسْرَءِيلَ لَا تَعْبُدُونَ إِلَّا اللَّهَ وَبِالْوَالِدَيْنِ إِحْسَانًا وَذِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسْكِينِ وَقُولُوا لِلنَّاسِ حُسْنًا وَأَقِيمُوا الصَّلَاةَ وَآتُوا الزَّكَاةَ ثُمَّ تَوَلَّيْتُمْ إِلَّا قَلِيلًا مِّنْكُمْ وَأَنتُمْ مُّعْرِضُونَ﴾⁴²

1. And (remember) when we made a covenant with the Children of Israel,

(saying): worship none save Allah (only) and be good to parents and to kindred and to kindly to mankind; and establish worship and pay the poor-due. Then, after that, ye slid back, save a few of you, being averse.

﴿مَنْ ذَا الَّذِي يُقْرِضُ اللَّهَ قَرْضًا حَسَنًا فَيُضَاعِفَهُ لَهُ أَضْعَافًا

كَثِيرَةً ۚ وَاللَّهُ يَقْبِضُ وَيَبْصُطُ وَإِلَيْهِ تُرْجَعُونَ ۝ 43

2. Who is it that will lend unto Allah a goodly loan, so that he may give it increase manifold? Allah (SWT) straiteneth and enlargeth. Unto Him ye will return.

﴿وَمَنْ كَانَ غَنِيًّا فَلْيَسْتَعْفِفْ ۖ وَمَنْ كَانَ فَقِيرًا فَلْيَأْكُلْ بِالْمَعْرُوفِ ۚ

فَإِذَا دَفَعْتُمْ إِلَيْهِمْ أَمْوَالَهُمْ فَأَشْهَدُوا عَلَيْهِمْ ۚ وَكَفَىٰ بِاللَّهِ حَسِيبًا ۝ 44

3. Whoso (of the guardians) is rich, let him abstain generously (from taking of the property of orphans) and whoso is poor let him take thereof in reason (for his guardianship). And when ye deliver up their fortune unto orphans, have (the transaction) witnessed in their presence. Allah (SWT) sufficeth as a Reckoner.

﴿وَأَعْبُدُوا اللَّهَ وَلَا تُشْرِكُوا بِهِ شَيْئًا ۚ وَبِالْوَالِدَيْنِ إِحْسَانًا وَبِذِي

الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسْكِينِ وَالْجَارِ ذِي الْقُرْبَىٰ وَالْجَارِ الْجُنُبِ

وَالصَّاحِبِ بِالْجَنبِ وَابْنِ السَّبِيلِ وَمَا مَلَكَتْ أَيْمَانُكُمْ إِنَّ اللَّهَ لَا
يُحِبُّ مَنْ كَانَ مُخْتَالًا فَخُورًا ﴿45﴾

4. And serve Allah: and ascribe nothing as partner unto Him. (Show) kindness unto parents, and unto near kindred, and orphan, and the needy, and unto the neighbor who is of kin (unto you) and the neighbor who is not of kin, and the fellow-traveller and the wayfarer and (the slaves) whom your right hands possess. Lo! Allah (SWT) loveth not such as are proud and boastful.

﴿وَالَّذِينَ يُنْفِقُونَ أَمْوَالَهُمْ رِئَاءَ النَّاسِ وَلَا يُؤْمِنُونَ بِاللَّهِ وَلَا
بِالْيَوْمِ الْآخِرِ وَمَنْ يَكُنِ الشَّيْطَانُ لَهُ قَرِينًا فَسَاءَ قَرِينًا﴾ ﴿46﴾

5. And (also) those who spend their wealth in order to be seen of men, and believe neither in Allah (SWT) nor the Last Day. Whose taketh Satan for a comrade, a bad comrade hath he.

﴿وَقَضَىٰ رَبُّكَ أَلَّا تَعْبُدُوا إِلَّا إِيَّاهُ وَبِالْوَالِدَيْنِ إِحْسَانًا إِمَّا يَبُلُغَنَّ
عِنْدَكَ الْكَبَرُ أَحَدُهُمَا أَوْ كِلَاهُمَا فَلَا تَقُلْ لَهُمَا أُفٍّ وَلَا
تَنْهَرَهُمَا وَقُلْ لَهُمَا قَوْلًا كَرِيمًا﴾ ﴿47﴾

6. Thy Lord hath decreed, that ye worship

none save Him, and (that ye show) kindness to parents. If one of them or both of them attain to old age with thee, say not "Fie" unto them nor repulse them, but speak unto them a gracious word.

﴿وَأَاتِ ذَا الْقُرْبَىٰ حَقَّهُ وَالْمِسْكِينَ وَابْنَ السَّبِيلِ وَلَا تَبْذِرْ
تَبْذِيرًا﴾ 48

7. Give the kinsman his due, and the needy, and the wayfarer, and squander not (thy wealth) in wantonness.

﴿وَلَا تَجْعَلْ يَدَكَ مَغْلُولَةً إِلَىٰ عُنُقِكَ وَلَا تَبْسُطْهَا كُلَّ الْبَسْطِ
فَتَقْعَدَ مَلُومًا مَّحْسُورًا﴾ 49

8. And let not thy hand be chained to thy neck nor open it with a complete opening, lest thou sit down rebuked, denuded.

﴿وَلَا يَأْتَلِ أُولُوا الْفَضْلِ مِنْكُمْ وَالسَّعَةِ أَن يُؤْتُوا أُولَى الْقُرْبَىٰ
وَالْمَسْكِينِ وَالْمُهَاجِرِينَ فِي سَبِيلِ اللَّهِ وَلْيَعْفُوا وَلْيَصْفَحُوا
أَلَا تَحِبُّونَ أَن يَغْفِرَ اللَّهُ لَكُمْ وَاللَّهُ غَفُورٌ رَّحِيمٌ﴾ 50

9. And let not those who possess digmty and ease among you swear not to give to the near of kin and to the needy, and show indulgence. Yearn ye not that Allah (SWT) may forgive you? Allah (SWT) is

Forgiving, Merciful.

﴿وَأَخْفِضْ جَنَاحَكَ لِمَنِ اتَّبَعَكَ مِنَ الْمُؤْمِنِينَ﴾ 51

10. And lower thy wing (in kindness) unto those believers who follow thee.

﴿وَوَصَّيْنَا الْإِنْسَانَ بِوَالِدَيْهِ حُسْنًا وَإِنْ جَاهَدَاكَ لِتُشْرِكَ بِي مَا لَيْسَ لَكَ بِهِ عِلْمٌ فَلَا تُطِعْهُمَا إِلَىٰ مَرْجِعُكُمْ فَأُنَبِّئُكُم بِمَا كُنتُمْ تَعْمَلُونَ﴾ 52

11. We have enjoined on man kindness to parents, but if they strive to make thee join with Me that of which thou hast no knowledge, then obey them not, Unto Me is your return and I shall tell you what ye used to do.

﴿وَوَصَّيْنَا الْإِنْسَانَ بِوَالِدَيْهِ حَمَلَتْهُ أُمُّهُ وَهْنًا عَلَىٰ وَهْنٍ وَفَصَّلَهُ فِي

عَامَيْنِ أَنْ اشْكُرْ لِي وَلِوَالِدَيْكَ إِلَىٰ الْمَصِيرِ﴾ 53

12. And we have enjoined upon man concerning his parents- His mother beareth him in weakness upon weakness and his weaning is in two years – Give thanks unto Me and unto thy parents. Unto Me is the journeying.

﴿وَلَا تُصَعِّرْ خَدَّكَ لِلنَّاسِ﴾ 54

13. Turn not thy cheek in scorn toward folk,

﴿إِنَّ الْمُصْذِقِينَ وَالْمُصْذِقَاتِ وَأَقْرَضُوا اللَّهَ قَرْضًا حَسَنًا يُضَعَفُ لَهُمْ وَلَهُمْ أَجْرٌ كَرِيمٌ﴾ 55

14. Lo! Those who give alms, both men and women, and lend unto Allah (SWT) a goodly loan, it will be doubled for them, and theirs will be a rich reward.

﴿إِنْ تَقْرَضُوا اللَّهَ قَرْضًا حَسَنًا يُضَعِفْهُ لَكُمْ وَيَغْفِرْ لَكُمْ وَاللَّهُ شَكُورٌ حَلِيمٌ﴾ 56

15. If ye lend unto Allah (SWT) a goodly loan, He will double it for you and will forgive you, for Allah (SWT) is Responsive, clement.

﴿وَيُطْعِمُونَ الطَّعَامَ عَلَى حُبِّهِ مِسْكِينًا وَيَتِيمًا وَأَسِيرًا﴾ إِنَّمَا نُطْعِمُكُمْ لِوَجْهِ اللَّهِ لَا نُرِيدُ مِنْكُمْ جَزَاءً وَلَا شُكْرًا﴾ 57

16. And feed with food the needy wretch, the orphan and the prisoner, for love of Him ﴿﴾ (Saying): We feed you for the sake of Allah (SWT) only. We wish for no reward nor thanks from you.

﴿كَلَّا بَلْ لَا تَكْرُمُونَ الْيَتِيمَ﴾ وَلَا تَحْضُونَ عَلَى طَعَامِ الْمَسْكِينِ ﴿﴾ وَتَأْكُلُونَ التُّرَاثَ أَكْلًا لَمًّا ﴿﴾ وَتَحْبُوتُ أَلْمَالِ حُبًّا جَمًّا﴾ 58

17. Nay, but ye (for your part) honour not the orphan. ﴿٥٨﴾ and urge not on the feeding of the poor, ﴿٥٩﴾ And ye devour heritages with devouring greed. ﴿٦٠﴾ And love wealth with abounding love.

﴿وَمَا أَدْرَاكَ مَا الْعَقَبَةُ﴾ ﴿٥٨﴾ فَكُ رَقَبَةً ﴿٥٩﴾ أَوْ إِطْعَمٌ فِي يَوْمٍ ذِي مَسْغَبَةٍ ﴿٦٠﴾ يَتِيمًا ذَا مَقْرَبَةٍ ﴿٦١﴾ أَوْ مِسْكِينًا ذَا مَتْرَبَةٍ ﴿٦٢﴾ 59

18. Ah, what will convey unto thee what the Ascent is! ﴿٦٣﴾ (It is) to free a slave, ﴿٦٤﴾ And to feed in the day of hunger. ﴿٦٥﴾ An orphan near of kin, ﴿٦٦﴾ Or some poor wretch in misery.

﴿فَأَمَّا الْيَتِيمَ فَلَا تَقْهَرْ﴾ ﴿٦٣﴾ وَأَمَّا السَّائِلَ فَلَا تَنْهَرْ ﴿٦٤﴾ 60

19. Therefor the orphan oppress not, ﴿٦٥﴾ Therefor the beggar drive not away,

﴿فَذَلِكَ الَّذِي يَدْعُ الْيَتِيمَ﴾ ﴿٦٥﴾ وَلَا تَحْضُ عَلَى طَعَامِ الْمَسْكِينِ ﴿٦٦﴾ ﴿فَوَيْلٌ لِلْمُصَلِّينَ﴾ ﴿٦٧﴾ الَّذِينَ هُمْ عَنْ صَلَاتِهِمْ سَاهُونَ ﴿٦٨﴾ الَّذِينَ هُمْ يُرْءَوْنَ ﴿٦٩﴾ وَيَمْنَعُونَ الْمَاعُونَ ﴿٧٠﴾ 61

20. That is he who repelleth the orphan? ﴿٧١﴾ And urgeth not the feeding of the needy. ﴿٧٢﴾ Ah, woe unto worshippers. ﴿٧٣﴾ Who are heedless of their prayer; ﴿٧٤﴾ Who would be seen (at worship) ﴿٧٥﴾ Yet refuse small kindnesses.

Such section also checks the help and goodness for parents, Orphans, relatives, needy, dependents, neighbors, Servants, Prisoners and wayfarers whereas Islam has given solid instructions about their rights.

2.4 (Additional Tax under sections 88 to 104)

Recovery, Refunds and Tax Credit (under sections 94 to 102) in the Islamic perspective

Section 94 and 95 are about the procedure of refunds of Income Tax/wealth Tax receipts. According to these sections and sub. Sections the assessing authorities to impose additional tax and penalties due to delay or non-payment of tax at the rate of 15% to 35% and some time equal to tax in concealment cases.⁶²

Section 96 to 102 pertains the procedure of refund of tax and under section 102, Income Tax authorities are bound to return the excess amount (refund) along with the assessment orders and in the case of delay the assessee is admissible to receive only 15 percent other than the actual amount of refund.⁶³

In accordance with the income tax rules every negligence of the assessee is objectionable and every action of the Income Tax Authorities will be deemed a good act as mentioned "every thing done is done in good faith".

A: Additional Tax

Section 86, 87, 88, 89, 91 and 108-110 of income Tax ordinance are about additional Tax which is imposed at the rate of 10% to 35% on the person who fails to comply with the rules.⁶⁴

The Holy Qur'an tells about re-scheduling and postponement of the payment of Debts OR Loan:- ⁶⁵

However, according to the majority of the Muslim Jurists deliberate fault is punishable in the Islamic penal code by imprisonment and or fines payable to the state treasury. ⁶⁶

Besides these laws, there are so many discrepancies and unjustifications in the income Tax ordinance, section 162 which deprive of the people from justice that no body can challenge or suit against these rules.⁶⁷

Section 162 needas:-

Bar of suits in Civil Court:- No suit shall be brought in any civil court against any order made under this ordinance, and no prosecution, suit, or other proceedings shall be against any person for any thing in good faith done or intended to be done under this ordinance.⁶⁸

Some Verses pertaining to justice, refunds amanh, and additional payment are given below.

﴿وَإِنْ كُنْتُمْ عَلَى سَفَرٍ وَلَمْ تَجِدُوا كَاتِبًا فَرِهَيْنْ مَقْبُوضَةً فَإِنْ أَتَيْنِ

بَعْضُكُمْ بِبَعْضٍ ۖ﴾ ⁶⁹

1. If ye be on a journey and cannot find a scribe, then a pledge in hand (shall suffice). And if one of you entrusteth to another let him who is trusted deliver up that which is entrusted to him (according to the pact between them) and let him

observe his duty to Allah (SWT) his Lord.

﴿ إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ
النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ ۚ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ ۚ إِنَّ اللَّهَ كَانَ
سَمِيعًا بَصِيرًا ﴾ 70

2. Lo! Allah (SWT) commandeth you that ye restore deposits to their owners, and if ye judge between mankind, that ye judge justly. Lo! Comely is this which Allah (SWT) admonisheth you. Lo! Allah (SWT) is ever Hearer, Seer,

﴿ يَتَأْتِيهَا الَّذِينَ ءَامَنُوا كُونُوا قَوَّامِينَ بِالْقِسْطِ شُهَدَاءَ لِلَّهِ وَلَوْ عَلَىٰ
أَنْفُسِكُمْ أَوِ الْوَالِدِينَ وَالْأَقْرَبِينَ ۚ ﴾ 71

3. O ye who believe! Be ye staunch in justice, witnesses for Allah (SWT), even though it be against yourselves or (your) parents or (your) kindred.

﴿ يَتَأْتِيهَا الَّذِينَ ءَامَنُوا كُونُوا قَوَّامِينَ لِلَّهِ شُهَدَاءَ بِالْقِسْطِ ۚ وَلَا
يَجْرِمَنَّكُمْ شَنَاٰنُ قَوْمٍ عَلَىٰ أَلَّا تَعْدِلُوا ۚ أَعْدِلُوا هُوَ أَقْرَبُ
لِلتَّقْوَىٰ ۚ وَاتَّقُوا اللَّهَ ۚ إِنَّ اللَّهَ خَبِيرٌ بِمَا تَعْمَلُونَ ۚ ﴾ 72

4. O ye who believe! Be steadfast witnesses for Allah (SWT) in equity, and let not hatred of any people seduce you that ye deal not justly. Deal justly, that is nearer to

your duty. Observe your duty to Allah (SWT). Lo! Allah (SWT) is Informed of what ye do.

﴿ وَيَقْوِمُوا أَوْفُوا أَلْمِكْيَالَ وَالْمِيزَانَ بِالْقِسْطِ ۖ وَلَا تَبْخُسُوا ۖ

النَّاسَ أَشْيَاءَهُمْ وَلَا تَعَثُوا فِي الْأَرْضِ مُفْسِدِينَ ۖ ﴾ 73

5. O my people! Give full measure and full weight in justice, and wrong not people in respect of their goods. And do not evil in the earth, causing corruption.

﴿ وَلَا تَقْرَبُوا مَالَ الْيَتِيمِ إِلَّا بِالَّتِي هِيَ أَحْسَنُ حَتَّىٰ يَبْلُغَ

أَشُدَّهُ ۚ وَأَوْفُوا بِالْعَهْدِ ۖ إِنَّ الْعَهْدَ كَانَ مَسْئُولًا ﴿٧٤﴾ وَأَوْفُوا

الْكَيْلَ إِذَا كَلَّمْتُمْ وَزِنُوا بِالْقِسْطَاسِ الْمُسْتَقِيمِ ۚ ذَٰلِكَ خَيْرٌ

وَأَحْسَنُ تَأْوِيلًا ۖ ﴾ 74

6. Come not near the wealth of the orphan save with that which is better till he come to strength, and keep the covenant, Lo! Of the covenant it will be asked. ﴿٧٤﴾ Fill the measure when ye measure, and weigh with a right balance' that is meet, and better in the end.

﴿ الَّذِينَ إِذَا اكْتَالُوا عَلَى النَّاسِ يَسْتَوْفُونَ ﴿٧٥﴾ وَإِذَا كَالُوهُمْ أَوْ

وَزَنُوهُمْ يُخْسِرُونَ ۖ ﴾ 75

7. Those who when they take the measure from

mankind demand it full, ☸ But if they measure unto them or weigh for them, they cause them less.

B: Advance Tax and Income Tax Laws.

Section 50 and 53 are about advance tax and Interest so it must be cleared to every one that being a Muslim, No body is in favour of interest.

The section 50 and its sub-sections consist of the orders of compulsory deduction and compulsory payment. In fact it is another shape of advance tax which is deposited and adjusted before determining the annual total income at the end of every year.

According to these sections if any person fails to pay advance tax, he will be chargeable to pay 15% of the total tax additionally for this failure. But if the Government fail to pay refunds in time to assessee it is not a crime or offence.

See sections 50 and 53.

Section 50 is about deduction of tax at source including sub/section (1), (2), (3), (4), a, b, (i), (ii). (6), (7), (8), a, b, c, (9) a, (i), (ii) and b.⁷⁶

Section 53 is about advance payment of Tax including sub-section (1),(2),(3) and (4) of section 50, sub-section(9), sub-section(b):- any sum from which Tax is deductible

under this section shall be deemed to be income chargeable to tax under this ordinance.⁷⁷

So the above mentioned laws are exactly contrast to the above-cited commandments of the God.

Endnotes of Chapter No. 2

1. Muhammad Sharif Ch. (Member Income Tax Tribunal Lahore), "Taxation in Islam and Modern Taxes", p. 145-148.
2. Income Tax Manual, (Lahore: S.A Salam Publishers, 4th Ed), p. 1-6.
3. "Tax Planning under Direct Taxes" (Allah Abad, (India) Modern Law Publications 1990, 2nd Edition), p. 1-8.
4. Asif Saeed Khan Khosa the Constitution of Pakistan, 1973, (Lahore: Kausar Brothers Publishers, 1980), p. 185.
5. A.L. Dawa Law of Income Tax, (Allahabad: India, Modern Law Publishers, 1988), p. 305.
6. S.A. Salam, Complete Income Tax Laws up to rules 2000 (Lahore: Mansoor Book House), p. 11.
7. Wealth Tax Act 1963 with rulers 1984, (Lahore: Monsoor Books House), p. 35.
8. S. A. Salam, "Complete Income Tax Laws Upto Rules, 2000 (Lahore: Mansoor Book House), p. 11.
9. Muhammad Moazam Mughal, "Income Tax Principles and Practice" (Lahore: S. Mobin Muhammad & Co., Rattigon Road), p. 21.
10. Wealth Tax : Basic Laws and Guidance, (Islamabad: Central Board of Revenue), p. 13.
11. Wealth Tax Manual (Lahore: S.A. Salam Publishers), p. 11-14.
12. Federal Budget 2000-2001, (Islamabad: Ministry of Finance, June 2000).
13. Zakat and 'Ushr Ordinance 1980, (Islamabad: Central Zakat Administration, 1984), p. 11.

14. Zakat & 'Usher Ordinance 1979, (Section 5), p. 12.
15. Muhammad Ijaz, al-Adwā', (Lahore: Sh Zayed Islāmic Centre, Ramazan 1213), p. 11-13.
16. Zakat & Ushr Ordinance 1979, (Section 5), p. 17-18.
17. Muhammad Ahmad Ghazi Dr., Fikr-o-Nazar, (Islamabad: I.R.I, March & April 1983), p. 275.
18. M. Sharif Ch, Taxation in Islam and Modern Taxes, p. 176,
Ghaffari, Noor Muhammad Dr. Islām kā Qānoon-e-Maḥaṣal, p. 164-65.
19. The Income Tax Ordinance 1979, chapter No. 3, p. 20.
20. The Income Tax Ordinance 1979, chapter No. 3, p. 21.
21. For detail of Modarabah see:-
Wali ullah, Hujjat ullah-al-Balighah, Sayuherui' p. 2/116,
Hiffz-ur-Rehman, Islām kā Iqtisādi Nizām (Lahore: Idāra Islāmyāt, 1984),
p. 310-11,
Ibn-e-Najaim, al-Bahr al-Rāiq, p. 6/137,
Al-Jaziri, Abdul Rahman, Kitab-al-Fiqh 'alā Mazahi al-Asba'eh, (Ṭabē'h dār-al-Kutub, 1349 H), p. 424,
Al-Qadri, Muamnad Tahir Dr, Interest-Free Banking). Lahore: Idārah Minhāj al-Qur'ān, 1987), p. 710-71,
Jamil 'Attā, Banbing in Islamic Frameuark (Id.B 1995), (Jeddah: IRTI), p. 27,
Monzer Kahf and Tariq ullah Kham Dr. Priniuples of Islamic Financing, (Jaddah 1992), p. 15,

Abdur Rahim Hamdi, Islamic Banking, (Islamabad: Institute of Policy Studies, 1992), p. 15,

Muhammad Taqi Usmani: Justice, An Introduction to Islamic Finance, (Karachi: Idārahi Ma'ārif, 1994), p. 47.

22. Q 2: 283, Q 4: 58, 135, Q 5: 8, Q 11: 85, Q 17: 34-35 and Q 83: 2.
23. The Income Tax Ordinance 1979, chapter No. 3, p. 22-28.
24. The Income Tax Ordinance 1979, chapter No. 3, p. 29.
25. The Income Tax Ordinance 1979, chapter No. 4, p. 53-54.
26. The Income Tax Ordinance 1979, chapter No. 3, p. 35.
27. Q 2: 283.
28. Q 5: 38.
29. Q 5: 80.
30. Q 5: 33.
31. Q 17: 32.
32. Q 24: 2.
33. Q 24: 19.
34. Q 2: 219.
35. Q 4: 29.
36. Q 2: 188.
37. Q 33: 36.
38. The Income Tax Ordinance 1979, chapter No. 5, p. 63.

39. The Income Tax Ordinance 1979, chapter No. 5, p. 65.
40. The Income Tax Ordinance 1979, chapter No. 3, p. 25.
41. The Income Tax Ordinance 1979, chapter No. 5, p. 66.
42. Q 2: 83.
43. Q 2: 245.
44. Q 4: 6.
45. Q 4: 36.
46. Q 4: 38.
47. Q 17: 23.
48. Q 17: 26.
49. Q 17: 29.
50. Q 24: 22.
51. Q 26: 215.
52. Q 29: 8.
53. Q 31: 14.
54. Q 31: 18.
55. Q 57: 18.
56. Q 64: 17.
57. Q 76: 8-9.
58. Q 89: 17-20.

59. Q 90: 12–16.
60. Q 93: 9–10.
61. Q 107: 2–7.
62. The Income Tax Ordinance 1979, chapter No. 9, p. 125.
63. The Income Tax Ordinance 1979, chapter No. 10, p. 126–128.
64. The Income Tax Ordinance 1979, chapter No. 9, p. 114.
65. Q 2: 280.
66. Ibn-e-Hazam al-Maḥallāh, p. 6/156–58.
Al-Qardawi, Fiqh-al-Zakāh, p. 2/230.
Sayuharvi, Hafzur-Rehman, p. 133.
67. M. Sharif Ch, p. 109–10.
68. The Income Tax Ordinance 1979, chapter No. 14, p. 183.
69. Q 2: 283.
70. Q 4: 58.
71. Q 4: 135.
72. Q 5: 8.
73. Q 11: 85.
74. Q 17: 34–35.
75. Q 83: 2–3.
76. The Income Tax Ordinance 1979, chapter No. 4, p. 71–81.

77. The Income Tax Ordinance 1979, chapter No. 4, p. 82-83.

CHAPTER

NO.3

- † **Heads of income**
- † **Riba according to the Qur'an and Sunnah**
- † **Recommendations of the council of
Islamic ideology**
- † **Penalties offences and prosecutions**
- † **Evaluation of Arguments**

CHAPTER - III

Study of heads of income under sections 15 to 32 and penalties under sections 108 to 122

1. Heads of Income

An assessee may earn and receive income from different sources during an income year. For the purpose of charge of income tax and calculation of tax payable, the income is classified under six heads. These heads of income have been specified in section 15 of the Income Tax Ordinance 1979 and are as follows:

- a) Salary. (Section 16) ¹
- b) Interest on securities. (Section 17) ²
- c) Income from house property. (Section 19) ³
- d) Income from business or profession. (Section 22) ⁴
- e) Capital gains; and (Section 27) ⁵
- f) Income from other sources. (Section 30) ⁶

Each and every income earned by an assessee can be classified in one of these heads. The presence of the sixth head that is income from other resources makes it sure that any income which cannot be included in any of the first five heads must be taxed under this general head. ⁷

Despite our high – sounding claims of Islamization, very glaring un-Islamic provision still exist in our taxation codes. One such provision is with regard to charging of interest for delayed payments of tax and similarly payment of interest of delayed refunds. Interest has been prohibited by the Holly Qur'an and Sunnah. But we are charging it under different names like compensation, additional tax and penalties etc.⁸

In Islam every individual even a minor and a new born baby has got his own district personality and all the basic human rights, including the right to income and property accrue to him. Forcibly clubbing their income or their wealth is a violation of these rights. The provisions in the income tax law as well as wealth tax law pertaining to clubbing of income or wealth of family members tantamounts to converting a Muslim family into a Hindu undivided family which is un-Islamic.⁹

Incomes earned through lotteries, gambling, games of chance, prize schemes etc. were exempt from income tax up to the year 1989-90 when the government took a wise step to bring such income to tax though at a very low rate of tax. Such incomes are strictly prohibited by Islam and the need of the hour is to put an end to such incomes by clearly declaring them as illegal. Till that is done, the rates to tax on such incomes should be very high almost near the level of confiscation. Charging them at a lower rates of tax tantamounts to encouraging games of chance and also

providing cover for the tax evasion from other taxable incomes which is not approved by Islamic injunctions.¹⁰ As under:-

3:2 Riba (interest) According to the Qur'an and Sunnah

This portion contains all the Verses and selected Ahadith on riba, along with their English translations. They provide the foundations for the views expressed in this Text. so as to facilitate the reading and use of this work by a larger readership. However, details on how to derive the Ahkam from these Verses and Ahadith are available elsewhere.

QUR'AN AND RIBA

The various Verses are reproduced here, along with their English translations, keeping in view (i) their chronological order, (ii) their background and (iii) the complete Qur'anic texts in which occur the Verses with a mention of the word "riba"

a. First Revelation (5 Years before Hijra)

A hint was dropped for the believers that riba was something undesirable in the eyes of Allah (SWT): ¹¹

﴿ وَمَا آتَيْتُمْ مِنْ رَبًّا لِيَرْبُوْا فِيْ اَمْوَالِ النَّاسِ فَلَا يَرْبُوْا عِنْدَ
 اَللّٰهِ وَمَا آتَيْتُمْ مِنْ زَكٰوةٍ تُرِيْدُوْنَ وَجْهَ اَللّٰهِ فَاُولٰٓئِكَ هُمُ
 الْمُضْعِفُوْنَ ﴾ ¹²

And the riba-based givings (investments) on your part, in order to increase your wealth on

the basis of other people's (i.e....the borrowers') assets, do not increase from the point of view of Allah (SWT). However, rest assured about the acceptance of what you give by way of Zakah for the sake of Allah (SWT) those who give Zakah are the ones whose net worth increases manifold with Allah (SWT).

Second Revelation (Early Madni Period after Hijra)

In response Provocations of the Jews, Allah (SWT) recounted their major sins that invited His wrath upon them, however, as in most other cases; these Ayaat indirectly served the purpose of bringing the likes and dislikes of Allah (SWT) to the notice of Muslims.¹³

﴿ فَبُطِّلَ مِنَ الَّذِينَ هَادُوا حَرَّمْنَا عَلَيْهِمْ طَيِّبَاتٍ أُحِلَّتْ لَهُمْ وَبِصَدِّهِمْ عَنْ سَبِيلِ اللَّهِ كَثِيرًا ۖ وَأَخَذَهُمُ الرِّبَا وَقَدْ هُمُوا عَنْهُ وَأَكْلِهِمْ أَمْوَالَ النَّاسِ بِالْبَاطِلِ ۚ وَأَعْتَدْنَا لِلْكَافِرِينَ مِنْهُمْ عَذَابًا أَلِيمًا ۖ ﴾ لَكِنِ الرَّاسِخُونَ فِي الْعِلْمِ مِنْهُمْ وَالْمُؤْمِنُونَ يُؤْمِنُونَ بِمَا أُنزِلَ إِلَيْكَ وَمَا أُنزِلَ مِنْ قَبْلِكَ ۚ وَالْمُقِيمِينَ الصَّلَاةَ ۚ وَالْمُؤْتُونَ الزَّكَاةَ وَالْمُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ۚ أُولَٰئِكَ سَنُؤْتِيهِمْ أَجْرًا عَظِيمًا ۖ ۝ ۱۴

We (i.e. Allah (SWT)) decreed many a previously permitted things haram (prohibited for the Jews, because: (i) they did zulm

(injustice); (ii) they stopped others from the Way of Allah (SWT) in most of the matters; (iii) they charged riba despite having been forbidden to do so; and (iv) they ate into the wealth of others without any Shariah justification. And We have prepared a painful doom for these disobedient persons. However, We will give a great reward to those (among the Jews) who are clear-minded about the truth, without a grain of doubt, and who believe in the Qur'an and all other Revealed books, establish salah, give Zakah and believe in Allah (SWT) and in the Day of judgment.

c. Third Revelation (Shawwal 3 AH, after the Ghazwah of Uhud)

Riba was formally prohibited for the Muslims on this occasion.¹⁵

يَا أَيُّهَا الَّذِينَ ءَامَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ مِزَاجًا ۖ ذٰلِكُمْ سَوَءٌ ۚ
وَأَتَّقُوا اللَّهَ لَعَلَّكُمْ تُفْلِحُونَ ﴿١٥٦﴾ وَأَتَّقُوا النَّارَ الَّتِي أُعِدَّتْ
لِلْكَافِرِينَ ﴿١٥٧﴾ وَأَطِيعُوا اللَّهَ وَالرَّسُولَ لَعَلَّكُمْ تُرْحَمُونَ ﴿١٥٨﴾
وَسَارِعُوا إِلَىٰ مَغْفِرَةٍ مِّن رَّبِّكُمْ وَجَنَّةٍ عَرْضُهَا السَّمَوَاتُ
وَالْأَرْضُ أُعِدَّتْ لِلْمُتَّقِينَ ﴿١٥٩﴾ الَّذِينَ يُنْفِقُونَ فِي السَّرَّاءِ
وَالضَّرَّاءِ وَالْكَبِيرِ وَالْغَيْظِ وَالْعَافِينَ عَنِ النَّاسِ ۗ وَاللَّهُ يُحِبُّ

الْمُحْسِنِينَ ﴿١٦﴾ وَالَّذِينَ إِذَا فَعَلُوا فَحِشَةً أَوْ ظَلَمُوا
 أَنْفُسَهُمْ ذَكَرُوا اللَّهَ فَاسْتَغْفَرُوا لِذُنُوبِهِمْ وَمَنْ يَغْفِرِ الذُّنُوبَ
 إِلَّا اللَّهُ وَلَمْ يُصِرُّوا عَلَىٰ مَا فَعَلُوا وَهُمْ يَعْلَمُونَ ﴿١٧﴾ أُولَٰئِكَ
 جَزَاؤُهُمْ مَغْفِرَةٌ مِّن رَّبِّهِمْ وَجَنَّاتٌ تَجْرِي مِن تَحْتِهَا الْأَنْهَارُ
 خَالِدِينَ فِيهَا وَنِعَمَ أَجْرُ الْعَامِلِينَ ﴿١٨﴾

O Believers, don't ear riba on top of riba. And be afraid of Allah (SWT) so that you may be successful.❀ And obey Allah (SWT) and the Messenger (SAAWS) so that you may benefit from Allah's (SWT) Mercy.❀ And rush towards the forgiveness of uour Lord and the paradise whose boundary spans the heavens and the earth; it (the paradise) is prepared for the Allah (SWT) –conscious.❀ [As to who are the Allah (SWT)-conscious, note that] They are the people who spend for the sake of Allah (SWT) in both good and bad times, who control their temper and who forgive others. Surely Allah (SWT) holds such mohineen (benefactors) very dear.❀ Moreover, they are the ones who, in the event of committing any mistake or anything against their al-Aakhirah interests, remember Allah (SWT) and seek His forgiveness for their sins. After all, who is it except Allah (SWT) who

can exonerate failings? Furthermore, they are the people who do not insist on their mistakes knowingly. ﴿٢٠﴾ They will be rewarded by their Lord with forgiveness and gardens, with streams flowing underneath, to live therein (forever). This is indeed an excellent reward (waiting) for those who do good. ﴿٢١﴾

d. Fourth Revelation (Shortly after Aale Imran 3:130-136)

Adversaries of Islam called into question the decree in Aale Imran 3:130 by drawing parallels between profits (in trading) and riba. Moreover, while application of the decree to new transactions was obvious, some of the companions of the Prophet SAAWS were not clear about handling the then existing riba- based debts and the riba already claimed. These issues are addressed in the following Verses:¹⁷

﴿٢٢﴾ الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي
يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ذَٰلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ
الرِّبَا ۗ وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا ۚ فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ
رَبِّهِ فَاتَّبَعَهَا فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ ۗ وَمَنْ عَادَ فَأُولَٰئِكَ
أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ ﴿٢٣﴾ يَمْحَقُ اللَّهُ الرِّبَا وَيُرْبِي
الصَّدَقَاتِ ۗ وَاللَّهُ لَا يُحِبُّ كُلَّ كَفَّارٍ أَثِيمٍ ﴿٢٤﴾ إِنَّ الَّذِينَ ءَامَنُوا
وَعَمِلُوا الصَّالِحَاتِ وَأَقَامُوا الصَّلَاةَ وَآتَوُا الزَّكَاةَ لَهُمْ أَجْرُهُمْ

عِنْدَ رَبِّهِمْ وَلَا خَوْفٌ عَلَيْهِمْ وَلَا هُمْ يَحْزَنُونَ ﴿١٨﴾

Riba-eaters will get up on the Day of judgment like someone driven to madness by the Devil with his evil touch. This will happen because of their claim that (profit on) bai' or trading is the same as riba, whereas Allah (SWT) has permitted bai' and prohibited riba. Whoever received the advice from his Lord [as per Aale Imran 3:130] and (hence) stayed away from riba, the riba already charged is for him, and his matter is with Allah (SWT). However, all those who continue to charge riba (in lieu of the outstanding loans and debts or sign up fresh ribawi contracts), they belong to the Hell where they shall live. ❀ Allah (SWT) mitigates riba and multiplies sadaqaat (charities). And Allah (SWT) does not like any thankless sinner. ❀ Verily, those who are believers and who do good deeds, establish salah and discharge Zakah obligations, they have their reward with their Lord. They have nothing to fear or to be sorry about. ❀

e. Fifth Revelation (9 or 10 AH, before Hajjat-ul-Widaa. The Farewell Pilgrimage)

Two newly Muslim families, one from Makkah and the other from the tribe of Thaqeef, Quarreled over a ribawi debt

contracted before they embraced Islam. The creditors sought exception to the Ahkam in force at the time or, perhaps, immediate settlement of the accounts that the debtors could not afford. The matter was referred to the Prophet SAAWS and settled by Allah (SWT) as follows:¹⁹

يَا أَيُّهَا الَّذِينَ ءَامَنُوا اتَّقُوا اللَّهَ وَذَرُوا مَا بَقِيَ مِنَ الرِّبَا إِن كُنْتُمْ مُؤْمِنِينَ ﴿٢٧٨﴾ فَإِن لَّمْ تَفْعَلُوا فَأْذَنُوا بِحَرْبٍ مِّنَ اللَّهِ وَرَسُولِهِ ^ط وَإِن تُبْتُمْ فَلَكُمْ رُءُوسُ أَمْوَالِكُمْ لَا تَظْلِمُونَ وَلَا تُظْلَمُونَ ﴿٢٧٩﴾ وَإِن كَانِ ذُو عُسْرَةٍ فَنَظِرَةٌ إِلَىٰ مَيْسَرَةٍ وَأَن تَصَدَّقُوا خَيْرٌ لَّكُمْ ^ط إِن كُنْتُمْ تَعْلَمُونَ ﴿٢٨٠﴾ وَاتَّقُوا يَوْمًا تُرْجَعُونَ فِيهِ إِلَى اللَّهِ ^ط ثُمَّ تُوَفَّى كُلُّ نَفْسٍ مَّا كَسَبَتْ وَهُمْ لَا يُظْلَمُونَ ﴿٢٨١﴾ 20

O you (who claim to be) believers, fear Allah (SWT) and give up whatever is left in lieu of riba if you are indeed believers.❀ Watch out! If you do not obey this order (and give up all outstanding riba). Then there is a declaration of war against you from Allah (SWT) and His Prophet. However, if you do Tawbah (i.e, repent, along with the resolve to make amends for past mistakes), you have an entitlement only to your principals. Neither you inflict zulm on others, nor the others should do zulm on you.❀

In the process of settling any outstanding accounts, if the debtor is in a tight situation, give him grace period until he can manage to clear the dues against him [to the extent of the principal]. However, if you consider converting the outstanding debts into Sadaqah (charity), that would be better for you if you could understand.❀ And be afraid of the Day on which you will be returned to Allah (SWT). At that time everyone will be fully rewarded for his actions, without being subjected to any zulm.❀

Selected Ahadith on riba

Some of the Ahadith that underscore the views expressed in this Blueprint are as follows.

1. Status of Various Parties to a Ribawi Transaction

عن جابر قال لعن رسول الله صلى الله عليه وسلم آكل الربا و
مؤكله و كاتبه وشاهديه وقال هم سواء. 21.

This narration is from jabir (RAA). He said that Allah's (SWT) Messenger SAAWS cursed the persons who ate riba, gave riba, documented a ribawi deal or stood witness to it. According to jabir, the Prophet SAAWS further said that all of the said persons were equal (in violating the Ahkam on riba and, hence, being subject to the curse.)

2. On Indulging in Riba

عن أبي هريرة قال: قال رسول الله صلى الله عليه وسلم : الربا سبعون حوباً أيسرها أن ينكح الرجل أمه. 22

This Hadith is reported by Abu Hurairah (RAA). According to him, the Prophet SAAWS said that the sin of riba equaled seventy sins with the slightest of them being equal, in despicability, to incest with one's own mother.

عن أبي هريرة قال: قال رسول الله صلى الله عليه وسلم: أتيت ليلة أُسري بي على قومٍ بطُولهم كالبيوت فيها الحيات تُرى من خارج بطونهم فقلتُ من هؤلاء يا جبرائيلُ قال هؤلاء أكله الربا. 23

This Hadith is narrated by Abu Hurairah (RAA). According to him, the Prophet SAAWS said as follows. " On the Night of Ascendance to the Heavens, I passed by a group of people who had tummies as big as houses, filled with snakes that could be seen from outside I asked the Arch-Angel Jibrael as to who they were, Jibrael said that they were the people who ate riba.

3. On Riba in Loans and Other Transactions

عن عبيد الله بن أبي يزيد سمع بن عباس يقول حدثني أسامة بن زيد أن رسول الله صلى الله عليه وسلم قال لا رباً إلا في التسيئة. 24

According to Obaidullah bin Yazid (RAA), he heard Ibne Abbas (RAA) Saying that Osama bin Zaid (RAA) told him as follows: "The Prophet SAAWS said that there was no riba except in lending.

عن عبيد الله بن أبي يزيد أنه سمع ابن عباس يقول أخبرني أسامة بن زيد أن النبي صلى الله عليه وسلم قال إنما الربا في النسيئة. 25

According to Obaidullah bin Abi Yazid (RAA). He heard Ibne Abbas (RAA) as saying that Osama bin Zaid (RAA) informed him (Ibne Abbas) as follows: "The Prophet SAAWS said that verily riba was in lending.

عن الأوزاعي قال حدثني عطاء بن أبي رباح أن أبا سعيد الخدري لقي ابن عباس فقال له أرايت قولك في الصرف أشياء سمعته من رسول الله صلى الله عليه وسلم أم شيئاً وجدته في كتاب الله عز وجل فقال ابن عباس كلاً لا أقول أمّا رسول الله صلى الله عليه وسلم فأنتم أعلم به وأمّا كتاب الله فلا أعلمه ولكن حدثني أسامة بن زيد أن رسول الله صلى الله عليه وسلم قال ألا إنما الربا في النسيئة. 26

This Hadith is narrated by Al-auza,ee. He said that Ata bin Abu Ribah reported as follows. Abu Saeed Khudri (RAA) met Ibne Abbas (RAA) and put the following question to him "What do you think about your views on the trading of

gold for silver? Have you heard anything from the Prophet SAAWS to support your point of view? Or, do you find something (to support you) in the Book of Allah (SWT) Azza wa jall? "The answer of Ibne Abbas was:" No, I never say so. As far as (attributing the said views to) the Prophet SAAWS is concerned, you know His teachings. And, as to the Book of Allah (SWT), I don't know much about it (on this issue). However, my claim is on the basis of what Osama bin Zaid (RAA) reported to me. That is, the Prophet SAAWS said ' Beware, indeed riba is in lending.

عن يحيى قال سمعتُ عُقْبَةَ بْنَ عَبْدِ الْغَاثِ أَنَّهُ سَمِعَ أَبَا سَعِيدٍ الْخُدْرِيَّ رَضِيَ اللَّهُ عَنْهُ قَالَ جَاءَ بِلَالٌ إِلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِتَمْرٍ بَرْنِيٍّ فَقَالَ لَهُ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَنْ أَيْنَ هَذَا؟ قَالَ بِلَالٌ كَانَ عِنْدَنَا تَمْرٌ رَدِيٌّ فَبَعْتُ مِنْهُ صَاعَيْنِ بِصَاعٍ لِنَطْعَمَ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عِنْدَ ذَلِكَ أَوْهَ أَوْهَ عَيْنُ الرَّبَِّا عَيْنُ الرَّبَِّا لَا تَفْعَلْ وَلَكِنْ إِذَا أَرَدْتَ أَنْ تَشْتَرِيَ فَبِعِ التَّمْرَ بِبَيْعٍ آخَرَ ثُمَّ اشْتَرِهِ. 27

This Hadith is from Yahya. He said that he heard it from Oqbah bin Abdul Ghafer , in turn, heard it from Abu Saeed khudri (RAA) Abu Saeed khudri said that once Bilal(RAA) brought to the Prophet SAAWS some burney (good

quality(dates. The Prophet SAAWS inquired as to where he got those dates from. Bilal replied "We had some radi (inferior) dates. I sold two saa' of them for one saa' of burney dates in order to give them to the Prophet SAAWS to eat." Upon hearing this, the Prophet SAAWS exclaimed: " Oh no! That is riba. That is exactly riba! Don't do that again. If you want to buy (good) dates for (inferior) dates next time, first sell your dates, and then buy the new ones with the sale proceeds.

عن أبي سعيد الخدري وعن أبي هريرة رضي الله عنهما أن رسول الله صلى الله عليه وسلم استعمل رجلاً على خير فجاءه بتمرٍ جنيبٍ فقال رسول الله صلى الله عليه وسلم أكلُ تمرٍ خيرٌ هكذا قال لا والله يا رسول الله إن لناخذُ الصَّاعَ من هذا بالصَّاعينِ والصَّاعينِ بالثلاثةِ فقال رسول الله صلى الله عليه وسلم لا تفعل بع الجمع بالدراهم ثم ابتع بالدراهم جنيًا.²⁸

This Hadith is narrated by Abu Saeed Khudri (RAA) The Prophet SAAWS appointed a person to look after the affairs of Khyber. He brought to the Prophet SAAWS dates of very good quality. The Prophet SAAWS inquired whether all dates of Khyber were like that. The person replied. No. O Prophet (SAAWS) of Allah (SWT), in fact we acquire one saa' of the

good dates in exchange for two saa, in exchange for three saa' " Upon hearing this , the Prophet SAAWS said : Don't do that. Sell all your dates for dirhams. Then bou the good dates with the dirhams.

عن عثمان بن عفان أنّ رسول الله صلى الله عليه وسلم قال لا تبيعوا الدينارين ولا الدرهم بالدرهمين.²⁹

It is on the authority of Othman bin Affan (RAA) that the Prophet SAAWS said: "Don't trade one dinar (gold coin) for two dinars and one dirham (silver coin) for two dirhams.

عن أبي سعيد الخدري أنّ رسول الله صلى الله عليه وسلم قال لا تبيعوا الذهب بالذهب ولا الورق بالورق إلا وزناً بوزن مثلاً سواءً بسواء.³⁰

It is on the authority of Abu saeed Khudri (RAA) that the Prophet SAAWS said: " Don't trade gold for gold or silver for silver except on the basis of waznamm-bi-wazn (weight), mithlamm-bi-mithl (like for like) and sawa'amm-bi-sawaa'(aqual for equal).

عن أبي سعيد الخدري قال : قال رسول الله صلى الله عليه وسلم الذهب بالذهب والفضة بالفضة والبر بالبر والشعير بالشعير والتمر بالتمر والملح بالملح مثلاً بمثل يداً بيد فمن زاد أو استزاد فقد أربى الآخذ والمُعطي فيه سواء.³¹

It is on the authority of Abu Saeed khudri (RAA) who reported that the Prophet SAAWS said: " while exchanging gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates and salt for salt, do so on mithlamm-bi-mithl (like for like) and yadamm-bi-yad (hand to hand or on spot) basis. Thus whosoever gave more or demanded more, verily he dealt in riba. Both the taker and the giver are equal—i.e., equally guilty—in this regard.

عن عبادة بن الصامت عن النبي صلى الله عليه وسلم قال
الذهب بالذهب مثلاً. بمثلٍ والفضة بالفضة مثلاً. بمثلٍ والتمر بالتمر
مثلاً. بمثلٍ والبر بالبر مثلاً. بمثلٍ والملح بالملح مثلاً. بمثلٍ والشعير
بالشعير مثلاً. بمثلٍ فمن زاد أو ازداد فقد أربى بيعوا الذهب
بالفضة كيف شئتم يداً بيد وبيعوا البر بالتمر كيف شئتم يداً بيد
وبيعوا الشعير بالتمر كيف شئتم يداً بيد.³²

Obadah b. Samett (RAA) directly reports the Prophet SAAWS as saying: " Buy and sell gold for gold, silver for silver, dates for dates , wheat for wheat, salt for salt and barley for barley on the mithlamm-bi-mithl (like for like) basis. Whosoever gave more or took more, verily he made a riba deal. However, trade gold for silver as you wish subject to the condition that the exchange be yadamm-bi-yad (on spot). Trade

wheat for dates or barley for dates likewise.

عن أبي قلابة قال كنت بالشَّامِ في حلقةٍ فيها مسلمٌ بن يسار فجاء أبو الأشعث قال: قالوا: أبو الأشعث أبو الأشعث فجلس فقلت له حدث أخانا حديث عبادة بن الصامت قال: نعم غزونا غزاةً وعلى الناس معاوية فغنمنا غنائم كثيرة فكان فيما غنمنا آنية من فضة فأمر معاوية رجلاً أن يبيعها في أعطيات الناس فتسارع الناس في ذلك فبلغ عبادة بن الصامت فقام فقال: إني سمعتُ رسول الله صلى الله عليه وسلم ينهى عن بيع الذهب بالذهب والفضة بالفضة والبرُّ بالبرِّ والشعير بالشعير والتَّمَرِ بالتَّمَرِ والملح بالملح إلَّا سواءً بسواءٍ عَيْنًا بعينٍ فمَنْ زَادَ أوِ ازْدَادَ فَقَدْ أَرَبَى فَرَدَّ النَّاسُ مَا أَخَذُوا فَبَلَغَ ذَلِكَ مُعَاوِيَةَ فَقَامَ خَطِيئًا فَقَالَ: أَلَا مَا بَالُ رِجَالٍ يَتَحَدَّثُونَ عَنِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَحَادِيثَ قَدْ كُنَّا نَشْهَدُهُ وَنَصَحْبُهُ فَلَمْ نَسْمَعْهَا مِنْهُ فَقَامَ عَبَادَةُ بْنُ الصَّامِتِ فَأَعَادَ الْقِصَّةَ ثُمَّ قَالَ: لُنَحْدِثَنَّ مَا سَمِعْنَا مِنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَإِنْ كَرِهَ مُعَاوِيَةُ أَوْ قَالَ وَإِنْ رَغِمَ مَا أَبَالِي أَنْ لَا أَصْحَبُهُ فِي جَنْدِهِ لَيْلَةً سَوْدَاءَ قَالَ حَمَّادٌ هَذَا أَوْ نَحْوُهُ حَدَّثَنَا إِسْحَقُ بْنُ إِبْرَاهِيمَ وَابْنُ أَبِي عُمَرَ جَمِيعًا عَنْ عَبْدِ الْوَهَّابِ الثَّقَفِيِّ عَنْ أَيُّوبَ بِهَذَا الْإِسْنَادِ نَحْوَهُ. 33

This narration is from Abu Qelabah. He told that he was sitting in Syria in a circle that also included Muslim bin Yasaar. There came Abul Ash'ath. According to Abu Qelabah, everybody

exclaimed: "Abul Ash'ath! Abul Ash'ath!" Abul Ash'ath joined the circle. Abu Qelabah asked him to narrate the Hadith of Obadah b. Samett (RAA) for a brother there. Abul Ash'ath agreed. His narration is as follows.

We (i.e. Abul Ash'ath and his colleagues) were on a military mission under the command of Moaawiyah (RAA). We gained a lot of spoils of war. Among them, there was a silver utensil. Moaawiyah derected a person to auction it against the salary due in favour of the soldiers. People showed great interest in the auction. When the news reached Obadah bin Samett, he stood up and said: " I heard the Prophet SAAWS forbidding the slae of gold fro gold, silver for silver, wheat for hwheat, barley for barley, dates for dates and salt for salt except on sawa'amm-bi-sawaa' (equal) and ainamm-bi-ain (like for like) basis. The Prophet SAAWS further said that if someone gave more or took more, he entered into riba. "As soon as the people heard this, they withdrew from the auction. When the news reached moaawiyah, he got up and addressed the people as follows: "What is the matter with the people that they attribute to the Prophet SAAWS the Ahadith that we did not listen even though we also saw the Prophet SAAWS and kept His company?" Obadah stood up

and repeated the whole thing. He then angrily said: "We will narrate what we heard from the Prophet SAAWS even though it might be unpleasant for Moaawiyah (or, he said: even if it is against the will of Moaawiyah)." Obadah further said: "I don't care even if it (i.e., contradicting Moaawiyah) costs me my stay with moaawiyah' S army on this very dark night.' According to Abu Qelabah, Hammad told the above or something more of less like it. – The compiler of the source book for this Hadith further states that he also heard it from Ishaq b. Ibrahim and Ibne Abi Omar both of whom narrated it on the authority of Abu-al- wahab thaqfi who, in turn, reported Ayub. At Ayub, the chain of narrators becomes the same as that for this Hadith.

عن فضالة بن عبيد قال كنا مع رسول الله صلى الله عليه وسلم يوم خيبر نبيع اليهود الوفية الذهب بالدينارين والثلاثة فقال رسول الله صلى الله عليه وسلم لا تبيعوا لذهب بالذهب إلا وزنا بوزن.³⁴

This narration is from Fadalah bin Obayd (RRA). He said that he and other companions of the Prophet SAAWA were with Allah's (SWT) Messenger (SAAWS) on the eve of the conquest of Khyber. They were trading one wuqiyyah (=7 mithqal) of gold for two or three

dinars with the Jews. When this came to the notice of the Prophet SAAWS. He SAAWS ordered: "Don't trade gold for gold except on the basis of waznamm-bi-wazn (equality in terms of weight).

عن فضالة بن عبيد الأنصاري يقول أتى رسول الله صلى الله عليه وسلم وهو بخير بقلادة فيها خرز وذهب وهي من المغانم تباع فأمر رسول الله صلى الله عليه وسلم بالذهب الذي في القلادة فترع وحده ثم قال لهم رسول الله صلى الله عليه وسلم الذهب وزنا بوزن.³⁵

This narration is from Fadalāh b. Obayd al-Ansari (RAA) who reports as follows. When the Prophet SAAWS was in Khyber, a gold necklace studded with precious stones was brought to Him SAAWS. This necklace, a part of the war booty, was up for sale. The Prophet SAAWS ordered that gold content of the necklace be separated from the rest. Thereafter, the Prophet SAAWS directed that the gold (of the necklace) be sold for gold on the basis of waznamm-bi-wazn (equality in weight).

عن معمر بن عبد الله قال كنت أسمع رسول الله صلى الله عليه وسلم يقول الطعام بالطعام مثلاً بمثل.³⁶

This Hadith is narrated by Ma'mer b. Abdullah

(RAA). He said that he used to hear the Prophet SAAWS as saying: "Exchange meal for meal mithlamm-bi-mithl (like for like).

عن عبد الله بن عمرو أن رسول الله صلى الله عليه وسلم امرأة أن يجهز جيشا فنفدت الإبل فأمره أن يأخذ في قِلاص الصدقة يأخذ البعير بالبعيرين إلى إبل الصدقة. 37

This Hadith is narrated by Abdullah B. Amr (RRA). Allah's (SWT) Messenger SAAWS directed him to make provisions for the army. When Abdullah ran out of camels, the Prophet SAAWS asked him to acquire camels against those of Zakah. Accordingly, Abdullah acquired one camel for two camels to be paid from the future Zakah proceeds.

وعن سرة أن النبي صلى الله عليه وسلم نهى عن بيع الحيوان بالحيوان نسيئة. 38

According to Samorah (RAA), the Prophet SAAWS Prohibited trading of animals for animals on credit.

عن ابن عمر قال كنت أبيع الإبل بالبقيع فأبيع بالدنانير وأخذ الدراهم فأتيت النبي صلى الله عليه وسلم في بيت حفصة فقلت يا رسول الله إني أريد أن أسألك إني أبيع الإبل بالبقيع بالدنانير وأخذ الدراهم قال لا بأس أن تأخذها بسعر يومها ما لم تفترقا وبينكما شيء. 39

This Hadith is from Ibne Omar (RAA). He reported that he used to sell camels in the market of Baqee' for dinars (gold coins) but received payment in dirhams (silver coins). He went to see the Prophet SAAWS in the house of Hafsah (RAAH), wife of the Prophet SAAWS, in order to inquire about the validity of his practice. He said: "O Prophet of Allah! (SWT) With all due respect, I want to know the Shariah position o fmy trading of camels in Baqee' whereby I sell camels for dinars but accept dirhams towards payment. " The Prophet SAAWS said: "There is no problem if you accept the payment in the form of dirhams provided that it is according to the exchange rate (agreed) at that time and that the transaction is fully settled-i.e, Payment also cleared – before both you and your client part company.

4. On Creditor- Debtor Relations

عن أنس مالك قال: قال رسول الله صلى الله عليه وسلم إذا أقرض أحدكم قرضا فأهدى له أو حملة على الدابة فلا يركبها ولا يقبله إلا أن يكون جرى وبينه وبينه قبل ذلك.⁴⁰

This Hadith is narrated by Anas b. Maalik (RAA). He reported that Allah's (SWT) Messenger SAAWS said as follows: "If

someone among you lends something to another person, the former should not accept from the latter any gift or a ride except when both have such dealings between them before the loan.

عن سيعد بن أبي بردة عن أبيه أتيت المدينة فلقيتُ عبد الله بن سلام رضي الله عنه فقال: إنك بأرض الربا بها فاش إذا كان لك على رجل حق فأهدى إليك حمل شعير أو حمل قث فلا تأخذه فإنه ربا. 41

This Hadith is by Saeed b. Abi Burdah (RAA), who reported it from his father. When the letter came to Madinah, he met Abdullah b. Salam (RAA) who said to him: "You (i.e., Abi Burdah) come from a land where riba is common. If you have a claim against someone, don't accept from him anything- be it some sickle, barley or grass- because that would be riba.

5. On Outstanding Loans and Debts

عن أبي قتادة قال: قال رجل يا رسول الله أرأيت إن قتلست في سبيل الله صابر محتسب مقبل غير مدبر يكفر الله عني خطاياي فقال رسول الله صلى الله عليه وسلم نعم فلما أدبر ناداه فقال نعم إلا الدين كذلك قال جبريل عليه السلام. 42

This Hadith is reported by Abu Qatadah (RAA). He said that a person inquired from the Prophet

SAAWS as follows. If that person was killed in the path of Allah (SWT) while he remained steadfast, self-critical and moved forward in the way of Allah (SWT) without ever turning his back, would Allah (SWT) forgive except outstanding debt. This is what (the Arch-Angel) Jibrael 'Alaihay Assalam has told me.

عن عمرو بن الشريد عن أبيه عن رسول الله صلى الله عليه وسلم قال لي الواجد يحلُّ عرضه وعقوبته. 43

This Hadith is narrated by Amr b. Shareed on the authority of father who, in turn, reported it from the Messenger SAAWS said that delay in the repayment of debt by a person, who can afford to repay, Legitimizes dishonoring him and punishing him.

عن أبي هريرة رضي الله عنه أن رسول الله صلى الله عليه وسلم قال مطلق فإذا أتبع أحدكم على ملي فليتبّع. 44

This Hadith is reported by Abu Hurairah (RAA). The Prophet SAAWS said as follows: "If a person is in a position to meet his debt obligations but delays repaying the debt (as per schedule), he is zalim (one who commits zulm). If someone is referred by the creditor to a malie' (a debtor who is willing to pay back the debt but cannot afford to do so at the moment), that person should accede to the request.

3:3 Recommendations of the council of Islamic Ideology

The council of Islamic Ideology of Pakistan in its meeting held on 3rd December, 1969, unanimously resolved that: "there is a unanimity among the members of the Council of Islamic Ideology that Riba is prohibited in all its manifestations and the rate of interest has no effect on its illegality. The Council carefully deliberated on different forms of transactions involving individuals and corporate bodies and arrived at the following opinion:

- a. Any amount receivable over and above the amount of loan, in respect of transactions between individuals, corporate bodies and the government is included in preview of Riba.
- b. Discount on short-term treasury bills is also included in Riba.
- c. Interest which is paid on savings certificates is included in Riba.
- d. Prize paid on Prize bonds is included in Riba.
- e. Interest that is paid on Provident Fund and Postal Insurance etc. is also included in Riba. ⁴⁵

Federal Shariat Court of Pakistan's Judgement On Interest

1. These WERE 115 Shariat Petitions and three Suo MOtu Shariat notice cases challenging the various provisions of interest provided in several statutes.

2. When the jurisdiction of this Court got restored to examine the fiscal laws since June 26, 1990, a number of Shariat Petitions were filed in this Court, challenging various fiscal laws, containing provisions regarding interest therein.
3. This court on 11th December, 1990, 6th January, 1991, 13th January, 1991, 23rd January, 1991 and 24th February, 1991, admitted to regular hearing the several Shariat Petitions, challenging a number of provisions of the fiscal laws relating to interest filed by that time. Further Shariat Petitions of similar nature continued being filed in this Court challenging the provisions of several laws relating to interest, which were amitted from time to time. Hearing of the last petition on interest concluded on 24.10.1991.
4. In order to decide these Shariat Petitions, the Court prepared a questionnaire relating to the impugned fiscal laws and sent it to distinguished "ulama" Scholars, economists and bankers of the country and abroad for their opinions to the said questions.

According to the Qur'anic illustrations, the literal meaning of Riba is, "increase". In the Shariah it means "an addition, however slight, over and over and above the principal", and thus includes both usury and interest. This finds support from the best authorities on Arabic language like Imam Raghīb Isfahani and Zubaydi. Refer their encyclopedic works Mufradat Al-Qur'an and Taj Al-arus.

The word "interest by and large, has now been accepted and is understood as Riba.

The word Riba appears to have the same meaning as the Hebrew neshec, which included gain, whether from the loan of money, or goods, or property of and kind. In the Mosaic Law, conditions of gain for the loan of money or goods were rigorously prohibited.

Therefore, Riba includes both "usuary" and" interest as known in English terminology. In legal sence, it is that excess amount which a "creditor" settles to receive or recover form his "debtor" in consideration of giving time to the said debtor for repayment of his loan.

It may, therefore, be stated that Riba forbidden in the Qur'an and the Sunnah includes interest due on the loans taken or given for commercial and productive purposes by banks or other financial institutions. This is obvious from the fact that at the time of the revelation of the Holy Qur'an, the Arabs used to take/give loans for commercial purposes on fixed rates of interest. ⁴⁶

3:4 PENALTIES, OFFNCES AND PROSECUTIONS

Penalty for Failure to Furnish

Return of Total Income

(Section 108(a))

Where any person has, without a reasonable cause, failed to furnish, within the time allowed for the purpose:

1. Annual return of income (Section 55)
2. Return of total income if required by
Deputy Commissioner of Income Tax by a notice (Section 56)
3. Return of total income required by the (Section 65(1))
Deputy Commissioner of Income Tax for
additional assessment
4. Return of total income in case of discontinued
business (Section 72 (3))
5. Return of total income in case of persons about (Section 81 (3))
to leave Pakistan

The Deputy Commissioner of Income Tax shall impose upon such person a penalty. The amount penalty will be equal to one tenth of one per cent of the tax payable for each day of default subject to a minimum of five hundred rupees and a maximum of twenty five per cent of tax payable. ⁴⁷

Penalty for Failure to Furnish Statements

(Section 108 (b))

Where any person, without a reasonable cause, fails to furnish, with the time allowed for the purpose:

1. Certificate of deduction tax, (Section 51)

2. Statement regarding salary, (Section 1239)
3. Statement regarding dividend, (Section 140)
4. Statement regarding interest, rent, etc., (Section 141)
5. Statement regarding payment to non-residents and contractors,
6. Statement regarding certain contracts, (Section 142)
7. Statement regarding certain properties, (Section 143A)
8. Statement regarding certain receipts to (Section 144)
income tax authorities, 48

The Deputy Commissioner of Income Tax shall impose an initial penalty of Rs. 200. Moreover a further sum of Rs. 200 for every day during which the default continues will also be payable.

Penalty for Failure to Maintain Prescribed Accounts (Section 109)

Where any person has, without a reasonable cause, failed to comply with the requirements of law regarding the methods of accounting as mentioned in Section 32(2), the Deputy Commissioner of Income Tax may impose penalty on such person equal to fifteen per cent of the tax payable, subject to a minimum of two thousand rupees.

Penalty for Non Compliance with Notice (Section 110)

Where any person has, without a reasonable cause, failed to comply with a notice of Deputy Commissioner of Income Tax:

1. Requiring wealth statement (Section 58)
2. Requiring production of books of accounts (Section 61)

the Deputy Commissioner of Income Tax may impose on him a penalty. The penalty will be equal to fifty per cent of the amount of tax which would have been avoided if the income as returned by such person had been accepted as the correct income.

Penalty for Concealment of Income etc.

(Section 111)

Where in the course of any proceedings under the Income Tax Ordinance, the Deputy Commissioner of Income Tax, the Commissioner of Income Tax or or the Appellate Tribunal is satisfied that any person has, either in the said proceedings or in any earlier proceedings relating to an assessment in respect of the 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 income or furnishing of inaccurate particulars of such income as aforesaid.

Concealment of income or the furnishing of inaccurate particulars of income shall include:

- (a) the suppression of any item of receipt liable to tax in whole or in part or failure to disclose income chargeable to tax;
- (b) claiming any deduction for or showing any expenditure not actually incurred; and
- (c) any act referred to in clause (aa), (b), (c) (d) and (e) of sub section (1) of Section 13. ⁴⁹

Penalty for Failure to Give Notice of

Discontinuance of Business or Profession

(Section 112)

Where any person fails to give a notice of discontinuance of business or profession at least 15 days before such discontinuance as required by Section 72, the Deputy Commissioner of Income Tax may impose a penalty on him. The maximum

amount of penalty in this case is equal to the tax payable for the income year in which the business was discontinued.

Penalty in the Case of Registered Firms

(Section 113)

Where a person liable to penalty under Sections 109, 110, 111 or 112 is a registered firm, the amount of penalty shall, notwithstanding anything contained in the Income Tax Ordinance, be calculated as if such registered firm were an unregistered firm.

Penalty for Failure to Give Notice by Liquidator

((Section 114)

Where the liquidator of a private company fails to give notice of his appointment as required by Section 76, the Deputy Commissioner of Income Tax may impose a penalty on such liquidator. The maximum amount of penalty should not exceed rupees ten thousand.

Penalty for Obstruction

(Section 115)

Where any person obstructs any income tax authority in the discharge of his function under Income Tax authority in the discharge of his function, under Income Tax Ordinance, a penalty can be imposed on such person not exceeding rupees ten thousand. This penalty can be imposed on such person not exceeding rupees ten thousand. This penalty is imposed by the Commissioner of Income Tax.

Conditions Regarding Imposition of Penalties

(Section 116)

The following conditions are to be observed while imposing the above mentioned penalties:

- (a) Deputy Commissioner of Income Tax should get prior approval of the Commissioner of Income Tax in writing before imposing the penalty; and

- (b) Before imposing the penalty, the assessee should be provided with a reasonable opportunity to defend his position. 50

And, the imposition of such penalty shall be without prejudice to any other liability incurred by such person under the Income Tax Ordinance 1979, the Income Tax Act 1922 or any other law for the time being in force. However, if a notice of hearing is given on or after 1.7.1990, no order of penalty shall be passed after the expiration of two years from the end of financial year in which such notice was served.

Prosecution for Non Compliance (Section 117)
of Certain Statutory Obligations

Where any person, without a reasonable cause:

1. fails to deduct tax at source (Section 50)
2. fails to pay advance tax (Section 53)
3. fails to file the return of income in response to the notice from Deputy Commissioner of Income Tax (Section 56)
4. fails to give notice of discontinuance of business (Section 72)
5. fails to give notice in case of a person about to leave Pakistan (Section 81)
6. fails to file wealth statement (Section 58)
7. fails to produce books of accounts (Section 61)
8. fails to file the re turn of income required by the Deputy Commissioner of Income Tax for additional assessment (Section 65)
9. fails to provide statement regarding receipts and payments if required by Income Tax authorities (Section 144)
10. fails to comply with the notices under Section 92 or Section 148
11. obstructs any income tax authority in the discharge of his functions under the Income Tax Ordinance

he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Persecution for False Statement in Verification

(Section 118)

Where any person makes a statement in any verification in any return or any other document furnished under any provision of Income Tax Ordinance, which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

Prosecution for Concealment of Income etc.

(Section 119)

Where any person conceals his income or deliberately furnishes inaccurate particulars thereof, he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

Prosecution for Abutment

(Section 120)

Where any person knowingly and willfully aids, assists, incites or induces another person to make or deliver a false return, account statement, certificate or declaration under Income Tax Ordinance, or himself knowingly and will fully makes or delivers such false return, account, statement, certificate of declaration on behalf of another person, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

Prosecution for Disposal of Property

To Prevent Attachment etc.

(Section 122)

Where any person discloses any particulars in contravention of the provisions of sub-section (1) of Section 150), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

Liability for prosecution in the Case of Company etc.

(Section 123)

The above mentioned penalties ^{or} ~~not~~ prosecutions are not justified. These should be amended to provide the social justice and due respect to the tax payers. 51

"Tāzīr-bil-māl" (Penalties and prosecution according to Islamic shari'ah)

Tāzīr: - Means to punish a culprit (whose punishment is not fixed in Qur'an and Sunnah) according to the prevailed situation on the committed crime. It has not fixed limit.

Proof of Tāzīr: - It has been proved by Shariah as mentioned in the Holy Qur'an

وَالَّذِينَ يَخَافُونَ نُشُوزَهُمْ فَعِظُوهُمْ وَأَهْجَرُوهُمْ فِي
الْمُضَاجِعِ وَأَضْرِبُوهُمْ فَإِنْ أَطَعْتُمْ فَلَا تَبْغُوا عَلَيْهِمْ سَبِيلًا
إِنَّ اللَّهَ كَانَ عَلِيمًا كَبِيرًا 52

As for those from whom ye fear rebellion, admonish them and banish them to beds apart, and scourge them. Then if they obey you, seek not a way against them, Lo! Allah (SWT) ever High, Exalted, great.

Imam Shafie says:

ولبسى فيه شيء مقدر وإنما هو مفوض إلى رأى الإمام على ما
لقتضى جنایات الناس وأحوالهم. 53

"Imam is actually authorized to punish the criminals according to their condition and crimes"

Imam Khitab Malki throws light that:-

"فما عداها فيوجب التعزير وهو مأكول اجتهاد الإمام وعزر
الإمام لمعصية الله أو لحق أدنى. 54"

"Tāzīr has no it's limit. Imam can impose financial punishment for the fear of Allah (SWT) in accordance with the condition of criminals and nature of crime"

to decide according to the situation¹⁶⁹ of Crime and Criminal."
55

Legitimacy of Tāzīr –bil-māl

According to Hanfi fuqaha, Tāzīr-bil-Māl is illegal. So Allama Haskafi says:

"قوله لا يؤخذ مال في المذهب." 56

"To snatch the another assets or wreath is prohibited in Hanfi fiqah."

Ibn-e-Hamam says:

"عن أبي يوسف يجوز التعزير للسلطان يأخذ المال وعندهما (إمام

أبو حنيفة وإمام محمد) لا يجوز." 57

"Imam abu Yusaf has authorized to Imam (Ruler) to impose Tazir but Imam abu Hanifa and Imam Muhammad say It unjust and illegal."

Allama Ibne Najeem declares:

والمحاصل إن المذهب عدم جواز التعزير يأخذ المال. 58

No doubt in religion these is no option of Tazir-bil-maal.

Ibn-e-Aabideen is of the view:

لا يجوز لأحد المسلمين أخذ مال أحد بغير سبب شرعي. 59

"The ruler can not take any thing from the wealth of any Muslim without his consent except in Shariah reason."

Those who are against the power of Imam (Ruler) of imposing Tāzīr-bil-Māl present the following verses and sayings of Holy prophet (SAAW).

﴿يَتَأْتِيهَا الَّذِينَ ءَامَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا
 أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ
 كَانَ بِكُمْ رَحِيمًا﴾⁶⁰

Ye who believe! Squander not your wealth among yourselves in vanity, except it be a trade by mutual consent, and kill not one another. Lo! Allah (SWT) is ever Merciful unto you.

Imam fakhar – ud – Din Razi writes:

الباطل هو كل ما يؤخذ من الإنسان بغير عوض.⁶¹
 No one is authorized to take illegally the wealth of others with out his permission:

﴿وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْلُوا بِهَا إِلَى الْحُكَّامِ
 لَتَأْكُلُوا فَرِيقًا مِّنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ﴾⁶²

And eat not up your property among yourselves in vanity, nor seek by it to gain the hearing of the judges that ye may knowingly devour a portion of the property of others wrongfully.

In his lust address the Holy Prophet (SAAW) said:

فإن دماءكم وأموالكم وأعراضكم عليكم حرام كحرمة يومكم
 هذا في بلدكم هذا وفي شهركم هذا.⁶³

"No doubt your blood wealth and honour is prohibited among you as like as the sanctity of this

day city and month".

And in other saying:

كل المسلم على المسلم حرام دمه و ماله وعرضه.⁶⁴

The blood, the wealth and chastity is unlawful (Harām) of every Muslim.

So hadrat umer Yathrabi nasroted:

لا يجل لامرئ من مال أخيه إلا ما طابت به نفسه.⁶⁵

"The Holy prophet (SAAW) told taking the wealth of muslim is prohibited for his all brothern ".

Allama Shukani Says:

ولا شك إن من أخذ مال مسلم بغير طيبه لنفسه أكل
بالباطل.⁶⁶

" Truly there is no option of taking wealth of another Muslim in wrong way".

Conclusion: - All Faqaha are of the views that it is not permitted to take any body's wealth without his consent or for Shariah reson. However if any person commits any crime, he is chargeable to be punished financially by Imam according to the situation of case.

So if Imam thinks that there is no any treatment or remedy except imposing financial fine or punishment he has the right to do so to maintain peace and justice in the state.

To substantiate this view, some saying of the Holy Prophet (SAAW) and Athar (Action) of rightly guided calipps are being presented.

1. According to Abu Hurairah (RAA)

"عن أبي هريرة قال: قال رسول الله صلى الله عليه وسلم إلى قوم

لا يشهدون الصلوة فاحرق عليهم بيوتكم بالنار." ⁶⁷

"The Holy Prophet (SAAW) expressed his intention to burn the houses of those people who do not pray congregation al prayers."

2. Bahr bin Hakim narrated:

"That Messenger of God (SAAW) ordered to acquire the half walth besides Zakah of Mazk (Name of a person) who Stopped the paying Zakah." ⁶⁸

Some jurusts have the opoinion that this Tazir used to be in posed in the early period of Islam but soom after its order was cancelled.

3. Soleman bin Ali Abdullah reported:

"that the Holy Prophet (SAAW) legalised to snatch the wealth of those persons who were kept criminal of theft of the tree of madina and hunting in Haram." ⁶⁹

4. Abu Hurairah narrated:

"عن أبي هريرة أن النبي صلى الله عليه وسلم قال: في صدقه

الإبل المكومة..... غرامتها ومثلها معها." ⁷⁰

"That Messenger of God (SAAW) ordered in the case of theft of a camel to receive equal to the estimated price of camel (as penalty of theft) along with it's actual price.

"عن عمر بن العاص رضي الله عنه عن رسول الله صلى الله عليه

وسلم أنه سئل عن الثمر المعلق فقال من أصاب بقية من ذي حاجة غير متخذاً خبذته فلا شيء عليه ومن خرج بشيء منه فعليه غرامة مثليه والحقوقية.⁷¹

5. "Amar bin al Aas (RAA) narrated that Holy Prophet SAAW was questioned about the fruit of bowed palm tree. He answered that if –a-hungry man eats it no fine will be charged and if he and If he took away the fruit he will be given financial punishment equal to its daubled price besides Tazir.
6. "This Hadith is reported by Awf bin Malik (RAA) in which the Holy Messenger of God (SAAW) forbade Khalid bin Walid (RAA) from giving wealth of a murdered to the murderer".⁷²

"عن عمرو بن أبي شعيب عن أبيه عن جدّه أن رسول الله صلى الله عليه وسلم وأبا بكر وعمر رضي الله عنه حرقوا متاع الفال وضربوه.⁷³

7. "In another Hadith, Amar bin abi Shuaib reported from his father that the Holy prophet (SAAW) abu Bakr and umer (RAA) burnt the wealth of ghal who (one who crosses the limits of Islam) on fire and given physical punishment."

Some other actions taken by cliphs (RAA) in this regard

1. The servants of Abdur Rehman bin Hatib stole a she Camel and straightened it. Hadrat umer (RAA) ordered firstly to cut off their hands and then received eight hundred dirham (double price of that camel) from them and gave it to the owner.⁷⁴

وهذا أثر عن عمر رضي الله قلى أصل ذلك إن عمراً كان يعزّر
بالمال وفي ذلك أحاديث كثيرة مرفوعة.⁷⁵

2. Shah wali ullah has capied the action (athar) of umer (RAA) that he used to give financial punishment to the criminals and culprits and there are so many supporting Ahadith in this matter.
3. "Hadrat Umer (RAA) burnt the house of Ruwashd Thaqfi (رويشد ثقفي) who was a dread drinker.⁷⁶
4. "Imam Ibn – e – Taimiyah reported with the reference of imam Matih that Hadrat umer (RAA) used to drop the adutered milk on the ground.⁷⁷
5. saad bin abi waqqas built his banglow and started making dicissions of several cases. Hadrat umer (RAA) sent Muslimah to burn it and he did so.⁷⁸
6. Hadrat Umer and Ibn – e – Abbas (RAA) are

reported to impose physical rigorous punishment to the murderer who committed it in Harm in addition to Diat.⁷⁹

7. Ibn-e-Hazam has described that Hadrat uthman (RAA) received one third (1/3) additionally beside the price of camel from its killer.

فهذا أثر في غاية الصحة عن عثمان رضي الله عنه ولا يعرف له ذلك مخالف من الصحابة رضي الله عنهم.⁸⁰

He added that the action of usman (RAA) was so correct that companions did not oppose him.

8. Imam Ibn -e-Taimiyh has informed that Hadrat Ali (RAA) ordered to burn the whole valley whose habitants were used to drink the wine. (al-hisbah.57) and shuknai told that Hadrat Ali (RAA) burnt the wheat of a hoarder, destructed the house of Jarir bin Abdullah and burnt the houses of traders.⁸¹

Evaluation of Arguments/Conclusion

After a complete discussion, it may be concluded that Tāzir bil Māl (financial penalty or fine) has its two kinds "Tāzir be. It lāf – al māl (to waste or burn wealth) which is allowed in Islamic Shariah and all jurists have unanimously permit it under certain conditions. Another one is Tāzir bi Akhḥz-al-māl (to Senath or receive the financial charges) the legitimacy of

this kind of Ta'zir is controversial among fuqaha as they have argued in favour of their views.

After evaluation of the arguments from both sides, it is suitable to make decision to allow Ta'zir bil māl under. Certain restrictions:-

1. Power of imposing Ta'zir should only be given to the great Imam equal to rank of President, Prime Minister, Chief Justice or at least justice instead of every administrator, policeman and head of institution.
2. Such punishment must be made on merit if necessary as a disciplinary action according to the nature of the case.
3. Ta'zir bil mal (financial penalties) should be consistent to the crime and capability of the accused person.
4. The recovered amount or assets must be credited to the treasury instead of the pockets of rulers or workers.
5. The ruler is allowed in Shariah to punish the culprits if there is no other way of these instructive penalties.
6. In Pakistan, the penalties under the income tax ordinance 1979 and finance bill 2001 are unjust and insulting for the honorable citizens because these should be according to the capabilities of criminals and situation of the cases. For the broad based tax system the citizens should be taken in confidence as they may be able to pay tax voluntarily. However the deliberate delay or non payment of tax is punishable in Islamic Shari'ah.

Endnotes of Chapter No. 3

1. The Income Tax Ordinance 1979 with rules under finance Act, 1995 (Lahore: Mansoor Book House, 1995), p. 32.
2. The Income Tax Ordinance, p. 33,
Tax Planning under direct Taxes, p. 106.
3. Mrs. A.M. Bujam, Income Tax Digest, (Bombay: A.N Alyar Publication, 1984), p. 142–45.
4. The Income Tax Ordinance 1979, p. 37.
5. The Income Tax Ordinance 1979, p. 48.
6. The Income Tax Ordinance 1979, p. 49.
7. Muhammad Muazzam Moghal; Income Tax Principles and Practice, p. 21.
8. M. Sharif Ch, Taxation in Islam and Modern Tax, p. 189.
9. C.B.R's Notification No S.R.O 766 (1), September, 1988.
10. M. Sharif Ch; Taxation in Islam and Modern Taxes, p. 190.
11. Maududi, S.A . Tafhim-ul-Qur'an, p. 3/758.
12. Q 30: 39.
13. Maududi, S.A .Tafhim-ul-Qur'an, p. 422–24,
Muhammad Karm Shah, Zia-ul-Qur'an, p. 1/420–21.
14. Q 4: 160–62.
15. Maududi, S.A .Tafhim-ul-Qur'an, p. 1/288–89,
Muhammad Karm Shah Zia-ul-Qur'an, p. 1/275–77.
16. Q 30: 130–36.

17. Maududi, S.A .Tafhim-ul-Qur'ān, p. 1/214–17,
Muhammad Karm Shah Zia-ul-Qur'ān, p. 1/188–89.
18. Q 2: 275–77.
19. Maududi, S.A, Tafhim-ul-Qur'ān, p. 1/217–218
Muhammad Karm Shah Zia-ul-Qur'ān, p. 1/196–197.
20. Q 2: 278–81.
21. Muslim, Kitab-al-Musaqah, Bab le Man Akal-al-Riba (Hadith No. 4092, p. 697).
22. Iben-e-Majah, Sunan Ibn Majah, Kitāb-al-Tajārat Bāb fi al-Ribā, Hadith No. 2274, p. 325.
23. Ahmad bin Hambal, Musnad-e-Ahmad. Hadith No. 2264.
24. Al-Nisaiē, Abu Abdul Rehman bin Shuib, (303) al-Sunan, Kitāb al-Buyū, Bāb Ba'y-al-Fiddah bil-Zahabe Hadith No. 4084, p. 632.
25. Muslim, Kitāb-al-Musāqah, Bāb Ba'y-al-Ta'ām Mithlam bi-Mithbin, Hadith No. 4091, p. 697.
26. Muslim, Kitāb-al-Musāqah, Bab Ba'y-al-Ta'ām Mithlam bi-Mithbin, Hadith No. 4091, p. 697.
27. Al-Bukhari, al-Jami' al-Şahiḥ, Kitāb-al-Wakālah, Bāb izā Bāa' al-Wakel, Hadith No. 2312, p. 371.
28. Al-Bukhari, al-Jāmī' al-Şahiḥ, Kitāb-al-Buyū', Bāb Izā Arāda Ba'y Tamran bi-Tamrin, Hadith No. 1, p. 351.
29. Muslim, Kitāb-al-Musāqah, Bāb Taḥreem Ba'y-al-Khamr, Hadith No. 4058, p. 691.
30. Muslim, Kitāb-al-Musāqah, Bāb Taḥreem Ba'y-al-Khamr, Hadith No. 4057, p. 691.

31. Muslim, Kitāb-al-Musāqah, Bāb-al-Şarf, wa Ba'y-al-Zahab, Hadith No. 4064, p. 693.
32. Muslim, Kitāb-al-Buyu', Bāb Mā Jaā' Anna-al-Ḥinṭah bib-Ḥinṭah, Hadith No. 1224, p. 302.
33. Muslim, Kitāb-al-Musāqah, Bāb Şurf wa ba'y-al-Zahab, Hadith No. 4061, p. 692.
34. Muslim, Kitāb-al-Musāqah, Hadith No. 40^{٧٨}, p. 6^{٩٤}.
35. Muslim, Kitāb-al-Musāqah, Hadith No. 4057, p. 695.
36. Muslim, Kitāb-al-Musāqah, Hadith No. 40^{٨٠}, p. 695.
37. Abu Dawud, Kitāb-al-Buyu', Bāb Fi-al-Rukḥṣah Fi Zabika Hadith No. 3357, p. 488.
38. Al-Tirmizi, Kitāb-al-Buyu', Bāb Mājaā' Min Karahiyah ba'y al-Ḥaywān bil Ḥaiwān Nisyah, Hadith No. 1237, p. 301.
39. Al-Nisaiē, al-Suman, Kitāb-al-Buyu', Bāb ba'y-al-Fiddah bil Zahab, Hadith No. 4586, p. 632.
40. Ibn-e-Mājah, al-Suman, Kitāb-al-Şadāqat, Bāb-al-Qard, Hadith No. 2432, p. 548.
41. Al-Bukhari al-Jami', al-Şaḥiḥ Hadith No. 3530, p. 731.
42. Muslim, Kitāb-al-Imārah Bāb man Qatala Fi Sabel-illāh, Hadith No. 4880 p. 884.
43. Abu Dawud, Kitāb-al-Qada, Hadith No. 3628, p. 521.
44. Al-Bukhari, Kitāb-al-Mawālat, Bāb-al-Mawālah, Hadith No. 2287, p. 365.
45. Federd Shariat Courts Judgment on Ribā (Interest) Islamic Development Bank, Jeddah, p. 67.

46. Federal Shariat Courts Judgment on Ribā (Intrest) Islamic Deuelpement Bank, Jeddah, p. 78.
47. The Income Tax Ordinance 1979, chapter-6, p. 138.
48. The Income Tax Ordinance 1979, chapter-6, p. 139.
49. Tax planning under, dissect taxes, p. 108.
50. The Income Tax Ordinance, chapter-7, p. 143.
51. S.A. Salam Complete Income Tax Laws, p. 12.
52. Q 4: 34.
53. Al-Shafie-al-Imam, Tabyin-al-Ḥaqāiq, p. 207.
54. Khitab-al-Malkie al-Imam, Muhib-al-Jalil, p. 6/319.
55. Kashaf-al-Iqtinā, p. 6/121.
56. Haskafi Allama, al-Dur al-Mukhtār, p. 4/61.
57. Ibn-e-Hamam, Faḥḥ, Maṭba‘, Dār-al-Fikr, p. 5/345.
58. Ibne-Najaim, al-Baḥr-al-Rāiq, p. 3/41.
59. Ibn-e-Abideen, Rad-al-Mukhtār, p. 3/195.
60. Q 4: 29.
61. Fakhar-ud-Din Razi al-Imam Tafseer-al-Kabīr, p. 1/69.
62. Q 2: 188.
63. Muslim al-Jami‘, p. 2/61.
64. Muslim, al-Jami‘, p. 2/317.

65. Muslim, al-Jami', p. 2/317.
66. Shukani Allama, Nail-al-Awtār, p. 5/266.
67. Abu Dawud, Sunan abi Dawud, p. 1/88.
68. Abu Dawud, Sunan abi Dawud, p. 1/268.
69. Abu Dawud, Sunan abi Dawud, p. 1/285.
70. Ibn-Hajar, Fataḥ-al-Bāri, p. 4/84.
71. Abu Dawud, Sunan abi Dawud, p. 1/247,
Al-Nasai, al Sunan, p. 3/259.
72. Muslim, al-Jami', p. 2/88.
73. Abu Dawud, Sunan abi Dawud, p. 3/15.
74. Abdul Razzaq, Muṣanaf, p. 10/239.
75. Wali ullah Shah, Izālah-al-Khifā, p. 2/140.
76. Abu Ubaid, Kitab-al-Amwal, p. 145.
77. Ibn-e-Taimiyyah, al-Ḥisbah, p. 54.
78. Al-Shukani, Nail-al-Awtār, p. 4/140.
79. Al-Shukani, Nail-al-Awtār, p. 4/5.
80. Ibn-e-Hazam, al-Maḥallāh, p. 11/435.
81. Ibn-e-Taimyah, al-Ḥisbah, p. 57,
Al-Shukani, Nail-al-Awtār, p. 4/105.

CHAPTER

NO 4

- ✦ **Assessment Procedure**
- ✦ **procedure of appeals and exemptions
from income Tax**
- ✦ **Assessment**
- ✦ **Appeals and Revisions**
- ✦ **Income exempt from Tax**
- ✦ **Finance ordinance 2001**

c-4 PROCEDURE OF ASSESSMENT, APPEALS and REVISIONS,
Income Exempt from Tax and Analysis of financial Ordinance 2001

4:1 ASSESSMENT Procedure

After the return of income has been filed, the next step is that of assessment, which means a complete scrutiny of the information provided by the assessee in his return. Various types of assessments provided by Income Tax Ordinance are as follows:

- | | |
|-------------------------------------------------------|---------------|
| (a) Self assessment | [Section 59] |
| (b) Assessment on the basis of return | [Section 59A] |
| (c) Assessment under the simplified procedure | [Section 59B] |
| (d) Assessment under Fixed Tax | [Section 59C] |
| (e) Assessment of tax on undisclosed income | [Section 59D] |
| (f) Provision assessment | [Section 60A] |
| (g) Assessment on production of accounts and evidence | [Section 62] |
| (h) Best judgment assessment | [Section 63] |
| (i) Additional assessment | [Section 65] |

1

So the procedure of the enforcement under section 60, 60A, 63 and 65 is not justified because the assessee are not given the opportunity of being heard properly.

4.2 APPEALS AND REVISIONS

If an assessee or income tax authority is not satisfied with an order passed under the Income Tax Ordinance 1979, a procedure to remove the grievance has been provided in the law.

Appeal able Orders of deputy

Commissioner of Income Tax

[Section 129]

An assessee can file an appeal with the commissioner of Income Tax (Appeals) against the following orders:

- 1 Adjustments made by the deputy commissioner of Income Tax in the return of income filed by an assessee [Section 59,59A]
- 2 Amount of tax determined by Deputy Commissioner of Income Tax after considering the books of accounts and other evidence. [Section 62]
- 3 Best judgment assessment by Deputy commissioner of Income Tax [Section 63]
- Additional assessment [Section 65]
- 4 Refusal to register a firm [Section 68]
- 5 Cancellation of registration of a firm [Section 68]
- 6 Partition of Hindu undivided family [Section 75]
- 7 Shipping business of non residents [Section 80]
- 8 Air transport business of non-residents [Section 80A]
- 9 Penalty for non-payment of tax (other than advance tax) [Section 91]
- 10 Refusal to allow refund [Section 98&99]
- 11 Refusal to allow tax credit [Section 105&107]
- 12 Penalties imposed by the Deputy Commissioner of Income Tax [Section 108to112,114&148]
- 13 Treating a resident as agent of a non-resident [Section 78]
- 14 Treating a person to be an assessee in default [Section 52]
- 15 Rectification of mistake apparent from record if

the order enhances the tax or reduces the refund

[Section 56]

Any other orders passed by the Deputy commissioner of Income Tax, e.g. requiring the assessee to produce books of account, charging additional tax etc. are not appealable.

Appeal to Commissioner of Income Tax (appeals) [Section 129 to 132]

An appeal may be filed by an assessee against the appealable orders (as mentioned above) of the Deputy commissioner of Income Tax with the commissioner of Income Tax (appeals). If the income tax department is not satisfied with the orders of the Deputy commissioner of Income Tax, an appeal cannot be made because in such cases Inspecting Additional commissioner can charge such orders. The main feature of the appeal before Commissioner of Income Tax (Appeals) are as follows:

- 1 The appeal must be filed within 30 days of the receipt of appealable orders. The commissioner of Income Tax (Appeals), however, can extend this period.
- 2 The appeal must accompany a fee calculated in the following manner.
 - (a) Normally the amount of fee will be one thousand rupees or ten percent of tax levied, whichever is less,
 - (b) If no tax is levied a fee of one thousand rupees in case of companies and two hundred rupees in case of other assesses shall be paid.
- 3 The tax payable under section 54 should be paid before filing the appeal.
- 4 The Commissioner of Income Tax (Appeals) fixes a date for hearing the appeal and sends intimation to appellant and Deputy commissioner of Income Tax. He can call for any particulars required and can ask the Deputy commissioner of Income Tax to make further inquiry.
- 5 The Commissioner of Income Tax (Appeals) disposing of an appeal can:
 - (a) In case of an order of assessment:
 - 1 Cancel the assessment and ask the Deputy commissioner of Income Tax to make a fresh assessment.

- 2 Declare the assessment as correct.
- 3 Reduce the assessment.
- 4 Increase the assessment.
- 5 Annual the assessment.
- (b) In case of an order imposing penalty.
 - 1 confirm, set aside or cancel such orders
 - 2 increase or reduce the penalty.
- © In any other case, pass such orders as he thinks fit. **2**

Appeal to the appellate Tribunal

[Section 134 and 135]

If the assessee is not satisfied with the decision of Commissioner of Income Tax (appeals), he can make a second appeal to the Appellate Tribunal. Income tax department also, if not satisfied with the decision of the commissioner of Income Tax (Appeals), can appeal to the appellate Tribunal. Deputy Commissioner of Income Tax, with permission of Commissioner of Income Tax, files an appeal on behalf of the department. The following are the main features of appeal to the Appellate tribunal:

- 1 The appeal by the assessee or the department should be filed within 60 days from the date on which the orders are communicated to the assessee or the commissioner. The Appellate Tribunal is empowered to extend this period.
- 2 The appeal should be filed on the prescribe form and the documents required should be attached.
- 3 If the assessee is filing the appeal, it should accompany a fee calculated in the following manner:
 - (a) Normally the amount of fee will be two thousand five hundred rupees or ten percent of the tax levied whichever is less,
 - (b) If no tax has been levied a fee of two thousand rupees in case of companies and five hundred rupees in case of other assesses shall be paid.

This fee is not payable, if the appeal is being made by the income tax department.

- 4 The Appellate Tribunal gives both parties to the appeal an opportunity of being heard, either in person or through an authorized representative..
- 5 The appeal is heard by a single member if the total income of an assessee is up to Rs 75,000, in other cases a division bench hears the appeal, but important cases are heard by the full bench.
- 6 The appellate Tribunal in disposing of an appeal may:
 - (a) reduce or annual the assessment.
 - (b) increase the assessment.
 - (c) cancel the assessment ad order the Deputy commissioner of Income Tax to make fresh assessment.
 - (d) reject the appeal.
 - (e) cancel or change the order and issue directions.
 - (f) increase or reduce the penalty.
- 7 It is necessary that the decision of appeal should be make within 6 months from the end of the month in which the appeal has been made .This rule is applicable if the assessee has presented the appeal to Appellate Tribunal.

If the decision is not made within the above-mentioned period the relief sought through the said appeal shall be deemed to have been given.

The decision of the Appellate Tribunal on a point of act is final and no appeal can be made against such a decision. If either the assessee or the income tax department is not satisfied with the orders of the Tribunal on a question involving a point of law, he may appeal to the High Court.

Appeal to High Court.

If either the assessee or the Income tax Department is not satisfied with the decision of the Appellate Tribunal in respect of any question of law an appeal can be made to the High Court. Appeal to the High court should be filed within sixty days of the date upon which an assessee or the Commissioner receives the decision against which

appeal is being made . If the appeal is being filled by an assessee a fee of Rs. 100 should accompany the application. No fee is required to be paid if the appeal is being made by the department. The appeals under this section are to be heard by a bench consisting of a minimum of two judges of High Court.

Appeal to the Supreme Court

An appeal can be made to Supreme Court if the High courts certifies that the case is fit for hearing by the Supreme court. Normally, High court certifies those cases for this purpose where it feels that correct interpretations of the law will benefit not only the parties to the case but also other persons. The Supreme court itself can also grant permission to refer the case to them. The required action is taken by the income tax authorities if in the orders passed by Supreme Court, the judgment of the high court is hanged.

The decision of the Supreme Court is final and conclusive in all the cases. 3

4.3 INCOME EXEMPT FROM TAX

Section 14 of the Income Tax Ordinance specifies that certain incomes and certain persons will be:

- 1 completely exempt from tax; or
- 2 exempt from tax subject to fulfillment of certain conditions; or
- 3 will be liable to pay tax at lower rates; or
- 4 will be allowed a reduction in tax liability; or
- 5 will be exempt from the operation of certain provisions of Income Tax Ordinance.

A complete list of such exempted income has been provided in Schedule II of the Income Tax Ordinance 1979. The Federal Government is empowered under the above-mentioned section to make any change in this list and conditions mentioned for exemption. However it is necessary that such changes should be

- (a) Notified in the official Gazette
- (b) The federal Govt. is bound to place all such amendments before the National Assembly.

Important items of these exemptions are being mentioned here. **5**

1 AGRICULTURAL INCOME

Agricultural income (discussed in detail in Chapter II) is completely exempt from tax. Uptill assessment year 1987-88, it was not included in the total income of an assessee. However, through finance Ordinance 1988, some important change has been made.

2 SALARY OF EMPLOYEES OF FOREIGN GOVERNMENT

If an employee of a foreign government (including a consular or other officer or a non-diplomatic representative receives any amount of salary, it will be exempt from tax, provided tat:

- (1) The employee is a citizen of the foreign country.
- (2) Same type of services are being performed by employees of government of Pakistan in foreign countries.
- (3) Tax exemption is granted by that foreign government to our employees' performing similar duties in that country.

3 Allowance Given by the Government out of Pakistan

Any allowance or facility, which is paid outside Pakistan by the government to a citizen of Pakistan of rendering service outside Pakistan, have been completely exempted from tax.

4 Salary of persons Employed with the Terms of an aid Agreement

Salary received by persons who are employed in Pakistan according to terms of an aid agreement in between Pakistani government and to the government of another country or an international agency is not taxable provided that the salary of such person is paid by the foreign government or agency out of the aid released to Pakistan in accordance with that agreement.

5 Salary from British council

Salary received by a person by virtue of his employment with the British council is exempt from tax provided that the recipient is not a citizen of Pakistan.

6 **ENCASHEMENT OF LEAVE PREPARTORY TO RETIREMENT**

Any sum representing encashment of leave preparatory to retirement received by an employee of Armed forces of Pakistan, Federal government or provincial government is exempt.

7 **AMOUNT OF GRATUITY OR COMMUTATION OF PENSION**

If an amount is received as gratuity or commutation of pension by an employee on his retirement or by his heirs on the death of employee, the exemption is provided according to the following rules:

i. If the amount received from government, local authority, statutory or body or a corporation, whole amount is exempt from tax.

- (1) If the amount is received from a gratuity fund approved by the commissioner of Income Tax, again the whole amount is non taxable.
- (2) If the amount is received from an organization which gives the facility of gratuity to all of its employees, an amount up to Rs.2.00.00 is exempt from tax.
- (3) In case the amount is being received from an organization where (a), (b) and (c) above do not apply, 50% of the amount relieved or Rs.75,000 whichever is less will be exempt.
- (4) In the following cases. The amount will be fully taxable.
 - a. amount received outside Pakistan

- b. Amount received by a director from his company, if the director is not a regular employee of the company.
- c. Amount received by an employee who is not a resident of Pakistan.
- d. Amount of gratuity received by an employee who has already received gratuity from the same or any other employer.

8 **ENTERTAINMENT ALLOWANCE**

Entertainment allowance received by officers of Pakistan Armed forces, Federal Government, provincial Government or employee of a recognized University in Pakistan is not taxable.

9 **SENIOR POST ALLOWANCE**

Any amount representing Senior Post Allowance granted to officers of Armed Forces, Federal Government, Provincial Government or employee of a recognized University in Pakistan is not taxable.

10 **ORDERLY ALLOWANCE**

Any income received by an officer of Federal Government, Provincial Government or University as orderly allowance is fully exempt from tax.

11 **COST OF LIVING ALLOWANCE**

The cost of living allowance provided by the government to its employees at the rate of 7%[^] with effect from 1.7.1995 is fully non taxable.

12 **SPECIAL ALLOWANCES**

If an employee receives a special allowance (provided that it is not conveyance or entertainment allowance) granted to meet expenses, which are incurred in the performance of official duties, such allowance would be exempt from tax. Even if the expenses actually incurred are less than the allowance, the excess amount is not liable to tax. Examples of such allowances are Traveling Allowance, Daily allowance, Uniform Allowance, etc.

Note: Non-Practicing allowance granted to Doctors will not be treated as special allowance in the above meanings because it is not given to meet any specific expenditure.

13 **ALLOWANCES ATTACHED TO HONOURS, AWARDS, etc.**

Any allowance attached to any honour, award or medal awarded by President of Pakistan and any monetary award granted by President of Pakistan is not taxable.

14 **FLYING ALLOWANCE**

Any amount received as flying allowance by pilots, flights engineers and navigators of the Pakistan Air force, Pakistan Army and Pakistan Navy or any Pakistani Airline is exempt from tax.

15 **FACILITY OF ACCOMMODATION**

The facility of rent-free accommodation provided to the following persons is not taxable:

- i. President of Pakistan
- ii. Provincial Governors
- iii. Chief of staff of Pakistan Army, Navy and Air force
- iv. Corps Commanders
- v. Federal government Ministers
- vi. Judges of Supreme Court and High court
- vii. Advisers to Prime Minister

16 **FACILITY OF CONVEYANCE AND ENTERTAINMENT ALLOWANCE**

The facility of conveyance provided by the Government and entertainment allowance given by the government to the following persons is also exempt from tax:

- i. Provincial Governors
- ii. Chiefs of staff, Pakistan Armed forces
- iii. Corps commanders
- iv. Ministers of Federal Government.

17 INTERST INCOME

The following incomes are exempt from tax subject to the limits (if any) mentioned:

- i. Income received on national saving certificates, national deposit certificates, defense saving certificates, post office saving bank account, and deposits in national saving centers under the national saving schemes.

However profit received on the investment of Khas Deposit Certificates made under the National Saving Scheme on or after tenth November 1991 will be taxable.

Moreover income received on all types of bearer certificates purchased on or after 5.6.1995 will also not be entitled for exemption.

- ii. Any income derived from a private foreign currency account held with an authorized bank in Pakistan, in accordance with the Foreign Currency Accounts Scheme introduced by the State Bank of Pakistan by a resident citizen of Pakistan.
- iii. Interest received by a non-resident for a loan given to be utilized on a project in Pakistan, approved by the government.
- iv. Interest payable by an industrial undertaking in Pakistan on money borrowed from a financial institution of a foreign country provided that it is approved by the government.
- v. Interest on money borrowed from a foreign country by an industrial undertaking in Pakistan for purchasing plant and machinery, if such a loan is approved by the government.
- vi. Interest received from a Pakistan bank by a foreign bank approved by the Federal Government provided that required conditions are fulfilled.
- vii. Interest or profit earned by Pakistani citizen resident abroad on Rupee account maintained in a scheduled bank in Pakistan.

This exemption is available only if the deposits in the account are made exclusively from foreign exchange remitted into the said account.

- viii. The interest received on bonds issued by the Pakistan Water and Power Development Authority (WAPDA). This exemption is available on the bonds issued up to 30.6.1991.
- ix. Any interest or profit earned by Hub Power company Limited on its bank deposits or accounts with financial institutions.
- x. Any profit derived by a person in respect of the Islamic mode of financing, e.g Morabaha , Musarika, etc.

18 DIVIDEND RECEIVED BY ICP

Any dividend received by Investment Corporation of Pakistan on or after 1.7.1982, from any other company, which has paid or will pay tax in respect of the profits out of which such dividends are paid.

19 INCOME OF TEXTBOOK BOARDS

Income earned by the textbook boards of all the provinces is wholly exempt from tax.

20 INCOME OF EDUCATIONAL INSTITUTIONS

Income received by an educational institution, which is established only for educational purposes and not for the purposes of profit, is exempt from tax.

21 INCOME OF LOCAL AUTHORITIES

Any income of a local authority, not being income from business, if any carried on by it outside its jurisdictional area.

22 INCOME OF RELIGIOUS OR CHARITABLE TRUST

Income derived from investments in securities of the Federal Government and house property held under trust is exempt from tax provided:

- i. The trust should be for religious or charitable purposes.
- ii. The amount is actually spent t or set apart for spending for religious or charitable purposes.
- iii. The amount should be spent with Pakistan

23 INCOME FROM BUSINESS OF FISH CATCHING OR FISH PROCESSING UNIT

If an assessee sets up a new fish catching business or establishes a fish-processing unit between 1.7.1993 and 30.6.1997, the income derived by him from these projects will be exempt form tax for a period of 5 years from the date it is established. However the date of establishment shall be determined by the Commissioner of Income Tax on an application made by the assesses.

24 INCOME OF MUTUAL FUNDS

Any income derived by a Mutual Fund or an investment company registered under the Investment companies and Advisers Rules 1971 or a unit trust scheme will be exempt from tax of at least ninety percent of its income of that year is distributed amongst the units or certificate holder or shareholders.

25 INCOEM OF NATIONAL INVESTMENT (UNIT) TRUST

The income earned by the national Investment (unit) trust up to thirtieth June 2000 is not taxable.

26 INCOME OF MODARBA

Income e of a Modaraba registered under the Modarba companies and Modarba(Flotation and Control) Ordinance 1980 is not taxable subject to the following conditions:

- i. At least ninety percent of profits of the year (as reduced by the amount transferred to a mandatory reserve required under the law) should be distributed among the certificate holders.
- ii. Bonus certificates or bonus shares distributed to the certificate holders will not be taken into account for the purpose of determining the distribution of ninety percent profits.

27 THE EXEMPTION ON BONUS SHARES

When a company registered under the companies Ordinance 1984 or a body corporate formed under any other law issue bonus shares it is treated to be the income of the company. However, this income will not be taxable if the bonus shares are issued between 1.7.1997 to 30.6.2000 by the company or body corporate.

28 INCOME OF CERTAIN CO-OPERTATIVE SOCIETIES

In order to promote the working of co-operative societies, income of the cooperative societies engaged in the following business has been completely exempted from tax:

- i. Agricultural or rural credit society; or
- ii. Cottage industry; or
- iii. The marketing of agricultural produce of its members; or
- iv. The purchase of agricultural implements, seeds, livestock or other articles intended for supplying them to its members; or
- v. The processing of the agricultural produce of its members to the extent to which such process is ordinarily employed by a cultivator to render the agricultural produce raised by him fit to be taken into the market.

29 SHARE OF INCOME FROM HINDU UNDIVDED FAMILY

Any amount received by an assessee as a member of a Hindu, undivided family out of the income of the family is exempted from tax in the hands of assessee.

30 INCOME FROM TANSPORT BUSINESS

Any income derived by a person from plying of any vehicle registered in the territories of Azad Jammu and Kashmir, excluding income arising from the operation of such vehicle in Pakistan, to a person who is resident in Pakistan and non-resident in those territories.

31 **CAPITAL GAINS**

Capital gains received by an assessee from the sale of modarba certificates, any instrument of redeemable capital as defined in the companies Ordinance 1984 listed on any stock exchange in Pakistan shares of a public company or the Pakistan Telecommunication corporation Vouchers issued by the government are non-taxable up to 30.6.2001.

32 **PROFITS FROM NEW INDUSTRIAL UNDERTAKINGS**

Profits and gains derived by an assessee from an industrial undertaking set up between the first day of July, 1988 , and the thirtieth day of November, 1990, both days inclusive, for a period of eight years beginning with the month in which the undertaking is set up or commercial production is commence which ever is the later.

The exemption under this clause shall apply to an industrial undertaking, which is –

- (1) set up in the Province of Balochistan (excluding Hub Chowki area), North West Frontier Province, Federally Administered Tribal Areas, Northern Areas and Azad Kashmir;
- (2) set up in the divisions of Dera Ghazi Khan and Bahawalpur in the province of Punjab and the divisions of Sukkar and Larkana in the Province of Sind.

33 **PROFITS FROM KEY INDUSTRIAL UNDERTAKINGS**

Profits and gains derived by an assessee from a key industrial undertaking set up between the first day of July, 1988, and the thirtieth day of June, 1993, both days inclusive, for a period of four years beginning with the month in which the undertaking is set up or commercial production is commenced, whichever is the later.

34 **INCOME FROM SHIPS**

Profits and gains derived by a Pakistani company from a ship registered in Pakistan will be exempt for a period of 5 years after registration.

However it is necessary that the ship should be registered between 1st July 1993 to 31st December 1995.

35 **PROFIT FROM PIONEER INDUSTRIAL UNDERTAKING**

Profit received by an assessee from a pioneer industrial undertaking will not be taxable for a period of five years.

36 **PROFITS FROM THE MANUFACTURE OF ELECTRONIC EQUIPMENT.**

Income derived by a Pakistan company from an industrial undertaking engaged in the manufacture of electronic equipment or its components and set up by 30.6.1997 is exempt for a period of 5 years. The industrial undertaking must be situated in the NWFP or in Islamabad and should be approved by CBR.

37 **EXEMPTION AVAILABLE IN GADOON AMAZI**

Income received from an industrial undertaking set up in the Industrial Estate, Gadoon Amazai, Tehsil Sawabi, District Mardan in NWFP is exempt for a period of 10 years beginning with the month in which the undertaking is set up or commercial production is commenced whichever is later. It is necessary that the industrial undertaking should be owned by a company formed and registered under companies Ordinance 1984, and the undertaking should be set up between 1.1.1987 to 30.6.1993.

38 INDUSTRIAL UNDERTAKINGS SET UP IN SPECIAL INDUTRAIL ZONE

Profit derived by an assessee from an industrial undertaking set up between 1.7.1995 and 30.6.1999 will not be taxable for a period of ten years.

39 CERTAIN INSUSTRAIL UNDERTAKINGS OF RURAL AREAS

Profits earned by an assessee from an industrial undertaking are exempt for a period of eight years Subject to the following conditions.

- i. The industrial undertaking is set up between 1.7.1995 and 30.6.1997.
- ii. It is set up in rural area i.e. , outside the limits of a municipal corporation, municipal committee, cantonment board or Islamabad capital Territory.
- iii. It is owned and managed by a company formed for operating such industrial undertaking and registered under the companies Ordinance 1984, having its registered office in Pakistan.
- iv. It is engaged in the following agro. based industries:
 1. Cultivation, production, processing and preservation of flowers and ornamental plants.
 2. Cattle, sheep and goat farming for the production and processing of meat.
 3. Diary farming for the production of milk
 4. Processing, packing, preservation canning of milk and milk products.
 5. Processing, packaging, preservation and canning of meat and meat products, fruits, vegetables, fish and seafood.
 6. Cultivation, production and extraction of edible oils.
 7. Cultivation, production multiplication of high yielding seeds of cereals, pulses, vegetables, fruits, oilseeds and cash crops like sugarcane, cotton, coca, coffee, tea, herbs and species.

8. Poultry forming and processing packing, preservation and canning of poultry meat with or without addition of other things, and
9. Manufacturing of cattle and poultry feeds.

40 **INCOME FROM FRUIT PROCESSING**

Income received by an assessee from an industrial undertaking engaged in fruit processing will not be taxable for a period of five year. The exemption period will start from the commencement of commercial production. This exemption will be available if the undertaking is:

- (a) set up between 1.7.1994 and 30.6.2000.
- (b) owned and managed by a company formed exclusively for operating the undertaking engaged in fruit processing and registered under the companies Ordinance 1984 and having its registered office in Pakistan.

41 **INCOME FROM MANUFACTURE OF SOFT AND STUFFED TOYS**

Profits derived by an assessee from an industrial undertaking engaged in manufacture of soft and stuffed toys will be exempt from tax.

42 **INCOME FROM MANUFACTURE OF SOLAR ENERGY EQUIPMENT**

Profits and gains received by an assessee from an industrial undertaking engaged in the manufacture of solar thermal, photovoltaic equipment for production of solar energy and solar appliances will be exempt .

43 **INDUSTRIES IN EXPORT PROCESSING ZONES**

If an assessee sets up an industrial undertaking in the "Export Processing Zone", the income received from such an industrial undertaking will not be taxable for a period of five years. However this exemption will not be available to industrial undertaking set up after 30.6.1997.

44 **MEDICAL EXPENDITURE BY INDIVIDUALS**

Any amount paid by an individual by way of personal expenditure on medical services is not taxable. However following conditions must be fulfilled in this regard:

- i. The individual must be a resident of Pakistan.
- ii. The receipts in respect of such expenditure bearing names, national tax number and complete addressees of the medical practitioners are furnished to income tax authorities.

45 **INCOME OF CERTAIN INSTITUTIONS**

Income derived by the following institutions is not taxable:

- i. Income of private sector power projects
- ii. Pakistan Council of Scientific and Industrial Research
- iii. Institution of Engineers(Pakistan), Lahore.
- iv. Chambers of commerce (other than income from business or house property)
- v. Sports Boards
- vi. Stock Exchanges (other than income from business or house property)
- vii. Pakistan Agricultural Research Council.

46 **INCOME FROM MONTHLY INCOME SAVING ACCOUNT SCHEME**

Income derived by a person from his investment from Monthly Income Saving Account Scheme of the Directorate of National Savings is not taxable provided that the monthly installment in his account does not exceed Rs.500.

47 **FLYING ALLOWANCE**

Any amount received by pilots, flights engineers and navigators of the Pakistan Airline is exempt from tax.

48 **SALARY OF ELECTED REDPRESENTIATIVES**

Salaries received by the following elected representative is fully exempt from tax:

- i. Senators
- ii. Members of National Assembly of Pakistan
- iii. Members of Provincial assemblies of all the four provinces.

49 **FOREIGN INCOME OF RETURNING PAKISTANI EXPATRIATES**

Any foreign income received by a returning expatriate will be exempt for two years beginning with the year in which he becomes resident of Pakistan, provided that :

- i. the returning expatriate is a citizen of Pakistan; and
- ii. he was not resident in any of the four years preceding that year in which he became resident.

50 **POFIT ON BONDS**

Any amount received on maturity of any bond issued in pursuance of Bearer national Fund bonds Rules 1985 or the special national fund bonds rules 1985, is exempt from tax.

51 **INCOME FROM FOREIGN EXCHANGE BEARER CETRTIFICATES.**

Any amount received on encashment of any certificate issued in pursuance to the Foreign Exchange bearer Certificate rules 1985 is non taxable .However, this exemption is not available in respect of Foreign Exchange Bearer Certificate purchased on or after 15.6.1995.

52 **INCOME FROM US DOLLAR BEARER CETIFICATES**

Any amount received on encashment of any certificate issued in pursuance of the Us Dollar Bearer Certificates Rules 1991 is completely exempt from tax .this exemption also is not available in respect of certificates purchased on or after 15.6.1995.

53 PRIVATE SECTOR POWER PROJECTS

Income of a Company registered under Companies Ordinance 1984 and setting up an electric power generation project on or after 1.7.1988 is exempt from tax. The company should neither be under the control of the government nor majority of the shares are held by the Federal or Provincial Governments or a local authority.

54 EXPORT OF COMPUTER SOFTWARE

Income from export of computer software and its related services developed in Pakistan is fully exempt from tax. **6**

Note: In Federal Budget 2002-03 the Government of Pakistan has discontinued exemption of 45 because most of the above mentioned exemption are illegal incorrect and are against the Islamic trends. **7**

Various exemptions from tax granted by taxation laws particularly the exemptions conceded in favour of individual entities or specific classes of incomes or persons run counter to the Islamic principles of equality before law, equity and justice. Provisions regarding deemed income, fictitious or presumptive income are not supported by Islam. Multiple and complex taxation of the same sources and same persons by various authorities from the local to the federal level is also unjust in certain circumstances.

The Central Board of Revenue (CBR) has three mottos: passion for routine, resistance for change and promotion of mediocrity. The changes made in the different tax enactments through the Finance Ordinance 2001 [hereinafter: "FO 2001"] have to be seen in this perspective. Those who were expecting revolutionary reforms/changes, as promised by the Chief Executive and Finance Minister time and again, are disappointed and disillusioned. The FO 2001 is as ordinary and useless, as were all others issued in the past, as an annual ritual by the military and the civil governments alike.

The phrase "much of the same" truly applies to FO 2001, as it makes patchwork here and there and no meaningful structural changes are made in the outdated, rotten and self-contradictory tax enactments. CBR's passion for routine has been, in fact, reflected in a more vivid manner because it even did not heed to most of the amendments of procedural nature sought by the trade bodies and the Tax Bars. The FO 2001 is a best reflection of babu (clerical) mentality of the CBR stalwarts (sic), who cannot think beyond the status quo, as the obscure and complicated nature of the prevalent tax system is their main weapon to harass the public. 9

Following is a review/analysis of only those changes in Income Tax Ordinance, 1979 [hereinafter: "the Ordinance"] that are of substantial nature. I have intentionally left out those which are either procedural or insignificant.

- 1.1. Section 2(20)(b), 2(24)(d), 12(9) and 50(6A) Taxation of bonus shares as dividend in the hands of shareholders.

~~2.1~~ Amendment is made in sub-clause (b) of the clause (20) of section 2 to the effect that any distribution by a company by way of bonus or bonus shares to shareholders should be construed as "dividend". The term shareholder includes preference shareholder as per section 2(42) of the Income Tax Ordinance, 1979. It means that both the categories are amply covered as far as the application of this sub-clause is concerned.

- 1.2 The taxation of bonus shares in the hands of shareholders as dividend is a major shift from the historical position where such distribution was considered, through legal fiction, income of the company and not that of the shareholder. The reversal of position means that most of the companies, except those covered in section 12(9A), will not distribute anything in terms of cash, although they may have huge distributable profits. On the contrary, the

shareholders will be penalised even if they do not get anything but mere papers. 10

- 1.3 Definition of the word income in section 2(24) now includes in the case of shareholders of a domestic company [defined in section 2(21)] the amount representing the face value of any bonus shares or the amount of any bonus declared, issued or paid up by the company to its shareholders with a view to increasing its paid-up share capital. The restriction of income quantification to face value of bonus shares is against the decision of the honourable apex court in 66 Tax 6 (S.C. Pak) overruling the judgements of the Lahore High Court in 28 Tax 159 and 33 Tax 227. In case of bonus shares, the benefit in the hands of the shareholders should be worked out by spreading the cost of old shares over the older shares plus the bonus shares taken together if these rank *pari passu*. One wonders how the CBR stalwarts overlooked this binding precedent by the apex court. It will be unjust to take face value in certain cases where the realizable value is much lower for e.g. if a person gets stock shares in the form of bonus shares of face value of Rs. 10 each whereas the net realizable value in the market is Rs. 3 (as is in the case of majority of the Modarabas at the moment) why should he be penalised to pay tax on Rs. 10 for each bonus share received by him where its actual price is Rs. 3 only.
- 1.4 The amendment in section 50(6A) requiring the company to collect tax at the time of issuance of bonus shares is strange. It means that the company will have to pay this tax out of its own pocket as in issuance of bonus share no cash distribution is involved from which the company can withhold 10% tax, which is full and final discharge of shareholder's liability u/s 80B. Has the burden of taxation been really shifted from the company to the shareholder? This amendment in sub-section (6A) of section 50 has once again proved that legal drafting is CBR's Waterloo. It also shows the level of understanding of law in the minds of the CBR's stalwarts (sic).
2. Section 13(2A) Immunity to inward foreign exchange remitted through normal banking channels and encashed in Pak rupees from scheduled banks. II
- 2.1 This amendment is aimed at eliminating hawala/hundi business. These illegal/informal ways of transfer of foreign exchange have destroyed our foreign remittances through normal banking channels and also the tax system. The State is in dire need of foreign exchange, and this facility as a means for whitening of black money, if properly publicised, will yield good results for tax collection and building up of foreign exchange reserves.

2.2 The amendment has, however, a lacuna that it has only mentioned encashment of foreign exchange from a scheduled bank, remitted into Pakistan through normal banking channel, for availing the immunity from section 13, whereas it should have been from all the authorised foreign exchange dealers, if the purpose is surrendering of foreign exchange at the official rate to the State and not giving benefit to any particular commercial bank. If scheduled banks are not supposed to surrender this foreign exchange to the State, then the object of the amendments is meaningless.

3. Section 41A Allowance for investments in shares.

3.1 This is an important amendment giving impetus to the capital markets and industrial investment. The assessee, other than a company, will get tax allowance of 10% of his income or Rs. 1,00,000, whichever is less, in purchase of new shares offered by public companies listed on a Stock Exchange in Pakistan, being original allottee or purchaser of such shares from the Privatisation Commission. The allowance will be retrieved back if he sells such shares within 12 months of their purchase. 12

4. Section 44AA Retirement Annuity Scheme ° 13

4.1 An individual being resident of Pakistan (employee or engaged in self-employed business or profession chargeable to tax) who is not having a pensionable job or retirement benefits will be entitled to an allowance of any amount paid by him after 1 July 2001 by way of premium or contribution under a contract of annuity scheme approved by Security and Exchange Commission (SECP) duly registered under the Insurance Ordinance of 2000.

4.2 This is no doubt a highly appreciable amendment brought through FO 2001. Any individual either salaried or having business income, who is chargeable to tax will be entitled to an allowance of 5% (with a maximum ceiling of Rs. 50,000) being contribution or premium paid under a contract of annuity scheme to an insurance company (approved by SECP). In UK's Income & Corporation Tax Act, 1988 such a scheme known as Personal Pension Scheme as an alternate to Occupational Pension Scheme was introduced 12 years back. Since the scheme was basically age related, the UK Legislators provided the brackets as follows:

| AGE | Maximum %age |
|------------|--------------|
| Up to 35 | 17.5 |
| 36-45 | 20 |
| 46-50 | 25 |
| 51-55 | 30 |
| 56-60 | 35 |
| 61 or more | 40 |

The CBR has announced a single percentage of 5% for all age groups, which is against the spirit of the scheme. The maximum ceiling/earning cap in UK is GBP 91,800 (equivalent to PKR 8,262,000 approx), whereas the CBR has fixed it at Rs. 50,000.00, which is certainly too low. In the UK, the contribution is allowed as straight deduction from the total income, while the CBR stalwarts have restricted it on average rate of tax. These three drawbacks have neutralized the entire benefit of the scheme. It shows the babu mentality of the CBR wizards that although they copy good things from abroad, but always destroy it through their narrow-mindedness. In UK this scheme has many other features such as carry forward / carry back / unused allowance, but no such provision has been provided by the CBR. If such changes and amendments are not made, it will be rightly presumed that the CBR, in fact, has made this amendment for the benefit of insurance companies and not for the benefit of individuals. 15

5. Section 50(5AA),(5B),(7),(7A) and (7G) - *Omission of certain withholding provisions* 16

- 5.1 The Finance Minister has created a wrong impression that five types of presumptive incomes have been eliminated. The fact is that out of the five omitted sub-sections of section 50 of the Ordinance, two were redundant and three represented non-presumptive withholding provisions. This has not been done to give any relief to the taxpayer or to change the distorted character of the Ordinance, but the reason was that under these provisions the collection was too meagre. The fact that it has been used as a ploy by the CBR stalwarts (sic) to convince the finance minister that they are ready for reforms is the worst kind of tactics one can expect from such high level officers.
- 5.2 The CBR people also hoodwinked the finance minister as he was made to believe that five types of presumptive-oriented withholding provisions were going to be withdrawn. The nature of most of these withholding provisions was that of advance tax adjustable against tax payable with return. The omitted sub-sections (7), (7A) and (7G) of section 50 were not covered under the presumptive tax regime. As regards the remaining two, namely sub-sections (5AAA) and (5B), these were redundant due to change in law. The CBR and the finance minister owe an apology to the nation for this blatant lie that they abolished some provisions relating to presumptive tax regimes. The fact is that the presumptive tax regime remains intact in full force.
- 5.3 The most painful aspect of our tax system is its inequality. The burden of tax is less on the rich and more on the poor. On the one hand all the progressive taxes like gift tax, estate duty, capital gain on immovable property and wealth tax have been abolished and on

the other in the name of documentation of economy (sic) the State is resorting to regressive taxation like presumptive taxes in Income tax and multiple-point General Sales Tax (GST). In FO 2001 not a single presumptive tax provision has been eliminated, as was wrongly claimed by the Finance Minister in his budget speech. 17

6. Section 59 - *Self-Assessment Scheme for Assessment year 2001-2002* 18

6.1 Mr. Shaukat Aziz in his budget speech strongly highlighted that the Self Assessment Scheme would be a primary mode of reducing assessee-collector contact. However, he did not elaborate how this mode of assessment alone can reduce (not to talk of eliminate) the contact between the subjects and the [tax] masters. The Self Assessment Scheme is not a new thing in the Income Tax Ordinance, 1979. It was even available under the repealed Act of 1922 since early 1970s. In the past, it has not helped the taxpayers to get them relieved from the clutches of corrupt tax collectors. There is nothing in this scheme this year that gives even a slightest hint for betterment or relations between the taxpayers and the State.

6.2 The much eulogized Self Assessment Scheme has the following inherent control mechanisms to ensure the leverage available to the tax collectors to harass and intimidate the helpless lot (those who have neither capacity nor resources to go for muk muka):

- * Excessive documentation with the return giving innumerable opportunities to the assessing officers to fish around and catch from whichever angle they want, the ignorant tax payers who are always at the mercy of ruthless practitioners (sic) who deliberately leave lacunae here and there to later on join hands with the collectors for blackmailing their own clients.
- * Insistence on cash memo for every transaction, knowing very well that hardly the Income Tax or Sales Tax Department ever managed to implement provisions relating to mandatory issuance of cash memos. If the State cannot enforce its own made laws, how can they expect the taxpayers to get cash memos? Why should the corporate sector be penalized for the policies of appeasement of the State towards the mighty traders and shopkeepers?
- * Unqualified and undefined powers to select whatever returns the tax collectors want for total audit (which is not audit but a tool to tell the subject that he should behave and never ever imagine that he has any right for self clearance).

- * Self-assumed interpretation of the term "concealment" that can be used against any tax payer to take him out of the Self Assessment Scheme and force him to make "contact" with the high and mighty and never think of keeping his distance as promised by the finance minister and chairman of the tax reform committee.
- 6.3 The tax bureaucrats have once again proved their supremacy by hoodwinking the "alien" finance minister that they are proposing something for the benefit of the taxpayers, whereas the reality is just the opposite. The Self Assessment Scheme is once again luring the people to file false declarations to avail its benefit. By doing so the taxpayers will leave many traces behind of their under-assessed incomes and for years to come they will be blackmailed perpetually by the tax collectors to strike deals with them.
- 6.4 The conditions to avail the scheme have been made lucrative: Public companies just have to pay the same tax as was assessed last year, private companies more than 10% of last declared or assessed, whichever is higher, and others to show 20% increase, no matter whether one has loss or higher incomes. This is a patently wrong policy decision. Time and again it has been stressed that without such pre-conditions, the assessees should be encouraged to file their true declarations and the tax collectors should have a right to verify the same independently. What is the purpose of documentation if one can get away by just paying 20% more?
- 6.5 It is an established fact that policy of appeasement towards mighty and greedy traders giving them facility to avail Self Assessment Schemes by showing some prefixed level of incomes has distorted and destroyed the entire tax system. It has promoted a close cooperation between the corrupt tax collectors and tax evaders. They have been depriving the State with tax worth billions of rupees. Once again under the mighty military rule such a policy of falsehood has been announced with pride and as a self-acclaimed righteous step. The State is caught in a dilemma; on the one hand it wants to ensure more tax than last year and on the other it claims that people are free to file correct declarations of their incomes. How one can keep on declaring 20% more tax when the economy is in recession. The assessee has been left with no choice but to take support of falsehood. If he fails to file return under the Self Assessment Scheme, then the entire tax machinery is there to grill and teach him a lesson of his lifetime.
- 6.6 The Self-Assessment Scheme is a double-edged sword in the hands of tax babus, who know how to use it against the foes and for the benefit of the "friends". Our polite but ignorant finance minister does

not have the ability to comprehend this modus operandi of CBR stalwarts

- 6.7 The contacts between the honest taxpayers and the tax collectors cannot be eliminated unless a healthy tax culture is promoted where true declarations are respected and accepted. The ground realities are that those who pay their taxes honestly are always penalized. No matter how strong and reliable evidence they produce, their version is disbelieved and discarded. On the other hand, those who do not file any tax declaration, understate their colossal income or merely fulfill the pre-determined threshold of the Self Assessment Schemes fixed by their friends in the CBR are considered as "honest tax payers" and they have no complaints regarding contacts or excessive powers enjoyed by the tax collectors. Their cases are seldom selected for total audit, and even if these are selected (for eyewash), their declared versions are accepted after nominal additions.
- 6.8 The scheme, as in the past, has put the taxpayer on a tenterhook, in view of the points elaborated as under:
- * As per paragraph 1.2(vi), Income last assessed means the income for any year assessed immediately before the date of filing of return by a taxpayer. It is a rather harsh condition. In cases where muk muka (deal) was not made, the officers made obnoxiously high assessments. The CBR wants such affectees of its DCIT's highhandedness not to take benefit of this scheme. It is adding insult to injury.
 - * As per Para 2D(i), evidence for payment is to be submitted, even for collection charges claimed if any. The CBR's wizards must realize that in Pakistan neither the commercial buses nor taxi drivers give a cash memo to the passenger, not even a rickshaw driver. How they can insist for such evidence is beyond comprehension!
 - * CBR has ostensibly shown much respect for the higher courts, which is apparent from Para 8(c), for reasons beyond their control within the meaning of the ratio enunciated in [(1991) 64, TAX 86 (S.C.Pak)], the DCIT may further extend the period by another 15 days. What benevolence that graciously the DCIT can give you 15 days! If a person is outside Pakistan and has some genuine difficulty in obtaining information/evidence, why time relaxation should not be left at the discretion of the DCIT after examining the peculiar facts of each and every case? This shows that the CBR has no faith even in its subordinates that they can exercise their judicial discretion in a judicious manner!

- * CBR wants to have full control over the selection of cases without any check and balance. Para 9(a)(i) says that computer ballot may be random or parametric. The CBR stalwarts are not ready to tell the taxpayer about their parameters; of course the word "transparency" is not in the dictionary of the CBR. Even the Honourable Federal Tax Ombudsman cannot stop them from highhandedness and arbitrariness.
- * The Government wants to revive the ailing economy, but the CBR wizards require every individual to pay 20% additional tax if he wants to qualify under its benevolent scheme (my foot). But even though one pays the same (no matter if he sustained loss or has much lower income), he is still at the (parametric!) mercy of the CBR as he is not immune from total audit.
- * There is a genuine apprehension that the CBR will take revenge from those who did not "cooperate" with them in the national survey through this masterminded scheme. 19

7.22 Section 56- "Any year" curtailed to 5 years 20

7.1 Section 56 was amended last year by way of insertion of an Explanation which said that "for the removal of doubt it is declared that notice under this section may be issued in respect of any assessment year including the current assessment year and any preceding assessment year". This amendment by way of Explanation under the established rules of interpretation was construed to have a retrospective effect.

7.2 Last year's unwise and harsh amendment was to defeat the interpretation by the learned ITAT that notice u/s 56 could not be issued for earlier years. The unwise and harsh amendment, it was pointed out by this writer, would increase the discretionary and bargaining powers of the tax officials. They started blackmailing the citizens by calling returns for the last twenty years and more. Thank God that the CBR stalwarts have accepted my point of view and curtailed the time limitation to 5 years as is the case u/s 65 of the Ordinance.

8. Section 58 - Revision of wealth statement

8.1 Every assessee declaring income of Rs. 200,000/- or more will have to file a Wealth Statement with the return. This was done last year in view of the fact that Wealth Tax Act, 1963 became inoperative with effect from assessment year 2001-2002. This amendment gives legal cover for filing of a revised wealth statement if one discovers any omission or mistake.

9. Section 59(4)-- Time limitation for SAS cases 21

- 9.1 Original position of section 59(4) that no order shall be made in the case of returns filed under self assessment scheme after 30th day of June of the assessment year next following the income year for which the return has been filed has been restored. Last year it was extended to 2 years. 22
10. Section 62C--- Omission of avoiding repetitive appeals
- 10.1 Last year this new section was inserted aiming at eliminating repetitive appeals on the same question of law. It provided that the DCIT will follow the orders of High Court or of ITAT on an identical question of law in all the cases pending before him notwithstanding the pendency of Department's appeal against the said order provided that: -
- The assessee makes an application that it will not file any appeal if the decision is reversed or modified by the High Court or Supreme Court.
 - The DCIT will modify the order, notwithstanding any limitation period provided in the Ordinance, within a period of 6 months from the date of receiving of such decision by the court. 23
- 10.2 It is strange that the CBR has omitted this section without any plausible reason. It was in the benefit of the taxpayers to avoid unnecessary appeals on similar questions of law. It appears that the CBR loves multiplicity of appeals and have utter disrespect for the orders of the ITAT and the High Courts. It is no doubt a regrettable step on the part of CBR. It once again confirms that neither the Parliament (which is now dissolved) nor the military regime has any say in fiscal laws. In fact, the CBR's high ups keep on playing with the fiscal laws according to their own wishes and whims. Perhaps they do not want to let go of appeal fee and 15% of tax assessed to account for the next budgetary target. 24
11. Section 80D-*Exclusion of individuals, AOP, URF & HUF*
- 11.1 The scope of section 80D was enlarged last year to cover the cases qualifying for self-assessment scheme. Every person had to pay minimum tax of 0.5% on declared turnover. Mercifully, this highly unjust amendment has now been restored to pre-2000 position.
12. Section 138-Withdrawal of Revision powers
- 12.1 The post of Member (Judicial) was abolished last year for reasons best known to the CBR. The revisionary powers u/s 138 against the order of the first appellate authorities were vested in him, which were transferred to the Regional Commissioners.

- 12.2 This section has been again amended to provide that no revision will lie after 30th June 2001. This is sheer ad-hocism. The CBR has been making amendments in this section without any rational basis. It has destroyed the entire scheme of appeal and revision by such erratic amendments, which has no justification whatsoever.
- 12.3 From the standpoint of taxpayers, it was a convenient forum to avoid inordinate delay in seeking legal remedies under the established appellate system. Appointment of Tax Ombudsman is not a substitution for revision, which is a judicial function under the law. Tax Ombudsman is not supposed to hear revision petitions, as his main function is that of a watchdog. It is lamentable that such a useful revision forum has been abolished without proper thinking. It appears that experimentation is the keyword for the policymakers.
13. Para A, First Schedule---Reduction in Tax rates 25
- 13.1 The painful reality is that the finance minister in his budget speech created some wrong impressions about the dates from which the reduction in tax rates has been given, perhaps he was misinformed by the CBR high-up. He proudly announced that the basic exemption for taxable income has been raised to Rs. 60,000. All the newspapers carried out this good news in bold headlines, without informing the public at large that the rates would be effective from assessment year 2002-2003. Of course, this is not their fault, as the finance minister did not clarify it. The special correspondents of newspapers specialising in finance had neither time to read the FO 2001 nor the expertise to discern the date of effectiveness of different provisions of law.
- 13.2 The government has been making tall claims about simplifying tax laws whereas the ground reality is that even the finance minister could not tell the people that the CBR presented future relief(s) portraying as if it is available from this year. The reduction in tax rates would be available for assessment year 2002-2003. One wonders what was the need to pose as if it would be available for the assessment year 2001-2002, and what is the guarantee that it will be maintained when FO 2002 is announced. This is a bizarre situation reflective of the level of decadence in the thinking of our rulers.
- 14 Overview of tax policy
- 14.1 The Finance Ordinance, 2001 does not contain any measure or step for basic structural changes in the tax system. The deferment of tax reforms in tax administration and policy is indicative of the fact that yet another "brilliant" finance minister has been over empowered by the CBR's babus. They managed to convince our polite and humble

finance minister to restrict his tax agenda to a few cosmetic changes making the budget glitter from outside but not make an attempt for any meaningful changes to weaken their control over the subjects (poor tax payers having no rights but only obligations, that too without any quid pro quo).

- 14.2 It is disturbing to note that the government has deferred all the tax reform measures suggested by the Task Force headed by Mr. Shahid Hussain, wherein some specific and concrete steps to reduce assessee-collector contact and corruption rampant in the department were recommended. On the contrary the military junta has once again relied on the tax bureaucrats (sic) sitting in the CBR for a patchwork of figures and numbers here and there. It is unfortunate that the Budget 2001-2002 has proved to be yet another "Babu Budget" showing a typical clerical mentality of changing rates of duties and taxes alone.
- 14.3 The present situation of antagonism between the CBR and taxpayers needs to be reconciled through a process of national consensus. A National Tax Commission, comprising judges, professionals, and representatives of the taxpayers and tax machinery, is the need of the hour. The task of tax reform cannot be achieved through handpicked experts (mostly coming from Washington) and some local teachers (who even do not know the ABC of taxation). The decision to reform tax system and laws through CBR's backed tax reform committees, in which assignments have been given to ex-bureaucrats (who are in fact responsible for the present state of affairs), is an ugly joke with the nation. The tension prevailing between the government and taxpayers can only be eased through a national reconciliation process and not by issuing threatening statements by CBR stalwarts (sic). The proposed National Tax Commission as a truly representative and competent forum can provide a basis for an equitable tax system in Pakistan in the near future.
- 14.4 The process of national reconciliation on tax matters will certainly require some time. Meanwhile, the Government in order to restore the confidence of the taxpayers should immediately promulgate Taxpayer's Bill of Rights in the form of a Presidential Ordinance. The provisions of the Bill must: -
 - (a) safeguard and strengthen the rights of taxpayers.
 - (b) ensure equality of treatment.
 - (c) guarantee privacy and confidentiality of their declaration.
 - (d) provide right to assistance by State in tax matters.
 - (e) guarantee unfettered right of appeal through an independent tax appellate system.

- (f) provide facilities for independent review of disputes with tax authorities. 26

- 14.5 In recent years both the United States and the United Kingdom specifically enacted and implemented such laws to further strengthen their already highly developed tax cultures. The US Technical and Miscellaneous Revenue Act of 1998 contained a Taxpayer Bill of Rights. The UK Inland Revenue issued in 1996 a Taxpayer's Charter informing taxpayers of their rights in audit and the tax collection processes.
- 14.6 In Pakistan, the State never bothered to educate the taxpayers about their obligations. They have been left at the mercy of the ruthless tax officials. The taxpayers have no specific Bill or Charter of Rights. Tax reform efforts will remain a cliché unless the State takes some fundamental steps to restore the confidence of the public in general and the taxpayers in particular and also convince them by concrete action that their taxes are spent for the progress and welfare of the society.
- 14.7 The taxpayers are the most humiliated beings in Pakistan, although it is a fact that a very few pay their taxes honestly, but even they have no protection of life and property. Others say that a government, which is incapable of protecting life and property of its citizens, has no right to impose or collect taxes. Those who are not paying or paying negligibly with the connivance of corrupt tax officials command respect, win elections and rule the country. After every other year, the rulers announce a tax amnesty scheme to prove that the honest taxpayers are just "idiots". The forces of loot are hand in hand with the corrupt and both are flourishing in Pakistan. On the other hand, in the name of "documentation of economy" (sic), the life of the ordinary people is becoming difficult with each passing day. In the eye of rulers, the only purpose of National Survey for Documentation is to extort more taxes from the people. This tax is ultimately spent on giving unnecessary perquisites to the rulers of the day.
- 14.8 The existing tax system itself is a worst expression of colonial heritage. It is highly unjust. It protects the establishment and exploitative elements that have monopoly over economic resources. There is no political will to tax the privileged classes. The common man is paying an exorbitant sales tax (15% to 16.5%) on commodities he uses as a consumer, but the mighty generals and bureaucrats are paying no wealth tax on their colossal assets. Do our rulers know about the canons of taxation?

14.9 Adam Smith in his 1776 Wealth of Nations propounded the following four principles of taxation (commonly known as canons of taxations):

- EQUITY: The tax payable should accord with ability to pay or taxable capacity.

[In Pakistan the poor are taxed although they have no ability to pay and the rich enjoy exemption notwithstanding taxable capacity. Recently the Government abolished wealth tax to safeguard the vested interest i.e. people enjoying assets as a result of loot, tax evasion, political bribes and gallantry awards.]

- CERTAINTY: The taxpayer should know exactly what is being taxed, how much he has to pay and when he has to pay it, meaning that the law should be clear and unambiguous and the tax authorities' interpretation of it should be readily available.

[In Pakistan, there is no certainty about taxes. The administrative authorities keep on playing havoc with tax laws through the infamous SRO system. Taxpayers have been left to the amazing wilderness of confused laws that are vulnerable to varied interpretation and authorities' explanations add further confusion].

- CONVENIENCE: The tax should be payable in a manner and at a time convenient to the taxpayer.

[CBR makes it a point to make the life miserable for the taxpayers. The procedures for collection of taxes are cumbersome and most inconvenient in Pakistan].

- ECONOMY: Enforcement and collection costs should be reasonably proportionate to the receipts.

[Quite the opposite is the situation in Pakistan. The CBR has reduced its cost of collection by shifting a substantial part of it to the withholding agents/businessmen and that too without giving any compensation. On the contrary they receive nasty letters and punitive orders under section 52/86 of the Ordinance. In all the civilised societies, tax authorities allow percentage deduction to withholding agents/ businessmen to compensate for the cost of complying with collection of taxes as an agent.]

14.10 There are flagrant and perpetual violations of established principles of taxation by the State, yet the people of Pakistan, who are the most heavily taxed in Asia, are being threatened every day by the tax authorities of dire consequences. It is high time that the Government should show a conciliatory gesture by promulgating the Taxpayers' Bill of Rights. The economic survival of the country now lies in paying taxes. All the citizens of Pakistan who are liable to

pay taxes should perform their national duty honestly and without any hesitation. The State must ensure them full protection of their rights, transparency in utilization of taxpayers' money and implementation of a just, equitable and fair tax system. 27

IGNORANCE OF LAW

"Ignorance" is lack of knowledge and implies a total want of knowledge in reference to the subject matter. On the contrary "mistake" admits knowledge, but implies a wrong conclusion. The distinction between a mistake of law and ignorance of law is that mistake implies action under a misapprehension of the law, while ignorance implies inactivity for want of knowledge of the law. Ignorance implies passiveness; mistake implies action. There is a common maxim that "ignorance of law is no excuse", which is familiar to all minds. Ignorance of facts, is the want of knowledge of the fact in question, which must be excusable. There are certain other, perceptions that, the maxim "Ignorantia juris neminem excusat" does not apply to a matter of law arising on the doubtful construction of a provision, and is a rule of necessity and is limited in its scope by the reason of it. Such reason is that otherwise mere ignorance in fact of the law would furnish immunity from punishment for violation of the Criminal Code and immunity from liability for actual loss for violations of personal and property rights.

In 3 ITD 221, it has been observed that the maxim that ignorance of law is no excuse is, no doubt, a well known time honored principle but it has lost much of its relevance in the context of the present day legal system, replete with complex legislation touching upon every aspect of life. It may be said about Income Tax Law, that it has become so complicated and complex that it cannot be expected that every assessee, knows that law and even it can't be presumed that every tax lawyer or tax administrator knows the law. That the tax laws of this country are complex and complicated and often require for compliance, therewith the assistance of tax practitioners specializing in this field, is a well known fact. It is equally well known fact that the legislation in this field undergoes so frequent changes and amendments that it is not possible for even a person specializing in this field, including the tax administrator, to claim that he knows what exactly the law is on a particular given day or period without making reference to the history of the enactments. In such circumstances, it would be a travesty of truth and justice to hold that the assessee knew or ought to have known the correct law and comply therewith, even though, in fact, he was not aware of the provisions.

Most of the income tax assesseees have been entrusted the responsibility to deduct income tax, and the schedule of deduction of tax is not very easy to understand for a common man. This is only one aspect, which is given hereunder: 107

SCHEDULE OF DEDUCTION OF TAX:

| Sec. | Nature of Payments | Rate | Responsibility for Collection/ payment | Remarks |
|--------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|-----------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| 50(1) | Salary | <u>Resident:</u> As per slab <u>Non resident:</u> 20% as per slab whichever is higher. | Every employer. | Exemption limit upto Rs. 60,000/- |
| 50(2) | Interest on Securities | 30% after deduction of Zakat. | Banking companies and Financial Institutions. | No monetary limit. Special rates for residents in case of Khas deposit certificates and federal investment bonds. |
| 50(2A) | Interest or profit on account/ deposits in banks etc. | 10% | Banking Companies and Financial Institutions. | Interest on foreign currency account is exempt. |
| 50(2B) | Financial Transactions through banks: Out station cheques exceeding Rs. 25,000/- Demand drafts. Pay orders. Special deposit receipts, TDR's and SNDR's Telegraphic/ Electronic transfer of funds. Cash deposit receipt Rupee travellers Cheques. | 0.3% | Banking Companies and Financial Institutions. | Exemption if a prescribed statement is provided to the bank. |

| | | | | |
|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| 50(3) | Payments to Nonresidents other than: Salary Services Interest on securities Interest/ profit on deposits Fee for technical Services Execution of contracts commission or brokerage Dividends Public auction of property prize money, winning from raffles, lottery or cross word puzzles Profit or interest on bonds certificates, debentures, securities and instruments | 15% on the amount of the royalty. 30% or rate applicable to the resident which ever is higher. | Every payer | Payments made to non-resident banking and insurance companies are exempt. |
| 50(3A) | Fee for technical services payable to nonresidents. | 15% | Every payer available under | Reduced rate certain double tax treaty. |
| (50(4) | Payments for execution of contracts, supply of goods and Services: Resident Having N.T.No. Supply of goods Execution of contracts upto Rs. 30M Execution of contract over | 3.5% company, R.F. contractors, N.T.No. 5% 6% | Government, local authority, and lease back (with Rs. 1 M. capital), foreign consultants or consortiums. | Leasing companies in case of buy arrangements are exempt. Monetary Limit: Supply of goods Rs. 25,000/- Execution of contract Rs.10,000/- |

Rs. 30M
rendered 5%
Transportation 2%

Services rendered
Rs.10,000/-

**Resident Not
Having N.T.No.**

Supply of goods 5%
Execution of 7%
contracts
upto Rs. 30M
Execution of
contract over 8%
Rs. 30M

Non-residents: 5%

Contracts upto
Rs. 30M Contracts
over Rs. 30M 6%

Turn key
contract 8%

Contracts, sub 4%

contracts for
designing, supply
of plant and
equipment and
construction of
power projects
(other than
hydel power) and
transmission
line projects

Contracts, sub 5%

contracts for
designing, supply
of plant and
equipment and
construction of
hydel power
projects

50(4A) Payment for 10%
brokerage
or commission

Government, local
authority, company
R.F, foreign
Contractors,
consultants or
consortiums.

| | | | |
|--------|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| 50(5) | Import of goods | 6% | Custom authorities |
| 50(6) | Motor Vehicles/ Transport carrier | Slab rates | provisional excise department Company. |
| 50(6A) | Dividends, Bonus & bonus Shares | 10% | |
| 50(7B) | Rent of house property (including furniture & fixture and services) | 7.5% | Government, local authority, company non-government institutions, Hospitals, clinics, maternity homes, Diplomatic missions. |
| 50(7C) | Prize money, winning from raffles lottery or crossword puzzles | 10% | Annual Rent exceeding Rs. 100,000 Every payer |
| 50(7D) | profit or interest on bonds, certificate, debentures, securities and instruments | 10% | Every payer |
| 50(7E) | Electricity consumption bills of commercial and industrial consumers | Slab rates | WAPDA KESC |
| 50(7F) | Telephone Bills Mobile tele- phone bills prepaid cards | Slab rates per month slab rate per month Slab rates | Mobile telephone companies. * PTC |
| 50(7H) | Supply of petroleum products to petrol pumps | 10% of the amount of commission on discount | PSO Caltex Shell etc. |

The assessee deducting the Income Tax, is further required to file its monthly, quarterly and annually statements under various provisions of law, on the prescribed formats given in various Rules, and normally default occurs because of lack of proper knowledge. The detail of these statements and relevant Rules, is given as under:-

Annual Statements

| Sec. | Nature of payment | Rules Prescribing Format | Due Date |
|--------|-------------------------------------------------------------------------------------------------------------|--------------------------|------------------------------|
| 50(1) | Tax on salaries. | 197 | 1st September of Every Year. |
| 50(2) | Tax on interest on securities. | 200 | 1st September of Every Year. |
| 50(2A) | Tax on interest [or profit] on account or deposit maintained with a Banking Co. or Financial Institution. | 200 | 1st September of Every Year. |
| 50(3) | Tax on payments to non-resident excluding certain payments as prescribed in the section. | 201 | 1st September of Every Year. |
| 50(3A) | Tax on payments to non-resident by way of fees for technical services. | 201 | 1st September of Every Year. |
| 50(4) | Tax on payment to resident on account of supply of goods; rendering of services and execution of contracts. | 201 | 1st September of Every Year. |
| 50(4A) | Tax on payment on account of brokerage or | 200 | 1st September of Every Year. |

commission
on behalf of
Government,
local authority,
company, registered
firm, foreign
contractors, or consortium.

| | | | |
|--------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|---------------------------------|
| 50(5A) | Tax on foreign exchange proceeds on account of export of goods. | 201A | 1st September of Every Year. |
| 50(6) | Tax on motor vehicles including private transport and passenger vehicles. | 201B | 1st September of Every Year. |
| 50(6A) | Tax on dividends and bonus shares to shareholders, not being a company. | 199/61B | 1st September of Every Year. |
| 50(7B) | Tax on rent of house property including rent of furniture, fixtures and services. | 61C | 1st September of Every Year. |
| 50(7C) | Tax on prize on prize bond raffle, lottery or crossword puzzle. | 201C | 1st September of Every Year. |
| 50(7D) | Tax on profit or interest on bonds, certificates, debentures, securities or instruments not being a payment to which section 50(2) applies. | 200/61D | 1st September of Every Year. |
| 50(7E) | Tax on electricity bills of commercial or industrial consumers. | 201D | 1st September of Every Year. |

50(7F) Tax on mobile
Telephone bills.

201F

30th July of
Every Year.

Quarterly Statements

| Sec. | Nature of payment | Rule Prescribing format | Due Date |
|--------|------------------------------------------------------------------------------------------------------------------------------|-------------------------------|-------------------------------------------------|
| 50(2) | Tax on Interest on securities | 57 | 15th of October, January, April & July |
| 50(2A) | Tax on Interest [or profit] 57A on account or deposit maintained with a Banking Co. or financial institution. | | 15th of October, January, April & July. |
| 50(3) | Tax on payments to non-resident excluding certain payments as prescribed in the section. | 202 | 15th of October, January, April & July. |
| 50(3A) | Tax on payment to non-resident by way of fees for technical services | 58 | 15th of October, January, , April & July. |
| 50(5) | Tax on imported goods as increased by the Customs duty and Sales Tax. | 202 | 15th of October, January, April & July |

Monthly Statements

| Sec. | Nature of payment | Rules Prescribing format | Due Date |
|--------|----------------------------------------------------------------------------------------------------------------|--------------------------------|-----------------------|
| 50(1) | Tax on salaries | 53 | 15% of Every month |
| 50(2B) | Tax on outstation cheque exceeding Rs. 50,000/- or demand draft or pay order or special deposit | 62B | 10% of Every Month |

| | | | |
|--------|------------------------------------------------------------------------------------------------------------------------------------------------------------|------|---------------------|
| | receipt [or cash deposit receipts or rupee travellers' cheques] or effecting a telegraphic or electronic transfer of receipt/funds. | | |
| 50(4) | Tax on payment on account of supply of goods, rendering of services and execution of contracts. | 61 | 15% of Every Month |
| 50(4A) | Tax on payment on account of brokerage or commission on behalf of Government, local authority company, registered firm, foreign contractors or consortium. | 61A | 15% of Every Month |
| 50(7F) | Tax on mobile Telephone bills. | 201F | 10th of Every Month |

Keeping in view the above procedure of deduction of Income Tax and filing of various statements on monthly, quarterly and yearly basis, the question arises whether an assessee can claim that he was not aware of the relevant provision of law (Ord., and Rules) and he has become aware when he has received a Notice proposing levy of penalty. The assessing Officer normally refuse to accept this explanation on the ground that ignorance of the provision of the Ord., is no reasonable cause and accordingly levy heavy penalties. The appellate forums also don't treat it as reasonable cause, as they think that Ignorance of law is not a valid or sufficient cause for the statutory default committed by the assessee. In my opinion, the assessee deserves the relief, as the Income Tax law is so complex and complicated that it can't be presumed that every assessee knows the law and due to this aspect, the credibility and probability of the assessee's plea can't be brushed aside.

In Salmond's Jurisprudence, 12th Edn. pp. 395-396, it is stated that the principle that ignorance of law is no excuse is recognized in many systems and the rule is also expressed in the form of a legal presumption that every

one knows the law, the presumption is stated to be irrebutable. Certain reasons have been explained as rendered for this somewhat rigorous principle, which are not of importance in the present legal system, and peculiar circumstances of our country where 31% people are educated and only 2% of them can read English, in which language the Law is written.

It may be remembered that this legal maxim originated at a time when the function of the state in most part was merely to govern the country, by maintaining law and order within the country, and protect it from external aggression and, as stated in Salmond's Jurisprudence, the law in most instances was derived from and in harmony with the rules of natural justice, but in the modern days as we have already stated, the law of a State govern almost every aspect of life of its citizens and it is well-nigh impossible for anyone to know all the statutory laws and every provision thereof. As a matter of fact, efficacy and justification of this principle that every one is presumed to know the law is doubted very much in the observations at page 396 of Salmond's Jurisprudence where it is stated that it must be admitted, however, that while each of the reasons on which the principle is based is valid and weighty, they do not constitute altogether sufficient basis for so stringent and severe a rule and the theory that the law is knowable throughout by all to whom it concerns is an ideal rather than a fact in any system as indefinite and mutable, that in a complex legal system a man requires other guidance than that of common sense and a good conscience and the fact to be that the rule in question, while in general sound, does not in its full extent and uncompromising rigidity admit of any sufficient justification. It is further observed that certain exceptions to it are being developed, particularly in respect of the defence of 'claim of right' in criminal law.

On the contrary, the public policy requires that Ignorance of law should be no excuse. But, there is no presumption that everybody knows the law, though it is often so stated, sometime, it is said that every body knows the law, but this is only a slovenly way of stating the truth that the Ignorance of the law is not in general, an excuse. (Jurisprudence by Pollock, p. 163). Practically, there is no presumption in this country that every person knows the law, if it were so. The view that every one is presumed to know the law is now generally rejected, it is not a true proposition of law, and even if it were, it would only be a legal fiction, not a moral justification. It is a well known observation of someone, that everybody is presumed to know the law, except Judges of a court, who have superior Courts set-over them to put them right.

It is well established by the decision of the Supreme Court of India (1972) 83 ITR 26 (SC) that the liability to pay penalty does not arise merely upon proof of default in complying with the statutory requirements and an order imposing penalty for failure to carry out a statutory obligation being the result of a quasi-criminal proceeding, will not originally be imposed unless the party obliged either acted deliberately in defiance of law or was guilty of conduct,

contumacious or dishonest or acted in conscious disregard of its obligation, and penalty failure to perform the statutory obligation, it is stated, is a matter of discretion of the authority concerned to be exercised judicially on a consideration of all relevant circumstances and even if a minimum penalty is prescribed the authority competent to impose the penalty will be justified in refusing to impose it when there is a technical or venial breach of the provisions of the Act or where the breach flows from a bona fide belief of that the offender is not liable to act in the manner prescribed by the statute.

In the case cited as (1998) 231 ITR 514, the Court has observed that Ignorance of law is certainly not an excuse but there is no presumption of law also that everybody knows the law. In (1998) 232 ITR 176, the assessee pleaded ignorance of law, which was accepted. In Criminal Law by Glanville Williams, page 385, it has been stated that "The view that everyone is presumed to know the law is now generally rejected, it is not a true proposition of law, and even if it were, it would only be a legal fiction, not a moral justification. Lord Mansfield drily observed that it would be very hard upon the profession, if the law was so certain, that every body knew it. The idea that the law can be known by everyone is today in the "planned" and "welfare" state, more ludicrous than ever. In (1846) 135 ER 1124, 1130, Maule J. said "There is no presumption in this country that every person knows the law, it would be contrary to common sense and reason if it were so."

28

In FEDERAL Budget 2002-2003, the Government of Pakistan has increased the exemption upto ^P20,000 and about 45 exempted categories under Section 14 have been discontinued. 29

Endnotes of Chapter No. 4

1. The Income Tax Ordinance 1979, chapter-7, p. 86–93.
2. A.L. Dawa, Laws of Income Tax, p. 1/721.
3. A.L. Dawa, Laws of Income Tax, p. 2/2930.
4. Income Tax Ordinance 1979, chapter-8, p. 146–156.
5. Income Tax Ordinance 1979, chapter-3, p. 30–31.
6. Muhammad Muazzam Mughal, Income Tax Ordinance 1979 (Principles and Practice), 1979, p. 215–280.
7. Federal Budget 2002–2003 Ministry of Finance, Government of Pakistan, Islamabad (16th June, 2002).
8. Taxation in Islam, p. ???
9. Finance Ordinance, 2001, Ministry of Finance, Islamabad, (Issued by the Chief Executive and Finance Ministry of Pakistan).
10. The Gazette of Pakistan Ectree, (Islamabad: Minstry of Finance, 13 Shet 2001), p. 972–973.
11. The Finance Ordinance, (Islamabad: Ministry of Finance, 2001), p. 980.
12. The Finance Ordinance, (Islamabad: Ministry of Finance, 2001), p. 985–986.
13. The Income Tax Ordinance, 1979, p. 60.
14. Ikram-ul-Haq Dr, Taxation, vol-64, p. 84.
15. Ikram,-ul-Haq Dr, Taxation, vol-64, p. 66.
16. The Income Tax Ordinance, 1979, p. 71–81.

17. Ikram-ul-Haq Dr, Taxation vol64, p. 68.
18. The Income Tax Ordinance, 1979, p. 86.
19. Budget Speech of Finance Ministry for the Year 2000–2001.
20. The Income Tax Ordinance, 1979, p. 85.
21. The Income Tax Ordinance, 1979, p. 86.
22. The Income Tax Ordinance, 1979, p. 87.
23. The Income Tax Ordinance, 1979, p. 90.
24. Ikram-ul-Haq Dr, Taxation, vol. 64, p. 72.
25. The Income Tax Ordinance, 1979, p. 157.
26. Ikram-ul-Haq Dr, Taxation, vol. 64, p. 74.
27. Ikram-ul-Haq Dr, Taxation, vol. 64, p. 75–77.
28. Ilyas Zafar Dr, Taxation, vol. 64, p. 75–84.
29. Federal Budget for the year 2001–2002 (Islamabad Ministry of Finance, 2001).

CHAPTER NO 5

- ✦ **Evaluation of taxes levied in Pakistan**
- ✦ **Evaluation and principles of modern
Taxation**
- ✦ **Modern objectives**
- ✦ **Principles of Modern Taxation**
- ✦ **Characteristics of a good taxation system**

5.1 EVALUATION OF TAXES LEVIED IN PAKISTAN

1. The best criterion for assessing the performance of a system is whether the system has been able to achieve its declared objectives. Before making an evaluation of the taxation system of Pakistan on the basis of the abovementioned criteria, let us examine the goals and objectives which the system is supposed to achieve. **1**
2. objectives of the Tax Policy of the Government of Pakistan, besides raising revenues, are:
 - I. Increasing the rates of savings and investment by providing appropriate incentives.
 - II. Encouraging domestic production by appropriate tariff policy.
 - III. Regulating imports with a view to improve balance of payments situation.
 - IV. Promoting exports through rebates and duty drawbacks.
 - V. Dispersal of industry through tax holiday and other incentives.
 - VI. Diversification and promotion of industrial growth by giving tax concessions to selected industries in key sectors.

VII. Control of inflationary pressures by mopping up excess purchasing power.

VIII. Promoting equitable distribution of income and wealth.

IX. Encouraging plough back of profits by companies through appropriate policies according to the requirements of the economy. 2

3. If judged on the basis of the abovementioned objectives, there is no denial of the fact that in actual practice, the country's taxation policy has not fully succeeded in translating the said aims into reality. Briefly speaking, tax revenues have failed to meet out budget requirements and the country has undergone heavy internal and external debts. Our rates of saving and investment are one of the lowest in the world. Situation of balance of payments is miserable. Fiscal incentives like tax holidays, exemptions, rebates, duty drawbacks etc. have failed to motivate industrialization. Disparities in the distribution of income and wealth are on the increase. Inflation in the economy has assumed threatening proportions. The tax policy has failed to tap the taxable capacity of the rich as well as to contain their ostentatious consumption. Widespread tax evasion and rampant corruption provides ample testimony of the failure of our policy makers. 3

4. To be more specific, following are some of the shortcomings which the critics point out in the taxation system of the country:

- I. So many exemptions particularly the continued exclusion of agricultural income from the ambit of incometax. 4
- II. High rates of tax.
- III. Inadequacy of tax collections to meet our growing needs for financing development expenditure.
- IV. Small tax base.
- V. Inelasticity of the tax revenues to match the growth in income, with tax revenue standing only at 13% of GDP.
- VI. Heavy dependence on indirect taxes, the direct tax contributing only 15% of the total tax collections of the Federal Government.
- VII. Widespread evasion of taxes and duties and large scale smuggling-mushroom growth of plazas and Bara markets.
- VIII. Growth of a parallel black or untaxed economy.
- IX. Complicated tax laws inconvenient procedures.
- X. Corruption and inefficiency of the tax machinery. 5

5. The National Taxation Reform Commission set up by the Government of Pakistan in July 1985, in its report

submitted on 31st December 1986, identified the following main weaknesses in the taxation system of Pakistan:

- I Strong feeling of public animosity towards system;
- II High tax rates;
- III Complicated laws and Regulations;
- IV Inconvenient procedures;
- V Excessive discretionary powers of the taxation authorities.
- VI Widespread corruption among tax officials and opportunities for collusion. 6

Now let us make an evaluation of the taxation system of Pakistan on the basis of various time-honored criteria as under:-

I. EQUITY

Basic equity has been provided in the taxation system of Pakistan by the fact that incomes below Rs. 80,000 are exempt from income tax and luxury items are subjected to high rates of custom and excise duties. Rate structure of tax is also progressive as the incidence on the lowest income group is 8.3% of income while in case of highest income group it is 13.5% of income.

Without prejudice to above remarks, the taxation system of Pakistan cannot be regarded as equitable. "Despite the attempts of the tax planners to distribute the burden of tax on

different segments of the society on the basis of classification of goods and services in terms of 'necessaries', 'comforts' and 'luxuries', the fact of the matter remains that, enjoying flexibility, the rich remain out of the ambit of everyday use where a person in a lower income group pays the same amount of indirect tax as a person in a higher income group. In such cases, the real burden on the lower income groups in the context of their income group. In such cases, the real burden on the lower income groups in the contest of their income is inequitable and regressive".

So far as direct taxes are concerned, no doubt they are progressive and equitable, but their scope is very much limited because of abolition of estate duty, gift tax and capital gains tax and also because of many exemptions given in respect of the remaining two direct taxes, income tax and wealth tax. It would be interesting to note here the observations of the National Tax Reform Commission about the effect of exemptions of income tax on the concept of equity in income taxation in Pakistan. "Once income is adopted as the index of ability, it simply follows that the ambit of taxable income or the tax base should reflect every person's comparative position as fairly as possible. By this standard Pakistan's present income tax base is far from fair because income effectively liable to tax varies considerably from income arising to various persons in equal terms. This variation originates mainly from more than two hundred exclusions and exceptions allowed

under various provisions of the Income Tax Ordinance. As a result, the tax burden has not been distributed fairly among the population. Some persons are required to pay little or no tax merely on account of the sources from which they derive their income while others in very similar economic circumstances are required to pay much more." 7

II. TAX REVENUES AND PUBLIC EXPENDITURE

Following table shows the position of total tax collections during the last three years versus public expenditure:-

| | | (Billion Rupees) | | |
|------|--------------------------------------|------------------|---------|---------|
| | | 1988-89 | 1989-90 | 1990-91 |
| | | (Actual) | (R.E) | (B.E) |
| | Total Expenditure | 201.2 | 218.7 | 245.0 |
| I. | 1. Current | 153.1 | 163.7 | 182.0 |
| | 2. Development | 48.1 | 55.0 | 63.0 |
| | Total Revenues | 144.3 | 159.8 | 188.5 |
| | 1. Tax | 110.3 | 120.4 | 140.9 |
| II. | 2. Non-Tax | 28.0 | 33.8 | 38.5 |
| | 3. Surplus of autonomous Bodies | 5.2 | 5.6 | 9.1 |
| III. | Overall Deficit | 56.9 | 58.9 | 56.5 |
| IV. | Overall Deficit as percentage of GDP | | | |

| | | | |
|------------------------|-------|-------|-------|
| (m.p.) | 7.4% | 6.7% | 5.7% |
| V. Deficit financed by | | | |
| 1) External | 18.20 | 24.59 | 21.15 |
| borrowing | 38.68 | 34.32 | 35.40 |
| 2) Domestic | | | |
| borrowing | 8 | | |

The statistical data tabulated above shows the inadequacy of the total revenues to finance the public expenditure. Tax revenues during the last three years were Rs. 110.3 billion, Rs. 120.4 billion and Rs. 140.9 billion as against the public expenditure of Rs. 201.2 Billion, Rs. 218.7 billion and Rs 245 billion respectively. It means that the tax revenues financed only 54.72% of public expenditure in the year 1988-89, 55.04% of public expenditure in the year 1989-90 and 57.14% of public expenditure in the year 1990-91. The tax receipts have even failed to meet the current expenditure during these years what to speak of the development expenditure. To meet the budget deficits we have to resort to borrowings from internal and external sources. The overall budget deficit of Rs. 56.55 billion in the year 1990-91 was financed to the extent of 37.4% by external borrowing and 62.6% from internal sources.

The abovementioned facts and figures depict a very dismal picture of the economy. The inadequacy of public revenues leads to borrowings and the result is that the country

is over head and ears indebt. Total internal debt amounted to Rs. 422 billion in the year 1990-91 while the external debt is about 16 billion dollars (about Rs. 400 billion). In the year 1991-92, total debt servicing on internal and external debts is estimated at Rs. 81 billion or so.

III.TAX COLLECTION AND GNP

Another time honored criteria for judging a tax system is to compare its yield with the national income of the country. On the basis of this criteria, following position emerges in Pakistan:-

| Year | G.N.P | TATOL TAX Collection | Tax Collection As % of G.N.P |
|---------|---------|-------------------------|---------------------------------|
| 1986-87 | 608857 | 65702 | 10.79% |
| 1987-88 | 704484 | 75984 | 10.78% |
| 1988-89 | 797750 | 110340 | 13.83% |
| 1989-90 | 894714 | 120390(revised) | 13.45% |
| 1990-91 | 1048872 | 140870(budget) | 13.43% |

While analyzing the relationship of tax receipts with national income we find that the percentage of tax collection is very low which shows that we have a very low taxes to national income ranges between 10% to 20%. In developed countries the ration exceeds 20%. In the United States the ratio is 25% and this is exceeded by some countries in Western Europe.

We also find that the tax revenues have not kept pace with the increase in GNP and thus elasticity is less than unity. Tax elasticity was calculated at 0.81 in the year 1985-86 and so the tax system is not buoyant. 9

IV. DIRECT TAXES VERSUS INDIRECT TAXES

Following table shows the respective shares of direct and indirect taxes in the total tax receipts:-

| Year | Direct Taxes | Indirect Taxes |
|---------|--------------|----------------|
| 1986-87 | 16.08 | 83.92% |
| 1987-88 | 15.58% | 84.42% |
| 1988-89 | 15.29% | 84.71% |
| 1989-90 | 14.70% | 85.30% |
| 1990-91 | 17.52% | 82.48% |

Statistical data given above depicts that there is high degree of skewness in the tax structure of Pakistan. We are heavily depending on the indirect taxes perhaps because such taxeds are easy to collect and less annoying to the rich and politically influential and powerful classes. Share of direct taxes in the total tax receipts in the year 1988-89 was 15.29% only which further slipped down to 14.70% in the revised budget estimates of 1989-90. In the budget estimates of the financial year 1990-91 the share of direct taxes was expected at 17.52% in the total tax receipts which shows a slight improvement over the preceding year. The contribution of

direct taxes in Pakistan is just negligible in view of the position obtaining in the developed countries where more than 70% revenues come from direct taxes. We even do not favourably compare with some of the developing countries in our region where the direct taxes account for more than 25% of the total tax receipts.

"The existing balance between direct and indirect taxes has been examined in the context of equity objectives of public policy. While holding that ultimate point of reference in the context of distributive justice is always the progressiveness of the whole fiscal system, it has been pointed out that the higher expenditure required for serving the cause of the impoverished through the fiscal system as a whole calls for higher receipts through taxation which brings into focus the need for a just distribution of tax burden. Indirect Taxes do hold the potential for adding to the progressiveness of the fiscal system but the balance of a judicious distribution of tax burden hinges in the final analysis on the progressive character of the direct taxes". 10

V. TAX BASE

There are about 11 lac assesses in a population of 11 crore in our country, which means that only one percent population is paying income tax. Agriculture which accounts for 25 percent of GNP is exempt from income tax. In addition to that, the Income Tax Ordinancy, 1979 exempts from Income-tax almost 200 incomes or classes of income, major ones being income from National Savings Schemes, Tax holidays to

certain industrial undertakings, poultry farming, fish farming, cattle breeding, income from certain properties, capital gains, bonus shares, manufacture of agricultural machinery etc. Moreover, many concessions are also available in the form of tax credits, tax rebates and accelerated depreciation allowances. Similar is the case in respect of wealth tax. So far as Customs is concerned, almost 50% imports are exempt from custom duties and exports are almost 100% exempt. With regard to excise duty, we can say that only few items not more than 50 are being subjected to tax. In the case of sales tax, the notifications of exemptions issued by the Central Board of Revenue are so much that they cannot be easily counted. 11

VI. TAX RATES

There is a general feeling in the country that the rates of tax are very high. One feels robbed rather than taxed. After meeting the tax liability, little savings are left with the tax payer for his future requirements or to build his business capital which induces him to resort to evasion. High rates of indirect taxes are stated to be the main cause of smuggling, evasion of duties and misdeclaration of value.

However during last few years, the rates of tax have been consistently brought down. The maximum rate of income tax has been lately fixed at 35% while the rates of indirect taxes have also been considerably lowered. It would not be without interest to mention here the observations of the

National Tax Reform Commission in their report of 1986. The Commission observed:

"In our examination of rates of tax, we find that the high rates of incometax have been reduced since last year and now they compare favorably with tax rates in other countries. In fact, these rates are now the lowest not only in comparable countries but are much lower than in U.K, USA or Japan. For example, in Pakistan the effective tax rate for an income of Rs. 200,000 with investment allowance, is less than 17%. In comparison, India charges 31%".

Since then the rates of income tax have been further reduced and, as mentioned above, at present the maximum rate is 35%. 12

VII. COST OF COLLECTION

The total collection, the total of collection and cost s percentage of collection of all the Federal taxes during the last few years has been as under:-

| (In million rupees) | | | |
|---------------------|------------|-----------------------|----------------------------|
| Year | Collection | Cost of Collection | Cost as % of Collection |
| 1986-87 | 65701.7 | 455.5 | 0.69% |
| 1987-88 | 75983.6 | 528.0 | 0.69% |
| 1988-89 | 91019.9 | 573.1 | 0.63% |

| | | | |
|---------|--------|-------|-------|
| 1989-90 | 104918 | 659.6 | 0.62% |
| 1990-91 | 111751 | 708.5 | 0.63% |

The break-up of the cost of collection under two major heads, namely direct taxes show the following position:-

| Year | Cost of Collection of direct taxes | Cost of Collection of indirect taxes |
|---------|---------------------------------------|-----------------------------------------|
| 1986-87 | 1.76% | 0.49% |
| 1987-88 | 1.88% | 0.48% |
| 1988-89 | 1.59% | 0.46% |
| 1989-90 | 1.43% | 0.48% |
| 1990-91 | 1.59% | 0.42% |

The above tables show that the percentages of cost of collection in Pakistan are appreciably low by any standard. Cost of collection much more than the one in Pakistan is generally considered to be reasonable in the developed countries of the world. Lower cost in Pakistan is, in fact, a great impediment to the effective administration of the taxes. 13

VIII. TAX LAWS

Tax laws are very complicated and procedures of assessment of liability and payment of tax are mostly inconvenient and sometimes even undignified for the tax payer. Law are not only beyond the comprehension of the common man but sometimes even the tax officials and legal

practitioners fail to understand many provisions. Moreover the laws are not properly codified and updated. Circulars and notifications issued by the Central Board of Revenue are so numerous that it is even difficult for a tax official to remain up to date about them. Every year at the time of the budget, scores of amendments are made in the taxing statutes that the element of certainty which is an important canon of a good taxation system becomes conspicuous by its absence. Due to frequent changes and amendments in the laws and policies, neither the tax payer is certain about what he has to pay nor the exchequer is certain what it is going to receive. Complicated laws, inconvenient procedures and frequent changes enable the tax administrators especially the black sheep among them to harass the tax payer, to wield excessive powers and to misuse discretion. 14

IX. LACK OF PUBLIC CONFIDENCE IN THE SYSTEM

It is primarily the public trust in the fairness of the system that brings about the highest possible degree of compliance. But unfortunately this is lacking very much in Pakistan. The inconveniences, indignities and embarrassments faced by the taxpayers during the course of assessment and payment of taxes may be considered as one of the major obstacles against social acceptance of taxation system among our people. The present state of mutual confidence between the taxpayer and the tax collector is deplorable. On the one hand the tax payer is convinced that what the government collects

from him by way of taxes, it is neither entitled nor it collects fairly. He frequently criticizes the ever – increasing expenditure of government departments particularly the uneconomical, inefficient and wasteful use of government funds. Thus he does not feel any moral compunction in evading the taxes. The tax collector, on the other hand, thinks that the tax payers are intrinsically dishonest and would pay nothing without coercion. This relationship of mutual distrust has far-reaching consequences; it results in the blocking up the escape routes and stringent laws against evasion and it also results into curtailing the discretionary powers of the tax collectors and thus making the system more mechanical and inhuman. 15

X. TAX EVASION

In Pakistan tax evasion of direct as well as indirect taxes has assumed threatening proportions. Through none can give us an accurate idea about its extent in terms of figures, yet it can be safely said that it exists to a considerable degree in our society. National Tax Reform Commission on the basis of national income accounts for the year 1984-85 estimated that as against the assessed income of Rs. 19,299 million, the amount that escaped income-tax was of the order of Rs. 50763 million. It means that 72.4% of the income liable to tax escaped taxation in that year. Total quantum of black wealth in the economy was reported at Rs. 170 billion approximately.

We can have a fair idea about the extent of tax evasion by referring to the declarations filed under various schemes of

general amnesties announced in the time of first Martial law in the year 1958, tax of Rs. 22,37,56,000 was received with excess income declarations, which was 62% of the total income tax received during that year. At the time of second Martial law in the country in the year 1969, tax collected from the declarants was Rs. 22, 55, 40,000 which was 25% of the total revenue of income tax of that year. In the year 1976 Civil Government announced a scheme under section 3-C of the income Tax Act of 1922 which brought into treasury an amount of Rs. 45 crore of tax from the tax evaders. In the year 1985 the Government announced another money whitening scheme in the form of Special National Fund Bonds and Foreign Exchange Bearer Certificates. An amount of Rs. 15 billion was invested alone in the Special National Fund Bonds.

It is a matter of great regret that almost all classes of people indulge in tax evasion including the most elite class of professionals. The statistics given in the Report show that in the year 1984-85, only 3610 individuals were assessed at Rs. 1 lac or above in the whole of Pakistan. Further analysis revealed that this included a total of only 190 doctors, lawyers chartered accountants, incometax practitioners and engineers. Even today, that is, in the year 1990-91 the number of tax payers who are being assessed at an income of Rs. 1 lac or above does not exceed 15000 in the country. 16

Tax evasion has been identified as one the major factors which generates dissatisfaction with the taxation system of

Pakistan, according to the NTRC, main reasons of this malady inter alia include: (a) non-acceptance of tax evasion as a vice, crime or sin by the general public on account of various historical and psychological factors; (b) compulsions imposed by the prevailing commercial practice; (C) non-discrimination between an honest and dishonest tax payer by society as well as tax authorities; (d) magnitude of cash transactions in the economy; (e) existence of tax-exempt sector and (f) repeated amnesties allowed to tax evaders.

Methods of evasion generally employed by the tax evaders, according to the study of NTRC, include (a) total non-reporting of income, (b) under-reporting of income through the mechanisms of suppression of transactions, under-statement of sales, inflation of purchases, inflation of expenses, under-invoicing of imports, in certain cases, over-invoicing of exports, under-statement and under-valuation of stocks, and showing good debts as bad debts and capital expenditure as tax deductible revenue expense, and (c) diversion of income through various methods.¹⁷

XI. CORRUPTION AND INEFFECIENCY IN THE TAX MACHINERY

NTRC not only made an in-depth study of the malady of tax- evasion but also examined the phenomenon of corruption in our society generally and in the government machinery particularly. The report says:

"So far as corruption is concerned, there is no doubt in the minds of the public that most government and semi-government departments are corrupt; many know it from personal experience while others have just to look at the standard of living of the comparatively low-paid officials, their cars, their houses, the type of parties they give, the expensive schools their children attend and the clothes and jewelry their wives wear to realise that all this costs a lot of money and that such expenses could not be covered by the emoluments of the officials concerned."

"Corruption is no longer confined to Government functionaries but is now prevalent in previously respected institutions such as the banks. A comparatively new factor is that corruption is visible even at the political level; this is evident from the fact that political contributions are sought and made and that influential persons are able to get bank loans which are not paid back and that persons suspected of criminal activities but with political connections are seldom apprehended."

Though the extent of corruption cannot be easily determined, yet the public pronouncement by an authority not less than a sitting Federal Finance Minister about Rs. 40 billion corruption bill per annum is a big eye-opener regarding the gravity of the problem.

There are complaints of widespread corruption in the tax machinery, involving unreasonable use of discretion and

deliberate misinterpretation of legal provisions leading to harassment, delay, financial injury and even personal indignities.¹⁸

XII. UN-ISLAMIC PROVISIONS

Despite our high – sounding claims of Islamization, very glaring un-Islamic provisions still exist in our taxation codes. One such provision is with regard to charging of interest for delayed payments of tax and similarly payment of interest for delayed refunds. Interest has been prohibited by the Qur'an (Al-Baqarah2:275). But we are charging it under different names like compensation, additional tax etc.

In Islam every individual even a minor and a new born baby has got his own distinct personality and all the basic human rights, including the right to income and property accrue to him. Forcibly clubbing their income or their wealth is a violation of these rights. The provisions in the income tax law as wealth tax law pertaining to clubbing of income or wealth of family members tantamount to converting a Muslim family into a Hindu undivided family which is un-Islamic.

Various exemptions from tax granted by taxation laws particularly the exemptions conceded in favour of individual entities or specific classes of incomes or persons run counter to the Islamic principles of equality before law, equity and justice. Provisions regarding deemed income, fictitious or presumptive income are not supported by Islam. Multiple and

complex taxation of the same sources and same persons by various authorities from the local to the federal level is also unjust in certain circumstances.

Incomes earned through lotteries, gambling, games of chance, prize schemes etc. were exempt from income tax up to the year 1989-90 when the government took a wise step to bring such incomes to tax though at a very low rate of tax. Such incomes are strictly prohibited by Islam and the need of the hour is to put an end to such incomes by clearly declaring them as illegal. Till that is done, the rates of tax on such incomes should be very high almost near the level of confiscation. Charging them at a lower rates of tax tantamount to encouraging games of chance and also providing coverage for the tax evasion which is not approved by Islamic injunctions. 19

XIII- INCOME TAX LAW AND SALARIED PERSONS.

Salary is the first basic head of income of our government. Various allowances, relief and concessions are admissible to the salaried persons, according to the recent reforms in tax system they are given special concessions in commutation of their income tax payable, but under limitations whereas an Islamic state is responsible to provide all basic necessities of life to its servants as mentioned in this Hadith.

عن المستورد بن شدّاد قال: سمعتُ النبي صلى الله عليه وسلم يقول من كان لنا عاملاً فليكتسب زوجةً فإن لم يكن له خادم فليكتسب خادماً فإن لم يكن له مسكنٌ فليكتسب مسكناً.

Hadrat Mosturad bin shaddaed (RAA) narrates that he has heard from the Holy Prophet (SAAW) saying, " If our employee (Govt. Servant) has no wife, he is allowed to marry on the Government expenditure, if he has no servant he can reuire for this, and if he has no residential house he will also achieve a home from the government." 20

So it is proposed that tax should be levied on saving income instead of salary income. Because all businessmen pay tax after deducting all their expenditures including utility bills, entertainment, annual rent, repairing charges, property tax, "CHAWKIDARA" and donations etc but the salaried persons are deprived off from these benefits.

XIV:-

Under the Income Tax Ordinance, The assesses are given the rights to appeal against the tax orders made by Deputy Commissioner of Income Tax, but under the laws, the appellants are bound to deposit some amount of Tax at the time of submission of appeals. 21

It is most regrettable to indicate that inspite of the filling appeals or hearing of appeals the recovery process is being carried on in the shape of imposing penalties under sections 91,92 & 93. 22

Moreover, it will also strange to describe that inspite of proceeding or hearing is going on, another application or orders are required to stay the demand until the decision of appeal.

This action is also surprising that after the receiving relief in the tax payable, it is necessary to appeal again the penalties imposed due to delayed and non payment of tax. Again after appeal effected relief, another problem of refund of taxes arises in this regard, Consequently such rules which disturb the people and deprive them of their rights are against the Islamic spirit.

XV:-

The Govt. of Pakistan has launched the "Tax Administrative Reform Program on April 04, 2005 to enhance efficiency of Tax Administration. The key objectives and initiatives are again as under:-

Central Board of Remove launches its Tax Administrative Reform Program (TARP) to transform into a modern, progressive, effective, autonomous and credible organization by providing quality service and promoting voluntary compliance with tax laws.

Key Objectives

- Simplification of tax laws and procedures
- Facilitation and tax education
- Voluntary compliance
- Automation
- Establishment of modern tax offices on functional lines
- Human resource development

Key Initiatives

- Universal Self Assessment across all taxes
- Automated Sales Tax Refund (STARR/ STREAMS)
- Automated Custom Clearance (CARE/PACCS)
- Facilitation/ Help Line Centers
- Tax Education Literature/ Software
- Regional Tax Offices
- Large Taxpayers Units
- Medium Taxpayers Units
- Model Custom Collectorates
- Training/ Capacity building of workforce

5:2 MODERN OBJECTIVES: Objectives of taxation in the modern ; economic systems are:

1. Promotion of sustained and balanced economic growth in the country.
2. Increase in capital formation to enable economic growth.
3. Removal of the disparities in the distribution of income and wealth in society.
4. Control of inflation, which is the common economic problem being faced by most of the capitalist world.
5. Protection of industries in home countries against in roads/encroachments by foreign nations.
6. Promotion of trade and other economic activity between friendly countries.
7. Discouraging of consumption of certain goods considered undesirable such as alcoholic beverages and cigarettes by heavy taxation on the grounds of national health.

2. PRINCIPLES OF MODERN TAXATION

The levy of various taxes is as old as the organized society itself, but the attempt to build a body of doctrine or principles about taxation is comparatively of very recent vintage. It was not until the decline of mercantilism and the beginnings of the Industrial revolution that the need for the regularization of governmental revenue became apparent. This need gave rise to efforts to determine the role of

government in the economy and the relationship of taxation to private economic activity. Adam Smith a British economist, was the first to attempt a theory of taxation. In his work "the Wealth of Nations (Book V, chapter 11)" he set down four general canons. His canons or maxims are a classic contribution to economic theory and still constitute the foundations of all discussions on the principles of taxation. The first four principles of taxation discussed below are Adam Smith's famous canons of taxation, while the remaining principles have been formulated by others. 24

1. EQUALITY: The subjects of every state ought to contribute towards the support of the government, as nearly as possible, in proportion to their respective abilities, that is, in proportion to the revenue which they respectively enjoy under the protection of the state".

The canon of equality requires that the persons in the same or similar positions so far as tax purposes are concerned be subjected to the same tax liability. It means the equality of sacrifice and not that the equal amount of tax should be paid by every taxpayer which would be manifestly unjust. According to this canon, the amount of tax paid by the taxpayers should be in proportion to their respective abilities to pay. This canon, in fact, embodies the principle of equity or justice in taxation and lays down the moral foundation of tax systems. . 25

2. CERTAINTY: The tax which each individual is bound to pay»ought to be certain, and not arbitrary. The time of payment, the manner of payment,

the quantity to be paid ought all to be clear and plain to the contributor and to every other person. Where it is otherwise, every person subject to the tax is put more or less in the power of the tax-gatherer, who can either aggravate the tax upon any obnoxious contributor, or extort, by the terror of such aggravation, some present or perquisite to himself".

Uncertainty in taxation encourages corruption. According to Adam Smith, "very considerable degree of inequality,.. is not near so great an evil as a very small degree of uncertainty".

The canon of certainty rules out any arbitrariness in taxation. It demands that the tax should not be left to the sweet will, or caprice of the tax collector. There is a maxim "an old tax is no tax" which means that the old tax being certain and the tax payer being properly familiar with it. Such tax is not felt

Certainty is needed not only from the point of view of the tax payer but also the state must be certain about the fair estimates of revenues and about the time when the proceeds of taxes are expected to flow in. 26

3 CONVENIENCE: Every tax ought to be levied at the time or in the manner in which it is most likely to be convenient for the contributor to pay it".

According to the canon of convenience the time of payment of a tax and manner or mode of its payment should be convenient. Taxes or duties on goods are very convenient to pay as the consumer or buyer pays them at the time of purchase of these goods. The latter is also convenient for he has

not to make any special arrangements for their payment_ The tax is wrapped up in the price of the commodity and the consumer pays it when he buys the same.

4. ECONOMY: "Every tax ought to be so contrived as both to take out and to keep out of pockets of the people as little as possible, over and above what it brings into the public treasury of the State".

The canon of economy, in simple words, means that the cost of collection of a tax should be as minimum as possible. The remunerations of tax collectors and other incidental charges should not consume major portion of tax revenues. The tax should be economical in another sense also. It should not retard the development of trade and industry and hamper or obstruct economic growth. If a tax adversely effects incentive to work and invest, it not only discourages economic development but also restricts the future growth of tax revenues. Such a tax would be uneconomical.. Taxes on intoxicants are regarded as economical because they bring revenue to the state and also discourage unproductive expenditure. However, taxes on raw material add to the cost of production and weaken the competitive power of industry. So such taxes are regarded as uneconomical. 27

5. ADEQUACY: - A national tax system should guarantee revenues adequate to cover the expenditure of government at all levels. As the public expenditure tends to grow with the growth of national products, the tax revenues should also grow correspondingly

6. ELASTICITY: A national tax system should be elastic enough to produce additional revenues at short notice in case of emergency without causing economic disruption. The emergency need may be to finance a war, to combat a cyclone or to pay for an important social measure. Income tax is very good example of" an elastic tax since you can considerably increase its yield by merely increasing the rate a bit or by levying a surcharge.

7. FLEXIBILITY: Flexibility means that there should be no rigidity in the tax system so that it could be quickly adjusted to new conditions. Unless the tax system is flexible, it would not be elastic since the alteration would not be possible and the revenue would not increase. Hence, the canon of flexibility is closely related with the canon of elasticity.

8. PRODUCTIVITY: This canon ensures that one tax bringing a large income is better than many taxes each bringing every small revenue. Too much multiplicity of taxes may lead to trouble as each tax causes some vexation to the tax payers. 28

9. DIVERSITY: There is a maxim: "one must not keep all of one's eggs in a single basket". There should not be total dependence on a single tax, It may become sometime uneconomical or inequitable. .

The canon of diversity requires that there should be a large variety of taxes so that all the citizens who can afford to contribute to the public exchequer should be provided opportunity to do so. For raising funds to meet the growing expenses of a modern welfare state, the citizens should be

approached in a variety of ways in order to attract their contributions. 29

10. SIMPLICITY: A system of taxation should be simple, plain and intelligible to the common understanding. Law, and procedure should be simple and comprehensible for the common citizen. In order to control corruption and oppression simplicity is essential. Complicated laws and cumbersome procedures concentrate much powers in the hands of the tax collectors and thus lead to the harassment of the tax payers. 30

11. UNIVERSALITY: This canon postulates that all persons able to pay should be taxed uniformly. The tax system should not be biased in favour of some taxpayers. There should be no discrimination in any manner between citizens in the same economic position. Exemptions from any tax must Serve overall economic, social and other goals. Differentiation based -on factors_ like nationality, social class, religion, colour, or race violate the universality principle. However, the basic exemption from income tax, the purpose of which is to leave some minimum income untouched, does not violate this principle. 31

12. SOCIAL JUSTICE: The principle of social justice requires that taxes should be universal, equal and responsive to the individual's ability to pay. Citizens should be taxes according to their capacity to pay based on their income and family circumstances. In modern welfare state, taxes are expected to curb income or wealth disparities and to bridge the ever growing gulf between the rich and the poor. 32

13. ECONOMIC STABILIZATION: The major canon of taxation that has been added since Adam Smith's time is that taxation should contribute to economic stabilization. This objective is a product of the Keynesian revolution and may be interpreted to mean that taxation should be so ordered as to promote full employment, and, impossible, a stable price level. The stabilization of the balance of payments may be a subsidiary objective of a well-ordered tax system. 33

5:3 CHARACTERISTICS OF A GOOD TAXATION SYSTEM

Nowadays the criteria of a good tax system are wide ranging and complex. Some of them fall under the heading of revenue productivity. Others involve considerations of social justice. There is a further category of considerations, having to do with economic goals. And finally there are the Smithian criteria of ease of administration and compliance.

On the whole, good tax system should have the following characteristics

1. EQUITY, JUSTICE AND FAIRNESS: A good tax system should conform to all or many of the canons or principles of

taxation. The system as a whole should be just, equitable and fair. The Citizens should be taxed according to their ability to pay. The rates of the tax should be progressive and not regressive. The burden of tax should fall on the broadest shoulders. Taxes should be universal i.e., they should not discriminate in any

manner between citizens in the same income level. All should be equal before the law. 34

2. REVENUE PRODUCTIVITY: System should ensure fiscal adequacy. It should generate enough revenues to cover the expenditure of government at all levels. The system should not be rigid, rather it should be flexible enough to adjust itself with the changing circumstances. It should be elastic to produce additional revenues in case of emergencies like war to meet unforeseen expenses without causing economic disruption.

3. EASE OF ADMINISTRATION AND COMPLIANCE: A good taxation system must be easy to administer. It should satisfy the canons of certainty, economy and convenience. The tax payer should be certain about his tax liability while the state should have, certainty about the proceeds of revenues. There must be no arbitrariness in the system. Cost of collection should be as minimum as possible. Every tax ought to be levied at the time or in the manner in which it is most likely to be convenient to the tax payer to pay it.

General requirements for the efficient administration of tax law are: clarity, continuity, cost effectiveness and convenience. Tax laws must be simple and comprehensible. Tax procedures should be convenient and clear. Laws and regulations should be unambiguous and certain, both to the tax payer and tax administrator. Complicated tax laws are not generally understood by the public and tend to become instruments of corruption, oppression and harassment by the tax collectors. Moreover, such laws discriminate against the poor and the ignorant who cannot take advantage of the various provisions regarding tax rebates etc. 35

Tax laws should be seldom changed. Too many changes and amendments should be avoided. When changes are made, they should be carried out systematically as a measure of inevitable tax *reform*. The costs of assessing, collecting and controlling taxes should be kept to the lowest level consistent with other goals of taxation. Payment of taxes should cause tax payers as little inconvenience as possible. Large tax liabilities are often allowed to be paid in installments and generous time limits are set for filing returns and statements.

4. SOCIAL JUSTICE AND DISTRIBUTION OF INCOME AND WEALTH: A good tax system in a modern welfare state should meet the ends of social justice. It should help the state in reducing economic inequalities and disparities in the distribution of wealth and income. Gulf between the rich and the poor should be reduced as far as possible, if not bridged altogether. Taxes are expected, in a good taxation system, to be more or less redistribute of income or wealth or both.

Whatever the justification there is an almost, established ethics in all the countries of the world that the distribution of income should be modified in the favour of the poor and that the tax system should contribute to this end. It follows that there should be emphasis on the direct taxes like Income tax, Wealth Tax, Inheritance Tax, Gift Tax, etc., which are generally paid by the rich instead of indirect taxes like Excise Duties, Sales Tax, Customs, etc., which are paid by the consumers, majority of who are poor. It also follows that a good tax system should have progressive tax rates structure. Higher incomes and luxury items should be subjected to higher rates.

5 SOCIAL AND ECONOMIC GOALS: Taxation system is also used to achieve certain economic and social goals that the state has placed before itself. The neutrality principle or "Leave-them-as you-find-them" principle no longer holds the field in the modern world. Today taxation is used for economic stabilization,

combating inflation and for economic development. Fiscal incentives are used of promoting certain types of industries, for establishing industries in relatively backward areas of the country to capital formation and for investment in specific sectors of economy. Some kinds of economic activities are discouraged by heavy taxation thereon. Taxation is also used for promoting social objectives. Alcoholic beverages and tobacco are subjected to heavy taxation, to discourage their use. Building of houses is encouraged by special exemptions. Charitable institutions, hospitals, educational institutions and religious organizations. 36

6. EFFICIENCY, HARMONY AND DIVERSITY: A good tax system should be efficient and fool-proof. There should be no or little scope for tax evasion or corruption. There should be no loopholes which could be exploited by the tax dodgers or tax officials.

The system should comprise of more taxes than one, it should be as much broad-based as possible. There should be diversity of taxes and the citizens who are able to pay should be approached in various ways. However, we should not advocate too much multiplicity of taxes, as it would

expose the system to many serious objections. .

A good tax system should be a harmonious whole. It should be a true system and not a bundle of isolated taxes., Every tax should look like a part of a well-knit system. Every tax should play its due role in the financial structure of the nation. **37**

End Notes of Chapter No. 5

1. M. Sharif Ch. Taxation in Islam and Modern Taxes, p. 177.
2. Khurshid Ahmad Prof; Taxation System of Pakistan, (Islamabad: Institute of Policy Studies, 1996) p. 13.
3. Irshad Ahmad Haqani; Harf-e-Tamannā, The Daily Jang, (Lahore: 8th March 1996).
4. Akram Zaki Senator (Ex-Sec-General, Foreign Office, Islamabad), The Daily Khabrain (Lahore: 16th Feb., 1996).
5. Amjad Saeed Khauja, Prof. Friday Magazire, The Daily Jang, (Lahore: 5th March, 1996). M. Sharef ch. Taxation in Islam and Modern Taxes, p. 178-179.
6. Abdul Rahim Alvi: (Ex-Chairman C.B.R), the Daily Jang, (Lahore: 5th Jan., 1996).
7. Mahboob-ul-Haq DR. (Ex-Finance Minister of Pakistan) an Interview to The Daily Jang, (Lahore: 5th August, 1996).
8. M. Sharif Ch. Taxation in Islam and Modern Taxes, p. 180.
9. M. Sharif Ch. Taxation in Islam and Modern Taxes, p. 182.
10. M. Sharif Ch. Taxation in Islam and Modern Taxes, p. 183.
11. Mahmood Mirza Advocat. An Interview to the Daily Jang, (Lahore: 5th March, 1996).
12. Khurshid Ahmad Prof. Taxation System of Pakistan, p. 21, M. Sharif Ch. Taxation in Islam and Modern Taxes, p. 185-186.
13. Najam-ul-Hassan Atta. Weekly Akhbar-e-Janan, (Karachi: 21-27th Sept., 1998).

14. Qurashi, Shah Mahmood. (President Farmers Association of Pakistan, Former State Minister) the Daily Jang. (Lahore: 2nd Sept., 1998).
15. M. Sharif Ch. Taxation in Islam and Modern Taxes, p. 186.
16. M. S. Shabab, Mu'āshi Policy, The Daily Nawa-e-Waqt (Lahore: 13th June, 1989).
17. M. Sharif Ch. Taxation in Islam and Modern Taxes, p. 188.
18. M. Sharif Ch. Taxation in Islam and Modern Taxes, p. 188–189.
19. M. Sharif Ch. Taxation in Islam and Modern Taxes, p. 189–90.
20. Abu Dawud, Sunan abi Dawud, Kitāb-al-Kharāj wa al-Fa'i, Bāb Fi Arzaq-al-'Unnāl, Hadith No. 2945, p. 428.
21. Income Tax Ordinance 1979, chapter-13, p. 145–156.
22. Income Tax Ordinance 1979, chapter-9, p. 121–124.
23. Tax Administrative Reform Program, April 4, 2005 (announced by C.B.R.).
24. Muhammad Sharif Ch. (Ex-Commissioner of Income Tax and Member Income Tax Tribunal Lahore) "Taxation in Islam and Modern Taxes" Impact Publishers, Lahore, 1993, p. 182.
25. Q 7: 57
26. Ikram-ul-Haq DR, Taxion vol. 64, p. 76.
27. Yousuf-ud-Din. Dr. Islām kay Mu'āshi Nazriē, p. 1/78.
28. M. Sharif Ch. Taxation in Islam and Modern Taxes, p. 177.
29. Q 4: 5 , Q 38: 86 , Q 28: 85.
30. Ibn-e-Hazam, al-Maḥallāh, p. 2/157.

31. Sayuharvi, Hifz-ur-Rehman, Islām kā Iqtisādi Nizām, p. 25.
32. Abu Yousuf. Kitāb-al-Kharāj, p. 46,
M. Sharif Ch, Taxation in Islam and Modern Taxes, p. 118.
Q 26: 27, Q 25: 67.
33. Aalusi Muhmood (1270) Rooh-ul-Ma‘āni (Muttan: Maktaba Imdādiyah),
p. 19/49.
34. Ghaffari, Noor Muhammad Dr. Islām Kā Qanoon-e-Maḥaṣil. p. 123–133.
35. Hamid-ullah Dr. ‘Ahd-e-Nabavi Main Nizām-e-Ḥukamrāni, (Delhi) p. 1/57,
M.Sharif Ch, Taxation in Islam and Modern Taxes, p. 119–120.
36. Ibn-e-Sa‘ad, Muhammad bin Sa‘ad, (230) al-Ṭabaqāt-ul-Kubrā, (Beirut: 1957)
p. 3/99.
37. M. Sharif Ch, Taxation in Islam and Modern Taxes, p. 121–122.

CONCLUSION/RESULTS:

The comprehensive discussion shows that there is no clear-cut injunction either in the Quran or in the Sunnah which authorizes or prohibits the Islamic state to levy taxes in addition to Zakah. So the question that "can an Islamic state impose taxes on Muslims in addition to Zakah" is to be decided keeping in view the spirit of the tenets of the Quran and Sunnah, the general principles of interpretation of the Islamic injunctions, the experience of the Islamic states through history and the financial needs of the modern welfare states. An impartial analysis of the arguments of both the schools of thought reveals that the arguments advanced in support of the proposition (which authorizes the Islamic state to levy other taxes) are more convincing and forceful than the arguments given against the proposition.

Today the responsibilities of the state have increased manifold. The state is expected to provide education, health care, employment, civic amenities, social services, communications, economic development, etc. besides performing its traditional functions of establishment of law and justice and security against aggression. With the extension in the responsibilities of the state, the need for finances has also increased. But on the other hand the sources of finance like Jizyah, Kharāj, Fay, Khumus, etc. which were available to the early Islamic state have no longer been in vogue for a modern Islamic state. So a modern Islamic state has right to impose modern taxes like incometax and wealth tax, etc. to raise the funds for financing its ever growing activities.

Despite our high – sounding claims of Islamization, very glaring un-Islamic provision still exist in our taxation codes. One such provision is with regard to charging of interest for delayed payments of tax and similarly payment of interest for delayed refunds. Interest has been prohibited by the Holly Quran and Sunnah. But we are charging it under different names like compensation, additional tax and penalties etc.

In Islam every individual even a minor and a new born baby has got his own distinct personality and all the basic human rights, including the right to income and property accrue to him. Forcibly clubbing their income or their wealth is a violation of these rights. The provisions in the income tax law as well as wealth tax law pertaining to clubbing of income or wealth of family members tantamounts to converting a Muslim family into a Hindu undivided family which is un-Islamic.

Various exemptions from tax granted by taxation laws particularly the exemptions conceded in favour of individual entities or specific classes of incomes or persons run counter to the Islamic principles of equality before law, equity and justice. Provisions regarding deemed income, fictitious or presumptive income are not supported by Islam. Multiple and complex taxation of the same sources and same persons by various authorities from the local to the federal level is also unjust in certain circumstances.

Incomes earned through lotteries, gambling, games of chance, prize schemes etc. were exempt from income tax up to the year 1989-90 when the government took a wise step to bring such income to tax though at a very low rate of tax. Such incomes are strictly prohibited by Islam and the need of the hour is to put an end to such incomes by clearly declaring them as illegal. Till that is done, the rates to tax on such incomes should be very high almost near the level of confiscation. Charging them at a lower rates of tax tantamounts to encouraging games of chance and also providing cover for the tax evasion from other taxable incomes which is not approved by Islamic injunctions.

Some other un-Islamic sections of income Tax Laws are being initiated as under:-

1. Section 12 of Income Tax Ordinance restricts the Qard-e-hasanah, so it is not justified.
2. Various Incomes are exempted under section 14 so these exemptions are un-Islamic and un-justified.

3. Heads of income under section 15 are based on interest/based economy, so this is also anti-Islamic. ~~laws~~.
4. Section 42 is about the purchase of Book & but under section 45 all allowances have been limited with the prescribed formula of average rebate. So the section 45 is illegal because it is against the concessions and benefits which are admissible under section 39, 40, 42, and 43.
5. Sections 47 and 49 are against the spirit of spending in the name of God (Infaq fi Sabeel Lillah).
6. Sections 50, 53, and 162 are not according to the Islamic system of justice. (Adal).
7. Sections 86, 87, 88, 89, 91, 92, 93, 94, 108, 109, and 110 are about imposing additional tax which is at the rate of 15 per cent to 35 per cent. These are also un-Islamic provisions.
8. Sections 108, 109, 110, 111, 112, 115, 116, 118, 121, 122, 123, 124, and 125 are about penalties and prosecution. These are illegal and un-Islamic.
9. Sections 129, 130, 131, 133, 134, 136, 137, and 138 carry un-justied and un-Islamic procedure of appeals and revisions.
10. Sections 4, 5, 6, 16, 17, 18, 19, 20, 21, 22, 29, 30, 31, 32, 33, 13C, 15A and 38(6) of wealth Tax Act are unjust and un-Islamic.

RECOMMENDATIONS

The following recommendations are being presented for the revision of income tax law for the restoration of Islamic economy, self reliance and betterment of the people of Pakistan.

1. According to the commandments of God (Allah), the government of Pakistan should promote the Islamic principles and methods of finance for restoration of the Islamic economy and eradication of interest (Riba).
2. To encourage the truth and develop the tax culture, the trend of maintenance of double accounts, presentation of false documents and transfer of fictitious assets or shares to avoid the taxation should be discouraged.
3. The income tax laws should be simplified and the expenditures of tax collection must be less than the recovery. The lawful sources of income should be encouraged to get rid of unlawful means of income. Direct and broad-based tax system should be introduced to avoid taxation on basic necessities of life.
4. The income of salaried persons is fixed and their admissible relief is bound under section 45 of income tax ordinance. So this section may be amended or abolished.
5. Section 12 should be replaced to encourage the spirit of Qurd-e-Hasanah and sections 47 & 49 are against "Spending in the name of God. So these are also amendable.
6. Under section 162, no body can challenge any order or action in the court of law. Similarly section 50, 53 are about additional tax according to delayed amount of refunds this ratio is 67. So these unbalanced sections must be amended and equalized.
7. Many kinds of income have been exempted under section 14, hence these unjustified exemptions should be disallowed.
8. Sections 51, 139, 140, 142 and 144 of the Income Tax Ordinance requires un-necessary documentation due to which many assesseees fail to provide such requirement. So these sections also need to be amended or simplified.
9. Sections 86, 87, 88, 89, 91, 92, 93, 94, 108, 109 and 110 are about imposing additional tax (interest in other words). These un-Islamic provision should be abolished.
10. Sections 108, 109, 110, 111, 112, 115, 116, 118, 121, 122, 123, 124 and 125 are about penalties and prosecution. So these must of dis-continued or amended with immediate effect.
11. Sections 129, 130, 131, 133, 136, 137, and 138 represent the un-just procedure of appeals. So these section must be amended or anuled immediately.

Accordingly at the end, this dissortation an ideal tax system is recommended for a modern Islamic State.

An Ideal Tax System For A Modern Islamic State

An ideal tax system for a modern Islamic state would have the following objectives in its view:-

- (1) Religious and moral objectives of the ideal taxation would be to purify the human soul of the vices like greed, miserliness, selfishness and love of wealth. Thus by purifying the human soul and wealth and also by making the rich to spend their wealth for the poor, the system would help in establishing unity, brotherhood and solidarity among the citizens and thus the goals of national integration would be achieved.
- (2) It would aim at removal of disparities and inequalities in the distribution of wealth and income. The gulf between the rich and poor would be bridge over and concentration of economic power in few hands would be prevented.
- (3) Ideal tax system would discourage hoarding and would promote circulation of wealth.
- (4) An ideal taxation would provide adequate revenues to the Islamic state to meet its expenditure at all levels. Revenues generated from the system would be sufficient to meet all the expenses of the state including the expenses on the welfare activities, social services and social security schemes. It would save the state from contracting heavy debts from internal and external sources.
- (5) Another objective of the ideal system would be to promote trade and other economic activities between friendly countries particularly between the brotherly Muslim states.
- (6) Increasing the rates of savings and investment by providing appropriate incentives in capital formation would be one of its goals. Thus the increase in capital formation would enable economic growth.
- (7) The system would help the nation in achieving economic stabilization by controlling inflation, checking recession and safeguarding against economic depression.
- (8) The system would guarantee the promotion of sustained and balanced economic growth through fiscal incentives in backward areas of the country for establishing industries there.
- (9) Protection of industries in home countries against in roads/ encroachments for foreign nations would be another goal of

the ideal tax system.

- (10) The system would also help in achieving other economic objectives like regulation imports, promoting exports, improving balance of payments, encouraging rapid industrialization, and discouraging of certain socially undesirable products.

INDEX

| S# | A | Page |
|----|----------------------------------------------------------------|------|
| 1 | Acknowledgement | 1 |
| 2 | Abbreviation | 8 |
| 3 | Arguments against the Levy of taxes besides Zakkah. | 54 |
| 4 | Arguments in favour of taxes other than Zakah. | 60 |
| 5 | Additional tax(under sections 88 to 104). | 124 |
| 6 | Assessment procedure(under section 50 to 65). | 184 |
| 7 | Appeals (under sections 129 to 135). | 185 |
| 8 | Analysis Amendments in Income Tax law (under F.O.2001). | 206 |
| | B | |
| 9 | Brief theory of taxation in Islam. | 13 |
| 10 | Bibliography. | 298 |
| | C | |
| 11 | Can an Islamic state Levy taxes on the Muslims Besides Zakah?. | 44 |
| 12 | Conclusion of Arguments about Zakah. | 71 |
| 13 | Charge of tax and Islamic Tenets. | 108 |
| 14 | Characteristics of good Taxation System. | 263 |

| | | |
|----|-------------------------------------------------------------------------------------------|-----|
| | D | |
| 15 | Definition of Zakah. | 28 |
| 16 | Difference between Tax and Zakah. | 39 |
| 17 | Direct and indirect Taxes. | 83 |
| 18 | Donations & spending in the name of Allah(SWT) and income Tax Law. | 116 |
| | E | |
| 19 | Evaluation of Arguments about imposing Taxes side by side with Zakah. | 54 |
| 20 | Evaluation of Direct an indirect Taxes. | 85 |
| 21 | Evaluation of of Zakah and Ushr levied in Pakistan. | 106 |
| 22 | Evaluation/Arguments about financial punishment (Tazir-bil-Mal). | 168 |
| 23 | Evaluation of Taxes Levied In Pakistan. | 83 |
| 24 | End notes chapter#1 p.74,chapter#2 p.130,chapter#3 p.177,chapter#4 p.230,chapter#5 p.268. | 268 |
| | F | |
| 25 | Finance Bill 2001. | 206 |
| 26 | Federal Shariat Court's Judgment on Riba(Interest). | 70 |
| 27 | Federal Taxes. | 87 |
| | G | |
| 28 | Glossary. | 8 |
| | H | |
| 30 | Halal & Haram (lawful and unlawful). | 111 |
| 31 | Heads of Income (under section 15 to 32). | 135 |

| | | |
|----|---------------------------------------------------------|-----|
| | I | |
| 32 | Introduction. | 2 |
| 33 | Income Tax Ordinance and Allowances. | 115 |
| 34 | Income tax exempt from tax. | 190 |
| 35 | Income of Law in finance Bill,2001. | 219 |
| 36 | Index | 275 |
| 37 | Index of Verses. | 283 |
| 38 | Index of Ahadiths (saying of the Holy Prophit S.A.A.W). | 287 |
| | J | |
| 39 | Jizyah | 26 |
| | K | |
| 40 | Kharaj | 26 |
| 41 | Khumus | 26 |
| | L | |
| 42 | Legetimacy of taxes in Islamic law. | 39 |
| 43 | List of Prominent figures | 292 |
| | M | |
| 44 | Modern Objectives of taxation. | 257 |
| | N | |
| 45 | Nisab of Zakah. | 36 |
| | O | |
| 46 | Objectives of Taxation in Islam. | 13 |

| | | |
|----|---------------------------------------------------------------------------|-----|
| | P | |
| 47 | Penalties (under section 104 to 122) in Islamic Shariah. | 163 |
| 48 | Principles of Modern taxes. | 232 |
| | Q | |
| 49 | Qard-e-Hasanah and Income Taxes. | 117 |
| | R | |
| 50 | Rates of zakah p.34 and rates of Wealth tax. | 103 |
| 51 | Recovery and refunds of tax (under sections 94 to 104). | 124 |
| 52 | Ribā (interest) according to Qur'an and Sunnah. | 137 |
| 53 | Recommendation of the Council of Islamic Ideology of Pakistan about Riba. | 71 |
| 54 | Recommendation about Income tax Laws. | 274 |
| | S | |
| 55 | Study of the Heads of Income. | 135 |
| | T | |
| 56 | Taxes levied in Pakistan. | 83 |
| 57 | Taxes at Federal level. | 87 |
| 58 | Tazir-bil-Māl (financial punishment) in the Islamic perspective. | 168 |
| | U | |
| 59 | Ushūr | 27 |
| | V | |
| 60 | Verses about Halal and Haram. | 111 |
| 61 | Verses about Ribā. | 132 |

| | | |
|----|----------------------------------------------------------------------------------------------|-------|
| | W | |
| 62 | Wealth tax Laws in Pakistan. | 96 |
| 63 | Wealth tax Collection. | 105 |
| 64 | Wealth Act 1963. | 101 |
| | Z | |
| 65 | Zakah: The backbone of the Islamic economy Zakah in the period of the Holy Prophit (SAAW). | 28-29 |
| 66 | Zakah & Ushar Ordinance 1980. | 106 |

INDEX OF AYĀAT (VERSES)

| Name of Surah | No of Surah | Ayaat No | Thesis Page No |
|----------------------------------|-------------|----------|----------------|
| al-Baqarah سورة البقرة | 2 | 43 | 34 |
| | 2 | 83 | 117 |
| | 2 | 110 | 54 |
| | 2 | 177 | 20 |
| | 2 | 188 | 125 |
| | 2 | 188 | 170 |
| | 2 | 215 | 21, 61 |
| | 2 | 219 | 83 |
| | 2 | 219 | 113 |
| | 2 | 243 | 18 |
| | 2 | 265 | 118, 15 |
| | 2 | 275-277 | 142 |
| | 2 | 278-281 | 125, 113 |
| | 2 | 283 | 111 |
| | 2 | 283 | 125 |
| Aal-e-Imran | 3 | 92 | 18 |
| | 3 | 130-136 | 131 |
| al-Nisa | 4 | 6 | 118 |
| | 4 | 29 | 114 |
| | 4 | 29 | 170 |

| | | | |
|---------------------------|----|---------|-----|
| | 4 | 34 | 168 |
| | 4 | 36-38 | 119 |
| | 4 | 58 | 126 |
| | 4 | 135 | 126 |
| | 4 | 160-162 | 138 |
| al-Maidah سورة المائدة | 5 | 8 | 126 |
| | 5 | 33 | 112 |
| | 5 | 38, 60 | 112 |
| | 5 | 90 | 113 |
| Al-Anfal | 8 | 41 | 24 |
| al-Tawbah سورة التوبة | 9 | 35-35 | 17 |
| | 9 | 60 | 24 |
| | 9 | 60 | 63 |
| | 9 | 103 | 14 |
| | 9 | 103 | 23 |
| | 9 | 103 | 55 |
| Hood | 11 | 85 | 127 |
| Israel سورة إسرائيل | 17 | 20 | 136 |
| | 17 | 23 | 119 |
| | 17 | 26 | 120 |
| | 17 | 29 | 120 |
| | 17 | 32 | 113 |
| | 17 | 34-35 | 127 |

| | | | |
|-----------------------|----|-----|--------|
| al-Hajj | 22 | 41 | 55 |
| al-Noor سورة النور | 24 | 2 | 113 |
| | 24 | 19 | 113 |
| | 24 | 22 | 120 |
| al-Shura | 26 | 215 | 121 |
| al-Ankabut | 29 | 8 | 121 |
| al-Room سورة الروم | 30 | 38 | 22, 61 |
| | 30 | 38 | 149 |
| | 30 | 39 | 137 |
| Luqman | 31 | 14 | 121 |
| | 31 | 18 | 121 |
| al-Ahzab | 33 | 36 | 115 |
| Hamim-al-Sajdah | 41 | 10 | 17 |
| al-Hashr | 50 | 7 | 14 |
| al-zariyat | 51 | 19 | 17 |
| | 51 | 19 | 60 |
| al-Hadeed | 57 | 18 | 122 |
| al-Taghabun | 64 | 17 | 122 |
| al-Maarij | 70 | 24 | 18 |
| | 70 | 25 | 60 |
| al-Dahr | 76 | 8 | 122 |
| | 76 | 9 | 122 |
| Mutaffefin | 83 | 2 | 127 |

| | | | |
|----------|-----|-------|-----|
| | 83 | 3 | 127 |
| al-Fajr | 89 | 17-20 | 122 |
| al-Balad | 90 | 12-16 | 123 |
| al-Duha | 93 | 9-10 | 123 |
| al-Maun | 107 | 2-5 | 123 |

INDEX OF AHADITH

| S. No | Ahadith | Page No |
|-------|-----------------------------------------------|---------|
| 1 | أدعوهم إلى: شهادة أن لا إله إلا الله | 10 - 56 |
| 2 | إنّ تمام إسلامكم أن تؤتوا الزكاة أموالكم | 60 |
| 3 | إن صاحب المكس في النار | 60 |
| 4 | إن في المال لحقاً سوى الزكاة | 65, 67 |
| 5 | إن في أموالكم حقاً سوى الزكاة | 65, 69 |
| 6 | أكل الربّا وقال هم سواء | 104/1 |
| 7 | أتيت ليلة أسري بي.... فإذا أبيع أحدكم | 104/2 |
| 8 | إن الله فرض على الأغنياء.... | 58 |
| 9 | إن عمراً كان يعزز بالمال... | 104 |
| 10 | إنما الربا في النسية... | 105 |

| | | |
|----|--------------------------------------------------------------------------|-----|
| 11 | ألا إنما الربا في النسيئة... | 146 |
| 12 | أكل تمر خير هكذا ... | 148 |
| 13 | إن دماءكم وأموالكم وأعراضكم حرام... | 170 |
| 14 | إن رسول الله صلى الله عليه وسلم أمره... | 185 |
| 15 | إذا أقرض أحدكم قرضاً... | 195 |
| 16 | بني الإسلام على خمس ... إليه سيلاً | 206 |
| 17 | أتيت المدينة فلقيت... | 217 |
| 18 | إذا أديت زكاة مالك ... | 238 |
| 19 | فأحرق عليهم بيوتهم بالنار... | 272 |
| 20 | جاء بلال إلى النبي بتمر برني ... | 286 |
| 21 | حرقوا متاع الغال وضربوه... | 293 |
| 22 | دفع رسول الله صلى الله عليه وسلم... ولى عليهم في ذلك عبدالله بن رواحة | 320 |

| | | |
|----|---------------------------------------|-----|
| 23 | دلي على عمل ... فليُنظر هذا | 56 |
| 24 | الذهبُ بالذهبِ والفضةُ بالفضة... | 144 |
| 25 | الذهبُ بالذهبِ مثلاً بمثلٍ... | 150 |
| 26 | الذهبُ وزناً بوزنٍ... | 154 |
| 27 | الرُّبَا سبعونَ حوباً... | 113 |
| 28 | السلطانُ وليٌّ من لا وليَّ له... | 64 |
| 29 | الطعامُ بالطعامِ مثلاً بمثلٍ... | 134 |
| 30 | في مالِكَ حقٌّ سوى الزكاة... | 65 |
| 31 | قال رجلٌ يا رسولَ الله أَرَأَيْتَ... | 157 |
| 32 | قالَ لي الواجد... | 152 |
| 33 | قالَ المسلمُ على المسلمِ حرامٌ دمه... | 177 |
| 34 | قالَ في الصدقةِ الإبلُ المكومة... | 171 |

| | | |
|----|-------------------------------------------|--------|
| 35 | لا بأس أن تأخذها بسعر يومها... | 155 |
| 36 | لا يحلُّ لإمرئٍ من مال أخيه... | 171 |
| 37 | لا تبيعوا الدينارين ولا الدرهم... | 144 |
| 38 | لا يدخل الجنة صاحب المكس... | 59 |
| 39 | ليس في المال حقاً سوى الزكاة... | 58, 67 |
| 40 | لا يجب على المسلم في ماله حقاً سواها... | 38 |
| 41 | ليس عليهم غير الزكاة من الضرائب والمكس... | 59 |
| 42 | لا يصلح قبلتان في أرض واحدة... | 59 |
| 43 | وليس على المؤمنين جزية... | 59 |
| 44 | لا رباً إلا في النسيئة... | 74, 75 |
| 45 | لا تبيعوا الذهب بالذهب... | 144 |
| 46 | لا تبيعوا الذهب إلا وزناً بوزن... | 153 |

| | | |
|----|-----------------------------------------------------|-----|
| 47 | من كان لنا عاملاً فليكتسب... | 259 |
| 48 | فهي عن بيع الحيوان بالحيوان نسية... | 136 |
| 49 | من خرج بشيء منه... | 173 |
| 50 | من ولي يتيماً ... حتى تأكله الصدقة | 12 |
| 51 | ينهى عن بيع الذهب بالذهب... | 131 |
| 52 | يا معشر العرب أحمدا الله الذي رفع عنكم العشور... | 39 |

LIST OF PROMINENT FIGURES

| S.NO | Name | Page |
|------|----------------------------------------------------------|---------------------------|
| 1 | Amir Ali Sayed, (Nur-al-Hideyah) | 18,41 |
| 2 | Ibn Atheer Azz-ul-din (630 H) | 28 |
| 3 | Ibn-e-Asakar (571 H) Ali Ibn Hussain | 28 |
| 4 | Ibn-e- Abideen | 33,190 |
| 5 | Abdul Aziz Sharih | 46, |
| 6 | Abdul Rahim Alvi (Ex-Charman C.B.R.) | 72, |
| 7 | Amjad saeed Kh Dr. | 72, |
| 8 | Ahmad bin Hambal al-Imam (241 H) | 81,138,39,189,1 58,159 |
| 9 | Alo-al-din Ali Ibn Hassm, al-din (kanz-al-ummad) (975 H) | 81,88 |
| 10 | Abdul Rehman, Mabarikpusi (Tuhfah-al-Ahhwazi) | 89, |
| 11 | Ibn-Arabi (Arizah-al-Akhwzi) | 89, |
| 12 | S.A. Salam | 115,116 |
| 13 | Abdul Razzaq, al-Musanaf, | 195, |
| 14 | al-Bilazari (279 H) | 28,34 |

| | | |
|----|-------------------------------------------------------|----------------------------|
| 15 | al-Bukhari, Imam Muhammad bin Ishmael Bukhari (256 H) | 161,162,163,173,174, |
| 16 | Abu Dawud (275 H) | 31,38,170,174,193,194,271, |
| 17 | al-Dar Qutni (385 H) Ali abn umar | 80 |
| 18 | al-Dasami, Abu Abdullah bin Abdul Rehman (255 H) | 88, |
| 19 | Ehtiskam Ahmad | 72,73 |
| 20 | Fazal-ul-Rehaman bin mian Muhammad (Lahore) | 70,71 |
| 21 | Justice Fida Muhammad khan DR (Judge F.S.C.) | 93,94 |
| 22 | Fakhar-ud-Din Razi Imam | 191 |
| 23 | G. Fundlay DR. | 60, |
| 24 | Professor Ghulam Sarwar Maulana | 69 |
| 25 | Ibn Hajar Asqalani (852 H) | 28,93 |
| 26 | Ibn-e-Hazam (486 H) | 66,83,196, |
| 27 | Ibn-al-Hamam | 66,80,83,189,90 |
| 28 | Hashim Awad (Professor University of Khartum, Sudan) | 68, |
| 29 | Hifz-ur-Rehaman Sayuharvi | |
| 30 | Hamid allah Dr (Frnee) | 90,91 |
| 31 | Abu Hanifah, Imam | 189,190 |

| | | |
|----|----------------------------------------------------------------------------------------------------|----------------------------------|
| 32 | I.Chelliah Raja | 61, |
| 33 | Ikram-al-haq DR. | 228 |
| 34 | Ilyas Zafar Dr. | 248, |
| 35 | Abu Jafar Ahmad bin Nasar | 34, |
| 36 | Jala-ul-Din Sutui | 89,90 |
| 37 | Khushid Ahmad Professor chairman I.P.S. Islamabad and member of Senate, | 71,72 |
| 38 | Kauser Niazi Maulana (Ex- Minister and Charman the comity of Islamic Ideaboyy, Islamabad) | 90 |
| 39 | Ibn-e-Khalkan (681 H) (wufiuat- al-Aayan) | 92 |
| 40 | Khitib Malki, Imam | 189, |
| 41 | Ibn-e-Khuldon (808 H) | 34,91, |
| 42 | Monzer Kahf | 40 |
| 43 | M.N.Siddiqi | 46,49, |
| 44 | Maududi S.A. | 49,61,70,85, |
| 45 | Muhammad Sharif ch (Ex- Cammissioner of income Tax and Member Income Tax Tribunal Lahore) | 63,75,86,87,100, 112,258,270, |
| 46 | Muhammad karam Shah al-Azhari, Justice, (10 Zul Hajj, 1418 H) | 68, |

| | | |
|----|-----------------------------------------------------|----------------------------------------------|
| 47 | Muhammad Abdul Malik Muulana (Mansurah, Lahore) | 69, |
| 48 | Muhammad Taqi Amini Moulana | 69 |
| 49 | Muhammad Shantut Sh, (Ex-Sheikh-al-Jamia, al-Azhar) | 70 |
| 50 | Muhammad Najeeb Khan Nowshahi | 70 |
| 51 | Mahboob-al-Haq Dr. | 72, |
| 52 | Muhammad Yousaf Binawri | 89, |
| 53 | Muhammad bin Abdullah Alvi | 89, |
| 54 | Muhammad Din Jami DR, | 92, |
| 55 | Muhammad Muazzam Mughal | 116,208 |
| 56 | Muslim bin-Hajjaj Qushairi Imam (261 H) | 158,160,161,163 ,170,173,191,19 2,194, |
| 57 | Imam Muhammad | 190, |
| 58 | al-Mawardi (369 H) | 93 |
| 59 | Ibn-e-Majah (273 H) | 80,138,172, |
| 60 | Nasir-ud-Din al-bani | 80, |
| 61 | Ibn-e-Najaim (al-Bahr ,al-Ruiq) | 91,190, |
| 62 | al-Nisae Abdur-Rehman Imam (303 H) | 139,171,194, |
| 63 | Qutub Syed | 67, |

| | | |
|----|-----------------------------------------------------------------------------------------|------------------------------------|
| 64 | Qurutbi Imam (671 H) | 93, |
| 65 | Rashid Akhtar Nadwi | 25 |
| 66 | Sarakhasi Imam (483 H) | 28,91 |
| 67 | Ibn-e- Saad (230 H) | 36, |
| 68 | Shdwki Ismail Shehatah | 68, |
| 69 | al-Shukani (1255 H) | 80,192,196 |
| 70 | al-Shatbi Imam | 91 |
| 71 | al-shafiee, Imam, (Tabyeen-al-Haqaiq) | 188 |
| 72 | Sabah-ud-Din Zain (Professor of Istambul University, Turkey) | 64,68, |
| 73 | al-Tirmizi Imam, Abu Eisa Muhammad Ibn Eisa (279 H) | 92,171 |
| 74 | Justice Tanzil-ur-Rehman DR. (Ex. Chef Justice F.S.C. chairman Islamic Idediyy council) | 93,91 |
| 75 | Ibn-e-Taimiyyah, Imam | 195,196 |
| 76 | Abu ubaid (Qasim bin salam) (224 H) | 28,29,33,35,29,8 1,195, |
| 77 | Wali ullah Shah, al-Muhadith Dehlvi | 195 |
| 78 | Yousuf Qaradawi Dr. | 13,45,74,75,14,3 1,42,43,45,78, |
| 79 | Yousaf-uf-Din Dr. | 30,31' |

| | | |
|----|--------------------------------------|----------|
| 80 | Abu Yousaf yaqub bin Ibrahim Imam | 31,35,92 |
| 81 | Abu Yala al-Farra, | 93 |
| 82 | Zia-ud-Din al-Rais | 36, |

Bibliography

- Al-Qur'ān al-Hakim.
- Ahmad, S. Mahmud, "Economics of Islam" (Lahore: Sh. M. Ashraf Publishers, 1947).
- Ali Abdullah Yusuf, translation of the Meaning of the Holly Qur'ān (Jaddah: Islamic Research & Training Institute).
- 'Ala-al-Din Ali Ibn Hasam-ud-Din (975) "Kanz-al-'Ummāl Fi Sunan-al-Aqwāl-w-Afzāl".
- Ibn Atheer, 'Īzz-ud-Din Abdul Hasan Ali Ali Ibn Muhammad (630) "Al-Kamil Fi-al-Tareekh" (Beirut) Matbah Mimbariyah, 1st Ed. 1965).
- Abdul Aziz Sharik, "Contemporary Economics", (Indiana, USA, American Trust Publications, 1984).
- Agriculture Reforms – 1959 under Martial Law Regulation No. 64 Government of Pakistan, (Lahore Mansur Book House).
- Agriculture Reforms No. 115–1972, (Lahore: Mansur Book House).
- Arshad Zaman and Ahmed Zaman, "Interest and the Modern Economics" (Jaddah IRTI: April, 2001).
- Ib-al-'Abidin, "Rad-al-Mukhtār, (Bombay: 1309 H).
- A.L. Dawa "Law of Income Tax", (Allahabad, India "Modern Law Publications", 1998).
- Ausaf Ahmed and Turiqullah Khan Dr. "Islamic Financial Instruments" (Jaddah: IRTI).
- Ahmad Hassan Asad Syed Gillani, "Islām Kā Nizām-i-Zakāt-W-'Ushr" (Lahore: Maktabah Tamir Insaniyat, 1986).
- Ibn-e-Asakar; Abu-al-Qasim Ali Ibn-al-Hussain (571), Al-Tareekh-al-Kabīr, (Al-Rodah-al-Sham, 1329 H).

Mrs A.M. Bujam Venikataramin, "Income Tax Digest", (Bombay; A.N. Aiyar Publishers, 9th Edd, 1984).

Abdul Shakur Tirmizi, Islāmi Hakumāt Kā Mālīati Nizām" (Lahore: Kūtab Khana Jamili Kamran Block).

Abdul Rahim Alvi, "Ex-Chairman", Central Board of Revenue, Islamabad.

Al-Dawudi; Abu Jafar Ahmed Ibn Nasar, Kitāb-al-Amwāl (Ribat: Markaz AHYĀ, al-Turāth al-Maghrabi).

Ibn-al-Arabi; "Āridah-al-Akhwazīe Le Sharah-al-Tirmizī, (Maṭba' al-Ma'ārif).

Mubarikpuri; Abd-al-Rehman, "Tuḥfah-al-Akhwazīe", (Beirut: Dār-al-Kitāb-al-Arabi).

Ali Muhammad Chaudhry Dr., "Levy of 'Ushr" (Faisalabad; Farm Management Deptt. University of Agriculture).

Al-Bukhari; Abu Abdullah Muhammad Ibn Ismail (256), al-Jami' al-Ṣaḥīḥ (Jaddah: IRTI).

Al-Billazri Abu al-Hasan Ahmed Ibn Yahya, (279) "Futuḥ-ul-Bulādān" (Qairo Shikah al-Ṭaba' al-Kutāb al-'Arabiyyah, 1902).

Asif Saeed Khan Khosa, The Constitution of Pakistan 1973 (with all amendments upto 1980, (Lahore: Kausar Brothers Publisher, 1980).

A.S. Salam, Complete Income Tax Laws (Lahore: Mansoor Book 8th edition, 1989).

Behqi, Abu Bakr Ahmad Ibn Hussain (408) "al-Sunan al-Kabir" (Hyderabad: Dairah Marif al-Utimaniyah).

Chapra, Muhammad Umer Dr. "Toward a Just Monetary System", (Leicester: The Islamic Foundation, 1983).

Chapra, Muhammad Umer Dr., "What is Islamic Economics" (Jaddah: IRTI, 1996).

The Council of Islamic Ideology, Govt. of Pakistan, a report on the Elimination of Riba from the Economy, (Islamabad: 1983).

Abu Dawud; Suleman Ibn Ashath Sajustani (275) "al-Sunan", (Multan: Maktabah Imdadiyah, 1316 H).

Al-Darmi; Abu Muhammad Abd-al-Rehman (255), "al-Sunan", (Multan: Nashr-al-Sunnah).

Al-Dar-al-Qutni; Ali Ibn Umer (385), "al-Sunan" (Multan: Nashr-al-Sunnah).

Ehtisham Ahmad and Nicolas Stern "The Theory and Practice of the Reform in under developing Countries, (New York: University Press Cambridge).

Encyclopedia Bertanica, (London: 1982).

Encyclopedia Americana, Vol. 26.

Eighth Five Year Plan, (Islamabad: Planning Division, Govt. of Pakistan, 1996).

Economic Survey of Pakistan, (Islamabad: Economic Advisory Wing, Finance Division).

Economics Taxts in the Holly Qur'ān & Sunnah (Jaddah: IRTI).

Ferozabadi; Majad-ud-Din, Qamus-al-Muḥit, (Beirut: Dar-al-Māmoon, 1987).

Fazal-ur-Rehman Ibn Muhammad "Income Tax Ki Shar'ī Ḥathiat" (Lahore: Dār-al-Dawah al-Salfiyah).

Finance Act, 1974, Ministry of "Finance, Govt. of Pakistan, Islamabad.

Finance Act, 1976, Ministry of "Finance, Govt. of Pakistan, Islamabad.

Finance Act, 1984, Ministry of "Finance, Govt. of Pakistan, Islamabad.

Finance Act, 1987, Ministry of "Finance, Govt. of Pakistan, Islamabad.

Finance Act, 1988, Ministry of "Finance, Govt. of Pakistan, Islamabad.

Finance Act, 1992, Ministry of "Finance, Govt. of Pakistan, Islamabad.

Finance Act, 1993, Ministry of "Finance, Govt. of Pakistan, Islamabad.

Finance Act, 1994, Ministry of "Finance, Govt. of Pakistan, Islamabad.

Finance Ordinance, 1964 Ministry of Finance, Govt. of Pakistan, Islamabad.

Finance Ordinance, 1969 Ministry of Finance, Govt. of Pakistan, Islamabad.

Finance Ordinance, 1970 Ministry of Finance, Govt. of Pakistan, Islamabad.

Finance Ordinance, 1971 Ministry of Finance, Govt. of Pakistan, Islamabad.

Finance Ordinance, 1979 Ministry of Finance, Govt. of Pakistan, Islamabad.

Finance Ordinance, 1981 Ministry of Finance, Govt. of Pakistan, Islamabad.

Fawad Abdullah A Management of Zakah through semi Govt. Institution (Jaddah: IRTI).

Finance Bills 1988, Ministry of Finance, Islamabad.

Finance Bills 1994, Ministry of Finance, Islamabad.

Finance Bills 1995, Ministry of Finance, Islamabad.

Finance Bills 1996, Ministry of Finance, Islamabad.

Finance Bills 1997, Ministry of Finance, Islamabad.

Finance Bills 1998, Ministry of Finance, Islamabad.

Finance Bills 1999, Ministry of Finance, Islamabad.

Finance Bills 2000, Ministry of Finance, Islamabad.

Qadri: Ghulam Sarwar Mufti "Mu'āshāt-i-Nizām-i-Mustafa, (Lahore: Zia al- Qur'ān Publications, 1984).

G. Fundlay Dr., "The Schemes of Public Finance, (Lahore: 1926).

Ibn Hazam,; Ali Ibn Ahmad (486) "al-Muḥallāh" (Qairo: Dār al-Fikr, Publishers).

Hassan Ibrahim Dr; "al-Nuzum al-Islāmiyyah" (Lahore: Siddiqi Publications).

Al-Kasani; 'Ala-ud-Din Abu Bakr Ibn Masud, (578) "Badā'-al-Ṣanāi", (Karachi: H.M. Saeed & Co., 1910).

Hashim Awad Dr. "Adjusting Tax Structure to Accommodate Zakah (Jaddah: IRTI).

Sayuharvi; Hifz-ur-Rehman, "Islām Kā Iqtisādī Nizām" (Lahore: Idāra-e-Islāmiāt Anār Kali, 1984).

Sayuharvi; Hifz-ur-Rehman, "Qīṣaṣ-al-Qur'ān" (Lahore: Idāra-e-Islāmiāt Anar Kali,).

Ibn Hamam; "Fataḥ-al-Qadir" (Qairo:Maṭbā'h al-Amiriyyah al-Kubrā, 1316).

Hassan Hamid Hassan Dr. "Jurisprudence of Maslaha and its contemporary applications" (Jaddah: IRTI 1994).

Ibn Hanbal; Ahmed Ibn Hanbal al Imam (241) "Musnad-e-Ahmed", (Qairo: Ṭaba'h Dār-al-Ma'ārif).

Asqalani; Ibn Hajar, Shabab-ud-Din Ahmad Ibn Ali (852) "Fath-al-Bāri" (Qairo: Maktabah-al-Amiriyyah al-Kubrā, 1316 H).

Income Tax Ordinance, 1979, (Islamabad: Ministry of Finance, Govt. of Pakistan).

I. Chelliah Raja, "Fiscal Policy in under developed Countries, (Lahore: 1960).

Income Tax Ordinance, 2001 (Islamabad: Ministry of Finance, Govt. of Pakistan).

Ismail Shehatah Dr. Limitations of Use of Zakah Funds in Financing the Socio economic Infrastructure of Society (Jaddah: IRTI).

I.A. Imtiaz, M.A. Manan and M. A. Niaz, "Management of Zakah in Modern Muslim Society" (Jaddah: IRTI).

Islām Key Mu'āshi Talimāt, (Islamabad: Islamic Research Institute International Islamic University, 1402 H).

Imtiaz Ahmad, "Speeches for an Inquiring Mind" (Madina Monawarah, Jan.2000).

Ikram-ul-Haq Dr. and Ilyas Zafar Dr., "Taxation" (Vol. 64).

Judgment of Pakistan Federal Shariat Court on Interest (Ribā) (Jaddah: IRTI).

Al-Sayuti Jalal-ud-Din, "Tadrīb-al-Rāwī", (Lahore: Dār-al-Nashr-al-Kutub-al-Islāmiyyah).

The Daily Jang, (Rawalpindi: 16.06.2003).

James Sestingus, Encyclopedia of Religion and Faith (London: Scholar Press, 1980).

Ibn Khaldun; Abd-ur-Rehman Ibn Muhammad (808), "Al Muqaddmah" with Urdu translation, (Karachi: Nafees Academy).

Ibn Khaldun; Abd-ur-Rehman Ibn Muhammad (808), "Al Muqaddmah" (Beirut: Mussah Jamāl-al-Naṣar).

Kharabanda S.R; Prem Noth, "Penalties & Prosecution under the Direct Tax Law", (Dehli: Commercial Publishing House, 1989).

Azad; Abu-al-Kalam, "Ḥaḳīqat-e-Zakāh", (Lahore: 1950).

Khurshid Ahmed Prof.; "Study of Islamic Economics" (Jaddah: King Abdul Aziz University 1980).

Khurshid Ahmed Prof.; "Budget Speeches, (Islamabad: Institute of Policy Studies).

Ibn-e-Khalkān; Shamas-ud-Din Ahmed bin Muhammad (681), "Wufiyāt-al-Awḳān" (Qairo: Maktabah Naḥdah-al-Miṣariyyah).

Muhammad Akram Khan, "Public Finance in Islam" (Islamabad: I.I.U, Islamic Studies No. 2, 2001).

Ferozabadi; Majad-ud-Din, (817) "Qamus-al-Muḥiṭ" (Beirut: 987 H).

Monzar Kahf, "The Islamic Economy" (Jaddah: IRTI, 1978).

Monzar Kahf, "Review of Islamic Economics (Jaddah: IRTI 1991).

Monzar Kahf, "The performance of the Institutions of Islam in Theory & Practice, (Jaddah: IRTI).

Muslim; Muslim Ibn al-Hajaj al Qushairi Imam (261), "al-Muslim al Jami' " (Karachi: Qadeemi Kutub Khana).

Al-Mawardi, Abu-al-Hassan Ibn Muhammad al-Baghdadi (369), "al-Aḥkām-al-Sultāniyah" (Egypt: 1298 H).

Muhammad Ibn Alvi; "Miftāḥ-al-Ḥajāh, "Sharāḥ-e-Sunan Abī Mājāh", (Sargodha: Idāra Ahyā al-Sunnah-al-Nabviyyah, 1394 H).

Maududi S.A., "Tafhim-al-Qur'ān" English translation by Dr. Zafar Ishaq Ansari (Jaddah: IRTI).

Maududi S.A., "Islāmi Ma'ishiat" (Lahore: Islamic Publications).

Maududi S.A., "Sūd" (Riba) (Lahore: Islamic Publications).

Maududi S.A., "Fundamentals of Islam" (Lahore: Islamic Publications).

Ibn Majah; Abu Abdullah Muhammad Ibn Yazeed (273), "al-Sunan" (Riyadh: Dār-us-Salām 1999).

Marmaduke Pickthall; Translation of the Meaning of the Holy Qur'ān, (Karachi: Taj Company, 1988).

Malik; Ibn Anas Imam (169), "al-Mua'tṭa" (Beruit: Ahyā-al-Turath al-Islami).

Muhammad Abdul Malik; (Lahore: Mansoor, Idār-e-Ma'ārif Islami).

Muhammad Shantut Sh; "Mafariqah-al-Mazāhib Fi-al-Fiqh" (Qairo).

Noshahi; Muhammad Najeeb Khan, "Dār-al-Iftā' ", (Karachi: Dar-al-Ulum).

Al-Mawsu'ah-al-Fighiyah; Ministry of Awqaf, (Kuwait: 1992).

M.N. Siddiqi, "Modern Economic thinking" (United Kingdom: Islamic Foundation 1922).

Binavri; Muhammad Yusuf, "Ma'ārif-al-Sunan", (Karachi: Maktabah H.M. Saeed & Co., 1395 H).

M. A. Manan, "Efforts of Zakah Assessment in Contemporary Muslim Countries", (Jaddah: IRTI).

Mughal; Muhammad Muazzam, "Income Tax Principles & Practice" (Lahore: S. Mobin Mahmud & Co., 2000).

Felipe; M. Medorila, "Muslim World and the Future Economics" (United Kingdom: Islamic Council of Europe, 1997).

Mufti; Muhammad Shafi, "Islām Kā Nizām-e-Arādhi" (Karachi: Dār-al-Ishā'at Maulvi Musafir Khan, 1978).

Amini; Muhammad Taqi, "Islām Kā Zari'eh Nizām" (Karachi: Ahsan Academy).

M. A. Manan, Monzer Kehf & Ausaf Ahmad, "International Economic Relations from Islamic Perspective" (Jaddah: IRTI).

Muhammad Fahim Khan Dr. "Islamic Financial Institutions" (Jaddah: IRTI, 1995).

Mohsin Khan Dr., "Summarized Sahih-al-Bukhari" ('Arabic & English) (Riyadh: Dār-al-Salām Publication).

M. A. Manan, "Financing Development in Islam" (Jaddah: IRTI 1996).

M. A. Manan, "Understanding Islamic Finance" (Jaddah: IRTI 1992).

Al-Tabri; Muhammad Ibn Jarir, "Tareikh-al-Umam-w-al-Muluk" (Qairo: Muktabah al-Istiqamah, 1938).

Al-Azhari; Muhammad Karam Shah Justice, (1998), "Tafsir Zia-ul-Qur'an" (Lahore: Zial-ul-Qur'an Publications, 1403).

Al-Azhari; Muhammad Karam Shah Justice, (1998), "Zia-al-Nabi (Sirah)" (Lahore: Zial-ul-Qur'an Publications 1413 H).

Al-Azhari; Muhammad Karam Shah Justice, (1998), "Islām Key Muashi Talimaat" (Islamabad: Islamic Research Institute, IIU).

Siddiqi; M. Mazhar-ud-Din, "Islām Kā Mu'āshi Nazriyah" (Lahore: Idāra Thaqāfat-e-Islāmiyah, 1955).

Ghaffari; Noor Muhammad Dr., "Islām Ka Qanum-e-Maḥṣil" (Lahore: Markaz Tahqiq, Diyal Singh Trust Library, 1992).

Muhammad Sharif Ch. "Taxation in Islam & Modern Taxes" (Lahore: Impact Publication International, 1933).

Albani Nasir-ud-Din, "Daief Sunan-al-Tirmizi", (Beirut: 1988).

Albani Nasir-ud-Din, "Daief Sunan-Ibn-Mājah", (Beirut: 1988).

Ibn Najaim; "al-Baḥr-al-Rāiq" (Beirut: 1987).

Nazar-al-Haq Lown, "Income Tax Aḥkām-i-Ellāhi Ki Rshini Main" (Rawalpindi: I.D. Lown Son Limited Peshawar Road, 1985).

Al Nasaie Abu Abdur Rehman bin Shu'aib Imām (303) "al-Sunan" (Egypt: Shirkah-w-Maṭba'h Muṣṭafa Ḥalbi).

The Daily Nawa-e-Waqt (Lahore: Dated 15.10.1993).

Ibn Qudamah; Muwaffaq-ud-Din, (620) "al-Mughni" (Beirut: Siral Kitāb al-'Arabi Publishers 1392 H).

Al-Qurtubi; Muhammad Ibn Ahmed, (671) "al-Jami'-li-Aḥkām-al-Qur'an" (Qairo: Dār al-Kutub al-Miṣariyyah Publishers, 1947).

Ibn-al-Qayyam; Abu Abdullah Muhammad Ibn Bakar, "Zād-al-Ma'ād" (Kuwait: Maktabah-al-Munir, 1399 H).

Al-Ṭuruq al-Ḥakumiyah al-Sisyasisiyah al-Sharī'ah, (Beirut: 1981).

Al-Razi, Fakhar-ud-Din, Tafseer-e-Kabir.

Ibn Rushd; Muhammad Ibn Ahmad Ibn Rushd, "Biḍāyah al-Mujtahid-w-Nihāyah al-Muqtaṣid" (Beirut: Dār al-Ṭabah, 1986).

Al-Sarakhasi; Shamas-ul-Din Abu Bakr Muhammad Ibn Ahmad (483), "Al- Mabsuṭ", (Beirut: Dār al-Ma'rīfah).

Ibn Sa'ad; Muhammad Ibn Sa'ad (230), "al-Ṭabaqāt al-Kubrā" (Beirut: Ṭaba' Dār-al-Ṣadar, 1957).

Al-Shukani; Muhammad Ibn Ali (1255), "Nail-al-Awṭār", (Dār-al-Fikr le-al-Ṭabah'-w-al-Nashr wa-al-Towziḥ, 1989).

Al-Shukani; Muhammad Ibn Ali (1255), "Fath-al-Qadir", (Dar-al-Fikr le-al-Ṭab'ah-w-al-Nashr wa-al-Tawziḥ, 1989).

Showki Ismail Shahatah, "Distribution and Management of Zakah" (Jaddah: IRTI).

Al-Shatbi; Imam, "al-Eitiṣām" (Egypt: Maktaba al-Monar, 1914).

Sabahuddin Zaim Dr. (Turkey), Recent Interpretations of the Economic aspects of Zakāh, (Jaddah: IRTI).

Sabahuddin Zaim Dr. (Turkey), "Philosophy of Zakāh", (Jaddah: IRTI).

Al-Shafie; Muhammad Ibn Idrees Imam (241 H), Tabyīn al-Ḥaḳāiq.

Syed Sabiq, "Fiqh al-Sunnah", (Beirut: al Kitāb al-'Arabi).

Al-Tirmizi; Abu 'Eisā Muhammad Ibn 'Eisa (279) al Tirmizi al Jami', (Karachi Mir Muhammad Kutab Khana).

Tariq Ullah Khan Dr., "Practices and Performance of Modaraba Companies" (Jaddah: IRTI, 1996).

Tariq Ullah Khan Dr., "Interest Free Alternatives for External Resource Mobilization" (Jaddah: IRTI, 1997).

Ibn Taimiyah, Taqi-ud-Din Ahmad (728), "Minhāj-al-Sunnah" (Egypt: Maṭba'h al-Amiriyah Bowlāq, 1321).

Ibn Taimiyah, Taqi-ud-Din Ahmad (728), "al-Hisbah" (Egypt: Maṭba'h al-Amiriyah Bowlāq, 1321).

The Tax Planning under the Direct Taxes (Allahabad: Modern Law Publications 2nd Addition, 1998).

Tax System in Pakistan, (Islamabad: Institute of Policy Studies, 1986).

Al-Tabri Muhammad bin Jarir Imam (310) "Tareekh-e-Uman-Wa-al-Muluk, (Qairo Maṭbat Hussaniyah, 1891).

Abu Ubaid, Qasim Ibn Salam (224), "Kitāb-al-Amwāl", (Egypt: Maktabah al-Tujāriyyah al-Kubrā, 1383 H).

Shah Wali Ullah; Qutub-ud-Din (1774) Izālah al-Khifā.

Wealth Tax Act 1963 with Rules 1994-95, (Lahore: Mansoor Book House, 1995).

Al-Zuhaili; Wahbah Sh., "Al-Fiqh al-Islāmiyah-w-Adillatohū" (Damascus: Dār al-Fikr, 1980).

Wealth Tax Manual, (Lahore: S.A. Salam Publications).

Yahya Ibn Adam, "Kitab-al-Kharaj, (Qairo: 1947).

Abu Yusuf; Yaqub Ibn Ibrahim, "Kitāb-al-Kharāj" (Qairo: Maktabah al-Salfiyyah, 1382 H).

Yusuf-ud-Din Dr., "Islām Kay Mu'āshi Nazriē", (Hayderabad: Maktabah Islāmiyah, 1955).

Al-Qadradhawi; Yusuf Dr. "Fiqh-al-Zakāh" (Karachi: Ma'ārif Islāmi, 1981).

Al-Fara; Abu Yalā, "Al-Ahkām-al-Sultāniyah" (Qairo: Maṭba'h Muṣṭafā Ḥalbi, 1357).

Abu Zahrah, Muhammad, "Buhuth Fi al-Ribā" (Kuwait: Dār al-Buhuth al-Ilmiyyah Publishers, 1970).

Zarqa M.R., "Stability in an Interest free Islamic Economy" (Jaddah: IRTI).

Zia-ud-Din, al-Rāees, "Al-Khāraj Fi Daulah-al-Islāmiyah" (Qairo).

Zai-ud-Din, Munawar Iqbal and M. Fahim Khan, "Fiscal Policy and Resource allocation in Islam" (Jaddah: Kind Abdul Aziz University, 1983).

"Zakāh & 'Ushr System in Pakistan", (Islamabad: Central Zakah Administration, 1994).

"Zakah & 'Ushr Ordinance, 1980" Corrected upto April, 1986, (Islamabad: Ministry of Finance, 1986).

"Zakāh Mannual" (Islamabad: Ministry of Finance 1986).

Al-Zahbi; Shamas-ud-Din, "Duwal-al-Islām Fi-al-Tarikh", (Hyderabad: Dāir'ah al-Ma'ārif, 1337H).

